

Decision 10-07-051 July 29, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Revise its Gas Rates and Tariffs to be Effective July 1, 2010. (U39G)

Application 09-05-026 (Filed May 29, 2009)

ORDER DENYING REHEARING OF DECISION (D.) 10-06-035

I. INTRODUCTION

In this Order we dispose of the application for rehearing of Decision (D.) 10-06-035 (“Decision”) filed by Clean Energy Fuels Corporation (“Clean Energy”).

In Decision (D.) 07-03-044, the Commission approved \$1.047 billion in gas distribution costs for Pacific Gas and Electric Company ("PG&E"), to be adjusted annually.¹ In D.10-06-035, we resolved PG&E's Biennial Cost Allocation Proceeding ("BCAP"), the proceeding which determines the allocation of the distribution costs, evaluates the gas throughput forecasts to allocate the costs, and designs the distribution-related transportation rates for the various customer classes.

D.10-06-035 adopted a partial settlement resolving most issues in the proceeding.² We also resolved a contested issue concerning the natural gas vehicle ("NGV") compression cost component of PG&E's Schedule G-NGV2 transportation charge. The G-NGV2 rate applies to customers who purchase compressed natural gas

¹ See *Application of Pacific Gas and Electric Company (U 39-M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2007, and Related Matter* [D.07-03-044] (2007) __ Cal.P.U.C.3d __, 2007 Cal. PUC LEXIS 173. The adopted \$1.047 billion gas distribution cost was subsequently adjusted to \$1.113 billion. (See D.10-06-035, at p. 2.)

² Parties to the partial settlement were: PG&E, the Division of Ratepayer Advocates ("DRA"), The Utility Reform Network ("TURN"), Western Manufactured Housing Community Association ("WMHCA"); Bridge Housing, Inc. ("BHI"); Palo Alto Utilities; and the California Cogeneration Council ("CCC").

("CNG") at a PG&E fueling station to power their NGVs.³ PG&E owns and operates 35 NGV fueling stations in its service territory. Of those, 24 provide CNG service to the public.

PG&E proposed a compression cost of \$0.74 per therm based on its cost study in which five of its high volume public NGV stations were studied. Clean Energy proposed a compression cost of \$1.00 per therm using costs from all 24 of PG&E's public stations. Excluding PG&E's Folsom Street station, Clean Energy's proposed compression cost would be \$0.93 per therm.⁴

In determining what the appropriate charge should be, our Decision considered a range using PG&E's \$0.74 as the low end, and Clean Energy's \$0.93 as the high end. Based on a resulting mid-point of \$0.837, we adopted a compression cost of \$0.83.⁵

Clean Energy filed a timely application for rehearing challenging the Decision based on the ground that it allegedly contains an arithmetic error. Clean Energy requests that the Commission adjust the compression rate to be \$0.84 or \$0.837, rather than \$0.83, as approved by the Decision. A response was filed by PG&E.

We have carefully considered the arguments raised in the application for rehearing and are of the opinion that good cause has not been established to grant rehearing. Accordingly, we deny the application for rehearing of D.10-06-035 because no legal error has been shown.

³ Typical public customers who use PG&E's fueling stations are individuals who own NGVs or government entities and companies with NGV fleets.

⁴ D.10-06-035, at pp. 25-30.

⁵ D.10-06-035, at pp. 33, 38 [Ordering Paragraph Number 2]. Rate changes flowing from the Decision will be effective August 1, 2010. (D.10-06-035, at p. 38 [Ordering Paragraph Number 4].) A typical residential gas customer using 37 therms per month will experience a 2.2% increase in their monthly gas bill, from about \$50.50 per month to \$51.60 per month. Small commercial and large commercial customers will experience a monthly increase of 0.7% and 1.7% respectively. (D.10-06-035, at pp. 2-3.)

II. DISCUSSION

As indicated above, D.10-06-035 authorized a compression rate of \$0.83 per therm based on a \$0.837 mid-point of the possible range of proposed charges. In Clean Energy's view, normal rounding conventions suggest numbers such as \$0.837 should be rounded to the nearest, and impliedly highest, whole number. Accordingly, Clean Energy requests that for purposes of the rates to be reflected in PG&E's revised tariffs, the Commission should have directed that the adopted compression cost be reflected as \$0.84. In the alternative, Clean Energy requests that the Decision utilize \$0.837 rather than the adopted \$0.83. (Rhg. App., at pp. 1-3.)

Clean Energy's rehearing application fails to meet the applicable requirements as set forth in statute and under the Commission's own rules. Specifically, Public Utilities Code section 1732 provides in pertinent part:

The application for rehearing shall set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful.

(Pub. Util. Code, § 1732.)

Similarly, Rule 16.1(c) of our Rules of Practice and Procedure adds that the purpose of an application for rehearing is to identify legal error, and the applicant must make specific references to the record or law.⁶

Clean Energy does not allege or identify any legal error in D.10-06-035. And it points to no legal authority that would require the \$0.837 mid-point be rounded up to \$0.84. Clean Energy merely states its preference and desire that we adjust the charge based on its understanding of generally accepted rounding conventions. Perhaps one could reason Clean Energy raises a factual question. However, even if that were true,

⁶ See Cal. Code of Regs., tit. 20, § 16.1, subd. (c).

such issues are appropriately addressed by the filing of a petition for modification consistent with Rule 16.4 of the Commission's Rules of Practice and Procedure.⁷

III. CONCLUSION

For the reasons stated above, the application for rehearing of D.10-06-035 is denied because no legal error has been shown.

Therefore, **IT IS ORDERED** that:

1. The application for rehearing of D.10-06-035 is denied.
2. This proceeding, Application (A.) 09-05-026, is closed.

This order is effective today.

Dated July 29, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

Commissioner Dian M. Grueneich, being necessarily absent, did not participate.

⁷ See Cal. Code of Regs., tit. 20, § 16.4.