UNITED STATES OF AMERICA 95 FERC ¶ 61,264
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, and Linda Breathitt.

San Diego Gas and Electric Company Docket No. RP01-180-000

The Los Angeles Department of Water and Power Docket No. RP01-222-000

ORDER REQUESTING COMMENTS

(Issued May 22, 2001)

In response to petitions for relief concerning high natural gas prices in California, this order requests comments on whether the Commission should reimpose the maximum rate ceiling on short-term capacity release transactions into California, and the effects of such action on the California gas market.

Background

1. On December 7, 2000, in Docket No. RP01-180-000, San Diego Gas and Electric Company (SDG&E) filed a petition for emergency relief requesting that the Commission immediately order (1) that price-caps for short-term releases of capacity for service to the California border and to points of interconnection between interstate pipelines and California local distribution companies (LDCs) be re-imposed effective immediately and kept in effect until March 31, 2001,[1] and (2) that sellers be required to state separately the transportation and commodity components of the bundled rate for

[1]Section 284.8(i) of the Commission's regulations, as implemented by Order No. 637, states that, "[u]ntil September 30, 2002, the maximum rate ceiling does not apply to capacity release transactions of less than one year. With respect to releases of 31 days or less under paragraph (h), the requirements of paragraph (h)(2) will apply to all such releases regardless of the rate charged."

sales at these points so that the cap can be enforced on these transactions.[2] Alternatively, SDG&E asserted that the cap could be enforced on such bundled sales through a mechanism that caps bundled sales at these points at 150 percent of the sum of a reported average commodity sales price plus the as billed rate for interstate transportation.

2. On February 1, 2001, the Los Angeles Department of Water and Power (LADWP) filed a petition that requests that the Commission immediately rescind the portion of Order No. 637 that removed the price cap for short-term capacity release and pipeline capacity transactions for service to the California border and to points of interconnection between interstate pipelines and California LDCs until March 31, 2001. LADWP further requests that the Commission initiate a proceeding that will allow the Commission to determine by March 31, 2001, whether the removal of the price cap on short-term transactions associated with California is warranted.

Public Notice and Interventions

Public notice of SDG&E's filing was issued on December 8, 2000. Interventions and protests were due by December 13, 2000. Public notice of LADWP's filing was issued on February 26, 2001. Interventions and protests were due by March 2, 2001. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2000)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

With respect to SDG&E's petition, a number of California entities, including the Public Utilities Commission of the State of California (CPUC), California local distribution companies (LDCs), municipalities, and various business concerns, filed comments in support of granting the requested relief. Comments in opposition to SDG&E's petition were filed by various parties, mainly by gas marketers. Certain other commenters such as the Indicated Shippers and the Natural Gas Supply Association (NGSA) supported reimposition of the price cap on short-term capacity release

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[2] On May 18, 2001, in Docket No. RM01-9-000, the Commission issued an order proposing to impose certain reporting requirements on natural gas sellers and transporters serving the California market. The proposed reporting requirements are intended to provide the Commission with the necessary information to determine what action, if any, it should take within its jurisdiction. Our order today coupled with our May 18 order continues to focus on issues related to natural gas prices in California and actions we may take to address capacity release transactions and bundled sales (i.e., the "gray market").

transactions but opposed any price cap on bundled sales of gas or the gas commodity. Since LADWP's request for relief is the same as SDG&E's, fewer comments were filed in response to LADWP's petition. As with the SDG&E petition, California entities support the request for relief.

Discussion

SDG&E and LADWP request that the Commission re-impose the price cap for short-term releases of capacity for service to the California border and to points of interconnection between interstate pipelines and California LDCs. Their request for relief is based on the assumption that high prices of gas delivered at the California border are due, in part, to the ability of persons selling to the California market to charge above the interstate pipeline's maximum tariff rate for the release of pipeline capacity. SDG&E points to the spot price at the California border of $50 per MMBtu for November and December 2000 as evidence of significant market distortions requiring Commission action.

In response to the requests filed by SDG&E and LADWP, the Commission Staff has been analyzing the capacity release information pipelines are required to maintain pursuant to section 284.13 of the Commission's regulations. The Commission Staff has examined capacity release information for pipelines serving California for the period from November 2000 through April 2001. The Commission Staff's analysis in the attached Appendix shows that there were very few capacity transactions release transactions into California that were above the pipelines' maximum rates. For the period November 2000 through April 2001, the pipelines' capacity release information shows that releases above the pipelines' maximum rates ranged from a high of 91,236 MMBtu/day for April 2001 to a low of 7,000 MMBtu/day in December 2000. The interstate capacity into California is approximately 7,435,000 Mcf/day[3] (an Mcf is roughly equal to an MMBtu) and the intrastate receipt capacity (takeaway capacity) is

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[3]Energy Information Administration 1999 Report on California Interstate Natural Gas Pipeline Capacity Levels. The Commission has also recently approved an additional 485,000 Mcf/day of capacity into California. See, Questar Southern Trails Pipeline Company, Docket No. CP99-163-001, et al., 92 FERC ¶ 61,110 (2000); Kern River Gas Transmission Company, Docket No. CP01-106-000, 95 FERC ¶ 61,022 (2001); and El Paso Natural Gas Company, Docket No. CP00-422-000, et al., 95 FERC ¶ 61,176 (2001).

approximately 6,675,000 Mcf/day.[4] Therefore, the volume of capacity releases above the maximum tariff rate as compared to the interstate capacity into California ranges from a low of .09 percent for December 2000 to a high of 1.2 percent for April 2001.

In light of this information, the Commission requests comment on whether section 284.8(i), which states "[u]ntil September 30, 2002, the maximum rate ceiling does not apply to capacity release transactions of less than one year," should not apply to capacity release transactions into California, that is, the maximum rate ceiling would be reimposed on short term capacity release transactions into California prior to September 30, 2002.

As part of this inquiry, the Commission requests comment on the following questions: (1) Would reimposition of the maximum rate ceiling on short-term capacity release transactions into California have any significant effect on the price of gas at the California border; (2) Should the reimposition of the maximum rate ceiling on short-term capacity release transactions be limited to California or extended to pipelines delivering into the Western Systems Coordinating Council (WSCC) region; (3) What effect do capacity release transactions have on wholesale electric prices; (4) What would be the effect of reimposing the maximum rate ceiling on short-term capacity release transactions into California given firm shippers' ability to make bundled sales at the California border; and (5) How will reimposing the maximum rate ceiling for short-term capacity release transactions into California impact shippers' ability to obtain short-term firm capacity.

Any person interested in responding to the questions discussed above should file comments with the Commission within 20 days of the date of this order. The comments will be used in determining what further actions should be taken by the Commission in response to the petitions filed in this proceeding.

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[4]See,www.cpuc.ca.gov/static/industry/gas/gas+workshop.htm. April 17, 2001 presentation of the California Energy Commission at CPUC Natural Gas Infrastructure Workshop. An analysis done by Economists Incorporated for the Interstate Natural Gas Association of America shows that the intrastate takeaway capacity is 5,853,000 Mcf per day. See, "Calif. Utilities Spurned Pipeline Projects" in The Electricity Daily (May 18, 2001).

The Commission orders:

Interested persons are directed to file comments in response to the questions posed above within 20 days of the date of this order.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

APPENDIX NOT ON DISKETTE