

**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, 2017.  
(U 39 M)

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

**PREHEARING CONFERENCE STATEMENT  
OF THE UTILITY REFORM NETWORK**

October 23, 2015

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## **PREHEARING CONFERENCE STATEMENT OF THE UTILITY REFORM NETWORK**

### **I. INTRODUCTION**

Pursuant to Rule 7.2 of the Commission's Rules of Practice and Procedure and *Administrative Law Judge's Ruling Setting Prehearing Conference (ALJ Ruling)*, issued October 13, 2015, in this proceeding, The Utility Reform Network (TURN) hereby submits this prehearing conference (PHC) statement. The *ALJ Ruling* directed that PHC statements should address the following matters:

- Procedural schedule;
- Scope of issues to be included in (or excluded from) the proceeding;
- Need for evidentiary hearings;
- Appropriate category for this proceeding;
- Discovery issues; and
- List and description of other matters the parties wish to address at the PHC.<sup>1</sup>

TURN addressed several of these issues in our protest, filed September 5, 2015, including scope, need for evidentiary hearings, and categorization. In this PHC statement, TURN addresses the schedule, scope, discovery issues, and other matters, including public participation hearings and whether a need exists for the Commission to open a companion investigation to enable the Commission to act on proposals presented by parties other than the applicant PG&E.

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<sup>1</sup> *ALJ Ruling*, pp. 1-2.

## II. SCHEDULE

PG&E proposes a schedule that aligns with the updated Rate Case Plan (RCP) schedule adopted by the Commission in D.14-12-025.<sup>2</sup> In that decision, the Commission adopted a new GRC schedule but expressly provided that the assigned Commissioner and ALJ “shall have the discretion to alter the schedule as may be needed.”<sup>3</sup> ORA opposes the schedule proposed by PG&E “because it provides inadequate time for ORA to fully evaluate and develop independent forecasts and testimony in light of the numerous issues presented in the Application.”<sup>4</sup> To support its ability to carry out its duties, ORA proposes a schedule that extends the due date for ORA’s testimony and adjusts the due dates for intervenor and rebuttal testimony, while generally aligning with the new RCP schedule for the remainder of the proceeding.<sup>5</sup>

The following table compares PG&E’s and ORA’s proposed schedules, including a comparison of the number of calendar days between each of the major events.

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<sup>2</sup> PG&E Application, p. 23.

<sup>3</sup> ORA Protest, p. 5 (citing D.14-12-025, p. 40).

<sup>4</sup> ORA Protest, p. 4.

<sup>5</sup> ORA Protest, p. 5.

<b>Activity</b>	<b>PG&amp;E Date</b>	<b>Increment (days)</b>	<b>ORA Date</b>	<b>Increment (days)</b>
Application Filed	9/1/15	0	9/1/15	0
Initial Public Workshop	9/29/15		9/29/15	
PHC	By 10/30/15		10/29/15	
Additional Public Workshops	Oct/Nov 15		Oct/Nov 15	
PG&E SmartMeter Cost-Effectiveness Exhibit	12/1/15		12/1/15	
ORA Testimony	2/22/16	174	4/15/16	227
Supplemental PG&E Testimony	2/22/16		2/22/16	
Intervenor Testimony	3/17/16	24	4/29/16	14
Public Participation Hearings	Mar/Apr 16		May 16	
Rebuttal Testimony	5/2/16	70* / 46**	5/16/16	31 / 17
Evidentiary Hearings begin	5/16/16	14	5/31/16	15
Evidentiary Hearings end	6/10/16	25	6/24/16	24
Comparison Exhibit (if necessary)	7/1/16		Jul 16	
Opening Briefs	7/8/16	28	7/25/16	31
Reply Briefs	7/29/16	21	8/8/16	14
ALJ Proposed Decision	11/8/16	102	11/8/16	92
Final Decision	12/8/16		12/8/16	

\* Days between ORA's testimony and rebuttal

\*\* Days between intervenor testimony and rebuttal

TURN recognizes the importance of a procedural schedule that affords ORA the time it needs to undertake its uniquely comprehensive review of PG&E's showing. As ORA explains:

As the intervenor responsible for conducting the most comprehensive review of utilities' general rate case applications, ORA will need the time to perform a thorough investigation and evaluation of the facts presented by PG&E, conduct discovery, develop independent analysis and forecasts and prepare written expert witness testimony. If the Commission expects a thorough work product from the ratepayer advocacy division responsible for representing the interests of millions of PG&E customers, then ORA should be provided the time required.<sup>6</sup>

Indeed, TURN is able to focus our efforts in GRCs to complement and/or supplement

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<sup>6</sup> ORA Protest, p. 6.

ORA's showing because ORA is required to undertake this thorough investigation and evaluation. If the Commission were to adopt a schedule that fundamentally undercuts ORA's ability to do its job, the quality of the record in this proceeding would suffer. For this reason, TURN recommends that the Commission heed ORA's warning.

If the Commission is inclined to adopt ORA's proposed schedule, then TURN urges one modification. ORA would have intervenor testimony due 14 days after ORA serves its own testimony. TURN recommends that intervenor testimony be due at least 21 days after ORA testimony to afford TURN (and other intervenors) adequate time to finalize our coordination with ORA and to compare our recommendations with ORA's final workproduct. Providing a shorter interval of time would compromise the clarity of the record. At TURN's urging – and for this same reason -- the Commission in D.14-12-025 adopted a new RCP schedule with intervenor testimony due more than three weeks after ORA's testimony.<sup>7</sup>

Furthermore, if the Commission requires PG&E to supplement its case in chief to address costs associated with imprudence, as TURN urged in our protest<sup>8</sup>, then ORA and other intervenors, including TURN, will need additional time in the schedule to evaluate this new material and prepare our testimony.

### **III. SCOPE**

In our protest, TURN addressed several issues related to the scope in this proceeding. First, we strongly urged the Commission to direct PG&E to supplement its case in chief to address the extent to which its request includes amounts to remedy

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<sup>7</sup> See D.14-12-025, p. 42, Table 4; TURN Comments on PD, filed in R.13-11-006 on Nov. 24, 2014, pp. 9-11 (urging modification of the PD to stagger ORA and intervenor testimony with at least 3 weeks in between).

<sup>8</sup> TURN Protest, Section V.

PG&E's deficient recordkeeping, at issue in I.14-11-008, or other imprudence.<sup>9</sup> Second, TURN posited that the reasonableness of PG&E's risk-scoring models should be within the scope of this case to the extent the results of those models are used to support PG&E's request.<sup>10</sup> TURN will be prepared to discuss both of these issues further at the prehearing conference.

TURN additionally argued that the Commission should direct PG&E to remove from its request all costs intended to implement its Distribution Resources Plan (DRP), submitted as A.15-07-006.<sup>11</sup> In its reply to protests, PG&E advanced several arguments why the Commission should evaluate the reasonableness of this request in this rate case. TURN will be prepared to argue the legal and policy issues supporting its position at the prehearing conference.

TURN addresses only one issue in this PHC statement, the relevance of the example of smart-meter opt-out costs litigated in the last rate case. PG&E alleges that litigating opt-out costs in A.12-11-009 demonstrates that "[i]t is commonplace for costs to be presented in GRCs that relate to matters pending before the Commission in other dockets."<sup>12</sup> PG&E's example does not support its contention, as there was no dispute in the last rate case as to whether such costs would be incurred during the rate case cycle.

The Commission ordered PG&E to implement an opt-out plan in February of 2012. Decision 12-02-014 adopted interim fees and charges, authorized PG&E to establish memorandum accounts to track revenues and costs, and ordered PG&E to

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<sup>9</sup> TURN Protest, Section V.

<sup>10</sup> TURN Protest, Section VII.

<sup>11</sup> TURN Protest, Section VI.

<sup>12</sup> PG&E Reply to Protests, p. 7.

submit implementation tariffs within 15 days.<sup>13</sup> The Commission determined that final fees, as well as cost allocation issues and the issue of community-wide opt-out, would be determined in a later phase of the proceeding.<sup>14</sup> Thus, when PG&E filed its test year 2014 rate case in November of 2012 (A.12-11-009), there was no dispute that PG&E would incur costs to operate its already-authorized opt-out program. There was uncertainty concerning future program costs and revenues, primarily due to uncertainty concerning community-wide opt-out. As a result, the Commission eventually adopted TURN's proposed cost forecast together with PG&E's proposal for a two-way balancing account.<sup>15</sup>

The situation is entirely different concerning the DRP implementation costs, such as costs related to the integration capacity analysis and the volt-var optimization program, among others proposed by PG&E in this rate case. There is no dispute that the Commission supports a policy of greater integration of cost-effective distributed energy resources (DERs).<sup>16</sup> However, the DRP proceeding will determine how to calculate the “net benefits” of DERs, and the Commission can approve spending in a rate case only “if it concludes that ratepayers would realize net benefits.”<sup>17</sup> Another key issue in the DRP proceeding is whether the utilities already have sufficient capacity for DERs, and should develop incentive mechanisms to target DER deployment to those circuits where they can be installed at little additional cost, or whether the utilities need to invest in circuit automation and reinforcements in order to accommodate greater levels of DERs. This

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<sup>13</sup> D.12-02-014, pp. 33-35.

<sup>14</sup> *Id.*, p. 35.

<sup>15</sup> D.14-08-032, p. 305-309. Ultimately, the Commission adopted final fees that were equal to the interim fees, though limited for a period of three years. See, D.14-12-078.

<sup>16</sup> P.U. Code § 769(b).

<sup>17</sup> P.U. Code § 769(d).

key policy issue must first be decided in the DRP proceeding before PG&E requests significant additional spending to support DER integration.

#### **IV. DISCOVERY ISSUES**

PG&E's proposed schedule provides just 10 business days between the due date for Rebuttal Testimony (Monday, May 2, 2016) and the start of Evidentiary Hearings (Monday, May 16, 2016). ORA's proposed schedule would similarly provide 10 business days, from May 16 to May 31, 2016. These timelines do not realistically accommodate the customary discovery response time – 10 business days – to which parties are accustomed in CPUC practice, thereby undermining the opportunity for parties to conduct discovery related to rebuttal testimony in preparation for evidentiary hearings. TURN has in the past been able to clarify and/or narrow the range of disputed issues through written data requests following rebuttal testimony, thereby reducing the amount of time we needed to devote to cross-examination during hearings. In this way, discovery related to rebuttal testimony can increase the efficient use of hearing room time, to the benefit of the Commission and all parties involved. TURN accordingly requests that the Commission provide guidance on discovery in this proceeding to ensure that parties have a meaningful opportunity to conduct post-rebuttal testimony discovery.

If the Commission adopts a procedural schedule with fewer than three weeks (15 working days) between the due date for rebuttal testimony and the start of evidentiary hearings, such as the schedules proposed by PG&E and ORA, TURN urges the Commission to adopt an expedited post-rebuttal discovery protocol. To allow parties a meaningful opportunity to review rebuttal testimony and conduct discovery prior to hearings, if necessary, TURN requests that the Commission direct parties to respond to



any discovery specifically related to rebuttal testimony in at most 5 days, and sooner if possible. The Commission took a very similar approach under comparable circumstances in PG&E's last two GRCs, A.09-12-020 and A.12-11-009, directing that "parties shall turn around rebuttal-related discovery requests within five days," with any exceptions to be negotiated by the parties.<sup>18</sup>

## **V. OTHER MATTERS**

### **A. Public Participation Hearings**

The schedules proposed by PG&E and ORA contain placeholders for Public Participation Hearings (PPHs) but no proposed locations or dates. TURN recommends that PPHs be held at the Commission's convenience after intervenor testimony is served but before evidentiary hearings.

In PG&E's last general rate case, the Commission held 11 PPHs across PG&E's service territory. PPHs took place in San Bruno, San Francisco, Fresno, Bakersfield, Santa Rosa, Stockton, Oakland, Chico, San Jose, Soledad, and San Luis Obispo.<sup>19</sup> In the 2011 GRC, A.09-12-020, the Commission also held 11 PPHs, located in San Francisco, Fresno, Bakersfield, Ukiah, Santa Rosa, Oakland, Woodland, Red Bluff, San Jose, Salinas, and San Luis Obispo.<sup>20</sup> In PG&E's prior general rate case, A.05-12-002, the Commission held 10 PPHs in the following cities: Oakland, Ukiah, Santa Rosa, King City, Salinas, San Luis Obispo, Modesto, Fresno, Woodland, and Chico.<sup>21</sup> The

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<sup>18</sup> *Assigned Commissioner's Ruling and Scoping Memo*, issued Mar. 5, 2010, in A.09-12-020, p. 9; *Assigned Commission's Ruling and Scoping Memo*, issued January 22, 2013, in A.12-11-009, p. 9.

<sup>19</sup> *Administrative Law Judge's Ruling Setting Schedule for Public Participation Hearings*, issued Mar. 11, 2013, in A.12-11-009, pp. 2-3.

<sup>20</sup> *Administrative Law Judge's Ruling Establishing Joint Public Participation Hearings*, issued Mar. 30, 2010, in A.09-12-020, pp. 2-3. These PPHs were held jointly in PG&E's GRC and PG&E's application to increase its revenue requirement for natural gas transmission and storage services, A.09-09-013, to avoid customer confusion, maximize customer convenience, and minimize cost to the Commission. *Id.*, p. 2.

<sup>21</sup> D.07-03-044, p. 5, fn. 2. *See also Administrative Law Judge's Ruling Setting Public Participation*

Commission benefitted greatly from the comments of customers at these PPHs in resolving issues in that proceeding, particularly PG&E's proposal to close its entire network of 84 local office front counters, where customers pay bills and receive in-person assistance from PG&E employees.<sup>22</sup> In this case, as well, PG&E is proposing to close a third of its customer service offices.<sup>23</sup>

The usefulness of PPHs to the Commission's deliberative process depends on participation by PG&E's customers. Local community awareness and the ability of customers to attend and participate are essential to a successful PPH. TURN is eager to assist the Commission in holding well-attended PPHs in the instant proceeding. To that end, we recommend that the Commission hold PPHs in the following locations: San Francisco, Oakland, Stockton, Fresno, and Mendocino County. TURN by no means intends for this list to be exhaustive, and we defer to other intervenors for suggested locations for PPHs in other parts of PG&E's service territory. TURN additionally requests to work with the Public Advisor's Office to ensure that PPHs are held at buildings in the locations we recommend that are likely to encourage participation.

## **B. Companion Investigation Docket**

Historically, it has been customary for the Commission to issue an Order Instituting Investigation (OII) and open a companion docket to the utility's general rate case application. As the Commission explained when it opened I.06-03-003, the companion investigation to A.05-12-002, PG&E's 2007 General Rate Case:

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*Hearings*, issued Feb. 21, 2006, in A.05-12-002.

<sup>22</sup> See D.07-05-058, *Opinion Adopting a Settlement Agreement Regarding the Closure of Nine Front Counters*, pp. 13-15 (evaluating whether the proposed settlement was in the public interest); *see also* D.07-03-044, pp. 16-17 (requiring PG&E to maintain existing staffing and service levels at local office front counters, pending the Commission's consideration of PG&E's proposal to close them in Phase 2 of its 2007 GRC).

<sup>23</sup> PG&E-6, p. 5-2.

The purpose of this investigation is to allow the Commission to consider proposals other than PG&E's, and to enable the Commission to enter orders on matters for which the utility may not be the proponent. This companion investigation will also afford parties an opportunity and forum to provide evidence on issues of interest to the Commission. These issues may result in directives to PG&E that serve the public interest and that result in just and reasonable rates, services, and facilities.<sup>24</sup>

Similarly, in PG&E's last GRC, A.12-11-009, the Commission issued a companion OII to "allow the Commission to hear proposals other than PG&E's and to enable the Commission to enter orders beyond the confines of what PG&E specifically requests in its application."<sup>25</sup>

On the other hand, the Commission has declined to open a companion investigation in other instances, such as Southern California Edison Company's (SCE's) 2012 General Rate Case, A.10-11-015. There the Commission found that opening such a proceeding would be unnecessary because "[p]arties are entitled to bring up any issue or proposal within the context of the direct testimony within the scope of the general rate case."<sup>26</sup> The Commission similarly concluded in San Diego Gas & Electric Company's and Southern California Gas Company's 2012 General Rate Cases that the Commission could address affirmative recommendations of parties on subjects not covered by the utilities' applications or testimony without opening a companion investigation.<sup>27</sup>

In this case, TURN requests that the Commission either open a companion investigation to PG&E's 2017 General Rate Case or clarify that the Commission will entertain herein the affirmative proposals of parties other than PG&E, even where such proposals are not covered by PG&E's application or testimony, as long as parties'

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<sup>24</sup> Order Instituting Investigation 06-03-003, issued March 7, 2006, p. 1.

<sup>25</sup> *Assigned Commission's Ruling and Scoping Memo*, issued January 22, 2013, in A.12-11-009, p. 4.

<sup>26</sup> *Scoping Memo and Ruling of Assigned Commissioner*, issued Mar. 1, 2011 in A.10-11-015, p. 26.

<sup>27</sup> *Assigned Commissioner and Administrative Law Judge's Scoping Memo and Ruling*, issued Mar. 2, 2011 in A.10-12-005 / A.10-12-006, p. 12.

proposals address issues properly within the scope of a general rate case. Either of these approaches would avoid an overly restrictive construction of the matters the Commission may consider in this docket as it evaluates how best to serve the public interest.

Date: October 23, 2015

Respectfully submitted,

By:                     /s/                      
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