

Decision 89 05 022 MAY 10 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Burt Libe,

Mailed

Complainant,

MAY 11 1989

vs.

Case 88-04-011
(Filed April 4, 1988)

PACIFIC GAS AND ELECTRIC
COMPANY,

Defendant.

OPINION

The complaint alleges that Pacific Gas and Electric Company (PG&E) illegally cut baseline quantities in violation of California Public Utilities (P.U.) Code §§ 454 and 491, and failed to provide proper notice to customers affected by such baseline cutbacks. Complainant contends that PG&E's Notice of Filing in its 1987 General Rate Case does not specifically mention baseline rates; therefore, it does not constitute sufficient notice.

No hearing was held on this matter since there are no disputed issues of fact. Complainant's pleadings were filed on April 4, May 11, and June 20, 1988. PG&E's pleadings were filed on May 4 and May 31, 1988. The matter was submitted for decision on the basis of the written pleadings of the parties.

Position of Complainant

Complainant argues that no mention was ever clearly made to the public that PG&E had proposed lowering baseline quantities. Complainant states that he found no evidence that the Commission ever approved such steep baseline allowance cutbacks, nor did PG&E

ever furnish proper notice to customers affected by such baseline cutbacks. According to complainant, P.U. Code § 491 requires that new schedules state plainly the changes to be made. Complainant states that upon contacting PG&E's district office, they indicated that the Notice of Filing slip dated November 1987 mailed to each customer, and an article in their publication "Progress" constituted sufficient notice.

Complainant contends that the Notice of Filing makes no mention whatsoever of any proposed baseline cutbacks. Complainant concedes that the "Progress" article gives a better explanation, but only after-the-fact. Complainant argues that the article also inaccurately states that: "(New) baseline...quantities may be higher or lower (than existing baselines)." Complainant states that recalculating new rates for 30- and 31-day intervals using Tariff Sheet 10060-E showed that all baseline allowances, with only one exception, were significantly lowered without sufficient explanation. Complainant states that he learned about the cutbacks only after he received his bill. Further explanations were provided only when he contacted PG&E upon noticing that his winter baseline quantities were substantially lowered. ✓

Position of PG&E

PG&E contends that P.U. Code § 454 is inapplicable to alterations of baseline quantities because the level of baseline quantities is a matter of rate design not subject to P.U. Code 454.

However, assuming for the sake of argument that P.U. Code § 454 is applicable to the alterations to baseline quantities currently at issue, PG&E submits that the Notice of Filing in the 1987 General Rate Case clearly provided all PG&E customers with the information required by P.U. Code § 454.

PG&E points out that the Notice of Filing informed customers that there would be evidentiary hearings from March to July 1986 on PG&E's application. The Notice of Filing specified that "[t]hese hearings will be devoted to analyzing the need for

the requested rate increase and ways of allocating any approved increases among the various customer classes."

Accordingly, PG&E argues that the alteration of baseline quantities is merely one method of allocating rate increases among the customer classes. This portion of the General Rate Case typically involves an analysis of every customer class--residential, commercial, industrial and agricultural--and every rate schedule applicable to each class. The level of baseline quantities was merely one issue addressed in the portion of the General Rate Case devoted to the thorough examination of all customers' rates and charges.

PG&E believes that implicit in complainant's allegation that PG&E did not specifically inform him of the alterations to baseline quantities is a requirement that PG&E and all intervenors in the proceeding send each customer its proposals and filings on every issue. PG&E points out that General Rate Cases are lengthy, complicated proceedings in which a number of issues are litigated and a number of parties participate. PG&E contends that it would be impractical for a utility to inform each customer of each and every issue to be litigated in these types of proceedings.

Further, PG&E notes that Ordering Paragraph 1 of Decision (D.) 86-12-091 directed PG&E to file with the Commission the revised electric schedules adopted by the decision as contained in Appendix D. Appendix D-21 contains the Adopted Daily Electric Baseline Quantities intended to go into effect on May 1, 1987. These are the baseline quantities currently disputed by complainant. Accordingly, PG&E submits that it clearly made a showing before the Commission that alteration to the existing baseline quantities was in order. Furthermore, the Commission found that the changes were justified. Therefore, PG&E contends that if P.U. Code § 454 were applicable to the rate design changes at issue, it was fully complied with in this instance.

In addition, PG&E avers that its implementation of these authorized baseline quantities was made in full compliance with P.U. Code § 491. In D.86-12-091, the Commission ordered that the revised rate schedules be filed with the Commission at least three days prior to the effective date. PG&E's Advice Letter 1407-G/1149-E were filed on April 28, 1987 to be effective, as ordered by the Commission three days later on May 1, 1987. As a compliance filing (a filing ordered by the Commission) Advice Letter 1407-G/1149-E became effective without additional Commission action. Therefore, PG&E contends that this filing was in accord with P.U. Code § 491 which permits a public utility to make a change of any rate or classification as ordered by the Commission.

Discussion

It does appear that complainant has been provided with inaccurate information by PG&E's district office. Complainant was provided with a "Notice of Filing" dated November 1987 and Tariff Sheet 10060-E, neither of which relates to the proceeding which addressed baseline quantities. We are not certain whether PG&E's district office provided these items for illustrative purposes. If so, they should have carefully researched the customer's complaint and later provided the customer with the facts.

PG&E should have advised the complainant that the Commission addressed baseline allowances as follows:

"Baseline Phase-in

Both PSD and PG&E agree that baseline should be phased in so that customers do not experience severe bill impacts due to baseline implementation. PSD recommends that the phase-in of baseline allowances continue on an annual basis, while PG&E proposes a three year cycle to coincide with its GRCs. Because of customer reaction to the initial implementation of baseline allowances, PG&E believes that a more cautious approach is warranted. We recognize PG&E's concerns for moderation, but believe limiting increases due to baseline to 5% once every three years is too slow a pace. Therefore, we will adopt PSD's proposal for

phasing in baseline allowances. The phase-in recommendations of PSD should be implemented in May of each year when baseline changes from winter allowances to summer allowances." (D.86-12-091, dated December 22, 1986, pg. 26.)

Also, complainant should have been provided with a copy of the relevant portion of this decision, a copy of Advice Letter 1407-G/1149-E and related tariff sheets filed on April 28, 1987. Understandably, complainant stated that he finds no evidence that the Commission ever approved such reductions in baseline allowances. The filing of this complaint could have been avoided if it was properly handled at the outset.

We will now address the issue, which is, should the Notice of Filing of PG&E's test year 1987 general rate case have disclosed PG&E's proposal to change or reduce baseline rates or quantities.

P.U. Code § 454 requires a utility to (1) furnish notice of the application, (2) state the amount of the proposed increase in dollar and percentage, (3) a brief statement of the reasons the increase is sought, and (4) the mailing address of the Commission to which inquiries may be directed.

PG&E submitted as Exhibits 1 and 2 copies of two notices regarding this proceeding which were mailed to each customer. We note that both notices state the amount of the proposed increase in dollars and percent increase, state the reasons why PG&E is requesting the increase, show the amount and percentage increase to each class of customer, and calculate the impact of the requested increase on the average residential customer's electric and gas bill. Both notices advised customers where public hearings were being held so that customers would have the opportunity to express their views to the Commission. Therefore, we conclude that PG&E fully satisfied P.U. Code § 454 requirements.

We agree with PG&E that it would be impractical for a utility to inform each customer of each issue to be litigated in a

general rate case proceeding. P.U. Code § 454 recognizes this practical limitation by requiring the utility to inform customers of the dates and locations of hearings. The Notice of Filing of the 1987 General Rate Case, which was mailed to each customer, provided addresses at the Commission and at PG&E, to which customers could write for more detailed information. The Notice of Filing provided in particular:

If you wish to participate formally in the evidentiary phase and need advice, or if you wish copies of the Public Staff Division's rate proposals, please write to the Public Advisor, California Public Utilities Commission, at 350 McAllister Street, San Francisco, California, 94102. (Exhibit 1.)

The Notice of Filing also provided:

Further information may be obtained from Pacific Gas and Electric Company at its headquarters at 77 Beale Street, Room 3181, San Francisco, California, 94106, attention Mr. Howard V. Golub, Attorney, or at its regional offices (San Francisco, Sacramento, Oakland, Fresno, San Jose and San Rafael), or from the California Public Utilities Commission office at 350 McAllister Street, San Francisco, California, 94102.

A copy of PG&E's Application may be inspected in its regional or headquarters offices. (Exhibit 1.)

We appreciate the difficulty that customers have in keeping track of the several filings a utility makes each year. Also, there is a limit to the amount of information that can be included in the Notice of Filing. While we are anxious that the customer be kept informed as much as possible, we have to recognize practical limitations. Therefore, we conclude that a utility is not required to provide the level of detail that complainant expects as part of its legal notice. It is the customer's responsibility when he receives the Notice of Filing, to take steps

to review PG&E's filing, copies of which are required to be available at PG&E's district offices and at the Commission.

We should point out that PG&E's proposed baseline quantities were summarized at Chapter 3 of its 1987 General Rate Case Application (A.85-12-050). Further details were provided in Exhibit 19 which was part of PG&E's original application filing. This material should have been available for inspection by any customer at PG&E's district offices.

Lastly, with regard to complainant's P.U. Code § 491 argument, which relates to the filing of tariff sheets, we find that Advice Letter 1407-G/1149-E referenced Commission D.86-12-091. This decision granted PG&E permission to implement the baseline quantities at issue. Accordingly, the filing was properly made.

However, we recognize that customers are keenly interested in knowing of any proposed changes to the baseline allowance. Therefore, it is reasonable to require the utilities to make a special effort to communicate such proposed changes to its customers.

While we recognize that there is no legal requirement for PG&E or other utilities to provide specific notice of their proposed baseline allowance changes, we will order the utilities to work with our Public Advisor to provide such notice. We do this because we feel that customers should be made aware of possible changes in the baseline quantities since it directly affects their consumption patterns and because customers are acutely aware of these changes because the baseline allotment appears on their monthly bill. Therefore, whenever a utility proposes to change baseline quantities, the utility should include a brief statement describing the proposed changes in any bill insert which may be sent to customers. We direct our Public Advisor to ensure that utilities meet this new requirement.

The complaint should be dismissed.

Findings of Fact

1. PG&E, provided its customers with legally sufficient notice that it had filed a test year 1987 general rate case. The Notice of Filing did state that the Commission would consider ways of allocating any approved increases among various customer classes.

2. The alteration of baseline quantities is merely one method of allocating rate increases among the customer classes.

3. Customers are keenly interested in knowing of any proposed changes to the baseline allowances. They need to be specifically informed of proposed changes to baseline quantities.

Conclusions of Law

1. Utilities should specifically notify customers of proposed changes in baseline quantities through bill inserts.

2. PG&E has complied with the notice requirements of P.U. Code § 454 and has properly filed Commission approved changes to baseline quantities in accordance with P.U. Code § 491.

3. The complaint should be dismissed.

ORDER

IT IS ORDERED that:

1. The complaint is dismissed.

2. Whenever a utility proposes to change baseline quantities, the utility should include a brief statement describing the proposed changes in any bill insert which may be sent to customers. We direct our Public Advisor to ensure that utilities meet this new requirement.

3. The Executive Director shall serve a copy of this decision on all the regulated energy utilities.

This order becomes effective 30 days from today.

Dated MAY 10 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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


Victor Weissert, Executive Director

ps

Decision _____

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Burt Libe,

Complainant,

vs.

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COMPANY,

Defendant.

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(Filed April 4, 1988)

Burt Libe, for himself, complainant.
Michelle L. Wilson, Attorney at Law, for
Pacific Gas and Electric Company, defendant.

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