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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion to Determine Whether Pacific Gas and Electric Company and PG&E Corporation's Organizational Culture and Governance Prioritize Safety.	I.15-08-019

REPLY COMMENTS OF THE COALITION OF CALIFORNIA UTILITY EMPLOYEES ON THE ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

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The Coalition of California Utility Employees (CUE) submits these reply comments on the December 21, 2018 Assigned Commissioner's Scoping Memo and Ruling for the next phase of the Order Instituting Investigation on the Commission's Own Motion to Determine Whether Pacific Gas and Electric Company and PG&E Corporation's Organizational Culture and Governance Prioritize Safety. CUE's comments follow the format outlined in the Scoping Memo.

I. INTRODUCTION

This phase of the OII is dedicated to determining whether PG&E as currently structured can provide safe electric and gas service and whether there are alternatives to PG&E's current management and operational structures for providing ***safer*** electric and gas service. In opening comments on the Scoping Memo, parties propose alternatives to PG&E's current structure, such as municipalization and making PG&E a "wires-only" utility while expanding the CCA

role beyond electricity procurement. The proposals, however, would not necessarily lead to ***safer*** service and/or are prohibited by law.

II. CORPORATE GOVERNANCE AND MANAGEMENT

In opening comments, some parties propose changes to PG&E's corporate governance and management. The Commission's consideration of these proposals is currently unnecessary. As CUE noted in its opening comments, the bankruptcy court will get first crack at determining whether and how PG&E's corporate governance and management should change. Until the details of a plan of reorganization are known, considering alternatives to PG&E's current governance and management is simply an exercise in speculation. In addition, PG&E has already announced that a new majority of independent directors will be elected at PG&E Corporation's 2019 Annual Meeting. In addition, several senior executives have recently left PG&E and PG&E Corporation, including PG&E Corporation's Chief Executive Officer.

III. PUBLICLY OWNED UTILITY, COOPERATIVE, COMMUNITY CHOICE AGGREGATION OR OTHER MODELS

In opening comments, the POUs, the City and County of San Francisco and the City of San Jose propose municipalizing PG&E. The CCAs propose making PG&E a "wires-only" company and expanding the CCA role beyond electricity procurement, putting all non-distribution/transmission systems activities in the hands of "local control." There is no showing that municipalizing PG&E or making it "wires-only" would result in safer service. Moreover, expanding the CCA role beyond procurement is not legally authorized.

A. There is No Showing that Municipalization Would Improve Safety and Municipalization Poses Substantial Risks and Harms for Cities, the State, Workers, Ratepayers and Wildfire Victims

Not surprisingly, POUs (California Municipal Utilities Association and the South San Joaquin Irrigation District) and cities (San Francisco and San Jose) suggest municipalization as a cure for PG&E's safety problems. But there is no showing that municipalizing PG&E would lead to safer service. On the contrary, municipalization could ***adversely impact safety***. Right now, PG&E can mobilize a huge workforce in emergencies. For example, after the 2017 North Bay wildfires, PG&E utilized 4,300 employees to quickly repair and restore utility service to its customers. A small utility would not be able to mobilize the workforce necessary to respond to catastrophic events. In addition, a smaller utility would not be able to absorb costs from wildfires and other catastrophic events, or even modest-sized events. When this occurs, who will pay to maintain the distribution and transmission systems?

In opening comments, CUE explained the many significant risks and harms from municipalization for cities, the State, workers, ratepayers and wildfire victims. We won't repeat those risks and harms here but note that CUE and TURN agree that one of those harms – de-averaging of rates in PG&E's territory – would be devastating to certain customers. Rates would rise for customers who live in areas that are much more expensive to serve, such as rural areas, since the cost to serve these customers would no longer be spread amongst all customers.

Municipalization is not the solution to PG&E's safety problems, could negatively impact safety, and poses substantial risks and harms for cities, the State, workers, ratepayers and wildfire victims. We strongly urge the Commission to reject municipalization as an alternative to the current PG&E.

B. There is No Showing that Making PG&E "Wires-Only" Would Improve Safety, Expanding the CCA Role Beyond Procurement is Not Legally Authorized and the CCA Proposal Amounts to Deregulation

To solve PG&E's safety problems, the CCAs (East Bay Community Energy, Peninsula Clean Energy Authority, Pioneer Community Energy, Silicon Valley Clean Energy, Sonoma Clean Power, Valley Clean Energy Alliance, City of San Jose and Marin Clean Energy), not surprisingly, propose limiting PG&E's role to "wires-only" and expanding the CCA role beyond electricity procurement to include all non-wires activities. But there is no showing that making PG&E "wires-only" and expanding the CCA role would lead to safer service. Furthermore, the CCA role is limited by statute to electricity procurement and since the CCAs claim that the Commission cannot regulate them, their proposal amounts to deregulation of the electricity sector.

The CCAs want PG&E to be "wires-only," eliminating PG&E energy procurement and generation and PG&E public benefit programs (e.g. using ratepayer dollars for transportation electrification), putting all non-wires activities in the hands of "local control." The CCAs go so far as to suggest that the Commission relieve itself from regulating all but "IOU electric and gas

infrastructure safety and costs" and leave the CCAs to "oversee" much of the electricity sector.[1] According to the CCAs:

> [m]inimal regulatory oversight makes sense when (1) there is a statutory compliance framework that clearly establishes standards that must be met (i.e., reliability or decarbonization) and (2) there is a directly democratic corporate governance structure in place at a local level. CCAs check both boxes, making duplicative state regulation costly, burdensome, inefficient, and unnecessary.[2]

The CCAs are wildly out of line. The CCAs neither tie their proposal to improving safety (although they nakedly claim that it will) nor cite to any authority for expanding the CCA role beyond electricity procurement.

The authority and obligations of CCAs are established in three sections of the Public Utilities Code: (1) section 366.2 establishes CCAs as providers of generation procurement activities on behalf of their customers; (2) section 380 establishes resource adequacy obligations for CCAs; and (3) section 454.51 establishes a CCA's right to self-procure for renewable energy integration. There is no other statutory authorization for CCAs to do ***anything*** else. Further, SB 350 authorized ratepayer dollars for IOU transportation electrification programs – ***not*** CCA transportation electrification programs. SB 350 states:

> The Commission…shall direct electrical corporations to file applications for programs and investments to accelerate widespread transportation electrification...The commission shall approve, or modify and approve, programs and investments in transportation electrification, including those that deploy charging infrastructure, via a reasonable cost recovery mechanism…[3]

[1] Joint CCAs Comments on Scoping Memo, p. 9.
[2] *Id*., pp. 9-10.
[3] Pub. Util. Code § 740.12(b).

There is no authority for CCAs using ratepayer dollars for transportation electrification programs or for CCAs to do anything other than electricity procurement. Giving more utility functions to CCAs is also bad policy since CCAs claim to be unregulated and want the electricity sector to be further deregulated. California already went down the electricity industry deregulation path and it proved to be a bad one.

The past has also shown electric resource planning and procurement must be a statewide coordinated effort, not one handed over to decentralized "local control." Prior to SB 350, each load serving entity procured renewable resources that it determined to be the least cost/best fit for the LSE's individual portfolio. LSEs were not required to procure resources that would be best for the overall system, nor was the Commission required to consider the overall system when approving procurement decisions. There was no system plan; system procurement was just the aggregation of individual decisions by individual LSEs. SB 350 fundamentally changed this procurement paradigm.

Now, the Commission must determine the procurement that is needed for "a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner."[4] Each LSE must submit an integrated resource plan that meets a set of criteria, including meeting GHG reduction targets, RPS requirements, system and

[4] Pub. Utilities Code §§ 454.41, 454.52.

local reliability, and minimizing local air pollution, all while minimizing impacts on ratepayers.

SB 350 explicitly recognized that the system plan may not be the plan that is the least cost for individual LSEs. Additional more expensive procurement may be required. In that case, the Commission "shall ensure that the costs are allocated in a fair and equitable manner to all customers consistent with 454.51, that there is no cost-shifting among customers of load-serving entities, and that community choice aggregators may self-provide renewable integration resources consistent with Section 454.51."[5]

In this new paradigm, there is a tension between the desire of individual LSEs to continue to procure the least expensive renewable resources (intermittent solar PV) and the needs of the system for "a diverse and balanced portfolio of resources." To address the risks of further fragmentation in electric resource planning and procurement, TURN recommends a centralized procurement authority.[6] CUE agrees.

Not only is there no authority for CCAs to take on additional obligations, and not only is it bad policy, but the Public Utilities Code is replete with specific, non-wires obligations for the IOUs. For example, section 399.13(a)(1) requires IOUs to prepare annual renewable energy procurement plans to satisfy their RPS obligations, including "[a]n assessment of annual or multilayer portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources

[5] *Id*. at § 454.52(c).
[6] TURN Comments on Scoping Memo, p. 17.

with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity."[7] IOUs' RPS obligations are found in section 399.15. Pursuant to section 2827.1, IOUs are required to pay a subsidy to Net Energy Metering participants to incentivize the installation of rooftop solar. Also, for example, section 2838.2 requires IOUs to propose programs and investments to accelerate utilization of distributed energy storage systems "to achieve ratepayer benefits, reduce dependence on petroleum, meet air quality standards, and reduce emissions of greenhouse gases."[8] Section 379.6 requires IOUs to provide incentives to increase utilization of distributed generation and energy storage systems (i.e. the SGIP program). Also, for example, section 399.20(f)(2) requires IOUs to collectively procure 250 MW of generating capacity from developers of bioenergy projects (i.e. the BioMAT program). Transportation electrification infrastructure is just one. There are dozens of programs mandated by the legislature and statutorily assigned to the IOUs. The Commission has no authority to eliminate or reassign these, and the CCAs have no authority to accept such an assignment.

Making PG&E "wires-only" is not the solution to PG&E's safety problems. Expanding the role of CCAs beyond electricity procurement is not legally authorized and amounts to deregulation of the electricity industry. We strongly urge the Commission to reject the CCAs' proposal.

[7] *See* Pub. Util. Code § 399.13(a)(5)(A).
[8] Pub. Util. Code § 2838.2(b).

IV. OTHER PROPOSALS

A. Inverse Condemnation with Strict Liability Reform and Socializing Costs of Wildfires

TURN notes that the Commission "should acknowledge that wildfire liability costs could affect any potential alternative electric service provider, as long as utilities can be held strictly liable for property damage cause by their facilities irrespective of negligence."[9] CUE agrees. TURN also points out that:

> it is simply impossible to eliminate all risk that utility facilities will cause wildfires, even where the utility acts reasonably and complies with all laws and regulations. The Commission should recognize the risk in considering the ability of the potential successors to PG&E to meet financial challenges posed by large catastrophic events such as earthquakes and wildfires.[10]

CUE agrees and adds that for utilities – whether IOUs or POUs – to be financially viable and able to provide safe service, the State's inverse condemnation with strict liability law must be reformed.

Utility creditworthiness is a foundational requirement to ensure that the grid is maintained so that it can provide safe service. It is also foundational for California to implement many of its important decarbonization and environmental policies. The doctrine of inverse condemnation with strict liability for damages regardless of fault threatens the financial viability of utilities and is not a sustainable model.

TURN also suggests that "California find an alternative way to spread costs and risks associated with wildfires."[11] CUE agrees and supports PG&E's proposal

[9] *Id*., p. 19.
[10] *Id*., p. 22.
[11] *Id.*

that the "Commission work with the Legislature to develop a state insurance program for wildfire risk" to "provide fast and certain compensation for those affected by all wildfires" and "permit stable, reliable, and affordable service to high-risk areas."[12]

B. Market for Grid Services at the Distribution Level

Silicon Valley Clean Energy proposes creating a market for grid services at the distribution level.[13] This is an interesting argument, but admittedly is about improved forecasting of distributed energy resources generation,[14] not safety. Silicon Valley Clean Energy filed its proposal in the wrong docket.

V. CONCLUSION

This phase of the OII is about exploring alternatives to PG&E's current management and operational structures to provide ***safer*** electric and gas service. The POUs suggest municipalization as the answer, while the CCAs suggest making PG&E "wires-only" and expanding the role of CCAs beyond electricity procurement. The POUs and CCAs make no showing that their proposals would result in ***safer*** service. Furthermore, expanding the role of CCAs is not legally authorized and amounts to deregulation of the electricity industry.

Dated: February 28, 2019 Respectfully submitted,

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[12] PG&E's Comments on Scoping Memo, p. 37.
[13] Silicon Valley Clean Energy Comments on Scoping Memo, pp. 4-5.
[14] *Id.*, p. 5.

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