

PG&E DRAFT, FOR ORA REVIEW AND COMMENT ASAP ON 10/31

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

Application of Pacific Gas and Electric
Company (U39E) for Approval of its 2010
Rate Design Window Proposal for 2-Part Peak
Time Rebate and Recovery of Incremental
Expenditures Required for Implementation

(U39E)

A. 10-02-028

**JOINT MOTION OF THE OFFICE OF RATEPAYER
ADVOCATES AND PACIFIC GAS AND ELECTRIC
COMPANY TO DISMISS, AND IF DEEMED NECESSARY,
SET ASIDE SUBMISSION TO TAKE OFFICIAL NOTICE
OF MATERIAL FACTUAL CHANGES**

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Dated: October 31, 2013

I. INTRODUCTION

Pursuant to Rules 11.2, 11.6, 13.9, and 13.14 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), the Office of Ratepayer Advocates (ORA) and Pacific Gas and Electric Company (PG&E) (collectively referred to as the Joint Parties) file this Joint Motion requesting that the CPUC dismiss the above-captioned proceeding and provide whatever other relief is necessary in order to grant such a motion or take other appropriate action before a Proposed Decision is issued, thus avoiding any further administrative inefficiencies in processing this now-stale application.

II. BASIS FOR DISMISSAL

The main reason this motion is being filed now is that the ORA has recently changed its position and no longer supports a default Peak Time Rebate (PTR) (which PG&E also opposed based on the evidence PG&E provided in the proceeding). Instead, ORA and PG&E now both support dismissal of this proceeding for the following reasons:

First, the record in this proceeding is stale. Evidentiary hearings ended on April 27, 2012, and it has been almost a year and a half since the record was submitted on June 7, 2013.

Second, since then, new facts have come to light, including reported data from two southern California utilities' roll-outs of default PTR. The joint parties request that the CPUC take Official Notice under Rule 13.14 of the information about the performance of default PTR that is contained in the following official documents already on file at the CPUC:

1. Commission [Energy Division] Staff Report: “Lessons Learned from Summer 2012 Southern California Investor Owned Utilities’ Demand Response Programs,” filed on May 1, 2013 under Decision 13-04-017 per Ordering Paragraph 31. (Staff Report) *See* especially the following sections from this Staff Report:

- p. 39: Southern California Edison Company’s (SCE) 2012 Load Impact Report found that customers defaulted into receiving PTR notifications did not produce statistically significant load impacts.¹

¹ The CPUC should also take official notice of the underlying load impact reports for 2012 upon which this Staff Report relied, namely, for SCE: “2012 Load Impact Evaluation of Southern California Edison’s Residential Peak Time Pricing Program” and for SDG&E: “2012 Load Impact Evaluation of San Diego Gas and Electric Company’s Residential Peak-Time Pricing Program.” PG&E also filed such a report covering its programs, entitled: “2012 Load Impact Evaluation of Pacific Gas and Electric Company’s Residential Time-based Pricing Programs”. The CPUC may take official notice of the data in all of these Load Impact Reports filed with the CPUC.

- p. 40: In 2012, SCE paid a total of \$27.3 million in PTR incentives for residential customers.
 - p. 41: 95 percent of all SCE PTR incentives were paid to customers who either were not expected to or did not reduce load significantly.
 - p. 46: San Diego Gas and Electric Company’s (SDG&E) *ex post* load reduction analysis for default PTR showed that only the opt-in group, significantly reduced load. This contradicted assumptions that mass media or defaulting customers into email alerts could generate significant load reductions. p. 47: Only the 4 percent of customers who opted into alerts significantly reduced load, which points to a “free-ridership” issue (where customers receive PTR incentives without significantly reducing load.
 - p. 48: In 2012, SDG&E paid out \$10.1 million in incentives for PTR residential customers. According to *ex post* data, the actual capacity generated was an average event hour of 8,200 kilowatt (kW), resulting in a cost of capacity of \$1,232.7 per kW, which will be recovered from SDG&E’s residential class.
 - p. 49: 94 percent of the SDG&E PTR incentives did not result in significant load reduction. Staff thus recommended an opt-in approach to eliminate incentives to customers who are not receiving alerts or using enabling technologies.
2. **Decision 13-07-003**, accordingly, directed SCE and SDG&E to, by May 2014, revise their PTR programs from default programs to programs where the customer must choose to participate, to enable both utilities to save significant incentive funds for the PTR program. (*See* D.13-07-003, OP 7).
 3. The CPUC should also take official notice that **R.13-09-011** (OIR to “Enhance the Role of Demand Response in Meeting the State’s Resource Planning Needs and Operational Requirements”) also cited to D.130-7-013, at p. 23. In addition, the CPUC may take official notice of **PG&E’s October 21, 2013 Comments in Response to Question 6 of that OIR..**

