

1 SAN FRANCISCO, CALIFORNIA, June 27, 2012

2 10:03 a.m.

3 * * * * *

4 ADMINISTRATIVE LAW JUDGE CLARK: Okay.
5 The Commission will come to order. We're on
6 the record. Good morning, everyone.

7 MR. WARNER: Good morning, your Honor.

8 ALJ CLARK: It's 10:00 a.m. on
9 Wednesday, June 27th, 2012, in Hearing Room A
10 for a prehearing conference on Application
11 A.12-04-020.

12 I'm Richard Clark. I'm the
13 presiding officer for this proceeding. I
14 have a fair amount of reading to do here this
15 morning, so if you would bear with me, I'm
16 going to go through.

17 First of all, what the Application
18 is about. In this Application, PG&E seeks
19 Commission authority to establish an optional
20 rate entitled, "The Green Option."

21 PG&E asserts that the Green Option,
22 one, would be available to all PG&E bundled
23 customers; two, would be voluntary; three, is
24 modeled on other successful green electricity
25 pricing programs; four, will leverage lessons
26 learned from PG&E's ClimateSmart program on
27 communicating, educating, and targeting
28 interested customers; five, would give the

1 customer the option to support either the
2 hundred percent green power option or
3 designated Green Option quantity that they
4 choose.

5 Six, for the hundred percent green
6 power option, the amounts purchased by PG&E
7 would be those incremental quantities
8 necessary to quote, unquote, "green-up" a
9 customer's electricity content to the level
10 higher than the customer's current RPS
11 eligible renewable content. Seven,
12 procurement for the Green Option would be
13 limited to independently Green-e certified
14 renewable energy credits located in
15 California or the Western Electric
16 Coordinating Counsel.

17 Eight, the renewable energy credits
18 purchased under this program will not also be
19 counted towards any other PG&E compliance
20 obligation, including PG&E's Renewable
21 Portfolio Standard compliance obligation.
22 Nine, the renewable energy credits will only
23 be purchased from providers within the
24 geographical boundaries of the WECC, with a
25 preference for California-based solar and
26 other California renewable energy credits
27 that meet Green Option price targets.

28 Ten, PG&E will have the authority to

1 adjust the Green Option price, either up or
2 down, but not to exceed \$0.02 per kilowatt
3 hour above the other wise applicable bundled
4 rate, with changes, notice to customers three
5 months in chance and via Tier 1 advice letter
6 filings.

7 Eleven, all administrative marketing
8 and procurement costs incurred by PG&E to
9 fund the Green Option program would be borne
10 by participating customers only. Twelve,
11 costs in excess of revenues received by
12 participating customers to the extent they
13 are not recovered through rates charged to
14 participating customers will be borne by PG&E
15 -- I believe that should be PG&E
16 shareholders.

17 Thirteen, PG&E will reserve the
18 right to adjust the Green Option rate up or
19 down within the limits described above, cap
20 or close enrollment in the Green Option rate,
21 or terminate the rate on three-months prior
22 notice to customers. Fourteen, PG&E expects
23 to contract all or a significant portion of
24 its marketing and procurement requirements to
25 a third-party provider with existing
26 experience and a record of success in green
27 pricing programs.

28 Fifteen, the third-party provider

1 would operate under the active management and
2 direction of PG&E and the third party's cost
3 would be recovered solely from program
4 participants. Sixteen, any REC procurement
5 costs that PG&E incurs itself and associated
6 internal costs will also be borne by
7 participating customers only.

8 Seventeen, every five years or
9 earlier, if PG&E terminates the Green Option,
10 PG&E will file an advice letter -- an advice
11 filing for Commission approval for the
12 disposition of any revenues PG&E may have
13 collected above the actual cost of the Green
14 Option during the life of the program. And
15 last, eighteen, PG&E will not earn a profit
16 on any incentive payment under the program.

17 Commissioner Michael Peevey is
18 assigned to this proceeding but is unable to
19 be here today. I'll convey what I learn from
20 this hearing to him and discuss it before we
21 issue any ruling.

22 The purpose of this prehearing
23 conference is primarily to deal with some
24 logistical issues, to set the course for this
25 proceeding, service list, schedule, et
26 cetera, and most importantly, determine
27 whether there's a need for evidentiary
28 hearings on this Application. Please bear in

1 mind that another prehearing conference may
2 be needed or may need to be convened.

3 Okay. So let's deal with some
4 preliminary matters first if we might. The
5 parties that I have so far in this case are a
6 Marc Joseph on behalf of the Coalition of
7 California Utility Employees. Mr. Joseph
8 here?

9 MS. KOSS: My name is Rachael Koss.
10 I'm here on behalf of CCUE and Marc Joseph.

11 ALJ CLARK: It's Rachael -- how do you
12 spell the last name?

13 MS. KOSS: K-o-s-s.

14 ALJ CLARK: We have Len Canty, Black
15 Economic Counsel.

16 MS. SWAROOP: I'm here appearing on
17 behalf of Len Canty.

18 ALJ CLARK: And do you represent anyone
19 else since you represent the joint parties --
20 the joint minority parties I think is the way
21 it's referred to?

22 MS. SWAROOP: Yes, your Honor. I
23 represent the National Asian American
24 Coalition as well as the Latino Business
25 Chamber of Greater L.A.

26 ALJ CLARK: Great. And you are Shalini
27 Swaroop?

28 MS. SWAROOP: Shalini. Thank you.

1 ALJ CLARK: William Sanders on behalf
2 of the City and County of San Francisco.
3 Mr. Sanders.

4 MR. SANDERS: Your Honor.

5 ALJ CLARK: Daniel Douglass for
6 Alliance for Retail Energy Markets?

7 MS. MARA: My name is Sue Mara,
8 M-a-r-a. I'm here on behalf of Mr. Douglass
9 and the Alliance for Retail Energy Markets.

10 ALJ CLARK: Thank you. Good morning.
11 Eugene Wilson on behalf of the
12 California Clean Energy Committee and The
13 Sierra Club.

14 MR. WILSON: Here.

15 ALJ CLARK: Mr. Wilson, good morning.

16 Elizabeth Rasmussen on behalf of the
17 Marin Energy Authority.

18 MS. RASMUSSEN: Good morning.

19 ALJ CLARK: Christopher Warner on
20 behalf of PG&E.

21 MR. WARNER: Yes, your Honor. I'm here
22 today.

23 ALJ CLARK: Good morning. And Matthew
24 Freedmann on behalf of The Utility Reform
25 Network.

26 MS. SUETAKE: Good morning, your Honor.
27 I'm Nina Suetake here behalf of Matthew
28 Freedmann.

1 ALJ CLARK: Are there any folks who
2 want to become parties here this morning at
3 the prehearing conference? All right.
4 Seeing none, I'm not going to go through the
5 rest of the service list. It's available
6 online. And I presume it is accurate or I
7 will conclude that it is accurate.

8 Okay. Anybody here wants to be on
9 information only status who is not on
10 information only status already?

11 Ms. Suetake? Okay. We have four
12 folks who request to be added to --
13 Mr. Warner, you requested party status, but
14 you already have that.

15 MR. WARNER: Yes, I just wanted to
16 complete the paperwork.

17 ALJ CLARK: Information only, we have
18 Mr. David Marcus. Is Mr. Marcus here?

19 MS. KOSS: Good morning. Mr. Marcus is
20 a consultant with CCUE. He's not here this
21 morning. I filled out the paperwork.

22 ALJ CLARK: So the organization would
23 be CCUE, or what organization is he --

24 MS. KOSS: We generally don't write an
25 organization for him.

26 ALJ CLARK: Okay.

27 MS. KOS: If you need one, CCUE is
28 fine.

1 ALJ CLARK: Rachael Koss, we've talked
2 already.

3 MS. KOSS: Yes.

4 ALJ CLARK: Okay. And Ms. Suetake.
5 Great.

6 So Madame reporter, do you get these
7 back now?

8 THE REPORTER: Yes, thank you.

9 ALJ CLARK: Thank you.

10 And there is one organization that
11 has filed for party status that I don't see
12 represented here today, which is the Solar
13 Energy Industries Association. Anyone here
14 on their behalf? Well, I'm going to grant
15 their motion for party status. They filed it
16 on May 24th, 2012. So we'll grant that party
17 status today.

18 Okay. Moving on to a few other
19 logistical issues. The Commission's
20 categorization was issued on May 10th, 2012,
21 in resolution ALJ 176-3293. It determined
22 that this Application should be categorized
23 as a rate-setting matter and evidentiary
24 hearings are not necessary. I believe there
25 are probably objections to that latter part
26 in terms of evidentiary hearings not being
27 necessary. Are there objections to it being
28 categorized as not requiring hearings? Yes?

1 MS. MARA: Yes, your Honor. For the
2 Alliance for Retail Energy Markets or AREM,
3 we actually raise two issues that we thought
4 should be considered if it was not going to
5 be rejected outright. And one was should
6 PG&E be required to form a competitive,
7 nonregulated affiliate to offer these
8 services. And a second one, what accounting
9 and cost control mechanisms and other related
10 issues are to be put in place to ensure that
11 this service they offer does not harm the
12 competitive market. And we would envision
13 that those issues would likely be topics for
14 hearing.

15 ALJ CLARK: Thank you.

16 Yes, Mr. Warner.

17 MR. WARNER: Your Honor, may I make a
18 suggestion on the hearings issue that may be
19 more practical in this area? PG&E does agree
20 that we probably will not need evidentiary
21 hearings, however, per Ms. Mara's point, to
22 the extent that issues are raised regarding
23 factual issues that are appropriate for
24 evidentiary hearing, whether it be in
25 discovery or intervenor testimony, PG&E is
26 certainly willing to work with the parties to
27 try to resolve those evidentiary issues in
28 lieu of hearings, while also -- without

1 prejudice to a party coming back to your
2 Honor and the Commission saying, "We've not
3 been able to resolve these issues. We do
4 think they are still appropriate or may be
5 appropriate for evidentiary hearings."

6 So we -- we generally would
7 recommend that the Commission continue to
8 take the position that evidentiary hearings
9 may not be required here but reserve the
10 right to have a -- consider a request by any
11 party after we go forward through some
12 informal discussions and efforts to possibly
13 stipulate or settle various aspects of this
14 case prior to deciding whether hearings may
15 nonetheless be required.

16 ALJ CLARK: Okay. Anyone else want to
17 be heard on this issue? Yes.

18 MS. SWAROOP: Yes, your Honor. I would
19 actually suggest the converse of what
20 Mr. Warner is presenting, which is to say
21 that the possibility of evidentiary hearings
22 should remain open unless closed. And I do
23 think there are significant evidentiary
24 issues many parties have raised, including
25 whether the purchase of RECs actually create
26 any incentives to build green energy
27 facilities or whether they offer any
28 behavioral change. And I do think those

1 options need to be explored fully with the
2 option of evidentiary hearings.

3 ALJ CLARK: Yes.

4 MS. SUETAKE: TURN actually feels that
5 it is possible that we can do away with
6 significant issues through comments and
7 written avenues versus evidentiary hearings,
8 but we don't object to having evidentiary
9 hearings, only that we have scheduling
10 constraints.

11 ALJ CLARK: Okay. Well, we'll resolve
12 this matter a little bit later. Let's go
13 through the rest of the presentation here
14 this morning, discuss some issues.

15 PHC statements. None were required.
16 I do have a number of protests and responses.
17 We have a response from the City and County
18 of San Francisco, a response from the Marin
19 Energy Authority, a protest of the California
20 Clean Energy Committee and The Sierra Club of
21 California.

22 We have a protest of the minority
23 joint parties which are comprised of the
24 Black Economic Counsel, the National Asian
25 American Coalition, and the Latino Business
26 Chamber of Commerce of Greater L.A. We have
27 a protest of the Alliance for Retail Energy
28 Markets. We have the protest of The Utility

1 Reform Network. We have the protest of the
2 Coalition of California Utility Employees.
3 We have a motion for party status of the
4 Solar Energy Industry Association, which I
5 previously granted. And then we have PG&E's
6 reply dated June 4th, 2012.

7 So now I'm going to walk us through
8 a substantive review of the Application. And
9 because it's going to be fairly lengthy, I've
10 prepared a handout to give to folks so you
11 can follow through with my analysis of what
12 we have here in this application.

13 Ms. Suetake, if you could hand it
14 out? Thank you very much. There are 19
15 copies there. So if folks need to share,
16 that's fine. And if we could make sure at
17 least one copy makes its way to our back row
18 to our interns back there, that would be
19 great.

20 Ms. Reporter, when we're finished
21 with this, I'll give you a copy so you can
22 attach it to your notes.

23 THE REPORTER: Thank you.

24 ALJ CLARK: The issues raised in the
25 protests and response to the Application are,
26 as I see them, 10 major groups with a large
27 number of sub-issues raised in groups 1
28 through and 4. As I said, I'm going to save

1 you all the grief of -- or a lot of grief by
2 distributing copies of my workup of the
3 issues to you before I read them into the
4 record. I'll also does that the reporter
5 attach a copy of this hand out to the
6 transcript of this prehearing conference.

7 First major issue as I see it is is
8 the Green Option Tariff a program choice
9 which; one, may lead to wasteful energy
10 practices; two, may not advance state and
11 local energy policy goals; three, may not be
12 designed in a manner that facilitates the
13 expansion of the solar market; four, will
14 chill the adoption of new CCAs within PG&E's
15 service territory; five, is less efficient
16 than Green Option product delivery by
17 competitive providers; six, should be
18 replaced by an opt-out program; seven, should
19 be rejected in favor of Commission directives
20 aimed at increased uses of renewals and
21 decreased use of greenhouse gas emitting
22 sources in PG&E's procurement; eight, should
23 require that renewable energy credits be used
24 under this program -- to be used under this
25 program meet both Green-e and California RPS
26 eligibility requirements; nine, fails to
27 ensure against fossil fuel price volatility.
28 Ten, should eliminate the rate

1 embedded requirements that makes subscribers
2 pay for changes to fossil fuel prices and
3 instead offers rate stability to reflect the
4 fact that a subscriber is buying a product
5 that in theory does not involve any fossil or
6 renewable fuels; eleven, does not conform
7 with the requirements of SBX2; twelve, should
8 be rejected in favor of a program that uses
9 the money from participants to build
10 renewable generation or buy renewable power,
11 such as creating a modular solar facility
12 that is expanded each time a new subscriber
13 signs up; thirteen, should be rejected in
14 favor of building new facilities that provide
15 job creation and community investments that
16 would benefit low-income, minority, and
17 underserved communities in accordance with
18 GO 156 goals; fourteen, might not be utilized
19 by minority, low-income, and underserved
20 communities.

21 The second major issue that I see or
22 that I should say is presented in the
23 protests and responses is is the Green
24 Options charge a just and reasonable charge
25 for renewable energy.

26 Third major issue with six
27 sub-issues is is the Green Program false and
28 misleading because; one, it does not result

1 in any additional renewable generation; two,
2 it proposes to offer a product which is
3 almost certain to make no difference in
4 renewable generation levels; three, renewable
5 energy credit represents a far different
6 package of benefits from what the typical
7 consumer expect from renewable energy; four,
8 it confuses customers as to their options for
9 electric supply and/or the potential benefits
10 in participating in the program; five, it
11 inaccurately promises to deliver a hundred
12 percent green energy while in fact would only
13 result in PG&E buying account certificates
14 used to track renewable energy, not the
15 energy itself; and six, would more accurately
16 be portrayed by saying that the customer is
17 making a contribution to a renewable energy
18 generator that will not increase renewable
19 generation.

20 The fourth major issue is does the
21 green option program give PG&E an unfair
22 competitive advantage or CCAs, local
23 renewable energy projects, solar companies,
24 and energy efficiency companies. And there
25 are one, two, three, four, five, six -- eight
26 subpart to this question.

27 Because the green option is being
28 offered by PG&E at no profit is number one.

1 Number two, because the cost of a REC does
2 not represent the real cost to green-up the
3 customer's energy supply. Number three,
4 because the price of the Green Option product
5 must be priced at the cost of actually
6 producing renewable generation. Four, unless
7 PG&E is required to form a competitive,
8 nonregulated affiliate to offer the Green
9 Option. Five, if PG&E does not appropriately
10 allocate its Green Tariff Option Program
11 costs and does not establish a sufficient
12 functional separation to limit co-branding
13 and sharing of corporate resources, including
14 PG&E's website, call center, et cetera.

15 Six, if PG&E abuses its access to
16 customer data and billing information to
17 inappropriately market the program to
18 potential energy service providers and CCA
19 customers. Seven, if PG&E leverages its
20 status as an incumbent utility to obtain an
21 unfair community advantage vis a vis ESPs and
22 CCAs. And last, if the use of the monopoly
23 utility's products will dissuade competitor's
24 participation in the market.

25 Major issue number five is the
26 extent to which this Green Option might be
27 utilized by minority, low-income, and
28 underserved communities. Number six is the

1 extent to which building new facilities would
2 benefit minority, low-income, and underserved
3 communities through job creation and
4 community investment in accordance with
5 GO 156 goals. I think I'm repeating myself
6 here.

7 Number seven is the extent to which
8 PG&E plans to conduct marketing and outreach
9 on this initiative to minority, low-income,
10 and underserved communities. Number eight,
11 the expected use of the Green Option Tariff
12 by PG&E's own quote, unquote, "experts," its
13 employees, and in particular executive
14 officers.

15 Number nine, whether PG&E will
16 ensure some price protection for consumers
17 utilizing the Green Option. And number ten,
18 how will the Commission ensure that any of
19 PG&E's costs have been incurred to date and
20 will be incurred in the future, that PG&E
21 cannot recover through program costs are
22 borne by PG&E shareholders, not ratepayers.

23 Okay. So that's my synthesis of the
24 protests and responses. Now, I'd like to
25 talk about what it is that I'd like for you
26 all to do with all of these issues. And that
27 is that I'd like for you to set up a
28 workshop. And I'll tell you what the goals

1 of that workshop will be in just a second.
2 And then after the workshop, I'd like for all
3 those folks who are intervenors here to get
4 together and have a work-planning meeting.

5 So let me go through what my ideas
6 are. I want you to set up a workshop and I
7 want PG&E to present the Green Option Tariff
8 Program and respond to clarifying questions
9 from the parties. I want you all to get
10 together and articulate the issues to be
11 addressed in this case. I want you to narrow
12 the controversy if possible. I then want you
13 to develop a common outline by which the
14 parties would recommend addressing the issues
15 in the scoping memo, the testimony, and the
16 briefs. And then I want you to report back
17 to me and the assigned Commissioner's office
18 with the recommended common outline.

19 Then, after you have come together
20 in the workshop, I'd like for the folks who
21 want to work together -- if they want to work
22 together to oppose the Application or to
23 support the Application, I want you to
24 convene a work meeting between the
25 intervenors in order to develop a division of
26 labor that avoids duplication and
27 inefficiency. Participation in this meeting
28 will be a factor in my decision regarding

1 claims for intervenor compensation.

2 So what I want you to do here
3 essentially is I want you all to get
4 together, figure out what the issues are in
5 this case, see if there's a way to resolve
6 them. If there's not a way to resolve them,
7 then figure out what the competing approaches
8 are going forward and decide on whose going
9 to work on what and how you're going to keep
10 the costs down to the ratepayers by being
11 efficient and non-duplicative in the work
12 that you're doing.

13 Any questions? Yes.

14 MS. MARA: Your Honor, I'm a tiny bit
15 confused. So when you say keep the costs
16 down for the ratepayers, do you mean the
17 intervenor requests?

18 ALJ CLARK: Yes.

19 MS. MARA: For those of us involved
20 don't have that -- or don't request
21 intervenor compensation --

22 ALJ CLARK: I'm sorry. I can't see
23 your card.

24 MS. MARA: I'm sorry. I'm from the
25 Alliance for Resource Energy Markets.

26 ALJ CLARK: The way I see it is all the
27 folks who are opposing the Application or
28 those folks supporting the Application should

1 get together to make your presentations as
2 efficient as possible. I'd like to move this
3 case forward in a expeditious manner so we
4 can get to a Decision. There are a lots of
5 complex policy decisions to be made here. I
6 would just encourage you all to get together,
7 develop a common outline for the way that
8 you're going to present the case or the -- or
9 present the alternatives and give it to me
10 before we issue a scoping memo.

11 And then get together and meet and
12 make sure that things are done efficiently
13 and in a non-duplicative way. We have some
14 pretty serious caseloads around here, and
15 there's no sense in judges and staff having
16 to spend our time trying to figure out what
17 the issues here and what the differences are
18 in pleadings that come forward from different
19 parties. It should be fairly easy to line
20 those all up. Does that answer your
21 question, Ms. Mara?

22 MS. MARA: I think so for now. Thank
23 you.

24 ALJ CLARK: You're welcome.

25 Yes, Mr. Warner.

26 MR. WARNER: Your Honor, just one
27 clarifying question. I want to say that on
28 behalf of PG&E, I think your approach is very

1 efficient, and we are totally supportive of
2 moving forward on a workshop, informal
3 outline basis. But I want to clarify that
4 coming out of the workshop and informal
5 discussions, I assume you would support if
6 the parties and PG&E come to stipulations or
7 other common positions that would resolve
8 issues and we would then list those issues.

9 For example, your list I think is a
10 very good comprehensive list of the issues
11 raised by the protestors. And to the extent
12 that we come out of our discussions with
13 resolving those issues, we'd reflect that in
14 our common outline as well in terms of
15 narrowing the issues so that we would be able
16 to inform you that such-and-such issue on
17 this outline -- the parties have agreed that
18 it should be resolved in the following way,
19 therefore, we do not recommend hearings or
20 the necessity or further hearings. However,
21 for the other following other issues that are
22 unresolved, here is what we would recommend
23 as to the way the issues should be dealt with
24 in hearings or workshops or other
25 proceedings.

26 ALJ CLARK: So fundamentally, your
27 question is if there's agreement on the
28 approach, whether or not I would want that

1 reflected, number one, in the outline. Yes,
2 I do contemplate that there will be agreement
3 on certain issues, and that should be
4 reflected in the common outline. That's one
5 of the reasons that I want the common outline
6 is so that's if there's an issue and no one
7 has an objection to it, then we can take that
8 off the list. We can factor that into our
9 thinking about what the policy will be and
10 what the Decision will be on this matter.

11 So it's just a lot easier for us if
12 everything is lined up and everybody is
13 talking about the same issues, albeit in some
14 what different ways of course. But it would
15 be very helpful if you could identify the
16 issues, narrow the issues in a common way.

17 MR. WARNER: Thank you, your Honor.

18 ALJ CLARK: You're welcome.

19 Any other questions?

20 Okay. So in terms of evidentiary
21 hearings, I'm going to present a little bit
22 later on a schedule for the proceeding that
23 does anticipate that there will be
24 evidentiary hearings. But we can -- I don't
25 have the authority to switch this from being
26 a case that requires evidentiary hearings to
27 one that doesn't. That has to be done by the
28 Commission. So I'll be discussing that with

1 President Peevey, but the schedule that I
2 anticipate does include evidentiary hearings.

3 Let me go through a few more
4 required steps before we get to the schedule.
5 Okay. I believe the issues that we've talked
6 about here in a very detailed matter are the
7 preliminary scoping issues. Does anybody
8 wish to add or subtract from the list?

9 Mr. Warner?

10 MR. WARNER: Your Honor, I think that's
11 a very good list of the issues that -- that
12 parties have raised in their protests and
13 other comments on the filing. I do think it
14 is important to note that -- that there are
15 benefits in PG&E's perspective to offering
16 this optional rate schedule and program, that
17 if the rate schedule and program were
18 disapproved by the Commission, that would be
19 lost.

20 And so to the extent that there is a
21 negative, in our opinion, to denial of the
22 Application, we certainly hope that that
23 would be reflected in a balanced way in terms
24 of the issues because we have forwarded as
25 part of our Application a long and
26 extensively detailed list of the benefits to
27 our customers that we believe would accrue as
28 a result of approval of the Application.

1 Those are not strictly listed here. I
2 understand why, because this is a list of the
3 issues raised by the protestors, but I just
4 want to note that in terms of the issues,
5 there are issues in terms of lost benefits to
6 customers in our opinion if the Application
7 were denied or unnecessarily modified.

8 ALJ CLARK: And so could you point me
9 to where that list of benefits is in the
10 record so far?

11 MR. WARNER: Largely in our
12 Application, where we go through the support
13 from various local communities for PG&E
14 offering the Green Option. It's also where
15 we, I think, frame the overall opportunity
16 for customers under a Green Option to provide
17 support for renewable energy in a way that
18 isn't other wise available under the
19 Commission's current programs or under PG&E's
20 current rate schedules and programs. Those
21 are the two major benefits.

22 A third benefit is -- is more
23 indirect, and that is the benefit of
24 customers being able to choose among
25 different rate options that meet their
26 preferences and needs in terms of customer
27 choice for the kinds of power that are being
28 procured on their behalf, as well as the

1 characteristics of the utility service they
2 get from utility.

3 ALJ CLARK: Okay. Perhaps I
4 misunderstood. I thought you said a long
5 list that was presented in the -- in the
6 Application. I thought maybe it was in the
7 testimony -- in the prepared testimony
8 someplace and I had missed it, but thank you.

9 Okay. Yes, Ms. Swaroop.

10 MS. SWAROOP: If I may also add in the
11 major issue four when the paper discusses an
12 unfair competitive advantage over various
13 types of companies, I would also like to
14 include minority-owned renewable energy
15 businesses into that list if possible.

16 ALJ CLARK: Okay. Ms. Rasmussen?

17 MS. RASMUSSEN: Yes, your Honor. With
18 regards to Mr. Warner's comments, I believe
19 it is really very worthwhile to determine
20 what the benefits of accepting and what the
21 benefits of objecting are of the Application
22 just from a holistic policy perspective, to
23 not just take the one side of the benefits of
24 adopting the Application, but also
25 recognizing the drawbacks that have been
26 noted in the Application as well -- I mean,
27 in the list of -- of issues that you've laid
28 out.

1 ALJ CLARK: Right.

2 MS. RASMUSSEN: Thank you.

3 ALJ CLARK: Okay. Thank you.

4 Ms. Mara.

5 MS. MARA: Since we're clarifying item
6 four, you do talk below in the bullets about
7 ESPs, and I was wondering if you could add
8 ESPs' competitive advantage over CCAs and
9 ESPs to the overlying caption there.

10 ALJ CLARK: Oh, thank you for that.
11 Yes. Absolutely. Okay. So for number two
12 -- for number four, then we've added to the
13 question itself or to the issue itself, "Does
14 the Green Option program give PG&E an unfair
15 competitive advantage over ESPs, CCAs, local
16 renewable energy projects, solar companies,
17 and energy efficiency companies, and minority
18 owned -- "

19 I'm sorry. Ms. Swaroop, what
20 language did you want?

21 MS. SWAROOP: I wanted minority-owned
22 energy efficiency companies.

23 ALJ CLARK: Minority-owned energy
24 efficiency companies. Okay. That seems
25 acceptable.

26 MR. WILSON: Eugene Wilson. I'm not
27 sure whether this is included within the list
28 here or not, but I would like to see

1 something in the nature of monitoring on the
2 long term as to what the effect of the
3 program would be on -- on actually creating
4 new renewable resources and actually bringing
5 them online, whether -- whether it's
6 effective in doing that. Some sort of
7 long-term monitoring of the benefit of RECs.
8 I think that's an important issue to look at.

9 ALJ CLARK: Okay. You're asking for a
10 monitoring of the long-term effects as
11 opposed to a performance measure?

12 MR. WILSON: I -- I don't know what you
13 mean by performance measure.

14 ALJ CLARK: Well, performance measure
15 would be that the result of the undertaking
16 would result in some measurable benefit, as
17 opposed to I think what you're saying is you
18 just want to make sure there's a tracking
19 mechanism in place that lets us know how much
20 has been accomplished.

21 MR. WILSON: Yes.

22 ALJ CLARK: Okay. Thank you. Okay. I
23 think we can certainly add that to the list
24 also as you've characterized it.

25 Okay. Moving on then, I'll talk
26 with President Peevey about these issues, and
27 a scoping memo will be issued in a timely
28 manner. But as I said earlier, I'd like to

1 have the common outline before the scoping
2 memo issues.

3 So everybody is familiar I hope with
4 the e-filing and service rules. As
5 articulated in Rule 1.10, all parties are to
6 follow those rules as well as any new rules
7 as they become adopted and serve and file
8 documents in electronic form. In addition, I
9 should receive a hard copy of whatever it is
10 you file electronically.

11 Those of you who have practiced
12 before the Commission for a while note that
13 we have a free alternative dispute resolution
14 process to facilitate discussion and aid the
15 parties. If you're interested in available
16 yourself to such a process, you may submit
17 such a request to me, and I'll be sure to
18 talk with the coordinator of that program and
19 have another Administrative Law Judge
20 assigned to conduct such discussions.

21 This matter's been determined as a
22 rate-setting matter, so please review Article
23 8 of the Commission's Rules regarding
24 ex parte issues, in particular Rule 8.3.
25 Please review and comply with that rule.

26 Qualified groups or individuals
27 planning to seek intervenor compensation must
28 file and serve a notice within 30 days of

1 today, the prehearing conference.

2 Parties may engage in discovery.
3 Written data requests are the most common
4 method of discovery in the proceedings. What
5 sorts of discovery do we anticipate in this
6 proceeding other than data requests? I'm not
7 seeing anything other than data requests.
8 All right.

9 MR. WARNER: Your Honor?

10 ALJ CLARK: Yes, Mr. Warner.

11 MR. WARNER: I just want to point out
12 that PG&E is very open to informal
13 discussions with parties in this proceeding
14 that might supplant the need for more formal
15 discovery or written data requests, so we're
16 certainly willing to make our witnesses
17 available and our personnel to informally
18 meet and answer questions from the parties
19 regarding the filing.

20 ALJ CLARK: Good.

21 Okay. Let's talk about the schedule
22 for the proceeding then. Today of course is
23 June 27th. We're having the prehearing
24 conference. I'd like before August 17th for
25 you folks to hold at least one one-day
26 workshop. Perhaps after that, there will be
27 a request for mediation. Perhaps not.
28 Either way, the issues in the common outline

1 that need to come from this workshop need to
2 be provided to me and the assigned
3 Commissioner's Office, specifically Scott
4 Murtishaw, electronically by August 24th.
5 And then the intervenors should meet soon
6 thereafter to develop a division of labor
7 that avoids duplication and inefficiency.

8 I would then anticipate that on
9 September 21st, 2012, a scoping memo will
10 issue. October 19th, 2012, intervenor
11 testimony served. November 9th, 2012, PG&E's
12 rebuttal testimony served. December 4th,
13 5th, and 6th would be the evidentiary
14 hearings if they're needed. December 21st
15 for concurrent opening briefs, and I had
16 January 18th, 2013, for concurrent reply
17 briefs. But I think that does not take into
18 consideration the holidays. So I think we're
19 going to have to move that one back. Let's
20 move that back to January 25th for concurrent
21 reply briefs.

22 I'm not going to set dates today for
23 Proposed Decision to be issued or the
24 comments on the Proposed Decision or the
25 reply comments or the final Commission
26 Decision.

27 Anyone care to discuss this
28 schedule? Ms. Rasmussen.

1 MS. RASMUSSEN: Yes, your Honor, will
2 the schedule be memorialized in an ALJ
3 ruling?

4 ALJ CLARK: I can certainly do that.
5 It's memorialized here in the PHC transcript,
6 but I can certainly do it in ALJ ruling if
7 you prefer. Yes.

8 MS. MARA: Your Honor, for those of us
9 who write slowly -- I've written down what
10 the topics are, but I don't think I've gotten
11 all the dates accurately. If you could
12 quickly go through the dates again?

13 ALJ CLARK: I'm happy to do so.

14 MS. MARA: Thank you.

15 ALJ CLARK: August 17th -- to have a
16 workshop before August 17th. August 24th to
17 send the common outline to both myself and
18 Scott Murtishaw in President Peevey's office.
19 September 21st for the scoping memo to issue.
20 October 19th for intervenor testimony to be
21 served. November 9th, PG&E's rebuttal
22 testimony to be served. December 4th, 5th,
23 and 6th for evidentiary hearings if
24 necessary. December 21st for concurrent
25 opening briefs, and January 25th for
26 concurrent reply briefs.

27 MS. MARA: Thank you.

28 ALJ CLARK: You're welcome.

1 Yes, Mr. Warner.

2 MR. WARNER: Your Honor, I think the
3 schedule is fine from PG&E's perspective.
4 One thing I might just throw out as a
5 suggestion as an optional matter is once the
6 common outline is submitted on August 24th,
7 it may be at some point useful for your Honor
8 or for the parties to have a -- either an
9 informal workshop or a quick, short
10 prehearing conference to clarify or respond
11 to any questions that your Honor or the
12 assigned Commissioner's Office may have
13 regarding the common outline before you
14 finalize the scoping memo.

15 ALJ CLARK: Okay.

16 MR. WARNER: Because if there are
17 issues, for example, that the parties can
18 describe as we're still discussing, we
19 haven't fully resolved, or we may be able to
20 resolve before hearing, it may be useful for
21 you and the assigned Commissioner's Office to
22 know that prior to finalizing the scoping
23 memo. So I think we can leave that to the
24 parties and the applicant to suggest that as
25 necessary. But also from your perspective,
26 if you look at the common outline and you
27 have questions about what does this exactly
28 mean, certainly we can be prepared to on a

1 fairly short notice basis attend a prehearing
2 conference and answer any questions.

3 ALJ CLARK: Okay. Thank you for that
4 suggestion. We'll see if that's necessary.
5 I would hope that you folks would get
6 together in advance of the August 17th
7 deadline for holding this workshop far enough
8 in advance that if there's a second day of
9 the workshop needed in order to get to the
10 common outline that you could do that.

11 MR. WARNER: And, your Honor, one other
12 question. Am I correct that the Commission
13 staff will schedule the one-day workshop for
14 here, or are you expecting the parties do
15 this informally?

16 ALJ CLARK: The Commission staff will
17 schedule it for here.

18 MR. WARNER: Very good. Thank you.

19 Any other questions or concerns
20 about the schedule? I know it's fairly
21 aggressive and it's a pretty complex case,
22 but I think we can get to the bottom line.

23 Yes, Ms. Mara.

24 MS. MARA: I have one request regarding
25 the workshop. There's hearings in the long
26 term procurement plan proceeding that go from
27 August 13th -- oh, no, August 7th to the
28 17th. So if you could avoid having the

1 workshop during that period, it would be
2 appreciated.

3 ALJ CLARK: Okay. So that is the long
4 term procurement proceeding. What's going
5 on? A workshop, did you say?

6 MS. MARA: There's hearings that go
7 from August 7th to the 17th.

8 MR. WARNER: Your Honor?

9 ALJ CLARK: And what's the matter
10 number, the proceeding number?

11 MS. MARA: Rulemaking 12-03-014.

12 ALJ CLARK: Okay. Yes?

13 MR. WARNER: Your Honor, apropos of
14 that, that's a really good point. To the
15 extent that the Commission staff is
16 scheduling the workshop sometime before
17 August 17th, it might be useful for you or us
18 to solicit what dates might be in conflict
19 for those here today in terms of ability to
20 attend the one-day workshop. Maybe there's
21 an informal way to consult. Obviously, some
22 parties may have family vacations during that
23 period or there may be hearings or other
24 conflicts, people being out of town. So if
25 there's a way for us to workout a mutually
26 acceptable schedule for that workshop, that
27 would be helpful.

28 ALJ CLARK: Yes. And I would ask that

1 you work with Energy Division staff to do
2 that. I'm not sure who the point person is.
3 Perhaps someone in the audience knows who the
4 point person in energy division is on this
5 matter? Seeing no response.

6 So why don't you get together to see
7 what date works out for you. There won't be
8 a reporter required, so we can do it in any
9 room we have here at the Commission. And let
10 me know what that date is and we'll work with
11 that.

12 MR. WARNER: And PG&E is happy to
13 facilitate that with the other parties.

14 ALJ CLARK: Okay. Anything else?

15 All right. Seeing no other issues,
16 thank you very much for your attendance and
17 participation. This prehearing is now
18 adjourned.

19 (Whereupon, at the hour of
20 10:55 a.m., this matter having been
concluded, the Commission then adjourned.)

21 * * * * *

22

23

24

25

26

27

28