STATE OF CALIFORNIA Gavin Newsom, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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January 27, 2020

Agenda ID #18129
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 13-12-012 ET AL.:

This is the proposed decision of Administrative Law Judge Peter Allen. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's February 27, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision **PROPOSED DECISION OF ALJ ALLEN** **(Mailed 1/27/2020)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2015 - 2017 (U39G).	Application 13-12-012
And Related Matter.	Investigation 14-06-016

DECISION DENYING PETITION FOR MODIFICATION

Summary

Pacific Gas and Electric Company's Petition for Modification of Decision 16-12-010 is denied. This proceeding is closed.

1. Background

On March 8, 2019 Pacific Gas and Electric Company (PG&E) filed a Petition for Modification of Decision (D.) 16-12-010; specifically, PG&E requests:

> [T]o modify Ordering Paragraph 3 of Decision (D.) 16-12-010, the Commission's decision in PG&E's 2015 Gas Transmission and Storage (GT&S) rate case, to allow PG&E to record to the Shareholder-Funded Gas Transmission Safety Account (Shareholder-Funded Account) approximately $30 million in capital costs incurred for approved safety-related programs in excess of the amounts PG&E is currently authorized to record for those programs, in lieu of recording that same amount for other approved safety-related programs for which PG&E has incurred lower costs than were previously forecast. Granting this relief would enable PG&E to record the full $850 million the Commission ordered PG&E shareholders to spend on gas transmission pipeline safety enhancements as part of the penalty the Commission imposed in D.15-04-024. (PG&E Petition at 1.)

As PG&E acknowledges, D.15.04-024 was the decision imposing fines and remedies on PG&E for its violations relating to the September 9, 2010 gas transmission pipeline explosion and fire in San Bruno, California, and which ordered PG&E shareholders to fund $850 million in gas transmission pipeline safety improvements. The decision that PG&E now seeks to modify, D.16-12-010, finalized the ratemaking treatment relating to the $850 million penalty assessed in D.15-04-024 by adopting a list of approved gas transmission pipeline projects and programs and the specific dollar amounts that PG&E was authorized to record as shareholder-funded for each project or program. (PG&E Petition at 4-5.)

According to PG&E, the amounts approved in D.16-12-010 were based on a forecast, and PG&E's actual spending has not matched the adopted forecast. As a result, PG&E has overspent on some programs and projects and underspent on others. PG&E is requesting authority to count $30 million of its over-spending on some areas to satisfy its under-spending on others. (PG&E Petition at 7.)

The Utility Reform Network (TURN) responded to PG&E's Petition on April 8, 2019. TURN opposes PG&E's request. TURN argues that the Commission has previously rejected PG&E's argument that amounts it overspends should count towards the penalty that PG&E shareholders are supposed to pay, and more specifically:

> The program costs that were adopted in D.16-06-056 (and later adjusted in D.16-12-010) were litigated by numerous parties and carefully considered by the Commission. Having already previously rejected PG&E's higher forecasts for these programs, the Commission should not allow PG&E to unilaterally determine that overspending on these programs is reasonable and could be recorded to the Shareholder-Funded Account. Doing so would effectively ignore the record that led the Commission to reach its determinations in D.16-06-056. Furthermore, the Commission also explained that if the total amount to be funded by shareholders is not exhausted by designated safety related programs *authorized* in the GT&S proceeding, the Commission will make a determination of additional capital programs to be funded by shareholders in future proceedings as necessary. (TURN Response at 2-3, emphasis in original, footnotes omitted.)

Accordingly, TURN argues that the Commission should again reject PG&E's request to apply amounts it overspent toward the $850 million shareholder penalty. (TURN Response at 4.)

PG&E was given leave to file a reply to TURN's Response. In its reply, PG&E briefly reiterates its argument that it believes its request is reasonable, but then goes on to state that:

> Should the Commission decide to deny PG&E's Petition, however, the issue of underspending in certain programs may need to be addressed in the future. If PG&E's Petition is denied, PG&E will continue to report on satisfying the San Bruno penalty in its annual May 1 Shareholder Funding Safety Programs Report in compliance with D.15-04-024. If

> when PG&E files its next GT&S Rate Case or other relevant proceeding (for the test year 2022 or 2023), there remain unspent San Bruno penalty amounts, PG&E will propose a mechanism for addressing the underspending in that proceeding. (PG&E Reply at 2-3.)

2. This Issue Should Not Be Resolved by a Petition for Modification

Given the points made by TURN in its Response, including the fact that the aspect of the decision that PG&E is seeking to modify was vigorously litigated and resulted in the Commission rejecting PG&E's argument, it is not appropriate to make PG&E's requested modification to D.16-12-010. In addition, as the PG&E Reply points out, there are other (and more appropriate) venues for addressing this issue. Accordingly, PG&E's Petition for Modification is denied.

3. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

4. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Peter V. Allen is the assigned ALJ in this proceeding.

Findings of Fact

1. PG&E's Petition for Modification is arguing for an outcome that was previously litigated and rejected by the Commission.

2. Other proceedings would be a more appropriate venue for addressing the issues raised by PG&E.

Conclusions of Law

1. PG&E's Petition for Modification should be denied.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company's Petition for Modification of Decision 16-12-010 is denied.
2. Application 13-12-012 is closed.

This order is effective today.

Dated _____, at San Francisco, California.