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Decision 98-02-108 February 19, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to change the structure of gas utilities' procurement practices and to propose refinements to the regulatory framework for gas utilities.

ORIGINAL
Rulemaking 90-02-008
(Filed February 7, 1990)

O P I N I O N

Summary

This decision grants with minor modifications the petition to modify Decision (D.) 95-07-048 filed by Enron Corporation (Enron) on November 17, 1997. The petition to modify asks the Commission to change the rules established for the gas core aggregation program to permit an easier process by which customers could switch their natural gas providers.

Enron's Petition to Modify

Enron seeks changes to the Commission's core aggregation rules. The core aggregation program provides that natural gas customers who are defined as members of the "core" class, generally residential and commercial customers, may purchase natural gas supplies from sellers other than the distribution utility. In order to do so, they must purchase the supplies from an "aggregator." Enron believes the process of switching from the distribution utility to the aggregator is too cumbersome and creates a disadvantage for competitors. Enron observes that utility tariffs require that the aggregator must obtain an executed form agreement from the customer and deliver the form to the utility before the utility is required to provide the competitor with customer information. Once the form has been provided to the utility, however, the utility is not required to switch the customer for 90 days.

Enron contrasts this process with the one adopted for direct access in the electricity industry. There, pursuant to Public Utilities Code Sections 366 and 366.5,

competitors may process customer switching requests electronically, subject to subsequent verification. The direct access procedure requires the utility to inform the competitor of processing problems within three working days and to notify the competitor when the switch will be made, usually within 15 to 30 days.

Enron believes the process required for switching gas services frustrates the Commission's policies of promoting competition. It believes the gas and electric industries are converging, a process which should not be impeded by artificial differences in the ways providers offer service. Enron believes customers should be able to purchase gas and electric services from the same provider and will be discouraged from doing so if the switching process for the two services are very different.

Enron requests that the following language be added to Ordering Paragraph 5 of D.95-07-048:

In light of D.97-10-087, in which the process for switching electric consumers was streamlined, the provisions of the March 28, 1994 settlement and the tariffs implemented in October 1995 are now outdated for the gas program. Within 30 days, PG&E, SoCalGas and SDG&E shall file tariffs which conform the switching process for the core aggregation program with the switching process established for the electricity direct access program in D.97-10-087. In particular, the revised tariffs shall: (a) remove the current requirement that the utility receive a written consumer authorization; (b) provide for electronic transmission of switching requests by core aggregators; and (c) provide for customer switches to occur on a timetable comparable to the Direct Access tariffs adopted by the Commission in D.97-10-087.

Responses to Enron's Petition to Modify

Pacific Gas and Electric Company (PG&E), the Office of Ratepayer Advocates (ORA), Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E) and Utilicorp Energy Solutions, Inc. (Utilicorp) filed responses to Enron's petition to modify.

Utilicorp supports Enron's proposal, emphasizing that electronic processing has been used successfully in other states and that the prospects for "slamming" are limited as long as written authorization is subsequently submitted to the utility.

SDG&E also supports Enron's proposal, some of which SDG&E states it had proposed in October 1997 by way of advice letter (and which was rejected by Commission staff as improperly modifying a Commission order). SDG&E proposes one minor change to Enron's proposal which is designed to prevent unauthorized switching of a customer, a problem referred to as "slamming." Specifically, SDG&E would add to Enron's proposed Item (a) a phrase which provides for third-party verification of the switching request where there is no written authorization presented in advance. SDG&E also requests that the changes be implemented no earlier than the second quarter of 1998 so that SDG&E may devote its resources to preparing for the initiation of electric restructuring.

PG&E supports Enron's proposal but expresses concerns with the prospects for slamming which PG&E states were addressed in D.97-08-055 which adopted the "Gas Accord" for PG&E. That decision requires written consent from customers who want to change their gas supplier. PG&E proposes conducting workshops to explore Enron's proposal in the context of other possible changes to gas rules. ORA makes similar comments, believing that the Commission does not have an adequate record to make the changes Enron suggests.

SoCalGas opposes Enron's proposal on the basis that it is untested and would require substantial lead time to implement. SoCalGas recommends that the Commission defer resolution of the matter until after the utilities are able to determine the viability of the program as it has been developed for the electric industry. At a minimum, SoCalGas argues, the utilities should be granted six months to implement Enron's proposal. SoCalGas argues Enron's proposal is unsupported by evidence that the existing rules are "burdensome" and "confusing."

Discussion

We herein adopt Enron's proposals to simplify the process of switching for core aggregation customers with the change suggested by SDG&E. Gas customers should have an opportunity to change their gas supplier without having to fill out forms and wait several months for a change.

Although SoCalGas believes Enron has a burden to demonstrate the reasonableness of its proposal with factual evidence, we do not require factual evidence when a proposed rule appears reasonable on its face, especially where an opponent to the rule can present no factual evidence to demonstrate that the rule is unreasonable. Enron's claim that the process is burdensome and confusing is reasonable under the circumstances and supported by the findings we have made with regard to electric customers. No other basic service in the state's economy requires as much as 90 days (or even 45 days, which SoCalGas states is the actual time required for most switches) for delivery to the customer. The time lag seems particularly unreasonable where, as here, the utility is merely changing billing arrangements and has had two years of experience processing such switches. While we must be vigilant to protect against the prospects for "slamming," we also believe that a prohibition on electronic or telephonic service orders is unreasonable in an age where customers are buying all manner of commodities using those media.

Similarly, we reject PG&E and ORA's proposals to conduct workshops and provide an additional opportunity for comments. Neither has demonstrated that the corresponding delay and cost is required before moving forward with the relatively modest program changes Enron proposes. Because we view the core aggregation program as evolving, we encourage the parties to work together to explore improvements of all kinds. If parties subsequently develop improvements to the rules we adopt today, we will gladly consider them.

With regard to timing, we do not believe the utilities require six months to implement the rules changes Enron proposes. The original core aggregation program for which the utilities had numerous operational changes to implement for the first time was implemented in less than six months. Subsequent program changes were implemented in 90 days. We provide 90 days here for implementing the changes we adopt, which provides ample time for operational changes.

SoCalGas argues that it requires funding for changing its billing system. We disagree. This is exactly the type of regulatory requirement for which SoCalGas has been adequately compensated in its general rate cases and PBR mechanism. Just as we

do not revisit SoCalGas' revenue requirement each time we eliminate a regulatory requirement, we decline to reopen the matter when we modify one, especially where it is as minor as this.

Findings of Fact

1. Enron proposes to simplify the process customers use to switch their gas suppliers under the core aggregation rules.
2. SDG&E's proposal to permit third-party verification of requested switches that are not originally accompanied by written authorization is reasonable.

Conclusion of Law

The Commission should adopt Enron's proposal and modify D.95-07-048 to the extent set forth herein.

O R D E R

IT IS ORDERED that:

1. Ordering Paragraph 5 of Decision (D.) 95-07-048 is modified as follows:

"The provisions of the March 28, 1994 settlement and the tariffs implemented in October 1995 which address the process by which core aggregation gas customers may switch gas suppliers are modified to reflect changes in gas markets."
2. Within 30 days of the effective date of this order, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company shall file tariffs that conform the switching process for the core aggregation program with the switching process established for the electricity direct access program in D.97-10-087. Revised tariffs shall:
 - a. remove the requirement that the utility receive a written authorization from the customer, subject to third-party verification;
 - b. provide for electronic transmission of switching requests by core aggregators; and
 - c. provide for gas customer switches to occur on a timetable comparable to those adopted in D.97-10-087 for electric customer switches. Each utility shall

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implement these provisions no later than 90 days from the effective date of this order.

This order is effective today.

Dated February 19, 1998, at San Francisco, California.

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