

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

Application of the Alliance for Retail Energy  
Markets for Modification of Resolution E-3906 to  
Allow for Protests of Pacific Gas and Electric  
Company Advice Letter 2555-G-A/2521-E-A

Application 05-01-023  
(Filed January 20, 2005)

**ORDER MODIFYING RESOLUTION E-3906**

**I. Summary**

This decision grants the application of the Alliance for Retail Energy Markets (AReM) for modification of Resolution E-3906 to allow protests on supplemental advice letter (AL) 2555-G-A/2521-E-A filed by Pacific Gas and Electric Company (PG&E).

**II. Background**

**A. Resolution E-3906 addressed PG&E's consolidated rate changes effective January 1, 2005.**

On December 16, 2004 the Commission issued Resolution E-3906 which granted with modifications PG&E's proposal filed in AL 2570-E to revise electric rates effective January 1, 2005. PG&E filed AL 2570-E on October 16, 2004. The resolution allowed PG&E to consolidate rate changes authorized by the Commission and the Federal Energy Regulatory Commission (FERC) prior to the end of 2004, recover balances in several balancing accounts and establish the 2005 regulatory asset.

PG&E estimated in AL 2570-E that its total revenue requirements would increase by \$315 million on January 1, 2005 based on Commission and FERC decisions that it expected prior to the end of 2004. Of that amount \$221 million related to rate changes authorized by the FERC. PG&E proposed that it supplement AL 2570-E prior to the end of 2004 to finalize the revenue requirement change and submit tariffs with revised rates effective January 1, 2005. Resolution E-3906 granted this approach.

On December 30, 2004 PG&E filed supplemental AL 2570-E-A in compliance with Resolution E-3906. Pursuant to the resolution PG&E made new rates effective on January 1, 2005, implementing a total revenue requirement increase of \$274 million.

**B. Resolution E-3906 required PG&E to remove proposed tariffs addressing the headroom account proposed in AL 2570-E and re-file those tariffs in AL 2555-G/2521-E.**

PG&E proposed in AL 2570-E to incorporate the effects of amortizing the balance in the headroom account (HA) if the advice letter addressing that account was approved prior to January 1, 2005. In AL 2570-E PG&E proposed revisions to the HA tariff which would add language allowing it to include in the HA three refunds it received in 2004.

Resolution E-3906 denied without prejudice the tariff revisions to the HA that PG&E proposed in AL 2570-E, since these revisions are more appropriately considered in AL 2555-G/2521-E. PG&E filed AL 2555-G/2521-E on June 14, 2004 in compliance with its test year general rate case decision D.04-05-055 regarding its calculation of 2003 headroom.

In compliance with Resolution E-3906, PG&E excluded its proposed revisions to the HA from supplemental AL 2570-E-A. On December 30, 2004

PG&E filed supplemental AL 2555-G-A/2521-E-A to add its proposed HA tariff revisions to that advice letter. AL 2555-G/G-A/2521-E/E-A is currently pending review by the Energy Division.

**C. Resolution E-3906 required that PG&E's supplemental AL 2555-G-A/2521-E-A would not be subject to protests.**

Resolution E-3906-E states that the supplement to AL 2555-G/2521-E adding the HA tariff revisions proposed by PG&E shall not be subject to protests. The resolution notes that these proposed tariff changes were not protested in AL 2570-E by any party, and that PG&E's proposal in AL 2555-G/2521-E to include the three 2004 refunds in the HA account also was not protested. PG&E served AL 2570-E on the same parties it had served AL 2555-G/2521-E.

**D. AReM protested supplemental AL 2555-G-A/2521-E-A and filed A.05-01-023 to modify Resolution E-3906 to allow protests on the supplement.**

On January 19, 2005 AReM protested supplemental AL 2555-G-A/2521-E-A regarding PG&E's inclusion of the 2004 refunds in the HA. On the following day AReM filed A.05-01-023 requesting that Resolution E-3906 be modified to allow protests on that supplemental advice letter.

**E. PG&E responded to AReM's protest on supplemental AL 2555-G-A/2521-E-A; PG&E also responded to AReM's application to modify Resolution E-3906 and states the application should be rejected.**

On January 26, 2005 PG&E responded to the substantive issues raised in AReM's protest on AL 2555-G-A/2521-E-A in accordance with the provisions of

G.O. 96-A regarding utilities' responses to protests on advice letters. This decision does not address the merits of AReM's protest.

On February 22, 2005 PG&E filed a response to AReM's application to modify Resolution E-3906. PG&E states that AReM's application should be rejected. PG&E notes that the resolution states that no protests to PG&E's supplement to AL 2555-G/2521-E are appropriate since the proposed tariff changes were reflected in earlier advice filings which were not protested.

### **III. Discussion**

#### **A. AReM's application to modify Resolution E-3906 to allow protests on supplemental AL 2555-G-A/2521-E-A is granted; no party is harmed by considering AReM's protest.**

We grant AReM's application to modify Resolution E-3906 to allow protests on PG&E's AL 2555-G-A/2521-E-A. Energy Division will issue a draft resolution for the Commission's consideration on PG&E's AL 2555-G/-G-A/2521-E/-E-A. That draft resolution will address the merits of AReM's protest as well as all other aspects of PG&E's proposal filed in the advice letter and supplement that need to be considered in accordance with D.04-05-055. No party is harmed by allowing protests on supplemental AL 2555-G-A/2521-E-A.

PG&E's AL 2570-E in which the tariff revisions to the HA account were originally submitted, was a significant filing. It addressed amortization of nine Commission authorized balancing accounts, and the revenue requirement effects of several Commission and FERC proceedings. It also included the revenue requirement effects of several other advice letters. Given the large number of regulatory accounts and the revenue requirement impacts addressed in the advice filing, it is possible that parties reviewing it were not able to adequately evaluate PG&E's proposed tariff revisions to the HA account contained in the

filing. Allowing protests on these tariff revisions as re-filed in AL 2555-G-A/2521-E-A is appropriate.

**B. This decision does not prejudice any issues raised by AReM's protest.**

The merits of AReM's protest on PG&E's supplemental AL 2555-G-A/2521-E-A shall be considered in a subsequent Commission order. By modifying Resolution E-3906 to allow for protests on this supplemental advice letter, this decision does not prejudice any issue raised by AReM in its January 19, 2005 protest.

**IV. Categorization and Need for Hearings**

In Resolution ALJ 176-3147 dated February 10, 2005, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. Based on the record, it is not necessary to alter Resolution ALJ 176-3147.

**V. Comments**

The draft decision was issued to all parties for public review and comment pursuant to Public Utilities Code Section 311(g)(1).

**VI. Assignment of Proceeding**

Sean Gallagher is the Assigned Examiner to this proceeding.

**Findings of Fact**

1. Resolution E-3906 adopted on December 16, 2004 required PG&E to re-file tariffs it proposed in AL 2570-E addressing the HA, as a supplement to AL 2555-G/2521-E. That resolution required that the supplemental advice filing would not be subject to protests.

2. In compliance with Resolution E-3906 PG&E filed supplemental AL 2555-G-A/2521-E-A on December 30, 2004. The supplemental advice filing included proposed revisions to the HA that Resolution E-3906 required PG&E to remove from AL 2570-E.

3. On January 19, 2005 AReM protested AL 2555-G-A/2521-E-A.

4. On January 20, 2005 AReM filed A.05-01-023 requesting that Resolution E-3906 be modified to allow for protests on AL 2555-G-A/2521-E-A.

5. On February 22, 2005 PG&E responded to AReM's application requesting modification of Resolution E-3906. PG&E opposes AReM's application.

### **Conclusions of Law**

1. No party is harmed by allowing protests on AL 2555-G-A/2521-E-A.

2. PG&E's advice letter AL 2570-E was a significant filing addressing many regulatory accounts and the revenue requirement effects of several Commission and FERC proceedings. Parties reviewing that advice letter may not have been able to adequately evaluate the proposed tariff revisions to the HA included in the advice letter.

3. It is appropriate to modify Resolution E-3906 to allow protests on AL 2555-G-A/2521-E-A.

4. By modifying Resolution E-3906 to allow protests on AL 2555-G-A/2521-E-A, the Commission does not prejudge any issue raised by AReM in its January 19, 2005 protest on that supplemental advice letter.

## **O R D E R**

**IT IS ORDERED** that:

1. The application of AReM to modify Resolution E-3906 is granted.
2. Resolution E-3906 is modified as follows:

- a. The last paragraph under the heading in the Discussion section entitled **PG&E shall remove from AL 2570-E proposed tariff changes to its head room account; PG&E shall submit these tariff changes as a supplement to a separate pending AL addressing the HA.**, is revised to read: “In its supplement to AL 2570-E required by this resolution, PG&E shall remove the tariff changes it proposed to the preliminary statement addressing the HA. PG&E shall instead submit these tariff changes as a supplement to AL 2555-G/2521-E.”
- b. Ordering Paragraph 4 is revised to read: “No later than 14 days from today PG&E shall submit the changes proposed in AL 2570-E to Preliminary Statement part DE., addressing the head room account, as a supplement to AL 2555-G/2521-E.”
3. Parties other than AReM may file a protest to PG&E’s AL 2555-G-A/2521-E-A with the Energy Division no later than 20 days after the date that the final decision in this proceeding is published on the Commission’s website. Parties filing such a protest shall serve PG&E with their protest on the same day it is filed with the Energy Division. PG&E shall file replies to any such additional protests no later than five business days after the twentieth day following the date that a final decision in this proceeding is published on the Commission’s website.
4. The Executive Director shall cause a copy of the final decision in this proceeding to be served on all parties on the service lists in A.02-11-017, and I.02-04-026 as PG&E’s AL 2555-G-A/2521-E-A was served on those parties.
5. A.05-01-023 is closed.

This order is effective today.

Dated \_\_\_\_\_ at San Francisco, California.