

Decision **DRAFT DECISION OF ALJ SULLIVAN** (Mailed 10/26/2001)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into whether the curtailment and diversion priorities for noncore natural gas customers in the service territories of Pacific Gas and Electric Company, and Southern California Gas Company should be changed.

Rulemaking 01-03-023
(Filed March 15, 2001)

TABLE OF CONTENTS

Title	Page
OPINION DECLINING TO PROVIDE SERVICE PRIORITIES TO ELECTRIC GENERATORS IN THE EVENT OF A NATURAL GAS SHORTAGE.....	2
I. Introduction – Proposed Changes in Gas Service Priorities Are Not Needed	2
II. Background – Gas Tariffs Offer a Range of Services and Levels of Reliability.....	3
III. Procedural History	4
IV. Should the Commission At This Time Alter Gas Service Priorities in the Event of a Natural Gas Shortage or Diversion?	5
PG&E Opposes Changes in Curtailment Rules	5
SoCalGas Opposes Changes in Curtailment Rules	7
ORA Opposes Changes in Curtailment Rules	8
Energy Producers Oppose Changes in Curtailment Rules	9
Energy Users Oppose Changes in Curtailment Rules	11
SCE, WHP, Long Beach, TURN and Palo Alto Did Not State a Position on Changing Curtailment Rules	11
Mirant Supports a Priority for “Must-Run Plants” When Dispatched to Preserve System Reliability	12
CGC, SMUD, and Tractabel Support Priority for Electric Generators; Ultramar Supports Priority for All Energy Producers	12
V. Discussion – Providing a Gas Service Priority to Electricity Generators in the Event of a Natural Gas Shortage or Diversion Is Not Required at This Time	13
Granting Electric Generators a Gas Service Priority Will Not Provide Californians With Any Benefits Because Adequate Gas Supplies Make Curtailments and Diversions Unlikely This Year	14
Granting Electric Generators a Gas Service Priority Diminishes the Incentives for Them to Use Gas Storage Prudently	15
Proposed Gas Priorities for Electric Generators are Overly Broad and Could Produce Unfair Burdens on Other Noncore Customers	15
Policies That Give Preferences to Electric Generators Would Require Complicated Implementation and Enforcement Programs.....	18

Within the Class of Electric Generators, Should the Commission Provide Priorities to Those with the Most Efficient Heat Rates in the Event of a Gas Curtailment?.....	19
VI. Should the Commission Alter Gas Storage Policies at This Time to Reduce the Chance of Gas Curtailments?	20
TURN Proposes an “Excess Core Storage Program”	21
Wild Goose and WHP Propose Changes in Storage Regulations.....	22
EPUC-IP-CAC and PCES Propose Monitoring of Storage	23
Aquila Opposes the Monitoring of Storage	24
PG&E, SoCalGas, and ORA Oppose Any Changes in Storage Policy in this Proceeding.....	24
Long Beach and Palo Alto Oppose TURN’s Excess Core Storage Proposal and State the TURN Errs in Charging that Core Wholesale Customers Fail to Store Gas	27
Calpine, DENA and DETM, and CGC Oppose TURN’s Proposal.....	27
IEP, CIG / CMTA, SCE and Tractabel Make Limited Comments on Gas Storage Issues.....	29
VII. Discussion – Changes in Storage Regulations at This Time Are Unnecessary	29
VIII. Motion by TURN.....	32
IX. Comments on Draft Decision	33
Findings of Fact.....	33
Conclusions of Law	35
ORDER	36

**OPINION DECLINING TO PROVIDE SERVICE PRIORITIES
TO ELECTRIC GENERATORS IN THE EVENT
OF A NATURAL GAS SHORTAGE**

**I. Introduction – Proposed Changes in Gas
Service Priorities Are Not Needed**

Granting a priority to electric generators for natural gas service is not needed at this time to avoid disruptions in electric service. Our examination of the natural gas transmission and storage infrastructures of Pacific Gas and Electric (PG&E) and Southern California Gas Company (SoCalGas) lead us to conclude that California, barring an exceptionally cold winter, should have adequate natural gas supplies over the next twelve months. Given current supply conditions, neither PG&E nor SoCalGas anticipates gas service curtailments to either their core or noncore customers. Thus, no supply conditions warrant a change in service priorities.

In addition, an examination of PG&E's and SoCalGas's tariffs indicate that those electric generators holding gas storage rights can obtain services that ensure gas service even if system curtailments occur. Providing higher service priorities to electric generators could undermine current policies that both encourage and allow large gas users to ensure their supply of gas. Electric generators consume two-thirds of all gas provided to noncore customers. In the event of a gas shortage, granting electric generators a priority would, impose unfair burdens on other noncore customers, many of whom supply essential services to California.

Similarly, gas storage regulations need no changes at this time. In southern California, unusually high demand over the past year has led SoCalGas to run its infrastructure at full speed and store all gas not immediately needed.

In the face of these market conditions, there is no superior gas storage policy. PG&E, has adequate transmission and storage capabilities for the next twelve months, and insuring the reliability of gas supply does not require regulatory change.

II. Background – Gas Tariffs Offer a Range of Services and Levels of Reliability

Currently, PG&E and SoCalGas each have tariffs that determine service priorities in the event of a natural gas curtailment or diversion. The priority of service differs for the customer depending on the service purchased and the specific terms of the utility's tariffs. The rulemaking that initiated this proceeding, R.01-03-023, describes the curtailment priorities of PG&E and those of SoCalGas in great detail which we will not repeat. Under each tariff, all purchasers of noncore gas receive similar treatment in the event of curtailments. On PG&E's system, all noncore end user customers have gas diverted on a pro rata basis when curtailments affect the noncore service category. For SoCalGas, those customers purchasing interruptible intrastate service are interrupted according to the "percentage of default rate" that they pay, with customers who pay the lowest "percentage of default rate" curtailed first.

Under the tariffs of PG&E and SoCalGas, those who purchase and store gas can obtain gas even without access to "flowing gas." PG&E's tariff states that "scheduled deliveries from storage using Firm or As Available transmission services will be treated as the highest priority Firm service." For SoCalGas, a "firm unbundled storage withdrawal" receives a higher dispatch priority than either interruptible or firm service. Thus, withdrawals from storage enable noncore gas customers to ensure their access to gas even when flowing gas supplies prove inadequate.

