

California Energy Regulatory Update, October 2006

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PG&E

Can Be Sued For Transferring Money

The US Supreme Court denied PG&E Corp.'s appeal to review a decision by the US Court of Appeals for the Ninth Circuit. The denial allows California Attorney General's Office and the City and County of San Francisco to continue pursuing their restitution claims that PG&E Corp. unlawfully took funds from its Pacific Gas & Electric arm just as the utility was experiencing serious financial problems and just prior to declaring bankruptcy. Issued this past January, the Ninth Circuit decision concluded that the state and city could pursue—in San Francisco Superior Court—their lawsuits against PG&E Corp. PG&E Corp.

In 2002, the AG and the city and county filed two lawsuits against PG&E Corp. for unlawful business practices, claiming that the holding company collected between \$4 billion and \$5 billion from its utility knowing full well that PG&E was in a financially precarious position due to the energy crisis of 2000 and 2001. The utility filed for bankruptcy in April 2001 and emerged in April 2004.

Aims for New Municipal Load

PG&E presented a proposal to the CPUC to offer discounts to extend distribution lines to new residential and commercial developments in municipal service areas. PG&E said it is losing tens of millions of dollars annually when new developments such as housing projects choose electric service from munis because these entities offer more attractive prices for connecting distribution lines.

PG&E says that it loses close to \$7 million each year because the Modesto Irrigation District can offer better rates for line extensions to new residential subdivisions and businesses, which then take electric service from the muni, and approximately \$11 million a year to the Merced Irrigation District, and said it will lose \$1.2 million a year to the city of Hercules, once a new residential development and a large commercial customer come on line. By 2025, the utility also estimates a loss of over \$20 million a year to the Santa Maria Municipal Utility.

The utility's proposal would allow PG&E to offer developers essentially the same line extension charges that the munis offer (but considerably lower than is available to PG&E customers). PG&E said the discount program would attract new load to its system, which would ultimately reduce ratepayer costs as charges would be "spread to more customers, which is a downward effect on rates".

PG&E said that munis and irrigation districts have a competitive advantage when attracting new developments because they have tax-exempt status. Some munis can also construct underground line extensions at no charge, and have no deadlines for connecting load.

Buys Cow Power

Pacific Gas & Electric announced a deal to buy up to 8,000 Mcf daily of biomethane gas from cow manure. Under PG&E's contract renewable natural gas will be produced at production facilities owned by Microgy, a subsidiary of Environmental Power Corp. Microgy will build four of these facilities on the sites of large dairy farms in Northern California and interconnect those systems to PG&E's gas-pipeline network.

Assuming CPUC approval, the anticipated start date for delivery could occur by the end of 2007.

SCE

Wants Fixed Payments for QFs

A fixed-price agreement between Southern California Edison and renewable-energy qualifying facilities would be approved under a draft California Public Utilities Commission Energy Division resolution. Each at a length of five-years, the agreements would have a fixed energy price of \$0.0615/KWh and begin May 1, 2007.

In May, the utility reached an agreement with four qualifying-facility operators—Caithness Energy, Colmac, Ormat and FPL Energy—to set the price at \$0.0615/KWh over five years. Edison then struck a similar deal with QFs in the Salton Sea area. The agreements with owners of 61 qualifying facilities represent 1,840 MW of on-line capacity—more than 90 percent of the 2005 energy deliveries from eligible renewable QFs.

The \$0.0615/KWh will escalate 1 percent annually, equaling a five-year levelized price of \$0.0626/KWh.

Capacity payments for as-available or contracted power are not affected by the new fixed-price agreements.

The CPUC has already approved a settlement between Pacific Gas & Electric and approximately 118 qualifying facilities, which entails a fixed energy price of \$0.0645/KWh escalating 1 percent a year and a capacity price of \$50/KW-year.

SDG&E

Gets Generation

The California Public Utilities Commission and the State Attorney General today a settlement of the curtailment lawsuit brought against Sempra Energy and two of its regulated utilities, San Diego Gas and Electric Company (SDG&E) and

Southern California Gas Company (SoCalGas). The PUC/Attorney General complaint, which was filed last year in San Diego Superior Court, alleges that SDG&E/SoCalGas misrepresented the amount of pipeline capacity available to transport natural gas to Baja California and did not disclose to the CPUC the potential for curtailment of customers in Southern California. After service was initiated to transport natural gas over the two utilities' pipeline systems to Sempra Energy affiliates, which sell and distribute natural gas within Baja California, SDG&E curtailed natural gas service on 17 days during the energy crisis in the winter of 2000/2001. In California, two major customers, which operated electric power plants, were curtailed and were forced to switch to fuel oil to generate power.

The settlement requires Sempra Energy to give SDG&E an option to acquire at book value the 480-megawatt El Dorado Energy power plant in Boulder City, Nevada, from Sempra Generation. El Dorado power plant is a new natural gas combined cycle power generating station with a remaining useful life of at least 20 years. The power plant transfer must be approved by both the PUC and the Federal Energy Regulatory Commission and may occur after SDG&E completes a competitive solicitation for capacity later this year. The settlement also requires a cash payment of \$5.7 million from Sempra Energy to SDG&E customers.

CPUC

Procurement and Resource Adequacy R06-02-013 and R05-12-013

It's not just for the regulated electric utilities anymore. California's energy service providers (ESP) and community-choice aggregators (CCA) will now be subject to the same renewables portfolio standard as investor-owned utilities. The decision subjects CCAs and ESPs to nearly the same reporting requirements, penalties and flexible-compliance mechanisms currently in place for IOUs. However, ESPs will be allowed to carry a deficit of 100 percent of their incremental procurement target in 2006 without explanation, so long as the amount is made up within three years. The decision uses 2005 as the year to determine ESPs' baseline RPS procurement.

CAISO

Big Drop In RMR Requirements

California has dropped its need for short-term power contracts by nearly 60 percent during the last year. RMR designations have fallen to 4,000 MW from a 10-year high of approximately 16,000 MW in 1998. During the power crisis, RMR levels ranged from 9,000 MW to 10,000 MW, increasing in the past few years to just under 11,000 MW

The amount of reliability-must-run power needed for 2007 has dropped from 9,963 MW to 3,995 MW. As a result, Cal-ISO will enact RMR contracts with

65 generating units compared to the 120 units originally anticipated. Cal-ISO attributed the steep decline to bilateral contracts enacted between load-serving entities and generators under the California Public Utilities Commission's resource-adequacy requirement program, which mandates LSEs contract for 115 percent of their power needs.

Of the 2007 RMR designations, Pacific Gas & Electric has the most with 39 units totaling 2,034 MW, followed by San Diego Gas & Electric with 26 units totaling 1,961 MW. Southern California Edison has no 2007 RMR designations.

The grid operator also noted that its ability to release 5,876 MW of one-year RMR contracts on January 1 can be attributed to the CPUC's recent decision adding a local procurement obligation to the RAR program in order to ensure reliable power service in transmission-constrained areas.

Special Renewables Transmission

The ISO has filed a petition for a Declaratory Order with the Federal Energy Regulatory Commission (FERC) on a policy to facilitate financing and construction of transmission facilities necessary for development of renewable energy resources in remote locations.

Currently, the ISO can approve two categories of transmission project: "network" facilities— those that add to the overall grid or "generation ties"— transmission lines built solely to connect a new generator to the grid. Typically, the cost of network facilities is spread among the loads that benefit from the project while generators pay the full cost for the tie line projects. However, as more and more wind, solar and geothermal generation is developed in California, new transmission projects are needed to access remote locations that have large renewable energy resources, which could be developed in multiple projects over a period of years. Connecting to the grid is cost prohibitive for smaller generating companies developing renewable power projects in areas with large resource potential, which can be incrementally developed over a period of years.

Under such a proposal, the ISO would be able to evaluate and approve transmission facilities sized adequately to enable efficient development and marketing of power generated in a remote region. The cost of the transmission project can be recovered over time from transmission system users, and from generators as they connect to the lines in the future.

The California ISO proposal calls for the initial costs of these transmission projects to be paid by the transmission owners and recouped through the California ISO Transmission Access Charge (TAC). Renewable generators that connect to the grid via the new lines will pay a pro-rated share of the costs based on the amount of capacity they need.

FERC

Proposes Reliability Standards

FERC issued a proposed rulemaking that will approve 83 new reliability standards for the U.S. power grid. The rulemaking is part of an effort to create

mandatory and enforceable reliability standards for the nation's electrical transmission system prior to next summer.

Back in July, FERC named the North American Electric Reliability Corporation (NERC) as the nation's official Electric Reliability Organization. In its new role, NERC proposed 107 new standards to FERC, which accepted 83 of them. However, FERC notes that many of those 83 standards require additional work or clarification. Regarding the other 24 standards, FERC says they require regional reliability organizations to first develop regional standards before FERC can fully evaluate them. The reliability effort is mainly a response to the 2003 power outage.

In late September, FERC took another action to ensure electric reliability: it approved an agreement among the nation's electric utilities to share spare electric transformers in the event of a terrorist strike on the transmission system. FERC encouraged utilities to expand it to include natural disasters.

While reliability standards are expected to help avoid power outages, NERC's first power assessment in its role of the Electric Reliability Organization sees a long-term threat from a lack of new generating capacity. According to the NERC report, U.S. electrical demand is expected to increase by 19 percent over the next decade, but currently confirmed power projects will increase the nation's generating capacity by only 6 percent. NERC warns that dropping capacity margins could threaten power reliability in many parts of the United States.

NEW ENERGY LAWS

AB 32

requires the California Air Resources Board (CARB) to develop regulations and market mechanisms that will ultimately reduce California's GHG emissions to 1990 levels by 2020, an estimated 25 percent reduction. Mandatory caps will begin in 2012 for significant GHG sources—such as utilities, industries, and large businesses—and ratchet down to meet the 2020 goals. CARB must establish the statewide GHG emissions cap by January 1st, 2008; adopt mandatory reporting rules for significant GHG sources and adopt a plan for achieving GHG emissions reductions by January 1st, 2009; and adopt its final GHG emission regulations by January 1st, 2011.

AB 1925

requires the California Energy Commission to study and make recommendations for capturing and storing industrial carbon dioxide.

AB 1969

will require utilities to file with the CPUC a tariff for the purchase of renewable energy from facilities of less than 1 MW in size owned by public water or wastewater agencies. The statewide cap for this power type will be 250 MW.

AB 2021

will require the CEC starting November 1, 2007 and every three years thereafter to develop a statewide estimate of all achievable electricity and natural gas

savings and to establish a statewide target for these savings over 10 years. Public utilities have the same mandate, but starting June 1, 2007.

AB 2104

requires the CPUC by December 31, 2007 to improve the California Alternative Rates for Energy application process for mobile home tenants and others that receive service from a master meter.

AB 2160

requires the CEC to develop appropriate financing and project delivery mechanisms to facilitate state-building energy and resource efficiency projects.

AB 2189

permit a small hydroelectric generation facility to be eligible for the state's renewables portfolio standard, if efficiency improvements after January 1, 2003 cause capacity to exceed 30 MW and do not divert additional water resources.

AB 2390

requires the CPUC to report to the Legislature by July 15, 2009, and triennially thereafter, on its energy-efficiency and conservation programs. It also requires the CPUC to notify parties of the issuance of an order or decision by either mail or electronic transmission, revising the date of issuance to mean the mailing or transmission date.

AB 2573

will allow the City and County of San Francisco to use Hetch Hetchy Water & Power remote solar generation to supply up to 15 MW of its power, regardless of their location.

AB 2576

will require the CPUC to ensure that utilities use a single application form to apply for various assistance programs such as CARE.

AB 2600

increases by 10,000 the number of permits for hybrid vehicles using high occupancy vehicle lanes.

AB 2723

will prohibit the California Solar Initiative from resulting in the diversion of any moneys from any existing energy efficiency, demand-response or low-income ratepayer programs. The CPUC will be required to ensure that no less than 10 percent of CSI funds are used to install solar systems on low-income housing.

AB 2778

extends the sunset date on the Self-Generation Incentive Program to January 1, 2012 and limits the eligibility for non-solar technologies to fuel cells and wind distributed generation technologies.

AB 1925

requires the CEC in its Integrated Energy Policy Report due out by November 1, 2007 to study and make recommendations on how to accelerate the adoption of cost-effective geologic sequestration strategies for the long-term management of industrial carbon dioxide.

Senate Bill (SB) 107

requires the state's investor-owned utilities to draw on renewable energy for 20 percent of their electricity by 2010.

SB 423

restores Direct Access. will authorize until January 1, 2010 a nonprofit charitable organization to receive service from an energy service provider if the power is donated free of charge.

SB 1250

authorizes the continued spending of utility ratepayer funds collected for the CEC's Public Interest Energy Research, Development Program.

SB 1368

prohibits the state's utilities from buying their power from power plants that emit high amounts of GHGs, particularly those located outside the state. Requires the California Public Utilities Commission to adopt by February 1, 2007 a GHG performance standard for all baseload generation of load-serving entities. The bill also requires the California Energy Commission to adopt a similar standard for publicly owned utilities by June 30, 2007.

SB 1505

calls for the California Hydrogen Highway to result in reduced emissions of GHGs and other pollutants and will eventually require one-third of the hydrogen to be produced from renewable energy sources.

SB 1686

lets the Wildlife Conservation Board consider forests' ability to reduce greenhouse gases when prioritizing funds for proposed land buys.