

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Sacramento Municipal Utility District)	Docket No. EL08-__-000
v.)	
Pacific Gas and Electric Company)	
)	
Pacific Gas and Electric Company)	Docket No. ER08-921-000

**COMPLAINT OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT
SEEKING ELIMINATION OF CUSTOMER SERVICE CHARGE UNDER
INTERCONNECTION AGREEMENT WITH PACIFIC GAS & ELECTRIC COMPANY
AND MOTION TO CONSOLIDATE**

Pursuant to Commission Rule 206 and Section 206 of the Federal Power Act, the Sacramento Municipal Utility District files this complaint against Pacific Gas and Electric Company (“PG&E”) seeking termination of the \$7,000 monthly service charge found in Service Schedule E of the Interconnection Agreement (IA) between PG&E and SMUD. Pursuant to Rule 212, SMUD also requests that this complaint be consolidated with PG&E’s filing in Docket No. ER08-921-000. As discussed below, while the changes to Appendix E of the IA filed by PG&E on May 2, 2008 in Docket No. ER08-921-000 correctly reflect SMUD’s election to reduce its Reserved Transmission Service (RTS) to zero, PG&E has failed to include the corresponding elimination of the integrally related \$7,000 monthly service charge. That charge is assessed for “billing and accounting and, if applicable, meter reading and data processing” – responsibilities irrelevant now that SMUD no longer reserves transmission service under the IA.

SMUD has protested PG&E’s failure to eliminate the Customer Charge in Docket No. ER08-921-000 on grounds that it is integrally related to the reduction in RTS and that PG&E had failed to demonstrate that its continued application is just and reasonable. If, however, the Commission determines that Appendix E and Service Schedule E are not so related as to impose on PG&E the burden to defend them both, SMUD separately complains herein that, in light of

the reduction in SMUD's RTS service to zero, PG&E's \$7,000 monthly customer service charge is no longer just and reasonable and must be eliminated.¹

In support of this filing, SMUD states as follows:

I. COMMUNICATIONS

The names and addresses of persons to whom correspondence in regard to this proceeding should be addressed are as follows:

Arlen Orchard
Laura Lewis
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95817-1899
(916) 732-6123
(916) 732-6581 (Fax)
aorchar@smud.org

Glen L. Ortman
Harvey L. Reiter
Douglas E. Micheel
Stinson Morrison Hecker LLP
1150 18th Street, NW, Suite 800
Washington, D.C. 20036-3816
(202) 785-9100
(202) 785-9163 (Fax)
hreiter@stinson.com

II. ALTERNATIVE RESOLUTION PROCEDURES

In accordance with Rule 206(b)(9), SMUD states that it has not used an informal or alterative dispute resolution process before filing this complaint with the Commission. SMUD has raised its concern with PG&E, but the parties could reach no resolution. This complaint raises a straightforward issue that, at this point can most expeditiously be resolved by the Commission given the December 2009 termination date of SMUD's IA with PG&E. For the same reasons, SMUD does not believe that FERC's ADR procedures would assist in resolving these matters on a timely basis. As demonstrated below, there are no material factual disputes to

¹ See *Entergy Services, Inc.*, 52 FERC ¶ 61,317 at 62,270 (1990) (noting that complaints under Section 206 must be filed separately from motions to intervene and protests).

resolve, making this a matter that can and should be resolved by the Commission in the first instance.

III. DESCRIPTION OF THE DISPUTE

On May 2, 2008, PG&E made a filing under Section 205 of the FPA to revise Appendix E to its IA with SMUD to reflect SMUD's election under the IA to reduce to zero its RTS effective July 1, 2008. SMUD concurred in this change. Inexplicably left unchanged, however, is the corresponding monthly Customer Service Charge of \$7,000 found in Service Schedule E. PG&E has indicated to SMUD that it intends to continue to assess the monthly service charge even though SMUD will be discontinuing the purchase of reserved transmission service under the IA.

IV. COMPLAINT

As the filing utility in Docket No. ER08-921-000, PG&E bears the burden of proof to establish that changes in its rates are just and reasonable. While this burden does not normally apply to unchanged portions of a changed rate, *Sea Robin Pipeline Co. v. FERC*, 795 F.2d 182, 186 (D.C. Cir. 1986), the burden *does* apply to those nominally unchanged portions of a changed rate that are integrally intertwined with the change proposed. *Cities of Batavia, Naperville, etc v. FERC*, 672 F.2d 64 (D.C. Cir. 1982) (interaction of fuel adjustment clause and new components of a revised rate might make the operation of the FAC itself unjust and unreasonable, thus the Commission could examine the unchanged FAC under Section 205 of the FPA). SMUD has demonstrated in its contemporaneously-filed intervention and protest in Docket No. ER08-921 that Section 8.4.1 of the IA and related Service Schedule E, while nominally unchanged, are inextricably intertwined with the change proposed to Appendix E and the reasonableness of the

former cannot be determined independent of the reasonableness of the latter.² Should the Commission determine, however, that PG&E does not bear the burden of demonstrating the continued reasonableness of Schedule E, this separate complaint alleges that Schedule E is no longer just and reasonable and should be eliminated under FPA Section 206. SMUD also requests that if the Commission does not rule prior to July 1, 2008, it establish a refund effective date of July 1, 2008 – the date SMUD’s RTS reservation reduces to zero.

SMUD noted at the outset of this pleading that the Customer Service Charge, by its very terms, exists to recover “PG&E’s costs of labor and supervision for billing and accounting and, if applicable, meter reading and data processing as assigned to SMUD.” IA, Section 8.4.1. PG&E, however, will not incur these costs when SMUD discontinues receipt of RTS after June 30, 2008.³ Indeed, as of July 1, 2008, the only service SMUD could conceivably purchase under the IA would be 6 megawatts of interruptible transmission service (ITS). But even if SMUD were to purchase ITS 24 hours a day, seven days a week – itself inconceivable – total transmission charges would amount to only about \$16,000 per month.⁴ This would mean that the Service Charge alone would increase SMUD’s monthly transmission bill from \$16,000 to \$23,000, i.e., by nearly 50 percent. On its face a monthly Customer Service Charge of \$7,000 when SMUD no

²In the event the Commission concludes that Service Schedule E and Appendix E are not so interrelated as to extend PG&E’s burden of proof to justifying the former, SMUD has, in the alternative, filed a contemporaneous complaint under Section 206 of the FPA demonstrating that Service Schedule E and Section 8.4.1 of the IA are no longer just and reasonable and must be revised to eliminate the Customer Service Charge.

³SMUD already does the meter reading. SMUD has no other services for which it will be billed under the IA, as a variety of other services, some requiring complex bill processing, were eliminated in previous amendments to the IA. *See* Amendment 7 to the IA, Pacific Gas and Electric Co. May 2, 2002 filing in Docket No. ER02-1704, Letter Order accepting filing issued June 6, 2002. If SMUD takes no RTS service, the billing and accounting costs would be the costs of preparing a bill showing only the service charge itself. This is as silly as it sounds.

⁴The current rate for ITS service is \$0.00370 per kWh (or \$3.70 per MWh). So if SMUD used the 6 MW of ITS for all of the 730 hours in a typical month, the monthly charge would be 730 hrs X \$3.70 per MWh X 6 MW = \$16,206 per month.

longer receives RTS, could not possibly be reasonable and that charge should be eliminated accordingly if it is not rejected in Docket No. ER08-921-000.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, SMUD respectfully requests that the Commission (1) grant SMUD's complaint; 2) reject PG&E's \$7,000 per month Customer Service Charge to SMUD (3) consolidate this complaint with proceedings in Docket No. ER08-921-000 and 4) grant such other relief as it may find appropriate.

Respectfully submitted,

Arlen Orchard
Laura Lewis
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95817-1899
(916) 732-6123
(916) 732-6581 (Fax)
aorchar@smud.org

By: /s/ Harvey L. Reiter
Glen L. Ortman
Harvey L. Reiter
Adrienne E. Clair
Douglas E. Micheel
Stinson Morrison Hecker LLP
1150 18th Street, NW, Suite 800
Washington, D.C. 20036-3816
(202) 785-9100
(202) 785-9163 (Fax)
hreiter@stinson.com

Dated: May 23, 2008

Attorneys for the Sacramento Municipal Utility District

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, via electronic mail or first class mail, upon respondent PG&E and upon each party on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

Dated at Washington, D.C., this 23rd day of May, 2008.

/s/ Harvey L. Reiter
Harvey L. Reiter

Document Content(s)

Complaint.PDF.....1-5