III. Procedural History

On March 15, 2001, the Commission instituted a rulemaking (R.01-03-023) concerning whether to alter current service priorities in the event of a natural gas curtailment or diversion.

On March 30, 2001, an Assigned Commissioner and Administrative Law Judge's Joint Ruling (Joint Ruling) noted that gas storage could supplement the ability of a gas transmission system to meet peak demands, thereby reducing the need for curtailments. The Joint Ruling posed a series of questions concerning whether the Commission should alter regulatory policies affecting gas storage at this time to reduce the chance of gas curtailments.

Parties submitted comments¹ and reply comments² on April 6, 2001 and April 27, 2001, respectively. In addition, a prehearing conference took place on April 17, 2001.

On May 17, 2001, Commissioner Bilas issued a ruling affirming that this proceeding was quasi-legislative and deciding that no hearings are needed. This

¹ In addition to respondents PG&E and SoCalGas, Aquila, Inc. (Aquila), California Generation Coalition (CGC), California Industrial Group and California Manufacturers & Technology Association (CIG / CMTA), California League of Food Processors (CLFP), City of Palo Alto (Palo Alto), Duke Energy North America (DENA), Duke Energy Trading and Marketing (DETM), Energy Users and Producers Coalition, the Indicated Producers and the Cogeneration Association of California (EPUC / IP / CAC), Independent Energy Producers (IEP), Mirant Americas, Inc. (Mirant), Office of Ratepayer Advocates (ORA), Pan Canadian Energy Services (PCES), Sacramento Utility District (SMUD), Southern California Edison (SCE), The Utility Reform Network (TURN), Ultramar, Inc. (Ultramar), Tractabel Power, Inc. (Tractabel), Western Hub Properties, L.L.C. (WHP), and Wild Goose Storage, Inc. (Wild Goose) filed opening comments.

² In addition to respondents PG&E and SoCalGas, CGC, CIG / CMTA, CLFP, Calpine Corporation (Calpine), Palo Alto, City of Long Beach (Long Beach), DENA&DETM (filing jointly), ORA, PCES, TURN, WHP, and Wild Goose filed reply comments.

ruling also affirmed that the scope of the proceeding is that set out in R.01-03-023 and the Joint Ruling – to determine whether changes in curtailment priorities and whether changes in regulations affecting gas storage are warranted at this time.

IV. Should the Commission At This Time Alter Gas Service Priorities in the Event of a Natural Gas Shortage or Diversion?

The issue of whether the Commission should change curtailment priorities at this time is the central question in this rulemaking. A total of 23 parties filed comments in this proceeding. Twelve expressed unequivocal opposition to a change in current gas service priorities. Seven parties filed comments that do not take a position on this particular issue, but address general gas policy questions related to service reliability. Finally, four parties expressed support for granting preferential service priorities to customers who generate electricity or produce energy. We summarize the responses of the parties on this central issue below.

PG&E Opposes Changes in Curtailment Rules

PG&E opposes a change to the current priority-of-service rules at this time. PG&E supports its position by noting that its array of service options and the physical capabilities of the PG&E gas system are such that all core and noncore customers, including electric generators, should be able to satisfy their gas demands over the next twelve months without the need for involuntary diversion or system-wide curtailments during times of peak electricity demand.³ PG&E also notes that under its tariff, gas withdrawn from storage has a higher

³ PG&E footnotes this assertion to note that its ability to serve markets during the winter depends on weather conditions. There is a one-in-three chance of a local curtailment of gas during the winter, but not during times of peak electricity demand.

priority than all other noncore gas flowing under firm contracts. This offers electric generators and other noncore customers a mechanism for obtaining the highest priority for their gas supply during a period of involuntary gas diversions. PG&E explains that its gas supply difficulties last winter resulted from the financial difficulties that eventually led to its bankruptcy, not from deficiencies in gas supply or gas infrastructure. Thus, PG&E contends that no problems of gas supply mandate radical changes.

PG&E states that demand by electric generators accounts for up to two-thirds of noncore load. Charges to the priority rules would cause other customers in this service category, including hospitals, military bases, prisons, and refineries, to be subject to severe interruptions in the event of a gas curtailment. Therefore, PG&E cautions against ad hoc revisions in service priorities.

PG&E further notes that since gas marketers commonly serve a mix of electric and non-electric customers, there is no realistic way to implement an involuntary diversion so as to ensure that electric generators actually receive a higher priority than other noncore customers. PG&E states that it may be impossible to police the actions of marketers to insure that they do not continue providing gas to end-users who lack a service priority.

In PG&E's view, implementing a service priority for electric generators would require both an enforcement scheme and penalties. Implementing a policy reflecting new curtailment priorities requires substantial engineering and system modeling and a raft of intermediate decisions, such as determining the amount of "protected" load for each facility. The complexity of implementation in part arises because diversions currently take place at the "backbone"

transmission level, while the proposed curtailment priorities require implementation at the end-use level.

PG&E's reply comments reiterate its major themes and assert that CGC, the major proponent of changes in curtailment priorities, has failed to show that generators cannot make effective use of storage and other services to meet their service demands. PG&E notes that several significant gas-fired generators oppose and others do not endorse a blanket change in service priorities. Finally, PG&E notes that the Gas Accord II proceeding, which it anticipates filing shortly, offers a more comprehensive venue for considering the issues of gas services, service priorities, and gas rates.

SoCalGas Opposes Changes in Curtailment Rules

SoCalGas opposes the introduction of a noncore priority system based on the "relative value to society," as determined by regulators, of a gas customer's product. SoCalGas contends that reversing long-standing gas policies will produce an inequitable outcome and that such a change in service priorities is not needed.

SoCalGas notes that it has not curtailed firm or interruptible service in a decade, and does not anticipate the need to do so this year. Instead of focusing regulatory attention on establishing service priorities for customers, SoCalGas recommends that the Commission focus its efforts on ensuring that the natural gas infrastructure is sufficient to provide reliable service to all. SoCal Gas highlights the importance of several regulatory proceedings before the Commission that, if resolved in a timely fashion, will have dramatic consequences for the availability of gas over the next year.

SoCalGas states that a change in service priorities should not affect customers because it does not believe that any curtailments will occur this year. SoCalGas, unlike PG&E, sees no difficulties in implementing a revised system of service priorities. Should curtailments, however, occur, SoCalGas anticipates that giving electric generators a special priority will have a major impact on California's manufacturing output, amusement parks, hotels, hospitals, universities, government facilities, and employment.

SoCalGas notes that providing electric generators with special priorities creates a disincentive for the generators to store gas. For all the reasons noted, SoCalGas concludes that no change in curtailment priorities is needed at this time.

ORA Opposes Changes in Curtailment Rules

ORA opposes any changes in gas curtailment priorities. First, ORA characterizes the current policy of pro rata curtailments as a vast improvement over past practices that cut electric generators first. Second, ORA holds that giving priority to electric generators creates a disincentive for them to store gas. Third, ORA notes that curtailing noncore customers can cause significant economic harm. ORA concludes that for these reasons, changes in curtailment priorities are unwise.

ORA believes that the current curtailment policies aptly place responsibility for developing contingency plans on the noncore customer. Changing the current curtailment priorities, ORA contends, would exacerbate the potential for deeper gas curtailments because the new allocations would obviate the need for the largest gas consumers to store gas, thereby placing more demands on the transmission system to meet peak demands with flowing gas.

In reply comments, ORA states that those proposing changes to curtailment priorities have failed to demonstrate that the customers receiving a preference serve a higher public good than that served by other noncore customers. ORA points out that “no evidence at all” demonstrates that electric generators serve a higher public good than other noncore gas customers, which include hospitals, prisons, military bases, and food processing facilities. ORA concludes by reaffirming its position that no changes in service priorities are warranted.

Energy Producers Oppose Changes in Curtailment Rules

Aquila, a natural gas marketer, opposes changes in the current system of curtailment priorities. Aquila notes that the current system permits customers to purchase the level of reliability that they desire.

DENA states that it believes that setting a priority for gas service to electric plants may not prove practical. Instead, it recommends that the Commission focus its regulatory energies on improving the gas infrastructure.⁴ DENA and DETM, filing joint reply comments, state that since it appears that gas curtailments are unlikely, the Commission should not give a high priority to revising curtailment rules at this time.

EPUC/IP/CAC urge caution in changing priorities, and warn of unintended consequences. They conclude that the Commission should retain the current service priorities. They ask for a comprehensive exploration of

⁴ Duke Energy Trading & Marketing (DETM), filing separately, used its Opening Comments to make an appearance in the proceeding and stated no position on the issues in that filing.

curtailment issues should the Commission decide to change regulations. In particular, they note that the curtailment of gas can affect the production of critical fuels and that unexpected shutdowns of natural gas can damage sensitive production equipment.

IEP, an association of owners and operators of projects using cogeneration, solar-thermal, wind, biomass, geothermal and fossil fuel facilities, opposes any change to current curtailment priorities. Instead, it asks that the Commission institute an expedited parallel investigation to identify short and long-term upgrades to the gas transmission infrastructure.

PCES, a gas marketer, calls for retention of the current curtailment priorities. It argues that the gas market currently functions well, and that there is no need for new regulations. It also points out that the administration of a curtailment policy is inherently flawed for it eliminates price signals in markets. Instead, it requires administrators to make the difficult determination of the relative “values” of the different productive uses of gas.

Calpine opposes any changes in current curtailment policies. Calpine notes that under the current system, gas purchasers may choose the level of reliability that they desire.

Finally, Wild Goose Storage opposes changes in policy that would give gas-fired generators priority over other noncore customers in times of gas curtailment or diversion. Wild Goose believes that the effects of such a change may prove highly complex. Instead, it believes that the Commission should require electric generators to place a certain number of days’ gas supply in storage in anticipation of diversions or curtailments. In the longer term, Wild Goose requests that the Commission change its rules to promote transmission system upgrades and to promote gas storage.

In Reply Comments, Wild Goose reiterates that the Commission should “stay away from choosing one group over the other and to instead provide additional incentives to promote the development of necessary infrastructure.” Wild Goose asks the Commission to end this proceeding with a decision rejecting a special priority for electric generators.

Energy Users Oppose Changes in Curtailment Rules

CLFP adamantly opposes providing generators with special priorities in the event of gas curtailments. CLFP states that such a policy can jeopardize millions of tons of perishable food.

CIG-CMTA opposes giving electric generators a special service priority. CIG-CMTA notes that available tariffed services enable a customer to choose the level of reliability desired. CIG-CMTA asks that before the Commission adopts changes that it require electric generators to demonstrate that they have fully used alternatives and still cannot acquire the reliability that they need.

In Reply Comments, CIG-CMTA notes that CGC fails to justify the need for new curtailment policies. Moreover, it contends that such a change would disrupt other noncore customers’ contractual arrangements.

SCE, WHP, Long Beach, TURN and Palo Alto Did Not State a Position on Changing Curtailment Rules

Several parties filed comments not readily classified as supporting or opposing a change in curtailment policies. SCE, WHP, Long Beach, and TURN took no position concerning the proposed revisions to curtailment priorities. Palo Alto asked the Commission to exercise caution in revising the current curtailment priorities.

Mirant Supports a Priority for “Must-Run Plants” When Dispatched to Preserve System Reliability

Mirant recommended a different change in current curtailment policy to give a priority only to “reliability must-run plants” during times when the California ISO dispatches them to preserve system reliability.

CGC, SMUD, and Tractabel Support Priority for Electric Generators; Ultramar Supports Priority for All Energy Producers

Four respondents filed comments supporting the granting of special priorities to electric generators. CGC supports the proposal that electric generation usage of natural gas should be assigned a higher priority than non-electric generation uses of gas by non-core customers. CGC argues that these are not “normal times,” that 200 hours of blackouts are expected this summer and that the electric system is operating outside of “reasonable bounds.” CGC maintains that a regulatory-induced loss of generation caused solely by CPUC curtailment rules is unacceptable. It therefore recommends specific changes in curtailment rules to give electric generators priority.

In Reply Comments, CGC notes that SoCal Gas has not permitted generators to upgrade from interruptible to firm service, and therefore recommends a special priority for electric generators, regardless of the level of service purchased. It further states that current supply conditions suggest that no curtailments will be necessary, and that the impact of a revision in service priorities would prove slight. It concludes by arguing that the rule change would act as an insurance policy against disrupting electric generation during the current electricity crisis.

SMUD supports a rule change to give priority to gas-fired electric generation. Similarly, Tractabel, the indirect owner of two cogeneration facilities,

supports granting a service priority to all gas-fired generators, including cogenerators.

Finally, Ultramar, a refining and marketing company, argues that refiners of petroleum products should receive the same high priority as electric generators for natural gas service.

V. Discussion – Providing a Gas Service Priority to Electricity Generators in the Event of a Natural Gas Shortage or Diversion Is Not Required at This Time

A change in curtailment policy to provide special gas service priority to selected customers should be adopted only if such a change has a rational basis and promotes the goals of efficient, reliable service. We must weigh the benefit that providing gas service priority to electric generators provides to Californians, and the harm that a change in curtailment policy may produce.

First, granting a service priority to electric generators in the event of a natural gas shortfall or curtailment is unlikely to produce any benefits over the next year because California has adequate gas supplies that make a service disruption highly unlikely. Second, the proposed changes in policy to provide a gas priority to electric generators create a system of incentives that discourage generators from purchasing the tariffed services now available that can enable customers to avoid a loss of gas even when supplies are short. Third, the policy changes proposed by CGC and others are overly broad, and could lead to the curtailment of gas to hospitals, food processors, prisons, plants and refineries, even when adequate electric power is available and blackouts are not imminent. Fourth, ensuring compliance with tariffs that give electric generators a service priority would require a complicated and costly enforcement mechanism. We discuss each of these points below.

**Granting Electric Generators a Gas Service
Priority Will Not Provide Californians With Any
Benefits Because Adequate Gas Supplies
Make Curtailments and Diversions Unlikely
This Year**

A change in gas curtailment policies produces social benefits to the extent that it changes real world outcomes in a direction that promotes the public interest. For the next year, changes in gas curtailment policies should have no beneficial effect on generators, for California has adequate gas supply in both PG&E's and SoCalGas' service because the evidence shows that territories and no curtailments or diversions are likely this year.

PG&E states, and no party provides contravening comments, that its array of service options and the physical capabilities of its infrastructure will enable it to meet the gas demands of core and noncore customers over the next twelve months. Moreover, under PG&E's tariffs, those customers holding storage rights can receive priority for gas withdrawals that should enable them to avoid curtailments.

SoCal Gas provides a similar picture. SoCal Gas has not curtailed either firm or interruptible gas in over a decade, and does not envision doing so this year. In addition, timely Commission adoption of D.01-06-018 in the Montebello Storage Field proceeding, will enable the use of "cushion" gas over this summer, and thereby enable SoCal Gas to increase its injections into gas storage. Finally, SoCal Gas is making substantial investments in gas compression facilities that will increase the overall capacity of its gas infrastructure this winter. The result of these actions is to make gas curtailments and diversions a remote possibility.

Since both PG&E and SoCal Gas anticipate no gas shortages or resulting diversions or curtailments over the next 12 months, a change in gas

service priorities should have no consequences for the supply of gas available to electric generators.

**Granting Electric Generators a Gas Service
Priority Diminishes the Incentives for Them to
Use Gas Storage Prudently**

PG&E and SoCalGas correctly point out that under their current tariffs, those companies holding gas storage capacity can purchase gas injection and withdrawal services that enable them to avoid disruptions of service even when gas supplies are short. ORA also points out that current curtailment priorities place responsibility for developing contingency plans for ensuring gas supply on the noncore customer. We concur that it is far better for customers to take steps to insure gas supplies in the event of a shortage than for this Commission to establish a system of service preferences that provide special treatment for some customers.

If a customer has guaranteed access to flowing gas, then there would be no need for that customer to acquire and store gas as a hedge against a supply shortage. Granting a service priority to electric generators decreases their incentives to use gas storage or other services that increase the reliability of their gas supply. Thus, granting electric generators priority for their gas service may increase the likelihood that gas shortages will result because there will be no need for these large-volume customers to use gas storage to ensure reliability of their gas supply.

**Proposed Gas Priorities for Electric
Generators are Overly Broad and Could
Produce Unfair Burdens on Other Noncore
Customers**

The tariff changes proposed by CGC would grant gas service priorities for flowing gas to all electric generators throughout the entire year. This

preferential treatment is overly broad. Despite CGC's assertion that the curtailment priorities would apply only to those generators who lack stored gas, the proposed tariff language provides unconditioned preferences to electric generators. It would, for example, give all electric generators access to flowing gas in times of shortage even when they hold gas in storage. These preferential policies, as proposed by CGC, could result in the curtailment of gas to hospitals, prisons, and other essential facilities in order to provide access to flowing gas for electric generators that hold gas. Such an outcome is inconsistent with the statutory goals of providing reliable supplies of gas to all customers.

Second, it is unclear that energy producers need such a broad grant of preferential access to flowing gas. Although CGC rightly points out that all gas storage is now subscribed, it provides no information on the extent to which generators need more storage or would benefit from the proposed preferences. Although the electricity producers Tractabel and SMUD join CGC in support for preferences, energy producers Aquila, Calpine, DENA, DETM, EPUC/IP/CAC, IEP, PCES and Wild Goose all oppose changes in gas service priorities. This large group of energy companies who fail to join in the request for preferential treatment suggests that many companies have taken the prudent steps needed to obviate the need for special treatment.

Third, it is unclear that the broad policy changes proposed by CGC, Tratabel, and SMUD are necessary to avoid blackouts. We note that under the proposed policy, gas will flow to electric generators even when alternative generation is available on the electric grid. Thus, the new policy could curtail customers even when electric blackouts are not a threat. In such a situation, the policy will produce no social benefits and impose real costs on those curtailed.

Finally, granting special priorities to electric generators will impose unfair burdens on other noncore customers. In particular, should curtailments occur providing an exemption from gas curtailments to electric generators will, dramatically increase the curtailments that others will face. Both PG&E and SoCalGas note that electric generators account for almost two-thirds of noncore gas consumption. Under the proposed preferential service policies, a gas shortage totaling about one-third of the noncore gas demand would leave electric generators unaffected yet it would shut down all other noncore gas users. SoCalGas points out that manufacturers using gas are essential to the California economy, and disruptions will substantially harm these customers. It is therefore not surprising that CLFP and CIG-CMTA, users of both gas and electricity, oppose a policy of providing preferences to electric generators. Others note that noncore gas serves many essential facilities, such as schools, hospitals, universities, and prisons. Ultramar, a refiner of petroleum products, points out the essential nature of its service and asks that the Commission grant priority access to gas supplies for refineries as well as for electric generators.

In contrast to the broad preferences proposed by CGC, Mirant proposes a much narrower policy – limiting gas priority to “must run” plants when they are dispatched to preserve system reliability. Although this limited policy makes more sense, it still remains unclear that such a policy will promote the interests of Californians. As noted above, the availability of gas supplies over the next 12 months make a grant of special priorities unnecessary. In addition, granting preferences to even a few generators diminishes the incentive to secure supplies using gas storage and other tariffed services, and, should curtailments occur, would disrupt supplies to many essential facilities.

These comments make clear that setting priorities for gas service would require a careful consideration of the many users of gas and the importance of their goods and services for California. A simple “electric generator” approach to setting priorities is not a reasonable approach to such a complex issue. Moreover, the adequacy of gas supplies this year makes immediate action unnecessary.

Policies That Give Preferences to Electric Generators Would Require Complicated Implementation and Enforcement Programs

PG&E convincingly points out that the proposed changes in curtailment priorities will prove complex to implement. The complexity necessarily arises since gas diversions and curtailments, when needed, take place at the “backbone” transmission level, while the proposed new service priorities require implementation at the “end-user” or distribution level.

This shift in curtailment policy from the transmission to the distribution level decreases the control of the gas distribution company. In particular, a distribution company will no longer be able to divert gas in times of short supply from a wholesale gas supplier, the current practice, without knowing whether the gas is destined for an electric generator or some other type of facility. Thus, only a penalty and enforcement scheme can ensure compliance by end-users and gas suppliers with curtailment orders. Furthermore, implementing new curtailment priorities that treat customers unequally will require engineering and system modeling and intermediate decisions, such as determining the level of “protected” load for each generation facility. Although the presence of complexities is not determinative, they do show that implementing these changes will have real and certain costs.

**Within the Class of Electric Generators,
Should the Commission Provide Priorities to
Those with the Most Efficient Heat Rates in
the Event of a Gas Curtailment?**

Although our discussion has shown that it is not practical, not efficient, and not fair to provide electric generators with priorities over other gas customers, it appears that setting priorities to allocate gas within the class of electric generators may serve the public interest at times of gas curtailment. Mirant, in particular, has broached this issue by noting the special role that “must-run-plants” can play when they are dispatched to preserve system reliability. Similarly, when gas is in short supply, directing gas destined for electric generators to the facilities with the most efficient heat rates may best meet the public’s need for reliable electricity.

In times of natural gas curtailments, the social and economic costs of electricity disruptions may overwhelm the business economics of power production. At such times, the public interest may require the allocation of gas to those generators whose functioning insures the reliability of electricity supply, not to those generators who are necessarily the cheapest producers of electricity. In such situations marked both by the scarcity of power and the divergence between the costs to society and the costs to a generator, we cannot reasonably expect that a pure market mechanism will produce the best allocation of gas among electric generators.

We note, however, that our rulemaking did not ask whether the Commission should develop rules for allocating gas among electric generators in times of gas curtailments. We are particularly interested in determining whether the Commission could and should allocate gas among electric generators based

on considerations of the generator's heat rate and how the generator's operations affect the reliability of the grid during times of gas curtailments.

Unfortunately, we have almost no record in this proceeding concerning how to set priorities among electric generators in the event of a curtailment. To investigate this issue, we will establish a cycle of comments and replies that will result in another decision in this proceeding. We will not, however, delay the issuance of this decision. Such a delay would likely increase the uncertainty that routinely surrounds regulatory decision-making and could prove disruptive to the functioning of the natural gas market in California. Thus, we will issue decisions in this rulemaking as soon as we resolve an issue, rather than issuing a single omnibus decision at some future date.

VI. Should the Commission Alter Gas Storage Policies at This Time to Reduce the Chance of Gas Curtailments?

Following the adoption of the order initiating this rulemaking, the Joint Ruling noted the importance of gas storage for the operational functioning of a gas transmission system. The Joint Ruling asked parties to comment on whether the Commission should change gas storage regulations at this time. The Scoping Memo affirmed that an examination of this question would constitute the second focus of this rulemaking.

TURN, Wild Goose, and WHP proposed major changes in policy. Some parties expressed opposition to specific aspects of TURN's proposals, and others opposed changes at this time. Certain parties suggested minor changes to gas storage regulations. We summarize the comments below.

TURN Proposes an “Excess Core Storage Program”

TURN presented a gas storage program that it called the “Excess Core Storage Program.” Under TURN’s proposal, core customers would store excess gas for winter beyond the current needs of the core. To finance these storage costs, TURN proposes that all wholesale core loads receive an allocation of the “Excess Core Storage Gas” based on a weighted average of cold year loads with core wholesale customers given a “double weighting.” In particular, the wholesale core would receive a double share of the costs of gas that is either injected or withdrawn. TURN justifies this allocation with the allegation that wholesale core customers hold limited storage rights to meet their gas needs, and TURN alleges that they do not have “any storage at the moment.”

For other storage costs not related to the costs of gas, TURN proposes that noncore customers bear 75% of the costs related to all excess gas storage, allocated to the entire noncore on an equal cents per therm basis. TURN justifies this allocation by asserting that retail core customers do not need the excess gas storage program, and therefore should not bear these costs. The remaining 25% of costs, however, are allocated to core users.

In Reply Comments, TURN criticizes SDG&E, a wholesale customer, for providing incomplete data on its use of storage. We are concerned about such incomplete information in particular because we are unsure whether TURN’s allegation in its opening comments that core wholesale customers have no gas in storage at this time may not be accurate. TURN also criticizes SoCalGas for its statement that gas markets do not require more regulatory intervention.

Wild Goose and WHP Propose Changes in Storage Regulations

Wild Goose proposes that the Commission adopt storage regulations that require electric generators to store a specified number of days of gas supply in order to meet emergency needs. Wild Goose asks that regulations require all generators to reserve storage rather than relying mainly on the gas transportation system to supply critical gas needs. Wild Goose also asks that the Commission restrict noncore customers' ability to borrow gas freely off the gas infrastructure.

Wild Goose further urges that the Commission remove obstacles to the construction of gas storage facilities in California. Wild Goose points out that PG&E bears risks for the construction of new transmission lines needed for gas storage, and believes this provides a disincentive to the construction of both transmission and additional storage. Wild Goose also recommends a change in PG&E's and SoCalGas's tariffs to replace current gas supply / demand balancing provisions with stricter balancing tolerances and penalties, thereby encouraging better planning by those using natural gas.

Wild Goose notes that the comments of many parties reflect a need for improvements to the gas infrastructure. Wild Goose therefore recommends that the Commission end this current proceeding and initiate a new proceeding that focuses on changes in policies and regulations in order to promote the construction of gas infrastructure.

WHP asserts that the current natural gas regulatory structure that applies to PG&E's gas system works well. However, WHP recommends two changes to the current regulatory structure. First, it recommends that the Commission seriously consider the imposition of a requirement of daily balancing of gas for all transporters on the PG&E system. Second, it

recommends that PG&E develop mechanisms to interrupt customers purchasing “interruptible” gas when needed and that the Commission impose stiffer penalties for “being out of balance” or using the gas of others during curtailment periods.

WHP argues that the Commission has insufficient facts to adopt the TURN proposal. More specifically, WHP opposes TURN’s plan as a backward step, leading to the re-regulation of a major element of the gas market and disrupting investments in storage facilities. WHP further argues that TURN’s proposal is fraught with ambiguities.

WHP supports Wild Goose’s suggestion that the Commission modify gas balancing regulations. WHP, however, does not support Wild Goose’s recommended requirement that generators place several days of gas supply in storage. WHP opposes what it terms the “rebundling of gas storage service to captive customers,” and calls for the elimination of certain gas charges made to captive customers on the SoCal Gas system. WHP asks that the Commission establish transmission and interconnection guidelines, as well as stricter balancing rules, to facilitate the develop of the gas infrastructure and the use of storage.

EPUC-IP-CAC and PCES Propose Monitoring of Storage

EPUC-IP-CAC call on the Commission to “carefully calibrate core storage capacity, inventory levels and withdrawals to moderate the possibility of noncore curtailment or diversion.” In addition, they call on the Commission to facilitate the expansion of gas transportation capacity.

PCES provides only limited comments on gas issues. PCES states that the gas market would benefit from access to daily information on how utilities are meeting their scheduled gas storage targets.

Aquila Opposes the Monitoring of Storage

Aquila, a gas marketer, opposes attempts to monitor a particular purchaser of storage capacity. It believes that for the near term, fewer regulations pertaining to gas storage would better promote the efficient use of storage. Similarly, Aquila states that requiring PG&E and SoCalGas to store gas for potential sales to noncore customers unwisely substitutes regulatory judgments for the “rational economic judgments of market participants.”

PG&E, SoCalGas, and ORA Oppose Any Changes in Storage Policy in this Proceeding

PG&E notes that its gas system has adequate capacity to meet the storage needs of its core customers. In addition, PG&E believes that its current assignment of transmission and injection capacity will enable it to fill its core storage requirements this summer and to meet its winter withdrawal needs.

PG&E also argues that the Commission should not make any regulatory changes that impose new requirements on the noncore use of PG&E's unbundled storage services. PG&E notes that its entire storage inventory for noncore gas customers is under contract for this year. PG&E speculates that if those holding these storage rights refill their storage by December, this could moderate gas prices on the PG&E system. Further, PG&E notes that its storage and park-and-lend gas services already allow PG&E to claim unused firm storage capacity for use by others, a core element of TURN's plan.

PG&E contends that no party has made an adequate case that supports a change in storage regulations. PG&E further argues that the Gas Accord II

proceeding offers a better venue for a consideration of the storage proposals made by Wild Goose, WHP, and TURN.

Similarly, SoCalGas maintains that it will fill an adequate amount of storage to meet the needs of the core and noncore this year. SoCalGas also states that it is taking steps to increase the capacity of its transmission lines, thereby increasing the overall capacity of the gas infrastructure. SoCalGas cites a number of proceedings before the Commission, which, when resolved, will increase the amount of gas available from storage releases over the next year.⁵

Like PG&E, SoCalGas, although opposing any changes in storage regulations at this time, believes that those holding storage rights should consider both the economic and reliability aspects of their gas storage decisions. SoCalGas also believes that the current “winter balancing rules” provide adequate incentives to ensure the reliable functioning of the SoCalGas system. SoCalGas further notes that there is unlikely to be enough transmission capacity on the backbone transmission infrastructure to fill storage this year.

SoCalGas notes that the storage injections contemplated by TURN would require additional injection and inventory rights, but all rights are currently sold out on the SoCalGas system. Moreover, it charges that a basic assumption of TURN that the gas system will prove unreliable in Southern California this winter is wrong.

ORA argues that the current policies are “adequate and should not be changed.” ORA characterizes the TURN proposal as a “drastic policy change”

⁵ These proceedings include A.00-04-031 concerning the Montebello Storage Field and A.01-04-007 concerning the sale of cushion gas from SoCalGas’ Aliso Canyon and Goleta gas storage fields.

and cautions that unintended consequences will result. ORA argues that TURN's proposal is based on the false assumption that this year will be the same as last year, and that SoCalGas will experience gas shortages this winter. ORA sees the situation as far different this year and does not anticipate gas shortages. It notes that SoCalGas is already running its gas system at full speed. ORA also notes that SoCalGas's effort to release "cushion gas" held in storage but not longer needed should alleviate supply conditions this winter.

Moreover, ORA identifies particular developments that make the implementation of TURN's proposal impractical. In particular, since SoCalGas is running its system at full speed, there is little opportunity to inject additional gas into storage this year. ORA notes that PG&E, SoCalGas, and Wild Goose Storage point out that their services are fully subscribed, and therefore the Commission cannot reasonably order increased uses of storage. ORA also contends that TURN's method of allocating transportation costs using a "double weighting Excess Core Storage Gas costs" will result in SDG&E paying triple for gas storage, which it views as inappropriate.

ORA argues that the Commission should consider changes in gas procurement and storage policies such as those proposed by EPUC/IP/CAC outside this proceeding. ORA identifies the PG&E Gas Accord II proceeding and the next SDG&E/SoCal Gas BCAP as the appropriate forums.

ORA, supports Wild Goose's recommendation that the Commission prohibit PG&E's California Gas Transmission Department from loaning out the core's physical gas supply. Nevertheless, ORA's main theme is that the Commission should give the market a reasonable opportunity to respond to the changed conditions and that changes in gas storage regulations at this time fail to make sense.

**Long Beach and Palo Alto Oppose TURN's
Excess Core Storage Proposal and State the
TURN Errs in Charging that Core Wholesale
Customers Fail to Store Gas**

Long Beach strongly opposes TURN's Excess Storage Proposal. Long Beach states that TURN errs in its charge that core wholesale customers fail to store gas. In particular, Long Beach points out that it uses all the storage that it has under contract. It concludes that TURN's proposal to impose additional gas storage costs on Long Beach is unfounded on fact, and Long Beach requests an evidentiary hearing to prove the substance of its comments.

Similarly, Palo Alto asks that the Commission reject TURN's Excess Core Storage Program and its double allocation of costs to wholesale core customers. In addition, like Long Beach and SDG&E, Palo Alto strong objects to TURN's allegation that PG&E's wholesale customers have placed other customers at risk by not storing gas in PG&E storage facilities.

**Calpine, DENA and DETM, and CGC Oppose
TURN's Proposal**

Calpine argues that the Commission should reject TURN's excess core storage program. Calpine notes that requiring the entire market to pay for added core storage will lead to an increased reliance on spot markets, because this approval decreases the incentives on noncore customers to contract for storage. Calpine believes that the current situation provides the proper incentives for noncore customers to hold and use storage. Finally, Calpine argues that TURN's storage proposal inappropriately burdens noncore customers with costs to pay for a service that primarily benefits core customers. Calpine opposes this cross subsidization from gas to electric customers.

DENA and DETM also oppose TURN's storage proposals. DENA and DETM oppose placing additional financial obligations on PG&E that are

unrelated to serving core gas customers. Although DENA recommends that the Commission consider potential expansions to gas injection system, it believes that any efforts to make a utility procure gas for noncore customers will erode the viability of independent storage fields and harm California.

DENA and DETM express support for SoCalGas's proposal to sell cushion gas and increase the gas it holds in storage. In addition, DENA and DETM argue that the Commission should promote efforts to develop additional storage fields and to expedite the storage projects of Wild Goose and WHP. To facilitate the storage of gas, DENA and DETM propose that the Commission should permit utilities to offer an "intraday" gas transportation service, allowing unused transmission capacity to be sold to those who wish to store gas. Finally, DETM and DENA request that the Commission establish a regulatory process to upgrade the gas transportation system.

CGC also opposes TURN's Excess Core Storage Gas Program. CGC states that there is no "excess core gas storage" available, and that TURN's proposal would require utilities to break contracts with those who have already bought storage. CGC doubts that workable storage standards would emerge from a proceeding focussed on TURN's proposal. CGC, like others, points out that TURN's proposal leads to a double recovery of storage costs. It concludes that TURN's proposal is an "unworkable, unfair and opportunistic scheme to get more gas stored with noncore customers bearing the majority of the costs."

Finally, CGC states that the SoCalGas system has reached the point of full utilization and requires expansion. CGC cites a shortage of storage facilities, and argues that if there is unused storage, this arises from transmission constraints. In reply comments, CGC states that it is unnecessary to address

policy changes concerning gas in this proceeding. Instead, CGC points to other proceedings that it believes offer better venues for exploring gas issues.

**IEP, CIG/CMTA, SCE and Tractabel Make
Limited Comments on Gas Storage Issues**

IEP limits its comments on gas storage issues to statements that support a proactive approach by the Commission to the development of California's gas infrastructure. CIG/CMTA notes that granting electric generators priority for gas would likely reduce the use of gas storage. SCE notes that if long-term contracts for electric power were done on a firm basis, this would provide electric generators with the incentives to secure necessary flowing gas supplies and firm gas storage. Tractabel asks that the Commission encourage all noncore customers to use the utilities' storage services.

**VII. Discussion – Changes in Storage Regulations
at This Time Are Unnecessary**

A second objective of this proceeding is to determine whether changes in gas storage policy at this time are needed to reduce the chance of gas curtailments. We are convinced that no changes in storage regulations are necessary at this time because gas curtailments, with the exception of those occurring because of adverse weather conditions, are unlikely this year. With shortages highly unlikely over the next twelve months, there is no urgent need to change storage policies.

In addition, the filings of SoCalGas and PG&E make clear that current physical, operational, and legal constraints make most changes in storage policies either impossible to implement or superfluous. SoCalGas, for example, is running its gas operations at full speed and injecting all gas not currently needed into storage. Thus, there is nothing that can increase SoCalGas ability to inject gas this year.

Similarly, in northern California, where all storage is subscribed, PG&E reports that under current rules, it already has the ability to reclaim unused firm storage capacity for use by other customers, and it sees no need for any regulatory changes to give them this ability. Thus, PG&E can inject as much gas as it deems prudent, and any regulations in this area would be superfluous. In summary, there are no short-term actions that the Commission can take to induce SoCalGas to increase the injection of gas in southern California, and no changes needed to enable PG&E to increase the amount of storage it deems prudent to inject.

As described above, TURN has developed a comprehensive “Excess Core Storage Program.” TURN’s justification for this proposal does not demonstrate that it is needed. TURN says that someone must store gas for the winter in order to avoid the problems of last winter and TURN alleges that wholesale customers fail to store adequate amounts. Neither proposition withstands scrutiny. In northern California, gas shortages arose last winter from PG&E’s financial situation, not from any limitations to its infrastructure. Companies simply refused to sell gas to PG&E. In southern California, there was no shortage, and no change in policy can increase SoCalGas’s injections. Concerning TURN’s allegation that core wholesale customers fail to store adequate amounts, both Palo Alto and Long Beach state that this is not the case, and Long Beach specifically requests evidentiary hearings so that it can demonstrate that there is no factual basis to TURN’s allegations.

In its Reply Comments, TURN provides an elaborate discussion of the use of storage by wholesale customers. From this discussion it emerges that TURN’s earlier allegation that wholesale customers do not hold any gas in storage is not accurate. In its reply comments, TURN modifies its prior position to claim that it

is concerned that SDG&E's is "less than adequate." In addition, it adds a footnote stating, "We have not researched the core storage arrangements made by other wholesale customers, such as Long Beach Gas."

TURN has failed to make a case that its Excess Core Storage Program would serve any real need. It is therefore not surprising that PG&E, SoCalGas, ORA, Long Beach, Palo Alto, Calpine, DENA, DETM, CGC, WHP directly oppose TURN's proposal, Aquila argues that it is bad policy to require PG&E and SoCalGas to buy gas for noncore customers, and Wild Goose asks for the termination of the proceeding without addressing TURN's issues. Furthermore, no party expressed any support for TURN's proposals.

Second, TURN's proposal was intended to meet the needs of customers this summer and winter. Since it cannot be implemented now, it is moot. Since TURN's Excess Core Storage Program cannot be implemented in the near term, we will not adopt it in this proceeding, which remains focused on making changes in regulations to improve the adequacy of gas supplies over the next twelve months.

EPUC-IP-CAC and PCES propose the monitoring of gas storage. Aquila opposes such a strategy as unneeded interference in gas markets. EPUC-IP-CAC and PCES do not acknowledge that the Commission does currently monitors gas in storage and does not explain why change is needed. Thus, neither EPUC-IP-CAC nor PCES has convinced us that further monitoring and disclosure would serve the public interest.

Wild Goose and WHP propose changes in gas policy regarding issues such as storage requirements and gas balancing rules. Unfortunately, electric generators using gas are not respondents to this proceeding, and we cannot adopt such a requirement here. Perhaps in recognition of this limitation,

Wild Goose, in reply comments, recommends that the Commission end this current proceeding and examine gas storage and infrastructure issues in a separate proceeding. We concur that there is no need to address gas storage and infrastructure issues in this proceeding.

VIII. Motion by TURN

On June 1, 2001 TURN filed a Motion for Clarification and for Reconsideration of the April 17, 2001 Assigned Commissioner's Ruling and Scoping Memo (TURN Motion). TURN holds that the Scoping Memo is "internally ambiguous and inconsistent and makes moot TURN's short term proposal for the Excess Core Storage Program." TURN, in particular, takes exception to the Scoping Memo's refusal to expand the proceeding to consider its proposal.

SoCalGas responds to the TURN motion noting that the ACR requires no clarification and that this proceeding is not appropriate for considering TURN's proposal. Southern California Generation (SCG) further notes that TURN's storage proposal addresses a problem that does not exist. SCG coalition similarly argues that this is not appropriate for considering TURN's proposal and that events including the passage of time, have rendered TURN's proposal moot.

As today's decision makes clear, TURN's proposal cannot reasonably be characterized as a "short-term" proposal. In particular, there is nothing that SoCal Gas can do today to increase the injection of gas. Thus, we cannot consider TURN's proposal in this proceeding without expanding the scope of the proceeding beyond its current focus on short-term measures. We decline to expand the score of this proceeding.

We therefore deny TURN's motion for clarification and reconsideration of our scoping ruling.

IX. Comments on Draft Decision

The draft decision in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Findings of Fact

1. Baring unforeseen circumstances or unlikely weather events, PG&E should have adequate gas supplies to meet system needs over the next 12 months.
2. Baring unforeseen circumstances, SoCalGas should have adequate gas supplies to meet system needs over the next 12 months.
3. Investments in compressors and the authority to use cushion now pending before this Commission should increase the SoCalGas system reserves of gas and provide a margin that makes a gas curtailment or diversion extremely unlikely in the next 12 months.
4. Since gas supplies over the next 12 months are adequate for all core and noncore customers, it is not reasonable to expect that granting gas service priorities to electric generators will avoid any service curtailments.
5. Electric generators with gas storage can avoid gas curtailments even when supplies are short by placing gas in storage.
6. Although all gas storage in California is currently subscribed, there is no information in this record on the need for additional gas storage by electric generators.
7. Providing electric generators who hold gas in storage with preferred access to flowing gas in times of shortfalls is not a reasonable policy.
8. Granting a gas priority to all electric generators is an overly broad and unreasonable policy.

9. The link between a change in gas curtailment policies and the avoidance of blackouts is weak. In the event of a shortfall, CGC's proposed priorities could curtail gas to non-electric generators even when no blackouts are imminent.

10. Granting special gas priorities to electric generators imposes unfair burdens on other non-core gas customers.

11. Some non-electric generating gas customers perform services vital to the California economy and public health and safety.

12. Because electric generators make up two-thirds of the noncore gas demand, granting electric generators preferences in the event of a supply shortfall will amplify the impacts of gas shortages on other customers. A supply shortfall to noncore customers of one-third would have zero impact on electric generators but lead to the curtailment of all other gas uses.

13. Granting gas service preferences to certain gas end-users will prove complex to implement and require enforcement.

14. Changing gas service priorities at this time is not reasonable or in the public interest because it is not needed, will produce no benefits, will discourage the use of storage, may have unintended adverse consequences that make gas supply less reliable, and will incur implementation and enforcement costs.

15. The adequacy of PG&E's and SoCalGas' gas supplies over the next 12 months makes changes in storage regulations pertaining to these companies unnecessary at this time.

16. Under tariffs, PG&E has the ability to reclaim unused firm storage capacity for use by other customers.

17. All gas storage held by PG&E, SoCalGas, and independent storage companies is currently sold out in California.

18. TURN has failed to demonstrate that there is an immediate need for its Excess Core Storage Program.

19. Because TURN's Excess Core Storage Program in southern California was intended for the summer of 2001, it is now moot.

20. There is no information demonstrating that additional monitoring and disclosure concerning the amount of gas in storage would serve the public interest.

21. There are no remaining open issues in this proceeding.

Conclusions of Law

1. Pursuant to § 451 and § 453, the Commission should not modify the gas tariffs of PG&E and SoCalGas to grant gas service priorities to electric generators.

2. Pursuant to § 451 and § 701.1(a), the Commission should not modify regulations affecting gas storage at this time.

3. The Commission should deny TURN's June 1, 2001 Motion for Clarification and Modification of the April 17, 2001 Assigned Commissioner Ruling and Scoping Memo.

O R D E R

IT IS ORDERED that:

1. The Utility Return Network's June 1, 2001 Motion for Clarification and Modification of the April 17, 2001 Assigned Commissioner Ruling and Scoping Memo is denied.
2. Respondents shall, and interested parties may, file opening comments on January 15, 2001 and reply comments on February 1, 2002 on the question of whether and how the Commission should allocate gas among electric generators during times of gas curtailments. Comments should directly address whether allocations based on considerations of the generations facility's heat rate or other factors can effectively improve the supply and reliability of electricity during times of natural gas curtailments.

This order is effective today.

Dated _____, at San Francisco, California.