



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Establish
Policies and Rules to Ensure Reliable, Long-
Term Supplies of Natural Gas to California.

Rulemaking 04-01-025

(Filed January 22, 2004)

**REPLY OF THE CORE TRANSPORT AGENT CONSORTIUM AND SHELL ENERGY
NORTH AMERICA (US), L.P. TO THE RESPONSES OF THE DIVISION OF
RATEPAYER ADVOCATES AND PACIFIC GAS AND ELECTRIC COMPANY TO
PETITION OF THE CORE TRANSPORT AGENT CONSORTIUM AND SHELL
ENERGY NORTH AMERICA (US), L.P. FOR MODIFICATION OF
DECISION 04-09-022**

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July 20, 2012

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I. INTRODUCTION

In accordance with Rule 16.4(g) of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), the Core Transport Agent Consortium ("CTAC")¹ and Shell Energy North America (US), L.P. ("Shell Energy," and, together with CTAC, the "Petitioners") respectfully submit this reply to the responses to Petitioners' Petitions for Modification of Decisions 04-09-022 and 03-12-061 ("Petitions"). Petitioners received permission to file this reply from Administrative Law Judge ("ALJ") Wong via telephone on July 6, 2012, at 10:05 AM.

The Petitions seek two modifications to existing Commission policy respecting the interstate pipeline capacity that is held by Pacific Gas and Electric Company ("PG&E") for core

¹ CTAC is an ad-hoc coalition representing a significant portion of core transport service in northern California and comprised of the following core transport agents: Accent Energy California, LLC, ABAG Publicly Owned Energy Resources, Commercial Energy, School Project for Utility Rate Reduction, Tiger Natural Gas, Inc., and UET dba Blue Spruce Energy Services.

customers. First, the Petitions propose to modify Decision 03-12-061 to allow core transport agents (“CTAs”) to opt out of an allocation of PG&E’s interstate pipeline capacity holdings when the underlying interstate pipeline contracts come up for renewal (or when PG&E decides to enter into new interstate pipeline capacity contracts). This change is proposed in order to minimize stranded costs on the PG&E system. Second, the Petitions seek to replace the inflexible requirement set forth in Decision 04-09-022 that PG&E must hold between 962 and 1,058 MMcf/d of interstate pipeline capacity for core customers. The Petitions propose an approach by which PG&E must hold interstate pipeline capacity in an amount equal to between 100% and 120% of its forecast daily bundled core customer demand, which is the requirement imposed on Southern California Gas Company (“SoCalGas”) and San Diego Gas & Electric Company (“SDG&E”).

Together, these two Petitions are designed to: (a) reduce interstate pipeline capacity costs for all PG&E core gas customers, (b) provide real gas supply choices for PG&E core gas customers; (c) address the reduction in bundled core customer demand on the PG&E system since Decision 04-09-022 was issued, as compared to the expansion of the amount of interstate pipeline capacity serving California in recent years; (d) link the amount of interstate pipeline capacity that PG&E is required to hold to changes in the level of PG&E’s bundled core portfolio demand over time; and (e) align core customer interstate capacity requirement for PG&E with existing core customer interstate capacity requirements for SoCalGas and SDG&E.

Responses to the Petitions were filed on July 5, 2012, by the Division of Ratepayer Advocates (“DRA”) and PG&E.² The responses challenge the substance of the proposals in the

² Both DRA and PG&E have also filed separate, similar responses to Petitioners’ Petition for Modification of Decision 03-12-061. Accordingly, Petitioners are filing a separate, similar reply to the responses to Petitioners’ Petition for Modification of Decision 03-12-061.

Petitions and recommend that the Commission defer consideration of the issues raised in the Petitions to the next PG&E Gas Transmission and Storage Rate Case (“GT&S Rate Case”).

DRA asserts, in general terms, that the Petitions are unsupported by the record. PG&E argues that (1) CTAs must continue to bear cost responsibility for firm interstate pipeline capacity that is neither wanted nor needed, in order to ensure capacity reliability for the northern California market; (2) the Petitions violate the terms of the Gas Accord V Settlement Agreement; (3) Petitioners fail to give proper consideration to the provisions of Decision 04-09-022; and (4) Petitioners fail to justify the lateness of their filing.

DRA’s failure to acknowledge the Petitions’ extensive discussion of the underlying facts and DRA’s failure to respond to the analysis presented in support of the Petitions are troubling and merit a reply.³ More striking, however, is PG&E’s complete silence with respect to the demonstrated value for all core customers in reducing stranded interstate pipeline capacity and related costs. PG&E’s response fails to discuss the potential of these proposals to reduce core rates. Rather, PG&E briefly criticizes the Petitions’ calculated savings of \$20.2 million per year for the bundled core as “overstated,” because Petitioners’ calculation does not consider the revenues that PG&E can earn from brokering its excess interstate capacity.⁴ Even taking into account PG&E’s criticism, and assuming that PG&E can broker its excess interstate capacity for a typical market value of 20% of the full pipeline rate, the total savings for core customers after implementation of the proposed changes still would exceed \$16 million per year. These savings do not include the savings to the core because PG&E shareholders would have a reduced opportunity to profit from the brokering of excess interstate pipeline capacity through the Core Procurement Incentive Mechanism (“CPIM”). Core customers pay for these CPIM awards

³ See Part II, *infra*.

⁴ PG&E Response at 12.

related to capacity brokering revenues.⁵ The Commission should not be fooled by the smoke and mirrors contained in PG&E's response. The Commission should send a message to PG&E that core customers, not PG&E shareholders, should reap the benefits of interstate pipeline capacity holdings. Each erroneous argument presented by DRA and PG&E is discussed in turn below.

II. DRA'S ASSERTION THAT THE PETITIONS ARE UNSUPPORTED BY THE RECORD IS INCORRECT

DRA alleges in its response that the Petitions are without merit and should be denied because they are "not supported by the record and [fail] to provide facts, data and analysis."⁶ DRA also alleges that the proposed modifications in the Petitions are "arbitrary" because they do not address the underlying basis for the level of firm interstate pipeline capacity ordered for PG&E in Rulemaking 04-01-025.⁷ In addition, DRA expresses concerns that PG&E's bundled core customers "could end up paying for any stranded capacity costs held by PG&E but not taken by CTAs."⁸ On these bases, DRA asserts that all of these issues should be addressed in the next GT&S Rate Case.⁹ DRA is mistaken about the contents of the Petitions, and DRA's concerns are therefore unfounded. The proposals in the Petitions should be addressed now.

A. The Petitions are fully supported by facts, data, and analysis.

Contrary to DRA's assertions, the Petitions include ample facts, data, and analysis in support of the proposed modifications. For example, DRA claims that Petitioners do not provide information on PG&E's historical and forecast average daily core demand and the corresponding

⁵ PG&E's CPIM allows PG&E's shareholders to benefit from PG&E's excess core interstate pipeline capacity holdings when PG&E brokers its excess pipeline capacity. These brokering revenues are counted as savings that reduce PG&E's procurement costs relative to its CPIM benchmarks. PG&E's shareholders typically retain 20% of these savings relative to the CPIM benchmarks. This incents PG&E to hold excess pipeline capacity. PG&E passes the cost of the shareholder portion of CPIM awards to core customers. CTAs do not have the ability to profit like PG&E shareholders when brokering excess capacity. *See* A. 96-08-043, November 1, 2010 through October 31, 2011 CPIM Annual Performance Report, CPIM Year 18, filed May 18, 2012, at 1 and 8-9.

⁶ DRA Response at 2.

⁷ *Id.* at 4.

⁸ *Id.* at 5.

⁹ *Id.* at 4.

amount of core demand served by CTAs.¹⁰ This is wrong. The Petitions and the supporting documentation state that over the past eight years, PG&E has continued to hold a minimum of 962 MMcf/d of interstate pipeline capacity even though PG&E's average daily core demand has decreased to below 800 MMcf/d, averaging 782 MMcf/d from 2006-2010.¹¹ The supporting data show that PG&E is now holding firm interstate pipeline capacity equal to at least 141% of the core demand it actually serves.¹² Contrary to DRA's contention, Petitioners cite specific data reported in the *2011 California Gas Report Supplement* as to historical and forecasted average daily core demand; this data directly supports the points made in the Petitions.¹³

DRA also claims that Petitioners provide no basis for the assertion that excess interstate pipeline capacity holdings by PG&E act to inflate PG&E's core procurement charges.¹⁴ It is only logical, however, to conclude from the facts cited in the Petitions that PG&E's core customer rates are higher because core customers are being forced to pay for interstate pipeline capacity that far exceeds PG&E's core portfolio demand.¹⁵ Stated differently, how could payment for so much excess capacity not increase core customer rates?

DRA also asserts that the Petitions fail to address the underlying basis for the Commission's chosen minimum interstate pipeline capacity requirement for PG&E.¹⁶ According to DRA, the Commission in R.04-01-025 addressed issues regarding the need to hold an adequate amount of interstate pipeline capacity for PG&E's core customer requirements to meet cold weather demand conditions in winter months.¹⁷ In fact, the Commission did not adopt a requirement that PG&E, or any of the utilities, must hold interstate pipeline capacity in an

¹⁰ *Id.* at 3-4.

¹¹ Petition at 9.

¹² *Id.* at 9-10.

¹³ *Id.* at 9.

¹⁴ DRA Response at 4.

¹⁵ Petition at 10.

¹⁶ DRA Response at 4.

¹⁷ *Id.*

amount equal to winter season demand. As referenced in the Petitions,¹⁸ the Commission rejected PG&E's proposed "cold peak day" and "cold winter standards," stating that PG&E failed to establish a basis for such standards.¹⁹

In Decision 04-09-022, the Commission set PG&E's minimum interstate pipeline capacity requirement at 962 MMcfd because that was the amount of interstate pipeline capacity held by PG&E at the time; the Commission indicated that PG&E's forecasts presented in the case were not sufficiently definitive to justify a lower minimum requirement.²⁰ The Commission specifically recognized, however, that the 962 MMcfd figure should be used only temporarily, until more definitive forecasts were reviewed and approved.²¹ Because the Commission chose to set SoCalGas and SDG&E's minimum interstate pipeline capacity requirements at the annual average daily demand for both winter and non-winter months, Petitioners propose to tie PG&E's minimum requirement to the annual average daily demand as well.

In sum, contrary to DRA's argument, the Petition is well supported by facts, data, and analysis. Thus, DRA's argument should be disregarded.

B. DRA's concerns regarding risk to bundled core and CTA customers resulting from the modifications requested in the Petitions are unfounded.

DRA expresses concern that the "lack of detail in the Petitioners' request" may lead to bundled core customers being saddled with stranded interstate pipeline capacity costs resulting from excess interstate pipeline capacity held by PG&E but not taken by CTAs.²² This assertion entirely misses the point of the Petitions. Petitioners' proposed "opt-out" mechanism for CTAs

¹⁸ Petition at 9 ("Instead, because the Commission believed that PG&E had failed to establish firmly the bases for the two standards it proposed in the OIR or to explain how its proposed standards would be used to determine target capacities, the Commission ordered that the minimum and maximum amounts of interstate capacity to be held by PG&E for the core during winter months be set at 962 MMcfd and 1058 MMcfd, respectively.").

¹⁹ Decision 04-09-022 at 34.

²⁰ *Id.*

²¹ *Id.*

²² DRA Response at 5.

will not expose bundled core customers to stranded costs because CTAs will be allowed to opt out of responsibility for interstate pipeline capacity only when PG&E has the opportunity to release (or choose not to acquire) that capacity.²³ Because stranded costs will be avoided when PG&E chooses to release (or not acquire) firm interstate capacity as a result of a CTA's opt-out, DRA's concern that bundled core customers could end up paying for such stranded interstate pipeline capacity costs is wrong.²⁴

The basic concept behind the Petitions is quite simple: since PG&E will not acquire, or will release, the capacity in question, there will be no asset to "strand." DRA completely ignores this fact in its reply.

Finally, DRA claims that consideration of the proposals advanced in the Petitions should be deferred because core customers electing CTA service may not be aware of any difference between the PG&E bundled service and the CTA service in terms of service quality and reliability as a result of the modifications requested in the Petitions.²⁵ This is not a basis for deferring consideration of the Petitions. First, DRA provides no data or evidence to support the claim that service quality and reliability may be different between the PG&E bundled service and the CTA service. To the contrary, CTAs have had the option to accept or reject an allocation of PG&E's core interstate capacity for over ten years, and no service quality or reliability issues impacting the core market have resulted under this arrangement. The proposals in the Petitions

²³ Petition at 14.

²⁴ It is important to note that Petitioners sought to ensure that bundled core customers would not incur additional costs even in the highly unlikely event that the following sequence occurs: (a) CTA customers return to bundled core status in significant net numbers over customers migrating to CTA service, (b) thereby requiring PG&E to acquire additional capacity at market rates higher than previously acquired. Although mass migrations of CTA customers back to bundled service has never occurred in the nearly 20 years of the CTA program, Petitioners address the possibility by proposing an appropriate cross-over rate. Petition at 15.

²⁵ DRA Response at 5.

do not alter this option; therefore, DRA's request to defer consideration of these proposals on such a basis should be denied.²⁶

DRA's effort to defer the issues presented in the Petitions to a future proceeding, thereby perpetuating PG&E's excessive interstate pipeline capacity holdings (and stranded costs) and ensuring CTAs' inability to provide competitive pricing in the short term, is not in the best interest of PG&E's core customers. Consideration of these issues was deferred in the Gas Accord V Settlement. No further deferral is appropriate. Waiting to discuss and resolve the discrete issues raised in the Petitions in the context of the GT&S Rate Case, which is not even scheduled to be filed until February 2014, makes no sense when all core customers could begin reaping the benefits of the proposed changes when PG&E has its next opportunity to relinquish interstate pipeline capacity in March 2013. The Commission has sufficient information before it to grant the Petitions at this time. The Commission should act now to avoid further harm to California customer interests.

III. PG&E'S REASONS FOR DENIAL OF THE PETITIONS ARE WITHOUT MERIT

A. The Petitions are not in conflict with the Gas Accord V Settlement.

PG&E erroneously asserts that Petitioners seek to change underlying interstate pipeline capacity cost sharing principles espoused in Gas Accord V.²⁷ PG&E is wrong. There are no interstate pipeline capacity cost-sharing principles in Gas Accord V. There is only a requirement

²⁶ Furthermore, CTA suppliers already hold a diverse portfolio of firm interstate pipeline capacity (as proof of these holdings, see, e.g., Ruby Pipeline Informational Posting demonstrating holdings by CTAs Shell, BP Energy Company, and Occidental Energy Marketing, Inc., at <http://passportebb.elpaso.com/ebbmasterpage/IndexOfCustomers/IndexOfCustAutoTable.aspx?code=RUBY&name=Index%20of%20Customers&status=IC&sParam7=S>). Such holdings ensure quality, reliability, and supply diversity for CTA service. Requiring CTAs to hold core interstate pipeline capacity is duplicative and adds unnecessary additional costs to CTA service.

²⁷ PG&E Response at 6-7 (“[How costs and responsibilities would be shared between the core customers served by PG&E and those served by CTAs] were explicitly detailed in the balance of the CTA Settlement” . . . “The Commission should reject Petitioners’ request to change these interstate pipeline cost sharing principles prior to 2016, as it is unsubstantiated and undermines D.03-12-061 and the Gas Accord V Settlement Agreement.”).

that CTAs bear their share of PG&E's stranded interstate pipeline capacity costs, and that such requirement be phased-in over four years. Both of these requirements remain fully intact under the proposals advanced in the Petitions. Gas Accord V does not require that core customers purchase interstate pipeline capacity in excess of their needs, nor does it prevent CTAs from seeking to reduce stranded costs for their customers.

The CTA Settlement appended to the Gas Accord V Settlement expressly allows CTAs to seek modification of decisions setting interstate pipeline capacity holding levels.²⁸ The proposals advanced in the Petitions would reduce CTA and bundled core customer exposure to PG&E's stranded interstate pipeline capacity costs. PG&E's argument that Gas Accord V prevents the Commission from considering mechanisms to reduce customers' exposure to stranded interstate pipeline capacity costs should be rejected.²⁹

In this case, PG&E wishes to construe the Gas Accord V Settlement very broadly, for use as a shield against Petitioners, even though the relief sought in the Petitions is clearly outside the scope of Gas Accord V. In other proceedings, PG&E argues that the Gas Accord V Settlement is too narrow to prevent relief that PG&E seeks. For example, PG&E is elsewhere asking the Commission to circumvent the agreed-upon terms of the Gas Accord V Settlement, requiring that rates be fixed for the term of Gas Accord V, by proposing a surcharge to customers.³⁰ To piously hold the Gas Accord V up now and assert that Petitioners are attempting to violate it by

²⁸ D.11-04-031, Appendix B, Section A.9.

²⁹ PG&E is also wrong when it states that Petitioners' decision to address the CTA storage requirement in the next GT&S Rate Case bears on the appropriateness of a petition for modification of interstate pipeline capacity reservation requirements. PG&E Response at 4, 6. While storage reservations are fixed in the GT&S Rate Case and last until the next GT&S Rate Case, interstate pipeline capacity reservations come up for renewal during the term of any given GT&S Rate Case. As such, while it makes sense to discuss storage reservations only in the context of the next GT&S Rate Case (to be filed in 2014), the next opportunity to change interstate pipeline capacity reservations will occur in March 2013. Thus, it makes sense to address interstate pipeline capacity reservation issues well in advance of the next GT&S Rate Case.

³⁰ See Opening Brief of DRA at 10-12 (Rulemaking 11-02-019) (May 14, 2012) ("It is disingenuous for PG&E to now argue that these 'new' costs must be added to the rates it settled on in Gas Accord V").

seeking changes that will actually reduce costs for customers is merely more evidence of PG&E's blatant disregard for its customers' interests. The Commission should not tolerate PG&E's "heads I win, tails you lose" arguments about the meaning of the Gas Accord V Settlement.

- B. Modification of Decisions 03-12-061 and 04-09-022 is necessary to update PG&E's minimum interstate pipeline capacity holdings to reflect the reality of its core demand.

PG&E alleges that Decision 04-09-022 should not be modified. PG&E states that the adopted minimum interstate pipeline capacity requirements are necessary to ensure reliability for all customers on the PG&E system.³¹ PG&E also asserts that no record evidence exists to support the request to align PG&E's requirements with those of SoCalGas and SDG&E.³² According to PG&E, CTAs serving customers on the PG&E system, unlike CTAs in southern California, should be required to "do their share" to maintain adequate levels of interstate pipeline capacity to California to ensure reliability over the long term.³³ PG&E's reasoning is flawed and its argument should be rejected.

1. Excess interstate pipeline capacity holdings are unnecessary to ensure reliability in the California gas market today.

PG&E asserts that any changes to the minimum interstate pipeline capacity requirements for PG&E that were set in Decision 04-09-022 would jeopardize reliability for all core and noncore customers on the PG&E system. This is wrong. PG&E does not hold interstate pipeline capacity for noncore customers, and PG&E should not hold interstate pipeline capacity for core aggregation customers. PG&E's supply obligation is limited to bundled core sales customers.

³¹ See PG&E Response at 9-10.

³² *Id.* at 7.

³³ *Id.* at 9.

In today's market, unlike the market in 2004 when Decision 04-09-022 was issued, PG&E (like SoCalGas and SDG&E) does not need to hold excess interstate pipeline capacity in order to ensure reliability for core customers. This is because there is an abundance of interstate pipeline capacity in California.³⁴ At present, there is no risk of a sudden loss of interstate pipeline capacity that could materially affect this circumstance.³⁵ Thus, even if a CTA failed to deliver gas to California, no reliability issues would ensue. Imbalance charges would apply to any CTA in such a circumstance, but reliability would not be jeopardized.³⁶

PG&E points to factual differences between the southern California gas market (in which the CTA market share is 2.6 percent) and the northern California gas market (in which the CTA market share is 13 percent) as justification for why CTAs in northern California, but not those in southern California, have to pay for interstate pipeline capacity. PG&E's argument appears to be that PG&E must hold interstate pipeline capacity for CTAs in northern California to ensure reliability of service to all customers because CTAs comprise such a large share of PG&E's market. On this basis, according to PG&E, stranded interstate pipeline capacity costs are properly allocated to northern California CTAs. Because they occupy such a small market share, the same is not true for southern California CTAs.

PG&E's reasoning is incorrect because interstate pipeline capacity reliability is not an issue in California.³⁷ Thus, the differing size of the CTA market share in northern California and southern California should not affect whether PG&E holds firm interstate pipeline capacity for CTA load. After all, PG&E does not hold interstate pipeline capacity for noncore customers,

³⁴ See Petition at Exhibit 2.

³⁵ *Id.* As the Petitions state, the biennial *California Gas Reports* provide regular, ongoing monitoring of the interstate pipeline capacity available to the State. *Id.* at 13. Thus, if a problem were to develop, the Commission could take appropriate action to address any potential for losing capacity, including changing the minimum interstate pipeline capacity requirements as it sees fit. *Id.*

³⁶ Furthermore, as discussed in footnote 26, CTA suppliers already hold a diverse portfolio of firm interstate pipeline capacity, ensuring quality, reliability, and supply diversity for CTA service.

³⁷ See Petition at Exhibit 2.

which comprise a much larger portion of PG&E's market than CTA customers, yet noncore customers are not required to pay for PG&E's stranded interstate pipeline capacity costs. There is no reason to treat northern California CTAs any differently from non-core customers with respect to interstate pipeline capacity.

In conclusion, aligning PG&E's minimum interstate pipeline capacity requirements with those of SoCalGas and SDG&E makes sense, given the current excess interstate pipeline capacity in California.³⁸ The Commission should not be deterred by PG&E's flawed reasoning regarding the size of CTA market share. Service reliability in northern California will be unaffected by the changes proposed in the Petitions.³⁹

2. PG&E has failed to follow the directive in Decision 04-09-022 that it should revisit the adopted interstate pipeline capacity planning ranges through its BCAP or through the advice letter process.

PG&E argues that there is already a process established in Decision 04-09-022 that permits changes to interstate pipeline capacity holdings after consultation.⁴⁰ This argument is disingenuous. Despite the Commission's directive to use the capacity planning ranges only during an interim period until more definitive forecasts were reviewed and approved,⁴¹ PG&E has never sought to update the capacity planning ranges. PG&E has continually refused to consult with CTAs regarding excess interstate pipeline capacity (or about its renewal of interstate pipeline capacity contracts) despite the fact that CTAs (and, ultimately, CTA customers) must bear the resulting stranded costs.

³⁸ See *Id.*

³⁹ *Id.*

⁴⁰ See PG&E Response at 11. PG&E asserts that such changes will occur via advice letter after consultation with DRA, The Utility Reform Network, and the Commission's Energy Division; however, as support for this proposition, it quotes a section of Decision 04-09-022 that presents PG&E's own proposal, which was not adopted by the Commission. Decision 04-09-022 at 18. Furthermore, the expedited capacity advice letter procedure PG&E cites has nothing to do with changing minimum interstate pipeline capacity thresholds and should be ignored. The Commission stated in Decision 04-09-022, Conclusion of Law 5 that "[t]he adopted capacity ranges should be revisited in the utilities' respective BCAPs or through the advice letter process for possible adjustments." *Id.* at 93 (Conclusion of Law 5).

⁴¹ Decision 04-09-022 at 34.

PG&E's failure to address the interstate pipeline capacity issue in the manner established in Decision 04-09-022 is not in the best interest of core customers and makes no sense in light of the abundance of interstate pipeline capacity available in California. Leaving it up to PG&E alone to make interstate pipeline capacity planning determinations, even for commodity customers that PG&E does not serve, creates an incentive for PG&E to over-procure and pass stranded costs to CTAs in order to gain a competitive advantage in the market. Furthermore, as described in footnote 5 above, PG&E's CPIM provides that PG&E's shareholders benefit from PG&E's excess core interstate pipeline capacity holdings. The CPIM structure is, to a large extent, dependent on the underlying transport and storage capacities held by the core. This arrangement has placed CTAs in the unenviable position of having absolutely no input as to interstate pipeline capacity acquisitions in California for which it must pay. The Commission should correct this untenable situation in order to align PG&E's core interstate pipeline capacity holdings with the demand of its bundled sales customer load.

- C. Petitioners have adequately justified the filing of the Petitions more than one year after the effective dates of Decisions 03-12-061 and 04-09-022.

Rule 16.4(d) of the Commission's Rules of Practice and Procedure requires Petitioners to explain why the Petitions could not have been presented within one year of the effective dates of the subject decisions.⁴² Petitioners have more than adequately described the facts and circumstances, including recent changes in PG&E core demand and CTA market share, which prevented the filing of petitions for modification of Decisions 03-12-061 and 04-09-022 within the one year time frame.⁴³ Even PG&E acknowledges that relevant circumstances have only recently changed, stating, "it is true that PG&E's bundled core portfolio demand has decreased

⁴² Rules of Practice and Procedure, Rule 16.4(d).

⁴³ Petition at 3-4.

and the CTA market share has increased in recent years.”⁴⁴ Further, as noted by PG&E, the Petitions were not ripe for filing until at the earliest August 2010 when the 10 percent market share threshold for CTAs was reached under the procedures adopted in Decision 03-12-061.⁴⁵ Accordingly, Petitioners have sufficiently explained why the Petitions could not have been presented within one year of the effective dates of Decision 03-12-061 and 04-09-022.

PG&E’s sole procedural contention appears to be that the Petitions should have been filed closer to August 2010. But this is not a valid basis for rejecting the Petitions under Rule 16.4(d), which only requires that Petitioners explain why the Petitions could not have been filed within one year of the effective dates of the underlying decisions. Even if there were a rule requiring petitions for modification to be filed as soon as possible after the circumstances giving rise to the petition became ripe, which there is not, PG&E does not and cannot allege that it or any other party has been unfairly prejudiced by the filing of the Petitions in June 2012. In fact, the only risk of prejudice is the prejudice that will be suffered by core customers if the Commission waits any longer to provide the relief necessary to reduce PG&E’s stranded interstate pipeline capacity costs. PG&E’s demand for a denial on the basis that the Petitions somehow lost their ripeness between August 2010 and June 2012 is not grounded in reason or any law or Commission order or rule. Accordingly, PG&E’s procedural contention should be rejected.

IV. CONCLUSION

For the reasons stated herein, the Commission should grant the Petitions simultaneously and as soon as possible, but in no event later than November 2012, so that PG&E may

⁴⁴ PG&E Response at 3.

⁴⁵ *Id.*

implement necessary changes prior to its next opportunity to relinquish interstate pipeline capacity in March 2013.

Respectfully submitted,

July 20, 2012

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