



FILED

05-24-10
04:59 PM

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

Application of Pacific Gas and Electric Company To Revise Its Electric Marginal Costs, Revenue Allocation, and Rate Design.

Application 06-03-005
(Filed March 2, 2006, Petition for Modification filed December 17, 2009)

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO
ON THE PROPOSED DECISION OF ALJ FUKUTOME**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the City and County of San Francisco ("CCSF") submits these comments on the Proposed Decision of Administrative Law Judge Fukutome ("PD") regarding the Petition for Modification of Decision (D.) 07-09-004 ("Petition") filed by Pacific Gas and Electric Company ("PG&E"), the CPUC's Division of Ratepayer Advocates ("DRA"), The Utility Reform Network ("TURN"), and the Western Manufactured Housing Communities.

I. THE RECORD DOES NOT PRESENT ANY COMPELLING JUSTIFICATION FOR SHIFTING THE CONSERVATION INCENTIVE AWAY FROM GENERATION RATES

The PD proposes to adopt a settlement that would remove the conservation incentives that are currently built into five tiers of generation rates and move those incentives into a new rate element called the Conservation Incentive Adjustment ("CIA"). The goal of this exercise is to "flatten" generation rates. In effect, five tiers of generation rates would be collapsed into one.

The Petition asserts that the proposed change would level the playing field between PG&E, on the one hand, and CCAs and Energy Service Providers (ESPs) on the other hand, by removing "artificial" price differentials between higher and lower use customers and by establishing cost-based generation rates. (PD, p. 4). However, the Petition and the PD point to no evidence in the record showing that the resulting flattened generation rates would accurately reflect the cost of service or even that such rates would be more cost-based than tiered rates. A cost of service study, for example,

may show that, on average, higher usage customers cause more per-unit generation costs to be incurred than do lower usage customers. Moreover, to a significant extent, incorporating a conservation incentive in the rate structure is not a cost-based exercise, but rather a means to achieve important policy goals. In this respect, the proposed shift of conservation incentives to the CIA is no more or less cost-based than the current rate design.

Moreover, the Petition appears to assume that CCAs will find it advantageous to employ a flat, untiered rate structure. However, the Petition cites no evidence in support of this assumption. In fact, CCAs are likely to desire to promote energy conservation through their rates by using a similarly tiered rate structure. In addition, as discussed in more detail below, CCAs have a strong incentive to mirror PG&E's rate structure in order to facilitate price comparisons and transparency between their rates and PG&E's rates. Contrary to the assumption of the Petition, the one CCA that has begun serving customers, the Marin Energy Authority ("MEA") uses the same tiered rate structure as PG&E for the default service it offers.¹

II. THE PETITION'S EFFECT WILL BE TO REDUCE GENERATION RATES IN THE LOCALITIES WHERE PG&E FACES COMPETITION FROM CCAs

PG&E's apparent motivation for seeking the proposed rate changes is to make it more difficult for CCAs to compete against PG&E. CCSF estimates that total generation revenues from San Francisco residential customers under the proposed rates will decline by approximately 7 percent – effectively, a 7 percent decrease in San Francisco generation rates.² CCSF understands that total generation revenues in Marin County would also decline.³ Unfortunately, these lower generation rates will not benefit customers at all; by virtue of the CIA, PG&E will make up for these rate decreases with a dollar-for-dollar increase in other rates. Reducing rates for competitive services and increasing them for monopoly services is the classic monopoly strategy for fending off competition. It should

¹ See the rates for MEA's "Light-Green" service at <http://marincleanenergy.info/PDF/Rates.pdf>

² Although total generation revenues would increase for Tier 1 and Tier 2 usage, those increases are more than offset by the decreases in revenues under Tiers 3, 4 and 5.

³ CCSF believes that the non-PG&E signatories to the Petition were unaware of the fact that their proposal would reduce generation rates in San Francisco and Marin County.

come as no surprise that PG&E became interested in making these rate changes as Marin County and San Francisco were getting close to launching their CCA programs.

III. SCATTERSHOT CHANGES TO PG&E'S GENERATION RATES ARE CONFUSING TO CUSTOMERS AND HARM CCAs

One way for CCA programs to facilitate comparisons between CCA and PG&E generation rates is for CCAs to adopt or at least approximate PG&E's complex rate structure. In this way, CCAs can provide customers a more definitive and transparent explanation of how their rates compare to PG&E's rates. As noted above, MEA has followed this approach in setting rates for its services.⁴ CCAs are required by law to provide at least four notifications to customers of their terms and conditions of service during the four-month opt-out period. Public Utilities Code Section 366.2(c)(13). To the extent a CCA uses PG&E's generation rate structure, those notices can be greatly simplified and customers will find it easier to make an informed decision. Indeed, one of the first questions about a CCA program that a customer is likely to ask is whether her rates will go up.

Frequent changes to PG&E's generation rates and rate structure make it extremely difficult, if not impossible, for CCAs to plan their rates and to provide clear comparative rate information to consumers, particularly when generation rate changes go into effect without ample notice. As the Commission well knows, ratesetting is a process that takes considerable lead time, particularly in light of the disclosure and due process requirements that apply to CCAs, Section 366.2(c)(3)(C), and the transparency and the open meeting requirements that govern California local governments. California Gov't Code Section 54950 *et seq.* When PG&E's generation rates change, a CCA that has designed its rates and rate structure to mirror those of PG&E is put to a variety of costly, no-win decisions, such as whether to scrap its established rate structure and whether and how to revise the information it has provided to customers. None of this upheaval is likely to bother PG&E, but it is harmful to CCAs and their customers.

Including this Petition, there are a variety of scattershot changes to PG&E's generation rates and rate structure that right now either await implementation or are under consideration. Last Thursday, the Commission issued a rushed decision, D. 10-05-051, in Application 10-02-029 that

⁴ See <http://marincleanenergy.info/PDF/Rates.pdf>

increases PG&E's Tier 3 rates and decreases its Tier 4 and 5 rates, collapsing the latter two tiers into one in order to provide summer rate relief for high usage customers. The new rates are supposed to go into effect June 1, 2010. However, in a glaring omission, the decision only states the changes to bundled rates; it does not identify the new generation rates or even specify a methodology for translating bundled rate changes into generation rate changes.⁵ As a result, CCAs do not now know whether or when PG&E's generation rates may change as a result of this decision.

In Phase 2 of PG&E's 2011 General Rate Case ("GRC"), PG&E has, among other things, proposed to collapse Tiers 3 through 5 into a single Tier 3, which would have the effect of significantly reducing rates for Tiers 4 and 5. Other parties may make different proposals. PG&E has proposed that the Commission issue a decision in Phase 2 in May 2011.

The rate changes proposed in the Petition, those ordered in D10-05-051 and the modifications under consideration in A.10-03-014 pose the undesirable prospect of scattershot rate changes causing generation rate volatility. For the reasons stated above, such volatility will undermine CCA efforts to develop their rates and wreak havoc on CCAs' ability to offer necessary comparative rate information to their customers. Consumers and CCAs would be better served by allowing a long planning horizon for any rate changes and consolidating the changes as much as possible to limit the number of rate change events.

IV. THE COMMISSION SHOULD DEFER THE CONSIDERATION AND IMPLEMENTATION OF THE PROPOSED RATE CHANGES

As shown above, there is no compelling justification for the flattened generation rates proposed in the Petition. The changes would not reduce rates for any customer. Instead, they shift rate recovery away from PG&E's newly competitive generation services in San Francisco and Marin County to a new monopoly rate element that all customers must pay. The Commission lacks any record upon which to conclude that the proposed rate structure is more cost-based than the current rate structure. The rate design phase of a utility's GRC is the traditional forum for considering the factual and policy

⁵ MEA attempted to bring this problem to the Commission's attention in comments on the proposed decision in A.10-021-029. The Commission improperly refused even to consider MEA's comments, ruling that comments that were due on May 16, 2010, a Sunday, were untimely because they were filed on the next business day. This ruling clearly violates Commission Rule of Practice and Procedure 1.15.

issues associated with such a significant change in rate structure. Accordingly, the Commission should defer a decision on the Petition and order that it be considered along with other rate proposals that could affect PG&E's generation rates in A.10-03-014.

If the Commission nevertheless chooses to approve the Petition, there is no need to implement the rate changes soon. PG&E's interest in reducing its generation rates in San Francisco and Marin County to undermine its CCA competitors is certainly not a reason to hurry the rate changes. CCSF understands that MEA has developed its Phase 1 rate structure and notified customers based on the current PG&E rates. Any implementation should at least await the conclusion of that phase and the start of MEA's next phase. More broadly, to facilitate rate planning, customer notice, and to avoid imposing unnecessary costs on CCAs and their customers, the Commission should afford ample lead time between any decision to change PG&E generation rates and the implementation of those rate changes.

Dated: May 24, 2010

DENNIS J. HERRERA
City Attorney
THERESA L. MUELLER
THOMAS J. LONG
Deputy City Attorneys

By: _____ /S/
THOMAS J. LONG

Attorneys for:
CITY AND COUNTY OF SAN FRANCISCO
City Hall Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Telephone:(415) 554-6548
Facsimile: (415) 554-4763

E-Mail: thomas.long@sfgov.org

CERTIFICATE OF SERVICE

I, KIANA V. DAVIS, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4698.

On May 24, 2010, I served:

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO ON THE
PROPOSED DECISION OF ALJ FUKUTOME**

by electronic mail on all parties in CPUC Proceeding No. A.06-03-005.

The following addresses without an email address were served:

- BY UNITED STATES MAIL: Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

SAMARA MINDEL
REGULATORY AFFAIRS ANALYST
HQ FELLON-MCCORD & ASSOCIATES
9960 CORPORATE CAMPUS DR., SUITE 2500
LOUISVILLE, KY 40223

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on May 24, 2010, at San Francisco, California.

/S/
KIANA V. DAVIS