

ALJ/MSW/sid

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Decision 98-07-059 July 23, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

B. E. Giovanetti & Sons,

Complainant,

vs.

Pacific Gas and Electric Company,

Defendant.

ORIGINAL

(ECP)

Case 94-08-025

(Filed August 10, 1994)

O P I N I O N

1. Summary

The Commission finds that the relief sought by Pacific Gas and Electric Company (PG&E) in its petition for modification of Decision (D.) 97-12-049 is unnecessary. The petition is therefore denied.

2. Background

Complainant alleged that PG&E had placed two of its agricultural accounts on the wrong rate schedule and had refused to refund \$2,500 after promising to do so. By D.95-02-086 dated February 22, 1995, the Commission denied the complaint. However, the Commission was concerned that under PG&E's procedures for establishing service, a new agricultural customer might not be placed on the most cost-effective rate schedule, and yet the customer might wait for months before learning that its rates are significantly higher than necessary. The Commission was particularly interested in having PG&E follow up on new accounts which are initially assigned to a default rate schedule because usage patterns are not yet known. Based on this concern, and its concerns about the

commercial viability of agriculture in this state as well as the threat of bypass by agricultural customers switching to diesel generation, the Commission ordered PG&E to:

"devise a systematic plan to promptly inform new agricultural accounts of their most cost-effective rate schedule. This plan will memorialize the procedure testified to by PG&E witness Smith, and shall expressly incorporate a follow-up procedure for new agricultural accounts to verify that the cheapest rate is being charged once adequate actual usage is established and can be determined by PG&E from billing information. In the absence of adequate billing information, PG&E's obligation to recommend the cheapest rate will continue to depend on the customer's provision of information such as the frequency, time of use, and load." (D.95-02-086, Ordering Paragraph 2.)

To implement the plan, the Commission ordered PG&E to modify its Tariff Rule 12 by filing, within 90 days, an advice letter reflecting the modification. (*Id.*, Ordering Paragraph 3.)

On March 24, 1995, PG&E filed an application for rehearing of D.95-02-086, challenging the requirement to modify Rule 12. PG&E requested that:

- "1. D.95-02-086 be amended to remove the requirement that PG&E revise its Rule 12 to implement a plan to verify that each new agricultural customer is being served on the cheapest rate; and
- "2. PG&E be given notice and an opportunity to be heard, as required under Section 1708 of the California Public Utilities Code, before any modification to Rule 12 is ordered."
(*Application for Rehearing of Pacific Gas and Electric Company*, p. 15.)

On December 3, 1997, by D.97-12-049, the Commission granted rehearing of D.95-02-086, modified it, and denied rehearing of D.95-02-086 as modified. Among other things, it modified Ordering Paragraph 2 of D.95-02-086, to read:

"PG&E shall develop a systematic plan to promptly inform new agricultural accounts of their most cost-effective rate schedule. This plan shall expressly include a follow-up procedure for new agricultural accounts to verify that the cheapest rate is being charged once adequate actual usage is established and can be determined by PG&E from billing information. (D.97-12-049, Ordering Paragraph 3.)

In addition, D.97-12-049 rescinded the requirement that PG&E file an advice letter to revise Rule 12. The Commission instead ordered PG&E to include the plan as a proposal for the Commission's consideration in its 1999 general rate case (GRC).¹ In response to D.97-12-049, PG&E served prepared testimony addressing the required plan on February 6, 1998.

3. PG&E's Petition

On March 12, 1998, PG&E filed a petition to modify D.97-12-049 by deleting the requirement that the ordered plan require PG&E to *verify that* new agricultural customers are being charged the cheapest rate, and replacing it with a requirement that it *ascertain whether* the cheapest rate is being charged. PG&E further seeks to consolidate this proceeding with the GRC.

4. Response

California Farm Bureau Federation (CFBF) filed a response to PG&E's petition. CFBF believes that the modification sought by PG&E is unnecessary, and that it does not accomplish anything useful in the resolution of issues in the GRC. CFBF finds that *verify* and *ascertain* have nearly identical meanings. CFBF urges that the entire matter be left for resolution in the GRC.

¹ Application (A.) 97-12-020, filed on December 12, 1997.

5. Discussion

As noted above, we seek to provide assurance that new agricultural customers do not pay rates that are unnecessarily high. As a means of providing such assurance, we ordered PG&E to develop a systematic plan, including a follow-up procedure, for promptly informing new agricultural customers of their most cost-effective rate schedule. We have further provided that PG&E's 1999 GRC is the forum to consider such a plan.

PG&E does not generally oppose the requirement for such a plan. However, PG&E opposes any requirement that it guarantee that agricultural customers are taking service on the most cost-effective rate schedule. PG&E alleges that due to conditions beyond its control, it cannot guarantee that an agricultural customer's rate selection will remain the most cost-effective over time. PG&E apparently believes that a requirement to ascertain whether the lowest rate is being charged does not imply such a guarantee, while in PG&E's view a requirement to verify that the lowest rate is being charged could be interpreted as requiring such a guarantee.

D.97-12-049 expressly provided that the Commission will give further consideration to PG&E's plan for informing agricultural customers of their most cost-effective rate schedule. Thus, the details of PG&E's obligation to new agricultural customers, including the question of whether, or to what extent, there should be any element of a guarantee, will be taken up in the GRC. While D.97-12-049 requires PG&E to submit a plan which includes a follow-up procedure to verify that the cheapest rate is being charged, nothing in that decision prevents PG&E from also putting forward the position that a requirement to ascertain whether the chosen rate schedule is the most cost-effective one is distinguishable from a requirement to verify that is the case.

Further, PG&E is entitled to make a showing in support of its position that the latter alternative is unacceptable.

In short, PG&E may present and provide support for its preferred alternative plan. It is not necessary to modify D.97-12-049 in order for PG&E to be heard. PG&E's petition will therefore be denied as unnecessary.

Finding of Fact

Pursuant to D.97-12-049, PG&E's 1999 GRC is the forum for further consideration of a systematic plan for PG&E to promptly inform new agricultural accounts of their most cost-effective rate schedule, including a requirement to verify that the lowest rate is being charged, and alternative proposals.

Conclusion of Law

As the relief sought by PG&E is unnecessary, the petition should be denied and the proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. The petition by Pacific Gas and Electric Company for modification of Decision 97-12-049 is denied.
2. This proceeding is closed.