

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-3628  
SEPTEMBER 2, 1999**

**RESOLUTION**

**Resolution E--3628. Pacific Gas and Electric Company seeks authorization to transfer unspent Research, Development and Demonstration (RD&D) funds to the Transition Revenue Account. Denied.**

**By Advice Letters 1856-E/2144-G filed on April 1, 1999.**

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**Summary**

This Resolution denies a request by the Pacific Gas and Electric Company (PG&E) to transfer \$12,018,000<sup>1</sup> of unspent Research, Development, and Demonstration (RD&D) funds to the Transition Revenue Account.

PG&E's request is contrary to Decision (D.)97-10-057 (also known as the "Streamlining Decision"), previous Commission decisions (D.87-07-021, D.92-12-057), and Resolution E-3622. Commission policy with regards to RD&D funds clearly states the purpose of the RD&D account is to assure that either authorized funding is spent on the program or is returned to ratepayers.

Consistent with D.87-07-021, D.92-12-057 and D.97-10-057, PG&E is required to refund its unspent RD&D funds directly to ratepayers. The Commission has previously adopted the identical treatment for a portion of PG&E's unspent RD&D funds at its July 22, 1999 meeting (Resolution E-3622).

PG&E may use either the Electric Deferred Refund Account (EDRA), created in D.96-12-025, or a similar account for the purpose of refunding unspent RD&D funds if it desires.

**Background**

In D. 87-07-021, the Commission ordered PG&E to establish a separate expense account for research, development and demonstration funds. PG&E was ordered to implement a one-way balancing account with the provision that any unexpended funds at the end of a rate case cycle

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<sup>1</sup> Updated to reflect the on-going collection of interest from January 1, 1999.

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would be returned to ratepayers. Prior to the start of electric restructuring, this was accomplished by crediting the Electric Revenue Adjustment Mechanism (ERAM) account. The use of the ERAM account ensured that the funds either were spent on RD&D or returned to ratepayers.

In D. 92-12-057 the Commission reiterated its guidelines on the one-way balancing account, including the position that any unspent RD&D funds are to be returned to ratepayers. The utility would be allowed to carry over unspent RD&D funds from one year to the next within the three-year rate case cycle, with any unspent funds being returned to the ratepayer at the end of this cycle. In this way, the Commission preserves the principle of returning unspent funds to the ratepayer while giving the utility flexibility in the timing of research expenditures. No subsequent decision has altered this policy.

D.97-10-057 (the "Streamlining Decision") ordered PG&E to eliminate its ERAM effective January 1, 1998. This Decision also discussed the importance of maintaining separate accounts for certain funds, such as those for Demand Side Management (DSM) and RD&D. D. 97-10-057 reiterated that "nothing in this order changes the operation of those programs or accounts"<sup>2</sup> and that these accounts are designed to ensure that the authorized funding is either spent on the specified programs or returned to ratepayers. This Decision ordered the utilities to retain these accounts for the purpose of tracking costs and as a method of assuring that the funds are actually used for their intended purpose.

At the end of calendar year 1998, PG&E had under spent its authorized RD&D budget by \$14,900,000<sup>3</sup> over the three-year General Rate Case (GRC) cycle of 1996 through 1998. In Advice Letter 2126-G/1833-E, PG&E proposed to carry-over approximately 20% of this money (\$2,998,000) into the following GRC cycle to continue funding seven RD&D projects. In Advice Letter 2144-G/1856-E, the subject of this Resolution, PG&E proposes to transfer the remaining 80% of unspent RD&D funds (\$11,902,000<sup>4</sup>) to the Transition Revenue Account.

In Resolution E-3622, adopted by the Commission at its July 22, 1999 meeting, the Commission ordered PG&E to directly refund to ratepayers the \$2,998,000 that PG&E had requested to carry over. After denying PG&E's request to carry over funding for its RD&D projects, the Commission went on to reiterate its policy that any unspent RD&D funds should be refunded to ratepayers.<sup>5</sup>

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<sup>2</sup> D.97-10-057, Ordering Paragraph #4 (slip opinion, p.24)

<sup>3</sup> Including interest on unspent funds that were carried over from one year to the next.

<sup>4</sup> To this amount must be added Franchise and Uncollectible fees of \$116,000 bringing the total amount to \$12,018,000.

<sup>5</sup> See Resolution E-3622, Ordering Paragraphs #1 through #3.

## **Notice**

Notice of Advice Letter 2144-G/1856-E L 1351-E was made by publication in the Commission's Daily Calendar and it was distributed to parties in accordance with Section III-G of General Order 96-A.

## **Protests**

Advice Letter 2144-G/1856-E was not protested.

## **Discussion**

PG&E's request to transfer \$12,018,000 in unspent RD&D funds to its Transition Revenue Account should be denied.

In Resolution E-3622, adopted by the Commission on July 22, 1999, the Commission recently addressed the treatment of a portion of PG&E's unspent RD&D funds and decided that such funds should be directly refunded to ratepayers. As Resolution E-3622 stated;

Commission policy, as outlined in D. 87-07-021, D. 92-12-057 and D. 97-10-057, directs the utility to return any unspent Research, Development and Demonstration (RD&D) funds to the ratepayer at the end of the rate case cycle.

Prior to the start of electric restructuring, this refund was accomplished by crediting the Electric Revenue Adjustment Mechanism (ERAM) account. In the past the use of the ERAM account ensured that the funds either were spent on RD&D or returned to ratepayers. Ordering Paragraph #3 of D.97-10-057 eliminated the ERAM account for PG&E and replaced it with the Transition Revenue Account. PG&E appears to rely on Ordering Paragraph #3 to support its request to transfer unspent RD&D funds to the Transition Revenue Account.

Ordering Paragraph #4 of D.97-10-057, however, is clear that "Nothing in this order changes the operation" of programs such as RD&D. Under the section "Concluding Principles and Policies", the Streamlining Decision states that:

The utilities shall retain the regulatory accounts relating to DSM, CARE, and RD&D programs for the purpose of assuring that costs allocated to a specific program or function are spent on that program or function, consistent with relevant Commission orders.<sup>6</sup>

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<sup>6</sup> D.97-10-057, slip opinion, p. 20

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Previous Commission orders (D.87-07-021, D.92-12-057) are clear that funds allocated for RD&D should be either used for RD&D purposes or refunded to ratepayers at the end of the rate case cycle. Resolution E-3622, adopted at the Commission's July 22<sup>nd</sup> meeting, reached a similar conclusion.

Requiring PG&E to refund unspent RD&D funds to the ratepayers is also consistent with the legislative intent of Assembly Bill (AB)1890 (Stats. 1996, Ch. 854). Section 381 of AB1890, for example, expresses the legislature's concern that funding for public purpose programs (such as RD&D) should "not [be] commingled with other revenues."

### **Refund Mechanism**

With the elimination of the ERAM account, it is necessary to devise a different mechanism for PG&E to refund unspent RD&D funds to its ratepayers.

As Resolution E-3622 noted regarding the refund of PG&E's unspent RD&D funds ;

In the past, the Commission's desire to ensure that refunds and disallowances are returned directly to ratepayers has been accomplished through credits to balancing accounts. These monies would eventually be refunded to ratepayers. Under the rate freeze, electric balancing account credits may not reach customers but may instead reduce the utility's transition costs. In D. 96-12-025 the Commission established the Electric Deferred Refund Account (EDRA) to ensure ratepayers received direct refunds for amounts related to electric disallowances and certain refunds made to the utility... We see the EDRA, or similar account, as an appropriate mechanism to ensure the under-expenditures from RD&D programs reach the ratepayers absent the ERAM.

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... We believe the EDRA could be used to record the electric portion of the [unspent RD&D] refund, [but] we will give PG&E the option of using the EDRA or creating another account which allow a direct refund.<sup>7</sup>

Consistent with the conclusion reached in Resolution E-3622, we will require PG&E to refund its unspent RD&D funds through either the EDRA account or a similar account to be created by PG&E.<sup>8</sup>

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<sup>7</sup> Resolution E-3622, p. 8-9, see also Ordering Paragraph #2 (p. 11)

<sup>8</sup> Resolution E-3622 also credited \$702,000 in unspent RD&D funds for natural gas to the Core Fixed Cost Account and the Noncore Customer Class Charge Account so that they would be refunded to natural gas ratepayers. All of the unspent funds that are the subject of this Resolution are related to unspent RD&D for electric ratepayers.

PG&E should update the amount of funds to be refunded to ratepayers to account for interest accrued from January 1, 1999 to when the funds are transferred to either the EDRA or similar account. If PG&E elects to create a new account to handle this refund, it shall accrue interest at the established rate for such accounts until such funds are refunded to ratepayers.<sup>9</sup>

### **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. In Advice Letters 2126-G/1856-E, Pacific Gas & Electric Company (PG&E) requests authority to transfer \$12,018,000 of unspent Research, Development, and Demonstration (RD&D) funds to the Transition Revenue Account.
2. PG&E's request to transfer \$12,018,000 in unspent RD&D funds to its Transition Revenue Account should be denied. Unspent RD&D funds should be refunded to ratepayers.
3. PG&E's request is contrary to Decision (D.)97-10-057 (also known as the "Streamlining Decision."), previous Commission decisions (D.87-07-021, D.92-12-057), and the Commission's recent decision in Resolution E-3622. All of these decisions require that authorized funding for RD&D programs are either spent on the program or returned to ratepayers.
4. In D. 87-07-021, the Commission ordered PG&E to establish a separate expense account for RD&D funds. PG&E was ordered to implement a one-way balancing account with the provision that any unexpended funds at the end of a rate case cycle would be returned to ratepayers.
5. In D. 92-12-057 the Commission reiterated its guidelines on the one-way balancing account, including the position that any unspent RD&D funds at the end of the three-year rate case cycle are to be returned to ratepayers.
6. D.97-10-057 ordered the utilities to retain a separate account for RD&D funds for the purpose of tracking costs and as a method of assuring that the funds are actually used for their intended purpose. D.97-10-057 did not change the operation of the RD&D account.
7. Resolution E-3622, adopted by the Commission at its July 22<sup>nd</sup>, 1999 meeting required PG&E to refund unspent RD&D funds to its ratepayers.

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<sup>9</sup> If PG&E chooses to credit the funds to the EDRA account, the EDRA account already has an interest component.

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8. Prior to the start of electric restructuring, unspent RD&D funds were refunded to ratepayers through a credit to the Electric Revenue Adjustment Mechanism (ERAM) account. The use of the ERAM account ensured that the funds either were spent on RD&D or returned to ratepayers.
9. D.97-10-057 ordered PG&E to eliminate its ERAM account effective January 1, 1998, requiring the Commission to develop another mechanism to refund unspent RD&D funds to ratepayers.
10. The Electric Deferred Refund Account (EDRA), or a similar account to be created by PG&E, are appropriate mechanisms to ensure that unspent RD&D funds are returned to ratepayers.
11. Ratepayers should continue to be credited beyond January 1, 1999 with interest on any unspent RD&D funds until such funds are returned to the ratepayer.

**Therefore it is ordered that:**

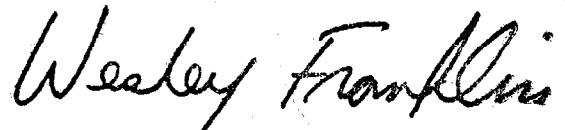
1. The request of Pacific Gas and Electric Company to transfer \$12,018,000 of unspent research, development, and demonstration (RD&D) funds to the Transition Revenue Account is denied.
2. PG&E shall refund its unspent RD&D funds (\$12,018,000 plus interest) to ratepayers.
3. PG&E shall either refund its unspent RD&D funds by either crediting the appropriate amount to its Electric Deferred Refund Account (EDRA) or by filing an Advice Letter to create a new account to refund the unspent RD&D funds. If PG&E chooses the latter approach it shall consolidate into a single account the refunds ordered by this Resolution with the refunds previously ordered by the Commission in Resolution E-3622.
4. If PG&E elects to implement the refund through its Electric Deferred Refund Account, it shall notify the Commission of its intent to do so within 20 days of this Resolution and shall follow established procedures for implementing the refund plan.
5. If Pacific Gas and Electric Company elects to establish an account similar to its Electric Deferred Refund Account to process this refund, it shall establish the account via an advice letter within 20 days of this Resolution.

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6. Unspent RD&D funds shall continue to accrue interest beyond January 1, 1999 until the funds (with appropriate interest) are refunded to ratepayers.

This Resolution is effective today.

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

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

JOEL Z. HYATT

CARL W. WOOD

Commissioners