

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I.D. # 10743

RESOLUTION E-4420

November 10, 2011

R E S O L U T I O N

Resolution E-4420. Pacific Gas & Electric Company (PG&E)

PROPOSED OUTCOME: This Resolution approves revisions to PG&E's Community Choice Aggregation (CCA) Non-Disclosure Agreement (NDA), Form 79-1031, and to PG&E's *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators*, as described herein.

ESTIMATED COST: \$0

By Advice Letter (AL) 3841-E-C Filed on August 15, 2011

SUMMARY

This Resolution approves revisions to PG&E's Community Choice Aggregation (CCA) Non-Disclosure Agreement (NDA), Form 79-1031, and to PG&E's *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators*, which details the information that can be released to CCAs and to communities wishing to explore CCA program implementation.

With this approval, the scope of information that can be shared with CCAs and communities wishing to explore CCA implementation via PG&E's CCA NDA is now broadened, enabling PG&E to share additional customer-specific information with these entities. The revisions to rate item 16 of *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators* reflect this tariff change.¹

¹ Some customer-specific information, however, will only be available to active CCAs, as explained in the modified rate item 16.

BACKGROUND

Marin Energy Authority (MEA) is a joint powers authority² that administers Marin Clean Energy (MCE³). In 2010, MEA/MCE became an active party in CCA Rulemaking 03-10-003.

Since beginning its CCA operations MEA/MCE has raised various CCA operational issues with PG&E. The California Public Utilities Commission (CPUC) reports on the progress of these CCA issues via the reporting process required pursuant to the Supplemental Report Language (SRL) of the 2010-2011 Budget Act.⁴ The SRL required the CPUC to submit four quarterly reports to the California Legislature during 2011.

As part of this reporting process, MEA, PG&E, and Commission staff have identified four issues that need to be dealt with through the Commission's formal advice letter process. Three of these four operational issues are intended to be disposed of via AL 3841-E-C.⁵ MEA and PG&E have collaborated to come up with the changes that are proposed by PG&E in AL 3841-E-C.⁶

² Pursuant to Public Utilities Code Section 331.1(b)

³ MCE is the first operational Community Choice Aggregation program in California, consisting of seven cities/towns – Belvedere, Fairfax, Mill Valley, San Anselmo, San Rafael, Sausalito, Tiburon – and the County of Marin. During the drafting of this Resolution, additional cities/towns were considered joining MCE.

⁴ See the CPUC's Third Quarter Report to the Legislature <http://www.cpuc.ca.gov/NR/rdonlyres/E6DECC07-7F83-4A74-BB36-5F230A4FBCCA/0/CCAThirdQuarterReport8311.pdf>; the final report will be provided to the relevant fiscal and policy committees in each house of the Legislature by October 31, 2011.

⁵ The proposed solution to a fourth operational issue, which would revise the process that MCE customers must follow when requesting to return to PG&E bundled service, will be dealt with by means of a separate PG&E advice letter filing.

⁶ AL 3841-E was filed on May 2, 2011; AL 3841-E-A was filed on May 20, 2011; AL 3841-E-B was filed on July 19, 2011; Substitute Sheets to AL 3841-E-B were filed on August 11, 2011; and AL 3841-E-C was filed on August 15, 2011.

Tariff Changes Proposed by PG&E

PG&E has proposed tariff changes to *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators*, and to two paragraphs of the CCA NDA.

Proposed changes to rate item 16 of the Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators

Item 16 currently states:

16. Customer-specific information consisting of: service agreement number, name on agreement, service address with zip code, mailing address with zip code, monthly kWh usage, monthly maximum demand where available, and monthly rate schedule for all accounts within the CCA's territory, per request (provided on a cd rom/zipped file)

Per request \$920.00

The proposed amendment to rate item 16 of the *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators* would provide to CCAs, and to communities wishing to explore CCA program implementation, additional customer-specific information such as: California Alternate Rates for Energy (CARE) participation, Service Voltage, Medical Baseline, Meter/Bill Cycle, and Balanced Payment Plan participation. Moreover, the proposed amendment would provide to *active* CCAs information such as the current and historical billing information for non-CCA services provided by PG&E or other electric service providers. All of the information included in rate item 16 is provided under a NDA. With the proposed amendments, rate item 16 will read as follows:

16. Customer-specific information from the current billing periods as well as prior 12 months consisting of the following billing information: service agreement number, name on agreement, service address with zip code, mailing address with zip code, monthly kWh usage, monthly maximum demand where available, Baseline Zone, CARE participation, End Use Code (Heat Source), Service Voltage, Medical Baseline, Meter Cycle, Bill Cycle, Balanced Payment Plan and other plans, HP Load and Number of Units and monthly rate schedule for all accounts within the CCA's territory, per request. In addition, PG&E will provide the CCA the following additional information regarding customers currently enrolled in its CCA service: current and historical billing information for non-CCA services provided by PG&E or other electric service providers (provided on a cd rom/zipped file)

Per request.....\$920.00

Changes to the Non-Disclosure Agreement

AL 3841-E-C also proposes modifications to two paragraphs of the CCA NDA in order to reflect the above mentioned changes to rate item #16 of the *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators*. The first modification is made to the second paragraph on the 1st page of the CCA NDA, which adds the italicized/bolded language below:

The CPUC has determined that CCA/Community may obtain specified confidential customer information from Utility pursuant to Tariff Schedules ECCAINFO-Information (as modified hereafter from time to time) (“E-CCAINFO”) as a community choice aggregator, as defined by PU Code Section 331.1, solely in order to investigate, pursue or implement community choice aggregation pursuant to PU Code Section 366.2, et seq. The provisions of this Agreement and E-CCAINFO govern the disclosure of Utility’s confidential customer information to CCA/Community (“Disclosure Provisions”) ***under Schedules E-CCAINFO and E-CCA.***

The second modification changes the paragraph numbered “2” on the 2nd page of the CCA NDA which currently reads as follows:

The confidential and proprietary information disclosed to CCA in connection herewith may include, without limitation, the following information about Utility Customers: (a) names; (b) addresses; (c) meter and other identification numbers; (d) account numbers; (e) telephone numbers; (f) electricity usage; and (g) other similar information specific to Utility Customers individually or in the aggregate (collectively, “Confidential Information”). Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by CCA or its representatives that are derived from or based on Confidential Information disclosed by Utility, regardless of the form of media in which it is prepared, recorded or retained.

With the modification proposed herein, paragraph numbered “2” of the CCA NDA will read as follows:

The confidential and proprietary information disclosed to CCA in connection herewith may include, without limitation, the following billing information about Utility Customers – customer-specific information from the current billing periods as well as prior 12 months consisting of: service agreement number, name on agreement, service address with zip code, mailing address with zip code, monthly kWh usage, monthly maximum demand where available, Baseline Zone, CARE participation, End Use Code (Heat Source) Service Voltage, Medical Baseline, Meter Cycle, Bill Cycle, Balanced Payment Plan and other plans, HP Load and Number of Units and monthly rate schedule for all accounts within the CCA's territory. In addition, PG&E will provide the CCA the following additional information regarding customers currently enrolled in its CCA

service: current and historical billing information for non-CCA services provided by PG&E or other electric service providers (collectively, “Confidential Information”). Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by CCA or its representatives that are derived from or based on Confidential Information disclosed by Utility, regardless of the form of media in which it is prepared, recorded or retained.

NOTICE

Notice of AL 3841-E-C was made by publication in the Commission’s Daily Calendar. PG&E states that a copy of the advice letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

AL 3841-E-C was not protested.

DISCUSSION

The CPUC addressed CCA program⁷ rules in Rulemaking 03-10-003 when it adopted Decisions (D.) 04-12-046 and D.05-12-041. PG&E filed interim tariffs pursuant to D.04-12-046 which were approved on August 18, 2005; PG&E subsequently filed revised tariffs – via AL 2784-E-A – pursuant to D.05-12-041, that were adopted by Resolution E-4013 on November 9, 2006.

The tariffs that were adopted via Commission Resolution E-4013 included (among other Schedules) *Schedule E-CCAINFO-Information Release to Community Choice Aggregators*, which delineated the information that PG&E can share with CCAs as well as with communities wishing to explore CCA program implementation. *Schedule E-CCAINFO-Information Release to Community Choice Aggregators* included “rate items” #1-17 regarding information that can be provided to CCAs/communities. AL 2784-E-A also included the CCA NDA.

⁷ The Commission has implemented CCA program rules under the provisions of Assembly Bill (AB) 117 (2002 Stats., ch. 838).

CCAs and communities wishing to explore CCA program implementation are currently able to receive certain types of information

Since the approval of AL 2784-E-A via Resolution E-4013, CCAs and communities wishing to explore CCA program implementation have been allowed to receive certain types of aggregated information and customer-specific information under *Schedule E-CCAINFO-Information Release to Community Choice Aggregators*. Below are examples of such information.

Examples of **aggregated information** that PG&E can share with CCAs/communities are (rate items #1-15):

- a community's energy consumption (kWh)
- EE funds collected for the community
- a community's load shape
- residential and non-residential load shapes by climate band
- load profiles by rate class
- usage (kWh) by rate schedule/zip code
- mapping of customer rate schedules by rate class
- generation revenues received by the IOU for a particular community

Examples of *customer-specific information* that PG&E can currently share with CCAs/communities wishing to explore CCA program implementation (rate items #16-17) are:

Under rate item #16

- service agreement number
- name on agreement
- service address with zip code
- mailing address with zip code
- monthly kWh usage
- monthly maximum demand (where available)
- monthly rate schedule for all accounts within a community/CCA territory

Under rate item # 17

- service agreement number
- monthly interval meter data (where available)

- monthly rate schedule for all accounts within a community/CCA territory

The proposed modifications will enable PG&E to share with CCAs, and with communities wishing to explore CCA program implementation, the following additional customer-specific information:

a) With CCAs & Communities exploring CCA program implementation

Baseline Zone, CARE participation, End Use Code (Heat Source), Service Voltage, Medical Baseline, Meter Cycle, Bill Cycle, Balanced Payment Plan and other plans, HP Load and Number of Units

b) With operational CCAs only

Current and historical billing information for non-CCA services provided by PG&E or other electric service providers (i.e. will enable active CCAs' representatives to view a CCA customer's entire bill when providing customer service).

PG&E and MEA/MCE have collaboratively developed the proposed modifications to *Schedule E-CCAINFO-Information Release to Community Choice Aggregators*, as filed via PG&E AL 3841-E-C, in order to resolve certain operational issues raised by MEA/MCE.

AL 3841-E-C has been filed in order to implement the proposed modifications due to the fact that PG&E cannot change its existing tariffs involving Commission's privacy rules without Commission approval. PG&E is therefore requesting for authority to modify *Schedule E-CCAINFO-Information Release to Community Choice Aggregators* via the Commission's advice letter process in order to enable PG&E to provide to MEA/MCE the information it seeks.

The proposed modifications to rate item 16 of PG&E's *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators*, and to the PG&E's CCA NDA, will permit PG&E to disclose additional customer-specific information to MEA/MCE. These changes will help facilitate the resolution of the following three issues that MEA/MCE has raised via legislative reporting process.

- Issue 1.3 titled *Need for third-party viewing of customer bills* which, once solved, would enable MEA/MCE staff to view MCE customers' bills

while providing customer support services, such as helping customers verify the accuracy of their bill and helping Net Energy Metering customers verify that their MCE-provided generation credit has been credited accurately on their account.

- Issue 1.5 titled *CARE data not being provided to MCE* which, once solved, would enable MEA/MCE to receive updates from PG&E regarding MCE's CARE customer eligibility status. These updates will enable MEA/MCE to accommodate the needs of new CARE-eligible customers that move into MCE's service territory and of those customers whose CARE-eligibility status has changed.
- Issue 2.1 titled *Billing arrangements not disclosed*⁸ which, once solved, would enable MEA/MCE to identify which customers have made payment arrangements with PG&E; the ability to identify such customers will enable MEA/MCE to differentiate between customers who are delinquent with their payment and those customers who, in some months, do not make a full payment due to their billing arrangements with PG&E.

Commission Rules regarding the sharing of customer specific information

Pursuant to D.11-07-056, the Commission's privacy rules regarding the sharing of customer-specific information cover the following three broad categories of entities.

- 1) Utilities
- 2) Third Parties working on behalf or under direction of CPUC.
- 3) Customer consent Third Parties receiving data from IOUs

⁸ PG&E is the billing agent for MEA/MCE. MCE staff provided the following explanation of this issue: "PG&E sets up a plan where a customer pays a large balance over a long period of time at set amounts but MEA is not informed of this. So we may not receive payment from a customer even if they are paying PG&E".

In D.11-07-056 the Commission explained that “the rules and policies adopted in this decision do not apply to other electrical corporations⁹, gas corporations, community choice aggregators, or electric service providers”. This same decision, however, further explained that “Phase 2 of this proceeding will also explore how the rules and policies adopted in this decision should also apply to community choice aggregators and electrical service providers”.

CCAs, and communities exploring their CCA options, are uniquely situated

In Resolution E-4013, the Commission recognized the unique situation of CCAs and of communities wishing to explore CCA program implementation, and as such, authorized access to specified customer-specific information for these entities. D.11-07-056 did not change the status quo regarding the rules for data sharing with the CCAs and communities wishing to explore CCA program implementation. D.11-07-056 indicated that “Phase 2 of this proceeding will also explore how the rules and policies adopted in this decision should also apply to community choice aggregators and electrical service providers.”

Until we revisit the issue regarding the access to data by CCAs and communities wishing to explore CCA implementation in Phase 2 of R.08-12-009, and make a final determination on the applicable rules, it is appropriate to continue to provide data as proposed by PG&E via AL 3841-E-C. The approach proposed by PG&E and approved here continues to provide access to customer-specific data for CCAs and Communities wishing to explore the CCA option in a similar way that D. 11-07-056 provides this access to “third parties” under a Non-Disclosure Agreement.

We approve the access to additional data for CCAs and communities exploring the CCA option as described in rate item 16 of PG&E’s *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators*. Regarding the additional information that will be made available to operational CCAs only, we note that this information will enable the representatives of these active CCAs to, among other things, view the entire CCA customer’s bill (i.e. the transmission and distribution charges, not just the generation portion of the bill as is currently the case). This type of new information is necessary for operational CCAs to

⁹ The phrase “other electric corporations” refers to: PacifiCorp, Sierra Pacific Power, Bear Valley Electric Service, and Mountain Utilities.

access so that their representatives can better address their CCA customers' billing questions.¹⁰

PG&E 's Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators should reflect the fact that data is available to CCAs and communities wishing to explore CCA program implementation.

Except for a narrow subset of data that is only available to an operational CCA, PG&E's tariffs provide customer-specific data to CCAs as well as to communities wishing to explore CCA program implementation. We direct PG&E to incorporate this clarification in *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators*.

PROTESTS

No party has protested AL 3841-E-C or any of the previous versions of this advice letter.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this Resolution was neither waived nor reduced. Accordingly, this Draft Resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

¹⁰ Note that an active CCA would not be able access this new type of customer-information for customers who are not enrolled in its CCA service.

FINDINGS AND CONCLUSIONS

1. The CPUC adopted CCA program rules in Decisions (D.) 04-12-046 and D.05-12-041 (Rulemaking R.03-10-003).
2. PG&E filed interim tariffs pursuant to D.04-12-046 which were approved on August 18, 2005.
3. PG&E filed revised tariffs pursuant to D.05-12-041 that were adopted via Resolution E-4013 on November 9, 2006.
4. In 2010, MEA/MCE became an active party in Rulemaking 03-10-003.
5. The Supplemental Report Language of the 2010-2011 Budget Act (General Government Item 8660-001-0462) requires that the CPUC submit to the relevant fiscal and policy committees of each house of the Legislature a report regarding the activities related to its CCA program oversight on or before January 31, 2011 and quarterly thereafter. The last report to each house of the Legislature is due on October 31, 2011.
6. Since being operational, MEA has raised various issues that the CPUC staff has been striving to help resolve by working with PG&E and MEA.
7. MEA, PG&E, and CPUC staff have identified four issues that need to be dealt with through the Commission's advice letter process.
8. This Resolution resolves three of the four operational issues identified in the Third Quarter Report to the Legislature by virtue of adopting the changes to the tariffs pursuant to AL 3841-E-C, as modified herein.
9. The scope of information that can be shared with active CCAs via PG&E's CCA NDA should be broadened, enabling PG&E to share additional customer-specific information with active CCAs; the revision to item 16 of *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators* reflects this change in the tariffs.

THEREFORE IT IS ORDERED THAT:

1. PG&E's request to modify its CCA NDA, Form 79-1031, and its *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators* via AL 3841-E-C is approved as described herein.

2. We direct PG&E to reflect the fact that *Electric Schedule E-CCAINFO-Information Release to Community Choice Aggregators* enables data to be shared with CCAs as well as with communities wishing to explore CCA program implementation.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on November 10, 2011; the following Commissioners voted favorably thereon:

Paul Clanon
Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



October 5, 2011

I.D. # 10743
RESOLUTION E-4420
November 10, 2011

TO: PG&E and MEA

Enclosed is Draft Resolution E-4420 which addresses the issues raised via Advice Letter (AL) 3841-E-C. The Commission may vote on Draft Resolution E-4420 during the November 10, 2011 Commission meeting or it can postpone a vote on this Draft Resolution until a later Commission meeting date.

When the Commission votes on Draft Resolution E-4420, it may adopt all or part of this Draft Resolution as written; the Commission can also amend or modify Draft Resolution E-4420. Alternatively, the Commission can set Draft Resolution E-4420 aside and prepare an alternate Draft Resolution. Only when the Commission acts does Draft Resolution E-4420 become binding on the parties.

All comments regarding Draft Resolution E-4420 are due by **October 24, 2011**; reply Comments are due by **October 31, 2011**.

Comments on Draft Resolution E-4420 shall be served on parties, as outlined below:

1) An original and two copies, along with a certificate of service to:

Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

2) All persons served with Resolution E-4420 and any additional names on the current R.03-10-003 service list for the CCA proceeding.

3) Carlos A. Velasquez
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: los@cpuc.ca.gov

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to this Draft Resolution.

Comments shall focus on factual, legal, or technical errors in proposed Draft Resolution E-4420. Late submitted comments will not be considered. However, late submitted comments may be considered if they are accompanied by a declaration under penalty of perjury that set forth the reasons for the late submittal of the comments.

Please contact Carlos Velasquez of the Energy Division at 415-703-1124 if you have questions or need assistance.

Sincerely,

/s/ Gurbux Kahlon
Gurbux Kahlon
Program and Project Supervisor
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have, by electronic mail this day, served a copy of Draft Resolution E-4420 on all persons included on the current R.03-10-003 service list.

Dated October 5, 2011 at San Francisco, California.

/s/ Carlos A. Velasquez

Carlos A. Velasquez

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

Service List

Persons on the current R.03-10-003
service list.

Dawn Weisz
Interim Director
Marin Energy Authority
3501 Civic Center Drive
San Rafael, CA 94903
415-507-2706
dweisz@co.marin.ca.us

Sujata Pagedar
Manager, Gas & Electric Procurement Energy
Proceedings
PG&E
77 Beale Street, Rm. 907
San Francisco, CA 94105
415-973-9801
SXPG@pge.com

Jamie Tuckey
Marin Energy Authority
3501 Civic Center Drive
San Rafael, CA 94903
415-464-6024
jtuckey@marinenergyauthority.org

Gurbux Kahlon
CPUC Branch Manager
505 Van Ness Avenue
San Francisco, CA 94102
415-703-1775
gkk@cpuc.ca.gov