

February 18, 2003

**Advice 2346-E
(Pacific Gas and Electric ID U39E)**

Public Utilities Commission of the State of California

Subject: Transmission Owner Rate Case Settlement-Refund for Retail Electric Customers (TO1 and TO2)

Pacific Gas and Electric Company (PG&E) hereby submits for approval to the Commission its Transmission Owner Rate Case Settlement Refund plan. On January 28, 2003, the Federal Energy Regulatory Commission (FERC) approved the settlements that PG&E reached in its TO1 (Docket No. ER97-2358) and TO2 (Docket No. ER98-2351) cases. Since the Settlement rates are lower than originally filed and FERC accepted rates in TO1 and TO2, certain refund obligations have accrued with respect to the originally filed TO1 and TO2 rates. In this Advice Letter, PG&E requests that the Commission approve an appropriate entry to PG&E's Transmission Revenue Account (TRA) to account for this refund obligation, because the effective period of the TO1 and TO2 rates coincided with the AB 1890 rate freeze period.¹

Background:

On March 31, 1997, PG&E filed its first TO rate case in Docket No. ER97-2358-000 (TO1). On December 17, 1997, FERC accepted PG&E's proposed tariff rates for filing, effective March 31, 1998, subject to refund, suspended them and set them for hearing. On March 30, 1998, PG&E filed its second TO rate case in Docket No. ER98-2351-000 (TO2). On May 28, 1998, FERC accepted PG&E's proposed tariff rates for filing, effective October 30, 1998, subject to refund, suspended them, set them for hearing and consolidated the case with the TO1 docket. Then, on April 14, 1999, PG&E submitted an Offer of Settlement and

¹ The Company reserves all legal rights to challenge the decisions or statutes under which it has been required to make this advice filing, and nothing in this advice filing constitutes a waiver of such rights. Also, the Company reserves any additional legal rights to challenge the requirement to make this advice filing by reason of its status as a debtor under Chapter 11 of the Bankruptcy Code, and nothing in this advice filing constitutes a waiver of such rights.

Stipulation (Settlement) that resolved all outstanding issues for both the TO1 and TO2 dockets. Among other things, the Settlement provided for an effective reduction of 4.24 percent to PG&E's TO1 rates and an effective reduction of 8.07 percent to PG&E's TO2 rates, with both of these percentages measured relative to the rates first filed and made effective subjective to refund in these two dockets.² On March 31, 1999, PG&E filed its third TO rate case in Docket No. ER99-2326-000 (TO3), and on May 27, 1999, FERC accepted PG&E's proposed tariff rates for filing, effective May 31, 1999, subject to refund. Thus, the effective period for PG&E's TO1 rates was March 31, 1998 through October 29, 1998, and the effective period for PG&E's TO2 rates was October 30, 1998 through May 30, 1999.

On January 28, 2003, FERC approved the settlement agreements and stated that the settlements were "fair and reasonable, in the public interest, and, hereby approved." The agreed-upon rates in the Settlement are lower than those that were originally filed in the TO1 and TO2 cases; therefore the Settlement rates are lower than those rates that PG&E actually collected during the periods when TO1 and TO2 were in effect. Except for the effects of the AB 1890 rate freeze, PG&E would therefore need to refund to all applicable customers the amounts that were collected in excess of the settled rates. In its January 28, 2003 order, FERC estimated that the amount of this refund would be approximately \$30 million, of which approximately \$6 million would have been in interest, as of October 1, 2002.

Because of the effect of the AB 1890 rate freeze, PG&E requests authorization to account for the refunds through an appropriate credit entry to the TRA. The TO1 and TO2 rates that were originally accepted and made effective by FERC, subject to refund, provided the basis for all of PG&E's TRA entries recording the retail transmission revenues that it received during the TO1 and TO2 periods. Because these rates were in effect during the statutory period of the rate freeze, nearly all of PG&E's customers paid frozen rates during this period, regardless of the level of the TO rates. If the lower TO1 and TO2 rates had been in effect during the TO1 and TO2 record periods, customers would still have paid the same total rates, but their contributions to CTC collection would have been larger. Therefore, except for a limited number of CTC-exempt customers, the refund amounts should be recorded as a credit entry to the TRA.

PG&E has determined the monthly amounts for the necessary credit entries to the TRA by calculating the amounts that total transmission revenue would have been lower each month under the TO1 and TO2 settlement rates, applying a uniform percentage correction of 4.24 percent to the TO1 record period, and of 8.07 percent for the TO2 record period. This produces total retail transmission

² PG&E originally filed its TO1 rates to collect a retail revenue requirement of \$304.943 million, and the Settlement lowered this figure to \$292 million. PG&E originally filed its TO2 rates to collect a retail revenue requirement of \$343.742 million, and the Settlement lowered this figure to \$316 million.

revenue adjustments of \$7.890 million (exclusive of interest) for the TO1 record period, and \$14.166 million for the TO2 record period. After accounting for total interest in the amount of \$8.189 through March 20, 2003, the total credit entry to the TRA would be \$30.246 million. Supporting calculations are provided in Attachment I.

As a result of the Settlement, PG&E will owe refunds to a small group of CTC Exempt customers, because those customers' bills during the TO1 and TO2 record periods would have been lower if the lower TO1 and TO2 rates had been in effect. These refund amounts will be based on the approved reductions to the original transmission revenue requirements described above (a 4.24 percent reduction to the TO1 revenue requirement and an 8.07 percent reduction to the TO2 revenue requirement). As these refunds are customer specific, the total refund amount for this group of customers is not available at this time. PG&E will supplement this advice letter as soon as possible to provide a calculation of the total refund amounts that will be due to the CTC Exempt customers. However, the refunds due to the CTC Exempt customers will not affect the primary credit entry to the TRA, because they will only have the effect of increasing the amounts of the total CTC exemptions received by these customers. The reduction in these customers' TO1 and TO2 record period retail transmission revenues has already been reflected in the calculations provided in Attachment I.

PG&E has been ordered to make refunds to all applicable customers, with interest, within thirty days from the date of the FERC decision (January 28, 2003). After making the refunds, PG&E is required to file a refund report to FERC, with supporting documentation for the refund calculations.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **March 10, 2003**, which is 20 days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

IMC Branch Chief – Energy Division
California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: jjr@cpuc.ca.gov

Protests also should be sent by e-mail and facsimile to Mr. Jerry Royer, Energy Division, as shown above, and by U.S. mail to Mr. Royer at the above address.

The protest should be sent via both e-mail and facsimile to PG&E on the same date it is mailed or delivered to the Commission at the address shown below.

Pacific Gas and Electric Company
Attention: Director, Regulatory Relations
Director, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177
Facsimile: (415) 973-7226
E-mail: RxDd@pge.com

Effective Date

In compliance with the January 28, 2003, FERC Settlement, PG&E requests that this filing become effective on **February 28, 2003**.

Notice

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes should be directed to Sandra Ciach at (415) 973-7572. Advice letter filings can also be accessed electronically at:

http://www.pge.com/customer_services/business/tariffs/

Vice President - Regulatory Relations

Attachments