

[14.3] FERC Accepts, Suspends PG&E Rate-Schedule Changes

The Federal Energy Regulatory Commission on May 27 accepted Pacific Gas & Electric's filing of proposed changes to its transmission agreements with certain existing transmission customers but suspended implementation of the rates for five months and set the matter for hearing [ER03-666].

In its March 28 filing, PG&E said it was altering the ratemaking methodologies in order to be consistent with the high/low voltage and network methodologies utilized in its transmission-owner tariff and the California Independent System Operator tariff. The contract holders affected by the proposed changes are Bay Area Rapid Transit, the state Department of Water Resources, San Francisco, Minnesota Methane, the Sacramento Municipal Utility District, the Transmission Agency of Northern California, the Turlock and Modesto Irrigation Districts and the Western Area Power Administration.

FERC's ruling this week found that PG&E's proposed rate changes, which total an increase of \$17 million, may not be reasonable and decided to consolidate the matter with the utility's pending sixth

TO tariff proceeding at the agency [ER03-409]. PG&E's TO tariff filing was set for hearings in March (see CEM No. 711 [14.1]) [S. O'D.J.].

[14.4] FERC Official Certifies Settlement on Nevada Transmission Tariff

Federal Energy Regulatory Commission administrative law judge Bruce Birchman on May 23 certified a settlement agreement among Sierra Pacific Power, Nevada Power and other parties on a revised open-access transmission tariff and revised ancillary service schedules for the utilities [ER03-37, ER02-2609]. The settlement must now be ratified by the commission.

The Nevada utilities filed the OATT application with FERC in September and the ancillary-services rate application the following month. FERC consolidated the two cases and set them for hearing last November (see CEM No. 697 [14.2]).

Parties to the deal include the FERC trial staff, Nevada Energy Buyers Group, Mirant Americas Energy Marketing, Pinnacle West Energy, APA Energy Services, Reliant Energy Services and Newmont Mining [John Edwards].

Regional Roundup

[15] Direct-Access Bill Heads for Floor Vote; AB 1734 Knocked Down (from [2])

Assemblymember Keith Richman's bill in support of electric competition survived a fast-moving Appropriations Committee hearing in the capitol's lower house this week. AB 428 was one of 100-plus measures to be dispatched by committee chair Darrell Steinberg (D-Sacramento) during the day-long May 28 session. Though the bill carried with virtually no discussion, Richman (R-Northridge) and other lawmakers debated the merits of direct access last week, although AB 428 was held over (see CEM No. 721 [16]).

Of the scores of new bills heard, relatively few were "held in committee," the result being that a measure may not make it to the floor for a full vote by June 6. Some ratepayer groups reacted with surprise when AB 1734, a bill that would shift all administration of energy-efficiency programs to investor-owned utilities, met this fate.

"At first, I thought, 'Did I hear that right?'" said The Utility Reform Network lobbyist Lenny Goldberg. "I'm very glad the bill went down. If you want to have effective program administration, you shouldn't just hand the utilities money and let them spend it."

Goldberg dismissed arguments by Assemblymember Sarah Reyes (D-Fresno), chair of the Assembly Utilities & Commerce Committee that spawned AB 1734, that it would help streamline efficiency programs. Reyes noted that demand-side initiatives have suffered delays at the California Public Utilities Commission in recent years.

"Utilities have intentionally delayed and made it difficult to get the money out the door," Goldberg charged, labeling IOUs "obstructionists" with regard to funding for community-based programs.

According to Goldberg, this week's decision may have hinged on Reyes' withdrawal of a key amendment in the legislation. The U&C chair had suggested new language providing that "sufficient funds" be made available for local DSM programs. When Reyes learned that TURN still would not support the bill, she said she would retract the change. In Goldberg's view, this may have bolstered opposition.

"Having sufficient funds wouldn't solve the problem of administering the programs," said Barbara George, executive director of Women's Energy Matters. George took the stumbling of AB 1734 as welcome news and sees it as an indication of burgeoning community clout in demand-side efforts.

"Utilities are underestimating how many cities want to get involved in energy-efficiency programs," she said. "Also, people are much more up to speed on how utilities have mismanaged the programs and that there are other options."

Pacific Gas & Electric consultant Kent Kauss said the utility is "not all that concerned" that the bill faltered this week. "We like the idea of having statutory language saying utilities should administer programs, but it's an issue we can work on" with state regulators, he said.

AB 1734 could still reach the Assembly floor despite this week's setback, e.g., through another appropriations hearing prior to next Friday or a rule waiver.

Even if the bill itself expires and cannot return until next January, language from the measure could find its way into other legislation.

Other Assembly energy bills moving forward this week included Reyes' AB 816, which seeks to hold newly formed municipal utilities responsible for any power-procurement charges incurred on their customers' behalf during the power crisis. Steinberg said that the bill needs more work with regard to preventing cost-shifting between customer classes and that this change might take shape when the bill goes before the full Assembly for a vote.

Upon its passage in appropriations, the bill was amended to conform to an upcoming CPUC decision on municipal utility load departing the IOU system. Current draft decisions would hold muni customers responsible for Department of Water Resources procurement and bond costs, as well as "historic procurement costs" for clients in Southern California Edison territory.

Sources close to the bill said that its treatment of muni exit fees will be based on the commission's final order—unless the decision results in costs being shifted to residential customers.

AB 808, a bill by Assemblymember Joe Caramilla (D-Pittsburg) that would pull all the state's energy agencies into a new Department of Energy under a governor-appointed secretary, also passed out of appropriations. TURN's Goldberg worried that aspects of the measure would ruffle the state constitution.

"The way it's written, the Department of Energy—the governor, essentially—would tell the CPUC what to do on all policy decisions. That's a big problem," he said, stressing that commission members must have a degree of independence. "What would be the point of an evidentiary hearing at the CPUC? Or having an administrative law judge?"

AB 151 from Assemblymember Juan Vargas (D-San Diego) passed as well. The bill would impose a charge of \$0.001/KWh on power imported into California from power plants south of the US-Mexico border that are not outfitted with the latest emissions-control technology (see *CEM* No. 714 [17]). Specifically, the fee would be leveled at power produced by InterGen's La Rosita plant.

Assemblymember Mark Leno's (D-San Francisco) distributed generation incentives bill also passed. Under AB 1685, the state's current DG incentives program would end in 2008 rather than 2004 [*Jason Mihos*].

[15.1] Suspense Builds for SB 888; Sher Bid for State Emissions Review Moves On

SB 888, the bill that would return to investor-owned utilities the obligation to serve electric and gas customers, again missed its date this week with the Senate Appropriations Committee. The bill by Senator Joe Dunn (D-Garden Grove) will be heard in appropriations next week, according to capitol sources.

The committee first held the bill "on suspense" on May 22 for further talks (see *CEM* No. 721 [16]). During this week's session on May 29, the bill was not discussed at all, but various groups around the Legislature indicated that SB 888 will return for a final appropriations hearing next week.

Also missing in action was SB 173, another Dunn bill, which would impose penalties on companies that attempt to misreport gas trades to gas price index publishers. The bill was scheduled to go before the Appropriations Committee last week and was instead re-referred to the Senate's energy policy committee, which had not discussed recent amendments regarding how contracts with qualifying facilities might be affected.

The Senate Energy, Utilities & Commerce Committee scheduled a hearing on SB 173 for May 29 and then cancelled that morning. Capitol insiders reported a number of rumors swirling around the bill, saying it might skip policy committee altogether and be forced to a floor vote—or that it might already be dead.

The verified details of the bill, rather than the unknown, are what concerns Pacific Gas & Electric. Utility consultant Kent Kauss criticized SB 173's QF provision, which would allow expiring pacts between utilities and qualifying generating facilities to be automatically extended for five years. Ratepayers are better protected if utilities are able to negotiate with QFs on contract terms, he said.

One Senate energy measure progressing this week was SB 288, a bill by Senator Byron Sher (D-Palo Alto) that would bring federal emissions rules—as they existed before changes enacted last December by the US Environmental Protection Agency—under state law.

Meanwhile, Senator Bill Morrow's (R-Oceanside) proposal regulating utility holding companies has been patiently awaiting a vote by the full Senate. SB 429 won approval from the Energy, Utilities & Communications Committee in April (see *CEM* No. 717 [13]).

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