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**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 Services Effective  
on January 1, 2020

(U 39 M)

Application No. 18-12-009  
(Filed December 13, 2018)

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 M)  
RESPONSE TO MOTION FOR LEAVE TO FILE SUR-  
REPLY BRIEF**

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Dated: February 13, 2020

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Pursuant to Rule 11.1 (e) of the California Public Utilities Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) respectfully files this response to the *Motion for Leave to File Sur-Reply Brief* of the Joint Community Choice Aggregators (JCCAs) dated February 11, 2020 (Motion). The Motion does not provide sufficient grounds to allow the JCCAs to file a general reply to PG&E's January 27, 2020 reply brief. While PG&E provided new data in PG&E's January 27, 2020 reply brief, the Sur-Reply Brief goes well beyond a discussion of the new data. For this reason, PG&E recommends the Motion be denied and that the JCCAs be provided an opportunity to file a reply brief limited to addressing the new data provided by PG&E on January 27, 2020.

If the Commission disagrees with PG&E and grants the Motion in full to admit the JCCA's expansive Sur-Reply Brief, PG&E respectfully requests an opportunity to file a response in 10 business days to address all of the legal and factual issues addressed in the JCCAs' Sur-Reply Brief.

**I. DISCUSSION**

The JCCAs assert that they should have the right to file their February 11, 2020 Sur-Reply Brief for two reasons: (1) PG&E provided data with its January 27, 2020 Reply Brief that indicates a reduced number of new gas and electric service agreements from 2015-2018; and (2) PG&E did not file an opening brief.

Regarding the first reason, PG&E supports providing the JCCAs an opportunity to respond to the new data. Unfortunately, the Sur-Reply Brief submitted with the Motion goes well beyond this purpose. Therefore, the Motion should be denied and the JCCAs should be allowed to file a Sur-Reply Brief limited solely to the JCCAs' response to the new data.

The second of the JCCAs' reasons to file a Sur-Reply Brief – that PG&E did not file an opening brief – has no merit. This fact should have no bearing on the JCCAs' request to file a Sur-Reply Brief.

**A. PG&E Supports Providing the JCCAs an Opportunity to File a Brief Limited to PG&E's Update to the Number of Service Agreements.**

The JCCAs correctly note that PG&E included new data in its January 27, 2020 reply brief correcting the number of new service agreements from 2015-2018.<sup>1</sup> It was for this reason that PG&E requested the Commission take official notice of the data in a Motion for Official Notice of this data, which was also filed on January 27, 2020. The new data showed that the number of customers increased by approximately 200,000 from 2015-2018 rather than by approximately 500,000, as PG&E had previously indicated in discovery responses.<sup>2</sup>

PG&E understands that the late discovery of this error may have caused confusion and perhaps disadvantaged the JCCAs and other stakeholders. Nonetheless, it is important to correct the record so that the decision in this proceeding is based on the most accurate facts.

Accordingly, PG&E does not object to the JCCAs or other parties filing a brief that is limited to the import, if any, of the change in the number of new service agreements during these years. The JCCAs' proposed February 11, 2020 Sur-Reply Brief, however, goes far beyond this issue. The Motion should thus be denied and the February 11, 2020 Sur-Reply Brief not allowed into the record. For the reasons discussed below, there is no basis to provide the JCCAs with an

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<sup>1</sup> Motion, pp. 2-3.

<sup>2</sup> PG&E January 27, 2020 Reply Br., p. 30. As PG&E explained in its Reply Brief, the difference in customer counts was based on a different methodology being used to calculate the number of customers in that the numbers used in prior discovery responses did not include transportation-only service agreements for the years 2013-2016. See PG&E Reply Br., p. 29.

opportunity to file a third post-hearing filing on the same cost allocation issues they already addressed in two separate filings in January.

**B. PG&E's Election To Not File An Opening Brief Does Not Provide A Basis For The JCCAs To File An Additional Brief.**

PG&E elected to not file an opening brief on January 6, 2020 regarding issues that were not fully resolved in the multi-party settlement agreement submitted in this proceeding on December 20, 2019 (Joint Settlement). As the JCCAs' correctly note, PG&E had an *opportunity*, not an *obligation*, to file an opening brief.<sup>3</sup> PG&E supports the Joint Settlement as a comprehensive resolution of the issues in this proceeding. If other parties wished to brief issues that were not addressed in the Joint Settlement, it was those parties' prerogative to do so. No ruling in this proceeding ever called upon PG&E or any other settling party to try to anticipate those other parties' issues. Further, as the JCCAs' opening brief did not address all issues raised in their prepared testimony, had PG&E filed an opening brief, it would have addressed issues and arguments the JCCAs determined not to pursue.<sup>4</sup> Accordingly, PG&E's election to not file an opening brief was fully compliant with the rulings and orders in this proceeding.

The JCCAs were not prejudiced by PG&E's election to not file an opening brief. The JCCAs filed an opening brief on January 6, 2020 and comments on the Joint Settlement on January 21, 2020. They addressed the issue of cost allocation for PG&E's customer service expenditures in both filings. They had a full and fair opportunity in those filings to address any relevant Commission decisions on cost allocation that supported their arguments.

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<sup>3</sup> Motion, p. 4.

<sup>4</sup> See, for example, Hearing Exhibit (HE) 216, *Second Errata to the Prepared Direct Testimony of Joseph A. Mancinelli and Andrew J. Reger on Behalf of the Joint Community Choice Aggregators*, p. 38 (advocating for the costs of the Community Wildfire Safety Program other than enhanced vegetation management costs be allocated as common costs); HE 215 *Prepared Direct Testimony of R. Thomas Beach on behalf of the Joint Community Choice Aggregators*, p. 22 (advocating that the costs of PG&E distribution system hardening and enhanced vegetation management be allocated to Electric Distribution and Electric Transmission functions).

Since the JCCAs did not obtain prior permission to file a reply brief, the Sur-Reply Brief attached to the Motion should be stricken from the record as it not allowed by the Commission's rules and should not be permitted to remain in the record of the proceeding.

If the Commission disagrees with PG&E and grants the Motion, PG&E respectfully requests the opportunity to reply to the JCCAs' Sur-Reply Brief. This is merited since PG&E, as the applicant, has the burden of proof and should be provided an opportunity to respond to the JCCAs' additional arguments therein.

## **II. CONCLUSION**

For the reasons stated above, PG&E agrees that the JCCAs should be provided an opportunity to comment on the corrected number of service agreements PG&E provided in its January 27, 2020 Reply Brief and Motion for Official Notice. PG&E respectfully requests that the Motion to file the February 11, 2020 Sur-Reply Brief attached to the Motion be denied as it goes far beyond the issue of the change in the number of service agreements and there is no basis for the JCCAs to be provided an additional opportunity to address the cost allocation issues they previously addressed in both their opening brief and comments on the Joint Settlement.

Respectfully Submitted,

By: /s/ Mary A. Gandesbery

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