DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ID #11927

ENERGY DIVISION **RESOLUTION G-3476**

March 21, 2013

R E S O L U T I O N

Resolution G–3476. Southern California Gas Company requests approval of a Second Memorandum in Lieu of Contract between the Utility System Operator and the Gas Acquisition Department for Services to Maintain Southern System Reliability Pursuant to Decision 07-12-019.

PROPOSED OUTCOME: This Resolution approves the request with modifications.

SAFETY CONSIDERATIONS: This resolution has an indirect positive impact on customer safety through its potential to reduce curtailments.

ESTIMATED COST: Unknown

By Advice Letter 4394 filed on August 17, 2012.

SUMMARY

Southern California Gas Company (SoCalGas) filed Advice Letter (AL) 4394 on August 17, 2012 requesting approval of a Second Memorandum in Lieu of Contract (MILC) between the SoCalGas System Operator (SO) and the SoCalGas Gas Acquisition Department (GA) to support SoCalGas' minimum flow requirements on its Southern System. Under the Second MILC, the GA will commit to delivering gas supplies up to core's share of the Southern System minimum flow requirements. In exchange for taking on this obligation, GA would be deemed to have met its share of the System Reliability Memorandum Account (SRMA) cost.

The MILC will have a potential indirect positive impact on safety. Through use of the MILC a certain defined supply to meet Southern System flow

requirements will be provided. This will reduce the potential for curtailments to noncore customers, some of whom may provide essential services.

This resolution approves the Second MILC subject to the following modifications:

1. In order for core to be relieved of SRMA cost responsibility for a day on which SRMA costs are incurred, GA must supply bundled core's actual share of Southern System flow requirements specific to that gas day.
2. Consistent with the first modification, the percentages in the MILC set to represent core's share of the Southern System minimum flow requirements are no longer needed and shall be eliminated.
3. The Tariff change requested as part of the MILC will be modified to be consistent with the requirement that core's actual Gas Day share will need to be determined and that this information will not be available at the end of each month.

BACKGROUND

Decision (D.) 07-12-019 approved transfer of responsibility for managing minimum flow requirements for system reliability on the SoCalGas Southern System from the GA to the SO.[1]

SoCalGas needs a certain minimum amount (which can vary depending upon conditions) of flowing supplies on its Southern System for the system to operate effectively. The amount of this minimum flow requirement is equal to the entire demand on the SoCalGas Southern System, which includes both core and noncore customer demand, less gas supply that is flowed from the Northern System to the South. GA previously assured such flowing supplies using core customer assets. When GA needed to purchase additional spot supplies beyond 355 million cubic feet per day (MMcfd), to meet minimum flow requirements at

[1] D.07-12-019, Ordering Paragraph 15. The SO is "broadly defined to constitute the SoCalGas departments responsible for the operation if its transmission system, including storage, hub services, pooling services receipt point access, offsystem deliveries, and system reliability. The System Operator functions explicitly exclude the Gas Procurement Department which will not be involved in any of the system-related operational activities." D.07-12-019, p. 58.

Ehrenberg, the eastern origin of the Southern System, its incremental costs to do so were recorded in a memorandum account. The allocation of the costs in that memorandum account was determined in the SoCalGas Biennial Cost Allocation Proceeding (BCAP). In response to the SoCalGas/San Diego Gas & Electric/Southern California Edison Application (A.) 06-08-026 to transfer this responsibility from GA, D.07-12-019 directed the SO to take over the responsibility for managing these minimum flows as of April 1, 2009.

D.07-12-019 further granted Applicant's proposal for a variety of System Operator tools:

- the ability of the SO to buy and sell gas on a spot basis, as needed, to maintain system reliability;
- authority to conduct requests for offers (RFO) or an open season process consistent with the SO needs; and
- authority to approve an expedited Advice Letter approval process for contracts that result from a RFO or open season process.[2]

D.07-12-019 also provided that Applicants' request for approval of additional SO tools on an interim basis be made by regular advice letter and that further consideration of the process for review and approval of additional System Operator tools shall be made in the next Biennial Cost Allocation Proceeding (BCAP).[3]

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[2] D.07-12-019, Ordering Paragraph 16. In response to a Petition for Modification filed by the Division of Ratepayer Advocates (DRA) and the Southern California Generation Coalition (SCGC), the Commission issued D.10-05-005, which replaced the 10-day protest period allowed for expedited advice letters with the regular 20-day protest period for these advice letters.

[3] SoCalGas and SDG&E filed A.08-002-001 requesting authority to revise their rates effective January 1, 2009 in their BBCAP. That BCAP resulted in D.09-11-006 wherein, the Commission adopted a Settlement Agreement of all parties. Among other provisions, the adopted Settlement Agreement changed the term of the Cost Allocation Proceeding filing to every 3 years – a Triennial Cost Allocation Proceeding (TCAP).

On November 3, 2011, SoCalGas filed AL 4291 requesting approval of a Memorandum in Lieu of Contract (MILC) between the SO and GA as an additional tool to support SoCalGas' minimum requirements on its Southern System. Under the MILC, GA agreed to deliver a specified volume of flowing supplies to the Southern System each day. The volume was targeted to meet bundled core's share of Southern System minimum flow requirements and was based on the core's average percentage historic share of total Southern System demand during Summer and Winter months. Additionally, the MILC included caps on the absolute amount of supply required from GA into the Southern System. According to SoCalGas, the core customer share of Southern System requirements rarely exceeded those caps.

A key element of the MILC was that "the bundled core will have met its share of the Southern System minimum flow requirement before any spot supplies are purchased by the Utility System Operator."[4] By guaranteeing these flowing supplies SoCalGas asserted that the MILC would reduce the amount of incremental supply that the SO will need to purchase on the spot market. Since spot supplies tend to increase in price when demand increases, reducing the amount of spot purchases would benefit all parties. As proposed in AL 4291, in exchange for taking on the obligation of delivering the specified supplies, core customers would have no additional cost responsibility for Southern System minimum flow requirements.

Resolution G-3468 approved the request for a MILC on July 12, 2012. The resolution included two modifications. In summary, the modifications required that if the bundled core's share of the Southern System's minimum flow requirements was not met by the volumes of flowing supplies specified by the MILC, it would be responsible for a proportional share of the costs associated with the shortfall. Further, the Resolution also limited the term of any future MILC not to extend beyond the life of the current Triennial Cost Allocation Proceeding (TCAP).

On August 17, 2012, SoCalGas filed AL 4394 requesting approval of a 'Second MILC'. SoCalGas comments that the terms and provisions of the Second MILC are generally the same as those in the previously approved MILC and that it

[4] Advice Letter 4291, page 3.

includes each of the revisions required by the Commission in Resolution G-3468. SoCalGas notes that it has simplified the MILC by removing the volume caps that were part of the first MILC. However, the proposed second MILC maintains the minimum required delivery percentages (35% during the summer months and 50% during the winter months). As part of its request, SoCalGas seeks approval of Tariff changes to accounting practices related to the Second MILC. SoCalGas states that the proposed changes will make accounting for the Second MILC more consistent with established regulatory accounting practices.

NOTICE

Notice of AL 4394 was made by publication in the Commission's Daily Calendar. SoCalGas states that a copy of the Advice Letter was sent to the parties on its Advice Letter Distribution List – Advice 4394, which includes parties in the Omnibus proceeding, A.06-08-026.

PROTESTS AND RESPONSES

AL 4394 was timely protested by Southern California Generation Coalition (SCGC) and Southern California Edison (SCE). The protests concern the amounts of supply required for GA to have met its obligations under the MILC; whether the MILC assures that core's share of the minimum flow requirement will be met before spot purchases are made; and whether the MILC violates the letter and intent of D.07-12-019. SCE also requested that AL 4394 be considered in conjunction with AL 4399 which also addresses Southern System Reliability.

On September 6, 2012, the SCGC filed a protest to AL 4394. The protest notes that SoCal Gas AL 4291 stated that under the proposed first MILC, bundled core would meet its share of the Southern System minimum flow requirement before any spot supplies were purchased. It further notes that the Commission found that the first MILC, as proposed, did not assure that bundled core would meet its share of the requirement before spot supplies would be purchased and ordered a modification to remedy this problem. The protest asserts that the same deficiency is repeated in the proposed Second MILC. Specifically SCGC asserts that the Second MILC fails to assure that bundled core's "demand on a gas day

will be met by Gas Acquisition deliveries before the System Operator is required to purchase spot supplies."[5] The protest recommends a modification that it describes as "mirroring" the modification required by Resolution G-3468. The requested modification concerns cost sharing when bundled core's demand exceeds GA's deliveries into the Southern System.

On September 6, 2012, SCE filed a "response" to AL 4394. SCE's response asserts that AL 4394 is intertwined with AL 4399, an advice letter filed by SoCalGas on August 31, 2012. AL 4399 requests approval of an additional SO tool using baseload contracts with entities other than GA. SCE's response "urges" the Commission to address the two ALs in combination rather than separately. Further the response requested that the Commission allow for responses to both ALs on September 20, 2012, which was the deadline for protests to AL 4399. Protests for AL 4394 were due by September 6, 2012.

On September 13, 2012, SoCalGas filed a reply addressing both the SCGC protest filed on September 6, 2012 and the SCE response filed on the same date. In reply to the SCGC protest, SoCalGas states that there is only a superficial similarity between SCGC's proposed modification and the modification required by Resolution G-3468. SoCal Gas further states that the SCGC proposed modification would serve a different purpose to that addressed by the modification made to the first MILC. With regard to the SCE response urging the Commission to address AL 4394 in conjunction with 4399 SoCalGas states that the SO tools proposed in the two ALs operate independently. SoCalGas states that if either tool was approved and the other denied they would make use of the approved tool.

On September 14, 2012, the Energy Division agreed to SCE's request that parties be permitted to address both advice letters by September 20, 2012. In essence the protest period for AL 4394 was extended from September 6 to September 20 of 2012.

On September 20, 2012, SCE filed a protest to ALs 4394 and 4399. After SCE urged the Commission to consider both ALs together, the protest itself does not do so. In its protest regarding AL 4394, SCE comments that the proposed MILC is

[5] SCGC protest of AL 4394, September 6, 2012, p. 4.

inconsistent with the letter and intent of D.07-12-019. It asserts that SoCal Gas flows in the normal course of business should not be included in determining SoCalGas share of Southern System minimum requirements, and only incremental flows should be considered. It requests modification to the MILC and presents two alternative modifications. SCE proposes that either alternative be used if the Commission decides to approve AL 4394. One alternative would require GA to meet its actual bundled core demand through the MILC, the other alternative requires changes to the metric used to determine bundled core's share of Southern System minimum requirements.

On September 20, 2012, SCGC included with its protest of AL 4399 a "Reply" to the SoCalGas response to SCGC's protest of September 6. The "Reply" does not address AL 4394 but rather seeks to raise issues concerning the first MILC. It asserts that SoCalGas did not make the Commission ordered modification required by Resolution G-3468.

On September 27, 2012, SoCalGas submitted a reply to the September 20, 2012 protest of SCE and to the "Reply of the SCGC to the SoCalGas Response to SCGC's protest of AL 4394."[6] The SoCalGas reply as it pertains to the SCE protest questions the basis on which SCE claims that the Second MILC does not comply with D.07-12-019. It argues that the SCE recommended modification requiring GA to meet core's actual demand penalizes core customers by using core assets to subsidize non-core. The SoCalGas reply also challenges the accuracy of SCE's analysis underlying the recommended modification to the metric used to determine core's responsibility for minimum flow requirements.

The SoCalGas reply to SCGC's reply notes that protesting parties have no basis under Commission rules or orders to make a reply. SoCalGas also states that the subject matter of SCGC's reply wrongly addresses the first MILC. Further, on this matter, SoCalGas notes that SCGC's assertion that the Commission ordered modification to the first MILC was not incorporated is simply incorrect.

[6] SoCalGas Reply of September 27, page 1.

DISCUSSION

SoCalGas Advice Letter 4399 will be addressed in a separate resolution. The Commission can find no reason that its review and conclusions concerning AL 4394 should be conditioned on a simultaneous review of AL 4399. While, if both are approved there are likely operational and cost advantages, the proposed MILC presented in AL 4394 and the baseload contracts presented in AL 4399 are independent of each other. The approval or rejection of the MILC submitted in AL 4394 does not rely on the findings and conclusions concerning AL 4399, nor does a decision regarding AL 4399 change the merits, or lack thereof, of the proposed Second MILC.

SCE in its initial response to AL 4394 comments that AL 4394 is intertwined with AL 4399 and that the Commission should address the two ALs in conjunction with each other. SCE also asserts that considering AL 4394 in a vacuum could prejudge the outcome of AL 4399. SCE summarizes the relationship between the two as "two separate proposals designed to work in concert with each other to resolve a single problem [i.e. the inadequacy of the Southern System] at the same time. AL 4394 has a direct bearing on the sharing mechanism for the costs of supporting the Southern System, those costs being largely affected by AL 4399."[7] Based on their comments SCE requested, and the Commission allowed, stakeholders to address both of the advice letters on September 20, 2012, the deadline for protests to AL 4399 and approximately two weeks past the deadline for protests to AL 4394.

Despite SCE's original claim that the two ALs are intertwined and should be addressed in conjunction, SCE's combined protest of AL 4394 and 4399 demonstrates no linkage between the two ALs and SCE itself addresses each AL independently. The Commission agrees with SoCalGas that approval or rejection of either tool neither precludes nor requires approval of the other. Further, SoCal Gas states it intention to use either tool independent of whether the other is approved. While the Commission disagrees in part with the proposed Second MILC, the Second MILC is conceptually consistent with the MILC approved in Resolution G-3468. That approval did not rely on the

[7] Response of Southern California Edison Company to Southern California Gas Company's Advice Letter 4394, 9/6/2012, p. 3.

possibility that some other proposed tool may be requested nor should this one. The Second MILC and any additional tool will be considered on its own merits and within the context of existing and anticipated conditions concerning the Southern System, and the demonstrated need for additional tools as provided for in D.07-12-19.

The Commission has reviewed AL 4394, the protests, the responses and the replies to the protests and approves, subject to three modifications, the Second MILC between the SO and GA filed in AL 4394.

With SONGS generating units still out of operation, the Commission agrees that the circumstances under which the first MILC was approved continue and that the Second MILC is substantially the same as the first.

SoCalGas notes that one of the key circumstances that made the first MILC particularly important was the shutdown of the San Onofre Nuclear Generation Station (SONGS) and the resulting increase in demand for natural gas on the Southern System. Those circumstances continue and there is no assured timeline for a restart of SONGS and a corresponding reduction in the demand for gas. In this context SoCalGas comments that the "terms and provisions of the Second MILC are generally the same as those in the Revised MILC [i.e., the first MILC as modified],"[8] and that it is being proposed "To continue the benefits of the arrangement established in the existing Revised MILC beyond October 31, 2012."[9]

The Second MILC filed in AL 4394 is substantially the same as the MILC originally proposed in AL 4291. As such, the basic reasons underlying the Commission's approval of the first MILC, as modified, apply to the Second MILC.

The Second MILC commits to providing ongoing supplies targeted at meeting bundled core's share of the minimum flow requirement and, by doing so, is intended to reduce the potential need for more costly spot purchases. Under

[8] SoCalGas AL 4394 p. 2.

[9] Ibid., p.2

the MILC, once these levels have been met, SoCal Gas proposes that it will have met core's share of the minimum flow requirement before spot purchases are required. Having done so, the core would have met and have no further responsibility for any share of SRMA costs.

Bundled core's share of Southern System minimum flow requirements *on average* approximates but does not equal the percentages presented in the MILC. The daily actual share attributable to core customers exceeds the percentages a majority of the time.

As stated in SCGC's protest, the Commission considered a key feature of the MILC the SoCal Gas assertion that the first, and by extension, the Second MILC, would provide bundled core's share of Southern System minimum flow requirements before spot supplies were purchased. The Commission agrees with SCGC and SCE and finds that this key feature is not met.

The Second MILC, like the first, seeks to meet GA's obligation by delivering set percentage amounts of the daily Southern System minimum flow requirement. The percentages reflect core's historical average share of total Southern System demand which by extension equates to core's share of the minimum flow requirement. Based on this the MILC sets a level of 35% of the Southern System minimum requirement for summer months and 50% for winter months as the points at which core's share has been met. However, an Energy Division staff review of bundled core's share of the Southern System minimum flow requirement covering 2009 through March of 2012[10] found that: i) Summer season average bundled core share of the minimum flow requirement for the period exceeded 35%. Over the three seasons the average was 35.68%, and single season averages ranged from 34.4% to 36.9%; ii) Winter season bundled core share of the minimum flow requirement for the three season period exceeded 50%. The average was 51.2% and single season averages ranged from 49.9% to 52.1%; iii) Within each season, core's daily share rarely matched the target percentages of 35% and 50%. Significantly, over half of the time core's daily share exceeded the target percentages. In summary, bundled daily core's share of Southern System minimum flow requirements *on average* approximate but do not

[10] The timeframe includes three summer seasons, April through October, and three winter seasons, November through March.

equal the percentages presented in the MILC. Further the daily actual share attributable to core customers exceed the percentages a majority of the time. As a result by relying on historical averages rather than daily actuals, the proposed Second MILC is not consistent with its stated provision that core's share of Southern System minimum flow requirements will be met before spot purchases are made.

Since the levels of supply provided in the MILC do not assure that core's share of the minimum flow will be met before spot purchases are made, the MILC must be modified to provide that core's *actual* daily share is supplied before its SMRA responsibility is met. Three modifications are necessary.

The first modification will require that, in order for the core to be relieved of any SRMA cost responsibility for a day when SRMA costs are incurred, the GA must meet bundled core's actual share of daily Southern System flow requirements specific to that Gas Day.[11] Whenever GA fails to meet core's daily share of Southern System minimum flow requirement, GA will be subject to a proportional allocation of any SRMA costs that are recorded for any such Gas Day, where GA's portion of the costs will be equal to the GA shortfall (Gas Acquisition's share of the minimum flow requirement for that Gas Day minus Gas Acquisition's deliveries into the Southern System) divided by the total amount of supply purchased by the SO for that Gas Day.

The second modification requires that the percentage levels of 35% for summer months and 50% for winter months, which are based on averages rather than core's actual daily share, will be removed from the Second MILC. Given the changes required by the first modification, these percentages are no longer relevant.

The third modification will require that the MILC related credit be made consistent with the availability of accurate information concerning core's share of daily minimum flow requirements.[12] SoCalGas requested that the Preliminary

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[11] In the past flows have from time to time exceeded core's share of the minimum flow requirement. The modification does not exclude this practice.

[12] The Commission recognizes that on average SoCalGas GA has, in the past, delivered more than is required relative to the core share. However, as stated regarding the first MILC this does not assure that the core share is met on any given day nor that its share is met on days when spot purchases may be particularly costly.

Statements of the Purchased Gas Account and the SRMA be revised to be consistent with the proposed Second MILC, i.e., that MILC-related credits will be recorded on a monthly basis. However, the daily minimum flow requirement data will not be available until two months following the actual Gas Day.

The SCGC protest wrongly equates 'core's share of Southern System minimum flow requirements' with 'core demand' when discussing the levels of supply needed to meet core's SMRA responsibility before spot purchases can be made. The changes proposed by SCGC in its protest would result in core customers subsidizing noncore customers and are rejected.

As noted previously, SCGC's protest references the Commission, in Resolution G-3468, stating that a key feature of the MILC was to provide bundled *core's share of Southern System minimum flow requirements* before spot supplies were purchased. The protest states however, "Like the First MILC as proposed by SoCalGas, the Second MILC fails to guarantee that Gas Acquisition will meet *core demand* before the System Operator must purchase spot supplies."(Emphasis added)[13]

SCGC suggests a provision to address its concerns. The protest argues that the Commission should direct SoCalGas to insert a provision into the Second MILC as follows:

> When the *bundled core daily demand* exceeds Gas Acquisition's share of the daily minimum flow requirement (50% in December through March and 35% in April through October), GA will be subject to a proportional allocation of any SRMA costs that are recorded for any such Gas Day, where GA's portion of the costs will be equal to the GA shortfall (the bundle core's demand minus Gas Acquisition's deliveries into the Southern System) divided by the total amount of supply purchased by the System Operator for that Gas Day."[14]

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[13] SCGC protest of AL No. 4394, 9/6/2012, p. 4

[14] SCGC 9/6/12 protest of SoCalGas AL 4394, pp. 4-5. Emphasis added. SCGC notes that, owing to the removal of delivery maximums in the proposed Second MILC, there are slight differences between the SCGC recommended provision and the language that SoCalGas inserted into "First MILC" at the direction of the Commission.

The Commission notes that its concern about *core's share of Southern System flow requirements* is different from the statement made in SCGC's protest. SCGC's protest and proposed modification is based on *core demand*. As noted earlier, the core customer share of the Southern System minimum flow requirement reflects total Southern System core demand less North-South core deliveries. In this regard we agree with SoCalGas that the proposed SCGC modification would result in bundled core subsidizing noncore customers. As described in the SoCalGas reply to SCGC's protest, the modification would require that core be responsible for the percentages, 50% and 35%, even when its actual share is less than these percentages and require bundled core to share in cost when core's actual share is above the percentages. As SoCalGas states, "In other words, under SCGC's proposal the bundled core would be responsible for its seasonal share or its daily share, whichever is higher."[15] This is significantly different than the first MILC as approved. The SCGC proposed modification inappropriately creates a requirement based on bundled core demand rather than the bundled core's share of the minimum flow requirement.

Like SCGC, the SCE protest wrongly equates core demand on the Southern System with core's share of the minimum flow requirements. As a result the Commission rejects SCE's proposed change based on meeting core demand. A second proposed change is rejected because of flaws in the analysis on which it is based.

SCE proposes two alternative changes to the MILC. The first would require that GA meet actual core demand on the Southern System rather than bundled core's share of the minimum flow requirements. This proposal is conceptually similar to the proposal offered by SCGC and misrepresents SO's responsibility in the same manner that SCGC does.
The second alternative would require that core's share of the minimum flow requirement be based on Cycle 4 rather than Cycle 1 daily minimum flow requirements posted on Envoy. AL 4394 calls for GA to bring in 50% of the daily minimum flow requirements for the southern System as posted on Envoy for Cycle 1 for the months of November through March and 35% for the months of April through October. SCE comments that "After reviewing historical throughput, SCE notes that the actual minimum flow requirements as

[15] SoCalGas reply to SCGC protest of 9/6/2012, p. 4.

established in Cycle 4, are seldom the same as the Cycle 1 posting." Relying on their review, SCE recommends, under this alternative, "that the MILC be modified to require GA to meet its minimum percentage flow requirements on the Southern System based on Cycle 4 requirements."[16] The proposal goes on to recommend that when these amounts are not met, GA would be subject to a proportional share of any SRMA costs recorded for any given Gas Day.

The SoCalGas reply to the SCE's second alternative notes that it believes that " SCE has made data errors that greatly overstate the differences [between Cycle 1 and Cycle 4 data] over the four-month period."[17] Using Envoy data provided by SoCalGas Energy Division Staff is unable to replicate the differences between the two cycles that SCE presents in its protest. The Energy Division review is largely consistent with the SoCalGas reply to the SCE protest that the differences between cycles are minimal. The differences identified by Energy Division Staff between Cycle 1 and Cycle 4 reported flow requirements for the four months, December 2011 to March 2012, are less than 1%. As such, SCE's second alternative does not fulfill its intended purpose, nor does it effectively address the Commission's concern regarding the use of averages versus core's actual share of minimum flow requirements.

SCE fails to provide a sufficient explanation for its assertion that the MILC does not comply with the letter and intent of D. 07-12-019. SCE appears to equate the SO's responsibility for managing the system with requiring the use of core assets to support the system.

The Commission agrees with SoCalGas in its reply to the SCE protest that it is not clear what "SCE is arguing when it states that the 'letter and intent of the D.07-12-019' supports managing the Southern System such that 'all parties deliver gas to the SoCalGas system at any delivery point, and the SO purchases additional gas, only when absolutely necessary to support the Southern System.'"[18] SoCalGas speculates that SCE is suggesting that the SO is limited to

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[16] SCE protest to SoCalGas AL 4394, 9/20/2012, pp. 3-4.

[17] SoCalGas reply to SCE protest of 4394, 9/27/2012, p. 6.

[18] SoCalGas reply to protests of SCGC and SCE, 9/27/2012, p. 5.

buying only spot supplies. D.07-12-019 clearly does not limit the SO to spot supplies as the only tool to manage minimum flow requirements.

The Energy Division requested that SCE elaborate on its comment regarding the MILC vis-à-vis the "letter and intent" of D.07-12-19. In its response SCE comments that the SO has responsibility for managing the minimum flow requirements and that the SO is the only party that is responsible to bring gas into specific points that support minimum flow requirements. It further quotes from the decision that, "When the System Operator determines a need for additional supplies at a particular receipt point the System Operator may purchase the necessary amount of gas on the spot market."[19] It interprets this quote as meaning that the SO can "only purchase gas when it is absolutely necessary." However, SCE does not provide a reference in the decision for this interpretation nor does it provide a definition of "absolutely necessary." In this comment and in comments made in the SCE protest as well as its proposed remedies, SCE appears to equate the SO's responsibility for *managing* the system with *requiring the use of core assets* to support the system up and until those assets are not available and before purchases can be made and before other parties share in any costs. SCE states that the responsibility for the system falls only on the SO and that it, in effect, should get no credit for the supply from core assets provided as a normal course of business. This ignores the fact that the SO is not required to provide such supplies out of core assets and at times doing so would be uneconomic. As Resolution G-3468 makes clear, the commitment under the MILC to deliver supply even when uneconomic is a SoCalGas contribution toward the costs of Southern System minimum flows.

Relying on SCE's interpretation would result in core customers subsidizing non-core customers. One of the clear intents of D.07-12-019 was to provide the SO multiple tools to meet the Southern System minimum flow requirements to fulfill its management responsibility. The decision did not require that SO first attempt to meet the minimum flow requirement using core assets alone and only after having exhausted those assets use other tools.

[19] D.07-12-019 p. 60 as quoted in SCE response to Energy Division data request of 10/4/2012.

A comparative analysis projects that the MILC will be cost effective.

The SCE protest, states that the provision for additional SO tools in D.07-12-019 intends that they be cost effective. SCE accurately notes that SoCalGas did not provide any analysis in its AL 4394 concerning the costs of the Second MILC versus spot purchases. In response to an Energy Division data request, SoCalGas provided a comparative analysis of costs with and without the proposed Second MILC. The analysis demonstrated that the MILC would provide for lower costs to both core and non-core customers.

SCGC's comments concerning AL 4291 are inaccurate and outside of the subject of this Resolution.

SCGC's reply concerning AL 4291 and Resolution G-3468 is not the subject of this resolution. Notwithstanding that, SCGC's statement that SoCalGas did not modify the MILC as required in Resolution G-3468 is simply inaccurate. A comparison of the MILC as modified in AL 4291-A shows that it fully incorporates the modification required in Resolution G-3468.

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. Decision (D.) 07-12-019, Ordering Paragraph 15, granted SoCalGas' request to transfer responsibility for managing minimum flow requirements for system reliability from the Gas Acquisition Department (GA) to the System Operator (SO). D.07-12-019 provided that System Operator costs for managing minimum flow requirements is paid for by all customers.

2. D.07-12-019, Ordering Paragraph 16, granted SoCalGas' request for the following System Operator tools:
   a) The ability of the SO to buy and sell gas on a spot basis, as needed, to maintain system reliability.
   b) Authority to conduct requests for offers or an open season process consistent with SO needs.
   c) Authority to submit an expedited Advice Letter (AL) for approval of contracts that result from an RFO or open season process.
3. D.07-12-019 provided for approval of additional System Operator tools by advice letter.
4. SoCalGas filed AL 4291 requesting approval of a new tool, a Memorandum In Lieu of Contract (MILC). Resolution G-3468, adopted by the Commission approved the MILC, subject to modification.
5. On August 17, 2012 SoCalGas filed AL 4394 requesting approval of a 'Second MILC' commencing on the earlier of November 1, 2012 or Commission approval.
6. The 'Second MILC' is generally the same as the first MILC approved in
7. AL 4291-A and SoCalGas asserts that it maintains the same benefits as the first MILC; including the proviso that core's share of Southern System minimum flow requirements will be met before spot purchases are made.
8. AL 4394 also requests a Tariff change. The change would apply MILC credits to the SRMA account each month. The first MILC applies the credit at the end of the MILC term.
9. Southern California Edison (SCE) filed a response to AL 4394 contending that AL 4394 is intertwined with AL 4399, an advice letter requesting approval of baseload contracts filed by SoCalGas on August 31, 2012.
10. In addition to its response, SCE filed a protest. The protest failed to demonstrate that the two ALs need to be considered in combination and the protest itself discussed each AL independently. As a result, and based on the Commission's review of the two ALs, AL 4399 is not considered as part of this resolution.
11. The SCE protest also asserted that the MILC should be based on core's total Southern System demand rather than core's share of the minimum flow requirement. SCE proposed two modifications to address its assertion. One considers core's total demand; the other proposes a different metric to measure the minimum flow requirement. Additionally, SCE contends that the MILC violates the letter and intent of D.07-12-019.

12. The Southern California Generation Coalition (SCGC) also protested SoCalGas AL 4394. SCGC's protest states that the Second MILC fails to assure that bundled core's responsibility for its share of Southern System minimum flows will be met before spot purchases are made. SCGC proposed a modification requiring consideration of core's total demand on the Southern System rather than core's share of minimum flow requirements.
13. Both the SCE and the SCGC protests and proposed modifications rely on total core demand on the Southern System rather than core's share of Southern system minimum flows as intended by D.07-12-019. The proposed modifications would result in core assets being used to subsidize non-core. As such neither modification is appropriate.
14. SCE's alternate proposal to change the metric used to determine minimum flow requirements is based on an erroneous analysis.
15. Neither protest nor the modifications proposed by the protestants appropriately address the need to determine core's share of minimum flow requirements on a daily basis. Without doing so the Second MILC does not assure that core's share is met before spot purchases would be required.
16. The Second MILC uses 50% and 35% as proxies for core's winter and summer share of minimum flow requirements. The percentages are averages that approximate but do not equal seasonal averages. Further, daily share is frequently above these percent levels. As a result, the MILC does not assure that core's share is met before spot supplies would be required.
17. The Second MILC should be modified to: i) require that GA meet bundled core's actual share of daily Southern system minimum flow requirements or pay a proportional share of SRMA costs when it does not; ii) remove the percents as the measure of GA supply requirements and instead use bundled core's actual daily share; and, iii) require that accounting for MILC related credits be made consistent with the need to use core's actual daily share and the timing of daily minimum flow information.
18. On September 2012, SCGC provided a "reply" regarding AL 4394 that contends that SoCalGas did not modify the MILC in AL 4291-A as required.
19. SCGC's reply raises a matter that is not the subject of AL 4394. Further, a comparison of the Commission required modification and the MILC in AL 4291-A shows that SCGC is incorrect.

THEREFORE IT IS ORDERED THAT:

1. The request of Southern California Gas Company to approve a Second Memorandum in Lieu of Contract between two entities of SoCalGas, the System Operator and Gas Acquisition, as requested in Advice Letter 4394 is approved subject to the following modifications:
    i) GA must meet bundled core's actual share of daily Southern system minimum flow requirements or pay a proportional share of SRMA costs when it does not;
    ii) Remove the percentages as the measure of GA supply requirements and use core's actual share of the minimum flow requirement as the measure; and,
    iii) Make accounting for MILC related credits consistent with the use and the timing of daily minimum flow information.
2. SoCalGas shall submit a revised Tier 1 advice letter with a supplemental, within 10 days of the effective date of this resolution.

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 March 21, 2013; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director