

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
(U 39 M) for Authority, Among Other Things, to
Increase Rates and Charges for Electric and Gas
Service Effective on January 1, 2011.

Ap
(

plication 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 AGLET CONSUMER ALLIANCE ON PROPOSED
DECISION OF ALJ FUKUTOME AND ALTERNATE PROPOSED DECISION OF
COMMISSIONER PEEVEY**

March 21, 2011

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Pursuant to Rule 14.3(d) of the Commission's Rules of Practice and Procedure, Aglet Consumer Alliance (Aglet) submits this reply to comments on the proposed decision of Administrative Law Judge David Fukutome (PD; Agenda ID #10175) and the alternate proposed decision of Commissioner Michael Peevey (APD; Agenda ID #10176) in the test year 2011 general rate case of Pacific Gas and Electric Company (PG&E). Reply comments are due Monday, March 21, 2011. Aglet will file this pleading electronically on the due date.

Aglet replies to opening comments filed by PG&E, San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE).

1. Reply to PG&E

1.1 Reasonable Rate of Return

PG&E argues that any reduction in the rate of return applied to retired gas and electric meters would "harm customers" by making utilities less willing to invest in technological advancements. (PG&E opening comments, pp. 7, 9; see also SDG&E opening comments, pp. 4, 5.) According to PG&E, "The Commission would be sending a signal disfavoring any technological investments that may ever become obsolete."

There is no evidence that Commission approval of the PD or the APD would harm customers. All customer parties that participated in this issue – the Division of Ratepayer Advocates, The Utility Reform Network and Aglet – oppose approval of any rate of return on meters that are or will be scrapped due to PG&E's installation of Smart Meters. The Commission should disregard paternalistic statements by utilities about what is good for customers.

PG&E has a one-sided view of signals to shareholders. Approval of a full rate of return on low-risk assets would encourage utilities to overinvest in capital assets, whether or not the assets are used and useful. The Commission should not encourage PG&E to seek rate base treatment of duplicate plant. Sound public

policy should only encourage investments needed to provide adequate service. Rate recovery of utility profits on two meters for every customer is not necessary.

1.2 Levelization

If the Commission adopts the levelized ratemaking scheme in the PD or the APS, PG&E seeks approval of four “computational adjustments” that PG&E asserts are “necessary to reach a correct ratemaking result.” (PG&E opening comments, beginning at p. 10.) The four adjustments relate to: (1) tax expense associated with front loading of return dollars in the proposed mortgage#type amortization procedure; (2) the effects of tax depreciation in excess of book depreciation on California income tax expense; (3) similar effects on Federal income tax expense; and (4) an additional revenue requirement during the attrition years which would “add back” a return as if PG&E’s preferred 18#year amortization of the retired meters were in place.

Aglet opposes PG&E’s four proposed adjustments and the proposed conclusions of law related to the adjustments. (PG&E opening comments, Appendix A, new Conclusions of Law [1] through [8].) First, parties have had no reasonable opportunity to review and test the validity of the adjustments. Reply comments that are due five days after the filing of opening comments do not provide a fair opportunity for such review. PG&E’s proposed advice letter process is not an appropriate forum for resolving technical issues associated with levelized rate recovery. Second, the proposed adjustments are unnecessarily complicated. Attrition adjustments are meant to be simple, in order to avoid the complexities of a general rate case every year. Third, the additional revenue requirements proposed by PG&E are contrary to the concept of levelization and the settlement agreement provision that attrition adjustments in 2012 and 2013 will be fixed dollar amounts. (PD and APD, Attachment 1, p. 1#17, Section 3.11.2.) It appears that PG&E is trying to increase settled revenue requirements based on a series of opaque, untested ratemaking calculations.

The Commission can avoid PG&E's "computational adjustments" by changing the mortgage#type amortization scheme in the PD and APD to more conventional ratemaking. The Commission should calculate six years of declining revenue requirements associated with the adopted initial capital value, based on straight line amortization of capital costs and conventional calculations of income taxes, franchise fees and uncollectibles. Then the Commission should authorize PG&E to debit the declining revenue requirements to a new or convenient balancing account, and to credit the same account for revenues received from a fixed rate component that will recover the authorized total revenue requirement. Monthly revenue credits will be approximately 1/72 of the total revenue requirement. The account should accrue interest at short#term commercial paper rates. (Aglet opening comments, pp. 5#7.) This method will allow PG&E to recover in full the authorized revenue requirements, calculated using the adopted rate of return, with appropriate consideration of the depreciation and income tax implications that underlie PG&E's proposed "computational adjustments." To the extent that rate recovery lags monthly revenue requirements during the early years of the six year period, PG&E will be appropriately compensated through the authorized balancing account interest. Because the account is a balancing account, not a memorandum account, PG&E can include undercollections on its balance sheet and count the authorized revenue requirements as income. Tax timing issues that PG&E believes justify the "computational adjustments" will not exist.

1.3 Reprioritization

Aglet opposes PG&E's revision to Finding of Fact 12 in the PD and the APD. (PG&E opening comments, pp. 16#17, and Appendix A, proposed modification to Finding of Fact 12.) PG&E wants to eliminate any suggestion that reprioritization and cost deferral will weaken Commission determinations that forecast costs are reasonable. The point of the finding is that reprioritization is sometimes necessary, but such fund shifting undermines the Commission's confidence in future test year ratemaking. Without some restraint against unlimited fund shifting, the testing

process that the Commission undertakes in general rate cases would be pointless. The Commission should reject PG&E's proposed revisions to Finding of Fact 12.

2. Reply to SDG&E

SDG&E argues that the contention in the PD and APD that "the reduced amortization period reduces the risk of recovering the capital invested in these assets" is a false premise. (SDG&E opening comments, p. 4, citing APD, p. 62.) SDG&E is plainly wrong. Reducing the retired meter amortization period from 18 years to six years will eliminate 12 years of opportunity for the Commission or tax authorities to reduce rate recovery of remaining, undepreciated plant.

SDG&E seems to argue that reducing PG&E's rate of return on scrapped meters will increase PG&E's rate of return. (SDG&E opening comments, p. 5.) There is no evidence in this proceeding that adoption of the PD or APD will heroically increase regulatory risk in California, to the point that investors will demand and subsequently receive higher rates of return from the same Commission that reduced PG&E's rate of return for low risk assets. Aglet finds no promise in the PD or APD that the Commission will mitigate the impacts of a reduced of return by increasing rates of return in the future.

SDG&E asserts that ratepayers "are continually getting benefits" from PG&E's Smart Meter program. (SDG&E opening comments, p. 5, footnote 12.) There is utterly no evidence to support the assertion. Aglet would welcome Commission review of actual ratepayer costs and benefits of Smart Meters, to test whether the shaky cost effectiveness calculations that underlie approval of Smart Meters represent current realities.

3. Reply to SCE

SCE cites the "fundamental" concept that the utility should have an opportunity to earn its authorized rate of return on rate base. (SCE opening comments, p. 2.) PG&E had just such an opportunity when it invested in the

now#retired meters, but circumstances have changed. Ironically, SCE cites a 2003 decision in which the Commission discussed the opportunity to earn a rate of return on rate base, “which is the original cost of the property devoted to public service minus the depreciation.” (SCE opening comments, p. 2, citing D.03#02#035.) PG&E’s retired meters are not devoted to public service.

SCE asks the Commission to endorse a policy that it should choose a rate of return “that leaves utility investors economically indifferent on a present value basis.” (SCE opening comments, p. 3.) SCE provides four pages of present value calculations leading to a rate of return of 8.36%, which would achieve a small (5%) discount to PG&E’s authorized 8.80%. (SCE opening comments, Appendix A.) SCE cites no record evidence, and Aglet is aware of none, to support a policy of economic indifference. Nor have parties had a fair opportunity to review and test SCE’s calculations. The Commission should disregard SCE’s proposed policy.

Finally, SCE asserts that “there is some growing concern about California’s regulatory environment.” (SCE opening comments, p. 4; see also SDG&E opening comments, p. 5.) Governor Jerry Brown recently appointed two new Commissioners, and he likely will appoint one more. Investors know that, and they can make their own judgments about regulatory climate. However, there is no evidence in this proceeding to support a Commission finding that California’s regulatory environment is declining. The Commission must disregard SCE’s assertion.

* * *

Dated March 21, 2011, at Sebastopol, California.

/s/

James Weil

CERTIFICATE OF SERVICE

I certify that I have by electronic mail this day served a true copy of the original attached "Reply Comments of Aglet Consumer Alliance on Proposed Decision of ALJ Fukutome and Alternate Proposed Decision of Commissioner Peevey" on all parties of record in this proceeding or their attorneys of record. I will mail paper copies of the reply comments to Assigned Commissioner Michael Peevey and Administrative Law Judge David Fukutome.

Dated March 21, 2011, at Sebastopol, California.

/s/

James Weil