

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Service and Safety Branch

RESOLUTION G-2843
November 23, 1988

RESOLUTION

RESOLUTION G-2843, ORDER AUTHORIZING SOUTHERN CALIFORNIA GAS COMPANY (SOCAL) TO RECORD UP TO \$1,750,000 IN A MEMORANDUM ACCOUNT FOR CLEANUP COSTS ASSOCIATED WITH PARCEL "A" OF THE FORMER VENICE MANUFACTURED GAS PLANT SITE.

ADVICE LETTER 1825, FILED SEPTEMBER 27, 1988.

SUMMARY

1. SoCal filed Advice Letter (AL) 1825 on September 27, 1988 requesting authority to book hazardous waste cleanup costs associated with Parcel A of the former Venice manufactured gas plant site.
2. This Resolution approves the request.

BACKGROUND

1. Advice Letter 1825 is the second to be filed by SoCal under the procedures adopted by the Commission in Decision (D.) 88-07-059 to expedite the process of authorizing the booking of hazardous waste cleanup expenses. It is the first advice letter submitted for a site currently under a governmental order to perform remediation activities. D. 88-07-059 ordered advice letters to be filed on a project-by-project basis and to contain comprehensive and specific information about each site. It also required that expenditures incurred undergo an annual reasonableness review.
2. Southern California Edison Company (Edison) owned and operated a manufactured ("Towne") gas plant at the Venice site from 1903 to 1916. Edison sold the site in 1916 to Southern Counties Gas Company, a predecessor of SoCal. Although SoCal and its predecessor company or companies owned the site for over fifty years, they are believed to have used the property as an

equipment storage yard and possibly for equipment maintenance only, not as a gas manufacturing facility.

3. Venice Operating Corporation, a subsidiary of Chiat/Day Inc. Advertising (Chiat/Day), currently owns Parcel A, a portion of the Venice Towne Gas site. In May 1986, during excavation for Chiat/Day's headquarters on Parcel A, Towne Gas residues were discovered. Edison responded to the discovery and determined the potential for immediate human exposure had to be eliminated. Edison completed an investigation, risk assessment and partial site cleanup work with DHS approval in November 1986, spending approximately \$1.5 million.

4. On June 27, 1987, SoCal, Edison and four other parties received a summons and complaint alleging adverse health effects caused by activities at Parcel A. On July 8, 1987, SoCal and Edison were named as Potentially Responsible Parties in a DHS Remedial Action Order, Docket No. HSA 87/88-001. The order required SoCal and Edison to remediate the site. On December 10, 1987, DHS approved the excavation plan funded by Edison.

5. Initial discussions between Chiat/Day and Edison were unsuccessful. In direct negotiations between SoCal and Chiat/Day, the two parties agreed SoCal would reimburse Chiat/Day for a portion of the cleanup cost of Parcel A not to exceed \$1.75 million. In return, Chiat/Day agreed to release SoCal from any and all claims arising from SoCal's purchase, operation, ownership and sale of that parcel. Chiat/Day agreed to pay the first \$280,000 of the excavation costs, which represents the cost in the absence of contaminated soil. The Final Settlement Agreement (Settlement) between SoCal and Chiat/Day was executed August 31, 1988.

6. Chiat/Day received four bids to implement the excavation plan. Because Chiat/Day had not chosen a contractor when AL 1825 was filed, the four bids are marked "confidential." Costs excluded from the bids include standby during bad weather or episode days, Class I (hazardous) material handling and disposal, soil disposal during shoring, permit procurement, and landfill restrictions. (Site remediation work must cease on episode days because of the potential release of hydrocarbons with which the soil is contaminated.) No funds are requested for SoCal labor.

7. Chiat/Day's building permit includes a stipulation that effective construction must begin by January 1, 1989. All excavation and disposal of contaminated soil must be completed before construction begins. The Settlement between SoCal and Chiat/Day requires SoCal to begin reimbursing Chiat/Day December 1, 1988. Therefore, these costs should be booked soon.

EDISON'S PROTEST

1. Edison protested AL 1825 by letter October 17, 1988. Edison's protest addresses the following issues: whether the costs SoCal seeks to book into a memorandum account are appropriate for such ratemaking treatment; and whether the Commission should determine if a reallocation of the Venice site cleanup costs between SoCal and Edison is appropriate.
2. Edison believes the funds SoCal is requesting to book in a memorandum account are partly to eliminate SoCal's exposure to liability at the Venice site. Because both Edison and SoCal were named as potentially responsible parties in DHS' remedial action order, Edison believes a portion of the costs may warrant later reallocation to Edison.
3. Edison requested that the Commission order SoCal to allow Edison to review the nature and cost of the work performed at Parcel A, should Edison later need to prove the reasonableness of such costs, if any are reallocated to Edison.
4. Edison's protest does not request the Commission to set this matter for hearing at the present time. Edison believes the Commission should "...allow SoCal to record costs associated with Parcel A in a memorandum account for future recovery by either Edison or SoCal or both on a pro-rata basis related to their respective responsibilities at Parcel A." Edison also suggested the question of cost reallocation for Parcel A be addressed in a consolidated proceeding involving both Edison and SoCal when the total costs associated with the cleanup at Parcel A are known.

SOCAL'S RESPONSE

1. SoCal responded to Edison's protest by letter October 24, 1988. SoCal states its Settlement with Chiat/Day provides that SoCal will pay up to \$1.75 million for costs incurred only pursuant to the DHS-approved excavation plan, and are explicitly limited to the cleanup of Parcel A.
2. SoCal objects to Edison's request to review work performed at Parcel A. SoCal is not performing any work at the site, but is reimbursing Chiat/Day. SoCal is required to file an annual report of its hazardous substance activities as well as undergo an annual reasonableness review. All interested parties will be able to participate in a Commission proceeding to review the prudence of SoCal's actions.
3. SoCal intends to seek recovery on behalf of its ratepayers, preferably through arbitration, for any amounts booked by SoCal into the memorandum account that are properly attributable to Edison.

COMMENTS

1. The Division of Ratepayer Advocates (DRA), in comments filed October 27, 1988, recommended the acceptance of Advice Letter 1825, with several conditions that have previously been applied to memorandum accounts for hazardous waste projects. These conditions include: (1) the prohibition of booking costs or expenses paid or incurred prior to the date of the order; (2) the requirement that all expenses are to be consistent with documents filed as part of the advice letter; and (3) the requirement that costs recorded in the account be subject to a subsequent reasonableness review and should not be placed into rates until ordered by the Commission. DRA also recommended that SoCal accrue interest at the three-month Commercial Paper rate on amounts booked in the memorandum account, and that SoCal be required to share with Edison all reports produced in connection with the Parcel A soil excavation and disposal project. DRA further recommended the reasonableness review for Parcel A expenses address whether any should be reallocated to Edison.

2. SoCal responded to DRA's comments by letter October 28, 1988. It does not object to any conditions outlined by DRA.

D. 88-07-059 orders amounts booked to a memorandum account to accrue interest at "SoCal's CAM [Consolidated Adjustment Mechanism] interest rate." SoCal believes any Commission resolution authorizing booking of costs associated with the Venice site reflect the language used in that decision.

SoCal has no objections to sharing reports with Edison, but notes that the remediation activities are being performed by Chiat/Day, its consultants and contractors, and that SoCal can only share reports that it has or will obtain.

3. Edison responded to SoCal's comments by letter November 7, 1988. Edison reaffirmed its desire to review site work and all reports produced in connection with Parcel A. Edison requested that if a reasonableness review for Parcel A expenses addresses the possible reallocation to Edison, that Edison concurrently be authorized to record in a memorandum account any reallocated expenses plus accrued interest.

DISCUSSION

1. The Commission Advisory and Compliance Division (CACD) has reviewed DRA's recommendations, Edison's protest, and SoCal's comments and has determined that the issues raised in Edison's protest may be addressed in SoCal's annual hazardous waste reasonableness review, and that there is no need for any separate hearings.

2. SoCal's AL 1825 meets the information requirements set out in D.88-07-059, and includes a copy of the DHS order to undertake site work, a detailed work plan and schedule, and a detailed budget. In addition, because Chiat/Day had not selected

a contractor to perform the site work when AL 1825 was filed, SoCal submitted the four contract bids received by Chiat/Day for implementing the excavation plan. CACD believes the Venice site is appropriate for memorandum account treatment.

3. All excavation costs will be incurred in conformance with the DHS-approved plan. Because SoCal will not be directly involved in the implementation of the excavation plan, the annual reasonableness review should address to what extent the costs SoCal pays to Chiat/Day should be recovered from ratepayers.

4. CACD recommends the Commission deny Edison's request to be authorized to set up a memorandum account for this project, at least until the Commission has acted upon Edison's request to modify its general rate case filing to permit such a procedure. This Resolution cannot properly anticipate the results of that separately argued proceeding. Edison should file a separate advice letter when its decision is modified to provide for such an action.

5. DRA recommended SoCal receive interest on the amounts booked into a memorandum account at the "three-month Commercial Paper rate," as reported in the Federal Reserve Statistical Release, G.13, or its successor publication. SoCal requested the rate be set at its CAM interest rate. The three-month Commercial Paper rate recommended by DRA is the same CAM interest rate requested by SoCal. CACD recommends that use of SoCal's CAM interest rate be continued to be consistent with D.88-07-059.

6. SoCal did not submit proposed Preliminary Statement changes with the advice letter to establish the memorandum account. CACD asked SoCal to develop proposed language and format. SoCal will submit an advice letter containing the appropriate language.

7. Chiat/Day's building permit requires effective construction to begin by January 1, 1989. All site remediation work must be completed before construction begins. Therefore, expeditious booking of these costs is needed.

FINDINGS

1. SoCal should record in a memorandum account up to \$1,750,000 for costs associated with the cleanup of Parcel A at the Venice site and consistent with project documentation set forth in AL 1825.

2. Authority to implement this account should be effective on the date of this order because Chiat/Day's building permit requires effective construction to begin by January 1, 1989, and all site remediation must be completed before construction begins. No expenses paid or incurred prior to the date of this order should be included in the account.

3. Expenses recorded in the account should be subject to a subsequent annual reasonableness review, and should not be placed into rates until ordered by the Commission after the review.
4. SoCal should be authorized to accrue interest at its CAM interest rate on amounts booked into the memorandum account.
5. All invoices and reports received by SoCal from Chiat/Day or their consultants related to Parcel A of the Venice site should be provided in their entirety within five working days of their receipt to both the CPUC and Edison. Therefore,

IT IS ORDERED THAT:

1. Southern California Gas Company (SoCal) is authorized to implement a memorandum account not to exceed \$1,750,000 for costs associated with the cleanup of Parcel A of the Venice site. No expenses paid or incurred prior to the date of this order shall be included in the account.
2. Expenses recorded in the account shall be consistent with documents submitted in Advice Letter 1825 filed by SoCal September 27, 1988, included herein by reference, and subject to a subsequent reasonableness review, and shall not be placed into rates until ordered by the Commission after the review.
3. SoCal is authorized to accrue interest at its CAM (Consolidated Adjustment Mechanism) interest rate on amounts booked into the memorandum account.
4. SoCal shall provide Southern California Edison Company (Edison) and the Commission Advisory and Compliance Division with copies of all invoices and reports received from Chiat/Day.
5. Any reallocation of expenses between SoCal and Edison, and the appropriate amount to be recovered from ratepayers should be addressed in a consolidated Commission proceeding to be held after total cleanup costs are known.
6. SoCal shall file an advice letter modifying its Preliminary Statement in compliance with this Resolution.

This Resolution is effective today.

I certify that this Resolution G-2843 was adopted by the Public Utilities Commission at its regular meeting on November 23, 1988. The following Commissioners approved it.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Executive Director