

SECOND, WITHDRAWAL VERSION

***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

A. 10-02-028

(U39E)

**JOINT MOTION OF PACIFIC GAS AND ELECTRIC
COMPANY THE OFFICE OF RATEPAYER ADVOCATES
FOR LEAVE TO WITHDRAW APPLICATION, AND TO
TAKE OFFICIAL NOTICE OF MATERIAL FACTUAL
CHANGES SUPPORTING WITHDRAWAL**

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Dated: October 31, 2013

I. INTRODUCTION

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), Pacific Gas and Electric Company (“PG&E”), supported by the Office of Ratepayer Advocates (“ORA”) (collectively referred to as the “Joint Parties”), respectfully jointly file this motion for leave to withdraw the application in the above-captioned proceeding (“Joint Motion to Withdraw”).¹ The Joint Parties also jointly request that the CPUC take Official Notice, under Rule 13.14, of the materially changed facts that support such withdrawal as summarized below. Finally, the Joint Parties request that the CPUC take expedited action to stay or extend the procedural deadlines in this proceeding, pending a ruling on this Joint Motion.

II. BASIS FOR WITHDRAWAL

The main reason this motion is being filed now is that ORA has recently informed PG&E that it has changed its position and no longer supports a default Peak Time Rebate (PTR) (which PG&E had also opposed based on the evidence PG&E provided in this proceeding). Instead, ORA and PG&E now both support withdrawal of this default PTR application 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:²

¹ Motions to withdraw may be granted by the CPUC not only after submission of a case upon an evidentiary record but even after issuance of a proposed decision thereon pursuant to P.U. Code Section 311(d), if the CPUC grants its discretionary consent. (See D.92-04-027, in which the CPUC granted Southern California Gas Company the withdrawal of A.91-04-038 regarding certain long-term supply contracts). Concurring language in that decision also suggested that a notice of withdrawal could have been obtained as a matter of right if filed prior to issuance of a proposed decision. Here, no proposed decision has been issued. However, out of an abundance of caution, because the original application resulted from a CPUC order, the Joint Parties are requesting a CPUC decision expressly providing the CPUC’s discretionary approval of this withdrawal.

² The Joint Parties believe the CPUC can take official notice of the facts in these documents without formally setting aside submission and reopening the record in this case.

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.³
- 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.

³ 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 that have already been served on the CPUC and interested parties.

- 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. In **Decision 13-07-003** the CPUC considered staff’s position that these statistics showed that a default PTR program experiences a large “free ridership” problem, where customers receive incentives without significantly reducing load. Accordingly, the Commission directed SCE and SDG&E to 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, O.P. 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”), the Commission’s Order Instituting Rulemaking included, at page 23, a Question 6 which noted:

In D.13-07-013, the Commission directed SCE and SDG&E to transition their Peak Time Rebate (PTR) programs to be an opt-in program (in order for participants to be paid a monetary incentive for load reductions) by May 2014. This transition will enable both utilities to save significant incentive funds for the program. Energy Division’s May 1, 2013 Demand Response Lessons Learned Report estimated that SDG&E paid \$10.1 million in 2012 PTR incentives paid that yielded no significant load reductions. SCE paid \$27 million in 2012 PTR incentives, and 95% of these incentives were paid to customers who were not expected to or did not reduce load significantly. (D.13-07-013, p. 23; *see also PG&E’s October 21, 2013 Comments in Response to Question 6 of that OIR.*)

The above-captioned PG&E Application was filed on February 26, 2010 in accordance with D.09-03-026, the SmartMeter Upgrade Decision, which ordered PG&E to include a two-part default Peak Time Rebate proposal for residential customers. Now, facts such as those mentioned above, have revealed that the hoped-for load reductions based on assumptions about a never-before tried residential default PTR –which underlay the CPUC’s desire for PG&E to file a default PTR application – have not occurred in actual practice. This has caused the CPUC to order SCE and SDG&E not to continue default PTR and pursue an opt-in form of peak time

pricing. Logically, PG&E's default PTR Application should be also be dropped – thus this joint motion for leave to withdraw.

Although no party to PG&E's PTR proceeding proposed an opt-in PTR (thus the record here lacks evidence on the costs and other practical considerations that would be involved in any effort to create an opt-in PTR program for PG&E), the evidence in this proceeding *does* show that PG&E already has an opt-in peak day pricing program, called SmartRate™. As of the end of the 2012 PTR hearings, SmartRate had about 22,000 participants, but since that time the number of customers opting-in has grown to just over 120,000 customers as of September 1, 2013, making it the largest critical peak pricing program in the United States today. (The CPUC may take official notice of SmartRate's September 1, 2013 enrollment levels as presented in PG&E's 2013 SmartGrid Annual Report, filed with the CPUC on October 1, 2013, at pp. 4 and 15.) As also shown in the October 1, 2013 Smart Grid Annual Report, PG&E's SmartRate approach to opt-in critical peak pricing is already delivering significant load reduction results. Those load results are detailed in the "2012 Load Impact Evaluation of Pacific Gas and Electric Company's Residential Time-based Pricing Programs," served with the CPUC on April 2, 2013 under Rulemaking 07-01-041.

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 informed PG&E that it supports withdrawal of this 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 withdrawal of this default PTR application is appropriate at this time.

III. ORA AND PG&E REQUEST THAT THE CPUC ISSUES AN EXPEDITED RULING STAYING THE PROCEDURAL DEADLINES PENDING A RULING ON THIS MOTION TO WITHDRAW.

Under the CPUC's last pronouncement regarding the schedule for this proceeding,⁴ 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 otherwise be expected to be issued very soon (by Wednesday, November 6, 2013).

Given the unique circumstances here, the Joint Parties request a stay in or extension of the procedural schedule in this proceeding to allow the CPUC time to consider and grant this Joint Motion for Withdrawal. Such a stay is necessary in order to avoid further administrative inefficiencies or expenditure of scarce resources on consideration of default PTR. If deemed necessary, the CPUC could also issue a decision further extending the current December 6, 2013 statutory deadline for a final decision in this proceeding, allowing along enough extension to allow the CPUC to rule on this motion before any proposed decision must be issued. The CPUC should not expend any further of its precious resources processing an application for default PTR that ORA no longer supports, and the CPUC has ordered no longer be pursued by SCE and SDG&E, based on important new information that came to light after PG&E's default PTR hearings. Granting this Joint Motion to Withdraw would be the quickest and most efficient way to proceed, so as to conserve the CPUC's constrained 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 PG&E and ORA's joint motion to withdraw this default PTR Application as being the most sound and administratively efficient way to proceed under these circumstances.

⁴ See D.13-10-008 Order Extending Statutory Deadline, dated October 3, 2013.

Respectfully submitted,
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