

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION E-3588
FEBRUARY 18, 1999**

RESOLUTION

RESOLUTION E-3588. SAN DIEGO GAS & ELECTRIC COMPANY (SDG&E) REQUESTS APPROVAL OF TARIFF CHANGES TO ESTABLISH A REWARDS AND PENALTIES BALANCING ACCOUNT (RPBA). SDG&E ADVICE LETTER 1055-E IS APPROVED WITH MODIFICATIONS. SDG&E SHOULD TRANSFER ANNUAL YEAR-END BALANCES TO ITS TRANSITION REVENUE ACCOUNT.

BY ADVICE LETTER 1055-E, FILED NOVEMBER 26, 1997.

SUMMARY

1. This resolution approves San Diego Gas & Electric Company (SDG&E) Advice Letter (AL) 1055-E, but requires the modification of SDG&E's proposed Rewards and Penalties Balancing Account (RPBA). This AL transmitted changes in electric tariffs in order to establish an RPBA, pursuant to authorization granted in D.97-10-057. The RPBA would record authorized electric department Performance Based Ratemaking (PBR) revenue sharing amounts and various rewards and penalties. SDG&E proposes that the year-end balance would be transferred to the Transition Cost Balancing Account (TCBA).
2. SDG&E requests that AL 1055-E be approved effective January 1, 1998.
3. On December 10, 1997, the Office of Ratepayer Advocates (ORA) protested AL 1055-E as being in conflict with D.97-10-057. ORA asserts that D.97-10-057 does not allow debit balances in the RPBA to be transferred to the TCBA. ORA recommends that AL 1055-E be modified to indicate that only credit balances may be transferred to the TCBA.
4. SDG&E filed a reply to ORA's protest on December 18, 1997. SDG&E asserts that D.97-10-057 and other Commission guidance indicate that credit or debit balances in the RPBA may be transferred to the TCBA. SDG&E states that ORA's position would allow only net penalty balances to be transferred to the TCBA, since the proposed RPBA records penalties as credits and rewards as debits.
5. ORA filed a "supplemental" protest on December 15, 1997. In that protest, ORA noted that "...the AL violates the terms and conditions agreed upon between ORA and SDG&E in its Memorandum of Understanding dated December 18, 1996." Specifically,

ORA notes that the RPBA proposed in AL 1055-E provided for the recording of rewards and penalties related to the SDG&E Generation and Dispatch (G&D) PBR. In addition, the proposed RPBA provides for rewards and penalties related to the SDG&E (Target Capacity Factor and Nuclear Unit Incentive Procedure (TCF/NUIP), which has been superseded by Incremental Cost Incentive Pricing (ICIP) rate recovery. ORA recommends that the tariff language be modified to remove reference to the debit/credit entries for SDG&E's G&D PBR and the NUIP.

6. SDG&E filed a reply to ORA's supplemental protest on December 22, 1997. SDG&E agreed with ORA and offered revised tariff sheets to eliminate the debit/credit entries for the G&D PBR and NUIP rewards/penalties.
7. On November 19, 1998, we issued Resolution E-3527 which does not allow the transfer of debit balances to the TCBA from the Transition Revenue Account established by Southern California Edison (SCE) and Pacific Gas and Electric Company (PG&E). The transfer of any debit balances to the TCBA must be requested by the utility in either the Revenue Adjustment Proceeding or the Annual Transition Cost Proceeding, and such requests must be approved by the Commission. TRA credit balances may be transferred to the TCBA.
8. On December 3, 1998, we issued D.98-12-013 which granted SDG&E's request to establish a TRA similar to those authorized for PG&E and SCE.
9. SDG&E must revise its proposed tariff language to reflect that the net RPBA balance at the end of the year will be transferred to its TRA, rather than the TCBA.
10. RPBA language related to the G&D PBR and NUIP shall be removed.

BACKGROUND

1. SDG&E's base rate PBR was adopted by the Commission in D.94-08-023.
2. In D.97-06-060 the Commission preliminarily established the TCBA. The purpose of the TCBA is to keep track of transition cost recovery by debiting the transition costs that the Commission authorizes for recovery and crediting collected headroom revenues. In D.97-11-074, the Commission ordered the establishment of "final" TCBA's. In D.97-12-039, we ordered the three major California electric utilities to file compliance advice letters to establish final tariffs implementing the findings of that decision, as well as the findings in D.97-11-074 and D.97-06-060.
3. In compliance with D.97-12-039, SDG&E filed AL 1061-E on December 12, 1997 to establish final transition cost tariffs, including the implementation of a TCBA. The Commission approved SDG&E's TCBA in Resolution E-3568, dated June 18, 1998.

4. In D.97-10-057, the Commission denied an SDG&E request to establish a memorandum account or balancing account to defer ratemaking treatment of PBR rewards, penalties, sharing or other costs beyond the transition period. However, the Commission authorized SDG&E to create a memorandum account or balancing account to track PBR revenue sharing, rewards and penalties which would be added to or subtracted from total billed revenues in calculating revenues available to offset uneconomic generation costs.

5. In D.97-10-057, the Commission stated:

We reject the proposals of Edison and SDG&E to create new balancing accounts to track PBR rewards, penalties, and revenue sharing for the purpose of affecting rates during or after the rate freeze period. Any such rewards or penalties would be reflected in the portion of total rates allocated to distribution and thereby affect the calculation of headroom. However, balancing accounts should be created for the sole purpose of crediting the TCBA. (slip op, pg. 18)

6. In D.97-12-041, the Commission ordered:

For 1997 and 1998, SDG&E shall record the electric department allocation of any amounts to be shared with ratepayers pursuant to the PBR experiment as a credit in the Transition Cost Balancing Account. (slip op, pg. 14)

In the text of that decision, the Commission noted:

We believe the original objectives for the non-price incentives remain valid for 1998. Even though the PBR rewards and penalties can only affect headroom, and this may dull the effect of the intended incentives, we are not persuaded that the incentives are rendered ineffective. We will retain these incentives for 1998. (slip op, pg. 11)

7. In Resolution E-3512, the Commission stated:

Due to the electric rate freeze and the treatment of PBR rewards we have ordered in D.97-10-057, the portion of SDG&E's reward allocated to the electric department will be used to offset CTC costs." (pg. 2)

The Commission also stated:

The electric sharing and rewards will not affect electric rates, but will serve to affect the amount of CTC SDG&E is able to recover. (pg. 17)

8. SDG&E filed AL 1055-E on November 26, 1997 pursuant to authorization in D.97-10-057 that it could create a memorandum account or balancing account to track PBR revenue sharing, rewards and penalties which would be added to or subtracted from total billed revenues in calculating revenues available to offset uneconomic generation costs.

SDG&E refers to the account as the Reward and Penalty Balancing Account. SDG&E proposed that authorized rewards be recorded as debits in the account, while authorized penalties and revenue sharing be recorded as credits. The rewards, penalties, and revenue sharing amounts are associated with the SONGS Nuclear Unit Incentive Procedure (NUIP), the Generation and Dispatch (G&D) PBR, the SDG&E base rates PBR or its successor PBR, and the Annual Earnings Assessment Proceeding (AEAP), net of DSM rewards or penalties included in the current distribution rate. SDG&E proposes that the year-end balance of the RPBA be transferred to the TCBA.

9. SDG&E and ORA entered into a Memorandum of Understanding (MOU) on December 18, 1996. Among the terms agreed to were the elimination of the SDG&E G&D PBR on December 31, 1996, the amount of the rewards under the G&D PBR for Years 2, 3, and 4 and a SONGS Target Capacity Factor (TCF) reward, and the elimination of the ECAC balancing account following the transfer of the 12/31/96 balance to the Interim TCBA (ITCBA).

10. The MOU was never officially filed in any Commission proceeding, although it had been referred to at various times in certain proceedings and forums for many months after it was signed.

11. In the SDG&E Energy Cost Adjustment Clause (ECAC) proceeding Application No. (A.) 96-10-022, SDG&E and ORA signed a new settlement agreement on January 13, 1998, and officially filed that Settlement in A.96-10-022. The Settlement states that it implements the relevant portions of the MOU and is not intended to supercede or invalidate other issues addressed in the MOU. Among the pertinent items agreed to are:

- the TCF reward requested in A.96-10-022;
- the G&D PBR rewards for Years 2 and 3;
- confirmation that SDG&E already transferred the TCF reward and G&D PBR rewards for Years 2 and 3 to the ECAC balancing account on December 31, 1996, and that these amounts were subsequently transferred into the ITCBA.
- elimination of the G&D PBR rewards for Years 4 and 5;
- confirmation that the G&D PBR ended on December 31, 1997 as ordered in D.97-07-064.

12. In D.97-07-064, the Commission eliminated the SDG&E G&D PBR. Unless the Commission ordered an earlier termination in A.96-10-022, D.97-07-064 ordered termination no later than December 31, 1997.

13. In D.96-01-011 and D.96-04-059, the Commission established an ICIP ratemaking procedure for SONGS, which superseded the TCF/NUIP ratemaking procedure.

14. On November 17, 1998, the Commission adopted Resolution E-3527. That resolution specified that only credit balances in the PG&E and SCE TRAs could be transferred to

the TCBA. Debit balances are to be carried forward from month-to-month in the TRA, and to earn interest, but may not be transferred to the TCBA.

15. On December 3, 1998, the Commission issued D.98-12-004. In that decision, we adopted the settlement offered by SDG&E and ORA in A.96-10-022.

16. Also on December 3, 1998, the Commission issued D.98-12-013, in which we adopted an SDG&E TRA, substantially similar to those established by SCE and PG&E.

NOTICE

1. Public notice of AL 1055-E was made by publication in the Commission calendar, and by SDG&E mailing copies of the filing to interested parties, including other utilities, governmental agencies, and the service list to R.94-04-031/A.94-04-032.

PROTESTS

1. ORA filed an initial protest to AL 1055-E on December 10, 1997. ORA asserted that AL 1055-E is not in compliance with D.97-10-057 because that decision allowed only the transfer of credit balances to the TCBA. SDG&E's proposal would automatically transfer the RPBA balance to the TCBA, whether the balance is a net debit or a net credit amount.

2. ORA cites language in ordering paragraph 17 of D.97-10-057 which states that SDG&E is authorized to create a memo account or balancing account "...for the purpose of tracking PBR sharing, rewards and penalties which would be added to or subtracted from total billed revenues in calculating revenue available to offset uneconomic generation costs." ORA asserts that this order essentially allows the transfer of the RPBA balance to the TCBA only if uneconomic generation costs are "offset" by additional credits. Therefore, only year-end credit balances could be transferred to the TCBA.

3. ORA cites the text of D.97-10-057 to strengthen its argument. ORA notes that, in discussing SDG&E's and Southern California Edison's original proposals for PBR reward and penalty balancing accounts, D.97-10-057 states "...balancing accounts should be created for the sole purpose of crediting the TCBA." (slip op, pg. 18)

4. ORA recommends that AL be modified by adding the following italicized language to the Account Disposition" section of the RPBA tariff: "the annual *credit* balance, *if any*, shall be transferred..."

5. SDG&E filed a reply to ORA's initial protest on December 18, 1997. SDG&E argues that ORA "...in effect takes the position that rewards are allowed to be recovered only to the extent that there are penalties or revenue sharing amounts of equivalent value." SDG&E disagrees with ORA's interpretation of D.97-10-057, and asserts that the

Commission has on several occasions indicated that essentially net rewards could also be transferred to the TCBA, thereby decreasing headroom revenue flowing to the TCBA. SDG&E cites the same ordering paragraph 17 in D.97-10-057, and emphasizes that the Commission indicated that "...sharing, rewards, and penalties could be added to or subtracted from total billed revenues...". SDG&E also cites the text of D.97-10-057 where the Commission stated "Any such rewards or penalties would be reflected in the portion of total rates allocated to distribution and thereby affect the calculation of headroom." (slip op, pg. 18)

6. SDG&E also cites D.97-12-041 where we stated in an ordering paragraph that: "...SDG&E shall record the electric department allocation of any amounts to be shared with ratepayers pursuant to the PBR experiment as a credit in the Transition Cost Balancing Account." (slip op, pg. 14)

