

**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, 2020.

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

PROTEST OF EAST BAY COMMUNITY ENERGY, MARIN CLEAN ENERGY, PENINSULA CLEAN ENERGY, PIONEER COMMUNITY ENERGY, SAN JOSE CLEAN ENERGY AND SONOMA CLEAN POWER TO APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AUTHORITY, AMONG OTHER THINGS, TO INCREASE RATES AND CHARGES FOR ELECTRIC AND GAS SERVICE

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January 17, 2019

On behalf of the Joint CCAs

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), East Bay Community Energy (“EBCE”),¹ Marin Clean Energy (“MCE”),² Peninsula Clean Energy (“PCE”),³ Pioneer Community Energy (“Pioneer”),⁴ San José Clean Energy (“SJCE”),⁵ and Sonoma Clean Power (“SCP”),⁶ (collectively “the Joint CCAs”) hereby protest the relief sought in the above-captioned *Application of Pacific Gas and Electric Company (“PG&E”) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service on January 1, 2020*

¹ EBCE is the community choice aggregator (“CCA”) for Alameda County.

² MCE is the CCA for Marin and Napa Counties, unincorporated Contra Costa County, and the Cities and Towns of Benicia, Concord, Danville, El Cerrito, Lafayette, Martinez, Moraga, Oakley, Pinole, Pittsburg, Richmond, San Pablo, San Ramon, and Walnut Creek.

³ PCE is the CCA for San Mateo County.

⁴ Pioneer is the CCA for Placer County.

⁵ SJCE is the CCA for the City of San José.

⁶ SCP is the CCA for the Cities of Cloverdale, Cotati, Fort Bragg, Petaluma, Point Arena, Rohnert Park, Santa Rosa, Sebastopol, Sonoma, Willits and the Town of Windsor, and the Counties of Sonoma and Mendocino.

⁷ The above-mentioned CCAs respectfully request independent party status.

(“Application”). The Joint CCAs protest the Application on the grounds that PG&E has failed to demonstrate the relief it requests is just and reasonable.

PG&E’s general rate case (“GRC”) Application will increase rates for electric and natural gas service by a total of \$1.058 billion in 2020, \$454 million in 2021 and \$486 million in 2022.⁸ The utility seeks authority to increase 2020 electric distribution revenues by \$749 million, an increase of 17.2%,⁹ which PG&E’s bundled customers, community choice aggregator (“CCA”) customers, and other unbundled customers would pay equally. The company further seeks to increase 2020 electric generation revenues by \$175 million, an 8.0% increase,¹⁰ which CCA and other unbundled customers would pay to the extent the generation costs prove to be above-market.

The impact of PG&E’s application on both departed and bundled customers requires cautious and careful consideration under the applicable standards of proof. PG&E’s proposed cost increases, and their characterization as distribution, generation administrative and general (“A&G”) or other costs warrant close review and validation. The Commission must ensure PG&E’s costs are just and reasonable, and also make certain there are no illegal cost shifts between bundled and unbundled providers. In addition, certain revenues PG&E receives, as well as impacts from recent federal tax law, must be fairly allocated to ensure that departed load customers timely receive appropriate bill reductions.

PG&E, as the applicant, has the burden of affirmatively establishing the reasonableness of all aspects of its application,¹¹ and that burden of proof generally is measured based upon a

⁸ Application at 1 and 7.

⁹ *Id.*, Table 3 at 6.

¹⁰ *Id.*

¹¹ D.12-12-030 at 42.

preponderance of the evidence.¹² PG&E's Application currently does not provide sufficient evidence that its proposed increases to electric distribution and generation revenue requirements are just and reasonable or that it properly categorized certain costs.

Failure to properly distribute just and reasonable revenue increases across utility functions will have a substantial impact on the millions of customers who receive generation service from the Joint CCAs. For example, if PG&E were to inappropriately include generation related costs into the distribution revenue requirement, the Joint CCAs could be placed at a significant competitive disadvantage relative to PG&E. This outcome would contravene Senate Bill 790's aim to "foster fair competition."¹³ As such, the Joint CCAs respectfully request that the Commission carefully evaluate PG&E's proposed rate changes by utility function, the justness and reasonableness of any charges to be borne by CCA customers, including but not limited to generation costs claimed to be distribution-related, and the proper allocation of certain revenues to unbundled customers.

I. JOINT CCAS' INTEREST

Except for SJCE, each of the Joint CCAs is governed by a Board of Directors comprised of elected officials who represent the individual cities and counties the CCA serves or an elected City Council.¹⁴ SJCE is the City of San Jose's CCA program, which is administered by the San Jose Community Energy Department. CCA customers receive generation services from their local CCA, and receive transmission, distribution, billing, and other services from PG&E. As

¹² See, e.g., D.18-01-009 at 9-10; D.15-07-044 at 29 (observing that the Commission has discretion to apply either the preponderance of evidence or clear and convincing standard in a ratesetting proceeding, but noting that the preponderance of evidence is the "default standard to be used unless a more stringent burden is specified by statute or the Courts.").

¹³ See Section 2(h) of Senate Bill (SB) 790 (Leno, 2011).

¹⁴ See Pub. Util. Code §366.2.

such, CCA customers in PG&E's service territory must pay the same electric distribution, transmission and non-bypassable rates as PG&E's bundled customers. However, CCA customers pay CCA-specific generation rates, which vary and are partially influenced by local mandates to procure and maintain clean electricity portfolios that in many cases exceed state requirements for renewable generation. If PG&E were able to shift some of its generation costs into the distribution component of its rates through the current GRC Application, CCA customers would be forced to subsidize bundled customer generation rates. This subsidy would improperly put the Joint CCAs at a competitive disadvantage. The Commission has previously emphasized its desire and its legal commitment to avoid any such cross-subsidization.¹⁵ Consequently, the Joint CCAs have a substantial interest in ensuring that any revenue increases are properly categorized and reflect the actual costs of providing various PG&E services.

Similarly, CCA and other unbundled customers are subject to several non-bypassable charges ("NBCs"), including the Power Charge Indifference Adjustment ("PCIA") and the Cost Allocation Mechanism ("CAM"), some cost components of which are determined within PG&E's GRC proceedings. As such, the Joint CCAs have a real, present tangible and pecuniary interest that PG&E rate proposals that could inappropriately shift costs or credits into or out of any NBCs.

II. GROUNDS FOR PROTEST

The Joint CCAs have identified several issues that directly and substantially impact their interests described above. The specific issues enumerated below should be considered preliminary matters that the Joint CCAs have identified as unjust and unreasonable and/or potentially having

¹⁵ See, e.g., D.13-08-023 at 17 ("The Commission remains committed to ensuring that Community Choice Aggregators and other non-utility LSEs may compete on a fair and equal basis with regulated utilities. Toward this end, we will continue to consider both the mechanics and overall fairness of cost allocation and departing load charge methodologies proposed in the future, with the specific goal of avoiding cross-subsidization.") (emphasis added).

anti-competitive impacts. The Joint CCAs are still examining the Application, and reserve the right to address and protest additional issues in the course of this proceeding as they arise through further review, analysis, discovery and investigation of all aspects of the Application.

A. Recovery of Hydro Generation Costs Through a Non-Bypassable Charge

PG&E proposes to shift hydro-electric generation related costs into an NBC (*e.g.*, Electric Public Purpose Programs or “PPP”) that CCA and other unbundled customers would pay.¹⁶ Examples of current and future costs that would be recovered through the NBC include, but are not limited to: (1) protection of the natural habitat of fish, wildlife, and plants; (2) outdoor public recreation; (3) protection of historic resources; (4) compliance with conservation easements on the watershed lands; and (5) post-decommissioning activities that are a result of Federal Energy Regulatory Commission orders.¹⁷ PG&E estimates that the unrecovered historic costs that it would shift to the non-bypassable electric charge are \$83.1 million.¹⁸ The Company also proposes to include tens of millions of dollars in forecasted future costs, including new license compliance expenses.¹⁹ Even though these are generation-related costs that have been paid by customers taking PG&E’s generation service, the company now proposes to pass them to CCA and other unbundled customers thorough a new Unbundled Cost Category (“UCC”).²⁰ PG&E purports to justify this shift on the basis that hydroelectric generation provides benefits beyond electricity generation, such as outdoor public recreation, enhanced protection of natural habitats, and protection of historic resources.²¹

¹⁶ PG&E Exhibit 5 at 8-24.

¹⁷ *Id.* at 8-25.

¹⁸ *Id.* at 8-26 (Table 8-11).

¹⁹ *Id.*

²⁰ *Id.* at 8-26.

²¹ *Id.* at 1-14

B. Grid Modernization Plan

PG&E requests that the Commission adopt its 2020 expense forecast of \$10.2 million to support PG&E's Integrated Grid Platform ("IGP") and Grid Modernization Plan, including an Advanced Distribution Management System ("ADMS"), Distribution Engineering Planning Tools, Distribution Asset Data Improvement, and Interconnection Tools.²² Additionally, PG&E proposes a capital expenditure forecast of \$12.5 million in 2018, \$39.4 million in 2019, \$42.1 million in 2020, \$39.6 million in 2021 and \$39.1 million in 2022 to support investments in PG&E's IGP and Grid Modernization plan.²³ PG&E asserts its IGP proposal in the Application will help it continue to integrate rooftop solar facilities, energy storage, and other distributed energy resources ("DERs") to the grid.²⁴ While the Joint CCAs strongly support grid modernization efforts, it is important that the Commission take a careful look at the cost-effectiveness of the measures PG&E proposed to undertake. Additionally, as load-serving entities, the Joint CCAs have a unique interest in ensuring that PG&E's Grid Modernization Plan is designed to maximize a CCAs' ability to successfully administer electric vehicle, energy efficiency, demand response and other DER programs.

C. Categorization of Diablo Canyon Power Plant Capital Additions for Refueling and Going-Forward Maintenance and Operations.

In PG&E's 2019 Energy Resource and Recovery Account forecast application, A.18-06-001, the Joint CCAs demonstrated how PG&E had inappropriately included capital additions for refueling and going-forward maintenance and operations costs at Diablo Canyon Power Plant

²² PG&E Exhibit 4 at 19-3 – 19-4.

²³ *Id.*; *Id.* at 19-7.

²⁴ *Id.* at 19-3; *Id.* at 19-AtchA-20; *Id.* at 19-AtchA-1 – 19-AtchA-3.

(“DCPP”) as sunk capital costs and not generation costs.²⁵ The revised Proposed Decision in that case currently states:

The issue is whether capital additions for refueling and going forward O&M costs should be recorded in the [Energy Resource and Recovery Account (“ERRA”)] or [Utility Generation Balancing Account]. Either the compliance ERRA *or the General Rate Case* will address this. ... We will not change, in this utility specific ERRA forecast proceeding, how an element of the PCIA is calculated or determine the recovery of DCPD related costs.²⁶

The Joint CCAs urge the Commission to address in the proceeding whether these refueling costs should be categorized as generation costs or as sunk energy supply costs.

D. Decommissioning Reserves

PG&E proposes to establish a solar and fuel cell decommissioning reserve to pay for the decommissioning cost of the solar and fuel cell facilities at the end of their useful lives.²⁷ The decommissioning estimate for solar and fuel cells is \$100.5 million and \$1.2 million, respectively.²⁸ PG&E has not sufficiently demonstrated how these costs will be vintaged and the degree to which unbundled customers should bear these costs.

III. PG&E’S IMPENDING BANKRUPTCY FILING

On January 14, 2019, PG&E announced it will file for bankruptcy on or around January 29, 2019 (“Bankruptcy Announcement”).²⁹ Within the Application, PG&E acknowledged that its testimony was prepared prior to a series of events that have caused financial uncertainty for

²⁵ See, e.g., A.18-06-001, Joint CCAs’ Reply Brief, pp. 12-14 (Oct. 16, 2018).

²⁶ A.18-06-001, ALJ Wildgrube’s Revised Proposed Decision, p. 16 (January 10, 2019) (emphasis added).

²⁷ PG&E Exh. 5 at 8-28.

²⁸ *Id.* at 8-29.

²⁹ *PG&E Remains Committed to Providing Safe Natural Gas and Electric Service to Customers as It Prepares to Initiate Voluntary Reorganization Cases Under Chapter 11*, Jan. 14, 2019, http://investor.pgecorp.com/m/#/Press_Releases/9ece9d22-4d51-4a70-a1f9-18a70a17f506

the company, and stated that it “will keep the Commission and parties updated during this proceeding regarding PG&E’s financial condition and any significant changes required to the work plans included in PG&E’s testimony. . . . PG&E will provide a status report on these topics at the Prehearing Conference in this proceeding.”³⁰ The Joint CCAs note the substantial impact the pending bankruptcy proceedings could have not only on issues already within the scope of this docket, such as the utility’s financing costs, but also the nature of the regulated entity itself, *i.e.*, whether PG&E continues to be a generation, gas and distribution and transmission company. The Joint CCAs urge the Commission to require PG&E to update its testimony in this case as soon as possible, addressing any changes required due to its pending bankruptcy.

IV. CATEGORIZATION OF PROCEEDING, NEED FOR HEARINGS AND PROPOSED PROCEDURAL SCHEDULE

The Joint CCAs agree with the classification of this proceeding as “ratesetting,” and, for the reasons explained above, believe that hearings are necessary. Further, the preliminary schedule put forth by PG&E is likely to need to be delayed or revised given the utility’s recent Bankruptcy Announcement. Without understanding the extent to which PG&E plans to revise its testimony on account of the bankruptcy, it is not possible to suggest an alternative schedule at this time. The Commission may wish to address this issue at the Prehearing Conference and/or through a meet-and-confer process and Prehearing Conference statements.

V. COMMUNICATIONS

The Joint CCAs consent to “email only” service and request that the following individuals be added to the service list for A.18-12-009 on behalf of the Joint CCAs:

³⁰ Application at 4-5.

Party Representatives for each of the Joint CCAs:

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VI. CONCLUSION

For the foregoing reasons, Joint CCAs request that the Commission set this matter for

hearing to fully examine the GRC issues discussed above.

Dated: January 17, 2019

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Tim Lindl', with a horizontal line drawn underneath it.

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