

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION NO. E-3609
JUNE 10, 1999**

RESOLUTION

RESOLUTION E-3609. MOUNTAIN UTILITIES REQUESTS APPROVAL OF AN ELECTRICITY RESTRUCTURING MEMORANDUM ACCOUNT (ERMA). APPROVED WITH MODIFICATIONS.

BY ADVICE LETTER NO. 8 FILED MARCH 3, 1999

SUMMARY

By Advice Letter (AL) No. 8 filed March 3, 1999, Mountain Utilities (MU) requests authority to implement an Electricity Restructuring Memorandum Account (ERMA). The Kirkwood Meadows Public Utility District (the PUD) has protested AL 8. This resolution grants, in part, the protest of the PUD and authorizes MU to implement an ERMA with modifications specified herein. If MU accepts these modifications to its proposed tariff language, it shall supplement AL 8 within 20 days to incorporate the changes. The revised Preliminary Statement will effectively allow the establishment of an ERMA for MU to record the expenses incurred in preparing a Direct Access Implementation Plan (DAIP)

BACKGROUND

1. Decision (D.) 96-12-077, the CPUC's opinion on cost recovery plans for Pacific Gas and Electric (PG&E), Southern California Edison (Edison), and San Diego Gas & Electric (SDG&E) outlines the procedure by which these three investor-owned utilities shall utilize to develop an Industry Restructuring Memorandum Account (IRMA). That IRMA is similar to the ERMA requested in AL 8.
2. D.97-05-040 further clarifies the Commission's intent and designates that amounts recorded in the IRMAs shall track all future costs associated with such accounts until terminated by the Commission. The decision indicates that ALs requesting approval of these accounts contain proposed tariff language and clearly specify the criteria for allocating the kinds of activities to each appropriate IRMA subaccount.
3. In D.97-12-093, the proceeding to determine the applicability of AB 1890 (Stats 1996, ch. 854) and the Commission's principles of electric industry restructuring to small and multi-jurisdictional utilities, the CPUC recognized that cost recovery guidelines of PU Code

Section 368(a) do not apply to MU because MU had no transition costs to recover. As a result, the Commission exempted MU from filing a DAIP.

4. The PUD, a public utility district and the second largest electricity consumer on MU's system, has stated its intent to self-generate and sell its excess power to customers in MU's service area. PUD has protested this advice letter and is an intervenor in MU's current general rate case (GRC), Application (A.) 99-01-037.
5. In response to the potential of other self-generation and excess power sales by PUD, MU subsequently agreed to prepare and file a DAIP. To facilitate cost recovery associated with the preparation and filing of a DAIP, MU requests approval of an ERMA. MU requests that the ERMA "record and track various expenses and costs incurred as a result of activities to further comply with the restructuring of California's electricity industry."

NOTICE

Notice of the Advice Letter was made by publication in the Commission's Daily calendar on March 5, 1999 and it was distributed to parties in accordance with Section III-G of General Order 96-A.

PROTEST

1. PUD filed a timely protest on March 23, 1999.
2. The PUD protests MU's Advice letter asserting that an ERMA is unnecessary and that recovery of any DAIP-related costs should be requested as part of MU's current GRC.
3. PUD requests that if the Commission allows MU to create an ERMA it order specific tariff language to assure that only incremental costs associated with creation of a DAIP be allowed to be recorded in the ERMA. PUD also requests that the ERMA be consistent with Commission policy regarding the eligibility of restructuring-related costs for recovery.
4. In its timely response to the protest, filed on March 29, 1999, MU indicates that it needs the ERMA immediately so it can begin work on a DAIP. MU states that it will be much simpler to record all costs it believes are restructuring-related in the ERMA, not just those related to the DAIP.

DISCUSSION

1. The Energy Division has reviewed AL 8 filed by MU and the protest filed by PUD. It also reviewed the suggested language proposed by MU. The authority requested is too broad for the purposes of preparing and filing a DAIP.

2. By definition, the costs recorded in the memorandum account may or may not be recoverable through rates and are subject to further scrutiny by the Commission.
3. In D.97-05-040 we held that while there are aspects of the small and multi-jurisdictional utilities that are unique, to the extent that such utilities are seeking cost recovery, we should apply principles and guidelines we have previously determined to be consistent with the law and essential for the cost recovery of PG&E, Edison, and SDG&E. Those principles include only approving costs that are specific and directly related to the purposes for which recovery is sought. For example, PG&E's approved tariffs outlining their IRMAs include specific subaccounts such as Customer Education Program Subaccount and the Electric Education Trust Subaccount which allows the Commission to know exactly what costs are being booked under the IRMA. MU has failed to provide the necessary specificity about what costs, other than those directly related to the DAIP, it considers to be "restructuring-related" in this advice letter.
4. In its response to PUD's protest, MU states that the cost of developing a standby tariff should be recorded in the ERMA because it relates to direct access. We disagree. The Commission approved standby rates for self-generation customers of electric utilities long before electric restructuring was initiated. Furthermore, the Assigned Commissioner's Ruling (ACR) dated April 28, 1999 in MU's GRC ruled that the development of a standby rate is within the scope of that proceeding.
5. The April 28 ACR in A.99-01-037 also ruled that development of a DAIP is outside the scope of the GRC. As such, we deny PUD's recommendation to address the DAIP in MU's GRC. However, we grant in part PUD's protest to limit costs booked to the ERMA to those specifically related to development of a DAIP.
6. Upon review of MU's proposed Preliminary Statement, we have determined that the specifications described therein exceed the necessary authority for the recording of costs directly related to the preparation and filing of a DAIP. We therefore require submittal of a modified Preliminary Statement which shall read as follows:
 - Section 12, paragraph A should read:
"The purpose is to record and track costs associated with the preparation and filing of a DAIP."
 - Section 12, paragraph D.1. should read:
"A monthly debit entry equal to the recorded amount of costs incurred in the preparation and filing of a DAIP."
 - Section 12, Paragraph D.2. should be stricken. The proposed tariff language in Section D. 2 is vague and broadly written. MU has not shown what other electric restructuring related costs it has or expects to incur or recover.

7. We approve all other portions of MU's proposed Section 12.

COMMENTS

The draft resolution of the Energy Division in this matter was mailed to the parties in accordance with Public Utilities Code Section 311(g). Timely comments were filed on May 20, 1999 by MU. The comments merely reargue the points raised in earlier filings and do not require a separate discussion.

FINDINGS

1. By the above listed AL 8 filed on March 3, 1999, MU requests approval of an ERMA to record and track non-specified expenses and costs to be incurred as a result of activities to comply with the restructuring of California's electricity industry.
2. MU's advice letter is approved subject to its acceptance of specified modifications to its tariffs as described herein.
3. PUD filed a protest alleging that:
 - Recovery of costs of preparing a DAIP in MU's pending general rate case would require the Commission to engage in retroactive ratemaking;
 - The DAIP and recovery of its cost are outside of the scope of MU's GRC (A.99-01-037); and
 - Whether only incremental restructuring costs may be recovered is an issue to be addressed when cost recovery is sought, not when the memorandum account is approved.
4. The advice letter process, not the general rate case proceeding, is the proper forum for considering MU's proposed ERMA.
5. Development of standby rates are not directly related to restructuring, and the costs of developing a standby tariff should not be recorded in the ERMA.
6. According to an April 28, 1999 ACR in A.99-01-037, MU's GRC, the Assigned Commissioner has indicated that the development of a standby rates is within the scope of that proceeding.
7. MU has not identified restructuring-related costs, other than those required to develop a DAIP, which it may incur.

8. MU's proposed tariff language is overly broad and vague.
9. Development of MU's DAIP is outside the scope of its GRC and will not be considered in that proceeding.
10. PUD's recommendation to deny MU's AL 8 and consider the ERMA in MU's GRC Application (A.99-01-037) is denied.
11. PUD's protest is granted in part to limit costs booked to the ERMA to those specifically related to development of a DAIP.
12. Section 12 should be modified to read as follows:
 - Section 12, paragraph A should read:
"The purpose is to record and track costs associated with the preparation and filing of a DAIP."
 - Section 12, paragraph D.1. should read:
"A monthly debit entry equal to the recorded amount of costs incurred in the preparation and filing of a DAIP."
 - Section 12, Paragraph D.2. should be stricken.

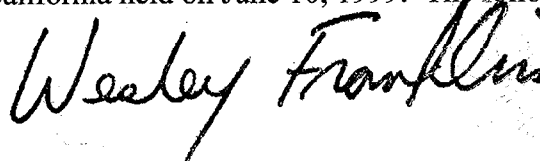
June 10, 1999

THEREFORE, IT IS ORDERED that:

1. MU's advice letter is approved subject to MU's acceptance of the proposed modifications as described herein.
2. If MU accepts the modifications described herein, it shall supplement its advice letter to make the tariff language changes set forth within 20 days of the effective date of this resolution.
3. MU is authorized to book in the ERMA only those costs directly related to the preparation and filing of the DAIP. These costs shall exclude costs associated with the design and implementation of a standby tariff, the costs of radio meter devices and the costs of upgrading billing systems to accommodate baseline/nonbaseline rates.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 10, 1999. The following Commissioners voting favorably thereon:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
LORETTA M. LYNCH
JOEL Z. HYATT
Commissioners