

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Environmental BranchRESOLUTION E-3137
April 26, 1989RESOLUTION

RESOLUTION E-3137, ORDER AUTHORIZING PACIFIC GAS AND ELECTRIC COMPANY (PG&E) TO RECORD UP TO \$907,187 IN A MEMORANDUM ACCOUNT FOR CLEANUP COSTS ASSOCIATED WITH THE BERMAN STEEL SITE IN SALINAS; BY ADVICE LETTER 1239-E, FILED FEBRUARY 17, 1989.

SUMMARY

1. PG&E filed Advice Letter (AL) 1239-E on February 17, 1989 requesting authority to book hazardous waste cleanup costs associated with the Berman Steel site in Salinas.
2. This Resolution approves the request.

BACKGROUND

1. Advice Letter 1239-E was filed by PG&E under the procedure adopted by the Commission in Decision (D.) 88-09-020 to expedite the process of authorizing the booking of hazardous waste cleanup expenses. Decision 88-09-020 authorized advice letters to be filed on a project-by-project basis and to contain comprehensive, specific information about each site. It also required that expenditures incurred undergo an annual reasonableness review.
2. The Berman Steel site is a two-acre site owned by Southern Pacific Transportation Company (SPTC). The site was leased to the Pacific States Steel Company and, between 1962 and 1982, to the Berman Steel Company (Berman). Both lessees conducted scrap metal recycling operations at the site, where PG&E sent and sold electrical transformers to be recycled. Berman ceased operations at the site in November 1981; the site has been inactive since.
3. The California Department of Health Services (DHS) conducted investigations in 1981, 1983 and 1984, and confirmed the presence of PCBs and elevated levels of lead, copper and zinc at the site. In October 1984, DHS nominated the site for

inclusion in the California Hazardous Substance Cleanup Expenditure Plan ("State superfund") and issued a Remedial Action Order to SPTC (the property owner), PG&E (a potential hazardous substance generator), Mr. Aaron Berman (an individual), and Berman Steel Company (the site operator). SPTC and PG&E have jointly complied with the Order. In November 1987 DHS issued a Notice of Proposed Determination of Non-Compliance with the Order to Berman Steel Company and Mr. Aaron Berman.

4. DHS was required by law to make a preliminary non-binding allocation of responsibility, and allocated equal responsibility to Berman, PG&E and SPTC. A final allocation can only be made by an arbitration panel.

COMMENTS

1. The Division of Ratepayer Advocates (DRA), in comments filed March 20, 1989, recommended the acceptance of Advice Letter 1239-E, with several conditions that have previously been applied to memorandum accounts for hazardous waste projects. These conditions include: (1) the prohibition of booking costs or expenses paid or incurred prior to the date of the order; (2) the requirement that all expenses are to be consistent with documents filed as part of the advice letter; (3) the requirement that costs recorded in the account be subject to a subsequent reasonableness review and should not be placed into rates until ordered by the Commission; and (4) the recommendation that interest accrue at the three-month commercial paper rate on amounts booked in the memorandum account.

2. Despite its recommendation to accept AL 1239-E, which requested \$907,187 (the full amount of cleanup costs), DRA recommended PG&E be allowed to book only from one-third to a maximum of one-half of the total cleanup costs. DRA contacted DHS and learned Berman is contesting its responsibility for cleanup, and that DHS would require SPTC and PG&E to assume responsibility for the total cleanup costs should Berman refuse to pay its share. SPTC and PG&E would then be able to sue Berman for reimbursement. DRA expects PG&E to take action to recover costs from Berman if it fails to pay its share of cleanup costs.

3. PG&E responded to DRA's comments by letter March 28, 1989. PG&E seeks authority to book the full amount of the cleanup costs at the Berman site (\$907,187) because it has potential liability for up to the total costs of the remedial action. PG&E stated it would seek to recover in a later reasonableness review only those costs which PG&E ultimately must pay. PG&E feels that to limit the memorandum account now prejudices the issues to be resolved in the subsequent proceeding.

4. CACD contacted DHS to verify that no final allocation has been determined. SPTC, PG&E and Berman are all contesting the DHS allocation, and arbitration will begin in late April.

DISCUSSION

1. The Commission Advisory and Compliance Division (CACD) has reviewed DRA's recommendations and PG&E's comments and has determined separate hearings are unnecessary.
2. PG&E's AL 1239-E and supporting documents meet the information requirements set out in D.88-09-020, and include an order to undertake site work, a work plan, schedule and budget. (PG&E did not include the site workplan when they filed AL 1239-E, but it was received March 8, 1989.) CACD believes the Berman Steel site is appropriate for memorandum account treatment.
3. PG&E did not submit proposed Preliminary Statement changes with the advice letter to establish the memorandum account. CACD asked PG&E to develop proposed language and format. PG&E will submit a separate advice letter containing the appropriate language.
4. CACD requests that PG&E submit all communication with DHS, SPTC, Berman and consultants regarding the site.
5. Authorizing PG&E to book up to the total estimated remediation costs associated with the site recognizes that PG&E is a potentially responsible party and that no allocation has been finalized by DHS.

FINDINGS

1. PG&E should record in a memorandum account up to \$907,187 for costs associated with the cleanup of the Berman Steel site and consistent with project documentation set forth in AL 1239-E and supporting documents.
2. Authority to implement this account should be effective on the date of this order because construction is scheduled to begin soon. No expenses paid or incurred prior to the date of this order shall be included in the account.
3. Expenses recorded in the account should be subject to a subsequent annual reasonableness review, as required in D.88-09-020, and should not be placed into rates until ordered by the Commission after the review.
4. PG&E should be authorized to accrue interest at the three-month commercial paper rate on amounts booked into the memorandum account.
5. All communication between PG&E, DHS, SPTC, Berman and consultants regarding the Berman site should be submitted to the CPUC. Therefore,

IT IS ORDERED THAT:

1. Pacific Gas and Electric Company (PG&E) is authorized to implement a memorandum account not to exceed \$907,187 for remedial costs associated with the cleanup of the Berman Steel site in Salinas. No expenses paid or incurred prior to the date of this order shall be included in the account.
2. Expenses recorded in the account shall be consistent with documents submitted in Advice Letter 1239-E filed by PG&E February 17, 1989, and supporting documents, included herein by reference.
3. These costs shall be subject to a reasonableness review, as ordered in Decision 88-09-020, and shall not be placed into rates until ordered by the Commission after the review.
4. PG&E is authorized to accrue interest at the three-month commercial paper rate on amounts booked into the memorandum account.
5. PG&E shall provide the Commission Advisory and Compliance Division with copies of all communication with the Department of Health Services, Southern Pacific Transportation Company, the Berman Steel Company and consultants regarding the Berman site and DHS' allocation of responsibility and amounts paid by any parties participating in the cleanup activities.
6. PG&E shall file an advice letter modifying its Preliminary Statement in compliance with this Resolution.
7. This Resolution is effective today.

I certify that this Resolution E-3137 was adopted by the Public Utilities Commission at its regular meeting on April 26, 1989. The following Commissioners approved it.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners


Executive Director