

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I.D.#11754
RESOLUTION G-3479
December 20, 2012

R E S O L U T I O N

Resolution G-3479. Southern California Gas Company (“SoCalGas”) requests approval of waiver of billing undercharges for nine noncore customers.

PROPOSED OUTCOME: The California Public Utilities Commission (“CPUC” or the “Commission”) approves SoCalGas Advice Letter 4387 only to the extent that any waived GT-TLS undercharges are paid by SoCalGas shareholders rather than ratepayers.

ESTIMATED COST: N/A

By Advice Letter 4387 Filed On August 7, 2012.

SUMMARY

SoCalGas requests Commission approval of a one-time, non-precedential waiver of collection of undercharges from nine noncore customers that were incorrectly classified by SoCalGas as eligible for Transmission Level Service rates. The incorrect classification is estimated to result in approximately \$2.12 million loss in revenue to SoCalGas through February 2013 if SoCalGas were to waive its back billing rights. The CPUC approves SoCalGas Advice Letter 4387 only to the extent that any waived undercharges are paid by SoCalGas shareholders and not by ratepayers.

BACKGROUND

In Decision (“D.”) 09-11-006, the CPUC approved the settlement of the Phase Two issues in the 2009 Biennial Cost Allocation Proceeding (BCAP) submitted by SoCalGas, San Diego Gas and Electric (“SDG&E”), and other parties in Application (A.) 08-02-001. The settlement included the new GT-TLS rate schedule for transmission level rates, expanding upon SoCalGas’s Firm Intrastate Transmission Service (GT-F) and Interruptible Intrastate Transmission Service

(GT-I). The GT-TLS rates were approved February 1, 2010 and that tariff schedule required that contracts for service under that schedule be for a minimum of three years. Transmission level rates are lower than distribution level rates, but most customers are ineligible for transmission level rates.

Under the “Applicability” sections of GT-TLS and the former GT-F and GT-I, noncore customers served directly from SoCalGas’s transmission system as established in SoCalGas’s capital accounting records are eligible for transmission level rates. Other customers are eligible depending on certain criteria, such as noncore customers who were previously classified by CPUC decision as transmission service level customers.

SoCalGas maintains a measurement-tracking and service information database—the Meter and Regulator Records Control System (“MARS”)—that is used for billing purposes, including determination of whether or not a customer is eligible for transmission-level rates. The MARS database includes a variable that identifies whether or not a service line to a noncore customer’s facility is directly connected to SoCalGas’s transmission system. Such facilities are designated “T” if so connected.

As a result of a GT-TLS eligibility review conducted by SoCalGas as part of A.11-11-002 (the SoCalGas and SDG&E pending Triennial Cost Allocation Proceeding), SoCalGas discovered that nine customer facilities had been misclassified as being on “T” lines.

Seven of the nine customers had previously received service under the GT-F rate schedule.

SoCalGas identifies two reasons for the misclassifications. First, in four cases, SoCalGas failed to update its MARS database to reflect legitimate reclassifications of “T” lines so that even after customer facilities were no longer “T” lines, they appeared that way in the MARS database. Second, in five cases, SoCalGas states that “it appears that the customer’s service line was incorrectly classified as Transmission in the database when the customer or its predecessor was first determined to be eligible for transmission level rates.” In other words, those customers should have never been eligible for the “T” designation in the first place.

SoCalGas states that it is revising its procedures for determining customer eligibility for transmission level rates in future contracts.

SoCalGas states that as a result of its MARS database review in A.11-11-002, SoCalGas is revising its procedures for determining customer eligibility for

transmission level rates in future contracts to include additional processes and review by account representatives, pipeline operations personnel, and plant accounting personnel. SoCalGas also states that it is revising its procedures for updating the classification of a customer service line when applicable.

SoCalGas states that as a result of its MARS database review and the subsequent discovery of billing errors, SoCalGas is revising its procedures for classifying "T" customer lines and updating its MARS database.

SoCalGas's future error-checking may be helpful in the future, but it does not apply to the customers already affected by SoCalGas's billing error.

Of the nine affected customers, one was on a month-to-month contract with a minimum term of one month, and another terminated its GT-TLS rate contract in connection with a change of ownership at the facility involved. All nine customers are affected by SoCalGas's billing error, and seven of the nine affected customers are still incorrectly on the GT-TLS rate schedule.

SoCalGas' Rule 16 addresses billing errors. The period for re-billing and collection of undercharges to noncore customers is three years.

SoCalGas admits in its AL filing that the nine customers entered into their respective contracts with SoCalGas with the "reasonable, if mistaken, belief that they were eligible for [GT-TLS] rates."

SoCalGas requests:

- a) A one-time and non-precedential waiver of collection of undercharges to the nine customers affected by SoCalGas's billing error; and
- b) A one-time and non-precedential deviation from the eligibility criteria of SoCalGas's GT-TLS rate schedule so that seven of the nine customers may be permitted to continue to take service at the current GT-TLS rates for the remainder of the initial three-year terms of their contracts to February 1, 2013.

SoCalGas's request would make the affected customers whole through the end of the full primary contract term of their respective contracts with SoCalGas, as if the affected customers had been eligible for GT-TLS rates. SoCalGas estimates the total amount of undercharges for the nine customers to be \$1.7 million to date (through July 2012) and estimates the amount of the difference in revenues for the seven customers for the rest of the term ending February 1, 2013 to be

approximately \$420,000. The total amount at issue then, is approximately \$2.12 million.

NOTICE

Notice of Advice Letter (“AL”) 4387 was made by publication in the Commission’s Daily Calendar. Southern California Gas Company (“SoCalGas”) states that a copy of the Advice Letter was sent to the parties listed on Attachment A of the advice letter, which includes parties in A.08-02-001(the 2009 BCAP) and A.11-11-002 (the pending 2013 TCAP).

PROTESTS

SoCalGas’s Advice Letter AL 4387 was timely protested by The Utility Reform Network (“TURN”) on July 31, 2012. TURN protested SoCalGas AL 4387 on the grounds that SoCalGas seeks to recover the AL 4387 undercharges via balancing accounts from all customers, including core customers. TURN objects that core customers should not have to pay anything for the benefit of noncore customers when the root cause of the controversy is SoCalGas’s billing error. TURN notes that it has never seen any utility advice letter that proposed an allocation of noncore customer undercharges to all customers. TURN recommends that, to the extent the utility seeks not to apply the terms of its Rule 16 to these nine customers, the utility should be the one to absorb the undercharges. TURN argues that, at a minimum, none of the undercharges should be allocated to core customers.

SoCalGas responded to the protest of TURN on August 7, 2012. SoCalGas’s reply to TURN’s protest clarified SoCalGas’s initial AL. SoCalGas estimates that under its proposal, the core’s total share of the undercollections is approximately \$274,000 for the three-year period through May 2012, and \$63,000 for the eight-month period from June 2012 to February 2013.¹ SoCalGas estimates the rate

¹ Core is affected because the revenue shortfall from misclassification impacts several regulatory accounts, some of which affect both core and noncore customers. The shortfall affected 3 regulatory accounts: the Noncore Fixed Cost Account (allocated to noncore), the Integrated Transmission Balance Account (allocated to core and noncore), and the Enhanced Oil Recovery Account (allocated to core and noncore).

impact on core customers to be \$0.00007 per therm for the three-year historical period, and \$0.00002 per therm for the eight-month forward period.

In SoCalGas's reply to TURN's protest, SoCalGas stated that the rate impact of SoCalGas's billing errors on individual misclassified customers is "in the six-figure range, while the impact to core customer rates is approximately \$0.00009 per therm. SoCalGas believes that asking core customers to share in the requested waiver and deviation is consistent with fairness and equity, in view of the relative impact of the billing errors to the nine customers and to all core and noncore customers."

SoCalGas also argues that core residential and small commercial customers are only subject to three months of overbilling rather than three years, in contrast to three years of backbilling for the nine customers affected by SoCalGas's billing error, and that therefore the CPUC has already mitigated the effect of core customer billing errors "in advance."

The Dairy Farmers of America ("DFA") sent a letter to the CPUC dated August 28, 2012 in support of SoCalGas. This letter was not a protest *per se* but rather a letter requesting rate relief, without reference to who would pay for such rate relief. In the letter, the DFA stated that SoCalGas gave notice of the billing error at DFA's facility in Ventura, California on July 17, 2012. DFA stated that SoCalGas stated that the magnitude of the billing error was \$216,642. DFA stated that it relied on its GT-TLS contract with SoCalGas since January 13, 2010 with the expectation that SoCalGas would honor those rates until the end of the contract term. DFA stated that if it is forced to pay distribution level service rates due to GT-TLS ineligibility, the increased rates would place an undue and unexpected burden on DFA farmer members at a time when dairy farmers are already facing "record" feed prices due in part to a national drought. DFA requested relief from the billing error and for continuation of its GT-TLS service contract with SoCalGas through the end of the contract term. However, DFA did not specifically ask for approval of AL 4387.

DISCUSSION

The CPUC approves SoCalGas Advice Letter 4387 only to the extent that any waived GT-TLS undercharges are paid by SoCalGas shareholders rather than ratepayers.

SoCalGas Tariff Rule No. 16 specifically addresses utility billing errors.

The CPUC and SoCalGas anticipated that billing errors may occur from time to time. SoCalGas Tariff Rule No. 16 specifically addresses utility billing errors and reads in relevant part:

Billing error is an error by the Utility that results in incorrect billing charges to the customer. Billing errors may include incorrect meter reads or clerical errors by a Utility representative such as applying the wrong rate, wrong billing factor, or an incorrect calculation. Billing error shall also include failure to deliver a bill, actual or estimate, in a timely manner in accordance with Rule No. 14.A.

Where the Utility overcharges or undercharges a customer as the result of a billing error, the Utility may render an adjusted bill for the amount of the undercharge, without interest, and shall issue a refund or credit to the customer for the amount of the overcharge, without interest, in accordance with the procedures and limitations set forth below. Such adjusted bills shall be computed as follows:

If either a residential or nonresidential service is found to have been undercharged due to a billing error, the Utility may bill the customer for the amount of the undercharge for a period of three months for residential service or small nonresidential service, as defined in Rule No. 1, and three years for all other nonresidential service. However, if it is known that the period of billing error was less than three months for residential service or small nonresidential service, as defined in Rule No. 1, and three years for all other nonresidential service, the undercharge shall be calculated for only those months during which the billing error occurred.

A plain reading of SoCalGas Tariff Rule No. 16 shows that for noncore customers, SoCalGas may collect undercharges for up to three years, not to exceed the actual number of months of undercharges.

SoCalGas seeks to deviate from the standard established in Tariff Rule No. 16 by pointing out that CPUC may authorize deviations from SoCalGas's schedules when just and reasonable. SoCalGas correctly cites to Public Utilities Code § 489 ("[n]othing in this section shall prevent the commission from approving or fixing rates, tolls, rentals, or charges, from time to time, in excess of or less than those shown by the schedules") and Public Utilities Code § 532 ("[t]he commission may by rule or order establish such exceptions from [utility schedules on file and in effect at the time] as [the Commission] may consider just and reasonable as to each public utility").

The circumstances in AL 4387 are clear. SoCalGas made billing errors for nine customers who should not have been eligible for GT-TLS rates.

The nine customers reasonably relied on SoCalGas's offer of GT-TLS rates when the customers entered into service contracts with SoCalGas. SoCalGas caught the error years later. Instead of backbilling pursuant to SoCalGas Tariff Rule No. 16, SoCalGas seeks to waive the underbilled charges for the nine noncore customers. By doing so, core and noncore ratepayers essentially would need to pay an additional estimated \$2.12 million through February 2013, of which \$337,000 would be paid by core ratepayers.

SoCalGas has not adequately justified why other ratepayers should pay for SoCalGas's proposed waiver of its backbilling owed to it under SoCalGas Tariff Rule No. 16.

SoCalGas appears to be asking the Commission for rate relief on behalf of affected customers such as DFA--and for others to pay for such relief, rather than the utility itself, even though SoCalGas caused the billing error.

SoCalGas argues that the impact of not approving AL 4387 would be in the "six figures" on the individual noncore customers (\$216,642 according to the DFA letter), whereas the \$2.12 million rate impact to ratepayers would be "minimal," at approximately \$0.00009 per therm. However, SoCalGas neglects to mention that a loss of \$2.12 million in revenue would be similarly "minimal" compared to SoCalGas's multi-billion dollar revenues each year, if SoCalGas were to pay instead.

We are not persuaded by SoCalGas's argument that we should authorize a waiver of billing undercharges and allow it to collect the loss of revenue from the larger body of ratepayers because collecting it from the nine misclassified customers would be a greater hardship on those customers. When SoCalGas makes a significant billing error such as the one presented here, it would be inappropriate to ask other ratepayers to pay for SoCalGas's error. And, as TURN points out, it would be particularly unfair to require core customers to pay for a portion of the underbilled charges. Furthermore, if the Commission were to approve SoCalGas's request under AL 4387 as currently constituted, it would weaken SoCalGas's incentive to error check and to prevent similar situations from occurring again.

SoCalGas is authorized to waive all or a portion of the underbilled charges only to the extent that the waived underbilled amounts are paid by SoCalGas shareholders and not ratepayers.

The Commission notes that SoCalGas is seeking over \$2 million in undercollection charges at a sensitive economic time for the affected customers, especially when SoCalGas made the billing error, not SoCalGas customers. This level of charges may be a considerable burden on these customers.

In consideration of the above, we authorize SoCalGas to waive all or a portion of the underbilled amounts, but only if the waived underbilled amounts are paid by SoCalGas shareholders. In other words, the Commission authorizes SoCalGas to use only shareholder funds to grant relief to the nine affected customers under the proposal outlined in AL 4387. If SoCalGas waives any or all of the underbilled charges, other ratepayers shall not pay higher rates to pay for the underbilled amounts. The Commission also authorizes SoCalGas to negotiate backbilling terms and amounts with the affected customers, e.g., to spread the cost of the backbilling over an extended period of time.

Finally, SoCalGas may allow the customers who are currently receiving service on the incorrect rate schedule to remain on that rate schedule to February 1, 2013, again subject to the condition that any underbilled charges are funded by SoCalGas shareholders and not ratepayers.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS AND CONCLUSIONS

1. SoCalGas misclassified nine customer facilities as transmission lines eligible for GT-TLS rates.
2. Subsequently, SoCalGas discovered its error.
3. SoCalGas Tariff Rule No. 16 specifically addresses utility billing errors of the kind described in AL 4387 (misclassification of customers) and

authorizes SoCalGas to collect up to three years of difference between the correct and incorrect rate schedules, for the affected customer facilities.

4. SoCalGas proposes in AL 4387 to waive its right under SoCalGas Tariff Rule No. 16 to collect the underbilled amounts from underbilled customers and seeks authorization to collect these amounts from core and noncore customers as a whole, despite the fact that other customers were not responsible for SoCalGas's misclassification error.
5. SoCalGas should not collect the underbilled amounts from other ratepayers.
6. SoCalGas's proposal in AL 4387 should be adopted only to the extent that the waiver of SoCalGas's back billing amounts under SoCalGas Tariff Rule No. 16 is paid out of shareholder funds.
7. SoCalGas should be allowed to negotiate payment terms with affected customers to reduce the impact of SoCalGas's back billing under SoCalGas Tariff Rule No. 16, should SoCalGas exercise some or all of its rights under SoCalGas Tariff Rule No. 16, provided that only shareholder funds may be used to cover the waived amounts.
8. The customers who are currently receiving service on the incorrect rate schedule should be allowed to remain on that rate schedule to February 1, 2013, subject to the condition that any waived underbilled charges are funded by SoCalGas shareholders and not ratepayers.

THEREFORE IT IS ORDERED THAT:

1. SoCalGas Advice Letter 4387 is approved only to the extent that any waived GT-TLS undercharges are paid by SoCalGas shareholders rather than ratepayers.
2. SoCalGas is authorized to negotiate payment terms and amounts with the affected customers in SoCalGas Advice Letter 4387 to reduce the impact of SoCalGas's back billing, provided that only shareholder funds may be used for any waived amounts.
3. SoCalGas is authorized to allow the customers who are currently receiving service on the incorrect rate schedule to remain on that rate schedule to February 1, 2013, subject to the condition that any waived underbilled charges are funded by SoCalGas shareholders.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 20, 2012; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director