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MAIL DATE
9/24/96

Decision 96-09-103

September 20, 1996

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In The Matter Of The Application Of)
 SOUTHERN CALIFORNIA EDISON COMPANY)
 (U 338-E) For Authority To Increase)
 Its Authorized Level Of Base Rate)
 Revenue Under The Electric Revenue)
 Adjustment Mechanism For Service)
 Rendered Beginning January 1, 1995)
 And To Reflect This Increase In)
 Rates.)

Application 93-12-025
(Filed December 27, 1993)

Order Instituting Investigation Into)
 The Rates, Charges, And Practices Of)
 SOUTHERN CALIFORNIA EDISON COMPANY)
 Establishment Of The Utility's)
 Revenue Requirement, And Attrition)
 Request.)

I.94-02-002
(Filed February 4, 1994)

ORDER DENYING REHEARING AND MODIFYING DECISION (D.) 96-04-050

Decision (D.) 96-04-050, the final decision in Phase 2 of Southern California Edison's (Edison) General Rate Case, addressed a wide range of marginal cost, revenue allocation, and rate design issues. Among other things, D.96-04-050 adopted a marginal energy cost based on a cost of gas that excluded certain transition costs Edison pays as part of the intrastate transportation rates charged by Southern California Gas Company (SoCal). D.96-04-050 also set a cost-based non-firm rate discount that includes a transmission component. Finally, D.96-04-050 relied on the Commission's treatment of hazardous waste cleanup costs in a recent Pacific Gas and Electric (PG&E) ECAC proceeding (D.95-12-051) as the basis for allocating hazardous waste cleanup costs.

Toward Utility Rate Normalization (TURN) applied for rehearing on the grounds that: 1) the exclusion of certain transition costs from the adopted marginal energy cost is based on a rationale that is inconsistent with the evidence, which emerged after the issuance of the proposed decision, that Edison now takes gas under the default volumetric rate rather than the rate agreement Edison negotiated with SoCalGas for 1995 and 1996; and 2) the inclusion of transmission costs in the non-firm rate discount is inconsistent with the record, which fails to show that transmission related costs are avoided by the availability of non-firm load. TURN also argues that since TURN has applied for rehearing of the hazardous waste cleanup costs issue in D.95-12-051, the Commission should, if it grants rehearing and changes the allocation in that decision, make similar modifications here.

Edison filed a response to TURN's application for rehearing. Edison asserts that D.96-04-050 is based on the existing record, that the decision cannot change simply because a change has occurred to an individual contract or cost, and that the Commission has already addressed TURN's effort to reopen the record by stating that the gas transition issue could be revisited by TURN in Edison's ECAC proceeding. Edison contends that the inclusion of avoided transmission costs reflects the Commission's legitimate decision to accept evidence that TURN disagrees with, and is not legal error. Finally, Edison claims that TURN asserts no basis for a rehearing regarding hazardous waste costs.

We have carefully reviewed every allegation raised in the application for rehearing of D.96-04-050 and considered the response thereto, and are of the opinion that insufficient grounds for rehearing have been shown. All issues raised by the parties but not addressed in this order are deemed to be without merit.

Marginal Gas Costs

TURN claims that D.96-04-050's removal of transition costs from the calculation of marginal gas costs was based on the assumptions that Edison's gas usage would not affect the transition costs allocated to it by SoCal and that Edison's transition costs are not collected on a volumetric basis. TURN argues that these assumptions are no longer correct now that Edison purchases gas under the default volumetric rate rather than under the negotiated contract rate discussed in the decision. TURN asserts that this inconsistency constitutes legal error, and that the decision must be based on facts known to the Commission at the time the decision is issued.

TURN states that the information regarding Edison's switch to the volumetric rate was formally brought to the Commission's attention in this proceeding by Edison's response to TURN's March 22, 1996 petition to set aside submission, which argued that Edison's statements during a February 14, 1996 full panel hearing in the capacity brokering docket (R.88-08-018/R.90-02-008) contradict the position Edison presented regarding gas transition costs.¹ TURN acknowledges that D.96-04-050 finds that

1. In a footnote, TURN also asks the Commission to consider whether Edison had an obligation under Rule 1 of the Commission's Rules of Practice and Procedure to inform the Commission of such a significant change at or shortly after the time that it happened. Rule 1 states that: "Any person who signs a pleading ..., enters an appearance at a hearing, or transacts business with the Commission, ... agrees ... never to mislead the Commission ... by an artifice or false statement of fact or law."

TURN concedes that statements relied on in the decision may have been accurate when made, but argues that they had been

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Edison's upcoming ECAC is the proper forum to consider the changed circumstances described in Edison's response to TURN's petition. TURN argues that the error in D.96-04-050 must be corrected in the current proceeding, however, since the transition cost issue has an impact on rates in effect as of May 1, 1996, while the ECAC will only affect rates beginning January 1, 1997.

TURN asserts that the switch to the volumetric rate undermines both of the key points cited in support of the Commission's decision to remove gas transition costs from the marginal gas cost calculation: the assumption that Edison's gas

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rendered false by later events occurring before January 1, 1996, events likely set in motion before the proposed decision was issued.

Edison responds that it is reasonable to assume that some conditions will change between the time the record is submitted and the date the Commission issues a decision. Edison states that if an obligation to disclose factual changes at variance with expected conditions existed, forecast proceedings would never end because each potential change in every assumption would have to be disclosed and examined to see if it warranted a change in a proposed decision.

Utilities should bring significant changes to our attention in a timely fashion. However, not all failures to alert the Commission to a changes that occur after a case is submitted amount to misleading the Commission by an artifice or false statement. In the absence of evidence that Edison deliberately deceived the Commission, we find no Rule 1 violation here.

Of course, if there was evidence that, during the hearing, Edison deliberately withheld information regarding a significant change that it knew would occur subsequent to the closing of the record, a different result would be justified.

usage over the rate case cycle will not affect the level of transition costs, and the fact that the transition costs were not collected volumetrically (D.96-04-050, at 47). TURN argues that Edison's gas usage over the rate case cycle will now certainly affect the level of its transition costs, and that the premise that Edison's transition costs are not collected volumetrically is clearly wrong.

TURN notes that D.96-04-050 defines marginal energy cost as "the change in a utility's total operating costs which results from producing an additional kwh of electricity," (D.96-04-050, at 24) and, in essence, argues that since the default volumetric rate includes a transition cost component for each unit of gas consumed by Edison in the production of electricity, the failure to include transition costs in the calculation of Edison's marginal energy cost makes the result inaccurate. TURN asserts that what matters in the calculation of Edison's marginal energy cost is the amount paid by Edison, not whether that amount matches the amount of transition costs allocated to Edison by SoCal.

Edison responds that the level of transition costs allocated to it remains fixed independent of whether Edison takes service under a negotiated rate or the default volumetric rate. Citing Division of Ratepayer Advocates (DRA) witness Price, Edison states that the undisputed record shows that the allocation of transition costs will be based on 1991 throughputs and will not vary with actual throughputs. (RT, at 8364.)

Edison states that D.96-04-050 was based on the existing record, and anticipates potential rate design changes; that granting TURN's request would require reopening of the entire record; that it is reasonable to assume that some conditions may change between the submission of the record in October, 1995 and the issuance of the decision in April, 1996; that the changed rate design situation is not part of the record; that there is no

evidence regarding the duration or extent of the change, and that taking additional evidence, and issuing as proposed decision and a final Commission decision, would not likely result in any rate change in 1996. Edison claims that the Commission rejected TURN's petition to set aside submission because D.96-04-050 already addresses the possibility of rate design changes and their impact on marginal energy costs and indicates that the gas transition cost issue could be revisited by TURN in Edison's ECAC.

Contrary to TURN's allegations, D.96-04-050 is consistent with the fact that Edison now takes gas under the default volumetric rate. D.96-04-050 fully recognized that while transition costs will continue to be allocated to Edison based on its 1991 gas throughput rather than on its actual or forecasted gas usage during the current rate case cycle, "there has been a recent change which alters the manner in which SoCal collects revenues to offset these transition costs." (D.96-04-050, at 173.)

D.96-04-050 accepts Edison's explanation that at the close of the record in this phase of the proceeding, Edison was taking service from SoCal at a contract rate that included a large fixed charge, and that during the evidentiary hearings last summer, Edison expected the current contract with SoCal to remain in effect through 1996.² (Id.) The decision points out that while Edison has been paying the volumetric rate as of January 1, 1996, "this is

2. D.96-04-050 rejected TURN's allegation in its petition to set aside submission that Edison's statements regarding the allocation of transition costs in the capacity brokering docket contradicted the position it presented here, finding that: "When considered in the context of a future competitive electric market, Edison's statements at the February 14, 1996 full panel hearing in R.88-08-018/R.90-02-008 do not contradict the position Edison presented regarding gas transition costs in this proceeding." (id., at 187 (Finding of Fact 134).)

the first time since 1991 where Edison has not taken service under a negotiated rate design, and there is no indication at this time how long Edison will remain on this rate." (Id., at 173-174.)

D.96-04-050 notes that the discussion of transition costs in Section 5.3.1.2. of the decision allows for the possibility of reconsidering the treatment of transition costs in future ECACs (id., at 174). Conclusion of Law 89 states that: "The significance and duration of Edison's most recent arrangements with SoCal for the collection of gas transition costs should be considered in Edison's upcoming ECAC, which will be filed in May 1996." (See also, id., at 174.) The decision opines that: "It would be unfair to delay the implementation of decreased rates to all of Edison's customers because of a single changed circumstance, whose duration and significance would need to be evaluated fully before making any change" (id., at 174) and concludes that: "Reopening this proceeding would unduly delay a rate decrease to Edison's customers" (id., at 197 (Conclusion of Law 90)).

Although D.96-04-050 does not find that the shift in the type of rate Edison pays SoCal requires immediate corrective action, the decision discusses the rate change noted by TURN, and agrees to review the issue further in Edison's ECAC.³ The

3. We note that the volumetric collection of transition costs will be a central issue in the ECAC. D.96-04-050 states that:

"Any reconsideration of transition cost treatment in intervening ECACs shall be limited to an assessment of 1) the current relationship between Edison's gas usage and BCAP cost allocations, and 2) the extent to which gas transition costs are collected volumetrically under SoCal's current rate design." (Id., at 48.)

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uncertain duration of the new rate arrangement and our desire to avoid delaying a rate decrease to Edison's customers provide a rational basis for our decision to review the transition cost issue in the ECAC rather than in the current proceeding. The fact that TURN would handle the situation differently does not amount to legal error.

Inclusion of Transmission Costs in the Interruptible Credit

TURN alleges that the Commission's inclusion of transmission costs in the cost-based level of interruptible credit lacks evidentiary support. The proposed decision would have set the cost based level of interruptible credit for Edison customers who take service subject to curtailment equal to the marginal generation cost, with marginal transmission and distribution costs being excluded. TURN argues that by rejecting the proposed decision's exclusion of transmission costs, the Commission shifted \$36 million from large power rate customers to all other customers.

TURN claims that Edison's own witnesses testified that the existence of interruptible load does not impact the planning

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We will modify this sentence by replacing the phrase "shall be limited to an assessment of" with the phrase "shall, at a minimum, assess," in order to allow a broader review of the circumstances and significance of Edison's recent shift to the default volumetric rate.

for Edison's transmission system, nor the operation of the existing system under emergency conditions. TURN states that D.96-04-050 quotes this testimony, then ignores it. (D.96-04-050, at 154-155.) TURN further claims that D.96-04-050 minimizes the critical testimony of Edison witness Jazayeri that the load forecast used for transmission system planning includes the nonfirm load. (RT, at 10005.)

