

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
06-21-10
04:59 PM

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2011.

Application No. 09-12-020
(Filed December 21, 2009)

**MOTION FOR LEAVE TO SUBMIT A RESPONSE TO REBUTTAL
TESTIMONY OF PG&E RELATING TO MEALS AND
ENTERTAINMENT EXPENSE**

I. INTRODUCTION

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) files this Motion seeking leave to submit a Response to the Rebuttal Testimony of Pacific Gas and Electric Company (PG&E) relating to Meals and Entertainment expense.

DRA files this Motion in light of new information contained in PG&E's Rebuttal, information DRA did not have at the time DRA's testimony was due. Based on this new information, DRA is changing its original recommendation to recommend that the Commission remove a total of \$12,695,271 in meals and \$55,410 in entertainment expense¹ and the corresponding income tax deductions from PG&E's TY 2011 forecast for ratemaking purposes.²

¹ Ex. DRA-19 recommends the removal of \$2,195,271 in meals expenses and \$55,410 in entertainment related expenses. (Ex. DRA-19, p. 11, lines 6 and 22.)

² A copy of the Supplemental Testimony DRA asks leave to submit is attached to this motion.

II. DISCUSSION

Pursuant to the schedule adopted for this proceeding, DRA submitted its direct testimony on May 5, 2010. On June 4, 2010, PG&E submitted its Rebuttal testimony. As noted in the Scoping Memo, “[w]ith respect to responses to rebuttal, such responses are unusual and not provided for in the Rate Case Plan.”³ However, as also noted in the Scoping Memo, “as discussed at the PHC, if there is a perceived need for responses to rebuttal, it will be considered on a case-by-case basis after rebuttal is served.”⁴ Due to the particular circumstances surrounding the issue of Meals and Entertainment expenses, DRA asks leave to submit a reply to PG&E’s Rebuttal testimony on the issue.

As part of DRA’s analysis of PG&E’s General Rate Case (GRC) application, DRA reviewed PG&E’s forecasts for tax expenses for Test Year 2011. During the course of this review, DRA noted a negative adjustment that PG&E had made for meals and entertainment expenditures.⁵ DRA subsequently learned that PG&E was including in its forecast for Administrative and General (A&G) expenses a forecast for meals and entertainment expenses and a corresponding tax deduction. Originally, PG&E’s forecast was \$15,744,375, which PG&E said was based on its 2008 recorded meals data.⁶

DRA asked to review that data in order to make its own assessment of the appropriateness of charging ratepayers for PG&E’s meals and entertainment expenses. Specifically, on April 1, 2010, DRA asked PG&E to provide a spreadsheet containing the itemized 2008 amounts differentiating meals versus entertainment and including information as to date, expense incurred, number of people participating, name, address and type of establishment.⁷ PG&E responded with spreadsheets that did not include the number of people participating and name, address and type of establishment. PG&E said that its system could not extract the information directly, and that “[t]he only way to

³ Scoping Memo, p. 5.

⁴ Scoping Memo, p. 5.

⁵ Ex. DRA-19, p. 10 citing Workpapers Supporting PG&E-2, Chapter 12, p. WP 12-396.

⁶ Ex. PG&E-18, p. 1-13.

⁷ DR-DRA-246-Q.3, Date Sent April 1, 2010.

retrieve the additional detailed information requested is by manually reviewing the receipts associated with each reimbursement.” Further, PG&E’s response said that, “[g]iven that there are nearly 320,000 lines of information in the files, PG&E respectfully asks that DRA identify the charges for which it would like the additional information.”⁸

On April 19, 2010, DRA sent another request for records of meal charges greater or equal to \$1,000 asking for sufficient information to determine whether the meals were or were not primarily for entertainment purposes.⁹ From the information PG&E provided, it appeared to DRA that the total amount of 2008 meal charges greater or equal to \$1,000 was \$2,195,271. In its testimony, DRA recommended that the meals related expenditures of \$15,744,375 be reduced by that \$2,195,271 for revenue requirement purposes, and the associated tax deductions be reduced by an adjustment of \$1,097,636.¹⁰ In making this recommendation, DRA noted that it was still trying to determine whether PG&E had records that would enable DRA to determine what meals DRA should recommend be disallowed. DRA’s testimony noted that, “...if PG&E cannot report the number of participants at a meal to the PUC then PG&E’s tracking system is seriously deficient and its meal expenses should be disallowed as well.”¹¹ In an attempt to ascertain what records PG&E had of the meals and entertainment expenses, and thereby make a recommendation as to what meals expenses should be disallowed, DRA subsequently sent additional data requests to PG&E.

On May 17, and May 18, 2010, PG&E provided DRA with responses to two of DRA’s data requests which are included as attachments to the Rebuttal Testimony PG&E submitted on June 4, 2010.¹² In its June 4 Rebuttal, PG&E says that, of the \$15,744,375 it originally claimed for meals and entertainment expense, it “concedes \$408,390 of this total amount, as well as a corresponding reduction in income tax deductions

⁸ PG&E Response to DRA-246 Q. 3.

⁹ DR-DRA-256

¹⁰ E.x. DRA-19, p. 11.

¹¹ Ex. DRA-19, p. 12, lines 18-20.

¹² Ex. PG&E-18, Vol. 1, p. 1H-1 and 1I-1 to 1I-5.

(approximately 50 percent or \$204,195).” PG&E also says that, of “... the remaining \$15,335,985, PG&E estimates approximately 88.19 percent (\$13,524,805) is included in PG&E’s 2011 GRC forecast for expense and capital.”¹³

From PG&E’s Rebuttal, and its data request responses, it appears that there are two ways PG&E records meal expenses. One is through a system called Concur Central; the other is through a Commercial Credit Card. Approximately one-third of the total 2008 recorded meals expenses were recorded through Concur Central. The remaining two-thirds of meals charges, or approximately \$10.6 million, are paid by Commercial Credit Card.¹⁴

For Concur Central meal expenses, PG&E provided DRA some information for some meals over a certain dollar amount. For meals paid by Commercial Credit Card, PG&E, it appears that PG&E cannot provide information such as the per person cost and business reason.¹⁵ Instead, PG&E provides a “Procedures Manual” that is supposed to be followed by employees using Commercial Credit Cards.

The information PG&E has provided since DRA submitted its testimony does not allow DRA any means of independently verifying that the level of meals expenses which is the basis of PG&E’s forecast is appropriately charged to ratepayers. DRA, therefore, seeks leave to submit a response to PG&E’s Rebuttal testimony and will recommend that the Commission remove approximately \$12,695,270 million in meals expense and \$55,410 in entertainment expense and the corresponding income tax deduction from PG&E’s TY 2011 forecast for ratemaking purposes.

///

///

///

¹³ Ex. PG&E-18, p. 1-13 – 1-14.

¹⁴ PG&E Response to DRA-266 Q. 2.

¹⁵ Ex. PG&E-18, pp. 01I-3 to 01I-4, and p. 01I-5 and PG&E Response to DRA-267 Q. 5.

III. CONCLUSION

For all the foregoing reasons, DRA respectfully asks that it be granted leave to submit a response to the Rebuttal of PG&E relating to meals and entertainment expenses.

Respectfully submitted,

/s/ Laura Tudisco

Laura Tudisco
Staff Counsel

Attorney for the Division of
Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2164
Fax: (415) 703-2262
E-mail: ljt@cpuc.ca.gov

June 21, 2010

Docket:	:	<u>A.09-12-020</u>
Exhibit Number	:	<u>DRA-</u>
Commissioner	:	<u>Peevey</u>
ALJ	:	<u>Fukutome</u>
Witness	:	<u>Kanter</u>



**DIVISION OF RATEPAYER ADVOCATES
CALIFORNIA PUBLIC UTILITIES COMMISSION**

**Report on the Results of Operations
for
Pacific Gas and Electric Company
General Rate Case
Test Year 2011**

**Supplemental Testimony on
Income, Payroll, and Property Tax Expenses**

San Francisco, California
June 21, 2010

TABLE OF CONTENTS

- I. INTRODUCTION 1
- II. SUMMARY OF RECOMMENDATIONS..... 1
- III. ADJUSTMENTS TO FEDERAL AND STATE INCOME TAX –
MEALS AND ENTERTAINMENT DEDUCTION..... 1

1 **INCOME, PAYROLL, AND PROPERTY TAX EXPENSES**

2 **I. INTRODUCTION**

3 This exhibit presents the Division of Ratepayer Advocates (DRA)
4 supplemental testimony regarding Pacific Gas and Electric Company's (PG&E)
5 forecasts of tax expenses for Test Year (TY) 2011.

6 This exhibit supplements Exhibit DRA-19 which was served on May 5, 2010.
7 Specifically, DRA addresses PG&E's meals expenses and associated income tax
8 deductions.

9 **II. SUMMARY OF RECOMMENDATIONS**

10 The following summarizes DRA's recommendations for TY2011:

- 11 • In Exhibit DRA-19, DRA recommended that the revenue requirements of
12 \$15,744,375 for expenses related to meals be reduced by the amount of
13 \$2,195,271 and that the associated income tax deductions be reduced by
14 \$1,097,636 (half of \$2,195,271).
- 15 • In this exhibit, DRA now recommends that the revenue requirements of
16 \$15,744,375 for expenses related to meals be reduced by an additional
17 \$10,605,860, and that the associated income tax deductions be reduced
18 by an additional \$5,302,930 (half of \$10,605,860).
- 19 • Given DRA's recommendations in Exhibit DRA-19 and in this exhibit, DRA
20 now recommends that the revenue requirements of \$15,744,375 for
21 expenses related to meals be reduced by a total of \$12,801,131, and that
22 the associated income tax deductions be reduced by an additional
23 \$6,400,565 (half of \$12,801,131).

24 **III. ADJUSTMENTS TO FEDERAL AND STATE INCOME TAX –**
25 **MEALS AND ENTERTAINMENT DEDUCTION**

26 Federal tax laws place a limit of 50% on the deduction for meals and
27 entertainment expenditures. To incorporate this statutory limit into its revenue
28 requirements, PG&E includes a negative adjustment equal to 50% of its estimates of

1 the total amount of expense for meals and entertainment.¹ For ratemaking purpose
2 a tax deduction is calculated on the remaining half of the total amount of expense for
3 meals and entertainment and the tax effect of this deduction is subtracted from the
4 original estimates of the amount of expense for meals and entertainment in revenue
5 requirements.

6 As originally indicated in Exhibit DRA-19, DRA does not agree with the tax
7 deductions and associated TY 2011 revenue requirements of \$15,744,375² for
8 meals expense. DRA had recommended that the meals-related expenditures of
9 \$15,744,375 be decreased by \$2,195,271 in the appropriate Federal Energy
10 Regulatory Commission (FERC) accounts for revenue requirement, and that the
11 associated income tax deductions be reduced by an adjustment of \$1,097,636 (half
12 of \$2,195,271).

13 DRA made that recommendation because, at the time of the writing of Exhibit
14 DRA-19, it was not clear if PG&E would actually provide sufficient information to
15 determine whether the meals were not primarily for entertainment purposes,
16 whereas it was already clear that PG&E cannot provide such basic information as
17 the number of participants in a meal on most of its records.³ DRA also stated that,
18 "...[c]ertainly, if PG&E cannot report the number of participants at a meal to the
19 PUC, then PG&E's tracking system is seriously deficient and its meal expenses
20 should be disallowed as well."⁴

21 After DRA submitted testimony on May 5, 2010, PG&E sent a data request
22 response⁵ informing DRA that PG&E has two ways of recording meals expense:
23 one is through an employee personal expense system called "Concur Central", and

¹ Exhibit PG&E-2 WP 12-396.

² Ibid.

³ GRC2011-Ph-I_DR_DRA_258.

⁴ Ex. DRA-19, p. 12, lines 18-20.

⁵ GRC2011-Ph-I_DR_DRA_260_01 sent May 18, 2010.

1 the other is through commercial credit cards. With regards to the commercial credit
2 system PG&E said:

3 Unlike meals expenses submitted through Concur Central, meals paid
4 by Commercial Credit Card do not have invoices or reimbursement
5 forms by which additional data (such as per person cost and business
6 reason) may be ascertained.

7 A month later⁶ PG&E informed DRA that other items of data (such as
8 address, type of establishment, the project associated with the meal expense, and
9 whether the meal expense was for breakfast lunch or dinner) were not available for
10 meals recorded through commercial credit cards. When DRA requested a
11 breakdown PG&E's meal expense request, PG&E supplied the following table:⁷
12

Description	Amount
Expense Reimbursements (Concur Central)	\$ 5,163,962.14
Commercial Credit Card	\$ 10,605,860.08
Other*	-25,446.89
Total	\$ 15,744,375.33

13 Given the large amount of meal expense attributed to the commercial credit
14 card system, DRA has attempted to obtain information about these expenses.
15 Apparently, that information does not exist or is not accessible. It seems the only
16 assurance PG&E can offer for basing its forecast on the \$10,605,860 in commercial
17 credit card expenses is that it has an Item in a Procedure Manual that tells
18 employees how the Commercial Card *should* be used.⁸ This is insufficient.

19 Since PG&E "... lacks a tracking system to show that these expenses are not
20 primarily for entertainment purposes and are justified as a business function for rate

⁶ C2011-Ph-I_DR_DRA_267 sent June 11, 2010.

⁷ GRC2011-Ph-I_DR_DRA_266_02 sent June 4, 2010.

⁸ Ex. PG&E-18, Vol. 1, Chapter 1, p. 011-4 to 011-5.

1 recovery,”⁹ DRA recommends that the meals-related expenditures of \$15,744,375
2 be decreased by an additional \$10,605,860 corresponding to meals expense tracked
3 by the Commercial Credit Card system, which is in addition to the \$2,195,271
4 adjustment which DRA previously recommended in Exhibit DRA-19.

5 DRA recommends that the appropriate FERC accounts for revenue
6 requirement be decreased by the sum of these two amounts, and that the
7 associated income tax deductions be reduced by an adjustment of half that sum.

⁹ D.09-03-025, *mimeo.*, at p. 315.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **MOTION FOR LEAVE TO SUBMIT A RESPONSE TO REBUTTAL TESTIMONY OF PG&E RELATING TO MEALS AND ENTERTAINMENT EXPENSE** to the official service list in **A.09-12-020** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **June 21, 2010** at San Francisco, California.

/s/ JOANNE LARK

Joanne Lark

SERVICE LIST A.09-12-020

stephaniec@greenlining.org
kjsimonsen@ems-ca.com
douglass@energyattorney.com
francis.mcnulty@sce.com
KMelville@SempraUtilities.com
dbyers@landuselaw.com
rkoss@adamsbroadwell.com
ljt@cpuc.ca.gov
william.sanders@sfgov.org
hayley@turn.org
nes@a-klaw.com
pgg4@pge.com
bcragg@gmssr.com
edwardoneill@dwt.com
lex@consumercal.org
pucservice@dralegal.org
wem@iqc.org
jweil@aglet.org
dgeis@dolphingroup.org
steven@iepa.com
rliebert@cfbf.com
atrowbridge@daycartermurphy.com
dfdavy@well.com
mrw@mrwassoc.com
julien.dumoulin-smith@ubs.com
Yim@ZimmerLucas.com
jheckler@levincap.com
BermanEconomics@gmail.com
jimross@r-c-s-inc.com
HEmmrich@SempraUtilities.com
ASteinberg@SempraUtilities.com
case.admin@sce.com
kris.vyas@sce.com
CentralFiles@SempraUtilities.com
pk@utilitycostmanagement.com
info@dcisc.org
sue.mara@rtoadvisors.com
mdjoseph@adamsbroadwell.com
fsmith@sflower.org
mramirez@sflower.org
a2mx@pge.com
bpf2@pge.com
filings@a-klaw.com
will.mitchell@cpv.com
lawcpucases@pge.com
epoole@adplaw.com
salleyoo@dwt.com
vidhyaprabhakaran@dwt.com

mmattes@nossaman.com
judypau@dwt.com
cem@newsdata.com
RegRelCPUCCases@pge.com
K1Ch@pge.com
dietrichlaw2@earthlink.net
dmarcus2@sbcglobal.net
rschmidt@bartlewells.com
enriqueg@greenlining.org
samuelk@greenlining.org
pucservice@dralegal.org
[wendy@econinsights.com](mailto>wendy@econinsights.com)
janreid@coastecon.com
joyw@mid.org
brbarkovich@earthlink.net
garrick@jbsenergy.com
martinhomec@gmail.com
cmkehrein@ems-ca.com
lmh@eslawfirm.com
rmccann@umich.edu
rnevis@daycartermurphy.com
beg@cpuc.ca.gov
ckt@cpuc.ca.gov
dao@cpuc.ca.gov
dkf@cpuc.ca.gov
dbp@cpuc.ca.gov
dlf@cpuc.ca.gov
dfb@cpuc.ca.gov
kkm@cpuc.ca.gov
nms@cpuc.ca.gov
ram@cpuc.ca.gov
rmp@cpuc.ca.gov
txb@cpuc.ca.gov