

SEP 24 1996

Decision 96-09-096: September 20, 1996

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 Southern California Gas Company for )  
 Approval Pursuant to the Expedited ) Application 96-06-041  
 Application Docket of a Long-Term ) (Filed June 25, 1996)  
 Agreement With Chevron U.S.A., Inc. )

that SoCalGas has been prudent in negotiating this agreement, which finding would be dispositive of any future prudency issues.

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O P I N I O N

Southern California Gas Company (SoCalGas) seeks approval of a gas transportation service agreement between Chevron U.S.A., Inc. (Customer) and SoCalGas, which was entered into as of June 10, 1996. The agreement provides for gas transportation service to Customer's facility located in El Segundo, California under negotiated rates. A copy of the agreement is attached to the application.

SoCalGas expects the agreement to contribute \$10.7 million more to the recovery of its authorized base revenues than would be the case without this agreement.

SoCalGas requests that the Commission approve this agreement unconditionally and without modification. SoCalGas also requests that we find as follows: (1) as of the time SoCalGas negotiated the terms of the agreement, there was a substantial and imminent threat of bypass by Customer and the agreement would prevent uneconomic bypass; (2) revenues over the life of the agreement will generate a positive contribution to SoCalGas's margin and will not fall below the class average long-

<sup>1</sup> For competitive and trade secret reasons, the prices, term, and contract quantities by which Customer would receive service have been redacted from the application.

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run marginal cost (RMC) of service for transmission customers having gas requirements greater than 200 MDT/year and for cogenerators on SoCalGas's system as quantified in Decision (D.) 93-05-006; and (3) the terms of the agreement are reasonable given the bypass options that are available to Customer.

SoCalGas also requests that we make a specific finding that SoCalGas has been prudent in negotiating this agreement, which finding would be dispositive of any future prudence issues that might arise, absent a showing of special circumstances as enumerated in our order establishing an expedited application docket (EAD) for these types of applications. (In re Southern California Gas Co., 46 CPUC2d 444 (1992) (EAD Order))

Concurrent with the filing of this application, SoCalGas provided the Division of Ratepayer Advocates (DRA) and the Commission Advisory and Compliance Division (CADC) with responses to the Master Data Request contained in Appendix B to the EAD Order. (Id. at 452-54.)

SoCalGas alleges that it entered into the agreement with Customer in order to avoid uneconomic bypass of SoCalGas's gas distribution system at Customer's facilities located in El Segundo, California. In the EAD Order, we found that "[b]ecause SoCalGas faces a variety of bypass projects which appear imminent, no geographic limitation will be adopted on the applicability of the expedited approval process to SoCalGas contracts." (Id. at 447.) SoCalGas asserts that this application represents SoCalGas's efforts to retain customers on its system in the face of an immediate threat of bypass because Customer is one of SoCalGas's largest natural gas users and has proprietary pipeline infrastructure and gas reservoirs in the Los Angeles Basin area and has the ability and intent to bypass SoCalGas if a long-term agreement is not available.

Under the terms of the Global Settlement recently approved by the Commission, SoCalGas shareholders accept the full risk of any revenue shortfalls created by this discounted agreement over the next five years. Under that same settlement, SoCalGas shareholders will remain at risk for shortfalls from the SoCalGas's authorized tariff over the next decade as long as the Commission does not substantially change the method of setting rates for noncore customers. SoCalGas believes it has negotiated a fair price given its competition from the other alternatives available to the customer. We will approve the agreement if it meets the three-pronged test for approval: the threat of bypass by the customer was imminent; there will be a positive contribution to margin (CTM); and the terms of the agreement are reasonable. We will, however, impose the condition that (1) any discount to the Interstate Transition Cost Surcharge (ITCS) must be borne by utility shareholders, and (2) SoCalGas shall not recover in rates, nor include in cost-allocation forecasts, 100% of revenue shortfalls, if any, resulting from this agreement. (See SoCalGas Global Settlement, Section II, approved in D 94-04-088.)

