

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-2880
September 27, 1989

R E S O L U T I O N

SOUTHERN CALIFORNIA GAS COMPANY. ORDER DENYING
APPROVAL OF A CONTRACT WITH ROCKWELL INTERNATIONAL
FOR SERVICE UNDER TARIFF SCHEDULE GN-50, NATURAL
GAS SERVICE FOR COGENERATION.

BY ADVICE NO. 1867, FILED APRIL 20, 1989.

SUMMARY

1. By Advice No. 1867, filed April 20, 1989, Southern California Gas Company (SoCal) submitted for approval a Contract for Gas Service with Rockwell International (Rockwell), for service under Tariff Schedule GN-50, Natural Gas Service for Cogeneration.
2. SoCal's request is denied because the Rockwell facility does not meet the definition of cogeneration imposed by Public Utilities Code Section (Code Section) 218.5.

BACKGROUND

1. Rockwell operates the Energy Technology Engineering Center (ETEC), a research facility in Simi Valley, California that is owned by the United States Department of Energy (DOE). Rockwell performs research and testing in many areas of energy development, including use of liquid metals as heat transfer media. ETEC has operated since 1966.
2. Among Rockwell's duties at ETEC are testing of various components and materials operating in a liquid sodium environment, including testing of steam generators or boilers. Before 1988 the steam energy produced in the testing process was lost by condensation of the steam and subsequent loss of the heat transferred to the cooling medium. In 1988 Rockwell added a turbine-generator set to the system to utilize the waste heat for generation of approximately 25 megawatts (MW) of electric power. The electricity is sold to Southern California Edison Company (Edison) under an "as available" power purchase agreement.

3. Rockwell now receives service from SoCal under Tariff Schedule GN-30, Natural Gas Non-core Service for Commercial and Industrial. By Advice No. 1867 SoCal seeks approval of a contract with Rockwell which would provide gas under Tariff Schedule GN-50, Natural Gas for Cogeneration. If approved this contract would reduce SoCal's non-core revenues by \$1.2 million per year, according to SoCal. SoCal included with Advice No. 1867 letters of support from the Chairman of the Federal Energy Regulatory Commission (FERC) and the staff of the DOE.

4. There are three separate definitions of "cogeneration" that might be applied to this situation:

- (1) In SoCal's Rules 1 and 23, "cogeneration" is defined as "the sequential production of electrical energy and heat, steam or useful work from the same fuel source and meeting the efficiency standards set forth in Chapter 18 of the Code of Federal Regulations (CFR), Sections 292.205(a) and (b) and subsequent revisions thereto."
- (2) Within CFR Chapter 18 itself, Section 292.202 defines a "cogeneration facility" as "equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy."
- (3) Code Section 218.5 states, "'Cogeneration' means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:
 - (a) At least 5 percent of the facility's total annual energy output shall be in the form of useful thermal energy.
 - (b) Where useful thermal energy follows power production, the useful annual power output plus one-half the useful annual thermal energy output equals not less than 42.5 percent of any natural gas and oil energy input."

5. On May 27, 1988 FERC, in Docket No. QF84-194-005, denied Rockwell's request for Federal certification of qualifying facility (QF) status, essentially concluding that the Rockwell testing facility did not produce "useful work" according to the requirements of CFR Chapter 18, Section 292.202.

NOTICE

1. SoCal has made public notification of this filing by mailing copies of Advice No. 1867 to other utilities, governmental agencies and all parties who requested such notification. Notice of the filing also appeared in the Commission's Daily Calendar on April 26, 1989.

PROTESTS

1. The Commission Advisory and Compliance Division (CACD) received two protests to Advice No. 1867, from Edison on May 9, 1989 and from the Commission's Division of Ratepayer Advocates (DRA) on May 10, 1989.

2. In Advice No. 1867 SoCal claimed that both DRA and CACD staff are in concurrence with SoCal's request, but this is clearly not so. DRA has protested, and staff of CACD's Energy Branch only recommended that SoCal make the filing so that the Commission could decide the issue.

2. Both SoCal and Rockwell responded to the protests.

DISCUSSION

1. In reviewing contracts such as this one the Commission's principal concern is eligibility for tariff rates. Other issues, such as those offered in the letters of support from FERC and DOE, are of secondary importance.

2. The contested issue of Rockwell's eligibility as a cogenerator turns on the choice of definition. Edison argues that the ETEC facility does not qualify as cogeneration because the testing process produces no useful work; Edison relies on the definition in CFR Chapter 18 in making its determination. DRA also argues that ETEC does not meet the Federal standards defining a cogeneration facility, citing the FERC decision denying QF status.

3. The FERC decision of May 27, 1988 denies QF status based on a strict interpretation of CFR Chapter 18, Section 292.202. FERC explains that collection of data does not constitute a useful thermal energy process. For a thermal process to exist, thermal energy "must be used for a heating purpose or for a process in which thermal energy effects a chemical or physical change." Thus FERC adopts a thermodynamic rather than a layman's interpretation of the term "useful".

4. If this Commission were confined to the definition of cogeneration in CFR Chapter 18, we might agree with FERC's arguments. Conversely, if we were to rely on the definition in

SoCal's Rules 1 and 23, we might be inclined to grant SoCal's request. The definition in the Rules does not require production of "useful thermal energy", but allows for production of "heat, steam or useful work", which is a less restrictive standard.

5. However, in this circumstance we must use Code Section 218.5 in preference to either of the above definitions. ETEC's facility fails the requirement of Code Section 218.5(a) under any definition of "useful thermal energy". Data collection cannot possibly be converted into a minimum of 5% of the facility's total annual energy output. Subsections (a) and (b) of Code Section 218.5 apply to either sequence of thermal use and power production.

6. Decision (D.) 92792, dated March 24, 1981, ordered that cogenerators were to receive natural gas service at special rates, after meeting the requirement that "... the cogeneration facility must meet the efficiency standards as outlined in 18 CFR 292.205(a) and (b) as well as use natural gas in the production of electricity and steam, heat or useful work." This decision and D.93125, dated June 2, 1981, are the sources of the definitions used in SoCal's and other utilities' tariff rules.

7. Code Section 218.5 was amended by the Statutes of 1981, Chapter 952, shortly after the signing of D.92792 and D.93125. We conclude that the definition in D.93125 is superseded by Code Section 218.5. Until now the difference in definitions has not been an issue, but Advice No. 1867 brings it to our attention. We will therefore order SoCal and other gas utilities to revise their tariff rules to reflect the definition of cogeneration contained in Code Section 218.5.

8. DRA further argues that granting SoCal's request would not protect SoCal's ratepayers. The non-core revenues lost by allowing Rockwell the lower GN-50 rate would be made up by other ratepayers, without any offsetting benefits to them. The benefits would accrue solely to the Federal government, in the form of increased services from Rockwell as it uses the gas cost savings to extend the duration of its testing program. We agree in general with DRA's argument, but it carries no weight in our decision to deny SoCal's request. The denial is based on tariff eligibility alone.

FINDINGS

1. The ETEC facility which is the subject of SoCal Advice No. 1867 is primarily a test facility, with waste heat used to generate electricity for sale to Edison.

2. There are three definitions of cogeneration which may be considered in determining the eligibility of the ETEC facility for gas service under Tariff Schedule GN-50. The definitions are

found in CFR Chapter 18, Section 292.202; SoCal's Rules 1 and 23 (deriving from D.92792 and D.93125); and Code Section 218.5.

3. The governing definition in determining tariff schedule eligibility is the definition in Code Section 218.5.

4. The ETEC facility does not meet the requirements of Code Section 218.5.

5. In this instance other arguments for and against acceptance of Rockwell as a cogenerator are irrelevant.

6. The contract between SoCal and Rockwell for gas service under GN-50 should be rejected.

7. SoCal and other natural gas utilities should revise their tariff rules such that definitions of cogeneration comply with Code Section 218.5.

THEREFORE, IT IS ORDERED that:

1. Approval of the Contract for Gas Service between Southern California Gas Company and Rockwell International submitted in Advice No. 1867 is denied.

2. Within thirty (30) days of the effective date of this order Southern California Gas Company shall revise its tariff rules such that definitions of cogeneration comply with Public Utilities Code Section 218.5.

3. Within thirty (30) days of the effective date of this order other California natural gas utilities with definitions of cogeneration similar to that of Southern California Gas Company shall also revise their tariff rules to comply with Public Utilities Code Section 218.5.

4. The Executive Director shall cause copies of this Resolution to be served on all regulated California natural gas utilities.

5. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 27, 1989. The following Commissioners approved it:

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

Wesley Franklin

Acting Executive Director