Decision 95-07-046 July 19, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company for Authority to Implement Peaking Service Rates.	)) Application 93-12-017) (Filed December 22, 1993))

OPINION

This order grants the application of Southern California Gas Company (SoCalGas), as modified herein, to implement a load specific flexible rate design for noncore customers who choose to partially bypass SoCalGas' transportation system. We find the application, as modified, consistent with our "let the market decide" policy and our continuing objective to promote efficient utilization of the state's natural gas system.

I. SoCalGas' Application

SoCalGas proposes a peaking rate which would be imposed on "partial requirements" customers, that is, noncore customers who use SoCalGas' transportation system for a portion of their gas load and the transportation services of other providers for the remainder of their gas load. The proposed peaking rate is higher than the rate a full service customer would pay.

SoCalGas explains that the purpose of a peaking rate is to discourage uneconomic bypass and provide improved cost signals to customers who require SoCalGas to transport their peaking loads. According to SoCalGas, its existing rate design may encourage some customers to partially bypass its system and offer partial requirements customers subsidized rates. A rate design that better reflects costs will provide potential

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bypass customers with "an accurate accounting of the costs they incur for potential bypass."

Toward Utility Rate Normalization (TURN) and Pacific Gas and Electric Company (PG&E) support the peaking rate proposal.

II. Protests to Application 93-12-017

A number of parties protested SoCalGas' application: El Paso Natural Gas Company (El Paso), City of Vernon (Vernon), Mojave Pipeline Company (Mojave), Chevron USA, Inc., Texaco, Inc., and Union Pacific Resources Company, California Industrial Group and California Manufacturers Association (CIG/CMA), California Cogeneration Council (CCC), Kern River Gas Transmission (Kern River), Sacramento Municipal Utility District (SMUD), Southern California Edison Company (Edison), San Diego Gas & Electric Company (SDG&E), Southern California Utility Power Pool and Imperial Irrigation District (SCUPP/IID), and Long Beach Gas Department (Long Beach). Edison, CIG/CMA, SDG&E and SCUPP/IID presented joint testimony as the "Customer Coalition."

Most of the protests argued that the proposal is anticompetitive and discriminatory because the proposed rates are not based on costs. Utility electric generators (UEGs) oppose the application of the rate to a UEG's entire system when only a single plant has partially bypassed SoCalGas' system. CCC's protest states that the proposed tariff rate for cogenerators exceeds the proposed tariff rate for UEGs, in violation of Section 454.4. Several parties also comment that the application does not clearly and thoroughly describe the peaking rate proposal.

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III. SoCalGas! Proposals

SoCalGas offered two approaches for calculating the peaking rate. SoCalGas's preferred option, which it characterizes as a "market-based" approach, would permit the utility to set a customer's price within a "zone of reasonableness." The floor of this price range would be the utility's short-run marginal cost and the ceiling would be equal to the average nonresidential core rate (which is considerably higher than the noncore default rate which would otherwise apply). SoCalGas believes this type of negotiated rate structure is reasonable because customers subject to the rate have competitive options. It argues that it will be better able to compete against partial uneconomic bypass if it has the leverage to negotiate higher rates.

SoCalGas' alternative proposal, which it refers to as "Option A," seeks to address some of the concerns expressed by parties that SoCalGas' preferred proposal is not cost-based. SoCalGas states that Option A rates are cost-based, and are designed so that only those customers whose load factor after partial bypass is worse than the class average load factor end up paying more than they would under existing volumetric rates. Option A rates contain two components: a capacity charge and a volumetric rate.

If the Commission is concerned that SoCalGas' proposals will apply to customers whose bypass is economic, it suggests a cap on the peaking service revenue that it believes would guarantee that the peaking rate would never discourage bypass when the customers' bypass cost is less than the utility's long-run marginal cost (LRMC) of serving that load.

$$Cap = (Standard \ tariff \leq LRMC) * (Total \ gas \ volume) + LRMC * (Peaking \ service \ volume)$$

(This calculation of LRMC excludes the customer cost component to recognize that the customer cost is not avoided in partial bypass situations.)

Neither of SoCalGas' proposals would apply to gas production which does not meet its quality specifications ("off-spec" gas), to refinery-produced gas, or to gas produced and consumed within the service area of a wholesale customer. SoCalGas states that these exceptions will assure that the peaking rate does not apply to customers whose bypass is economic. Both proposals would apply only to those customers who construct new direct bypass pipeline facilities or connections.

SoCalGas believes that either of its approaches will improve pricing signals to customers who might consider bypassing SoCalGas' system. It explains that its all-volumetric rate design encourages partial bypass because competing pipelines have demand charges or reservation charges. Because the utility has an obligation to serve, it will end up serving only high-cost peaking loads. It points out that customers' assessments as to whether or not to bypass the utility system should compare the utility's marginal costs to serve the customer and the cost of the bypass options. It believes that its peaking rate improves price signals by creating a situation "where the customer's avoided cost is closer to the utility's avoided cost."

IV. Discussion

A. Background: The Market for Gas Delivery Service

The market for the service of intrastate delivery of gas has undergone substantial structural change through the issuance of both Federal Energy Regulatory Commission (FERC) and Commission decisions during the past decade. Recently, this change has included the market entry of FERC regulated pipelines which compete for the provision

of intrastate service for noncore customers. (Prior to the entry of Kern River and Mojave, PG&E and SoCalGas faced competition for gas delivery service only from those noncore customers who maintained dedicated pipeline access to California produced gas.)

As part of the regulatory compact, SoCalGas retains its obligation to serve all customer load, both core and noncore, within its service territory. Even within the noncore class, SoCalGas serves a diverse and varying load as indicated in the testimony presented to the Commission in the proceedings which led to the development of LRMC based rates (D.92-12-058). SoCalGas must maintain facilities to serve the dynamic load of noncore industrial customers load like UEGs which show substantial daily and seasonal variation as well as the dynamic temperature dependent load of the core.

In our decisions implementing LRMC rates, we developed rates which reflected the concepts of both incremental cost and proper allocation of such costs across customer classes. In applying the incremental cost concept, we use a 15 year horizon to include a comprehensive or long run perspective of investment costs. We use incremental cost to encourage efficiency both in customer use of the local distribution company's (LDC's) facilities and in the customer's choice between the LDC and a market entrant. However, we

A market entrant must plan its entry to meet long run investment cost, and we use a long run perspective to allow the LDC to compete with the potential entrant. This perspective allows us to rely on LRMC based rates in our evaluation of Expedited Application Docket (EAD) contracts. Moreover, this long run perspective plays an important role in our analysis of the issue of bypass competition.

To apply incremental costs to customer classes, we also recognize and use the concept of peak load pricing to achieve economic efficiency (D.92-12-058). However, we balance the objectives of both efficiency and fairness across classes in applying the

peak load pricing concept. The concept appears in the allocation of the costs of all of services; for example, we allocate distribution costs based on the class coincident load on the cold winter day (CWD), local transmission based on the coincident peak month and backbone transmission based on cold year throughput.

In achieving a balance of efficiency and fairness, the allocators tend to measure average use rather than peak load demand. Some allocators show this tendency more than others; for example, cold year throughput represents more of an average measure than cold winter day. Cold year throughput averages daily demand across the year, smoothing out daily and seasonal demand variations. If peak capacity exceeds average demand, then use of an average measure implies that off-peak demand subsidizes on-peak demand.

Moreover, these allocators represent averages in another sense. The allocators are not unique to customers and instead measure an average across all customers within a class. Use of a class average implies that a customer whose load factor exceeds the class average load factor subsidizes customers with load factors below the class average. However, we certainly do not foresee the development of customer specific marginal costs, given the inherent difficulties in measuring marginal cost due to the uncertainties in forecasting project cost and customer demand.

The use of an average measure and the implication for a subsidy means that a market entrant could more readily attract the subsidizing customer. We recognize that an LDC should have a rate design allowing it to respond. Because these subsidies can arise from variations in individual customer load, we are allowing the LDC individual rate flexibility as described below.

SoCalGas presents its proposal for its load specific service in response to bypass competition. As indicated above, bypass competition for SoCalGas' EOR and UEG load has already occurred over existing interstate pipelines. Moreover, as summarized in SoCalGas' testimony, several other bypass pipeline proposals have appeared, including expansion of Kern River, extension of the Mojave pipeline through SoCalGas' service territory and extension of the El Paso pipeline to Mexico (Ex. 1, pp. 3-7, SoCalGas's Witness, Tom). Bypass pipelines would clearly prefer to serve the base load of SoCalGas' noncore customers.

Under its current rate design, SoCalGas can meet such potential competition only through its volumetric rate. SoCalGas does not impose capacity charges on its noncore customers. As described above, this rate reflects an average of customer use which again implies that within each class the base load service subsidizes the load specific service. A market entrant can attract the customer with the subsidizing load.

We can make our analysis best understood by momentarily adopting the perspective of a market entrant and a potential customer. As an example, assume that a customer with a dynamic load finds the entrant's rates attractive, but wants to reserve the option of switching to another pipeline to serve its base load. In other words, the customer will sign a long term contract for its residual load, but wants a short term contract for its base load. The entrant pipeline would likely sign such separate contracts for residual and base load only if the long term contract for residual load included payments for both the residual and base load capacity, while pricing the base load contract at marginal cost.

If the entrant signs contracts with this customer, which include capacity charges in the short term base load contract, and the customer subsequently finds a more attractive

alternative to serve its base load, then the customer leaves the entrant vulnerable for a
recovery of its capacity costs on the base load capacity. In this example, the entrant
attempts to avoid this under-recovery by using a rate design similar to the one proposed
by SoCalGas; the entrant's rate design resembles SoCalGas' proposed cap for its Option
B rate design in which SoCalGas allows the price for residual capacity to include the
costs of base load capacity.

Unlike the market entrant, SoCalGas has invested in capacity to serve a diverse
load without the support of long term contracts for assured cost recovery. Unlike the
market entrant, SoCalGas currently cannot refuse to serve a noncore customer who will
not sign a long term contract for its load. The combined absence of long term contracts
for assured cost recovery and the presence of a subsidizing rate structure places SoCalGas
in the position of the market entrant in the above example.

Given the absence of long term contracts, SoCalGas' rates must remain
continuously competitive with a potential entrant. If SoCalGas cannot retain its noncore
customer load, then SoCalGas can resolve the consequent loss through shareholder loss
or with Commission approval through changing the cost allocation rules to increase the
rates of other customers. If much of the noncore base load is at risk of bypass, then
SoCalGas can only impose these losses on the remaining captive customers.

D. A Load Specific Flexible Rate Design

In its testimony, SoCalGas has proposed two rate designs which we will call
Options A and B. SoCalGas' testimony introduced its 'preferred option' which it later
called Option B, and we retain the name, Option B, as a clarifying label. SoCalGas calls
Option A its alternate proposal, which SoCalGas submitted in response to parties' request

for a cost-based rate. We describe both options and then indicate why we adopt a
variation of Option B that redefines the cap. At SoCalGas' suggestion, we adopt the
variation of Option B for an experimental period until implementation of SoCalGas' next
Biennial Cost Allocation Proceeding (BCAP) expected by January 1, 1997. This is a
prudent course of action as parties gain more experience with this load specific flexible
rate design. During the next BCAP parties or SoCalGas may request a re-evaluation of
both the concept and formulation of this rate design. In this way, if actual experience
under this flexible rate design mechanism demonstrates that it produces unintended
affects, parties will have an opportunity to raise any such issues with the Commission.
We also see the BCAP as an opportunity to consider the broader application of a load
specific flexible rate design to noncore rates, generally. At a minimum the BCAP will be
the forum where we consider whether or not the load specific flexible rate design
mechanism is extended beyond this interim period.

Under Option A, SoCalGas proposes a rate based on two components. First, a
capacity charge would be set to recover the margin costs allocated to a particular
customer class on the basis of the capacity demands the class places on the system. The
capacity charge for a particular customer would be the class peak day rate times the
customer's peak-day volume over the most recent twelve months.

The second component is a volumetric charge that is set to recover all non-margin
costs. This component is calculated residually, as the difference between the class
average default rate and the margin components included in the capacity charge. As a
result, the monthly bill for a customer taking service under this tariff would be based on
the customer's peak-day volume, as well as the volume taken during the billing month.
For customers whose load-factor over the previous twelve months is lower than the

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customer class load factor, their monthly bills will be higher than the standard tariff. For partial bypass customers whose load-factor is above the class load-factor, Option A would result in a lower bill than the bill based on the standard tariff. SoCalGas, in this instance, would apply the standard tariff.

We reject Option A because it will not allow SoCalGas to respond to the individual consequences of the loss of customer load. Also, SoCalGas did not show how costs would be allocated within the class between non-bypass and bypass customers; the loss of bypass load will reduce both base and peak load although the former more proportionately than the latter.

Under Option B, SoCalGas does not propose a conventional fixed rate tariff, but instead proposes a range or zone of reasonableness between a floor and a ceiling rate. Option B includes a floor rate of short run-marginal cost (SRMC) and a ceiling rate. SoCalGas presents two alternatives for the ceiling rate either twice the noncore LRMC or the non-residential core rate. The first alternative means a lower ceiling of about $1.00/MMBTU while the second means a ceiling of about $4.30/MMBTU, using the values submitted by SoCalGas updated by our recent BCAP decision (D. 94-12-052). SoCalGas also proposes a revenue cap to avoid discouraging economic bypass. To replace SoCalGas' combination of a ceiling rate and revenue cap, We order a ceiling rate which equals the product of the current tariff rate and the ratio of the customer's load factor before bypass to its load factor after bypass.

Option B allows SoCalGas to negotiate a rate with each noncore customer who decides to bypass. This rate takes effect only after the customer has partially bypassed SoCalGas' facilities and applies to the customer's residual load to provide the load specific service as we have described above. Parties have submitted three objections to SoC-

SoCalGas' rate design: first, that the rate is not cost based; second, that the rate can be arbitrary and discriminatory; and third, that the rate can discourage economic bypass and allows predatory pricing. We address these concerns below.

We note that we have devoted considerable time to our development of LRMO based rates for gas LDCs for the purpose of offering customers cost-based rates, which reflect not embedded but incremental cost (D.92-12-058). Therefore, the customer has the clear option of SoCalGas' service under cost-based rates. A customer faces a cost-based tariff before bypass and only after bypassing SoCalGas' facilities, does the customer encounter our load specific rate design, which we order today. We want to emphasize that the customer, not SoCalGas, initiates the action of bypass which results in application of the load specific rate design.

We order the adoption of this load specific rate design to recover the costs associated with customer service. SoCalGas incurred these costs in building the system with the expectation of full service and without the expectation of bypass. As we indicated above, we adopt this long run perspective on costs and cost recovery for these long-lived gas plant assets because any firm, whether SoCalGas or a market entrant, must adopt this perspective for economic survival in planning its rates and other contract terms. We intend to allow SoCalGas the opportunity to recover these costs through this load specific rate design. This variable rate design applies to customer-specific variable load which, in turn, implies variable cost and in this sense our rate design is cost-based.

We adopt a variable rate design for this load specific service to allow SoCalGas to negotiate rates with each customer who intends partial bypass. For the customer with a nearly flat base load (with a high load factor), SoCalGas can offer a rate at or above SoCalGas' SRMC to keep the customer on the system. Short run markets clear when

price equals SRMC, which does not include sunk cost. By offering SRMC in the face of potential entry, SoCalGas is responding to competitive entry with a market rate.

For the customer with a highly variable load (low load factor), our variable rate design allows SoCalGas to negotiate a rate with the customer which reflects the cost of the customer's potential bypass. SoCalGas can offer a rate as low as SRMC or as high as the current tariff increased by the effect of the customer's bypass. The customer has three options at that point: stay on SoCalGas' system and pay the existing tariff rates, leave SoCalGas' system and pay the rates of the market entrant pipeline; or partially bypass SoCalGas system, leaving its residual load on SoCalGas' system and taking base load to the entrant's pipeline. We acknowledge that this variable rate design only encourages partial bypass when the entrant pipeline has a lower long run (incremental) cost of serving the customer's residual load than SoCalGas. The potential market entrant is making a long run decision at the time of entry, not a short run decision, and must decide if it can offer service at rates which will recover its long run costs. We have structured this variable rate design to encourage the entrant to make the economically efficient long-run decision.

Moreover, we adopt a rate cap, not the SoCalGas revenue cap, which is the product of the current tariff and the ratio of the customer's load factor before bypass to the load factor after bypass. For example, if the customer had a 75 percent load factor before bypass and a 25 percent load factor after bypass, then SoCalGas could negotiate a rate up to 3 times the current tariff which if the customer accepts after bypass means that SoCalGas suffers no revenue loss. Under this rate cap, the customer will pay at most the full cost which it imposes on SoCalGas' system by its partial bypass.

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E. Rate Design Impact Issues

A number of parties have argued that a load differentiated rate design constitutes either anticompetitive behavior or undue discrimination, contrary to the requirements of Public Utilities Code Sections 453 and 728. As we discuss below, we do not believe this to be the case. We see this rate design flexibility as another arrow in the utility's competitive quiver allowing it to respond to the evolving dynamics in the noncore market. At the same time, the utility's ability to exert undue market power is checked by the floor and ceiling conditions we have placed on the rate design flexibility.

As Transwestern Pipeline Company points out in its comments to the administrative law judge's proposed decision, "it is anachronistic to apply the same rate methodology and service requirements as in the pre-1992 territorial monopoly situation" (pp. 4-5). We agree. Noncore customers that make conscious decisions to partially bypass the utility system have entered the realm of competition for intrastate transportation services. They are no longer similarly situated with full-requirements customers, no matter that they may have similar load factors. Decisions to bypass, whether partial or total, should be done with full knowledge of the prospective cost of bypass. Rates can hardly be deemed discriminatory when effectuated by voluntary choice by the customer. Providing SoCalGas with a greater ability to charge rates that reflect the market value of partial-requirements service within previously approved Commission cost guidelines will promote a truer market-based decision between continued utility service and utility bypass.

Our intention is to provide the LDCs the necessary tools to engage in a more competitive market with the objective of preventing uneconomic bypass by conveying full efficient price signals to consumers. We apply this load specific flexible rate design to

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prospective partial bypass customers at this time. A customer that decides not to bypass does so because it is not in its economic interest. Customers who choose to partially bypass will do so because they believe themselves better off than as a full-requirements customer of the utility. That a customer is not as well off as it would be if it could continue to receive partial-requirements service under the existing rate design should not be seen as unduly discriminatory. Our proposal merely internalizes the externality cost a customer imposes on the general body of ratepayers by its decision to bypass under the current regulatory framework. Internalizing this externality will allow consumers to make rational economic decisions (economic bypass decisions) to the benefit of gas consumers generally. We do not see this as unduly discriminatory.

We can hardly dispute the claim by some that SoCalGas' proposal will affect competition. That is our intention. The fact that the current tariff structure does not allow the LDCs to effectively compete with bypass proposals is the reason we have considered SoCalGas' application. However, giving the utilities the ability to compete does not necessarily equate with anticompetitive behavior. We have placed a floor on the rate design flexibility at short-run marginal cost to prevent predatory pricing. As discussed below, we also place restrictions on our mechanism to address concerns raised by a number of parties that it may act to stifle competition by preventing economic bypass. Establishing a ceiling at the load factor adjusted existing long-run marginal cost of tariff rate also checks the utility's ability to use its market power to charge rates that generate more revenue than it would otherwise. Having addressed the concerns of predatory pricing, market power and prevention of economic bypass, we believe we have discharged our obligation to consider antitrust implications of our mechanism and make the necessary findings of fact and conclusions of law (Northern California Power Agency

v. Public Utilities Commission, 5 Cal.3d 370, 380). We will review implementation of our flexible rate design proposal and invite parties in SoCalGas' next BCAP to make a showing if they believe there are instances of anticompetitive behavior that need to be addressed.

Edison and SCUPP/IID argue against applying the SoCalGas proposal on a system-wide basis for UEGs with multiple facilities. SoCalGas argues that UEGs operate an integrated system. Facility by facility treatment of UEG customers would only serve to encourage uneconomic partial bypass of the utility system through the UEG's integrated system dispatching capability. We agree. In the interim, our load specific flexible rate design mechanism will be applied to a UEG's entire load in the event of partial bypass. In the event of partial bypass, SoCalGas should use the expected load factor for conventional gas-fired thermal plants in the last Energy Cost Adjustment Clause (ECAC) proceeding adopted by the Commission for jurisdictional UEGs in calculating the load factor before bypass. For non-jurisdictional UEGs, the underlying load factors for the latest adopted BCAP throughput forecast should be used.

The California Cogeneration Council argues that PU Code § 454.4 prevents a load specific rate design that does not maintain parity between UEGs and cogenerators. If a cogenerator voluntarily self-selects to partially bypass the LDC system and subjects itself to a flexible rate design for the remaining load, it forgoes the protections of rate parity crafted for a bundled monopoly service. The choice is for the cogenerator to make. It can remain wrapped in the security of a regulatorily sanctioned cogeneration parity under §454.4 or it can test the waters of a contestable intrastate transportation service market. Cogenerators can not have it both ways. We do not read §454.4 as requiring the extension of cogeneration parity once a decision is made to enter the competitive arena.

for intrastate transportation services. We recognize that in the past we exercised consideration discretion in interpreting § 454.4 to provide transportation rate parity. However, that transportation rate parity is still available to cogenerators that choose firm or interruptible full requirements service. We decline to further extend the interpretation of "rates for gas" in this context where competitive options are increasingly available, and a new type of service is offered in response to those market pressures. A cogenerator that makes a conscious decision to partially bypass the LDC has entered this competitive arena and has left the protective womb of regulation in so far as the applicability of cogeneration parity under § 454.4.

SoCalGas in its Opening Brief (pp. 32-35) addresses a number of limited circumstances where a load specific flexible rate design could discourage economic bypass. We have no interest in this outcome and as such limit the applicability of our adopted mechanism. Our rate flexibility mechanism will not apply to the following situations in which bypass could be economic: (1) gas which does not meet the LDC's gas quality specifications contained in its authorized tariffs (off-spec gas); (2) refinery produced gas and; (3) gas produced and consumed within the service area of a wholesale customer.

In the interim period until SoCalGas' next BCAP, the rate flexibility mechanism we approve is applicable to those customers who make bypass arrangements on or after July 1, 1995. All previously existing arrangements will be grandfathered. Grandfathering will be applicable to previous existing arrangements on California source gas or interstate gas. We believe that with these limitations we have eliminated any likely possibility that our proposal could discourage economic bypass. Again, we invite parties in SoCalGas' next BCAP the opportunity to show if further limitations should be

for intrastate transportation services.

Finally, some parties believe that SoCalGas' proposal is simply a way for the company to increase revenues under the terms of the "global settlement" adopted by the Commission in Decision (D.) 94-07-064. The settlement expressly permits SoCalGas to propose a peaking rate to the Commission. The signatories to the Global Settlement are in no position to argue against the proposal on the basis that it is contrary to the settlement. As we have discussed above, the conditions we have placed on our load specific flexible rate design are revenue neutral from a ratepayers perspective.

V. 311(e) Comments

Six parties filed comments to the alternate decision.[1] The parties continue to oppose the concept the peaking rate concept adopted in this decision and have offered criticisms of the plan and SoCalGas' defense of the plan. We have reviewed these criticisms, but have decided to adopt a modified version of SoCalGas' Option B for policy reasons which reach beyond these criticisms. To repeat these reasons, we adopt a load specific flexible rate design mechanism to allow SoCalGas to recover costs developed under our LRMC methodology in order not to adversely impact other customers; this adverse impact occurs when SoCalGas can only charge a partial bypass customer the volumetric rate applied to the customer's load before bypass. We conclude that bypass pipelines can compete with SoCalGas on an equivalent basis for customer load. Our broader policy objective leads use to review the record and SoCalGas' Option

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[1] Comments were filed by CCC, SDG&E, Chevron U.S.A. Inc., Mobil Exploration and Producing U.S. Inc., Mobil U.S. Manufacturing and Refining, Inc., Texaco Inc., and Union Oil Company of California, Mojave, Kern River, and CIG/CMA.

B differently than in the Proposed Decision.

Edison in its comments constructed several examples of partial bypass which allegedly prove the Commission's policy will discourage economic bypass. These examples do not show what Edison contends. Edison also raises a concern that the formula for determining the rate ceiling may impose costs on UEGs which are unrelated to the degree of bypass. That was not our intention. We have added some discussion to clarify the load factor adjustment. Finally, Edison raises a concern over the impact that applying the peaking rate on a system basis rather than on a plant-by-plant basis will have on the UEGs competitive posture. As we move forward with electric restructuring we will reconsider how the peaking rate adopted here should apply to multi-station UEGs. We encourage proposals that address the concerns raised by both sides to the debate on this issue, including proposals that address the fixed cost nature of the service and its impact on rate design.

In its comments, the CCC challenges our policy determination to not extend the applicability of Public Utilities Code Section 454.4 to our load specific flexible rate design mechanism. Although we have applied Section 454.4 in previous proceedings involving LDC transportation services, our determination is not to extend its applicability in this case. As part of the electric restructuring effort, the broader question of the applicability of Section 454.4 will have to be re-examined in light of the changing regulatory and market structure. Today, we only choose not to extend its applicability to this new service.

Findings of Fact

1. SoCalGas proposes a peaking rate for partial requirements customers. The rate is intended to send better price signals to customers who partially bypass SoCalGas'

transportation system.

2. SoCalGas proposed two methodologies for a peaking rate. One is a two-part rate that includes a capacity charge and a volumetric rate. The other is a negotiated rate.

3. SoCalGas' Option B, a negotiated rate, as modified by this order is consistent with promoting efficient utilization of the state's natural gas system.

4. SoCalGas' current class average volumetric rate structure provides poor price signals to noncore customers and may promote uneconomic bypass by providing an underpriced insurance policy to customers with market alternatives.

5. SoCalGas' current rate structure may promote uneconomic bypass to the extent the rates do not correspond to SoCalGas' costs.

6. SoCalGas proposes that the peaking rate apply to a UEG customer's entire load when a single UEG unit engages in partial bypass.

7. UEGs dispatch on an integrated systems basis. Facility by facility treatment of UEG customers would serve to encourage uneconomic partial bypass.

8. The settlement approved in D.94-07-064 explicitly permits SoCalGas to propose a peaking rate.

9. A load specific flexible rate design is cost based with a floor set equal to short-run marginal costs and a ceiling set equal to the current long-run marginal cost tariff rate increased by the effect of the customer's bypass.

10. A load specific flexible rate design allows for a range of negotiated market based rates with specific ceilings and floors for customers facing competitive service options.

11. A load specific flexible rate design is not unduly discriminatory and is consistent with Public Utilities Code Sections 453 and 728.

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12. Cogenerators who make a conscious decision to partially bypass the LDC have entered the competitive arena for intrastate transportation services.

13. The short run marginal cost floor applied to the flexible rate design prevents predatory pricing by SoCalGas.

14. The load factor adjusted long run marginal cost tariff rate ceiling prevents the exercise of market power by SoCalGas.

15. The rate flexibility mechanism will not apply to the following situations in which bypass could be economic: (1) gas which does not meet the SoCalGas' gas quality specifications contained in its authorized tariffs (off-spec gas); (2) refinery-produced gas and; (3) gas produced and consumed within the service area of a wholesale consumer.

Conclusions of Law

1. The Commission should grant SoCalGas' application to adopt a load specific flexible rate design mechanism as modified by this order for the reasons set forth herein. This approval is for an interim period until implementation of SoCalGas' next BCAP.

2. The load specific flexible rate design mechanism is not unduly discriminatory and is consistent with Public Utilities Code Sections 453 and 728.

3. The load specific flexible rate design mechanism is not anticompetitive.

4. Cogeneration parity as described in Section 454.4 is not applicable in circumstances where a cogenerator makes a decision to partially bypass the local distribution company's system.

5. The load specific flexible rate design mechanism is applicable to those customers making bypass arrangements on or after July 1, 1995.

6. The load specific flexible rate design mechanism should not apply to gas which does not meet the SoCalGas' gas quality specifications (off-spec gas) contained in its

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authorized tariffs, refinery produced gas and gas produced and consumed within the service area of a wholesale customer.

7. The load specific flexible rate design mechanism should be applied to a UEG's entire load in the event of partial bypass.

8. The load specific flexible rate design mechanism should be reviewed the SoCalGas' next BCAP. At that time the Commission should determine whether or not to extend this mechanism in either its existing form or as modified in the next BCAP.

ORDER

IT IS ORDERED that the application of Southern California Gas Company to approve a peaking service is granted as modified by this decision for an interim period until implementation of the Company's next Biennial Cost Allocation Proceeding.

2. Southern California Gas Company may file an advice letter proposing tariffs which implement a load specific flexible rate design mechanism consistent with this order. The advice letter shall be filed no later than 30 days from the date of this order and shall be served on all parties to this proceeding. The revised tariff sheets shall be effective after CACD has reviewed them for compliance with this order.

This order is effective today.

Dated July 19, 1995, at San Francisco, California.