BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation	)	R.94-04-031
Order Instituting Investigation on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation	)	I.94-04-032

RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO COMMONWEALTH ENERGY CORPORATION'S PETITION TO MODIFY

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I. INTRODUCTION

Pursuant to the Commission's Rule 47, San Diego Gas & Electric Company ("SDG&E") responds to a Petition to Modify Decision 97-10-087 ("Petition"), dated June 26, 1998, filed by the Commonwealth Energy Corporation ("Commonwealth"). The scope and nature of the changes Commonwealth seeks is, at best, vague. The Petition appears to be intended to affect certain master meter customers — mobilehome park owners, commercial property managers or owners. Indeed, it is also unclear why the issues raised by the Petition could not have been raised when the tariff was being debated so that the intent and scope of the proposal could be made clear and debated in the open. The Petition does neither of these things. It is clear, however, that the proposed tariff modifications would not only modify Decision 97-10-087, but also a host of other CPUC decisions on master meters and sub-metering which represent literally years of discussions and investigations at the Commission. Additionally, the Petition requests that UDCs begin offering new services currently not available to DA or non-DA customers and consider, without the necessary deliberation, potentially wide-ranging implications which have not

heretofore been considered in this docket. For these and other reasons discussed below, the Commission should deny the Petition.

SDG&E summaries its key points and discusses them further in this pleading:

- Commonwealth's Petition goes beyond Commission's rulemaking regarding electric industry restructuring and its Direct Access implementation Decision 97-10-087.
- Existing UDC rules for Direct Access Implementation do not affect "pre-existing" UDC rules on master meters or sub-metering.
- Commonwealth's Petition would change "pre-existing" rules for master meters and sub-metering and related long-standing Commission and state legislative policies.
- Commonwealth's Petition would violate AB 1890 and change the risk proposition for UDCs' recovery of distribution revenues contemplated by AB1890 during the rate freeze period.

II. MODIFICATIONS SOUGHT BY THE COMMONWEALTH PETITION

The Petition seeks to modify Sections B(8) and B(13) of the Direct Access Implementation rules adopted in Decision 97-12-087, Appendix A as follows ***(proposed deletions are shown in strikeout form, and proposed additions are bolded and italicized)***:

B(8): Load Aggregation for Procuring Electric Power

Customers or ESPs may aggregate individually metered electric loads for procuring electric power ~~only~~. Load aggregation will not be used to compute UDC charges or for tariff applicability. The right of customers to physically aggregate by combining multiple accounts into a single metered account ~~as permitted under CPUC approved tariffs~~ is not restricted by this section.

B(13): Master Metered Customers

~~Individual m~~ ***M***aster metered customers who provide sub-metered tenant billings, may participate in Direct Access as a single account. A master metered customer may not partition the electric loads of a single master meter among several electric service options or providers. The entire loads of a single master meter must receive service under one electric

service option and provider. ***Nothing herein restricts the rights of customers to master meter a Premises.***

Commonwealth asserts that these revisions are needed because, "the actual language ***[i.e., DA rules]*** can be read to reduce or eliminate certain pre-existing master-metering rights" ***[emphasis added]***. While Commonwealth admits that a separate proceeding dedicated to master meter issues would be most efficient, Commonwealth proceeds to submit its Petition in the Rule 22 forum because of its perception of the delays associated with the Commission issuing a decision on master meters and sub-metering.[1]

III. DISCUSSION

(1) Commonwealth's Petition is expressly inconsistent with and goes far beyond what the Commission had intended in Decision 97-10-087

The Commission clearly stated in Decision 97-10-087, page 21, that it was planning to address master metering issues in an upcoming decision and, on an interim basis, permit master meter customers the same opportunities for direct access as afforded other customers:

> We indicated in D.97-05-040 that we would address the issue of master meters and direct access in an upcoming decision. We still plan to do so. As an interim measure, we will permit master metered customers who provide sub-metered tenant billing to participate in direct access as a single account. This interim measure is necessary to afford master metered customers the opportunity to participate in direct access.

The Petition requests revisions to existing Direct Access ("DA") rules and tariffs that have not before been raised during the discussions of DA implementation. In fact, in the history of the Commission's electric industry restructuring initiatives, the only discussion related to master meters has been to delegate this issue to a separate proceeding. SDG&E believes the Commission should act swiftly to issue a decision with regard to master meter issues, consistent with its DA policy.

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[1] Petitions to Modify are appropriate for "minor" modifications, which are modifications to discrete issues. D.89-01-044, pp. 11-12. SDG&E submits that the Petition's proposed changes are not discrete. For example, the proposed text "Nothing herein restricts the rights of customers to master meter a Premises" has potentially broad implications for direct access and a myriad of implementation details. The Commission's history with respect to master metering is long and involved and--regardless of how the proposed text changes that history--should not be modify by this type of procedural vehicle.

(2) Existing UDC rules for Direct Access Implementation <u>do not</u> affect "pre-existing" UDC rules on master meters or sub-metering

Contrary to Commonwealth's assertions, the current rules for customer participation in direct access as adopted in Decision 97-10-087 do not affect "pre-existing" UDC rules on master meters or sub-metering. To the contrary, they preserve those rules: there is nothing in D.97-10-087 or the UDCs' tariffs which diminish existing rules regarding master metering and sub-metering. In establishing its rules for direct access, the Commission carefully adopted tariff language in Sections 9 and 13 of Decision 97-10-087, Appendix A, to ensure that master metered customers had the same opportunities to participate in direct access as any other customer. Nowhere in D.97-10-087 is there any indication that any party or the Commission would alter "pre-existing" rules on maser meters or sub-metering. Under the rules which have been adopted, both master metered and non-master metered customers are allowed to participate equally in Direct Access and aggregate loads for the purpose of procuring electric power.

Commonwealth's proposed tariff language, however, fails to recognize that current DA policy and tariffs do not affect current master metering and sub-metering customers. With regard to Rule 22, Section B(8), Commonwealth asserts that there are two problems. First, Commonwealth claims that the use of the word "only" at the end of the first sentence denies customers the right "in certain circumstances"--a claim which is unexplained-- to master meter and provide their own distribution services from a single commercial premise. SDG&E disagrees. The reference to aggregation in this rule involves only load aggregation; hence its title. This sentence does not in any way restrict the implementation of "pre-existing" UDC rules on master meters or sub-metering. Second, Commonwealth also asserts that the phrase "permitted under CPUC-approved tariffs" in the third sentence of this section somehow denies that "customers are entitled to master meter ***<u>unless</u>*** the tariffs explicitly allow the IOUs to terminate service for doing so" ***[emphasis added]***. This reference to the existing tariffs indicates that the direct access tariffs and rules should not be interpreted to supersede "pre-existing" tariff rules on master meters or sub-metering.

Commonwealth asserts that there are two other problems with respect to Rule 22, Section B(13). First, it claims that the use of word "individual" at the start of the first sentence in this section "could be interpreted as preventing master-metered customers which are corporations or other legal entities from exercising master-meter rights." Second, Commonwealth claims that this section has "no clarification" and "does not limit existing rights". SDG&E believes that Commonwealth does not understand the Commission's purpose of this section and has proposed revisions that are inconsistent with its purpose As noted above, Section B(13) provides that ***individual*** master meters will be classified as single service accounts, thereby treating master metered customers the same as any other UDC customer from a UDC accounting and system requirements perspective. Commonwealth's proposed changes suggest that a single master metered customer, who could be a customer of record for several master meters, may participate in Direct Access as a single account. This interpretation is incorrect. Pursuant to Section E(2), DASRs, of Decision 97-10-087, Appendix A, any customer requesting DA service must submit a separate DASR for each service account participating in DA. For a master metered customer with several master meters, each master meter would count as a separate DASR request, just as they are treated as separate accounts for current UDC billing. Thus, the existing rules preserve the current treatment of master-metered customers seeking direct access, rather than changing long-standing policy.

(3) Commonwealth's Petition would change "pre-existing" rules for master meters and sub-metering and related long-standing Commission and state legislative policies

SDG&E's "pre-existing" rules do not allow sub-metering of commercial and most residential entities. SDG&E's Rule 16, Section B.2., specifically requires individual meters for non-residential entities. SDG&E's Rule 19, Section B.2., specifically prohibits sub-metering of non-residential services, except for marinas and craft harbors. For residential service, SDG&E's Rule 19, Section B.1.b.(1) requires that "Each new single or multi-family residential dwelling unit, except for mobilehome park spaces, shall be individually metered by the utility." Both SCE and PG&E have similar language with regard to master meters and sub-metering. As a result, Commonwealth's Petition, particularly the addition of a new sentence at the end of Section B(13)

as noted above, would conflict with "pre-existing" UDC tariffs on master meters and sub-metering and would fundamentally alter these tariffs without the benefit of thoughtful deliberation about the conflicts and the associated implications for both DA and master metering.[2]

As noted in the preceding paragraph, all three UDCs have strikingly consistent "pre-existing" tariff language regarding the prohibition of sub-metering commercial entities. This is no coincidence. The tariffs and associated policy reflect a long history of debate and deliberation regarding master meters and sub-metering. For example, in Decision 63562, dated April 17, 1962, the Commission prohibited the resale of electricity or gas by sub-metering other than for domestic use. The Commission argued that such a prohibition was in the public interest, because the reselling of energy through submeters allowed an unregulated entity to enter into the utility business without affording the end-use customer any recourse on rates or conditions or service.

The 1962 Commission policy on master meters and sub-metering was affirmed by the California State Legislature with the passage of the Miller-Warren Lifeline Act in 1977 that not only prohibited but also further clarified the role of sub-metering for domestic use:

- To ensure that "lifeline" rates are charged to apartment buildings and mobile home parks on the same basis as other residential customers.
- To provide master metered customers with a discount sufficient enough to recover their costs of providing sub-metered services.
- To ensure that utilities provide low-income assistance and safety and conservation services to sub-metered tenants on a comparable basis with all other residential customers.

In Decision 92109, dated August 19, 1980, the Commission provided that the use of utility trained personnel assured uniformity of billing, meter reading, and billing adjustments that might otherwise be lost of commercial sub-metering were allowed. On December 13, 1981, the

[2] SDG&E believes that changing existing tariffs which are separate and unrelated to the terms of the decision for which modification is sought is not permitted anywhere in the Commission's Rules of Practice and Procedure[if they want to change other policies and decisions, they must so petition and allow a scrutiny of the underlying policy. Their petition evades that scrutiny by ignoring the very policy they seek to change.].

California State Legislature passed Senate Bill 757 which required any single or multi-family residential dwelling obtaining a permit after July 1, 1992 to be individually metered by the utility. Additionally, as recently as 1996, the California State Legislature passed Assembly Bill 622, which stated the terms and conditions for the transfer of ownership and operational responsibility of energy services from a owner of master metered facilities to the UDC. Key provisions of this bill clearly illustrate the Commission's policies regarding sub-metering:

> Residents of mobilehome parks and manufactured housing communities constructed after January 1, 1997, shall be individually metered and served by gas and electric distribution facilities owned, operated, and maintained by the gas or electric corporation providing the service in the area where the new park or community is located consistent with the commission's orders regarding unbundling, aggregation, master-metering, and selection of suppliers by residential customers. Each gas and electric corporation shall cooperate with the owner of any park or community constructed after January 1, 1997, to ensure timely and expeditious installation of the gas and electric distribution system and to eliminate any delay in the design, construction, permitting, and operation of the gas and electric system in the park or community." [PU Code Section 2791(c)]

Despite this history, which clearly reflects antipathy for master meters and commercial sub-metering, Commonwealth's Petition appears to reverse such polices summarily by creating opportunities for such master metering. Moreover, Commonwealth seeks to do so without providing the Commission the benefit of a considered dialogue on the affect of such metering on the Commission's DA regime. SDG&E urges the Commission not depart from this history without further discussion and clear guidance with regard to master meters and sub-metering.

(4) Commonwealth's Petition would violate AB 1890 and change the risk proposition for UDCs' recovery of distribution revenues during the rate freeze period.

In September 1996, the State Legislature passed and the Governor of California signed into law Assembly Bill 1890 (PU Code Chapter 2.3), which is the cornerstone of electric restructuring in California. This bill includes, among other things, an electric rate freeze through March 2002 (PU Code Section 368(a)) and retention of existing cost allocations among customer classes as of June 10, 1996 (PU Code Section 367(e)). These provisions were specifically created to avoid cost shifting among customer classes during the electric rate freeze period.

Commonwealth's Petition would be in violation of these provisions because the Petition would result in substantial cost shifting among SDG&E's customers.

Commonwealth's proposal would violate AB 1890 because sub-metered tenants are not SDG&E customers. Therefore, any introduction of commercial sub-metering will reduce the number of SDG&E customers. A loss in SDG&E customers would result in a loss of UDC customer charges, which reflect recovery for UDC distribution facilities (known as TSM, or Transformer, Meter, and Service costs) already built to serve these customers without a corresponding reduction of service. A loss in UDC customer charges results, in turn, in stranded UDC investments in TSM distribution facilities.

Second, the prospect of UDC revenues loses under commercial sub-metering during a period of frozen electric rates would result in substantial upward pressure on SDG&E's distribution rates after March 2002. If the Commission were to adopt Commonwealth's Petition request to introduce commercial sub-metering, the Commission must also allow the UDCs an opportunity to adjust rates to account for the subsequent cost shifting resulting from commercial sub-metering.

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V. CONCLUSION

For the reasons stated above, SDG&E requests that the Commission to deny Commonwealth's Petition because the proposed revisions require changes to existing law and have broad implications to market participants that requires more deliberation than Commonwealth's Petition would allow herein.

Respectfully submitted,

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