96 3

ALJ/rr/md

ORIGINAL

Decision 82 04 069 APR - 8 1982

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 Revise Rule 16 In its Electric Department Tariffs To Provide For A Connection Charge For New Electric Service to Residential Dwelling Units.	Application 60021 (Filed October 22, 1980)

(Appearances are listed in Appendix A.)

I N D E X

Subject	Page
OPINION	2
Summary	2
I. Introduction	4
II. Positions of the Parties	5
A. SDG&E	5
1. SDG&E's Method of Calculating the Connection Charge Is Reasonable	6
2. The Proposed Charge Should Be Uniformly Applied to All New Residential Units	8
3. The Connection Charge Would Provide Benefits to Existing Customers and to SDG&E	10
4. SDG&E's Proposed Connection Charge Is Consistent with Stated Commission Policy	12
B. Intervenors - BIA/SC, BCA, WMA, Farm Bureau, and San Diego	15
C. Commission Staff	21
1. A Connection Charge Adequately Supported by Evidence in the Record Would Not Violate Constitutional and Statutory Guarantees Against Undue Discrimination	22
2. The EIR Provisions of CEQA Do Not Apply to This Proceeding	23
3. Connection Charge Revenues May Not Qualify as Contributions to Capital Under IRC Section 118	24
4. Evidence in the Record Cannot Support Authorization of a Connection Charge	25
III. Discussion	28
A. A Properly Designed Connection Charge Does Not Constitute an Unlawful Capital Contribution from a Utility Customer	29
B. A Proposal to Impose a Connection Charge Does Not Require Preparation of an EIR	31

I N D E X (Continued)

Subject	Page
C. Imposition of SDG&E's Proposed Connection Charge Would Not Unlawfully Discriminate Against Applicants for Electric Service to New Residential Units	33
D. SDG&E Has Presented Insufficient Evidence to Permit Commission Approval of the Proposed Connection Charge	34
Findings of Fact	37
Conclusions of Law	38
ORDER	39

O P I N I O N

Summary

Application (A.) 60021 requests Commission authority to allow San Diego Gas & Electric Company (SDG&E) to impose a $2,000 connection charge upon applicants for electric service to new residential units within its service territory. SDG&E's request is prompted by its limited ability to raise capital to meet new demand and is based upon the premise that existing customers should not "subsidize" new customers' higher costs for new service. According to SDG&E, the $2,000 connection fee charge represents the "subsidy" or the difference between the cost of new service to a residential customer and the historical cost of providing service to an existing customer which is already being recovered in base rates.

Opposition to SDG&E's proposed connection charge was based upon the following legal and policy considerations.

1. The proposed connection charge represents an unlawful involuntary capital contribution from a utility customer;

2. Since SDG&E's proposal imposes a charge on only new residential customers, it is unlawfully discriminatory;
3. SDG&E proposed $2,000 charge greatly over-estimates the cost of serving new customers;
4. SDG&E greatly overstates the benefits that would accrue to existing customers given adoption of its proposal;
5. SDGE failed to adequately consider the environmental impacts of its proposal; and
6. SDG&E failed to meet its burden of proving that the proposed connection charge is in the "public interest."

In today's decision, we reach the following conclusions:

1. A properly designed connection charge does not constitute an unlawful capital contribution from a utility customer;
2. A proposal to impose a connection charge does not require preparation of an Environmental Impact Report (EIR);
3. Imposition of SDG&E's proposed connection charge would not unlawfully discriminate against applicants for electric service to new residential units; and
4. SDG&E has presented insufficient evidence to permit Commission approval of the proposed connection charge.

SDG&E's proposed connection charge involves a very important interest, i.e., free access to electric service. Furthermore, the impact of SDG&E's proposal would fall upon a small minority of SDG&E's customers; in 1982 approximately 29,300 new customers would bear the charge. In view of the fundamental nature of the interest at stake and the proposal's impact upon a minority interest, SDG&E must make a compelling showing that the connection charge is in the "public interest." Review of the record indicates that SDG&E has failed to meet this burden of proof. Accordingly, the application is denied.

I. Introduction

By this application, SDG&E seeks authority to revise Rule 16 in its Electric Department Tariffs to allow imposition of a $2,000 connection charge for providing new electric service to residential dwelling units. SDG&E's request is prompted by its limited ability to raise capital and is based upon the premise that existing customers should not "subsidize" new customers' higher costs for new service.

According to SDG&E, the $2,000 connection charge represents the "subsidy" or the difference between the cost of new service to a residential customer and the historical cost of providing service to an existing customer which is already being recovered in base rates. Since high inflation rates, adverse financial markets, and escalating construction costs are combining to continually increase the cost of providing new electric service, SDG&E maintains that it is reasonable to require new customers to bear the financial burden of constructing new generation, transmission, and distribution facilities designed to meet their new demand.

In support of A.60021, SDG&E presented six witnesses who explained: (1) SDG&E's reasons for filing the application, (2) the financial justification for a connection charge, (3) the impact of a connection charge on SDG&E's summary of earnings, (4) the derivation of the $2,000 connection charge, (5) the manner in which a connection charge would be administered by SDG&E, and (6) the need for construction of San Onofre Units 2 and 3 and the Eastern Interconnection Project.

The Commission staff presented two witnesses who reviewed the entire connection charge proposal as well as the impact of a connection charge on residential electric customer growth and new housing construction starts. Intervenors, representing local building associations and the mobilehome parks, presented four witnesses who testified on the impact of a connection charge on the housing industry in San Diego County.

Eleven days of hearing were held from June 8, 1981 to August 18, 1981 when the matter was submitted, pending the receipt of briefs in October. The following parties appeared and participated actively: SDG&E, the Orange County Chapter Building Industry Association of Southern California (BIA/SC), the San Diego Building Contractors Association (BCA), the Western Mobilehome Association (WMA), the City of San Diego (San Diego), the California Farm Bureau Federation (Farm Bureau) and the Commission staff.

On June 3, 1981, BCA filed a Motion to Dismiss the instant application. We will deny the motion and address the important substantive issues raised by SDG&E's filing. On August 17, 1981, SDG&E filed a petition for a proposed report from the administrative law judge. Our disposition of the matter renders a proposed report unnecessary; and the petition will be denied.

II. Positions of the Parties

A. SDG&E

In proposing a connection charge, SDG&E intends to remedy an inequity in the current rate structure. The escalating costs of serving new growth in conjunction with the extremely high growth rate experienced by SDG&E in recent years are driving SDG&E's electric rates to unacceptably high levels. In the past, the addition of new customers helped decrease rates as larger, more efficient generating units were constructed to meet new demand. As a result, existing customers benefited directly from the investment in new facilities. These economies of scale no longer exist. Rising construction costs and interest rates, increased environmental requirements, and general inflation have combined to make it more expensive to serve a new customer than to continue service to an existing customer.

As SDG&E views it, this combination of circumstances requires existing customers to subsidize the provision of more expensive electric service to new customers. This "subsidy" exists as a result of current ratemaking practices. As more expensive facilities necessary to serve new growth are added to rate base, the utility's revenue requirement increases. Correspondingly, the rates to all customers are raised to generate the additional revenue. Existing customers, therefore, provide much of the increased revenue requirement attributable to facilities added to serve new growth. In response to this perceived inequity, SDG&E maintains that its proposed connection charge would lessen the unfair burden imposed upon existing customers by requiring all new customers to pay for the increased cost of serving them as they are connected to the system.

1. SDG&E's Method of Calculating the Connection Charge Is Reasonable

Derivation of the proposed connection charge involved several steps. SDG&E analyzed its 1982 construction budget and identified all construction projects designated by its capital budget committee, or by project description, as intended to serve new customers. The identified projects included all generation, transmission, and distribution facilities, excluding Line Extension distribution facilities, related to serving new load.

Once the total generation, transmission, and distribution costs related to new growth were identified, the factors for the residential class developed by the cost allocation study submitted in A.59788, SDG&E's general rate case, were applied. This calculation produced the total construction budget amount attributable to new residential growth. The result was divided by the 1982 new growth estimate for the residential class of 29,300 customers, yielding an

amount of about $2,700. From this $2,700 figure, SDG&E subtracted the embedded cost per customer recovered in base rates of approximately $700, also derived from the general rate case cost allocation study, to arrive at the amount of the proposed connection charge.

DERIVATION OF CONNECTION CHARGE

Line No.	System Component	Construction Budget Cost/Customer a/ (A)	Embedded Cost/Customer b/ (B)	Connection Charge c/ (C)
1	Generation	$ 550	$165	$ 385
2	Transmission	1,460	135	1,325
3	Distribution	690	400	290
4	Total	$2,700	$700	$2,000

Notes: a/ Construction budget cost per customer represents portion of 1982 capital budget related to domestic customer growth.

b/ Embedded cost per customer based on 1982 cost of service study.

c/ Connection charge per customer represents difference between proposed construction expenditures and embedded costs.

SDG&E's method of calculating a connection charge is premised upon the ability to identify those portions of its proposed construction budget which can be attributed to serving new growth. In developing the $2,000 charge, SDG&E maintains that it has clearly demonstrated that its 1982 construction budget projects, including work on the San Onofre Nuclear Generating Stations (SONGS) 2 and 3 and the Eastern Interconnection Project (EIP), are being undertaken to serve new growth.

Testimony shows that existing resources can provide for new growth only through the end of 1983. Firm purchased power contracts would provide the necessary capacity to allow SDG&E to meet its demand requirements between 1984 and 1986. It will be necessary, however, to have either SONGS 2 and 3 or the EIP on line by 1986 to meet projected demand. By 1989, generating capacity in addition to those projects already identified will be required.

SDG&E holds that there is no doubt that new residential growth is causing an increase in demand. Testimony indicates that while new residential growth in 1982 would add approximately 34 megawatts of demand to the system, the net increase in demand during the comparable period is only about 22 megawatts. It is obvious, to SDG&E, that existing residential customers are actually reducing their demand and that the net increase in demand is entirely attributable to new growth. Upon this basis, SDG&E contends that the connection charge is reasonable both in its calculation and its application.

2. The Proposed Charge Should Be Uniformly Applied to All New Residential Units

SDG&E's proposed connection charge would apply only to new residential dwelling units. SDG&E offered two reasons for exempting the commercial and industrial customers from the charge. First, the overwhelming majority of new service applications are for residential service. Secondly, the commercial/industrial classes, due to the rate design principles employed by the Commission in the recent past, currently pay higher rates than residential customers and already contribute revenues in excess of their cost of service. With commercial/industrial rates already high, SDG&E feels that it is inappropriate to levy a connection charge on these classes and risk discouraging the growth of business and industry in the San Diego area.

Since the "applicant" for new service would be assessed the connection fee as proposed, the builder or developer of the residential unit would initially bear the burden of the connection charge. By assessing the builder, the effect of the connection charge can be included in the price of the new home and amortized over a thirty-year mortgage period. SDG&E contends that this approach will minimize the effect of the charge on new residential customers only and will increase monthly home mortgage payments by about $20.

SDG&E's proposal also provides for the carrying costs to the builders to be minimized. The builder could actually wait until a home is in escrow before being required to pay the connection charge. Upon the close of escrow a short time later, the builder would be compensated for the charge. In the case of mobile home parks, the charge would not be assessed until individual spaces were developed for occupancy. Thus, a mobile home park owner would not be faced with the prospect of being required to pay a connection charge on spaces for which he had no prospective tenants.

As previously noted, SDG&E's proposed connection charge applies to new residential dwelling units rather than to the new immigrants to the service area who are allegedly responsible for the growth in capacity demand. However, SDG&E does not believe that it is either appropriate or feasible to attempt to apply a charge to new immigrants to the service territory. Customers in existing residential dwelling units are actually decreasing their demand. In the absence of new residential dwelling units, demand would not be increasing. Therefore, it is reasonable to assess the charge against such dwelling units. Furthermore, it would be extremely difficult to design a method of identifying and charging individual customers. By contrast, new

residential units which have not previously received service are readily identifiable. SDG&E notes that other similar charges, i.e. sewer hookup fees and water service connection fees, are applicable to units rather than people.

SDG&E also feels that the connection charge should be uniform in its application and should not vary according to the type of dwelling unit affected. SDG&E believes that the demand associated with various types of dwelling units, i.e. mobile homes, apartments, and single-family detached homes, is very nearly the same. Since there is no significant variation in the demand on the system caused by different types of dwelling units, there is no reason to vary the charge to these types of units. The record contains no evidence to support the need for a nonuniform charge.

3. The Connection Charge Would Provide Benefits to Existing Customers and to SDG&E

SDG&E designed its proposed connection fee to rectify an existing inequity in the current rates. However, the requirement that new customers pay the additional costs of providing new service not only benefits the existing customers by removing this cost component from their rates but also ultimately produces lower rates for all SDG&E's customers.

The connection charge collections will be credited to the same accounts which are charged with the cost of constructing facilities to serve new residential growth. Given this accounting treatment, construction projects will be credited with connection charge collections while in the status of construction work in progress (CWIP). Thus the total capital amount ultimately added to rate base will be less than it otherwise would be without the connection charge for two reasons: (1) because contributed plant cannot be included in rate base and (2) because an allowance for funds used during construction (AFUDC) will not be accrued on the construction of contributed plant. Even assuming no

change in the authorized rate of return, the revenue requirement will be lower because both rate base and the associated depreciation expense will be lower.

A further reduction in the revenue requirement will result from SDG&E's proposal to reduce its authorized return on equity in A.59788 to a level which simply maintains the requested internal generation of cash criterion, projected at 28.3% in the 1982 rate case filing. This internal cash generation parameter is the most significant for SDG&E in the short run, since its earnings will continue to contain a large amount of noncash AFUDC until such time as major construction projects, e.g. SONGS 2 and 3 and the EIP, are in rate base. SDG&E calculates that the return on equity could be reduced from the requested 19% to a level of 15.88% if the proposed $2,000 connection charge is adopted. Revenues requested in the general rate case could be lowered by $31.7 million.

The effect on the ratepayer of the lower rate base and reduced return on equity authorization resulting from the adoption of SDG&E's proposals is that, by 1995, SDG&E will collect approximately $622 million in connection charges, while the ratepayers will receive between $1.3 and $1.5 billion in lower rates. By 1995, SDG&E's customers will realize from $677 to $835.5 million in net savings as a result of imposition of a connection charge.

The proposed connection charge will also benefit SDG&E over time. An immediate benefit will be the reduction in the amount of the construction budget which will have to be financed through conventional sources. Long-term benefits include improvement in the internal generation of cash and the ratio of construction budget to total capitalization, two factors which are significant in SDG&E's effort to regain a single A rating.

SDG&E cautions that these benefits might not occur if the estimate of new customer growth is overstated and the expected collections are not generated by the charge. To guard against the potentially adverse impact of such an event, SDG&E has proposed that a balancing account be applied to connection charges. The balancing account procedure would protect SDG&E from a shortfall due to over-estimated customer additions and at the same time prevent a windfall should customer additions turn out to be underestimated. Because the implementation of a connection charge and the concomitant decrease in the relief requested in the general rate case under SDG&E's proposal create risks which did not previously exist, SDG&E argues that a balancing account should be authorized.

4. SDG&E's Proposed Connection Charge Is Consistent with Stated Commission Policy

SDG&E contends that there are four lines of reasoning which support its conclusion that the proposed connection charge does not constitute an illegal attempt to require customers to contribute capital to SDG&E:

a. The Federal Energy Regulatory Commission's (FERC) and California Public Utilities Commission's (CPUC) Uniform System of Accounts provide, in Electric Instruction 2.D, for the handling of such contributions;

b. Internal Revenue Code (IRC) Section 118 provides for the tax treatment of such contributions;

c. Rules 15, 15.1, and 16 of SDG&E's Electric Department Rules currently require non-refundable contributions; and

d. Some water and most sewer utilities commonly assess such charges.

In further support of its application for a connection fee, SDG&E quotes relevant language from D.86281:

> "We recognize that with the unprecedented demands for new capital presently confronting utilities that they are obliged to seek new and different methods of financing, including customer participation in raising funds for plant construction. At the same time, we have a continuing concern that because of the impact of income taxes that proposals such as inclusion of CWIP in rate base require more than two dollars of added revenues from customers for each dollar of additional cash flow finally made available to the utility. We urge applicant to carefully explore all methods of customer participation in meeting financing needs that will eliminate this 'two-for-one' tax effect."

SDG&E maintains that its proposed connection charge is consistent with the Commission's stated objective in that it virtually eliminates the two-for-one tax effect associated with other forms of customer contributions. Section 118 of the IRC, which states the tax treatment to be accorded to Contributions in Aid of Construction, was last amended by Section 364 of the Revenue Act of 1978. As a result of the Act, the only portion of the connection charge which would be taxable is that portion associated with facilities located on the customer's property. These facilities are those which are attributable to the installation of the connection line between the main line and the point where the customer's ownership begins, i.e. the service lateral. This amounts to only $3.7 million out of the $58.58 million estimated to be generated by the charge in 1982. SDG&E is aware of no other method of customer participation in raising funds for plant construction which has more favorable tax consequences.

Finally, SDG&E contends that the EIR requirements of the California Environmental Quality Act of 1970 (CEQA) do not apply in this proceeding. In D.81484 which denied rehearing of D.81237, the Commission stated:

> "...the legislature did not intend the EIR requirements to apply to all activities of private persons subject to Commission approval, but merely to those physical projects subject to Commission approval by the issuance of a lease, permit, license, certificate or other entitlement for use. Ratemaking proceedings do not fall within this definition."

The Commission cited its activities under Public Utilities (PU) Code Section 454 as an example of what ratemaking includes. SDG&E's A.60021 clearly seeks to have the Commission exercise its ratemaking authority and is, therefore, not subject to the EIR sections of CEQA.

While it is apparent that the EIR sections of CEQA do not apply, the question of whether or not the connection charge would adversely impact the housing market is one that surely concerns all parties. SDG&E, through the use of the Demographic and Economic Forecasting Model, a model used by local governmental agencies, determined that there would be a negligible impact on the San Diego housing market due to the connection charge.

In conclusion, SDG&E contends that the concept that growth should pay its own way, particularly in light of the substantial additional costs of new facilities, is an idea whose time has come. SDG&E therefore requests that the Commission authorize the revision of Rule 16 of its electric department tariffs to provide for a $2,000 connection charge applicable to new residential dwelling units.

B. Intervenors - BIA/SC, BCA, WMA, Farm Bureau, and San Diego

While the intervenors in this proceeding represent varied and disparate interests, they were united by their common opposition to SDG&E's proposed connection fee. Their opposition is based upon legal as well as policy considerations and will be briefly summarized.

The majority of intervenors take the position that authorization of SDG&E's request as proposed would directly contravene well-established legal and regulatory principles. In their view, SDG&E's proposed connection fee is, in reality, an involuntary nonrefundable interest free capital contribution charge that is unlawful and discriminatory. Whether the proposed $2,000 assessment is called a "connection fee" or a "growth charge" is of no consequence; by any name, it is a thinly veiled example of an involuntary nonrefundable capital contribution to a privately owned public utility.

Under SDG&E's proposal, $58.58 million in connection charge revenues will be collected in 1982. Of this amount, $16.4 million is the amount attributed to construction of SONGS 3 which is not expected to be in service and included in rate base until mid-1983; and $24.3 million is the amount attributed to the EIP which will not be completed until 1984. According to SDG&E's own testimony, there will be no capacity shortage on the SDG&E system, even without SONGS 2 and 3 and the EIP, until 1986 at the earliest. Therefore, SDG&E is requesting that the Commission authorize SDG&E's collection of capital construction costs from 1982 and 1983 new residential customers for plant that will not be needed for capacity until newer customers come on line in 1986 or later.

Under long-established Commission practice, existing customers would only be required to support through rates the utility's investment in plant reflected in rate base in the test year on which rates are established. SDG&E's proposal would require new residential homebuyers to contribute at least $40 million of 1982 construction budget expenditures which 1982 ratepayers would not be supporting in any event.

Briefly stated, SDG&E has overestimated the allocation of the 1982 construction budget which can be attributed to new demand in 1982. As a result the generation, transmission, and distribution costs to serve a new customer, which SDG&E estimates at $2,000, have been overstated. To the extent that SDG&E's $2,000 estimate exceeds the actual costs of serving new additions to its system, the difference constitutes an involuntary nonrefundable capital contribution paid to the utility as a condition of receiving electric service. Such a practice has been condemned by the California Supreme Court in a series of cases. (City and County of San Francisco v Public Utilities Commission (1971) 6 Cal 3d 119, 129; City of Los Angeles v PUC (1975) 15 Cal 3d 680, 688; c.f. Southern California Edison Co. v PUC (1978) 20 Cal 3d 813, 827; Southern California Gas Co. v PUC (1979) 23 Cal 3d 470, 476.)

SDG&E's proposal not only requires collection of an unlawful capital contribution it also violates the proscription against utility discrimination between classes of customers contained in PU Code Section 453. The SDG&E proposal seeks to impose a charge on only new residential customers, not all customers. The proposition that one class of ratepayer may be singled out for an involuntary cash contribution as a condition to obtain service while all ratepayers share the benefits of reductions in revenue requirements represents one form of discrimination prohibited by Section 453.

The following will illustrate exactly the manner in which SDG&E's proposal will foster discriminatory treatment of SDG&E's customers connecting to the system in 1982.

As was previously discussed, the proposed charge will require a new residential buyer in 1982 to pay for part of the construction costs of SONGS 3 and the EIP even though the need for the capacity of those projects is not required until 1986 or later. The amounts that the new residential customers will pay through the connection charge in 1982 and 1983 will not be included in rate base when SONGS 3 and the EIP become "used and useful" in the production of electricity. Consequently the customers causing the additional capacity requirements in 1986 and beyond will never have to provide the utility a return on plant that was built to provide the additional capacity. The customers paying the connection charge in 1982 and 1983 must be paid a return on this involuntary nonrefundable interest-free capital contribution by the customers causing the need for additional capacity or they will have been the victims of discrimination.

In addition to the legal impediments raised in opposition to SDG&E's proposal, the intervenors contend that SDG&E has failed to justify the proposed charge. This failure to meet its burden of proof requires that the application be denied.

Two basic premises underly SDG&E's application:

1. The cost of serving new electric customers places an unfair burden on existing customers by virtue of a higher cost to serve the new customer; and
2. A charge as proposed would meaningfully reduce the utility's total revenue requirements and ultimately benefit all customers.

However, nothing in the record supports the proposition that SDG&E's proposal will rectify the perceived inequity or produce the promised benefits for all customers.

While it is acknowledged that some portion of SDG&E's annual construction budget is required to meet new customer demand, SDG&E has failed to demonstrate that its method for allocating construction costs to new customers and then calculating the $2,000 change is sensible, much less fair. In making its allocations of 1982 construction budget amounts to new electric connections, SDG&E relied solely upon designations made by some unidentified person in the various project descriptions which designated the purpose of the project as being for new customers and load growth. SDG&E's witness did not participate in the classification process, made no independent determination of the correctness of the classification, and made no more attempt at verification than to determine that they were so designated in the project description.

Although the importance to SDG&E's case of validating the correctness of these classifications was emphasized, SDG&E presented no witness who was responsible for making them. Thus, the most critical assumption underlying the derivation of SDG&E's proposed charge remains unverified.

The allocation to new residential connections of 1982 budget expenditures for SONGS 3 and for the EIP totaling $40,700,000 accounted for 69.5% of the proposed connection charge revenues to be recovered from the 29,290 new residential connections in 1982 even though the record is clear that these projects are justified by other considerations and will be constructed even if the proposed connection charge is not authorized.

Even if the cost of serving new customers imposes some burden on existing customers, SDG&E has provided no basis for concluding that the burden will total $2,000 per new customer in 1982.

An allocation to new customers and load growth of 100% of the cost of SONGS 3 and all of the cost of the EIP beginning in 1982 is clearly excessive and imposes an undue and unreasonable burden upon those home buyers and tenants in new housing units who would have to bear the proposed connection charge.

Furthermore, SDG&E's proposed charge which is applicable to new residential units has not been appropriately designed to be applied to those who actually cause the new growth. SDG&E assumes it is new housing that is causing the new capacity demand. However, new capacity demand or new growth can be caused in several ways. It is the result of new customers moving into SDG&E's service area, either into already existing housing that has been vacated or into new residential dwelling units. It can also be caused by the increased demand of an existing customer. It is not caused by an existing customer who moves from an existing apartment to a new one. Neither is new growth caused by an existing customer who moves from an existing house to a new residential dwelling which is more energy efficient in terms of electric capacity demand. In the latter case, the customer, if subjected to the connection charge as proposed by SDG&E, would be doubly penalized. Equity is a concept which is relative. The connection charge proposed by SDG&E will not remove inequities; it will merely transfer them to different classes of individuals.

With respect to SDG&E's allegations that implementation of its proposed connection charge will benefit all ratepayers by reducing rates through 1995 by $1.3 to $1.46 billion, the intervenors challenge the reputed benefits as greatly overstated. In computing the revenue reductions resulting from imposition of a connection charge, SDG&E assumed that all but $3,700,000 of the $58,580,000 of connection charge revenues in 1982 will be exempt from federal income tax. The portion considered to be taxable represents the cost of facilities on the customer's property consisting of the service lateral and the

electric meter. The remaining $54,880,000 of 1982 connection charge revenue was said to be nontaxable. No basis, other than the advice of SDG&E's tax department, was given for this conclusion. The nontaxable feature was deemed by SDG&E to be one of the significant advantages of the connection charge.

Intervenors believe that SDG&E's conclusion that the amount attributed by applicant to facilities constituting the connection with the customer's premises would be taxable is correct; however, the conclusion that the remainder would not be taxable is highly questionable and probably wrong. Under Section 118 of the IRC contributions to utility capital are nontaxable. However, connection fees, which are at issue here, constitute taxable income.

As a consequence, instead of receiving additional nontaxable revenues of $54,880,000 based upon SDG&E's estimate of new connections, SDG&E would probably receive only about $26 to $27 million of net income from the charge. This is almost $4.5 to $5.5 million less than the reduction in revenues which applicant proposes to make effective if the charge is authorized. Thus a major advantage of the proposed charge as envisioned by SDG&E would not materialize, and the net income which SDG&E expects the charge would produce would be less than half of that assumed by it.

Finally, intervenors raise a policy consideration in opposition to SDG&E's proposal. It is their view that a $2,000 charge will have an extremely adverse effect on construction in San Diego and the availability of affordable housing. Testimony also indicates that such a charge will virtually eliminate production of low-income senior citizen rental projects and will significantly discourage the

production of rental housing. The charge could further concentrate population if it discourages new housing and effectively displace people seeking to buy or rent housing, and alter the physical arrangements of the community by adding to the cost and assessed values of both old and new housing units.

Under the foregoing circumstances, the Commission's policy of considering the environmental effects of a rate increase is clearly applicable here. As the proponent of the charge, SDG&E has the burden of establishing that it will have no adverse effect on the environment. As SDG&E has failed to make such a showing, the application should be denied.

C. Commission Staff

The staff analyzed SDG&E's "growth charge" proposal and concluded that a connection charge should not be authorized by the Commission. Essentially, the staff found that there is no "subsidy" from existing customers to new customers. The difference between the cost of serving a new customer and the historical cost recovered in base rates is attributable to inflation, historical cost accounting methods, and SDG&E's unjustified allocation of new construction projects, such as SONGS Unit 3 and the EIP, entirely to new customers.

Staff's analysis shows that SDG&E has overestimated the new investment costs attributable to growth in electricity demand. The utility's major new projects, such as SONGS and the transmission interconnection with Arizona area utilities, have the main purposes of displacing costly oil-fired generation, replacing expiring contracts, and enabling retirement of old plants. The new investment costs attributable to residential sector demand growth are $1,300 to $1,600 per new customer, not $2,700 as estimated by SDG&E. Once the historical cost of $700 per customer is adjusted for inflation to $1,400 in 1982

dollars, there is no real difference between utility costs to serve new or old connections. This reflects the fact that it does not take added wire or turbines or labor to serve a new connection. It simply takes more dollars, because dollars are worth less. The major cause of SDG&E's high electricity rates is the utility's reliance on fuel oil for generation, not the cost of serving new housing connections.

In weighing the propriety of SDG&E's proposal, staff found it necessary to address the following legal issues:

1. Would the applicant's proposed connection charge violate constitutional guarantees against undue discrimination?
2. Does the CEQA apply to this proceeding and thereby preclude approval of a connection charge unless an EIR is prepared and certified by the Commission?
3. Would connection charge revenues be nontaxable contributions to capital under IRC Section 118?
4. Does the evidence introduced by applicant in support of a connection charge permit approval by the Commission consistent with the requirements of PU Code Section 1705?

The staff resolution of these questions provides the basis for the final staff recommendation concerning the reasonableness of SDG&E's proposed connection charge.

1. A Connection Charge Adequately Supported by Evidence in the Record Would not Violate Constitutional and Statutory Guarantees against Undue Discrimination.

SDG&E's proposed connection charge will apply only to residential customers requesting new electric service. Since other new customers in the commercial and industrial classes will not be burdened with a connection charge, a claim of undue discrimination may arise. Additionally, SDG&E's proposal would separate its residential customers into two classes, customers receiving electric service at existing dwelling units and customers requesting new electric service to new

dwelling units who must pay a connection charge. A long-time customer of SDG&E who moves to a new dwelling unit and thereby incurs a connection charge may assert that the connection charge violates constitutional and statutory standards prohibiting arbitrary classification and discrimination.

The case law indicates that a protestant must show that an administrative rule is unfairly discriminatory and lacks any "reasonable basis" before a court will overturn the rule. Assuming that the evidentiary support exists in the record, SDG&E's connection charge would meet the "reasonable basis" test. The Commission could determine that growth in the residential sector, unlike the commercial or industrial areas, is the primary cause of demand growth, thereby justifying a connection charge only for the residential class. Additionally, the Commission could conclude that a connection charge imposed on new residential dwelling units is administratively the best way to implement a connection charge. The classifications chosen by the Commission need only be reasonably related to the purpose of the administrative rule.

2. The EIR Provisions of CEQA Do Not Apply to This Proceeding

CEQA requires an applicant to disclose in an EIR the environmental consequences of any "project" it proposes to the lead agency reviewing the application. The Commission, in D.81237, as modified by D.81484, has found that the EIR provisions do not apply to its ratemaking proceedings for the reason that ratemaking is not a "project" under CEQA.

It remains an open question of law as to which Commission ratemaking proceedings, if any, are subject to CEQA. The Court's consistent rejections of petitions for writ of review alleging that CEQA does apply to Commission ratemaking proceedings indicate that future petitions would be similarly denied, even though the doctrine of stare decisis no longer applies.

Additionally, Public Resources Code (PRC) Section 21080(a)(8)(4) now expressly exempts from CEQA ratemaking proceedings which the public agency finds are for the purpose of "obtaining funds for capital projects, necessary to maintain service within existing service areas, ..." The proposed connection charge should fall within the categorical exemption stated in PRC Section 21080(a)(8)(4) despite a legislative caveat that some Commission ratemaking proceedings may be subject to the EIR requirements of CEQA.

3. Connection Charge Revenues May Not Qualify as Contributions to Capital Under IRC Section 118.

IRC Section 118(a) provides that a taxpayer's gross income does not include contributions to capital. IRC Section 118(b) then defines a contribution to capital to include contributions in aid of construction given to a regulated electric or gas public utility if the amount contributed was intended by the contributor to be used for the purpose of acquiring facilities to furnish electric or gas service. (Emphasis added). (See IRC Section 118(b)(2)(A)(i).)

The intent or motivation of the contributor may determine whether the amount contributed qualifies as a contribution to capital under IRC Section 118. In Washington Athletic Club v United States (1980) 614 F 2d 670, the U. S. Court of Appeals, Ninth Circuit, held that membership fees and dues paid to an athletic club were not exempt from taxation as contributions to capital even though the fees were set aside and used exclusively for capital improvements. The court relied upon the "nature or purpose and intent in making the contributions" to determine whether the dues and fees were capital contributions or payments for goods and services. The court found that the members of the athletic club had no investment motive for paying dues and fees and did not evidence any motive other than one of payment for services.

In the instant case, if the motive test is applied, SDG&E must show that new residential customers are paying a connection charge to the company for some reason other than the right to receive electric service. Otherwise, a court could similarly find that connection charges are paid by a new customer for the sole purpose of receiving electric service at a new dwelling. And under the test followed in Washington Athletic Club, the connection charge revenues would not be capital contributions under IRC Section 118. As a result, the entire connection charge would be included in gross income and taxed.

4. Evidence in the Record Cannot Support Authorization of a Connection Charge

PU Code Section 1705 provides that after the conclusion of hearings the Commission shall issue its order, containing its decision, and "the decision shall contain, separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision...."

Before issuing its decision on A.60021, the Commission must make findings of fact based on evidence in the record to support its ultimate conclusion. Thus, before it can approve a connection charge as proposed by SDG&E, the Commission must find at the very least that: (1) a connection charge is warranted because existing customers somehow are "subsidizing" new customers as alleged by the company, (2) that any approved connection charge will equitably allocate the costs of new generation, transmission, and distribution facilities between existing and new customers, and (3) that some economic benefit will emanate to the company and its ratepayers if a connection charge is approved. The staff submits that none of the requisite findings of fact can be reasonably drawn from the record developed for A.60021. Accordingly, A.60021 must be denied.

SDG&E's own presentation contradicts its claim that existing residential customers somehow will be subsidizing new residential customers. SDG&E's witnesses all agreed that two of the major generation projects attributed to new customers under the connection charge proposal, SONGS 3 and the EIP, will provide fuel savings and lower cost energy to all ratepayers when completed. Neither of those facilities is needed as additional capacity until 1986, but each will displace more costly oil-fired generation if completed before 1986 as currently scheduled. Thus, new customers and their incremental load demand in 1986 are actually the justification for the construction of new generating units which will lower energy costs for existing customers from 1982-1986 by displacing oil-fired capacity. SDG&E's claim that existing customers somehow are subsidizing new customers' higher costs for electric service is clearly erroneous. The Commission cannot reasonably find that existing customers are subsidizing new customers when SDG&E itself concedes that the major cause of "unacceptably high rates" has been its current dependence on oil for electric generation capacity.

Even if the Commission could find that a subsidy exists between existing and new customers, evidence in the record cannot adequately support SDG&E's derivation of a $2,000 connection charge. There is no evidence in the record which adequately explains how a construction project in SDG&E's capital budget is earmarked as being for new customers. SDG&E's witness who attempted to explain the derivation of the connection charge simply accepted the label of "new customers" placed on a construction project by the budget committee. As a result, the Commission has no evidentiary basis from which to find that a $2,000 connection charge is derived from the construction cost of generation, transmission, and distribution facilities which will serve new customers rather than existing customers as claimed by SDG&E.

Finally, even assuming that the derivation of a connection charge figure is adequately established in the record, the Commission cannot find from the record developed in A.60021 that an overall economic benefit will accrue to SDG&E's customers if a connection charge is authorized. Overwhelming evidence on the record indicates that the housing industry will be severely impacted if a connection charge is adopted. In contrast to these negative impacts, a comparison on a constant dollar basis of savings to current ratepayers with the total connection charge collected through 1995 shows the following net savings:

	Optimistic Case	Probable Case
	($ million)	
Savings to Current Ratepayers	$735.5	$664.0
Total Connection Charge Collected	622.8	622.8
NET SAVINGS	$112.7	$ 41.2

SDG&E's adjusted analysis, with all of its favorable assumptions, shows only a "probable" net savings to the ratepayers of just $41.2 million over a 14-year period as contrasted with SDG&E's overstated estimate of $677 million.

The Commission has a duty to consider the economic effects of alternative rules such as a connection charge on all affected parties. Upon review of the record in A.60021, the Commission cannot reasonably conclude that a connection charge will yield economic benefits consistent with the public interest in San Diego County.

III. Discussion

SDG&E's customer growth rate is the highest among the electric utilities in California and among the highest in the nation. Major capital expenditures are necessary to meet the new demand and such costs contribute significantly to SDG&E's total capital budget. The need to finance the necessarily large capital budget combines with inflation to place strenuous demands on SDG&E's financial resources. Of such circumstances SDG&E's creative proposal to shift some of its financial burden to new residential dwellers is born.

SDG&E maintains that its interest in equity is the seed of inspiration from which the proposed connection charge grows. SDG&E warmly embraces the "growth should pay its own way" principle as fundamentally fair and advances the $2,000 connection fee as a more equitable method of assessing its utility customers the costs for which they are responsible. In addition to redressing inequities suffered by existing customers, who ostensibly subsidize the cost of new customer demands, the proposal to levy a connection charge, as SDG&E points out, responds directly to Commission encouragement that the utility explore and propose innovative methods to meet financing needs.

Irrespective of whether SDG&E's filing is motivated by equitable concerns, financial considerations, or simply by a desire to follow Commission advice, the application raises significant legal and policy issues and deserves serious review. SDG&E's application for authority to assess a $2,000 connection fee presents legal issues of both a general and specific nature.

Review of any proposal to impose an electric service connection fee requires analysis and resolution of the following generic legal issues:

1. Whether collection of capital contributions from new customers through a connection charge is a per se violation of law.
2. Whether a proposal to impose a connection charge requires preparation of an EIR.

Evaluation of SDG&E's particular proposal to impose a $2,000 connection charge on those requesting electric service for new residential dwelling units requires analysis and resolution of the following specific legal issues:

1. Whether imposition of SDG&E's proposed connection charge unlawfully discriminates against electric service users dwelling in new residential units.
2. Whether SDG&E has met its burden of proof and presented sufficient evidence to permit Commission approval of the proposed connection charge.

A. A Properly Designed Connection Charge Does Not Constitute an Unlawful Capital Contribution from a Utility Customer

Historically, utilities have raised required capital through debt borrowings, equity investment by shareholders, preferred stock, retained earnings, and depreciation accruals. Ratepayers have traditionally provided the funds necessary to service the debt, support the equity, and provide funds for depreciation accruals and retained earnings. A connection charge whether imposed upon a class of customers or all customers shifts the utility's burden of raising capital from its traditional sources to the customers who bear the connection charge.

Although application of a connection charge represents a novel method of utility capital formation, there is ample precedent that contributions in aid of construction in the form of a connection charge are legal. Water and sewer utilities have historically assessed connection charges as a source of capital to finance extensions to their systems. We find the case law which specifically ratifies the legality of such service connection fees more dispositive of the instant issue than the court's general statement, in a nonanalogous tax case, that ratepayers should not be required to advance capital to a utility. See County of San Francisco v Public Utilities Commission (1971) 6 C 3d 119, at p. 129.

In promoting the public interest through its regulation of public utilities, the Commission is vested with wide discretion in authorizing innovative methods for utilities to raise capital. We have acknowledged this wide discretion by directing utilities to explore creative methods of financing, including customer participation in raising funds for plant construction.

We view the Court's admonition against involuntary ratepayer capital contribution as less than absolute. As a general proposition the utility, not the ratepayer, is responsible for raising capital necessary to fulfill its service commitments. It would be inappropriate to assess ratepayers to raise capital for general construction purposes. However, the general principle does not preclude authorization of a financing method by which customers are required to advance capital for the construction of facilities necessary to serve them. Such is the case with water and sewer connection charges, and such would be the case with a properly designed electric service connection fee. These charges are intended to reflect more accurately the true cost of serving the customer. This reality is not altered by the opponents' characterization of the charges as an involuntary capital contribution. Therefore,

we conclude that the lawfulness of a connection charge is dependent upon its design. If a connection charge demonstrates the following characteristics, it may not constitute an unlawful capital contribution from a utility's customers:

1. A charge should accurately identify those customers causing new needs for new electricity generation and delivery capacity and the time they cause the need;
2. A charge should accurately calculate the total new investment cost attributable to growth in capacity demand;
3. A charge should allocate the new cost of growth in capacity to those causing the growth, in a manner related to each customer's contribution to growth;
4. The charge should be allocated to users causing growth only to the extent the customer's rates and payments do not pay for the new cost; and
5. The treatment and form of the charge should result, to the extent possible, in the charge paying directly for new system facilities and not for taxes, overhead, builders' rate of return, and other purposes.

It is arguable whether SDG&E's proposed connection charge exhibits these characteristics; the issue will be addressed subsequently in our discussion of SDG&E's burden of proof in this proceeding.

B. A Proposal to Impose a Connection Charge Does not Require Preparation of an EIR

We concur with SDG&E and the Commission staff that the EIR provisions of CEQA do not apply to this type of proceeding. We have previously found that the EIR provisions do not apply to ratemaking proceedings since ratemaking is not a "project" under CEQA. Applications for authority to impose a connection charge certainly require the Commission to exercise its ratemaking authority.

The Legislature's categorical exemption for certain ratemaking proceedings from the requirements of CEQA demonstrates a policy of leaving the Commission relatively unfettered in expeditiously resolving the various ratemaking matters before it. It is assumed that the Commission's policy of considering the environmental effects of proposed rate increases ameliorated significant legislative concerns that a CEQA exemption for ratemaking would facilitate Commission action in derogation of environmental interests.

As long as we adhere to our policy of being sensitive to environmental consequences of utility rate proposals, the dual interests of timely Commission action on these matters and environmental protection can be advanced.

C. Imposition of SDG&E's Proposed Connection Charge Would not Unlawfully Discriminate Against Applicants for Electric Service to New Residential Units

Staff counsel has accurately stated the standard for reviewing whether Commission authorization of the proposed connection charge would violate constitutional and statutory prohibitions against discrimination and arbitrary classification. Any successful challenge to Commission action on the grounds of unlawful discrimination must demonstrate that the authorized rule lacks any reasonable basis.

We have previously noted that a connection charge which exhibited certain characteristics would be lawful. Among other things, a connection charge should allocate the new cost of growth in demand and capacity to those who cause the growth. SDG&E has presented a proposal which arguably meets this criterion.

SDG&E has sponsored evidence demonstrating that growth in its residential sector is the predominant cause of its unsettling demand growth. More specifically, SDG&E contends that it is new demand within the residential sector that is placing strains on its capacity.

This evidence has been proffered in support of SDG&E's proposal to impose a connection charge only upon those customers requesting electric service to new residential dwelling units. We find the evidence sufficient to establish a reasonable relationship between the proposed action and the purpose of that action, i.e. between imposing a $2,000 connection fee and matching the cost of serving new and expensive growth with those who cause it. SDG&E's evidence demonstrates the existence of a reasonable basis for its proposed action; and as such, it passes constitutional and statutory muster. While SDG&E's evidence is adequate to demonstrate that its proposal is not unlawfully discriminatory, the issue of whether the evidence is sufficient to support Commission approval remains to be addressed.

D. SDG&E Has Presented Insufficient Evidence to Permit Commission Approval of the Proposed Connection Charge

SDG&E declares that "growth should pay its own way" is a concept whose time has come. In furtherance of this equitable principle, SDG&E proposes the levy of a $2,000 charge against applicants for electric service to new residential units. To ascertain both the validity of the underlying principle and the method by which SDG&E will promote it, we must determine whether SDG&E, as the proponent, has met its burden of proof. As its burden of proof, SDG&E must demonstrate that its proposed connection charge is in the public interest. To resolve whether SDG&E's evidentiary

showing is sufficient, we must apply a standard or a "test" by which we can determine with respect to the instant application what or what is not in the public interest. Any such standard or "test" for defining the "public interest" is at a minimum, the product of two factors: (1) the nature of the interest at stake in the application and (2) the nature of the class of individual most affected by the proposed action.

The interest at stake in A.60021 involves reasonable access to electric service in new residential dwellings. The historical utility practice of providing electric service connections free of charge has bred a belief in many individuals that free access to electric service is an entitlement. We clearly do not consider provision of such access totally free of charge to be a right, as reflected by our decision in C.10260, issued today, which modifies our rules on electric and gas line extensions. However, historical practice in conjunction with the belief that electricity is an essential feature of any modern residential dwelling combines to mark the interest at stake in this proceeding as a very substantial one.

In addition, the burden of SDG&E's proposal will fall only upon applicants for electric service to new residential dwellings. SDG&E estimates that its proposed charge would apply to about 29,300 new customers in 1983. This group of 29,300 represents a separate class within the larger class of 817,529 residential users. Any request or proposal which ostensibly promotes the benefit of the majority at the expense of a minority interest requires substantial justification.

We have determined that the interest at stake is substantial. We have further seen that the total burden of SDG&E's proposal falls directly upon a minority (or 3.5%) of all SDG&E's customers. These factors combine to require that SDG&E make a compelling showing that its proposed connection charge is in the public interest. Such is the standard or "test" we will apply to determine if SDG&E has met its burden of proof.

To satisfy the requirement of a compelling showing, SDG&E must demonstrate that the current situation is highly inequitable and places clearly unreasonable burdens on existing ratepayers or that it faces insolvency or an immediate lack of capacity to meet new demand. It must also show that its proposal rectifies these problems. SDG&E's proposal does neither.

SDG&E's filing was prompted by a desire to remedy a perceived inequity in current ratemaking whereby new customer connections are subsidized by existing customers. As an indirect benefit of the proposal, SDG&E would stand to improve its weakened financial position. While SDG&E's goals may be commendable, they hardly constitute compelling grounds for the radical departure from traditional utility practices envisioned by its proposals. In the absence of this, SDG&E's application must be denied.

If SDG&E had demonstrated that adoption of its proposal was warranted by compelling circumstances, it would have been necessary to review the validity of the proposal as a means of equitably redressing the problems confronting SDG&E. SDG&E's showing also failed to demonstrate the fairness of its proposal. SDG&E's basic premise that a "subsidy" currently exists between

premise that a "subsidy" currently exists between existing customers and new customers was seriously undermined by the staff showing. Staff concluded that new investment costs attributable to residential demand growth are about $1,300 to $1,600 per customer, not $2,700 as estimated by SDG&E. If the historical cost of $700 per customer is adjusted for inflation to $1,400 in 1982, there is no real difference between utility costs to serve new or old connections; in sum no "subsidy" exists.

Even assuming the validity of SDG&E's premise, it is highly questionable whether SDG&E's proposed $2,000 connection charge fairly allocates the cost of serving new customers to those customers whose new demand actually causes the costs. Given the benefits from SONGS 3 and EIP which will accrue to current SDG&E customers, i.e. displacement of costly oil-fired generation and reliability, it is improper to allocate the entire costs of these projects to new customers. The failure of SDG&E to demonstrate that its $2,000 connection charge accurately reflects the cost of serving new customers would alone have been sufficient to warrant denial of the application.

Furthermore, SDG&E's proposed connection charge poses obvious adverse economic and environmental implications. Its implementation would clearly have an impact upon a fundamental interest, i.e. housing availability. Since adequate housing is essential to the continued economic growth and development within the San Diego area, we are compelled by our obligation to act in the "public interest" to carefully weigh the potential economic and environmental impacts occasioned by SDG&E's proposal.

Upon review of the record, we find that the impact of SDG&E's proposal upon the price and availability of single-family, multi-unit, and rental dwellings is unclear. Because we have concluded that SDG&E has failed to meet its evidentiary burden on both the existence of a subsidy and the equity of the proposed remedy, we make no findings on this issue.

Finally, in computing the benefits which SDG&E ratepayers would enjoy as a result of adoption of its proposed connection charge, SDG&E may well have significantly overstated its case. SDG&E cites favorable tax treatment as a prime benefit of the connection charge. At a minimum the issue is subject to final resolution by the IRS and the courts. At best, any claim that the favorable tax treatment will be afforded such connection charges remains highly speculative. It is not the kind of evidence upon which a decision in the public interest can be based.

Findings of Fact

1. SDG&E's customer growth rate is the highest among the electric utilities in California and among the highest in the nation.

2. Major capital expenditures are necessary to meet the demand occasioned by SDG&E's new customer growth.

3. In order to correct what it perceives as an inequity in the current rate treatment afforded its existing customers, SDG&E seeks authority to impose a $2,000 connection charge upon applicants for electric service to new residential units.

4. The interest at issue in SDG&E's application involves terms of access to electric service in new residential dwellings.

5. The impact of SDG&E's proposal will fall upon its estimated 29,300 new domestic connections in 1982.

6. SDG&E's proposed $2,000 connection charge does not accurately reflect the costs necessary to serve new residential customers.

7. Principal water and sewer utilities have historically assessed connection charges as a source of capital to finance extensions to their systems.

Conclusions of Law

1. A properly designed connection charge does not constitute an unlawful capital contribution from a utility customer.

2. Contributions in aid of construction in the form of a connection charge can be lawful.

3. A properly designed connection charge must accurately relate the proposed charge to the cost of serving the new customer.

4. A proposal to impose a connection charge does not require preparation of an EIR.

5. Imposition of SDG&E's proposed connection charge would not unlawfully discriminate against applicants for electric service to new residential units.

6. Since SDG&E's proposed action involves a substantial interest and imposes a burden upon a minority of ratepayers, SDG&E should be required to make a compelling showing that its proposal is in the public interest.

7. SDG&E's showing is not compelling and does not provide sufficient evidence to permit Commission approval of the proposed connection charge.

8. The application should be denied.

O R D E R

IT IS ORDERED that:

1. The petition for a proposed report is denied.
2. A.60021 is denied.

This order becomes effective 30 days from today.

Dated APR 8 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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

Joseph E. Bodovitz, Executive Director

APPENDIX A

LIST OF APPEARANCES

Applicant: Stephen A. Edwards, Jeffrey Lee Guttero, and William L. Reed, Attorneys at Law, for San Diego Gas & Electric Company.

Interested Parties: Brobeck, Phleger & Harrison, by Robert N. Lowry, Attorney at Law, for Orange County Chapter Building Industry Association of Southern California, Inc.; Daniel Gibson, Attorney at Law, for Pacific Gas and Electric Company; Bill Kronberger, Attorney at Law, for San Diego Building Contractors Association; Biddle, Walters & Bukey, by Halina F. Osinski, Attorney at Law, for Western Mobilehome Association; Alan R. Kilborn, for California Edison Utilities Co.; Antone S. Bulich, Jr., Attorney at Law, for California Farm Bureau; John W. Witt, City Attorney, by William S. Shaffran, Deputy City Attorney, for City of San Diego; and Thomas E. Scanlon, for Delta Consultants Inc.

Commission Staff: Randolph L. Wu, Attorney at Law, and William Ahern.

(END OF APPENDIX A)