

Decision 99-10-008 October 7, 1999

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

SOUTHERN CALIFORNIA GAS COMPANY,  
a corporation and a public utility,

Complainant,  
(U 904 G)

vs.

PACIFIC GAS AND ELECTRIC COMPANY,  
a corporation (U 39 E) and a public utility; and  
SOUTHWEST GAS CORPORATION, a  
Corporation (U 905 G) and a public utility.

Defendants.

Case 99-01-042  
(Filed January 25, 1999)

**OPINION**

This case involves a dispute regarding \$215,000 in gas transportation fees. The undisputed facts set forth in the pleadings are:

Southwest Gas Corporation (SWG) operates natural gas transmission and distribution pipelines in California and directly serves the facilities of LUZ Solar Partners Ltd. VIII and IX, sometimes referred to as the "Solar Electric Generating Stations" (SEGS) in California. Intrastate transportation service upstream of SWG's system is necessary in order for SWG to serve the SEGS facilities. SWG serves SEGS through a distribution service lateral that taps directly into a Pacific Gas and Electric Company (PG&E) main line transmission pipeline.

In Decision (D.) 93-07-052, a settlement was approved among SoCalGas, SWG, and PG&E authorizing SoCalGas to provide wholesale (upstream intrastate) transportation service to SWG beginning August 1, 1993. SoCalGas

provides such service to SWG pursuant to the "California Wholesale Gas Transportation and Storage Service Agreement" (Wholesale Agreement) dated March 4, 1993. Pursuant to the settlement agreement SEGS was provided the right to choose its own provider of upstream transportation service. SEGS notified SWG in June of 1997 that it chose PG&E to replace SoCalGas as its upstream transportation provider. Since August 1, 1993, PG&E has physically provided the natural gas to SWG for delivery to SEGS on SoCalGas' account pursuant to the Southwest Exchange Gas Delivery Agreement (SEGDA).

To effectuate the substitution of PG&E for SoCalGas in providing upstream transportation service to SEGS, SWG submitted Advice Letter (AL) No. 570 on April 23, 1998 requesting an effective date no later than June 1, 1998. On April 23, 1998, SWG also submitted AL No. 571 to remove the cogeneration parity surcharge from SWG's rates in its Southern California Division, as a direct result of the service agreements executed between SWG and SEGS submitted in AL No. 570.

On July 23, 1998, a letter was sent from the Commission Energy Division addressing SWG's AL Nos. 570 and 571 approving the ALs effective May 1, 1998. The letter recognized that SoCalGas provided upstream intrastate transportation service to SWG pursuant to the Wholesale Agreement for the period from May 1 through July 31, 1998, related to the SEGS volumes. However, the letter stated that SoCalGas should credit to SWG the revenues received by SoCalGas from SWG under the Wholesale Agreement for the period from May 1 through July 31, 1998 and stated that any gas imbalances shall not result in any penalties to SWG nor to SoCalGas or PG&E under SEGDA.

SWG has acknowledged to SoCalGas that it included SEGS volumes in its aggregated nominations to SoCalGas from May 1 to July 1, 1998. During the month of July, SEGS did not submit nominations through SWG, but did consume

gas, creating a negative imbalance of 2,732,590 therms on the SoCalGas system. SWG has confirmed to SoCalGas that it received intrastate transportation service from SoCalGas under the Wholesale Agreement from May 1, 1998 to July 31, 1998 to serve the SEGS facility. On August 27, 1998, SWG withheld from its normal monthly payment to SoCalGas the amount of \$214,900.57 related to SoCalGas' upstream intrastate service to SWG for SEGS from May 1 to July 31, 1998, even though SWG has acknowledged that SoCalGas provided upstream transportation service to SWG for SEGS during this time period pursuant to the Wholesale Agreement.

Because SoCalGas in fact provided upstream intrastate transportation service to SWG for SEGS pursuant to the Wholesale Agreement from May 1 through July 31, 1998, it claims that SWG currently owes it the amount of \$214,900.57, plus interest.

SEGS filed a petition to intervene, as a real party in interest, and asserted that it is due a refund of \$163,026.25 from SWG. SEGS does not dispute the chronology set forth above but interprets it differently. SEGS alleges that in D.94-12-022, the Commission authorized PG&E to provide upstream transportation services to SEGS in lieu of SoCalGas, at SEGS option.<sup>1</sup> That service took effect on May 1, 1998, pursuant to service agreements between PG&E and SEGS that were effective on that date. SWG filed two ALs (AL 570 and 571) in April 1998 to make the necessary rate changes to accommodate the SEGS change to service from PG&E.

SEGS asserts that due to confusion in the Energy Division concerning the effective date of the SEGS new service from PG&E, SWG provided service to the

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<sup>1</sup> Since their construction a decade ago, SEGS VIII and IX have always been physically served from PG&E's Line 300, via a pipeline lateral off Line 300 that SWG owns.

projects in May, June, and July 1998 under its wholesale transportation agreement with SoCalGas, and billed the projects for upstream transportation service from SoCalGas. SEGS paid those invoices, while trying informally to clear up with SWG and the Energy Division the confusion concerning the effective date of the switch to PG&E service. On July 23, 1998, the Energy Division sent a letter to SWG, with copies to SoCalGas, PG&E, and SEGS, that determined that the projects' upstream service from PG&E had been effective May 1, 1998. The Energy Division directed the involved utilities to make the accounting changes necessary to effectuate that service. In accordance with the Energy Division's direction, SEGS believes that it is due a refund of \$163,026.25 from SWG to reflect the excessive rate that the projects paid to SWG for service from May 1 to July 31, 1998. SEGS is opposed to the relief sought by complainant SoCalGas. SEGS states it exercised its option to take upstream transportation service from PG&E in order to realize the benefits of lower delivered natural gas prices available on the PG&E system. This authorization took effect May 1, 1998. The relief that SoCalGas requests would preclude SEGS from taking advantage of lower delivered gas costs on the PG&E system for a period of three months.

SWG's posture in this proceeding is akin to that of an interpleader; it takes no position and it is prepared to accept the Commission's determination of the effective date of the tariff. It requests that the Commission determine the effective date of SEG's transportation of natural gas through PG&E's pipeline facilities.

PG&E takes no position on the merits of SoCalGas' complaint. It says whether the effective date of the SEGS/PG&E transportation agreement is held to be May 1<sup>st</sup> or August 1<sup>st</sup>, the gas physically flowed to SEGS in exactly the same manner. There was not even a meter change needed. Because of this, PG&E states that the only changes mandated by the SEGS choice are in the accounting

between the parties. The sole issue is whether the Energy Division acted correctly in implementing the benefit of PG&E's lower transportation rates to SEGS and their customers, and to all of SWG's ratepayers, effective May 1, 1998. If the Commission upholds the Energy Division's position, PG&E will make any accounting adjustments necessary, including credits to SoCal's SEGDA account for charges attributable to SEGS during this three-month period. Should the Commission agree with SoCalGas that the Energy Division acted incorrectly in effectuating the SEGS conversion on May 1<sup>st</sup>, PG&E will make any other accounting revisions such a decision would mandate.

On July 19, 1999, all parties to this proceeding (SoCalGas, PG&E, SWG, and SEGS – the Joint Movants) filed a joint motion to dismiss with prejudice. Joint Movants advise the Commission that this complaint has been settled. They request that the Commission issue an order approving dismissal of this proceeding with prejudice and permitting SWG to file the tariff sheets attached as Appendix "A." The purpose of these tariff sheets is to permit SWG to implement this settlement in accordance with the "cogeneration parity" requirement of Pub. Util. Code Section 454.4, effective August 1, 1998, the date agreed upon by the Joint Movants as the date SWG's service to SEGS through PG&E became effective.

The parties have not disclosed the terms of the settlement. SWG has provided the Commission with additional information regarding the proposed tariff sheets of SWG. SWG states that the purpose of including the tariff sheets with the Joint Motion is ministerial in nature. The purpose is merely to modify the effective date for tariff sheets previously submitted and approved in AL Nos. 570 and 571, in accordance with the settlement reached among the parties to this proceeding.

In its original submittal of AL Nos. 570 and 571, SWG requested the earliest possible approval of new service agreements between SWG and SEGS to permit SEGS to substitute PG&E for SoCalGas as its upstream provider. Such approval was granted on July 23, 1998, by letter authority from the Commission's Energy Division, indicating that AL Nos. 570 and 571 would be effective May 1, 1998. In its complaint in this proceeding, SoCalGas challenged the effective date of May 1, 1998.

Subsequent to the May 1, 1998 effective date, SEGS, SoCalGas, PG&E, and SWG entered into a settlement agreement to resolve the dispute raised by SoCalGas. The settlement resolves all of the outstanding issues related to the change in upstream service providers sought by SEGS, and recognizes an August 1, 1998 effective date for the SEGS service agreements, consistent with the physical services provided by SoCalGas for the period from May 1, 1998 to July 31, 1998. As a signatory to the settlement, SEGS and PG&E have agreed to an August 1, 1998 effective date for the service agreements between SWG and SEGS. Consequently, SWG must implement the tariff sheets to reflect the proper effective date for the service agreements and the change in the cogeneration parity surcharge tariff. By our approving the proposed tariff sheets the Energy Division will have the appropriate authority to approve the tariff sheets with the correct effective date.

The change in the effective date from May 1, 1998 to August 1, 1998 results in no detrimental impact to customers. The cogeneration parity surcharge amounts, which had previously been collected from customers, remain applicable to the SEGS volumes for the May 1, 1998 to July 31, 1998 period. Therefore, no change in the cogeneration surcharge or credit to the purchased gas adjustment account is necessary for this period and the proposed tariff sheets do not change any rates. As part of the Joint Motion, SWG agreed to submit an

AL with the referenced tariff sheets so that the correct effective date can be reflected on the approved tariff sheets on file with the Commission.

### **Discussion**

In complaint cases where all parties are in agreement and have settled their dispute all that is needed to dispose of the proceeding is a written request by all parties for dismissal. The Executive Director, pursuant to Pub. Util. Code § 308 and Resolution A-4638 issues an Order of Dismissal. However, in this complaint, because the parties seek affirmative relief by way of modification of certain tariffs, a written opinion is necessary.

We have reviewed the prepared testimony and the briefs and conclude that the change in effective dates (from May 1, 1998 to August 1, 1998) in the proposed tariff sheets to reflect the SEGS service agreements is reasonable and will not adversely affect any customer of the utility parties. Because the settlement and proposed tariff sheets do not affect any persons other than the parties, we need not determine whether the Energy Division was correct in approving the ALs with an effective date of May 1, 1998. We will approve the tariff sheets and dismiss the complaint. In light of our acceptance of the settlement, there is no need for a hearing.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Findings of Fact**

1. SWG submitted AL Nos. 570 and 571 on April 23, 1998 to substitute PG&E for SoCalGas as the provider for upstream transportation services to SEGS.
2. The Energy Division, on July 23, 1998, approved the ALs with an effective date of May 1, 1998.

3. SoCalGas had been providing service to SEGS under the Wholesale Agreement for the period May 1, 1998 through July 31, 1998.

4. SEGS claims that PG&E should have been its gas transporter (at lower rates) as of May 1, 1998.

5. All parties have resolved their differences and request that new tariffs be authorized SWG to show an effective date of August 1, 1998 for the SEGS service, and that the complaint be dismissed.

6. The proposed tariff sheets will have no adverse effect on any customers of the utility parties.

7. A hearing is not needed.

#### **Conclusions of Law**

1. The change in effective dates (from May 1, 1998 to August 1, 1998) in the proposed tariff sheets to reflect the SEGS service agreement is reasonable.

2. The tariff sheets should be approved.

3. The complaint should be dismissed, effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. Southwest Gas Corporation shall file the tariff sheets in Appendix A by Advice Letter after the effective date of this order. The tariff sheets shall be effective August 1, 1998.

2. This complaint is dismissed and the proceeding is closed.

This order is effective today.

Dated October 7, 1999, at Los Angeles, California.

RICHARD A. BILAS  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
JOEL Z. HYATT  
CARL W. WOOD  
Commissioners

**APPENDIX A**

SOUTHWEST GAS CORPORATION  
P.O. Box 98510  
Las Vegas, Nevada 89193-8510  
California Gas Tariff

PRO FORMA

Canceling \_\_\_\_\_ Revised \_\_\_\_\_ Cal. P.U.C. Sheet No. \_\_\_\_\_  
Revised \_\_\_\_\_ Cal. P.U.C. Sheet No. \_\_\_\_\_

LIST OF SPECIAL CONTRACTS AND DEVIATIONS

<u>Name and Location of Customer</u>	<u>Type or Class of Service</u>	<u>Execution and Expiration Dates</u>	<u>Commission Authorization Number and Date</u>	<u>Most Comparable Regular Tariff</u>	
				<u>Schedule No.</u>	<u>Contract Differences</u>
Luz Solar Partners Ltd., Units VIII and IX Harper Lake, California	Cogeneration	04-21-98	D.94-12-022 D.93-07-052 8-1-98	GS-65	Special Agreement
AFG Industries, Victorville, California	Industrial	10-05-94	Res. G-3157 1-24-95	GS-70	Special Agreement

Advice Letter No. \_\_\_\_\_ Issued by \_\_\_\_\_ Date Filed \_\_\_\_\_  
Decision No. \_\_\_\_\_ Edward S. Zub \_\_\_\_\_ Effective \_\_\_\_\_  
Senior Vice President Resolution No. \_\_\_\_\_

STATEMENT OF RATES  
EFFECTIVE RATES APPLICABLE TO SOUTHERN CALIFORNIA DIVISION SCHEDULES (1)

Schedule No. & Type of Charge	Southwest		Upstream Intrastate Charges		Interstate Reservation Charge	Balancing Account Adjustments			Other Surcharges			Gas Cost [2]	Effective Sales Rate
	Margin	Shrinkage	Fixed	Variable		PGA	CFCAM	ITCAM	COGEN	CPUC	CARE		
<b>GS-10 — Residential Gas Service</b>													
Basic Service Charge	\$ 4.25												\$ 4.25
Cost per Therm:													
Baseline Quantities	\$ .30389	\$ .00170	\$ .02357	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00078	\$ .00901	\$ .22097	\$ .66845 (R)
Tier II	.53521	.00170	.02357	.04935	.00383	.05760	.00502	(.00725)	.00000	.00078	.00901	.22097	.89977 (R)
<b>GS-11 — Residential Gas Air-Conditioning Service</b>													
Basic Service Charge	\$ 4.25												\$ 4.25
Cost per Therm:													
Tier I	\$ .30389	\$ .00170	\$ .02357	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00078	\$ .00901	\$ .22097	\$ .66845 (R)
Tier II	.53521	.00170	.02357	.04935	.00383	.05760	.00502	(.00725)	.00000	.00078	.00901	.22097	.89977 (R)
Gas Air Conditioning	.08847	.00170	.02357	.04935	.00383	.05760	.00502	(.00725)	.00000	.00078	.00901	.22097	.45303 (R)
<b>GS-12 — CARE Residential Gas Service</b>													
Basic Service Charge	\$ 3.60												\$ 3.60
Cost per Therm:													
Baseline Quantities	\$ .20509	\$ .00170	\$ .02357	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00078		\$ .22097	\$ .56064 (R)
Tier II	.40171	.00170	.02357	.04935	.00383	.05760	.00502	(.00725)	.00000	.00078		.22097	.75726 (R)
<b>GS-15 — Secondary Residential Gas Service</b>													
Basic Service Charge	\$ 4.25												\$ 4.25
Cost per Therm	\$ .48153	\$ .00170	\$ .02257	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00078	\$ .00901	\$ .22097	\$ .84509 (R)
<b>GS-30 — Street and Outdoor Lighting Gas Service</b>													
Charge per Therm													
Rated Capacity	\$ .41072	\$ .00170	\$ .01883	\$ .04935	\$ .00378	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00078	\$ .00901	\$ .22097	\$ .77049 (R)
<b>GS-35 — Agricultural Employee Housing and Nonprofit Group Living Facility Gas Service</b>													
Basic Service Charge	\$ 8.50												\$ 8.50
Cost per Therm:													
Summer (May-October)	\$ .32056	\$ .00170	\$ .00207	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00078		\$ .22097	\$ .85461 (R)
Winter (November-April)	.31623	.00170	.03094	.04935	.00383	.05760	.00502	(.00725)	.00000	.00078		.22097	.67915 (R)
<b>GS-40 — Core Commercial Gas Service</b>													
Basic Service Charge	\$10.00												\$10.00
Cost per Therm:													
Summer (May-October)	\$ .43594	\$ .00170	\$ .00207	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00078	\$ .00901	\$ .22097	\$ .77900 (R)
Winter (November-April)	.43594	.00170	.03094	.04935	.00383	.05760	.00502	(.00725)	.00000	.00078	.00901	.22097	.80787 (R)
<b>GS-45 — Core Air Conditioning Gas Service</b>													
Basic Service Charge	\$25.00												\$25.00
Cost per Therm:													
Summer (May-October)	\$ .07189	\$ .00189	\$ .00132	\$ .04920	\$ .00382	\$ .05743	\$ .00500	(\$ .00723)	\$ .00000	\$ .00078	\$ .00901	\$ .22032	\$ .41321 (R)
Winter (November-April)	.07189	.00189	.04154	.04920	.00382	.05743	.00500	(.00723)	.00000	.00078	.00901	.22032	.45343 (R)
<b>GS-50 — Core Natural Gas Service for Motor Vehicles</b>													
Basic Service Charge	\$25.00												\$25.00
Cost per Therm:													
Summer (May-October)	\$ .08000	\$ .00170	\$ .00207	\$ .04935	\$ .00383	\$ .05743	\$ .00500	(\$ .00725)	\$ .00000	\$ .00078	\$ .00901	\$ .22097	\$ .42287 (R)
Winter (November-April)	.05007	.00170	.03094	.04935	.00383	.05743	.00500	(.00725)	.00000	.00078	.00901	.22097	.42181 (R)
<b>GS-55 — Core Industrial Gas Service</b>													
Basic Service Charge	\$75.00												\$75.00
Cost per Therm:													
Summer (May-October)	\$ .02444	\$ .00189	\$ .00156	\$ .04920	\$ .00382	\$ .05743	\$ .00500	(\$ .00723)	\$ .00000	\$ .00078	\$ .00901	\$ .22032	\$ .36600 (R)
Winter (November-April)	.02444	.00189	.03669	.04920	.00382	.05743	.00500	(.00723)	.00000	.00078	.00901	.22032	.40113 (R)

Advice Letter No. \_\_\_\_\_  
Decision No. \_\_\_\_\_

Issued by Edward S. Zub  
Senior Vice President

Date Filed \_\_\_\_\_  
Effective Resolution No. \_\_\_\_\_

SOUTHWEST GAS CORPORATION  
P.O. Box 98510  
Las Vegas, Nevada 89193-8510  
California Gas Tariff

PRO FORMA

Cancelling \_\_\_\_\_  
Revised Cal. P.U.C. Sheet No. \_\_\_\_\_  
Revised Cal. P.U.C. Sheet No. \_\_\_\_\_

STATEMENT OF RATES  
EFFECTIVE RATES APPLICABLE TO SOUTHERN CALIFORNIA DIVISION SCHEDULES (1)  
(Continued)

Schedule No. & Type of Charge	Southwest		Upstream Intrastate Charges		Interstate Reservation Charge	Balancing Account Adjustments			Other Surcharges			Gas Cost [2]	Effective Sales Rate
	Margin	Shrinkage	Fixed	Variable		PGA	CFCAM	ITCAM	COGEN	CPUC	CARE		
<b>GS-60 — Core Internal Combustion Engine Gas Service</b>													
Basic Service Charge	\$25.00												\$25.00
Cost per Therm:													
Summer (May–October)	\$ .07189	\$ .00169	\$ .00132	\$ .04920	\$ .00382	\$ .05743	\$ .00500	(\$ .00723)	\$ .00000	\$ .00076	\$ .00901	\$ .22032	\$ .41321 (R)
Winter (November–April)	.07189	.00169	.04154	.04920	.00382	.05743	.00500	(.00723)	.00000	.00076	.00901	.22032	.45343 (R)
<b>GS-65 — Noncore Cogeneration Gas Service</b>													
Basic Service Charge													
Cost per Therm:													
Summer (May–October)	\$ .01358	\$ .00169		\$ .04920				(\$ .00723)	(\$ .01099)	\$ .00076			\$ .04699 (I)
Winter (November–April)	.01358	.00169		.04920				(.00723)	(.01099)	.00076			.04699 (I)
<b>GS-70 — Noncore General Gas Service</b>													
Basic Service Charge	\$75.00												\$75.00
Cost per Therm:													
Summer (May–October)	\$ .02444	\$ .00169		\$ .04920				(\$ .00723)	\$ .00000	\$ .00076	\$ .00901		\$ .07787 (R)
Winter (November–April)	.02444	.00169		.04920				(.00723)	.00000	.00076	.00901		.07787 (R)
<b>G-20 — Multi-Family Master Metered Gas Service</b>													
Basic Service Charge	\$25.00												\$25.00
Cost per Therm:													
Baseline Quantities	\$ .30471	\$ .00170	\$ .02275	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00076	\$ .00901	\$ .22097	\$ .86845 (R)
Tier II	.53603	.00170	.02275	.04935	.00383	.05760	.00502	(.00725)	.00000	.00076	.00901	.22097	.89977 (R)
<b>G-25 — Multi-Family Master Metered Gas Service – Submetered</b>													
Basic Service Charge	\$25.00												\$25.00
Cost per Therm:													
Baseline Quantities	\$ .23787	\$ .00170	\$ .02275	\$ .04935	\$ .00383	\$ .05760	\$ .00502	(\$ .00725)	\$ .00000	\$ .00076	\$ .00901	\$ .22097	\$ .80161 (R)
Tier II	.53603	.00170	.02275	.04935	.00383	.05760	.00502	(.00725)	.00000	.00076	.00901	.22097	.89977 (R)
<b>Core Subscription Procurement Service</b>													
Procurement Charge per Therm													\$ .19793
<b>Transportation Franchise Fee (TFF) Surcharge Provision</b>													
TFF Surcharge per Therm													\$ .00258
<b>MHPS — Master Meter Mobile Home Park Safety Inspection Provision</b>													
MHPS Surcharge per Space per Month													\$ .18000

[1] Customers taking only transportation service will pay the Effective Sales Rate less the Interstate Reservation Charge and Gas Cost components of the Effective Sales Rate, plus a Transportation Service Charge of \$780 per month. The PGA Balancing Account Adjustment is applicable to customers converting from sales service to transportation service for the greater period of either 12 months or the conclusion of the amortization period upon which the Balancing Account Adjustment was developed. The volume charge for customer-secured natural gas transportation will also be subject to the TFF Surcharge, if applicable. The TFF Surcharge shall be the product of the customer-secured volumes transported multiplied by the monthly Core Subscription Procurement Charge, excluding franchise fees, multiplied by the most current authorized franchise fee factor.

[2] For the purpose of administering the tariff provisions of Rule No. 22, Transportation of Customer-Secured Natural Gas, the otherwise applicable Procurement Charge for Schedules Nos. GS-65 and GS-70 is equal to the Core Subscription Procurement Charge.

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