

11/12/2020 L. Jan Reid



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, 2020. (U39M)

Application 18-12-009
(Filed December 13, 2018)

**COMMENTS OF L. JAN REID ON PROPOSED DECISION OF
ALJS LIRAG AND LAU**

November 12, 2020

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I. Introduction

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, L. Jan Reid (Reid) submits these opening comments on the proposed decision (PD) of Administrative Law Judges (ALJs) Rafael Lirag and Elaine Lau in Application (A.) 18-12-009 concerning the General Rate Case (GRC) of Pacific Gas and Electric Company (PG&E). (Agenda ID #17171) Chief ALJ Anne Simon mailed the PD on October 23, 2020. Opening comments are due on Thursday, November 12, 2020. I will file this pleading electronically on the due date.

The PD states that "The adopted revenue requirement for TY2020 represents an increase of \$584 million or a 6.9 percent increase over the authorized base revenue requirement for 2019." (PD, p. 2) As explained in Section IX, PG&E ratepayers cannot afford a \$584 million rate increase.

The Prehearing Conference (PHC) in the instant proceeding was held on February 21, 2019, and the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued on March 8, 2019. Reid served opening testimony (Exhibit 56) on July 26, 2019. All of Reid's testimony, briefs, and comments are consistent with the Scoping Memo.

II. Recommendations

I have relied on state law and past Commission decisions and rulings in developing recommendations concerning PG&E's General Rate Case. I recommend the following modifications to the PD:¹

1. The Commission should address the issues listed in Section IV below. (p. 2)
2. The Commission should delete the last paragraph of Section 18.4 from page 340 of the PD. (pp. 4-5)
3. The Commission should order PG&E to file monthly informational advice letters that contain a copy of any written assessments performed by the Monitor concerning PG&E's wildfire mitigation and wildfire safety work. (p. 5)
4. The Commission should order PG&E to file monthly informational advice letters that contain a copy of PG&E's reports to the monitor. (p. 5)
5. The Commission should delete the last paragraph of Section 18.3 from page 340 of the PD. (pp. 5-**Error! Bookmark not defined.**)
6. The Commission should order PG&E shareholders to pay all the costs of the Community Wildfire Safety Programs. (p. 9)

III. Proposed Findings

My recommendations are based on the following proposed findings.

1. The Commission should address the issues listed in Section III below. (p. 2)
2. Section 2 of the Scoping Memo lists specific issues to be determined during the proceeding. The Scoping Memo allows for other issues to be addressed during the proceeding via Item 3-h (Scoping Memo, p. 4), which refers to "other related matters." (pp. 4-7)

¹ Citations for these recommendations and proposed findings are given in parentheses at the end of each recommendation and finding.

3. PG&E caused almost all the wildfires that swept through its service territory. (p. 9)

IV. Legal Requirements

State law requires that Commission decisions be supported by findings (Public Utilities Code Section (PUC §) 1757(a)(3)), and that the findings be supported by substantial evidence in light of the whole record. (PUC § 1757(a)(4).

The Commission cannot meet the requirements of PUC § 1757(a)(3) and PUC § 1757(a)(4) unless it addresses all the issues raised in the proceeding. The PD fails to address External Events and Billing Impacts. I discuss these issues in Sections V-IX below.

V. External Events

The PD errs when it fails to consider or even discuss external events. The PD treats this case as an accounting exercise, and does not consider important economic, environmental, and regulatory conditions. This is a departure from long-standing Commission practice. An example of that Commission practice is given below.

For the years 2009-2011 and 2015, the Commission did not grant a Cost of Living Adjustment (COLA) for intervenors who sought intervenor compensation. The COLA is based on a formula established by Resolution ALJ-303. (See Resolution ALJ-387, slip op. at 3)

The Commission has explained that: (Resolution ALJ-387, slip op. at 1)

This formula utilizes the indices of the Consumer Price Index, the Consumer Price Index for Urban Wage Earners and Clerical Workers, and the Employment Cost Index for civilian workers, private workers, and government workers. The indices are released on a set schedule, which will allow the Commission to determine COLAs in a timely, predictable, and consistent manner.

In 2011, the Commission considered external events when it stated that:
(Resolution ALJ-267, slip op. at 2-3, footnote omitted)

We evaluate many factors when considering whether COLA increases are warranted for intervenor work in 2011. In addition to SSA COLAs, considerable weight is given to recent economic trends. The most notable continues to be the high rate of unemployment. In December 2010, the national unemployment rate was 9.4%, down 0.4% from November, and down 0.5% from

one year ago. The December 2010 seasonally adjusted unemployment rate in California was 12.5%, up 0.1% from the rate in November, and up 0.2% from one year ago.

VI. Billing Impacts

The PD errs because it fails to adequately address the issue of Billing Impacts. Billing impacts were an issue in the instant proceeding. (See Scoping Memo, Item 3-h, p. 4; and Scoping Memo, Section 2.7, p. 7)

Reid testified that “PG&E underestimates the total cost to ratepayers by omitting costs related to electric transmission, cost-of-capital, and natural gas procurement.” (Exh. 56 4:14-15) Reid discussed each of these costs in his testimony. (See Exh. 56 4-7)

VII. PG&E Bankruptcy

The PD errs because it incorrectly states that “Issues related to PG&E’s bankruptcy are outside the scope of this proceeding.” (PD, p. 340) I assume that the PD’s error is a misreading of the Scoping Memo rather than an *ex-post* modification of the scope of issues.

Reid served informational testimony concerning the PG&E Bankruptcy and how it might affect PG&E’s GRC. (See Exh. 56 4:1-19, 5:1-26)

Reid testified that: (Exh. 56 10:6-9)

As of July 26, 2019, PG&E has not served any information concerning the bankruptcy proceeding. I provide the following informational update for the benefit of the ALJ and the parties in this proceeding. All information in this update is taken from public sources.

Section 2 of the Scoping Memo lists specific issues to be determined. The Scoping Memo allows for other issues to be addressed during the proceeding via Item 3-h, which states “And other related matters.” (Scoping Memo, Item 3-h, p. 4)

On March 8, 2019, the Commission found that the PG&E Bankruptcy is a related issue that may have an effect on other issues in this proceeding. The Commission stated that: (Scoping Memo, p. 6)

Because PG&E’s chapter 11 case may affect PG&E’s requests in this GRC, PG&E is directed to timely serve to parties in this proceeding any developments in the chapter 11 case that would affect its requests in this proceeding. If deemed appropriate, the ALJs may direct PG&E to file some or all of the information.

Thus, the Commission established the PG&E Bankruptcy as a limited issue in the instant proceeding. Therefore, I recommend that the Commission delete the second paragraph of Section 18.4 from the PD.

VIII. United State District Court

The PD errs because it incorrectly states that “PG&E’s compliance with the United States District Court’s (USDC) probation is not an issue within the scope of the GRC.” (PD, p. 340) I assume that the PD’s error is a misreading of the Scoping Memo rather than an *ex-post* modification of the scope of issues.

Reid served testimony concerning PG&E's USDC probation and made recommendations concerning informational advice letters. (See Exh. 56 12:1-26, 13:1-21) Reid recommended that the Commission order PG&E to file monthly informational advice letters that contain the following information:
(Exh. 56 13:17-21)

1. A copy of any written assessments performed by the Monitor concerning PG&E's wildfire mitigation and wildfire safety work as described in item 3 above.
2. A copy of PG&E's report to the Monitor as described in item 4 below.

Reid also testified that: (Exh. 56 12-13)

On January 30, 2019, U.S. District Judge William Alsup found PG&E Corp. in violation of its criminal probation related to the 2010 San Bruno, California natural gas pipeline explosion that killed eight people. He concluded that the company had violated the terms of that probation by not communicating with its probation supervisors about a legal settlement related to a 2017 California wildfire.

...

Judge Alsup established the following five conditions for PG&E's probation:

1. PG&E must fully comply with all applicable laws concerning vegetation management and clearance requirements, including Sections 4292 and 4293 of the California Public Resources Code, CPUC General Order 95, and FERC FAC-003-4.
2. PG&E must fully comply with the specific targets and metrics set forth in its wildfire mitigation plan
3. The Monitor shall assess PG&E's wildfire mitigation and wildfire safety work, including through regular, unannounced inspections of PG&E's vegetation management efforts and equipment inspection, enhancement, and repair efforts.
4. PG&E shall maintain traceable, verifiable, accurate, and complete records of its vegetation management efforts. PG&E

shall report to the Monitor on the first business day of every month on its vegetation management status and progress, and make available for inspection all related records at the Monitor's request.

