

FEB 4 1998

Decision 98-02-003 February 4, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion and Order to Show Cause to determine if Pacific Gas and Electric Company should be held in violation of Gas Tariff Rule 16 for failure to provide trenching at no cost within the allowance of 100 feet.

Investigation 96-10-033
(Filed October 25, 1996;
Petition for Modification
filed October 23, 1997)

ORDER MODIFYING DECISION

Summary

This decision modifies Decision (D.) 97-10-030 to remove asserted ambiguities.

Discussion

D.97-10-030 adopted an unopposed Stipulation for Settlement between Pacific Gas and Electric Company (PG&E) and the Commission's Staff. Other parties to the proceeding were the California Building Industry Association (CBIA) and Utility Design Inc.

By a petition dated October 23, 1997, PG&E requested that D.97-10-030 be modified in two aspects:

"1. Amend page 2, third paragraph, second sentence, of the Decision to read:

"Under its terms PG&E will return all¹ refund² money collected from a to eligible customers for the first 100 feet of trenching for a gas-only trench or for an expanded trench for gas service in an electric service trench. to enlarge a joint trench to accommodate a gas service line.

"2. Amend Finding of Fact 6 on page 3 of the Decision to read:

"The Stipulation requires PG&E to make refunds to eligible customers of all money collected for the first 100 feet of trenching for a gas-only trench or an expanded trench in an electric service trench to enlarge a joint trench to accommodate a gas service line."

¹ Strike-out shows proposed deletion to current wording.

² Underlining shows proposed new wording.

The intent of the revisions was explained as follows:

"The first revision in the text and in Finding of Fact 6 reflects the fact that PG&E is providing refunds to eligible customers even if the customer did not pay PG&E for the trenching, but paid a contractor. The second revision in each location clarifies that the refund is provided only for the incremental cost of an expanded joint trench, as specified in paragraph 2 and footnote 1 of the Revised Stipulation. By including the term 'joint' trench, the second revision also avoids any conflict with Electric Rule 16, which requires the customer to pay for all trenching costs."

The Petition for Modification was filed and served on all parties on October 23, 1997. Pursuant to Rule 47(f) any response must be filed and served no later than 30 days from the date the Petition for Modification was served. A response was filed by CBIA on November 19, 1997.

CBIA does not oppose the proposed modification to D.97-10-030.

"CBIA points out that prior to December 1996 - and in contrast to Electric Rule 16 as it exists today - customers did not pay for gas trenching costs under Gas Rule 16. A customer's obligation to pay for gas trenching costs under Gas Rule 16 was not established until Decision 96-12-030 [Dec. 9, 1996]. If the Commission grants PG&E's Petition, CBIA believes it is both necessary and appropriate for the Commission to recognize the relevant date related to the change in Gas Rule 16."

By including the quoted portion of CBIA's response we have acknowledged its response.

PG&E's proposed modification introduces new ambiguity by failing to employ parallel structure in its second revision. We will revise PG&E's proposal slightly to eliminate this problem.

Findings of Fact

1. A Petition for Modification of D.97-10-030 was filed by PG&E on October 23, 1997.
2. The Petition alleged ambiguity between the Stipulation for Settlement and D.97-10-030 which adopted the Settlement.
3. The Petition proposed language intended to remove this asserted ambiguity .

4. The Petition indicates that service of the Petition was made on all parties to the proceeding.

5. A response was received from CBIA asking that we recognize that Gas Rule 16 was amended on December 9, 1996.

6. No protests to the Petition for Modification have been received.

Conclusions of Law

1. With slight revisions, the modifications of D.97-10-030 proposed by PG&E eliminate any ambiguity between the Stipulation of Settlement and D.97-10-030.

2. With slight revisions, the modifications to D.97-10-030 should be adopted.

IT IS ORDERED that:

1. Decision 97-10-030 is modified as follows:

a. Page 2, third paragraph, second sentence, is amended to read:

"Under its terms PG&E will refund money to eligible customers for the first 100 feet of trenching for a gas-only trench or for an enlargement of a joint trench to accommodate a gas service line."

b. Finding of Fact 6 on page 3 is amended to read:

"The Stipulation requires PG&E to make refunds to eligible customers of all money collected for the first 100 feet of trenching for a gas-only trench or for an enlargement of a joint trench to accommodate a gas service line."

2. Investigation 96-10-033 is closed.

This order is effective today.

Dated February 4, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners