

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's own Motion to re-examine the
underlying issues involved in the submetering
discount for mobile home parks and to stay
D.01-08-040.

Rulemaking 03-03-017
(Filed March 13, 2003)

Order Instituting Investigation on the
Commission's own Motion to re-examine the
underlying issues involved in the submetering
discount for mobile home parks and to stay
D.01-08-040.

Investigation 03-03-018
(Filed March 13, 2003)

Robert Hambley, for Himself and, on Behalf of
the Residents of Los Robles Mobilehome Park,

Complainant,

vs.

Hillsboro Properties, a California Limited
Partnership, and the City of Novato,

Defendants.

Case 00-01-017
(Filed January 14, 2000)

INTERIM OPINION RESOLVING PHASE 1**Summary**

In this interim decision, we adopt the unopposed joint recommendation of seven of the parties. The joint recommendation identifies the categories of costs

the electric and natural gas utilities incur when directly serving mobile home park (MHP) tenants that are avoided by the utilities when the MHP is served through a distribution system owned by the MHP owner (sub-metered MHP). These categories of costs are to be used in determining the amount of the discount provided by the utility to the sub-metered MHP owner as reimbursement for the cost of providing sub-metered service. The joint recommendation also identifies categories of costs that are either not incurred by the utility when it directly serves MHP tenants, or are not reflected in utility rates for direct service, but are incurred by sub-metered MHP owners, and may be separately charged to tenants if not otherwise prohibited.

Background

A large number of MHP owners provide electricity and/or natural gas to their tenants through a master meter. In such cases, the MHP owner receives electricity and/or natural gas from the utility at a master meter. The electricity and/or natural gas are then distributed to tenants through the MHP owner's distribution system, and a sub-meter located at each tenant's mobile home. Each tenant is billed by the MHP owner for the usage recorded by the sub-meter. As a result, the tenant is not a customer of the utility.

Public Utilities Code § 739.5 requires sub-metered MHP owners to charge the same rates for electricity and natural gas that would be applicable if the utility served the tenant directly. The utilities are required to provide the electricity and natural gas to the sub-metered MHP owner at a discount. The discount is intended to reimburse the MHP owner for the reasonable average cost of providing sub-metered service. However, it may not exceed the average cost that the utility would have incurred in providing comparable services to the tenant directly, which is avoided when the MHP is sub-metered.

In Rulemaking (R.) 03-03-017 and Investigation (I.) 03-03-018, the Commission initiated a rulemaking and investigation into the discounts. In Phase 1 of the proceeding, the Commission intended to identify utility costs, not already identified in prior Commission decisions, which are avoided by the utility when the MHP is sub-metered. In addition, costs related to providing electric or natural gas service, that are not covered by the discount, and that the sub-metered MHP owner could pass through to tenants, subject to the oversight of local rent control boards where applicable, were to be identified. Phase 2 will address how the discounts should be determined, and related matters.

Joint Recommendation

On November 20, 2003, seven of the parties filed an unopposed joint recommendation to resolve Phase 1.¹ The joint recommendation proposed adoption of documents entitled “Phase 1 Handout-Electric,” and “Phase 1 Handout-Gas” included as Attachments A and B to this decision. The handouts identify the categories of costs the utility incurs when directly serving MHP tenants that are avoided by the utility when a MHP is sub-metered. The handouts also identify categories of costs related to electric or natural gas utility service that are either not incurred by the utility when it directly serves MHP tenants, or are not reflected in utility rates for direct service, but are incurred by

¹ The joint recommendation was proposed by The Western Manufactured Housing Community Association, Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, San Diego Gas and Electric Company, Southwest Gas Corporation, and The Utility Reform Network. There are eight active parties to R.03-03-017 and I.03-03-018. Of those, only the Latino Issues Forum did not join in the joint recommendation. However, the Latino Issues Forum does not oppose it.

sub-metered MHP owners. These are the categories of costs that may be separately charged to tenants if not otherwise prohibited.

Discussion

The joint recommendation was distributed to all parties with ample time for review. No party has indicated its opposition to the joint recommendation. As a result, the joint recommendation is, in essence, an unopposed settlement of Phase 1. Therefore, we will evaluate it as such.

Rule 51.1(e) of the Commission's Rules of Practice and Procedure provides that the Commission will not approve settlements or stipulations, whether contested or not, unless they are reasonable in light of the whole record, consistent with law, and in the public interest. As discussed below, the joint recommendation meets these criteria.

The joint recommendation is the result of parties' participation in a workshop run by our staff, comments filed by the parties, discussions held at several prehearing conferences, and numerous other discussions among the parties. In addition, the joint recommendation is unopposed. Therefore, it is reasonable in light of the whole record.

The joint recommendation does not contravene any statute or Commission decision. Therefore, it is consistent with law.

There is strong public policy favoring settlements to avoid costly and protracted litigation. The joint recommendation is the result of extensive discussions by parties representing a diverse range of affected interests, including the utilities, MHP owners, utility customers, and MHP tenants. In addition, no party opposes it. Therefore, the joint recommendation is in the public interest.

The joint recommendation resolves Phase 1 issues, and will provide the basis for moving forward with Phase 2. Therefore, it conveys to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

Comments on Draft Decision

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The joint recommendation is unopposed.
2. The joint recommendation does not contravene any statute or Commission decision.
3. There is strong public policy favoring settlements to avoid costly and protracted litigation.
4. The parties who participated in the discussions that led to the joint recommendation, and who recommend it or do not oppose it, are fairly representative of a diverse range of affected interests.
5. The joint recommendation conveys to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

Conclusions of Law

1. The joint recommendation is, in essence, a settlement.
2. Pursuant to Rule 51.1(e) of the Commission's Rules of Practice and Procedure, the Commission will not approve settlements or stipulations, whether contested or not, unless they are reasonable in light of the whole record, consistent with law, and in the public interest.
3. The joint recommendation is reasonable in light of the whole record, consistent with law, and in the public interest.
4. The joint recommendation should be adopted.
5. The decision should be effective immediately so that Phase 2 of the proceeding can be resolved in a timely manner.

INTERIM ORDER

IT IS ORDERED that the joint recommendation filed on November 20, 2003, is approved. The Phase 1 Handouts proposed for adoption in the joint recommendation, and adopted herein, are included as Attachments A and B to this decision.

This order is effective today.

Dated _____, at San Francisco, California.

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PHASE 1 HANDOUT – ELECTRIC

November 20, 2003

Agreed to by Pacific Gas and Electric Company (PG&E), Southern California Gas Company, San Diego Gas & Electric Company, Southwest Gas Company, Southern California Edison Company, the Western Manufactured Housing Community Association, and The Utility Reform Network.

1. Definitions.

- ◆ Common areas: facilities available for use by all tenants such as: swimming pools, buildings, recreation rooms, clubhouses, parking lots, laundry facilities, and street and common area lighting. This excludes utility-owned load control devices, such as air conditioning cycling mechanisms, where applicable.
- ◆ Pedestal: The pedestal is a rectangular metal box that sits near the concrete pad on which the mobile home is placed. It supports the service panel that contains the meter socket, breaker, and receptacle to connect the electric supply to the mobile home. In a directly-metered MHP, this is a component of the required service equipment (Applicant's responsibility) as specified in Electric Rule 16.D.1.c.
- ◆ Distribution Line Extension Allowance: Distribution Line Extension and Service Extension allowances are granted to Applicants requesting electric service based on expected revenues from permanent loads in accordance with Electric Rules 15 and 16. The allowances for residential electric service are set as a fixed amount per meter or residential dwelling unit.

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2. **Boundaries of the distribution system and services within the master-metered mobile home park (MHP) whose costs are recovered through the sub-metering discount.** - Distribution system and service facilities running from the master meter to, and including, the tenant's meter that are used to deliver electricity to the sub-metered tenant. This does not include required service equipment that would otherwise be owned and maintained by a directly-metered MHP owner pursuant to Electric Rule 16.D.1.c. (including but not limited to: the meter pedestal, its foundation and the meter panel). It also does not include, where applicable, the excavation and supporting substructures of the required service equipment that would otherwise be owned and maintained by a directly-metered MHP owner pursuant to Electric Rule 16.D.1.a.
3. **Utility avoided costs** - Categories of costs the utility incurs when directly serving MHP tenants that are avoided by the utility when a master-metered MHP is sub-metered. These categories of costs are those for which the owner of a master-metered MHP is reimbursed through the discount provided pursuant to the utility tariff for service to master-metered mobile home parks (to the extent these costs do not exceed the average costs the utility would have incurred in providing direct service), and may not be separately charged to MHP tenants by the MHP owner. The following is a general list of costs incurred in the provision of direct service that are avoided in a sub-metered MHP, i.e., utility avoided costs (electric):
 - ◆ Operations and maintenance expenses including, but not limited to, meter reading, billing, maintenance, and repair of the distribution system and service facilities, including distribution and service trenching, distribution and service conduit, distribution and service substructures, and distribution protective structures maintenance, where appropriate, as defined in the applicable utility tariffs, e.g., Electric Rules 15 and 16.

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- ◆ Administrative and general expenses.
- ◆ Uncollectibles.
- ◆ Unaccounted for loss of electrical energy.
- ◆ Capital Investment Costs: Utility cost portion of initial and subsequent capital investment, including capital expenditures for replacement, and improvement of the distribution system and service facilities.
- ◆ This may include, but is not limited to:
 - Capital investment for maintenance-related trenching, conduit (maintenance), transformers, poles, service lines, service drops, and meters as specified in the applicable utility tariffs.
- ◆ Capital investment-related cost components include:
 - depreciation,
 - return on investment (rate base)
 - taxes related to capital investment (including property taxes).
- ◆ Other taxes (not related to capital investments) associated with operations and maintenance, as well as meter reading and billing, that are the utility's responsibility under the applicable tariffs, e.g., Electric Rules 15 and 16.

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4. **Costs not covered by the discount** - Categories of costs related to electric utility service that are either not incurred by the utility when it directly serves MHP tenants or are not reflected in utility rates for direct service, but are incurred by the owners or operators of master-metered MHPs. This may include Applicant (MHP owner) responsibility service equipment required by utilities to provide service to the MHP (Electric Rule 16) and equipment to hook-up the mobile home to the MHP's electric service. The following are the categories of electric costs for which the owners of master-metered MHPs are not compensated through the electric sub-metering discount provided pursuant to a utility tariff. Such costs may only be separately charged to sub-metered tenants if doing so can be shown not to violate any of the following: (1) Public Utilities Code Section 739.5(a), (2) related case and statutory law that owners of sub-metered MHPs may not pass through to tenants as rent increases costs related to the repair and maintenance of their sub-metered electric utility systems if such cost components are covered by the sub-metering discount, or (3) other local rent control ordinances:

- ◆ Costs related to common area
- ◆ Purchase and capital-related installation, repair and maintenance costs for: pedestals, meter sockets, circuit breakers, service panels, and support pads.
- ◆ Trenching (excavation) for (1) underground service reinforcements, as defined by Rule 16.F.1; and (2) expansion of sub-metered distribution and services under Rules 15.B.1.a and 16.D.1.a(2).¹ (Trenching for maintenance and repair is included in the discount)

¹ PG&E's policy is that master-metered mobile home parks cannot be expanded by the addition of additional sub-metered spaces.

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- ◆ Conduits for (1) service reinforcements, as defined by Rule 16.F.1; and (2) expansion of sub-metered distribution and services under Rule 15.B.1.a and 16.D.1.a(3).² (Capital-related costs for initial installation only, not maintenance and repair, which are already covered by the discount).
- ◆ Substructures and protective structures for (1) service reinforcements as defined by Rule 16.F.1; and (2) expansion of sub-metered distribution and services under Rule 15.B.1.a and 16.D.1.a.³
- ◆ Capital investment related costs for the cost components listed in this Section 4 if not otherwise directly recovered by the MHP owner, such as:
 - depreciation
 - return on investment
 - taxes related to capital investment (including property taxes).
- ◆ Operations and maintenance expenses for the interconnection between the meter set and each sub-metered dwelling unit (mobile home), including associated taxes.

² PG&E's policy is that master-metered mobile home parks cannot be expanded by the addition of additional sub-metered spaces.

³ PG&E's policy is that master-metered mobile home parks cannot be expanded by the addition of additional sub-metered spaces.

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- ◆ Other taxes (not related to capital investments) not otherwise directly recovered by the MHP owner associated with operations and maintenance that are the responsibility of the owner of the master-metered mobile home park under the applicable tariffs, e.g., Electric Rules 15 and 16.

The inclusion on the above list of any cost category does not warrant automatic approval by a rent board of related rent increases for the sub-metered tenants of a master-metered MHP. The MHP owner must first demonstrate that costs incurred properly fall within the categories of costs set forth above. Then, the rent board would need to determine that any related recovery of these costs through rent is not prohibited by (1) Public Utilities Code Section 739.5(a), (2) related case and statutory law, and (3) other local rent control ordinances.

(END OF ATTACHMENT A)

ATTACHMENT B**Page 1****PHASE 1 HANDOUT – GAS****November 20, 2003**

Agreed to by Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), Southwest Gas Company (Southwest), Southern California Edison Company, the Western Manufactured Housing Community Association, and The Utility Reform Network.

1. Definitions.

- ◆ Common areas: facilities available for use by all tenants such as: swimming pools, buildings, recreation rooms, clubhouses, and laundry facilities.
- ◆ Distribution Main/Service Extension Allowance:
Distribution main and service allowances are granted based on expected revenues from permanent loads per Rules 15 and 16 for PG&E, SDG&E, and Southwest, and Rules 20 and 21 for SoCalGas (these references hold throughout this document). The allowances for residential gas distribution and service may vary among utilities. They are set as an amount per meter or residential dwelling unit that varies by the number of gas end-use appliances installed at each residential dwelling unit.

2. Boundaries of the distribution system and services within the master-metered mobile home park (MHP) that are addressed by the discount.

Distribution system and service facilities running from the master-meter to, and including, the tenant's meter that are used to deliver natural gas to the tenant. This does not include, where applicable, the excavation and supporting substructures for required service equipment that would otherwise be owned and maintained by a directly metered MHP owner pursuant to gas Rule 16.D.1.a.

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3. Utility avoided costs- Categories of costs the utility incurs when directly serving MHP tenants that are avoided by the utility when a master-metered MHP is sub-metered. These categories of costs are those for which the owner of a master-metered MHP is reimbursed through the discount provided pursuant to the utility tariff (to the extent these costs do not exceed the average costs the utility would have incurred in providing direct service), and may not be separately charged to MHP tenants by the MHP owner. The following is a general list of costs incurred in the provision of direct service that are avoided in a sub-metered MHP, i.e., utility avoided costs (gas):

- ◆ Operations and maintenance expenses including, but not limited to, meter reading, billing, maintenance, and repair of the distribution system and services, as defined in the applicable utility tariffs, e.g., Gas Rules 15 and 16.
- ◆ Administrative and general expenses.
- ◆ Uncollectibles.
- ◆ Unaccounted for gas losses
- ◆ Capital Investment Costs: Utility cost portion of initial and subsequent capital investment, including capital expenditures for replacement and improvement of the distribution system and services.
- ◆ This may include, but is not limited to:
 - capital investment for maintenance-related trenching, meters, meter set assemblies, distribution mains and service lines as specified in the applicable utility tariffs.
- ◆ Capital-investment-related cost components include:
 - depreciation
 - return on investment (rate base)
 - taxes related to capital investment (including property taxes).

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- ◆ Other taxes (not related to capital investments) associated with operations and maintenance (including meter reading and billing) that are the utility's responsibility under the applicable tariffs, e.g., Gas Rules 15 and 16.
4. **Costs not covered by the discount**- Categories of costs related to gas utility service that are either not incurred by the utility when it directly serves MHP tenants or are not reflected in utility rates for direct service, but are incurred by the owners or operators of master-metered MHPs and are incidental to the service they directly provide to MHP tenants. The following are the categories of costs for which the owners of master-metered MHPs are not compensated through the gas sub-metering discount provided pursuant to a utility tariff. Such costs may only be separately charged to sub-metered tenants if doing so can be shown not to violate any of the following: (1) Public Utilities Code Section 739.5(a), (2) case and statutory law, that owners of sub-metered MHPs may not pass through to tenants as rent increases costs related to the repair and maintenance of their sub-metered natural gas utility systems if such cost components are covered by the sub-metering discount, or (3) other local rent control ordinances:
- ◆ Costs related to common areas,
 - ◆ Trenching (excavation) for (1) service reinforcements as defined by Rule 16.F.1; and (2) expansion of sub-metered distribution and services¹ under Rules 15.B.2. and 16.D.1.a(2).²

¹ It is the policy of PG&E and Southwest that master-metered parks not be expanded by the addition of additional sub-metered spaces.

² The utilities are responsible for all trenching costs up to the line extension allowance for SoCalGas and Southwest. The utilities are responsible for distribution main trenching for PG&E and SDG&E.

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- ◆ Substructures and protective structures for (1) service reinforcements as defined by Rule 16.F.1.; and (2) expansion of sub-metered distribution and services³ under Rule 15.B.1. and 16.D.1.a.
- ◆ Capital investment related costs for the cost components listed in this Section 4 if not otherwise directly recovered by the MHP owner, such as:
 - depreciation
 - return on investment
 - taxes related to capital investment (including property taxes).
- ◆ Operations and maintenance expenses of the interconnection between the meter set and dwelling unit (mobile home), including associated taxes.
- ◆ Other taxes (not related to capital investments) not otherwise directly recovered by the MHP owner associated with operations and maintenance that are the customer's responsibility under the applicable tariffs, for example Gas Rules 15 and 16.

The inclusion on the above list of any cost category does not warrant automatic approval by a rent board of related rent increases for the sub-metered tenants of a master-metered MHP. The MHP owner must first demonstrate that costs incurred properly fall within the categories of costs set forth above. Then, the rent board would need to determine that any related recovery of these costs through rent is not prohibited by (1) Public Utilities Code Section 739.5(a), (2) related case and statutory law, and (3) other local rent control ordinances.

(END OF ATTACHMENT B)

³ It is the policy of PG&E and Southwest that master-metered parks not be expanded by the addition of additional sub-metered spaces.