SW/gf

ORIGINAL

Decision No. 65346

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and Investigation on the Commission's own motion of Schedule No. A-8, General Service-Large, (Cal. PUC Sheet No. 3197-E) and Schedule No. R-2, Resale Service-Large, (Cal. PUC Sheet No. 3198-E) of SOUTHERN CALIFORNIA EDISON COMPANY, filed by Advice Letter No. 279-E.

Case No. 7527

R. E. Woodbury, Harry W. Sturges, Jr., and John Bury, by R. E. Woodbury, for respondent.
Joseph B. Geisler, for City of Anaheim; Leland J. Thompson, for City of Riverside; Charles C. Cooper, Jr. and H. Kenneth Hutchinson, by Charles C. Cooper, Jr., for The Metropolitan Water District of Southern California; W. K. Downey, for California Portland Cement Company; Tage Pearson, for Air Products & Chemicals, Inc.; Walter C. Leist, for Linde Company, Division of Union Carbide Corporation; James F. Farris, for Caltech Jet Propulsion Laboratories; William W. Eyers, for California Manufacturers Association; and G. C. Devaille, for California Electric Power Company, interested parties.
Donald B. Day and Norman R. Johnson, for the Commission staff.

O P I N I O N

Southern California Edison Company, on December 7, 1962, filed Advice Letter No. 279-E submitting tariff Schedule No. A-8, General Service-Large, and Schedule No. R-2, Resale Service-Large, to provide on an optional basis general service and resale service schedules to large usage customers at reduced rates. On January 4, 1963, the Commission, on its own motion, issued an order of investigation and suspended the effective date of said rates pending an

investigation hearing and decision thereon. The investigation was instituted to determine whether said rates are in any manner unreasonable, discriminatory, preferential, or unlawful. After due notice to known interested parties, public hearing was held before Examiner Leonard S. Patterson at Los Angeles on February 6, 1963, on which date the matter was submitted.

Summary of Evidence

The entire testimony for respondent was presented by the manager of Edison's rate department who has had more than 35 years of experience in application and administration of respondent's tariffs. Respondent's position, as stated by this witness and as set forth in the suspended advice letter, which was entered as Exhibit 1 in the proceeding, is simply that the filing was made to meet certain competitive situations which have become more severe since establishment of respondent's present rates in the last general rate proceeding (Decision No. 55703, dated October 15, 1957, in Application No. 38382). He testified that his reading of that decision as well as the decision in the prior rate case (Decision No. 50449, dated August 17, 1954, in Application No. 33952) indicated to him that in fixing Edison's rates, weight was given by the Commission to competitive situations wherein certain large industrial customers had demonstrated the attention they were giving to alternative competitive sources of supply. He stated that following the last rate case he had some concern as to whether Schedule A-7 would continue to effectively meet competition in the future, and as indications of competition increased, the decision was made to propose optional lower rates which would be attractive to the large high-load factor general service and resale customers.

The specific indications of increasing competition mentioned in his testimony were:

1. A growing interest by the chemical processing industry in the installation of gas turbine generators for the self-generation of electrical requirements.

2. Increasing difficulty in persuading new large industrial customers to locate in Edison's service territory.

3. Failure to retain the Vernon industrial load as direct customers of Edison.

4. Dissatisfaction of Metropolitan Water District and State Water Resources engineers with the current levels of Edison's industrial rates for large bulk power deliveries.

5. The filing of a complaint by the City of Colton with the Federal Power Commission contesting the State Commission's jurisdiction.

6. Dissatisfaction of resale cities with the situation wherein the rate on which they purchase energy from Edison exceeds Edison's rate for general service.

7. The authorized expenditures by certain of the resale cities for independent engineering reports on self-generation.

With respect to possible changes in the competitive relationships since respondent's present rate levels were established, the record shows that in the 1957 rate proceeding Edison had requested the insertion of fuel escalator clauses, based on the posted price of fuel oil, in Schedules A-7 and R for the purpose of maintaining the levels of those rates in competitive relationship with the cost of private generation at the then market price of fuel oil.

Although we did not allow any fuel clauses in the rates then authorized, it may be significant to note that with the decline in the posted price of fuel oil from $2.80 per barrel, as contained in the base price of the rates then proposed, to a present posted price of $2.35 per barrel, operation of the fuel clauses would have resulted in reduction of the energy rates in Schedules A-7 and R by 0.6 mills per kilowatt-hour.

According to the record it is respondent's intention to make Schedules A-8 and R-2 generally available for selection by any customer having demands sufficiently large to justify the schedule from the standpoint of the customer's operating economies. Customers of the size contemplated by these schedules are those served primarily from transmission sources and for whom Edison is required to provide only limited distribution facilities. The witness explained that it is the company's present practice to serve customers with expected demands of 6,000 kilowatts directly from transmission lines, and the basing of the minimum charge in each of the proposed schedules on a maximum demand of at least 5,000 kilowatts bears a reasonable relationship to this practice. The applicability clauses clearly restrict application of the schedules to service supplied directly from lines of transmission voltage, but it is clear from testimony of the witness that respondent intended to make these schedules also available to those few customers with demands exceeding 5,000 kilowatts who may for the utility's operating convenience be served from distribution lines.

Respondent's witness testified that in designing Schedule A-8 he used the basic rate form and conditions of Schedule A-7

and endeavored to approximate the same level of charges in A-8 as those presently in A-7 for the first 300 hours use of the maximum demand. For use in excess of the first 300 hours, he concluded that a rate of 5 mills per kilowatt-hour would be appropriate compared with the 6-mill rate in Schedule A-7.

The witness testified that the rate level so established in Schedule A-8 was tested by an analysis of cost of service, and a summary of this study was presented in Exhibit 3. In this study, the Large Power group of customers was segregated into two groups, the A-8 group having demands of 5 megawatts or larger, and the remaining group having demands of less than 5 megawatts. This study indicates that under present rates, the rate of return for the A-8 group is 5.98% as compared with 5.32% for the smaller customers and 5.49% for the entire group. Under the proposed rates, the rate of return for the A-8 group would be reduced to 5.40% as compared with 5.32% for the smaller customers and 5.34% for the entire group.

With respect to design of the rate for Schedule R-2 the witness testified that since there was so little difference between present Schedule A-7 and Schedule R, he believed it would be desirable, and so proceeded, to establish the Schedule R-2 rate level identical with that of Schedule A-8.

A rate comparison of present Schedules A-7 and R with proposed Schedules A-8 and R-2 for two different voltage classifications and for varying load factors was presented in Exhibit 2. This comparison demonstrates that there is little difference between the present and proposed schedules for load factors corresponding

to 300 or less hours use of maximum demand and that the maximum reductions occur for the highest load factor use.

The record shows that Schedule R-2 would be available to all five of Edison's resale customers, and Schedule A-8 would be available also to the Metropolitan Water District under Edison's contract with that agency, which provides that service will be delivered under rates and conditions based on Schedule A-7, subject to revisions to reflect authorized changes in the rate schedule (Decision No. 60789, dated September 27, 1960, in Application No. 42215).

Based upon the current average operating conditions of these customers, an estimate is included in Exhibit 1 of the probable revenue effect of the proposed schedules as follows:

	No. of Customers	Revenue Present Rates $1000s	Revenue New Rates $1000s	Reduction in Revenue $1000s	%
Schedule No. A-8	50	32,170	30,664	1,506	4.7
Schedule No. R-2	5	14,617	13,795	822	5.6
Metropolitan Water District	1	5,238	4,634	604	11.5
Total	56	52,025	49,093	2,932	5.6

The record shows that the higher percentage reduction, which the Metropolitan Water District would enjoy, results primarily from the fact that most of the deliveries to the District are off-peak and under the contract provisions such off-peak deliveries are billed at the terminal block rate, which rate under the proposal contains the largest percentage decrease.

Both of the proposed schedules contain provisions that a 10-year contract will be required for service and the form of

contract is included in the suspended filing. It is respondent's position that the lower rates offered by the proposed schedules should be contingent upon respondent obtaining a long-term contractually committed market as it would be inappropriate and unfair to the utility to permit such large customers to take immediate advantage of the schedule and then to discontinue service so as to take advantage of temporary declines in the price levels within such period. He testified, however, that as a result of further consideration, respondent does not intend to compel such customers to continue to take service under such contracts if the A-8 and R-2 rates are increased as a result of subsequent rate proceedings during the contract period. To permit customers under such circumstances to terminate the contract upon reasonable notice, he proposed that a provision be added to the contract forms for both Schedules A-8 and R-2, which would read as follows:

> "In the event that the net bill for electric service to the customer is increased during the term of this contract as a result of changes in Schedule No. (A-8, R-2), the customer shall have the right to terminate this contract on not less than 30 months' notice to the utility. Such notice shall be given within 180 days after the effective date of such changes."

No protests were made on an overall basis to respondent's offer of optional reduced rates, but objections were made to certain features of the suspended tariffs. The main objection, as expressed by representatives for the California Portland Cement Company, Air Products & Chemicals, Inc., and the California Manufacturers Association, were directed at the requirement of a 10-year contract which did not incorporate a release provision for the

customer except where the rate is increased. It was California Portland Cement Company's suggestion that the contract for Schedule A-8 be written in the form of a requirements contract whereby a customer, who requires electrical service and who enters into the contract, is obliged to take such service from Edison, but that if he no longer requires any electrical service for some reason such as moving his plant or going out of business, then he should have the opportunity to be released from the contract. The cement company's spokesman also urged, as did the California Manufacturers Association representative, that a force majeure clause should be included in the contract which would release a customer from the contract obligation in the event of disruption of his operations through strike, riot, or some other cause beyond his control.

A witness for Air Products & Chemicals, Inc., testified that the company operates two plants on the Edison system, each with loads of over 15,000 kilowatts operating at better than 90% load factor. He contended that the 10-year contract provision would place an unreasonable burden on this customer as its contracts with the Air Force for the production of liquid oxygen and nitrogen range from only one to three years. He stated that with today's fast-changing technical developments, management cannot reasonably forecast 10 years into the future. He contended that the very reduction represented by the proposed Schedule A-8 is the factor which would enable Edison to meet competition, whereas the 10-year contract requirement could cause a prospective customer or an existing customer to locate a new facility outside of Edison's service area.

Counsel for the Metropolitan Water District stated that the District has no objection to the terms of proposed Schedule A-8 as applied to other customers, but that the proposed schedule is not acceptable to the District because it requires a 10-year contract. He stated that the District desires to negotiate with the Edison Company an amendment to the District-Edison 1958 Service and Interchange Contract to provide for service at a rate not based upon any published schedule, but commensurate with the rate set forth in the proposed Schedule A-8, and such amended contract to be subject to termination by either party upon four years' notice as under the present contract. He stated his understanding that such amended contract would be subject to approval of the Commission.

The City Attorney for the City of Anaheim stated that the cities are extremely unhappy with the present Schedule R and that if a new schedule, such as the proposed one, is not made available, the cities will definitely look for a source for their energy other than the Edison Company.

The Commission staff assisted in development of the record. In his opening statement, staff counsel emphasized the need to scrutinize carefully any selective or preferential rate reductions and urged that a public utility has the burden of justifying any such proposal. The staff also sought to develop information on this record concerning the overall earnings of respondent, but respondent's objection to this line of questioning was sustained.

Discussion

Even if we were satisfied, in a general way, that the proposed reductions are reasonable and should be authorized, modification of respondent's filing nevertheless would be necessary. Respondent itself has suggested revision of the proposed form of contract, and certain other changes would help to clarify the language and applicability of the schedules. Moreover, Metropolitan Water District of Southern California, the largest customer affected by the proposed reductions, has formally represented that it would

not avail itself of the new rate in the form proposed, and other customers have criticized the conditions under which the reduction would be offered to them. The order herein will give respondent an opportunity to redesign the specific terms of the proposal in the light of the information developed at the hearing. The Commission's technical staff may be of assistance in working out appropriate modifications and will be made available for that purpose. At this time, we express no opinion on the merits of the controversial 10-year-contract requirement, the applicability clauses, or other particular features of the filing.

A major reason for making the suspension permanent is our inability to find, on this record, that the proposed reductions will not be a burden on other customers. Indeed, this question was not explored at the hearing, for it was respondent's position that the determination of any such a burden might be deferred until a future rate proceeding. It is true that if the overall earnings of a particular utility are at or below a reasonable level, a rate reduction to a special class of customer might not cast a direct burden on other customers, for the stockholders of the utility may, in effect, absorb the loss. On the other hand, if the utility's earnings are above a reasonable level, the utility should be required to justify any reduction to a special class, for in the absence of such a reduction the Commission presumably would itself reduce rates. On this record we cannot say whether or not respondent's earnings are excessive (respondent objected to the introduction of any evidence on that subject), but we do hold that the issue of burdening other customers may not properly be deferred unless: (1) the reasonableness of respondent's overall earnings is determined, or (2) this selective rate reduction is justified on some other basis not related to earnings.

Respondent did undertake to establish justification of the latter type, contending that the proposed reductions are necessary to meet competition. While competition is a recognized consideration in fixing utility rates, the showing on that issue in this case has not been sufficient. Respondent's evidence was in large part speculative and indefinite, and the other parties did not present significant corroboration of respondent's case. We do not doubt that competitive forces are at work, but the record herein contains no adequate evaluation of competition in relation to specific rate levels.

Respondent's showing concerning competition might well have been stronger had respondent not taken the position that the issue of burdening other customers should be deferred until a future rate proceeding. For that reason, our findings herein will be without prejudice to the filing of a similar proposal at any time. Since technical revision of the schedules appears to be appropriate in any event, a permanent suspension without prejudice will be more convenient than a reopening of the present proceedings.

Upon consideration of the record, the Commission finds that:

1. Respondent has failed to establish the necessity of reducing rates to certain customers served under Schedules A-7 and R to meet competitive factors.

2. Until further order of the Commission, respondent's existing tariff Schedules A-7 and R are just and reasonable.

3. The proposed tariff schedules A-8 and R-2 would be unreasonable, discriminatory and preferential.

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4. The suspension should be made permanent of Schedule No. A-8. General Service-Large, and Schedule No. R-2, Resale Service-Large, together with contract forms filed by respondent's Advice Letter No. 279-E.

O R D E R

IT IS ORDERED that:

The suspension of Schedule No. A-8, General Service-Large and Schedule No. R-2, Resale Service-Large, together with accompanying contract forms filed by Southern California Edison Company under Advice Letter No. 279-E, is hereby made permanent.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 13th day of May, 1963.

George G. Grover
President

Everett C. McKeage

Frederick B. Holoboff

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.