

Decision 84 05 048

MAY 16 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority to revise its gas rates and tariffs effective October 1, 1983, under the Gas Adjustment Clause.

Application 83-08-38
(Filed August 15, 1983)

(For appearances see Decisions 83-12-069 and 84-04-015.)

INTERIM ORDER ON REQUEST FOR AWARD FOR COMPENSATION

By a petition filed January 18, 1984, Toward Utility Rate Normalization (TURN) requests an award of compensation and fees for its participation in this proceeding. This request is made under Rule 76.26 of our Rules of Practice and Procedure. Pacific Gas and Electric Company (PG&E) opposed a grant of compensation on the ground that TURN has not demonstrated that TURN "substantially contributed to the adoption in whole or in part, in a Commission order or decision, of an issue", as required by our Rule 76.26. No other party responded to TURN's petition.

Procedural Issue

TURN acknowledges that our rules under which it filed its request are on appeal before the California Supreme Court (S. F. Nos. 24603, 24605, and 24606). In the appeal, the adoption of our rules is challenged as beyond our jurisdiction. TURN states that it does not expect any compensation to be paid before the Court's review is completed. TURN urges, however, that the issue of substantial contribution should be addressed while the record is still fresh. Any award of compensation would be stayed pending the Court's action.

PG&E believes it would be more efficient to defer TURN's request until the Court has acted on the appeal.

This order will determine what award should be made under our rules. Our order however will be stayed pending the outcome of the Court's decision.

Requested Award

TURN requests, as its costs of participation in this application, attorney fees of \$8,800, based on 88 hours at \$100 per hour. Of this time, 12.5 hours were spent reviewing Decision (D.) 83-12-069 and preparing a petition for modification.

TURN states that if the Commission denies the requested modification, those hours should be deleted from the total. D.84-04-015, in Conclusion of Law 3, determined that Sections I and II of TURN's Petition for Modification of D.83-12-069 should be granted to the extent discussed in this order. The order clarified inadvertent textual errors in D.83-12-069 and D.83-12-068 in PG&E's general rate proceeding with respect to Step 5 of the rate design guidelines, and corrected Finding of Fact 10 of D.83-12-069, to revise the indexing of Schedule G-50 to No. 2 fuel oil. TURN's positions in its Petition for Modification were substantially adopted in D.83-04-015. Therefore, the exclusion of 12.5 hours is not appropriate.

The above hours cover participation in the phase of the proceeding leading to D.83-12-069. It does not cover participation in the phase of the proceeding leading to D.84-04-015, other than the petition for modification disposed of in that decision and discussed above.

Substantial Contribution

TURN asserts that it substantially contributed to the adoption of Finding of Fact 11 of D.83-12-069, with respect to the base price for the G-58 rate index.

The G-58 tariff provides for an adjustment to the initial 46¢ per therm rate whenever residual fuel oil prices change by 2.5% or more. The issue raised by TURN concerns the beginning oil price from which the percentage change was to be measured. TURN contended that the original intention behind the G-58 schedule (proposed in Application 82-12-48 and adopted in D.83-06-004) was to utilize the March Platt's Oilgram average price of \$25.75 per barrel as the

indexing base. PG&E had been using instead Platt's average of \$26.53 from July, the month the tariff became effective. As noted, the Commission adopted TURN's position, which was not proposed by any other party.

TURN argued that the revision to the G-58 formula resulted in a significant increase in margin contribution from customers on the schedule. Under the earlier PG&E approach, a \$26.53 per barrel oil price would have equated to a 46¢ per therm gas rate. As now revised, the formula produced a G-58 rate of 3.03% higher than 46¢ (i.e. 47.483 ¢ per therm) when oil prices equaled \$26.53 per barrel. At the adopted sales level of 389.4 million therms for G-58, this change in the base oil price led to an annual revenue increase of about \$5.4 million.

TURN argued that absent its participation, this issue would never have arisen in the proceeding. Therefore, TURN submits that it has made a substantial contribution.

PG&E conceded that TURN raised this issue and that the Commission adopted TURN's position, but PG&E maintains that this contribution was not significant. In any event, it is PG&E's view that TURN's requested amount of compensation is clearly excessive.

Discussion

We conclude that TURN made a substantive contribution on an issue which was adopted by the Commission. PG&E admits that no other party raised the same issue. In addition, the relief sought in TURN's petition for modification was granted.

PG&E asserts that the sought award is excessive. We disagree. TURN's participation led to a result that produced a reduced overall revenue requirement of several million dollars which, in turn, should lower rates for residential and small commercial customers. TURN's participation was on behalf of PG&E's residential customers, who benefitted by its participation in this proceeding. Our policy is to encourage participation of this nature in energy utility rate proceedings. We conclude the full award sought should be granted.

The amount of \$100 per hour for attorney fees has been found reasonable and used in recent awards [See D.84-03-007 dated March 7, 1984 (Welfare Rights Organization) and D.84-05-015 dated May 2, 1984 (TURN)].

Findings of Fact

1. Under Rule 76.26 of our Rules of Practice and Procedure, TURN seeks an award of compensation and fees in the amount of \$8,800.

2. D.83-04-015 in this proceeding found TURN eligible for compensation under Rule 76.26.

3. TURN made a substantial contribution on an issue adopted by the Commission in D.83-12-069 and an award is appropriate under our Rule 76.26.

4. TURN's Petition for Modification of D.83-12-069 was substantially granted in D.83-04-015.

5. TURN's attorney spent a total of 88 hours on its participation in the hearing leading to D.83-12-069 and in preparation of its petition for modification. All these hours should be subject to an award.

6. The Commission has previously found that \$100 per hour is reasonable as compensation to attorney's participation in Commission hearings of this nature.

7. An award of compensation to TURN in the amount of \$8,800 will be consistent with the level of prior awards and is reasonable.

Conclusions of Law

1. TURN has complied with the requirements of Article 18.6 of our Rules of Practice and Procedure and TURN should be awarded compensation.

2. As the issue of our authority to make awards under Article 18.6 is before the California Supreme Court, we will stay this order pending the outcome of the Court's decision on this issue.

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) shall pay to Toward Utility Rate Normalization (TURN) \$8,800. ✓
2. In PG&E's first general rate application following the payment of the award to TURN, PG&E shall include in its revenue requirement an additional amount of \$8,800 plus interest from the date of payment of the award to the date of filing of its application. ✓
3. This order is stayed pending further order of the Commission. ✓

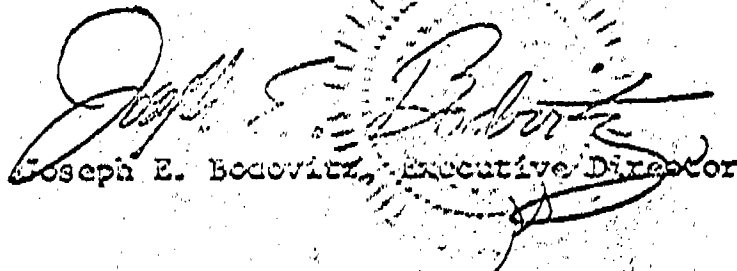
This order is effective today.

Dated MAY 16 1984 , at San Francisco, California. ✓

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

Commissioner William T. Bagloy
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director