

Decision 08-09-003 September 4, 2008

Expedited Application of Pacific Gas and Electric Company Under The Energy Resource Recovery Account (ERRA) Trigger Mechanism.  
(U 39 E)

Application 08-01-014  
(Filed January 23, 2008)

## **FINAL DECISION ON THE ENERGY RESOURCE RECOVERY ACCOUNT TRIGGER APPLICATION**

### **1. Summary**

In Decision (D.) 08-04-026, we issued an interim opinion regarding the Energy Resource Recovery Account (ERRA) trigger application of Pacific Gas and Electric Company (PG&E). That decision authorized PG&E to recover an additional \$531 million in power procurement costs through its ERRA. The recovery of the additional procurement costs was made subject to possible adjustment depending on the outcome of evidentiary hearings in this proceeding.

Today's decision addresses the issue of whether PG&E's ERRA trigger request of \$531 million is an appropriate amount to procure the power needed to replace the power that was lost as a result of the December 7, 2007 action by the California Department of Water Resources (DWR) to restructure its 1,000 megawatt (MW) baseload power contract with Calpine Energy Services, L.P. (Calpine 2 contract), and to replace it with a 180 MW peaking contract. We conclude that the \$531 million in additional procurement costs is appropriate, and that PG&E's recovery of this amount, amortized over eight months, should not be adjusted.

## **2. Procedural Background**

PG&E filed the above-captioned ERRA trigger application on January 23, 2008. PG&E requested that a decision on its application be expedited in accordance with the process set forth in D.02-10-062,<sup>1</sup> with a slight extension so that a decision on the related PG&E petition to modify D.05-06-060 could be issued at the same time.

Due to the requirement to expedite a decision on the trigger application request, and to provide sufficient time to determine whether evidentiary hearings would be needed, we issued an interim decision on the ERRA trigger application request on April 10, 2008 in D.08-04-026.<sup>2</sup>

As summarized in the March 10, 2008 scoping memo and ruling, the California Large Energy Consumers Association (CLECA), the California Manufacturers and Technology Association (CMTA), the Division of Ratepayer Advocates (DRA), and the Energy Producers & Users Coalition (EPUC) requested that evidentiary hearings be held. After engaging in discovery, the parties agreed that certain documents, as identified in the July 23, 2008 ruling of the assigned Administrative Law Judge (ALJ), could be admitted into evidence and the matter submitted without the need for evidentiary hearings. In addition, the parties agreed to a schedule to file their opening and reply briefs.

Opening briefs were separately filed by PG&E and DRA on April 4, 2008. No reply briefs were filed.

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<sup>1</sup> Under the ERRA trigger process, the Commission is to issue a decision on the trigger application within 60 days from when the ERRA trigger application is filed.

<sup>2</sup> We also issued D.08-04-025, which addressed PG&E's petition to modify D.05-06-060, and D.08-04-051 on April 24, 2008. Both of those decisions have the effect of offsetting this ERRA trigger request.

### **3. Discussion**

In its April 4, 2008 brief, PG&E requests that the Commission approve a final decision granting PG&E's 2008 ERRA trigger application, and authorizing it to recover \$531 million in additional power procurement costs, amortized over eight months, with rates effective May 1, 2008. PG&E contends that it has met the necessary requirements for an increase under the ERRA trigger application, and that it provided ample information in its application and in the workpapers and data responses that were admitted into evidence in the July 23, 2008 ruling.

PG&E also states that it briefed DRA on the interrelationship of the various ERRA and DWR related proceedings and their net effect on customer rates. In addition, PG&E provided CLECA and CMTA with data responses about the net effect of PG&E's ERRA trigger application.

DRA states in its brief that it issued data requests to PG&E seeking information about how much energy PG&E would need each month and what products PG&E was purchasing, in order to replace the energy that was lost as a result of the restructured Calpine 2 contract. DRA also "asked PG&E to provide information about how much surplus power it had sold in 2007, and to explain the discrepancy between PG&E's estimate of how much of the Calpine 2 power PG&E needed to replace (almost all of it) and DWR's public assertions that a large proportion of the Calpine 2 power was 'surplus'." (DRA Brief, p. 3.)

DRA's brief states that the information provided by PG&E shows that PG&E will need to replace almost all of the power resulting from the restructuring of the Calpine 2 contract. DRA also states that the power purchasing guidelines that PG&E is following are appropriate, and that PG&E's estimate of the costs of power for the relevant timeframe is appropriately based on the forward prices at the time of the estimate. DRA concludes that PG&E has

provided sufficient information to evaluate whether PG&E's estimate of the cost to replace the Calpine 2 power in 2008 is reasonable. Based on its review of this information, DRA concludes that PG&E's estimate of \$531 million is reasonable, and therefore does not oppose the relief that PG&E requests in the application.

We established the ERRA balancing account in D.02-10-062 as a result of the enactment of Public Utilities Code Section 454.5.<sup>3</sup> That code section provides for the filing of a proposed power procurement plan by the electric utilities. Subdivision (d)(3) of § 454.5 provides in part that "the commission shall ensure that any overcollection or undercollection" in the ERRA balancing account does not exceed 5%. D.02-10-062 established an expedited application process to resolve an overcollection or undercollection in the ERRA when it reaches 4%. The four percent trigger was adopted to allow the Commission time to process the ERRA adjustment.

Since we are obligated under § 454.5(d)(3) and D.02-10-062 to ensure that the utility receives timely recovery of its procurement costs, we issued an interim opinion on PG&E's ERRA trigger application in D.08-04-026. In authorizing PG&E to recover \$531 million in additional power procurement costs, to be amortized over the eight-month period of May 2008 through December 2008, we made two findings which are of particular relevance to a final disposition of the issues in this proceeding. In Finding of Fact 3, we stated: "PG&E has begun to purchase replacement power on behalf of its customers as a result of DWR's action to restructure the Calpine 2 contract, and estimates that it will incur an additional \$531 million in ERRA procurement costs." In Finding of Fact 4, we

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<sup>3</sup> All code section references are to the Public Utilities Code.

stated: "PG&E's ERRRA undercollection will exceed 4 percent by the end of January 2008, and will exceed 5 percent by the end of March 2008."

The scoping memo identified the two issues to be addressed in this proceeding.<sup>4</sup> The first issue that we address is the following: "Is PG&E's ERRRA trigger request of \$531 million an appropriate amount to spend to procure the type of replacement power that PG&E plans to purchase as a result of the restructuring of the Calpine 2 contract?"

As noted in Finding of Fact 3 in D.08-04-026, PG&E began to purchase power beginning January 1, 2008 to replace the power that was lost as a result of DWR's restructuring of the Calpine 2 contract. PG&E expects that it will incur an additional \$531 million in ERRRA procurement costs over its previous 2008 ERRRA forecast that was requested in Application 07-06-006.

A review of the documents admitted into evidence reveals that PG&E will have to purchase replacement power as a result of the restructuring of the Calpine 2 contract. The data which was provided to support PG&E's forecast demonstrates that PG&E will have to replace about 98% of the energy it had received under the Calpine 2 contract, and that the additional power procurement costs will grow to \$531 million by the end of December 2008. Based on our review of the documents admitted into evidence, we conclude that PG&E's ERRRA trigger request of \$531 million is an appropriate amount to spend to procure the power that it needs in 2008 to replace the power that was lost as a result of the restructuring of the Calpine 2 contract.

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<sup>4</sup> Some of the parties had requested hearings on what action PG&E should have taken to prevent a restructuring of the Calpine 2 contract. The scoping memo rejected that issue as an issue to consider in this proceeding.

The second issue identified in the scoping memo is “Should PG&E’s ERRA trigger request of \$531 million in additional power procurement costs for 2008 be adopted.” Under the ERRA trigger mechanism, if procurement costs exceed the five percent trigger, the Commission is required to take steps to resolve the undercollection. The documents provided show that PG&E’s ERRA undercollection will exceed the trigger established in D.02-10-062, and that action on PG&E’s trigger application is warranted. Accordingly, we find that PG&E’s ERRA trigger application has complied with the ERRA trigger application requirements as set forth in D.02-10-062. Since PG&E’s forecast of \$531 million is an appropriate amount to spend, and because these additional ERRA procurement costs meet the trigger application requirements, PG&E should be allowed to recover the \$531 million in additional power procurement costs through its ERRA, amortized over the eight-month period of May 2008 through December 2008, without any adjustment.

Since there are no other issues to resolve, this proceeding should be closed.

#### **4. Comments on Proposed Decision**

The proposed decision of ALJ John S. Wong in this matter was mailed to the parties in accordance with § 311 and comments were allowed pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure. No comments were filed.

#### **5. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner and John S. Wong is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. The interim opinion in D.08-04-026 was issued due to the requirement to expedite a decision on the trigger application request, and to provide sufficient time to determine whether evidentiary hearings would be needed.

2. PG&E's authorization to recover the additional \$531 million in power procurement costs through its ERRA was made subject to possible adjustment depending on the outcome of evidentiary hearings in this proceeding.

3. The parties agreed to the admission of certain documents without the need for hearings, as identified in the July 23, 2008 ruling.

4. The scoping memo identified two issues to be addressed in this proceeding, and rejected as an issue an inquiry into what actions PG&E should have taken to prevent a restructuring of the Calpine 2 contract.

5. PG&E began purchasing power beginning on January 1, 2008 to replace the power that was lost as a result of DWR's restructuring of the Calpine 2 contract.

6. The data which supports PG&E's forecast demonstrates that PG&E will have to replace about 98% of the energy it had received under the Calpine 2 contract, and that the additional procurement costs will grow to \$531 million by the end of December 2008.

7. The documents show that PG&E's ERRA undercollection will exceed the trigger established in D.02-10-062, and that action on PG&E's trigger application is warranted.

### **Conclusions of Law**

1. PG&E's ERRA trigger request of \$531 million is an appropriate amount to spend to procure the power that it needs in 2008 to replace the power that was lost as a result of the restructuring of the Calpine 2 contract.

2. PG&E's ERRA trigger application has complied with the ERRA trigger application requirements as set forth in D.02-10-062.
3. PG&E should be allowed to recover the \$531 million in additional power procurement costs through its ERRA, amortized over the eight-month period of May 2008 through December 2008, without any adjustment.
4. This proceeding should be closed.

### **FINAL ORDER**

**IT IS ORDERED** that:

1. The interim authorization granted in Decision 08-04-026, which allows Pacific Gas and Electric Company to recover \$531 million in additional power procurement costs through its Energy Resource Recovery Account, to be amortized over the eight-month period of May 2008 through December 2008, shall not be adjusted.
2. Application 08-01-014 is closed.

This order is effective today.

Dated September 4, 2008, at San Francisco, California.

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