

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U 39-M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2007.

Application 05-12-002
(Filed December 2, 2005)

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

1. Summary

Pursuant to Rules 6(a)(3) and 6.3 of the Commission's Rules of Practice and Procedure (Rules), and following the prehearing conference (PHC) held on January 23, 2006, this Ruling determines the scope, schedule, category, need for hearings, principal hearing officers, and other procedural matters related to Pacific Gas and Electric Company's (PG&E) general rate case (GRC) Application 05-12-002.

2. Scope

The scope of a GRC proceeding is necessarily broad. Unless otherwise indicated, any matters raised in Application (A.) 05-12-002 or which may be reasonably inferred from the Application are within the scope of this proceeding. Among the matters that are within the scope of this proceeding are the following:

- Whether to adopt PG&E's request for a base revenue requirement of \$5.238 billion in 2007 and PG&E's proposed revenue requirement attrition adjustments for 2008 and 2009.
- Whether PG&E's proposed allocation of common costs should be used in non-GRC ratemaking mechanisms.

- Whether to adopt PG&E's proposed earnings-sharing mechanism and proposed service quality performance incentive mechanism.
- Whether PG&E's Vegetation Management Balancing Account should be converted into a two-way balancing account.
- Whether the balances in PG&E's Electric Credit Facilities Fees Tracking Account, the Gas Credit Facilities Fees Tracking Account, and the Community Choice Aggregation Implementation Cost Balancing Account should be transferred to the appropriate revenue balancing accounts for recovery from customers.
- Whether the Commission should re-affirm PG&E's late-payment fee.
- Whether the fees for "restoration for non-payment" and "non-sufficient funds" should be increased.
- Whether 84 "front counters" where customers can pay their bills should be closed.

Except as noted below, the issues raised in the protests to A.05-12-002 and the written PHC statements appear at this time to be within the scope of this proceeding. The following issues are outside the scope of this proceeding:

Formation or Expansion of Public Power: In Resolution E-3959, dated December 15, 2005, the Commission stated that it might consider in the instant GRC proceeding the cumulative impacts from the formation or expansion of public power within PG&E's service territory, with the goal of adopting a general policy. However, for the reasons stated at the PHC,¹ this matter is better suited to a generic proceeding and will not be considered here.

Alternate Forms of Electric Generation: Issues regarding the selection of particular types of electric generation are outside the scope of this proceeding. Such issues are routinely considered in other dockets (e.g., Rulemaking (R.) 04-04-003 and R.01-10-024).

¹ PHC Transcript, pp. 20 - 22.

Philanthropy: Issues regarding the type, amount, and beneficiaries of PG&E's philanthropy are outside the scope of this proceeding for the reasons stated in Decision (D.) 04-04-055.²

For the reasons set forth in Decision (D.) 05-12-046, this proceeding will not be consolidated with PG&E's pension application A.05-12-021.³

PG&E proposes that this proceeding be separated into two distinct phases: Phase 1, which covers the revenue requirement related testimony submitted with the application, and Phase 2, which covers yet-to-be-submitted testimony on electric marginal costs, revenue allocation, and rate design. PG&E should file a separate application for Phase 2 issues. This treatment of Phase 2 issues is consistent with recent GRC proceedings⁴ and the Commission's responsibility under Pub. Util. Code § 1701.5 to complete ratesetting proceedings within 18 months.

3. Schedule

The proposed schedule that was jointly submitted at the PHC by PG&E and other parties is adopted with several modifications.⁵ The adopted schedule is set forth in Appendix A.

² D.04-04-055, 2004 Cal. PUC Lexis 254, *162-163.

³ D.05-12-046, *mimeo*, pp. 6-9.

⁴ See, for example, D.05-12-025, 2005 Cal. PUC LEXIS 532, *4 - 5.

⁵ The following parties concur with the joint schedule submitted by PG&E: California Association of Cogenerators/Energy Producers and Users Coalition; California Farm Bureau; Coalition of Utility Employees; Diablo Independent Safety Committee; Disability Rights Advocates; Division of Ratepayer Advocates; Federal Executive Agencies; Greenlining Institute; Merced Irrigation District; Modesto Irrigation District; The Utility Reform Network; and the Western Manufactured Housing Community Association.

The first modification concerns the due date for briefs. The Rate Case Plan provides 96 days between reply briefs and the proposed decision (PD). The joint schedule compresses this interval to 88 days. Based on past experience, the Rate Case Plan's allotted time for the PD is needed. Therefore, the date for filing briefs is set to provide 96 days for the PD as envisioned by the Rate Case Plan.

The second modification concerns the schedule for PG&E's proposed service quality performance incentive mechanism (PIM). The joint schedule calls for this matter to be addressed in separate hearings during the time the assigned Administrative Law Judge (ALJ) is drafting a decision on all other GRC issues, with PIM being decided in the same decision as all other GRC issues. The joint schedule for PIM is not feasible for the reasons stated by ALJ Kenney at the PHC.⁶ Therefore, PIM will be addressed in a separate phase that commences after a final decision issued on other GRC issues.⁷

The final modification is the addition of two mandatory settlement conferences. PG&E shall arrange the mandatory settlement conferences. The arrangements shall include the ability for parties to participate by telephone.

All parties that submit written testimony and/or intend to cross examine witnesses at the evidentiary hearings shall jointly prepare a Case Management Statement and Settlement Conference Report. PG&E shall file and serve this document on behalf of the parties. The contents of this document shall include:

- A report on the results of the Mandatory Settlement Conferences.

⁶ PHC Transcript, pp. 27 - 29.

⁷ A ratemaking mechanism may be adopted in the GRC decision that sets PG&E's rates subject to adjustment as of January 1, 2007, for the purpose of flowing through to ratepayers any subsequently adopted PIM award or penalty.

- The status of any ongoing settlement discussions.
- The order of witnesses and cross examination at the evidentiary hearings.
- Any other matters that the parties deem relevant.

The parties are encouraged to settle as many issues as possible. At a minimum, the parties should try to reach a joint stipulation on material facts.

The scheduled evidentiary hearings will take place in San Francisco. Requests for the assigned Commissioner's presence at specific hearings should be made in accordance with Rule 8(c) at least 10 days prior to the beginning of the evidentiary hearings.

The Assigned Commissioner and the assigned ALJs may modify the schedule, as needed. The goal is to conclude this proceeding as soon as practical, and no later than 18 months from the date of this Ruling and Scoping Memo as contemplated by Pub. Util. Code § 1701.5.

4. Proceeding Category and Need for Hearings

This Ruling confirms the Commission's preliminary determination in Resolution ALJ 176-3164, dated December 15, 2006, that the category for this proceeding is ratesetting and that evidentiary hearings are necessary. This Ruling, only as to category, may be appealed under Rule 6.4.

5. Ex Parte Communications

Parties shall comply with the rules governing *ex parte* communications set forth in Rules 7(c) and 7.1.

6. Principal Hearing Officers

Pursuant to Rule 5(l), ALJ Kenney will be the lead principal hearing officer for this proceeding. ALJ Econome will be the principal hearing officer for most law and motion issues, PG&E's proposal to close more than 80 front counters

where customers can pay their bills, most public participation hearings (PPHs), and other matters as needed.

7. Final Oral Argument

Pursuant to Rule 8(d), any requests for a final oral argument before the Commission must be filed and served at the same time as opening briefs.

8. Discovery

The adopted schedule is aggressive. This Ruling adopts a balanced discovery process that is intended to reduce the potential for disputes or delays regarding discovery.

The parties should identify discovery needs and submit data requests as soon as possible. There is no predetermined limit on the number of questions that parties may submit, but parties are advised to be disciplined in making requests, keeping in mind the procedural schedule. Parties should make questions clear, focused, and relevant. Parties with similar interests should seek to coordinate their requests to avoid redundancy. Parties responding to data requests should provide clear and complete answers or promptly seek clarification for any questions that are ambiguous or unclear.

As a general rule, parties should respond to data requests within 14 calendar days. If a longer response time is required, the party preparing the response shall notify the requesting party and indicate when the response will be sent. Such notice should be provided as soon as possible, but no later than 14 days after receipt of the request. If a party's sole response to discovery is an objection (as opposed to an objection coupled with a substantive response), the party shall make objections to discovery requests within five working days.

Parties shall use web-based discovery protocols, to the extent practical, to obtain information from PG&E. These protocols are set forth in Appendix B.

The parties should follow the procedures set forth in Resolution ALJ-164 regarding any discovery disputes, with the following modifications. Parties shall respond to any discovery motion within three working days (instead of 10 calendar days) unless otherwise ruled by the ALJs. Parties are reminded to meet and confer before bringing any discovery dispute to the Commission.⁸

9. Filing and Serving Documents

All formally filed documents must be filed in hard copy at the Commission's Docket Office. Except as noted below, any document that is filed at the Docket Office must also be served electronically. The formal service of documents shall comply with the protocols in Rule 2.3.1. This Rule requires that the service of documents to be performed electronically, in a searchable format. If no email address is available, service should be made by United States mail. Parties should provide concurrent email service to all persons on the service list, including those listed in the Information Only portion of the service list.⁹

When serving documents as attachments to an email, the serving party must include the following information in the subject line of the email in the following order: the docket number, a brief name of the proceeding, a brief identification of the document being served, and the name of the serving party (Rule 2.3.1(c)). In addition to other requirements, the serving party must provide the following to the assigned ALJs: (1) a paper copy of all documents served by

⁸ The web link to ALJ-164 is http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/2538.DOC

⁹ The current service list for this proceeding is attached to this Ruling. It is anticipated that the service list will be revised periodically. When serving documents, parties should always use the most current service list available at the Commission's website. (http://www.cpuc.ca.gov/published/service_lists/A0512002_71186.htm)

email; and (2) an electronic copy of all documents in Microsoft Word and/or Excel format, to the extent practical.

10. Public Participation Hearings

A separate ruling will be issued that sets the schedule for PPHs. PG&E shall notify its customers of the PPHs by billing inserts or a separate mailing. The notice shall be approved by the Commission's Public Advisor, and shall provide the dates, times, and locations of all PPHs. PG&E shall have a representative at each PPH who is authorized to respond to customer inquiries and statements. DRA may also participate in the PPHs.

11. Hearing Ground Rules

Parties shall comply with the hearing ground rules in Appendix C of this Ruling. These ground rules are intended to promote fair and orderly hearings, and efficient use of hearing time.

12. Web Posting of Documents

PG&E has agreed to maintain a website where all non-confidential documents related to this proceeding can be accessed. Every party with internet access shall send to PG&E an electronic copy of all documents filed or served by the party in accordance with the instructions in Appendix D of this Ruling.

IT IS RULED that:

1. The scope of this proceeding is set forth in Section 2 of this Ruling.
2. The schedule is set forth in Appendix A of this Ruling.
3. Pacific Gas and Electric Company (PG&E) shall file a separate application to address electric marginal costs, revenue allocation, and rate design.
4. A second prehearing conference (PHC) is scheduled for May 25, 2006 at 10:00 a.m. Evidentiary hearings will begin at 9 a.m. on May 30, 2006. The PHC

and evidentiary hearings will be held in the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

5. This Ruling confirms the Commission's preliminary determination in Resolution ALJ 176-3164 that the category for this proceeding is ratesetting and that evidentiary hearings are necessary. This Ruling, only as to category, may be appealed in accordance with Rule 6.4 of the Commissions Rules of Practice and Procedure (Rules).

6. Parties shall comply with the *ex parte* communications rules set forth in Rules 7(c) and 7.1.

7. Administrative Law Judges (ALJs) Kenney and Econome are the principal hearing officers for this proceeding.

8. Any party requesting a final oral argument before the Commission shall file and serve such request on the same date that opening briefs are due.

9. The electronic filing and serving of documents shall conform to the Electronic Service Protocols set forth in Rules 2.3 and 2.3.1.

10. A party serving a document shall provide the following to the assigned ALJs: (i) a paper copy of the document; and (ii) an electronic copy of the document in Microsoft Word and/or Excel format, to the extent practical.

11. To the extent practical, parties shall use the web-based discovery protocols for obtaining information from PG&E that are set forth in Appendix B.

12. Parties shall comply with the hearing ground rules in Appendix C.

13. PG&E shall establish and maintain a website where, to the extent practical, all non-confidential documents that are filed and/or served in this proceeding can be accessed. Parties shall email copies of documents they file and/or serve to the website in accordance with the instructions in Appendix D of this Ruling.

APPENDIX A
PROCEEDING SCHEDULE

Event	Date
Mandatory Settlement Conference	By 3/30/06
DRA testimony served	4/14/06 ^[1]
Intervenor testimony served	4/28/06 ^[1]
Public participation hearings	TBD
Mandatory Settlement Conference	By 5/10/06
Rebuttal testimony served	5/17/06
Joint Case Management Statement and Settlement Conference Report filed and served	5/22/06
Second Prehearing Conference	5/25/06
Evidentiary hearings begin	5/31/06
Evidentiary hearings end (Note: no hearings on July 3 and 4, 2007)	7/7/06
Comparison exhibit	7/14/06
Opening briefs filed and served	7/27/06
Request for oral argument before the Commission filed and served	7/27/06
Reply briefs filed and served	8/10/06
Update materials served	9/7/06
Update hearing	9/21/06
Projected submission date	9/21/06
Proposed Decision issued	11/14/06
Final Decision on GRC Issues	12/14/06
Opening Testimony served re: PIM	1/04/07
Reply Testimony served re: PIM	1/18/07
PHC re: PIM	TBD
Evidentiary hearings re: PIM	TBD
Final Decision re: PIM	April 2006
[1] DRA may file testimony regarding pensions at the same time that intervenors file their testimony.	

(End of Appendix A)

APPENDIX B
WEB-BASED DISCOVERY PROTOCOLS
FOR OBTAINING INFORMATION FROM PG&E

Parties shall use the following web-based discovery protocols, to the extent practical, to obtain information from PG&E.

1. Parties should transmit their data requests to PG&E by email, preferably with the content document (discovery request) attached to the email. The email should be sent to Bruce Smith (BTS1@pge.com). This will greatly facilitate the processes of routing the questions to the appropriate witness and the posting of the data request on PG&E's website.
2. PG&E's service of a data response shall be deemed complete once PG&E has (i) posted its response on its website, and (ii) sent an email to the requestor with the response appended as an attachment(s). In the case of confidential material, service shall be deemed complete when PG&E transmits an email directly to the requesting party with the response appended as an attachment(s). If a response includes material that is not available electronically, then the response shall be served by first class mail.
3. PG&E shall post its discovery responses on its website as set forth in Appendix D of this Ruling. The exceptions are PG&E responses that are not available electronically or that include confidential material. In general, a party should use PG&E's website to access PG&E's responses to data requests submitted to PG&E by other parties. However, PG&E shall provide a paper

copy of discovery responses to any party that so requests, but parties should use this prerogative sparingly.

4. For parties that do not have ready access to the internet, PG&E shall accept data requests by mail and provide paper responses. Other parties may also use this procedure, but should do so sparingly.

(End of Appendix B)

APPENDIX C

HEARING GROUND RULES

Exhibit Format

See Rule 70 of the Rules of Practice and Procedure. Parties often fail to include a blank space two inches high by four inches wide to accommodate the ALJ's exhibit stamp. If necessary, add a cover sheet to the front of the exhibit. The common practice of pre-printing the docket number, a blank line for the exhibit number, and witness names(s) is acceptable, but it is not a substitute for the required two by four inch blank space to accommodate the exhibit stamp.

Exhibits should be bound on the left side or upper left-hand corner. Rubber bands and paper clips are unacceptable.

Excerpts from lengthy documents should include the title page and, if necessary for context, the table of contents of the document.

Although Rule 2 permits a type size as small as 10 points in filed documents, parties should use a type size of at least 12 points when practical.

Exhibit Copies

See Rule 71. The original and one copy of each exhibit shall be furnished to the presiding officer and a copy shall be furnished to the reporter and to each party. The copy furnished to the presiding officer may be the mailed copy. Except for exhibits that are served prior to the hearing, parties are responsible for having sufficient copies available in the hearing room for the court reporter and each party in attendance.

Cross-Examination Exhibits

Allowing witnesses time to review new or unfamiliar documents can waste hearing time. The general rule is that a party who intends to introduce an

exhibit during cross-examination should provide a copy to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Documents in excess of two pages should be provided the day before. Generally, parties need not provide advance copies of documents to be used for impeachment or to obtain the witness' spontaneous reaction (although this practice is not encouraged).

Corrections

The practice of making extensive oral corrections to exhibits on the witness stand, requiring lengthy dictation exercises, causes delays. It should be avoided, to the extent possible, through preparation of written errata. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. Two forms of corrections should be provided. One form should show the text deleted with strikethrough and the text added with underline. The second form should show the text as corrected, with no strikethrough or underline. Also, each revised page should be marked with the word "revised" and the revision date. Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. For example, Exhibit 5-A is the first correction to Exhibit 5.

Hearing Hours

Hearings will start at 10:00 a.m. on May 31, 2006. Thereafter, hearings will generally run from 9:00 a.m. to 12:00 a.m. with at least one morning break, and from 1:30 p.m. to 3:30 p.m. with one afternoon break. Upon request, and if circumstances permit, hearings may run from 9:00 a.m. to 1:00 p.m. on Fridays. The hearing hours may be revised, as needed, by the assigned ALJs.

Cross Examination Time

Parties are placed on notice that it may be necessary to limit and allocate time for cross-examination, redirect, and recross-examination.

Rebuttal Testimony

Prepared rebuttal testimony should identify the testimony being rebutted. It is inappropriate, and a potential grounds for striking, for any party to withhold direct presentations for introduction in rebuttal testimony.

Court Reporters

Common courtesy should always be extended to the reporters. Counsel should wait for witnesses to finish their answers, and witnesses should likewise wait for the whole question to be asked before answering. Counsel shall refrain from simultaneous arguments on motions and objections. Conversations at the counsel table or in the audience can be distracting to the reporter and other participants. Such distractions should be avoided.

(End of Appendix C)

APPENDIX D
PROTOCOLS FOR WEB POSTING OF DOCUMENTS

PG&E has agreed to establish and maintain a dedicated website for its Test Year 2007 General Rate Case. Parties and the public can access documents posted to the website at <http://www.pge.com>. (Select "Rates and Regulations," then "CPUC and FERC Regulatory Cases," then "Search for Public Case Documents." Under "Properties Search," select "GRC 2007 Ph 1.")

Every party with internet access shall send by email all public version documents that the party files and/or serves to GRC2007documents@pge.com as an attachment. For documents containing confidential material subject to Pub. Util. Code § 583 or a non-disclosure agreement, a redacted copy shall be sent to the above email address. Documents received by PG&E during normal business hours (M-F, 8:30 a.m. to 5:00 p.m.) shall be posted within three hours after receipt. Documents received by PG&E outside of normal business hours shall be posted by 11:30 a.m. on the next business day. If a document is not timely posted, PG&E's shall promptly post the document after discovery of the error.

To minimize differences in pagination upon printing, parties should save their documents using Microsoft Office (Word, Excel, and Powerpoint) or Adobe Portable Document Format (.pdf). Files converted by Adobe Acrobat from other document formats are preferred to files that contain scanned images due to file size and searchability features.

(End of Appendix D)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner’s Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated February 3, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission’s policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.