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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)	A.10-11-002 (Filed November 1, 2010)

DIVISION OF RATEPAYER ADVOCATES' COMMENTS ON PROPOSED DECISION DENYING AND ALTERNATE DECISION APPROVING PG&E'S APPLICATION TO INVEST RATEPAYER FUNDS IN SVTC TECHNOLOGIES' MANUFACTURING DEVELOPMENT FACILITY

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Pursuant to Rule 14.3 of the California Public Utilities Commission's (CPUC) Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits the these comments on ALJ Bemesderfer's Proposed Decision (PD) and Commissioner Peevey's Alternate Proposed Decision (APD)

I. INTRODUCTION

PG&E seeks to increase utility rates by $17.8 million so that it can invest $9.9 million in Silicon Valley Technology Corporation (SVTC) preferred stock. The difference of $7.9 million or 45% of the entire rate increase is an upfront gross up for taxes.[1]

SVTC, in turn, would leverage the $9.9 million with a $40 million Department of Energy (DOE) grant to build a "manufacturing development facility" ("MDF"). This same approach was recently used to great effect by Solyndra Corporation.

Judge Bemesderfer denied PG&E's application because the "does not offer a reasonable prospect of providing benefits to ratepayers (§ 740.1(a)), has a low probability

[1] PG&E's Amended Application p. 2

of success (§ 740.1(b)) and duplicates work done elsewhere (§ 740.1(d)).”[2] The APD approves PG&E’s plan.

When a utility seeks to increase its electricity rates to fund a project not within its core business or its area of expertise, the Commission may authorize such rate increases only under very limited circumstances. The MDF project is not part of PG&E’s mandate to provide electric service to its customers. Nor does it meet the statutory criteria for approval of ratepayer-funded research, development, and demonstration (RD&D) programs pursuant to § 740.1. The Commission should approve ALJ Bemesderfer’s Proposed Decision and reject the APD.

II. DISCUSSION

A. The MDF Has Nothing To Do With Providing Safe, Reliable Service

PG&E is a utility charged with providing safe, reliable service to its customers.[3] PG&E’s gas transmission pipeline explosion in San Bruno in September 2010, and subsequent investigations suggest that PG&E has a way to go in this regard. The APD would authorize PG&E to use its ratepayers’ money as venture capital in SVTC’s MDF. PG&E is neither a venture capital firm nor a manufacturing firm. The Commission should prevail on PG&E to focus inside its core mandate rather than embark on venture capital schemes outside its mandate.

Further, the Commission should not authorize a rate increase for investment when much more pressing and urgent initiatives compete for ratepayers’ limited dollars. In R.11-02-019, for example, PG&E proposed a plan to make its gas infrastructure safe and reliable at a cost to ratepayers of over $5 billion.[4] It is enough that ratepayers may have to foot the bill for PG&E’s maintenance costs, let alone pay for its foray into a partnership in an equipment rental business.

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[2] PD p. 7

[3] See e.g., Cal. Const. Art. 12; Pub. Utils. Code §§ 701, 451 (“every public utility shall… maintain such… equipment and facilities… as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”)

[4] Pacific Gas and Electric Company's Testimony Pipeline Safety Enhancement Plan (August 26, 2011), CPUC Rulemaking 11-02-019.

B. Neither SVTC nor PG&E will develop products at the MDF

Public Utilities Code § 740 authorizes the Commission to allow utilities to charge their ratepayers for "research and development." Judge Bemesderfer found that the MDF met the definition of "development".[5] DRA disagrees.

The MDF will be a building containing

> baseline manufacturing equipment, plus specialized equipment bays and private locked bays for each company's unique technological process.[6]

The PD finds that:

> From the short description given above, it should be clear that users of the PV MDF would not be doing either basic or applied research. Nor would the users be developing manufacturing technologies at the PV MD; they would be testing products and processes developed elsewhere. On the other hand, the definition of "development" from the Office of Management and Budget (OMB) Guidelines, if read broadly, appears to cover this facility since testing of products and processes is part of developing them.[7]

The finding conflates the "MDF" (the real estate development), with "testing of products and processes" (product development). Essentially, SVTC proposes a static real estate development project that it will rent out to tenants. SVTC will not develop any products. Instead, product development will be done by as yet undisclosed third parties who rent the space. If these third parties were utilities, then it would be their activities that would qualify for Section 740's ratepayer subsidy. But they are not and nor is their landlord. The utility here is not doing any product development but merely investing in real estate development. Real estate investment is not eligible for Section 740 funds.

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[5] PD p. 7

[6] SVTC Technologies' PV MDF Application for funding from DOE PV Manufacturing Initiative (DE-FOA-000259).

[7] PD p. 7

If the Commission chooses to find that the MDF is "development," then DRA recommends that PG&E submit its funding proposal in R.11-10-003: a proceeding specially instituted to fund renewable RD&D projects with ratepayer dollars.

C. The MDF Does Not Meet Section 740.1's Requirements

The record does not support the APD's conclusion that PG&E's investment meets the requirements of Section 740.1.

1. The MDF Will Not Benefit PG&E Ratepayers

The APD recognizes the difficulty of establishing ratepayer benefit:

- by its nature R&D is risky and potential returns are highly uncertain.[8]
- whether any of the firms that avail themselves of the PV MDF ever achieves a manufacturing process breakthrough that results in an appreciable price reduction cannot be predicted with confidence.[9]
- The potential ratepayer benefit from the sale of stock is speculative and remote.[10]

Nevertheless, the APD finds that the MDF is likely to attract customers who will succeed in developing cost-cutting technologies and processes which will ultimately benefit ratepayers.[11] But the record show that every entity involved in this venture will benefit *except* PG&E's ratepayers. SVTC will benefit from a MDF built at ratepayer expense. SVTC's tenants will save $10-$15 million by avoiding the need to create their own manufacturing line.[12] SVTC's shareholders will benefit if the venture succeeds and, because of the allocation of equity shares, will recover their investment even if the project fails. PG&E will benefit from $7.9 million in upfront tax gross up. Finally, even if SVTC's tenants do develop cost-cutting technologies, this benefit will inure to society as a whole, at the expense of PG&E ratepayers. But as discussed below, the venture is unlikely to succeed.

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[8] APD p. 10

[9] APD p. 11

[10] APD p. 9

[11] APD p. 12

[12] APD p. 12.

2. The MDF Is Unlikely to Succeed

The APD bases its prediction of the MDF's success on several factors including the DOE grant award, SVTC's interviews with venture capital investors and over 100 companies at all levels of the PV supply chain.[13] But the list begs the question: If the project is likely to succeed, then why haven't PG&E's shareholders, SVTC's shareholders, and/or any venture capital firm stepped up to the investment plate? That ratepayers dollars are the sole potential source of funding casts a shadow the APD's sunny predictions of the project's success. The well-publicized failure of the government-backed and risky Solyndra project should give the Commission pause to consider whether the MDF venture could end as badly for PG&E ratepayers. As DRA and TURN observed in their opening briefs, American solar companies cannot compete with Chinese manufacturers. This fact has not changed since those briefs were filed.[14] DRA urges the Commission to critically evaluate the APD's finding that the project is likely to succeed before authorizing a rate increase to fund PG&E's share in such a speculative venture.

3. The MDF Duplicates Existing or Future Research Efforts

To find that the MDF does not duplicate existing research, the APD relies on SVTC's grant from DOE and SVTC's market research. As part of the same initiative that awarded SVTC its grant, DOE chartered the Photovoltaic Manufacturing Consortium (PVMC) which appears to do the same work as is SVTC's MDF. PVMC is

> an industry-led consortium for cooperative R&D among industry, university, and government partners to accelerate the development, commercialization, and manufacturing of next-generation solar photovoltaic (PV) systems. Through its programs and advanced manufacturing development facilities, PVMC is a proving ground for innovative solar technologies and manufacturing processes.[15]

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[13] APD p. 14.

[14] See, e.g. http://www.bloomberg.com/news/2011-11-03/china-solar-boom-erodes-us-technology and http://www.technologyreview.com/energy/39356

[15] www.sematech.org/pvmc

The MDF is not unique.

4. The Project Is Inconsistent With PG&E's Resource Plan

The APD finds that MDF is consistent with the renewable energy programs and will reduce the time, cost, and risk of bringing new PV technologies to the market. Again, the record does not support the conclusion. PG&E has 2,880 MW of solar PV under contract as of August 2011.[16] Additionally, PG&E has met its 20% RPS goal and is on track in meeting its 33% goal by 2020. Solar energy constitutes a large part of the PG&E RPS MV, both from contracts PG&E has already signed and from its utility-owned solar PV. Thus, the MDF is not consistent with PG&E's resource plan.

DRA also noted in its reply brief that the Commission has repeatedly stated that one of the reasons why it has and continues to approve high-priced renewable projects is that it desires and places great value on 'portfolio diversity.' PG&E's portfolio is now comprised of some of the most expensive solar resources. PG&E has contracted for 2,800 MW[17] of solar PV and there is no reason to believe that solar PV is underrepresented in its portfolio. Please see the figure below for PG&E's resource mix:[18]

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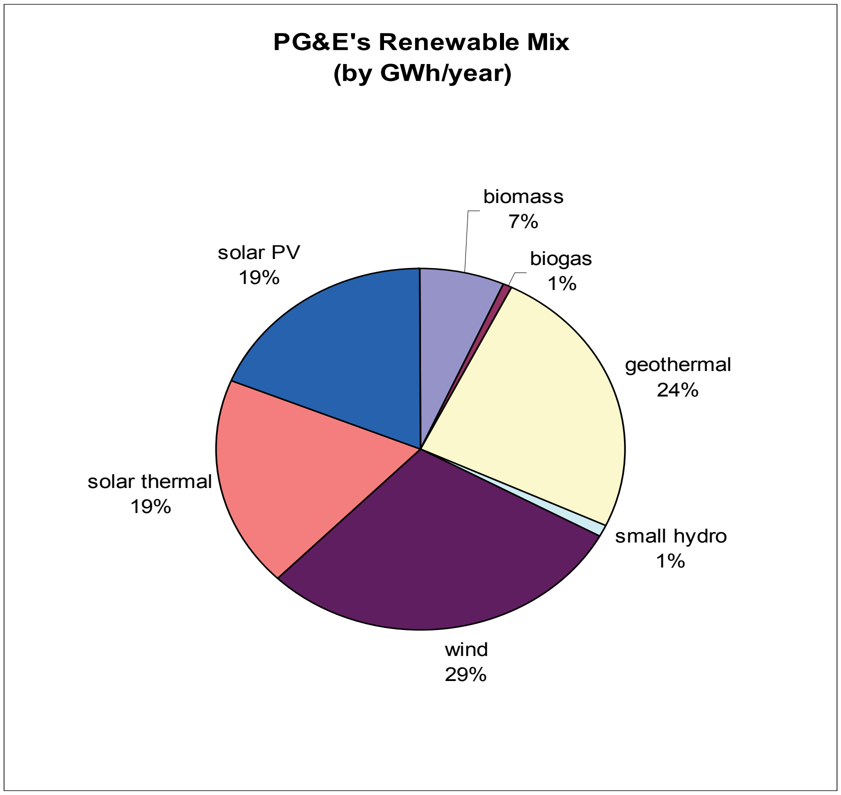
[16] Data from PG&E's Project Development Status Report filed August 1, 2011. Includes both projects which are online and those in development.

[17] Data from PG&E's Project Development Status Report filed August 1, 2011. Includes both projects which are online and those in development.

[18] Notes: Only executed contracts from 2002 and on are included. The chart includes contracts that are online, not yet online, and those pending approval. Solar PV Program contracts are also included but Feed-in Tariff and other programs are not. All data from http://www.cpuc.ca.gov/PUC/energy/Renewables/ updated January 2012.



Also as evidenced in the August 2011 PG&E Project and Development Report, PG&E has a very technology-diverse portfolio. As the graph above shows, PG&E's renewable portfolio is also technologically diverse. To meet its 33 percent goal, PG&E should now focus on purchasing renewable energy contracts that offer lower prices that would directly benefit its ratepayers. The decreasing prices of solar energy have eclipsed the value of the MDF to PG&E's ratepayers.

III. CONCLUSION

In its enthusiasm for solar technology, the APD makes considerable effort to fit the square peg of PG&E's application into the round hole of Section 740. Despite this effort, the amended application does not fit: the MDF does not benefit PG&E ratepayers. Nor is it likely to succeed. And it duplicates work done elsewhere. More importantly, instead of pursuing speculative "development" projects, PG&E should concentrate on its mandate to provide its customers with safe, reliable service. DRA urges the Commission to re-establish PG&E's mandate and deny its application.

Respectfully submitted,

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APPENDIX A

DRA's Proposed Changes to Findings of Fact

Findings of Fact

~~1. The PV MDF is an R&D facility.~~ Neither PG&E nor SVTC will develop products at the PV MDF.

2. The PV MDF supports environmental improvement.
3. The PV MDF supports development of renewable resources.
4. The PV MDF has a low probability of success.
5. The financial return to ratepayers of an investment in the PV MDF is remote and speculative.
6. The benefits of a successful PV MDF flow either to the public at large or to persons unaffiliated with PG&E.
7. Work done at the PV MDF would duplicate work done elsewhere.

Conclusions of Law

1. Investment of ratepayer funds in SVTC is not authorized by Pub. Util. Code §§ 740 and 740.1.
2. Investment of ratepayer funds in SVTC is not authorized by Pub. Util. Code § 2775.5.
3. Authorization of the investment of ratepayer funds in SVTC pursuant to Pub. Util. Code § 701 is not in the public interest.
4. The application should be denied.