

APR 23 1997

Decision 97-04-067 April 23, 1997

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.

ORIGINAL

Rulemaking 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.

Investigation 94-04-032
(Filed April 20, 1994)

**OPINION MODIFYING REQUIREMENTS FOR
PERFORMANCE-BASED RATEMAKING
FOR ELECTRIC UTILITY DISTRIBUTION SERVICES**

Summary

This decision modifies the Commission's existing requirements for the filing of applications for performance-based ratemaking (PBR) mechanisms for electric utility distribution services. Pacific Gas and Electric Company (PG&E) is authorized to file its distribution PBR proposal on or after December 15, 1997. San Diego Gas & Electric Company (SDG&E) is authorized to file a distribution PBR application during the last quarter of 1997. The requirement that Southern California Edison Company (Edison) file a new distribution PBR application is vacated, since Decision (D.) 96-09-092, dated September 20, 1996, adopted a transmission and a distribution PBR for Edison and provided for its adaptation to a distribution-only PBR.

Background

D.95-12-063 dated December 20, 1995 (the Preferred Policy Decision), as modified by D.96-01-009 dated January 10, 1996, directed Edison, SDG&E, and PG&E to file applications to establish separate generation and distribution PBRs. (Preferred Policy Decision, Ordering Paragraph 17, p. 223.) D.93-06-022 dated March 13, 1996 (the

Roadmap I Decision) changed the filing date for the PBR applications from February 20, 1996 to July 15, 1996.

An Assigned Commissioner's Ruling (ACR) issued on June 21, 1996 suspended the requirement for filing distribution PBRs until the Federal Energy Regulatory Commission (FERC) provided further guidance on the separation of utility transmission and distribution functions. The June 21 ACR found that it would be more efficient to focus on the separation of transmission and distribution functions first, given the limited resources of the parties and the Commission. The ACR went on to state that distribution PBRs, while important, were not required for implementation of direct access, the Power Exchange or the Independent System Operator.

In D.96-12-088 dated December 20, 1996 (the Roadmap II Decision), the Commission noted that FERC had issued its decision on the separation of transmission and distribution, and directed PG&E, Edison, and SDG&E to file distribution PBR applications in March 1997. It also provided for a scoping workshop to establish a schedule for processing the applications. (Roadmap II Decision, pp. 28-29 and Appendix, p. 4.)

The requirement for distribution PBRs was discussed at a prehearing conference in the unbundling/ratesetting proceeding (Application (A.) 96-12-009, et al.) on January 14, 1997. (A.96-12-009, Tr. PHC, p. 27, et seq.) Those discussions indicated an emerging consensus that the distribution PBR filings could and should be deferred. Noting this, an "Assigned Commissioner's Ruling Setting Scoping Workshop" issued in this proceeding on January 31, 1997 provided notice that, in addition to scheduling matters, the scoping workshop ordered by the Roadmap II Decision would give parties an opportunity to address the role of distribution PBRs in the context of all electric industry restructuring activities underway or contemplated. The ACR asked workshop participants to consider, among other things, whether distribution PBRs are critical path milestones that must be reached prior to January 1, 1998.

Following the February 10 Scoping Workshop, by ruling dated February 14, 1997, the Assigned Commissioner referred the question of modifying the distribution

PBR filing requirement to the Commission and suspended the March 1997 filing requirement until issuance of the Commission's decision.

Discussion

Through the January 31, 1997 ACR, the February 10, 1997 scoping workshop, and the February 14, 1997 ACR, the Commission provided notice that it would consider modifying the requirement for the filing of distribution PBR applications. It also provided opportunity be heard on the question. This matter is properly before the Commission pursuant to Section 1708.¹

Comments by the workshop participants indicate there are substantive differences of opinion on the role for distribution PBRs in the restructured electric industry. Some parties believe that PBRs are no longer appropriate in the wake of changes brought about by AB 1890,² while others, particularly the utilities, generally favor PBRs. However, the workshop participants unanimously concurred that PBR applications are not critical path issues which must be resolved by January 1, 1998. There is consensus that if distribution PBRs are going to be considered at all, they should be deferred so that parties can devote their efforts to other activities that must be completed for implementation of industry restructuring by January 1, 1998.

We continue to believe that PBR offers the potential for improvements over traditional cost-of-service ratemaking. However, we are finding that the appropriate role for PBR -- where it should be applied and what form it should take -- is changing as industry restructuring progresses. For example, in our decision reviewing and approving the utilities' cost recovery plans, we noted the problematic effects on PBR incentives that arise under the ratemaking mechanisms required by AB 1890 (D.96-12-077, pp. 15-16.) One thing that is clear to us is that PBR mechanisms need to be

¹ All such references are to the Public Utilities Code.

² Stats. 1996, Ch. 854.

carefully thought out and specifically tailored to the segments of the industry to which they are being applied.

PBR is a substitute for traditional cost-of-service rate regulation, but it is still a form of monopoly regulation. Since a principal goal of industry restructuring is "to allow competition for traditional monopoly services to flourish where conditions are ripe" (Preferred Policy Decision, Conclusion of Law 1, mimeo., p. 201), we should give priority to those activities and proceedings that further our restructuring goals. We do not want to pursue implementation of PBRs if doing so would interfere significantly with achievement of our goal of competition.

With these observations in mind, we find that it is unnecessary to proceed with new distribution PBR applications now, and that doing so would divert the attention of parties from critical restructuring activities such as our unbundling/ratesetting and transition cost proceedings. We therefore modify the PBR filing requirements for the respective utilities as discussed below.

PG&E

PG&E asserts that Section 368(e), added by AB 1890, has substantially changed the circumstances that led to the current PBR filing requirement. Section 368(e) authorizes PG&E to file annual base revenue adjustments for 1997 and 1998 to enhance its transmission and distribution system safety and reliability. In addition, by the end of 1997 PG&E must file a general rate case (GRC) for a 1999 test year. In view of these requirements, PG&E plans to propose an electric and gas distribution PBR for implementation in 2000.

PG&E believes that little or no purpose would be served by filing an application for an electric distribution PBR that would take effect before the end of the 1999 GRC test year. PG&E therefore proposes that it be authorized to file its distribution PBR application in late 1997, to become effective January 1, 2000.

We agree that with the enactment of Section 368(e), PG&E's distribution PBR should be deferred. Our order will so provide. However, we add the following clarification. First, by proposing to defer implementation of its PBR until 2000, PG&E

apparently assumes that it would be inappropriate to combine any performance incentives with the revenue requirements and/or rates that we will approve for 1999 in the GRC. We do not necessarily endorse such an assumption. We reserve the option of adopting incentives that would apply before 2000 should we find it necessary and appropriate to do so. For example, in our consolidated investigation and rulemaking to develop standards for electric system safety and reliability (I.95-02-015/R.96-11-004) we may wish to consider the usefulness of safety and reliability performance incentives that would become effective before 2000. We do not wish to rule out such a possibility by our decision today.

Second, we note that Senate Bill 960³ states the Legislature's intent that the Commission resolve proceedings in no more than 18 months. We intend to process the PBR applications within that limit. Since PG&E plans to implement its PBR on January 1, 2000, it may not be necessary for PG&E to file its application as early as December 1997. We will authorize PG&E to file its application on or after December 15, 1997.⁴

On January 31, 1997, PG&E filed a petition to modify the Roadmap II Decision to change the date for filing its distribution PBR application from March 1997 to December 1997. In a February 10, 1997 "Scoping Workshop Statement," PG&E stated that its petition for modification was filed before it learned of the January 31 ACR, and that if its workshop request to defer the PBR filing is granted, there might be no need for the petition to proceed. Since today's decision grants the relief sought by PG&E, we will dismiss the petition.

³ Stats. 1996, Ch. 856.

⁴ We provide later in this decision that we are not changing the January 1, 1998 filing date for performance-based rates for reliability as ordered by D.96-09-045. Since PG&E apparently plans to include this filing with its distribution PBR application, as a practical matter it will probably have to file in December 1997.

SDG&E

SDG&E believes that PBR is a cornerstone of electric industry restructuring. SDG&E proposes that a new distribution PBR mechanism be implemented at the beginning of 1999, assuming that its current experimental base rate PBR remains in effect through the end of 1998. SDG&E proposes to file an application for a distribution PBR mechanism in September 1997. SDG&E states that this would allow consideration of the results of the current midterm evaluation of the base rates PBR experiment. Like PG&E, SDG&E expects to propose combining its electric distribution PBR with a gas distribution PBR.

We see no need to require SDG&E to file a distribution PBR at this time. Some parties are concerned that even a six-month deferral of SDG&E's application to September is inadequate. They expect to be fully engaged in critical restructuring activities during the last three months of this year, and, accordingly, urge that we defer SDG&E's filing until December.

We would prefer to delay SDG&E's distribution PBR application until the first of next year due to the heavy procedural schedule for electric industry restructuring. However, SDG&E's current experimental PBR mechanism is set to expire at the end of 1998, and there may be value in having a replacement distribution PBR mechanism ready for implementation by then. This argues for an earlier filing by SDG&E. To strike a reasonable balance between these competing scheduling concerns, we will authorize SDG&E to file its distribution PBR application any time during the last quarter of 1997. We will further provide that prior to filing its application, SDG&E shall provide notice of and convene at least one workshop whose purposes are: to explain SDG&E's distribution PBR proposal; to solicit the views and concerns of interested parties; and to allow time for SDG&E to incorporate into its application, to the extent possible, measures that address the concerns of the parties. We believe this should help to

minimize the burden on parties of responding to another industry restructuring application during the final months of this year.⁵

Edison

D.96-09-092 authorized a nongeneration PBR mechanism for Edison which is scheduled to remain in effect through December 31, 2001. D.96-09-092 included a provision for adapting the mechanism to a distribution-only PBR upon transfer of jurisdiction over transmission cost recovery to FERC. In adopting the PBR, we stated that "we decide most issues for [Edison's] distribution PBR in our decision today." (D.96-09-092, p. 25.)

Edison states that several milestones must be reached to establish its distribution rates by 1998, but notes that these will be addressed in other proceedings. Edison believes that the requirement for a separate, new distribution PBR proceeding is duplicative and unnecessary in view of its recently authorized PBR. We agree. We will remove the requirement for such a filing by Edison.

Coordination With Reliability and Safety Issues

We pointed out in the Roadmap II Decision that it will be necessary to coordinate the distribution PBRs with the development of electric distribution system service quality, reliability and safety standards under I.95-02-015/R.96-11-004, our consolidated investigation and rulemaking. (Roadmap II Decision, p. 29.) Similarly, we need to coordinate the PBRs with the establishment of inspection, maintenance, repair, and replacement standards for distribution systems, required under Section 364. (*Id.*) Our action today to defer the filing of distribution PBR applications (and vacate such filing requirement in Edison's case) does not constitute any authorized delay in current filing requirements related to service quality, reliability, safety, inspections, maintenance, etc.

⁵ Since we authorize PG&E to file its application at the end of this year, and PG&E plans on an implementation date of January 2000, we expect there will be fewer resource and scheduling conflicts with respect to its application. We therefore do not require PG&E

Footnote continued on next page

In particular, the utilities must develop and apply for performance-based rates in dockets affecting the distribution component of their revenue requirement by January 1, 1998. (D.96-09-045, Ordering Paragraph 7, p. 40.) Also, by July 1, 1998, PG&E, Edison, and SDG&E (as well as Sierra Pacific Power Company) must file in a PBR proceeding proposed performance standards for maintaining, repairing, and replacing distribution system facilities. (D.96-11-021, Ordering Paragraph 2, p. 18.) These requirements are not affected by today's decision.

PG&E states that its planned PBR application will include PBR performance standards for reliability and customer service, and will address the maintenance, repair, and replacement of distribution system facilities in accordance with the requirements of D.96-09-045 and D.96-11-021. We expect SDG&E will do likewise in its distribution PBR application. Since Edison will not be filing a distribution PBR application, it should file a new application or applications for purposes of complying with D.96-09-045 and D.96-11-021. We will not adopt Edison's proposal that a workshop be convened in mid-1998, as part of its generation PBR proceeding, to ascertain whether revisions to Edison's existing service quality mechanisms are necessary.

Findings of Fact

1. No party identified distribution PBRs as issues which must be resolved prior to January 1, 1998 in order to timely implement electric restructuring in accordance with the Preferred Policy Decision and AB 1890.
2. A new distribution PBR application is unnecessary in Edison's case.
3. With the action we are taking today to modify PBR filing requirements, PG&E's January 31, 1997 petition for modification of D.96-12-088 is moot.

to convene such a workshop. Nevertheless, we urge PG&E to consider the merits of doing so.

Conclusions of Law

1. We should modify our existing requirements for the filing of distribution PBR applications as provided in the following order.
2. PG&E's petition for modification should be dismissed as it is moot.

O R D E R

IT IS ORDERED that:

1. The schedule for the filing of performance-based ratemaking (PBR) mechanisms for utility distribution services, set forth in Decision (D.) 96-12-088 at pages 28-29 and at page 4 of the Appendix thereto, including the March 1997 filing date for utility applications, is vacated.
2. The requirement in Ordering Paragraph 17 of D.95-12-063, as modified, that Southern California Edison Company file a distribution PBR application is vacated.
3. Pacific Gas and Electric Company (PG&E) is authorized to file a distribution PBR application on or after December 15, 1997.
4. San Diego Gas & Electric Company is authorized to file a distribution PBR application during the fourth quarter of 1997, provided that, prior to filing its application, it shall convene an informational workshop as provided in the foregoing discussion.

5. PG&E's January 31, 1997 petition for modification of D.96-12-088 is dismissed as moot.

This order is effective today.

Dated April 23, 1997, at San Francisco, California.

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