

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
08-30-10
04:59 PM

Application of Pacific Gas and Electric Company
for Adoption of Electric Revenue Requirements
and Rates Associated with its 2011 Energy
Resource Recovery Account (ERRA) and 2011
Ongoing Competition Transition Charge (CTC)
Forecasts.

(U-39E)

Application 10-05-022
(Filed May 28, 2010)

**RESPONSE OF THE CITY AND COUNTY OF SAN FRANCISCO TO THE MOTION
TO STRIKE OF PACIFIC GAS AND ELECTRIC COMPANY**

In accordance with rule 11.1 of the California Public Utilities Commission (CPUC) rules of practice and procedure and the August 26, 2010 order of Administrative Law Judge (ALJ) Wilson, the City and County of San Francisco (City or CCSF) respectfully responds to the Pacific Gas and Electric Company (PG&E) motion to strike the testimony of CCSF witness Margaret Meal. PG&E's motion should be denied because the testimony of Ms. Meal is within the scope of this proceeding as detailed in the August 4, 2010, Scoping Memo and Ruling of Assigned Commissioner (the Scoping Memo) and consistent with prior Commission decisions explicitly envisioning that the method for determining the PCIA would be revisited as circumstances change and that concerns about the PCIA could be raised in the Investor Owned Utility (IOU) Energy Resource Recovery Account (ERRA) proceedings. Moreover, this proceeding is the obvious forum in which the City could seek the remedy suggested in Ms. Meal's testimony, that the PCIA be suspended.

1. The CCSF Testimony is Within the Scope as Set Forth in the Scoping Memo.

As PG&E states in its motion to strike, the Scoping Memo provides that "[t]his proceeding will examine whether PG&E's proposed revenue requirement and rates associated with its 2011 ERRA and CTC forecast should be adopted, including a discussion of the cost, inputs, methods, and assumptions used to determine the components of the ERRA, CTC, and Power Charge Indifference Adjustment." Scoping Memo at 3. Elsewhere, PG&E's motion to strike interprets this language to mean "whether PG&E's costs, inputs, methods and assumptions in its ERRA forecast comply with the CPUC-approved methods and formulas," see PG&E motion to strike at 2, but, this is not what the Scoping Memo says. In fact, during the prehearing conference (PHC), PG&E asked ALJ Wilson to exclude any reference to methods in her summary of the scope of the proceeding, see 7-30-2010 PHC Tr. (Ms. Slocum) at 5: 14-28, 6: 1-9. Contrary to PG&E's request, the Scoping Memo includes this language. Ms. Meal's testimony relates exclusively to the inputs and methods used to determine the PCIA, and her recommendation relates directly to whether the PCIA proposed by PG&E should be adopted. Thus, it is precisely within the scope as set forth in the Scoping Memo.¹

PG&E's motion to strike emphasizes language in the following paragraph in the Scoping Memo: "since the purpose of the current proceeding is to address the forecast of the ERRA and CTC of PG&E, the other issues raised regarding ending ongoing CTC, and calculation of CRS, all of which affect multiple energy utilities, are outside the scope and are not included in this proceeding." Scoping Memo at 3. PG&E goes on to argue that the issues raised by CCSF testimony applies to all the utilities and should be stricken. However, the fundamental

¹ In fact, given that the Scoping Memo specifically includes methods and inputs for determining the PCIA, even after PG&E explicitly asked that the word "methods" be stricken, the City would have risked PG&E claiming it should have presented its recommendations in this proceeding in any subsequent proceeding, had it failed to file testimony in this matter.

recommendation of Ms. Meal's testimony is that the PCIA in PG&E's service territory should be suspended in 2011 based on the specific costs and Market Price Benchmark presented in PG&E's application. This ERRA proceeding is where the Commission will determine in the first instance (subject to later updates) what the PCIA will be for PG&E's departing load in 2011. Thus, it is the appropriate place for the City to make a recommendation that, instead of the numbers presented in PG&E's application, the PCIA should be suspended, based on the specific costs presented by PG&E, and their relationship to the Market Price Benchmark.

The City acknowledges that the question of how to correct the method for determining the PCIA for all three utilities going forward is an issue of interest to all the utilities and other parties. This is why Ms. Meal's testimony does not detail how the Market Price Benchmark should be changed. The City agrees that the Commission should address how the PCIA should be changed in a separate phase or proceeding with proper notice to all potentially affected parties, consistent also with the line of demarcation set forth in the Scoping Memo.

Alternatives for forums to address changes to the PCIA include: a second phase in this proceeding, with a separate schedule and notice to all potentially affected parties; after notice and an opportunity for further comments by potentially interested parties, action on the petition to modify Decision (D.) 07-01-025 in Rulemaking (R.)03-10-003, filed on March 12, 2008, by the City of Victorville; re-opening R.02-01-011; or the institution of an another proceeding to resolve the CRS issues.

II. Prior Commission Decisions Provide that ERRA Proceedings are One Forum In Which Issues Associated with the PCIA Can be Addressed.

PG&E portrays the CCSF testimony as a collateral attack on prior Commission decisions. PG&E motion to strike at 4-5. However, prior Commission decisions recognized that the method for calculating the PCIA would require refinement as experience is gained with its

implementation, and directed that issues associated with this method should be raised in ERRA proceedings. For example, on September 4, 2008, the Commission issued D.08-09-012, the most recent decision where the PCIA methodology, and more generally, the methodology for Cost Responsibility Surcharges (CRS) were addressed in any detail. In D.08-09-012, the Commission recognized that the method for determining the CRS and PCIA might need to be addressed in future proceedings to accommodate changing market conditions and other factors, and directed that modifications to the methodology be addressed in ERRA proceedings. Id. at 70. The Commission stated "We will leave it to the parties to propose such changes, if and when they become necessary, in the proceedings where the market benchmark is calculated and used (e.g., the ERRA)." Id. The Commission explained in that decision that "[i]f, due to future changing circumstances, the processes adopted by this decision for determining the D.04-12-48 [non-by-passable charge (NBC)] become unworkable, unbalanced, or unfair, parties may propose and request modifications to the form of the NBC or how the NBC should be determined or calculated." Id., Ordering Paragraph 8. Thus, the City is not collaterally attacking prior Commission decisions. Instead, the City is acting in accordance with decisions which themselves provided for further refinement of the CRS and PCIA in the ERRA proceedings.

More recently, in Resolution E-4256 regarding the CCA CRS, the Commission confirmed that the ERRA proceedings are an appropriate place to address issues concerning CRS, stating, "To assure consistency in the ongoing implementation of the CRS and address issues as they arise, we reiterate that OP22 of D.06-07-030 provided that any prospective CRS issues concerning DA obligations shall be addressed in each utility's respective Energy Resource Recovery Account (ERRA) proceeding." Resolution E-4256 regarding CCA CRS at 23 (May 6, 2010).

PG&E relies heavily on a recent Commission decision, D. 10-04-052, on PG&E's solar program. In that proceeding, the Direct Access Customer Coalition (DACC) and the Western Power Trading Forum (WPTF) argued that stranded costs should be limited to resources procured in a competitive process. The Commission disagreed with this argument. It also stated "Furthermore, in making arguments that subjecting DA customers to stranded costs associated with these facilities is unfair given that ESPs face their own RPS compliance obligations, DACC/WPTF appears to be litigating issues here that are more appropriately considered in R.06-02-013 and/or through a petition to modify D.08-09-012." Id. at 69. The City's testimony in this proceeding does not raise the same issue because, as the City has detailed above, the City concedes that broadly applicable corrections to the PCIA should be addressed in a manner that provides for input by all affected parties. Moreover, the discussion above details other recent Commission precedent that indicates that in addition to the alternatives listed in D.10-04-052, refinements to the PCIA can be addressed in ERRA proceedings.

CERTIFICATE OF SERVICE

I, **PAULA FERNANDEZ**, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4623.

On August 30, 2010, I served **RESPONSE OF THE CITY AND COUNTY OF SAN FRANCISCO TO THE MOTION TO STRIKE OF PACIFIC GAS AND ELECTRIC COMPANY** by electronic mail on Proceeding No. A10-05-022.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed August 30, 2010, at San Francisco, California.

/s/

PAULA FERNANDEZ