

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I.D. # 11533
RESOLUTION E-4516
September 13, 2012

RESOLUTION

Resolution E-4516. Pacific Gas and Electric Company (PG&E) requests for approval of deviation from Electric Rule 18.C.1.c and Electric Rate Schedule ES for apartment residents at 998 Fourth Street, San Rafael, California.

PROPOSED OUTCOME: This resolution grants the request and authorizes PG&E to deviate from Electric Rule 18.C.1.c, and allow services to residential units at 998 Fourth Street to pay under Schedule ES.

ESTIMATED COST: None. If the Advice Letter was to be rejected, the total cost estimate for the property owner to convert from master meter to individual meters would be in the range of \$150,000 to \$300,000.

By Advice Letter 4017-E dated March 26, 2012.

SUMMARY

California Public Utilities Commission (CPUC) approves PG&E's Electric Rule 18 and Electric Rate Schedule ES deviation requests, because there is minimal effect on energy conservation with the current submetering configuration, and no evidence of intentional violation of the tariff rule. Also, factors in the decision included the local government's failure to recognize the tariff violation when approving construction, and the high cost to the property owner for reconverting meters to comply with the tariff rule.

On March 26, 2012, PG&E requested authorization from the CPUC for deviation from Electric Rule 18.C.1.c, and to allow services to residential units at 998 Fourth Street, San Rafael, California to pay under Schedule ES, through a Tier 3 Advice Letter 4017-E.

Facility was constructed in 2002 with local government approvals and Electric Tariff Rule 18 violation was not disclosed to the new property owner at time of purchase.

No protests were received.

This Resolution approves PG&E's request to deviation from Electric Rule 18.C.1.c, and allow services to residential units at 998 Fourth Street, San Rafael, California to pay under Schedule ES.

BACKGROUND

The Public Utility Regulatory Policies Act (PURPA) of 1978 was signed into law on November 9, 1978. One of the provisions of PURPA resulted in the adoption of California Public Utilities (PU) Code §780.5 that prohibited the installation of master meters on multi-unit properties built after 1978.¹

On April 4, 1978, the CPUC issued Decision (D.) 88651, which required utilities to individually meter living units in newly constructed multi-unit residential buildings. Following that decision, the utilities closed their Master Meter Tariffs to new installations. D.05-05-026, approved on May 26, 2005, clarified that existing multifamily accommodations that were master metered, are allowed to install submeters and are eligible for rate schedule ES if the building for which service is sought was constructed prior to the Master Meter/Submetering Tariff being closed.

PG&E's Electric Rule 18.C.1 reads as follow:

¹ California PU Code §780.5 states the following:

The commission shall require every residential unit in an apartment house or similar multiunit residential structure, condominium, and mobilehome park for which a building permit has been obtained on or after July 1, 1982, other than a dormitory or other housing accommodation provided by any postsecondary educational institution for its students or employees and other than farmworker housing, to be individually metered for electrical and gas service, except that separate metering for gas service is not required for residential units which are not equipped with gas appliances requiring venting or are equipped with only vented decorative appliances or which receive the majority of energy used for water or space heating from a solar energy system or through cogeneration technology.

PG&E will furnish and meter electricity to each individual residential dwelling unit, except:

- a. Where electricity is furnished under a rate schedule that specifically provides for resale service; or
- b. Where a customer, or his predecessors in interest on the same premises, was a customer on June 13, 1978, receiving electricity through a single meter to an apartment house, mobile home park, or other multifamily accommodation, and the cost of electricity is absorbed in the rental for the individual dwelling unit, there is no separate identifiable charge by such customer to the tenants for electricity, and the rent does not vary with electric consumption; or
- c. Where a customer or his predecessors in interest on the same premises was a customer on December 14, 1981, and submeters and furnishes electricity to residential tenants at the same rates and charges that would be applicable if the user were purchasing such electricity directly from PG&E; or
- d. Where a mobile home park or manufactured housing community developer, owner or operator who installs, owns and operates the electric distribution system within the park, submeters and furnishes electricity to residential tenants in each occupancy, charges the same rates that would be applicable if the user were purchasing such electricity directly from PG&E, unless construction of a new mobilehome park, or manufactured housing community commenced after January 1, 1997.
- e. Nothing in this section shall prevent PG&E from furnishing separately metered service to electric equipment used in common by residential tenants or owners.

Under existing Electric Rule 18, PG&E would maintain the distribution system, read the meters, and issue utility bills under the revised policy. Furthermore, property owners could offer lower rents since utility costs would not be part of the lease agreements.

Individual meters also enable the tenants to participate in demand response programs during high system peak load days.

However, it is also more costly for a developer to individually meter each unit because of the increased panel and wiring costs. In addition, the developer needs to accommodate the increased space requirement, and the ultimate property owner needs to account for the increased maintenance costs for the individual meter arrangement.

PG&E filed Advice Letter 4017-E on behalf of a mixed-use commercial and residential facility, located at 998 4th Street in San Rafael, California. It was constructed in 2002. The original project plan on file with the City of San Rafael indicates that the facility would include 113 rental apartment units above retail

spaces. The plan also indicates that only three (3) electric meters would serve the entire complex, two for the retail spaces, and the third serves as a master meter for all residential dwelling units. This metering arrangement is a Rule 18 tariff violation since master metered residential installations have been prohibited since the late 1970's. In addition, there is no applicable residential rate available for this customer since PG&E's EM rate schedule for residential master metered complexes was closed for new customers on June 13, 1978. Therefore, this master meter is necessarily billed under rate schedule A-10. This rate schedule actually is prohibited for residential use except in the case that no other applicable residential rate is available to the customer.

A new owner took possession of the property in August 2011. Unaware of the existing metering tariff violation and other restrictions regarding master metering, the new owner installed submeters for the individual apartment units with the intention of billing the tenants for their electricity usage. This arrangement is also a tariff violation as submetering of master metered residential accounts has been generally prohibited since the early 1980's. The issue was called to the attention of PG&E's Tariff Interpretation Section by the State Department of Agriculture Weights and Measures, which learned about the submeter installations from the sub-metering vendor when the County Sealer was asked to certify the meters.

NOTICE

Notice of AL 4017-E were made by publication in the CPUC'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

The CPUC received no protests.

DISCUSSION:

Minimal effect on energy conservation, unintentional violation of the property owner, local government negligence, and high upgrade cost are the determining factors in the CPUC staff recommendation.

CPUC staff evaluated this deviation request taking into account a number of considerations, including:

- effect of this violation on Electric Rule 18;
- lack of intention of the current property owner to violate Electric Rule 18;
- local government involvements; and
- cost of conversion.

Effect of this Violation on Electric Rule 18

To promote energy conservation is the primary advantage and justification for the adoption of PU Code §780.5. PG&E's Electric Rule 18.C.1(b) states that when a customer receives electric service through a master meter of an entire complex, that the cost of such energy be "absorbed in the rent for the individual dwelling unit, there is no separate identifiable charge by such customer to the tenants for electricity, and the rent does not vary with electric consumption." Therefore, there is no incentive for the individual dwelling units to conserve. On the contrary, tenants with individual meters who pay their own utility bills based on their actual consumption have more incentives to conserve and might use less gas and electricity.

The property owner at 998 4th Street installed submeters for each individual apartments. This is also a tariff violation, but this might provide incentives for individual residents to conserve because they pay for the costs of gas and electric usage. This submetering arrangement also inadvertently coincides with the spirit of D.05-05-026.

Lack of Intention of the Current Property Owner to Violate Electric Rule 18

There is no evidence from PG&E and the local government that the current or the former owners have intentionally violated Electric Rule 18. The facility was constructed in 2002 with approvals from the local government. We do not know whether the former owner subsequently realized this tariff violation. To the best of our knowledge, the Rule 18 violation was not disclosed to the new owner at time of purchase. The new owner and his submeter vendor also showed good intentions by requesting the County Sealer to certify those submeters.

Local Government Involvements

The local government planning department or the County Sealer did not discover this electric tariff violation when the master meters were installed. The local government also did not notice the tariff violation when the submeters were installed.

Cost of Conversion

Electric Rate Schedule A-10 is not an applicable rate schedule. PG&E indicated that Electric Rate Schedule A-10 would be a higher rate than Schedule ES with an annual electric energy cost of nearly \$6,000 more for the same amount of energy usage for the 113 rental units.

On the other hand, the total annual electric energy cost would be approximately the same whether the 113 units were billed individually by PG&E, or billed on

one master-metered ES billing.

In order to comply with Electric Rule 18, the property owner needs to remove the one existing master meter for the apartment and install individual meters for each apartment. PG&E estimated that the cost for PG&E to relocate the building's electrical switchboard would be \$50,000 to \$100,000, and the cost for a contractor to re-wire the building, install new electric panels and new metering equipment to PG&E standards would be an additional \$100,000 to \$200,000. The total cost for the property owner to convert from master meter to individual meters would be in the range of \$150,000 to \$300,000. These costs do not include the costs the customer has already incurred by installing submeters, or the cost to remove the existing submeters.

SUMMARY

Discussion above indicated that there is minimal effect on energy conservation with the current submetering configuration, no evidence of intentional violation of the tariff rule, the local government also responsible for their negligence, and high upgrade for the property owner to comply with the tariff rule. Therefore, the CPUC should approve and grant this deviation.

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 CPUC. 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 CPUC's agenda no earlier than 30 days from today.

FINDINGS

1. PU Code §780.5 prohibited the installation of master meters on multi-unit properties built after 1978.
2. The CPUC issued D.88651, which required utilities to individually meter living units in newly constructed multi-unit residential buildings.

3. D.05-05-026 clarified that existing multifamily accommodations that were master metered without submeters, were allowed to install submeters and were eligible for rate schedule ES.
4. By Advice Letter 4017-E dated March 26, 2012, PG&E requested authority for deviation from Electric Rule 18 and Electric Rate Schedule ES.
5. An existing master meter serves the entire apartment complex of 113 rental units. The facility was built in 2002.
6. This master meter for the apartment complex is billed under rate schedule A-10. But this rate schedule actually is prohibited for residential use except in the case that no other applicable residential rate is available to the customer.
7. Rule 18 violation was not disclosed to the new property owner at time of purchase.
8. The new property owner installed submeters for the individual apartment units and this arrangement is also a tariff violation.
9. PG&E indicated that Electric Rate Schedule A-10 would be a higher rate than Schedule ES with an annual electric energy cost of nearly \$6,000 more for the same amount of energy usage for the 113 rental units.
10. The total cost for the property owner to convert from master meter to individual meters would be in the range of \$150,000 to \$300,000.
11. The CPUC should approve and grant this deviation.

THEREFORE, IT IS ORDERED THAT:

1. PG&E's request to deviate from Electric Rule 18.C.1.c and Electric Rate Schedule ES for apartment residents at 998 Fourth Street, San Rafael, California is approved.

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 September 13, 2012; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



Agenda ID # 11533

Draft Resolution E-4516

September 13, 2012 Commission

August 14, 2012

Meeting

TO: PARTIES TO DRAFT RESOLUTION E-4516

Service List: PGETariffs@pge.com; gab4@pge.com; jyost@meritpm.com;
joshua.kohlhaas@yardi.com

Enclosed is Draft Resolution E-4516 of the Energy Division addressing Pacific Gas and Electric Company's advice letter (AL) 4017-E. It will be on the agenda at the next Commission meeting that is at least 30 days from the date of this letter, which is expected to be September 13, 2012. The Commission may then vote on this Draft Resolution or it may postpone a vote until later.

When the Commission votes on a Draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the Draft Resolution within 20 days of this draft, Monday September 3, 2012.

An original and two copies of the comments, with a certificate of service, should be submitted to:

ED Tariff Unit
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
EDtariffunit@cpuc.ca.gov

A copy of the comments should be submitted to:

David K. Lee
Energy Division
dkl@cpuc.ca.gov

Elizaveta I. Malashenko
Energy Division
eim@cpuc.ca.gov

Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the Draft Resolution, 2) all Commissioners, and 3) the Director of the Energy

Division, the Chief Administrative Law Judge and the General Counsel, on the same date that the comments are submitted to the Energy Division.

Comments may be submitted electronically.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the Draft Resolution and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed Draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

/s/ Elizaveta Malashenko
Elizaveta I. Malashenko
Project and Program Supervisor
Energy Division

Enclosure:

Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-4516 on all parties in these filings or their attorneys as shown on the attached list.

Dated August 14, 2012 at San Francisco, California.

/s/ Julia Tom
Julia Tom

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.