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Decision 84 04 040 APR 4 1984**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the matter of the
reasonableness of tariffed employee
discounts, including consideration
of their retention, reduction,
elimination, or adjustment for
ratemaking purposes.

OII 104
(Filed December 15, 1981)

(Appearances are listed in Appendix A.)

ORDER TERMINATING INVESTIGATION

In this proceeding we sought to determine whether energy, telephone, and water utilities offering discounted utility service to employees are doing so on a reasonable basis. For reasons which we will set forth, we are terminating this investigation.

Energy Utility Phase

This proceeding was divided into phases, and full hearings on energy utilities were held in August of 1982. That phase was submitted on November 8, 1982 but subsequently reopened for briefing of an additional issue, and resubmitted on March 4, 1983.

Subsequently, the Administrative Law Judge (ALJ) submitted an extensive decision¹ which recommended a maximum of 25% for any gas or electric discount, to be effective January 1, 1986, and that energy utilities not already doing so, and offering discounts, be required to develop employee conservation incentive programs.

¹ Served concurrently with this decision upon the parties pursuant to Public Utilities (PU) Code § 311.

We have reviewed the proposed decision and we agree with the ALJ that federal preemption of collective bargaining under the National Labor Relations Act does not oust this Commission from determining the fairness and reasonableness of employee discounts for the purposes of energy conservation or ratemaking. However, we also believe that the evidence developed in this proceeding is not compelling enough to require any immediate change from present practices. The factors leading us to this conclusion are as follows:

1. There is no showing that the year for which data was analyzed was a normal climatic year;
2. While there may be some minimal additional consumption by employees traceable to lower rates, other demographic factors blur any attempt at isolating such consumption;
3. Samplings for some utilities are small;
4. Evidence on the effect of such assumed additional consumption tends to show that the overall company effects are insignificant.

Therefore, we will not order any change in employee discounts for energy utilities at this time. The energy utilities will be expected to establish the reasonableness of any discount programs in their respective general rate case proceedings.

In this regard, we note that only two utilities, CP National and Sierra Pacific, currently have discounts in excess of 25%. Both utilities will be required to produce evidence of reasonableness in their next general rate cases justifying the need for extraordinary discount levels. Similar evidence will be required for any utility seeking to increase its present level of utility discounts.

Water Utility Phase

As respondents to this OII we named the 17 "Class A" water utilities. There are many more water utilities, classified by annual operating revenues, as follows:

<u>Class</u>	<u>Annual Operating Revenue</u>	<u>Number of Utilities</u>
A	\$750,000 and over	17
B	\$200,000 - 750,000	16
C	\$ 50,000 - 200,000	39
D	Less than \$50,000	<u>260</u>

(Total: 322)

Inspection of Commission records shows that these utilities, particularly the smaller ones, are widely scattered geographically, from wet coastal areas to arid areas. Sources of water supply vary.

Our ultimate purpose in this OII is the protection of the utility customers. Are rates too high because of excessive discounts? How do we decide these issues?

While we remain vitally interested in these concerns, we believe that the OII format is not suited to solving any problems in this area relating to water utilities.

If our ultimate aim is protection of the utility customer, the OII should include all water utilities, not just those in the Class A category. Customers of smaller water utilities are just as much entitled to protection from ill-advised management practices as customers of the larger companies (and frequently more in need of it).

Additionally, water utilities, even among the same class, vary much more in operational problems than telephone, electric, or gas utilities. Such factors as local climate, sources of water, and customer mix can be so different for each company that even water utilities located close to each other may not be comparable. Utility "A" may have definite conservation problems which suggest that discounted rates should be prohibited, while utility "B" may have a glut of water, and for that utility, discounts may be reasonable.

Because of these differences, rate structures among water utilities are not necessarily comparable.

We will terminate our investigation of water utilities in this OII. However, in forthcoming rate increase applications for all classes of water utilities we will expect the applicants to make a showing on the reasonableness of employee discounts, making use of the precepts in our energy utility decision insofar as they apply to water utilities. We also expect the staff to take the necessary administrative action to insure that all water utilities which have employee discounts have filed tariffs accurately describing them. Companies who do not offer such discounts are not in any way required by this Commission to do so.

Telephone Utility Phase

When we started this OII, we were primarily concerned with the apparently generous discounts offered by the Pacific Telephone and Telegraph Company (now Pacific Bell). As part of the Bell System, this company was able to offer its employees discounts on both local and long-distance service. However, the recent reorganization of the Bell System now limits Pacific Bell's ability to offer discounts to local service.

Currently, we perceive no advantage in pursuing this matter as an OII. Therefore, our order regarding telephone utilities will be similar to that for water utilities. Each telephone utility will be expected to furnish for the record in any general rate increase evidence which demonstrates that employee discounts are reasonable, and all such discounts shall be tariffed.

Findings of Fact

1. For many years, energy utilities subject to our jurisdiction, except for Southern California Gas Co., have offered discounted utility service to employees and retirees. The percentage discount has been 25% except for CPN and SPPC, which offer a 50% discount.

2. Eligibility for discounts, loss of revenues from them (assuming similar consumption if they were eliminated), average annual usage of discount and nondiscount customers, and estimated annual costs of eliminating discounts are as set forth in Exhibit 2 (for 1981).

3. For 1981, loss of revenue in dollars and in percent, and costs to the average customer and average residential customer are as shown in the tabulations under the subheading "total company effects."

4. Conservation effects for eliminating discounts (for 1981), assuming that 100% of consumption differentials between discount and nondiscount residential customers are traceable to the discounts, are as set forth in the table entitled "Assumed Maximum Effect of Eliminating Discounts."

5. While absolute costs of discounts have increased over the years as rate increases have been awarded, they have not increased out of proportion to expenses generally.

6. Revenue gains from eliminating discounts are negligible.

7. The effect of employee discounts on conservation of kWh or therms on total company bases is either negligible or nonexistent.

8. Per capita kWh for discount customers is greater than for nondiscount residential customers, but when vacation and secondary homeowners are excluded from the comparison, these differences are not pronounced.

9. For gas (therm) consumption, per capita differences vary highly. Only two of the three utilities offering gas discounts have

a large enough sampling to be used for estimation purposes. In 1981, for PG&E the differential was 8.5% and for SDG&E, 0%.

10. Some of the consumption differentials are assignable to price differences between discount and nondiscount rates, and some to other factors. The exact percentage differentials traceable to discounts are uncertain.

11. No party introduced evidence to show that 1981 was a normal climatic year.

Conclusions of Law

1. Discounts for public utility employees and retirees are not prohibited by law, but must meet the standards of PU Code §§ 451 and 453.

2. The evidence and the findings do not support action on our part in terminating or reducing discounts at this time.

3. The National Labor Relations Act does not preempt this Commission from determining the reasonableness of employee discounts for the purpose of energy conservation or ratemaking.

4. We should terminate this investigation as to telephone and water utilities for the reasons set forth in the opinion.

5. All employee discounts should be tariffed. The staff should take the necessary administrative action to assure that all telephone and all water utilities have filed tariffs setting forth such discounts.

O R D E R

IT IS ORDERED that:

1. Each energy, telephone, and water utility subject to our jurisdiction which offers employee discounts for service shall file tariffs setting forth such discounts and shall furnish evidence in their general rate case proceedings which demonstrate that such discounts are reasonable.

This proceeding is terminated.

This order becomes effective 30 days from today.

Dated APR 4 1984, at San Francisco, California

LEONARD M. GRIMES, JR.
President

VICTOR CALVO

PRISCILLA C. GREW

DONALD VIAL

Commissioners

Commissioner William T. Bagley
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

We have reviewed the proposed decision and we agree with the ALJ that federal preemption of collective bargaining under the National Labor Relations Act does not oust this Commission from determining the fairness and reasonableness of employee discounts for the purposes of energy conservation or ratemaking. However, we also believe that the evidence developed in this proceeding is not compelling enough to require any immediate change from present practices. The factors leading us to this conclusion are as follows:

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Therefore, we will not order any change in employee discounts for energy utilities at this time. The energy utilities will be expected to establish the reasonableness of any discount programs in their respective general rate case proceedings.

In this regard, we note that only two utilities, CP National and Sierra Pacific, currently have discounts in excess of 25%. Both utilities will be required to produce ~~compelling~~ ^{convincing} evidence in their next general rate cases justifying the need for extraordinary discount levels. Similar evidence will be required for any utility seeking to increase its present level of utility discounts.