



STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**FILED**

06/20/25

08:40 AM

A2004023

June 20, 2025

**Agenda ID #23578**  
**Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 20-04-023:

This is the proposed decision of Administrative Law Judge Robert Haga. 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 July 24, 2025, 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/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC: hma

Attachment

Decision **PROPOSED DECISION OF ALJ HAGA (Mailed 6/20/25)**

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

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

Application 20-04-023

**DECISION APPROVING MODIFICATION OF ORDERING PARAGRAPH 3 OF  
DECISION 21-04-030**

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**DECISION APPROVING MODIFICATION OF ORDERING PARAGRAPH 3 OF  
DECISION 21-04-030****Summary**

We approve the modification of Ordering Paragraph (OP) 3 of Decision (D.) 21-04-030 which requires Pacific Gas & Electric (PG&E) shareholders to contribute \$1 billion to the Customer Credit Trust (CCT) before March 31, 2024. This decision finds that PG&E's proposed modification of OP 3 of D.21-04-030 is not clear or specific, and does not adequately mitigate the impact on long-term gains its delay causes to ensure the securitization is neutral, on average, to ratepayers. The Commission considered several factors in approving the underlying transactions, including the timing of the initial contributions, and expected investment returns. Although the total amount of the proposed contribution remains the same, \$1 billion, the delay in making nearly two-thirds of the contribution fundamentally alters the CCT Returns and reduces the likelihood the CCT will achieve a positive cash flow at the end of the 30-year period. PG&E's attempt to mitigate this change is not sufficient. Further, we determine PG&E does not provide a comprehensive approach to calculating lost investment gains. PG&E's proposal increases the risk that the CCT will not be able to meet its goal to ensure the overall transactions are neutral, on average, to ratepayers.

In its evaluation of PG&E's petition, the Commission may modify Decision 21-04-30 so long as the Commission continues to protect ratepayers from bearing the costs of PG&E underfunding the CCT. Specifically, PG&E should use its authorized rate of return to create a clear and specific modification to the calculation of the lost investment returns to satisfy the requirement that the overall transactions are neutral, on average, to ratepayers. This decision modifies

Decision 21-04-030 to compensate the CCT at PG&E's authorized rate of return to avoid prejudice to the interest of ratepayers.

This proceeding is closed.

## **1. Background**

On February 29, 2024, Pacific Gas and Electric Company (PG&E) filed a Petition requesting modification of Decision (D.)21-04-30.<sup>1</sup> The Alliance for Nuclear Responsibility (A4NR) filed a response on April 1, 2024, and The Utility Reform Network (TURN) filed a response on April 2, 2024. PG&E filed a reply on April 12, 2024.

In its Petition PG&E seeks modification of Ordering Paragraph (OP) 3 of D.21-04-030 which requires PG&E to contribute \$1 billion to the Customer Credit Trust (CCT) before March 31, 2024. PG&E claims that deferral of a portion of its contribution to the CCT will not harm customers and that the additional time will allow it to revise its financial plans to maintain the work it has done to restore its overall financial health.<sup>2</sup> PG&E proposes to contribute \$350 million to the CCT before March 31, 2024,<sup>3</sup> and "defer additional contributions until (1) 30 days after the closing of the Pacific Generation transaction, at which point PG&E will contribute the remaining \$650 million (plus any net investment gains that would have been earned...), if such closing occurs by March 1, 2025, or (2) if the Pacific Generation transaction does not close before March 1, 2025, then PG&E

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<sup>1</sup> Petition of Pacific Gas and Electric Company (U 39 E) for Modification of Ordering Paragraph 3 of Decision 21-04-030, filed February 29, 2024 (Petition). *See*, Rule 16.4. References to Rules are to the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) unless otherwise stated.

<sup>2</sup> *See*, Petition at 2-4.

<sup>3</sup> PG&E completed this \$350 million contribution before March 31, 2024. *See*, PG&E's Quarterly Customer Credit Trust Report for 2024 Q1, served to the service list of A.20-04-023 on May 15, 2024.

will contribute \$325 million before March 31, 2025 and another \$325 million within 30 days of closing of the transaction but in no event later than March 31, 2026 (in each case with any net investment gains that would have been earned)."<sup>4</sup> On May 9, 2024, the Commission issued D.24-05-004 denying PG&E's proposed Pacific Generation transaction.

### **1.1. Extension of Time to Comply in Full**

Also on February 29, 2024, PG&E sent a letter to the Commission's Executive Director seeking an extension of time to comply in full with the requirement to contribute \$1 billion to the CCT before March 31, 2024.<sup>5</sup> The Executive Director granted PG&E "an extension of time to fully comply with the requirement in Ordering Paragraph (OP) 3 of Decision (D.) 21-04-030 that PG&E contribute an additional \$1 billion to the [Customer] Credit Trust before March 31, 2024."<sup>6</sup> The Executive Director relied on PG&E's sworn declaration that the extension will not increase the risk of a shortfall in the CCT and PG&E's representation that it will contribute any net investment gains that would have been earned if the \$1 billion was contributed by March 31, 2024.

In addition, the Executive Director applied additional safeguards "to allow the Commission time to decide PG&E's concurrently filed petition for modification."<sup>7</sup> While PG&E affirmed that this extension will not result in a shortfall during the extension period, the Executive Director noted that it is not

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<sup>4</sup> Petition at 1.

<sup>5</sup> See, Rule 16.6.

<sup>6</sup> Letter Granting Pacific Gas and Electric a Modified Extension to Comply with OP 3 of D.21-04-030, March 14, 2024, served on the service lists of A.20-04-023 and A.21-01-004 on March 15, 2024.

<sup>7</sup> *Id.*

clear what the impact of the extension period will be over the full 30 plus year term of the Customer Credit Trust.

Therefore, the Executive Director required: (1) an automatic end to the extension if any shortfall in the CCT occurs; (2) PG&E to contribute the first \$350 million to the CCT before March 31, 2024; (3) PG&E to provide a more complete explanation of its need for the extension; (4) PG&E to provide a more complete explanation for how it will ensure that the net investment gains will be the same through the petition for modification; and (5) additional reporting from PG&E, at least quarterly, regarding the current balance in the CCT.

The Executive Director took note of the other safeguards built into D.21-04-030, including additional contributions PG&E must make to the Customer Credit Trust and, if needed, a contingent supplemental shareholder contribution in 2040, as providing additional assurances that PG&E's request for an extension will not adversely impact ratepayers.

### **1.2. PG&E's Proposed Modifications to D.21-04-030**

PG&E seeks modification of Ordering Paragraph 3 of D.21-04-030 which requires PG&E to contribute \$1 billion to the Customer Credit Trust (CCT) before March 31, 2024.<sup>8</sup> PG&E argues that its proposed modification is warranted "to provide necessary flexibility for PG&E to adapt to evolving timelines"<sup>9</sup> and "mitigate the unforeseen delay in the disposition of [Application] A.22-09-018" which would have allowed it to use its cash on hand to fund the full \$1 billion contribution to the CCT while the proceeds from closing the Pacific Generation transaction in the second quarter of 2024 would be used for 2024 capital

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<sup>8</sup> Petition at 3-6.

<sup>9</sup> Petition at 4.

expenditures. PG&E argues that because of the delay it could “neither rely on receiving proceeds from the Pacific Generation transaction to support its capital expenditures in 2024 nor ... plan and execute spending reductions that assume the Pacific Generation transaction will not occur.”<sup>10</sup>

PG&E also claims customer interests will be protected if the petition is granted. PG&E states the petition “does not increase the risk of a shortfall in the CCT during the extension period” as the CCT’s “balance and investment policy” ensure “there is no foreseeable scenario in which PG&E’s requested extension would result in a shortfall before 2026.”<sup>11</sup> In addition, PG&E proffers “shareholders will contribute any net investment gains that would have been earned during the period between March 31, 2024, and the date of the deferred payment(s), multiplied by the amount of such deferred payment(s).” PG&E claims “the deferred contribution(s) would earn the same net investment return as the CCT for the same period.” PG&E states that such additional payment amounts will account “for the CCT’s foregone returns due to the requested modification.”

PG&E proposes the following specific modification to Ordering Paragraph 3 of the D.21-04-030:

3. Pacific Gas & Electric Company (PG&E) shareholders shall contribute an additional ~~\$1 billion~~ \$350 million contribution to the Customer Credit Trust before March 31, 2024. PG&E shareholders shall contribute (1) an additional \$650 million (plus any net investment gains) within 30 days after the closing of the Pacific Generation transaction proposed in A.22-09-018, if such closing occurs by March 1, 2025, or (2) if the Pacific Generation transaction does not close before March 1, 2025, \$325 million before March 31,

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<sup>10</sup> *Id.*, citing, Declaration of Margaret Becker (Becker Declaration) at ¶ 3.

<sup>11</sup> Becker Declaration at ¶ 4.



2025 and another \$325 million within 30 days of closing of the Pacific Generation transaction but in no event later than March 31, 2026. PG&E shareholders shall add any net investment gains using the return earned by the CCT during the period between March 31, 2024 and the date of the deferred payment(s), multiplied by the amount of such deferred payment(s). PG&E shall file a Tier 2 Advice Letter within 30 days of its first issuance of Recovery Bonds, demonstrating that the second \$1 billion contribution will not be credit negative to PG&E, or PG&E must propose modified timing for this contribution to avoid adversely impacting PG&E's credit statistics.

PG&E states that its petition for modification could not have been brought within one year of the issuance of D.21-04-030 as it could not have foreseen the schedule for A.22-09-018. PG&E filed A.22-09-018 almost eighteen months after the issuance of D.21-04-030 with the anticipation that the Pacific Generation transaction would be closed by the end of 2023, thus enabling PG&E to fund its 2024 capital plan with the proceeds of that transaction and use available cash to fund the contribution to the CCT before March 31, 2024. PG&E claims that after the schedule for A.22-09-018 was adjusted, the need for this petition became apparent.<sup>12</sup>

PG&E claims that evidentiary hearings are not necessary as the petition and supporting declaration provide a sufficient record for the Commission to rule on PG&E's request.

### **1.3. Responses to the Petition for Modification**

#### **1.3.1. Alliance for Nuclear Responsibility Supports Modification with a Different Investment Return Calculation**

A4NR conditions its support of PG&E's petition upon "correcting PG&E's proposed investment return to be credited to ratepayers" for the period of the

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<sup>12</sup> Petition at 7.

remaining \$650 million contributions are delayed.<sup>13</sup> A4NR proposes that the CCT “be compensated at PG&E’s authorized return on equity to avoid prejudice to the interests of ratepayers and windfall benefit to shareholders.”<sup>14</sup> A4NR argues that if PG&E finds the cost of this method of keeping the CCT whole too high, it can use other means to end the deferral period envisioned by the Petition whenever it chooses.<sup>15</sup>

A4NR challenges PG&E’s claims that there is any connection between the Petition and the Pacific Generation transaction proposed in A.22-09-018. A4NR claims the “carefully worded Declaration” included by PG&E “avoids any explanation of when or how a commitment first offered by PG&E” in this proceeding is premised on a subsequent application that would be filed more than 18 months later. A4NR notes there is no public mention by PG&E of the claimed connection prior to filing the Petition.<sup>16</sup> However, A4NR argues that the Commission need not inject itself into PG&E’s capital markets strategy to recognize the Petition’s requested deferral is a substitute for raising conventional equity in the public markets. A4NR proposes a different modification to OP3 of D.21-04-030 to ensure ratepayers are compensated for this substitution. A4NR argues that given the role fixed-income investments play under the CCT investment policy, which are “likely to be significantly lower than the authorized return on equity approved for PG&E,” that PG&E’s approved return on equity is the appropriate benchmark for calculating the deferred interest amounts.<sup>17</sup> As

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<sup>13</sup> A4NR Response at 1.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 2.

<sup>17</sup> *Id.* at 4-5, *citing* Pub. Util. Code §§ 451 and 3292(b)(1)(E).

“PG&E shareholders are not entitled to a windfall benefit by indirectly commandeering an infusion of below-cost equity from ratepayers” A4NR proposes the following modification to the third sentence of OP 3:

PG&E shareholders shall add any net investment gains using the PG&E’s authorized return on equity earned approved by the CCT Commission for ~~during~~ the period between March 31, 2024 and the date of the deferred payment(s), multiplied by the amount of such deferred payment(s).<sup>18</sup>

Finally, A4NR notes that PG&E has previously asserted that the entire \$1 billion contribution will not be credit negative to PG&E.<sup>19</sup>

**1.3.2. TURN Seeks a Modification for PG&E to Guarantee the Trust Will Fully Offset Ratepayer Obligations for the Full 30-Year Period of the Bonds**

TURN’s response expresses concern that the deferral “significantly increase[s]” the risk “the CCT will become insolvent prior to 2026.” TURN was also “surprised” to learn PG&E’s ability to fulfill its CCT funding obligations were premised on Commission approval of an unrelated transaction and not disclosed in A.20-04-023. Accordingly, TURN argues that any modification should be conditioned on PG&E guaranteeing the solvency of the CCT, clarifying how lost investment gains will be credited to the CCT, and adopting other ratepayer protections necessary to ensure the deferral of payments is not another gambit to enrich shareholders.<sup>20</sup>

TURN challenges PG&E’s assertion that there is no foreseeable scenario in which an extension would result in a shortfall before 2026. TURN argues that the

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<sup>18</sup> A4NR Response at 5-6.

<sup>19</sup> A4NR Response at 3-4, *citing*, PG&E AL 6616-E, Attachment 2, Declaration of Margaret Becker at ¶¶ 8 – 12 (citing discussions with Moody’s Investor Service and S&P Global Ratings).

<sup>20</sup> TURN Response at 2, 7, 9-13.

record that supported D.21-04-030 included extensive modeling to support PG&E's claim that CCT shortfalls were unlikely to occur. While the Commission accepted PG&E's reliance on modeling that found two incremental \$1 billion contributions would adequately fund the CCT until the commencement of additional shareholder contributions, there is only the "belief" of a PG&E Vice President supporting the claim that a shortfall will not occur before 2026 for the Commission to rely upon in making the proposed modification.<sup>21</sup>

TURN reviewed the CCT market value over the course of 2023, and forecasted future balances for 2024, 2025, and early 2026 based on the same net change as occurred in 2023.<sup>22</sup> TURN's analysis shows the CCT would have a \$25 million shortfall in February 2025. TURN also shows that even after the additional contribution in March 2025, the CCT would again have a shortfall by the end of September 2025.<sup>23</sup>

TURN also prepared a second forecast that assumed a 10% after-tax investment return which resulted in additional contributions in 2025 and 2026.<sup>24</sup> "This second forecast shows the CCT running out of funds in early 2025 (prior to the March 31 contribution) and again in late 2025 and into 2026."<sup>25</sup> TURN argues that this second forecast uses an "extremely optimistic" forecast of investment returns, one that is "well above the average returns forecasted in PG&E's application."<sup>26</sup>

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<sup>21</sup> *Id.* at 2-3.

<sup>22</sup> *Id.* at 3-5.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 6-7.

<sup>25</sup> *Id.* at 6.

<sup>26</sup> *Id.* at 6-7, citing D.21-04-030 at 46.

TURN argues that its forecasts show a “very significant risk of shortfalls in 2025 and 2026.” TURN notes that the “repeated depletions” of the CCT balances “jeopardize both its short-term and long-term ability to fund bill credits.” Therefore, TURN urges the Commission to reject PG&E’s assertion that customers are unlikely to be harmed by the contribution delays.<sup>27</sup>

TURN also challenges the “last-minute” claim that its commitments made in A.20-04-023 were “contingent upon favorable Commission action on a subsequent application.”<sup>28</sup> TURN suggests that “this newly unearthed fact suggests bad faith and misrepresentation in the original application” and that the “Commission should consider whether to sanction PG&E for its failure to disclose a material fact in its original application.”<sup>29</sup>

TURN argues that PG&E has failed to demonstrate it is unable to pay its obligation to the CCT, and instead made a choice to allocate its capital toward investments to provide earnings to shareholders.<sup>30</sup> TURN notes that PG&E’s reports to investors “show a significant increase in its operating cash flow” which suggests sufficient cash is available to fund PG&E’s entire 2024 CCT obligation. Accordingly, TURN urges the Commission to adopt “real ratepayer protections” for the CCT.<sup>31</sup>

“To address the risks of potential shortfalls,” TURN proposes again that the Commission require PG&E to guarantee the solvency of the CCT.<sup>32</sup> TURN’s

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<sup>27</sup> See *id.* at 8-9.

<sup>28</sup> *Id.* at 7-8.

<sup>29</sup> *Id.* at 8.

<sup>30</sup> *Id.* at 12.

<sup>31</sup> *Id.* at 13.

<sup>32</sup> *Id.* at 9-10, citing TURN Opening Brief at 114-115, January 15, 2021, and TURN Reply Brief at 66-68, March 12, 2021.

proposal would obligate PG&E to replenish the CCT to meet a minimum reserve balance that would ensure the CCT always has a one-year reserve balance.

TURN states this requirement builds upon the condition established by the CPUC Executive Director and that extending this condition past March 2026 will “permanently protect ratepayers from bearing the costs of PG&E underfunding the Trust.”<sup>33</sup> Further, TURN states that this requirement will provide PG&E greater freedom to manage its contributions and reduce ratepayer concerns about future changes to the timing of PG&E’s contributions.<sup>34</sup>

Finally, TURN points out that PG&E’s request in the Petition “does not provide a comprehensive approach to calculating ... lost investment gains.”<sup>35</sup> TURN notes the CPUC Executive Director in granting the extension directed PG&E to “provide a more complete explanation of PG&E’s need for the extension and how PG&E will ensure that the net investment gains will be the same.”<sup>36</sup> TURN expresses its concern that PG&E may attempt to shortchange the CCT when it reveals how it plans to contribute any net investment gains that “would have been earned.” TURN urges the Commission to require PG&E to identify its proposed method through a Tier 3 Advice Letter which will allow parties to comment and allows the Commission to adjust the method in advance of any future attempts to implement this commitment.<sup>37</sup>

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<sup>33</sup> TURN Response at 9-10.

<sup>34</sup> *Id.* at 10.

<sup>35</sup> *Id.* at 11.

<sup>36</sup> *Id.*, citing, CPUC Executive Director Letter to PG&E Granting Extension of Time to Comply with Ordering Paragraph 3 of D.21-04-030, March 14, 2024, page 4.

<sup>37</sup> TURN Response at 11-12.

#### **1.4. PG&E's Reply in Support of Petition for Modification**

PG&E sought and was granted permission to submit a reply to the responses filed by A4NR and TURN. PG&E included in its reply a declaration attesting to the issues it addresses in the reply.

PG&E disputes TURN's claim that there is a risk of shortfall in the CCT as early as February 2025. PG&E notes that a condition of the extension granted by the Commission's Executive Director commits PG&E to immediately contribute any deferred amounts if there is a shortfall before March 31, 2026. PG&E states that this eliminates any risk of shortfall due to the requested modification. Further, PG&E reiterates its commitment to "contribute any net investment gains that would have been earned during the period between March 31, 2024, and the date of the deferred payment(s), multiplied by the amount of such deferred payment(s)." <sup>38</sup> PG&E claims that this will provide the CCT the same trust balance as if the \$650 million contribution had not been deferred. Further, PG&E states that in addition to the deferred contributions it expects to make "Additional Shareholder Contributions" each quarter in 2024 and 2025, <sup>39</sup> creating "no foreseeable scenario in which the requested modification would result in a shortfall." <sup>40</sup>

PG&E also challenges TURN's assumptions regarding anticipated withdrawals in 2024 and 2025 as the initial 2023 Fixed Recovery Charges were higher to cover initial interest and principal payments and will be lower in

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<sup>38</sup> PG&E Reply at 3.

<sup>39</sup> *Id.* at 4.

<sup>40</sup> *Id.* at 5.

2024.<sup>41</sup> Further, PG&E claims that the additional shareholder contributions required under OP 4 of D.21-04-030 will begin in 2024 and continue in 2025.<sup>42</sup>

Responding to TURN, PG&E attempts to clarify how the deferred contributions would be adjusted to account for the loss of the net investment gains during the deferral period. After repeating the language from the Petition, PG&E states the “deferred contributions of \$325 million would be grossed up to include the amount of that contribution multiplied by the total actual, after-tax rate of return realized by CCT during the March 31, 2024 to March 2025 period and March 31, 2024 to March 2026 period, respectively.” PG&E notes that if the after-tax rate of return were negative, only the “original amount of the deferred contribution” would be contributed.<sup>43</sup>

PG&E also challenges TURN’s characterization of the procedural connection between the Petition and the Pacific Generation Application. PG&E states the full \$1 billion contribution will be made to the CCT irrespective of the outcome of the Pacific Generation Application.<sup>44</sup>

## **2. Ordering Paragraph 3 Should Be Modified**

### **2.1. The Petition for Modification Complies with Commission Rules**

Rule 16.4 requires petitions for modification to concisely state the justification for the change, propose specific wording, include citations to the record or to matters that can be officially noticed, and include an affidavit or declaration regarding new or changed facts. PG&E proposed specific wording

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<sup>41</sup> *Id.* at 5, *citing* AL 7128-E (Jan. 11, 2024) at 2 (December 31, 2023 balance of \$59,486,644); Advice 7129-E (Jan. 11, 2024) at 2 (December 31, 2023 balance of \$84,471,526).

<sup>42</sup> PG&E Reply at 6.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 6-7.



and included declarations providing new facts related to the proposed change.<sup>45</sup> As more than one year has passed since the effective date of D.21-04-030, PG&E provided an explanation for why it could not have been presented sooner.<sup>46</sup> Though PG&E's explanation lacks detail, we agree with A4NR that in this case we do not need to insert ourselves into PG&E's capital markets strategy and require further exposition regarding the timing of the petition.<sup>47</sup> Accordingly, we find that the petition for modification satisfies the requirements of our rules and may be considered.

**2.2. Ordering Paragraph 3 Must Be Modified to Address the Extension to Comply and PG&E's New Promise to Contribute \$650 Million Over a Two-Year Period**

PG&E's proposed modification is not clear or specific, and does not adequately mitigate the impact on long-term gains its delay causes to ensure the securitization is neutral, on average, to ratepayers.<sup>48</sup> The Commission considered several factors in approving the transactions, including the timing of the initial contributions, and expected investment returns.<sup>49</sup> None of the submissions and analytical reviews found in the record of this proceeding have been updated in the affidavits accompanying the petition or the responses thereto.<sup>50</sup> Although the total amount of the proposed contribution remains the same, \$1 billion, the delay in making nearly two-thirds of the contribution fundamentally alters the CCT

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<sup>45</sup> Petition at 6 and Attachment A, PG&E Reply at Attachment A.

<sup>46</sup> Petition at 7. *See also*, TURN Response at 12 (PG&E failed to demonstrate it was unable to pay its obligations).

<sup>47</sup> A4NR Response at 4-5.

<sup>48</sup> D.21-04-030 at 18, *citing* D.20-05-053 at 73-78, AB 1054 (Pub. Util. Code § 3292(b)(1)(D)).

<sup>49</sup> *See*, D.21-04-030 at 41-72.

<sup>50</sup> *See*, PG&E Petition at Attachment A, PG&E Reply at Attachment A.

returns and reduces the likelihood the CCT will achieve a positive cash flow at the end of the 30-year period. PG&E's attempt to mitigate this change is not sufficient. Further, we agree with TURN that PG&E does not provide a comprehensive approach to calculating lost investment gains.<sup>51</sup> PG&E's proposal increases the risk that the CCT will not be able to meet its goal to ensure the overall transactions are neutral, on average, to ratepayers. PG&E's proposal to add "any net investment gains that would have been earned" fails for several reasons. The lack of clarity and specificity makes PG&E's proposal unmanageable as the amount it proposes to add to make-up lost investment gains is not easily calculated and its "methodology" is likely to reduce the long-term returns on investments for the CCT.

First, it is not clear how PG&E would accurately include the "net investment gain" along with the contribution on March 31, 2025.<sup>52</sup> PG&E does not define net investment gain in its proposal, leaving open whether it just means the dividend and interest category in its quarterly report or if it includes the realized gain/loss or even the unrealized gain/loss categories included in the net investment income, and amortization/accretion category.<sup>53</sup> Further, the gain will at best be calculated the next day, and more likely, depending on the type of investments, will not be fully discernable for a significant period of time after March 31, 2025. The CCT will thus not realize any gain for those added funds from the period between March 31, 2025, and the date it is calculated and then

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<sup>51</sup> TURN Response at 11.

<sup>52</sup> TURN Response at 11, Extension Letter at 4.

<sup>53</sup> See, e.g., PG&E Customer Credit Trust Committee Quarterly Report for the period ending June 30, 2024. While we could presume PG&E intended for all the categories in the quarterly statement net investment table are to be included in the calculation, PG&E's lack of specificity leaves the accounting for the investment returns unclear.

contributed by shareholders. This gap in the calculation and realization of “investment gain” would reoccur in 2026 under PG&E’s proposal. If the initial calculation of the “investment gain” took thirty days, PG&E would need to calculate and contribute the “investment gain” on the “investment gain” for those thirty days in order to “replicate[] what those funds would have earned in the CCT.”<sup>54</sup> Closing this gap would require multiple calculations and contributions at ever smaller, though not insignificant, amounts. While not infinite (at some point the difference becomes small enough to be reasonably rounded), given the amount of funds involved the method proposed by PG&E is not specific enough to ensure the CCT will be able to ensure the overall transactions are neutral, on average to ratepayers.

PG&E was specifically directed to address the lack of clarity by the Executive Director when granted the extension to comply with OP 3. The Executive Director required “a more complete explanation” of the net investment gains be provided through the Petition.<sup>55</sup> In its reply in support of the Petition, PG&E offered a citation to the simple calculation it made in a footnote in the Petition, and added that if the “after-tax rate of return during the deferral period is negative” PG&E would only contribute the amount of the deferred contribution.<sup>56</sup> This is not a more complete explanation of the calculation, and provides no accounting clarity upon which we can sufficiently rely to approve the request. Further, PG&E’s failure to take the opportunity afforded by the direction from the Executive Director to more fully develop the record of this

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<sup>54</sup> PG&E Petition at 1.

<sup>55</sup> Extension Letter at 4.

<sup>56</sup> PG&E Reply at 6.

proceeding leaves only one viable alternative in the record that will prevent the delay from harming the objectives of the CCT.

Second, PG&E's method is likely to result in a lower investment return than if the full amount had been contributed in March 2024. The investment returns are not a static figure that is only calculated at the end of a period (e.g., fiscal year). A simple example is that the CCT is expected to realize a return each month, at the end of that month, that return is reinvested and will provide additional returns for each subsequent month, i.e., returns realized at the end of June are reinvested in July and increase the overall return at the end of July, and each subsequent month. PG&E's method assumes a single investment and a single return calculation performed with each annual installment. There is a significant difference between the monthly returns on an investment of \$350 million and \$1 billion. The loss of compound interest for many months is not adequately addressed by PG&E's proposal in its response. The record in this proceeding does not support PG&E's proposal, and PG&E provides no citation to the record to support its proposed modification that addresses the loss of compound interest.

Further, the delay itself alters the investment strategy and returns to the CCT. To achieve the investment returns modeled by PG&E in its testimony, the value of the CCT needed to be significant in the beginning such that different investment strategies could be applied, and the investments were appropriately diversified.<sup>57</sup> By not having the full \$1 billion on March 31, 2024, investment opportunities that could have realized greater returns were not available to the CCT. We have no way to calculate the differences as PG&E sought and received

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<sup>57</sup> See, e.g., PGE-06 at 6-8, 6-33, PGE-15 at 6-1, n.2. See also, RT at 160-166, 200-203 (specific investment allocation performed by management of Customer Credit Trust).

an extension from the Commission's Executive Director. PG&E's proposed modification does not address this loss of investment diversity and the likelihood that such additional investment diversity would increase what the CCT "would have earned."<sup>58</sup>

PG&E's proposal at issue in this proceeding is premised on the sufficiency of investment returns and the concept of compound interest.<sup>59</sup> To delay, even for just one year, almost two-thirds of the initial investment alters the calculations underpinning the entire transaction. PG&E itself cited the period from 2021 to 2035 key to achieving the goal of ensuring the CCT fully funds the Customer Credits for the entire 30-year period.<sup>60</sup> PG&E's 2021 modifications resulted in a positive cash flow in more than 90 percent of the simulations,<sup>61</sup> but there is no analysis or presentation for how much the changes it now proposes reduce the chances for long-term success.<sup>62</sup> Based upon our review of the simulations and the record of this case we can determine that PG&E's new modification makes it less likely the CCT will achieve a positive cash flow in more than 90 percent of the simulations for the entire 30-year term.<sup>63</sup> Further, we can determine that PG&E's proposal to add "investment gain" does not adequately mitigate the reduction in the value of the CCT caused by the delay in PG&E's 2024

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<sup>58</sup> PG&E Petition at 1.

<sup>59</sup> See e.g., PGE-15 at 6-33, PGE-17 at 10-8, 10-10, RT at 198-199, 563, 564, 671. D.21-04-030 at 51, citing, PG&E Opening Brief at 142-145 (significant increases to initial contribution ignore investment return component). See also, CLECA-01 at 8, 11-12, RT at 557.

<sup>60</sup> PGE-03 at 3-22; PGE-17 at 10-12.

<sup>61</sup> D.21-04-030 at 44.

<sup>62</sup> See, Extension Letter at 4 (the Executive Director noted that it is not clear what the impact of the extension period will be over the full 30 plus year term of the Customer Credit Trust).

<sup>63</sup> PGE-06 at 6-29, 6-33, PGE-15 at 6-33, PG&E Opening Brief at 66, 160. See also, RT at 198-203, 870-872, CalPA-01 at 7, TURN-02 at 10, 18-22; cf., TURN-02 at 23-24.

contribution to the CCT. Thus, we cannot accept PG&E's proposal to add "any net investment gains that would have been earned" as it is insufficient to maintain the CCT in a manner that ensures the overall transactions are neutral, on average to ratepayers.<sup>64</sup>

In evaluating PG&E's original proposal we evaluated the assumptions surrounding the inflows and outflows as well as the expected return on the CCT balance.<sup>65</sup> PG&E's modifications presented at the evidentiary hearing "reduce[d] the risk to a reasonable level," but did "not eliminate all risks."<sup>66</sup> We recognized that "the long-term duration of the structure has inherent risk." Further, we stated,

We view the risk of shortfall as real but not significant, recognizing PG&E's quantification of risk as near zero in the near term and minuscule with present values amounts quantified as \$20-30 million. The modifications made by PG&E reduce the likelihood of shortfall due to insufficient funds in the early period of the Customer Credit Trust, but do not eliminate the possibility for any period. Intervenors, including A4NR and TURN, argue that the structure does not technically satisfy the rate neutrality commitments made by PG&E. We expect that *the amount and timing of the contributions PG&E proposes should prevent a shortfall from occurring in any period.*<sup>67</sup>

Rather than reject PG&E's Petition and issue an order to determine what, if any, action need be taken to address its failure to adhere to the conditions of the extension granted by the Executive Director, the record of this proceeding does provide a reasonable alternative that we find persuasive as a basis to allow

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<sup>64</sup> D.20-05-053 at 73-78, AB 1054 (Pub. Util. Code § 3292(b)(1)(D)). *See also*, D.21-04-030 at 43, fn. 131.

<sup>65</sup> D.21-04-030 at 53-72.

<sup>66</sup> D.21-04-030 at 64.

<sup>67</sup> D.21-04-030 at 68 (emphasis added).

PG&E to defer additional contributions to the CCT.<sup>68</sup> While we are not persuaded that PG&E's modifications proposed in the Petition will ensure the overall structure and transactions continue to meet the statutory requirements for the entire period of the CCT, we continue to find benefit in the overall structure. Therefore, PG&E's petition may be approved if the Commission continues to "protect ratepayers from bearing the costs of PG&E underfunding the Trust."<sup>69</sup>

We are persuaded that the modifications proposed by A4NR provide a reasonable approach,<sup>70</sup> but we are concerned that calculating the interest payment requirement purely on the cost of equity does not fully align with the record in this case with respect to investment return. Further, it is not consistent with our review of the simulations presented that we relied upon to find the overall transactions neutral, on average.<sup>71</sup> Therefore, we determine that to more closely match the return on the deferred CCT contributions with the CCT investment mix, while ensuring ratepayer protection for the deferred CCT contributions, a reasonable alternative would require PG&E to include a minimum annual return of at least its total rate of return on the deferred payments. As PG&E's rate of return is a mix of its return on equity and return on debt it more closely aligns with the projections that we relied upon and thus provides a more reasonable result than the return on equity figure that A4NR proposes. Therefore, we find that adding a net investment gain based on PG&E's

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<sup>68</sup> Petition at 1 ("PG&E will contribute \$325 million before March 31, 2025 and another \$325 million ... no ... later than March 31, 2026.").

<sup>69</sup> TURN Response at 10-11.

<sup>70</sup> A4NR Response at 5, *citing*, Public Utilities Code § 451 and 3292(b)(1)(E).

<sup>71</sup> D.21-04-030 at 46-47.

rate of return beginning on March 31, 2024, until it has paid the remaining \$650 million contribution is the most reasonable method to ensure the overall transactions are neutral, on average to ratepayers. This method is clear, specific, manageable, and is more likely to result in a fair and equitable result over the 30-year period than any other change proposed as a result of the Petition.<sup>72</sup> We continue to be persuaded that additional steps beyond what we adopt in this decision are not necessary at this time.<sup>73</sup>

While the options presented by this Petition present new risks in enforcing our statutory obligations,<sup>74</sup> we agree with A4NR that we are now reliant on a new PG&E promise to contribute \$650 million over a two-year period in order for the CCT to cover the debt service on \$7.5 billion in Recovery Bonds and remain neutral, on average to ratepayers for the entire 30-year period.<sup>75</sup> We also find persuasive that given the role a mix of investments play under the CCT, and the role fixed-income investments play under the CCT, PG&E's authorized rate of return is more likely to produce a result that is neutral, on average to ratepayers compared to any other available alternative.<sup>76</sup>

Accordingly, in response to PG&E's Petition we approve a modification to Ordering Paragraph 3 of D.21-04-030 as follows:

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<sup>72</sup> E.g., TURN Response at 9-11 ("establish an enforceable obligation for PG&E to ensure that ratepayers receive credits from the Trust that fully offset the bond repayment obligations over the course of 30 years").

<sup>73</sup> See, TURN Response at 9-13, D.21-04-030 at 50-51, 65-67.

<sup>74</sup> See, D.21-04-030 at 53-54, *citing*, Public Utilities Code § 854.2(a)(6); *and citing*, Senate Floor Analyses of AB 1054, July 8, 2019, Assembly Floor Analysis of AB 1054, July 11, 2019.

<sup>75</sup> A4NR Response at 5.

<sup>76</sup> *Id.*, RT at 198 ("out of all those 30-year periods, half of them would have had a return above 10.17").



Pacific Gas & Electric Company (PG&E) shareholders shall contribute an additional \$350 million to the Customer Credit Trust before March 31, 2024. PG&E shareholders shall contribute \$325 million no later than March 31, 2025, and another \$325 million no later than March 31, 2026 (*deferred payments*). PG&E shareholders shall add any net investment gains using PG&E's authorized rate of return approved by the Commission for the period between March 31, 2024, and the date of the deferred payment(s), multiplied by the amount of such deferred payment(s).

### **3. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. There are no public comments on the Docket Card relevant to the Petition for Modification.

### **4. Procedural Matters**

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

### **5. Comments on Proposed Decision**

The proposed decision of ALJ Robert Haga in this matter was mailed to the parties in accordance with Section 311 of the Public 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 \_\_\_\_\_.

## **6. Assignment of Proceeding**

Alice Reynolds is the assigned Commissioner and Robert Haga is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. On February 29, 2024, Pacific Gas and Electric Company (PG&E) filed a Petition requesting modification of Ordering Paragraph (OP) 3 of Decision (D.) 21-04-030.
2. Alliance for Nuclear Responsibility (A4NR) filed a response on April 1, 2024.
3. The Utility Reform Network (TURN) filed a response on April 2, 2024.
4. PG&E filed a reply to the responses on April 12, 2024.
5. PG&E proposes to contribute \$350 million to the Customer Credit Trust (CCT) before March 31, 2024, and defer additional contributions until (1) 30 days after the closing of the Pacific Generation transaction, at which point PG&E will contribute the remaining \$650 million (plus any net investment gains that would have been earned...), if such closing occurs by March 1, 2025, or (2) if the Pacific Generation transaction does not close before March 1, 2025, then PG&E will contribute \$325 million before March 31, 2025 and another \$325 million within 30 days of closing of the transaction but in no event later than March 31, 2026 (in each case with any net investment gains that would have been earned).
6. On February 29, 2024, PG&E sent a letter to the Commission's Executive Director seeking an extension of time to comply in full with the requirement to submit \$1 billion to the CCT before March 31, 2024.
7. The Executive Director granted PG&E an extension of time to fully comply with the requirement in OP 3 of D.21-04-030 that PG&E contribute an additional \$1 billion to the CCT before March 31, 2024.

8. The extension granted by the Executive Director applied additional safeguards to allow the Commission time to decide PG&E's concurrently filed petition for modification.

9. The Executive Director noted that it is not clear what the impact of the extension period will be over the full 30 plus year term of the CCT.

10. The Executive Director required: (1) an automatic end to the extension if any shortfall in the CCT occurs; (2) PG&E to contribute the first \$350 million to the CCT before March 31, 2024; (3) PG&E to provide a more complete explanation of its need for the extension; (4) PG&E to provide a more complete explanation for how it will ensure that the net investment gains will be the same through the petition for modification; and (5) additional reporting from PG&E, at least quarterly, regarding the current balance in the CCT.

11. PG&E claims that its proposed modification is warranted to provide necessary flexibility for PG&E to adapt to evolving timelines and mitigate the unforeseen delay in the disposition of Application (A.) 22-09-018.

12. PG&E states that its Petition could not have been brought within one year of the issuance of D.21-04-030 as it could not have foreseen the schedule for A.22-09-018.

13. Evidentiary hearings are not necessary as the petition and supporting declaration provide a sufficient record for the Commission to rule on PG&E's request.

14. There is no public mention by PG&E of the claimed connection between its application in this proceeding and A.22-09-018 prior to filing the Petition.

15. The Commission need not inject itself into PG&E's capital markets strategy as long as PG&E's new promise to protect customer interests in the CCT is met.

16. The record that supported D.21-04-030 included extensive modeling to support PG&E's claim that a CCT shortfalls were unlikely to occur.

17. Repeated depletions of the CCT balances jeopardize both its short-term and long-term ability to fund bill credits.

18. PG&E failed to demonstrate it is unable to pay its obligation to the CCT.

19. PG&E's reports to investors show a significant increase in its operating cash flow which suggests sufficient cash is available to fund PG&E's entire 2024 CCT obligation.

20. To address the risks of potential shortfalls, TURN proposes again that the Commission require PG&E to guarantee the solvency of the CCT.

21. PG&E's request in the Petition does not provide a comprehensive approach to calculating lost investment gains.

22. PG&E disputes TURN's claim that there is a risk of shortfall in the CCT as early as February 2025.

23. PG&E's proposed modification is not clear or specific, and does not adequately mitigate the impact on long-term gains its delay causes to ensure the securitization is neutral, on average, to ratepayers.

24. The Commission considered several factors in approving the transactions in D.21-04-030, including the timing of the initial contributions, and expected investment returns. None of the submissions and analytical reviews found in the record of this proceeding have been updated in the affidavits accompanying the petition or the responses thereto.

25. The delay in making nearly two-thirds of the contribution fundamentally alters the CCT Returns and reduces the likelihood the CCT will achieve a positive cash flow at the end of the 30-year period. PG&E's attempt to mitigate this change is not sufficient.

26. PG&E's proposal increases the risk that the CCT will not be able to meet its goal to ensure the overall transactions are neutral, on average, to ratepayers.

27. PG&E's proposal is unmanageable as the amount it proposes to add to make-up lost investment gains is not easily calculated.

28. PG&E's methodology is likely to reduce the long-term returns on investments for the CCT.

29. It is not clear how PG&E would accurately include the net investment gain along with the contribution on March 31, 2025.

30. PG&E did not provide a more complete explanation of the calculation, and provides no accounting clarity upon which we can sufficiently rely to approve the request. Further, PG&E's failure to take the opportunity afforded by the direction from the Executive Director to more fully develop the record of this proceeding leaves only one viable alternative that will prevent the delay from harming the objectives of the CCT.

31. PG&E's method is likely to result in a lower investment return than if the full amount had been contributed in March 2024.

32. The loss of compound interest for many months is not adequately addressed by the Petition and PG&E's reply to the responses to the Petition.

33. PG&E's proposed modification does not address the loss of investment diversity and the likelihood that such additional investment diversity would increase what the CCT would have earned.

34. Delay, even for just one year, of almost two-thirds of the initial investment alters the calculations underpinning the entire transaction.

35. PG&E provides no analysis or presentation for how much the changes it now proposes reduce the chances for long-term success of the overall transactions.

36. Based upon the review of the simulations and the record of this case, PG&E's new modification makes it less likely the CCT will achieve a positive cash flow in more than 90 percent of the simulations for the entire 30-year term.

37. PG&E's proposal to add investment gain does not adequately mitigate the reduction in the value of the CCT caused by the delay in PG&E's 2024 contribution to the CCT.

38. In evaluating PG&E's original proposal we evaluated the assumptions surrounding the inflows and outflows as well as the expected return on the CCT balance.

39. PG&E's modifications presented at the evidentiary hearing reduced the risk to a reasonable level, but did not eliminate all risks.

40. The record of this proceeding does provide a reasonable alternative that we find persuasive to allow PG&E to defer additional contributions to the CCT.

41. To more closely match the return on the deferred CCT contributions with the CCT investment mix, while ensuring ratepayer protection for the deferred CCT contributions, a reasonable alternative would require PG&E to include a minimum annual return on the deferred payments in an amount equivalent to at least its total rate of return.

42. PG&E's rate of return is a mix of its return on equity and return on debt which more closely aligns with the projections that we relied upon and thus provides a more reasonable result than the return on equity figure that A4NR proposes.

43. Given the role fixed-income investments play under the CCT, PG&E's authorized rate of return is more likely to produce a result that is neutral, on average to ratepayers compared to any other available alternative.

44. Adding a net investment gain based on PG&E's rate of return beginning on March 31, 2024, until it has paid the remaining \$650 million contribution is the most reasonable method to ensure the overall transactions are neutral, on average to ratepayers.

45. This method is clear, specific, manageable, and is more likely to result in a fair and equitable result over the 30-year period than any other change proposed as a result of the Petition.

46. The Commission is now reliant on a new PG&E promise to contribute \$650 million over a two-year period in order for the CCT to cover the debt service on \$7.5 billion in Recovery Bonds and remain neutral, on average to ratepayers for the entire 30-year period.

47. The CCT should be compensated at PG&E's authorized rate of return to avoid prejudice to the interests of ratepayers.

### **Conclusions of Law**

1. In review of PG&E's Petition, Decision (D.) 21-04-023 may be modified if the Commission continues to protect ratepayers from bearing the costs of PG&E underfunding the CCT as required by the Public Utilities Code.

2. On May 9, 2024, the Commission issued D.24-05-004 denying PG&E's proposed Pacific Generation transaction.

3. In granting the extension of time to fully comply with Ordering Paragraph 3 of D.21-04-030 the Executive Director relied on PG&E's sworn declaration that the extension will not increase the risk of a shortfall in the CCT and PG&E's representation that it will contribute any net investment gains that would have been earned if the \$1 billion was contributed by March 31, 2024.

4. As more than one year has passed since the effective date of D.21-04-030, PG&E provided an explanation for why it could not have been presented sooner.

5. The Commission does not need to insert itself into PG&E's capital markets strategy and require further exposition regarding the timing of the Petition.

6. The Petition satisfies the requirements of our rules and may be considered.

7. The record in this proceeding does not support PG&E's proposal, and PG&E provides no citation to the record to support its proposed modification that addresses the loss of compound interest.

8. The Commission should not accept PG&E's proposal to add "any net investment gains that would have been earned" as it is insufficient to maintain the CCT in a manner that ensures the overall transactions are neutral, on average to ratepayers.

9. PG&E's modifications proposed in the Petition fail to ensure the overall structure and transactions continue to meet the statutory requirements for the entire period of the CCT.

10. Calculating the interest payment requirement purely on the cost of equity does not fully align with the record in this case with respect to investment return.

11. PG&E's rate of return is a mix of its return on equity and return on debt and more closely aligns with the projections that we relied upon and thus provides a more reasonable result to calculate the interest payment requirement.

12. PG&E's Petition may be approved if the Commission continues to protect ratepayers from bearing the costs of PG&E underfunding the CCT.

13. The options presented by this Petition present new risks in enforcing the Commission's statutory obligations.

14. A modification to Ordering Paragraph 3 of D.21-04-030 should be made as follows:

Pacific Gas & Electric Company (PG&E) shareholders shall contribute an additional \$350 million to the Customer Credit Trust before March 31, 2024.



PG&E shareholders shall contribute \$325 million no later than March 31, 2025, and another \$325 million no later than March 31, 2026 (*deferred payments*). PG&E shareholders shall add any net investment gains using PG&E's authorized rate of return approved by the Commission for the period between March 31, 2024, and the date of the deferred payment(s), multiplied by the amount of such deferred payment(s).

### **O R D E R**

**IT IS ORDERED** that:

1. Ordering Paragraph 3 of Decision 21-04-030 is modified as follows:

Pacific Gas & Electric Company (PG&E) shareholders shall contribute an additional \$350 million to the Customer Credit Trust before March 31, 2024. PG&E shareholders shall contribute \$325 million no later than March 31, 2025, and another \$325 million no later than March 31, 2026 (*deferred payments*). PG&E shareholders shall add any net investment gains using PG&E's authorized rate of return approved by the Commission for the period between March 31, 2024, and the date of the deferred payment(s), multiplied by the amount of such deferred payment(s).

2. Pacific Gas & Electric Company shall submit a Tier 2 Advice Letter within 30 days of the effective date of this Decision setting forth the calculation of the net investment gains using methodology adopted herein.

3. Pacific Gas & Electric Company shareholders shall contribute the net investment gains using the methodology adopted herein to the Customer Credit Trust coincident with its final deferred payment, or within 30 days of the effective date of this Decision, whichever is sooner.

4. Application 20-04-023 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California