STATE OF CALIFORNIA

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

GAVIN NEWSOM, Governor

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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 20-08-023:

This is the proposed decision of Administrative Law Judge Susan Lee. 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 December 16, 2021, 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).

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:jnf
Attachment

Decision **PROPOSED DECISION OF ALJ S. LEE (Mailed 11/12/2021)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of Amendments to Long-Term Natural Gas Transportation Contracts with Ruby Pipeline, to Establish and Confirm Procedures for Exercising Step-Down Capacity and Evergreen Contract Rights, and for Authorization for Bifurcated Management and Cost Recovery of Electric Fuels' Redwood Path Arrangements. (U39G and U39E.)	Application 20-08-023

DECISION APPROVING AMENDMENTS TO RUBY CONTRACTS AND ESTABLISHING PROCEDURES FOR EXERCISING STEP DOWN CAPACITY AND EVERGREEN RIGHTS AND FUTURE CONTRACT AMENDMENTS

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DECISION APPROVING AMENDMENTS TO RUBY CONTRACTS AND ESTABLISHING PROCEDURES FOR EXERCISING STEP DOWN CAPACITY AND EVERGREEN RIGHTS AND FUTURE CONTRACT AMENDMENTS

Summary

This decision resolves the application and request of Pacific Gas and Electric Company (PG&E) for approval of amendments to long-term natural gas transportation contracts with Ruby Pipeline, LLC (Ruby Contracts) entered into on behalf of PG&E's Electric Fuels Department and Core Gas Supply Department.

- The amendments to the Ruby Contracts are approved.
- The request to discontinue the annual certification that PG&E is receiving the lowest price from Ruby Pipeline, LLC is approved.
- **Step Down Rights**: The request to file an "expedited" Tier 1 Advice Letter (AL) for PG&E's option to step down capacity is denied. PG&E shall submit a standard Tier 1 AL if it chooses to step down capacity, and a Tier 3 AL if PG&E chooses not to step down.
- **Evergreen Rights:** The request to file an "expedited" Tier 1 AL for PG&E's option to renew capacity is denied. PG&E shall submit a standard Tier 1 AL if it chooses to not renew capacity, and a Tier 3 AL if PG&E chooses to renew capacity.
- **Future Amendments:** PG&E may submit a Tier 3 AL for future amendments to the Ruby Contracts.
- The request for bifurcated management and cost recovery of PG&E's Electric Fuels Department's Redwood Path arrangements from Ruby Pipeline arrangements is denied as inappropriate for this proceeding.

This proceeding is closed.

1. Overview of the Ruby Pipeline and Redwood Path Arrangements and Proposed Changes

In 2008, the California Public Utilities Commission (the Commission or CPUC) approved long-term natural gas transportation contracts (the Ruby Contracts or Precedent Agreement) between Pacific Gas and Electric Company (PG&E) and Ruby Pipeline, LLC (Ruby). The contracts were approved in Decision (D.) 08-11-032 in Application (A.) 17-12-021. The Ruby Contracts have a fifteen-year term and provide firm transportation service along the Ruby Pipeline from Wyoming to Oregon for bundled electric customers served by PG&E's Electric Fuels Department (Electric Fuels or EF) and for core natural gas customers served by PG&E's Core Gas Supply (Core Gas Supply or CGS) Department. In addition, there is a separate transportation arrangement to provide Electric Fuels with matching downstream capacity on PG&E's Redwood Path Pipeline from Oregon to California (the Redwood Contract).[1]

The Ruby Contracts included a creditworthiness clause. In 2018, PG&E filed for bankruptcy, resulting in a credit rating downgrade by Standard and Poor's Corporation and placing PG&E on negative credit watch.[2] With the downgrade and since November 15, 2018, PG&E has been unable to satisfy the creditworthiness provisions of the Ruby Contracts.[3] PG&E did not disagree that it was in breach of the creditworthiness terms. However, PG&E and Ruby disagreed on the remedy. PG&E argued that in Ruby's tariff approved by the Federal Energy Regulatory Commission (FERC),[4] if the shipper cannot satisfy

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[1] Core Gas Supply already held matching downstream capacity on Redwood Path.

[2] Exhibit PG&E-1 at 2-1.

[3] Opening Brief of PG&E at 4.

[4] Ruby's Tariff at http://pipeline2.kindermorgan.com/Document/RUBY/RUBY EntireTariff.pdf

the creditworthiness threshold, then the required credit assurance amount is three months of the highest estimated reservation and commodity charges, including estimated charges for natural gas imbalances during the term of the transportation agreement.[5] Ruby argued that the contract required a substantially higher credit assurance. PG&E believed the credit assurance sought by Ruby would limit the financing available to support PG&E's other operations.[6] In order to avoid litigation and maintain operations, PG&E and Ruby agreed to certain amendments to the Ruby Contracts. These amendments are the subject of this application. The amended contracts are referred to in this decision as the "Amended Ruby Contracts" and were executed on May 19, 2020. On August 28, 2020, PG&E filed this Application (A.) 20-08-023 requesting approval of the Amended Ruby Contracts and certain related matters (Application).

2. The Ruby Pipeline and Redwood Path

The Ruby Pipeline extends from Opal, Wyoming to an interconnection with PG&E's gas transmission system at Malin, Oregon on the California-Oregon border. The pipeline system is a 42-inch diameter pipeline spanning 680 miles, has a delivery capacity of 1.5 billion cubic feet per day, and provides natural gas supplies from the Rocky Mountain basins to consumers in California, Nevada and the Pacific Northwest.[7] Construction of the Ruby Pipeline was completed in 2011.

[5] Exhibit PG&E-1 at 2-3.

[6] According to PG&E, the amount requested by Ruby would tie up 21% of PG&E's financing capacity. (Opening Brief of PG&E at 5.)

[7] *Id* at 1-2.

Once in Malin, Oregon, gas is transported from Oregon to California along PG&E's California Gas Transmission Redwood Pipeline (Redwood Path).[8] PG&E's Core Gas Supply already held firm downstream capacity on PG&E's Redwood Path, therefore, PG&E did not propose any changes to CGS's Redwood Path arrangements.[9] PG&E's Electric Fuels, on the other hand, did not hold capacity on the Redwood Path in 2007.[10] PG&E acquired downstream capacity for Electric Fuels on the Redwood Path sufficient to match the Electric Fuels' capacity on the Ruby Pipeline.[11] The Redwood Path capacity commitment would commence at the same time the EF Ruby Pipeline transportation arrangement went into service.[12]

2.1. Summary of the Precedent Agreement (Ruby Contracts)

2.1.1. Key Terms of the Ruby Contracts

The key terms of PG&E's long-term contract with Ruby Pipeline, LLC, as approved in D.08-11-032, are as follows:

- PG&E will acquire firm pipeline capacity of 375 thousand decatherms per day (MDth/d) for a 15-year period beginning November 1, 2011. Of this amount, 250 MDth/d is for PG&E's Core Gas Supply and 125 MDth/d is for PG&E's Electric Fuels.
- PG&E will pay a reservation rate equal to the lower of $0.68/Dth or 5% lower than the Initial Recourse Rate. Assuming PG&E pays $0.68/Dth, its annual cost for 375 MDth/d of capacity will be $93.1 million. PG&E will

8 *Ibid.* at 1-2.

9 *Ibid.* at 1-4.

10 *Ibid.* at 1-3. The application seeking approval of the Ruby Contracts was filed on December 21, 2007 (A. 07-12-021).

11 The Redwood Path arrangements included 250 Mdth/d for an initial four-month period followed by 125 Mdth/d for 15 years. (*Ibid.* at 1-4.)

12 D.08-11-032, Findings of Fact (FOF) 10, Conclusions of Law (COL) 3 and 4.

also pay a fuel charge equal to approximately 1.1% of the actual volume shipped.

- PG&E has the right to receive any lower rate that Ruby Pipeline, LLC, provides to another similarly-situated shipper (the Most Favored Nation Provision).
- PG&E may annually reduce its Ruby Pipeline capacity by 20% increments beginning in Year 11 of the initial 15-year term (the Step Down Rights).
- At the expiration of the initial 15-year term, PG&E may annually renew, for a one-year term, all or part of the contracted capacity (the Evergreen Rights).

Together, CGS and EF would hold 375 MDth/day of firm capacity on the Ruby Pipeline, beginning November 1, 2011 and continuing through October 31, 2026.[13]

2.1.2. Key Terms of the Redwood Contract

In addition to the terms of the Ruby Contracts, D.08-11-032 authorized PG&E to purchase and recover costs for 125 MDth/d of firm capacity on the Redwood Path for PG&E's Electric Fuels (Redwood Contract).[14] As part of its authorization of the Redwood Contract,[15] the Commission allows PG&E's Electric Fuels to recover costs for the Redwood Path only to the extent the Commission authorized cost recovery for matching upstream capacity on the Ruby Pipeline.[16] PG&E may not recover from core gas customers any costs for capacity reserved on the Ruby Pipeline and Redwood Path for Electric Fuels.[17]

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[13] Exhibit PG&E-1 at 1-3.

[14] *See* D.08-11-032 at 41-42, COL 3, OP 2.

[15] In A.17-12-021, PG&E requested authority for Electric Fuels to acquire capacity on the Redwood Path that matches Electric Fuels' upstream arrangement on the Ruby Pipeline. (D.08-11-032 at 35.)

[16] D.08-11-032, OP 3.x.

[17] D.08-11-032, OP 3.iv.

2.2. Proposed Amendments

The proposed amendments to the Ruby Contracts would modify the creditworthiness clause and the Most Favored Nation Provision (MFN) in both the CGS and EF contracts.

The creditworthiness clause in the Precedent Agreement generated the dispute between PG&E and Ruby which led to the proposed amendments. In November 2018, credit agencies downgraded PG&E's credit rating to BBB- and placed PG&E on a negative credit watch.[18] A bona fide dispute arose between Ruby and PG&E regarding how much additional credit assurance PG&E would need to post as a result of the credit downgrade. The proposed changes to this term in the Ruby Contracts clarify and simplify the requirements for creditworthiness.

The MFN in the Precedent Agreement aimed to lower risk to PG&E customers by requiring Ruby to offer to PG&E any lower reservation rate that it presented to another similarly situated shipper.[19] Consequently, if Ruby offered a reservation rate lower than $0.68/Dth to another similarly situated shipper, PG&E would also receive that lower rate.[20] The proposed amendments remove the MFN rate protection from each of the firm transportation contracts.[21]

There are five years remaining on the Ruby Contracts during which PG&E customers would have this rate protection. As of May 19, 2020, the date the Amended Ruby Contracts were executed, no event has "triggered" the rate protection offered under the MFN. For the same ten years, pursuant to

[18] Exhibit PG&E-1 at 2-1.

[19] Application at 2.

[20] *Id.* at 1-3. The rate protection applied to the reservation charge but not the fuel charge.

[21] Opening Brief of PG&E at 10.

D.08-11-032, Ordering Paragraph (OP) 3.vi., PG&E filed certifications with the Commission, signed by an executive of Ruby, stating that the Most Favored Nation rate protection provision has not been triggered.[22]

2.3. Other Proposed Changes to Ruby Pipeline and Redwood Path Arrangements

In addition to the amendments to the Ruby Contracts, PG&E requests changes and authorization for certain procedures, compliance requirements, and cost recovery related to the transactions approved in D.08-11-032:

1. Authorization to discontinue filing the annual certification PG&E was required to make to the Commission regarding the MFN protection;
2. Approval that PG&E may seek authorization for future amendments to the Amended Ruby Contracts via a Tier 3 Advice Letter;
3. Approval of proposed procedures for exercising step down capacity and evergreen or renewal rights;
4. Authorization to bifurcate management and cost recovery of PG&E's Electric Fuels Redwood Path arrangements through new procedures.

3. Procedural History; Past and Recent Market Conditions; Core Transport Agents; Scoped Issues

3.1. Procedural History

PG&E filed A.20-08-023 on August 28, 2020. With the Application, PG&E also filed a motion for confidential treatment of information. On October 13, 2020, a protest was filed by Commercial Energy of California (Commercial), and the Public Advocates Office of the California Public Utilities Commission (Cal Advocates) filed a motion for party status. On October 14, 2020, Shell Energy North America (US), LP (Shell) filed a response. On November 10, 2020, School

[22] Exhibit PG&E-1 at 2-3 to 2-4.

Project for Utility Rate Reduction (SPURR) filed a motion for party status. On November 13, 2020, United Energy Trading, LLC (UET) filed a motion for party status. On October 23, 2020, PG&E filed a reply to jointly address the protest and response. On November 18, 2020, the Commission held a prehearing conference (PHC). Parties present included PG&E, Commercial, Shell, UET, SPURR, and Cal Advocates. On November 19, 2020, ABAG Publicly Owned Energy Resources (ABAG) filed for party status.

All motions for party status were granted.

On January 12, 2021, the assigned Commissioner issued a scoping ruling.

On April 6, 2021, the evidentiary hearing was held. Parties appearing included PG&E, Commercial, UET, SPURR and Shell. Absent were Cal Advocates and ABAG. Due to the confidential nature of the executed contracts, portions of the hearing were held in closed session.

Opening briefs were due April 30, 2021 and reply briefs due May 21, 2021. PG&E, Commercial, and UET/SPURR (jointly) filed briefs and motions for leave to file redacted portions under seal. The matter was submitted upon the issuing of a ruling granting the motions for leave to file confidential treatment which were not previously ruled upon before issuing this decision.

Portions of the Ruby Contracts, this Application, written testimony and evidentiary hearing included information which the parties assert is confidential under General Order (GO) 66-D. The various motions for confidential treatment are addressed at the end of this decision.

3.2. Past and Recent Market Conditions

As a FERC-regulated pipeline, Ruby must publicly post pipeline capacity transactions on its website. Transactions posted between April 2020 and June 2020 show rates on short-term (less than one year in duration) capacity transactions from $0.03/Dth to $0.06/Dth. This includes an 11-month capacity transaction for $0.03/Dth.[23] Since 2012, the price premium from the Rocky Mountain basin in Opal, Wyoming, along the Ruby Pipeline, to the receipt point in Malin, Oregon has averaged only $0.04/Dth.[24] In recent years, publicly available transaction data shows Ruby has sold capacity on its pipeline between $.03/Dth and $.06/Dth.[25]

Interstate gas transportation comes in two primary forms, firm and interruptible. Firm transportation rates are usually constant and stable, and the firm transportation service takes priority over interruptible transportation in times of scarcity caused by freeze-offs or pipeline outages. Interruptible transportation and rates expose the purchaser to the possibility of scarcity pricing and/or the risk of not being able to purchase gas when needed, such as occurred to various energy service providers purchasing gas from Texas during the catastrophic events of the February 2021 polar vortex, Winter Storm Uri.[26]

In July of 2021, Ruby Pipeline lost three quarters of its long-term shipping contracts due to expiration.[27] PG&E and Cascade Natural Gas Corp. may now be the only major long-term gas shippers in Ruby's portfolio of clients.[28]

3.3. Core Transport Agents

Commercial, Shell, SPURR and UET are Core Transport Agents (CTAs).

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23 PG&E-1 at 2-5, fn. 3.

24 Exhibit UET-1 at 5, citing PG&E testimony at Exhibit PG&E-1 at 2-6, Figure 2-1.

25 Opening Brief of PG&E at 7, citing Exhibit PG&E-2 at 11.

26 *See, e.g., El Paso Natural Gas Company*, Order on Waivers of Penalties and Dismissing Complaints, FERC Docket RP21-899 and associated dockets, 176 FERC ¶ 61,084 (2021), at P 3 - P 4.

27 Exhibit CE-1 at 4 and Attachment B, Ruby Pipeline Index of Customers Contracts, Q4, 2014, using SNL Energy, an offering of S&P Global Market Intelligence.

28 *Ibid.*

CTAs are alternative providers of natural gas to residential and small to medium business customers.[29] Core end-users of gas can choose to take service from their local gas utility or from a CTA.[30] The CTAs are responsible for procuring and ensuring delivery of natural gas to the citygate[31] for their customers, with final delivery of the gas over the utility's local distribution system.[32] D.14-08-043 adopted registration standards for CTAs. In order to ensure that sufficient interstate pipeline capacity will be available year-round to serve the bundled core customers of PG&E, as well as the core customers of the CTAs, D.15-10-050 ordered the core interstate capacity to be paid for in proportionate shares by PG&E's core customers and by the CTAs in PG&E's service territory.[33] Although each CTA may accept or reject the firm pipeline capacity it is allocated, each CTA is still financially responsible for the cost of the capacity. Therefore this "take or pay"[34] obligation gives CTAs a strong interest in whether PG&E chooses to exercise or not exercise its Step Down or Evergreen Rights on the Ruby Pipeline, as well as the procedures PG&E will use to obtain Commission approval to do so.

CTAs represent approximately 15% to 19% of core customer volumes for natural gas service on the PG&E system.[35] The CTAs' total proportionate share

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[29] The statutory framework for the CTAs was subsequently added to the Public Utilities Code by Senate Bill 656 in the Statutes of 2013, Chapter 604, § 4. (D.15-10-050 at 4.) (*See* also Public Utilities Code Sections 980 - 989.5, D.18-02-002.)

[30] D.15-10-050 at 4.

[31] Citygate is a point or measuring station at which a distributing gas utility receives gas from a natural gas pipeline or transmission system.

[32] *Id.* at 4.

[33] D.15-10-050, Decision Regarding the Core Interstate Pipeline Capacity Planning Range for Pacific Gas and Electric Company.

[34] Opening Brief of SPURR and UET at 6.

[35] *Ibid.* at 4.

of the total aggregate core load varies seasonally but averaged approximately 19 percent for 2019.[36]

3.4. Issues Before the Commission

In the Scoping Ruling and Memo issued on January 12, 2021, the following issues were included:

1. Are the proposed amendments, also known as the Amended Ruby Contracts, executed on May 19, 2020, to two long-term natural gas transportation contracts between PG&E and Ruby Pipeline adopted by the Commission in D.08-11-032, reasonable and in the public interest?
2. How and to what extent do the Amended Ruby Contracts affect PG&E customer rates?
3. If the Amended Ruby Contracts are approved, is there a need to file a most favored nation attestation pursuant to D.08-11-032?
4. If the Amended Ruby Contracts are approved, can future amendments be appropriately considered via the Tier 3 Advice Letter process?
5. Can PG&E's proposed procedures for exercise Step Down Rights be appropriately considered via a Tier 1 Advice Letter?
6. Can PG&E's proposed procedures to exercise Evergreen Rights be appropriately considered via a Tier 1 Advice Letter?
7. Can Core Transport Agents appropriately participate in the exercise of Step Down and Evergreen Rights via a Tier 1 Advice Letter?
8. Are there any adverse impacts on consumer rates or the public interest with proposed procedures for Step Down Right and Evergreen Rights?

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36 PG&E-1 at 2-9.

9. Is it reasonable to bifurcate cost recovery of Redwood Path Arrangements from Ruby Pipeline arrangements as proposed by PG&E?
10. Are there safety issues as the result of the Amended Ruby Contracts?
11. Are there any impacts on environmental and social justice issues as the result of the Amended Ruby Contracts?

4. Reasonableness of the Amendments to the Ruby Contracts and the Public Interest

4.1. Standard of Review of Proposed Amendments

PG&E states that the standard of review for the proposed amendments is "whether the Amendments are reasonable and in the public interest, taking into consideration any facts about how the Amendments impact customer rates."[37]

Commercial maintains that "[i]n analyzing the reasonableness of a utility's decision to amend a contract, the Commission must determine whether the parties exercised 'reasonable judgment in light of facts known or which should have been known at the time the decision was made.'"[38] Commercial further states that "[i]n reviewing the conduct of a utility in agreeing to an amendment to an existing contract, the Commission has specified a detailed analysis for evaluating the reasonableness of the utility's actions."[39] Commercial then summarizes in some detail D.89-02-074, a case regarding the reasonableness of a renegotiated electric power purchase contract by San Diego Gas & Electric Company (SDG&E) from Tucson Electric Power Company to be transported over

[37] Reply Brief of PG&E at 2-3.

[38] Opening Brief of Commercial at 5 and fn. 4, citing D.96-05-032, *Application of Pacific Gas and Electric Company For Authority to Adjust its Electric Rates Effective January 1, 1993, and to Adjust its Gas Rates Effective January 1, 1993, and for Commission Order Finding that Gas and Electric Operations During the Reasonableness Review Period from January 1, 1991 to December 31, 1991 were Prudent. (U39M.) 1996 Cal. PUC LEXIS 687* at 27.

[39] Opening Brief of Commercial at 5.

the Southwest Power Link, an electric line owned and then recently constructed by SDG&E.

Commercial asserts that,

> the Commission sought answers to three key questions in evaluating the reasonableness of SDG&E's agreement to the amendment of an existing contract, including:
>
> 1. What were the goals that SDG&E hoped to achieve in its negotiations and whether those goals were reasonable?
> 2. What were the actual outcomes of the process when compared with the goals? and
> 3. Would a reasonable and prudent utility have taken other steps to come closer to achieving the utility's goals? [40]

Commercial further states that,

> D.89-02-074 stands for the proposition that the Commission expects a utility to obtain equivalent concessions in negotiating amendments in an existing contract, and that the utility has an obligation to use its bargaining power to get price concessions for or otherwise terminate a contract which is clearly uneconomic.[41]

Commercial then argues the CPUC must apply the standards adopted in D.89-02-074 to PG&E's actions in amending the Ruby Contracts.[42]

PG&E responds that no Commission decision in the intervening years has applied a standard requiring a utility to obtain concessions in a contract renegotiation, and that such "standards are especially nonsensical given PG&E's credit situation and the underlying facts of this case." [43]

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[40] *Ibid.* at 6 and fn 5, citing D.89-07-024, *In the Matter of the Application of San Diego Gas and Electric Company for authority to Increase its Rates and Charges for Electric, Gas and Steam Service; And Related Matter, 1989 Cal. PUCLEXIS 128* at *14.

[41] *Ibid.* at 8.

[42] Opening Brief of Commercial at 8.

[43] Reply Brief of PG&E at 2.

In determining the reasonableness of PG&E's actions and the resulting contracts, we look at whether the amendments are consistent with the law and do not adversely affect customers. The inquiry into whether amendments are reasonable and in the public interest is not an inquiry of whether the utility received the best possible outcome in its negotiations. The Commission has historically approved amendments to contracts that are consistent with existing law and in the public interest.[44]

The Commission has explained that in reviewing the reasonableness of a utility's managerial action, the Commission holds utilities "to a standard of reasonableness based upon the facts that are known or should be known at the time. While this reasonableness standard can be clarified through the adoption of guidelines, the utilities should be aware that guidelines are only advisory in nature and do not relieve the utility of its burden to show that its actions were reasonable in light of circumstances existent at the time."[45] In a ratesetting proceeding, a utility must prove reasonableness of costs to be included in rates by the preponderance of the evidence.[46]

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[44] *See e.g.,* D.14-07-013 approving amendments to PG&E's Hanford, Henrietta and Tracy Power Purchase and Sale Agreements (PPA) with GWF Energy, LLC; D.13-01-003 approving an amendment to a PPA that reflected the parties' agreement that PG&E would provide compensation to the third party generator for certain defined CO2 costs in exchange for a contract price reduction; D.13-05-005 approving an amendment to a PPA that reflected the parties' agreement that PG&E would provide compensation to the third party generator toward its AB 32 compliance costs in exchange for reduced capacity payments; and D.13-08-009 approving an amendment to a PPA that reflected additional provisions addressing previously omitted equations and source data required to determine compliance costs compensation and designed solely to clarify original provisions concerning a B32 compliance costs.

[45] D.16-12-063 at 9, citing D.88-03-036 (1988 Cal. PUC LEXIS 155,*7; 27 CPUC2d 525).

[46] D.12-12-030 at 44; D.16-12-063.

D.02-08-064 provides additional factors in assessing reasonable managerial actions:

- "the reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made, not how the decision holds up in light of future developments;"[47]
- a reasonable and prudent act includes a "spectrum of possible acts consistent with the utility system need, the interest of the ratepayers, and the requirements of governmental agencies of competent jurisdiction;"[48] and
- "[t]he act or decision is expected by the utility to accomplish the desired result at the lowest reasonable cost consistent with good utility practices. Good utility practices are based upon cost effectiveness, reliability, safety, and expedition."[49]

We disagree with Commercial's interpretation that D.89-02-074[50] established some requirement that a utility take a particular action such as obtaining concessions or must achieve a particular outcome such as a contract termination for a contract renegotiation to be considered reasonable. What matters is under the particular circumstances of the renegotiation, did the utility act reasonably:

> Even without the added complication of the constraint of the original contracts, evaluating the performance of a utility in negotiations is extremely difficult. One of the paramount problems is establishing a baseline against which the utility's performance can be measured. In theory, the baseline would be the result that a

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47 D.02-08-064 at 5-6.

48 *Ibid* at 7.

49 *Ibid.* at 5 and 6, citing D.87-06-021; *see also* D.16-12-063 at 9-10.

50 We also note that the circumstances of the electric power procurement markets in the 1970's and 1980's bear little resemblance to the interstate gas commodity and transportation markets in the 2000's-2020's, and the facts leading up to the renegotiations of the contract at issue in D.89-02-074 differ markedly from the renegotiation of the Ruby Contracts.

> reasonable and prudent negotiator would achieve in the same circumstances. But even in simple negotiations there are nearly an infinite number of proposals and combinations of proposals that could be considered and, as we have discussed, a range of outcomes that are reasonable and prudent. Successful negotiations usually involve a subjective balancing of interests, a compromising of objectives, and much creativity in developing a solution that satisfies all parties. It is a delicate process and one that is very difficult to reconstruct, even when thorough documentation of proposals, responses, and evaluations is present.
>
> Although different approaches may be preferable in other circumstances, for purposes of the review of amendments to existing contracts, as required in this case, we have found the following approach to be useful. We have first examined the goals that the utility hoped to achieve in the negotiations and have evaluated whether that goal was reasonable. We then compared the actual outcome with the goal. Finally, we considered whether a reasonable and prudent utility would have taken other steps to come closer to achieving the utility's goals. This approach is not always articulated in the following discussion, but it provided the background to much of our analysis of this case.[51]

The Commission will evaluate the reasonableness of the amended contracts based on the above guidelines.

4.2. Reasonableness of Proposed Amendments

Assessing the reasonableness of PG&E's amended contracts boils down to whether the value of posting a lower amount of credit assurance was worth giving up the potential of lower rates that the MFN offered. The MFN guaranteed that PG&E would receive any lower reservation rate that Ruby offered to a similarly situated shipper during the initial fifteen-year period.[52] If the amendments to the Ruby Contracts are approved the MFN would be

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[51] D.89-02-074 at 10-11 (1989 Cal. PUC LEXIS 128, *13-*15).

[52] Exhibit PG&E-1 at 1-3.

removed[53] and the possible lower rates along with it. The question is whether it was reasonable for PG&E to give up this rate protection in order to settle the credit dispute. In settling the credit dispute, PG&E and Ruby also made amendments to the creditworthiness clause to simplify its language to avoid a similar disagreement in the future. No parties commented on the amendments to the creditworthiness clause.

4.3. Positions of the Parties

4.3.1. PG&E

PG&E contends that the risk protection in the MFN has little to no value unless "triggered," which has yet to occur in the 10 years since the inception of the Ruby Contracts and up to January 21, 2021, the most recent annual certification. PG&E further argues it is extremely unlikely that the MFN would be triggered in the near term.[54] PG&E further contends that the proposed changes to the MFN are reasonable because there is a positive impact on customer rates, safety and reliable utility service.[55] The proposed amendments allow PG&E to "[c]ontinue operations to serve all customers without straining its limited credit facility,[56] while also reducing the amount of collateral financial costs assigned to customers and avoiding litigation costs."[57] Litigation fees would likely be paid for by PG&E's core gas customers as well as both bundled

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[53] Opening Brief of PG&E at 10.

[54] Opening Brief of PG&E at 7.

[55] *Ibid* at 5.

[56] (*Ibid.)* Prior to emerging from bankruptcy on July 1, 2020, PG&E entered into a $3.5 billion credit facility with a syndicate of lending banks to support liquidity and continued business operations. Of the $3.5 billion facility, only $1.3 billion can be used to support letters of credit (LOC). Exhibit PG&E-2 at 3.

[57] *Ibid* at 4.

and departed electric customers.[58] The amendments maintain credit availability for procurement of natural gas and electricity, general working capital for safety and reliability, implementation of regulatory programs and remediation of environmental matters.[59]

PG&E also contends that it is extremely unlikely that Ruby would intentionally enter into a long-term contract that would trigger the MFN because 1) buyers of long-term capacity are scant, 2) recent contracts (between January 2018 and December 2020) entered into by Ruby with shippers "appear to address a buyer's seasonal (short-term) needs which would not trigger the MFN."[60]

4.3.2. Commercial Energy

Commercial contends that the proposed amendments to Ruby Contracts are not reasonable, since the rate protections in the MFN will likely be triggered with a number of pressures on Ruby to offer lower rates to other buyers/shippers. First, two-thirds of Ruby's portfolio of long-term contracts expire in July 2021,[61] forcing Ruby to sell capacity at the market rate, which is far lower than PG&E's contracted rate of $0.68/Dth. Second, if PG&E exercises its Step Down Rights, Ruby's supply will increase, giving more incentive to offer greater discounts to long-term shippers.[62] Third, Ruby must renegotiate or re-finance a balloon payment of $475 million by April of 2022 with 50% of its

[58] Exhibit PG&E-1 at 2-5.

[59] Opening Brief of PG&E at 5.

[60] Opening Brief of PG&E at 8.

[61] Exhibit CE-1 at 4:10-11 citing Fitch Ratings, 15 January 2020.

[62] *Ibid*. at 10.

partners.[63] Ruby could have difficulty refinancing unless new contracts are entered into at rates that cover Ruby's operating costs and debt servicing.[64]

Commercial contends that the rate protection in the MFN becomes more valuable as an oversupply of gas will result when Ruby's contracts with other shippers expire, triggering the MFN.[65] If triggered, the MFN guarantees PG&E any rate below $0.68/Dth. With recent market events showing capacity rates between $.03/Dth and $.06/Dth, the potential savings to PG&E customers cannot be ignored.[66] Commercial believes it is only PG&E's opinion that it is unlikely the MFN would be triggered.[67] Commercial asserts that PG&E did not "extract equivalent concessions from Ruby"[68] merely receiving the costs of the result of avoiding litigation, the value of the reduced credit provision and the cost of not litigating.[69] Commercial believes PG&E underestimated the value of removing the MFN to Ruby,[70] arguing PG&E should have known that Ruby will be under great pressure to re-sign long term capacity of all of its expiring contracts.[71]

Commercial further argues that PG&Es put too much emphasis on avoiding litigation and could have litigated the credit dispute with Ruby and

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63 *Ibid.* at 4, fn. 10.

64 *Ibid* at 6.

65 Reply Brief of Commercial at 3.

66 *Ibid.* at 5.

67 *Ibid.*

68 *Ibid.* at 14.

69 Opening Brief of Commercial at 12; Reply Brief of Commercial at 14.

70 Opening Brief of Commercial at 17-18, arguing that regardless of assumptions about recontracting volumes or costs, Ruby stood to gain hundreds of millions of dollars from the proposed amendments.

71 *Ibid.* at 14.

potentially achieved partial price relief on the underlying contract,[72] or just acceded to Ruby's demand for more credit because PG&E could have afforded it.[73] Commercial suggests the incremental credit support had little value to Ruby because it "is not cash or other readily liquid asset [sic]" and that "Ruby is effectively cash neutral."[74]

Commercial alternatively argues that PG&E could have considered rejecting the contracts in bankruptcy, [75] and that PG&E "affirmatively agreed to assume the contracts as part of its bankruptcy."[76]

4.3.3. UET and SPURR

UET and SPURR largely agree with Commercial's position on the proposed amendments. These two CTAs believe that PG&E's testimony on the value of the MFN lacks the type of reasonable, sophisticated economic market analysis the Commission needs in order to truly understand the potential impact to ratepayers and whether the amendments are in the public interest.[77] To the extent that PG&E asserts that the MFN holds little intrinsic value, UET and SPURR agree that the amendments to the MFN will render an already unsalable contract even less valuable.[78] UET and SPURR assert in March 2021 to April 2021, it only used 6% of the Ruby Pipeline capacity "forced on them by PG&E", when it accepted 39,615 Dth/day of the 42,155 Dth/day allotted to

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[72] *Ibid*. at 15.

[73] *Ibid*. at 11. As of December 1, 2020, PG&E had $1.875 billion of availability on its $3.5 billion credit facility, and $280 million of availability for additional letters of credit, citing Exhibit CE-27, Answer 02; Exhibit PG&E-2C at 17.

[74] *Ibid*. at 17.

[75] *Ibid*. at 13.

[76] Exhibit PG&E-1 at 2-3.

[77] Exhibit UET-1 at 2.

[78] *Ibid.* at 3.

them.[79] Northern Californians pay a high premium for Ruby gas transport, of which 95% is routinely wasted.[80] The proposed amendments sought by PG&E underscore the misapplication of resources. [81]

4.3.4. Shell

Shell would support the Commission "directing PG&E to exercise its stepdown rights each year to reduce, and ultimately eliminate" Ruby's firm interstate capacity from its portfolio.[82] Shell supports adoption of a Tier 1 advice letter process for PG&E's annual exercise of these step down rights. However, any choice by PG&E to retain capacity should be completed through a Tier 3 AL.[83]

4.3.5. Cal Advocates and ABAG

Cal Advocates and ABAG did not appear at the hearing and did not submit briefs.

4.3.6. PG&E Response

PG&E disagrees that its primary goal in reaching the agreement was avoiding litigation. Its primary objective was to resolve the dispute whereby PG&E would not be required to provide an amount of credit assurance which would monopolize a disproportionate amount of PG&E's limited credit facility.[84] Putting up the amount demanded by Ruby or the amount pending litigation would use a disproportionate amount of PG&E's remaining credit, when having sufficient credit is necessary to attract capital for necessary safety and reliability

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[79] *Ibid.*

[80] *Id .*

[81] *Ibid.*

[82] Opening Brief of Shell at 2.

[83] *Ibid.* at 4.

[84] Reply Brief of PG&E at 4.

work.[85] PG&E argued it "would not have a sufficient buffer to ensure that emergent requests for credit assurance in the form of letters of credit could have been supported, if needed."[86] PG&E avoided the risk that it would have to provide with PG&E's limited credit facility and to raise additional funding from investors due to its credit rating.[87] PG&E saved litigation costs and time in achieving its desired outcome.[88]

PG&E also disputed that threatening or entering bankruptcy to repudiate contracts was a reasonable or realistic option. PG&E claimed that,

> [the] bankruptcy Plan of Reorganization (POR) is irrelevant to whether the contract amendments are reasonable, especially in light of the fact that the CPUC approved PG&E's POR in D.20-05-053. Even so, rejecting the Ruby Contracts would give Ruby the right to assert a general unsecured claim to recover the damages incurred in connection with the rejection of its contract, meaning PG&E's customers could have ended up paying an amount similar to that owned under the remaining life of the Ruby Contracts without benefitting from the capacity.[89]

PG&E argued that Commercial misinterpreted PG&E's testimony that if PG&E does exercise the Step Down Rights, the MFN would more likely be triggered, noting "there does not appear to be sufficient demand for long-term capacity that would be required to economically justify Ruby Pipeline LLC's decision to trigger the MFN."[90] PG&E further noted that the Ruby Pipeline

[85] *Ibid*. at 4.

[86] *Ibid*. at 5.

[87] *Id.* at 4.

[88] *Ibid*. at 5.

[89] *Ibid*. at 3 fn. 7.

[90] Reply Brief of PG&E at 6.

capacity is already not fully subscribed,[91] and that Fitch Ratings predicts that "'less than half of expiring contracted capacity in 2021 gets recontracted at $0.05 Mdth/d.'"[92] PG&E argued that if the MFN is triggered in the final year of the contract if PG&E exercises its Step Down Rights, the savings from the avoided credit assurance would be greater than the lower rates that would have been achieved if the MFN is triggered.[93] PG&E also argues Commercial estimates the loss of revenues caused by eliminating the MFN are the costs reductions associated assuming the MFN was triggered, which is irrelevant if the MFN was not triggered.[94]

4.4. Contract Amendments are Reasonable

We find PG&E's contract amendments with Ruby to be reasonable and PG&E's explanations as to the reasonableness of its goals persuasive. PG&E avoided litigation time and expense and reduced the higher credit assurance sought by Ruby, when such a higher credit assurance would have been likely to have been paid during the pendency of litigation or after litigation. The amendments to the creditworthiness term in each of the Ruby Contracts clarify the language so that a repeat dispute does not occur. The proposed amendments to the MFN neither raise nor lower rates in a contract that was approved by the Commission and declared reasonable at the time. That the subsequent passage

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91 *Ibid.* at 6 and fn. 21 ("The data shows that there was on average 230,000 Dth/day - 330,000 Dth/day of available capacity on the Ruby pipelines from 2018 - 2020." Exhibit PG&E-2, at 9, lines 11-13.)

92 Reply Brief of PG&E at 6 and fn. 22, citing Exhibit PG&E-4, at 2.

93 *Ibid.* at 6; Opening Brief of PG&E at 9. *See* Exhibit CE–29 at 1-2. The estimated annual costs and the estimated annual savings if annual step down is exercised are listed in the table.

94 *Ibid.* at 5 and fn. 17 citing Opening Brief of Commercial at 19, and fn. 18 citing Exhibit PG&E-2, at 5, line 31 to at 6, line 1.

of time has rendered the contract not economic does not alter that conclusion, and the rates resulting from the costs of those contracts remain reasonable.[95]

The Commission finds persuasive that Ruby is unlikely to offer a lower price to a similarly situated shipper, knowing that it would jeopardize the overvalued rate of the $0.68/Dth it receives from PG&E at the time of the amendments and for the remainder of the Ruby Contracts until 2026. There is no evidence of sufficient willing buyers of sufficient amounts of long-term capacity on the Ruby Pipeline where Ruby would be able to recoup revenue it would forgo from its contract with PG&E by triggering the MFN.[96] It is highly unlikely that buyers would be willing to pay a premium for long-term capacity given the historic and forecast low market prices for Ruby.[97] Since 2018, Ruby has only sold short-term contracts, which would not trigger the MFN and obligate Ruby to offer PG&E a lower price.[98]

Nor do we find Commercial's argument persuasive that the value to Ruby of the amendments to the Ruby Contracts was so obviously large that PG&E acted unreasonably when it agreed to remove the MFN in exchange for settling the credit dispute. While it is clear Ruby wants to sign up long-term contracts, between January of 2018 and November of 2020, approximately 25% of Ruby Pipeline has been unsubscribed.[99] FERC, in granting Ruby's certificate, required Ruby to assume the risk of the costs of unsubscribed capacity in determining

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[95] *See supra* Section 4.1 and fn. 47.

[96] Opening Brief of PG&E at 8.

[97] Exhibit PG&E-2 at 5:16-24.

[98] Exhibit PG&E-2, Table 1, at 15. Table 1 shows the duration of recent contracts sold on Ruby, all of which are under 12 months.

[99] PG&E-2 at 9, citing Figure 3 at 10.

reservation rates.[100] We understand Ruby valued the MFN equal to or greater than the cost of settling the credit issue. But we do not agree that the value of the MFN to Ruby was so clearly disproportionate that PG&E failed to extract its value in negotiations. As PG&E noted, a reasonable utility would evaluate the benefits to customers, which PG&E did by considering limited credit capacity, resolving the dispute, avoiding litigation and the possible reduction in collateral financing.[101]

Moreover, we believe PG&E had little leverage to reduce rates or achieve a better outcome than the settlement once its credit rating was lowered after filing for bankruptcy. Litigating the dispute or assuming the creditworthiness amount which Ruby demanded would have increased rates to ratepayers and stress on PG&E's credit. PG&E entering bankruptcy would not have necessarily allowed PG&E to reject all or some of the contract, and PG&E maintained the obligation to serve all of its gas[102] and electric[103] customers.

The proposed amendments are consistent with prior Commission precedent.[104] By avoiding the unknown costs and outcome of litigation, PG&E guarantees rate stability for its customers. The proposed amendments do not interrupt service. The proposed amendments are in the public interest and the removal of the MFN neither increase nor decrease the cost to ratepayers while

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[100] *See Ruby Pipeline, L.L.C., Order Issuing Certificate and Granting in Part and Denying in Part Requests for Rehearing and Clarification,* 131 FERC ¶ 61,007 (2010), at P 1, P 20 – P 24; *Ruby Pipeline, L.L.C., Preliminary Determination of Non-Environmental Issues*, 128 FERC ¶ 61,224 (2009), at P 3- P 4, P 44.

[101] *See* Opening Brief of PG&E at 8-9.

[102] D.15-10-050 at 18.

[103] D.02-12-069 at 8, fn. 5, citing D.01-01-046 ("Even utilities that file for reorganization must serve their customers.")

[104] *See supra* Section 4.1 at 14-15 and fn. 44.

maintaining reliability. After reviewing the Application, the redacted and unredacted testimony, all of its appendices and testimony at the evidentiary hearing, we approve as reasonable the Amended Ruby Contracts executed on May 19, 2020, and the rates resulting therefrom, which will not change.

5. Annual Certification Requirement

With the adoption of the Amended Ruby Contracts, it is impractical to require PG&E to continue to file the annual certification under D.08-11-032. D.08-11-032, OP 3.vi. states, in part, whenever PG&E seeks Commission approval to recover Ruby Pipeline costs, PG&E shall certify that it is paying the lowest rate available under the Precedent Agreement.

Each year, from 2011 to 2021, PG&E has filed certifications, signed by an executive of Ruby Pipeline, stating that "the MFN has not been triggered",[105] indirectly confirming that PG&E is paying the lowest rate available under the Precedent Agreement. PG&E contends that it should no longer be required to file the annual certification if the proposed amendments to the MFN are adopted. The certification necessarily relies on information that PG&E receives from Ruby pursuant to the MFN rights in the Precedent Agreement.[106] With the adoption of the proposed amendments, PG&E will no longer be able to verify the information required in the certification.

UET and SPURR submit that, even if the Commission approves the amendments, PG&E should continue to certify on an annual basis whether the MFN would have been triggered in the prior 12 months, to inform future decisions involving similar clauses.[107]

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[105] Exhibit PG&E-8.

[106] D.18-01-032 at 42, fn. 41.

[107] Exhibit UET-01 at 3-4.

The annual certifications were signed by an executive of Ruby since only Ruby would be privy to the information necessary for the certifications. The Amended Ruby Contracts no longer put PG&E in a position to compel or request Ruby to disclose the necessary information for the annual certification. Without the necessary information, the annual certification is impracticable. Accordingly, PG&E can no longer be required to certify that it is paying the lowest rate available under the Precedent Agreement, which have been superseded with the adoption of the Amended Ruby Contracts. Therefore, we find that PG&E is no longer obligated to file the annual certification under D.08-11-032, OP 3.vi.

6. Procedures for Future Amendments to the Amended Ruby Contracts

6.1. Summary of Procedural Options

Depending on the substance and complexity of the request, a utility can file an application or an advice letter seeking Commission approval. As part of A.20-08-023, PG&E seeks Commission approval of procedures for future amendments and for PG&E's election to exercise (or not exercise) the Step Down Rights and Evergreen Rights in the Ruby Contracts. PG&E proposes that future contract amendments be handled by a Tier 3 Advice Letter, and that the election to exercise rights be handled by a Tier 1 Advice Letter. The appropriate approval process depends on a number of factors including the impact on rate payers and the level of necessary scrutiny. An Advice Letter is a request made to the Commission outside of a formal proceeding that allows for a quick and simplified review of the request, but is only appropriate in certain circumstances.

Advice Letters are covered by GO 96-B. A Tier 1 AL is effective pending disposition by the Commission.[108] A Tier 3 Advice Letter is only effective after

[108] Matters appropriate for Tier 1 include a "Contract that conforms to a Commission order authorizing the Contract, and that requests no deviation from the authorizing order (*e.g.,* a gas

Footnote continued on next page.

Commission approval.[109] An application engenders the highest level of scrutiny, necessitating a proposed decision before the full Commission and ordinarily requires an evidentiary hearing.

In this Application, PG&E requests (1) future contract amendments to the Amended Ruby Contracts be approved via a Tier 3 Advice Letter and (2) procedures to exercise or not exercise Step Down Rights and Evergreen Rights on the Ruby Pipeline be approved via an expedited or regular Tier 1 Advice Letter, depending on the circumstance.

6.2. Procedures for Future Amendments

With only five years remaining on the Ruby Contracts, PG&E contends there is considerably less risk than when the Precedent Agreement was approved in 2007.[110] PG&E argues that an application is unnecessary this late in the contract term and that a Tier 3 Advice Letter is consistent with Commission precedent and more efficient for all parties.

No parties commented on PG&E's proposal that future amendments be approved without filing an application.

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storage Contract in exact conformity with Decision 93-02-013)." (*See* Energy Industry Rule 5.1(4) of GO 96-B)

[109] Per Energy Industry Rule 5.3, Matters appropriate to Tier 3 include:

A matter appropriate to an advice letter but not subject to review and disposition under Tier 1 or 2. (5.3(1))

A tariff change in compliance with a statute or Commission order where the wording of the change does not follow directly from the statute or Commission order. (5.3(2))

(4) Except for a change that may be submitted by advice letter pursuant to Industry Rules 5.1(1), 5.1(3), 5.1(7), 5.2(1), or 5.2(2), a change that would result in an increase to a rate or charge or a more restrictive term or condition, which change has been authorized by statute or by other Commission order to be requested by advice letter. (5.3(4))(5) Except as provided in Industry Rule 5.1(4) and in (8) of this Industry Rule, a Contract or other deviation. (5.3(5))

[110] Opening Brief of PG&E at 11.

A Tier 3 Advice Letter would be resolved through a resolution adopted by the full Commission and would allow for comments to be filed. In the event that an advice letter request is controversial or complex enough to require evidentiary hearings, staff can direct the utility to file an application instead. In light of the short time period remaining on the contract, and the fact that none of the parties protest, we agree that a Tier 3 Advice Letter process is sufficient for future amendments to the Ruby Contracts except in the event that the proposed amendment would increase the term, capacity or other obligations that could substantially impact the costs of customers.

6.3. Procedures for Step Down Rights and Evergreen Rights

6.3.1. Summary of Rights Under the Precedent Agreement

In the Precedent Agreement, both the Core Gas Supply contract and Electric Fuels contract contain clauses for PG&E to exercise Step Down Rights and Evergreen Rights. The Step Down Rights give PG&E the option of "stepping down" capacity in 20% increments beginning in 2022 and continuing through 2026. The Evergreen Rights give PG&E the option to increase or procure capacity in one-year terms starting in 2027 (the year after the end of the original 15-year term). Six months in advance, PG&E must notify Ruby in writing whether it will or will not exercise its option. D.08-11-032 approved the Ruby Contracts with these options but did not specify a procedural mechanism for PG&E to seek Commission approval of its election.

6.3.2. Consultation with Procurement Review Group or CGS Stakeholder Group

The 2014 Bundled Procurement Plan (BPP) adopted by the Commission provided a process which PG&E's Electric Fuels Department follows when executing new pipeline capacity contracts.[111] PG&E proposes using a similar approach for approval of its election of rights. The 2014 BPP includes the review by the Procurement Review Group (PRG). The PRG consists of representatives from the Commission, Cal Advocates, TURN [112] and other independent parties.[113] The PRG allows non-market participants to provide feedback on procurement plans in a confidential environment.[114]

The BPP authorized PG&E's Electric Fuels Department to procure, and let expire, pipeline capacity contracts up to five years in duration, as long as (1) procurement is compliant with the pipeline capacity limits set forth in the BPP, (2) the PRG is consulted in advance of the procurement, and (3) the contract is filed with the Commission as part of the Quarterly Compliance Report.[115] PG&E proposes a similar three-step process for the Amended Ruby Contracts. For Core Gas Supply, PG&E recommends a CGS stakeholder group consisting of Cal Advocates with TURN as an optional participant. The Commission's Energy and Legal Divisions would be invited to attend any meeting.

6.3.3. Proposed Procedures

Under the Ruby Contracts, PG&E had the choice of reducing capacity on the Ruby Pipeline, one year at a time, in 20% increments, starting in 2022. The Amended Ruby Contracts maintain the same choice.

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111 Exhibit PG&E-1, at 3-3, citing Section V of the 2014 BPP.

112 Although TURN did not participate in this proceeding, according to its website, TURN is an independent statewide utility consumer advocacy organization that advocates at the Commission on behalf of residential customers, low-income households, and small businesses. (*See* http://www.turn.org/about.)

113 Exhibit PG&E-1 at 3-2, fn. 1.

114 *See* Procurement Rules at

https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-power-procurement/long-term-procurement-planning/long-term-procurement-plan-background

115 *Id.* at 3-3.

D.08-11-032 directed PG&E to obtain Commission authorization before "exercising, or not exercising, its right under the Precedent Agreement to annually reduce its Ruby capacity by 20% increments beginning in year 11 of the Agreement. To that end, PG&E's Core Gas Supply and Electric Fuels Departments shall each use the procedures the Commission has in place at that time to obtain approval (including pre-approval) to keep or release the Step Down capacity. If no procedures are in place, PG&E shall file an application at least one year prior to the first step down to obtain authority to keep or release or the Step Down capacity."

PG&E proposed the following procedure for Electric Fuels Step Down Rights.[116] Each year, in advance of stepping down, or not stepping down capacity, PG&E's Electric Fuels Department would consult with the PRG. The proposal would not result in pipeline holdings that exceed the pipeline capacity limits in the BPP. [117] Electric Fuels Department would then file an expedited Tier 1 Advice Letter seeking Commission pre-approval of its decision to exercise or not exercise Step Down Rights.

PG&E proposed the following procedure for Core Gas Supply Step Down Rights.[118] Each year, in advance of exercising or not exercising its right to step down capacity, PG&E's CGS will recommend to Cal Advocates and TURN[119] its proposal. The Commission's Energy and Legal Divisions will be invited to attend these meetings.[120] Upon concurrence from, or lack of opposition by, Cal Advocates and TURN of PG&E's recommendation, CGS would file an

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116 Exhibit. PG&E-1 at 3-2.

117 *Ibid.* at 3-2, citing 2014 BPP Confidential Appendix C Section B.2.

118 *Ibid.* at 3-4.

119 TURN's participation in the CGS review process would be voluntary.

120 Exhibit PG&E-1 at 3-4

expedited Tier 1 Advice Letter, with 10 days for protests and 21 days before approval. If no concurrence is obtained by Cal Advocates and TURN, CGS will file a standard Tier 1 Advice Letter allowing for a 20-day protest and approval no earlier than 30 days after the filing. [121]

PG&E proposes to use the same procedures for exercising (or not exercising) Evergreen Rights, which would allow PG&E to renew or procure capacity on the Ruby Pipeline after the 15-year Ruby Contracts and Step Down Rights expire.

6.3.4. Positions of the Parties

SPURR and UET oppose the use of a Tier 1 Advice Letter for approval of Step Down and Evergreen Rights for CGS or EF, arguing that a Tier 1 Advice Letter provides at most 20 days for review and protest.[122] SPURR and UET accuse PG&E of discriminating against CTAs, because only PG&E would be able to determine whether to hold or release capacity on the Ruby Pipeline.[123] They oppose the notion of PG&E meeting "in secret" with Cal Advocates and TURN.[124]

Commercial opposes a Tier 1 Advice Letter because it does not provide an opportunity for discovery or conducting proper market analyses.[125] Commercial contends that there is no evidence to suggest that TURN and Cal Advocates will advocate for the interests of CTA customers.[126] Commercial also contends that a Tier 1 Advice Letter would effectively deny the Commission the opportunity to

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121 *Ibid.*

122 Opening Brief of SPURR and UET at 4.

123 *Ibid.*

124 *Ibid.* at 5.

125 Opening Brief of Commercial at 27.

126 *Ibid* at 26.

determine the reasonableness of PG&E's proposed decision.[127] Commercial therefore recommends the Commission require the filing of Tier 3 Advice Letter if PG&E chooses to defer stepping down capacity or exercising an evergreen option.[128]

Shell also states that a Tier 3 Advice Letter should be required if PG&E chooses not to reduce capacity or to extend the contract term, but that a Tier 1 Advice Letter is appropriate if PG&E seeks to reduce capacity or not extend the term.[129]

6.3.5. Discussion

Commercial opposes the use of Tier 1 Advice Letters but supports Tier 3 Advice Letters. SPURR and UET oppose the approval of Evergreen Rights through a Tier 1 Advice Letter, since it only provides interested parties, at most, 20 days to review and protest PG&E's recommendation.[130]

Because of the financial impact of the Ruby Contracts on CTAs, as described by SPURR and UET, we agree that the CTAs should have a chance to comment or protest any decision to exercise a Ruby Contract right that will increase, maintain, or extend the amount of capacity under the contracts. A Tier 1 Advice Letter has a short period for protest and does not allow for discovery and evidentiary hearings. The robust review process afforded by a Tier 3 Advice Letter allows ample time for protests and discovery and meaningful review. However, only an application would allow for evidentiary hearings. To balance the level of process necessary to evaluate an election and

[127] *Ibid* at 28.

[128] *Ibid*.

[129] Opening Brief of Shell at 9

[130] Opening Brief of SPURR and UET at 4.

avoid unnecessary procedure, we find that an advice letter will be appropriate in some circumstances, but an application will be necessary in others. The primary factors in this determination are (1) whether the election will increase financial obligations, and (2) whether there is general support for the election made by PG&E.

Most parties have indicated that they would support exercising Step Down Rights and would not support exercising Evergreen Rights. Given this consensus, the faster process afforded by the Tier 1 Advice Letter would be appropriate. However, circumstances may change. The recommendation of a review by stakeholders prior to PG&E's decision to exercise the Step Down Rights or not exercise the Evergreen Rights is adopted.

For Electric Fuels, PG&E recommended that the PRG be the reviewing group. This is reasonable given the PRG's existing purpose to assess procurement related to electric generation. For Core Gas Supply, PG&E recommends a CGS stakeholder group consisting of Cal Advocates and TURN. These ratepayer groups will look out for the interests of the core gas customers. This decision adopts this approach and directs PG&E to meet with this group prior to exercising rights under the CGS contract. This "CGS Stakeholder Group" consists of Cal Advocates and TURN (if it chooses) and will serve a role equivalent to that of the PRG for Electric Fuels. The Commission's Energy and Legal Divisions shall be invited to attend any meeting of the CGS Stakeholder Group.

If, through the review process, there is a consensus, then it is reasonable to minimize the time spent reviewing and approving PG&E's election to reduce capacity. However, if there is not consensus, a more robust procedure will be necessary.

6.3.6. Adopted Procedures for Step Down and Evergreen Rights

This decision finds that in the event PG&E seeks to retain capacity by not exercising Step Down Rights, or exercises the Evergreen Right, a Tier 1 Advice Letter will not provide sufficient opportunity for interested parties to respond. However, if PG&E is seeking to reduce reserved capacity by exercising the Step Down Rights, a Tier 1 Advice Letter is appropriate. We also find that because a renewal under the Evergreen Right would increase obligations, a more robust review and opportunity for response is necessary.

In all instances, PG&E will first consult with the PRG or CGS Stakeholder Group (as applicable) prior to submitting an advice letter or filing an application. After the consultation, PG&E will follow the appropriate procedure described below. If necessary, PG&E shall submit separate advice letters for the Electric Fuels and Core Gas Service contracts.

Step Down Rights

- If PG&E intends to exercise a step down right, then PG&E shall submit a Tier 1 Advice Letter.
- If PG&E intends **not** to exercise a step down right, then PG&E shall submit a Tier 3 Advice Letter one year in advance.

Evergreen Rights

- If PG&E intends **not** to exercise any part of the Evergreen Rights, then PG&E shall submit a Tier 1 Advice Letter.
- If PG&E intends to exercise any part of the Evergreen Rights and has reached consensus with the PRG and CGS Stakeholder Group, then PG&E shall submit a Tier 3 Advice Letter one year in advance.
- If PG&E intends to exercise any part of the Evergreen Rights and has not reached consensus with the PRG and CGS Stakeholder Group, then PG&E shall file an application at least 18 months in advance.

PG&E shall serve all advice letters or applications related to the exercise of these rights on all parties in this proceeding at the time of submission.

7. Bifurcation of Recovery Cost on Redwood Path from Ruby Pipeline

In D.08-11-032, the Commission, authorized PG&E's CGS to obtain firm gas capacity on Ruby Pipeline from Wyoming to Oregon, and PG&E's EF to obtain matching downstream capacity on PG&E's intrastate pipeline from Oregon to California along the Redwood Path. As discussed earlier, the Precedent Agreement included terms to permit PG&E to step down capacity beginning Year 11 of the Ruby Contracts (2022). The Redwood Path capacity, however, does not contain the corresponding Step Down or Evergreen Rights.[131]

D.18-11-032, OP, 3.x. authorizes Electric Fuels to recover in retail rates the costs of capacity on the Redwood Path "only to the extent that the Commission has authorized recovery of matching upstream capacity for EF on the Ruby Pipeline." According to PG&E, the inability to simultaneously reduce capacity leaves PG&E exposed for cost recovery risk on the Redwood Path based on step down decisions made on the Ruby Pipeline.[132] PG&E requests the ability to manage and recover costs of Electric Fuels' Redwood Path contract independently from its decision to exercise the Step Down Rights and Evergreen Rights under Ruby Contracts.[133]

No party contested PG&E's request to bifurcate management and cost recovery of the Ruby Pipeline from the Redwood Path.

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[131] Opening Brief of PG&E at 17.

[132] *Ibid.* at 17-18.

[133] *Ibid.* at 17.

This Application is a request to approve contract amendments, not an application for cost recovery. The Step Down Rights in the Ruby Contracts may or may not be exercised by PG&E. Accordingly, matching downstream capacity on the Redwood Path is dependent on the future actions by PG&E, which cannot be determined at this time. Until such time, it is premature for PG&E to request separating cost recovery of the Redwood Path from cost recovery of the Ruby Pipeline. PG&E's decision to step down interstate capacity should be made purely on the basis of what is best for its ratepayers in that market, and unaffected by PG&E's holding of intrastate capacity on the Redwood Path.

We further reject PG&E's implicit contention that its decision to step down capacity on Ruby Pipeline may be impacted if PG&E is "exposed for cost recovery risk on the Redwood Path based on step down decisions on the separate Ruby Contracts,"[134] as PG&E noted it "already has authority under the Bundled Procurement Plan (BPP) to offer its the Redwood Path capacity for sale, and then immediately re-contract for other capacity of the Redwood Path."[135]

This treatment is consistent with D.08-11-032:

> PG&E may recover costs for Electric Fuels' Redwood Path arrangements in future years only to the extent the Commission has authorized recovery of Electric Fuels' upstream arrangements on the Ruby Pipeline. Thus, if the Commission does not authorize Electric Fuels to retain Step-Down capacity on the Ruby Pipeline in Years 11 through 15 of the Precedent Agreement, PG&E may not recover Electric Fuels' matching Step-Down capacity on the Redwood Path in Years 11 - 15.[136]

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[134] Opening Brief of PG&E at 18.

[135] *Ibid* at 18 and fn. 74, citing Exhibit PG&E-1, at 3-9.

[136] D.08-11-032 at 44.

Therefore, we decline to grant PG&E's request to manage and recover costs of Electric Fuels Redwood Path independently from its decision to exercise the Step Down and Evergreen Rights under its Ruby Contract.

8. Safety Issues

The mission of the Commission is to empower California through access to safe, clean, and affordable utility services and infrastructure. Pub. Util. Code Section 451 requires every public utility to furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

The Application addresses existing contractual arrangements that the Commission has previously reviewed and approved. The amount of capacity under the Amended Ruby Contracts is not changed by today's decision. In light of this, we find that this decision does not have any safety implications.

9. Alignment with Environment and Social Justice Goals

In February 2019, the Commission adopted its Environmental and Social Justice (ESJ) Action Plan as a comprehensive strategy and framework for addressing ESJ issues in each proceeding.[137] The nine goals are aspirational and encourage parties to a proceeding to contemplate how the scoping issues align with the ESJ goals.

[137] The ESJ Action Plan is available at http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/EnergyPrograms/Infrastructure/DC/Env%20and%20Social%20Justice%20ActionPlan_%202019-02-21.docx.pdf.

D.08-11-032, authorizing the Ruby Contracts, found there was "no evidence . . . that the Ruby Pipeline Project may cause significant environmental impacts on California."[138]

The parties in this proceeding did not raise any ESJ issues. The Ruby Contracts were approved by the Commission in 2008. This Application to amend the Ruby Contracts is transactional in nature. The proposed amendments do not raise rates and generally maintain the status quo for PG&E customers. Therefore, we find no evidence that the proposed amendments or procedures are misaligned with the Commission's ESJ Action Plan.

10. Request for Confidential Treatment

In its Application, PG&E filed Prepared Testimony with heavily redacted information, referencing "Decision 06-06-066, Govt. Code §6254(k) and/or Public Utilities Code Section 454.5(G)" in the upper right-hand corner of the confidential version. Attached to a Declaration Supporting Confidential Designation on Behalf of PG&E was a "Basis for Confidential Treatment" form stating, "Proprietary and trade secret information or other intellectual property and protected market sensitive/competitive data" (Protected under Civ. Code §§ 3426 et seq; Govt Code §§ 6254, et seq., *e.g.* 6254(e), 6254(k), 6254.15; Govt. Code § 6276.44; Evid. Code § 1060; D.11-01-036).

On February 6, 2021, Commercial served the confidential version of the Testimony of Ron Perry. On March 5, 2021, UET served the confidential version of the Rebuttal Testimony of Michael Huggins. Also, on March 5, 2021, PG&E served its confidential Rebuttal Testimony with redacted information.

[138] *See*, D.08-11-032 at COL 8.

In an April 5, 2021 ruling, all motions for confidential treatment of materials were granted in part and denied in part.[139] The ruling found that the MFN term itself is not a trade secret and is not protected from disclosure[140] since it is mentioned throughout the Application and a reasonable person can deduce that the MFN was affected by the Amended Ruby Contracts. However, no party contested that gas price forecasts were proprietary data and deserve protection under D.06-06-066, Appendix I, VII, B, which states contracts and purchase power agreements between utilities and non-affiliated third parties are confidential for 3 years. The ruling further refined the scope of the proceeding in light of the confidential information received and precluded the parties from discussing the "give and take" during the negotiations between PG&E and Ruby which led to the proposed amendments, consistent with D.06-06-066.

On May 11, 2021, PG&E file a motion for leave to file the opening brief under seal. On May 19, 2021, SPURR and UET file a joint motion for leave to file portions of pages 6 – 7 of the opening brief under seal. On May 21, 2021, Commercial filed a motion for leave to file its reply brief under seal and PG&E filed a motion to file its reply brief under seal.

All motions filed for confidential treatment not previously ruled upon are granted. The confidential materials in the opening and reply briefs shall be sealed for three years from the adoption of this decision.

The matter stands submitted upon this ruling.

11. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) Susan Lee in this matter was mailed to the parties in accordance with Section 311 of the Public

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[139] PG&E did not meet its burden.

[140] Not privileged per Evidence Code §1060, or under GO 66-D - Proprietary and trade secret information or other intellectual property and protected market sensitive/competitive data.

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 ________________.

12. Assignment of Proceeding

Marybel Batjer is the assigned Commissioner and Susan Lee is the assigned ALJ in this proceeding.

Findings of Fact

1. The Precedent Agreement adopted in D.08-11-032 between Pacific Gas and Electric Company (PG&E) and Ruby Pipeline, LLC (Ruby) has a 15-year term that began in 2011.

2. The Precedent Agreement, also referred to as the Ruby Contracts, consists of two long-term firm transportation service agreements between PG&E and Ruby to transport natural gas from Wyoming to Oregon through the Ruby Pipeline. One agreement is for PG&E's Electric Fuels Department and the other is for PG&E's Core Gas Supply Department.

3. The two significant amendments to the Precedent Agreement clarify the creditworthiness term and remove the Most Favored Nation provision (MFN).

4. In 2018, PG&E's credit rating was downgraded and put PG&E in breach of the creditworthiness clause of the Ruby Contracts.

5. To address the breach, PG&E and Ruby negotiated changes to the Ruby Contracts. The creditworthiness clause was modified, and the MFN was removed.

6. PG&E seeks approval of the Amended Ruby Contracts containing the negotiated changes.

7. The amendments to the creditworthiness terms simplify and clarify the provision.

8. The MFN under the Precedent Agreement guaranteed that PG&E would be offered any lower reservation rate that Ruby offered to another similarly-situated long-term shipper which was below the contracted price between PG&E and Ruby. As of the date of this Application, the MFN had not been triggered, as no event has obligated Ruby to offer PG&E a lower reservation rate.

9. Since 2018, Ruby has only sold short-term contracts, which would not trigger the MFN.

10. The intrinsic value of the MFN is low since a significant value would occur only if the MFN is triggered by the sale of reservation rights in a long-term contract for a lower amount than the contracted rate between PG&E and Ruby. The likelihood of triggering the MFN has been low and remains low.

11. The Amended Ruby Contracts generally maintain the status quo and do not raise customer rates.

12. The Core Transport Agents (CTAs) represent 15% to 19% of core gas customer volumes on the PG&E system.

13. The annual certification that PG&E continues to pay the lowest reservation rate is no longer needed now that the MFN provision is no longer in force.

14. With the Precedent Agreement amended, Ruby is no longer obligated to provide PG&E with the annual certifications under the MFN, making it impractical for PG&E to continue these filings.

15. The Ruby Contracts and Amended Ruby Contracts give PG&E Step Down Right or the right to step down the capacity on the Ruby Pipeline by 20% each year for the five years beginning in 2022.

16. The Ruby Contracts and Amended Ruby Contracts give PG&E Evergreen Rights, or the right to extend the contract term and increase capacity on the Ruby Pipeline for the ten years beginning in 2027.

17. All parties agree that holding capacity on the Ruby Pipeline is uneconomic.

18. D.08-11-032, approving the Ruby Contracts, did not set specific procedures for PG&E to follow when exercising its rights to reduce, renew or procure capacity on the Ruby Pipeline.

19. Shell, Commercial, SPURR and UET support a step down in capacity, but would oppose a PG&E decision to not step down capacity or to exercise the Evergreen Rights.

20. A Tier 1 Advice Letter provides limited opportunity for a party to protest and is generally effective pending disposition. A Tier 1 Advice Letter is an appropriate procedure for PG&E to exercise its Step Down Rights or to not exercise its Evergreen Rights.

21. A Tier 3 Advice Letter provides opportunity for protest and requires adoption by resolution by a vote of the Commission. A Tier 3 Advice Letter is an appropriate procedure for PG&E to seek approval of a decision to not exercise the Step Down Rights or to exercise the Evergreen Rights.

22. A consultation process with a stakeholder group provides a way for PG&E to obtain input prior to filing its advice letter. Consensus by the review group would support a procedural mechanism with a shorter review period without requiring a resolution by the Commission.

23. The Procurement Review Group (PRG) already exists and reviews electric fuels procurement arrangements. The PRG is an appropriate stakeholder group to review PG&E Electric Fuels' proposed election to exercise or not exercise its rights.

24. The PRG does not review contracts for core gas supply. There is no parallel to the PRG for gas procurement.

25. Cal Advocates and TURN both represent core gas ratepayer interests.

26. For core gas supply (CGS), a stakeholder group consisting of Cal Advocates, with TURN as an optional member, in consultation with the Commission's Energy Division, provides a level of review similar to the PRG.

27. Commercial, Shell, SPURR and UET oppose filing a Tier 1 Advice Letter for renewing capacity and recommend that PG&E be required to file a Tier 3 Advice Letter if it exercises its Evergreen Rights to renew or procure new capacity on the Ruby Pipeline.

28. In addition to the Ruby Pipeline arrangement, Electric Fuels also has an arrangement for matching capacity on the Redwood Path. Cost recovery for the Redwood Path capacity is permitted to the extent Redwood Path capacity matches the Electric Fuels Ruby Pipeline capacity.

29. Further amendment of the Ruby Contracts may be addressed in a Tier 3 Advice Letter except in the event the proposed amendment could substantially impact the costs of customers.

30. The Redwood Path arrangement does not have the same Step Down and Evergreen Rights for capacity management as the Ruby Contracts.

31. Because the Redwood Path is not part of the Ruby Contracts, cost recovery for capacity on Redwood Path should be addressed in a future cost recovery proceeding.

Conclusions of Law

1. The Ruby Contract Amendments should be approved. As required by Public Utilities Code Sections 451 and 454, the rates and charges that result from granting PG&E's Application are just and reasonable.

2. PG&E's actions to negotiate and amend the Ruby Contracts were reasonable under the circumstances.

3. With the approval of the Amended Ruby Contracts, the request by PG&E to discontinue filing an annual certification that PG&E is receiving the lowest reservation rate from Ruby is reasonable and should be approved.

4. The existing PRG adequately represents the interests of Electric Fuels customers.

5. A core gas supply stakeholder group, consisting of the Commission's Public Advocates Office, and TURN, if TURN so desires, adequately represents ratepayer interests, including the interests of CTA customers. It is not necessary to include CTAs in the CGS Stakeholder Group.

6. A Tier 1 Advice Letter for not exercising Step Down Rights does not allow sufficient opportunity for participation by CTAs or other stakeholders and should not be approved.

7. A standard Tier 1 Advice Letter if PG&E chooses to reduce capacity on the Ruby Pipeline following consultation with the PRG or CGS Stakeholder Group (as applicable) is reasonable and should be approved.

8. A Tier 3 Advice Letter when PG&E chooses to not exercise Step Down Rights on the Ruby Pipeline with the consensus of the PRG or the CGS Stakeholder Group is reasonable and should be approved.

9. A Tier 1 Advice Letter for exercising Evergreen Rights to renew capacity is not reasonable and should be denied.

10. A Tier 3 Advice Letter is reasonable if PG&E decides to renew or procure capacity by exercising its Evergreen Rights, with consensus of the PRG or the CGS Stakeholder Group. If consensus is not possible, then PG&E should file an application to exercise Evergreen Rights.

11. A Tier 1 Advice Letter is reasonable if PG&E chooses not to exercise Evergreen Rights and there is consensus of the PRG or CGS Stakeholder Group.

If consensus from the PRG is not possible, the use of a Tier 3 Advice Letter is reasonable and should be approved.

12. The use of a Tier 3 Advice Letter for future amendments to the Amended Ruby Contracts is reasonable and in the public interest and should be approved.

O R D E R

IT IS ORDERED that:

1. The amendments described in Application 20-08-023 filed by Pacific Gas and Electric Company are approved.

2. Pacific Gas and Electric Company is no longer required to file an annual certification asserting that it is receiving the lowest rate from Ruby Pipeline, LLC.

3. Prior to acting on the capacity Step Down Rights for years 2022 through 2026, or the Evergreen Rights starting in 2027, Pacific Gas and Electric Company shall consult with the Procurement Review Group (PRG) for Electric Fuels Department, and a core gas supply stakeholder group (the CGS Stakeholder Group) for the Core Gas Supply Department, consisting of the Public Advocates Office of the California Public Utilities Commission and The Utility Reform Network (TURN). The Commission's Legal Division and Energy Division shall be invited to any meeting of the CGS Stakeholder Group; TURN may elect not to participate. After consultation, PG&E shall follow the appropriate procedures as follows:

- If PG&E intends to exercise a Step Down Right, then PG&E shall submit a Tier 1 Advice Letter. If PG&E intends not to exercise a Step Down Right, then PG&E shall submit a Tier 3 Advice Letter one year in advance.
- If PG&E intends not to exercise any part of an Evergreen Right, then PG&E shall submit a Tier 1 Advice Letter.
- If PG&E intends to exercise any part of an Evergreen Right and has reached consensus with the PRG and CGS

Stakeholder Group, then PG&E shall submit a Tier 3 Advice Letter one year in advance.

- If PG&E intends to exercise any part of an Evergreen Right and has not reached consensus with the PRG or CGS Stakeholder Group (when applicable), then PG&E shall file an Application at least 18 months in advance of exercising its option.

4. PG&E shall serve all advice letters or applications related to the exercise of these rights on all parties in this proceeding at the time of submission.

5. Future Amendment to the Amended Ruby Contract shall be filed in a Tier 3 Advice Letter unless the amendment could substantially impact the costs of customers, in which case, an application shall be filed.

6. Application 20-08-023 is closed.

This order is effective today.

Dated ______________________________, at San Francisco, California.

Appendix A:

List of Acronyms/Abbreviations