

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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January 3, 2005

Advice Letter 2596-E-A

Rose de la Torre
Pacific Gas & Electric
77 Beale Street, Room 1088
Mail Code B10C
San Francisco, CA 94105

Subject: Establishment of a new preliminary statement for the dedicated rate component complying with energy recovery bond decision

Dear Ms de la Torre:

Advice Letter 2596-E-A is effective January 8, 2005. A copy of the advice letter is returned herewith for your records.

Sincerely,

A handwritten signature in black ink that reads "Paul Clanon".

Paul Clanon, Director
Energy Division



November 29, 2004

Advice 2596-E
(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Establish New Preliminary Statement for the Dedicated Rate Component Complying with Energy Recovery Bond Decision

In compliance with and pursuant to Ordering Paragraph 19 of Decision (D.) 04-11-015 in Pacific Gas and Electric Company's (PG&E's) Energy Recovery Bonds (ERB) proceeding,¹ PG&E, as Servicer and on behalf of the Special Purpose Entity (SPE) issuing the ERBs, hereby submits for filing a new addition to its electric tariff sheets: Preliminary Statement Part DP—*Dedicated Rate Component (DRC)*. The affected tariff sheets are listed on the enclosed Attachment 1.

Purpose

The purpose of this advice filing is to submit a new preliminary statement related to the ERB transaction, in compliance with D.04-11-015. This advice letter also provides for the treatment of certain exemptions to the DRC charge. Finally, the filing provides information on future related advice filings required by D.04-11-015.

Background

On July 22, 2004, PG&E submitted Application (A.) 04-07-032 seeking authority, in accordance with Senate Bill (SB) 772² and D.03-12-035³ to issue up to \$3.0 billion of ERBs to refinance PG&E's bankruptcy settlement-related Regulatory Asset. The ERBs will be issued by a legally separate SPE, which will transfer the ERB proceeds to PG&E in exchange for Recovery Property, which includes the right to receive revenues to repay ERB principal, interest, and related costs. The refinancing will save PG&E's ratepayers an estimated amount of between \$447 million and \$624 million on a net present value basis.⁴ Decision 04-11-015

¹ Application (A.) 04-07-032.

² 2004 Stats., ch. 46.

³ D.03-12-035 adopted the Modified Settlement Agreement in Investigation (I.) 02-04-026 resolving PG&E's Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code.

⁴ These estimated savings assume PG&E will receive favorable tax treatment in connection with issuance of the ERBs.

authorized PG&E, as Servicer and on behalf of the SPE issuing the ERBs, to proceed with the ERB transaction and to collect the costs of repayment of principal, interest and related costs of the ERBs through the DRC charge.

Preliminary Statement Part DP

Draft pro forma language for Preliminary Statement Part DP was submitted in A.04-07-032 in Appendix C. Decision 04-11-015 approved the language and states on page 34 that "PG&E shall file the DRC tariff based on the *pro forma* tariff in Appendix C of A.04-07-032 no later than 10 days after this Financing Order is mailed. The tariff shall be effective simultaneously with the first DRC."

Exemptions to the DRC Charges

Decision 04-11-015 authorizes exemptions from the DRC charges for certain departing loads pursuant to Public Utilities (PU) Code section 848.1(b)-(d), enacted by SB 772. Decision 04-11-015 also provides that PG&E is to establish a memorandum account to track the DRC charges for certain non-exempt consumers while the method for calculating their DRC charges is resolved in other pending advice filing proceedings. This advice letter provides for the approach PG&E will use to comply with the tracking requirements of D.04-11-015.

Departing Loads: Pursuant to PU Code Section 848.1(b)-(d) and D.04-11-015, the DRC charges are recovered from all existing and future consumers within PG&E's service territory, subject only to the exemptions authorized by PU Code Sections 848.1(b) and (c). The exemptions specified under PU Code Section 848.1(b) and (c) are:

(b) (1) New load or incremental load of an existing consumer of PG&E where the load is being met through a direct transaction and the transaction does not require the use of transmission or distribution facilities owned by PG&E.

(b) (2) Customer Generation departing load that is exempt from Department of Water Resources power charges pursuant to the D. 03-04-030, as modified by D. 03-04-041, and as clarified and affirmed by D. 03-05-039, except that the load shall pay the costs as a component of and in proportion to any purchase of electricity delivered by PG&E under standby or other service made following its departure.

(b) (3) The Department of Water Resources, with respect to the pumping, generation, and transmission facilities and operations of the State Water Resources Development System, except to the extent that system facilities receive electric service from PG&E on or after December 19, 2003, under a CPUC approved tariff.

(b) (4) Retail electric load, continuously served by a local publicly owned electric utility from January 1, 2000, through the effective date of SB 772.

(b) (5) Load that thereafter comes to take electric service from a city where all the following conditions are met:

(A) The new load is from locations that never received electric service from PG&E.

(B) The city owns and operates the local publicly owned electric utility.

(C) The local publicly owned electric utility served more than 95 percent of the customers receiving electric service residing within the city limits prior to December 19, 2003.

(D) The city annexed the territory in which the load is located on or after December 19, 2003.

(E) Following annexation, the city provides all municipal services to the annexed territory that the city provides to other territory within the city limits, including electric service.

(F) The total load exempt from paying fixed recovery amounts and associated fixed recovery tax amounts pursuant to subparagraphs (A) through (D), inclusive, does not exceed 50 megawatts, as determined by the CPUC, and any load above the 50 megawatt exemption amount shall be responsible for paying recovery amounts and associated fixed recovery tax amounts, except as provided in subdivision (c).

(c) Except as provided in subparagraphs (4) and (5) of paragraph (b), new municipal load, consistent with the CPUC determination in the limited rehearing granted in D.03-08-076 (i.e. D.04-11-014).

(d) Except as provided in subparagraphs (4) and (5) of paragraph (b) and in paragraph (c), the obligation to pay fixed recovery amounts and any associated fixed recovery tax amounts cannot be avoided by the formation of a local publicly owned electric utility on or after December 19, 2003, or by annexation of any portion of the service territory of the recovery corporation by an existing local publicly owned electric utility.

Thus, the only exemption from the DRC charges for transferred municipal loads is for transferred loads that come within the definition of Section 848.1(b)(4), above.

Pursuant to Ordering Paragraphs 61-64, until a final unappealable resolution or decision of the Commission is issued approving the methodology for collecting DRC charges from non-exempt departing loads not subject to further true-up, (i) PG&E will track these DRC charges in a departing load memorandum account and will not remit these DRC charges to the SPE, and (ii) the DRC charge revenue requirement will be set based on the assumption that PG&E will not remit DRC charges from such non-exempt departing loads to the SPE.

New Municipal Departing Loads: Ordering Paragraphs 1-3 of D.04-11-014 exempt certain "New" municipal departing load" from the Customer Responsibility

Surcharge. The new municipal load exemption determined under PU Code Section 848.1(c) must be consistent with D.04-11-014.

Pursuant to Ordering Paragraphs 57- 59, until a final unappealable resolution or decision of the Commission is issued approving the methodology for collecting DRC charges from non-exempt new municipal departing loads not subject to further true-up, (i) PG&E will track these DRC charges in a new municipal departing load memorandum account and will not remit these DRC charges to the SPE, and (ii) the DRC charge revenue requirement will be set based on the assumption that PG&E will not remit DRC charges collected from such non-exempt new municipal departing loads to the SPE.

BART: Ordering Paragraph 60 of D.04-11-015 provides that BART "may raise the issue of whether, and to what extent, BART is exempt from the Bond Charges pursuant to SB 1201" in Phase II of PG&E's 2003 General Rate Case (GRC).⁵ Unlike certain exempt new municipal departing loads, BART is subject to DRC charges while the Commission determines whether BART is exempt from the DRC charges, should BART choose to pursue such an exemption.

However, until a final unappealable decision or resolution of the Commission makes clear that DRC charges collected from BART will not be subject to refund, (i) PG&E will retain these DRC charge collections within a separate BART memorandum account and will not remit these DRC charge collections to the SPE, and (ii) the DRC charge revenue requirement will be set based on the assumption that PG&E will not remit DRC charges collected from BART to the SPE.

Memorandum Accounts

PG&E has made various advice filings to establish the method that should be used to bill and collect DRC charges applicable to non-exempt new municipal departing loads. Because the Commission has not yet approved this methodology, Ordering Paragraph 57 of D.04-11-015 provides that PG&E is to establish a memorandum account to track the DRC charges related to new municipal departing loads that are subject to the DRC charges pending resolution of this issue in other advice filings in Rulemaking (R.) 02-01-011 or a successor proceeding.

To comply with Ordering Paragraphs 57 and 63 as discussed above, PG&E will track the DRC charges related to non-exempt new municipal departing loads and departing loads in the memorandum accounts, using the method proposed for the Regulatory Asset in the relevant departing load advice letters filed in R.02-01-011. Should the Commission in R.02-01-011 or a successor proceeding ultimately approve a different method for calculating the Regulatory Asset and/or DRC charge in connection with new municipal departing load and departing load

⁵ A. 04-06-024

customers, PG&E will file the calculation advice filing required by Ordering Paragraphs 59 and 62 of D.04-11-015 to apply similar methods to DRC charges imposed on new municipal departing loads and departing loads, respectively. The amount tracked in the memorandum accounts will then be trued-up for recovery with the DRC charges.

Future Related Filings

This filing proposes a change to PG&E's tariffs in compliance with D.04-11-015 in order to begin implementing the ERB transaction and ratemaking. However, D.04-11-015 recognizes that these initial tariff changes are not sufficient to implement all the changes ordered in D.04-11-015 and necessary to implement the ERB transaction. Therefore, PG&E expects to make the following changes in future advice filings as authorized by D.04-11-015:

- Issuance Advice Letter. Pursuant to Ordering Paragraph 17 of D. 04-11-015, the issuance advice filing will be made no later than four days after the first series of ERBs is priced and will include the final issuance details and a request that the initial DRC charge be set based on the actual amount and price of the first series of ERBs. Decision 04-11-015 requires that the Issuance advice letter be based on the *pro forma* example contained in Appendix D of A.04-07-032, as modified by D.04-11-015. This filing is a critical condition precedent to the issuance of the ERBs.
- ERB Balancing Account (ERBBA) Tariff. Ordering Paragraph 41 of D.04-11-015 and the body of D.04-11-015 require (on page 41) that PG&E file a separate advice letter at the same time as the first Issuance Advice Letter to establish an ERBBA tariff and the initial ERBBA charge. Decision 04-11-015 requires that, like the DRC tariff, the ERBBA tariff be based on the *pro forma* tariff in Appendix C of A. 04-07-032. This filing is also a critical condition precedent to the issuance of the ERBs.
- Rate Schedules. PG&E will revise current electric rate schedules to include the impact of the DRC and ERBBA charges when the rate changes are known. Approval of this filing is a critical condition precedent to the issuance of the ERBs, but the ERBs may be issued prior to the effective date of the rate schedules approved in this filing.
- Calculation Methodology Advice Filing. Pursuant to Ordering Paragraphs 59 and 62 of D.04-11-015, PG&E will submit this filing to incorporate the departing load and new municipal departing load calculation methodology once the methodology has been established for the Regulatory Asset charge in the various departing load advice letters. This advice filing is not a critical condition precedent to the issuance of the ERBs but should be reviewed and approved as soon as possible.

- Definitions. PG&E will revise PG&E's Rule 1-*Definitions* to add terms relating to the ERBs. This filing is not a critical condition precedent to the issuance of the ERBs but should be reviewed and approved as soon as possible.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **December 19, 2004**, which is 20 days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

IMC Branch Chief – Energy Division
California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: jjr@cpuc.ca.gov

Protests also should be sent by e-mail and facsimile to Mr. Jerry Royer, Energy Division, as shown above, and by U.S. mail to Mr. Royer at the above address:

The protest should be sent via both e-mail and facsimile to PG&E on the same date it is mailed or delivered to the Commission at the address shown below.

Pacific Gas and Electric Company
Attention: Brian Cherry
Director, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-7226
E-mail: RxDd@pge.com

Effective Date

PG&E requests that this advice filing become effective on regular notice, **January 8, 2005**, which is 40 days after the date of filing. Pursuant to Conclusion of Law 46 in D.04-11-015, the tariffs themselves will be effective on the effective date of the DRC charge specified in the Issuance Advice Letter.

Notice

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the

attached list. Address changes should be directed to Rose de la Torre at (415) 973-4716. Advice letter filings can also be accessed electronically at:

<http://www.pge.com/tariffs>

Brian K. Cherry FSN

Director - Regulatory Relations

Attachments

cc: Service List for A. 04-07-032

Cal P.U.C. Sheet No.	Title of Sheet	Cancelling Cal P.U.C. Sheet No.
22465-E	Electric Preliminary Statement Part DP – Dedicated Rate Component	New
22466-E	Electric Preliminary Statement Part DP – Dedicated Rate Component (Cont'd)	New
22467-E	Table of Contents – Preliminary Statement (Cont'd)	22019-E
22468-E	Table of Contents	22415-E



PRELIMINARY STATEMENT
(Continued)

DP. DEDICATED RATE COMPONENT (DRC)

(N)

1. PURPOSE: The purpose of this section is to establish a Fixed Recovery Amount charge (also know as Dedicated Rate Component (DRC) charge), as mandated in Senate Bill (SB) 772 in connection with Energy Recovery Bonds(ERBs). A separate DRC charge will apply to each series of ERBs issued. SB 772 authorizes PG&E to recover a portion of its Modified Settlement Agreement Regulatory Asset (Regulatory Asset) through the issuance of one or more series of ERBs. The DRC charge is defined by SB 772 as a nonbypassable, separate charge that is authorized by the Commission in a financing order to recover, *inter alia*, the unamortized balance of the Regulatory Asset, associated taxes and the costs of providing, recovering, financing or refinancing the Regulatory Asset, including the costs of issuing, servicing, and retiring ERBs. The DRC charge will be comprised of the following components: (1) scheduled debt service on the ERBs, (2) servicing fees, (3) Bond Trustee fees and other administrative expenses, (4) overcollateralization, (5) allowance for uncollectibles, and (6) other ongoing expenses. A separate DRC charge will apply to each series of ERBs issued.

The rights to the DRC charge constitute "recovery property" as defined in the legislation (SB 772) and will be established pursuant to a Financing Order (Decision 04-11-015) issued by the California Public Utilities Commission and an Issuance Advice Letter (IAL) to be filed by PG&E. PG&E will sell all of its rights with respect to such recovery property to PG&E Energy Recovery Funding LLC, a Delaware Limited Liability Company (Special Purpose Entity). The sale of recovery property will include: 1) all rights, titles, and interest in all revenues, collections, claims, payments, money, or proceeds of/or arising from or constituting amounts that are subject of the IAL and the Financing Order, 2) the rights to be paid the amounts set forth in the IAL and the Financing Order, and 3) the right to seek and obtain adjustment to the DRC charge as provided in the IAL and the Financing Order. After each series of ERBs has been issued, PG&E will have no continuing rights to the recovery property, DRC charge or any amounts payable thereunder.

2. APPLICABILITY: This DRC charge shall apply to all customer classes except for those specifically excluded by the legislation (SB 772) or by the Commission.

3. ISSUANCE ADVICE LETTER: No later than four business days after each series of ERBs is priced, PG&E will file an IAL with the Commission for that series. The IAL will be effective upon filing, and the DRC charge established in each IAL will be effective automatically 10-60 days after the IAL is filed, as specified in the IAL. The IAL for each series of ERBs shall include a description of the DRC charge calculation and the bond issuance amount, and shall identify the Special Purpose Entity and identify the DRC charge as recovery property.

(N)

(Continued)



PRELIMINARY STATEMENT
(Continued)

DP. DEDICATED RATE COMPONENT (DRC)

4. DRC CHARGE ADJUSTMENTS: PG&E will file a Routine True-Up Mechanism Advice Letter one or more times per year as identified in the IAL and the Financing Order to adjust the DRC charge for each series of ERBs. The purpose of the adjustment is to ensure that DRC charge revenues are sufficient to make remittances of DRC charge collections to the Bond Trustee in amounts sufficient to make scheduled payments and deposits required under the indenture pursuant to which the series of ERBs is issued. The adjustment will be based on the following: (1) the most recent test-year sales; (2) the test-year projected amortization schedule; (3) estimated administrative fees and expenses; (4) an adjustment to reflect collections from the prior period; and (5) changes to projected uncollectibles. The advice letter will adjust the DRC charge for each series of ERBs issued and become effective 15 days after filing.

In addition to the routine revisions to be effective on January 1 each year, PG&E may also make changes to the DRC charge based on changes to the cash flow model not specified above. In this case, PG&E will file a Non-Routine True-Up Mechanism Advice Letter no later than 90 days before the end of any calendar quarter and request that the revised DRC charge become effective in 90 days at the beginning of the next calendar quarter.

5. DRC CHARGE:

	<u>(cents/kWh)</u>
ERB Series 1.....	0.xxx
ERB Series 2.....	0.000

(N)

(N)



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(T)
(T)

RATE SCHEDULES

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**PG&E Gas and Electric Advice
Filing List
General Order 96-A, Section III(G)**

ABAG Power Pool	Department of Water & Power City	Northern California Power Agency
Accent Energy	Dept of the Air Force	Office of Energy Assessments
Aglet Consumer Alliance	DGS Natural Gas Services	Palo Alto Muni Utilities
Agnews Developmental Center	DMM Customer Services	PG&E National Energy Group
Ahmed, Ali	Douglass & Liddell	Pinnacle CNG Company
Aicantar & Elsesser	Downey, Brand, Seymour & Rohwer	PITCO
Anderson Donovan & Poole P.C.	Duke Energy	Plurimi, Inc.
Applied Power Technologies	Duke Energy North America	PPL EnergyPlus, LLC
APS Energy Services Co Inc	Duncan, Virgil E.	Price, Roy
Arter & Hadden LLP	Dutcher, John	Product Development Dept
Avista Corp	Dynegy Inc.	R. M. Hairston & Company
Barkovich & Yap, Inc.	Ellison Schneider	R. W. Beck & Associates
BART	Energy Law Group LLP	Recon Research
Bartle Wells Associates	Energy Management Services, LLC	Regional Cogeneration Service
Blue Ridge Gas	Enron Energy Services	RMC Lonestar
Bohannon Development Co	Exelon Energy Ohio, Inc	Sacramento Municipal Utility District
BP Energy Company	Exeter Associates	SCD Energy Solutions
Braun & Associates	Foster Farms	Seattle City Light
C & H Sugar Co.	Foster, Wheeler, Martinez	Sempra
CA Bldg Industry Association	Franciscan Mobilehome	Sempra Energy
CA Cotton Ginners & Growers Assoc.	Future Resources Associates, Inc	Sequoia Union HS Dist
CA League of Food Processors	G. A. Krause & Assoc	SESCO
CA Water Service Group	Gas Transmission Northwest Corporation	Sierra Pacific Power Company
California Energy Commission	GLJ Energy Publications	Silicon Valley Power
California Farm Bureau Federation	Goodin, MacBride, Squeri, Schlotz &	Simpson Paper Company
California Gas Acquisition Svcs	Hanna & Morton	Smurfit Stone Container Corp
California ISO	Heeg, Peggy A.	Southern California Edison
Calpine	Hogan Manufacturing, Inc	SPURR
Calpine Corp	House, Lon	St. Paul Assoc
Calpine Gilroy Cogen	Imperial Irrigation District	Stanford University
Cambridge Energy Research Assoc	Integrated Utility Consulting Group	Sutherland, Asbill & Brennan
Cameron McKenna	International Power Technology	Tabors Caramanis & Associates
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Cellnet Data Systems	J. R. Wood, Inc	Tecogen, Inc
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City of Glendale	Luce, Forward, Hamilton & Scripps	Turlock Irrigation District
City of Healdsburg	Marcus, David	U S Borax, Inc
City of Palo Alto	Masonite Corporation	United Cogen Inc.
City of Redding	Matthew V. Brady & Associates	URM Groups
CLECA Law Office	Maynor, Donald H.	Utility Cost Management LLC
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Crossborder Inc	Morrison & Foerster	
CSC Energy Services	Morse Richard Weisenmiller & Assoc.	
Davis, Wright Tremaine LLP	Navigant Consulting	
Davis, Wright, Tremaine, LLP	New United Motor Mfg, Inc	
Defense Fuel Support Center	Norris & Wong Associates	
Department of the Army	North Coast Solar Resources	