

APR 11 1997

Decision 97-04-038 April 9, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to consider the line extension rules of electric and gas utilities.

R.92-03-050
(Filed March 31, 1992)

(See Decision 95-12-013 for appearances.)

OPINION ON REHEARING OF DECISION 94-12-026

Summary

In Decision (D.) 96-09-099, the Commission granted Bay Area Rapid Transit District (BART), California Building Industry Association (CBIA), and Western Mobilehome Parkowners Association (WMA) limited hearing of D.94-12-026.¹ Each party was required to present a list of material factual issues which it believed warranted an evidentiary hearing. The Commission reviewed the responses of the parties and concludes that there are no material factual issues stemming from D.94-12-026 that warrant an evidentiary hearing.

Background

On October 18, 1996, in response to a ruling of the Administrative Law Judge (ALJ), CBIA and WMA filed responses. BART did not respond. The Joint Utilities² filed

¹ D.94-12-026 replaced free footage allowances with revenue-based allowances for electric and gas line extensions to provide an equitable arrangement between the applicant and ratepayer, as well as between various classes of applicants.

² The Joint Utilities are: Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company, and Southwest Gas Corporation.

comments. The responses and comments were discussed at a prehearing conference held on November 14, 1996.

According to CBIA, the rehearing of D.94-12-026 comes too late since revenue-based line extension allowances have been in effect since July 1, 1995, and rehearing at this time would be unproductive. However, CBIA believes that there may be information now available that might provide useful insights about the issues Public Utilities (PU) Code § 783 was intended to address. Accordingly, CBIA disavows the need for an evidentiary hearing and instead lists a set of queries for consideration "through whatever means is deemed most appropriate (whether it be a utility report or workshop or something else)."

We agree that such an inquiry as suggested by CBIA may be worthwhile. However, since the new line extension rules were implemented on July 1, 1995, there is only one full year of data available. This may not be sufficient to provide definitive answers to all the questions that CBIA has in mind. In the meantime, so that the Commission may address these issues in a later phase of this proceeding, we believe that the parties need to reach agreement on the data that the Joint Utilities should collect. Accordingly, the parties should convene a workshop and make that determination. When sufficient data becomes available and it is clear that there are material factual issues stemming from D.94-12-026, the ALJ may set hearings to address CBIA's concerns.

WMA submitted the following list of proposed factual issues "for the Commission to develop an evidentiary record upon which factual findings can be made as to the economic effect of the extension rules upon mobilehome parks":

1. What are the total and unit costs for a representative selection of residential subdivision sizes?
2. What are the total and unit costs for the same selection of sizes of mobilehome parks served directly by the utilities?
3. Of the items identified as line extension costs in a mobilehome park above, which are included in the respective utilities' studies of

mobilehome park distribution systems supporting the PU Code § 739.5 differential (discount)?

4. What are the total and unit dollar amounts associated with each of the costs in the respective utilities' studies of mobilehome park distribution systems supporting the PU Code § 739.5 differential (discount)?
5. Under what provisions of the extension rules can advances paid by a mobilehome park extension applicant be based on project specific cost extensions?

According to the Joint Utilities, the proposed queries do not constitute issues of material dispute which justify the time and expense of evidentiary hearings. They contend that WMA has failed to present a single disputed material issue arising out of D.94-12-026 for which evidentiary hearings are necessary or appropriate. The Joint Utilities argue that WMA has instead presented a list of questions which amounts to a mere data request. Further, they argue that queries 3 and 4 of the WMA list relate solely to the PU Code § 739.5 differential/discount - a topic which has already been ruled to be outside the scope of this inquiry. The Joint Utilities point to D.94-12-026 at p. 19 where the Commission finds that the discount issue to be a distinct and different subject severable from line extension rules.

Discussion

In granting rehearing we stated:

"Our determination that an evidentiary hearing is required in the instant proceeding does not mean that all factual questions or disagreements that arise during the proceeding warrant an evidentiary hearing. We will grant an evidentiary hearing only to the extent that it can be shown that material factual disputed issues exist that will result in changes to prior decisions. To the extent Section 1708 has any applicability to the issues in this rulemaking (i.e. where a rule from a prior decision is being modified), the hearings granted in the rehearing order provide the appropriate remedy." (D.96-09-099, pp. 2 and 3, emphasis added.)

Turning to the list of questions proffered by WMA, we conclude that the primary purpose of questions 1 and 2 is to develop support for the notion that there should be a separate line extension rule for mobilehome parks. We addressed this matter in D.94-12-026:

"We point out to WMA that the current line extension rules do not provide separate rules for mobilehome parks and the proposed new rules represent no change in this regard. Therefore, we are not persuaded that under PU Code § 783, the Commission is required to address matters outside the scope of this rulemaking proceeding. Further, we believe that WMA's proposal, which will create a sub-class for mobilehome parks, will unnecessarily complicate the line extension rules and invite other classes of customers to seek similar treatment. Because of our desire to keep the rules simple, we are not prepared to create a separate line extension rule for mobilehome parks since granting WMA's request would open the door to similar requests from other customer classes." (D.94-12-026, p. 18, emphasis added.)

With regard to WMA questions 3 and 4, as pointed out by the Joint Utilities these questions are clearly related to the mobilehome park discount, a subject covered by PU Code § 739.5. This is a rate matter that belongs in the Rate Design Window proceedings of the utilities. We addressed this issue in D.94-12-026:

". . . And, since PU Code § 739.5(a) does not apply to line extensions, we find no inconsistency in the fact that the proposed line extension allowances are based on the utility's line extension costs for all types of residential development, including mobilehome parks. WMA has confused the rates charged to mobilehome parks with the line extension rules generally. These are two different subjects, notwithstanding WMA's attempt to link them.

"Furthermore, in denying WMA's request for special treatment, we give much weight to the fact that under the proposed new rules, a mobilehome park applicant, like any other applicant, may choose a site-specific installation cost instead of the utility's filed unit cost." (D.94-12-026, p. 19, emphasis in original.)

And with regard to WMA question 5, we believe that is addressed in the respective tariffs of the utilities and is not a matter for an evidentiary hearing in this proceeding. In

summary, we conclude that WMA's questions are not material factual issues that warrant an evidentiary hearing.

Findings of Fact

1. In D.96-09-099, the Commission granted BART, CBIA, and WMA limited rehearing of D.94-12-026 on any material factual issues that warrant rehearing.
2. BART has not submitted its list of factual issues for rehearing.
3. CBIA waives rehearing for the reason that the new line extension rules have been in effect for over one year and rehearing at this time would be unproductive. However, CBIA requests that certain data that pertains to PU Code § 783 be collected.
4. WMA submitted a list of five questions for the Commission to develop an evidentiary record upon which factual findings can be made as to the economic effect of the extension rules upon mobilehome parks.

Conclusions of Law

1. BART and CBIA have conceded that they do not have any material factual issues at this time that warrant an evidentiary hearing.
2. WMA questions 1 and 2 are designed to highlight differences in line extension costs for residential subdivisions as opposed to mobilehome parks. Such differences are not material factual issue in this proceeding and do not warrant an evidentiary hearing.
3. WMA questions 3 and 4 relate to the mobilehome park discount which is not a material factual issue in this proceeding. Therefore, these questions do not warrant an evidentiary hearing.
4. WMA question 5 is a tariff interpretation matter and does not warrant an evidentiary hearing.
5. There are no remaining material factual issues related to the rehearing of D.94-12-026 that require an evidentiary hearing.
6. The interested parties and the Commission staff should convene a workshop to determine the data that the Joint Utilities should collect to provide definitive answers for the CBIA and other parties regarding the line extensions rules.

O R D E R

IT IS ORDERED that:

1. In the absence of material factual issues that warrant rehearing, Decision 94-12-026 remains unchanged and is a final decision in that phase of the proceeding.
2. The interested parties and the Commission staff shall convene a workshop within 120 days of the effective date of this order to determine the data that the Joint Utilities should collect. The Commission staff shall submit a workshop report to the Commission and interested parties no later than 60 days after the conclusion of the workshop.

This order is effective today.

Dated April 9, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners