

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U904 G) for Authority to Revise its Rates Effective January 1, 2003, in its Biennial Cost Allocation Proceeding.

Application 01-09-024
(Filed September 21, 2001)

In the Matter of the Application of San Diego Gas & Electric Company (902 G) For Authority to Revise its Gas Rates Effective January 1, 2002, in its Biennial Cost Allocation Proceeding.

Application 01-10-005
(Filed October 5, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING MOTION OF THE
ELECTRIC GENERATOR ALLIANCE TO STRIKE TESTIMONY
ON EMBEDDED COST-BASED ALLOCATION**

Summary

This ruling denies the motion of the Electric Generator Alliance (EGA)¹ to strike testimony on embedded cost-based allocation or, in the alternative, to remove such testimony to another phase or proceeding. Testimony on both the embedded cost-based and the long-run marginal cost-based (LRMC) methodologies for revenue allocation among customer classes will be allowed in this proceeding.

¹ EGA describes itself as an ad hoc organization established to represent the interests of its member generators in Commission proceedings. In this proceeding, EGA consists of Duke Energy North America and Dynegy Marketing and Trade.

Background

Southern California Gas Company (SoCalGas) filed its Application (A.) 01-09-024 on September 21, 2001, for Authority to Revise its Rates Effective January 1, 2003, in its Biennial Cost Allocation Proceeding (BCAP), and on October 5, 2001, San Diego Gas & Electric Company (SDG&E) followed with its BCAP Application, A.01-10-005. Both initial applications proposed to replace the LRMC methodology, a methodology followed by the Commission for the last decade, and replace it with an embedded cost-based allocation methodology. Both initial applications presented theoretical testimony in support of the shift in methodologies. SoCalGas and SDG&E amended their applications on November 13, 2001, and November 21, 2001, respectively, to present resulting rates from an embedded cost-based allocation analysis. Pursuant to an Administrative Law Judge (ALJ) Ruling, both BCAP applications were consolidated for proceeding purposes and a Prehearing Conference (PHC) was held on December 4, 2001.

On December 3, 2001, EGA filed its motion to strike the testimony on the embedded cost-based allocation or, in the alternative, to remove such testimony to another phase or proceeding. EGA filed the motion out of concern for how the embedded cost methodology will affect the processing and timing of this case.

At the December 4, 2001 PHC, responding parties were given until January 4, 2002, to file a response to EGA's motion, and oral argument was set for January 10, 2002. The following parties filed a response to EGA's motion: The California Cogeneration Council (CCC); Office of Ratepayer Advocates (ORA); Pacific Gas and Electric Company (PG&E); SoCalGas and SDG&E; Southern California Generation Coalition (SCGC); the Utility Reform Network

(TURN); Watson Cogeneration Company (Watson); and the Western Manufactured Housing Communities Association (WMA).

On December 11, 2001, the Commission issued Decision (D.) 01-12-018. This decision adopted, with various modifications, the Comprehensive Settlement Agreement submitted in the Gas Industry Restructuring (GIR) proceeding. This decision unbundled SoCalGas' backbone transmission system and storage on an embedded cost basis. Responding parties had the advantage of reading the GIR before filing their responses.

At the January 10, 2002, motion hearing oral argument was presented by the following: Brian Cragg, of Goodin, Macbride, Squeri, Ritchie & Day, LLP, for EGA; Joesph M. Karp, of White & Case, LLP, for CCC; Patrick Gileau for ORA; Brian Cherry for PG&E; Jeffrey Parrott for SoCalGas and SDG&E; Scott A. Lehecka for SCGC; Marcel Hawiger for TURN; Thomas Beach for Watson; and Ed Poole for WMA. In addition, although not filing any written response, Gregory Klatt presented oral argument on behalf of Transwestern.

Summary of Positions

In summary, EGA contends that the embedded cost-based allocation should not be part of the current BCAP because 1) this proposal conflicts with the Commission's long and consistent preference for LRMC allocation; 2) consideration of this new proposal will unduly complicate and prolong this proceeding; and 3) a separate phase or proceeding will allow for a fuller consideration of the embedded cost proposal.

Numerous parties supported EGA's motion, and some presented additional arguments to bolster their position. CCC, in addition to adopting EGA's arguments, posits that if the BCAPs include embedded costs in addition to LRMC, inconsistencies in the gas market could result. PG&E supports EGA's

motion and agrees with CCC that inconsistencies in the gas market will result in a playing field that is not level and will create rate-making chaos. Watson also supports EGA's motion, and in particular, is concerned that embedded costs will not promote the policy goals of statewide consistency and rate stability. In addition, Watson claims that using the embedded cost methodology will have a major financial impact on non-core customers. SCGC supports EGA's motion out of concern that the deliberation of embedded costs will unduly complicate and delay the proceeding—a proceeding that has already been delayed to the point that it will be difficult to complete this case by the end of the current BCAP period of December 31, 2002.

TURN argues that the GIR partially moots EGA's motion. The GIR unbundled backbone transmission and storage costs on an embedded² cost basis. Turn contends that the GIR is an indication that the Commission is moving away from LRMC and therefore consideration of an embedded cost methodology does not violate Commission policy. TURN does agree with EGA that litigating both competing cost allocation philosophies will prolong the proceeding, but TURN is more concerned with the end result of the BCAP and its impact on core customers than the schedule. In fact, TURN requests that the Commission not only consider embedded costs for distribution and customer costs, but also to review the embedded cost methodology used in the GIR for backbone transmission and storage.

² TURN characterizes the CSA as using a "supposedly" embedded cost basis since the result of the CSA "mimics" the outcome of the LRMC allocation. Simultaneously with filing its response to EGA's motion, TURN filed a Petition for Modification or Clarification of D.01-12-018 asking that the Commission review the specific elements of the embedded cost allocation methodology in this BCAP proceeding.

ORA opposes EGA's motion. ORA does not agree with EGA and others that consideration of embedded costs conflicts with the Commission's long-stated preference, especially in light of D.10-12-018. Since the GIR removes backbone transmission and storage from this proceeding, both subjects that are traditionally contentious issues, ORA argues that consideration of embedded costs for distribution and customer costs will not unduly complicate or prolong the proceeding.

WMA presents a number of arguments in opposition to EGA's motion that are very similar to ORA's. In summary, WMA argues that in light of the GIR, embedded cost allocation is the direction in which the Commission is heading, and WMA wants the maximum flexibility of considering both the LRMC and the embedded cost approach in one proceeding.

SoCalGas and SDG&E also oppose EGA's motion. In their initial application filings, the utilities announced that they would be presenting amended testimony on the embedded cost methodology, so all parties were on notice that this BCAP proceeding would involve an analysis of the competing methodologies when the parties agreed to the hearing schedule. Therefore, the utilities contend that the addition of embedded cost will not unduly complicate or delay the proceeding. In fact, SoCalGas and SDG&E allege that since the GIR resolved several substantial issues, specifically transmission and storage, additional time is available for consideration of the embedded cost issue. The utilities do not see any purpose in using the LRMC in the BCAP to allocate costs to the customer classes, and then having all the same parties consider embedded costs in a separate phase or proceeding.

Discussion

The Commission is concerned with concluding this combined BCAP proceeding in as expeditious manner as is logistically possible. Potentially, the inclusion of the embedded cost-based methodology, to be considered along side the LRMC methodology could complicate and prolong the proceeding.

Therefore, there is a certain appeal to EGA's motion to strike the embedded cost testimony from this proceeding. Continuing with just the long-standing LRMC methodology might simplify and expedite this combined BCAP.

However, the Commission is also concerned with state-wide consistency. In PG&E's last BCAP, LRMC were used to allocate costs for distribution and customer costs. PG&E's rates will be in effect for two more years. As many parties argued, to use different methodologies for the utilities may result in some inconsistencies in rates for classes of customers. While consistency alone is not a primary goal, the Commission has frequently deviated from cost allocations based solely on LRMC, and has been moving towards embedded costs for unbundled transmission and storage functions, as evidenced in both the recent decision in the GIR, and in the Gas Accord for PG&E. Therefore, it is apparent that the Commission is interested in comparing LRMC and embedded cost for cost allocation purposes. For this reason, EGA's motion to strike testimony on embedded cost-based allocation is denied. Testimony on embedded costs will be compared with the testimony on LRMC, to enable parties and the Commission to determine which method, or combination of methods, is most appropriate for allocation among customers of each utilities' non-gas costs of service. Including an embedded cost analysis in this BCAP might require more work from all the parties, but the record will then be as complete as possible so that the Commission can make a well-informed decision.

Amended Applications

The issuance of the GIR, D.01-12-018, by the Commission on December 11, 2001, unbundling SoCalGas' backbone transmission and storage, necessitates that SoCalGas and SDG&E amend, for a second time, their BCAP applications. At the January 10, 2002, law and motion hearing, I ordered SoCalGas to file its amended application by March 4, 2002, and SDG&E to file its amended application by March 18, 2002.

At the December 4, 2001 PHC, I adopted the procedural schedule agreed to by the parties at a pre-PHC meet and confer. Pursuant to that schedule, hearings are to take place May 21 through June 14, 2002. ORA is to file its testimony by March 22, 2002. Understandably, ORA asked for a shift in the procedural schedule³.

Because the parties worked in good faith to design the original procedural schedule and to set aside four weeks for hearing, I am reluctant to suspend the entire hearing schedule at this time. Instead, I have ordered the parties to meet and confer to determine if they could shift the service dates for testimony so as to accommodate the March filing of the amended applications by the utilities, and still keep the established hearing dates.

I have been informed that the meet-and-confer session will take place no later than January 22, 2002. I direct parties to provide a status report to me at that time and I will then determine if the original hearing schedule can remain, with just a shift in the service of testimony dates, or if an entire new procedural schedule needs to be established.

³ ORA filed a motion to suspend the procedural schedule. The motion is not being ruled on at this time.

Therefore, **IT IS RULED** that:

1. The motion of the Electric Generator Alliance to strike testimony on embedded cost-based allocation or, in the alternative, to remove such testimony to another phase or proceeding is denied.
2. The evidentiary hearing schedule of May 21 through June 14, 2002, is not suspended at this time. No later than January 22, 2002, parties are to meet and confer to determine if a shift in the filing dates for testimony will be sufficient to meet the needs of the parties' to respond to the March amendments to Biennial Cost Allocation Proceeding applications, and keep the established hearing schedule.
3. Parties shall provide the Administrative Law Judge with a status report by January 30, 2002.

Dated January 17, 2002, at San Francisco, California.

/s/ CAROL BROWN (by ang)

Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion of the Electric Generator Alliance to Strike Testimony on Embedded Cost-Based Allocation on all parties of record in this proceeding or their attorneys of record.

Dated January 17, 2002, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.