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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, 2017. (U39M)

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

**OPENING COMMENTS ON
THE ALTERNATE PROPOSED DECISION
OF COMMISSIONER PICKER
OF
PACIFIC GAS AND ELECTRIC COMPANY,
THE OFFICE OF RATEPAYER ADVOCATES,
THE UTILITY REFORM NETWORK,
ALLIANCE FOR NUCLEAR RESPONSIBILITY,
CENTER FOR ACCESSIBLE TECHNOLOGY,
COALITION OF CALIFORNIA UTILITY EMPLOYEES,
CONSUMER FEDERATION OF CALIFORNIA,
ENVIRONMENTAL DEFENSE FUND,
MARIN CLEAN ENERGY,
MERCED IRRIGATION DISTRICT,
MODESTO IRRIGATION DISTRICT,
NATIONAL DIVERSITY COALITION,
SMALL BUSINESS UTILITY ADVOCATES, AND
SOUTH SAN JOAQUIN IRRIGATION DISTRICT
CONCERNING RULE 20A, RRRMA COSTS AND TAXES**

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SUMMARY OF RECOMMENDATIONS

- The Settling Parties recommend that the Alternate Proposed Decision (APD) be revised to either adopt the original August 3, 2016 Settlement Agreement provisions, or, as an alternative:
 - Concerning Residential Rate Reform Memorandum Account costs, the APD should adopt the language set forth herein revising Section 3.1.5.2 of the August 3, 2016 Settlement Agreement; and
 - Concerning taxes, the APD should be revised to strike the provision in Ordering Paragraph 9 concerning “net revenue changes.”

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I. INTRODUCTION

Pacific Gas and Electric Company, the Office of Ratepayer Advocates, The Utility Reform Network, the Alliance for Nuclear Responsibility, Center for Accessible Technology, Coalition of California Utility Employees, Consumer Federation of California, Environmental Defense Fund, Marin Clean Energy, Merced Irrigation District, Modesto Irrigation District, National Diversity Coalition, Small Business Utility Advocates, and South San Joaquin Irrigation District (collectively, the Settling Parties)¹ submit these Opening Comments on the

¹ These Settling Parties comprise all the parties that executed the August 3, 2016 Settlement Agreement, except for Collaborative Approaches to Utility Safety Enforcement (CAUSE). CAUSE's counsel has represented that CAUSE intends to adopt these Opening Comments in their entirety in CAUSE's separately filed comments.

Alternate Proposed Decision (APD) issued by Commissioner Picker on April 4, 2017, in the above-captioned matter. These Opening Comments address the topics of: (i) Rule 20A undergrounding program, (ii) Residential Rate Reform Memorandum Account (RRRMA) costs, and (iii) taxes.

While the Settling Parties still support the original provisions set forth in the Settlement Agreement, these Opening Comments provide an alternative approach recommended by the Settling Parties to address the considerations raised in the APD concerning these three topics.² In these Opening Comments, the Settling Parties have taken the time afforded by the issuance of the APD to agree upon alternative provisions that address the specific concerns raised in the APD.³

As a result of this effort, the Settling Parties propose that:

- The Rule 20A provisions in the APD are acceptable and should be adopted;
- The RRRMA provisions in the APD should be modified as described herein; and
- The tax memorandum account described in the APD should be modified to remove the reference to “net revenue changes.”

The benefits of the Commission adopting these recommendations are two-fold.

First, by allowing the Settling Parties to agree upon these alternative provisions amongst themselves, the Commission would preserve and respect the important principles described in the Settling Parties’ March 20, 2017 Opening Comments on the proposed decision. As described therein, any modification to a settlement threatens to disturb the interrelated and integrated

² Consistent with their limited participation in the Settlement Agreement, the Center for Accessible Technology, Merced Irrigation District and Modesto Irrigation District take no position in the substantive portions of these comments concerning the modified provisions of the Settlement Agreement.

³ The APD states, “We do not wish to provide parties additional time to renegotiate the settlement, because the three items that we have found unacceptable are not matters that we might find acceptable under different terms.” (APD, p. 199.) In the time available for these comments, the Settling Parties believe that they have found alternative terms for the RRRMA and tax issues that address the Commission’s concerns. If the Commission agrees with the Settling Parties, as the Settling Parties hope it will, the Commission should modify this quoted language to reflect this positive result.

nature of a settlement.⁴ The Settling Parties have proposed alternative provisions in a manner that preserves the overall balance of the Settlement Agreement. If the Commission were to accept the Settling Parties' alternative provisions on these issues, the Commission would send a strong positive signal to parties in other proceedings considering settlement.

Second, if the proposed alternative provisions in these Opening Comments are adopted, the Settling Parties hereby represent that there would be no need for the "Notice of Acceptance" or "Motion for Other Relief" that would be otherwise necessary under Commission Rule 12.4.

II. THE SETTLING PARTIES' ALTERNATIVE PROPOSAL

The Settling Parties have taken to heart the concerns expressed in the proposed decisions about the modified settlement provisions. To address those concerns, the Settling Parties agreed upon alternatives to those provisions in a way that preserves the overall bargain among the Settling Parties. To those ends, the Settling Parties have agreed on these alternatives to the original settlement terms.

Rule 20A: The Settling Parties consider the approach concerning Rule 20A that is set forth in the APD agreeable and the Settling Parties recommend that it be adopted.

RRRMA Costs: To address the considerations raised in the APD and proposed decision, the Settling Parties propose the following alternative to Section 3.1.5.2 of the August 3, 2016 Settlement Agreement (additions to the original language are shown in underlining; deletions are shown in strikeout):

3.1.5.2 Residential Rates Reform Memorandum Account (RRRMA)

PG&E shall maintain and continue to use the RRRMA as follows:

3.1.5.2.1 2015-2016 Costs

PG&E may seek recovery in rates of 2015- 2016 costs booked to the RRRMA through a Tier 2 advice filing an application or a proposal and testimony for cost recovery in Rulemaking (R.) 12-06-013 that would be subject to litigation (including discovery and cross-examination, as necessary). ~~Such request would be~~ filed after the Commission's issuance of a final decision in the 2017 GRC. Prior to filing ~~the advice filing~~, PG&E shall share a draft of the ~~advice filing~~, and an accounting of the costs to be recovered, with ORA, and TURN, and other interested parties. ~~These parties~~ ORA and TURN shall have 90 days to provide comments to PG&E. PG&E shall take the parties' ORA's and TURN's comments into account ~~in its submission of the advice filing~~. To the extent PG&E does not adopt the parties' ORA's and

⁴ Settling Parties' Opening Comments on the Proposed Decision, pp. 2-4 (March 20, 2017); Alliance for Nuclear Responsibility Opening Comments on the Proposed Decision, pp. 3-4 (March 20, 2017).

TURN's recommendations, PG&E shall explain the basis for not adopting such recommendations.

The 2015-2016 costs booked to the RRRMA shall be recoverable in rates to the extent that PG&E demonstrates that its expenditures were incremental, verifiable, and reasonable, consistent with the requirements of D.15-07-001, and consistent with any relevant Commission rulings and approvals of implementation plans in R.12-06-013, including, without limitation, plans submitted by PG&E and approved through advice filings for Time-of-Use Default Pilots; Default Time-of-Use Rates; Residential Rate Reform Marketing, Education and Outreach; and implementation of other requirements required by D.15-07-001 and in R.12-06-013 and related proceedings.

3.1.5.2.2 2017 and Beyond Costs

In conjunction with the removal from this GRC of PG&E's forecasted activities for pricing products (MWC EZ), billing, revenue and credit (MWC IS), and information technology (MWC 2F), PG&E shall be authorized to track and record costs incurred in 2017 and beyond for residential rate reform implementation including default time-of-use through its RRRMA. PG&E shall be authorized to ~~recover its recorded costs~~ collect in rates, subject to refund as explained below, \$19.3 million annually through PG&E's Annual Electric True-up (AET) advice letter filing up to a cumulative total of \$57.9 million for the 2017 - 2019 period (the equivalent of PG&E's 2017 forecast of \$19.3 million for each year). In the event that the Commission adopts a 4-year GRC cycle, PG&E shall be authorized to recover collect in rates, subject to refund, an additional \$19.3 million in 2020 through the AET for such activities. ORA may audit the RRRMA. PG&E may seek recovery via Tier 3 advice filing of additional costs incurred that exceed the amounts specified in this section. In such a filing, the incremental costs in excess of the above amounts will be subject to reasonableness review by the Commission and subject to disallowance.

PG&E shall seek recovery of its actual recorded costs for 2017 and beyond through a single application or a proposal and testimony for cost recovery in R.12-06-013, either one submitted after the last year of the current GRC cycle, that would be subject to litigation (including discovery and cross-examination, as necessary). This filing will true-up PG&E's actual recorded costs to those previously collected in rates through the AET. In this filing, PG&E may seek recovery of additional costs incurred that exceed the amounts already collected in rates through the AET. All of the 2017 and beyond costs booked to the RRRMA shall be no longer subject to refund to the extent that PG&E demonstrates in the separate application or testimony that its expenditures were incremental, verifiable, and reasonable, consistent with the requirements of D.15-07-001, and consistent with any relevant Commission rulings and approvals of implementation plans in R.12-06-013, including, without limitation, plans submitted by PG&E and approved through advice filings for Time-of-Use Default Pilots; Default Time-of-Use Rates; Residential Rate Reform Marketing, Education and Outreach; and implementation of other requirements required by D.15-07-001 and in R.12-06-013 and related proceedings.

Taxes: The Settling Parties find the terms for the tax memorandum account in Ordering Paragraph 9 of the APD to be acceptable, except that the provision on "net revenue changes" should be stricken.

The Settling Parties believe these alternative approaches are reasonable in light of the record, consistent with law and in the public interest for the reasons explained below.

A. Rule 20A

For the reasons explained in the APD, the Settling Parties agree that the APD’s resolution of the Rule 20A issue is reasonable in light of the record, consistent with law and in the public interest.

B. RRRMA

The APD, using the same language set forth in the proposed decision, takes the position that the settlement provision violates the approach directed by D.15-07-001, which directed that cost recovery should take place through an application with PG&E showing costs were “incremental, verifiable, and reasonable.”⁵ The APD, like the proposed decision, finds that the advice letter process in the original Settlement Agreement does not satisfy the Commission’s earlier directive.⁶

The Settling Parties’ alternative provision addresses the Commission’s concerns. Under the alternative approach, the costs will be reviewed via an application or through the existing rulemaking on residential rate reform in a manner subject to the same procedural considerations of a new application.⁷ The alternative approach also provides that review by the Commission will only take place after the costs are incurred. Accordingly, the alternative approach is reasonable in light of the record, consistent with law and in the public interest.

C. Taxes

The APD would adopt the same approach for taxes as set forth in the proposed decision.⁸ The APD would direct the establishment of a new tax memorandum account that would track three items: (1) net revenue changes, (2) mandatory tax law changes, tax accounting changes, tax procedural changes, or tax policy changes, and (3) elective tax law changes, tax accounting

⁵ APD, p. 96.

⁶ APD, pp. 97-98.

⁷ Among other things, the submission will also afford the parties an opportunity to address the allocation of RRRMA costs between generation and distribution rates.

⁸ APD, pp. 116-118.

changes, tax procedural changes, or tax policy changes.⁹ PG&E's March 20, 2017 Opening Comments on the proposed decision described several concerns with the proposed decision's approach.¹⁰ These concerns included an inconsistency with long-standing Commission precedent and the likely introduction of unintended consequences from a tax memorandum account that is too broad. Without necessarily agreeing on the merits of PG&E's concerns, the Settling Parties have concluded that the removal of item (1) concerning "net revenue changes" would reasonably address PG&E's concerns while still achieving the Commission's stated objectives.

Therefore, the Settling Parties item recommend that Ordering Paragraph 9 be modified to delete item (1). The Settling Parties believe this approach is reasonable in light of the record, consistent with law and in the public interest.

III. CONCLUSION

For the reasons set forth above, the Settling Parties respectfully request that the Commission revise the APD in the manner explained above.

Pursuant to Commission Rule 1.8(d), counsel or representatives for the Settling Parties have authorized PG&E to submit these comments on their behalf.

Respectfully submitted,
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Dated: April 24, 2017

⁹ APD, p. 118 and pp. 221-222 (Ordering Paragraph 9).

¹⁰ PG&E's Opening Comments on the Proposed Decision, pp. 8-12 (March 20, 2017).

APPENDIX A

THE SETTLING PARTIES' PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS COMPARED AGAINST THOSE FOUND IN THE ALTERNATE PROPOSED DECISION

Findings of Fact

* * * * *

8. ~~With the exception of the agreed-upon amounts and ratemaking treatment regarding PG&E's Residential Rates Reform Memorandum Account,~~ The agreed-upon 2017 Customer Care expenses and capital expenditures are reasonable, in light of the Settling Parties' April 24, 2017 proposed alternative provision for the Residential Rates Reform Memorandum Account, which is hereby adopted in lieu of the original Settlement Agreement provision.

* * * * *

Conclusions of Law

* * * * *

9. The provisions in Section 3.1.5.2 of the Settling Parties' April 24, 2017 proposed alternative Settlement Agreement regarding PG&E's Residential Rates Reform Memorandum Account should ~~not~~ be adopted because they are ~~neither~~ reasonable, in the public interest, and ~~not~~ consistent with the law.

10. As described in the Settling Parties' proposed alternative provisions, PG&E should file a standalone application for recovery of costs recorded in its Residential Rates Reform Memorandum Account, or may seek recovery of those recorded costs in Commission Rulemaking (R.) 12-06-013, ~~its next GRC application.~~

11. PG&E should establish a two-way tax memorandum account as described in this decision. ~~to track any revenue differences resulting from the differences in the income tax expense forecasted in this proceeding, and the tax expenses incurred during the 2017-2019 GRC period.~~

* * * * *

13. Except for the Settling Parties' agreements with respect to (1) ~~Rule 20A,~~ (2) PG&E's Residential Rates Reform Memorandum Account, and (3) a tax memorandum account, the Settlement Agreement attached to the Joint Settlement Motion is reasonable, in the public

interest, and consistent with the law. With respect to these two items, the Settling Parties' proposed alternative provisions set forth in their April 24, 2017 comments are reasonable, in the public interest, and consistent with the law.

* * * * *

ORDER

IT IS ORDERED that:

1. The August 3, 2016 joint motion for adoption of settlement agreement (Settlement Motion) regarding the Test Year 2017 General Rate Case (GRC) of Pacific Gas and Electric Company (PG&E), including attrition years 2018 and 2019 is granted, with the exceptions listed below. With these specified exceptions, the Settlement Agreement attached to the Settlement Motion is adopted.

- a. Section 3.1.3 (Electric Distribution) PG&E shall establish a Rule 20A balancing account that tracks the annual capital and expense costs for Rule 20A undergrounding projects, on a forecast and recorded basis. In addition, PG&E, the City of Hayward, and Commission staff are directed to determine a joint estimate of the scope and funding required for an audit of PG&E's Rule 20A program.
- b. Section 3.1.5.2 of the Settlement Agreement, as reflected in the Settling Parties' April 24, 2017 proposed alternative provisions, is ~~not~~ adopted. PG&E shall file a standalone application for recovery of recorded costs in its Residential Rates Reform Memorandum Account, or shall seek recovery in Commission Rulemaking (R.) 12-06-013. ~~its next GRC application.~~
- c. Section 3.1.9.3 of the Settlement Agreement, as reflected in the Settling Parties' April 24, 2017 proposed alternative provisions, is ~~not~~ adopted. ~~Instead, a~~ As described in Ordering Paragraph 9 ~~10~~ below, PG&E shall file an advice letter to establish a two-way tax memorandum account.

~~Pursuant to Rule 12.4(c) of the Commission's Rules of Practice and Procedure, Settling Parties shall have 15 days from today's date to file with the Docket Office, and serve, a "Notice To Accept PG&E's Adopted Test Year 2017 Revenue Requirement," or to file a "Motion Requesting Other Relief."~~

2. ~~In the event a "Motion Requesting Other Relief" is filed, parties may respond to the motion as provided for in Rule 11.1. The adopted Test Year 2017 revenue requirement for Pacific Gas and Electric Company shall remain in effect until a decision resolving the request for other relief is adopted by the Commission.~~

* * * * *

9. Pacific Gas and Electric Company (PG&E) shall file a Tier 2 Advice Letter within 30 days of the effective date of this decision to establish a two-way tax memorandum account as follows: ~~to record any revenue differences resulting from the income tax expenses forecasted in its general rate case (GRC) proceedings, and the tax expenses incurred by PG&E during this 2017-2019 GRC period and each subsequent GRC period.~~

- a. This tax memorandum account shall remain open and the balance in the account shall be reviewed in every subsequent GRC until a Commission decision closes the account.
- b. The account shall have separate line items detailing the differences between tax expenses forecasted and tax expenses incurred, specifically resulting from 1) ~~net revenue changes~~, 2) mandatory tax law changes, tax accounting changes, tax procedural changes, or tax policy changes, and 23) elective tax law changes, tax accounting changes, tax procedural changes or tax policy changes.

10. Pacific Gas and Electric Company shall notify the Energy Division of the California Public Utilities Commission of any tax-related changes, tax-related accounting changes or any tax-related procedural changes that materially affect or may materially affect revenues.

“Materially affect” is defined as a potential increase or decrease of \$3 million or more.

* * * * *

21. Application 15-09-001 shall be closed following the ~~filing of a “Notice to Accept PG&E’s Adopted Test Year 2017 Revenue Requirement”~~ and disposition of the compliance items ordered in this decision:

- a. Filing and service of the SmartMeter Update calculations as instructed in Section 5 of this Decision.
- b. Filing and service of the Rule 20A audit plan described in Section 4.1.3.7 of this Decision.

22. ~~In the event a “Motion Requesting Other Relief” is filed in connection with Application (A.) 15-09-001, A.15-09-001 shall remain open until a decision or ruling resolves the motion, and the issues raised by this motion shall extend the time for resolving this matter by another 18 months as provided for in Public Utilities Code Section 1701.5.~~

* * * * *