

L/SEE/lkw

Decision 89 09 051

SEP 7 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SAN DIEGO GAS & ELECTRIC COMPANY
for authority to Increase its Rates
and Charges for Electric, Gas
and Steam Service.

)
)
) Application 84-12-015
) (Filed December 17, 1984)
)
)

And Related Matter.

)
) I.85-02-010
) (Filed February 6, 1985)
)
)

ORDER MODIFYING DECISION (D.) 89-02-074
AND DENYING REHEARING

An application for rehearing of Decision (D.)89-02-074 has been filed by San Diego Gas & Electric Company. We have considered all the allegations raised in the application and are of the opinion that rehearing should be denied but that the decision should be modified as set forth below. Therefore,

IT IS HEREBY ORDERED:

D.89-02-074 is modified as follows:

1) The following Findings of Fact are added to the decision:

44. The prudence of the instant contracts does not involve a FERC-ordered allocation of power among regulated related entities that affects rates.

45. The SDG&E/TEP and SDG&E/PNM transactions involve two party contracts between unaffiliated companies.

46. In the case of the SDG&E/TEP and SDG&E/PNM contracts, the FERC did not expressly mandate a specific quantity of power to SDG&E.

47. The FERC did not examine SDG&E's alternatives in entering into the contracts.

48. The FERC did not review whether SDG&E, as a purchaser of power, made a reasonable purchase.

49. Lower cost power than that under the PNM contract was available on SDG&E's own system.

50. PSD's proposed disallowances are not based on the contention that the price paid is unreasonable.

2) The following Conclusions of Law are added to the decision:

32. Federal regulation of rates for wholesale transactions is not disturbed by a state Commission's inquiry into the prudence of a retail seller's choice of its source of supply.

33. SDG&E bears the burden of proving that it prudently administered the Southwest purchase contracts.

34. While the FERC has jurisdiction over wholesale rates charged by a utility, the CPUC has authority to determine the reasonableness of the retail rates.

35. The instant decision does not question the FERC's authority to determine wholesale rates.

36. The Supreme Court has not ruled on the issue whether particular power procured by a utility could be deemed excessive if lower-cost power was available elsewhere.

IT IS FURTHER ORDERED:

Rehearing of D.89-02-074 as modified herein, is denied.

This order is effective today.

Dated SEP 7 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Wesley Franklin

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WESLEY FRANKLIN, Acting Executive Direc