

Decision 99-11-008 November 4, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company To Identify Cost Savings for Revenue Cycle Services Provided by Other Entities and to Propose Credits for End-Use Customers in Such Circumstances for Implementation No Later Than January 1, 1999.

Application 97-11-004
(Filed November 3, 1997)

Application of Southern California Edison Company To Identify Cost Savings for Revenue Cycle Services Provided by Other Entities and to Propose Credits for End-Use Customers in Such Circumstances for Implementation No Later Than January 1, 1999.

Application 97-11-011
(Filed November 3, 1997)

Application of San Diego Gas & Electric Company To Identify Cost Savings for Revenue Cycle Services Provided by Other Entities and to Propose Credits for End-Use Customers in Such Circumstances for Implementation No Later Than January 1, 1999.

Application 97-12-012
(Filed December 4, 1997)

**OPINION REGARDING PETITION FOR
MODIFICATION OF DECISION 98-07-032**

I. Summary

Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company¹ filed a petition for modification of Decision (D.) 98-07-032. The UDCs request that they be relieved of the obligation to comply with Ordering Paragraph 4 of that decision, which requires them to file applications which propose prices and conditions for the sale of existing UDC-owned meters to its end-use customers. This decision denies that request. The UDCs have until January 14, 2000 to file their applications.

II. Background

In Ordering Paragraph 4 of D.98-07-032, the Commission ordered the UDCs to file separate applications proposing the prices and conditions for selling existing UDC-owned meters to its customers. The applications were to be filed no later than June 1, 1999.²

On July 2, 1999, the UDCs filed a petition for modification of D.98-07-032. The UDCs request that the decision be modified by deleting Ordering Paragraph 4 and eliminating all references directing the UDCs to file the applications.

¹ We collectively refer to these three entities as the utility distribution companies (UDCs).

² The June 1, 1999 filing date was extended by the Commission's Executive Director in letters dated June 2, 1999, August 5, 1999, and October 8, 1999. The October 8, 1999 letter gave the UDCs until December 1, 1999, or whatever date the Commission specifies in its decision on the UDCs' petition for modification, to file their applications.

Enron Corporation, the Office of Ratepayer Advocates, The Utility Reform Network, and the Department of General Services³ filed a joint response in opposition to the UDCs' request.

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code Section (311)(g) and Rule 77.1 of the Rules and Practice and Procedure. Comments were filed on October 25, 1999 and October 27, 1999,⁴ and reply comments were filed on November 1, 1999. We have considered the comments and have made appropriate changes to the decision. To the extent the comments reargued positions taken by the parties in earlier pleadings, we have not given them any weight in accordance with Rule 77.3.

III. Position Of The Parties

A. The UDCs

The UDCs contend that the filing of the applications would not be productive because customers of all sizes can avail themselves of direct access without having to purchase the UDC-owned meter. The UDCs state that for customers with loads over 500 kilowatts (kW), interval meters installed by the UDC are the standard for those customers with bundled service. Thus, if a customer of this size were to switch to direct access, it could continue to use the existing meter. For those customers with loads between 50 kW and 500 kW, the UDCs state that those customers typically do not have a UDC-installed interval

³ We collectively refer to these four entities as the "Respondents."

⁴ The UDCs originally filed their comments on October 25, 1999, however, the comments were filed in the wrong docket. At this direction of the ALJ, the UDCs filed their comments in the correct docket on October 27, 1999.

meter. If those customers want to participate in direct access, they can purchase an interval meter from any vendor who sells them. For customers with loads under 50 kW, the UDCs state that those customers can participate in direct access without interval meters through the use of load profiling. Thus, the UDCs contend that direct access customers, which use existing interval meters owned by the UDCs, would have no economic incentive to purchase the meters because they have access to the data from the UDC-owned interval meters at no cost.

The UDCs also contend that if they decide to sell their existing interval meters, the prices the UDCs would need to charge to cover their costs are likely to be unattractive because of the administrative costs associated with the following activities:

- Updating meter ownership information in the UDC's customer information database and removing the sold meters from the UDC's books.
- Removing UDC identification from the meter so that personnel in the field can identify a meter that is no longer the property of the UDC.
- Processing of a meter purchase agreement.
- Obtaining regulatory approval if necessary.

The UDCs contend that the sale of the meters is within the discretion of the UDCs. The UDCs assert that their interpretation of Ordering Paragraph 4 of D.98-07-032 is that the Commission did not order the UDCs to sell their meters, but merely required the UDCs to propose the terms and conditions for the sale of the meters if the UDCs decided to do so. The UDCs also assert that they do not believe that the Commission can require the UDCs to sell the meters. In support of this assertion, the UDCs cite D.88-03-024 for the proposition that the "Commission has expressly recognized that it lacks the authority to order utilities to sell their assets (e.g. generation or transmission or distribution

facilities)." (Petition, p. 3, fn. 1.)⁵ The UDCs state that they do not plan to sell the interval meters to their customers for several reasons. First, as discussed earlier, the prices for the existing interval meters owned by the UDCs are likely to be unattractive. Second, the UDCs contend that there are coordination and other problems with providing utility service using non-utility assets. If an end-user returns to bundled service provided by the UDC, procedures and responsibilities regarding the testing, maintenance, replacement, tracking, and reading of the meter will need to be addressed. And third, the UDCs contend that there are no apparent benefits for customers or the marketplace that would offset the cost of making this option available.

The UDCs state that for all of the reasons cited above, there will be no interest by customers to purchase the UDC-owned interval meters. Accordingly, the UDCs contend that neither the Commission nor the stakeholders should have to spend scarce resources to litigate the terms and conditions of transactions which are unlikely to occur.

B. The Respondents

The Respondents state that the UDCs offer the following reasons as to why they should be relieved of the requirements of Ordering Paragraph 4 of D.98-07-032: (1) customers of all sizes can participate fully in direct access without purchasing a UDC-owned meter; and (2) any sale of meters by the UDCs would be at their discretion, which, at the present time, they have no plans to

⁵ In the UDCs' joint comments to the ALJ's draft decision, the UDCs state that they "withdraw any argument they made" in the petition regarding the issue of whether the Commission could require the UDCs to sell their meters. The UDCS comments seek to strike from the draft decision the discussion responding to the UDCs' argument. The California Department of General Services, The Utility Reform Network, and the Office of Ratepayer Advocates oppose the removal of this discussion from this draft decision.

exercise. The Respondents contend that neither reason provides a sufficient basis for granting the UDC's petition.

The Respondents assert that the UDCs' first argument was a fact that was known to the Commission when it adopted D.98-07-032. Even though the sale of the UDC-owned meters was not necessary for direct access participation, the Commission still believed that it was valid to explore such a sale by having the UDCs file the appropriate applications.

The Respondents contend that the UDCs' statements that the sale of the existing meters would not be economically practical, given the price the UDCs would need to charge and the lack of customer interest, are highly speculative allegations and are unsupported. The Respondents assert that:

"allowing customers to own their own meters could lead to a number of important advances both in terms of the opportunities to have all customers take advantage of direct access, but also to reduce the rate base and the associated costs of service of the utility distribution companies."

The Respondents also assert that the UDCs' contentions regarding the type of costs they need to recover, is an issue which is subject to challenge, and which ultimately needs to be approved by the Commission. The Respondents assert that the Commission cannot make a determination as to the economic practicability of the UDC meter sales based solely on the limited statements made in the UDCs' petition.

The Respondents assert that the UDCs' reliance on D.88-03-024 to support their position that the Commission lacks the authority to compel such sales, is a matter of debate which should be, at a minimum, the subject of legal briefs. The Respondents argue that the obligation in Ordering Paragraph 4 of D.98-07-032 should not be eliminated based solely upon the UDCs' petition.

The Respondents assert that the issues most likely to arise in the UDCs' applications are closely tied to the issues in the revenue cycle services proceeding. In D.98-09-070, the Commission ordered the UDCs to submit applications to unbundle their revenue cycle services. Those filings, which were submitted on March 5, 1999, are currently pending before the Commission in the consolidated proceedings of Application (A.) 99-03-013, A.99-03-019 and A.99-03-025. The Respondents state that the intent of the revenue cycle services proceeding is to determine the appropriate credit which a UDC customer should receive on its bill if the customer opts to receive its revenue cycle services, including meter ownership, from an alternate provider. The Respondents request that the new application filings be consolidated with the revenue cycle services proceeding to avoid conflicting outcomes.

IV. Discussion

Ordering Paragraph 4 of D.98-07-032 states:

"PG&E, Edison, and SDG&E shall each file an application no later than June 1, 1999 which proposes prices and conditions for the purchase by customers of their existing meters."

In D.97-05-039, the Commission concluded that customers should be allowed to choose the metering system that is best for the customers. (D.97-05-039, pp. 13, 30.) The directive in D.98-07-032 that the UDCs file applications which contain proposals for the possible sale of existing meters to end-use customers promotes that kind of choice, and is consistent with the unbundling of revenue cycle services.

Ordering Paragraph 4 was derived from the discussion in D.98-07-032 about meter ownership credits, which stated:

"For Existing Utility Meters. Enron and ORA propose that customers be allowed to purchase existing meters from the utilities.

PG&E argues such a proposal is appropriately considered in other proceedings. Edison does not oppose ORA and Enron's suggestion as long as it is applied equally to all three utilities.

"While we believe Enron and ORA's proposal may have merit, we find that the issue is better considered at a later date, as PG&E proposes. We believe the costing and implementation issues may be complex enough that they would extend this proceeding beyond the time period we have set for resolving other issues. We will direct the utilities to file separate applications to address this issue in 1999." (D.98-07-032, p. 7.)

As a preliminary matter, we need to address the UDCs' assertion that Ordering Paragraph 4 of D.98-07-032 did not order them to sell the existing meters, but merely required the UDCs to propose the terms and conditions for the sale of the meters if the UDCs decided to do so. We agree with the UDCs that Ordering Paragraph 4 only directed the UDCs to file proposals for the possible sale of existing meters to end-use customers. This is supported by Conclusion of Law 2 in D.98-07-032 which states:

"The Commission should require the utilities to file applications to explore the issue of whether the utilities should offer customers the opportunity to purchase existing meters." (Emphasis added.)

For this reason, we decline to address the UDCs' assertions that the sale of the meters is within the discretion of the UDCs, and that the Commission cannot require the UDCs to sell the meters.

The issue of whether the UDCs should be required to sell their existing meters is currently not before us. As the Commission noted in Conclusion of Law 2 in D.98-07-032, the filing of the applications will allow the Commission "to explore the issue of whether the utilities should offer customers the opportunity to purchase existing meters." Once a new proceeding is opened to address those

applications, then the Commission will be in a position to decide whether the UDCs should be ordered to make the existing meters available for sale to its customers. The issue of what kind of costs should be included in the sales price of the existing meters is an issue that this new proceeding will need to address as well.

The Respondents recommend that we consolidate the new applications with A.99-03-013 et al. We decline to consolidate the new applications with the ongoing revenue cycles services proceeding. Our reasons are twofold. First, it is unclear what type of issues may arise from the new applications. Therefore, it is premature to conclude that the issues in the new applications are closely tied to the issues in the revenue cycle services proceeding. The second reason is that the schedule in A.99-03-013 et al has already been established in the May 25, 1999 "Scoping Memo And Ruling Of Assigned Commissioner And Administrative Law Judge." The filing of the new applications will not correspond with that schedule. Accordingly, the new applications should not be consolidated with A.99-03-013 et al. at this time.

The petition of the UDCs for modification of D.98-07-032 is denied. The UDCs shall have until January 14, 2000 to comply with Ordering Paragraph 4 of D.98-07-032.

Findings of Fact

1. Ordering Paragraph 4 of D.98-07-032 ordered the UDCs to file separate applications proposing the prices and conditions for selling existing UDC-owned meters to its customers.

2. Originally, the applications were to have been filed no later than June 1, 1999, but in the Executive Director's letter of October 8, 1999, the UDCs were given until December 1, 1999, or whatever date the Commission specifies in its decision on the UDCs' petition for modification, to file their applications.

3. The UDCs filed their petition for modification of D.98-07-032 on July 2, 1999.

4. The Respondents filed a joint response in opposition to the petition on August 2, 1999.

5. The draft decision of the assigned ALJ was mailed to the parties on October 5, 1999.

6. The UDCs contend that neither the Commission nor the stakeholders should have to spend time to litigate the terms and conditions of transactions which are unlikely to occur.

7. The Respondents assert that the UDCs' contentions are highly speculative allegations and are unsupported.

8. In D.97-05-039, the Commission concluded that customers should be allowed to choose the metering system that is best for the customers.

9. The existing meters are an integral part of the UDCs' businesses, which are used in connection with a utility-provided service, and are included in rate base.

10. Pub. Util. Code § 761, and following, give the Commission authority over the equipment, practices and facilities of the UDCs.

11. The issue of whether the UDCs should be required to sell their existing meters is currently not before us.

12. Once the new applications are filed, the Commission will decide whether the UDCs should be ordered to make the existing meters available for sale to customers.

13. The filing of the new applications will not correspond with the schedule that was previously adopted for A.99-03-013 et al.

Conclusions of Law

1. Ordering Paragraph 4 of D.98-07-032 promotes customer choice in metering systems, and is consistent with the unbundling of revenue cycle services.
2. Ordering Paragraph 4 only directed the UDCs to file proposals for the possible sale of existing meters to end-use customers.
3. It is premature to conclude that the issues in the new applications are closely tied to the issues in the revenue cycle services proceeding.
4. The new applications should not be consolidated with A.99-03-013 et al. at this time.
5. The petition for modification of D.98-07-032 should be denied, and the UDCs should be given until January 14, 2000 to comply with Ordering Paragraph 4 of D.98-07-032.

O R D E R

IT IS ORDERED that:

1. The petition for modification of Decision (D.) 98-07-032, that was filed by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (the UDCs) on July 2, 1999, is denied.
2. The UDCs shall comply with Ordering Paragraph 4 of D.98-07-032 by filing their applications on or before January 14, 2000.

3. Application (A.) 97-11-004, A.97-11-011 and A.97-12-012 are closed.

This order is effective today.

Dated November 4, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

JOEL Z. HYATT

CARL W. WOOD

Commissioners