

Decision No. 55998

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PACIFIC GAS AND ELECTRIC COMPANY for )  
authority, among other things, to )  
remove the \$2.00 ceiling from the )  
fuel oil escalator clause in certain )  
of its interruptible gas rate tariff )  
schedules. )

Application No. 38668  
(Amended) —

(Appearances and witnesses are listed in Appendix A)

SECOND INTERIM OPINION AND ORDER

Applicant's Request

Pacific Gas and Electric Company, engaged principally in the business of furnishing public utility electric and gas service in northern and central California,<sup>1/</sup> filed a first amendment to the above-entitled application on October 18, 1957, seeking an increase in gas rates by approximately \$9,400,000 to offset the annual increase in cost of out-of-state gas starting January 1, 1958.

Public Hearing

After due notice, public hearing on this first amendment to the application was held before Commissioner Ray E. Untereiner and Examiner Manley W. Edwards on November 19, 1957, in San Francisco. Applicant presented two exhibits and testimony by two witnesses to supplement the exhibits attached to the first amendment to the application and to support its request. Counsel for the Commission's staff and the interested parties cross-examined the witnesses and made closing statements for the purpose of developing a full record to aid the Commission in deciding this matter. The

---

<sup>1/</sup> Applicant also distributes and sells water in a number of cities and towns and certain rural areas, and produces and sells steam heat in certain parts of the Cities of San Francisco and Oakland.

matter was submitted at the close of the hearing and now is ready for decision.

Present Status of El Paso Rates for Purchased Gas

Applicant's present gas rates, authorized by Decisions Nos. 48484, 54055,<sup>2/</sup> 50744, 51126, 51360,<sup>3/</sup> and 55614,<sup>4/</sup> include the contingent offset charges related to the increased cost of gas purchased from El Paso Natural Gas Company (hereinafter referred to as El Paso) associated with rates filed by El Paso in Federal Power Commission Docket No. G-2018 (limited to Coast Counties Gas and Electric Company) and Docket No. G-4769. Docket No. G-2018 has been settled for the year 1953 and the Commission has determined that no refunds were due the customers of Coast Counties Gas and Electric Company. At this time the Federal Power Commission has completed hearings on Docket No. G-4769, but has not rendered its decision in that matter.

Further El Paso Increases

On June 28, 1957, El Paso filed a further application for increased rates (F.P.C. Docket No. G-12948). Under the suspension

2/ Decision No. 48484, issued April 14, 1953, in Application No. 34107, authorized applicant's predecessor, Coast Counties Gas and Electric Company, to increase its gas rates in order to offset a contingent increase in the cost of gas to it, and Decision No. 54055, issued November 5, 1956, in said application found no refund due the customers of Coast Counties Gas and Electric Company.

3/ Decision No. 50744 (amended February 23, 1955 by Decision No. 51126), issued November 4, 1954, in Application No. 35256, and Decision No. 51360, issued April 19, 1955, in Application No. 36635, authorized applicant to increase, subject to refund, its gas rates to offset certain contingent charges which El Paso had put into effect.

4/ Decision No. 55614, issued September 24, 1957, in Application No. 38668, authorized applicant to increase certain interruptible schedules and change the base rates from those filed pursuant to Decision No. 51360 to an offset charge of 1.55 cents per Mcf subject to refund.

procedures of the Federal Power Commission (Section 4(e) of the Natural Gas Act), the new rates can become effective January 1, 1958, subject to review by the Federal Power Commission and to final adjustment and refund as determined by that Commission after hearing. 5/

The further increase filed for by El Paso is 20 cents per Mcf of daily demand on a monthly basis and 2 cents per Mcf of commodity at 14.9 psia pressure base. Or, stated another way, the demand rate will be increased from \$2.00 to \$2.20 per Mcf-day and the commodity charge from 18 cents to 20 cents per Mcf. Such increase, when related to a 14.73 psia pressure base, will be 19.77 cents per Mcf-day of demand and 1.9772 cents per Mcf of commodity. On the basis of 355,827,000 Mcf of gas expected to be purchased in 1958, applicant estimates the cost will increase from \$86,448,000 to \$95,796,000 or an increase of \$9,348,000 because of this latest El Paso filing.

#### Development of Offset Billing Charge

Applicant must pay local franchise fees based upon gross revenues collected within areas levying such fees, and any increase in rates to meet these increases in gas costs should include an appropriate franchise fee allowance of \$51,000. In Exhibit S of the amended application an offset increase of 1.96 cents per Mcf is computed as follows:

Gas Cost Increase (\$9,348,000 + \$51,000)	\$ 9,399,000
Total Sales	485,934,000 Mcf
Average Increase per Mcf	1.934 Cents
Increase required giving weight to adjustment to Btu of Sales $1.934/0.9867$	1.960 Cents

Applicant states that when an increase of 1.96 cents per Mcf is applied to the base rates of all rate schedules, except to

---

5/ These F.P.C. procedures may be affected by the Memphis decision referred to in our Interim Order No. 55902 and hereinafter mentioned.

those in the Humboldt Division, the increase in revenues is \$9,313,000 and may be summarized as follows:

<u>Class of Service</u>	<u>Amount</u>
General Service	\$3,513,000
Firm Industrial and Gas Engine	295,000
Resale	109,000
Interruptible	3,079,000
Interdepartmental	2,317,000
Total	\$9,313,000

Such amount is \$86,000 less than the indicated increase in cost of gas. About \$45,000 of this difference results from the fact that no offset increase is requested with respect to Schedules G-7 and G-51 applicable in the Humboldt Division, although sales volumes in that division were included in determining the 1.96 cents per Mcf increase. Applicant expects to serve the Humboldt Division from its integrated gas transmission network in the early part of 1958 at which time new rates will be proposed for that division. The remaining difference of \$41,000 results from rounding the rates to the nearest 0.1 cent per Mcf as shown on the various schedules.

#### Applicant's Position

Applicant mentions that the showings it made in the main rate proceeding herein by its Exhibits Nos. 3, 4, 11, 14, 15, 21, 22, and 57, and of the Commission staff by Exhibits Nos. 51, 53 and 54, are based on current El Paso rates. As a result of that showing, we stated in Decision No. 55614:

"In our opinion, applicant is entitled to a substantial increase in revenues. It is our conclusion and finding, however, that interruptible customers should not bear all of the increase as proposed by applicant. In this order we will withhold conclusion as to the increases that should be placed on classes of service other than interruptible, pending the filing of an amendment to the application indicating applicant's election as to its further course in view of the decision herein."

Applicant, on November 13, 1957, filed a second amendment to the original application requesting rates which it represents are needed

to earn a fair and reasonable rate of return in addition to the \$5,670,000 granted by Decision No. 55614 to be obtained from interruptible rates which became effective October 15, 1957.

Pending decision on the second amendment, the applicant takes the position that if it is to maintain in 1958 its present rate of return, an additional annual revenue of approximately \$9,400,000 will have to be collected by an additional contingent offset increase in its rates so as to offset the 1958 increase in costs caused by this latest El Paso rate increase.

Earning Position

Applicant's estimates of the effect of the proposed increased gas costs and offset rates on its 1958 gas department operations follow:

Item	Estimated Year 1958		
	Under Present Rate & Expense Levels, Exh. Q	El Paso and Offset Increases	Under Proposed Offset Rate and Gas Costs Exhibit T
<u>Gross Operating Revenues</u>			
Natural Gas Area:			
General Service	\$125,308,000	\$3,513,000	\$128,821,000
Firm Industrial & Gas Eng.	7,152,000	295,000	7,447,000
Resale	2,198,000	109,000	2,307,000
Interruptible			
Desert Customers	10,657,000	642,000	11,299,000
Other	47,362,000	2,437,000	49,799,000
Interdepartmental	38,911,000	2,317,000	41,228,000
Other Gas Revenues	301,000	-	301,000
Total Natural Gas	\$231,919,000	\$9,313,000	\$241,232,000
Liquid Petroleum Gas Area	289,000	-	289,000
Total Gross Oper. Rev.	\$232,208,000	\$9,313,000	\$241,521,000
<u>Operating Expenses</u>			
Production	\$138,066,000	\$9,348,000	\$147,414,000
Transmission	3,157,000	-	3,157,000
Distribution	11,613,000	-	11,613,000
Customers' Acctg. and Col.	7,713,000	-	7,713,000
Sales Promotion	1,437,000	-	1,437,000
Administrative and General	7,443,000	52,000	7,495,000
Taxes	27,067,000	(47,000)	27,020,000
Depreciation (Annuity & Int.)	13,675,000	-	13,675,000
Total Oper. Exps.	\$210,171,000	\$9,353,000	\$219,524,000
Net for Return	\$ 22,037,000	\$ (40,000)	\$ 21,997,000
Rate Base (Depreciated)	\$440,936,000	\$ -	\$440,936,000
Rate of Return	5.00%	( 0.01)%	4.99%
	(Decrease)		

Applicant states that the above revenues reflect the full year effect of the revenue increase from interruptible rates authorized by Decision No. 55614 and include the estimated full year effect of a general wage increase to be effective July 1, 1958.

#### Refund Plan

Applicant proposes to refund any amount collected, by reason of the contingent offset charges proposed in this first amendment to its application, in excess of the amount of increase in cost of El Paso gas to it to be determined by the Federal Power Commission under Docket No. G-12948. In brief, the plan contemplates refunds based on the usage by customers during the offset collection period, including interest but excluding the cost of making the refunds. However, if the amount per domestic customer is less than 50 cents per customer, applicant proposes a simplified plan of basing the refund on the customer's usage during the monthly billing period ending in the month in which the refund is credited.

It plans to refund on a cents-per-Mcf basis in a manner consistent with its revised plan authorized by Decision No. 51360. However, applicant states that such refund plan is correct in detail only until October 15, 1957, when rates were changed under interim Decision No. 55614 for interruptible service, including its steam electric generating plants, to include an offset charge of 1.55 cents per Mcf instead of the various offset amounts for interruptible service authorized by Decision No. 51360.

#### Position and Statements of Interested Parties and Others

The City of San Francisco had no objection to an offset proceeding of this kind, but objected to the proposed spread of the increase to the various classes of service. The City takes the position that the cost of gas is so far below the comparable cost

of substitute fuel (fuel oil) for the interruptible customers that this entire offset cost of gas should be assessed against the interruptible class with no offset increase to the domestic and other firm classes of service.

The California Manufacturers Association opposes a uniform cents per Mcf increase because under a demand and commodity form of rate the high load factor firm industrial and interruptible customers would pay more than their fair share. The association would prefer a uniform percentage increase to all blocks.

The Southwestern Portland Cement Company represents that the interruptible customer has no demand rights and questions if it is fair to pass on any increase represented by an increase in the demand portion of the charge.

The Riverside Cement Company suggests the alternative treatment recommended by the Southwestern Portland Cement Company if a uniform percentage rate increase of about 4 per cent is not adopted.

The American Potash and Chemical Company and the West End Chemical Corporation seconded the position that any increase in demand charge should not be passed on to the interruptible class.

The United States Government stated several reasons why this increase should not be authorized at this time. It suggested that this matter be held and consolidated with the hearings on the second amendment and a revenue, expense, rate base and cost-of-service study be required before making any offset increases. When it was pointed out that all of the proposed offset increase is subject to refund, counsel for the government remarked that this is scant comfort to the interruptible customer whose rates were the

only class increased by Decision No. 55614. He stated that the Federal Budget is made a year in advance and a refund at some indefinite time later does not help combat inflation. He would prefer a single decision affecting all classes of service at once and not separate decisions on the first and second amendments.

Effect of the "Memphis" Decision

As pointed out in our Interim Order No. 55902, issued December 5, 1957, the applicability of the procedures provided for in Sections 4(d) and 4(e) of the Natural Gas Act to El Paso's petition in F.P.C. Docket No. G-12948 has been made questionable by a recent decision in the United States Court of Appeals for the District of Columbia Circuit.<sup>6/</sup> It appears to this Commission that the applicant herein is in substantially the same position with respect to El Paso Natural Gas Company as that of the petitioners in the "Memphis" case with respect to their supplier, and has substantially the same legal rights as those petitioners. Our Interim Decision No. 55902 was issued to require this and similar California applicants to diligently pursue such rights as they may have before the Federal Power Commission and the courts, and to file with this Commission verified statements of the action taken pursuant to such interim decision.

Applicant has filed a verified report dated December 9, 1957, and it is apparent from that report that applicant has complied with the requirements of Interim Opinion No. 55902, has taken such initial steps as are available to it, and intends in good faith to pursue its legal remedies, as required by such interim decision, to final determination. We will condition applicant's authority to increase its rates in the manner provided by the order herein.

<sup>6/</sup> Memphis Light, Gas and Water Division; City of Memphis, Tennessee, and Mississippi Valley Gas Company, Petitioners, v. Federal Power Commission, Respondent, United Gas Pipeline Company, Texas Gas Transmission Corporation, and Southern Natural Gas Company, Intervenors, No. 13666.



Findings and Conclusions

After considering the facts set forth in the first amendment to the application and the exhibits and testimony presented at the hearing, and the further facts set forth in the verified report of applicant, filed pursuant to Decision No. 55902, and in view of all of the facts and circumstances herein found to exist, the Commission finds and concludes that applicant's proposal is reasonable and should be authorized. When we consider the second amendment to the application, we will make a more complete investigation of applicant's 1958 earnings and if the earnings appear to be above a reasonable level as a result of this offset increase, we will promptly adjust the rates to a reasonable level. Also, the government's request for a rehearing on the first order herein has been granted and at the time of decision on the second amendment we can rectify any errors which the government can show us that might exist in Decision No. 55614.

With regard to the question of rate spread, we have considered the alternatives to a uniform spread per Mcf, but have reached the conclusion that applicant's proposal is preferable to the proposed alternatives.

The revised refund plan proposed by the applicant appears reasonable in principle but this Commission, after decision of the Federal Power Commission in Docket No. G-12948, may find reason for change in the refund plan so we will not, at this time, give the applicant's proposal our unqualified endorsement.

The Commission finds and concludes that the increases in rates and charges authorized herein are justified, and that the existing rates, in so far as they differ from the rates being filed by applicant, are for the future unjust and unreasonable.

The Commission having considered the request of applicant, public hearing having been held, and being of the opinion that the first amendment to its application should be granted,

IT IS ORDERED as follows:

1. If the Federal Power Commission grants the motion filed by El Paso Natural Gas Company on or about November 19, 1957 requesting that an order be entered by the Federal Power Commission putting into effect the change of rate, charge, classification, or service, set forth in, among others, rate Schedules G and G-X, and if thereafter El Paso Natural Gas Company assesses to applicant charges for gas sold and delivered to applicant computed by use of the new rates specified in Schedules G and G-X of El Paso Natural Gas Company, then applicant is hereby authorized to file, in quadruplicate, with this Commission, in conformity with General Order No. 96, revised schedules with changes in rates, terms and conditions in all schedules, except Schedules Nos. G-7 and G-51 in the Humboldt Division, as follows:

- a. Increase the base rates for general service schedules by 0.196 cents per Ccf and increase the base rates for all other classes of service by 1.96 cents per Mcf, and
- b. Replace the contingent offset charge clause in the several schedules with the contingent offset charge clauses shown in Exhibit R of this first amendment (including Clause K inserted at the hearing),

and after not less than one day's notice to this Commission and to the public, to make said revised rates effective for service rendered on and after the date the increased El Paso rates, lawfully, go into effect.

2. In the event that applicant places such rate increases in effect:

- a. Applicant shall keep such records of sales to customers during the effective period of this cost of gas offset rate as will enable it to determine readily the total offset charge and the total refund, if any, that may be due each customer.

*Paragraphs renumbered*

- b. Applicant's plan for determining refunds shall be submitted to this Commission prior to making any refunds, and specific Commission approval shall be obtained of the plan at that time.
- c. Upon the final decision by the Federal Power Commission in Docket No. G-12948, applicant shall file a supplemental application herein containing its proposed permanent rate plan for final determination and authorization by this Commission.
- d. Upon final determination of the actual cost of refunding not recovered from El Paso and the amount of any balance created by applicant's inability to deliver checks and by checks uncashed after one year, applicant shall file a plan acceptable to the Commission for the equitable disposition of the resultant net balance.
- e. Applicant shall file with the Commission monthly reports within sixty days following the close of each period setting forth:
  - (1) The increase in revenues realized under the offset rates authorized herein, segregated by firm and interruptible classes of service, and
  - (2) The increase in cost of out-of-state gas above the rate level in effect immediately prior to the date on which the proposed El Paso rates go into effect.

The effective date of this order shall be ~~thirteen~~ <sup>twenty</sup> days after the date hereof. *ofm*

Dated at San Francisco, California, this 17<sup>th</sup> day of December, 1957.

*[Signature]*  
President

*[Signature]*

*[Signature]*

*[Signature]*  
Commissioners

APPENDIX A

LIST OF APPEARANCES

For Applicant: F. T. Searls and John C. Morrissey for Pacific Gas and Electric Company.

Protestants: Brobeck, Phleger & Harrison, by George D. Rives, for California Manufacturers Association, American Smelting and Refining Company, California and Hawaiian Sugar Refining Corp.; Columbia-Geneva Steel Division (U.S. Steel Corporation), Fibreboard Paper Products Corp., Gladding McBean and Company, Hunt Food, Inc., and subsidiaries, Glass Container and United Can and Glass Company, Kaiser Aluminum and Chemical Corporation, Kraftile Company, Permanente Cement Company, Philadelphia Quartz Company of California, Spreckels Sugar Company, Basic Vegetable Products, Inc., Owens-Illinois Glass Company, Holly Sugar Company, Swift and Company, and Continental Can Company (Hazel-Atlas Glass Division); Kenneth M. Robinson for Permanente Cement Company and Kaiser Aluminum and Chemical Corporation; Gordon R. Daley for City of King and City of Greenfield; John W. Hutton for League of Southern Monterey County Cities and City of Soledad; Saul M. Weingarten for City of Gonzales; Arthur R. Bird for Common Stockholders and Consumers.

Interested Parties: Wallace K. Downey for California Portland Cement Company; O'Melveny & Myers, by Lauren M. Wright, for Riverside Cement Company; Roger Arnebergh, Robert W. Russell and T. M. Chubb for City of Los Angeles; Harold Gold and Reuben Lozner for United States Government; E. D. Lemon for United States Borax and Chemical Corporation; Pillsbury, Madison and Sutro, by Noel Dyer, for Hercules Powder Company; J. J. Deuel and Bert Buzzini for California Farm Bureau Federation; Gibson, Dunn and Crutcher, by Richard L. Wells, and Willard F. Parr, for American Potash and Chemical Corporation and West End Chemical Corporation; W. D. MacKay for Challenge Cream and Butter Association; Overton, Lyman & Prince and Donald H. Ford and Wayne H. Knight for Southwestern Portland Cement Company; Dion R. Holm and Paul L. Beck for City and County of San Francisco; J. Donald McCormack for Paul Griem, Glass Containers, Inc., and United Can and Glass Corp.; F. L. Treanor for Caterpillar Tractor Co.

Commission Staff: J. T. Phelps, W. R. Roche and Marshall J. Kimball.

LIST OF WITNESSES

Evidence was presented on behalf of applicant by James S. Moulton and John F. Roberts.