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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company for Adoption of its Customer Data Access Project (U39E).

Application 12-03-002
(Filed March 5, 2012)

And Related Matters.

Application 12-03-003
Application 12-03-004

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

Summary

This Ruling and Scoping Memo sets forth the procedural schedule and issues to be addressed, designates the principal hearing officer, and addresses other procedural issues which will facilitate the efficient processing of this proceeding.

Background

On March 5, 2012, Pacific Gas and Electric Company (PG&E) filed Application (A.) 12-03-002; San Diego Gas & Electric Company (SDG&E) filed A.12-03-003; and Southern California Edison (SCE) filed A.12-03-004. The three utilities filed these applications pursuant to Decision (D.) 11-07-056, *Decision Adopting Rules to Protect the Privacy and Security of the Electricity Usage Data of the Customers of Pacific Gas and Electric Company, Southern California Edison Company*

*and San Diego Gas & Electric Company (Privacy Decision).*¹ Ordering Paragraph eight of the Privacy Decision directed these three utilities to:

Within six months of the mailing of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric must each file an application that includes tariff changes which will provide third parties access to a customer's usage data via the utility's backhaul when authorized by the customer. The three utilities should propose a common data format to the extent possible and be consistent with ongoing national standards efforts. The program and procedures must be consistent with policies adopted in Ordering Paragraphs 6 and 7 and the Rules Regarding Privacy and Security Protections for Energy Usage Data in Attachment D of this decision. The application should propose eligibility criteria and a process for determining eligibility whereby the Commission can exercise oversight over third parties receiving this data. The three utilities are encouraged to participate in a technical workshop to be held by the Commission in advance of the filing date. The applications may seek recovery of incremental costs associated with this program.

On March 8, 2012, Resolution ALJ 176-3290 reached a preliminary determination that each of these proceedings was ratesetting and that hearings would be necessary.

On April 9, 2012, the Division of Ratepayer Advocates (DRA), Marin Energy Authority (MEA) and the Alliance for Retail Energy Markets (AREM) filed protests in A.12-03-002. In addition The Technology Network (TechNet) filed a response in A.12.03-002.

¹ A copy of the privacy decision is available from the Commission's website at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/140369.htm.

Also on April 9, 2012, DRA and AReM filed protests in A.12-03-003 and A.12-03-004. TechNet filed responses in A.12-03-003 and A.12-03-004.

On April 9, 2012, DRA also filed a Motion for Consolidation in each of the three proceedings.

On April 17, 2012, via an e-mail to the service list in each Application, Administrative Law Judge (ALJ) Sullivan consolidated the three applications into one proceeding.²

On April 19, 2012, SDG&E filed a reply to the protests in A.12-03-003. On April 19, 2012, SCE filed a reply to the protests in A.12-03-004.

On April 25, 2012, an Administrative Law Judge's Ruling scheduled a Prehearing Conference (PHC) for May 14, 2012.

On May 1, 2012, PG&E filed Proof of Rule 3.2(e) Compliance, containing information showing that PG&E complied with Rule 3.2(b), (c), (d), and (e) of the Commission's Rules of Practice and Procedure.³

On May 4, 2012, SCE filed Proof of Compliance with Rule 3.2(b), (c), (d), and (e).

On May 14, 2012, a PHC was held in San Francisco to address issues concerning the management of this proceeding, including proposals pertaining to the scheduling of the proceeding.

² The e-mail ruling consolidating the three proceedings was memorialized by a formal ruling filed on April 25, 2012.

³ Hereafter, all references to "Rules" refer to the Commission's Rules of Practice and Procedures.

Interested Parties to the Proceeding

The applicants in this proceeding are PG&E, SCE, and SDG&E. DRA, AReM, MEA, and TechNet are parties to this proceeding. All parties (including the applicant) shall comply with the requirements of this ruling.

Categorization and the Need for Hearings

In Resolution ALJ 176-3290 dated March 8, 2012, the Commission preliminarily categorized this application as ratesetting. This ruling confirms the Commission's preliminary categorization.

ALJ 176-3290 preliminarily determined that hearings would prove necessary. At the PHC, however, parties committed to exploring whether it was possible to settle the outstanding issues in the proceeding. As a consequence, it remains unclear whether hearings will prove necessary. We are therefore unable to either affirm or reverse the preliminary determination at this time.

This ruling, only as to categorization, is appealable under the provisions of Rule 7.6 of the Rules.⁴

***Ex Parte* Rules**

Since this is a ratesetting proceeding, *ex parte* communications with the decision makers are generally prohibited. The limited exceptions to this prohibition are described at Pub. Util. Code § 1701.3(c) and in Article 8 of the Commission's Rules of Practice and Procedure.⁵

⁴ Rules, Rule 7.6 at 47.

⁵ *Id.* at 48-53.

Scope of Proceeding

The scope of the proceeding includes all issues related to the implementation of a backhaul program to provide third parties access to a customer's usage data based upon the consent of the customer. In addition, the scope of the proceeding includes all issues presented in the applications and the refined issues growing out of the parties' protests and the PHC.

At the PHC, the principal issues identified fell into the following categories:

1. Cost – Whether the costs that are associated with the implementation of these programs are reasonable?
2. Pricing – What are the pricing issues for this service? What pricing issues arise concerning Community Choice Aggregators and Electric Service Providers?
3. Timing – What is the appropriate schedule for resolving the issues in this proceeding? Do all three utilities need to proceed at the same schedule, or can utilities that are ready proceed to act? Is coordination needed across these three applications?
4. Other Proceedings – What is the relationship between this proceeding and other tariff filings and rules development, particularly those arising from D.11-07-056?
5. Third Parties – What policies should apply to third parties receiving the data? What procedures should the Commission adopt to ensure third-party compliance with privacy safeguards adopted by the Commission? Is the self-certification process proposed by SCE adequate and is it reasonable?

Schedule

At the PHC, the parties discussed how to proceed. The parties proposed to meet informally in June and part of July “on narrowing and hopefully even

eliminating any differences on the issues”⁶ The utilities would then “facilitate a report on the discussions that would be filed by the end of July.”⁷ The parties also recommended a short period for comments and replies.

These recommendations are practical and we adopt them in the table below. The comments and replies, in addition to addressing the report on discussions, should also recommend how the Commission should proceed to resolve outstanding issues, if any.

With these facts in mind, the following schedule appears to be an appropriate way to proceed:

Event	Date
Utility report on discussions with parties to the proceeding seeking to resolve or clarify open issues should be filed and served.	July 30, 2012
Comments on utility report and next steps in proceeding should be filed and served.	August 20, 2012
Reply Comments on utility report and next steps should be filed and served.	August 27, 2012

Following the receipt of reply comments, we will determine the next steps needed to resolve this matter and inform parties as appropriate.

⁶ PHC TR 18:25-26.

⁷ *Id.* at 18:28 to 19:3.

Since this schedule produces the first steps to resolving this matter, the above schedule shall be the schedule for this proceeding.

Consistent with Pub. Util. Code § 1701.5, the deadline for the conclusion of this proceeding is 18 months from the date of this ruling.

Intervenor Compensation

The PHC in this matter was held on May 14, 2012. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation shall file and serve a notice of intent to claim compensation on or before June 13, 2012.

Final Oral Argument

Motions for a final oral argument, if any, shall be filed and served concurrently with opening briefs.⁸ The motion shall state the request, subjects to be addressed, amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. If more than one party plans to file such a motion, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentation, anything else relevant to the motion. A response to the motion may be filed concurrently with the reply briefs.

Settlements

Any settlements between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules and shall be served in writing. Such settlements shall include a complete explanation of the settlement and

⁸ See Rule 13.13(b).

complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

Presiding Officer

Pursuant to Pub. Util. Code § 1701.3, ALJ Timothy J. Sullivan is designated as the presiding officer in this proceeding.

Service List/Filing and Service of Documents

The official service list for this proceeding is attached to this ruling. The parties shall notify the Commission's Process Office of any address, telephone, or electronic mail (e-mail) change to the service list.

Parties shall file and serve all pleadings as set forth in Article 1 of the Commission's Rules of Practice and Procedure. All documents shall be served electronically, as set forth in Rule 1.10. Testimony shall be served, but not filed.

IT IS RULED that:

1. The final categorization of this proceeding is ratesetting.
2. *Ex parte* communications, if any, shall comply with Article 8 of the Commission's Rules of Practice and Procedure.
3. The scope of the proceeding is as set forth above.
4. The schedule is as set forth above unless amended by the assigned Commissioner or Administrative Law Judge.
5. Consistent with Pub. Util. Code § 1701.5, the deadline for the conclusion of this proceeding is 18 months from the date of this ruling.
6. Parties shall follow the procedure stated above in making any request for final oral argument.

7. Any settlements reached between parties shall be served in writing as discussed above.

8. Administrative Law Judge Timothy J. Sullivan is the presiding officer in this proceeding.

9. The service list for filing and service of documents and service of testimony in this proceeding is as set forth above.

Dated May 25, 2012, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner