

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory and
Compliance Division

RESOLUTION E-3245
October 11, 1991

R E S O L U T I O N

RESOLUTION E-3245. ELECTRICAL ENERGY PAYMENT
DEFERRAL PLAN AND BALANCING ACCOUNT FOR CITRUS AND
AVOCADO PRODUCERS.

BY ASSEMBLY BILL ENACTING PUBLIC UTILITIES CODE
SECTION 744.5.

SUMMARY

1. Assemblyman Bronzan sponsored an emergency bill enacting Public Utilities Code (Code) Section 744.5 which grants specific deferrals under specified conditions of electric energy bills to growers of citrus and avocado crops damaged by the freezing weather conditions in December 1990 and January 1991.
2. This Resolution Orders Pacific Gas & Electric Company (PG&E), Southern California Edison Company (Edison) and San Diego Gas & Electric Company (SDG&E) to file Advice Letters in compliance with this Resolution to implement Code Section 744.5.

BACKGROUND and DISCUSSION

1. The Legislature found and declared that the freezing weather during December 1990 and January 1991 caused particularly extensive damage to the citrus and avocado crops in California. It also found and declared that the current extreme drought conditions have compounded the situation, resulting in greater energy usage and higher costs. It is the intent of the Legislature that citrus and avocado growers be eligible for deferred electrical energy payments for bills incurred between June 1, 1991 and March 31, 1992.
2. The new Code Section 744.5 provides that growers who qualify as defined in the section may defer up to fifty percent (50%) of their monthly bill, without interest to them, attributable to the production of citrus and avocados. After March 31, 1992, the growers would then pay the deferred amounts in up to eighteen equal monthly payments in addition to their regular monthly bills from that time onwards.
3. Code Section 744.5 provides certain conditions and documentation requirements. An "agricultural producer" is defined by the previously enacted Code Section 744(a). The deferrable electric energy bill is defined in the new Section

744.5(e)(1) as "up to 50 percent of each electricity bill incurred during the deferral period on accounts or amounts attributable to the production of citrus or avocado crops". (Emphasis added.) Thus producers may have to apportion bills between eligible and ineligible uses.

4. The text of the Legislative Counsel's Digest and the Bill, including the text of Code section 744.5 is attached to this resolution as Appendix A.

5. The Commission Advisory & Compliance Division (CACD) recommends that the three electric utilities, PG&E, SCE and SDG&E, should file tariff language in a compliance advice letter to this resolution establishing the appropriate mechanisms to defer customers' bills as provided for in the code section. CACD notes from discussions with the utilities that their credit departments have been working with customers in distress as normal part of their business practices. With whatever flexibility already extended, the utilities should now extend up to a fifty percent deferral of billing related to the production of avocados and citrus upon the customer providing the documentation required by the code.

6. In order to also conform with the code the utilities should establish appropriate memorandum records to track the costs of this program plus the interest foregone by the utility and other allowable costs which the legislation requires this commission to pass along to all other customers except the citrus and avocado producing customers. (Section 744.5 (g)). Although the code uses the terminology "balancing account", the correct characterization of this segregation of costs is a "memorandum account". Regardless of the name used, the utilities should comply with the intent of this directive.

FINDINGS

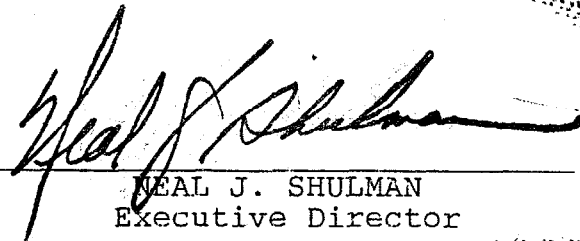
1. The legislature has enacted Code Section 744.5 which grants special rate deferrals for a specified period of time to avocado and citrus growers who can meet defined criteria. PG&E, SCE and SDG&E should file compliance advice letter tariffs to implement the deferral program.

2. The Code Section also provides that the utilities should set up a balancing account to record interest costs and other defined costs to be charged to other customers. The utilities should include this in their compliance filing.

THEREFORE, IT IS ORDERED that:

1. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall file advice letters within ten days of the effective date of this Resolution in compliance with this Resolution to implement the requirements of Public Utilities Code Section 744.5. They shall be effective upon filing.
2. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 11, 1991. The following Commissioners approved it:



NEAL J. SHULMAN
Executive Director

JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner Patricia M. Eckert,
being necessarily absent, did
not participate.

1
2 August 19, 1991
3 July 18, 1991 An act to add Section 744.5 to the Public Utilities
4 Code, relating to public utilities, and declaring the urgency thereof, to
5 take effect immediately.

6
7 LEGISLATIVE COUNSEL'S DIGEST

8
9 AB 20, Bronzan. Public utilities: deferred payments for agricultural
10 producers.

11 (1) This bill would express a finding and declaration of the
12 Legislature regarding the effect of the freeze of December of 1990 and
13 January of 1991 on the agricultural industry, especially the citrus and
14 avocado crops, and the compounding of this situation by the current
15 drought conditions. The bill would also express the intent of the
16 Legislature with regard to deferred electrical energy payments for citrus
17 and avocado growers.

18 (2) Under existing law, jurisdiction and control over public
19 utilities, including electrical, gas, telephone, telegraph, and water
20 corporations, as defined, is vested in the Public Utilities Commission.
21 The commission is authorized to fix rates and charges and to specify the
22 terms and conditions under which service is furnished.

23 This bill would require the Public Utilities Commission to require
24 every electrical corporation which furnishes electricity to an
25 agricultural producer, as defined, to provide citrus and avocado
26 producers with an electrical energy payment deferral program, as
27 specified.

28 The bill would require electrical corporations to provide the
29 electrical energy payment deferral program to citrus and avocado
30 producers upon verification, as specified in the bill, of freeze-related
31 crop losses of not less than 50%. The bill would require that
32 electricity bills incurred by eligible agricultural producers from June
33 1, 1991, to March 31, 1992, inclusive, be eligible for deferral, as
34 specified.

35 Since existing law makes any public utility which violates specified
36 provisions regulating public utilities guilty of a misdemeanor, the bill
37 would impose a state-mandated local program by creating a new crime.

38 (3) The California Constitution requires the state to reimburse local
39 agencies and school districts for certain costs mandated by the state.
40 Statutory provisions establish procedures for making that reimbursement.

41 This bill would provide that no reimbursement is required by this act
42 for a specified reason.

43 (4) The bill would declare that it is to take effect immediately as
44 an urgency statute.

45
46 The people of the State of California do enact as follows:
47

48 SECTION 1. The Legislature finds and declares that the freeze during
49 December of 1990 and January of 1991 caused particularly extensive damage
50 to the citrus and avocado crops. The current extreme drought conditions

DELETED MATERIAL IS IN BRACKETS []. ADDED MATERIAL IS CAPITALIZED.

1 have compounded this situation, resulting in greater energy usage and
2 higher costs. It is, therefore, the intent of the Legislature that
3 citrus and avocado growers be eligible for deferred electrical energy
4 payments.

5 SEC. 2. Section 744.5 is added to the Public Utilities Code, to read:

6 744.5. (a) Notwithstanding any other provision of law, the Public
7 Utilities Commission shall, as soon as is practicable after the operative
8 date of the act adding this section, require every electrical corporation
9 which furnishes electricity to an agricultural producer to provide, in
10 accordance with the requirements of subdivision (c), citrus and avocado
11 producers with an electrical energy payment deferral program related to
12 the production of citrus and avocado crops.

13 (b) For the purposes of this section, "agricultural producer" shall
14 be as defined in subdivision (a) of Section 744.

15 (c) Notwithstanding any other provision of law, upon verification by
16 the agricultural producer of freeze-related crop
17 losses of not less than 50 percent, the electrical corporation shall
18 provide the electrical energy payment deferral program referenced in
19 subdivision (a). For the purposes of this subdivision, the electrical
20 corporation shall accept the original or a true photocopy of any of the
21 following as verification of crop losses:

22 (1) A statement from a packing house or handler. A person who
23 exercises managing control in a packing house shall provide at least one
24 of the documents set forth in paragraphs 2 to 5, inclusive, in addition
25 to, or in place of, the document set forth in this paragraph.

26 (2) A statement from a farm adviser of the University of California.

27 (3) A statement from the county agricultural commissioner.

28 (4) A statement of insurance adjustment.

29 (5) A calamity claim to the county tax assessor.

30 (d) For the purposes of this section, "deferral period" shall mean
31 June 1, 1991, to March 31, 1992, inclusive. Electricity bills incurred
32 by agricultural producers during the deferral period shall be eligible
33 for deferral pursuant to this section.

34 (e) (1) Deferral programs under this section shall be developed on
35 an individual basis between the electrical energy corporation
36 and the eligible agricultural producers. These deferral programs shall
37 allow eligible agricultural producers, at their option, to defer, without
38 incurring interest charges, up to 50 percent of each electricity bill
39 incurred during the deferral period on accounts or amounts attributable
40 to the production of citrus or avocado crops.

41 (2) At the end of the deferral period, participating agricultural
42 producers shall keep each month's charges current and pay the accrued
43 deferrals in up to 18 equal monthly installment payments. To be eligible
44 for the maximum 50 percent deferral and the maximum 18-month repayment
45 period, an agricultural producer shall do all of the following:

46 (A) Verify crop losses in accordance with subdivision (c).

47 (B) Demonstrate, to the satisfaction of the electrical energy
48 corporation, which accounts are, or which portion of the amount billed
49 is, attributable to the production of citrus or avocado crops.

50 (C) Pay, on or before the due date of each bill during the deferral

1 period, at least 50 percent of the charges incurred on each bill.

2 (f) The electrical energy corporation may require a security interest
3 in crops, real
4 property, or other security acceptable to the electrical energy
5 corporation, as a condition of deferring payments pursuant to this
6 section. Any deferral by the electrical energy corporation of one or
7 more electricity bills pursuant to this section shall not constitute a
8 waiver by the corporation of its authority to require security for
9 amounts already deferred or subsequently deferred.

10 (g) Each electrical energy corporation shall establish a balancing
11 account to reflect the amounts of the deferrals and the costs of the
12 payment deferral program. All of the costs of the payment deferral
13 program, including, but not limited to, uncollectible amounts, interest,
14 and administrative costs, shall be fully recovered from all customers of
15 the electrical energy corporation.

16 SEC. 3. No reimbursement is required by this act pursuant to Section 6
17 of Article XIII B of the California Constitution because the only costs
18 which may be incurred by a local agency or school district will be
19 incurred because this act creates a new crime or infraction, changes the
20 definition of a crime or infraction, changes the penalty for a crime or
21 infraction, or eliminates a crime or infraction. Notwithstanding Section
22 17580 of the
23 Government Code, unless otherwise specified in this act, the provisions
24 of this act shall become operative on the same date that the act takes
25 effect pursuant to the California Constitution.

26 SEC. 4. This act is an urgency statute necessary for the immediate
27 preservation of the public peace, health, or safety within the meaning of
28 Article IV of the Constitution and shall go into immediate effect. The
29 facts constituting the necessity are:

30 Current drought conditions have caused many California farmers to
31 incur excessive pumping bills. In addition, growers are facing revenue
32 shortages as a result of the loss of entire crops from the freeze. In
33 order to relieve the severe economic hardship these farmers are now
34 suffering, it is necessary that this act take effect immediately.