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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)

PETITION FOR MODIFICATION OF DECISION 20-12-005 TO REQUIRE PACIFIC GAS AND ELECTRIC COMPANY TO PRESENT AN INFLATION-CONSTRAINED ALTERNATIVE PROPOSAL IN ITS UPCOMING GENERAL RATE CASE

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I. INTRODUCTION

Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure (Rule), The Utility Reform Network (TURN) submits this Petition for Modification (Petition) of Decision (D.) 20-12-005. The Petition seeks an Order requiring Pacific Gas and Electric Company (PG&E) to supplement its upcoming General Rate Case (GRC) proposal with an alternative proposal that limits the growth in spending by the rate of inflation. Below, TURN explains the details of its request and the reasons why this request should be approved. As required by Rule 16.4(b), TURN's proposed wording changes to D.20-12-005 – the addition of an ordering paragraph – are shown in Exhibit A. Consistent with Rule 16.4(d), this Petition is filed within one year of the effective date of D.20-12-005.

TURN is simultaneously submitting a Motion seeking substantially the same relief in A.20-06-012, the docket for PG&E's Risk Assessment and Mitigation Phase (RAMP) for its upcoming 2023 test year GRC proceeding. **TURN's strong preference would be for TURN's request to be addressed in A.20-06-012, by the more expeditious vehicle of a Ruling of an administrative law judge (ALJ) or assigned commissioner, as opposed to a Commission decision on this Petition for Modification**.[1] Nevertheless, TURN is submitting this Petition as

[1] Commission Rule of Practice and Procedure 9.1 provides that the ALJ may rule upon all motions which do not involve final determination of proceedings, which is the case for TURN's Motion in A.20-06-012.

a protective pleading, in the event the Commission determines that TURN's Motion is not appropriate for resolution in A.20-06-012.

II. SUMMARY OF PETITION

This Petition is driven primarily by the Commission's extremely important February 24, 2021 Energy Rates and Costs En Banc ("Rates En Banc" or "En Banc"), and the supporting White Paper prepared by the Commission's Energy Division. The White Paper pointed out that the Commission faces "multiple intersecting policy mandates" that, if handled incorrectly, could result in rate and bill increases that "would make other policy goals more difficult to achieve" and could result in "overall energy bills becoming unaffordable for some Californians."[2] The White Paper presented graphs showing 2021-2030 overall bundled residential rate forecasts for all three of California's major electric utilities that grow at a pace that exceeds inflation for many years in the coming decade.[3] For high energy usage households in hot climate zones served by all three large electric utilities, the White Paper showed that monthly energy costs (including electric rates plus natural gas and gasoline costs) are projected to rise at a pace that exceeds inflation at an even steeper rate.[4] As the White Paper explained, "[t]he implication is that, if household incomes are expected to generally increase at the rate of inflation, energy bills will

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[2] CPUC, *Utility Costs and Affordability of the Grid of the Future: An Evaluation of Electric Costs, Rates and Equity Issues Pursuant to P.U. Code Section 913.1*, Feb. 2021 ("White Paper"), p. 3, found at https://www.cpuc.ca.gov/uploadedFiles/CPUC_Website/Content/Utilities_and_Industries/Energy/Reports_and_White_Papers/Feb%202021%20Utility%20Costs%20and%20Affordability%20of%20the%20Grid%20of%20the%20Future.pdf

[3] White Paper, pp. 4-5.

[4] White Paper, pp. 5-6.

become less affordable over time." TURN shares this concern, particularly in light of extremely high ongoing wildfire mitigation expenditures and other program costs that place upward pressure on rates. The Commission staff has conducted a thoughtful analysis to heighten awareness of these rate trends and to invite closer attention to how to address the challenges of meeting affordability and other important policy goals, including California's critical greenhouse gas (GHG) emissions reduction goals.

TURN presents this Petition as an important tool to help the Commission meet the mounting concerns posed by increased upward pressure on energy rates. If granted, the Petition would require PG&E, as the next utility to submit a GRC request,[5] to supplement its showing with an alternative proposal that would limit the annual growth of total GRC expenditures by the rate of inflation. This supplemental information would show the choices that PG&E would make in order to satisfy an inflation -- *i.e.*, Consumer Price Index (CPI) -- constraint, which would be an important addition to the Commission's decision-making record. PG&E would not be required to endorse the CPI-constrained alternative and would be free to explain why it advocates its preferred proposal. However, with the CPI-limited alternative, the Commission would have useful information about the choices that could be made to limit or avoid rate increases that outpace inflation. This information would address the concerns articulated in the White Paper by helping to avoid decisions that inadvertently frustrate affordability and other

[5] TURN intends to make a similar request for California's other large energy utilities in an appropriate docket.

long-term state policy goals, such as reducing GHG emissions through transportation and building electrification.

Section III of this Petition explains the specific information that PG&E would be required to submit. As will also be explained in Section II, TURN requests that PG&E be ordered to provide the CPI-constrained alternative no later than 60 days after its June 30, 2021 GRC submission, in order to allow PG&E a reasonable amount of time to prepare this information. Section IV further discusses why this alternative information is needed in GRCs and explains the benefits that would result from granting this Petition. Finally, Section V demonstrates that this Petition complies with the requirements of Rule 16.4.

For the reasons explained in this Petition, TURN respectfully requests a prompt order directing PG&E to provide an alternative CPI-constrained proposal, as described in Section III below.

III. DETAILS OF THE REQUESTED ALTERNATIVE SUBMISSION

A. Description of the Alternative CPI-Constrained Submission That PG&E Should Be Required to Provide

In PG&E's 2023 test year GRC, covering the years 2023 through 2026, PG&E should be required to present an alternative proposal in which total GRC expenditures increase by no more than the forecasted rate of inflation in each year of the GRC period, including the test year. Following are the specific details of what PG&E should be directed to provide:

(1) The inflation constraint should apply to the totality of GRC operations, *i.e.*, the combination of electric and gas operations covered by the GRC. In other words, PG&E's alternative proposal could have expenditures that exceed inflation for the gas line of business

provided that those above-inflation expenditures were offset in the electric line of business – and vice versa. Likewise, PG&E could propose to increase expenditures in any number of areas of its operations beyond inflation, as long as the total increase across the utility's GRC request stayed within the inflation constraint. In this way, PG&E would have more flexibility in designing a proposal that satisfies the inflation constraint than it would if each of the electric and gas lines of business needed to satisfy the constraint separately.

(2) The constraint should apply to the total of <u>expenses and capital expenditures</u> for the combined GRC operations. The constraint should not apply to the associated revenue requirement because of tax benefits associated with certain new capital spending (such as the tax repair deduction). Under normal tax ratemaking treatment, the benefit of the tax deduction "flows-through" to customers in the first year the capital asset is in service, with the tax benefit paid back over time as the utility receives revenue to amortize the capital asset (the "flow-back"). As a result, the first-year revenue requirement impact of certain capital additions can be negative. In a period of heightened capital spending, much of which is eligible for the tax benefits, the overall revenue requirement impact can be substantially dampened in the first year as a result, in a manner that will not persist through the remaining life of the new capital asset. A utility alternative proposal that limited revenue requirement increases by the rate of inflation could therefore be misleading to the extent capital expenditures made in each year of the 2023-2026 rate case period reflect short-term revenue requirement-dampening effects. Furthermore, if the inflation constraint applied to revenue requirement, utilities would have an additional incentive (on top of existing rate of return incentives) to engage in increased capital spending that would achieve near-term reduced revenue requirement impacts during at least a portion of the rate case

period. Yet this capital spending will significantly drive rates up after the initial period of revenue requirement-dampening tax effects. Using capital expenditures rather than the associated revenue requirement is therefore a better measure for purposes of requiring an alternative proposal tied to the rate of inflation.

(3) The starting point for the calculation of spending increases should be PG&E's authorized total GRC spending (combined expense and capital expenditures as discussed in (2) above) for 2022, plus PG&E's 2022 authorized Gas Transmission and Storage (GT&S) spending, as PG&E will incorporate the GT&S revenue requirement into its 2023 GRC (as it has in this RAMP application).[6] Each of the spending totals for 2023, 2024, 2025 and 2026 should increase by no more than the forecast rate of inflation.

(4) To reflect the inflation constraint, PG&E should use the best available forecast for the rate of increase in the Consumer Price Index (CPI) applicable to its service territory for each of 2022-2023, 2023-2024, 2024-2025 and 2025-2026. The consumer-focused CPI should be used, rather than projections of utility cost increases, in order to better reflect changes in ratepayer purchasing power as a gauge of affordability impacts. Importantly, the point of this alternative showing is to explore opportunities in GRCs to avoid exacerbating affordability challenges for consumers and otherwise thwarting the state's electrification goals.

(4) PG&E should provide the amount of proposed expense and capital expenditures under the alternative CPI-constrained proposal within each area of PG&E's request (i.e,

[6] D.20-01-002, p. 43.

testimony chapter), broken down by Major Work Category (MWC) and/or Administrative and General (A&G) expense category. The testimony should include a showing of how these numbers differ from PG&E's preferred GRC proposal. In other words, the supplemental testimony should include a table, broken down as described above, with a column for PG&E's CPI-constrained alternative, a column for PG&E's preferred proposal, and a column showing the difference between the two.

(5) PG&E's supplemental testimony should include a description of the major differences between its preferred and CPI-constrained proposals. The testimony could include, at PG&E's election, an explanation of why PG&E advocates for adoption of its preferred proposal instead of the CPI-constrained alternative.

(6) The supplemental testimony should be treated the same as any other testimony, including being subject to discovery and cross-examination and eligible for admission into the evidentiary record.

B. Timing of Submission of the Alternative Proposal

Ideally, the alternative proposal described above would be submitted at the same time as the utility's GRC application and direct testimony, in order to maximize the time that parties have to analyze the alternative proposal in relation to the utility's preferred recommendations and as a counterweight to the "anchor bias" problem discussed in Section IV below. TURN would thus prefer that PG&E be directed to submit the alternative proposal in testimony provided at the same time as its other direct testimony.

However, because the value of this alternative submission became manifest in the Rates En Banc that took place approximately four months before the due date for PG&E's GRC filing, TURN would not oppose allowing PG&E an additional 60 days to prepare and submit the alternative proposal, *i.e.,* by August 30, 2021. Accordingly, if the Commission does not direct the submission of the information described in Section III on June 30, 2021, TURN requests that the Commission order its submission no later than August 30, 2021.

In the event that PG&E requests an extension to submit its 2023 GRC application later than the current deadline of June 30, 2021, the Commission should address the due date for the inflation-constrained alternative proposal TURN recommends. If PG&E is given an extension until August 30, 2021, or later, to submit its application and testimony, PG&E should be required to provide the alternative proposal at the same time as its application and other testimony, rather than at a later time.

IV. REQUIRING AN INFLATION-CONSTRAINED ALTERNATIVE PROPOSAL WILL SIGNIFCANTLY IMPROVE THE COMMISSION'S DECISION-MAKING RECORD IN A GRC PROCEEDING THAT WILL BE EXTREMELY IMPORTANT AND CHALLENGING

As explained in Section I, the purpose of this request is to require the inclusion of important information in the record the Commission will use to reach its decision in its "Phase 1" GRC proceedings. The Commission has, with understatement, described these GRC proceedings as "complex and financially significant."[7] In fact, Phase 1 GRC decisions determine a large fraction of the costs that may be recovered in rates for utilities' CPUC-jurisdictional operations and thus are a very important determinant of the CPUC-regulated portion of customer rates. The significance of each GRC decision was recently enhanced by the Commission's determination to

[7] D.20-01-002, p. 2.

move from a three- to four-year decision-making cycle,[8] meaning that each decision will be a significant driver of utility rates for four years. In addition, PG&E's next GRC will take on greater significance because, for the first time in decades, it will include costs for natural gas transmission and storage operations.[9] In sum, when it comes to determining rates, GRCs are indisputably a critical event.

GRC decisions are also among the most challenging and complex that the Commission must make, in which the Commission "face[s] the task of adopting an appropriate level of utility funding to ensure safe and reliable service, while keeping rates affordable, and allowing a fair rate of return."[10] As the White Paper points out, balancing these competing considerations has become even more challenging as "[t]he CPUC faces multiple intersecting policy mandates that require a delicate balance to avoid unintended consequences."[11] The White Paper continues:

> If handled incorrectly, California's policy goals could result in rate and bill increases that would make other policy goals more difficult to achieve and could result in overall energy bills becoming unaffordable for some Californians. Electrification goals and wildfire mitigation planning are among the near-term needs, for example, that place upward pressure on rates and bills.[12]

The information that TURN seeks to require utilities to provide is designed to help the Commission strike that delicate balance and avoid unintended consequences that undermine affordability and other policy goals. Keeping growth in utility cost recovery in line with

[8] *Id.*
[9] *Id.*, p. 3.
[10] D.14-08-032, p. 19.
[11] White Paper, p. 3.
[12] *Id.*

inflation is a useful – although certainly not dispositive -- benchmark for the achievement of affordability goals.[13] Because utilities have the obvious information advantage regarding their systems and operations, it would be useful to learn what choices the utilities would make to meet an inflation constraint, which the parties could probe in discovery and cross-examination. Other parties would still be free to present their own proposals to keep cost increases at or below inflation (or any other proposals relevant to the issues before the Commission in a GRC). However, these other proposals would certainly benefit from knowing how the utility would avoid cost increases that exceed the rate of inflation.

To be clear, this Petition is not asking the Commission to decide now that PG&E's GRC spending should be constrained by the rate of inflation. That decision should be based on the GRC record. Indeed, in PG&E's upcoming GRC, TURN may contend that the just and reasonable standard requires cost increases to be kept well below inflation, just as the utility may argue the opposite. TURN's point here is simply that an inflation-constrained proposal presented by the utility would be extremely useful to include in the Commission's decision-making record.

TURN's Petition is also an attempt to mitigate to some extent the problem of "anchor bias" in utility rate applications. Anchor bias is a cognitive bias "where an individual depends too heavily on an initial piece of information (considered to be the 'anchor') to make subsequent

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[13] It should be recognized that, because of growing income inequality, for significant numbers of utility customers, even rates that increase at the rate of inflation will still be increasingly unaffordable. Thus, TURN is not taking the position that the affordability challenge is successfully addressed if bills increase at the rate of inflation, although CPI-limited increases are unquestionably better for affordability than higher increases. In any event, TURN's point here is that a CPI-limited proposal would be a useful benchmark for the decision-making record.

judgments during decision making."[14] For example, the initial price for a used car sets an arbitrary focal point for all following discussions. Prices discussed that are lower than the anchor may seem reasonable, even cheap, even if they are higher than the actual market value of the car.[15] Similarly, in GRCs, the utilities' initial applications and testimony propose the amount of costs they seek to recover for their various programs and functions and set the focal point for all future considerations of the reasonable level of cost recovery. A CPI-constrained alternative proposal can provide a counterweight to the spending and cost recovery "anchors" that the utility advocates. Because of the phenomenon of anchor bias, utilities should generally be required to submit their alternative CPI-constrained proposals at the same time as their application and direct testimony. However, as discussed in Section III.B, TURN does not oppose affording PG&E until August 30, 2021 to submit supplemental testimony with its alternative CPI-constrained proposal.

In sum, TURN submits that requiring PG&E to submit an inflation-constrained alternative proposal in its GRC will provide valuable information to assist the Commission in striking the difficult balance that GRC decisions require and will help to mitigate the known and difficult-to-cure[16] problem of anchor bias in utility rate applications.

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[14] https://en.wikipedia.org/wiki/Anchoring_(cognitive_bias)

[15] *Id.*

[16] The Wikipedia article cited above discusses research showing that anchor bias is very difficult to avoid even when individuals are informed of the problem. https://en.wikipedia.org/wiki/Anchoring_(cognitive_bias)

V. THIS PETITION COMPLIES WITH RULE 16.4

As noted, TURN is simultaneously submitting a virtually identical request in A.20-06-012, PG&E's RAMP for its upcoming 2023 GRC, and would strongly prefer that the merits of this request be addressed in that proceeding by the more expeditious vehicle of an ALJ or assigned commissioner Ruling, as opposed to the Commission order that would be necessary to resolve this Petition. However, TURN presents this Petition as an alternative vehicle for the Commission to address TURN's request, if the Commission so chooses.

This Petition complies with Rule 16.4. As required by Rule 16.4(b), Section III of this Petition discusses the details for the additional ordering paragraph that TURN requests, and Appendix A provides the specific wording for that ordering paragraph. The proposed new ordering paragraph would join several other ordering paragraphs in D.20-12-005 (*e.g.* 15, 16, 18 and 21) that also address matters that PG&E should address in its upcoming GRC submission. As is also required by Rule 16.4(b), Section IV of this Petition explains the justification for the requested relief -- to provide valuable information to assist the Commission in striking the difficult balance that PG&E's upcoming GRC decision will require and to assist in mitigating the problem of anchor bias in utility rate applications. TURN's Petition is based on policy considerations, which are explained above and supported by citations where appropriate, and does not rely on factual allegations. Accordingly, no declaration or affidavit is needed to comply with Rule 16.4(b). Finally, consistent with Rule 16.4(d), this Petition is filed and served within four months of the issuance of D.20-12-005; therefore, the requirement to explain why the Petition could not have been presented within one year is not triggered.

In sum, this Petition meets all applicable requirements of Rule 16.4.

VI. CONCLUSION

For the reasons set forth above, if a Ruling on the merits of TURN's virtually identical request is not made in A.20-06-012, the Commission should modify D.20-12-005 to direct PG&E to submit testimony in its upcoming GRC proceeding that presents an alternative GRC proposal in which total GRC expenditures increase by no more than the rate of inflation, as further explained in Section III. The specific wording of the new ordering paragraph that TURN requests be added to D.20-12-005 is set forth in Appendix A.

Respectfully submitted,

Dated: March 24, 2021

By: __________/s/______________
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APPENDIX A

Ordering Paragraph Proposed to Be Added to D.20-12-025

TURN requests that the following new Ordering Paragraph be added to D.20-12-005:

(24) In its next General Rate Case, PG&E shall include testimony presenting an alternative proposal in which total GRC expenditures increase by no more than the forecasted rate of inflation in each year of the GRC period, including the test year. In that alternative proposal:

(a) The inflation constraint shall apply to the total amount of expenses and capital expenditures for the combined GRC operations ("Total Spending"), *i.e.*, the combination of electric and gas operations covered by the GRC;

(b) Starting with Commission-authorized Total Spending for 2022, Total Spending for each of 2023, 2024, 2025 and 2026 shall increase above the previous year's Total Spending by no more than the forecast rate of inflation;

(c) As the inflation constraint, PG&E shall use the best available forecast for the rate of increase in the Consumer Price Index (CPI) applicable to its service territory for each of 2022-2023, 2023-2024, 2024-2025 and 2025-2026;

(d) PG&E shall include a table that compares the amount of proposed expense and capital expenditures under the alternative CPI-constrained proposal with the amounts under PG&E's preferred proposal within each area of PG&E's request (i.e., testimony chapter), broken down by Major Work Category (MWC) and/or Administrative and General (A&G) expense category;

(e) PG&E shall include a description of the major differences between its preferred and CPI-constrained proposals; and

(f) PG&E is free to include an explanation of why PG&E advocates for the adoption of its preferred proposal instead of the CPI-constrained alternative.

This testimony shall be submitted no later than August 30, 2021. In the event PG&E is granted an extension of time to submit its 2023 GRC application and initial testimony until on or after

August 30, 2021, PG&E shall provide this testimony no later than the due date for its application and initial testimony.