

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Environmental Section

RESOLUTION G-2868
April 12, 1989

RESOLUTION

RESOLUTION G-2868, ORDER AUTHORIZING SOUTHERN CALIFORNIA GAS COMPANY (SOCAL) TO RECORD UP TO \$1,429,024 IN A MEMORANDUM ACCOUNT FOR CLEANUP COSTS ASSOCIATED WITH THE OPERATING INDUSTRIES, INC. (OI) SITE; BY ADVICE LETTER 1854, FILED FEBRUARY 15, 1989.

SUMMARY

1. SoCal filed Advice Letter (AL) 1854 on February 15, 1989 requesting authority to book hazardous waste cleanup costs associated with the OI landfill site in Monterey Park.
2. This Resolution approves the request.

BACKGROUND

1. Advice Letter 1854 was 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. Decision 88-07-059 ordered advice letters to be filed on a project-by-project basis and to contain comprehensive, specific information about each site. It also required that expenditures incurred undergo an annual reasonableness review.
2. The OI site is a 190-acre landfill that accepted municipal and industrial solid and liquid wastes between 1948 and 1984. The landfill contains hazardous wastes and was placed on the Environmental Protection Agency's (EPA) National Priorities List (NPL) in May 1986. The NPL is a list of "Superfund" sites prepared by the EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. Sec. 6901 et. seq. CERCLA, the superfund law, provides the EPA with the authority to negotiate settlements and compel responsible parties to pay for and remediate superfund sites. Responsible parties include current and past site owners and operators, and persons who generated, transported, treated, or disposed of hazardous substances. OI records indicate that SoCal

disposed of 3,602,724 gallons of car wash rack sump wastes, drilling waste, and oil and gas production wastes at the OI site.

3. In March 1986, the owners of the OI site could no longer maintain the facility and EPA assumed responsibility for operation and maintenance of the landfill's monitoring and environmental systems. EPA has determined that certain interim remedial actions are necessary before the selection of a final remedy for the site. These interim actions are termed "operable units." EPA has issued Records of Decision (ROD) for three operable units: site control and monitoring; leachate management; and gas migration control. The RODs describe the remedial actions to be conducted.

4. In June 1986, EPA notified SoCal that it had been identified as a Potentially Responsible Party (PRP) for remediation of the OI site. SoCal joined with other PRPs to form the OI Site Steering Committee (Committee) to negotiate with the EPA to avoid litigation and to cooperate in developing information about the site and on matters that could lead to the identification of additional PRPs. There are 190 PRPs identified by the EPA.

5. In September, 1988, SoCal received a Partial Consent Decree (PCD) issued by the EPA to settle certain issues pertaining to the OI site. These issues include past costs incurred by the EPA and the State of California Department of Health Services (DHS) and costs associated with the implementation of remedial activities for two operable units at the site - the site control and monitoring operable unit and the leachate management operable unit. The PCD does not include the ROD for the third operable unit or for groundwater contamination.

6. The proposed PCD has two classes of settling PRPs, work defendants and cash defendants. The work defendants are Committee members who will perform the required work for the two operable units up to a total cost of \$34 million, and will pay EPA \$1.4 million and DHS \$0.5 million for past response costs. SoCal's share of the \$35.9 million is \$1,429,024, primarily based on the volume of waste disposed of at the OI landfill. Cash defendants will be responsible only for payments of specified amounts of money. SoCal chose to sign the PCD as a work defendant, which is less costly to SoCal than the cash defendant option, and allows it to remain part of the Committee.

7. SoCal's share of costs is subject to reallocation under certain conditions, including the acquisition of additional data on waste volume and a "cash-out" option available to work defendants based on volume contribution, for which SoCal is ineligible.

8. The PCD is expected to be signed April 1, 1989. The monetary obligation of settling parties will be due to the EPA

and DHS thirty days after receipt of a notice that the PCD has been entered. Therefore, these costs should be booked soon.

COMMENTS

1. The Division of Ratepayer Advocates (DRA), in comments filed March 16, 1989, recommended the acceptance of Advice Letter 1854, with 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 on amounts booked in the memorandum account at the three-month commercial paper rate.

2. SoCal responded to DRA's comments by letter March 24, 1989. It commented on two issues and had no other objections to DRA's conditions. First, SoCal believes DRA mischaracterized EPA's RODs by referring to them as "EPA's determination of final remedy for the OI site." The EPA's PCD applies only to two of the three operable units; the EPA has not yet determined the remediation required for the third operable unit.

SoCal's second concern is the interest rate applicable to amounts booked into the memorandum account. Decision 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 OI site reflect the language used in that decision.

DISCUSSION

1. The Commission Advisory and Compliance Division (CACD) has reviewed DRA's recommendations and SoCal's comments and has determined separate hearings are unnecessary.

2. SoCal's AL 1854 meets the information requirements set out in D.88-07-059, and includes an order to undertake site work, a work plan, schedule, and budget. CACD believes the OI site is appropriate for memorandum account treatment.

3. All remediation costs will be incurred and work will be performed in accordance with the EPA PCD and attachments.

4. DRA recommended SoCal accrue interest on the amounts booked into a memorandum account at the three-month commercial paper rate. SoCal requested the rate be set at its CAM interest

rate to reflect the language of D.88-07-059. However, the CAM proceeding no longer exists. (The CAM interest rate was defined as the three-month commercial paper rate.) SoCal's Preliminary Statement (sheet 19118-G***) states the interest rate accruing on applicable memorandum accounts will be based on the "interest rate on Commercial Paper (prime, 3-month), published in the Federal Reserve Statistical Release, G.13." CACD recommends that the interest rate on three-month commercial paper be used.

5. SoCal will be required to make an initial payment to the EPA and DHS within 30 days after the PCD is signed and recorded. The PCD is expected to be signed April 1, 1989. Therefore, these costs should be booked soon.

FINDINGS

1. SoCal should record in a memorandum account up to \$1,429,024 for costs associated with the cleanup of the OI site consistent with EPA work requirements specified in the PCD and attachments contained in AL 1854.
2. Authority to implement this account should be effective on the date of this order because SoCal's initial expenditures are required within thirty days after the Partial Consent Decree is entered. The PCD is scheduled to be signed April 1, 1989. 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 an annual reasonableness review, as required by D.88-07-059 (p.50), and should not be placed into rates until ordered by the Commission after the review.
4. SoCal should be authorized to accrue interest at the three-month commercial paper rate on amounts booked into the memorandum account.
5. Since SoCal's share of costs may be subject to reallocation, SoCal should be required to provide CACD with copies of the monthly progress reports required by the PCD and all communication received from EPA, DHS and the Committee regarding events which may effect SoCal's share of costs at the OI site.
6. SoCal's annual Hazardous Waste Management report should include information on activities and amounts booked into the memorandum account for the OI site.

THEREFORE IT IS ORDERED THAT:

1. Southern California Gas Company (SoCal) is authorized to implement a memorandum account not to exceed \$1,429,024 for remedial costs associated with the cleanup of the Operating Industries, Inc. (OI) landfill 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 1854 filed by SoCal February 15, 1989, 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 the three-month commercial paper rate on amounts booked into the memorandum account.
4. SoCal shall provide the Commission Advisory and Compliance Division with copies of the monthly progress reports required by the EPA and all communication received from the EPA, DHS and the OI Site Steering Committee regarding events affecting SoCal's share of costs at the OI site.
5. This Resolution is effective today.

I certify that this Resolution G-2868 was adopted by the Public Utilities Commission at its regular meeting on April 12, 1989. The following Commissioners approved it.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners


Executive Director

Commissioner Frederick R. Duda
being necessarily absent, did
not participate.

Commissioner Patricia M. Eckert
present but not participating.