Decision 02-10-039 October 24, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to revise the time schedules for the Rate Case Plan and fuel offset proceedings.	Rulemaking 87-11-012 (Filed November 13, 1987)
Application of San Diego Gas & Electric Company to Establish an Experimental Performance-Based Ratemaking Mechanism.	Application 92-10-017 (Filed October 16, 1992)

OPINION ON PETITION FOR MODIFICATION

Summary

This decision modifies Decision (D.) 89-01-040, as previously modified by D.95-09-020 and D.94-08-023. It revises the plan for processing San Diego Gas & Electric Company's (SDG&E) Rate Design Window (RDW) filings and related marginal cost showings. For the current filing cycle only, SDG&E is authorized and directed to serve an updated marginal cost showing on February 3, 2003, and to file its next RDW application on March 17, 2003.

Background

D.89-01-040, issued in Rulemaking (R.) 87-11-012, adopted comprehensive modifications to the Commission's plan for processing general rate cases (GRCs) and energy offset proceedings. Among other things, it provided that parties may initiate annual RDW proceedings for major electric utilities. As originally adopted by D.89-01-040, the plan for processing RDWs anticipates the issuance of a final decision within 142 days of the date that the parties file their rate design

proposals. For SDG&E, D.89-01-040 provided that the RDW filing period is November 20 to 25 prior to each attrition year, that the final decision on RDW proposals will be issued the following April, and that rate changes will become effective on May 1.

By D.94-08-023, issued in Application 92-10-017, the Commission approved a "performance-based ratemaking" mechanism for establishing SDG&E's authorized base rate revenues. Because it eliminated the requirement for SDG&E to file a test year 1996 GRC, thereby removing a forum for addressing rate design, revenue allocation, and marginal costs, D.94-08-023 revised the procedures for SDG&E's RDW filings. SDG&E was required to file an updated marginal cost showing at least once every three years, with the first such filing due July 15, 1995. SDG&E was also required to make its annual RDW filing by November 1.

By D.95-09-020, issued in R.87-11-012, the Commission adopted minor changes to the schedules for processing SDG&E's Energy Cost Adjustment Clause (ECAC) and RDW proceedings. Among other things, D.95-09-020 modified the RDW schedule to conform to the requirement of D.94-08-023 that SDG&E file its annual RDW on November 1. It also provided that SDG&E's RDW rate changes would become effective June 1 to be concurrent with its ECAC rate changes.

In a petition filed on July 15, 2002, SDG&E seeks a one-time modification to these requirements that would allow it to submit its next marginal cost update on February 1, 2003 rather than July 15, 2002, and to file its next RDW application

on March 15, 2003 rather than November 1, 2002.[1] SDG&E states that in its RDW application, it will seek authority to implement the adopted rate design changes on or around January 4, 2004, in concert with the new revenue requirement.

Federal Executive Agencies (FEA) filed a response to SDG&E's petition. FEA does not object to the one-time modification of SDG&E's RDW schedule provided that the Commission establishes May 15, 2003 as the date that any party to the last GRC may submit its proposed rate design revisions. In making this proposed revision to SDG&E's petition, FEA seeks to preserve the current 15-week interval between the time that SDG&E submits its marginal costs and the time that parties must submit their rate design proposals. FEA objects to SDG&E's proposed reduction of this interval to six weeks.

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[1] In its petition, SDG&E also asks that the time for filing responses to the petition be shortened to five days. This is a procedural motion that should have been filed separately pursuant to Rules 2.1(b) and 45 of the Rules of Practice and Procedure (Rules). Rule 45(f) provides that responses to written motions are due within 15 days of the date the motion was served unless the Administrative Law Judge (ALJ) sets a different date; whereas Rule 47(f) provides that responses to petitions for modification are due within 30 days of the date the petition was served unless the ALJ sets a different date. Among other things, compliance with Rule 2.1(b) will avoid confusion as to the date for responses to the pleading. In any event, SDG&E's motion to shorten time has not yet been acted upon. We hereby dismiss it as moot.

We note that SDG&E filed its petition/motion on July 15, 2002, the same day that the marginal cost showing for which it seeks authorization to defer filing was due to be filed. SDG&E offers no reason why either the petition or the request to shorten time could not have been timely filed prior to July 15. We look with disfavor upon such belated and unsubstantiated requests, as they can impose an undue burden on the Commission and on interested parties. Except in extraordinary circumstances, and upon adequate justification, we expect SDG&E to make such filings on a timely basis.

Discussion

SDG&E states that it is preparing a Cost of Service (COS) application for filing by December 20, 2002 pursuant to D.01-10-030. According to SDG&E, its employees who are responsible for preparing the COS application are, for the most part, the same employees who will develop and support its RDW proposals. SDG&E submits that it would be difficult if not impossible to do both well in the same time period. In addition, SDG&E states that an RDW application filed on November 1 would quickly become outdated because marginal costs used in the RDW process are dependent on COS numbers. By deferring both the marginal cost showing and the RDW filing for this year only, the need for immediate revisions to those filings in order to reflect the COS filing can be avoided.

SDG&E has presented adequate justification for its proposed deferral of its marginal cost showing to February 1, 2003. We will approve that request in order to provide for better coordination of SDG&E's upcoming COS and RDW proceedings. Because February 1, 2003 falls on a Saturday, the marginal cost update will be due on February 3, 2003.

We are closing the captioned proceedings by this decision, and we do not intend to use these or other existing dockets to receive SDG&E's marginal cost update. Therefore, SDG&E should serve its marginal cost update on interested parties on February 3 but should not file it at that time. SDG&E shall file the marginal cost update with its RDW application. We will also approve SDG&E's proposal to file its RDW application in March 2003. Because SDG&E's proposed March 15, 2003 filing date falls on a Saturday, the application will instead be due on March 17, 2003.

We note that the March 17, 2003 filing date does not apply to FEA or other parties. By D.00-12-004 dated December 7, 2000, the Commission modified the

procedures for RDW proceedings by requiring electric utilities to file new applications. Prior to that modification, D.89-01-040 required that all parties including the utility submit their RDW proposals concurrently, using existing dockets. By requiring utilities to file new applications, D.00-12-004 eliminated the earlier provision for concurrent RDW filings. With this modification and SDG&E's proposed schedule, interested parties such as FEA will have access to SDG&E's marginal cost showing six weeks before the application is filed, plus additional time to under our procedures for processing applications, before they are required to file their own RDW proposals or otherwise respond to SDG&E's proposals. With a March 17 filing date and with SDG&E's planned effective date of January 4, 2004, SDG&E's RDW application can be processed over a period of approximately nine months. By comparison, the original plan for RDW proceedings provided for deciding those matters within 142 days from the RDW filing date. We believe that SDG&E's proposed schedule provides adequate time for interested parties to review and analyze the marginal cost update. We therefore decline to adopt FEA's proposal to fix May 15, 2003 as the date for parties to file their RDW proposals, and instead defer the setting of the detailed schedule for processing SDG&E's RDW application to the discretion of the Assigned Commissioner and ALJ.

Comments on Draft Decision

The draft decision was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. No comments were filed. We adopt the draft decision without substantive revision.

Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Mark Wetzell is the assigned ALJ in this proceeding.

Findings of Fact

1. Deferring SDG&E's next marginal cost update and RDW filing will allow SDG&E to avoid having employees who are assigned to prepare its COS application concurrently develop its RDW application. The deferral will also avoid the need for immediate revisions that could otherwise be needed in order to reflect the company's planned COS filing.

2. Interested parties will have access to SDG&E's February 3, 2003 marginal cost showing six weeks before the RDW application is filed, plus additional time thereafter, before they are required to file their own RDW proposals or otherwise respond to SDG&E's proposals.

Conclusions of Law

1. SDG&E's petition for modification should be granted.
2. These proceedings should be closed.

O R D E R

IT IS ORDERED that:

1. The July 15, 2002 petition of San Diego Gas & Electric Company (SDG&E) is granted as set forth in Ordering Paragraph 2.

2. Decision (D.) 89-01-040, D.94-08-023, and D.95-09-020 are modified in the following respects. SDG&E shall serve its marginal cost updates on interested parties, and file the updates with its Rate Design Window (RDW) applications. For the current RDW filing cycle only, the marginal cost showing that SDG&E was required to file on July 15, 2002 shall be served on or before February 3, 2003, and the RDW application that SDG&E is authorized to file on November 1, 2002 shall be filed on March 17, 2003.

3. Rulemaking 87-11-012 and Application 92-10-017 are closed.

This order is effective today.

Dated October 24, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners