Decision 10-02-003 February 4, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to examine the Commission's post-2005 energy efficiency policies, programs, evaluation, measurement, and verification, and related issues.	Rulemaking 06-04-010 (Filed April 13, 2006)

DECISION APPROVING WITH MODIFICATIONS PACIFIC GAS AND ELECTRIC COMPANY MOTION TO ACCELERATE ENERGY EFFICIENCY INCENTIVES TO UNIVERSITY OF CALIFORNIA DAVIS

Summary

This decision approves the Motion of Pacific Gas and Electric Company (PG&E) to accelerate energy efficiency incentives to University of California Davis (UC Davis), in order to achieve additional cost-effective energy savings through 2011. PG&E is also required to offer similar accelerated incentives to similarly-situated customers. PG&E is required to ensure that UC Davis does not receive any further energy efficiency incentives through 2019. With resolution of this last issue remaining in Rulemaking 06-04-010, this proceeding is closed.

Background

Decision (D.) 04-09-060 established annual and cumulative energy savings goals for investor-owned utilities (IOUs) in California for 2004 through 2013. These energy savings goals generally do not reflect estimates for energy savings by entities not served by the IOUs as distribution customers. However, the decision did provide that the IOUs' energy savings goals should include some level of potential energy savings for direct access customers who do not purchase their electric or gas commodity from the IOUs (but do take distribution service from an IOU), and who pay public purpose charges.

In order to achieve their energy savings goals, IOUs are allowed to provide incentives to customers. In D.09-09-047, for example, the Commission approved over $3 billion in funding for IOU energy efficiency portfolios for the years 2010 through 2012, with most of the funding for customer incentives. Because savings from direct access customers are included in IOU energy savings goals, such customers are eligible for energy efficiency incentive payments from IOUs. IOU energy efficiency incentive payments to direct access customers are capped based on the departing load on which they pay public purpose charges.

Positions of Parties

On July 29, 2009, Pacific Gas and Electric Company (PG&E) filed a Motion "Seeking Commission Approval to Present Worth Future Years of the University of California Davis' (UC Davis) Energy Efficiency Incentive Eligibility to Facilitate Energy Efficiency Upgrades Planned for Years 2009-2011" (Motion). The Division of Ratepayer Advocates (DRA) responded to the Motion on August 31, 2009. A prehearing conference (PHC) was held on November 18, 2009. Two Exhibits were presented by PG&E at the PHC. The Administrative Law Judge (ALJ) allowed another round of comments on the PHC issues and Exhibits; DRA and Women's Energy Matters (WEM) filed comments and PG&E filed reply comments.

In essence, PG&E seeks approval to accelerate 10 years of energy efficiency incentive payments to UC Davis into three years (2009-2011) for potential energy efficiency savings that would occur in the years 2009-2011. PG&E seeks to pay these incentives (and count associated savings) based on actual delivery of energy savings by UC Davis. In return, UC Davis would not be eligible for any further energy efficiency incentives through 2019.

Because UC Davis is a split-wheeling customer (a specific type of direct access customer), UC Davis normally would face a cap in 2009 through 2011 for incentives based on its departing load. However, PG&E and UC Davis contend that UC Davis has the potential to achieve much greater cost-effective savings over the 2009-2011 period if incentives are provided above the cap level. This is because UC Davis participates in a Statewide Partnership with all of the IOUs[1] and, as part of this partnership, has made specific commitments to meet energy savings goals over 2009-2011. Further, the University of California has already authorized bond funding to cover a wide variety of energy efficiency projects in 2009-2011.

A list of proposed projects was provided as part of Exhibit 1. PG&E proposed to provide up to $8.6 million in total incentives over three years, to potentially save about 36 million kwh. This compares to 4.4 million kwh departing load basis for UC Davis.

PG&E seeks the authority to accelerate incentive payments to UC Davis as a one-time exemption to Commission policy. PG&E contends that the University of California (including UC Davis) is uniquely situated to provide significant energy efficiency and greenhouse gas benefits to California. In addition, PG&E claims the specific projects contemplated by UC Davis are dependent upon timely receipt of energy efficiency incentives.

[1] This Statewide Partnership was approved in D.09-09-047.

DRA in its August 20 Response to PG&E's Motion sought more information from PG&E, such as the source of funding for incentives, how additional energy savings would count toward PG&E's energy savings goals, and whether UC Davis would continue to be required to pay PGC funds through its departing load charges.

PG&E replied to DRA that incentive payments for UC Davis were included in PG&E's 2009-2011 energy efficiency portfolio budget. Exhibit 1 shows that PG&E included $7.9 million for incentives to UC Davis for incentives in 2010 and 2011, plus $754,000 expected for 2009. However, PG&E acknowledged it might request further funding if UC Davis achieved higher than expected levels of energy savings in 2009-2011. PG&E also contends that UC Davis is very likely to have a continuing obligation to pay Public Goods Charges (PGC), and would have other non-bypassable charge obligations even if the PGC obligation were to end.[2]

Discussion

The Commission's policy is to attempt to achieve all cost-effective energy efficiency. To achieve this goal, the Commission has set specific energy savings goals for each IOU, provided a means for IOUs to earn incentive payments for meeting and exceeding these energy efficiency goals, adopted a California Energy Efficiency Strategic Plan (D.08-09-040) and approved budgets of over $1 billion per year for detailed IOU energy efficiency portfolios.

In most cases, the level of incentive payments to an IOU customer is constrained only by the potential for cost-effective energy savings and the

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[2] The collection of the PGC is authorized in Public Utilities Code Section 399.8(c), which is currently set to expire on January 1, 2012.

amounts in the IOU portfolio available to be dedicated to particular energy efficiency strategies and measures. In the case of UC Davis, as a split-wheeling customer another constraint is added – incentive payments for cost effective energy efficiency projects cannot be made that would exceed the historical energy limit on departing load upon which non-bypassable and public purpose charges are paid to PG&E.

PG&E makes a compelling case that there are significant cost-effective energy savings available from UC Davis which would likely be achieved only through receipt of incentives from PG&E (typically, IOUs pay incentives to customers to promote energy savings). PG&E also shows that the level of incentives needed to maximize energy savings from UC Davis exceeds the cap on incentives available to it. Exhibit 2 shows that potentially 36 million kwh can be saved in each year from 2011 through 2017 under PG&E's proposal, as opposed to no more than 13 million kwh for each of those years under current incentives constraints. The cumulative savings would be 165 million kwh additional savings under PG&E's proposal. Exhibit 2 also shows that the net cumulative cost savings under PG&E's proposal would be $19 million ($30.7 million versus $11.7 million) compared to the current incentive constraints. Therefore, it is reasonable to conclude that allowing PG&E to provide accelerated incentives to UC Davis would result in significant additional cost-effective energy savings, consistent with the Commission's energy efficiency policy. We will grant PG&E's Motion.

However, PG&E's Motion raises additional questions which lead to consideration of certain conditions. One question is whether it is appropriate to give special treatment to UC Davis. At the PHC, PG&E agreed that other similarly-situated customers should be allowed the same treatment in order to avoid undue discrimination. PG&E defined "similarly-situated customers" to be those direct access customers who may have significant energy savings opportunities and would be eligible for customer incentives above the cap for such customers. PG&E believes there are few such customers. Regardless, we will require that PG&E offer similar accelerated incentive payments to any similarly-situated customer in the current energy efficiency portfolio cycle, which D.09-09-047 changed from 2009-2011 to 2010-2012.

At the same time, we expect there will not be many similarly-situated customers who would be eligible for similar incentives. Tailoring this decision narrowly will reduce the risk that PG&E would need to request additional energy efficiency funds in 2010 through 2012.[3] Therefore, we will narrowly tailor the availability of accelerated energy efficiency incentives beyond the definition of "similarly-situated customers" offered by PG&E so that accelerated incentives should only be available to a limited number of other customers with very similar circumstances to UC Davis. These circumstances are: 1) Customers must be in the PG&E service territory; 2) Accelerated incentives must be payable in 2010 through 2012; 3) Customers will be eligible for accelerated payments representing no more than 10 years in the future; and 4) A customer must be a direct access customer or otherwise pay departing load charges to PG&E.

A second question is whether UC Davis may unfairly benefit from accelerated incentive payments. While it is possible that the PGC will expire after 2012, UC Davis will continue to pay other departing load-related charges to PG&E for the foreseeable future. Further, a UC Davis representative at the PHC

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[3] PG&E's proposed energy efficiency portfolio included the years 2009 through 2011; however, the Commission in D.09-09-047 approved the portfolio for 2010 through 2012.

stated that UC Davis would be willing to make a commitment to pay those charges so there would be no risk.[4] We will also require other potential customers to offer the same assuarances. Therefore, it is reasonable to find that UC Davis should continue to be eligible for energy efficiency incentives through 2019.

A related issue is whether UC Davis could receive incentives after 2012 despite the pledge by PG&E not to do so. There is no reason to expect this to occur. Nevertheless, we will require PG&E to document all energy efficiency incentives paid to UC Davis through 2019, and to keep this information and provide it to the Commission upon request.

Assignment of Proceeding

This proceeding is assigned to Commissioner Dian M. Grueneich and ALJ David M. Gamson.

Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on January 25, 2010 by DRA & WEM, and reply comments were filed on February 1, 2010 by PG&E. The decision was revised based on comments to include a further condition for allowing accelerated energy efficiency incentives

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[4] Statement of David Phillips, UC Davis Director of Utilities. Transcript, p. 284.

Findings of Fact

1. Energy efficiency incentive payments cannot be made to a direct access customer (including split-wheeling customers) that would produce energy savings which exceed the departing load upon which non-bypassable charges are paid to investor-owned utilities such as PG&E.

2. Significant additional cost-effective energy savings available from UC Davis would likely be achieved only through receipt of incentives from PG&E which exceed the cap on incentives available to this direct access customer.

3. Absent this decision, UC Davis would continue to be eligible for energy efficiency incentives through 2019 as long as it continues to pay public purpose charges to PG&E based on departing load.

4. Potentially, 36 million kwh can be saved in each year by UC Davis from 2011 through 2017 under PG&E's proposal, as opposed to no more than 13 million kwh for each of those years under current incentives constraints. The cumulative savings would be 165 million kwh additional savings under PG&E's proposal. Net cumulative cost savings under PG&E's proposal would be $19 million ($30.7 million versus $11.7 million) compared to the current incentive constraints.

5. There may be similarly-situated customers like UC Davis, who are direct access customers with significant energy savings opportunities in the near term and who would be eligible for customer incentives above the cap.

6. A UC Davis Representative stated that UC Davis would be willing to make a commitment to pay departing load charges in support of energy efficiency programs so that other ratepayers would not be at risk.

Conclusions of Law

1. Allowing PG&E to provide accelerated incentives to UC Davis would result in significant additional cost-effective energy savings, consistent with the Commission's energy efficiency policy.

2. In order to avoid undue discrimination, PG&E should offer similar accelerated incentive payments as provided to UC Davis to any similarly-situated customer from 2010 through 2012.

3. "Similarly-situated customers" are, at maximum, those direct access customers who may have significant energy savings opportunities in the near term and who would be eligible for customer incentives above the cap. It is reasonable to limit the applicability of this provision further to prevent the risk that PG&E would need to seek increased energy efficiency funding in 2010 through 2012.

4. UC Davis should not be eligible for any further energy efficiency incentives from PG&E through 2019.

5. Given the commitment of UC Davis to pay departing load charges in support of energy efficiency programs, it is reasonable to allow accelerated payment of incentives.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company's Motion to accelerate energy efficiency incentives to University of California Davis is approved.

2. "Similarly-situated customers"--those direct access customers who may have significant energy savings opportunities in the near term and who would be eligible for customer incentives above the cap based on the departing load on

which they pay public purpose charges–are eligible for accelerated energy efficiency incentive payments under the following circumstances: 1) The customer must be in the Pacific Gas and Electric Company service territory; 2) Accelerated incentives may only be payable in the years 2010 through 2012; 3) Customers will be eligible for accelerated payments representing no more than 10 years in the future; 4) The customer must be a direct access customer or otherwise pay departing load charges to Pacific Gas and Electric Company; and 5) The customer must pledge to pay departing load charges in support of public purpose programs for the duration of the period for which it receives accelerated incentives.

3. Pacific Gas and Electric Company shall not provide University of California Davis with any further energy efficiency incentives, beyond those authorized in this order, through 2019. Pacific Gas and Electric Company shall document all energy efficiency incentives paid to University of California Davis through 2019, and keep this information and provide it to the Commission upon request.

4. Rulemaking 06-04-010 is closed.

This order is effective today.

Dated February 4, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners