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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company in Compliance with Ordering Paragraph 37, Resolution E-4906. (U39-E.)	Application 18-10-008
And Related Matters.	Application 18-10-009 Application 18-10-010

ADMINISTRATIVE LAW JUDGE'S RULING CANCELING EVIDENTIARY HEARING, ESTABLISHING BRIEFING SCHEDULE AND PROVIDING INSTRUCTION ON ADMISSION OF TESTIMONY AND EXHIBITS

Summary

The evidentiary hearing for this proceeding is cancelled and the remaining schedule for the proceeding is established as set forth below. The November 18, 2019 *California Demand Response Prohibited Resources Verification Administrator Metering Pilot Report* (Nexant Report) is received into the evidentiary record of this proceeding. On January 31, 2020, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (Applicants) shall file, in this proceeding, a copy of the Nexant 2019 Audit Report (Audit Report) on the Metering Pilot for the Verification Plan of Prohibited Resources. Unless a party files a motion in opposition by February 7, 2020, the Audit Report shall be received into the record on Monday, February 10, 2020. Pursuant to Rule 13.8(c) of the Commission Rules of Practice and Procedure (Rules), no later than

March 2, 2020, parties shall file motions offering testimony and other related exhibits, including data requests, into evidence.

1. Background

Pursuant to a December 18, 2019 ruling (Ruling), the Applicants filed a Status Update on December 27, 2019. The following is a summary of the Status Update.

After polling all parties in the proceeding, as directed by the Ruling, the Applicants assert that all parties agree that an evidentiary hearing is unnecessary. The Applicants propose that the Audit Report be filed in this proceeding on January 31, 2020, and opening briefs be filed on March 2, 2020, and reply briefs be filed on March 16, 2020. Furthermore, the Applicants request that the Nexant Report and the Audit Report be entered into the evidentiary record of this proceeding. The Applicants report that parties agree with this approach and schedule but request that parties be “permitted an opportunity to attach discovery responses related to the Nexant reports to their opening briefs.”¹

2. Nexant Report and Audit Report

The Applicants request that both the Nexant Report and the Audit Report be admitted into the evidentiary record of this proceeding. The Applicants assert that no party objects.

In Resolution E-4906, the Commission directed the Applicants to file supplemental information in this proceeding as follows:

In a supplemental filing by October 18, 2019, the Utilities shall provide source data on the Test Year installations, which includes load drop and coincident prohibited resource output during program event hours as well as baseline data on load and prohibited resource output outside of program event hours. The supplemental filing shall also include:

¹ Status Update at 4.

- 1.) The number of interval meters and data loggers installed;
- 2.) Results on the installation of these devices on customers:
 - a.) Who do not have other onsite load that can be used to reduce load during DR events;
 - b.) Whose resource is used for baseload generation
 - c.) Whose resource is not connected to a Utility's distribution system.²

The Applicants complied in a timely manner, filing the Nexant Report on November 18, 2019.³

Because the Nexant Report was previously filed in this proceeding, and therefore reviewed by the parties, as well as discussed by parties during the public workshop on December 5, 2019,⁴ and because no party expressed opposition,⁵ it is reasonable to allow the Nexant Report to be entered into the evidentiary record of this proceeding.

With respect to the Audit Report, the Audit Report has not been reviewed by any party at this point. While no party expressed opposition to entering the Audit Report into the evidentiary record of this proceeding, I hesitate to automatically enter a report into the evidentiary record sight unseen. Furthermore, the Applicants have not been authorized to file such a report in this proceeding. However, the contents of the Audit Report will most likely be a useful addition to the record of this proceeding. Accordingly, the Applicants are hereby directed to file the Audit Report, in this proceeding, no later than

² Resolution E-4906 at Ordering Paragraph 37.

³ Through a September 3, 2019, letter from the Executive Director, the Applicants were granted a 30-day extension of time, to November 18, 2019, to file the Nexant Report.

⁴ Status Update at 1.

⁵ *Id.* at 4.

January 31, 2020. This will allow parties the opportunity to review the Audit Report. If, by February 7, 2020, no party files opposition to the Audit Report being entered into the evidentiary record, the Audit Report will be received into the evidentiary record, as of February 10, 2020.

3. Evidentiary Hearing

The Applicants state in the Status Update that no party has indicated any “disputed facts that turn on matters of witness demeanor or other credibility factors that may be adduced on cross examination.”⁶ Because parties agree that no evidentiary hearing is necessary and the Nexant Report and, potentially, the Audit Report will provide a well-rounded record in addition to the testimony and additional exhibits, it is reasonable to cancel the evidentiary hearing and move forward with this proceeding.

4. Testimony and Additional Exhibits

Aside from the Nexant Report and, potentially, the Audit Report, the Applicants served testimony upon the filing of this application, and other parties served testimony on June 14, 2019, and reply testimony on July 8, 2019. At this time, none of this testimony is in the evidentiary record. Furthermore, parties indicate in the Status Update a desire to attach to their opening briefs discovery responses related to the Nexant reports.

Rule 13.8(c) provides that prepared testimony and accompanying exhibits may be offered and received into evidence without direct or cross examination absent objection by any party. Accordingly, no later than March 2, 2020, parties shall file motions to have testimony entered into the evidentiary record of this proceeding. Furthermore, in order to ensure clear and efficient management of

⁶ *Id.* at 2.

this proceeding, parties shall include in those motions any discovery responses related to the Nexant reports they wish to be included in the evidentiary record. Any objection to allowing the testimony or exhibits into the evidentiary record must be filed no later than March 9, 2020. If no objection is filed, the requested testimony and related exhibits will be received into the evidentiary record on March 10, 2020.

5. Procedural Schedule

In the Status Update, the Applicants propose a briefing schedule “designed to keep the proceeding on the track for decision as required by law.”⁷ The Applicants suggest a date of March 2, 2020, for filing opening briefs and March 16, 2020, for filing reply briefs. The Applicants assert that no party opposes this schedule.⁸

According to the Assigned Commissioner’s Scoping Memo and Ruling, issued January 29, 2019, this proceeding will be resolved within 18 months as required by Public Utilities Code Section 1701.5. Hence the statutory deadline for this proceeding is 18 months after the filing of the application, or April 19, 2020. Therefore, the proposed briefing schedule will not keep the proceeding on track for a decision by April 19, 2020. However, it is reasonable to delay a final decision on this proceeding to: a) ensure the evidentiary record is complete, b) allow parties to file briefs, and c) allow the Commission to review the record, analyze the briefs, and consider the entire record to make a determination. Accordingly, the schedule for the remainder of this proceeding is revised as set forth in the table below.

⁷ *Id.* at 3.

⁸ *Id.* at 4.

EVENT	DATE
Applicants File Audit Report	January 31, 2020
Parties File Objections to Receiving Audit Report into Evidentiary Record	February 7, 2020
If No Objections Are Filed, Audit Report Received into Evidentiary Record	February 10, 2020
Parties File Motions to Enter Testimony/Exhibits into Evidentiary Record	March 2, 2020
Parties File Objections to Testimony/Exhibits Received into Evidentiary Record	March 9, 2020
If No Objections Are Filed, Testimony/Exhibits Received into Evidentiary Record	March 10, 2020
Opening Briefs Filed	March 20, 2020
Reply Briefs Filed	April 3, 2020

IT IS RULED that:

1. The November 18, 2019 *California Demand Response Prohibited Resources Verification Administrator Metering Pilot Report* is received into the evidentiary record of this proceeding.
2. On January 31, 2020, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall file, in this proceeding, a copy of the Nexant 2019 Audit Report on the Metering Pilot for the Verification Plan of Prohibited Resources.
3. No later than February 7, 2020, parties shall file any objections to receiving the Nexant 2019 Audit Report into the evidentiary record.
4. If no party files a motion in opposition by February 7, 2020, the Audit Report shall be received into the record on February 10, 2020.
5. The evidentiary hearing in this proceeding is cancelled.

