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Decision 92-11-020 November 6, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's own motion to implement the Biennial Resource Plan Update following the California Energy Commission's Seventh Electricity Report.	I.89-07-004 (Filed July 6, 1989)
And Related Matters.	Application 91-02-092 Application 91-07-004 Application 91-08-028

ORDER DENYING REHEARING

SAN DIEGO GAS AND ELECTRIC COMPANY (SDG&E) has filed an application for rehearing of Decision (D.) 92-08-029. We have considered all the allegations of error in the application and are of the opinion that good cause for rehearing has not been shown.

D.92-08-029 responded to a petition for modification of D.92-04-045 (the underlying decision) by the Independent Energy Producers' Association (IEP) and the Geothermal Resources Association (GRA). We did not grant the petition; however, we did modify the underlying decision to resolve a delay in its implementation.

In determining the amount of electrical generation which should be subject to the bidding process, we depended to an extent on "identified deferrable resources" (IDRs). IDRs are those resources the utility would have had to build, in the absence of QFs, to provide the same amount of capacity and energy which the QFs will provide once the bids have been awarded. The capital and operating costs (including environmental and, for the

first time, transmission costs) of these IDRs serve as a price benchmark against which bidders must compete.

The underlying decision included 300 megawatts (MW) of geothermal resources for Southern California Edison (Edison) and 200 MW for SDG&E. In determining the geothermal benchmark price, Edison and SDG&E disagreed on methodology. Edison favored the California Energy Commission's (CEC's) ER-90 capital and operating cost figures, while SDG&E preferred data it had collected from generic sources and its own developers. The presiding Administrative Law Judges (ALJs) proposed that the parties should use the cost data sets developed in ER-90. SDG&E counterproposed that the ER-92 data be used instead, as it is more recent and more thoroughly investigated. We adopted this counterproposal.

However, the cost data from ER-90 provides definite cost figures, broken down into fixed and variable components, whereas the data in ER-92 is given in ranges. Using the latter, therefore, requires agreement between the parties as to which figure within the range is to be used. To date, the parties have not been able to agree.

Part of the calculation of a benchmark is the location of a "known Geothermal resource area" (KGRA) vis a vis the utility's transmission system. IEP and GRA petitioned to modify the underlying decision by adopting costs developed by GRA at KGRAs with which it had had experience.

There were objections to the petition for modification and, in D.92-08-029, we denied it. However, in considering the petition we found that the parties had not yet agreed on a method of using the ER-92 data to determine a benchmark price. D.92-08-029, p. 11, Finding of Fact No. 4. We noted that the ER-90 cost data used in Edison's testimony resulted in a benchmark "within the cost ranges considered by the ER-92 Committee." Id., Finding of Fact No. 5. We further noted that our Division of Ratepayer Advocates (DRA) proposed to break down Edison's assumed variable costs into its fixed and variable components, and found that the

combination of DRA's cost assumptions and a best-situated KGRA assumption "will yield a reasonable geothermal price benchmark for use in the coming auctions." Ibid.

SDG&E's application for rehearing alleges that D.92-08-029 imposes a benchmark which may not be cost-effective for SDG&E, in violation of Public Utilities Code § 701.1.[1] SDG&E alleges that the benchmark is not supported by the record and, consequently, is arbitrary and capricious. Finally, SDG&E alleges that the changes to the underlying decision made in D.92-08-029 violate §§ 1705 and 1708.

DRA has responded to the application for rehearing, opposing rehearing of the issue on grounds that SDG&E's assertions of ratepayer exposure due to cost-ineffectiveness are not supported even by SDG&E's own calculations, that those calculations include errors which further undermine their support of SDG&E's conclusions, and that SDG&E's allegation "assumes that the second price auction format, which encourages bidders to bid their true costs, will not work." DRA Response, p. 2.

Edison has also responded, supporting SDG&E's position on the grounds that the ER-90 data (which Edison itself originally suggested as the basis) is now outdated. IEP has filed a response opposing SDG&E's application, on grounds that there is no real evidence supporting the argument that any geothermal IDRs are not cost-effective.

Discussion

Section 701.1, subdivision (a), provides that minimizing the "cost to society of reliable energy services" shall be a principle goal of utilities' resource planning and investment. Subdivision (b) provides that the utilities should "seek to exploit all practicable and cost-effective conservation"

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1. Unless otherwise indicated, all statutory references herein are to the California Public Utilities Code.

and improvements in energy efficiency. Subdivision (c) provides that we must include environmental costs and benefits in calculating cost effectiveness.

SDG&E's application alleges that D.92-08-029 violates this section because, contrary to the findings in D.92-08-029, the revised benchmark is based on figures which it says are "at the high end" of those available to the Commission to choose from. SDG&E further argues that the resultant cost of the energy to SDG&E may not be cost-effective,[2] and that therefore the decision violates § 701.1, "which requires 'least cost' planning." Application, p. 8 (emphasis in original).

However, SDG&E does not bring any evidence to show that these figures are in fact high. Its one "demonstration" of the "factual errors" in D.92-08-029 (application, pp. 4 - 6), consists of a table of figures which are still being litigated. With respect to violations of § 701.1, subdivisions (a) and (b) of that section simply make least-cost planning a major factor in our planning and that of the utilities, while subdivision (c) is specific in its references to consistency with the Public Resources Code, to which we need not adhere if we give reasons in our decision for the choice. Thus, even if the figures were high, the decision would not violate § 701.1. This allegation does not show good cause for rehearing.

Section 1705 provides that the Commission must make findings of fact and conclusions of law "on all issues material to the order or decision." Because D.92-08-029 made no finding or conclusion specifically stating that the benchmark set therein is cost-effective, argues SDG&E, the decision violates § 1705.

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2. SDG&E never alleges in its application that the benchmark is not cost-effective; it only alleges that it has the potential to result in cost-ineffective pricing. However, even that weaker allegation is unsupported.

Although in D.92-08-029 we did not specifically use the term "cost-effective," it is clear from the context of the decision as well as from our findings, especially Finding of Fact No. 5, that cost-effectiveness was found. As both DRA and IEP point out in their responses, there is no evidence supporting SDG&E's allegation of higher costs and, in fact, there is considerable evidence undermining it. Further, D.92-08-029 is a modification of the underlying decision, D.92-04-045, and need not repeat the many findings we made therein on the subject of the cost-effectiveness of geothermal energy. D.92-08-029 does not violate § 1705.

Section 1708 provides that any time we wish to "rescind, alter or amend any order or decision made by [us]," there must be notice to the parties and "opportunity to be heard as provided in the case of complaints." SDG&E alleges that the change made by D.92-08-029 to the underlying decision is great enough to qualify as rescission, alteration or amendment, and requires an evidentiary hearing. Because no such hearing was held, SDG&E says, D.92-08-029 violates § 1708.

However, the change to the benchmark is relatively small and quite appropriate to the modification procedure as opposed to a full hearing. Further, SDG&E had a chance to make its arguments in favor of the ER-92 data before the underlying decision came out. Its arguments and evidence are still before us, and still within our consideration.

Moreover, the benchmark chosen in the underlying decision has proven unworkable (D.92-08-029, Finding of Fact No. 4, p. 11); the reason for our change of the benchmark is that the bidding is being delayed by the failure of the parties to agree on ER-92 cost figures. Further hearings on questions that have already been litigated would only make the delay longer without adding anything of value to what the parties have already brought for our consideration. Thus, D.92-08-029 does not violate § 1708, and this allegation fails to show good cause for rehearing.

THEREFORE, IT IS ORDERED that rehearing of D.92-08-029 is hereby denied.

This order is effective today.

Dated November 6, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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

NEAL J. SHULMAN, Executive Director