

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Energy Branch

RESOLUTION E-3165
November 3, 1989

R E S O L U T I O N

RESOLUTION E-3165. PACIFIC GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY AUTHORIZED TO FILE REBATES FROM CRUDE OIL OVERCHARGES AND RELATED EXPENSES IN THE UTILITIES' RESPECTIVE ELECTRIC FUEL COST ADJUSTMENT BALANCING ACCOUNTS.

PACIFIC GAS & ELECTRIC ADVICE LETTER 1259-E, SOUTHERN CALIFORNIA EDISON ADVICE LETTER 845-E AND SAN DIEGO GAS & ELECTRIC ADVICE LETTER 777-E, FILED AUGUST 18, 1989, AUGUST 30, 1989 AND SEPTEMBER 6, 1989, RESPECTIVELY.

SUMMARY

1. On May 19, 1989, Pacific Gas & Electric Company (PG&E), Southern California Edison Company (Edison) and San Diego Gas & Electric Company (SDG&E) advised the Commission of a favorable settlement concerning crude oil overcharges before the United States Department of Energy (DOE).
2. By Advice Letter 1259-E, filed August 18, 1989, PG&E notified the Commission of the method by which the utility proposes to account for the refunds. Similar filings were made by Edison and SDG&E by Advice Letters 845-E and 777-E, filed August 30, 1989 and September 6, 1989, respectively.
3. This resolution approves the respective filings of the three electric utilities.

BACKGROUND

1. The crude oil overcharges leading to the refund occurred between 1973 and 1981. To date the three utilities have recovered \$19.9 million for these overcharges.
2. The three utilities retained outside legal counsel to recover the overcharges. The utilities propose to reduce the refunds by the amount of the associated legal costs.
3. Each of the three utilities proposes to return the refunds, less costs, to the electric ratepayers by way of their Energy Cost Adjustment Clause (ECAC) balancing accounts.

4. The method of refunding sums of money from fuel suppliers was adopted by the Commission in Decision 85731, dated April 27, 1976, in Case 9886, and implemented by advice letters filed between April and September of 1976. The filings were approved by Resolutions E-1559 (PG&E), E-1595 (Edison) and E-1599 (SDG&E), dated May 4, 1976, September 14, 1976 and September 28, 1976, respectively.

5. With only minor modifications, these advice letter filings are the same as those filed in 1976.

NOTICE

1. Public notification of these filings has been made, in each case, by mailing copies of the advice letters to other utilities, governmental agencies and to all interested parties who requested such notification.

PROTESTS

1. No protests have been received to any of these advice letter filings.

DISCUSSION

1. PG&E, Edison and SDG&E propose that the refunds be recorded in the Energy Cost Adjustment Clause balancing account as a means of returning the overcharges to the electric ratepayers.

2. To date, PG&E has received refunds totaling \$5,782,832. PG&E has been billed \$211,434 by outside legal counsel for obtaining the refunds.

3. Edison has received refunds of approximately \$11.3 million and has been billed \$361,198 by outside legal counsel.

4. SDG&E has received \$2,794,709 and has been billed \$122,930 by outside legal counsel.

5. Legal fees to outside counsel are 3% of the funds recovered plus expenses. The litigation resulted in the recovery of approximately \$19.9 million for the three utilities at a total cost of less than \$0.7 million.

6. The three utilities propose to include associated legal fees in their ECAC balancing accounts in the month in which the fees were paid.

7. The utilities also seek authorization to treat any future supplemental crude oil overcharge refunds and associated legal fees in a similar manner.

8. The net effect of placing this refund money in the respective ECAC balancing accounts will be to reduce future ECAC revenue requirements.

9. Each of the proposed plans conforms with the provisions of Section 453.5 of the Public Utilities Code which would require the utilities to repay current and prior ratepayers in as close proportion as possible to their actual overpayments, whenever a refund is ordered. Section 453.5 allows deviations from the refunding to prior customers when the requirements are not practicable.

10. Each of these filings has been reviewed by CACD. CACD believes that the provisions of Section 453.5 apply here because ECAC balancing account treatment presents a good match of refund money to the overcharges for electricity paid by individual customers based on oil-generated electricity.

11. In addition CACD believes that the passage of time since the overcharges (10 to 15 years), could make the process of locating all eligible customers extremely difficult. This would make administration of a regular electric refund plan cumbersome, and costly.

12. CACD further believes that returning these funds to the electric ratepayers via the ECAC balancing account represents the best way to dispose of this rebate.

13. CACD has been informed that without the litigation undertaken by the utilities the rebates would have been considerably less. CACD believes that resulting litigation costs should be recoverable to the extent that they are not already covered in base rates, and are reasonable. Therefore, CACD recommends that the associated outside legal fees charged against these accounts should be recovered in the manner proposed by the utilities, subject to review by the Commission in the next ECAC reasonableness review. CACD recommends that the review consider whether these costs have already been recovered through base rates on a prospective basis.

14. The three utilities each allege, and CACD concurs, that these filings will not increase any rate or charge, conflict with other schedules or rules, nor cause the withdrawal of service.

FINDINGS

1. The proposed plans of the three utilities to place these and future rebate monies from crude oil overcharges in their ECAC balancing accounts are reasonable.

2. Due to the circumstances and the time that has passed since the overcharges, the provisions of Section 453.5 of the Public Utilities Code are most feasibly served in this case by balancing account treatment. Therefore, refunding by balancing account is in order.

3. The result of these funds being placed in the respective balancing accounts will be reduced revenue requirements in the utilities' ECAC filings.

4. No protests have been received in any of these filings.

5. The Commission should review these and future associated legal fees for reasonableness. Authorization by this resolution for the utilities to place such future costs in the ECAC balancing accounts should be subject to reasonableness reviews.

6. Authorization granted by this resolution for the utilities to place legal fees associated with the petroleum overcollection rebates into the ECAC balancing accounts should not be considered a precedent for including other types of expenses in the ECAC balancing accounts.

7. For all of the above reasons these filings should be approved.

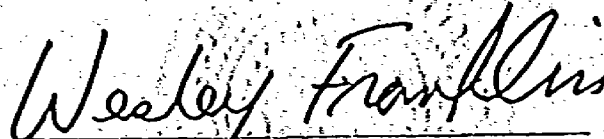
THEREFORE IT IS ORDERED that:

1. Pacific Gas & Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are each authorized to place their refunds from their respective Energy Cost Adjustment Clause balancing accounts as detailed in Advice Letters 1259-E, 845-E and 777-E, respectively.
2. Each of the three utilities is also authorized to enter the outside legal fees associated with the recovery of these refunds in the same respective balancing accounts, subject to review in the next ECAC reasonableness reviews.
3. Any future crude oil overcharge refunds received by any or all of the above utilities, as well as any associated outside legal fees shall also be placed in the respective balancing accounts, subject to a subsequent reasonableness review by the Commission.
4. Within fifteen (15) days of placing any such refund and/or associated legal fee charge into the balancing account, the affected utility shall notify the Energy Branch of the Commission by letter of such action.

5. Nothing in this order shall be construed as setting a precedent for the inclusion of other expense items in the balancing accounts.
6. The respective advice letters of the three utilities shall each be marked to show that they were approved for filing by Resolution E-3165.
7. This resolution is effective today.

I hereby certify that this resolution was adopted by the California Public Utilities Commission at its regular meeting on November 3, 1989. The following commissioners approved it:

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


WESLEY FRANKLIN
Acting Executive Director