

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I. D. #5306

RESOLUTION E- 3968

April 13, 2006

RESOLUTION

Resolution E-3968 grants a one-time approval of San Diego Gas and Electric's (SDG&E's) request to allow the City of San Marcos (City) to borrow 19 years into their future Rule 20.A allocation.

By Advice Letter 1722-E dated August 29, 2005, from SDG&E.

SUMMARY

The Commission grants a one-time approval of San Diego Gas and Electric's (SDG&E's) request to allow the City of San Marcos (City) to borrow 19 years into its future Rule 20.A allocation, and sets new policy to deter similar filings in the future.

On August 29, 2005, SDG&E requested approval from the California Public Utilities Commission (CPUC) to deviate from Section A.2.e. of Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, to permit borrowing beyond the five years allowed in the tariff, in order to complete construction of the Las Posas Undergrounding Project (Project) in the City of San Marcos (the City).

The Commission grants a one-time approval of this request because this project is already completed and rejecting the Advice Letter would give the City of San Marcos an additional 14 years of undergrounding allocations that SDG&E would place in base rates paid by all SDG&E ratepayers.

The Commission implements the following Electric Rule 20 filing requirements:

- SDG&E shall file future Advice Letter for deviation from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commence date.
- SDG&E shall not approve and begin an overhead conversion project that requires borrowing forward more than five years of a community's Electric Rule 20.A allocations without Commission's approval. Either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocations plus 5 years of borrowing.
- Before SDG&E may convert overhead facilities to underground on public right of ways

when these overhead facilities are in conflict with local communities' public improvement projects, and conversions are more cost effective than overhead facilities relocations, SDG&E is required to submit Advice Letters to the Commission requesting approval at least 3 months before commencing these franchise agreement improvement projects.

BACKGROUND

Utilities annually allocate funds under Rule 20 to cities and unincorporated areas of counties to convert overhead electric and telecommunication facilities to underground, and recipients may either bank (accumulate) their allotments, or conversely choose to borrow ahead (mortgage) their undergrounding allotments, currently for five years at most.

The Commission instituted the current undergrounding program in 1967. It consists of two parts. The first part, under Tariff Rules 15 and 16, requires new subdivisions (and those that were already undergrounded) to provide underground service for all new connections.

The second part of the program governs both when and where a utility may remove overhead lines and replace them with new underground service, and who shall bear the cost of the conversion. Tariff Rule 20 is the vehicle for the implementation of the underground conversion programs. Rule 20 dictates three levels, A, B, and C, of ratepayer funding for the projects.

Under Rule 20, the Commission authorizes the utility to spend a certain amount of money each year on conversion projects, the utility records the cost of each project in its electric plant account for inclusion in its rate base upon completion of the project.¹ Then, the Commission authorizes the utility to recover the cost from ratepayers until the project is fully depreciated.

SDG&E's request involves Rule 20.A of its underground conversion program, to which projects ratepayers contribute approximately 80% through utility rates.

Since utility ratepayers bear most of the costs of the undergrounding conversion in Rule 20.A projects, they must be in the public interest by meeting one or more of the following criteria:

- Eliminate an unusually heavy concentration of overhead lines;
- Involve a street or road with a high volume of public traffic;
- Benefit a civic or public recreation area or area of unusual scenic interest;

¹ Utilities allocate an annual budget for undergrounding within a city or the unincorporated area of a county. Specific details of allocation formulas are shown in Electric Rule 20.A.2 of the tariffs.

- Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines.

On January 6, 2000, the Commission opened Order Instituting Rulemaking (OIR) 00-01-005 to implement Assembly Bill 1149 regarding undergrounding of electric and telecommunication facilities.

On December 11, 2001, the Commission issued Decision (D.) 01-12-009 in Phase I of the OIR directing expanded use of Rule 20 funds. Once a community has established a master undergrounding plan and identified a specific project area, it may mortgage its allotment for a total of five years, whether the funds are retroactive or prospective.

SDG&E's request states that the City of Marcos learned that Caltrans planned a new cloverleaf at Highway 78 and Las Posas Road and in 1997 made a preliminary net estimate of approximately \$550,000 to convert 3000 feet of Las Posas from Grand Avenue to Mission Road.

On June 13, 1999 the Project was passed by Resolution 99-5263. At that time the City had some 2,000 customers served from overhead lines, and believed together with SDG&E that accumulated Rule 20.A allocations and borrowing would be sufficient for the Project.

On December 11, 2001 the City decided to add 1400 feet to the conversion Project in order to accommodate a municipal storm drain project, and passed Resolution 2001-5782.

In 2002 shortly before construction was to begin, the City decided to expand the conversion boundary a second time, to include Descanso Avenue because all the existing poles there would be in direct conflict with the storm drain Project. The Project was designed, bid, and construction started.

Once construction began, the City realized that the storm drain Project could not be built as designed, and had to redesign it.

SDG&E filed the AL requesting ratepayer funding for this Project only about 5 months ago, and the Project was completed on December 20, 2005.

The total cost of the finished Project after twice expanding it and once redesigning a major part of it is \$1,793,910, significantly higher than the \$550,000 preliminary estimate.

SDG&E's annual allocations for the City have been approximately \$100,000 from 1999-2004. However, SDG&E revised their allocation method in 2005, and the City's 2005 Rule 20.A allocation has reduced it to \$59,289. The City's current Rule 20.A allocation balance is \$751,113. The City then requested SDG&E to allow it to borrow forward for 19 years into future allocations in order to complete work on the Project.

SDG&E evaluated the City's request based on the following criteria:

- Utility local construction and expense budget to accommodate the project.
- Utility physical crews and equipment to complete the project on schedule.

- Utility adequate resources to provide safe and reliable service with the expanded scope of the project.
- The likelihood of certain project administrative advantages or economies of scale from the expanded project scope that would not be available if the project were split into two or more smaller projects.
- Minimize disruption to public transit or important transportation corridors.
- Whether the expanded project scope and compressed construction schedule would adversely affect current Rule 20.A projects, either locally or in other cities or counties.

SDG&E states that the Project satisfied the above criteria and that it informed the City that it would notify the Commission via Advice Letter, and would complete construction of the Project as soon as practicable.

NOTICE

Publication in the Commission's Daily Calendar on September 2, 2005, provided public notice of SDG&E's Advice Letter dated August 29, 2005.

PROTESTS

The Commission received no protests.

DISCUSSION:

Equity is the determining factor in our disposition and we set new policy to deter similar filings in the future.

We evaluate this deviation request considering the opportunity for other customers in the City to participate in conversion projects within a reasonable length of time, the impact of the Commission's decision on the project, and fairness to all ratepayers in California. We will base our recommendation on tangible evidence and analysis of these factors.

Fair Opportunity for Other Commercial and Residential Customers to Participate in Overhead Conversion Projects

No residential customers exist within the conversion boundary of this Project. The underground district is a commercial area where businesses are generally modernized light industrial or retail. SDG&E and the City determined that this project meets Rule 20.A criteria because the project involves an arterial road that leads to downtown districts, the Palomar College, and a dense residential area.

There are advantages in cost savings and project administration associated with completing this project in a single phase, but also disadvantages due to the length of time before residential and commercial customers in the City would have another opportunity to

participate in overhead conversion projects. Nineteen years is a significant length of time for other neighborhoods to await another opportunity to participate in an overhead conversion project.

Impact of CPUC's Decision on the Project

SDG&E submitted this request on August 29, 2005, for a project originally estimated in 1997, estimated complete on December 22, 2005, and actually completed 2 days before that. Therefore, the Commission's decision to either grant or deny this request is not critical to completing this project.

Fairness to All Ratepayers in California

Since this project has already been completed, disapproving the Advice Letter means SDG&E can't charge the City for the portion of project expense equivalent to 14 years of their future allocations. This would result in the City of San Marcos gaining 14 years of additional allocations.

Although franchise agreement between SDG&E and San Marcos provides SDG&E with the right to install utility facilities in public right of way, if SDG&E's facilities are in conflict with public improvements, SDG&E must relocate its facilities at ratepayers' expense. Therefore, SDG&E may claim this portion of the project under street and highway repair work (capital franchise spending) in their rate base, since SDG&E needed to do this work in conjunction with the City's water/storm drain and highway improvement work. This results in all SDG&E ratepayers paying for a portion of the City's undergrounding project and creates an unfair situation to all other cities.

Conclusion

Since SDG&E submitted this request toward the end of the project, and had already funded it, rejection would allow the City effectively to borrow without limit and permit such undergrounding conversion cost over-runs to flow into ratebase faster than current policy allows, and set a poor precedent. Commission approval would deprive the fair opportunity for other commercial and residential customers in the City of San Marcos to participate in overhead conversion projects for 14 years. Commission disapproval would require all SDG&E ratepayers to pay for a portion of the City's project cost.

The Commission's decision should have the least overall impact on all ratepayers. The Commission should grant a one-time approval of this deviation request because granting it would result in the least negative impact but most equity on majority of the ratepayers. However, the Commission should deter utilities from submitting future exemption requests towards the end of conversion projects, since this places the Commission in an awkward position. Therefore the Energy Division recommends the Commission adopt the following Electric Rule 20 filing requirements:

- SDG&E shall file future Advice Letter for deviation from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the

project commence date.

- SDG&E shall not approve and begin an overhead conversion project that requires borrowing forward more than five years of a community's Electric Rule 20.A allocations without Commission's approval. Either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocations plus 5 years of borrowing.
- Before SDG&E may convert overhead facilities to underground on public right of ways when these overhead facilities are in conflict with local communities' public improvement projects, and conversions are more cost effective than overhead facilities relocations, SDG&E is required to submit Advice Letters to the Commission requesting approval at least 3 months before commencing these franchise agreement improvement projects.

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.

SDG&E submitted the following comments on the draft resolution in a letter dated February 17, 2006:

- The Commission should provide more flexibility and control to local governments, as required by Assembly Bill (AB) 1149. The City of San Marcos followed the proper protocols and knowingly determined that the Los Posas/Descanso project was, in fact, its top undergrounding priority. In addition, there are currently no other conversions planned by the City which would require their Rule 20.A funds in the future.
- Besides Rule 20.A funds, customers and the City would still be free to pursue conversions of their choice under Rule 20.B and 20.C.
- Even though the Commission's decision is not critical to the completion of this project, it has the responsibility to balance the fairness to all ratepayers. The project met the public interest Rule 20.A criteria because it involves an arterial road leading to the downtown district, and all customers who live in the San Marcos area will benefit from the project. Approving the Advice Letter will ensure that, over time, monies spent on Rule 20.A conversion projects in San Marcos are not disproportionate to their allocations. Denying the Advice Letter, and capping the mortgage period at 5 years, results in San Marcos being able to enjoy an amount of undergrounding disproportional to what would normally be completed during the 19-year time frame.

The Commission acknowledges the intent of the legislation is to provide more flexibility and control to local governments. However, there must be a reasonable balance between

local government empowerments and ratepayer equities. It is not reasonable to require certain ratepayers to convert their overhead facilities with their own funds in Rule 20.B and Rule 20.C programs, if they don't want to wait 19 years for another opportunity to participate in an overhead conversion project, and because others ratepayers have used up their Rule 20.A allocations.

FINDINGS

1. The Commission instituted the current undergrounding program in 1967.
2. Tariff Rule 20 is the vehicle for the implementation of the underground conversion programs. Rule 20 dictates three levels, A, B, and C, of ratepayer funding for the projects.
3. Rule 20.A projects must be in public interest.
4. The city or unincorporated area of a county may mortgage its allotment for a total of five years, whether the funds are retroactive or prospective.
5. By letter dated August 29, 2005, SDG&E requested authority for deviation from Electric Rule 20.A.2.e of its tariff to allow the City of San Marcos to borrow forward 19 years into its future allocations.
6. Ratepayers collectively pay through utility rates for approximately 80% of the costs Rule 20.A projects.
7. SDG&E's 2005 Rule 20.A allocation for the City was \$59,289. The City's current Rule 20.A allocation balance is \$751,113.
8. The estimated completion date of the Project is December 22, 2005; and actual completion was December 20, 2005.
9. The Commission evaluates this deviation request by considering the opportunities for other customers in the City to participate in conversion projects within a reasonable length of time, the impact of CPUC's decision on the project, and fairness to all ratepayers in California.
10. By letter dated February 17, 2006, SDG&E submitted comments on the draft resolution.
11. The Commission should grant a one-time approval of this deviation request because granting it would have the least negative impact and be most equitable for SDG&E ratepayers.
12. The Commission should deter utilities from similar future exemption requests that place the Commission in an awkward position of choosing which ratepayers to disadvantage.

THEREFORE, IT IS ORDERED THAT:

1. SDG&E's request to allow the City of San Marcos to borrow 19 years into their future Rule 20.A allocation is granted.
2. SDG&E shall file future Advice Letters for deviation from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commence date.
3. SDG&E shall not approve and begin an overhead conversion project that requires borrowing forward more than five years of a community's Electric Rule 20.A allocations without Commission's approval. Either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocations plus 5 years of borrowing.
4. Before SDG&E may convert overhead facilities to underground on public right of ways when these overhead facilities are in conflict with local communities' public improvement projects, and conversions are more cost effective than overhead facilities relocations, SDG&E is required to submit Advice Letters to the Commission requesting approval at least 3 months before commencing these franchise agreement improvement projects.
5. This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on April 27, 2006. The following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director