

Decision 06-02-037

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company for Authority to Update its Gas Revenue Requirement and Base Rates. (U 904 G)	Application 02-12-027 (Filed December 20, 2002)
Application of San Diego Gas & Electric Company for Authority to Update its Gas and Electric Revenue Requirement and Base Rates. (U 902-M)	Application 02-12-028 (Filed December 20, 2002)
Investigation of the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Gas Company and San Diego Gas & Electric Company.	Investigation 03-03-016 (Filed March 13, 2003)

**ORDER MODIFYING DECISION (D.) 05-03-023, AND DENYING REHEARING OF THE DECISION, AS MODIFIED.**

**I. Introduction**

On January 22, 2003, we consolidated the individual applications of Southern California Gas Company (“SoCalGas”) and the San Diego Gas & Electric Company (“SDG&E”) to revise their base rate revenue requirements effective January 1, 2004, and for authority to establish a method to adjust the revenue requirement for 2005 through 2008, and issued our Order Instituting Investigation (I.) 03-03-016. The consolidated applications constituted Phase 2 of

the proceeding, and allowed us to hear proposals other than those of the utilities. Active parties in Phase 2 were: the Office of Ratepayer Advocates (“ORA”), The Utility Reform Network (“TURN”), Aglet Consumer Alliance (“Aglet”), and the California Coalition of Utility Employees (CUE). In addition, the Natural Resources Defense Council (“NRDC”), and Southern California Generation Coalition (“SCGC”) each sponsored testimony and a witness.

After evidentiary hearings, we issued Decision (D.) 05-03-023. In that decision, we approved post-test year ratemaking mechanisms and adopted, a partial settlement supported by SoCalGas, SDG&E, ORA, TURN, Aglet, NRDC, and SCGC.<sup>1</sup> The Settlement resolved or otherwise disposed of all issues in Phase 2 for both SoCalGas and SDG&E, with the exception of matters related to performance incentives and performance indicators. With regard to the latter, we adopted modified safety incentives for both companies, and modified electric reliability incentives for SDG&E. In both instances we set reasonable targets and included appropriate rewards and penalties.

On April 21, 2005 TURN timely filed an application for rehearing of D.05-03-023. TURN does not object to the partial settlement entered into by the parties; rather, TURN’s application for rehearing only raises issues related to the target benchmark value of 69 minutes for the System Average Interruption Duration Index (“SAIDI”) which has been adopted to measure SDG&E’s electric reliability performance.<sup>2</sup> In this regard, TURN argues that the adopted benchmark wrongly incorporates the high SAIDI values for pre-1999 years and therefore artificially and unreasonably increases the benchmark and guarantees that SDG&E will earn shareholder incentive awards without any attendant improvements in its electric reliability performance.

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<sup>1</sup> The Settlement is joined by all active parties who made recommendations in the proceeding on the issues resolved by the Settlement Agreement.

<sup>2</sup> SAIDI, the Commission’s outage incentive mechanism, is a nationally used metric for outage duration.

Specifically, TURN argues that “[t]he Commission purportedly used a five-year average adjusted for weather to set a SAIDI benchmark value of 68 minutes, based on assertions by SDG&E and CUE that: (1) 2000 and 2001 were unusually mild weather years, and (2) that variability in weather and uncontrollable causes of SAIDI is so large as to require a longer term benchmark.”<sup>3</sup> (TURN Application for Rehearing, p. 1.) In support of its contentions TURN: (1) argues that the statement D.05-03-023 attributes to CUE about weather effects were not actually made by CUE; (2) contest various statements made by SDG&E and; (3) offers into evidence an exhibit which, though not part of the record evidence, purportedly shows that there were no weather related effects. Thus, TURN argues that the SAIDI benchmark established in D.05-03-023 violates the standard for reasoned decision making. TURN therefore requests that D.05-03-023 be either modified to adopt a five-year benchmark for SAIDI or that rehearing be granted and parties be allowed to submit testimony that addresses the factors responsible for the decline in SAIDI in 2000 and 2001.

## **II. Discussion**

### **A. Weather variability was only one factor considered in D.05-03-023, and the record supports the Commission’s adoption of 69 minutes of SAIDI.**

After arguing that comments by CUE and SDG&E related to weather impacts on SAIDI are inconsistent, unsupported by the record, and/or contradicted by the evidence, and asserting that D.05-03-023 references claims of abnormal weather years that are not found in the record evidence, TURN argues that D.05-03-023 wrongly relies on these weather impacts to conclude that 69 minutes of SAIDI is appropriate. (TURN Application for Rehearing, pp. 8-9.) TURN’s argument has no merit.

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<sup>3</sup> At different points, TURN’s application states that D.05-03-023 set the SAIDI level at both 68 and 69 minutes.

TURN's claim that D.05-03-023's adoption of 69 minutes of SAIDI was based solely on consideration of weather impacts is erroneous. The record evidence in D.05-03-023 shows that weather variability was only one factor considered in determining the SAIDI and supports the Commission's adoption of 69 minutes of SAIDI. (D.05-03-023, pp. 33-41.) As TURN itself notes, "CUE proposed a benchmark of 69 minutes based on three different methods: 1) averaging SDG&E's and ORA's proposals, 2) using a ten-year trending analysis, and 3) combining a ten-year trend in non-weather SAIDI with a five-year average of weather SAIDI, due to explicit recognition of the fact that weather-related SAIDI has decreased over time." (See TURN Application for Rehearing, pp. 3-4; see also, Exhibit 1100, p 13 (CUE/Marcus). While D.05-03-023 does indeed contain a reference to abnormal weather years (see section B below), it also references the multiple rationales set forth by CUE and, indeed adopts the 69 minutes of SAIDI urged by CUE rather than the 71 minutes of SAIDI that SDG&E requested. (D.05-03-023, pp. 33-41, including fn. 74.) Accordingly, there is ample record support for the adoption of 69 minutes of SAIDI in D.05-03-023.

**B. TURN's claim that weather related SAIDI has been constant is irrelevant.**

TURN asserts that, contrary to claims made by SDG&E in ex parte meetings, the record evidence does not show, and indeed rebuts, the idea that 2000 and 2001 were unusually mild weather years.<sup>4</sup> TURN offers as support for this assertion an exhibit which essentially repackages record data to purportedly show that there were no weather related effects. TURN urges reconsideration and alleges error on the basis of this exhibit.<sup>5</sup> By way of this assertion TURN attempts to relitigate policy issues already decided by the Commission. An application for rehearing is not the proper vehicle for reconsideration of previously decided policy

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<sup>4</sup> TURN acknowledges that SDG&E identified weather as an issue on the record. (TURN Application for Rehearing, p. 3.)

<sup>5</sup> As TURN notes, the data underlying its graphic presentation is contained record evidence submitted by ORA.

issues. In relevant part, Rule 86.1 of the Commission's Rules of Practice and Procedure states: "Applications for rehearing shall set forth specifically the grounds on which applicant considers the order or decision of the Commission to be unlawful or erroneous." (Code of Regs., tit. 20, §86.1; see also, Pub. Util. Code §1732.) Thus, TURN's assertion should be denied.

Even addressing TURN's assertion, we find it flawed. TURN argues that the SAIDI level established in D.05-03-023 should not be based on the claim that there were two years of abnormal weather. In challenging SDG&E's testimony on continuing weather impacts TURN cites with approval testimony by CUE which identifies problems with the simple use of the 1994-2003 trended value and acknowledges that a decrease in weather-related SAIDI over time does not mean that the weather in SDG&E's service area has been getting milder. (TURN Application for Rehearing, p. 3.) TURN then correctly notes that CUE's testimony does not specifically identify any two years with abnormal weather. (See Discussion C, *infra*.) However, the point CUE makes, which is adopted in the decision, is that differences in weather related SAIDI during the last five years account for almost all of the difference between the five and ten year average, and that one way to determine the appropriate SAIDI is by combining these averages.<sup>6</sup> (See Exh. 1100, p. 12 & p. 14 (Table #1) (CUE/Marcus).) Thus, even assuming that TURN is correct in its contention that abnormal weather cannot be blamed for changes in weather related SAIDI, the fact that there were changes in weather related SAIDI is the more pertinent and unchallenged fact.<sup>7</sup>

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<sup>6</sup> TURN itself acknowledges that there was significant SAIDI decline in years 2000 and 2001. (TURN Application for Rehearing, p. 10.)

<sup>7</sup> Nor does the decision assume or state that changes in weather related SAIDI must result from changes in the weather.

**C. D.05-03-023 should be modified to remove a statement incorrectly attributed to CUE and to clarify whether a five, ten, or mixed year SAIDI average is being used.**

D.05-03-023 attempts to incorporate CUE's acknowledgment that weather-related SAIDI has decreased over time by noting that:

“CUE points out that during the most recent five years the SAIDI average is skewed by two years with abnormal weather. There is a 5.72 minute per year difference in weather-related SAIDI between the ten-year and five-year rates, which accounts for most of the 6.51 minute overall difference between the five-year and ten-year averages.” (D.05-03-023, pp. 40-41, citing Exh. 1100, pp. 9-11.)<sup>8</sup>

However, the first sentence of the above quotation misstates CUE's contention. Specifically, CUE's opening testimony does not assert that “during the most recent five years the SAIDI average is skewed by two years with abnormal weather.” Notwithstanding this misstatement, TURN's argument that there was no abnormal weather, even if presumed correct, does not mean that there were no weather related SAIDI changes. Perhaps more importantly, TURN's argument does not invalidate CUE's contention that combining a five and ten year average yields the appropriate SAIDI. Thus, our correction of this misstatement does not result in any change to D.05-03-023, because the statement about abnormal weather was but one of the factors relied upon in D.05-03-023. Therefore, we will modify D.05-03-023, as set forth in the ordering paragraphs of today's decision, to correct the misstatement, and to include clarifying language as to CUE's testimony on this issue.<sup>9</sup>

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<sup>8</sup> See also Exh. 1100, pp. 12-14 (CUE/Marcus).

<sup>9</sup> We also note a typographical error in Footnote 74 on page 4001 in D.05-03-023, and will change the reference from pages 9-11 of Exhibit 1100 to pages 9-14.

**D. TURN's Rebuttal of SDG&E's Contentions is no more than a relitigation of its positions during the proceeding, and does not raise an allegation of legal error.**

In its rehearing application TURN dedicates several pages to a rebuttal of SDG&E's contentions. Specifically, TURN challenges SDG&E's testimony alleging continuing impacts of weather variability (pp. 3-4), SDG&E's interpretation of its data (p. 5), SDG&E's comments on the Proposed Decision related to the use of a five-year average (p. 7), and SDG&E's ex parte assertions related to year 2000 and 2001 drought impacts (p. 8). TURN's rebuttal fails to allege legal error, and thus, is rejected.

In addition to needlessly repeating arguments previously made, and rejected. TURN's challenge to SDG&E's contentions ignores the fact that SDG&E's recommendation was not adopted by the decision. Rather, as noted above, with regard to SAIDI, the decision adopts the recommendation made by CUE. Further, as previously noted, a rehearing application that merely relitigates policy issues, without allegations of specific legal error, will be rejected. (See Rule 86.1 of Commission's Rules of Practice and Procedure, Code of Regs., tit. 20, §86.1; see also, Pub. Util. Code, §1732.)

**THEREFORE, IT IS ORDERED** that:

1. The sentence "CUE points out that during the most recent five years the SAIDI average is skewed by two years with abnormal weather" found on lines 13-14 of page 40 of D.05-03-023 shall be replaced with the sentence "CUE points out that during the most recent five years the SAIDI average is skewed by two years of anomalously low recorded SAID."

2. The last sentence of Finding of Fact 65 on page 70 of D.05-03-023 shall be modified to read as: "It is reasonable to use a combined five and ten year SAIDI average."

3. The reference to “pages 9-11” of Exhibit 1100 in Footnote #74 of D.05-03-023 should be modified to read as “pages 9-14.”
4. Rehearing of D.05-03-023, as modified, is hereby denied.
5. Proceedings A.02-12-027; A.02-12-028 and I.03-03-016 are closed.

This order is effective today

Dated February 16, 2006 at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners