

Decision 18-09-013 September 13, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Review,
Revise, and Consider Alternatives to the
Power Charge Indifference Adjustment.

Rulemaking 17-06-026

DECISION APPROVING TRACK 1 SETTLEMENT

Summary

This decision addresses the unopposed joint motion for adoption of a settlement agreement entered into by Pacific Gas and Electric Company (PG&E), Center for Accessible Technology, Marin Clean Energy, the Office of Ratepayer Advocates, The Utility Reform Network, and Brightline Defense. The settlement agreement resolves issues regarding the current exemption from paying the Power Charge Indifference Adjustment (PCIA) for medical baseline customers taking energy from community choice aggregators (CCAs) in PG&E's service territory. The settlement agreement is approved. Medical baseline customers of CCAs that begin to serve residential customers subsequent to this decision will not receive the PCIA exemption. Payment of the PCIA by medical baseline residential customers of CCAs currently serving customers will be phased-in over a period of four years.

This proceeding remains open.

1. Background and Procedural History

The Commission opened this Order Instituting Rulemaking (OIR or Rulemaking) to review the current Power Charge Indifference Adjustment (PCIA). The PCIA that is in place today dates to statute enacted during the 2001 California energy crisis. Readers are directed to the Scoping Memo for this proceeding for a detailed history of the PCIA.

The Scoping Memo determined that Track 1 of this proceeding would review and possibly revise the status of exemptions from the PCIA for customers of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) who participate in the California Alternate Rates for Energy (CARE) and the Medical Baseline (MB) programs, and departing load customers in PG&E service territory who participate in the MB program. The Commission resolved those issues for SCE and SDG&E in Decision (D.) 18-07-009.

Pursuant to Rule 12.1(b) of the Commission's Rules of Practice and Procedure (Rules), the Settling Parties noticed and held a settlement conference on February 7, 2018. On March 28, 2018 PG&E submitted a motion (Joint Motion) on behalf of itself and Center for Accessible Technology (CforAT), Marin Clean Energy (MCE), the Office of Ratepayer Advocates (ORA), The Utility Reform Network (TURN), and Brightline Defense (Settling Parties), requesting Commission approval of a settlement agreement (Proposed Settlement) that would resolve the issues regarding the MB exemption for customers in PG&E's territory. The Joint Motion is unopposed.

The CARE and MB programs provide a reduction in energy bills to participating customers. Customers are eligible to participate in CARE if they participate in certain public assistance programs or if their annual household

income is below a certain threshold. Customers are eligible to participate in the MB program if they have special energy needs due to certain qualifying medical conditions. Settling Parties explain¹ that in Resolution E-3813, the Commission established an exemption from the PCIA for departing load CARE and MB customers in order to shield those customers from energy crisis-related costs resulting from the California Department of Water Resources (DWR) long term contracts, which were entered into on behalf of investor-owned utility (IOU) customers during 2000-2001. The IOUs recovered the costs of DWR contracts in customer rates, with the exception of CARE and MB customers. This exemption implemented the California Legislature's intent to shield all CARE and MB customers from energy crisis-related above-market costs. Settling Parties state that most energy crisis-related costs are no longer part of the PCIA. Instead, the above-market costs in IOU portfolios consist largely of long-term contracts and utility-owned generation. Settling Parties further state that all bundled service IOU customers--including CARE and MB customers as well as non-CARE and non-MB customers--pay for these above-market costs.

As recounted by the Settling Parties,² the Commission approved a settlement agreement in PG&E's 2007 General Rate Case application (Application (A.) 05-12-002) that eliminated the PCIA exemption for CARE customers taking energy from CCAs in PG&E's territory. The scope of the settlement did not include MB customers, who continued to receive the PCIA exemption. PG&E requested elimination of the PCIA exemption for MB customers taking energy

¹ Joint Motion at 1-2.

² *Id.* at 2.

from CCAs in Phase 2 of its 2017 General Rate Case (A.16-06-013), but the Commission removed the issue from the scope of that proceeding so that it could be considered in the instant proceeding.

The prehearing conference was held on August 31, 2017 and the Scoping Memo and Ruling of Commissioner Peterman issued on September 25, 2017. Parties subsequently reached consensus that the evidentiary record for Track 1 should consist of the following:

1. SCE's and PG&E's previously-submitted testimony in, respectively, SCE's 2016 Rate Design Window proceeding, and PG&E's 2014 General Rate Case Phase 2, regarding Track 1 issues (i.e., the CARE and MB PCIA exemptions);
2. All the already-exchanged and then-pending data request responses in this proceeding regarding Track 1 issues; and
3. An opportunity for non-utility parties to submit responsive testimony on Track 1 issues.

Parties also reserved their rights to request evidentiary hearings in order to further develop the evidentiary record in this proceeding, but no party ultimately exercised that right.

On December 5, 2017 PG&E submitted another joint motion on behalf of itself, SCE, SDG&E, California Choice Energy Authority (CCEA), MCE, and CforAT (together, the Filing Parties) for entry into evidence of the prepared testimony and discovery responses listed above.³ Pursuant to Rule 13.8(c), the Filing Parties moved that the following information be admitted into evidence:

³ CCEA is a joint powers authority that provides support services to CCA programs, including CCA programs administered by the cities of Lancaster, Pico Rivera and San Jacinto in southern California. MCE is an operational CCA in northern California. CforAT is an organization that is authorized by its bylaws to represent the interests of residential customers with disabilities before the Commission. The Filing Parties state that they also collaborated with additional

Footnote continued on next page

- Exhibit 1 Updated and Amended Prepared Testimony in PG&E's 2017 General Rate Case Phase 2, A.16-06-013, Exhibit PG&E-8, Volume 1, Revenue Allocation and Rate Design, served December 2, 2016, pages 1-16 to 1-18 and Attachment C
- Exhibit 2 PG&E's Public/Non-Confidential Responses to Data Requests in PG&E's 2017 General Rate Case Phase 2, A.16-06-013
- Exhibit 3 PG&E's Public/Non-Confidential Responses to CforAT Data Requests 001 and 002 in this PCIA OIR, R.17-06-026
- Exhibit 4 PG&E's Responses to MCE Data Requests 001, 002 and 003 in this PCIA OIR, R.17-06-026
- Exhibit 5 CforAT Responses to PG&E Data Request 001 in this PCIA OIR, R.17-06-026
- Exhibit 6 MCE Responses to PG&E Data Request 001 in this PCIA OIR, R.17-06-026
- Exhibit 7 Testimony of Southern California Edison Company in Support of its Application for Approval of its 2016 Rate Design Window, A.16-09-003, Exhibit SCE-1, served September 1, 2016, at pp. 116-132
- Exhibit 8 SCE Responses to CCEA Data Requests 003, 003 (Supplemental), and 004 in this PCIA OIR, R.17-06-026
- Exhibit 9 SCE Responses to CforAT Data Request 001 in this PCIA OIR, R.17-06-026
- Exhibit 10 CCEA Responses to SCE Data Requests 001 and 002 in this PCIA OIR, R.17-06-026

The Commission granted the Filing Parties' joint motion in D.18-07-009.

parties interested in this proceeding, including ORA, TURN, Western Riverside Council of Governments, Coachella Valley Association of Governments, and Los Angeles Community Choice Energy. Filing Parties state that these parties support or do not oppose the joint motion.

2. Positions of the Parties

The Scoping Memo identified the issues that would be resolved in Track 1 of this proceeding:

1. Should the PCIA exemptions for current departing load CARE and MB customers be eliminated?
2. Should CARE and MB customers of new CCA programs receive PCIA exemptions?
3. If the PCIA exemptions are eliminated, should the resulting PCIA for current departing load CARE and MB customers be phased in over a period of time?
4. If the PCIA exemptions are eliminated, should the Commission order the utilities to educate CARE and MB customers about how their bills will change?

Settling Parties state that although they did not serve testimony addressing the PCIA exemption, their positions prior to reaching settlement were as follows:

- PG&E proposed to equalize the discounts for bundled MB customers and CCA MB customers by eliminating the PCIA exemption in its entirety as of a date certain;
- ORA and TURN also supported equalizing discounts for bundled MB customers and CCA MB customers by eliminating the PCIA exemption;
- CforAT did not object to elimination of the PCIA exemption for CCA MB customers, but expressed concern about the resulting rate increases for these customers, contending that some customers would see rate increases of approximately 30%;
- ORA and TURN supported a phase-in period of the PCIA for existing CCA MB customers in order to mitigate rate shock;
- MCE expressed that if the PCIA exemption is to be eliminated for CCA MB customers, the PCIA should be phased in to ensure that customers currently receiving the exemption do not experience rate shock;

- Brightline Defense supported elimination of the PCIA exemption, but advocated for gradual phase-in of the PCIA to minimize financial impacts;
- All of the Settling Parties supported an education and outreach effort involving collaboration between the incumbent IOU and the CCA working collaboratively to educate customers about the rate changes before the PCIA phase-in begins; and
- MCE proposed that the education and outreach to customers should begin no later than 60 days before the phase-in commences, and should continue throughout the entirety of the phase-in process.

3. The Proposed Settlement

The Proposed Settlement resolves the issues and positions listed above in the following manner:

- For any CCA that begins serving residential customers on or after the date PG&E can begin charging the PCIA to MB customers, MB customers of that CCA will not receive the PCIA exemption.
- For CCAs that are serving residential customers as of the date PG&E begins charging the PCIA to MB customers, the full PCIA amount will be phased-in over a period of 4 years.
 - As early as June 1, 2019, PG&E will begin to phase-in the PCIA for MB CCA customers in PG&E's territory. The applicable PCIA obligation expressed as a percentage of the full otherwise applicable PCIA obligation will be 25% in the first year, 50% in the second year, 75% in the third year, and 100% in the fourth year.
 - During the phase-in period, any customer who begins service with the CCA and is a MB customer will pay the same percentage of the otherwise applicable PCIA obligation as existing MB customers of the CCA. That is, if the second year of phase-in is 2021, a new MB customer will owe 50% of the PCIA. PG&E is not changing any ratemaking mechanisms as part of this transition. Thus, as MB CCA contribution to PCIA is increased, bundled customer responsibility will be reduced.

The Settling Parties will develop an education and outreach plan to provide notice to customers who receive the exemption regarding the phase-in schedule.

4. Commission Review of the Proposed Settlement

The Commission has long favored the settlement of disputes. However, pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure, the Commission will not approve a settlement, whether contested or uncontested, unless it is found to be reasonable in light of the whole record, consistent with law, and in the public interest. Further, where a settlement agreement is contested, it will be subject to more scrutiny than an all-party settlement agreement. As noted above, the Proposed Settlement is not contested.

4.1. Is the Proposed Settlement Reasonable in Light of the Whole Record?

Settling Parties assert that the Proposed Settlement reflects a reasonable balance of the positions taken by the Settling Parties on the PCIA exemption issue because they had the opportunity through discovery and settlement discussions to better understand the impacts of the PCIA exemption on bundled MB customers and CCA MB customers.⁴ Settling Parties agreed that (1) CCA MB customers and bundled CCA customers should receive the same discount, but (2) the increase to MB customer bills would be substantial so it made sense to phase in the PCIA in order to alleviate these increases.⁵

⁴ Joint Motion at 5.

⁵ *Ibid.*

4.1.1. Discussion

We find that the Proposed Settlement is reasonable in light of the whole record. As noted above, the exhibits that constitute the record in this proceeding were submitted jointly by active parties, including some of the Settling Parties. The Settling Parties relied on that record in order to make the consensus-based proposal before us. Therefore, we find that the Proposed Settlement reasonably resolves the contested issue in Track 1 of this proceeding, specifically with respect to affected customers of CCAs in PG&E's service territory.

4.2. Is the Proposed Settlement Consistent with the Law?

The Settling Parties assert that equalizing the discounts for bundled MB customers and CCA MB customers by eliminating the PCIA exemption for CCA MB customers is consistent with the law because it prevents cost shifts to bundled customers resulting from departing load.⁶

4.2.1. Discussion

Public Utilities Code Section 365.2 provides that the Commission shall ensure that bundled retail customers of an electrical corporation do not experience any cost increases as a result of retail customers of an electrical corporation electing to receive service from other providers, and that the Commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.

Public Utilities Code Section 366.3 provides that bundled retail customers of an electrical corporation shall not experience any cost increase as a result of

⁶ *Ibid.*, citing California Public Utilities Code Sections 365.2, 366.3, and 366.3 [sic].

the implementation of a CCA program, and that the Commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.

We find that the Proposed Settlement is consistent with Sections 365.2 and 366.3.

4.3. Is the Proposed Settlement in the Public Interest?

Settling Parties contend that the Proposed Settlement is in the public interest. Settling Parties explain that although the phase-in means that the equal discount for all MB customers is not effective immediately, the Proposed Settlement results in all MB customers paying equally for above market RPS costs “in fairly short order,” while also avoiding “overwhelming rate increases” for MB customers.⁷

4.3.1. Discussion

We find that the Proposed Settlement is in the public interest because it represents a compromise between parties who are in a position to weigh the competing interests of bundled customers (who would benefit from immediate cessation of the entire exemption) and CCA customers (who will benefit from phasing out the exemption). In this instance, we accept the results of that balancing exercise as presented to us by the Settling Parties.

⁷ *Ibid.*

4.4. Conclusion

For the reasons discussed above, we find that the Proposed Settlement is reasonable in light of the whole record, consistent with law, and in the public interest. The Proposed Settlement should be approved.

5. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

6. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Stephen C. Roscow is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The March 28, 2018 Settlement Agreement is an uncontested settlement.
2. The March 28, 2018 Settlement Agreement was entered into by parties representing all impacted customer groups.

Conclusions of Law

1. The March 28, 2018 Settlement Agreement is reasonable in light of the record, consistent with law, and in the public interest.
2. The March 28, 2018 Settlement Agreement should be approved.
3. This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code

and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment should be waived.

O R D E R

IT IS ORDERED that:

1. The Joint Motion of Pacific Gas and Electric Company, Center for Accessible Technology, Marin Clean Energy, the Office of Ratepayer Advocates, The Utility Reform Network, and Brightline Defense dated March 28, 2018 requesting approval of the Settlement Agreement among Pacific Gas and Electric Company, Center For Accessible Technology, Marin Clean Energy, Office of Ratepayer Advocates, The Utility Reform Network and Brightline Defense is granted. The Settlement Agreement attached to the Joint Motion is adopted.
2. Rulemaking 17-06-026 remains open.

This order is effective today.

Dated September 13, 2018, at San Francisco, California.

MICHAEL PICKER
President
CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
Commissioners