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Decision 98-03-054 March 26, 1998

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.

Rulemaking 94-04-031
(Filed April 20, 1994)

ORIGINAL

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)

**INTERIM OPINION MODIFYING DECISION 97-09-048
REGARDING REVIEW OF CAPITAL ADDITIONS**

Summary

By today's decision, we modify Decision (D.) 97-09-048 in recognition of the fact that the operation of the Independent System Operator (ISO) and Power Exchange (PX) is delayed past January 1, 1998. Accordingly, we clarify that commencement of the market control approach for review of utility capital additions should be keyed to the date that the ISO and PX begin operations, instead of to the January 1, 1998 expected date.

Background

In D.97-09-048, the Commission established its approach for review of past and future expenditures for nonnuclear capital additions put into service by the electric utilities. The decision established that recovery of recorded 1996 and 1997 capital additions to the utilities' nonnuclear generating facilities should be evaluated in an after-the-fact reasonableness review. The Commission adopted a

market control approach for nonnuclear capital additions made in 1998 and beyond. Specifically, the Commission stated that additions occurring after January 1, 1998 to must-run plants would be recovered from payments under the ISO's reliability contracts or PX prices. (D.97-09-048, mimeo. p. 2.)

On December 29, 1997, the ISO and PX announced that their operations would not start on January 1, 1998, but were "expected to occur by March 31, 1998." (D.97-12-131, mimeo. p. 3.)

On January 30, 1998, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company, and Southern California Edison Company (Edison) (Joint Petitioners) filed a Joint Petition for Modification of D.97-09-048. Joint Petitioners request that the Commission modify D.97-09-048 to (1) extend the period for ex post facto reasonableness review of capital additions until ISO/PX operations commence; and (2) allow an additional 90 days after ISO/PX operations commence for ex post facto reasonableness review of recovery of capital additions to utility plant divested within that additional 90-day period.

The Office of Ratepayer Advocates (ORA) responded to Joint Petitioners on February 20, 1998. ORA is in agreement with the first change but recommends that the grace period for utility divested plants be limited to one month. PG&E and Edison jointly replied to ORA's recommendation on March 4, 1998.

Discussion

Joint Petitioners' requested modifications are reasonable in light of the fact that commencement of ISO/PX operations has been delayed. Their first request clearly recognizes that fact that the market control approach adopted in D.97-09-048 depends on the existence of a market, specifically, the operations of the ISO and PX.

Joint Petitioners' second request relates to our observations in D.97-09-048 that "it does not make sense to conduct a market valuation approach for these plants for a period of less than three months. It makes administrative sense instead to conduct our review of these plants as part of our review of 1996 and 1997 capital additions for these plants and to use the same review criteria." (D.97-09-048, mimeo. p. 19.) ORA provides no rationale for a finding that it would now make sense to conduct a market valuation approach for these plants for only one month. We continue to believe that that it makes administrative sense to conduct our review of plants divested within 90 days of commencement of ISO/PX operations using the ex post facto reasonableness approach applied to capital additions made prior to ISO/PX commencement. Accordingly, we adopt the Joint Petitioners' proposed modifications to D.97-09-048.

Findings of Fact

1. The market control approach for utility capital additions, as adopted in D.97-09-048, depends upon the commencement of ISO/PX operations.
2. Commencement of ISO/PX operations has been delayed past January 1, 1998.
3. Decision 97-09-048 keyed market control valuation of utility capital additions to the commencement of ISO/PX operations.
4. It does not make administrative sense to conduct a market valuation approach for divested plants for a period of less than three months.

Conclusions of Law

1. The Joint Petition for Modification of D.97-09-048, filed on January 30, 1998, is reasonable and should be adopted.
2. In order to facilitate the prompt review of capital additions, this order should be effective today.

O R D E R

IT IS ORDERED that:

1. The Joint Petition for Modification of Decision (D.) 97-09-048 filed on January 30, 1998 by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company is approved.
2. Ordering Paragraph 2 of D.97-09-048 is modified as follows (deletions are stricken; additions are underlined):
 2. After recorded data is available, PG&E, SDG&E, and SCE shall file applications for CTC recovery of 1997 and 1998 (until Independent System Operator and Power Exchange (ISO/PX) operations commence) capital additions to non-nuclear generating plant and 1998 capital additions to fossil-fueled power plants that have been divested by March 31, 1998 90 days after ISO/PX operations commence based on an *ex post facto* review of recorded expenditures. Recovery of capital additions incurred in 1998 for divested fossil-fueled plants must have occurred prior to divestiture of the plant, must not have been otherwise recovered through ISO contracts or Power Exchange revenues, and the divestiture must have been completed by March 31, 1998 90 days after ISO/PX operations commence. Capital additions incurred in 1998 will not be eligible for *ex post facto* review for any plant that has not been divested by March 31, 1998 90 days after ISO/PX operations commence.
3. Ordering Paragraph 4 of D.97-09-048 is modified as follows (deletions are stricken; additions are underlined):
 4. For non-nuclear capital additions made ~~in 1998~~ after ISO/PX operations commence and beyond and not otherwise addressed in Ordering Paragraph 2, PG&E, SDG&E, and SCE shall file applications for CTC recovery of costs on an *ex post facto* basis only under the limited circumstances where cost-effective capital additions to utility must-run plants cannot be recovered via the Independent System Operator's (ISO) contracting process because negotiating options or cost recovery provisions are excluded from the final ISO contracts. In their applications under these limited circumstances, PG&E, SDG&E, and SCE shall demonstrate that the following four conditions are met:

- a. The capital additions were made to ISO designated must-run units with ISO approval and were necessary to continue operating the must-run unit through December 31, 2001; and
- b. The capital additions were cost-effective compared to other options for maintaining plant operations through the transition *and* compared to other resources available to the ISO for system reliability; and
- c. The ISO contracting options approved by the Federal Energy Regulatory Commission did not include provisions that would allow utilities to negotiate recovery of these costs; and
- d. The costs of capital additions could not be recovered in market prices (e.g., through the sale of energy, voltage support, spinning reserves or other services).

This order is effective today.

Dated March 26, 1998, at San Francisco, California.

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