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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U39E) for Approval of its 2010 Rate Design Window Proposal for 2-Part Peak Time Rebate and Recovery of Incremental Expenditures Required for Implementation (U39E)	A. 10-02-028
And Related Matter.	A. 10-08-005

JOINT MOTION OF PACIFIC GAS AND ELECTRIC COMPANY AND THE OFFICE OF RATEPAYER ADVOCATES FOR LEAVE TO WITHDRAW APPLICATION AND TO TAKE OFFICIAL NOTICE OF MATERIAL FACTUAL CHANGES SUPPORTING WITHDRAWAL

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I. INTRODUCTION

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), Pacific Gas and Electric Company (PG&E), supported by the Office of Ratepayer Advocates (ORA) (collectively referred to as the Joint Parties), respectfully file this Joint Motion for leave to withdraw the Application in the above-referenced default Peak Time Rebate (PTR) proceeding.[1] The Joint Parties also jointly request that the CPUC take Official Notice, under Rule 13.14, of the materially changed facts that support such withdrawal, as summarized below. Finally, the Joint Parties request that the CPUC take expedited action to stay or extend the procedural deadlines in this proceeding, pending a ruling on this Joint Motion.

II. BASIS FOR WITHDRAWAL

ORA and PG&E jointly support withdrawal of this Application for the following reasons:

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[1] Motions to withdraw may be granted by the CPUC after submission of a case upon an evidentiary record and even after issuance of a proposed decision thereon pursuant to P.U. Code Section 311(d), if the CPUC grants its discretionary consent. (*See* D.92-04-027, in which the CPUC granted Southern California Gas Company the withdrawal of A.91-04-038 regarding certain long-term supply contracts). Concurring language in D.92-04-027 suggests that a notice of withdrawal can be obtained as a matter of *right* if filed *prior* to issuance of a proposed decision. Here, although no proposed decision has been issued, out of an abundance of caution, the Joint Parties are requesting a CPUC decision expressly providing the CPUC's discretionary approval of this withdrawal because the original application resulted from a CPUC order in D.09-03-026.

First, since this case was submitted, the CPUC has been moving forward with its residential rate reform OIR (R.12-06-013) proceeding, in which the CPUC has not yet opined on the long-term vision for the "end state" as part of reforming residential rates. It is important to know the long-term goal in order to know what pricing approach is most compatible as a transition to it. ORA and PG&E now both agree that it would be premature for the CPUC to hear and rule on a new residential peak day pricing program for PG&E, such as PTR, before the outcome of the OIR is known.

Second, the record in this proceeding is stale. Evidentiary hearings ended on April 27, 2012, and it has been almost a year and a half since the record was submitted on June 7, 2013.

Third, since then, new facts have come to light, including reported data from two southern California utilities' roll-outs of default PTR that has since caused the CPUC to order those utilities not to continue their default PTR programs. The joint parties request that the CPUC take Official Notice under Rule 13.14 of the information about the performance of default PTR that is contained in the following official documents already on file at the CPUC:

> **Commission [Energy Division] Staff Report:** ***"Lessons Learned from Summer 2012 Southern California Investor Owned Utilities' Demand Response Programs***," filed on May 1, 2013 under Decision 13-04-017 per Ordering Paragraph 31. (Staff Report) *See* especially pp. 39 – 41, 46, and 48-49 Staff Report. For example the Staff Report noted, at page 39 that Southern California Edison Company's (SCE) 2012 Load Impact Report found that customers defaulted into receiving PTR notifications did not produce statistically significant load impacts. [2]
>
> **Decision 13-07-003.** In this decision the CPUC considered the Staff Report's position that these statistics showed that a default PTR program experiences a large "free ridership" problem, where customers receive incentives without significantly reducing load. Accordingly, the Commission directed SCE and SDG&E to, by May, 2014 revise their PTR programs from default programs to programs where the customer must choose to participate, to enable both utilities to save significant incentive funds for the PTR program. (*See* D.13-07-003, OP 7; *see also* R.13-09-011, p. 23.)

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[2] The CPUC should also take official notice of the underlying load impact reports for 2012 upon which this Staff Report relied, namely, for SCE: "2012 Load Impact Evaluation of Southern California Edison's Residential Peak Time Pricing Program" and for SDG&E: "2012 Load Impact Evaluation of San Diego Gas and Electric Company's Residential Peak-Time Pricing Program." PG&E also filed such a report covering its programs, entitled: "2012 Load Impact Evaluation of Pacific Gas and Electric Company's Residential Time-based Pricing Programs." The CPUC may take official notice of the data in all of these officially-required annual Load Impact Reports to the CPUC.

This new information has caused CPUC to order SCE and SDG&E not to continue default PTR, and pursue an opt-in approach instead. The same information supports abandonment of consideration of default PTR at this time for PG&E as well.

The above-captioned PG&E Application was filed on February 26, 2010 in response to D.09-03-026, the SmartMeter Upgrade Decision, which ordered PG&E to include a two-part default Peak Time Rebate proposal for residential customers. Obviously, none of these materially changed facts about the actual performance of default PTR could have been adduced before the record in PG&E's PTR proceeding was submitted, as none of this information was available until after June 7, 2013. Logically, therefore, PG&E's default PTR Application should also be dropped; thus this joint motion to withdraw.[3]

Based on new facts such as these, ORA has recently supported the Commission's direction to have SCE and SDG&E switch their default PTR into an opt-in program. Thus, ORA now agrees with PG&E to support this Joint Motion to Withdraw the above-captioned default PTR application.

For all of these reasons, ORA and PG&E respectfully request that it is appropriate for the CPUC to grant this motion to withdraw PG&E's default PTR application at this time.

III. THE JOINT PARTIES REQUEST AN EXPEDITED RULING STAYING OR EXTENDING PROCEDURAL DEADLINES PENDING A RULING ON THIS JOINT MOTION FOR LEAVE TO WITHDRAW

Under the CPUC's last pronouncement regarding the schedule for this proceeding,[4] a final decision is currently expected by December 6, 2013, which, unless the parties agreed to a shortening of time for comments, would mean a Proposed Decision would otherwise be expected to be issued very soon (likely by Wednesday, November 6, 2013).

Given the unique circumstances here, the Joint Parties request a stay in, or extension of, the procedural schedule in this proceeding to allow the CPUC time to consider and grant this Joint Motion

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[3] Although no party to PG&E's PTR proceeding proposed an opt-in PTR – and thus the record lacks evidence on the costs and other practical considerations involved with any effort to create an opt-in PTR program for PG&E – the CPUC can take official notice under Rule 13.12 of PG&E's 2013 SmartGrid Annual Report (at pp. 4 and 15) regarding the performance as of September 1, 2013 of PG&E's existing opt-in critical peak pricing program (SmartRate™). Whether or not the CPUC grants this joint motion, that already-adopted opt-in program would continue to be available for PG&E residential customers. Unlike PG&E, SCE and SDG&E did *not* have an opt-in peak pricing program, thus when D.13-07-003 eliminated default PTR for them, it also required those two utilities to develop an opt-in program by May 2014. Therefore, by summer 2014, all three major utilities will have opt-in peak pricing programs in place, even if the CPUC adopts this Joint Motion to Withdraw PG&E's default PTR Application.

[4] *See* D.13-10-008 Order Extending Statutory Deadline, dated October 3, 2013.

for Withdrawal if it agrees this is warranted. Such a stay is necessary in order to avoid further administrative inefficiencies or expenditure of scarce resources on consideration of default PTR. If deemed necessary, the CPUC could also issue a decision further extending the statutory deadline in this proceeding, allowing a long enough extension to allow the CPUC to rule on this motion before any proposed decision must be issued. The CPUC should avoid allocating any further of its precious resources processing an application for default PTR that ORA no longer supports, and the CPUC has ordered no longer be pursued by SCE and SDG&E, based on new information that came to light after PG&E's default PTR hearings.

Granting this Joint Motion for Leave to Withdraw would be the quickest and most efficient way to proceed, so as to best conserve the CPUC's constrained resources.

IV. CONCLUSION

For all of the foregoing reasons, as well as those presented in the above-referenced officially noticeable documents, as well as in PG&E's prepared and rebuttal testimony, work papers and exhibits already received into evidence in this proceeding, the CPUC should grant ORA and PG&E's Joint Motion for Leave to Withdraw this Application, as well as the other relief requested above, as being the most sound and administratively efficient way to proceed under these circumstances.

Respectfully submitted,

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