PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-2921
July 6, 1990

R E S O L U T I O N

RESOLUTION G-2921, SOUTHERN CALIFORNIA GAS COMPANY ORDER APPROVING WITH CONDITIONS A LONG-TERM CONTRACT WITH SAN DIEGO GAS AND ELECTRIC COMPANY, ADVICE LETTER 1942, AND REJECTING ADVICE LETTERS 1900, 1920, 1920-A, 1921, 1921-A, 1934, 1941, 1946, 1956 AND 1960.

SUMMARY

1. This resolution approves Advice Letter (A.L.) 1942, a contract between Southern California Gas Company and San Diego Gas and Electric Company, as amended through settlement and herein.

2. This resolution rejects Advice Letters 1900, 1920, 1920-A, 1921, 1921-A, 1934, 1941, 1946, 1956 and 1960 for noncompliance and preemption of pending issues before the Commission.

BACKGROUND

1. In March and May, 1989, Southern California Gas Company (SoCal) submitted advice letters to the California Public Utilities Commission (CPUC) requesting approval of two long-term contracts, one with San Diego Gas and Electric Company (SDG&E) and one with Southern California Edison Company (SCE). The contracts provided a range of services, including firm transportation capacity and storage on SoCal's system.

2. On May 10, 1989, we issued an order instituting Investigation and Suspension (I&S) of Advice Letter 1864 (SDG&E) and Advice Letter 1872 (SCE) in response to the many protests received, commenting that the contracts prejudiced our resolution of issues in Rulemaking (R.) 88-08-018 and raised equity issues.

3. In December, 1989 we issued Decision (D.) 89-12-045, rejecting the contracts as filed, but setting forth conditions under which we would approve such contracts.

4. Between September, 1989 and June, 1990, SoCal submitted 15 other long-term contracts with a variety of noncore customers, and resubmitted amended contracts with both SDG&E and SCE. Some of the contracts, submitted or signed before the issuance of

D.89-12-045, have been supplemented with amendments to sections not complying with D.89-12-045; other contracts have not been amended. (See Appendix A for a complete listing.)

5. Decision 89-12-045 found that a number of provisions of the agreements SoCal had negotiated violated previously articulated Commission policies or were inconsistent with sections of the Public Utilities Code. The decision provided guidance to the gas utilities regarding modifications to the agreements and also general guidance on long-term contracts for which approval could be sought. Among these conditions were:

- o No discounts from tariffed rates;
- o All pipeline and storage capacity subject to recall by the Commission on or after November 1, 1990;
- o Provision for the curtailment of contract volumes before cogenerator volumes; and,
- o No waivers of the portfolio switching ban. [1]

6. In April, 1990 the Commission Advisory and Compliance Division, Energy Branch (CACD) rejected the SCE contract (A.L. 1934) with SoCal, finding it not fully compliant with D.89-12-045.

7. On May 22, 1990, SDG&E, SoCal and the Division of Ratepayer Advocates (DRA) reached an accord on a number of issues. The settlement is attached as Appendix B.

8. This resolution addresses all contracts and amendments submitted by Advice Letters 1900, 1920, 1920-A, 1921, 1921-A, 1934, 1941, 1942, 1946, 1956 and 1960, involving 11 cogenerators, 4 municipal utility electric generation (UEG) companies, one regulated UEG (SCE) and one regulated, combined gas and electric utility (SDG&E).

PARTICIPANTS

1. Protests, comments and responses were received on each advice letter. The participants in these filings were:

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1 The portfolio switching ban prohibits noncore customers from electing to purchase gas from the core portfolio when it is priced lower than noncore portfolio gas.

- California Cogeneration Council (CCC)
- California Industrial Group, California League of Food Processors, and California Manufacturers Assn. (CIG)
- Cogenerators of Southern California (CSC)
- Division of Ratepayer Advocates (DRA)
- Indicated Producers, representing the companies of Chevron, Conoco, Hunt Oil, Meridian, Mobil, Oryx, Shell Western, Union Oil (IP)
- Kern River Co. (KERN)
- Los Angeles Department of Water & Power (LADWP)
- Oryx Energy Company (ORYX)
- Rohr Industries (ROHR)
- San Diego Gas and Electric Company (SDG&E)
- Shell Western E&P, Inc. (SWEPI)
- Southern California Edison Company (SCE)
- Southern California Gas Company (SoCal)
- State of California-Dept. of General Services (DGS)
- Toward Utility Rate Normalization (TURN)

2. A number of the protestors listed common objections. Some reiterated arguments from the D.89-12-045 proceeding which were pertinent to those contracts not conforming to the guidelines of the decision. Other arguments emerged with the "new" or revised contracts negotiated after the decision was issued. These are summarized and discussed below.

ISSUES

With the exception of SDG&E, the issues described below are present in each of the contracts, unless qualified as belonging to a particular group or company.

Prejudgenent. Many of the protestors argue that approval of the contracts at this time would prejudge other important policy issues presently pending before this Commission, including capacity allocation, noncore procurement, and storage banking. In order to avoid this result, they recommend that the Commission should reject all and forbid resubmission until the resolution of these policy issues has brought the future of the regulatory structure into sharper focus.

Long-tern contracts may be a viable alternative to a regular bidding program. The protestors argue that to allow the contracts to go forward would be a *fait accompli*, despite the recallability of capacity and storage and other conditions outlined by D.89-12-045.

Priorities. The priority changes and upgrades which occur under the contracts are the most contentious of all the issues. SoCal submitted proposed revisions to its *Rule 23, Shortage of Gas Supply, Interruption of Delivery and Priority of Service.* (See Appendix C for current Rule 23 priorities).

The revisions upgrade service to Los Angeles Department of Water and Power (LADWP) Scattergood Unit-3 from Priority 3-C (P3-C) to P2-C and create a new P3-AA category for some UEG volumes upgraded from P5. Some cogeneration volumes move from P3-A to P3, above other cogenerator's volumes; some cogenerator/ industrial volumes move up from P3-B to 3-AA. Cogenerator P3 volumes would be curtailed prorata after the UEG's P3 gas, to comply with D.89-12-045.

The priority system ordered by D.85189 (79 CPUC 189) and modified by D.86357 (80 CPUC 469), was established to define an end-use system for the statewide allocation of natural gas. The highest priority, P1, goes to those customers with no feasible substitute fuel; the lowest to those in the best position to switch fuel, or which can sustain a curtailment over a prolonged period. The present system was slightly modified under the gas restructuring (D.86-12-009, D.86-12-010), when a distinction was made between a supply curtailment and a capacity curtailment. This distinction allows preference to customer-owned gas transported into the distribution system above SoCal's volumes, under a supply curtailment.

If the contracts are adopted, the proposed priority changes would affect all SoCal customers whose gas is delivered under Priorities 3, 4, and 5, in particular those without a long-term contract in-hand. SoCal's system has experienced serious capacity constraints over the past few years, and has significantly curtailed its UEG customer P5 volumes. If a good portion of the UEG volumes are allowed to move up from P5 to P3, other customers having a lower priority will experience more frequent curtailments.

Capacity and Price. One of the underlying tenets of the capacity allocation rulemaking, R.88-08-018, is that the Commission's capacity allocation program be based on an auction where customers subnit bids for firm capacity commensurate with the value they place on that capacity. In no instance under any of the submitted contracts is any premium paid for the enhanced service of firm capacity. This applies equally well to the enhanced storage and backup/standby services. In addition, no provision is made for the probable addition of this gas restructuring feature in the body of any of the contracts.

SoCal assigns firm capacity through these contracts using the default interruptible transportation rate as the maximun price. In some cases, the default rate is ignored. For instance, DRA points out in its protest of the SDG&E contract that "SDG&E's adopted throughput from the last Annual Cost Allocation Proceeding (ACAP) was 270,135 decatherms (dth)/day, but under the contract it is provided interstate capacity of up to 310,000 dth/day. Consequently, it does not appear that SDG&E is allocated interstate pipeline demand charges consistent with its share of capacity provided by the contract." DRA argues that

SDG&E should not have access to more capacity than it needs or pays for in its rates.

SoCal has signed contracts without attention to placing a value on the capacity that it confers. The capacity privileges it bestows on these particular customers are undervalued, for customers pay no premium for the benefit gained through firm capacity. Firm premiums are an active proposal in the procurement restructuring OIR. To approve contracts without a premium would prejudge this issue in the OIR.

Storage Capacity Sequencing. Another benefit conferred on each of the contractees is that they may use the SoCal system to store certain volumes during particular times and in particular amounts according to historical annual usage. The contractees do not participate in the storage banking program; they pay no reservation fee, as do storage banking customers. They do pay, usually, the volumetric injection costs and the operations and maintenance fees. Their storage volumes are sequenced *ahead* of those customers participating in the pilot storage banking program. Again, no premium is paid for the preferred service and no bidding occurs to assure that a fair price is paid for the value of the service rendered.

The storage capacity sequencing present in the contracts may jeopardize the pilot storage program by assigning storage discriminately outside the provisions of the program adopted by the Commission in D.88-11-034.

Backup Supplies Without Standby Charges. No provision has been made in the contracts for this element of the proposed restructuring. The concept is to have the utility charge customers for the service of supplying gas to noncore transportation customers if they cannot secure their own supply.

Evergreening Contracts. The term of most of the contracts is for five (5) years, subject to a one-year notice of cancellation by the parties and an automatic year-by-year extension of the contract in the absence of cancellation. This continuation is termed evergreening. Three cogeneration contracts have longer terms of 7, 10, and 15 years. DRA has consistently objected to this evergreening provision on the ground that it could set a poor precedent for future contracts.

The contracts held by the UEGs also contain a waiver of General Order 96-A, which would prevent the CPUC from making any future modifications to the contracts. DRA is especially concerned about this provision when it appears in conjunction with an evergreening contract term for those UEGs not regulated by the CPUC. DRA argues that since the gas industry is still in a transitional state a contract should be limited to 5 years and that the Commission should decline to allow a waiver of its rights to intervene in the future.

Discrimination. Many of the protestors argue that approval would discriminate against other noncore customers and their suppliers who have not had an equal opportunity to negotiate long-term service contracts with SoCal.

IP relates that the majority of interested parties in the I&S Case 89-05-016 (D.89-12-045) appeared to support the general idea of long-term service agreements. Despite this general consensus, virtually all of these parties objected to the process by which the contracts were negotiated and specific terms of these contracts.

IP contends that SoCal has not given all noncore customers an equal opportunity to negotiate agreements that provide access to SoCal's valued interstate transportation capacity and storage rights. Although SoCal has suggested that it will attempt to negotiate a long-term service agreement with any party and has stated that all of its noncore customers have been notified, the IP contends that the discretionary nature of SoCal's negotiating process diminishes any appearance of equal opportunity that may exist.

Allowing SoCal to give preferential treatment to whichever customers it may choose will unfairly distort competition for supplies among noncore customers. In a competitive noncore market, customers would obtain access to interstate capacity and storage rights based on their willingness to pay or on other competitive forces. Instead, IP contends the Commission's approval of the agreements would permit SoCal to allocate these valuable rights according to its own discretionary estimation of a customer's position in the market.

Waiving Demand Charges under Curtailment Conditions. A number of the contracts provide a prorata reduction in demand charges in the event of a capacity curtailment. To allow a prorata reduction in the collection of demand charges would provide a credit, or discount, to these customers. The undercollection would be passed on to other ratepayers, which would have to compensate for the loss. SoCal faces no risk, except under the SDG&E settlement as discussed below.

In past proceedings, various parties have requested reductions of demand charges during curtailments and we have rejected these requests. In D.89-03-053, we concluded that it was reasonable that UEG customers should continue to pay demand charges during periods of supply or capacity curtailment. No new arguments have been presented to convince us that this rule should be reconsidered.

Increasing Volumes Over the Years. Some customers have options to increase volumes in future years if the capacity is present. If customer contracts contain these options, less capacity may be available for future customers.

Most Favored Nations Clauses. The UEGs have a Most Favored Nations clause in their contracts which allows them to receive terms and conditions given others within the same class, so long as SoCal is not economically disadvantaged. This clause is not present in the contracts for the cogenerators.

Discount for California Produced Gas. A transportation discount for California produced gas is present in the SCE contract. The discount is not currently accommodated by present rate design and, if acceptable, needs to be addressed in the ACAP. The concept is new to the Commission and has not had the benefit of full discussion.

Rate Structures. The SDG&E contract rate structure is tied to the ACAP. The other contracts differ, using changes in the utility's margin. For example, in the "new" contracts, such as A.L. 1946 with Rohr Industries, the initial rate for cogeneration service is based on a rate per therm equal to the twelve month weighted average of SCE's average transmission rate, which in turn is based on actual costs and throughput. The contracts are subject to changes in SCE's contract with SoCal, A.L. 1934, which was rejected. The cogeneration contracts, having anticipated this problem, provide a written contingency which allows the parties to renegotiate a rate. This leaves an important issue unaddressed.

SoCal provides two other options for a cogenerator's industrial volumes: (1) the rates adopted in the 1989 ACAP subject to changes in SoCal's authorized margin, pipeline charges, and transition costs as they change annually; or (2) a rate equal to the then applicable tariffed rate schedule.

Bypass. Decision 89-12-045 required that a showing be made demonstrating threat of uneconomic bypass. SoCal submitted no information supporting a bypass threat. In D.89-12-045 we stated:

> "We affirm our view that long-term contracts are appropriate under certain circumstances. They are primarily useful where a customer must make a decision regarding whether or not to invest in bypass facilities and such facilities would clearly result in uneconomic bypass. In this proceeding, we are not convinced that SCE or SDG&E will undertake uneconomic bypass absent the contracts. Unless SoCal can clearly demonstrate the necessity of a long-term contract to avoid uneconomic bypass, we will not allocate to other SoCal ratepayers revenue shortfalls associated with those contracts. Without such proof, and in the absence of some type of risk-sharing mechanism, we believe that SoCal may be inclined to sign long-term contracts with all of its major customers."

Unamended Sections. The original municipal UEG contracts for LADWP, Burbank, Glendale and Pasadena, developed and signed

before we issued D.89-12-045, retain their original sections. They fail to comply with D.89-12-045.

SDG&E - SoCal - DRA SETTLEMENT

SDG&E, SoCal and DRA (parties) met to discuss various objections raised to the SDG&E contract. An accord was reached on most of the major issues (see Appendix B), leaving three policy issues unresolved. The settlement (Settlement) resolves the following:

Shortfalls. DRA objected to the prorata reduction in contract demand charges to which SDG&E would be entitled if a capacity curtailment prevented SDG&E from receiving an average of 299,250 decatherms per day (dth/d), calculated quarterly. The parties concluded that the probability of any such reductions would be low based on current and foreseeable operating conditions. Also, SoCal noted in its reply to DRA's protest that revenue shortfalls arising from such reductions would be borne by its shareholders and not its other ratepayers. DRA requested that this be made explicit in any order approving the contract.

Pipeline Demand Charges. DRA argued that the contract appeared to provide SDG&E interstate capacity in excess of the volumes it currently pays for or may require in a given year. At a minimum, DRA argued that SDG&E should be allocated interstate demand charges based on the total capacity rights it retains under the contract.

The settlement parties clarified that SDG&E's minimum allocation of interstate pipeline demand charges should be consistent with its rights to firm capacity. Therefore, these charges will be tied to the higher of 310,500 decatherms per day or the cold-year throughput forecast for that ACAP.

Demand Swings. DRA observed that the contract's relatively high second-tier and relatively low third-tier volumetric rates could encourage monthly or seasonal demand swings by SDG&E. The parties agreed that the quarterly calculation under the minimum bill provisions of the contract would prevent this.

Priorities. DRA objected to the contract on the ground that SDG&E's UEG requirements were being elevated from Priority 5 to Priority 3 on SoCal's system. In response, SoCal and SDG&E cited D.89-12-045, noting that the Commission there distinguished between intrasystem and intersystem priorities, essentially approving this provision of the contract. The parties agreed that, in acting on the advice letter, the Commission should determine whether the proposed contract is consistent with the relevant provisions of the Public Utilities Code and the policies and decisions of the Commission respecting wholesale gas service.

Filing Errors. DRA objected to the amendments to SoCal's Rule 23 parity rights as filed by SoCal. Those amendments were erroneous

as filed and have been corrected by SoCal since the time DRA filed its protest.

Renegotiation Rights. The contract provides that either SoCal or SDG&E may request a renegotiation of the contract should the Commission adopt material changes to ACAP rate design practice. DRA agrees that this is a reasonable provision but would require that the results of any renegotiation be subject to Commission approval. SoCal and SDG&E acknowledge the Commission's ongoing jurisdiction to oversee and review the contract and do not object to DRA's proposed requirement.

Should the Commission adopt significant changes to the ACAP rate design practice, SDG&E or SoCal may request a renegotiation. Parties agree that should this occur, the renegotiated contract shall be submitted to the CPUC for review and approval.

Evergreen Provision. The contract term is five years, subject to a one-year notice of cancellation by the parties and an automatic year-by-year extension of the contract in the absence of cancellation. DRA objected to the evergreen provision on the ground that it could set a poor precedent in the regulation of other similar contracts. While DRA agrees that the evergreen provision is not as problematic in SDG&E's circumstances as might be true for other customers, DRA prefers a simple 5 year contract term. SoCal and SDG&E have responded to DRA's objections and do not agree that the public interest is affected adversely by this provision of the contract.

SDG&E and SoCal have waived this portion of the contract with an insertion that the contract term shall cease at the end of the 5th year.

Other SDG&E Protestors

CIG, CCC and IP also protested the SDG&E contract but were not party to the settlement. CIG argued that the SDG&E contract, as amended, continued to offer a discount from SoCal's tariffed rates by providing significantly less revenue from SDG&E that the level forecasted in SoCal's ACAP. CACD believes that the settlement item addressing shortfalls meets CIG's concerns.

The CCC argued that the SoCal revisions to Rule 23, Priority of Service, conflict with other revisions to Rule 23 under Advice Letters 1934, and 1941, in addition to conflicting with existing Rule 14. The conflict with Rule 14 is that it states that all UEG gas load, other than start-up or igniter fuel, is classified as either P3B or P5. This rule remains unchanged. If the SDG&E contract is approved, CACD recommends that this inconsistency be corrected.

SDG&E OUTSTANDING ISSUES

Should the Commission accept the parties' settlement, three items remain for resolution:

Priority Upgrades
DRA and CIG argue that, if adopted, the contract will disadvantage SoCal's lower-priority noncore customers (P3A and below) by effectively upgrading the curtailment priority of at least a portion of SDG&E's UEG load from P5 to P3, in violation of section 2771 of the Public Utilities Code (PUC). IP argues that no justification has been offered to raise the priority of SDG&E's UEG load from P5 to P3. CCC argues that the contract violates PUC Section 454.7 and D.89-12-045, which provides that cogenerators must receive a higher priority than UEG customers within their respective service territories.

Sections 2771 and 2772 of the PUC state:

> "2771. The commission shall establish priorities among the types or categories of customers of every electrical corporation and every gas corporation, and among the uses of electricity or gas by such customers. The commission shall determine which of such customers and uses provide the most important public benefits and serve the greatest public need and shall categorize all other customers and uses in order of descending priority based upon these standards. The commission shall establish no such priority after the effective date of this chapter which would cause any reduction in the transmission of gas to California pursuant to any federal rule, order, or regulation.
>
> 2772. In establishing the priorities pursuant to Section 2771, the commission shall include, but not be limited to, a consideration of all of the following:
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> (a) A determination of the customers and uses of electricity and gas, in descending order of priority, which provide the most important public benefits and serve the greatest public need.
> (b) A determination of the customers and uses of electricity and gas which are not included under subdivision (a).
> (c) A determination of the economic, social, and other effects of a temporary discontinuance in electrical or gas service to the customers or for the uses determined in accordance with subdivision (a) or (b).
> (d) Any curtailment or allocation rules, orders, or regulations issued by any agency of the federal government.

The Commission must recognize that SDG&E is an independent utility with its own set of customers and territory providing important public benefits. SDG&E is a regulated public utility and a gas local distribution company (LDC) wholesaler with core responsibilities, but lacks parity with SoCal and PG&E for the

capacity it is responsible for. SDG&E must use SoCal's pipeline to perform the same function as SoCal does for its core and noncore customers alike. CACD suggests that the Commission rectify this imbalance among the LDCs by equalizing SDG&E's capacity control with its responsibilities. This will serve to put each of the respondents to the OIRs on an equal footing.

SoCal has had significant P5 UEG curtailments over the past few years. The SDG&E contract capacity represents only 12% of SoCal's total capacity. Of this amount, approximately 20% is ACAP forecast P5 UEG load. Should the Commission approve the SDG&E contract, as modified herein, SDG&E's priorities will be disaggregated from SoCal's. This means that each system's potential curtailments will now be consistent within each territory and not linked solely to SoCal.

To accommodate the possibility that the SDG&E load shift could affect higher priority cogeneration customers on the SoCal system, CACD suggests that the Commission not allow curtailment of any SoCal cogenerator (P3-A) before SDG&E's UEG P5 load, until the implementation of the restructuring and capacity brokering programs. In this way, the Commission can ensure equity to the cogenerators until the priority system can be replaced with the competitive noncore market envisioned.

Discrimination

The protestors also argue that approval of the SDG&E agreement would discriminate against other noncore customers and their suppliers who have not had an equal opportunity to negotiate long-term service agreements.

CACD suggests that no undue discrimination *vis a vis* other noncore customers will occur with approval of the SDG&E contract, if the Commission forbids SDG&E from subassigning its firm capacity to its customers, a feature of the OIRs. SDG&E should be required to delay implementation of a capacity brokering program for its own customers along with SoCal and PG&E, before the outcome of the capacity allocation rulemaking, R.88-08-018, and the procurement rulemaking, R.90-02-008.

Prejudgement

The protestors state that approving the agreement at this time would prejudge important policy issues presently pending before the Commission, including allocation of interstate capacity, storage, and procurement issues.

CACD believes that the issue of prejudgement does not apply to approval of the SDG&E contract. SDG&E is a respondent in both OIRs, subject to implementing the rules which emerge. This requirement coupled with the settlement agreements and with CACD's recommendations under the priority and discrimination paragraphs above should combine to eliminate prejudgement issues.

DISCUSSION

In the gas restructuring OIR (R.90-02-008) we opened in February, we are presently considering fundamental changes in the structure of California's natural gas market that will affect utility procurement practices and firm pipeline capacity availability and allocation. These proposed changes are interrelated with our resolution of the pending long-term contracts.

In the interest of an expeditious resolution of the OIR, we are hesitant to send confusing signals to the parties by approving these contracts, which relate to procurement, capacity allocation, storage, and interstate transportation.

Combined, these contracts represent a significant amount of capacity: 33% of all SoCal's interstate capacity. If we consider all interstate and intrastate capacity held by SoCal, less use by the core, the contracts represent 53% of the available noncore capacity.

Open Access

We are applying at the Federal Energy Regulatory Commission (FERC) through the Transwestern (Transwestern) and Pacific Gas Transmission (PGT) rate cases for approval of a capacity brokering program in California. We are committed to the idea of providing an open access program for brokering interstate capacity on a non-discriminatory basis. What direction and form this program takes will be determined in our outstanding rulemaking, R.88-08-018. This proceeding will determine whether our direction will be an auction, open season, or some other open, non-discriminatory allocation method. This proceeding will also set rules for how much capacity will be offered and for what term. The contracts discussed by this resolution represent SoCal's position and proposed solution for the capacity allocation OIR 88-08-018.

The Natural Gas Act, and the open access and non-discrimination policies of Order No. 436/500 at Part 284 of the Code of Federal Regulations require that the rates, terms and conditions of a capacity brokering program must be just and reasonable, must not grant any undue preference or maintain any unreasonable differences between classes of service. We intend to uphold these requirements. Therefore, we want to assure the FERC of our position on capacity brokering by rejecting the contracts other than SDG&E, an LDC, as prejudicial to R.90-02-080 and R.88-08-018. While we do not oppose long-tern contracts per se as an option under capacity brokering, this option must be pursued on a non-discriminatory basis.

SDG&E Contract

In D.89-12-045 we said that although approval of a long term contract with a regulated utility might favor that utility over other noncore customers, such a contract may be reasonable due to the utility obligation to serve, which distinguishes it from

other noncore customers and competitors. Clearly, SDG&E has such an obligation. It has long been the wish of this Commission to see an agreement with SoCal that would afford SDG&E access to firm capacity and storage service in order to allow SDG&E to meet its own independent utility obligations, especially to the core.

Of all the contracts before us, that negotiated with SDG&E, as amended through the SDG&E-SoCal-DRA settlement, appears to be distinguished from all the other agreements proposed. We recognize SDG&E is an independent utility with its own set of customers and territory. SDG&E must use SoCal's pipeline to perform the same function as SoCal does for its core and noncore customers alike.

At issue here is SDG&E's parity as a gas utility with SoCal and PG&E. SDG&E is a regulated public utility and a gas local distribution company (LDC) wholesaler with core responsibilities. Also, SDG&E is a respondent to the procurement rulemaking. SDG&E has a unique and peculiar situation. It has the anomalous position of being the only major LDC in California without its own pipeline. To approve its contract will elevate its gas department to par with SoCal and PG&E and will rectify an imbalance among LDCs within the State. Approval assigns the benefit of firm transportation to SDG&E customers. SDG&E gains nothing over the benefits already enjoyed by PG&E and SoCal customers.

We have made significant progress with the restructuring OIR, and anticipate further clarification of its results shortly. Approval of the SDG&E contract will not be out of step with the rulemaking.

SDG&E Other Issues

The SDG&E-SoCal-DRA settlement resolved many of the objections raised by all of the participants. Those issues yet to be resolved deal with priority and capacity brokering.

Priority

In response to the cogenerator arguments against approval of the SDG&E contract, we will not allow curtailment of any SoCal cogenerator before SDG&E's UEG P5 load. SoCal and SDG&E will modify its priority and classification rules, consistent with this resolution. In addition, SDG&E shall not subassign its firm capacity to its customers at this time, pending resolution of intrastate capacity brokering in further proceedings.

Capacity Brokering

Although we conditionally approve SDG&E's contract, SDG&E may not yet implement a capacity brokering program for its own customers. This element is subject to the outcome of the capacity allocation rulemaking, R.88-08-018, and the procurement rulemaking, R.90-02-008. In addition, no new, unconsidered contract amendments will be accepted.

FINDINGS OF FACT

1. Long-term contracts may be a viable alternative to a regular bidding program for capacity brokering.

2. Approval of the SoCal long-term contracts could prejudge other important policy issues before the Commission.

3. Approval of the SoCal long-term contracts would affect all other SoCal customers whose gas is delivered under Priorities 3,4, and 5.

4. Noncore customers without a SoCal long-term contract would experience more frequent interruptions or curtailments.

5. None of the long-term contracts contain a premium payment for the enhanced services of transportation capacity or storage.

6. The storage capacity sequencing present in the contracts may jeopardize the pilot storage program by assigning storage outside the provisions of the program adopted in D.88-11-034.

7. The long-term contracts do not provide a standby charge for backup supplies.

8. The long-term contracts contain automatic extensions beyond the initial contract term.

9. Approval of the long-term contracts might discriminate against other noncore customers or suppliers who have not had an opportunity to negotiate a contract with SoCal.

10. To allow a prorata reduction in demand charges during a supply or a capacity curtailment would provide a discount to the long-term contractees.

11. Less capacity for other customers would occur if a long-tern contractee has an option to increase capacity in future years.

12. The UEG contracts contain a Most Favored Nations clause, allowing them to receive terms and conditions given to others within the same class.

13. The concept of a transportation discount for California produced gas is new and has not had the benefit of full discussion.

14. The SDG&E contract bases its rates on the current rate structure. All other contracts are based on the premise of an approved SCE contract's rates, or change rates under a change in margin.

15. No support of uneconomic bypass was subnitted by SoCal with any of the long-term contracts.

16. The original municipal UEG contracts for LADWP, Burbank, Glendale and Pasadena, developed and signed before we issued D.89-12-045, retain their original sections. They fail to comply with D.89-12-045.

17. SDG&E, SoCal and DRA reached a settlement, resolving most of the protested issues for the SDG&E long-term contract with SoCal.

18. The SDG&E settlement parties agreed that any revenue shortfalls arising from a prorata reduction in contract demand charges under a curtailment would be borne by SoCal's shareholders and not its other ratepayers.

19. The settlement parties clarified that SDG&E should be allocated interstate demand charges based on the total capacity rights it retains under the contract.

20. The parties agreed that the quarterly calculation under the minimum bill provisions of the contract would discourage monthly or seasonal demand swings by SDG&E.

21. Should the Commission adopt significant changes to the ACAP rate design, SDG&E or SoCal may request a renegotiation. The parties agree that should this occur, the renegotiated contract shall be submitted to the CPUC for review and approval.

22. The settlement parties agree that the SDG&E contract term shall cease at the end of the 5th year.

23. Revisions to SoCal Rules 23 and 14 appear inconsistent.

24. The Commission seeks to develop utility programs which provide non-discrininatory, open access to interstate pipeline capacity.

25. Approval of the SDG&E contract, as modified both herein and by the SDG&E-SoCal-DRA settlement, will rectify an imbalance among the LDCs in the State and will not prejudice the development of a non-discriminatory capacity allocation scheme.

26. SDG&E P5 UEG load should be curtailed before any cogeneration P3-A load, whether it be in SoCal service territory or SDG&E service territory, until implementation of R.90-02-080 and R.88-08-018.

27. SoCal and SDG&E should amend the contract to accommodate the adopted rules for capacity allocation and firm transportation resulting from the restructuring OIR.

28. No new, unconsidered amendments to the SDG&E contract should be accepted if it is submitted to CACD for compliance with this resolution.

29. SDG&E may not yet implement a capacity brokering program for its own customers.

30. All other contracts referenced herein are prejudicial to resolution of R.90-02-080 and R.88-08-018.

Therefore, It is Ordered that:

1. The Southern California Gas Company contract, Advice Letter 1942 with San Diego Gas and Electric Company is approved, as conditioned by this resolution.

2. Southern California Gas Company shall resubmit amended contract sections, tariffs, and rules compliant with this resolution to the Commission Advisory and Compliance Division (CACD) for approval.

3. San Diego Gas and Electric Company shall submit amended tariffs and rules compliant with this resolution to CACD for approval.

4. All other contracts referenced by this resolution are rejected.

5. Advice Letter 1942 shall be marked to show that it was adopted by Resolution G-2921, with the effective date subject to CACD approval of substitute tariff sheets and contract amendments.

6. This Resolution is effective today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting of July 6, 1990. The following Commissioners approved it:

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Neal J. Shulman
Executive Director

APPENDIX A

CURRENT FILINGS - ALL PENDING EXCEPT SCE, WITHDRAWN

PRE - DECISION 89-12-045

	CONTRACTEE	TYPE	ADVICE LETTER	FILED
1.	LADWP	MUNI - UEG	A.L. 1900	9/11/89
2.	CONTAINER CORP.	COGEN.	A.L. 1920	11/20/89
3.	INLAND CONTAINER	COGEN.	A.L. 1920	11/20/89
4.	CORONA ENERGY	COGEN.	A.L. 1920	11/20/89
5.	SIMPSON PAPER	COGEN.	A.L. 1920	11/20/89
6.	GOLDEN STATE NEWSPRINT	COGEN.	A.L. 1920	11/20/89
7.	KES KINGSBURG	COGEN.	A.L. 1920	11/20/89
8.	ENERGY FACTORS OXNARD	COGEN.	A.L. 1920	11/20/89
9.	PROCTER & GAMBLE	COGEN.	A.L. 1921	12/12/89
10.	PASADENA	MUNI - UEG	A.L. 1956	5/18/90
11.	GLENDALE	MUNI - UEG	A.L. 1956	5/18/90
12.	BURBANK	MUNI - UEG	A.L. 1956	5/18/90

POST - DECISION 89-12-045

	CONTRACTEE	TYPE	ADVICE LETTER	FILED
1.	SCE	UEG	A.L. 1934	2/16/90
2.	SDG&E	UEG/WHSLE.	A.L. 1942	3/16/90
3.	WATSON	COGEN.	A.L. 1941	3/20/90
4.	ROHR	COGEN.	A.L. 1946	4/ 4/90
5.	KENDALL MCGAW	COGEN.	A.L. 1960	5/23/90
6.	Seven Cogenerators	COGEN.	A.L. 1920-A	6/12/90
7.	PROCTER & GAMBLE	MUNI - UEG	A.L. 1921-A	6/12/90

APPENDIX B

STATE OF CALIFORNIA GEORGE DEUKMEJIAN, Governor

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

May 22, 1990

Douglas M. Long
Energy Branch Chief
Commission Advisory & Compliance Division
505 Van Ness Avenue, Room 3102
San Francisco, CA 94102

Dear Mr. Long:

Re: Southern California Gas Company (SoCalGas) Advice Letter No. 1942--Wholesale Service Agreement with San Diego Gas & Electric (SDG&E)

SoCalGas filed Advice Letter No. 1942 on March 16, 1990, seeking approval of a negotiated contract and amendment for wholesale natural gas service between itself and SDG&E. The Division of Ratepayer Advocates (DRA) filed a protest to the advice letter on April 5, 1990. Subsequently, representatives from SoCalGas, SDG&E and DRA met to discuss the points raised in DRA's protest. This joint letter reports on the outcome of that meeting. Briefly, we are pleased to report that the DRA's concerns were resolved and that the DRA hereby withdraws its protest subject to the conditions set forth below. You should be advised that protests filed by other parties are not addressed by this letter.

This letter follows the sequence of issues raised in DRA's protest. For the purposes of this letter, the word "we" is intended to include SoCalGas, SDG&E and DRA.

Item 1. Pro Rata Reductions to Contract Demand Charges

DRA objected to the pro rata reduction in contract demand charges to which SDG&E would be entitled if a capacity curtailment prevented SDG&E from receiving an average of 299,250 decatherms per day (dth/d), calculated quarterly. We believe the probability of any such reductions would be low based on current and foreseeable operating conditions. Also, SoCalGas noted in its reply to DRA's protest, filed April 19, 1990, that revenue shortfalls arising from such reductions would be borne by its shareholders and not its other ratepayers. DRA requested that this be made explicit in any order approving the contract. We agree that DRA's objection to this provision of the contract would and should be addressed by conditioning the approval of the contract upon the following proviso:

> "SoCalGas shall not propose the reallocation to any other of its customers of any revenue shortfall associated with the pro rata reduction in SDG&E's contract demand charges arising from capacity curtailments."

Item 2. Allocation of Interstate Pipeline Demand Charges

DRA objected to the contract because of the potential inconsistency between the allocation of interstate capacity to SDG&E under the contract and the allocation of interstate demand charges to SDG&E in subsequent ACAPS. DRA argued that the contract volumes should serve as a floor for the allocation of interstate pipeline demand charges. We agree that DRA's objection would and should be resolved by conditioning the approval of the contract upon the following proviso:

> "As part of any pending or future SoCalGas annual cost allocation proceeding (ACAP) related to a period during which the contract is effective, the allocation to SDG&E of total interstate pipeline demand charges shall be based upon the greater of the contract volume or the cold-year throughput volume forecasted for SDG&E in that ACAP."

Item 3. Demand Swings by SDG&E

DRA observed that the contract's relatively high second-tier and relatively low third-tier volumetric rates could encourage monthly or seasonal demand swings by SDG&E. We agree that the quarterly calculation under the minimum bill provisions of the contract would prevent this.

Item 4. Priority of Utility Electric Generation Demand

DRA objected to the contract on the ground that SDG&E's UEG requirements were being elevated from Priority 5 to Priority 3 on SoCalGas' system. In response, SoCalGas and SDG&E cited Decision 89-12-045, noting that the Commission there distinguished between intrasystem and intersystem priorities, essentially approving this provision of the contract. We agree that, in acting on the advice letter, the Commission should determine whether the proposed contract is consistent with the relevant provisions of the State Public Utilities Code and the policies and decisions of the Commission respecting wholesale gas service.

Item 5. Rule 23 Parity Rights

DRA objected to the amendments to SoCalGas' Rule 23 parity rights as filed by SoCalGas. Those amendments were erroneous as filed and have been corrected by SoCalGas since the time DRA filed its protest. We agree that the corrections dispose of this objection.

Item 6. Rights of Renegotiation

The contract provides that either SoCalGas or SDG&E may request a renegotiation of the contract should the Commission adopt material changes to ACAP rate design practice. DRA agrees that this is a reasonable provision but would require that the results of any renegotiation be subject to Commission approval. SoCalGas and SDG&E acknowledge the Commission's ongoing jurisdiction to oversee and review the contract and do not object to DRA's proposed requirement. We agree that the approval of the contact should be conditioned upon the following proviso:

> "Any modifications or amendments to Article 3 of the contract pursuant to Section 3.1.7. shall be submitted for and subject to approval by the Commission."

Item 7. Evergreen Provision

The contract term is five (5) years, subject to a one-year notice of cancellation by the parties and an automatic year-by-year extension of the contract in the absence of cancellation. DRA objected to this evergreen provision on the ground that it could set a poor precedent in the regulation of other similar contracts. While DRA agrees that the evergreen provision is not as problematic in SDG&E's circumstances as might be true for other customers, DRA prefers a simple five-year contract term. SoCalGas and SDG&E have responded to DRA's objections and do not agree that the public interest is affected adversely by this provision. SoCalGas and SDG&E are, however, willing to accommodate DRA's concerns by agreeing to waive the evergreen provision of the contract. We agree that approval of the contract should be conditioned upon the following proviso:

> "Notwithstanding any other provision of the contract, the contract shall be in full force and effect for five (5) consecutive years from its effective date and shall terminate at the end of the fifth year."

CONCLUSION

Subject to the above conditions, agreements and reservations, SoCalGas, SDG&E and DRA respectfully submit that SoCalGas Advice

Letter No. 1942 and the underlying SoCalGas-SDG&E wholesale service agreement is in the public interest and should be approved. Furthermore, DRA respectfully withdraws its earlier letter of protest to Advice Letter No. 1942.

Dated: May 22, 1990

Roy M. Rawlings Vice-President Southern California Gas Company	Donald E. Felsinger Vice-President San Diego Gas & Electric Company	Edmund J. Texeira ~~Interim~~ Director Division of Ratepayer Advocates

cc: Commissioners

Letter No. 1942 and the underlying SoCalGas-SDG&E wholesale service agreement is in the public interest and should be approved. Furthermore, DRA respectfully withdraws its earlier letter of protest to Advice Letter No. 1942.

Dated: May 22, 1990

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Electric Company

Edmund J. Texeira
Interim Director
Division of Ratepayer
Advocates

cc: Commissioners

Rule No. 23

SHORTAGE OF GAS SUPPLY,
INTERRUPTION OF DELIVERY AND PRIORITY OF SERVICE
(Continued)

Priority of Service

Priority 1*		All residential usage regardless of size. All other use with a peak-day demand of 100 Mcf per day or less.
Priority 2	A	Non-residential use in excess of 100 Mcf per day without alternate fuel capability. Other uses where specific Commission authorization has been granted (Decision No. 90794). Electric utility startup and igniter fuel.
	B	Non-residential use in excess of 100 Mcf per day with LPG or other gaseous fuel capability. Other uses where specific Commission authorization has been granted.
Priority 3		All Tier I usage for utility electric generating plants not included in Priority 2A.
	A**	Cogeneration usage. Also, gas used in solar electric generation projects.
	B	All use not included in another priority.
	C	Los Angeles Department of Water and Power's Scattergood Generating Station Unit 3 (subject to provisions of Decision No. 92704).
Priority 4		Boiler fuel use with a peak-day demand greater than 750 Mcf per day not included in another priority. All use in cement plant kilns.
Priority 5		All use in utility electric generating plants not included in another priority. All use for enhanced oil recovery facilities. (N) (N)

* Any customer whose usage does not exceed 100 Mcf on a peak day for three consecutive months in the most recent fourteen contiguous month period will be classified as Priority 1. The non-residential customer who exceeds 100 Mcf on a peak-day for three consecutive months will be transferred to the appropriate lower priority.

** Existing equipment on a higher priority will not be assigned to a lower priority solely as the result of a cogeneration project. Customers in a lower priority will be reclassified for that portion of their usage associated with cogeneration only.

(continued)