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Decision 97-04-029 April 9, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U 904 G) for Authority to Change Core Procurement Rates On a Monthly Basis.

Application 96-03-060
(Filed March 29, 1996)

ORIGINAL

OPINION

Summary

Southern California Gas Company (SoCalGas) has supplemented its application since our Decision (D.) 96-08-037 to provide additional information in support of its request to be permitted to offer an annual fixed-rate purchase option to qualifying industrial, commercial, and residential master-meter core gas customers. In addition, SoCalGas proposes to make available to such customers who remain on a monthly payment plan, a Level Pay Plan (LPP) to permit evening out payments for gas service from month to month. We will approve the LLP, but reject the proposed fixed-price plan.

Procedural Background

SoCalGas filed an application for authority to change core procurement rates on a monthly basis on March 29, 1996. The application was protested by a number of parties, including Enron Capital and Trade Resources (ECT). As part of D.96-08-037, we declined SoCalGas' request to offer a so-called "levelized price option" similar to what SoCalGas now requests as a fixed-rate purchase option. However, we held open the possibility that we might permit such an arrangement based on further proceedings.

On November 22, 1996, SoCalGas filed an amendment to its application. On December 23, 1996, ECT filed a protest. None of the other parties that protested the original application filed a protest. ECT's protest raised no factual issues requiring hearing, and the matter stands submitted for decision on SoCalGas' reply filed January 13, 1997.

Discussion

LPP

The LPP is noncontroversial. It was recommended by one of the protestants to the original application. It would provide core commercial, core industrial, and qualified residential master-metered customers who use less than 3,000 therms per year with the ability to pay for gas usage in 12 equal monthly payments, averaging bills that change due to variable consumption, and, after implementation of monthly forecasting as provided by D.96-08-037, the variable monthly cost of gas. This is a sensible measure that will assist small business with budgeting and cash flow management, and we will approve it.

Annual Fixed-Price Tariff

Description

SoCalGas proposes to offer a fixed-price procurement rate to core commercial, core industrial, and qualified residential master-metered customers (that is, all core customers except individual residential customers and non-qualified master-metered residential customers; accordingly we shall use the term "core customers" with the understanding that it applies to this group). SoCalGas' proposed tariff has the following features:

- 12-month fixed commodity price
- a factor for franchise fees and uncollectible expenses
- an adjustment based on load-specific profiles
- a brokerage fee

Any difference between the fixed price and SoCalGas' actual single portfolio average cost of gas will inure to or be absorbed by the utility's shareholders. SoCalGas intends to hedge its exposure through financial instruments.

SoCalGas intends to market this product through a quarterly pre-registration process for interested customers, who will be required to declare their non-binding interest by telephone, facsimile, mail, or through the Internet up to two months prior to posting of the price. SoCalGas will use this expression of interest in determining how much cover it will require in the derivatives market to hedge its risk.

Once it has established a fixed price, SoCalGas will market that price to core customers through tariffs, a phone center, its electronic bulletin board system, and at http://www.socalgas.com. Prices will be adjusted based on one of three load variability patterns that SoCalGas proposes to file in tariffs quarterly.

Each quarter, interested customers will have a 48-hour window period in which to accept its load-specific rate for the following 12 months. Any usage over a maximum fixed-price usage limit of 150 percent of the customer's peak consumption month for the previous 24-month period will be billed at the current monthly price in effect for customers not electing the fixed-price option.

The load profiles will be set each quarter based on the profiles of the customers expressing an interest in participating. Profiles will be based on the ratio of the peak consumption month to the minimum consumption month over the previous 24 months. Customers with lower ratios (*i.e.*, lower volatility) will receive a lower fixed rate.

The fixed-rate plan applies only to gas procurement; customers electing this option remain subject to the customer charge, minimum charge, and transmission charge that would otherwise apply for monthly price customers. Meter load cannot be split between the monthly price default and the fixed-price option.

SoCalGas intends to prevent subsidization of participating customers by monthly-price procurement customers or the Core Aggregation Transportation (CAT) program participants by including all costs, incremental and non-incremental, associated with providing the fixed-price service in the price charged to participating customers, including the cost of the hedges, marketing expenses, and administrative costs. In addition, SoCalGas proposes following several accounting procedures to further guard against the danger of subsidy by the monthly-price customers.

SoCalGas will track the gas cost component of fixed-price bills separately, as it does for other tariffed gas sales, and it will be able to track the gas cost component of revenue, volume, and therm data. These will be excluded from the Purchased Gas

Account (PGA) based on the related therm data and the current month's single portfolio weighted average cost of gas (WACOG). Also, SoCalGas will track the costs associated with the derivatives used to hedge the price and volume risks, and such costs will be excluded from the WACOG (and so, also, from the Gas Cost Incentive Mechanism (GCIM) program). Finally, a Miscellaneous Work Order will track any additional incremental costs required to operate the 12-month fixed-price program to avoid having such costs flow into any of SoCalGas' regulatory balancing accounts.

Protest

ECT protests SoCalGas' proposal, on the grounds that it will impede competition, is an inappropriate venture for a regulated utility, and unfairly advantages SoCalGas. ECT states that the modifications that SoCalGas has made to its original proposal do not mitigate anti-competitive concerns. For example, offering the fixed price proposal through tariffs does not ensure rates will be reasonable or that they are cost-based. ECT is particularly concerned that SoCalGas will have the ability through superior access to customer information to market this service selectively to customers based on their load profiles, thereby enriching shareholder profits. Furthermore, ECT charges that SoCalGas' ability to preregister customers for the fixed price proposal will allow the utility to offer the service faster than a marketer could offer a similar service. ECT explains that marketers must currently obtain a four page customer authorization which may take up to 90 days for processing before a customer receives service from its new supplier.

SoCalGas replies that the fixed-price option for these core customers will not impede competition, is not an unregulated service, and does not provide SoCalGas with an unfair competitive advantage. SoCalGas states that the fixed price option is necessary to expand customer choice and reiterates that the fixed price will be set based on the fully allocated costs to offer the option. Further, SoCalGas argues that this is not an "unregulated" service because it will be tariffed by the Commission. SoCalGas also claims that certain customers are requesting a fixed price option and that these customers are unlikely to be served by aggregators.

These are all aspects of the same issue, which is whether permitting SoCalGas to offer the fixed-price option will have an anti-competitive effect.

Effect on Competition

We were concerned in D.96-08-037 that SoCalGas was proposing to offer the fixed-price option directly, rather than through an affiliate, in part because of the potential that the assumption of price risk by SoCalGas could be shifted to ratepayers. We were also concerned that SoCalGas would be attempting to forecast gas prices on an annual basis, for profit, when it had just demonstrated that it should be forecasting gas prices on a monthly basis under current regulatory principles. As we stated in D.96-08-037, "...we are not convinced that it is in the public interest to permit core customers to play this game with a public utility in private." (D.96-08-037, mimeo. at 11.) Finally, it was troubling that SoCalGas, as a utility, was not going to be making a fixed-price option available to all similarly situated customers.

These concerns are not sufficiently alleviated by SoCalGas' proposal to use hedging (the costs of which will be reflected in the fixed price) as a mechanism to manage the risk of price fluctuations or its decision to offer the fixed-price option pursuant to a tariff to all similarly situated customers. SoCalGas still has more convenient access to customer information that it can use to market this service to targeted customers for its shareholders' advantage. SoCalGas also has superior access to customers because it has the ability to market this service through bill inserts along with other utility services, to which core aggregators do not now have access. If we permit SoCalGas to offer the fixed price option at this time, we may inadvertently retard the development of competitive options for core customers, both now and in the future. This could result because marketers would have no assurance of recovering their costs in competition with the utility which has convenient access to both the customer base and their usage patterns. These conditions provide SoCalGas a competitive advantage over ECT and fledgling core aggregators and are not an appropriate use of monopoly status. Nothing in SoCalGas' amended proposal alleviates this concern.

In D.96-08-037, we voiced surprise that SoCalGas was not offering this service through a non-utility affiliate. Indeed, we are addressing the question of whether to open a rulemaking on standards of conduct between energy utilities and their affiliates through a separate order. One of the issues that we intend to address in that rulemaking involves whether utilities should be required to conduct unregulated or potentially competitive activities through an affiliate. We reserve the option to revisit the issue following our standards of conduct rulemaking.

We also note that for the past several years, we have consistently upheld the policy of not allowing the utility to profit from its sales of core portfolio gas supplies. (See for example D.86-12-010, mimeo., p. 56 and D.94-12-052, mimeo., p. 56.) We see no reason to deviate from that policy by allowing SoCalGas shareholders to profit from core gas sales on the eve of reexamining our natural gas policies, as our 1997 Business Plan commits that we shall do this year. In addition, we note that in our Electric Restructuring Preferred Policy Decision, our chosen policy framework does not allow investor-owned utilities to enter direct access contracts or "contracts for differences" to hedge electric market prices, but only allows them to pass on the Power Exchange price (D.95-12-063, as modified by D.96-01-009, see generally Conclusions of Law 18, 21, and 30).

Furthermore, given our stated intent in D.95-07-048 to further unbundle interstate transportation services for SoCalGas' core by January 1, 1999, it is premature for the monopoly utility to offer this service now before marketers have the opportunity to reach further classes of customers via unbundling. We prefer to allow all competitors equal opportunity in the market by granting them access at the same time, to the extent possible. Indeed, any demand which SoCalGas claims currently exists for the fixed price plan only reinforces the need for further unbundling to allow competitors the ability to respond more fully to consumer demands.

Finally, the LPP which we approve in this decision offers core customers stability in their overall gas bill, even if the fixed price proposal is unavailable at this time through the utility.

Findings of Fact

1. SoCalGas is a public utility subject to the jurisdiction of this Commission.
2. SoCalGas filed its application on March 29, 1996.
3. Notice appeared in the Daily Calendar on April 4, 1996.
4. We issued D.96-08-037, which permitted SoCalGas to supplement its application on whether it would be permitted to offer gas to certain core customers at an annual fixed price, and disposed of the remainder of the application in that decision.
5. SoCalGas amended its application on November 22, 1996 to request approval for the LPP and fixed-price features.
6. ECT filed a protest to a portion of the amended application dealing with the fixed-price option.
7. ECT did not request an evidentiary hearing or state facts that it would present at such hearing.
8. SoCalGas proposes to offer a fixed-price procurement rate to core commercial, core industrial, and qualified residential master-metered customers with (a) a 12-month fixed commodity price; (b) a factor for franchise fees and uncollectible expenses; (c) an adjustment based on load-specific profiles; and (d) a brokerage fee.
9. Any difference between the fixed price and SoCalGas' actual single portfolio average cost of gas will inure to or be absorbed by the utility's shareholders.
10. SoCalGas intends to hedge its exposure through financial instruments.
11. SoCalGas intends to market this product through a quarterly pre-registration process for interested customers, who will be required to declare their non-binding interest by telephone, facsimile, mail, or through the Internet up to two months prior to posting of the price.

12. SoCalGas will use this expression of interest in determining how much cover it will require in the derivatives market to hedge its risk.

13. Once it has established a fixed price, SoCalGas will market that price to core customers through tariffs, a phone center, its electronic bulletin board system, and at http://www.socalgas.com. Prices will be adjusted based on one of three load variability patterns that SoCalGas proposes to file in tariffs quarterly.

14. Each quarter, interested customers will have a 48-hour window period in which to accept its load-specific rate for the following 12 months. Any usage over a maximum fixed-price usage limit of 150 percent of the customer's peak consumption month for the previous 24-month period will be billed at the current monthly price in effect for customers not electing the fixed-price option.

15. The load profiles will be set each quarter based on the profiles of the customers expressing an interest in participating. Profiles will be based on the ratio of the peak consumption month to the minimum consumption month over the previous 24 months. Customers with lower ratios will receive a lower fixed rate.

16. The fixed-rate plan applies only to gas procurement; customers electing this option remain subject to the customer charge, minimum charge, and transmission charge that would otherwise apply for monthly price customers. Meter load cannot be split between the monthly price default and the fixed-price option.

17. SoCalGas intends to prevent subsidization of participating customers by monthly-price procurement customers or the CAT program participants by including all costs, incremental and non-incremental, associated with providing the fixed-price service in the price charged to participating customers, including the cost of the hedges, marketing expenses, and administrative costs. In addition, SoCalGas proposes following several accounting procedures to further guard against the danger of subsidy by the monthly-price customers.

18. SoCalGas will track the gas cost component of fixed-price bills separately, as it does for other tariffed gas sales, and be able to track the gas cost component of revenue, volume, and therm data. These will be excluded from the PGA based on the related

therm data and the current month's WACOG. Also, SoCalGas will track the costs associated with the derivatives used to hedge the price and volume risks, and such costs will be excluded from the WACOG (and so, also, from the GCIM program). A Miscellaneous Work Order will track any additional incremental costs required to operate the 12-month fixed-price program to avoid having such costs flow into any of SoCalGas' regulatory balancing accounts.

19. SoCalGas' proposal to enter into fixed-price agreements pursuant to tariff differs from its earlier proposal to enter into individual "levelized price agreements" with customers that would shift the risk of price fluctuations from the customer to the utility shareholders for a risk premium to be individually negotiated.

20. SoCalGas has more convenient access to customer information than other marketers.

21. SoCalGas could market the fixed price option through bill inserts along with other utility services.

22. Standards of conduct between energy utilities and their affiliates will be addressed through a separate Commission order, including the issue of whether utilities should conduct unregulated or potentially competitive activities only through an affiliate.

23. SoCalGas would have a competitive marketing advantage over competitors in marketing the fixed price option.

Conclusions of Law

1. A public hearing is not necessary.

2. SoCalGas should not be authorized to file Schedule G-CPF by advice letter and to amend its Preliminary Statement and referencing schedules.

3. The LLP should be approved.

ORDER

IT IS ORDERED that:

1. Southern California Gas Company is authorized to amend Rule No. 12, for the purpose of implementing a level pay plan for qualified master-metered residential customers and core commercial and industrial customers using less than 3,000 therms per year, but its request to file Schedule G-CPF by advice letter to amend its Preliminary Statement, Rule No. 01, and referencing schedules is denied.

2. Application 96-03-060 is closed.

This order is effective today.

Dated April 9, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD BILAS
Commissioners