

BEFORE THE PUBLIC UTILITIES COMMISSION OF  
THE STATE OF CALIFORNIA



**FILED**

Application of Pacific Gas and Electric Company (U39E) for Approval Under Public Utilities Code Section 851 to Lease Entitlements to Transmission Projects to Citizens Energy Corporation.

Application 24-03-0093/03/25  
(Filed March 12, 2024) 4:59 PM  
A2403009

**CENTER FOR ACCESSIBLE TECHNOLOGY'S RESPONSE TO AMENDED  
APPLICATION OF PG&E FOR APPROVAL UNDER PUBLIC UTILITIES CODE  
SECTION 851 TO LEASE ENTITLEMENTS TO TRANSMISSION PROJECTS TO  
CITIZENS ENERGY CORPORATION**

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March 3, 2025

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## **I. INTRODUCTION**

In accordance with Rule 2.6 of the Commission's Rules of Practice and Procedure, Center for Accessible Technology (CforAT) submits this timely response to PG&E's Amended Application for Approval under Public Utilities Code Section 851 to Lease Entitlements to Transmission Projects to Citizens Energy Corporation (Amended Application), which was filed on January 31, 2025. PG&E seeks Commission authorization to lease Entitlements to certain transmission projects to Citizens Energy Corporation (Citizens), allowing PG&E to access capital while Citizens holds a leasehold percentage interest in Entitlements for the duration of a 30-year lease. Under the Investment Program between PG&E and Citizens, PG&E may offer Citizens up to five separate options to enter a 30-year Entitlements Lease for specified transmission projects, with a total investment cap of \$1.0 billion. PG&E requests that the Commission authorize its first Entitlements Lease with Citizens and seeks approval to use an expedited Tier 3 Advice Letter process for option periods two through five.

The Amended Application states that PG&E and Citizens revised their initial proposal and incorporated additional information to respond to feedback from intervenors and stakeholders and to assist the Commission's review of the proposed transaction.<sup>1</sup> The revisions reflected in the Amended Application and supporting testimony include: (1) a proposed expedited Tier 3 Advice Letter process for option periods two through five; (2) Citizen's decision to commit all charitable contributions generated by the Investment Program to programs that provide direct bill-paying assistance to PG&E customers in need, including customers in disadvantaged communities; (3) a list of transmission projects that PG&E expects may be subject

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<sup>1</sup> Amended Application at p. 2.

to an Entitlements Lease under the proposed Investment Program; and (4) expert testimony concluding that the proposed Investment Program is not adverse to the public interest.<sup>2</sup>

CforAT appreciates the revisions and additional information provided in the Amended Application, and we plan to participate in further review of the amended proposal, including appropriate discovery. We provide this brief Response to focus on the issue of the appropriate legal standard that the Commission should use to review the Amended Application.

## **II. ISSUES TO BE ADDRESSED IN THIS PROCEEDING**

As with the original Application, the Amended Application asserts that the appropriate standard of review is whether the proposed transaction is “not adverse to the public interest” under Section 851 and includes this standard in its first proposed issue to be considered.<sup>3</sup> However, the Commission uses varying standards in its public interest analysis under Section 851,<sup>4</sup> and the minimal standard of “not adverse to the public interest” is not appropriate here.

As discussed at the Prehearing Conference previously held on July 26, 2024, CforAT argues that a heightened standard of review is appropriate for this proposed transaction and that, at a minimum, the issue of the appropriate legal standard should be included in the scope of the proceeding.<sup>5</sup> First, it is appropriate to review the Amended Application’s impacts to rates under a just and reasonable standard.<sup>6</sup> The proposed Representative Rate Model described in the Amended Application and supporting testimony would lock in rates for the 30-year terms of the each applicable tranche of investments per the applicable Entitlements Lease.<sup>7</sup> PG&E and Citizens contend that this model would provide the benefits of rate stability and certainty for

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<sup>2</sup> Amended Application at pp. 2-3.

<sup>3</sup> Amended Application at p. 36.

<sup>4</sup> D.24-05-004, issued May 10, 2024, at p. 9.

<sup>5</sup> July 26, 2024 Prehearing Conference Transcript at p. 39:11-23.

<sup>6</sup> Public Utilities Code Sections 451 and 454(a).

<sup>7</sup> Amended Application at pp. 27-28.

ratepayers, and they reference the Commission’s approval of this mechanism in the Sunrise and Sycamore Decisions.<sup>8</sup>

However, fixed rates pose potential risks in addition to potential rate stability benefits. As previously discussed by Cal Advocates, the Sunrise and Sycamore Decisions “show that the Commission needs to carefully evaluate specific information about the projects, costs, risks, and market conditions in order to determine whether to approve entitlement lease applications.”<sup>9</sup> The Commission should examine whether the impacts to rates from the proposed transaction will be just and reasonable.

CforAT also agrees with TURN’s previously-stated position that the appropriate standard for consideration of this proposed project is whether the proposed transaction is reasonable and in the public interest.<sup>10</sup> When a proposed transaction, such as the Investment Program, is novel, the Commission applies a heightened review and considers whether the transaction will affirmatively serve the public interest.<sup>11</sup> While the Amended Application states that the Investment Program is modeled on the prior Sunrise and Sycamore projects, the Investment Program is substantially larger and more complex, involving multiple leases and projects and a potential total investment of \$1.0 billion.<sup>12</sup> Therefore, the Commission should decline to use the minimal standard of “not adverse to the public interest” and should instead review whether the proposed transaction is reasonable and in the public interest.

For these reasons, CforAT believes that the first issue to be considered should be stated

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<sup>8</sup> Amended Application at pp. 5, 12.

<sup>9</sup> Cal Advocates Motion to Dismiss, filed May 13, 2024, at pp. 9-10.

<sup>10</sup> TURN Protest, filed April 15, 2024, at pp. 2-3. In supporting testimony, consultant Susan F. Tierney acknowledges TURN’s position that the standard of review should be “whether the transaction will serve the public interest” and contends that “even if this standard were applicable, the Investment Program would readily meet this standard.” Testimony Chapter 8 at p. 4 footnote 4.

<sup>11</sup> D.24-05-004, issued May 10, 2024, at pp. 9-10.

<sup>12</sup> Amended Application at pp. 3-5, 17.

as follows: “whether leasing Entitlements to certain high-voltage PG&E transmission projects to Citizens pursuant to the terms and conditions of the Investment Program created by the DCOA and as described in this Amended Application *will be reasonable and serve the public interest.*” In the alternative, the Commission should scope which legal standard is appropriate for the its review of “leasing Entitlements to certain high-voltage PG&E transmission projects to Citizens pursuant to the terms and conditions of the Investment Program created by the DCOA and as described in this Amended Application.”

### **III. CONCLUSION**

CforAT respectfully requests that the Commission either affirmatively determine at this time that the appropriate standard of review for the proposed transaction is whether it serves the public interest, or else, in the alternative, to include the issue of the appropriate legal standard within the scope of this proceeding.

Respectfully submitted,  
March 3, 2025

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