

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



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Application of Pacific Gas and Electric
Company and Pacific Generation LLC to
Recover Helms Uprate Costs

(U 39 E)

Application No. 23-12-014

**PROTEST OF CALIFORNIA COMMUNITY CHOICE ASSOCIATION TO
APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY AND PACIFIC
GENERATION LLC TO RECOVER HELMS UPDATE COSTS**

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On behalf of
California Community Choice Association

January 22, 2024

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the California Community Choice Association¹ (CalCCA) submits this protest to the *Application of Pacific Gas and Electric Company (PG&E) and Pacific Generation LLC To Recover Helms Uprate Costs* (Application).

Through this Application, PG&E is requesting approval to recover \$462 million worth of capital investments in its Helms Pumped Storage Facility (Helms)²—a massive re-investment that would both increase the total nameplate generating capacity at Helms by 150-180 megawatts (MW) and extend the life of this asset for decades. The impact of this project would be substantial: it would replace nearly obsolete asset components and extend the useful life of the asset—currently set to end in 2026—by 38 years;³ it would trigger the need for a Federal Energy Regulatory

¹ California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, Energy For Palmdale’s Independent Choice, Lancaster 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.) 23-12-014, *Application of Pacific Gas and Electric Company and Pacific Generation LLC To Recover Helms Uprate Costs (U 39 E)*, p. 2 (Dec. 20, 2023) (Application).

³ *Id.*, pp. 7, 11.

Commission (FERC) license amendment;⁴ and it could necessitate the replacement or installation of substation and transmission related components.⁵

If approved, the costs associated with this project must be fairly allocated between PG&E's bundled and unbundled customers such that each customer set is only paying for those costs it caused PG&E to incur. CalCCA intervenes in this proceeding to further investigate PG&E's cost allocation proposal and ensure that it would not shift costs between bundled and unbundled customer groups. CalCCA respectfully requests the Commission set this matter for hearing to fully examine these issues identified thus far, as well as others that may arise during the course of the proceeding.

I. CALCCA'S INTEREST

CalCCA represents 24 community choice electricity providers in California, including 11 in PG&E's service territory.⁶ Community choice aggregator (CCA) customers receive generation services from their local CCA, and receive transmission, distribution, billing, and other services from their investor-owned utility (IOU). As such, CCA customers in PG&E's service territory pay the same electric distribution, transmission, and non-bypassable charges (NBCs) as PG&E's bundled customers, including the Power Charge Indifference Adjustment (PCIA). CCA customers pay CCA-specific generation rates, which vary and are partially influenced by local mandates to procure and maintain clean electricity portfolios that in many cases exceed state requirements for renewable generation.

CCA customers have an interest in ensuring any approved cost recovery mechanism for the \$462 million worth of costs at stake in this Application is just and reasonable and represents a

⁴ *Id.*, p. 8.

⁵ *Id.*, p. 12.

⁶ *See supra* n. 1.

fair allocation between bundled and unbundled customers. PG&E is proposing to recover the above-market costs associated with the Helms Uprate Project through PCIA rates, via two separate PCIA vintages: the Legacy Utility-Owned Generation (UOG) Subaccount (for the costs associated with the existing capacity of Helms)⁷ and a new vintage subaccount (for the costs associated with the proposed incremental capacity).⁸ In this proposal, the costs would be allocated based on the proportion of generation capacity within each vintage.⁹

The Commission's determinations in this proceeding on cost recovery and allocation will directly impact the rates that CalCCA members' customers pay. CCA customers pay PG&E's PCIA rates, and subsets of CCA customers are assigned to different PCIA vintages in accordance with their date of departure from bundled service. Therefore, the Commission's conclusions on whether the costs associated with the Helms Uprate Project should be recovered via the PCIA, and if so, through which vintages, will dictate whether any subset(s) of CCA customers should pay for this significant capital investment.

CalCCA has an interest in ensuring the costs associated with the Application are properly categorized, and that the Application does not give rise to illegal cost shifts between bundled and unbundled customers. More broadly, CalCCA has an interest in ensuring the cost recovery mechanism approved for this Application is consistent with best practices for allocating costs associated with significant re-investments in UOG. For all these reasons, CalCCA has a real, present, tangible, and pecuniary interest in PG&E's proposals in this proceeding.

II. GROUNDS FOR PROTEST

This Application raises critical PCIA vintaging issues that have been at the center of

⁷ Application, p. 15.

⁸ *Id.*

⁹ *Id.*

several Commission proceedings in recent years. The PCIA cost recovery approach for this Application has the potential to both increase the specific PCIA rates CCA customers pay and significantly impact the Commission’s evolving vintaging policy for utility re-investments in UOG. CalCCA’s review of PG&E’s Application is ongoing, and CalCCA also reserves the right to analyze, address, and protest additional issues that may arise.

A. Background on PCIA Vintaging

California law prohibits cost shifts between groups of bundled and unbundled customers. In particular, Section 366.2 of the California Public Utilities Code provides that “[t]he implementation of a community choice aggregation program shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation.”¹⁰ Similarly, Section 365.2 mandates that the Commission ensure both that bundled customers do not experience any cost increases as a result of other customers electing to receive service from other providers, and that “departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.”¹¹ The Commission generally refers to these requirements as a statutory mandate to ensure ratepayer indifference.¹²

The Commission’s foundational policies on PCIA vintaging evolved out of these clear statutory directives prohibiting cost shifts between bundled and unbundled customers and requiring compliance with the indifference principle.¹³ The Commission adopted the PCIA to ensure that when customers of IOUs depart from bundled service and receive their electricity supply from a non-IOU provider, such as a CCA, “those customers remain responsible for costs

¹⁰ Cal. Pub. Util. Code § 366.2(a)(4).

¹¹ Cal. Pub. Util. Code § 365.2. *See also id.* § 366.3.

¹² *See, e.g.*, Decision (D.) 16-09-044, p. 11.

¹³ Cal. Pub. Util. Code § 366.2(a), (f); Cal. Pub. Util. Code §§ 365.2, 366.3.

previously incurred on their behalf by the IOUs — but only those costs.”¹⁴ Decision (D.) 08-09-012 provides the basis for the current cost responsibility policies for departing load customers, and specifically, the policies associated with vintaging IOU generation costs. The decision limits a departing load customer’s cost responsibility to resource commitments made by the IOU up until the time of the customer’s departure, finding that “departing customers should bear *no* cost responsibility for . . . commitments the IOU makes after their departure.”¹⁵ This directive helps ensure that each customer will “pay its fair share of the costs the IOU incurred on [its] behalf[,]” which “is an integral part of the principles of bundled customer indifference and prevention of cost-shifting.”¹⁶

Based on these underlying principles, unbundled customers are assigned to a vintage year based on their departure date.¹⁷ PG&E assigns each UOG resource to a specific vintage based on the year the generation resource commitment was originally made (*i.e.*, the original date of Commission approval of UOG construction), and all ongoing costs at that facility are recorded to the same initial vintage.

The PCIA rates ultimately paid by customers are derived from the utility’s Indifference Adjustment, which is updated annually in each IOU’s Energy Resource Recovery Account (ERRA) forecast proceeding. The Indifference Adjustment is the difference in the target year between the cost of the IOU’s supply portfolio and the market value of the IOU’s supply portfolio, as shown in the graphic below.

¹⁴ See Rulemaking (R.) 17-06-026, *Scoping Memo and Ruling of Assigned Commissioner*, p. 2 (Sept. 25, 2017); D.18-10-019, p. 3.

¹⁵ D.08-09-012, p. 59 (emphasis added).

¹⁶ *Id.*, Finding of Fact 2.

¹⁷ *Id.*, Finding of Fact 38 and Conclusion of Law 14.



Figure 1: Indifference Calculation

Total Portfolio Cost includes the variable power supply costs, which are also determined in the IOU’s annual ERRA forecast proceedings,¹⁸ *plus* the UOG capital investment recovery and fixed maintenance costs determined in a general rate case (GRC).¹⁹

An Indifference Adjustment is calculated for each vintage, and customers are responsible for the cumulative costs included in all vintages prior to and including their assigned vintage year.²⁰ The total Indifference Adjustment is collected through PCIA rates, ensuring that PG&E receives full recovery of the generation-related revenue requirement approved in GRCs and other proceedings.²¹

In this Application, PG&E is requesting continued cost recovery via the Legacy UOG Vintage for most of the costs associated with Helms, and cost recovery via a new vintage only for the costs associated with the proposed incremental capacity. Since all CCA customers pay the Legacy UOG Vintage, this would result in all unbundled customers bearing the vast majority of

¹⁸ Variable power supply costs include purchased power such as that from power purchase agreements (PPAs), fuel costs for UOG and PPAs with tolling agreements, and California Independent System Operator (CAISO) grid charges and revenues, net of any sales.

¹⁹ D.11-12-018, pp. 8-9.

²⁰ *Id.*, p. 9.

²¹ Prior to D.18-10-019, the PCIA rate was set only on a forecast basis with no after-the-fact true-up for unbundled customers. D.18-10-019 approved a true-up for the PCIA using actual recorded net costs for PCIA-eligible resources and billed revenues from both bundled and unbundled customers. This true-up now occurs via the Portfolio Allocation Balancing Account (PABA), a rolling true-up between the forecasted Indifference Adjustment and the actual costs and revenues PG&E realizes during the year related to its PCIA eligible resource portfolio.

the costs associated with what essentially amounts to a re-procurement of an aging asset that would otherwise be nearing the end of its useful life.

B. The Commission Has Considered Establishing Clear Limits On Cost Recovery From An Asset’s Original Vintage Assignment Across a Range of Proceedings.

Over the past several years, a range of Commission proceedings have begun to grapple with the question of how to best ensure that the IOUs’ allocation of UOG costs to CCA customers is fair and consistent with these foundational principles of cost causation underlying the Commission’s PCIA policy. Specifically, these cases have focused on the cost shifting that can occur when the IOUs undertake new investments in UOG and propose to allocate all associated costs to the asset’s original vintage assignment.

The problem arises when utilities undertake new investments in older UOG assets on behalf of their current bundled customers, and propose to assign *all* future costs at that facility, *even these new investments that serve only bundled customers*, to the asset’s original vintage. This approach means that even when an IOU decides to significantly reinvest in an older generation asset to extend the useful life of that asset, expand the capacity of that asset, or fundamentally change the function of the asset, *all* costs associated with these new investments are allocated to the asset’s original vintage assignment. The result is that customers that have departed bundled service remain responsible for the costs associated with any and all expansions or extensions to UOG, in perpetuity, in violation of the Commission directive that “departing customers . . . bear no cost responsibility for . . . commitments the IOU makes after their departure.”²²

The CCAs have urged the Commission in the PCIA rulemaking and across all the IOUs’ GRC proceedings to apply the Commission’s foundational cost causation principles to these situations and recognize that certain types of significant new investments in UOG should be

²² D.08-09-012, p. 59.

understood as *entirely new resource commitments* for purposes of PCIA vintaging.²³ This policy would be an extension of existing Commission precedent. For example, the Commission has endorsed this approach of reconsidering an asset’s original vintage assignment in the context of power purchase agreement renewals/extensions and amendments.²⁴

The Commission first acknowledged the validity of CCA concerns regarding the perpetual recovery of ongoing costs and re-investments in UOG in 2018, in D.18-10-019.²⁵ There, the Commission found that full or partial re-vintaging may be necessary under certain circumstances. Specifically, the Commission acknowledged:

It is possible that new investments in an old power plant may represent such a significant overhaul of the facility as to justify a “re vintaging” of the facility. Likewise, it is possible that plant investments for certain upgrades may justify a different vintage treatment for those investments than for the underlying facility.²⁶

The Commission concluded that “any such analysis must be fact-specific to the plants and spending in question.”²⁷

CCAs’ vintaging recommendations in recent GRC proceedings were responsive to this directive. In these cases, the CCAs have argued that when a utility decides to re-invest in its older UOG to extend the life, expand the capacity, or change the function of the asset, that new investment should trigger a reconsideration of the default vintage assignment for the asset.²⁸ When

²³ See D.18-10-019, pp. 134-135; D.23-11-069, pp. 508-511; A.22-05-015, *Opening Brief of SDCP and CEA*, pp. 10-35 (Aug. 14, 2023); A.23-05-010, *Protest of CPA and CalChoice to the Application of SCE*, pp. 5-7 (Jun. 14, 2023).

²⁴ See Resolution E-5095, p. 9 (Aug. 27, 2020) (approving Southern California Edison’s re-vintaging of renewed contracts); Resolution E-4841, pp. 9-10 (May 11, 2017) (considering whether amendments to PPAs should result in re-vintaging, and concluding that because the amendments at issue did not affect material contract terms, such as price, re-vintaging was not appropriate (thus implying that changes to material contract terms may merit re-vintaging)).

²⁵ D.18-10-019, p. 135.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See D.23-11-069, pp. 508-511; A.22-05-015, *Opening Brief of SDCP and CEA*, pp. 10-35 (Aug. 14, 2023).

the IOU is undertaking those kinds of new investments on behalf of its bundled customers, those investments should be understood as new resource commitments for purposes of PCIA vintaging.

In response to this advocacy, in its final decision in PG&E's most recent GRC, the Commission ordered that in future GRCs, PG&E must justify its proposed vintaging treatment for UOG whenever it proposes to undertake certain new investments—new asset life extensions, incremental capacity additions, or changed functions—in any of its UOG assets.²⁹ The CCAs' arguments on these issues in the other IOUs' most recent GRCs are still under development and Commission review.

C. The Commission Must Ensure That The Costs Associated With This Investment In Helms Are Allocated In Line With Cost Causation.

This Application implicates these same issues surrounding cost allocation for sizable new investments in UOG. PG&E's proposal to allocate the vast majority of the costs associated with this massive investment in Helms to all bundled and unbundled customers via the Legacy UOG Vintage assignment must be thoroughly scrutinized in this proceeding.

PG&E proposes to recover the above-market costs associated with the Helms Uprate Project through the Legacy UOG Subaccount (for the costs associated with the existing capacity of Helms)³⁰ and a new vintage subaccount (for the costs associated with the proposed incremental capacity).³¹ This would result in all bundled and unbundled customers paying for approximately 89 percent of these project costs.³²

Requiring unbundled customers to pay for the bulk of these project costs may not be appropriate given the magnitude of this project and PG&E's objectives in undertaking it. The

²⁹ D.23-11-069, p. 511.

³⁰ Application, p. 15.

³¹ *Id.*

³² See A.23-12-014, *PG&E Prepared Testimony*, at 4-10:28 to 4-11:3 (Dec. 20, 2023) (Testimony).

relevant principle in determining the appropriate PCIA cost recovery is that customers should pay their “fair share of the costs the IOU incurred on [their] behalf”; they should not, however, be charged for costs *not* incurred on their behalf.³³ The Application makes clear that PG&E is undertaking this substantial project—which will both increase the capacity of Helms by approximately 15 percent and extend its useful life for 38 years³⁴—in order to serve various needs of its bundled customers. PG&E explains that the project will help fulfill bundled customers’ clean energy and reliability requirements generally,³⁵ and specifically, that it will help satisfy certain Local Area capacity requirements.³⁶ Thus PG&E has noted that the project is geared toward serving these bundled customer needs, and has specifically claimed that “the Uprate will be an important resource in PG&E’s future bundled portfolio.”³⁷ Allocating most of the associated project costs to *all* customers—including unbundled customers—seems inconsistent with these explanations.

The Application also raises the question of how cost allocation should be impacted by the fact that, through this Uprate Project, bundled customers will be able to benefit from low cost incremental capacity that is only available *because* of the initial Helms investment—an investment shouldered by all unbundled customers. Bundled customers only have access to this low cost procurement option because of CCA customers’ investments to date in Helms. The Commission should consider whether unbundled customers should receive some form of compensation for bundled customers’ avoided procurement costs associated with this incremental capacity.

PG&E attempts to justify its proposed PCIA treatment by claiming this new investment

³³ D.08-09-012, Finding of Fact 2.

³⁴ Application, pp. 4, 7.

³⁵ Testimony at 3-13:17-18.

³⁶ *Id.* at 3-16:13 to 3-18:8.

³⁷ *Id.* at 3-15:13-14.

will “not only secure the reliability and energy needs of its bundled customers, but also . . . support important systemwide state policy and planning objectives.”³⁸ PG&E requests a Commission finding that the project “provides additional, non-quantifiable benefits to the State, including through diversification of the energy storage capacity portfolio.”³⁹ These amorphous “statewide” benefits referenced throughout the Application and testimony necessitate further review.⁴⁰ For example, PG&E’s suggestion that the updated Helms asset’s ability to satisfy or backstop Commission procurement orders should be understood as an important contribution to *state* policy goals⁴¹ does not square with the fact that PG&E generally only procures generation assets on behalf of its *bundled* customers—a fact that PG&E itself acknowledges repeatedly in testimony.⁴² CalCCA intends to further investigate PG&E’s justifications for its proposal to recover the majority of project costs via the Legacy UOG vintage to ensure that PG&E is only charging CCA customers for costs actually incurred on their behalf.

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

CalCCA supports categorization of the proceeding as “ratesetting” and agrees hearings may be needed.⁴³

In place of PG&E’s proposed schedule, CalCCA recommends the following in order to allow parties and the Commission adequate time for discovery and review of PG&E’s extensive testimony:⁴⁴

³⁸ Application, p. 4.

³⁹ *Id.*, pp. 32-33.

⁴⁰ *See Id.*, pp. 18, 32-33.

⁴¹ *Id.*, pp. 3-5, 17-18; Testimony at 3-8:2 to 3-13:15.

⁴² Testimony at 3-13:16 to 3-14:4.

⁴³ Application, p. 24.

⁴⁴ *Id.*, pp. 25-26.

Activity	PG&E Proposed Date	CalCCA Proposed Date
Prehearing Conference	January 31, 2024	Mid-February 2024
Scoping Memo	February 7, 2024	February 29, 2024
Intervenor Testimony	February 28, 2024	May 15, 2024
Rebuttal Testimony	March 20, 2024	June 28, 2024
Evidentiary Hearings	April 17, 2024	Week of July 22, 2024
Opening Briefs	May 1, 2024	August 23, 2024
Reply Briefs	May 22, 2024	September 13, 2024
Proposed Decision	By August 20, 2024 [Rule 14.2(a)]	End of October 2024
Opening Comments on Proposed Decision	September 9, 2024 [Rule 14.3(a)]	In accordance with Rule 14.3
Reply Comments on Proposed Decision	September 16, 2024 [Rule 14.3(d)]	In accordance with Rule 14.3
Final Decision	First Voting Meeting Following September 16, 2024	End of November 2024

IV. COMMUNICATIONS

CalCCA consents to “email only” service and requests that the following individuals be added to the service list for A.23-12-014 on behalf of CalCCA:

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V. CONCLUSION

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

Respectfully submitted,

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