**Findings of Fact**

1. This application appeared on the Commission's Daily Calendar of June 28, 1996. There are no protests. A public hearing is not necessary.
2. SoCalGas has filed this application seeking approval of a negotiated gas transportation agreement with Customer.

<sup>2</sup> Texaco Natural Gas Inc. filed a petition to intervene, but did not object to the authority sought by SoCalGas. It merely wished to participate in any workshops that might be scheduled as a result of any other filing besides its own.

3. There is an imminent threat of bypass posed by Customer's size as one of SoCalGas's largest natural gas users, its proprietary pipeline infrastructure and gas reservoirs in the Los Angeles Basin area and its ability and intent to bypass SoCalGas if a long-term agreement is not available.

4. The agreement may provide a positive GTM. In the absence of the agreement, bypass by Customer may be uneconomic.

5. It is the Commission's policy that all ratepayers are responsible on an equal basis for the stranded investment costs making up the ITCS, and thus the ITCS is to be applied in a nondiscriminatory manner, on an equal cents-per-therm basis.

6. The seriousness of the imminent bypass threat in this particular case warrants the approval of the agreement but only on condition that SoCalGas's shareholders shall assume 100% of the risk for the ITCS costs associated with this agreement and 100% of any revenue shortfall.

7. Except as set forth below, the rates and terms of the agreement do not pose an unreasonable risk to ratepayers.

8. Based upon all facts and circumstances known to the Commission at the time of this decision, SoCalGas's decision to enter into the agreement is prudent.

**Conclusions of Law**

1. The agreement should be approved as set forth below.

2. Because of imminent threat of bypass, this decision should be effective today.

**ORDER**

**IT IS ORDERED that:**

1. Except as expressly set forth in Ordering Paragraphs 2 and 3, the Gas Transportation Service Agreement between

Southern California Gas Company (SoCalGas) and Chevron U.S.A., Inc. (Customer), which was entered into as of June 10, 1996, is approved under the procedures, terms, and conditions of the Expedited Application Docket established by Decision (D.) 92-11-052.

2. The agreement is approved on the condition that SoCalGas's shareholders shall assume 100% of the risk for the Interstate Transition Cost Surcharge costs associated with this agreement. SoCalGas shall file with the Commission Advisory and Compliance Division a written acceptance of this condition within 15 days of the effective date of this order.

3. The agreement shall expressly provide that SoCalGas shall obtain the Commission's approval, prior to effectiveness, of any modifications, including modifications which may be the result of mediation.

4. Sections IX and X of General Order 96-A are suspended to the extent that those sections require that this agreement be subject to future modifications by the Commission.

5. SoCalGas shall not recover in rates, nor include in cost allocation forecasts, any portion of revenue shortfalls resulting from the agreement.

6. Approval of the agreement is dispositive of all prudence questions which might arise at a later date regarding the agreement, absent a showing of:

- a. Misrepresentation or omission of material facts of which the utility is aware in connection with the utility's request for contract approval;
- b. Gross negligence in determining whether a realistic threat of bypass exists; or
- c. Imprudence in the utility's performance under the negotiated agreement.

7. This proceeding is closed.

This order is effective today... Dated September 20, 1996, at San Francisco, California

The agreement is approved on the condition that... P. GREGORY CONLON, President; DANIEL Wm. FESSLER, JESSIE J. KNIGHT, JR., HENRY M. DUQUE, JOSIAH L. NEEPER, Commissioners

The agreement shall expressly provide that SoCalGas shall obtain the Commission's approval, prior to effectiveness, of any modifications, including modifications which may be the result of negotiations... Sections IX and X of General Order 96-A are suspended to the extent that these sections require that the agreement be subject to future modifications by the Commission... SoCalGas shall not recover in rates, nor include in cost allocation forecasts, any portion of revenue shortfalls resulting from the agreement... Approval of the agreement is dispositive of all prudency questions which might arise at a later date regarding the agreement, absent a showing of:

- a. Misrepresentation or omission of material facts of which the utility is aware in connection with the utility's request for contract approval;
b. Gross negligence in determining whether a realistic threat of bypass exists; or
c. Imprudence in the utility's performance under the negotiated agreement.