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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION
I.D.# 6322
RESOLUTION E-4029
FEBRUARY 15, 2007

R E S O L U T I O N

Resolution E-4029. Pacific Gas and Electric Company (PG&E) proposes to offer an optional service to selected irrigation districts and water agencies to distribute the proceeds of the agency's hydroelectric power sales via bill credits to PG&E's electric customers within the agency's jurisdictional boundaries. PG&E's proposal is approved with modifications.

By Advice Letter 2834-E Filed on May 25, 2006.

SUMMARY

PG&E may offer selected agencies an optional service to distribute the proceeds of the agency's power sales to its constituents, contingent on PG&E's nonparticipating ratepayers' not bearing any costs for its offering this service.

This Resolution authorizes PG&E to offer an optional service to the specified Irrigation Districts and Water Agencies (agencies) to flow the funds of a participating agency to its constituents using PG&E's billing system. We modify PG&E's proposal to require that participating agencies or PG&E's shareholders, but not PG&E's ratepayers, shall be responsible for any one-time and ongoing costs of this offering.

BACKGROUND

PG&E's six contracts with seven irrigation districts and water agencies for hydroelectric power will expire over the next ten years.

On May 25, 2006, PG&E filed advice letter (AL) 2834-E. In its AL, PG&E identifies seven irrigation districts and water agencies within its service territory that have an ownership interest in water storage and delivery systems constructed during the late 1950s through mid-1980s. Hydroelectric generating plants were incorporated into these six projects to fund the construction of the water storage facilities. PG&E purchases the electrical output at cost under long-term contracts.

These six contracts have terminated or will be terminating within the next 10 years (from 2004 to 2016). The contract with Tri-Dam (a hydroelectric project owned jointly by South San Joaquin Irrigation District and Oakdale Irrigation District) terminated at the end of 2004, with a subsequent contract renegotiated for 2005 through 2009. Table 1 shows the contract termination dates.

Table 1
Termination of Hydro Agreements with Selected Agencies

Agency	Hydro Capacity	Termination Year
Tri-Dam (SSJID and Oakdale)	100 MW	2004
South Feather Water & Power Agency	118 MW	2010
Nevada Irrigation District	77 MW	2013
Placer County Water Agency	245 MW	2013
Merced Irrigation District	105 MW	2014
Yuba County Water Agency	405 MW	2016

At Energy Division's request, PG&E clarified on November 30, 2006 that "PG&E does not have any other contracts similar to the partnership agreements that were the subject of AL 2834-E - i.e., power procurement contracts for the output of large hydro projects which were negotiated close to 50 years ago at then-current prices that result in a significant increase in revenues for the owners of the facilities once the contracts terminate and are revalued at current market levels."

Contract terminations may prompt agency action that results in departure from PG&E electric service.

PG&E in its AL identifies three options that a water agency or irrigation district may consider as contract termination approaches to capitalize on the value of the low-cost hydroelectric power for its constituents:

1. Offer Community Choice Aggregation (CCA);¹
2. Condemn (or duplicate) PG&E's facilities and provide retail electric service to customers within its political boundaries; or
3. Sell the power into the market, and flow the proceeds to its constituents.

PG&E argues that the third option is complicated when agencies lack a means for redirecting the proceeds of power sales back to their constituents. In some cases the irrigation or consumptive water customers comprise most or all of the intended beneficiaries, and the agency can flow the proceeds through to its customers by reducing irrigation or water rates. However, in a number of these areas, according to PG&E's estimates, the irrigation or water customers represent a small subset of the total number of residents and businesses.

PG&E proposes an optional service to flow the power sales revenues from the hydroelectric facilities of seven identified agencies to their constituents that receive electric service from PG&E.

PG&E proposes to design a program to facilitate pursuit of the third option above for agencies, which PG&E concludes lack a means of distributing power sales revenues to their constituents, e.g., PG&E electric customers within the agency's boundaries. The program involves only a few specifics, leaving flexibility to tailor implementation details according to the interests of a given agency.

To implement the program, PG&E would establish an account for an eligible agency's funds. Either the agency would deposit the proceeds of its hydroelectric power sales directly into the account, or PG&E would make deposits, as payments for power purchases, if the agency's power is under contract to PG&E. PG&E would draw from the funds in this account to provide bill credits to PG&E's electric customers within the agency's jurisdictional boundaries. The credits would appear as a line item on the customer's PG&E electric bill, and would likely be on either a specified per-kWh or percentage of bill basis.

