

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

July 25, 2006

**Agenda ID # 5837
Ratesetting**

TO: PARTIES OF RECORD IN APPLICATION 05-06-044

This is the draft decision of Administrative Law Judge (ALJ) Patrick. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure," accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages.

Comments must be filed with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 2.3 and 2.3.1. Electronic copies of comments should be sent to ALJ Patrick at bdp@cpuc.ca.gov. All parties must serve hard copies on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail or other expeditious methods of service. The current service list for this proceeding is available on the Commission's website, www.cpuc.ca.gov.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:avs

Attachment

Decision DRAFT DECISION OF ALJ PATRICK (Mailed 7/25/2006)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company for Approval to Amortize its Energy Resource Recovery Account (ERRA) Over-Collection through a Reduction to Electric Commodity Rates. (U 902 E)

Application 05-06-044
(Filed June 29, 2005)

OPINION MODIFYING DECISION 05-09-019

1. Summary

This decision requires San Diego Gas & Electric Company (SDG&E) to allocate a share of Federal Energy Regulatory Commission (FERC) settlement refunds to certain currently active direct access customers who received bundled service between October 2000 and June 2001. Thus, these customers will share in the recovery by SDG&E of \$38 million in FERC settlement claims against electricity and natural gas suppliers for excessive charges during California's energy crisis. Decision (D.) 05-09-019 in SDG&E's last Energy Resource Recovery Account (ERRA) proceeding is modified accordingly. This proceeding is closed.

2. Procedural Summary

On January 11, 2006, Robinsons -May/Meir and Frank (Petitioner) filed a Petition for Modification of D.05-09-019. SDG&E responded on February 10, 2006. Petitioner replied on February 16, 2006. Following a ruling by the assigned administrative law judge (ALJ), the parties reached agreement on a methodology for providing commensurate refunds to Petitioner and similarly situated

customers. SDG&E memorialized the agreement in a letter dated May 26, 2006, and this matter was submitted for decision.

3. Petitioner's Request

Petitioner requests modification of D.05-09-019 to provide an appropriate refund or credit to current direct access customers, like Petitioner, who paid as bundled service customers some portion of the overcharges recovered by SDG&E from its electricity and natural gas suppliers during the energy crisis.

4. Discussion

In D.05-09-019, we flowed through an overcollection in the ERRRA of \$50.3 million to bundled customers as a reduction applied to all consumption not subject to Assembly Bill (AB) 1X rate caps. Included was an amount of \$38.0 million for FERC settlement refunds. Customers such as Petitioner, who are currently direct access customers and paid overcharges by energy producers, did not share in the FERC settlement refunds. On review of D.05-09-019, we find no reason to exclude such customers from sharing in the refunds. To remedy this inequity, SDG&E proposes a refund methodology, agreed to by Petitioner, as set forth below.

As proposed by SDG&E, the refund methodology results in a credit to Petitioner in the amount of \$29,757.32. While certain adjustments to the underlying determinants are required, the credit calculation is generally consistent with the initial methodology adopted by the Commission for returning a portion of the refunds to bundled service customers. In particular, since the \$50.3 million over-collection in the ERRRA was caused by a variety of factors, the dollar amount used in the settlement agreement refund calculation was based only on particular FERC settlement refund dollars from which direct access customers have not previously benefited. In order to develop a

per-kilowatt-hour credit, the adjusted refund dollar amount is divided by SDG&E's most recently adopted bundled sales forecast plus the applicable usage associated with each direct access customer's bundled usage between October 2000 and June 2001. SDG&E will perform this calculation and provide the appropriate refund as a credit to the customer's current bill.

As stated above, although a \$50.3 million over-collection in the ERRRA is addressed in D.05-09-019, Petitioner and similarly situated customers will share only in the particular FERC settlement refunds of \$38.0 million. Therefore, we conclude that the proposed refund methodology is reasonable and D.05-09-019 should be modified accordingly.

5. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. Comments were filed on _____.

6. Assignment of Proceeding

John A. Bohn is the Assigned Commissioner and Bertram D. Patrick is the assigned ALJ in this proceeding.

Findings of Fact

1. Although direct access customers such as Petitioner paid overcharges as a result of actions by energy providers during the energy crisis, D.05-09-019 did not provide for these customers to share in the FERC settlement refunds received by SDG&E related to the overcharges.

2. Direct access customers who, as bundled service customers, paid rates that included overcharges by energy producers, are entitled to share in the FERC settlement refunds.

Conclusions of Law

1. As a matter of equity, Petitioner and similarly situated customers, who are currently direct access customers of SDG&E, should share in the FERC settlement refunds received by SDG&E.
2. The refund methodology proposed by SDG&E is reasonable because it limits refunds to specific overcharges paid by current direct access customers.
3. D.05-09-019 should be modified to allow SDG&E to provide refunds to customers, such as Petitioner.

O R D E R

IT IS ORDERED that:

1. Decision 05-09-019 is modified to allow San Diego Gas & Electric Company to provide refunds to Robinson-May/Meir and Frank and similarly situated currently active direct access customers, who paid overcharges as bundled service customers to energy suppliers between October 2000 and June 2001.
2. Application 05-06-044 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated July 25, 2006, at San Francisco, California.

/s/ ANTONINA V. SWANSEN
Antonina V. Swansen

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