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Decision 95-07-048 July 19, 1995

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

ORIGINAL

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OPINION

This decision modifies the Commission's core aggregation transportation (CAT) program. We adopt a settlement filed by several parties. We also state our intent to unbundle interstate transportation services for core customers by January 1, 1998 for Pacific Gas and Electric Company (PG&E) and by January 1, 1999 for Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E).

I. Procedural Background

The Commission, in Decision (D.) 91-02-040, adopted a CAT program on a trial basis in February 1991. The pilot program provides small and medium-sized gas customers an opportunity to purchase gas from sellers other than the utility. These "CAT" or "core aggregation" customers continue to purchase services needed to transport this purchased gas from their local utilities.

D.91-02-040 stated the Commission's intent to review the pilot program in 1994. In April 1994, the Commission extended the pilot program rules with minor modifications pending a more in-depth review of them. That review is completed by this decision.

In March 1994, several parties[1] filed a settlement proposing changes to the interim rules. On the same day, several

1 PG&E, SoCalGas, SDG&E, Southwest Gas, Division of Ratepayer Advocates (DRA), and Enron Access (Enron).

other parties[2] filed a joint petition to modify the decision adopting the interim rules (joint petition).

Both the settlement and the joint petition propose changes to the pilot program that are designed to improve the program. Generally speaking, the settlement proposes minor program changes designed to reduce uncollectibles, simplify customer participation, and protect customers from aggregator fraud or bankruptcy. The joint petition proposes more sweeping program changes, most critically, the expansion of the program to provide core customers options to relying only on the local gas utility to transport their gas; that is, it proposes "unbundling" transportation services for core aggregation customers.

At the request of PG&E, SoCalGas, and Southern California Edison Company (Edison), the Commission held hearings on related issues during the week of January 9, 1995. Several parties were active in the hearings, although most were signatories to either the joint petition or the settlement. In addition to the proponents of the joint petition and the settlement, Toward Utility Rate Normalization (TURN), California Industrial Group and California Manufacturers Association, Edison, Southern California Utility Power Pool and Imperial Irrigation District, and Save Our Services (SOS) participated in this proceeding.

Before proceeding to address the substantive issues of this proceeding, we address certain procedural proposals. First, we reject DRA's proposal to open another rulemaking proceeding to consider the proposals of the joint petition. This proceeding is a

2 Sunrise Energy Services, Inc. (Sunrise) and SunPacific Energy Management, Inc., Broadstreet Oil and Gas (BSOG), GB Utility, Center of Health Resources, California Association of Healthcare Facilities, California Utility Rate Benefits, California Independent Petroleum Association, School Project for Utility Rate Reduction, Regional Energy Management Coalition, and the California State Department of General Services.

rulemaking. The scope of this rulemaking includes core aggregation rules and policies, including those proposals offered in the joint petition. Although the Commission does not normally adopt major policy changes in response to petitions to modify decisions, the Commission is within its discretion to do so as long as it satisfies the requirements of Public Utilities (PU) Code § 1708. In this particular case, the Commission has solicited comments, held hearings, and requested briefs on the issues following proper and extensive notice, thereby fulfilling the requirements of PU Code § 1708.

We also reject the proposals of large customers who propose to defer consideration of the issues raised in the joint petition and who argue that the time is not "ripe" for such review because the gas industry is still "evolving." The industry has been undergoing major changes for more than 10 years, and we expect it will continue to evolve for many years to come. During this period, we have not stopped the process of reviewing industry and ratemaking improvements that benefit large customers (see, for example, D.92-07-025 (capacity brokering), D.92-02-013 (storage unbundling), D.92-12-058 (long-run marginal cost), D.92-11-052 (large customer discounted contracts)). Similarly, we will continue to review programs that might benefit smaller customers.

II. The Pilot Program

The pilot CAT program has been somewhat successful in reducing the gas costs of participating core customers although its appeal is declining. At the program's peak, 10 core aggregators served about 8% of PG&E's core customer load. Today, only three aggregators remain, serving less than 4% of PG&E's core customers' load. Participation in SoCalGas' program has fallen from 5.3% of core load to 3.6% in 1995.

According to the parties, reduced program participation probably results largely from the program's success. Competition in core gas markets has motivated the utilities to improve their gas procurement practices and thereby reduce their gas costs. SoCalGas also states that several of its core aggregation customers recently opted for noncore status after the Commission modified its definition of noncore customers.

Program administration has been generally successful, although some parties believe that the existing rules inadequately protect customers and present program management problems for the utilities.

III. Goals of the Core Aggregation Program

All of the parties agree that the core aggregation program should continue and that the interim rules require some changes to assure high levels of customer service and program survival. The settlement proposes several customer protections to this end. The joint petition would go further by increasing the competitive options available to core customers.

The main issue for the Commission is whether to recalibrate the administration of a program with limited appeal, as the settlement proposes, or to expand the appeal of the program and promote more opportunities for core customers to take advantage of competitive options, as the joint petition proposes.

We review the proposals before us in consideration that the CAT program should:

Promote efficient use of the gas system.

Provide core customers with service options to the extent feasible.

Assure that core customers continue to receive highest quality service.

> Assure a fair allocation of costs between customers and customer classes.

The joint petition and the settlement represent packages of policies that are only partly compatible and the parties agree that the proposals envision very different outcomes. Both proposals seek to balance the interests of customers, utilities, and aggregators. Both proposals seek to retain the CAT program, although in very different ways. We describe generally the settlement and joint petition and then discuss their various elements more specifically.

IV. The Settlement Provisions

The settlement proposes several changes to the existing rules:

> Firm interstate pipeline capacity will be assigned to core aggregators at the average cost of interstate transportation reservation charges incurred by the utility to serve its core customers.

> Aggregators will remit payment for interstate pipeline demand charges directly to the appropriate interstate pipeline and will be reimbursed by the utility for the capacity following confirmation of payment by the pipeline company.

> Aggregators will be subject to an operational flow order (OFO) during peak periods to assure reliability to other core customers. Under the operational flow order, aggregators will be required to nominate their full daily contract quantity as firm deliveries to the utility system.

> Aggregators will be assigned storage rights and costs in the same proportion as storage costs are allocated to the core (PG&E will allocate a pro rata share of the total core planned storage).

Generally, the motion to adopt the settlement states that the settlement is designed to provide a detailed framework for program rules. It states that the settlement allows the growth of the core aggregation transportation program without adversely affecting other customers. It proposes that the pilot program be made permanent and that the Commission consider additional rules as circumstances change.

V. The Provisions of the Joint Petition to Modify

The Joint Petition to Modify proposes the following changes to the existing rules:

> The utility's obligation to serve a core aggregation customer would be limited to providing the most reliable firm intrastate transportation service and load-balancing services.
>
> Core aggregation rates would be unbundled so that interstate pipeline demand charges would be removed and core aggregation customers would have the option to purchase interstate transportation from providers other than the utility.
>
> Core aggregation rates would be unbundled so that storage costs would be removed and core aggregation customers would have the option to purchase storage services.
>
> Core aggregation rates would be unbundled so that customer-related services would be removed and a customer services fee would be paid only by core customers who purchase their gas supplies from the utility.[3]

3 Customer service fees are distinguished from "brokerage fees" because the latter are only those costs related to purchasing the gas commodity. Customer service fees would cover a wider range of

(Footnote continues on next page)

The utility would be required to adopt real time pricing for the commodity portion of the bundled core sales rate.

Generally, the petition to modify comments that these changes are intended to provide core customers the same benefits already available to noncore customers. It also states that these changes are intended to make the utilities more efficient providers of service to all customers.

VI. Issues

A. Unbundling Rates and Services for Core Aggregators

The most controversial aspect of this proceeding was the joint petition's proposal to unbundle interstate transportation storage and customer service costs from core rates. Under the proposal, core aggregation customers would pay only for the utility services they receive and would be able to purchase interstate transportation and storage from other providers.

Generally, the utilities, noncore customer representatives, and DRA oppose unbundling as proposed by the joint petition. PG&E does not oppose unbundling interstate transportation as long as it is accomplished following the completion of PG&E's contractual commitment to purchase 1,140 million cubic foot per day (MMcf/d) of El Paso firm capacity. The commitment ends on December 31, 1997.

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services such as energy conservation and usage information, billing and payment policies, meter reading, safety inspections, and carrying costs of storage gas.

The parties address the unbundling proposal of the joint petition from the standpoint of effects on cost allocation, competition, and the utilities' obligation to serve.

B. Cost Allocation

Providing core aggregation customers with competitive options for their transportation requirements would reduce core aggregation customers' liability for interstate capacity.[4] Instead of paying the tariffed demand charges for firm capacity (plus 10% liability for unused noncore transportation), core aggregation customers would pay the discounted cost of transportation (currently about 10% of the demand charges) plus the interstate transition cost surcharge (ITCS).[5]

The issue of cost allocation was central in the debate over the joint petition's proposal to unbundle transportation services and costs from core aggregation rates. The revenues lost as a result of core aggregation customers purchasing interstate capacity in competitive markets would need to be recovered in other ways or from other customers. The joint petition proposes to reduce the core class allocation of interstate capacity by the amount of capacity effectively abandoned by core aggregation customers. The demand charges associated with that capacity would be included in the ITCS and paid for by core aggregation and noncore customers.

4 There was little discussion regarding the allocation of costs occurring from unbundled customer services and storage. Presumably, those costs would be allocated to those customers who use related services, consistent with Commission policy.

5 The ITCS is a surcharge designed to allow the utilities to recover firm interstate demand charge revenues that have been lost as a result of competition in noncore transportation markets.

Opponents of the joint petition point out that unbundling transportation for core customers would impose greater cost liability on other customers and increase the ITCS imposed on noncore customers. PG&E estimates that annual revenue losses associated with this change to be about $1.5 million. SoCalGas estimates annual core revenue loss of about $24 million, assuming program participation increases to 20% of total core load. SoCalGas estimates that about 40% of these annual revenue losses would be allocated to noncore customers by way of the ITCS.

The utilities and noncore customer representatives object to a change in cost allocation which increases rates to noncore customers. The utilities express concern that some noncore customers may have the capability to bypass the intrastate utility system and higher rates may promote bypass. SoCalGas is liable for noncore throughput under the settlement adopted in D.94-07-064 until the end of 1998. It is especially concerned that increasing the ITCS will increase the prospects for bypass and losses to its shareholders.

TURN argues that the reallocation of costs would be a small step toward remedying an existing inequity, observing that noncore customers pay $0.0249 a therm for interstate capacity while core customers pay $0.0433. TURN reminds the Commission that when it unbundled storage and capacity for the noncore class, core customers shared in associated stranded costs. It believes the same competitive opportunities should be available for the core class that are available for the noncore class and that the associated costs should be shared by noncore customers.

BSOG/Sunrise point out that the joint petition allocates to core aggregation customers the same stranded cost responsibility as any noncore customer choosing competitive transportation options. That is, core aggregation customers would pay for a substantial portion of the stranded costs associated with unbundling transportation for the core.

C. <u>Obligation to Serve</u>

The joint petition proposes that the utility's obligation to serve CAT customers be limited to the utility's obligation to provide the highest reliability within the utility's territory. The customer would bear responsibility for delivering gas supplies to the utility's system. The utility would therefore not hold firm interstate capacity or firm gas supply contracts to enhance the reliability of CAT customer services. The joint petition anticipates a high priority backup service for core aggregation customers' intrastate services.

SoCalGas opposes the joint petition's change to a gas utility's obligation to serve. By proposing to reduce the utility's commitment to some of its core customers, the joint petition, according to SoCalGas, calls into question the integrity of utility service to residential consumers, schools, hospitals, and others. It believes assuring backup services for these customers would be costly and should not be assumed by other ratepayers. PG&E makes similar comments. SDG&E argues that the joint petition proposes a mismatch of intrastate and interstate service reliability that unduly compromises core customer service.

SOS comments that unbundling such customer services as gas appliance testing and inspections and other "after meter" services may compromise public safety without providing any offsetting benefits. It proposes that the utilities retain the obligation to provide these services.

D. <u>Competition and Efficiency</u>

BSOG/Sunrise comment that aggregators cannot compete with utilities for core services because all of the costs of serving the core are bundled, with the exception of the commodity. Unlike noncore customers, core customers are thereby forced to pay for the utility's service whether or not other options are available. Aggregators cannot offer any cost savings to core customers because they must pass along the same costs to core customers that utility rates include.

BSOG/Sunrise also observe that unbundled transportation services will provide the utilities with a better indication of the future need for firm interstate capacity, thus improving system planning for the core. BSOG/Sunrise comment that similar circumstances prevailed when noncore services were unbundled.

DRA comments that unbundling the core aggregation rates will improve program participation by providing core aggregation customers access to lower priced services. It believes, however, that unbundling will not improve efficiency in the market because of excess capacity.

E. <u>Discussion</u>

Unbundling the rates and services of the core class as the joint petition proposes, has considerable appeal. It is consistent with our objective to promote competitive markets wherever possible without compromising, in a case such as this, the protections and service quality due to core customers. Under the terms of the joint petition, core customers, like noncore customers, would be able to choose their service providers and the level of services they consider appropriate.

Unbundling core rates and services for core customers would effectively eliminate most remaining distinctions between core and noncore customers. Gas consumers would be either customers of the distribution utility or customers of competing suppliers for gas, storage and transportation services. Originally, noncore customers were those who had alternate fuel sources on site. Core customers were those who had no alternative sources of fuel readily available. Today, the Commission defines noncore customers as all those whose gas demand exceeds a specified cut-off without reference to on-site fuel alternatives. This cut off is the Commission's judgment as to the size of customer that should be capable of purchasing gas from suppliers other than the utility. In addition to their option to purchase nonutility gas supplies, noncore customers today may purchase nonutility transportation. The noncore class is no longer limited to the group that is technically able to bypass the utility system.

Our definition of the noncore class and the options available to it have changed as circumstances have changed. Circumstances have changed in ways that benefit the core class, and we find it appropriate that core customers should be granted opportunities to purchase competitive transportation services. At this point, core customers may not require the utility to act on their behalf in some markets as long as those customers are willing to assume the risks of lower levels of interstate transportation service. In a period such as this where the system has excess capacity and because the utility can provide standby service, however, these risks are probably very low.

This is not to say that all core customers are equally situated in their ability to take advantage of competitive options. For some, there may be no cost savings. Others may wish to remain with the utility for all gas services for reasons of convenience or to be assured of the highest level of service. However, we are not convinced by arguments that all core customers require the same level of utility service or that all core customers should be required to purchase utility service.

Nor are we convinced that we should deny core customers competitive options on the basis that noncore customers may have to bear some of the associated costs. Core customers currently pay about 75% more for interstate transportation than noncore customers because core customers have not had opportunities, either individually or as a class, to take advantage of low-priced excess capacity in competitive markets. Each time we have improved competitive options for noncore customers or reduced noncore rates, core customers have shared in the associated stranded costs. As a matter of equity, we would not deny core customers the options available to the noncore or require other core customers to bear all of the associated risks. In this case, the cost liability is likely to be small. Even assuming that 20% of core customers would purchase interstate capacity from SoCalGas competitors, SoCalGas' noncore customers' share of the ITCS would increase by only about 3% of total noncore transportation rates.[6] PG&E's estimates are a small fraction of this.

We agree that the primary effect of the joint petition's proposal would be to reduce some customers' costs without necessarily improving system efficiency in the near term. Generally, we have promoted competition on the basis that it will promote efficiency and drive down prices. In this case, however, core participation in gas transportation markets may not lead to lower prices or increased efficiencies in transportation markets in the foreseeable future. California has substantial excess capacity which will be in place for many years to come and its owners are discounting to the bone already.

On the other hand, unbundling core transportation may improve allocative efficiency over time. That is, the utilities will be discouraged from maintaining high-priced firm capacity contracts that are not needed to reliably serve utility customers in circumstances of excess capacity. In the longer term, the utilities will move out of the interstate transportation business to the extent their costs are priced above market.[7]

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6 This assumes the current intrastate rate of $0.054 plus the ITCS of $0.0212 and SoCalGas' estimate of an increase of $0.0022 to the ITCS resulting from a $10 million loss of core revenue.

7 PG&E's commitment with El Paso for 1,140 MMcf/d expires at the end of 1997. SoCalGas' obligations to purchase firm capacity from El Paso and Transwestern end in 2005 and 2006, respectively.

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Taking all of these factors into consideration, we find that PG&E, SDG&E, and SoCalGas should be required to unbundle interstate transportation costs and services from their core rates. As the joint petition proposes, the capacity allocation to the core would decrease as core customers choose to participate in competitive interstate transportation markets.[8]

Although we are modifying the utilities' obligation to serve small customers who choose competitive interstate transportation services, the utilities will assure that any customer who does not choose competitive alternatives always has the highest quality service available from the local utility. For those customers, the utilities' obligation to serve will not change. In addition, the utilities' obligation to serve any customer now designated "core" will not change with respect to intrastate service.

For PG&E, transportation unbundling should be implemented on or before January 1, 1998 at which time its commitment to El Paso capacity ends and PG&E's ITCS will be reduced. The unbundling of SoCalGas' and SDG&E's core rates should be completed on or before January 1, 1999 when Pacific Interstate Transmission Company/Pacific Offshore Pipeline Company (PITCO/POPCO) transition costs are eliminated from core and noncore rates and issues related

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SoCalGas may also relinquish 450 MMcf/d of Transwestern capacity as of November 1, 1996, and 300 MMcf/d of El Paso capacity as of January 1, 1996.

8 In this context, our current designations for core and noncore customers may no longer be useful. We intend to reconsider these terms and what they signify as policy and market options evolve.

to noncore throughput and liability for associated revenues may be revisited under the terms of the settlement adopted in D.94-07-064. SoCalGas will have also relinquished 750 MMcf/d of interstate capacity on the El Paso and Transwestern systems. By the time unbundling is complete, any reallocation of costs should be partially offset by these cost reductions. Deferring core unbundling will also provide ample time for the utilities to plan their system requirements and for the Commission to review unbundling proposals in Commission proceedings.

The expiration of PG&E's commitment for El Paso capacity at the end of 1997 provides an opportune time for unbundling interstate transportation for core customers. The stranded capacity that currently exists and is necessitating the collection of transition costs should be all but be eliminated. Core customers will then have the option of choosing to be served from competitive interstate transportation services without the Commission having to confront the issue of stranded capacity and the difficult cost distribution questions that it entails. PG&E should file its proposal to unbundle interstate transportation in its next Biennial Cost Allocation Proceeding (BCAP) or by separate application filed not later than January 1, 1997.

On the other hand, SoCalGas will continue to face significant amounts of stranded capacity subsequent to its relinquishment of capacity on the Transwestern and El Paso systems in 1996. Unbundling interstate capacity given significant levels of stranded capacity will raise difficult issues about the efficient use of the gas system and the equitable allocation of costs between customers and customer classes. These same issues were before us in our decision denying the joint petition seeking changes to the allocation of stranded interstate capacity (D.95-04-071). Any effort to unbundle interstate transportation on the SoCalGas system will need to address these efficiency and distributional questions. SoCalGas and SDG&E should file proposals to unbundle interstate transportation with sufficient lead time to allow the Commission to unbundle interstate transportation on or before January 1, 1999, but in no circumstances should proposals be filed later than January 1, 1998. These proposals can be filed as either part of the utilities' next BCAP filing or by separate application.

Our consideration of these matters raises related issues. First, we recognize that we need to consider how to allocate the savings that will accrue as the utilities relinquish high-priced interstate capacity over the next several years. Currently, core customers as a group have committed to pay for large portions of existing capacity commitments. The ITCS allows the utilities to recover the remaining costs of those commitments from noncore customers. As utility commitments are eliminated or reduced, existing allocations may be inappropriate. We also wish to reconsider existing arrangements in the context of extending competitive opportunties to core customers. We will address these issues more fully in R.88-08-018 as soon as possible. We will direct the SoCalGas and PG&E to submit proposals on these issues within 60 days. The utilities' submittals should address the following questions:

> How, if at all, should the core's commitment to interstate capacity be modified as the utilities relinquish interstate capacity commitments?

> How should firm interstate capacity and related costs be allocated among customers?

> How should future allocations of interstate capacity costs recognize core aggergators seeking access to competitive transportation markets?

> Should the utilities be required to bid in competitivemarkets for some or all of core customer requirements?

> Should all core customers have access to competitive interstate capacity markets? If so, how should that be accomplished and over what time period?
>
> Should the Commission eliminate the distinction between core and noncore customers? If not, how should they be distinguished in the future?

In addition to seeking the utilities' views on these matters, we will solicit the views of other parties. The Commission will schedule a prehearing conference to address procedural matters shortly after comments are filed.

At this time, we decline to unbundle all customer services, as the joint petition proposes, because the benefits appear to be small relative to the potential risks and the uncertainties about costs that are actually avoided when customers purchase gas through aggregators. For example, the utilities testified that they have devoted considerable resources to implementing and administering the CAT program. However, we agree that brokerage costs should be unbundled to reflect the cost of gas procurement. We intend to unbundle brokerage costs from CAT rates at the first opportunity. In D.94-12-052, we adopted a core brokerage fee and associated ratemaking adjustments for SoCalGas. We will direct PG&E and SDG&E to propose and implement a core brokerage fee in their upcoming or pending BCAP proceedings. A determination of the appropriate core brokerage fee will require an underlying cost study. Such a cost study should be included as part of each utility's BCAP application. Consistent with the goal that the CAT program should promote efficient use of the gas system, our preliminary thinking is that the core brokerage fee should be based on the marginal cost of utility core procurement. In each BCAP, parties should address how their core brokerage fee is consistent with the efficient use of the gas system.

We are convinced by the arguments of DRA and SDG&E that storage unbundling at this time may not be logical because storage facilities are currently used only to assure reliability during peak periods, and not as a way to facilitate the purchase of low priced gas. We are not convinced by the joint petitioners that this function will or should change in the near term. We will reconsider storage unbundling for core customers if and when circumstances change.

F. Settlement Issues

The settlement addresses several existing program elements that have, according to settlement proponents, caused problems for CAT customers or aggregators.

1. Assignment of Interstate Pipeline Capacity and Costs

The settlement would assign to core aggregators the average cost of interstate pipeline reservation charges incurred by the utility to serve its core customers based on the core aggregators' use of the utility's interstate capacity. In so doing, the settlement alleviates the incentive for customers to take core aggregation service simply to avoid paying the fully allocated cost of interstate capacity which they would incur as utility customers. Currently, an aggregator would be able to use the most economically attractive interstate capacity, thereby causing other customers to incur higher costs.

The parties generally agree that this provision seeks to eliminate an inequity that exists under the current rules.

2. Billing for Interstate Pipeline Capacity

Under the settlement, aggregators will pay interstate pipeline companies directly for firm capacity. The Utility will subsequently reimburse the aggregator for the entire amount after the pipeline company confirms receipt of payment by the aggregator. This settlement element is designed to shift liability for charges to the aggregator from the customer who is currently liable to the utility if the aggregator defaults on capacity payments.

BSOG/Sunrise argue that this provision is an unlawful tying arrangement between interstate and intrastate transportation because the reimbursement for interstate charges is dependent upon the intrastate charges imposed by the utility. BSOG/Sunrise also observe that this provision is useless if transportation rates and services are unbundled.

3. Operational Flow Order

Under the settlement, aggregators will be subject to an OFO during peak periods to assure reliability to other core customers. Under the OFO, aggregators will be required to nominate their full daily contract quantity as firm deliveries to the utility system. If these supplies were not available from aggregators, according to SoCalGas, utilities would be required to purchase additional supplies in lieu of aggregator supplies, potentially at a higher cost to core customers. SoCalGas comments that the OFO is necessary as part of the utility's obligation to serve core customers under peak day conditions.

BSOG/Sunrise argue that the OFO is burdensome and restrictive. They believe that the settlement would permit the utility to declare an OFO at its discretion without any requirement that a curtailment is imminent. This provision, according to BSOG/Sunrise, is moot if the joint petition is adopted because of the modifications to the utility's obligation to service and the unbundling of transportation and storage.

4. Storage Rights and Obligations

Under the settlement, storage rights and costs will be allocated to each aggregator in the same proportion as storage costs are allocated to the customer classes represented by each aggregator. According to settlement proponents, core customers would thereby have a comparable level of reliability regardless of whether they take bundled or CAT service.

BSOG/Sunrise argue that the settlement inappropriately aligns the storage service allocation with storage cost allocation, without reference to the customer's load profile or its reliability requirements. BSOG/Sunrise comment that the settlement provisions would require substantial modification if the joint petition's proposal to unbundle storage is adopted.

5. Credit and Collections

The settlement sets forth several credit and collections provisions designed to protect the utility and its customers. The settlement requires a security deposit which may be waived upon a showing of ability to meet foreseeable financial liabilities. Alternatively, the aggregator can guarantee weekly delivery of gas equal to 80% of the customer's estimate usage or by maintaining gas in storage.

The utilities comment generally that the CAT program has created additional risks for the utilities and their customers. Settlement proponents observe, for example, that aggregators may fall short of committed gas delivers for almost four months before their contracts may be terminated for nonpayment of imbalance penalties, during which time the utility must purchase additional gas to cover the shortfall.

SoCalGas comments that additional measures to assure creditworthiness are required in part because customers are ultimately responsible to the utility for the bill even if they have already paid the required charges to the aggregator but the aggregator declares bankruptcy or otherwise defaults on payments to the utility. SoCalGas observes that three aggregators have declared bankruptcies in California since the initiation of the CAT program.

BSOG/Sunrise object to the credit and collections provisions on the basis that they are onerous and will limit the number of core aggregators able to participate in the program.

6. Discussion

We have already determined implicitly that the settlement does not anticipate the specific changes we believe should be implemented within the next few years, namely that core customers should have the opportunity to participate in competitive markets in much the same way noncore customer have. We agree, however, that the settlement is likely to improve the current program to the benefit of all the participants. Generally, it improves the operational aspects of the program and provides some additional protections for aggregators and CAT customers.

We herein adopt the settlement, although some of its provisions will become moot after interstate transportation is unbundled. First, the allocation of interstate capacity to aggregators will be eliminated with the unbundling of transportation, because after that time, aggregators will be free to choose any transportation option available in the market. In the interim, this allocation promotes more equitable treatment of core and CAT customers.

Similarly, the interstate billing provision will no longer be required when transportation is unbundled. Instead, core aggregators will be subject to the rules that apply to other buyers of interstate capacity. In the interim, this provision protects customers from liability that properly is the aggregators. We reject the argument of BSOG/Sunrise that the provision is an unlawful tying arrangement. As we understand it, utility reimbursement to aggregators is conditioned only upon confirmation that interstate charges were paid to the pipeline company and not upon intrastate service or rates.

The OFO provisions are designed to protect those customers who do not choose competitive services. We believe that such protections are required for the foreseeable future. We do, however, have some concerns that the settlement may leave too much to the utility's discretion. We therefore direct our staff, whether DRA or Commission Advisory and Compliance Division, to bring to our attention any problems they observe with the implementation of the OFO. Other parties may also submit petitions to reconsider this matter if they believe the application of the OFO is arbitrary or harmful.

The storage provisions of the settlement are not perfect in that they cannot be tailored to customer requirements or costs. They are, however, a reasonable compromise until and unless the utilities unbundle storage services for core customers.

Finally, we share BSOG/Sunrise's concerns about the credit and collections provisions of the settlement. Although Enron, an aggregator, supports them, Enron is part of a large and well-financed corporate family. Smaller companies may be disadvantaged by the settlement provisions requiring large deposits. On the other hand, these provisions are designed to protect individual CAT customers and the larger body of ratepayers. We will adopt them at this time, and revisit them if it appears that they are overly burdensome. Again, we direct Commission staff to monitor the effects of the credit and collections rules adopted today.

G. Real-Time Pricing of Gas Supplies

The joint petition proposes that core rates be adjusted each month to reflect the actual cost of gas as those costs are incurred. PG&E proposes a less dramatic approach whereby core commodity rates would change annually rather than every two years as they do today. In addition, PG&E would include the actual monthly commodity cost of gas as an information item on bills.

According to BSOG/Sunrise, real-time pricing is important to provide appropriate price signals to all core customers. SoCalGas opposes real time pricing on the basis that it would represent a drastic and disruptive change to existing practice which would cause customer bills to fluctuate wildly. DRA shares SoCalGas' concerns about fluctuating bills but supports PG&E's modified approach.

D.94-12-052 rejected a proposal to adopt real time pricing for core rates on the basis that it might create rate instability. We are not convinced that monthly bill adjustments are justified at this point considering the testimony in this proceeding that the utilities' cost of gas is not substantially different from that of competing aggregators. On the other hand, the long-run success of competition in core gas markets will depend in part on the accuracy of price signals. PG&E's approach is a reasonable step toward better pricing of core gas. We will direct PG&E, SDG&E, and SoCalGas to submit tariff changes to modify gas commodity prices annually and to identify the monthly cost of gas on core customer bills.

H. **Conclusion**

In recent years, we have consistently stated our objective to provide customers with competitive opportunities where possible. The circumstances now permit us to take an incremental step toward this objective for small and medium sized gas customers who seek to purchase interstate pipeline capacity in competitive markets. PG&E's core customers will have the opportunity to do so by 1998; for SoCalGas and SDG&E, the opportunity will be available by 1999. We pursue this course with the knowledge that it may not improve system efficiency in the short term, but we take this step as a matter of equity and in order to promote better long-term system planning by the utilities.

Findings of Fact

1. D.91-02-040 adopted a pilot CAT program that would be reviewed after three years.

2. The Commission is reviewing the pilot CAT program in this proceeding by considering a settlement and a joint petition to modify D.91-02-040.

3. All active parties agree that the CAT program should be continued and that program improvements are required for the program to succeed.

4. The pilot program's appeal is limited because utility gas costs are competitive with those of core aggregators.

5. The main issue for the Commission in this proceeding is whether to adopt minor changes to the existing program, as proposed

by the settlement, or to change the program substantially by expanding the range of competitive options for core customers, as proposed by the joint petition.

6. The joint petition's proposal to unbundle interstate transportation would increase the stranded costs associated with interstate capacity on utility systems. The joint petition proposes that these costs be added to the ITCS and recovered from noncore and CAT customers.

7. The Commission has in recent years required that core customers bear some of the stranded costs which have occurred as a result of unbundling noncore customer services or discounting noncore services.

8. Core customers currently pay, on average, about 75% more than noncore customers for interstate capacity because core customers have been unable to take advantage of the effects of competition in the interstate transportation markets.

9. Noncore customers are today distinguished from core customers only by their size, even though both core and noncore customers may be able to take advantage of competitive options.

10. The stranded costs recovered from PG&E's noncore customers will decline substantially when PG&E's commitment to El Paso firm capacity ends in late 1997.

11. The stranded costs recovered from SoCalGas' noncore customers are likely to decline substantially when SoCalGas' customers' liability for above-market costs for PITCO and POPCO supplies ends in late 1998.

12. CAT customers are paying the overhead costs associated with utility gas procurement although they are not purchasing utility gas.

13. Utility storage facilities at this time are used primarily to assure reliability for the core class.

14. The settlement provision for interstate billing does not condition any interstate rates or service on intrastate rates or service.

15. The OFO provisions of the settlement are designed to protect core customers' service reliability during peak periods and emergency conditions.

16. The settlement proposes a reasonable method of allocating storage capacity and costs among CAT customers as long as storage remains bundled in core rates.

17. The settlement proposes credit and collections rules that are designed to protect the utilities and core customers from aggregators who are not adequately capitalized.

18. The settlement's requirements for aggregator deposits may be too burdensome to permit many aggregators to offer services.

19. Monthly changes to core customers' gas bills would improve the price signals for gas but would compromise Commission objectives with regard to rate stability for core customers.

20. Annual changes to core customers' gas bills would improve the price signals for gas but would not compromise Commission objectives with regard to rate stability for core customers.

<u>Conclusions of Law</u>

1. The Commission should direct PG&E, SoCalGas and SDG&E to unbundle interstate transportation costs and services from core customers' rates.

2. The Commission should direct PG&E and SDG&E to unbundle brokerage costs from core customers' rates.

3. The Commission should adopt the settlement filed in this proceeding on March 28, 1994 as set forth herein.

4. The Commission should direct PG&E, SoCalGas, and SDG&E to change core gas rates every year rather than every two years and provide information every month about the cost of gas on core customers' bills.

5. The Commission should deny the joint petition to modify D.91-02-040, filed on March 28, 1994, except to the extent set forth in this decision.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) shall submit core customer tariffs that unbundle interstate transportation rates on or before January 1, 1997. These tariffs shall be effective and services as set forth herein.

2. Southern California Gas Company (SoCalGas) shall submit core customer tariffs that unbundle interstate transportation rates on or before January 1, 1998. These tariffs shall be effective and services as set forth herein.

3. San Diego Gas & Electric Company (SDG&E) shall submit core customer tariffs that unbundle interstate transportation rates on or before January 1, 1998. These tariffs shall be effective and services as set forth herein.

4. PG&E and SDG&E shall remove brokerage costs from core aggregation transportation rates in upcoming or pending ratemaking proceedings as set forth herein.

5. The settlement filed in this proceeding on March 28, 1994, is adopted as set forth herein. PG&E, SoCalGas, and SDG&E shall file tariffs in compliance with the settlement no later than 30 days from the effective date of this decision. Portions of the settlement will be superseded, as set forth herein, when interstate capacity costs are unbundled from core class rates. The utilities shall modify their tariffs accordingly.

6. PG&E, SoCalGas, and SDG&E shall change core gas rates every year rather than every two years and provide information every month about the cost of gas on core customers' bills

beginning no later than 90 days after the effective date of this decision.

7. The joint petition to modify Decision 91-02-040, filed on March 28, 1994 in this proceeding, is denied except to the extent set forth in this decision.

8. PG&E and SoCalGas shall file, in R.88-08-018, responses to the following questions no later than September 22, 1995:

> How, if at all, should the core's commitment to interstate capacity be modified as the utilities relinquish interstate capacity commitments?
>
> How should firm interstate capacity and related costs be allocated among customers?
>
> How should future allocations of interstate capacity costs recognize core aggergators' access to competitive transportation markets?
>
> Should the utilities be required to bid in competitive markets for some or all of core customer requirements?
>
> Should all core customers have access to competitive interstate capacity markets? If so, how should that be accomplished and over what time period?
>
> Should the Commission eliminate the distinction between core and noncore customers? If not, how should they be distinguished in the future?

Other interested parties may file comments on these matters no later than October 13, 1995.

9. The Executive Director shall cause a copy of this order to be served on all parties to R.88-08-018.

This order is effective today.

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

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

I certify that this decision was approved by the above commissioners today.

Wesley Franklin

Acting Executive Director