

ORIGINALDecision No. 51126

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)	
PACIFIC GAS AND ELECTRIC COMPANY for)	
an order of the Commission author-)	
izing applicant to increase its)	Application No. 35256
present rates and charges for natural)	(1st Supplemental)
gas service in the manner and to the)	
extent herein set forth.)	

(Appearances and list of witnesses at
the hearing on this First Supplemental
Application are set forth in Appendix A.)

OPINION ON FIRST SUPPLEMENTAL APPLICATION

By its first supplemental application in the above-entitled proceeding, filed January 25, 1955, the Pacific Gas and Electric Company seeks authorization to maintain its gas rates after April 1, 1955 at a level consistent with a 52 per cent federal income tax rate. The federal income tax rate for corporations under existing law will be reduced from 52 to 47 per cent on April 1, 1955. Applicant states that it is reasonably probable that Congress will act to maintain the rate at the present 52 per cent level.

Public Hearing

Public hearing on this matter was held before Commissioner Justus F. Craemer and Examiner M. W. Edwards on January 31, 1955 at San Francisco. This matter was consolidated for hearing with Application No. 36635 of this applicant for an increase in gas rates. Further hearing under Application No. 36635 is continued to March 4, 1955, but this first supplemental application was submitted for decision at the close of the day's hearing.

Tax Revision

Applicant points out that the United States Congress can retroactively revise income taxes. Applicant states that if it is required to reduce gas rates on April 1, 1955 because the Revenue Act of 1954 now provides a 47 per cent tax rate effective as of that date, and later in 1955 said Act is amended to reinstate the 52 per cent tax rate, retroactive to April 1, 1955, it will suffer an irreparable loss. In substantiation of its position applicant cites the fact that the President of the United States and a number of Congressional leaders have made public statements to the effect that the present 52 per cent corporate income tax rate must be maintained during the entire year 1955.¹ To guard against the possible overcollection of revenue if a rate lower than 52 per cent is finally effective, applicant proposes a refund plan.

Refund Plan

Applicant proposes that a refund² be made for the period beginning April 1, 1955 and ending April 14, 1955, both inclusive; provided that, if increased rates for the cost of gas purchased from El Paso Natural Gas Company are not made effective April 15, 1955 then such refund period shall end at the time such increased El Paso rates are made effective, or on December 31, 1955, whichever is earlier. Applicant further proposes that such refund be computed in the same manner as the refund with respect to federal income tax proposed in said Application No. 36635 and shall be combined with such refund, so that both refunds may be calculated and paid or credited to customers as a single refund equivalent to the sum of the two.

1 Applicant specifically refers to President Eisenhower's "State of the Union" message delivered before Congress on January 6, 1955 and to his budget message on January 17, 1955.

2 Applicant's refund plan is set forth in Exhibit No. 3 under Application No. 36635 and a copy was supplied for the record under Application No. 35256 being tentatively identified as Exhibit No. 10 pending check of the files. Further check of our files indicate Exhibit No. 13 as the next number in order under Application No. 35256 and the exhibit will be so numbered.

Applicant's proposed refund plan may be summarized in general terms as follows: The reduction in annual gross revenue requirement for the Gas Department occasioned by the tax reduction will be determined on the basis of estimated 1955 revenues and expenses with appropriate pro-forma adjustments. The amount so determined will be divided by the estimated volume of sales of gas to applicant's firm gas service customers, exclusive of the Humboldt Division, the quotient representing the amount of refund per unit of volume. Individual refunds will be made to domestic service customers on the basis of the recorded sales to each such customer during the monthly billing periods ending in the month in which the refund is credited. Individual refunds will be made to all other firm customers on the basis of the volume of their purchases during the refund period. Refunds will be made by credit to customers' accounts wherever practicable.

Applicant's Specific Requests

Applicant requests the Commission to issue an order:

1. Deleting Paragraph 4 of the order in Decision No. 50744, and modifying the order to enable applicant to determine and make refunds to its firm natural gas customers, other than those in the Humboldt Division, in accordance with a plan of refund as authorized by the Commission.
2. Granting such further or different relief as to the Commission may appear proper.

Findings and Conclusion

After considering applicant's statements and refund proposal in this first supplemental application, it is our finding and conclusion that it would be premature to pass on the proposed refund plan prior to the conclusion of hearings on Application No. 36635. However it appears reasonable that the rates should be continued after March 31, 1955 at a level based on a 52 per cent federal income tax rate and applicant will be required to make appropriate refunds

to firm service customers, other than those in the Humboldt Division, in an amount and in the manner to be determined by the Commission under Application No. 36635.

ORDER ON FIRST SUPPLEMENTAL APPLICATION

Pacific Gas and Electric Company having applied to this Commission for a supplemental order authorizing maintenance of gas rates after March 31, 1955 based on a 52 per cent federal income tax, subject to refund on any overcollections, public hearing having been held; the matter having been submitted and being ready for decision,

IT IS HEREBY ORDERED as follows:

1. Ordering Paragraph 4 of Decision No. 50744 is modified by deleting the existing wording and substituting the following:

"4. In the event that the applicable Federal income tax rate for the portion of 1955 beginning April 1, 1955 is not restored to the 52 per cent level in effect for the period ending March 31, 1955 and is fixed at some rate below said 52 per cent level, applicant shall make appropriate refunds to firm service customers, other than those in the Humboldt Division, in an amount and in the manner to be determined by the Commission under Application No. 36635."

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 23rd day of February, 1955.

[Signature]
 President
Justin J. Casuel
[Signature]

Commissioner Ray E. Waterman, being necessarily absent, did not participate in the disposition of this proceeding.

 Commissioners

APPENDIX A

LIST OF APPEARANCES ON
FIRST SUPPLEMENTAL APPLICATION

For Applicant: R. H. Gerdes, F. T. Searls, R. W. DuVal and J. C. Morrissey.

Interested Parties: California Manufacturers Association, by Brobeck, Phleger & Harrison by George D. Rives; City of San Francisco, by Dion R. Holm and Paul L. Beck; County of Alameda, by J. F. Coakley and Bernard M. King; City of Oakland, by John W. Collier and Robert E. Nisbet; City of Berkeley, by Fred C. Hutchinson and Robert T. Anderson; City of Santa Rosa, by Richard M. Ramsey; City of Los Altos, by A. Watson Conner; A. D. Edmondston, State engineer, by Fred J. Groat; California-Pacific Utilities Company, by Lloyd E. Cooper; Southwest Gas Corporation, by William M. Laub; California Farm Bureau Federation, by Edson Abel.

Protestants: City of Palo Alto, by Robert E. Michalski; City of Richmond, by Thomas M. Carlson and Grant G. Calhoun; City of Roseville, by Robert A. Boon.

Commission staff: Boris H. Lakusta, Freyman Coleman and Charles W. Mors.

LIST OF WITNESSES ON
FIRST SUPPLEMENTAL APPLICATION

Evidence was presented on behalf of the applicant by: J. S. Moulton, John F. Roberts, Jr., and Harry McGann.