

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of Pacific Gas and Electric
Company for Authority to Establish the
Wildfire Expense Memorandum
Account. (U39E)

A.17-07-011
(Filed July 26, 2017)

**RESPONSE OF THE OFFICE OF RATEPAYER ADVOCATES
TO THE MOTION OF PACIFIC GAS AND ELECTRIC
COMPANY (U 39 E) REQUESTING AN ORDER
SETTING THE EFFECTIVE DATE OF ITS REQUESTED
WILDFIRE EXPENSE MEMORANDUM ACCOUNT**

I. INTRODUCTION

On July 26, 2017, Pacific Gas and Electric Company (PG&E) filed an Application (A.) 17-07-011 requesting authority to establish a Wildfire Expense Memorandum Account (WEMA) to track incremental unreimbursed wildfire liability costs. Concurrently with its application, PG&E filed a motion requesting that the proposed WEMA be made effective as of the date of its filing. Pursuant to Rule 11.1(e) of the Commission's Rules of Practice and Procedure, the Office of Ratepayer Advocates (ORA) now timely files this reply to PG&E's motion. ORA intends to participate in this proceeding and will file a response to PG&E's application.

II. ARGUMENT

**A. PG&E's Request for a Retroactively Effective
Memorandum Account Is Inconsistent with Long-
Standing Commission Policy of Authorizing
Memorandum Accounts on a Prospective Basis**

PG&E argues that its request for a retroactive memorandum account effective date is consistent with the Commission's policy of ensuring that affected parties are

financially indifferent from the timing of the Commission’s final decision.¹ PG&E cites to several of its prior General Rate Cases (GRCs) decisions to support the proposition that the Commission has granted similar relief in the past. PG&E’s argument obscures the issue. While the Commission has adopted a revenue requirement effective date in the case of delayed GRC decisions, this is not the same as establishing a retroactive effective date for a memorandum account.

In cases where a final decision will not be issued in a timely manner consistent with the Commission’s Rate Case Plan, (including the cases PG&E cites in its motion), the Commission has in the past set an effective date for the decision, and simultaneously authorized a memorandum account, *on a prospective basis*, to track the revenue difference between the effective date and the date the Commission adopts its final decision. The Commission has explained that the practice of establishing a memorandum account “allows GRC case decisions delayed past the start of the test year to be effective as if the decisions had not been delayed, notwithstanding the general rule against retroactive ratemaking.”² Thus, the memorandum accounts offset the future financial consequences of the difference between the date the Commission adopts its final decision and the date the decision would have been effective under the Rate Case Plan.³ The Commission did not authorize costs that have already been incurred to be booked into a memorandum account, as PG&E requests here.

The Commission has articulated its longstanding practice of establishing memorandum accounts to avoid retroactive ratemaking in several cases, including the one cited by PG&E, D.03-05-076.⁴ In general, compensating utilities for costs incurred above their revenue requirement would be retroactive ratemaking, unless a specific memorandum account has been established for that purpose. The policy for

¹ PG&E Motion, p. 2.

² *Application of Southern California Edison Company*, D.08-12-049 (December 19, 2008) 2008 Cal. PUC LEXIS 560[*4].)

³ *Id.* At [*7].

⁴ PG&E Motion, p. 2.

memorandum account treatment mirrors this same principle against retroactive ratemaking. As the Commission explained,

Memorandum accounts were designed to allow utilities the opportunity to record costs incurred prior to the Commission's review of the costs for reasonableness. In order to carry out its ratemaking duties fairly and orderly, the Commission has decided to parallel the prohibition against retroactive ratemaking by requiring that the establishment of a memorandum account not be retroactive. *That is, the memorandum account can start to record debits or credits only prospectively from the date the account is authorized.* In that way, if recorded costs are subsequently approved for recovery in rates, there will be no confusion or entanglement of issues regarding retroactive ratemaking.⁵

The Commission further elaborated on this policy in D.99-11-057:

The Commission's consistent policy has been to authorize memorandum accounts, which are essential ratemaking tools, to operate prospectively only. This policy parallels and avoids potential conflicts with the well-established prohibition against retroactive ratemaking when the Commission subsequently determines the amount of the costs recorded in the account that are reasonable and recoverable in future rates.⁶

In D.99-11-057, the Commission rejected SCE's argument that the effective date for its approved memorandum account to recover certain carrying costs for fuel oil in storage be approved as of a date prior to its authorization, and reiterated the Commission's consistent policy of denying retroactive effective dates for memorandum accounts.

B. PG&E's Request for a Shortened Response Time to Its Application Should Be Rejected

PG&E's motion makes reference to the Proposed Schedule in its application, which includes a request for an expedited schedule and shortened time period for

⁵ *Southern California Edison Co.*, D.03-05-076 (May 22, 2003), 2003 Cal. PUC LEXIS 940 [*9] n. 5 (Emphasis added).

⁶ *Order Denying Rehearing of Resolution*, D.99-11-057 (November 18, 1999), 1999 Cal. PUC LEXIS 769, [*4].

responses to PG&E's application. ORA submits that it would be prejudicial to parties to grant a waiver of the Commission's Rules of Practice and Procedure for responses to the application. PG&E points to a single recent ruling in San Diego Gas & Electric Company's (SDG&E) Application for Authority to Implement the Customer Information System Replacement Program (A.17-04-027), in which an Administrative Law Judge Ruling granted an expedited request for a memorandum account, however, that this motion was unopposed, no order shortening time was authorized, and, the memorandum account was authorized on a prospective basis.⁷ Thus, this authority does not support PG&E's request for an expedited schedule here, and ORA respectfully requests the full 30 days from the filing date of the application to respond to this application, as provided for in the Commission's Rules of Practice and Procedure, Rule 11.1(e).

III. CONCLUSION

ORA understands that the WEMA account requested by PG&E through this application does not prejudice the appropriateness of any recovery of costs recorded in that account. There is no precedent where such a memorandum account effective date has been established through a motion, before the request for the authority to establish a memorandum account has even been approved. Even if the requested application is approved, it would be highly unusual for the Commission to grant PG&E's request for the effective date of the WEMA account to be made effective the date of the filing of its application, as this goes against the Commission's longstanding policy of approving memorandum accounts only on a prospective basis, after the Commission concludes that the applicant has made an appropriate factual and legal basis for the request. ORA will file a response to PG&E's application for authority to establish a WEMA and will take a position on the appropriateness of the application at that time.

⁷ PG&E Motion, p. 3.

Respectfully submitted,

/s/ CHARLYN A. HOOK

Charlyn A. Hook
Attorney

Office of Ratepayer Advocates

505 Van Ness Avenue
San Francisco, California 94102
Telephone: (415) 703-3050
Email: chh@cpuc.ca.gov

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