

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND  
COMPLIANCE DIVISION  
Energy Branch

RESOLUTION G-3047  
APRIL 21, 1993

**R E S O L U T I O N**

RESOLUTION G-3047. SAN DIEGO GAS & ELECTRIC COMPANY REQUESTS AUTHORITY TO REVISE ITS GAS AND ELECTRIC RULE NO. 9 "RENDERING AND PAYMENT OF BILLS" TO REFLECT THE REQUIREMENTS OF GOVERNMENT CODE SECTION 926.17

BY ADVICE LETTER 871-E/848-G, FILED ON FEBRUARY 2, 1993

---

**SUMMARY**

1. San Diego Gas & Electric Company (SDG&E) requests authorization to revise its Gas and Electric Tariff Rule No. 9, "Rendering and Payment of Bills", Paragraph B.7. "Payment of Bills" to add language referencing the limitation of late payment charges as set forth in Government Code (GC) Section 926.17 for agencies of the State of California. This Resolution grants SDG&E's request.

**BACKGROUND**

1. Government Code (GC) Section 926.17, which necessitates a change in tariff language as proposed by this Advice Letter, was most recently amended effective September 26, 1987. GC Section 926.17(a)(1) states, in part:

A state agency which acquires property or services pursuant to a contract, including any approved change order, with a business shall pay for each complete delivered item of property or service on the date required by contract between the business and agency or be subject to an interest penalty fee. If no date for payment is specified by contract, the state agency shall pay the contractor directly, if authorized to do so, within 50 calendar days after the postmark date of the invoice. If the state agency is not authorized to pay the contractor directly, the state agency shall forward the invoice for payment to the Controller within 35 calendar days after the postmark date of the invoice. The Controller shall pay the contractor within 15 calendar days of receipt of the invoice from the state agency.

GC Section 926.17(b)(1) states, in part:

An interest penalty fee shall accrue and be charged on payments overdue under subdivision (a) at a rate of 1 percent above the rate accrued on June 30th of the prior year by the Pooled Money Investment Account, but not to exceed 15 percent.

### DISCUSSION

1. The language of GC 926.17 establishes the rate at which state agencies will pay late payment charges to any of their suppliers. SDG&E and the California Department of Energy Services (Department) have conferred and agree that GC 926.17 governs this situation. They both agree that SDG&E's tariff is a "contract" within the meaning of GC 926.17. SDG&E's present tariffs containing 0.9% late payment charges (CPUC Sheets 4987-G and 6653-E) are not in conformance with GC 926.17's limitation on late payment charges. The relevant sections of the Code, GC 926.17 (a)(1) and (b)(1) are quoted under "Background" above.

Advice Letter 871-E/848-G, as submitted, would revise the tariffs by incorporating language from the legislation setting the rate for late payment charges and the grace period after which they are applicable.

2. The most recent amendments to Government Code Section 926.17 became effective on September 26, 1987. Following that date the rate for any late charges to be paid by the agencies of the State of California was set by law, regardless of what may have been stated in any tariff filed with the Commission. Thus, GC 926.17 has always limited the amount of late charges that SDG&E can impose.
3. On the other hand, GC 926.17 does not automatically provide the 50 day grace period within which the State must pay bills that the code section seeks. Pursuant to GC 926.17, the 50 day rule only applies when the "contract" does not specify a payment date. SDG&E's tariff is a "contract" within the meaning of GC 926.17. (Compare Ellickson v. General Telephone, 6 Cal. P.U.C. 2d 432, 437.) If there were no "contract," GC 926.17 would not apply at all. Since the tariff is a "contract" within the meaning of GC 926.17, a different payment date specified in the tariff would prevail over the 50 day period mentioned in the statute.
4. However, as a matter of policy, we will impose a 50 day grace period for all future payments. One policy of GC 926.17 appears to be to allow state agencies 50 days to pay unless they agree by contract to an earlier date. Although a tariff is a contract, it is not one whose terms are voluntarily set by negotiation between the state agency purchasing services and the utility. Therefore, the statutory policy could be frustrated if we did not require SDG&E to give state agencies 50 days to pay. Moreover, we are informed by the Department that the 50 day time period is necessary for some State agencies to process invoices from suppliers and issue the warrants to pay for the services received. Thus, one of the

purposes of SDG&E's late charge, namely ensuring prompt payment, would not be served by imposing a late charge on state agencies at any earlier date. For all these reasons we will approve SDG&E language modifying its tariffs allowing state agencies 50 days from the date of the postmark on the bills before late payment charges begin accruing.

5. The Commission in Resolution E-3286 ordered Southern California Edison to insert specific language amending their Rule 9 concerning late payment of bills. The Resolution also ordered language providing that the State shall notify the Company as to which accounts serve State agencies. SDG&E in its advice letter submittal has inserted the exact language ordered in Resolution E-3286. The language which SDG&E proposes to insert in their Rule 9 is:

"Where an account serves a state agency and payment is not received within 50 calendar days after the postmark date of the bill, the late payment charge applicable to that account will be at a rate of one (1) percent above the rate accrued on June 30th of the prior year by the Pooled Money Investment Account (PMIA), but not to exceed 15 percent, all as set forth in Government Code Section 926.17(b)(1). Such rate shall be applied to and accrue on a state agency account only after 50 days from the date of the postmark on the bill has elapsed."

"The State of California shall notify the Company as to which accounts serve state agencies. The provisions of the above paragraph shall apply after such notification, except where SDG&E has previously identified the account as one belonging to a state agency."

6. SDG&E stated it is able to identify some state agency accounts. However, the California Department of General Services is in a better position than SDG&E to identify which accounts it has, and is able to notify SDG&E of these accounts in writing.

#### NOTICE

In accordance with Section III-G of General Order 96-A, SDG&E on February 2, 1993 mailed copies of their advice letter filing to interested parties including attorneys for the California Department of General Services.

#### PROTESTS

No protests were received.

#### FINDINGS

1. Government Code Section 926.17 was most recently amended effective September 26, 1987.
2. The late payment charge options specified in SDG&E's Electrical and Gas Tariff Rules No. 9, both effective on February 3, 1991, do not conform with the requirements of GC 926.17 applicable to state agencies.

3. The language change proposed in Advice Letter 871-E/848-G would amend the filed Rule No 9 to include language referencing GC 926.17's limitation on the rate of interest penalty applicable to contracts with state agencies and embodying the language ordered in Resolution E-3286 of November 6, 1992.

4. Because the date on which late payment charges begin accruing is set by tariff, Department cannot negotiate for the 50 day period which it needs to process bills. SDG&E should allow state agencies 50 days from the date of the postmark on its bills before late payment charges begin accruing.

5. SDG&E is able to identify some state agency accounts. The Department of General Services can readily identify all of its accounts with SDG&E and notify SDG&E in writing as to which accounts are state agency accounts.

**THEREFORE, IT IS ORDERED that:**

1. Advice Letter 871-E/848-G shall be marked to show that it was approved by Commission Resolution G-3047 with the tariff language modified as ordered in Commission Resolution E-3286.

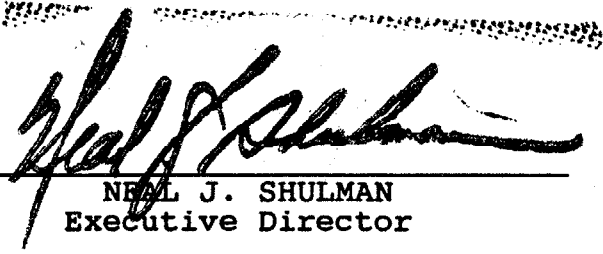
2. SDG&E shall within five days after the date of this Resolution file revised tariff sheets as directed in Ordering Paragraph 3. The revised tariff sheets shall be effective as of the date of this Resolution.

3. SDG&E shall replace Electrical Tariff Sheets 6653-E, 6655-E, 7324-E, 7418-E and 7713-E with Electrical Tariff Sheets 7714-E through 7718-E, and shall replace Gas Tariff Sheets 4987-G, 4989-G, 5884-G, 5975-G and 6407-G with Gas Tariff Sheets 6408-G through 6412-G.

5. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on April 21, 1993. The following Commissioners approved it:

DANIEL Wm. FESSLER  
President  
PATRICIA M. ECKERT  
NORMAN D. SHUMWAY  
P. GREGORY CONLON  
Commissioners



NEIL J. SHULMAN  
Executive Director