

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION G-3364

April 1, 2004

R E S O L U T I O N

**Resolution G-3364. Pacific Gas and Electric (PG&E) by Advice letter 2458-G-B/2379-E-B on January 22, 2004, Southern California Edison (SCE) by Advice letter 1705-E-A on December 23, 2003, San Diego Gas and Electric (SDG&E) by Advice letter 1496-E-A/1377-G-A on December 22, 2003, Southern California Gas (SoCal Gas) by Advice letter 3260-A on December 22, 2003, and Southwest Gas by Advice letter 686-B on December 23, 2003, request incorporating Commission Decision 03-03-032 into their electric and gas line extension tariff rules.
Approved with modifications.**

SUMMARY

This Resolution is about transparency when contractors (hired by Applicants) compete with utilities for line extension work. Decisions in the Line Extension proceeding (now closed¹) already require the recommendations adopted in this resolution, except for assuring uniform accountability. This resolution balances the interests of the three parties: ratepayers, Utilities (Pacific Gas and Electric, Southern California Edison, San Diego Gas and Electric, Southern California Gas and Southwest Gas), and Applicants/contractors. By this Resolution each investor-owned gas and electric utility named above (Utility) must file two public Forms and use the Forms approved by the Commission, one to start each line extension project and a second Form by the time of completion. On the first Form the **Utility must show the Applicant the Utility bid for the refundable work.** If the Applicant selects Applicant installation, it must return the first Form, showing the refundable portion of its contractor's bid. In this case, **the lower of the Utility's bid (of refundable costs) or the**

¹ D. 03-09-054

Applicant's (refundable) Contract Anticipated Costs (contractor's bid) goes into ratebase.

Specifically, utilities must amend their filed forms for verification of Applicant Contract Anticipated Costs to **show the Utility's Estimated Refundable Costs (Utility bid) prior to Applicant's selection of Utility or Applicant-installation** of Line and/or Service Extensions.

The second filed form is for the detailed accounting of the Applicant's refundable and non-refundable costs for either Utility or Applicant Installation of Line and Service Extensions.

BACKGROUND

Gas and electric utility customers, ranging from individuals to subdivision developers, may apply for extended distribution mains or conductors and services up to the service entrance, generally under the terms of Tariff Rule 15, Distribution Extensions or Rule 16, Service Extensions, of their serving Utility. Under the Commission's policy of competitive bidding² Applicants may choose a contractor other than the Utility for extension and service work, such as trenching and placing conduit³, provided that the utility makes the final connection and sets the meter. Timely project completion and competitive cost are issues for the Applicant, while safe and durable installation quality, low or no risk cost recovery, and employment of utility construction crews are issues for the Utilities.

In Rulemaking R. 92-03-050 the Commission issued many decisions over the years dealing with Electric and Gas Line and Service Extension Rules and specifically with the Applicant Installation Option (Competitive bidding) delineated in Electric and Gas Rules 15 and 16 (Rules 20 and 21 for SoCal Gas).

²Adopted per D. 85-08-043.

³ Where certified by the utility, Applicant's contractor may install the piping or wiring itself.

In Decision (D)03-03-032, the Commission directed the Utilities to revise their tariffs in regard to Applicant Installation of Line Extensions to:

- 1) Allow the cost of inspection to be covered by any otherwise available line extension allowances to the extent that the overall cost of the installation does not exceed the utility's cost estimate for performing the same work,
- 2) Require Utilities to book to rate base the lower of the Utilities' estimated installed cost (bid amount) or the Applicant's Contract Anticipated Cost, and
- 3) Credit to the Utilities' plant-in-service accounts those inspection payments made by Applicants for Applicant installed projects, currently held in the Applicant Installation Trench Inspection Memorandum Accounts (AITIMA), thus reducing rate base by those amounts.

On April 18, 2003, Utility Services Group (USG) filed a Petition to Rehear D.03-03-032.

On August 21, 2003 in D.03-08-078 the Commission denied USG's Petition, but modified D.03-03-032 to require the verified statement of Applicants refundable costs prior to the utility issuing any refunds for this work.

On April 2, 2003 Pacific Gas & Electric Company (PG&E) filed a petition for clarification of D.03-03-032.

Finally, the CPUC issued D.03-09-054 ordering the utilities to file Advice Letters as follows with regards to Applicant Installed Line Extensions:

- 1) The Utility should book to rate base the lower of the Utility's estimated cost or the Applicant's Contract Anticipated Costs.
- 2) The costs submitted by the Applicant should apply to only the refundable portion of the Applicant's Contract Anticipated Costs.
- 3) The Applicant's Contract Anticipated Costs shall be submitted to the Utility prior to the Utility preparing the line extension contract, on a form provided by such Utility.
- 4) For the purpose of calculating refunds, inspection costs should be fixed at the outset and not be subject to reconciliation on completion of the project.

NOTICE

Notice of ALs 2458-G-B/2379-E-B, 1705-E-A, 1496-E-A/1377-G-A, 3260-A, and 686-B was made by publication in the Commission's Daily Calendar. PG&E, SCE, SDG&E, SoCal Gas and Southwest Gas state that copies of the Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

On January 12, 2004, the California Building Industry Association (CBIA) protested SDG&E's and SoCal Gas' advice letters.

On January 20, 2004, SDG&E and SoCal Gas responded to the protest, proposing an alternate change of Rule 15 (Rule 20 for SoCal Gas) in Section G.1.c.

In a teleconference with Energy Division staff on January 22, 2004, all utilities agreed to revise their Section G.1.c accordingly.

By letter of January 30, 2004, CBIA accepted the utilities' alternate language, but asked that PG&E also change their General Terms and Conditions form #79-1003, Section B.3 accordingly. CBIA indicates that PG&E agreed to those requirements.

On February 9, 2004 the Energy Division received a reply from SCE to CBIA's January 30, 2004 letter. SCE confirms agreement with the alternate language of SDG&E and SoCal Gas' response of January 20, 2004.

Therefore CBIA's protest is moot.

DISCUSSION

Energy Division has reviewed the essentially identical filings by the named Utilities, including the form "Applicant's Statement of Cost for Applicant Installation Project" by SDG&E (and equivalent forms by all other Utilities) and PG&E's "Cost Summary" forms. The other Utilities have not filed such a cost summary to account for the Applicant's cost,

allowances and refundable amounts for either Utility or Applicant installation.

Energy Division staff recommends that the following Forms be filed to protect ratepayers under the new rules for Applicant installation from excessive costs placed into ratebase, and to provide transparency and accountability to the ratepayers and Applicants in accordance with Rules 15 and 16 (Rules 20 and 21 for SoCal Gas):

- 1) The Utility's Estimated Refundable Cost on SDG&E's newly filed "Applicant's Statement of Cost for Applicant Installation Project" form #1496-E-A (and on equivalent forms of all other named Utilities).
- 2) A new cost accounting form by all named Utilities, similar to PG&E's filed "Cost Summary" form #79-1004.

Utility's Estimated Refundable Cost

This section discusses the contents of the first Form mentioned in the Summary above.

D.03-03-032 now requires that the lower of the Utility's estimated refundable) cost (bid amount) or Applicant contract anticipated cost for the refundable portion of the line extension cost be booked to ratebase and collected from the ratepayers. Until D.03-03-032, the Utility's estimated cost was booked to ratebase, even if the Applicant performed the work at a lower cost.

Posting the Utility's estimated cost, prior to the Applicant's election of installer of the refundable portion of the line extension, provides auditable assurance that the lower of the two costs is actually used for refunds and the ratebase, levels the playing field, and makes the bidding truly competitive. The Utility's estimated cost could be shown to the Applicant on the form where it verifies its Applicant Contract Anticipated Costs and before it chooses Utility or Applicant-installation.

Applicants often choose Applicant-installation because of scheduling and therefore may be willing to pay higher cost than the Utility estimate. They often advise Utilities of their scheduling priority over cost, leaving room for higher than necessary Utility estimates, but still marginally lower than the Applicant's contract anticipated cost. If the Utility's estimated cost is not publicly recorded before the Applicants selection, it could increase the ratebase unnecessarily.

The Utilities acknowledge that they prepare their estimated cost before the Applicant makes a selection as to the installer of the Line Extension. Decision D.99-06-079, Finding of Fact #5 states, that "Under Option 2, the Utility is required to provide a site-specific estimate which the applicant can use to shop for lower bid from an independent contractor." Option 2 is the competitive bidding option.

SCE's form 14-189, Rule 15 Distribution Line Extensions, Rule 16 Service Extensions Installation Option Letter of Authorization, reads: "Under Choice (1), the Applicant requests SCE to provide an estimated installed project-specific cost and that Applicant's intent is to competitively bid the project..... Under this Choice, the Applicant may select either SCE or a Qualified Contractor/Subcontractor to perform the Installation..."

In a related, but separate AL-1734-E, which is pending resolution of this issue, SCE proposes to amend their form 14-189 with a third choice for A Qualified Contractor/Subcontractor to install a new distribution and/or service extension without requesting bids under Choice (1).

Cost Summary Form

This section discusses the second Form mentioned in the Summary above.

Rule 15, Section F.1.i requires that "Utility shall perform all Utility's project accounting and cost estimating."

The cost responsibilities for Line and Service Extension under Rules 15 and 16 (20 and 21, respectively, for SoCal Gas) are complex and require careful consideration of all the rules and components involved. While PG&E has

a filed form delineating the detailed cost components and formulas, SCE provides a similar unfiled form to its Applicants at the beginning of the project. Such a form is invaluable in understanding the amounts subject or not subject to refund, taxes, allowances and discounts and thus justifying the amounts being charged to ratebase, depending on electric or gas and residential versus non-residential service. Therefore, Utilities with more than ten applicant installations per year should file with the CPUC a detailed accounting form, showing to the Applicant all its costs for Utility or Applicant installed Line and/or Service Extension, referencing the Rule sections, consistent terminology with the rules and line item formulas for the amounts.

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 the date of mailing.

Comments were filed by PG&E on March 4, 2004; SCE on March 5, 2004; SDG&E and SoCal Gas (combined) on March 4, 2004 and CBIA on March 4, 2004.

PG&E

A. PG&E claims that providing its estimate of the refundable cost to the Applicant before the Applicant selects utility or third-party installation of the line extension is unfair. This exact argument was raised by CBIA in this proceeding and led to the compromise that only the refundable third-party estimate without details need be provided to the utilities. This resolution also requires the utilities to provide only the total refundable cost estimate.

The timing of providing the utility estimate to the Applicant was set by D.99-06-079.

Before D.03-03-032 changed the amount going into rate base from the utility actual cost to “the lower of the utilities’ bid amount or Applicants’ cost for applicant-installed projects”, there was not much incentive for the utility to present an accurate estimate for an individual line extension, because over-expenditures were included in the ratebase. The record quoted by PG&E only shows that the average actual costs were close to the average estimates, which are required by Rule 15; otherwise the utilities would have to apply for a change in the allowances and/or Cost of Service Factor.

PG&E’s, and for that matter the other utilities’, comments go from the premise that the “Applicant” is synonymous with the “third-party installer/contractor”, which is a special case, leading to the notion of unfairness in disclosing the estimate before the Applicant makes a selection of the installer. Rule 15 defines Applicant as “A person or agency requesting utility to supply electric/gas service”, not “applying for line extension”. This “person or agency” as ratepayer, will ultimately pay for the refundable amount through distribution charges and therefore is entitled to know the utility estimate before deciding to shop for third-party estimates, as D.99-06-079 intended. Ordering Paragraph 1 of D.99-06-079 states: “The Line Extension Rules ... shall be modified to reflect the deletion of Option 1 (Utility only Unit cost), along with the irrevocable option selection requirement.” One could argue for a means of assuring that the “person or agency requesting utility to supply electric/gas service” obtains the utility estimate to overcome the notion of unfairness in providing an estimate to the “competition”.

PG&E’s point about an Applicant who already decided for third-party installation because of scheduling not being concerned about cost, disregards the time value of money, even if not explicitly expressed.

This resolution does not expand a competitive market, but makes transparent what D.99-06-079 has already required but which has seemingly not been practiced for each application for supply of electric/gas service.

B. We agree with PG&E that the Cost Summary does not need to be provided upon the completion of the project, as long as all cost information can be accurately determined earlier. The text in the Summary and Discussion sections has therefore been changed to read "...by the completion ..." instead of "... upon completion ...", and a sentence added to Finding 4 to say: "The Utilities should provide this form to the Applicant by the completion of the project." This provides some flexibility in order not to delay start of a project because of missing information.

