

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND
COMPLIANCE DIVISION
Energy Branch

RESOLUTION E-3232
OCTOBER 11, 1991

R E S O L U T I O N

RESOLUTION E-3232. SAN DIEGO GAS AND ELECTRIC COMPANY REQUESTS COMMISSION APPROVAL OF A REVISED FORM FOR USE WHEN THERE IS AN APPLICANT INITIATED REQUEST FOR THE CONVERSION OF OVERHEAD TO UNDERGROUND FACILITIES.

BY ADVICE LETTER 811-E, FILED ON APRIL 15, 1991.

SUMMARY

1. San Diego Gas and Electric Company (SDG&E) requests approval of a new form (Form 106-2759L) for use when an applicant requests the conversion of overhead facilities to underground facilities. The changes in text from the existing contract are: (1) deletion of language that SDG&E will make a refund whenever it has received an advance in excess of \$25.00 of the actual cost of the conversion, and (2) deletion of language requiring the Applicant to start work on the required work within sixty (60) days of the effective date or the contract would be terminated.
2. This Resolution grants the requests.

BACKGROUND

1. The present Form 106-2759H for applicant deposits to convert overhead facilities to underground facilities, approved on March 25, 1984 (Revised Cal.P.U.C. Sheet 4995-E), in Paragraph 4 and 8 states:

Paragraph 4.

"Receipt is acknowledged from Applicant(s) of \$_____, which is an amount equal to the estimated cost of Utility's conversion work computed in accordance with its Filed Rule on Replacement of Overhead with Underground Facilities. Said amount includes any engineering fee or fees that may have been paid to Utility in contemplation of the work

provided for in Section 2. After completion of all work by Utility, Utility will determine the actual cost of the work. Should this amount be less than the estimated cost stated above, Utility will refund the difference to Applicant(s). No such refund shall be made in regard to amounts less than \$25.00.
(Deletion underlined.)

Paragraph 8.

"If within 60 days after the effective date of the Contract Documents the Applicant has not started to perform the work required by the Contract Documents, the Contract Documents shall terminate and become void. In that event, Utility shall return the above cash advance and all of Utility's obligations under the Contract Documents shall cease."

2. The revised Form deletes the underlined portion of Paragraph 4 and all of Paragraph 8 of the contract, and adds no new language.

NOTICE

1. Public notice of this filing has been made by publication in the Commission's Calendar on April 19, 1991, and by mailing copies of the Advice Letter to other utilities, interested parties and government agencies.

PROTESTS

1. No protests to this Advice Letter have been received by the Commission Advisory and Compliance Division (CACD).

DISCUSSION

1. Form 106-2759H was filed by SDG&E in the belief it was following directives contained in Decision (D.) 87305, dated May 10, 1977 in Case (C.) 10097. The decision ordered SDG&E to refund money received which exceeded the actual cost of conversion of overhead to underground facilities requested by an applicant.

2. SDG&E upon reading this Decision filed a revised Form to include language that when the overpayment of the required advance payment exceeded the actual cost of construction by twenty-five dollars (\$25.00) the excess would be refunded. There

was no language included as to what SDG&E would do if there was an insufficient advance payment by an applicant. Prior to this filing SDG&E followed the practice of the other utilities in not refunding an overpayment, or billing for an underpayment.

3. To ensure that it received a sufficient advance to cover the cost of a conversion SDG&E adopted a policy of making an estimate of the cost of conversion, then adding twenty per cent (20%), requiring the applicant to make this higher of deposit. For conversion contracts in 1989 SDG&E reported that it refunded \$2,277,502 to applicants, and it undercollected \$778,938 which it did not attempt to obtain from applicants.

4. SDG&E's Rule No. 20 "Replacement of Overhead With Underground Electric Facilities", (Cal P.U.C. sheets Nos. 6779-E, 6780-E, 6781-E, 6782-E, 6783-E and 6784-E) states that advances are not refundable. This conflict in language, between Rule No. 20 and Form 106-2759H has created inconsistency in the amount of deposit required when an applicant requests SDG&E to convert its overhead distribution facilities to underground facilities. It raises the issue of whether an applicant is entitled to a refund when the actual cost of conversion is less than the amount deposited. This Resolution allows SDG&E to keep the entire deposit.

5. SDG&E, upon becoming aware of this inconsistency in language, reviewed the record in C.10097, the practices of the other regulated utilities, and consulted with the CACD Energy Branch. It was believed that C.10097 had ordered a refund to the Complainant because of circumstances unique to that complaint. SDG&E had not been ordered to make a change in its practices as it initially had believed. The complaint actually involved a unique situation where the deposit was for a higher cost design which was later altered and performed for less money.

6. Approval of this revised form will make SDG&E's practices similar to Pacific Gas and Electric Company, Southern California Edison Company, and Southern California Gas Company. They do not bill to collect for under deposits, or refund if there have been over deposits.

7. The existing Paragraph 8 on the Form (see above), states that if the Applicant has not started the work within 60 days the Utility shall return the cash advance and all the Utility's obligations under the Contract Documents shall cease. There is no Decision or tariff authority requiring this. SDG&E does not insist, in practice, on the observance of this requirement and is requesting its removal from the Form, which is reasonable.

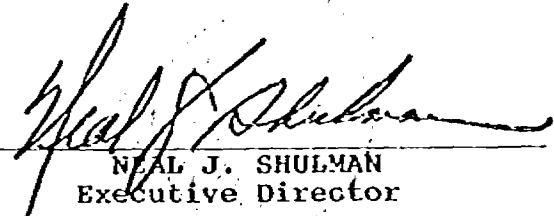
FINDINGS

1. San Diego Gas and Electric Company's Rule No. 20 "Replacement of Overhead With Underground Electric Facilities", (Cal P.U.C. sheets Nos. 6779-E, 6780-E, 6781-E, 6782-E, 6783-E and 6784-E) states that conversion to underground service advances are not refundable.
2. San Diego Gas and Electric Company's Form 106-2759H "Agreement for Replacement of Overhead with Underground Facilities" (Cal. P.U.C. Sheet 4995-E) states that a refund will be paid if an applicant has advanced \$25.00 or more in excess of the actual cost of the conversion.
3. It is unreasonable for SDG&E to make refunds when it has received a deposit greater by \$25 than the actual cost of conversion, but to be unable to collect when the deposit was less than the cost of the conversion.
4. The contract provision requiring an applicant to start work within sixty (60) days of the contract signing is not always observed in practice and should not be required.

THEREFORE, IT IS ORDERED that:

1. San Diego Gas and Electric Company is authorized to include the revised Form 106-2759 in its filed tariffs.
2. Advice Letters 811-E shall be marked to show that it was approved by Commission Resolution E-3232.
3. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 11, 1991. The following Commissioners approved it:


NEAL J. SHULMAN
Executive Director

JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner Patricia M. Eckert,
being necessarily absent, did
not participate.