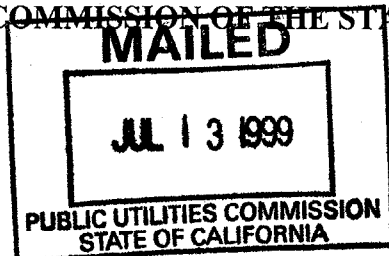


PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION



RESOLUTION E-3603  
JULY 8, 1999

**RESOLUTION**

Resolution E-3603. San Diego Gas & Electric Company (SDG&E) seeks approval of its plan to refund electric rate overcollections to customers through its Electric Deferred Refund Account (EDRA). The total amount proposed to be refunded is approximately \$2,463,135 plus interest. Advice Letter 1149-E is adopted as modified.

By Advice Letter 1149-E, filed on February 1, 1999.

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**SUMMARY**

On February 1, 1999, San Diego Gas & Electric (SDG&E) filed with the Commission a proposal to refund to electric customers the revenues collected in its Electric Deferred Refund Account (EDRA) for 1998. SDG&E's EDRA account at the end of 1998 consisted of an electric rate overcollection from June 1998, a transmission services refund, and a refund from Post-Retirement Benefits Other than Pensions. SDG&E proposes in its methodology to amortize the full amount in the EDRA over a 12-month period beginning July 1999.

ORA protested the amount of the electric rate overcollections, the methodology, and the legal authority for SDG&E to increase rates pending Commission authority. ORA requests that the Energy Division verify the amount of the FPIM overcollection, that the Energy Division propose a one-time refund, and that the Commission assess SDG&E a fine for increasing rates in June 1998.

The Energy Division has taken each of ORA's points into account and has adopted SDG&E's refund plan with modifications.

**BACKGROUND**

The California PUC established the Electric Deferred Revenue Account (EDRA) in D.96-12-025 to ensure that disallowances and certain refunds to the three major

California electric utilities be credited to electric customers directly rather than be used to offset transition costs. The Commission ordered that EDRA refunds be made annually, be based on each customer's average monthly electric usage for the prior calendar-year period, and be returned in accordance with a refund plan filed by advice letter on or before January 31 of the succeeding year. SDG&E's established its ERDA by AL 1014-E. On January 29, 1998, SDG&E filed its first refund plan for amounts it overcollected in electric rates in January 1997. On February 1, 1999, SDG&E filed its proposed refund plan for money collected into the EDRA for 1998.

The balance in the EDRA for 1998 is the result of a Fuel Price Index Mechanism (FPIM) overcharge (\$527,000), a transmission services refund from Southern California Edison (\$868,558), and a Post retirement Benefits Other than Pensions (PBOP) refund (\$1,067,577). Both the transmission services refund and the PBOP refund are simple one-time refunds.

However, the Fuel Price Index Mechanism (FPIM) refund resulted from an overcollection after SDG&E increased rates to reflect fuel price increases. Although electric rates in California have generally been frozen as a result of Assembly Bill (AB) 1890 (Stats. 1996, Ch. 854)<sup>1</sup>, the legislature allowed SDG&E to adjust its electric rates if gas prices changed by more than 10% calculated on a 12-month rolling average basis from the price reflected in an index of prices as of January 1, 1996.

On May 15, 1998, SDG&E filed AL1094-E seeking approval to revise electric rates effective June 1, 1998, pursuant to the FPIM. ORA protested the AL stating, among other things, that SDG&E's filing changed the definition of the Authorized System Average Rate. The effect of the advice letter would be to modify special conditions 3 and 4 of Tariff Schedule RCM. On July 6, 1998, SDG&E filed a request to withdraw AL1094-E. In its withdrawal letter to the Commission, SDG&E requested that "...any monies that electric customers have been overcharged since June 1, 1998, be held in the Electric Deferred Refund Account (EDRA) and accrue interest until the amount in the EDRA could be properly returned to SDG&E's electric customers." (SDG&E letter dated July 6, 1998, p. 1)

SDG&E's 1997 EDRA amounts were refunded in March 1999. This time, however, SDG&E proposes to refund the full amount in the EDRA through a 12-month amortization period beginning July 1, 1999. SDG&E requests a 12-month rate amortization plan because "there are already two scheduled refunds that would preclude performing a standard refund before 2000." (SDG&E AL 1149-E, p.1)

SDG&E proposes two refund mechanisms. For the FPIM overcharge, SDG&E proposes that the "actual amount of the overcharge, plus accrued interest, should be refunded to customers on a specific identification basis." (SDG&E AL 1149-E, p.2)

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<sup>1</sup> Public Utilities (PU) Code, § 397

For the Transmission Services and PBOP refunds, SDG&E proposes that the refund "should first be allocated to electric customer classes based on the portion of January 1997 through March 1998 revenues received from those classes. The residential customers' share of the refund should then be allocated to residential customers on a (sic) equal cents/customer basis. Non-residential customers' share of the refund should be allocated to customers based on their actual usage for the 15-month period, January 1997 through March 1998." (SDG&E AL 1149-E, p.2)

### NOTICE

In accordance with Section III, Paragraph G, of General Order No. 96-A, SDG&E mailed copies of this advice letter to other utilities and interested parties. Public notice of this filing was made by publication in the Commission's calendar.

### PROTESTS

ORA timely protested SDG&E's AL 1149-E on February 22, 1999, addressing three main points, dealing primarily with the FPIM portion of the refund. First, ORA protests the amount resulting from the FPIM overcollection. ORA points out that SDG&E had initially identified the FPIM overcollection amount at \$870,000. ORA requests that the Energy Division verify the actual FPIM overcollection. Secondly, ORA protests SDG&E's rate increase without "necessary commission authority." By increasing rates, ORA argues that SDG&E violated GO96-A and PU Code §454. In short, ORA contends that "SDG&E lacked the requisite commission authority, and was not permitted to increase rates." (ORA protest, p. 2) ORA recommends "the Commission ... issue an order to show cause so that an appropriate financial penalty can be assessed." (ORA protest, p.2). Finally, ORA protests SDG&E's proposal to amortize the money over a 12-month period. Though a prompt, one-time refund may come at a burdensome cost to SDG&E, ORA believes that since "SDG&E caused the problem, ... it should bear the consequences fully." (ORA protest, p. 2) Further, ORA argues that the proposed refund plan "suffers from a lack of clarity." ORA recommends that the Energy Division direct SDG&E to "refile a refund plan that clearly describes how any refund will be allocated to customers." (ORA protest, p. 3)

SDG&E responded to ORA's protest on March 3, 1999, addressing each of ORA's points. SDG&E "agrees that the Energy Division may verify the amount to be refunded and will work with Energy Division to provide whatever backup that might be needed to substantiate the total amount to be refunded." (SDG&E reply, p. 3) Secondly, SDG&E believes that its "...authority to change rates on short notice is similar to the authority that SD&E currently has to revise its gas procurement rates on a monthly basis. SDG&E routinely begins charging customers the revised gas procurement rates before the Commission reviews and approves the monthly filings." (SDG&E reply, p. 2) Finally,

SDG&E explains the technical difficulties it faces in trying to accommodate a one-time refund in 1999.

“...SDG&E’s Information Technology Services Department has indicated that it would be nearly impossible to do another refund prior to the spring of the year 2000. This is because of the January, 1997, FPIM overcharge that SDG&E commenced refunding on March 1, 1999, the anticipated July 1, 1999, rate change due to the end of the rate freeze for SDG&E, and the September, 1999, merger refund.” (SDG&E reply, p. 3)

## DISCUSSION

ORA’s protest identifies three main points which need to be addressed in this resolution; (1) the amount of the FPIM overcollection, (2) SDG&E’s legal authority to change rates before Commission approval, and (3) SDG&E’s proposed methodology.

With respect to the first issue, in response to an e-mail data request from the Energy Division, SDG&E detailed why it was unable to provide a more exact amount for the FPIM overcharge. SDG&E explains that “when the new rate increase began, new rate tables were added to SDG&E’s billing system...” and “in the case of this particular situation, someone deleted the elements of the table associated with the increase and reactivated the old rates.” While this represents a “significant breach of internal controls”, it makes it difficult to get an “accurate number without a very detailed account-by-account review.” While SDG&E had initially stated the amount to be approximately \$870,000, later discussions with SDG&E revealed that that amount was a very simplistic calculation that did not take into account customer’s billing cycles. Taking various billing cycles into account, SDG&E has approximated the amount to be \$527,000. Considering the amount of the refund, Energy Division is not inclined to have SDG&E exhaust time and money on an effort that will likely provide insignificant differences to the FPIM overcollection from the amount submitted by SDG&E. However, SDG&E must take better measures to prevent similar situations from occurring and to minimize inaccuracies in its billing. Energy Division accepts SDG&E’s estimate FPIM overcollection of \$527,000.

With respect to the second point, ORA’s protest addresses the legality of SDG&E’s increasing rates before Commission approval. ORA states:

“Even for rate reductions, GO 96-A states that ‘The rates will not become effective on less than statutory notice [i.e. 40 days] until appropriate action by the Commission, of which the utility will be advised (Section III.F).’ The procedure in filing increased rates states ‘the tariff schedules of a utility may not be changed whereby an (sic) rate or charge is increased...until a showing has been made before the Commission and a finding by the commission that such increase is justified (Section VI.)’ “ (ORA protest, p.2)

ORA further explains that:

“Similarly, Section 454 of the Public Utilities Code states that ‘Except as provided in Sections 454.1 and 455, no public utility shall change any rate...except upon a showing before the commission and a finding by the commission that the new rate is justified.’ ” (ORA protest, p.2)

This issue presents an interesting dilemma. Normally, rates do change when they are filed in compliance to a Commission decision. In this case, however, Energy Division agrees with ORA that SDG&E should not change rates arbitrarily and/or pending Commission approval through a resolution. SDG&E comments that it “...would not intentionally put revised rates, whether it be electric or gas, into effect if we did not feel we had proper prior authorization from the Commission in a decision or the authorization was not already emodied (sic) within the tariffs that would allow us to proceed with the filing.” Energy Division accepts that PU Code §397(a), in conjunction with D.96-12-077 and SDG&E AL 998-E-A, allows SDG&E to implement rate changes related to its Fuel Price Index Mechanism.

In this case, however, SDG&E exceeded its ability to implement new rates even given the authority to do so under PU Code §397(a) and as approved in AL 998-E-A. SDG&E, in AL 1094-E subsequently withdrawn on July 8, 1998, in essence, asked the Commission to approve a modification of the FPIM calculation methodology, along with changed rates. At that point, the new FPIM rates ceased to be filed in compliance with authorized decisions.

ORA recommends the Commission assess penalties for SDG&E’s actions. It is outside the scope of this resolution for the Commission to find sufficient grounds to issue an order to show cause. Advice Letter 1149-E deals with SDG&E’s proposed EDRA refund methodology.

With respect to the third point, Energy Division is sympathetic to any technical constraints SDG&E may face in 1999 but finds it unacceptable to amortize the refund amount over a 12-month period as proposed by SDG&E. SDG&E later states that “...during the first half of 2000 there would be an opportunity to do a refund.” Therefore, SDG&E shall make its EDRA refund, including interest, in March 2000 using the following refund allocation method:

1. For the FPIM overcharge, SDG&E should first allocate to its electric customer classes based on the portion of June 1998 revenues received from those classes. Residential customers’ share of the refund should then be allocated to residential customers on an equal cents/customer basis. Non-residential customers’ share of the refund should be allocated to customers based on June 1998 usage.

2. For the Transmission Services and PBOP refunds, SDG&E should first allocate to electric customer classes based on the portion of January 1997 through March 1998 revenues received from those classes. The residential customers' share of the refund should then be allocated to residential customers on an equal cents/customer basis. Non-residential customers' share of the refund should be allocated to customers based on their actual usage for the 15-month period, January 1997 through March 1998.

Finally, SDG&E shall file no later than May 10, 2000, a report providing details of the EDRA refund implementation. The report shall include the total amount refunded, a breakdown of rates by customer class that includes the initial rate, the refund and the new rate.

### COMMENTS

The draft Resolution of the Energy Division in this matter was mailed to parties in accordance with Public Utilities Code Section 311(g). Comments were filed on June 21, 1999, by Sempra Energy, on behalf of SDG&E. SDG&E requests that due to "conflicts with the timing of the monthly closing process of SDG&E's accounting system," the reporting due date be changed from May 1, 2000, to May 10, 2000.

ORA submitted late comments on June 23, 1999, without an affidavit. We are rejecting ORA's comments.

With regards to Sempra's comments, we have changed the reporting requirement due date to accommodate SDG&E's accounting system from May 1, 2000, to May 10, 2000.

### FINDINGS

1. SDG&E filed AL 1149-E on February 1, 1999 requesting approval of its proposed refund plan for amounts in its EDRA, in compliance with D.96-12-025, and in accord with an agreement it made with the Energy Division. The amounts in the SDG&E EDRA result from a Fuel Price Index Mechanism overcharge, a transmission services refund from SCE, and a Post-retirement Benefits Other than Pensions refund.
2. Citing technical constraints, SDG&E requests an amortization of the EDRA refund over a 12-month period beginning July 1, 1999.
3. SDG&E proposed to refund the FPIM overcharge on a specific identification basis and would refund the transmission services and PBOP refund to residential customers on an equal cents/customer basis and would provide non-residential customers' refund based on those customers' actual energy consumption for the 15-month period January 1997 through March 1998.

4. ORA protested the amount associated with the FPIM overcharge, the legal authority of SDG&E to implement rate increase without commission authorization, and the deferral and methodology of the refund plan.
5. SDG&E responded to each of ORA's protest.
6. ORA's request to issue an order to show cause to assess a fine on SDG&E outside the scope of this resolution.
7. SDG&E should make its EDRA refund, including interest, in March 2000 using the following refund allocation method. SDG&E should first allocate to its electric customer classes based on the portion of revenues received from those classes during the applicable refund period. Residential customers' share of the refund should then be allocated to residential customers on an equal cents/customer basis. Non-residential customers' share of the refund should be allocated to customers based on usage.
8. Finally, SDG&E shall file no later than May 10, 2000, a report providing details of the EDRA refund implementation. The report shall include the total amount refunded, a breakdown of rates by customer class that includes the initial rate, the refund and the new rate.

**THEREFORE, IT IS ORDERED THAT:**

1. SDG&E Advice Letter 1149-E is approved with the modifications as described in Finding #7.
2. SDG&E shall refund to its retail electric customers the EDRA amounts, including interest through the date of the refund, in customers' March 2000 bills, or sooner if practical.
3. SDG&E shall submit a report detailing the EDRA refund no later than May 10, 2000, as described in Finding #8.
4. ORA's request to issue an order to show cause to assess a fine on SDG&E is outside the scope of this resolution. To the extent this resolution adopts other aspects of ORA's protest, they are granted.
5. This resolution is effective today.

July 8, 1999

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 July 8, 1999. The following Commissioners voting favorably thereon:



WESLEY M. FRANKLIN  
Executive Director

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

JOEL Z. HYATT

CARL W. WOOD

Commissioners