L/ngs

MAIL DATE
9/7/99

Decision 99-09-037 September 2, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of The Revenue Adjustment Proceeding (RAP) application of San Diego Gas and Electric Company (U 902-E) for approval of 1) Consolidated changes in 1999 authorized revenue and revised rate components; 2) the CTC rate component and associated headroom calculations; 3) RGTCOMA balances; 4) PX credit computations; 5) disposition of various balancing/memorandum accounts; and 6) electric revenue allocation and rate design changes,	Application 98-07-006 (Filed July 1, 1998)
Application of Pacific Gas and Electric Company for verification, consolidation and approval of costs and revenues in the transition revenue account,	Application 98-07-003 (Filed July 1, 1998)
Application of Southern California Edison Company (U-338-E) to: 1) consolidate authorized rates and revenue requirements; 2) verify residual competition transition charge revenues; 3) review and dispose of amounts in various balancing and memorandum accounts; 4) verify regulatory balances transferred to the transition cost balancing account on January 1, 1998; and 5) propose rate recovery for Santa Catalina Island diesel fuel costs.	Application 98-07-026 (Filed July 1, 1998)

ORDER DENYING REHEARING OF DECISION NO. 99-06-058

I. SUMMARY

These applications were filed in July of 1998 by Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison) and San Diego Gas and Electric Company (SDG&E). The purpose of the proceedings was to review entries to electric utility accounts established to effect the provisions of Public Utilities Code Section 367 and other previous Commission orders to promote competition in electric generation markets. A principal objective was to allocate between customer groups the costs of implementing direct access or "restructuring" costs addressed in Section 367 applications. During the proceeding, The Utility Reform Network (TURN) and the Office of Ratepayer Advocates (ORA) recommended an "Equal Cents Per Kilowatt-Hour Basis," under which customers would pay a share of implementation costs according to the quantity of electricity used. The result of this method would be to shift a greater portion of the costs to large users and a lesser one to residential ratepayers. The Commission sympathized with TURN's argument that using existing methods to allocate restructuring costs could be unfair to small customers, because those methods would not correspond to the distribution of benefits of direct access for the foreseeable future, and small ratepayers would assume a share of costs "wildly disproportionate" to benefits received. (D.99-06-058, page 7.) However, the Commission felt constrained by the revenue shifting provisions of Section 367(e)(1), which requires that transition costs be allocated "in substantially the same proportion as similar costs are recovered as of June 10,1996..." The Commission was of the opinion that a departure from past allocation procedures as requested by TURN and ORA "is probably not permissible under the statute." It stated:

> "We are therefore constrained from adopting new cost allocations for restructuring costs." (D.99-06-058, page 8.)

We therefore allocated the costs on an Equal Percentage of Marginal Cost (EPMC) method consistent with the practice in effect on June 10, 1996.

II. DISCUSSION

All three energy utilities, together with the California Manufacturers' Association, (CMA) the California Large Energy Consumer's Association (CLEC) and the California Industrial Users (CIU) filed responses to TURN's application. They unanimously take the position that TURN is simply repeating the arguments previously made in the proceedings and in the briefs that were specifically rejected by the Commission in the above-quoted language of the Decision. They are also unanimous that the Commission's interpretation of Section 367 is correct and that TURN has demonstrated no legal or factual error in the Decision.

An analysis of TURN's filing demonstrates that the utilities and intervenors are correct. TURN has not presented any legal or factual errors that would justify a grant of rehearing pursuant to Public Utilities Code Section 1731. Rather, Applicant has again presented an appealing policy argument for more equitable treatment of small electric users, which is, unfortunately, not permissible under the Public Utilities Code as enacted by the State Legislature.

TURN first argues that the underlying allocation in this case generated a concurrence in a recent Commission Decision No. 99-05-051, in which Commissioners Bilas and Neeper noted the need to "pay attention to allocation as one means of ensuring that residential ratepayers receive their fair share of the promised benefits, along with the bigger players." (Application, page 2) TURN also points out that the Commissioners specifically identified the present proceeding as an opportunity to achieve fairness through appropriate allocation. However, the concurring opinion accompanied D.99-05-051, in which the Commission approved an all-party settlement permitting SDG&E's rate freeze period to end on July 1, 1999. The settlement included a set of post-freeze rates to be implemented on an interim basis, pending the Commission's review of longer-term post-transition rates in the forthcoming Phase 2 of the utilities' post-transition rate proceedings. Therefore, the focus of the concurring opinion was the issue of the utilities'

post-transition period costs to which Section 367 does not apply. In contrast, the present proceeding involves the rate freeze period concerns. (Response of CIU, page 3.)

TURN next argues that Section 367 does not constrain the allocation of restructuring costs unless the allocation unduly changes the allocation of transition costs. The argument appears to be that, because the restructuring costs are new, they need not be allocated as were costs prior to June, 1996. However, as CMA and CLECA point out in their Response at page 3, Section 367(e) does not distinguish between old and new costs. Nor are restructuring costs different in kind or function from the types of costs reflected in June, 1996 rates. Nor is TURN's argument that there were exceptions to the EPMC methodology, even in 1996, convincing. Applicant cites the California Alternative Rates for Energy (CARE) program as one which was not allocated according to that methodology. The CARE program is for assistance to low income households in paying their energy bills. As such, it is not a true utility cost in the same sense as the costs the Commission is considering here, but a revenue cross-subsidy of certain low-income customers by others. (Response of CMA and CLECA, page 5.) The analogy is therefore not relevant. TURN has also cited no authority for the proposition that all costs must be allocated in precisely the same way.

Applicant next argues that Section 367 only prohibits "substantial" changes to allocation costs, and that TURN's proposed change is not "substantial." However, the record indicates that the adoption of a generation-related means for allocating competitive transmission costs (CTC) would increase the CTC burden on E-20 customers of PG&E by more than 40 percent and by more than 48 percent for Edison's TOU-8 customers. (Response of CMA and CLECA, page 5, Exhibit 39, page 6.) Such changes would have to be termed "substantial" and TURN's argument is therefore without merit.

TURN finally requests that, as an alternative to rehearing, the Commission should direct the utilities to submit data comparing the allocation of restructuring costs on an Equal Cents Per Kilowatt basis and on an Equal Percent of Marginal Cost basis so the

Commission could determine "with greater confidence" whether their proposed change in allocation costs is "substantial" within the meaning of Section 367. However, the responses filed to the application and the record in the case indicate that no further evidence on this issue is necessary. (Response of CMA, CLECA, page 5.) TURN is simply repeating the same arguments made during the course of the proceeding.

III. CONCLUSION

No legal or factual error having been demonstrated. Rehearing should be denied.

IT IS THEREFORE ORDERED that:

1. Rehearing of Decision No. 99-06-058 is denied.
2. 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