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FEB 17 1982

ORIGINAL

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority among other things to implement a Conservation Financing Program and include a procedure for a Conservation Financing Adjustment of PGandE's electric and gas tariffs to provide funds for Commission approved conservation financing program.

Application 59537
(Filed March 25, 1980)

(Electric and Gas)

Application of PACIFIC GAS AND ELECTRIC COMPANY to increase rates for Electric and Gas service for the costs of the Residential Conservation Service (RCS) Program.

Application 60700
(Filed July 1, 1981)

(Electric and Gas)

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority to increase its Electric and Gas rates and charges effective January 1, 1982, in accordance with the Conservation Financing Adjustment (CFA) authorized in Application 59537, for operation of a zero-interest program (ZIP) of conservation financing.

Application 60701
(Filed July 1, 1981)

(Electric and Gas)

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority to revise its gas rates and tariffs, effective April 1, 1981, under the Gas Adjustment Clause, and to modify its Gas Adjustment Clause.

Application 60263
(Filed February 17, 1981)

(Gas)

(See Decision 92653 for appearances.)

O P I N I O N

On December 30, 1981, the Commission issued Decision (D.) 93891 in this proceeding on the consolidated applications listed above. In that decision the Commission ordered Pacific Gas and Electric Company (PG&E) to expand its zero interest program (ZIP) of residential territory, subject to certain specified requirements none of which concerned the methods by which PG&E would finance the program. In addition, D.93891 authorized PG&E to "project finance" the ZIP program, with specific financial arrangements between PG&E, its financing subsidiary, and that subsidiary's lenders to be the object of project letters and advice letter filings in accordance with General Order 96-A. The decision also authorized PG&E to increase electric and gas rates to produce an additional \$29,000,000 in annual revenues to cover the costs of the ZIP program. D.93891 was made effective immediately to allow PG&E to extend the benefits of ZIP to all its customers "as quickly as possible". The consequent rate increase took effect December 30, 1981.

On January 28, 1982, Toward Utility Rate Normalization (TURN), a protestant in this proceeding, filed a petition for rehearing of D.93891. TURN's petition did not result in an automatic stay of D.93891.

Late in the day on February 12, 1982, PG&E publicly announced its intention to "suspend" the ZIP program and to accept no more applications for ZIP financing after February 15, 1982, because of the challenges to the ZIP program's legality raised by TURN's petition for rehearing.

This unilateral action by PG&E is unprecedented and disturbing. It clearly violates the express terms of the Commission's decision of December 30, 1981, which ordered PG&E to expand the ZIP program throughout its service area. It ignores the fact that PG&E's currently effective rates include elements designed to cover the expenses of the ZIP program.

If PG&E is concerned about the risk of expending funds for a program which might conceivably be found subsequently to have been unlawful, PG&E is free under the longstanding procedures of practice before the Commission to file a petition for modification and/or stay of D.93891. Such a petition would receive the prompt attention of the Commission.

The alternative which PG&E has chosen, the blatant refusal to comply with the express terms of a Commission order, is unacceptable. The Commission cannot tolerate such behavior and must act promptly, on an emergency basis, to make absolutely clear that D.93891 is, and remains, in full force and effect.

Findings of Fact

1. Ordering Paragraph 1 of D.93891 ordered PG&E to expand its ZIP program of residential conservation financing throughout its service territory, subject to certain specified requirements, none of which concerned the methods by which PG&E would finance the program.

2. Ordering Paragraph 2 of D.93891 authorized PG&E to "project finance" the ZIP program by means of project letter and advice letter filings.

3. Ordering Paragraphs 3 and 4 of D.93891 authorized PG&E to increase electric and gas rates to produce an additional \$29 million in annual revenues to cover the costs of the ZIP program.

4. D.93891 was made effective immediately, so that a rate increase to cover ZIP program costs took effect December 30, 1981.

5. TURN filed a petition for rehearing of D.93891 on January 28, 1981.

6. On February 12, 1982, PG&E announced its intention to "suspend" the ZIP program and to accept no more applications for ZIP financing after February 15, 1982.

7. PG&E's announcement of February 12, 1982, creates an emergency situation which challenges the authority of the Commission and imperils the success of a Commission-ordered energy conservation program.

Conclusions of Law

1. TURN's petition for rehearing of D.93891 did not result in an automatic stay of D.93891.
2. D.93891 remains in full force and effect.
3. Because of the emergency nature of this matter, provision of prior notice to the public of the Commission's consideration of this matter was not required.

O R D E R

IT IS ORDERED that:

Pacific Gas and Electric Company (PG&E) shall comply with all terms of D.93891, particularly Ordering Paragraph 1 which ordered PG&E to expand its zero interest program of residential conservation financing throughout its service territory.

This order is effective today.

Dated FEB 17 1982, at San Francisco, California.

JOHN E. BRYSON
 President
 RICHARD B. GRAVELLE
 LEONARD M. CRIMES, JR.
 VICTOR CALVO
 PRISCILLA C. CREW
 Commissioners

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

Joseph E. Bodovitz
 Joseph E. Bodovitz, Executive Director