

L/mbh

Already signed
by Sandi

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's own motion to consider policies and procedures applicable to the "extra space" in billing envelopes of utilities.

FILED
PUBLIC UTILITIES COMMISSION
OCTOBER 24, 1990
SAN FRANCISCO OFFICE
I.90-10-042

ORDER INSTITUTING INVESTIGATION

This Order Instituting Investigation (OII) is issued for the purpose of considering policies and procedures applicable to the "extra space" in billing envelopes of utilities. The extra space is the space remaining in the billing envelope after inclusion of the monthly bill and any legally required notices up to that weight which will not result in any additional postage cost.

I. BACKGROUND

The issue of use of the extra space in billing envelopes was first raised before this Commission in Pacific Gas and Electric Company's (PG&E's) 1981 general rate case. In that case, Toward Utility Rate Normalization (TURN) challenged PG&E's inclusion of its publication "Progress", a newsletter not mandated by law or Commission order, in PG&E's billing envelopes. In Decision (D.) 93887, the Commission declared that the extra space in PG&E's billing envelopes belonged to the ratepayer. The Commission further determined that use of the extra space by PG&E was depriving the ratepayers of the value of the extra space. However, the Commission declined to order PG&E to take any action to remedy this inequity because the record was insufficient to determine how the extra space could be used more efficiently for the benefit of the ratepayers. Instead, the Commission invited

any interested party to file a complaint with the Commission so that an appropriate order could be issued.

In 1983, as a result of a complaint filed by TURN, the Commission ordered PG&E to give TURN access to the extra space in the billing envelopes four times a year, while permitting PG&E to use the extra space during the remaining months. (D.83-12-047 as modified by D.84-05-039.) This decision was challenged by PG&E and the case ultimately went to the United States Supreme Court. In Pacific Gas and Electric Co. v. Public Utilities Commission of California (1986) 475 U.S. 1, 17-18, the Court concluded that even if the extra space is ratepayer property under California law, the Commission's order violated PG&E's First Amendment rights because it forced PG&E to associate with potentially hostile views of intervenors or other third parties.

In May of 1987, the Commission established the ratepayer notice program, which consisted of a Commission-sponsored insert in the form of a legal notice in which the Commission informed ratepayers of the existence of various intervenor groups. (See D.87-05-072 and D.87-05-073.) The ratepayer notice program applied to the major electric, gas, and telephone utility companies. The purpose of the program was to further the goal of encouraging intervenor participation and, thereby, increasing ratepayer participation in Commission proceedings, while avoiding the constitutional questions which were raised as a result of requiring the utility to carry the message of a third party. The Commission's decisions expressly left open the issue of how to compensate the ratepayers for the utility's use of the extra space to mail newsletters and other inserts to ratepayers. Since this issue applies to more than one utility, the Commission stated that it would consider possible methods for compensating ratepayers for the utilities' use of the extra space in a generic proceeding.

The ratepayer notice program was in effect from September of 1987 through December of 1988. At the end of this program, the Public Advisor's office evaluated the program and

issued a report. Among other things, the report concluded that the ratepayer notice program had not met the primary goal of the Commission, which was to encourage ratepayer participation in Commission proceedings. (See Report to the Commission on the Ratepayer Notice Program, July 6, 1990.) The report also listed the following possible future options open to the Commission in order to increase intervenor participation:

- 1) Rely on existing intervenor support mechanisms (such as the intervenor funding program and the Public Advisor's office) and not continue the notice program.
- 2) Continue the intervenor notice program in its current form (or at a reduced frequency, such as once or twice a year).
- 3) Provide a Commission sponsored bill insert (written by the Public Advisor) which goes one step further than the current notice and actually describes the intervenors and lists their addresses.
- 4) Use another state mass mailing (such as Department of Motor Vehicles renewals) to carry a message (either from the Public Advisor's office or the intervenors themselves).
- 5) Charge utilities for the use of the "empty space" in their bill mailings (which are paid for by ratepayers) and use the funds to support independent mailings of intervenor information to utility customers.

An option related to this last one is to require utilities to sell the extra space to commercial advertisers, and use the revenues to support intervenor programs.

II. SCOPE OF PROCEEDING

The purpose of this OII is to review the issue of the extra space in utility billing envelopes consistent with the Court's decision and our experience with the ratepayer notice program. At present, the only notices that we require to be included in utility billing envelopes are legal notices such as those associated with a rate filing. The question is whether any additional use or different treatment of the extra billing space is needed to improve the Commission's regulatory process and is appropriate under the Court's ruling. In reviewing what is now legally permissible, we invite proposals regarding our intervenor program and our treatment of utility administrative expenses such as billing. In examining those proposals we will consider not only whether the benefits of the proposal outweigh the burdens but whether they represent any needed improvement over that which is in place today.

Utilities, intervenor groups, and other interested parties are invited to submit comments on these issues. In opening comments we will ask that parties identify specific proposals that they may have for changes to the status quo, specify how those proposals will help to advance the Commission's regulatory objectives, and describe how such proposals are legal given the holding of the Supreme Court or other limitations or requirements. In reply comments, parties will have the opportunity to respond to the specific proposals made in opening comments. Comments should also identify any factual issues that are raised and the scope of any evidentiary hearings that may be needed in this proceeding. We will put parties on notice that we may proceed from the record developed in the comments to a rulemaking wherein we publish proposed rules if a hearing is not required by law or otherwise necessary to complete the record.

We will allow parties sixty (60) days from the date of this order to file opening comments and thirty (30) days thereafter to

file reply comments. The Commission will assign an Administrative Law Judge to this proceeding to review the comments. After such review, the assigned Administrative Law Judge will issue a ruling setting forth further procedures to be followed in this investigation, which may include additional comments, workshops, hearings, or the preparation of proposed rules based on the opening and reply comments only as noted above.

ORDER

IT IS ORDERED that:

1. An investigation on the Commission's own motion is hereby instituted to develop policies and procedures applicable to the "extra space" in billing envelopes of utilities.
2. Electric, gas, and telephone utilities listed in Appendix A are named respondents to this proceeding.
3. Other parties are invited to submit comments on the issues set forth in this OII. Intervenor groups and other interested persons, as listed in Appendix B, shall be included in the service list for this proceeding. The Public Advisor shall encourage participation of any other intervenor groups not specifically listed.
4. Those parties who wish to comment on the issues may do so by filing an original and twelve copies of opening comments with the Commission's Docket Office no later than sixty (60) days from the effective date of this order. Additional copies shall be served on all parties listed in Appendices A and B. Reply comments shall be filed similarly no later than ninety (90) days from the effective date of this order.
5. After reviewing the comments, the assigned Administrative Law Judge will issue a ruling which sets forth further procedures to be followed in this investigation.

6. The Executive Director shall mail a copy of this order to all parties listed in Appendices A and B.

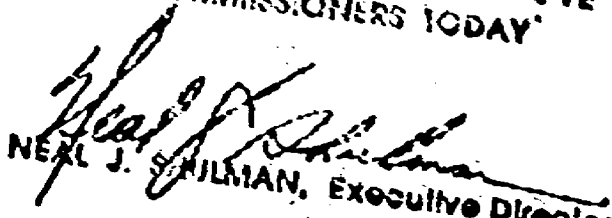
This order is effective today.

Dated October 24, 1990,, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners

Commissioner John B. Ohanian
being necessarily absent, did
not participate

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHILMAN, Executive Director

AB

APPENDIX A

Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94106

Pacific Power and Light Company
920 South West Sixth Avenue, Room 615
Portland, OR 97204

San Diego Gas and Electric Company
P.O. Box 1831
San Diego, CA 92112

Sierra Pacific Power Company
P.O. Box 10100
Reno, NV 89520-26

Southern California Edison Company
P.O. Box 800
Rosemead, CA 91770

CP National Corporation
2121 No. California Blvd., Suite 400
Walnut Creek, CA 94596

Southern California Gas Company
810 South Flower Street
Los Angeles, CA 90017

Southwest Gas Corporation
P.O. Box 98510
Las Vegas, NV 89193-8510

Calaveras Telephone Co.
Howard J. Tower, President
P.O. Box 37
Copperopolis, CA 95228

California Oregon Telephone Co.
Robert H. Edgar
President
P.O. Box 847
Dorris, CA 96023-0847

Citizens Utilities Company of CA
Arthur J. Smithson
Asst. V.P. & General Manager
P.O. Box 496020
Redding, CA 96049-6020

Contel Service Corporation
Greg Gierozak
Revenue Manager
P.O. Box 12000
Bakersfield, CA 93389

CP National Corporation
Linda Holden
Manager/Communication Revenues
2121 No. Calif. Blvd., Suite 400
Walnut Creek, CA 94596-8192

Ducor Téléphone Co.
Paul J. Schwartz, V.P.
23499 Avenue 56
P.O. Box 700
Ducor, CA 93218

Evans Téléphone Co.
Delwyn C. Williams, President
4918 Taylor Court
Turlock, CA 95380

Foresthill Téléphone Co., Inc.
Ralph Hoeper, President
P.O. Box 1189
Foresthill, CA 95631

GTE California Inc.
Keith Kramer
Vice Prés./Rég. & Gov. Affairs
One GTE Place (RC 3412)
Thousand Oaks, CA 91362-3811

GTE West Coast Inc.
Fred E. Logan
Director-Regulatory Affairs
P.O. Box 1003, 1800 (1-RA)
Everett, WA 98206

Happy Valley Telephone Co.
K. J. Waters
President
P.O. Box 9600
Stockton, CA 95208

Hornitos Téléphone Co.
K.J. Waters
President
P.O. Box 9600
Stockton, CA 95208

Kerman Téléphone Co.
Dan Douglas
783 South Madera Avenue
Kerman, CA 93630

Pacific Bell
M.J. Miller
Exec. Director/State Reg.
140 New Montgomery Street
San Francisco, CA 94105

Pinnacles Telephone Co.
Rex Bryan
President
340 Live Oak Road
Paicines, CA 95043

Roseville Telephone Co.
Robert L. Doyle
President-General Manager
P.O. Box 969
Roseville, CA 95661

Sierra Telephone Co., Inc.
Earl Bishop
Controller
P.O. Box 219
Oakhurst, CA 93644

The Ponderosa Telephone Co.
E.L. Silkwood
President
P.O. Box 21
O'Neals, CA 93645

The Siskiyou Telephone Co.
Jim Lowers
Vice President
P.O. Box 705
Fort Jones, CA 96032-0705

The Volcano Telephone Co.
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General Manager
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Tuolumne Telephone Co.
Linda Holden
Rates & Tariff Manager
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Walnut Creek, CA 94596-8192

Winterhaven Telephone Co.
K.J. Waters
P.O. Box 9600
Stockton, CA 95208

APPENDIX B

TURN
625 Polk Street, Suite 403
San Francisco, CA 94102

Center of Public Interest Law
Leanne Cotham
University of San Diego School of Law
Alcala Park
San Diego, CA 92110

Power Users Protection Council (PUPC)
Jeff Fabbri
116 Annin Ave.
Wasco, CA 93280

Redwood Alliance
Michael Welch
P. O. Box 293
Arcata, CA 95521

Sierra Tieline Opposition Project (STOP)
Nancy Johnson, President
10594 Combie Rd., Suite 6316
Auburn, CA 95603

Contra Costa County
Sara Hoffman
651 Pine Street, 8th Floor
Martinez, CA 94553

The Legal Center for the Elderly &
Disabled
Will Stallworth/Intake Coordinator
530 Bercut Drive, Suite G
Sacramento, CA 95814

Bay Area Center for Law and the Deaf
J. Kendrick Kresse
125 Parrott Street
San Leandro, CA 94577

California Common Cause
Walter Zelman
636 S. Hobart Blvd., Room 226
Los Angeles, CA 90005

U.S. English
Stanley Diamond
1424 16th Street, NE, Suite 201
Washington, D.C. 20036

Independent Energy Producers Assoc.
Jan Hamrin
1001 G Street, #103
Sacramento, CA 95814

Independent Power Corporation
Mary Ann Karonis
1330 Broadway, Suite 1600
Oakland, CA 94612

Energy Manager
Karen Lindh
California Manufacturers Association
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Sacramento, CA 95806-1198

Electric & Gas Industries Association
Howard Hansen
1355 Market Street, Suite 411
San Francisco, CA 94103

Skaff & Anderson
Andrew J. Skaff
601 California Street, Suite 1300
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Flash Interprise Corporation
Burnette Forté
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Utility Consumers' Action Network (UCAN)
Michael Shames, Executive Director
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Economic Consultant
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El Cajon, CA 92021-3711

Sky Valley Chamber of Commerce
Emanuel H. Blum
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Desert Hot Springs, CA 92240

Graham & James
Martin A. Mattes
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San Francisco, CA 94111

Consumer Coalition of California
Virginia Jarrow, President
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Redondo Beach, CA 90277

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California State Assembly
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END OF APPENDIX B