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Decision 96-02-074 February 23, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of PACIFIC GAS AND ELECTRIC COMPANY, for Authority to Revise its Gas Rates and Tariffs to be Effective by September 15, 1995, Pursuant to Decision Nos. 89-01-040, 90-09-089, 91-05-029, 93-12-058 and 94-07-024 (U 39 G)	Application 94-11-015 (Filed November 8, 1994)

O P I N I O N

Summary

We grant two petitions to modify Decision (D.) 95-12-053, our order issued December 26, 1996 in Pacific Gas and Electric Company's (PG&E) Biennial Cost Allocation Proceeding (BCAP). These petitions are: (1) PG&E's petition for Modification of Decision (D.) 95-12-053, as modified in its supplemental filing of January 29, 1996; and (2) the Division of Ratepayer Advocates' (DRA) Petition for Modification of D.95-12-053, filed on January 22, 1996.

Both petitions request changes to our mandated one-time refund to core customers of the overcollection held in the core Purchased Gas Account (PGA). PG&E requests a change in the methodology used to allocate the refund to customers and states that with this change it will be able to refund to customers on their March 1996 bills. DRA requests the refund amount be increased to include the core's share of the Canadian gas reasonableness disallowance adopted in D.94-03-050.

The refund amount is $213 million plus applicable interest through the time of refund. The refund will be allocated to core customers based on throughput from March 1995 to January 1996. Residential customers will receive approximately 69% of

the refund, resulting in an average residential customer refund of $37.00.

Background

In D.95-12-053 we adopted a recommendation by DRA, consistent with the policy we had recently adopted for Southern California Gas Company in D.95-09-075, and directed PG&E to return to core customers PG&E's forecasted PGA account overcollection as a one-time refund. (See Discussion at Section VII.C., mimeo. pages 48-49.) In Ordering Paragraph 8 of our decision we directed PG&E to file a refund plan within 20 days in compliance with Findings of Fact 51 and 52. These findings state:

"51. PG&E's forecasted core PGA overcollection was $158,227,000 as of September 30, 1995. $51,317,000 of this overcollection includes the core portion of the 1988-1990 Canadian disallowance. Disposition of this amount, together with the disallowance in D.94-03-050 for UEG and other customers, will be addressed in a separate decision. The remaining PGA overcollection of $106,910,000, together with the overcollected core shrinkage balance of $54.4 million and the $716,268, plus applicable interest, ordered refunded in D.95-12-046, should be refunded to eligible core customers on their February 1996 bills, or as soon thereafter as possible.

"52. The one-time refund associated with PG&E's core PGA overcollection should be made to eligible customers as follows:

"a. The overcollection is to be divided by the total therms billed for PG&E's core commodity gas sales for the annual period October 1994 through September 1995 to arrive at a refund rate per therm.

"b. The refund for each core customer is determined by multiplying each customer's usage (PG&E core commodity gas sales only) for the same period

(October 1994-September 1995) by the refund rate per therm in 1).

The refund should be a credit on the eligible customer's February 1996 bill. An eligible customer is a PG&E core customer that was a PG&E core procurement customer for any month during the period October 1994 through September 1995 and is a PG&E customer in February 1996. The refund amount associated with those customers that no longer take service from PG&E as of February 1996 would remain in the core PGA. An eligible customer who terminates service before exhausting the credit should receive a cash refund."

PG&E filed a petition to modify the above findings on January 9, 1996. In its petition, PG&E states it does not have readily available the 12 months of customer billing data specified in our decision and therefore requests the Commission modify its decision to allow PG&E to use one month of billing data -- specifically, billing data for January 1996. Further, PG&E states that even with this modification, it requests a 90-day delay in the February 1996 implementation schedule set forth in D.95-12-053.

On January 22, 1996, DRA filed a response in opposition to PG&E's petition. DRA states that if the Commission were to grant the petition, customers would not receive credit in time to offset their high winter bills and, further, the manner in which PG&E would calculate the refund to customers would be arbitrary rather than based upon their actual usage during the period of the overcollection. DRA urges the Commission to expeditiously reject PG&E's petition.

DRA filed its own Petition for Modification of D.95-12-053 on January 22, 1996. It requests the Commission modify D.95-12-053 to include in core customers' one-time refund the core's share of the Canadian gas reasonableness disallowance

adopted in D.94-03-050. DRA states PG&E in its BCAP application included the Canadian refund in the core's forecasted PGA balance and only raised an objection when DRA proposed a one-time refund of the account, rather than a return of the money to customers over the coming two years.

By Administrative Law Judge (ALJ) ruling dated January 2, 1996, PG&E was directed to supplement its petition with information on the shortest time possible under which it could provide the one-time refund to core customers using different specified methods of calculation. In addition, the ALJ ruling shortened the time period for parties' comments on both PG&E's supplemental filing and DRA's petition in order to allow the Commission to consider these petitions as soon as possible.

PG&E filed its supplement to its petition on January 29, 1996 and a response to DRA's petition on February 5, 1996. DRA filed its response to PG&E's supplemental filing on February 5, 1996. No other parties filed comments.

Discussion

PG&E's supplemental filing explains the reasons it asserts it is difficult to process the one-time refund in the manner ordered in D.95-12-053 in a timely manner under its current billing system. PG&E states its billing system contains active customer records only for the current month and the 12 preceding months; as such, it states it would take six months or longer to implement any refund based on a usage period prior to the 12 preceding months.

However, PG&E states that if the Commission allows it to base the refund amount on the last 11 months of usage, March 1995 through January 1996, or any period within those 11 months, it could implement the refund in March 1996. DRA, in its response, reluctantly recommends the Commission adopt PG&E's proposal, noting that PG&E's footdragging on the refund issue in conjunction with its archiving customer usage information has resulted in a

situation which leaves the Commission with little in the way of options other than to order the refund in March 1996 based on the last 11 months of usage within that time.[1] We find that PG&B in its supplemental filing has made a serious effort to address the Commission's interest that core customers receive the one-time PGA refund in time to offset their high winter bills. While PG&B has been tardy in properly addressing the matter, we will consider appropriate sanctions for its actions only if implementation is further delayed.

Therefore, we modify D.95-12-053 to specify that PG&B calculate the refund based on customer usage for the 11 months from March 1995 through January 1996 and that the refund be implemented in March 1996. We also adopt DRA's recommendation that PG&B include a bill insert describing the reason for the one-time refund in the month in which the refund is provided.

DRA's petition requests we modify D.95-12-053 to include in the one-time PGA refund the core's share of the Canadian gas reasonableness disallowance adopted in D.94-03-050. PG&B, in its response, requests the Commission deny DRA's petition because PG&B has filed an action in Federal district court challenging the Commission's jurisdiction to issue the disallowance adopted in D.94-03-050. PG&B states it is reluctant to directly refund an amount that may be later modified and require a surcharge on customer's bills.

1 DRA further states that it appears PG&B directly contravened the Commission's directives in D.95-12-053 by not timely proposing a refund plan with implementation in February 1996 and that it is subject to sanctions pursuant to Public Utilities Code Sections 2111 and 2113. DRA recommends that if the Commission elects to pursue sanctions, a penalty of 1% per month for each month implementation of the refund is delayed beyond February 1996 be assessed PG&B.

PG&B does not respond to DRA's assertion that since it is unlikely that the federal appellate process will be concluded within the next two years, there is absolutely no difference between a one-time refund of the core disallowance and the two-year refund proposed by PG&B in its application. We agree with DRA that in both cases, customers will receive the benefit of the disallowance pending the final outcome of the appellate process.

PG&B originally proposed to include the Canadian disallowance for core customers in order to mitigate the large rate increase it proposed for core customers in its BCAP application. (See Application 94-11-015, Exhibit 1, pages 5-25 to 5-27.) While PG&B's proposal was not adopted, we did approve an increase for core customers in the base transportation component and a slight increase in the forecasted gas commodity cost together with the one-time refund of PGA overcollections. High prices for core customers remain a Commission concern. (See D.95-12-053, mimeo. page 4.)

We find no legal merit to PG&E's argument that we should delay refunding the disallowance ordered in D.94-03-050 until PG&B has exhausted all its avenues of appeal. We also find PG&B's proposal for further delay to be poor public policy as the core customers who paid the overcharges in the 1988-90 period may not be the same customers who will receive the refund now and further delay will exacerbate this mismatch.

We did not exclude the Canadian disallowance from the core one-time refund in D.95-12-053 because we were persuaded by the arguments presented by PG&B in its reply comments. Rather, we acted in the manner we did because we recognized there was an inconsistency in the treatment being proposed for core transportation and core-elect customers. While PG&B proposed to refund the Canadian disallowance to core customers in this BCAP period, it proposed to withhold the refund to core transportation

and core-elect customers until it had exhausted all its appeals. (Exhibit 1, page 5-27.) No party addressed this inconsistency in its testimony and when the matter came to the Commission's attention in the comment period we decided that the issue should be examined further and addressed in a separate decision. We included the issue in a list of items we directed parties to consider in a workshop within 90 days and directed the ALJ to set a prehearing conference after the workshop in order to establish an expeditious procedural schedule to address the disposition of the disallowance ordered in D.94-03-050. (See Ordering Paragraphs 7 and 10.)

While we directed in D.95-12-053 that the disallowance refund treatment for all customer classes be addressed in the same forum, PG&E's subsequent disclosure of its difficulties in administering a one-time refund to core customers causes us to reconsider the matter. We find it will be more efficient and timely to include the Canadian disallowance in the core's one-time refund scheduled for March 1996 and to then address the consistency of treatment for core transportation and core-elect customers at the prehearing conference scheduled for March 29, 1996.

Therefore, we grant DRA's petition to modify D.95-12-053 to include the core's share of the Canadian gas reasonableness disallowance adopted in D.94-03-050. PG&E's forecasted core PGA overcollection was $158,227,000 as of September 30, 1995. This amount, together with the overcollected core shrinkage balance of $54.4 million and the $716,268 ordered refunded in D.95-12-046, plus applicable interest on all accounts, should be refunded to eligible core customers on their March 1996 bills.

Findings of Fact

1. PG&E's Petition for Modification of D.95-12-053, as supplemented in its January 29, 1996 filing, presents good cause for the Commission to modify the methodology used to calculate the one-time refund to core customers of the core PGA overcollection.

DRA's Petition for Modification of D.95-12-053 presents good cause for the Commission to include the core's share of the Canadian gas reasonableness disallowance adopted in D.94-03-050 in the one-time refund to core customers of the PGA overcollection.

Conclusions of Law

1. We should modify Section VII.C, One-time Refund of Core Purchased Gas Account (PGA) and Core Shrinkage Subaccount of D.95-12-053 to add the following paragraph at the end of the section:

> "Following issuance of this decision, both PG&E and DRA filed petitions for modification requesting changes to the one-time refund plan ordered here. PG&E requested a change in the methodology used to allocate the refund to customers and stated that with this change it would be able to refund to customers on their March 1996 bills. DRA requested the refund amount be increased to include the core's share of the Canadian gas reasonableness disallowance adopted in D.94-03-050. At its February 23, 1996 conference, the Commission adopted these modifications."

2. We should modify Finding of Fact 51 to read:

> "51. PG&E's forecasted core core PGA overcollection was $158,227,000 as of September 30, 1995. This amount, together with the overcollected core shrinkage balance of $54.4 million and the $716,268 ordered refunded in D.95-12-046, plus applicable interest on all accounts, should be refunded to eligible core customers on their March 1996 bills."

3. We should modify Finding of Fact 52 to read:

> "52. The one-time refund associated with PG&E's core PGA overcollection should be made to eligible customers as follows:
>
> "a. The overcollection is to be divided by the total therms billed for PG&E's core commodity gas sales for the 11 month period March 1995 through January 1996 to arrive at a refund rate per therm.

The refund for each core customer is determined by multiplying each customer's usage (PG&E core commodity gas sales only) for the same period (March 1995-January 1996) by the refund rate per therm in (a).

"c. The refund should be a credit on the eligible customer's March 1996 bill. An eligible customer is a PG&E core customer who was a PG&E core procurement customer for any month during the period March 1995 through January 1996 and is a PG&E customer in March 1996. The refund amount associated with those customers who no longer take service from PG&E as of March 1996 would remain in the core PGA. An eligible customer who terminates service before exhausting the credit should receive a cash refund."

O R D E R

IT IS ORDERED that:

1. The changes to Section VII.C. and Findings of Fact 51 and 52 of Decision 95-12-053, as set forth in Conclusions of Law 1 through 3 above, are hereby adopted.

2. Pacific Gas and Electric Company shall file an advice letter by February 27, 1996 to implement the one-time refund to core customers set forth in Findings of Fact 51 and 52.

This order is effective today.

Dated February 23, 1996, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners