

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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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 (U 39 E)

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

**PROTEST  
OF THE DIVISION OF RATEPAYER ADVOCATES**

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## **I. INTRODUCTION**

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) hereby files its protest to Pacific Gas and Electric Company's (PG&E) Amended Application for approval to increase electric rates and charges it may collect from ratepayers in the amount of \$17.8 million over two years. The amount requested would be paid to a for-profit entity, SVTC Technologies (SVTC), as matching funds for a United States (U.S.) Department of Energy (DOE) grant to construct the California Solar Photovoltaic Manufacturing Development Facility.<sup>1</sup> PG&E filed its Amended Application on July 15, 2011. DRA's protest is timely.

## **II. BACKGROUND**

On November 1, 2010, PG&E filed an initial Application seeking an increase in electric rates and charges in the amount of \$35.6 million to be paid over three years for a larger project.<sup>2</sup> DRA filed a protest. Administrative Law Judge Karl Bemederfer directed PG&E to file an amended application that addressed the issues raised in the initial SVTC DOE grant application for \$98 million.<sup>3</sup> Judge Bemederfer specifically directed PG&E to address the following issues related to the decreased DOE grant:

- adequacy of total funding given the dramatically reduced DOE award; any conditions attached to the DOE funding that were not assumed in the application;
- changes to the term sheet (including modified equity allocations between SVTC and PG&E ratepayers);
- revised spending projections for the first five years;
- supplemental funding sources needed to address the shortfall;
- potential terms and conditions associated with supplemental funding sources; and

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<sup>1</sup> A.10-11-002 at 1, 2

<sup>2</sup> Id. at 1.

<sup>3</sup> Id. at 3, 1.

- any other material changes to the agreement or investment structure.<sup>4</sup>

On April 5, 2011, DOE awarded SVTC \$25 million for the California Solar PV Manufacturing Development Facility (MDF), which amount was subsequently increased to \$30 million.<sup>5</sup> Consequently, PG&E's Amended Application reduces its scope of work from the original three phase project to a one phase project: a Silicon PV MDF.<sup>6</sup> But it is unclear that the Amended Application addressed the issues Judge Bemesderfer listed. As it did in the initial Application, PG&E claims that it needs ratepayer funding to match a \$30 million DOE grant to SVTC.<sup>7</sup> PG&E asks the Commission to authorize recovery of \$17.8 million over two years and find that the proposed revenue requirements are just and reasonable.<sup>8</sup> PG&E proposes to book the revenue requirements to the Distribution Revenue Adjustment Mechanism (DRAM) balancing account.<sup>2</sup>

The Silicon PV MDF project is essentially a customer-funded facility where solar photovoltaic manufacturers can develop silicon PV manufacturing processes and technologies for commercial sale. One of the project's key goals is to help build a solar cell manufacturing base in California. But contrary to this goal, a project of this type will actually harm and impede California's efforts to incentivize solar cell manufacturing by creating an unfair business advantage for one company. An act of the Commission to allow PG&E to use ratepayer funds to support a private enterprise will send a signal to the market that will drive away other investors that must compete for access to capital. In other words, investors for similar projects will be disadvantaged in financing if one entity were allowed to tap into a source of no-cost/no-risk financing at the will of the Commission. Allowing a single entity such as SVTC access to ratepayer capital, rather

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<sup>4</sup> Email communication from Administrative Law Judge Karl Bemesderfer to Parties in A. 1102011, April 06, 2011 directing PG&E to file an Amended Application to address the following issues outlined by The Utility Reform Network.

<sup>5</sup> A.10-11-002 at 2-3

<sup>6</sup> Id. at 3.

<sup>7</sup> Id. at 1.

<sup>8</sup> Id. at 2, 13.

<sup>2</sup> Id. at 7.

than requiring private entities to fund such projects, or at least requiring PG&E to use shareholder funds, provides SVTC with an unfair advantage in comparison to other market participants that will harm the market and stifle the pace of development of silicon PV manufacturing processes and technologies. DRA therefore respectfully protests PG&E's Amended Application.

### **III. PROTEST**

DRA protests the application on the following grounds:

1. PG&E requests ratepayer funds to match a DOE grant awarded to a for-profit entity that will assist other for-profit entities seeking to develop and market new solar cell components. A solar manufacturing line -- however valuable to the U.S. economy -- is outside the scope of PG&E's normal business of generating and distributing electricity. PG&E has not shown why it is appropriate or necessary for ratepayers to fund a private for-profit venture.
2. Ratepayers are being asked to absorb the risk of a for-profit venture on behalf of their incumbent utility without guarantee of commensurate benefits. The amount of money PG&E proposes to return to ratepayers is unspecified and the details of that return are unclear. The contract does not provide a guarantee, security or bond requirement that ensures ratepayers do not lose their entire investment.
3. Any benefits from the project would be to society generally and the value to PG&E's ratepayers would be difficult to measure and impossible to predict.
4. Allowing ratepayers to subsidize a private entity's efforts to contribute to California's leadership in innovative technologies could start the slide down a slippery slope towards many similar funding requests.
5. The Amended Application does not disclose whether PG&E has re-considered having its shareholders fund the project. PG&E has also not shown why its parent company, PG&E Corporation, or PG&E's shareholders cannot or will not provide the investment capital.
6. The project's success is too uncertain to justify ratepayer funding. There is substantial risk that ratepayers will gain nothing from their investment.

7. PG&E's proposal to book the revenue requirements to its DRAM balancing account<sup>10</sup> is unjustified since manufacturing of solar panels is unrelated to PG&E's activities as an electric distribution utility.
8. PG&E's cost recovery mechanism is unclear.
9. The project does not qualify as Research and Development allowable in PG&E's General Rate Case since SVTC's project may already be a going concern.<sup>11</sup> In other words, this is not an innovative, beginning stages venture typical of receiving R&D funding. Commercialization has already occurred.
10. PG&E has not described SVTC's effort to obtain funds from sources other than the ratepayers' purse. For example, has SVTC pursued venture capital? Is venture capital funding available for this project? If efforts to secure non-ratepayer funds have been unsuccessful, why should ratepayers fund the project?
11. PG&E has not shown that SVTC has adequate experience with a solar manufacturing line to ensure it can adequately protect the ratepayers' investment.
12. PG&E has not adequately described the sources and likelihood of risks that ratepayers bear under the proposal. Similarly, PG&E has not described changes in assumptions that could result in a failure to generate the revenues required for ratepayers to receive a return of and on their investment within five years.
13. PG&E has not demonstrated that the risks it asks ratepayers to bear are proportionate to the benefits they will receive.
14. PG&E does not describe what benefits its shareholders will receive from the project. Whatever these are, PG&E's shareholders bear none of the risk.
15. PG&E has not fully demonstrated the due diligence it exercised to ensure that SVTC's project is a good ratepayer investment.
16. The project may pose conflicts of interest issues related to:
  - Service by PG&E employees or directors on the boards of related companies with an economic interest in SVTC;

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<sup>10</sup> Id.

<sup>11</sup> A March 2010 study from the DOE's National Renewable Energy laboratory (NREL), lists SVTC as a going concern. See <http://www.nrel.gov/docs/fy10osti/47866.pdf> at 6 (listing SVTC as an existing for-profit solar manufacturing and testing facilities consortium).

- Affiliate transactions with PG&E Corporation subsidiaries “formed to own and manage solar photovoltaic projects with host customers in a variety of states.”<sup>12</sup>

DRA recognizes that some of these issues have been addressed in the proceeding on PG&E’s initial application. DRA is willing to work with PG&E to confirm that the information PG&E provided is current and applicable to this proceeding.

#### **IV. CATEGORIZATION AND PROPOSED SCHEDULE**

Like the initial Application, this Amended Application should be characterized as ratesetting. DRA recommends that Commission hold evidentiary hearing to resolve the issues raised in the Amended Application. Therefore, DRA request a prehearing conference to establish a schedule for this proceeding.

DRA is concerned that the highly expedited schedule PG&E proposes will not permit investigation and resolution of all the issues. Moreover, it is unlikely that a final decision can be reached by October 2011 – just three months after the Amended Application was filed. Although it served discovery in PG&E’s initial Application, DRA anticipates additional discovery into the financing, operation and others attributes of this unique project.

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<sup>12</sup> See, e.g., Sequoia Pacific Solar I, LLC and SunRun Pacific Solar, LLC, at <http://www.pge.com/about/rates/alliliate>.

DRA recommends the Commission adopt the following schedule:

<b>EVENT</b>	<b>DATE</b>
File Amendment to Application	July 15, 2011
Protests and Opening Comments	August 15, 2011
Reply to protest and Comments	August 22, 2011
Prehearing Conference	August 29, 2011
Scoping Memo Issued	September 12, 2011
Intervenor Testimony	November 14, 2011
Rebuttal Testimony	December 15, 2011
Evidentiary Hearings	January 10, 2012
Concurrent Opening Briefs	February 10, 2012
Concurrent Reply Briefs	February 24, 2012
Proposed Decision	March 30, 2012
Comments on Proposed Decision	April 20, 2012
Reply Comments on Proposed Decision	May 11, 2012
Commission Decision Adopted	June 2012

## **V. CONCLUSION**

PG&E's project brings several significant issues before the Commission, particularly, whether PG&E's ratepayers rather than private investors should pay for the development of the solar cell manufacturing industry. DRA recommends the Commission investigate several aspects of PG&E's application by allowing DRA to develop testimony and recommendations.

As discovery progresses DRA reserves the right to supplement its list of issues. DRA respectfully submits that its proposed schedule permits a thorough investigation of the issues and urges the Commission to adopt its schedule.

Respectfully submitted,

/s/ IRYNA KWASNY

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