

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**ITEM #**

**ID # 11444**

**RESOLUTION E-4492**

**August 2, 2012**

**R E S O L U T I O N**

**Resolution E- 4492.** California Pacific Electric Company, LLC (CalPeco) request for authorization to establish a memorandum account entitled Renewables Portfolio Standard Memorandum Account (RPSMA). This account would be used to record certain administrative expenses associated with renewable-related proceedings at various California state agencies and outside third-party expenses for renewable procurement.

**PROPOSED OUTCOME:** This resolution hereby denies CalPeco the authority to establish the RPSMA.

**ESTIMATED COST:** No cost recovery is authorized in this resolution.

By Advice Letter 9-E filed on October 11, 2011.

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**SUMMARY**

By Advice Letter (AL) No. 9-E, filed on October 11, 2011, California Pacific Electric Company, LLC (CalPeco) requests authorization to establish a memorandum account entitled Renewables Portfolio Standard Memorandum Account (RPSMA). The purpose of the account is to record administrative expenses such as legal costs related to preparing and filing pleadings and compliance filings associated with renewable-related proceedings at various California state agencies and outside third-party expenses for renewable procurement. CalPeco claims these costs are not currently included in their rates.

This resolution hereby denies CalPeco's request to establish the RPSMA. Pursuant to Regulatory Commitment 3(c), Appendix 3 to D.10-10-017, CalPeco committed not to change its tariffs in a way that could result in an increase in rates until it filed a General Rate Case (GRC). CalPeco filed its GRC in February

2012. Authorizing CalPeco via advice letter to start booking incremental costs to its RPSMA would be inconsistent with CalPeco's commitment. The proper forum for CalPeco to seek authorization for the costs proposed in its RPSMA is its GRC.

## **BACKGROUND**

**The Commission approved the transfer of Sierra Pacific Power Company's California distribution facilities to CalPeco effective January 1, 2011.**

In Decision (D.) 10-10-017 the Commission approved, pursuant to Public Utilities Code Section 854 and subject to certain conditions, the transfer to California Pacific Electric Company, LLC (CalPeco) of the California electric distribution facilities and the Kings Beach Generating Station owned by Sierra Pacific Power Company (Sierra).

In approving the transfer the Commission stated that CalPeco and Sierra "have established that the transfer will not harm ratepayers; in fact, certain service improvements are likely in the near term, at no cost to ratepayers" (D.10-10-017, mimeo, at page 2). Related to service improvements that would increase costs and result in request for rate increases, the decision stated "CalPeco is on notice that we will carefully scrutinize its 2012 general rate case showing. As is standard in a general rate case, CalPeco will have the burden of proof to establish the reasonableness of its request" (D.10-10-017, mimeo, at page 49). The transfer of these assets from Sierra to CalPeco was completed effective January 1, 2011. On January 1, 2011, CalPeco began operations as the utility with responsibility for serving the electric customers within Sierra's former California service territory.

**CalPeco filed a Tier 2 advice letter requesting authority to establish the RPSMA.**

On October 11, 2011, CalPeco submitted a Tier 2 Advice Letter (AL) 9-E, seeking Commission approval and authorization to establish a new memorandum account, the Renewables Portfolio Standard Memorandum Account (RPSMA). The purpose of the account is to record administrative expenses such as legal costs related to preparing and filing pleadings and compliance filings associated with renewable-related proceedings at various California state agencies and

outside third-party expenses for renewable procurement. CalPeco states that these costs are currently not included in their rates.

**GRC ratemaking is designed to have the utilities manage various parts of their utility business within their authorized budgets except for circumstances and exceptions specified in the GRC decision.**

Under GRC ratemaking, the utilities are given an authorized revenue requirement to manage various parts of their utility business. Recognizing that the utilities may need to re-prioritize spending and spend more or less in a particular area of their business, the Commission affords utilities substantial flexibility to decide how much to spend in any particular area.

Under the Commission's general ratemaking policy, a utility's adopted revenue requirement is based on future expected costs and is not adjusted between rate cases.

## **NOTICE**

Notice of AL 9-E was made by publication in the Commission's Daily Calendar. CalPeco states that a copy of AL 9-E was distributed in accordance with Section 4.3 of G.O. 96-B.

## **PROTESTS**

**DRA opposes CalPeco's request to establish the RPSMA.**

On October 31, 2011 the Division of Ratepayer Advocates (DRA) filed a protest on AL 9-E. In its protest DRA states that CalPeco neither justifies its request nor the reasonableness for establishing a memorandum account for its renewable portfolio.

DRA argues that D.10-10-017 does not give CalPeco the authority to track legal and administrative costs or expenses associated with renewable procurement. Conclusion of Law (COL) # 8 in D.10-10-017 states that "A general rate case is the forum for review of the reasonableness of actual costs incurred and actual benefits associated with those costs." COL #9 states that "No finding or conclusions of law in this decision supports a reasonableness finding or authorizes rate recovery in a future general rate case."

DRA further states that as part of the transfer from Sierra to CalPeco, CalPeco accepted the existing cost of service established for Sierra by this Commission. CalPeco also agreed to Sierra's general rate case cycle and thus agreed to file its first general rate case in 2011.<sup>1</sup> Therefore, DRA asserts that CalPeco should not be allowed to establish an RPSMA. Instead, CalPeco should request forecasted costs associated with its renewable portfolio in its next general rate case, which was filed in February 2012.

**CalPeco asserts that the grounds for DRA's protest lack merit.**

On November 7, 2011, CalPeco replied to DRA's protest by stating that CalPeco's request to establish a Memorandum Account to Track RPS Procurement-Related costs is authorized by statute and is reasonable.

CalPeco also states that D.10-10-017 does not preclude CalPeco from being granted a RPS Costs Memorandum Account.

**DISCUSSION**

CalPeco relies on Public Utilities Code Section 399.13(g) to support its request for an RPSMA. Section 399.13(g) states, "procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the Commission shall be deemed reasonable per se, and shall be recoverable in rates."

**We agree with CalPeco that Public Utilities Code Section 399.13(g) provides for recovery of costs related to procurement of eligible renewable resources approved by the Commission. We note, however, that the administrative and legal costs associated with these contracts are addressed in the general rate cases and are part of the GRC revenue requirement.**

CalPeco accepted Sierra's last GRC revenue requirement that included a budget for all forecasted legal and administrative costs. To the extent that these costs have increased, CalPeco should ask for a higher level of funding for this area in its pending GRC proceeding. Sierra's last GRC did not carve out a provision for

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<sup>1</sup> CalPeco filed its general rate case application in February 2012.

the creation of a memorandum account for these costs. CalPeco was well aware of its GRC revenue requirement when it assumed ownership of the utility operations. Creation of a memorandum account outside of the GRC revenue requirement would be contrary to the commitment made by CalPeco to keep its total revenue requirement the same until its next GRC revenue requirement is adopted.

**As part of the transfer from Sierra to CalPeco, CalPeco accepted the existing cost of service established for Sierra by this Commission.**

In D.10-10-017, CalPeco accepted the regulatory commitment 3(c) which stated that:

For an initial period extending through the filing of the next general rate case for the California Utility, CalPeco will maintain and accept all tariffs of the California Utility existing at the Closing or approved by the Commission in response to filings made by Sierra prior to the Closing and as requested to be modified in this proceeding . . . In this . . . proceeding, CalPeco is requesting no increase in rates or in the total revenue requirement; on the day after Closing, rates for the customers of the California Utility shall remain at the same rate levels as the day prior to Closing and the total revenue requirement shall remain the same . . . . (Regulatory Commitment 3(c), Appendix 3 to D.10-10-017).

By this commitment, CalPeco clearly indicated that until it filed its next General Rate Case (GRC) it would not change its tariffs in a way that could result in an increase in rates. Authorizing CalPeco to start booking incremental costs to RPSMA, outside of or during the GRC revenue requirement proceeding, would be contrary to the commitment made by CalPeco. Therefore, while we do not agree with DRA that D.10-10-017 precludes *any* filing of this RPSMA tariff, based on the language quoted above, we conclude that CalPeco should not be authorized to establish its RPSMA as requested in this advice letter. CalPeco should seek authorization for the costs proposed to be included in its RPSMA in CalPeco's GRC proceeding.

Pursuant to Regulatory Commitment 3(c), Appendix 3 to D.10-10-017, CalPeco will not change tariffs in a way that could result in an increase in rates.

### **CalPeco has filed its new GRC for Test Year 2013<sup>2</sup>**

The appropriate level of administrative expenses such as legal costs related to preparing and filing pleadings and compliance filings associated with renewable-related proceedings for renewable procurement will be addressed as part of that proceeding.

CalPeco is not authorized to establish a memorandum account now to book expenses prior to or during its Test Year 2013 GRC.

### **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. Accordingly, this draft resolution was mailed to all parties for comment, and was placed on the Commission's agenda to be voted on no sooner than 30 days after mailing.

### **FINDINGS AND CONCLUSIONS**

1. In Decision (D.) 10-10-017 the Commission approved, pursuant to Public Utilities Code Section 854 and subject to certain conditions, the transfer to California Pacific Electric Company, LLC (CalPeco) of the California facilities owned by Sierra Pacific Power Company (Sierra).
2. On October 21, 2011, CalPeco submitted a Tier 2 AL 9-E, seeking Commission approval and authorization to establish a new memorandum account, the Renewables Portfolio Standard Memorandum Account (RPSMA). The purpose of the account is to record administrative expenses such as legal costs related to preparing and filing pleadings and compliance filings associated with renewable-related proceedings at various California state agencies and outside third-party expenses for renewable procurement.
3. On October 31, 2011 the Division of Ratepayer Advocates (DRA) filed a protest opposing CalPeco's request; CalPeco filed a reply on November 7, 2011.

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<sup>2</sup> <http://docs.cpuc.ca.gov/efile/AA/160657.pdf>

4. Public Utilities Code Section 399.13(g) neither alters the conditions placed upon CalPeco by the Commission as part of the transfer from Sierra to CalPeco, nor authorizes the creation of a Memorandum Account.
5. General Rate Case (GRC) ratemaking is designed to have the utilities operate within their authorized budgets except for circumstances and exceptions specified in the GRC decision.
6. CalPeco filed its initial GRC Application 12-02-014 on February 17, 2012 for Test Year 2013.
7. Under the Commission's general ratemaking policy, a utility's adopted revenue requirement is based on future expected costs and is not adjusted between rate cases.
8. CalPeco's Commitment 3(c), which was a condition of this Commission's approval of CalPeco's acquisition of Sierra Pacific's California assets in D.10-10-017, states:

For an initial period extending through the filing of the next general rate case for the California Utility, CalPeco will maintain and accept all tariffs of the California Utility . . . [so that] rates for the customers of the California Utility shall remain at the same rate levels as the day prior to Closing and the total revenue requirement shall remain the same.
9. Pursuant to Regulatory Commitment 3(c), Appendix 3 to D.10-10-017, CalPeco will not change tariffs in a way that could result in an increase in rates.
10. The Commission will consider the appropriate level of administrative expenses such as legal costs related to preparing and filing pleadings and compliance filings associated with renewable-related proceedings at various California state agencies and outside third-party expenses for renewable procurement in CalPeco's GRC Application 12-02-14.
11. CalPeco is not authorized to establish a memorandum account now to book expenses prior to or during its Test Year 2013 GRC.

**THEREFORE IT IS ORDERED THAT:**

1. CalPeco's request in AL 9-E for authority to establish the Renewables Portfolio Standard Memorandum Account is denied.

This Resolution is effective today.

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 August 2, 2012; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director