

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

Application of Pacific Gas and Electric
Company Proposing Cost of Service and Rates
for Gas Transmission and Storage Services for
the Period 2011-2014

(U 39 G)

Application 09-09-013

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY
REQUESTING ORDER MAKING GAS ACCORD V
REVENUE REQUIREMENTS AND RATES
EFFECTIVE JANUARY 1, 2011**

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Dated: October 8, 2010

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I. INTRODUCTION

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company ("PG&E") requests that the Commission issue an order as expeditiously as possible, but no later than December 31, 2010, allowing Gas Accord V Settlement revenue requirements and rates to go into effect on January 1, 2011, subject to adjustment should different revenue requirements and/or rates result from the litigation of issues raised by San Diego Gas and Electric Company ("SDG&E") and Southern California Gas Company ("SoCalGas") (collectively, "SDG&E/SoCalGas"). PG&E is authorized to state that the Settlement Parties listed in footnote 1 support this Motion.^{1/} Specifically, PG&E requests a

^{1/} The Settlement Parties that support this Motion are as follows: California Cogeneration Council ("CCC"); California Manufacturers & Technology Association ("CMTA"); Calpine Corporation; Canadian Association of Petroleum Producers ("CAPP"); City of Palo Alto; California Public Utilities Commission ("CPUC") – Division of Ratepayer Advocates ("DRA"); Dynegy Moss Landing, LLC and Dynegy Morro Bay, LLC ("Dynegy"); Gas Transmission Northwest Corporation ("GTN"); Gill Ranch Storage, LLC; Indicated Producers ("IP," representing ConocoPhillips Company ("ConocoPhillips"), Chevron U.S.A. Inc. ("Chevron") and Occidental Energy Marketing Inc. ("OEMI")); Lodi Gas Storage LLC; Mirant California, LLC and Mirant Delta, LLC; Northern California Generation Coalition ("NCGC," representing City of Redding, Modesto Irrigation District ("MID"), Turlock Irrigation District ("TID"), City of Santa

Commission order prior to December 31, 2010, declaring that, in the event a final Commission decision is not issued in this proceeding before January 1, 2011: (1) 2011 Gas Accord V revenue requirements and rates can go into effect on January 1, 2011, subject to adjustment should a subsequent final decision result in different revenue requirements and/or rates; or, in the alternative, if the Commission decides not to allow rates to go into effect January 1, 2011, (2) revenue requirements resulting from a final decision in this proceeding will be effective as of January 1, 2011, so that PG&E can collect the full revenue requirement in rates for the remaining months of 2011 after a final decision is issued in this proceeding.

II. BACKGROUND

PG&E filed its 2011 Gas Transmission and Storage (“GT&S”) Rate Case on September 18, 2009. On December 18, 2009, the Assigned Commissioner and Administrative Law Judge (“ALJ”) issued a Scoping Memo in this case, which categorized this as a rate setting proceeding, set the case for evidentiary hearings, and established a procedural schedule. On January 15, 2010, an Amended Scoping Memo was issued, which revised the procedural schedule. The procedural schedule provided sufficient time for the Commission to issue a final decision prior to the start of 2011.

PG&E filed an unopposed motion to amend the procedural schedule in this proceeding on May 12, 2010. That motion requested that the procedural schedule, as set forth in the January 15, 2010 amended scoping memo, be changed in order to allow the parties time to continue the progress that was being made toward a settlement of PG&E’s 2011 GT&S Rate Case. In that motion, PG&E noted that, under the proposed schedule, the parties recognized that should the

Clara (“Silicon Valley Power”), and Northern California Power Agency (“NCPA”); Sacramento Municipal Utility District (“SMUD”); School Project for Utility Rate Reduction (“SPURR”); Southern California Generation Coalition (“SCGC”); The Utility Reform Network (“TURN”); Tiger Natural Gas Inc.; Vista Energy Marketing L.P.; and Wild Goose Storage, LLC.

parties be unable to reach a negotiated settlement of all issues in this proceeding and should a hearing therefore be necessary, a decision on PG&E's revenue requirement and rates for 2011 will be delayed beyond January 1, 2011. In that event, the parties that supported that Motion agreed that it would be appropriate for the Commission to order that the revenue requirement ultimately determined through settlement or hearing be made effective as of January 1, 2011. On May 18, 2010, the Assigned ALJ granted PG&E's motion to amend the procedural schedule. The amended schedule called for intervenor testimony on August 20, 2010, and evidentiary hearings beginning September 20, 2010.

On August 13, 2010, SDG&E/SoCalGas moved to amend the procedural schedule. No party objected to the motion. The motion to amend the procedural schedule was granted in an email ruling of August 18, 2010, and confirmed in an August 23, 2010 written ruling.

On August 20, 2010, following several months of settlement negotiations, PG&E and the 24 other Settlement Parties filed a Joint Motion of Settlement Parties for Approval of Gas Accord V Settlement, proposing to settle all of the issues in PG&E's 2011 GT&S Rate Case, except for two issues raised by SDG&E/SoCalGas. Those two issues are: (1) What are the rights of SDG&E and SoCalGas to use its capacity on the Redwood Path to deliver gas at various delivery points, and whether PG&E's Schedule G-XF needs to be revised; and (2) Whether PG&E should be required to post certain information on its PipeRanger site concerning its market storage business.

Among the myriad issues resolved by PG&E and the 24 other Settlement Parties in Gas Accord V were the revenue requirements and rates for 2011 through 2014 for PG&E's backbone, local transmission and storage services. The agreement among the Settlement Parties regarding revenue requirement was achieved through analysis and vetting of all aspects of PG&E's GT&S Rate Case, including capital expenditures and Operating and Maintenance ("O&M")

expenditures. The agreement among the Settlement Parties regarding rates similarly was achieved through compromises on many issues, including revenue requirements, throughput, local transmission bill credits, and backbone rate path differentials. Section 7 of the Settlement addresses revenue requirements, Section 8 addresses throughput, and Section 9 addresses settlement rates. Illustrative class average rates are shown in Appendix B, Tables B-1 and B-2. Appendix B, Tables B-3 through B-9, show the backbone rates by service and rate design. Storage rates are shown in Appendix B, Table B-10. Local transmission rates are shown in Appendix B, Table B-11. Customer Access Charges are shown in Appendix B, Table B-12.

PG&E and the 24 Settlement Parties also agreed on a Revenue Sharing mechanism that shares over-collections (and in some cases under-collections) between customers and shareholders for the backbone, local transmission and storage lines of business, and “seeds” the revenue sharing mechanism with an annual amount of \$30 million, allocated to backbone and local transmission services (excluding Rate Schedule G-XF). *See Gas Accord V Settlement, Section 10.1.*

On August 25, 2010, the Commission issued a Ruling Regarding The Process To Address The August 20, 2010 Motion For Approval Of Gas Accord V Settlement Agreement (“August 25 Ruling”). On August 31, 2010, the Commission issued a further ruling, adopting the following procedural schedule to resolve the issues raised by SDG&E/SoCalGas:

September 20, 2010	DRA and Intervenor Testimony; comments contesting all or part of settlement due
October 11, 2010	Concurrent Rebuttal Testimony; reply to comments contesting all or part of settlement due
October 25-27	Evidentiary Hearings (if needed)

On September 15, 2010, the Assigned Commissioner and ALJ issued a ruling requesting that the parties file comments, by September 20, 2010, addressing whether the proposed settlement in this proceeding is adequate in light of the pipeline safety, integrity, and reliability

concerns raised by the San Bruno natural gas incident that occurred on September 9, 2010.

On September 20, 2010 SDG&E/SoCalGas served testimony in which it raised the following issues: (1) PG&E should allow SoCalGas to use its G-XF contract to deliver gas at the PG&E Citygate; (2) The Gas Accord V revenue sharing mechanism is discriminatory and should be rejected because it excludes G-XF shippers; (3) the Gas Accord V G-XF rates should be lowered such that the percentage reduction from proposed rates is identical to the percentage reduction in the Gas Accord V Noncore Redwood Path rates; and (4) the Commission should order PG&E to make the same storage postings that storage providers subject to Federal Energy Regulatory Commission (“FERC”) jurisdiction are required to make.

SDG&E/SoCalGas was the only party to contest the Gas Accord V Settlement. By contrast, 24 non-PG&E Settlement Parties filed joint testimony on September 20, 2010 in support of the Gas Accord V Settlement.

Also on September 20, 2010, PG&E filed comments in response to the September 15 Ruling, stating that the Gas Accord V Settlement provides sufficient funds for PG&E to conduct the integrity management and pipeline safety and reliability work PG&E had forecast would be necessary during the rate case period, but does *not* include sufficient funds to do the “thorough safety inspection” of PG&E’s entire gas transmission system referred to in the September 15 Ruling. On September 30, 2010, the non-PG&E Settlement Parties filed Reply Comments in which they largely agreed with PG&E’s September 20, 2010 Comments and urged the Commission to approve the Gas Accord Settlement by December 31, 2010, notwithstanding the Commission’s investigation of the San Bruno incident and any incremental expenditures that may result from that investigation.

If either of two of the issues raised by SDG&E/SoCalGas — whether SoCalGas has on-system delivery rights for its G-XF contract, and whether G-XF shippers should participate in the

revenue sharing mechanism — is resolved in SDG&E/SoCalGas’s favor, backbone and local transmission rates for PG&E’s other core and noncore customers may be affected. Specifically, were SoCalGas’s claimed right to on-system delivery rights to be accepted by the Commission, PG&E would experience a revenue shortfall of up to \$7.6 million annually, assuming SoCalGas’s on-system G-XF deliveries displace Baja as-available service. In that event, under the Settlement, “the demand forecast and backbone rates may need to be adjusted to account for displacement of other on-system services by these G-XF shippers.”

In addition, were G-XF shippers allowed to participate in revenue sharing, a portion of the \$30 million seed value credit would be allocated to G-XF shippers, thereby reducing the portions allocated to other backbone shippers and local transmission customers. The resolution of these issues will not impact settled revenue requirements. In other words, if SDG&E/SoCalGas prevails in litigation, the settled revenue requirement for 2011 will not change, but the allocation of that revenue requirement may need to be adjusted, which may result in higher rates for on-system PG&E customers.

The Settlement Parties acknowledged that backbone rates may need to be adjusted as a result of litigation of the issue of whether SoCalGas has on-system delivery rights under its G-XF contract, and reflected that recognition in the following provision of the Gas Accord V Settlement:

[T]he demand forecast underlying the Settlement backbone rates assumes that none of the G-XF contracts except the NCPA contract has on-system delivery rights. If during the Settlement Period any off-system G-XF shippers receive on-system delivery rights, the demand forecast and backbone rates may need to be adjusted to account for displacement of other on-system services by these G-XF shippers.

Gas Accord V Settlement § 12.1.

Due to the litigation of issues raised by SDG&E/SoCalGas, it is unlikely that a final decision on PG&E’s 2011 GT&S Rate Case will issue by the end of 2010. Therefore, but for the

order that PG&E requests herein, backbone, local transmission and storage revenue requirements and rates for 2011 will not be in place on January 1, 2011. This is not the preferred result for the Settlement Parties. The Settlement Parties' strong preference is to have settled revenue requirements and rates in place on January 1, 2011, as reflected in the Gas Accord V Settlement Agreement, which anticipated the need to file this Motion:

PG&E will file a Motion seeking Commission approval to implement the Settlement Rates on January 1, 2011, subject to refund or adjustment, if approval of the Settlement Agreement is delayed until after the end of 2010.

Gas Accord V Settlement, Section 1.9.

III. PG&E REQUESTS THAT THE COMMISSION ALLOW 2011 GAS ACCORD V SETTLEMENT REVENUE REQUIREMENT AND RATES TO GO INTO EFFECT ON JANUARY 1, 2011, SUBJECT TO ADJUSTMENT

A. It Is In The Settlement Parties' Interests To Implement Settlement Revenue Requirements and Rates on January 1, 2011

As explained above, settled backbone, local transmission and storage revenue requirements and rates were achieved through a series of compromises by all Settlement Parties on various contested issues, such as capital and O&M expenditures, throughput forecasts, backbone rate differentials, and local transmission bill credits. Resolution of the issues raised by SDG&E/SoCalGas regarding on-system delivery rights for its G-XF contract and participation in the revenue sharing mechanism will not impact the settled revenue requirements for 2011. Therefore, it is reasonable to allow the 2011 settled revenue requirements to go into effect and begin to be collected in rates on January 1, 2011. Resolution of those issues also will not affect settled storage rates. Therefore, it is reasonable to implement settled storage rates on January 1, 2011, because those rates are unlikely to change as a result of hearings.

Although the resolution of the SDG&E/SoCalGas issues regarding whether SoCalGas has the right to deliver gas at the PG&E Citygate and whether G-XF shippers should participate in

the revenue sharing mechanism could impact backbone and local transmission rates for 2011 were those issues to be decided in SDG&E/SoCalGas's favor, it is still in the Settlement Parties' interests to allow the settled 2011 backbone and local transmission rates to go into effect on January 1, 2011, subject to adjustment. Settled backbone rates for 2011 under Gas Accord V are in some instances lower than 2010 adopted backbone rates. Even in those instances where settlement rates would be higher than current rates, the Settlement Parties would prefer to begin paying those rates on January 1, 2011, subject to possible minor adjustments, rather than delay the impact of those increases and then make up the shortfall through even higher rates later. Therefore, it is in PG&E's customers' interests to have Gas Accord V backbone and local transmission rates in place on January 1, 2011, even if that date comes before a final decision on PG&E's 2011 GT&S Rate Case.

A similar approach was adopted by the Commission in the Second Interim Opinion on PG&E's Line 401 Expansion Proceeding. There, PG&E made a motion for authority to implement temporary interim rates for PG&E's Line 401 expansion service prior to issuance of a final decision on the project's General Rate Case.^{2/} PG&E pledged to make retroactive adjustments to conform the requested temporary interim rates to interim rates adopted by the Commission, once interim rates went into effect following a final Commission decision in the proceeding.^{3/} The Commission granted PG&E's Motion for Temporary Interim Rates, finding that such relief did not prejudice or compromise the outcome of issues to be determined by the final decision in the proceeding.^{4/}

Permitting settlement rates to go into effect prior to a final decision is not uncommon in

^{2/} Decision ("D.") 93-10-069, 51 CPUC 2d 674 (1993).

^{3/} *Id.* at 677.

^{4/} *Id.* at 679.

rate cases at the FERC. For example, in PG&E's twelfth Transmission Owner ("TO") rate proceeding at FERC, PG&E filed a Motion for Interim Rates to implement the settled TO12 rates prior to a final FERC decision on the Settlement. The Chief Judge granted PG&E's Motion.^{5/}

While the use of interim rates is less common at the CPUC than at FERC, and might very well be opposed by customer interests under different circumstances, here the parties have already settled on 2011 revenue requirements and rates and, even in the instances where those rates are increasing from current levels, see no benefit in simply deferring those rate increases for a few months, only to pay even higher rates at some point in the future to make up the shortfall resulting from a delay in the implementation of settlement rates beyond January 1, 2011.

B. Providing the Requested Relief Does Not Prejudice Or Compromise The Outcome of Litigation

The Settlement Parties' request to implement 2011 Gas Accord V Settlement revenue requirements and rates on January 1, 2011 does not prejudice the ultimate outcome of hearings, because the Gas Accord V Settlement Agreement provides for the possibility of adjusting the rates reflected in the settlement should SoCalGas prevail on its claim to on-system delivery rights. Section 12.1 of the Gas Accord V Settlement Agreement provides that, if any G-XF shippers obtain on-system delivery rights during the term of the Settlement, backbone rates may need to be adjusted.

IV. IN THE ALTERNATIVE, PG&E REQUESTS THAT THE REVENUE REQUIREMENT ULTIMATELY ADOPTED BY A FINAL DECISION IN THIS CASE BE MADE EFFECTIVE JANUARY 1, 2011

The Settlement Parties' preferred approach to addressing any delay in a final decision on PG&E's 2011 GT&S Rate Case until after the start of the 2011 test year is to permit Gas Accord

^{5/} *Pacific Gas and Electric Co.*, 131 FERC ¶ 63,005 (2010). See also *Pacific Gas and Electric Co.*, 127 FERC ¶ 63,020 (2009); *Ontelaunee Power Operating Co., LLC*, Docket No. EL07-15-000, order issued August 27, 2007; *ANR Pipeline Co.*, 120 FERC ¶ 63,013 (2007) and *Entergy Serv., Inc.*, 116 FERC ¶ 63,042 (2006).

V Settlement revenue requirements and rates to go into effect on January 1, 2011, subject to adjustment depending on the outcome of litigation with SDG&E/SoCalGas, as described above. However, should the Commission not approve that request, PG&E and the Settlement Parties request, as a much less preferred approach, that the Commission issue an order making the revenue requirements that the Commission ultimately determines through a final decision in Gas Accord V effective January 1, 2011, regardless of whether the Commission’s final decision issues after that date. In other words, once the Commission issues a final decision on PG&E’s 2011 GT&S Rate Case, the approved 2011 revenue requirements will be effective as of January 1, 2011, and fully collected in rates — that would be adjusted for 2011 only to effect such collection — throughout the remaining months of 2011.^{6/}

The Commission has adopted this approach in several of PG&E’s General Rate Cases (“GRC”), where “unavoidable procedural delays not primarily attributable to any one party prevent issuance of a final revenue requirement decision prior to the start of a test year,” as the Commission noted in its order approving an effective date of January 1, 2003 for PG&E’s 2003 GRC.^{7/}

The Commission issued a similar order in PG&E’s 2007 GRC, allowing 2007 revenue requirements to be effective January 1, 2007, and explaining:

Here, the time consumed by the parties’ good faith settlement efforts has made it unlikely that a decision that determines PG&E’s 2007 test year GRC revenue requirement can be issued in time to implement the adopted revenue requirement on January 1, 2007 . . . Given these circumstances, we conclude that it is

^{6/} In the unlikely event that a final decision in this proceeding is not issued until late in 2011 and the Commission adopts this alternative request, it may not be feasible to recover the full 2011 revenue requirement in rates over the remaining few months of 2011. Were that to occur, PG&E would work with its customers to develop a workable plan and timeline for recovering the 2011 revenue requirement in rates.

^{7/} D.02-12-073, *mimeo*, p.6.

reasonable to grant PG&E's unopposed motion to make its 2007 test-year GRC revenue requirement ultimately adopted by the Commission effective on January 1, 2007, in the event the Commission issues a final decision adopting the revenue requirement after that date.^{8/}

The delay in achieving a final decision in this proceeding prior to the start of the 2011 test year is the direct result of good faith efforts to pursue settlement of this proceeding. The procedural schedule has been amended only so that the parties could continue to work towards a settlement rather than abandon settlement efforts to proceed down a litigation path, and to reflect the procedural requirements related to addressing a contested settlement.

V. THE COMMISSION SHOULD ISSUE A DECISION ON THIS MOTION BEFORE THE END OF 2010 IN ORDER TO AVOID POTENTIAL CLAIMS OF RETROACTIVE RATEMAKING

Because the final decision in this proceeding will likely issue after January 1, 2011, the decision authorizing the interim revenue requirement and rate treatment sought in this Motion must be issued prior to the end of 2010.

In its decision addressing PG&E's request for a 2002 attrition rate adjustment ("ARA") increase, the Commission explained what it must do to avoid claims of retroactive ratemaking:

We need to allow adequate time for full and fair consideration of whether to approve an ARA for 2002, and if so the parameters and magnitude of such an adjustment. However, even if we ultimately find that a 2002 ARA is justified, we would not be able to make any ARA retroactive unless we act in advance with respect to the effective date. In order to preserve our ability to approve an ARA that would have effect for a substantial portion of the year, we will approve PG&E's motion.^{9/}

The Commission determined in the 2003 GRC that it need not create a balancing account to address the retroactive ratemaking concerns.^{10/} Instead, the Commission must state its intention that any changes in PG&E's gas transmission and storage revenue requirements

^{8/} D.06-10-033, *mimeo*, pp.3-4.

^{9/} D.02-04-056, *mimeo*, p.3.

^{10/} D. 02-12-073, *mimeo*, pp. 7-8.

resulting from the Commission's final decision in this proceeding be effective as of January 1, 2011. Therefore, PG&E requests that the Commission either authorize the Gas Accord V revenue requirements and rates for 2011 to go into effect on January 1, 2011, subject to potential adjustment later, or state its intention that any revenue requirements resulting from the Commission's final decision in this proceeding be effective as of January 1, 2011, such that PG&E can collect its full 2011 revenue requirement in rates throughout the balance of 2011. Such a decision must be issued before January 1, 2011, so that PG&E can collect its full 2011 revenue requirements in rates throughout the balance of 2011 without running afoul of the prohibition against retroactive ratemaking.

VI. CONCLUSION

For the foregoing reasons, PG&E respectfully requests that the Commission issue an Order on or before December 31, 2010, directing that, in the event a final Commission decision is not issued in this proceeding before January 1, 2011:

1. The Gas Accord V Settlement 2011 revenue requirements and rates can be implemented on January 1, 2011, subject to adjustment if a final decision in this proceeding results in revenue requirements and/or rates that differ from the Gas Accord V Settlement revenue requirements and/or rates; or, in the alternative

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CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department , 77 Beale Street B30A, San Francisco, California 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On October 8, 2010, I served a true copy of:

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY
REQUESTING ORDER MAKING GAS ACCORD V
REVENUE REQUIREMENTS AND RATES
EFFECTIVE JANUARY 1, 2011**

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A.09-09-013 with an e-mail address.

[XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for A.09-09-013 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 8th day of October 2010 at San Francisco, California.

/s/ Amy S. Yu

Amy S. Yu

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Last Updated: September 21, 2010

CPUC DOCKET NO. A0909013

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THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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