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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 PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE ROSCOW OF PACIFIC GAS AND ELECTRIC COMPANY CONCERNING ALL NON-CONTESTED ISSUES OTHER THAN THE STANDARD FOR EVALUATING SETTLEMENTS

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- The PD should be revised in order to accommodate a delay in implementation of the rate change in order to stabilize rates for customers;
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I. INTRODUCTION

Pacific Gas and Electric Company (PG&E) hereby submits these Opening Comments on the Proposed Decision (PD) issued by the Administrative Law Judge (ALJ) on February 27, 2017, in the above-captioned matter.[1/] In these Opening Comments, PG&E:

- explains that the Settlement Agreement's original terms concerning Rule 20A should be adopted and that the modifications are unnecessary and should be rejected;
- recommends that the Rule 20A audit be deferred in light of the broader review recently recommended by the Commission's Policy and Planning Division; and
- explains that the Settlement Agreement's original terms concerning Rate Reform Memorandum Account (RRRMA) costs should be adopted and that the modifications are unnecessary and should be rejected;
- explains that the Settlement Agreement's original terms concerning the tax memorandum account should be adopted and that the modifications are unnecessary and should be rejected;
- recommends a delay in implementation of the rate change in order to stabilize rates for customers;
- introduces PG&E's suggested ratemaking treatment for costs associated with the monitor; and
- proposes that its comparison of 2017 budget and imputed regulatory values be submitted within 60 days of the final decision.

II. THE PD'S EXPRESSED CONCERNS ABOUT THE RULE 20A SETTLEMENT PROVISIONS ARE OVERSTATED.

The PD concludes "that the Rule 20A-related items in the Settlement Agreement are not reasonable in light of the whole record and are not in the public interest."[2] On this basis, the PD rejects

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1 On March 17, 2017, pursuant to a request from PG&E, Administrative Law Judge Roscow orally authorized the filing of separate comments as long as the subject matter covered by the separate comments did not overlap.

2 PD, p. 64.

Sections 3.1.3.1 and 3.2.2.8 of the Settlement Agreement. PG&E objects to the rejection of Sections 3.1.3.1 and 3.2.2.8 and asks that the settlement language be restored for the reasons explained below, as well as those set forth in the concurrently filed Joint Comments of the Settling Parties.

In addition, the PD recommends an audit of the program.[3] PG&E recommends deferral of the proposed audit to a broader Rule 20A program review, as was recently recommended by the Commission's Policy and Planning Division.[4]

1. The Rule 20A provisions in the Settlement Agreement should be adopted.

The PD correctly identifies that the issue with the Rule 20A program is the "relationship between the annual work credit allocations and PG&E's annual spending on Rule 20A projects."[5] Nonetheless, the PD's proposed changes neglect issues attempted to be resolved in the Settlement Agreement. Sections 3.1.3.1 and 3.2.2.8 of the Settlement Agreement achieve a balance of the complex relationship between annual work credit allocations and spending on Rule 20A projects.

a. Section 3.1.3.1 on funding levels is reasonable in light of the whole record and in the public interest.

There is strong record support for the agreed-upon funding level in the Settlement Agreement. ORA and PG&E were the only parties to provide recommendations in this matter and, as shown in the Comparison Exhibit,[6] the settled-upon amounts are clearly within the bookends of the record:

Year	PG&E Position	ORA Position	Settlement Amount
2015	$76.0 M	$41.9 M	$41.9 M
2016	$80.2 M	$47.7 M	$75.0 M
2017	$83.7 M	$49.2 M	$60.0 M

The PD expresses concerns about the quality of the record regarding past spending on Rule 20A projects[7] and concludes that the audit (discussed below) is necessary. Separating the issues of the audit and funding levels, it is not clear to PG&E whether the PD contends that the settled funding level is not reasonable in light of the record. In PG&E's view, there is support in the record for the funding level as a reasonable compromise between ORA's and PG&E's recommended positions. Therefore, the PD

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[3] PD, pp. 76-77.

[4] Please see *Program Review California Overhead Conversion Program, Rule 20A For Years 2011-2015 The Billion Dollar Risk!*(CPUC Program Review), Policy and Planning Division of CPUC, November 23, 2016. http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work_Products_(2014_forward)(1)/PPD_Rule_20-A.pdf

[5] PD, p. 70.

[6] PG&E-37, p. 2-297.

[7] PD, pp. 74-76.

should not require a different funding level than the settled amount for 2017, nor should the PD require specific funding levels for 2018 and 2019.[8]

The PD considers the funding level to be not in the public interest.[9] The PD states that PG&E's annual Rule 20A budget "was strongly opposed by officials from communities with Rule 20A projects, officials from communities considering Rule 20A projects, and members of those communities who would benefit from Rule 20A projects or who were suffering due to the delays in the completion of those projects."[10] The PD states that these interested members of the public "had no input into [the Settlement] Agreement."[11]

The Commission settlement rules limit attendance to "parties and their representatives."[12] The Settling Parties involved all parties in their discussions. These discussions included the City of San Luis Obispo and the County of San Luis Obispo. These discussions did not include the City of Hayward because it was not until August 10, one week after the Settlement Agreement was executed, that the City of Hayward moved for party status. On August 11, the City of Hayward's request was denied without prejudice. It was not until September 1, during evidentiary hearings, that the City of Hayward became a party to the proceeding.

PG&E believes that the Settling Parties acted in good faith, in a spirit of inclusiveness, and in the public interest during their negotiations and the public interest is reflected in the result.

b. Section 3.2.2.8 on work credit allocations is reasonable in light of the whole record and in the public interest.

There is strong record support for the agreed-upon provision in the Settlement Agreement for work credit allocations. ORA and PG&E were the only parties to provide recommendations in this

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[8] The PD states that "we disagree with PG&E that its management has the discretion during a GRC period to defer Rule 20A funds to non-Rule 20A uses." (PD, p. 74.) To this end, the PD adopts a one-way balancing account. This is inconsistent with past GRCs. For instance, in PG&E's 2011 GRC, PG&E proposed a one-way balancing account for Rule 20A/New Business/Work at the Request of Others, but it was not approved, as part of a settlement agreement. (D.11-05-018, *mimeo*, pp. 95-96 (Ordering Paragraph 30).) Thus, PG&E recommends that a one-way balancing account not be imposed upon PG&E in this case.

[9] PD, p. 217 (Conclusion of Law 6).

[10] PD, p. 79.

[11] PD, p. 79.

[12] CPUC Rules of Practice and Procedure Rule 12.1(b).

matter and, as shown in the Comparison Exhibit,[13] the settled-upon amount adopts PG&E's recommendation:

PG&E Position	ORA Position	Settlement Amount	PD Amount
$41.3 M	$0	$41.3 M	$81.0 M

Unlike the Settlement Agreement amount, the PD amount does not have sufficient record support. The only evidence that supports the PD's amount are the comments made during Public Participation Hearings and by the City of Hayward during evidentiary hearings.[14]

Regardless, the PD's increased credit allocation does not address the total uncommitted available work credits of approximately $519.9 million and the need to decrease the accumulated amount.[15] Both PG&E and ORA expressed concern for the growing amount of work credit allocations by proposing reductions.[16] As noted in the CPUC's Program Review, there are "sizeable credit balances built up over the years, totaling over $1 billion [for all three utilities, PG&E, SCE, and SDG&E]."[17] The accumulation for PG&E alone is nearly $1 billion, including committed projects.[18]

Many of the accumulated work credits are held by governmental agencies that have no plans for a Rule 20A project.[19] It is in the public interest to ensure that the liability of this accumulation of work credits is worked down and the Settlement Agreement addresses that need.

Section 3.2.2.8 of the Settlement Agreement is reasonable and in the public interest because it addresses the concern of the growing allocation, without going to a position of providing no work credit allocations.

2. The Rule 20A audit should be deferred.

The audit proposed in the PD may create confusion in light of the recommendations for more comprehensive audits and a potential rulemaking resulting from the CPUC Program Review. The CPUC Program Review recommended a financial audit of the Rule 20A program and an Order Instituting Rulemaking proceeding to update and improve Rule 20A programs.[20] The PD's proposal is duplicative and contrary to judicial efficiency in that the PD is only taking a narrow view and focus of

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13 PG&E-37, pp. 2-295 and 2-296.

14 PD, p. 79.

15 PG&E-4, Workpapers Supporting Chapters 13-19, WP Table 18-8, line 6.

16 See PG&E-4, Chapter 18; PG&E-23, Chapter 18; ORA-10.

17 CPUC Program Review, p. 8.

18 See PG&E-4, Workpapers Supporting Chapters 13-19, WP Table 18-8, line 6 and PG&E response to ORA_207_Q12.

19 CPUC Program Review, p. iv.

20 CPUC Program Review, pp. 18-19.

the Rule 20A issues. Instead, the PD should defer to a broader review as proposed by the CPUC Program Review to ensure that the Commission's and other parties' limited resources are used efficiently.

In any event, even if the Commission decides to proceed with an audit of PG&E while the other program review is pending, fairness dictates the audit should be open to other interested cities and counties and not just the City of Hayward.

III. THE PD'S EXPRESSED CONCERNS ABOUT THE RESIDENTIAL RATE REFORM MEMORANDUM ACCOUNT ARE UNNECESSARY.

Section 3.1.5.2 would approve a methodology and cost cap for PG&E's recovery of the costs of implementing electric residential rate reforms mandated by the Commission in its landmark Decision (D.) 15-07-001. The PD rejects Section 3.1.5.2 as unsupported by the record, contrary to D.15-07-001, and not in the public interest.[21] PG&E objects to the rejection of Sections 3.1.5.2 and asks that the settlement language be restored for the reasons explained below, as well as those set forth in the concurrently filed Joint Comments of the Settling Parties.

1. The RRRMA provision is reasonable in light of the whole record.

The PD references ORA's and TURN's opening testimony for the proposition that the Settlement Agreement provision is unsupported by the record.[22] The PD appears to express concern that "Despite their original concerns, ORA and TURN subsequently entered into the Settlement Agreement…."[23]

As a threshold matter, the PD should not be troubled by any party's departure from a litigation position in reaching a settlement. In some areas of a settlement, a party's litigation position may be adopted. In others, it won't be. In many areas, there will be a compromise. Thus, while a litigation position can be used to inform the Commission's analysis of an issue, a party's departure from its original position – in and of itself – cannot be sufficient evidence that a settlement is not supported by the record.

Nevertheless, the PD's review of the parties' litigation positions is incomplete. The PD overlooks an alternative recommendation within ORA's opening testimony. As an alternative, ORA recommended that the CPUC establish a one-way balancing account to allow recovery of these costs. In effect, that is what the Settlement Agreement does. The Settlement Agreement allows PG&E the right to recover up to a certain amount, while maintaining that PG&E can only recover actual expenditures.

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[21] PD, p. 98.

[22] PD, pp. 97-98.

[23] PD, p. 97.

In actuality, ORA's alternative recommendation for the one-way balancing account would have allowed cost recovery of amounts higher than provided for in the Settlement Agreement.[24] ORA's alternative would have allowed recovery of up to $107.2 million over the years 2017-2019.[25] In contrast, the Settlement Agreement would have allowed only for the recovery of $57.9 million for these same years through the advice letter process.[26]

Accordingly, the Settlement Agreement is clearly supported by the record in this proceeding and would provide for more moderate funding than one of the litigation positions taken by ORA.

2. The RRRMA provision is not contrary to D.15-07-001.

The PD finds that Section 3.1.5.2 is contrary to D.15-07-001. Yet, as the PD notes, PG&E took D.15-07-001 literally and submitted its costs in this docket, which was "PG&E's next GRC."[27] Hence, while parties to the proceeding disagreed on what was the most efficient or effective approach, as the PD recognizes, there was a legal basis for PG&E's approach.

Regardless of that debate, it is important to address the PD's statement that "It is not the role of settling parties to decide amongst themselves that PG&E may be relieved of the obligation created by D.15-07-001."[28] PG&E wholeheartedly agrees. Settlement Agreements, in and of themselves, cannot relieve a party of a Commission obligation. For this and many other reasons, settlements are submitted to the Commission for its approval. Absent Commission approval, the prior Commission requirement shall stand. However, with Commission approval, settlements that interpret or even modify prior Commission decisions can – and have – interpreted or changed prior Commission requirements.[29]

Accordingly, PG&E believes that there is a reasonable argument that PG&E has complied with D.15-07-001 by submitting RRRMA costs in this GRC and that, in any event, it is within the Commission's authority to revise this requirement.

3. The RRRMA provision is in the public interest.

The RRRMA cost recovery methodology and cost cap serve the public interest for a variety of reasons. First, PG&E has presented a good faith estimate of its RRRMA implementation costs for the

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[24] Exhibit ORA-13 (Morse), p. 26, line 16 to p. 27, line 2.

[25] This amount is the result of adding $20.3 million for 2017, $42.2 million for 2018 and $44.7 million for 2019. (Exhibit ORA-13 (Morse), p. 26, line 16 to p. 27, line 2.)

[26] Section 3.1.5.2.2. If PG&E's costs exceeded this lower amount, PG&E would have been required to file a Tier 3 advice filing subject to reasonableness review.

[27] PD, pp. 96-97.

[28] PD, p. 98.

[29] For example, in PG&E's 2011 GRC settlement there were at least two prior Commission requirements that were removed by the Settlement, but only after the Commission adopted these settlement provisions. (D.11-05-018, *mimeo*, pp. 96-97 (Ordering Paragraphs 34 and 35), Attachment 1, p. 1-19.)

period at issue. Parties have had a chance to litigate those costs and they have done so. After that evaluation, the Settling Parties have reached this settlement provision as a fair compromise of the Settling Parties' positions in light of the Settlement Agreement as a whole. The public interest is served by this process.

Furthermore, the cost methodology and cost cap proposed by the Settlement serves the public interest in efficiency of proceedings. The PD would direct the filing of a separate application for recovery of costs, or to seek recovery of such costs in PG&E's next GRC. The public interest is thus not served in initiating a new proceeding to achieve the same objective as that in the GRC.

Moreover, a separate application is unnecessary and would duplicate the Commission's on-going active review of PG&E's RRRMA expenditures and forecast budgets in Phase 3 of the Residential Rate Reform proceeding, R.12-06-013, under the active supervision and direction of Assigned Commissioner Picker and ALJ McKinney. Under ALJ McKinney, most of the same parties to the RRRMA provision in the Settlement in this proceeding have been actively engaged in working groups and public workshops collaborating on the specific customer outreach and rate design implementation activities that are the source of the costs and budgets that have been and are being booked into the RRRMA.[30]

These rate reform implementation activities are essential to timely achievement of the Commission's rate reform vision, including a successful transition to default residential time-of-use rates and a comprehensive Marketing, Education and Outreach program that drives much deeper customer understanding and their ability to manage energy costs. Timely implementation of that vision includes matching that vision with timely recovery of the costs of that implementation. Delaying timely cost recovery and rejecting the good faith, uncontested settlement of how that cost recovery should be implemented, may damage the collaborative efforts of PG&E and the other stakeholders in the Residential Rate Reform proceeding – just as those efforts are nearing the most critical path dates essential to implementing the Commission's rate reforms.

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[30] See PG&E Advice 4949-E, November 1, 2016 (Marketing, Education and Outreach Plan), PG&E Advice 4979-E-B, February 24, 2017 (Proposed Default Time-of-Use Pilot Design); PG&E Advice 4949-E-A, March 15, 2017 (Supplemental Advice Letter Responding to ALJ Questions on ME&O Plan); and PG&E quarterly Progress on Residential Rate Reform reports providing detailed status reports on D.15-07-001 implementation activities. These advice filings and quarterly reports are all publicly filed and pursuant to direction and supervision provided by Assigned Commissioner Picker and ALJ McKinney in Phase 3 of R.12-06-013. PG&E requests that these be subject to official notice in this proceeding, along with comments and other pleadings by interested parties in R.12-06-013 on D.15-07-001 implementation activity costs recorded in the RRRMA.

IV. THE PD'S EXPRESSED CONCERNS ABOUT THE TAX PROVISION IN THE SETTLEMENT AGREEMENT ARE UNWARRANTED.

The PD rejects the Settling Parties' agreed-upon tax memorandum account, although the PD never explicitly concludes that the Settlement Agreement provision fails to satisfy CPUC Rule 12.1(d). The PD never concludes that the Settlement Agreement provision is not reasonable in light of the whole record.[31] Nor does the PD conclude that the settlement is inconsistent with law or the public interest.

The closest the PD comes to a finding that the provision does not satisfy Rule 12.1(d) is to refer to other Commission precedent. The PD states, "Commission precedent supports a policy of requiring the utilities subject to our jurisdiction to establish memorandum accounts to track the various costs and benefits of newly enacted tax law."[32] For the reasons explained below, the PD's statement is overbroad and incorrect.

1. Commission precedent argues against, not for, the PD's new memorandum account.

The Commission has historically disfavored tax memorandum and balancing accounts.[33] The Commission's most in-depth examination into the tax treatment of public utilities took place in Order Instituting Investigation (OII) 24, the Commission's "Investigation on the Commission's Own Motion into the Method to be Utilized by the Commission to Establish the Proper Level of Income Tax Expense for Ratemaking Purposes of Public Utilities and Other Regulated Entities." The OII 24 proceeding lasted five and a half years, included 74 exhibits and comprised 22 days of evidentiary hearings.[34] The result of that proceeding – Decision 84-05-036 – remains the cornerstone authority describing the Commission's tax policy.

In OII 24, the Commission addressed the question: "What differences exist between estimates of revenues and expenses used for ratemaking purposes to calculate income tax and the revenues and expenses recorded and reported on income tax returns?"[35] The Commission acknowledged that differences between estimated and recorded tax deductions and correspondingly estimated and recorded tax expense will occur in the ratemaking process [36] and concluded that a true-up mechanism for taxes is not good policy:

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31 No party provided any testimony challenging PG&E's tax forecast or proposed tax treatment.

32 PD, p. 116.

33 D.84-05-036, 15 CPUC2d 42, 61, Conclusion of Law 5, "Post test-year adjustments are inconsistent with test-year ratemaking."

34 D.84-05-036, 15 CPUC2d 44.

35 D.84-05-036, 15 CPUC2d 52.

36 D.84-05-036, 15 CPUC2d 52.

> Staff and Industry agree that such differences are inherent in the use of future test periods for ratemaking. They warn that differences in income taxes between estimated and actual cannot be isolated from other factors in determining whether an adjustment should be made to the test-year estimate. Any review of differences would have to include the effects of differences of all estimates for revenues, operating expenses, income taxes and return on investment. Any prospective adjustment based on past over-or underestimates would have to take into consideration the overall effect of the differences for all components of the test-year. Under these circumstances parties recommend no change in the present ratemaking procedure.[37]

Acknowledging these differences the Commission states, "Since income taxes are derived residually, we agree that individual factors should not be isolated for purposes of comparing estimated and recorded results. Obviously, if the utility earnings are substantially less than authorized, then a comparison of estimated and actual income taxes is misleading."[38]

Stated another way, looking only at taxes can result in a double burden to the Company or the customer. For example, if the utility incurs operating costs higher than forecasted, tax expense will be lower for the year. If the utility was not provided a mechanism to recover the additional operating costs, but had an obligation to reduce rates for the lower actual taxes incurred, this would result in a double burden to the utility. Similarly, if the utility spends less on operating costs, tax expense could be higher. In this scenario, the customer may get fewer benefits from utility spending and higher rates due to higher taxes.

The Commission is not alone in recognizing the inherent difficulties in trying to isolate taxes from the underlying business activities. In *Columbia Gas,* the FERC, made the following observation about comparisons between ratemaking taxes and actual taxes:

> There are, however, vast differences between our assessment of the profit the company is due and the calculation of the amount by which the company is considered to have been enriched by the Internal Revenue Service. Some of these differences stem from the differences in the revenue that is used in calculating the company's profit. The most obvious difference is that we base our determination of the company's profit on projections of revenue. The Internal Revenue Service uses, of course, the revenues the company either actually receives or accrues the right to receive during the tax year. There are even greater differences in the expenses that are recognized.
>
> Because these differences are so vast, the Commission has found that the taxes the company pays to the Internal Revenue Service are not a reliable guide, even as a starting point, for determining a company's tax allowance.

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[37] D.84-05-036, 15 CPUC2d 52.

[38] D.84-05-036, 15 CPUC2d 53.

> Instead, the Commission has always made its own assessment of the tax cost the company incurs in providing service.[39]

In light of the widely recognized problems inherent in an actual taxes standard, it would be expected that a change in policy be preceded by a well-articulated explanation; however, the PD makes no reference to OII 24, let alone an attempt to rationalize the PD's outcome against the instruction in OII 24.

There should be no question that the Settlement Agreement provision better reflects the policy articulated in OII 24. That is, the Settlement Agreement provision focuses solely on (i) new tax accounting method changes and (ii) changes in authorities concerning the repair deduction.[40] Being so limited, the Settlement Agreement provision avoids an "across-the-board comparison of estimated and recorded results [that] is not useful for any purpose other than informational" that was warned of in OII 24.[41]

2. The PD's proposed memorandum account is not an established precedent and is not a sufficient basis to reject the Settlement Agreement.

The PD specifies that PG&E should establish a memorandum account "similar to what we ordered in the SDG&E and SoCalGas Test Year 2016 proceeding and the Liberty Utilities Test Year 2016 GRC."[42] This is not strong precedent. The PD's proposed tax memorandum account has just recently been imposed on the other utilities and has not been properly tested. Nor is there any evidence in the record that PG&E's tax circumstances are similar to those other utilities cited by the PD. Absent such evidence, it cannot be fairly said that the same measures imposed on those utilities should apply here.

The PD also relies on Resolution L-411A as precedent for establishing the new tax memorandum account.[43] However, that Resolution was carefully crafted to apply to only a single tax law change. Rather than creating an all-encompassing tracking mechanism, the Commission narrowly tailored that mechanism to capture a situation very similar to that envisioned by the Settling Parties. In fact, Settlement Provision 3.1.9.3 was drafted to expressly accommodate Resolution L-411A. The last sentence of Section 3.1.9.3 proposed to continue, as necessary, the existing Tax Act Memorandum Account (TAMA) mechanism, which was the mechanism developed under Resolution L-411A. In sum,

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39 *Columbia Gas Transmission Co., (1983)* 23 FERC 61,396, 61,851; aff'd *City of Charlottesville v. FERC,* 774 F.2d 1205 (D.C. Cir. 1985).

