Decision 09-09-006 September 10, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric
Company (U902M) for Authority to Update
its Gas and Electric Revenue Requirement
and Base Rates Effective on January 1, 2008.

Application 06-12-009 (Filed December 8, 2006)

And Related Matters.

Application 06-12-010 (Filed December 8, 2006)

Investigation 07-02-013 (Filed February 15, 2007)

(See Appendix for List of Appearances.)

DECISION DENYING THE PETITION TO MODIFY DECISION 08-07-046 FILED BY THE GREENLINING INSTITUTE

1. Summary

This decision denies the petition to modify Decision 08-07-046 filed by the Greenlining Institute in light of the Commission's denial of the Greenlining Institute's application for rehearing, which raised identical issues. Therefore, the petition to modify is most and hereby denied. There is no cost impact to ratepayers.

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2. Background

The petition to modify¹ states: "From Greenlining's viewpoint, the earlier filed Application for Rehearing² is dispositive and amply demonstrates why the CPUC should reverse Commissioner Bohn's flawed decision to reject the Sempra-Greenlining settlement agreement." (Petition at 1 – 2.) In Decision (D.) 09-06-052 the Commission denied Greenlining's application for rehearing. The decision summarized the application:

Specifically, Greenlining challenges D.08-07-046 on the following grounds: (1) the rejection of the agreement is inconsistent with established Commission policy and precedent; (2) the determination to not adopt the agreement harms ratepayers because it discourages corporate social responsibility, undermines the Commission's leadership, and impedes economic development; and (3) the Decision treats minorities in a discriminatory manner by not adopting the Agreement while choosing to adopt the settlement between Disability Rights Advocates and SDG&E and SoCalGas. (D.09-06-052 at 2.)

The Commission noted in that decision:

Preliminarily, it is noted that all of Greenlining's contentions are offered without specific legal grounds, and therefore do not comply with the requirements of Public Utilities Code Section 1732 which requires the rehearing applicant to "set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful." (Pub. Util. Code, § 1732.) Rule 16.1(c) of the Commission's Rules of Practice and Procedure further requires that "[a]pplications for rehearing shall set forth specifically the grounds on which the applicant considers the order or

¹ Filed October 15, 2008.

² Filed September 2, 2008.

decision of the Commission to be unlawful or erroneous, and must make specific references to the record or law." (Code of Regs., tit. 20, §16.1, subd. (c).) We could reject Greenlining's contentions on this basis alone. Nevertheless, as explained [in the decision], Greenlining's contentions are otherwise without merit and are rejected because no legal error is demonstrated. (D.09-06-052 at footnote 2.)

The decision denied Greenlining's application for rehearing³ although the decision did make various modifications to D.08-07-046.

3. Discussion

As admitted by Greenlining, it repeats its application for rehearing in its petition to modify. The Commission addressed the application for rehearing at length in D.09-07-046 and denied rehearing. There are no new issues raised in the petition and therefore the petition to modify is moot and should be denied.

4. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Douglas M. Long is the assigned Administrative Law Judge (ALJ) in this proceeding.

5. Comments on Proposed Decision

The proposed decision of the ALJ 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. No comments were filed.

³ There was a second unrelated application for rehearing filed by The Utility Reform Network and the Division of Ratepayer Advocates. That application was also denied, after modifications to D.08-07-046, in D.09-06-052.

Findings of Fact

- 1. There is a full and complete record in Applications 06-12-009 and 06-12-010 which support D.08-07-046 as modified by D.09-06-052.
- 2. The issues raised in the petition to modify are the same issues raised in the application for rehearing.

Conclusions of Law

- 1. The petition to modify is moot.
- 2. This decision should be effective immediately.

ORDER

IT IS ORDERED that:

- 1. The petition to modify Decision 08-07-046 filed by the Greenlining Institute is denied as moot.
- 2. Applications 06-12-009, 06-12-010 and Investigation 07-02-013 remain open to address an unrelated petition to modify.

This order is effective today.

Dated September 10, 2009, at San Francisco, California.

President
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JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX

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