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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric  
Company for Wildfire Mitigation and  
Catastrophic Events Interim Rates

A. 20-02-003  
(Filed February 7, 2020)

**WILD TREE FOUNDATION**

**REPLY BRIEF**

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Dated: May 8, 2020

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Pursuant to the Assigned Commissioner’s Scoping Memo and in accordance with the provisions of Rule 13.11 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Wild Tree Foundation (“Wild Tree”) submits this Reply Brief on *Application of Pacific Gas and Electric Company (“PG&E”) for Wildfire Mitigation and Catastrophic Events Interim Rates* (“Application”).

**ARGUMENT**

**I. PG&E HAS NOT MET THE STANDARD FOR INTERIM RATES AND APPROVAL OF THE APPLICATION WOULD BE IN VIOLATION OF DUE PROCESS AND THE PUBLIC UTILITIES CODE**

PG&E has by no means met the burden of proof it holds – it has presented no evidence and only specious legal argument in support of its application. Its brief states multiple times that it considers that it has already made its case in its application and need say no more. “PG&E’s

Application presents the requisite legal authority for the Commission to grant interim rate relief. The cases granting such relief are numerous and broad ranging. (Application, pp. 13-14, discussing D.19-04-039; D.16-08-008; D.02-07-031, D.88-05-074, as well as *Toward Utility Rate Normalization v. Public Utilities Commission*, (1988) 44 Cal.3d 870 (*TURN v. PUC*).)”<sup>1</sup> In fact, PG&E has provided no authority in either its application or brief that support granting of interim rates in this case. There is authority only to the contrary and the application should, therefore, be denied with prejudice.

In opening briefs, TURN, Cal Advocates, and the Joint CCAs have made compelling arguments, based upon *TURN v. PUC* and Commission precedent, as to why this application does not meet the established factors for accelerate recovery and should therefore be denied. Additionally, the decisions that PG&E cites in its brief as support for its claim that PG&E has presented “the requisite legal authority for the Commission to grant interim rate relief” provide no such authority.

D.16-08-008 was a decision granted in A.16-01-010 *Decision Granting Univoip, Incorporated A Certificate Of Public Convenience And Necessity To Provide Resold Local Exchange Telecommunications Services In California*. This proceeding and decision had nothing whatsoever to do with interim rates so it is unclear why PG&E relies upon this decision here.

PG&E was perhaps referring to D.16-08-003 which is distinguishable on its facts. That decision permitted 50% of recovery of costs that, critically, had been recorded in balancing accounts. As the Commission explained in the proceeding establishing those particular balancing accounts, balancing and memorandum accounts are not created or treated equally:

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<sup>1</sup> PG&E Opening Brief at p. 2.

A balancing account is an appropriate regulatory tool where the scope of work is known and accepted as is here, Safety Enhancement as described by the Decision Tree and elsewhere in testimony by SDG&E and SoCalGas, etc., and we find it to be a sufficient project scope; but there is not a reasonable forecast of cost. A memorandum account is an alternative regulatory tool that would only be appropriate here if we could not find that Safety Enhancement was necessary and defined. Note that SDG&E and SoCalGas already have a memorandum account for Safety Enhancement where we have not found a scope of work to be reasonable nor have we found those costs to be reasonable for rate recovery.

As explained further in Wild Tree's Opening Brief<sup>2</sup>, costs recorded in memorandum accounts are not intended to be recovered in interim rates because the Commission has made no finding that the scope of work or costs are reasonable, memorandum accounts already allow for expedited recovery, and "recovery is uncertain" for costs recorded in memorandum accounts.<sup>3</sup> A Commission decision permitting interim rate for balancing accounts is thus irrelevant to a request for interim rate increase for various memorandum accounts.

In D.88-05-074, the Commission granted interim rate increase for specific fuel cost increase based upon section 454.5, as it was written in 1988.<sup>4</sup> The Commission explained that, "§ 454.5 clearly permits and contemplates the Commission granting interim rate relief in ECAC proceedings in advance of hearing."<sup>5</sup> The former section 454.5 relating to rate relief for a fuel cost increase was repealed by AB 1658 in 1999.<sup>6</sup> There is no such statute at play in this current case and D.88-05-074, where by the Commission granted interim rate increase pursuant to a very specific statute, is entirely irrelevant to PG&E's attempts here to be granted an interim rate increase.

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<sup>2</sup> Wild Tree Opening Brief at pp. 6-10.

<sup>3</sup> D.03-12-057 at fn11.

<sup>4</sup> D.88-05-074.

<sup>5</sup> *Ibid.*

<sup>6</sup> Stats.1999, c. 1005 (A.B.1658), § 13.

In D.02-07-031 the utility's rate of return was negative and thus the Commission found "Sierra's California operations are in dire financial straights, which satisfy the requirements of an interim rate increase, subject to refund." This type of financial emergency is not present here. PG&E is already in bankruptcy and has already filed a reorganization plan that the Commission is fast tracking for approval. PG&E could have already applied for and can apply for, at any point, expedited reasonableness review of the costs it has recorded in the various memorandum accounts. There will be no financial emergency resulting from this case other than for PG&E ratepayers who will have their already high rates increased even more as the state heads into the a steadily worsening recession.

## **II. RATEPAYERS WILL BE HARMED**

PG&E's application will be unfair to ratepayers and PG&E's statements regarding accelerating rate increases during a public health and economic crisis of unprecedented scope wrongly discounts the harm an interim rate increase would cause ratepayers. PG&E states, "Acting now to implement these interim rates will help to lower overall costs to customers by reducing the cost of borrowing money to finance essential safety and reliability work, including wildfire mitigation work, and will help PG&E's suppliers at a time when the most affected customers are protected."<sup>7</sup>

First, PG&E's claim that the "most affected customers are protected" ignores the fact that *all* customers are affected by the bottom falling out of the economy and all customers are not protected. PG&E rates are already unconscionably high and California is facing unemployment expected to reach 18%, widespread closure of businesses, a massive budget deficit, and overall

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<sup>7</sup> PG&E Opening Brief at p. 10.

contraction of the economy. This is not the time to put even more financial pressure on ratepayers by increasing rates earlier and for a greater amount than reasonable. Additionally, benefits to PG&E suppliers is not a justification for a billion-dollar interim rate increase.

Lastly, PG&E's claims that interim rates will lower overall costs to customers lack credibility. As explained by TURN, PG&E has provided only "entirely speculative" figures regarding supposed benefit to ratepayers that cannot be relied upon by the Commission.<sup>8</sup> PG&E itself admits that it has, at best, guesstimated claimed customer savings:

How much rates to customers would be lowered through the granting of the interim relief is admittedly challenging to quantify. Nonetheless, PG&E has tried to do so.<sup>22</sup> PG&E estimates that one notch improvement in its credit rating would save customers about \$25 million annually in lowered cost of debt.<sup>9</sup>

But there is no connection between the granting of interim rates and credit rating and PG&E has not even tried to make one.

Furthermore, as explained in Wild Tree's Opening Brief, PG&E will not be able to demonstrate that all of the costs in the various memorandum accounts are reasonable and will not thus be able to secure approval for increase rates for all of these costs.<sup>10</sup> PG&E's claims regarding supposed customer benefits are based upon all of the costs and are overestimates because not all these costs will be recovered. Customers will, therefore, be charged more in interim rates than they would ultimately be charged in increased rates following reasonableness review. This will cause further customer harm not mitigated by a refund years down the road, especially when PG&E has made no effort whatsoever to begin the process for reasonableness review by filing applications for cost recovery. This is the worst possible time for ratepayers to

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<sup>8</sup> TURN Opening Brief at pp. 23-24.

<sup>9</sup> PG&E Opening Brief at p. 4.

<sup>10</sup> Wild Tree Opening Brief at pp. 7-17.

be forced to extend a loan to PG&E and the Commission should abide by its word that it will take action to protect ratepayers during these difficult times and deny this application with prejudice.

Respectfully submitted,

/s/ April Maurath Sommer

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