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Decision 88-08-070 August 25, 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of SOUTHERN CALIFORNIA UTILITY POWER AND IMPERIAL IRRIGATION DISTRICT to Modify Resolution G-2787.	Application 88-04-062 (Filed April 20, 1988)
In the Matter of the Petition of SOUTHERN CALIFORNIA GAS COMPANY to Modify Resolution G-2787.	

OPINION

On April 20, 1988, the Southern California Utility Power Pool and Imperial Irrigation District (SCUPP) filed a petition to modify Resolution G-2787, which we had issued on April 13, 1988. SCUPP asked us to modify Resolution G-2787 to allow for the prorationing of demand charges in the event of a capacity curtailment of gas service to utility electric generation (UEG) customers. On May 13, Southern California Gas Company (SoCal) filed in opposition to SCUPP's request, and also asked for a different modification to Resolution G-2787. SoCal argues that we should change the resolution so that noncore demand charges will not be forgiven during scheduled maintenance shutdowns. SCUPP responded to SoCal's filing on May 20. Finally, on May 24, Pacific Gas and Electric Company (PG&E) filed in support of SoCal's opposition to SCUPP.

Positions of the Parties

SCUPP's basic argument is that the discussion in Resolution G-2787 of prorationing demand charges during capacity curtailments cannot be applied to UEG customers, because under our new gas rate design UEG customers pay demand charges based upon forecasted usage, without a ratchet provision. In Resolution G-2787 the Commission declined to excuse noncore customers from demand charges during capacity curtailments, because such unforeseen interruptions in service will cause the ratcheted demand charges paid by these customers to decrease for the next year. The Commission decided that the lower future demand charges were adequate compensation for the curtailment. SCUPP argues that this rationale is simply not applicable to UEG customers, whose demand charges are set based upon forecasted usage, without a ratchet provision. More generally, SCUPP also maintains that demand charges pay for the right to utilize the gas utility's system. Thus, when capacity constraints deny that use to UEG customers, they should be relieved of the payment of demand charges. SCUPP proposes that the Commission adopt the "compromise" demand charge prorationing provision which SoCal had advanced in its Advice Letter 1767-A (2nd Supplement), filed April 8, 1988. SCUPP notes that this provision was the result of several months of "negotiations by protest" in the course of approving SoCal's implementation of the its new rate design.

The only argument which SoCal makes against SCUPP's petition is that "the time has come to cease making endless changes to the Commission's new regulatory program." However, SoCal then requests that, if any changes are to be made in Resolution G-2787, the Commission should reverse its determination that noncore demand charges should be forgiven during scheduled maintenance shutdowns for which 30 days' notice is provided. The bulk of SoCal's filing deals with this issue. SoCal notes that the resolution based its finding on this issue on the precedent of past decisions, and on the fact that the utilities include scheduled maintenance in making their forecast of noncore sales. SoCal argues, first, that precedent should not guide the Commission if the policy is wrong. SoCal then claims that the second argument actually leads to a conclusion that demand charges should not be forgiven for scheduled maintenance shutdowns. If the noncore sales forecasts used for cost allocation purposes are reduced to account for maintenance outages, as the resolution states, then noncore demand charges already reflect a lower cost level which adequately compensates noncore customers for maintenance shutdowns. Allowing the prorationing of demand charges then only results in noncore customers being compensated **twice**. And for non-UEG noncore customers, the operation of the demand ratchet will compensate them a **third** time for just one maintenance shutdown. SoCal finds this result to be clearly wrong. SoCal also finds similar perverse results for UEG customers. For example, the electric utilities are generally able to schedule maintenance on their gas-fired plants at times when they would not otherwise be operating. In addition, SoCal points out that prorationing of the demand charges would be difficult to apply to the multiple generating facilities of a large UEG customer.

PG&E's response to SCUPP focuses on the fact that when a noncore customer pays a demand charge based on the prior twelve months' usage, he is paying for past transmission service already provided. PG&E appears to believe that the obligation to pay for this past service remains, even if a noncore customer's demand charge does not include a ratchet provision.

SCUPP's response to SoCal points out that SoCal ignores the fact that UEG demand charges are not ratcheted. SCUPP also addresses the scheduled maintenance issue, urging the Commission to rely on past precedent and using SoCal's argument that the time has come to stop relitigating old issues.

Discussion

Both SCUPP and SoCal ask us to modify Resolution G-2787; yet when confronted with the other's proposed modification, they reverse field and urge us to rely on past decisions and to refrain from further changes on that issue. We prefer to take a careful look at the modifications which they suggest. Our review indicates that we should substantially adopt both proposed changes.

Resolution G-2787's discussion of forgiving demand charges during capacity curtailments did not consider the fact that UEG customers do not pay ratcheted demand charges. SCUPP is correct that the rationale used in the resolution does not apply to UEG customers, whose demand charges are based upon forecasted usage. Because they are based on forecasted monthly sales, UEG demand charges represent those customers' appropriate payments for the services which the gas utility provides them in that month.[1] To the extent that the gas utility cannot provide that service, due to a capacity curtailment, the UEG customers should be relieved from paying the demand charge. The only exception to this should be a situation in which the adopted UEG throughput forecast includes expected curtailments in service to the UEG class. The "compromise" proration provision which SCUPP cites seems to us to be a fair way to accomplish the prorationing, for months in which capacity constraints reduce UEG throughput below the adopted monthly forecast. We will adopt that provision in the default tariffs for UEG service; the effective date for this change is important and will be discussed below. The rationale and the outcome of Resolution G-2787 will continue to apply to the default tariffs for other noncore customer classes.

SoCal has also presented good reasons to take a closer look at the forgiveness of demand charges during periods of scheduled maintenance. As noted in Resolution G-2787 (and in SCUPP's response), this provision dates from December, 1985, when in Decision (D.) 85-12-102 we adopted our first program of gas transportation in California. This condition has been continued, with little or no discussion, in a series of Commission orders since that time. However, since D.85-12-102 much has changed in our gas transportation program, particularly in how we set

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1 Thus, PG&E's argument that demand charges pay for the prior twelve months' service is not applicable to UEG customers.

transportation rates. For example, throughput forecasts are now the basis for the allocation of costs in setting transportation rates. SoCal is correct to note that, because these forecasts incorporate the effects of periods of scheduled maintenance by noncore customers, these users already have the benefit of rates which are lower to reflect planned outages. Thus, forgiving demand charges for scheduled maintenance simply confers a double benefit on noncore customers.[2] This extra benefit is paid for by the utility's shareholders. We note the contrast between the current situation and the circumstances when this policy was first approved. The transportation rates approved in D.85-12-102 were set using an equivalent margin recovery method applied to a rate design that was based upon alternate fuel costs. Transportation customers faced a take-or-pay requirement for transported volumes, and we allowed the waiver of take-or-pay charges during properly noticed periods of scheduled maintenance. Otherwise, transportation customers might have been liable for transport charges for periods when they were taking no gas due to planned maintenance. Now, however, this problem is avoided by basing rates upon a sales forecast which considers maintenance outages, and the old policy produces just an extra benefit for noncore customers. SoCal's argument that this policy is unfair to the utility is persuasive, and thus we will no longer forgive demand charges during periods of scheduled maintenance. This condition should be deleted from all noncore tariffs, with this change effective as described below.

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2 We disagree with SoCal's point that the operation of the demand ratchets confers a triple benefit on non-UEG noncore customers, because a planned outage that has been taken into consideration in the forecast will not reduce a customer's usage below what was forecasted. Nonetheless, this disagreement does not change our basic conclusion that noncore customers receive a double benefit from a policy of forgiving demand charges during periods of scheduled maintenance.

Effective Date of These Changes

The final issue which we must consider is when to put into place the changes which we have just discussed. We take note of the emergency order which we issued today, dealing with the recent curtailment of service to UEG customers on the SoCal system. It is our understanding that such curtailments may continue to some extent throughout the upcoming winter season. Were we to adopt at this time the provision which we favor for the prorationing of UEG demand charges, SoCal would face the prospect of significant under-recovery of noncore fixed costs during the period before its first Annual Cost Allocation Proceeding (ACAP), which is now scheduled to be filed on March 15, 1989. We believe that it would be unfair to subject SoCal to this risk solely as a result of our having "changed the rules", so to speak, during the middle of this forecast period. Had the prorationing policy which we favor been in place since the beginning of our new program on May 1, 1988, SoCal might well have operated its system differently, with a different pattern of UEG curtailment from what the utility now plans. In addition, we note that the present curtailment may be at least partially a result of problems at the interstate level which have limited the capacity available on the El Paso pipeline system. Under our current rules, interstate pipeline capacity constraints are considered a supply curtailment (see D.86-12-010, p. 24), for which demand charges are not excused. If we decided at this time to treat demand charges differently during supply curtailments than during capacity constraints, we foresee a difficult and contentious task of deciding whether the current curtailment was fundamentally supply- or capacity-related.[3] Therefore, we will continue our current policy (no prorationing of UEG demand charges during capacity curtailments) until we issue a decision in each utility's first ACAP proceeding. At that time it is our intent to implement the policies adopted in our discussion above.

Findings of Fact

1. The monthly UEG demand charge pays for service provided in that month.

2. UEG demand charges are based upon forecasted usage and do not contain a demand ratchet.

3. UEG customers receive no future reductions in their demand charges as a result of an unforecasted capacity curtailment.

4. Noncore customers receive the benefit of lower rates from the incorporation of planned maintenance outages into noncore sales forecasts.

5. To allow the prorationing of demand charges during periods of scheduled maintenance would confer an additional benefit upon noncore customers; utility shareholders would pay for this additional benefit.

6. Adoption of UEG demand charge prorationing at the present time would expose SoCal to the risk of significant fixed cost underrecovery, due to the anticipated UEG curtailments on the SoCal system.

3 We call attention to our proposed rulemaking on gas procurement policies, R.88-08-018, issued August 10, 1988. This proposal indicates our interest in developing a priority charge mechanism which serves to ration capacity both intrastate and on the interstate pipelines which serve California. If we adopt such a system, it may be appropriate to extend our definition of capacity curtailments to include constraints on the interstate system. Obviously, such a change would also simplify the task of distinguishing supply problems from capacity limitations.

Conclusions of Law

1. To the extent that capacity curtailments are not included in the UEG throughput forecast, UEG customers should be excused from paying demand charges during periods of capacity curtailment.

2. The "compromise" prorationing provision originally advanced by SoCal is a fair means of prorationing UEG demand charges during unforeseen capacity curtailments.

3. Allowing noncore demand charges to be forgiven for periods of scheduled maintenance results in an unfair cost burden upon utility shareholders.

4. Capacity constraints on the interstate system are considered supply curtailments.

ORDER

IT IS ORDERED that:

1. Finding No. 1 of Resolution G-2787 shall be modified to read:

> 1. During supply or capacity curtailments, the utilities should not waive noncore customers' demand charges which contain demand ratchets. UEG demand charges, which do not contain demand ratchets, should be prorated during capacity curtailments, to the extent that the curtailment was not incorporated into the UEG sales forecast. An appropriate prorationing provision for the UEG default tariff is the "compromise" provision proposed by SoCal on April 7, 1988, as cited in the SCUPP's petition of April 20, 1988.

2. Finding No. 6 of Resolution G-2787 shall be modified to read:

> 6. The utilities shall not provide customers with relief from demand charges in the event of planned maintenance shutdowns.

3. The changes in the gas utilities' tariffs ordered as a result of this decision shall not be effective until the effective date of the decision in ~~SoCal's first~~ each utility's Annual Cost Allocation Proceeding.

This order is effective today.

Dated AUG 25 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY.

Victor Weisser, Executive Director

3. The changes in the gas utilities' tariffs ordered as a result of this decision shall not be effective until the effective date of the decision in each utility's first Annual Cost Allocation Proceeding.

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The only argument which SoCal makes against SCUPP's petition is that "the time has come to cease making endless changes to the Commission's new regulatory program." However, SoCal then requests that, if any changes are to be made in Resolution G-2787, the Commission should reverse its determination that noncore demand charges should be forgiven during scheduled maintenance shutdowns for which 30 days notice is provided. The bulk of SoCal's filing deals with this issue. SoCal notes that the resolution based its finding on this issue on the precedent of past decisions, and on the fact that the utilities include scheduled maintenance in making their forecast of noncore sales. SoCal argues, first, that precedent should not guide the Commission if the policy is wrong. SoCal then claims that the second argument actually leads to a conclusion that demand charges should <u>not</u> be forgiven for scheduled maintenance shutdowns. If the noncore sales forecasts used for cost allocation purposes are reduced to account for maintenance outages, as the resolution states, then noncore demand charges already reflect a lower cost level which adequately compensates noncore customers for maintenance shutdowns. Allowing the prorationing of demand charges then only results in noncore customers being compensated twice. And for non-UEG noncore customers, the operation of the demand ratchet will compensate them a third time for just one maintenance shutdown. SoCal finds this result to be clearly wrong. SoCal also finds similar perverse results for UEG customers. For example, the electric utilities are generally able to schedule maintenance on their gas-fired plants at times when they would not otherwise be operating. In addition, SoCal points out that prorationing of the demand charges would be difficult to apply to the multiple generating facilities of a large UEG customer.

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current policy (no prorationing of UEG demand charges during capacity curtailments) until we issue a decision in SoCal's first ACAP proceeding. At that time it is our intent to implement the policies adopted in our discussion above.

Findings of Fact

1. The monthly UEG demand charge pays for service provided in that month.

2. UEG demand charges are based upon forecasted usage and do not contain a demand ratchet.

3. UEG customers receive no future reductions in their demand charges as a result of an unforecasted capacity curtailment.

4. Noncore customers receive the benefit of lower rates from the incorporation of planned maintenance outages into noncore sales forecasts.

5. To allow the prorationing of demand charges during periods of scheduled maintenance would confer an additional benefit upon noncore customers; utility shareholders would pay for this additional benefit.

6. Adoption of UEG demand charge prorationing at the present time would expose SoCal to the risk of significant fixed cost underrecovery, due to the anticipated UEG curtailments on the SoCal system.

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Conclusions of Law

1. To the extent that capacity curtailments are not included in the UEG throughput forecast, UEG customers should be excused from paying demand charges during periods of capacity curtailment.

2. The "compromise" prorationing provision originally advanced by SoCal is a fair means of prorationing UEG demand charges during unforeseen capacity curtailments.

3. Allowing noncore demand charges to be forgiven for periods of scheduled maintenance results in an unfair cost burden upon utility shareholders.

4. Capacity constraints on the interstate system are considered supply curtailments.

ORDER

IT IS ORDERED that:

1. Finding No. 1 of Resolution G-2787 shall be modified to read:

> 1. During supply or capacity curtailments, the utilities should not waive noncore customers' demand charges which contain demand ratchets. UEG demand charges, which do not contain demand ratchets, should be prorated during capacity curtailments, to the extent that the curtailment was not incorporated into the UEG sales forecast. An appropriate prorationing provision for the UEG default tariff is the "compromise" provision proposed by SoCal on April 7, 1988, as cited in the SCUPP's petition of April 20, 1988.

2. Finding No. 6 of Resolution G-2787 shall be modified to read:

> 6. The utilities shall not provide customers with relief from demand charges in the event of planned maintenance shutdowns.