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Decision 92-07-018 July 1, 1992

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 904 G)

ORIGINAL

R.90-02-008
(Filed February 7, 1990)

O P I N I O N

This decision resolves outstanding issues raised by Southern California Gas Company (SoCalGas) in a petition to modify Decision (D.) 90-09-089. The petition sought to relieve certain noncore gas customers of standby procurement charges which accrued in fall 1991. Today's decision provides that standby charges for the months of October, November, and December 1991 will be set at the highest cost of gas in the core portfolio.

Background

SoCalGas filed a petition to modify D.90-09-089 on November 11, 1991. D.90-09-089 established what have been called the "procurement rules," which improved noncore transportation services, among other things. D.90-09-089 approved rules for imbalance services, including standby service for customers who use more gas than they have delivered to the system. Pursuant to rules adopted in D.90-09-089, customers who require standby service must pay 150% of the core weighted average cost of gas (WACOG) for the gas they use under the standby service tariff.

SoCalGas' petition to modify proposed that the standby rules be changed so that noncore customers who used standby service during fall 1991 would be permitted to replace the gas during the months of December 1991 and March 1992. SoCalGas referred to the arrangement as an "in-kind transfer."

D.91-12-054 responded to SoCalGas' petition. The decision raised several policy and operational matters concerning SoCalGas' request which we need not repeat here. D.91-12-054 did not grant SoCalGas' petition to change the procurement rules retroactively; we stated our intent to consider a prospective change to the rules. To that end, we directed SoCalGas to (1) establish a memorandum account for standby service charges collected during the months of October, November, and December 1991; and (2) propose methods to allow noncore customers to eliminate negative imbalances in their gas accounts for the period October, November, and December 1991.

Pursuant to D.91-12-054, SoCalGas filed comments on February 10, 1992. Several other parties filed responsive comments shortly thereafter.

SoCalGas' Proposal

SoCalGas states that the negative imbalances for October were significantly less than it had expected. It states that only 19 customers were subject to standby service charges for October and that the noncore class as a whole was generally in balance during November and December.

SoCalGas proposes that customers be permitted to offset negative imbalances incurred in fall 1991 with gas delivered between December 1992 and February 1993. Under any circumstance, core ratepayers would receive less revenue from its proposal than under the existing rules. SoCalGas believes core customers would be indifferent to its proposal if spot market prices during the 1992-1993 replacement period are greater than \$2.02 per million British thermal unit (MMBtu). In response to concerns raised by the Commission in D.91-12-054, SoCalGas points out that it is unable to distinguish whether or not the actions of an individual customer were in good faith.

Responses by Other Parties

Southern California Utility Power Pool and Imperial Irrigation District (jointly, SCUPP); California Industrial Group, California Manufacturers Association, and California League of Food Processors (jointly, CIG); Watson Cogeneration Company (Watson); and the Division of Ratepayers Advocates (DRA) filed comments on the issue.

DRA proposes that some relief may be appropriate in this case and suggests that noncore customers who were subject to the standby charge be instead charged the highest cost of core gas incurred during the three months in which standby charges were incurred.

SCUPP does not object to SoCalGas' proposal but suggests a more fair resolution of the issue would be forgiveness of the 50% imbalance penalty so that noncore customers would pay only the WACOG for the period in question. SCUPP also comments that DRA's proposal is acceptable to it as a reasonable middle ground. CIG supports SoCalGas' proposal. Watson asks that the Commission waive the penalty for the period in question and suggests the Commission adopt new rules.

Discussion

The incurrence of standby charges during fall 1991 appears to be, for some customers, a result of administrative difficulties associated with the new program. We would not normally consider retroactive rule changes. In this case, however, it appears that several customers will bear very high standby charges as a result of circumstances beyond their control.

