

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



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Application of Pacific Gas and Electric Company for Compliance Review of Utility Owned Generation Operations, Portfolio Allocation Balancing Account Entries, Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Owned Generation Fuel Procurement, and Other Activities for the Record Period January 1 Through December 31, 2022.

Application No. 23-02-018

(U 39 E)

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
PROTEST TO THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY**

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**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S
PROTEST TO THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY**

Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), the California Community Choice Association¹ (“CalCCA”) hereby protests the relief sought in the above-captioned *Application of Pacific Gas and Electric Company (“PG&E”) for Compliance Review of Utility Owned Generation Operations, Portfolio Allocation Balancing Account Entries, Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources,*

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, CleanPowerSF, Desert Community Energy, East Bay Community Energy (“EBCE”), Energy for Palmdale’s Independent Choice, Lancaster Choice Energy, Marin Clean Energy (“MCE”), Orange County Power Authority, Peninsula Clean Energy (“PCE”), 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 (“SJCE”), Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

*Utility Owned Generation Fuel Procurement, and Other Activities for the Record Period
January 1 Through December 31, 2022 (U 39 E) (“Application”).*

In its Application, PG&E requests that the Commission find:

1. that it prudently administered and managed its utility-owned generation (“UOG”) facilities in compliance with all applicable rules, regulations and Commission decisions;
2. that it achieved least-cost dispatch of its energy resources and economically-triggered demand response programs pursuant to SOC 4;
3. that the entries recorded in the Energy Resource Recovery Account (“ERRA”) and the Portfolio Allocation Balancing Account (“PABA”) are reasonable, appropriate, accurate and in compliance with Commission decisions;
4. that its fuel procurement and hedging activities complied with its Commission-approved Bundled Procurement Plan (“BPP”);
5. that its resource adequacy sales complied with the BPP;
6. that the costs incurred and recorded in the Green Tariff Shared Renewables Memorandum Account (“GTSRMA”), Green Tariff Shared Renewables Balancing Account (“GTSRBA”), Disadvantaged Communities – Single-Family Solar Homes (“DAC-SASH”) balancing account (“DACSASHBA”), Disadvantaged Communities Green Tariff Balancing Account (“DACGTBA”), Community Solar Green Tariff Balancing Account (“CSGTBA”), and Centralized Local Procurement Sub-Account (“CLPSA”) in the New System Generation Balancing Account (“NSGBA”) are reasonable and in compliance with applicable tariffs and Commission directives; and

7. that the contract amendment with Calpine City Russell Energy Center is reasonable and approved.²

The impact of PG&E's Application on both departed and bundled customers requires cautious and careful consideration under the applicable standards of review. PG&E, as the applicant, has the burden of proof³ and must satisfy that burden based on a preponderance of the evidence.⁴

CalCCA protests the Application on the grounds that the utility has fallen short of demonstrating that the entirety of the relief it seeks meets the utility's burden. CalCCA has identified certain issues below that should prevent immediate adoption of the relief requested in the Application without further examination before the Commission. CalCCA respectfully requests that the Commission set this matter for hearing to fully examine those issues together with any other issues that may arise during the course of this proceeding.

I. CALCCA'S INTEREST

As noted above, CalCCA represents the interests of 24 community choice aggregators ("CCAs") in California, including 11 CCAs that serve PG&E's delivery service customers. Except for SJCE and CleanPowerSF, each of those 11 CCAs is governed by a Board of Directors comprised of elected officials who represent the individual cities and counties the CCA serves, or an elected City Council. CleanPowerSF is the CCA for the City and County of San Francisco, which the San Francisco Public Utilities Commission operates. SJCE is the City of San José's CCA program, which the San José Community Energy Department administers. While

² Application at 20.

³ Decision ("D.") 12-12-030 at 42; Application at 4.

⁴ *See, e.g.* D.18-01-009 at 9-10; D.15-07-044 at 29 (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 standard is the "default standard to be used unless a more stringent burden is specified by the statute or the Courts."); Application at 4.

CalCCA's advocacy frequently benefits both bundled and unbundled customers, the CCAs are the sole advocates for their customers and their local energy programs before this Commission.

CCA customers receive generation services from their local CCA and receive transmission, distribution, billing, and other services from PG&E. As such, CCA customers in PG&E's service territory must pay the same electric distribution, transmission and non-bypassable rates as PG&E's bundled customers. However, CCA customers pay CCA-specific generation rates, which vary and are partially influenced by local mandates to increase electric vehicle use, procure and maintain clean electricity portfolios that in many cases exceed state requirements for renewable generation, and achieve other local goals.

CCA and other unbundled customers are also subject to several non-bypassable charges, including the Power Charge Indifference Adjustment ("PCIA"). The Commission adopted the PCIA to ensure that when investor-owned utility ("IOU") customers depart from bundled service and receive their electricity from a non-IOU provider, such as a CCA, "those customers remain responsible for costs previously incurred on their behalf by the IOUs—but only those costs."⁵

The level of the PCIA during the 2022 record period was determined, initially, in D.22-02-002 based in part on a forecast of the above-market costs stemming from PG&E's generation portfolio over the course of that year. Prior to D.18-10-019, the PCIA rate was set only based on forecasts and not true-up for unbundled customers – only bundled customers' rates were subject to a true-up. D.18-10-019 requires that PG&E true up the forecasted costs (net of forecasted market revenues or imputed revenues) approved in D.22-02-002 with the actual recorded costs (net of actual market revenues or imputed revenues) for PCIA-eligible resources.⁶ It also requires

⁵ D.18-10-019 at 3 (October 11, 2018); *see also* Rulemaking ("R.") 17-06-026, *Scoping Memo and Ruling of Assigned Commissioner* at 2 (September 25, 2017).

⁶ D.18-10-019 at Ordering Paragraphs ("OPs") 7 and 8.

PG&E to true up the revenues it forecasted it would receive from both bundled and departing load customers over the course of 2022 with the actual revenues it received.⁷ This true-up occurs by comparing the forecasted costs and revenues to the recorded costs and revenues within the PABA.⁸

As noted in more detail below, issues relating to whether the entries that PG&E recorded in the PABA (and the ERRRA) are reasonable, appropriate, accurate, correctly stated, and in compliance with Commission decisions are within scope in this docket.⁹ Moreover, PG&E's management of its generation portfolio and its third-party contracts, as well as its compliance with Commission-approved procurement and resource sales frameworks, directly impact the costs and revenues recorded to the PABA. Since the PABA impacts the PCIA rates that CCAs' customers pay, CalCCA has a direct, clear, real, present, tangible, and pecuniary interest in the outcome of this proceeding.

Finally, it is important to note that the true-up of the PCIA via the PABA reflects the full amount of above-market costs recovered from *both* bundled service and departing load customers. All above-market costs for PG&E's PCIA-eligible generation portfolio are now paid by both bundled and unbundled customers, which share a portion of the PCIA revenue requirement obligations. The ERRRA revenue requirement includes the remaining, at-market portion of the forecasted procurement costs for PG&E's bundled customers. Therefore, as will become evident over the course of this proceeding, many of CalCCA's interests in this case are closely aligned not only with those of PG&E's unbundled customers, but also with those of PG&E's remaining bundled customers.

⁷ *Id.*

⁸ Application ("A.") 21-03-008, Prepared Testimony (March 1, 2021) ("PG&E Prepared Testimony").

⁹ *See* A.20-02-009, Scoping Ruling at 3 (setting the standard of review) (June 19, 2020).

II. GROUNDS FOR PROTEST

CalCCA has identified several issues that impact the interests described above. The specific issues enumerated below should be considered preliminary matters that CalCCA has identified. CalCCA is still examining the Application, conducting discovery,¹⁰ and communicating with PG&E to better understand and analyze the utility's recorded entries for 2022. CalCCA reserves the right to address and protest additional issues within the scope of this proceeding as they arise through continued review, analysis, discovery and investigation of all aspects of the Application and supporting testimony.

A. Resource Adequacy Activity

PG&E is permitted to use excess resource adequacy ("RA") from existing PCIA-portfolio resources to meet the incremental procurement targets established by D.21-03-056 (March 26, 2021) and D.21-12-015 (December 6, 2021) in order to address summer reliability concerns. PG&E may transfer excess RA from the PABA to the System Reliability Incremental Procurement ("Reliability OIR") subaccount of the NSGBA *only after* making reasonable attempts to sell that excess RA to other load-serving entities, consistent with accounting procedure 5.I.¹¹ Those transfers result in a credit to PABA and a debit to NSGBA.¹²

PG&E states that it transferred a total of 923 MW of excess RA capacity from the PABA to the Reliability OIR subaccount of the NSGBA in 2022.¹³ That amount is significantly higher than the 49 MW of excess RA capacity it transferred in 2021.¹⁴ CalCCA will investigate PG&E's

¹⁰ As of the filing of this Protest, CalCCA has already issued over 70 data requests to PG&E.

¹¹ PG&E Testimony at 12-15.

¹² *Id.*

¹³ *Id.*

¹⁴ A.22-02-015, *Application of Pacific Gas and Electric Company (PG&E) for Compliance Review of Utility-Owned Generation Operations, Portfolio Allocation Balancing Account Entries, Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources,*

RA activities—including its offers for sale of excess RA capacity, and its transfer of excess RA capacity to the Reliability OIR—to determine whether PG&E’s RA activities were consistent with its BPP.

PG&E also states that on July 18, 2022, it entered into an agreement with the California Department of Water Resources (“DWR”), wherein the DWR will reimburse PG&E for the above-market costs of eligible Summer Import Procurement Contracts (“SIPC”) executed to support statewide summer electric service reliability, consistent with AB 205 (signed into law on June 30, 2022).¹⁵ CalCCA will investigate the impact of PG&E’s agreement with DWR on PG&E’s entries to the PABA and ERRA during the record period.

B. Contract Amendments

Chapter 9 of PG&E’s testimony in this proceeding concerns PG&E’s contract administration practice, changes that occurred to the contracts administered, and the results achieved regarding contract administration during the record period.¹⁶ PG&E must show that the entries recorded in the ERRA and the PABA are reasonable, appropriate, accurate, and in compliance with Commission decisions, that it adhered to Standard of Conduct 4, and that it prudently administered its contracts.¹⁷ In Table 9-9, PG&E describes certain contract amendments and consent to assignment during the record period.¹⁸

CalCCA has identified certain contracts that may reflect material modifications from the original terms and, therefore, require further investigation to determine whether those contracts must be re-vintaged. CalCCA will review those amendments to determine whether PG&E has

Utility-Owned Generation Fuel Procurement, and other Activities for the Record Period January 1 Through December 31, 2021, PG&E Testimony at 12-17.

¹⁵ PG&E Testimony at 8-5.

¹⁶ *Id.* at 9-1:11-14.

¹⁷ *See Application* at 17-18.

¹⁸ PG&E Testimony at 9-30.

recorded the incremental costs of such procurement to the appropriate cost recovery vehicle. To the extent that PG&E renegotiated material terms of its contracts in 2022, CalCCA contends that the contracts should be re-vintaged accordingly and will present testimony and legal briefing on this matter over the course of this proceeding.¹⁹

C. Internal Audit of 2021 Activity in the ERRA

PG&E's testimony describes PG&E's Internal Audit of 2021 Activity in the ERRA, conducted pursuant to a settlement agreement between PG&E and the Public Advocates Office approved in D.14-01-011.²⁰ PG&E states that in June 2022, PG&E's Internal Auditing Department ("IA") finalized an audit of the 2021 activity recorded in the ERRA balancing account. According to PG&E, IA "noted a low-risk observation related to improving the quality of supporting documentation recorded to ERRA."²¹ PG&E states that in response to this low-risk observation, it has "implemented additional lead schedules" and "simplified calculation formulas to allow for journal entry data to be easily traceable" but acknowledges that "[t]he process for improving general journal entry preparation and documentation recorded to ERRA is still an ongoing process."²² CalCCA will conduct discovery to better understand and further investigate IA's findings with respect to supporting documentation recorded to ERRA, and will evaluate whether PG&E's entries to the ERRA for the 2022 record period are reasonable, appropriate, accurate, and in compliance with Commission decisions.

¹⁹ The core principle of vintaging is to identify when a contract commitment is made or renegotiated for a resource so that customers may be assigned responsibility for that resource. *See* D.04-12-048 at 55; D.08-09-012 at 59. If a resource commitment is made after CCA load has departed, then customers of that CCA should not be fiscally responsible for that power resource because the resource was not procured on their behalf. *See* A.20-02-009, Joint CCA Opening Brief at 17-20.

²⁰ PG&E Testimony at 13-7 – 13-8.

²¹ *Id.* at 13-8.

²² *Id.*

D. Other Issues that Require Further Investigation and Analysis

CalCCA hopes to work with PG&E over the course of this proceeding to review PG&E's workpapers and better understand, investigate and potentially submit testimony regarding various components of the Application, including but not limited to:

- Whether the costs and California Independent System Operator ("CAISO") revenues associated with the Elkhorn Battery Energy Storage System ("BESS") are appropriately recorded to the correct balancing accounts in compliance with Commission decisions;
- Whether the PCIA-Financing Subaccount of the ERRA reflects prior Commission decisions;
- Whether PG&E's accounting of costs associated with various procurements are correctly, appropriately and accurately recorded to ERRA and PABA in compliance with Commission decisions;
- Whether PG&E's accounting of CAISO settlement charges and revenues are correctly, appropriately and accurately recorded to ERRA, PABA and other balancing accounts in compliance with Commission decisions; and
- Green Tariff Shared Renewable ("GTSR")-related issues such as whether revenue from GTSR customers was booked to the correct balancing accounts.

III. ISSUES, CATEGORIZATION OF PROCEEDING, NEED FOR HEARINGS AND PROPOSED PROCEDURAL SCHEDULE

A. Scope of Issues to be Considered

PG&E's Application proposes the following issues for consideration in this proceeding:²³

1. Whether PG&E, during the record period, prudently administered and managed the following, in compliance with all applicable rules, regulations, and Commission decisions, including but not limited to Standard of Conduct No. 4 (SOC 4):
 - a. Utility-Owned Generation Facilities, except for the Elkhorn BESS and Pit 1 Powerhouse outages which will be reviewed in the 2023 ERRA Compliance proceeding, and;
 - b. Qualifying Facilities (QF) Contracts and Non-QF Contracts;

If not, what adjustments, if any, should be made to account for

²³ See Application at 17-18.

imprudently managed or administered resources?

2. Whether PG&E achieved least-cost dispatch of its energy resources and economically-triggered demand response programs pursuant to SOC 4;
3. Whether the entries recorded in the Energy Resource Recovery Account and the Portfolio Allocation Balancing Account are reasonable, appropriate, accurate, and in compliance with Commission decisions;
4. Whether PG&E's greenhouse gas instrument procurement complied with its Bundled Procurement Plan;
5. Whether PG&E administered resource adequacy procurement and sales consistent with its Bundled Procurement Plan;
6. Whether the costs incurred and recorded in the following accounts are reasonable and in compliance with the applicable tariffs and Commission directives:
 - a. Green Tariff Shared Renewables Memorandum Account;
 - b. Green Tariff Shared Renewables Balancing Account;
 - c. Disadvantaged Community – Single Family Solar Affordable Homes Balancing Account;
 - d. Disadvantaged Community – Green Tariff Balancing Account;
 - e. Community Solar Green Tariff Balancing Account;
 - f. Centralized Local Procurement Sub-Account.
7. Whether the contract amendment with Calpine Russell City Energy Center is reasonable and should be approved; and
8. Whether there are any safety considerations raised by this Application.

This statement of issues encompasses the issues CalCCA has raised in this Protest.

CalCCA does not recommend any specific modification to PG&E's list to include those issues.

B. Categorization

CalCCA agrees with the categorization of this proceeding as ratesetting.²⁴

²⁴ See *id.* at 17.

C. Need for Hearings

While CalCCA shares PG&E’s hope to resolve the issues raised by this Application without hearings,²⁵ CalCCA agrees that evidentiary hearings may be necessary to present facts related to those issues, and therefore requests that the Commission set this matter for hearing.

D. Schedule

CalCCA has conferred with PG&E and the Public Advocates Office and can represent that those groups have agreed on the following mutually acceptable alternative to the procedural schedule proposed in PG&E’s application:

Application Filed	February 28, 2022
Protests and Responses Filed and Served	30 days after Daily Calendar Notice
Reply filed	10 days after Protests and Responses
Cal Advocates and Intervenor Testimony	September 22, 2023
Rebuttal testimony served	October 25, 2023
Settlement Discussions	November 2023
Evidentiary Hearings	December 4-8, 2023
Concurrent Opening Briefs	December 20, 2023
Concurrent Reply Briefs	January 17, 2024
Proposed Decision	Q1 2024
Final Decision	Q1 2024

CalCCA submits that this proposed alternative is more reasonable than the original schedule that PG&E proposed because it will avoid establishing procedural deadlines during the period (August through October of 2023) when the witnesses and attorneys for several of the parties participating in this proceeding, including CalCCA, are likely to be occupied by the typically-clustered procedural deadlines in each of the three IOUs’ 2024 ERRA Forecast

²⁵ See *id.*

proceedings. CalCCA therefore requests that the Commission adopt the alternative scheduling proposal set forth above.

IV. COMMUNICATIONS

CalCCA consents to “email only” service and requests that the following individuals be added to the service list for A.23-02-018 on behalf of CalCCA:

Party Representative for CalCCA:

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V. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests the Commission set this matter for hearing to fully examine the issues discussed above.

Respectfully submitted,



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