

103FERC ¶ 61,115
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

San Diego Gas & Electric Company

Docket No. ER03-601-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS AND ESTABLISHING
HEARING PROCEEDINGS

(Issued May 2, 2003)

1. On March 3, 2003, San Diego Gas & Electric (SDG&E) tendered for filing a revised Transmission Owner Tariff (TO Tariff)¹ to reflect proposed changes to the revenue requirements and rates applicable to retail and wholesale customer transmission service. SDG&E states that the proposed change would increase the charges to transmission customers and adopt a formula rate to derive charges for transmission service that will more accurately recover SDG&E's actual transmission revenue requirement. SDG&E also filed to modify its Transmission Revenue Balancing Account Adjustment (TRBAA) charge. As discussed below, the Commission will accept and suspend for five months the tariff sheets proposed by SDG&E, subject to refund, to become effective October 1, 2003.² The Commission will also establish a hearing to address the issues raised by SDG&E's filing. This order is in the public interest because it seeks to establish just and reasonable rates for SDG&E's retail and wholesale transmission customers.

Background

2. SDG&E filed its original TO Tariff on March 31, 1997, in Docket No. ER97-2364-000. The TO Tariff specifies, among other things, the rates and charges for transmission service on the transmission facilities controlled by the California Independent System

¹See Attachment to this order.

²The Commission will allow the TRBAA rate to become effective May 8, 2003, sixty days after filing.

Operator (CAISO).³ SDG&E contends that the revenue requirement and rates implemented by the Commission in that docket reflected the transfer in jurisdiction over retail transmission service and rates from the California Public Utilities Commission (CPUC) to this Commission, which occurred on April 1, 1998, when SDG&E transferred operational control of its transmission facilities to the CAISO. SDG&E submits that this is the first revision to SDG&E's Base Transmission Revenue Requirement since the Commission-approved settlement in Docket No. ER97-2364-000.

SDG&E's Filing

3. SDG&E proposes to adopt a formula to develop the transmission service rates in the tariff. SDG&E asserts that the proposed formula rate methodology is similar to the methodology approved by the Commission for members of the New England Power Pool (NEPOOL), with certain modifications. Utilizing this formula, SDG&E proposes to increase the Base Transmission Revenue Requirements to \$149.5 million from which its rates are derived.⁴ SDG&E also is proposing a change to the TRBAA applicable to its wholesale service customers.

4. SDG&E proposes to use recorded costs for a "Base Period" that comprises a 12-month period commencing October 1, 2001, and ending September 30, 2002. The transmission rates that are proposed to go into effect on May 1, 2003 will remain in effect for a 13-month period extending through May 31, 2004. In subsequent years, the rate change will occur on June 1 for a 12-month billing period (the Rate Effective Period) extending through May 31 of the following year, and the Base Period data for the rate change will be drawn directly from SDG&E's latest available FERC Form No. 1.⁵

5. SDG&E asserts that given the current environment of increasing transmission costs due to the substantial rise in construction and replacement of transmission plant, it is proposing to reflect in its formula for each Rate Effective Period not only the most recent

³SDG&E states that those charges include two different rates: (1) the transmission service Access Charge rate applicable to End Use Customers, derived from the Participating TO's Transmission Revenue Requirement; and (2) the TRBAA rate applicable to wholesale customers, which is designed to flow through any amounts received by the Participating TO as Wheeling and Usage Charges (Transmission Revenue Credits).

⁴SDG&E's current Base Transmission Revenue Requirement is \$104 million.

⁵SDG&E notes, as an example, that it will use its 2003 FERC Form No. 1, to be filed in April 2004, in determining the rates to be effective for the Rate Effective Period June 1, 2004 through May 31, 2005.

FERC Form No. 1 costs, but also costs of capital additions that have gone, or will go, into service by the end of that Rate Effective Period. For example, since the first Rate Effective Period extends through May 31, 2004, SDG&E illustrates that the rates in effect for that period will reflect the costs of capital additions that go into service during a period extending from October 1, 2002 through May 31, 2004 (the pre-October 1, 2002 capital additions already being reflected in the Base Period data). In subsequent years, the forecast period will encompass a period from January 1 through May 31 of the following year. SDG&E contends that the Commission has accepted a similar treatment of capital additions, which is a modification of the NEPOOL formula, in Boston Edison Company, 91 FERC ¶ 61,198 (2000).

6. SDG&E also proposes that the formula rates for each Rate Effective Period will include a third component: an annual true-up adjustment based on total transmission-related costs actually incurred and booked. SDG&E submits that in determining its rates for the Rate Effective Period of June 1, 2004 through May 31, 2005, it will calculate this true-up amount to rates applicable to the prior Rate Effective Period (May 1, 2003 through May 31, 2004) based on actual total costs from SDG&E's 2003 FERC Form No. 1. It will then increase or reduce, as appropriate, the revenue requirements otherwise applicable for the Rate Effective Period by the true-up amount. SDG&E contends that the true-up is designed to assure that SDG&E neither over-recovers nor under-recovers the costs allowed under the formula approved by the Commission. SDG&E states that the amount of the true-up, and the rates derived under the formula, will be explained in an informational filing made no later than July 31 of each year.

7. Finally, SDG&E proposes that the cost of capital calculated under the formula reflects SDG&E's actual capital structure and cost of debt as reflected in each year's FERC Form No. 1. Additionally, the formula provides that a rate of return on equity (ROE) of 13.00 percent will be applied in the capital structure. SDG&E submits that the proposed ROE reflects the Commission's overarching policy favoring independent operational control over transmission facilities.

8. SDG&E requests that the proposed formula and resulting transmission rates be made effective on May 1, 2003. Accordingly, SDG&E requests that Commission waive the 60-day notice requirement in order to permit the rate change to occur on May 1, 2003, the beginning of the first billing cycle for that month.

Notice, Interventions, Comments and Protest

9. Notice of SDG&E's filing was published in the Federal Register, 68 Fed. Reg. 13,294 (2003), with comments, protests, and motions to intervene due on or before March

28, 2003. The Public Utilities Commission of the State of California (CPUC) protested the filing. The CAISO, Enertgia Azteca X, S. de R.L. de C.V., Energia de Baja California, S. de R.L. de C.V., and Baja California Power, Inc. (collectively, Energia), and the Metropolitan Water District of Southern California (Metropolitan) filed comments.

10. CPUC argues that the proposed \$45.5 million per year increase over the present rates may be substantially excessive. It contends that the proposed ROE of 13 percent is unjust and unreasonable and should be set for hearing. CPUC submits that SDG&E is proposing to recover 100 percent of the costs associated with the cancelled Valley Rainbow project, and asserts that allowing SDG&E to recover 100 percent of its costs is inconsistent with FERC policy and is not in the interest of ratepayers.

11. CPUC is also concerned with SDG&E's proposed new formula rate approach. It submits that the formula rate approach does not appear to have a mechanism in place that would hold down costs. Moreover, it is not clear from SDG&E's filing whether or not a challenge to its yearly informational filing would be pursuant to Section 205 or 206 of the Federal Power Act. Finally, CPUC contends that there has been insufficient time for the parties to fully assess all the issues presented by SDG&E's filing. Accordingly, for this reason and the other issues raised above, CPUC requests that the Commission suspend SDG&E's filing for five months and set the matter for hearing.

12. Metropolitan is concerned that merely incorporating figures that appear in a company's FERC Form No. 1 would not provide market participants with sufficient opportunity to review and, if necessary, challenge the ultimate transmission rate sought. Metropolitan therefore urges the Commission to carefully consider not only use of formula rate by SDG&E, but also consider the potential ramifications of such use with CAISO.

13. CAISO supports the transmission rate design methodology being proposed by SDG&E; however, it is concerned with one aspect of SDG&E's proposal – the timing of the proposed updates to the formula rates. CAISO asserts that with the existing CAISO rate design, a new participating TO joining, which may occur on January or July 1 of any year, triggers the need to revise the CAISO's access charge. It contends that establishing a process that requires the CAISO to change the access charge every June for SDG&E and potentially in July for new participating TOs, presents an administrative burden and provides California market participants with less rate stability. The CAISO therefore requests that SDG&E's proposed formula rate methodology be modified such that the timing of implementation of such annual adjustments based on FERC Form 1 were filed May 1, to be effective July 1.

Discussion

Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2001), all timely, unopposed motions to intervene and any motions to intervene out of time filed before the issuance of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties.

Substantive Matters

Rate Formula

15. The instant filing presents several issues that raise concern to the Commission and may cause the proposed rates to be unjust and unreasonable. Specifically, SDG&E has proposed to track projected construction work in progress (CWIP), cancelled projects that may otherwise have been included as CWIP, a return on common equity of 13 percent on actual equity amounts, and all actual costs during a period that does not correspond to the FERC Form No. 1. While the Commission has previously approved formula rates similar to that proposed by SDG&E,⁶ the proposed formula here deviates from those previously approved.

16. SDG&E's proposed formula rate proposes to include 100 percent of plant forecasted to be in-service during each rate period and 100 percent of the costs of cancelled or abandoned projects. Regarding the inclusion of plant forecasted to be in service, we find that the proposal amounts to inclusion of 100 percent of CWIP. Any proposal to include CWIP must conform with the requirements of Sections 35.13(h) and 35.25 of the Commission's regulations.⁷ SDG&E's proposal may not satisfy these requirements. Accordingly, this issue should be fully investigated in an evidentiary type proceeding to ensure compliance with the Commission's regulations.

17. SDG&E also proposes to include 100 percent of cancelled project costs in the development of the transmission rate base. This proposal is inconsistent with the Commission's precedent under which only 50 percent of the cancelled project costs may be amortized through the cost of service, over a period of time that reflects the expected

⁶See e.g., Boston Edison Company, 91 FERC ¶ 61,198 (2000).

⁷See 18 C.F.R. §§35.13(h) and 35.25 (2002).

physical life of the plant.⁸ The Commission has previously determined that, in certain cases, it would review the rate treatment of individual cancelled project costs, such as that proposed by SDG&E, on a case-by-case basis.⁹ The Commission has not previously approved a tracking mechanism for all cancelled plant costs. Accordingly, the Commission will reject this proposal. The Commission cannot approve a component in a formula to serve as a mechanism that automatically includes the cost of cancelled plants. However, because SDG&E is seeking to recover the cost of a specific project in the instant proceeding (*i.e.*, the Valley Rainbow project), the Commission will set the matter of recovery for this specific project for hearing.

18. Finally, the intervening parties have raised other issues associated with the proposed formula rate, including, among other things, the appropriateness of the initial base test year, the timing of the periodic rate updates, and the filing requirements of the informational filings supporting rate updates. The Commission shares many of these concerns and finds the issues raised merit further investigation because of the impact they may have on the rate formula.

High Voltage/Low Voltage Split

19. SDG&E also proposes to bifurcate the base transmission revenue requirement, as developed through the proposed formula, into high voltage and low voltage service rates. Although SDG&E attests that it utilized the methodology developed and accepted in previous proceedings,¹⁰ the development of the high voltage and low voltage rates should be reviewed to ensure compliance with Commission policy and consistency with CAISO transmission access charge calculations.

20. As a result of the Commission's concerns discussed above, as well as the other specific findings, the Commission's preliminary analysis indicates that SDG&E's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, the Commission will accept the proposed formula rate for filing, suspend it and make it effective, subject to refund, and set it for hearing, as ordered below.

⁸See *New England Power Company*, Opinion No. 295, 42 FERC ¶ 61,106 (1988), order on reh'g, 43 FERC ¶ 61,285 (1988).

⁹*San Diego Gas & Electric Company*, 98 FERC ¶ 61,332 (2002), order on reh'g, 100 FERC ¶ 61,073 (2002).

¹⁰See Exhibit No. SDG-4 (Testimony of Ed Lucero) at page 44, lines 22-23.

Transmission Revenue Balancing Account Adjustment Rate (TRBAA)

21. SDG&E has proposed a revised TRBAA of (\$0.00054) per kilowatt-hour that reflects a \$10.133 million credit to the transmission customers.¹¹ The \$10.133 million credit consists of a \$5.06 million overpayment, as of September 30, 2002, a forecasted \$15.056 million credit and a credit of \$138,817 for uncollectibles and franchise fees.

22. The revised TRBAA has been calculated consistent with SDG&E's tariff. The Commission will therefore accept the proposed revised TRBAA. However, because the proposed rate is an increase and SDG&E has not shown good cause that waiver of the Commission's notice requirements should be granted, the Commission will deny waiver of the Commission's notice requirement and allows the revised TRBAA to become effective May 8, 2003, sixty days after filing.

Suspension

23. In West Texas Utilities Company,¹² (West Texas), the Commission explained that when its preliminary examination indicates that the proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in West Texas, the Commission would generally impose a five-month suspension. Here the Commission's examination indicates that the proposed rates, as output from the rate formula, may be substantially excessive. It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances do not exist here. Accordingly, the Commission denies SDG&E's request for waiver of our 60-day prior notice requirement,¹³ suspends the proposed transmission formula rates for five months to become effective on October 1, 2003, subject to refund.

The Commission orders:

(A) SDG&E's proposed tariff sheets listed in the Attachment to this order, with the exception of Original Sheet No. 118, are hereby accepted for filing and suspended for five months to become effective October 1, 2003, subject to refund, as discussed in the body of this order.

¹¹SDG&E's existing TRBAA is (\$0.00057).

¹²18 FERC ¶ 61,189, at 61,374 (1982).

¹³See Central Hudson Gas & Electric Corporation, 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶ 61,089 (1992).

(B) Original Sheet No. 118 is accepted to become effective May 8, 2003.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the issues raised in this proceeding, as discussed in the body of this order.

(D) A presiding administrative law judge, to be designated by the Chief Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date this order issues, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Attachment

San Diego Gas & Electric Company
Docket No. ER03-601-000
Rate Schedule Designations

<u>Designation</u> ¹	<u>Description</u>
FERC Electric Tariff, Original Volume No. 11	Transmission Owner Tariff

¹By letter dated March 11, 2003, SDG&E submitted for filing, in Docket No. ER01-418-001, corrections to a market-based rate tariff to, among other things, correct the tariff volume number to FERC Electric Tariff, Original Volume No. 10. Accordingly, the instant filing will be designated as FERC Electric Tariff, Original Volume No. 11.

(Original Sheet Nos.
1 through 171)
(Supersedes Original
Volume No. 9)