

**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 No. 15-09-001  
(Filed September 1, 2015)

**PACIFIC GAS AND ELECTRIC COMPANY'S (U39 M)  
REPLY TO PROTESTS AND RESPONSES**

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On September 1, 2015, Pacific Gas and Electric Company (PG&E) filed Application 15-09-001 for a test year 2017 General Rate Case (GRC). The application appeared on the Commission's Daily Calendar on September 3, 2015. Pursuant to Rules 1.15 and 2.6 of the California Public Utility Commission's (Commission) Rules of Practice and Procedure, protests or responses were due on October 5, 2015.

Seven protests and responses were filed by: (i) the Commission's Office of Ratepayer Advocates (ORA), (ii) The Utility Reform Network (TURN), (iii) Marin Clean Energy, (iv) the Merced and Modesto Irrigation Districts, (v) the National Diversity Coalition, (vi) Southern California Edison Company, and (vii) Sonoma Clean Power. PG&E's reply is timely filed pursuant to Commission Rule 2.6(e).

In their protests and responses, the above entities have made many factual claims and legal arguments with which PG&E does not agree. PG&E anticipates that those filing protests and responses will, as appropriate, submit testimony, participate in the hearings and file briefs. Similarly, PG&E will respond, as appropriate, to the issues parties raise in their testimony and briefs that are within the scope of this case.

Thus, PG&E replies herein only to four aspects of the protests and responses: (i) ORA's proposed schedule, (ii) TURN's comments regarding burden of proof, (iii) TURN's request for supplemental testimony, and (iv) TURN's request to remove certain costs from the proceeding.

**I. ORA'S SCHEDULE CONTRAVENES THAT PRESCRIBED IN THE REVISED RATE CASE PLAN**

ORA states that it "opposes the schedule proposed by PG&E," but ORA only obliquely acknowledges that the schedule is prescribed by the Commission in Decision (D.) 14-12-025.<sup>1/</sup> ORA's arguments here are virtually the same as those ORA put forward in the Rate Case Plan OIR.<sup>2/</sup> After hearing ORA's arguments, the Commission prescribed the very deadlines to which ORA now objects.

PG&E does not expect to re-litigate the schedule here. ORA has offered nothing new to cause the Commission to reconsider the schedule. ORA's only specific concern about this case pertains to PG&E's risk models. ORA states, "PG&E's application does not include its Risk Assessment Model in any form, requiring intervening parties to issue data request to even gain access to these Models."<sup>3/</sup> ORA fails to acknowledge that the Commission's Safety Model Assessment Proceeding (SMAP), which is running concurrent with this GRC, is the Commission's designated proceeding to review and assess these models.

At the September 29, 2015 workshop on this GRC, PG&E stated its willingness to provide these models to any GRC participant, as PG&E has already done in the SMAP. Given ORA's interest, PG&E has already dispatched CDs with the models to its counsel. ORA tries to make an issue where there is none.

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1/ ORA Protest, pp. 4-5.

2/ For example, a prior version of the Appendix provided in ORA's Protest was also presented by ORA in the Rate Case Plan OIR. *See* R.13-11-006, Reply Comments of the Office of Ratepayer Advocates Regarding the Refined Straw Proposal on a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the General Rate Case Plan for Energy Utilities, June 13, 2014.

3/ ORA Protest, p. 6.

Other than ORA, no entity has taken issue with the proposed schedule.

## **II. TURN'S COMMENTS ABOUT THE BURDEN OF PROOF ARE INCOMPLETE**

TURN rightly states that the utility has the burden of proof in GRCs.<sup>4/</sup> What TURN does not speak to is the current tension about how much detail is necessary -- and indeed helpful -- in GRCs. This tension is embodied in the pending phase of the Rate Case Plan OIR, which is meant to address the problem that "GRCs are complex and take a long time to process, which is a common source of frustration for all stakeholders."<sup>5/</sup>

PG&E quotes in its testimony Commissioner Florio's statement about the need to "clear the underbrush" in GRCs.<sup>6/</sup> PG&E has taken steps to do so in this case, one of which is to increase the capital project summary threshold from \$1 million to \$3 million. This should not be understood to mean that PG&E has no information on projects below \$3 million. It only means that PG&E has not affirmatively presented detailed information on these smaller projects in its testimony and workpapers. If a party wishes to see information that is not part of PG&E's affirmative showing, that party should ask for it. PG&E does not agree that by taking steps to streamline this case -- for all parties' benefit -- that PG&E should be penalized for somehow not meeting its burden.

## **III. TURN'S REQUEST FOR SUPPLEMENTAL TESTIMONY IS UNNECESSARY AND INAPPROPRIATE**

TURN seeks to require PG&E "to submit supplemental testimony, as part of its case-in-chief, demonstrating that it is not seeking recovery in this case of any costs to remedy deficient recordkeeping or any other imprudence in its operations."<sup>7/</sup> TURN's request is unnecessary and

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4/ TURN Protest, pp. 4-5.

5/ R.13-11-006, Order Instituting Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the General Rate Case Plan for Energy Utilities, November 22, 2013, p. 15.

6/ Exhibit (PG&E-1), p. 1-27, line 14 and following.

7/ TURN Protest, p. 1.

inappropriate.

TURN's request is unnecessary insofar as PG&E already plans on submitting additional testimony addressing the Commission's requirement that PG&E's shareholders fund certain remedies arising from Commission Decision 15-04-024.<sup>8/</sup> This testimony will reduce PG&E's GRC forecast. PG&E currently intends to submit this testimony prior to the Prehearing Conference. By then, this issue will be "water under the bridge."

TURN's argument about removing costs relating to PG&E's "imprudence in its operations" is more far-reaching. TURN made a similar argument in PG&E's ongoing Gas Transmission and Storage rate case where the issue was heavily briefed. TURN appears to be attempting to impose a new legal standard on a concept that is, at best, amorphous.

It is unlikely that PG&E and TURN are going to see eye-to-eye on what constitutes "imprudence." Whatever its meaning, the Commission has never held that utilities have an affirmative duty to disprove imprudence. TURN cites several cases for the proposition that costs that result from a utility's imprudence are not reasonable and thus not recoverable.<sup>9/</sup> With the exception of Decision 12-12-030, none of these cases involved forecast ratemaking; rather, they all involved after-the-fact reasonableness review. The Commission has twice in the past year distinguished these cases when parties, including TURN, have sought to rely upon them to disallow cost recovery in forecast ratemaking cases.<sup>10/</sup> None of these cases held that a utility had an affirmative burden to preemptively identify what other parties might claim to be failures or errors and preemptively disprove that any forecast costs can be attributable to such failures or errors. In fact, the Commission specifically contrasted forward-looking rate cases in its decision

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8/ Application, p. 10.

9/ TURN Protest, pp. 5-6 and footnote 12.

10/ D.14-11-021, *mimeo*, p. 5 ("The cited cases all involved after the fact reasonableness review of costs incurred due to power plant accidents or construction cost overruns. In each case, the facts showed that the costs we disallowed were directly attributable to clear and identifiable utility failures or errors."). See also D.15-07-044, *mimeo*, p. 4.

denying rehearing of the Commission’s decision in PG&E’s Pipeline Safety Enhancement Proceeding (PSEP) application: “This [PSEP] case did not involve a review of past costs or actions. It involved review and approval of future activities and costs associated with the Utilities proposed PSEP Plans.”<sup>11/</sup>

TURN also mischaracterizes Decision 12-12-030, suggesting that the disallowances in PG&E’s PSEP proceeding were due to generic “imprudent management.”<sup>12/</sup> On the contrary, the disallowances in the PSEP proceeding were based on findings that, in two particular instances, the forecast work was work “where there was in fact a past obligation for which PG&E received rate recovery, but failed to perform the activity.”<sup>13/</sup> In other words, there was a legal obligation to have performed the work in the past, *and* PG&E previously received funding to do the work, but never did it. There is no need to supplement the record to determine whether any of the costs in PG&E’s forecast meet this test.

The Commission should also reject TURN’s request to order PG&E to supplement the evidentiary record in this 2017 GRC with additional evidence concerning projects funded in the 2014 GRC. TURN’s arguments are based on mischaracterizing both the nature of the projects in the 2014 GRC and the Commission’s decision in that case. The record in the 2014 GRC makes clear that the projects TURN discusses were not, as TURN claims, “measures to correct errors in its records.”<sup>14/</sup> To the extent that TURN wishes to explore how these 2014 GRC programs relate to the 2017 GRC, it may do so through data requests, as is commonly done.

To be clear, PG&E has not forecast *any* costs in this case that PG&E believes to be unreasonable. Put another way, PG&E believes that all of its forecast costs are reasonable. PG&E has already identified the specific areas where it is seeking cost recovery where

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11/ D.14-11-021, *mimeo*, p. 5.

12/ TURN Protest, p. 6.

13/ D.15-07-044, *mimeo*, p. 25.

14/ TURN Protest, p. 8.

Commission precedent, or policy, may dictate otherwise.<sup>15/</sup> To the extent that TURN wishes to broaden that sphere, it is TURN's prerogative to do so in its own testimony and briefs.

#### **IV. TURN'S ARGUMENT THAT CERTAIN ELECTRIC DISTRIBUTION COSTS MAY NOT LAWFULLY BE CONSIDERED IN THIS GENERAL RATE CASE SHOULD BE REJECTED**

TURN argues that Public Utilities Code Sections 769(c) and (d) relating to PG&E's Distribution Resources Plan make it unlawful for the Commission to consider in this rate case certain of PG&E's GRC proposals for investments to enhance the integration of distributed energy resources onto PG&E's grid.<sup>16/</sup> PG&E does not agree with TURN that that the Commission may not lawfully consider these proposed expenditures until PG&E's 2020 GRC. TURN's argument should be rejected.

TURN cites Public Utilities Code Section 769(d), which requires that utility expenditures to implement a utility's Distribution Resources Plan must be considered in the utility's "next general rate case."<sup>17/</sup> Accordingly, PG&E has done so in this GRC, which is PG&E's "next general rate case" after enactment of Public Utilities Code Section 769 and the filing of PG&E's Distribution Resources Plan on July 1, 2015.

TURN argues that no such Distribution Resources Plan expenditures can be considered by the Commission until PG&E's 2020 GRC, because the Commission has not yet approved PG&E's Distribution Resources Plan. TURN's argument fails from both a legal and a public policy perspective.

There is nothing in the language of Section 769 that presumes – as TURN does – that the "next" GRC is only the GRC that occurs after the Commission approves a utility's Distribution Resources Plan, as opposed to after the Distribution Resources Plan is filed. Nor does the plain meaning of Section 769 require the Commission to evaluate proposed utility spending to

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15/ Application, pp. 13-15 (Previously-Litigated Issues).

16/ TURN Protest, pp. 13-15.

17/ Public Utilities Code Section 769(d).

implement a Distribution Resources Plan in the Distribution Resources Plan proceeding before it is evaluated in the utility's next GRC – Section 769(d) makes clear that the utility spending may *only* be evaluated in the utility's GRC.

Nor does TURN's reading of the statute promote wise public policy. Like the Smart Grid Plans mandated by the Legislature in the last decade, the Legislature in Section 769(d) made clear that the Distribution Resources Plans would be reviewed as plans only, and would not be the forum or proceeding in which expenditures would be mandated, proposed or reviewed to accomplish the plans. The fact that the Plans have not yet been reviewed and approved by the Commission does not change this logic. In contrast, TURN's approach could create a gap of several years between Commission approval of a Distribution Resources Plan and Commission review of PG&E's proposed expenditures to implement the Plan.

TURN's argument also contravenes ordinary Commission practice and administrative efficiency. It is commonplace for costs to be presented in GRCs that relate to matters pending before the Commission in other dockets. For instance, in PG&E's last GRC, PG&E forecast costs related to meter reading for those customers that would choose to opt-out from SmartMeter™ installation even though the SmartMeter™ opt-out proceeding was still open. PG&E's forecast costs were not deemed premature and rejected outright. Rather, the Commission approved a reduced forecast of costs along with balancing account treatment in order to reflect the uncertainty of the then-pending opt-out decision.<sup>18/</sup>

The question of whether or not to include costs in a GRC should not depend on whether or not there are concurrent CPUC proceedings relating to those costs. Rather, the test should be whether the costs are reasonably forecast to be incurred during the GRC period at issue.

TURN is free, of course, to challenge the factual and legal basis of whether these costs are just and reasonable, as Public Utilities Code Section 769(d) expressly provides. This is a matter that the Commission has the authority to consider in a GRC, not a matter barred by

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18/ D.14-08-032, *mimeo*, pp. 303-308.



statute. TURN's argument that it would be unlawful to consider these costs in this GRC is thus flawed and should be rejected.

Respectfully Submitted,

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