

ALJ/RAB/jva\*

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Decision 98-06-051 June 18, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's own motion to consider policies and procedures applicable to the "extra space" in billing envelopes of utilities.

Investigation 90-10-042  
(Filed October 24, 1990)

### ORDER TERMINATING INVESTIGATION

This Order Instituting Investigation (OII) was issued for the purpose of considering policies and procedures applicable to the extra space in billing envelopes of utilities. The extra space is the space remaining in the billing envelope after inclusion of the monthly bill and any legally required notices up to that weight which will not result in any additional postage cost.

The issue of use of the extra space in billing envelopes was first raised before this Commission in Pacific Gas and Electric Company's (PG&E's) 1981 general rate case. In Decision (D.) 93887, the Commission declared that the extra space in PGE's billing envelopes belonged to the ratepayer. The Commission further determined that use of the extra space by PG&E was depriving the ratepayers of the value of the extra space.

In 1983, as a result of a complaint filed by The Utility Reform Network (TURN), the Commission ordered PG&E to give TURN access to the extra space in the billing envelopes four times a year, while permitting PG&E to use the extra space during the remaining months. (D.83-12-047 as modified by D.84-05-039.) This decision was challenged by PG&E and the case ultimately went to the United States Supreme Court. In Pacific Gas and Electric Co. v. Public Utilities Commission of California (1986) 475 U.S. 1, 17-18, the Court concluded that even if the extra space is ratepayer property under California law, the Commission's

order violated PG&E's First Amendment rights because it forced PG&E to associate with potentially hostile views of intervenors or other third parties.

In May of 1987, the Commission established the ratepayer notice program, which consisted of a Commission-sponsored insert in the form of a legal notice in which the Commission informed ratepayers of the existence of various intervenor groups. (See D.87-05-072 and D.87-05-073.)

The purpose of this OII, initiated in 1990, is to review the issue of the extra space in utility billing envelopes consistent with the Court's decision and our experience with the ratepayer notice program. Comments and reply comments were filed in this OII in December 1990 and January 1991, respectively. Because of incipient changes in the electric industry, the OII lay dormant. In 1995, the changes arrived.

In our Preferred Policy Decision we outlined our policy for electric restructuring. (D.95-12-063, as modified by D.96-01-006.) That decision announced our intention to restructure electric utility regulation so that the traditional industry structure - a single regulated utility generating, transmitting, and selling electricity within a service area at prices we set - was replaced. We proposed a new industry structure where customers could buy electricity at unregulated prices from generators of their own choice, either directly or through a Power Exchange. Electricity would be dispatched by an Independent System Operator, an impartial nonprofit entity refereeing the transmission of electricity under Federal Energy Regulatory Commission regulation. Commission-regulated utilities would provide local distribution of electricity and possibly be allowed to compete as generators.

On a parallel track, the Legislature enacted Assembly Bill 1890, signed into law on September 23, 1996, which contained a comprehensive legislative

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program for electric restructuring. It is set forth in Public Utilities Code Chapter 2.3, Electrical Restructuring, section 330 et seq.

Because of the substantial changes, including increased competition in the electric industry since 1990, and changes expected from our new gas strategy proceeding (Rulemaking 98-01-011), it would be inappropriate to decide a bill insert proceeding on an eight-year old stale record.

**IT IS ORDERED** that Order Instituting Investigation 90-10-042 is terminated and this proceeding is closed.

This order is effective today.

Dated June 18, 1998, at San Francisco, California.

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