

Decision 99-09-068 September 16, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company for authority pursuant to Public Utilities Code Section 851 to sell its storage field in Montebello, California.

Application 98-01-015
(Filed January 16, 1998)

(See Appendix A for a list of appearances.)

O P I N I O N

Summary

This decision dismisses without prejudice the application of Southern California Gas Company (SoCalGas) to sell its Montebello Gas Storage Facility (Montebello), due to the need to further consider the proposed sale, and to review information that may be brought forward in the Commission's Order Instituting Investigation (I.) 99-04-022. That investigation seeks to determine whether SoCalGas has engaged in a pattern of providing inaccurate information to the Commission regarding its plans for Montebello, and SoCalGas' operations and practices surrounding the acquisition of fee ownership interests of mineral rights in connection with the Montebello Gas Storage Facility.

Background

In this application filed on January 16, 1998, applicant SoCalGas seeks Commission authority under Pub. Util. Code § 851 to sell, through a competitive bidding process, its underground gas storage field in Montebello, California,

sometimes referred to as the West Montebello field. Applicant requests ex parte approval of the application without hearings, and a determination that the proposed sale is not subject to the California Environmental Quality Act (CEQA), or alternately requests that the Commission issue a negative declaration pursuant to CEQA. Alternately, applicant seeks a determination that no Commission approval is required for the sale.

Hearings were held on December 7 and 8, 1998; the matter was submitted and briefed, and the environmental review process commenced.

Subsequently, the Commission opened I.99-04-022 to determine whether SoCalGas had engaged in a pattern of providing inaccurate information to the Commission and its staff regarding plans for Montebello, and SoCalGas' operations and practices surrounding the acquisition of fee ownership interests of mineral rights in connection with this facility. Ordering Paragraph 6 of I.99-04-022 stated that evidence which may be adduced in the investigation may be germane to the outcome of this application, and that the two proceedings may be consolidated for further hearing or further consideration. A June 30, 1999 scoping memo in I.99-04-022 does not consolidate these proceedings at the present time.

Discussion

This application cannot be efficiently processed while I.99-04-022 is pending, because the relief applicant seeks in this application, and the Commission's review thereof, may be affected by the outcome of I.99-04-022. In addition, because of the uncertainties surrounding possible environmental contamination of Montebello, and because the application does not clearly define the potential future uses for the property, the Commission does not have a well-defined application for purposes of environmental review.

Thus, it appears prudent at this time to dismiss this application without prejudice to SoCalGas refiling a similar application.

Under Rule 72, matter offered into evidence in a proceeding may be received in evidence in another proceeding by reference. If applicant refiles this application, it or other parties may utilize Rule 72 to the extent appropriate to incorporate this record in the new proceeding.

Comments on the Proposed Decision

Comments on the proposed decision were filed by Southern California Edison Company (Edison) and The Utility Reform Network (TURN). Reply comments were filed by Edison, Southern California Gas Company (SoCalGas) and the Office of Ratepayer Advocates (ORA). While TURN was not a party to the proceeding, it was allowed to comment on the proposed decision due to the Commission's subsequent investigation into Montebello, and parties were allowed to reply to TURN's comments. TURN argues that fairness to ratepayers requires that Montebello be taken out of ratebase pending resolution of Montebello, and considering that resolution will be delayed. TURN argues that it is inequitable for ratepayers to continue paying for Montebello under the current circumstances. ORA supports TURN's argument.

SoCalGas and Edison filed reply comments to TURN's comments. SoCalGas argues that there is no evidence in the record to support TURN's recommendation, and adopting it would be inconsistent with other ratemaking, such as the performance-based ratemaking (PBR). Edison argues that it is premature to remove Montebello from ratebase since the issue of need for Montebello has not been decided by the Commission.

We find that it is not appropriate to remove Montebello from ratebase. However, we also find that ratepayers should not pay the resulting rates

associated with it if we subsequently find that it has not been used and useful for some future period.

Therefore, we will order that rates collected due to Montebello after the effective date of this decision are subject to refund pending resolution of the Montebello matter.

Findings of Fact

1. In I.99-04-022, the Commission is investigating SoCalGas' operations and practices surrounding the acquisition of fee ownership interests of mineral rights in connection with the Montebello Gas Storage Facility.

2. This application cannot be efficiently processed while I.99-04-022 is pending, because the relief applicant seeks may be affected by the outcome of I.99-04-022.

3. Because the application does not clearly define the potential future uses of the Montebello property, the Commission does not have a well-defined application for purposes of environmental review.

4. It is uncertain whether ratepayers should pay for the costs of maintaining Montebello in the future.

Conclusions of Law

1. Rates related to the cost of maintaining Montebello should be subject to refund pending resolution of the disposition of Montebello.

2. This application should be dismissed without prejudice.

3. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. All rates and charges to ratepayers related to the Montebello Gas Storage Facility are subject to refund until further notice of the Commission.
2. Application 98-01-015 of Southern California Gas Company (SoCalGas) is dismissed without prejudice.
3. Application 98-01-015 is closed.

This order is effective today.

Dated September 16, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
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(END OF APPENDIX A)