

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Item #11 (Rev. 1)
ID #14057
RESOLUTION E-4709
July 23, 2015

R E S O L U T I O N

Resolution E-4709. San Diego Gas and Electric Company (SDG&E) requests approval to provide Line Item Billing Service for non-tariffed products or services provided by non-utility providers.

PROPOSED OUTCOME:

- This resolution denies SDG&E's Advice Letter 2644-E/2321-G, which proposes a Line Item Billing Service program.

SAFETY CONSIDERATIONS:

- Since the request is related to SDG&E only providing a billing service for non-utility providers of services, there is no impact on safety. The denial neither improves nor hurts safety at SDG&E.
- ESTIMATED COST: There is no cost impact.

By SDG&E Advice Letter 2644-E/2321-G, filed on August 29, 2014.

SUMMARY

In Advice Letter (A.L.) 2644-E/2321-G, San Diego Gas and Electric Company (SDG&E) requests approval to use its customers' bills to provide Line Item Billing Service on a non-tariffed (or "nontariffed") basis for non-utility services provided by non-utility providers. This Resolution denies SDG&E's Advice Letter 2644-E/2321-G. SDG&E correctly classified this advice letter as Tier 3, which requires Commission approval.¹

¹ See General Order 96-B, Industry Rule 5.3 (Matters Appropriate to Tier 3 (Effective After Commission Approval.)) "Matters appropriate to Tier 3 are:...(3) Except as

Footnote continued on next page

BACKGROUND

The Affiliate Transaction Rules (ATRs) are designed to prevent cross-subsidization of utilities' affiliated activities by utility ratepayers and to minimize harm to the competitive marketplace from the utility's monopoly status and market power.

The Commission passed the Affiliate Transaction Rules Applicable to Large California Energy Utilities in Decision D.97-12-088. Subsequent Decisions (D.98-08-035 ; D.98-11-027; D.98-12-075; D.99-04-069; D.99-09-033; and most recently D.06-12-029) modified these Rules. According to Rule II.C.1., no holding company or utility affiliate shall knowingly "direct or cause a utility to violate or circumvent these Rules, including but not limited to the prohibitions against the utility providing preferential treatment, unfair competitive advantages or non-public information to its affiliates."

Pursuant to the ATR VII.E, prior to offering a new category of non-tariffed products or services, a utility is required to file an advice letter which:

- 1) demonstrates compliance with the affiliate transaction rules;
- 2) addresses the amount of utility assets dedicated to the non-utility venture, in order to ensure that a given product or service does not threaten the provision of utility service, and show that the new product or service will not result in a degradation of cost, quality, or reliability of tariffed goods and services;
- 3) addresses the potential impact of the new product or service on competition in the relevant market, including but not limited to the degree in which the relevant market is already competitive in nature and the degree to which the new category of products or services is projected to affect that market and;

provided in Industry Rule 5.1(6), a new product or service." Industry Rule 5.1(6) relates to initial tariffs for a new service by an oil pipeline, and therefore is not applicable here.

4) is served on the service list of Rulemaking 97-04-011/Investigation 97-04-012, as well as on any other party appropriately designated by the rules governing the Commission's advice letter process.²

SDG&E proposes to initiate a program by which it will allow non-discriminatory access by third-party providers (including affiliates) of energy-related or home safety and convenience services approved by SDG&E. The service would offer customers the option to pay for specific approved products or services via their monthly SDG&E bill. The only example of such products or services SDG&E has provided, when asked, is a home warranty. Currently, SDG&E does not have Commission approval of such a category.

Southern California Gas Company has had authorization for a similar non-tariffed products and services category prior to the adoption of the Affiliate Transaction Rules in 1997. The Commission essentially "grandfathered" that authorization when adopting the Affiliate Transaction Rules in 1997.

Currently, SDG&E's sister company, Southern California Gas Company (SoCal Gas) does have Commission authorization to provide such a billing service.³ This category of services at SoCal Gas was essentially "grandfathered" into existence by virtue of the fact that SoCal Gas had been providing such a service prior to the adoption of the ATRs.⁴

² ATR VII.E; Utility Products and Services.

³ See A.L. 2669-G, filed in 1998, to submit an advice letter describing the existing tariffed and non-tariffed products and services offered by the utility as the of the effective date of the Decision (December 1, 1997).

⁴ Affiliate Transaction Rules Applicable to Large California Energy Utilities. D.97-12-088 and Subsequent Decisions Modifying these Rules: D.98-08-035; D.98-11-027; D.98-12-075; D.99-04-069; D.99-09-033; D.06-12-029.

Affiliate Transaction Rule VII.F provides that:

“a utility that is offering tariffed or nontariffed products and services, as of the effective date of this decision, may continue to offer such products and services, provided that the utility complies with the cost allocation and reporting requirements in this rule. No later than January 30, 1998, each utility shall submit an advice letter describing the existing products and services (both tariffed and nontariffed) currently being offered by the utility and the number of the Commission decision or advice letter approving this offering, if any, and requesting authorization or continuing authorization for the utility’s continued provision of this product or service in compliance with the criteria set forth in Rule VII. This requirement applies to both existing products and services explicitly approved and not explicitly approved by the Commission.”

Pursuant to this Rule, on January 30, 1998, SoCal Gas filed A.L. 2669-G for approval of its existing tariffed and nontariffed products and services, including Line Item Billing Service which was approved. Since the “category” was already “grandfathered in,” additional offerings within that “category” do not require Commission approval.

NOTICE

Notice of A.L. 2644-E/2321-G was made by publication in the Commission’s Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter A.L. 2644-E/2321-G was protested.

SDG&E’s A.L. 2644-E/2321-G was timely protested by the Pacific Advocacy Group on behalf of the Western Electrical Contractors Association (WECA) and the Plumbing-Cooling Contractors Association of California (CAPHCC).

The following is a summary of the major issues raised in the protest:

- SDG&E has a unique relationship with its paying customers and as such, enjoys a distinct advantage relative to third-parties such as the protesting parties. SDG&E should not take advantage of its unique relationship to sell “unrelated products and services.”
- The protest letter implies that third-party providers may be encouraged to provide minimum levels of service or use the cheapest possible contractors.

SDG&E responded to the protests of the Pacific Advocacy Group on September 22, 2014. The following is a summary of SDG&E’s Reply:

- All marketing materials sent to SDG&E customers by third-parties go through a rigorous review to ensure compliance with branding, legal disclosures and customer service information.
- The ATRs specifically allow nontariffed products and services, provided certain conditions are met. SDG&E argues it meets those conditions.
- SDG&E *does* have a unique relationship with its customers that it honors and continues to develop.
- Customers have communicated to SDG&E that they want solutions from SDG&E that save time, save money, or enhance home safety and security.

DISCUSSION

Energy Division has reviewed and analyzed A.L. 2644-E/2321-G, Pacific Advocacy Group’s protest, and SDG&E’s response to the protest. Energy Division also issued data requests to SDG&E to find out more about this proposed program. SDG&E timely responded to all requests.

General Order 96-B’s Electric Industry Rule 5 describes the matters appropriate for each advice letter Tier. An advice letter which seeks approval of a new product or service is appropriately classified as Tier 3 and requires a Resolution.⁵

⁵ See Electric Industry Rule 5.3 (3).

The requested authorization to establish Line Item Billing Service on a non-tariffed basis is too broad and lacks specificity. It places no limits on the type of products and services for which SDG&E could provide the billing services.

Thus far, SDG&E has only proposed the example of a home warranty service as the type of product or service which might be employed under the proposed Line Item Billing Service program. However, the request in the advice letter itself is fairly broad and lacks specificity. It asks for “Authorization to Establish Line Item Billing Service on a Non-Tariffed Basis.”

With no limits in place on the type of products or services to be offered, approving this advice letter would provide no safeguards to limit the categories that could be placed on a line item basis on the customer bill. We are concerned that there would be a deluge of products and services appearing on customers’ utility bills.

SoCalGas’ program was “grandfathered in,” at the time the ATRs were adopted by the Commission in 1997.

As discussed above, SoCal Gas already has a program in place comparable to SDG&E’s proposed Line Item Billing Service program. However, as noted above SoCal Gas had this program in place prior to the implementation of the ATRs. Any program in place prior to the adoption of the ATRs was essentially “grandfathered” into approval. It is prudent to review each newly proposed category of program anew, with an eye toward the goals of the ATRs, the Commission’s history with this issue, and sound public policy. There is no compelling reason for the Commission to permit SDG&E, at this time, to provide such a billing service through customers’ utility bills.

The proposed Line Item Billing Service program has no safety or other benefits for utility customers.

There are no associated safety improvements for customers that would result if SDG&E were allowed to provide this billing service for such products as home warranties.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

The Commission received timely Comments from SDG&E on June 30, 2015. Here is a summary of the comments.

SDG&E argues that Non-tariffed Products and Services-related third party partnerships will enhance customer safety and security.

While there are services available to customers that may enhance customer safety and security, SDG&E has provided no evidence to demonstrate that the safety benefits derive from the utility providing the proposed Line Item Billing Service. In the request addressed by this resolution, SDG&E is only going to provide Line Item Billing Service for the proposed home warranty. In relation to the status quo, SDG&E's proposed Line Item Billing Service program offers no change in the ability of customers to purchase home warranties. The resolution does not affect customers' ability to purchase home warranties either. The resolution simply does not allow warranty payments to be placed on customers' utility bills. SDG&E customers wishing to purchase a home warranty policy to repair or replace appliances or other parts of their home can easily do so from other companies who can bill SDG&E customers by any other alternate means than by billing the customer through a Line Item Billing Service provided by SDG&E.

To allay the concern expressed in the resolution that SDG&E's proposed Line Item Billing Service program was too open-ended, SDG&E provided more specific examples of potential programs it would consider offering through Line Item Billing Service. Examples include providing Line Item

Billing Service for home generator transfer switch, identity theft protection plans, and future safety, security and energy management services.

While SDG&E points out some other potential programs it could choose to pursue on a Line Item Billing Service basis in the future, it has no immediate plans to do so. The Commission is of the view that the current proposal in the AL is still overly broad, lacks specificity and could open the door to a deluge of products and services being placed on customers' bills that will make the bill more difficult for the SDG&E customer to understand. The Commission has an interest in making sure customers' bills are easy to understand. If SDG&E wishes to file another AL seeking permission for one or more of these programs, it is free to do so.

SDG&E contends that its request for third party Line Item Billing Service has relevant precedents and should be approved for consistency.

The Commission finds that despite the fact that precedent may exist for other utilities providing this type of Line Item Billing Service, every request needs to be evaluated and analyzed on its own merits. Regardless of what has occurred in the past, there is no reason to approve a Non-Tariffed Product or Service that is unnecessary, vague, confusing, and does not offer incremental safety benefits over the status quo.

FINDINGS

1. Approving this proposed program, as broadly requested by SDG&E, could allow for any number of unspecified non-tariffed products or services to be placed as a line item on SDG&E's customers' bills.
2. A similar service program was "grandfathered in" at SDG&E's sister utility, SoCal Gas.
3. There is no safety improvement associated with this proposed program.

THEREFORE IT IS ORDERED THAT:

1. The request of SDG&E to establish a Line Item Billing Service program on a Non-Tariffed Basis, as requested in Advice Letter A.L. 2644-E/2321-G, is denied.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 23, 2015, the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director