139 FERC ¶ 61,023
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

| | | |
|---|---|---|
| California Independent System Operator Corporation | Docket Nos. | ER01-313-013 |
| Pacific Gas and Electric Company | | ER01-424-013 |

ORDER DENYING REHEARING

(Issued April 6, 2012)

1. In this order, the Commission denies the request for rehearing filed by Modesto Irrigation District (Modesto) of the Commission's October 31, 2011 order in the above-captioned proceedings.[1] As discussed herein, we affirm that Pacific Gas and Electric Company (PG&E) has satisfactorily complied with the Commission's directive to file a refund report, and that PG&E's ratio-based refund allocation is just and reasonable for purposes of this refund.

**Background**

2. These proceedings involve California Independent System Operator Corporation's (CAISO) Grid Management Charge (GMC) for the 2001-2003 period, and PG&E's tariff filing to pass-through GMC to certain wholesale contract customers. The GMC is the rate by which CAISO recovers its administrative and operating costs. PG&E's Pass-Through Tariff allows PG&E, as a CAISO-certified Scheduling Coordinator, to pass-through all GMCs it incurred on behalf of its seven wholesale transmission contract customers, known as Control Area Agreement customers.

3. In November 2000, CAISO submitted its proposal for an unbundled GMC, separating the GMC into three components: (1) Control Area Services, (2) Market Operations, and (3) Intra-Zonal Scheduling. As relevant here, CAISO proposed to allocate the Control Area Services portion of the GMC on the basis of gross load

[1] *California Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,097 (2011) (October 31 Order).

(referred to as Control Area Gross Load). The Commission consolidated these filings, accepted and suspended them, subject to refund, and set them for hearing.[2]

4. At the hearing, a voluminous record was compiled that addressed a number of issues related to CAISO's unbundled GMC, and an Initial Decision[3] based on that record was subsequently issued by the presiding administrative law judge. A significant issue in that Initial Decision and in the Commission's subsequent orders was the allocation of the Control Area Services component of the GMC to load served by behind-the-meter generators. Some parties argued that assessing the Control Area Services charge to behind-the-meter generation did not reflect the lesser degree to which that load relied on the CAISO-controlled grid. Ultimately, the Commission determined that, for the 2001-2003 period, the Control Area Services component of the GMC should be allocated on the basis of Control Area Gross Load, with an exemption for load served by behind-the-meter generation that is not modeled by CAISO.[4] In compliance with these orders, CAISO calculated refunds for the load served by unmodeled generators, distributed the refunds and other invoices to the Scheduling Coordinators, and filed a refund report with the Commission.

5. The Commission accepted CAISO's refund report, and also directed PG&E to file its own refund report reflecting the pass-through of CAISO's behind-the-meter refunds.[5] PG&E submitted its refund report on May 12, 2011, explaining that CAISO's GMC invoice contained refunds that were directly assigned to the unmodeled behind-the-meter generators, as well as offsets and adjustments that were allocated to the seven Control Area Agreement customers based on a ratio of each entity's monthly charges to the total monthly charges for the seven entities.[6]

---

[2] *California Indep. Sys. Operator Corp.*, 93 FERC ¶ 61,337 (2000).

[3] *California Indep. Sys. Operator Corp.*, 99 FERC ¶ 63,020 (2002) (Initial Decision).

[4] *California Indep. Sys. Operator Corp*., Opinion No. 463-A, 106 FERC ¶ 61,032, *order deferring reh'g*,109 FERC ¶ 61,162 (2004), *order following further initial decision*, Opinion No. 463-B, 113 FERC ¶ 61,135 (2005), *reh'g denied,* Opinion No. 463-C, 116 FERC ¶ 61,224 (2006), *reh'g rejected*, 118 FERC ¶ 61,061 (2007), *aff'd*, *Western Area Power Admin. v. FERC*, 525 F.3d 40 (D.C. Cir. 2008).

[5] *California Indep. Sys. Operator Corp.*, 135 FERC ¶ 61,112 (2011).

[6] PG&E May 12, 2011 Refund Report at 1, n.3.

6. The Commission accepted PG&E's refund report over Modesto's objections. Modesto argued that PG&E did not follow its own Pass-Through Tariff and wrongly assessed charges, but the Commission rejected this argument as unsupported. The Commission further explained that, to the extent Modesto really sought to alter the Pass-Through Tariff, that was an impermissible collateral attack on the previous orders in these proceedings.[7]

**Modesto's Request for Rehearing**

7. Modesto filed a timely request for rehearing. Modesto maintains that there is a lack of transparency regarding PG&E's refunds that the Commission must address.[8] Modesto argues that the October 31 Order only described and affirmed PG&E's refund allocation, and overlooked whether PG&E actually implemented the refunds correctly.[9]

8. Modesto raises three questions that it states were not adequately addressed in PG&E's refund report or in the October 31 Order. First, Modesto asks how PG&E accounted for a portion of its own load portfolio that it typically included in its Scheduling Coordinator Identification for Control Area Agreement Customers.[10] Next, Modesto questions why it should receive standby load charges when it was not a standby load customer, and why Modesto should receive dynamic schedule charges associated with Mohave Participant Energy[11] when Modesto is not a Mohave Participant.[12] Finally, Modesto argues that neither it nor the Commission can fully assess the pass-through charges without obtaining the full set of data for PG&E's other Control Area Customers. Modesto explains that a problem arises in verifying charges assessed to a group of market participants in a pooled format, when information concerning the other participants is proprietary but is needed to verify that the charges are calculated correctly. Modesto

---

[7] October 31 Order, 137 FERC ¶ 61,097 at PP 12-16.

[8] Modesto November 30, 2011 Request for Rehearing at 2.

[9] *Id.* at 3.

[10] *Id.* A Scheduling Coordinator Identification is an identification code assigned to each Scheduling Coordinator by CAISO. *See* CAISO, eTariff, FERC Electric Tariff, OATT, app. A.

[11] Mohave Participant Energy is energy generated by the Mohave Power Plant within CAISO's control area, and exported out of CAISO's control area. *See* Initial Decision, 99 FERC ¶ 63,020 at 65,131-35.

[12] Modesto November 30, 2011 Request for Rehearing at 3.

urges the Commission to request and analyze this market participant information in a protected format, asserting that it is the Commission's duty to undertake this inquiry and request complete information.[13]

**<u>Commission Determination</u>**

9. Over the last decade the parties have established a voluminous record in the above-captioned proceedings, and the evidence in the record supports denying Modesto's request for rehearing.

10. As an initial matter, to the extent that Modesto continues to seek credit for its self-provided ancillary services in the assessment of the Market Operations charge, as it did in its initial filings on PG&E's refund report, the Market Operations charge is not at issue at this point in these proceedings. The only issue related to the Market Operations charge is a refund to account for the allocation of the incentive compensation refund. The incentive compensation refund is a salary amount that CAISO mistakenly budgeted for in 2001 and which the Commission directed CAISO to refund.[14] CAISO included the incentive compensation refund, as well as other adjustments for dynamic schedule charges and standby load charges (discussed below), in this cycle of refunds along with the refund for load served by behind-the-meter generation. PG&E passed-through the incentive compensation refund and the other adjustments proportionately, using a ratio of each customer's monthly GMC to PG&E's total monthly GMC. As discussed below, the Commission affirms its previous finding that this allocation is reasonable.

11. The Commission rejects Modesto's first argument on rehearing that PG&E improperly included a portion of its own load portfolio in the Scheduling Coordinator Identification for Control Area Agreement customers. Modesto's concern appears to be that by doing so, PG&E inflated the amount of Control Area Services charges assessed to Control Area Agreement customers so that those entities would pay a greater ratio of the refund offset costs. In arguing that PG&E included its own load in the Control Area Agreement customers' Scheduling Coordinator Identification, Modesto cites testimony of its witness Blair Jackson filed in a separate and unrelated Commission proceeding.[15] This testimony discusses Modesto's self-provision of ancillary services under its

---

[13] *Id.* at 4-5.

[14] *See* Initial Decision, 99 FERC ¶ 63,020 at 65,077; *California Indep. Sys. Operator Corp.*, Opinion No. 463, 103 FERC ¶ 61,114, at PP 9-11 (2003); CAISO November 15, 2004 Compliance Refund Report at 2.

[15] Docket No. ER00-565, Ex. MID-19 at 14 (Modesto witness Jackson discussing the possible allocation of certain ancillary service credits to PG&E).

Interconnection Agreement with PG&E. As an initial matter, this testimony is unrelated to PG&E's compliance filing in these proceedings. Insofar as Modesto seeks an adjustment to the Control Area Services charge for its self-provided ancillary services, it is well established that Control Area Services costs are not related to the cost of ancillary services.[16]

12. Further, our review of the record indicates that PG&E did not include any of its own load in the Scheduling Coordinator Identification used for Control Area Agreement customers. Three separate PG&E witnesses testified at hearing in these proceedings that PG&E's Scheduling Coordinator Identification "PGAB" only included Control Area Agreement customer transactions, and that PG&E's retail loads were scheduled under a separate Scheduling Coordinator Identification.[17] Modesto did not refute this at the time.

13. Modesto asks why it was assessed standby load charges when it was not a standby load customer, and similarly, why it received dynamic schedule charges associated with Mohave Participant Energy when Modesto is not a Mohave Participant. As noted above, the Commission finds that Modesto was not assessed standby load charges or dynamic scheduling charges as a result of CAISO's behind-the-meter refund proceeding. Instead, Modesto, like other market participants, was assessed an additional amount of Control Area Services charges based on adjustments that resulted from the Initial Decision and the Commission's subsequent orders in this docket.

14. With regard to PG&E's adjustment of dynamic schedules, this adjustment is consistent with a determination in the Initial Decision, that was affirmed by the Commission. The Initial Decision specifically evaluated the allocation of Control Area Services charges to Mohave Participant Energy and Southwest Powerlink Energy, two particular projects producing energy that was exported out of CAISO's control area. The Initial Decision concluded that both projects were similarly situated for purposes of

---

[16] Initial Decision, 99 FERC ¶ 63,020 at 65,194 ("[T]he [CA]ISO's CAS [Control Area Services] costs are not related to the cost of Ancillary Services and/or imbalance energy or their procurement. CAS is not a charge for ancillary services").

[17] Ex. PG&E 46 at 3 (PG&E witness Menzel stating there are no non-Control Area Agreement transactions under the PGAE/PGAB Scheduling Coordinator Identification); Ex. PG&E 32 at 15-16 (PG&E witness Bray stating that PG&E used one Scheduling Coordinator Identification for its native load and the separate "PGAE" identification for its seven Control Area Agreement customers); Ex. PG&E 6 Revised at 3-4 (PG&E witness Doran stating that PG&E had two Scheduling Coordinator Identifications during Period 1, PGAB (formerly PGAE) for the Control Area Agreement customers and another for PG&E's retail loads).

allocation of the Control Area Services charge.[18] Because CAISO had previously granted Southwest Powerlink an exemption from the Control Area Services charge for 2001, the Initial Decision, as affirmed by the Commission,[19] directed CAISO to only allocate Mohave Participant Energy Control Area Services charges in 2002 and forward.[20] The allocation of Control Area Services charges for 2001 therefore had to be modified to exclude dynamically scheduled Mohave Participant Energy, and to increase the share of Control Area Services charges paid by other customers.

15. With regard to standby capacity, PG&E's refund report refers to a "standby capacity adjustment" and not a standby load charge. This reference is consistent with adjustments CAISO has described as necessary to complete refunds for load served by unmodeled behind-the-meter generators. For example, in a November 17, 2004 compliance filing, CAISO explains the steps necessary to refund the Control Area Services charges assessed to load served by unmodeled behind-the-meter generators. One of the steps CAISO describes is an adjustment to standby contract capacity.[21] Therefore, we conclude that PG&E's inclusion of a standby capacity adjustment in its refund report is reasonably explained and is appropriate.

16. To the extent Modesto does not oppose the actual adjustments, but opposes the resulting allocation of charges, the Commission rejects the argument. PG&E explained in its refund report that it directly applied the behind-the-meter credits calculated by CAISO, and for the remainder of CAISO's invoice PG&E used a ratio to allocate the aggregate charges to the Control Area Agreement customers based on their percentage of monthly Control Area Services revenues. As Modesto has previously acknowledged, when CAISO revises its GMC billing it must charge higher rates to some customers in order to provide refunds to others.[22] Here, CAISO's adjustments and behind-the-meter refunds to some entities resulted in an offset charge to others, and the Commission affirms that PG&E's allocation based on load ratio, or each customer's percentage of the total load, is just and reasonable for purposes of this refund and offset. This ratio-based allocation is consistent with the allocation of the overall Control Area Service charge, and the Commission has upheld CAISO and PG&E's load-based billing determinants in

[18] Initial Decision, 99 FERC ¶ 63,020 at 65,134-35.

[19] Opinion No. 463, 103 FERC ¶ 61,114.

[20] Initial Decision, 99 FERC ¶ 63,020 at 65,133, 65,135.

[21] CAISO November 15, 2004 Compliance Refund Report at 4.

[22] Modesto February 22, 2002 Reply Brief at 2.

previous orders.[23] As we stated in the October 31 Order, PG&E's ratio-based allocation is consistent with cost causation principles because the GMC offset charges were allocated to those that initially caused those costs to be incurred.[24]

17. Modesto's final argument is that the Commission needs data from CAISO to compare PG&E's pass-through to CAISO's assessment. The Commission also rejects this contention. The public hearing preceding the Initial Decision spanned over four weeks, the transcript is 3,474 pages, and 445 exhibits were admitted into evidence.[25] The Commission finds that the record indicates that PG&E provided data, estimated calculations, and discussed issues with Modesto during this lengthy hearing process.[26] Further, the Initial Decision stressed that both CAISO and the Scheduling Coordinators (including PG&E) were to share Control Area Gross Load information to impacted

---

[23] Initial Decision, 99 FERC ¶ 63,020 at 65,180, 65,186-87, 65,196 (approving PG&E's proportional pass-through of the Control Area Services charge, noting that this was consistent with the evidence of record, and ultimately deeming the Pass-Through Tariff just and reasonable); Opinion No. 463, 103 FERC ¶ 61,114 at PP 2, 40-58, Ordering Paragraph (B) ("The Commission hereby affirms and adopts the Initial Decision in all other respects."); Opinion No. 463-A, 106 FERC ¶ 61,032 at PP 1, 8 ("[W]e essentially deny the requests for rehearing, other than those concerning the Control Area Gross Load (CAGL) issue."); Opinion No. 463-B, 113 FERC ¶ 61,135 at P 58 (affirming Opinion No. 463's finding that all load serving entities should pay for Control Area Services); Opinion No. 463-C, 116 FERC ¶ 61,224 at P 32 ("We dismiss SMUD's arguments, as we did Modesto's, as neither of them has raised any new points, and we have previously addressed their arguments in this regard."); *Western Area Power Admin.*, 525 F.3d at 56 ("The pass-through tariff is dollar-for-dollar based on the Grid Management Charge, which itself is the cost of starting up and operating the ISO.")

[24] October 31 Order, 137 FERC ¶ 61,097 at P 15.

[25] Presiding Administrative Law Judge May 10, 2002 Certification of Initial Decision and Record at 1-2.

[26] Modesto June 28, 2011 Answer at Attachment B (protected letter dated September 6, 2001 stating that Modesto received GMC backup data from PG&E); Ex. PG&E 32 at 47 (PG&E witness Bray offering to convene a meeting for all Control Area Agreement customers to review billing data); Ex. PG&E 7 at 2 (PG&E witness Menzel stating that PG&E had already provided information to the parties concerning how PG&E determined the pass-through amount for each Control Area Agreement customer, provided under the terms of the protective order.).

parties in a prompt manner.[27] Modesto had ample opportunity to challenge any mistakes it believed that PG&E made in its Control Area Services calculation at hearing or in briefs on exceptions;[28] it did not allege PG&E made any mistakes in the calculation or seek discovery to prove otherwise.[29]

18. Similarly, in this compliance phase, the protected materials submitted by PG&E and Modesto demonstrate that PG&E shared information with Modesto in a timely manner regarding the behind-the-meter refund and offset invoice.[30] Modesto's brief argument in this compliance proceeding has not pointed to any specific error in the record in these proceedings. Modesto has not explained what data it lacks, why it did not seek at hearing the data it now deems important or how PG&E's calculation is inaccurate. In sum, Modesto had the opportunity but did not timely raise the concerns about PG&E's calculations that it now raises in pursuit of further discovery. The Commission considers the hearing record closed at this juncture, and affirms the October 31 Order's approval of PG&E's refund report as supported by the record in these proceedings.

---

[27] Initial Decision, 99 FERC ¶ 63,020 at 65,144 ("[T]he information that the SC [Scheduling Coordinator] is responsible for collecting i.e., revenue quality meter data from the SC Metered Entities that it represents . . . should be required to be provided to the [CA]ISO in a timely, uniform manner and made available simultaneously to the impacted parties.").

[28] *See, e.g.*, Ex. PG&E 51 (data response from PG&E providing detailed explanations to Bay Area Rapid Transit Authority regarding the calculation of its GMC bill).

[29] *See* Modesto June 10, 2002 Brief on Exceptions; Modesto July 1, 2002 Brief Opposing Exceptions; Modesto June 2, 2003 Request for Rehearing; Modesto June 15, 2003 Answer; Modesto June 23, 2003 Answer.

[30] PG&E June 13, 2011 Answer at 3 (stating that in October 2009, PG&E provided to Modesto the data on which PG&E based its calculation of Modesto's GMC pass-through charges).

The Commission orders:

The request for rehearing of the October 31 Order is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.