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Decision 84 06 079 JUN 6 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the feasibility of establishing various methods of providing low-interest, long-term financing of solar energy systems for utility customers.	OII 42 (Petition for Modification filed January 19, 1984)

O P I N I O N

Pacific Gas and Electric Company (PG&E) seeks an order modifying or clarifying Decision (D.) 82-07-101. That decision expanded the multifamily element of the demonstration solar financing program to include long-term residential care facilities and college or university dormitories in the definition of multifamily residential units. PG&E alleges that an order modifying D.82-07-101 is necessary to remove ambiguities in calculating rebates for solar systems serving atypical multifamily dwellings and in sizing such systems.

Background

On July 21, 1981, the Commission issued D.82-07-101 authorizing solar rebates for long-term residential care facilities and college or university dormitories, a new category of multifamily dwellings, which have been called atypical multifamily dwellings. D.82-07-101 did not explain how rebates for solar systems serving atypical multifamily dwellings were to be determined, nor did it provide guidance on how such systems were to be sized. According to PG&E, it was unclear how utilities should determine the number of dwelling units or bedrooms when processing rebate applications for dormitories or nursing homes with wards accommodating three or more beds.

For typical multifamily dwellings, such as apartment houses, rebates have been allocated according to the number of dwelling units served and sizing has been based on the number of bedrooms.

In D.83-10-014 dated October 5, 1983, the Commission set sizing guidelines for atypical multifamily dwellings. The new guidelines double minimum collector area and storage volume requirements for atypical multifamily dwelling. The Commission however did not discuss allocating rebates in atypical multifamily projects.

PG&E alleges that because the Commission did not make clear in D.82-07-101 how to determine rebates for solar systems serving atypical multifamily dwellings and how to size such systems, the industry/utility subcommittee of the California Solar Energy Industries Association (Cal-SEIA), met on August 13, 1982 and suggested that two beds in atypical multifamily dwellings should be considered as one bedroom for sizing purposes, but that each room should be eligible only for a single multifamily dwelling unit rebate regardless of the number of beds or occupants in that room. Cal-SEIA never formally presented this suggestion to the Commission for its concurrence but PG&E alleges that a member of the staff of the Energy Conservation Branch (ECB) agreed to the proposal.

PG&E states that one year later, on August 12, 1983, it attempted for the first time to apply the informal Cal-SEIA policy to a rebate application for atypical structures, which had been submitted by the State Office of Energy Assessments (OEA). OEA planned to install solar water heating systems on six California youth authority (CYA) facilities which contained a number of two-bed bedrooms along with with four 20-bed open wards. PG&E explained to OEA that the systems serving the wards would have to be sized according to the rule that two beds constitute one bedroom but that only a single $288 rebate could be provided for each of the much larger wards.

PG&E deemed the application of the Cal-SEIA policy to yield inequitable results so it reinterpreted the policy so that two beds would constitute one dwelling unit for purposes of both solar sizing and rebates. However, this reinterpretation has had limited application, since the OEA facilities are the only buildings to which it has ever been applied by PG&E. Those facilities have not yet been installed.

In an exchange of correspondence between PG&E and the ECB, PG&E became aware that the ECB considers PG&E's reinterpretation to be incorrect. The ECB's position is that each room in an atypical multifamily structure is eligible only for a single rebate, regardless of the number of beds it contains.

PG&E believes that the ECB's position, when combined with the effect of D.83-10-014, increases the existing inequity in the treatment of atypical multifamily dwellings with multiple-bed wards. Calculated in this fashion, rebates for such dwellings, PG&E believes, will be extremely small in relation to solar system costs, providing an incentive for solar conversion far smaller than that for more typical multifamily structures such as apartment buildings. PG&E believes that this result seems contrary to the Commission's purpose in D.82-07-101 in expanding eligibility for rebates to include atypical multifamily dwelling such as dormitories and nursing homes, which was to encourage increased participation in the demonstration program.

PG&E requests that the Commission issue an order modifying or clarifying D.82-07-101 to specify how rebates are to be calculated for atypical multifamily dwellings.

Discussion

In the exchange of correspondence mentioned above, PG&E submitted to the staff of the ECB proposed internal memoranda and letters instructing its division managers regarding the OII 42 program. Those documents contained the following proposed instructions:

> "On atypical multifamily dwellings such as dormitories and nursing homes, a 'bedroom' shall be defined as each bed for sizing purposes. The rule that two beds in these dwellings constitute one unit for rebate purposes will continue."

The staff of the ECB took exception to the second sentence in the quoted statement and responded in its letter of October 31, 1983, as follows:

> "We were surprised to note that PG&E interpreted two beds in the above dwellings as one unit for $8 per unit rebate purposes. This is contrary to Commission's D.92251, D.82-07-101, D.82-07-102, and D.83-10-104. In response to SolarCal Council's petition to change this MF (multifamily) rebate on bedroom basis which was partly supported by the staff, but it was rejected by the Commission in its D.82-07-102, the Commission never stated in any of its decisions that two beds constitute one unit and that the MF rebates should be paid accordingly. PG&E should only pay $8 per unit of MF dwellings regardless of the number of beds or bedrooms per unit. A large ward in a nursing home with ten beds or a private room with a single bed is entitled to $8/month per unit MF rebate only. Incidentally, this is how the other two participating utilities, San Diego Gas & Electric Company and Southern California Gas Company, are interpreting the Commission's decision. This interpretation is also applicable for multifamily dwelling, where each apartment unit may either have one, two, or three bedrooms. However, a multifamily dwelling is only entitled to an $8/month per unit solar rebate."

The staff cites D.82-07-102 in its letter in support of its position regarding the calculation of rebates for atypical multifamily dwellings. That decision was issued the same date as D.82-07-101 and disposes of a proposal by the Governor's SolarCal Council to increase the multifamily rebate from $8 per dwelling unit per month to $8 per bedroom up to a maximum of $20 per dwelling unit per month. The Commission denied this aspect of SolarCal's petition

for modification and thus left the calculation of the rebates in the same state as existed before the petition, that is, $8 per month per dwelling unit. PG&E did not cite us to this case but placed its whole reliance on the companion D.82-07-101.

The staff method, as reflected in its October 31, 1983 letter, is identical to the policy adopted by Cal-SEIA. PG&E has pointed out that the staff position works an inequitable result for wards with multiple beds. While overall the staff policy appears well founded, we agree that an exception to the requirement that a single monthly rebate of $8 be paid for each room in atypical multifamily structure should be made for wards with four or more beds. For wards, the equivalent number of bedrooms used for calculating the monthly rebates shall be the number of beds divided by four, with fractional results rounded upward to the next largest whole number.

Parties will be given 30 days to comment on our resolution of this issue. If a party requests a change to this modification, it should provide a concrete example of a facility eligible for the solar program to which its proposed change would apply.

We note that PG&E has cited to us only the instance of OEA's plan to equip six CYA facilities with solar water heating systems. However, we question whether these CYA facilities qualify for multifamily rebates at all. Certainly they would not have qualified under the original multifamily definition: units with sleeping, toilet and bathing, and cooking facilities self-contained (D.82-07-101, p. 2). Even under the expanded definition of D.82-07-101 detention facilities would appear to be excluded. The

order in D.82-07-101 extended rebates to "owners of multifamily building with three or more units, all having minimum lease periods of not less than one month..." (Id., p. 5). In the discussion the Commission stated that "we intend for the word 'lease'...to refer to all types of agreements creating a term of residence of at least 30 days" (Id., p. 4).

Three arguments convince us that the multifamily program was never intended to apply to detention facilities. First, in no sense can the words "agreement" or "lease" refer to a commitment to a detention facility. Second, detention facilities have never been mentioned in any of our orders as examples of qualifying multifamily dwellings. D.82-07-101 discussed long-term residential care facilities (nursing homes), college and university dormitories, and residence hotels as examples of qualifying multifamily facilities, and explicitly excluded seasonal facilities, such as summer camps or ski resorts, as well as motels and hotels with transient clientele. Third, no party named in D.82-07-101 was the owner of detention facilities.

Findings of Fact

1. The staff method of determining monthly rebates in atypical family dwellings is reasonable except for wards.

2. It is reasonable to calculate the equivalent number of bedrooms used in determining monthly rebates for wards as the number of beds divided by four.

Conclusion of Law

The petition of PG&E for modification of D.82-07-101 should be granted to the extent described herein.

O R D E R

IT IS ORDERED that:

1. The petition of Pacific Gas and Electric Company for modification of D.82-07-101 is granted as described herein.

2. For wards. the equivalent number of bedrooms used in determining monthly rebates shall be the number of beds divided by four, with fractional results rounded upward to the next largest whole number.

This order becomes effective 30 days from today.

Dated June 6, 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
DONALD VIAL
Commissioners

Commissioner Priscilla C. Grew, being necessarily absent, did not participate.

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

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for modification and thus left the calculation of the rebates in the same state as existed before the petition, that is, $8 per month per dwelling unit. PG&E did not cite us to this case but placed its whole reliance on the companion D.82-07-101.

We do not believe that PG&E has alleged facts sufficient to require a change in the way rebates are calculated for atypical multifamily dwellings. The staff method, as reflected in its October 31, 1983 letter, is identical to the policy adopted by Cal-SEIA. PG&E's reinterpretation for the benefit of OEA was not well taken. While in isolated cases the staff position might appear to work an inequitable result, overall the policy appears well founded and we will continue to require that a single monthly rebate of $8 be paid for each room in atypical multifamily structure, regardless of the number of beds in that room.

We believe it is significant that PG&E has cited to us only the instance of OEA's plan to equip six CYA facilities with solar water heating systems. However, we question whether these CYA facilities qualify for multifamily rebates at all. Certainly they would not have qualified under the original multifamily definition: units with sleeping, toilet and bathing, and cooking facilities self-contained (D.82-07-101, p. 2). Even under the expanded definition of D.82-07-101 detention facilities would appear to be excluded. The order in D.82-07-101 extended rebates to "owners of multifamily building with three or more units, all having minimum lease periods of not less than one month..." (Id., p. 5). In the discussion the Commission stated that "we intend for the word 'lease'...to refer to all types of agreements creating a term of residence of at least 30 days" (Id., p. 4).

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Accordingly, PG&E's use of OEA's project to equip CYA facilities with solar water heating systems as an example of the inequitable application of the staff's method of calculating the multifamily rebate was not well taken. No other factual example having been cited by PG&E, there is insufficient evidence of inequity to require a change in the staff method.

Findings of Fact

There is insufficient evidence to require that the method of calculating rebates for atypical multifamily dwellings be changed.

Conclusion of Law

The petition of PG&E for modification of D.82-07-101 should be denied.

O R D E R

IT IS ORDERED that the petition of Pacific Gas and Electric Company for modification of D.82-07-101 is denied.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.