

Decision **PROPOSED DECISION OF ALJ HALLIGAN** (Mailed 7/25/2013)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development.

Rulemaking 01-10-024
(Filed October 25, 2001
Petition filed February 7, 2013)

**DECISION GRANTING THE PETITION FOR MODIFICATION OF
DECISION 04-01-050 TO ESTABLISH A NEW FILING DATE FOR ANNUAL
ENERGY RESOURCE RECOVERY ACCOUNT FORECAST APPLICATION**

1. Introduction

San Diego Gas & Electric Company (SDG&E) filed this Petition for Modification (Petition) to request modification of Decision 04-01-050 to establish a new application filing date of April 15th for SDG&E's annual Energy Resource Recovery Account (ERRA) forecast application. The current ERRA filing date is October 1st. SDG&E says that a new filing date is warranted to provide ample time for the Commission to review and act upon SDG&E's forecast application so that the new rates can be implemented on January 1st to recover the procurement-related costs that are forecasted to be incurred for that year. By having a timely Commission order that can be implemented on January 1st of the following year, SDG&E customers will pay in rates for the forecasted procurement-related costs over the entire calendar year during which those costs are incurred. In doing so, customers will experience fewer rate changes, and SDG&E will be less likely to find itself, as it did twice in 2012, in a triggered position, necessitating further ERRA applications and mid-cycle rate

changes. In short, SDG&E asserts it is proposing a filing schedule change that will benefit SDG&E's customers. The Alliance for Retail Energy Markets supports SDG&E; the Division of Ratepayer Advocates opposes.

2. Discussion

2.1. Background on Decision (D.) 04-01-050

D.04-01-050 adopted "the long-term regulatory framework under which California's three largest investor-owned utilities (IOU), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE), will plan for and procure the energy resources and demand-side investments necessary to ensure their customers receive reliable service at low and stable prices."¹ Paramount among the objectives of the Commission's regulatory procurement framework has been the need for price stability, or stated differently, stability in the rates that utilities charge their customers.

D.04-01-050 adopted a "2005 Energy Resource Recovery Account (ERRA) Schedule" that specifies the dates that each of the three utilities would follow, and in SDG&E's case, has followed, since its issuance. For SDG&E, D.04-01-050 stated that SDG&E's "2005 ERRA Forecast" should be filed on October 1, 2004. Importantly, in connection with this filing date, the decision notes: "The dates have been changed so the IOUs file earlier in the year. This will allow IOU/PUC to have decisions out by the end of the year."² The same schedule shows PG&E's and SCE's ERRA forecast application filing dates as occurring earlier than

¹ D.04-01-050 at 2.

² D.04-01-050 at 177, footnote 2.

SDG&E's. Thus, the Commission's express objective in selecting these dates was to allow timely decisions to be rendered by the end of the calendar year.

However, the Commission's decisions on SDG&E's ERRA forecast application have, in recent years, consistently not been issued by the end of the year and generally not until several months into the new year. For example, SDG&E's 2012 ERRA forecast application, filed on September 30, 2011, received a Commission decision on July 12, 2012.³ Similarly, SDG&E's 2011 ERRA forecast Application (A.) 10-10-001, filed on October 1, 2010, received a Commission decision on August 1, 2011. When approval of the forecast application is delayed, the forecasted procurement costs beginning on January 1st are recovered under rates set using the prior year's approved revenue requirement rather than rates that are intended to recover the procurement costs that are incurred beginning on January 1st. Thus, there has been a systemic mismatch in timing between the forecast period and the time at which the costs are recovered in rates as well as a mismatch between the procurement-related revenues and expenses. This timing and revenues/expenses mismatch can be corrected by a year-end Commission decision on SDG&E's forecast applications enabling SDG&E to put the new rates into effect on January 1st. SDG&E proposes a new filing date that reasonably ensures a year-end decision and puts SDG&E on essentially on the same footing as other utilities in this regard.

³ D.12-07-006.

2.2. SDG&E's 2012 Trigger Applications

When SDG&E's ERRA balance falls above or below its 4% trigger point and 5% threshold, the balance is in either an under- or over-collected position, and that balance is not expected to self-correct to a point below the 4% trigger point within 120 days, SDG&E must file a supplemental trigger application requiring Commission action within 60 days of the filing of that application.⁴ SDG&E found its ERRA balance to be in a triggered position twice during 2012, necessitating two trigger applications.

In SDG&E's April 9, 2012 trigger application (A.12-04-003), SDG&E identified the July 2012 issuance of a Commission decision in its 2011 ERRA forecast case, A.11-09-022, as a driving factor for its triggered position. In its testimony, SDG&E stated:

SDG&E is still awaiting approval of the 2012 ERRA forecast revenues, as filed in A.11-09-022, and updated on February 24, 2012. The approval and implementation of A.11-09-022 (the decision is expected to be approved in June with implementation date of July 1, 2012) will enable SDG&E to record updated revenues to match the costs currently incurred. Absent that approval, SDG&E has continued to book revenues under the 2011 forecast revenues approved in D.11-07-041. ...For every month that SDG&E books 2011 revenues instead of 2012, the undercollection will continue to grow.⁵

⁴ D.02-10-062; D.04-01-050 at 177.

⁵ A.12-04-003, Testimony of Gregory D. Shimansky at 4-5.

Thus, if a Commission decision is delayed on a forecast application that is intended to have procurement costs collected in rates beginning January 1st and actual costs are higher than the prior year's forecast, then the costs that would have been recovered in rates during the first part of the calendar year form an under-collection of forecasted ERRR costs. A second trigger was identified at the end of August 2012, necessitating a second trigger application for 2012, A.12-10-017, which was filed on October 26, 2012.

2.3. SDG&E's Proposed Schedule Modification and Its Justification

SDG&E says its proposed change to D.04-01-050 is a purely procedural one of moving SDG&E's annual ERRR forecast application filing date from its current October 1st date to April 15th. SDG&E believes advancing the filing date forward should give ample time to the Commission to render a final decision before year-end. Due to resource constraints, SDG&E also recommends a window of time between its ERRR forecast application and its annual ERRR compliance application, which is submitted on June 1st of each year.

In sum, SDG&E argues the proposed date change is a simple, procedural only schedule modification that will benefit SDG&E's customers by eliminating or mitigating the likelihood of mid-year rate changes and thus produce more stable rates, which is the stated objective of D.04-01-050. Further, eliminating trigger applications that may be caused by the timing mismatch, as explained above, will create efficiencies in the use of the Commission's and SDG&E's resources allocated to ERRR-related work.

The Alliance for Retail Energy Markets (AReM), in support of SDG&E, argues that ERRA rate changes should occur on a predictable schedule, with the underlying costs embedded in the rates correlated to the period over which they are being recovered. Correct price signals are a critical part of a well-functioning competitive market.

The Division of Ratepayer Advocates (DRA) recommends rejecting SDG&E's Petition because: (1) the October 1st filing date has not delayed the Commission's decisions on SDG&E's annual ERRA forecast applications, and the filing date was not the driving factor for any of SDG&E's trigger applications; (2) April 15th is too early in the year to file an ERRA forecast application for the next year; and (3) the suggested April 15th date would coincide with ERRA compliance applications and may cause delay in decisions in these ERRA proceedings. Instead, DRA suggested that SDG&E should consider other options to avoid future trigger applications.

DRA argues that SDG&E's petition is unwarranted because since the inception of ERRA filings in 2003, the Commission has consistently decided SDG&E's ERRA forecast applications within the first months of the forecast year. Further, DRA suggests that the timing of SDG&E's ERRA forecast application was not the driving factor for the two 2012 trigger applications, which are the only trigger applications that SDG&E has filed in the decade-long history of ERRA.

DRA points out that the ERRA filing date for PG&E is June 1st, and for SCE August 1st. DRA has filed three attachments to its response which shows the months to a decision on the three utilities' ERRA applications. We have attached them to this decision as Appendix A. DRA admits that despite different filing dates for each utility, the decisions for all the 2012 ERRA forecast

applications were yet to be released as of March 8, 2013. DRA concludes that during the infancy of ERRA the Commission optimistically set the objective of issuing decisions on forecast applications by the end of the filing year, but the realities of ERRA review have forced the Commission to release those decisions during the first months of the forecast year, or even later, regardless of the timing in which each utility files their applications. The complexity of ERRA review rather than SDG&E's filing date has disrupted the Commission's goal of issuing their decisions on SDG&E's ERRA forecast applications within the filing year. Thus, DRA argued that modifying SDG&E's ERRA forecast filing date from October 1st to April 15th will not ensure a year-end Commission decision.

3. Conclusion

We agree with DRA that when we set the filing dates for ERRA we optimistically expected to issue decisions by the end of the filing year. But we cannot agree that moving the filing date for April 15th creates more problems than it solves. The ERRA forecasts serve two primary functions: they are expected to provide stable rates (i.e., no trigger applications) and customers will pay in rates the forecasted procurement related costs over the year that the costs were incurred. When the ERRA decision is delayed into the forecast year, customers will be paying the prior year rates for the current costs; a result to be avoided.

SDG&E claims moving the date to April 15th will reduce or eliminate the need for trigger applications and ensure a year end decision. Whether or not this result is correct, we can say with confidence that moving the forecast application date to April 15th will increase the likelihood that a decision will issue by year end, and as a result, customers will pay in rates for the forecasted

procurement-related costs during the calendar year in which those costs are incurred.

4. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on August 14, 2013, by the Alliance for Retail Energy Markets and Direct Access Customer Coalition.

5. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Julie Halligan and Robert Barnett are the assigned ALJs in this proceeding.

Findings of Fact

1. The adopted schedule for annual ERRA forecast applications is designed to allow the Commission to issue a decision on the applications by the end of the year in which the application is filed.

2. An October 1st annual ERRA forecast application can reasonably be expected to result in a Commission decision after January 1st of the following year.

3. Granting SDG&E's petition for modification will reasonably ensure a year-end decision and reduce the likelihood that customers will pay prior year rates for current year costs.

4. DRA's request to file the confidential version of its response under seal, pursuant to Rule 11.4, is reasonable.

Conclusions of Law

1. The petition for modification of SDG&E of D.04-01-050 to establish a new filing date for its annual ERRA forecast application is reasonable and should be granted.
2. As requested in SDG&E's February 7, 2013, petition the filing date for SDG&E's annual ERRA forecast application should be modified such that SDG&E file its forecast application on April 15th of the year preceding the forecast year.
3. DRA's request that the confidential version of its response be filed under seal should be granted.

O R D E R**IT IS ORDERED** that:

1. The February 7, 2013 petition for modification of Decision 04-01-050 filed by San Diego Gas & Electric Company is granted.
2. Decision 04-01-050 is modified to change the filing date for San Diego Gas & Electric Company's annual Energy Resource Recovery Account forecast applications from October 1st to April 15th.
3. The effective date of this order will be later than April 15, 2013, therefore San Diego Gas & Electric Company may file its annual Energy Resource Recovery Account forecast application for 2014 at any time from the effective date of this decision up to October 1, 2013.

4. The Division of Ratepayer Advocates' request that the confidential version of its response be filed under seal is granted for a period of three years from the date of this order.

5. Rulemaking 01-10-024 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

Attachment A: SDG&E's ERRA Forecast Applications and Commission Decision Dates

Attachment B: PG&E, SCE, and SDG&E ERRA Forecast Applications

Attachment C: PG&E, SCE, and SDG&E ERRA Forecast Application Dates, Decision Dates, and Months to Decision

ATTACHMENT A

SDG&E's ERRA Forecast Applications and Commission Decision Dates

Column 1 Year	Column 2 Application Type	Column 3 Application Number	Column 4 Application Date	Column 5 Decision	Column 6 Decision Date
2012	Trigger	A.12-04-003	April 9, 2012	D. 12-08-007	August 02, 2012
		A.12-10-017	October 26, 2012	D. 12-12-022	December 20, 2012
	Forecast	A.12-10-002	October 1, 2012	Pending	Pending
2011	Trigger	None	N/A	N/A	N/A
	Forecast	A.11-09-022 (2012)	September 30, 2011	D. 12-07-007	July 12, 2012
2010	Trigger	A. 10-04-033	April 30, 2010	D. 10-08-020	August 12, 2010
	Forecast	A.10-10-001 (2011)	October 1, 2010	D. 11-07-041	July 28, 2011
2009	Trigger	A. 09-08-002	August 5, 2009	D. 09-09-042	September 29, 2009
	Forecast	A. 09-10-003 (2010)	October 1, 2009	D. 10-04-010	April 12, 2010
2008	Trigger	None	N/A	N/A	N/A
	Forecast	A. 08-10-004 (2009)	October 1, 2008	D. 09-04-021	April 16, 2009
2007	Trigger	A.07-10-007	October 5, 2007	D. 07-12-042	December 20, 2007
	Forecast	A. 07-10-008 (2008)	October 05, 2007	D. 08-02-030	February 28, 2008
2006	Trigger	None	N/A	N/A	N/A
	Forecast	A. 06-10-007 (2007)	October 02, 2006	D. 07-02-027	February 15, 2007
2005	Trigger	A. 05-06-044	June 25, 2005		
	Forecast	A. 05-10-004 (2006)	October 03, 2005	D. 06-02-018	February 16, 2006
2004	Trigger	None	N/A	N/A	N/A
	Forecast	A. 04-10-007 (2005)	October 01, 2004	D. 05-03-014	March 17, 2005
2003	Trigger	None	N/A	N/A	N/A
	Forecast	A. 03-06-002 (2004)	June 02, 2003	D. 03-12-063	December 18, 2003
	Forecast				

(END OF ATTACHMENT A)

ATTACHMENT B

PG&E, SCE and SDG&E
ERRA Forecast Applications

Column 1	Column 2	Column 3	Column 5	Column 6	Column 7	Column 8
Filing Year	PG&E Forecast Application Number/Date	PG&E Forecast Decision Number/Date	SCE Forecast Application Number/Date	SCE Forecast Decision Number/Date	SDG&E Forecast Application Number/Date	SDG&E Forecast Decision Number/Date
2012	A.12-06-002 June 1, 2012	Pending	A.12-08-001 Aug. 1, 2012	Pending	A.12-10-002 Oct. 1, 2012	Pending
2011	A.11-06-004 June 1, 2011	D. 11-12-031 Dec. 15, 2011	A.11-08-002 Aug. 11, 2011	D. 12-07-007 July 12, 2012	A.11-09-022 Sept. 30, 2011	D. 12-07-007 July 12, 2012
2010	A.10-05-022 May 28, 2010	D. 10-12-007 Dec. 10, 2010	A.10-08-001 Aug. 2, 2010	D. 11-04-006 April 14, 2011	A.10-10-001 Oct. 1, 2010	D. 11-07-041 July 28, 2011
2009	A.09-06-001 June 1, 2009	D. 09-12-021 Dec. 19, 2009	A.09-08-001 Aug. 3, 2009	D. 10-02-019 Feb. 25, 2010	A. 09-10-003 Oct. 1, 2009	D. 10-04-010 April 12, 2010
2008	A.08-06-011 June 10, 2008	D. 08-12-029 Dec. 18, 2008	A.08-09-011 Sept. 15, 2008	D. 09-01-010 Jan. 29, 2009	A. 08-10-004 Oct. 1, 2008	D. 09-04-021 April 16, 2009
2007	A.07-06-006 June 1, 2007	D. 08-02-018 Feb. 28, 2008	A.07-08-004 Aug. 1, 2007	D. 08-03-019 March 13, 2008	A. 07-10-008 Oct. 05, 2007	D. 08-02-030 Feb. 28, 2008
2006	A.06-06-001 June 1, 2006	D. 08-01-022 June 1, 2008	A.06-08-001 Aug. 1, 2006	D. 07-01-038 Jan. 25, 2007	A. 06-10-007 Oct. 02, 2006	D. 07-02-027 Feb. 15, 2007
2005	A.05-06-007 June 1, 2005	D. 06-04-041 April 13, 2006	A.05-08-002 Aug. 1, 2005	D. 06-01-035 Jan. 25, 2006	A. 05-10-004 Oct. 03, 2005	D. 06-02-018 Feb. 16, 2006
2004	A.04-06-003 June 1, 2005	D. 05-02-040 Feb. 27, 2006	A.04-08-008 Aug. 2, 2004	D. 05-03-006 March 17, 2005	A. 04-10-007 Oct. 01, 2004	D. 05-03-014 March 17, 2005

(END OF ATTACHMENT B)

ATTACHMENT C

PG&E, SCE and SDG&E
ERRA Forecast Applications Dates, Decision Dates, and Months to Decision

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10
Filing Year	PG&E Forecast Application Date	PG&E Forecast Decision Date	Months to decision	SCE Forecast Application Date	SCE Forecast Decision Date	Months to decision	SDG&E Forecast Application Date	SDG&E Forecast Decision Date	Months to decision
2011	6/1/2011	12/15/2011	6.57	8/11/2011	7/12/2012	11.20	9/30/2011	7/12/2012	9.53
2010	5/28/2010	12/10/2010	6.53	8/2/2010	4/14/2011	8.50	10/1/2010	7/28/2011	10.00
2009	6/1/2009	12/19/2009	6.70	8/3/2009	2/25/2010	6.87	10/1/2009	4/12/2010	6.43
2008	6/10/2008	12/18/2008	6.37	9/15/2008	1/29/2009	4.53	10/1/2008	4/16/2009	6.57
2007	6/1/2007	2/28/2008	9.07	8/1/2007	3/13/2008	7.50	10/5/2007	2/28/2008	4.87
2006	6/1/2006	6/1/2008	24.37	8/1/2006	1/25/2007	5.90	10/2/2006	2/15/2007	4.53
2005	6/1/2005	4/13/2006	10.53	8/1/2005	1/25/2006	5.90	10/3/2005	2/16/2006	4.53
2004	6/1/2005	2/27/2006	9.03	8/2/2004	3/17/2005	7.57	10/1/2004	3/17/2005	5.57
Average months to Decision			9.90*			7.25			6.50

* The average is 7.83 months if the 2006 outlier is excluded.

(END OF ATTACHMENT C)

(END OF APPENDIX A)