

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric Company (U 902-M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012

Application No. 10-12-005
(Filed December 15, 2010)

Application of Southern California Gas Company (U 904 G) for authority to update its gas revenue requirement and base rates effective on January 1, 2012.

Application No. 10-12-006
(Filed December 15, 2010)

**JOINT MOTION OF
SAN DIEGO GAS & ELECTRIC COMPANY (U 902-M) AND
SOUTHERN CALIFORNIA GAS COMPANY (U 904 G)
TO ESTABLISH MEMORANDUM ACCOUNTS**

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January 10, 2011

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San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas or SCG) hereby file this Joint Motion to Establish Memorandum Accounts pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission). On January 7, 2011, Administrative Law Judge Wong issued a ruling consolidating application (A.) 10-12-005 and A.10-12-006, the General Rate Cases (GRCs) filed by SDG&E and SoCalGas on December 15, 2010, respectively. This motion is therefore being filed in this consolidated docket.

I. INTRODUCTION

SDG&E and SoCalGas filed Test Year 2012 GRC applications each requesting proposed revenue requirements and rates to be implemented as of January 1, 2012. The same proposed procedural schedule was provided in both applications, in accordance with the Commission's Rate Case Plan.¹ The procedural schedule listed November 2011 as an estimated date for a final decision to be issued, which would allow adopted rates to be implemented effective January 1, 2012. A prehearing conference has been scheduled for January 31, 2011 to discuss the procedural schedule and scope of this consolidated proceeding.

¹ The Rate Case Plan was adopted in Decision (D.) 89-01-040, and was most recently modified by D.07-07-004.

II. REQUESTED RELIEF

Both SDG&E and SoCalGas respectfully request the authority to each establish a GRC memorandum account to record the difference between the rates currently in effect for utility service and the final rates adopted in the GRCs in the event a final Commission decision is not rendered in time for 2012 rates to take effect January 1, 2012.

III. DISCUSSION

A. Memorandum Accounts Have Been Authorized in Past GRCs

The utilities have filed their GRCs with the expectation that the Commission will render a final decision in accordance with its Rate Case Plan. Adoption of a final decision before year-end 2011 will allow the utilities to timely implement their respective Test Year 2012 revenue requirements and corresponding rates by January 1, 2012. However, in the event of unforeseen procedural delays which may arise during the course of this proceeding, it is possible that a final decision will not be rendered in time for a January 1, 2012 implementation.² Circumstances have arisen in the past which caused resolution of the last two cost-of-service applications filed by SDG&E and SoCalGas to be delayed beyond the start of their respective test years. While SDG&E and SoCalGas believe that all parties can and should make every effort to adhere to the Commission's Rate Case Plan in this proceeding, establishing a GRC memorandum account is a prudent and necessary safeguard in the event of unforeseen circumstances which could delay a final decision beyond the start of the test year. However, establishment of this safeguard should not create an expectation of a delay in the procedural schedule set forth by the Rate Case Plan. Timely implementation of test year rates is still a critical and reasonable expectation on the part of SDG&E, SoCalGas, and their ratepayers, and was a determining factor in the timing of the Notices of Intent to file their GRCs (August 2010) and subsequent filing of their GRCs (December 2010).

² For example, Southern California Edison Company has also filed a Test Year 2012 GRC shortly before SDG&E and SoCalGas, and SCE's GRC will be processed during roughly the same time frame. While this fact alone does not necessarily signal a delay in the procedural schedule, it does increase the likelihood that certain parties may request delays in key procedural dates prior to the issuance of the scoping memo as well as during the course of this proceeding.

The requested relief is consistent with the Commission's practice in past proceedings. In their 2008 GRC proceeding,³ SDG&E and SoCalGas received a final Commission decision on July 31, 2008, almost eight months after the start of the test year (i.e., January 1, 2008). However, the authority to establish memorandum accounts was earlier granted by the Commission in D.07-12-053, which allowed the Commission and the parties to continue towards a final resolution without the delay negatively impacting the utilities' shareholders and ratepayers.

In their 2004 cost-of-service proceeding⁴, SDG&E and SoCalGas received a final Commission decision on December 2, 2004, over eleven months after the start of the test year (i.e., January 1, 2004). Again, the Commission had earlier authorized the utilities to establish memorandum accounts to track the revenue shortfall until the issuance of a final decision on the test year 2004 revenue requirements. *See* D.03-12-057, as modified by D.04-12-009. In that decision, the Commission granted interim relief to SDG&E and SoCalGas under a finding that regulatory delay would lead to unfair treatment to the utilities as well as subsequent rate shock to consumers when any final and reasonable rate increase is recovered over the remainder of the test year. *See* D.03-12-057 (*mimeo*), p. 13 (Findings of Fact #2 and 4). The same would hold true in this proceeding should a procedural delay cause rates to be implemented after January 1, 2012 without the safeguards afforded by a memorandum account.

The Commission has granted relief to the other California utilities to account for delays in the implementation of test year revenue requirements and rates. For example, Pacific Gas and Electric Company's (PG&E's) test year 2007 GRC decision (D.07-03-044) was issued three months into the test year, while PG&E's 2003 GRC decision (D.04-05-055) was decided over a year later. Similarly, Southern California Edison Company's (SCE's) prior GRC decisions were delayed: D.09-03-025 (by three months) and D.06-05-016 (by five months).⁵ In each instance, these utilities were given some form of interim relief by the Commission in the event a final decision was issued after the first day of the test year. *See* D.06-10-033 (PG&E's 2007 GRC); D.02-12-073 (PG&E's 2003 GRC); D.08-12-049 (SCE's 2009 GRC); and D.06-01-020 (SCE's 2006 GRC). *See also* D.03-05-032 (memorandum account authority granted to Southwest Gas Company in its 2003 GRC).

³ Application (A.) 06-12-009 (SDG&E) and A.06-12-010 (SoCalGas), filed December 8, 2006.

⁴ A.02-12-027 (SoCalGas) and A.02-12-028 (SDG&E), filed December 20, 2002.

B. The Requested Relief Is Fair, Reasonable, and Statutorily Permissible

With a GRC memorandum account, the utilities would track the difference between their revenue requirement and corresponding rates at an unchanged level and the newly-adopted rates for 2012, in order to have the ability to recover its adopted 2012 revenue requirement for the full year, beginning on January 1, 2012. The relief requested is therefore fair and reasonable, as it will (1) minimize any rate shock caused by an untimely decision and a subsequent need to recover the adopted revenue requirement in less than a full year and (2) protect the utilities from potential loss of adopted revenues.

Moreover, the relief requested is not precluded by statute. California Public Utilities Code (Pub. Util. Code) § 728 permits the establishment of rates prospectively only. *See e.g.*, D.99-11-057, 1999 Cal. PUC LEXIS 769. However, the Commission has a long history of using memorandum accounts to avoid retroactive ratemaking problems:

In order to carry out its ratemaking duties fairly and orderly, the Commission has decided to parallel the prohibition against retroactive ratemaking by requiring that the establishment of a memorandum account not be retroactive. That is, the memorandum account can start to record debits or credits only prospectively from the date the account is authorized. In that way, if recorded costs are subsequently approved for recovery in rates, there will be no confusion or entanglement of issues regarding retroactive ratemaking. D.03-05-076 (*mimeo*) at 7, citing D.99-11-057, 1999 Cal LEXIS 769.

In the 2004 cost-of-service proceeding for SDG&E and SoCalGas, the Commission specifically concluded that authorizing the utilities to establish memorandum accounts did not violate Pub. Util. Code § 728. *See* D.03-12-057 at 13 (Conclusion of Law #4). The Commission has stated that memorandum accounts are the “usual practice” of avoiding retroactive ratemaking problems, although not the only means used by the Commission. *See, e.g.*, D.01-05-064. The Commission has also stated that “interim relief that leaves ratepayers and shareholders indifferent to the actual date of the Commission’s revenue requirement decision is fair from the perspective of both ratepayers and shareholders.” D.03-05-032 (*mimeo*) at 6. The Commission has therefore authorized the use of memorandum accounts to hold utility shareholders and ratepayers harmless for any required procedural delays, thereby removing incentives to seek or promote delay as well as providing parties and the Commission with sufficient time to review and analyze record. *See* D.06-05-016 (*mimeo*) at 350.

These Commission decisions establish a practice of allowing memorandum accounts in GRCs to avoid the potential harms caused by delays in the timely implementation of rates. As stated by the Commission:

The Commission has a practice of establishing memorandum accounts to allow GRC case decisions delayed past the start of the test year to be effective as if the decisions had not been delayed, notwithstanding the general rule against retroactive ratemaking. *Id.* at 349.

Furthermore, authority to establish memorandum accounts for this purpose does not prejudice the outcome of an applicant's requested rate increase. *See* D.06-10-033 (*mimeo*) at 3 n.2; D.03-12-057 at 10; D.03-05-032 (*mimeo*) at 10 (Conclusion of Law #2).

IV. CONCLUSION

For the reasons stated herein, SDG&E and SoCalGas request that the Commission grant this motion, thereby allowing them to each establish a memorandum account that would be applicable to their respective test year 2012 authorized revenue requirements, effective January 1, 2012.

Respectfully submitted,

SAN DIEGO GAS & ELECTRIC COMPANY and
SOUTHERN CALIFORNIA GAS COMPANY

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January 10, 2011

CERTIFICATE OF SERVICE

I hereby certify, that pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true and correct copy of the **JOINT MOTION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) TO ESTABLISH MEMORANDUM ACCOUNTS** to the parties indicated in the service list for Application Nos. 10-12-005/006 (in addition to the parties listed in the last GRC, Consolidated Application Nos. 06-12-009 and 06-12-010). Those parties without an email address were served by placing copies in properly addressed and sealed envelopes and depositing such envelopes in the United States Mail with first-class postage prepaid.

Executed this 10th day of January, 2011 at San Diego, California.

 /s/ Jenifer E. Nicola
Jenifer E. Nicola