MAIL DATE
7/28/98

Decision 98-07-101 July 23, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Application of Pacific Gas and Electric Company For Authority, Among Other Things, To Decrease Its Rates And Charges For Electric and Gas Service, and Increase rates and Charges for Pipeline Expansion Service.	A. 94-12-005 (Filed December 9, 1994)

ORDER GRANTING A LIMITED REHEARING FOR PURPOSES OF MODIFYING DECISION (D.) 97-12-044, AND DENYING REHEARING IN ALL OTHER RESPECTS

I. INTRODUCTION

Decision (D.) 97-12-044 addressed the revenue allocation and rate design issues remaining in Phase 2 of the 1996 general rate case of Pacific Gas and Electric Company (PG&E). In this decision, we prohibited PG&E from closing its electric rate schedules E-7 and E-8 to new participants for the duration of an electric industry restructuring period, and adopted a system average percent method (SAPC) for the allocation of California Alternate Rates for Energy (CARE) costs.

Applications for rehearing were filed by PG&E, The Utility Reform Network (TURN) and San Diego Gas and Electric Company (SDG&E). The rehearing issues center on the Commission determination to preclude PG&E from closing Schedules E-7 and E-8, and to adopt the SAPC for the allocation of CARE costs. Southern California Edison Company (Edison) has filed a response to the three-applications in support of PG&E's assertion that the Commission erred in deciding that Assembly Bill (AB) 1890, which was signed into law on Sept. 23, 1996 (Stats., ch. 854), precludes the closing of any rate schedule that existed as of June 10, 1996. PG&E also filed a response to TURN's and SDG&E's rehearing applications.

We have reviewed each and every allegations and believe limited rehearing and modification are warranted in the manner discussed below.

II. DISCUSSION

AB 1890 enacted Section 378 of the Public Utilities Code which states:

> "The Commission shall authorize new optional rate schedules and tariffs, including new service offerings, that accurately reflect the load, locations, conditions of service, cost of service, and market opportunities of customer classes and subclasses. (See Stats. 1996, Ch. 854, § 10.)

In interpreting this statute, we stated in D.97-12-044, p. 17, that "[u]se of the word 'option' implies that customers will be free to select these new schedules but that the existing tariffs (as of June 10, 1996) must remain available as a default for customers who do not choose service under the new schedules." The rehearing applicants argue that we have interpreted AB 1890 to absolutely preclude the closing of existing schedules to new customers, and that this interpretation is wrong and is inconsistent with previous Commission action permitting closures.

We believe that the statement on page 17, which is quoted above, may be misleading. We acknowledge that after the passage of AB 1890 the Commission has allowed the closure of existing rate schedules by other utilities. In Resolution E-3483 (March 18, 1997), p. 3, we approved SDG&E Advice Letter 991-E and thereby permitted the closure to new customers of twenty-one time-of-use schedules.[1] Also, in Resolution

[1] The purpose for the closures to new customers of these SDG&E schedules was to "transition into the electric restructuring program where generation pricing signals [would] come from the Power Exchange." (Resolution E-3483, p. 1.) Eight of the rate options were closed because they were not being used. (Resolution E-3483, p. 3.)

However, we note that Resolution E-3483 was rescinded by Resolution E-3518. Based on our discussion in D.97-12-044, we determined in Resolution E-3518 that those rates that were viable options should remain open, while those which were unused could be closed. (Resolution E-3518 (January 21, 1998), pp. 2-3.)

E-3463 (November 6, 1996), p. 8, and Resolution E-3474 (November 26, 1996), p. 5, we granted Edison's request to close five interruptible rate schedules to new customers.[2]

Further, we did not intend by this statement on page 17 that schedules could never be closed. In fact, we stated in D.97-12-044 that: "This conclusion does not mean that schedules may not be closed to additional customers under any circumstances." (D.97-12-044, p. 19.) Moreover, in D.97-12-044, we quoted from a statement in D.96-12-077, that indicated that "closing [a] schedule to new customers is not prohibited." (D.97-12-044, p. 19.)

Based on the above discussion, we will modify D.97-12-044 to correct this potential misleading statement. We will modify the decision to make it clear that AB 1890 does not preclude the closures of existing schedule to new customers under all circumstances.

Also, in its application for rehearing, PG&E argues that AB 1890 adopted anti-cost shifting measures to avoid the shifting of competition transition costs (CTC) from one retail class to another. PG&E alleges that schedule E-8 has attracted additional customers resulting in revenue losses. Adding the effect of schedule E-7 increases the revenue loss impact. A negative revenue impact it is argued would shift costs by requiring classes of customers to pay more CTC. PG&E infers that this might result in a violation of Public Utilities Code Section 367(e), and thus evidentiary hearings are warranted. (PG&E's Application for Rehearing, p. 6.) We simply disagree that merely precluding a utility from closing existing schedules results is a de facto violation of the

[2] Resolution E-3463 found that the utility's request was reasonable, because Edison had "more than enough reserve generation capacity" and had interrupted customers in the past 10 years, and because "[t]he cost of keeping the interruptible rates, in the form of subsidized lower rates, [was] borne by non-participating customers, without benefiting them." (Resolution E-3463, p. 6.)

cost-shifting prohibition set forth in Public Utilities Code Section 367(e)(1). [3]

However, as to whether the closures of PG&E's schedules is warranted, this is a matter of factual determination, based on our review of the record and our implementation of the policy directions in AB 1890. PG&E argued that the negative revenue impacts warranted closure. In its rehearing application, it asserts that it has demonstrated that Schedules E-7 and E-8 are below cost based levels and no party opposed the closures. (PG&E's Application for Rehearing, p. 5.) In D.97-12-044, we were simply not persuaded. Our determination was influenced by AB 1890 and our concern for disparate treatment. We were concerned with fairness. As we stated: "[A]ll customers should also receive one of the primary initial benefits of restructuring: the availability of service during the transition period at the rate levels and at substantially the same terms as existed on June 10, 1996." (D.97-12-044, p. 19.) Consequently, we were not convinced by PG&E's revenue impact argument.[4]

Finally, TURN raises the issue that the Commission mistakenly adopted a SAPC to allocate CARE costs. (TURN's Application for Rehearing, pp. 1-2.) TURN is correct. In D.96-04-050 the Commission elected to continue to use an equal cents per kWh type of allocation. The Commission stated in finding of fact No. 48 in D.96-04-050:

> "An equal cents per kWh allocation of CARE costs is consistent with the allocation approach we have taken for this program. . . . in the past." (D.96-04-050, p. 179 (slip op).)

Further, in D.97-08-056, we adopted PG&E's proposal to allocate CARE

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[3] The fact that some rate schedules may be below cost does not mean that they are either inconsistent with the cost-shifting guidelines of AB 1890 or should be closed. As the decision noted "AB 1890 has taken a "snapshot" of our rate design process, freezing rates at their June 10, 1996 levels." (D.97-12-044, p. 5.) As a result, some rates for some classes will definitionally be "below" cost while others are "above" costs. Rates for the entire agricultural class, for example, are significantly below cost and would have to be raised by 54% to cover their costs (D.97-12-044, Appendix A, page 1). Applying PG&E's logic would require closing essentially all existing rate schedules which are below cost since each additional customer would result in an increased shortfall to be borne by other customers.

[4] We note that PG&E is not foreclosed from filing an application if it feels that it can persuade us, with convincing evidence, that the closures of these schedules are warranted.

program costs on an equal cents per kWh. (See D.97-08-056, p. 36 (slip op.).) Therefore, we will amend our decision in this case to adopt an equal cents per kWh allocation for CARE costs.

THEREFORE, IT IS ORDERED that:

1. A limited rehearing is granted to modify D.97-12-044 to correct the statement concerning whether AB 1890 precludes the closure of existing schedules to new customers.

2. D.97-12-044 is modified as follows:

a. The second sentence in Section II.A., entitled "Adding Schedules," on page 17, lines 18-21, is deleted:

> "Use of the word 'optional' implies that customers will be free to select new schedules but that the existing tariffs (as of June 10, 1996) must remain available as a default for customers who do not choose service under the new schedules."

b. The words: "As we discussed previously, the" is replaced by the word "The" in the second sentence of Section II.C., entitled "Closing Existing Schedules, on page 18, line 24.

c. Conclusion of Law No. 6, on page 64, is deleted.

d. The following finding of fact shall be added after Finding of Fact 8, on page 60:

> "As a matter of fairness, all customers should also receive one of the primary initial benefits of restructuring: the availability of service during the transition period at the rate levels and at substantially the same terms as existed on June 10, 1996."

3. A limited rehearing is granted for the purpose of modifying D.97-12-044 to amend the discussion concerning the allocation of CARE.

4. D.97-12-044 is modified as follows:

a. The following language is deleted from page 11, lines 3-10:

"In its most recent general rate case, Southern California Edison Company (Edison) proposed an alternative CARE allocation methodology very similar to a System Average Percentage Change approach. In this proceeding, PG&E endorsed Edison's CARE proposal and asked that it be applied to PG&E and others, if it were adopted for Edison.

D.97-08-056 addresses care allocation for PG&E, Edison, and SDG&E and adopts a system average percent method to allocate costs. Therefore, PG&E's proposal in this docket is accepted."

b. The following language shall replaced the deleted language on page 11, lines 3-10:

"We will maintain the existing equal-cents-per-kWh allocation for CARE costs that we approved in D.96-04-050 and D.97-08-056."

c. Finding of Fact No. 8 on page 60 should be changed to read as follows:

"D.97-08-056 approved an equal-cents-per-kWh method to allocate CARE costs."

IT IS FURTHER ORDERED that rehearing is denied in all other respects.

This order is effective today.

Dated July 23, 1998, at San Francisco, California.

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