

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



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Application of Pacific Gas and Electric
Company for Adoption of Electric Revenue
Requirements and Rates Associated with its
2015 Energy Resource Recovery Account
(ERRA) and Generation Non-Bypassable
Charges Forecast (U39E)

A.14-05-024

**OPENING COMMENTS OF SHELL ENERGY NORTH
AMERICA (US), L.P. ON PROPOSED DECISION**

John W. Leslie
Dentons US LLP
600 West Broadway, Suite 2600
San Diego, California 92101
Tel: (619) 699-2536
Fax: (619) 232-8311
E-Mail: john.leslie@dentons.com

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Attorneys for Shell Energy North
America (US), L.P.

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SUMMARY OF RECOMMENDED CHANGES TO PD

- The Commission should eliminate Section 3 of the PD (beginning on page 16).

- The Commission should direct the Assigned Commissioner and the Presiding Judge to make affirmative recommendations on the PCIA calculation issue or solicit further comments, testimony and/or briefing, as necessary to complete the record in this proceeding.

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In accordance with Rule 14.3 of the Commission's Rules, Shell Energy North America (US), L.P. ("Shell Energy") files its opening comments on the proposed decision ("PD") that was circulated by Presiding Judge S. Pat Tsen on July 19, 2016. In D.15-12-022 (December 17, 2015), the Commission determined that issues related to calculation of the Power Charge Indifference Adjustment ("PCIA") are to be addressed in a workshop in the second phase of this proceeding. The PD commits legal error by concluding that PCIA issues are not within the scope of issues to be decided by the Commission in this proceeding.

To remedy this legal error in the PD, the Commission should eliminate Section 3 of the PD (beginning on page 16). The Commission also should direct the Assigned Commissioner and the Presiding Judge to make affirmative recommendations on the PCIA calculation issue or

solicit further comments, testimony and/or briefing, as necessary to complete the record in this proceeding.

I.

INTRODUCTION

In D.15-12-022, the Commission determined that a workshop shall be held in the second phase of this proceeding (A.14-05-024) to address issues related to calculation of the PCIA for all three electric investor-owned utilities (“IOUs”). In its Decision, the Commission stated: “We order that a workshop shall be held, in Phase 2 of A.14-05-024, PG&E’s 2015 ERRRA Forecast proceeding, by the Commission’s Energy Division, within the first quarter of 2016, to address the methodologies and inputs used for calculating the PCIA.” Decision at p. 14.

In D.15-12-022, the Commission also directed the Energy Division to address, at the workshop, the following issues:

- The methodology for calculating the PCIA;
- Whether the calculation of the PCIA should be different for DA and CCA entities, and if so, what those different methodologies should be;
- The inputs to the calculation of the PCIA; and
- Ensuring that all proposals are in compliance with existing Public Utilities Code Sections, including but not limited to ensuring no bias or harm to DA, CCA, or bundled customers.

Decision at pp. 14-15. In accordance with D.15-12-022, a workshop on these issues was held in the second phase of this proceeding on March 8, 2016.

The PD notes that at the March 8 workshop, presentations and proposals were made by the IOUs, Energy Division staff, and representatives of direct access (“DA”) and community choice aggregation (“CCA”) customers. PD at pp. 16-17. Presentations addressed all of the items identified in D.15-12-022, including the “methodology for calculating the PCIA,” “inputs

to the calculation of the PCIA,” and “ensuring no bias or harm to DA, CCA, or bundled customers.” Id.

The workshop presentations were complemented by comments and reply comments that were submitted by numerous parties following a “workshop report” that was issued on June 6, 2016. The PD notes that the workshop proposals addressed PCIA reforms, including changes to the market price benchmark to reduce volatility, a fixed cost recovery period, and options for customers to “pay off” the PCIA obligation. PD at p. 17.

Notwithstanding the significant effort undertaken by the parties to make presentations and proposals on the PCIA calculation issue, the PD declines to make a single recommendation to the Commission, other than to “kick the can down the road.” Surprisingly, in order to avoid addressing, in this proceeding, the substantive issues raised during and after March 8 the workshop, the PD states that “[w]hile parties expressed legitimate concerns and proposals in the workshop, those issues are not in scope and cannot be resolved in this proceeding.” PD at p. 18 (emphasis added). The PD concludes that these PCIA issues are outside the scope of this proceeding as set forth in the September 24 Scoping Memorandum, as amended in October 2014 and August 2015. Id. at p. 17.

II.

THE PD’S RECOMMENDATION RESPECTING THE “SCOPE” OF ISSUES IN THIS PROCEEDING CONSTITUTES LEGAL ERROR

The PD’s conclusion regarding the “scope” of this proceeding is astounding, given the Commission’s clear direction in D.15-12-022. In D.15-12-022, the Commission expanded the scope of this phase of the proceeding to “address the methodologies and inputs used for calculating the [PCIA].” Decision at p. 22, Ordering Paragraph No. 3. The Commission also expanded participation in this phase of the proceeding to include all three IOUs and other parties interested in PCIA issues. Decision at p. 14.

The Presiding Judge’s claim that these PCIA issues are not within the scope of this phase of the proceeding cannot be reconciled with D.15-12-022. The PD’s refusal to make any recommendations on PCIA issues that were thoroughly addressed in the March 8 workshop constitutes an abdication of the authority and responsibility granted by the Commission to the Assigned Commissioner and the Presiding Judge through D.15-12-022.

The PCIA issues addressed in the March 8 workshop are squarely within the scope of issues to be addressed in this proceeding, as directed in D.15-12-022. The PD commits legal error by concluding that these issues cannot be resolved in this proceeding. The Commission should eliminate Section 3 of the PD and direct the Assigned Commissioner and the Presiding Judge to make recommendations on the PCIA issues raised in the March 8 workshop. If additional information is required to bolster the record, the Assigned Commissioner and/or the Presiding Judge should issue a Ruling soliciting such information through comments, testimony or supplemental briefing.

III.

THE PD’S RECOMMENDATION TO FORM A “WORKING GROUP” IMPROPERLY FAILS TO PROVIDE POLICY GUIDANCE AND UNDULY FAVORS THE IOUs

The PD recommends that the Commission direct the formation of a “working group” to examine the PCIA issues raised during the March 8, 2016 workshop. PD at p. 18. The PD recommends that the Commission direct the working group to present its PCIA recommendations to the Commission within six months of the date of the Commission’s decision herein. *Id.* With no guidance and with no incentive for the IOUs to reach agreement on PCIA-related issues, the “working group” process is doomed to failure. The PD’s recommendation to form a “working group” lacks any substance and should be rejected.

The PD directs that a “working group” on PCIA issues be led by Sonoma Clean Power Authority and Southern California Edison Company (“SCE”), with participation by other interested groups. PD at p. 18. SCE has no motivation to compromise on its current PCIA position, however, which is to maintain the status quo. The PD provides no guidance on how the PCIA issues should be addressed, and the PD provides no indication whether specific PCIA calculation proposals raised at the March 8, 2016 workshop should be pursued by the parties.

Moreover, the PD fails to indicate whether the Presiding Judge and/or the Energy Division will participate in (or preside over) the working group efforts. The PD also fails to state what the parties should do in the event they do not reach a consensus. A “stalemate” in the working group process favors the IOUs because it delays, even further, any potential changes to the PCIA calculation.

Parties invested substantial time and resources to make detailed presentations and proposals at the March 8 workshop. The PD fails, however, to analyze the proposals or provide any assessment of whether these proposals should be further developed. The PD ignores the substantial record compiled through the workshop process. The PD’s failure to make any substantive recommendations on the calculation of the PCIA leaves the impression that the workshop process ordered in D.15-12-022 was a waste of parties’ time and resources.

The workshop process ordered in D.15-12-022 was designed to allow parties to develop a record that supports potential changes to the PCIA. Changes to the PCIA are needed to limit the exposure of departing load customers to IOU procurement costs. The PD improperly ignores the record, ignores the Commission’s direction in D.15-12-022, and essentially directs the parties to “figure it out on your own.” The PD provides no incentive for the IOUs to work productively with the representatives of departing load customers to modify the current PCIA rules.

Because the PD fails to “address the methodologies and inputs used for calculating the [PCIA],” as directed by the Commission in D.15-12-022, the PD fails to achieve the

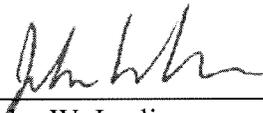
Commission's objective for this phase of the proceeding. As a consequence, Section 3 of the PD should be withdrawn. The Assigned Commissioner and the Presiding Judge should be directed to develop recommendations based on the proposals at the March 8, 2016 workshop. If the Assigned Commissioner and the Presiding Judge believe that the record needs to be developed further, they should solicit the information necessary to make substantive recommendations on the PCIA issue in this proceeding.

IV.

CONCLUSION

The PD commits legal error by concluding that issues related to calculation of the PCIA, including alternatives for computing the PCIA, are outside the scope of this proceeding. Changes to the PCIA calculation are necessary to ensure that departing load customers do not bear an unreasonable, unending burden for the IOUs' procurement costs. The Commission should direct the Assigned Commissioner and the Presiding Judge to issue a PD that makes affirmative recommendations, in this proceeding, on the substantive PCIA issues addressed in the March 8, 2016 workshop.

Respectfully submitted,



John W. Leslie
Dentons US LLP
600 West Broadway, Suite 2600
San Diego, California 92101
Tel: (619) 699-2536
Fax: (619) 232-8311
E-Mail: john.leslie@dentons.com

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APPENDIX A

PROPOSED REVISIONS TO PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Proposed Findings of Fact (“FOF”)

1. In FOF No. 11, delete the words “not within the scope of the current ERRA proceeding.”
2. In FOF No. 12, delete the words “but any proposed changes should occur within the proposed forum.”
3. Add FOF No. 13, as follows: “Changes to the PCIA calculation are required in order to ensure that departing load customers do not bear unreasonable responsibility for IOU procurement costs.”

B. Proposed Conclusions of Law (“COL”)

1. Replace COL No. 6 with the following: “The record demonstrates a need to amend the PCIA calculation and related rules to limit the exposure of departing load customers to IOU procurement costs.”