

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



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Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017.
(U 39 M).

Application 15-09-001
(Filed September 1, 2015)

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK
ON THE PROPOSED DECISION OF ALJ COOKE
DENYING THE UTILITY REFORM NETWORK'S
PETITION FOR MODIFICATION OF DECISION 19-02-019**

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SUMMARY OF RECOMMENDATIONS

1. The Commission should modify the PD to clarify the nature of TURN’s work relating to Diablo Canyon “license renewal” and properly distinguish it from the issues that were deemed outside the scope of the proceeding.
2. The Commission should modify the PD to recognize that TURN’s Diablo Canyon “policy” testimony resulted in a substantial contribution to the final decision.
3. The Commission should modify the PD to remove confusing language regarding the degree of specificity expected by the Commission in NOIs.

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**OPENING COMMENTS OF THE UTILITY REFORM NETWORK
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Pursuant to Rule 14.3 of the Commission Rules of Practice and Procedure, The Utility Reform Network (TURN) submits these opening comments on the January 1, 2020 Proposed Decision (PD) of ALJ Cooke. The PD denies TURN's Petition for Modification (PFM) of D.19-02-019, which reduced an award of compensation by \$6,098.75 to reflect work on Diablo Canyon Power Plant (DCPP) license renewal. TURN respectfully recommends that the PD be modified to correct factual inaccuracies that fail to describe the issues addressed by TURN in the proceeding and the ways in which TURN's participation led to a substantial contribution to D.17-05-013. Additionally, TURN recommends that the PD be modified to avoid the implication that the Commission expects or requires intervenors to identify in a notice of intent to claim compensation every sub-issue within a larger issue area they may address in the proceeding.

I. THE PD INCORRECTLY CHARACTERIZES TURN'S PARTICIPATION ON THE ISSUE OF "LICENSE RENEWAL"

The Proposed Decision appears to confuse the issue of PG&E's spending on its license renewal application to the US Nuclear Regulatory Commission with ongoing capital and expense spending at DCPP. The PD leans heavily on its finding that the "the issue of Diablo Canyon license renewal was not in the scope of this proceeding."¹ Moreover, the PD explains that the Commission "did not consider, discuss or 'decide' this issue in D.17-05-013. Therefore, TURN cannot identify any "substantial contribution" for which

¹ PD, page 8.

it should be compensated.”²

TURN accepts responsibility for any confusion regarding the description of its participation on issues relating to Diablo Canyon. TURN’s PFM references the phrase “license renewal” to indicate the scope of work that was deemed ineligible for full compensation in D.19-02-019. Given this description, TURN can see why the Proposed Decision could conclude that the work addressed an issue not properly within the scope of A.15-09-001. PG&E’s testimony explains that the GRC application “does not include any costs associated with the License Renewal application process and does not assume operations of DCPD beyond the current license life for DCPD.”³

However, TURN’s testimony did not make any specific recommendations relating to PG&E’s spending on the license renewal application. TURN’s recommendations focused on the need to assess the reasonableness of PG&E’s ongoing capital and expense spending on DCPD, and specifically of those investments intended to support extended plant operation beyond the current NRC license period. TURN explained the “growing divergence between the capital and expense forecasts presented in A.10-01-022, recorded spending since 2011, and PG&E’s forecasts through 2019” presented in this GRC (with actual costs exceeding forecasts significantly).⁴ To provide the Commission and the public with more information with which to assess the reasonableness of DCPD spending,

² PD, page 9.

³ Ex. PG&E-24, page 1-10, 1-11.

⁴ Ex. TURN-6, page 8.

TURN sought a “long-term cost effectiveness analysis” as a condition of approving “continued spending on Diablo Canyon, including projects designed to permit extended operations under a renewed license”.⁵

In characterizing TURN’s testimony, the PD states that TURN recommended that the Commission “require PG&E to present a cost-effectiveness evaluation of license renewal for Diablo Canyon in the next GRC.”⁶ Indeed, this sentence appears in the summary of recommendations provided in the introduction to TURN witness Bill Marcus’s testimony.⁷ However, in the body of Mr. Marcus’s testimony, and specifically the DCPD “policy” testimony referenced in the PD, Mr. Marcus describes PG&E’s spending on license renewal but does not propose that the Commission take any actions with respect to that spending.⁸ TURN’s recommendation, as explained above, was that the Commission should require a long-term cost-effectiveness analysis for ongoing capital and expense spending proposed by PG&E in GRC proceedings.⁹ Assumptions about license renewal would obviously impact that analysis, as the number of years that any expenditure would provide benefit will depend on the remaining period of operation of DCPD.

⁵ Ex. TURN-6, pages 8-9.

⁶ PD, pages 2-3 (“TURN recommended in its testimony that the Commission require PG&E to present a cost-effectiveness evaluation of license renewal for Diablo Canyon in the next GRC and require any future spending on Diablo Canyon (after this GRC) to be accompanied by a long-term cost-effectiveness analysis.”).

⁷ Ex. TURN-6, page 3.

⁸ Ex. TURN-6, page 7.

⁹ Ex. TURN-6, pages 8-9.

The long-term cost-effectiveness analysis proposed by TURN was intended to assist the Commission in evaluating the reasonableness of ongoing capital and expense spending within GRC proceedings. TURN's PFM explains this work and provides citations to the record of the proceeding.¹⁰ One example of such spending was the proposed Unit 2 Stator Upgrade. As noted in TURN's prepared testimony, "PG&E's economic analysis of this project was based on the assumption of license renewal and extended plant operations."¹¹ The Commission awarded compensation for TURN's work on the Stator project in D.19-02-019.

Accordingly, TURN recommends that the Commission modify the PD to clarify that TURN's testimony addressed the reasonableness of ongoing capital and expense spending by PG&E, including its 2017 GRC forecasts, and the need for a long-term cost-effectiveness analysis to enable the Commission to "be confident that continued spending on Diablo Canyon, including projects designed to permit extended operations under a renewed license, will serve ratepayer interests."¹²

II. THE RECOMMENDATIONS CONTAINED IN TURN'S "POLICY" TESTIMONY RESULTED IN A SUBSTANTIAL CONTRIBUTION TO THE FINAL DECISION

The bulk of the DCPD "policy" testimony provided by TURN and addressed by the PD provided the basis for a proposed requirement that PG&E submit a long-term cost-

¹⁰ TURN PFM, pages 3-4.

¹¹ Ex. TURN-6, page 9.

¹² Ex. TURN-6, page 9.

effectiveness analysis to support the reasonableness of ongoing spending at Diablo Canyon.¹³ As noted above, TURN expressed concern about the accuracy and reasonableness of PG&E's forecasts of capital spending on DCPD in this GRC cycle, among other issues. The final settlement includes a provision that is directly responsive to this testimony. As explained in the joint motion for adoption of the settlement,

TURN proposed that PG&E provide a cost-effectiveness showing in the next GRC and A4NR proposed that PG&E file annual advice letters addressing the status of license renewal and providing certain analysis. Since PG&E has decided in the Joint Proposal not to proceed with license renewal, TURN and A4NR agreed [sic] no longer to pursue these requests. However, in the Settlement Agreement, PG&E has agreed to submit Tier 1 advice letters notifying the Commission of any material changes to the condition of Diablo Canyon that may affect the retirement date. In addition, PG&E will on an annual basis update its GRC forecast of planned capital improvements, projects and additions for Diablo Canyon as part of its proposal for implementation of the Joint Proposal.¹⁴

The settlement approved by the Commission in D.17-05-013 contains the provision relating to updates to the GRC forecast of planned capital improvements, projects and additions and therefore addressed the exact issues identified in TURN's testimony. In approving the Settlement, the Commission provided no indication that this provision was outside the scope of the proceeding.¹⁵ Although TURN acknowledges the overlap between A.15-09-001 and A.16-08-006, both the settlement and final Decision in A.15-09-001 adopt provisions that are responsive to TURN's "policy" testimony.

¹³ Ex. TURN-6, pages 4-9.

¹⁴ Joint motion for Adoption of Settlement, A.15-09-001, August 3, 2016, page 39 (Referencing Settlement Section 3.2.3.1.4).

¹⁵ D.17-05-013, page 155.

The fact remains that recommendations contained in TURN’s “policy” testimony were the cause of provisions being included in the adopted settlement. In approving the settlement, the Commission did not express any reservations that these provisions were outside the scope of the case. Given this, TURN recommends that the PD be modified to conclude that the hours devoted to that portion of TURN’s participation resulted in a substantial contribution.

III. THE PD CREATES CONFUSION SURROUNDING THE COMMISSION’S EXPECTATIONS AND REQUIREMENTS REGARDING THE SPECIFICITY WITH WHICH INTERVENORS MUST IDENTIFY ISSUES IN A NOTICE OF INTENT TO CLAIM COMPENSATION

In a footnote supporting the PD’s analysis of whether DCPD license renewal was in the scope of this GRC, the PD states, in pertinent part, as follows:

Furthermore, TURN’s November 30, 2015 Notice of Intent to Claim Compensation does not mention Diablo Canyon. *See*, Rule 17.1, “Notice of Intent to Claim Compensation section (c): “The Notice of intent shall identify all issues on which the intervenor intends to participate and seek compensation, and shall separately state the expected budget for participating on each issue.” Emphasis added.¹⁶

TURN recommends that the Commission remove this language to avoid the suggestion that the Commission either expects or requires intervenors to identify every possible “sub-issue” falling within an identified issue area that they might address in a proceeding when filing a Notice of Intent to Claim Compensation (NOI).

As a practical matter, such a requirement would be unreasonable at the early stage in proceedings when an NOI must be filed, and particularly so in GRCs, given the sheer

¹⁶ PD, page 10, footnote 16.

volume of issues and sub-issues presented. TURN's Notice of Intent identified 11 separate issue areas and estimated costs for each issue area. One of the explicitly identified issues was "energy supply".¹⁷ The issue of "energy supply", as defined in PG&E's application and contained in a 414 page volume of direct testimony, includes the following sub-issues: Energy Supply Operations Policy, Energy Supply Risk Management, Nuclear Operations Costs, Hydro Operations costs, Fossil and Other Generation Operations costs, Energy Procurement Administration Costs, Energy Supply Technology Programs, Energy Supply Ratemaking.¹⁸ TURN's NOI demonstrated an intention to participate in some or all of these topics by referencing the subject heading of "Energy Supply". Following discovery and TURN's detailed analysis of PG&E's Energy Supply requests, TURN provided prepared testimony addressing a number of issues within the definition of "energy supply" including hydroelectric generation, fossil and other generation, and nuclear operations (Diablo Canyon).¹⁹ At the time when TURN filed its NOI, TURN could have only guessed which sub-issues within Energy Supply it would address in testimony. TURN submits that requiring such conjecture about "sub-issue" coverage would not increase the usefulness of NOIs.

The PD's language about TURN's NOI is also confusing in light of the Commission's treatment of TURN's intervenor compensation claim in this proceeding in D.19-12-019. There the Commission awarded compensation for TURN's contributions relating to

¹⁷ TURN Notice of Intent to Claim Compensation, A.15-09-001, November 30, 2015, Section II(B).

¹⁸ Ex. PG&E-5 (Energy Supply).

¹⁹ Ex. TURN-6.

hydroelectric generation, fossil generation and Diablo Canyon.²⁰ The Decision does not identify any concern that the original NOI's reference to "Energy Supply" was inadequate because it failed to expressly list "hydroelectric generation", "fossil and other generation" or "nuclear operations".

To avoid any confusion, TURN recommends that the Commission remove the language quoted above from footnote 16 on page 10 of the PD.

IV. CONCLUSION

For the foregoing reasons, TURN recommends that the Commission modify the PD to reflect the factual corrections contained in these comments and remove the \$6,098.75 adjustment in D.19-02-019 for TURN's work associated with Diablo Canyon issues.

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Respectfully submitted,

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²⁰ D.19-02-019, pp. 12-13.

APPENDIX A
PROPOSED MODIFICATIONS TO FINDINGS OF FACT
AND CONCLUSIONS OF LAW

Revised Findings of Fact

1. The issue of Diablo Canyon license renewal was not an issue presented in PG&E's GRC application.
2. The issue of Diablo Canyon license renewal was not included in the scope of this proceeding and was not anticipated to be resolved by the Commission.
3. In D.17-05-013, the Commission did not order a review of PG&E's spending on Diablo Canyon license renewal activities.
4. TURN's testimony did not ask the Commission take specific actions relating to PG&E's efforts relating to Diablo Canyon license renewal. TURN proposed that PG&E be required to submit a long-term cost-effectiveness analysis in the General Rate Case to support the reasonableness of ongoing spending at Diablo Canyon.
5. In D.17-05-013, the Commission adopted a settlement that requires PG&E to annually update its General Rate Case forecast of planned capital improvements, projects and additions for Diablo Canyon. ~~did not order a review of the cost effectiveness of Diablo Canyon.~~

Revised Conclusions of Law

1. Rule 16.4 of the Commission's Rules of Practice and Procedure governs petitions for modification, which ask the Commission to make changes to an issued decision.
2. Pursuant to Rule 16.4(b), a petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed.
3. TURN ~~failed to~~ satisfied the requirements of Rule 16.4(b) because the factual allegations in its PFM are ~~not~~ supported with specific citations to the record in the proceeding or to matters that may be officially noticed.
4. The Commission's analysis in D.19-02-019 of TURN's request for compensation regarding Diablo Canyon license renewal is ~~not~~ contrary to the intervenor compensation statute because TURN ~~did not make~~ made a substantial contribution to D.17-05-013 on this issue.

5. The intervenor compensation statute does not provide that intervenors denied compensation for written testimony in one proceeding may then seek compensation for the same testimony in a different proceeding.

6. The petition for modification of D.19-02-019 filed by TURN on March 5, 2019 should be granted ~~denied~~.