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Decision 98-02-111 February 19, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Identify Cost Savings for Revenue Cycle Services Provided by Other Entities and to Propose Credits for End-use Customers in Such Circumstances for Implementation No Later Than January 1, 1999.

Application 97-11-004
(Filed November 3, 1997)

Application of Southern California Edison Company to Identify Cost Savings for Revenue Cycle Services Provide by Other Entities and To Propose Net Avoided Cost Credits for End-Use Customers in Such Circumstances for Implementation on January 1, 1999.

ORIGINAL

Application 97-11-011
(Filed November 3, 1997)

Application of San Diego Gas & Electric Company to Identify Cost Savings for Revenue Cycle Services Provided by Other Entities and to Propose Credits for End-Use Customers in Such Circumstances for Implementation No Later Than January 1, 1999.

Application 97-12-012
(Filed December 4, 1997)

INTERIM OPINION

Summary

The Commission denies the appeal of Southern California Edison Company (Edison) and affirms the categorization of this proceeding as a "ratesetting" proceeding, as previously determined in the Assigned Commissioners' Ruling Determining that Hearings Should be Held, Applying Article 2.5 SB 960 Rules, Establishing the Scope of the Proceeding, Setting a Schedule and Resolving Other Matters (ACR). According to Edison, portions of this proceeding should be categorized as "quasi-legislative" pursuant to Rules 5 and 6.1 of this Commission's Rules of Practice and Procedure.

Background

This proceeding is a result of Decision (D.) 97-05-039, in which we directed Edison, Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E) each separately to identify the net cost savings resulting when billing, metering, and related services are provided by another entity and to propose a means for ensuring that customers are not charged by the distribution utilities for such services in those circumstances. On December 24, 1997, the assigned administrative law judge ordered the three applications consolidated for hearing. A pre-hearing conference was held on January 8, 1998, and on January 26, 1998, the ACR was filed. With the exception of Edison, all commenting parties supported a "ratesetting" categorization for the consolidated proceeding. The ACR considered Edison's proposal and concluded that the proceeding in its entirety was most appropriately categorized as a ratesetting matter and so ruled, pursuant to Rule 6(d) of the Rules of Practice and Procedure.

The ACR adopted the phasing proposal suggested by a number of interested parties. In that two-phase scheme, Phase 1 will consider the categorization of cost credits, the segmentation used to establish credits (assuming, without deciding, that credits will be deaveraged), the bill format for the credits, and the units of measurement to be used. The Phase 1 issues were chosen so that the Commission can issue a timely decision, permitting the utilities to make necessary "critical path" modifications to their billing systems to meet the Commission's January 1, 1999 target for the implementation of cost credits. In Phase 2, the Commission will address all issues related to the calculation of credits, including:

- The appropriate methodology for calculating the credits.
- The merits of differentiating the credits by customer segment.
- The accuracy of all calculations.

In this phase, we will adopt credit amounts for each applicant, establish ratemaking and accounting procedures as appropriate, and develop a mechanism for future changes to the adopted credits.

Under Senate Bill (SB) 960 (Leonard; Stats. 1996, ch. 856) and Article 2.5 of the Commission's Rules of Practice and Procedure, the procedures applicable to a particular proceeding are dependent on how the proceeding is categorized. Rule 5 defines three categories of Commission proceedings: adjudicatory, ratesetting, and quasi-legislative proceedings.

Edison has filed a timely appeal of this categorization pursuant to Rule 6.4 of the Commission's Rules of Practice and Procedure.

Position of Edison

Edison believes that this proceeding should not be categorized as a ratesetting proceeding because it views the issues in this proceeding as predominantly quasi-legislative. Rather, Edison urges that we divide this proceeding into four phases, of which three would be quasi-legislative, and one would be ratesetting. Edison believes that the focus of the proceeding will be whether it, PG&E, and SDG&E will each be required to use an average-cost methodology, rather than a net-avoided cost methodology, in calculating rates for certain unbundled services. In addition, in Edison's view, the majority of contentious issues (including the particular sort of categorizations, segmentations, bill formats and the like) are also quasi-legislative.

Because Edison believes that we will adopt the same methodology for all three utilities, and that the methodology will be applied prospectively, rather than retrospectively, it concludes that this proceeding is one that concerns policy matters.

Discussion

Edison argues that this proceeding should not be categorized as ratesetting. However, Rule 5(c) provides:

"Ratesetting' proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). Ratesetting proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting, as described in Rule 6.1(c)."

The basic thrust of this proceeding is to establish rates for three specifically named utilities. The issues in this case primarily involve the calculation of rates or charges, not the establishment of policy or rules (as would be true if this were a quasi-legislative proceeding¹). Ratesetting, by its nature, involves forward-looking determinations, and ratesetting also may involve some policy making. In and of itself, this does not transmute a ratesetting case into a quasi-legislative case.

Here, there are fact-finding issues dealing with the costs incurred by Edison, PG&E, and SDG&E in providing certain revenue cycle services: which of those costs are avoided (and to what extent) when some entity other than the utility provides such services; what additional costs are introduced by the necessity of dealing with a third-party entity; which costs are embedded and which are variable; what effect changes in such costs have on revenue requirements of the three utilities; and how rates should be adjusted in the future.² This proceeding will involve an evidentiary inquiry into the facts and circumstances and cost impacts of a particular utility action, the unbundling of revenue cycle services. This case will look at issues of fact specific to each of the three utilities.³ Even if some incremental policy making will occur in this proceeding, the proceeding is still properly categorized as ratesetting under Rules 5 and 6.1(c).

To the extent that this proceeding also involves issues of policy, it is still appropriate to classify it as a ratesetting proceeding. Pursuant to Rule 6.1(c):

"When a proceeding does not clearly fit into any of the categories as defined in Rules 5(b), 5(c), and 5(d), the proceeding will be conducted

¹ Rule 5(d) states: "'Quasi-legislative' proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry."

² During the rate-freeze period allowed for the recovery of transition costs, the allocation of such costs will affect the rate of recovery of transition costs.

³ For example, it is by no means decided that the same methodology will ultimately be applied in the same manner to each of the three utilities affected by this proceeding.

under the rules applicable to the ratesetting category unless and until the Commission determines that the rules applicable to one of the other categories, or some hybrid of those rules, are best suited to the proceeding.”

As the Commission has said on a number of occasions:

“Ratesetting proceedings typically involve a mix of policymaking and fact-finding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and fact-finding, we believe that ratesetting procedures are *in general* preferable for those proceedings as well.” (D.97-06-071, slip op. at 6 (emphasis in original).)

This categorization reflects the fact that the procedures applicable to the ratesetting category are most appropriate for cases in which there is a mix of fact finding and policy making, especially where the policy *setting* aspects of the case are relatively minor.

As we have previously stated:

“[A] proceeding that primarily *implements* policy, rather than establishing it, and looks at facts specific to [a] particular utilit[y] . . . as in this case is more appropriately handled under the procedure[s] applicable to ratesetting rather than those established for policy *making*.” (D.97-06-071, slip op. at 7 (emphasis added).)

In D.97-05-039, we established a policy, which is that customers who receive revenue cycle services through a third party should be credited by the utility distribution company with the net avoided costs that result. The purpose of this proceeding, by contrast, is to implement that policy, for each of three utility distribution companies.

In its appeal, Edison notes that several parties have proposed a common framework for determining how the three utilities should comply with D.97-05-039. Edison assumes that the Commission will decide that the same methodology necessarily applies to each of the three utilities without regard to possible relevant facts that may lead to a different conclusion for one or more of the utilities. From this assumption, Edison concludes that “the Commission will not be establishing a generic

methodology not based upon features unique to any one utility, as is often the case in a ratesetting proceeding." We are uncertain that we can parse Edison's syntax, but we are certain that Edison's underlying assumption is premature, at best. It is too early in this proceeding to tell if "one size fits all."

Edison cites D.97-06-071 in support of an argument that all "forward-looking" proceedings are quasi-legislative and that only reviews of the conformity of utility operations to existing rules, or "backward-looking" proceedings, can be characterized as ratesetting. This is not the case. If we were to adopt Edison's position, general rate cases, for example, would be seen as "policy" cases for which the ratesetting categorization is inappropriate. The Legislature clearly intended that general rate cases be included in the ratesetting category.

Finally, Edison urges us to use our discretion pursuant to Rule 6.1 to divide the proceeding into phases that would permit some issues to be treated under the ratesetting regime while others were treated as quasi-legislative. This might be practicable in a proceeding in which a long hiatus were anticipated between the decision in a first phase and the start of a second. In this proceeding, in which phases will follow closely, at the request of Edison and others, it would be wholly impractical to implement the different requirements of ratesetting and quasi-legislative proceedings as they involve rules applicable to ex parte contacts, for example. Edison's proposal is to divide the already compressed schedule for this proceeding into four separate phases. As the Office of Ratepayer Advocates observes, such a division would be "cumbersome and time consuming." We agree. Edison's approach would retard, rather than advance, our goal of completing this proceeding in time for implementation at the start of 1999.

Findings of Fact

1. This proceeding involves identifying the net cost savings resulting when billing, metering and related services are provided by an entity other than Edison, PG&E, or SDG&E and ensuring that customers are not charged by the distribution utilities for such services in those circumstances.

2. The primary focus of the Commission's inquiry will be into the costs incurred by Edison, PG&E, and SDG&E in providing certain revenue cycle services: which of those costs are avoided (and to what extent) when some entity other than the utility provides such services; what additional costs are introduced by the necessity of dealing with a third-party entity; which costs are embedded and which are variable; what effect changes in such costs have on revenue requirements of the three utilities; and how rates should be adjusted in the future.

3. The policy requiring revenue cycle unbundling and credits has already been established in prior Commission decisions.

4. Dividing this proceeding into four phases would be impractical and would jeopardize this Commission's ability to have a decision implemented by the start of 1999.

Conclusions of Law

1. Since the proceeding is subject to Article 2.5 of the Commission's Rules of Practice and Procedure, it has to be categorized in one of three categories: adjudicatory, ratesetting or quasi-legislative.

2. The proceeding clearly does not fit the adjudicatory category.

3. Because the proceeding is one in which the Commission will investigate rates for three specifically named utilities or establish a mechanism that will set rates for three specifically named utilities, the ratesetting category is clearly applicable.

4. To the extent that this proceeding will involve the investigation of rates for a class of entities within the industry, the quasi-legislative category might also be appropriate.

5. Because no decision has yet been made on the uniform application of the identical methodology, this proceeding does not clearly involve the investigation of rates for a class of entities.

6. The rules require that when a proceeding does not clearly fit into any of the categories, it will be conducted under the rules applicable to the ratesetting category,

unless the Commission determines that the rules applicable to one of the other categories would be better suited.

7. Ratesetting proceedings typically involve a mix of policy making and fact finding relating to a particular public utility.

8. Proceedings that do not clearly fall within a single category, that involve a mix of policy making and fact finding relating to a particular public utility or utilities, are generally best handled under the procedures applicable to ratesetting.

9. As a general rule, quasi-legislative proceedings set, and ratesetting proceedings implement, policy.

10. Because this proceeding primarily implements existing policy as set forth in D.97-05-039 and looks at the calculation of a specific category of costs, the proceeding should be handled under the ratesetting category rather than any of the other remaining categories.

11. The ACR, determining that the Application is a ratesetting proceeding, should be affirmed.

12. Edison's appeal of the ACR should be denied.

INTERIM ORDER

IT IS ORDERED that: Southern California Edison Company's Appeal, dated February 5, 1998, of the Assigned Commissioners' Ruling Determining that Hearings Should be Held, Applying Article 2.5 SB 960 Rules, Establishing the Scope of the Proceeding, Setting a Schedule and Resolving Other Matters is denied.

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