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05-26-10

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company To Revise Its Electric Marginal Costs, Revenue Allocation, and Rate Design, including Real Time Pricing, to Revise its Customer Energy Statements, and to Seek Recovery of Incremental Expenditures. (U39M)

Application 10-03-014
(Filed March 22, 2010)

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

1. Summary

Pursuant to Article 7 of the Commission's Rules of Practice and Procedure (Rules), and following the prehearing conference (PHC) held on May 19, 2010, this ruling determines the scope, schedule, category, need for hearings, presiding officer, and other procedural matters related to the above-referenced application of Pacific Gas and Electric Company (PG&E).

2. Scope

This proceeding shall be conducted in two separate phases, (i.e., Phases 2 and 3 of PG&E's 2011 General Rate Case (GRC), respectively).¹ The scope of Phase 2 shall encompass PG&E's proposals relating to electric marginal costs, revenue allocation, and rate design, and other parties' responsive testimony and recommendations on those issues. The scope of Phase 3 of the proceeding shall

¹ Phase 1 of PG&E's GRC, covering revenue requirements is being addressed in a separate application.

consider PG&E's proposals, as detailed below, relating to dynamic pricing and revisions to its customer energy statement.

In filed protests, the Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) objected to the consideration of revenue requirements relating to Real Time Pricing (RTP) and Revised Customer Energy Statements (RCES) within the GRC Phase 2 proceeding. In a Joint Prehearing Conference (PHC) Statement filed May 19, 2010, however, Applicants, DRA, and TURN reached agreement to treat the RTP and RCES issues within this proceeding, but sequenced into a later phase. The adopted schedule incorporates the general approach for sequencing these issues as agreed among Applicants, DRA, and TURN in the Joint PHC statement.

The scope of the proceeding shall cover the following issues to be taken up in Phase 2:

- Marginal cost development (methodology, inputs, and results); Revenue allocation issues (among classes and methodology, mitigation);
- Residential rate design (baseline percentage change, adding a tier 3 rate for California Alternate Rates for Energy (CARE) customers, reducing tiers 3, 4, and 5 to a single tier 3 rate for non-CARE customers, adding a customer charge)²
- Other rate design issues (agricultural and non-residential, solar)

² At the PHC, the date of June 16, 2010 was set for TURN to file a motion to strike testimony relating to the customer charge issue. TURN contends the proposal is outside the scope of the proceeding. Responses to the motion are due 20 days thereafter. The scope is subject to disposition of TURN's pending opposition to consideration of the customer charge proposal in this proceeding.

The GRC Phase 3 issues shall address the following issues:

- PG&E's RTP proposal (parts of Exhibit PG&E-1, Chapter 9, "Dynamic Pricing Rates");
- PG&E's RCES proposal (Exhibit PG&E-3, Chapter 3, "Revised Customer Energy Statement");
- Incremental costs associated with the RTP and RCES proposals (Exhibit PG&E-3, Chapters 1-11).
- Incremental costs associated with PG&E's information technology (IT) 2-part Peak-Time Rebate (PTR) proposal previously included in PG&E's 2010 Rate Design Window (RDW) (Application (A.) 10-02-028 in Exhibit PG&E-1, Chapter 9, "Information Technology Costs").³

Consequently, incremental IT costs for RTP, RCES, and PTR shall all be considered together in this proceeding.

3. Schedule

The general scheduling approach for Phases 2 and 3, as agreed to among PG&E, DRA, and TURN in the Joint PHC Statement, will be used, with certain modifications to accommodate scheduling constraints. The adopted schedule for the GRC Phase 2 and 3 is set forth in Appendix A of this ruling.

The Assigned Commissioner or Administrative Law Judge (ALJ) may modify the schedule as necessary. The goal is to resolve this matter as soon as possible after it is submitted. In any event, we anticipate this proceeding will be resolved within 18 months from the date of this scoping memo, pursuant to the requirements of Pub. Util. Code § 1701.5.

³ DRA had moved to strike the revenue requirement request for implementation of 2-part PTR for residential customers in PG&E's 2010 RDW filing, A.10-02-028. Based upon transfer of the IT cost recovery issue to this proceeding, DRA agrees to withdraw its motion to strike in the RDW case.

4. Category of Proceeding and Need for Hearings

This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3251, dated April 8, 2010, that this proceeding is a ratesetting proceeding and that hearings are necessary. This ruling, only as to category, may be appealed under Rule 7.6.

5. *Ex Parte* Communications

Parties shall observe and comply with the applicable Commission's *ex parte* communications rules set forth in Rules 8.1, 8.2(c), 8.3 and 8.5.

6. Assignment of Presiding Officer

ALJ Pulsifer is the presiding officer for this proceeding.

7. Case Management Statement

All parties that submit written testimony and/or intend to cross examine witnesses at the evidentiary hearings shall jointly prepare a Case Management Statement. PG&E shall file and serve this document on behalf of the parties prior to the start of hearings in accordance with the Appendix A schedule.

The contents of this document shall include:

- The status of any ongoing settlement discussions.
- The order of witnesses and cross examination at the evidentiary hearings.
- Any other matters that the parties deem relevant.

Although the adopted schedule does not prescribe a date for a mandatory settlement conference, parties are encouraged to meet and confer to settle as many issues as possible. At a minimum, the parties should try to reach a joint stipulation on material facts.

8. Final Oral Argument

Pursuant to Rule 13.13(b), a party has the right to make a final oral argument before the Commission in a ratesetting case in which hearings were held, if so requested within the time and in the manner specified in the scoping memo. Any requests for a final oral argument before the Commission in this proceeding must be filed and served at the same time as opening briefs.

9. Discovery

PG&E shall make this a web-based discovery case as they did in Phase I of the GRC.

10. Filing and Service of Documents

Except as noted below, any document filed at the Docket Office must be served electronically. The formal service of documents shall comply with the protocols in Rule 1.9 and 1.10. If no email address is available, service should be made by United States mail. Parties should provide concurrent email service to all persons on the service list, including those listed in the Information Only portion of the service list.⁴

When serving documents as attachments to an email, the serving party must include the following information in the subject line of the email in the following order: the docket number, a brief name of the proceeding, a brief identification of the document being served, and the name of the serving party. In addition to other requirements, the serving party must provide the following to the assigned ALJ: (1) a paper copy of all documents served by email; and

⁴ When serving documents, parties should always use the most current service list, which is available at the Commission's website.

(2) an electronic copy of all documents in Microsoft Word and/or Excel format, to the extent practical.

11. Hearing Ground Rules

Parties shall comply with the hearing ground rules in Appendix B of this ruling. These ground rules are intended to promote fair and orderly hearings, and efficient use of hearing time. The evidentiary hearings will take place in San Francisco. Requests for the Assigned Commissioner's presence at specific hearings pursuant to Rule 13.3(b) should be made at least 10 days prior to the beginning of the evidentiary hearings.

IT IS RULED that:

1. The scope of this proceeding is set forth in Section 2 of this ruling.
2. The schedule is set forth in Section 3 and Appendix A of this ruling.
3. This ruling confirms that this is a ratesetting proceeding and that hearings are necessary. This ruling, as to category only, is appealable under Rule 7.6.
4. Evidentiary hearings in Phase 2 are scheduled to begin at 9:30 a.m. on November 8, 2010. Evidentiary hearings in Phase 3 are scheduled to begin March 22, 2011, at 9: 30 a.m. All evidentiary hearings will be held in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California 94102.
5. Parties shall observe and comply with the applicable *ex parte* communications rules set forth in Rules 8.1, 8.2 (c), 8.3 and 8.5.
6. Administrative Law Judge (ALJ) Pulsifer is the presiding officer for this proceeding.
7. Any party requesting a final oral argument before the Commission shall file and serve such request on the same date that opening briefs are due.

8. The electronic filing and serving of documents shall conform to the Electronic Service Protocols set forth in Rules 1.9 and 1.10.

9. A party serving a document shall provide the following to the assigned ALJ: (i) a paper copy of the document; and (ii) an electronic copy of the document in Microsoft Word and/or Excel format, to the extent practical.

10. PG&E shall use web-based discovery protocols.

11. Parties shall comply with the hearing ground rules in Appendix B.

12. The date of June 16, 2010 is set for TURN to file a motion to strike testimony relating to Applicant's customer charge proposal. Responses to the motion are due 20 days thereafter.

Dated May 26, 2010, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

APPENDIX A
SCHEDULE FOR GRC PHASES 2 and 3

Event	GRC Phase 2⁵	GRC Phase 3⁶
DRA serves testimony	September 8, 2010	February 5, 2011
Intervenors serve testimony	September 29, 2010	February 5, 2011
All parties serve rebuttal	October 22, 2010	February 26, 2011
Joint Case Management		
Statement filed	November 1, 2010	March 15, 2011
Evidentiary hearings	November 8 - 12, 2010 ⁷	March 22 - 25, 2011
Opening briefs filed	December 6, 2010	April 19, 2011
Reply briefs filed	December 20, 2010	May 7, 2011
ALJ Proposed Decision	March 2011	August 2011

(End of Appendix A)

⁵ GRC Phase 2 covers the issues of marginal costs, revenue allocation, and rate design other than issues designated for GRC Phase 3.

⁶ GRC Phase 3 covers the issues of RTP, RCES, and IT costs in PTR.

⁷ November 11, 2010 is a legal holiday.

APPENDIX B EVIDENTIARY HEARING GROUND RULES

Exhibit Format

Parties often fail to include a blank space two inches high by four inches wide to accommodate the ALJ's exhibit stamp. If necessary, add a cover sheet to the front of the exhibit. The common practice of pre-printing the docket number, a blank line for the exhibit number, and witness names(s) is acceptable, but it is not a substitute for the required two by four inch blank space to accommodate the exhibit stamp. (See Rule 13.7(a) of the Rules of Practice and Procedure.)

Exhibits should be bound on the left side or upper left-hand corner. Rubber bands and paper clips are unacceptable.

Excerpts from lengthy documents should include the title page and, if necessary for context, the table of contents of the document.

Although Rule 1.5 permits a type size as small as 10 points in filed documents, parties should use a type size of at least 12 points when practical.

Exhibit Copies

See Rule 13.7. The original and one copy of each exhibit shall be furnished to the presiding officer and a copy shall be furnished to the reporter and to each party. The copy furnished to the presiding officer may be the mailed copy. Except for exhibits that are served prior to the hearing, parties are responsible for having sufficient copies available in the hearing room for the court reporter and each party in attendance.

Cross-Examination Exhibits

Allowing witnesses time to review new or unfamiliar documents can waste hearing time. The general rule is that a party who intends to introduce an exhibit in the course of cross-examination should provide a copy to the witness

and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Documents in excess of two pages should be provided the day before. Generally, parties need not provide advance copies of documents to be used for impeachment or to obtain the witness' spontaneous reaction (although this practice is not encouraged).

Corrections

The practice of making extensive oral corrections to exhibits on the witness stand, requiring lengthy dictation exercises, causes delays. It should be avoided, to the extent possible, through preparation of written errata. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. Two forms of corrections should be provided. One form should show the text deleted with strikethrough and the text added with underline. The second form should show the text as corrected, with no strikethrough or underline. Also, each revised page should be marked with the word "revised" and the revision date.

Hearing Hours

Hearings will generally run from 9:30 a.m. to 12:00 p.m. with at least one morning break and from 1:30 p.m. to 3:30 p.m. with one afternoon break.

Cross Examination Time

Parties are placed on notice that it may be necessary to limit and allocate cross-examination time as well as time for redirect and recross-examination.

Rebuttal Testimony

Prepared rebuttal testimony should identify the testimony being rebutted. It is inappropriate, and a potential grounds for striking, for any party to withhold direct presentations for introduction in rebuttal testimony.

Court Reporters

Common courtesy should always be extended to the reporters. Counsel should wait for witnesses to finish their answers, and witnesses should likewise wait for the whole question to be asked before answering. Counsel shall refrain from simultaneous arguments on motions and objections. Conversations at the counsel table or in the audience can be distracting to the reporter and other participants. Such distractions should be avoided.

(END OF APPENDIX B)

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated May 26, 2010, at San Francisco, California.

 /s/ CRISTINE FERNANDEZ
Cristine Fernandez

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.