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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2015 - 2017 (U39G)

Application 13-12-012
(Filed December 19, 2013)

And Related Matter.

Investigation 14-06-016

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING IN PART
PACIFIC GAS AND ELECTRIC COMPANY'S MOTION TO ADOPT A
PROCEDURAL SCHEDULE TO IMPLEMENT THE SAN BRUNO PENALTY
DECISION, ADOPTING CONFIDENTIAL MODELING PROCEDURES AND
NOTICING PREHEARING CONFERENCE**

Summary

This Administrative Law Judge's Ruling grants in part a motion filed by Pacific Gas and Electric Company (PG&E) to adopt a schedule to implement the provisions of Ordering Paragraph 7 of Decision (D.) 15-04-024. Additionally, this Ruling adopts procedures for the confidential production of computer model runs using Pacific Gas and Electric Company's results of operations, cost allocation and rate design models to generate tables needed for decision support in this proceeding.

This Ruling notices a Prehearing Conference (PHC) to be held at the Commission's Headquarters on June 3, 2015 at 1:30 p.m. PG&E shall file by June 1, 2015 its responses to the questions posed in this Ruling. Any party wishing to submit a PHC statement may do so by June 1, 2015.

1. Background

On April 9, 2015, the Commission issued Decision (D.) 15-04-024, which adopted penalties to be imposed on PG&E for violations arising from three investigations associated with the September 9, 2010 gas transmission pipeline explosion and subsequent fire in San Bruno, California. As it pertains to this proceeding, D.15-04-274 imposed an \$850 million penalty to be spent on safety improvements of PG&E's gas transmission pipeline system and directed:

In A.13-12-012, the Commission will determine which expenses and capital expenditures authorized in that proceeding are for "safety-related" gas transmission projects or programs (as that term is defined in Section 6.1 [of D.15-04-024]) that should be funded via the Shareholder-Funded Gas Transmission Safety Account, subject to the expense and capital expenditure requirements contained in Section 6.1 above.¹

On May 4, 2015, PG&E filed *Motion of Pacific Gas and Electric Company to Adopt a Proposed Procedural Schedule to Implement the San Bruno Penalty Decision (PG&E Motion)*. In its motion, PG&E identifies two matters that need to be addressed in this proceeding: (1) identification of safety-related programs or projects subject to the \$850 million penalty; and (2) determination of whether PG&E's forecast in this proceeding includes costs to implement the remedies adopted in D.15-04-024.² PG&E proposes a procedural schedule to address these issues. Finally, PG&E notes that the Commission may need the assistance of certain designated PG&E employees to develop confidential computer model

¹ D.15-04-024 at 242-243, Ordering Paragraph 7 (*slip op.*).

² *PG&E Motion* at 2. The adopted remedies are listed in Appendix E of D.15-04-024.

runs using PG&E's Results of Operation (RO) and rates models to generate tables needed for the decision. It therefore proposes that the procedures adopted in other rate case proceedings be adopted here.

By e-mail ruling, the ALJ shortened the time to file responses to the *PG&E Motion*. Responses were filed by the Office of Ratepayer Advocates (ORA), The Utility Reform Network (TURN) and Indicated Shippers. While all three parties generally agree with PG&E that penalty issues must be addressed before a decision on final authorized revenue requirements and rates may be issued, they disagree with PG&E's proposed schedule to address the issues raised in D.15-04-024. Among other things, both ORA and Indicated Shippers note that the \$850 million disallowance cannot be applied until after the Commission issues a decision on PG&E's authorized revenue requirement.³ Further, TURN states that there may be potential overlap between the remedies adopted in Appendix E of D.14-04-024 and programs and projects proposed in this proceeding and argues that any overlap of work must be excluded from PG&E's forecast.⁴ Consequently, ORA, TURN and Indicated Shippers all urge that a PHC be held to discuss the scope of issues and schedule.

2. Discussion

Based on the concerns raised in the responses to the *PG&E Motion*, I do not find that it is reasonable to adopt PG&E's procedural schedule. PG&E and

³ *Response of the Office of Ratepayer Advocates to the Motion of Pacific Gas and Electric Company to Adopt a Proposed Procedural Schedule to Implement the San Bruno Penalty Decision*, filed May 11, 2015, at 3; *Response of the Indicated Shippers to motion of Pacific Gas and Electric Company for Procedural Schedule*, filed May 11, 2015, at 5.

⁴ *Response of The Utility Reform Network to the Motion of Pacific Gas and Electric Regarding a Procedural Schedule to Implement the San Bruno Penalties Decision*, filed May 11, 2015, at 3.

Intervenors correctly note that D.15-04-024 has added two matters that need further consideration. However, it is not possible to determine the schedule to resolve these matters without additional information regarding:

1. The extent to which the remedies adopted in D.15-04-024 (and are to be paid by PG&E shareholders) overlap with work forecast in this proceeding that PG&E proposes to be paid by ratepayers; and
2. Which programs and projects are safety-related and should be funded by the \$850 million penalty adopted in D.15-04-024.

Accordingly, the *PG&E Motion* is granted to the extent that a PHC shall be held to discuss the procedure and schedule to address the penalties adopted in D.15-04-024, including whether further evidentiary hearings are necessary.

Additionally, I agree that the procedures used in general rate case proceedings of other utilities for the confidential production of computer model runs should be adopted for PG&E's results of operations, cost allocation and rate design models to generate tables needed for decision support. The use of computer models in Commission proceedings is governed by Pub. Util. Code §§ 1821-1822 and Rules 10.3 - 10.4 of the Commission's Rules of Practice and Procedure. The confidential modeling procedures and attendant protective order (Attachments A-C) are adopted by this Ruling. They shall govern the results of operations, cost allocation and rate design modeling process that will be administered by the Energy Division to generate tables needed for decision support in this proceeding.

Finally, it had originally been anticipated that this proceeding would be submitted upon the filing of reply briefs in the case in chief. With the need to consider the penalties adopted in D.15-04-024, I am setting aside submission.

3. Notice of Prehearing Conference (PHC)

A PHC shall be held on Wednesday, June 3, 2015 at 1:30 p.m. in the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California to discuss the procedures and schedule to resolve the penalty provisions in D.15-04-024 that impact this proceeding.

Prior to the PHC, PG&E should provide the following information:

1. Remedies adopted in D.15-04-024 – PG&E shall provide a table listing for each remedy:
 - a. Whether there is similar work forecast in the gas transmission and storage application, with identification of the specific program or project and associated cost.
 - b. Whether PG&E believes the forecast work overlaps with the adopted remedy and why.
2. Identification of Programs and Projects that are safety-related. PG&E shall provide the following:
 - a. Identification of the specific program or project that PG&E considers to be safety-related.
 - b. An explanation of why that program or project should be considered safety-related.

PG&E shall file the information above by June 1, 2015. Additionally, any party wishing to file a PHC statement shall do so by no later than June 1, 2015.

IT IS RULED that:

1. The *Motion of Pacific Gas and Electric Company to Adopt a Proposed Procedural Schedule to Implement the San Bruno Penalty Decision* is granted in part.
2. A prehearing conference shall be held on Wednesday, June 3, 2015 at 1:30 p.m. in the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California to discuss the procedures and schedule to resolve the penalty provisions in Decision 15-04-024 that impact this proceeding.

3. Pacific Gas and Electric Company shall file the information regarding the remedies adopted in Decision 15-04-024 and the identification of Programs and Projects that are safety-related, as specified in this Ruling, by June 1, 2015.

4. Any party wishing to file prehearing conference statements shall do so by June 1, 2015.

5. To assure the confidentiality of the Commission's deliberative process, the modeling procedures set forth in Attachment A to this Ruling, the attendant protective order set forth in Attachment B to this Ruling and the Certificate of Compliance set forth in Attachment C of this Ruling, are hereby adopted. Said procedures are binding upon the parties in this proceeding.

6. The submission date is set aside and the proceeding remains open.

Dated May 21, 2015, at San Francisco, California.

/s/ AMY C. YIP-KIKUGAWA
Amy C. Yip-Kikugawa
Administrative Law Judge

ATTACHMENT A
RESULTS OF OPERATIONS (RO), COST ALLOCATION AND RATE
DESIGN MODELING PROCEDURES

Upon request of the Energy Division Director or his designee(s), Pacific Gas and Electric Company (PG&E) and/or the Office of Ratepayer Advocates (ORA) will provide all necessary assistance to the Energy Division in running the RO, cost allocation and rate design models used by PG&E in Application 13-12-012 to produce tables required for the Administrative Law Judge's (ALJ's) proposed decision, any Commissioner alternate decision, and the Commission-adopted decision. The following requirements shall govern the modeling process:

1. Model run(s) shall be performed at the Commission offices under the supervision, oversight, and control of the Energy Division Director or his designee(s).
2. Model run(s) shall be performed using only computer hardware, software, and media installed or placed in the Commission Offices. Except as provided below, all such hardware, software, and media, and all related notes, worksheets, workpapers and computer output, shall remain in the custody of the Energy Division Director or his designee(s), and shall not be removed from the Commission Offices. However, 30 days after a Commission decision which incorporates the model run becomes final and non-appealable, the hardware and software that belong to PG&E may be returned to PG&E, and the Energy Division Director (or his designee(s)) may destroy any other materials he does not wish to retain. An exception to these provisions is that media, notes, worksheets, and computer output which are part of workpapers associated with model runs supporting the ALJ's proposed decision, and any Commissioner's alternate decision, or revisions to either of them, may be released in accordance with paragraph 6 below, on or after the date of issuance of an ALJ proposed or a Commissioner alternate decision.
3. Any computer equipment used by non-CPUC personnel to perform model runs shall be "stand-alone" except to the extent necessary for the purposes of these procedures, i.e., it shall not be connected with any other

computer, computer system, equipment, or other device for the communication of information in the model, model run, or inputs or outputs not consistent with decision support.

4. Before obtaining access to any information contained in or pertaining to the ALJ's proposed decision or any Commissioner alternate decision, or revisions to either of them, (prior to the release of any such information pursuant to paragraph 6, below), each employee, agent, or representative of PG&E or ORA involved in the modeling shall sign a certificate assuring compliance with the protective order attached hereto.
5. The Energy Division Director or his designee(s), shall determine that each employee, agent, or representative of PG&E or ORA who receives access to information about the contents of the ALJ proposed decision, any Commissioner alternate decision, and revisions to either of them, has first signed a certificate of compliance with the protective order. Employees, agents, or representatives of PG&E and ORA who have signed a certificate of compliance with the protective order, shall use information obtained about the contents of the proposed decision, any alternate decision, and any revisions to either of them only to assist in running the RO, cost allocation and rate design models, and shall not advise the Commission, including Energy Division, on any issues being considered in A.13-12-012.
6. As soon as practicable after the date of issuance of the ALJ's proposed decision and, if applicable, a Commissioner's alternate decision, or any revised versions of them that are issued for comment, and no later than seven days after the date of such issuance, Energy Division, and if necessary with the assistance of employees, agents, or representatives from PG&E and/or ORA having signed a certificate of compliance with the protective order, shall serve workpapers associated with this modeling upon each party of record making prior written request for them. Workpapers associated with the model runs supporting the ALJ's proposed decision, any revisions to the proposed decision, and any Commissioner alternate decisions and revised alternate decisions shall be designated as Late-Filed ALJ Exhibits. Workpapers may be served in electronic form.
7. To the extent that Energy Division believes that the workpapers might contain confidential information, it will consult with PG&E and, if necessary, PG&E may file a motion for a protective order to address or

limit the parties or individuals who may receive the workpapers. The protective order attached hereto is only designed to protect the Commission's confidential information.

8. Any and all drafts and unused analysis that does not directly support or is required for the ALJ's proposed decision, any Commissioner alternate decision(s), any revisions to ALJ's proposed decision and Commissioner alternate decision(s), and the Commission-adopted decision, is to be destroyed or otherwise deleted. All information in this category remains confidential permanently and may not be disclosed.

(End of Attachment A)

ATTACHMENT B

PROTECTIVE ORDER

1. This Protective Order shall govern the use of all protected materials, as defined herein, by (a) Pacific Gas and Electric Company (PG&E), (b) the Commission's Office of Ratepayer Advocates (ORA), and (c) PG&E's and ORA's employees, representatives, and agents.
2. "Protected Materials" include confidential written or oral communications from the staff of the Commission's Energy Division or ALJ Division, or any Commissioner or Commissioner's advisor, which reflect or relate to the contents of the ALJ's proposed decision or any Commissioner alternate decision, or to revisions to either of them, not otherwise released by the Commission. "Protected Materials" also include all computer hardware, software, media, notes, worksheets, workpapers, computer inputs, computer outputs, or any other documents which relate to these written or oral communications from the Energy Division staff.
3. The term "Certificate of Compliance" shall mean the certificate annexed hereto by which the employees, representatives and agents of PG&E and DRA will be granted access to Protected Materials. Said persons shall certify their understanding that access to Protected Materials is provided pursuant to the terms and restrictions of this Protective Order, and that they have read the Protective Order and agree to be bound by it. No employee, representative or agent of PG&E or ORA will be permitted access to any Protected Materials without first having signed and dated a Certificate of Compliance. Prior to such access, PG&E and ORA shall provide the Commission's Energy Division with the original of each Certificate of Compliance that has been executed, and shall serve a copy of each Certificate of Compliance on all parties on the Commission's service list in this proceeding.
4. The term "Reviewing Representative" shall mean each PG&E and ORA employee, representative, or agent who has signed a Certificate of Compliance and been granted access to the Protected Materials. Each Reviewing Representative shall treat as confidential the Protected

Materials and shall not disclose in any manner any information contained in or relating to the Protected Materials to any person, except another Reviewing Representative or an employee of the Commission involved in the decision making process in this proceeding (excluding ORA employees that have not signed the certificate of compliance with the Protective Order). Each Reviewing Representative shall not use his or her knowledge of any Protected Materials on behalf of PG&E or ORA. Furthermore, employees, agents, or representatives of PG&E and ORA are granted access to Protected Materials only to assist in running the Result of Operations, cost allocation and rate design models, and shall not advise the Commission, including Energy Division, on any issues considered in Application 13-12-012.

5. A supervisor in PG&E management or ORA management, who has authority over each Reviewing Representative, shall instruct each Reviewing Representative to read and agree to comply with this Protective Order. The supervisor in PG&E management or ORA management shall also take all reasonable and necessary steps to ensure that nobody at PG&E or ORA attempts to learn from any Reviewing Representative the contents of any Protected Materials.
6. Any violation of this Protective Order shall constitute a violation of an order of the Commission and Public Utilities Code Section 583.

(End of Attachment B)

ATTACHMENT C

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2015 - 2017 (U39G) | Application 13-12-012 (Filed December 19, 2013) |
| And Related Matter | Investigation 14-06-016 |

CERTIFICATE OF COMPLIANCE

I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Protected Materials and any notes or any other forms of information that relates to the Protected Materials shall not be disclosed to anyone other than in accordance with this Protective Order. I will not use knowledge of any Protected Materials on behalf of either Pacific Gas and Electric Company or the Commission's Office

of Ratepayer Advocates. I acknowledge that a violation of this Certificate constitutes a violation of an order of the California Public Utilities Commission and Public Utilities Code Section 583.

By: _____

Title: _____

Representing (PG&E, ORA): _____

Date: _____

(End of Attachment C)