5. PG&E shall ensure that sufficient resources, financial and personnel, including contractors and employees, are allocated to achieve the foregoing.

Section 2 of the Scoping Memo lists specific issues to be determined. The Scoping Memo allows for other issues to be addressed during the proceeding via Item 3-h, which states "And other related matters." (Scoping Memo, Item 3-h, p. 4)

On March 8, 2019, the Commission effectively found that the PG&E District Court Probation is a related issue that may have an effect on other issues in this proceeding.

The Commission stated that: (Scoping Memo, pp. 5-6)

PG&E is directed to timely serve to the parties in this proceeding any modifications to PG&E's probation with the U.S. District Court that would affect its requests in this GRC. If deemed appropriate, the ALJs may direct PG&E to file some or all of the information.

Thus, the Commission established PG&E's District Court Probation as a limited issue in the instant proceeding. Therefore, I recommend that the Commission delete the last paragraph of Section 18.3 from the PD.

IX. Reasonableness of Proposed Costs

Although Public Utilities Code Section (PUC §) 451 requires that the Commission establish rates that are just and reasonable, the current PD does not even mention PUC § 451. The PD errs because it does not meet its requirements under PUC § 451 for the reasons given below.

A. Public Participation Hearings

Seventeen Public Participation Hearings were held from July 9, 2019 to August 14, 2019. The Commission has stated that: (PD, p. 13)

Almost all of PG&E's customers that spoke at the PPHs oppose PG&E's proposed rate increase. Many asserted that PG&E's proposed rate increases are not affordable, especially for people with low incomes and for people on fixed incomes such as the elderly or customers that are retired.

The PD does not discuss how it accounted for the views of the PG&E customers who attended the PPHs or even if those views were considered.

B. Economic Conditions

The world has changed since the last PPH was held on August 14, 2019, and PG&E customers are much worse off than they were just 15 months ago. In 2019, California was the world's fifth largest economy. As of September 22, 2020, 8.6 million people have filed for unemployment benefits.² The California unemployment rate has risen from 3.9% in August 2019 to 11% in September 2020. (Federal Reserve Bank of St. Louis) California Gross Domestic Product (GDP) has fallen from \$3.1 trillion in 2019 to \$2.8 trillion in 2020, a decline of almost 11%.

² Grimes, Katy. "California's Unemployment Averages 27 percent of All U.S. Claims." California Globe, September 22, 2020. (Available at <https://californiaglobe.com/section-2/californias-unemployment-averages-27-percent-of-all-u-s-claims/>)

C. Wildfires

The PD errs because it fails to acknowledge that PG&E caused most of the wildfires, and it fails to discuss whether ratepayers or shareholders should pay for the cost of Community Wildfire Safety Programs (CWSP). Reid testified that: (Exh. 56 14:14-26)

PG&E is required by the U.S. District Court to fully comply with all applicable laws concerning vegetation management and clearance requirements, including Sections 4292 and 4293 of the California Public Resources Code, CPUC General Order 95, and FERC FAC-003-4.

Shareholders will benefit from such compliance because compliance could tend to minimize wildfires and increase profits, thereby increasing PG&E Corporation's stock price and allowing PG&E Corp. to resume dividend payments to shareholders.³

. . . PG&E caused the fires that swept through its service territory. I note that PG&E is currently under probation for its criminal negligence in the 2010 San Bruno fire (See Section VIII). Despite its poor safety record, PG&E now expects ratepayers to pay an additional \$500 million for safety improvements which may or may not reduce wildfires.

Therefore, PG&E shareholders should pay for all the CWSP costs.

X. Conclusion

The Commission should modify the PD as recommended by Reid for the reasons given herein.

* * *

³ The last sentence of Judge Alsup's order states that "PG&E may not issue any dividends until it is in compliance with all applicable vegetation management requirements as set forth above." (Order, p. 2)

Dated November 12, 2020, at Santa Cruz, California.

/s/

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APPENDIX

Proposed Conclusions of Law

Deletions

137 and 138

Addition

139. PG&E caused almost all the wildfires that swept through its service territory.

VERIFICATION

I, L. Jan Reid, make this verification on my behalf. The statements in the foregoing document are true to the best of my knowledge, except for those matters that are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated November 12, 2020, at Santa Cruz, California.

/s/

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