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Decision 91-09-087

September 25, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND)
ELECTRIC COMPANY for Authority to)
Increase Gas Rates and Recover)
Costs for Implementation of a)
Natural Gas Vehicle Program.)

ORIGINAL

A.90-07-067
(Filed July 26, 1990)

ORDER MODIFYING DECISION 91-07-018
AND DENYING REHEARING

Toward Utility Rate Normalization (TURN) has filed an application for rehearing of Decision (D.) 91-07-018, in which we authorized Pacific Gas and Electric Company (PG&E) to implement a natural gas vehicle (NGV) program involving primarily the development of new NGV infrastructure.

We have carefully considered all of the allegations of error raised in TURN's application. Although we have concluded that the application for rehearing should be denied, upon reconsideration we believe the decision should be modified as set forth below.

THEREFORE, for good cause appearing,

IT IS HEREBY ORDERED that:

1. Decision 91-07-018 is modified as follows:
 - a. The second to the last sentence in the second full paragraph on page 29 of D.91-07-018 is replaced with the following:

"We believe PG&E's program fulfills the legislative intent and should be adopted. We note that the cost of the equipment and infrastructure development component of PG&E's program will not be recovered in revenues received pursuant to the utility's NGV fuel tariffs, and thus must be recovered elsewhere."

b. The following paragraphs are inserted between the first and second full paragraphs on page 34 of D.91-07-018:

"It is important to recognize that PG&E's NGV program consists of two distinct components: 1) two NGV fuel tariffs, adopted in D.91-04-021, which are designed to fully recover the cost of natural gas as a motor vehicle fuel; and 2) a program for developing, and increasing utilization of, NGV equipment and infrastructure. PG&E's NGV fuel tariffs were not intended to, and will not, provide enough revenue to support both components of PG&E's overall NGV program. Likewise, the basic rate increases necessary to support the equipment and infrastructure program adopted in this decision are not intended to support the NGV fuel tariff element of PG&E's overall NGV program. Each component has a different source of financial support. Thus, the fact that residential ratepayers are required to support the equipment and infrastructure component of PG&E's NGV program does not compel the conclusion that PG&E's NGV tariffs result in unlawful residential ratepayer subsidization of persons using natural gas to fuel vehicles.

We do not deny that persons using natural gas to fuel vehicles will benefit from the equipment and infrastructure program adopted in this decision. The legislation today's decision implements was clearly intended to provide such benefits in order to encourage increased utilization of NGVs.

Nor do we deny that we are requiring residential ratepayers to help pay for these benefits. Section 740.3(c) reasonably contemplates that ratepayers may be required to support NGV equipment and infrastructure programs if the Commission finds that they are in the ratepayers' interest. Since § 740.3(c) does not distinguish between "ratepayers" and "residential ratepayers," however, we must assume that the legislature did not intend to exempt residential ratepayers from financial responsibility as it did in § 745(c). The difference in statutory language suggests that a different result was intended.

Unfortunately, none of the parties in this proceeding explored the legislative history of § 740.3(c) to determine the extent to which the Legislature reviewed and rejected language paralleling that used in § 745(c). Nor did any party address the similarity of the ratepayer financing language of that section to the language of § 2775.5(f), adopted earlier in the same legislative session, which replaced a total prohibition against ratepayer support of utility solar energy programs with a provision stating that ratepayers could not be required to finance such programs unless the Commission found them to be in the ratepayers' interest. We believe this action provides additional insight as to why the Legislature chose to treat the financing of each component of utility NGV programs differently."

- c. Finding of Fact 8 is replaced by the following:

"The rates generated under PG&E's existing experimental NGV tariffs, Schedules G-NGV1 and G-NGV2, are designed to recover the full cost of supplying natural gas as a vehicle fuel. These rates should ensure recovery of the variable costs of PG&E's overall NGV program. Such variable costs include the commodity cost of the gas, the cost of transporting the gas to the NGV refueling stations, and any variable gas compression costs."

- d. Finding of Fact 10 is replaced by the following:

"PG&E's existing natural gas vehicle tariff rates, which were established in D.90-04-021, were designed to recover the full cost of supplying natural gas as a vehicle fuel. These tariff rates were not designed to, and will not, raise sufficient revenue to cover the total costs of implementing the entire NGV program adopted in this decision."

- e. Finding of Fact 11 is replaced by the following:

"PG&E's overall NGV program consists of two components: 1) existing NGV fuel tariffs designed to recover the full cost of

supplying natural gas as a vehicle fuel; and
2) a new NGV equipment and infrastructure
development and marketing program designed to
stimulate the market for NGVs in furtherance
of the goals of Public Utilities Code §§
740.2 and 740.3.

f. Finding of Fact 12 is replaced with the following:

"Since PG&E's existing experimental NGV fuel
tariffs (Schedules G-NGV1 and G-NGV2) are
designed to recover the full cost of
supplying natural gas as a vehicle fuel, the
rates in those tariffs are just and
reasonable."

g. Finding of Fact 23, which reads as follows, is added to
D.91-07-018:

"The language in Public Utilities Code §
740.3(c) which authorizes the Commission to
require ratepayers to support NGV equipment
and infrastructure programs if the Commission
finds that those programs are in the
ratepayers' interests closely parallels
language used in a utility solar energy
program bill passed earlier in the 1990
legislative session. AB 2836 amended Public
Utilities Code § 2775.5 to replace a total
prohibition against ratepayer financing of
utility solar energy programs with the
phrase: "[t]he costs ... of ... a program of
solar energy development ... shall not be
passed through to the ratepayers ... unless
the commission finds and determines that it
is in the ratepayer's interest to do so." (§
2775.5 (f), emphasis added.)

h. Conclusion of Law 2 is replaced with the following:

"PG&E's natural gas vehicle tariffs, which
are designed to fully recover the cost of
supplying natural gas as a vehicle fuel,
should be reviewed annually to ensure that
they do not result in any direct or indirect
subsidy from residential or electric
customers to persons using gas or electricity
to refuel vehicles in violation of Public
Utilities Code § 745(c)."

i. Conclusion of Law 6, which reads as follows, is added to D.91-07-018:

"Public Utilities Code § 745(c) prohibits residential ratepayer subsidization of NGV fuel incentive tariffs, while Public Utilities Code § 740.3(c) authorizes the Commission to require ratepayers to support utility NGV equipment and infrastructure programs if it determines the programs are in the ratepayers' interests. We conclude that the NGV fuel incentive tariffs and the NGV equipment and infrastructure programs are two distinct programs and that the legislature intended to treat the residential ratepayer subsidy issue differently in those two programs."

j. Ordering Paragraph 7, which reads as follows, is added to D.91-07-018:

"The Commission Advisory and Compliance Division shall annually review PG&E's natural gas vehicle fuel incentive tariffs to ensure they do not result in any direct or indirect subsidy from residential gas or electric customers to persons using gas or electricity to fuel vehicles in violation of Public Utilities Code § 745(c)."

2. Rehearing of Decision 91-07-018, as modified hereby, is denied.

3. The Executive Director shall serve a copy of this decision on the parties list in Appendix A ("List of Appearances") to Decision 91-07-018.

This order is effective today.

Dated September 25, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner G. Mitchell Wilk,
being necessarily absent, did
not participate

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


NEAL J. SHULMAN, Executive Director