7. SDG&E argues that it is "clearly not the Commission's intent to change SDG&E's PBR mechanism to a penalties-only mechanism." SDG&E says the Commission made this very clear when it stated in D.97-12-041: "We believe that the original objectives for the non-price incentives remain valid for 1998. Even though, the PBR rewards and penalties can only affect headroom, and this may dull the effect of the intended incentives, we are not persuaded that the incentives are rendered ineffective." (slip op, pg. 11)

8. Finally SDG&E notes that in Resolution E-3512 the Commission stated: "Due to the electric rate freeze and the treatment of PBR rewards we have ordered in D.97-10-056, the portion of SDG&E's reward allocated to the electric department will be used to offset CTC costs." (pg. 2) and "The electric revenue sharing and rewards will not affect rates, but will serve to affect the amount of CTC SDG&E is able to recover." (pg. 17)

9. SDG&E recommends that ORA's protest be rejected.

10. ORA filed a supplemental protest on December 15, 1997. ORA noted that the proposed tariff language provided with AL 1055-E included the debiting and crediting of rewards and penalties, respectively, related to the SDG&E G&D PBR and the SDG&E NUIP. ORA protested AL 1055-E on the grounds that it violates the terms and conditions agreed upon in the MOU dated December 18, 1996. ORA noted that SDG&E and ORA agreed in the MOU that: the ECAC, ERAM, and G&D PBR mechanisms, including the ECAC reasonableness review will be eliminated on 12/31/96; the ECAC balancing account will be eliminated following the transfer of the 12/31/96 balance to the Interim Transition Cost Balancing Account (ITCBA); rewards for the G&D PBR Years 2 and 3 and a SONGS TCF reward would be booked to the ECAC balancing account prior to December 31, 1996, and; SDG&E will not claim any reward for Year 4 of the G&D PBR.

11. ORA acknowledged that the Commission had delayed elimination of the ECAC balancing account to 12/31/97 instead of 12/31/96, but asserted that neither ORA nor SDG&E had abandoned the MOU.
12. ORA also noted that the SDG&E NUIP had been superseded by the ICIP established by D.96-01-011.
13. ORA therefore recommended that no additional rewards or penalties needed to be booked to an RPBA related to the G&D PBR or the SDG&E NUIP.
14. SDG&E filed a reply to ORA's supplemental protest on December 22, 1997. SDG&E agreed with ORA's supplemental protest, and offered revised tariff sheets, eliminating the debit/credit entries for the G&D PBR and NUIP rewards and penalties.

DISCUSSION

1. In D.97-10-057, we found that SDG&E's PBR revenue sharing and rewards and penalties would serve to offset uneconomic generation costs. We also stated that only credit balances of any balancing accounts (created to record such revenue sharing and rewards and penalties) could be transferred to the TCBA.
2. In D.97-12-041, we indicated that PBR rewards and penalties can affect headroom, and that for 1997 and 1998 the electric revenue sharing amount would be recorded as a credit in the TCBA.
3. SDG&E's proposed RPBA would record rewards as debits and penalties and revenue sharing as credits. The year-end net balance of the RPBA would be automatically transferred to the TCBA.
4. ORA and SDG&E entered into an MOU which states several points of agreement between those two parties concerning various SDG&E ECAC issues in A.96-10-022. On January 13, 1998, i.e. after ORA's protest and SDG&E's reply were filed, ORA and SDG&E also signed a Settlement Agreement in which ORA and SDG&E agreed on the following points, among others:
 - a total reward of \$13 million pursuant to SDG&E's TCF mechanism and G&D PBR (Years 2 and 3), which had been transferred to the ECAC Balancing Account on December 31, 1996, and subsequently transferred to the ITCBA;
 - elimination of G&D PBR rewards for Years 4 and 5 or any subsequent year.
5. A decision was issued on December 3, 1998 on A.96-10-022 which adopted the Settlement Agreement.
6. The G&D PBR has been terminated, effective December 31, 1997 by D.97-07-064. Therefore, no G&D PBR rewards or penalties for periods after that date will be recorded.

