

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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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.

Investigation 15-08-019
(Filed August 27, 2015)

**REPLY COMMENTS OF EAST BAY COMMUNITY ENERGY, MARIN CLEAN
ENERGY, MONTEREY BAY COMMUNITY POWER, PENINSULA CLEAN ENERGY
AUTHORITY, PIONEER COMMUNITY ENERGY, CITY OF SAN JOSE, SILICON
VALLEY CLEAN ENERGY, SONOMA CLEAN POWER, AND VALLEY CLEAN
ENERGY ALLIANCE**

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February 28, 2019

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VALLEY CLEAN ENERGY, SONOMA CLEAN POWER, AND VALLEY CLEAN
ENERGY ALLIANCE**

Pursuant to the Assigned Commissioner's Scoping Memo and Ruling dated December 21, 2018 and amended January 22, 2019¹ (the "ACR"), East Bay Community Energy, Marin Clean Energy, Monterey Bay Community Power, Peninsula Clean Energy Authority, Pioneer Community Energy, the City of San José on behalf of San José Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy Alliance (collectively, the "Joint CCAs") respectfully submit the following comments. Marin Clean Energy and Monterey Bay Community Power submitted separate opening comments but join in this reply.²

The Joint CCAs are all Community Choice Aggregators ("CCAs") based in Northern California and serving PG&E's customers. The Joint CCAs consist of not-for-profit public agencies operating either as joint power authorities or, in the case of San José Clean Energy, as

¹ Pursuant to the Presiding Officer's January 22, 2019, E-MAIL Ruling Granting Extension of Time, these comments are timely filed.

² Silicon Valley Clean Energy and the City of San José submitted separate opening comments as well but also joined the Joint CCA opening comments.

part of the municipal government.³ The Joint CCAs appreciate the opportunity to respond to parties' opening comments regarding Pacific Gas & Electric's ("PG&E") safety culture and future.

I. SUMMARY OF JOINT CCA REPLY COMMENTS

The common thread across party opening comments is that the status quo is untenable. Even PG&E admits it has not lived up to its responsibility to "design, build, maintain, and operate its energy systems to keep customers and communities safe."⁴ Party comments, including PG&E's own, show that the question before the Commission is what, not whether, massive structural changes to PG&E's businesses are in order. PG&E itself is inviting exploration of reorganization on a scale that would have been inconceivable just a year ago. The Joint CCAs acknowledge that many of the issues being addressed in this phase of the proceeding are beyond what can feasibly be resolved through a single round of comments and replies at a single state agency. Yet, there is unprecedented potential in this proceeding to engage these issues and move towards resolution that can facilitate a safer, cost-effective, reliable, and decarbonized energy system in California.

The Joint CCAs are uniquely situated to promote safer electricity service in California. To that end, the Joint CCAs put forward several proposals in their opening comments for a safer California electricity system:

- Remove PG&E from the retail and generation businesses, thereby allowing PG&E (or its successor) to concentrate on the safe operation of its electric transmission and distribution systems.

³ San José Clean Energy is the City of San José's CCA program, which is administered by the San José Community Energy Department.

⁴ PG&E Opening Comments, page 1.

- Put programs such as demand response, energy efficiency and transportation electrification under local control, again to allow the “wires” company to focus on safe operation.
- Facilitate community control of retail generation services through a variety of local governance models.

In these reply comments, the Joint CCAs respond to parties’ opening comments on select issues, as follows:

- Separating PG&E’s electric and gas businesses warrants further discussion in this proceeding so that parties and the Commission can fully understand what steps would be necessary to complete such a separation and the associated pros and cons.
- Removing PG&E from the retail and generation businesses and concentrating PG&E’s attention and investments on its electric transmission and distribution businesses is supported by numerous parties and should be a focus of this proceeding going forward.
- Managing PG&E’s distribution system as a transparent, neutral, open-access platform can improve safety outcomes and better facilitate the achievement of State policy goals.
- Facilitating increased community control of retail and generation services is broadly supported by opening comments and an important part of improving PG&E’s safety outcomes.
- The Commission should focus on overseeing PG&E’s divestment of its current energy portfolio of utility-owned generation and third-party contracts to the extent practicable.

II. JOINT CCA RESPONSES TO PARTIES’ OPENING COMMENTS

With this reply, the Joint CCAs identify issues that would benefit from further exploration in this proceeding, as well as issues that will need to be resolved in other venues. However, given PG&E’s size, safety failures, and bankruptcy filing, the State government is going to have to coordinate across multiple levels to ensure Northern Californians receive safe, reliable, cost-effective, and decarbonized electricity service consistent with State and local policy goals.

A. Separating PG&E's electric and gas businesses warrants further consideration.

PG&E invites consideration of separating its electric and gas businesses. Without formally taking a position on whether that is ultimately advisable, PG&E identifies several potential benefits from such a separation. Most importantly, PG&E states: "The separation of PG&E's gas operations from its electric operations has the potential to reduce the total risks managed by a single entity."⁵ According to PG&E, "[t]his could increase operational focus by each entity and improve the development of each entity's safety management system."⁶ PG&E also opines that stand-alone gas and electric entities "likely would be of sufficient scale to continue to respond to emergencies and would have sufficient expertise in the compliance and risk management functions."⁷ Marin Clean Energy reaches a similar conclusion: "a complete separation of PG&E into independently operated gas and electric entities would be a fundamental first step towards improving PG&E's operational scale and scope in order for PG&E to better focus on safe, reliable and economic provision of utility service to customers."⁸

The Joint CCAs believe the pros and cons of a gas/electric split warrant further consideration. The Commission and parties should also fully explore the steps necessary to complete such a separation. PG&E notes that separating its gas and electric operations "could increase rates".⁹ However, PG&E does not provide an assessment of the potential rate increases. Although PG&E suggests that one-time and ongoing costs may be able to be mitigated, the

⁵ PG&E Opening Comments, page 20.

⁶ *Id.*

⁷ *Id.*, page 21.

⁸ Marin Clean Energy ("MCE") Opening Comments, pages 4-5.

⁹ PG&E Opening Comments, page 21.

mechanism PG&E proposes for doing so would require separate, regulated electric and gas businesses to be constituted under a single, unregulated holding company.¹⁰

The Joint CCAs do not take a position on PG&E's hypothesized structure for separating its electric and gas businesses under a single, non-regulated holding company, although the Joint CCAs agree with TURN that the "the Commission needs to have the resources to *ensure compliance* with the standards its sets for PG&E's performance, which will require far greater oversight over PG&E's operations going forward."¹¹

In sum, separating PG&E's gas and electric businesses would benefit from further discussion in this proceeding, with a focus on: the costs and benefits of the various options for separating PG&E's electric and gas businesses, what corporate structure lends itself to a necessary level of Commission oversight, and the associated safety benefits of each alternative.

B. Numerous parties support focusing PG&E's attention and investments on its electric transmission and distribution businesses. This outcome should be a focus of this proceeding going forward.

PG&E is currently responsible for managing a variety of unique risks associated with its electricity business, including risks associated with power generation, electric transmission, distribution infrastructure, and retail energy supply. According to PG&E's opening comments, "the potential benefit of a wires-only company would be that, by reducing the total number of risks managed by PG&E, it could lead to better management of the remaining risks."¹²

Numerous parties, including Marin Clean Energy and Monterey Bay Clean Power, who both join in this reply, support focusing PG&E's attention and investments on its transmission and distribution businesses as a means to improve the safety of these systems. According to

¹⁰ *Id.*, pages 21-22.

¹¹ TURN Opening Comments, page 26 (*italics* in original).

¹² PG&E Opening Comments, page 34.

Marin Clean Energy, a wires-only company could “focus specifically on the risks and needs of the electric grid and make the necessary investments to address these needs and risks.”¹³ Monterey Bay Clean Power agrees: “It is undeniable that, by removing peripheral distractions, like provision of generation services, PG&E will be more focused on operating and maintaining its delivery system in a manner that enhances safety, and avoids or significantly mitigates the destructive impact of safety errors.”¹⁴ Shell Energy North America proposes that “[t]he Commission should begin immediately to take the steps necessary to direct PG&E to separate its gas and electric procurement from its gas and electric transmission/distribution operations.”¹⁵

The Joint CCAs agree that removing PG&E from the retail and generation businesses and concentrating PG&E’s attention and investments on its electric transmission and distribution businesses is critical to improving PG&E’s safety outcomes, and therefore should be a focus of this proceeding. Given PG&E’s status as a decoupled utility that receives the majority of its energy from third-party generators, transitioning PG&E out of providing retail service will facilitate an increased emphasis on safety management, with limited impacts to PG&E’s workforce or financial stability. To achieve this outcome, the Commission should accelerate the already ongoing migration of PG&E’s bundled retail customers to one or more CCAs. In addition to the Joint CCAs, the City and County of San Francisco and South San Joaquin Irrigation District also support transitioning some or all of PG&E’s retail sales activities to one or more public entities.¹⁶

¹³ MCE Opening Comments, page 9.

¹⁴ Monterey Bay Community Power Opening Comments, page 4.

¹⁵ Shell Energy North America Opening Comments, page 5.

¹⁶ CCSF Opening Comments page 2; South San Joaquin Irrigation District (“SSJID”) Opening Comments, page 1.

Under the Joint CCA proposal, where a CCA is in place, the CCA could become the principal energy provider for customers within the CCA footprint. For customers not within a CCA's footprint, a new or existing public agency could be responsible for procuring energy and capacity on their behalf. This entity would be explicitly directed to support communities in joining existing, or forming new, CCAs. Provision could be made for phasing this entity out as locally based CCAs are established. While the public agency is being developed, PG&E should continue to provide transitional generation services to customers not served by a CCA.

C. The Joint CCAs support other parties' proposals to operate PG&E's distribution assets as a transparent, neutral and open-access platform.

Several parties propose that PG&E's distribution system should be operated as a transparent, neutral, open-access platform, similar to its transmission system, with the goal of supporting the deployment of distributed energy resources, transportation and building electrification, and other demand-side management strategies that further California's climate goals. For example, the Center for Climate Protection proposes that the Commission reform PG&E's distribution function "to align its operations, business model and incentives with state policy goals for decarbonization and resilience, and to enable all residents in PG&E's service area to realize maximum benefits from the proliferation of distributed energy resources ("DER"), a phenomenon that is occurring not only in California but worldwide."¹⁷ It proposes that the distribution system should be operated "to be an effective collaborator with local governments and their relevant agencies to develop and implement electrification and resilience-related energy projects that address community needs in alignment with power system benefits."¹⁸ Marin Clean Energy supports these goals and states that "[t]his coordination is especially crucial as wildfire

¹⁷ Center for Climate Protection Opening Comments, pages 5-6.

¹⁸ *Id.*, page 8.

risks increase as a result of climate change and non-IOU load-serving entities (“LSEs”) and other service providers take on more substantial roles in the energy sector.”¹⁹

Marin Clean Energy specifically proposes that PG&E’s distribution system should:

- Become “plug and play” to address generation in its myriad forms, including DERs, storage and other applications;
- Provide effective data, metering and billing operations, including the ability to provide real-time data access; and
- Provide transparent load and distribution level data in order to ensure all entities are investing appropriately in a safe and reliable grid and generation supply.²⁰

Silicon Valley Clean Energy’s opening comments emphasize the role that enhanced overall transparency has to play in upholding public safety: “Transparency enhances our ability to catch potential problems before they materialize, especially in a system changing as rapidly as California’s is.”²¹ The Joint CCAs agree with parties’ opening comments proposing to more effectively manage PG&E’s distribution system and encourage the Commission to further explore these proposals in this proceeding.

D. Parties broadly support providing communities the opportunity and authority to proactively pursue full community control of retail and generation services, as an important part of improving PG&E’s safety outcomes.

Numerous parties submitted opening comments supporting an expansion of public agencies as a means to improve safety while ensuring that all customers continue to have access to safe, reliable, clean, cost-effective energy. In addition to the Joint CCAs’ opening comments, these parties include American Public Power Association,²² City and County of San Francisco,²³

¹⁹ MCE Opening Comments, page 12.

²⁰ MCE Opening Comments, page 11.

²¹ Silicon Valley Clean Energy (“SVCE”) Opening Comments, pages 8-9.

²² American Public Power Association (“APPA”) Opening Comments, page 1 (although American Public Power Association takes no position regarding what specific actions the Commission should take, APPA highlights the significant safety, reliability, and other benefits of publicly owned electric utilities).

the City of San José on behalf of San José Clean Energy,²⁴ EMF Safety Network,²⁵ Marin Clean Energy,²⁶ Monterey Bay Community Power,²⁷ Silicon Valley Clean Energy,²⁸ and South San Joaquin Irrigation District²⁹.

Given the weight of these comments, CCAs and municipal utilities should be viewed as an essential part of the solution to improving the safety of PG&E's operations.³⁰ Local agencies have a long history of providing reliable, cost-effective electricity in their communities. CCAs, which currently serve the vast majority of retail customers in their communities, are uniquely positioned to move quickly to serve the remaining bundled customers within their communities. As previously discussed, to assist PG&E's orderly exit from retail service, CCAs should be empowered to absorb PG&E's bundled customers and serve as the provider-of-last-resort within the CCAs' service territories. This addresses the question PG&E raised in opening comments as to who will take over its responsibilities as provider-of-last-resort. The Joint CCAs acknowledge that this outcome will require statutory amendments and regulatory clarification of the specific obligations of a provider-of-last-resort. However, prioritizing such discussions and amendments will provide the clarity necessary to facilitate PG&E's transition out of retail and generation services and expedite PG&E's refocus on the safety of its transmission and distribution businesses. This clarity will ensure that all customers continue to have access to safe, reliable, clean, affordable energy. It will also support CCAs in their efforts to invest in new renewable

²³ CCSF Opening Comments, pages 2, 13-16.

²⁴ City of San José Opening Comments, page 3.

²⁵ EMF Safety Network Opening Comments, page 2 (EMF takes the position that "[i]f PG&E is divided up, every city and county in PG&E's service territory should be given the chance to become their own publicly owned utility").

²⁶ MCE Opening Comments, page 8.

²⁷ Monterey Bay Community Power Opening Comments, pages 1-6.

²⁸ SVCE Opening Comments, pages 1-2.

²⁹ SSJID Opening Comments, pages 1-10.

³⁰ San José states in its opening comments that it "strongly supports the Joint CCAs' request that the Commission eliminate barriers for communities that desire to pursue full municipalization." Page 4.

development, transportation electrification, and other projects that advance California's climate goals.

E. The Commission should focus on overseeing PG&E's divestment of its current energy portfolio of utility-owned generation and third-party contracts to the extent practicable.

PG&E raises the question of how to divest its generation assets if it is no longer in the retail sales business. PG&E states:

Implementing [the proposal for PG&E to be a 'wires-only company'] would pose several challenges and take considerable time to implement. For example, certain generation assets of PG&E, such as the [Diablo Canyon Power Plant] and its decommissioning trust, may not be salable. PG&E also owns the Humboldt Bay Generating Station, which is a reliability asset that is effectively bundled with transmission assets. Additionally, since becoming a "wires only" company would require that PG&E no longer have an obligation to provide energy supply as the provider of last resort, it would need to be relieved of all going-forward procurement responsibilities, and transition its existing contracts.³¹

The Joint CCAs agree that, as a "wires-only" electric utility, PG&E will need to divest its current energy portfolio of utility-owned generation and third-party contracts. To accomplish this, the Commission should engage in an orderly process to facilitate PG&E divestiture of these resources, possibly in coordination with State, regional, and local agencies that wish to acquire such resources. For resources for which divestment is impractical, the Commission should direct PG&E to auction or otherwise resell the energy, capacity, environmental, and other resource attributes in a manner which maximizes resource value (possibly in Phase 2 of the Power Charge Indifference Adjustment ("PCIA") docket, R.17-06-026, where portfolio optimization is under discussion pursuant to D.18-10-019). For resources which are divested or resold below cost, PG&E should recover stranded costs through a transitional charge which applies to all

³¹ PG&E Opening Comments, page 35.

customers. Again, this may be best addressed in the PCIA docket, R.17-06-026, where stranded cost recovery is already being addressed.

The Joint CCAs appreciate that divestiture may be complicated by a number of factors, including that: (i) the entities that may be interested in stepping into PG&E's shoes as the buyers under these contracts do not know the terms of these contracts, given existing Commission confidentiality rules; and (ii) these contracts are currently the subject of both the Federal Energy Regulatory Commission and federal bankruptcy court proceedings.

Although the Commission's options to resolve these issues may raise significant legal complexities, the Joint CCAs believe these issues are worth grappling with in order to remove PG&E from the retail and generation businesses and concentrate PG&E's attention and investments on its electric transmission and distribution businesses. However, given the limitations noted above, the Joint CCAs do not believe PG&E's wholesale contracts should be a focus of this proceeding.

III. CONCLUSION

The Joint CCAs appreciate the opportunity to respond to parties' opening comments and look forward to working with the Commission and parties in this proceeding to identify the best path forward for providing Northern California with safe and reliable electric and gas service at just and reasonable rates, in light of PG&E's safety failures and recent bankruptcy filing.

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