ALJ/BDP/eap

Mailed 6/10/99

Decision 99-06-047 June 10, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Consider the Line Extension Rules of Electric and Gas Utilities.	Rulemaking 92-03-050 (Filed March 31, 1992)

OPINION ON MOTION FOR CLARIFICATION OF DECISION (D.) 97-12-099

Summary

Southern California Edison (Edison) and Pacific Gas & Electric Company (PG&E) seek clarification as to whether any credits or debits realized under the bidding process allowed by the Applicant Design Decision (D.) 97-12-099 should be subject to current accounting and ratemaking practices or subject to a separate ratemaking mechanism where the shareholders are at risk for any such debits or credits.

We conclude that the record in this proceeding is insufficient to implement the accounting change described in D.97-12-099. The assigned administrative law judge (ALJ) is directed to hold evidentiary hearings or require the parties to address this issue through written pleadings, consistent with the Commission's goal to promote competition in all areas of utility services.

Procedural Summary

The joint motion was filed by Edison and PG&E on April 27, 1998. A joint response was filed by Southern California Gas Company, Southwest Gas Corporation and San Diego Gas & Electric Company on May 8, 1998. Also, a response was filed by Utility Design, Inc. (UDI) on May 12, 1998, and this matter was submitted for decision.

Background

By D.97-12-099, the Commission implemented an Applicant Design program for residential gas and electric distribution services as a regular utility tariff option. Under the tariff option, the utility provides an applicant for utility service with a bid for designing the proposed system. The applicant can "shop" the utility's bid and have a third-party designer undertake the system design. If the applicant decides not to use the utility's design services, the utility credits the applicant with the amount of the utility's bid less any appropriate charges, such as plan checking. The new tariff option is intended to provide builders with a choice between utility design or design by third-party designers for residential gas and electric distribution facilities serving their projects. The tariff option became effective on July 1, 1998.

The Joint Motion

Edison and PG&E request clarification of the language set forth in D.97-12-099 at page 7, second paragraph (referred to hereafter as "Paragraph 2"):

> "Additionally, we will require the utility to book to its accounts the utility's bid amount, whether the design was done by the utility or an applicant. If the utility's actual cost was more than the bid amount, the utility would write off the excess. If the cost was less than the bid, the utility would credit the difference to revenues. Also, the utility would provide the applicant with a credit equal to the utility's bid amount less any appropriate charges such as for plan checking."

Edison and PG&E request clarification of the Commission's intent regarding treatment of the utility's bid amount when the utility is awarded the competitive bid. Specifically, Edison and PG&E want to know whether any credits or debits realized under the bidding process should be subject to current traditional ratemaking practices or subject to a separate ratemaking mechanism where the shareholders are at risk for such credits and debits.

The differences between the two ratemaking treatments are summarized below:

A. Traditional Ratemaking Treatment

Currently, when the utility is awarded the competitive bid for design services, the utility tracks the bid amount versus the actual cost using traditional utility accounting practices. As such, when the utility's actual cost is less than the bid amount, the difference is reflected as a reduction to rate base. Conversely, when the utility's actual cost is greater than the bid amount, the difference is reflected as an increase to rate base. Further, for Edison, the recorded rate base is used to determine the net revenue sharing amount under Edison's Commission-adopted Performance Based Ratemaking (PBR). Thus, the resulting credit or debit is allocated entirely to the shareholder or is shared with the ratepayer based on the ratepayer sharing percentage determined in the PBR net revenue sharing calculation.

B. Shareholder Treatment

Under UDI's proposed approach, when the utility is awarded the competitive bid for design services, the utility would track the bid amount versus the actual cost and credits or debits any differences directly to shareholders. As such, when the utility's actual cost is less than the bid amount, the difference would be reflected as direct income to shareholders. Conversely, when the utility's actual cost is greater than the bid amount, the difference would be reflected as a debit against shareholder earnings. Under this scenario, any increase or decrease to shareholder earnings would be excluded from the operation of Edison's PBR net revenue sharing. For PG&E, any increase or decrease in shareholder earnings would be excluded from the determination of PG&E's rates.

Position of Utility Design, Inc.

UDI provides third-party design services to applicants for gas and electric line extensions.

UDI argues that the shareholders, not the ratepayers, should be responsible for any difference between the amount they bid and the actual cost of performing the work. Therefore, according to UDI, it is imperative that gains and losses on the utilities' design work be separately tracked and then applied to, or charged against, utility shareholder earnings. UDI's concern is that the utilities could make low cost bids to induce applicants to purchase the utility's design services rather than the services of third-party designers, and then charge ratepayers for the actual cost of performing the work. UDI submits that both ratepayers and competition would suffer from such conduct.

Further, UDI argues that under PBR, the utilities can mix losses from their design work with other ratepayer borne costs without any Commission scrutiny. UDI's concern is that PBR eliminates Commission review of individual utility transactions. Essentially, UDI's position is that the Shareholder Treatment (item B above) should apply.

Position of Southern California Gas Company, Southwest Gas Corporation, and San Diego Gas & Electric Company (Respondents)

Respondents answer the question raised by Edison and PG&E in two ways. First, respondents argue that review of the record and the decision itself clearly shows no indication that the Commission has ordered or even considered ordering the utilities subject to the Applicant Design decision to deviate from current traditional ratemaking practices. Therefore, according to respondents, based on the record, the answer to the question raised by Edison and PG&E is that since there has been no Commission order requiring or allowing utilities to

deviate from current ratemaking practices, no clarification to the Commission's decision is necessary or appropriate.

Respondents' second response to the question raised by Edison and PG&E is that if a utility wishes for itself to seek from the Commission permission to deviate from current ratemaking practices for any credits or debits realized under the Applicant Design bidding process, such utility should be allowed to do so by filing an appropriate application stating its case.

Respondents argue that under no circumstances, however, should the application of a utility for a deviation from current ratemaking practice in Applicant Design matters be imposed upon any other utility without its consent.

Comments on Draft Decision

The ALJ's draft decision in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311(g) and Rule 77.1 of the Rules of Practice and Procedure.

On May 10, 1999, comments on the ALJ's draft decision were timely filed by CBIA and UDI. No reply comments were filed. Based on our review of the comments, we modify the draft decision as set forth below.

Discussion

CBIA argues that Paragraph 2 of D.97-12-099 addressing accounting treatment of costs and revenues related to utility design of extensions should be retained along with the clarification that the interests of fostering competition require utility shareholders to bear any shortfall between the utility estimate of design costs and actual design costs incurred by the utility.

UDI believes that Paragraph 2 must remain part of D.97-12-099 to ensure that the utilities compete fairly with Applicant Designers. According to UDI, the utilities could make below cost bids to obtain the work, and then charge their cost overruns to ratepayers. Furthermore, UDI disagrees with Conclusion of

Law 2 in the draft decision: "The record in this proceeding is insufficient to make changes to the current accounting and ratemaking treatment of line extension contracts."

Neither CBIA nor UDI point out where there is support for Paragraph 2 in the record. Furthermore, D.97-12-099 contains no Findings of Fact, Conclusions of Law, or Ordering Paragraphs related to Paragraph 2. Therefore, at best, Paragraph 2 is mere dicta. Contrary to CBIA's assertions, the presence of Paragraph 2 in D.97-12-099 without any ordering paragraphs, is not a legally sufficient order of the Commission that requires the utilities to change their accounting practices as of the date of issuance of the decision.

Nevertheless, the Commission's goal is to promote competition in all areas of utility services. Accordingly, we will direct the assigned ALJ to develop the record, through further hearings or written pleadings, to address the implementation of the accounting change described in Paragraph 2.

Findings of Fact

1. The Commission's goal is to promote competition in all areas of utility services.

2. The record in this proceeding is insufficient to implement the accounting change described in Paragraph 2.

Conclusions of Law

1. The record should be developed on the accounting change described in Paragraph 2, consistent with our goal to promote competition in all areas of utility services.

ORDER

IT IS ORDERED that:

1. The assigned administrative law judge shall develop the record, through further hearings or written pleadings, to address the implementation of the accounting change described in Decision (D.) 97-12-099 at page 7, Paragraph 2.
2. Rulemaking 92-03-050 remains open to address other matters.

This order is effective today.

Dated June 10, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
LORETTA M. LYNCH
JOEL Z. HYATT
Commissioners