Decision 09-10-021 October 15, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Expedited Application of Pacific Gas and Electric Company for Electric Bill Credits Under The Energy Resource Recovery Account (ERRA) Trigger Mechanism. (U39E)	Application 09-08-005 (Filed August 14, 2009)

DECISION GRANTING THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR ELECTRIC BILL CREDITS UNDER THE ERRA TRIGGER MECHANISM

Summary

This decision grants Pacific Gas and Electric Company's application to refund approximately $424.4 million to ratepayers as a result of an overcollection in its Energy Resource Recovery Account.

The Application

Pacific Gas and Electric Company (PG&E) requests approval of electric bill credits under the Energy Resource Recovery Account (ERRA) trigger mechanism. PG&E requests a Commission decision no later than October 15, 2009, approving PG&E's bill credit plan whereby PG&E will give bundled electric customers one-time bill credits in the November/December 2009 billing cycle based on the expected December 31, 2009 ERRA overcollection.

Under current forecasts PG&E's ERRA balance is on track to be overcollected by approximately $424.4 million as of December 31, 2009.[1] This amount would translate into an average bill credit of about $35 for PG&E's residential electric customers. PG&E's bill credit plan will put money back in the hands of PG&E's electric customers faster than the normal ERRA trigger process of amortization in rates would. In Decision (D.) 02-10-062 (pages 59-66), the Commission adopted an ERRA trigger mechanism which requires the utility to file an ERRA trigger application when the ERRA balance reaches or exceeds four percent of the prior year's recorded ERRA generation revenues and the utility forecasts the balance will reach five percent. PG&E's ERRA trigger amounts for 2009 are $209.0 million and $261.3 million, respectively, with an August 14, 2009 forecast of a year-end 2009 ERRA overcollection of $398.6 million. This forecast indicated PG&E would file an ERRA trigger application in October for a Commission decision in December, presumably with the ERRA overcollection amortized in rates over a period of three or more months beginning in January 2010. Instead of waiting until October to file an ERRA trigger application for amortization of the overcollection beginning in January,[2]

[1] PG&E's estimate when it filed this application was $398.6 million. PG&E's more current estimate as of September 16, 2009, was $424.4 million. As noted in PG&E's comments on the proposed decision, the actual aggregate bill credit may vary somewhat from this amount.

[2] Decision 02-12-074 states (at page 42), "[W]e authorize PG&E to file an expedited trigger application at any time that its forecasts indicate it will face an undercollection in excess of the 5% threshold. That is, we no longer require PG&E's ERRA undercollections to reach four percent before we will entertain a trigger application."

PG&E proposes to issue one-time bill credits in November and December.[3] If the aggregate amount of the bill credits equals the currently forecast year-end 2009 ERRA overcollection of $424.4 million, then PG&E's residential electric customers would receive an average bill credit of about $35.

The key provisions of PG&E's original bill credit plan filed with this application are:

1. If, after factoring in recorded data through September 2009 and other forecasted electric rate changes effective January 1, 2010, the estimated bundled system average electric rate increase on January 1, 2010 is three percent[4] or less (excluding the ERRA balance) *and* the forecasted ERRA overcollection is greater than $200 million (slightly less than the four percent ERRA trigger threshold), then PG&E will provide a one-time bill credit to customers in the amount of the forecasted ERRA overcollection.

2. If the estimated bundled system average electric rate increase on January 1, 2010 is greater than three percent (excluding the ERRA balance), PG&E will first use the forecasted ERRA overcollection to reduce the estimated rate increase to three percent. If, after the adjustment, the remaining forecasted ERRA overcollection is still greater than $200 million, PG&E will provide a one-time bill credit to customers in the amount of the remaining forecasted ERRA overcollection.

3. If, after the adjustment, the remaining forecasted ERRA overcollection is less than $200 million, PG&E will not proceed with the bill credit plan. Instead, PG&E may file a trigger application to amortize the ERRA overcollection over a period not

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[3] Note of this application was served on parties to the underlying proceeding which created the trigger requirements.

[4] As of June 30, 2009, a three percent increase in the estimated bundled system average rate is approximately $375 million.

less than 90 days. Otherwise, the end-of-year 2009 ERRA overcollection would be returned to customers through the Annual Electric True-Up process.[5]

PG&E requests a Commission decision no later than October 15, 2009, approving PG&E's bill credit plan so that PG&E is able to give bundled electric customers one-time bill credits in the November/December 2009 billing cycle based on the expected December 31, 2009 ERRA overcollection.

The Prehearing Conference (PHC)

At the PHC held on September 16, 2009, PG&E modified its bill credit plan by eliminating all conditions to its refund and proposed to issue a one-time bill credit to amortize the expected year-end ERRA overcollection of $424.4 million. The only remaining issue concerns the status of the eligible residential ratepayers; whether California Alternate Rates for Energy (CARE) and Tier 1 and Tier 2 ratepayers should participate in the refund because their rates have been frozen for many years.

PG&E's Response to the PHC

In response to the Presiding Administrative Law Judge's request at the PHC, PG&E, on September 21, 2009, filed a motion for leave to file a late-filed exhibit which sets forth a description of two methods for calculating bill credits (the Percent of Generation Revenue (PGR) method and the Generation Credit

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[5] On September 1, 2009, PG&E filed its Annual Electric True-Up (AET) for electric rates effective January 1, 2010. The AET provides the Commission with a preliminary estimate of electric rates on January 1, 2010, incorporating: (1) amounts previously authorized to be recovered in rates; (2) the forecast December 31, 2009, balances for amortization in 2010; and (3) electric rate changes being considered in a number of pending proceedings and advice letters. In December PG&E will file a supplemental AET advice letter reflecting more current information.

Rate (GCR) method) and a tier-by-tier comparison of anticipated average bill credits for PG&E's residential customers under the two methods.

PG&E expert witness' exhibit states that with respect to the residential class specifically, D.07-09-004 in Phase 2 of PG&E's General Rate Case determined that rates for PG&E customers taking service under CARE, as well as for non-CARE customers who consume primarily in usage Tiers 1 and 2, be insulated from both increases and decreases in the generation revenue requirement. Thus under the normal ERRA trigger mechanism, neither PG&E's residential CARE customers nor its non-CARE customers consuming in Tiers 1 and 2 would see a rate decrease resulting from PG&E's current ERRA overcollection (just as they would see no rate increase when the ERRA balancing account is undercollected and generation rates are increased).

This outcome is identical to the one approved for San Diego & Electric Company (SDG&E) in D.09-09-042, Application 09-08-002. For both utilities the effect of ERRA overcollection on residential tiered rates is the same; ratemaking methodologies (D.07-09-004 for PG&E and D.08-02-034 for SDG&E) preclude the rate reduction benefits from going to customers consuming in Tiers 1 and 2. Residential customers of either utility with usage in Tiers 1 and 2 would not benefit from an ERRA overcollection.

The exhibit describes two bill credit calculation methods:

1. The PGR Method

   A one-time bill credit will be issued to any current PG&E electric customer who contributed generation revenue (i.e., who paid generation rate components). Each customer would receive a bill credit equal to a constant percentage of the amount of generation revenue that the customer contributed. This bill credit calculation approach is the PGR method.

PG&E proposes that the overcollection be credited to customers proportionally to the amount of generation revenue that each customer contributed during the historical period (HP).[6] This would be accomplished by first calculating a single Bill Credit Percentage that would apply to every customer. Each individual customer's bill credit would be the product of this uniform Bill Credit Percentage and the customer-specific amount of generation revenue paid during the HP. A customer who, for whatever reason, paid more in generation revenue during the HP than another customer, would thus receive a larger bill credit.

In contrast to the results obtaining from the normal ERRA trigger mechanism, the PGR method would provide some benefits to residential customers taking service under CARE, as well as to residential customers taking service under non-CARE rates who consume primarily in Tiers 1 and 2.

2. The GCR Method

A second method for calculating the bill credits, as proposed by SDG&E in Application 09-08-002, would reflect how the normal ERRA trigger mechanism works for residential customers – by providing bill credits only to customers on non-tiered rates and to non-CARE customers on tiered rates with usage in Tiers 3 and higher. This bill credit calculation approach is the GCR method.

The GCR method would first allocate the total amount of the ERRA overcollection to the various customer classes using the Commission-approved commodity revenue allocation factors. For all classes other than residential, class-specific "credit rates" would be calculated by dividing the class 'allocated bill credit amount by the class' bundled sales during the HP. Each customer in the class would then receive a bill credit equal to

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[6] PG&E's proposed HP was the first eight months of 2009, from January 1, 2009 through August 31, 2009. D,09-09-042 in SDG&E's proceeding, Application 09-08-002, adopts a slightly longer, 12-month HP and we will do the same for PG&E using the 12-month period from September 1, 2008 through August 31, 2009.

