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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. (U39E).	Application 18-10-008
And Related Matters.	Application 18-10-009 Application 18-10-010

**MOTION OF THE PUBLIC ADVOCATES OFFICE
TO SET ASIDE SUBMISSION AND REOPEN THE RECORD;
[PROPOSED] ORDER**

I. INTRODUCTION

Pursuant to Rules 11.1 and 13.14 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure (Rules), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) requests that the Administrative Law Judge (ALJ) set aside submission of the record and reopen the record in the *Application of Pacific Gas and Electric Company in Compliance with Ordering Paragraph 37, Resolution E-4906. And Related Matters.*, (A.)18-10-008, (A.)18-10-009, (A.)18-10-010. Cal Advocates requests reopening of the record in order to admit the August 17, 2020 “Emergency Action to Combat Heatwave” letter from then-interim CPUC Executive Director Michelle Cooke to Robert Kenney (Pacific Gas and Electric Company), Carla Peterman (Southern California Edison Company), and Dan Skopec (San Diego Gas & Electric Company) (August 17 Letter). The August 17 Letter clarifies how Baseload Interruptible Program (BIP) participants may use prohibited resources¹ during BIP events during the heatwave that occurred in California during the third week of August 2020. In addition, Cal Advocates seeks to introduce into evidence data request

¹ D.16-09-056 OP 3.

responses from the three large investor owned utilities regarding the performance and use of prohibited resources by BIP participants during the August heatwave.²

The record was closed and this proceeding was submitted to the Commission for decision on April 3, 2020.³ In order for Administrative Law Judge Hymes and the Commission to have a complete record on which to make a decision, Cal Advocates moves to open the record and admit into evidence the August 17 Letter and the related data request responses.⁴

II. DISCUSSION

Under Rule 13.14(b) of the Commission’s Rules of Practice and Procedure, a party may make a motion to “set aside submission and reopen the record for the taking of additional evidence . . .” A motion under Rule 13.14(b) must:

specify the facts claimed to constitute grounds in justification thereof, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. It shall contain a brief statement of proposed additional evidence and explain why such evidence was not previously adduced.

Motions to set aside submission and reopen the record have been granted to admit updated information into the record.⁵ The Administrative Law Judge should permit Cal Advocates to update the record so that the Commission has all the facts necessary to determine whether its rules are sufficiently robust regarding the use of prohibited resources during BIP or other demand response events.

On August 17, 2020, the Commission sent a letter, signed by then-interim Executive Director Michelle Cooke, to directors of the three large investor owned utilities

² Cal Advocates issued its data requests (attached to this motion) to PG&E, SCE, and SDG&E on September 8, 2020 with responses requested by September 22, 2020.

³ See Administrative Law Judge’s Ruling Canceling Evidentiary Hearing, Establishing Briefing Schedule and Providing Instruction on Admission of Testimony and Exhibits, January 10, 2020.

⁴ A true and correct copy of the August 17 Letter is attached to this motion.

⁵ See, e.g., Decision (D.) 13-12-041 at pp. 13-14 (On November 20, 2013, the day after the proposed decision was mailed, PG&E determined that its forecast of administrative expenses was incorrect. The PG&E Motion was granted so that the evidentiary record would reflect the correct forecast for administrative expenses.)

(PG&E, SCE, and SDG&E). The letter pertains to the rolling outages forecasted by the grid operator due to the August heatwave,⁶ and the increased risks Californians could face due to Covid-19 during outages. The letter states, in a nutshell, that participants in a BIP event that operate a prohibited resource during the heatwave are acting consistent with Commission rules, so long as they can document that the use of the prohibited resource produced incremental load drop beyond their BIP obligations.

This letter presents a case study of the necessity to both monitor and document demand response (DR) participants running prohibited resources during DR events. To comply with the requirements set forth in the letter, participants must have the ability to show that their prohibited resource only provided load reduction in addition to what was provided by decreasing their electric consumption. Since the events surrounding the August heatwave constitute a “natural experiment”⁷ for prohibited resource activity and documentation abilities during BIP events, Cal Advocates issued data requests seeking to determine how these prohibited resources were utilized and what documentation exists currently. The results of this natural experiment, where BIP resources were asked to perform in an emergency while complying with the PR rules, will inform whether documentation methods are adequate today.

Both Cal Advocates and Sierra Club expressed concerns over the “Hawthorn Effect”, i.e., that subjects of an experiment (or audit) act differently when they know they are being observed.⁸ If a significant number of DR participants utilized their prohibited resources during the heatwave, it would provide the Commission an understanding of both how DR participants with prohibited resources operate when they assume they are not being observed. This information was not previously available during the Applications proceeding since the audit required by Resolution E-4906 only required

⁶ August 17 Letter at p. 1.

⁷ A natural experiment is an event or episode that provides quasi-random and observable variation in treatment. It is distinct from a laboratory experiment in that a researcher did not design the episode, rather it occurred because of factors outside of control of the researcher.

⁸ Opening Brief of Sierra Club at p. 5.

monitoring of 10 percent of Scenario 2 DR participants. Since the letter forgives conduct that occurred before it was issued on August 17, 2020, it is likely that Cal Advocates' data requests will reveal important and relevant behavioral information.

Furthermore, this information may provide the Commission with a greater understanding of the cost impacts of metering. As Cal Advocates and Sierra Club both suggest, there is no need to install an interval meter on a prohibited resource that already possesses built-in metering capability.² If a significant number of Scenario 2 participants are able to provide robust usage data to document their prohibited resource use during the heatwave, it could help create better total cost estimates for a full monitoring program.

III. CONCLUSION

Based on the foregoing, Cal Advocates respectfully requests that the Administrative Law Judge grant this motion to set aside submission, reopen the record, and admit into evidence the August 17 Letter and the responses to Cal Advocates' data requests.

Respectfully submitted,

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² Opening Brief of the Public Advocates Office at pp. 24-25; Opening Brief of Sierra Club at p. 8.

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[PROPOSED] ORDER

In accordance with the Rules of Practice and Procedure, the assigned Administrative Law Judge has considered the Motion of the Public Advocates Office to set aside the submission and reopen the record. The Administrative Law Judge rules as follows:

The Public Advocates Office's motion is granted and the August 17 Letter, attached to the Public Advocates Office's motion, and the responses from PG&E, SCE, and SDG&E to the data requests attached to the motion are moved into the record of the above captioned proceeding.

Dated _____

Administrative Law Judge