Decision **DRAFT DECISION OF ALJ GOTTSTEIN** **(Mailed 2/26/2002)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U 902 M) for Authority to Increase its Gas and Electric Revenue Requirements to Reflect its Accomplishments for Demand-Side Management Program Years 1994 and 1997, Energy Efficiency Program Year 1998, Low-Income Program Year 1998, and to Address Policy and Procedural Issues for Future Program Years 1999 through 2001 in the 1999 Annual Earnings Assessment Proceeding ("AEAP").	Application 99-05-002 (Filed May 3, 1999)
And Related Matters.	Application 99-05-005 (Filed May 3, 1999) Application 99-05-007 (Filed May 3, 1999) Application 99-05-008 (Filed May 3, 1999)

O P I N I O N

Summary

By this decision, we grant the Petition of San Diego Gas & Electric Company (SDG&E) for Modification of Decision (D.) 00-09-038, in part. While we grant SDG&E's request to conform D.00-09-038 to our directions in D.00-10-019 concerning the source of funding for utility performance incentives, we do not adopt SDG&E's specific language changes to accomplish this objective.

We clarify that the performance incentives authorized in D.00-09-038 for program year (PY) 1998 energy efficiency programs are to be funded out of Public Goods Charge (PGC) program funding, consistent with Commission direction. The source of funding for all other performance incentives authorized in that decision remains unmodified.

Background

The 1999 Annual Earnings Assessment Proceeding (AEAP) for SDG&E, Southern California Gas Company (SoCalGas), Pacific Gas and Electric Company (PG&E), and Southern California Edison Company (SCE), collectively referred to as "the utilities," was conducted in two phases. In Phase 1, the Commission adopted a performance incentive cap of 7% of program expenditures[1] for the energy efficiency programs of the utilities for PY 2000 and PY 2001. D.00-05-019 further held, at Ordering Paragraph 2, that performance incentives for electric energy efficiency purpose programs would continue to be funded from headroom, or once the electric freeze ends, from electric rates.

SoCalGas and SDG&E subsequently filed a Joint Petition for Modification, while PG&E and SCE filed their own Joint Petition for Modification (collectively, "Joint Petitions"). Among other things, these Joint Petitions sought to have D.00-05-019 corrected to clarify that performance incentives for pre-PY 1998 electric demand-side management (DSM) programs should continue to be funded out of headroom or electric rates, but that post-PY 1997 electric energy efficiency program incentives should continue to be funded out of the PGC funds, consistent with Commission precedent.

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[1] D.00-10-019 subsequently modified the performance incentive cap to be 7% of program budgets, rather than expenditures.

On September 7, 2000, before the Commission had acted upon the Joint Petitions, Phase 2 concluded with the issuance of D.00-09-038, which determined the amount of performance incentive earned by each utility. In that decision, the Commission addressed the third earnings claim for PY 1994, the second earnings claim for PY 1997, and the first earnings claim for PY 1998 energy efficiency programs, including those serving low-income customers. D.00-09-038 was consistent with D.00-05-019 at that time in directing, at Ordering Paragraphs 5 and 9, that SDG&E's approved shareholder incentives for its electric energy efficiency programs should be collected in a subsequent electric ratesetting proceeding. This language was premised on D.00-05-019 in Phase 1, which had ordered that performance incentives be funded out of headroom or, when the electric rate freeze ended, from electric rates. Since the rate freeze had ended for SDG&E, the Commission directed SDG&E to recover the incentives from rate increases. PG&E and SCE, still subject to the electric freeze, were directed to collect the authorized incentives from headroom.[2]

On October 5, 2000, the Commission issued D.00-10-019, which granted the utilities' Joint Petitions. Specifically, D.00-10-019 ordered both Conclusion of Law 4 and Ordering Paragraph 2 from D.00-05-019 to be changed to read as follows:

> Performance incentives for pre-PY 1998 energy efficiency electric programs should continue to be funded from headroom. From PY 1998, PY 1999, PY 2000, and PY 2001 performance incentives should be funded out of PGC funding for energy efficiency programs, consistent with Commission determination. The issue of

[2] D.00-09-038, mimeo. p. 35; Ordering Paragraphs 5, 6, and 9. "Headroom" refers to the difference between recovered revenues at the frozen rate levels and the reasonable costs of providing utility services (authorized revenue requirements).

> how energy efficiency incentives should be recovered beyond PY 2001, when the rate freeze will have ended for all of the utilities, should be considered as part of the program planning process for PY 2002.

Thus, as of October 5, 2000, Ordering Paragraphs 5, 6, and 9 of D.00-09-038 became inconsistent with Ordering Paragraph 2 of D.00-10-019 with respect to the source of funding for utility performance incentives associated with PY 1998 electric energy efficiency programs. D.00-10-019 authorizes the utilities to recover these performance incentives out of program funds, via the PGC.[3] However, the language of D.00-09-038 directs SDG&E to recover all of the incentives authorized by the decision, including those associated with PY 1998 programs, in a subsequent ratesetting proceeding, i.e., via rate adjustments. It also directs SCE and PG&E, still subject to the rate freeze, to collect these incentives from headroom.

SDG&E filed its Petition on October 3, 2001. No comments were filed in response.

Discussion

As described above, SDG&E has identified an inconsistency between D.00-09-038 and D.00-10-019. Our determinations in D.00-10-019 supercede the language contained in D.00-09-038 regarding the source of funding for utility performance incentives, and we will modify D.00-09-038 to conform with D.00-10-019, accordingly.

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[3] By statute, the program funding levels that can be collected via the PGC for energy efficiency programs (non low-income) are fixed.

In doing so, however, we do not adopt SDG&E's recommended language modifications.[4] In particular, SDG&E's proposed changes for Ordering Paragraph 9 would, in effect, authorize recovery via PGC funding of the authorized performance incentives associated with PY 1994 and PY 1997 energy efficiency programs, as well as PY 1998 low-income energy efficiency programs. In D.00-10-019, we directed that PGC funding would only apply to incentives associated with post-PY 1997 energy efficiency programs. We also clearly stated that performance incentives associated with low-income energy efficiency programs would not be funded out of PGC funds.[5] As directed in D.00-09-038, SDG&E will need to seek recovery of the incentives authorized by that decision for PY 1998 low-income energy efficiency and for pre-PY 1997 non low-income energy efficiency programs in a subsequent ratesetting proceeding. However, we will modify the decision language to clarify that the utilities can recover the incentive awards associated with PY 1998 non low-income programs via PGC funding.

Comments on Draft Decision

The draft decision of Judge Meg Gottstein in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed _____.

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[4] See SDG&E's Petition, Appendix A.

[5] See D.00-10-019, Ordering Paragraph 3 (b).

Findings of Fact

1. Ordering Paragraphs 5, 6, and 9 of D.00-09-038, addressing the source of funding for utility performance incentives, are inconsistent with Ordering Paragraph 2 of D.00-10-019.

2. The Commission's determinations in D.00-10-019 supercede the language contained in D.00-09-038 regarding the source of funding for utility performance incentives.

3. SDG&E's suggested language modifications for D.00-09-038 would, in effect, authorize SDG&E to recover via PGC funding the performance incentives associated with PY 1994 and PY 1997 energy efficiency programs, as well as PY 1998 low-income energy efficiency programs. These changes do not conform with the direction of the Commission on the source of funding for utility performance incentives.

Conclusions of Law

1. As discussed in this decision, SDG&E's Petition should be granted, in part. D.00-09-038 should be modified to conform with D.00-10-019, as SDG&E recommends, but the specific language changes proposed by SDG&E in its Petition should not be adopted.

2. The language of D.00-09-038 should be modified as adopted herein.

O R D E R

IT IS ORDERED that:

1. The Petition of San Diego Gas & Electric Company (SDG&E) For Modification of Decision (D). 00-09-038 (Petition) is adopted, in part. As SDG&E requests in its Petition, D.00-09-038 is modified to conform with D.00-10-019 concerning the source of funding for utility performance incentives. The specific language modifications proposed by SDG&E in the Petition are not adopted.

2. The discussion section under "Ratemaking" on page 35 of D.00-09-038 is modified as follows (additions are underlined; deletions stricken):

> Pursuant to Ordering Paragraph 1 in D.97-10-057, electric utilities may not recover revenues during the rate freeze period except as authorized in Assembly Bill 1890 and implemented by the Commission. Conclusion of Law 3 prohibits the use of any regulatory account to accrue costs or revenues during the rate freeze for the purpose of affecting rates during or after the rate freeze. ~~The result is that the electric DSM earnings authorized here must come from "headroom."~~ Accordingly, in D.98-03-063 we determined that authorized DSM earnings should not be included in the utilities Transition Cost Balancing Accounts, but should be used to adjust the distribution revenue requirement in calculating headroom.
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> However, by D.97-12-103, we authorized the utilities to fund shareholder incentives for electric programs out of energy efficiency budgets, rather than headroom, for PY 1998 programs, and have extended that ratemaking treatment by subsequent Commission directives to PY 1999, PY 2000 and PY 2001. We have no basis in the record in this proceeding to modify this treatment. We note that this treatment does not apply to incentives associated with LIEE programs, as we have clarified in D.98-06-063.
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> Therefore, the electric DSM earnings authorized today for PG&E and SCE for pre-PY 1998 electric efficiency programs and for PY 1998 LIEE programs should be collected from headroom. SDG&E has no headroom now because its rate freeze has ended~~,~~. Therefore, these earnings must be recovered in rates. SDG&E may file for this recovery in its next ratesetting proceeding. The earnings associated with PY 1998 non-LIEE programs that we authorize today should be collected from PGC funding for those programs.
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> D.98-03-063 further determined that DSM earnings related to the gas portion of SoCal, SDG&E, and PG&E should be deferred to the next gas rate adjustment. We will continue that practice here.

3. Ordering Paragraph 5 of D.00-09-038 is modified as follows (additions are underlined):

> The shareholder incentives for electric energy efficiency programs of SDG&E authorized by today's decision shall be collected in a subsequent ratesetting proceeding, and shall be deferred for collection until SDG&E's next electric rate adjustment, with the following exception: The shareholder incentives for PY 1998 non-LIEE earnings authorized in Ordering Paragraph 9.d. below shall be funded out of Public Goods Charge (PGC) funding for energy efficiency programs.

4. Ordering Paragraph 6 of D.00-09-038 is modified as follows (additions are underlined):

> The shareholder incentives authorized today for the electric energy efficiency programs of PG&E and Edison shall be collected from headroom, with the following exceptions: The shareholder incentives for PY 1998 non-LIEE earnings authorized in Ordering Paragraph 8.e. and 10.e. below shall be funded out of (PGC) funding for energy efficiency programs.

5. The first paragraph of Ordering Paragraph 9 is modified as follows (additions are underlined; deletions are stricken):

> SDG&E is authorized to collect the following shareholder incentives: ~~in a subsequent ratesetting proceeding:~~
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> This order is effective today.
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> Dated _____, at San Francisco, California.