No party to PG&E's PTR proceeding proposed an opt-in PTR, thus the record lacks evidence on the costs and other practical considerations involved with any effort to create an opt-in PTR program for PG&E. However, PG&E would note that the evidence in this proceeding shows that PG&E already has an opt-in peak day pricing program, called SmartRate™. While, as of the end of the 2012 PTR hearings, SmartRate had about 22,000 participants, since that time, the number of customers opting-in grew to just over 120,000 customers as of September 1, 2013. (The CPUC may take official notice of this fact, as filed with the CPUC on October 1, 2013 in PG&E's 2013 SmartGrid Annual Report, at pp. 4 and 15.) As the October 1, 2013 Smart Grid Annual Report also shows, PG&E's SmartRate approach to opt-in critical peak pricing is already delivering significant load reduction results, namely over 536 MWh in energy savings in 2012, which is more than double the 203 MW energy savings from SmartRate in 2011. Those load results are further detailed in the "2012 Load Impact Evaluation of Pacific Gas and Electric Company's Residential Time-based Pricing Programs" already filed with the CPUC under Rulemaking 07-01-041 on April 2, 2013.

Obviously, none of these materially changed facts could have been adduced before PG&E's PTR proceeding was submitted, as none of this information was available until after June 7, 2013.

Based on new facts such as these, the ORA has recently concluded that it no longer finds adequate substantive support for residential default PTR, and thus ORA has now suggested this motion to dismiss be granted, expunging the PG&E default PTR application. PG&E concurs. Third, since this case was submitted, the CPUC has been moving forward with its residential rate reform OIR (R.12-06-013) proceeding, in which the CPUC has not yet opined on the long-term vision for the "end state" as part of reforming residential rates. It is important to know the long-term goal in order to know what pricing approach is most compatible as a transition to it. ORA now agrees with PG&E that it would be premature for the CPUC to hear and rule on a new residential peak day pricing program for PG&E, such as default PTR, before the outcome of the OIR is known.

For all of these reasons, ORA and PG&E agree that dismissal of default PTR is appropriate at this time.

III. PROCEDURAL POSTURE AND NEED FOR EXPEDITED REVIEW OR FURTHER DELAY IN PTR SCHEDULE

Under the CPUC's last pronouncement regarding the schedule for this proceeding,² a final decision is currently expected by December 6, 2013, which, unless the parties agreed to a shortening of time for comments, would mean a Proposed Decision would have to be issued very soon (by Wednesday, November 6, 2013).

The Joint Parties recognize that it is unusual for a Motion to Dismiss to be filed at this late time in a proceeding.³ However, the CPUC has the power to grant a motion for extension of the time limits established in these rules, such as under Rule 11.6. In this unique situation, the CPUC should exercise such power here in order to avoid further administrative inefficiencies. If necessary, the CPUC should also issue a decision further extending the statutory deadline in this proceeding long enough to allow the CPUC to rule on this motion before any proposed decision is finalized or issued. The CPUC should not expend any further of its precious resources processing an application for default PTR that ORA no longer supports, and joins PG&E in opposing, based on important new information that came to light after hearings. Granting this motion to dismiss would be the quickest and most efficient way to proceed so as to best conserve the CPUC's resources.

IV. CONCLUSION

For all of the foregoing reasons, as well as those presented in the above-referenced documents as well as in PG&E's prepared and rebuttal testimony, work papers and exhibits, the CPUC should grant ORA and PG&E's joint motion to dismiss this Application as being the most sound and administratively efficient way to proceed under these circumstances.

² See D.13-10-008 Order Extending Statutory Deadline, dated October 3, 2013.

³ Although Rule 11.2 anticipates that motions to dismiss would ordinarily be made no later than five days prior to the first day of hearings, the CPUC may, for good cause, extend and change that deadline. [LET'S SEE IF WE CAN FIND A CITATION TO AN INSTANCE WHERE THE CPUC DID SO]

Respectfully submitted,
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