

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4044
February 15, 2007

R E S O L U T I O N

Resolution E-4044. Pacific Gas and Electric Company requests approval of a new memorandum account and other tariff modifications to record and track negative above-market costs included in ongoing Competition Transition Charge to implement directives in Decision 05-12-045.

By Advice Letter 2779-E filed on February 7, 2006.

SUMMARY

Pacific Gas and Electric Company (PG&E) should modify its proposed tariffs to clarify that positive and negative above-market amounts included in ongoing Competition Transition Charge (CTC) will be netted against each other from January 1, 2006 forward.

PG&E proposes Advice Letter (AL) 2779-E to implement the aspects of Commission Decision (D.) 05-12-045 concerning the accounting treatment of negative above-market costs included in ongoing CTC (referred to hereafter as negative CTC). As raised in a protest from Merced Irrigation District (Merced ID) and Modesto Irrigation District (MID), PG&E fails to accurately implement the decision because PG&E proposes that negative CTC will be tracked in a memorandum account but would only be eligible to offset *future* results. D.05-12-045 clearly indicates that negative and positive CTC values should be netted from January 1, 2006 forward, regardless of which occurs first. PG&E should modify its proposed tariffs accordingly.

BACKGROUND

PG&E proposes to implement Commission directives concerning the accounting treatment of negative CTC.

In D. 05-12-045, the Commission adopted the 2006 forecast revenue requirement for PG&E's Energy Resource Recovery Account (ERRA) and ongoing CTC charge. Although the Commission determined in that decision that the above-market component of PG&E's ongoing CTC for 2006 is a positive amount, it provided guidance on the treatment of negative amounts. Specifically, the Commission determined that beginning in 2006 and subsequent years, negative amounts shall be netted against positive above-market costs included in the ongoing CTC (referred to hereafter as positive CTC). The Commission stated that the modified Transition Cost Balancing Account (MTCBA)¹ should be used to accomplish this. Further, the Commission stated that negative CTC shall not be used to offset other components of the ongoing CTC (e.g. QF restructuring costs) or other components of the Cost Responsibility Surcharge (CRS), and that any negative CTC that is not offset by positive CTC will remain in the MTCBA where it will have no effect on customers.

In response to D.05-12-045, PG&E filed AL 2779-E on February 7, 2006, requesting that the Commission approve a new memorandum account, named the Negative Ongoing CTC Memorandum Account (NOCTCMA), to record and track negative CTC amounts. PG&E proposes that the above market component of ongoing CTC would be calculated monthly effective January 1, 2006, and that any negative results would be recorded and tracked in NOCTCMA. PG&E specified that such negative results would only be eligible to offset future positive results. The negative CTC amounts that offset positive CTC amounts would then be reflected in the ERRA and MTCBA.

¹ The MTCBA is used to record all ongoing transition costs.

NOTICE

The filing was noticed in the Daily Calendar and served on parties in accordance with directives.

Notice of AL 2779-E was made by publication in the Commission's Daily Calendar. 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.

PROTESTS

PG&E's AL 2779-E was timely protested by Merced ID and MID on the basis that it does not comply with Commission directives.

Merced ID and MID filed a protest on February 27, 2006. They assert that the advice letter fails to accurately implement D.05-12-045 which they believe requires that negative and positive CTC values be netted from January 1, 2006 forward, regardless of which occurs first. They assert that PG&E, in contrast, proposes that negative CTC would only be applied prospectively to offset future positive CTC costs. In other words, negative CTC would only be applied to positive CTC costs that occur after any negative CTC costs are incurred.

PG&E responded that Merced ID and MID's interpretation that negative CTC should apply to positive CTC whether or not it occurs first is inappropriate because it would retroactively apply negative CTC to past positive CTC. PG&E states that monthly entries of positive CTC should not be subject to retroactive adjustment if negative CTC occurs in the future because it would fundamentally alter the Commission-approved above-market cost responsibility, and would require continual restatement of PG&E's electric procurement accounting.

DISCUSSION

PG&E should modify its proposal to accurately reflect D.05-12-045 and clarify that positive and negative CTC are to be netted against each other, regardless of which occurs first, from January 1, 2006 forward.

In D.05-12-045, the Commission stated that:

Beginning in 2006 and subsequent years, negative CTC shall be netted against positive above market costs included in ongoing CTC (referred to hereafter as positive CTC). The use of negative CTC to offset positive CTC is reasonable because it results in a more accurate measurement of the total amount of above-market costs over time.

The MTCBA shall be used to track negative CTC beginning in 2006. Thus, any negative CTC that occurs in 2006 and subsequent years may only be used to offset positive CTC during these years....The tracking of negative CTC shall cease when all ongoing CTC costs have been recovered. Any remaining negative CTC balance in the MTCBA shall have no further effect on cost allocation or rates.

Negative CTC shall only be used to offset positive above-market costs; it shall not be used to offset other components of the ongoing CTC (e.g, QF restructuring costs) or other components of the CRS.

To implement this aspect of the decision, PG&E proposes the NOCTCMA to record and track negative CTC. PG&E proposes to reflect the negative CTC amounts that offset positive CTC amounts in the ERRRA and MTCBA. Merced ID's and MID's point of contention is that PG&E proposes that negative CTC shall only be netted against *future* positive CTC.

Since the filing of AL 2779-E, PG&E has determined that it can apply negative CTC to positive CTC that occurs during a calendar year, regardless of which occurs first in that year without violating the decision provisions outlined above. However, PG&E maintains that applying negative CTC retroactively to prior years' positive CTC is incongruent with the provisions of D.05-12-045 that negative above-market costs should not offset other components of ongoing CTC, and that negative CTC has no cash value. Under PG&E's approach, if negative CTC exceeds the positive CTC in the tracking account for a given calendar year, the negative CTC amount will remain in the tracking account until it is applied to positive CTC. If positive CTC exceeds the negative CTC in the tracking account for the calendar year, there will be no negative CTC to carry forward to the following year and the tracking account balance will be zeroed out.

The concern with PG&E's approach relates to the following situation: Suppose positive CTC is incurred in years 2006, 2007 and 2008, and negative CTC is incurred in years 2009 and 2010. Under PG&E's proposal, the negative CTC incurred in years 2009 and 2010 would not be applied to the positive CTC incurred in 2006, 2007 and 2008 because PG&E proposes to zero out the tracking account. This approach is clearly in conflict with statements in D.05-12-045 that "negative CTC shall be netted against positive above market costs" and that "*any* negative CTC that occurs *in 2006 and subsequent years*" may be used "to offset positive CTC *during these years*"². The decision did not specify that tracking is dependent on whether an entry is positive CTC or negative CTC but rather that both positive and negative CTC should be tracked and netted against each other from January 1, 2006 forward. PG&E argues that it cannot apply negative CTC retroactively to prior years' positive CTC because doing so would fundamentally alter the Commission-approved above market cost responsibility, and would require continual restatement of PG&E's electric procurement accounting. PG&E's first contention should be rejected because PG&E's proposed NOCTCMA clearly states that the negative above-market costs are not eligible to be applied to other elements of the ongoing CTC revenue requirements nor are they to have an effect on cost allocation or rates. This is consistent with the Commission-approved cost responsibility provisions. PG&E has not indicated why "continual restatement" of its electric procurement accounting is problematic and/or burdensome, and D.05-12-045 does not prohibit such restatement. Thus, PG&E should modify its proposal to reflect the directives of D.05-12-045. Specifically, PG&E should modify the first two paragraphs of its proposed purpose in Preliminary Statement Sheet 24322-E as follows:

The purpose of the NOCTCMA is to record and track negative costs associated with the above-market component of the ongoing competition transition charge (CTC), effective January 1, 2006. Beginning January 1, 2006 and thereafter, tThe above-market component of ongoing CTC is calculated monthly and negative results are to be tracked and applied ~~prospectively~~ to offset ~~future~~

² See D.05-12-045 at p. 21 (emphasis added).

positive above-market results in accordance with Decision 05-12-045, Ordering Paragraph (O.P.) 6. Netting positive and negative CTC shall not result in paying negative CTC to any customers. Any negative CTC that is not offset by positive CTC will remain in the NOCTCMA where it will have no effect on customers.

~~For negative above-market costs (i.e. "negative CTC"), PG&E shall record and track the negative CTC amounts in the NOCTCMA monthly. PG&E shall offset future positive above-market costs with negative CTC that is tracked in the NOCTCMA monthly. Any negative CTC that occurs in 2006 and beyond can only be used to offset future positive CTC amounts associated with the above-market calculation.~~

PG&E should also modify the last paragraph of its proposed accounting procedures in Preliminary Statement Sheet 24322-E as follows:

A debit entry equal to the positive above-market costs, ~~up to but not greater than the NOCTCMA balance,~~ allocated and tracked by customer-specific subaccounts defined in the MTCBA, as applicable.

COMMENTS

Per statutory requirement, a draft resolution was mailed to parties for comment at least 30 days prior to consideration by the Commission.

Public Utilities (PU) Code Section 311(g)(1) generally provides that a draft 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 in certain circumstances.

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 comment on January 10, 2007. PG&E submitted comments on January 30, 2007.

Tariff language has been added to clarify that netting positive and negative CTC shall not result in payment of negative CTC to any customers.

PG&E recommends that the draft resolution be clarified to indicate that netting positive and negative CTC should not result in a negative CTC rate such that PG&E must pay customers who have already departed PG&E's bundled electric generation service. PG&E suggests that if a negative CTC rate would otherwise result, the negative CTC should continue to be tracked in the NOCTCMA until such time as using it to offset positive CTC would not result in a negative CTC rate.

The draft resolution confirmed that negative CTC shall not have an effect on previous cost allocation and rate calculations. And, it is clear from D.05-12-045 that the netting of positive and negative CTC should not result in payment of negative CTC to any customers. Therefore, two sentences have been added to the NOCTCMA purpose tariff language to clarify this and to alleviate PG&E's expressed concern.

FINDINGS

1. In D. 05-12-045, the Commission provided guidance on the accounting treatment of negative CTC.
2. To implement directives of D.05-12-045, PG&E filed AL 2779-E on February 7, 2006.
3. Merced ID and MID filed a protest to AL 2779-E on February 27, 2006 alleging that PG&E fails to accurately implement D.05-12-045 because PG&E proposes that negative results will only be tracked and applied to offset future positive amounts.
4. D.05-12-045 clearly indicates that negative and positive CTC values should be netted from January 1, 2006 forward, regardless of which entry occurs first.
5. The protest of Merced ID and MID is granted.
6. PG&E should modify its proposed tariffs accordingly as specified in the Discussion, to comply with D.05-12-045.

THEREFORE IT IS ORDERED THAT:

1. PG&E's request in AL 2779-E is approved with modifications. PG&E shall file a supplemental advice letter within 10 days modifying Preliminary Statement Sheet 24322-E as specified in the Discussion.
2. Upon verification of compliance by the Energy Division, the supplemental advice letter will be effective on January 1, 2006.
3. 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

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners