

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND
COMPLIANCE DIVISION
Energy Branch

RESOLUTION E-3239
NOVEMBER 6, 1991

R E S O L U T I O N

RESOLUTION E-3239. PACIFIC GAS AND ELECTRIC COMPANY'S
REQUEST FOR COMMISSION APPROVAL OF REFUND PROPOSALS. BY
ADVICE LETTERS 97-H, 1358-E, AND 1649-G.
FILED ON MAY 31, 1991.

SUMMARY

1. Pacific Gas and Electric Company (PG&E) requests approval of proposals to return to its customers refunds received from its suppliers of Natural Gas, and to include in this refund monies from prior refund proposals which were allocated to no specific customers.
2. Advice Letter 97-H is for the refund of \$281,284.18 to the steam customers of PG&E. Advice Letter 1358-E is for the refund of \$11,274,482.29 to the electric customers of PG&E. Advice Letter 1649-G is for the refund of \$33,620,972.49 to the natural gas customers of PG&E. The dollar amounts were estimated as of March 31, 1991. Interest has been accruing on these amounts since that date.
3. This Resolution approves the request.

BACKGROUND

1. PG&E has paid amounts as billed by the following suppliers: California Producers, El Paso Natural Gas Company, Northwest Pipeline Corporation, Mountain Fuel Resources, Pacific Gas Transmission, Ammonia Producers, Texas El Paso, Colorado Interstate Gas Company and Lear Petroleum. In compliance with Federal Energy Regulatory Commission (FERC) orders PG&E has received refunds from these suppliers for overpayment. PG&E has made refunds to its customers, withholding a small percentage from each refund for contingencies.
2. PG&E now proposes to refund unspent contingencies from prior refund proposals, and the latest refund received from natural gas suppliers less a contingency reserve.

NOTICE

1. Public notice of these filings has been made by publication in the Commission's Calendar on June 5, 1991, and by mailing copies of the Advice Letter to other utilities and California Energy Commission, Palo Alto Municipal Utility, Bay Area Rapid Transit District (BART), City of Healdsburg, City of Santa Clara, City of Ukiah, Contra Costa County, Department of the Air Force, Department of the Army, Modesto Irrigation District, Sequoia Union High School District, Turlock Irrigation District, University of California, United States Government Department of Housing and Urban Development (HUD), and Western Division Naval Facilities.

PROTESTS

1. The Commission Advisory and Compliance Division (CACD) received no protest to Advice Letter 97-H.
2. Timely protests to Advice Letters 1358-E and 1649-G were filed Gray Davis Controller of the State of California (Controller).
3. A timely protest to Advice Letter 1358-E was filed by R.M. Hairston Company representing Bay Area Rapid Transit District (BART).

DISCUSSION

1. PG&E wants to make refunds, using a procedure similar to the one used in making previous customer refunds. This method has been approved in the past for implementing refunds by Resolutions G-2417 dated March 17, 1981, and G-2632 dated April 3, 1985. In addition PG&E, proposes to refund monies which it has withheld for what PG&E designates as deficiencies.
2. The Controller's protest alleges that PG&E's proposal the disposal of amounts withheld for contingencies in past refunds does not comply with the requirements of Section 1519.5 of the California Code of Civil Procedure (CCP) as interpreted in Cory v P.U.C. (1983) 33 Cal 3rd, 522, (Cory) 189 Cal Rptr 386, 658 Pac 2nd 749. These funds should accordingly escheat to the State of California. PG&E responded that as the contingency funds had not been specifically designated for certain customers CCP 1519.5 and Cory are inapplicable.

3. BART alleges that it was the sole Railroad customer of PG&E during the time period covered by the proposed refund, therefore it should receive the entire refund allocated to the Railroad customer classification. PG&E responded that BART was not the only Railroad customer for the entire period of the refund and the refund appropriate for the Railroad Customer Classification would be allocated in accordance with purchases during the period covered by the refunds as required by the decision of the California Supreme Court in California Manufacturers Association vs Public Utilities Commission (1979) 24 Cal 3rd 836, 840, 157 Cal Rptr 676, 598 Pac 2nd 836.

4. The Controller, in a letter to PG&E dated September 6, 1991, accepted PG&E's interpretation, agreeing that the funds in question had not yet escheated to the State of California as there was no definite individual refunds contained in the contingency holdings and refunds could not be made without prior Commission approval.

FINDINGS

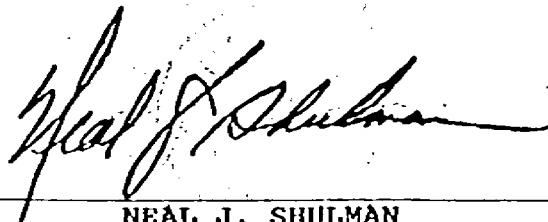
1. PG&E has received refunds from its suppliers which should be returned to its ratepayers.
2. Distribution of the amounts, withheld from previous refunds by PG&E for contingencies, by the advice letter procedure is appropriate.

November 6, 1991

THEREFORE, IT IS ORDERED that:

1. Pacific Gas and Electric Company is authorized to distribute the refunds received in accordance with its previously established practice.
2. Pacific Gas and Electric Company is directed to file within ninety days an application to dispose of the amounts withheld for contingency purposes from the present refund.
3. Advice Letters 135-E, 1649-G and 97-H shall be marked to show that they were partially approved and partially denied by Commission Resolution E-3239. Denied is the proposed disposal of contingency funds from the latest refund.
4. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 6, 1991. The following Commissioners approved it:



NEAL J. SHULMAN
Executive Director

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners