

Decision 19-05-030 May 30, 2019

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Gas Company (U904G) and San Diego Gas & Electric Company (U902G) for Low Operational Flow Order and Emergency Flow Order Requirements.

Application 14-06-021

And Related Matters.

Application 14-12-017

**DECISION GRANTING IN PART AND DENYING IN PART THE PETITION FOR MODIFICATION FILED BY SOUTHERN CALIFORNIA EDISON COMPANY AND SOUTHERN CALIFORNIA GENERATION COALITION OF COMMISSION DECISIONS (D.) 15-06-004 AND 16-06-039 AS MODIFIED BY D.16-12-016 ADOPTION IN PART AND REJECTION IN PART OF THE SETTLEMENT AGREEMENT FILED BY THE SETTLING PARTIES**

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**DECISION GRANTING IN PART AND DENYING IN PART THE PETITION FOR MODIFICATION FILED BY SOUTHERN CALIFORNIA EDISON COMPANY AND SOUTHERN CALIFORNIA GENERATION COALITION OF COMMISSION DECISIONS (D.) 15-06-004 AND 16-06-039 AS MODIFIED BY D.16-12-016 ADOPTION IN PART AND REJECTION IN PART OF THE SETTLEMENT AGREEMENT FILED BY THE SETTLING PARTIES**

**Summary**

This decision grants in part and denies in part the August 15, 2018 petition for modification filed by Southern California Edison Company (SCE) and Southern California Generation Coalition (SCGC) of Commission Decisions (D.) 15-06-004 and D.16-06-039, as modified by D.16-12-016. This decision also grants in part and denies in part the Settling Parties' Motion for adoption of the Settlement Agreement filed on April 2, 2019.

This decision adopts, during the peak summer months of June 1 through September 30, the proposal in the petition for modification to change the current Operational Flow Order (OFO) penalties to \$5.00/decatherm (dth) in Stage 4 and \$5.00/dth plus the daily balancing standby rate in Stage 5. During the period of October 1 through May 31, the alternate structure as set forth in the Settlement Agreement is adopted.

The Commission reserves the right to revisit the OFO penalties before summer 2020, using data collected during summer 2019. Options for conducting this review include, but are not limited to an Order Instituting Rulemaking on reliability issues.

This proceeding is now closed.

## 1. Background

On August 15, 2018, Southern California Edison Company (SCE) and Southern California Generation Coalition (SCGC) filed the petition for modification (PFM)<sup>1</sup> seeking temporary relief in the form of modification of Southern California Gas Company's (SoCalGas) and San Diego Gas & Electric's (SDG&E) Operational Flow Order (OFO) noncompliance charges, which were set by the Commission in Decisions (D.) 15-06-004 and D.16-06-039, as modified by D.16-12-016.<sup>2</sup>

Responses to the PFM were filed on September 4, 2018 by SoCalGas/SDG&E, NRG Power Marketing LLC (NRG), Western Power Trading Forum (WPTF), the Department of Market Monitoring of the California Independent System Operator Corporation (CAISO DMM), and the California Independent System Operator Corporation (CAISO). SCE filed a reply on September 10, 2018.

A prehearing conference (PHC) was held on November 8, 2018. A ruling requesting additional information from SoCalGas/SDG&E was issued on November 8, 2018. SoCalGas and SDG&E filed a response to the questions in the ruling on December 3, 2018. On January 10, 2019, SoCalGas/SDG&E filed an amended response to the previously submitted response for Question 5.

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<sup>1</sup> At the same time the PFM was filed, SCE and SCGC filed a joint motion requesting an order to shorten parties' time to respond to the PFM to five days. SoCalGas and SDG&E opposed the request to shorten the time to respond to the PFM. On August 20, 2018, the Administrative Law Judge (ALJ) assigned to this proceeding issued a ruling to consolidate Application (A.) 14-06-021 and A.14-12-017 and shorten the time to respond to the PFM to 15 days of the service of the ruling.

<sup>2</sup> The Commission issued these decisions in separate, but not consolidated proceedings. These decisions are collectively referred to as the Decisions.

The Scoping Memo and Ruling (Scoping Ruling) was issued on January 15, 2019. On January 29, 2019, direct testimony was submitted by SCE, SCGC, SoCalGas/SDG&E, NRG and Indicated Shippers. Rebuttal testimony was submitted by SCE, SCGC, SoCalGas/SDG&E and NRG on February 22, 2019.

On March 6, 2019, the parties notified the ALJ that they mutually agreed to waive cross examination of all witnesses. Evidentiary hearings were removed from calendar and on March 8, 2019, SCE (on behalf of all parties who submitted testimony) filed a Joint Motion to Enter Exhibits into the record.

SCE, SCGC, SoCalGas/SDG&E, NRG, and Indicated Shippers convened a telephonic meeting to discuss settlement on March 12, 2019. On March 18 and 19, 2019, SCGC, SoCalGas/SDG&E, NRG and Indicated Shippers (jointly known as Settling Parties<sup>3</sup>), convened for two more telephonic settlement meetings. On March 20, 2019, the Settling Parties reached a settlement-in-principle.

A Rule 12.1<sup>4</sup> telephonic settlement conference was attended by the Settling Parties, CAISO, City of Long Beach, SCE, Shell Energy, WPTF, and Pacific Gas and Electric Company (PG&E). During this settlement conference, the draft settlement was discussed, and the Settling Parties responded to questions from other parties.

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<sup>3</sup> WPTF agreed to join the Settlement Agreement and became one of the Settling Parties on April 1, 2019.

<sup>4</sup> All future references to Rules refer to the Commission's Rules of Practice and Procedure.

On April 2, 2019, the Settling Parties filed their joint motion for adoption of the settlement agreement (Settlement Agreement).<sup>5</sup> Comments on the Settlement Agreement were filed on April 12, 2019 by SCE.<sup>6</sup>

## **2. Introduction to Operational and Emergency Flow Orders**

Operational Flow Orders (OFOs) and Emergency Flow Orders (EFOs) are system balancing tools to give gas shippers economic incentive to ensure their scheduled deliveries match their demand within a prescribed tolerance. SoCalGas issues OFOs when the system forecast of gas supply is not in balance with the system forecast of demand, after considering storage withdrawal or injection capacity allocated to the balancing function.

SoCalGas Rule 41 provides:

The Gas Control Department is the sole authority for: operating the pipeline and storage system, developing the system sendout (*i.e.*, demand) forecasts to be used for purposes of determining on a daily basis Southern System minimum flow requirements, and for issuing Operational Flow Orders (OFOs). The Gas Control Department is responsible for calculating forecasted sendout and physical storage injection capacity. For every nomination cycle, the Gas Scheduling Department shall calculate the system capacity as the sum of forecasted sendout, physical storage injection capacity, off-system scheduled quantities, and, through October 31, 2018, incremental injection capacity; and where the incremental injection capacity is the sum of the prior cycle scheduled withdrawal and withdrawal capacity used for balancing.

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<sup>5</sup> The Settlement Agreement is attached at Attachment A.

<sup>6</sup> The comment period on the proposed Settlement Agreement was reduced from 30 days to 10 days.

The goal of an OFO is to keep the system in balance, *i.e.*, within acceptable limits, by incenting shippers to avoid financial penalties known as noncompliance or imbalance charges levied against shippers who do not take action either to deliver additional supply or to limit supply to balance their supply with their usage on a daily basis within a specified tolerance band. If SoCalGas issues an OFO, it must make that OFO declaration by 8:00 p.m. for the next gas day.

If the system inventory or line pack level is high or low, SoCalGas/SDG&E may issue and implement a high or low OFO or EFO. SoCalGas will issue a high or low OFO if, on a day prior to this Gas Day, the system forecast of storage withdrawal or injection used for balancing exceeds the withdrawal or injection capacity allocated to the balancing function.<sup>7</sup>

The current OFO structure now in place as a result of the Decisions is as follows:

The OFO structure has five Stages, plus a final Emergency Flow Order (EFO) Stage, with each successive Stage imposing greater financial noncompliance charges for imbalances that exceed a prescribed tolerance.

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<sup>7</sup> SoCalGas Rule 41.4.



Under the current SoCalGas Rule 30.G, both high and low OFOs are issued in Stages that correspond to increasing noncompliance charges as depicted in the Table below:

Stage	Daily Imbalance Tolerance	Noncompliance Charge (\$/dth <sup>8</sup> )
1	Up to +/-25%	\$0.25
2	Up to +/-20%	\$1.00
3	Up to +/-15%	\$5.00
4	Up to +/-5%	\$25.00
5	Up to +/-5%	\$25.00 plus G-IMB-daily balancing standby rate
EFO	Zero	\$50.00 plus G-IMB daily balancing standby rate

If there is a supply shortage that cannot be rectified through an OFO, the Gas System Operator may issue an EFO. An EFO requires customers to deliver all of the gas they use on that day or pay a fee of \$50/dth plus G-IMB daily balancing standby rate for all gas burned in excess of scheduled gas deliveries.

### 3. Nature of Relief Requested in the PFM

The PFM requests the following:

The Commission should immediately and temporarily modify SoCalGas Rule 30.G to cap the \$25/dth component of the Stage 4 and Stage 5 OFO noncompliance charges at the Stage 3 OFO level of \$5/dth until the storage and gas transmission system is substantially operational and capable of delivering sufficient gas to SoCalGas/SDG&E's customers, or until the Commission can more fully assess and adopt a gas imbalance framework for the current constrained storage and pipeline operations on the SoCalGas/SDG&E systems. If the Commission implements SCE and SCGC's requested relief, a Stage 4 and Stage 3 OFO would have the same noncompliance charge, but a Stage 5 OFO would have a noncompliance

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<sup>8</sup> 10 terms equals 1 decatherm or dth.

charge of \$5/dth (*i.e.*, the current Stage 3 amount) plus an additional G-IMB daily balancing standby rate.<sup>9</sup>

According to SCE and SCGC,<sup>10</sup> the sharp increases in gas prices began when Line 235-2 ruptured in October 2017. Restricted operations at Aliso Canyon and reduced transmission pipeline capacity due to outages in Lines 235-2, 3000 and 4000 have caused noncore gas shippers, of which Electric Generators (EGs) represent 60% of the total demand during the summer months, to incur imbalances between their scheduled gas supplies and forecast burn. According to SCE, this is due to: (a) unanticipated electric grid topology; (b) unpredictable day ahead electric customer demands; and (c) inability of EGs in CAISO market to receive their generation schedules until after gas scheduling process has concluded. SCE stated that it has amassed over \$800 million<sup>11</sup> of ERRA under-collections primarily due to the increased gas costs and the effects on electric market prices.<sup>12</sup>

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<sup>9</sup> PFM at 18.

<sup>10</sup> SCGC members include Los Angeles Department of Water & Power, Burbank Water & Power, Pasadena Water and Power and the Imperial Irrigation District.

<sup>11</sup> Estimated amount was announced by SCE at the IEPR workshop in January 2019.

<sup>12</sup> The ERRA balancing account has triggered above the AB 57 five percent threshold in July 2018, which requires SCE to submit an ERRA Trigger filing with the Commission.

#### **4. Response to the Petition for Modification**

SoCalGas and SDG&E argue against the Joint PFM and contend that the PFM is the wrong procedural vehicle for granting the requested relief. They state that the PFM does not provide enough information to support what is requested, and that SCE may have contributed to the situation by failing to acquire firm Backbone Transmission System (BTS) rights.<sup>13</sup> The CAISO Department of Marketing Monitoring supports temporarily capping the noncompliance charge component of a Stage 4 and Stage 5 OFO to \$5/dth to mitigate gas price spikes. CAISO DMM's concern is that OFO noncompliance penalties may be impacting electric market prices and recommends that the Commission review the structure, but also urges that changes to the OFO noncompliance penalty structure be carefully considered to minimize any reliability impacts. WPTF opposes the proposed cap on OFO noncompliance penalties as proposed by SCE and SCGC. NRG does not object to the modifications, but believes any modifications should be done only after careful and comprehensive re-examination of the OFO structure and not on an expedited basis.

#### **5. Requirements for Revising a Commission Decision**

Pub. Util. Code § 1708 provides that the Commission, after appropriate notice, may alter one of its prior decisions:<sup>14</sup>

The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a

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<sup>13</sup> Response of SoCalGas and SDG&E to Joint PFM, at 2-3.

<sup>14</sup> All subsequent references to statute mean the Public Utilities Code, unless otherwise specified.

prior order or decision shall, when served upon the parties, have the same effect as an original order or decision.

A petition for modification is the procedural vehicle specifically designed to ask the Commission to revise a prior decision. Rule 16.4 of the Commission's Rules of Practice and Procedure governs such petitions. We find that petition meets the requirements set forth in Rule 16.4(b) and (c). Although the petition was not filed within one year of the effective date of the decision, there was a change of circumstances which arose more than 12 months after the original decisions. Therefore, we must evaluate whether or not the petition should be granted.

## **6. Settlement Agreement**

Pursuant to Article 12 of the Rules, the Settling Parties filed a motion to adopt the Settlement Agreement on April 2, 2019. The Settling Parties contend that the Settlement Agreement resolves all issues raised by the Joint Petition for Modification.

The Settlement Agreement is summarized as follows:

- The Settlement Agreement would remain in effect from the date approved by the Commission until October 31, 2021, unless superseded by a subsequent Commission decision. Any extension beyond October 31, 2021, would be an item for discussion at the SoCalGas and SDG&E 2021 Customer Forum Meeting.
- SoCalGas Tariff Rule 30.G.1.a and SDG&E Gas Tariff Rule 30.G.1.a pertaining to Operational Flow Order (OFO) provisions would be modified through a Tier 1 advice

letter, to be effective the first day of the month following the adoption of the Settlement Agreement.<sup>15</sup>

- SoCalGas would determine the appropriate low OFO or high OFO tolerance within the range from zero to the maximum specified for the stage of the OFO.
- The tolerance would be calculated using the injection or withdrawal capacity that is forecasted to be available for balancing service and the forecasted system send-out for the OFO day, provided that SoCalGas may in its discretion establish a higher tolerance than results from the calculation if system conditions permit, subject to being capped at up to -5% until Aliso Canyon’s withdrawal capacity is available to the System Operator for load balancing.
- The data used in calculating the tolerance and the associated tolerance calculation would be posted on Envoy at the time an OFO is declared.
- SoCalGas and SDG&E would temporarily implement an eight-stage OFO structure as set forth in the table below.

<b>Stage</b>	<b>Daly Imbalance Tolerance</b>	<b>Noncompliance Charge (\$/dth<sup>16</sup>)</b>
1	Up to +/- 25%	0.25
2	Up to +/- 20%	1.00
3	Up to +/- 15%	5.00
3.1	Up to +/- 15%	10.00
3.2	Up to +/- 15%	15.00
3.3	Up to +/- 15%	20.00
4	Up to +/- 10%	25.00
5	Up to +/- 5%	25.00 plus G-IMB daily balancing

<sup>15</sup> SoCalGas and SDG&E contend that system billing upgrades would take a minimum of three months to complete. We disagree and will discuss this in further detail in the discussion section of this decision.

<sup>16</sup> 10 therms equals 1 decatherm or dth.

		standby rate in \$/dth
EFO	Zero	50.00 plus G-IMB daily balancing standby rate in \$/dth
* Negative daily imbalance tolerances for all stages are capped at up to 5% until Aliso Canyon’s withdrawal capacity is available to the System Operator for load balancing.		

**7. Interaction of Daily and Monthly Balancing Rules**

To understand the implications of these two alternatives set forth in the PFM and Settlement Agreement, it is important to understand both the Daily Balancing Standby Rate and how daily and monthly balancing rules interact. The following is a description of the Daily Balancing Standby Rate in Schedule G-IMB:<sup>17</sup>

When a Stage 5 Low Operational Flow Order or Emergency Flow Order is declared, quantities not in compliance with the daily imbalance tolerance are *purchased* (emphasis added) at the daily balancing standby rate.... The daily balancing standby rate shall be equal to NGI’s MidDay Price Alert Index for SoCal-Citygate multiplied by [franchise fees and uncollectibles] FF&U plus brokerage fee... rounded up to the next whole dollar....”

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<sup>17</sup> Schedule No. G-IMB: <https://www.socalgas.com/regulatory/tariffs/tm2/pdf/G-IMB.pdf>

Thus, when a Stage 5 is declared, the noncore must “purchase” gas from core storage at the NGI Midday rate. The transaction is recorded in the Purchased Gas Account, and SoCalGas Gas Acquisition must then purchase new gas to replenish what was withdrawn. When a Stage 5 low OFO or EFO is declared, quantities not in compliance with the daily imbalance tolerance are purchased at the daily balancing standby rate.<sup>18</sup>

With regard to the interplay between the daily and monthly imbalance rules, under volatile price conditions, it is possible for customers to underdeliver on an extreme high price day in the hopes that they might purchase gas at a lower price later in the month in order to meet their +/- 8% monthly imbalance requirement. This is a risky strategy but not an entirely unreasonable one under certain market conditions. SoCalGas currently takes both regional prices and forward prices into account when determining the OFO stage to prevent customers from either moving gas to higher priced markets or holding out for lower prices later in the month.

Support for the possibility of underdelivering can be found in the testimony of SCGC witness Ms. Yap. Ms. Yap notes in her testimony:

In selecting the stage of the OFO, SoCalGas considers the prevailing prices in the marketplace as of Cycle 1. If the noncompliance charge were less than the citygate-border price differential, customers would prefer to pay the noncompliance charge rather than purchase gas at the citygate to make up for the insufficient nominations. The citygate-border price differential is the relevant comparison rather than the citygate price because if the customer were to choose to pay the noncompliance charge rather than to purchase the gas at the

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<sup>18</sup> SoCalGas-2.

citygate, paying the OFO noncompliance charge doesn't result in a purchase of gas. The customer still may be exposed to having to buy the gas to meet its 8% monthly imbalance tolerance. Thus, the customer would be effectively gambling that, on an upcoming day within the remaining days of the month, gas would be available with a smaller citygate-border price differential.<sup>19</sup>

### **8. Adoption of the Relief Request in the PFM During the Core Summer Months**

As noted in the Declaration attached to the PMF, the OFO rules are a financially based balancing incentive mechanism meant to provide price incentives to customers to manage gas imbalances.<sup>20</sup> Among other things, the OFO rules function on the assumption that enough gas is available to serve anticipated negative imbalances.

Due to the current limitations at Aliso Canyon and ongoing pipeline outages, transmission capacity is significantly constrained, and new storage has not been available to noncore customers. SCE argues that this results in gas scarcity and causes great uncertainty as to what stage an OFO may be called.<sup>21</sup>

Senate Bill 380 added Section 715 to the Public Utilities Code, which requires the CPUC to determine the range of inventory at the Aliso Canyon natural gas facility that is necessary to ensure safety, reliability, and just and reasonable rates. In accordance with statute, the most recent "715 Report" determined that the maximum allowable Aliso inventory is 34 billion cubic feet

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<sup>19</sup> SCGC-1 at 18.

<sup>20</sup> Declaration of Robert Grimm, dated August 10, 2018 and attached to the PMF as Attachment A. (*See*, A-4.)

<sup>21</sup> *Id.*



(Bcf).<sup>22</sup> Prior to the natural gas leak at Aliso, its maximum inventory was 86 Bcf. The Aliso Canyon Withdrawal Protocol (Withdrawal Protocol) is an additional restriction that the CPUC placed on Aliso. Under the Withdrawal Protocol, SoCalGas may only use Aliso as an “asset of last resort” after taking specified actions, including asking the Balancing Authorities (the California Independent System Operator and the Los Angeles Department of Water and Power) to voluntarily curtail electric generation.<sup>23</sup>

Aliso Canyon is also the subject of an open, statutorily mandated proceeding, A.17-02-002, which will determine the feasibility of minimizing or eliminating the use of Aliso.

The present limitations in SoCalGas’s system increase gas costs to noncore customers, but it is not certain whether a corresponding benefit of increased system reliability is occurring when an OFO is called. In addition, the direct impact on wholesale CAISO power prices is creating an amplified cost increase impact for end-use electric consumers that cannot be addressed through gas scheduling.

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<sup>22</sup> Aliso Canyon Working Gas Inventory, Production Capacity, Injection Capacity, and Well Availability for Reliability Summer 2018 Supplemental Report (715 Report):[http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/News\\_Room/715Report\\_Summer2018\\_Final.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/715Report_Summer2018_Final.pdf).

<sup>23</sup>Aliso Canyon Withdrawal Protocol (November 2, 2017):  
[http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/News\\_Room/News\\_and\\_Updates/11.2Protocol%20PUBLIC%20UTILITIES%20COMMISSION.PDF](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/News_and_Updates/11.2Protocol%20PUBLIC%20UTILITIES%20COMMISSION.PDF). CPUC letter to SoCalGas regarding the Withdrawal Protocol (September 5, 2018):  
[http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/News\\_Room/CPU\\_C%20Letter%20to%20SoCalGas%20re%20Aliso%20Canyon%20Withdrawal%20Protocol.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/CPU_C%20Letter%20to%20SoCalGas%20re%20Aliso%20Canyon%20Withdrawal%20Protocol.pdf).

SCE contends that this is partly caused by the misalignment of the procurement and scheduling timelines of gas and power markets.<sup>24</sup> SCE notes that many of the gas trades occur before generators who participate in the CAISO market know their day-ahead market award from CAISO.<sup>25</sup> SCE contends that this means those generators must forecast what their gas burn will be within 5% of actual demand, which is challenging because the daily variance in the gas burn for EGs is often greater than 5%.<sup>26</sup> In the PFM, SCE states that since OFOs are called after cycle 1 gas schedules have been finalized, EGs have limited ability to respond to the financial incentives during periods when storage is unavailable and/or pipelines are constrained.<sup>27</sup>

The financial incentives cause gas marketers and generators to speculate about what future increased stages of OFO penalties will be assessed. SCE argues that this drives up prices as marketers seek to optimize the value of their flowing gas supplies and generators seek to procure sufficient gas to ensure they can meet any CAISO generation schedule they may be awarded and/or instructed.<sup>28</sup>

Stage 4 and 5 OFOs with noncompliance charges starting at \$25/dth can be a significant contributor to increases in the price of gas at the SoCalGas Citygate and corresponding spikes in wholesale power prices.

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<sup>24</sup> PFM at 8-9.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Declaration of Robert Grimm, dated August 10, 2018 and attached to the PFM as Attachment A. (*See*, A-4.)

In 2018, at the time this PFM was filed, SCE stated it had incurred more than \$200 million above historical average heatwave Energy Resource Recovery Account (ERRA) related costs.<sup>29</sup> As a result, SCE's ERRA balancing account triggered above the Assembly Bill (AB) 57 five percent threshold. Since the balance did not self-correct, SCE submitted an ERRA trigger application with the Commission.<sup>30</sup> Ultimately, SCE experienced a \$972.5 million under-collection in its 2018 ERRA account.<sup>31</sup>

More specifically, SCE's week of July 23, 2018 Day-Ahead net wholesale CAISO costs increased approximately \$150 million over average summer heatwave prices.<sup>32</sup> We observe as well that in 2018, PG&E's prices remained near seasonal normal levels while gas prices in Southern California have been much more volatile. During the week of July 23, 2018, gas traded around \$3 to \$4/dth for PG&E Citygate but between \$10/dth and \$40/dth at SoCalGas Citygate.<sup>33</sup> PG&E's gas system had sufficient flexibility during the same time frame, allowing prices to remain at seasonal normal levels even as California confronted high temperatures statewide in 2018.<sup>34</sup>

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<sup>29</sup> *Id.* at 10.

<sup>30</sup> *Id.*

<sup>31</sup> D.19-01-045.

<sup>32</sup> PFM at 11 (Table V).

<sup>33</sup> *Id.* at 8.

<sup>34</sup> For a detailed analysis of the differences of SoCalGas Citygate and PG&E Citygate prices during the week of July 23-27, see Declaration of Grimm at A-7-13.

The allegations raised by SCE in its PFM are contested by the parties and disputed by the testimony presented. We do not necessarily agree with all the allegations made in the PFM and we acknowledge that the record contains opposing evidence on complex system-related and market issues. We also acknowledge that had this matter proceeded to hearing or additional evidence been submitted, that a different conclusion may have been reached.

However, the Commission is concerned about SCE's 2018 ERRA undercollection, which may in part be due to the current constraints at Aliso Canyon.<sup>35</sup> We are concerned that if we do not take immediate action, the events of 2018 may be repeated, especially during the summer months. As a result, we believe that there is an overriding concern which requires immediate action.

SoCalGas is using the OFO structure to balance its system and counteract the physical constraints, which can cause increases in prices for electric customers. System constraints will likely continue and appear likely to lead to high summer power prices for the second year in a row.

Our goal in adopting the PFM proposal for the summer months of June 1 to September 30 is to mitigate the high prices affecting noncore customers, because the high prices are due to SoCalGas system conditions that are outside noncore customers' control. We agree that there should be a temporary cap on the dollar/dth noncompliance component of a Stage 4 and 5 OFO. A temporary cap will help to stabilize prices during the crucial summer months. The cap on the Stage 4 and 5 noncompliance charge during peak summer months will help

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<sup>35</sup> We acknowledge that the root cause of the undercollection have not been fully investigated but should be analyzed in SCE's ERRA trigger application or another appropriate proceeding.

maintain price stability while imposing a financial penalty significant enough to incentivize appropriate behavior by noncore customers to balance gas supply during low OFO conditions.<sup>36</sup>

The current conditions in SoCalGas/SDG&E's territory have significantly changed since the low OFO protocols were proposed and adopted in A.14-06-021. Data suggests that SoCal Citygate prices have been significantly higher and more volatile during recent periods of stress than prices in the PG&E system.<sup>37</sup>

The data suggests that the price volatility during periods of stress, such as extreme summer conditions, began when Line 235-2 ruptured on October 1, 2017.<sup>38</sup> Due to the current limitations at Aliso Canyon combined with the pipeline outages, prices have become volatile. This has increased prices for gas to customers, including EGs, who have a limited ability to avoid the higher penalty price. During the peak summer months of June 1 through September 30, we adopt the PFM's proposal to lower the Stage 4 and 5 OFO noncompliance charge. We decline to implement the lower Stage 4 and 5 OFO noncompliance charges during the months of October 1 through May 31 as the evidence does not support such a finding. SCE itself acknowledges that the effects "appears to be particularly acute during periods of high temperatures."<sup>39</sup>

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<sup>36</sup> *Id.* at 2.

<sup>37</sup> Attachment C - California Public Utilities Commission (CPUC) and California Energy Commission (CEC) Joint Agency Workshop CPUC/CEC Staff Presentations January 11, 2019 at 3.

<sup>38</sup> SCGC-1 at 4

<sup>39</sup> PFM at 2.

As noted above, we find that there are urgent concerns raised in the PFM, which requires us to take immediate action. We acknowledge that the concerns raised in the PFM are contested by the parties. However, from a regulatory standpoint, we feel it is necessary to take immediate action. Accordingly, we reserve the right to revisit the concerns raised in the PFM before summer 2020, using data obtained from summer 2019. Additionally, the provisions adopted in this decision shall remain in effect until October 31, 2021, unless modified by a subsequent Commission decision. SoCalGas and SDG&E shall file a Tier 1 Advice Letter to implement the cap on the Stage 4 and 5 noncompliance charge during peak summer months.

As will be discussed in more detail below, we will adopt the provisions set forth in the Settlement Agreement during the other months.

## **9. Commission Review of the Proposed Settlement Agreement**

The requirements for adopting a settlement are set forth in Rule 12.1(a) of the Commission's Rules which states:

Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant....

Rule 12.1(d) provides that:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.

Rule 12.5 limits the future applicability of a settlement:

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

We must determine whether the settlement complies with Rule 12.1(d), which requires a settlement to be “reasonable in light of the whole record, consistent with law, and in the public interest.”

While our policy is to favor the settlement of disputed applications, our standard of review for settlements is designed to ensure that settlements meet a minimum standard of reasonableness in light of the law and the record of the proceeding. A settlement can be unreasonable, and we will not be persuaded to approve unreasonable settlements simply because of a general policy favoring the approval of settlements. There are several attributes that can render a settlement unreasonable. One such attribute is the presence of significant deviations from Commission findings, policies, and practices that are not adequately explained and justified in the motion for the settlement’s adoption. Another such attribute is the lack of demonstration that the settlement fully and fairly considered the interests of all affected entities – both parties and non-party entities such as affected customers.

The Settling Parties requested that the Commission adopt the Settlement Agreement without any modifications. However, as we will explain in detail

below, the Settlement Agreement does not do enough during the peak summer months to ensure just and reasonable rates. Therefore, we will adopt the terms of the Settlement Agreement only during the period of October 1 through May 31.

The record consists of all filed documents, served and filed testimony, the proposed settlement and the motion for its adoption and the comments on the settlement agreement. We now evaluate why the Settlement Agreement is reasonable.

During the course of this proceeding, SCGC submitted testimony supporting the PFM.<sup>40</sup> In addition to supporting the proposals in the PFM, SCGC also included testimony which addressed various alternatives that the Commission could consider. One alternative presented by SCGC included an eight-stage OFO structure with a graduated noncompliance charge structure.<sup>41</sup> In her rebuttal testimony, SCGC witness Ms. Yap notes that “[t]his alternative would enable the System Operator to set the noncompliance charge based on gas price indices at a level between \$5 and \$25 per [d]th.”<sup>42</sup>

Although SoCalGas and SDG&E opposed the PFM, they also agreed in their testimony that:

[a]ny temporary modification on the current OFO noncompliance charges (if the Commission were to consider it) should allow for a graduated structure, if adopted on a temporary basis, would allow the System Operator to set the

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<sup>40</sup> SCGC-1 at 2-3.

<sup>41</sup> *Id.* at 24.

<sup>42</sup> SCGC-2 at 11.



Stage 4 and Stage 5 noncompliance charge based on gas price indices at a level between \$5 and \$25 per dekatherm.<sup>43</sup>

In rebuttal testimony, SoCalGas went on to express a preference for the graduated structure put forth by Ms. Yap and stated “SCGC’s second alternative, however, is preferable to SCGC’s other proposal in that it represents a graduated structure ..., which is conceptually similar to what I described in my direct testimony ...”<sup>44</sup>

NRG did not object to the Commission reexamining the current OFO structure, it cautioned that this should not be done on an expedited basis.<sup>45</sup> However, NRG also stated that “Witness Yap’s proposals may well serve as an excellent starting point for a discussion on restructuring the low OFO charges, but they should not be implemented without greater study and consideration.”<sup>46</sup>

Based upon the positions presented in each party’s testimony and the resolution reached in the Settlement Agreement, we are convinced that the Settlement Agreement is reasonable.

We now examine whether or not the Settlement Agreement is consistent with the law. Each of the parties is represented by experienced counsel in this proceeding. In considering the term of the Settlement Agreement, the Settling Parties considered relevant statutes and Commission decisions.<sup>47</sup> No party has expressed concerns that the Settlement Agreement is inconsistent with applicable

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<sup>43</sup> SoCalGas-1 at 10.

<sup>44</sup> SoCalGas-2 at 8.

<sup>45</sup> NRG-2 at 8.

<sup>46</sup> *Id.*

<sup>47</sup> Settlement Agreement at 12.

law and prior Commission decisions. Therefore, we conclude that the Settlement Agreement is consistent with the law.

We now evaluate whether the Settlement Agreement is in the public interest. We note that the Settlement Agreement is joined by a range of parties. The Settling Parties range from electric generators (and a co-petitioner of the PFM) and other market participants, to the gas utilities' System Operator.<sup>48</sup> We agree with the Settling Parties that the Settlement Agreement includes representatives from impacted customer groups and that these representatives (witness and counsel) are well known and experienced in the energy industry. We also agree with the representatives that adoption of a Settlement Agreement often is better than litigating the issues of a particular matter. There are costs and uncertainties when litigating a matter. However, we will not adopt a settlement that is not in the best interest of the public.

We agree that the Settlement Agreement is a good starting point. However, the Settlement Agreement does not address all of the concerns and issues that are present as a result of the current operating status of Aliso Canyon and the ongoing pipeline outages. Indeed, the Settlement notes that “[n]egative daily imbalance tolerances for all stages are capped at up to -5% until Aliso Canyon’s withdrawal capacity is available to the System Operator for load balancing.” As we noted above in our discussion of the PFM, the factors currently present at Aliso Canyon and on the pipeline system contribute to excessive rates, especially during periods of stress like extreme summer conditions. As we noted above, the price volatility is not as significant and

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<sup>48</sup> *Id.*

frequent in the PG&E system, which supports the conclusion that the SoCalGas system is significantly limited due to the constraints on its pipeline and storage systems.

As discussed earlier in this decision, where we adopt the PFM for the peak summer months, the Settlement Agreement's modification of the OFO structure from five to eight stages would not sufficiently mitigate the potential for high gas prices in the summer when the impact of high gas prices is amplified by their impact on wholesale CAISO power prices and can lead to significant cost increases for end-use electric consumers. The PFM's proposal of a temporary cap on Stage 4 and 5 noncompliance charge is more likely to help maintain price stability during the peak summer months. Therefore, we decline to implement the terms of the Settlement Agreement during the period of June 1 through September 30. We do, however, adopt the terms of the Settlement Agreement during the period of October 1 through May 31 as set forth in section six above with the following important clarification as shown in italics. Negative daily imbalance tolerances for all stages are capped at up to -5% until Aliso Canyon's withdrawal capacity is available *without constraint* to the System Operator for load balancing. We add the words "without constraint"<sup>49</sup> to emphasize that, even though Aliso Canyon is available, its use is currently constrained by the Aliso Canyon Withdrawal Protocol.

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<sup>49</sup> In comments received from the parties SCGC and NRG raised concern about the addition of "without constraints." SCGC is correct in its analysis that this phrase is not intended to change the purpose of the provision in the Settlement Agreement (i.e. limiting negative daily imbalances tolerances to -5% until Aliso Canyon's withdrawal capacity is available to the System Operator for load balancing).

The Commission reserves the right to revisit the OFO penalties before summer 2020, using data collected during summer 2019. Options for conducting this review include, but are not limited to an Order Instituting Rulemaking on reliability issues.

We now address the allegation that SoCalGas and SDG&E will need up to 90 days to implement this decision due to the need to make system billing updates. We are concerned that this proposed timeline is excessive. SoCalGas and SDG&E should start with the necessary billing upgrades immediately. The terms of this decision will become effective as of the date the Commission adopts the decision, regardless of whether the billing updates have been implemented.

SoCalGas and SDG&E shall file a Tier 1 Advice Letter to implement the terms set forth in the Settlement Agreement as necessary.

#### **10. Rejection of the Settlement Agreement During the Peak Summer Months**

Rule 12.4 provides that the Commission may reject a proposed Settlement Agreement whenever it determines that the settlement is not in the public interest. As noted above, we are applying the terms of the Settlement Agreement only during October 1 through May 31. Since we are rejecting a portion of the Settlement Agreement, we must allow the Settling Parties to do one of the following:

- (a) Hold hearings on the underlying issues, in which case the parties to the settlement may either withdraw it or offer it as joint testimony,
- (b) Allow the parties time to renegotiate the settlement,
- (c) Propose alternative terms to the parties to the settlement which are acceptable to the Commission and allow the parties reasonable time within which to elect to accept such terms or to request other relief.

Although we are not adopting the Settlement Agreement during the period of June 1 through September 30, we have proposed alternative terms to the parties which are acceptable and reasonable to the Commission. In their comments, the Settling Parties shall address whether these terms are acceptable or whether they wish to request other relief.

## **11. Conclusion**

This decision denies in part and grants in part the August 15, 2018 petition for modification filed by SCE and Southern California Generation Coalition (SCGC) of Commission D.15-06-004 and D.16-06-039, as modified by D.16-12-016. This decision also grants in part and denies in part the Settling Parties Motion for adoption of the Settlement Agreement filed on April 2, 2019.

During the peak summer months of June 1 through September 30, the proposal in the petition for modification to change the current OFO penalties to \$5.00/dth in stage 4 and \$5.00/dth plus the daily standby rate in Stage 5 is adopted. During the period of October 1 through May 31, the alternate structure, an 8-stage OFO structure with a graduated noncompliance charge structure as set forth in the Settlement Agreement is adopted with the clarification that negative daily imbalance tolerances are capped at up to -5 percent until Aliso Canyon's withdrawal capacity is available without constraint.

The provisions in this decision shall remain in effect until October 31, 2021, unless modified by a subsequent Commission decision. The Commission reserves the right to revisit the OFO penalties before summer 2020, using data collected during summer 2019. Options for conducting this review include, but are not limited to an Order Instituting Rulemaking on reliability issues.

This proceeding is now closed.

## **12. Safety Considerations**

Pub. Util. Code § 451 requires that every public utility must maintain adequate, efficient, just, and reasonable service to promote the “safety, health, comfort, and convenience of its patrons, employees, and the public.” No party raised any safety-related concerns during the course of this proceeding. We have evaluated the Petition for Modification and Settlement Agreement and are satisfied that there are no safety considerations that need to be addressed.

## **13. Admission of Testimony and Exhibits into the Record**

Since evidentiary hearings were not held in this proceeding, there was no opportunity to enter prepared testimony and exhibits into the record. In order to fairly assess the record, it is necessary to include all testimony and exhibits served by the Parties. In the joint motion of March 8, 2019, the parties requested, pursuant to Rule 11.1, that the Commission receive the Exhibits into the record of in this proceeding.

The following exhibits are admitted to the record in this proceeding:  
SCE-1, SCE-2, SCE-3, SCGC-1, SCGC-2, SCGC-3, SCGC-4, SCGC-5, SCGC-6,  
SCG-1, SCG-2, SCG-3, NRG-1, NRG-2, IS-1.<sup>50</sup>

Given the necessity of the testimony to our assessment of the proposals put forth, we admit into evidence the Exhibits identified above.

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<sup>50</sup> A detailed listing of the exhibits is attached to this decision as Attachment B.

#### **14. Categorization and Need for Hearing**

In the Scoping Memo, the assigned Commissioner stated that evidentiary hearings would be held if necessary and that this proceeding was ratesetting. In light of the parties' waiver of cross examination, we change our preliminary determination regarding hearings, to "no hearings are necessary."

#### **15. Comments on Proposed Decision**

The proposed decision in this matter was mailed in accordance with § 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on May 20, 2019 by SCGC, WPTF, SoCalGas/SDG&E, NRG Power, SCE, CAISO, and IS. SCE and CAISO expressed support of the proposed decision as drafted. The other parties who submitted comments argued that the Commission should adopt the Settlement Agreement as drafted. Although SoCalGas/SDG&E opposes the PFM, they recognize that the Commission has the regulatory authority to address the concerns raised in the PFM on an emergency basis.

In their comments, SoCalGas and SDG&E state that although they believe that the Commission should adopt the Settlement Agreement as a whole, they acknowledge that the Commission has an overriding concern over a potential repeat of SCE's 2018 ERRRA undercollection which could justify the Commission exercising its regulatory powers to adopt an outcome based on an overriding policy concern over a potential spike in electric rates.<sup>51</sup>

We have incorporated the suggested edits to proposed decision and acknowledge that the allegations alleged by SCE in the PFM are disputed by the parties. However, from a regulatory point of view, the Commission believes that

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<sup>51</sup> See, Opening Comments of SoCalGas and SDG&E at 4.5.

immediate action is necessary to address the potential repeat of the 2018 undercollection. We also recognize that additional progress is needed and therefore adopt the provisions in this decision only through October 31, 2021. Additionally, we reserve the right to revisit the issues in this proceeding via a rulemaking or other appropriate proceeding.

Reply comments were filed by SCE on May 28, 2019.

## **16. Assignment of Proceeding**

Liane Randolph is the assigned Commissioner and Gerald F. Kelly is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. The petition for modification seeks modifications to D.15-06-004 and D.16-06-039, as modified by D. 16-12-016.
2. The petition for modification was not filed within one year of the issuance of the original decisions. However, there was a change of circumstances which occurred more than 12 months after the original decisions which now justifies the filing of the petition for modification.
3. The record of the proceeding is comprised of the petition for modification, the testimony, and all other filings.
4. The current OFO structure has five Stages, plus a final EFO Stage, with each successive Stage imposing greater financial noncompliance charges for imbalances that exceed a prescribed tolerance.
5. The petition for modification seeks to temporarily modify SoCalGas Rule 30.G to cap the \$25/dth component of the Stage 4 OFO noncompliance charges at the Stage 3 OFO level of \$5/dth and the Stage 5 OFO noncompliance charge at \$5/dth plus the daily balancing standby rate.



6. The OFO rules are a financially-based balancing incentive mechanism meant to provide price incentives to customers to manage gas imbalances.

7. The PFM claims that OFO rules function on the assumption that enough gas supply is available to serve anticipated negative imbalances. This claim was contested by the parties.

8. The PFM claims that due to the current supply limitations in Southern California due to the Aliso Canyon Withdrawal Protocol and ongoing pipeline outages, the current rules create financial incentives for gas marketers and generators to speculate about what future increased stages of OFO penalties will be assessed, driving up prices. This claim was contested by the parties.

9. The price volatility has resulted in increased prices for gas to customers in Southern California, including EGs, which have limited ability to avoid the higher penalty price because of supply constraints.

10. The Southern California price volatility appears to be particularly acute during periods of extreme weather.

11. The modifications proposed in the PFM during the peak summer months of June 1 through September 30 are not supported by the full record. However, the Commission recognizes that action should be taken to address the concerns raised in the PFM.

12. The modifications proposed in the PFM during the months of October 1 through May 31 are not supported by the full record. However, the Commission recognizes that action should be taken to address the concerns raised in the PFM.

13. A motion to adopt the Settlement Agreement was filed by the Settling Parties on April 2, 2019.

14. A settlement conference was held among the active parties.

15. The Settling Parties request that the Commission adopt the Settlement Agreement.

16. The Settlement Agreement would temporarily implement an eight-stage OFO structure until October 31, 2021, and states that negative daily imbalance tolerances for all stages are capped at up to -5% until Aliso Canyon's withdrawal capacity is available to the System Operator for load balancing.

17. The eight-stage OFO structure is reasonable and supported by the evidence. However, the Commission recognizes the need to address the concerns raised in the PFM.

18. The Commission reserves the right to revisit the OFO penalties before summer 2020, using data collected during summer 2019.

19. The eight-stage OFO penalty structure is temporary and will terminate on October 31, 2021, unless superseded by a subsequent Commission decision.

### **Conclusions of Law**

1. The petition for modification should be granted in part and denied in part.

2. The requests in the petition for modification should be adopted for the peak summer months of June 1 through September 30.

3. The requests in the petition for modification should be denied for the period of October 1 through May 31.

4. Rule 12.1(d) provides that the Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

5. The proposed Settlement Agreement is reasonable during the months of October 1 through May 31 with the clarification that negative daily imbalance tolerances for all stages are capped at up to -5% until Aliso Canyon's withdrawal capacity is available *without constraint* to the System Operator for load balancing.

6. The eight-stage OFO noncompliance structure is supported by the evidence. However, for the peak summer months, the Commission is intent on taking actions to address the concerns raised in the PFM.

7. The settlement is consistent with the law because it does not contravene or compromise any statutory provisions or prior Commission decisions.

8. The Motion to adopt the Settlement Agreement is in the public interest. However, for the peak summer months the Commission is holding the Settlement Agreement in abeyance and instead capping the Stage 4 and Stage 5 OFO noncompliance charges at \$5 per decatherm, to mitigate the possibility of another repeat of SCE's 2018 ERRRA undercollection.

9. The Commission should consider revisiting the OFO penalties before summer 2020, using data collected during summer 2019 as part of an Order Instituting Rulemaking on reliability issues, or another appropriate proceeding.

10. There is no need for evidentiary hearings for this proceeding.

11. The motion to admit all exhibits into the record should be granted.

12. Given that no hearings are needed, the preliminary determination regarding hearings should be changed to "no hearings are necessary."

13. The consolidated A.14-06-021 should be closed.

14. This order should be effective immediately.

## **O R D E R**

### **IT IS ORDERED** that:

1. The August 15, 2018 petition for modification of Decision (D.) 15-06-004 and D.16-06-039 as modified by D.16-12-016 is denied in part and granted in part.

2. During the period of June 1 through September 30, Southern California Gas Company Rule 30.G is modified to cap the \$25/decatherm (dth) component of the Stage 4 Operational Flow Order noncompliance charge at the Stage 3 level of \$5/dth.

3. During the period of June 1 through September 30, Southern California Gas Company Rule 30.G is modified so that a Stage 5 Operational Flow Order shall have a noncompliance charge of \$5/dekatherm plus an additional G-IMB daily balancing standby rate.

4. Southern California Gas Company Rule 30.G is modified so that a Stage 4 shall have a noncompliance charge of \$5 / dth and a Stage 5 Operational Flow Order shall have a noncompliance charge of \$5/dekatherm plus an additional G-IMB daily balancing standby rate through October 31, 2021, unless modified by a subsequent Commission decision.

5. Southern California Gas Company and San Diego Gas & Electric Company shall file a Tier 1 Advice Letter to implement the Stage 4 and Stage 5 Operational Flow Order noncompliance charges for the period of June 1 through September 30.

6. The Settlement Agreement filed on April 2, 2019 is adopted in part and rejected in part.

7. During the period of October 1 through May 31, Southern California Gas Company and San Diego Gas & Electric Company shall implement an eight-stage Operational Flow Order structure as set forth in the Settlement Agreement with the clarification that negative daily imbalance tolerances for all stages are capped at up to -5% until Aliso Canyon's withdrawal capacity is available *without constraint* to the System Operator for load balancing.

8. Southern California Gas Company and San Diego Gas & Electric Company shall file a Tier 1 Advice Letter to implement the eight-stage noncompliance Operational Flow Order.

9. The Commission reserves the right to revisit the Operational Flow Order penalties before summer 2020, using data collected during summer 2019.

10. The determination in the scoping memo that “hearings are necessary” is changed to “no hearings are necessary.”

11. The prepared testimony of Southern California Edison Company consisting of exhibits 1 through 3 is received into evidence.

12. The prepared testimony of Southern California Generation Coalition consisting of exhibits 1 through 6 is received into evidence.

13. The prepared testimony of Southern California Gas Company consisting of exhibits 1 through 3 is received into evidence.

14. The prepared testimony of NRG Power Marketing LLC, consisting of exhibits 1 through 2 is received into evidence.

15. The prepared testimony of Indicated Shippers consisting of exhibit 1 is received into evidence.

16. The changes to the Operation Flow Order noncompliance charges are effective immediately, regardless of when Southern California Gas Company and San Diego Gas & Electric Company implement the necessary billing updates.

17. The eight-stage OFO penalty structure will terminate on October 31, 2021, unless superseded by a subsequent Commission decision.

18. The consolidated Application (A.) 14-06-021 and A.14-12-017 are closed.

This order is effective today.

Dated May 30, 2019, at San Francisco, California.

MICHAEL PICKER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners