

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for Approval of its Proposals for Dynamic Pricing and Recovery of Incremental Expenditures Required for Implementation.

A.10-07-009
(Filed July 6, 2010)

**JOINT REPLY COMMENTS OF THE DIVISION OF RATEPAYER
ADVOCATES AND THE UTILITY CONSUMERS' ACTION NETWORK**

DEXTER KHOURY
Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1200
Email: bsl@cpuc.ca.gov

NICHOLAS SHER
Legal Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-4232
Fax: (415) 703-2200
E-mail: nms@cpuc.ca.gov

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REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES

I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) and the Utility Consumers’ Action Network (UCAN) submits this Reply to comments of San Diego Gas and Electric Company (SDG&E)¹ and to the joint comments of Alliance for Retail Energy Markets (“AReM”), Energy Users Forum (“EUF”), and Federal Executive Agencies (“FEA”), collectively “Joint Parties.” These comments are submitted in connection with the Application of SDG&E for Approval of its Proposals for Dynamic Pricing and Recovery of Incremental Expenditures Required for Implementation.

Specifically, DRA supports the section of SDG&E’s comments that uphold the Settlement, but disagrees with SDG&E’s alternative to the PD. Also, DRA dissents, in part, with SDG&E’s recommended allocation of Dynamic Pricing Implementation costs, and addresses recommendations in the Opening Comments of the Joint Parties.

Silence on any argument not specifically addressed should not be construed as agreement or disagreement with that position.

¹ DRA notes that Disability Rights Advocates joined with SDG&E in the opening comments, but only did so as it pertained to the Memorandum of Understanding entered into between SDG&E and Disability Rights Advocates (see, opening comments, footnote 1, p.1).

II. THE PD ERRS IN FAILING TO ADOPT THE JUNE 20, 2011 SETTLEMENT AGREEMENT

DRA concurs with SDG&E that the settlement agreement should be adopted and that the PD's rejection of the settlement agreement constitutes legal and factual error, for the reasons set forth in their comments.²

III. THE PD ERRS IN ORDERING AN ABRUPT TRANSITION OF SAN DIEGO'S SMALL BUSINESS CUSTOMERS TO MANDATORY TIME-of-DAY ("TOD") RATES IN 2013

As the SDG&E Comments point out, the PD errs by not providing SDG&E's small business customers sufficient time to transition and plan for a new rate structure, as well as by not allowing enough time for SDG&E to conduct customer education and outreach. DRA concurs specifically with SDG&E's comments finding of legal and factual error with respect to the PD's November 1, 2013 date for transition to mandatory TOD pricing.³

IV. THE PD ERRS IN EXEMPTING DIRECT ACCESS AND COMMUNITY CHOICE ACCESS CUSTOMERS FROM DYNAMIC PRICING IMPLEMENTATION COSTS

Joint Parties state that they strongly support the PD's determination on cost allocation. They assert that "...direct access and CCA customers would not be eligible for service under the dynamic pricing tariffs and thus would impose no costs on SDG&E relative to the tariffs."⁴ This argument erroneously ignores the system benefits that Dynamic Pricing provides to *all* customers, including DA and CCA customers.

The PD would require that Dynamic Pricing implementation costs be recovered through generation rates, "to ensure that these costs are not collected from DA and CCA customers."⁵ As discussed above, this reasoning is erroneous, because the Dynamic

² Comments of SDG&E, November 19, 2012, pp.3-6

³ Comments of SDG&E, November 19, 2012, pp.6-7

⁴ Comments of Joint Parties, November 19, 2012, p.1, 3.

⁵ PD, p.53.

Pricing benefits enumerated in D.08-07-045 (p.2),⁶ which include reduced cost and improved system reliability, accrue to *all* utility distribution customers, including DA and CCA customers. Thus, the Commission should accord no weight to the Comments of Joint Parties,⁷ which rely exclusively on the argument that their clients should be exempt from Dynamic Pricing costs because they cannot participate. Since the 2002 Decision cited in the PD, the Commission has consistently rejected the Joint Parties argument, most recently in D.12-04-045.

In regard to system benefits, the PD errs by relying on an old decision when a more recent one, which says the opposite, exists. Specifically, the PD relies on D.02-11-022,⁸ which was cited by the Joint Parties in testimony.⁹ Yet D.12-04-045 declined to exempt DA and CCA customers from demand response implementation costs, finding that such customers benefit from utility demand response programs, even though they cannot directly participate in such programs.¹⁰ Given that Dynamic Pricing is a form of Demand Response, the glaring inconsistency of the PD's finding with the finding of the recent Demand Response decision must be considered a legal error.

V. CONTRARY TO SDG&E'S OPENING COMMENTS, THE COMMISSION SHOULD NOT FIND, WITHOUT QUALIFICATION, THAT DYNAMIC PRICING IMPLEMENTATION COSTS ARE DISTRIBUTION COSTS

In SDG&E's Opening Comments, SDG&E recommends that DP implementation costs be treated as distribution costs, and allocated to customers accordingly. The PD is correct, in implicitly finding that the benefits of reduced costs and improved reliability, which drive cost causation for DP implementation costs, are more generation-related than distribution-related. Thus, while DRA believes the PD errs in recovering DP costs in generation rates, thereby exempting DA and CCA customers, the Commission should not

⁶ See Comments of SDG&E, November 19, 2012, p.10

⁷ Opening Comments of AReM, EUF, and FEA, November 19, 2012, p. 2

⁸ Cited at PD, p.50.

⁹ See Comments of SDG&E, November 19, 2012, pp.9-11

¹⁰ D.12-04-045, p.204.

intermingle Dynamic Pricing costs with distribution costs for the purpose of revenue allocation. As proposed by SDG&E, such costs would be allocated along with other distribution costs using only marginal distribution and customer costs.¹¹

Instead, Dynamic Pricing implementation costs in SDG&E's Dynamic Pricing Balancing Account should be allocated to customer classes, at least in large part, by generation allocation factors (marginal generation capacity and energy costs) to reflect the role of generation in dynamic pricing cost causation¹².

These allocated costs should be recovered in distribution rates. There is no reason why the allocation of these costs should be the same as the rate design used to recover these costs.

VI. SDG&E'S NEW PROPOSAL SHOULD BE REJECTED

DRA was surprised to see that SDG&E failed to limit its comments on the PD to support for the settlement. While DRA does not believe that SDG&E has acted in bad faith, it is improper, from a policy perspective, for a signatory to a settlement agreement to submit a new proposal that undercuts the terms of the negotiated settlement. SDG&E's approach to this settlement harms the sanctity of the settlement process and should not be countenanced. The Commission should reject SDG&E's post-settlement proposal.¹³ DRA does not even find SDG&E's proposal to be better than that in the PD. While the "cliff dive" to mandatory Time-of-Day pricing in 2013 is avoided, SDG&E's proposal entails a more serious cliff dive to Peak Shift at Work pricing just one year later. Thus, DRA can't see how the SDG&E's approach mitigates the legal error in the PD's approach that is discussed in Section III above.

¹¹ Comments of SDG&E, November 19, 2012, pp.10. SDG&E's allocation proposal erroneously ignores the role of generation in dynamic pricing cost causation.

¹² For example, an "equal cents per kWh" allocation would appropriately reflect the role of generation in cost causation of dynamic pricing costs.

¹³ If, however, the Commission deems it appropriate for settling parties to submit, post-settlement, new proposals that undercut the terms of the settlement, then DRA proposes the following as an alternative to the settlement: (1) **November 2013** - Voluntary Time-of-Day and Voluntary Peak Shift at Work Pricing; (2) **November 2014** - Mandatory Time-of-Day and Voluntary Peak Shift at Work Pricing.

VII. CONCLUSION

For the reasons discussed above, DRA continues to recommend that the Commission adopt the Settlement. In the alternative, the PD should be modified to establish a more gradual transition to mandatory TOD rates, and to ensure that Dynamic Pricing implementation costs be collected from all customers who benefit, including DA and CCA customers.

Respectfully submitted,

/s/ NICHOLAS SHER

Nicholas Sher
Staff Counsel

Attorney for the Division of
Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-4232
Fax: (415) 703-2200
E-mail: nms@cpuc.ca.gov

/s/ DONALD M. KELLY

DONALD M. KELLY

UCAN
Executive Director
340 Kenyon Street, Ste. 401
San Diego, CA 92110
E-mail: legaldefense2k@yahoo.com

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