

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Energy Division

**Resolution E-3623
September 2, 1999**

RESOLUTION

RESOLUTION E-3623. Pacific Gas and Electric Company Requests Approval of Updated Transmission Rates for Retail Electric Customers. This Resolution approves PG&E's request to revise transmission rates, delay the effective date of the transmission rates, and revise Preliminary Statement PW. This Resolution denies PG&E's request to make a billing adjustment.

**By Advice Letter 1757-E, filed on March 30, 1998, and
By Advice Letter 1757-E-A, filed on October 5, 1998.**

SUMMARY

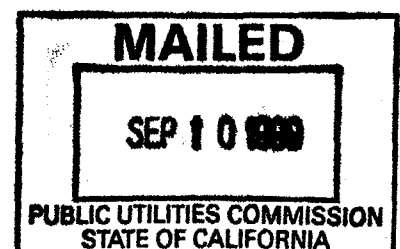
By Advice Letter (AL) 1757-E Pacific Gas and Electric Company (PG&E) requests approval to update transmission rates for retail electric customers. By AL 1757-E-A PG&E seeks to:

- a) delay implementation of AL 1757-E,
- b) revise nuclear decommissioning percentages in Preliminary Statement AW, and
- c) make a billing adjustment to certain exempt or departing customers.

San Francisco Bay Area Rapid Transit District (BART) filed a protest stating the proposed rates are not approved by any regulatory authority and that they violate the rate freeze mandated by Assembly Bill (AB) 1890 (Stats, 1996, Ch.854).

The Western Mobilehome Parkowners Association (WMA) protested, stating the AL is inconsistent with the rate freeze requirements of the Commission's rate unbundling Decision (D.) 97-08-056.

This Resolution approves PG&E's request to revise transmission rates, delay the effective date of the transmission rates, and revise Preliminary Statement PW. This Resolution denies PG&E's request to make a billing adjustment.



BACKGROUND

PG&E filed ER97-2358-000 with the Federal Energy Regulatory Commission (FERC) to increase its transmission rates on March 30, 1997. The FERC approved those rates for filing, subject to refund, and they went into effect on March 31, 1998.

On December 16, 1997, the Commission adopted Resolution E-3510 which approved AL 1692-E-C with modifications. AL 1692-E-C, among other things, included in bundled retail rates PG&E's transmission rates proposed in ER97-2358-000. Resolution E-3510, in Finding 47, states PG&E, SDG&E, and Edison's proposed transmission revenue requirements and allocation are consistent with their March 31, 1997 filings at FERC and should be adopted until FERC's final decision. These amounts should be revised as necessary after FERC's final decision.

On March 30, 1998, PG&E filed ER98-2351-000 at the FERC. The FERC filing increased the revenue requirement proposed in ER97-2358-000 by approximately \$40 million. The FERC approved these rates for filing and they went into effect, subject to refund on October 30, 1998.

Various parties, including the CPUC, protested the amount of PG&E's proposed transmission rate increases in both ER97-2358-000 and ER98-2351-000. The parties in the proceedings have proposed a settlement that would reduce PG&E transmission rates, from March 30, 1998 to October 30, 1998, from the level adopted in Resolution E-3510. The settlement also proposes rates after October 30, 1998 that are below the level proposed in AL 1757-E and AL 1757-E-A. If the FERC approves the settlement it would order PG&E to refund the difference between the rates charged and the approved FERC rates.

PG&E filed AL 1757-E at the CPUC on March 30, 1998. The AL requests that the FERC rate increase proposed in ER98-2351-000 be included in CPUC transmission rates for retail customers, effective March 31, 1998. On June 4, 1998, PG&E requested no action be taken on AL 1757-E and stated that PG&E would file a supplement at least 40 days prior to October 30, 1998, the date FERC set for the effective date of PG&E's proposed rates. On October 5, 1998, PG&E filed AL 1757-E-A requesting the rate increase contained in AL 1757-E become effective on October 30, 1998.

PG&E claims the rates proposed in AL 1757-E-A are consistent with PG&E's concurrent proposed transmission revenue requirement increase filed with the FERC (ER98-2351-000). In response to the FERC rate case and the California rate freeze, PG&E proposes to increase the transmission portion and decrease the Generation/Competition Transition Charge (CTC) portion of the bundled retail rates, leaving the bundled retail rates unchanged.

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In some rate schedules, PG&E proposes modifying the distribution rates where increasing the transmission rates and leaving distribution rates at their current levels (submitted in AL 1766-E and 1767-E) would violate the rate freeze mandated by AB 1890. In order to retain the rate freeze, PG&E proposes reducing the portion of the distribution rate made up of demand charges to ensure that the total demand charge level is not exceeded. Distribution revenue that no longer would be collected in demand charges was then spread to energy charges on an equal percentage basis to ensure the schedule would continue to collect the proper distribution revenue. The rate schedules with proposed distribution changes are *A-10* (primary and secondary), *E-19* (transmission), *E-25* (transmission), *S* (secondary), *AG-1*, *AG-R*, *AG-V*, *AG-4*, *AG-5*, *AG-6*, and *AG-7*.

In AL 1757-E-A, PG&E proposes revisions to the nuclear decommissioning and generation components to adopt the changes proposed in AL 1766-E. In addition, PG&E proposes additional revisions to the nuclear decommissioning percentages and public purpose percentages. PG&E claims these changes are required to correct for small inconsistencies between the percentages and the actual unbundled rates. In all cases, except the street light class, PG&E claims the changes in Preliminary Schedule AW affect percentages at the rate schedule level but have no effect at the rate group level at which revenues are tracked for purposes of the Rate Group Transition Cost Obligation Memorandum Account (RGTCOMA).

In AL 1757-E-A, PG&E proposes making a one-time correction to RGTCOMA prior to the end of 1998 to account for the claimed understated nuclear decommissioning revenue for streetlight customers during the first 10 months of 1998. PG&E claims the amount of understated nuclear decommissioning revenue is approximately \$100,000, and therefore their share of the CTC is overstated by an equal amount.

In AL 1757-E-A, PG&E proposes a billing adjustment for a group of approximately 70 departing and CTC exempt agricultural customers. These customers would be affected for charges during the month of May 1998. The billing adjustment derives from the unbundled rate methodology used in May 1998, but superseded on June 1, 1998. PG&E proposes a one-time billing adjustment to make refunds and collect additional charges. The net result of the adjustments would be additional PG&E revenue of approximately \$9,500.

NOTICE

Notice of AL was made by publication in the Commission's calendar and by mailing copies of the filing to adjacent utilities and interested parties.

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PROTEST

BART protested AL 1757-E on April 20, 1998 and AL 1757-E-A on October 26, 1998. BART's protest claims PG&E's proposal violates the rate freeze, and will decrease CTC collection, thereby extending the rate freeze period. BART also claims AL 1757-E-A is a rate increase without Commission review. Further, BART claims Resolution E-3510 does not permit PG&E to revise its rates based on new filings at FERC.

WMA protested AL 1757-E on April 17, 1998 and answered PG&E's reply to its protest on May 20, 1998. WMA represents the interests of master-metered mobilehome park owners. WMA protests because it believes the rate changes are inconsistent with the rate freeze requirements of the Commission's rate unbundling decision (D. 97-08-056). WMA proposed adjustments to the minimum rate limiter and submeter discount components of Rate Schedule ET in Application 96-12-009, but in D. 97-08-056 WMA's request was denied. WMA now objects to PG&E's request to adjust components of Rate Schedule ET prior to the end of the rate freeze. WMA claims PG&E's proposal is directly harmful to park owners because it could delay the end of the rate freeze, thereby delaying the elimination of the minimum rate limiter and delaying increases in the submetering discount. WMA requests the Commission reject AL 1757-E or conversely acknowledge changes in the minimum rate limiter and submetering discounts are permissible.

On April 27, 1998 PG&E responded to the protests of BART and WMA to AL 1757-E. PG&E claims the BART and WMA protests ignore clear directives from the Commission. PG&E cites D. 97-08-056 and Resolution E-3510 as allowing it to update its tariffs in response to filings at the FERC and FERC disposition of those filings.

On June 4, 1998, PG&E filed a letter, that among other things, responded to WMA's May 19, 1998 clarification of its protest. PG&E stated that no mechanism exists to provide for a change in the submetering discount, but provisions in AB 1890 allow PG&E to recover just and reasonable transmission expenses.

On November 3, 1998, PG&E responded to BART's protest of AL 1757-E-A. In response to BART's allegation that the proposed changes are a rate increase without Commission review, PG&E states that the FERC has allowed the proposed rates to go into effect subject to refund. PG&E also noted that since the FERC has consolidated FERC dockets ER97-2358-00 and ER98-2351-000, Resolution E-3510 should allow AL 1757-E and 1757-E-A even if the Commission accepted BART's interpretation, that construes Resolution E-3510's language as including in rates only then current cases before the FERC.

DISCUSSION

The central issue in AL 1757-E is how to coordinate the FERC and CPUC ratemaking process. Currently, retail rates include components that are regulated by the FERC, transmission, and by the CPUC, distribution, nuclear decommissioning and public policy. The CPUC's basic policy is to change rates only when the amount to be charged has been approved by the Commission. The FERC, on the other hand, allows rate changes subject to refund while evaluating the validity of the rate change. Conflict occurs when the FERC approves a rate change subject to refund. The CPUC can 1) pass through the rate change to its bundled rates, and later distribute any refund, or 2) wait to pass through the final approved rate, and find a mechanism to collect any charges or refund any overcharges, that occurred because the FERC approved rate was not charged. In Resolution E-3510, the Commission stated, in Finding 47, "PG&E, SDG&E, and Edison's proposed transmission revenue requirements and allocation are consistent with their March 31, 1997 filings at FERC and should be adopted until FERC's final decision. These amounts should be revised as necessary after FERC's final decision."

BART and WMA object to increasing transmission rates and decreasing CTC collections. BART and WMA are incorrect if they suppose this Commission can prevent PG&E from recovering FERC approved transmission rates. Any FERC approved transmission rate increase will delay the end of the rate freeze, if in fact the rate freeze were to end before its statutory limit absent the transmission rate increase. Still, PG&E is entitled to charge the rates FERC has found to be just and reasonable. The only question is the best method of administering any change in FERC-approved rates within the constraints of California law.

BART objects to making transmission rate revisions in response to the FERC rulings that allow PG&E's proposed transmission rates to go into effect subject to refund. Although FERC has not approved final rates, adopting PG&E's proposal will simplify program administration when FERC does approve final rates. While Resolution E-3510 did not specifically address the question of new transmission rate filings, the path adopted there appears reasonable. PG&E should be allowed to include in rates the increases allowed by FERC. When FERC approves final rates, PG&E shall come before this Commission for proper disposition of any FERC ordered refunds. This is consistent with Commission practice in natural gas interstate pipeline rates cases before FERC.

PG&E's proposed method of incorporating transmission rate increases into bundled retail rates will maintain the rate freeze and not change the amount of revenue recovered from distribution rates. The proposed method will have minor effects on the ratio of distribution revenues recovered from summer versus winter rates, but that should not impact the rate freeze or other aspects of the electric restructuring program. PG&E's method of incorporating the FERC-approved transmission rates into Commission tariffs is reasonable and should be adopted.

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The protests of BART and WMA should be denied.

AL 1757-E-A requests the effective date of AL 1757-E be delayed to October 30, 1998 to correspond to the date FERC authorized the rates in ER98-2351-000 to become effective subject to refund. This is reasonable and should be approved. Normally, the Commission does not make a tariff effective before the date of the Commission order authorizing the tariff. Here, however, an exception is justified because of the federal "filed rate" doctrine. In general, the filed rate doctrine requires "that interstate power rates filed with FERC or fixed by FERC must be given binding effect by state utility commissions determining intrastate rates." (Nantahala Power & Light v. Thornburg (1986) 476 U.S. 953, 962.) Accordingly, we will not second-guess the actions of FERC here, but will make the transmission rates filed with FERC effective as part of PG&E's intrastate tariffs on the same date they became effective at FERC. Once FERC orders refunds, we will take action to reflect the refund on the intrastate level.

AL 1757-E-A requests minor changes to the nuclear decommissioning and public purpose percentages in Preliminary Statement PW. The proposed changes correct errors in the current tariffs and should be adopted. In addition, a one-time correction to RGTCOMA to correct understated nuclear decommissioning revenue for streetlight customers during the first 10 months of 1998 is also reasonable and should be adopted.

AL 1757-E-A would allow PG&E to make a one-time billing adjustment to collect charges PG&E says it should have collected during the month of May 1998, the first month of fully unbundled bills. PG&E claims approximately 70 customers, who are either CTC exempt or who have departed from PG&E's system, were over- or undercharged for May 1998. PG&E claims no adjustments are needed after June 1, 1998.

If these customers were charged incorrectly under PG&E's filed tariffs, then PG&E Tariff Rule 17.1 would allow the backbilling. In this case, PG&E has shown that errors in its tariff resulted in the claimed inaccurate charges. PG&E is at risk for inaccurate tariff filings. PG&E's request for a billing adjustment should be denied. We also note that the billing issue is separate and distinct from the transmission rate increase. Combining the two issues created unnecessary costs and delays. In the future, PG&E should avoid combining unrelated issues in advice letters implementing FERC approved rate increases.

COMMENTS

The draft Resolution of the Energy Division in this matter was mailed to parties in accordance with Public Utilities Code Section 311(g). No comments were filed.

FINDINGS

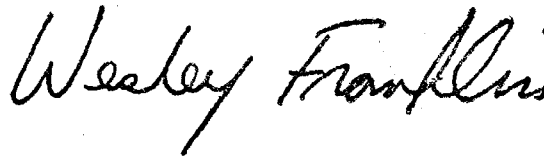
- 1) PG&E filed AL 1757-E on March 30, 1997 requesting approval to update transmission rates for retail electric customers effective March 31, 1998.
- 2) PG&E filed AL 1757-E-A on October 5, 1998 requesting approval to
 - a) delay implementation of AL 1757-E to October 30, 1998,
 - b) revise nuclear decommissioning percentages in Preliminary Statement AW, and
 - c) make a billing adjustment to certain exempt or departing customers.
- 3) BART and WMA protested AL 1757-E and 1757-E-A because they claim it violates the rate freeze and could extend the rate freeze period.
- 4) On March 30, 1998, PG&E filed ER98-2351-000 at FERC requesting an increase in transmission rates. FERC approved these rates for filing and they went into effect, subject to refund on October 30, 1998.
- 5) PG&E should be allowed to charge the FERC approved transmission rates, subject to refund, from their FERC established effective date of October 30, 1998.
- 6) PG&E's method of incorporating the FERC approved transmission rates into Commission tariffs is reasonable.
- 7) The protests of BART and WMA should be denied.
- 8) The proposed changes to Preliminary Statement AW are reasonable and should be adopted.
- 9) PG&E's request for a one-time billing adjustment is not reasonable and should be denied.

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THEREFORE IT IS ORDERED THAT:

1. Advice Letter 1757-E as revised by Advice Letter 1757-E-A is approved, with the exception of PG&E's request for a billing adjustment which is denied. The tariff pages contained in the advice letter are effective as of October 30, 1998.
2. The protests of BART and WMA are denied.
3. PG&E shall make a filing with the Commission proposing how refunds ordered by FERC should be distributed, once FERC has ordered refunds in PG&E's transmission rate cases.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 2, 1999; the following Commissioners voting favorably thereon:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners