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Decision 96-10-018 October 9, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Cassandra Ballestero, et al.,)
)
 Complainants,)
)
 vs.)
)
 Pacific Gas and Electric Company,)
)
 Defendant.)
)
 (U 39 B))

ORIGINAL

Case 94-12-051
(Filed December 30, 1994)

Cassandra Ballestero, for herself and other
 complainants.
Annette S. Beitel, Attorney at Law, for
 Pacific Gas and Electric Company,
 defendant.

O P I N I O N

This decision denies the complaint of Cassandra Ballestero et al. (Ballestero) against Pacific Gas and Electric Company (PG&E). Contrary to the allegations of the complaint, PG&E's baseline rates for Kern County residential customers are lawful.

Background

Ballestero and 171 other PG&E customers jointly filed this complaint on December 30, 1994 pursuant to Public Utilities (PU) Code § 1702. The original complaint sought increased "baseline" quantities of electricity for residents of Kern County and lower rates. Baseline is a quantity of electricity which is discounted for residential customers. In its request for rate relief, the complaint cited the harsh climate of Kern County, PG&E's high residential rates, and PG&E's high profits.

In its answer to the complaint, PG&E argued that the complaint fails to state a cause of action and that the issues should be considered in its general rate case for the test year 1996.

On May 25, 1995, Ballestero amended her complaint. The amended complaint alleges that PG&E has not properly implemented PU Code § 739, which governs the establishment of baseline rates, because it has failed to take into account climatic conditions in Kern County.

PG&E responded to the amendment stating that the Commission has approved PG&E's baseline quantities and that those quantities have been in the upper end of the range required by law.

Issues raised by this complaint are normally subjects of the general rate case, as PG&E observes. The Commission declined to consolidate this matter with the general rate case for the convenience of the complainant and because the relief sought by the complaint is for Kern County only.

At the request of the complainant, the Commission held a public participation hearing in Bakersfield on December 7, 1995. About 250 customers attended the hearing and 29 customers spoke. Most complained about high PG&E bills. Some referred to service problems and estimated bills.

The Commission held one day of evidentiary hearing on July 9, 1996. At the hearing, Ballestero presented several witnesses who were customers. The witnesses mainly described their personal experiences with high bills, service problems, and estimated bills. Ballestero also presented dozens of letters from local customers with concerns about high bills. PG&E presented two witnesses, one who testified regarding the calculation of baseline quantities in Kern County and the other who addressed customer service issues. The matter was submitted on August 16, 1996 when the parties filed briefs.

Discussion

Ballestero's complaint and amended complaint allege that PG&E has improperly applied the baseline statute and charges rates that are generally too high. Ballestero did not make a prima facie case that PG&E has failed to calculate the baseline quantity properly for Kern County or that PG&E is charging rates that are unauthorized by the Commission. Her allegations appear to have been founded on the belief that PG&E's baseline quantities could not have been lawful because many customers exceeded those quantities and incurred high bills. Ballestero did provide evidence that many residential customers in Kern County believe their electric bills are too high, that some have been unable to reduce their bills in spite of their best efforts, and that some have experienced problems with PG&E's service.¹

Although Ballestero did not provide evidence to support her complaint, PG&E provided testimony and analysis to support its position that its baseline quantities and rates for Kern County residents are consistent with the provisions of PU Code § 739.

Baseline Quantities. We first address whether PG&E has properly calculated the baseline quantity and rate for Kern County. Baseline quantities and rates are governed by PU Code § 739. The relevant portions of Section 739 state:

"The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer...."

* * *

¹ In her prehearing brief, Ballestero suggests the Commission modify its policy with regard to allocations of discounts to participants in LIRA programs offered to low income customers. The record does not support even a discussion of this request.

"'Baseline quantity' means a quantity of electricity or gas for residential customers to be established by the commission based on from 50 to 60 percent of average residential consumption of these commodities.... In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption...."

PG&E presented evidence that it had calculated the baseline quantity for Kern County consistent with the language and intent of Section 739. It set the baseline quantity for Kern County at "50 to 60 percent of average [Kern County] residential consumption." It did so by calculating the area's total usage for the summer months and then normalizing it for abnormal usage which might be related to unusual weather conditions. That sum is multiplied by 60%. The final baseline quantity is set by choosing an amount that sums to 60% of total usage. For Kern County, the baseline quantity is 503 kilowatt-hours (kWh) during the summer months, May 1 through October 1. The baseline or "Tier I" rate at the time of the hearing was about \$0.116 per kWh. The rate for quantities exceeding the baseline amounts, that is, the "Tier II" rate, was about \$0.133 per kWh.

As a check on the reasonableness of its calculation, PG&E provided statistics to show that many Kern County customers use no more than the designated baseline quantities during both the hot summer months and the cold winter months. About 40% of Kern County electric customers' monthly bills show usage within the allotted baseline quantities over the course of a year. About 40% exceed baseline quantities by up to double the allotted baseline amount. About 20% of customer bills are more than double the allotted baseline amount. Some of the witnesses Ballestero sponsored in this complaint appear to be in this last category and are understandably concerned about their bills. However, the baseline quantities allocated to them satisfy the requirements of Section 739.

The only element of Section 739 which might permit PG&E some analytical license is that which requires the consideration of climatic conditions in setting baseline quantities. PG&E has appropriately accounted for climatic conditions in Kern County by calculating the average use of customers in Kern County and the area around it, which have common climatic conditions.

Section 739 does not permit the Commission discretion to provide customers a higher baseline quantity than PG&E is providing to Kern County residents. If it did, however, our inquiry could not stop there. We would still need to consider the effects of increasing Kern County baseline amounts on other PG&E customers. Because of the complexities of our regulatory programs, Ballestero might logically conclude, as she does, that PG&E has a financial incentive to keep baseline quantities low because associated rates are discounted. Neither the establishment of baseline quantities nor the level of baseline rates, however, affect PG&E's profits. Rather, customers as a whole assume the costs and risks of baseline rates and quantities. Consequently, setting a higher baseline quantity for Kern County residents would require us to offset the revenue loss by increasing rates to other customers. Nothing in the record of this proceeding supports such a shift in liability between customer groups. Finally, Ballestero requests that the Commission order PG&E to offer baseline quantities in varying amounts over four annual periods rather than two. PG&E demonstrated that Ballestero's request would actually reduce annual baseline quantities by reducing the number of months during which customers would qualify for the maximum baseline amounts allowed under Section 739. We therefore deny this request.

PG&E's Rate Levels. Ballestero is correct that PG&E's rates are high compared to those in other states. The Commission has recognized this problem and is taking steps to reduce rates both in the short term and longer term. A complaint such as this is an appropriate forum for a review of PG&E's rates in the

Bakersfield area, but not generally. We have formally considered PG&E's overall rates in several forums and will continue to do so. For example, we recently reviewed all of PG&E's electric costs, except those associated with fuel purchases and the Diablo Canyon plant, in its general rate case. There, the Commission conducted many weeks of hearings and reviewed the evidence presented by numerous experts representing the utility, ratepayer advocate groups and others. Subsequently, we reduced PG&E's electric rates by \$300 million, almost 4%, effective January 1, 1996. Unfortunately, PG&E's rates remain high relative to those of other utilities. Nevertheless, nothing in the record of this proceeding suggests that the rates PG&E charges its customers are unlawful or unreasonable.²

Service Quality. Ballestero argues that PG&E has improperly estimated customer bills. PG&E presented testimony to show that it estimated between 0.11% and 1.95% of its bills during 1995 and the first four months of 1996. It observes that its tariffs permit it to estimate bills where conditions do not readily permit a meter reader to access the property or for not more than two consecutive months. We addressed this matter specifically in PG&E's general rate case decision and found that PG&E had estimated a large number of bills for a period as a result of a short-term reduction in its meter reading team. We found that it had subsequently corrected the problem. Even when PG&E must estimate a bill, however, a PG&E customer will ultimately pay for the amount of electricity that he or she actually used. That is, the customer will be subsequently credited for overbillings or charged for underbillings. We have no evidence here to suggest that PG&E is

² We have considered the reasonableness of Bakersfield specific rates in our analysis of Ballestero's baseline quantity complaint, discussed above.

improperly estimating bills. Without further evidence, we must assume that the matter has been resolved.

In the course of this proceeding, Ballestero presented several witnesses who testified that their service from PG&E was inadequate in some way. PG&E appears to have responded to the concerns of those individual customers who had outstanding service complaints. This proceeding provides anecdotal evidence that some customers may not have received consistently high quality service from PG&E. However, the evidence does not suggest a pattern of PG&E specific service problems.

Conclusion

We appreciate Ballestero's inquiry into this matter and the substantial efforts she took to unravel some complex ratemaking mechanisms and educate her community. Nevertheless, we cannot find that PG&E has improperly calculated the baseline quantity in Kern County or misinterpreted PU Code § 739. Nor can we find from the record here that PG&E's rates are unreasonable or that it has systematic problems with service quality. Accordingly, we must deny Ballestero's complaint.

Findings of Fact

1. Ballestero filed this complaint with 171 other PG&E customers alleging that PG&E has improperly calculated baseline quantities and charges unreasonably high rates.

2. Baselines quantities are established according to the provisions of PU Code § 739.

3. PG&E has calculated the baseline quantities for Kern County consistent with PU Code § 739.

4. Ballestero did not demonstrate that PG&E's rates are unlawful or in any way improper.

5. The Commission reviews PG&E's rates in general rate cases and other rate proceedings.

6. Ballestero did not demonstrate that PG&E has estimated customer bills in ways which violate its tariffs.

Conclusion of Law

The Commission should deny the complaint.

ORDER

IT IS ORDERED that the complaint of Cassandra Ballestero et al. against Pacific Gas and Electric Company is denied.

This order is effective today.

Dated October 9, 1996, at San Francisco, California.

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