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

Application of Pacific Gas and Electric Company for Authority to Increase Electric Rates and Charges to Recover Costs Relating to California Solar Photovoltaic Manufacturing Development Facility (U39E).

Application 10-11-002  
(Filed November 1, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING MOTIONS TO DISMISS**

**Background**

On September 28, 2011, Californians for Renewable Energy, Inc. (CARE) filed a motion to dismiss this action. On October 5, 2011, The Utility Reform Network (TURN), the Division of Ratepayer Advocates (DRA), Greenlining Institute (Greenlining), the Marin Energy Authority (MEA) and the Western Power Trading Forum (WPTF) filed a joint motion to dismiss this action. CARE, TURN, DRA, Greenlining, MEA and WPTF are collectively referred to herein as "Protestors."

**Discussion**

Both motions argue that the proposed investment of \$9.9 million of ratepayer funds in Silicon Valley Technology Corporation, a proposed solar panel fabrication facility, is inappropriate. Protestors assert that investing ratepayer funds in a for-profit start-up company is risky, unprecedented, and sets a disturbing precedent. They argue that this type of investment is better

suitable to a non-regulated entity and point out that shareholders of Pacific Gas and Electric Company (PG&E) have made such investments in the past.

In response, PG&E characterizes this proposed investment as similar to investment of ratepayer funds in research and development (R&D) activities; that R&D investments of ratepayer funds are specifically authorized by Pub. Util. Code § 740 and 740.1; and that we have approved such investments in the past. PG&E also argues that this investment is consistent with renewable energy programs sponsored by the Commission and points out that it is supported by Governor Brown.

I concur with PG&E that nothing in the Public Utilities Code specifically prohibits this use of ratepayer funds. While Protestors have raised serious concerns about the propriety and wisdom of this investment, they have not demonstrated that it is unlawful. Under our rules for ruling on motions to dismiss, I must assume that all facts alleged in PG&E's Amended Application are true and I must reject the motion to dismiss unless the alleged facts are insufficient as a matter of law to support Commission approval. After reviewing the Amended Application, I conclude that PG&E has alleged sufficient facts to withstand the motions to dismiss. Among other things, PG&E has alleged that the Commission has approved similar uses of ratepayer funds in the past; that the proposed investment promotes the Commission's goal of increasing the use of renewable energy sources; and that the Commission might classify the proposed investment as a "research and development" expense as that term is used in Section 740 and 740.1 of the Public Utilities Code.

For the reasons given, the motions to dismiss will be denied.

**IT IS RULED** that:

1. The motion of Californians for Renewable Energy, Inc. to dismiss this application is denied.
2. The joint motion of The Utility Reform Network, the Division of Ratepayer Advocates, Greenlining Institute, the Marin Energy Authority and the Western Power Trading Forum to dismiss this application is denied.

Dated October 31, 2011, at San Francisco, California.

/s/ KARL BEMESDERFER

Karl Bemesderfer  
Administrative Law Judge