



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Adopting Rules to Account  
for the Consideration Allocated to California Core Natural  
Gas Ratepayers Under Settlements of *Natural Gas Antitrust*  
*Cases I-IV*.

Rulemaking 09-07-029  
(Filed July, 2009)

**WORKSHOP REPORT REGARDING PETITION OF PRICE INDEXING CASES  
SETTLEMENT CLASS TO MODIFY IMPLEMENTATION OF DECISION 10-01-024**

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Order Instituting Rulemaking Adopting Rules to Account for the Consideration Allocated to California Core Natural Gas Ratepayers Under Settlements of *Natural Gas Antitrust Cases I-IV*.

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**WORKSHOP REPORT REGARDING PETITION OF PRICE INDEXING CASES SETTLEMENT CLASS TO MODIFY IMPLEMENTATION OF DECISION 10-01-024**

**I. WORKSHOP REPORT**

At the November 28, 2011 Prehearing Conference, Administrative Law Judge Richard Clark directed the parties to conduct a workshop to assist the parties' review of the Damasco Report<sup>1</sup> and calculation of the amount of the Price Indexing Cases Settlement Fund distributed in error to core customer classes of the Joint Utilities<sup>2</sup> in this proceeding. ALJ Clark also directed that the parties provide him with a workshop report by January 17, 2012.

The parties met for a workshop on January 5, 2011 in the offices of Lieff, Cabraser, Heimann & Bernstein, LLP. The workshop participants included Pacific Gas and Electric Company (PG&E) (Joshua Levenberg, Lisa Lieu, Shannon Sims), Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) (Michael Thorp, Greg Shimansky, Reggie Austria), Southwest Gas Corporation (Southwest) (Keith Brown, Brooks Congdon, Lisa Wamble), the Division of Ratepayer Advocates (DRA) (Jonathan Bromson, David Peck), counsel for the Price Indexes Cases Settlement Class (William Bernstein, Daniel Hutchinson), staff accountants from the accounting firm Damasco & Associates (Dorothy Simpson, Nicole Lipset), and a consultant from Crossborder Energy (Tom Beach). Long Beach Gas & Oil Department (Long Beach) was invited, but did not attend.

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<sup>1</sup> The Damasco Report is identified as Attachment A to the August 29, 2011 Petition of the Price Indexing Settlement Class to Modify Implementation of D.10-01-024.

<sup>2</sup> Pacific Gas & Electric Company (PG&E); Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), Southwest Gas Corporation (Southwest), and The City of Long Beach, Long Beach Gas & Oil Department (Long Beach)(collectively, the Joint Utilities).

Damasco & Associates addressed all questions posed by the workshop participants. The Price Indexing Cases Settlement Class provided workshop participants with access to all relevant documents in their possession, including: (1) all work files used by Damasco & Associates to prepare Mr. Damasco's Report; (2) all bank records for the Price Indexing Cases Settlement Fund; (3) all correspondence between Class Counsel, their internal and external accountants, and the Settlement Claims Administrator; and (4) fourteen banker's boxes containing all files from the *Natural Gas Antitrust Cases I-IV*.

Damasco & Associates explained that the Price Indexing Settlement Fund recently received a tax refund in the amount of \$18,979.97 that, because it did not exist at the time of the original Damasco Report, was not included in that Report. This tax refund amount will be used to offset the amount of monies erroneously distributed to the Joint Utilities' core ratepayers when the original Price Indexing Cases Settlement distributions occurred in February 2010. This erroneous distribution is the subject of this proceeding.

The workshop participants agreed that Mr. Damasco would prepare two reports further explaining his analysis. Specifically, Mr. Damasco prepared: (1) a report comparing Damasco's analysis with the calculations underlying the \$50.5 million (including accumulated interest) share of the Price Indexing Cases Settlement Fund that was originally allocated to the core customer classes (It was this \$50.5 million amount that was originally requested that the Commission distribute to core customers of the Joint Utilities); and (2) a report calculating the amount of the erroneous distribution that excludes attorneys fees (since attorneys fees were deducted from the Price Indexing Cases Settlement Fund before any distributions to core or non-core ratepayers). Both reports were provided to the attendees of the workshop on January 12, 2012, and are attached hereto as Exhibits A and B.

Based on Mr. Damasco's final calculations, the total amount distributed in error to core customers of the Joint Utilities is \$1,893,302.48. This amount is different than the \$1,903,554.22 amount previously presented to the Commission because it includes the effect of the \$18,979.97 tax refund received after the original Damasco Report.

## II. PROPOSED NEXT STEPS

All parties at the workshop agreed that, based on the analysis performed by Damasco & Associates, the \$1,893,302.48 is an accurate calculation of the amount erroneously distributed to the Joint Utilities' core ratepayers in February 2010 -- in excess of the original \$50.5 million (including accumulated interest) that should have been distributed as a result of D.10-01-024. Each of the refund plans submitted by the utilities in compliance with D.10-01-024 and approved by the Commission contained the respective utility's share of this erroneous distribution. Thus, core customers of the utilities received greater refunds than they should have received if only the \$50.5 million (including accumulated interest) was distributed by Class Counsel in February 2010.

All workshop attendees also agreed that a recovery from core gas customers of \$1,638,680.44 of the \$1,893,302.48 erroneous distribution can and should occur, with Commission approval, through the purchased gas accounts (PGAs) of workshop participants: Pacific Gas & Electric Company (PG&E); Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), and Southwest Gas Corporation (Southwest) (collectively, the Utilities). Specifically, each of the identified utility's *pro rata* share of the erroneous distribution is as follows:

PG&E:	\$770,114.02
SoCalGas:	\$580,282.38
SDG&E:	\$225,755.46
Southwest:	\$62,528.58
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Total:	\$1,638,680.44

Upon Commission order and approval, each utility will debit its *pro rata* share, identified above, in its respective PGA. This treatment is consistent with the accounting for the original refunds approved by the Commission in 2010 for distribution to the Utilities' core customer sales classes subject to such PGAs. (The original refunds were recorded as a credit in the Utilities' PGA accounts.) These amounts will flow through each utility's PGA balancing account and will be recovered from their core gas customers through their core gas monthly procurement rates.

The Utilities will then remit their proportionate share of the amount erroneously distributed to core gas customers directly to the Settlement Administrator, Epiq, in the month following such PGA accounting. The monies to be recouped are fully attributable to the bundled gas customers whose purchased gas costs flow through each utility's PGA balancing account.

The workshop participants agreed to meet further and prepare a specific, proposed Memorandum of Understanding (MOU) to this effect in order to recover the amount erroneously distributed and return this amount to the Price Indexing Class for further redistribution to non-core ratepayers through the Price Indexing Cases' Settlement Administrator.

The utilities attending the workshop provided information demonstrating that the costs to recover the erroneous distribution from their core aggregation, core subscription, and wholesale customers would be more expensive than the value of monies that can be recouped. Specifically, it would be costly, time-consuming, and impractical to recoup the prior refunds stemming from the erroneous distribution from the respective utility's core aggregation, core subscription, and wholesale customers, representing approximately 1 to 13 percent of the original refund distributions. Because these customers do not participate in the PGA, it would not be possible to recoup money from each utility's PGA for these customer classes. The utilities, counsel for the Price Indexing Cases Settlement Class, and DRA therefore agreed that the utilities should not be required to recoup the erroneous distribution amount made to these customers. The aggregate amount of the erroneous distribution to these customer classes is \$177,564.63. Counsel for the Price Indexing Settlement Class represents that the Price Indexing Class is willing to forego recovery of this amount.

In addition, Long Beach received a *pro rata* share of the erroneous distribution in 2010 in the amount of \$77,057.41. Because Long Beach did not participate in the workshop, the Counsel for the Price Indexing Cases Settlement Class agreed to pursue separate discussions with Long Beach to recover the amount of the erroneous distribution made to Long Beach.

The parties will report back to the Commission in four weeks with a proposed MOU providing for recovery of \$1,638,680.44 of the \$1,893,302.48 erroneous distribution from the

Utilities in the manner outlined above and addressing appropriate findings and conclusions of law with respect to D.10-01-024.

Dated: January 17, 2012      Respectfully submitted,

/s/ William Bernstein

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