

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



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Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2011.
(U 39 M)

Application 09-12-020
(Filed December 21, 2009)

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Pacific Gas and Electric Company

Investigation 10-07-027
(Filed July 29, 2010)

**OPENING COMMENTS OF SAN DIEGO GAS AND ELECTRIC COMPANY (U 902-M)
ON THE PROPOSED DECISION OF ALJ FUKUTOME AND THE ALTERNATE PROPOSED
DECISION OF COMMISSIONER PEEVEY**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission" or "CPUC"), San Diego Gas and Electric Company ("SDG&E") submits these comments on the Proposed Decision ("PD") of Administrative Law Judge ("ALJ") David Fukutome and the Alternate Proposed Decision ("APD") of Commission President Michael Peevey. SDG&E's comments are limited to the issue of continuing the current and appropriate ratemaking treatment of meters that have been retired as a result of the Commission's approval of PG&E's Advanced Metering Initiative ("AMI") program.

II. THE COMMISSION SHOULD ADOPT PG&E'S PROPOSED RATEMAKING FOR ITS RETIRED METERS.

A. The PD and APD's Ratemaking Treatment of PG&E's Retired Meters is Contrary to Precedent and Unreasonable.

SDG&E opposes both the PD and APD's reduction of the rate of return on the retired meters as contrary to precedent and unreasonable. Both ALJ Fukutome's PD and Assigned Commissioner Peevey's APD find that granting a rate of return on PG&E's retired meters is

appropriate, regardless of whether or not the meters are used and useful.¹ The APD and PD note that the Commission encouraged utilities to pursue AMI implementation as a means to effectuate demand-side management, and previously found AMI implementation for PG&E to be cost-effective.² Both the PD and APD are contrary to precedent as they are inconsistent with PG&E's ratemaking proposal that was adopted in the underlying AMI proceedings.³ Both the PD and APD acknowledge that: "(1) in both prior [AMI] proceedings, PG&E's meter retirement ratemaking proposal was consistent with what is proposed in this GRC proceeding, (2) no party addressed that proposal in the prior proceedings, and (3) PG&E's proposal was implicitly adopted in D.09-03-026, which authorized the current ratemaking treatment for the SmartMeter program."⁴ PG&E's ratemaking proposal was unopposed, and implicitly adopted in the Commission's prior AMI decision, so PG&E should not now face a reduced rate of return.

As SDG&E and PG&E each noted in briefs,⁵ PG&E's proposed ratemaking treatment for the retired electromechanical meters is consistent with the ratemaking proposal presented in PG&E's AMI proceedings and adopted by the Commission's AMI decisions. Both the PD and APD concede that PG&E's ratemaking proposal was previously adopted⁶; that it was consistent

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¹ PD and APD at 57; also see Conclusion of Law 9.

² PD and APD at 55; see also Finding of Fact 19, PD at 77, APD at 78.

³ D.06-07-027 and D.09-03-026.

⁴ PD and APD at 40; see also PD at 67, APD at 68 ("PG&E's proposal for retired electromechanical meters was made in the prior AMI proceedings. The proposal was laid out in testimony, was not opposed, and was implicitly approved by D.09-03-026.").

⁵ SDG&E Opening Brief at 3-4; PG&E Opening Brief at 6-15; PG&E Reply Brief at 22-29.

⁶ "Conclusion of Law 50 of D.09-03-026 states that the use of PG&E's results of operations model for the purposes of calculating the revenue requirements associated with the SmartMeter Upgrade is reasonable, and PG&E's proposals with respect to retirements of plan are reflected in that model. Consequently, PG&E's meter retirement ratemaking proposal was implicitly adopted by that decision." PD and APD at 39-40.

between AMI and this GRC⁷; and that it was explained and unopposed in the AMI proceeding⁸.

Notwithstanding the fact that the ratemaking treatment for the retired meters was raised and implicitly adopted in PG&E's AMI proceedings, both the PD and APD conclude: "There is good reason to believe that PG&E's ratemaking proposal for retired meters was not fully understood and considered by the Commission in PG&E's two prior AMI proceedings."⁹ This is inaccurate and unsupported by evidence, particularly since all the utilities (not just PG&E) included such a proposal in their AMI applications. As noted in PG&E's brief, the scoping memo required the utilities to include such information in their AMI applications. It is also inconsistent with the presumption applied by courts that the Commission does understand its own findings, conclusion, and orders when it adopts them.

The Commission should reject the PD and APD's reduction to PG&E's rate of return on its retired electromechanical meters and grant the ratemaking treatment that was proposed and unopposed in PG&E's AMI proceeding and adopted in D.09-03-026.

B. The PD And APD's Ratemaking Treatment Of PG&E's Retired Meters Is Inequitable and Poorly Supported.

By reducing the rate of return on PG&E's retired electromechanical meters, both the PD and APD penalize the utility for replacing assets with improved technology, even though the Commission sought applications from the utilities to take advantage of (and ratepayers were

⁷ "[W]hile the applicability of the meter retirement proposal is slightly different in A.05-06-028 than in A.07-12-009 and this GRC, it is clear that (1) in both proceedings, PG&E's meter retirement ratemaking proposal was consistent with what is proposed in this GRC proceeding, (2) no party addressed that proposal in the prior proceedings, and (3) PG&E's proposal was implicitly adopted in D.09-03-026, which authorized the current ratemaking treatment for the SmartMeter program." PD and APD at 40. See also, Finding of Fact 20: "In both A.05-06-028 and A.07-12-009, PG&E proposed to reduce both the electric plant in service balance and the depreciation reserve balance by the original cost of the electromechanical electric meters that are replaced by SmartMeters. This produces a result that is the same as leaving the retired meters in plant, continuing depreciation over the estimated life of that asset and receiving a rate of return on the undepreciated balance. PD at 77, APD at 78.

⁸ "PG&E's proposal for retired electromechanical meters was made in the prior AMI proceedings. The proposal was laid out in testimony, was not opposed, and was implicitly approved by D.09-03-026. Subsequent to approval of a ratemaking calculation element, we do not expect that a utility should reestablish the reasonableness of that element or any other of the number of already approved elements used in the revenue requirement calculations each and every time those calculations are used." PD at 67, APD at 68.

⁹ PD at 79; APD at 81, Conclusion of Law 7.

shown to benefit from) the new technology. Such a disincentive makes no sense from a policy perspective and should be rejected.

It should be noted that precedents cited in the PD and APD at pages 42 – 48 dealing with disallowances of return on plant that did not provide expected services are not relevant. There is nothing wrong with the meters at issue (i.e., they were still capable of providing service). The issue is that, although operable, they are being taken out of service in lieu of advanced meters that will provide benefits in excess of costs, even including the full return on the replaced meters.

If either is adopted, the PD/APD could motivate utilities to keep outdated equipment in place in order to achieve their authorized rate of return instead of incentivizing them to replace groups of outdated utility equipment with new, more technologically advanced equipment. Under the PD and APD, the utility is harmed because, but for the replacement of the old meters, it would have continued to receive a full rate of return on the unrecovered costs of its existing meters. As the APD admits: “In the current case, there is no concern or uncertainty that the assets in question may be uneconomic due to competitive pressures. PG&E has been encouraged to retire assets that would have otherwise remained used and useful and on which it would have continued to earn a full rate of return.”¹⁰ If the Commission adopts the reduced return of either the PD or APD, it would dis-incentivize utilities to invest in more technologically advanced and more efficient equipment on behalf of customers.

Furthermore, the risk to utilities from implementing technological advancements is higher as compared to more traditional investments, and thus should warrant higher than normal rates of return. In contrast, the PD and APD would *reduce* the utilities’ return, under the false premise that “the reduced amortization period reduces the risk of recovering the capital invested in these assets.”¹¹ This is also contrary to the cost-benefit analyses underlying the utilities’ AMI proceedings, which assumed a full Commission-authorized rate of return over the normal life of

¹⁰ APD at 62.

¹¹ APD at 62.

the asset.¹² The assessment that “regulatory risk is minimized if not eliminated” (see APD at 61) is also logically flawed. Here the PD/APD err in separating the concept of cost and return. Return is in itself a cost. The regulatory risk is not only in the expense of the meters, but the cost of capital associated with the investment. If the Commission breaks its compact for either cost element, in particular after a proceeding where the cost was already determined, and the utility has done nothing imprudent to warrant a reduction to its return, it can lead to a perception by the capital markets of an increasingly risky regulatory environment.

The PD and APD will affect not only utility investments in improved technologies that replace groups of assets, but also investments in any new technology. The PD/APD would create a disincentive to investing in any project that involves replacing equipment, since under this new paradigm the utility could be forced to later earn a lower overall return than a similar project not involving replacements. This makes no sense. If the PD or APD were adopted, investors would also be at risk for any utility investments in technologies that could become obsolete before the end of their ratemaking lives. The reduced return provides a strong (but highly illogical) disincentive to making any technological investments that have a risk of becoming obsolete, even if such obsolescence never actually materializes. In short, the PD and APD would increase the riskiness of utility investments, causing an unnecessary increase in the utilities’ capital costs that are passed on to customers.

If the Commission belatedly adopts a below-authorized return for a Smart Meter program, the Commission would be sending very wrong signals to utilities and investors. Utilities made billions of dollars of investments in new meters based on the Commission’s determination that the investment would benefit customers, assuming status quo treatment of the

¹² In addition, the amortization period of six years in the PD/APD appears arbitrary in length (“two GRC cycles” APD at 58-59). The PD/APD makes a substantial change in the otherwise applicable amortization period, cutting it by two-thirds. By this act, the PD/APD isolates and alters one element of the total AMI plan, disregarding the overall balance of costs and benefits that was already struck with approval of AMI. In so doing, the PD/APD ignores the Commission’s own findings that ratepayers already have received, and are continually getting benefits on a program-wide level.

unrecovered costs. Now, after the projects have been implemented, the APD and PD would lower the utilities' returns on unrecovered costs, clearly diverging from prior AMI decisions and providing utilities with less return than the ratemaking that had been assumed. Such a disincentive to investing technologies that are otherwise shown to benefit customers would discourage otherwise useful investments, and sends negative signals to investors as to the stability of Commission decisions. As the Commission is well aware, such signals have a correspondingly negative effect on the utilities' cost of capital. The Commission should authorize a full return on the unrecovered costs.

C. Although SDG&E Does Not Support Either the PD or the APD's Treatment of Retired Meters, the APD Is More Reasonable than the PD.

SDG&E urges the Commission to adopt normal, status-quo ratemaking for retired meter costs (i.e., an 18-year recovery period with a full rate of return). If, notwithstanding its own precedents and the comments on the PD and APD, the Commission declines to adopt normal ratemaking proposal, however, SDG&E recommends that the Commission adopt the APD, as it is more reasonable than the PD, which punishes PG&E by lowering its return on equity below the authorized cost of debt.

Equity is riskier than debt and as such earns a higher return. The PD, by lowering the return on equity below that of debt, is unfair to PG&E's shareholders. In comparison, the APD adopts a middle ground between PG&E's debt return (approximately 6%) and full rate of return (approximately 12%).

To justify using a return on equity fixed at 90% of the cost of debt, the PD analogizes the retired meters to the retired fossil-fuel power plants divested during industry restructuring.¹³ However, such a low return during restructuring of the electric industry in California was used as an intentional incentive, so that the utilities would divest their fossil generation. (See, D.95-12-063 at 122.) In the present case, as SDG&E noted in its Reply Brief (at 3 n.4), there is no policy-

¹³ PD at 60 n.56.

based need for a lowered return, as the utilities do not need an incentive to divest meters. The PD's reasoning is inapposite and should be rejected in favor of the APD, which at least authorizes a return on retired meter costs closer to a normal return.

III. CONCLUSION

SDG&E urges the Commission to reject the PD's and APD's reduction of the rate of return on meters that were replaced in order to promote smart metering in California. Such a reduction is contrary to precedent and is unreasonable. Rather, SDG&E urges the Commission to confirm that the costs of meters replaced as part of California's upgrade to Smart Meters – whether by Pacific Gas and Electric Company (PG&E) or any other utility -- should continue to be included in rate base, until their remaining costs are recovered in rates. In the alternative, should the Commission disregard its own precedent and simply choose between the PD and the APD, the Commission should adopt the APD as a more reasonable alternative.

Respectfully submitted,

By: /s/ Keith W. Melville

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Dated: March 14, 2011

APPENDIX A

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

FF 22. ~~Neither D.06-07-028 nor D.09-03-026 contains specific discussion of PG&E's ratemaking proposal for retired meters or includes findings conclusions or ordering paragraphs in which this issue is specifically identified.~~ PG&E's ratemaking proposal was expressly included within the scope of the AMI proceeding, unopposed by the parties, and implicitly adopted in Ordering Paragraphs 1 and 2 of Decision 06-07-027 and Ordering Paragraphs 1 and 2 of Decision 09-03-026.

CL 7. ~~There is good reason to believe that PG&E's ratemaking proposal for retired meters was within the scope and raised in not fully understood and considered by the Commission's in PG&E's two prior AMI proceedings, and was therefore implicitly adopted in Ordering Paragraphs 1 and 2 of Decisions 06-07-027 and 09-03-026.~~

CL 10. Consistent with prior Commission decisions, it is not reasonable to accelerate the amortization of the net plant balance associated with electromechanical electric meters replaced by SmartMeters ~~to six years.~~

~~CL 11. Consistent with prior Commission decisions, in order to reflect reduced regulatory risk, it is reasonable to reduce the rate of return on equity to 90% of the rate of return on long-term debt in calculating the applicable rate of return for the unamortized net plant balance associated with electromechanical electric meters replaced by SmartMeters.~~

CERTIFICATE OF SERVICE

I hereby certify that a copy of the **OPENING COMMENTS OF SAN DIEGO GAS AND ELECTRIC COMPANY (U 902-M) ON THE PROPOSED DECISION OF ALJ FUKUTOME AND THE ALTERNATE PROPOSED DECISION OF COMMISSIONER PEEVEY** has been electronically mailed to each party of record of the service list in A.09-12-020 and I.10-07-027. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States mail with first-class postage prepaid.

Copies were also sent via Federal Express to the Administrative Law Judge and Commissioner in this proceeding.

Executed this 14th day of March, 2011 at San Diego, California.

/s/ LISA FUCCI-ORTIZ _____

Lisa Fucci-Ortiz



California Public Utilities Commission

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