

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

Tel. No. (415) 703-1691



August 26, 2004

Advice Letter 2504-G/2504-G-A

Rose de la Torre  
Pacific Gas & Electric  
77 Beale Street, Room 1088  
Mail Code B10C  
San Francisco, CA 94105

Subject: El Paso settlement refund plan

Dear Ms Smith:

Advice Letter 2504-G/2504-G-A is effective August 11, 2004. A copy of the advice letter is returned herewith for your records.

Sincerely,

A handwritten signature in cursive script that reads "Paul Clanon".

Paul Clanon, Director  
Energy Division



**Pacific Gas and  
Electric Company**

**Karen A. Tomcala**  
Vice President  
Regulatory Relations

77 Beale Street, Room 1065  
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**December 3, 2003**

**Advice 2504-G**

(Pacific Gas and Electric Company ID U 39 G)

**Subject: El Paso Settlement Refund Plan  
(Wholesale Customers)**

Public Utilities Commission of the State of California

Pacific Gas and Electric Company (PG&E) hereby submits its Wholesale El Paso Settlement Gas Refund Plan. The amount to be disbursed to wholesale customers is \$762,955 based on the net present value of wholesale customers' pro rata share of the total consideration for PG&E's core gas customers under the El Paso Natural Gas Company (El Paso) Settlement. The Refund Plan is described in Attachment I to this filing.<sup>1</sup>

**Purpose**

This filing complies in part with Ordering Paragraph (OP) 3 of Decision (D.) 03-10-087, issued October 30, 2003, in Rulemaking (R.) 03-07-008. In accordance with D. 03-10-087, PG&E submits the Wholesale El Paso Settlement Refund Plan to return to PG&E's wholesale customers their proportional share of the consideration received by PG&E from the El Paso Settlement. Advice 2502-G and Advice 2503-G are being filed concurrent with this advice letter in full compliance with OP 3.

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<sup>1</sup> PG&E 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, PG&E 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.



## Background

As a result of numerous investigations, complaints and litigation regarding El Paso's alleged contribution to the extremely high natural gas and electric prices in California during the 2000-2001 California energy crisis, El Paso has agreed to provide to all Settlement parties an estimated \$1.5 billion (nominal value) in consideration for resolving related litigation. Approximately \$1 billion of the consideration affects the rates of customers under the jurisdiction of the CPUC.

The CPUC instituted R. 03-07-008 to consider proposals for accounting and ratemaking mechanisms to equitably distribute the proceeds from the Settlement to entities under their jurisdiction. This advice letter addresses the wholesale customer share of the consideration for PG&E's core gas customers.

The consideration received by PG&E includes upfront cash (including proceeds from the sale of El Paso stock) upon finalization of the Settlement Agreement<sup>2</sup> and ongoing fixed semiannual cash payments for 20 years,<sup>3</sup> beginning July 1, 2004. PG&E's estimated portion of the gas consideration to be received over the period is approximately \$80 million.<sup>4</sup> However, this amount is subject to change based upon the final amount of proceeds received from sale of El Paso stock<sup>5</sup> and any additional eligible parties<sup>6</sup> ultimately included in the Settlement Agreement. The Settlement will become effective upon approval of the Federal Energy Regulatory Commission (FERC), the San Diego Superior Court, and the United States Bankruptcy Court.

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<sup>2</sup> The El Paso Settlement Agreement is expected to be finalized between February 2004 and August 2004.

<sup>3</sup> The 20-year period may be shortened to 15 years if El Paso Corporation achieves Investment Grade, and certain other conditions are met.

<sup>4</sup> The settlement proceeds do not reflect tax considerations because the proceeds are not expected to be taxed. PG&E expects no adverse tax effect from the El Paso consideration. In the event the proceeds are taxed, PG&E is entitled to propose:

- (a) adjustment of the consideration such that only the net revenues are credited to ratepayers,
- (b) allowing cost recovery of any tax liability in the next appropriate ratemaking proceeding, or
- (c) authority to create a memorandum account to track adverse tax implications until addressed in a ratemaking proceeding. PG&E expects no adverse tax effect from the El Paso consideration.

<sup>5</sup> The El Paso Settlement Agreement authorized a specific number of stock shares to sell. The ultimate amount of proceeds received from the sale of stock will depend on the market value of the stock at time of sale.

<sup>6</sup> Primarily municipalities.



### Refund Amount Calculation

The Refund Plan provides an illustrative refund rate based on the best estimate of the wholesale customers' pro rata share of the Settlement amount and recorded annual wholesale usage from August 2002 through July 2003. Once the final Settlement amount is known, the recorded wholesale usage will be updated and the final refund amount can be calculated. PG&E will supplement this advice letter and Refund Plan to reflect the final refund rate.

### Net Present Value Sensitivity Analysis

PG&E recommends using a 15-year payment stream for determining the net present value of the refund amount for wholesale customers. As ordered by the CPUC in D. 03-10-087, PG&E is including the following table showing the sensitivity of the net present value calculated over a 15- and 20-year payment stream to which is applied the same discount rate. The discount rate is PG&E's after-tax authorized rate of return for 2003 of 7.8 percent. These estimations are based on wholesale volumes from August 2002 through July 2003.

#### Net Present Value 15-year stream:

Upfront Cash	\$363,270
Deferred Cash Payment Total	\$399,685
Net Present Value of Consideration	\$762,955

#### Net Present Value 20-year stream:

Upfront Cash	\$363,270
Deferred Cash Payment Total	\$344,074
Net Present Value of Consideration	\$707,344

### Protests

Anyone wishing to protest this filing may do so by sending a letter by **December 23, 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, 4<sup>th</sup> Floor  
San Francisco, California 94102

Facsimile: (415) 703-2200  
E-mail: [jjr@cpuc.ca.gov](mailto: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: Brian Cherry  
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](mailto:RxDd@pge.com)

**Effective Date**

PG&E requests that this advice filing become effective on regular notice, **January 12, 2004**, which is 40 days after the date of filing.

PG&E proposes that the refund will be made to eligible customers beginning 45 days after the effective date of this advice letter, assuming PG&E has received its initial upfront Settlement payment from El Paso. In the event the payment is not received by the time the advice letter is approved by the CPUC, the refund will be implemented as soon as possible following receipt of the payment.



**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 and the parties on the service list for R. 03-07-008. Address changes should be directed to Sandra Ciach at (415) 973-75729. Advice letter filings can also be accessed electronically at:

<http://www.pge.com/tariffs/>

*Karen A. Tomcala/ss*

Vice President - Regulatory Relations

Attachments

cc: Service List – R. 03-07-008

## Attachment I

**PACIFIC GAS AND ELECTRIC COMPANY**  
**WHOLESALE EL PASO SETTLEMENT**  
**GAS REFUND PLAN**

1. PURPOSE

The purpose of the Wholesale El Paso Settlement Gas Refund Plan (Refund Plan) is to return, to eligible PG&E Wholesale gas customers on Schedule G-WSL, an estimated \$762,955 of El Paso Natural Gas (El Paso) Settlement consideration, as ordered by the CPUC in Decision (D.) 03-10-087. The exact amount of the refund will be determined after PG&E's core gas customers' share of the El Paso Settlement has been finalized. No refund will be made until after PG&E has received CPUC authorization of the Refund Plan, and El Paso has made its first upfront payment to PG&E as provided for under the El Paso Settlement.

2. INITIAL REFUND DATE

Refunds will be made to eligible Wholesale gas customers beginning 45 days after approval of the Refund Plan, assuming PG&E has received its initial upfront Settlement payment from El Paso. In the event the payment is not received by the time the Refund Plan is approved by the CPUC, the Refund Plan will be implemented as soon as possible following receipt of the payment.

3. TOTAL AMOUNT TO BE REFUNDED

The total amount to be refunded to PG&E's Wholesale customers is based on the net present value<sup>1</sup> of the Wholesale customers pro rata share of the total El Paso Settlement amount for PG&E's core gas customers, as described in D. 03-10-087. The pro rata share is based on PG&E's Wholesale customers' gas usage for the 12 months immediately prior to the time that PG&E first receives the Settlement consideration. A contingency amount equal to 0.25 percent of the total refund will be

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<sup>1</sup> The net present value is determined based on a discount rate equal to PG&E's current after-tax return on rate base of 7.8% assuming a 15-year payment stream.

## Attachment I

temporarily held by PG&E to cover implementation costs and to make subsequent corrections to customer accounts.

4. CUSTOMER ELIGIBILITY

An eligible customer is a PG&E Wholesale customer, at the time the refund is issued, that was a PG&E Wholesale customer taking service on Schedule G-WSL for any month during the period from March 1, 2000, through May 31, 2001.

5. METHODOLOGY FOR DISTRIBUTION OF REFUND S TO ELIGIBLE CUSTOMERS

Refunds will be made to PG&E's Wholesale gas customers based on the method outlined below:

- a) An illustrative refund rate is provided in this Refund Plan on Table 1. The refund rate is equal to the Refund Plan amount, divided by the total Wholesale therms billed for PG&E's Wholesale customers' gas usage for the 12 months immediately prior to the time that PG&E first receives the Settlement consideration. The illustrative refund rate provided herein is based on recorded usage for the period from August 2002 through July 2003.
- b) The refund amount due to each Wholesale customer is determined by multiplying each customer's Wholesale usage billed for the 12 months immediately prior to the time that PG&E first receives the Settlement consideration, by the refund rate determined in (a) above.
- c) PG&E will remit the refund amount due to each eligible customer as a one-time bill credit.
- d) The utility users tax, if applicable will be included at the current effective rate.

6. ADJUSTMENTS OF REFUNDS UPON CUSTOMER INQUIRY

If any former or present customer contends, within six months after the initial implementation date of the Refund Plan, that the amount received by the customer is incorrect, PG&E will investigate and make appropriate adjustments.

7. UNCASHED CHECKS

Any uncashed checks resulting from the Refund Plan will remain a liability of PG&E to the individual customer for one year after the date of the

## Attachment I

check. The claim of any person legally entitled to one of the uncashed checks (whether or not the check is returned to PG&E) will be honored. Where a check has been returned, PG&E will make every reasonable effort to locate the payee.

8. REFUND PLAN BALANCES

If after nine months following the initial date of the Refund Plan there is any refund balance, excluding amounts unclaimed by specific customers under Section 7 above, the refund balance will be transferred, consistent with the Commission's direction in D.03-10-087, to the core subaccount of PG&E's Purchased Gas Account (PGA).

9. REPORT ON REFUND PLAN

A report of the total amount of refunds made to Wholesale gas customers pursuant to the Refund Plan, including adjustments and corrections made pursuant to Section 6 of the Refund Plan, will be furnished to the California Public Utilities Commission's Energy Division after completing the refund and no later than 14 months after the refunds are issued.

10. CUSTOMER LETTER

A letter explaining the reason for the credit will be included with the bill credit sent to all eligible customers.

## Attachment I

Table 1

**Wholesale El Paso Settlement Gas Refund Plan Amounts  
(Estimate)**

Wholesale El Paso Settlement Refund Amount	\$762,955
Less: Contingency Amount	(\$1,907)
Total To Be Refunded	\$761,048
Wholesale Annual Usage (recorded data: 8/02 – 7/03 in therms) <sup>2</sup>	36,723,585
Refund Rate per therm	\$0.02072

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<sup>2</sup> Wholesale annual usage will be updated to reflect recorded wholesale customers' gas usage for the 12 months immediately prior to the time that PG&E first receives the Settlement consideration.

**PGE Gas Advice Filing  
List  
General Order 96-A, Section III(G)**

ABAG Power Pool  
Accent Energy  
Aglet Consumer Alliance  
Agnews Developmental Center  
Ahmed, Ali  
Alcantar & Elsesser  
Applied Power Technologies  
Arter & Hadden LLP  
Avista Corp  
Barkovich & Yap, Inc.  
BART  
Blue Ridge Gas  
BP Energy Company  
Braun & Associates  
C & H Sugar Co.  
CA Bldg Industry Association  
CA Cotton Ginners & Growers Assoc.  
CA League of Food Processors  
CA Water Service Group  
California Energy Commission  
California Farm Bureau Federation  
California Gas Acquisition Svcs  
California ISO  
Calpine  
Calpine Corp  
Calpine Gilroy Cogen  
Cambridge Energy Research Assoc  
Cameron McKenna  
Cardinal Cogen  
Chevron USA Production Co.  
Childress, David A.  
City of Glendale  
City of Palo Alto  
City of Redding  
CLECA Law Office  
Constellation New Energy  
CPUC  
Creative Technology  
Cross Border Inc  
Crossborder Inc  
CSC Energy Services  
Davis, Wright Tremaine LLP  
Davis, Wright, Tremaine, LLP  
Defense Fuel Support Center  
Department of the Army  
Department of Water & Power City  
DGS Natural Gas Services  
DMM Customer Services  
Downey, Brand, Seymour & Rohwer  
Duke Energy  
Duke Energy North America  
Duncan, Virgil E.  
Dutcher, John  
Dynergy Inc.  
Ellison Schneider  
Energy Law Group LLP  
Enron Energy Services  
Exelon Energy Ohio, Inc  
Exeter Associates  
Foster Farms  
Foster, Wheeler, Martinez  
Franciscan Mobilehome  
Future Resources Associates, Inc  
G. A. Krause & Assoc  
GLJ Energy Publications  
Goodin, MacBride, Squeri, Schlotz &  
Grueneich Resource Advocates  
Hanna & Morton  
Heeg, Peggy A.  
Hogan Manufacturing, Inc  
House, Lon  
Integrated Utility Consulting Group  
International Power Technology  
Interstate Gas Services, Inc.  
J. R. Wood, Inc  
JTM, Inc  
Kaiser Cement Corp  
Korea Elec Power Corp  
Luce, Forward, Hamilton & Scripps  
Marcus, David  
Masonite Corporation  
Matthew V. Brady & Associates  
Maynor, Donald H.  
McKenzie & Assoc  
McKenzie & Associates  
Meek, Daniel W.  
Meyer, Joseph  
Mirant California, LLC  
Modesto Irrigation Dist  
Morrison & Foerster  
Morse Richard Weisenmiller & Assoc.  
Navigant Consulting  
New United Motor Mfg, Inc  
Norris & Wong Associates  
Northern California Power Agency  
Office of Energy Assessments  
Palo Alto Muni Utilities  
PG&E National Energy Group  
Pinnacle CNG Company  
PITCO  
Plurimi, Inc.  
PPL EnergyPlus, LLC  
Price, Roy  
Product Development Dept  
Provost Pritchard  
R. M. Hairston & Company  
R. W. Beck & Associates  
Recon Research  
Regional Cogeneration Service  
RMC Lonestar  
Sacramento Municipal Utility District  
SCD Energy Solutions  
Seattle City Light  
Sempra Energy  
Sempra Energy  
Sequoia Union HS Dist  
SESCO  
Sierra Pacific Power Company  
Silicon Valley Power  
Simpson Paper Company  
Smurfit Stone Container Corp  
Southern California Edison  
SPURR  
St. Paul Assoc  
Stanford University  
Sutherland, Asbill & Brennan  
Tabors Caramanis & Associates  
Tansev and Associates  
Tecogen, Inc  
TFS Energy  
TJ Cross Engineers  
Transwestern Pipeline Co  
U S Borax, Inc  
United Cogen Inc.  
URM Groups  
Utility Cost Management LLC  
Utility Resource Network  
Wellhead Electric Company  
Western Hub Properties, LLC  
White & Case  
WMA