7. The SDG&E TCF/NUIP incentive ended as of April 15, 1996 as a result of ICIP ratemaking treatment being established for SONGS by D.96-01-011 and D.96-04-059. Therefore, there will be no additional rewards or penalties recorded after the TCF reward incorporated in the ECAC Settlement.

8. The Settlement adopted in D.98-12-004 dealt with any outstanding G&D PBR and NUIP rewards. Those rewards were already recorded in the ITCBA. The ITCBA balance was then transferred to the TCBA. No additional rewards need to be recorded pursuant to the G&D PBR or the NUIP. ORA's protest regarding the reference to G&D PBR and NUIP rewards in the RPBA is moot since SDG&E agreed with ORA.

9. The main issue here is the interpretation of Commission policy with regard to the transfer of balancing account balances to the TCBA.

10. SDG&E is correct that we have found that PBR rewards as well as penalties may be recovered and would affect headroom. We envisioned that PBR "rewards and penalties would be reflected in the portion of total rates allocated to distribution and thereby affect the calculation of headroom." (D.97-10-057, slip op, pg. 18)

11. ORA is also correct that transferring balancing accounts debits directly to the TCBA was not expected. We have adopted a policy that credits may be transferred from the SCE and PG&E TRA to the TCBA, but not debits. It would be inconsistent to allow SDG&E to transfer its RPBA balance, if a debit balance, to the TCBA.

12. Instead, SDG&E should transfer the annual year-end RPBA balance to the SDG&E TRA, which the Commission adopted in D.98-12-013 on December 3, 1998. In that decision, we found that SDG&E's proposed TRA is substantially similar to those adopted for PG&E and Edison.

COMMENTS

1. The draft resolution of the Energy Division in this matter was mailed to the parties in accordance with PU Code Section 311(g). Comments were filed on January 27, 1999 by SDG&E. SDG&E suggested only minor typographical changes to the draft resolution to ensure clarity. SDG&E's suggested changes have been included in this resolution.

FINDINGS

1. On November 26, 1997, SDG&E filed AL 1055-E in order to establish an RPBA.
2. On December 10, 1997, ORA filed a protest against AL 1055-E, because the proposed RPBA annual year-end balance would be automatically transferred to the

TCBA, whether the net balance was a credit or a debit. ORA argued that only credits could be transferred to the TCBA, not debits, according to D.97-10-057.

3. SDG&E filed a reply to ORA's protest, asserting that the Commission clearly intended to allow electric PBR rewards or penalties to affect headroom, so the transfer should be allowed, and ORA's protest should be rejected.

4. ORA is correct that we do not want to automatically transfer debits to the TCBA, but SDG&E is also correct that we recognized that PBR rewards and penalties would affect headroom.

5. ORA's protest concerning the automatic transfer of debits to the TCBA should be granted. We should require SDG&E to modify its proposed tariff language to state that the year-end RPBA balance would be transferred to the SDG&E TRA.

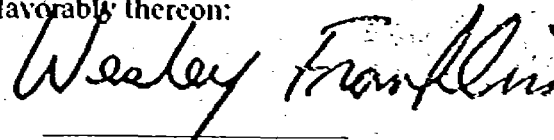
6. ORA's supplemental protest is moot. SDG&E agreed with their protest. The references to rewards and penalties under the G&D PBR and NUIP should be deleted.

7. SDG&E should file a supplemental advice letter to incorporate the above modifications.

THEREFORE, IT IS ORDERED THAT:

1. SDG&E's Advice Letter 1055-E is approved as modified.
2. ORA's protest concerning the automatic transfer of debits to the TCBA is granted. SDG&E shall modify its proposed tariff language to state that the year-end RPBA balance would be transferred to the SDG&E TRA.
3. ORA's supplemental protest is moot. SDG&E agreed with their protest. The references to rewards and penalties under the G&D PBR and NUIP shall be deleted.
4. SDG&E shall file a supplemental advice letter to incorporate the above modifications within 10 days of the effective date of this resolution. The supplemental advice letter shall be effective on filing.
5. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on February 18, 1999. The following Commissioners voting favorably thereon:



WESLEY FRANKLIN
Executive Director

RICHARD A. BILAS
President

HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners