

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

ENERGY DIVISION

RESOLUTION G-3396  
March 1, 2007

**R E S O L U T I O N**

**Resolution G-3396: In compliance with Decision 06-09-039, Southern California Gas Company submits its proposal to offer tradeable capacity rights on its local transmission system as well as revisions to certain terms related to local transmission open season commitments and expansions. SoCalGas' advice letter is approved with modification.**

By Advice Letter 3684 filed on November 22, 2006

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**SUMMARY**

**As required by Decision (D.) 06-09-039, Southern California Gas Company filed Advice Letter (AL) 3684 to set forth its proposal for tradeable capacity rights on its local transmission system, and to make revisions to its tariff and forms related to the open season commitments for local transmission service. This Resolution approves AL 3684 with modification. This resolution requires SoCalGas to file a supplemental advice letter to state that, for applicable rate schedules, five-year firm service contracts will be converted to two-year contracts with the same use-or-pay commitments in the event that the Commission agrees that no capacity expansion is needed as a result of an open season.**

**The protest filed by Southern California Generation Coalition is denied.**

**BACKGROUND**

**SoCalGas AL 3684 was submitted in compliance with D.06-09-039 to revise certain terms and implement new terms for firm service on SoCalGas's local transmission system.**

On November 22, 2006 Southern California Gas Company (SoCalGas) filed compliance Advice Letter (AL) 3684. The filing was submitted in response to Ordering Paragraph (OP) 9 of D.06-09-039 (also known as the "Phase 2

Decision”) in Rulemaking (R.) 04-01-025 (also known as the “Gas OIR”). That OP stated:

SoCalGas and SDG&E should file an advice letter within 90 days of the adoption of this decision to implement its proposal to offer tradable capacity rights on its local transmission system, as well as revisions to its open season commitment period as described herein.

The scope of R.04-01-025 was to “Establish Policies and Rules to Ensure Reliable, Long-Term Supplies of Natural Gas to California”. Capacity rights on the SoCalGas local transmission system was one of many issues addressed in R.04-01-025 and D.06-09-039.

**D.06-09-039 modified SoCalGas’s proposed revisions to its rules affecting open seasons for local transmission capacity in congested areas.**

The decision continued the practice of requiring no more than two-year commitments for firm service for smaller customers. For the service of larger customers, the decision allowed the utility to require take-or-pay commitments lasting for either five years from sign-up or two years from in-service date of new facilities, whichever occurs first. The decision required SoCalGas and SDG&E to upgrade the system when nominations for firm capacity exceed capacity, or explain its reason if the utility chooses not to. It required that tradable rights be implemented for local transmission capacity. Finally, the decision required that the utility base its usage forecasts and expansion plans on traditional forecasting tools, in addition to open seasons.

In AL 3684, in response to OP 9 of D.06-09-039, SoCalGas proposes to:

- Eliminate one *pro forma* contract (the “Constrained Area Amendment (Form 6597-14)”);
- Create two new *pro forma* contracts, (the “Scheduled Quantity Addendum (Form 6900)” and the “Constrained Area Firm Capacity Trading Agreement (Form 6910)”);
- Add a definition to Rule No.1 (Definitions); and
- Make numerous additions to various rate schedules (G-10, G-AC, GT-AC, G-EN, GT-EN, GT-F, and GW-SD).

In conceptual terms, AL 3684 proposes to eliminate the existing “Constrained Area Amendment (Form 6597-14)” to the Master Services Contract, Schedule A,

Intrastate Transmission Service. This form currently allows core and noncore customers to indicate their firm service transportation commitments, and specifies special terms and conditions for constrained area transportation. In the AL, SoCalGas proposes to strip away the terms and conditions and move them to the appropriate rate schedule and to Rule No.1. SoCalGas also proposes to augment the schedule section of the new form, allowing for more detail, and to rename the resulting document the "Scheduled Quantity Addendum (Form 6900)".

The AL also proposes a new "Constrained Area Firm Capacity Trading Agreement (Form 6910)" to facilitate trading of capacity and associated use-or-pay commitments between customers who wish to trade and are located in the same constrained area.

The AL proposes to add new special condition clauses to rate schedules G-10, G-AC, GT-AC, G-EN, GT-EN dealing with Open Season and Non-bidding Customers. The content of these clauses formerly was contained in the "Constrained Area Amendment (Form 6597-14)". And finally, the AL proposes to add numerous Special Condition clauses to the GT-F (firm transmission) and GW-SD (intrastate transmission service for San Diego Gas & Electric) rate schedules to accept language jettisoned from the eliminated "Constrained Area Amendment (Form 6597-14)" as well as language necessary to effectuate the changes to contract terms and the establishment of transmission rights trading ordered by D.06-09-039.

## **NOTICE**

Notice of AL 3684 was made by publication in the Commission's Daily Calendar. SoCalGas states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

## **PROTESTS**

**Advice Letter 3684 was timely protested by Southern California Generation Coalition (SCGC) on December 12, 2006. The arguments are numbered below to facilitate the discussion in this resolution.**

- 1) Regarding the proposed GT-F Special Condition 34, describing the "Term" of the contract, SCGC protests that the language does not take into account

a possible circumstance that is in fact unfolding in Application (A.) 06-10-034. In that proceeding, SoCalGas is seeking to mitigate congestion of a section of its local transmission grid by acquiring capacity on interstate and/or foreign pipelines. SCGC proposes that language be inserted into the clause in question to accommodate this circumstance.

- 2) Also regarding Special Condition 34, SCGC argues that language should be added to reflect the scenario in which an open season, when customers make their respective two- and five-year commitments, fails to demonstrate that the local system is in fact constrained. SCGC argues that "If there is no need for expansion and, accordingly, no expansion is undertaken, there is no need to have a five-year term to 'ensure that the noncore customers whose demand has caused the need to expand will actually use the expansion facilities...'" (D.06-09-039 p.63) SCGC argues that holding customers to use-or-pay commitments in the situation where no expansion takes place serves no purpose and is unnecessarily punitive. In this case, SCGC asks that customers with five-year commitments be switched to two-year contracts.
- 3) The proposed GT-F Special Condition 39 makes the customer liable for outstanding use-or-pay charges in the event of "Early Termination". SCGC calls for eliminating this clause, arguing that if a customer goes out of business due to bankruptcy or some other reason, the customer should not be burdened with these obligations.
- 4) The proposed GT-F Special Condition 46 gives the utility the right to reject any bid. SCGC argues that this provision should be expanded so as to provide that any rejection shall be based on reasonable grounds.
- 5) SCGC notes that D.06-09-039 provided that "If, even in the event that nominations exceed capacity, the utility declines to upgrade the system, it shall file a publicly available advice letter with the Commission explaining its decision." (pp.63-64) SCGC argues that the GT-F tariff should be expanded to include this provision.
- 6) SCGC also points out that D.06-09-039 noted that SoCalGas had described a mechanism for trading local transmission rights and concomitant use-or-pay obligations making use of the utility's Envoy electronic bulletin board. SCGC notes that no such mention is made in SoCalGas's filing, and asks that it be added.
- 7) Finally, "given the overlap between Advice 3684 and the Otay Mesa proceeding pending in A.06-10-034, SCGC recommends that either Advice 3684 be consolidated for consideration with A.06-10-034 or, in the

alternative, held in abeyance until completion of the proceeding in A.06-10-034.”

**In its December 19, 2006 response, SoCalGas claims that SCGC’s protest has no merit and should be denied, and addresses each of SCGC’s arguments.**

- 1) SoCalGas argues that SCGC’s request to add language to the “Term” clause of rate schedule GT-F, to account for the situation in which the utility mitigates congestion by means of obtaining “service on interstate or foreign pipelines”, amounts to a modification of D.06-09-039, and is not appropriate for a compliance filing.
- 2) Likewise, SoCalGas argues that SCGC’s request, to reduce customers’ firm commitments in the event that the open season reveals no need for expansion, goes beyond the scope of D.06-09-039. Nevertheless, SoCalGas states that in the event that an open season or other planning tool shows that congestion is not present and therefore the utility does not plan to expand the local system within the five year contract period, “it will inform the Commission. Upon Commission agreement that there is no need to construct additional facilities, SoCalGas would agree to amend the five-year contracts to two-year contracts with the same use-or-pay commitments as the small customers.”
- 3) SoCalGas argues that SCGC’s request to remove use-or-pay commitments in the event of contract termination, as described in proposed Special Condition 39, would involve changing contract commitments and is not authorized by D.06-09-039. SoCalGas notes that the “Early Termination” clause is currently already contained in the utility tariffs, in the “Constrained Area Amendment” (Form 6597-14).
- 4) Likewise, SoCalGas argues that SCGC’s request to proposed Special Condition 46 amounts to an unauthorized tariff modification, since, says SoCalGas, this provision was simply transplanted from the “Constrained Area Amendment” (Form 6597-14).
- 5) SoCalGas agrees with SCGC that in the event that the utility decides not to expand its local system despite congestion indicated by an open season, it is required to file an advice letter explaining its decision. But “SoCalGas believes that it is not necessary to express this requirement in the tariff since it is not a customer issue and unnecessarily complicates the tariffs.” (p. 3)
- 6) Responding to SCGC’s request for tariff language referring to the posting and soliciting of capacity rights trades on the SoCalGas electronic bulletin

board, SoCalGas argues that it has in fact included this language in the proposed GT-F Special Condition 48.g, in which “Customers desiring a Trade may use a Utility-hosted platform or other lawful means to solicit a Trade.”

- 7) SoCalGas opposes SCGC’s call to either fold this AL into the Otay Mesa proceeding (A.06-10-034) or hold it until that proceeding is completed. SoCalGas argues that doing either would unnecessarily delay implementation of D.06-09-039. SoCalGas notes that “The current open season periods for the potentially capacity-constrained areas of the Imperial Valley and San Joaquin Valley are set to expire on April 1, 2007...” SoCalGas argues that SCGC should make its arguments in the Otay Mesa proceeding.

## **DISCUSSION**

**The Commission has reviewed the Advice Letter, SCGC’s protest, and SoCalGas’s response and reached the following conclusions:**

- 1) The language proposed by SCGC for GT-F Special Condition 34 dealing with the Otay Mesa proceeding does in fact go beyond what was considered or ordered by D.06-09-039. Furthermore, this issue can very readily be raised in the Otay Mesa proceeding (A. 06-10-034). In disposing of that application, the Commission may agree with SCGC and order corresponding changes to the tariff. This AL is not the place for it.
- 2) Likewise, we agree with SoCalGas that SCGC’s proposed language change to GT-F Special Condition, dealing with open seasons which uncover no congestion, goes beyond what was considered or ordered by D.06-09-039. **We believe that SoCal’s counter-proposal, to switch five-year contracts to two-year contracts once the Commission has agreed that no new construction will be undertaken during the five-year contract period, is in the spirit of D.06-09-039 and will allow it. We will order SoCalGas to make this modification to the GT-F rate schedule as well as to other applicable rate schedules.**
- 3) Regarding the proposed language in the GT-F “Early Termination” Special Condition 39, we agree with SoCalGas that this same language was already contained in the tariff (in the existing/old “Constrained Area Amendment (Form 6597-14)”) and will allow it.
- 4) Regarding the proposed language in the GT-F “Right of Refusal” Special Condition 46, we agree with SoCalGas that this same language was

already contained in the tariff (in the existing/old "Constrained Area Amendment (Form 6597-14)"). It should also be noted that the language contained in the current and proposed tariffs does require the utility to explain to the customer the reason why the bid was rejected. We will allow the language to remain as proposed by SoCalGas.

- 5) Regarding SoCalGas's obligation to explain its decision to the Commission in the event that the utility chooses not to expand despite the finding of congestion by an open season, we agree with SoCalGas that this obligation is already stated in D.06-09-039, is not directly relevant to the the terms and conditions for firm service or open seasons, and therefore need not be included here.
- 6) We find that the language proposed by SoCalGas regarding the public solicitation of transmission capacity trades is compliant with D.06-09-039.
- 7) As we noted earlier, any tariff changes prompted by events being addressed in A.06-10-034 should properly be raised in that proceeding.

We also find all other aspects of AL 3684 to be reasonable, and find they should be adopted.

## **COMMENTS**

**The Draft Resolution was mailed to parties for comments. SCGC filed timely comments on February 5, 2007. SCGC argues that the Draft Resolution fails to address one of SCGC's arguments from its December 12, 2006 protest. In the December 12 protest, SCGC had addressed the situation where the utility holds an open season for local transmission capacity in places where congestion is occurring or expected to occur in the near future. In the December 12 protest, SCGC had argued that if such an open season were to reveal no need for system expansion, the five-year contracts which large customers had committed to should be reduced to two years, and the take-or-pay provisions should be voided. In its February 5 comments, SCGC claims that while the resolution did address the contract length reduction issue, it did not address the voiding of take-or-pay provisions issue.**

**In its February 23, 2006 reply to comments, SoCalGas counters that in fact the Draft Resolution did address both of SCGC's issues, and SoCalGas goes on to reiterate arguments it had made in early comment rounds.**

**We concede that the Draft Resolution did not explicitly address the issue which SCGC now brings to our attention, that of voiding take-or-pay provisions. But we are convinced by SoCalGas's argument, namely, that SCGC's proposal clearly goes beyond the scope of D.06-09-039. Therefore, the tariff changes ordered in the Draft Resolution will not be altered.**

### **FINDINGS**

1. In OP 9 of D. 06-09-039, the Commission directed SoCalGas to file within 90 days an Advice Letter which would implement tariff changes related to the local transmission policies embodied in that decision.
2. On November 22, 2006 SoCalGas timely filed its compliance AL 3684.
3. On December 12, 2006 SCGC timely filed its protest to AL 3684.
4. On December 19, 2006 SoCalGas timely filed its response to the SCGC protest.
5. The tariff language as proposed by SoCalGas in AL 3684 is reasonable.
6. SoCalGas should add language, in Special Condition 34 of Schedule GT-F and to other applicable rate schedules, that states: In the event an open season or other planning tool shows that congestion is not present and therefore the utility does not plan to expand the local system within the five year contract period, SoCalGas will inform the Commission. Upon Commission agreement that there is no need to construct additional facilities, SoCalGas will amend any five-year contracts to two-year contracts with the same use-or-pay commitments as required for small customers.

### **THEREFORE IT IS ORDERED THAT:**

1. The request of SoCalGas to implement tariff changes as requested in AL 3684 is approved with one modification.
2. SoCalGas shall file a supplemental advice letter within 5 days to insert the following language in Special Condition 34 of proposed Schedule GT-F: "In the event all requests for firm noncore capacity can be awarded without proration and the Utility does not plan to expand the local transmission system within the five-year contract period, the Utility will inform the Commission. Upon Commission agreement that there is no need to construct additional facilities within the five-year contract period, the Utility shall amend the five-year contracts to expire after two-years, consistent with the

term for small customers.” This language shall also be inserted into other rate schedules, as applicable.

3. SoCalGas’s supplement advice letter shall be effective today.
4. This resolution is effective today.

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 1, 2007; the following Commissioners voting favorably thereon:

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STEVE LARSON  
Executive Director

MICHAEL R. PEEVEY  
PRESIDENT  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners