

Decision 18-11-031 November 29, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M) for Authority to Implement Rate Relief and Increase Spend in Support of the San Diego Unified Port District's Energy Management Plan.

Application 17-09-005

DECISION EXTENDING THE PORT'S CURRENT RATES ON AN INTERIM BASIS AND ESTABLISHING A SAN DIEGO UNIFIED PORT DISTRICT MEMORANDUM ACCOUNT

Summary

This decision authorizes the San Diego Unified Port District (Port) to remain on its current Schedule A, Time of Use (Schedule TOU-A), a small commercial customer rate, until the issuance of the final decision in this proceeding. This decision also directs San Diego Gas & Electric Company (SDG&E) to establish a San Diego Unified Port District Memorandum Account. In this memorandum account, SDG&E shall, beginning January 1, 2019, record the payments the Port pays to SDG&E until the issuance of the final decision. After the Commission issues the final decision, SDG&E shall record the difference between the payments received from the Port and the payments the Port should have paid, based on the rates determined in the final decision, in the memorandum account. The disposition and amortization of the account balance will be determined in the final decision.

1. Background

On September 13, 2017, San Diego Gas & Electric Company (SDG&E) filed Application (A.) 17-09-005, which among other things, requests authority to implement a five-year rate adjustment for the San Diego Unified Port District's (Port) cruise ship terminal account (cruise ship account) in support of implementing Assembly Bill (AB) 628. (Stats. 2013, ch. 741.) AB 628 authorizes port districts to partner with investor-owned utilities to develop energy management plans that would reduce air emissions and promote economic development.

Since 2010, when the Port first installed a shore power system, the Port's cruise ship account has taken service under SDG&E's small commercial customer rate, Schedule TOU-A. Decision (D.) 17-08-030¹ determined that Schedule TOUA does not reflect SDG&E's costs to serve the Port. Thus, SDG&E ratepayers are subsidizing the Port's cost of service while the Port takes service under Schedule TOU-A. The decision orders customers, such as the Port, to take service under a rate schedule for medium/large commercial and industrial customers, which includes coincident and non-coincident demand charges in addition to price per kilowatt hour (kWh) charges, beginning July 2018. The Port claims that this change will cause its electric bill to increase by approximately 400 percent.²

On May 13, 2016, SDG&E filed Advice Letter 2896-E to seek an interim rate relief for the Port's cruise ship account. On August 10, 2017, the Commission issued Resolution E-4812, which authorized the Port's cruise ship account to remain on the small commercial rate on an interim basis until December 31, 2018,

¹ D.17-08-030 approved SDG&E's 2016 General Rate Case Phase 2 proceeding.

² SDG&E's Opening Brief at 5.

or the date the Commission sets a new rate for the account, whichever comes first. The Resolution also directed SDG&E to file an application by October 1, 2017, to propose a long-term rate solution for the Port's cruise ship account.

On September 13, 2017, SDG&E filed this application, Application (A.) 17-09-005, proposing a five-year rate adjustment for the Port's cruise ship terminal account. On March 8, 2018, a Scoping Memo was issued, which, among other things, set the procedural schedule. The procedural schedule, which was later updated by a ruling issued on March 28, 2018, targeted a final decision by November 29, 2018, which would be before the cruise ship account's interim rates expire. After two days of scheduled evidentiary hearings on July 2-3, 2018, hearings were not completed. The third and final day of hearings took place on July 19, 2018. Because of the additional third day of hearings, the procedural schedule needed to be modified again. On August 8, 2018, Administrative Law Judge (ALJ) Elaine Lau issued a Ruling to modify the procedural schedule, which set Opening Briefs to be due on August 17, 2018, and Reply Briefs to be due on September 12, 2018. Because Reply Briefs have been delayed until September 12, 2018, a final Commission decision will not issue before December 31, 2018, the date when the cruise ship account's interim rate expires. Absent any Commission action, the cruise ship terminal account will have to take service under a medium and large commercial rate and will subsequently experience a rate increase as large as 400 percent on January 1, 2019.

2. Joint Motion of SDG&E, Port, and the Utility Consumers' Action Network

On September 13, 2017, SDG&E, the Port, and the Utility Consumers' Action Network (UCAN), collectively referred to as the Joint Parties, filed a joint motion, requesting an extension of the interim rates for the Port until the Commission issues a final decision in this proceeding (Joint Motion). The Joint Parties argue that this extension is limited and gives the Commission adequate time to issue a final decision without having to switch the cruise ship account to a different rate before the Commission implements a longer-term rate for the account in this proceeding. The Joint Parties further argue that the rate shock for the Port caused by moving to a medium/large commercial and industrial customer rate is contrary to AB 628's intent to ensure greater rate and cost stability for the port districts. The Joint Parties also argue that the multiple rate changes will cause the Port to incur additional costs to modify its billing system to its cruise ship. Cal Advocates does not support the Joint Parties' request.³

On October 9, 2018, Cal Advocates filed a response to the Joint Motion, recommending that the Commission deny the Joint Parties' motion. Instead, Cal Advocates recommends that the Commission authorize SDG&E to establish a memorandum account to track the difference between the medium and large commercial and industrial rate that will be effective for the Port's cruise ship account on January 1, 2019, and the final rate that the Commission authorizes in this proceeding.

³ Senate Bill 854 (Stats. 2018, ch. 51) amended Pub. Util. Code Section 309.5(a) so that the Office of Ratepayer Advocates is now named Public Advocate's Office of the Public Utilities Commission. We will refer to this party as Cal Advocates.

Cal Advocates argues that: (1) SDG&E and the Port failed to address the impending rate increase in a timely and prudent manner and (2) a memorandum account is a more reasonable and equitable solution. Cal Advocates asserts that SDG&E and the Port failed to timely address the rate increase. Cal Advocates argues that SDG&E and the Port knew about the change since January 2014⁴ when the Commission modified the applicability of SDG&E's small commercial rate, yet waited until May 13, 2016, when SDG&E filed Advice Letter 2896-E to seek an extension of the small commercial rate for the cruise ship account.

Cal Advocates asserts that its recommendation of a memorandum account is a more reasonable and equitable solution than an extension of the Port's current interim rate because it will stop the cross-subsidy that the Port receives from being on the small commercial rate. Cal Advocates also argues that the memorandum account will provide SDG&E a mechanism to record the difference in revenue collection, thus allowing SDG&E to be indifferent to the date of the final decision.

3. Motion of Cal Advocates Office to Establish a San Diego Unified Port District Cruise Ship Terminal Memorandum Account

On October 3, 2018, Cal Advocates filed a motion to request a ruling directing SDG&E to establish a San Diego Unified Port District Cruise Ship Terminal Memorandum Account (SDUPD Memo Account). The SPUPD Memo Account would track the difference between the rate that will be effective December 31, 2018, for the Port's cruise ship terminal account and the final rate the Commission authorizes in this proceeding. Cal Advocates also requests that

⁴ D.14-01-01-002, SDG&E's 2016 General Rate Case Phase 2 application.

the ruling direct SDG&E to file a Tier 1 Advice Letter to establish this memorandum account on or before November 30, 2018.

Under Cal Advocates' proposal, the memorandum account would be effective until a final decision in this proceeding is issued or April 1, 2019, and would replace the need to extend the Port's current interim rate. Cal Advocates argues that there should be sufficient time before April 1, 2019, for the Commission to issue a final decision.

In addition, Cal Advocates proposes a mechanism for SDG&E to include in its Tier 1 Advice Letter filing. Under this mechanism, SDG&E and the Port would mutually agree on what the Port would pay to SDG&E while the memorandum account is open. For example, the Port may continue to pay SDG&E at the Port's current TOU-A small commercial customer rate, allowing the Port to maintain status quo until the final decision is issued. SDG&E would track the Port's payments in the memorandum account and deduct the payments from the account when SDG&E settles the account.

Cal Advocates argues that its proposed memorandum account treatment will end the ratepayer subsidies the Port receives from being on its current small commercial rate. Furthermore, Cal Advocates argues that the memorandum account treatment is supported by precedent and consistent with Commission policy. Citing to the memorandum accounts authorized in general rate cases, Cal Advocates argues that the proposed memorandum account will (1) allow both ratepayers and shareholders to be indifferent to the precise date of the final decision, (2) remove incentives for any procedural gaming if any gains could be realized by delays, and (3) allow the Commission sufficient time to review and critically analyze the record.

On October 18, 2018, SDG&E and the Port each filed a separate response to Cal Advocates' motion. Both SDG&E and the Port request that the Commission deny Cal Advocates' motion.

In its response, SDG&E asserts that the memorandum account is administratively burdensome since the account would be effective for a brief period of only two or three months, the expected time frame between the issuance of the final decision and the expiration of the interim rates. SDG&E argues that the memorandum account would still subject the Port to the rate shock during the peak of the cruise ship season in San Diego. As for Cal Advocates' suggestion that the Port continue to pay for service at the current Schedule TOU-A rate while SDG&E tracks the payments in the memorandum account, SDG&E claims that the Port has no method of recouping these costs from the cruise ships. SDG&E suggests that, if the Commission were to direct the establishment of the memorandum account, the Commission should (1) permit the Port to pay SDG&E back over several years to minimize the financial impact and (2) allow the account to remain in place until a decision is issued, in the unlikely event that the Commission is unable to issue a final decision before April 1, 2019.

The Port, in its response, asserted that the extension of the Port's current rates poses minimal impact on residential ratepayers, with the average cost impact on a typical residential customer to be about 4 cents a month.⁵ The Port also opposes Cal Advocates' recommended solution of a memorandum account to track the differences while the Port remain on the current Schedule TOU-A

⁵ Response of San Diego Unified Port District to Motion of Cal Advocates to Establish a Memorandum Account, at 3.

rates, arguing that this approach poses substantial financial obligations to the Port, with no way for the Port to recoup the differential from the cruise ships.

4. Extension of the Port's Current Rates

The Port argues that its cruise ship terminal rates will increase by approximately 400 percent after moving to a medium/large commercial and industrial customer rate.⁶ With this significant rate increase, the Port asserts that the power it charges to cruise ships will have to increase from an effective rate of \$0.224 per kWh to roughly \$1.25 per kWh.⁷ Because cruise ships can easily move to other ports, the Port further argues that the magnitude of this increase will cause the Port to lose “a significant portion or even the entirety of the cruise ship business in San Diego,” which will be detrimental to the San Diego economy.⁸

We find it reasonable and grant an extension for the Port to remain on its current Schedule TOU-A rate, a small commercial rate, until the issuance of the final decision in this proceeding. The transition of the Port's cruise ship terminal account to the medium/large commercial and industrial rate may quadruple the cruise ship account's rates immediately, which has the potential to cripple the cruise ship industry in San Diego. This potential rate shock would be contrary to Assembly Bill 628's intent of providing rate stability to the port districts, including the Port of San Diego. Furthermore, it is unnecessarily burdensome and costly for the Port to have to make multiple modifications to its cruise ship billing system to accommodate for multiple rate changes within a brief period of several months.

⁶ Exh. SPUPD-1, at 5.

⁷ SDUPD's Opening Brief, at 1-2.

⁸ *Ibid.*

5. San Diego Unified Port District Memorandum Account

The cruise ship terminal account is currently on Schedule TOU-A, a small customer rate, which is not reflective of SDG&E's costs to service the Port. When the account is on this rate, other ratepayers are subsidizing SDG&E's costs to serve the Port's cruise ship terminal account. Without the appropriate remedy, we will further increase the cross-subsidies ratepayers provide to the Port by allowing the Port to remain on its current rate schedule.

While we want to provide the Port with rate stability by extending its current rates until the final decision, we do not want to extend the length of time that other ratepayers are subsidizing the Port's cost of service. Thus, we find it reasonable and direct SDG&E to establish a memorandum account to track the difference between the payments the Port pays to SDG&E and the payments the Port should have paid SDG&E based on the final rates, during the period from when the interim rates expire, January 1, 2019, and the issuance of the final decision.

SDG&E shall file a Tier 1 Advice Letter with Energy Division within five days of the issuance of this decision, to establish this account, which shall be called the San Diego Unified Port District Memorandum Account. During the period between January 1, 2019, and the issuance of the final decision, SDG&E shall track the payments the Port pays to SDG&E based on the Schedule TOU-A rates. At the time the Commission issues the final decision, SDG&E shall calculate and record in the account the difference between the payments it received from the Port and the payments it should have received from the Port based on the new rates during this period. The account shall be effective January 1, 2019.

The Port and SDG&E argue that the memorandum account poses a financial risk to the Port because the Port does not currently have a method to recoup those costs from the cruise ships. SDG&E also argues that the Port faces a financial burden to pay the money back. Thus, if the Commission is to establish this memorandum account, SDG&E recommends that the Commission minimize the financial impact the payback will have on the Port.

We weigh those arguments against the subsidy the Port has received from ratepayers during this extended period since July 2018. The memorandum account, by design, will be tracking the subsidies the Port will be receiving from ratepayers in 2019. Memorandum accounts typically carry an interest rate based on the three-month Commercial Paper rate that is reported in the Federal Reserve Statistical Release, H.15. Based on SDG&E's recommendations to minimize the Port's financial impact of paying back the recorded subsidy, we find it reasonable to alleviate the Port's financial impact by directing SDG&E to not record any interest payments in the account. In effect, the money recorded in the memorandum account is analogous to an interest-free loan that is given to the Port in 2019. For any organization, receiving a loan bears the financial obligations of paying the loan back. The Port has no more additional financial risks than other organizations receiving a loan but has the benefit of a zero interest rate. If the Port is concerned about the financial obligations of paying the subsidies back to ratepayers, the Port can choose to pay more to SDG&E than its billed amount, which will be based on the Schedule TOU-A rate schedule.

Another recommendation SDG&E makes to minimize the financial impact to the Port is to allow the Port to pay any potential balance in the account over several years. Since we have not determined the final rates for the Port, we cannot estimate what the final account balance would be and thus cannot

estimate the financial impact the final account balance would have on the Port at this time. Since the Commission cannot estimate the financial impact the final account balance will have on the Port until the final decision, it is premature for the Commission to determine the appropriate amortization schedule for the account balance in this decision. We will determine the amortization of any balance recorded in the account in the final decision. The final decision will also determine the disposition of the balance in the account.

SDG&E also argues that the memorandum account is administratively burdensome. To this argument, we agree, to some extent, with Cal Advocates that SDG&E should bear some of the risks for not filing this Application earlier. Based on Public Utilities Code Section 1701.5(a), the Commission has within 18 months to resolve a ratesetting case after the proceeding is initiated.⁹ SDG&E should know that there are often unexpected delays due to scheduling conflicts with the parties, hearing room availability, and hearing room reporters, which are typical and have occurred in this proceeding. As such, a proceeding may take as long as 18 months or more to conclude. Because SDG&E did not file the application until September 2017, SDG&E bears some of the responsibilities for the proceeding not concluding before January 1, 2019. Thus, we find it reasonable for SDG&E to bear the additional administrative burden for managing the memorandum account and the costs of administering the account on a zero-interest rate basis.

6. Comments on Proposed Decision

⁹ In some instances, proceedings may require more than 18 months to resolve.

The proposed decision of the assigned 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. SDG&E and Cal Advocates filed comments on November 15, 2018. SDG&E requests that the Commission change the tier designation of the advice letter filing for the memorandum account from Tier 2 to Tier 1. Cal Advocates requests that the Commission modify Findings of Facts 2 to clarify that the rate shock's detrimental effect on San Diego's cruise ship business and economy is an assertion from the Port. We find the requests to be reasonable and adopts SDG&E's and Cal Advocates' requests.

7. Assignment of Proceeding

Michael Picker is the assigned Commissioner and Elaine Lau is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Port's rates for the cruise ship terminal will increase by approximately 400 percent if it moves from its current Schedule TOU-A rates to a medium/large commercial and industrial customer rate.
2. The Port asserts that the magnitude of this rate increase will cause the Port to lose a significant portion or even the entirety of the cruise ship business in San Diego, which will be detrimental to the San Diego economy.
3. This potential rate shock would be contrary to AB 628's intent of providing rate stability to the port districts, including the Port of San Diego.
4. It is unnecessarily burdensome and costly for the Port to have to make multiple modifications to its cruise ship billing system to accommodate for multiple rate changes within a brief period of several months.

5. The Port's cruise ship terminal account is currently on Schedule TOU-A, a small customer rate, which is inappropriate for its cost of service.

6. When the Port's cruise ship terminal account is on this rate, other ratepayers are subsidizing SDG&E's costs to serve the Port's cruise ship terminal account.

7. A memorandum account will ensure that the Port pays back any subsidies it receives from ratepayers for the period between January 1, 2019, and the issuance of the final decision.

8. Removing the interest payments in the account will effectively make money recorded in the account an interest-free loan to the Port and will thus alleviate the Port's financial burden to pay back the money in the account.

9. With this memorandum account, the Port has no more additional financial risks than other organizations receiving a loan but has the benefit of a zero interest rate.

10. It is premature for the Commission to determine the amortization schedule for the account balance in this decision, because it cannot estimate the financial impact that the final account balance will have on the Port until the final decision.

11. Because SDG&E did not file the application until September 2017, SDG&E bears some of the responsibilities for the proceeding not concluding before January 1, 2019.

Conclusions of Law

1. The Commission finds it reasonable and grants an extension for the Port to remain on its current Schedule TOU-A rate, a small commercial rate, until the issuance of the final decision in this proceeding.

2. While the Commission wants to provide the Port with rate stability by extending the Port's current rates until the final decision, the Commission does not want to extend the length of time that other ratepayers are subsidizing the Port's cost of service.

3. The Commission finds it reasonable and directs SDG&E to establish a San Diego Unified Port District Memorandum Account.

4. The Commission finds it reasonable and directs SDG&E to not record any interest payments in the San Diego Unified Port District Memorandum Account to alleviate the Port's financial burden to pay back the money in the account.

5. The Port can choose to pay more to SDG&E than its billed amount, which shall be based on the Schedule TOU-A rate schedule, if the Port is concerned about the financial obligations of paying the subsidies back to ratepayers.

6. The Commission finds it reasonable for SDG&E to bear the additional administrative burden for managing the memorandum account and the costs of administering the account on a zero-interest rate basis.

O R D E R

IT IS ORDERED that:

1. The Port's cruise ship terminal account shall remain on the Schedule TOU-A rates until the effective date of the new rates, which the final decision shall determine.

2. San Diego Gas and Electric (SDG&E) shall file a Tier 1 Advice Letter with Energy Division within five days of the issuance of this decision to establish the San Diego Unified Port District Memorandum Account. During the period between January 1, 2019, and the issuance of the final decision, SDG&E shall track the payments the Port pays to SDG&E based on the Schedule TOU-A rates. At the time the Commission issues the final decision, SDG&E shall calculate and

record in the account the difference between the payments it received from the Port and the payments it should have received from the Port based on the new rates during this period. The account shall be effective January 1, 2019 and shall not record any interest payments. The final decision will determine the disposition and amortization of the balance recorded in the account.

This order is effective today.

Dated November 29, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners