

Decision 98-07-081 July 23, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902-E) and the City of Poway for an Order under Section 851 of the California Utilities Code to Sell and Convey a Streetlight System.

Application 98-02-012
(Filed February 6, 1998)

ORIGINAL

O P I N I O N

In this decision, we authorize San Diego Gas & Electric Company (SDG&E) to sell, and the City of Poway (the City) to buy, a streetlight system.

Concurrently with the conveyance of ownership of the system, we relieve SDG&E of the public utility obligation to operate and maintain the system, and permit SDG&E to substitute its Tariff Schedule LS-2 rate for the Tariff Schedule LS-1 rate now in effect. We also authorize disposition of the gain to SDG&E's shareholders, subject to SDG&E's filing with the Commission, within 30 days of closing, an advice letter setting forth pertinent rate base and sale figures computing the gain on sale.

Background

SDG&E is an investor-owned utility which provides electric service in San Diego County, where the City is situated. The City has joined in this application in order to satisfy Rule 35 of the Commission's Rules of Practice and Procedure.¹

SDG&E and the City have entered into a written agreement under which the City would purchase a streetlight system from SDG&E, consisting of some

¹ Rule 35 requires the application under Public Utilities (PU) Code 851 to be signed by all parties for the proposed transaction, with certain exceptions not relevant here.

946 luminaries and associated facilities, for \$354,647² or \$374.89 per light on the purchase date. This price was negotiated by the parties under threat of condemnation and is an amount greater than the book value of the property. The City will also pay SDG&E ad valorem taxes for the tax year in which the system is conveyed, prorated as of the closing date.

The City aspires to own the system in the belief that it will experience lower overall costs relative to the streetlight system by owning it and paying SDG&E for electric power at the LS-2 tariff rate. That rate is lower than the LS-1 rate now being paid for service under SDG&E ownership. Gross annual revenue to SDG&E from the system is \$110,000, and annual savings to the City as a result of the transaction are estimated to be \$67,000. The City has approved the transaction by official act of its Council.³ This Commission's approval, pursuant to PU Code § 851, is now required so the parties may lawfully close the transaction.

The applicants requested that this matter be categorized as ratesetting and indicated that no hearings were required. By Resolution ALJ 176-2987 the Commission ratified the preliminary determination that this was a ratesetting proceeding, and determined that no hearings were expected. Given the lack of protests, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-2987.

² A complete copy of the agreement is attached to the application as Appendix C.

³ Resolution No. 97-047 of the Council of the City of Poway, which authorizes the transaction, is included in the application as Appendix D.

Discussion

The principles controlling the outcome of this application were enunciated by this Commission in Re Ratemaking Treatment of Capital Gains Derived from the Sale of a Public Utility Distribution System Serving an Area Annexed by a Municipality or Public Entity, Decision (D.) 89-07-016 ("Redding II"), 32 CPUC2d 233 (1989). Redding II holds that for the sale of a utility distribution system, any gain on sale should accrue to the utility's shareholders, provided that the ratepayers have not contributed capital to the distribution system sold, and that any adverse effects on the selling utility's remaining ratepayers are fully mitigated, where:

1. The distribution system is sold to a municipality or other governmental entity;
2. The distribution system consists of part or all of the utility operating system within a geographically defined area;
3. The components of the system are or have been included in the rate base of the utility; and
4. The sale of the system is concurrent with the utility being relieved of, and the municipality or other agency assuming, the public utility obligations to the customers within the area served by the system.

SDG&E also urges that D.95-12-048 in Application (A.) 95-05-059, Application of San Diego Gas & Electric Company and the City of Carlsbad for an Order under Section 851 of the California Public Utilities Code to sell and convey a streetlight system, should serve as the model for this proceeding. That decision involved a similar sale of a streetlight system by SDG&E to a municipality.

The streetlight system in this proceeding meets all of the requirements for application of Redding II. It has been included in SDG&E's rate base, it is of the same character as that which was sold to the City of Carlsbad under D.95-12-048,

and it is likewise being sold to a municipality. Finally, under the terms of the agreement and this order, the City will assume the public utility obligations to operate and maintain the system.

Categorization

The application states that SDG&E's ratepayers contributed no capital to the system being sold, and as was the case in D.95-12-048, neither the cost nor the quality of service to SDG&E's remaining ratepayers will be affected by the proposed sale. SDG&E will continue to provide service to the City for the streetlight system, and will continue to serve its remaining customers without any diminution in the quality of service. The expected reduction in overall revenues due to the City's being served under Tariff Schedule LS-2 is infinitesimal when compared to the utility's total annual revenue, and will not result in any economic harm to SDG&E's remaining ratepayers through the necessity to increase rates.

As the proposed transaction meets all of the requirements of Redding II, we will grant the application.

Findings of Fact

1. SDG&E is an investor-owned utility which provides electric service in San Diego County.
2. The City is a municipality located in San Diego County and served by SDG&E.
3. The application in this proceeding was filed on February 6, 1998.
4. SDG&E and the City entered into a written agreement (Agreement for Conveyance and Operation of Street Lighting Facilities (Agreement)) as of June 25, 1997, under which the City would purchase a streetlight system from SDG&E, consisting of some 946 luminaries and associated facilities for \$354,647.

5. The streetlight system which is the subject of the Agreement consists of part or all of SDG&E's streetlight system within a geographically defined area in the City.

6. The components of the streetlight system are or have been included in SDG&E's rate base.

7. Sale of the system under the Agreement would be concurrent with SDG&E being relieved of, and the City assuming, the public utility obligations to operate and maintain the system.

8. SDG&E's ratepayers have not contributed capital to the streetlight system which is to be sold under the Agreement.

9. Sale of the streetlight system under the Agreement would have no adverse economic effect upon SDG&E's remaining ratepayers.

10. No hearing is necessary.

Conclusions of Law

1. Approval of the sale of the streetlight system pursuant to the Agreement is required by PU Code § 851.

2. The application should be granted.

3. The net-of-tax gain on sale of the system should accrue to SDG&E's shareholders.

4. SDG&E should be relieved of the public utility duties of maintaining and operating the streetlight system, effective with conveyance of ownership thereof to the City.

5. SDG&E should be permitted to change the rate for the streetlight system from Tariff Schedule LS-1 to LS-2, effective upon conveyance of the system to the City.

O R D E R

IT IS ORDERED that:

1. Within one year after the effective date of this order, San Diego Gas & Electric Company (SDG&E) may sell and convey title to the City of Poway (the City) of a streetlight system, as provided in the Agreement for Conveyance and Operation of Street Lighting Facilities made by and between SDG&E and the City as of June 25, 1997.

2. Effective upon conveyance of title of the streetlight system, SDG&E is relieved of its public utility obligations respecting the maintenance and operation thereof.

3. Following transfer of the property, SDG&E shall remove from ratebase the plant in service and plant related costs and shall remove the associated accumulated depreciation from the depreciation reserve.

4. Within 30 days of the sale and conveyance of the streetlight system SDG&E shall file an advice letter setting forth the book cost, accumulated depreciation, selling price, and gain on sale of the property described in the application.

5. The net-of-tax gain realized on the sale of the streetlight system in the captioned application shall accrue to SDG&E and its shareholders.

6. SDG&E is authorized to apply its Tariff Schedule LS-2 to energy sales to the City for the streetlight facilities being transferred to the City.

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7. The issues presented in Application 98-02-012 are resolved.
8. This proceeding is closed.

This order is effective today.

Dated July 23, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners