

Decision 08-12-029 December 18, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Adoption of Its 2009 Energy Resource Recovery Account (ERRA) Forecast Revenue Requirement and for Approval of Its 2009 Ongoing Competition Transition Charge (CTC) Revenue Requirement and Rates.

Application 08-06-011
(Filed June 10, 2008)

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DECISION ADOPTING PACIFIC GAS AND ELECTRIC COMPANY'S 2009 ELECTRIC PROCUREMENT COST REVENUE REQUIREMENT FORECAST

1. Summary

By this decision, the Commission adopts a 2009 electric procurement cost revenue requirement forecast of \$4,692.5 million for Pacific Gas and Electric Company (PG&E) as well as PG&E's 2009 sales forecast and resulting rates. The forecast consists of PG&E's 2009 Energy Resources Recovery Account revenue requirement forecast of \$4,109.5 million, an ongoing Competition Transition Charge revenue requirement forecast of \$617.8 million, and a Power Charge Indifference Amount credit of \$34.7 million. The rate changes will be effective on or after January 1, 2009. The increased 2009 revenue requirement will be consolidated with the revenue requirement effects of other Commission decisions in the Annual Electric True-Up process.

This application is closed.

2. Procedural Summary

A prehearing conference was held on August 4, 2008. Other than PG&E, the active parties in this proceeding include the Merced Irrigation District and the Modesto Irrigation District appearing jointly (the Districts), the California Municipal Utilities Association (CMUA), the Commission's Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN). The parties agreed that evidentiary hearings would not be necessary and the proceeding should be submitted for decision based on the pleadings. An Assigned Commissioner's Scoping Memo and Ruling was filed on August 12, 2008. Opening briefs and reply briefs were filed on August 25, 2008 and September 15, 2008, respectively. The briefs addressed potential issues identified by the Districts, CMUA, and TURN, including whether the issues are within the scope of this proceeding. Following an update to PG&E's testimony, this matter was submitted for decision on November 14, 2008.

3. Electric Procurement Cost Revenue Requirement, Sales and Rates

The Energy Resources Recovery Account (ERRA) records energy procurement costs associated with serving bundled electric customers. These costs include: (1) post 2002 contracted resource costs; (2) fuel costs of PG&E-owned generation resources; (3) qualifying facility (QF) and purchased power costs; and (4) other electric procurement costs such as natural gas hedging, collateral costs and Reliability-Must-Run revenues.

The ERRA regulatory process includes: (1) an annual forecast proceeding, to adopt a forecast of the utility's electric procurement cost revenue requirement and electricity sales for the upcoming year, and (2) an annual compliance proceeding, to review the utility's compliance in the preceding year regarding

energy resource contract administration, least cost dispatch, fuel procurement, and the ERRA balancing account.

The Competition Transition Charge (CTC) forecast revenue requirement consists of the above-market costs associated with eligible contract arrangements entered into before December 20, 1995, and QF contract restructuring costs. CTC costs are recorded in the Modified Transition Cost Balancing Account.

The Power Charge Indifference Amount (PCIA) is applicable to departing load customers that are responsible for a share of the Department of Water Resources (DWR) power contracts. The PCIA is intended to ensure the departing load customers pay their share of the above market portion of the DWR contract costs and bundled customers remain indifferent to customer departures.

PG&E's updated 2009 ERRA forecast revenue requirement, ongoing CTC forecast revenue requirement, PCIA credit, sales forecast and associated rates, are fully supported by detailed testimony and were unopposed prior to release of the proposed decision (PD) in this proceeding.

In its comments on the PD, CMUA indicated that PG&E's November update did not include the effects of D.08-09-012. As a remedy, CMUA asks that the Commission:

- a. Indicate in this decision that those requirements were not addressed in the revenue requirement calculation, and not adopt PG&E's Indifference Amount calculation; and
- b. Require PG&E to update Advice Letter 3188-E to include a description of the Indifference Amount calculation and serve the update on the parties to this proceeding.

PG&E stated that the effects of D.08-09-012 were not included in the November update and that it would address the effects in its revision to Advice Letter 3188-E.

In D.08-09-012, the Commission revised an element of the PCIA calculation.¹ Because D.08-09-012 was adopted shortly before the reply briefs were due in this proceeding, its effect on the PCIA calculation was not addressed in the proceeding up to that point, including the reply briefs. PG&E filed its November update to the revenue requirement, including the PCIA, on November 7, 2008. Since the update was to be based on more recent information, with no change to the calculation methodology utilized in the application, it did not reflect the requirements of D.08-09-012.

Since D.08-09-012 was adopted so late in this proceeding, its effects could not be addressed herein. Accordingly, PG&E's updated electric procurement cost revenue requirement forecast, sales forecast, and associated rates are adopted. However, the remedy proposed by CMUA and PG&E provides a reasonable means of addressing the requirements of D.08-09-012. Therefore, PG&E shall include the effect of D.08-09-012 in its supplemental filing to Advice Letter 3188-E, and serve it on the parties to this proceeding with an explanation of the Indifference Amount calculation.² In addition, PG&E shall include the effects of D.08-09-012 in future ERRA filings.

¹ Among other things, D.08-09-012 changed the inputs to the calculation of the Indifference Amount that is an element of the PCIA calculation. The Indifference Amount is the cost of the resource portfolio at which bundled customers are indifferent to departing load.

² Advice Letter 3188-E requested approval for entries in the Negative Indifference Amount Memorandum Account.

4. The District's Potential Issues

The potential issues raised by the Districts focus on PG&E's proposed ongoing CTC revenue requirement and charges related to Municipal Departing Load (MDL). These issues are discussed below.

4.1. Ending On-going CTC

The Districts recommend that the Commission develop a plan for ending ongoing CTC. Specifically, the Districts ask the Commission to scrutinize each contract that PG&E asserts is eligible for CTC and, if eligible, set an end date for CTC recovery.

This application deals with PG&E's 2009 ERRRA and CTC forecast revenue requirements and has a limited time for completion. Because the Districts' recommendation does not pertain to the 2009 forecasts, it is beyond the scope of this proceeding and will not be addressed further.

4.2. MDL Forecasts

The Districts suggest that the Commission ensure, going forward, that PG&E's MDL forecasts are consistent among proceedings to allow the Districts and affected customers to ensure that publicly owned utilities' customers are not unfairly burdened by PG&E's charges including CTC.

If the Districts determine that PG&E is inconsistent in its MDL forecasts in future proceedings, they are free to raise that issue in the proceedings where it occurs. Future proceedings are beyond the scope of this proceeding.

4.3. Franchise Fees and Uncollectibles (FF&U)

The Districts argue that the Commission should require PG&E to remove FF&U as a component of ongoing CTC and include it as a separate revenue requirement and rate, and a separate line item in MDL customers' bills.

In D.08-02-018, the Commission stated: "...FF&U is not a component of ongoing CTC. Nonetheless, these costs should be paid by MDL customers."

FF&U is not a component of CTC, but since FF&U applies to CTC, it is a component of the revenue requirement resulting from CTC. Thus, PG&E has followed the Commission's requirements regarding the calculation of the CTC revenue requirement.

As to the District's proposal to have FF&U shown as a separate line item on MDL customers' bills, customer billing format is beyond the scope of this proceeding.

4.4. Applicability of CTC to New MDL

The Districts state that it appears PG&E is charging new MDL customers for ongoing CTC contrary to Public Utilities Code Section 369.³ The Districts state that they reserve the right to file a formal pleading with the Commission to resolve any Section 369 interpretation dispute involving new MDL customers.

In D.08-02-018, the Commission stated:

"...PG&E shall use the language in Section 369 to determine whether new MDL is exempt from ongoing CTC. ...If, however, the application of the statutory language to the District's customers remains in dispute, PG&E or the Districts are free to file a formal pleading with the Commission asking the Commission to resolve the dispute. Any such pleading should explain precisely the nature of the dispute, what kind of procedural vehicle should be used to resolve the dispute, and why it is appropriate to resolve it at this time, rather than in a complaint proceeding after bills have been rendered."

³ Section 369 pertains to the recovery of CTC from existing and future customers in the utility's service territory as of December 20, 1995.

The Districts have not identified a specific dispute or filed a pleading as required. Thus, there is no issue before the Commission requiring resolution.

4.5. Customer Notice

The Districts contend that PG&E has not provided adequate notice to MDL customers of the proposed increase in ongoing CTC. Specifically, the Districts state that PG&E has not provided notice of the proposed rate changes expressed in both dollar and percentage terms for the entire rate change, as well as for each customer classification as required by Public Utilities Code Section 454(a) and Rule 3.2(d) of our Rules of Practice and Procedure.⁴

Section 454(a) and Rule 3.2(d) both provide in pertinent part:

“The notice shall state the amount of the proposed rate change expressed in both dollar and percentage terms for the entire rate change as well as for each customer classification...”

Rule 3.2 applies only to rate increases and is silent on rate decreases. However, Section 454(a) is not restricted to rate increases.

In D.08-02-018, the Commission stated:

“PG&E published notice of filing this application in 55 newspapers in its service area. The notice states that ‘PG&E expects to increase rates to departing load customers (customers who receive electric generation from a non-utility supplier, as well as transmission and distribution service from a publicly-owned utility or municipality) by approximately \$2.5 million.’ The notice also provides information on how customers may participate in Commission proceedings. We are not persuaded that additional notice is necessary.”

⁴ All section references are to the Public Utilities Code unless specified otherwise.

PG&E provided essentially the same notice in this proceeding. The notice states that: "...PG&E expects to decrease rates to departing load customers by approximately \$1 million." PG&E also provided information on the Commission's process and how to contact PG&E or the Commission for further information.

The notice provided for this application was the same as we approved in D.08-02-018. However, the notice did not indicate the percentage rate change for departing load customers as required by Section 454(a).

There is no reason to believe that this oversight would significantly disadvantage departing load customers or that the cost of additional notice would be justified, PG&E shall correct this oversight in future applications by providing notice fully in compliance with Section 454(a) as well as Rule 3.2(d).

5. CMUA Potential Issue

CMUA contends that PG&E did not make public in its application a specific forecast of MDL that PG&E expects to occur in 2009. CMUA states that PG&E's failure to do so is inconsistent with the intent of Public Resources Code Section 25302.5 and inhibits parties' ability to test the accuracy of PG&E's sales forecast. The Districts concur with CMUA's recommendation.

PG&E states that it assumed no additional MDL in its 2009 forecast.

Public Resources Code Section 25302.5 pertains to information reported to the California Energy Commission (CEC). Any issues regarding that report should be taken up with the CEC.

To the extent CMUA is interested in PG&E's MDL forecast, this is a discovery issue and should have been addressed as such.

6. TURN Potential Issue

TURN recommends the increase in the revenue requirement forecast to be adopted in this proceeding only be adopted along with measures to ensure that customers are as well prepared as possible for the high costs of utility services (electric and gas) that will likely occur this winter. In particular, TURN makes recommendations regarding residential customer arrearage and shutoff reporting, and suspension of residential reconnection deposits during the winter period. In addition, TURN recommends the Commission ask the Governor to alert Californians about pending high winter bills, and work with California's Congressional delegation to increase funding for the federal Low Income Home Energy Assistance Program.

This proceeding involves only the revenue requirement forecast. Since TURN's recommendations do not directly impact the electric procurement cost revenue requirement forecast calculation, they are beyond the scope of this proceeding.

7. Confirmation of ALJ Ruling

On September 16, 2008, the assigned Administrative Law Judge (ALJ) issued a ruling receiving Exhibit PG&E-1 into evidence and placing it under seal for two years from the effective date of this decision. On November 14, 2008, an ALJ ruling receiving Exhibit PG&E-2 into evidence and placing it under seal for two years from the effective date of this decision was issued. It has been the Commission's practice to place such information under seal for a period of three

years rather than two.⁵ The ALJ's rulings are confirmed with the exception that the information is placed under seal for three years rather than two.

8. Comments on Proposed Decision

The PD 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 or reply comments were filed by PG&E, TURN, CMUA and the Districts. All comments were considered and this decision has been revised as appropriate.

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

Findings of Fact

1. PG&E's updated 2009 ERRRA forecast revenue requirement, ongoing CTC forecast revenue requirement, sales forecast and associated rates are fully supported by detailed testimony.
2. In D.08-09-012, the Commission revised an element of the PCIA calculation.
3. Because D.08-09-012 was adopted shortly before the reply briefs were due in this proceeding, its effect on the PCIA calculation was not addressed in the proceeding up to that point, including the reply briefs.
4. Because PG&E's November update was to be based on more recent information, with no change to the calculation methodology utilized in the application, it did not reflect the requirements of D.08-09-012.

⁵ See D.06-12-018.

5. Since D.08-09-012 was adopted so late in this proceeding, its effects could not be addressed herein.

6. PG&E and CMUA's proposal to include the effect of D.08-09-012 in PG&E's supplemental filing to Advice Letter 3188-E constitutes a reasonable means of addressing the requirements of D.08-09-012.

7. This application deals with PG&E's 2009 ERRRA and CTC forecast revenue requirements and has a limited time for completion.

8. Because the Districts' recommendation to develop a plan for ending ongoing CTC does not pertain to the 2009 forecasts, it is beyond the scope of this proceeding.

9. The consistency of PG&E's MDL forecasts in future proceedings is beyond the scope of this proceeding.

10. In D.08-02-018, the Commission stated: "...FF&U is not a component of ongoing CTC. Nonetheless, these costs should be paid by MDL customers."

11. FF&U is not a component of CTC but, since FF&U applies to CTC, it is a component of the revenue requirement resulting from CTC.

12. PG&E has followed the Commission's requirements regarding the inclusion of FF&U in its CTC revenue requirement calculation.

13. Customer billing format is beyond the scope of this proceeding.

14. The Districts have not identified a specific dispute or made a pleading regarding Section 369 as required by D.08-02-018.

15. There is no issue regarding Section 369 before the Commission in this proceeding requiring resolution.

16. Section 454(a) and Rule 3.2(d) both provide in pertinent part: "The notice shall state the amount of the proposed rate change expressed in both dollar and

percentage terms for the entire rate change as well as for each customer classification...”

17. Rule 3.2 applies only to rate increases and is silent on rate decreases.

18. Section 454(a) is not restricted to rate increases.

19. The notice that PG&E provided for this application included the same information that the Commission approved in D.08-02-018.

20. The Commission has no reason to believe PG&E’s failure to indicate in its notice the percentage rate change for departing load customers significantly disadvantaged departing load customers or that the cost of additional notice would be justified.

21. PG&E assumed no additional MDL in its 2009 forecast.

22. Public Resources Code Section 25302.5 pertains to information reported to the CEC.

23. CMUA’s interest in PG&E’s MDL forecast is a discovery issue and should have been dealt with as such.

24. TURN’s recommendations regarding measures to ensure that customers are as well prepared as possible for the high costs of utility services (electric and gas) this winter do not directly impact the revenue requirement forecast calculation, and are beyond the scope of this proceeding.

25. On September 16, 2008, the ALJ issued a ruling receiving Exhibit PG&E-1 into evidence and placing it under seal for two years from the effective date of this decision.

26. On November 14, 2008, an ALJ ruling receiving Exhibit PG&E-2 into evidence and placing it under seal for two years from the effective date of this decision was issued.

27. It has been the Commission's practice to place the confidential information, such as that contained in Exhibits PG&E-1 and 2, under seal for a period of three years rather than two.

Conclusions of Law

1. PG&E's updated 2009 ERRA forecast revenue requirement, ongoing CTC forecast revenue requirement, sales forecast and associated rates should be adopted.

2. PG&E should include the effect of D.08-09-012 in its supplemental filing to Advice Letter 3188-E, and serve it on the parties to this proceeding with an explanation of the Indifference Amount calculation.

3. PG&E should include the effects of D.08-09-012 in future ERRA filings.

4. In future proceedings such as this one, PG&E should be required to include in its notice the dollar amount as well as the percentage rate change for departing load customers as required by Section 454(a) and Rule 3.2(d).

5. No additional notice of this proceeding beyond that already provided is necessary.

6. The ALJ's September 16 and November 14, 2008 rulings should be confirmed with the exception that the information should be placed under seal for three years rather than two years.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) is authorized to recover a total 2009 electric procurement cost revenue requirement forecast of \$4,692.5 million, consisting of its 2009 Energy Resource Recovery Account (ERRA) forecast revenue requirement of \$4,109.5 million, an ongoing Competition Transition

Charge forecast revenue requirement of \$617.8 million, and a Power Charge Indifference Amount credit of \$34.7 million.

2. PG&E's 2009 electric sales forecast is adopted.
3. The revenue requirement and sales forecast adopted in this order shall be consolidated with the revenue requirement effects of other recent Commission decisions.
4. PG&E's proposed rate changes to collect the revenue requirement adopted in this order are approved to become effective on or after January 1, 2009.
5. PG&E shall include the effect of Decision (D.) 08-09-012 in its supplemental filing to Advice Letter 3188-E and serve it on the parties to this proceeding with an explanation of the Indifference Amount calculation.
6. PG&E shall include the effect of D.08-09-012 in future ERRA filings.
7. In future proceedings such as this one, PG&E shall include in its notice to customers the dollar amount as well as the percentage rate change for departing load customers as required by Public Utilities Code Section 454(a) and Rule 3.2(d) of the Commission's Rules of Practice and Procedure.
8. The assigned Administrative Law Judge's September 16 and November 14, 2008 rulings regarding confidential treatment of information contained in Exhibits PG&E-1 and 2 are confirmed with the exception that the information is placed under seal for three years rather than two.
9. Application 08-06-011 is closed.

This order is effective today.

Dated December 18, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners