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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation and Ordering Pacific Gas and Electric Company to Appear and Show Cause Why It Should Not Be Sanctioned for Violations of Article 8 and Rule 1.1 of the Rules of Practice and Procedure and Public Utilities Code Sections 1701.2 and 1701.3.	Investigation 15-11-015 (Filed November 23, 2015)

RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY, THE CITY OF SAN BRUNO, THE CITY OF SAN CARLOS, THE OFFICE OF RATEPAYER ADVOCATES, THE SAFETY AND ENFORCEMENT DIVISION, AND THE UTILITY REFORM NETWORK TO MOTION OF SHELL ENERGY NORTH AMERICA (US), L.P. TO BECOME A PARTY

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I. INTRODUCTION

Pursuant to Rules 1.4 and 11.1, Pacific Gas and Electric Company ("PG&E"), the City of San Bruno, the City of San Carlos, the Office of Ratepayer Advocates, the Safety and Enforcement Division, and The Utility Reform Network (collectively, the "Parties") file their Response to the Motion of Shell Energy North America (US), L.P. to Become a Party.

This Order Instituting Investigation ("OII") began nearly 17 months ago, in November 2015. Each of the current Parties sought or had party status by January 19, 2016.[1] Since then, the Parties have been diligently working to resolve the issues in this OII, including the communications to be included, protocols for conducting diligence on certain communications, stipulations, and a joint record. After four months of settlement negotiations, the Parties have reached an agreement. Now, after the Parties have developed and submitted a proposal for addressing all issues in this OII, Shell Energy North America (US), L.P. ("Shell") has filed its Motion to Become a Party (the "Motion"), despite the fact that it has another, more appropriate,

[1] If Shell had wanted to participate as a party with respect to the ex parte issues in this OII, it could have moved for party status before the meet and confer process commenced, in January 2016, as the other Non-PG&E Parties did. (PG&E was a party from the beginning by virtue of being the respondent.)

forum in which to raise its concerns regarding how the allocation of the settlement funds to customers will affect Shell.

The Settlement Agreement provides that the allocation of foregone revenues, described below, will be implemented through PG&E's Annual Gas True-Up Advice Letter (the "Advice Letter"). Thus, there are two options for hearing any comments Shell has on the allocation:

1. The Commission can deny Shell's request for party status, and Shell, and any other interested parties, can raise their questions regarding allocation in the Advice Letter process pursuant to General Order 96-B; or
2. The Commission can grant Shell party status, but narrowly limit Shell's participation in this OII to commenting upon the issue of allocation, not the merits of the settlement.

In either event, Shell should not be permitted to join as a party at this late date to comment on the "merits" of the Settlement Agreement, delaying or derailing the resolution of this OII.

II. BACKGROUND

A. History of the Ex Parte OII

In April 2015, as part of the culmination of the San Bruno OIIs, the Commission determined that ex parte allegations raised by the City of San Bruno in those proceedings, and several ex parte communications self-reported by PG&E, should be dealt with in a separate proceeding, and on November 23, 2015, the Commission instituted this proceeding to do so.[2] On January 8, 2016, the Commission directed the Parties "to engage in a substantive and detailed meet and confer process to develop an efficient procedural schedule proposal to resolve the issues identified in the Commission's decision."[3]

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[2] *See Order Instituting Investigation and Ordering Pacific Gas and Electric Company to Appear and Show Cause Why It Should Not Be Sanctioned for Violations of Article 8 and Rule 1.1 of the Rules of Practice and Procedure and Public Utilities Code Sections 1701.2 and 1701.3*, dated November 19, 2015.

[3] *Assigned Commissioner and Administrative Law Judge's Ruling Directing Parties to Engage in Meet and Confer Process and Setting Prehearing Conference*, dated January 8, 2016.

In response to this decision, the Parties engaged in a lengthy and productive meet and confer process beginning in January 2016, and submitted several status reports to the Commission concerning their efforts. As a result of this process, the Parties proposed, and the Commission agreed to, the scope of communications to be addressed in the proceeding and the processes to be used to develop an appropriate record.[4] After working diligently to complete the lengthy diligence and stipulation process, the Parties engaged in multiple settlement discussions in person, by telephone, and by email from November 2016 through March 2017, culminating in the March 27, 2017 Settlement Agreement, and a Joint Motion to approve the Settlement Agreement.

B. The Foregone Collections

The bulk of the financial remedy in the Settlement Agreement is the $63.5 million in foregone GT&S collections—to be implemented as a $31.75 million reduction in 2018 and 2019 revenue. Contrary to Shell's argument, there are not "numerous questions about how (and in what forum) the agreed upon GT&S revenue requirement reduction will be implemented and allocated."[5] The Settlement Agreement provides that the foregone collections will be implemented through PG&E's Annual Gas True-Up Advice Letter.[6] While the Settlement Agreement does not specify the allocation methodology to be applied by PG&E, the Parties here clarify their intention that PG&E reflect this reduction in end-use rates in the Advice Letter that will be filed this November, using an approach that was approved by the Commission in a different context in PG&E's 2015 GT&S Rate Case.[7]

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[4] *Assigned Commissioner and Administrative Law Judge's Joint Ruling Revising Preliminary Scoping Memorandum*, dated July 12, 2016.

[5] Shell's Response in Opposition to Joint Motion for Waiver of Comment Period ("Shell Opposition") at p. 2.

[6] Settlement Agreement at Section 2.2.B.

[7] In the 2015 GT&S Rate Case, the Commission allowed PG&E to track the difference between revenues collected through rates in place at the time, and revenues ultimately authorized by the Commission in a Gas Transmission and Storage Memorandum Account ("GTSMA"), which was undercollected due to a delay in the issuance of the 2015 GT&S Rate Case decision. *See Decision Authorizing Pacific Gas and*

The steps to reflect the revenue requirement reduction in end-use rates are as follows:

1. The share of the revenue requirement is determined for each of the following functions, based on each function's share of the total GT&S revenue requirement for 2018, as determined in the 2015 GT&S Rate Case: Core Backbone, Core Local Transmission, Core Storage, Noncore Backbone, Noncore Local Transmission, Noncore Storage, Customer Access Charges, and Line 401 G-XF contracts.
2. The resulting percentages of the revenue requirement by function are flowed through on an equal-cents-per-therm basis to calculate end-use transportation rates applicable for both Core bundled customers and Core Transport Only customers (*i.e.*, Core customers that purchase gas from a Core Transport Agent, rather than PG&E), and Noncore Transportation Rates.[8]

The Commission previously found that this approach "provide[d] for greater transparency of the undercollection in rates" and "since the amortization period will extend beyond the current Rate Case Period, having the GTSMA undercollection as a separate rate component ensure[d] that any outstanding amounts are not included in future incremental revenue requirement requests."[9]

Here, the Parties' proposal to use PG&E's Annual Gas True-Up Advice Letter and reflect the $63.5 million revenue reduction into these same end-use components in 2018 and 2019 is intended to capture the same benefits. The reduction can be applied to the 2018 rates, which have already been determined, and to the 2019 rates, which will be set in PG&E's upcoming GT&S Rate Case.

Electric Company's 2015-2018 Revenue Requirement for Gas Transmission and Storage Services and Adopting Interim Rates, D.16-06-056, pp. 406-407, dated July 1, 2016 ("2015 GT&S Rate Decision").

[8] Under the Parties' intended approach, an average residential non-CARE customer using 34 therms per month would see a bill decrease in January 2018 from $54.18 to $53.96, or 22 cents.

[9] 2015 GT&S Rate Decision, p. 409.

C. Shell's Position

On April 3, 2017—nearly a year and a half after the OII was instituted—Shell filed the Motion, seeking to intervene as a party. Shell filed its Response in Opposition to Joint Motion for Waiver of Comment Period on the same date, repeating many of the same arguments it put forth in the Motion. In these pleadings, Shell claims to have a "direct interest" in the proposed Settlement Agreement by virtue of its past participation in PG&E's GT&S Rate Case.[10]

III. SHELL'S REQUESTED PARTY STATUS SHOULD BE DENIED OR LIMITED

A. Commission Rule 1.4

Rule 1.4(b) of the Commission's Rules of Practice and Procedure describes the requirements for becoming a party to a proceeding. Specifically, Rule 1.4(b)(2) requires that the proposed party "state the factual and legal contentions that the person intends to make and show that the contentions will be reasonably pertinent to the issues already presented." Rule 1.4(c) further permits "[t]he assigned Administrative Law Judge [to], where circumstances warrant, deny party status or limit the degree to which a party may participate in the proceeding." This rule "is intended to limit party status or participation to persons with a legitimate interest and intention to participate in a proceeding and to avoid the inappropriate expansion of the proceeding's scope."[11]

B. Shell's Proposed Contentions Should Be Addressed in the Advice Letter Process, Instead of in This OII

Shell has no "reasonably pertinent" contentions that need to be raised in this proceeding. Rather, there is a more appropriate forum in which Shell can express these concerns. As explained above, the allocation of the foregone revenues will be subject to the Advice Letter process, although it is the intent of the Parties that PG&E shall propose an allocation consistent with one recently adopted in PG&E's 2015 GT&S proceeding.

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[10] Shell Motion at pp. 4-5.

[11] *OIR to Implement Senate Bill No. 1488 Relating to Confidentiality of Information*, 2011 Cal. PUC LEXIS 389, at *21 (July 14, 2011).

Indeed, the vast majority of Shell's Motion discusses alleged issues related to the foregone revenues and barely references the resolution of the ex parte allegations—the real purpose of this OII. In some sections, Shell admits that its interest is limited to "how the agreed upon GT&S revenue requirement reduction will be implemented."[12] This particular interest has nothing to do with the ex parte issues, the vast majority of the terms in the Settlement Agreement, or the "merits" of any larger resolution in this matter. [13] The focus of this OII should not be diverted from its original purpose at this late stage, where Shell has another forum in which to comment on any allocation issues. Such an expansion is precisely what Rule 1.4 is intended to prevent. Shell's Motion should be denied, and Shell's concerns regarding allocation of the foregone revenues described above should be heard in the Advice Letter process.

C. Even If Shell Is Permitted to Intervene, Its Participation Should Be Strictly Limited To The Allocation Issues

Shell should not be permitted to intervene. But if it is, its participation should be narrowly circumscribed. In its Motion, Shell includes broad language, suggesting that it may not intend to limit its comments to the allocation of foregone revenues, but instead seek to comment on the "details (and the merits)" of the proposed Settlement Agreement and the "agreed-upon settlement terms."[14] Such a broad scope of involvement is inappropriate, and if Shell is granted party status, that status should be narrowly limited to allocation issues.

As discussed above, Shell has admitted that its primary interest is actually limited to "how the agreed upon GT&S revenue requirement reduction will be implemented."[15] After

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[12] Shell Motion at p. 4.

[13] Shell also overstates its interest by claiming that the proposed Settlement Agreement "modifies the Commission's December 2016 decision in A.13-12-012." (Shell Motion at p. 5.) The suggestion is that the parties' interests as resolved in that proceeding will be altered or harmed in some way. This is incorrect. The ratemaking remedy will yield only decreases on rates and not increases. Nor do Shell's conspiracy theories fare any better. Shell insinuates that the $63.5 million in foregone revenues is somehow connected to "the Commission's 'sequencing' determination in D.16-12-010." (Shell Opposition at p. 4.) There is no factual basis for this contention, and any similarity is purely coincidental.

[14] Shell Motion at pp. 1-2.

[15] Shell Motion at p. 4.

failing to seek party status for more than a year, Shell should not be allowed to use this limited interest to intervene concerning the "merits" of other issues resolved in the Settlement Agreement. Permitting an entity with such a limited interest to have an unchecked role in the proceedings, especially at this late stage, opens the floodgates to tangential and secondary issues. Indeed, Shell suggests that "*[a]ll* parties [to the PG&E GT&S rate case] should be permitted to comment on the Settlement Motion."[16] This approach can only result in unnecessary delay, undermining the hard work and progress of the Parties and jeopardizing an efficient and appropriate resolution of this matter.

IV. CONCLUSION

In the interest of ensuring a timely and efficient resolution of this matter, the Parties respectfully request that the Commission decline to permit Shell to intervene as a party and instead direct Shell to raise its questions regarding allocation when PG&E submits its Annual Gas True-Up Advice Letter in November (assuming the Commission adopts the Settlement Agreement). In the alternative, the Commission could narrowly limit Shell's involvement in this OII to the allocation of foregone revenues.

Respectfully Submitted on behalf of the Parties,

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[16] Shell Opposition at p. 5 (emphasis added).