

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

Application of Pacific Gas and Electric  
Company for Authority, Among Other Things,  
to Increase Rates and Charges for Electric and  
Gas Service Effective on January 1, 2014.  
(U 39 M)

Application 12-11-009  
(Filed November 15, 2012)

**PREHEARING CONFERENCE STATEMENT  
OF THE UTILITY REFORM NETWORK**

January 8, 2013

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**PREHEARING CONFERENCE STATEMENT  
OF THE UTILITY REFORM NETWORK**

**I. INTRODUCTION**

Pursuant to Rule 7.2 of the Commission's Rules of Practice and Procedure and *Administrative Law Judge's Ruling Setting Prehearing Conference (ALJ Ruling)*, issued December 11, 2012, in this proceeding, The Utility Reform Network (TURN) hereby submits this prehearing conference (PHC) statement. The *ALJ Ruling* directed that PHC statements should address the following matters:

- Procedural schedule;
- Scope of issues to be included in (or excluded from) the proceeding;
- Need for evidentiary hearings;
- Appropriate category for this proceeding;
- Discovery issues; and
- List and description of other matters the parties wish to address at the PHC.<sup>1</sup>

In this PHC statement, TURN addresses the schedule, discovery issues, and other matters, including public participation hearings and whether a need exists for the Commission to open a companion investigation to enable the Commission to act on proposals presented by parties other than the applicant PG&E. TURN previously addressed scope, need for evidentiary hearings, and categorization in our protest, filed December 17, 2012.

**II. SCHEDULE**

TURN has been in discussions with the Division of Ratepayer Advocates (DRA),

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<sup>1</sup> *ALJ Ruling*, p. 1.

and PG&E about the schedule in this proceeding. We have agreed to jointly propose the following schedule:

PHC	Friday, January 11, 2013
DRA Testimony	Friday, May 3, 2013
CPUC Safety and Enforcement Division (SED) (formerly CPSD) Reports	Friday, May 17, 2013
Intervenor Testimony	Friday, May 17, 2013
Rebuttal Testimony (responsive to DRA, Intervenor, and SED Reports)	Friday, June 28, 2013
Public Participation Hearings	TBD
Evidentiary Hearings	Monday, July 15 – Friday, August 9, 2013
Mandatory Settlement Conference	Monday-Tuesday, August 12-13, 2013
Comparison Exhibit	Friday, August 23, 2013
Opening Briefs	Friday, September 6, 2013
Reply Briefs	Friday, September 27, 2013
Update Testimony	Friday, October 4, 2013
Update Testimony Evidentiary Hearing	Monday, October 14, 2013
Proposed Decision	Tuesday, November 19, 2013
Decision	Thursday, December 19, 2013

Several features of this schedule warrant clarification. First, in developing this proposal, TURN, DRA and PG&E conferred with SED about the timing of the SED Reports. Our proposed schedule anticipates that the SED Reports would be submitted on May 17, 2013, but, as of this date, SED has not committed to the delivery of such reports by that date. It is TURN's understanding that SED intends to discuss the timing of its reports at the PHC, by which time SED expects to have more certainty.

Second, this proposed schedule provides just 10 business days between the due date for Rebuttal Testimony (Friday, June 28, 2013) and the start of Evidentiary Hearings

(July 15, 2013). Because this timeline does not realistically accommodate the customary discovery response time – 10 business days – to which parties are accustomed in CPUC practice, it undermines the opportunity for parties to conduct discovery related to rebuttal testimony in preparation for evidentiary hearings. In Section III below, TURN proposes a discovery protocol intended to address this constraint.

Third, the above schedule contains a placeholder for Public Participation Hearings (PPHs) but no proposed locations or dates. TURN recommends that PPHs be held at the Commission's convenience after Intervenor Testimony is served but before Evidentiary Hearings. TURN addresses PPHs further in Section IV.A., below.

Finally, TURN recognizes the possibility that the schedule we have agreed to propose jointly with PG&E and DRA might slip for any number of reasons. As such, TURN has agreed to support, and DRA has agreed not to oppose, a motion to be filed by PG&E seeking an order from the Commission that would make any revision to the revenue requirements from this case effective January 1, 2014, even if a Commission decision is issued after that date. TURN supports this approach because we believe it is of the utmost importance that the procedural schedule adopted in this proceeding be designed to afford parties with adequate time to develop a robust record upon which the Commission shall base its decision. Similarly, the Commission must have ample time to weigh the evidence and duly consider the arguments advanced by parties in resolving the issues presented. Under the circumstances at hand, a Commission order rendering any revision to PG&E's revenue requirements effective as of January 1, 2014, is an appropriate measure to protect PG&E (if an increase is authorized) and its ratepayers (if a decrease is authorized) from prejudice that might otherwise result if a final decision does

not issue before the start of the test year.

### **III. DISCOVERY ISSUES**

As discussed above, the schedule TURN is proposing jointly with DRA and PG&E would provide insufficient time for parties to conduct discovery on rebuttal testimony prior to evidentiary hearings under the standard discovery timelines typical of CPUC practice. TURN has in the past been able to clarify and/or narrow the range of disputed issues through written data requests following rebuttal testimony, thereby reducing the amount of time we needed to devote to cross-examination during hearings. In this way, discovery related to rebuttal testimony can increase the efficient use of hearing room time, to the benefit of the Commission and all parties involved. TURN accordingly requests that the Commission provide guidance on discovery in this proceeding to ensure that parties have a meaningful opportunity to conduct post-rebuttal testimony discovery.

If the Commission adopts a procedural schedule with fewer than three weeks (15 working days) between the due date for rebuttal testimony and the start of evidentiary hearings, such as the schedule proposed by TURN, DRA and PG&E above, TURN urges the Commission to adopt an expedited post-rebuttal discovery protocol. To allow parties a meaningful opportunity to review rebuttal testimony and conduct discovery, if necessary, prior to hearings, TURN requests that the Commission direct parties to respond to any discovery specifically related to rebuttal testimony in at most 5 days, and sooner if possible. The Commission took a very similar approach under comparable circumstances in PG&E's last GRC, A.09-12-020, directing that "parties shall turn around rebuttal related discovery requests within five days," with any exceptions to be

negotiated by the parties.<sup>2</sup>

#### **IV. OTHER MATTERS**

##### **A. Public Participation Hearings**

As the Commission explained in D.01-10-031:

We have a regulatory responsibility to ensure PG&E provides adequate service at just and reasonable rates, and we must view the facts accordingly. Our legislative mandate encompasses promoting the "safety, health, comfort, and convenience of [PG&E's] patrons, employees, and the public." *See* §451.<sup>3</sup>

For the Commission to carry out its legislative mandate, the Commission must consider the reasonableness of PG&E's request in the instant proceeding in conjunction with the health, safety, comfort and convenience of PG&E's customers. PPHs provide an invaluable opportunity for PG&E's customers to communicate directly with the Commission about how PG&E's application, if granted, would impact them.

In PG&E's last general rate case, A.09-12-020, the Commission held 11 PPHs across PG&E's service territory. PPHs took place in San Francisco, Fresno, Bakersfield, Ukiah, Santa Rosa, Oakland, Woodland, Red Bluff, San Jose, Salinas, and San Luis Obispo.<sup>4</sup> In PG&E's prior general rate case, A.05-12-002, the Commission held 10 PPHs in the following cities: Oakland, Ukiah, Santa Rosa, King City, Salinas, San Louis Obispo, Modesto, Fresno, Woodland, and Chico.<sup>5</sup> The Commission benefitted greatly from the comments of customers at these PPHs in resolving issues in that proceeding,

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<sup>2</sup> *Assigned Commissioner's Ruling and Scoping Memo*, issued Mar. 5, 2010, in A.09-12-020, p. 9.

<sup>3</sup> D.01-10-031, p. 5.

<sup>4</sup> *Administrative Law Judge's Ruling Establishing Joint Public Participation Hearings*, issued Mar. 30, 2010, in A.09-12-020, pp. 2-3. These PPHs were held jointly in PG&E's GRC and PG&E's application to increase its revenue requirement for natural gas transmission and storage services, A.09-09-013, to avoid customer confusion, maximize customer convenience, and minimize cost to the Commission. *Id.*, p. 2.

<sup>5</sup> D.07-03-044, p. 5, fn. 2. *See also Administrative Law Judge's Ruling Setting Public Participation Hearings*, issued Feb. 21, 2006, in A.05-12-002.

particularly PG&E's proposal to close its entire network of 84 local office front counters, where customers pay bills and receive in-person assistance from PG&E employees.<sup>6</sup>

The usefulness of PPHs to the Commission's deliberative process depends on participation by PG&E's customers. Local community awareness and the ability of customers to attend and participate are essential to a successful PPH. TURN is eager to assist the Commission in holding well-attended PPHs in the instant proceeding. To that end, we recommend that the Commission hold PPHs in the following locations: Santa Rosa, San Francisco, Oakland, and Fresno. TURN by no means intends for this list to be exhaustive, and we defer to other intervenors for suggested locations for PPHs in other parts of PG&E's service territory. TURN additionally requests to work with the Public Advisor's Office to ensure that PPHs are held at buildings in the locations we recommend that are likely to encourage participation.

#### **B. Companion Investigation Docket**

Historically, it has been customary for the Commission to issue an Order Instituting Investigation (OII) and open a companion docket to the utility's general rate case application. As the Commission explained when it opened I.06-03-003, the companion investigation to A.05-12-002, PG&E's 2007 General Rate Case:

The purpose of this investigation is to allow the Commission to consider proposals other than PG&E's, and to enable the Commission to enter orders on matters for which the utility may not be the proponent. This companion investigation will also afford parties an opportunity and forum to provide evidence on issues of interest to the Commission. These issues may result in directives to PG&E that serve the public interest and that

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<sup>6</sup> See D.07-05-058, *Opinion Adopting a Settlement Agreement Regarding the Closure of Nine Front Counters*, pp. 13-15 (evaluating whether the proposed settlement was in the public interest); see also D.07-03-044, pp. 16-17 (requiring PG&E to maintain existing staffing and service levels at local office front counters, pending the Commission's consideration of PG&E's proposal to close them in Phase 2 of its 2007 GRC).

result in just and reasonable rates, services, and facilities.<sup>7</sup>

On the other hand, the Commission declined to open a companion investigation in Southern California Edison Company's (SCE's) most recent 2012 General Rate Case, A.10-11-015, finding that opening such a proceeding would be unnecessary because "[p]arties are entitled to bring up any issue or proposal within the context of the direct testimony within the scope of the general rate case."<sup>8</sup> The Commission similarly concluded in San Diego Gas & Electric Company's and Southern California Gas Company's 2012 General Rate Cases that the Commission could address affirmative recommendations of parties on subjects not covered by the utilities' applications or testimony without opening a companion investigation.<sup>9</sup>

In this case, TURN requests that the Commission either open a companion investigation to PG&E's 2014 General Rate Case or clarify that the Commission will entertain herein the affirmative proposals of parties other than PG&E, even where such proposals are not covered by PG&E's application or testimony, as long as parties' proposals address issues properly within the scope of a general rate case. Either of these approaches would avoid an overly restrictive construction of the matters the Commission may consider in this docket as it evaluates how best to serve the public interest.

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<sup>7</sup> Order Instituting Investigation 06-03-003, issued March 7, 2006, p. 1.

<sup>8</sup> *Scoping Memo and Ruling of Assigned Commissioner*, issued Mar. 1, 2011 in A.10-11-015, p. 26.

<sup>9</sup> *Assigned Commissioner and Administrative Law Judge's Scoping Memo and Ruling*, issued Mar. 2, 2011 in A.10-12-005 / A.10-12-006, p. 12.



Date: January 8, 2013

Respectfully submitted,

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