

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company To Revise Its Electric Marginal
Costs, Revenue Allocation, and Rate Design

U 39 M

Application No. 06-03-005

**MOTION OF THE SETTLING PARTIES FOR ADOPTION OF
SETTLEMENT AGREEMENT ON MARGINAL COST AND
REVENUE ALLOCATION ISSUES**

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Pursuant to Rule 21.1 of the Commission’s Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) submits this motion on behalf of the Settling Parties.¹ By this motion, the Settling Parties respectfully request that the Commission approve the “Settlement Agreement on Marginal Cost and Revenue Allocation Issues in PG&E’s Application 06-03-005” (Settlement Agreement), which is attached to this Motion. As described herein, the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest, and should therefore be adopted without modification.

¹ The Settling Parties are the following: Agricultural Energy Consumers Association (AECA); Building Owners and Managers Associations of San Francisco, Greater Los Angeles, Orange County, and California (BOMA); California City-County Street Light Association (CAL-SLA); California Farm Bureau Federation (CFBF); California Large Energy Consumers Association (CLECA); California League of Food Processors (CLFP); California Manufacturers & Technology Association (CMTA); California Retailers Association (CRA); California Rice Millers; California Solar Energy Industries Association (CAL SEIA); Cogeneration Association of California (CAC); Direct Access Customer Coalition (DACC); Division of Ratepayer Advocates (DRA); Energy Producers and Users Coalition (EPUC); Energy Users Forum (EUF); Federal Executive Agencies (FEA); Indicated Commercial Parties (ICP); Pacific Gas and Electric Company (PG&E); PV Now; The Utility Reform Network (TURN); Vote Solar; and The Western Manufactured Housing Communities Association (WMA).

I. OVERVIEW OF SETTLEMENT

The Settlement Agreement addresses three major issues. First, the Settling Parties agree that the primary purpose of determining marginal costs in this proceeding is to establish the cost of providing service by rate group for the generation and distribution functions. Since marginal costs were last adopted for revenue allocation and rate design purposes in 1993, the Settling Parties agree that this proceeding should result in updated marginal costs. While the Settling Parties disagree on the specific principles that should be employed to calculate marginal costs, the Settling Parties generally agree on the marginal cost values to be employed for the defined purposes described in this Settlement Agreement.

Second, the Settling Parties agree that electric revenue should be allocated on an overall revenue-neutral basis. The Settlement Agreement begins with the principle that generation and distribution revenue should be adjusted 85 percent of the way from then-current distribution and generation revenue to revenue at equal percent of marginal cost, as defined in the Settlement Agreement. The Settlement Agreement includes additional key allocation principles, and as a final step, the Settling Parties agree that the annual average bundled rates will be limited by adjusting the generation allocation such that total bundled rates change as provided below, with any resulting shortfall to be collected from all other customer groups except Standby based on an equal percent of generation revenue.

- Residential Class: 2.8%
- A-10 Class: -5.0%
- E-19 Secondary (firm and nonfirm combined): -9.0%
- Agricultural Class: 4.0%
- Streetlighting Class: -9.0%
- E-20 Transmission Firm: 0.0%
- E-20 Primary Firm: -2.0%
- E-20 Secondary Firm: -9.0%

Third, the Settlement Agreement addresses rate changes between general rate cases (GRCs). The Settling Parties agree that each customer group will be held responsible for approximately the same percentage contribution to each component of rates. This will be accomplished by implementing changes to the revenue requirement for each component by applying to each rate schedule the same percentage change to rates by component required to collect the revenue requirement for that component, with specific exceptions to this treatment set forth in the Settlement Agreement.

II. PROCEDURAL HISTORY

PG&E filed its application in this proceeding on March 2, 2006. PG&E's marginal cost, revenue allocation and rate design proposals were intended to "continue progress toward cost based, efficient pricing, while taking into consideration equity among customers and customer acceptance." One party – the Division of Ratepayer Advocates (DRA) – filed a protest on March 27, 2006.

Administrative Law Judge (ALJ) Fukutome and Assigned Commissioner Rachelle Chong held a prehearing conference in the proceeding on May 3, 2006, and established the proceeding's scope and schedule in a Ruling and Scoping Memo on May 25. PG&E updated its showing on June 26, DRA served prepared testimony on September 13, and AECA, BOMA, CAC, CAL-SLA, CFBF, CLECA, CLFP, CMTA-ICP, DACC, EPUC, FEA, PV Now, TURN, Vote Solar, and WMA served intervenor testimony on October 27.

In compliance with the Scoping Memo, PG&E held a meet and confer session with all parties and Commission staff on September 20. After providing notice pursuant to Rule 12.1(b), PG&E conducted additional settlement discussions with the active parties to the proceeding. Also in compliance with the Scoping Memo, PG&E held a mandatory settlement conference on November 1. Based on the settlement discussions, the Settling Parties sought extensions of the procedural schedule, which were granted by ALJ Rulings dated November 9 and December 14, 2006.

On January 5, 2007, PG&E's counsel notified ALJ Fukutome that the active parties to the proceeding had reached settlement in principle regarding marginal cost and revenue allocation issues and requested a further extension of the procedural schedule to memorialize the settlement and continue their efforts to reach agreement on rate design issues. ALJ Fukutome granted the request by written ruling dated January 10, 2007.

III. SETTLEMENT TERMS

A. Marginal Cost Principles and Purposes

Section VI of the Settlement Agreement addresses marginal cost issues. As noted above, the Settlement Agreement does not adopt any of the Settling Parties' marginal cost principles or proposals, but the Settling Parties do agree that it is reasonable for the Commission to approve the marginal costs in this Settlement Agreement for the purpose of establishing unit costs in the development of revenue allocation and rate design in this proceeding and for customer-specific contract rate floors for customer retention and attraction.

B. Revenue Allocation

Section VII of the Settlement Agreement addresses revenue allocation issues. The Settling Parties agree that electric revenue should be allocated in this proceeding on an overall revenue-neutral basis to preserve then-current total authorized revenue. The Settling Parties agree that the revenue allocation shall be computed using the marginal costs presented in the Settlement Agreement, along with certain adjustments. As a final step, the Settlement Agreement provides that annual average bundled rates will be limited by adjusting the generation allocation such that total bundled rates change as provided below, and any resulting shortfall is to be collected from all other customer groups except Standby based on an equal percent of generation revenue.

Residential Class: 2.8%

A-10 Class: -5.0%

E-19 Secondary (firm and nonfirm combined): -9.0%

Agricultural Class: 4.0%

Streetlighting Class: -9.0%

E-20 Transmission Firm: 0.0%

E-20 Primary Firm: -2.0%

E-20 Secondary Firm: -9.0%

Illustrative average electric rates that are expected to result from the Settlement Agreement are provided below.²

Table 1			
Revenue Allocation Settlement (Bundled)			
	Projected March 2007 Rates	Illustrative Average Settlement Rates	Percent Change
Residential			
CARE	\$0.08634	\$0.08630	0.0%
Non-CARE	\$0.16553	\$0.17076	3.2%
Small L&P	\$0.15854	\$0.16740	5.6%
Medium L&P	\$0.14498	\$0.13771	-5.0%
E-19T	\$0.11134	\$0.10019	-10.0%
E-19P	\$0.11404	\$0.11156	-2.2%
E-19S	\$0.13029	\$0.11855	-9.0%
Streetlights	\$0.16947	\$0.15422	-9.0%
Standby	\$0.11680	\$0.12020	2.9%
Agriculture	\$0.12328	\$0.12820	4.0%
E-20T firm	\$0.08408	\$0.08407	0.0%
E-20T NF	\$0.07211	\$0.06854	-5.0%
E-20P firm	\$0.10779	\$0.10562	-2.0%

² For purposes of the Settlement Agreement, present average rates are based on an estimate of rates after inclusion of the proposed settlement in Phase 1 of the 2007 GRC, Transmission Owner 9, the 2007 change to the transmission access charge balancing account and the 2007 nuclear decommissioning rate change.

Table 1			
Revenue Allocation Settlement (Bundled)			
	Projected March 2007 Rates	Illustrative Average Settlement Rates	Percent Change
E-20P NF	\$0.10284	\$0.09654	-6.1%
E-20S firm	\$0.12648	\$0.11509	-9.0%
E-20S NF	\$0.11703	\$0.10043	-14.2%
Total	\$0.13962	\$0.13945	-0.1%

Table 2			
Revenue Allocation Settlement (Direct Access)			
	Projected March 2007 Rates	Illustrative Settlement Rates	Percent Change
Residential			
CARE	\$0.04991	\$0.01385	-72.2%
Non-CARE	\$0.08078	\$0.08561	6.0%
Small L&P	\$0.06934	\$0.08017	15.6%
Medium L&P	\$0.04637	\$0.04964	7.0%
E-19P	\$0.03333	\$0.04079	22.4%
E-19S	\$0.04588	\$0.04382	-4.5%
Agriculture	\$0.04287	\$0.04047	-5.6%
E-20T firm	\$0.01825	\$0.02127	16.6%
E-20T NF	\$0.00456	\$0.00461	1.1%
E-20P firm	\$0.03082	\$0.03564	15.7%
E-20P NF	\$0.01967	\$0.02113	7.4%
E-20S firm	\$0.04553	\$0.04206	-7.6%
E-20S NF	\$0.03901	\$0.03029	-22.4%
Total	\$0.03332	\$0.03506	5.2%

C. Rate Changes Between General Rate Cases (GRCs)

Section VII.3 specifically addresses the issue of rate changes between GRCs. After rates are implemented pursuant to the decision adopting this Settlement Agreement, the Settling Parties agree that rates will be changed to reflect changes to the revenue requirement in the manner set forth in the Settlement Agreement. Specifically, each customer group will be held responsible for approximately the same percentage contribution to each component of rates. Except as specifically noted in the Settlement Agreement, this will be accomplished by implementing changes to the revenue requirement for each component by applying to each rate schedule the same percentage change to rates by component required to collect the revenue requirement for that component.

IV. THE COMMISSION SHOULD ADOPT THE SETTLEMENT AGREEMENT

A. Commission Policy Favors Settlements

The Commission has a history of supporting settlement of disputes if they are fair and reasonable in light of the whole record.³ This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.⁴ This strong public policy favoring settlements weighs in favor of the Commission resisting the temptation to alter the results of the negotiation process. As long as a settlement taken as a whole is reasonable in light of the record, consistent with the law, and in the public interest, it should be adopted.⁵

Each portion of the Settlement Agreement is dependent upon the other portions of the Settlement Agreement. Changes to one portion of the Settlement Agreement would alter the balance of interests and the mutually agreed upon compromises and outcomes contained in the

³ D.05-03-022, mimeo, pp. 7-8, citing D.88-12-083 (30 CPUC 2d 189, 221-223) and D.91-05-029 (40 CPUC 2d. 301, 326).

⁴ D.05-03-022, mimeo, p. 8, citing D.92-12-019, 46 CPUC 2d 538, 553.

⁵ See generally D.05-03-022, mimeo, pp. 7-12.

Settlement Agreement. As such, the Settling Parties request that it be adopted as a whole by the Commission, without modification.

B. The Settlement Agreement Is An All-Party Settlement

To qualify as an all-party settlement, the sponsoring parties must show that that a settlement meets the following four conditions:

- a. The settlement agreement commands the unanimous sponsorship of all active parties to the proceeding;
- b. The sponsoring parties are fairly reflective of the affected interests;
- c. No term of the settlement contravenes statutory provisions or prior Commission decisions; and
- d. The settlement conveys to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.⁶

The Settlement Agreement meets the first condition because the Settling Parties are all the active parties (*i.e.*, those parties submitting testimony) on the issues in this proceeding that are the subject of the Settlement Agreement. The Settlement Agreement meets the second condition because the Settling Parties fairly represent the interests of the parties affected by the Settlement Agreement, including residential and small commercial customers, agricultural customers, and large commercial and industrial customers. The Settlement Agreement meets the third condition because it is consistent with law. Finally, the Settlement Agreement meets the final condition because the record will contain the prepared testimony of all the parties and because the Settlement Agreement contains detailed descriptions regarding the timing of rate changes and the manner of implementing rate changes between GRCs.

⁶ D.05-03-032, p. 9, citing D.92-12-019, 46 CPUC 2d 538, 550-551 (1992); D.97-06-066, 1997 Cal PUC LEXIS 229, *19; D.96-09-037, 1996 Cal. PUC Lexis 904, p. 12; and D.96-07-057, 1996 Cal. PUC Lexis 809, p. 25.

C. The Settlement Is Reasonable In Light Of The Record, Consistent With Law, And In The Public Interest.

The Commission should adopt the Settlement Agreement because it represents a reasonable compromise of the parties' positions. As shown in the Comparison Exhibit attached as Appendix A and required under Rule 12.1(a), the rate changes resulting from the Settlement Agreement reflect movement from both PG&E's and DRA's litigation positions. As with previous PG&E Phase 2 settlements, the Settlement Agreement moves rates substantially in the direction of full cost of service. Unlike previous PG&E Phase 2 settlements, however, the Settlement Agreement also reaches agreement on the marginal cost values to be employed for the purposes defined in the Settlement Agreement – a significant accomplishment that has eluded the Commission for over a decade.

The Settlement complies with all applicable statutes and prior Commission decisions. By resolving the marginal cost and revenue allocation issues raised in PG&E's application, the Settlement Agreement saves the Commission and parties from the time, expense, and uncertainty associated with litigating these issues. For these reasons, the Settlement Agreement is in the public interest.

V. CONCLUSION

For the reasons set forth above, the Settling Parties respectfully request that the Commission:

1. Find that the attached Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest;
2. Adopt the Settlement Agreement without modification; and
3. Authorize PG&E to implement changes in rates in accordance with the terms of the Settlement Agreement.

Respectfully submitted,

By: _____ /s/
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On Behalf Of The Settling Parties

Dated: February 9, 2007