137 FERC ¶ 61,097
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.	ER01-313-012
Pacific Gas and Electric Company		ER01-424-012

ORDER ACCEPTING REFUND REPORT

(October 31, 2011)

1. On May 12, 2011, Pacific Gas and Electric Company (PG&E) filed a refund report in the above-captioned proceedings, stating that it has distributed the refunds and the offset charges contained in California Independent System Operator Corporation's (CAISO) April 1, 2010 Grid Management Charge (GMC) invoice. In this order, the Commission accepts PG&E's refund report.

Background

2. The refund at issue in this proceeding stems from a series of Commission orders and CAISO re-runs. The Commission orders determined that certain behind-the-meter load served by generators that are not modeled by the CAISO should be exempted from the Control Area Services[1] component of the GMC.[2] The Commission directed the CAISO to identify these unmodeled generators, and ultimately to make the refunds.[3]

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[1] Control Area Services include CAISO's costs, as the control area operator, of ensuring reliable, safe operation of the transmission grid in CAISO's control area. *See California Indep. Sys. Operator Corp.*, Opinion No. 463, 103 FERC ¶ 61,114, at P 12 (2003).

[2] Opinion No. 463, 103 FERC ¶ 61,114, *order on reh'g*, Opinion No. 463-A, 106 FERC ¶ 61,032 (2004), *order on reh'g*, 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).

[3] Opinion No. 463-B, 113 FERC ¶ 61,135, *order on compliance*, 125 FERC ¶ 61,015 (2008), *order on clarification*, 126 FERC ¶ 61,058 (2009).

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3. PG&E explains that during the 2001 to 2003 time period covered by the CAISO GMC refund, PG&E acted as a scheduling coordinator for seven of its wholesale transmission contract customers, known as Control Area Agreement customers. PG&E incurred CAISO GMC charges for scheduling these entities' loads and resources, and PG&E passed these charges on to the entities through PG&E's GMC Pass-Through Tariff.

4. On May 12, 2011, PG&E filed a refund report stating that it had distributed charges and credits to pass through CAISO's April 1, 2010 GMC invoice that accounted for behind-the-meter generation during the 2001 to 2003 time period. PG&E filed its refund report in accordance with the Commission's May 4, 2011 letter order, which accepted CAISO's refund report and also directed PG&E to submit its own refund report, reflecting the pass-through of refunds to those entities for which PG&E acted as a scheduling coordinator.[4]

PG&E's Filing

5. PG&E states that the CAISO GMC invoice contained a refund for behind-the-meter generation, as well as other adjustments for CAISO-budgeted incentive compensation, standby capacity, dynamic schedules, and interest on the credits and charges.[5]

6. To pass through this invoice, PG&E explains that it directly assigned the behind-the-meter generation refunds pursuant to CAISO's calculations. For the remainder of the invoiced amount, which was in aggregate form, PG&E allocated the credits and charges to the seven PG&E-scheduled entities. PG&E explains that its allocation used the ratio of each entity's monthly GMC charges to the total monthly GMC charges for all seven entities.[6] PG&E states that its allocation resulted in certain of the PG&E-scheduled entities being assessed a charge while others were owed a refund. PG&E states that by mid-July 2010, a netting of the charges paid and refunds distributed to the PG&E-scheduled entities equaled the amount of the CAISO GMC refund that PG&E received.

7. Notice of PG&E's filing was published in the *Federal Register*, 76 Fed. Reg. 29,229 (2011), with comments due on or before June 2, 2011. A timely protest was filed by the Modesto Irrigation District (Modesto). PG&E filed an answer and Modesto filed an answer to PG&E's answer.

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

[5] PG&E May 12, 2011 Filing at 1.

[6] *Id*. at 1 n.3.

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Modesto's and PG&E's Pleadings

8. Modesto states that it received a charge of $37,923.[7] Modesto disputes PG&E's allocation of the refund and the allocation method that used a ratio of each entity's monthly GMC charges to the total monthly GMC charges for the seven PG&E-scheduled entities.[8] Modesto states that all of the affected entities provided data to PG&E that would have enabled PG&E to allocate the CAISO GMC charges specifically to each entity based on metered load. Modesto states that it understands that CAISO assessed a behind-the-meter offset charge to recover the refunds provided to other market participants, but questions why, when PG&E received an overall refund from the CAISO, Modesto received a charge.[9] Modesto also states that PG&E had typically included a portion of its own load portfolio in the Scheduling Coordinator Identification used for PG&E-scheduled entities, and Modesto argues it is unclear how PG&E accounted for its own load portfolio.[10] Lastly, Modesto argues that there are certain specific adjustments on the bill that are unexplained.[11] In sum, Modesto requests greater detail so that it can understand the charges.

9. In its answer to Modesto's protest, PG&E states that it has exchanged many telephone calls and written correspondence with Modesto, and has explained step-by-step how PG&E calculated the pass-through charges.[12] PG&E included copies of its correspondence with Modesto and supporting documentation for Modesto's invoice, filed as non-public materials. PG&E states that Modesto received a net charge because its CAISO-calculated behind-the-meter credit was not sufficient to offset the adjustments made by CAISO to recover the refunds provided.

10. In its reply to PG&E's answer, Modesto clarifies that it is not disputing PG&E's willingness to discuss the Pass-Through Tariff, or that the Commission approved the Pass-Through Tariff, but rather is "disputing the internal, black box method used by PG&E to charge CAA [Control Area Agreement] entities GMC using incorrect meter data, which PG&E has continued through its refund allocation."[13] Modesto states that it only requests

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[7] Modesto June 3, 2011 Protest at 2.

[8] *Id.* at 3.

[9] *Id.*

[10] *Id.*

[11] *Id.* at 4.

[12] PG&E June 13, 2011 Answer at 3.

[13] Modesto June 28, 2011 Answer at 3.

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the opportunity to review PG&E's data.[14] Modesto asserts that PG&E did not follow its own Pass-Through Tariff to determine GMC charges. Modesto argues that it was improperly invoiced for GMC Market Operations charges when the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) found that customers may self provide Market Operations services.[15]

Commission Determination

Procedural Matters

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits answers to protests and answers to answers unless otherwise ordered by the decisional authority. We will accept PG&E's answer and Modesto's answer because they have provided information that assisted us in the decision-making process.

Substantive Matters

12. Our review indicates that Modesto initially raises several objections based on the assignment of certain costs under the Pass-Through Tariff. Modesto's answer clarifies that it opposes PG&E's historical Control Area Services charge calculations, arguing that PG&E did not properly follow its own Pass-Through Tariff, and that the Pass-Through Tariff's allocation of Control Area Services charges is insufficiently transparent.[16] However, Modesto has not identified the specific provisions of the Pass-Through Tariff that PG&E has allegedly violated with its refund procedure. Additionally, Modesto has not identified the specific information it would need to demonstrate that PG&E has incorrectly allocated costs. Suggestions that PG&E is misapplying its Pass-Through Tariff, miscounting metered load, wrongly assessing charges, or withholding information, are unsupported. Accordingly, the Commission finds that Modesto's objections are insufficient to warrant a new refund report or a recalculation of refunds.

13. To the extent Modesto really seeks to alter the Pass-Through Tariff, the Commission declines to re-open PG&E's Pass-Through Tariff in this compliance sub-docket. PG&E's Pass-Through Tariff was examined in detail in the Administrative Law

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[14] *Id.* at 6.

[15] *Id.* at 4 (citing *Western Area Power Admin. v. FERC*, 525 F.3d 40, 42 (D.C. Cir. 2008)).

[16] Modesto June 28, 2011 Answer at 3.

Judge's Initial Decision,[17] and the Commission examined that record and upheld PG&E's Pass-Through Tariff in Opinion No. 463, which was subsequently affirmed by the D.C. Circuit.[18] Thus, to the extent Modesto is collaterally attacking these previous determinations via its protest to PG&E's compliance filing, we reject Modesto's arguments.[19]

14. We therefore find that PG&E has satisfactorily complied with the directive to complete its refund calculations for behind-the-meter generation during the 2001 to 2003 period. PG&E has sufficiently explained how it assigned CAISO's GMC refund and allocated the offset charge. It is undisputed that CAISO directly assigned behind-the-meter credits and that PG&E passed on the credits to entities with identified generators. PG&E has explained that its CAISO invoice also contained an aggregate offset charge, determined by CAISO to recover the behind-the-meter refunds. PG&E's non-public attachments, which PG&E notes have previously been explained to Modesto, show that, as part of the refunds for behind-the-meter generation, it allocated the incentive compensation refund and the offset charge proportionately, using a ratio of each entity's monthly GMC charges to the total monthly GMC charges. Similarly, to allocate CAISO's interest charges, PG&E summed each entity's credits and offset charge and divided by PG&E's total to derive a ratio, and allocated CAISO interest accordingly.[20]

15. The Commission notes that PG&E allocated the refund and offset charges using a ratio based on a control area customer's total Control Area Services charges, a charge that was calculated based on metered load. This has been verified by PG&E's supporting documentation. We find that PG&E's allocation is consistent with cost causation

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[17] *California Indep. Sys. Operator Corp.*, 99 FERC ¶ 63,020, at P 220-222, 233-234 (2002).

[18] Opinion No. 463, 103 FERC ¶ 61,114; *Western Area Power Admin. v. FERC,* 525 F.3d 40, 45-48 (D.C. Cir. 2008) (citing cost causation, administrative efficiency, and lack of a better alternative in upholding the Control Area Services component of the GMC charge and PG&E's Pass-Through Tariff).

[19] *See California Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,015, at P 16 (2008) (rejecting attacks on a compliance filing); *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,059, at P 24 (2008) (rejecting collateral attacks on a prior order); *California Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,240, at P 13 (2007) (finding that a protest of a compliance filing was a collateral attack on a prior Commission order).

[20] PG&E June 13, 2011 Answer, Ex. B at 2.

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principles, because the GMC offset charges were allocated to the entities that initially caused those costs to be incurred.[21]

16. In sum, we find that PG&E has provided adequate record evidence to support our finding that PG&E's allocation of behind-the-meter generation refunds is reasonable. Accordingly, we accept PG&E's refund report.

The Commission orders:

PG&E's proposed refund report for CAISO GMC refunds of behind-the-meter generation from the 2001 to 2003 period is hereby accepted, as discussed in the body of this order.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[21] *Midwest ISO Transmission Owners v. FERC*, 373 F.3d at 1361, 1368-69 (D.C. Cir. 2004) (stating that the cost causation principle requires that "all approved rates reflect to some degree the costs actually caused by the customer who must pay them.") (quoting *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992)).

Document Content(s)