

Decision 08-12-051 December 18, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Harbor City Estates, LLC,

Complainant,

vs.

Southern California Gas Company (U904G),

Defendant.

Case 07-01-007
(Filed January 4, 2007)

ORDER EXTENDING STATUTORY DEADLINE

1. Summary

Public Utilities Code Section 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending the deadline. The original 12-month deadline for resolving this matter was January 4, 2008. We extended this deadline by six months in Decision (D.) 07-12-041, and further extended this deadline by six months in D.07-06-033. A Presiding Officer's Decision (POD) was issued on October 9, 2008. Defendant Southern California Gas Company (SoCalGas) appealed the POD on November 10, 2008, pursuant to Rule 14.4 of the Commission's Rules of Practice

and Procedure¹ and Complainant Harbor City Estates, LLC (Harbor City) responded on November 25, 2008. In order to allow the Commission to consider the merits of the appeal of the POD, we grant an additional extension until May 29, 2009.

2. Procedural History

On January 4, 2007, Harbor City filed a complaint against SoCalGas for an order that SoCalGas be required to accept transfer of Harbor City's submetered gas system (System) pursuant to Pub. Util. Code §§ 2791-2799. On February 21, 2007, SoCalGas filed its answer, along with a motion to dismiss. Harbor City filed its response to the motion on March 8, 2006, and SoCalGas filed a reply to the response on March 16, 2007.

Due to attempts to resolve the matter through mediation and difficulties in coordinating the schedules of the parties and Administrative Law Judge (ALJ) Victoria S. Kolakowski, hearings were not held until December 17-18, 2007. Accordingly, we granted an extension of the statutory deadline for resolution of this proceeding to July 7, 2008 in D.07-12-041.

The parties submitted briefs in January, 2008 and February, 2008 and the matter was submitted on February 8, 2008. ALJ Kolakowski issued a ruling on April 7, 2008 requesting additional testimony, which the parties filed on April 23, 2008. The parties filed rebuttal testimony on April 30, 2008, and Harbor City filed a request for additional hearings on the supplemental testimony on April 30, 2008. Notice was issued on May 9, 2008 scheduling such additional

¹ All subsequent references to "Rules" or "Rule" are to the Commission's Rules of Practice and Procedure. The full text of the Commission's Rules are available on the Commission's website at www.cpuc.ca.gov.

hearings for June 23, 2008. Accordingly, in D.08-06-033, we granted an extension of six months to allow time for the parties to file post-hearing briefs and to allow for the issuance of the POD. The six-month extension of time placed the new deadline on January 7, 2009.

As noted above, a POD was issued on October 9, 2008. SoCalGas appealed the POD on November 10, 2008 and Harbor City responded on November 25, 2008. A draft Modified Presiding Officer's Decision (MOD-POD) is being prepared and will be completed before the end of the statutory period, but the Commission will not have an adequate period of time to properly consider and act upon the appeal during the statutory period. Therefore, an extension of time until May 29, 2009 is merited.

3. Assigned Commissioner and Presiding Officer

John A. Bohn is the assigned Commissioner, and ALJ Victoria S. Kolakowski is the presiding officer.

4. Waiver of Comment Period

Under Rule 14.6(c)(4), the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 14.6(c)(4), the otherwise applicable period for public review and comment on an extension order issued pursuant to Pub. Util. Code § 1701.5(a) is being waived.

Findings of Fact

1. This proceeding was initiated on January 4, 2007.
2. The Commission extended the 12-month statutory deadline to July 7, 2008 in D.07-12-041.
3. The Commission subsequently extended the statutory deadline to January 7, 2009 in D.08-06-033.

4. A POD was issued on October 9, 2008.

5. SoCalGas filed an appeal of the POD on November 10, 2008, pursuant to Rule 14.4.

6. An extension until May 29, 2009 is necessary to for Commission consideration of SoCalGas' appeal of the POD.

7. Public review and comment regarding today's decision should be waived.

Conclusions of Law

1. Pub. Util. Code § 1701.2(d) requires that adjudication cases be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline.

2. The findings set forth above are sufficient to justify why the 12-month deadline could not be met.

3. The 12-month statutory deadline imposed by Pub. Util. Code § 1701.2(d) should be extended to May 29, 2009.

IT IS ORDERED that the 12-month statutory deadline in this proceeding is extended to May 29, 2009.

This order is effective today.

Dated December 18, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners