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

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2017 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue and Reconciliation.

(U 39 E)

Application 16-06-003
(Filed June 1, 2016)

**PACIFIC GAS AND ELECTRIC COMPANY'S
MOTION TO STRIKE TESTIMONY COMMENTS ON NOVEMBER UPDATE**

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Dated: November 7, 2016

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Pacific Gas and Electric Company (“PG&E”) respectfully submits this motion to strike the Comments on November Update filed by Marin Clean Energy, Sonoma Clean Power Authority, and the City and County of San Francisco (jointly “CCA Parties”) on November 4, 2016.

Consistent with the Scoping Memo and subsequent ruling by Administrative Law Judge Tsien, PG&E filed its November Update on November 2, 2016 to update the forecasts in this proceeding to more accurately reflect market conditions, the current balance in the Energy Resource Recovery Account (“ERRA”), update departing load data, and update greenhouse gas (“GHG”) information and data. Parties were required to file comments on the November Update by November 4, 2016. The purpose of the November Update, and parties’ comments, was not to address policy issues or expand the scope of this proceeding. Instead, the purpose was simply to update the information already presented in this proceeding with more current information.

The CCA Parties were the only parties to file comments on the November Update. Rather than limiting their comments to the substance of the November Update, the CCA Parties filed comments that raised policy issues that are outside the scope of this proceeding, suggested new topics for the Power Charge Indifference Adjustment (“PCIA”) working group established

in Decision (“D.”) 16-09-044 to address, and attempted to submit new information into the record. The CCA Parties’ Comments went well beyond the scope of the November Update, and are prejudicial because the comments introduce new information at this late-stage of the proceeding. PG&E requests that the CCA Parties’ Comments be stricken because they are beyond the scope of issues raised in the November Update and are prejudicial.

I. THE CCA PARTIES’ COMMENTS RAISE ISSUES THAT ARE BEYOND THE SCOPE OF THE NOVEMBER UPDATE

The purpose of the November Update is straightforward and narrow. The November Update is intended to provide updated information on market prices, the ERRA balancing account balance, departing load, and GHG-related information. There is no dispute that this is exactly what was included in the November Update submitted by PG&E on November 2. PG&E did not attempt to use the November Update as an opportunity to argue policy issues or submit additional evidence, beyond the updated information, into the record.

In their comments, the CCA Parties took a very different approach. The CCA Parties did not dispute any aspect of the November Update, or assert that there was any error in PG&E’s calculations or the updated information provided. Instead, the CCA Parties used their comments as an opportunity to address issues that are well outside the scope of the November Update. For example, the CCA Parties argue that the PCIA methodology should be reformed¹ and that the Commission should examine the PCIA in consideration of the potential closure of Diablo Canyon Power Plant and its impact on the PCIA.² The CCA Parties’ comments also advocate a cap on the PCIA, which would effectively shift costs from CCA and direct access (“DA”) customers to bundled customers, contrary to California law.³ The CCA Parties also request that

¹ CCA Parties’ Comments at pp. 3 and 4-6.

² CCA Parties’ Comments at pp. 3 and 6-7.

³ CCA Parties’ Comments at pp. 4-5; *see e.g.* California Public Utilities Code Section 366.3 (bundled

the Commission provide further guidance to the PCIA Working Group created by D.16-09-044, effectively seeking to modify the scope of the working group created in that decision.⁴ All of these issues are well outside of the scope of the November Update.

Not only are the CCA Parties' Comments outside the scope of the November Update, they are also outside the scope of issues in this proceeding. As Judge Tsen explained in her ruling striking the testimony of Sonoma Clean Power ("SCP"), policy issues concerning changes to the PCIA methodology are outside the scope of this proceeding.⁵ However, these are exactly the type of policy issues that the CCA Parties' Comments address. The CCA Parties' Comments propose changes to the PCIA and suggest that the Commission completely re-examine the PCIA methodology. Moreover, issues related to the closure of the Diablo Canyon Power Plant and the PCIA Working Group, which the CCA Parties raise in their comments, are being addressed in entirely separate Commission proceedings.

The Commission routinely strikes materials that are beyond the scope of a proceeding.⁶ In this case, the CCA Parties Comments are clearly beyond the scope of the November Update and the issues in this proceeding and thus they should be stricken. It is inappropriate for the CCA Parties use their comments on the November Update as a platform to address policy issues.

II. THE CCA PARTIES' COMMENTS ARE PREJUDICIAL

Not only do the CCA Parties raise policy issues in their comments, they also try to submit new evidence into the record that they have had since August 2, 2016, before intervenor testimony was filed. Attached to the CCA Parties' Comments is a data response provided by

customers shall not experience cost shifts as a result of Community Choice Aggregation).

⁴ CCA Parties' Comments at p. 7.

⁵ E-Mail Ruling of Judge Tsen granting motion to strike SCP's testimony issued September 8, 2016.

⁶ See e.g. D.10-12-007, Finding of Fact 5 (describing ruling striking portions of testimony outside the scope of an ERRA Forecast proceeding); D.11-07-041 at p. 5 (same).

PG&E on August 2. The CCA Parties had this data response more than three weeks before intervenor testimony was due, on August 29, 2016. If the CCA Parties had believed the information in this data request was relevant, which it is not, they could have introduced it through their own testimony. The CCA Parties chose not to do so. Moreover, at the hearing in this proceeding, which occurred on September 13, 2016, the CCA Parties had an opportunity to use this data request response in their cross-examination of PG&E witness Donna Barry. Again, they chose not to do so.

Instead, the CCA Parties waited until their comments on the November Update to attempt to introduce into the record information they have had for months. The CCA Parties offer no explanation for this last-minute attempt to introduce new evidence into the record. Since PG&E has no opportunity to respond to the comments on the November Update, this belated submission is highly prejudicial. Moreover, the CCA Parties' argument is irrelevant. There is no dispute that Diablo Canyon is continuing to operate and that it is properly included in the PCIA calculation consistent with earlier Commission decisions. Thus, the CCA Parties' concerns about the impact of whether Diablo Canyon should be included in the 2017 PCIA forecast or not is irrelevant.

Respectfully submitted,

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