

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2011 (U39M).

Application 09-12-020  
(Filed December 21, 2009)

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Pacific Gas and Electric Company.

Investigation 10-07-027  
(Filed July 29, 2010)

**REPLY COMMENTS  
OF THE DIVISION OF RATEPAYER ADVOCATES**

**I. INTRODUCTION**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits these Reply Comments to address arguments Pacific Gas & Electric Company (PG&E) and the other utilities make in their Opening Comments. The arguments relate to rate of return on the electromechanical meters and PG&E's purported analysis of tax effects. Silence on any other subject should not be interpreted as agreement or disagreement.

**II. DISCUSSION**

**A. Rate of Return**

In its Opening Comments, PG&E includes the following:

The logic behind both the PD and APD would effectively lower returns whenever the utility decides to replace groups of utility equipment with new, more technologically advanced equipment. Under both the PD and APD, the utility suffers a detriment in these situations because, but for the replacement

of the electromechanical meters, PG&E would have continued to receive a full rate of return on the unrecovered costs of its existing meters.<sup>1</sup>

SCE and SDG&E echo this theme in their Opening Comments.<sup>2</sup> Contrary to their claims, the utilities suffer no detriment from the ratemaking treatment in the PD.<sup>3</sup> The fact is that the electromechanical meters have been replaced and are no longer used and useful. Moreover, the utilities are getting a full rate of return on the new meters which replaced the electromechanical meters.

The PD determines that “... there is no risk associated with the recovery of the remaining book value.”<sup>4</sup> As Aglet notes in its Opening Comments, “[c]urrent rates for 10-year Treasury bonds, which are a reasonable proxy for a risk free rate, are below 4%.”<sup>5</sup> The PD’s 5.73% rate of return is more than generous when compared to any bond rate.

## **B. Tax Effects**

In its Comments, PG&E makes various claims about tax effects of the ratemaking methods set forth in the PD for PG&E’s undepreciated electromechanical meters. These arguments have no support in the record and should be accorded no weight.

In its Opening Comments, PG&E says that “the PD and APD fail to reflect the tax consequences associated with the incremental capital recovery.”<sup>6</sup> PG&E then goes on to make a number of assertions, as if they were fact, about state and federal tax costs.<sup>7</sup> PG&E provides no record support for any of these arguments and, as far as DRA is aware, there is none.

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<sup>1</sup> PGE Comments, p. 6.

<sup>2</sup> SCE Comments, p. 3; SDG&E Comments, p. 3.

<sup>3</sup> For the reasons set forth in the Opening Comments of TURN, DRA, AGLET, Women's Energy Matters and Direct Access Customer Coalition. DRA is recommending that the Commission not adopt the Alternate Proposed Decision at all. DRA’s Reply Comments, therefore, reference only the PD.

<sup>4</sup> PD, p. 60.

<sup>5</sup> Aglet, p. 4.

<sup>6</sup> PG&E Comments, p. 10.

<sup>7</sup> PG&E Comments, pp. 12-13.

Commission decisions must be supported by substantial evidence in light of the whole record.<sup>8</sup> Since there is absolutely no evidence in the record to support any of PG&E's tax arguments, reliance on these arguments would be legal error. PG&E's claims about tax consequences cannot be the basis of a lawful Commission decision.

DRA continues to recommend that the changes DRA proposed in its Opening Comments be made to the final decision in this matter.

Respectfully submitted,

/s/ LAURA TUDISCO

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March 21, 2011

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<sup>8</sup> Public Utilities Code Section 1757(a)4).

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of **“REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES”** to the official service list in **A.09-12-020 and I.10-07-027** by using the following service:

**E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

**U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **March 21, 2011**, at San Francisco, California.

/s/ JOANNE LARK

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Joanne Lark

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