> the class-specific credit rate multiplied by the customer's HP sales under bundled service.
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> For the residential sector, though, the GCR method is slightly different and distinguishes between customers on tiered and non-tiered rates. For customers on non-tiered rates, a credit rate is calculated in a similar fashion as described in the previous paragraph (i.e., by dividing the bill credit amount allocated to the residential class by their bundled class sales), and that credit rate is used to calculate bill credits for all such customers. For the customers on tiered rates, though, the credit rate is adjusted by dividing the residential class average credit rate by the percentage of sales in Tier 3 and higher. The effect of excluding the Tiers 1 and 2 sales is to increase the resulting credit rate for tiered customers. Each tiered customer's bill credit is then calculated by multiplying this credit rate by the customer's Tier 3 and higher usage during the HP. In this way, customers without usage in Tier 3 and higher during the HP would not see any bill credit with the GCR method. Similarly, customers with just small amounts of usage in Tier 3 and higher would see only small bill credits, while customers with large amount of usage in Tier 3 and higher would see large bill credits.

PG&E calculated bill credits under each of the two methodologies:

	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
PGR – CARE and non-CARE	$13.02	$17.65	$42.49	$96.44	$162.82
GCR – non-CARE	$0.00	$0.00	$66.10	$160.55	$259.08
GCR CARE	$0.00	$0.00	$0.00	$0.00	$0.00

According to PG&E, "each methodology has its merits and [] either would be acceptable and fair to customers." (PG&E Supplemental Testimony, p. 1.)

The Protests

In its protest the Division of Ratepayer Advocates (DRA) opposed PG&E's bill credit plan. To mitigate frequent fluctuating rate changes for PG&E

customers, DRA proposed that the entire overcollection be used to offset PG&E's 2010 ERRA revenue forecast and be incorporated into 2010 rates. However, should a one-time credit be approved, DRA supported the PGR method.

The Utility Reform Network (TURN) and California Farm Bureau Federation (CFBF) jointly protest PG&E's application. They urge the Commission to apply whatever amount of ERRA overcollection exists as of the end of 2009 as an offset to any non-ERRA revenue requirement increases that would otherwise be authorized for rate recovery in 2010. In this way the Commission could mitigate, and perhaps avoid altogether, any rate increase that would otherwise take effect on January 1, 2010. If the ERRA overcollection turns out to be an amount greater than necessary to avoid a rate increase, the remainder could be returned to customers as a one-time bill credit in early 2010. However, should a one-time credit be approved, TURN supports the PGR method.

Subsequently, DRA indicated its support for PG&E's PGR proposal to provide its ratepayers with a one-time refund of over-collected ERRA funds. DRA reviewed this application taking into account factors such as current economic conditions and the level and timing of rate stability. DRA asserts that the Commission has factored conditions other than rate design in some decisions regarding refund of ERRA surplus funds. The Commission considered economic conditions in its decision on the disposition of Southern California Edison (SCE) ERRA over-collections when it stated that: "Given the current economic conditions in the nation and in the State of California, it is clear that the benefits of this injection of funds [a one-month refund] into the Southern California economy today outweigh the minimal benefits of ensuring a more stable system average rate (SAR)."[7]

Given current economic conditions, DRA believes it is critical to strengthen the safety net for low income customers. It argues that economic conditions have continued to worsen since the last PG&E rate decision such that cost causation principles should be taken into account. DRA supports the PGR method proposed by PG&E to provide bill credits to all Tier 1 through Tier 5 customers. DRA does not consider this particular adjustment a breach of DRA's rate design policy, but rather, recognition of the current economic reality.

TURN also supports the PGR method of refunds. TURN argues that the PGR is the approach PG&E had originally proposed and would credit customers proportionally to the amount of generation revenue each customer contributed during 2009, the period when the overcollection accrued. As PG&E's testimony describes it, "the PGR method would provide some benefits to residential customers taking service under CARE, as well as to residential customers taking service under non-CARE rates who consume primarily in Tiers 1 and 2." On the other hand, the GCR method limits bill credits to those non-CARE residential customers whose tiered rates are in Tier 3 or higher, and so would exclude substantial numbers of residential customers from seeing any amount of bill credit from the ERRA overcollection.

TURN says the Commission should adopt the PGR method for allocating the residential share of the ERRA overcollection among PG&E customers. PG&E

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7 Opinion Approving Southern California Edison Company's 2008 Energy Resources Rocovery Account Forecast and Ordering Refund of Overcollection of Ratepayer Funds, D.08-03-019, pg. 8 in A.07-08-004.

selected the one-time bill credit approach in part to provide "immediate economic relief to customers." (PG&E Application Testimony, p. 2-2.) TURN submits that in the current economic conditions, all PG&E residential customers would welcome such relief, including CARE customers and non-CARE customers whose consumptions levels permit them to stay within Tier 2 levels. Under the GCR method, those customers would not share in the one-time bill credit at all.

TURN admits that had the ERRA overcollection trigger worked in its normal fashion and current ratemaking practices remain in place for 2010, PG&E's CARE and non-CARE Tier 1 and Tier 2 residential customers may not have directly benefited from the refund of the overcollection.[8] And, it is clear that the Commission has the authority to provide for a one-time credit rather than fold the 2009 overcollection into 2010 authorized revenue requirements to be amortized in rates throughout the next calendar year; we certainly have the authority to select the PGR method rather than the GCR approach.

Discussion

In our recent SDG&E ERRA decision (D.09-09-042) we approved a $124 million ERRA overcollection one-time refund which excluded residential customers taking service through CARE rates and Tier 1 and Tier 2 rates. We said, "SDG&E has proposed a credit methodology that is consistent with the law and the manner in which residential electric rates are currently structured, as

[8] If the overcollection was folded into the other rate changes expected to go into effect on January 1, 2010, and AB 1X rate protections remain unchanged, the benefits would flow only to non-CARE residential customers whose consumption falls within Tiers 3, 4, or 5.

mandated by AB 1X. To use an alternate method would require giving the refund not only to those who paid higher than actual costs and thus contributed to the overcollection, but also to those who did not pay higher than actual costs and thus did not contribute to the overcollection." (D.09-09-042 at p. 6.)

PG&E's GCR method of refunding its overcollection is similar to the one approved in D.09-09-042. PG&E's CARE and Tier 1 and Tier 2 ratepayers did not pay the higher than actual costs, so should not receive a portion of the refund that is due those who did pay the higher costs. Further, had there been an undercollection the CARE and Tier 1 and Tier 2 customers would not have been assessed a portion of the shortfall.

For the reasons stated above, we approve PG&E's GCR bill credit plan whereby PG&E will give bundled electric customers one-time bill credits in the November/December 2009 billing cycle based on the expected December 31, 2009 ERRA overcollection. PG&E shall file an advice letter on October 30, 2009, to show the final aggregate amount of the bill credits. The bill credits then will appear on customers' energy statements in the November/December billing cycle.

Reduction of Comment Period

We reduce the 30-day public comment period because the need for a prompt refund of overcollections clearly outweighs the need for a full comment period on this brief decision. (See Rule 14.6(c)(9).) PG&E filed comments to the proposed decision on Friday, October 9, 2009. Reply comments were not allowed. PG&E's comments recommended some clarifications to the order which have been adopted.

Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Robert A. Barnett is the assigned ALJ in this proceeding.

Findings of Fact

1. Under current forecasts PG&E's ERRA balance is on track to be overcollected by approximately $424.4 million as of December 31, 2009. This amount would translate into an average bill credit of about $35 for PG&E's residential electric customers.

2. PG&E's GCR bill credit plan will put money back in the hands of PG&E's electric customers faster than the normal ERRA trigger process would.

Conclusions of Law

1. The use of the Generation Credit Rate (GCR) method of calculating the refunds ensures that those who contributed to the overcollection receive the benefits.

2. Under the Percent of Generation Rate method, customers who did not contribute to the overcollection would nevertheless receive a refund.

3. PG&E's GCR bill credit plan whereby PG&E will give bundled electric customers one-time bill credits in the November/December 2009 billing cycle based on the expected December 31, 2009 ERRA overcollection should be approved.

4. Consistent with what we adopted in a recent similar proceeding for SDG&E it is reasonable to utilize a 12-month historic period.

5. PG&E should file an advice letter on October 30, 2009, to show the final aggregate amount of the bill credits. The credits then shall appear on customers' energy statements in the November/December billing cycle.

6. To expedite the refund, the 30-day public comment period should be reduced as set forth in the decision.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company shall file a Tier 1 advice letter on October 30, 2009, to show the final aggregate amount of bill credits, based on recorded data and its most recent estimate of the the end-of-year Energy Resource Recovery Account overcollection.
2. Pacific Gas and Electric Company shall return the estimated end-of year Energy Resource Recovery Account overcollection as a one-time bill credit to be effective on customer's energy statements in the November/December billing cycle in accordance with its Generation Credit Rate method, using an historical period of 12 months, September 1, 2008 through August 31, 2009.
3. The 30-day public comment period is reduced as set forth in the decision.
4. Application 09-08-005 is closed.

This order is effective today.

Dated October 15, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners