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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, 2020.)
_____(U 39 M)_____)

Application 18-12-009
(Filed December 13, 2018)

**ALLIANCE FOR NUCLEAR RESPONSIBILITY'S
REPLY COMMENTS ON PROPOSED DECISION OF
ADMINISTRATIVE LAW JUDGES RAFAEL LIRAG AND ELAINE LAU**

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A4NR recommends the Commission apply the “fair compromise” metric stated in the PD and modify Article 2.4.2.2 of the Settlement Agreement to reduce the capital cost forecast for the Diablo Canyon Unit 2 Main Generator Stator Replacement Project by \$12.5 million to \$77.9 million.

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I. INTRODUCTION.

Pursuant to Rule 14.3 of the California Public Utilities Commission (“Commission” or “CPUC”) Rules of Practice and Procedure, the Alliance for Nuclear Responsibility (“A4NR”) respectfully submits its Reply Comments on the Proposed Decision (“PD”) of Administrative Law Judges Rafael Lirag and Elaine Lau in the Test Year 2020 General Rate Case of Pacific Gas and Electric Company (“PG&E”). A4NR’s Reply Comments address the Opening Comments filed by the Settling Parties and Women’s Energy Matters (“WEM”).

II. THE SETTLING PARTIES ENCROACH UPON COMMISSION AUTHORITY.

The Opening Comments filed by the Settling Parties would impinge upon the Commission’s non-delegable responsibility to determine what rates are just and reasonable. They misstate the review standard deployed by the PD by omitting mention of the metric’s consciously formulated breadth, i.e.,

examining each major topic, analyzing the settlement terms and revenue amounts that the settling parties agree on, and **making an analysis regarding reasonableness of each term** and the settlement as a whole in light of the evidence presented and comments from parties.¹ (emphasis added)

Instead, the Settling Parties would have the Commission merely resort to a head-count and identity check of signatories to satisfy itself that the proposed settlement is in the public interest:

the range and alignment of parties that support the Settlement should assuage

¹ PD, p. 4.

any concern the Commission might have regarding whether the parties have a sufficiently ‘sound and thorough understanding of the application and all of the underlying assumptions and data included in the record.’²

However, the absence of an adequate cost-effectiveness analysis by PG&E for the \$90.4 million Diablo Canyon Unit 2 Main Generator Stator Replacement Project appears to have eluded the Settling Parties. Similarly, the “sound and thorough understanding of the application and all of the underlying assumptions and data included in the record” claimed by the Settling Parties³ is devoid of awareness of the unrebutted evidentiary record that even PG&E senior management warned its Executive Project Committee in 2017 “to expect significant review of the costs versus benefits of this project in the 2020 GRC.”⁴ This review has yet to take place and the Settling Parties appear not to have noticed.

A4NR was not invited to participate in the negotiation of the Settlement Agreement. Like the Commission, it was presented with a finished product on take-it-or-leave-it terms. At the first available opportunity after the evidentiary hearings in this proceeding, the January 5, 2020 filing of its Opening Brief, A4NR voiced its opposition to inclusion of the Stator Replacement Project in the GRC revenue requirement.⁵ The Settling Parties somehow attach significance to the fact that “many of the individual parties here were parties to the Settlement Agreement in PG&E’s Test Year 2017 GRC,”⁶ (which also required modification prior to approval by the Commission). A4NR was a signatory to the 2017 GRC Settlement Agreement too, and

² Settling Parties’ Joint Comments, p. 3.

³ *Id.*

⁴ Exhibit 147, p. 3-243.

⁵ A4NR Opening Brief, pp. 4 – 9.

⁶ Settling Parties’ Opening Comments, p. 3.

vividly recalls PG&E’s simultaneous withdrawal of the Stator Replacement Project and acknowledgment that any subsequent revival would trigger review of “PG&E’s judgment as to the Unit 2 operating conditions and/or PG&E’s economic and/or engineering analyses offered in support of the project.”⁷ In retrospect, the lesson derived from A4NR’s 2017 GRC experience has been substantially enhanced by the 2020 GRC proposal: as the Settling Parties candidly admit, “the utility always enjoys a natural advantage over intervenors in any application.”⁸

The peril inherent in Settling Parties’ eagerness to usurp the Commission’s oversight function should be obvious: not all “major topics” attract comparably rigorous attention by those selected to parley, and the split-the-baby nature of even the most principled bargaining invites over-inflated initial rate requests from utility applicants. The only antidote to this structural problem, one which vindicates the public policy encouraging settlements, is vigilant Commission scrutiny of all aspects of the negotiated outcome – which the “reasonableness of each term” standard articulated by the PD is designed to provide. The Commission is sufficiently experienced with the dynamics of Rule 12.4 to avoid the dystopic deterrents to future settlements imagined by the Settling Parties.⁹

III. WEM’S WORTHY COMMENTS ARE NOT GERMANE TO A4NR’S OBJECTION.

WEM, which earlier joined A4NR and TURN in calling attention to PG&E’s insufficient cost-effectiveness justification for the Stator Replacement Project, filed Opening Comments that challenge the PD’s fundamental premise for approval of the project (i.e., “we find the

⁷ D.17-05-013, approved Settlement Agreement Section 3.2.3.1.2, p. 1-21.

⁸ Settling Parties’ Opening Comments, p. 3.

⁹ See Settling Parties’ Opening Comments, pp. 4 – 5.

project and settlement costs reasonable and necessary in order to continue operating DCPD safely and reliably for this GRC cycle.”¹⁰) As WEM’s Opening Comments document, the new stator’s actual performance in its first year of operation has entailed two unexpected hydrogen leaks (i.e., the very safety risk it was intended to eliminate) and unplanned shutdowns of 50 days (as of the date of these Reply Comments) since last July. The Stator Replacement Project has enhanced neither Unit 2 safety nor reliability to date. The existence (but not necessarily the accuracy) of the multiple PG&E admissions to the Commission’s Diablo Canyon Independent Safety Committee and the U.S. Nuclear Regulatory Commission, as well as the California Independent System Operator statements, could be officially noticed under Rule 13.9 and Cal. Evid. Code § 452(h) by reliance on the government records cited by WEM, if the Commission so desired.

Nevertheless, WEM’s connecting the dots is beyond the scope of A4NR’s objection to the proposed settlement. A4NR’s concern is not based upon the manifest problems with the new stator **after PG&E installed it**. Instead, A4NR’s focus is on what the Commission’s Prudent Manager Standard required PG&E to know about the stator’s prospective cost-effectiveness (or lack thereof) **before it made the financial commitment to install it**. PG&E acknowledges a lack of thorough analysis and revels in its ignorance, which it justifies as an entitlement bestowed by D.18-01-022.¹¹ But Commission decisions earlier this year specifically debunk this misguided rationale.¹²

¹⁰ PD, p. 153.

¹¹ Exhibit 71, p. 3-12, lines 7 – 20.

¹² See D.20-03-006, p. 5 and D.20-03-028, p. 78.

IV. CONCLUSION.

For the reasons stated herein and in its Opening Comments, A4NR recommends the Commission apply the “fair compromise” metric stated in the PD and modify Article 2.4.2.2 of the Settlement Agreement to reduce the capital cost forecast for the Diablo Canyon Unit 2 Main Generator Stator Replacement Project by \$12.5 million to \$77.9 million.

Respectfully submitted,

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