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

Application of Pacific Gas and Electric Company for Approval of its 2009 Rate Design Window Proposals for Dynamic Pricing and Recovery of Incremental Expenditures Required for Implementation.	Application No. 09-02-022 (Filed February 27, 2009)

OPENING COMMENTS OF THE ENERGY PRODUCERS AND USERS COALITION SUPPORTING THE PROPOSED DECISION ON PACIFIC GAS & ELECTRIC COMPANY'S 2009 RATE DESIGN WINDOW

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January 4, 2010

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The Energy Producers and Users Coalition (EPUC)[1] submits these opening comments on the Proposed Decision (PD) pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure. The Commission should adopt the PD on Peak Day Pricing (PDP) rates for Pacific Gas & Electric Company (PG&E) with a minor clarification of large power rate design: PG&E's proposed exemption for backup and maintenance standby customers should be explicitly approved.

I. INTRODUCTION

The PD appropriately sets default PDP rates for PG&E's large power customers with the following characteristics:

- A PDP energy adder of not more than $1.20/kWh and associated demand charge credits as proposed by PG&E;

[1] EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP America Inc. (including Atlantic Richfield Company), Chevron U.S.A. Inc., Shell Oil Products US, Exxon Mobil Corporation, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

- A rate design of twelve events, with a minimum floor of nine and maximum ceiling of fifteen events;
- Retention of the ability of all customers to opt-out to existing time-variant pricing; and
- Allocation of the associated revenue over and under collections on a class-specific basis, as opposed to participant-only basis.

These large power rate design characteristics and the PD's general treatment of default large power PDP rates are supported in the record and agreed upon by most parties. The PD's general approval of PG&E's proposal for large power PDP rates, however, would benefit from one minor clarification. PG&E's proposed exemption from default PDP rates for backup and maintenance standby customers should be explicitly approved by the Commission's final decision.

The PD also orders PG&E to file a 2012 Rate Design Window (RDW) application for PDP evaluation purposes. A 2012 RDW would give parties the opportunity to assess customer responses and re-evaluate the PDP rates. The Commission should adopt the PD with this order.

Lastly, the PD approves PG&E's cost allocation and recovery proposal for 2008-2010 PDP implementation costs, and rejects DRA's alternate proposals, including a new public purpose program charge component. As explained in the PD and supported by PG&E, EPUC, and the California Large Energy Consumers Association (CLECA), PG&E's PDP implementation costs are primarily customer-related. Their allocation and recovery should align with PG&E's other customer-related costs which are allocated with distribution allocation factors and recovered in distribution rates. The PD should be adopted.

II. THE COMMISSION SHOULD ADOPT THE PD

The PD, noting the lack of opposition to PG&E's revised PDP rate proposals, concludes that PG&E's PDP rates "*are reasonable and are adopted.*"[2] The PD thus reflects consensus on how to bound revenue instability inherent to PDP rates: use of a lower PDP adder of $1.20/kWh for large power customers and limit the number of events to be called to at least nine and at most fifteen. Further, the PD agrees with most parties that reconciliation of any over or under collections associated with the rate design should occur on a class-specific basis. The PD recognizes the potential for unintended consequences from a participant-only reconciliation.[3] As noted in the PD, the revenue instability caused by the PDP rate is limited by the set range of events (minimum of 9 and maximum of 15), and the lower PDP adder should mitigate instability and reduce the potential revenue mismatches.[4] This should serve to moderate the inequity of allocating under-collections to non-participants.

Critically, the PD also ensures that large power customers defaulted to PDP retain the ability to opt out to existing time variant pricing. "*The imposition of PDP is significant and there is no good reason to require customers to remain on PDP for a full year because they either failed to make a decision or made the wrong decision.*" [5] These features of the PD comport with the record. EPUC

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[2] PD, at 12.

[3] PD, at 20 ("*with respect to excluding non-participants from the allocation, we recognize there are potential gaming problems*"); *see also* Ex. 702 (EPUC/Ross Reply Testimony), at 5-12.

[4] PD, at 12-21.

[5] PD, at 148.

supports these findings and urges the Commission to adopt the PD and its general approval of PG&E's large power TOU and PDP rate proposals.

A. The PD's Large Power Rate Design Discussion Should Clarify That Backup and Maintenance Standby Customers Are Exempt from Default PDP Rates

The PD's general approval implicitly includes PG&E's proposed exemption from the default large power PDP rates for backup and maintenance standby customers.[6] As PG&E explained, default PDP rates should not apply to back-up or maintenance standby power customers; "*it is unlikely the [standby] customer would be utilizing standby power during a PDP event, much less be able to reduce its PG&E-supplied power in response to such an event.*"[7] EPUC provided record support for this exemption and no party opposed it. The PD should be clarified to explicitly adopt the uncontested exemption from default PDP rates for back-up and maintenance standby customers. Insertion of the following sentence on page 12 at the end of section 5.2 "*TOU Rates*" and before section 5.3 *"Number of PDP Events*" would clarify this point.

> *The likelihood that back-up or maintenance standby customers would be utilizing standby power during a PDP event is slim, and these customers are unlikely to be able to reduce their PG&E-supplied power in response to such an event. As proposed by PG&E, back-up and maintenance standby customers are therefore exempt from the default PDP rates.*

The Commission's final decision should include this clarification that PG&E's proposed exemption for backup and maintenance standby customers is adopted.

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6 PD, at 12 ("*no party opposes PG&E's TOU rate proposals in this case … the TOU rates for PDP, as now proposed by PG&E, are reasonable and are adopted*").

7 Ex. 2 (PG&E/Wong Direct Testimony) at Ch. 2, 2-4; *see also* Ex. 701 (EPUC/Ross Direct Testimony) at 4.

B. The PD's 2012 RDW Requirement Provides a Necessary Opportunity to Re-Evaluate and Assess Default PDP Rates

The PD directs PG&E to submit a 2012 RDW to evaluate customer responses to PDP in 2010 and 2011 and potentially revise the PDP rates to reflect updated utility marginal costs from PG&E's 2012 General Rate Case. [8] The Commission ordered implementation of default large power rates based on the assumption that such rates would lead to reduced on-peak generation procurement costs.[9] EPUC recommended that parties be able to assess, based on credible data, whether PDP actually results in lower rates for participants pursuant to cost-effective reductions in PG&E's generation procurement costs. [10] The 2012 RDW would provide an opportunity to examine whether or not measurable, cost-effective reductions in generation procurement costs flow back through to these customers through rates. The PD's proposed 2012 RDW requirement should be adopted.

C. The PD's Approval of PG&E's Cost Allocation and Recovery Proposal and Rejection of DRA Proposals Is Sound and Should Be Adopted

The PD adopts PG&E's proposal for allocation and recovery of PDP implementation costs in 2010. PG&E's proposal was supported by EPUC and

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8 PD, at 172.

9 D.08-07-045, at 2; see also, *Id.* at 95, Conclusion of Law 31 ("*If customers on a particular rate schedule reduce their usage in a manner that reduces a utility's costs then the customers on that rate should see a commensurate reduction in their bills*.").

10 *See* EPUC Opening Brief, at 6-7; *see also, e.g.,* Ex. 201 (CLECA/Barkovich Direct Testimony), at 20 ("*While we cannot know at this point what contribution such response will make to lowering generation costs, clearly the class should get the benefit of its share of the reduction in costs.*").

CLECA.[11] PG&E's proposal is based on the functional nature of the costs, which are primarily information technology (IT) and customer service costs. [12] As PG&E explains, these customer-related costs are associated with the distribution function and should be allocated using distribution allocation factors and recovered in distribution rates. [13] Like EPUC and CLECA, the PD agrees with PG&E. "*The costs themselves … are, by their nature, distribution and not generation costs. Such costs are normally allocated based on distribution-level EPMC."* [14]

In adopting PG&E's proposal, the PD rejects the DRA proposal to divide PDP implementation costs among customer classes using an unspecified generation allocator and recover them with a new "grid charge". DRA's eleventh-hour proposal for an unspecified generation-based allocation fails to recognize the nature of the specific costs for allocation purposes. Moreover, DRA's suggestion for institution of a new public purpose program charge for recovery of PDP implementation costs[15] is controversial. The PD appropriately agrees with PG&E's proposal for the 2008-2010 implementation costs and rejects DRA's

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11 The PD only discusses the positions of PG&E, DRA, DACC, CLECA and TURN. PD at 128-132. It should be noted that EPUC addressed this issue in briefing as well.

12 PG&E Opening Brief, at 118 (the PDP implementation costs are associated with its "*billing system used to serve all customers*" and "*service for customers in general.*").

13 PG&E Opening Brief, at 119 (citing Ex. 7 (PG&E/Pease Rebuttal Testimony) Ch. 11, 11-6); *see also* 3 Tr. 351-352 (CLECA/Barkovich) (*those costs are normally considered to be customer-related costs and lumped in with distribution costs for the purposes of cost allocation. That is a functional approach to those costs.*) Sept.2, 2009.

14 PD, at 133.

15 DRA Opening Brief, at 13 (DRA's new "*Purpose Program component"* would be "*allocated to all grid users by equal percent of revenue*.").

proposals. The PD's approval of PG&E's proposal aligns the allocation and recovery of the PDP implementation costs with the functional nature of the costs, and it should be adopted.

III. CONCLUSION

For all of the foregoing reasons, the PD should be adopted with the clarification requested above.

Respectfully submitted,

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January 4, 2010

CERTIFICATE OF SERVICE

I, Karen Terranova hereby certify that I have on this date caused the attached **Opening Comments of the Energy Producers and Users Coalition Supporting the Proposed Decision** in A.09-02-022 to be served to all known parties by either United States mail or electronic mail, to each party named in the official attached service list obtained from the Commission's website, attached hereto, and pursuant to the Commission's Rules of Practice and Procedure.

Dated January 4, 2010, at San Francisco, California.

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