FILED
8-18-16
04:59 PM

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 (Filed September 1, 2015)

OPENING COMMENTS OF THE UTILITY REFORM NETWORK AND COLLABORATIVE APPROACHES TO UTILITY SAFETY ENFORCEMENT ON THE "CONTESTED ISSUES" IDENTIFIED IN THE PROPOSED SETTLEMENT

Scott Rafferty, Attorney

COLLABORATIVE APPROACHES TO
UTILITY SAFETY ENFORCEMENT

1913 Whitecliff Court
Walnut Creek, CA 94596
Phone: (202) 380-5525
rafferty@gmail.com

Hayley Goodson, Staff Attorney
Thomas J. Long, Legal Director
Robert Finkelstein, General Counsel
Marcel Hawiger, Staff Attorney

THE UTILITY REFORM NETWORK
785 Market Street, Suite 1400
San Francisco, CA 94103
Phone: (415) 929-8876 x307
Fax: (415) 929-1132
bfinkelstein@turn.org

August 18, 2016

OPENING COMMENTS OF THE UTILITY REFORM NETWORK AND COLLABORATIVE APPROACHES TO UTILITY SAFETY ENFORCEMENT ON THE "CONTESTED ISSUES" IDENTIFIED IN THE PROPOSED SETTLEMENT

Pursuant to Rule 12.2 of the Commission's Rules of Practice and Procedure and the procedural schedule adopted in the *Assigned Commissioner's Ruling and Second Amended Scoping Memo* issued August 10, 2016, The Utility Reform Network (TURN) and Collaborative Approaches to Utility Safety Enforcement (CAUSE) submit these opening comments on the proposed settlement that would resolve nearly the entire range of disputed issues in this general rate case (GRC). These comments are limited to the two "contested issues" that, pursuant to the proposed Settlement Agreement, are to be resolved separately from the issues covered by the proposed Settlement Agreement. The "contested issues" are whether the post-test year ratemaking should include a third post-test year (2020), and whether there should be a new balancing account created to cover costs that may emerge from the separate rulemaking into gas leak management requirements (R.15-01-008). TURN and CAUSE urge the Commission to reject the proposed third post-test year, and to decline to adopt the new balancing account here, without prejudice to the ratemaking mechanisms that may be adopted in R.15-01-008.

I. Introduction

On August 3, 2016, TURN and CAUSE joined Pacific Gas and Electric Company (PG&E), the Office of Ratepayer Advocates (ORA), and nearly a dozen other active parties to submit a proposed settlement that, if adopted, would resolve nearly all disputed issues in this GRC proceeding. The proposed settlement and supporting motion identify two "contested issues" that are not covered by the proposed settlement and therefore need to be separately resolved by the Commission based on the relevant record evidence and arguments presented in opening and reply comments.[1]

TURN and CAUSE wish to emphasize that our positions on the two contested issues do not imply anything less than full support for the proposed resolution of all other issues as covered in the settlement.

II. The Commission Should Retain The Current Three-Year GRC Cycle.

A. The Commission Has Recently Twice Rejected The Four-Year GRC Cycle In Favor Of The Three-Year GRC Cycle In Its Rate Case Plan Rulemaking.

In D.14-12-025, the Commission adopted changes to the Rate Case Plan to better incorporate a risk-based decision-making framework into the GRC for each of California's large investor-owned energy utilities.[2] Various parties proposed either a three-year or four-year GRC cycle as an important element of the overall Rate Case Plan modifications to better incorporate the new Safety Model Assessment Proceeding ("S-MAP") and Risk Assessment Mitigation Phase ("RAMP") processes. The Commission chose to retain the three-year cycle.[3] It has since reaffirmed the three-year cycle when it denied a petition for modification of D.14-12-025.[4]

This GRC proceeding represents the first implementation of the revised Rate Case Plan schedule adopted in D.14-12-025. The application was timely filed by PG&E,

---

[1] *Joint Motion for Adoption of Settlement Agreement*, pp. 55-56; *Settlement Agreement*, Article 4 (pp. 1-33 to 1-34)

[2] D.14-12-025, p. 2.

[3] *Id.*, at 40.

[4] D.16-06-005 (in R.13-11-006). The issue was also addressed in D.16-06-054 (in A.14-11-003/-004, the Sempra Utilities' 2016 GRC), but only to note that the outcome adopted in D.16-06-005 effectively mooted the issue for purposes of that GRC. D.16-06-054, pp. 228 and 282 and Conclusion of Law 59.

testimony was served on the dates set forth in the schedule adopted in the original scoping memo, and until the settlement discussions warranted modification of that schedule there was every reason to believe that the Commission and the parties would achieve a timely final decision. With the submission of the proposed settlement, there is even more reason to be hopeful that a final decision regarding PG&E's authorized revenue requirement for 2017 will issue before the end of 2016.[5] Similarly, the first S-MAP applications were timely filed in early May 2015, and a proposed decision is before the Commission and may well be voted out on the day these comments are filed.[6] The Sempra Utilities appear poised to initiate the first RAMP process as scheduled, with an application due November 1, 2016.

In sum, TURN and CAUSE are well aware that even the most reasonable and well-intentioned schedule can be disrupted by the unexpected. However, given the collective experience since D.14-12-025 issued, there is no reason for the Commission to conclude that the Rate Case Plan schedule warrants further revision, much less a shift as substantial as abandonment of the three-year rate case cycle in favor of a four-year cycle.

B. Record Evidence

The post test-year ratemaking (PTYR) proposal presented in PG&E's direct testimony (in Exhibit PG&E-11) provides no support for a third post-test year, as it

---

[5] Even if a final decision is not adopted before the start of the 2017 test year, with the proposed settlement PG&E has a reasonable basis for using the amounts embodied by the proposed settlement as the basis for its operational decision-making as of the start of 2017. To TURN and CAUSE's knowledge, the Commission has never made material changes to the proposed settlement's overall revenue requirement in a major energy utility's GRC where the proposed settlement commands the support of nearly all active parties and covers nearly all of the issues disputed in prepared testimony.

[6] The proposed decision in A.15-05-002, *et al.*, is on the agenda for the Commission's business meeting of August 18, 2016.

makes no mention of a third post-test year or of any revenue requirement adjustment sought for 2020.

ORA's report on PTYR issues includes a recommendation for a four-year GRC cycle, with three paragraphs setting forth the basis for that recommendation. The first paragraph states the following:

> With a 3-year GRC cycle, the test year of the initial case serves as the base year for the following rate case. This presents a problem because recorded test year costs may not be representative of future costs, as utilities often initiate new programs during the test year, and initial costs may not reflect a more stable or steady-state level of expenses or expenditures. There have also been delays in the issuance of Commission decisions which utilities allege impact their spending in that test year. A 4-year GRC cycle allows for better utility financial and operational management of spending and investment.[7]

ORA then identified several GRCs in which the revenue requirement increase adopted for the test year represented a higher percentage than the corresponding post-test years' increases, and asserted that the four-year term proposed here is consistent with the proposal ORA made in the recent 2016 GRCs for SDG&E and SoCalGas.[8]

PG&E's rebuttal testimony stated that the utility was "open to the idea of a third attrition year if the PTYR mechanism would provide a level of funding across the attrition years that would allow [it] to continue the work determined reasonable for the test year."[9] Since PG&E's rebuttal position was that neither ORA's primary nor alternative PTYR proposal met that objective, the utility did not agree at that time to a third post-test year. PG&E also asserted that any 2020 PTYR increase would need to

---

[7] ORA-21, p. 15.

[8] *Id.*, p. 16.

[9] Exh. PG&E-20, p. 1-14.

take into consideration the scheduled expiration of the benefits from incremental deferred taxes related to the bonus federal tax depreciation deductions under the Protecting Americans from Tax Hikes (PATH) Act of 2015.[10]

C. The Record Evidence Fails To Demonstrate the Reasonableness of Adding a Third Post-test Year.

The only record evidence supporting a four-year GRC cycle through addition of a third post-test year appears in ORA's report. The staff has failed to provide adequate evidentiary justification for its proposal.

ORA first points to a problem it claims is caused by having the test year for one GRC serving as the base year for the next GRC: "recorded test year costs may not be representative of future costs, as utilities often initiate new programs during the test year, and initial costs may not reflect a more stable or steady-state level of expenses or expenditures."[11] But this is true of any year, as utilities initiate new programs all the time, not just in test years. Indeed, with a three-year cycle one could venture the guess that approximately 33% of new programs are initiated during the test year, with 33% initiated in each post-test year. TURN and CAUSE understand and are sympathetic to the challenge of assessing a reasonable forecast of costs for a program that is in its earliest stages and may well have lower annual costs once it has achieved a more stable or stead-state level of activities. But with all due respect, it is not enough for ORA to simply aver that this is disproportionately a test-year-becoming-the-base-year problem, or

---

[10] *Id*.

[11] Exh. ORA-21, p. 15.

to imply that it would be materially different were the Commission to shift to a four-year cycle.

ORA then cites unspecified utility allegations that delayed GRC decisions impact the recorded spending in the test year, with the implication that this could skew those amounts when they are presented as the base year for the next GRC. In the experience of both TURN and CAUSE, regulated utilities allege a number of things, not all of which are adequately supported by actual evidence. But even if ORA were correct in assuming these utility allegations to be well-founded, there are more appropriate remedies. That is, rather than assume that delayed GRC decisions are unavoidable such that a four-year GRC cycle should be adopted in order to accommodate that outcome, the more constructive approach would be to take steps to increase the likelihood of achieving more timely decisions. That is precisely what the Commission has done and continues to do as it implements and further refines the revised Rate Case Plan adopted in D.14-12-025.

ORA's testimony also claimed, "A 4-year GRC cycle allows for better utility financial and operational management of spending and investment."[12] Again, with all due respect to ORA's learned and experienced witness, his direct experience in utility financial and operational management appears to be nil. If this were indeed a reason for shifting to a 4-year cycle, the Commission could reasonably expect PG&E's rebuttal testimony to whole-heartedly embrace ORA's recommendation and provide further evidence supporting this claim. But PG&E's rebuttal testimony was far more reserved, if not tepid, in describing the utility's willingness to even consider a 4-year cycle.

[12] *Id.*

ORA's testimony concluded with the observation that its request in this GRC is consistent with the proposal it presented in the Sempra Utilities' GRC, there also with the support of the utilities. TURN and CAUSE do not dispute that observation, but merely note that since ORA's testimony was served the Commission has rejected the proposal as applied to the Sempra Utilities.

In sum, the Commission should conclude that the record evidence does not provide adequate support for any finding or conclusion that the 4-year cycle is reasonable here.

D. A Four-Year GRC Cycle Would Postpone By A Year The First RAMP for PG&E, An Inappropriate Delay Given Its Intended Purpose of Serving As An Opportunity To Ensure PG&E Is Giving Safety The Appropriate Degree of Priority.

The Commission initiated Rulemaking 13-11-006 to carry out the safety priority policy as set forth in Section 963(b)(3) of the Public Utilities Code, consistent with the agency's recognition that the general rate case for energy utilities is the logical starting point for such an effort.[13] The S-MAP and RAMP were devised as distinct and related efforts that are central to achieving the goals of R.13-11-006. Regarding the RAMP, the Commission stated:

> The objective of the RAMP is to incorporate the risk assessment approach used by each of the energy utilities, as developed in the S-MAP, into the GRC process. This will provide a transparent process to ensure that the energy utilities are placing the safety of the public, and of their employees, as a top priority in their respective GRC proceedings.[14]

[13] D.14-12-025, Findings of Fact 5 and 6.

[14] *Id.*, p. 35.

The pending proposed decision in the S-MAP application proceeding provides that the PG&E RAMP filing is to include calculations of risk reduction (recognized as "essential for optimization or prioritization of risk mitigations"), and a ranking of mitigations based on risk reduction per dollar spent.[15]

If the Commission were to adopt a four-year GRC cycle for PG&E here, the utility's first RAMP (presently scheduled for November 30, 2018) would be postponed by a year, and the first GRC to incorporate the results of the RAMP process would similarly be postponed by a year. Absent unanticipated developments, such a delay would be inappropriate in light of the central role that the RAMP process is expected to play in effectuating the Commission's renewed commitment to better understanding and promoting risk-based decision-making. The calculations of risk reduction and optimization of risk mitigations should be developments the Commission strives to ensure at the earliest practicable time. Based on what is known today, postponing the first RAMP for PG&E is a procedural step the Commission should only consider in the face of unexpected developments with unavoidable adverse consequences. And at this time there is nothing that would justify such a RAMP postponement.

E. A Four-Year GRC Cycle Would Require Further Proceedings To Consider Further Adjustments Applicable To A 2020 Post-test Year.

If the Commission were to adopt a four-year GRC cycle, it would need to provide parties a reasonable opportunity to identify revenue requirement adjustments that should be made consistent with the shift from a three-year to a four-year cycle. The examples

[15] Proposed Decision in A.15-05-002, et al., p. 161 and Conclusion of Law 31 and Ordering Paragraph 8.

that TURN and CAUSE have identified at this time are the "levelized" amounts associated with Diablo Canyon nuclear refueling outages and major long-term service agreement (LTSA) outages at the Gateway and Colusa generating stations. PG&E's testimony explains that for Diablo Canyon, while the utility typically conducts one nuclear refueling outage each year, it faces a two-outage year approximately once every five years, and 2019 is anticipated to be the next two-outage year. So it proposed to spread the costs of this second 2019 refueling outage over the 3-year GRC period, such that one-third of the costs would be recovered in 2017, 2018 and 2019.[16] Similarly, the "lumpy" costs associated with major LTSA outages that occur every few years at Gateway and Colusa generating stations are amortized over the 2017-2019 period.[17] The settlement motion notes that no party opposed PG&E's proposal to levelize these costs, and the proposed settlement itself makes clear that the revenue requirement figures set forth therein include such levelized costs.[18]

The problem here is that with a four-year cycle, PG&E's levelized cost recovery becomes something very different than the proposal premised upon a three-year GRC cycle. Including one-third of these outage related costs in each year of a three-year GRC cycle provides a reasonable opportunity to record the anticipated amount of such "lumpy" costs. However, including one-third of these costs in each year of a **four**-year GRC cycle will lead to an overcollection of PG&E's forecasted amounts. For the Diablo Canyon refueling outage costs, the overcollection would be approximately $20.180 million, and

[16] Exh. PG&E-5, p. 8-10.

[17] *Id.*

[18] Settlement Motion, p. 39; Proposed Settlement, p. 1-22.

for the Gateway and Colusa major LTSA outages, the overcollection would also be in the millions of dollars.[19] TURN and CAUSE submit that this windfall is a further reason to reject the proposed four-year cycle. However, should the Commission adopt a four-year cycle here, it must provide parties a reasonable opportunity to identify other similar examples, and to propose revenue requirement adjustments to prevent such inappropriate outcomes. PG&E must not be permitted to gain a windfall solely due to ratemaking devices being designed for a three-year GRC cycle but deployed in a four-year GRC cycle.

III. THE COMMISSION SHOULD REJECT WITHOUT PREJUDICE THE SETTLEMENT OF DISPUTED ISSUES REGARDING GAS LEAK MANAGEMENT (SECTION 4.2)

A. Summary of Disputed Section 4.2 and Comments

Section 4.2 of the Contested Issues section of the Settlement Agreement contains four clauses concerning Gas Leak Management. Each element of these issues is dependent upon outcomes of disputed issues in R.15-01-008, a separate proceeding that to date has produced no final decision and adopted no final outcome. The first section requires PG&E to "support adoption of a minimum 3-year leak survey cycle in R.15-01-008" and to begin the transition to such a leak survey cycle "if the Commission mandates and funds the use of a 3-year cycle in R.15-01-008." The second section would establish a new balancing account (the New Environmental Regulatory Balancing Account, or

[19] Exh. TURN-6 (Testimony of William Marcus), p. 72, citing PG&E-10, WP 3-27. The LTSA amount may raise confidentiality issues. Out of an abundance of caution, TURN is not citing the specific figure calculated, but represents that it is a material amount. However, the figure in question may be found in Exh. TURN-6-Atch2C, the confidential attachment IV-1 to Mr. Marcus's testimony, in Table IV-1-2 as the "TURN" value for "MP, Use Tax, Other LTSA Obligations accrual."

NERBA) that would serve as the vehicle for tracking and recording "incremental Gas Distribution Emission Reduction Costs associated with new regulatory requirements pertaining to gas distribution leak management activities, adopted in Phase I of R.15-01-008." The third section provides for establishment of the NERBA through a Tier 1 Advice letter. The fourth and final section would authorize PG&E to recover all costs recorded to the NERBA through its annual gas true-up advice letter filing, subject to a potential ORA audit.

The Commission should reject these provisions as premature at best, as well as lacking sufficient ratepayer safeguards. All of these provisions concern issues that have yet to be decided, as they are still being actively litigated in Rulemaking 15-01-008. There has been no final Commission resolution of any disputed issue in that Rulemaking. Yet the provisions would authorize PG&E to establish a new balancing account (the "NERBA") to record costs associated with these as-yet undefined regulatory requirements pertaining to gas distribution leak management activities under consideration in a separate proceeding. The provisions would also authorize rate recovery of recorded costs through the annual Gas True-Up advice letter filing.

It is inappropriate and unnecessary to establish a balancing account, or indeed any type of ratemaking account, in this proceeding to track costs that are not the subject of this GRC, and are yet to be identified and authorized in Rulemaking 15-01-008. The Commission should clearly define the proper costs and establish any necessary cost recovery mechanism – whether a balancing account, a memorandum account, or some other mechanism – in R.15-01-008, the proceeding that is addressing the underlying work to be done. And there is no basis here for a determination that a Tier 2 advice letter filing (requiring only a Staff Resolution) would be appropriate or legally sufficient review of unknown spending amounts on as-yet undefined activities. This is particularly so where the spending is likely to implicate concerns not only with regard to the reasonableness of the spending, but whether it is appropriately treated as incremental to amounts already implicitly or explicitly included in authorized revenue requirements.

The Commission should thus reject the provisions set forth in Section 4.2 of the Contested Issues article of the Settlement Agreement without prejudice, secure in the knowledge that parties will have every opportunity to address cost accounting and cost recovery of any incremental work authorized in Rulemaking 15-01-008 in that proceeding.

B. It Is Not Appropriate To Authorize In The GRC The Ratemaking For Costs Of Activities That Were Not The Subject Of A GRC Forecast, And Are As Yet Totally Undefined In Rulemaking 15-01-008; The Proposal Belongs In The Rulemaking.

To the knowledge of TURN and CAUSE, the evidentiary record in this GRC provides no details of the type of costs that would be recorded in the proposed balancing account, and no estimate of the potential magnitude of any costs.[20] Because the type and amount of any potential future incremental work and costs associated with implementing the outcome of R.15-01-008 will be decided in that Rulemaking, it makes no sense and therefore would not be reasonable to authorize any type of cost accounting or cost recovery in this rate case proceeding.

[20] The prepared testimony of Environmental Defense Fund proposes, "Costs above traditional historical leak management costs should be included in this balancing account." Exh. EDF-1, p. 19.

The new balancing account sought in this proceeding would serve to record future costs associated "with new regulatory requirements pertaining to gas distribution leak management activities, adopted in Phase I of R.15-01-008."[21] But the exact nature of any new "regulatory requirements" is speculative at best at this time, since the Commission has not issued any proposed decision in R.15-01-008, and most of the potential requirements are actively in dispute in that proceeding.

Furthermore, the Settlement Agreement allocates $130 million in annual expenses for GRC-identified leak surveying and leak repair in accounts MWC DE and FI,[22] that is, for similar work not associated with any requirements adopted in R.15-01-008. For the proposed balancing account to record only "incremental" costs from R.15-01-008, the Commission needs a means of identifying the costs that would be incremental to the GRC amounts. But at this point it is not even known whether there will be a need for incremental costs, much less the exact nature of any incremental work necessary to address the "new regulatory requirements" for leak survey and leak repair. Thus it would be premature to authorize any separate accounting or ratemaking at this time.

As Section 4.2.2 of the Contested Issues section of the proposed settlement indicates, the premise is that there might be costs associated with implementing new regulatory requirements that come out of a Phase I decision in R.15-01-008, but without a "decision regarding costs" until Phase II of that proceeding. TURN and CAUSE are not aware of any filing in R.15-01-008 by PG&E, or any other utility, seeking authority to establish a balancing account or a memorandum account or any other cost-tracking

[21] Section 4.2.2 of the Settlement Agreement [emphasis added].

[22] Settlement Agreement, Appendix A.

mechanism that would address this potential disconnect affecting all utilities in that rulemaking. That proceeding, rather than this GRC, would be the appropriate forum to seek authorization for any such account.[23] The Commission should not authorize a balancing account in this proceeding, with the amounts or conditions of cost recovery entirely dependent on some later decision in R.15-01-008. Instead, if PG&E believes that any Commission order to implement incremental leak survey and leak repair work could require additional funding that should be recoverable in rates, it should submit in R.15-01-008 the proper request for any necessary ratemaking device, whether a memorandum or balancing account. The Commission can then address all issues specifically related to the cost forecasting and cost recovery in the proceeding where those specific work activities are identified and addressed.

C. A Tier 2 Advice Letter Is An Inappropriate Vehicle For Seeking Rate Recovery for Costs of Unspecified and Previously Unreviewed Activities

The disputed terms in Section 4.2 of the Settlement Agreement would authorize PG&E to recover the costs recorded in the new balancing account in the utility's Annual Gas True-up advice letter. The Annual Gas True-up is a Tier 2 advice letter intended to "recover all gas transportation-related balancing and memorandum account balances for

---

[23] To be clear, neither TURN nor CAUSE would necessarily support authorizing incremental cost recovery in R.15-01-008 if the request for such ratemaking were properly raised in that proceeding rather than the misplaced attempt to raise it here. TURN's position in that proceeding is that the Commission should order any new "best practices" necessary to accomplish the goals of SB 1371 in R.15-01-008, and order the utilities to submit work and cost estimates in their next rate case, so that the utilities can properly optimize all of their leak survey and leak repair activities to prevent unnecessary duplication of programs and activities.

costs *that the Commission has authorized to be recovered in rates*."[24] A Tier 2 advice letter is one that can be directly approved by the Energy Division as a ministerial action without any further Commission review.[25]

Rate recovery by advice letter for costs not yet identified is inappropriate under any circumstances. A Tier 2 advice letter is particularly inappropriate, since it would provide for rate recovery of future costs of ostensibly incremental gas distribution leak management activities based solely on the approval of Energy Division without review by the Commission itself. As explained above, at this time no one knows what "new regulatory requirements pertaining to gas distribution leak management activities" the Commission might authorize in R.15-01-008. It is thus unknowable at this time how anyone might review costs recorded in a ratemaking account to establish whether they are incremental to the GRC-authorized amounts, or whether the level of any such costs expended by the utility is reasonable. Rather than determine now that an advice letter is the appropriate vehicle for achieving any necessary or sufficient review before rate recovery occurs, the Commission should properly address that question in R.15-01-008, where it can do so at the same time as it authorizes any cost forecast for inclusion in a memorandum or balancing account.

---

[24] For example, PG&E AL 3664-G, December 23, 2015, p. 2 (emphasis added) and Advice Letter Filing Summary.

[25] General Order 96-B, Energy Industry Rule 5.2 and General Rule 7.6.1.

D. A Balancing Account Is Inappropriate Before There Has Been Any Review of the Reasonableness of Amounts That Would Be Recorded in the Account.

If the Commission adopts any element of the disputed proposals regarding Gas Leak Management, it should replace the proposed balancing account with a memorandum account. A balancing account is only appropriate where there is an amount already approved or authorized by the Commission. Where, as here, the costs to be recorded in the account have not yet been forecasted, much less reviewed by the Commission or authorized in any amount, a memorandum account is the appropriate ratemaking device.

The Commission has defined a balancing account for the Water Industry as "a deferred charge or credit account *approved by the Commission for recovery or refund* ...."[26] While to our knowledge the Commission has not specifically defined a balancing account for the Energy Industry, PG&E's encyclopedia of energy terms explains that a balancing account is "an account established by a utility to record, for recovery through rates, certain *authorized amounts* and to ensure that the revenue collected is neither less than nor more than those amounts."[27] In contrast, memorandum accounts "may or may not be recoverable through rates and are subject to further scrutiny by the CPUC."[28]

The Commission has made a similar distinction between balancing and memorandum accounts for the energy utilities:

> Balancing accounts have an associated expectation of recovery. They have been pre-authorized by the Commission, and it is the amounts – and not the creation of the accounts themselves – that the Commission reviews for reasonableness. Memorandum accounts, in contrast, are accounts in which

---

[26] General Order 96-B, Water Industry Rule 1.1 (emphasis added).

[27] PG&E Resource, 2nd Edition, 1992, p. 37 (emphasis added).

[28] *Id.*, p. 39.

> the utilities record amounts for tracking purposes. While the utilities may later ask for recovery of the amounts in those accounts, recovery is not guaranteed.[29]

As their name indicates, balancing accounts "balance" recorded costs against an adopted forecast in order to assess whether there has been an over- or under-collection of the forecasted amount. The associated "balancing" generally requires the Commission to first establish the reasonableness of a forecast cost for purposes of cost recovery. In contrast, a memorandum account simply provides the utility with an opportunity to record costs before they have been determined to be reasonable, thus creating an opportunity to request future rate recovery without violating the prohibition against retroactive ratemaking.

In this case, both the nature and potential amount of any future costs that would be recorded in the NERBA are unknown, and the Commission cannot make any findings concerning the reasonableness of any costs that might be recorded in the balancing account.[30] Under these circumstances, it is inappropriate to provide for cost recovery of any sort. Should the Commission disagree and wish to address cost recovery here, it must reject the reliance on a balancing account in favor of a memorandum account.

///

///

///

---

[29] For example, D.03-06-013, p. 4-5 (addressing SDG&E's recovery of various balancing and memorandum account balances).

[30] TURN and CAUSE note that Section 4.2.2 appears to authorize PG&E to record costs in the proposed NERBA without any further Commission review of the reasonableness of such costs.

IV. Conclusion

For the reasons stated above, the Commission should reject the proposed outcomes described in the "Contested Issues" portion of the proposed settlement.

Date: August 18, 2016

Respectfully submitted,

By: __________/s/______________
Robert Finkelstein

Hayley Goodson, Staff Attorney
Thomas Long, Legal Director
Robert Finkelstein, General Counsel
Marcel Hawiger, Staff Attorney
THE UTILITY REFORM NETWORK
785 Market Street, Suite 1400
San Francisco, CA 94103
Phone: (415) 929-8876 x307
Fax: (415) 929-1132
Email: bfinkelstein@turn.org

For The Utility Reform Network and Collaborative Approaches to Utility Safety Enforcement