

Decision 07-05-044 May 24, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338 E) for Authority to Establish Marginal Costs, Allocate Revenues, and Design Rates.

Application 05-05-023
(Filed May 20, 2005)

**OPINION DENYING PETITION OF WESTERN MANUFACTURED HOUSING
COMMUNITY ASSOCIATION TO MODIFY DECISION 06-06-067**

Summary

This opinion denies the Petition of Western Manufactured Housing Community Association (WMA) requesting the Commission to modify Decision (D.) 06-06-067 by allowing Southern California Edison Company's (SCE) Schedule D to be opened to clarify the Basic Charge¹ for mobile homes, and to refund certain charges since August 1, 2006. We direct WMA to pursue this issue in an appropriate rate design proceeding.

¹ The Basic Charge is a daily distribution charge which is part of the delivery service component of total rates.

Procedural Background

In Phase II of SCE's 2006 General Rate Case all of the active parties including WMA and SCE entered into a Settlement Agreement that addressed the allocation of revenue requirement to customer classes and designed a rate structure. The Settlement Agreement was adopted by D.06-06-067 on June 29, 2006. SCE filed tariffs to implement the adopted rate structure on July 27, 2006, with an effective date of August 1, 2006.

On December 8, 2006, WMA filed its Petition requesting that the Commission require SCE to change tariff language in Schedule D² so that it is clear that multi-family residences include mobile home parks. WMA contends this tariff language change will result in a greater discount for customers charged under Schedule DMS-2.³ WMA requests that the difference resulting from a change in the Basic Charge used in the discount for the Schedule DMS-2 be refunded to customers, and that the refund period begin August 1, 2006.

On January 8, 2007, SCE responded to WMA's Petition, and on February 13, 2007 WMA replied to SCE's response. No other parties have responded to WMA's Petition.

Discussion

Schedule D includes a Basic Charge for Single-Family residences of \$0.029 per day, and \$0.022 per day for Multi-Family residences. This Basic Charge reflects the daily cost for providing distribution service to this customer class.

² Schedule D is SCE's basic Domestic Service rate schedule.

³ Schedule DMS-2 is SCE's Domestic Service rate schedule for master-metered customers, who track usage of separately billed submetered customers at a mobile home park.

Schedule DMS-2⁴ provides a discount for single-family mobile homes that are separately submetered. This discount accounts for DMS-2 customer's costs for tracking and billing submetered customers. Therefore, the DMS-2 discount includes a reduction in the Basic Charge reflecting reduced distribution costs. One portion of the Settlement Agreement involved establishing this discount in Schedule DMS-2 for customers represented by WMA and who operate electric systems, submeter electricity, and bill individual tenants residing in mobile home parks.

WMA contends that SCE's Basic Charge for mobile home customers served under Schedule D should be \$0.022 per day, the Basic Charge for multi-family residences. WMA argues this Basic Charge should be used to calculate the DMS-2 customer discount. Since the current DMS-2 discount uses a Basic Charge of \$0.029, WMA concludes customers served under DMS-2 are overcharged \$0.007 per tenant per day (\$0.029-\$0.022).⁵ WMA believes these over-collections are accruing to SCE's shareholders.

Although SCE agrees with WMA that Schedule D classifies mobile homes as multi-family residences, SCE contends there is no reason to modify the Settlement Agreement by opening Schedule D, or to consider modification of the discount provided to DMS-2 customers. SCE points out that the Settlement Agreement represents a compromise of SCE's position⁶ and WMA's position,

⁴ Schedule DMS-2 is closed to new mobile home parks and manufactured housing communities for which construction commenced after January 1, 1997.

⁵ WMA's requested change in the Basic Charge would result in a DMS-2 discount of \$0.178 rather than the \$0.171 discount currently included in Schedule DMS-2.

⁶ SCE's proposed discount for Schedule DMS-2 customers was \$0.144. (Ex. 2-4, Appendix C, p. G-8.)

and should not be disturbed at this time in the absence of agreement by the interested parties to the Settlement Agreement. SCE argues that WMA was represented by both counsel and an expert witness in discussions leading to the Settlement Agreement, and the terms of the DMS-2 discount provided by the Settlement Agreement are explicit and are documented in the Settlement Agreement itself. SCE adds that on a policy basis, the Commission should not alter terms of a settlement agreement when one of the parties to the agreement is not satisfied with the outcome.

We will not grant WMA's petition to open Schedule D and alter terms of the Settlement Agreement. Although WMA may have correctly identified a difference between the Basic Charge under Schedule D, and the Basic Charge indicated in the DMS-2 discount, WMA has not demonstrated why the Settlement Agreement should be altered, or why changes to Schedule D are necessary. This difference in the Basic Charge in Schedules D and DMS-2 may be a result of the compromise and negotiations which led to the Settlement Agreement,⁷ or due to other reasons. We further note that the discount in Schedule DMS-2 could have been even less, had we adopted SCE's proposed DMS-2 discount of \$0.144, rather than the \$0.171 discount adopted in D.06-06-067.

Both SCE and WMA agree this is not a new matter. Although WMA states this issue has only recently become known to its members, WMA explains the issue has existed at least since April 2005. SCE points out that since 1996, the

⁷ Rule 12.6 of the Commission's Rules of Practice and Procedure (Rules) provides that settlement negotiations are confidential and are not to be disclosed without the consent of the parties participating in the negotiations.

initial year for use of the Basic Charge, mobile homes have been classified as multi-family residences, and SCE has applied the multi-family Basic Charge under Schedule D.⁸

As a procedural matter, we note that WMA's Petition is deficient because Rule 16.4(b) of the Commission's Rules requires that "allegations or new or changed facts must be supported by an appropriate declaration or affidavit," and no declaration or affidavit was attached to WMA's Petition. Although WMA had another opportunity to include a declaration or affidavit in its February 13, 2007 response, it did not.

While it does not directly impact the issue raised by WMA's Petition, contrary to WMA's contention, revenues collected by SCE above estimated amounts do not flow through to shareholders, as SCE's Base Revenue Requirement Balancing Account (BRRBA) tracks the base-related revenue requirement. If recorded revenue is greater than the authorized base-related revenue requirement, SCE returns the over-collection in BRRBA to customers in the subsequent year. Furthermore, we note that the adopted rate design is intended to produce authorized revenue. If we reduced a rate for a SCE rate schedule, SCE would experience a revenue shortfall within this customer class which would require an increase in other rates within the same class.

In denying WMA's Petition, we are not adopting any findings, or other conclusions regarding the Schedule D tariff language, or the discount rate

⁸ SCE adds that it incorrectly billed certain Schedule D customers using the single-family Basic Charge however SCE is correcting these bills.

included in Schedule DMS-2. We will consider this issue, along with other rate design issues, in the appropriate proceedings.⁹

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and Rule 14.2(a) of the Rules of Practice and Procedure. Comments were received on May 14, 2007, from WMA and reply comments were received on May 21, 2007, from SCE.

We have considered these comments and as the comments raise no new legal or factual issues, we will not make any changes in the proposed decision.

Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Bruce DeBerry is the assigned ALJ in this proceeding.

Findings of Fact

1. WMA's Petition requests that the Commission open SCE's Schedule D, modify the Settlement Agreement adopted in D.06-06-067, and provide refunds to customers.
2. All active parties, including WMA and SCE, entered into the Settlement Agreement.
3. WMA and SCE engaged in compromise and negotiations leading to the Settlement Agreement.
4. WMA was represented by counsel and an expert during settlement negotiations.
5. The subject of WMA's petition has existed at least since April, 2005.

⁹ We anticipate that SCE will file its next GRC in 2007 for Test Year 2009.

6. Any over-collection of the base revenue requirement is accrued in the BRRBA, and returned to customers in the subsequent year.

7. A reduction in a rate for a SCE rate schedule will cause an increase in other rates for that customer class.

Conclusions of Law

1. Rule 12.6 provides that settlement and negotiation discussions are confidential without the consent of the parties participating in the negotiation.

2. WMA's Petition is deficient because Rule 16.4(b) of the Commission's Rules requires that "allegations or new or changed facts must be supported by an appropriate declaration or affidavit," and no declaration or affidavit was attached to WMA's Petition.

3. The issue of the Basic Charge under Schedule D and the Basic Charge under Schedule DMS-2 is an appropriate issue in utility rate design proceedings.

4. WMA's Petition requesting that Schedule D be opened, the Settlement Agreement be modified, and refunds be made to customers should be denied.

5. The following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The petition of Western Manufactured Housing Community Association for Modification of Decision 06-06-067 is denied.

2. Application 05-05-023 is closed.

This order is effective today.

Dated May 24, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners