

Decision **PROPOSED DECISION OF ALJ WALKER** (Mailed 8/30/2002)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas & Electric Company Proposing Prices and Conditions for the Purchase by Customers of their Existing Meters in Compliance with Decisions (D.) 98-07-032 and D.99-11-008.

Application 00-01-024
(Filed January 13, 2000)

And Related Matters.

Application 00-01-029
(Filed January 14, 2000)

Application 00-01-030
(Filed January 14, 2000)

(See Appendix B for List of Appearances.)

Summary

This decision approves a settlement agreement involving Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (Edison) related to the purchase by customers of their existing electric meters. The settlement agreement resolves all issues related to such sales. The parties agree that sale price will not be less than the greater of a meter's net book value or the replacement cost new less depreciation. After-tax proceeds of meter sales will be credited to depreciation reserve, which allows ratepayers to benefit from any gain on sale.

Background

In 1997, Edison, SDG&E and PG&E filed revenue cycle services applications proposing billing credits for costs that the utilities avoid when other parties provide customers with metering, billing and related services. In D.98-07-032, the Commission determined that the utilities should file applications to explore whether the utilities should offer customers the opportunity to purchase existing meters.

The deadline for filing the applications was extended several times by the Executive Director. On July 2, 1999, the applicants here filed a petition to modify D.98-07-032 by eliminating the requirement to file applications to sell meters.

In D.99-11-008, the Commission denied the petition to modify and ordered that the applications required by D.98-07-032 be filed by January 14, 2000. In its order, the Commission clarified that D.98-07-032 does not order utilities to sell meters, but rather requires them to propose terms and conditions for sale of meters to end-use customers if the utilities decide to sell them. The utilities filed the above-captioned applications in compliance with D.99-11-008.

Utilities' Proposal

In its application, PG&E asks that the Commission recognize the decision in its generic application, Application (A.) 99-04-048, for approval under Pub. Util. Code § 851¹ of sales of certain limited sole-customer public utility facilities, including electric meters, valued at less than \$250,000. This application was approved, with conditions, by D.99-12-030.

PG&E explains that D.99-12-030 approved the pricing of such sales at equal to or greater than replacement cost new less depreciation, and approved reducing the rate base as a credit to the depreciation reserve for the net-of-tax proceeds for each sale. D.99-12-030 also provides that approval of these asset sales will be by advice letter process. Although PG&E currently does not intend to sell meters, PG&E states that it would not sell them below net book value.

Edison asks that the Commission authorize an expedited process for review under § 851 in the event that Edison elects to offer meters for sale.

Section 851 states, in relevant part:

“No public utility...shall sell, lease, assign, mortgage, or otherwise dispose of or encumber...property necessary or useful in the performance of its duties to the public...without first having secured from the commission an order authorizing it so to do.”

The expedited process sought by Edison would grant blanket approval for the program to sell the meters, rather than require individual § 851 applications for each sales transaction.

¹ All statutory references are to the Public Utilities Code.

If it were to offer meters for sale to customers, Edison also requests that such sales be exempt from California Environmental Quality Act (CEQA) review. Edison believes that any sales contemplated in this proceeding would not constitute a project as defined in CEQA, and thus the Commission would not have to undertake an environmental review. Edison notes that the Commission has previously concluded that a mere change in ownership of utility facilities does not in and of itself cause any direct physical change in the environment unless construction is required as a condition of sale. (D.98-02-032.)

Edison sets forth three conditions that must be satisfied for it to offer meters for sale:

1. Sufficient customer demand must be established, to justify the additional administrative efforts required.
2. Expedited § 851 review and approval must be authorized by the Commission.
3. Meter sales must be determined to be exempt from CEQA.

Assuming these conditions are met, Edison contemplates offering only existing interval meters available for sale to direct access and bundled service customers. Edison believes that the sale of cumulative meters would be uneconomic for customers, and would require an infrastructure that would also render any sales uneconomic for Edison.

Similarly, SDG&E states that if it were to sell meters, they would be sold at no less than replacement cost new less depreciation, plus costs associated with sales and administrative expenses. SDG&E believes that a customer has other sources for the purchase of interval meters from its electric service provider or a third-party meter service provider. Thus, market forces should prevent the meter price from being too high.

Prior to the evidentiary hearing on June 2, 2000, the utilities submitted the settlement agreement, a copy of which is attached to this decision as Appendix A. The agreement sets forth the terms the parties agreed to for possible sale of electric meters. The settlement agreement is sponsored by the three utilities, the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN). The agreement is unopposed. With no issues remaining to be litigated, the evidentiary hearing was held only to further explore the rationale of the settlement agreement.

Discussion

All three utilities state that they have no current plans to offer electric meters for purchase by customers because they perceive little or no interest by customers to purchase meters. As they explain:

- direct access customers under 50 kilowatts (kW) can opt for load profiling and continue to use their utility meters at no additional charge, and to a large extent they have done so;
- direct access customers under 50 kW who do not wish to use load profiling cannot use their existing meters;
- direct access customers above 50 kW must acquire an interval meter;
- most customers between 50 kW and 500 kW cannot use their existing meters for direct access;
- customers over 500 kW have meters that meet direct access requirements.
- the purchase of meters will likely not be economically attractive to customers.

The Commission agreed not to order the utilities to offer meters for sale in this proceeding but rather asked the parties to explore the conditions under which they would be offered for sale if the utilities so decide. It is clear that the

utilities are concerned primarily with § 851 and CEQA issues as they relate to potential meter sales.

The Commission has previously determined that a change in ownership that does not cause any direct physical change in the environment will not be subject to CEQA unless construction is required as a condition of sale.

(D.98-02-032, slip op. at 2.) We find that the sale of electric meters to customers is consistent with that conclusion, and that CEQA does not apply to meter sales.

As to § 851, we agree that it would be unduly cumbersome and uneconomic to require individual filings by utilities for each individual meter sale. Such a requirement would not serve the public interest. Pursuant to § 853(b), we will exempt such sales from the requirements of § 851. However, we will require quarterly advice letter filings summarizing the meter sale activities during periods when meters are sold.

The settlement agreement settles all issues between the applicants and ORA and TURN. The criteria for settlements are set forth in Rule 51.1(e), which requires that a settlement be reasonable in light of the whole record, consistent with law, and in the public interest. We conclude that the settlement agreement is consistent with these criteria, and we approve it in the order that follows.

In Resolution 176-3032, dated February 3, 2000, the Commission preliminarily categorized these proceedings as ratesetting, and preliminarily determined that hearings would be necessary. A public hearing was conducted. Based on the record, we conclude that it is not necessary to alter the preliminary determinations in Resolution 176-3032.

Opportunity to Update

Processing of these applications was deferred during the energy crisis. By ruling dated March 29, 2002, applicants were asked to comment on whether the

applications should be changed in view of the passage of time. In a joint filing dated April 29, 2002, applicants stated that “upon review of the matter as submitted, and notwithstanding recent events and the passage of time, the Joint Utility Applicants see no reason to amend or withdraw the application, and urge the Commission to proceed with its consideration of these matters as submitted.” (Joint Response, at 2.)

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. The proposed decision was also served on the parties to Rulemaking 02-06-001, the Commission’s recently issued demand reduction rulemaking, in order to solicit comment on whether the settlement, as herein approved, affects issues the Commission must consider in its efforts to promote broader demand reduction efforts in that proceeding. Comments were received on

Findings of Fact

1. The Commission is not ordering applicants to offer meters for sale in this proceeding.
2. The applicants do not believe that there is adequate interest by customers in purchasing meters to make it worthwhile to offer meters for sale.
3. The applicants do not currently plan to sell electric meters to customers.
4. The settlement agreement is unopposed.
5. The settlement agreement is consistent with the criteria for settlements stated in Rule 51.1(e).
6. The proposed sale price for meters is the greater of the meter’s net book value or the replacement cost new less depreciation.

7. Under the settlement agreement, after-tax proceeds from meter sales will be credited to the depreciation reserve, to ratepayers' benefit.

8. A § 851 filing for each individual meter sale would be unduly cumbersome.

9. The change of ownership of meters does not cause any direct physical change in the environment.

Conclusions of Law

1. The applicants should not be required to offer electric meters for sale in this proceeding.

2. Section 851 filings should not be required for each individual meter sale.

3. Sales of electric meters to customers does not invoke CEQA.

4. The settlement agreement should be approved.

O R D E R

IT IS ORDERED that:

1. The Settlement Agreement Concerning the Applications of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (Edison) Proposing Prices and Conditions For The Purchase By Customers Of Their Existing Electric Meters is approved.

2. Section 851 filings for sales of electric meters to customers by PG&E, SDG&E and Edison shall be filed quarterly during periods when sales are made.

3. The California Environmental Quality Act does not apply to the sale of electric meters by PG&E, SDG&E and Edison.

4. Applications (A.) 00-01-024, A.00-01-029, and A. 00-01-030 are closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

EXHIBIT A

**SETTLEMENT AGREEMENT CONCERNING THE APPLICATIONS OF PACIFIC
GAS AND ELECTRIC COMPANY, SAN DIEGO GAS AND ELECTRIC COMPANY,
AND SOUTHERN CALIFORNIA EDISON COMPANY PROPOSING PRICES AND
CONDITONS FOR THE PURCHASE BY CUSTOMERS OF THEIR EXISTING
ELECTRIC METERS**

June 30. 2000

**Settlement Agreement Concerning the Applications Of Pacific Gas And Electric Company, San Diego Gas And Electric Company, And Southern California Edison Company Proposing Prices And Conditions For The Purchase By Customers Of Their Existing Electric Meters
A.00-OI-024/ A.00-OI-029/ A.00-OI-030**

June 30, 2000

1. PURPOSE

The purpose of this Settlement Agreement (“Settlement Agreement”) is to address the issue raised in Application (A.) 00-01-024, 00-01-029, and 00-01-030 filed by Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE), respectively (collectively, Applicants). Specifically, the goal of this Settlement Agreement is to resolve all issues that would otherwise be litigated with respect to these Applications.

2. PARTIES

This Settlement Agreement is entered into the Settlement Parties (“Parties”), as identified by their attached signatures. Parties include, PG&E, SDG&E, SCE, the California Public Utilities Commission’s Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN). Parties agree to actively support this Settlement Agreement in this proceeding and to not oppose any provision of this Settlement Agreement in any regulatory, legislative or judicial forum.

3. BACKGROUND

In January 2000, in accordance with Ordering Paragraph 4 of Decision 98-07-032, dated July 2, 1998, and Ordering Paragraph 2 of Decision 99-11-008, dated November 4, 1999, the Applicants filed the above-referenced Applications proposing prices and conditions for purchase by customers of their existing electric distribution meters. The Utility Consumers’ Action Network (UCAN) filed a protest to SDG&E’s application in early February 2000. ORA and TURN filed a joint protest addressing all three applications on March 3, 2000. The Applicants replied to these protests on March 13, 2000.

4. COMMISSION DIRECTIVE

In his “Scoping Memo and Ruling” of June 5, 2000, Assigned Commissioner Carl Wood directed parties interested in reaching a settlement of the issues raised by the Applications to serve such settlement on or before June 30, 2000.

5. GENERAL PROVISIONS

- 5.1 This Settlement Agreement settles all of the issues raised by the above- referenced Applications. No issues require further litigation in this proceeding for any of the Applicants.
- 5.2 Nothing contained in this Settlement Agreement shall be deemed to constitute an admission or an acceptance by any Party of any fact, principle, or position contained herein, except to the extent that Parties, by signing this Settlement Agreement, acknowledge that they pledge support for California Public Utilities Commission (Commission) approval and subsequent implementation of all these provisions.
- 5.3 This Settlement Agreement is to be treated as a complete package and not as a collection of separate agreements on discrete issues or proceedings. To accommodate the interests of different parties on diverse issues, the Parties acknowledge that changes, concessions, or compromises by a party or parties in one section of this Settlement Agreement necessitated changes, concessions, or compromises by other parties in other sections.
- 5.4 All Parties' obligations under this Settlement Agreement are conditioned upon the Commission issuing a decision approving this Settlement Agreement without modification. If the Commission modifies the 'Settlement Agreement, each party reserves the right to withdraw its support for the Settlement Agreement

6. TERMS AND CONDITIONS

- 6.1 The Applications address terms and conditions applicable to the potential sale to customers of their "existing meters," i.e., the in-place Utility Distribution Company-owned electric meters installed at the customers' premises.
- 6.2 This Settlement Agreement shall apply only to sales of existing meters where the sales price of each meter is \$4,000 or less.
- 6.3 Nothing in this Settlement Agreement shall be interpreted to expand or diminish the ability of any consumer, marketer or utility to use its existing meters without having to purchase those meters.
- 6.4 Nothing in this Settlement Agreement is intended to address whether or not the purchase of an existing meter by a customer shall render that customer an "electrical corporation" as defined by Section 218 of the Public Utilities Code.

- 6.5 The issue of whether or not the Commission can order the Utility Distribution Companies (UDCs) to sell existing meters is not raised by the Applications.
- 6.6 Approval of this Settlement Agreement creates no obligation for UDCs to offer to sell existing meters. Similarly, if UDCs choose to sell existing meters, they may choose to sell some types of existing meters without being obligated to sell all types of existing meters.
- 6.7 Subject to the other terms of this Settlement Agreement, the sales price for any sale of an existing meter would be agreed to between the utility and the buyer and would not be less than the greater of the meter's net book value or its replacement cost new less depreciation (RCNLD).
- 6.8 The terms and conditions established by Decision 99-12-030 for selling UDC-owned equipment, as modified herein, should apply to sales of existing meters to customers.
- 6.9 For sales of existing meters under this Settlement Agreement, any of the following forms shall be acceptable to serve as purchase-and-sale contract: (a) the Existing Meter Purchase Authorization Form proposed by SCE in its application, with the term "meter" replacing the term "interval meter"; (b) any of the similar forms presented as Attachments B, C, D and E to SDG&E's prepared testimony in this proceeding; or (c) the sales contract approved by Decision 99-12-030.
- 6.10 For sales of existing meters with sales prices of \$4,000 or less, a single advice letter every six months listing the total number of completed sales and the gain on sales is acceptable in lieu of an advice letter for each sale. Confidential work-papers would be provided to the Commission, its staff, ORA, and other interested parties (subject to appropriate non-disclosure agreements) upon request, with the understanding that information identifying the specific customer would generally be redacted from any such materials provided to parties other than the Commission, its staff, and ORA.
- 6.11 Sales of existing meters valued up to \$4000 that comply with the terms and conditions of this Settlement Agreement should be deemed to be sales authorized by the Commission under Section 851 of the Public Utilities Code.
- 6.12 Issues concerning Revenue Cycle Service (RCS) credits or charges connected to existing meter sales should be considered in the RCS proceeding, A.99-03-013 et al.
- 6.13 After-tax proceeds of any existing meter sales should be credited to the depreciation reserve, thereby giving the benefit of the gain on sale to ratepayers. The ratemaking treatment for existing meter sales, including treatment of gain on sale, will be subject to change pursuant to Commission decisions resolving future ratemaking applications filed by the utilities.

7. NO REMAINING ISSUES TO BE LITIGATED

Parties agree that there are no issues of material fact that need litigating with the respect to the above-referenced Applications, provided the Commission approves this Settlement Agreement as set forth above. If Commission approval is conditional or modifies the Settlement Agreement, Parties reserve the right to seek hearings on any or all issues otherwise covered by this Settlement Agreement.

* * * * *

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific
Gas and Electric Company (U 39 E)
Proposing Prices and Conditions for the
Purchase by Customers of their Existing
Meters in Compliance with Decision
98-07-032 and 99-11-008.

And Related Matters

Application No. 00-01-024

Application No. 00-01-029

Application No. 00-01-030

SIGNATURE PAGE TO SETTLEMENT AGREEMENT

The undersigned party is a Settlement Party to the "Settlement Agreement Concerning the Applications Of Pacific Gas And Electric Company, San Diego Gas And Electric Company, And Southern California Edison Company Proposing Prices And Conditions For The Purchase By Customers Of Their Existing Electric Meters" and requests that the Commission expeditiously review the Settlement Agreement, find that the Settlement Agreement is in the public interest, and approve it.

Respectfully submitted,

By: /s/Thomas E. Bottorff

Thomas E. Bottorff
Vice President of Customer Service
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Company P.O. Box 7442
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Facsimile: (415) 973-2392
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Dated: June 30, 2000

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

In the Matter of the Application of Pacific
Gas and Electric Company (U 39 E)
Proposing Prices and Conditions for the
Purchase by Customers of their Existing
Meters in Compliance with Decision
98-07-032 and 99-11-008.

And Related Matters

Application No. 00-01-024

Application No. 00-01-029

Application No. 00-01-030

SIGNATURE PAGE TO SETTLEMENT AGREEMENT

The undersigned party is a Settlement Party to the "Settlement Agreement Concerning the Applications Of Pacific Gas And Electric Company, San Diego Gas And Electric Company, And Southern California Edison Company Proposing Prices And Conditions For The Purchase By Customers OF Their Existing Electric Meters" and request that the Commission expeditiously review the Settlement Agreement, find that the Settlement Agreement is in the public interest, and approve it.

Respectfully submitted,

By: /s/ Pamela J. Fair

Pamela J. Fair
Vice President Customer Services

San Diego Gas & Electric
Company

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City, State, Zip

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Dated: June 30, 2000

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

In the Matter of the Application of Pacific
Gas and Electric Company (U 39 E)
Proposing Prices and Conditions for the
Purchase by Customers of their Existing
Meters in Compliance with Decision
98-07-032 and 99-11-008.

And Related Matters

Application No. 00-01-024

Application No. 00-01-029

Application No. 00-01-030

**SIGNATURE PAGE TO SETTLEMENT AGREEMENT CONCERNING
THE ABOVE-REFERENCED APPLICATIONS**

The undersigned party is a Settlement Party to the Comprehensive
PG&E Settlement Agreement and requests that the Commission
expeditiously review the Settlement, find that the Settlement is in the
public interest, and approve it.

Respectfully submitted,

By:  _____

Ann P. Cohn
Associate General Counsel
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Dated: June 30, 2000

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

In the Matter of the Application of Pacific
Gas and Electric Company (U 39 E)
Proposing Prices and Conditions for the
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98-07-032 and 99-11-008.

And Related Matters

Application No. 00-01-024

Application No. 00-01-029

Application No. 00-01-030

SIGNATURE PAGE TO SETTLEMENT AGREEMENT

The undersigned party is a Settlement Party to the "Settlement Agreement Concerning the Applications Of Pacific GL1 And Electric Company. San Diego Gas And Electric Company, And Southern California Edison Company Proposing Prices And Conditions For The Purchase By Customers Of Their Existing Electric Meters" and requests that the Commission expeditiously review the Settlement Agreement, find that the Settlement Agreement is in the public interest, and approve it.

Respectfully submitted,

By: /s/ Sean Casey
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Dated: June 30, 2000

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

In the Matter of the Application of Pacific Gas and Electric Company (U 39 E) Proposing Prices and Conditions for the Purchase by Customers of their Existing Meters in Compliance with Decision 98-07-032 and 99-11-008.

And Related Matters

Application No. 00-01-024

Application No. 00-01-029

Application No. 00-01-030

SIGNATURE PAGE TO SETTLEMENT AGREEMENT

The undersigned party is a Settlement Party to the "Settlement Agreement Concerning the Applications Of Pacific Gas And Electric Company, San Diego Gas And Electric Company, And Southern California Edison Company Proposing Prices And Conditions For The Purchase By Customers Of Their Existing Electric Meters" and requests that the Commission expeditiously review the Settlement Agreement find that the Settlement Agreement is in the public interest, and approve it.

Respectfully submitted,

By:



[Name]

[Name] [Title]

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Dated: June 30, 2000

APPENDIX B

List of Appearances

Applicants: James M. Lehrer and Janine Watkins-Ivie, Attorneys at Law, for Southern California Edison Company; Peter Ouborg, Attorney at Law, for Pacific Gas and Electric Company, and Paul Szymanski and Mark W. Ward, Attorneys at Law, for San Diego Gas & Electric Company.

Interested Parties: Robert Finkelstein, Attorney at Law, for The Utility Reform Network; Norman J. Furuta, Attorney at Law, for Department of the Navy; Adams Broadwell Joseph & Cardozo, by Marc D. Joseph, Attorney at Law, for Coalition of California Utility Employees; Ellison & Schneider, by Gregory Maxim and Andrew Brown, Attorneys at Law, for California Department of General Services; M.Cubed, by Richard J. McCann, Attorney at Law, for Western Manufactured Housing Communities Association (WMA), and JBS Energy, Inc., by Jeff Nahigian, for JBS Energy.

Office Of Ratepayer Advocates: Sean F. Casey.

Energy Division: Salvador Peinado, Jr.

(END OF APPENDIX B)