



FILED

08-25-08

04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company for Adoption of its 2009 Energy
Resource Recovery Account (ERRA) Forecast
Revenue Requirement and for Approval of its
2009 Ongoing Competition Transition Charge
(CTC) Revenue Requirement and Rates

Application 08-06-011

(U 39 E)

**OPENING BRIEF OF
PACIFIC GAS AND ELECTRIC COMPANY**

ANDREW L. NIVEN

ANN H. KIM

Pacific Gas and Electric Company

P.O. Box 7442

San Francisco, CA 94120

Telephone: (415) 973-7467

Facsimile: (415) 973-0516

E-mail: AHK4@pge.com

Attorneys for

PACIFIC GAS AND ELECTRIC COMPANY

August 25, 2008

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	PROCEDURAL BACKGROUND.....	1
III.	LEGAL ARGUMENTS.....	2
	A. Ending the Ongoing CTC	3
	B. Forecasting Municipal Departing Load	3
	1. Districts’ argument.....	3
	2. CMUA’s argument.....	4
	C. FF&U Billing Treatment.....	5
	D. Ongoing CTC Applicability to New MDL	5
	E. Customer Notice of 2009 Ongoing CTC	5
IV.	CUSTOMER IMPACT ISSUES	6
V.	CONCLUSION.....	7

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Adoption of its 2009 Energy Resource Recovery Account (ERRA) Forecast Revenue Requirement and for Approval of its 2009 Ongoing Competition Transition Charge (CTC) Revenue Requirement and Rates

Application 08-06-011

(U 39 E)

**OPENING BRIEF OF
PACIFIC GAS AND ELECTRIC COMPANY**

I. INTRODUCTION

Pursuant to the Assigned Commissioner's Scoping Memo and Ruling issued on August 12, 2008, Pacific Gas and Electric Company submits this opening brief on the issues raised by the parties to this proceeding: The Utility Reform Network (TURN), Merced Irrigation District and Modesto Irrigation District (together, the Districts), and California Municipal Utilities Association (CMUA). Consistent with the Scoping Memo and Ruling, this brief follows the common outline jointly developed by the parties.

II. PROCEDURAL BACKGROUND

Public Utilities Code Section 454.5(d)(3) requires the Commission to:

Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan.

In Decision 02-10-062, as modified by subsequent decisions, the Commission implemented this provision by ordering PG&E and the state's other investor-owned utilities to establish procurement-related balancing accounts, to be referred to as the Energy Resource

Recovery Account. (See D.02-10-062, pp. 59-64.) The Commission also established the regulatory framework for the utilities' annual ERRA forecast filings and expedited "trigger" applications.

On June 10, 2008, PG&E filed its application in this proceeding.¹ In its application, PG&E requests approval of a 2009 ERRA forecast revenue requirement of \$4,785 million and ongoing Competition Transition Charge forecast revenue requirement of \$139 million.² PG&E proposes to use the revenue allocation and rate design methodologies adopted in PG&E's 2007 General Rate Case Phase 2 (D.07-09-044) and 2008 ERRA Forecast (D.08-02-018). PG&E anticipates that the rates resulting from this 2009 ERRA forecast application will be consolidated with other electric rate changes to take effect on January 1, 2009, through the Annual Electric True-Up process.

On July 14, the Districts and CMUA protested PG&E's application, and TURN filed a response. PG&E filed a reply on July 24. A prehearing conference was held before ALJ Jeffrey O'Donnell on August 4, and the parties agreed that hearings are not necessary and that the matter could be resolved upon the submission of briefs. The parties' agreement was reflected in the Assigned Commissioner's Scoping Memo and Ruling issued August 12.

III. LEGAL ARGUMENTS

The Districts and CMUA do not take issue with PG&E's ERRA forecast revenue requirement, but instead focus solely on PG&E's ongoing CTC revenue requirement and rates related to municipal departing load (MDL). As discussed in PG&E's reply to their protests and as reiterated below, these issues have already been resolved by the Commission in prior decisions, and neither the Districts nor CMUA have provided any new law or facts to warrant reversing this precedent. The Commission should therefore reject the Districts' and CMUA's efforts to revisit and relitigate its prior decisions.

¹ On May 29, the Commission's Executive Director granted PG&E's request for an extension of time to file its ERRA forecast application on June 10 rather than June 1.

² See PG&E Testimony, Table 6-5.

A. Ending the Ongoing CTC

The Districts argue that the “Commission should put an end to ongoing CTC, as intended by AB 1890.” (Districts Protest, p. 3.) The Districts have made this same argument in PG&E’s previous ERRA forecast cases, and the Commission has consistently rejected it. *See, e.g.*, D.05-01-031, D.05-02-040, D.05-10-046, D.05-10-47, D.05-12-045, D.06-04-041. The Districts have twice appealed to the courts to review the Commission’s decisions approving PG&E’s method of calculating the ongoing CTC, and both appeals were summarily denied. *See Merced and Modesto Irrigation Districts v. CPUC*, Case Nos. F049265 and F050380 (writs denied 7/26/07).

The Districts most recently re-raised this same argument in PG&E’s 2008 ERRA forecast case (A.07-06-006), where it was once again rejected by the Commission:

In D.05-12-045 and D.06-07-030, the method of calculating ongoing CTC were addressed and the Districts corresponding applications for rehearing and petitions for writ of review were unsuccessful; therefore, this should not be addressed again.

(D.08-02-018, Conclusion of Law 4.) Accordingly, PG&E urges the Commission to rule that the Districts’ argument about ending the ongoing CTC is outside the scope of this ERRA proceeding, or alternatively, to reject the Districts’ arguments as inconsistent with the law and established precedent.

B. Forecasting Municipal Departing Load

1. Districts’ argument

The Districts argue that “PG&E should be required to develop reasonable forecasts of MDL,” and that the Commission “should stop allowing PG&E to rely on fuzzy regression models to estimate MDL...” (Districts Protest, p. 6.) As described in PG&E’s testimony, PG&E uses “econometric models that project sales for 2009” based on “individual regression equations developed for each major customer class...estimated from PG&E’s recorded sales data.”³ PG&E then adjusts its regression forecast “to incorporate the latest goals of the

³ PG&E Testimony, p. 2-2.

state's Energy Action Plan (EAP) with respect to distributed generation and conservation," as well as "the effects of conservation and energy efficiency."⁴ To develop a forecast of procurement need, PG&E then removes sales attributable to direct access customers.⁵ Thus, contrary to the Districts' suggestion, PG&E's rigorous and reasonable forecasting methods are a far cry from fuzzy.

In addition, implicit in the Districts' argument is the acknowledgment that PG&E has used the same forecasting methods in its previous ERRA proceedings, and the Commission has consistently approved PG&E's forecasts. In PG&E's 2008 ERRA forecast case (A.07-06-006), the Commission explicitly held: "PG&E's 2008 sales forecast, including the detailed departing load sales forecasts, is reasonable and should be adopted." (D.08-02-018, Conclusion of Law 2, emphasis added.) Once again, the Districts have provided no reason for the Commission to depart from established precedent on this issue.

2. CMUA's argument

Similar to the Districts, CMUA "objects to PG&E's failure to include in the ERRA Application a specific forecast of the amount of municipal departing load that PG&E expects to occur in 2009." (CMUA Protest, p. 3.) As described above, for purposes of forecasting PG&E's sales and load, PG&E uses "econometric models that project sales for 2009," and then makes "adjustments...designed to incorporate the latest goals of the state's Energy Action Plan..."⁶ Consistent with PG&E's past ERRA cases, these sales and load forecasts do not assume any additional MDL in 2009. And as noted above, the Commission has consistently approved PG&E's forecasting methodology. CMUA has provided no reason for the Commission to do otherwise in this case.

⁴ *Id.*, pp. 2-4 to 2-5.

⁵ *Id.*, pp. 2-5 to 2-6.

⁶ *Id.*, pp. 2-2 and 2-4.

C. FF&U Billing Treatment

The Districts acknowledge that, in PG&E’s 2008 ERRA forecast proceeding, the Commission held MDL customers responsible for franchise fees and uncollectibles (FF&U). (Districts Protest, pp. 6-7; *see also* D.08-02-018, Conclusions of Law 7 and 8.) The Districts recommend, however, that “the Commission should require that PG&E remove FF&U as a component of Ongoing CTC and state it as a separate revenue requirement and rate, and ultimately as a separate line item on MDL customers’ bills.” (Districts Protest, p. 7.)

Nothing in D.08-02-018 or any other decision requires PG&E to parse the elements of MDL customers’ bills in this way. Such a requirement would increase the complexity and cost of billing, could increase confusion among MDL customers, and would serve no beneficial purpose. Therefore, the Commission should reject the Districts’ recommendation as contrary to the public interest.

D. Ongoing CTC Applicability to New MDL

In PG&E’s 2008 ERRA forecast proceeding, the Commission recognized the disagreement between the Districts’ and PG&E’s interpretation of Public Utilities Code Section 369, which provides an exemption from ongoing CTC for customers of so-called “standalone” utilities, and reserved the parties’ right to raise the dispute with the Commission in a future proceeding. *See* D.08-02-018, p. 6.

In their protest, the Districts merely “reserve the right to file a formal pleading with the Commission to resolve any section 369 interpretation dispute arising out of PG&E’s New MDL bills, as contemplated in D.08-02-018.” (Districts Protest, p. 8.) PG&E does not object to the Districts’ reservation of rights. Therefore, there is no issue for the Commission to resolve at this time.

E. Customer Notice of 2009 Ongoing CTC

Finally, the Districts argue that the “Commission should require PG&E to provide lawful notice of the 2009 ongoing CTC rate to individual affected customers.” (Districts Protest, p. 8.) In PG&E’s 2008 ERRA forecast case, the Districts raised this same argument,

to which the Commission ruled: “No additional notice of this proceeding beyond that already provided is necessary.” (D.08-02-018, Conclusion of Law 9.) Because PG&E has provided the same level of notice to customers for this proceeding as it did for last year’s proceeding, the Commission should reject the Districts’ re-argument on this issue.

IV. CUSTOMER IMPACT ISSUES

TURN does not object to any aspect of PG&E’s application. TURN urges the Commission, however, to “recognize the urgent need to assist PG&E’s customers prepare for substantial utility bill increases this winter” and to “adopt measures...to help prepare PG&E’s customers.” (TURN Response, pp. 2, 7.)

PG&E shares TURN’s concerns about the impact of high winter bills on PG&E’s customers. PG&E has been in close communication with TURN about these concerns and has agreed to provide both TURN and the Energy Division with monthly arrearage and disconnection reports. In addition, PG&E has scheduled a meeting with TURN in early September to review and discuss PG&E’s planned customer programs for dealing with high winter bills.

While PG&E appreciates TURN’s suggestions and ongoing dialogue for assisting customers with high winter bills, PG&E disagrees that this proceeding is the appropriate forum to resolve such customer issues. Consistent with Public Utilities Code Section 454.5(d)(3) and Decision 02-10-062, this proceeding should be focused on “ensur[ing] timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan.” As ALJ O’Donnell noted at the prehearing conference, TURN’s customer issues are “much broader.”⁷ PG&E therefore requests that the Commission rule that such customer issues are outside the scope of this ERRA proceeding.

⁷ PHC Transcript, p. 5.

V. CONCLUSION

WHEREFORE, for the above-referenced reasons, PG&E requests that the Commission:

1. reject the arguments raised by the Districts and CMUA;
2. rule that the customer issues raised by TURN are outside the scope of this proceeding;
3. adopt PG&E's 2009 electric procurement cost forecast of \$4,926 million, including the ERRRA forecast of \$4,785 million and ongoing CTC forecast of \$139 million;
4. approve PG&E's rate proposals associated with its proposed 2009 ERRRA and ongoing CTC forecast revenue requirements to become effective on or after January 1, 2009; and
5. grant such additional relief as the Commission may deem proper.

Respectfully Submitted,

ANDREW L. NIVEN
ANN H. KIM

By: _____ /s/
ANN H. KIM

Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, CA 94120
Telephone: (415) 973-7467
Facsimile: (415) 973-0516
E-mail: ahk4@pge.com

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: August 25, 2008

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, Post Office Box 7442, San Francisco, CA 94120.

On the 25th day of August, 2008, I served a true copy of:

OPENING BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY

- [XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for **A.08-06-011**.
- [XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for **A.08-06-011**.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 25th day of August, 2008, at San Francisco, California.

/s/

RENE THOMAS

**THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
EMAIL SERVICE LIST**

Downloaded August 25, 2008; Last updated on August 11, 2008

Commissioner Assigned: Michael R. Peevey on June 13, 2008

ALJ Assigned: Jeffrey P. O'Donnell on June 13, 2008

CPUC DOCKET NO. A0806011

Application of Pacific Gas and Electric Company for
Adoption of its 2009 Energy Resource Recovery
Account (ERRA) Forecast Revenue Requirement and
for Approval of its 2009 Ongoing Competition
Transition Charge (CTC) Revenue Requirement and
Rates

Application 08-06-011

(U 39 E)

AHK4@pge.com;atowbridge@daycartermurphy.com;blaising@braunlegal.com;brbc@pge.com;c
em@newsdata.com;crcq@pge.com;hayley@turn.org;jpo@cpuc.ca.gov;lawcpuccases@pge.com;
lms@cpuc.ca.gov;mmg@cpuc.ca.gov;mrw@mrwassoc.com;sha@cpuc.ca.gov;srovetti@sflower.
org;tburke@sflower.org;thunckler@daycartermurphy.com;

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Downloaded August 25, 2008; Last updated on August 11, 2008

Commissioner Assigned: Michael R. Peevey on June 13, 2008

ALJ Assigned: Jeffrey P. O'Donnell on June 13, 2008

CPUC DOCKET NO. A0806011 CPUC REV 08-11-08

Total number of addressees: 16

CALIFORNIA ENERGY MARKETS

425 DIVISADERO ST. STE 303
SAN FRANCISCO CA 94117
Email: cem@newsdata.com
Status: INFORMATION

SCOTT BLAISING ATTORNEY BRAUN BLAISING MCLAUGHLIN P.C.

915 L ST, STE. 1270
SACRAMENTO CA 95814
FOR: California Municipal Utilities Association
Email: blaising@braunlegal.com
Status: PARTY

THERESA BURKE REGULATORY AFFAIRS ANALYST SAN FRANCISCO PUC

1155 MARKET ST, 4TH FLR
SAN FRANCISCO CA 94103
Email: tburke@sflower.org
Status: INFORMATION

Maryam Ghadessi CALIF PUBLIC UTILITIES COMMISSION ENERGY DIVISION

505 VAN NESS AVE AREA 4-A
SAN FRANCISCO CA 94102-3214
Email: mmg@cpuc.ca.gov
Status: STATE-SERVICE

TRACY K. HUNCKLER ATTORNEY DAY CARTER AND MURPHY LLP

3620 AMERICAN RIVER DRIVE, STE 205
SACRAMENTO CA 95864
Email: thunckler@daycartermurphy.com
Status: INFORMATION

Jeffrey P. O'Donnell CALIF PUBLIC UTILITIES COMMISSION

DIVISION OF ADMINISTRATIVE LAW JUDGES
505 VAN NESS AVE RM 5111
SAN FRANCISCO CA 94102-3214
Email: jpo@cpuc.ca.gov
Status: STATE-SERVICE

SANDRA ROVETTI REGULATORY AFFAIRS MANAGER SAN FRANCISCO PUC

1155 MARKET ST, 4TH FLR
SAN FRANCISCO CA 94103
Email: srovetti@sflower.org
Status: INFORMATION

MRW & ASSOCIATES, INC.

1814 FRANKLIN ST, STE 720
OAKLAND CA 94612
Email: mrw@mrwassoc.com
Status: INFORMATION

BIANCA BOWMAN CASE COORDINATOR PACIFIC GAS AND ELECTRIC COMPANY

77 BEALE ST, MAIL CODE B9A
SAN FRANCISCO CA 94105
Email: brbc@pge.com
Status: INFORMATION

CHAD CURRAN PACIFIC GAS & ELECTRIC COMPANY

77 BEALE ST, MAIL CODE B9A
SAN FRANCISCO CA 94105
Email: crcq@pge.com
Status: INFORMATION

HAYLEY GOODSON ATTORNEY THE UTILITY REFORM NETWORK

711 VAN NESS AVE, STE 350
SAN FRANCISCO CA 94102
FOR: The Utility Reform Network
Email: hayley@turn.org
Status: PARTY

ANN H. KIM LAW DEPARTMENT PACIFIC GAS AND ELECTRIC CO.

PO BOX 7442 (B30A) 77 BEALE ST
SAN FRANCISCO CA 94105
FOR: Pacific Gas and Electric Company
Email: AHK4@pge.com
Status: PARTY

FILE ROOM PACIFIC GAS AND ELECTRIC COMPANY

LAW DEPARTMENT FILE ROOM
PO BOX 7442
SAN FRANCISCO CA 94120-7442
Email: lawcpucases@pge.com
Status: INFORMATION

Lisa-Marie Salvacion CALIF PUBLIC UTILITIES COMMISSION

LEGAL DIVISION
505 VAN NESS AVE RM 4107
SAN FRANCISCO CA 94102-3214
FOR: DRA
Email: lms@cpuc.ca.gov
Status: STATE-SERVICE

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Downloaded August 25, 2008; Last updated on August 11, 2008

Commissioner Assigned: Michael R. Peevey on June 13, 2008

ALJ Assigned: Jeffrey P. O'Donnell on June 13, 2008

CPUC DOCKET NO. A0806011 CPUC REV 08-11-08

Total number of addressees: 16

Mitchell Shapson

CALIF PUBLIC UTILITIES COMMISSION

LEGAL DIVISION

505 VAN NESS AVE RM 4107

SAN FRANCISCO CA 94102-3214

FOR: DRA

Email: sha@cpuc.ca.gov

Status: PARTY

ANN L. TROWBRIDGE ATTORNEY

DAY CARTER & MURPHY LLP

3620 AMERICAN RIVER DRIVE, STE 205

SACRAMENTO CA 95864

FOR: MERCED IRRIGATION DISTRICT/MODESTO
IRRIGATION DISTRICT

Email: atrowbridge@daycartermurphy.com

Status: PARTY