

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Southern California Gas Company (U 904 G)
and San Diego Gas & Electric Company (U 902 G) to
Expand Existing Off-System Delivery Authority.

Application 08-~~08~~^{A0806006}
(Filed June 6, 2008)

**APPLICATION OF
SOUTHERN CALIFORNIA GAS COMPANY AND
SAN DIEGO GAS & ELECTRIC COMPANY
TO EXPAND EXISTING OFF-SYSTEM DELIVERY AUTHORITY**

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June 6, 2008

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Pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC” or “Commission”), Southern California Gas Company (“SoCalGas”) and San Diego Gas & Electric Company (“SDG&E”), (collectively referred to as “Applicants”) hereby jointly submit their application requesting authority to expand their existing off-system delivery service to all pipeline interconnections on their respective systems (“Application”). As more fully discussed below, SoCalGas is currently authorized to deliver gas on its customers’ behalf to the gas transmission system of Pacific Gas & Electric Company (“PG&E”).

Applicants herein request approval for similar treatment of all of Applicants’ pipeline interconnections allowing for natural gas deliveries to such points (“off-system delivery service”). Utilization of Applicants’ off-system delivery service on a system-wide basis is not only in the public interest as it treats all similarly-situated interconnects in a non-discriminatory manner, but it is also consistent with the off-system service currently granted to PG&E by the Commission. Also, customers stand to benefit from expanded off-system deliveries as increased system utilization/throughput could lead to

lower transportation rates. Moreover, because Applicants' Hinshaw exemptions are not impacted, there are no legal impediments for Commission approval of the requested authorization.

I. BACKGROUND AND SUMMARY OF APPLICANTS' PROPOSAL

A. Procedural History and Relevant Decisions

In A.04-12-004, Applicants requested authority to integrate their gas transmission rates ("system integration"), establish a system of firm access rights ("FAR") and provide off-system natural gas transportation on a firm¹ and interruptible basis through backhaul service.² The system integration proposal was bifurcated from the other proposals and approved separately in D.06-04-033. In D.06-12-031, the Commission adopted a system of FAR and approved Applicants' proposal for off-system deliveries, but because of certain jurisdictional concerns expressed by the Commission, off-system deliveries were limited to SoCalGas' interconnection with PG&E.³ However, the Commission expressly allowed Applicants to "file an application, no earlier than May 1, 2008, to offer off-system service to pipeline interconnections other than PG&E."⁴

On January 19, 2007, PG&E, SDG&E and SoCalGas jointly filed a petition for modification ("PFM") of D.06-12-031 to allow SDG&E/SoCalGas and PG&E to develop firm delivery options on the combined transmission systems of the three California-

¹ D.06-12-031, *mimeo.*, p. 112. Applicants' proposal to offer firm off-system delivery service provided for an open season process to gauge levels of customer interest and to determine whether additional facilities were needed to provide such firm service. Applicants also proposed to separately file an application for approval to provide firm off-system service based on the results of the open season process. That application would also request appropriate (either rolled-in or incremental) rate treatment for any facilities that were determined to be necessary to provide such firm service.

² *Id.*

³ D.06-04-033, Ordering Paragraph (OP) 2.

⁴ *Id.*, OP 8.

regulated utilities prior to the May 1, 2008 date established in that decision. On June 21, 2007, the Commission issued a decision (D.07-06-025) denying the PFM.

In reaching its determination on the PFM, the Commission considered several factors, including: i) recognition that “parties in D.06-12-031 continued to advocate [off-system delivery service to] interconnections with transmission systems other than PG&E”; ii) concern that the “use of the SoCalGas transmission facilities to transport gas to points outside of California raises FERC [Federal Energy Regulatory Commission] jurisdictional issues pertaining to the Hinshaw Exemption of SoCalGas’ transmission system and has operational ramifications for intrastate transmission”; and, iii) “whether LNG project developers are successful in their efforts to bring LNG to California.”⁵

The Commission also addressed the PFM’s contention that the proposed modifications would send LNG developers a market signal indicating that their projects would be able to access east of California markets by using the transmission systems of SDG&E, SoCalGas and PG&E. In response, the Commission stated that it had already sent that signal by permitting SDG&E and SoCalGas to file an application to offer off-system delivery service to pipeline interconnections other than PG&E on or after May 1, 2008.⁶

Subsequent to its June 21, 2007 decision on the PFM, the Commission issued an *Order Instituting Rulemaking to Determine Issues Related to the California Utilities’ Procurement of Natural Gas Supplies from Liquefied Natural Gas* (“LNG OIR”) on November 11, 2007.⁷ The LNG OIR was established to determine whether and how the California utilities should enter into procurement contracts for natural gas from LNG

⁵ D.07-06-025, pp. 3 – 4.

⁶ *Id.* at 5.

⁷ R.07-11-001, p. 1.

suppliers on the West Coast to ensure that there would be adequate supplies of natural gas at reasonable prices to meet California's long-term needs.⁸

B. Authorization Requested and Basis for Approval

The forgoing decisions, proceedings and events have culminated in the instant request for expanded off-system delivery authority. Applicants submit that the time is ripe for the Commission to recognize the almost unanimous support by parties in A.04-12-004 for off-system deliveries to all pipeline interconnections on Applicants' respective systems. The concerns expressed by the Commission in D.06-12-031 and D.07-06-025 have since been fully vetted or have otherwise been incorporated in other proceedings. Furthermore, the authorization requested herein is grounded on well-established legal precedent.

Development of LNG projects is being addressed in the LNG OIR which was specifically initiated to comprehensively review long-term utility procurement of LNG to ensure long-term natural gas supplies to California. In addition, the completion of construction of at least one West Coast LNG project has been announced since the time D.06-12-031 was issued.⁹ Thus, the Commission's concern regarding LNG supply is being addressed in its LNG OIR and there is no reason to reconsider those issues in this proceeding.

Applicants propose to expand the existing firm and interruptible off-system delivery service as authorized in D.06-12-031 to all pipeline interconnections. Immediate use of displacement service to provide off-system deliveries to the other interconnection

⁸ *Id.*

⁹ *See*, May 15, 2008 Sempra LNG press release, http://public.sempra.com/newsreleases/viewPR.cfm?PR_ID=2270&Co_Short_Nm=SE

points will more fully optimize system facility use and design.¹⁰ Further, an expanded set of off-system delivery points that access additional markets could potentially increase utilization of Applicants' respective gas transmission systems, resulting in greater throughput and lower gas transportation rates for both SDG&E and SoCalGas customers on a system-wide basis.

The requested authority raises no FERC jurisdictional issues. As explained in Applicants' January 19, 2007 PFM, off-system deliveries to markets other than PG&E in northern California do not impact Applicants' Hinshaw exemption. In principle, Applicants' proposal is no different than PG&E's long-standing authorization to deliver natural gas from its intrastate transmission system to markets located outside of California under its FERC blanket transportation certificate. Like PG&E, SoCalGas and SDG&E also hold blanket transportation certificates issued by FERC.¹¹ Under a Part 284.224 "blanket" or "limited" transportation certificate,¹² local distribution companies ("LDCs") are authorized to transport gas in interstate commerce without affecting the jurisdiction of state agencies under the LDC's Hinshaw exemption to the Natural Gas Act.¹³

Indeed, PG&E has a history of transporting gas to markets outside of California under its blanket certificate with no adverse impact to its Hinshaw exemption. In granting PG&E its blanket certificate, FERC rejected the contention that doing so would

¹⁰ Any specific proposal to provide firm off-system deliveries would require Commission approval of a separate application consistent with the process previously adopted for firm off-system deliveries to PG&E. See, D.06-12-031, *mimeo*, p.112.

¹¹ See, *Southern California Gas Company*, 41 FERC ¶ 62,173 (1987); *San Diego Gas & Electric Company*, 64 FERC ¶ 61,221 (1993).

¹² 18 C.F.R. § 284.224.

¹³ 15 U.S.C. § 717(c).

jeopardize PG&E's Hinshaw exemption.¹⁴ FERC explained that an LDC may transport gas under a limited jurisdiction certificate while maintaining its Hinshaw exemption:

In carrying out its mandate under the NGA the Commission has also seen fit to issue limited jurisdictional certificates. The Commission has issued limited jurisdiction certificates authorizing a specific activity when the activity is found to be within the Commission's regulatory domain and in the public interest. The Commission has elected to issue a limited jurisdiction certificate in circumstances where it seeks to authorize nonjurisdictional parties (LDCs, intrastate pipelines, or Hinshaw-exempt pipelines) to engage in a specific activity while assuring such parties that their participation in the described activity will not result in the Commission's asserting jurisdiction over any of their other operations.¹⁵

In another case, FERC issued a blanket certificate to an LDC transporting regasified LNG to points outside of the state's (Massachusetts) jurisdiction, stating:

This will allow Boston Gas to perform the transportation service for DOMAC without impairing the continuing validity of its Hinshaw status under the NGA. *See* 18 C.F.R. § 284.221(d)(2).¹⁶

In short, FERC's blanket/limited jurisdiction certificates provide a means by which Hinshaw-exempt LDCs remain subject to state regulation even though they may engage in transactions that could otherwise result in the loss of their Hinshaw exemption.¹⁷

Accordingly, any legal concerns over Applicants' request to transport natural gas to off-system markets located outside of the State are unfounded and can readily be put to rest.

¹⁴ *Pacific Gas & Electric Company*, 69 FERC ¶ 61,140 at 61,505-06 (1994).

¹⁵ *Id.*

¹⁶ *See Boston Gas Company*, "Order on Remand Affirming Prior Order" 70 FERC ¶ 61,121 at 61,327 (1995).

¹⁷ *See also Mid Continent Market Center, Inc. v. Panhandle Eastern Pipe Line Company*, 86 FERC ¶ 61,259 (1999) (FERC allowed a company to retain its Hinshaw status even for an abandoned interstate pipeline it acquired that interconnected with interstate pipelines at both ends and where there was no question that gas it would receive was both in interstate commerce and would leave the state).

II. STATUTORY AND PROCEDURAL REQUIREMENTS

A. Compliance with Rule 2.1

In accordance with Rule 2.1 of the Commission's Rules of Practice and Procedure, Applicants provide the following information concerning the proposed category for the proceeding, the need for hearing, the issues to be considered, and a proposed schedule.

1. Proposed Category of Proceeding

Applicants propose to categorize this Application as "rate-setting" in as much as the authorization requested does not require Commission promulgation of rules of general applicability, nor adjudicates any allegation against a party. However, the requested authorizations do not require any adjustment or change in customer rates.

2. Need for Hearing

Applicants believe hearings will not be necessary in this proceeding because the only question that needs to be resolved is whether the authorizations requested impact Applicants' Hinshaw exemption. This is purely a legal question. There are no material issues of fact that must be determined before approving the authorizations requested herein. Accordingly, Applicants propose the following procedural schedule:

<u>ACTION</u>	<u>DATE</u>
Application filed	June 6, 2008
Responses / Protests	July 14, 2008
Applicants' Reply to Protests	August 15, 2008
ALJ Proposed Decision	October 2008
Commission Decision	November 2008

3. Issues to be considered

The issues to be considered in this proceeding are whether the Commission should grant Applicants' request for off-system deliveries to all pipeline interconnections.

B. Statutory Authority - Rule 2.1

This Application is filed pursuant to Sections 451, 454, 491, and 701 of the California Public Utilities Code and complies with the applicable orders of the Commission and the Commission's Rules of Practice and Procedure.

C. Legal Name and Correspondence

SDG&E is a public utility organized and existing under the laws of the State of California. SDG&E is engaged in the business of providing electric service in a portion of Orange County and electric and gas service in San Diego County. SDG&E's principal place of business is 8330 Century Park Court, San Diego, California 92123.

SoCalGas is a public utility organized and existing under the laws of the State of California. SoCaGas is subject to the jurisdiction of this Commission and is engaged in the business of providing public utility gas service in southern and central California. The location of SoCalGas' principal place of business is Los Angeles, California and its address is 555 West Fifth Street, Los Angeles, California, 90013-1011.

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D. Articles of Incorporation - Rule 2.2

A copy of SDG&E's Restated Articles of Incorporation as last amended, presently in effect and certified by the California Secretary of State, was previously filed with the Commission in connection with SDG&E's Application No. 97-12-012, and is incorporated herein by reference.

A copy of SoCalGas' current Articles of Incorporation, as amended and restated, certified by the California Secretary of State, was previously filed with the Commission in connection with Application 98-10-012, and is incorporated herein by reference.

E. Service of Notice - Rule 1.9 and 1.10

Applicants will serve a copy of this Application and exhibits on parties of record in the related proceedings A.04-12-004 and A.08-02-001. However, Applicants note that this Application will initiate a new proceeding. As such, no official service list has yet been established.

III. ADDITIONAL DISCLOSURES AND ALTERNATIVES CONSIDERED

Various affiliates of SoCalGas and SDG&E may be affected by this filing. Sempra Pipelines and Storage owns, develops and operates natural gas pipeline and storage facilities in Mexico and the United States.¹⁸ Ecogas Mexico, S. de R.L. de C.V. (formerly Distribuidora de Gas Natural de Mexicali, S. de R.L. de C.V.) holds a Commission-approved transportation contract with SoCalGas that is scheduled to expire in 2009. Sempra LNG develops and operates LNG receipt terminals in North America.¹⁹ Because these companies are involved either directly or indirectly with natural gas markets, these companies might be affected by the authorization requested in this proceeding. The only alternatives considered by SDG&E and SoCalGas were whether or not to seek authorization for off-system deliveries to all pipeline interconnects. Given the relevant Commission decisions, proceedings and events described above, SDG&E and SoCalGas determined it was appropriate to submit their request at this time.

IV. CONCLUSION

Applicants are ready to proceed with their showing in support of the requested authorizations set forth herein.

WHEREFORE, SDG&E and SoCalGas respectfully request the Commission:

1. Grant Applicants' request for expansion of the existing firm and interruptible off-system delivery authority, by removing the current restriction that limits such service to PG&E, thereby allowing for off-system deliveries of natural gas to all pipeline interconnections with Applicants' respective natural gas transmission systems.


¹⁸ Gasoducto Bajanorte S. de R.L. de C.V. and Transportadora de Gas Natural de Baja California S. de R.L. de C.V. own pipeline facilities in northern Mexico.

¹⁹ Energia Costa Azul, S. de R.L. de C.V. owns LNG terminal facilities in northern Mexico.


2. Grant Applicants such other and further relief requested, and as the Commission finds just and reasonable.

Dated this 6th day of June 2008, in San Diego, California.

Respectfully submitted,



Southern California Gas Company and
San Diego Gas & Electric Company
Senior Vice President



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VERIFICATION

I, Lee Stewart, am an officer of one or more of the applicant corporations herein, and am authorized to make this verification on their behalf. The content of this document is true, except to matters that are stated on information and belief. As to those matters, I believe them to be true.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on June 6, 2008 at San Diego, California.

/s/ Lee Stewart

Senior Vice President
San Diego Gas & Electric Company
Southern California Gas Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the **APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY TO EXPAND EXISTING OFF-SYSTEM DELIVERY AUTHORITY** has been electronically mailed to each party of record on the service list in A.04-12-004 and A.08-02-001. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to the Commissioner Timothy A. Simon and the Assigned Administrative Law Judge John S. Wong.

Executed this 6th day of June, 2008 at San Diego, California.

/s/ Jodi Ostrander

Jodi Ostrander



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