



STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED

09/22/20
03:36 PM

September 22, 2020

Agenda ID #18813
Ratesetting

TO PARTIES OF RECORD IN INVESTIGATION 00-11-001:

This is the proposed decision of Administrative Law Judge Hallie Yacknin. 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 October 22, 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:gp2
Attachment

Decision **PROPOSED DECISION OF ALJ YACKNIN** (Mailed 9/22/2020)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation into implementation of Assembly Bill 970 regarding the identification of electric transmission and distribution constraints, actions to resolve those constraints, and related matters affecting the reliability of electric supply.

Investigation 00-11-001

**DECISION GRANTING PACIFIC GAS AND ELECTRIC COMPANY
EXEMPTION FROM DECISION 06-09-003****Summary**

This decision exempts Pacific Gas and Electric Company from Decision (D.) 06-09-003's requirement to submit quarterly reports concerning its transmission projects, until or unless Pacific Gas and Electric Company's reporting requirements in its Federal Energy Regulatory Commission transmission owner tariff expire or are reduced in scope as compared to the Assembly Bill 970 quarterly reporting requirements under D.06-09-003.

This proceeding is closed.

1. Background

In September 2000, the Legislature enacted Assembly Bill (AB) 970 which, among other things, required this Commission to undertake certain actions to reduce or remove constraints on the electrical transmission and distribution

system to facilitate the development of generating resources. The Commission instituted this proceeding to implement AB 970 and, in Decision (D.) 06-09-003, ordered the utilities to submit quarterly reports concerning “all transmission projects starting from the time each is first presented as a transmission project in the periodic stakeholder meetings of the California Independent System Operator leading up to the Annual Transmission Expansion Plan for the utility, or successor planning document.”¹

On March 31, 2020, Pacific Gas and Electric Company (PG&E), the Commission and other parties entered into a partial settlement in PG&E’s pending transmission owner rate case² at the Federal Energy Regulatory Commission (FERC). The partial settlement, which was approved by FERC on August 17, 2020,³ includes a new process to provide information regarding electric transmission projects to the Commission and stakeholders referred to as the Stakeholder Transmission Asset Review (STAR) Process on a semi-annual basis.

Here, PG&E petitions to modify D.06-09-003 to exempt PG&E from its quarterly reporting requirements on the basis that PG&E’s reporting requirements under the STAR Process are much more comprehensive than the AB 970 quarterly reports, making them redundant and unnecessary.

Public Advocates Office responded by proposing instead that D.06-09-003 be modified and expanded to replace, rather than eliminate, the AB 970 quarterly reporting requirement with PG&E’s STAR Process reporting requirements, not

¹ D.06-09-003, Ordering Paragraph 2.

² *Pacific Gas and Electric Company*, Docket No. ER 19-13-000, *et al.*, Docket No. ER 19-1816-000, *et al.*, (consolidated).

³ *Pac. Gas and Elec. Co.*, 172 FERC ¶ 61,142 (2020).

just for PG&E, but also for Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E).

PG&E filed a reply opposing Public Advocates Office's proposal, and SCE and SDG&E filed motions to strike the Public Advocates Office's response to PG&E's petition to the extent that it presents that proposal. Public Advocates Office filed a response to the motions, and SCE and SDG&E filed replies to that response.

2. Motions to Strike

SCE and SDG&E move to strike Public Advocates Office's response and proposal to PG&E's petition on the basis that it is procedurally improper because it exceeds the scope of PG&E's petition and would deny SCE's and SDG&E's due process rights by denying them the opportunity to reply to the response. SCE and SDG&E also similarly move and oppose Public Advocates Office's response and proposal on the bases that it goes beyond the scope of the proceeding, would undermine the partial settlement to which the Commission is a party, and could result in conflicting outcomes if the terms of the STAR Process are changed in the future.

The motions to strike are denied. Nothing in Rule 16.4 precludes a party from presenting an alternate proposal to any proposal in a petition for modification, and there is no merit to the utilities' argument that Rule 16.4(g) of the Rules of Practice and Procedure precludes anyone but the petitioner to reply to such a response. To the contrary, Rule 1.2 dictates that the rules "shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented." Rule 11.1 provides that any party may make a motion at any time in an open proceeding, so long as it states the facts and law supporting the motion and the specific relief or ruling requested. To the extent that SCE and

SDG&E required the opportunity to file a reply to Public Advocates Office's response to PG&E's petition and to be afforded 30 days to do so, they could have made that motion and anticipated its fair resolution.

SCE's and SDG&E's other arguments largely go to the substantive merits of the Public Advocates Office's proposal, which we discuss below.⁴

3. PG&E's request for exemption from D.06-09-003's quarterly reporting requirements

It is uncontested that PG&E's reporting requirements under the partial settlement at FERC are much more comprehensive than its reporting requirements under D.06-09-003. Accordingly, we grant PG&E's petition to modify D.06-09-003 to exempt it from the decision's quarterly reporting requirements.

However, in order to avoid a gap in PG&E's reporting requirements, this exemption shall expire in the event that PG&E's reporting requirements under the STAR Process at FERC expire or are reduced in scope as compared to under the AB 970 quarterly reporting requirements of D.06-09-003.

4. Public Advocates Office's request to substitute D.06-09-003's quarterly reporting requirement with PG&E's reporting requirement under the STAR Process

In its response to PG&E's petition, Public Advocates Office proposes that, rather than exempting PG&E from its AB 970 reporting requirements, the Commission modify D.06-09-003 to subject PG&E to expanded reporting requirements in the data fields listed in the STAR Process, so that the Commission continues to receive this more comprehensive information

⁴ We recognize that the argument that Public Advocates Office's proposal is beyond the scope of the proceeding is a procedural argument as well. We nevertheless address its merits below.

regardless of PG&E's obligations under the proposed STAR Process. Public Advocates Office further proposes that SCE and SDG&E likewise be subject to these or equivalent reporting requirements. We reject Public Advocates Office's proposal for lack of good cause.

First, PG&E's partial settlement already requires it to provide its reported data to the Commission. Similarly, SCE has filed a settlement in SCE's rate case at FERC which addresses SCE's transmission planning reporting obligations.

Second, the issues identified in this proceeding were resolved 14 years ago. To the extent that the Commission needs to investigate new issues within our jurisdiction, including the issue of whether and what information it requires to fully participate in the utilities' rate cases at FERC, it is appropriate to open a new investigation or rulemaking identifying those new issues rather than piggybacking on this proceeding.

Third, as Public Advocates Office aptly emphasizes, to the extent that the Commission and its staff require information from our regulated utilities beyond that required by D.06-09-003, we have the authority and means to do so without modifying our prior decision.

Fourth, as reflected by the separate undertakings in the three utilities' FERC rate cases, there is no basis to assume that the reporting requirements under PG&E's partial settlement can or should be applied to SDG&E and SCE.

Fifth, the Commission negotiated PG&E's partial settlement and SDG&E's and SCE's settlements in good faith. We choose not to undermine that good faith by imposing new reporting requirements outside of those settlements.

Public Advocates Office argues that, because the Commission has the statutory authority to require the utilities to produce this information, we are free to impose new reporting requirements by whatever procedural vehicle we

choose, including by modifying an existing decision or issuing a decision *sua sponte*. To the contrary, while the Commission's authority to require utilities to produce information is broad, the scope of Commission decisions is constrained by the scope of issues identified in the assigned commissioner's scoping memo and the decision must be supported by findings of fact and conclusions of law that determine those identified issues.

Public Advocates Office argues that this investigation is the appropriate vehicle by which to update the utilities' transmission planning reporting requirements because it will facilitate the Commission's growing oversight over the utilities' transmission infrastructure consistent with its mandates following the catastrophic fires of the last few years. To the contrary, the development of incremental reporting requirements precipitated by the Commission's incremental oversight due to the catastrophic fires or other reasons is more appropriately addressed in a proceeding that addresses that specific need. In contrast, this investigation was opened in 2000 for the express purpose of addressing transmission planning issues relevant to that era. While the Commission may determine to undertake that effort in a new investigation or rulemaking, we decline to reopen this 2000 investigation as its vehicle.

5. Comments

The proposed decision of ALJ Yacknin 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 _____.

6. Assignment of Proceeding

Liane Randolph is the assigned Commissioner and Hallie Yacknin is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. PG&E has entered into a partial settlement of its transmission owner rate cases before the FERC pursuant to which it will provide the Commission and other stakeholders with information regarding its transmission projects that is much more comprehensive than the AB 970 quarterly reports required under D.06-09-003.

Conclusions of Law

1. It is reasonable to exempt PG&E from the AB 970 quarterly reporting requirements of D.06-09-003, until and unless PG&E's reporting requirements under the STAR Process at FERC expire or are reduced in scope as compared to the AB 970 quarterly reporting requirements under D.06-09-003.

2. SCE's and SDG&E's motions to strike portions of Public Advocates Office's response to the petition for modification should be denied.

3. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) is exempted from the Assembly Bill 970 quarterly reporting requirements of Decision (D.) 06-09-003 until and unless PG&E's reporting requirements at the Federal Energy Regulatory Commission (FERC) pursuant to the partial settlement in FERC Docket No. ER19-13-000, *et. al.* expire or are reduced in scope as compared to the Assembly Bill 970 quarterly reporting requirements under D.06-09-003.

2. In the event Pacific Gas & Electric Company's (PG&E) reporting requirements pursuant to the partial settlement in Federal Energy Regulatory Commission Docket No. ER19-13-000, et. al. expire or are reduced in scope as compared to the Assembly Bill 970 quarterly reporting requirements under Decision 06-09-003, PG&E shall notify the Commission by Tier 1 Advice Letter.

3. Southern California Edison Company's and San Diego Gas & Electric Company's motions to strike portions of Public Advocates Office's response to the petition for modification are denied.

4. Investigation 00-11-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California