TURN complains that D.96-04-050 inappropriately shifts to TURN the burden of proving the absence of transmission cost savings, while the real focus should be on the failure of the proponents of including a transmission cost component to provide any quantitative evidence that any transmission costs are avoided by the interruptible rate program. TURN argues that, at the very least, its showing indicates that the transmission costs avoided when additional generation is avoided are substantially less than the coincident transmission costs for interruptible customers.

Edison responds that the Commission simply exercised its discretion to accept evidence that TURN disagrees with. Edison notes that TURN's application for rehearing discusses the evidentiary support relied upon by the Commission as a "theoretical concept" presented by Edison's and DRA's witnesses, and states that other portions of the record reflected in D.96-04-050 reflect other theoretical constructs, including TURN's own theory of new customer costs. Edison finds no legal error.

While TURN offers one view of the evidence concerning the relationship between transmission costs and interruptible rates, the Commission's adoption of the position taken by Edison and DRA is supported by the record. As D.96-04-050 notes, Edison's Phase 2 pricing witness testified that transmission system planning is generally based on the available generation resources and forecasts of load on the system, and that the existence of interruptible customers makes it possible for Edison to avoid the need for new

generating facilities and the necessarily accompanying transmission facilities. (RT, at 10005, Exh. II-72, pp. VIII-6 to VIII-7.) As the decision further notes, DRA agreed with Edison's conclusion that the interruptible rate program allows Edison to avoid certain transmission costs. (RT, at 8232.) DRA's testimony provides additional support for the decision.

In addition, D.96-04-050 correctly points out that the reasoning of Edison and DRA here is essentially the same rationale we used when we included transmission costs in the calculation of Pacific Gas and Electric's (PG&E) interruptible credit (D.92-05-031, 44 Cal.P.U.C.2d 378, 386). D.92-05-031 states in part that "it is logical to assume that virtually any new addition to generation will require some new transmission ... if the nonfirm program allows the utility to plan for less generation (as it should), then it should allow the utility to plan for less transmission." (*Id.*, at 386; see also 396 (Findings of Fact 19 and 20.)

Hazardous Waste Cleanup Expenses

TURN argues that the allocation of hazardous waste costs on an equal percent of marginal cost (EPMC) basis is based on the treatment adopted for Pacific Gas and Electric in D.95-12-051, and that TURN has filed an application for rehearing of D.95-12-051. TURN states that if the Commission grants TURN's application for rehearing of that decision, it should take a similar approach here.

Edison responds that "TURN has asserted no basis to grant its application for rehearing of D.96-04-050 in this proceeding. Thus, TURN's request cannot be granted." (Edison Response, at 5.)

D.96-04-050 notes that the circumstances in the PG&E proceeding are equally applicable to Edison, and allocates Edison's hazardous waste cleanup costs on the same EPMC basis. (D.96-04-050, at 83). If we had granted rehearing of D.95-12-051 for

further consideration of the hazardous waste cleanup cost issue, then we would reserve final judgment on the issue in this proceeding also. However, since we are responding to the application for rehearing of D.96-04-050 before we respond to the application for rehearing of D.95-12-051, we must deny rehearing of this issue because TURN has failed to show any legal error here.

THEREFORE, for good cause shown, IT IS HEREBY ORDERED that:

1. Rehearing of D.96-04-050 is denied.
2. D.96-04-050 is amended as follows: On page 48, the last sentence of the first full paragraph is amended by the replacement of the phrase "shall be limited to an assessment of" with the phrase "shall, at a minimum, assess."

This order is effective today.

Dated September 20, 1996, at San Francisco, California.

P. GREGORY CONLON
President
DANIEL Wm. FESSLER
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

Commissioner Josiah L. Neeper,
being necessarily absent, did
not participate.