



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

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Application of Pacific Gas and Electric Company (U 39 E) for Approval of its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027.

Application No. 22-05-002  
(Filed May 2, 2022)

And Related Matters.

Application No. 22-05-003  
Application No. 22-05-004

**RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY TO JOINT  
MOTION OF CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT  
COUNCIL AND CPOWER FOR EXPEDITED CLARIFICATION OF ALJ  
TOY'S EMAIL RULING OF SEPTEMBER 16, 2022**

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**RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY TO JOINT MOTION OF CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL AND CPOWER FOR EXPEDITED CLARIFICATION OF ALJ TOY'S EMAIL RULING OF SEPTEMBER 16, 2022**

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company submits this response to the Joint Motion Of California Efficiency + Demand Management Council and CPower For Expedited Clarification Of ALJ Toy's E-mail Ruling Of September 16, 2022 (Joint Motion). PG&E is the party responsible for writing the Motion to Admit Exhibits into Evidence, and the exhibit list, which are due Monday, September 26, 2022 (Motion to Admit). PG&E is trying to manage the process to provide clarity to all parties involved, and to fairly arrive at consensus where appropriate, and accurate descriptions of any disagreement over a specific exhibit. In that role, PG&E has endeavored to follow the ALJ's instructions in the September 16, 2022, ruling, including sharing drafts of the Motion to Admit Exhibits, along with the exhibit list, with parties who attended the September 9 Meet and Confer, or who have sponsored testimony on the issues for DRAM in Phase 1. PG&E circulated the most recent drafts Monday afternoon, September 19, 2022.

The Joint Motion asks the ALJ to clarify whether a proposed exhibit list can include an exhibit which *"has not been served on the service list in this proceeding, has not been uploaded as a 'supporting document' identified as an exhibit of that party with a continuation of its exhibit numbering, and has not been expressly permitted by the ALJ to do so as a late-filing"*. (Joint

Motion, page 2.) The motion’s discussion speaks only in general terms, as if there were totally new and undisclosed documents involved in the Motion to Admit and exhibit list. The inference in the Joint Motion that parties are trying to get “stealth” exhibits into evidence is completely wrong and creates a serious and misleading misconception. Nowhere in the Joint Motion have CPower or the California Efficiency + Demand Management Council identified what exhibit raises their concern and prompted their Joint Motion, although they have seen the draft exhibit list circulated by PG&E. Given the recent filings by CPower and the Council in this proceeding,<sup>1</sup> it is abundantly clear that the contested exhibit at issue is the Nexant Report, prepared in partnership with Gridwell Consulting.

PG&E can affirm that all the documents on the draft exhibit list – including the Nexant Report – have been available in this case, either as testimony filed by a party, or as a document served by the Commission with the July 5, 2022 Scoping memo. Indeed, Ordering Paragraph 5 of the Scoping Memo makes clear that the Nexant Report was added to the proceeding record. The Nexant report has been included on the draft exhibit list, at one party’s request. PG&E currently anticipates that its status would be subject to the process in the ALJ’s September 16, 2022 process for proffer and objections, and an eventual ruling by the ALJ.

The Commission, ALJ and parties should understand that in this pleading, PG&E is not taking a position on what the ultimate treatment of the Nexant report should be.<sup>2</sup> However, PG&E does object to the Joint Motion’s inference that the process for identifying exhibits for the Motion to Admit has been improper. Therefore PG&E opposes CPower and California Efficiency + Demand Management Council’s request for a general ruling based on the Joint Motion.

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<sup>1</sup> *Joint Motion Of California Efficiency + Demand Management Council And CPower For Acceptance Of The Late-Filed Joint Motion Of California Efficiency + Demand Management Council And CPower For Evidentiary Hearings And Discovery In Phase 1 Auction Mechanism And Nexant Report*, dated September 19, 2022.

<sup>2</sup> PG&E reserves the right to address the substantive question of the Nexant report’s status in this proceeding, including potentially identifying it as an exhibit and admitting it into evidence, when the ALJs have provided direction in response to the Joint Motion and the responses thereto.

