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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M), Southern California Edison Company (U338E), Southern California Gas Company (U904G) and Pacific Gas and Electric Company (U39M) for Authority to Establish a Wildfire Expense Balancing Account to Record for Future Recovery Wildfire-Related Costs.

Application 09-08-020
(Filed August 31, 2009)

**ASSIGNED COMMISSIONER'S RULING
GRANTING MOTIONS TO WITHDRAW**

On November 9, 2011, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (Edison) moved to withdraw as applicants, but to continue their Wildfire Expense Memorandum Accounts related to this proceeding. PG&E and Edison stated that this Application [(A.) 09-08-020] was jointly filed on August 31, 2009, by PG&E, Edison, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) to request Commission authorization to establish a Wildfire Expense Balancing Account for future recovery of wildfire-related costs. Each of the applicants subsequently filed an advice letter and received Commission authorization to establish Wildfire Expense Memorandum Account. PG&E's Advice Letter 3046-G/3530-E and Edison's Advice Letter 2109-E/1889-G requested the memorandum account and by Resolution E-4311 the Commission authorized the applicants to begin recording certain categories of wildfire costs in their respective memorandum accounts, with an effective date of July 29, 2010. In its

resolution, the Commission conditioned any recovery of amounts properly recorded would be subject to the Commission's resolution of this application.

In their motion to withdraw as applicants, PG&E and Edison further requested that any ruling granting their motion include the continuation of their memorandum accounts. PG&E and Edison stated that continuation of each utility's Wildfire Expense Memorandum Account was necessary to ensure that recovery of wildfire costs are not precluded at a future date and to protect against retroactive ratemaking concerns. PG&E and Edison contended that certain intervenors, while opposing Wildfire Expense Balancing Account, nevertheless supported the use of a memorandum account to record wildfire costs. PG&E and Edison also explained their understanding that the continuation of their memorandum accounts would not guarantee recovery in rates of any recorded costs prior to Commission review and approval.

On November 14, 2011, the assigned Administrative Law Judge, after consultation with me, set a schedule for considering PG&E's and Edison's request, which required PG&E and Edison to supplement their motion on December 2, 2011 with more detail the proposed continuation of the memorandum account, including when and subject to what criteria they will request amortization of any amounts recorded in the account. Parties were then authorized to file and serve responses to the supplemented motion no later than December 16, 2011.

On December 2, 2011, PG&E and Edison supplemented the motion to withdraw and contended that it was premature to determine where and when costs recorded in the memorandum account will be reviewed. PG&E and Edison stated that they could potentially seek recovery of the costs in an annual Energy Resource Recovery Account proceeding, or other reasonableness review process.

As for the criteria to be used in evaluating recovery of such recorded costs, PG&E and Edison argued that the framework and standards for recovery of uninsured third-party claims arising from a wildfire are controversial issues that the Commission need not and should not decide in authorizing the memorandum accounts.

In response, Division of Rate Advocates, jointly with the Consumer Protection and Safety Division, did not oppose the motions to withdraw but recommended that the memorandum accounts include notification of the Commission when the utility begins recording amounts, and also that the term “wildfire event” be defined.

The Mussey Grade Road Alliance (Alliance) supported granting PG&E and Edison’s motion to withdraw from A.09-08-020, and denying their request to continue recording costs in a memorandum account. The Alliance contended that the utilities throughout the two-year term of this proceeding have not yet demonstrated or proven that a memorandum account is necessary to recover fire-related costs, or why such an account is necessary to allow for cost recovery at a later date. Moreover, the Alliance concluded, the utilities have not demonstrated that a pre-defined process, either a balancing or memorandum account would be beneficial to ratepayers, would improve electrical utility safety with regard to catastrophic wildfires ignited by electrical utility equipment or that any of the utilities would face an imminent financial crisis due to uninsured wildfire costs that could not be addressed by the Commission on a case-by-case basis.

Ruling

The unopposed motion of PG&E and Edison to withdraw from this application is granted.

The draft memorandum account tariffs submitted by PG&E and Edison are not approved. The proposed tariffs include language that suggests cost recovery from ratepayers is anticipated, as well as overly broad definitions of costs that may be properly recorded in the account.

These deficiencies are made more important due to the significant policy issues raised by the application, but deferred for resolution until PG&E and/or Edison seeks to recover an amount recorded in the memorandum account. The utilities acknowledge that “the framework and standards for recovery of uninsured third-party claims arising from a wildfire is a controverted issue that the Commission need not and should not decide in authorizing the [memorandum account] tariffs.”¹ PG&E and Edison describe their position that “recovery of uninsured third-party claims costs arising from a wildfire should not depend on a prudence review of the utilities’ actions that are alleged to have contributed to a wildfire.”² With their memorandum account proposal, PG&E and Edison explain that the Commission can defer addressing the prudence review issue until such time as a wildfire occurs in the future.³

When authorizing the memorandum accounts in Resolution E-4311, the Commission inextricably linked the memorandum accounts to the policy decisions to be made in this proceeding resolving the utilities’ wildfire expense balancing account proposal. Now, PG&E and Edison are seeking authorization to sever the memorandum accounts from the policy resolution proceeding. As

¹ Supplement to Motion at page 3.

² Id. at page 3-4.

³ Id. at page 4.

Resolution E-4311 shows, the Commission relied on the wildfire balancing account proposal as the justification for creating the memorandum account. Having withdrawn from the balancing account proposal, PG&E and Edison have removed the justification for the memorandum account. Consequently, I cannot conclude that the Commission's Resolution E-4311 can be properly extended to a stand-alone wildfire expense memorandum account as proposed by PG&E and Edison. The utilities, however, have numerous alternative procedural means apart from this proceeding to seek Commission authorization for such accounts.

Motion to Strike

On December 16, 2011, the Center for Accessible Technology, The Utility Reform Network, and the Mussy Grade Road Alliance moved to strike Attachment A and associated discussion in Section III of the SDG&E/SoCalGas Rebuttal testimony. The moving parties contended that the Attachment included a new alternative proposal which had not been previously revealed to the parties, and for which there was insufficient time for analysis.

SDG&E and SoCalGas responded that the alternative proposal was an attempt to moderate their initial proposal to address issues raised by the parties, and that the alternative proposal is substantially similar to the original but with increased shareholder responsibility for costs.

The motion to strike is denied. The Commission requires applicants to present a comprehensive initial showing, and not adopt a "protective, litigative instinct" to make a minimal initial showing with details to be provided as needed in rebuttal.⁴ Here, however, the utilities have not supplemented their

⁴ Re San Diego Gas and Electric Company, 46 CPUC 2d 583, 764 (D.92-12-019).

evidentiary presentation but rather have presented a moderated alternative to their initial proposal, with the stated purpose of addressing issues raised by the parties. The new proposal relies on the initial evidentiary presentation and does not introduce new factual support at the rebuttal stage, the tactic which the Commission's decisions have sought to prohibit. The circumstances here, therefore, are not similar to the evidentiary withholding prohibited by the Commission's decisions. For these reasons, the motion to strike is denied.

Therefore, **IT IS RULED** that:

1. The November 9, 2011, motion to withdraw as applicants in Application 09-08-020 of Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (Edison) is granted.
2. The November 9, 2011, motion of PG&E and Edison to continue their Wildfire Expense Memorandum Accounts is denied.
3. The December 16, 2011, motion to strike Attachment A and associated discussion in Section III of the San Diego Gas and Electric Company/Southern California Gas Company Rebuttal testimony by the Center for Accessible Technology, The Utility Reform Network, and the Mussy Grade Road Alliance is denied.

Dated January 10, 2012, at San Francisco, California.

/s/ TIMOTHY ALAN SIMON

Timothy Alan Simon
Assigned Commissioner