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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and perform Long-Term Gas System Planning.	Rulemaking 20-01-007

ADMINISTRATIVE LAW JUDGE'S RULING DIRECTING PARTIES TO FILE COMMENTS ON STAFF PROPOSAL

BACKGROUND

On February 26, 2021, then-assigned Administrative Law Judge Tran issued a Ruling Seeking Comments (the Ruling) on questions related to the scope of issues outlined in Tracks 1A and 1B. Several parties provided comments on potential penalties that might be imposed for a utility's sustained failure to meet minimum design standards.[1] The Ruling proposed two possible penalty mechanisms—the Nine-Month Penalty and the Service Interruption Credit--with different modes of implementation. After reviewing party comments on these alternatives, Energy Division Staff (Staff) developed the version of the Nine Month Penalty that is attached to this ruling.

In this ruling, I am directing parties to file comments on the Staff Proposal.

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[1] ALJ Ruling Seeking Comments:
https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M367/K904/367904964.PDF

IT IS RULED THAT

1. Parties shall file comments on the Staff Proposal attached to this ruling.
2. Comments shall be filed no later than July 30, 2021.

Dated June 25, 2021, at San Francisco, California.

/s/ KARL J. BEMESDERFER
Karl J. Bemesderfer
Administrative Law Judge

ATTACHMENT

R.20-01-007 Updated Staff Proposal on Track 1A: Scoping Memo Issue 1c. How should the CPUC respond to a utility's sustained failure to meet minimum design standards?

Staff's Proposed Standard: **The utilities should be required to maintain adequate backbone capacity to meet the average day in a 1-in-10 cold and dry year standard established by Decision (D.) 06-09-039.** Staff initially proposed a combined pipeline and storage withdrawal capacity standard focused solely on peak day capacity but agrees with the party comment that it would be difficult to ascertain how such a standard would function over the course of a year since peak day standards are designed for winter reliability purposes. Therefore, Staff now proposes adopting an annual backbone capacity standard that would serve as a floor below which pipeline capacity should not fall. By maintaining adequate backbone capacity, a utility would be better positioned to fill storage to help it meet winter peak demand.

The Penalty Structure: In the Staff Report and Workshop Recommendations, Staff recommended that the nine months out-of-service standard of Public Utilities Code Section 455.5 be used as a guideline for determining the length of time after which shareholders begin to absorb a percentage of the cost of repairs.[2] [3] In response, TURN argued that the relevant question is not whether a given piece of hardware is "out of service" but whether the system as whole can meet the appropriate standard.[4] In keeping with this approach, Staff now proposes that (1) the Commission impose a daily penalty on a utility that has been out of compliance with the proposed backbone capacity standard for nine months; (2) the daily penalty amount increases if the utility remains out of compliance for three additional months; and (3) the penalty continues to accrue until the utility is in compliance.

Staff proposes that after the utility has been out of compliance for nine months, it will accrue a daily penalty of $50,000. After the utility has been out of compliance for 12 months, the daily penalty will increase to $75,000. The penalty will continue to accrue until the utility is in compliance, and its compliance has been verified by Energy Division staff. Staff seeks party comment on whether the penalties should rise more slowly after the $50,000 starting penalty.

The Reporting Requirement: The utilities should continue to file advice letters on slack capacity *and* to provide information about any changes impacting their ability to meet the required backbone capacity consistent with D.06-09-039, Ordering Paragraph 3. However, the advice letters should be filed on a biannual rather than biennial basis so that Staff can promptly assess a utility's compliance with the required standard. The utilities should be required to specify the *actual* operating capacities

[2] October 2, 2020, Workshop Report and Staff Recommendations, pg. 35: https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M348/K035/348035848.PDF

[3] "In establishing rates for any electrical, gas, heat or water corporation, the commission may eliminate consideration of the value of any portion of any electric, gas, heat, or water generation or production facility which, after having been placed in service, remains out of service for nine or more consecutive months, and may disallow any expense related to that facility." P. U. Code Section 455.5 (portions omitted)

[4] TURN Comments in Response to ALJ Ruling, pg. 6

of their critical transmission lines/zonal areas or paths as opposed to reporting an amalgamated number for their transmission systems.[5] The biannual advice letter should be supplemented with a notification to Energy Division within 24 hours of the date that marks a nine-month period in which the utility has not met the standard. Energy Division staff will verify whether the actual operating capacities reported by the utilities in the biannual advice letters as explained below. The following is one current example of the potential complexity of this assessment based on SoCalGas' Southern System. There is not a straightforward answer to how much capacity credit SoCalGas should receive for its Southern System. An argument could be made for a range of capacities between 750 and 1,210 million cubic feet per day (MMcfd). At the low end, SoCalGas offered 750 MMcfd of firm Backbone Transportation Service to customers in its last open season. The midpoint is the amount of pipeline capacity available at the Ehrenberg receipt point: 980 MMcfd. On the high end, the Southern System technically has pipeline capacity of 1,210 MMcfd if customers bring at least 230 MMcfd to the Otay Mesa receipt point.

Staff suggest crediting SoCalGas for the midpoint of 980 MMcfd because the Ehrenberg receipt point is the most accessible and economical path from the interstate pipeline system to SoCalGas' Southern Zone. Staff considered the lower number, 750 MMcfd, since it represents the amount of firm capacity SoCalGas has committed to providing customers year-round. However, Staff have observed that more capacity is available on an interruptible basis when there is sufficient demand to accept it in the Southern Zone. Staff does not recommend using the high end of the range, 1,210 MMcfd, because Otay Mesa's typical gas throughput is zero. Due to the higher cost to ship gas to the Otay Mesa receipt point and a lack of available pipeline capacity in Mexico, customers only use the Otay Mesa receipt point under unusual circumstances. If SoCalGas can demonstrate that 1,210 MMcfd of gas is being delivered to the Southern System on a consistent basis (six months or longer), then SoCalGas may claim credit for that amount.

The mechanism for resolving similar future discrepancies would be via the biannual advice letters mentioned above. Staff would verify the information reported in the biannual advice letters by assessing the amount of capacity offered to customers in the utilities' relevant Backbone Transmission Service Open Seasons as well as the transmission operating capacities shown in SoCalGas' Envoy and PG&E's Pipe Ranger websites.[6] If Staff cannot verify the information presented in the advice letters, Staff will draft a resolution proposing a revised capacity level.

The Citation Program: This penalty mechanism would be enforced through the implementation of a new citation program. If Energy Division determines that a utility is out of compliance with the required backbone capacity requirements, it would refer the matter to the CPUC's Utility Enforcement Branch (UEB), which would have the authority to issue citations and levy fines under this enforcement mechanism. The penalties would be borne by shareholders and would not be considered a recoverable expense in future rate case filings.

[5] For SoCalGas/SDG&E, the utility may report the actual operating capacities of the Northern Zone, Wheeler Ridge Zone, the Southern Zone and Line 85 Zone, towards its ability to meet the required backbone standard. For PG&E, the utility may report the actual operating capacities of the Baja Path and the Redwood Path.

[6] If Interruptible Capacity is made available and viable for customers to use, then the utility may count the amount of capacity made available on an interruptible basis towards the capacity it reports in the biannual advice letter.

The Force Majeure Clause: If a force majeure event prevents the utility from providing backbone capacity consistent with a 1-in-10 cold and dry year standard for nine months or longer, then it would not be considered in violation of the standard. Staff recommends adoption of the definition TURN proposed in its comments to the February 26, 2021, Ruling:

> *An act of a governmental authority in the exercise of its jurisdiction or the occurrence of a declared disaster or state of emergency by federal or state authorities. The Utility shall use all reasonable efforts to remedy such events or conditions and to remove the cause of same in an adequate manner and with reasonable dispatch. The occurrence of high demand for gas service due to weather conditions shall not constitute a force majeure event.*

(END OF ATTACHMENT)