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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking regarding whether, or subject to what conditions, the suspension of Direct Access may be lifted consistent with Assembly Bill 1X and Decision 01-09-060.

Rulemaking 07-05-025
(Filed May 24, 2007)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING MOTION OF JOINT PARTIES**

This ruling grants, in part, and denies, in part, the motion of the Joint Parties¹ filed in this proceeding on March 4, 2011, asking that:

- 1) Implementation of any changes to the Power Charge Indifference Amount (PCIA) for Southern California Edison (SCE) and San Diego Gas and Electric Company (SDG&E) be stayed pending a decision in Phase III of this proceeding;
- 2) PG&E create an account to record all PCIA collections in excess of its 2010 PCIA charges, and that any amount in excess of the 2010 levels be refunded to customers immediately after issuance of the final decision in Phase III of this proceeding, with any subsequent PCIA changes to be made in accordance with the Phase III decision;

¹ The Joint Parties sponsoring the motion are by the Direct Access Customer Coalition (DACC), the Alliance for Retail Energy Markets (ARM), the Mann Energy Authority (MEA). Bluestar Energy, the San Joaquin Valley Power Authority (SJVPA), the California State University. The Retail Energy Supply Association (RESA) and the California Municipal Utilities Association (CMUA)(the Moving Parties).

- 3) PCIA rates for each of the three IOUs calculated in accordance with the final decision be implemented within 30 days of the decision; and
- 4) Vintage 2011 customers that begin Direct Access service before the Phase III decision is adopted be charged the Vintage 2010 PCIA rate until the final decision is implemented.

The Joint Parties raise the concern that the Market Price Benchmark (MPB) currently used to determine departing load charges does not provide for bundled customer indifference. The IOUs have already implemented (in the case of PG&E) or are planning to implement (in the case of SCE and SDG&E) substantial PCIA increases. PG&E's 2011 PCIA forecast was approved in December 2010 and implemented on January 1, 2011. SCE has filed its 2011 Energy Resource Recovery Account (ERRA) forecast application (Application (A.) 10-08-001), which included the 2011 forecast updates to the PCIA. On March 1, 2011, the Administrative Law Judge's proposed decision in the ERRA application was issued which SCE expects to implement on June 1, 2011. In October 2010, SDG&E filed its 2011 ERRA forecast application (A.10-10-001) including the 2011 PCIA. A decision is expected in A.10-10-001 later this year.

Proposed changes in the MPB methodology used to determine the PCIA are currently being considered in Phase III of this proceeding. Until a decision is adopted revising the PCIA methodology, however, the Joint Parties argue that ratepayers are paying a PCIA rate that is artificially and inappropriately inflated. Accordingly, the Joint Parties argue that a stay of the existing PCIA rates will mitigate the potential for overstated rates and rate instability until a Phase III decision can be implemented.

A response in opposition to the motion was filed jointly by PG&E, SCE, and SDG&E (the Joint IOUs) on March 21, 2011. The Joint IOUs oppose the motion, arguing that it has not demonstrated or asserted that the 2011 PCIA was improperly calculated, but rather, that the current PCIA methodology is flawed. The Joint IOUs argue that the 2011 PCIA is exactly the same methodology as that supporting the 2010 PCIA, so that substituting one rate for the other does not address the problem Joint Parties seek to resolve. Instead, the Joint IOUs claim that imposing the 2010 PCIA shifts costs to bundled service customers under the premise that once the flawed methodology is corrected, the 2011 PCIA will be the same or lower than the 2010 PCIA. The Joint IOUs further argue that the issues being addressed in this proceeding may not be the primary cost drivers contributing to 2011 PCIA increases.

The sponsors of the Joint Motion filed a third-round reply on March 25, 2011, claiming that they have made a *prima facie* showing that the 2011 PCIA increases are inappropriately high and, if not stayed, will send false and misleading price signals to any customer who may be considering shopping for power supply from suppliers other than PG&E, SCE, and SDG&E. The sponsors of the Joint Motion provide statistics showing the significant increases between the 2010 and 2011 PCIA charges. The City and County of San Francisco also filed a response in support of the motion on March 25, 2011.

Discussion

The Joint Parties' request to stay PCIA rates until a decision in Phase III of this proceeding is denied, in part, and granted, in part. The Joint Parties cite increases in the PCIA between 2010 and 2011 to support the claim that 2010 PCIA rates should be stayed. Yet, as noted by the IOUs, these PCIA rates for 2010 and 2011 both utilize the same existing PCIA methodology. Continuation of the 2010

PCIA rates does not address the underlying concern that the existing PCIA methodology produces a wrong price signal. Thus, prolonging the use of 2010 PCIA rates by implementing a stay would not necessarily result in more accurate price signals.

On the other hand, the Joint Parties raise a valid concern that a decision in Phase III of this proceeding could have a material impact on the methodology used to calculate the 2011 PCIA rate. Depending on the provisions adopted in Phase III, the PCIA rates applicable for 2011 could be materially impacted, particularly depending on the length of time between the 2011 ERRA rate decision and the effective date of the Phase III decision. Thus, this ruling grants relief to mitigate the effects of potentially incorrect price signals applicable from the date of this ruling until a decision in Phase III of this proceeding. To accomplish this purpose, requested adjustments to PCIA rates will be granted, but limited only to the difference between the existing and revised PCIA methodology to be adopted in Phase III, and applied as follows:

For SCE and SDG&E, 2011 PCIA rates have not yet been implemented, but may become effective before the Phase III decision in this proceeding. Accordingly, upon issuance of the Phase III decision in this proceeding, SCE and SDG&E shall calculate the difference attributable to the revised PCIA methodology calculated beginning from the effective date of the PCIA rate change as adopted in their respective ERRA decisions through the effective date of the revised methodology to be adopted in Phase III of this proceeding. This adjustment shall be incorporated into the prospective 2011 PCIA rates based upon the revised PCIA methodology.

Since PG&E has already implemented 2011 PCIA rates, its adjustment for the PCIA methodology change cannot be applied retroactively to the beginning

date of its 2011 rates. Instead, the PCIA adjustment for PG&E shall be applied to the period beginning from the effective date of this ruling going forward. PG&E shall utilize a deferred account to track the difference in PCIA methodology under the current versus revised methodology to be adopted in Phase III of this proceeding.

The calculation of PG&E's 2011 PCIA will be subject to adjustment to reflect the difference between the currently adopted 2011 PCIA adopted utilizing the existing methodology versus the 2011 PCIA amounts that would result utilizing the revised methodology to be adopted in Phase III of this proceeding. For PG&E, any difference between the existing 2011 PCIA rate versus the rate that would result from the revised methodology to be adopted in Phase III of this proceeding shall be calculated in a deferred account. The resulting adjustment shall be passed through as a PCIA rate adjustment upon the adoption of a revised PCIA methodology in this proceeding.

Upon Commission adoption of a revised PCIA methodology in Phase III of this proceeding, each of the IOUs should promptly adjust its 2011 PCIA rate prospectively to be consistent with the revised PCIA methodology. Once the Commission issues its decision in Phase III of this proceeding, PG&E should promptly revise its previously adopted 2011 PCIA rate consistent with the methodology adopted in Phase III.

In accordance with Pub. Util. Code § 310, the directives of this ruling will be formulated into a proposed decision to be placed on the Commission's agenda so that the adopted disposition may be affirmed by the full Commission.

IT IS RULED that:

1. The motion of the Joint Parties is granted in part and denied in part, as set forth below. The IOUs shall implement appropriate accounting to recognize the directives below.

2. The 2010 PCIA rate shall continue in effect for SCE and SDG&E until the Phase III decision is issued in this proceeding subject to the adjustments below.

3. Upon issuance of the Phase III decision in this proceeding, SCE and SDG&E shall calculate the difference in the 2011 PCIA to be collected based on the current methodology versus the revised methodology to be adopted in Phase III of this proceeding, to be applied beginning from the effective date of the 2011 rate change as adopted in their respective ERRA decisions.

4. For PG&E, the difference in the 2011 PCIA rate attributable to the existing methodology versus any revised PCIA methodology to be adopted in Phase III shall be calculated from the date of this ruling through the effective date of the Phase III decision in this proceeding.

5. A proposed decision shall be placed on the Commission's agenda so that the disposition ordered in this ruling may be affirmed by the Commission in accordance with Pub. Util. Code § 310.

6. The above-referenced accounting adjustments based on revisions in the adopted PCIA methodology will be subject to disposition as adjustments to rates in accordance with the Commission's Phase III decision in this proceeding.

Dated April 14, 2011, at San Francisco, California.

/s/ THOMAS R. PULSIFER
Thomas R. Pulsifer
Administrative Law Judge