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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-3016
December 16, 1992

R E S O L U T I O N

RESOLUTION G-3016. SOUTHERN CALIFORNIA GAS COMPANY REQUESTS AUTHORITY TO IMPLEMENT THREE LONG-TERM GAS TRANSPORTATION SERVICE CONTRACTS WITH SITHE ENERGIES, INC. ON BEHALF OF E. F. OXNARD, INC., PROCTER AND GAMBLE PAPER PRODUCTS CO., AND WILLAMETTE INDUSTRIES, INC. TO AVOID UNECONOMIC BYPASS.

BY ADVICE LETTER 2126, FILED JULY 20, 1992.

SUMMARY

1. By Advice Letter 2126, Southern California Gas Company requests approval of three long-term gas transportation service contracts with Sithe Energies, Inc. on behalf of E. F. Oxnard, Inc., Procter and Gamble Paper Products Co., and Willamette Industries, Inc. to avoid uneconomic bypass.

2. This resolution conditionally approves the three long-term contracts.

BACKGROUND

1. On July 20, 1992, Southern California Gas Company (SoCalGas) filed Advice Letter (A.L.) 2126 requesting approval of three long-term, firm intrastate gas transportation service contracts with Sithe Energies, Inc. on behalf of E. F. Oxnard, Inc. (E.F. Oxnard), Procter and Gamble Paper Products Co. (P&G), and Willamette Industries, Inc. (Willamette) to avoid uneconomic bypass.

2. E. F. Oxnard, Procter and Gamble, and Willamette (Customers) operate cogeneration facilities in the Oxnard area of Ventura County. Their facilities are located approximately ten (10) miles from Atlantic Richfield Company's (ARCO) Cuyama-Casitas pipeline. This pipeline currently runs from North Coles Levee across the Kern-Mojave pipeline in the San Joaquin Valley south towards Southern California Edison Company's (Edison) Mandalay generating station. The ARCO pipeline represents a bypass option of intrastate utility service for the customers.

3. **BYPASS:** ARCO's pipeline does not presently connect with the Kern-Mojave pipeline, however it does cross at Maricopa, California. ARCO has offered to provide the customers with transportation capacity at less than 1.5¢/therm with an equity ownership share in the pipeline. The customers would need to build a 10 mile spur from the Mandalay point to their facilities.

The customers originally planned to construct their own pipeline spur, fully bypassing SoCalGas. However, just prior to this step, they informed SoCalGas of their bypass opportunity and proposed that SoCalGas build the spur line interconnecting their facilities to the ARCO pipeline. In December, 1991, the customers informed SoCalGas that their review of the potential for service off of the ARCO pipeline had been ongoing for almost 2 years. SoCalGas reports that the customers had already commissioned engineering feasibility and costing studies on the construction of their own interconnection, the Channel Islands Gas Pipeline, and had prepared legal review of the regulatory and jurisdictional issues associated with the proposed interstate and intrastate service from the combined Kern-Mojave and ARCO pipelines.

According to SoCalGas, the only major obstacle for the customers was obtaining the local government approvals for pipeline construction. The customers represented that the local governments were very supportive of the proposed project, especially in light E.F. Oxnard and Willamette's plans to build a desalination facility. This plan would reduce the water demand of the facilities and would increase demand 8 millions of cubic feet per day (MMcfd). Morrison and Foerster, representing the customers, has provided the Commission with a letter narrating the steps taken by the customers to develop their bypass alternative.

SoCalGas countered the customers' proposal, negotiating and executing three long-term contracts, which it believed necessary to prevent uneconomic bypass of the SoCalGas intrastate system and to retain marginal revenues that would otherwise be permanently lost. The terms of the proposed contract are summarized in Attachment 1 of this resolution. The contract provisions also extend to any new or additional plant facilities within 2.5 miles of the ARCO pipeline or the spur.

SoCalGas estimated the existing ARCO line capable of delivering 45 MMcfd at 250 pound per square inch (psig) at the Mandalay terminus. SoCalGas also estimated that construction of the spur to be approximately $9 million, or 1.6¢/therm for the customers' combined loads. The total customer's cost of bypass is estimated at 3.12¢/therm, approximately a 65% savings over the current cogeneration tariff rate.

4. **RATES:** Generally, SoCalGas has contracted with the customers to provide discounted intrastate firm transmission

service from SoCalGas' intertie with Kern-Mojave pipeline at Wheeler Ridge to the customers' facilities. The negotiated rates are in two tiers:

P&G		
Tier I Rate	3.7¢/therm,	to 182,500 Therms/day
Tier II Rate	1.8¢/therm,	over 182,500 Therms/day
Minimum Bill[1]	$1,714,852	
E.F. Oxnard		
Tier I Rate	3.5¢/therm,	to 57,500 Therms/day
Tier II Rate	1.6¢/therm,	over 57,500 Therms/day
Minimum Bill	$511,000	
Willamette		
Tier I Rate	3.5¢/therm,	to 66,909 Therms/day
Tier II Rate	1.6¢/therm,	over 66,909 Therms/day
Minimum Bill	$594,618	

The Tier I rates apply up to 115% of the customer's historical peak day load volumes and are based on an estimate of the cost of transportation over the ARCO pipeline and including the construction of the 10 mile pipeline spur necessary for the bypass. Provisions are also made for balancing and storage. SoCalGas asserts these rates are above SoCalGas' estimates of the long run marginal cost (LRMC) of serving cogeneration customers at $0.02664 and of system average short run marginal cost (SRMC) at $0.00469. The 0.2¢/therm differential between the rates for E.F. Oxnard and Willamette and the rates for Procter and Gamble is due to the estimated value of the increased pressure SoCalGas currently provides P&G over what would have been provided under the bypass alternative.

The Tier II rates were designed to charge the customer an amount equal to what the cost of gas transportation on the spur would have been had the customers built their own interconnecting pipeline under the ARCO arrangement. These rates are set to capture the proposed additional loads anticipated with the planned 1998 construction completion of the desalination facilities. They would also apply to any facilities expansions beyond the 115% of the contract quantities. SoCalGas asserts that these costs are greater than SoCalGas' incremental cost of serving existing customers using short run marginal costs (SRMC).

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1 Minimum Bill Obligation (MBO) for each Contract Year, for transportation services under the Contract. MBO is based on the 1991 contract quantities under Customer's Short Term Gas Service Agreement times 2.96¢/therm.

The customers are also subject to an annual minimum bill obligation. In addition, twenty-five percent of the Tier I and Tier II rates will be escalated annually by a factor equal to the increase in SoCalGas' non-labor operations and maintenance expense.

5. **TERM:** The initial Contract term is Five (5) years with automatic one year extensions thereafter until December 31, 2012 (a total of twenty years). After the initial five-year term, the Contracts are subject to cancellation by the customer at the end of any Contract Year on six months' prior notice.

6. **SHORT-TERM CONTRACTS:** In lieu of Commission approval of the long term contracts addressed under this resolution, SoCalGas executed short-term agreements with the customers for Service Level 3 service at discounted rates for a four year, eleven month term. The agreements were submitted to the Commission Advisory and Compliance Division, Energy Branch (CACD) on May 28, 1992. These agreements became effective on August 1, 1992 for P&G and Willamette, and for E.F. Oxnard, will be effective upon the expiration of its current Service Level 2 contract. The negotiated rates for these contracts are:

P&G		
Service Level 3	2.95¢/therm,	182,500 Therms/day
Service Level 5	1.85¢/therm,	182,500 Therms/day
E.F. Oxnard		
Service Level 3	2.70¢/therm,	57,500 Therms/day
Service Level 5	1.60¢/therm,	57,500 Therms/day
Willamette		
Service Level 3	2.70¢/therm,	66,900 Therms/day
Service Level 5	1.60¢/therm,	66,900 Therms/day

7. **ARCO LEASE:** On September 25, 1992, SoCalGas notified the Commission it was negotiating a pipeline lease agreement with ARCO, subject to Commission approval and satisfaction of other conditions, for the ARCO pipeline. As of December 1, 1992, no lease has been filed with the Commission. The details of this lease, if executed, will be filed by SoCalGas under a future application. On October 1, the Division of Ratepayer Advocates (DRA) requested that CACD delay its review of Advice Letter 2126 until DRA could review the lease and make a re-evaluation of the bypass contracts in light of these changed circumstances. This request was supported by correspondence received from the Southern California Utility Power Pool (SCUPP) on October 12, 1992. In a response to the DRA request, SoCalGas requests that the Commission consider Advice Letter 2126 in context with the circumstances existing at the time the contracts were executed. Morrison and Foerster, representing the customers, remarks that the customers would expect the Commission to evaluate the

contracts on their merits, apart from events external to those that formed the basis of the contracts. However, the Commission has recently been informed by SoCalGas that the negotiations on the proposed lease are not currently moving forward.

8. **DATA REQUESTS:** CACD requested additional and correcting information from SoCalGas to complete its review of Advice Letter 2126. These requests were met by an October 27, 1992 response, except information concerning the ARCO lease which has yet to be filed.

NOTICE

1. Public notice of Advice Letter 2126 was provided by publication in the Commission's Daily Calendar and by SoCalGas mailing copies to other utilities, governmental agencies, and to all interested parties who requested notification.

PROTESTS

1. Protests to SoCalGas' advice letter were filed by DRA, SCUPP, Toward Utility Rate Normalization (TURN), Berry Petroleum, Inc. (Berry), and Nabisco, Inc. (Nabisco). SoCalGas responded to all under one response dated August 21, 1992.

2. The protestants raise the following arguments:

   (1) The Contracts will not result in a positive contribution to margin; (TURN, DRA)

   (2) SoCalGas should have pursued other alternatives to avoid uneconomic bypass; (TURN)

   (3) The customer's bypass opportunity with ARCO may require Commission approval; (TURN)

   (4) The negotiated contracts deviate from standard service offerings under SoCalGas tariffs and Commission decisions; (Nabisco, TURN, Berry)

   (5) SoCalGas does not have the ability to terminate the contracts after 5 years; (TURN, DRA)

   (6) SoCalGas shareholders should assume the financial risk associated with its attempt to retain revenue for the benefit of all ratepayers; (TURN)

   (7) These contracts should not be approved until SoCalGas negotiates a contract with certain other parties; (Nabisco, Berry)

(8) The three contract customers should be required to sign Facility Amortization Agreements; (SCUPP) and

(9) Because Line 225 is constrained, it may be more cost effective to let customers bypass the SoCalGas system. (SCUPP)

3. The protestant's arguments and SoCalGas' responses are condensed below, in the same order.

(1) The Contracts will not result in a positive contribution to margin.

DRA argues that using its calculations of class-average long run marginal costs (LRMC), the proposed contracts do not recover sufficient revenues to provide ratepayer benefits. Even if SoCalGas' marginal costs are used, DRA states that there is little assurance that the contracts will cover SoCalGas' marginal cost of service over the life of the contracts. TURN echoes DRA's protest declaring that the discounts offered are too large and will result in subsidized service at rates that are less than the LRMC to serve these customers. DRA suggests that the contract should have a floor price at a Commission approved LRMC and that a weighted-average Tier I and Tier II price should not fall below Commission-approved LRMC.

In addition, TURN asserts that because only 25% of the rates are subject to escalation, it is unclear that the contract rate will cover the cost of service over the 20-year life of the contracts. TURN argues that SoCalGas must demonstrate that the bypass would be uneconomic over the entire term of the contract, or else it should be required to shorten that term.

TURN also argues that the Tier II rates do not begin to cover LRMC and that SoCalGas is wrong in asserting that "incremental" usage need only cover short-run marginal cost (SRMC). TURN believes that the Tier II rates should be priced at LRMC, not SRMC, because the contracts commit SoCalGas to serve additional customer loads in the same geographic area on a firm basis and the loads are long term in nature. DRA suggests that a more prudent rate design could be imposed requiring a floor price to ensure that the weighted average price of the two-tiered, declining block rate does not fall below LRMC over the life of the contracts. Alternatively, DRA believes the Commission could require that the Tier II volumes should be considered interruptible and subject to any curtailment provisions that may be adopted by the Commission.

SoCalGas replies that when it faced these customer's likely intent to leave the SoCalGas system at a time when there were no adopted LRMC figures, it worked within existing Commission guidelines to negotiate discount contracts to avoid uneconomic bypass using the best information available. SoCalGas submits that the negotiated contract Tier I rates of 3.5 and 3.7¢/th are clearly greater than the best then-available information concerning the cost of service for the cogeneration class and provide a premium of approximately 31% and 39% above this cost of service.

SoCalGas provided CACD a series of tables using various assumptions and narrative to demonstrate that it will recover sufficient revenues to more than offset the cost of service under varying inflation rates. Based on six different scenarios ranging from historical throughput only to full expansions including the desalination facility, SoCalGas expects to receive between $37.2 and 42.5 million (1992/$) in revenues over the 20-year period from these contracts. Using non-labor inflation indices from both DRA and National Manufacturers Producer Price Index (MPPI), SoCalGas calculates that the contracts will produce a positive contribution to margin of between $1.4 and $15 million net present value, using SoCalGas' expected LRMC calculations, on a group-specific basis (customer-specific), escalated by either DRA's or MPPI's inflation rates.

SoCalGas states that it was required to offer the customers an incremental Tier II rate in order to present a proposal which offered service equivalent to that which was available from the bypass option. Without providing the incremental Tier II rate reflected in these contracts, SoCalGas believes that it would not likely have been able to negotiate an agreement.

(2) SoCalGas should have pursued alternatives to avoid uneconomic bypass.

TURN poses the argument that it would be far less expensive for ratepayers if SoCalGas would simply purchase the ARCO line, rather than offering large rate discounts to customers who might potentially use the line for bypass purposes. SoCalGas ratepayers would pay about $3 million to ARCO, avoiding $12 million or more in rate discounts, and would also receive the use of the line, with likely operational advantages and related cost savings.

SoCalGas replies that to retain this load and avoid uneconomic bypass, SoCalGas was required to act promptly. However, SoCalGas also reports that it had been investigating the purchase or lease of the ARCO pipeline system for its operations, concluding that a lease of the pipeline system would provide flexibility to its service in the San Joaquin Valley and the Coastal region. At the time of its negotiations with the customers, SoCalGas reported it was involved in negotiations for a lease of this pipeline system, but that the parties had not been able to reach an agreement.

SoCalGas submits that regardless of the outcome of its lease negotiations, SoCalGas and the contract customers acted in good faith in negotiating contracts which would prevent uneconomic bypass and that the customers should not be denied the benefit of their bargain.

(3) The customers' bypass opportunity with ARCO may require Commission approval.

TURN criticizes that SoCalGas fails to address the legality of the arrangement between ARCO and its potential pipeline customers. According to TURN, SoCalGas has assumed that ARCO can lawfully provide service to multiple customers without a Certificate of Public Convenience and Necessity (CPCN) from the Commission because the customers would assume an equity share in ownership of the pipeline.

Based upon its legal research, SoCalGas believes that were these customers to bypass the SoCalGas system under their proposal, there would be no basis for concluding that ARCO would be operating the ARCO pipeline as a public utility facility, and that neither SoCalGas nor the Commission would be able to force ARCO to apply for a Hinshaw exemption so as to subject this pipeline to Commission jurisdiction. In summary, SoCalGas concludes that even if the Commission were to require ARCO to obtain a CPCN, this would not necessarily prevent bypass of SoCalGas' system.

(4) The Negotiated Contracts Deviate from Standard Service offerings under SoCalGas Tariffs and Commission Decisions.

TURN argues that the submitted contracts offer firm service at discounted rates and do not include the Interstate Transition Cost Surcharge (ITCS), contrary to Decision (D.) 91-11-025. TURN further charges that these contracts do not provide for payment of the California Public Utilities Commission (CPUC) Surcharge.

SoCalGas asserts that these contracts constitute necessary deviations from standard contract offerings under Commission decisions and SoCalGas' tariffs for which SoCalGas now seeks Commission approval. Through its advice filing, SoCalGas believes it has demonstrated that discounting of firm service at rates which do not include the ITCS or the CPUC Surcharge was required in order for SoCalGas to make an offer which was competitive with the uneconomic bypass proposal available to these customers.

SoCalGas replies that these customers would have received firm service through their bypass option, and as a result, SoCalGas was required to negotiate a contract which offered the same quality of service at competitive rates. SoCalGas states that it has obtained a premium of 13% (for E.F. Oxnard and Willamette) and 19% (for P&G) over the estimated bypass rate. It should also be noted that firm intrastate service under these contracts is only applicable to gas that is delivered to the SoCalGas system through the Wheeler Ridge Interconnect on a firm basis.

In addition to obtaining a rate premium over the customer's bypass alternative, SoCalGas has also negotiated a minimum bill obligation more favorable than that required under D.91-11-025 for firm intrastate service. These contracts provide for a minimum bill obligation equal to 80% of the transportation rate for 100% of the customers' 1991 contract quantities under their short-term gas service agreements.

(5) SoCalGas does not have the ability to terminate the contracts after 5 years.

DRA and TURN argue that the contracts' term is unbalanced, for the customer can cancel on 6 months notice anytime after the first 5 years, but SoCalGas is be barred from doing the same. DRA adds that if the rights were equal, it would reduce the degree to which SoCalGas would be forced to sell below cost in future years.

SoCalGas replies that the 20-year commitment it made was necessary to match the customers' bypass alternative and to retain a positive contribution to margin. SoCalGas adds that the 5-year "escape clause" was designed to allow the customers sufficient flexibility to pursue other competitive opportunities in order to avoid hindering the development of a competitive market for intrastate transportation. SoCalGas states, however, that these customers have indicated that they have every intention of remaining on the SoCalGas system for the entire term of the contract.

(6) SoCalGas shareholders should assume the financial risk associated with its attempt to retain revenue for the benefit of all ratepayers.

TURN argues that if the Commission approves the contracts, the shareholders should be required to bear the resulting revenue shortfalls between the date that the contracts take effect and the date when the next Biennial Cost Allocation Proceeding (BCAP) rates are adopted. In this way, the utility will not be risking ratepayer money when it negotiates rate discounts in advance. In addition, if the Commission concurs with TURN's views about the long-term contracts, it should also direct that the revenue shortfalls arising from the short-term contracts will not be reflected in BCAP rates until those agreements have undergone appropriate reasonableness review.

SoCalGas believes that the Commission presently has all the information required to decide the reasonableness of these contracts and that it would be unfair to put SoCalGas at risk for the revenue shortfall during this interim period of time. SoCalGas argues that it would be inequitable to force the utility to absorb the "revenue shortfall", because the contracts generate revenues and a contribution to margin, which would not otherwise exist.

(7) These contracts should not be approved until SoCalGas negotiates contracts with certain other parties.

Nabisco argues that it is in a similar position to that of the customers in the Oxnard area and should be entitled to the same rate relief. Nabisco states that denial of such parallel treatment of Nabisco's Oxnard facility would violate SoCalGas's obligation not to discriminate between its customers. Nabisco warns that the Commission should be aware of the bypass concerns of Nabisco and any similarly-situated parties before approving the contracts proposed in the filing.

Berry argues that approval of these contracts is discriminatory by treating similarly situated customers differently. Berry also argues that the proposed contracts exacerbate violations of the curtailment provisions in Berry's long-term transportation contract, because SoCalGas proposes to execute new contracts with the same curtailment policies that SoCalGas will not honor in its existing agreement with Berry. Berry adds that SoCalGas has failed to renegotiate the Berry contract in good faith as required by D.92-02-042 and D.92-02-043, when Berry also has direct access to the Kern River pipeline.

SoCalGas submits that Nabisco and Berry's contentions are irrelevant to approval of the contracts submitted under Advice Letter 2126. SoCalGas restates that it has negotiated discount contracts pursuant to Commission guidelines which are permissible to avoid the threat of uneconomic bypass. SoCalGas argues that it has performed extensive analyses of the feasibility of bypass, cost of bypass, cost of service, and many other variables applicable to these customers, which may or may not be applicable to Nabisco and does not appear to be applicable to Berry.

SoCalGas states, however, that it remains willing to negotiate discount contracts under Commission set guidelines in order to avert the threat of uneconomic bypass where that threat exists. SoCalGas also states that it will offer similar contracts to similarly situated customers if directed to do so by the Commission.

(8) The three contract customers should be required to sign Facility Amortization Agreements (FAAs).

SCUPP argues that SoCalGas has proposed and the Commission has required under D.92-06-053 a Facilities Amortization Agreement (FAA) from firm shippers at the Wheeler Ridge interconnection, but that these three contracts do not require the shippers who deliver gas to the cogenerators to have such agreements. The FAA includes a Minimum Bill Obligation (MBO) requiring shippers to use the SoCalGas facilities at levels sufficient to generate revenues to amortize the investment over 15 years or to pay the difference between actual usage and the recovery threshold level. SCUPP asks that the Commission reject the bypass contracts as inconsistent with SoCalGas proposals, or condition approval upon the execution of an FAA for providing firm transmission service through the Wheeler Ridge interconnection.

SoCalGas replies that on page 4 of the contracts, firm intrastate service to these customers is expressly conditioned upon these customers receiving gas from shippers who have signed the FAA. In this regard, the contracts provide as follows:

> "SoCalGas will provide Customer's transportation service herein on a firm basis if Customer's transportation gas is being delivered into the SoCalGas utility system at the Points of Receipt by a shipper pursuant to an effective FAA or other comparable agreement reasonably acceptable to SoCalGas which provides firm access at the Points of Receipt."

In addition, SoCalGas notes that the Proposed Decision in the Kern-Mojave Interconnect proceeding (A.90-11-035) rejects the FAA.

(9) Because Line 255 is constrained, it may be more cost effective to let these customers bypass the SoCalGas system.

SCUPP presents arguments suggesting that the three contracts may represent an instance of "economic" bypass rather than uneconomic. SCUPP notes that SoCalGas has proposed in two applications (A.90-11-035 and A.92-04-031) the addition of compressors at Wheeler Ridge and of pipeline looping along Line 255 to facilitate transportation of gas from Kern-Mojave and the PGT/PG&E expansion project at a cost of over $50 million. SCUPP reasons that absent the volumes of these cogeneration customers and others which might be able to transport gas using the ARCO pipeline (up to 50 MMcfd), the need for the $50 million in system upgrades would be reduced.

SoCalGas argues that service to these customers is not tied to Line 225 and that it will incur construction costs even if these customers bypass the SoCalGas system. SoCalGas remarks that while it is true that the customers' gas being shipped on Kern-Mojave will enter SoCalGas system at the Wheeler Ridge

Interconnect on Line 225, these customers are currently served through existing SoCalGas facilities. SoCalGas argues that a portion of these existing facilities would be unutilized or underutilized if this bypass is allowed to occur and that it is "economic" for SoCalGas to continue to provide service to these customers.

4. In addition to its protest, DRA makes specific recommendations to the Commission, should it decide to approve the advice letter filing:

(a) "DRA believes that it should have the opportunity to review the prudence of both the short-term and long-term contracts in future reasonableness reviews."

(b) "The economics of bypass are significantly affected by the Commission's policy on noncore rate design including standby rates. DRA recommends that the Commission move expeditiously toward the adoption of standby rates that would be imposed on bypassers. (sic)"

(c) "The Customers are all cogenerators and if they bypass the SoCalGas system or receive gas from SoCalGas under the terms of the proposed contracts, they will purchase gas for less than the average price Southern California Edison Company pays. This is evidence that the Legislature's and Commission's gas parity rules are outmoded."

DISCUSSION

1. CACD has reviewed Advice Letter 2126 for compliance with Commission policies set forth in previous decisions and resolutions. D.86-12-009 requires that long-term (5 years or more) noncore gas transportation agreements be submitted by advice letter for Commission approval and D.87-03-044 requires the utilities to submit short-term contracts to CACD for the purpose of public availability.

2. In D.89-10-034 and D.89-12-045 the Commission has outlined an anti-bypass policy to encourage natural gas utilities to negotiate transportation discounts with customers who have the economic incentive to bypass the utilities' systems. The Commission requires a strong showing of the following criteria when approving discounted rates and the resulting cost shift to other ratepayers:

(a) The utility must support the credibility of the customer's bypass threat;

(b) The utility must demonstrate that bypass would be uneconomic for ratepayers as a group; and

(c) The utility must show that the agreement reaches the highest rate that could be negotiated with the customer.

3. SoCalGas requests the Commission to approve these contracts in advance of pending proceedings directly affecting future negotiations of contracts subject to bypass. These proceedings include applications for an expedited application docket process (EAD) by both SoCalGas and Pacific Gas and Electric Company (PG&E) to review submitted bypass contracts, the gas long run marginal cost proceeding, pipeline expansion proceedings, implementation of capacity brokering, and a proposed OII/OIR on gas regulatory reform.

4. To address the issues raised under Advice Letter 2126 in absolute isolation from the current climate is not possible, but CACD believes the Commission must guard against the changed circumstances faced by these customers. These particular customers may have had their opportunity to bypass evaporate in the form of a lease between SoCalGas and ARCO. It is clear that time will not wait. The Commission should not delay, but should proceed under the caveat that it will not preclude any of the relevant, outstanding gas proceedings. CACD believes that Commission deferral of a decision today until the completion of those proceedings only serves to aggravate an already difficult situation.

5. <u>Bypass Viability</u>

The initial question posed by Advice Letter 2126 is whether or not Procter & Gamble, E.F. Oxnard, and Willamette had a viable bypass threat. In its letter to the Commission, Morrison and Foerster described the actions and investments taken by the customers to secure their bypass alternative during 1990 and 1991. These steps included a draft agreement negotiated with ARCO, issuance of contracts awarded under Requests for Proposals for environmental and engineering consultation, the development of lease documentation for railroad right-of-way for the spur construction, and specific meetings with the City of Oxnard concerning permitting requirements for the spur. According to Morrison and Foerster, all of these actions occurred prior to the customers approaching SoCalGas to build the spur to the ARCO pipeline.

In its advice letter filing, SoCalGas has provided independent, supportive documentation and maps outlining the path of the spur and that of the ARCO pipeline and has also developed engineering studies to verify the construction estimates for the spur. Their estimate came to approximately $9 million, or 1.6¢/therm for the customers' combined load. CACD believes that at the time of contract negotiations the parties had a viable bypass threat and that SoCalGas has met the first criteria in its support of the customers' bypass credibility.

At the time of the negotiations, the customers insisted on also signing short-term contracts to leverage against the risk that the long-term contracts would not be approved by the Commission and against the risk of foregoing their opportunity to bypass. In late September 1992, after the submittal of Advice Letter 2126, SoCalGas reported that it had entered into negotiations for a lease with ARCO, which, if successful, would effectively remove the customers' original bypass opportunity. SoCalGas has not yet submitted an application to the Commission for approval of the lease, and the latest information received by the Commission indicates that negotiations may have stalled.

While SoCalGas' action of signing a lease with ARCO would undermine the current viability of the customers' bypass option, this has not yet occurred and may not occur. Under these circumstances, CACD believes that a fair consideration of the contracts should be made in context of the circumstances existing at the time the contracts were signed.

6. <u>The Negotiated Rate</u>

When the utility negotiates a contract, it should bring to the bargaining table all the best information at hand. Unfortunately an LRMC decision has not been issued and, therefore, there is no established floor with which to compare expected revenues and to quantify margin contribution. The ultimate choice SoCalGas presents this Commission is one between:

- The short-term contracts, where the Tier I rates are priced below SoCalGas' estimated bypass costs, but are just above SoCalGas' class-specific estimate of LRMC, and

- The long-term contracts, where the Tier I rates are greater than SoCalGas' estimated bypass costs and are above SoCalGas' estimate of LRMC.

SoCalGas based its rate negotiations using a combination of its class-specific and customer-specific LRMC estimates submitted as testimony in the LRMC proceeding, as well as its costing estimates of the spur and the customers' ARCO transportation offer to develop the Tier I rate. The Tier II rate is priced to capture the cost of the spur construction. The total customers' cost of bypass is estimated at 3.12¢/therm. The negotiated Tier I rates are higher than this estimated bypass cost, at 3.5 and 3.7¢/therm. SoCalGas asserts that it negotiated the contracts with these customers using the best information available at the time.

Since the negotiated Tier I rates apply to 115% of the customers' highest daily throughput, a higher contribution to margin will be retained in the near term if the Commission approves the long-term contracts over the short-term contracts.

7. <u>Terms and Conditions</u>

CACD is concerned by the questions the protestants have raised as to whether all of the relevant costs and contract terms have been considered and if they have been correctly quantified. Certain problems do exist with the contracts. These include:

-Lack of ITCS surcharge
-Lack of CPUC surcharge
-Discrimination
-Economic Alternatives

Under the contract terms, TURN notes that the long term contracts omit the ITCS, contrary to D.91-11-025, and also the CPUC surcharge. SoCalGas argues that these omissions were necessary to provide the customers with an offer competitive to the bypass alternative.

The ITCS is a transition cost anticipated under the Capacity Brokering decision calculated as a volumetric surcharge applicable to noncore customer services and shall serve to recover various interstate pipeline costs. It is not subject to discounting.

CACD is concerned that the imposition of these surcharges, in particular the unquantified ITCS, could easily cause these customers to bypass, taking their margin contribution with them. The Commission has established the long-term contracting mechanism to avert uneconomic bypass. Application of surcharges above a rate negotiated to be competitive with a customer's bypass opportunities defeats the purpose of the anti-bypass contract policy.

The ITCS is, as yet, not in effect because capacity brokering rules are not in effect. Capacity brokering rules will not become effective until the Federal Energy Regulatory Commission adopts the program. In view of this, CACD recommends that the Commission not condition approval of these contracts with the imposition of these charges at this time, but possibly apply them prospectively, consistent with capacity brokering rules, when they go into effect. Meanwhile, the application of the ITCS in cases of uneconomic bypass may require the Commission's reconsideration.

DRA and TURN argue for striking a balance in the contract term so that SoCalGas has parallel opportunities to cancel the contracts. They recommend that SoCalGas should also be able to cancel the contract after 5 years upon 6 months notice. CACD recommends that the customers should be able to retain this flexibility to counter SoCalGas' market behavior, as demonstrated by its lease negotiations with ARCO. This provides a fair balance to SoCalGas' presence in the marketplace and should be left unchanged.

TURN also recommends that Commission approval of the contracts (either the long-term or the short-term) should condition that shareholders bear the resulting revenue shortfalls between the date the contracts take effect and the date when the next BCAP rates are adopted to avoid risking ratepayer monies in advance. SoCalGas argues that to do so would be inequitable because the contracts generate revenues which would not otherwise exist. To date, the Commission has not adopted TURN's argument for this sort of rate treatment in any of its previous decisions. Although there is merit in the recommendation, CACD recommends that this issue be addressed under SoCalGas' BCAP, where it can be evaluated properly in context with other rate issues.

Both Nabisco and Berry argue that these contracts should be approved contingent upon SoCalGas' negotiating similar contracts with them. CACD believes that these arguments are spurious to the issue at hand. SoCalGas states it is willing to negotiate discount contracts under Commission set guidelines and that it will offer similar contracts to similarly situated customers if directed to do so. CACD believes that existing Commission policy and policies that will emerge from the future EAD and reform proceedings will incorporate sufficient guidelines to protect the interests of these customers and others.

Finally, SCUPP recommends that these customers execute an FAA for the provision of firm service through the Wheeler Ridge interconnection. CACD believes this issue is moot, because the long term contracts contain a clause incorporating the FAA, should the Commission adopt it under A.90-11-035.

8. <u>Alternatives</u>

TURN recommends that SoCalGas should have pursued alternatives to avoid the bypass posed by these customers, suggesting that SoCalGas either purchase or lease the ARCO pipeline. SCUPP recommends that SoCalGas let these customers move to the ARCO pipeline rather than expand its system along Line 225. SCUPP suggests that these customers contribute to the Line 225 constraints and that absent these customers, SoCalGas might not need to spend as much on system upgrades.

As has been discussed above, if negotiations of the lease with ARCO are successful, a by no means foregone conclusion, SoCalGas will have precluded these customers' bypass opportunity. CACD believes that although SCUPP's issue appears reasonable, SoCalGas' response points out the flaw in SCUPP's logic -- that the absence of these customers from the constrained Line 225 would not be sufficient to prevent the incurrence of the planned construction upgrades.

DRA's additional comments outlined in its protest above were listed to provide the Commission with as complete a record as possible for the evaluation of Advice Letter 2126. CACD believes that these comments have merit, but are outside of the scope of this resolution.

9. <u>Economic/Uneconomic Bypass</u>

An essential anti-bypass contract criterion is to determine whether the proposed contracts are needed to avert uneconomic bypass. Economic bypass occurs when a customer's cost to bypass a utility's system is less than the marginal cost needed for the utility to serve this customer. Allowing the customer to bypass would be economic to the utility's ratepayers since no positive contribution could be made if the utility, in order to compete with the customer's cost to bypass, had to offer a negotiated rate which was below the marginal cost to serve the customer.

Uneconomic bypass occurs when a customer leaves the utility system even though the cost of the bypass is greater than the marginal cost of utility service. If the bypass were allowed to go forth it would be uneconomic to the utility's ratepayers, who might still receive some positive contribution if the customer stayed on the utility system and paid a rate less than or equal to the cost to bypass, but still higher than the utility's marginal cost.

In evaluating whether the bypass would be economic or uneconomic for SoCalGas ratepayers, CACD must rely upon D.86-12-009, which set forth guidelines on implementing rate design for unbundled natural gas utility services. In this decision, the Commission stated:

> "Natural gas rate design for the 'noncore' market segment is to be determined primarily by contract negotiation between the utilities and their noncore customers, within a band of flexibility ranging from a ceiling of long-run marginal cost down to a floor of short-run marginal cost..." and,
>
> "... that the negotiated transmission rates specified in long-term contracts should never fall below the utilities' short-run marginal cost during the time period up until the utility forecasts a need to construct additional capacity. After the point at which capacity additions are projected to be necessary, the floor transmission rate should be long-run marginal cost. This is simply good business judgement and sound economic policy. (D.86-12-009, page 68)

In today's climate, California utilities are now applying for additions and expansions to their systems to meet expanded and new interstate pipeline systems entering the state. The additional pipeline capacity now entering California was fostered by the Commission in the interest of providing increased gas competition for the California market and to meet additional demand for capacity. As a consequence, ratepayers will be facing increased rates in the form of stranded costs due to customers leaving the utility systems for the new pipeline construction which has been or is near completion. Long run marginal costs are the appropriate benchmarks to use at this time.

SoCalGas has used estimates of class-specific and customer-specific marginal cost components. Since no certain methodology has been adopted nor have any specific forecasts been adopted, CACD cannot validate whether the methodology employed by SoCalGas or the cost components used are correct, or that they will result in a positive contribution to margin over the life of the contracts. However, D.89-10-034 states that if LRMC numbers are not available, other forecasts may be used. CACD recommends that if the Commission agrees that the customers had a viable bypass threat and that SoCalGas negotiated rates using the best information available at the time, then the contracts should be approved providing they produce a positive contribution to margin. Under this condition, ratepayers are held indifferent and the potential lost load and positive margin contribution is retained.

SoCalGas believes that it will achieve a positive contribution to margin over the life of the contracts. But this belief is predicated on its estimates of class-specific and customer-specific LRMC and includes the unconsidered, "incremental" rates developed by SoCalGas for the contracts' Tier II rates.

It appears that the customers had a viable bypass threat in hand prior to their contract execution. However, with the possibility of a viable lease by SoCalGas of the ARCO pipeline, their opportunity of achieving full bypass is put in doubt. Given the uncertainty of whether the bypass is economic or uneconomic, CACD recommends that the Commission attach specific conditions to approval of these contracts to insure that ratepayer harm is avoided, that the utilities can conduct future contract negotiations with flexibility to avert uneconomic bypass, and that other customers in similar positions can be assured that the Commission will endeavor to retain their load in cases of uneconomic bypass. In D.89-10-034 the Commission stated:

> "The primary requirements for approval are convincing showings that substantial ratepayer benefits exist and that no better deal is possible for ratepayers. If the likelihood of substantial benefits over the life of the

> contract greatly outweighs the risk of subsidies paid by ratepayers, then special sales contracts should be approved unconditionally. The calculation of ratepayer benefits should explicitly consider the two uncertainties of bypass credibility and marginal cost forecast accuracy. It would be imprudent for the Commission to assume that every threat of bypass will be executed.
>
> If demonstrated benefits do not clearly establish ratepayer value, then we intend to condition approval of agreements. The form of such conditions will depend on the circumstances. Possibilities are imputed floor prices, such as the condition in Resolution G-2876, explicit floor prices, memorandum accounts to track benefits and subsidies, and so on.
>
> If special contracts are invalidated by such conditions or if no ratepayer benefits are found, then the burden is on the contracting parties to renegotiate to resolve the Commission's concerns or accept the risks themselves. So long as ratepayers are protected against unreasonable risks, we are indifferent to whether that risk winds up with the utility or the customer."

Any shortfall between the eventual adopted LRMC numbers considering customer specific estimates for SoCalGas and the prices in these contracts should be borne by SoCalGas. CACD cannot determine how the methodology will apply to these three contracts or the specific costing elements for this determination will be made under the LRMC proceeding. However, for the purposes of a clear direction, CACD recommends use of customer specific variables for these contracts due to the customers' particular locations relative to their bypass opportunity and due to the prevailing circumstances at the date and time the contracts were executed.

10. <u>Conditional Approval</u>

Before conditionally approving individual contracts, the Commission needs to consider gas bypass and negotiated contracts in a larger context and it is moving expeditiously to minimize these risks. CACD is aware that the Commission intends to conduct a generic investigation for gas reform and will also review individual contracts under an EAD process. However in light of the circumstances faced by these customers, CACD believes that any further delay may increase the possibility of additional lost margin contribution and load losses for the utility.

In the meantime, CACD recommends that the Commission conditionally authorize SoCalGas to carry out the terms of these long-term contracts. Approval of this advice letter should be conditioned on an accounting of the difference in margin contribution between the actual revenues received and the appropriate, future LRMC customer-specific figures adopted for SoCalGas. So long as the actual annual revenues produce a positive contribution to margin above a customer-specific LRMC, ratepayers are held indifferent. Any negative contribution to margin should be recovered by shareholders. SoCalGas must be held accountable for their analysis. Under these contracts, SoCalGas has taken steps to mitigate a loss of margin. While the Commission should share the company's desires to retain as much margin contribution as possible, CACD recommends that the Commission not impose an under-recovery of margin on captive ratepayers.

For ratemaking purposes, the contracts should be subject to any ratemaking framework that may evolve from the EAD and the proposed gas reform proceedings. The advice letter process is not the appropriate forum for considering the reasonableness of these contracts. Individual contract filings obscure the magnitude of the gas bypass problem facing the utilities and inhibits full participation of interested parties.

In Advice Letter 2126, SoCalGas has attempted to influence the Commission to change policy in an inappropriate forum. By General Order 96-A, Section X., a utility cannot make effective any deviation from Commission policy unless it first obtains Commission authorization to carry out the terms of such contract, arrangement or deviation. This request for authorization must be made by formal application in accordance with the Commission's Rules of Practice and Procedure, "... except that where the service is of minor importance or temporary in nature, the Commission may accept an application and showing of necessity by Advice Letter." Through the application process all interested parties have the opportunity to participate and the Commission will have the opportunity to more fully consider the effects of such a policy change.

Southern California Gas Company and any other gas utility seeking approval of contracts negotiated to avert uneconomic bypass should apply to the Commission by formal application under the EAD process pursuant to the Commission's Rules of Practice and Procedure. CACD believes that in the future, any request for authorization of similar contracts must be filed by formal application.

The long-term contracts provide that SoCalGas and the contractees may terminate the contracts should the Commission's findings establish modifications that are adverse and unacceptable to either party. Approval should be conditioned on the following:

1. The contracts should be subject to reasonableness review.

2. The difference between the actual margin contribution and the future adopted LRMC customer-specific variables for SoCalGas should be recorded in a memorandum account. Any annual under-recovery should be absorbed by shareholders.

3. Any under-recovery due to these contracts should be subject to the regulatory framework that will emerge from the generic reform investigation and rulemaking.

4. The Commission's approval of these contracts should have no precedential effect on any other bypass contract applications, the EAD proceeding, the long run marginal cost proceeding, or any future gas reform proceeding.

FINDINGS

1. E. F. Oxnard, Procter and Gamble, and Willamette operate cogeneration facilities in the Oxnard area of Ventura County.

2. The ARCO pipeline represents a bypass option of intrastate utility service for the customers.

3. ARCO has offered to provide the customers with transportation capacity at less than 1.5¢/therm with an equity ownership share in the pipeline.

4. The customers would need to build a 10 mile spur from the Mandalay point to their facilities.

5. SoCalGas negotiated and executed three short-term agreements and three long-term agreements with the customers, which it believed necessary to prevent uneconomic bypass of the SoCalGas intrastate system and to retain marginal revenues that would otherwise be permanently lost.

6. The total customer's cost of bypass is estimated at 3.12¢/therm.

7. The Tier I rates apply up to 115% of the customer's historical peak day load volumes and are based on an estimate of the cost of transportation over the ARCO pipeline and include the construction estimate of the 10 mile pipeline spur necessary for the bypass.

8. The Tier II rates were designed to charge the customer an amount equal to what the cost of gas transportation on the spur would have been had the customers built their own pipeline under the ARCO arrangement.

9. The initial contract term is 5 years with automatic one year extensions thereafter until December 31, 2012.

10. SoCalGas notified the Commission that it had entered into negotiations for a pipeline lease agreement with ARCO for the ARCO pipeline, which represented a major portion of the bypass opportunity for the customers. More recent information indicates the negotiations may have stalled.

11. SoCalGas has provided independent, supportive documentation and maps outlining the path of the spur and that of the ARCO pipeline.

12. SoCalGas has developed engineering studies to verify the construction estimates for the 10 mile spur.

13. SoCalGas has met the criteria of bypass viability in its support of the customers' bypass credibility.

14. Because more recent information indicates that the outcome of the lease negotiations is in doubt, consideration of the contracts should be made in the context of the circumstances existing at the time the contracts were executed.

15. The negotiated Tier I rates apply to 115% of the customers' highest daily throughput and under the long term contracts will provide a higher contribution to margin in the near term than under the short term contracts.

16. The ITCS surcharge will become effective under capacity brokering.

17. The contracts should not be changed to reflect a parallel term for cancellation.

18. The risk issue of revenue shortfalls occurring between the effective date of the contract and the date when the next BCAP rates are adopted should be addressed in SoCalGas' next BCAP.

19. The long term contracts contain a clause incorporating the FAA should it be adopted under A.90-11-035.

20. The absence of these customers from the constrained Line 225 would not be sufficient to prevent the incurrence of the planned construction upgrades.

21. Long run marginal costs are the appropriate benchmarks to use for the floor at this time.

22. No certain long run marginal cost methodology or costs have been adopted at this time for SoCalGas.

23. It cannot be determined if the contracts will provide a positive contribution to margin over 20 years.

24. The long term contracts should be approved providing they produce a positive contribution to margin.

25. Approval of the contracts should be contingent on SoCalGas accounting for the difference in margin contribution between the actual revenues received and the appropriate, future LRMC customer-specific variables adopted for SoCalGas.

26. Any negative contribution to margin should be recovered by shareholders.

27. The contracts should be subject to any ratemaking framework that evolves from the EAD and the proposed gas reform proceedings.

28. The contracts should be subject to reasonableness review. The Advice Letter process is an inappropriate forum for considering the reasonableness of bypass contracts.

29. Approval of the long-term contracts should have no precedential affect on any other bypass contract applications, the EAD proceeding, the long run marginal cost proceeding, or any future gas reform proceeding.

THEREFORE, IT IS ORDERED that:

1. Southern California Gas Company Advice Letter 2126 and the long term contracts contained therein is approved under the following conditions:

a. The contracts shall be subject to reasonableness review.

b. The difference between the actual margin contribution and the future adopted LRMC using customer-specific variables for SoCalGas shall be recorded in a memorandum account. Any annual under-recovery shall be absorbed by shareholders.

c. Any under-recovery due to these contracts shall be subject to the regulatory framework that will emerge from the generic reform investigation and rulemaking.

d. Approval of these contracts shall have no precedential effect on any other bypass contract applications, the EAD proceeding, the long run marginal cost proceeding, or any future gas reform proceeding.

2. Should the above conditions be acceptable to all parties, Southern California Gas Company shall submit a compliance advice letter filing.

3. This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 16, 1992. The following Commissioners approved it:

Neal J. Shulman

NEAL J. SHULMAN
Executive Director

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

ATTACHMENT 1

Summary of Contract Terms

1. Term. The initial Contract term is five (5) years with automatic one year extensions thereafter until December 31, 2012 (a total of twenty years) subject to cancellation by the customer at the end of any Contract Year on six months prior notice anytime after the initial five-year term.

2. Level of Service. Service shall be provided in accordance with the provisions of Rate Schedule GT-52 (or its equivalent successor). Accordingly, service shall be provided on a firm basis (Service Level 2) so long as the Customer's transportation gas is being delivered into SoCalGas' system at its Wheeler Ridge interconnection by way of firm access as recognized by SoCalGas.

3. Rates. The Customer shall pay a two-tiered rate and shall be subject to an annual minimum bill obligation. Twenty-five percent (25%) of the Tier I and Tier II rates will be escalated each year by a factor equal to the increase in SoCalGas' non-labor operations and maintenance expense.

4. Full Requirements. The Customers shall use natural gas service under the Contract for its full energy requirements under the Commission's provisions for full requirements service as adopted in D.90-09-089, dated September 25, 1990. In the event of alternate fuel use or bypass, the Customer shall be subject to the full requirements use-or-pay charge applicable to full requirements service under Rate Schedule GT-53.

5. Balancing Services. Transportation balancing service shall be provided in accordance with the provisions of Rate Schedule G-IMB with the exception that if the Customer experiences an unforeseen equipment outage or a Force Majeure event (as defined in the Contract) and notifies SoCalGas within three days of such event, then the Customer will be given the next succeeding month to balance deliveries and usage. In addition, the Customer shall receive daily balancing service at the applicable tariff rate in the event SoCalGas implements a non-discretionary, tariffed daily balancing service.

ATTACHMENT 1 (continued)

Summary of Contract Terms

6. Pipeline Charges. The Customer shall pay any and all charges specifically related to the Customer's use or lack of use of interstate pipelines under whatever contract the Customer has with such pipelines.

7. Other Charges. The rates, penalties, costs, or charges associated with the provisions described in Items (3) through (6) above are the only charges that shall apply to service under the Contract. Specifically, the Customer shall not be assessed any charges under SoCalGas' Rate Schedule G-SRF, "Surcharge to Fund CPUC Reimbursement Account", any transition cost charges, or any other surcharge, penalty, fee or additional charges of whatever nature.

8. Additional Load. The Contract provisions shall apply to any new or additional gas load to SoCalGas in a facility located within two and one-half (2.5) miles of the ARCO pipeline or the proposed Channel Island Pipeline System so long as the Customer either owns the facility, in whole or in part, or operates and has a financial interest in the facility.

9. Line Extensions. Any line extensions necessary to furnish service to new or additional facilities shall be made in accordance with SoCalGas' main and service extension rules with the exception that the extension allowance provided shall be calculated using the expected transportation quantities over a three year period multiplied by the then effective Tier II Rate.

10. Contract Modifications. As required by the provisions of Section X.A. of General Order 96-A, the Contract provides that it is subject to such changes or modification that the Commission directs in the exercise of its jurisdiction. The Contract provides, however, for its termination by either party on sixty (60) days' notice in the event the Contract or the rate design methodology therein is modified in a material way that is adverse and unacceptable to either party. The Contract also provides that in the event of its termination, the Customer shall be entitled to the economic benefits of the short-term service agreements discussed below.

ATTACHMENT 1 (continued)

Summary of Contract Terms

11. Short-Term Service Agreements. In D.96-12-006, the Commission authorized gas utilities to negotiate both long-term (five years or longer) and short-term (less that five years) contracts. Further, this decision provided that negotiated short-term contracts did not require prior Commission approval before becoming effective. In this decision, the Commission concluded that "The utilities should be allowed to negotiate individual rates within a zone of reasonableness for the noncore segment." (Conclusion of Law No. 3). As modified by D.87-03-044, the band of flexibility for negotiated rates was established as a range from a ceiling of embedded cost down to a floor of short-run marginal cost. (Ordering Paragraph 3).

Consistent with the Commission's provisions, SoCalGas executed short-term Gas Service Agreements with the long-term Contracts filed hereunder. These short-term agreements are for Service Level 3 service at discounted rates for a four (4) year, eleven (11) month term. For Procter & Gamble and Willamette, the short-term service agreements became effective for service on August 1, 1992. For E. F. Oxnard, the short-term service agreement becomes effective for service on the date its current Service Level 2 service agreement expires. When approved, the long-term Contracts will replace the short-term service agreements. In the event the Customers determine they are not receiving the full benefits of the short-term agreements because of Commission action, SoCalGas and the Customers agree to meet and negotiate new agreements which will (1) be in effect for the remaining term of the short-term agreements, and (2) provide the Customers with benefits equivalent to the short-term agreements.