

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

COMMISSION ADVISORY AND  
COMPLIANCE DIVISION  
Energy Branch

**RESOLUTION G-3174**  
December 18, 1995

**R E S O L U T I O N**

RESOLUTION G-3174. REQUEST OF SOUTHWEST GAS CORPORATION (SOUTHWEST) FOR APPROVAL TO DISTRIBUTE REFUNDS FROM PAIUTE PIPELINE COMPANY THAT WERE APPROVED BY THE FEDERAL ENERGY REGULATORY COMMISSION (FERC) THROUGH BILL CREDITS TO CUSTOMERS DURING WINTER MONTHS IN 1996 BASED ON EACH CUSTOMER'S PRIOR GAS CONSUMPTION.

BY ADVICE LETTER 505, FILED ON JUNE 14, 1995.

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**SUMMARY**

1. Southwest Gas Corporation (Southwest), by Advice Letter 505 (filed June 14, 1995), requests approval of its Refund Plan No. 25, which will distribute two supplier refunds to the approximately 8,904 residential and 604 commercial customers in its Northern California service territory.
2. Southwest proposes that the refunds be distributed through a one-time bill credit during a winter heating month based on each customer's most recent 12-month consumption. The estimated average refund per customer based on the 12-month usage period ended April 1995 is about \$29 for the residential customers and \$113 for the commercial customers. Southwest also requests that 0.75% of the amount available for refunds be reserved as a contingency fund for claims made by past customers during a four month refund inquiry period, and that any unclaimed portion of the contingency fund be applied to Account 191, its Purchased Gas Cost Balancing Account (PGA).
3. Southwest states that the refunds do not apply to all its approved service territory in Northern California. Decision (D).94-04-075, issued April 26, 1995, approved new service areas in the vicinity of Lake Tahoe for Southwest. Southwest states that service will not begin until the summer of 1995, and that this makes potential customers ineligible for the refund. Southwest requests that such customers be excluded from the refund distribution.
4. No protests to Advice Letter 505 were received.
5. This Resolution approves Southwest's Refund Plan No. 25 as amended because it is reasonable and will reduce bills to eligible customers during the winter months in 1996 when bills are generally high.

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**BACKGROUND**

1. Southwest's Northern California service territory comprises approximately 8,904 residential and 604 commercial customers in the north Lake Tahoe region. Natural gas to serve these customers is purchased from Northwest Pipeline Corporation and Paiute Pipeline Company (Paiute).

2. Southwest received from Paiute two refunds totaling \$329,758.21 including interest calculated monthly from the receipt dates to January 14, 1996, pursuant to Federal Regulatory Energy Commission (FERC) actions addressing rate overcollections which occurred between February 1, 1989 and January 31, 1990 for the first refund and April 1, 1993 and January 31, 1995 for the second. Specifically, the refunds are the result of: (1) a refund from Paiute's Account No. 191 in Docket No. TA90-1-44, and (2) the overcollection of base rates in settlement Docket No. RP93-6-000. The refunds, and the associated interest, are being held by Southwest for the benefit of its Northern California service territory customers.

3. By Advice Letter 505 Southwest requests approval to distribute the two refunds through a one-time bill credit to customers of record, commencing on January 15, 1996. Southwest wants to distribute the two refunds during the winter months because bills at this time have sufficient consumption to permit the refund amount to be credited to a single bill. The details of the refunds are described below.

4. On March 4, 1990, Paiute refunded \$2,072,795.67 to its customers, including Southwest, on the basis of credits in Paiute's Account No. 191 as of November 30, 1989. Paiute filed a refund report with the FERC on April 10, 1990. FERC approved the report on September 25, 1990. Southwest received \$101,918.22 from Paiute on March 4, 1990. Southwest inadvertently forgot to distribute this amount to its customers because of a lack of communication between its Rate Department and its Accounting Department. Southwest only recently discovered this mistake. In order to determine the correct amount to refund to its customers now, Southwest calculated monthly interest on the amount received, using the three month commercial paper prime rate published in the Federal Reserve Bank Statistical Data, from March 1990 to January 14, 1996. Rates from June 1995 to January 1996 have been estimated. Utilities use the same interest rate for Commission approved balancing accounts. The refund is now estimated at \$138,438.38.

5. On March 23, 1995, Paiute refunded to its customers an overcollection of base rates with interest as ordered by the FERC on January 18, 1995. On April 13, 1995, Paiute filed with the FERC a refund report relating to its distribution of \$4,978,057.41 to its customers. This report was approved by the FERC on May 19, 1995. Southwest received a refund of \$182,011.55. Southwest has calculated interest on this amount from March 1995 to January 14, 1996. The refund amount is now estimated at \$191,319.83. The two refunds total \$329,758.21.

6. Southwest estimates that the average refund is about \$29 per residential customer and \$113 per commercial customer based on a 12-month period usage ending April 1995. Southwest derives its refund estimates by: 1) dividing the total consumption by all customers, in therms, by the total amount of the refund, in order to establish a per therm refund estimate [in this case, \$0.03246 per therm]; and 2) multiplying the average class consumption during a 12-month period, in therms, by the estimated per therm refund. Southwest proposes to credit the estimated refunds to customers in a winter month in early 1996. Southwest claims that it used this method in Refund Plan No. 19, filed September 20, 1991. This was approved by Resolution G-2970, dated December 4, 1991. Southwest further claims that the method is in compliance with Public Utilities Commission (PUC) Code Section 453.5.

7. Southwest states that all of its current Northern California service territory customers are either residential or small commercial customers, that the majority of these customers are seasonal residents who initiate and cancel utility service annually, and that most of the seasonal customers take service during the winter season. Southwest further states that because it does not keep computerized billing records for active customers for more than three years, and that because the majority of its customers are seasonal, rather than year-round customers, it is impractical to make refunds based on past usage during the periods to which the refunds at issue relate (February 1, 1989 to January 31, 1990 and April 1, 1993 to January 31, 1995).

8. Southwest proposes to establish, for a period of four months from the commencement of the refund program, a customer refund inquiry period during which past customers can inquire about their eligibility for a refund. Refunds to past customers will be based on the same basic approach as refunds to current customers using available records or actual usage of such customer during the periods to which the refunds relate. In order to locate customers who took service during the refund period but are no longer customers of record, Southwest plans to place notices in two publications of general circulation in its Northern California service territory which set forth the criteria for refund eligibility. The criteria are that the customer received service and resided in the communities served by Southwest during the overcollection periods. Southwest plans to publish the refund notices in two local newspapers, "North Lake Bonanza" of Tahoe City and "Tahoe World" of North Lake Tahoe, two weeks after the implementation of the refund plan.

9. Southwest proposes to reserve 0.75% (approximately \$2,473) of the amount available for refunds as a contingency fund to service refund claims which may be made by past customers. Southwest proposes to credit to the PGA the portion of the contingency fund remaining after the inquiry period ends. Southwest proposes to submit a report to the Commission 30 days after the end of the inquiry period detailing the actual amounts refunded to customers and the amount credited to the PGA.

**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 Southwest in accordance with Section III of the General Order (GO) 96-A.

**PROTESTS**

1. The Commission Advisory and Compliance Division (CACD) has received no protests to Advice Letter 505.

**DISCUSSION**

1. CACD has reviewed Southwest's Advice Letter 505 and its supporting documents, including refund letters from the FERC approving the refunds. CACD also reviewed the additional information provided by Southwest and discussed several questions with its representatives.

2. CACD notes that Pauite provided Southwest with two refunds which have been approved by the FERC. One refund, the \$182,011.55 overcollection refund, was approved on May 19, 1995. The second refund was approved by a letter from the FERC to Pauite, dated September 25, 1990. In that letter, the FERC referred to the fact that Pauite had refunded \$2,072,795.67 including interest of \$34,551.52 to its jurisdictional customers on March 4, 1990, based on refund credits in Account 191 as of November 30, 1989. Southwest's portion of the refund was \$101,918.22. Southwest states that it has not distributed this refund to its customers. Southwest claims that it recently discovered this error in its records. Southwest said it made the error because its Rate Department assumed it had informed the Accounting Department of the refund amount. However, the Accounting Department said it received no such information.

3. CACD accepts Southwest's reason for the error and recommends no penalties for Southwest's failure to refund the \$101,918.22 to customers in a timely manner. CACD also accepts Southwest's estimate of the refundable amount of \$138,438.38 by applying acceptable monthly interest rates to the amount received from the receipt date until the day prior to the commencement of crediting customers' bills.

4. Southwest has proposed to pay the two refunds plus interest to all customers of record based on their 12-month period prior consumption. Customers will receive their refunds through a one-time bill credit during a winter month in 1996. The refund method proposed by Southwest was used in the past for Refund Plan No. 19, approved by Resolution G-2970 issued on December 4, 1991.

5. Southwest's proposal to publish notices in two major newspapers in its Northern California service territory, in order to locate customers who took service during the refund period but are no longer customers of record is acceptable, as

long as the notices are published at least twice during the refund period. The notices, to be first published two weeks after the commencement of the refund program, will provide detailed eligibility criteria for the refund. CACD disagrees with Southwest's proposal to limit the inquiry period to four months from the time of the refund plan implementation. CACD believes that the inquiry period should be extended to six months to give customers more time, especially in view of the fact that one of the refunds was received in 1990.

6. Southwest proposes to reserve 0.75% of the refund amount (about \$2,473) for the purpose described above. This is a very small amount compared to the size of the total refund and the long length of time since the first refund was received in 1990. There may be many past customers who paid rates during the period in which the overcollection leading to the 1990 refund occurred. CACD recommends that 3% (about \$9,892) of the total refund amount be placed in the contingency.

7. PUC Code Section 453.5 provides 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 without regard as to whether or not the customer is classifiable as a residential or commercial tenant, landlord, homeowner, business, industrial, educational, governmental, nonprofit, agricultural, or any other type of entity.

For the purposes of this section, "equitable pro rata basis" shall mean in proportion to the amount originally paid for the utility service involved, or in proportion to the amount of such utility service actually received.

Nothing in this section shall prevent the commission from authorizing refunds to residential and other small customers to be based on current usage."

8. In California Manufacturers Association v. Public Utilities Commission, (1979) 24 Cal.3d 836, the California Supreme 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, however, 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.) The Court further stated that section 453.5 provides that small customers as to whom records of prior usage may be difficult to retrieve may be reimbursed on the basis of current usage. (Id., at 849.)

9. All of Southwest's current Northern California service territory customers are either residential or small commercial customers. The majority of these customers are seasonal residents who initiate and cancel utility service annually. Most of the seasonal customers take service during the winter season. Since Southwest maintains computerized billing records of customers for only three years, and since the majority of Southwest's customers are seasonal residents who initiate and cancel service on an annual basis, it is not practical for the utility to make refunds based on utility usage during the periods to which the refunds relate (February 1, 1989 to January 31, 1990 and April 1, 1993 to January 31, 1995).

10. Refund Plan No. 25, as amended by CACD's recommendations, will establish a lengthy refund inquiry period during which prior customers may obtain refunds based on past usage from a contingency fund set aside for that purpose. The plan will make refunds to Southwest's current customers on the basis of current usage through a one-time direct bill credit and through a credit to the PGA of the portion of the contingency fund remaining after actual refunds to prior customers. Since current ratepayers are entitled to all of the money not required for refunds for past customers, the crediting of the PGA with the portion of the contingency fund remaining after the refund inquiry period will simply represent the distribution to current customers of the final portion of the refund to which they are entitled.

11. Since Refund Plan No. 25 would allow prior ratepayers to obtain refunds based on past usage, and would distribute the remainder of the refund to Southwest's current residential and small commercial customers on the basis of current usage, and this complies with PUC Code section 453.5.

12. The refund plan proposed by Southwest, as modified by CACD's recommendations, is reasonable.

#### FINDINGS

1. Southwest received two FERC approved refunds from Pauite of \$101,918.22 on March 4, 1990 and \$181,011.55 on March 23, 1995 respectively as authorized by the FERC. The first refund relates to rate overcollections during February 1989 and January 1990. The second refund relates to rate overcollections which occurred between April, 1993, and January, 1995.

2. By Advice Letter 505 Southwest proposes Refund Plan No. 25 to distribute two refunds through a one-time bill credit to customers of record during a winter month in 1996 based on a customer's prior 12-month record of consumption.

3. Southwest neglected to refund the amount received on March 4, 1990 to its customers. It recently discovered the omission and proposes to refund the amount received with interest.

4. CACD does not recommend any penalties against Southwest for not distributing the March 4, 1990 refund in a timely fashion, because the delay appears to have been unintentional.

5. All of Southwest's current Northern California service territory customers are either residential or small commercial customers. It is therefore reasonable to base the refunds on current usage.

6. The majority of Southwest's current Northern California service territory customers are seasonal residents who initiate and cancel utility service annually. Most of the seasonal customers take service during the winter season.

7. Southwest retains computerized billing records of customers for only three years. This will make it extremely uneconomical for Southwest to base the part of its plan relating to overcollections for 1990 period on customer usage during the period to which the refund relates.

8. CACD finds it reasonable that Southwest's proposed refund plan will reduce bills to customers when bills are generally high.

9. Southwest's potential customers in the new service areas recently approved by the Commission are not eligible for the refund because service will not begin until the summer of 1995.

10. CACD disagrees with Southwest's proposal to establish a four month period within which past customers can inquire about their eligibility for refunds. CACD believes the inquiry period should be extended to six months instead of four.

11. Southwest plans to place refund notices in publications of general circulation in its Northern California service territory describing the eligibility criteria for the refund to enable past customers receive their refunds. Southwest plans to publish these notices two weeks after the refund program begins. CACD believes that it is reasonable to publish notices at least two times during the refund inquiry period.

12. CACD disagrees with Southwest's proposal to reserve in a contingency fund 0.75% of the amount available for refunds for a period of four months after the refund program begins, in order to service potential refund claims made by past customers during the four month inquiry period. Southwest proposes to credit to its PGA any portion of the contingency fund not used for refunds to past customers. CACD recommends that 3% of the amount available for refunds be reserved to accommodate potential past customer refund claims, instead of 0.75% proposed by Southwest. The contingency fund proposed by CACD would be approximately \$9,892.

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13. It is necessary and reasonable for Southwest to provide a detailed report to the Energy Branch Chief of CACD 30 days after the inquiry period has ended showing how many refunds were actually paid to past customers and how much was credited to its PGA as proposed by Southwest.

14. Southwest's proposed Refund Plan No. 25, as modified by CACD's recommendations, is reasonable.

**THEREFORE, IT IS ORDERED that:**

1. Southwest Gas Corporation's request to distribute refunds received from Pauite Pipeline Company to its Northern California service territory customers of record through a one-time bill credit based on their prior 12-month usage, commencing January 15, 1996, through proposed Refund Plan No. 25 (as amended by the recommendations of the Commission's Advisory and Compliance Division), is approved.

2. Southwest Gas Corporation shall reserve 3% of the total refund as a contingency fund to service any refund claims by past Northern California service territory customers who are no longer customers of record.

3. Southwest Gas Corporation shall establish an inquiry period of not less than six months from the implementation of the refund plan to enable past customers claim their refunds.

4. In order to locate Northern California service territory customers who took service during the periods to which the refunds relate, but who are no longer customers of record, Southwest shall place notices in two publications of general circulation in its Northern California service territory detailing the criteria for refund eligibility. Southwest shall publish such notices at least twice during the refund inquiry period.

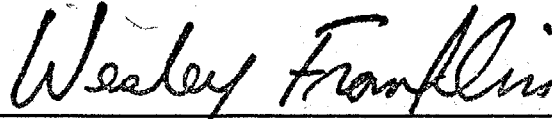
4. Southwest Gas Corporation shall submit a report to the Energy Branch of Commission Advisory and Compliance Division 30 days after the inquiry period detailing the actual amounts refunded and the amount of the contingency fund credited to Southwest's Purchased Gas Cost Balancing Account (Account 191).



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5. This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 18, 1995. The following Commissioners approved it:



WESLEY M. FRANKLIN  
Executive Director

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