

Decision 99-06-056 June 10, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Identify and Separate Components of Electric Rates, Effective January 1, 1998 (U 39 E).

Application 96-12-009
(Filed December 6, 1996)

Application of San Diego Gas and Electric Company (U 902 M) for Authority to Unbundle Rates and Products.

Application 96-12-011
(Filed December 6, 1996)

In the Matter of the Application of Southern California Edison Company (U 388 E) Proposing the Functional Separation of Cost Components for Energy, Transmission and Ancillary Services, Distribution, Public Benefit Programs and Nuclear Decommissioning, to be Effective January 1, 1998 in Conformance With D.95-12-036 as Modified by D.96-01-009, the June 21, 1996 Ruling of Assigned Commissioner Duque, D.96-10-074, and Assembly Bill 1890.

Application 96-12-019
(Filed December 6, 1996)

(See D.97-08-056 for appearances.)

OPINION

Summary

This decision addresses operational problems in the billing system of Pacific Gas and Electric Company (PG&E). We find that PG&E has failed to comply with Decision (D.) 98-03-050 and has failed to justify its failure to comply with that order and with the requirements of a previous order, D.98-08-056.

PG&E's testimony in this proceeding suggests PG&E has failed to maintain its billing system in ways that would accommodate changes in the electric industry and our regulatory programs. We will determine at a later date, following the filing of briefs, whether PG&E should be fined or otherwise penalized. We grant PG&E's pending petition to modify D.97-08-056 and D.98-03-050 to permit PG&E to delay implementation of certain billing requirements.

Background

PG&E, Southern California Edison Company (Edison), and San Diego Gas and Electric Company (SDG&E) originally filed these applications at our direction to consider matters relating to "unbundling" electric utility costs and services. Assembly Bill (AB) 1890 requires such unbundling to facilitate the development of competition in electric generation markets. We have issued several orders in this proceeding, including one, D.97-08-056, which addressed the major policy and practical questions arising from electric utility unbundling.

On July 31, 1998, PG&E filed a petition that is the subject of this decision. The petition asks the Commission to modify D.97-08-056 and D.98-03-050 regarding the deadline for calculating the Power Exchange (PX) price with a weekly averaging method. D.97-08-056 set a January 1, 1998 deadline for the billing change. PG&E later filed a petition to modify D.97-08-056, seeking an open-ended deadline for implementation. D.98-03-050 granted an extension of the deadline to January 1, 1999. PG&E's pending petition to modify seeks a further extension to January 1, 2000. During that interim period, PG&E seeks authority to use a fixed 30-day averaging period for calculating direct access customers PX energy costs, instead of using the otherwise adopted weekly averaging method ordered in D.97-08-056. Enron Corp. (Enron) filed a response to PG&E's petition to modify, arguing that PG&E had not demonstrated a

further delay was warranted and observing that the delay harms the competitive marketplace by permitting PG&E to distort or mask price signals to customers.

Raising concerns with regard to the continuing delays, the assigned Commissioner and administrative law judge issued a ruling on October 9, 1998 setting a hearing to consider PG&E's apparent inability to implement Commission decisions. Specifically, the ruling directed PG&E to present argument and evidence on the following topics:

1. Why PG&E has been unable to modify its billing system to accommodate the billing system requirements of D.97-08-056;
2. What PG&E is doing to upgrade its billing system in order to comply with the related requirements of D.97-08-056;
3. What PG&E would have to do to modify its billing system to accommodate the deadline set in D.98-03-050 with regard to the calculation of the PX price;
4. The level of funds the Commission granted in PG&E's general rate cases for billing system upgrades since 1990 and the funds PG&E actually spent since 1990 on billing system upgrades, including citations to the record of each general rate case or relevant order;
5. Why PG&E should not be fined or otherwise penalized if it is unable to comply with the deadline established in D.98-03-050 with regard to the calculation of the PX price.

The Commission held a hearing on November 12, 1998 to address these questions. The assigned administrative law judge presided over the hearing and the assigned Commissioner attended. The Office of Ratepayer Advocates (ORA), the California Department of General Services (DGS), and Enron cross-examined PG&E witnesses. The matter was submitted on the same day.

PG&E's Testimony

PG&E at the hearing presented several witnesses and written testimony addressing the issues raised by the ruling. PG&E witness George M. Orlov

provided a description of PG&E's existing "CIS" billing system, explaining that the system is "old and fragile." According to Orlov, the system bears "the burden of over 30 years of changes to a monolithic system not originally designed for either its current roles or to accommodate such dramatic business changes."

Orlov explained that PG&E is replacing the system, a complex undertaking made more complex by the fact that the demands on the new system are unknown and changing.

In its written testimony, PG&E states that its rates included about \$26.6 million in "incremental" costs for CIS system upgrades between 1990 and 1998. PG&E states that it spent about \$41.8 million over that period for expenses. It also spent \$34.8 million in capital costs. PG&E annually recovers \$3.2 million in rate base for capital costs associated with the billing system. The remainder and other costs related to the billing system are under review in the company's general rate case where PG&E seeks cost recovery in future rates.

PG&E states that it should not be penalized for its inability to implement every element of the Commission's billing system requirements on the schedule ordered by the Commission. It states that it has undertaken an enormous amount of work to implement the majority of the requirements and is working diligently to implement those remaining requirements.

During the hearing, Enron inquired about the amount of time PG&E has taken to bring system problems affecting direct access implementation to the Commission's attention. It inquired about future compliance with Commission billing system requirements and the alternative methods PG&E is using to calculate the PX price. DGS cross-examined PG&E witnesses regarding the history of PG&E's billing system modifications. ORA's cross-examination focused on how PG&E set priorities for accomplishing direct access requirements and on the nature of the most recent and planned system modifications.

Discussion

D.97-08-056 directed PG&E to calculate the PX price, effective January 1, 1998 as follows:

Averaging is done first on a weekly basis, and then a rolling average of usually four weeks is calculated to cover the different monthly billing cycles for different customers... In the weekly averaging, utilities shall use hourly PX energy costs in each week and class load profiles for each rate class (the profiles including both utility service and direct access customers) to calculate an average PX energy cost for utility service customers in that rate group. Because billing cycles span multiple weeks, the average PX price for all calendar weeks from the time of a customer's previous billing through the week prior to the current billing shall be averaged to obtain a monthly average PX energy cost... (See D.97-08-056, mimeo., p. 40.)

In adopting this method of calculation, the Commission stated that its purpose was to minimize potential barriers to entry and promote the use of time-differentiated prices. PG&E states that although it is able to update prices weekly, it is unable to use multiple prices each week. Instead, PG&E uses the average number of days each month (30 days) for the averaging period and calculates the average PX costs for the previous 30-day period once each week. In D.98-03-050, we approved this departure from our adopted methodology through January 1, 1999. The subject petition to modify D.97-08-056 and D.98-03-050 seeks a further extension of time to implement the original calculation.

PG&E's failure to accommodate billing system requirements may affect the evolution of competitive energy markets and the ability of customers to understand their energy alternatives, as Enron argues. For this reason, we take PG&E's continuing inability to comply with our requirements seriously.

The testimony in this proceeding illuminates why PG&E has been unable to implement this and other billing requirements recently. According to PG&E's

testimony, its billing system is outdated and has been outdated for many years. In spite of PG&E's awareness of its system's obsolescence, PG&E has been unable to modify the system.

PG&E built the existing CIS system in 1964. CIS was not designed to handle the various functions it has increasingly performed. PG&E explains that it has undergone several false starts in redesigning and augmenting CIS over the past 12 years. Beginning in 1987, PG&E realized CIS was essentially obsolete, that is was too slow in producing bills and presented the potential for billing "outages" which would be costly and compromise customer good will. The same year, it hired IBM to "rewrite" CIS using more modern technology. Five years later, in 1993, PG&E "re-focused" this effort because of cost overruns and anticipated changes in regulatory policy. The original project was abandoned for a more modest undertaking called "nCIS." nCIS was a scaled back version of the original plan and emphasized commercial customer requirements. In late 1995, six months from the completion of the nCIS project, PG&E abandoned these modifications in favor of an "off-the-shelf" IBM system called "Integrity." This system had recently gone into use at the Northern Indiana Public Service Company. IBM and PG&E worked on modifications to the system for 14 months and planned to complete it by mid-1999.

PG&E reassessed the Integrity system after issuance of the proposed decision addressing electric restructuring implementation. D.97-05-040 adopted a policy to implement direct access for all customers by January 1, 1998. PG&E determined that the Integrity system could not accommodate direct access and abandoned the project in favor of further upgrades to the old CIS system. It subsequently determined that it would migrate to a system called "Genesis." Genesis will provide additional "functionality" over the existing system and will be easier to modify as system requirements change. PG&E's witness testified,

however, that the Genesis system is "a step backwards" from the earlier Integrity system, which PG&E abandoned. PG&E believes that about 50 percent of the Genesis system will be in place at the end of 1999, with the remainder to be completed in 2001 or 2002. Even this system will not be capable of fulfilling PG&E's needs in the new market environment. CIS will continue to perform account set-up, billing, adjustments and revenue reporting. Genesis will perform only new functions concerned with competitive energy service providers and metering agents.

PG&E argues that its inability to implement a new and useful billing system is attributable in part to changes in the state's regulatory policy since 1987. It does not elaborate on how Commission policy statements, legislated requirements and Commission implementation orders have affected its billing system projects. For that reason, we cannot judge the merits of PG&E's defense in this regard. Moreover, neither Edison nor SDG&E has had to defer implementation of direct access billing requirements as a result of billing system problems. Both have faced the same regulatory and legislative requirements as PG&E.

In sum, PG&E has apparently failed for 12 years to upgrade its billing system to accommodate industry changes. PG&E states that it will continue to use a 35-year-old system with attendant risks and limitations. The Genesis system, which it will use in combination with CIS, is, according to PG&E, less sophisticated than systems that have been available for several years. Moreover, it may be inadequate to accommodate the narrow purposes for which it is designed, depending on future regulatory requirements. According to PG&E's own testimony, PG&E has little to show for 12 years worth of false starts and yet has spent more than \$80 million in the process. (See Exh. 83, p. I-12.)

PG&E's testimony in this proceeding seeks to justify its failure to implement the requirements of D.97-08-056 and, implicitly, its continuing failure to meet the implementation deadline of January 1, 1999 established in D.98-03-050.¹ PG&E's only defense of these failures is a description of how its management of the CIS system over the years precluded implementation of the regulatory requirements which are the subjects of this proceeding. Stated otherwise, PG&E asks to be excused from compliance with Commission decisions with a showing that attributes noncompliance to apparent mismanagement. This defense--however characterized--is wholly inadequate.

The question of whether PG&E has adequately managed CIS over the years is a matter of substantial controversy in PG&E's pending general rate case. The record in that proceeding is extensive and that proceeding is the appropriate forum for considering the reasonableness of PG&E's management generally. The record in this proceeding, however, is adequate to support our finding that PG&E has not justified either its failure to implement the requirements of D.97-08-056 or its failure to comply with D.98-03-050.

No party has heretofore addressed specifically whether and the extent to which PG&E should be penalized for the infractions we find in this decision. Accordingly, we will address in a later decision whether PG&E should be so penalized following the filing of briefs in this proceeding.²

¹ In that context PG&E has never notified the Commission that it is out of compliance with D.98-03-050. It has not sought an extension of time from the Executive Director, pursuant to Rule 48, to comply with the order.

² By ruling dated April 13, 1999, the assigned ALJ directed briefs on this topic to be filed by May 10, 1999. The assigned ALJ subsequently granted PG&E's request that the deadline for briefs be extended until two weeks following issuance of an order in this proceeding.

We herein grant PG&E's petition to modify D.97-08-056 and D.98-03-050. As of January 1, 1999, PG&E is out of compliance with D.98-03-050, and as a practical matter, we cannot compel its compliance.

Comments on the Proposed Decision of the Assigned ALJ

Only PG&E filed comments to the proposed decision of the assigned ALJ. PG&E supports the proposed decision to the extent it grants PG&E's petition to modify. PG&E argues that the decision errs in finding PG&E unreasonable with respect to CIS management, as follows.

PG&E believes the Commission should defer the matter of management reasonableness to its general rate case. The ALJ modified the proposed decision to distinguish better the purpose of this proceeding and that of the general rate case with respect to the relevant issues. That change is incorporated in this order.

PG&E states that penalties in this case serve no legal purpose because PG&E is not in violation of any Commission order. In this regard, PG&E refers vaguely to D.98-09-017. However, as PG&E observes in an earlier section of its comments, the matter resolved in D.98-09-017 "is not an issue here." D.98-09-017 granted PG&E an extension of time to implement billing system unbundling, not an extension of time to revise its PX calculation. PG&E's assertion that "there will be no present or past violation of any provision of law or of any order or rule of the Commission" is therefore untrue. Additionally, in addressing whether it had violated a Commission order, PG&E refers to D.98-09-017 but at the same time neglects to reference the requirements of D.98-03-050. This order find that PG&E is in fact in violation of D.98-03-050 and seeks briefs on the appropriateness of penalties on that basis.

Finally, PG&E argues that if the Commission finds that "if the utility's billing system currently simply cannot accommodate a regulatory requirement,

then an extension for that requirement should be granted and the utility should not be penalized for noncompliance." We reject the suggestion that a utility's inability to accommodate a regulatory requirement should automatically excuse it from complying with a Commission order or from assuming the consequences of its noncompliance. Were we to adopt this standard for regulatory compliance, the utilities we regulate would have no incentive to assure their systems were capable of accommodating known or anticipated regulatory requirements. We therefore decline to make a corresponding finding.

Findings of Fact

1. According to PG&E's testimony in this proceeding, PG&E management was aware of billing system obsolescence in the late 1980s. PG&E initiated changes to its billing system several times and abandoned them before completion. PG&E's forthcoming system upgrades are less sophisticated than other available systems and ultimately may not accommodate all regulatory requirements or industry changes.

2. PG&E has spent over \$80 million between 1990 and 1997 on various billing system changes.

3. PG&E's billing system is unable to accommodate regulatory requirements related to the PX calculation more than 18 months following issuance of D.97-08-056 and two years following passage of AB 1890.

4. As of January 1, 1999 and consistent with the implications of PG&E's testimony and pleadings in this proceeding prior to the date of submission, PG&E is out of compliance with D.98-03-050.

5. PG&E has not justified its failure to implement the requirements of D.97-08-056 or its failure to comply with the implementation deadline in D.98-03-050.

6. PG&E's failure to accommodate billing system requirements may affect the evolution of competitive energy markets and the ability of customers to understand their energy alternatives.

7. The Assigned Commissioner Ruling dated October 9, 1998, provided PG&E with notice of the issues resolved in this decision.

Conclusions of Law

1. The Commission should grant PG&E's petition to modify D.97-08-056 and D.98-03-050.

2. A subsequent decision, in this docket, should resolve whether the Commission should penalize PG&E for its failure to implement the requirements of D.97-08-056 and to comply with D.98-03-050, as set forth herein.

O R D E R

IT IS ORDERED that:

1. The petition to modify Decision (D.) 97-08-056 and D.98-03-050 filed by Pacific Gas and Electric Company (PG&E) on July 31, 1998 is granted to the extent set forth herein. This approval does not represent a finding of the reasonableness of PG&E's management of its billing system or failure to comply with Commission orders.

2. This proceeding will remain open so that the Commission may consider whether and the extent to which PG&E should be penalized for its failure to

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implement the requirements of D.97-08-056 and its failure to comply with the implementation deadline of January 1, 1999 in D.98-03-050.

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