¹ The owners of these hydro facilities are districts and water agencies, which, as such, do not possess the authority to act as a CCA. Such entities would have to do so indirectly by selling the power to a city or county that would serve as the CCA.

PG&E states in its AL that it would work cooperatively with individual agencies to determine the specific customers that would benefit from the bill credit, define how the benefiting customers might change over time, and identify responsibility for tracking any changes. PG&E needs at least 90 days from the date of an executed agreement to implement the credit on customer bills.

PG&E's position in its AL is that with its proposal, the selected agencies may be able to meet many of their overall customer-related objectives "without resorting to an alternative approach that is more costly and more disruptive for both customers within and outside a participating district, such as going through the often time-consuming and potentially costly process of condemning PG&E's electric distribution facilities." (at p. 2). PG&E states in particular in its response to protests that "the relatively small cost to develop and administer the billing credit option is a substantially better investment for its customers than the unnecessary waste of resources associated with SSJID's attempted takeover and severance of PG&E's electrical facilities." (at p. 3-4).

Finally, PG&E explains that since this is a new type of service offering, in order to avoid potential unforeseen consequences, it reserves the right to not offer this option if the Commission expands the eligibility beyond those agencies identified above or imposes conditions other than those presented in its AL.

NOTICE

Notice of AL 2834-E was made by publication in the Commission's Daily Calendar on May 31, 2006. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A, including the parties identified for PG&E's proposal and parties on the service list in R.02-01-011.

PROTESTS

Of the seven agencies PG&E identified for its proposal, two expressed interest; one urged rejection of PG&E's AL; and four did not respond.

By June 14, 2006, five parties, Oakdale Irrigation District (Oakdale), Yuba County Water Agency (YCWA), The County of Butte (Butte), South San Joaquin Irrigation District (SSJID), and the Agricultural Energy Consumers Association (AECA) timely protested or responded to PG&E AL 2834-E. On June 21, 2006, PG&E addressed all of these protests and responses in one reply.

Only one of the parties responding favorably, Oakdale, would qualify for PG&E's proposed program before 2016. Oakdale, one of the joint owners of the Tri-Dam project, submitted a protest to express its interest and its intent to investigate the options provided under PG&E's proposed program, if it is approved. YCWA, whose contract terminates in 2016, states in its response that it values having another option for its power in the future and encourages adoption of PG&E's proposed program. Butte, which is not one of the selected agencies, requests in its protest that the Commission expand PG&E's proposal to apply to all public agencies, including counties, within PG&E's electric service area and to output from all types of electric generation.

SSJID, the other joint owner of the Tri-Dam project, does not believe that PG&E's proposal would "provide benefits even remotely approaching those that could be provided by SSJID's plan to provide retail electric service within its existing service territory." (at p. 2). AECA² similarly states that the Commission should reject Advice Letter 2834-E for a number of reasons, among them that it fails to disclose the costs PG&E would incur to implement the service and that it fails to demonstrate that there would be any net benefit to the public as a result of PG&E's offering this service. AECA confirmed to the Energy Division on September 27, 2006 that Merced Irrigation District is an AECA member. The other three entities identified in PG&E's AL, South Feather Water & Power Agency, Nevada Irrigation District, and Placer County Water Agency provided no protests or responses.

The following is a more detailed summary of the major issues raised in the protests.

DISCUSSION

The advice letter forum is appropriate to evaluate and address PG&E's proposal in AL 2834-E.

² AECA states in its protest that it represents the collective interests of the state's leading agricultural associations and 40 agricultural water and irrigation districts throughout the state.

AECA and SSJID in their protests identify various areas in which they believe PG&E's proposal is deficient and maintain that PG&E should file its proposal in a formal proceeding, where these and other issues can be fully explored and decided by the Commission. For example, AECA states in its protest that PG&E "fails to disclose or discuss the costs that it will incur in implementing and providing this service. To be sure, there will be costs to implement and administer such a program since it will require changes to PG&E's billing system and ongoing coordination every month ..." (at p. 2). AECA concludes, "Given the absence of any demonstrated need or demand for PG&E's proposed bill credit mechanism, its failure to disclose the costs it will incur to implement and provide such service, its failure to provide any specifics regarding the program, and the absence of any clear benefit to the public from PG&E [sic] providing this service, the Commission should reject Advice Letter 2834-E at this time." (Ibid.). SSJID raised similar issues in its protest. PG&E has, since AECA's protest, identified the costs involved to implement its proposal. The AL contains sufficient information to address PG&E's proposal to offer an optional service. Further, there are no issues raised by PG&E's advice letter that require hearings. Therefore, we deny the requests of AECA and SSJID to direct PG&E to file its proposal in an application.

PG&E is authorized to offer an optional service to the specified agencies to flow the funds of a participating agency to its constituents using PG&E's billing system.

AECA argues in its protest, "irrigation districts that own hydroelectric facilities have the ability to decide for themselves how best to use the proceeds they receive from sales of power to PG&E and are likely to be able to do so in a more cost effective manner than by relying on PG&E." (at p. 2). We concur with AECA's premise that the agency itself, accountable to the public, is best situated to appropriate the proceeds of its power sales.³ The service PG&E proposes to offer is voluntary and provides another option for these agencies. Thus we will authorize PG&E to offer an optional service to the specified agencies to flow the funds of a participating agency to its constituents using PG&E's billing system.

³ SSJID, in its protest, cites California Constitution Article XVI and argues that PG&E's proposal may violate the prohibition against Public agencies' making gifts of public funds to any person or corporation. We leave this determination up to the selected agencies.

As discussed in the next section, we modify PG&E's proposal by not allowing PG&E to recover the costs of this optional service from nonparticipating ratepayers.

PG&E should recover the cost of providing this service from the participating agencies (i.e., service participants), or from PG&E's shareholders, not its nonparticipating ratepayers.

AECA asserts that ratepayers that will not be eligible for PG&E's proposal, which will be the vast majority of PG&E's ratepayers, should not have to pay any of the costs of the program. PG&E did not address this issue in its response to protests. In response to Energy Division's request, PG&E on November 30, 2006 clarified that it proposes to recover the estimated \$300,000 one-time set-up cost from all electric customers and argued this broad cost recovery is reasonable due to its relatively modest magnitude, "both in absolute terms but also when considered relative to the expected lost contribution to margin were any one of the participating agencies to pursue eminent domain or bypass of PG&E's facilities."

The modest magnitude of costs and the presumed benefits characterized by PG&E do not justify requiring non-participating ratepayers to pay for the costs of the optional service. We therefore deny PG&E's request to recover one-time implementation costs from nonparticipating ratepayers. We also clarify that PG&E shall not recover annual administration costs from nonparticipating ratepayers. PG&E's shareholders, not its ratepayers, shall be responsible for any costs of providing this optional service not recovered from service participants. PG&E shall maintain clear accounting for recovery of all of the costs of implementing and administering this service.

Butte's request to expand program applicability is denied.

PG&E in AL2834-E limits applicability of its proposal to seven selected governmental agencies, i.e., irrigation districts and water agencies, which have traditionally entered into power sales agreements with PG&E. Butte requests that we expand PG&E's proposal to apply to all public agencies, including counties, within PG&E's electric service area and to ownership interests in or contractual right to output from all types of electric generation and not just to the seven named water agencies. Butte argues, "...other public agencies within PG&E's electric service area either already own or will have the opportunity to acquire an ownership interest in or the electric output from hydro and other electric generation facilities. PG&E's exposure to parallel retail competition or

to condemnation of its electric distribution facilities is not limited to the seven named water agencies. Other than to avoid potential unforeseen consequences, PG&E has not provided any reason why it should be allowed to implement an unduly discriminatory policy or why eligibility for the bill credit should not be expanded to other public agencies within its electric service area and to all types of electric generation. Any public agency that owns an interest in or acquires the right to power from an electric generation facility could potentially utilize the bill credit arrangement proposed by PG&E. Since public agency participation would be optional and PG&E's reasonable costs covered, there is no reason why the coverage of the proposal should be limited as proposed by PG&E." (at p. 1-2). PG&E in its reply states, "While PG&E appreciates the support offered by Butte, PG&E believes that the scope of the proposal should not be expanded at the present time." (at p. 3).

Butte has an opportunity not shared by the selected agencies, namely to offer Community Choice Aggregation. Therefore, we deny Butte's request to require PG&E to expand its proposal.

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 the date it was mailed.

FINDINGS

1. PG&E filed Advice Letter (AL) 2834-E to establish an optional mechanism which could be used by selected governmental agencies, i.e., irrigation districts and water agencies, which have traditionally entered into power

- sales agreements with PG&E, to distribute proceeds from such sales to PG&E's electric customers within the governmental agency's jurisdictional boundaries. The proceeds would be distributed directly to these customers via a line-item credit on the customers' PG&E electric bills.
2. The advice letter forum is appropriate to evaluate and address PG&E's proposal in AL 2834-E.
 3. The seven governmental agencies PG&E selected for its proposal, i.e., irrigation districts and water agencies with ownership interests in large hydroelectric facilities, do not possess the authority to become community choice aggregators.
 4. The selected irrigation districts and water agencies that have ownership interests in hydroelectric facilities have the ability to decide how to use the proceeds of power sales.
 5. The modest magnitude of costs and the presumed benefits characterized by PG&E do not justify requiring non-participating ratepayers to pay for the costs of the optional service.

THEREFORE IT IS ORDERED THAT:

1. PG&E is authorized to offer an optional service to the specified Irrigation Districts and Water Agencies (agencies) to flow the funds of a participating agency to its constituents using PG&E's billing system. We modify PG&E's proposal in AL 2834-E to require that PG&E's shareholders, not its nonparticipating ratepayers, shall be responsible for any one-time and ongoing costs of this offering not recovered from service participants. PG&E shall maintain clear accounting for recovery of all of the costs of implementing and administering this service.
2. Within 7 days of today's date, PG&E shall supplement AL 2834-E to inform the Commission as to whether it intends to proceed with its proposal, subject to the conditions required by this resolution. If PG&E decides to proceed with its proposal, subject to conditions required herein, PG&E shall describe in the supplemental advice letter how it intends to ensure that all costs, both one-time and on-going costs, associated with its proposal will be borne by service participants, or by PG&E shareholders, and will not be borne by nonparticipating ratepayers.

3. Since counties possess the authority to offer community choice aggregation, Butte's request to expand program applicability is denied.
4. The requests of AECA and SSJID to direct PG&E to file its proposal in an application are denied.
5. All remaining issues addressed in protests on PG&E's AL 2834-E are resolved as described herein.

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 February 15, 2007; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

I.D.# 6322

January 12, 2007
Commission Meeting Date: February 15, 2007

TO: PARTIES TO PACIFIC GAS AND ELECTRIC
COMPANY'S ADVICE
LETTER 2834-E

Enclosed is draft Resolution E-4029 of the Energy Division. It addresses PG&E's proposal, as filed in PG&E AL 2834-E, to offer an optional service to selected irrigation districts and water agencies (agencies) to distribute the proceeds of a participating agency's hydroelectric power sales via bill credits to PG&E's electric customers within the agency's jurisdictional boundaries. The draft Resolution will be on the agenda at the February 15, 2007 Commission meeting. 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.

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

Honesto Gatchalian

Energy Division

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Fax: 415-703-2200; JNJ@CPUC.CA.GOV

A copy of the comments should be submitted on the same day by electronic mail in Microsoft Word to Kathryn Auriemma in the Energy Division at:
KDW@CPUC.CA.GOV.

Any comments on the draft Resolution must be received by the Energy Division by February 1, 2007. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to this letter, 2) all Commissioners, 3) 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 fifteen pages in length, and list the recommended changes to the draft Resolution. 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.

Replies to comments on the draft Resolution may be submitted (i.e. received by the Energy Division) on February 6, 2007, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed fifteen pages in length and shall be served as set forth above for comments.

Late submitted comments or replies will not be considered.

Gurbux Kahlon

Program Manager

Energy Division

Enclosures:

CERTIFICATE OF SERVICE

Service List

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-4029 on all parties in these filings or their attorneys as shown on the attached list.

Dated January 12, 2007 at San Francisco, California.

Honesto Gatchalian

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.

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