FILED
8-25-16
04:59 PM

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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)*

REPLY COMMENTS OF CONSUMER FEDERATION OF CALIFORNIA TO 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 JOINT MOTION FOR ADOPTION OF SETTLEMENT AGREEMENT AND CERTIFICATE OF SERVICE

Nicole Johnson
Regulatory Attorney
Consumer Federation of California
150 Post, Ste. 442
Tel: 415-597-5707
E-mail: njohnson@consumercal.org

August 25, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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)*

REPLY COMMENTS OF CONSUMER FEDERATION OF CALIFORNIA TO 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 JOINT MOTION FOR ADOPTION OF SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 12.2 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure ("Rules"), Consumer Federation of California (CFC) submits these reply comments to the opening comments filed in response to the Joint Motion for Adoption of Settlement Agreement in Application 15-09-001("Application").

II. Discussion

a. Third Attrition Year

In their joint comments, ORA and PGE (joint parties) assert that the issue of extending the GRC cycle is somehow made reasonable because they are asking the Commission to approve an extension to a "four-year cycle for this GRC, and this GRC alone" and that the "third post-test year provision in the [Settlement Agreement (Agreement)] reflects a reasonable compromise of

the parties' positions."[1] However, of the 16 parties to the Settlement Motion, ORA and PG&E are the only two to negotiate and "settle" this issue. In fact, their joint comments are clear that "ORA and PG&E have agreed…" and no other party is named as having participated in the settlement negotiations around this issue.[2] It is unreasonable for such an important issue to be approved and adopted without input and vetting from other interested parties.

The joint parties go on to assert D.16-06-005 shows that the Commission is open to the consideration of examining an expansion into a four year cycle.[3] However, the Commission followed that declaration by stating that it would need, at least, a workshop to study the issue. Presumably a workshop in which interested parties and stakeholders may participate and, ultimately comment. There was no such option here. Parties were not given opportunity to comment on this issue as part of the original application. While the Commission may have flexibility to add an additional post-test year, choosing to add a year is not an issue that should be adopted when just tacked onto a settlement as a side deal with just two parties. The issue should be put forward in a manner which allows scrutiny and comment from stakeholders.

The joint parties also state that "using 2018…as the base for a 2021 rate case may 'reflect a more stable…level of expenses."[4] However, in a number of places during this proceeding, parties have shown that the "cumulative revenue requirement increases…show the total four-year increase in PG&E's base rate revenue requirement... would be $2.767 billion, almost half of which would be received in 2020."[5] In other words, the 2020 increase, at 4.1%, exceeds the observed trend in household income growth (roughly 2.3%). Therefore, accepting the proposed increase would lock in a real rate increase for 2020 at nearly double the growth in consumer incomes. If the Commission were to adopt the third attrition year, the 2019 revenue requirement adopted in this 2017 general rate case would be used as the base year revenue requirement for the proposed 2021 general rate case and the revenue requirement of 2020 would likely be offered as a reasonable basis for future rate increases. The third year, therefore, would not just be impacting one extra year in this GRC "alone" but the next GRC as well. Rather than existing in a

[1] Joint Comments of the Office of Ratepayer Advocates and Pacific Gas and Electric Company on Settlement Agreement Relating to the First Contested Issue, p. 2.
[2] *ibid*, p. 3.
[3] *ibid*, p. 4.
[4] *ibid*, p. 2.
[5] Opening Comments on Settlement Agreement of Alliance for Nuclear Responsibility, p. 9.

vacuum, as ORA and PG&E suggest, this issue will potentially affect the next seven years of rates for PG&E ratepayers.

Likewise, ORA and PG&E also argue that an additional post-test year would allow "PG&E's next RAMP to be due in November 2018, which would better allow for the resolution of …issues outstanding in the S-MAP Phase Two proceeding." But it is unreasonable and specifically within the utility's interest and not the public interest to increase the post-test years to four years merely to benefit the second phase of another proceeding. And, while it would be ideal if everything happened in a convenient manner, at the appropriate most beneficial time, that isn't always an option. It is unreasonable to cause potential harm to try and make those ideals fit. If PG&E needs an extension in another proceeding, the proper forum to request such an extension is in *that other* proceeding.

In addition, the Commission itself, in the very decision cited in the joint comments filed by ORA and PG&E, contradicts the assertion that an extra year is needed to address RAMP filing requirements. The Commission denied an extension of the GRC cycle by one year because it found that such an extension would "delay the time for the Commission and interested parties to incorporate the RAMP process in future GRC filings of the energy utilities, and to learn from the early RAMP filings."[6]

It is important to remember that "administrative scrutiny and regulatory oversight are *critical* to enforcing this Commission's mandate and duty to set just and reasonable rates."[7] Delaying PG&E's next GRC for the proffered reasons would not serve the interests of PG&E customers nor ensure they would be paying the lowest reasonable rates. The proposed third attrition year should be rejected.

b. New Environmental Regulatory Balancing Account (NERBA)

The parties in support of the creation of the New Environmental Regulatory Balancing Account (NERBA) explain that

> …all [the NERBA] does is establish a mechanism whereby, if, in the Leak Abatement OIR, the Commission establishes new leak abatement/emissions

[6] D. 16.06-005, *mimeo*, p. 5.

[7] Opening Comments on Settlement Agreement of Alliance for Nuclear Responsibility, p. 10. Citing Public Utilities Code Sections 451, 454, 728, and 747. *(emphasis added)*

> reductions requirements, PG&E will have authorization to fund suck new work upon issuance of the Leak Abatement OIR decision, rather than being required to wait for another ratemaking proceeding.[8]

There is no specific information in the Application beyond general terms and a name. There is no detail beyond reference to the Leak Abatement OIR (R.15-01-008) in which the actual details of the NERBA are to be decided. PG&E would simply like the account to be created in this proceeding so that it may "recover the costs of implementing measures adopted in the Leak Abatement OIR" but "only until such time as the Commission issues its Phase II decision on costs in the Leak Abatement OIR."[9] The joint parties' comments fail to explain why the NERBA has to be addressed in this rate case, or why it could not be addressed in the R.15-01-008 and there are no details as to the NERBA and its operation or what funds will be permitted. The settlement has provided for millions in gas leak survey and repairs expenditures. Without specific guidelines, PG&E can potentially collect the total sum in this account. There needs to be scrutiny and oversight of this account before approval.

In its Comments, PG&E argues that the Commission adopted NERBA in the Sempra 2016 GRC and should, therefore, be deemed reasonable here. The Sempra GRC NERBA, however, is distinguished here because the NERBA proposed in that proceeding was introduced in the initial utility application. For example, Sempra introduced their NERBA as part of their original 2012 GRC Application.[10] It was fully described in the company's original testimony supporting that application. The parties to the proceeding had a chance to serve data requests and provide testimony on the issue.[11] This is not the case in PG&E's application.

PG&E points to "ample legal authority" in which the Commission adopted a balancing account to "comply with yet-to-be-known regulatory requirements."[12] However, these instances are also distinguishable as they were accounts on which parties had opportunity to comment and

---

[8] Joint Comments of the Office of Ratepayer Advocates and Pacific Gas and Electric Company on Settlement Agreement Relating to the First Contested Issue, p. 4-5.
[9] Joint Comments of Coalition of California Utility Employees, Environmental Defense Fund, and Pacific Gas and Electric Company on the Second Contested Issue in the Settlement agreement, p.4.
[10] A. 10-12-005. Application of SDG&E for authority to update its gas and electric revenue requirements and base rates effective on January 1, 2012. Prepared Direct Testimony of Gregory D. Shimansky on Behalf of San Diego Gas & Electric Company, p. GDS-6.
[11] *ibid*, p. 6-7.
[12] *ibid*, p. 5.

there were particulars, including an adopted forecast.[13] There, the Commission may have approved instances where exact amounts were *uncertain* but not where the actual terms for recovery were undefined.[14] In this instance, the NERBA has absolutely nothing to it but a name.

Creating a balancing account in this manner is rather like putting the cart before the horse. It is not reasonable to skip over one step while completing its prerequisite in order to make things go more smoothly. It is understandable PG&E wants to hurry, that it wants to move along as quickly as possible with the Leak Management OIR. But that is not reason enough to circumvent due process. Yes, waiting on another ratemaking or decisions in Phase I or II of the OIR would be arduous but, if they had wanted the review done during this ratemaking, they should have put the issue forward in the Application proper with all of its elements, to be properly discussed or litigated.

III. Conclusion

Again, CFC urges the Commission to reject the proposed third post-test year and to decline to adopt the new balancing account here, without prejudice to the ratemaking mechanisms that may be adopted in R.15-01-008.

Dated: August 25, 2016.

Respectfully submitted,

/s/ Nicole Johnson

Nicole Johnson
Regulatory Attorney
Consumer Federation of California
150 Post, Ste. 442
Tel: 415-597-5707
E-mail: njohnson@consumercal.org

[13] D. 14-08-031, *mimeo*, p. 380.

[14] Joint Comments of the Office of Ratepayer Advocates and Pacific Gas and Electric Company on Settlement Agreement Relating to the First Contested Issue, p. 5-6.