ALJ/ANG/rmn *

Mailed

OCT 11 1996

Decision 96-10-035 October 9, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.	R.94-04-031 (Filed April 20, 1994)
Order Instituting Investigation on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.	I.94-04-032 (Filed April 20, 1994)

ORIGINAL

INTERIM OPINION

Summary

In this order, we discuss two Petitions for Modification of Decision (D.) 95-12-063, as modified by D.96-01-009 (Policy Decision).[1] We deny both the Petition to Modify filed by the Association of California Water Agencies (ACWA) and the Petition to Modify filed by Toward Utility Rate Normalization (TURN), as moot because the issues raised are addressed in the provisions of Assembly Bill (AB) 1890.

ACWA's Petition

On January 26, 1996, pursuant to Rule 47 of our Rules of Practice and Procedure, ACWA filed a Petition to Modify the Policy Decision. No responses were received to that petition. ACWA is concerned that the Preferred Policy Decision does not distinguish

1 Several parties have filed applications for rehearing of the Preferred Policy Decision. During the pendency of the review of these applications for rehearing, all Commission decisions which address issues raised in those applications are issued subject to possible change, and should not be viewed in any way as prejudging or deciding the outcome of the review of those applications.

between registration requirements for private energy service providers (over which this Commission has jurisdiction) and public entities serving as energy service providers that legally are not under the Commission's jurisdiction. ACWA believes that this language is an attempt by this Commission to obtain regulatory oversight over public entities which may pursue the option of acting as energy service aggregators.

Discussion

AB 1890 provides for certain consumer protection measures, as articulated in the addition of Public Utilities (PU) Code § 394. Section 394 provides that each entity offering electrical service to residential and small commercial customers within the service territory of an electrical corporation must register with the Commission. Electrical corporations defined in PU Code § 218 are exempt from this requirement. Public agencies are not exempted from the registration requirement; therefore, ACWA's petition is moot.

TURN's Petition

TURN filed its petition on February 13, 1996, pursuant to Rule 47. The Division of Ratepayer Advocates (DRA) and SCE filed timely responses on March 14, 1996.

TURN recommends changing the date by which current rate levels are computed from January 1, 1996 to April 1, 1996. This date is particularly important in the collection of transition costs. In our Policy Decision, we adopted a nonbypassable charge, called the competition transition charge (CTC), for all customers who are retail customers on or after the date of that decision, whether they continue to take bundled service from their current utility or pursue other options. (Policy Decision, mimeo., p. 110.) According to the Preferred Policy Decision, the CTC cannot increase rates above January 1, 1996 levels.

Discussion

AB 1890 also addresses the date on which current rate levels are computed, both in terms of a prescribed rate reduction and in terms of transition costs. AB 1890 adds § 330 to the PU Code. Section 330(a) states, in relevant part:

> "It is the intent of the Legislature that a cumulative rate reduction of at least 20% be achieved not later than April 1, 2002, for residential and small commercial customers, from the rates in effect on June 10, 1996." (AB 1890, p. 28.)

Section 367(a) addresses transition cost recovery and provides that such costs be amortized over a reasonable time period consistent with not increasing rates for any rate schedule, contract, or tariff option above the levels in effect on June 10, 1996.

TURN's petition is denied as moot. We offer the following observations on the legislation and our policy regarding the rate cap. The legislative language is consistent with our intent in this matter. Rate reductions continue to be a primary goal of electric restructuring. The total level of transition cost recovery each year will depend on both the amount in the transition cost balancing account and on the level of rates in effect as of June 10, 1996. Deriving the CTC will be a multi-step iteration, which will require both the allocation of transition costs and determining the constraints, if any, of the rate cap. We are aware of the many rate implications which must be addressed and will ensure that these issues will be considered in the rate unbundling/rate design area of the electric restructuring proceeding.

In addition, we propose to continue our policy of refunding utility cost disallowances directly to customers. In the past, this was generally accomplished by crediting any disallowances to utilities' balancing accounts where it would

ultimately be refunded to ratepayers. Under the rate freeze contemplated in AB 1890, balancing account credits may not reach customers but would offset transition costs in the same way that CTC revenues offset transition costs. This would be unfair to customers and would negate the incentive for each utility to manage its expenditures prudently. In proposing this policy, we draw a distinction between (a) unanticipated refunds made to utilities and imprudently incurred expenditures, which should benefit customers directly, and (b) previously forecasted other operating revenues and overcollections caused by forecast errors, which will offset transition costs. The proposal covers existing and future refunds that, in conformance with our usual ratemaking procedures, have already been or would have been made to Energy Cost Adjustment Clause and Electric Revenue Adjustment Mechanism balancing accounts. Given our policy direction of moving away from retrospective reasonableness reviews in favor of performance based ratemaking, the long term effect of direct refunds should be minimal. No new policy is needed for penalties ordered by the Commission, because penalties flow to the General Fund, not utility customers. (See, e.g., PU Code § 2104.) We will allow comments and replies on this proposal, followed by further order of the Commission. Because the proposal affects refunds now under consideration in other Commission proceedings, parties to those actions may also file comments.

Under the proposal, the utilities would establish electric deferred refund accounts which consolidate various refunded amounts into customer refunds made during convenient billing cycles. Credits to these balancing accounts would be refund amounts ordered by the Commission plus accrued interest at conventional balancing account rates. Debits to the accounts would be refunds made directly to customers, as billing credits or refund checks.

Findings of Fact

1. PU Code § 394(a) requires each entity offering electrical service to residential and small commercial customers within the service territory of an electrical corporation, as defined in PU Code § 218, must register with this Commission. Electrical corporations as defined in PU Code § 218 are exempt from this requirement.

2. PU Code § 330(a) requires that a rate reduction be computed from the rates and tariffs in effect on June 10, 1996.

3. PU Code § 367(a) requires that amortization of transition costs occur over a reasonable period of time, consistent with not increasing rates for any rate schedule, contract, or tariff option above the levels in effect on June 10, 1996.

Conclusions of Law

1. ACWA's petition to modify the Preferred Policy Decision is moot, because of the provisions of PU Code § 394(a).

2. TURN's petition to modify the Preferred Policy Decision is moot, because of the provisions of PU Code §§ 330(a) and 367(a).

3. Public comment should be allowed on the proposed policy to make direct refunds to customers in place of crediting electric balancing accounts.

4. This order should be effective today in order to expeditiously dispose of the pending petitions to modify the Preferred Policy Decision.

INTERIM ORDER

IT IS ORDERED that:

1. The Association of California Water Agencies' Petition to Modify Decision (D.) 95-12-063, as modified by D.96-01-009, is denied as moot.

2. Toward Utility Rate Normalization's Petition to Modify D.95-12-063, as modified by D.96-01-009, is denied as moot.

3. On or before Thursday, October 24, 1996 parties to this proceeding, parties to Application (A.) 89-04-001, A.90-04-003, A.91-04-003, A.91-05-050, A.92-04-001, A.93-04-011, A.94-04-002, A.95-04-002, A.96-04-001, A.94-11-015, A.96-03-054 and A.96-05-045, and parties with an interest in Advice Letter 1599-E and Advice Letter 1973-G filed by Pacific Gas and Electric Company may file with this Commission, with service to all parties, comments on the direct refund proposal discussed in this order.

4. The Executive Director shall cause copies of this order to be mailed to all parties to the proceedings listed in Ordering Paragraph 3 above.

5. On or before Thursday, October 31, 1996, the same parties may file and serve replies to the above comments.

This order is effective today.

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

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