SCE

A. SCE portrays the requirement for showing its refundable cost estimate on the Statement of Applicant's Contract Anticipated Cost form prior to the Applicant's selecting the Utility or a third-party installer as anticompetitive. This is based on the same erroneous assumption PG&E makes, that the Applicant and "competitor" are necessarily identical and the "competitor" receives the utility estimate. This is not what D.99-06-079 decided.

SCE acknowledges that it posts its estimated cost at the beginning of a project, but does not elaborate what "posting" means. SCE says that due to "system pricing limitations and requirements", and fluctuations in material costs, the cost information to Applicants are revised several times. This is contrary to the one-time estimate required per D.99-06-079, and "competitors" have to contend with the same difficulties without the option to revise their bids. The refundable costs in question here are very well defined by the extensive experience of the utilities with line extension projects and should not require revisions because the construction projects served are concerned about large time delay costs. It is normal practice to have a reasonable expiration date on a bid.

B. Since SCE already does provide a cost summary form, which may require modification due to D. 03-03-032 it is unclear why some more details and conformance to the rules' terminology could not be accommodated. We agree that an alternate approach of providing the details (rule references, formulae, etc.) could be employed, such as a reference sheet, which need not be part of the automated system. We

further agree that the due date for the cost summary form is extended to June 1, 2004.

C. We correct on Page 1 in the Resolution Introduction: SCE AL 1705-E-A on December 23, 2003.

We believe the sentences on Page 1, Summary, should remain as is, because the two forms are required for either utility or Applicant installations, not only for Applicant installation as SCE has proposed. The next sentence also should remain as is because the second form required by this resolution is the accounting or cost summary form showing the refundable and non-refundable costs to the Applicant, not only the refundable costs, as SCE proposes.

We correct the two sentences in the Summary: The Applicant must return the form, showing the refundable portion of its contractor's bid, regardless of Applicant's choice (Utility or contractor). Only the lower amount goes into ratebase. They now read: If the Applicant selects Applicant installation, it must return the form, showing the refundable portion of its contractor's bid. In this case, the lower of the Utility's bid (of refundable costs) or the Applicant's (refundable) Contract Anticipated Costs (contractor's bid) goes into ratebase.

We correct the sentence in the Background, Item 1 on Page 3 to read, in conformance with Ordering Paragraph 5 of D. 03-03-032: Allow the cost of inspection to be covered by any otherwise available line extension allowances to the extent that the overall cost of the installation does not exceed the utility's cost estimate for performing the same work.

We correct the timing description of SCE's current provision of the unfiled Cost Summary form on Page 6, Paragraph 3 to: While PG&E has a filed form delineating the detailed cost components and formulas, SCE provides a similar unfiled form to its Applicants at the beginning of the project.

SDG&E and SoCal Gas

A. SDG&E and SoCal Gas claim that the resolution requires reporting on the Statement of Applicant's Contract Anticipated Cost form before the Applicant selects utility or Applicant installation because "the lower of

the Utility's estimated (refundable) cost or Applicants Contract Anticipated Cost for the refundable portion of the line extension" is booked to ratebase. The reason, as stated herein, is that D.99-06-079 requires this so the Applicant can shop for "third-party bids" (by Applicant's contractor). If SDG&E and SoCal gas have not done this since 1999, they did not comply with D. 99-06-079.

D.99-06-079 requires the utility to give an Applicant an upfront bid every time, so Applicant can "either have the utility install the project or shop for a lower bid from an independent contractor". SDG&E's and SoCal Gas' comment "...when an Applicant requests a bid..." is contrary to D.99-06-079.

We agree with SDG&E's and SoCal Gas' observation of a problem with punctuation in the Summary, resulting in: The Applicant must return the form, showing the refundable portion of its contractor's bid, regardless of Applicant's choice (Utility or contractor). Only the lower amount goes into ratebase. The sentences have been corrected to read: If the Applicant selects Applicant installation, it must return the form, showing the refundable portion of its contractor's bid. In this case, the lower of the Utility's bid (of refundable costs) or the Applicant's (refundable) Contract Anticipated Costs (contractor's bid) goes into ratebase.

This wording is now in agreement with D.03-03-032.

- B. The cost parts and terminology (refundable, non-refundable, tax, discount, etc.) for each project are the same and are spelled out in Rules 15 and 16 (20 and 21 for SoCal Gas). It appears that a uniform cost accounting form would be easier to control than project-specific forms. Although a sophisticated developer may easily associate specific charges with the rule sections, for a one-time Applicant the charges, without reference to the rule sections, are a daunting task to verify. As per SCE's request, we also agree to an extension of the filing date of such a form by SDG&E and SoCal Gas to June 1, 2004.

CBIA

CBIA is concerned about the time delay that the utilities claim a bid entails in case the Applicant already is “committed” to have a third party (contractor) provide the line extension work. It does not concern itself with the ratepayers, nor can it represent all the Applicants. CBIA therefore requests that first, the resolution be withdrawn, and second, modified not to require the utility estimate before the Applicant selects the installer in the case of prior commitment to a third party.

Only the refundable cost estimate of the utility is at discussion here and is for well-known quantities requiring little time to determine. CBIA admits that in the past it “strongly supported to have the utility estimate in advance so the applicant can have a legitimate basis for comparison with cost from competitive providers of line extension services.” It was not concerned about time delays at that time, supposedly because the estimates were only required if the Applicant already decided to have a competitive provider do the work. This argument contradicts the earlier stated reason for “comparison with cost from competitive providers”.

The requirement for a utility estimate before the Applicant selects the installer, for each line extension project, is not new or a change, only posting this information on the new form is at issue here. It does provide transparency and assures that the lower of the utility estimate or Applicant’s Contract Anticipated Cost goes into ratebase and thus benefits the ratepayers. For this reason, SCE’s AL 1734-E, supported by CBIA, proposing to circumvent the requirement for a utility bid in each case, before selection of the installer by an Applicant is contrary to D.99-06-079. An Applicant cannot choose to have the utilities comply with the rules or not.

FINDINGS

1. CPUC ordered each Utility to file an Advice Letter to revise the Applicant Installation Options of the Line Extension Rules.
2. The Utilities filed changes to Section G of the Line Extension Rules and a new form, APPLICANT-INSTALLATION COST VERIFICATION (or

- similarly titled), requesting Applicant's Contract Anticipated Costs, subject to refund. The Utility's estimated installed cost subject to refund should show on this form, providing comparison as to the lower of the cost booked to ratebase and providing assurance that the Utility estimate is provided to the Applicant before it chooses the installer.
3. D.99-06-079, Finding of Fact #5 states that the Utility provides a site-specific estimate, which the Applicant can use to shop for a competitive estimate.
 4. There is no assurance of detailed accounting to the Applicant and for audits to justify amounts being booked to ratebase. Utilities with more than ten Applicant installations per year should provide a filed form to the Applicant with a detailed accounting of the refundable and non-refundable Utility or Applicant installed line and service extension costs using terminology and references consistent with Rules 15 and 16 (20 and 21 for SoCal Gas) and line item formulae. The Utilities should provide this form to the Applicant by the completion of the project.

THEREFORE IT IS ORDERED THAT:

1. Advice letters PG&E 2458-G-B/2379-E-B, SCE 1705-E-A, SDG&E 1496-E-A/1377-G-A, SoCal Gas 3260-A, Southwest Gas 686-B are approved with the following modifications:
 - a. Utilities shall show on the APPLICANT-INSTALLATION COST VERIFICATION (or similarly titled) form their estimated installed cost for line and/or service extension subject to refund, prior to the Applicant choosing the installer.
 - b. Utilities with more than ten Applicant installations per year, shall provide a filed form to the Applicant with a detailed accounting of the refundable and non-refundable Utility or Applicant installed line and service extension costs using terminology and references consistent with Rules 15 and 16 (20 and 21 for SoCal Gas) and line item formulae.
 - c. Utilities shall change their Rules 15 (20 for SoCal Gas), Section G, as agreed upon by CBIA letter of January 30, 2004.

- d. PG&E shall change its General Terms and Conditions form #79-1003 as agreed upon by CBIA letter of January 30, 2004.
2. Utilities shall file supplemental advice letters within 20 days, incorporating the changes in Ordering Paragraph #1, except that SCE, SDG&E and SoCal Gas may file their Cost Summary form by June 1, 2004. The advice letters shall be effective on July 1, 2004, subject to Energy Division review.

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 April 1, 2004 the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners