

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company (U904G) for Approval of Advanced Metering Infrastructure.

Application 08-09-023
(Filed September 29, 2008)

**ORDER DENYING REHEARING
OF DECISION (D.) 10-04-027**

I. INTRODUCTION

In Decision (D.)10-04-027, (or “Decision”) we approved, (with certain modifications) the application filed by Southern California Gas Company (“SoCalGas”), in which it requested authority to develop and deploy a gas-only advanced metering infrastructure (“AMI”) system throughout its territory. The parties participating in this proceeding were SoCalGas, the Division of Ratepayer Advocates, (“DRA”) The Utility Reform Network, (“TURN”) and The Utility Workers Union of America, Local 132 (“UWUA”).

TURN and UWUA (collectively, “Rehearing Applicants”) timely filed an application for rehearing of the decision.¹ In their rehearing application, they make two arguments. First, they allege that the decision violates section 1705 of the Public Utilities Code² by failing to make findings of fact and conclusions of law on all issues material to

¹ On November 17, 2010, UWUA filed a motion to withdraw from the application for rehearing of D.10-04-027. TURN did not join in the motion. UWUA’s motion is granted only as to UWUA. Thus, the rehearing application must still be addressed and resolved. Although UWUA has withdrawn its participation in the application for rehearing, we will refer to TURN as “Rehearing Applicants” in today’s decision, even though TURN is now the sole rehearing applicant remaining.

² All subsequent section references are to the Public Utilities Code, unless otherwise noted.

the determination that SoCalGas's proposed AMI system would be cost effective. Second, they allege that the findings on the elimination of the meter reading workforce benefit are not supported by the record in violation of section 1757(a) of the Public Utilities Code. (Rehrg. App., p. 1.)

SoCalGas filed a timely response to the application for rehearing. In its response, SoCalGas opposes the rehearing application. (Response to Rehrg. App., p. 2.)

We have reviewed each and every issue raised in the application for rehearing of D.10-04-027. For the reasons discussed below, we are of the opinion that good cause does not exist for the granting of a rehearing. Therefore, we deny the application for rehearing.

II. DISCUSSION

A. **D.10-04-027 contains legally sufficient findings of fact on the cost-effectiveness of SoCalGas' AMI proposal.**

Rehearing Applicants claim that we violated section 1705 in that D.10-04-027 does not contain legally sufficient findings of fact on the cost-effectiveness of SoCalGas' AMI proposal. Specifically, they argue that during the proceeding, TURN raised several issues regarding the costs of the proposed program as well as issues it regarded as relevant to the level of conservation and operational benefits that could have had a significant impact on the cost-effectiveness of SoCalGas' business case. The Rehearing Applicants argue that we committed legal error by not expressly discussing and making findings of fact and/or conclusions of law on these issues. (Rehrg. App., pp. 3-7.) By not doing so, they contend that we necessarily "ignored," or failed to consider those issues in violation of section 1705. (Rehrg. App., pp. 3-4.) There is no merit to these arguments.

Contrary to Rehearing Applicants' assertion, section 1705 does not mandate that we make a finding of fact and conclusion of law on every piece of evidence presented by a party. Section 1705 requires only that the Commission's decision contain findings of fact and conclusions of law on all material issues. (See Pub. Util. Code,

§1705, emphasis added; see also, *California Manufacturers Ass’n v. Pub. Util. Com.* (1979) 24 Cal.3d 251, 258.) In *Toward Utility Rate Normalization v. Public Utilities Com.* (1978) 22 Cal.3d 529, 540, the California Supreme Court stated: “We have never held that an administrative decision must contain a complete summary of all proceedings and evidence leading to a decision. Rather, we have repeatedly . . . set as our standard a statement which will allow us a meaningful opportunity to ascertain the principles and facts relied upon by the Commission in reaching its decision.”

These findings and conclusions should be sufficient to:

"afford a rational basis for judicial review and assist the reviewing court to ascertain the principles relied upon by the commission and to determine whether it acted arbitrarily, as well as assist parties to know why the case was lost and to prepare for rehearing or review, assist others planning activities involving similar questions, and serve to help the commission avoid careless or arbitrary action."

[Citations Omitted.]

(*California Manufacturers Ass’n v. Pub. Util. Com.*, *supra*, 24 Cal.3d at pp. 258-259.)

In the Decision, we fully set forth the basis for our determinations on the cost-effectiveness issue after assessing the major elements of the SoCalGas cost-effectiveness calculation. (See D.10-04-027, pp. 25-39.) The discussion covers issues related to benefits (including treatment of terminal value, benefits from the elimination of meter readers, and estimates of energy conservation benefits), as well as issues related to costs. It also contains legally sufficient findings of fact on issues material to our cost-effectiveness determination, in compliance with section 1705. Findings of Fact Nos. 5, 6, 7, 8, 9, 10, and 12 in D.10-04-027, which are based on record evidence, set forth some of the factors that substantiate our determination in Finding of Fact No. 11 that the SoCalGas AMI is cost effective. (See D.10-04-027, pp. 48-49.)

B. The record supports the Commission’s determination on cost-effectiveness.

The Rehearing Applicants criticize us for not considering, and therefore allegedly ignoring some of the evidence they presented on cost-effectiveness. This criticism

has no merit. With regard to each specific allegation of error raised by the Rehearing Applicants, the discussion below demonstrates that our cost-benefit determinations were based on the evidence.

1. Indirect versus direct feedback methods.

The Rehearing Applicants assert that the Decision failed to consider their concerns regarding SoCalGas' alleged inconsistent treatment of direct versus indirect feedback methods and the consumption impacts from those methods. (Rehrg. App., p. 4.) This assertion has no merit.

In the Decision, we discuss conservation benefits in general, including the issue of information feedback, both direct and indirect. (D.10-04-027, pp. 30-36.) References are made to each party's position and their disagreements on those issues. The Decision specifically states that "[p]arties disagree with SoCalGas on several aspects of the SoCalGas calculation, including the percentage of customers likely to take advantage of information feedback in order to reduce usage, and the degree to which any observed savings can be credited to AMI deployment." (D.10-04-027, p. 31.) In considering and weighing the record evidence, we reached the following conclusion: "SoCalGas has assumed between 5% and 10%, depending on the mode of feedback. These numbers are drawn from the mid-points of ranges of conservation estimates from 13 studies of conservation response in the face of information feedback." (D.10-04-027, at p. 34; see also, Ex. SCG-5, pp. V-5 and V-10.) The Decision concluded that "these studies observed effects that illustrate the common finding that when a largely invisible process (gas or electricity use) is made more visible, there is measurable conservation response on an order comparable to what SoCalGas has put forth in its application." (D.10-04-027, at p. 34. (See generally, Ex. SCG-5.)

2. Whether the level of conservation benefits would likely change over time.

Rehearing Applicants allege that we erroneously failed to address TURN's concern that SoCalGas' conservation benefits would likely change over time. They allege that these estimated benefits did not allow for the fact that customer discomfort may reduce

ongoing participation over the span of the business case analysis and that financial incentives to customers for conserving gas were very low. (Rehrg. App., p. 5.)

In the Decision, we refer to the evidence supporting our determination on the customer participation rates. (See D.10-04-027, p. 33.) In weighing the evidence, we found persuasive the evidence offered by SoCalGas, which “assumed an initial 13% participation rate for its customers, and growing by 1% per year. SoCalGas’ estimate of participation was based on a customer insight panel which asked customers whether the gas usage would be influenced if the daily data on usage and cost were made available.” (D.10-04-027, p. 33. See also, Ex. SCG-5, at p. V-12.) After further discussion of SoCalGas’ and DRA’s analysis of this study, we decided that “[f]or these reasons, SoCalGas’ participation assumptions could reasonably be considered conservative when viewed in this light.” (D.10-04-027, p. 34.)

3. Costs for direct feedback to customers.

Rehearing Applicants contend that we unlawfully failed to address TURN’s concern that SoCalGas did not include any costs to the utility or to customers to provide direct feedback to its customers, either through dedicated in-home displays (“IHDs”) or through cell phones or PDA’s. (Rehrg. App., p. 6.) This contention lacks merit.

This issue was hotly contested in the proceeding. SoCalGas took the position that the incremental participant cost attributable to multi-function devices used by customers to access energy information feedback is zero, and we agreed with that by not including them as costs incremental to the AMI program. SoCalGas’ witness Edward Fong testified that the cost of IHDs should not be considered as a participant cost, because they are not regarded as incremental costs to the consumer. (Reporter’s Transcript (“RT”) Vol. 2, pp. 190-191 (SoCalGas/Fong).) Incremental participant costs are taken into consideration in energy efficiency proceedings, of which this proceeding is not one. Furthermore, we have not included similar costs in any of the other utilities’ previous AMI applications’ cost-benefit analyses. There is no law requiring such inclusion, and the Rehearing Applicants cited to none. Rather, the determination was a policy judgment within our discretion and was supported by the record. Thus, we

properly concluded: “[I]n our view, SoCalGas has made a number of conservative judgments in composing its conservation estimate. It has taken a middle of the road estimate for both participation and conservation rates.” (D.10-04-027, p. 35.)

4. Costs for customer monitoring and action on the feedback information.

The rehearing application argues that SoCalGas’ analysis was flawed because the utility “did not include an allowance for the fact that monitoring and acting upon feedback information takes time and effort on behalf of the customer, effort that could be spent on other activities or on other pursuits of conservation opportunities.” (Rehrg. App., pp. 6-7.) Specifically, Rehearing Applicants assert that we erred by not including the costs of customer effort to monitor and act upon feedback information in making our cost-effectiveness finding. The assertion lacks merit.

We did not discuss this issue in making our cost-effectiveness finding, because the evidence demonstrated that it was not necessary. In its reply brief, SoCalGas addressed this specific issue and criticized TURN for attempting “to completely redefine ‘costs to the customer’ as used in the Participant Test. (See SoCalGas’ Reply Brief, at pp. 21-22, citing to the testimony of John Martin in Ex. SCG-26, pp. 11-12.) In his testimony, Mr. Martin stated: “TURN modifies the SPM definition to include costs beyond out-of-pocket expenses incurred and time beyond arranging for installation. TURN’s argument to include an arbitrary customer cost to glance at a display or web-page, has no foundation in SPM methodology.” (See Ex. SCG-26, pp. 11-12; see also, SoCalGas’ Reply Brief, at p. 22.) Thus, the record supports the basis for us not including these particular costs in our cost-effectiveness finding.

5. SoCalGas’ estimates of operational benefits.

The Rehearing Applicants contend that the Commission violated section 1705 by failing to discuss TURN’s arguments regarding SoCalGas’ estimates of operational benefits. These arguments include the offset to work done during deployment benefits, transmission and distribution benefit, and avoided parking facility cost benefit. When we reached our determinations on SoCalGas’ estimates of operational benefits that were contrary to the Rehearing Applicants’ arguments, we obviously, and without

discussion, did not find them to be persuasive. After considering all of the record evidence (discussed below), we found other arguments more persuasive. Thus, Rehearing Applicants' section 1705 contention lacks merit.

a) Offset to work done during deployment benefits.

Rehearing Applicants contend that we “should [have] reduce[d] the offset for work done during deployment benefit by \$67.75 million (PVRR) to reflect the fact that some meters will not need to be replaced at the end of their book life.” (Rehrg. App., p. 7. See also, Ex. TURN-212, pp. 20-21.) Testimony was provided by both TURN and SoCalGas on this matter. We found SoCalGas' rebuttal testimony on this issue more persuasive. There, SoCalGas' witness Mark Serrano testified that TURN's recommendation should not be adopted for three reasons. (1) TURN's interpretation of “the normal practices for replacing meters” is incorrect; (2) TURN does not appear to recognize why these meters are being replaced; and (3) supporting data upon which TURN makes its forecast is outdated. (See Ex. SCG-23, p. 21.)

b) Transmission and distribution benefit

Rehearing Applicants argue that we should have rejected SoCalGas' proposed transmission and distribution benefit (\$1.6 million PVRR) because SoCalGas failed to provide sufficient support for the benefit. (Rehrg. App., p. 7, citing TURN's Opening Brief, p. 18.) However, the evidence supports the contrary. SoCalGas noted in its rebuttal testimony that the methodology it used for estimating the benefits AMI will provide for pipeline capacity planning is reasonable and that this methodology is consistent with that proposed by PG&E in its AMI Application. (Ex. SCG-23, pp. 25-26.) To quantify AMI benefits in this area, SoCalGas used a pressure betterment project identified in resource planning. (Ex. SCG-23, p. 4.) As to that, we did state that although parties may dispute the value and details of benefits such as the improved monitoring of gas pressure and the identification of high pressure problems throughout the gas system, the increased availability of data under the SoCalGas proposal should promote and enhance system efficiency and improve reliability. (D.10-04-027, p. 14.)

c) Avoided parking facility cost benefit

Rehearing Applicants assert that the Commission should have adopted TURN's argument to remove SoCalGas' avoided parking facility cost benefit (\$11.3 million) because it had not met its burden of proving that the facilities would actually be built absent AMI. (Rehrg. App., p. 7.) In weighing the evidence, we found more persuasive SoCalGas' position that its avoided facility cost benefits are reasonable and would undoubtedly be necessary absent AMI where additional parking facilities would be necessary to accommodate field workforce increases and changes to its operations in high customer growth areas. (See Ex. SCG-23, p. 29.)

In light of the above, and contrary to the Rehearing Applicants' assertions, we fully weighed the record evidence on the merits, and the evidentiary record supports our determination on cost-effectiveness in D.10-04-027. As no legal error has been demonstrated as to our cost-effectiveness finding, the Application for Rehearing is denied.

C. The record supports the Commission's finding that the \$757.5 million benefit for the elimination of the meter reading workforce was reasonable.

In D.10-04-027, we found that: "[t]he proposed \$757.5 million benefit for elimination of the meter reading workforce after the implementation of an AMI system is reasonably forecast in the SoCalGas business case, and therefore shall be included in the business case analysis." (See D.10-04-027, pp. 28-29 & 48 [Finding of Fact 7].)

Rehearing Applicants argue that D.10-04-027 violates both sections 1705 and 1757 because there is no evidence in the record to support our determination on the meter reading benefits. (Rehrg. App., p. 8.) This argument has no merit.

In the Decision, we state that there is ample evidence that the company's labor costs in this category are increasing, and approaching market rates. (D.10-04-027, p. 20.) This evidence included testimony about the proposed \$757.5 million benefit for elimination of the meter reading workforce after the implementation of an AMI system. (Ex. SCG-3, pp. 27-30, and Ex. SCG-23, pp. 3-8.) Further, SoCalGas' witness Mark

Serrano provided rebuttal testimony on labor costs. He testified, inter alia, that SoCalGas meter reader wages were currently less than market compensation levels, and that if the Commission rejected SoCalGas' AMI proposal, then SoCalGas expected that its part-time meter reading workforce would aggressively move to reach "at-market" wage levels, and convert its part-time workforce to a full-time workforce. (Ex. SCG-23, pp. 3-8 (Serrano).) Mr. Serrano provided a "union negotiation summary," which he presented to help us understand why the benefits associated with avoiding future workforce cost increases are real and why, in the absence of AMI, SoCalGas ratepayers would likely incur future costs of approximately \$48.4 million present value revenue requirement (PVRR). In weighing the evidence, we found his testimony more persuasive than that of the other parties, including the Rehearing Applicants.

As part of their evidentiary challenge, Rehearing Applicants acknowledge there is evidence in the record. Specifically, they argue that the evidence, at best, was based on wild speculation regarding the future outcome of events that have not yet occurred. (Rehrg. App., p. 8.) This argument constitutes no more than an improper request for us to reweigh the evidence, and thus, a relitigation of a fiercely debated issue. "The Commission need not explain in minute detail why it credits some evidence and discredits others." (*Re Pacific Gas and Electric Company – Order Granting Limited Rehearing to Modify 99-11-051, and Denying Rehearing, As Modified* [D.00-11-042] (2002) ___ Cal. P.U.C.3d ___, at p. 5 (slip op.)) This request does not raise legal error, and does not meet the purpose for an application for rehearing. (See Pub. Util. Code, §1732; see also, Rule 16.1(c), Cal. Code of Regs., tit. 20, §16.1, subd. (c) ["The purpose of an application for rehearing is to alert the Commission to a legal error,"])

Accordingly, the record supports our determination on the meter reading benefits. Therefore, Rehearing Applicants' evidentiary challenge is denied as without merit.

III. CONCLUSION

Based on the discussion above, good cause does not exist that would warrant the granting of a rehearing of D.10-04-027. Therefore, rehearing of D.10-04-027 is hereby denied.

THEREFORE, IT IS ORDERED that:

1. UWUA's motion to withdraw from the application for rehearing of D.10-04-027 is granted.
2. Rehearing of D.10-04-027 is hereby denied.
3. This proceeding, A.08-09-023, is hereby closed.

This order is effective today.

Dated November 19, 2010 at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

I reserve the right to file a concurrence.

/s/ NANCY E. RYAN
Commissioner