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

Application of Pacific Gas and Electric
Company for Approval of Regionalization
Proposal.

(U39M)

Application No. 20-06-011

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 M)
RESPONSE TO THE MOTION OF THE UTILITY REFORM NETWORK FOR
EVIDENTIARY HEARINGS**

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Pursuant to Rule 11.1(e) of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Pacific Gas and Electric Company (“PG&E”) respectfully responds to the Motion of The Utility Reform Network (“TURN”) for Evidentiary Hearings, filed July 23, 2021 pursuant to the *Assigned Commissioner’s Amended Scoping Memo and Ruling* (“Motion”).

I. INTRODUCTION AND SUMMARY OF RESPONSE

TURN’s Motion identifies three topics for evidentiary hearings: (1) the lack of safety metrics to show “whether and how much PG&E’s Regionalization Proposal would improve PG&E’s safety performance;”^{1/} (2) whether PG&E has demonstrated safety will improve through regionalization;^{2/} and (3) “the nature of the regionalization costs that PG&E is seeking to record in the Regional Plan Memorandum Account.”^{3/} While TURN may disagree with PG&E’s position on these issues, its disagreement is a matter of policy rather than a factual dispute. Evidentiary hearings are only warranted where there are material issues of fact in dispute.

Given this, TURN’s Motion should be denied for the following reasons:

- TURN’s request for hearings on safety metrics is inappropriate as the adoption of metrics for the new regions is out of the scope of the proceeding.^{4/} There are no disputed issues regarding safety metrics that evidentiary hearings would resolve.

^{1/} TURN Motion, p. 1.

^{2/} TURN Motion, p. 3.

^{3/} TURN Motion, p. 6.

^{4/} *Assigned Commissioner’s Scoping Memo and Ruling* (Oct. 2, 2020) p. 4 (“Scoping Memo”).

- PG&E’s Updated Regionalization Proposal describes the new way in which PG&E will work in each region to improve safety. TURN may be unpersuaded by PG&E’s showing. However, its lack of conviction by itself does not present issues of fact for the Commission to resolve in hearings.
- TURN’s request for hearings on costs that may be recorded to the Regional Plan Memorandum Account (“RPMA”) is premature. PG&E has not requested cost recovery in this proceeding. It is inappropriate to conduct hearings now on costs that PG&E *may* record in an approved memorandum account and for which it *may* seek cost recovery later in a separate proceeding. Here, TURN’s request for evidentiary hearings is simply an attempt to seek to relitigate the approval of the memorandum account and should be denied.
- TURN – the sole party to request evidentiary hearings – did not propound a single data request on PG&E in this proceeding. Had TURN truly believed that there were factual disputes, data requests would have been appropriate to obtain more facts and narrow the factual issues in dispute. While TURN may disagree with PG&E’s position on the issues raised in its motion, its disagreements are on policy matters rather than factual issues. As such, TURN has failed to identify material disputed issues of fact and has not met its burden to show that evidentiary hearings are needed.

II. DISCUSSION

A. Evidentiary Hearings are Unnecessary Where There Are No Material Issues of Fact in Dispute.

It is well-established that evidentiary hearings are only warranted where there exist material issues of fact in dispute. As the Commission has made clear “due process does not require a hearing that serves no useful purpose.”^{5/} “Due process does not require a hearing merely to ‘sharpen the issues’ or ‘fully develop the facts;’ rather, there must be disputed issues of *material* fact in order to merit a hearing.”^{6/} In fact, the Commission has held that “the fact that there may be material issues of fact in dispute *does not necessarily mean that evidentiary hearings are required. The Commission may properly resolve such conflicts without a hearing if there is a sufficient written record upon which the Commission may base its findings and*

^{5/} Decision (“D.”) 04-05-033 at pp. 10-11.

^{6/} D.04-05-033 at p. 11; *see also* D.20-03-019 at p. 25 (denying motion for evidentiary hearings stating “if a contesting party asserts that a hearing is required by law, the party must provide appropriate citation and specify the materially contested facts.”); Commission Rule 12.3 (“If there are no material contested issues of fact, or if the contested issue is one of law, the Commission may decline to set a hearing.”).

conclusions.”^{7/} The Commission has the discretion to determine whether a hearing is warranted based on the facts of the case.^{8/} As the moving party, TURN has the burden of specifying the specific material facts in dispute that require hearings.^{9/} TURN has failed to meet its burden.

B. TURN’s Motion Fails to Identify Material Issues of Fact in Dispute and Should be Rejected.

1. Safety and Operational Metrics Are Out of Scope of This Proceeding.

In her *Assigned Commissioner’s Scoping Memo*, Commissioner Batjer determined that the adoption of safety metrics was out of scope.^{10/} Throughout this proceeding, and despite the Commission determination otherwise, TURN has advocated for the development of safety metrics and the quantification of safety benefits as a prerequisite to Commission approval of PG&E’s Regionalization Proposal.

In TURN’s protest to PG&E’s Application, it recommended that the “Commission . . . adopt metrics to measure whether PG&E’s regionalization efforts indeed result in improved [safety] performance.”^{11/} In its November 20, 2020 workshop comments, TURN alleged that PG&E’s proposal is deficient because it lacks the “metrics that would be employed” to quantify operational and safety performance improvements.^{12/} TURN now proposes to “prove” through evidentiary hearings that PG&E has not proposed metrics or otherwise quantified the safety improvements that would result from regionalization.^{13/}

TURN is merely re-arguing an issue that was determined against it. Commissioner Batjer considered TURN’s argument that metrics should be approved in the proceeding and held:

^{7/} D.06-04-075 at p. 43 (emphasis added).

^{8/} *Id.* at p. 44.

^{9/} D.20-03-019 at p. 25 (denying motion for evidentiary hearings on the grounds that the moving party failed to “articulate what facts are contested”).

^{10/} *Assigned Commissioner’s Scoping Memo and Ruling*, p. 4 (Oct. 2, 2020) (“Scoping Memo”).

^{11/} TURN’s, Protest (Aug. 5, 2020), p. 3.

^{12/} TURN’s November 20 Workshop Comments (Dec. 16, 2020), p. 5.

^{13/} TURN Motion, pp. 3-4.

At this time it does not appear that attempting to develop regionalization-specific metrics in this proceeding would be a good use of the parties' or the Commission's time, particularly since safety and operational metrics will be addressed in another proceeding, and this proceeding should neither duplicate nor conflict with that proceeding. Accordingly, the development of regionalization-specific metrics is not in the current scope of this proceeding. If at a later stage of this proceeding it appears to be feasible and worthwhile to either develop regionalization-specific metrics or to consider such metrics developed in another proceeding, the scope of this proceeding may be modified to do so.^{14/}

Against this background, TURN continues to argue that PG&E's Updated Regionalization Proposal should not be approved in the absence of safety metrics.^{15/} TURN posits that PG&E's Updated Regionalization Proposal should include quantitative metrics, like "the number of fatalities, serious injuries and structures destroyed,"^{16/} and advocates for performance metrics to be adopted as a prerequisite to approval of PG&E's regionalization proposal.^{17/} It states that PG&E's proposals "do not include a single safety metric that PG&E believes would be improved by its regionalization proposal and how much it expects the improvement to be."^{18/} There is no dispute that PG&E has not produced a quantitative forecast of safety benefits or proposed metrics for the regions.

PG&E has appropriately indicated that Safety and Operational metrics that will measure safety performance throughout PG&E's service area, including in the regions, will be adopted in R.20-07-013.^{19/} Identifying the subset of metrics that would be tracked at a regional level will

^{14/} Scoping Memo, p. 4.

^{15/} TURN Motion, pp. 3-4.

^{16/} TURN, Motion, p. 5.

^{17/} TURN Motion, pp. 1-5.

^{18/} TURN Motion, p. 4, italics omitted.

^{19/} PG&E Opening Comments, (Apr. 2, 2021), p. 8; See also PG&E Opening Comments, Attachment A, "Staff Workshop on PG&E's Updated Regionalization Proposal Filed in Application 20-06-011" (Mar. 3, 2021). p. 5 ("R.20-07-013 has directed PG&E to propose safety and operational metrics and may be of interest to parties because development of regionalization specific metrics is not in the current scope of the proceeding.")

occur in Phase II of PG&E's implementation plan.^{20/} Hearings would not elucidate further information on this issue.

Because PG&E will report a subset of existing safety metrics that have been approved by the Commission and, as indicated, safety and performance metrics are out of the scope of the proceeding, hearings on this issue should not be required.

2. TURN's Motion Does Not Raise Material Issues of Disputed Fact Regarding the Impact of Regionalization on Safety Performance.

The issue of "[w]hether PG&E's regionalization proposal is reasonable, including its impact on safety. . ." is with-in the scope of the proceeding.^{21/} However, TURN's contention that implementation of PG&E's regionalization proposal will not result in meaningful improvements to safety, is without merit. In addition, while it objected to PG&E's proposals, TURN did not present an alternative proposal for regionalization that would improve safety in the regions for the Commission's consideration. The policy issues it has raised concerning PG&E's regionalization proposal does not identify any disputed issues of fact regarding safety that hearings would help resolve.

PG&E has explained that the benefits of realignment of PG&E's service area into five regions with regional leadership and regional teams embedded in each will include increased attention to safety and resiliency considering the unique regional, geographic, and operating environment of each region.^{22/}

Meaningful improvement to safety will be achieved by positioning the Regional Safety Directors in each region with a focus to improve regional safety, apply best safety practices in each region, and work across functions with other regional leaders to ensure consistency in safety improvement practices across regions.^{23/} Regional Safety Directors will work with and

^{20/} See PG&E's Updated Regionalization Proposal (Feb. 26, 2021), pp. 56-59.

^{21/} Scoping Memo, p. 5.

^{22/} PG&E Opening Comments, p. 7.

^{23/} Updated Proposal, pp. 56-57.

support Regional Vice Presidents and other regional leaders on hazard identification and assessment, critical control, field verifications, positive safety interactions and implementation of safety programs, and safety trainings.^{24/} Safety improvement successes from higher performing regions and lessons learned in other regions will be shared across regions during regular meetings among Regional Safety Directors and other regional leaders to implement best safety practices across the regions.^{25/}

Regionalization in tandem with the implementation of the Lean Operating System's Daily Operating Reviews across functional groups and at each level of the organization will greatly increase the flow of safety related information and communication throughout the Company to result in best practices developed at each level. The Regional Vice Presidents will engage in regular huddles to identify and resolve safety and risk reduction issues in their regions, and to share best practices, coordinate improvement efforts, and standardize solutions in the regions and throughout the Company.

TURN may disagree that PG&E's Updated Regionalization Proposal will improve its safety performance. TURN is free to make these arguments in briefs; its skepticism alone is not a reason for evidentiary hearings. The Amended Scoping Memo instructed parties seeking hearings to identify "the evidence the party proposes to introduce at the requested hearing."^{26/} TURN has identified none. To the extent that TURN desired more specifics from PG&E to illuminate this issue, it could have simply served discovery and included those facts in its comments. The fact that TURN has not done so already—to date PG&E has not received a single data request from TURN on this or any other topic—belies TURN's claim to be concerned with developing an evidentiary record. TURN has not put in the record any alternate proposal to reorganize in regions and improve safety that TURN can contend is superior to PG&E's proposal and should be adopted in lieu of or as a modification to PG&E's proposal. Thus, evidentiary

^{24/} Updated Proposal, p. 39.

^{25/} Updated Proposal, p. 66.

^{26/} Amended Scoping Memo (June 29, 2021), p. 4.

hearings would not serve the intended purpose to resolve disputed facts between PG&E's regionalization proposal and any proposals propounded by TURN. Thus, while TURN may disagree that PG&E's showing is sufficient, these arguments by themselves are insufficient to demonstrate a need for evidentiary hearings.

3. Regionalization Costs and Incrementality Will Appropriately Be Addressed in A Cost Recovery Proceeding and Cannot be Resolved by Evidentiary Hearings at This Time

Throughout this proceeding, TURN has advocated against the creation of a memorandum account for regionalization costs or cost recovery more generally. TURN now proposes to hold hearings regarding "the material facts regarding the nature of [the costs of PG&E's regionalization proposal] to demonstrate that these costs do not qualify for memo account treatment and [] should not be recorded in the Regional Plan Memorandum account."^{27/} PG&E has not requested recovery of costs that have been and will be booked to the RPMA and thus this matter is not ripe for Commission determination at this point. When and if PG&E presents these costs to the Commission for recovery, TURN will have ample opportunity to challenge PG&E's request.

PG&E filed the RPMA by Advice Letter 4385-G/6091-E on February 19, 2021, which it served on parties to this proceeding, including TURN.^{28/} TURN did not protest PG&E's Advice Letter but now belatedly seeks to have hearings regarding the scope of the approved RPMA and urges its revision. TURN's request to change the RPMA and/or litigate the costs that will be recorded in the RPMA at this juncture should be denied. The RPMA was already approved by the Commission to allow PG&E to "track the costs of regionalization, effective June 30, 2020."^{29/} PG&E has provided estimates of the costs that it will record in the RPMA in its initial proposal, and subsequently reduced its estimates in its Updated Proposal and again in its

^{27/} TURN Motion, p. 7.

^{28/} PG&E filed the RPMA by Advice Letter 4385-G/6091-E on February 19, 2021. PG&E's advice letter was approved by Energy Division without revision by letter dated March 29, 2021.

^{29/} Scoping Memo, p. 10, paragraph 2.

Opening Comments and its Summary of its Proposal.^{30/} TURN's additional objections to allowing PG&E to record costs and seek cost recovery are preserved until such time that PG&E seeks cost recovery for any recorded costs. The RPMA was approved in the Scoping Memo and through approval of PG&E's Advice Letter. TURN's efforts to unravel the approval of the RPMA or reduce the costs that can be recorded to it should be disregarded.

III. CONCLUSION

TURN has not met its burden to show that there are material issues of facts in dispute that would require hearings to resolve. PG&E respectfully requests that its motion be denied.

Respectfully Submitted,

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^{30/} Updated Proposal, Appendix C; PG&E's Opening Comments, Updated Appendix C; and, PG&E's Summary of the Updated Regionalization Proposal (July 9, 2021). Attachment B.