

ALJ/MLC/jt2

**Date of Issuance 2/10/2020**

Decision 20-02-008 February 6, 2020

**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, 2017. (U39M)

Application 15-09-001

**DECISION DENYING THE UTILITY REFORM NETWORK'S  
PETITION FOR MODIFICATION OF DECISION 19-02-019**

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## **DECISION DENYING THE UTILITY REFORM NETWORK'S PETITION FOR MODIFICATION OF DECISION 19-02-019**

### **Summary**

This decision denies the Petition for Modification (PFM) of Decision 19-02-019 filed by The Utility Reform Network (TURN) on March 5, 2019. In its PFM, TURN sought modification of the Commission's decision on TURN's claim for intervenor compensation in this proceeding. TURN requested reversal of a disallowance for a section of TURN's testimony regarding renewal of the operating licenses for Pacific Gas and Electric Company's Diablo Canyon Nuclear Power Plant by the U.S. Nuclear Regulatory Commission. The Commission denies the PFM because TURN failed to meet the requirements of Rule 16.4(b) of the Commission's Rules of Practice and Procedure, which requires that any factual allegations in a PFM must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed.

### **1. Background**

In Application (A.) 15-09-001 Pacific Gas and Electric Company (PG&E) submitted its 2017 General Rate Case (GRC) to the Commission, seeking authority to increase revenue requirements for its gas and electric distribution systems and its electric generation facilities, effective January 1, 2017. Among a number of other intervenors, The Utility Reform Network (TURN) protested PG&E's application and participated actively throughout the proceeding. TURN served comprehensive testimony on April 29, 2016. TURN's testimony addressed many issues, and included a "policy" section that discussed PG&E's Diablo Canyon Nuclear Power Plant (Diablo Canyon). At the time PG&E filed A.15-09-001, the operating licenses for Diablo Canyon Unit 1 and Unit 2 were scheduled to expire at the end of 2024 and 2025, respectively. TURN

recommended in its testimony that the Commission require PG&E to present a cost-effectiveness evaluation of license renewal for Diablo Canyon in the next GRC and require any future spending on Diablo Canyon (after this GRC) to be accompanied by a long-term cost-effectiveness analysis.

In a related development separate and apart from this proceeding, PG&E announced on June 20, 2016 that it had reached an agreement with a number of interested parties on a “Joint Proposal to Retire Diablo Canyon Nuclear Power Plant at the Expiration of the Current Operating Licenses and Replace it with a Portfolio of GHG-Free Resources” (Joint Proposal).<sup>1</sup> PG&E submitted the Joint Proposal to the Commission on August 11, 2016.<sup>2</sup>

On August 3, 2016 PG&E and the active parties in this GRC proceeding, including TURN and A4NR, filed and served a Joint Motion for Adoption of Settlement Agreement (Joint Motion), requesting that the Commission approve a near-comprehensive settlement (Settlement Agreement) that addressed all but two contested issues in the proceeding. The Settlement Agreement included Section 3.2.3.1, which addressed five “non-financial” matters regarding Diablo Canyon:

Section 3.2.3.1.1: A4NR withdraws its recommendations with respect to decreasing annual depreciation expense for remaining Diablo Canyon net investment;

Section 3.2.3.1.2: PG&E withdraws its request for pre-approval of the Unit 2 main generator stator project;

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<sup>1</sup> The other signatories to the Joint Proposal were the Alliance for Nuclear Responsibility (A4NR), the Coalition of Utility Employees, Friends of the Earth, the International Brotherhood of Electrical Workers Local 1245, Natural Resources Defense Council, and Environment California.

<sup>2</sup> See, A.16-08-006, “Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, and Recovery of Associated Costs Through Proposed Ratemaking Mechanisms.”

Section 3.2.3.1.3: A4NR withdraws its ratemaking recommendations with respect to the Diablo Canyon Independent Spent Fuel Storage Installation expansion project, provided that PG&E conducts a related study, as specified in the Settlement Agreement;

Section 3.2.3.1.4:

(A) A4NR withdraws its recommendation that the Commission order PG&E to file an annual Tier 1 advice letter regarding the material conditions affecting PG&E's decision to pursue license extensions for Diablo Canyon at the U.S. Nuclear Regulatory Commission (NRC);

(B) In lieu of the annual advice letter recommended by A4NR, PG&E shall notify the Commission via a Tier 1 advice letter of any material changes to the condition of the plant as may affect the planned retirement date of Diablo Canyon; PG&E shall also provide an annual update to its Test Year 2017 GRC forecast of the planned capital improvements, projects and additions for Diablo Canyon, as specified.

Section 3.2.3.1.5: A4NR withdraws its recommendations proposing a new ratemaking mechanism and balancing account framework for PG&E's recovery of its revenue requirement for Diablo Canyon.

On May 15, 2017 the Commission addressed the Joint Motion and Settlement Agreement in Decision (D.) 17-05-013, approving the Settlement Agreement subject to two modifications unrelated to the Diablo Canyon agreements listed above. The Commission also resolved the remaining contested issues and directed PG&E to complete a number of compliance actions, also unrelated to Diablo Canyon.

On July 17, 2017 TURN filed and served its claim requesting intervenor compensation for substantial contributions to D.17-05-013. The Commission addressed TURN's request in D.19-02-019, awarding \$1,386,671 in compensation for substantial contributions to D.17-05-013. This represented a reduction of \$27,686 (1.96%) from TURN's requested amount of \$1,414,358.

The reduction of TURN's request included approximately \$6,000 requested by TURN as compensation for its testimony regarding the license renewals for Diablo Canyon. As TURN notes in its PFM, D.19-02-019 disallowed this amount based on TURN's acknowledgement that the issue was effectively resolved when PG&E decided in June 2016 not to pursue renewal of the licenses, as subsequently reflected in its August 2016 application for Commission approval of the retirement of Diablo Canyon. The Commission explained the \$6,000 disallowance as follows:

However, as TURN acknowledges, the issues raised by TURN regarding license renewal for Diablo Canyon were resolved by PG&E's decision to seek Commission approval to retire Diablo Canyon at the end of its current NRC licenses. TURN should not be compensated for its work on license renewal issues (i.e., Exhibit TURN-06, Section II.A., "Diablo Canyon Nuclear Plant, Policy"), because the Commission addressed PG&E's request in D.18-01-022 in A.16-08-006.

TURN witness Marcus claimed 9.25 hours for Diablo Canyon-related work, and should be compensated for 50% of those hours. TURN attorney Freedman claimed 23.25 hours for Diablo Canyon-related work, and should be compensated for 50% of those hours.<sup>3</sup>

On March 5, 2019 TURN filed and served a petition for modification (PFM) of D.19-02-019. TURN requests modification of D.19-02-019 to restore funds claimed by TURN for its testimony and recommendations that the Commission should require PG&E to present a cost-effectiveness evaluation of license renewal for Diablo Canyon in the next GRC and require any future spending on Diablo Canyon after this GRC to be accompanied by a long-term cost-effectiveness

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<sup>3</sup> D.19-02-019 at 12-13.

analysis. TURN estimates this would increase its \$1.386 million award by \$6,098.75, or forty-four one-hundredths of one percent.

A4NR filed and served a response to TURN's PFM on April 4, 2019. A4NR supports TURN's PFM for two reasons:

1. According to A4NR, D.19-02-019 "ignores the substantial outcomes, both procedural and substantive, found in Decision 17-05-013 regarding issues related to the operation and regulatory oversight of the Diablo Canyon Nuclear Power Plant."<sup>4</sup>
2. According to A4NR, the grounds upon which D.19-02-019 denies TURN intervenor compensation for its pursuit of Diablo Canyon-related issues "are inconsistent with other findings in the decision and fundamentally unfair."<sup>5</sup>

## **2. TURN's Petition for Modification**

Rule 16.4 of the Commission's Rules of Practice and Procedure governs Petitions for Modification of Commission decisions. Pursuant to Rule 16.4(b), a petition for modification must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed.<sup>6</sup>

TURN provides two justifications for its requested modifications of D.19-02-019, contending that the Commission's disallowance is (1) "flawed as a matter of logic and fairness"<sup>7</sup> and (2) "inconsistent with the standard for

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<sup>4</sup> Response of the Alliance for Nuclear Responsibility to Petition of The Utility Reform Network for Modification of Decision 19-02-019 (A4NR Response), at 2.

<sup>5</sup> *Id.* at 5.

<sup>6</sup> All references to "Rules" in this decision are to the Commission's Rules of Practice and Procedure.

<sup>7</sup> TURN PFM at 3.

determining ‘substantial contribution’ set forth in California Public Utilities Code (Pub. Util. Code) § 1802(j).”<sup>8</sup>

TURN faults the logic of D.19-02-019 because PG&E announced its intention to retire Diablo Canyon in June 2016, two months after TURN served its GRC testimony:

Hence, disallowing the time TURN devoted to addressing Diablo Canyon license renewal in the GRC -- an issue presented in PG&E’s GRC application and anticipated to be resolved in this proceeding -- because of events that occurred in the future in another proceeding, is illogical under the circumstances presented here.<sup>9</sup>

TURN faults the fairness of D.19-02-019 because it “seems to suggest that A.16-08-006 would have been the more appropriate venue for seeking compensation associated with those hours since that is where the Commission approved PG&E’s request to retire Diablo Canyon when the existing licenses expire.”<sup>10</sup> TURN finds this unfair:

But until the Commission issued D.19-02-019 [...], TURN had no reason to believe that compensation for the GRC work associated with Diablo Canyon license renewal issues that PG&E raised in its GRC application might need to be included in a request filed in another proceeding.<sup>11</sup>

Regarding the statutory standard for determining “substantial contributions” by intervenors, TURN contends that D.19-02-019 errs in

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<sup>8</sup> *Id.* at 6.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*



concluding that D.18-01-022 rendered TURN's contributions regarding Diablo Canyon license renewal in this proceeding moot:<sup>12</sup>

By looking to D.18-01-022 to assess the value of TURN's contribution to D.17-05-013, the Commission's analysis in D.19-02-019 is contrary to the intervenor compensation statute.

There is nothing in the intervenor compensation statute to suggest that D.17-05-013 is any less of a "decision" for the statute's purposes, or that a later decision in a different proceeding could effectively undo some or all of TURN's substantial contributions to D.17-05-013 under the circumstances here.<sup>13</sup>

### **3. Discussion**

We have thoroughly reviewed TURN's arguments and supporting analysis, and we find that each of the justifications offered by TURN pursuant to Rule 16.4(b) collapses upon closer examination. In denying compensation to TURN for its testimony and recommendations regarding Diablo Canyon license renewal and cost-effectiveness, D.19-02-019 is neither illogical nor unfair, nor is the decision inconsistent with the standard for determining "substantial contribution" set forth in Pub. Util. Code section 1802(j). TURN's PFM fails because TURN has not met the requirements of Rule 16.4(b): "[a]ny factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed." On the contrary, TURN's arguments rely on factual allegations that are inconsistent with the proceeding record.

Most importantly, TURN's arguments ignore one crucial fact: the issue of Diablo Canyon license renewal was not in the scope of this proceeding. Because this issue was not within scope, the Commission did not consider, discuss, or

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<sup>12</sup> *Id.* at 6.

<sup>13</sup> *Id.* at 8.

“decide” this issue in D.17-05-013. Therefore, TURN cannot identify any “substantial contribution” for which it should be compensated. Instead, TURN’s PFM relies on partial quotes from D.17-05-013 and D.19-02-019 to support incorrect factual statements about those decisions. Having failed to meet the requirements of Rule 16.4(b), the PFM should be denied.

Regarding the issues of logic and fairness, the fact that the time TURN recorded for Diablo Canyon license renewal in the GRC occurred before PG&E filed the Joint Proposal in A.16-08-006 and the Commission issued D.18-01-022 has no relevance to the Commission’s decision denying TURN compensation. TURN’s argument that D.19-02-019 is illogical rests on TURN’s incorrect statement that Diablo Canyon license renewal was “*an issue presented in PG&E’s GRC application and anticipated to be resolved in this proceeding.*”<sup>14</sup> As we explain and document below, the proceeding record demonstrates that the opposite is true.

First, PG&E’s GRC application did not “present” the issue of Diablo Canyon license renewal. Pursuant to Rule 2.1, “[a]ll applications shall state clearly and concisely the authorization or relief sought.” PG&E provided its list of principal issues to be considered and upon which PG&E sought Commission relief in Section IX.F. of its application. PG&E’s list includes eight matters regarding its Energy Supply organization, which includes Diablo Canyon. None of the listed issues concerns license renewal. Furthermore, PG&E mentions the matter just once in the testimony served concurrently with its application on September 1, 2015, and only to state that the company was not requesting recovery of costs associated with license renewal in this GRC:

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<sup>14</sup> *Id.* at 5, emphasis added.

License Renewal: This exhibit does not include any costs associated with the License Renewal application process and does not assume operations of DCPD [Diablo Canyon Power Plant] beyond the current license life for DCPD. The exhibit only includes costs that are forecast to occur for the period 2017-2019. PG&E has not included any costs in this forecast associated with operations following the expiration of operating licenses in 2024 and 2025. The issue of whether PG&E should operate DCPD beyond 2024 and 2025 is not addressed in this exhibit and is outside the scope of the 2017 GRC. Additionally, project justifications for projects included in this filing are bounded by the existing license period.<sup>15</sup>

Our review of the proceeding record confirms that neither TURN nor any other party, after they reviewed PG&E's September 1, 2015 application and testimony, subsequently requested inclusion of matters regarding "Diablo Canyon license renewal" in the scope of issues to be decided by the Commission in this GRC. We note that the Commission's Rules afforded parties at least five distinct opportunities to make such a request:

1. in protests to PG&E's application;<sup>16</sup>
2. in Prehearing Conference (PHC) statements filed prior to the PHC, as directed in the ALJ Ruling that set the date for the PHC;<sup>17</sup>

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<sup>15</sup> Exhibit PG&E-05, Energy Supply, Chapter 3, Nuclear Operations Costs, at 3-4.

<sup>16</sup> See, Rule 2.6 "Protests, Responses, and Replies" section (d): "Any person protesting or responding to an application shall state in the protest or response any comments or objections regarding the applicant's statement on the proposed category, need for hearing, issues to be considered, and proposed schedule." Emphasis added.

TURN's extensive protest to PG&E's application, filed October 5, 2015, did not request that Diablo Canyon license renewal be included in the scope of this proceeding.

<sup>17</sup> See, Rule 7.2, "Prehearing Conference" section (a), in pertinent part: "The ruling setting the prehearing conference may also set a date for filing and serving prehearing conference statements. Such statements may address the schedule, the issues to be considered, and any other matter specified in the ruling setting the prehearing conference." Emphasis added. The October 13, 2015 ALJ Ruling that scheduled the PHC in this proceeding directed that PHC statements "should address" the scope of issues to be included in (or excluded from) the proceeding, among other topics.

3. during the pre-PHC “meet-and-confer” session between PG&E and parties, required in the ALJ Ruling setting the PHC;<sup>18</sup>
4. on the record at the PHC itself;<sup>19</sup> and
5. after issuance of the Scoping Memo for the proceeding, by filing a motion for reconsideration of the scope of the proceeding, and requesting inclusion of the issue within scope.<sup>20</sup>

This list illustrates a fundamental aspect of due process in Commission proceedings: parties are afforded multiple opportunities to make (and, just as importantly, answer) requests that an issue be included in the scope of a proceeding, but parties do not determine the scope of issues that will be addressed in any proceeding. Pursuant to Pub. Util. Code section 1701.1(b) it is the responsibility of the assigned Commissioner to “prepare and issue by order or ruling a scoping memo that describes the issues to be considered” in ratesetting proceedings such as this GRC.

Our review of the December 1, 2015 Assigned Commissioner's Ruling and Scoping Memo confirms that it did not include the issue of Diablo Canyon license renewal in the list of approximately thirty “principal issues” identified as within the scope of this proceeding.<sup>21</sup> Section 7 of that list describes the in-scope

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<sup>18</sup> The ALJ’s PHC Ruling directed PG&E to “meet and confer with those parties that file either a protest to the application or a PHC statement and, to the extent possible, resolve conflicts in proposed schedules, scope of issues, and/or other matters...”. October 13, 2015 ALJ Ruling at 1 and 2. Emphasis added.

<sup>19</sup> The ALJ’s PHC Ruling stated that the PHC “will address the scope and schedule for the proceeding, establish the service list, and address other procedural issues that may arise.” October 13, 2015 ALJ Ruling at 1. Emphasis added.

<sup>20</sup> See, Rule 11.1, “Motions” sections (a) (“A motion is a request for the Commission or the Administrative Law Judge to take a specific action related to an open proceeding before the Commission.”) and (b) (“A motion may be made at any time during the pendency of a proceeding by any party to the proceeding.”).

<sup>21</sup> Scoping Memo, Appendix B, Principal Issues to be Considered.

issues regarding PG&E's Energy Supply organization; the two specific references to Diablo Canyon are unrelated to the license renewal issue.<sup>22</sup>

Despite having forgone the five procedural opportunities to request inclusion of the issue within the scope of this proceeding, TURN served testimony on April 29, 2016 that included its recommendations that the Commission should "[r]equire PG&E to present a cost-effectiveness evaluation of license renewal for Diablo Canyon in the next GRC"<sup>23</sup> and "require any future spending on Diablo Canyon (after this GRC) to be accompanied by a long-term

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<sup>22</sup> We find unavailing A4NR's contentions in its comments supporting TURN's PFM:

TURN developed its evidentiary showing and recommendations regarding the present and future operation of Diablo Canyon *so as to address the testimony and requests submitted by PG&E in the utility's case-in-chief*. Thus, in all respects and at all times during the pendency of PG&E's general rate case application, TURN's evidentiary showing and recommendations regarding Diablo Canyon were relevant *to matters originally raised by PG&E and actively pending before the Commission*. A4NR Response at 3, including footnote 4. Emphasis added.

A4NR cites the Scoping Memo at 4, 14 and 15, specifically statements A4NR describes as "holding that relevant issues in the proceeding included all matters regarding whether the needs and costs identified by PG&E were just and reasonable, including those matters 'reasonably inferred from the application' and any 'affirmative proposals and recommendations concerning subjects that are relevant to this GRC but are not covered by PG&E's application or testimony.'"

Every component of A4NR's argument is incorrect. First, not only was the issue of Diablo Canyon license renewal not "submitted by PG&E in the utility's case-in-chief," PG&E's testimony clearly stated and explained why the issue was not addressed in testimony. Second, for this reason, this issue was not a matter "originally raised by PG&E" and thus was not "actively pending before the Commission." Third, no party could "reasonably infer" from PG&E's application that the issue of Diablo Canyon license renewal was within the scope of the proceeding because, as we just explained, the reasonable inference from PG&E's testimony was the opposite. And fourth, A4NR cannot rely on the scoping memo language allowing "affirmative proposals" because TURN's testimony would first have to address and overcome the reasonable inference that the issue was outside scope. As we explained above, the Commission's Rules offer at least five procedurally proper avenues for that purpose, but TURN did not avail themselves of any of those opportunities.

<sup>23</sup> Exhibit TURN-06 at 3.

cost-effectiveness analysis that highlights assumptions that have changed since A.10-01-002 [sic].”<sup>24</sup>

PG&E responded to TURN’s recommendations in its May 24, 2016 rebuttal testimony:

The issues raised by TURN and A4NR are outside the scope of and not relevant to the issues to be addressed in this proceeding or in the next GRC which will set rates for the period 2020-2022. PG&E very clearly states in its direct testimony that “This exhibit does not include any costs associated with the License Renewal application process and does not assume operations of DCPD beyond the current license life for DCPD.”<sup>25</sup>

The procedural history summarized above demonstrates that TURN’s critique of the Commission’s logic in D.19-02-019 relies on TURN’s incorrect assertion that the issue of Diablo Canyon license renewal was “presented in PG&E’s GRC application and anticipated to be resolved in this proceeding.” In fact, the issue was not “presented” in PG&E’s application, nor did the scoping memo “anticipate” its resolution. The Commission did not deny compensation to TURN because of events that occurred later in A.16-08-006. The Commission denied compensation because the issue was not in the scope of this GRC.

Similarly, TURN’s critique of the fairness of D.19-02-019 depends on an elaborate strawman that again has no basis in the actual text of that decision:

- TURN states that “[t]he Commission in D.19-02-019 *seems to suggest* that A.16-08-006 would have been the more appropriate venue for seeking compensation.”<sup>26</sup> In fact, the Commission made no such suggestion in D.19-02-019.

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<sup>24</sup> *Id.* at 9. The correct reference is to A.10-01-022, PG&E’s 2010 “Application to Recover the Costs Associated with Renewal of the Diablo Canyon Power Plant Operating Licenses.”

<sup>25</sup> Exhibit PG&E-24 at 3-9, quoting Exhibit PG&E-05, Chapter 3, at 3-4.

<sup>26</sup> TURN PFM at 5, emphasis added.

- TURN then faults this non-existent suggestion because “until the Commission issued D.19-02-019” or the PD, “TURN had no reason to believe that compensation for the GRC work associated with Diablo Canyon license renewal issues *that PG&E raised in its GRC application* might need to be included in a request filed in another proceeding.”<sup>27</sup> Again, PG&E did not raise the license renewal issue in its GRC application.
- TURN further suggests that if the Commission had issued its decision on TURN’s claim sooner, “TURN could have responded to the Commission’s concerns about the correct proceeding in which to claim GRC work related to Diablo Canyon license renewal by seeking compensation for that time in the A.16-08-006 claim” or “TURN could have amended its claim to include the hours at issue” any time prior to the Commission’s October 2018 decision on TURN’s claim in A.16-08-006.<sup>28</sup> In fact, the Commission never expressed any “concerns about the correct proceeding” for TURN’s compensation claim. TURN’s suggestion that it can choose a proceeding where it will seek compensation for a specific section of written testimony is incorrect.

TURN’s final argument is that D.19-02-019 is inconsistent with the statutory standard for determining whether an intervenor made a “substantial contribution” set forth in Pub. Util. Code section 1802(j):

“Substantial contribution” means that, in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.<sup>29</sup>

Despite the fact that license renewal issues were not in the scope of this GRC, TURN nevertheless contends that D.19-02-019 “errs in concluding that

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<sup>27</sup> *Ibid*, emphasis added.

<sup>28</sup> *Id.* at 6

<sup>29</sup> *Id.* at 7, quoting and citing Pub. Util. Code section 1802(j).

D.18-01-022 rendered TURN's contributions regarding Diablo Canyon license renewal in this proceeding moot"<sup>30</sup> and concludes that "[b]y looking to D.18-01-022 to assess the value of TURN's contribution to D.17-05-013, the Commission's analysis in D.19-02-019 is contrary to the intervenor compensation statute."<sup>31</sup> In fact, nowhere in D.19-02-019 does the Commission conclude that D.18-01-022 rendered TURN's GRC testimony moot, nor does the Commission rely on D.18-01-022 to assess the value of TURN's contribution to D.17-05-013. Pursuant to Rule 16.4(b), TURN's PFM should have cited the relevant statements in D.19-02-019. TURN could not provide those cites, because the statements alleged by TURN are not in that decision.

The Legislature intends that intervenors be compensated for their substantial contributions to Commission decisions. However, that compensation must be limited to issues within the scope of a proceeding. Indeed, Pub. Util. Code section 1804(e) requires that in Commission decisions addressing an intervenor's claim for compensation, "[i]f the commission finds that the customer ... requesting compensation has made a substantial contribution, the commission shall describe this substantial contribution and shall determine the amount of compensation to be paid pursuant to Section 1806."<sup>32</sup> The Commission did not "decide" anything about Diablo Canyon license renewal in D.17-05-013 because the issue was not in the scope of the proceeding. As such, it would be impossible for the Commission to comply with section 1804(e) and "describe this substantial contribution" on a matter that was not in the scope of the proceeding.

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<sup>30</sup> *Id.* at 6.

<sup>31</sup> *Id.* at 8.

<sup>32</sup> Pub. Util. Code section 1804(e), emphasis added.



For all of these reasons, we find that the denial in D.19-02-019 of the \$6,000 in compensation sought by TURN for its testimony on Diablo Canyon license renewal is not contrary to the intervenor compensation statute.

#### **4. Conclusion**

Based on the discussion above, we find that the Commission has no rational basis, logical reason or statutory authority to compensate TURN for its GRC testimony regarding Diablo Canyon license renewal. The Commission reviews compensation requests closely in order to “ensure that compensated intervention provides value to the ratepayers who fund it.”<sup>33</sup> It would be unjust and unreasonable to require ratepayers to fund this portion of TURN’s compensation request. Therefore, TURN’s PFM should be denied.

#### **5. Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. Comments were filed on January 22, 2020 by TURN. No reply comments were filed. Minor changes were made to improve clarity.

#### **6. Assignment of Proceeding**

Marybel Batjer is the assigned Commissioner and Michelle Cooke is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. The issue of Diablo Canyon license renewal was not an issue presented in PG&E’s GRC application.
2. The issue of Diablo Canyon license renewal was not included in the scope of this proceeding and was not anticipated to be resolved by the Commission.

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<sup>33</sup> D.98-04-059 at 19-20.

3. In D.17-05-013, the Commission did not order a review of PG&E's spending on Diablo Canyon license renewal activities.

4. In D.17-05-013, the Commission did not order a review of the cost effectiveness of Diablo Canyon.

### **Conclusions of Law**

1. Rule 16.4 of the Commission's Rules of Practice and Procedure governs petitions for modification, which ask the Commission to make changes to an issued decision.

2. Pursuant to Rule 16.4(b), a petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed.

3. TURN failed to satisfy the requirements of Rule 16.4(b) because the factual allegations in its PFM are not supported with specific citations to the record in the proceeding or to matters that may be officially noticed.

4. The Commission's analysis in D.19-02-019 of TURN's request for compensation regarding Diablo Canyon license renewal is not contrary to the intervenor compensation statute because TURN did not make a substantial contribution to D.17-05-013 on this issue.

5. The intervenor compensation statute does not provide that intervenors denied compensation for written testimony in one proceeding may then seek compensation for the same testimony in a different proceeding.

6. The petition for modification of D.19-02-019 filed by TURN on March 5, 2019 should be denied.

**O R D E R**

**IT IS ORDERED** that:

1. The petition for modification of Decision 19-02-019 filed by The Utility Reform Network on March 5, 2019 is denied.
2. Application 15-09-001 is closed.

This order is effective today.

Dated February 6, 2020, at Bakersfield, California.

LIANE M. RANDOLPH  
MARTHA GUZMAN ACEVES  
CLIFFORD RECHTSCHAFFEN  
GENEVIEVE SHIROMA  
Commissioners

President Marybel Batjer,  
being necessarily absent, did not  
participate