As we stated in D.91-12-054, we crafted the rules adopted in D.90-09-089 to balance the interests of core and noncore customers. For that reason, core customers should not be liable for problems faced by noncore customers. SoCalGas' proposal could harm core customers if, as SoCalGas states, the price of gas during the 1992 winter season is less than \$2.02 per MMBtu. We are also

concerned that SoCalGas' proposal to permit trading 14 months after the incurrence of the standby charges may, in some way, interfere with market activity during the 1992 winter heating season. DRA's proposal, on the other hand, minimizes risks to core customers and resolves the matter simply. We will adopt DRA's proposal to modify the standby charges for the period in question so that noncore customers pay the highest incremental cost of gas incurred during the month in which SoCalGas provided the standby service for each customer.

On this basis, SoCalGas should recalculate the standby charges for customers whose standby charge revenues were placed in the memorandum account established in D.91-12-054, and refund the difference where appropriate. Where the standby charge is less than the highest cost of gas for the month in question, SoCalGas shall use the existing standby charge. It shall then close the memorandum account. Because we grant limited relief considering the specific circumstances which prevailed in fall 1991, we will not extend this relief to any period after October, November, and December 1991.

We will also consider in SoCalGas' subsequent reasonableness review whether the imbalances occurring in fall 1991 resulted from poor management by SoCal Gas and, if so, whether its shareholders should bear the costs of reducing standby charges.

We will not, as Watson suggests, consider changes to the rules at this time. A response to a petition to modify is not the appropriate forum to consider such changes to rules.

Finally, we are disturbed about a comment SoCalGas makes. SoCalGas states it extended the deadline for trading October imbalances from December 20, 1991 to January 3, 1992 "in order to allow all noncore customers a reasonable amount of time in which to complete their trades." SoCalGas goes on to say that it intends to file an advice letter seeking specific authority to exercise discretion to extend the imbalance trading period "as circumstances

warrant." SoCalGas had no legal authority to extend the trading period from December 20 to January 3, as it recognizes. SoCalGas may not at its discretion change or suspend tariff provisions and SoCalGas shall not undertake such action in the future. If the extension of the trading period reduced costs to noncore customers at the expense of the core class, we will not hesitate to disallow associated costs from rates following a reasonableness review.

If SoCalGas wishes to change the provisions for trading periods--which are included in the rules adopted in D.90-09-089--it must do so by petitioning to modify D.90-09-089. An advice letter filing is not legally sufficient to change rules specifically adopted in a Commission decision.

Findings of Fact

1. Several noncore customers incurred standby charges during October, November, and December 1991 and were unable to avoid those charges by trading imbalances with other customers. These customers may have incurred standby charges because of difficulties in initial implementation of the rules adopted in D.90-09-089.

2. DRA's proposal to modify the standby charge for the period in question so that affected noncore customers pay the highest incremental cost of gas is simple and protects core ratepayers.

3. SoCalGas states it unilaterally modified the terms of its tariffs to extend the trading period from December 20, 1991 to January 3, 1992.

Conclusions of Law

1. The Commission should direct SoCalGas to recalculate the standby charges for customers whose standby charge revenues were placed in the memorandum account established in D.91-12-054, and refund to those customers the difference between the highest cost of gas purchased for the core portfolio and 150% of the core WACOG. Where the standby charge is less than the highest cost of gas for

the month in question, SoCalGas should use the existing standby charge.

2. The Commission should order SoCalGas to close the memorandum account following the recalculations described in Conclusion of Law 1.

3. It is not lawful for SoCalGas to modify the terms of its tariffs, or to provide service which is inconsistent with its tariffs.

O R D E R

IT IS ORDERED that:

1. Southern California Gas Company (SoCalGas) shall recalculate the standby charges for customers whose standby charge revenues were placed in the memorandum account established in Decision (D.) 91-12-054, and refund to those customers the difference between the highest cost of gas purchased for the core portfolio and 150% of the core weighted average cost of gas, as set forth herein. Where the standby charge is less than the highest cost of gas for the month in question, SoCalGas shall apply the existing standby charge.

2. SoCalGas shall close the memorandum account following the recalculations described in Ordering Paragraph 1.

3. Except to the extent set forth herein and in D.91-12-054, SoCalGas' petition to modify D.90-09-089 is denied.

This order is effective today.

Dated July 1, 1992, at San Francisco, California.

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

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


NEAL J. SHULMAN, Executive Director