

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Verification, Consolidation, and Approval of
Costs and Revenues in the Transition Revenue
Account.

Application 98-07-003
(Post PX Direct
Access Credits)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON TWO MOTIONS TO STRIKE PORTIONS OF
PACIFIC GAS AND ELECTRIC COMPANY'S PREPARED TESTIMONY**

1. On July 10, 2002, the Moving Parties¹ moved to strike those portions of the prepared testimony of Pacific Gas and Electric Company (PG&E) concerning PG&E's proposal to terminate the exemption to the three-cent per kilowatt-hour (kWh) generation rate surcharge authorized in Decision (D.) 01-03-082 that Direct Access customers are afforded under D.01-05-064. Moving Parties assert that PG&E's proposal is beyond the scope of this proceeding, which is solely concerned with the calculation of Direct Access credits. They say that if PG&E wishes to pursue its proposal, the proper procedural vehicle for doing so is a petition for modification of D.01-05-064 filed in the docket in which that decision was issued—Application (A.) 00-11-038 *et al.* Accordingly, the Moving Parties

¹ The Moving Parties are: Alliance for Retail Energy Markets, California Large Energy Consumers Association, California Manufacturers & Technology Association, City of Corona, Del Taco, Kroger Co., Los Angeles Unified School District, Lowes Home Improvement Warehouses, The University of California and The California State University, and Western Power Trading Forum.

urge that those portions of PG&E's prepared testimony describing or supporting PG&E's proposal to terminate the Direct Access exemption be stricken.

PG&E opposes the motion.

Moving Parties' motion is granted. The stricken prepared testimony is set forth in Appendix A to the motion.

2. On July 3, 2002, New West Energy Corporation (New West) moved to strike those portions of PG&E's Post PX Direct Access Credits prepared testimony concerning retroactive recalculation of the direct access credits from December 28, 2000 through January 18, 2001. New West argues that PG&E's proposal to retroactively recalculate the rates charged to direct access customers over a year and a half ago, abandoning, without prior notice, the process that was previously approved by the Commission for calculating Power Exchange energy costs and which is still a part of PG&E's approved electric rate tariff, violates the prohibition of retroactive ratemaking.

PG&E opposes the motion. It argues that New West's arguments go to the weight of PG&E's testimony, not to its admissibility. In addition, New West's arguments regarding retroactive ratemaking are based on an unsupportable distinction between the period prior to January 18, 2001, and the period after that date.

I agree with PG&E. New West's motion is denied.

Dated August 5, 2002, at San Francisco, California.

 /s/ ROBERT BARNETT
Robert Barnett
Administrative Law Judge

