FILED
10-18-11
04:59 PM

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Stanford University for Modification Of Decision 03-04-030	Application No.: _____ A1110021

APPLICATION OF STANFORD UNIVERSITY FOR MODIFICATION OF DECISION 03-04-030

In accordance with Rule 16.4 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure, Stanford University ("Stanford") respectfully submits this Application for Modification of Decision 03-04-030. [1] Specific information required under Rules 2.1 and 16.4 is set forth in Section III below.

Stanford requests that the Commission modify Decision 03-04-030 to clarify that loads that were served by customer generation prior to February 1, 2001 (also referred to as "existing" or "grandfathered" customer generation) and subsequently switch to direct access ("DA") service are only obligated to pay DA cost responsibility surcharges ("CRS") based on the amount of total annual power consumption (calculated by reference to historical usage) previously provided by PG&E pursuant to a standby contract.[2] This clarification is necessary because if a previously exempt customer generation load were to be charged CRS on every kilowatt hour of consumption after it switches to DA, the resulting CRS payment would be in excess of

[1] Decision 03-04-030 was issued in Rulemaking 02-01-011, which was closed in 2008 (see Decision 08-11-019). Stanford is filing this request for modification of Decision 03-04-030 as a new application on the advice of Administrative Law Judge Pulsifer and the Commission's docket office. Stanford includes herein the information required in all requests for modification under Rule 16.4 and the information required in all applications under Rule 2.1. Stanford has served the application on Pacific Gas and Electric Company and ALJ Pulsifer, and in accordance with the ALJ's direction and Rule 16.4(c) will serve additional parties upon further instruction from the Commission.

[2] As further discussed below, CRS consists of various non-bypassable charges, including Department of Water Resources ("DWR") bond and energy charges, and competition transition charges ("CTC"). In this application the charges applicable to DA customers are referred to collectively as DA CRS.

procurement costs undertaken on behalf of the customer and violate the "indifference" principle mandated by statute and long-established Commission policy.

I. Introduction

Since 1987 the main campus load at Stanford University has been supplied by on-site generation. A gas-fired cogeneration plant located on the Stanford campus has served the full electric and thermal energy loads of the campus, with Pacific Gas and Electric Company ("PG&E") supplying backup power under Schedule S. Pursuant to the Commission's rules implementing the limited re-opening of direct access for non-residential customers, Stanford became a direct access customer of PG&E in 2011 and switched its main campus standby account to DA service.[3]

As an existing customer generator load before, during, and after the 2000-01 California energy crisis, the Stanford campus load is exempt from all applicable CRS charges, except to the extent that it has purchased standby power. There is no dispute between Stanford and PG&E regarding the applicability of CRS charges during the years that Stanford purchased standby power from PG&E, and Stanford accepts that as a DA customer it has a responsibility to pay CRS charges under Schedule DA-CRS in an amount that reflects its historical standby purchases for the campus load. Such payment will ensure that PG&E's ratepayers are made whole for any procurement obligations entered into by PG&E to provide standby power to the campus load. Stanford does *not* accept, and should not have any obligation to pay any additional CRS charges because the balance of its power has been provided by on-site generation, not PG&E.

In the course of discussions regarding its DA accounts and arrangements for transition to DA, PG&E informed Stanford that it believes it has no choice but to impose DA CRS on every

[3] Stanford also switched a number of smaller accounts from PG&E bundled service to DA. The DA CRS obligations associated with these accounts is clear and not the subject of this application.

kilowatt hour of electricity delivered to the campus load under DA, even though PG&E has historically only supplied standby service. Acting on this assumption, beginning in March 2011 upon the switch of the campus load from PG&E to DA, PG&E has levied charges under Schedule DA-CRS on all power purchases for this account without regard to whether the CRS charges are equivalent to the average historical standby power purchases from PG&E by Stanford.

Stanford believes that the Commission's statutory obligation to ensure that costs are not shifted between bundled and DA customers, and its longstanding policy of maintaining bundled customer indifference prohibit PG&E from imposing CRS charges on an exempt customer generation account when it switches to DA, except to the extent that PG&E historically has provided standby power to the account.

Stanford is currently purchasing some power under DA for the campus load but continues to use on-site generation as well. At some point in the near future Stanford will move more of the load currently served by on-site generation over to DA service. The cogeneration facility that has served the campus for almost 25 years will not run forever, and in any event the contract between Stanford and Cardinal will expire within the next few years. To resolve the current dispute between Stanford and PG&E, Stanford is seeking modification of Decision 03-04-030, the decision in which the Commission established the CRS exemption applicable to "existing" or "grandfathered" customer generation, to clarify that such exemption will continue to apply in the event the customer transitions its source of electric supply from onsite generation to DA service. Stanford provides below a suggested method for calculating CRS charges equivalent to historical deliveries of standby power.

II. Background

A. Direct Access customer responsibility for CRS charges.

Between 1998 and 2001 California retail investor-owned utility ("IOU") customers had the opportunity for the first time to purchase power from a supplier other than their local IOU. This program, referred to as "direct access" or "DA" was suspended as a result of the California energy crisis of 2000-01. On February 1, 2001, the governor of California signed Assembly Bill 1X ("AB 1X").[4] AB 1X was enacted to respond to the California energy crisis and in particular to the IOUs' inability to purchase power for bundled customers due to extraordinary increases in wholesale energy prices. AB 1X authorized the California Department of Water Resources ('DWR") to procure electricity on behalf of the customers of the California utilities. AB 1X also authorized the Commission to suspend the right of California retail end use customers to take direct access service, which the Commission did in Decision 01-08-060, effective September 20, 2001.

The Commission subsequently initiated Rulemaking 02-01-011 to consider further implementation issues. In Decision 02-03-055 the Commission affirmed its decision to establish September 20, 2001 as the direct access suspension date. On rehearing of this order, the Commission in Decision 02-04-067 clarified that the CRS may include more than just DWR-related costs and that the CTC would apply to DA customers.[5] Prompted by allegations that decision 02-03-055 did not state clearly enough the Commission's policy on preventing "cost-shifting" between DA and bundled service customers, the Commission added that:

---

[4] Stats. 2001 (1st Extraordinary Sess.), ch. 4, § 4. AB 1X added Section 80110 to the California Water Code:

> After the passage or such period of time after the effective date of this section as shall be determined by the commission, the right of retail end use customers pursuant to Article 6 (commencing with Section 360) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code to acquire service from other providers shall be suspended until the department [the Department of Water Resources] no longer supplies power hereunder.

[5] D.02-04-067 at 13.

> We emphasize that the direct access surcharges or exit fees to be developed in A.00-11-038 must prevent any significant cost-shifting, and must be adopted in a timely manner, in order to ensure an overall equitable outcome, and make bundled service customer[s] indifferent.[6]

Following this "indifference" principle, the Commission has established a methodology for calculating the CRS charges applicable to DA customers."[7] Each IOU has an electric tariff that sets forth DA CRS and applicable exemptions.[8] PG&E's Schedule DA CRS currently identifies the DA CRS charges as including the Energy Cost Recovery Amount, Ongoing Competition Transition Charges ("CTC"), Department of Water Resources ("DWR") Bond Charge and the Power Charge Indifference Adjustment ("PCIA").[9]

B. The CRS exemption under Decision 03-04-030 for "existing" and "grandfathered" load served by customer generation.

In addition to establishing CRS charges for DA, the Commission has also established policies for other types of "departing" loads. On April 3, 2003, the Commission issued Decision 03-04-030, addressing a number issues related directly or indirectly to the application of CRS charges to loads served by "customer generation."[10] For the most part, Decision 03-04-030 establishes prospective policies for exempting certain loads served by new customer generation facilities from CRS. However, in order to distinguish new from operating customer generation facilities, the Commission adopted an express exception from CRS for "existing" and

---

[6] Id., Ordering Paragraph 1.i.
[7] In the interest of brevity we do not provide a detailed description of the Commission's decisions addressing CRS and DA here. For further background, see Decision 02-11-022 at pp.5-7; Decision 06-07-030 at pp. 2-5. We note that a proposed decision making further revisions to the indifference methodology for calculating DA CRS is pending in proceeding R.07-05-025.
[8] *See, e.g.* PG&E Electric Schedule DA-CRS.
[9] Id.
[10] The decision defines "Customer Generation" as: [C]ogeneration, renewable technologies, or any other type of generation that (a) is dedicated wholly or in part to serve a specific customer's load; and (b) relies on non-utility or dedicated utility distribution wires rather than the utility grid, to serve the customer, the customer's affiliates and/or tenant's, and/or not more than two other persons or corporations. D.03-04-030 at 3-4.

"grandfathered" customer generation customers in a section titled "Other Excepted Customer Generation":

> We note that the parties to the Settlement Agreement stipulated that certain types of customer generation should be released from the DWR ongoing power charges, including:
>
> - Existing load served by customer generation that departed utility service on or before January 17, 2001
>
> - "Grandfathered" DL that becomes operational on or before January 1, 2003, or that submitted its CEQA application on or before August 29, 2001 and becomes operational on or before January 1, 2004.
>
> We agree that those forms of departing load should be excepted from the DWR ongoing power charges. In addition, the first category should also be excepted from the DWR bond charges, since that customer generation had departed before DWR began buying any power.[11]

This determination is reflected in slightly different language in Ordering Paragraph 4:

> Departing load that began to receive service from customer generation on or before February 1, 2001 except during any period and to the extent that the departing load thereafter receives bundled or direct access service, shall be exempt from all DWR bond charges and ongoing power charges.[12]

With respect to CTC, Decision 03-04-030 provided that: "Departing load exempt from CTC pursuant to any statute, including without limitation Public Utilities Code Sections 372 and 374, as the legislation existed as of the adoption of this order, as well as additional exceptions adopted in this order, shall not be required to pay "tail" CTC."[13] Existing on-site customer generation fits under this exemption, as it falls under Public Utilities Code Section 372(a)(1), which categorically exempts from CTC all "load served onsite or under an over the fence

[11] D.03-04-030 at 56-57. See also Finding of Fact 16 (at page 61): "Any customer generation departing load that departed prior to February 1, 2001 is exempt from any DWR bond charges or ongoing power charges."
[12] Id. at 65.
[13] Id., Ordering Paragraph 15.

arrangement by a nonmobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995."

Thus, to summarize, the Commission has created a categorical exemption from CRS and CTC for customer generation serving on-site loads operating prior to December 20, 1995 (with respect to CTC) and prior to February 1, 2001 (with respect to CRS). As the Commission explained in Decision 03-04-030, this exemption is logical because the CRS and CTC charges were related to specific IOU procurement expenditures for bundled customers that were *not* incurred on behalf of customer load served by on-site generation. The CRS exemptions are administered by each utility through tariff rules and rate schedules approved by the Commission.[14]

C. Standby and CRS charges

The fact that load historically served by customer generation is exempt from CRS and CTC charges does not mean that a customer with on-site generation will never pay such charges. In fact, many customers with on-site generation, including Stanford, pay CRS and CTC charges whenever they purchase electricity from an IOU under Commission-approved standby tariffs.

For most customers with on-site generation, load is primarily served by customer generation, but also requires standby service during periods that the generator is down for maintenance or unscheduled outages. Until recently, the Stanford campus load took standby service under PG&E Schedule S, which is available to customers "whose supply requirements would otherwise be delivered through PG&E-owned facilities… but are regularly and completely provided through facilities not owned by PG&E." The Schedule S rate includes CRS charges that apply to customers based on usage (kWh procured by the IOU and delivered to the customer) – *not* on the basis of the customer's entire on-site load.

[14] For example, see PG&E Schedule E-DCG, Special Condition 2.a.

In March, 2011 Stanford switched service for the portion of its campus load not served by on-site generation from PG&E to an ESP. Following the principle of ratepayer indifference, Stanford's DA energy purchases for this account should be exempt from DA-CRS except for a fixed amount per month reflecting the historical energy purchases by Stanford from PG&E. PG&E has not agreed to this arrangement, and instead has begun levying CRS charges on all DA energy purchased for the campus load, without regard for whether such charges reflect the amount of energy historically purchased from PG&E under Schedule S.

D. The need for clarification regarding CRS obligations of previously exempt customer generation loads that switch to DA.

As discussed above, the Commission has expressly excepted all existing and grandfathered customer generation from CRS in Decision 03-04-030. The Commission has also stated clearly in a series of decisions that DA customers pay only CRS charges incurred on their behalf or for their benefit. It appears, however, that the Commission has not yet addressed the factual situation in which customer loads previously exempt under Decision 03-04-030 seek to transition from on-site generation to DA service without an intervening step of becoming a bundled customer. It is Stanford's understanding, from its discussions regarding this issue with PG&E, that the circumstances giving rise to this Application may be an issue of first impression, since a few customer-generation accounts have switched to bundled service but none (to PG&E's knowledge as represented to Stanford) have switched directly to DA service.

There is no current controversy between PG&E and Stanford regarding the exemption from CRS and CTC charges for campus load served by self generation. Load currently served by on-site generation continues to be exempt from all CRS and CTC charges under Decision 03-04-030. As noted above, Stanford also has no objection to paying a fixed monthly DA-CRS fee established by reference to the average historical energy purchases by Stanford from PG&E. To

resolve this dispute, Stanford requests clarification of the appropriate method for determining CRS for an exempt customer generation load that switches to DA, and an order requiring appropriate reconciliation of Stanford's past CRS payments.

III. Required Information

Stanford provides below the information required under Rules 2.1 (Applications) and Rule 16.4 (Petitions for Modification) in support of this application.

A. Concise statement of justification for requested relief (Rules 2.1, 16.4(b)).

Decision 03-04-030 establishes a clear exemption from CRS for all loads served by customer generation on or before January 17, 2001. This exemption is grounded in the Commission's policy of maintaining bundled customer indifference, or in other words ensuring that an IOU's bundled customers will not be better or worse off as a result of a customer switching to DA service.

Unfortunately, the Commission did not explicitly address in Decision 03-04-030 the situation in which exempt or grandfathered customer generation load switches to DA. And the IOU tariffs likewise do not enumerate an express exception for loads that switch from existing or grandfathered self-generation to DA. While it appears possible that no customer has previously been affected by this oversight, Stanford's situation justifies the Commission's attention and an appropriate modification of Decision 03-04-030 and related tariff schedules.[15] This issue may also arise for other customers seeking to fully or partially replace their previously existing or grandfathered self-generation with DA service.

If Stanford or other customers with loads served by existing or grandfathered customer generation were required to pay CRS and CTC on their entire load, the payments would plainly

[15] In accordance with Rule 16.4(b), Stanford appends as Attachment A the Affidavit of Joseph Stagner describing facts relevant to this Application.

be in excess of any CRS and CTC related to procurement obligations the IOU has incurred on their behalf, and so would violate the principle of customer indifference. PG&E did not assume DWR and other procurement obligations on behalf of the entire Stanford campus load historically served by on-site generation, and PG&E's ratepayers would be unjustly enriched if PG&E were now allowed to impose CRS charges on Stanford's DA energy purchases in excess of its historical purchases from PG&E. PG&E could have incurred limited DWR costs to the extent that the campus's historical standby load may have been included in PG&E forecasting, and if so the indifference principle would require that Stanford pay some limited, but equivalent amount of CRS upon transitioning all or part of the campus load to DA service. Accordingly, this Application seeks acknowledgement and clarification of the Commission's policy and associated tariff language clarifying the CRS obligation in this circumstance.

B. Request for modification (Rule 16.4(b)).

Stanford requests that the Commission modify Decision 03-04-030 by:

- Adding text at the end of the first full paragraph on page 57:

  > In the event that an exempt "Existing" or "Grandfathered" customer account subsequently switches all or part of that load to direct access service the customer shall pay DWR bond charges and ongoing power charges and any other applicable CRS charges in an amount that is determined by reference to the average annual quantity of power actually delivered to the customer account pursuant to an IOU tariff (for example, under Standby service) on average during the 36 months preceding that month in which the customer account switched to direct access service.

- Adding a new Ordering Paragraph mirroring the language above and instructing that similar language and an illustrative calculation be added to Schedule DA-CRS.

C. Request for relief (Rule 2.1).

Stanford further requests that the Commission order PG&E to adjust Stanford's payments under Schedule DA-CRS dating back to March, 2011, reflecting the modifications requested herein.

D. Explanation for filing request for modification more than one year after issuance of Decision 03-04-030 (Rule 16.4(d)) and explanation of status (Rule 16.4(e)).

Under Section 16.4(d) of the Rules of Practice and Procedure, a petitioner seeking modification of a decision after a year or more has passed must "explain why the petition could not have been presented within one year of the effective date of the decision." A petition requesting modification for the purpose discussed above could not have been presented within one year because it was not clear until very recently that an IOU might seek to impose CRS charges (other than those relating to standby) on the energy purchases of a customer otherwise subject to exemption from CRS solely because the load is switching supplier from on-site generation to an ESP. Indeed, existing and grandfathered customer generation accounts, as defined in Decision 03-04-030, did not have the option of switching to DA until the effective date of Senate Bill 695.[16]

Rule 16.4(e) requires that if the party seeking modification was not a party to the proceeding in which the decision proposed to be modified was issued, the petition must state specifically how that party is affected by the decision and why the party did not participate in the proceeding earlier. Stanford was not a party to Rulemaking 02-01-011 when Decision 03-04-030 was issued because at that time the exemption of Stanford's campus load from CRS charges (except for purchases of standby power) was unquestioned. Until Stanford recently applied for and received a DA allocation under the procedures established in Decision 10-03-022, Stanford

[16] Ch. 337, Stats. 2009.

did not have a right to switch its campus account from customer generation to DA. Insofar as Stanford only became aware of PG&E's interpretation of Decision 03-04-030 and Schedule DA-CRS after discussing its transition to DA with PG&E representatives, Stanford had no reason to participate in R.02-01-011 or the current DA docket, Rulemaking 07-05-025. As discussed above, Stanford initiated efforts to resolve its dispute with PG&E informally immediately upon learning of PG&E's interpretation of the DA rules. Those efforts were unsuccessful, and so Stanford now files this Application for modification to promptly resolve this question of policy interpretation as soon as possible. Stanford remains open to discussing an appropriate resolution of this matter with PG&E. Stanford also believes that the dispute described in this Application could be effectively resolved through alternative dispute resolution through the Commission's procedures.

E. Notice information (Rule 2.1(a) and (b))

Correspondence and communication in regard to this application should be directed to:

Eric W. Wright
Senior University Counsel
Office of General Counsel
Stanford University
Building 170, Third Floor, Main Quad
Stanford, CA 94305-2038
Eric.wright@stanford.edu

Lynn Haug
Andrew Brown
ELLISON, SCHNEIDER & HARRIS, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
(916) 447-2166
lmh@eslawfirm.com

F. Recommendation for categorization and schedule (Rule 2.1(c))

Stanford recommends that this proceeding be categorized as a quasi-legislative matter, because the application requests Commission clarification of its previous decision on a policy issue. Stanford believes that no hearing is required and proposes the following schedule:

Protest or Response	Due 30 days after date the notice of filing appears in Daily Calendar
Applicant's reply to protests/responses	Due 10 days after due date for protest or response
Proposed Decision	45-60 days following Applicant's reply
Comments on Proposed Decision	Due 20 days following date of service of PD
Reply Comments	Due 5 days after last day for filing comments

The issues to be considered are: (1) whether to modify Decision 03-04-030 to clarify that when load served by exempt or grandfathered customer generation is transferred to DA service, the customer's obligation to pay CRS will be based on the average quantity of standby power actually delivered to the customer by the IOU prior to the customer's switch to DA service; and (2) whether PG&E should recalculate the CRS charges applied to Stanford's main campus load dating back to March, 2011, consistent with the methodology recommended in this application.

IV. Modification of Decision 03-04-030 and Schedule DA-CRS is necessary in order to ensure consistency in interpretation of the Commission's prior decisions and customer indifference.

A. The Commission's "indifference" standard.

In every decision related to the imposition of CRS charges on end use customers, the Commission has turned to a simple, fair and straightforward "customer indifference" principle. This "indifference" rule was originally codified in Assembly Bill 117 ("AB 117"), which provides, *inter alia,* that:

> It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the [DWR's] electricity purchase costs, as well as electricity purchase contract obligations incurred…that are recoverable from electrical corporation customers in commission-approved rates. It is further

> the intent of the Legislature to *prevent any shifting of recoverable costs between customers*.[17]

In Decision 02-11-022, the order establishing the CRS rules for DA customers, the Commission applied the indifference principle, explaining that the purpose of the CRS was that "there be no shifting of costs caused by customers migrating from bundled to DA load."[18] What the indifference test means is that customers *only* pay CRS for costs that were actually incurred "*on their behalf or for their benefit*" as customers of the IOU.[19]

Consistent with this limitation, the Commission has exempted from CRS all "continuous" DA customers, i.e. those that were subscribed to DA prior to the date upon which the IOU incurred CRS charges, reasoning that:

> [I]t would be unfairly discriminatory to assess a uniform bond charge among DA customers when some of them had actually consumed DWR-procured power while others had consumed none. Those DA customers that had never consumed any DWR power would unfairly bear a double burden, first for the energy they had purchased from their ESP during 2001, plus secondly, a share of the costs for DWR power that had been consumed by other customers.[20]

The Commission also excluded from CRS eighty megawatts of U.S. Navy load that had been under contract with Western Area Power Administration ("WAPA") and thus not included as part of the SDG&E load served under DWR contracts.[21] And the Commission has adopted

---

[17] Cal. Pub. Util. Code § 366.2(d)(1) (emphasis added).
[18] D.02-11-022 at 2.
[19] D.02-11-022 at 12 (emphasis added); see also p. 49 ("…legal authority exists for the Commission to issue an order applying a Bond Charge to DA customers *to the extent they are found to bear cost responsibility for the historic portion of unrecovered DWR costs underlying the Bonds*." See also D.06-07-030 at 6 ("The indifference amount is designed to ensure that DA customers that have departed from bundled IOU procurement service remain responsible for paying any IOU costs incurred on their behalf. In other words, remaining bundled customers must be protected from any cost shifting and left economically indifferent as the result of DA customers leaving the system.")
[20] Id. at 61.
[21] Id. at 148.

special "split wheeling" rules to ensure that customers whose loads are served by both WAPA and by the IOUs pay CRS only on "actual usage" of electricity supplied by the IOU.[22]

The latter case is a particularly useful illustration for purposes of this Application. In 2003 a group of preference power customers taking service under contracts with WAPA filed a motion with the Commission seeking clarification of their CRS obligations. The Commission decided in Decision 03-09-052 that WAPA customers should pay a "fair share" of CRS on departing load and instructed the customers and PG&E to negotiate a method for calculating CRS for split-wheeling customers.[23] When negotiation did not resolve all issues, the University of California, on behalf of UC-Davis, filed a petition for clarification of the campus's CRS obligation. In Decision 06-02-030, the Commission rejected a PG&E proposed methodology that would have resulted in an "overstatement of the usage level in excess of the CRD [WAPA contract rate of delivery], and consequently, an overstatement in the applicable level of CRS." The Commission clarified that "[t]he CRS obligation is only applied to actual usage above the CRD" and that this result is required under the "indifference" rule.[24]

B. Imposing DA CRS charges in excess of standby on customer generation loads switching to DA would result in cost shifting and a violation of the indifference standard.

The Commission has consistently resolved CRS issues by asking whether and to what extent the IOU has entered into procurement obligations on behalf of a customer account and whether the CRS charges will fairly reflect such obligations. The Commission has likewise in every case examined whether the customer's CRS payment will ensure bundled customer indifference. These questions should be applied in addressing the issue at hand.

---

[22] D.06-02-030.
[23] Id. at 2.
[24] Id. at 22-24. *See also* Conclusion of Law 4.

For almost 30 years Stanford's main campus load has been served by on-site customer generation – not under PG&E's bundled service tariffs. Stanford, not PG&E, has procured and paid for the energy and capacity used on campus, with the exception of a relatively small amount of electricity occasionally purchased under PG&E Schedule S.[25] To Stanford's knowledge, PG&E did not include the entire Stanford campus load in the forecast of bundled customer requirements used as the basis of its DWR contracts. If it had, the Commission would not have concluded in Decision 03-04-030 that Existing Customer Generation "had departed before DWR began buying any power,"[26] and the Commission would not have exempted those loads from DWR bond and power charges.

Stanford has no objection to paying CRS charges reflecting the quantity of PG&E's DWR obligations incurred to provide the campus load with standby service. Presumably PG&E's forecasting for long-term procurement historically included some quantity of power to serve the limited and intermittent demand of standby customers such as Stanford. To the extent that DWR procured such power for the benefit of Stanford's campus account, Stanford is more than willing to pay PG&E CRS charges commensurate with that procurement obligation. However, since Stanford switched its main campus account to DA, PG&E has been levying CRS charges on all purchases from the ESP, rather than on a fixed amount based on a reasonable estimate of the actual obligations incurred by PG&E to provide standby service to Stanford.

To the extent that Stanford has or intends to move any of its campus load from one third party supplier (customer generation) to another third party supplier (Stanford's ESP), PG&E's ratepayers will be indifferent as long as Stanford continues to pay CRS based on its actual

[25] Schedule S includes a provision that allows temporary billing under the terms of an otherwise-applicable tariff during extended outages. During such periods the standby customer continues to pay reservation charges under Schedule S and billing under Schedule S resumes following resolution of the outage.
[26] D.03-04-030 at 57.

historical consumption of standby power from PG&E. As in the case of split wheeling customers, the method for determining Stanford's CRS obligation should be based on the campus account's "actual usage" of standby power. Stanford proposes above that this be determined by averaging the annual quantity of standby power purchased from PG&E during the most recent 36 month period during which Stanford purchased standby power from PG&E, multiplying the resulting average annual kWh by the applicable CRS charges, and dividing by twelve to establish a monthly payment. There may be other reasonable ways of determining Stanford's CRS obligation. What is crucial is that the total CRS obligation meets the Commission's indifference test.

The alternative – allowing PG&E (or any IOU) to assess CRS charges on a volumetric basis on the entire exempt customer generation load after it switches to DA – would be entirely inconsistent with the Commission's well-established indifference principle. It would result in CRS charges that do not reflect "actual usage" by Stanford of power supplied by PG&E. It would result in CRS payments that have no relationship to the costs actually incurred on behalf of or for the benefit of the behind-the-meter load. And it would unjustly enrich PG&E at the expense of its customer.

The Commission should modify Decision 03-04-030 to clarify that PG&E may not impose CRS charges in excess of historical actual usage of standby power when a load previously served by customer generation exempt from CRS transitions to DA. The Commission should also instruct PG&E to make appropriate changes to Electric Schedule DA-CRS.

V. Conclusion

In order to avoid cost shifting, maintain continuity in the application of Commission policies and preserve customer indifference with respect to CRS charges on DA loads previously

served by exempt customer generation, Stanford respectfully requests that the Commission order the modifications to Decision 03-04-030 and Schedule DA-CRS requested in this Application.

Dated: October 18, 2011

Respectfully submitted,

By: /s/

Eric W. Wright
Senior University Counsel
Office of General Counsel
Stanford University
Building 170, Third Floor, Main Quad
Stanford, CA 94305-2038
Eric.wright@stanford.edu

Lynn Haug
Andrew Brown
ELLISON, SCHNEIDER & HARRIS, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
(916) 447-2166
lmh@eslawfirm.com

Attorneys for Stanford University

AFFIDAVIT OF JOSEPH STAGNER
IN SUPPORT OF
APPLICATION OF STANFORD UNIVERSITY
FOR MODIFICATION OF DECISION 03-04-030

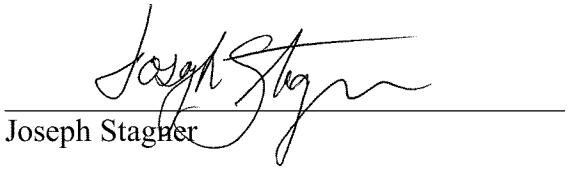
I, Joseph Stagner, declare as follows:

1. I am currently the Executive Director, Sustainability and Energy Management at Stanford University. My mailing address is 327 Bonair Siding, Stanford, CA 94305.
2. Since 1987 an on-site natural gas-fueled generation facility has supplied electricity to serve the electrical load at the central campus at Stanford University.
3. Electric service to the campus load during outages has been historically supplied by Pacific Gas and Electric Company ("PG&E") under Electric Schedule S.
4. Stanford participated in the fall 2010 Open Enrollment Window process established under Decision 10-03-022 and was subsequently notified that PG&E had accepted its notice of intent to switch its PG&E accounts to Direct Access ("DA") service.
5. In March, 2011Stanford began purchasing electricity from an electric service provider ("ESP") for the portion of the main campus load not served by on-site generation. Stanford also switched a number of its PG&E bundled retail accounts to DA service.
6. Upon receiving its notification of acceptance from PG&E Stanford contacted PG&E to discuss various issues related to switching its accounts to DA, including the question of how PG&E would determine an appropriate CRS charge for the main campus account. Stanford and PG&E continued discussion of this question over a period of months and were unable to reach agreement on an arrangement acceptable to both parties.

7. PG&E has informed Stanford that it is not aware of any other customers that have switched from exempt on-site cogeneration to DA service.
8. PG&E has indicated that it believes that since Schedule DA-CRS does not explicitly address the calculation of CRS for loads switching from exempt on-site generation to DA, an exemption or calculation based on historical standby purchases would require action by the Commission through a petition for modification.
9. Stanford believes that PG&E has in its possession all of the information necessary to calculate CRS for a load that switches from exempt on-site generation to DA in a manner consistent with the statutory and regulatory "indifference" standard. Specifically, Stanford believes that PG&E could derive a reasonable estimation of a standby customer's historical annual purchases under Schedule S by taking an average of the three previous years' purchases.

I hereby affirm, under penalty of perjury, that the above statements are true and correct to the best of my knowledge.

Dated this 12th day of September, 2011, at Palo Alto, California.



Joseph Stagner

VERIFICATION

I am the attorney representing Stanford University in this proceeding. Stanford University is absent from Sacramento County, where my office is located, and under Rule 1.11(d) of the Commission's Rules of Practice and Procedure, I am submitting this verification on behalf of Stanford University for that reason. I have read the attached **APPLICATION OF STANFORD UNIVERSITY FOR MODIFICATION OF DECISION 03-04-030.** I am informed and believe, and on that ground allege, that the matters stated in this document are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18th day of October, 2011, at Sacramento, California.

/s/

Lynn M. Haug
Ellison, Schneider & Harris LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816