



# CALIFORNIA ENERGY MARKETS

## [13] Between Regulation and Reality Lies Playa del Rey

When the case began, it appeared to be little more than a routine transaction. Southern California Gas in May 1999 had asked the California Public Utilities Commission to approve its pending sale of some properties located along the periphery of its Playa del Rey gas storage fields, northwest of the Los Angeles International Airport and a few miles south of Marina del Rey [A99-05-029].

The land was no longer needed for storage operations, and the existing wells had been capped and abandoned, SoCal Gas said in its filing. The matter was so routine that the utility claimed CPUC approval was not even necessary, and it cited lot sales in the area over the previous 50 years that had been completed without regulatory review. Because commission rules about how net sales proceeds should be split between utility shareholders and ratepayers had changed, SoCal Gas wanted to make sure its dealings were on the record. The \$17 million price for the lots was more than ten times their book value, and SoCal Gas proposed a 50/50 split of the \$9 million after-tax gains. Ratepayers would get a \$4.6 million rate reduction out of the deal.

On the surface, a noncontroversial matter that could be wrapped up within four months, SoCal Gas said, and it asked the commission for an expedited process "so that buyers of the property may improve these lots at the earliest time possible and the benefits of the sale can be realized . . . at the earliest possible date." The contracts were already signed, but the gas company said it would not transfer title until the CPUC signed off on the sales.

Normally, such an application would pass unnoticed, and particularly during a time when the entire structure of utility regulation was undergoing a seismic shift. Regulators were preoccupied with the multitude of issues surrounding electric restructuring, and even those who paid closest attention to natural gas matters were embroiled in a proceeding meant to inject more competition into company operations while at the same time trying to deal with the impacts that electricity deregulation was having on pipeline system capacity rights and costs.

As the case entered its preliminary stages, the issues were predictable. Ratepayer advocates argued with the utility over the allocation of proceeds. The Office of Ratepayer Advocates questioned the tax treatment proposed by SoCal Gas, and The Utility Reform Network said that ratepayers should get 90 percent of the gains, not just half. However, neither group objected to the sale itself.

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So it was something of a surprise when a couple of local environmental activists started kicking up a fuss at the CPUC regarding the proposed lot sales. Calling themselves the Grassroots Coalition/Friends of the Animals and Ballona Wetlands Forever/Spirit of the Sage Council, the two women who petitioned for late intervention in the case appeared to be bringing a host of unrelated concerns and complaints into what was by all indications a straightforward transaction.

Kathy Knight of Ballona Wetlands and Patricia McPherson of the Grassroots Coalition saw the sale of lots not only as one more incursion of development into the rare open spaces along the coast but as a potential health hazard to anyone who might build homes or businesses on the lots sitting on top of a major natural gas storage field.

They wanted the CPUC to investigate whether it made any sense to allow the sales, and further, they hoped for a deeper investigation of the utility's storage operations. The important issue was not how to split the sales proceeds, they claimed, but that the entire area was "inherently unsafe" because of leaking toxic gases. Not just the lots at Playa del Rey, but an entire geologic zone that stretched up to toney Marina del Rey and encompassed existing homes and a planned new development called Playa Vista being promoted by well-regarded developers with full endorsement and financial participation of the city and county of Los Angeles.

"SoCal Gas has an underground reservoir," McPherson explained. "They're injecting billions of cubic feet of gas into the ground. That affects the Playa Vista Bluff, Marina del Rey and Ballona Wetlands. There are over 300 underground storage fields in the US. This is the only city that's attempting to build right over one."

She cited a parallel case involving SoCal's Montebello storage fields, where she said leaks forced the utility to tear down homes and even the city hall in order to find and mitigate problems. When the utility had tried to sell off Montebello properties, it failed to disclose the environmental risks and misled regulators, she alleged. "We need to address the issue that all of these wells are going to leak," she said. If you build a house on a problem area, how are you going to bring in equipment necessary to explore for leaks and fix the problem?

For Knight, the situation posed severe health risks in an area that she and McPherson had been investigating for years. "We've been finding people who don't even know their home is over a well. They're sick, their children are sick." Knight pointed to a long-running personal injury lawsuit filed by Lyn Stadish against the utility.

Stadish claimed that she contracted cancer from exposure to benzene and other gases released from the storage fields [*LA Superior Court No. BC126952*]. Though the company was fighting the allegations with all its legal might, the simple fact of Stadish's illness was more than enough proof of a severe health risk in the area, Knight alleged. "If the CPUC said OK to this, the CPUC could be liable for problems in the future."

The utility resisted the activists' involvement in the case and their requests for a full environmental review of the properties. "Not only are the allegations of the Ballona Group irrelevant to this proceeding, they are patently false," the utility told the commission. The claim that the entire area was unsafe because of gas leaks "has been repeatedly rejected by those local agencies with jurisdiction over the construction of buildings in this area generally and the development of the Ballona Wetlands area in particular."

While special protections are needed for construction over old wells, SoCal countered that "There are thousands of abandoned oil and gas wells in the Los Angeles basin, and buildings are safely constructed over or adjacent to such wells all of the time." Besides, the utility continued, environmental review and safety mitigation "are items of local concern, not matters raised for this commission by this application." When SoCal offered a preliminary environmental assessment in June 2000, it continued to deny that its wells or storage facility had ever been shown to leak.

Of course, the activists were not dissuaded, but the surprise was that they began chipping away at the commission's resistance to widening the scope of the case to include environmental considerations and a more intense assessment of the properties in question. Assigned judge Carol Brown even arranged for a staff tour of the properties last year.

In addition, McPherson's Grassroots Coalition has helped coordinate three individual complaints against SoCal Gas, alleging leaks at the facilities [*C00-05-010 et al.*]. The cases are not consolidated with the lot sale application, but both are being handled by ALJ Brown, who has hinged the complaints proceeding on the environmental work done for that case. Brown also recently ordered a health assessment that the utility had been resisting.

**What made the difference in overcoming regulatory indifference?** Persistence and evidence, said McPherson. "It's been very difficult, but the more information we've garnered, the more we've been vindicated. There's a lot of not fessing up to the truth, and we have the data to prove otherwise."

The activists have had problems conforming to the nuts and bolts of regulatory filings and made some missteps that brought objections from the utility and an admonition from the judge. "That's the trouble with citizens," Knight admitted. "You're doing this for the first time in your lives and you make mistakes. I'm volunteering 60 hours a week to this. I can't become an expert in how to file something at the CPUC."

Both of the women praised the commission staff for assistance in figuring out the complexities of procedure and were especially grateful to ALJ Brown for being willing to listen and respond to what they see as broader societal issues. Neither had anticipated getting much help from the CPUC at first, but they have come to see the

agency's statutory mandate to protect the public health and safety with regard to utility operations as a wedge to help them achieve their goal of uncovering the truth about Playa del Rey, despite what they consider resistance by the utility, the city of Los Angeles and almost every other bureaucracy they have dealt with over the past decade. The CPUC is just one forum out of several they are pursuing.

McPherson said public agencies must take their responsibilities seriously. "We're dealing with companies that have not shared highly critical information that people need for health and safety." She raised issues of legal liability but emphasized that finding out what is really going on is still the top priority. If there are serious consequences regarding the development plans for Playa Vista and vicinity, that is an issue for the future.

"The most difficult thing we were encountering is getting real information," she concluded. "Once we have that information, it will lead the way. Is mitigation possible? What liability does SoCal Gas have? Disclosure is everything" [*Arthur O'Donnell*].

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