

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3470
AUGUST 1, 1997

R E S O L U T I O N

RESOLUTION E-3470. SAN DIEGO GAS & ELECTRIC COMPANY REQUEST TO REVISE ELECTRIC AND GAS RULE 18 - METER TESTS AND ADJUSTMENT OF BILLS, TO REARRANGE TEXT AND MAKE MISCELLANEOUS CHANGES.

BY ADVICE LETTERS 930-E AND 939-G, FILED NOV. 16, 1994.
THE ADVICE LETTER IS APPROVED WITH MODIFICATIONS.

SUMMARY

1. San Diego Gas & Electric Company (SDG&E) requests authority to revise its Electric and Gas Tariff Rules 18 - Meter Tests and Adjustment of Bills. The revisions would rearrange text and make miscellaneous changes.
2. SDG&E's filings were protested by Milton L. Grinstead (Grinstead) on the grounds that SDG&E's filings would unduly prejudice the rights of the consumer when the utility fails to properly notify customers of new or optional rates. He also was concerned that SDG&E's filings would be viewed as a precedent for other utilities.
3. Portions of Tariff Rules 18 that SDG&E seeks to modify were authorized by prior Commission decisions. The interested parties who participated in those proceedings have been notified of SDG&E's proposal. The Energy Division recommends that SDG&E's advice letters be accepted with modifications and with a recommendation for subsequent filings.
4. This resolution accepts Grinstead's protest in part concerning failure of the customer to take advantage of any noticed rate option or condition of service and denies the remainder of Grinstead's protest and accepts SDG&E's advice letter filings with modifications and requirements for future filings.

BACKGROUND

1. SDG&E's tariff rules include Electric and Gas Tariff Rules 18 - Meter Tests and Adjustment of Bills. The revisions SDG&E seeks would (1) rearrange text, (2) make miscellaneous changes regarding the notice period to the utility for meter tests, (3) prohibit interest payments for overcharges and undercharges due to meter error, and (4) restrict credit adjustments under

circumstances such as a customer failing to notify the utility of changes in connected load or neglecting to take advantage of noticed rate options. The following paragraphs indicate the specific proposed tariff changes.

2. Relocate the section on estimated usage from Section A. General, to Section B.5 of electric Rule 18 and Section B.6 of gas Rule 18.

3. Insert the word "working" into the notice section regarding meter tests. The revised text would read as follows:

A. Meter Tests

Any customer may, upon not less than five **working** days notice, require the utility to test the accuracy of any meter in use by him.

4. Add an explicit provision that interest is not paid on undercharges or overcharges in connection with meter error. Group adjustment procedures regarding fast, slow and non-registering meters by class of service. Add a new section to provide for estimating a customer's usage where the meter cannot be tested. The text of that section is as follows:

Where the condition of the meter renders it unable to be tested, the utility may bill the customer for the utility's estimate of the unmetered electric (gas) usage in accordance with Section 3 above. Nothing herein is intended to limit the utility's authority to bill the customer for unauthorized use in accordance with Rule 18.D.

5. The current text of Rule 18, Section c. with the changes proposed by SDG&E is as follows (additions are highlighted and underlined and deletions are enclosed in parentheses):

c. Adjustment of Bills for Billing Error

A billing error is an error by the utility which results in incorrect billing charges to the customer. Billing errors may include incorrect meter reads or clerical errors by a utility representative such as applying the wrong rate, wrong billing factor, or an incorrect calculation. Billing error does not include a meter error or unauthorized use, nor any error in billing resulting from meter dial over caused by other than the utility; switched or mismarked meters by other than the utility; improper customer wiring; blown fuse in one energized conductor; or lack of access to the (inaccessible) meter. Billing error which does not entitle customer to a credit adjustment includes failure of the customer to notify the utility of changes in the customer's connected load, equipment or operation; or failure of the customer to take advantage of any noticed

rate option or condition of service for which the customer becomes (is) eligible subsequent to the date of application for service.

6. Under the current tariff, a customer's failure to notify the utility of changes in the customer's equipment or operation or to take advantage of a rate or condition of service for which the customer is eligible are excluded from the category of billing errors. SDG&E proposes to include these failures in the category of billing error, but they would not be eligible for a credit adjustment. SDG&E would also expand the notification failure to include connected load. Finally, SDG&E would add language to clarify and expand the customer's ineligibility for a credit adjustment if the customer failed to take advantage of noticed rate options.

NOTICE

1. Public notification of these filings has been made by placing them on the Commission calendar and by SDG&E mailing copies of the filings to other utilities, governmental agencies, and to all interested parties.

PROTESTS

1. The Energy Division has received a protest from Grinstead. The protest was filed on December 6, 1994 and alleged that the requested change would unduly prejudice the rights of the consumer to refunds and/or rebates when the utility fails to properly notify customers of new or optional rates under Tariff Rule 12, thus entitling the customer to a refund under Tariff Rule 18 (C) (1). Grinstead acknowledged that these advice letter filings would affect only SDG&E customers but was concerned that the precedent of SDG&E's advice letter would be used to seek changes in rules applicable to other utilities. SDG&E responded to Grinstead's protest by letter dated December 13, 1994. SDG&E notes that it is not seeking to revise its Tariff Rule 12 - Rates and Optional Rates. Further, the utility indicates that it is not requesting protection when it fails to notify customers. However, it would propose not to make billing adjustments when the Customer fails to take advantage of any noticed rate options or conditions of service for which the customer becomes eligible subsequent to the date of application for service. SDG&E also notes that its Tariff Rule 12 does not contain the phrase "fail to properly notify (customer) of new or optional rates".

DISCUSSION

1. SDG&E believes that these filings would make several minor changes to its electric and gas Tariff Rule 18 - Meter Tests and Adjustment of Bills. The most significant of the proposed changes would be: (1) the explicit limitation on credit adjustments for

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billing error where customers failed to notify the utility of changes in operation or failed to take advantage of noticed rate options and (2) the explicit statement of SDG&E's policy not to pay interest on undercharges or overcharges.

2. The Grinstead protest raises two issues. First, would SDG&E's proposal unduly prejudice the rights of consumers to refunds and/or rebates when the utility fails to properly notify customers of new or optional rates? Second, is Grinstead's protest germane to SDG&E's advice letter filings as a precedent for other utilities?

3. Utilities such as SDG&E are required to notify their customers of rate changes. Such notification may be made by publication in newspapers of general circulation. Direct mailing to affected customers, either separately or as "bill stuffers" would also satisfy the notification requirement. Other means may also be used. Notice about changes to conditions of service, as contained in the utility's tariffs, occurs when advice letters are distributed in accordance with the provisions of General Order 96 A, Section G. The General Order requires that utilities furnish a copy of the advice letter and related tariff sheets to competing or adjacent utilities and other interested parties having requested such notification. In addition to such notification by the utility, advice letter filings are noticed in the Commission's calendar, which is available by subscription and also through the Internet.

4. Using the methods described above, the Commission and the utilities try to keep the public informed of tariff changes. However, only diligent customers are likely to keep up with such relatively remote activities. SDG&E's proposed change to Tariff Rules 18(c) reads as follows (additions are in bold and underlined, deletions are enclosed in parentheses):

Billing error which does not entitle customer to a credit adjustment includes failure of the customer to notify the utility of changes in the customer's connected load, equipment or operation; or failure of the customer to take advantage of any noticed rate option or condition of service for which the customer becomes (is) eligible subsequent to the date of application for service.

5. Section 734 of the Public Utilities Code provides that:

... No order for the payment of reparation upon the ground of unreasonableness shall be made by the commission in any instance wherein the rate in question has, by formal finding, been declared by the commission to be reasonable,
...

If the Commission approved SDG&E's proposal, the latter part of SDG&E's proposed change to Tariff Rules 18(c) would foreclose a

customer from seeking refunds upon finding out about an advantageous tariff change. This would be a sweeping bar upon customers' options to negotiate with the utility and to carry such complaints forward to the Commission. The Energy Division is of the opinion that SDG&E's proposal excessively limits the rights of customers to complain and the ability of the Commission to review customers complaints concerning eligibility for refunds due to tariff changes. The Energy Division therefore recommends against SDG&E's proposal to change its Rules 18.c

6. Grinstead's other issue, that Commission action on SDG&E's proposal would establish a precedent that would be used by other utilities implies that the tariff issue is the same between Pacific Gas and Electric Company (PG&E) and SDG&E and possibly other utilities. It is the Energy Division's understanding that the provisions in PG&E's Tariff Rule 12 that are at issue in Grinstead v. PG&E are not to be found in SDG&E's tariffs. Also, utility proposals to revise their tariffs are subjected to individual scrutiny by the Commission. Therefore, that portion of Grinstead's protest should be rejected.

FINDINGS

1. SDG&E filed Advice Letter 930-E and 939-G on November 16, 1994.
2. By the Advice Letters, SDG&E would amend its Electric and Gas Tariff Rules 18 - Meter Tests and Adjustment of Bills.
3. The purpose of the amended tariff rules is to allow SDG&E to make minor changes to Tariff Rules 18 and to make explicit changes regarding the definition of billing error and non-payment of interest on overcharges and undercharges.
4. Milton L. Grinstead protested SDG&E's Advice Letter on two issues. The first issue was that the filing would unduly prejudice the rights of consumers to refunds and/or rebates when the utility fails to properly notify customers of new or optional rates. The second issue was that it would set a precedent for other utilities.
5. The Energy Division supports Grinstead with regard to the issue of changed rate options or conditions of service. For the remainder, the Energy Division recommends rejection of Grinstead's protest.
6. The Energy Division recommends that this filing be accepted with modifications.
7. SDG&E's Advice Letter filing 930-E/939-G would result in changes to the utility's meter test and bill adjustment practices

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that could result in more restrictive conditions for the utility's customers. This change requires Commission authorization.

8. SDG&E's Advice Letters 930-E/939-G should be accepted with modifications as discussed in paragraph 5, pages 4 and 5.

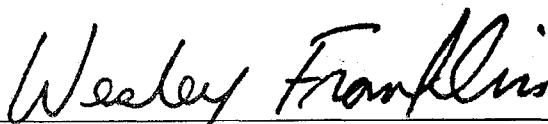
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THEREFORE, IT IS ORDERED that:

1. San Diego Gas & Electric Company's Advice Letters 930-E and 939-G are approved subject to the modification expressed in paragraph 5 of the Discussion portion of this Resolution.
2. Should San Diego Gas & Electric Company agree, it may file revised Advice Letters 930-E and 939-G accepting the modifications within 20 days. The Advice Letters shall be effective on the date filed.
3. Milton L. Grinstead's protest is accepted in part and rejected in part.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 1, 1997. The following Commissioners approved it:



WESLEY FRANKLIN
Executive Director

P. Gregory Conlon, President
Jessie J. Knight, Jr.
Henry M. Duque
Josiah L. Neeper
Richard A. Bilas
Commissioners