PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Energy Branch

RESOLUTION E-3450*
May 22, 1996

R E S O L U T I O N

RESOLUTION E-3450. REQUEST OF PACIFIC GAS AND ELECTRIC (PG&E) FOR AUTHORITY TO RECORD GAS TRANSPORTATION REFUNDS RECEIVED BY ITS ELECTRIC DEPARTMENT IN 1994 IN PG&E'S ENERGY COST ADJUSTMENT CLAUSE (ECAC) BALANCING ACCOUNT AND TREAT SIMILAR FUTURE REFUNDS IN THE SAME MANNER.

BY ADVICE LETTER 1550-E, FILED ON NOVEMBER 22, 1995.

SUMMARY

1. Pacific Gas and Electric Company (PG&E) wants to record two gas transportation refunds with interest ($571,996) received from two gas suppliers by its Electric Department during 1994 into PG&E's Energy Cost Adjustment Clause (ECAC) balancing account and to treat similar future refunds in the same manner. PG&E proposes to return the money to current electric ratepayers by crediting the ECAC balancing account with the total refund amount. PG&E believes its proposal conforms with the provisions of Public utilities Code (PU) Code Section 453.5.

2. PU Section 453.5 requires that refunds be made to current and past customers in as close proportion as possible to actual overpayments by all customers. In order to comply with this requirement, a utility customarily develops a refund plan. Because of the size of this refund, PG&E believes its proposal to return the refunds to current electric customers by crediting the ECAC balancing account is practical and does not violate PU Code Section 453.5.

3. No protests to Advice Letter 1505-E were received.

4. PG&E's request to transfer the two refunds to the ECAC balancing account is granted because a refund plan for this size of refund would make the administrative costs burdensome to ratepayers. PG&E's request to treat similar future refunds in the same manner is denied since it does not preserve the Commission's discretion on customer refunds.

BACKGROUND

1. PG&E states that on October 14, 1994 its Electric Department received a gas transportation refund ordered by Federal Energy Regulatory Commission (FERC) in Docket Nos. RP90-109-000, et al of $463,763.77 with interest from Pacific

Gas Transmission (PGT). On the same day, PG&E's Electric Department received another gas transportation refund ordered by FERC in Docket No. RP90-81-000 et al, and Docket Nos. RP91-26-000 et al of $108,233.07 with interest from El Paso Natural Gas Company (El Paso). The two refunds with interest total $571,996.

2. On November 22, 1995, PG&E filed Advice Letter 1550-E and proposed that the two refunds from PGT and El Paso be credited to the ECAC balancing account in order to return the money to current electric customers and to treat similar future refunds in the same manner.

3. The ECAC balancing account mechanism is used to reflect in rates the cost of fuels, purchased power, revenue requirements associated with oil inventory and other costs related to the generation of electricity. ECAC proceedings comprise of Forecast and Reasonableness phases. The Forecast Phase deals with a 12-month forecast of ECAC revenue requirement and the assumptions supporting it. All over-or-under collection of expenses are recorded in the ECAC balancing account. A credit to the account is an overcollection while a debit is an undercollection. A certain percentage of ECAC costs is fixed, serving as an incentive for utilities to control their costs. This portion is known as the Annual Energy Rate (AER).

4. The AER is a mechanism that gives the utility an incentive to control energy cost by removing a percentage of forecasted energy costs from balancing account protection and placing them in a fixed dollar account. AER for PG&E was 9% before its suspension in 1990 by Order Institute Investigation (OII)I.90-08-006 because of uncertainty surrounding the invasion of Kuwait by Iraq. PG&E's AER was later reinstated to its original rate of 9% effective January 1, 1994 by D.93-12-044 as recommended by the Division of Ratepayers Advocate (DRA). PG&E did not show the impact of AER on the refund amounts to be transferred to the ECAC balancing account in its filing.

5. CACD later obtained the impact of AER suspension and reinstatement on the refund amounts from PG&E because the refund periods ranged from March 1, 1990 to July 31, 1994 and November 1, 1990 to July 31, 1994 for El Paso and PGT, respectively.

6. The El Paso refund is related to the amortized portion of certain ineligible costs in rates originally filed in Docket No. RP90-81-000 et al and Docket No.92-18-000 et al with the FERC. The tariff sheets were approved by the FERC subject to refund. El Paso informed PG&E that it had calculated interest on the refunds up to September 29, 1994 before the distribution on September 30, 1994. El Paso did not send the money until October 13, 1994. PG&E received it on October 14, 1994.

7. The PGT refund represents amounts PGT received from its customers over and above rates approved in Docket No. RP90-109-000 et al by the FERC for services rendered from November 1, 1990 through July 31, 1994. The final FERC orders were issued on February 3, 1993 and August 4, 1994. PGT stated to PG&E that the refund amount included interest up to October 14, 1994.

8. PG&E proposes to credit the two refunds to its ECAC balancing account and believes this is in compliance with PU Code 453.5. PG&E states that "it would be impractical and administratively burdensome to distribute refunds of this size through a refund plan." PG&E further states that because the Code allows for deviations when it is not practicable to refund to prior customers, its request for deviation should therefore be permitted.

NOTICE

1. Public notice of this filing has been made by publication in the Commission's calendar and copies of the advice letter have been distributed by PG&E in accordance with Section III of the General Order (GO) 96-A and interested parties.

PROTESTS

1. The Commission Advisory and Compliance Division (CACD) has received no protests to Advice Letter 1550-E.

DISCUSSION

The Gas Refund Proposal

1. CACD has reviewed PG&E's Advice Letter 1550-E and the refund letters from PGT and El Paso. CACD also reviewed the additional information provided by PG&E and discussed the PG&E's proposal with its representatives.

2. PUC Code Section 453.5 provides in part that:

> Whenever the commission orders rate refunds to be distributed, the commission shall require public utilities to pay refunds to all current utility customers, and, when practicable, to prior customers, on an equitable pro rata basis ....
>
> Nothing in this section shall prevent the commission from authorizing refunds to residential and other small customers to be based on current usage.

The intent of the Code is to return excess funds to customers who originally paid the higher rates, when practicable, to all customers of record. The courts have interpreted the Code as follows:

3. In California Manufacturers Association v. Public Utilities Commission, (1979) 24 Cal.3d 836, the Court set forth the principle behind PUC Code section 453.5 quoted above, that to the maximum extent possible, refunds shall be returned to the customers who paid the funds in proportion to the amount paid or the service received. The Court was also "mindful of section 453.5's admonition that the obligation to provide pro rata refunds based on past usage is limited by considerations of practicality." (Id., at 848.) Therefore, the Court did not "foreclose the commission from formulating a plan for matching refunds with the present and prior customers entitled thereto." (Id.)

4. For example, Resolution E-3165 dated November 3, 1989, approved the credit of crude oil overcharges resulting from Department of Energy (DOE) action against oil companies to the respective ECAC balancing accounts of three utilities. These overcharges were estimated at $19.9 million for the utilities. The advice letters that requested the approval of the overcharges were not protested. Resolution E-3165 states that the ECAC treatment of the crude oil overcharges were in compliance with PU Code Section 453.5 and its provisions.

5. The passage of time was the basis for the decision on the crude oil overcharges. The overcharges leading to the refund occurred between 1973 and 1981. It would have been difficult if not impossible to locate every prior customer for the refund.

6. According to PG&E, El Paso's overcollections occurred between August 1993 and July 1994 and PGT's were from November 1993 through July 1994. It would administrative burdensome and costly to develop a refund plan for this size of refund. As a result, CACD finds PG&E's request reasonable for this particular refund at this time.

7. By crediting the ECAC balancing account with the estimated refund of $568,300, net of the effect of AER and California jurisdiction, future ECAC revenue requirement will be reduced by this amount, and in effect, returning the refunds to current electric customers. This meets the consideration of practicality required by PU Code Section 453.5.

Similar Future Refunds

8. CACD recommends against advance approval of the method for processing future refunds to preserve the Commission's discretion with respect to refunds.

FINDINGS

1. On October 14, 1994, PG&E's Electric Department received a gas transportation refund of $463,763.33 from Pacific Gas Transmission (PGT) as ordered by the Federal Energy Regulatory Commission (FERC).

2. On October 14, 1994, PG&E's Electric Department also received a gas transportation refund of $108,233.07 from El Paso as ordered by the FERC.

3. On November 22, 1995, PG&E filed Advice Letter 1550-E requesting that the above refunds be recorded to the ECAC balancing account to credit current electric ratepayers.

4. PG&E states that its proposal is in compliance with PU Code Section 453.5 because the deviation sought by PG&E is allowed under the provisions of the Code.

5. Because of the amount of the total refund, a refund plan is not warranted because it would increase administrative costs to ratepayers.

6. A refund credit to the ECAC balancing account would accomplish the intent of PU Code Section 453.5 by returning the refunds to all current electric ratepayers.

7. The net effect of the credit to the ECAC balancing account is to reduce future ECAC revenue requirement to all ratepayers.

8. The crediting of the refunds to the ECAC balancing account is as a rule not considered to be a precedent for future refunds.

9. PG&E's request that the Commission make a commitment on how to treat similar future refunds would limit its discretion.

THEREFORE, IT IS ORDERED that:

1. Pacific Gas and Electric Company's (PG&E) request that the two transportation refunds received from Pacific Gas Transmission Company (PGT) and El Paso Natural Gas Company (El Paso) by its Electric Department estimated at $568,300 be credited to Energy Cost Adjustment Clause (ECAC) balancing account is approved.

2. PG&E shall inform the Chief of the Energy Branch, Commission and Advisory Division by a letter of the actual amount eventually credited to its ECAC balancing account and when the action was taken with reference to the advice letter requesting the approval of the refunds and the Resolution that approved the request.

3. The crediting of the refunds to the ECAC balancing account applies only to this filing and it is not a precedent for future refunds. All future cases shall be determined on a case by case basis.

3. PG&E's request that the Commission make an advance commitment on how to treat future refunds is denied.

4. This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 22, 1996. The following Commissioners approved it:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

DANIEL Wm. FESSLER
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

President P. Gregory Conlon, being necessarily absent, did not participate.