



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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For Authority, Among Other Things, to Increase Rates)
And Charges for Electric and Gas Service Effective)
On January 1, 2017 (U39M))
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Application 15-09-001
(Filed September 1, 2015)

**REPLY COMMENTS OF THE ALLIANCE FOR NUCLEAR RESPONSIBILITY
RE THE *PROPOSED DECISION OF ALJ ROSCOW***

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Pursuant to Rule 14.3(d) of the Commission's Rules of Practice and Procedure, the Alliance for Nuclear Responsibility ("A4NR") files these reply comments in response to the *Opening Comments on the Proposed Decision of Administrative Law Judge Roscow of the Office of Ratepayer Advocates and Pacific Gas and Electric Company Concerning the Contested Issue of a Four-Year Rate Case Cycle* ("ORA-PG&E Opening Comments"), submitted in the above-captioned docket on March 20, 2017. The ORA-PG&E Comments request revisions to the *Proposed Decision of ALJ Roscow* ("Proposed Decision") that would result in the authorization of a rate increase of a staggering \$1.254 billion above current rates in 2020.¹ These revisions should be rejected.

I. Introduction

During the course of this proceeding, the Office of Ratepayer Advocates ("ORA") proposed that PG&E be placed on a four-year rate case cycle, pursuant to which the Commission would adopt a Test Year 2017 annual revenue requirement and attrition allowances for each of the ensuing years 2018, 2019 and 2020. This essentially adds a third year of attrition allowances in lieu of the Test Year 2020 general rate case PG&E would otherwise file. The ORA's proposal was hotly contested on factual, legal and policy grounds and is one of only two issues the parties to this proceeding could not settle.² The *Proposed*

¹ See "Settlement Agreement Among Office of Ratepayer Advocates, The Utility Reform Network, Alliance for Nuclear Responsibility, [et al.], and Pacific Gas and Electric Company," ("Settlement Agreement"), Attachment 1 to the *Joint Motion of Office of Ratepayer Advocates, the Utility Reform Network, Alliance for Nuclear Responsibility, [etc.], and Pacific Gas Electric Company for Adoption of Settlement Agreement*, Docket A.15-09-001, August 3, 2016. The figure of \$1.254 billion represents the cumulative increase to PG&E's currently authorized annual revenue requirement per Sections 3.1.1 (re 2017, at p.1-3), 3.1.1.2 (re 2018 and 2019, at p.1-4), and 4.1 (re 2020, at p.1-34).

² See, *Opening Comments on Settlement Agreement of Alliance for Nuclear Responsibility*, A.15-09-001, August 18, 2016, at pp.9 to 12; *Opening Comments of the Utility Reform Network and Collaborative Approaches to Utility Safety Enforcement on the "Contested Issues" Identified in the Proposed Settlement*, A.15-09-001, August 18, 2016, at pp.2 to 10; *Opening Comments of Consumer Federation of California to Application of Pacific Gas and Electric [etc.] Joint Motion for Adoption of Settlement Agreement*, A.15-09-001, August 18, 2016, at pp.4 to 6.

Decision rejects ORA's proposal for the third year of attrition allowances due to the potential interference ORA's proposal might have on Commission's nascent safety proceedings and the pendency of a related study being conducted by the Commission's Energy Division.³ In its opening comments on the *Proposed Decision*, ORA, joined by PG&E, attempts to resurrect its proposal by recommending that, "if the Commission adopts a four-year cycle prior to PG&E filing its next [general rate case] application, then ... the amount of revenue requirement increase for the third post-test year recommended by ORA and PG&E in this matter should be adopted."⁴ ORA and PG&E justify their approach, which would result in a rate increase of \$1.254 billion in 2020 compared to 2016 rates, as being "in the interest of administrative efficiency."⁵ That justification fails factual, legal and policy merit and the Commission should reject the proposed revisions to the *Proposed Decision* accordingly.

II. The Evidentiary Record Does Not Supporting Findings of Fact that ORA's Proposed 2020 Annual Revenue Requirement Is Just and Reasonable.

As a factual matter, the record is bereft of any evidence that ORA's proposed 2020 revenue requirement is just and reasonable. To the contrary, the evidentiary record and the nature of the pending *Settlement Agreement* indicate further scrutiny and scrubbing of the ORA 2020 annual revenue requirement must be conducted before the Commission could find the \$1.254 billion rate increase proposed by ORA and PG&E for 2020 to be just and reasonable. Importantly, PG&E's annual revenue requirements as proposed in its application are, in part, dependent on the adoption of a three-year cycle. Certain amortizations for outsized, one-time costs are spread across three years, with one-third of the costs to be collected in each of the three years covered by PG&E's application.⁶ The evidentiary record establishes that ORA failed to extend the amortization periods for these "lumpy" costs from three to four years as part of its proposal for a third attrition year. ORA also failed to make any of the related and necessary derivative

³ See *Proposed Decision*, at pp.195 to 196; accord, Ordering Paragraph 16, at p.224. Also, as to the potential interference a longer general rate case cycle might have on the incorporation of risk-based decision-making process into the Commission rate case plan, see *Decision Addressing the Petition for Modification of Decision 14-12-025 Regarding Adding an Additional Attrition Year*, Decision 16-06-005, in *Order Instituting Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the General Rate Case Plan for Energy Utilities*, Rulemaking 13-11-006, June 9, 2016, printed opinion at p.5.

⁴ See *ORA-PG&E Comments*, at pp.1 to 2.

⁵ See *ORA-PG&E Comments*, at p.1.

⁶ Among these costs are the costs forecasted for the second refueling outage at the Diablo Canyon Nuclear Power Plant ("DCNPP"). These costs will be incurred in late 2019, but have been apportioned to each of the years 2017, 2018 and 2019. This amortization has been reflected in further adjustments to the working cash component of rate base for each of those years. See *Exhibit PG&E-5*, at p.3-32.

adjustments to the annual revenue requirement ORA proposed for each of the four years of the rate case cycle it was proposing.⁷ Even PG&E submitted testimony that ORA's proposed 2020 annual revenue requirement was unreasonable: according to PG&E, ORA had failed to reflect the impending expiration of bonus federal tax depreciation deductions in calculating 2020 annual revenue requirement.⁸ There are no doubt other issues that should be considered and resolved before accepting ORA's 2020 revenue requirement, no matter what the Commission chooses to do with rate case cycles in the pending rulemaking where the Commission Energy Division is conducting workshops.

A4NR was willing to sign onto the annual revenue requirement for the three years covered by PG&E's application. But A4NR would want to test whether ORA's proposed fourth-year revenue requirement should be adjusted to account for the effects extending PG&E's rate case cycle from three to four years might have on, for example, multi-year cost amortizations, as well as any other factual predicate which, while relevant to the years 2017, 2018 and 2019, may not be relevant to 2020 or the 2020 annual revenue requirement. Because there is no evidence supporting any findings that ORA has made these necessary adjustments, the evidentiary record fails to establish as a factual matter that ORA's proposed 2020 revenue requirement is just and reasonable. Even if the Commission later concludes a four-year rate case cycle is appropriate for PG&E, the Commission should not take it for granted that ORA's fourth-year revenue requirement presented is just and reasonable, notwithstanding any administrative efficiency gains that might result from ORA's proposal. Rather, the Commission must at the very least allow the parties contesting ORA's proposal for a four-year rate case cycle to vet the extent to which ORA's proposal for a third attrition year will affect 2020 annual revenue requirement, a process that was truncated upon the execution of the *Settlement Agreement* which is the subject of the *Proposed Decision*.

Second, the *Proposed Decision* makes clear that the Test Year 2017 annual revenue requirement proposed under the *Settlement Agreement*, upon which rates for the ensuing attrition years are based, requires further factual support in light of PG&E's January 11, 2017, announcement that it will implement

⁷ See, e.g., *Exhibit ORA-12*, at pp.21-22, which constitutes the entirety of ORA's testimony regarding PG&E's DCNPP operating costs and capital expenditures. Nowhere does this testimony mention the three-year amortization of the costs of the planned second refueling outage. If ORA's proposal for a third attrition year is implemented, an adjustment to the level of costs for the second refueling outage, and any other amortizations, will need to be made to the annual revenue requirement for each of the years covered by this general rate case, i.e., the costs recovered in any one year should be reduced from one-third to one-fourth of the amount subject to amortization.

⁸ See *Exhibit PG&E-20*, at p.1-14.

corporate efficiencies which will reduce its costs by as much as \$300 million.⁹ Apart from the implications of this announcement as to the reasonableness of the Test Year 2017 annual revenue requirement included in the *Settlement Agreement*, the *Proposed Decision* makes clear that PG&E, from the time it filed its application in September 2015 through the January 2017 announcement, was engaged in a process of continuous improvement from which customers are entitled to benefit. Adding a fourth year to PG&E's general rate case cycle would rob PG&E's customers of any opportunity to benefit from any further improvements and efficiencies PG&E can implement between January 2017 and December 2019. If there are any, accepting ORA's proposed 2020 annual revenue requirement without considering, on the record, PG&E's further ability to increase operating efficiencies and decrease the costs of its operations would create an unacceptable gap between just and reasonable rates and adopted rates, a result the Commission should not brook no matter any administrative efficiencies that might be captured.

III. ORA's Proposal to Adopt Its 2020 Annual Revenue Requirement Is Defective as a Matter of Law.

The Commission is required by law to find that any rate increase is just and reasonable. (See Public Utilities Code Sections 451, 454(a), 728.) As noted above, there is considerable reason to doubt that ORA's proposed 2020 annual revenue requirement meets this standard and ORA and PG&E do not attempt to address it. Rather, ORA and PG&E propose the Commission adopt ORA's proposed 2020 annual revenue requirement "in the interest of administrative efficiency."¹⁰ A4NR could find no precedent holding that "administrative efficiency" is a proper ground upon which the Commission may find that a proposed rate is just and reasonable. The absence of any such precedent is particularly glaring in a case such as this where the utility did not request or provide notice of a rate increase for 2020 at all, let alone one amounting to \$1.254 billion above current rates.

Assuming *arguendo* that the Commission might entertain claims of administrative efficiency as relevant to determining whether the ORA's proposed 2020 annual revenue requirement is just and reasonable, the *Settlement Agreement* establishes that it was well worth the parties' collective trouble of reviewing each and every allegation submitted by PG&E in support of its application. The minimalist rate increase for 2017 proposed by the *Settlement Agreement* clearly arrests the otherwise steep rate curve utility customers would face under the rates originally proposed by PG&E in its application. In fact, the *Settlement Agreement* results in a 2017 *decrease* for both gas and electric distribution operations

⁹ See *Proposed Decision*, at pp.125 to 131.

¹⁰ See *ORA-PG&E Comments*, at p.1.

compared to 2016 levels.¹¹ These decreases radically affect the rate trajectory implicit in the historical rate increases granted to PG&E in its last general rate case.¹² The compelling inference from the end result of the *Settlement Agreement* is that administrative scrutiny and regulatory oversight are critical to enforcing this Commission's mandate and duty to set just and reasonable rates. Approving an increase of \$1.254 billion above current rates as proposed by ORA and PG&E would substitute a formulaic rate increase in place of the scrutiny and oversight which here has so obviously well-served the interests of PG&E customers in paying the lowest reasonable rates for the 2017 test year. The Commission should dismiss the proposal to adopt this staggering rate increase via the rote application of a mechanical attrition formula and reject the revisions to the *Proposed Decision* proposed by ORA and PG&E.

Respectfully submitted,

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¹¹ See *Settlement Agreement*, Section 3.1.1.1, at pp.1-3 to 1-4, reflecting a decrease in 2017 annual revenue requirement of \$62 million for electric distribution operations compared to 2016 authorized revenue requirement and \$3 million for gas distribution operations compared to 2016 authorized revenue requirement.

¹² The *Settlement Agreement* provides for a very modest electric rate increase in 2017. This increase is directly related to 2017 energy-supply cost increases, which offset the decreases in distribution costs. Importantly, the evidentiary record supports the inference that the energy-supply cost trend may be reversed soon. As demonstrated in the evidentiary record, DCNPP operations account for well over half of energy-supply operating costs and one-third of annual energy-supply capital expenditures. With DCNPP now expected to cease operations by the end of 2025, these proportions, as well as the levels of expense and capital committed to the plant, can reasonably be expected to begin declining by 2020 as projects and programs are reevaluated by PG&E or reassigned to decommissioning accounts under a retirement paradigm. See *Settlement Agreement*, Section 3.1.1.1, at p.1-4, providing for an increase in 2017 annual revenue requirement of \$153 million for energy-supply operations compared to 2016 authorized revenue requirement. See also, *Exhibit PG&E-5*, Table 1-1, at p.1-6, which indicates 2017 DCNPP expense is forecasted to be \$425,650,000 out of total 2017 energy supply expense of \$746,808,000, and Table 1-2, at p.1-10, where 2017 (base rate) DCNPP capital expenditures are forecasted to be \$159,700,000 out of total 2017 energy supply capital expenditures of \$480,160,000.