

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Address
Utility Cost and Revenue Issues
Associated with Greenhouse Gas
Emissions.

Rulemaking 11-03-012
(Filed March 24, 2011)

**DECISION GRANTING IN PART AND DENYING IN PART
PETITION FOR MODIFICATION OF THE MARIN ENERGY
AUTHORITY OF DECISION 12-12-033**

1. Summary

This decision grants in part and denies in part a Petition for Modification of Decision (D.) 12-12-033 wherein Marin Energy Authority requests that the Commission order the investor-owned utilities to begin including in rates all greenhouse gas costs effective February 28, 2013. This decision memorializes a previous finding in D.12-12-033 that investor-owned utilities provide information pertaining to the deferral of greenhouse gas costs in rates to customers shared with a Community Choice Aggregator or an Electric Service Provider. In addition, this decision removes findings and associated dicta in D.12-12-033 that speculate on the ability of Community Choice Aggregators and Electric Service Providers to defer greenhouse gas costs in rates.

We implement these changes by removing Finding of Fact 168 and associated dicta from D.12-12-033. Ordering Paragraph 20 of D.12-12-033 is modified to expressly mandate that investor-owned utilities disclose the deferral of greenhouse gas costs in their respective rates to customers shared by the

investor-owned utility and a Community Choice Aggregator or Energy Service Provider. All other aspects of the Petition for Modification are denied.

2. Background and Procedural History

In Decision (D.) 12-12-033 (Decision Adopting Cap-and-Trade Greenhouse Gas Allowance Revenue Allocation Methodology for the Investor-Owned Electric Utilities) the California Public Utilities Commission (Commission) adopted a methodology for allocating greenhouse gas (GHG) allowance revenues received by California's investor-owned utilities (IOUs) as part of California's Cap-and-Trade program. In adopting an allocation methodology, the Commission was guided by several policy objectives. Of relevance to today's decision is the priority placed on the maintenance of competitive neutrality across load-serving entities, which is required by the Cap-and-Trade regulation,¹ and the desire to maintain a carbon price signal in rates, whenever possible.

Before distribution of GHG allowance revenues can commence, several implementation details must be finalized, and D.12-12-033 adopted a number of processes toward that end, all of which are underway as of the issuance of this decision. Because GHG revenues were not available for immediate distribution, D.12-12-033 prohibited the IOUs² from charging and recovering GHG-related costs in rates until such time as the adopted GHG revenue allocation

¹ See 17 CCR § 95892 (d)(4), which provides "[i]nvestor owned utilities shall ensure equal treatment of their customers and customers of electric service providers [ESPs] and community choice aggregators [CCAs]."

² The five IOUs that are directed to withhold GHG costs and revenues from rates are Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E), PacifiCorp, and California Pacific Electric Company.

methodology was ready to be implemented. D.12-12-033 states “[i]f GHG-related energy costs were immediately recoverable in rates before the GHG revenue allocation methodology is implemented, retail customers eligible to receive GHG allowance revenues would see only the cost increase without receipt of any countervailing revenues.”³ The IOUs were ordered to track estimated GHG costs for subsequent recovery in rates in a new sub-balancing account. Upon implementation of the GHG revenue allocation methodology, the IOUs were ordered to amortize the outstanding GHG cost (and revenue) balances accumulated in the sub-balancing account over no greater than a 24-month period.⁴

D.12-12-033 acknowledged that the IOUs’ deferral of GHG costs in rates could create a temporary competitive disadvantage between the IOUs and CCAs and ESPs because the IOUs’ generation costs will be lower compared to the generation costs of a CCA or ESP that passes through GHG costs in rates. However, D.12-12-033 found that the initial competitive disadvantage experienced by CCAs and ESPs would be offset by the competitive disadvantage experienced by the IOUs once they begin to amortize deferred GHG costs in rates.⁵ To avoid this temporary competitive disadvantage, D.12-12-033 concluded that CCA and ESPs could elect to defer the inclusion of GHG costs in

³ D.12-12-033 at 145.

⁴ *Id.* at Ordering Paragraph 20.

⁵ Amortization of GHG costs in rates by the IOUs will result in generation costs higher than those of any CCA or ESP that did not also elect to defer GHG costs. This discrepancy will occur for the duration of the amortization period.

their rates for the duration of the deferral of the IOUs' GHG costs to avoid any potential competitive disadvantage.⁶

Pursuant to Rule 16.4,⁷ on January 3, 2013, Marin Energy Authority (MEA) filed a petition for modification (PFM or petition) of D.12-12-033 stating that D.12-12-033 contained significant factual error. Concurrent with its PFM, MEA filed a motion to shorten the response period afforded parties pursuant to Rule 16.4(f); such motion was subsequently denied by the January 9, 2013 ruling of Administrative Law Judge (ALJ) Melissa K. Semcer.

Subsequently, the City and County of San Francisco (CCSF), the Direct Access Customer Coalition (DACC), Noble Americas Energy Solutions LLC (Noble Americas), PG&E, SCE, and SDG&E timely filed responses to the PFM on February 4, 2013. MEA timely filed a reply to the responses on February 14, 2013.⁸

3. MEA's Petition for Modification of D.12-12-033

In its PFM, MEA, which is currently California's sole CCA, contends that the deferral of the inclusion of GHG costs in rates by the IOUs, as ordered in D.12-12-033, raises "significant and immediate competitive concerns for CCAs and CCA customers"⁹ and fails to meet the policy objective to maintain competitive neutrality across load-serving entities. MEA agrees that the deferral of GHG costs in rates could create a temporary competitive disadvantage between CCAs and IOUs but argues that D.12-12-033 commits significant factual

⁶ *Id.* at Finding of Fact 168 and 169.

⁷ All references to rules are to the Commission's Rules of Practice and Procedure.

⁸ MEA's request to file a response was granted on January 8, 2013 via electronic mail.

⁹ MEA's January 3, 2013 PFM at 1.

error in Finding of Fact 168 and 169, which pertain to remedies to the possible competitive disadvantage.

Finding of Fact 168 states: “CCAs and [ESPs] could elect to defer the inclusion of GHG costs in their rates for the duration of the deferral of the [IOUs’] GHG costs to avoid any potential competitive disadvantage as a result of the deferral of the [IOUs’] GHG costs.” Finding of Fact 169 states: “If CCAs and [ESPs] elect to immediately include GHG costs in rates, any competitive disadvantage will be offset by the competitive disadvantage experienced by the [IOUs] once they begin to amortize deferred GHG costs in rates.”

In regards to Finding of Fact 168, MEA states that it bases its rates on its own revenue requirements, not on PG&E’s rates. Furthermore, MEA states that it only makes one rate revision per year effective at the beginning of its fiscal year and the rate change process is lengthy to allow for appropriate public notice of proposed changes. Therefore, MEA states that it “cannot - and would not - try to time its rates to [those of]PG&E.”¹⁰

In regards to Finding of Fact 169, MEA alleges that the Commission’s finding that any competitive disadvantage will be offset by the competitive disadvantage experienced by the IOUs once they begin to amortize GHG costs in rates is erroneous. To support its position, MEA points to its upcoming enrollment of approximately 30,000 customers in the City of Richmond, California in July 2013. MEA states that by PG&E having an artificially low

¹⁰ *Id.* at 3.

generation rate at the time customers are making their enrollment decision,¹¹ the difference between PG&E and MEA's generation rates could place MEA at an immediate competitive disadvantage that will not be offset by any future competitive disadvantage experienced by PG&E. MEA states that not only will PG&E's rates appear lower than they actually are, it will create confusion to try and explain to potential City of Richmond customers that while PG&E's generation rates appear lower now, the rates will be higher in the future if a customer elects to stay with PG&E. MEA notes that by the time the GHG methodologies have been finalized and the GHG revenue allocation program implemented, the statutory free opt-in (or out) period will have ended for City of Richmond customers. Therefore, a future competitive disadvantage experienced by PG&E does not offset or remedy MEA's current situation. MEA also contends that the competitive disadvantage is not only immediate, but is likely to be of significant duration, thus placing MEA at a competitive disadvantage for an extended period of time.

MEA further argues that deferring GHG costs, especially for an extended period of time, sends an inaccurate carbon price signal to the IOUs' customers. With the deferral, IOU customers will receive effectively no carbon price signal and, upon implementation of the GHG revenue allocation methodology, IOU customers will see an excessive carbon price signal, greater than the actual GHG cost of electricity. To remedy the alleged errors in the Commission's

¹¹ MEA states that City of Richmond customers will receive opt-out notices in April and May, and at that time such customers will begin to make decisions on whether to stay with MEA or opt-out and return to PG&E.

determinations, MEA requests that the IOUs' GHG costs begin to be recovered through rates no later than February 28, 2013.¹²

3.1. Responses and Reply MEA's Petition

Responses were received by the three large IOUs (PG&E, SCE, and SDG&E) as well as parties representing CCA and DA interests.

3.1.1. Response of DA and CCA Customers

CCSF, DACC and Noble Americas filed responses offering varying degrees of support for MEA's PFM. CCSF agrees with MEA's petition and, as a remedy, encourages the Commission to require the IOUs to accelerate the schedule for providing GHG allowance revenues to eligible customers.¹³ DACC notes that while MEA's petition focuses on CCA customers, the same issues arise for DA customers. Specifically, DACC argues that a delay of the collection of GHG costs in the IOUs' generation rates will create artificially low rates that can lead to anti-competitive outcomes for CCAs as well as ESPs. Noble Americas, an ESP, cautions the Commission from dismissing MEA's petition as one of unlucky timing where regulatory lag has created a market distortion. However, Noble Americas states that a solution may be found in Ordering Paragraph 11, which requires the IOUs to develop a comprehensive and neutral customer outreach and education program. Noble Americas suggests that the Commission order PG&E and MEA to co-design a customer communications campaign for a targeted group of customers (presumably City of Richmond customers) that will illustrate the GHG components of MEA and PG&E's rates on a current,

¹² MEA does not provide a specific rationale for the election of this date.

¹³ CCSF proffered a similar recommendation in its December 11, 2012 reply comments to the proposed decision to D.12-12-033.

forecasted, and levelized basis. Such a solution will provide MEA with a “marketing fix” rather than a “rate fix.”¹⁴

3.1.2. Response of the IOUs

PG&E, SCE, and SDG&E each filed responses in opposition to MEA’s PFM. PG&E argues that adoption of MEA’s PFM would require PG&E to prematurely raise its electric rates on five million retail electric customers due solely to timing differences regarding PG&E and MEA’s rates to customers in the City of Richmond. PG&E further argues that MEA’s recent analysis of its rates states that MEA rates are lower than PG&E rates. PG&E also questions whether it would be able to implement the necessary billing system upgrades to begin to pass through GHG costs by the February 28, 2013 deadline proposed by MEA. In addition, PG&E states that MEA’s concerns regarding the communication of rates, terms, and conditions of CCA service are subject to the Commission’s CCA “code of conduct” set forth in D.12-12-036 in Rulemaking 12-02-009.¹⁵ Finally, PG&E argues that MEA’s petition should be rejected because it alleges no new or changed facts as required by Rule 16.4(b); MEA’s concerns were addressed fully in D.12-12-033.

SCE argues that MEA has not adequately explained why it cannot temporarily defer including GHG costs in rates; mere statement of inability is not sufficient to convince SCE that a one-time rate change cannot occur in this circumstance. SCE, like PG&E, also argues that the magnitude of customers in

¹⁴ February 4, 2013 Response of Noble Americas at 4.

¹⁵ PG&E states that the code of conduct addresses how differences in utility and CCA rates should be communicated jointly by MEA and PG&E no later than July 1, 2013 in a competitively neutral manner.

SCE's service territory that would see a GHG rate increase, and the confusion that such an increase would cause, is not defensible in order to avoid confusion for City of Richmond customers, which, SCE argues, can be better addressed through communications with such customers. Finally, SCE states that the absence of a carbon price signal as a result of the deferral is not in conflict with the Commission's objective to maintain the carbon price signal for the reasons set forth in D.12-12-033.

SDG&E, like SCE, argues that MEA has failed to explain why it cannot undertake more than one rate change per year. Furthermore, SDG&E, like SCE, is concerned that the administrative cost and confusion caused to millions of customers in California as a result of a rate increase followed by a decrease, which would occur as revenues became available, is excessive to protect 30,000 customers. Like PG&E and SCE, SDG&E argues that MEA has failed to explain why its concern cannot be addressed through customer outreach and education. Finally, SDG&E notes that it would be infeasible for it to begin to pass through GHG costs in rates according to the schedule proposed by MEA because its 2013 GHG forecasted costs would not yet be approved through SDG&E's Energy Resource Recovery Account (ERRA) forecast proceeding.¹⁶

3.1.3. Reply of MEA

MEA focuses its reply primarily on the arguments raised by PG&E, in whose distribution service territory MEA operates. MEA argues that differences in price between PG&E and MEA are of the utmost importance and the regulatory-induced temporary lower prices of PG&E present a real competitive

¹⁶ GHG costs to defer are based upon estimated GHG costs approved in each IOU's ERRA, or related proceedings.

disadvantage to MEA. MEA, as a small operator in direct competition with PG&E, needs the appropriate protections to ensure that it can continue to exist. MEA states that the difference between inclusion of GHG costs in PG&E's rates or not is the difference in MEA appearing to be \$.90 per month "more expensive" than PG&E, which is due to the regulatory lag and the skewing of generation prices, versus being less expensive by \$2, which would be the case with full GHG price transparency. Finally, MEA notes that customer communication by July 1, 2013, as is required in the CCA "code of conduct," is not helpful because City of Richmond customers will begin to receive their opt-out notices in April of 2013.

In response to SCE and SDG&E's comments, MEA notes that it cannot defer inclusion of GHG costs in rates because MEA does not have the option to create a balancing account for future recovery. However, MEA states that it has greater understanding for the timing and implementation issues raised by SCE and SDG&E, and as such would accept a solution that applied solely to PG&E, which has already received approval of its 2013 GHG forecasted costs in its ERRA proceeding.¹⁷

4. Discussion

The central issue raised by MEA's petition is whether the Commission erred in concluding that any competitive disadvantage experienced by MEA (and by extension all CCAs and ESPs) as a result of deferring GHG costs in rates until implementation of the GHG revenue allocation methodology is finalized will be sufficiently offset by the competitive disadvantage experienced by the

¹⁷ See D.12-12-008.

IOUs upon commencement of the amortization of deferred GHG costs in rates, and if so, should the Commission order the IOUs to begin passing through GHG costs in rates as of February 28, 2013. After careful consideration of MEA's petition, we make the following findings, which results in a partial grant and partial denial of MEA's petition:

- 1) MEA must ultimately determine whether it can or cannot withhold GHG costs in rates; therefore, we strike Finding of Fact 168 and associated dicta from D.12-12-033.
- 2) All other arguments presented by MEA have been thoroughly and explicitly addressed in D.12-12-033, and nothing presented by MEA persuades us that the remedies proposed in D.12-12-033 are insufficient; therefore, all other aspects of MEA's petition should be denied.
- 3) Ordering Paragraph 20 should be changed to reflect a discussion in the dicta and Conclusion of Law 64, which require the IOUs to accurately disclose GHG cost deferrals when providing communications regarding rates to customers shared by the IOU and a CCA or ESP.

5. Finding of Fact 168

In its PFM, MEA asserts that, contrary to Finding of Fact 168, it is unable to defer GHG costs in rates because it only undertakes one rate change per year. SCE and SDG&E argue that MEA has failed to explain why it cannot undertake more than one rate change per year or why MEA cannot defer the inclusion of GHG costs in rates. In its reply, MEA states that it cannot defer inclusion of GHG costs in rates because it does not have the option to create a balancing account for future recovery.

Of importance in regards to Finding of Fact 168 is the inclusion of the word "could." The finding is not meant to imply that CCAs and ESPs must defer including GHG costs in rates; rather, CCAs and ESPs could elect to defer including GHG costs in rates as is being required of the IOUs. However, CCAs

and ESPs are in the sole position to determine whether or not such a deferral is possible, and in this petition, MEA argues that it is not able to defer GHG costs or time rates changes to those of PG&E. While MEA has not submitted any evidence into the record to support its claim, such evidence is not necessary because the Commission is not in a position to order MEA (or any other CCA or ESP) to defer the inclusion of GHG costs in its rates. Therefore, it is prudent to strike Finding of Fact 168 and associated dicta from D.12-12-033. It is important to note, however, that Finding of Fact 168 was but one of many findings that supported the Commission's determination that GHG costs should be deferred in the IOUs' rates. The removal of Finding of Fact 168 does not weaken or alter these determinations.

5.1. Finding of Fact 169

In its petition, MEA asserts that, as a result of its enrollment of City of Richmond customers in July of 2013, it is experiencing an immediate and significant competitive disadvantage as compared to the rates of PG&E, which can only be remedied by a reversal of Ordering Paragraph 20 in D.12-12-033 and a requirement that the IOUs include GHG costs in rates beginning February 28, 2013. MEA argues that Finding of Fact 169 is erroneous because a future neutralization of a competitive disadvantage does not address the current concerns created by a discrepancy in rates at the time MEA plans to enroll a significant number of new customers. Therefore, MEA argues, Ordering Paragraph 20 does not comport with the Commission's policy objective of maintaining competitive neutrality across load serving entities.

Although absent any discussion pertaining to its enrollment of City of Richmond customers, MEA set forth similar arguments regarding competitive disadvantage in its December 6, 2013 Opening Comments to the proposed

decision that preceded D.12-12-033. MEA's concerns were thoroughly addressed, and MEA has not provided any new information to persuade us that CCAs and ESPs are receiving unequal treatment as a result of our mandate that the IOUs withhold GHG costs in rates. D.12-12-033 explicitly acknowledges that the deferral of GHG costs in the IOUs' rates "could create a temporary competitive disadvantage between the [IOUs] and CCAs because the [IOUs'] generation costs will be lower compared to a CCA that passes through GHG costs in rates."¹⁸ It appears that such a temporary competitive disadvantage may be presently occurring. However, D.12-12-033 continues "if CCA (and DA) providers choose to immediately include GHG costs in rates, any competitive disadvantage will be offset by the competitive disadvantage experienced by the [IOUs] once they begin to amortize deferred GHG costs in rates. Therefore, the deferral of GHG costs in rates pending finalization of implementation details does not violate the Cap-and-Trade regulation's requirement of equal treatment by the [IOUs] of their own customers and the customers of CCAs and [ESPs]."¹⁹ MEA has failed to convince us that our ultimate conclusions regarding competitive neutrality were erroneous.

We are sympathetic that the absence of GHG costs in PG&E's rates could create a price discrepancy between MEA and PG&E that, absent adequate and accurate information, could cause confusion for City of Richmond customers as they make a decision whether to take service from MEA or opt-out and return to

¹⁸ D.12-12-033 at 146.

¹⁹ *Id.* at 146.

PG&E's service.²⁰ D.12-12-033 contemplated this eventuality for CCAs and ESPs as well as IOUs upon the future inclusion of deferred GHG costs in rates, and concluded that the appropriate solution was communication of accurate information to shared customers. D.12-12-033 states "to ensure accurate representation of rates to customers, we require that any communication of existing [IOU] rates to customers shared by the [IOU] and a CCA or [ESP] must accurately disclose their respective deferred GHG costs in order to provide a direct comparison."²¹

While the City of Richmond residents are not yet customers of MEA, and therefore not shared customers, the requirement that PG&E, or any other IOU, accurately disclose its deferred GHG costs should provide MEA with the information it needs to provide an accurate rate comparison and explanation of the differences between MEA's and PG&E's rates as a result of GHG cost deferral to potential City of Richmond customers. MEA's argument that it will create customer confusion to explain the difference between its rates and those of PG&E as a result of deferred GHG costs is unsupported. Furthermore, the same confusion would presumably occur in the reverse at a future time when GHG costs included in IOU rates are higher than those of MEA or other CCAs or ESPs as a result of the amortization of deferred GHG costs. Therefore, we find that the appropriate resolution to MEA's concern is through a communication of the rate differences between PG&E and MEA, as provided for in D.12-12-033.

²⁰ GHG costs are but one component of overall rates; therefore any difference between MEA's and PG&E's generation rates may be the result of many factors.

²¹ D.12-12-033 at 147.

D.12-12-033 does not, however, explicitly require PG&E (or any other IOU) to explain rate differences as a result of the deferral or inclusion of GHG costs to any customers not shared by itself and the CCA or ESP. Although not explicitly directed, to the extent that PG&E is providing any communications to potential CCA or DA customers in an effort to retain these customers, PG&E (or any other IOU) would be remiss if any rate comparison provided to such customers did not include an explanation and estimate of deferred GHG costs to provide for a direct comparison of rates. Failure to provide an explanation could be seen as a violation of the code of conduct governing the treatment of CCAs by electrical corporations and other Commission rules and decisions.

Finally, while D.12-12-033 included a thorough discussion and associated Conclusion of Law (64) pertaining to the requirement of accurate disclosure of differences in rates inclusive of GHG costs (or their deferral), Ordering Paragraph 20, which governs the deferral of GHG costs in rates, inadvertently omits such a mandate. Therefore, Ordering Paragraph 20 is modified to include this mandate, as set forth in Section 5 below.

5.2. Carbon Price Signal in Rates

MEA argues that a deferral of GHG costs in rates, especially one of an extended nature, will result in no carbon price signal being present during the deferment period followed by an excessive price signal upon inclusion of deferred GHG costs. Therefore, MEA argues that the deferral of GHG costs violates the Commission's stated policy objective to preserve the carbon price signal in rates.

Here again, MEA's argument was thoroughly and completely addressed in D.12-12-033. The Commission acknowledged its desire to maintain the carbon price signal in rates whenever possible. However, as described in detail in the

decision, inclusion of a carbon price signal is not always possible, as is the case for residential rates, or preferable, as is the case for small businesses.

For these reasons, the Commission adopted its GHG revenue allocation methodology to provide GHG revenues to customers for whom it is not appropriate or desirable to experience a full carbon price signal at this time. Therefore, the inclusion of GHG costs in rates, without the ability to distribute countervailing revenues, would negate the very benefits the GHG revenue allocation methodology was designed to provide.

6. Conclusion

In summary, MEA's PFM is granted in part and denied in part.

D.12-12-033 is modified in the following manner:

- 1) Finding of Fact 168 is removed.
- 2) The following language is removed from the first full paragraph on page 146:
"However, as stated by SCE and PG&E in reply comments, although we cannot order them to do so, CCAs and [ESPs] could elect to defer the inclusion of GHG costs for the duration of the deferral of the [IOUs]."
- 3) Ordering Paragraph 20 is modified to include the following language: PG&E, SCE, SDG&E, PacifiCorp, and CalPeco must accurately disclose to customers shared by the utility and a Community Choice Aggregator or Energy Service Provider their respective deferred greenhouse gas costs in order to provide a direct comparison across rates.

All other aspects of MEA's PFM are denied.

7. Comments on Proposed Decision

The proposed decision of assigned ALJ Semcer was mailed to parties in accordance with Pub. Util. Code § 311, and comments were allowed in accordance with Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were timely filed by PG&E and MEA on June 17, 2013. PG&E

updated its opening comments to correct an error on June 20, 2013. Reply comments were filed on June 24, 2013 by PG&E.

PG&E supports adoption of the proposed decision without modification. MEA supports the removal of Finding of Fact 168, but requests that, at a minimum, GHG costs be included in rates immediately for residential customers. In addition, MEA argues that Ordering Paragraph 20 requires revision to ensure that information communicated to potential CCA customers pertaining to the deferral of GHG costs is presented in a manner that is understandable and useful to the individual customer.

All aspects of MEA's comments have been thoroughly addressed in the proposed decision. The language of Ordering Paragraph 20 as written sufficiently signals the intent to provide adequate information to allow for rate comparisons, and PG&E must act in accordance with the code of conduct governing treatment of CCAs. Minor changes to the decision have been made to improve clarity.

8. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Melissa K. Semcer and Jessica T. Hecht are the assigned ALJs in this proceeding.

Findings of Fact

1. D.12-12-033 mandates that the IOUs defer including GHG costs in rates until all necessary implementation details of the adopted GHG revenue allocation methodology are finalized.
2. CCAs and ESPs are in the best position to determine whether they are able to defer including GHG costs in rates.
3. Finding of Fact 168 is one of many findings that resulted in the Commission's determination that GHG costs should be deferred in rates in

D.12-12-033. Finding of Fact 168 is not required to conclude that the IOUs should defer GHG costs.

4. MEA has failed to provide any new argument or fact pertaining to the competitive disadvantage experienced by CCAs; all such arguments were thoroughly addressed and solutions provided in D.12-12-033.

5. The requirement in D.12-12-033 that an IOU accurately disclose its deferred GHG costs in rates to shared customers of a CCA or ESP should provide MEA with the information it needs to develop an accurate comparison and explanation of the differences between MEA and PG&E's rates as a result of GHG cost deferral to potential City of Richmond customers.

6. The appropriate solution to MEA's competitive disadvantage concern is through communication with City of Richmond customers, as provided for in D.12-12-033.

7. D.12-12-033 inadvertently omitted language in Ordering Paragraph 20 requiring the IOUs to accurately disclose to customers shared by the utility and a CCA or ESP their respective deferred greenhouse gas costs in order to provide a direct comparison across rates. This mandate is provided for in Conclusion of Law 64.

8. The inclusion of GHG costs in rates, without the ability to distribute countervailing revenues, would negate the very benefits the GHG revenue allocation methodology adopted in D.12-12-033 was designed to provide.

Conclusions of Law

1. MEA filed its petition for modification in accordance with Rule 16.4.
2. Finding of Fact 168 and associated dicta on page 146 of D.12-12-033 should be removed.

3. For reasons articulated fully in D.12-12-033, the deferral of GHG costs in rates does not violate the Cap-and-Trade regulation's requirement of equal treatment by the IOUs of their own customers and the customers of CCAs and ESPs, nor does it violate the Commission's stated policy objective to ensure competitive neutrality across load serving entities or to maintain the carbon price signal in rates.

4. Ordering Paragraph 20 of D.12-12-033 should be modified to reflect the requirement set forth in Conclusion of Law 64.

5. All remaining elements of MEA's PFM should be denied.

O R D E R

IT IS ORDERED that:

1. The January 3, 2013 Petition for Modification of Decision 12-12-033 of the Marin Energy Authority is granted in part and denied in part.

2. The following sentence is removed from the first full paragraph of page 146 of Decision 12-12-033: "However, as stated by Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E) in reply comments, although we cannot order them to do Community Choice Aggregations and Energy Service Providers could elect to defer the inclusion of Greenhouse Gas (GHG) costs for the duration of the deferral of the investor-owned utilities' GHG costs."

3. Finding of Fact 168 of Decision 12-12-033 is removed in its entirety.

4. Ordering Paragraph 20 is modified as follows:

Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E), PacifiCorp, and California

Pacific Electric Company (CalPeco) are ordered to defer including in rates all GHG costs and revenues, including accrued interest, until all necessary implementation details are finalized. Greenhouse gas costs will be based upon the 2013 greenhouse gas forecast approved in each utility's Energy Resource Recovery Account or Energy Cost Adjustment Clause forecast proceeding. ~~Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas and Electric Company, PacifiCorp, and California Pacific Electric Company~~ CalPeco must record estimated greenhouse gas costs for subsequent recovery in rates in a new greenhouse gas sub-balancing account. Estimated greenhouse gas revenues must be recorded and deferred in a new greenhouse gas Revenue Balancing Account. PG&E, SCE, SDG&E, PacifiCorp, and CalPeco must accurately disclose to customers shared by the utility and a Community Choice Aggregator or Energy Service Provider their respective deferred greenhouse gas costs in order to provide a direct comparison across rates.

5. All other elements of Marin Energy Authority's January 3, 2013 Petition for Modification of Decision 12-12-033 are denied.

6. Rulemaking 11-03-012 remains open.

This order is effective today.

Dated _____, at San Francisco, California.