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MAIL DATE
9/7/99

Decision 99-09-031 September 2, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority, among other things, to decrease its rates and charges for electric and gas service, and increase rates and charges for pipeline expansion service. (Electric and Gas) (U 39 M)	Application 94-12-005 (Filed December 9, 1994)
Order Instituting Investigation into the rates, charges, and practices of PACIFIC GAS AND ELECTRIC COMPANY.	I.95-02-015 (Filed February 22, 1995)

ORDER GRANTING LIMITED REHEARING

Decision (D.) 95-12-055, issued December 20, 1995, resolved revenue requirements issues in Phase I of Pacific Gas and Electric Company's (PG&E) 1996 test year general rate case (GRC). In a timely application for rehearing, PG&E alleged legal error, inter alia, with respect to rejection of PG&E's revenue assurance mechanism (addressing an incentive for reducing energy theft). The Commission issued D.98-12-096 in which it denied rehearing on the energy theft incentive mechanism. PG&E promptly filed the present application for rehearing to "alert" the Commission that the decision contains legal error in its disposition of this particular issue in that it allegedly announces erroneous new reasons for the denial of any relief. No response to this application for rehearing has been filed by any party in the proceeding.

In the 1996 GRC, PG&E and the Division of Ratepayer Advocates (now the Office of Ratepayer Advocates) proposed a program creating an incentive for PG&E to endeavor to collect at least $6 million in energy theft billings each year. Included in the plan would be the creation of a memorandum account to track recovery of revenues, but not the cost of the program.[1] Both parties agreed that this figure constituted a reasonable target amount of lost or "stolen" revenues that PG&E could recover from customers who divert energy.

D.95-12-055 rejected the joint PG&E-ORA proposal on the ground that it would complicate regulation by creating a new regulatory mechanism. (63 CPUC 2d at 618). Instead it imputed the $6 million figure in the proposal into PG&E's rate application by placing it into Other Operating Revenues, which functioned as an offset or reduction in the authorized 1996 GRC revenue requirement. Since the revenue requirement was reduced by this amount, it was not included for recovery in rates in the GRC decision.

In its original application for rehearing of this GRC decision PG&E contended that it resulted in a disallowance of $6 million which was not recommended by the staff and is not supported by any evidence in the record. It denied that the amount was agreed to as being "reasonable" energy theft revenues. According to PG&E, the figure was agreed to as a reasonable target for the incentive program which PG&E might recoup. If it recouped less than the target amount, it would suffer the loss of the shortfall. If it exceeded the $6 million target, the excess would be shared equally between ratepayers and shareholders. PG&E urged that rejection of the joint proposal be reconsidered because it was agreed to with staff after extensive discussions; would invigorate PG&E to catch people who steal electricity; and would operate under an annual advice letter filing.

PG&E also contended that the $6 million imputation produced a perverse result in that it created an annual disallowance not proposed or endorsed by any party in the

[1] The costs of the energy theft program were not to be included in the memorandum account. Furthermore, PG&E states that it did not request any specific increase in its customer accounts expenses for the program.

proceeding. It emphasized that the imputation permanently lowers the amount of revenues that PG&E can collect from its customers since it acts as an offset to the revenue requirement. Accordingly, PG&E recommended that the Commission either approve the theft incentive proposal with its proposed memorandum account; or in the alternative, eliminate the $6 million annual disallowance by directing that PG&E could exclude from ERAM all revenues billed and collected for energy theft.

D.98-12-096 denied PG&E's application for rehearing on this issue, and thereby retained the $6 million imputation. It rejected PG&E's explanation that energy theft revenues are flowed through ERAM to ratepayers by stating that ERAM no longer exists and that rates are frozen during the electric restructure transition period. It also stated that PG&E had chosen not to raise this issue in its 1999 GRC currently under submission.

In its current application for rehearing of this issue, PG&E maintains that the decision errs on all counts stated in D.98-12-096; namely, that it did raise the issue in its 1999 GRC and that its earnings are affected by the imputation in that its earnings are reduced as a result of the annual imputation by a total of $18 million ($6 million for each year of the three year GRC cycle; i.e., 1996-1998).[2] PG&E requests that the imputation be reversed, or that in the alternative the Commission maintain it but permit PG&E to flow energy diversion revenues for the 1996-98 period to shareholders rather than to ratepayers. For the year 1996 ERAM was still in effect. For year 1997, when the rate freeze had begun, PG&E's tariffs, including ERAM, remained in effect, as ratemaking for 1997 was unchanged from 1996. And for 1998, PG&E emphasizes that even with the end of ERAM, the TRA was the functional equivalent of ERAM insofar as the treatment of energy theft revenues was concerned.

[2] It is general Commission practice not to accept the filing of an applicaton for rehearing of a decision on rehearing. However, acceptance of such a second filing may be allowed if the original decision on rehearing raises a new issue which the applicant for rehearing had no opportunity to address.

Thus PG&E concludes that as a result of the annual $6 million imputation, it has sustained a cumulative reduction of $18 million in revenues that should have been included in its revenue requirement and provided for recovery in rates. Therefore, PG&E requests that the Commission correct this mistake and legal error by reducing the Other Operating Revenues figure in the ERAM tariff by $6 million for 1996 and 1997, and the Other Operating Revenues figure for the 1998 distribution revenue requirement. The result would be to increase PG&E's ERAM Base Revenue Amount by $6 million for each year 1996 and 1997, and the TRA distribution revenue for 1998. Corresponding changes would be made to the Transition Cost Balancing Account for 1998.

As an alternative remedy, PG&E proposes that the Commission revise the 1996 GRC decision (D.95-12-055) to maintain the imputation but provide that energy theft revenues for the 1996-1998 rate case cycle not be counted as revenues under ERAM or the TRA, and instead these revenues be flowed through to shareholders. In this manner the energy theft revenue estimate of $6 million per year would serve as an "energy theft revenue annual target." PG&E's earnings would be positively affected in each year it exceeded the target amount, and negatively affected each year such revenue fell below this target amount.

We have reviewed this matter and conclude that rehearing is warranted. The $6 million imputation instituted in D.95-12-055 was adopted without detailed explanation set forth in the GRC decision. Moreover, the reasons subsequently set forth in the rehearing decision (D.98-12-096) are not entirely accurate. Accordingly, we will grant rehearing to provide further review.

PG&E should be required to file a report for each of the three years involved setting out the energy theft revenues collected and the costs expended on its energy theft program, because it did not include this information in its application for rehearing. PG&E should also be authorized to file the necessary advice letters, serving all parties in the GRC, to correct the effect of the imputation. Those advice letters will be subject to review by the

Commission staff, and subject to further evidentiary hearing, if deemed necessary by the assigned administrative law judge.

Therefore, **IT IS ORDERED** that:

1. Limited rehearing of Decision 95-12-055, and Decision 98-12-096 is granted for the purpose of further considering the ratemaking treatment of energy theft revenue.

2. No later than 60 days after the effective date of this decision PG&E shall file a report for each of the years 1996-1998 setting out the energy theft revenues collected and flowed through to ratepayers; any energy theft revenues collected and not flowed through ratepayers; and also the costs expended in each year on its energy theft program. This report shall be served on all parties in Application 94-12-005 and Investigation 95-02-015 and shall be reviewed by the Commission staff.

3. At the same time PG&E files the report required by Ordering Paragraph 2 above, it is authorized to file proposed advice letters to eliminate the effect of the energy theft revenue imputation. These advice letters shall be reviewed by the Commission's staff and submitted to the Commission for further action. The administrative law judge assigned to this rehearing shall hold evidentiary hearings if necessary.

This order is effective today.

Dated September 2, 1999, at San Francisco, California

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners