

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-2954
June 19, 1991

I N T E R I M
R E S O L U T I O N

RESOLUTION G-2954. SOUTHERN CALIFORNIA GAS COMPANY
TARIFF SCHEDULE G-TARG, TARGETED NATURAL GAS SALES TO
TRANSPORTATION CUSTOMERS, TO COMPLY WITH GAS PROCUREMENT
FILINGS REQUIRED UNDER DECISION 90-09-089, ET AL.

BY ADVICE LETTER 2028, FILED ON APRIL 19, 1991.

SUMMARY

This Resolution conditionally approves Southern California Gas Company's (SoCal) Targeted Sales Program. SoCal is ordered to expand and clarify its tariff to provide customers with greater details about the program's operation.

BACKGROUND

1. Southern California Gas Company (SoCal) filed Advice Letter 2028 on April 19, 1991 to comply with Decision 90-09-089, et al, to provide a Targeted Sales Program for its gas transportation customers.
2. In Decision 90-09-089, the Commission approved a proposal contained in the Settlement to the Procurement Rulemaking (R.) 90-02-008, to permit the utilities to use their firm interstate transportation capacity rights to effect buy/sell arrangements with their customers. The utilities would purchase gas supplies identified by their customers in the various producing basins and would resell the identified gas supplies to the customer in California at the same purchase price plus the cost of interstate and intrastate transportation. The arrangement was a method of providing noncore customers, that chose not to become core subscription customers, with firmer gas supplies in advance of an approved capacity brokering program.
3. On May 22, 1991 the Commission adopted Resolution G-2948 which conditionally approved advice letter filings required under the decisions from R.90-02-008. These decisions adopted final rules changing the structure of the gas utilities' procurement practices and refined elements of the regulatory framework for California gas utilities. SoCal Advice Letter 2028, a proposed tariff schedule providing a Targeted Sales Program for its

customers, is a key element of the tariff changes filed to comply with the various decisions.

4. Notice was provided by publication in the Commission's Daily Calendar. Notice was also provided by SoCal mailing copies of the advice letter to a utility customer service list, comprised of other utilities and government agencies, and to parties of record to the Procurement Rulemaking (R.) 90-02-008, and R.88-08-018, for capacity brokering.

PROGRAM DESCRIPTION

1. SoCal proposes to purchase supplies "targeted" by a transportation customer, transport the gas on the interstate and intrastate pipeline systems to the customer's designated redelivery point(s), and sell the gas to the customer at the applicable procurement rate. The rate will be filed prior to August 1, 1991, when this service will commence.

2. Targeted Sales gives noncore customers the ability to receive firmer gas service by having SoCal purchase and deliver supplies to them. Customers who do not use the Targeted Sales Program will transport gas on the interstate systems under their own interstate contracts and will be subject to the priority queue established by the individual interstate pipeline companies, or will elect to be core subscription customers.

3. The Targeted Sales Program is open to all California core and noncore transportation customers. Authorized marketers and aggregators may participate on behalf of the California end-use customers they represent. Although customers are not required to participate, they may greatly benefit from the program.

4. The Targeted Sales Program is an interim program and will terminate on the effective date of an approved capacity brokering program to be authorized by the Federal Energy Regulatory Commission (FERC) and the California Public Utilities Commission (CPUC).

PROTESTS

1. Protests were filed by the California Industrial Group, California Manufacturers Association and the California League of Food Processors (CIG) on May 7, 1991, by the Indicated Producers (IP) on May 15, 1991, and by San Diego Gas and Electric Company (SDG&E) on May 21, 1991.

2. SoCal replied to the protests in two separate responses dated May 24 and May 28, 1991.

Penalties and Brokerage Fees

CIG objects to SoCal's requirement to pay scheduling and balancing penalties and brokerage fees, stating that there are no provisions in any of the relevant decisions authorizing such

charges. SDG&E and Indicated Producers also voice this concern. CIG argues that if the utility is permitted to recover any such charges, customers should be liable only for those charges directly associated with targeted purchases and sales made by the utility on behalf of the customer.

SDG&E contends that it is clear from the decisions adopting and setting brokerage fees for SoCal, that the purpose of such fees is to recover from sales customers only those direct costs caused by identification and acquisition of gas supplies. The methodology adopted for SoCal, under D.90-01-015, was to include the costs of salaries and expenses of the Gas Supply, Planning and Acquisition Departments, as well as Gas Supply contractor expenses. SDG&E argues that SoCal's Targeted Sales Program does not require all of the personnel needed to accomplish purchasing gas for its own portfolio, and that use of the brokerage fee is inappropriate for this program. SDG&E also notes that, as a wholesale customer, its rates are determined by cost allocation proceedings and through its contract with SoCal. For these reasons, a brokerage fee should not apply to its participation in the Targeted Sales Program.

SoCal replies that Commission Decisions 90-01-015 and 90-11-034 and Resolution G-2048 specifically require SoCal to collect brokerage fees for the sale of gas to noncore customers. With respect to scheduling and balancing penalties, SoCal states that it does not propose to impose such charges on its customers as a means to defray generic costs incurred by SoCal. SoCal states that this provision is intended to place responsibility for such charges on customers and their authorized marketers who are responsible for the incurrence of such charges through their actions or inactions in nominating gas supplies.

Discussion

A customer is responsible for scheduling and balancing penalties incurred by the utility as a direct result of its actions or inactions in nominating gas supplies. SoCal is not authorized to levy such fees generically to any customer, unless directed to do so by the CPUC. CACD recommends that SoCal rephrase its tariff schedule for targeted sales, incorporating the word "direct" to clarify that customers will be charged penalties if their actions directly cause the utility to incur such costs.

Brokerage fees are authorized to be collected from core and noncore customers purchasing gas from the utility's gas portfolio(s). Contrary to SoCal's statement, Decisions 90-01-015 and 90-11-023 and Resolution G-2948 do not apply a brokerage fee to activities associated with transportation of customer identified or targeted gas. Customer identified or targeted gas is not booked to the utility's gas portfolio, and such expenses are not incurred by the utility under the targeted sales program. Brokerage fees do apply to core-subscription, Service Level 2 service, where a noncore customer purchases gas from the

utility's gas portfolio. Brokerage fees were adopted for core-subscription service under the procurement decisions, but not for transportation services provided by the utility. CACD recommends that SoCal remove the proposed brokerage fee from its targeted sales program tariff schedule to comply with D.90-09-089, et al.

19-Day Billing Lag

Under SoCal's Targeted Sales schedule, Special Condition 7, SoCal states:

"Utility will mail payment for the purchase of Targeted Sales volumes within 19 calendar days from the date the customer renders payment to the Utility for delivery of these same Targeted Sales volumes to the customer's end-use delivery point(s)."

CIG argues that this provision complicates an otherwise simple invoicing transaction. CIG recommends that SoCal simply bill the customer for the transportation and procurement services rendered and, at the same time, credit the customer with the cost of gas purchased on behalf of the customer or agent. CIG argues that if the customer (or the agent) is willing to wait until it receives the invoice from the utility to receive payment or credit for the transaction, the utility is kept whole by such a mechanism. IP argues also that the 19-day lag places a large cash-flow burden on the marketer or the end-use customer, causing an effective 30-day lag. IP states that if SoCal intends to purchase from the producer/marketer, SoCal can make payment on normal commercial terms 20 days after receipt of an invoice.

SoCal replies that, as indicated in the May 9, 1991 CACD-sponsored workshop, it agrees with elimination of the 19-day billing lag. SoCal proposes to combine debits and credits on the same bill, as proposed by CIG. CACD believes SoCal's adoption of the combined debit/credit transaction mechanism will eliminate the timing issue. CACD recommends the replacement of the current Special Condition 7 under SoCal's Targeted Sales tariff with a description of the debit/credit transaction discussed above. In addition, California noncore end-users are not allowed to purchase gas and then resell the gas to the utility for interstate transport at this time, without a FERC certificate. CACD recommends that SoCal clarify in its tariffs that the purchase of the gas will be made by SoCal.

Buy/Sell Arrangements

IP contends that SoCal's Targeted Sales program under Schedule G-TARG fails to specify how the specific transaction between the producers or marketers, the utility, and the end-user will function. In particular, IP requests clarification as to how the purchase arrangement between the supplier and SoCal operates. IP points out that SoCal's marketers have variously described both that, (1) SoCal will purchase the identified supplies and will

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resell to the California end-user, and (2) the end-user will purchase the supplies, resell to SoCal and then repurchase the supplies at the California border.

IP states that should the end-user purchase and resell the gas to the utility, such action would constitute sale of gas for resale in interstate commerce without proper FERC authority and certification. SDG&E makes a similar argument, stating that should it be required to purchase gas, resell it to SoCal, and then repurchase it, it would jeopardize its Hinshaw Exemption, as a regulated CPUC utility, and would subsequently fall under FERC regulation.

SoCal replies that the most important feature distinguishing its Targeted Sales Program from the proposed, yet unauthorized capacity brokering program, is who owns the gas during interstate commerce. SoCal affirms that it will have title to the gas supplies as they are transported across interstate pipelines, not its California end-use customers.

Discussion

The CPUC has not authorized SoCal to use its interstate capacity rights to transport gas already purchased by California noncore customers. The CPUC has only provided that noncore customers may help arrange for their gas supplies, and that SoCal should use its best efforts to purchase the arranged-for gas from the producer or marketer for sale to the noncore customer. California noncore customers are not authorized to engage in sales for resale on interstate pipelines without a FERC certificate to do so.

CACD agrees with IP that SoCal's proposed tariff does not clearly state that SoCal will have title to the gas over the interstate pipelines to resell to end-use customers, including SDG&E, at the California border. CACD recommends that SoCal specify the details of this arranged-for gas transaction clearly in its Schedule G-TARG.

Pending Supplemental Filing

In the last two weeks, CACD and the Commission's Legal Division have had discussions with SoCal and SDG&E with regards to the exact wording and functioning of the buy/sell arrangement. SoCal has submitted a supplemental Advice Letter filing, and SDG&E has withdrawn its protest to the original Advice Letter filing based upon its review of the draft revision. Supplemental Advice Letter 2028-A was filed in the Los Angeles CPUC Office on June 13, 1991 and was mailed to the above-mentioned service lists. Any further discussion of this issue will be made in a subsequent, final resolution addressing the changes made to the original filing.

Capacity Brokering

Indicated Producers argue that the buy/sell mechanism proposed by SoCal under its Targeted Sales Program is unlawful and that it is merely a guise for capacity brokering. IP states:

"SoCal's Targeted Sales Program is a blatant attempt to broker capacity outside of FERC capacity brokering jurisdiction. Moreover, SoCal's implementation of its Targeted Sales Program is unnecessary in light of recent FERC orders authorizing capacity brokering on Transwestern and El Paso. While the capacity brokering certificates issued by the FERC have not yet been accepted by the pipelines and remain subject to modification upon the resolution of rehearing issues, a FERC approved capacity brokering program should soon be in place. At that time, SoCal will be in a position to allow noncore customers and other shippers to transport third-party supplies over the interstate pipelines under a FERC-approved capacity brokering program. SoCal will have no need to implement the unauthorized brokering scheme it intends to offer under the Targeted Sales Program."

SoCal replies that IP has merely isolated certain features of its Targeted Sales Program in an effort to support their view that the program constitutes capacity brokering. SoCal states that IP fails to also note certain features of its program that are inconsistent with capacity brokering, such as charges for franchise fees and uncollectibles, and that SoCal will have title to the gas supply as it is transported across interstate pipelines. SoCal also notes that IP recommends that the Commission abandon its interim program, because the capacity brokering programs to be finally approved by the FERC are nearly complete. SoCal points out that Transwestern has only accepted its FERC certificate conditionally and it is entirely possible that El Paso may not accept its capacity brokering certificate at any time this year. SoCal argues that the Commission must not be intimidated from moving forward on its interim program to create a more competitive marketplace for natural gas on August 1, 1991.

Discussion

Capacity brokering is currently being addressed by the Commission under R.88-08-018. Hearings have been completed and reply briefs are due by June 21, 1991. The Targeted Sales Program, as proposed by SoCal, and the Customer-Identified Program for PG&E, are interim measures to provide customers the opportunity to become involved in and learn about how to deal with the daily nominations and transportation difficulties posed by transporting gas over the interstate and intrastate systems, before they also attempt to bid for capacity on the systems. Noncore customers are not acquiring firm capacity rights on interstate pipelines. Instead, the utilities will provide their "best efforts" to secure the identified supplies and transport these supplies to the border.

As explained in its various procurement decisions under R.90-02-008, the new rules do not enact capacity brokering, but merely regulate how the California utilities procure gas for noncore customers until a FERC-approved capacity brokering program can be implemented. Decision 90-08-089 (pp.45-46) states:

"We will not, as the Settlement parties suggest, assume that the transportation services adopted today will remain in place after a capacity brokering program is in place. We cannot anticipate by the record in this proceeding how the Settlement's provisions would dovetail with the final brokering rules or the effects the new service levels may have on capacity brokering programs. Moreover, the reliability of 'firm' service adopted today is unclear because noncore customers must rely on utilities' "best efforts" to purchase identified gas supplies. A FERC-approved capacity brokering program will operate better to promote competition, and assure noncore customers get the level of reliability they pay for. The new transportation service will be interim pending final resolution of capacity brokering; however, we encourage parties to propose ways to integrate the interim rules with a permanent capacity brokering program."

SoCal's Targeted Sales Program is not a capacity brokering program. It is an interim step to allow customers a method of identifying gas supplies and learning how the California gas utilities use their firm capacity rights. The utilities hold title to the gas for resale to the customer at the California border and the utilities do not broker their capacity rights to anyone. When capacity brokering is adopted and implemented by the CPUC, parties will be able to acquire their own capacity rights on the interstate and intrastate pipelines serving California and these parties will be able to use their rights to transport their own supplies.

Open Season Process

IP argues that SoCal's Open Season process as described in the tariff offers too little information about how the process will operate. Nor does SoCal specify, as it did in customer meetings, how customers would elect volumes at interstate pipeline mainline receipt points. IP is concerned that customers will not be apprised fully of all the rules before they enter into the program. IP requests that SoCal state the volumes to be made available by receipt point, the manner in which those volumes were chosen, the rules governing allocation of oversubscribed capacity at receipt points, and every other material fact concerning the election process.

SoCal responds that it sees no reason why the tariff needs to be burdened with such detail. SoCal explains that it has distributed the details of the open season to all interested parties and that no party has been prejudiced. In addition,

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SoCal explains that it has no control over the interstate pipeline system, and as such, cannot guarantee customer deliveries through any particular receipt point on the interstate pipeline system.

SoCal's currently proposed tariffs outline the starting and ending dates for customers to select various service levels. SoCal does not outline the bidding procedures customers will experience, nor does it state what options a customer will have for targeting gas supplies should a particular pipeline basin be oversubscribed. CACD recognizes that SoCal cannot guarantee customer deliveries on any given day through any particular receipt point on the interstate pipeline systems. However, CACD recommends that SoCal redraft its tariffs to include details explaining the bidding procedures customers must follow to target their supplies and how oversubscribed supply basin demands will be handled under Schedule G-TARG.

Missing Program Elements

Indicated Producers request that the Commission reject SoCal's Targeted Sales Program and Advice Letter 2028, on the grounds that the filing is incomplete. IP states that among the missing elements are pro forma contracts and a full description of SoCal's Authorized Marketer program, as announced in various customer meetings.

SoCal replies that the details of the contracts and the Authorized Marketer program have not yet been finalized, but that these program elements will be filed shortly.

CACD advises both IP and SoCal that it will incorporate the protests and responses to these program elements when they are filed as advice letters to complete the required compliance filings. SoCal is currently on notice to file advice letters covering Sales of Excess Gas and its Electronic Bulletin Board, as well as its pro forma contracts. SoCal has also informed CACD that it intends to file a separate advice letter outlining its authorized marketer program. When these advice letters are filed, protests may be made.

FINDINGS

1. A customer is responsible for scheduling and balancing penalties incurred by the utility as a direct result of its actions or inactions in nominating gas supplies.
2. Brokerage fees are authorized to be collected from core and noncore customers purchasing gas from the utility's gas portfolio(s).
3. Decisions 90-09-089, et al, authorize the utilities to collect brokerage fees for core-subscription, Service Level 2 customers, not transportation customers.
4. Noncore customers are not allowed to purchase gas and resell the gas to the utility for transport over interstate pipelines.
5. SoCal's Targeted Sales Program is not also a capacity brokering program.
6. SoCal's Targeted Sales Program is an interim step to allow customers a method of identifying gas supplies and learning how the California gas utilities use their firm capacity rights.
7. SoCal cannot guarantee customer deliveries on any given day through any particular receipt point on the interstate pipeline systems.

CONCLUSIONS

1. SoCal should redraft its tariff schedule for targeted sales, incorporating the word "direct" to clarify that customers will be charged penalties if their actions directly cause the utility to incur such costs.
2. SoCal should remove brokerage fees from the Targeted Sales schedule to comply with Decision 90-08-089, et al.
3. SoCal should eliminate the 19-day billing lag by combining a debit/credit mechanism to be applied on the same bill.
4. SoCal should specify the arranged-for gas transaction in the body of its tariff.
5. SoCal should clarify in its tariffs that it will purchase the targeted sales gas for the customer, paying the producer/marketer under normal commercial terms 20 days after receipt of the invoice.
6. SoCal should redraft its tariffs to include details explaining the bidding procedures customers must follow to target their supplies and how oversubscribed supply basin demands will be handled under Schedule G-TARG.

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THEREFORE, IT IS ORDERED that:

1. Southern California Gas Company shall file a revised advice letter and tariff sheets in compliance with the provisions of General Order 96-A, consistent with each of the findings and conclusions listed above.
2. Southern California Gas Company shall file a revised advice letter and tariff sheets five business days from the effective date of this resolution.
3. This Interim Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 19, 1991. The following Commissioners approved it:

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners


NEAL J. SHULMAN
Executive Director