

ALJ/MEG/bwg

Mailed

MAR 19 1997

Decision 97-03-050 March 18, 1997

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-B) 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.

1.94-02-002  
(Filed February 3, 1994)

#### INTERIM OPINION

By this decision, we conclude that the provisions of Assembly Bill (AB) 1890 preclude implementation of the AB 2589 experimental rate design for Climatic Zone 15.

#### Background

AB 2589 provides that, on an experimental basis, future rate decreases available to residents of Southern California Edison Company's (SCE) Climatic Zone 15<sup>1</sup> shall be applied in a manner that uses a noninverted rate design structure, or other reasonable rate structures, to reduce nonbaseline rates. AB 2589 also provides that baseline rates must not be increased above their January 1, 1997 level. The experiment would commence on April 1, 1997 and end when the rate design associated with the restructuring of California's electric utility industry is implemented pursuant to Decision (D.) 95-12-063. The rate design associated with industry restructuring is scheduled to be implemented on January 1, 1998.

<sup>1</sup> Climatic Zone 15 consists of Coachella Valley and other desert communities.

Section 368(a) of Public Utilities Code, as added by AB 1890, reads in part that the utility's cost recovery plan "shall set rates for each customer class, rate schedule, contract or tariff option, at levels equal to the level as shown on the electric rate schedules as of June 10, 1996, provided that rates for residential and small commercial customers shall be reduced so that these customers shall receive rate reductions of no less than 10 percent for 1998 continuing through 2002." By D.96-12-077, we implemented the rate freeze and made it effective no later than January 1, 1997. As we stated:

"Rates are frozen at the levels shown on the rate schedules as of June 10, 1996. The effect of Section 368 is to set aside any Commission-authorized rate changes that had not yet been reflected in the rate schedules as of June 10. Moreover, after the rate freeze takes effect, alterations to the rate levels incorporated in the June 10 rate schedules are also apparently prohibited." (D.96-12-077, mimeo. pp. 7-8.)

On January 19, 1997, the assigned Administrative Law Judge in this proceeding issued a ruling requesting that SCE and interested parties respond to the following questions:

1. Is there a conflict with the statutory requirements of AB 2589 and those of AB 1890 on electric industry restructuring? Be specific and cross reference relevant sections of both laws that may be in conflict.
2. If there is a conflict, how can it best be resolved?
3. How should the Commission proceed to address AB 2589 requirements in a timely fashion, e.g., via expedited workshops, evidentiary hearings, filed comments and ex parte order? Include a procedural schedule with your recommendations.

Comments were filed by SCE, the Office of Ratepayer Advocates (ORA), and The Utility Reform Network (TURN). All parties agree that the provisions of AB 2589 are in conflict with the rate freeze provisions of AB 1890. ORA and TURN suggest that one resolution of the conflict would be to have SCE's shareholders pay for the decrease in

nonbaseline rates to Climatic Zone 15 residents. SCE argues that the AB 2589 experiment is precluded by AB 1890, and should not be implemented.

We agree with SCE that the rate freeze provisions of AB 1890, as implemented by D.96-12-077, preclude the rate decrease for Climatic Zone 15 residential customers contemplated by AB 2589. AB 2589 is premised on a rate decrease being available between April 1, 1997 and December 31, 1997 to reduce the nonbaseline rates for Climatic Zone 15 residential customers. Given that AB 1890 and D.96-12-077 freeze rates at their June 10, 1996 levels during the experimental period, there will be no rate decreases available for Climatic Zone 15 residential customers to implement the reduced nonbaseline rate experiment required by AB 2589.

Whereas ORA and TURN suggest that this conflict is best resolved by having SCE's shareholders pay for the experimental nonbaseline rate decrease, Section 1(b) of AB 2589 clearly directs that such decreases come from "future expected rate decreases for residents of Climatic Zone 15." As discussed above, the rate freeze provisions of AB 1890, as implemented by D.96-12-077, do not permit such decreases during the experimental period set forth in AB 2589.

Moreover, because AB 1890 was chaptered after AB 2589, the provisions of AB 1890 prevail over the provisions of AB 2589:<sup>2</sup>

"In the absence of any express provision to the contrary in the statute that is enacted last, it shall be conclusively presumed that the statute that was enacted last is entitled to prevail over statutes which are enacted earlier at the same session and, in the absence of any express provision to the contrary in this statute which has a higher chapter number, it shall be presumed that a statute that has a higher chapter number was intended by the legislature to prevail over a statute that was enacted at the same session but has a lower chapter number." (Section 9605 of the California Government Code.)

---

<sup>2</sup>The chapter number for AB 2589 is 848. The chapter number for AB 1890 is 854. Legislation is chaptered in the order that it is enacted.

We conclude that because AB 1890 and D.96-12-077 preclude a rate decrease for Climatic Zone 15 residential customers during the experimental period, the AB 2589 experiment cannot be implemented without violating AB 1890.

**Findings of Fact**

1. The decrease to nonbaseline rates for SCE's Climatic Zone 15 customers contemplated by AB 2589 is premised on a rate decrease to Climatic Zone 15 customers during an experimental period. That rate decrease is precluded by the rate freeze provisions of AB 1890.

2. AB 1890 was enacted after AB 2589.

**Conclusions of Law**

1. The provisions of AB 1890 and AB 2589 cannot be implemented together.

2. The provisions of AB 1890 prevail over AB 2589.

3. Because AB 1890, as implemented by D.96-12-077, precludes a rate decrease for Climatic Zone 15 residential customers during the experimental period, the rate design experiment directed by AB 2589 cannot be implemented without violating AB 1890.

**INTERIM ORDER**

IT IS ORDERED that the provisions of Assembly Bill (AB) 1890 preclude implementation of the AB 2589 experimental rate design for Climatic Zone 15.

This order is effective today.

Dated March 18, 1997, at San Francisco, California.

P. GREGORY CONLON  
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners