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 Electric Rule No. 30 for Transmission-Level Retail Electric Service	A. 24-11-007 (Filed November 21, 2024)

SIERRA CLUB'S REPLY BRIEF ON QUESTIONS IN ADMINISTRATIVE LAW JUDGE'S RULING

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On Behalf of Sierra Club

Dated: May 22, 2026

TABLE OF CONTENTS

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Pursuant to Rule 13.12 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure, the January 9, 2026 Administrative Law Judge's Ruling Establishing Proceeding Schedule, and the February 17, 2026 E-Mail Ruling PG&E Rule 30 Application Administrative Law Judge Establishing New Proceeding Schedule and Ruling on Motions, Sierra Club submits this Reply Brief.

I. INTRODUCTION

At its core, this proceeding presents a straightforward question of fairness: how should the Commission allocate the costs of the massive transmission upgrades required to serve unprecedented data center load growth? Sierra Club recommends protecting other customers from paying these costs by adopting a cost allocation policy that directly assigns to data center customers the costs of the Type-4 upgrades that they trigger commensurate with the benefits they receive from these upgrades. In contrast, Pacific Gas & Electric Company's ("PG&E") proposals would risk significant cost-shifts to other customers, jeopardizing California's energy affordability goals and the cost-effective achievement of the state's climate policies. PG&E's primary proposal to allocate the costs of Type-4 upgrades entirely through transmission rates and its alternative "Customer Responsibility Proposal" both rest on flawed legal theories and unsubstantiated policy arguments. The Commission should reject these arguments.

PG&E seeks to shield transmission-level data center customers from meaningful responsibility for the transmission infrastructure they necessitate by advancing four flawed propositions. First, PG&E argues that the Federal Energy Regulatory Commission ("FERC") has exclusive jurisdiction over cost allocation and the cost recovery for transmission network upgrades. Second, PG&E argues that the Commission should not directly allocate costs of transmission network upgrades to data centers to avoid the unintended consequences of disincentivizing development in its territory. Third, PG&E proposes a "Customer Responsibility" alternative that has several flaws, including directly assigning the costs of Type-4 upgrades only in the rare circumstance where an upgrade is "solely" attributable to a single customer or a small cluster of qualifying customers. Fourth, PG&E incorrectly suggests that other parties' recommendations are "discriminatory," when proposals to directly assign costs to data centers for transmission network upgrades are consistent with regulatory requirements to avoid unjustified differential treatment. PG&E relies on these positions to propose policies that would socialize the overwhelming majority of data center-driven transmission costs.

The Commission itself has already rejected the legal premise underlying PG&E's jurisdictional argument. In a recent filing before FERC concerning large-load interconnections, the Commission expressly reaffirmed that transmission-level data centers remain retail end-use customers and that interconnection cost allocation, upgrade timing, repayment structures, and retail rate impacts remain matters of core state concern.[1] The Commission specifically warned that data center interconnections could impose substantial affordability risks on existing customers if upgrade costs are not properly allocated at the state level.

Nor are PG&E's policy objections persuasive. PG&E invokes speculative concerns that assigning transmission costs to cost-causing customers may discourage development or place California at a competitive disadvantage.[2] But the Commission's obligation is not to subsidize data center expansion at any cost. It is to ensure just, reasonable, and equitable rates. PG&E offers no empirical evidence that proportionate cost responsibility would materially deter development, while the risks to existing ratepayers from stranded or prematurely built transmission infrastructure are concrete and substantial. Indeed, the Commission itself has already recognized those affordability and stranded-cost concerns in its FERC filing.

PG&E's alternative "Customer Responsibility Proposal" fares no better. Sierra Club and other intervenors identified the central defect in that proposal: PG&E would only directly assign

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[1] Initial Comments of the California Public Utilities Commission, FERC Docket Number RM26-4-000 at 9, https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20251121-5503 (last accessed May 14, 2026) ("CPUC Initial Comments in FERC Docket RM26-4-000").
[2] PG&E Limited Opening Post-Hearing Brief at 18-19.

costs for a category of projects it calls Incremental Transmission Network Upgrades ("ITNU"), and PG&E's definition of ITNUs is so narrow that it would exclude most, if not all, transmission upgrades triggered or accelerated by data center growth. PG&E proposes to exempt upgrades incorporated into the California Independent System Operator ("CAISO") Transmission Planning Process ("TPP") and upgrades that provide any broader reliability or electrification benefit—even where a single data center materially drives the need for the project. In practice, PG&E's framework would allow a data center responsible for the vast majority of a transmission upgrade's need to evade direct cost responsibility so long as some portion of the upgrade also benefits other customers. Even in the rare instance that a data center qualifies under PG&E's narrow ITNU criteria, the customer will still only be responsible for the estimated costs of the transmission network upgrades that it triggers, leaving other ratepayers on the hook for ballooning actual costs. The Commission should reject this proposal.

PG&E also wrongly conflates differential treatment with unlawful discrimination in its criticism of other intervenors' proposals. California law does not prohibit all distinctions among customers—it prohibits only unreasonable or unjustly discriminatory treatment.[3] The Commission has broad authority to allocate costs differently where supported by cost causation, system impacts, equity, or state policy objectives. Here, the record shows that data centers can uniquely drive transmission upgrades and create heightened cost recovery risks, providing a rational basis for assigning them distinct cost responsibility. Accordingly, Sierra Club's—and other intervenors'—proposals to assign certain Type-4 upgrade costs directly to data centers are evidence-based and lawful,.

Ultimately, PG&E's proposals rest on a fundamentally flawed premise: that transmission-level data center customers should bear responsibility only for upgrades exclusively attributable to their load, while existing ratepayers absorb the costs of all broader system impacts associated with unprecedented data center growth. That approach is inconsistent with cost-causation principles, inconsistent with the Commission's own jurisdictional position before FERC, and inconsistent with equitable ratemaking. The Commission should instead adopt a benefits-commensurate allocation framework that ensures transmission-level customers pay an appropriate share of the Type-4 upgrade costs they cause or materially accelerate.

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[3] California Public Utilities Code § 453(c).

II. DISCUSSION

A. The Commission Should Exercise its Valid Jurisdiction over Type-4 Upgrade Costs in Ensuring Data Centers Pay for the Upgrades that They Require.

PG&E incorrectly asserts that cost allocation, rates, and cost recovery for transmission facilities constructed under Electric Rule 30 may become exclusively FERC-jurisdictional whenever facilities are placed under CAISO operational control or integrated into the transmission network.[4] The Commission's own recent filing before FERC in the Interconnection of Large Loads to the Interstate Transmission System docket directly rejects that theory.

As the Commission explained to FERC, transmission-level data centers and other large-load customers remain "end-use retail load customers," and "their interconnection and purchase of electricity is a retail transaction, the terms and conditions of which are subject to state jurisdiction."[5] The Commission further emphasized that "large load interconnection is part of retail service and is not part of the transmission system operation or a purchase of wholesale electricity."[6] That distinction is dispositive here. PG&E attempts to define jurisdiction solely by reference to the physical characteristics of facilities—i.e., whether facilities are integrated into the transmission network or operated by CAISO. But the Commission expressly rejected the proposition that transmission-voltage interconnection alone transforms retail load energization into a matter exclusively governed by federal transmission jurisdiction. The Commission specifically argued that it "does not follow that any large load entity seeking interconnection, and as a result receiving the benefits of the transmission system, falls within the sphere of [] transmission regulation."[7] Rather, even where service is taken directly from the interstate transmission system, "states retain authority over the retail load customer interconnection

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[4] *See, e.g.*, PG&E Limited Opening Post-Hearing Brief at 12-14 (arguing that "FERC has exclusive jurisdiction over transmission rates, including cost allocation and cost recovery for transmission network upgrades").

[5] CPUC Initial Comments in FERC Docket RM26-4-000 at 3 (relying on case precedent that retail electricity transactions are within the exclusive jurisdiction of states and that the Federal Power Act does not give FERC authority over these transactions. *FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 267 (2016)).

[6] *Id*.

[7] *Id*. at 11.

process including siting studies, safety and code compliance inspections, and compliance with transmission owner regulations on interconnection, including interconnection studies."[8]

Critically, the Commission also identified transmission upgrade cost allocation itself as a core state-jurisdictional issue. The filing explains that large-load interconnection "has a substantial effect on retail electricity sales,"[9] and that states have substantial concerns that data center interconnections "could drive up electric costs for other retail ratepayers, especially residential customers, if cost allocation is not properly considered at the state level."[10] The Commission further explained that issues such as timing and costs of interconnection upgrades, cost allocation, cost recovery, repayment of those upgrade costs, when utilities incur the costs, when customers pay for upgrades, refund issuances, and adding system expansion investment costs to the rate base are all matters directly tied to rates, terms, and conditions of retail service historically delegated to the states.[11] Thus, the jurisdictional inquiry does not turn exclusively on whether a facility becomes part of the CAISO-controlled transmission grid. The Commission's filing makes clear that the relevant inquiry is whether the facilities are being constructed to provide retail service to end-use load customers. Where the facilities are required to energize transmission-level retail load, the associated cost allocation and retail rate consequences remain matters of state concern and state jurisdiction.

PG&E's position would improperly collapse the distinction between federal regulation of interstate wholesale transmission and state regulation of retail service preserved by the Federal Power Act.[12] Under PG&E's framework, virtually any transmission-level retail service facility could become exclusively FERC-jurisdictional merely because the facility is operationally integrated with the grid.[13] But the Commission specifically warns against that conceptual leap, arguing that Congress "did not give FERC exclusive jurisdiction over all things tangential to the transmission system or that have incidental impact on wholesale electric rates."[14]

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[8] *Id*. (stating that while FERC has jurisdiction over parts of the interstate transmission system as determined by a seven-factor test, states retain jurisdiction over other aspects of the transmission system. FERC Order 888 at 401-402).
[9] *Id*. at 9.
[10] *Id*.
[11] *Id*. at 9-10.
[12] *Id*. at 2-3 (relying on *FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 266-67 (2016)).
[13] PG&E Limited Opening Post-Hearing Brief at 12.
[14] CPUC Initial Comments in FERC Docket RM26-4-000 at 3 (relying on 16 U.S.C. § 824).

Ultimately, PG&E fails to show that the recommendations of Sierra Club, TURN, or Cal Advocates would exceed the Commission's jurisdiction. The facilities at issue under Rule 30 will be constructed to serve retail end-use customers. As the Commission expressly argued before FERC, "cost allocation for large load customers such as data centers remains under state authority because states are "best situated to address local operational, reliability, and affordability concerns."[15] Accordingly, the Commission retains jurisdiction over the cost allocation, rates, and cost recovery associated with transmission-level retail data center interconnections notwithstanding CAISO operational control or integration into the transmission network.

B. PG&E Does Not Show that Other Ratepayers Would be Harmed by Directly Assigning Type-4 Upgrade Costs to Data Centers.

PG&E's policy arguments against the Commission directly allocating Type-4 upgrade costs to data centers are speculative and inconsistent with the Commission's obligation to ensure just and reasonable rates. PG&E argues that the Commission should not directly allocate Type-4 upgrade costs to data centers lest it incentivize data centers to relocate outside of California or in Publicly Owned Utility ("POU") territory, leading to unintended economic consequences.[16] However, these scenarios are speculative and not supported by evidence. Regardless, the possibility that some transmission-level customers may prefer lower-cost jurisdictions does not justify shifting the costs of data center-driven transmission expansion onto existing residential and small commercial ratepayers.

First, PG&E's assumption that attracting transmission-level load benefits existing customers does not adequately account for the increased costs of serving those customers.[17] The central issue in this proceeding is whether existing customers will in fact benefit if they are required to subsidize transmission upgrades driven by extremely large and uncertain data center loads. There is a substantial risk that data center customers may require massive transmission investments,[18] create stranded-cost exposure, or fail to materialize at projected scales or timelines.[19] The Commission expressly warned against this scenario in its FERC filing,

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[15] *Id*. at 29.
[16] PG&E Limited Opening Post-Hearing Brief at 18-19.
[17] *See id*.
[18] *See*, e.g., Exh. SC-01 at 4:19-25; Exh. SC-02 at 3:34-4:11.
[19] *See* Exh. SC-02 at 6:13-20.

emphasizing the need for "ratepayer protections against stranded network upgrade investments in instances where such investments would not have occurred but for the expectation of large load delivery."[20] Thus, the relevant policy question is not whether California should attract data center development at all costs, but whether existing ratepayers should bear the financial risks associated with speculative or rapidly growing transmission-level data center loads. PG&E's proposal would socialize those risks while privatizing the benefits to data center customers.

Second, PG&E's economic-development argument is unsupported by evidence. PG&E concedes that it produced no workpapers or empirical analysis demonstrating that proportional cost responsibility for transmission upgrades would materially deter development in California.[21] Instead, PG&E relies on the generalized assertion that "businesses would prefer not to pay a fee."[22] That truism does not establish that direct allocation is unreasonable, economically harmful, or inconsistent with sound ratemaking. Indeed, every large infrastructure-dependent industry faces location-dependent interconnection and infrastructure costs.[23] PG&E offers no evidence that reasonable transmission cost responsibility would outweigh other economic considerations or render California categorically noncompetitive. Nor does PG&E account for data centers' technical needs and operational constraints that dictate specific types of data centers siting closer to end-use cloud computing and AI customers.[24] The need to minimize latency could force many data centers to locate closer to urban centers in California as opposed to

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[20] CPUC Initial Comments in FERC Docket RM26-4-000 at 22.

[21] When questioned by Cal Advocates as to the absence of evidence on Type-4 upgrade cost allocation disincentivizing development, in lieu of technical or substantive supporting evidence, PG&E stated that it "does not take a workpaper to demonstrate this." PG&E Limited Opening Post-Hearing Brief at 19.

[22] *Id*.

[23] *See* Exh. SC-02 at 4:3-9.

[24] *See, e.g.*, Exh. TURN-01E at Appendix B, pp. 29-30 (citing findings from a report that data centers that cater to edge computing, which powers autonomous driving, for instance, often must be sited in urban areas closer to customers because of their need for low latency); California State Assembly Committees on Utilities and Energy and Privacy and Consumer Protection, Joint Oversight Hearing on AI's Energy Impacts (Jan. 28, 2026) ("Joint Oversight Hearing Background"), at 7, https://autl.assembly.ca.gov/system/files/2026-01/01.28.2026_joint-privacy_ai-oversight-hearing-background.pdf (finding that data centers that cater to inference workloads and support real-time applications are "highly latency-sensitive, which favors data centers located close to end users."). Under Commission Rule of Practice and Procedure 13.9, "[o]fficial notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et seq." The Committees' Joint Oversight Hearing is subject to judicial notice under Evidence Code section 452(c) because Legislative Committee Hearings are official acts of the Legislative department of California. *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 133 Cal.App. 4th 26, 29 (2005).

faraway rural locations with lesser population density.[25] Furthermore, the existence of potential economic sensitivity does not eliminate the Commission's duty to apply cost-causation principles fairly.[26] Under PG&E's logic, any sufficiently large customer could avoid responsibility for infrastructure costs merely by threatening to locate elsewhere. That is not a legally sustainable basis for ratemaking.

Third, PG&E's concern regarding POUs is similarly speculative.[27] For instance, the geographical footprint of Silicon Valley Power ("SVP," a POU based in Santa Clara, California) is a negligible fraction of PG&E's overall territory,[28] raising questions about the ability of SVP territory to accommodate a significant portion of the data centers requesting interconnection with PG&E. The comparative differences in city-sized POU territories and extensive PG&E territory also makes the urban and suburban real estate within POU service areas a premium commodity for data center siting. PG&E insinuates that data centers may move into the City of Palo Alto's municipal utility territory to avoid interconnection costs.[29] However, PG&E provides no evidence that Palo Alto, which retains substantial land use and permitting authority, would even approve new data center projects. Nor does PG&E address the substantial economic constraints associated with relocating data centers to a city where the average home price exceeds $2 million.[30] PG&E does not offer any evidence that data center customers would be willing to absorb these significant siting and development costs in lieu of paying for their fair share of transmission network upgrade costs. These practical considerations make relocation to POU

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[25] Joint Oversight Hearing Background at 7.
[26] D.23-04-040 at 6, 12-13.
[27] PG&E Limited Opening Post-Hearing Brief at 19.
[28] PG&E Limited Opening Post-Hearing Brief at 34.
[29] Exh. PG&E-20 at 35:24-27.
[30] U.S. Census Bureau, Quick Facts – Palo Alto, California, https://www.census.gov/quickfacts/fact/table/paloaltocitycalifornia/RTN130222 (last accessed May 15, 2026). Under Commission Rule of Practice and Procedure 13.9, "[o]fficial notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et seq." The Census Bureau data is subject to judicial notice under Evidence Code section 452(h) because the data constitutes "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." California Evidence Code § 452(h). Furthermore, California courts have taken judicial notice of "statistical records and other reports and records of a state agency," much as the Census Bureau data is. *California State Employees' Assn. v. Flournoy*, 32 Cal.App. 3d 219, 233 fn.10 (1973) (citing *Harris v. Alcoholic Bev., etc. Appeals Bd.*, 62 Cal.2d 589, 595-96 (1965) and *Doyle v. Bd. of Barber Examiners*, 219 Cal.App. 2d 504, 516 (1963)); *see also Gavin W. v. YMCA of Metropolitan Los Angeles*, 106 Cal.App. 662, 672 (2003).

territories far more complicated than PG&E suggests and undermine the unsupported assumption that data center customers can easily substitute PG&E service territory with nearby POU service areas for purely economic reasons.

Ultimately, the Commission should not expect residential and small commercial customers to subsidize transmission infrastructure for data center loads based on speculative claims that those customers might otherwise choose to locate elsewhere. The Commission is not required to adopt such cost shifting in the name of economic development, particularly where it has already recognized the substantial affordability and stranded-cost risks posed by rapidly expanding data center demand.[31]

C. PG&E's Customer Responsibility Proposal is Inadequate to Protect Other Customers from Bearing the Costs of Serving Data Centers.

PG&E's Customer Responsibility Proposal has multiple core defects. Although PG&E attempts to present its ITNU framework as a reasonable compromise grounded in cost-causation principles,[32] the proposal relies on a fundamentally underinclusive definition of customer responsibility that would improperly shift transmission costs caused by large-load customers onto existing ratepayers.

As Sierra Club has explained, PG&E's proposal suffers from at least five fatal flaws: (1) it excludes upgrades incorporated into the CAISO TPP, even where transmission-level data center load materially triggered or accelerated those upgrades;[33] (2) it excludes upgrades unless they are "solely" triggered by one or more transmission-level customers;[34] (3) it requires qualifying transmission-level customers to only pay for estimated Type-4 upgrade costs, as opposed to the actual costs; (4) its cap of two cost responsibility assessments unduly socializes allocated costs for data center dropouts; and (5) it proposes a refund timeframe that could leave ratepayers footing the bill for transmission network upgrades to make up for lost utility revenues. PG&E's opening brief fails to justify these features of its proposal.

First, PG&E proposes to exclude from direct assignment any upgrades "approved by the CAISO through the TPP or are approved in a future TPP."[35] This artificially narrows the scope of

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[31] *See* CPUC Initial Comments in FERC Docket RM26-4-000 at 22.
[32] PG&E Limited Opening Post-Hearing Brief at 29-30.
[33] Exh. SC-02 at 2:27-3:2.
[34] *Id.* at 3:3-12.
[35] PG&E Limited Opening Post-Hearing Brief at 27.

transmission network upgrades from the cost-causing customers' financing requirement.[36] As Sierra Club has explained, inclusion in a future TPP does not establish that a transmission-level customer did not trigger the need for the upgrade.[37] To the contrary, CAISO planning studies expressly incorporate forecasted load growth—including anticipated data center demand—when determining reliability-driven transmission upgrades.[38] Thus, where a proposed data center materially contributes to the timing, scope, or necessity of a transmission project, PG&E's proposal would still permit the customer to avoid direct responsibility simply because the resulting project becomes incorporated into regional transmission planning. PG&E's proposal does not address Sierra Club's prior criticism that this framework improperly converts customer-triggered upgrades into broadly socialized transmission costs merely by virtue of their eventual inclusion in the TPP.

Second, PG&E relies on a "solely triggered" standard that is irrational and easily manipulated.[39] While PG&E summarily brushes aside Sierra Club's concerns of absurd results as colorful assertions,[40] it does not address the absurd consequences of this approach when a transmission upgrade where 90 percent of the added capacity is needed to serve a single data center while only 10 percent benefits other customers would still be paid for by all ratepayers.[41] Under PG&E's framework, the existence of any incremental broader benefit could remove the project from direct assignment entirely.[42] Indeed, PG&E acknowledges that "most transmission network upgrades would not be classified as an ITNU."[43] The Commission should not narrowly confine direct assignment to the rare (and perhaps hypothetical) category of facilities while socializing the overwhelming majority of transmission upgrades associated with data center growth.

Nor does PG&E meaningfully respond to Sierra Club's concern regarding gamesmanship and inequitable siting incentives.[44] Sierra Club previously observed that sophisticated data center

[36] Exh. CalPA-23 at 9:11-18 and at 12:12-13:4.
[37] Exh. SC-02 at 2:29-31.
[38] Exh. SC-01 at 10:6-8.
[39] PG&E Limited Opening Post-Hearing Brief at 27; Exh. PG&E-19 at 6:3-15.
[40] PG&E Limited Opening Post-Hearing Brief at 30.
[41] Exh. SC-02 at 3:5-8.
[42] PG&E Limited Opening Post-Hearing Brief at 30-31. Other intervenors point out this flaw of PG&E's proposal too. Exh. CalPA-23 at 11:1-16.
[43] *Id*. at 30.
[44] Exh. SC-02 at 3:9-12.

developers could avoid customer responsibility by locating facilities near anticipated electrification growth or other load growth areas so that resulting upgrades could be characterized as serving general system needs.[45] PG&E offers no solution to mitigate that risk.

The Commission's recent filing before FERC reinforces the validity of Sierra Club's concerns with limiting direct cost allocation to projects triggered by a "sole" customer or cluster. There, the Commission expressly recognized that data center interconnections could "drive up electric costs for other retail ratepayers, especially residential customers, if cost allocation is not properly considered at the state level."[46] The Commission further emphasized the importance of protecting ratepayers from "stranded network upgrade investments in instances where such investments would not have occurred but for the expectation of large load delivery."[47] This "but for" evaluation ensures that the test is not a practically unworkable "sole" trigger, but rather more closely aligned with cost-causation principles in practice. By relying on a flawed "sole" trigger, PG&E's proposal fails to provide ratepayer protections because it excludes many upgrades that would not have been required absent transmission-level data center growth. The fact that an upgrade also provides broader reliability or electrification benefits does not negate the role large-load customers played in triggering or accelerating the investment. These upgrades could be better captured by a but-for test rather than by PG&E's artificially narrow ITNU definition.

Third, PG&E's reliance on estimated rather than actual Type-4 upgrade costs in their Customer Responsibility Proposal fails to adequately protect ratepayers from the well-documented risk of transmission project cost overruns.[48] Although PG&E argues that estimated costs provide certainty for customers seeking financing,[49] that convenience cannot justify shifting the financial risk of inaccurate estimates onto ratepayers, particularly where transmission infrastructure projects routinely exceed budget projections by significant margins,[50] with the record showing that large energy infrastructure projects commonly run 15–20% over estimates,[51] and some transmission upgrades exceeding initial projections by more than 43%, driven by

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[45] *Id*.
[46] CPUC Initial Comments in FERC Docket RM26-4-000 at 9.
[47] *Id*. at 22.
[48] PG&E Limited Opening Post-Hearing Brief at 28.
[49] *Id.* at 33.
[50] Exh. CalPA-23 at 23:11-14.
[51] Exh. SC-02 at 4:3-5.

inflation, supply chain delays, interest rate increases, and changing project scopes.[52] PG&E's assertion that there is no "genuine risk" because transmission-level customers will eventually receive refunds[53] ignores the central issue: if actual costs substantially exceed estimates, ratepayers may still be left bearing unrecovered differentials or financing uneconomic upgrades tied to speculative data center demand.[54] Rather than relying solely on estimated costs, the Commission should adopt protections such as true-up mechanisms, binding cost caps, or refund adjustments to ensure transmission-level customers—not captive ratepayers—remain responsible for the full actual costs of the upgrades they trigger.[55]

Fourth, PG&E's proposal for only two assessments to determine cost responsibility for transmission network upgrades would leave ratepayers liable for costs incurred by "data center dropouts." PG&E's Customer Responsibility Proposal includes an initial assessment and one potential additional assessment after the preliminary engineering study if a transmission-level customer drops out of a cluster.[56] This approach would improperly socialize the costs of Type-4 upgrades if other customers drop out of a cluster after the second assessment.[57] To avoid this outcome, the Commission should require additional reassessments as transmission-level customers leave a cluster.[58]

Fifth, PG&E's five-year cost refund timeline is so short that it unreasonably risks other ratepayers making up for lost utility revenues. PG&E's proposed five-year refund window is risky for other customers because data centers can necessitate significant transmission network upgrades, while paying lower rates than distribution customers, potentially allowing data center customers to receive full refunds for their upfront costs earlier than PG&E may be able to recover revenues for these transmission upgrade costs.[59] The Commission can mitigate this risk by lengthening the refund period for upfront costs allocated to data center customers to a more reasonable period, such as 15 years.[60]

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[52] *Id.* at 4:5-9.
[53] PG&E Limited Opening Post-Hearing Brief at 33.
[54] Exh. CalPA-23 at 22:8-19.
[55] Exh. SC-02 at 4:15-5:22.
[56] *Id.* at 5:27-30.
[57] *Id.* at 5:30-6:4.
[58] *Id.* at 6:4-7.
[59] *Id.* at 6:13-18.
[60] *Id.* at 6:20-23.

Additionally, PG&E's customer responsibility proposal suffers from a serious procedural flaw: it defers development of the actual ITNU identification methodology to a future utility-designed process.[61] In its opening brief, PG&E proposes to develop the methodology later through a Tier 3 Advice Letter, with discovery.[62] That approach remains inadequate. Advice Letter protests are due just 20 days after the filing of an Advice Letter.[63] This severely limits opportunity for stakeholder review and discovery. Thus, it will be difficult for stakeholders to assist the Commission in examining whether PG&E's ITNU-identification methodology is too narrow.

Ultimately, the Commission should reject PG&E's Customer Responsibility Proposal instead of trying to modify it because the proposal rests on a flawed premise: that transmission-level customers should bear responsibility only for upgrades exclusively and narrowly attributable to their load.[64] But transmission planning does not operate in such isolated categories. Transmission upgrades routinely address overlapping reliability, deliverability, electrification, and customer-growth needs simultaneously. The existence of broader system benefits does not erase the causal role of data center customers in necessitating the upgrade. The approach most consistent with the Commission's principles is cost allocation based on the extent to which a transmission-level customer benefits from or contributes to the need for the upgrade—not an artificially narrow "sole trigger" test that socializes most large-load-driven transmission costs onto existing customers.

D. The Recommendations of Sierra Club and other Consumer Advocates in this Proceeding Are Not Unjustly Discriminatory.

PG&E incorrectly characterizes other parties' proposals to only have cost-causing customers pay for Type-4 upgrades through upfront costs and to treat data centers differently from other transmission customers as "discriminatory."[65] Neither argument by PG&E holds merit. Not only does PG&E not cite to legal authority for these arguments, it also fundamentally misunderstands existing Commission standards under state law. California Public Utilities Code § 453 prohibits only "unreasonable" differences between classes of service—not all distinctions

[61] PG&E Limited Opening Post-Hearing Brief at 40; Exh. PG&E-20 at 38:16-20.
[62] *Id*.
[63] Commission General Order 96-B, General Rule 7.4.1.
[64] PG&E Limited Opening Post-Hearing Brief at 27.
[65] PG&E Limited Opening Post-Hearing Brief at 20, 42-43.

among customers.[66] Under California public utility law, the relevant legal standard is not whether the proposals are discriminatory in differentiating among customer classes, but qualified upon whether any differentiation is *unjustly* or *unreasonably* discriminatory.[67] California law has long recognized that utilities and the Commission may assign different cost responsibility to different customers where supported by a reasonable basis,[68] which could be economic concerns such as cost causation, system impacts, equity, or even other public policy considerations.[69] Thus, the mere existence of differential treatment does not establish unlawful discrimination.

As a threshold issue, PG&E's argument improperly conflates unlawfully discriminatory treatment with merely different treatment. That is not the legal standard. Indeed, the Commission has recognized that transmission-level customers may appropriately bear distinct obligations where their interconnection requests or load characteristics uniquely trigger or accelerate transmission infrastructure needs.[70] Cost allocation need not perfectly track every macro-level driver of statewide load growth to satisfy cost-causation principles. The relevant question is whether the assigned costs bear a rational relationship to the costs imposed on the system.

Furthermore, in this proceeding, recommendations to directly assign transmission costs to data centers and to treat data centers differently are not unduly discriminatory because they respond to the unique cost and risk characteristics of data center customers. The record shows that data center interconnections can create unique localized reliability needs, deliverability

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[66] California Public Utilities Code § 453(c).

[67] *BullsEye Telecom, Inc. v. Public Utilities Commission*, 66 Cal.App. 5th 301, 319 (2021) (citing *Hansen v. City of San Buenaventura*, 42 Cal.3d 1172, 1180-81 (1986)).

[68] *See, e.g.*, *Durant v. City of Beverly Hills*, 39 Cal.App. 2d 133, 139 (1940) (stating that "a utility may, without being guilty of unlawful discrimination, classify its customers or patrons upon any reasonable basis, as according to the purpose for which they receive the utility's service or product, or the quantity or amount received, and, subject to the general requirements of reasonableness, make separate rates for each class or group.")

[69] *See, e.g.*, *California Manufacturers Assn. v. Public Utilities Commission*, 24 Cal.3d 251, 260 (1979) (where the Commission was permitted to consider policy considerations surrounding prospective shortages in setting different rates for different classes of customers); *United States Steel Corp. v. Public Utilities Commission*, 29 Cal.3d 603, 613 (1981) (stating that the Commission has "wide discretion to prescribe rate classifications that reflect a varied range of economic classifications"); R.12-06-013, Order Instituting Rulemaking at 2 (considering cost-causation and other public policy considerations in implementing residential rate reform); D.17-01-006 at 8 (stating, as an example, that time-of-use rates should tailor rate design based on different customer profiles and needs).

[70] *See, e.g.*, CPUC Initial Comments in FERC Docket RM26-4-000 at 22 (the Commission encouraged consideration of ratepayer protections against unique system upgrade costs brought about by transmission-level customers and the expectation of large load delivery).

constraints, or transmission upgrades that might not otherwise be required at the same time, scope, or location.[71] Data centers present unique cost recovery risks because developers sometimes submit far more interconnection requests than the number of projects actually built, and even operational data centers may use significantly less power than forecasted or relocate as technology and market conditions change, leaving other ratepayers exposed if the current surge in data center demand proves to be a bubble.[72] Nor are other intervenors' proposals rendered unlawful simply because certain electrification-related load additions are treated differently. The Commission can distinguish between customer categories to advance statutory and state policy objectives,[73] and these objectives properly include transportation electrification and building decarbonization mandates established by the Legislature.[74] Encouraging beneficial electrification through tailored rate treatment reflects explicit state policy and therefore provides a rational and lawful basis for differentiated treatment.

Ultimately, PG&E fails to demonstrate that the intervenors' Type-4 upgrade cost allocation proposals are unduly discriminatory. California law grants the Commission broad discretion to adopt reasonable cost allocation methodologies that reflect differences among customers or customer classes so long as they are supported on a reasonable basis by substantial

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[71] Exh. SC-01 at 9:24-10:10.

[72] Sierra Club Limited Opening Brief on Questions in Administrative Law Judge's Ruling at 5.

[73] *See, e.g.*, R.12-06-013, Order Instituting Rulemaking at 2 (where the Commission's residential rate reform allows rate design based on cost-causation, advances public policy goals such as energy efficiency and conservation, and enables economically efficient customer decision-making). *See also* D.17-01-006 at 8 (promulgating time-of-use rates that promote policy considerations on the basis of varying customer profiles and needs).

[74] The Commission recognizes the following policy objectives in rate design (and thereby, cost allocation, which is an essential component of rate design): "(a) enhance the reliability of California's electric system; (b) make electric bills more affordable and equitable; (c) reduce the curtailment of renewable energy and greenhouse gas (GHG) emissions associated with meeting the state's future system load; (d) **enable widespread electrification of buildings and transportation to meet the state's climate goals**; (e) reduce long-term system costs through more efficient pricing of electricity; and (f) enable participation in demand flexibility by both bundled and unbundled customers." D.23-04-040, at 4 (emphasis added). This would also align with proposed state legislation recognizing the serious threat posed by data center load growth to California's climate goals and thereby directing the Commission to analyze the extent of cost-shifting created by data center customers specifically and evaluate potential avenues to mitigate these impacts. *See also* S.B. 57, 2025-2026 Reg. Sess., Ch. 647, Cal. Stat. 2025 (finding that data centers require "extremely large loads of electricity" which could pose a "serious threat to California's climate goals," and hence, requiring the Commission to submit analysis of utility costs incurred to meet growing load demands from data centers' increasing energy consumption, including costs from installing new transmission assets, and identify opportunities to mitigate the impacts of these cost-shifts from data center customers).

evidence and rational policy considerations. As evidenced by the record, identifiable system impacts disproportionately linked to data centers and state electrification policy favoring other classes of beneficial electrification warrant tailored treatment of data center load that is neither unlawful nor impermissibly discriminatory under California law.

III. CONCLUSION

For the reasons set forth above, the Commission should reject PG&E's jurisdictional arguments, policy arguments for subsidizing data centers, and flawed cost allocation proposals. As discussed in Sierra Club's Opening Brief, the Commission should adopt a modified version of TURN's load development that applies to all transmission-connected data centers as an interim measure to protect other ratepayers from cost shifts, and develop a more granular methodology and set of complementary measures for ensuring transmission-connected data centers pay the full costs of the infrastructure upgrades they require.

Dated: May 22, 2026

Respectfully submitted,

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