

Decision 99-09-007 September 2, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Snow Valley, Inc.,

Complainant,

vs.

Southern California Edison Company,

Defendant.

Case 97-09-024
(Filed September 17, 1997)

Dana E. Roberts, General Counsel, for Snow Valley, Inc., complainant.

John Korbol, Attorney at Law, of Homan & Lobb, for Snow Valley, Inc., complainant.

James P. Shotwell, Attorney at Law, for Southern California Edison Company, defendant.

OPINION DENYING COMPLAINT

Summary

Snow Valley, Inc. (Snow Valley), complainant, disputes the amount of its bill since December 1996 which it alleges includes costs for construction of a power substation to provide service. Complainant alleges it was assessed a disproportionate share of the construction costs for the substation which is used to supply other customers. Complainant impounded \$138,410.09 with the Commission pending resolution of this complaint. Complainant requests a return of this deposit and other excessive charges plus 10% interest and costs of its complaint and attorney's fees.

Defendant, Southern California Edison Company (Edison), alleges complainant is billed under an approved rate Schedule RTP-TPP, a real time

pricing schedule. These rates, defendant alleges, are designed to collect the cost of providing service to Edison's customers and includes the costs to construct and maintain the substation which complainant references. Defendant alleges it cannot provide a special rate for complainant and has on several occasions met with them to discuss rate options that provide greater savings on electricity costs. Defendant alleges complainant is challenging the reasonableness of rates and has not provided the required signatures of 25 actual or prospective customers or other designated persons pursuant to Pub. Util. Code § 1702 and Rule 9 of the Commission's Rules of Practice and Procedure. Complainant clarified that it also challenged the accuracy of defendant's charges. Complainant withdrew its allegations challenging the rate itself.

The first Prehearing Conference was held on December 23, 1997 by telephone. Complainant agreed to impound \$138,410.09 at the Commission and pay defendant any outstanding balance and current bills pending a resolution of the complaint. Subsequently, the parties introduced a stipulated set of facts in the proceeding. The motion to receive this stipulation into evidence is hereby granted. The parties submitted argument in opening and closing briefs.

We herein conclude that complainant has not proved its allegations and the complaint should be denied.

Discussion

The parties' agreed facts are discussed below.

Snow Valley has been taking service from Edison since 1973 and has four electric service accounts. Account No. 52-40-999-8200-91, which was formerly referred to as Account No. 60-40-997-8201-01, was opened in November 1973 and is currently served on Schedule I-6, Edison's large power interruptible rate. It is Snow Valley's primary account, the account associated with the majority of Snow Valley's electric load, and the account that is the subject of this complaint. The

other three accounts are served on Schedule GS-1, a general service tariff schedule, and account for a much smaller portion of Snow Valley's electric load.

Discriminatory Rates

Snow Valley alleges that Edison's rates are discriminatory, in excess of marginal costs, subjecting Snow Valley to rates higher than those assessed similarly situated customers. While it is true that there are differences in the rates Edison charges different types of customers, these differences do not constitute unreasonable, unjust, or discriminatory rates.

The Legislature's use of the term "unreasonable" means that reasonable differences are appropriate. These differences can relate to the size, operating requirements, and other characteristics of customers. Edison is not at liberty to establish or change its rates without Commission authorization.

When establishing rates, the Commission determines the revenue a public utility will need to recover its reasonable cost of providing service, including both variable and fixed costs. Once that revenue requirement is determined, the Commission will determine the appropriate rate design to recover the revenue requirement. Since the mid-1980's, the Commission has followed an established policy of marginal-cost based pricing, in which it determines the marginal cost revenue responsibility for each group of customers, and designs rates that will allow the utility to recover its cost of providing service in the proportion that customers impose costs on the system. Under this policy, different types of customers are charged different rates depending on the nature of their consumption and the method of service provided by Edison.

Since it began taking service from Edison, Snow Valley's primary load, which is the subject of this complaint, has been served on the following rate schedules:

November, 1993 to October, 1978	Schedule A-7
October, 1978 to February, 1988	Schedule TOU-8
February, 1988 to November, 1993	Schedule I-3
November, 1993 to November, 1996	Schedule I-6
November, 1996 to April, 1998	Schedule RTP-TPP-1
April, 1998 to Present	Schedule I-6

The rates Edison charges and has charged Snow Valley are specifically set forth in the approved tariff schedules above. While the rates have fluctuated substantially since 1977, increasing as much as 49 percent in some years and decreasing as much as 24 percent in other years, every rate change was specifically reviewed and authorized by the Commission in various ratemaking proceedings.

Snow Valley is not alleging that Edison misapplied any of these rates. It is merely alleging that Edison should have placed it on a rate specially designed to fit Snow Valley's particular circumstances. Such a rate would have required Commission approval.

In support of its allegations, Snow Valley cites Sections 451 and 453 of the California Public Utilities Code. Section 451 provides:

"All charges demanded or received by a public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful..."

Section 453(a) provides:

"(a) No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person any prejudice or disadvantage..."

The rates that Edison has assessed Snow Valley have been its tariffed rates applicable to the load that Snow Valley placed on Edison's system. If Edison had offered Snow Valley a special rate without Commission approval, it would have violated both statutes.

Contract for Service

Snow Valley argues that prior to 1994, it had a service contract based on a monthly contract demand charge of \$10,000 per month for the delivery of up to ten (10) megawatts (mg) of power, plus power usage on a kilowatt-hour (kwh) basis. Snow Valley further alleges that it had a contract with Edison wherein Edison's rates would not change and that it should have had an opportunity to negotiate or consent to any changes in those rates. Snow Valley presented no evidence of such a contract with these terms. The Application and Contract for Electrical Service, Form CSD 272, it would have signed when it began taking service from Edison does not make any such provision. This contract specifies the service voltage, connected load, and estimated maximum demand. The form also provides that service will be provided "in accordance with the applicable rates and rules of the Utility," and states:

"1. The Utility has made available for inspection its applicable rates and rules. Applicant agrees to comply therewith, and with any changes or modifications thereof which may be authorized from time to time by the Public Utilities Commission of the State of California..."

Promises of Fixed Rates

In its complaint, Snow Valley alleges that Edison assured it that its "facilities related demand charges would remain stable" and alternative sources of generation were not economical and, based on those assurances, Snow Valley chose not to invest in alternative fuel generation sources. There is no evidence that Edison ever misled Snow Valley into believing its rates would remain

unchanged and that alternative fuel generation would not have been economical. Moreover, the Application and Contract for electrical Service, discussed in Section III(B) above, that Snow Valley would have submitted in 1973 provides that the rates Edison charges were subject to change by the Commission.

“...4. This contract shall at all times be subject to such changes or modifications by the Public utilities Commission of the State of California as said Commission may, from time to time, direct in the exercise of its jurisdiction...”

There would be no reasonable basis for Snow Valley to discount this language and assume that its initial rates were never subject to change.

Demand Charge Changes

When Snow Valley began taking service from Edison, it was served on Schedule A-7. Beginning in October 1978, all accounts served on Schedule A-7 with demands in excess of 500 kilowatts, including Snow Valley's account, were automatically transferred to Schedule TOU-8, Edison's standard rate for customers with demands in excess of 500 kilowatts. Special Condition 4 of Schedule A-7 and Special Condition 5 of Schedule TOU-8 both provided that Edison would establish a level of contract demand, based on Snow Valley's demand requirements. This contract demand level was used to establish the minimum demand charge for facilities required to provide service under the rate and was not otherwise used for billing purposes. The billing demand charge provision was calculated based on the greater of the billing demand multiplied by the appropriate demand charge or the contract demand level multiplied by a facilities charge of \$1.00 per kilowatt. Customers on Schedule A-7 were also assessed a per kilowatt-hour energy charge, and customers on Schedule TOU-8 were assessed both a per kilowatt-hour energy charge and a customer charge.

In the Pricing Phase of Edison's Test year 1992 General Rate Case, the Commission replaced the contract demand charge with the 50 percent demand

ratchet provision. This ratchet provision recovered a portion of the transmission and distribution costs from customers with intermittent demands to ensure they are contributing their fair share toward the cost of those facilities in place to serve them and are not being subsidized by other customers. This change was authorized by the Commission.

Effective Date of Schedule RTP-TPP-1

Snow Valley alleges that Edison could have offered Snow Valley the reduced rates available on Schedule RTP-TPP-1 many years before 1996, but intentionally failed and refused to do so. Schedule RTP-TPP-1 was authorized in the Flexible pricing Options Phase of Edison's Test year 1995 General Rate Case and was not available until September 30, 1996. Snow Valley signed the Real Time pricing/Two part pricing Agreement on October 29, 1996, less than one month after it became effective, and began taking service on the schedule in December of 1996.

Substation Charge

Snow Valley alleges that Edison charged it for the entire cost to construct a substation used to provide electrical service to Snow Valley and that other Edison customers are benefiting from the use of this substation, but are not being required to pay for any of the substation construction costs. Snow Valley also alleges that Edison's charges for this substation substantially exceed the capital, maintenance, and debt service cost of the substation and that Snow Valley is being charged (\$35,000 per month in demand charges) for the substation and the actual costs of construction is about one-third of those charges.

Edison did construct facilities to accommodate Snow Valley's load and additions to that load. These facilities include reconductoring and upgrading ten miles of 33 kilovolt distribution lines and necessary supporting equipment, such as breakers and transformers. However, there is no evidence Edison assessed

Snow Valley a special charge for the construction of these facilities. However, Snow Valley was also required to pay for a one-half mile service extension from the 33 kilovolt line to its facilities. These charges, however, were assessed pursuant to Rule 16 of Edison's Commission approved tariffs and rules, and all similarly situated customers pay such a fee when connecting to Edison's services. The \$4,000 planning and engineering fee Snow Valley submitted with its Letter of Agreement was later credited toward its Rule 16 service extension charges. Snow Valley was required to sign a Letter of Agreement, Form CSD 443, setting forth that it was responsible for a minimum usage level. Assuming the minimum usage level occurred, Snow Valley paid for the costs of installing and maintaining these facilities through Edison's various tariff rate charges, such as the Facilities-Related Demand Charge.

Other customers using these facilities were billed according to tariffed rates. The rates these customers pay defray the costs to install, maintain, and operate all of the facilities necessary to transmit and distribute electricity to them, including the costs associated with the 33 kilovolt system.

Snow Valley's complaint requests that the Commission order Edison to pay interest on any amount refunded to it, Snow Valley's reasonable attorney fees, and its court costs. This request is denied since there is no basis supporting any of Snow Valley's allegations and its complaint should be denied.

Comments on Draft Decision

The draft decision of the Administrative Law Judge 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. No comments were filed.

Findings of Fact

1. The parties submitted a written joint stipulation of facts in this proceeding.
2. Snow Valley began taking service from Edison in November 1973 and has four electric service accounts with Edison:
 - a) Account No. 52-40-999-8200-91;
 - b) Account No. 02-430-7209;
 - c) Account No. 02-430-7720; and
 - d) Account No. 02-430-7431.
3. Account No. 52-40-999-8200-91 (formerly Account No. 60-40-997-8201-01), opened on February 19, 1988, is associated with the majority of Snow Valley's electric load and is served on Schedule 1-6, Edison's large power interruptible rate. Account No. 02-430-7209 (formerly Account No. 71-40-988-8205-01), opened on October 29, 1975, Account No. 02-430-7720 (formerly Account No. 71-40-988-8750-01), opened on December 19, 1979, and Account No. 02-430-7431 (formerly Account No. 71-40-988-8206-01), opened on October 28, 1983, are associated with a small amount of remaining load and are all served on Schedule GS-1, a general-service rate schedule. The load served on Account No. 52-40-999-8200-91, Snow Valley's primary electric load, is the subject of this complaint.
4. Account No. 52-40-999-8200-91 was served on Schedule A-7 until the schedule expired in October 1978. The last version of Schedule A-7 is provided in Attachment A.¹ Prior tariff sheets, which were superseded by the tariff sheets contained in Attachment A, are provided in Attachment A-1. (Each of the tariff sheets attached to the Stipulated Set of Facts depicts the advice letter and decision authorizing the changes to that tariff sheet in the bottom left-hand

¹ All attachments were appended to the original stipulated facts.

corner, and the date each tariff sheet was filed and effective in the bottom right-hand corner.)

5. With the expiration of Schedule A-7, beginning October 1978, all accounts served on Schedule A-7, including Account No. 52-40-999-8200-91, were automatically transferred to Schedule TOU-8, Edison's standard rate for customers with demands in excess of 500 kilowatts pursuant to Commission authorization. The account was served on Schedule TOU-8 until February 19, 1988. The current version of Schedule TOU-8 is provided in Attachment B. Prior tariff sheets, which were superseded by the tariff sheets contained in Attachment B, are provided in Attachment B-1.

6. On February 19, 1988, Snow Valley switched Account No. 52-40-999-8200-91 to Schedule I-3, an interruptible tariff schedule, and remained on Schedule I-3 until the rate expired on December 31, 1992. The last version of Schedule I-3 is provided in Attachment C. Prior tariff sheets, which were superseded by the tariff sheets contained in Attachment C, are provided in Attachment C-1.

7. Schedule I-3 allowed customers to choose one of four alternative rates: Rate A, Rate B, Rate C, and Rate D. Snow Valley took service on Rate A.

8. Special Condition 10 of Schedule I-3 also required Snow Valley to execute a Contract for Interruptible Service providing for the purchase and installation of the appropriate interruptible notification equipment. A copy of this Contract for Interruptible Service is provided in Attachment D.

9. With the expiration of Schedule I-3, beginning January 1, 1993, all accounts served on Schedule I-3, including Account No. 52-40-999-8200-91, were automatically transferred to Schedule I-6 pursuant to Decision (D.) 92-06-020. The current version of Schedule I-6 is provided in Attachment E. Prior tariff

sheets, which were superseded by the tariff sheets contained in Attachment E, are provided in Attachment E-1.

10. Interruptible customers, including Snow Valley, who historically took service on Schedule I-3 and who currently take service on Schedule I-6 also take service on Schedule TOU-8. The interruptible tariff schedules are riders to Schedule TOU-8. As referenced above, the current version and prior version of Schedule TOU-8 are provided in Attachments B and B-1.

11. Special Condition 5 of Schedule TOU-8 provided that Edison would establish a contract demand, based on Snow Valley's demand requirements. This contract demand was used to establish the minimum demand charge for facilities required to provide service under the rate and was not otherwise used for billing purposes. The minimum demand charge provision was calculated based on the contract demand, became effective when the customer did not place any active demand on the system during a particular billing period.

12. In D. 92-06-020, the contract demand provision was replaced with a fifty percent demand ratchet provision. The ratchet provision for the minimum charge is intended to recover a portion of the transmission and distribution costs from customers with intermittent demands to ensure that they are contributing their fair share toward the costs of facilities in place to serve them and are not being subsidized by other customers.

13. From November 1, 1996 through April 1, 1998, Snow Valley also took service on Schedule RTP-TPP-1, a Real-Time Pricing/Two Part Pricing tariff. During this time period, Snow Valley's Base Period Usage was billed at Snow Valley's Otherwise Applicable Tariff, Schedule I-6. The usage in excess of its Base Period Usage was billed at real-time pricing hourly rates. These real-time hourly rates were available to customers by approximately 4:00 p.m. on the day prior to their effective date. This schedule expired on April 1, 1998 with the

commencement of the California Power Exchange's operation. The last version of Schedule RTP-TPP-1 is provided in Attachment F. Prior tariff sheets, which were superseded by the tariff sheets contained in Attachment F, are provided in Attachment F-1.

14. Customers taking service on Schedule RTP-TPP-1 were also required to sign a Real Time Pricing/Two Part Pricing Agreement. A copy of this Real Time Pricing/Two Part Pricing Agreement is provided in Attachment G.

15. In the calendar year 1995, Snow Valley used 5,862,791 kilowatt-hours of electricity. Assuming Snow Valley's electricity usage and usage pattern in 1977 and in every year since 1977 would have been the same as 1995, its annual electric bill and average price per kilowatt-hour through 1996 would have been as follows:

Year	Total Projected Bill	Estimated Rate (\$/kWh)	%Yearly Increase	% Increase Since 1977
1977	\$ 175,412	\$0.02992		
1978	183,781	0.03135	4.8%	4.8%
1979	273,771	0.04670	49.0%	56.1%
1980	273,771	0.04670	0.0%	56.1%
1981	305,900	0.05218	11.7%	74.4%
1982	310,280	0.05292	1.4%	76.9%
1983	236,594	0.04036	-23.7%	34.9%
1984	251,714	0.04293	6.4%	43.5%
1985	270,616	0.04616	7.5%	54.3%
1986	284,038	0.04845	5.0%	61.9%
1987	280,642	0.04787	-1.2%	60.0%
1988	390,646	0.06663	39.2%	122.7%
1989	388,282	0.06623	-0.6%	121.4%

1990	294,935	0.05031	-24.0%	68.1%
1991	302,033	0.05152	2.4%	72.2%
1992	426,371	0.07272	41.2%	143.1%
1993	475,460	0.08110	11.5%	171.1%
1994	495,538	0.08452	4.2%	182.5%
1995	409,842	0.08696	2.9%	190.7%
1996	601,335	0.10257	17.9%	242.8%

16. The previous table does not represent billed amounts. It was prepared for rate comparison purposes using 1995 usage and the tariff rates in effect in each year and does not reflect collection of taxes and items such as the Public Utilities Commission Reimbursement Fee. The table also provides the percent yearly increases and the percentage increase from 1977. Between November 1, 1996 and April 1, 1998, the average rate on Schedule RTP-TPP was \$0.078 per kilowatt-hour.

17. Snow Valley advised Edison of its desire to expand its operations, especially the amount of snow making in 1983. Based on discussions between Snow Valley and Edison, Snow Valley did not invest in alternative electric generation capabilities. In accordance with Edison's California Public Utilities Commission ("Commission") approved tariffs and rules in effect in 1983, Edison built the necessary facilities to serve the new load, which included upgrading approximately ten miles of service lines to 33 kV and the necessary supporting equipment (e.g., breakers and transformers). These facilities were based on the size of the proposed expansion and Snow Valley was not assessed a special charge for these facilities based on an estimated amount of usage. However, pursuant to Edison's Commission approved tariffs and rules, Snow Valley was responsible for a minimum usage level; otherwise it would have been billed for

the line extension. In addition, Snow Valley was responsible for the engineering costs associated with the line extension, approximately \$4,000.00.

18. Snow Valley's increased usage was essentially at night, or during off-peak periods. To some extent, customers which operated primarily during off-peak hours helped to alleviate Edison's minimum load problem.

19. Edison has charged Snow Valley for the construction of approximately one-half mile of a service line from the 33 kV line to Snow Valley's facilities. This was done pursuant to Rule 15 of Edison's commission approved tariffs and rules. Edison, through its Facilities-Related Demand Charge, does collect from Snow Valley for its portion of the use of the 33 kV system, including the distribution line, breakers and any high side transformation. This cost is not only for the immediate system, but also for other facilities on Edison's system that are necessary to provide the required service, e.g., major transmission facilities. Other Edison customers have the opportunity to use the system that was originally upgraded to provide Snow Valley with the additional electricity service and, in turn, are required to pay their appropriate cost through the Facilities-Related Demand Charge.

20. All of the rates and tariff sheets on which Snow Valley has taken service and the filed forms that have been used to provide Snow Valley service were specifically approved by the Commission. Edison does not provide its retail customers, such as Snow Valley, with service that deviates from those tariffs without specific Commission approval. Moreover, all customers, including Snow Valley, were provided notice of tariff changes, pursuant to Section 454 of the California Public Utilities Code.

21. Complainant presents no evidence of being misled by Edison regarding rates, services or facility charges prior to signing the customer application to receive service in 1973.

Conclusion of Law

We herein conclude that complainant has not proved its allegations and the complaint should be denied.

O R D E R

IT IS ORDERED that:

1. This complaint is denied.
2. The funds (\$138,410.09) impounded by the Commission are disbursed to defendant.
3. This proceeding is closed.

This order is effective today.

Dated September 2, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners