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MAIL DATE
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Decision 99-02-040

February 4, 1999

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

ORIGINAL

R.94-04-031

Order Instituting Rulemaking on the
Commission's Proposed Policies
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I.94-04-032

ORDER DENYING REHEARING OF DECISION 97-10-087

I. Summary

The Energy Producers and Users Coalition (Energy Producers) and the Cogeneration Association of California (Cogeneration Association) have requested that their jointly filed application for rehearing of Decision (D.) 97-10-087 be withdrawn without prejudice. The Commission hereby grants their request.

II. Discussion

In D. 97-10-087, the Commission issued orders regarding direct access implementation plans and related tariffs for California's electricity distribution companies, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (Edison). These orders follow the Commission's general direct access policies and

rules set forth in D.97-05-040. They also reflect the opinions and interests of the numerous parties who participated in workshops and filed comments in the above-captioned proceeding. The Commission recognized, however, that adjustments or modifications may be necessary with respect to direct access rules and stated: "[As] time goes by and we gain more experience with direct access, these processes and systems are likely to undergo further revision as part of the ongoing review process which we adopt as part of this order." (D. 97-10-087, mimeo, pp. 2-3.)

On December 3, 1997, Energy Producers and the Cogeneration Association jointly filed an application for rehearing of D.97-10-087, claiming that the decision approving the collection of certain direct access service fees and other charges, primarily for billing and metering services, violated the "rate freeze" provisions of Assembly Bill (AB) 1890. (Application, p.1.) The provisions enacted by the Legislature with respect to the "rate freeze" and customer direct access to electricity providers are found principally in Sections 365, 366, 368(a) and 376 of the California Public Utilities Code.

Since the issuance of D.97-10-087, California's electricity distribution companies and their customers have gained some experience with the implementation of the direct access tariffs. Perhaps as a result of this experience and the Commission's ongoing work in restructuring and reregulating the electricity industry in California, Energy Producers and the Cogeneration Association submitted by letter, dated November 17, 1998, a request to withdraw their application for rehearing. They stated that they "are willing to withdraw the Application so long as it can be withdrawn without prejudice to their ability to raise the issue in a different context." By this statement, the Commission understands that the applicants are withdrawing their challenge to the particular direct access service charges and fees approved in the utility tariffs in

D.97-10-087, but wish to preserve their right to challenge future ratemaking orders relevant to direct access charges and/or the rate freeze.

The Commission believes that rescinding the present application is in the public interest. Energy Producers and the Cogeneration Association shall, of course, have other opportunities to advance their concerns and protect their particular interests in Commission proceedings. They always have the right, for example, to initiate a complaint proceeding pursuant to Cal.Pub.Util. Code §1702 and Rule 9 of the Commission's Rules of Practice and Procedure with regard to a utility company's compliance with Commission rules and orders, and with other provisions of law. They may also, as may any individual or group, actively participate in proceedings affecting direct access customers, such as, but not necessarily limited to, investigatory or rulemaking proceedings.

We, therefore, will grant the request of Energy Producers and the Cogeneration Association to withdraw their application for rehearing of D.97-10-087 and to preserve their right to raise issues regarding direct access charges and the rate freeze in a different context.

IT IS THEREFORE ORDERED that the application for rehearing of D.97-10-087 by Energy Producers and the Cogeneration Association be dismissed without prejudice as requested by the applicants.

This order is effective today.

Dated February 4, 1999, at San Francisco, California.

RICHARD BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners