Decision 01-05-074 May 24, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into natural gas procurement and reliability issues.	Rulemaking 88-08-018 (Filed August 10, 1988)
Order Instituting Rulemaking on the Commission's own motion to change the structure of gas utilities' procurement practices and to propose refinements to the regulatory framework for gas utilities.	Rulemaking 90-02-008 (Filed February 2, 1990)

OPINION REGARDING THE SOUTHERN CALIFORNIA GENERATION COALITION EMERGENCY PETITION FOR MODIFICATION OF DECISIONS 90-09-089 AND 97-11-070

I. Summary

On February 15, 2001, the Southern California Generation Coalition (SCGC) filed an emergency petition to modify Decision (D.) 90-09-089 and D.97-11-070.[1] SCGC's petition requests that the two decisions be modified to waive the 10 percent limit on monthly positive imbalances (overnominations) for noncore customers during the winter balancing period, and that noncore customers be permitted to combat gas price spikes by using their previous months' accumulated positive imbalance volumes to meet at least a portion of the flowing supply requirement that applies when the Southern California Gas Company (SoCalGas) implements its winter daily balancing rules.

Based on the reasons contained in this decision, SCGC's request to modify the two decisions is denied.

[1] D.90-09-089 and D.97-11-070 are reported in 37 CPUC2d 583 and 76 CPUC2d 598, respectively.

II. Background

In D.90-09-089, the Commission adopted rules for gas procurement practices and transportation services. Among the adopted rules were monthly balancing rules. These balancing rules require noncore customers to match their use of natural gas with supplies within a 10 percent tolerance band. If positive imbalances, i.e., overnominations, fall outside the 10 percent tolerance at the end of a 30-day period, the utilities are required to purchase the noncore customers' overnominations at a rate equal to the lower of the lowest incremental cost of gas on the system for that month, or 50 percent of the core WACOG[2] for the month. If there are negative imbalances which fall outside the 10 percent tolerance at the end of a 30-day period, the utilities charge these noncore customers for standby services. Standby service gas rates are equal to the higher of 150 percent of the core WACOG for the month or the highest incremental cost of gas for the month. (37 CPUC2d at pp. 623, 631-632.)

D.97-11-070 modified the gas balancing rules that were adopted in D.90-09-089. Noncore customers are required to deliver (using a combination of flowing supply and firm storage withdrawal) at least 50 percent of burn over a five-day period from November to March. If the total delivery is less than 50 percent of the total burn, a daily balancing standby charge is applied. This charge is 150 percent of the highest Southern California Border price during the five-day period as published in the Natural Gas Intelligence "Daily Gas Price Index." When total inventory declines to the "peak day minimum + 20 Bcf trigger," the minimum daily delivery requirement increases to 70 percent of burn on a daily basis.[3] When total inventory declines to the "peak day minimum + 5 Bcf trigger," the minimum daily delivery requirement increases to 90 percent. That is, transportation customers are required to be balanced (flowing supply

---

[2] "WACOG" refers to the weighted average cost of gas.

[3] The five-day period no longer applies when the 70 percent or 90 percent requirement is reached.

plus firm storage withdrawal) at a minimum of 90 percent of burn on a daily basis. If the customer fails to meet the minimum daily delivery requirement, the daily balancing standby charge of 150 percent of the highest Southern California Border price per the Daily Gas Price Index for the day applies. (76 CPUC2d at pp. 601, 604-606.)

Responses to SCGC's petition were filed by SoCalGas on March 9, 2001, and The Utility Reform Network (TURN) on March 15, 2001.

III. Position Of The Parties

A. SCGC

SCGC states that on February 15, 2001, SoCalGas imposed the requirement that noncore customers meet a minimum of 90 percent of their daily burn with gas from flowing supplies or from storage. SCGC asserts that simultaneously, "in response to the imposition of severe balancing requirements," gas prices went "into the stratosphere." (Petition, p. 2.)

SCGC states that the Commission adopted monthly balancing rules for SoCalGas in D.90-09-089. According to SCGC, these rules provide that the monthly balancing tolerance for noncore customers on the SoCalGas system shall be plus or minus 10 percent of customer nominations. That is, a customer may not import more than 10 percent of the customer's monthly burn, or be short by less than 10 percent of the customer's burn. These monthly balancing rules are found in section 1-3 of SoCalGas' G-IMB tariff.

SCGC states that the Commission adopted winter balancing rules for SoCalGas in D.97-11-070. In addition to the monthly balancing rules adopted in D.90-09-089, the winter balancing rules require that noncore customers deliver flowing supplies[4] that are sufficient to meet at least 50 percent of their burn during each five-day period in the

[4] SCGC's use of the term "flowing supplies" refers to both "gas from flowing supplies or from storage." (SCGC Petition, pp. 1-2.)

winter heating season that lasts from November through March. As SoCalGas' storage inventory declines during the winter, relative to peak day storage minimums, the flowing supply requirement becomes a daily requirement, first to 70 percent, and then to 90 percent. The failure to meet the daily requirement results in penalties. These penalties are pegged at 150 percent of the highest Southern California Border price of gas for the day. The winter balancing rules for SoCalGas are contained in SoCalGas' Rule 30.

SCGC points out that at the beginning of each winter heating season for 1997-1998, 1998-1999, and 1999-2000, SoCalGas implemented the 50 percent/five-day balancing requirement. In the most recent winter, SoCalGas imposed a 70 percent daily balancing requirement on January 21, 2001, and instituted the 90 percent daily balancing on February 15, 2001.[5]

SCGC requests that D.90-09-089 be modified so that the 10 percent positive monthly imbalance limitation be waived during the winter heating season, November through March. SCGC asserts that the removal of this limit will encourage noncore customers to bring in gas in excess of burn during the current gas crisis, by allowing them to avoid payment of the daily balancing and monthly imbalance penalties.

SCGC contends that allowing customers to bring gas into the system in excess of their burns is consistent with the purpose of the winter balancing rules. During the 1996-1997 winter heating season, SoCalGas had problems with undernominations, not overnominations. Although SoCalGas was able to accommodate the 1996-1997 winter undernominations, SCGC asserts that SoCalGas expressed concern that future undernominations by noncore customers could create problems. SCGC contends that modifying D.90-09-089 to waive the 10 percent limit on monthly imbalances during the winter heating season will benefit noncore customers, the entire SoCalGas system, and

[5] SCGC's petition at page 5 incorrectly refers to the year "2000" instead of "2001" as to when the 70 percent and 90 percent daily balancing requirements were imposed.

would be consistent with the protection that the winter balancing rules were intended to provide against undernominations by noncore customers.

SCGC also seeks to modify D.97-11-070 by allowing noncore customers to use accumulated positive imbalance volumes to cover a reasonable portion of the 70 percent or 90 percent flowing supply requirement when the winter daily balancing rules are in effect. (SCGC Petition, p. 2.) That is, a customer should be permitted to use its previous month's positive imbalance to meet the difference between 50 percent of the customer's daily burn and the daily flowing supply requirement of 70 or 90 percent. SCGC contends that this will give customers the ability to counteract the extreme price spikes that can occur when daily balancing is imposed under the winter balancing rules.

SCGC asserts that when SoCalGas requires its customers to balance daily, that the "customers scramble to buy gas supplies" to avoid penalties which are pegged at 150 percent of the highest Southern California Border price of gas for the day. SCGC contends that customers can be forced to pay "ever-higher prices to avoid ever-increasing penalties," which can result in an inflation spiral for gas prices. That is, "As the market prices go up, customers must pay an ever-higher price to avoid an ever-escalating penalty set at 150 percent of market." (SCGC Petition, p. 8.) SCGC contends that allowing customers to use the positive monthly imbalance volumes to meet the flowing supply requirements will help customers neutralize the inflationary effect of the penalty structure.

B. SoCalGas

SoCalGas objects to SCGC's proposed modifications. SoCalGas contends that the modifications "would significantly undermine SoCalGas' winter balancing rules and would provide an unwarranted benefit to noncore customers who did (or will) not properly plan their gas purchase/transportation activities at the expense of core customers and at the expense of those noncore customers who did (or will) properly plan their gas purchase/transportation activities." (SoCalGas Response, p. 1.) Although SoCalGas agrees that natural gas prices have risen to unacceptable high levels, these high prices have nothing to do with SoCalGas' winter balancing rules. SoCalGas asserts that its winter balancing rules simply require noncore customers to match their deliveries more closely with their usage when it is necessary to protect core peak day minimum storage inventory levels in accordance with D.97-11-070.

SoCalGas asserts that although SCGC accurately summarized the changes required by D.97-11-070, SCGC did not describe the fundamental reasons why the Commission adopted the winter balancing rules in the first place. In D.97-11-070, the Commission described the then-existing rules as mainly serving to "reduce noncore customers' exposure to market risk, potentially at the expense of core customers," and that the "existing rules have created a circumstance which provides an incentive for noncore customers and marketers to underdeliver gas supplies from their gas suppliers and then purchase cheaper supplies from SoCalGas storage." (76 CPUC2d at p. 603; SoCalGas Response, p. 2.) D.97-11-070 then went on to state that the Commission "never intended that SoCalGas would be a provider of last resort for gas shippers who did not wish to assume the risk associated with market price variability which occurs with the change of seasons." (Id.) With regard to balancing services, quoting from D.90-09-089, D.97-11-070 stated that "balancing services should not replace storage service," and that "the utilities and their ratepayers should not be responsible for the costs associated with imbalances." (Id.) D.97-11-070 also cited from SoCalGas' Rule 30 which states in part: "It is the intention of both the Utility and the customer that the daily deliveries of gas by the customer for transportation hereunder shall approximately equal the quantity of gas which the customer shall receive at the points of delivery … the utility and the customer will use all due diligence to assure proper load balancing in a timely manner." (Id.)

SoCalGas also points out that in D.97-11-070, the Commission also addressed SoCalGas' storage capability by stating that the:

> "storage system, however, must be available first for the needs of the core customers who pay the majority of associated costs and who do not have the same opportunities as noncore customers to participate in competitive commodity and transportation markets.

> SoCalGas has effectively provided free storage services to noncore customers by permitting substantial imbalances to accrue on SoCalGas' system."

SoCalGas contends that SCGC's attempt to draw a correlation between SoCalGas' announcement of the 90 percent winter balancing rule, and the increase in spot gas prices, is not supported. The only support for SCGC's assumption comes from an article in Gas Daily that SCGC cited in its petition.[6] SoCalGas points out that the largest spot gas price increase occurred in December 2000 when noncore customers were only required to deliver 50 percent of their five-day usage. Since the largest increase occurred when the winter balancing rules were the most lenient, one cannot conclude that SoCalGas' announcement of the more stringent balancing rules in February 2001 was the cause of recent gas price increases. Even if one assumes that the price spike of February 14 and 15, 2001 was due to the announcement of the 90 percent minimum delivery requirement, the gas markets quickly accounted for this, and California border gas prices dropped from $33.25 on February 16, to $17.48 on February 23, and to $12.68 on February 26, 2001. SoCalGas points out that the current monthly balancing rules have been in place for a decade, and no party has ever suggested that monthly balancing has had any impact on California gas prices. SoCalGas asserts that the speculation in the Gas Daily article as to the reason for a gas price increase is an insufficient reason to make a significant, emergency revision to SoCalGas' monthly and winter balancing rules.

SoCalGas also points out that it posts the status of its total storage inventory in relation to the 70 percent and 90 percent daily balancing triggers, as well as the peak day minimum storage inventory levels necessary to protect core customers, on its GasSelect electronic bulletin board. Anyone accessing the bulletin board can view well in advance

---

[6] SoCalGas states that there are a number of other factors which affect spot gas prices, such as: the availability of interstate pipeline capacity releases; the price of such releases; the price of gas in the producing basins; the amount of gas available for withdrawal from storage; and the demand for natural gas caused by such factors as weather and electricity needs.

the status of SoCalGas' storage inventory, which according to SoCalGas, "clearly show the imminence of the 70 percent or 90 percent minimum delivery requirements." SoCalGas also states that at least two days before there is any change in the balancing requirements, SoCalGas posts on its bulletin board an "alert" which specifies exactly when the new balancing requirement will take effect.

At the time SoCalGas filed its response, it stated that since the winter season is almost over, SCGC's proposal to waive the monthly balancing requirement for overnominations is in effect a proposal to address potential gas price volatility for next winter. SoCalGas contends that SCGC's proposed waiver is, in essence, a request that noncore customers be given free storage next winter by overnominating gas to the SoCalGas, and utilizing the gas later in the winter without the payment of any imbalance charge or storage fee. SoCalGas asserts that such an approach undermines the foundation of the gas storage rules, and is completely unnecessary as a means of mitigating spot gas price volatility.

If noncore customers overnominate gas to the SoCalGas system beyond the 10 percent limit for which they pay, SoCalGas will inject this gas into storage for a later withdrawal. SoCalGas contends that the injection and subsequent withdrawal causes it to incur costs, and that the Commission has authorized SoCalGas to charge noncore customers for these services. If SCGC's waiver proposal is adopted, SoCalGas would be providing this service for free. SoCalGas asserts that this will result in cross-subsidies for those noncore customers who do not properly plan their winter purchases and transportation, at the expense of core customers and those noncore customers who pay for firm storage rights. SoCalGas contends that if SCGC's proposal is adopted, noncore customers are likely not to purchase gas storage services for next winter. Instead, those noncore customers are likely to create excessive positive imbalances by overnominating gas to the SoCalGas system when it is convenient and economic for those noncore customers to do so. SoCalGas contends that noncore customers should be encouraged to plan in advance of the winter heating season, and to purchase SoCalGas' storage services if they are concerned about spot gas price volatility.

SoCalGas states that at the start of the 2000-2001 winter season, noncore storage levels were at their lowest levels since the winter balancing rules were adopted in D.97-11-070. If noncore customers had utilized storage at the levels experienced in previous years, SoCalGas states that it is likely that the price volatility of spot gas at the California border could have been significantly diminished this winter because storage withdrawals could have replaced high-priced spot supplies. Additional storage by noncore customers would have also provided SoCalGas with a greater cushion above the core peak day minimum storage levels. SoCalGas contends that this would have allowed it to avoid, or at least delayed, the imposition of the 70 percent and the 90 percent daily minimum delivery requirements.

SoCalGas states that noncore customers have the opportunity to choose various storage products and services to hedge against spot gas price volatility next winter. Prior Commission decisions have removed storage costs from noncore customers' rates so that these customers can choose whether or not to pay for storage as a tool to hedge against volatile winter gas prices. SoCalGas contends that any proposal to permit noncore customers to obtain free storage by allowing overnominations beyond the monthly imbalance tolerances must be accompanied by a review of whether additional storage (or imbalance) costs should be rebundled into the gas transportation rates of noncore customers. In SoCalGas' opinion, the better approach is to continue the current storage rules and cost allocation and let noncore customers make their own decisions about whether or not to hedge against gas price volatility by subscribing to SoCalGas' storage services.

SoCalGas also contends that SCGC's proposal to allow noncore customers to use previous period overnominations to meet a subsequent flowing gas requirement should not be adopted. SoCalGas asserts that the winter balancing rules allow it to use the increased minimum delivery requirements, as overall storage levels decline, to slow the rate of decrease in storage inventory levels. This enables SoCalGas to maintain the peak day minimum storage levels necessary to protect SoCalGas' core customers in the event of a peak day core demand. SoCalGas points out that following the announcement of the 90 percent daily delivery requirement, the decline in SoCalGas' storage levels decreased from approximately 600 million cubic feet per day (MMcfd) to approximately 300 MMcfd. This allowed SoCalGas to maintain a storage level sufficient to protect core customers without having to curtail noncore customers.

SoCalGas asserts that by allowing noncore customers to avoid the minimum daily delivery requirement by simply withdrawing gas that was overnominated in a prior period would be the same as using "as available" storage to meet the flowing gas requirement. As available storage is inventory that is not supported by firm storage withdrawal rights. SoCalGas points out that D.97-11-070 specifically noted "that gas shippers may not use as-available storage or Hub services to remedy daily imbalances." (76 CPUC2d at p. 604.) SoCalGas asserts that as available storage cannot be used to meet minimum flowing supply requirements because it does not increase SoCalGas' ability to withdraw gas from storage by any appreciable amount to meet daily demands. Only storage inventory that has firm withdrawal rights, and flowing supply, will provide SoCalGas with what it needs to protect the peak day minimums to prevent curtailment.

If SCGC's proposal is adopted, SoCalGas states that the noncore overnominations injected into storage would enjoy rights equal to firm withdrawal rights, which would reduce the value of the firm withdrawal rights that have been purchased by other noncore customers as a hedge against gas price volatility. In addition, the adoption of SCGC's proposal would increase the risk of daily noncore undernominations, which increases the risk of noncore curtailments in order to protect core peak day minimum storage levels. SoCalGas asserts that curtailment of noncore customers is a more serious public policy concern than simply requiring noncore customers to match their deliveries with their usage more closely.

C. TURN

TURN generally supports the reasoning of SoCalGas for denying SCGC's petition, but disagrees with SoCalGas' proposed approach. TURN recommends that the Commission defer consideration of SCGC's remedy, which is moot for the 2000-2001 winter season, and, on an interim basis, rebundle the costs of storage in the transportation rates for electric generators, and require SoCalGas to store gas on behalf of those customers. TURN urges the Commission to take a close look at the imbalance penalties and gas storage costs, especially in light of the need to ensure that there is enough gas to meet the needs of core customers, while minimizing the threat of noncore gas diversions.

TURN does not believe that the utility and core customers should subsidize storage for noncore customers who receive the benefits of unbundled storage. However, TURN believes that all necessary steps must be taken now to increase storage supplies for next winter, while ensuring that core customers do not subsidize noncore storage, and that noncore diversions are minimized. TURN notes that it "is all too apparent that electric generators can and do utilize shortages on the gas side to justify high electric rates, and that the potential for significant conflicts between gas and electric reliability will exist if gas shortages materialize."

According to a SoCalGas response to a TURN data request, noncore storage injection at the end of the 2000 injection season was 90 percent less than in 1999 and 1998, and storage levels at the end of March 2001 may have hit a historical low. Noncore customers chose not to inject gas into storage based on projected future gas prices.

SoCalGas projects that if electric generation load is similar to last year, the only time when slack pipeline capacity will be available for significant storage injection will be in the second quarter (April through June) of 2001. TURN asserts that it is essential that any slack capacity be utilized at all times for storage injection.

TURN agrees with SoCalGas that waiving the positive monthly imbalance limitation is the same as providing noncore customers with free storage. However, allowing customers to import gas in excess of their burns, i.e., overnominations, may provide system benefits by increasing the amount of gas stored. TURN suggests that rather than just waiving the penalties, SoCalGas should be permitted to charge appropriate storage costs to any customer with overnominations. The calculation of such costs, however, requires a careful analysis.

TURN points out that SCGC requested a waiver of the overnomination limits for the winter 2000-2001 heating season. Since that time period has now passed, TURN recommends that the Commission either reject SCGC's petition, or open an investigation to determine whether any changes should be made to the imbalance rules.

To address the potential danger of a shortage of storage gas and expected high gas demand, TURN states that the Commission should require SoCalGas, on an interim basis, to rebundle the costs of storage into either the transportation rates of all noncore customers, or the noncore electric generation customers. TURN believes that this will help ensure reliable gas and electric service next winter. TURN states that it intends to file a petition to modify D.93-02-013, the storage unbundling decision, in the near future. However, due to the need to ensure that gas is injected into storage this spring, TURN presents this alternative for consideration in response to SCGC's petition.

IV. Discussion

The monthly gas balancing rules are found in SoCalGas' G-IMB tariff, its "transportation imbalance service" tariff. In the "Description of Service" portion of the G-IMB tariff, the tariff references the winter balancing rules, which are contained in SoCalGas' Rule 30. SoCalGas provides a no-charge balancing service to its transportation customers if the cumulative imbalance at the end of the monthly imbalance trading period is within 10 percent of the customer's usage (tolerance band) for the billing period. However, as described under the "Rates" section in G-IMB, the remaining imbalance quantities that are outside the tolerance band at the end of the imbalance trading period are subject to a standby procurement charge when there is a negative imbalance, or to a buy-back when there is a positive imbalance.

SCGC's petition requests a waiver of "the 10 percent positive monthly imbalance limitation" during the winter heating season. The text of SCGC's petition states that removal of the 10 percent limit "would permit them to bring gas into the system at levels sufficient to be assured of avoiding daily balancing penalties without running the risk of incurring monthly imbalance penalties." (SCGC Petition, pp. 5-6.) The waiver of the tolerance band for positive imbalances would allow noncore customers to overnominate as much gas as they want during the winter season. It is unclear from SCGC's petition, however, whether it seeks to waive the provision which requires SoCalGas to purchase the overnominations.

SCGC's second request is to permit customers to use their accumulated positive monthly imbalance volumes to meet their winter daily balancing flowing supply requirements above 50 percent of the customers' daily burn. This would allow noncore customers to carry over their positive monthly imbalances and add it as a credit toward the winter months' daily balancing flowing supply requirement. This carry over proposal suggests that SCGC seeks to waive the purchase of the noncore customers' overnominations by SoCalGas.

There are several reasons why we believe SCGC's petition should be denied. The first reason is that Rule 47 of the Commission's Rules of Practice and Procedure requires the petitioner to "propose specific wording to carry out all requested modifications to the decision."

SCGC has not proposed specific wording changes to either D.90-09-089 or to D.97-11-070. Instead, SCGC has broadly worded its petition, and has left it up to the Commission and the other parties to decipher the exact relief sought by SCGC. Although we can surmise what SCGC is seeking, it has failed to propose the specific wording changes needed to carry out all of its requested modifications. An example of this is whether or not SCGC seeks to waive the purchase of any overnominations by SoCalGas. SCGC did not specifically state whether this provision of the monthly balancing rule should be changed. Based on other statements in SCGC's petition, we could assume

SCGC's requests such a waiver. However, the burden of proposing the specific wording changes to a decision is on the petitioner, which SCGC has failed to do.

The second reason for denying SCGC's petition is that it essentially makes permanent and extensive revisions to the gas storage and balancing rules that were adopted in D.90-09-089 and D.97-11-070. These storage and balancing rules were extensively debated. In D.97-11-070, the Commission stated:

> "We never intended that SoCalGas would be a provider of last resort for gas shippers who did not wish to assume the risk associated with market price variability which occurs with the change of seasons. With regard to balancing services specifically, D.90-09-089 found that the utilities' balancing services should promote good planning and should not impose additional costs on the utilities or their core ratepayers. D.90-09-089 states, 'Our adopted rules for balancing services should not replace storage service … the utilities and their ratepayers should not be responsible for the costs associated with imbalances.' " (76 CPUC2d at p. 603.)

D.97-11-070 also stated:

> "That [SoCalGas'] storage system … must be available first for the needs of the core customers who pay the majority of associated costs and who do not have the same opportunities as noncore customers to participate in competitive commodity and transportation markets. SoCalGas has effectively provided free storage services to noncore customers by permitting substantial imbalances to accrue on SoCalGas's system. We see no reason to continue this subsidy during a period of reliable gas supplies and firm transportation." (76 CPUC2d at p. 603.)

We agree with the observations of SoCalGas and TURN that SCGC's proposals allow noncore customers to avoid having to pay gas storage charges. Under SCGC's proposal, noncore customers would be allowed to overnominate as much gas as they want during the winter months. Under SCGC's second part of its request, noncore customers could carry over the previous months' positive imbalances and apply it toward the daily flowing supply requirement. If SCGC's petition is granted, noncore customers will be able to use the positive imbalances that they overnominated in prior months to make up

the winter month's undernomination. This will allow noncore customers to avoid having to pay
some or all of the daily balancing standby charge of 150 percent of the highest Southern California Border price. Meanwhile, SoCalGas would have to draw on the gas that noncore customers overnominated in the prior months in order to balance the undernominations by the noncore customers during the winter months. Under SCGC's proposal, SoCalGas would not be paid by the noncore customers for this service.

Clearly, SCGC's proposal is contrary to the express goals of both D.90-09-089 and D.97-11-070. As the Commission concluded in D.97-11-070, "SoCalGas' gas customers should not be required to subsidize the use of SoCalGas' storage or gas purchasing services by gas shippers who under deliver gas supplies to SoCalGas' system." (76 CPUC2d at p. 604.) In D.90-09-089, the Commission rejected a proposed settlement provision which would have allowed SoCalGas' transportation customers to carry over the positive imbalances equal to 10 days of average use without penalty. In rejecting that settlement provision, the Commission stated that the provision regarding balancing services amounted to free storage, and the provision was "unlikely to encourage customers to plan their gas takes carefully, and that utilities and their ratepayers should not be responsible for the costs associated with imbalances." (37 CPUC2d at p. 623.) SCGC's petition seeks to revisit certain elements of the balancing rules which have previously been rejected by the Commission. There is no need to entertain similar kinds of provisions in this proceeding again.

The third reason for rejecting SCGC's petition is that it seeks relief because of an alleged emergency resulting from SoCalGas' imposition of the 90 percent daily delivery requirement, and the spike in gas prices. We are not convinced that an emergency exists. As SoCalGas noted in its response, noncore customers had advance notice of SoCalGas' storage inventory and the daily balancing requirements through the GasSelect electronic bulletin board. In addition, the 70 percent daily balancing requirement went into effect on January 21, 2001, followed by the 90 percent requirement a month later. Although gas prices spiked around the time the 90 percent balancing requirement went into effect, gas prices have since dropped. We agree with SoCalGas that the rise in gas prices around February 15, 2001 cannot be attributed solely to the imposition of the 90 percent requirement. In light of these circumstances, an emergency does not exist.

Due to the alleged emergency, SCGC seeks a waiver of the 10 percent limit on monthly positive imbalances during winter balancing periods. However, the need to make an immediate change is no longer necessary because the winter heating season is now over. Although winter will reoccur again in December 2001, we believe that the parties and the Commission should focus their efforts on ways in which the amount of gas supply, including gas in storage, can be enhanced for the next winter season, rather than adopting mechanisms which allow noncore customers to have access to free gas storage.[7] Those kinds of proposed mechanisms have been explicitly rejected by the Commission in D.90-09-089 and D.97-11-070.

Based on the three reasons stated above, SCGC's petition for modification of D.90-09-089 and D.97-11-070 should be denied.

We decline at this time to entertain the suggestion of TURN to rebundle in transportation rates, on an interim basis, the costs of storage for electric generators. As TURN itself notes, that issue is more properly raised in another proceeding.

V. Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties on April 23, 2001, in accordance with Section 311(g)(1) of the

[7] On March 30, 2001, Commissioner Bilas issued an Assigned Commissioner's Ruling (ACR) regarding the strategic role of gas storage in avoiding curtailments and diversions. The ACR was issued in Rulemaking (R.) 01-03-023.

Public Utilities Code and Rule 77.7 of the Commission's rules. No one filed any comments to the draft decision.

Findings of Fact

1. SCGC filed its emergency petition to modify D.90-09-089 and D.97-11-070 on February 15, 2001.

2. SCGC requests that the 10 percent limit on monthly positive imbalances for noncore customers, contained in D.90-09-089, be waived during the winter balancing period, and that D.97-11-070 be modified by allowing noncore customers to use their previous months' accumulated positive imbalance volumes to meet the flowing supply requirement during the winter months.

3. D.90-09-089 adopted rules for gas procurement practices and transportation services, including the monthly balancing rules.

4. The monthly balancing rules allow noncore customers a tolerance band of 10 percent, and if the positive imbalances fall outside the 10 percent tolerance band at the end of a 30-day period, the utilities are required to purchase the noncore customers' overnominations.

5. D.97-11-070 modified D.90-09-089 by requiring noncore customers to deliver at least 50 percent of burn over a five-day period from November to March, subject to subsequent increases to 70 percent or 90 percent depending on the amount of total inventory.

6. Responses to SCGC's petition were filed by SoCalGas and TURN.

7. The monthly balancing rules are found in section 1-3 of SoCalGas' G-IMB tariff.

8. The winter balancing rules are contained in SoCalGas' Rule 30.

9. SoCalGas imposed a 70 percent daily balancing requirement on January 21, 2001, and instituted the 90 percent daily balancing on February 15, 2001.

10. TURN recommends that the Commission, on an interim basis, rebundle the costs of storage in the transportation rates for electric generators, and require SoCalGas to store gas on behalf of those customers.

11. The waiver of the 10 percent tolerance band for positive imbalances would allow noncore customers to overnominate as much gas as they want during the winter season.

12. Rule 47 of the Commission's Rules requires the petitioner to propose specific wording changes to carry out all requested modifications to the decision.

13. SCGC's petition would make permanent and extensive revisions to the gas storage and balancing rules that were adopted in D.90-09-089 and D.97-11-070.

14. The storage and balancing rules that SCGC seeks to modify were extensively debated.

15. SCGC's proposal allows noncore customers to avoid having to pay gas storage charges.

16. SoCalGas' noncore customers had advance notice of SoCalGas' storage inventory and the daily balancing requirements through the GasSelect electronic bulletin board.

17. The emergency alleged by SCGC in its petition does not exist.

18. The need to make an immediate change to the balancing rules is no longer necessary because the 2000-2001 winter heating season is now over.

Conclusions of Law

1. SCGC has failed to propose the specific wording changes needed to carry out all of its requested modifications to D.90-09-089 and to D.97-11-070.

2. The burden of proposing the wording changes to a decision is on the petitioner.

3. SCGC's proposal is contrary to the express goals of D.90-09-089 and D.97-11-070.

4. SCGC's petition seeks to revisit certain elements of the balancing rules which have previously been rejected by the Commission.

5. SCGC's petition to modify D.90-09-089 and D.97-11-070 should be denied.

6. Strategic gas storage issues are being addressed in R.01-03-023, pursuant to the March 30 ACR issued in that proceeding.

O R D E R

IT IS ORDERED that the emergency petition for modification of Decision (D.) 90-09-089 and D.97-11-070, which was filed by the Southern California Generation Coalition on February 15, 2001, is denied.

This order is effective today.

Dated May 24, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners