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MAIL DATE
6/23/2000

Decision 00-06-083 June 22, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Rehearing of Resolution E-3654, Approving Advice Letter 1846-E-A (U 39 E)	Application No. 00-04-001

ORDER CLARIFYING RESOLUTION E-3654, CORRECTING TYPOGRAPHICAL ERRORS, AND DENYING REHEARING

I. BACKGROUND

In its Advice Letter 1846-E-A, Pacific Gas and Electric Company (PG&E) requested an extension of its Schedule ED, Experimental Economic Development Rate and Standard Form 79-771. Supplemental Agreement for Economic Development Discount on Electric Service until the end of the rate freeze or a Decision in A.99-03-014, whichever comes later.

Schedule ED is a customer attraction Flexible Pricing Option (FPO). It provides for a three year declining discount to certain customers that meet the conditions as defined in Public Utilities Code, section 740.7. (Unless otherwise indicated, all statutory references are to the Public Utilities Code.) Only customers locating load in California from another state are eligible for service under Schedule ED. The closing date for allowing new customers to take service under Schedule ED was December 31, 1998. Customers already taking service under the Schedule are allowed to continue to do so until April 30, 2003.

PG&E's most recent extension of Schedule ED was approved on March 13, 1996 by Resolution E-3442, which extended the discounts until December 31, 1998, and put PG&E on notice that once restructuring is implemented, it should be prepared to pay

100% of the discount costs. On January 28, 1999, PG&E filed Advice Letter 1846-E proposing to extend Schedule ED to new load until December 31, 2000, and asking that the discounts be extended until April 30, 2005. On June 28, 1999, Commissioner Bilas issued an Assigned Commissioner's Ruling ordering Advice Letter 1846-A to be consolidated with Application (A.) 99-03-014. On October 8, 1999, PG&E filed a Motion for Reconsideration of that Ruling, and on November 5, 1999, Commissioner Bilas responded to that motion by allowing PG&E to supplement its original Advice Letter to propose an extension of Schedule ED through the end of the rate freeze, while stating that the ultimate determination of whether economic development discounts should continue on a permanent basis would remain an issue in A.99-03-014. (Resolution E-3654, page 2.) On November 22, 1999, PG&E filed supplemental Advice Letter 1846-A to extend Schedule ED through the end of the rate freeze or until a final determination is made in A.99-03-014, whichever is later.

On March 2, 2000 we issued Resolution E-3654, which approved the extension of Schedule ED with the condition that shareholders assume 25% of the costs.

II. DISCUSSION

PG&E first argues that the Commission erred in adopting Finding 17, which states:

> "17. Under the current ratemaking treatment, PG&E's monopoly distribution customers finance the cost of attracting new load for PG&E's competitive generation services."

Applicant's complaint is the reference to "competitive generation services." The company believes that the word "generation" should be replaced with "distribution." The argument made is that, while this language is consistent with previous decisions holding that customers of PG&E's monopoly distribution services should not have to finance any of the cost of encouraging new load for PG&E's competitive generation services, such as in Resolution E-3442, it is inconsistent with the language of later-enacted Assembly Bill (AB) 1890, 1996 stats. §854. Applicant correctly points out that under this legislation and utility generation divestiture, the utilities' role now excludes the provision of competitive generation.

We agree with PG&E that the reference to "generation" in Finding 17 reflects an out-of-date restructuring model, and we will modify that finding as requested.

Applicant's next complaint is with Findings 18 and 19 which provide:

> "18. Currently, PG&E does not contribute to the costs of Schedule ED despite the strategic competitive advantages in (sic) receives from attracting new customers."
>
> "19. Under the current 100% ratepayer funded economic development program, PG&E gains strategic competitive advantages by attracting new customers and locking in sales over the long term. Once PG&E begins serving the new customer it gains the additional advantage of having been the first competitor to establish a relationship with the customer, arguably making it easier to sell additional services and placing the burden on competitors to lure the customer away from their existing provider."

Applicant argues that the findings are in error because there is no evidence in the record to support the conclusion that PG&E gains competitive advantage by attracting new customers and that, further, the findings prejudge the same issue which is presently pending in Phase II of PG&E's general rate case proceeding, A.99-03-014. Both arguments are without merit. First, one must ask why the company would file the present Advice Letter if it were not to PG&E's competitive advantage. Surely, Applicant would not propose to continue a service that was to its competitive disadvantage. Second, the very essence of being competitive is the attraction and retention of current and new customers, and this conclusion requires no direct evidence on the record. The above findings simply conclude that, in the past, with 100% ratepayer funding of the ED schedule, a competitive advantage accrued to PG&E because of an enlarged new customer base funded entirely by PG&E ratepayers. Applicant has made no compelling argument that the conclusion is in error. Further, the Resolution granted to PG&E the authority to extend the ED service as requested by PG&E, with the only change the imposition of 25% shareholder funding. PG&E does not complain about the finding but only the rationale behind it. We are mystified that PG&E would challenge these findings, which seem self-evident to us, particularly since the Resolution granted the very authority requested by the company. With regard to the argument that we have prejudged the issue

of competitiveness in advance of PG&E's General Rate Case, the Assigned Commissioner, on November 5, 1999, issued a ruling that this very issue is to be addressed by the parties and considered in that proceeding. We will reiterate here that the inclusion of the findings 18&19 are in the nature of observations and presumptions and the language in the Resolution should not in any way be considered a precedent or binding on the outcome of the General Rate Case.

PG&E's final argument concerns Finding 20, which provides:

> "20. Section 740.4 authorized the utility to recover the costs of the economic development program to the extent of ratepayer benefit. Since ratepayer benefits have decreased under competition, the statue (sic) does not mandate 100% ratepayer funding."

PG&E again argues that this finding prejudges litigation of the same issue in its pending General Rate Case. Again, we will reiterate that this was not our intent, and the parties are free, pursuant to the above-referenced Assigned Commissioner's ruling in Phase II of that proceeding, to consider this issue. PG&E's argument that there is not sufficient evidence in this proceeding to conclude that ratepayer benefits have decreased since the start of deregulation appears to have merit. However, we have previously addressed this issue. For example, in Re: Pacific Gas and Electric Company, D.95-10-037, 62 Cal.P.U.C.2d 24, Re: Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation, D.95-12-063, 64 Cal.P.U.C. 2d 1, and Re: Pacific Gas and Electric Company, D.97-09-047, we recognized that ratepayers without the option of seeking their electricity other than from PG&E might be required to absorb the revenue deficiency caused by discount rates to large users, and that their benefits would accordingly decrease. Finding 20 will therefore be modified to reflect this fact.

III. CONCLUSION

As discussed above, we find that Applicant has not demonstrated sufficient grounds for rehearing. However, the Resolution should be modified as provided below.

IT IS ORDERED that:

1. Resolution E-3654 is modified as follows:

   A. Finding 17 is modified to read:

   "Under the current ratemaking treatment, PG&E's monopoly distribution customers finance the cost of attracting new load."

   B. Finding 20 is modified to read:

   "The Commission has previously held, as outlined above, that ratepayers have previously contributed to the subsidization of the ED rate structure. Inasmuch as their rates have accordingly increased or failed to decrease, their benefits have accordingly declined."

2. Rehearing of Resolution E-3654, as clarified and modified in the decision and ordering paragraph above, is hereby denied.

This order is effective today.

Dated June 22, 2000, at San Francisco, California.

HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners

President Loretta M. Lynch being necessarily absent, did not participate