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Decision 02-12-073 December 19, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 1999. (U 39 M)	Application 97-12-020 (Filed December 12, 1997)
Investigation into the Reasonableness of Expenses Related to the Out-Of-Service Status of Pacific Gas and Electric Company's El Dorado Hydroelectric Project and the Need to Reduce Electric Rates Related To This Non-Functioning Electric Generating Facility.	Investigation 97-11-026 (Filed November 19, 1997)
Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Decrease its Rates and Charges for Electric and Gas Service, and Increase Rates and Charges for Pipeline Expansion Service.	Application 94-12-005 (Filed December 9, 1994)
Order Instituting Investigation Into Rates, Charges, and Practices of Pacific Gas and Electric Company.	Investigation 95-02-015 (Filed February 22, 1995)

OPINION ON MOTION OF PACIFIC GAS AND ELECTRIC COMPANY REQUESTING ORDER MAKING NEW REVENUE REQUIREMENTS FOR GAS AND ELECTRIC SERVICE EFFECTIVE JANUARY 1, 2003

1. Summary

Pacific Gas and Electric Company (PG&E) has filed a motion requesting issuance of a Commission order that makes the revenue requirements that will be determined in PG&E's Test Year (TY) 2003 General Rate Case (GRC) effective January 1, 2003, even though the Commission will not issue a final decision on the GRC until after that date.[1] The Commission finds that the relief requested by PG&E fairly balances ratepayer and utility shareholder interests and is consistent with previous Commission orders regarding the effective dates of authorized revenue requirements adopted in PG&E's GRCs for 1999 and 2003. Accordingly, this order grants PG&E's uncontested motion. PG&E's authorized gas and electric rates are not directly affected by this authorization, but rates set pursuant to future Commission order may be affected.

2. Background

Decision (D.) 00-02-046, issued in February 2000, resolved most of the issues in PG&E's TY 1999 GRC. Among other things, it directed PG&E to file a TY 2002 GRC application in accordance with the Rate Case Plan.[2] PG&E was thus required to tender a Notice of Intent (NOI) for the TY 2002 GRC in the summer of 2000. However, by D.00-07-050 dated July 20, 2000, the Commission reset the date for tendering the NOI to May 1, 2001. By D.01-03-052 dated March 27, 2001, the Commission extended the date for tendering the NOI on a day-to-day basis while it considered possible further modifications to the plan for processing PG&E's GRC. In ordering this deferral of the GRC, the

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[1] PG&E filed the motion on August 27, 2002. PG&E filed Application 02-11-017, its TY 2003 GRC, on November 8, 2002.

[2] The Rate Case Plan was adopted in D.89-01-040.

Commission observed that there was a need to ensure that its resources and those of the utilities and other parties were not diverted from more critical efforts to respond to the California energy crisis.

By D.01-10-059 dated October 25, 2001, the Commission changed the test year for PG&E's next GRC from 2002 to 2003, and it set forth a goal of processing the GRC so that new rates would be in place by January 1, 2003. D.01-10-059 also directed PG&E to tender its NOI for the TY 2003 GRC by November 14, 2001. PG&E failed to do so, which ultimately led to the issuance of D.02-04-018 dated April 4, 2002. Among other things, D.02-04-018 obligated PG&E to tender the NOI for the TY 2003 GRC no later than April 15, 2002. PG&E timely tendered its NOI in accordance with D.02-04-018.

On June 7, 2002, the Commission issued D.02-06-003. Among other things, that decision addressed the schedule for processing PG&E's TY 2003 GRC. Noting the five-month deferral of the GRC that had occurred since the issuance of D.01-10-059, the Commission rescinded its stated goal of having new GRC rates in place by January 1, 2003.[3] It adopted instead a revised goal of processing the TY 2003 GRC by June 1, 2003. In making this modification, the Commission stated that "we do not intend by this decision to preclude PG&E from requesting an interim relief mechanism for its TY 2003 GRC similar to that adopted in D.98-12-078 for its TY 1999 GRC." (D.02-06-003, p. 5.)

[3] The Office of Ratepayer Advocates has filed a petition to modify D.01-10-059, as modified by D.02-06-003, to delete the June 1, 2003 goal. That petition is addressed in a separate decision.

3. Discussion

In July 2000, when the Commission was planning to process a TY 2002 GRC for PG&E on a schedule that was then being deferred by several months, it recognized that the final revenue requirement decision would not be issued until after January 1, 2002. The Commission then stated its willingness to consider interim relief for PG&E:

> We also affirm that the rates for the delayed application will become effective on January 1, 2002, although the decision in the proceeding will not be rendered until later in 2002. To address the delay in the decision in PG&E's TY 1999 GRC for which rates became effective on January 1, 1999, the Commission granted interim rate relief in D.98-12-078. We intend to follow the same approach for the new application and invite PG&E to make a proposal for interim rate relief, based on this approach.[4] (D.00-07-050, p. 12.)

The Commission recently stated its expectation that the TY 2003 GRC application would be filed on or about July 30, 2002, and declared that "[i]t would clearly be unreasonable to suggest that the GRC be litigated and a final Commission decision rendered less than five months later in December 2002." (D.02-06-003, Footnote 3, p. 5.) The Commission then reaffirmed its intention to follow the approach adopted in D.98-12-078 by indicating that nothing in that order restating the goal for processing the GRC was intended to preclude PG&E from requesting relief with respect to the effective date of its TY 2003 GRC similar to that adopted in D.98-12-078 for its TY 1999 GRC. PG&E's motion is

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[4] PG&E believes the Commission's use of the term "interim rate relief" in this quote from D.00-07-050 was shorthand for "interim revenue requirement relief," the form of relief the Commission authorized in D.98-12-078. We hereby affirm this interpretation.

filed pursuant to the Commission's explicit invitation to do so, and is, therefore, appropriately before the Commission.

While different in certain technical respects that are described below, the substance of the relief sought by PG&E is similar to that approved by the Commission in D.98-12-078 in connection with PG&E's TY 1999 GRC. There, as here, circumstances largely beyond the control of the Commission or any party rendered infeasible the issuance of a final revenue requirement decision prior to the beginning of the test year. The Commission described the problem such circumstances present as follows:

> Under its Rate Case Plan for processing general rate cases (GRCs) of major energy utilities, the Commission ordinarily issues its decision authorizing the utility's test year revenue requirement in December, immediately preceding the beginning of the proposed test year. This allows the authorized rate changes to become effective on January 1 of the test year. If the decision is delayed until after the test year begins, the utility's opportunity to collect any revenue increases that might later be found to be justified for the full test year is diminished accordingly. (D.98-12-078, p. 2.)

In D.98-12-078, the Commission found no policy justification for allowing ratepayers to gain from the deferral of rate increases, where such gain would be at the expense of the utility and its shareholders, and where such deferral resulted from delays in the processing of GRCs beyond any one party's control or responsibility. It also found the converse to be true, i.e., that there was no policy justification for allowing the utility and its shareholders to gain from deferral of rate decreases where such gain would be at the expense of ratepayers. It then found that interim relief that leaves ratepayers and shareholders indifferent to the actual date of the Commission's revenue requirement decision is fair from the perspective of both ratepayers and shareholders. Based upon

these findings, the Commission approved an interim revenue requirement mechanism that relied upon balancing account treatment and subsequent true up incorporating the test year revenue requirements ultimately found by the Commission to be just and reasonable. The Commission distinguished the revenue requirement mechanism that it was authorizing from interim or partial rate relief, which it did not authorize. It summarized its decision to authorize the revenue requirement mechanism as follows:

> The Commission finds that the relief authorized today is fair from the perspective of both ratepayers and utility shareholders in that neither group significantly benefits from or is harmed by the procedural delays that have been encountered in this proceeding. The Commission also determines that the relief granted today is not legally barred. (D.98-12-078, p. 2.)

The circumstances surrounding the current GRC filing are similar to those encountered in PG&E's last GRC in that unavoidable procedural delays not primarily attributable to any one party prevent issuance of a final revenue requirement decision prior to the start of the test year. Since D.00-02-046 was issued in February 2000, the Commission has deferred the tender date for the NOI to May 1, 2001 (D.00-07-050); further extended the due date for tender of the NOI beyond May 1, 2001 on a day-to-day basis (D.01-03-052); reset the test year from 2002 to 2003 and set a new due date of November 14, 2001 for tender of the NOI (D.01-10-059); authorized PG&E to defer tender of the NOI to April 15, 2002 (D.02-04-018); and restated its objectives regarding the schedule for processing the TY 2003 GRC (D.02-06-003).

The circumstances of PG&E's TY 2003 GRC are similar to those of its TY 1999 GRC in another respect. That case was set against the backdrop of California's electric industry restructuring efforts. Due to the "unbundling" of

utility operations that had formerly been vertically integrated, and the associated disaggregation of ratemaking mechanisms, the TY 1999 GRC was more limited in scope than a traditional GRC.[5] Notwithstanding the California energy crisis that arose in 2000, and the various regulatory responses to the crisis, we are once again processing a rate case that covers a reduced scope of Commission determinations and utility functions compared to the traditional GRC which, in another era, constituted general ratemaking.

Accordingly, we determine that it is fair and appropriate to approve revenue requirement relief that leaves shareholders and ratepayers essentially indifferent to the actual date of the GRC decision that authorizes PG&E's TY 2003 revenue requirements.

PG&E has shown that it is not necessary to establish a balancing account mechanism such as that approved in D.98-12-078. In D.02-04-056, the Commission granted revenue requirement relief in analogous circumstances in connection with PG&E's request for a 2002 attrition revenue adjustment (ARA). There, PG&E had filed a motion requesting issuance of an "interim decision to ensure that if, at a later date, the Commission approves an [ARA] for 2002, such adjustment may be made effective as of the date of the requested interim decision."[6] (D.02-04-056, p. 2.) The simpler approach to establishing the effective date of the authorized revenue requirements that we approved in D.02-04-056

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[5] See D.98-12-078, p. 10, where the Commission noted that the TY 1999 GRC addressed "a narrower scope of functions than traditional GRCs." Earlier, in 1989, D.89-01-040 reduced the scope of GRC's for the major energy utilities by removing consideration of the cost of capital i.e., the authorized rate of return on rate base.

[6] The approach approved in D.02-04-056 was in turn based on the approach followed in D.00-12-061 in connection with PG&E's ARA request for 2001.

has the same effect as the balancing account approach adopted in D.98-12-078, i.e., a Commission order establishes that revenue requirement changes, if any, ultimately approved by the Commission in the TY 2003 GRC may become effective on January 1, 2003. We determine that it is sufficient for the Commission to declare its intention to make alterations to PG&E's revenue requirements effective as of January 1, 2003.

4. Draft Decision

PG&E's motion is uncontested, and this decision grants the relief requested. Therefore, in accordance with Rule 77.7 (f)(2) of the Rules of Practice and Procedure, the period for public review and comment on the ALJ's draft decision is waived.

5. Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Mark Wetzell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Processing of PG&E's TY 2003 GRC and issuance of a final decision on the test year revenue requirements before January 1, 2003 is not feasible.

2. In D.00-07-050, the Commission invited PG&E to make a proposal for interim revenue requirement relief similar to that which the Commission authorized in D.98-12-078, and in D.02-06-003, the Commission affirmed its willingness to entertain a proposal for a form of relief to address the fact that a final decision in PG&E's current GRC will not issue before the beginning of the 2003 test year.

3. In the absence of a Commission order issued before January 1, 2003 preserving the Commission's ability to alter PG&E's GRC revenue requirements as of January 1, 2003, either ratepayers or shareholders may be disadvantaged

depending on how a final Commission decision on PG&E's 2003 GRC alters the current status quo.

4. Notwithstanding the California energy crisis that arose in 2000, and the various regulatory responses to the crisis, we are once again processing a rate case that covers a reduced scope of Commission determinations and utility functions compared to the traditional GRC which, in another era, constituted general ratemaking.

5. Under the circumstances surrounding PG&E's TY 2003 GRC, establishing an effective date for the authorized revenue requirements in a manner that leaves ratepayers and shareholders indifferent to the actual date of the Commission's revenue requirement decision is fair for both ratepayers and utility shareholders.

6. It is not necessary to establish a balancing account mechanism such as that approved in D.98-12-078 to carry out the Commission's intent to make any adopted TY 2003 revenue requirement changes effective January 1, 2003.

7. PG&E's motion is uncontested.

Conclusions of Law

1. PG&E's motion should be granted as set forth in the following order.

2. The Commission intends that any changes to PG&E's gas and electric revenue requirements adopted in PG&E's TY 2003 GRC will become effective January 1, 2003.

3. This proceeding should remain open to resolve pending issues in these consolidated dockets.

O R D E R

IT IS ORDERED that:

1. The motion of Pacific Gas and Electric Company (PG&E) requesting an order making new revenue requirements for gas and electric service effective January 1, 2003 is granted.

2. To the extent that, upon further order in PG&E's test year 2003 general rate case, the Commission authorizes revisions to PG&E's authorized revenue requirements for the 2003 test year, such authorization may be made effective January 1, 2003.

3. This proceeding remains open.

This order is effective today.

Dated December 19, 2002, at San Francisco, California.

HENRY M. DUQUE
CARL W. WOOD
MICHAEL R. PEEVEY
Commissioners