L/rmn/cdl *

ORIGINAL

Decision 91-09-085 September 25, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to change the structure of gas utilities' procurement practices and to propose refinements to the regulatory framework for gas utilities. (U 39 G)	R.90-02-008 (Filed February 7, 1990)
And Related Matters.	R.86-06-006 Application 91-06-035 Application 91-06-045 Application 91-06-056 Application 91-06-063

ORDER GRANTING REHEARING OF RESOLUTION G-2948 AND DISPOSING OF CERTAIN PENDING PETITIONS FOR MODIFICATION FILED IN R.90-02-008 AND RELATED DOCKETS

DMS, Inc., on behalf of Western Liquid Gas Association (DMS), has filed an application for rehearing of Resolution G-2948. DMS has also filed a petition for modification of this same Resolution, raising virtually the same issues. Today's order disposes of both of these filings. In addition, today's order resolves various other pending petitions for modification not only of Resolution G-2948, but also of other related Commission orders. All of these filings are discussed below.

Application for Rehearing by DMS of Resolution G-2948

DMS contends that our decision to remove the requirement to have and maintain alternate fuel systems for certain noncore customers has violated Public Utilities Code Section 1708, because it modifies a prior decision without giving interested parties an opportunity to be heard. It is true that this change was made in a Commission Resolution, pursuant to arguments made by certain parties filing protests to the gas utilities' proposed tariffs,

rather than in a Commission decision, pursuant to a petition for modification to which all parties would have been able to respond.

We note, however, that DMS's application was filed in response to language in Resolution G-2948 which indicated that the requirement would be removed for all P-2B - P5 customers. Subsequent to DMS's filing, the Commission issued Resolution G-2959, which clarified the Commission's intent that the requirement be removed only for those customers who can demonstrate that they can no longer use their alternate fuel systems because they cannot meet recently adopted, more stringent air quality standards. Those customers must be willing to curtail gas use when asked to do so. In contrast, customers having alternate fuel systems which do meet air quality standards are required to continue to maintain those systems. Customers qualifying as noncore because they have demonstrated the capability for alternate fuel use, as well as satisfying the economic feasibility test, are also not affected by the removal of the requirement.

We believe that this clarification should go far to mitigate DMS's concerns. However, we will grant DMS's request for rehearing so that we may consider the wisdom of the specific issue raised in DMS's pleading. We will provide parties an opportunity to comment on the rule set forth in Resolution G-2948 as modified by Resolution G-2959. A hearing will be held if necessary.

Petition for Modification by DMS of Resolution G-2948

Our above discussion addresses the primary arguments raised by DMS in its petition for modification.

DMS also challenges the $1/therm penalty to be imposed on gas customers who do not curtail when requested to do so by the utility, and proposes a more stringent penalty. We will not modify the penalty at this time. We will be open to future arguments that the penalty should be modified if experience shows that it is not sufficient to ensure that curtailment is occurring.

Petition to Modify D.90-09-089 by Aebi Nursery Richmond and California Floral Council (Aebi/CFC)

Aebi/CFC filed a petition to modify Decision (D.) 90-09-89. First, it expresses concern that Pacific Gas and Electric Company's (PG&E) Advice Letter 1624 G-A proposes to change Commission policy established in D.89-12-039 which permitted customers to be classified as noncore, notwithstanding their size, if they had alternate fuel capability. D.90-09-089 did not change this policy. We therefore need not modify the decision.

Second, Aebi/CFC opposes the requirement adopted in D.90-09-089 that SL-2 customers make a two year commitment to the service. This issue has already been the subject of comments by the parties and was resolved by the Commission in D.90-09-089. Subsequently, in D.91-06-026, we provided that the contract commitment would be for two years or until capacity brokering programs are implemented, whichever comes first. We will not now reverse our decision.

Third, Aebi/CFC opposes the restriction on the use of alternate fuel by customers who purchase SL-2 transportation. This issue has already been considered by the Commission and resolved in D.90-09-089.

Finally, Aebi is dissatisfied that small commercial customers have only one rate option offered to them. This issue is not appropriately the subject of a petition to modify primarily because it would require a major change to a decision. We respond, however, that small commercial customers do have an alternative to traditional core services. D.91-02-040 set forth rules under which core customers may aggregate their loads in order to qualify for transportation-only services. This option became available to all core customers on August 1, 1991.

In sum, we will deny Aebi/CFC's petition in all respects.

Petition to Modify Resolution G-2948 filed by California Industrial Group (CIG)

CIG filed a petition to modify Resolution G-2948 which approved tariffs implementing rules adopted in R.90-09-089, as amended. CIG's petition seeks several changes to the resolution.

First, CIG objects to the resolution's treatment of how the revenues from the 12 cent per decatherm surcharge are to be credited back to interruptible customers. The resolution presents Commission Advisory and Compliance Division's recommendation "that all three utilities distribute these forecasted or actual funds consistently, preferably on a monthly basis." It does not order any particular method. CIG argues that the revenues should be credited on a forecasted annual basis rather than on a monthly basis, in order to avoid frequent rate fluctuations. Resolution G-2948 considered and resolved this issue and we decline to revisit it here.

CIG also opposes the resolution's finding that interruptible customers with negotiated rates should not receive the surcharge credit unless they pay the default rate. This finding does not conflict with D.90-09-89. Accordingly, we will not modify Resolution G-2948.

CIG asks the Commission to reinstate the distinction between supply and capacity curtailments which was eliminated in Resolution G-2948. We find that the issue was thoroughly considered in Resolution G-2948 and we need not revisit it here.

CIG's petition seeks relief from a requirement that customers must install their own electronic meters if they wish to be exempt from the requirement that they maintain alternate fuel capability. Resolution G-2948 eliminated the requirement for alternative fuel capability for those customers who are no longer permitted to use those facilities that burn oil. This rule change was made at CIG's request. Under the circumstances, the requirement that customers install their own meters is reasonable.

We will not modify the resolution to reverse this policy if we retain the new rule following consideration of issues raised by DMS in its application for rehearing as discussed earlier in this decision.

Finally, CIG asks the Commission to reconsider the rule adopted in Resolution G-2948 which prohibits the utilities from assessing penalties and standby charges retroactively based upon a subsequent readjustment of the customer's bill. This issue was considered and resolved in Resolution G-2948, and we see no reason to revisit it here.

Petition to Modify Resolution G-2948 Filed by Alberta Petroleum Marketing Commission (APMC)

APMC filed a petition to modify Resolution G-2948 on the subject of how the interruptible credit for SL-3 through SL-5 rates will apply to PG&E's utility electric generation (UEG) service. Resolution G-2948 required PG&E to apply surcharges and credits to its UEG customer based on volumetric usage on an equal cents per therm basis. APMC states PG&E is refusing to implement this direction.

PG&E filed a response, stating that APMC appears to confuse cost allocation with rate design. PG&E states it has allocated the credits and surcharges on an equal-cents-per-therm basis, but has included them in the fixed monthly demand charge, rather than through the volumetric rate.

We do not believe PG&E is violating Resolution G-2948, inasmuch as it has applied surcharges and credits as set forth in the resolution. Some confusion has arisen in the development of rate design for PG&E's UEG due to an inconsistency between Resolution G-2948 and D.91-05-039, which continued the demand charge rate structure for combined utilities. D.91-05-039 takes precedence over the subsequent resolution which erroneously assumed the UEG transportation rate for combined utilities no longer

contained demand charges. We will deny APMC's petition to modify Resolution G-2948.

Petitions to Modify (D.) 91-02-022 filed by California Cogeneration Council (CCC) and Sunlaw Seeking Clarification of SL-3 Curtailment Policy

CCC seeks clarification of D.91-02-022. That decision clarified D.90-09-089 by finding that Service Level (SL) 3 customers should be curtailed according to level of payment rather than end use priority. CCC believes the term "level of payment" is unclear. If it is interpreted to mean actual price, CCC believes the decision makes SL-3 a "non-option" for cogenerators because those customers' default rate is always less than that for UEG transportation services under existing policy. CCC asks the Commission to clarify its decision by basing curtailments in SL-3 upon the level of a customer's discount from its default rate rather than based on actual price. CCC states this policy is consistent with Commission policy and with the settlement proposed in R.90-02-008.

Sunlaw seeks the same modifications, adding that long term contract provisions regarding curtailments should be interpreted according to rules in effect when the contracts were signed. Specifically, long term contract customers should be curtailed as if they were paying their full default rates rather than the discounted rates set forth in the contracts.

Edison responded to the petitions of Sunlaw and CCC. It states its support for basing SL-3 curtailments on percentage of the default rate, as the petitions propose, but opposes Sunlaw's proposed treatment of long term contracts.

D.91-02-022 intended to clarify curtailments between UEG and cogeneration customers. It was not our intent to change the basic principles of curtailments as adopted in D.90-09-089. We will clarify that "level of payment," as it is used in D.91-02-022, means percentage of default rate, consistent with D.90-09-089.

Where customers pay the same percentage of their respective default rates, customers should be curtailed according to end use priorities. We decline to adopt Sunlaw's recommendation regarding long term contracts which is a matter we considered and resolved in D.90-09-089.

Petitions to Modify D.90-09-089 filed by Southern California Utility Power Pool/Imperial Irrigation District (SCUPP/IDD), Department of Defense, and Indicated Producers to Delay Implementation of New Rules

SCUPP/IDD, Indicated Producers, and Department of Defense filed petitions asking for a delay in the effective date of the new rules. Because the rules became effective August 1, 1991, the petitions are moot.

Petition of Mobil to Modify D.91-02-046 Regarding Nominations for Firm Transportation Services by P-5 Customers

Mobil seeks a change to D.91-02-046 so that it may nominate all of its load in SL-2 or SL-3. D.91-02-046 prohibited P-5 customers, such as Mobil, from nominating more than 65% of their gas transportation requirements into SL-2 and SL-3. Mobil states it has no alternate fuel associated with its EOR facilities and that the Commission, in D.90-11-034, recognized this circumstance by granting Mobil special treatment.

SCUPP/IDD opposes Mobil's request, stating that Mobil has not presented any evidence or argument which justifies special consideration of Mobil's EOR facilities.

D.90-11-034 provided temporary relief to Mobil which expired August 1, 1991. Granting Mobil's pending request would unfairly disadvantage other P-5 customers. We have considered the issue of nominations for P-5 customers in several decisions and will not reverse our decision to restrict firm service nominations for P-5 customers.

Petition to Modify D.90-09-089 and D.90-12-100 filed by SoCalGas

SoCalGas filed a petition to modify D.90-09-089 and D.90-12-100 in several respects:

1. To permit SoCalGas to establish a tracking account which would allow it to recover interutility transportation charges paid by it to PG&E for the period between implementation of D.90-09-89 and SoCalGas' next cost allocation decision;

2. To permit SoCalGas to establish a tracking account which would allow it to recover authorized noncore brokerage fee costs if the demand for core subscription service is different from the demand for the noncore procurement services forecast in D.90-11-023;

3. To provide a mechanism for an interim noncore rate adjustment ("trigger" filing) if balances in noncore balancing accounts grow too large between cost allocation proceedings; and

4. To revise changes adopted in D.90-12-100 so that they reflect the Commission's intent in granting SoCalGas' petition to modify D.90-09-089 to prevent the "pro rata access" principle from interfering with the purchase of certain core supplies, specifically those with Pacific Interstate Transmission Company or those existing contracts under which SoCal may be subject to penalties if the pro rata access principle is strictly applied.

Several parties filed responses to SoCalGas' petition.

CIG supports the trigger filing requested by SoCalGas but suggests that SL-2 customers be permitted to "opt out" of their SL-2 contracts if rates increase more than 150 percent of the Consumer Price Index.

PG&E supports the trigger filing and SoCalGas' treatment of brokerage fees. SDG&E also supports the trigger filing when the

difference between actual noncore revenues and the adopted noncore revenue allocation is greater than 10 percent.

Division of Ratepayer Advocates (DRA) supports recognition of interutility transportation costs as long as the costs are recovered by way of a surcharge on the interutility rate rather than a tracking account. DRA opposes a tracking account for recovery of brokerage fees because the account would guarantee recovery of the fees rather than put SoCalGas at risk for recovering the fees pursuant to existing policy. DRA opposes the trigger filing for noncore rates as proposed by SoCalGas because it would apply only to rate increases and not necessarily rate reductions, and because it would permit the utility to revise forecasts of noncore throughput and revenues adopted in cost allocation proceedings.

TURN supports the trigger filing if it specifies that core rates will not be affected, and supports a tracking account for brokerage fees. TURN opposes the creation of a tracking account for interutility transportation costs.

We decline to adopt any new balancing accounts at this juncture. D.90-09-089 already declined to adopt balancing accounts for brokerage fees for reasons stated in that decision. No party raised the issue of interutility transportation costs when issues were under review during mid-1990. D.90-09-089 was designed to balance increases and reductions in utility risk; therefore, we decline to adopt a balancing account for interutility transportation costs now.

We will, however, permit the utilities to adjust noncore transportation rates by way of a trigger filing which will avoid major rate changes for utility customers without affecting allocation of risk or costs. As DRA suggests, the utilities shall file applications when balancing account undercollections or overcollections exist. We will not entertain changes to throughput or revenue forecasts in those filings. The filings should be by

way of application, and should be made only when rates are expected to change by more than 5%. We decline to adopt an "opt out" feature for SL-2 customers because we do not have any evidence about how such a service option might affect other customers' rates in subsequent periods.

We will also clarify the pro rata access to core supplies as requested by SoCalGas. SoCalGas' clarification of the rules is consistent with our intent and the dicta in D.91-02-022.

Petition to Modify D.91-02-040 Filed by SoCalGas Regarding Cost Recovery from Core Aggregation Customers

SoCalGas seeks a modification to D.91-02-040 which set forth rules for core customers seeking to purchase transportation services by aggregation loads. SoCalGas states that D.91-02-040 is unclear as to whether core customers or their agents are ultimately responsible for imbalance charges. It recommends that the Commission require that customers be ultimately responsible for those charges consistent with the Commission's intent that neither SoCalGas nor other ratepayers bear responsibility for payments not submitted by core aggregates' agents.

PG&E supports SoCalGas' petition. Broad Street Oil and Gas Company (Broad Street) also supports the modification but suggests that the credit standards imposed upon and deposits required from marketers would be unnecessary if SoCalGas' petition is granted.

We will adopt SoCalGas' request. Issues related to credit standards and deposits are the subjects of advice letters and will not be addressed here.

Findings of Fact

1. Resolution G-2948, as clarified by Resolution G-2959, exempted from the alternate fuel capability requirement only those noncore customers who can no longer use their alternate fuel

systems because of recently adopted, more stringent air quality standards.

2. The above exemption was not applied to customers with alternate fuel systems continuing to meet air quality standards or to customers qualifying as noncore through a joint showing of alternate fuel capability and economic feasibility.

3. DMS did not file an application for rehearing or petition for modification of Resolution G-2959.

4. It is reasonable and consistent with Commission policy to require that core aggregation customers, rather than their agents, bear ultimate responsibility for imbalance charges.

5. D.90-09-089 did not change Commission policy allowing customers to be classified as noncore, notwithstanding their size, if they have alternate fuel capability.

6. D.91-05-039 retained demand charges for UEGs. Resolution G-2948 erroneously assumed that such demand charges were to be eliminated.

7. It is reasonable for PG&E to bill its UEG for applicable surcharges and credits as part of the UEG demand charge as long as the surcharges and credits are based on volumetric usage and are billed on an equal-cents-per-therm basis.

8. D.91-02-022 clarified the method of curtailments between UEG and cogeneration customers under which those customers would be curtailed.

9. The treatment of long term contracts by the utilities was resolved in D.90-09-089, as amended.

10. The petitions to modify D.90-09-089 filed by SCUPP/IDD, Department of Defense, and Indicated Producers to delay implementation of the rules adopted in that decision are moot.

11. D.90-11-034 granted Mobil temporary relief from end use priority rules until August 1, 1991.

12. Granting Mobil's request to allow it to nominate all of its gas transportation requirements into SL-2 and SL-3 would unfairly disadvantage other customers.

13. D.90-09-089 denied establishment of balancing accounts for brokerage fees.

14. The issue of interutility transportation costs was not raised prior to issuance of D.90-09-089.

15. The dicta in D.91-02-022 clarified treatment of pro rata access to core supplies for SoCalGas. The rules attached to the decision as Appendix A did not reflect the Commission's intended treatment of access to core supplies.

Conclusions of Law

1. The application for rehearing of Resolution G-2948 filed by DMS should be granted.

2. The petition for modification of Resolution G-2948 filed by DMS should be denied.

3. The Commission should grant the petition to modify D.91-02-020 filed by SoCalGas on July 10, 1991.

4. The Commission should deny the petition to modify D.90-09-089 filed by Aebi/CFC on June 25, 1991.

5. The Commission should deny the petition to modify Resolution G-2948 filed by CIG on June 17, 1991.

6. The Commission should deny the petition to modify Resolution G-2948 filed by APMC on June 27, 1991.

7. The Commission should grant the petition to modify D.91-02-022 filed by CCC as set forth herein.

8. The Commission should deny the petition to modify D.91-02-022 filed by Sunlaw except as set forth herein.

9. The petitions to modify D.90-09-89 filed by SCUPP/IDD on April 29, 1991, by the Department of Defense on June 26, 1991, and by Indicated Producers on May 28, 1991 are moot at this time because the petitions ask the Commission to delay implementation of a program that is now in effect.

10. The Commission should deny the petition to modify D.91-02-046 filed by Mobil.

11. The Commission should grant SoCalGas' request to clarify the treatment of pro rata access to core supplies addressed in D.91-02-022.

12. The Commission should permit the utilities to file for rate increases and decreases when balancing account overcollections or undercollections would change rates by more than 5% for noncore customers. Those rate changes should be based on the most recently adopted throughput or revenue forecasts.

13. The Commission should deny the petition to modify Resolution G-2948 filed by APMC on June 27, 1991.

O R D E R

IT IS ORDERED that:

1. The application for rehearing of Resolution G-2948 filed by DMS, Inc. on behalf of the Western Liquid Gas Association (DMS) on June 21, 1991 is granted as set forth herein.

2. The petition to modify Resolution G-2948 filed by DMS on June 28, 1991 is denied.

3. The petition to modify D.91-02-040 filed by Southern California Gas Company on July 10, 1991 is granted as set forth herein.

4. Rule 3(c) of D.91-02-040 is deleted in order to clarify that customers, rather than their agents, are ultimately responsible for payments associated with imbalance charges.

5. The petition to modify D.90-09-089 filed by Aebi Nursery Richmond and the California Floral Council on June 25, 1991, is denied.

6. The petition to modify G-2948 filed on June 17, 1991 by California Industrial Group, California Manufacturers Association, and California League of Food Processors is denied.

7. The petition to modify Resolution G-2948 filed by Alberta Petroleum Marketing Commission on June 27, 1991 is denied.

8. D.91-02-022 is modified to provide that curtailments of Service Level 3 transportation shall be according to the level of payment made by the customer which is defined to mean the percentage of default rate paid by the customer. Where customers pay equal percentages of the default rate for SL-3 transportation, curtailments shall be undertaken according to end use priorities.

9. The petition of California Cogeneration Council to modify D.91-02-022, filed June 14, 1991, is granted to the extent set forth in Ordering Paragraph 8.

10. The petition of Sunlaw Cogeneration Partners Inc. and AES Placerita to modify D.91-02-022, filed June 17, 1991, is denied except as set forth in Ordering Paragraph 8.

11. The petition to modify D.90-09-089 filed by Indicated Producers on May 28, 1991 is denied.

12. The petition to modify D.90-09-089 filed by Southern California Utility Power Pool and Imperial Irrigation District on May 11, 1991 is denied.

13. The petition to modify D.90-09-089 filed by the Department of Defense on June 27, 1991 is denied.

14. The petition to modify D.91-02-046 filed by Mobil Natural Gas Inc. and Mobil Corporation on April 12, 1991 is denied.

15. The following paragraph is added to the section entitled "Core Subscription Service" in Appendix A of D.91-02-022:

> A utility must file an application requesting a noncore rate adjustment 45 days before the end of the first year of its BCAP cycle if the variance between the fixed costs allocated to the noncore market in the last BCAP and the transmission revenue recovered from that market exceeds five percent (positive or negative). The only changes in rates that may be requested are changes that will amortize balances in existing balancing accounts. No adjustments to adopted throughput levels are allowed in the trigger application.

16. The second paragraph of the section entitled "Transportation Services" in Appendix A of D.91-02-022 is modified to read:

> Interstate pipeline capacity will be reserved by SoCal for the core market on a pro rata basis between El Paso Natural Gas Company and Transwestern Pipeline Company. The pro rata amount will be computed as a ratio of SoCal's capacity rights on an individual pipeline to SoCal's total capacity rights on both pipelines. Capacity reserved for the core market on El Paso and Transwestern will be reserved on a pro rata basis divided at each of the "constraint" points on each of the two pipeline companies, with the exception that SoCal need not apply the pro rata allocation method to gas supplies under existing long-term contract with Pacific Interstate Transmission Company, or in cases where such allocation would result in penalties, inventory charges, or minimum payment under existing contractual arrangements, and to the extent permitted and feasible under tariffs and FERC regulations. These rules do not modify the terms of the long-term contract between SoCal and SDG&E which was approved by the Commission in Resolution G-2921.

17. The petition to modify D.90-09-089 and D.90-12-100 filed by SoCalGas on February 19, 1991 is denied except to the extent set forth herein.

18. Applications (A.) 91-06-045 is closed.

19. A.91-06-035 is closed.

20. A.91-06-056 is closed.

21. A.91-06-063 is closed.

22. DMS and any interested parties may file no later than October 20, 1991 comments on the rule regarding alternate fuel systems adopted in Resolutions G-2948 and G-2959. Reply comments may be filed no later than November 6, 1991.

This order is effective today.

Dated September 25, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL WM. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner G. Mitchell Wilk, being necessarily absent, did not participate.

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

NEAL J. SHULMAN, Executive Director