

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



July 19, 2010

Advice Letter 3391-E-A

Jane K. Yura
Vice President, Regulation and Rates
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10B
P.O. Box 770000
San Francisco, CA 94177

**Subject: Agreement between PG&E Company and East Bay Municipal
Utilities District Pursuant to PUC §2829**

Dear Ms. Yura:

Advice Letter 3391-E-A is effective July 2, 2010.

Sincerely,

A handwritten signature in blue ink, appearing to read "Julie A. Fitch".

Julie A. Fitch, Director
Energy Division

June 2, 2010

Advice 3391-E-A

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Agreement between Pacific Gas and Electric Company and East Bay Municipal Utilities District Pursuant to PUC §2829

Purpose

Pacific Gas and Electric Company (PG&E) submits this supplemental Advice Letter to seek approval of an Agreement between Pacific Gas and Electric Company (PG&E) and East Bay Municipal Utilities District (EBMUD) whereby PG&E and EBMUD agree to a process pursuant to which they will complete negotiation of a tariff agreement for implementation of Public Utilities Code (PUC) §2829. PG&E requests that the attached Agreement replace the previously submitted Agreement in its entirety.

Background

PG&E filed Advice Letter 3391-E on December 30, 2008, in compliance with the requirements of Public Utilities Code (PUC) §2829. At that time, PG&E and EBMUD had made considerable progress in reaching consensus on the details of the Agreement and expected to file a supplemental Advice Letter soon thereafter. Since that time, PG&E and EBMUD have diligently continued to work towards agreement on a consensus approach for implementation of PUC §2829. In that process, PG&E and EBMUD have identified and productively discussed important issues that were not initially apparent. The implementation of significant California Independent System Operator (CAISO) market changes in April 2009 introduced additional complex implementation issues, which the Parties have continued to discuss. The Parties believe it is both feasible and mutually beneficial to complete the discussions described above, and to try to reach agreement on a final consensus tariff agreement. However, due to contractual obligations and other considerations, EBMUD has informed PG&E that it is unlikely EBMUD will seek to initiate service under PUC §2829 prior to July 1, 2015. As there is no need for immediate implementation, and as PG&E and EBMUD have come to recognize that structuring an agreement at this time pursuant to PUC §2829 may create considerable uncertainty in regard to changing market rules under the evolving CAISO market structure, the Parties have agreed to suspend negotiations at this time and resume approximately twelve months prior to the point at which EBMUD intends to initiate service under PUC §2829. This will enable the Parties to avoid negotiating an Agreement structure that would quickly become out-of-date and require renegotiation to incorporate evolving CAISO market rules.

Agreement Structure

The attached Agreement recognizes that any rights EBMUD may have to provide electricity generated by EBMUD-owned hydroelectric generation facilities to designated EBMUD service accounts pursuant to PUC §2829 are not affected by EBMUD deferring exercise of such rights to a future date. The Agreement specifies that should EBMUD intend to exercise such rights to provide electricity generated by EBMUD-owned hydroelectric generation facilities to designated EBMUD service accounts it will notify PG&E of its intent a minimum of twelve (12) months in advance of the date EBMUD intends to begin self-supplying energy. Further, the Agreement specifies that following such notification, EBMUD and PG&E will immediately begin negotiations to establish an agreement complying with the requirements of PUC §2829 and incorporating then-current CAISO market rules. The new agreement will then be submitted to the CPUC for approval.

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than **June 22, 2010**, which is 20 days after the date of this filing. Protests should be mailed to:

CPUC Energy Division
Tariff Files, Room 4005
DMS Branch
505 Van Ness Avenue
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: jnj@cpuc.ca.gov and mas@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission:

Jane K. Yura
Vice President, Regulation and Rates
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10B
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-6520
E-mail: PGETariffs@pge.com

Effective Date

PG&E requests that this advice filing become effective July 2, 2010 which is 30 days from the date of filing.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-B service list should be directed to PGETariffs@pge.com. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs>.

A handwritten signature in cursive script, appearing to read "Jane Yura", followed by a small, less legible signature or initials.

Vice President, Regulation and Rates

Attachments

cc: Service List

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 M)**

Utility type:

☒ ELC

☒ GAS

☐ PLC

☐ HEAT

☐ WATER

Contact Person: **Greg Backens**

Phone #: **(415) 973-4390**

E-mail: **GAB4@pge.com**

EXPLANATION OF UTILITY TYPE

ELC = Electric

GAS = Gas

☐

PLC = Pipeline

HEAT = Heat

WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **3391-E-A**

Tier: **2**

Subject of AL: **Agreement between Pacific Gas and Electric Company and East Bay Municipal Utilities District Pursuant to PUC §2829**

Keywords (choose from CPUC listing): **Agreements**

AL filing type: ☐ Monthly ☐ Quarterly ☐ Annual ☒ One-Time ☐ Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: **N/A**

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: **No**

Summarize differences between the AL and the prior withdrawn or rejected AL: **N/A**

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: **No**

Confidential information will be made available to those who have executed a nondisclosure agreement: **N/A**

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information:

Resolution Required? ☐ Yes ☒ No

Requested effective date: **July 2, 2010**

No. of tariff sheets: **N/A**

Estimated system annual revenue effect (%): **N/A**

Estimated system average rate effect (%): **N/A**

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected:

Service affected and changes proposed:

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division

Tariff Files, Room 4005

DMS Branch

505 Van Ness Ave., San Francisco, CA 94102

jnj@cpuc.ca.gov and mas@cpuc.ca.gov

Pacific Gas and Electric Company

Attn: Jane K. Yura, Vice President, Regulation and Rates

77 Beale Street, Mail Code B10B

P.O. Box 770000

San Francisco, CA 94177

E-mail: PGETariffs@pge.com



Agreement Between East Bay Municipal Utility District and Pacific Gas and Electric Company

This Agreement is made by and between Pacific Gas and Electric Company (PG&E) and East Bay Municipal Utility District (EBMUD) (jointly referred to as Parties) pursuant to Public Utilities Code Section 2829 (Section 2829).

Recitals

Whereas, Public Utilities Code Section 2829(f) requires PG&E to file an advice letter with the California Public Utilities Commission that implements Public Utilities Code Section 2829; and

Whereas, PG&E filed Advice Letter 3391-E on December 30, 2008, informing the Commission that PG&E and EBMUD had made considerable progress in reaching consensus on the details of an implementation agreement and requesting that the Commission not act on the filing until after a supplemental advice letter is filed; and

Whereas, PG&E and EBMUD have diligently continued to work towards agreement on a consensus approach for implementation of Public Utilities Code Section 2829, and believe that it is both feasible and mutually beneficial to develop a final consensus tariff agreement that is supported by both parties; and

Whereas, EBMUD has informed PG&E that it likely will not seek to exercise its rights under Public Utilities Code Section 2829 until after July 1, 2015; and

Whereas, both PG&E and EBMUD recognize that regulatory policies and market rules relevant to implementation of Section 2829 may significantly change between now and 2015;

Therefore, the Parties agree as follows:

1. Procedures for implementation of Public Utilities Code Section 2829

Subject to the conditions set forth below, the Parties will suspend current discussions regarding implementation of Public Utilities Code Section 2829, with the understanding that the discussions will resume upon notice by EBMUD that it intends to exercise its rights under Section 2829. The Parties agree that useful progress has been made toward resolution of many, although not all, issues related to implementation of Public Utilities Code Section 2829, and that they will preserve records of the discussions to date in order to avoid losing the benefit of such progress.

Upon at least twelve (12) months written notice from EBMUD to PG&E stating that EBMUD intends to request services pursuant to Public Utilities Code Section 2829, the Parties will resume implementation discussions at the point they were suspended, provided, however, that the Parties will not be bound to previously negotiated language or positions, and the Parties may without constraint discuss new approaches or language to address changes in market design.

Unless otherwise agreed between the Parties, negotiations will resume no later than thirty (30) days following EBMUD's written notice, and the Parties will attempt in good faith to complete negotiations and file a consensus agreement meeting the requirements of Section 2829 at least ninety (90) days prior to the date upon which EBMUD intends to submit a request for service under Section 2829.

EBMUD hereby waives any rights it may have under Section 2829(f) to implementation within the prescribed statutory deadlines. However, EBMUD does not waive any other rights under Section 2829 or any other applicable procedural or substantive rights.

2. Representations

Each Party represents that (a) it has the full power and authority to execute and deliver this Agreement and to perform its terms and conditions; (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action by such Party; and (c) this Agreement constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.

3. Term of Service

The term of this Agreement shall commence on the later of: a) the date the Commission approves this Agreement; or, b) the date of execution by both Parties hereto (the "Effective Date") and shall remain in effect unless this Agreement is superseded by a successor agreement.

4. Assignment and Delegation

Neither Party to this Agreement shall assign any of its rights or obligations under this Agreement.

5. Notices

Except as otherwise provided in this Agreement, any notices under this Agreement shall be in writing and shall be effective upon delivery if delivered by (a) hand; (b) U.S. Mail, first class postage pre-paid, or (c) facsimile, with confirmation of receipt to the Parties as follows:

If the notice is to EBMUD:

Contact Name: David V. Beyer

Business Address: East Bay Municipal Utility District

375 Eleventh Street, MS. 205, Oakland, CA 94607

Facsimile: (510) 287-0990

If the notice is to PG&E:

Contact Name: Director - Bay Region Service and Sales

Business Address:

Mail Code N8C

P.O. Box 770000

San Francisco, CA 94177

Each Party shall be entitled to modify the above Notice information in upon written notice to the other Party.

6. Applicable Law and Venue

This Agreement shall be interpreted, governed by and construed in accordance with the laws of the State of California, and shall exclude any choice of law rules that direct the application of the laws of another jurisdiction, irrespective of the place of execution or of the order in which the signatures of the parties are affixed or of the place or places of performance. Except for matters and disputes with respect to which the CPUC is the initial proper venue for dispute resolution pursuant to applicable law or this Agreement, the federal and state courts located in San Francisco County, California shall constitute the sole proper venue for resolution of any matter or dispute hereunder, and the Parties submit to the exclusive jurisdiction of such courts with respect to such matters and disputes.

7. Amendments or Modifications

No amendment or modification shall be made to this Agreement, in whole or in part, except by an instrument in writing executed by authorized representatives of the Parties.

8. California Public Utilities Jurisdiction

This Agreement at all times shall be subject to such changes or modifications as the CPUC may direct in the exercise of its jurisdiction, and the Parties may amend the Agreement to conform to changes directed or necessitated by the CPUC.

The Parties have executed this Agreement on the dates indicated below, to be effective upon the later execution date or the date the Commission approves this Agreement, whichever date is later.

East Bay Municipal Utility District:

Eileen M. White CMAA for M&W
Name
Director of Operations and Maintenance
Title
5/21/10
Date

APPROVED AS TO FORM

STP 5/17/10

Office of General Counsel

Pacific Gas and Electric Company:

Steven J. Nichols
Name
Director, Energy Solutions & Service
Title
June 01, 2010
Date

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

Alcantar & Kahl	Defense Energy Support Center	North Coast SolarResources
Ameresco	Department of Water Resources	Northern California Power Association
Anderson & Poole	Department of the Army	Occidental Energy Marketing, Inc.
Arizona Public Service Company	Dept of General Services	OnGrid Solar
BART	Division of Business Advisory Services	Praxair
BP Energy Company	Douglass & Liddell	R. W. Beck & Associates
Barkovich & Yap, Inc.	Downey & Brand	RCS, Inc.
Bartle Wells Associates	Duke Energy	Recon Research
Bloomberg New Energy Finance	Dutcher, John	SCD Energy Solutions
Boston Properties	Economic Sciences Corporation	SCE
C & H Sugar Co.	Ellison Schneider & Harris LLP	SMUD
CA Bldg Industry Association	Foster Farms	SPURR
CAISO	G. A. Krause & Assoc.	Santa Fe Jets
CLECA Law Office	GLJ Publications	Seattle City Light
	Goodin, MacBride, Squeri, Schlotz & Ritchie	Sempra Utilities
CSC Energy Services	Green Power Institute	
California Cotton Ginners & Growers Assn	Hanna & Morton	Sierra Pacific Power Company
California Energy Commission	Hitachi	Silicon Valley Power
California League of Food Processors	International Power Technology	Silo Energy LLC
California Public Utilities Commission	Intestate Gas Services, Inc.	Southern California Edison Company
Calpine	Los Angeles Dept of Water & Power	Sunshine Design
Cameron McKenna	Luce, Forward, Hamilton & Scripps LLP	Sutherland, Asbill & Brennan
Cardinal Cogen	MAC Lighting Consulting	Tabors Caramanis & Associates
Casner, Steve	MBMC, Inc.	Tecogen, Inc.
Chris, King	MRW & Associates	Tiger Natural Gas, Inc.
City of Glendale	Manatt Phelps Phillips	Tioga Energy
City of Palo Alto	McKenzie & Associates	TransCanada
Clean Energy Fuels	Merced Irrigation District	Turlock Irrigation District
Coast Economic Consulting	Mirant	U S Borax, Inc.
Commerce Energy	Modesto Irrigation District	United Cogen
Commercial Energy	Morgan Stanley	Utility Cost Management
Consumer Federation of California	Morrison & Foerster	Utility Specialists
Crossborder Energy	NRG West	Verizon
Davis Wright Tremaine LLP	New United Motor Mfg., Inc.	Wellhead Electric Company
		Western Manufactured Housing Communities Association (WMA)
Day Carter Murphy	Norris & Wong Associates	eMeter Corporation