40 PD, p. 110.

41 D.84-05-036, 15 CPUC2d 53.

42 PD, p. 117.

43 PD, pp. 116 and 118.

Resolution L-411A, as precedent, more clearly supports the Settlement Agreement than the new account proposed by the PD.

3. The PD's proposed memorandum account needs to be reconciled with the policies described in OII 24.

As mentioned above, the PD's proposed tax memorandum account for the other utilities has not been properly tested. It is thus too early to tell how it will work. The uncertainty arises, in part, from ambiguities in the description of the account that would benefit from clarification. The PD directs that 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 (3) elective tax law changes, tax accounting changes, tax procedural changes, or tax policy changes.[44]

PG&E is not sure what is intended by the phrase "net revenue changes" in item (1). Under the terms' plain meaning, this line item would evaluate the tax impacts from how total revenues change from year to year. Under this scenario, tax impacts should be eliminated over time insofar as revenue changes off the established revenue requirement are trued up year-over-year through various ratemaking mechanisms.[45] Alternatively, this provision could be interpreted to track differences by reconstructing tax expense in the revenue requirement for 2017-2019 after-the-fact based on originally forecast expenses and capital. Line items (2) and (3) also warrant clarification. PG&E assumes that a "tax law change" requires legislation and that changes in "tax procedural" and "tax policy" changes require some published authority from tax administrators, such as a regulation, "revenue procedure," ruling or similar guidance.

In addition, the PD appears to reference recorded and incurred income taxes interchangeably. Ratemaking income taxes are fundamentally different from recorded (financial accounting) income taxes and incurred (tax return) income taxes. The language raises a number of questions, including:

1. Does "incurred" mean the actual taxes paid by the Company or actual taxes recorded?
2. If incurred refers to recorded taxes, is that the amount the Company records before or after risk adjustments required under Generally Accepted Accounting Principles or GAAP rules?
3. If incurred refers to paid taxes, what impact should be given to net operating losses and credit carryforwards from prior years?
4. If incurred includes actual deferred tax expenses, how will any revenue adjustment be harmonized with deferred tax liabilities for rate base purposes to avoid a normalization

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[44] PD, p. 118.

[45] For example, the Distribution Revenue Adjustment Mechanism, the Utility Generation Balancing Account (UGBA), and the Core Fixed Cost Account among others.

violation?

This is not intended to be an all-inclusive list, but rather to illustrate, as the Commission recognized in OII 24, that an evaluation of "actual taxes" can be confusing and potentially misleading.[46]

Accordingly, PG&E recommends that the PD be revised to restore the tax memorandum account originally set forth in the Settlement Agreement, which avoids the above-described problems while still capturing tax expense variances resulting from changes in (i) tax accounting methods and (ii) authorities impacting the repair deductions.[47]

V. PG&E PROPOSES TO WORK WITH ENERGY DIVISION ON ANY RATE SMOOTHING PROPOSALS AND INCLUDE IN ITS RATE CHANGE ADVICE LETTER THE RATIONAL FOR THE AMOUNT INCLUDED IN RATES.

Ordering Paragraph 4 of the PD requires PG&E to implement tariff changes within 30 days of the effective date of the decision.[48] PG&E seeks flexibility in implementing the GRC rate changes – working with the Commission's Energy Division – for rate smoothing purposes.

Due to electric revenue requirement and related rate changes that occurred on January 1, 2017, that were originally expected to go into effect with the implementation of 2017 GRC rates, as well as the need to true up various balancing and memorandum accounts,[49] the net revenue requirement changes from this GRC decision are expected to result in a decrease of more than $100 million. (This decrease is compared to currently effective electric and gas rates.)

In order to smooth rates for customers, by avoiding lowering rates now only to increase them later during 2017 or January 1, 2018, PG&E requests using the expected decrease noted above to offset anticipated rate increases associated with other filings pending at the Commission for which decisions are expected later this year or no later than January 1, 2018.[50] This would be consistent with past practice in working with the Energy Division, where PG&E has undertaken efforts to manage the timing of revenue changes and subsequent rate changes.[51]

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46 D.84-05-036, 15 CPUC2d 53.

47 Section 3.1.9.3.

48 PD, p. 221.

49 This is due primarily to the Department of Energy Litigation refunds and true ups to the Photovoltaic Program Memo Account and Nuclear Regulatory Commission Rulemaking and Hydro Licensing Balancing Accounts.

50 For example, a decision on PG&E's pending 2015 Nuclear Decommissioning Cost Triennial Proceeding is anticipated to increase electric rates.

51 For instance, in PG&E's 2014 GRC D.14-08-032, which was issued in August 2014, PG&E began collecting approximately half of the adopted 2014 GRC electric revenue requirement increase on October 1, 2014. Subsequently, PG&E requested in its 2015 Annual Electric True-Up (AET) Advice Letter that it

VI. PG&E'S SUGGESTED RATEMAKING FOR COSTS ASSOCIATED WITH THE MONITOR.

The PD directs PG&E to include in these comments "a statement that explains its proposed ratemaking treatment for the costs that it will incur in connection with the monitorship" imposed by the United States District Court, Northern District of California, San Francisco Division, in the recent criminal matter.[52]

PG&E's shareholders will cover the direct costs of the monitorship. This shall include all amounts paid to the monitor or persons hired by the monitor pursuant to the monitor's authority. These costs shall include fees, transportation, meals and incidental expenses.

PG&E's shareholders will also cover the expenses of the group being formed at PG&E that will be dedicated to assist with the work of the monitor and address the monitor's needs. At present, PG&E expects to dedicate a team of three full time employees for this purpose. This group will report to PG&E's Senior Vice President and Chief Ethics and Compliance Officer. PG&E shareholders would also cover the costs of any incremental resources hired elsewhere at PG&E that would be dedicated to assisting with the work of the monitor or addressing the monitor's needs.

PG&E will record the above-described expenses to FERC account 426.5 (below the line expenses). Thus, these expenses will not be considered when forecasting expenses in future rate cases.

Please note that the activities of the monitor will likely impact, to varying degrees, the work of scores of employees across the organization. (For example, consider these very comments on the topic.) PG&E does not expect the work of those impacted by the activities of the monitor in the course of their regular jobs (such as the author of these comments) to be covered by shareholders. Further, it is also possible that the monitor may recommend operational changes or improvements that affect future costs. PG&E expects that such costs would be evaluated as would other similar costs in future ratemaking proceedings.

VII. PG&E PROPOSES TO SUBMIT THE COMPARISON OF ITS 2017 BUDGET AND IMPUTED REGULATORY VALUES WITHIN 60 DAYS.

Consistent with other reporting obligations in the PD, PG&E proposes to provide the comparison of its test year (2017) budget and imputed regulatory values within 60 days of the final decision.

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be allowed to recover the remaining half of the adopted 2014 electric revenue requirement increase for a period of up to 24 months. The Commission approved PG&E's request in Resolution E-4693.

[52] PD, p. 133.

Specifically, PG&E will provide its 2017 budget, as of April 1, 2017,[53] and imputed regulatory values, by Major Work Category (MWC), with explanations for significant differences.[54]

VIII. CONCLUSION

For the reasons set forth above, PG&E respectfully requests that the Commission: (i) adopt the Settlement Agreement as filed, without the changes proposed in the PD on Rule 20A; (ii) adopt the Settlement Agreement as filed, without the changes proposed in the PD on RRRMA; (iii) adopt the tax provision in the Settlement Agreement as filed without the changes proposed in the PD; (iv) delay the implementation of the rate change in order to "smooth" (and thus minimize) effects on customers; and (v) adopt PG&E's suggested ratemaking treatment for costs associated with the monitor; and (vi) allow PG&E's comparison of 2017 budget and imputed regulatory values to be submitted within 60 days of the final decision.

Respectfully submitted,
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By: */s/ Steven W. Frank*
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Dated: March 20, 2017

[53] PG&E proposes to use the April 1, 2017 budget so that the budgeted amounts reflect the cost reduction initiative PG&E implemented in the beginning of 2017.

[54] For PG&E's budget compliance report that is due by March 31, 2017, PG&E will provide a comparison between PG&E's 2016 budget and recorded spending, at the MWC level, with explanations for significant differences from PG&E's 2016 budget. (D.14-08-032, *mimeo*, p. 12.)

APPENDIX A

**PG&E'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS
COMPARED AGAINST THOSE FOUND IN THE PROPOSED DECISION**

Findings of Fact

* * * * *

5. ~~With the exception of the agreed-upon Rule 20A amount, t~~The agreed-upon 2017 Electric Distribution expenses and capital expenditures are reasonable.

6. ~~The agreed-upon Rule 20A amount is not reasonable.~~

* * * * *

9. ~~With the exception of the agreed-upon amounts and ratemaking treatment regarding PG&E's Residential Rates Reform Memorandum Account, t~~The agreed-upon 2017 Customer Care expenses and capital expenditures are reasonable.

10. ~~A tax memorandum account would increase the transparency of PG&E's incurred and forecasted income tax expenses to the Commission, so that the Commission can more closely examine revenue impacts caused by PG&E's implementation of various tax laws, tax policies, tax accounting changes, or tax procedure changes.~~

Conclusions of Law

* * * * *

5. ~~With the exception of the agreed-upon capital expenditures for Rule 20A, t~~The agreed-upon 2017 Electric Distribution expenses and capital expenditures should be adopted.

6. ~~The provisions in Section 3.1.3.1 and Section 3.2.2.8 of the Settlement Agreement regarding Rule 20A should not be adopted because they are not in the public interest.~~

7. ~~The annual PG&E Electric Tariff Rule 20A work credit allocation amount of $41.3 million should not be extended through 2019. PG&E should restore the annual 2017-2019 work credit levels that are allocated to governmental entities to the 2010 level: $80.988 million, and should apply the two-part formula in its Commission-approved Rule 20 tariff to allocate this amount to eligible governmental entities.~~

8. ~~PG&E should 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, so that overcollected balances in the account remain available for future Rule 20A projects. The Commission shall review the balances in the account in PG&E's next GRC proceeding.~~

* * * * *

11. ~~The provisions in Section 3.1.5.2 of the Settlement Agreement regarding PG&E's Residential Rates Reform Memorandum Account should not be adopted because they are neither reasonable, in the public interest, nor consistent with the law.~~

12. ~~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 its next GRC application.~~

13. ~~PG&E should establish a two-way tax memorandum account 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.~~

* * * * *

15. ~~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, t~~The Settlement Agreement attached to the Joint Settlement Motion is reasonable, in the public interest, and consistent with the law.

* * * * *

O R D E R

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, t~~The Settlement Agreement attached to the Settlement Motion is adopted.

~~a. The provision in Section 3.1.3.1 of the Settlement Agreement that provides for a reduction in Major Work Category 30 equal to $23.7 million is not adopted. PG&E's~~

~~authorized revenue requirements for Rule 20A undergrounding work are $83.74 million in 2017, $83.068 million in 2018, and $72.064 million in 2019. With these adjustments, a Test Year 2017 revenue requirement of $8.002 billion is adopted.~~

~~b. Section 3.2.2.8 of the Settlement Agreement is not adopted. PG&E shall restore the annual Rule 20A undergrounding 2017-2019 work credit levels that are allocated to governmental entities to the 2010 level: $80.988 million, and shall apply the two-part formula in its Commission-approved Rule 20 tariff to allocate this amount to eligible governmental entities.~~

~~c. Section 3.1.5.2 of the Settlement Agreement 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 its next GRC application.~~

~~d. Section 3.1.9.3 of the Settlement Agreement is not adopted. Instead, as described in Ordering Paragraph 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.~~

3. Pacific Gas and Electric Company (PG&E) is granted flexibility in incorporating the revenue requirements authorized to be collected, through rates and authorized ratemaking accounting mechanisms, over the remainder of this rate case cycle through December 31, 2019 (i) the test year revenue requirement set forth in Appendix A of this decision, less (ii) the amount collected by PG&E base rates since January 1, 2017, and prior to the implementation of the revenue requirement authorized by this decision, plus (iii) interest on the difference between (i) and (ii), with said interest based on the rate for prime, three-month commercial paper reported in Federal Reserve Statistical Release H-15.

* * * * *

7. ~~Pacific Gas and Electric Company (PG&E), the City of Hayward, and Commission staff are directed to meet and confer to determine a joint estimate of the scope and funding required for an audit of PG&E's Rule 20A program. PG&E and the City of Hayward shall~~

jointly file and serve the joint estimate of the scope and the required funding within 60 days of the effective date of this decision. The assigned Commissioner and assigned Administrative Law Judge shall determine further procedural steps following receipt and review of the audit scope and funding estimate.

8. 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 one-way Rule 20A balancing account that tracks the annual capital and expense costs for Rule 20A undergrounding projects, on a forecast and recorded basis. Overcollected balances in the account shall remain available for future Rule 20A projects. The Commission shall review the balances in the account in PG&E's next General Rate Case proceeding.

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 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 3) elective tax law changes, tax accounting changes, tax procedural changes or tax policy changes.

* * * * *

21. Application 15-09-001 shall be closed following the filing of a "Notice to Accept Pacific Gas and Electric Company'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.~~

This order is effective today.