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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 Service  
Effective on January 1, 2017. (U39M)

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

**COMMENTS OF  
OFFICE OF RATEPAYER ADVOCATES,  
THE UTILITY REFORM NETWORK,  
ALLIANCE FOR NUCLEAR RESPONSIBILITY,  
CENTER FOR ACCESSIBLE TECHNOLOGY,  
COALITION OF CALIFORNIA UTILITY EMPLOYEES,  
CONSUMER FEDERATION OF CALIFORNIA FOUNDATION,  
ENVIRONMENTAL DEFENSE FUND,  
MARIN CLEAN ENERGY,  
MERCED IRRIGATION DISTRICT,  
MODESTO IRRIGATION DISTRICT,  
NATIONAL DIVERSITY COALITION,  
SMALL BUSINESS UTILITY ADVOCATES,  
SOUTH SAN JOAQUIN IRRIGATION DISTRICT, AND  
PACIFIC GAS AND ELECTRIC COMPANY  
ON PROPOSED DECISION**

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Dated: August 20, 2018

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ON PROPOSED DECISION**

**I. INTRODUCTION**

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Settling Parties (defined below) hereby provide comments on the Proposed Decision Granting Intervenor Compensation to Scott J. Rafferty for Substantial Contribution to Decision 17-05-013.

The Settling Parties consist of those parties joining the August 3, 2016 settlement (Settlement) filed in this matter, with the exception of Collaborative Approaches to Utility Safety Enforcement (CAUSE).<sup>1/</sup> The Settling Parties are:

- Office of Ratepayer Advocates;
- The Utility Reform Network;
- Alliance for Nuclear Responsibility;

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<sup>1/</sup> CAUSE has been consulted in the development of these comments and has reviewed this filing. CAUSE has not joined this filing in order to submit separate comments on the Proposed Decision.

- Center for Accessible Technology;
- Coalition of California Utility Employees;
- Consumer Federation of California Foundation;
- Environmental Defense Fund;
- Marin Clean Energy;
- Merced Irrigation District;
- Modesto Irrigation District;
- National Diversity Coalition;
- Small Business Utility Advocates;
- South San Joaquin Irrigation District; and
- Pacific Gas and Electric Company.

In brief, the Settling Parties identify in these comments the result of Mr. Rafferty's contributions to the Settlement. The identification of these contributions is something Mr. Rafferty was prohibited from doing on his own due to Rule 12.6 of the Commission's Rules of Practice and Procedure.

## **II. DISCUSSION**

### **A. The Settling Parties Appreciate Mr. Rafferty's Discretion in Previously Not Providing Details Regarding the Extent of His Settlement Contributions**

The Settling Parties appreciate Mr. Rafferty's discretion in not previously providing details regarding the extent of his Settlement contributions. Mr. Rafferty's discretion was exercised in respect of Rule 12.6. Rule 12.6 provides:

No discussion, admission, concession or offer to settle, whether oral or written, made during any negotiation on a settlement shall be subject to discovery, or admissible in any evidentiary hearing against any participant who objects to its admission. Participating parties and their representatives shall hold such discussions, admissions, concessions, and offers to settle confidential and shall not disclose them outside the negotiations without the consent of the parties participating in the negotiations. (Emphasis added.)

In light of the underlined restriction on disclosure, Mr. Rafferty provided little detail in his intervenor compensation request regarding the extent of his contributions to the Settlement. (Proposed Decision, p. 18.)

### **B. The Settling Parties Consent to Disclose Mr. Rafferty's Meaningful Contributions to Several Sections of the Settlement**

The Settling Parties understand that the confidentiality protections in Rule 12.6 can make it challenging for the Commission to evaluate an intervenor's contributions to a settlement. This can be

particularly challenging where, as here, there is no clear nexus between an intervenor's proposals in testimony and the contents of a settlement agreement. (Proposed Decision, p. 19.) In light of these challenges, the Settling Parties hereby waive confidentiality under Rule 12.6 for the limited and sole purpose of identifying the provisions of the Settlement to which Mr. Rafferty provided a meaningful contribution.

The non-contested provisions of the Settlement to which Mr. Rafferty provided a meaningful contribution are:

- Section 3.1.1.4 Exogenous Changes: This provision clarifies the Commission precedent that would be followed for the use of the Z-factor mechanism, an area where Mr. Rafferty contributed legal and policy insights, clarifications and language revisions.
- Section 3.2.8.6 Safety: This provision recognizes the importance of input on safety issues from field personnel that was a key component of the "bubble up" concept promoted by Mr. Rafferty in his opening testimony and an area addressed by the settlement due to his participation in the proceeding and settlement discussions.
- Section 3.2.8.9 Disclosure of Safety Metrics: This provision itemizes a variety of safety metrics and ensures that PG&E will make a good faith effort to provide non-confidential data, topics raised by Mr. Rafferty's testimony and addressed by the settlement due to his participation in the proceeding and settlement discussions.
- Section 3.2.8.10 Safety Standards and Benchmarking: This provision addresses the use of "voluntary consensus standards" that were promoted by Mr. Rafferty in his opening testimony and an area addressed by the settlement due to his participation in the proceeding and settlement discussions.
- Article 5 (General Provisions): These provisions were substantially edited by Mr. Rafferty.

Finally, Mr. Rafferty provided extensive edits over the entirety of the Settlement.

### III. CONCLUSION

In light of the challenges discussed above, the Settling Parties hereby waive confidentiality under Rule 12.6 for the limited and sole purpose of identifying the provisions of the Settlement to which Mr. Rafferty provided a meaningful contribution.

Pursuant to Commission Rule 1.8(d), counsel or representatives for the Settling Parties have authorized PG&E to submit these comments on their behalf.

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Respectfully Submitted,

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By:                     /s/Steven W. Frank                      
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