

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

RULEMAKING 12-06-013

(FILED JUNE 21, 2012)

COMMENTS OF SAN DIEGO CONSUMERS' ACTION NETWORK ON ASSIGNED COMMISSIONER'S RULING INVITING UTILITIES TO SUBMIT INTERIM RATE CHANGE APPLICATIONS

Pursuant to the ALJ's Scoping Memo, San Diego Consumers' Action Network (SDCAN) submits on the Assigned Commissioner's Ruling Inviting Utilities to Submit Interim Rate Change Applications ("Ruling") that was issued in this proceeding on October 25, 2013. SDCAN offers the following three observations:

- 1) The proposed schedule allows about ten weeks (most of which run through the holidays) to conduct almost an entire rate design proceeding. It leaves literally no time for any discovery or hearings.
- 2) The absence of a decision in SDG&E's GRC Phase 2 makes it almost impossible for SDG&E to make an informed application or for intervenors to assess SDG&E's application, if the utility chooses to file one.
- 3) The tenor of the Phase 2 ruling suggests that the outcome has been predetermined, despite clear guidance from the Legislature that the proponents of any rate design changes must address the impact of rate design upon conservation/efficiency and reflect costs are serving large and small customers.

Discussion

Section 739.9, as amended by AB 327 states that the Commission may:

adopt new, or expand existing, fixed charges for the purpose of collecting a reasonable portion of the fixed costs of providing electric service to residential customers. The commission shall ensure that any approved charges do all of the following:

- (1) Reasonably reflect an appropriate portion of the different costs of serving small and large customers.
- (2) Not unreasonably impair incentives for conservation and energy efficiency.
- (3) Not overburden low-income customers.

The applications submitted by utilities for interim rate changes will necessarily require testimony regarding these three legislative conditions. And intervenors/respondents will be required to develop testimony to rebut utility allegations that these conditions are met. This is not rebuttal testimony that can be hastily thrown together and presented. And both sets of testimony will assuredly require evidentiary hearings to test the accuracy of the statements.

SDCAN has recently addressed these issues in SDG&E's GRC Phase 2 proceeding. (A. 11-10-002) The testimony on these points was significant, expensive and the parties continue to await a decision in a matter that was litigated in the latter half of 2012. These three legislatively-mandated conditions generated significant controversy and were not settled by the parties.¹ For example, the Ruling requires utilities to submit "multiple versions of rate impacts". The development of accurate rate impacts is very complex and took parties in the SDG&E Phase 2 case many months to come to agreement about the methodology by which rate impacts would be modeled. In the absence of a GRC Phase 2 final decision, it will be nearly impossible for the parties to reach consensus about SDG&E's proposed models. The effort required by intervenors contesting the PG&E and SCE applications might even be more involved and cannot be done in a two-month holiday-interrupted period.

¹ Most all of the other issues were resolved. Thus, it is fair to deduce that these three issues are a primary driver in the 12 months that has transpired since submission – and no decision.

The Commission has indicated informally that a decision on SDG&E's Phase 2 application is expected before the end of the 2013. SDCAN suggests that any application by SDG&E for interim rate changes must, by necessity, be submitted only after a final decision on that very relevant case. SDCAN is particularly concerned that SDG&E may seek interim rate changes to a case that continues to be under submission, thus requiring re-litigation of matters still under submission in a separate case.

Finally, SDCAN was alarmed by language in the Assigned Commissioner's ruling that suggestions prejudgment. The ruling states:

"Second, each utility will need to implement any new rate structure through a general rate case or other ratesetting proceeding. In the meantime, Phase 2 will endeavor to implement interim rate changes that will better align residential electricity prices with the Commission's cost to serve and other policy objectives, and that will reduce the size of rate changes required to implement future rate structures" (Ruling, p. 4)

This statement pretty much concludes that rates will have to be changed, that the changes will be initiated now, before each utility's general rate case, despite the Legislative requirement that rates not be changed unless the three conditions can be met.

On the following page, the Ruling lays out five guidelines for the proposed rate changes including a requirement that the rate changes begin in 2014. It mentions nothing about two of the three legislative conditions imposed upon the utilities by AB327; it deals only with the CARE-related issues. It is abundantly clear to any independent observer that the Assigned Commissioner is convinced that rate changes are inevitable and will be approved regardless of the legislative conditions. The Assigned Commissioner's position is not supported by any evidentiary record or by the language in AB327.

Conclusion

SDCAN offers three recommendations:

1. The evidentiary schedule set forth is unrealistic and unreasonable. At a minimum, any application submitted by SDG&E must come after the Commission

issues a final decision in A. 11-10-002 and must give parties at least three months to develop rebuttal testimony.

2. If the SDG&E GRC Phase 2 is any indication, it is highly likely that evidentiary hearings will be required. The Ruling should be modified to schedule such hearings.
3. This docket should be reassigned to a different Commissioner, given this current assigned Commissioner's predisposition on the outcome.

Respectfully submitted,

Dated: November 8, 2013

/s/

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