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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 2010 Rate Design Window Proposal for 2-Part Peak Time Rebate and Recovery of Incremental Expenditures Required for Implementation. (U39E)

Application 10-02-028  
(Filed February 26, 2010)

Application of Pacific Gas and Electric Company for Approval to Defer Consideration of Default Residential Time-Variant Pricing until Its Next General Rate Case Phase 2 Proceeding, or in the Alternative for Approval of its Proposal for Default Residential Time-Variant Pricing and For Recovery of Incremental Expenditures Required for Implementation. (U39E)

Application 10-08-005  
(Filed August 9, 2010)

**JOINT RULING OF THE ASSIGNED COMMISSIONER AND PRESIDING ADMINISTRATIVE LAW JUDGES**

**Summary**

This ruling addresses the motion filed by Pacific Gas and Electric Company (PG&E), on November 22, 2011, requesting that the Commission consolidate two of its pending proceedings, Application (A.) 10-02-028 and A.10-08-005. PG&E's motion is granted, with modifications, and we order further procedural steps in the consolidated proceeding.

## **Background**

On November 22, 2011, Pacific Gas and Electric Company (PG&E) filed a motion requesting that the Commission consolidate two pending proceedings and the issues raised therein, Application (A.) 10-02-028 (2010 Rate Design Window Proceeding (2010 RDW Proceeding)) and A.10-08-005 (Default Residential Rate Programs Proceeding (DRRP Proceeding)) (Motion). PG&E argues that such a consolidated proceeding would best allow for an integrated review and a clarified path to a common, longer-term vision of residential dynamic pricing and rates.

Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) (collectively, Joint Parties) filed a joint response to the Motion on December 1, 2011, and PG&E filed its Reply on December 19, 2011.

In the Motion, PG&E summarizes its two currently pending applications, the 2010 RDW Proceeding and the DRRP Proceeding, and explains that both proceedings are before the Commission to address different types of dynamic residential rate design offerings, including the related recovery of the costs of customer education and other implementation requirements. Specifically, the 2010 RDW Proceeding involves PG&E's proposal for a Peak Time Rebate (PTR) program.<sup>1</sup> The DRRP Proceeding involves Critical Peak Pricing (CPP) together

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<sup>1</sup> PG&E made this proposal pursuant to Decision (D.) 09-03-026, Ordering Paragraph 9: "A two-tier peak time rebate incentive design is adopted for PG&E. PG&E shall present a proposal to implement such a design in its November 2009 rate design window filing. The proposed rate design shall be consistent with the rate design guidance in D.08-07-045." PTR is a dynamic residential rate program that provides the customer a bill reduction or rebate, on a per kilowatt hour basis for reductions in the customer's usage below a threshold level on days when a PTR event is called.

with Time-of-Use (TOU) rates, which PG&E calls Peak Day Pricing (PDP) rates, as the default residential program assignment.

PG&E requests that, in order to determine a clear future vision for residential electric rates and the best path to achieve that vision, the Commission consider time-variant pricing, dynamic pricing, and inclining block pricing for residential customers together as part of an integrated review and determination of what future residential rates should be, and what amounts should be spent to implement these programs.

PG&E suggests that “a consolidated proceeding would clarify the appropriate path to a common, longer-term vision of residential dynamic pricing and rates.” PG&E further suggests that “it is unclear whether PTR is well aligned with the future vision of residential electric rates.” PG&E accordingly recommends that the Commission vacate the current PTR procedural schedule so that PTR would not be allowed to move forward on a separate track, and would instead be moved into the consolidated PTR/DRRP proceeding.

As the first step in the new consolidated proceeding, PG&E requests that the Commission order a round of legal briefing on threshold legal issues regarding the question of whether PG&E’s proposed default residential PDP rate design contravenes the Public Utilities Code, including Pub. Util. Codes §§ 739.9 and 745(d).<sup>2</sup> Once such legal considerations are resolved, PG&E would revise its testimony in the consolidated proceeding. PG&E recommends that it be allowed to serve its updated testimony eight months following the Commission’s

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<sup>2</sup> All references to Code are to the Public Utilities Code unless otherwise specified.

determination of whether and under what circumstances residential customers could legally be defaulted to any form of dynamic or time-varying pricing.<sup>3</sup>

In their December 1, 2011 response, Joint Parties recommend a different procedural approach. Joint Parties request that the Commission deny PG&E's motion, because it is premature to address the default residential PDP, and because it will be more efficient for the Commission and all parties to address the rate design issues raised by the 2010 RDW proceeding and the upcoming 2012 RDW proceeding (not yet filed) concurrently, rather than in two separate proceedings, one immediately following the other.<sup>4</sup> The Joint Parties assert that the Commission will have more recent and complete information on the current forms of residential time-varying pricing after its review of PG&E's 2012 RDW filings. Therefore, the Joint Parties recommend that the Commission direct PG&E to consolidate its two RDW proceedings, the 2010 RDW proceeding (the PTR case) and the upcoming 2012 RDW proceeding.<sup>5</sup>

In its December 19 Reply to the Joint Parties, PG&E opposes the proposal to consolidate the 2010 and 2012 RDW proceedings. PG&E continues to believe

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<sup>3</sup> PG&E proposed in the DRRP proceeding that its preferred alternative was to defer this issue to Phase 2 of the 2014 general rate case. Now, PG&E recommends that a consolidated DRRP/PTR proceeding be retained as a separate proceeding in which the CPUC would address default programs for residential customers.

<sup>4</sup> PG&E is scheduled to file its 2012 RDW application in February, 2012.

<sup>5</sup> Concurrently with their December 1, 2011 response, the Joint Parties requested that the Commission's Executive Director grant, pursuant to Rule 16.6, an interim suspension of the schedule in PG&E's 2010 RDW proceeding while the Commission considers PG&E's Motion and Joint Parties' response to the motion. On December 23, 2011, the Executive Director granted a two-month extension of the due date for intervenor testimony, to March 13, 2012.

that consolidation of the 2010 RDW Proceeding and the DRRP Proceeding will provide the proper opportunity to review a longer term residential rate vision, rather than through consolidation of the 2010 RDW and 2012 RDW proceedings. PG&E also notes that consolidation of 2010 RDW Proceeding (PTR) with the 2012 RDW proceeding, as proposed by the Joint Parties, will not allow for full PTR implementation in 2014, as contemplated in the scoping memo for A.10-02-028.

PG&E's December 19 Reply also provides procedural information "in case the Administrative Law Judge or Commission decides to proceed with the 2010 RDW case on a stand-alone basis." PG&E describes the impact on PG&E's PTR implementation, if the Commission extends the schedule in that proceeding by either one or two months. A one-month delay would have no impact, while a two-month delay would cause implementation to slip from May, 2013 to June, 2013, while a delay of three or more months would cause PTR implementation to slip one year, to 2014.

## **Discussion**

We grant PG&E's Motion to consolidate the 2010 RDW Proceeding and DRRP Proceeding (Consolidated Proceeding), with modifications, as discussed below. We decline to adopt the procedural suggestions offered by Joint Parties. We find that PG&E presents a reasonable argument that "in order to determine the future vision for residential electric rates and the best path to achieve that result, the Commission [should] consider time-variant pricing, dynamic pricing, and inclining block pricing for residential customers together as part of an integrated review and determination of what future residential rates should be, and what amounts should be spent to implement these programs."

The legal briefing that PG&E proposes as the first step in such an integrated review in the Consolidated Proceeding will lay the foundation for a

methodical consideration of the issues that must be reviewed toward determining “the future vision for residential electric rates” as well as how such vision can be achieved.

However, we do not believe that it is necessary to await the results of the initial round of opening and reply briefs before soliciting broader input from parties on the optimal residential rate design for PG&E’s customers. In the discussion below, we seek additional input from the parties, and provide further procedural direction for the Consolidated Proceeding.

We decline to vacate or otherwise further delay the schedule in the 2010 RDW Proceeding, A.10-02-028, as proposed in the Motion. While it makes sense to consider PG&E’s PTR proposal as part of the Consolidated Proceeding, the implementation of PTR in PG&E’s territory has already been delayed well beyond the progress of implementation in Southern California Edison (SCE) and San Diego Gas and Electric (SDG&E) territories. PG&E’s Motion provides no compelling reasons for further delay, at least based on the record before us in A.10-02-028. As explained below, parties will have an opportunity to make a more thorough case for any further delay in soon-to-be-filed comments and testimony, should they wish to do so.

Regarding the current procedural schedule for A.10-02-028, as we noted above the Commission’s Executive Director recently granted a request for delay by DRA and TURN, and revised the due date for intervenor testimony to March 13, 2012. We determine that this two-month delay from the dates adopted in the Scoping Memo for 2010 RDW Proceeding should continue to apply to the remainder of the schedule for the PTR component of the Consolidated Proceeding. This is reflected in the revised schedule provided below.

Finally, we agree that legal briefing on the issues raised by A.10-08-005, should move forward without further delay. We will order the briefing that PG&E suggests, but we also seek comments on additional questions in those filings, as follows:

1. With reference to PG&E's proposed default residential PDP rate design in A.10-08-005, parties shall brief the following questions, which are raised in PG&E's August, 2010 Application:<sup>6</sup>

- a. Does the Commission have authority to approve PG&E's proposed default PDP program as consistent with Code Section 745(d) if the program assures the customer (i) has the alternative of opting-out to a non-time-variant rate at any time during the first year, (ii) is provided extensive outreach and education, and (iii) has bill protection during the first year on default PDP?
- b. What does Code Section 745(d)'s language, "in a manner consistent with the provisions of this part," mean with respect to the statutes in part 1, Public Utilities Act, involving baseline and 130 percent of baseline, including Code Section 739.9?

2. Parties shall provide the following information, based on their responses to Question 1 above:

- a. Provide a table or matrix showing recommended residential rate designs for each year from 2012 through 2020, inclusive. Separate recommendations should be shown for every currently available or proposed default, mandatory, or optional rate option, for each year.
- b. Provide detailed support for each of the recommendations provided in response 2.a.

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<sup>6</sup> See A.10-08-005 at 13.

3. PG&E shall provide the following information regarding its implementation of the Peak Time Rebate rate design:

- a. Provide the dollar amounts spent to-date, by month, to develop or implement a peak-time rebate program. The amounts shall be cross-indexed according to purpose of the spending, and cited to show Commission authority for the spending.
- b. Provide the same information, for Commission-approved future spending that would be suspended or foregone, assuming that PG&E's proposal in its November 22, 2011 Motion to halt the implementation of PTR were granted.

Concurrent opening briefs and responses to the questions listed above shall be filed March 1, 2012, and concurrent reply briefs, as well as replies to the other information provided on March 1, shall be filed April 13, 2012.

Based on the foregoing, we provide a general road map for the Consolidated Proceeding going forward, as follows:

EVENT	Schedule in August 2011 Scoping Memo in A.10-02-028	Revised Schedule under Consolidated Proceeding
Distribution of PG&E's refreshed PTR testimony	October 28, 2011	No change
Opening Legal Briefs and Comments filed (on A.10-08-005 and other Issues 1-3 including subparts set forth above)	Not Applicable (N/A)	March 1, 2012
DRA and Intervenor PTR testimony served	January 13, 2012	March 13, 2012
Concurrent Rebuttal PTR testimony served	February 3, 2012	April 3, 2012
Concurrent Reply Briefs filed (on A.10-08-005 and other Issues 1-3 including subparts set forth above)	Not Applicable (N/A)	April 13, 2012
Evidentiary hearings on PTR	February 20, 2012	April 23 - 27, 2012
Opening briefs filed on PTR	March 12, 2012	May 11, 2012
Reply briefs filed on PTR	March 26, 2012	May 25, 2012
Proposed Decision on PTR	June 26, 2012 (or date to allow final decision at last July 2012 conference)	August 28, 2012
Final Decision on PTR	July 26, 2012	September 27, 2012

Further procedural direction may be ordered based on the results of the foregoing filings.

**IT IS RULED** that:

1. The November 22, 2011 Motion of Pacific Gas and Electric Company to Consolidate the 2010 Rate Design Window Application 10-02-028 with the Default Residential Rate Programs Application 10-08-005 is granted.
2. Application (A.) 10-02-028 and A.10-08-005 and all issues raised therein are consolidated and will hereafter be referred to as the Consolidated Proceeding.

3. The current procedural schedule in Application 10-02-028, as first adjusted in the December 23, 2011 letter from the Commission's Executive Director is further modified as detailed in the text of this ruling.

4. Concurrent opening briefs and responses to the questions listed above shall be filed March 1, 2012, and concurrent reply briefs, as well as replies to the other information provided on March 1, shall be filed April 13, 2012.

Dated February 7, 2012, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey  
Assigned Commissioner

/s/ KIMBERLY H. KIM

Kimberly H. Kim  
Administrative Law Judge

/s/ STEPHEN C. ROSCOW

Stephen C. Roscow  
Administrative Law Judge