

JUL 17 1997

Decision 97-07-037 July 16, 1997

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Edison Company (U 338-E) To Adopt The Performance Based Ratemaking and Incentive Based Ratemaking Mechanisms Specified in D.95-12-063, as Modified by D.96-01-009, and Related Changes.

**ORIGINAL**

Application 96-07-009  
(Filed July 15, 1996)

Application Of Pacific Gas and Electric Company To Adopt Performance-Based Ratemaking (PBR) For Generation And To Change Electric Revenue Requirements Subject To PBR, Effective January 1, 1998.

Application 96-07-018  
(Filed July 15, 1996)

(Electric)

(U 39 E)

**OPINION**

**Summary**

The Commission finds that the relief which Pacific Gas and Electric Company (PG&E) seeks in its May 7, 1997 petition for modification of Decision (D.) 97-04-042 is unnecessary. The petition is therefore denied.

**Background**

D.97-04-042 was issued to clarify the scope of issues to be heard in proceedings on the consolidated applications of Southern California Edison Company (Edison), San Diego Gas & Electric Company (SDG&E), and PG&E for performance-based ratemaking (PBR) mechanisms related to their generation assets.<sup>1</sup> As relevant to PG&E's petition,

<sup>1</sup> SDG&E's application has since been dismissed by D.97-06-044.

D.97-04-042 clarified an aspect of the Commission's plan for the utilities' recovery of the operating costs of their fossil-fueled generating plants that was set forth in D.95-12-063 as modified by D.96-01-009 (the Preferred Policy Decision). In particular, the Preferred Policy Decision determined that, under certain conditions, utilities would be able to retain profits providing up to 150 basis points above their authorized return for distribution rate base, while any further profits would be used to reduce the competitive transition charge.

PG&E would have D.97-04-042 modified to state that the Commission has not yet decided whether fossil generation plants which are not deemed necessary for reactive power/voltage support (which PG&E calls merchant fossil plants) are eligible for the 150 basis points earnings allowance described at page 135 of the Preferred Policy Decision. PG&E also seeks to have D.97-04-042 modified to confirm that utilities will have an opportunity to make a showing justifying why their proposals for 150 basis point allowances for fossil plants which are not needed for reactive power/voltage support should be approved.

Responses to PG&E's petition were filed by Edison, Office of Ratepayer Advocates (ORA), Independent Energy Producers, and jointly by Energy Producers and Users Coalition and Cogeneration Association of California.

#### **Discussion**

PG&E in effect asks us to interpret the language at page 135 of the Preferred Policy Decision in a manner that D.97-04-042 rejected. We decline to do so. Nothing in PG&E's petition persuades us that D.97-04-042 incorrectly interpreted the Preferred Policy Decision.

As noted above, we issued D.97-04-042 to provide procedural guidance to the applicants, the other parties, and the Administrative Law Judge regarding the appropriate scope of this consolidated proceeding. With respect to the utilities' proposals for 150 basis points allowances for merchant fossil plants, we had noted in reviewing the applications that the utilities were apparently relying on a misinterpretation of the Preferred Policy Decision. We therefore provided our

interpretation to give the utilities advance notice that they could not simply rely on the language at page 135 or Conclusion of Law 63 of the Preferred Policy Decision to support their proposals for merchant plants; instead, they would have to show that applying a 150 basis points allowance to merchant plants is required to further the overall goals and objectives of electric industry restructuring.

As a practical matter, rewriting D.97-04-042 to state that the question of an earnings allowance for merchant plants has not been decided is unnecessary. This is because D.97-04-042 explicitly acknowledged the utilities' proposals and provided that those proposals would be considered on their merits.<sup>2</sup> We would not have allowed consideration of the question if it had already been decided.<sup>3</sup>

PG&E's request that D.97-04-042 be modified to confirm that utilities can offer testimony in support of a 150 basis points allowance for merchant plants is also unnecessary. As Edison states in response to PG&E's petition, "D.97-04-042 clearly intended to allow utilities this opportunity and therefore, modification is unnecessary." (Edison response, p. 2.)

We conclude that the relief which PG&E seeks in its petition is unnecessary because D.97-04-042 already provides such relief. The petition should therefore be denied.

#### Findings of Fact

1. D.97-04-042 did not decide whether we should approve 150 basis point earnings allowances for merchant fossil plants, i.e., plants which are not needed for reactive power/voltage support.

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<sup>2</sup> However, a recent ruling provided that PBR/incentive mechanisms for generation are not critical path tasks which should be considered at this time. This includes proposals by Edison as well as PG&E for 150 basis point allowances applicable to fossil generation which is not needed for local reliability, or merchant plants. (*Joint Ruling of Assigned Commissioner and Administrative Law Judge*, June 25, 1997.)

<sup>3</sup> Thus, ORA's argument that D.97-04-042 concluded that merchant fossil plants are ineligible for *any* earnings allowance is without merit.

2. D.97-04-042 allowed utilities an opportunity to demonstrate that their proposals for 150 basis point earnings allowances for merchant fossil plants should be approved, provided, however, that the utilities must include a showing that such proposals are required to further the goals and objectives of electric industry restructuring.

**Conclusion of Law**

As the relief sought by PG&E in its petition is unnecessary, the petition should be denied.

**O R D E R**

**IT IS ORDERED** that Pacific Gas and Electric Company's May 7, 1997 petition for modification of Decision 97-04-042 is denied.

This order is effective today.

Dated July 16, 1997, at San Francisco, California.

**P. GREGORY CONLON**

President

**JESSIE J. KNIGHT, JR.**

**HENRY M. DUQUE**

**JOSIAH L. NEPPER**

**RICHARD A. BILAS**

Commissioners

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**Conclusion of Law**

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**O R D E R**

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