BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U 39 G) Proposing Cost of Service and Rates for Gas Transmission and Storage Services for Period 2011-2014.	A.09-09-013 (Filed September 18, 2009)

REPLY BRIEF OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M)

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Pursuant to Rule 13.11 of the California Public Utilities Commission's ("Commission's") Rules of Practice and Procedure, Southern California Gas Company ("SoCalGas") and San Diego Gas & Electric Company ("SDG&E") hereby file their reply brief in response to the opening brief filed by Pacific Gas and Electric Company ("PG&E") and Indicated Settling Parties ("ISP").

I. INTRODUCTION

PG&E/ISP's opening brief requests adoption of the proposed settlement without modification,[1] and raises arguments against the positions advanced by SoCalGas/SDG&E. This reply brief addresses the flaws in the arguments contained in the PG&E/ISP opening brief.

II. DISCUSSION

1. SoCalGas' Delivery Rights

On the delivery rights issue, the opening brief of SoCalGas/SDG&E already addresses the main arguments raised by PG&E/ISP in their opening brief.[2] The evidentiary record contains two documents that clearly demonstrate that SoCalGas assumed an agreement between SDG&E and

[1] Opening Brief of PG&E and Indicated Gas Accord V Settlement Parties (November 10, 2010), p. 26.

[2] See Opening Brief of Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 M) (November 10, 2010), pp. 6-12.

PG&E that allows for delivery rights into two locations. The latest Exhibit A of the Firm Transportation Service Agreement ("FTSA") expressly grants SDG&E delivery rights into both the PG&E citygate and the southern terminus at Kern River Station.[3] The 1996 Amendment to the FTSA expressly states the SDG&E's agreement to restrict deliveries to just off-system (i.e., the southern terminus) will expire in five years or the end of the Gas Accord period (i.e., end of 2002[4]), whichever is later.[5] Both of these contractual agreements bear the signatures of management-level employees of both utilities; and, there are no documents to disprove the validity of either of these documents.

PG&E/ISP can only engage in circumstantial arguments to explain why these duly executed agreements do not allow SoCalGas to make deliveries into the PG&E citygate. These arguments lack merit, as addressed below.

Assertion: SoCalGas/SDG&E are doing so in order to get a right for which they neither bargained for nor paid consideration.[6]

This assertion is not supported by the record. The record is clear that (1) SDG&E had flexible delivery rights prior to the first Gas Accord period,[7] (2) SDG&E agreed to temporarily give up rights to make on-system deliveries (i.e., into PG&E's citygate) until the end of the first Gas Accord term, and (3) thereafter, SDG&E would have the delivery right options reflected in Exhibit A to the FTSA.

Regarding PG&E/ISP's argument regarding lack of consideration, the Amendment to the FTSA addresses consideration in two sections. Section 12 states:

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[3] See Exhibit 21, Prepared Direct Testimony of Johannes Van Lierop (September 20, 2010), Attachment (containing the latest Exhibit A to the FTSA). This document also appears in Exhibit 18, Ch. 1, PG&E Rebuttal Testimony of Roger Graham (October 1, 2010), Attachment 1G.

[4] See PG&E's 2011 Gas Transmission and Storage Rate Case Application 09-09-013 (September 18, 2009), p. 3.

[5] See Exhibit 21 (Van Lierop direct) at Attachment (Amendment to the Firm Transportation Service Agreement Between San Diego Gas & Electric Company and Pacific Gas and Electric Company). See also Exhibit 18 (Graham rebuttal) at Attachment 1F.

[6] PG&E/ISP opening brief at 1.

[7] See Tr. 1122:14-20 (PG&E witness Graham, 10/25/2010).

> "As consideration for SDG&E's agreement to execute this amendment by December 2, 1996 . . . PG&E shall pay to SDG&E the sum of $150,000 within thirty (30) calendar days from the date this amendment is approved by the CPUC."[8]

Section 14 states:

> "Each provision of this amendment is agreed to by the parties as quid pro quo consideration for each of the other provisions, so that no provision of this amendment is separable from the others for any purpose. . . ."[9]

This strongly suggests that PG&E is the party that was required to provide consideration to SDG&E for agreeing to temporarily suspend its right to make deliveries into the PG&E citygate, and not the other way around.

Assertion: SoCalGas is attempting to gain a windfall in the form of on-system delivery rights under its G-XF contract – a windfall that would undo a fundamental tenet of the twelve-year old Gas Accord market structure.[10]

To suggest that the Gas Accord would be fundamentally altered by SoCalGas having flexible delivery rights is self-serving and without merit. PG&E/ISP quote language from PG&E's own motion to adopt the first Gas Accord to support the idea that a Gas Accord structure forever did away with a shipper's ability to have flexible delivery rights.[11] First, the Commission's decision adopting the settlement does not make any mention of PG&E's quoted language from its own motion, so there is no basis for any claim that it somehow became Commission policy that SoCalGas should not have flexible delivery rights. Second, that rationale may have been put forth in the motion for adoption of the first Gas Accord, but it certainly does not extend to any subsequent Gas Accord settlements, as settlements do not establish precedent regarding any principle or issue in the proceeding or any other proceeding.[12]

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[8] See Exhibit 21 (Van Lierop direct) at Attachment (Amendment to FTSA).
[9] See Id.
[10] PG&E/ISP opening brief at 2.
[11] Id. at 6.
[12] See Rule 12.5 of the Commission's Rules of Practice and Procedure.

Lastly, PG&E currently allows other transmission shippers to have flexible delivery rights, including the right to make both on-system and off-system deliveries on the same Redwood Path contracted for by SoCalGas under its G-XF contract.[13] If other PG&E shippers are allowed under an existing tariff to have the flexible delivery rights, there is nothing per se fundamental about denying SoCalGas the same type of flexibility well beyond the first Gas Accord period. Rather, this is an argument to simply sustain a practice that has served PG&E well: receiving capacity payments from SoCalGas/SDG&E, restricting SoCalGas/SDG&E's ability to use that capacity by refusing on-system deliveries, then realizing additional earnings by making its own on-system deliveries on that unused capacity. The record clearly establishes that SDG&E's pre-existing rights to make deliveries into PG&E's citygate would resume after the end of the first Gas Accord period. SoCalGas, upon receiving those rights from SDG&E effective April 2008, wasted no time in asserting those rights. By continually denying SoCalGas the ability to exercise the full extent of those rights, PG&E causes significant harm to SoCalGas/SDG&E core customers. This practice must end immediately.

In terms of the purported windfall to be gained by SoCalGas if it is able to make deliveries into the PG&E citygate, revenues from deliveries made into the PG&E citygate would solely benefit core ratepayers of SoCalGas/SDG&E, who are currently receiving very little value for the capacity payments made to PG&E.[14] There is nothing in the record that established that SoCalGas' shareholders would benefit from this flexibility, because they would not. In any case, the amount of lost revenue to PG&E would be small relative to total revenues under the proposed Gas Accord. Even under the inflated $7.6 million/year figure provided by PG&E/ISP, that amount would only

[13] PG&E Tariff Schedule G-AFTOFF.
[14] See Exhibit 21 (Van Lierop direct) at 3.

constitute 1.5% of total Gas Accord revenues.[15] And, that $7.6 million estimate is simply a calculation of the maximum possible amount of lost revenues, assuming the highest rate contained in the proposed settlement and 100% of on-system deliveries every day,[16] and does not reflect offsetting revenues PG&E would be able to earn from selling off-system capacity rights when SoCalGas is using its capacity to deliver on-system. In short, the estimates provided by PG&E/ISP are unreliable. Nothwithstanding, a revenue impact of 1.5% can hardly be viewed as fundamentally altering the Gas Accord.

Assertion: Put simply, SoCalGas/SDG&E have always been permitted only one delivery point.[17]

This assertion is simply false. Citations to the record were already provided in SoCalGas/SDG&E's opening brief, where PG&E's own witness admitted that prior to the first Gas Accord, SDG&E had flexible delivery rights. During evidentiary hearings, Mr. Graham for PG&E responded to the following question from SoCalGas/SDG&E:

> Q. To your knowledge did SDG&E ever have flexible delivery rights either prior to the Gas Accord 1 period – let's start with prior to the Gas Accord 1 period.
>
> A. Yes, I believe there was a period of time where all G-XF shippers had flexible delivery point rights. [18]

In addition, PG&E's rebuttal testimony supports that admission. In Mr. Graham's rebuttal testimony, he states:

> "Yes. Prior to the first Gas Accord, PG&E's filed tariff applicable to firm Expansion service, Schedule G-XF, allowed delivery point flexibility"[19]

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[15] See Settlement Agreement, section 7.1, p. 5. The 1.5% figure was calculated by dividing $7.6 million by the total revenue requirement for 2011 of $514.2 million. That percentage goes down in 2012-2014, as total Gas Accord revenues go up.

[16] See Exhibit 32, PG&E Data Request Response to SoCalGas_SDGE_010-05.

[17] PG&E/ISP opening brief at 9.

[18] See Tr. 1122:14-20 (PG&E witness Graham, 10/25/2010).

[19] See Exhibit 18 (Graham rebuttal), p. 1-3.

PG&E's admissions are consistent with the 1996 Amendment to the FTSA (sections 7 and 11), under which SDG&E agreed to give up those flexible delivery rights, but only for the duration of the first Gas Accord period.

Assertion: The November 1997 Exhibit A is a mistake that does not reflect the intent of the parties.[20]

SoCalGas/SDG&E's opening brief demonstrates why this claim of mistake is not supported by the record.[21] In terms of intent of the parties, the key document is the Amendment to the FTSA, which, as described above, supports the validity of Exhibit A, which grants flexible delivery rights to SDG&E after the end of the first Gas Accord period.

In summary, the direct evidence clearly shows that SDG&E previously had, and that SoCalGas currently has, the express contractual right to make deliveries into PG&E's citygate, and the circumstantial evidence supports the validity of those rights. PG&E should not be allowed to persist in denying SoCalGas' ability to exercise those rights, which causes significant harm to SoCalGas/SDG&E core ratepayers.

2. Exclusion of G-XF Shippers from Proposed Revenue Sharing

On the revenue sharing issue, the opening brief of SoCalGas/SDG&E already addresses the main arguments raised by PG&E/ISP in their opening brief.[22] PG&E/ISP claim that "[t]he justification for excluding G-XF shippers from revenue sharing is rooted in the incremental nature of G-XF rates,"[23] and that G-XF rates "always have been based strictly on Line 401 costs."[24] SoCalGas/SDG&E's opening brief clearly demonstrated that these claims are not supported by the

[20] PG&E/ISP opening brief at 10.
[21] See SoCalGas/SDG&E opening brief at 10.
[22] See SoCalGas/SDG&E opening brief at 13-17.
[23] PG&E/ISP opening brief at 21.
[24] Id.

record, and that G-XF rates are, in fact, not truly incremental in nature.[25] Therefore, PG&E/ISP fail to justify why G-XF shippers are being arbitrarily discriminated against by being excluded from revenue sharing. The Commission should accordingly reject any proposed settlement that treats G-XF shippers differently than other backbone shippers with respect to revenue sharing, and find that this provision of the settlement does not meet the criteria set forth by Rule 12.1(d).

3. Proposed G-XF Rates

On the G-XF rates issue, the opening brief of SoCalGas/SDG&E already addresses the main arguments raised by PG&E/ISP in their opening brief.[26] PG&E/ISP claim "G-XF rates are designed to collect costs exclusively associated with PG&E's Line 401 Expansion pipeline."[27] As described earlier, G-XF rates are not as incremental as PG&E/ISP claim. Given the lack of credibility regarding the claimed incremental nature of G-XF rates, there is no reasonable record to support the disparate treatment and lack of consideration given to G-XF rates under the proposed settlement. SoCalGas/SDG&E therefore request that the Commission reject the rates set forth under the proposed settlement for failure to meet the criteria of the Commission's Rule 12.1(d).

4. Storage Posting Requirements for PG&E (Transparency Issue)

On the informational posting issue, the opening brief of SoCalGas/SDG&E already addresses the main arguments raised by PG&E/ISP in their opening brief.[28] The main thrust of the proposal offered by SoCalGas/SDG&E—to adopt posting requirements for PG&E that match those imposed on Federal Energy Regulatory Commission ("FERC") §7(c) facilities—is to advance the goal of greater transparency in California's storage market, which would lead to lower gas prices

[25] See SoCalGas/SDG&E opening brief at 13-15.
[26] See SoCalGas/SDG&E opening brief at 18-19.
[27] PG&E/ISP opening brief at 16.
[28] See SoCalGas/SDG&E opening brief at 19-28.

for the benefit of all Californians.[29] It is important to note yet again that FERC applies these posting standards even for storage fields with market-rate authority in presumably competitive markets.[30] That is, FERC has decided that greater transparency improves efficiency and enhances competition even in competitive markets.[31]

SoCalGas urges the Commission to ignore irrelevant speculations about the history of SoCalGas' posting requirements. The Commission should instead focus on the merits of adopting FERC's posting requirements, and not SoCalGas' posting requirements, on PG&E.

While PG&E opposes this proposal because it worries about being placed in a competitive disadvantage relative to other independent storage providers in its service territory,[32] and the independent storage providers in this case oppose this proposal because they worry they may be next in line for the same posting requirements,[33] the Commission is wholly justified in applying these additional requirements to PG&E in this proceeding. This would at least create transparency for transactions made by the two largest storage providers in California, both of which have captive ratepayers and which own the gas transmission systems that connect to their respective storage fields.[34]

The independent storage providers may be currently smaller in terms of available capacity, but they are growing[35] and may soon be much closer in capacity to the two public utility storage providers. This fact justifies why the Commission can adopt additional posting requirements now for PG&E, and consider at some future time adopting additional posting requirements on the independent storage providers. This is a reasonable and workable plan towards eventually creating

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[29] See Exhibit 22, Prepared Direct Testimony of Steve Watson (September 20, 2010), pp. 3 and 9.
[30] See Id. at 11.
[31] See Id.
[32] See Exhibit 18, Ch. 1 (Graham rebuttal), p. 1-10.
[33] See Exhibit 24, Revised Joint Rebuttal Testimony of Krishna K. Yadav on behalf of Wild Goose Storage, LLC and Dennis Henderson on behalf of Gill Ranch Storage, LLC (October 26, 2010), pp. 5-6.
[34] See D.10-10-001 (*mimeo*), p. 35 (October 14, 2010); Tr. 1169:24 to 1170:16 (PG&E witness Graham, 10/26/2010).
[35] See Exhibit 24 (Yadav/Henderson rebuttal) at 7.

a truly transparent and competitive statewide storage market. The first step was taken when the Commission adopted posting requirements for SoCalGas which exceed those being proposed in this proceeding. The next step is for PG&E to post important details (including prices and volumes) regarding its storage transactions for the benefit of consumers.

III. CONCLUSION

For the reasons provided above, SoCalGas/SDG&E request that the Commission grant the relief sought by SoCalGas, as a G-XF shipper and customer on PG&E's backbone system. In addition, SoCalGas/SDG&E urge the Commission to advance the goal of greater market transparency with respect to storage services by requiring PG&E to post details regarding its storage transactions that match the FERC's posting requirements for §7(c) facilities.

Respectfully submitted,

By: _____*/s/ Johnny J. Pong*_____

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November 19, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **REPLY BRIEF OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M)** by electronic mail to all parties to this proceeding and by Federal Express to Commissioner Simon and Administrative Law Judge Wong.

Dated at Los Angeles, California, this 19th day of November, 2010.

/s/ Rose Mary Nava
Rose Mary Nava

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