

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2023 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation. (U39E).

Application 22-05-029

**REPLY COMMENTS ON THE PROPOSED DECISION OF THE
CALIFORNIA COMMUNITY CHOICE ASSOCIATION**

Evelyn Kahl
General Counsel and Director of Policy
Willie Calvin
Regulatory Case Manager
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
Telephone: (415) 254-5454
E-mail: regulatory@cal-cca.org

Tim Lindl
Nikhil Vijaykar
KEYES & FOX LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (510) 314-8385
E-mail: tlindl@keyesfox.com
nvijaykar@keyesfox.com

On behalf of
California Community Choice Association

December 8, 2022

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2023 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation. (U39E).

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The California Community Choice Association¹ (CalCCA) submits these reply comments on the Proposed Decision² in the above-captioned proceeding pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission and the procedural schedule established in Commissioner Reynolds’s August 4, 2022 Scoping Memo and Ruling.³

Pacific Gas and Electric Company’s (PG&E) opening comments on the PD offer nothing new in support of its unreasonable proposal to set a “floor” on the cumulative forecasted Indifference Amount component of Power Charge Indifference Adjustment (PCIA) rates. Instead, PG&E recycles several arguments from its opening and reply briefs in opposition to the well-reasoned PD, which rejects PG&E’s rate proposal. As CalCCA has now explained three times in this proceeding (in its opening brief,⁴ reply brief,⁵ and comments on the Fall Update⁶), PG&E’s

¹ California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPower SF, Desert Community Energy, East Bay Community Energy, Energy for Palmdale’s Independent Choice, Lancaster Choice Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

² Application (A.) 22-05-029, Proposed Decision Adopting the Electric Revenue Requirements and Rates Associated with the 2023 Energy Resource Recovery Account and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation and the 2023 Electric Sales Forecast for Pacific Gas and Electric Company (Nov. 28, 2022) (PD).

³ A.22-05-029, Assigned Commissioner’s Scoping Memo and Ruling (Aug. 4, 2022).

⁴ CalCCA Opening Br. at 8-20.

⁵ CalCCA Reply Br. at 4-8.

⁶ CalCCA Opening Comments on Fall Update at 3-4.

proposed floor on cumulative forecasted Indifference Amounts is obsolete, unlawful and unjust, and would shift forecast risk from the utility to its customers—both bundled and unbundled. As the PD correctly recognizes, the current ERRRA ratesetting mechanisms fully protect PG&E and ensure its recovery of reasonable costs and an artificial rate floor is therefore neither necessary nor warranted.⁷ PG&E cannot and does not point to any record evidence requiring the Commission to modify that conclusion. PG&E’s hand-wringing about “suffer[ing] inadequate revenues to pay for the costs of its generation portfolio” is a risk associated with forecasts in any year; it is nothing new (and it is mitigated by the true-up). The Commission should reject PG&E’s invitation to second-guess the forecast and adjust PCIA rates to guarantee PG&E extra liquidity when that forecast should result in PCIA payments. It should reject PG&E’s continued defense of its unreasonable rate floor proposal and adopt the PD with the modifications described in CalCCA’s opening comments.

I. THE TRUE-UP LEAVES PG&E FINANCIALLY INDIFFERENT TO RATE CREDITS; IF SUFFICIENT RECORD EVIDENCE TO THE CONTRARY EXISTED, PG&E SHOULD BEAR THAT RISK—NOT CUSTOMERS.

Following the reforms to the PCIA in D.18-10-019, PCIA rates are set based on an annual forecast followed by a true-up to actual costs the following year. The PD correctly observes that under that ratesetting mechanism, “[c]ustomers will see the effect of the sales forecast now as they have done in prior years, and in subsequent proceedings customers will see the appropriate adjustments for actual costs just as they have done in prior years.”⁸ The PD concludes that PG&E is therefore “financially protected by the existing ERRRA rate recovery mechanisms” because where the forecast deviates from actual costs or revenues, the annual true-up makes PG&E and its customers whole. As PG&E’s own witness stated on the record: the true-up will “ensure that any forecast-related errors in the annual PCIA are reconciled”⁹

PG&E nevertheless continues to insist the PCIA framework should only provide PG&E the opportunity to recover forecast costs, and should not provide its customers the opportunity to receive the benefit of forecast revenues. But PG&E does not provide any new arguments in support of its fundamentally imbalanced and utility-friendly proposal. Instead, it misleadingly points to the levels of load departure in its service territory in support of the proposition that negative PCIA

⁷ PD at 3; 19; FOF 11 at 22, FOF 12 at 22; COL 8 at 22; OP 6 at 25.

⁸ *Id.* at 19.

⁹ Exh. PGE-3 at 8, n. 14.

rates would “place[] significant strain on PG&E in the event that forecasted conditions do not materialize.”¹⁰ The level of load departure in PG&E’s service territory, however, is not relevant to the Commission’s determination of this issue. Both bundled and unbundled customers pay PCIA rates; *both bundled and unbundled customers* had forecasted negative Indifference Amounts at one time in this proceeding that would have entitled them to receive rate credits for 2023 had those market conditions persisted. Conditions may result in the future where only bundled customers have forecasted negative Indifference Amounts. The Commission should not be distracted by PG&E’s hand-waving: the utility’s proposed floor on cumulative forecast Indifference Amounts harms both bundled and unbundled customers, and the existence of neither group creates more risk for PG&E.

PG&E also asserts “there is no evidence in the record to support PG&E’s ‘indifference’ to a scenario where its balancing account revenues are insufficient to cover the costs of the procurement portfolio.”¹¹ As the applicant, however, PG&E has the burden of affirmatively establishing the reasonableness of all aspects of its application,¹² and that burden of proof generally is measured based upon a preponderance of the evidence.¹³ PG&E had ample opportunity to introduce evidence demonstrating the risk of adverse financial impacts to the utility absent a rate floor and to subject that evidence to examination by the parties. It chose not to do so.¹⁴

Now, in its comments on the PD (to which parties have three days to respond and no reasonable opportunity for discovery or further record development), PG&E raises new, conclusory arguments rhetorically contrasting “the financial reality of PG&E’s actual financing

¹⁰ PG&E Comments on the PD at 5.

¹¹ *Id.* at 3.

¹² Rulemaking (R.) 11-02-019, *Decision Mandating Pipeline Safety Implementation Plan, Disallowing Costs, Allocating Risk of Inefficient Construction Management to Shareholders, and Requiring Ongoing Improvement in Safety Engineering*, p. 42 (Dec. 28, 2012) (D.12-12-030).

¹³ See, e.g., A.17-06-005, *Decision Adopting Pacific Gas and Electric Company’s 2018 Energy Resource Recovery Account Forecast and Generation Non-Bypassable Charges and Greenhouse Gas Forecast Revenue and Reconciliation*, pp. 9-10 (Jan. 16, 2018) (D.18-01-009); R.11-02-019, Order Modifying Decision (D.) 12-12-030 and Denying Rehearing, as Modified, p. 29 (July 27, 2015) (D.15-07-044) (observing that the Commission has discretion to apply either the preponderance of evidence or clear and convincing standard in a ratesetting proceeding, but noting that the preponderance of evidence is the “default standard to be used unless a more stringent burden is specified by statute or the Courts.”).

¹⁴ A.20-05-029, *California Community Choice Association’s Opening Brief*, pp. 13-19 (Oct. 14, 2022); A.20-05-029, *California Community Choice Association’s Reply Brief*, pp. 5-8 (Oct. 14, 2022) (both discussing the lack of record evidence to support the factual contentions in both PG&E’s testimony and briefs; PG&E’s Witness focused solely on the language in D.18-10-019).

costs” to the rate provided for through PG&E’s balancing account.¹⁵ PG&E asserts based on that comparison that the utility would *not* be financially indifferent to having or not having a rate floor.¹⁶ But PG&E does not and cannot point to any record evidence demonstrating that payments to customers based on a forecast, and a true-up of those payments the subsequent year, would in fact pose any risk of financial harm to the utility.

The Commission should reject PG&E’s baseless eleventh-hour criticism of the ERRA ratesetting mechanisms and adopt the PD’s conclusion.¹⁷ The PD correctly finds that the current ERRA ratesetting mechanisms—which, following D.18-10-019, include an annual true-up—“fully protect PG&E and ensure its recovery of reasonable costs, including financing costs[.]”¹⁸ On that basis, the PD correctly concludes that PG&E “should be financially indifferent to having or not having a rate floor.”¹⁹

Even if the Commission relied on extra-record evidence to determine the utility was not financially indifferent, the utility should not be allowed to overcharge customers in the name of forecast risk. PG&E points to “extremely volatile electricity market conditions” to suggest that its forecasted market revenues may not materialize,²⁰ but the Commission may not second-guess the forecast just because it results in PCIA payments to customers. Nor may the Commission adjust PCIA rates simply to bolster PG&E’s liquidity. Doing so would set bad precedent and undermine the fundamental ERRA ratesetting mechanism, which establishes just and reasonable rates that *rely* on an annual forecast. Further, by requiring its bundled and unbundled customers to make

¹⁵ PG&E Comments on the PD at 3-4.

¹⁶ *Id.*

¹⁷ The Scoping Ruling categorized this proceeding as ratesetting. Scoping Ruling at 6. The Commission has previously determined that Section 1757 of the Public Utilities Code applies to ratesetting, meaning the final decision must be “supported by the findings,” and those findings must be “supported by substantial evidence in light of the whole record,” *i.e.*, they must be based on the record or inferences reasonably drawn from the record.¹⁷ Cal. Pub. Util. Code § 1757; *see, e.g.*, D.20-05-027, p. 6; *see also, e.g.*, R.14-07-002, et. al, *Order Denying Rehearing of Decision (D.) 18-06-027*, pp. 5-6 (May 8, 2020) (D.20-05-027) (stating “As an initial matter, SDG&E cites to the wrong statute, because Public Utilities Code section 1757.1 does not set forth the applicable standards for a ratesetting proceeding like this one. Rather, section 1757 provides the appropriate standard and requires a finding as to whether the Commission’s findings are not supported by substantial evidence in light of the whole record.”).

¹⁸ PD at 19.

¹⁹ *Id.*

²⁰ CalCCA notes that while PG&E forecasts significant market revenues from its PCIA portfolio in 2023, it is far from clear that those revenues *will not* materialize as PG&E suggests (ie, that actual market prices will be lower rather than higher than forecast). Indeed, actual market prices were higher than PG&E’s forecast **this year**.

payments based on a forecast, but refusing to pay those customers based on the same forecast, PG&E simply seeks to shift any forecast risk that might exist away from the utility and onto its customers. Contrary to PG&E's comments, therefore, those customers *are* harmed by PG&E's proposal to force those customers to wait for payments until PG&E records actual revenues, but make payments before PG&E records actual costs. The Commission should reject PG&E's utility-centric, anti-customer approach and adopt the PD's directive that PG&E flow through the PCIA adjustment whether positive or negative to all bundled and departed customers.

II. THE COMMISSION RECENTLY APPROVED PCIA PAYMENTS FOR CUSTOMER VINTAGES WITH A NEGATIVE CUMULATIVE FORECAST INDIFFERENCE AMOUNT AND SHOULD DO SO AGAIN HERE.

PG&E incorrectly asserts that Commission precedent supports its proposal to implement a rate floor to the cumulative forecast Indifference Amount.²¹ Further, Commission precedent on PCIA rates has not been limited to addressing the utility's cost recovery, to the exclusion of payments to customers, as PG&E claims.²² D.18-10-019 specifically states that "the PCIA rate should be able to go negative and should credit departing customers when IOU portfolio value exceeds costs."²³ More recently, the Commission's decision in Southern California Edison's 2023 ERRA Forecast proceeding notes that "SCE's generation portfolio is "below market" for 2023, which requires a PCIA credit on departed load customers' bills . . ."²⁴ The PD's rejection of PG&E's PCIA rate floor, therefore, is entirely consistent with Commission precedent. The Commission should therefore adopt the PD with CalCCA's limited recommended modifications.

III. CONCLUSION

For the reasons described in CalCCA's comments on the PD and in these reply comments, CalCCA continues to respectfully request the Commission adopt the PD with the modifications described in the Appendix to CalCCA's opening comments.

²¹ PG&E Comments on the PD at 6.

²² *Id.*

²³ D.18-10-019 at 88; FOF 20 at 155; COL 21 at 158.

²⁴ A.22-05-14 *et al.*, Application of Southern California Edison (U338E) For Approval of its 2023 ERRA Forecast Proceeding Revenue Requirement, D.22-12-012 at 54.

Respectfully submitted,



Nikhil Vijaykar
Tim Lindl
KEYES & FOX LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (408) 621-3256
Email: nvijaykar@keyesfox.com
tlindl@keyesfox.com

Counsel to CalCCA

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