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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company for (1) Administration of Stress Test Methodology Developed Pursuant to Public Utilities Code Section 451.2(b) and (2) Determination That $7.5 Billion of 2017 Catastrophic Wildfire Costs and Expenses Are Stress Test Costs That May Be Financed Through Issuance of Recovery Bonds Pursuant to Section 451.2(c) and Section 850 et seq. (U39E)	Application 20-04-023 (Filed April 30, 2020)

WILD TREE FOUNDATION

REPLY BRIEF

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WILD TREE FOUNDATION

REPLY BRIEF

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") respectfully files this reply brief opposing the Application of Pacific Gas and Electric Company ("PG&E") for (1) Administration of Stress Test Methodology Developed Pursuant to Public Utilities Code Section 451.2(b) and (2) Determination That $7.5 Billion of 2017 Catastrophic Wildfire Costs and Expenses Are Stress Test Costs That May Be Financed Through Issuance of Recovery Bonds Pursuant to Section 451.2(c) and Section 850 et seq.[1] ("Application").

[1] All further statutory references will be to the Public Utilities Code unless otherwise noted.

INTRODUCTION

PG&E has failed to meets its burden of proof that it is eligible for stress test treatment pursuant to SB 901 and AB 1054, that $7.5 billion are costs are eligible for securitization pursuant to Public Utilities Code sections 451.2 and 850 et seq., that its proposal meets the ratepayer neutrality requirements of the Code and Commission precedent and its own representations before this Commission, or that the proposed financing order is in compliance with the Code and Commission precedent. PG&E's new Opening Brief proposal would actually be worse for ratepayers and the Wild Tree Foundation urges the Commission to deny this application both as initially proposed and as proposed in PG&E's Opening Brief.

ARGUMENT

I. ELIGIBILITY TO ACCESS THE STRESS TEST AND SATISFACTION OF ALL APPLICABLE LEGAL REQUIREMENTS (SCOPING MEMO §§ 1 AND SUBPARTS)

The application should be denied because it is a prohibited attempt to relitigate D.19-06-027, in which the commission ruled that PG&E is not eligible for SB 901 stress test treatment; because PG&E has ignored the stress test methodology requirement that disallowed costs first be determined by the Commission prior to the Commission calculating a customer harm threshold; because PG&E has not demonstrated that it requires a bond to prevent harm to ratepayers or provide adequate and safe service; and because securitization is supposed to be a last resort and PG&E has approval for a ratepayer neutral plan to issue debt in A.20-05-005 for the costs it

seeks to have securitized. As a financing mechanism of last resort, the commission should not permit PG&E to rely upon securitization when it already has a ratepayer neutral financing mechanism approved by the commission for addressing the costs it seeks to securitize.

II. WHETHER PG&E HAS DEMONSTRATED THAT $7.5 BILLION OF 2017 WILDFIRE CLAIMS COSTS ARE ELIGIBLE FOR SECURITIZATION (SCOPING MEMO § 2 AND SUBPARTS)

Wild Tree has no reply comments on this section.

III. WHETHER PG&E'S PROPOSAL WILL ACCELERATE IMPROVEMENT IN PG&E'S CREDIT RATINGS AND RELATED ISSUES OF RATEPAYER BENEFITS (SCOPING MEMO § 1C)

TURN, City of San Francisco, EPUC, and A4NR have demonstrated that PG&E's proposal will not accelerate improvements in PG&E's credit ratings as claimed by PG&E. As a utility with junk credit rating that has failed to demonstrate a path to investment grade credit rating, PG&E's application must be denied as not eligible for stress test treatment.

IV. WHETHER PG&E'S PROPOSAL IS NEUTRAL, ON AVERAGE, TO RATEPAYERS, AS REQUIRED BY D.20-05-053 (SCOPING MEMO §§ 3, 4 AND 6 AND SUBPARTS)

PG&E has not even tried to demonstrate that its proposal is rate neutral. PG&E states in its Opening Brief, "By proposing a Securitization that is anticipated to be rate-neutral to customers,

PG&E is proposing a robust ratepayer protection measure."[2] The law does not require that a bond issued under sections 451.2 and 850 et seq. be "anticipated" to be rate neutral, it explicitly requires it to *be* rate neutral. This premise has been well stated by the ratepayer advocate intervenors in this case. For example, CLEAC states, **"**A chance at neutrality is not the same thing as ratepayer neutrality"[3] and CCSF explains, "AB 1054 provides no support for PG&E's argument. The Commission must find that PG&E's proposal is actually rate neutral—not just possibly rate neutral."[4]

PG&E's proposal is premised upon ratepayers carrying a financial risk and therefore is not ratepayer neutral. PG&E states that it has calculated that there is a 16% chance the Trust will have a deficit.[5] Such forecasting relies upon assumptions of financial conditions over the next 30 years including the performance of the stock market.[6] The assumptions underlying PG&E's forecasting are flawed and it has therefore underestimated the risk to ratepayers.[7] Setting aside whether or not PG&E's prediction is based upon a sound methodology, PG&E's plan to address this risk provides no guarantees and does not, therefore, eliminate the risk to ratepayers. In other word, "16 percent possibilities do happen."[8]

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[2] PGE& Opening Brief at p. 30.
[3] CLECA Opening Brief at p. 11.
[4] CCSF Opening Brief at p. 18.
[5] PG&E-06 at p. 6-29.
[6] WTF-01 at p. 7:13-14.
[7] WTF-01 at p. 7:14-17; see also pp. 6:10 – 7:8.
[8] TURN Opening Brief at p. 2.

Furthermore, PG&E's forecasting of 16% risk is greatly underestimated. TURN's results of its Monte Carlo simulation demonstrate that PG&E's forecast greatly underestimate the probability of a CCT deficit. This is expected because Wild Tree has demonstrated that PG&E witness Greg Allen's Monte Carlo simulation methodology underestimates the risk to consumers because he assumes stock price returns are normally distributed when "historical stock returns are not exactly normally distributed."[9] TURN explains additional issues with PG&E's approach:

> If, contrary to its own precedent, the Commission decides to use an *ex ante* approach to assessing whether ratepayer neutrality is satisfied, TURN presented two separate and complementary analyses showing that the exchange that PG&E is proposing is not neutral to ratepayers. Under PG&E's proposal, ratepayers are required to pay a stream of certain monthly FRC charges for 30 years and in exchange would have access to payments from the Customer Credit Trust (CCT) that depend upon timely contributions by PG&E shareholders (tied to minimum thresholds of future profits) and investment returns on these shareholder contributions. While the liabilities imposed on ratepayers are known with certainty, the offsetting credits will only occur if certain conditions are met. When the risk-adjusted value of those two streams of payments is compared, both of TURN's analyses show that the value of what ratepayers would receive is approximately $4 billion less than what they would be compelled to give up. No rational investor – or any person – would view such a lopsided exchange as "neutral."[10]

TURN further explains that the fact that PG&E has not investigated assigning risk of a CCT deficit to third parties suggests one of two possibilities: "First, PG&E may be specifically motivated to assign the risk of any shortfalls to its own ratepayers. Second, PG&E may realize that the risk of a shortfall is far greater than it has acknowledged thus far."[11]

[9] WTF-04 at p. 125.
[10] TURN Opening Brief at p. 2.
[11] TURN Opening Brief at pp. 128-129.

V. WHETHER SECTION 451 APPLIES, AND IF SO, WHETHER PG&E HAS MET ITS BURDEN UNDER SECTION 451 (SCOPING MEMO § 5)

Wild Tree has no reply comments on this section.

VI. WHETHER THE COMMISSION SHOULD ADOPT CONDITIONS OR ALTERNATIVES TO PG&E'S PROPOSAL (SCOPING MEMO §§ 3B, 3C, 3D, 3E, 6A, 6B, 6C)

The intervenors parties in the proceeding, with the exception of PG&E cohort CUE, are clear that the Commission should not approve PG&E's proposal for a securitized bond.[12] Wild Tree and other intervenors offer alternatives only in the case that the Commission does not act upon intervenors recommendations and ignores the application's multiple procedural and substantive violations of SB 901, AB 1054, D.20-05-053 and D.19-06-027 to permit PG&E to issue a bond.

[12] TURN Opening Brief at p. 113 ("TURN's primary recommendation is that the Commission reject PG&E's application."); A4NR Opening Brief at p. v ("A4NR recommends that the Commission deny the Application and offer guidance to PG&E for what a statutorily-compliant securitization will require."); CCSF Opening Brief at p. 1 ("San Francisco submits that the Commission should deny the application because it does not meet the requirements of Senate Bill ("SB") 901 (Dodd, Chapter 626, Statutes of 2018) and is not ratepayer neutral."); CLECA Opening Brief at p. 2 ("CLECA recommends rejection of Pacific Gas & Electric Company's (PG&E or the Company) application as it does not meet the applicable legal requirements, and simply poses too great a risk to PG&E ratepayers as proposed."); EPUC Opening Brief at p. 33 ("The Commission should not approve the Securitization as proposed; the Commission must attach conditions to protect ratepayers.")

A. Wild Tree Proposed Alternative

As described in detail in Wild Tree's Opening Brief, PG&E already has Commission approval for an alternative to refinance temporary debt into longer term debt and it should implement that plan. According to PG&E, the issuance of $4.5 billion of temporary debt puts it in a position to meet the D.20-05-053 requirement that it execute its plan to de-leverage over time and continuing to increase its equity ratio, on average, following emergence.[13] Should the Commission nonetheless decide to grant PG&E a bond, it should be for far less, certainly no more than $1.35 billion, and should not include any costs for interest payments and additional conditions, discussed below, must be imposed.

1. Ratepayers will be guaranteed 100% of any surplus that exists in the shareholder assets of the Trust

PG&E complains that guaranteeing ratepayers 100% of any surplus "would involve an unfair allocation of the risks and upside potential of the Securitization, and should be rejected."[14] If shareholders receive any "upside" of the securitization other than not having to pay for billions of debt that they would otherwise be in the hook 100% for, shareholders would profit off PG&E's payment of wildfire victim claims which is not just contrary to requirement of the bankruptcy and AB 1054, but morally reprehensible. Under PG&E's proposal, its shareholders would receive 75% of any upside for the Trust yet would bear no risk on the downside, while ratepayers must fund any shortfall in full at their own expense. This is the actual "unfair allocation" at play here.

[13] D.20-12-025 at p. 12.
[14] PG&E Opening Brief at p. 145.

PG&E's view that guaranteeing ratepayers anything more than the completely arbitrary 25% "share" of any CCT surplus "would simply take more of shareholders' money and give it to customers" ignores two critical facts. First, Ratepayer Protection Measures must be included in a utility's Stress Test application "to ensure the utility's shareholders do not obtain a windfall of future upside as the utility recovers its financial health."[15] Ratepayer protection measures "are intended to provide ratepayers with an opportunity to participate in a utility's financial upside as the utility's long-term financial health improves - which is expected as a result of the Commission shifting otherwise disallowed costs from the utility onto ratepayers pursuant to SB 901 (2018)."[16] The Commission ordered "explicit proposals for ratepayer protections are needed to achieve the Legislative directive of determining the maximum amount an electrical corporation can pay without materially impacting its ability to provide adequate and safe service OR harming ratepayers."**[17]** Further, the use of these measures is intended to encourage a utility to "maximize the share of disallowed costs they absorb and ensure utilities view the Stress Test as a financing mechanism of last resort."**[18]**

Here PG&E has proposed a ratepayer protection measure that not only fails to mitigate harm to ratepayers from forcing them to become unwitting risk-bearing creditors in PG&E, but also would provide a windfall to PG&E shareholders. The ratepayer protection measure thus totally fails to achieve the purpose of protecting ratepayers. The plan to allow shareholders to profit at 3 times more than ratepayers from the supposed ratepayer protection measure would unquestionably provide shareholders such a windfall. Absent the securitization, ratepayers

[15] D.19-06-027 at pp. 45-46.
[16] D.19-06-027 at *Stress Test Methodology* p. 14.
[17] D.19-06-027 at p. 47.
[18] D.19-06-027 at *Stress Test Methodology* p. 14.

would pay nothing for the costs PG&E seeks to securitize. PG&E would not be "giving" ratepayers anything by reimbursing them for their involuntary backing of a ratepayer backed bond.

2. **The Customer Credit Trust ("CCT") will be fully funded by *increased* shareholder contributions at the outset, not subject to contributions over time to make up the full shareholder contribution;**

Wild Tree agrees with other intervenors that, if a bond is to be issued, the initial shareholder contributions must be increased. Wild Tree modifies its alternative proposal to include a greater initial shareholder contribution to be fully funded at the outset. As discussed further below, PG&E has proposed in its Opening Brief to actually decrease the initial shareholder contributions and extend the time by which it would fund the CCT. This is unacceptable as this would further increase risk to ratepayers in the immediate future at the worst possible time to do so.

3. **Trust management should be required to notify the Commission in the event of a deficit or shortfall. Once notified, the Commission will conduct an independent review at that time to determine whether and how much PG&E shareholders should be required to contribute to the Trust so as to meet the requirements of ratepayer neutrality and to ensure that ratepayers not pay for the costs of the 2017 fires;**

PG&E has proposed a modified version of Wild Tree's proposal in its Opening Brief, stating that "PG&E could accept a single review of the sufficiency of the Customer Credit Trust in 2040."[19] PG&E thus indicates some level of acceptance of Wild Tree's proposal that the Commission conduct a future review to determine need for additional shareholder contributions. As discussed further below, the limits PG&E would put on the review process are unacceptable.

[19] PG&E Opening Brief at p. 158.

4. Managers of the Trust would have the authority to distribute any accumulated surplus to ratepayers at their professional discretion anytime

Wild Tree has proposed that managers of the Trust should have the authority to distribute any accumulated surplus to ratepayers at their professional discretion anytime. PG&E states that "Wild Tree's proposal to confer discretion on a Committee majority to approve interim distributions - without Commission involvement - is unjustified and should be rejected."[20] Wild Tree's proposal does not seek to limit the involvement of the Commission but instead to make it easier for Trust managers to act so as to protect ratepayers. Wild Tree does not object to Commission involvement of the Commission in regards to interim distributions but notes that this would be one of many resources intensive roles for the Commission to continue to play, which is in of itself problematic, as described by TURN:

> PG&E's proposal would impose significant new regulatory burdens on the Commission. If the Commission approves PG&E's proposal, it would be signing up for 30 years of significant burdens in the form of multiple annual (or more frequent) advice letter submissions and ongoing monitoring and auditing of a new balancing account. In addition, because PG&E would need to gain approval whenever it needs to reduce or eliminate customer credits, the Commission would be saddling future Commissions with potential resource-intensive controversies of an unknown amount and frequency over three decades, controversies that could significantly deplete scarce CPUC resources."[21]

5. The Commission will retain oversight of the bond following the issuance of a financing order and will utilize a pre-issuance financing team process to determine the structure, marketing and pricing of the bond so as to meet the requirements of Pub. Util. Code sections 850 et seq.

[20] PG&E Opening Brief at p. 136.
[21] TURN Opening Brief at p. 3.

PG&E has stated in testimony and in its Opening Brief that "While PG&E would not oppose the creation of a financing team, if the Commission decides that would be appropriate in the context of this transaction"[22] it has also filed an application for a financing order that does not include a finance team. As discussed further below, PG&E seems to view the issue of pre-issuance financing team as some sort of battle of wills between Wild Tree and itself instead of as clear requirement of sections 850 et seq. as interpreted by the Commission in D.19-06-027. The Code and Commission precedent are clear that a pre-issuance financing team process is needed to determine the structure, marketing and pricing of any bond issued pursuant to sections 850 et seq.

6. The Commission – not PG&E management or its board of Directors - will select and approve the members of the Customer Credit Trust management committee. The members will owe ratepayers a fiduciary duty and will make decisions on a majority basis

B. Other Party Proposals

1. PG&E

In its Opening Brief, PG&E made a new proposal for the first time in this proceeding, additional to the changes in the proposal due to the late filing of a highly amended draft financing order. PG&E's Opening Brief Proposal fails to improve upon the flawed proposal made in the application and financing orders and should be denied. PG&E's Opening Brief

[22] PG&E Opening Brief at p. 173.

proposal imposes further unreasonable risk upon ratepayers that they will have to pay, without reimbursement, for the death and destruction PG&E of the many catastrophic fires it caused and should be denied. PG&E states that "These three elements, taken together, would reduce even further the low probability of a deficit in the Customer Credit Trust."[23] But what PG&E doesn't and cannot say is that it has not made any proposal that eliminates the probably of deficit in the CCT and that its proposal to decrease the initial shareholder contributions will increases risk to ratepayers. Also, there are actually four elements to PG&E's Opening Brief proposal and the forth element alone – a decrease from 25% to 10% in the amount PG&E would "share" with ratepayers from any CCT surplus - makes the Opening Brief proposal even worse for ratepayers than the Application proposal. As with PG&E's draft financing order, intervenor experts have not been able to evaluate the new proposal in their testimony due to PG&E proposing major changes in the application months after intervenor testimony was due. Nonetheless, Wild Tree briefly addresses some of the separate elements of PG&E's Opening Brief Proposal below.

PG&E states that it proposes "a $200 million increase in the Initial Shareholder Contribution, from $1.8 billion to $2 billion, provided that $1 billion is contributed in 2021 and $1 billion in 2024."[24] In reality, PG&E is really proposing a decrease in the Initial Shareholder Contribution from $1.8 billion to $1 billion, and potentially committing to one single additional contribution of $1 billion in 2024: PG&E states with emphasis original, "To be clear, PG&E would be willing and able to increase the Initial Shareholder contribution <u>only if</u> the contributions were sequenced as proposed above ($1 billion in 2021, $1 billion in 2024)."[25] The Commission should not be tricked by PG&E's attempt to sell a substantially decreased Initial

[23] PG&E Opening Brief at p. 7.
[24] PG&E Opening Brief at p. 6.
[25] PG&E Opening Brief at p. 156.

Shareholder Contribution as a $200 million increase. Overall, $1.8 billion in 2021 or $2 billion by 2024 is a wash or even a smaller overall contribution in present value dollars and a contribution made three years down the road is not an initial contribution.

The longer that PG&E shareholders have to fund the trust, the higher the risk for ratepayers. PG&E's proposal to tie an increase in the initial shareholder contribution to an extension of the time to pay increases the risk to ratepayer and does not, on the balance, improve upon the Application proposal or make the proposal bond ratepayer neutral. The more money the shareholders fund the CCT with up front, the better, as ratepayer risk does decrease with increased CCT funding. PG&E's new proposal to decrease the initial funding by 80% thus greatly increases risk to ratepayers. This risk is most potent during the next few years. PG&E's Opening Brief proposal thus seeks to increase rates, with only potential reimbursement down the road, and increase risk of non-reimbursement during the worst possible time as we battle a global and economic crisis of epic proportion.

PG&E's Application states that other than the Initial Shareholder Contribution, Additional Shareholder Contribution, and Customer Credit Trust Returns, "PG&E will not be obligated to make any contributions to the Customer Credit Trust."[26] The customer credit returns are dependent upon successful investment of a portfolio of risk assets consisting of stocks and bonds, which is never certain.[27] The "Additional Shareholder Contributions" are capped, unguaranteed, not planned to commence until 2024 and dependent on future performance and various corporate metrics that are presently uncertain. PG&E's Opening Brief proposal would perhaps commit PG&E to making one additional contribution in 2024 but only for an amount

[26] PG&E-03 at Exhibit 3.1: Form of Financing Order at p. 5.
[27] WTF-01 at p. 8:5-7.

that should have been paid in 2021 in the first place. This single additional contribution in 2024 would not outweigh the increased risk caused by an 80% smaller initial contribution.

PG&E also proposes a "contingent supplemental shareholder contribution in 2040" based upon Commission review and determination of "whether PG&E should be required to make a shareholder-funded supplemental contribution, up to a limit of $775 million."[28] PG&E "proposes that the Commission conduct any such review in 2040 because the Additional Shareholder Contributions should be fully made by that point"[29] and "the 2040 review gives the Commission the opportunity to review the Customer Credit Trust balance in advance of any ultimate shortfall in the Trust."[30] Given that additional shareholder contributions are capped, unguaranteed, and dependent on future performance and various corporate metrics that are presently uncertain, it does not make sense to limit further Commission review to one time in 2040. PG&E assumptions, based solely upon its flawed Monte Carlo analysis, is unfounded that there will be no shortfall prior to 2047 and the Commission should be able to conduct review at any point in which a shortfall does occur.

PG&E's attempt to limit further shareholder contributions to $775 million should be similarly disregarded by the Commissions. PG&E states, "In a 2040 proceeding, the Commission would have the discretion to determine whether to require PG&E to make a supplemental contribution, and if so, in what amount, provided that the supplemental contribution cannot exceed $775 million."[31] Of course, a limit on supplemental contributions would be a limit on the discretion of the Commission so PG&E doesn't really want the

[28] PG&E Opening Brief at p. 158.
[29] PG&E Opening Brief at p. 158.
[30] PG&E Opening Brief at p. 159.
[31] PG&E Opening Brief at p. 159.

Commissions to have discretion in this matter. The Commission should be free to determine at any time, what level of additional shareholder contribution is needed to ensure that ratepayers are not forced to pay for wildfire victim claims as a result of a CCT deficit.

PG&E's Opening Brief proposal to "share" with ratepayers now just 10% of any CCT surplus is ridiculous and should be denied. PG&E's attempt to whittle away ratepayers "share" to just 10% makes this proposed ratepayer protection measure even more ineffective that as proposed in the Application. As discussed in Wild Tree's Opening Brief and above, this ratepayer protection measure can only meet the requirements of the Code and Commission precedent if it provides for all surplus to ratepayers.

2. Cal Advocates

Cal Advocates' proposal that the Commission approve a $6 billion bond should not be adopted because it would actually impose even more risk on ratepayers than PG&E's proposal. Cal Advocates argues persuasively that PG&E's proposal does not meet statutory requirement of SB 901 and AB 1054 as well as Commission precedent in D.20-05-053 and D.19-06-027. Most notably Cal Advocates argues that "Based on PG&E's proposal and the record developed through evidentiary hearings in this proceeding, Cal Advocates contends that PG&E has not demonstrated that securitization of the entire $7.5 billion amount is justified, nor will it achieve the ratepayer neutral requirement of the Commission."[32] But, paradoxically, Cal Advocates then proposes that the Commission adopt a "modification" to PG&E's proposal that would not address any of the deficiencies identified by Cal Advocates or by other parties, most critically

[32] Cal Advocates Opening Brief at p. 2.

that the bond be ratepayer neutral. Instead, Cal Advocates proposes a recovery bond and trust structure that, according to Cal Advocates, would actually have a higher probability of trust deficit! Even PG&E states that "the proposal does not reduce the likelihood of a shortfall in the Customer Credit Trust but instead reduces other benefits."[33]

Cal Advocates states in its Opening Brief that, "Cal Advocates reiterates the recommendation it made in testimony, that the Commission find that $6.0 billion of 2017 catastrophic wildfire costs may be financed through the issuance of recovery bonds. **(**Exhibit Cal Advocates-01C, pp. 1, 12.)[34] Cal Advocates Report states, "Cal Advocates proposes a securitization level of $6.0 billion with proportional decreases to the initial and additional shareholder contributions (Table 1, Option 3)."[35]

As you can see in Table 1, Cal Advocates proposal would increase the probability of surplus:

Table 1. Cal Advocates Proposal Versus PG&E Proposal[36]

	PG&E's proposal	Cal Advocates Proposal
Securitization amount ($ in billions)	7.50	6.00
Initial Shareholder Contribution ($ in billions)	1.80	1.44
Additional Shareholder Contribution ($ in billions)	7.59	6.07
Probability of Surplus (%)	84.4%	84.1%

[33] PG&E Opening Brief at p. 148.
[34] Cal Advocates Opening Brief at p. 2.
[35] Cal Advocates Report at p. 2.
[36] Cal Advocates Opening Brief at Table 1.

Mean Surplus of Trust in 2050 ($ in billions)	4.857	3.877

Despite Cal Advocates' claim that there is a "constant probability of surplus in our Recommendation,"[37] Cal Advocates proposal's estimated probability of surplus of 84.1% is a decrease from PG&E estimate of 84.4%. While the decrease may seem like a small amount, it is entirely fatal to Cal Advocates' assertion that its proposal somehow would serve to be ratepayer neutral and otherwise meet requirement of the Code and precedent when PG&E's proposal would not.

Cal Advocates own statements in its report make it clear that its proposal doesn't adopt any of the scenarios it identified as actually decreasing ratepayer risk. Cal Advocates didn't even bother to analyze a scenario of Reduced Securitization and Increase Shareholder Contribution, which would obviously provide greater reduction of risk of deficit than any of the scenarios included by Cal Advocates. Moreover, Cal Advocates does not identify, much less recommend, any scenario that would eliminate ratepayer risk. Cal Advocates states:

> As shown in Table 1, either an increase in the initial contribution by PG&E to $2.67 billion at the $7.5 billion securitization level or a decrease in securitization while leaving the initial shareholder contribution unchanged will both serve to increase the probability that the fund will avoid a shortfall. Although these options would serve to enhance ratepayer neutrality relative to PG&E's proposed securitization, they may not serve to accelerate the path to stronger credit ratings. Therefore, rather than proposing one of these options, Cal Advocates recommends that the Commission authorize the lower securitization level of $6.0 billion with lower shareholder contributions. As described above, there are various additional risks associated with the potential for PG&E not to achieve its forecast taxable income or for PG&E's assumptions to prove overconfident. As these risks are not captured by PG&E's model, the securitization levels presented in Table 1, above, will not appropriately price in all relevant risks that could reduce the ratepayer neutrality of the Customer Credits. A lower securitization level is appropriate to acknowledge these risks and appropriately reduce ratepayer exposure to these risks.[38]

[37] Cal Advocates Opening Brief at p. 16.
[38] Cal Advocates Report at pp. 12-13.

Cal Advocates' proposal would not, by its own language, be any more rate neutral than PG&E's proposal. "Rather than proposing one of these options" which would "serve to increase the probability that the fund will avoid a shortfall" Cal Advocates proposes a bond that would serve to decrease the probability that the fund will avoid a shortfall. Cal Advocates seems to argue that the fact that its proposal is not rate neutral is overcome by the fact that a slightly smaller bond will "accelerate the path to stronger credit ratings" in some unspecified fashion. First, even if PG&E or Cal Advocates could prove that a bond would improve PG&E's credit rating, this does not serve to negate the requirement for ratepayer neutrality. Secondly, it has been well documented on the record in this case by intervenors that the issuance of a bond would not result in the speculative credit rating improvements PG&E claims. Cal Advocates fails to explain how PG&E securitizing less would impress its credit ratings more and result in measurable improvement in credit ratings. Even if Cal Advocates could make such a showing, its proposal should be dismissed as not meeting the requirement that it be ratepayer neutral.

VII. ISSUES RELATING TO PG&E'S PROPOSED FINANCING ORDER (SCOPING MEMO § 7 AND SUBPARTS)

A. PG&E's Proposed Financing Order Is Contrary To The Code, Commission Precedent, And Best Practices

PG&E's position regarding the financing order structure is unclear because it has submitted multiple draft financing orders that do not include a finance team and submitted an application for a financing order proposing the use of underwriters instead of a finance team but have also stated in rebuttal testimony, on the stand, and in its Opening Brief that it would be

"open" to a finance team if the Commission so directed. It has also proposed changes to its Application in its Opening Brief that conflict with its financing order application such as the amount and timing of the funding of the CCT and plans for a 2024 Commission review of shareholder contributions to the CCT. It is uncertain what exactly PG&E is proposing but it is clear that they are not proposing a financing order that complies with the law.

PG&E's argument in its Opening Brief in support of its financing order proposal to utilize an underwriter instead of finance team amounts to little more than an unwarranted attack on the credibility Wild Tree's witness. PG&E states:

> As explained above, PG&E has no objection to the creation of a financing team for this transaction if the Commission deems that appropriate. To that extent, PG&E is not entirely opposed to Mr. Rothschild's testimony insofar as it recommends a financing team as a "modification" to PG&E's proposal. But PG&E does take issue with Mr. Rothschild's attempt to justify this recommendation by alleging that PG&E's interests conflict with those of customers. These allegations are groundless. More broadly, Mr. Rothschild's evaluation of industry "best practices" for utility securitization is fundamentally flawed and should be accorded little to no weight in this proceeding.[39]

Mr. Rothschild's testimony regarding securitization is simple and credible: Commission precedent interpreting the Code requires the use of a pre-issuance financing team review process and best practices from other state utility commissions demonstrates that this is a best practice. His testimony is based on the decades of experience he and his firm have representing consumers regarding utility securitized bond issuances.[40] Additionally, Mr. Rothschild continually engages with other experts with diverse backgrounds, including underwriters like Saber Partners, to ensure commissions have as much information as possible so they can make an informed decision.[41] Mr. Rothschild's testimony in this case is similar to the testimony submitted in A.20-

[39] PG&E Opening Brief at p. 170.
[40] Reporter's Transcript (Vol. 6) 1030:8 – 1032:15 (Wild Tree – Rothschild).
[41] *Ibid.*

07-008 because the testimony addresses the very same issues – the application of section 850 et seq. to a utility application for securitization. In that case, the Commission relied upon Mr. Rothschild's testimony to adopt Wild Tree's recommendation that a pre-issuance finance team review process was necessary to meet the statutory standard that savings to ratepayers would be maximized on a net present value basis.[42]

In contrast, none of PG&E's witnesses in this case, including the witness sponsoring the draft financing order, have any experience providing testimony on best practices of utility securitizations.[43] Even though her written testimony states that PG&E's draft financing order is consistent with past Commission practice, PG&E witness Mari Becker testified that she has not even read D.20-11-007, the Commission's decision in A.20-07-008.[44] Even though she is PG&E's witness sponsoring the draft financing order, witness Becker has absolutely no experience whatsoever with utility securitizations beyond educating herself in preparation for this case.[45] Furthermore, as pointed out by TURN, the witnesses from Citigroup have a conflict of interest in this outcome of this proceeding, specifically in that they have been promised by PG&E that they will be selected as the underwriter. TURN explains:

> Mr. Sauvage and Mr. Lunde should be recognized as having a significant financial interest in PG&E's success in this proceeding. They are biased witnesses and their testimony should be evaluated from that perspective.[46]

PG&E has not actually disputed the content of Mr. Rothschild testimony that the vast majority of utility securitization, including PG&E's past securitization and that approved late last year by the Commission pursuant to section 850 et seq., have utilized a post-issuance review

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[42] *Ibid.*
[43] Reporter's Transcript (Vol. 7.) 1240: 6-18 (PG&E – Becker).
[44] Reporter's Transcript (Vol. 7) 1243:11-21 (PG&E – Becker).
[45] Reporter's Transcript (Vol. 7) 1203:19 – 1241:5 (PG&E – Becker).
[46] TURN Opening Brief at p. 10.

finance team instead of solely relying on underwriters to determine the material terms of the bond. PG&E can't dispute these fact and instead, seeks to distract the Commission from these basic facts by attacking Mr. Rothschild's credibility and baselessly questioning the honesty and integrity of Mr. Rothschild and Wild Tree. PG&E makes the untrue accusation that "Mr. Rothschild and Wild Tree provided shifting and inconsistent explanations for how they obtained this document prepared by Saber Partners, a private financial firm in the business of serving in the role that Mr. Rothschild recommends (i.e., as advisor to state commissions on securitization transactions)."[47] Mr. Rothschild has never made any recommendation to any state commission that Saber Partners serve as an advisor and PG&E has no grounds upon which to make such a claim. Furthermore, Mr. Rothschild has not made a recommendation in this case that there should be any advisor to the Commission because Mr. Rothchild recommends that the application be denied:

> I recommended PG&E's proposed securitization be rejected by the Commission because it does not meet the requirements established in AB 1054 and in Decision 20-05-053 that it be ratepayer neutral and that ratepayers not pay for the costs of the 2017 fires that PG&E caused. PG&E's shareholder should thereby be required to pay for the full $7.5 billion in wildfire liabilities.[48]

As explained above in Section VI, Wild Tree's recommendations regarding alternatives and financing team are made only in the unfortunate case that the Commission ignores the recommendations of Wild Tree and other parties that the application be denied and no bond issued.

PG&E also focuses on an attachment to Mr. Rothschild's testimony as if it were some sort of smoking gun evidence of misfeasance by Mr. Rothschild and Wild Tree in this case.

[47] PG&E Opening Brief at p. 173.
[48] WTF-01 at p. 4:10-16.

Again, this is nothing more than a petty attempt by PG&E to obfuscate the fact that its financing order proposal is contrary to law. Attachment A is by no means the "the centerpiece" of Mr. Rothchild's testimony, but it is simply an explanatory document that provides further information to the Commission about utility securitization practices in other states, since there have been so few for comparison in California alone. Mr. Rothschild and Wild Tree have been completely transparent about the fact that the document referred to as Attachment A was obtained from Saber Partners and the document itself has Saber Partners name on it.

Although it is hard to wade through the PG&E's reputation-bashing content in regards to utility best practices, PG&E seems to argue that a financing team is unnecessary because "PG&E's incentives with respect to the Recovery Bonds are strongly aligned with those of ratepayers."[49] Wild Tree acknowledges that securitization is different than other securitizations in that there is somewhat of an alignment between interest of ratepayers and shareholders because lower interest rate means greater chance of surplus in Trust and shareholders get the majority. But, this does not mean that the Commission is absolved of its duties under section 850 to determine the material terms of the bond prior to its approval. This securitization would also be different than any other securitization because it would securitize costs with a ratepayer backed bond for costs that ratepayers would not otherwise be responsible for. In all other utility securitizations – e.g. for storm damage, nuclear decommissioning, wildfire mitigation costs - there is already an agreement that ratepayers are responsible for the underlying costs. But here, there is already an agreement that ratepayers are not responsible for the underlying costs. Under such circumstances it is all the more important that costs to ratepayer be minimized. PG&E's plan to leave the determination of material terms of the bond to underwriters is unacceptable.

[49] PG&E Opening Brief at p. 170.

Critically, underwriters' interests are not aligned with ratepayers, the Commission, or even PG&E. PG&E's assertion that "Citi, moreover, has a strong reputational interest in securing the best terms possible for PG&E"[50] is not evidence countering the fact that as an underwriter, Citi has no fiduciary duty to ratepayers and is first and foremost motivated by its own financial interests which do not align with ratepayers.

In the last two securitization bonds approved by the Commission, separated by 16 years, the Commission utilized a financing team to make critical determination on the material terms of the bond, rather than leaving it up to an underwriter.[51] As established in Commission precedent and best practices from other state utility commissions, the Commission should not approve a financing order that relies on underwriters to determine the material terms of the bonds after the financing order is issued. Reliance upon underwriters to determine material terms of a recovery bond put an unreasonable risk of dollars left on the table, thereby failing to maximize present value savings for ratepayers.

PG&E's proposed financing order ignores the requirements of Code as interpreted in recent and long-standing Commission precedent that a pre-issuance finance team review process to is necessary determine the structure, marketing and pricing of securitized bonds. If the Commission issues a financing order in this proceeding, it must establish continuing Commission oversight over the material terms of the recovery bond. There is no other way that PG&E can demonstrate that the requirements of sections 850 et seq. can be met in this proceeding.

[50] PG&E Opening Brief at p. 172.
[51] D.04-11-015.

VIII. IF THE SECURITIZATION IS APPROVED, WHETHER THE COMMISSION SHOULD AUTHORIZE PG&E'S PROPOSED ADJUSTMENTS TO ITS RATEMAKING CAPITAL STRUCTURE (SCOPING MEMO § 8)

Wild Tree does not have any reply comments on this section.

IX. IMPACTS ON MUNICIPAL DEPARTING LOAD (SCOPING MEMO § 9)

Wild Tree does not have any reply comments on this section.

CONCLUSION

For the reasons stated in Wild Tree Foundation's Opening Brief and herein, the Commission should deny the application with prejudice. If it does move ahead with a recovery bond it should be for much less and with the requirements recommended herein.

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