

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**  
06/15/20  
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June 15, 2020

**Agenda ID #18543**  
**Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 19-04-022:

This is the proposed decision of Administrative Law Judges Adeniyi A. Ayoade and Thomas Glegola. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's July 16, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:gp2

Attachment

Decision PROPOSED DECISION OF ALJS AYOADE AND GLEGOLA  
(Mailed on 6/15/2020)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southwest Gas Corporation (U905G) for Authority to Implement the Customer Data Modernization Initiative.

Application 19-04-022

**DECISION GRANTING SOUTHWEST GAS CORPORATION AUTHORITY TO IMPLEMENT ITS CUSTOMER DATA MODERNIZATION INITIATIVE AND APPROVING THE PROPOSED SETTLEMENT**

**Summary**

This decision approves and adopts the Settlement Agreement between Southwest Gas Corporation (Southwest Gas) and the Public Advocates Office and authorizes Southwest Gas to implement a Customer Data Modernization Initiative, replacing its legacy system, and establish a two-way balancing account to record the revenues and costs associated with the project. Southwest Gas estimates the project will cost \$174 million, of which \$19 million will be collected from its California customers. Project costs will be incorporated into Southwest Gas Corporation's forthcoming 2021 GRC Test Year Application.

This proceeding is closed.

**1. Background**

On April 26, 2019, Southwest Gas Corporation (Southwest Gas or Applicant) filed Application (A.) 19-04-022 with the California Public Utilities Commission (Commission) requesting authority to implement a Customer Data

Modernization Initiative (CDMI) and establish a two-way balancing account to record the revenues and costs associated with the CDMI between its general rate cases.

According to Southwest Gas, the CDMI would replace two legacy customer data systems: 1) the Customer Service System (CSS) and 2) the Gas Transaction System (GTS). Southwest Gas explains that while the two legacy systems were adequate when installed decades ago, the systems no longer meet its customers' needs nor the Applicant's business needs, as both systems now have significant functional limitations,<sup>1</sup> and rely on software that soon will be obsolete, creating, among other concerns, cyber security risks.

In total, Southwest Gas estimates this project will cost \$174 million, with it collecting \$19 million in revenue from its customers in California. Southwest Gas also has customers in Nevada. The Applicant estimates that typical customers in California should see the following increases on their monthly bills:<sup>2</sup>

<b>Region</b>	<b>Monthly Bill Increase</b>
Southern California	\$1.83
Northern California	\$1.98
South Lake Tahoe	\$1.66

On May 16, 2019, Southwest Gas filed a Motion to Establish a Memorandum Account to Record Costs Associated with the Customer Data Modernization Initiative. On October 10, 2019, the Commission approved Decision (D.) 19-10-006, granting that motion.

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<sup>1</sup> For example, the current system does not allow for the use of a computer mouse.

<sup>2</sup> See the Rule 3.2 Compliance Filing and Notice, Attachment B, filed with the Commission on June 22, 2019

On May 30, 2019, the Commission's Public Advocates Office (Cal Advocates) filed its Protest to the Application. No other party filed a protest or response to this application.

On August 8, 2019, Administrative Law Judges (ALJs) Adeniyi A. Ayoade and Thomas J. Glegola held a prehearing conference.

On August 20, 2019, the Scoping Memo and Ruling of Assigned Commissioner Martha Guzman Aceves (Scoping Memo) was issued with ALJs Ayoade and Glegola as the presiding officers. The Scoping Memo set forth the procedural schedule and issues to be determined in the proceeding.

## **2. Issues Before the Commission**

As identified in the Scoping Memo, the issues this proceeding must resolve include:

- Whether Southwest Gas' proposal to replace CSS and GTS with the proposed CDMI in this Application is reasonable;
- Whether Southwest Gas' proposed allocation of \$19 million in system costs to its California ratepayers is reasonable and appropriate;
- Whether Southwest Gas' proposed two-way balancing account is the most appropriate cost recovery mechanism, or whether there are better alternatives; and
- Whether the proposed CDMI project and costs should be incorporated into Southwest Gas' forthcoming 2021 GRC Test Year Application.

## **3. Procedural Events Regarding Settlement**

After the issuance of the Scoping Memo, Applicant and Cal Advocates engaged in several settlement discussions, and on September 26, 2019, both parties notified the Commission of a pending settlement in this proceeding.

On January 17, 2020, Applicant and Cal Advocates (the settling parties) submitted a Joint Motion requesting adoption of the settlement agreement (Joint

Motion), together with the “Proposed Settlement Agreement and Supporting Exhibit A,” included with the Joint Motion as Appendix 1 (Settlement Agreement).

The settling parties assert that this Settlement Agreement resolves all outstanding issues in the proceeding, and request that the Commission approve it.

### **3.1. Terms of The Proposed Settlement Agreement**

The main components of the proposed Settlement Agreement are as summarized below.

- \$19 million of the total \$174 million for Southwest Gas’ CDMI project will be collected from California customers.
- The Company’s monthly revenue requirement and costs associated with the CDMI will be recorded into an interest-bearing, two-way balancing account. The monthly revenue requirement will be an amount equal to depreciation and amortization expense, 1/12 of the authorized rate of return (grossed up for income taxes, franchise taxes and uncollectibles) multiplied by the ending rate base each month, plus incremental operations and maintenance (O&M) expenses.
- The first CDMI two-way balancing account rate will be established the month after the Commission issues a decision to begin recovery of O&M expenses. Thereafter, the rate will reset annually on January 1 based on the deferrals through September of the prior year.
- The revenue requirement on capital expenditures will be recorded in the two-way balancing account beginning the month after each work order is placed into service. Recovery of the revenue requirement recorded in the two-way balancing account will begin on January 1, the year after each work order is placed into service.
- The revenue requirement related to the CDMI charged to the two-way balancing account will cease the day before

rates are effective in the next general rate case after the Company's Test Year 2021 general rate case. At that time, the revenue requirement associated with the CDMI will roll into the base margin revenue requirement.

- An amount equal to the incremental O&M expenses associated with the CDMI will be recorded in the two-way balancing account beginning the month after they are incurred. Recovery of incremental O&M expenses incurred through the date of the Commission decision issued in the Application will begin the month after the Commission issues a decision in the Application.
- The two-way balancing account will terminate when the revenue requirement and costs charged to the account are fully collected from customers.
- The amortization period is expected to be 15 years for the CSS Program and 10 years for GTS for the portion charged to Account 303.
- A capping mechanism will be applied to cost recovery of CDMI project costs. Actual project implementation costs up to 100 percent of the agreed-upon project implementation cost of \$19 million will be recovered via Tier 2 Advice Letter and will be subject to audit but not subject to additional reasonableness review. If actual project implementation costs are greater than 100 percent (\$19 million) and up to 110 percent of the agreed-upon project implementation costs, Southwest Gas will file a Tier 3 Advice Letter for cost recovery of incremental costs above 100 percent. If actual project implementation costs are greater than 110 percent of the agreed upon project implementation costs, Southwest Gas will file an Application, in which the costs that exceed 110 percent of the agreed upon project implementation costs (\$19 million) will be subject to reasonableness review.

The Settlement Agreement does not differ from the original application in terms of the amount of revenue collected and funds expended, however, it imposes conditions on Southwest Gas that were not in its application.

#### **4. Framework for Reviewing Settlements**

The Commission must ensure that the proposed settlement complies with our standards for adopting settlements. The rules governing the submission and review of proposed stipulations and settlements are set forth in Rule 12.1 of the Commission's Rules of Practice and Procedure. Rule 12.1(d) specifies that "the Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest."

In addition to this general framework, the Commission established criteria for approval of "all-party" settlement proposals in D.92-12-019. As a precondition to our approval, the Commission must be satisfied that:

- a. a proposed all-party settlement commands the unanimous sponsorship of all active parties to the proceeding;
- b. the sponsoring parties are fairly reflective of the affected interests;
- c. no term of the settlement contravenes statutory provisions or prior Commission's decisions; and
- d. the settlement conveys to the Commission sufficient information to permit us to discharge our future regulatory obligations with respect to the parties and their interests.

Finally, in evaluating settlements, we recognize the Commission's historical preference favoring the settlement of disputes to avoid costly and protracted litigation.

#### **5. Discussion and Analysis**

Southwest Gas and Cal Advocates, the only parties in this proceeding, assert that the proposed Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. Both contend the Settlement Agreement is reasonable because it adequately addresses and

resolves the parties' concerns regarding all issues presented in the record.<sup>3</sup> They contend that the terms of the Settlement Agreement comply with applicable statutes and prior Commission decisions and that this proposed settlement is similar to other settlements previously approved by the Commission.<sup>4</sup> Also, the settling parties note that the tiered cost recovery mechanism in this proposed settlement is based in part on the approved settlement of a San Diego Gas & Electric Company (SDG&E) application to replace its customer information system.<sup>5</sup> Finally, both parties assert that the Commission has determined that a settlement that "commands broad support among participants fairly reflective of the affected interests" and "does not contain terms which contravene statutory provisions or prior Commission decisions" meets the "public interest" criterion.<sup>6</sup>

After a thorough review of the proposed Settlement Agreement, including the testimony, data request responses and other supporting materials, we find that it satisfies Rule 12.1(d), other requirements specified in Rule 12.1, and other Commission decisions regarding the approval of formal settlements.

### **5.1. Settlement Agreement Resolves Outstanding Issues**

We find that the proposals in the Settlement Agreement resolve all issues before the Commission in this proceeding. Independently, we conclude based on the record, that Southwest Gas' proposal to replace its outdated customer data system with a new system is reasonable. We find that the new data systems

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<sup>3</sup> *Joint Motion of Southwest Gas Corporation (U 905 G) and the Public Advocates Office for Adoption of a Settlement Agreement*, January 17, 2020 (Joint Motion) at 4.

<sup>4</sup> *Id*

<sup>5</sup> *Id*

<sup>6</sup> *Id* at 5

will provide greater functionality, by improving the efficiency of the company's business operations, as well as allowing the company to address better cyber security risks. Additionally, the parties agree that Southwest Gas' proposed allocation of \$19 million in system costs to its California ratepayers is reasonable and appropriate.

Finally, we find that Southwest Gas' proposed two-way balancing account is the most appropriate cost recovery mechanism. Two-way balancing accounts are typically used in these instances and no party identified a better alternative. Considering that this is a large project with many variables, a two-way balancing account ensures that ratepayers only pay for actual costs and ensures that Southwest Gas will have sufficient funds to establish the project. We also find that a reasonableness review of projected costs that were already reviewed in this application is not necessary, except that costs in excess of 110 percent of what was forecast and reviewed in this application should be subject to a reasonableness review by the Commission.

**5.2. Settlement Agreement Complies with Rules, is Reasonable, Consistent with Law, and in the Public Interest**

The settling parties complied with Rule 12.1(a) by making the appropriate filings in a timely manner. Since they are the only parties in this proceeding, they requested an exemption from the requirement to notice and participate in a settlement conference, which we grant.

We find that the settling parties reflect the affected interests. Southwest Gas represents the interests of its shareholders and provides necessary gas and electric services to its customers, while Cal Advocates represents the interests of ratepayers.

Further, we find that the Motion to adopt the Settlement Agreement and the Settlement Agreement itself contain statements of the factual and legal considerations adequate to advise the Commission of the scope of the settlement, and of the grounds for its adoption.

Regarding the question of if the Settlement Agreement is “reasonable in light of the whole record, consistent with law, and in the public interest,” we conclude that the Settlement Agreement is reasonable based on the record, reflecting compromises by the settling parties. The proposals in the Settlement Agreement are the result of arms-length negotiations between the settling parties and that the settling parties have agreed on resolving all disputes. We also find that the proposed resolutions of disputed issues are within the Commission’s jurisdiction and do not contravene or compromise any statutory provision or prior Commission decision.

The proposals and agreements in the Settlement Agreement serve the public interest by resolving competing concerns in a collaborative and cooperative manner. Approval of the Settlement Agreement provides a timely and complete resolution of the contested issues raised in the proceedings.

Based on the foregoing discussion and analysis, we conclude that the Settlement Agreement does not contravene or compromise any statutory provision or prior Commission decision, is consistent with the law, reasonable in light of the whole record, and in the public interest. Accordingly, we conclude that the Settlement Agreement meets the tests for adoption by the Commission.

### **5.3. Settlement Agreement is Approved**

The Commission has a public policy favoring the settlement of disputes to avoid costly and protracted litigation. As noted above, we find that the

Settlement Agreement herein, including the proposals and resolutions set forth therein satisfy the Commission's public policy preference of favoring settlements.

Based on the foregoing discussion and analysis, we find that the Settlement Agreement meets the settlement standards set forth in Rule 12.1(d), and conclude that the Settlement Agreement is reasonable in light of the record as a whole, is consistent with law, and is in the public interest. We have examined each proposal in the Settlement Agreement and find them reasonable. Moreover, most of the proposals, agreements and recommendations in the Settlement Agreement are presented as an integrated package and we conclude that these proposals, agreements and recommendations set forth in the Settlement Agreement should be approved.

#### **6. Transferring Balance in Memorandum Account**

As previously noted, in D. 19-10-006, the Commission approved Southwest Gas's motion to establish a Memorandum Account to record the costs associated with this project. In that motion Southwest Gas requested that, in the final decision resolving the Application, it be granted authority to transfer the balance in the Memorandum Account into the proposed two-way balancing account, with the Memorandum Account closing upon the approval of the Application. As requested, we grant Southwest Gas the authority to transfer the balance in the Memorandum Account (authorized in D. 19-10-006) into the proposed two-way balancing account granted in this decision, and Southwest Gas shall close the Memorandum Account upon the approval of this Application.

#### **7. Motion for Confidential Treatment**

The parties filed a Joint Motion for Leave to File Confidential Materials Under Seal, including Exhibit A to the Settlement Agreement, the Settlement

Agreement and data request responses identified as confidential material when provided. We have granted similar requests in the past and we do so here also.

### **8. Comments on Proposed Decision**

The proposed decision of ALJs Ayoade and Glegola in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

### **9. Assignment of Proceeding**

Martha Guzman Aceves is the assigned Commissioner and Adeniyi A. Ayoade and Thomas J. Glegola are the assigned ALJs in this proceeding.

### **Findings of Fact**

1. Subject to the conditions in the settlement agreement, the proposal of Southwest Gas Corporation to replace its two legacy customer data systems – the Customer Service System and the Gas Transaction System – with the proposed Customer Data Modernization Initiative in this Application is reasonable.
2. Southwest Gas' proposed allocation of \$19 million in system costs to its California ratepayers is reasonable and appropriate.
3. Southwest Gas' proposed two-way balancing account is the most appropriate cost recovery mechanism.
4. The Settlement Agreement between Southwest Gas and Cal Advocates resolves all issues in this proceeding.
5. The Settlement Agreement between Southwest Gas and Cal Advocates is reasonable.

6. The Settlement Agreement between Southwest Gas and Cal Advocates is in the public interest.

### **Conclusions of Law**

1. The proposed CDMI project and costs should be incorporated into Southwest Gas' forthcoming 2021 GRC Test Year Application.

2. The Settlement Agreement between Southwest Gas and Cal Advocates is reasonable in light of the whole record, consistent with law, Commission rules and decisions, and is in the public interest.

3. The Settlement Agreement between Southwest Gas and Cal Advocates should be adopted.

4. Granting the motion requesting confidential treatment is appropriate.

### **O R D E R**

**IT IS ORDERED** that:

1. The Settlement Agreement between Southwest Gas Corporation and the Commission's Public Advocates Office is adopted.

2. Southwest Gas Corporation is authorized to implement its Customer Data Modernization Initiative in accordance with the Settlement Agreement identified in Ordering Paragraph 1.

3. Southwest Gas Corporation is authorized to recover the amounts proposed for its Customer Data Modernization Initiative and incorporate costs into its forthcoming 2021 GRC Test Year Application.

4. Southwest Gas Corporation shall file a Tier 1 Advice Letter to close the Memorandum Account, open a Balancing Account, and transfer the balance in the Memorandum Account (authorized in D.19-10-006) into the two-way balancing account authorized in this decision.

5. Actual project implementation costs up to 100 percent of \$19 million will be recovered via a Tier 2 Advice Letter and will be subject to audit but not subject to additional reasonableness review. If actual project implementation costs are greater than \$19 million up to 110 percent, Southwest Gas Corporation will file a Tier 3 Advice Letter for cost recovery of incremental costs above 100 percent. If actual project implementation costs are greater than 110 percent of \$19 million, Southwest Gas Corporation shall file an application, in which the costs that exceed the 110 percent threshold will be subject to reasonableness review.

6. Southwest Gas Corporation's monthly revenue requirement and costs associated with this project will be recorded into an interest-bearing, two-way balancing account. The monthly revenue requirement will be an amount equal to depreciation and amortization expense, 1/12 of the authorized rate of return (grossed up for income taxes, franchise taxes and uncollectibles) multiplied by the ending rate base each month, plus incremental operations and maintenance expenses.

7. The first Customer Data Modernization Initiative two-way balancing account rate will be established the month after the Commission issues a decision to begin recovery of operations and maintenance expenses. Thereafter, the rate will reset annually on January 1 based on the deferrals through September of the prior year.

8. The revenue requirement on capital expenditures will be recorded in the two-way balancing account beginning the month after each work order is placed into service. Recovery of the revenue requirement recorded in the two-way balancing account will begin on January 1, the year after each work order is placed into service.

9. The revenue requirement related to the Customer Data Modernization Initiative charged to the two-way balancing account will cease the day before rates are effective after Southwest Gas Corporation's Test Year 2021 general rate case. At that time, the revenue requirement associated with this project will roll into the base margin revenue requirement.

10. An amount equal to the incremental operations and maintenance (O&M) expenses associated with the Customer Data Modernization Initiative will be recorded in the two-way balancing account beginning the month after they are incurred. Recovery of incremental O&M expenses incurred through the date of the Commission decision issued in the Application will begin the month after the Commission issues a decision in the Application.

11. The two-way balancing account will terminate when the revenue requirement and costs charged to the account are fully collected from customers.

12. The motion to file under seal the materials designated as confidential is granted. The designated confidential materials, including Exhibit A to the Settlement Agreement, the Settlement Agreement and data request responses identified as confidential, shall remain under seal for three years after the date of this order. During this three-year period, the confidential materials shall remain under seal and not be accessible or disclosed to persons other than the Commissioners and Commission staff except on further order or ruling of the Commission, the Assigned Administrative Law Judge, or the designated law and motion judge at the time of such ruling. If any interested party believes it is necessary for any of this information to remain under seal longer than three years, that party shall file a new motion stating the justification of further withholding the information from public inspection. The motion shall be filed at least 30 days before expiration of this order.

13. Application 19-04-022 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.