

Decision 16-12-045 December 15, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Compliance Review of Utility Owned Generation Operations, Electric Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Retained Generation Fuel Procurement, and Other Activities for the Period January 1 through December 31, 2014. (U39E)

Application 15-02-023
(Filed February 27, 2015)

**DECISION ON PACIFIC GAS AND ELECTRIC COMPANY
2014 ENERGY RESOURCE RECOVERY ACCOUNT
COMPLIANCE REVIEW**

Table of Contents

Title	Page
DECISION ON PACIFIC GAS AND ELECTRIC COMPANY 2014 ENERGY RESOURCE RECOVERY ACCOUNT COMPLIANCE REVIEW	1
Summary	2
1. Background	2
2. Procedural History	3
2.1. Procedural Motions	6
2.2. Joint Motion to Set Aside Submission and Reopen the Record	7
3. The Proposed Settlement between PG&E and ORA	9
3.1. Administration and Management of Utility-Owned Generation Facilities, Generation Outages, and Associated Fuel Cost	10
3.2. Administration and Management of Qualifying Facility (QF) and non-QF Contracts and the Amendments and Settlements in Chapter 9, Section I of PG&E's Initial Testimony	12
3.3. Least Cost Dispatch	13
3.4. Energy Resource Recovery Account Entries in 2014	15
3.5. Renewable Portfolio Standard Cost Memorandum Account Entries in 2014	16
3.6. Greenhouse Gas Compliance Instrument Procurement	17
3.7. Identification of any Safety Issues in PG&E's Application	18
3.8. Additional Issues Addressed By the Proposed Settlement	18
4. Commission Review of the Proposed Settlement	19
4.1. Is the Proposed Settlement Reasonable In Light Of The Whole Record?	19
4.1.1. Discussion	20
4.2. Is The Proposed Settlement Consistent With The Law?	20
4.2.1. Discussion	21
4.3. Is The Proposed Settlement In The Public Interest?	21
4.3.1. Discussion	22
4.4. Conclusion	22
5. Costs Incurred and Recorded In the Diablo Canyon Seismic Studies Balancing Account	23
6. Requests and Motions for Confidential Treatment	25
6.1. PG&E	25
6.2. ORA	26
7. Comments on Proposed Decision	27
8. Assignment of Proceeding	28

**Table of Contents
Con't.**

Title	Page
Findings of Fact	28
Conclusions of Law	31
ORDER	32

DECISION ON PACIFIC GAS AND ELECTRIC COMPANY 2014 ENERGY RESOURCE RECOVERY ACCOUNT COMPLIANCE REVIEW

Summary

This decision addresses compliance, verification and reasonableness issues related to Pacific Gas and Electric Company's (PG&E) Energy Resource Recovery Account for the Record Period January 1, through December 31, 2014. We approve an uncontested settlement between PG&E and the Commission's Office of Ratepayer Advocates that resolves all disputed issues in this proceeding. PG&E is authorized to transfer \$8.691 million from its Diablo Canyon Seismic Studies Balancing Account to its Utility Generation Balancing Account, for recovery in rates. PG&E is authorized to transfer \$239,079 (undercollected) from the Renewable Portfolio Standard Cost Memorandum Account to its Energy Resource Recovery Account for recovery in rates.

This proceeding is closed.

1. Background

Public Utilities (Pub. Util.) Code Section 454.5(d)(2) provides for a procurement plan that would accomplish, among others, the following objective:

Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved.

In Decision (D.) 02-10-062, the Commission implemented Section 454.5(d) by establishing Energy Resource Recovery Account (ERRA) balancing accounts for Pacific Gas and Electric Company (PG&E) and other utilities, requiring them

to track fuel and purchased power revenues against actual recorded costs and to establish an annual ERRA compliance review for the previous year and an annual ERRA fuel and purchased power revenue requirement for the following year. The most recent Commission decision on a PG&E ERRA compliance application was D.16-04-006, for the 2012 Record Period.

In D.12-01-033 and D.12-04-046, the Commission approved with modifications PG&E's Bundled Procurement Plan (BPP), covering the years 2012 through 2022. PG&E's BPP became effective on January 12, 2012, and will remain in effect until December 31, 2022 or the date the BPP is superseded by a subsequent Commission-approved BPP, whichever is earlier. The BPP is the basis for PG&E's 2014 compliance review.

2. Procedural History

On February 27, 2015, PG&E filed Application (A.) 15-02-023 for Compliance Review of Utility Owned Generation Operations, Electric Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Retained Generation Fuel Procurement, and Other Activities for the Period January 1 through December 31, 2014 (Record Period). PG&E requests that the Commission find as follows with regard to PG&E's ERRA compliance activities during the Record Period:¹

1. PG&E administered and managed its Utility-Owned Generation (UOG) facilities prudently;
2. PG&E prudently managed UOG outages and associated fuel costs;

¹ PG&E Application at 15-16.

3. PG&E prudently administered and managed its Qualifying Facilities (QF) and non-QF contracts in accordance with the contracts' provisions;
4. The amendments and settlements identified in Chapter 9, Section I of PG&E's Prepared Testimony are reasonable and the costs associated with these amendments should be recovered through ERRA;
5. PG&E achieved Least-Cost Dispatch of its energy resources;
6. The entries in the ERRA for 2014 were reasonable;
7. The costs incurred and recorded in the Diablo Canyon Seismic Studies Balancing Account (DCSSBA), including Long-Term Seismic Program costs, in 2014 were reasonable and that PG&E has met its burden of proof regarding its claim for cost recovery; PG&E seeks approval to recover in rates \$8.63 million for the DCSSBA, along with Franchise Fees and Uncollectibles.
8. The costs booked to the Renewable Portfolio Standard Cost Memorandum Account (RPSCMA) in 2014 were reasonable and that PG&E has met its burden of proof regarding its claim for cost recovery; PG&E seeks approval to recover in rates \$0.239 million for the RPSCMA, along with Franchise Fees and Uncollectibles.
9. PG&E's Greenhouse Gas Compliance Instrument Procurement complied with PG&E's Bundled Procurement Plan; and,
10. Any other remedy or relief the Commission deems appropriate.

The Commission's Office of Ratepayer Advocates (ORA) protested PG&E's application on April 2, 2015. The Alliance for Nuclear Responsibility (A4NR) protested PG&E's application on April 3, 2015. PG&E replied to the protests on April 15, 2015.

A prehearing conference was held on May 8, 2015. The Scoping Memo was issued on June 26, 2015. The Scoping Memo identified the issues listed below as within the scope of this proceeding:

1. Did PG&E administer and manage its Utility-Owned Generation facilities prudently?

2. Did PG&E prudently manage Utility-Owned Generation outages and associated fuel costs?
3. Did PG&E prudently administer and manage its QF and non-QF contracts in accordance with the contracts' provisions?
4. Are the amendments and settlements in Chapter 9, Section I of PG&E's prepared testimony reasonable and should any costs associated with these amendments and settlements be recovered through the Energy Resource Recovery Account?
5. Did PG&E achieve Least-Cost Dispatch of its energy resources?
6. Were PG&E's entries in the Energy Resource Recovery Account for 2014 reasonable?
7. Were the costs incurred and recorded in 2014 in the Diablo Canyon Seismic Studies Balancing Account, including costs associated with PG&E's Long Term Seismic Program, reasonable and did PG&E meet its burden of proof regarding its claim for cost recovery?
8. Were the costs booked to the Renewable Portfolio Standard Cost Memorandum Account in 2014 reasonable and did PG&E meet its burden of proof regarding its claim for cost recovery?
9. Did PG&E's Greenhouse Gas Compliance Instrument Procurement comply with PG&E's Bundled Procurement Plan? and,
10. Parties shall address whether there are any safety issues in PG&E's application.

ORA and A4NR served their testimony on July 14, 2015. PG&E filed a motion to strike limited portions of ORA's Testimony on July 27, 2015. ORA responded to PG&E's motion on August 11, 2015. PG&E served its Rebuttal Testimony on July 27, 2015.

On August 6, 2015, PG&E requested that A4NR be permitted to serve supplemental testimony and that PG&E be permitted to serve surrebuttal testimony concerning A4NR's recommendations. The assigned Administrative Law Judge (ALJ) granted PG&E's request, and A4NR's Supplemental Testimony

and PG&E Surrebuttal Testimony were served on August 21, 2015 and September 2, 2015, respectively.²

On September 2, 2015, ORA served Amended Testimony.

On September 10, 2015, PG&E and ORA (Settling Parties) filed a Motion for Approval of Proposed Settlement (Settlement Motion). According to the Settling Parties, the Proposed Settlement fully resolves all of the issues in this proceeding between the Settling Parties. However, the Proposed Settlement did not resolve PG&E's recovery of costs associated with the Diablo Canyon Seismic Studies Balancing Account (DCSSBA) because A4NR also filed testimony and raised issues concerning this topic, and did not enter into the Proposed Settlement. PG&E, ORA, and A4NR recommended that the parties address these issues through briefing.

Evidentiary hearings were conducted on October 1 and October 6, 2015. Opening briefs were filed by PG&E and A4NR on October 9, 2015; both parties filed reply briefs on October 23, 2015. At that time, the record was closed and this proceeding was submitted to the Commission for its decision.

2.1. Procedural Motions

On September 16, 2015, PG&E filed two motions: (1) a Motion to Offer Testimony and Workpapers into Evidence and Admit These Materials into the

² PG&E and ORA requested confidential treatment of certain material in their testimony pursuant to the Public Utilities Code, Commission Rules and Commission precedent. These requests are addressed in Section 9 of this decision. For the testimony that included confidential material, parties provided a confidential and a public version of these exhibits were provided were provided by PG&E or ORA. The confidential exhibit is denoted by a "-C" following the exhibit number. If the material cited in this decision is public, the public version of the exhibit will be cited, for example, Exhibit PG&E-1. If the material is confidential, this decision will cite the confidential version of the exhibit, for example, Exhibit PG&E-1-C.

Record under Rule 13.8(c); and, (2) a Motion to Seal the Evidentiary Record under Rule 11.5.

On September 21, 2015, A4NR filed a Motion for Admission of its Testimony and Other Exhibits into Evidence. On September 30, 2015, A4NR filed a Motion for Admission into Evidence of Erratum to A4NR-2.

On October 12, 2015, ORA filed two motions: (1) a Motion to Move Testimony into the Record under Rule 13.7(e); and (2) a Motion to Seal a Portion of the Evidentiary Record.

On October 13, 2015, PG&E filed a Motion to Offer Additional Exhibits into Evidence and Admit These Materials into the Record under Rule 13.8(c).

We hereby grant each of the procedural motions listed above. Requests for confidential treatment of testimony are addressed at the end of this decision.

2.2. Joint Motion to Set Aside Submission and Reopen the Record

On July 27, 2016, PG&E and A4NR filed and served a Joint Motion to Set Aside Submission and Reopen the Record under Rule 13.14. PG&E and A4NR are requesting that the record be reopened in light of the June 20, 2016 Joint Proposal of Pacific Gas and Electric Company, Friends of the Earth, Natural Resources Defense Council, Environment California, International Brotherhood of Electrical Workers Local 1245, Coalition of California Utility Employees and Alliance for Nuclear Responsibility to Retire Diablo Canyon Nuclear Power Plant at Expiration of the Current Operating Licenses and Replace It With a Portfolio of GHG Free Resources (Joint Proposal). More specifically, PG&E and A4NR make the request to reopen the record in this proceeding in light of Section 5.3 of the Joint Proposal, which states that “PG&E acknowledges the substantial influence and contribution of A4NR’s work in reaching the positions reflected in the Joint Proposal. Because of PG&E’s decision not to proceed with license

renewal, A4NR agrees to withdraw its pending objections and recommendations regarding PG&E's recovery of costs in the Diablo Canyon Seismic Studies Balancing Account in PG&E's 2013 and 2014 ERRA proceedings." The instant proceeding is PG&E's 2014 ERRA proceeding.

Consistent with the Joint Proposal, PG&E and A4NR jointly request that the Commission set aside submission and reopen the record, to allow PG&E and A4NR to withdraw several exhibits. Specifically, PG&E and A4NR request that the Commission allow A4NR to withdraw Exhibits A4NR-1 through A4NR-10. PG&E and A4NR request that the Commission allow PG&E to withdraw Chapter 6 of Exhibit PG&E-2 (as well as the identical Chapter in Exhibit PG&E-2-C), as well as Exhibit PG&E-3. PG&E and A4NR are not requesting the withdrawal of Chapter 6 of Exhibit PG&E-1, which provides PG&E's affirmative showing with respect to PG&E's 2014 DCSSBA expenditures.

PG&E and A4NR also jointly request that the Commission authorize A4NR to withdraw its pending objections and recommendations regarding PG&E's recovery of costs in the DCSSBA that A4NR has made in this proceeding.

The Joint Motion of PG&E and A4NR to set aside submission and reopen the record in order to allow PG&E and A4NR to withdraw the exhibits listed above is granted. Exhibits A4NR-1 through A4NR-10 are deemed withdrawn. Chapter 6 of Exhibit PG&E-2 and the identical Chapter in Exhibit PG&E-2-C are deemed withdrawn. Exhibit PG&E-3 is deemed withdrawn. Finally, we authorize A4NR to withdraw its pending objections and recommendations regarding PG&E's recovery of costs in the DCSSBA that A4NR has made in this proceeding.

3. The Proposed Settlement between PG&E and ORA

Regarding the overall context of the Proposed Settlement in this proceeding, Settling Parties explain that when PG&E filed its application, it also submitted lengthy testimony, workpapers, and responses to ORA's Master Data Requests (MDRs) in order to demonstrate that its proposals and requests should be adopted by the Commission. ORA reviewed these materials, conducted further discovery, participated in meetings with PG&E to obtain additional necessary information, and then served lengthy and detailed testimony addressing the issues, proposals, and requests raised by PG&E. Settling Parties state that it was only after this process of careful review that PG&E and ORA were able to enter into the Proposed Settlement.

We acknowledge the efforts of PG&E and ORA to reach settlement as well as the extensive explanation and support for the settled outcomes provided in the Motion for Approval of Proposed Settlement. Our summary below is based on that Motion.

In the Motion for Approval of Proposed Settlement, the Settling Parties (1) describe each of the issues addressed in the Scoping Memo; (2) the testimony submitted by PG&E and ORA regarding these issues; and (3) the terms of the Proposed Settlement addressing the Scoping Memo issues. Settling Parties also agreed that any portion of PG&E's requested relief that was not directly addressed in the Proposed Settlement was "deemed to have been supported by the Parties." Finally, Settling Parties also discuss two additional issues that are addressed in the Proposed Settlement that were not expressly identified in the Scoping Memo.

3.1. Administration and Management of Utility-Owned Generation Facilities, Generation Outages, and Associated Fuel Cost

The Scoping Memo determined that the scope of this proceeding included the issues of (1) whether PG&E administered and managed its Utility-Owned Generation facilities prudently and (2) whether PG&E prudently managed Utility Owned Generation outages and associated fuel costs.

PG&E describes the operation of its Utility-Owned Generation Facilities (UOG) facilities during the Record Period in Exhibit PG&E 1-C, including its hydroelectric facilities (Chapter 3); fossil-fueled, solar and fuel cell facilities (Chapter 4); and its nuclear facilities (Chapter 5). PG&E summarizes its UOG fuel costs during the Record Period in Chapter 7 of the same exhibit.

Settling Parties state that PG&E's testimony described outages at its UOG facilities, and, in its response to ORA's MDRs, PG&E provided ORA with detailed operational information concerning each outage. ORA also propounded detailed discovery requests concerning specific outages. PG&E's testimony asserts that it operated its UOG facilities as a reasonable manager during the Record Period.

ORA reviewed the operation of PG&E's UOG facilities during the Record Period in Exhibit ORA 1-C, Chapters 3-5. For two outages at two separate PG&E hydro facilities, ORA concluded that PG&E did not meet the reasonable manager standard: (1) Pit Powerhouse 5 Unit 2, which experienced a 65 day forced outage that started on December 31, 2013; and (2) Haas Powerhouse Unit 1, which experienced a 16.5 day outage starting on April 9, 2014. However, ORA did not recommend a disallowance for either outage because it determined that "no power replacement costs are involved in relation to [the outages]." ORA did

recommend that PG&E undertake several corrective actions at its hydro facilities to prevent future outages.³

ORA also recommended certain prospective activities related to the operation of PG&E's UOG facilities based on lessons learned from outages at PG&E's Colusa Generating Station and Diablo Canyon Power Plant (Diablo Canyon or DCP) during the Record Period. Finally, ORA concluded that PG&E "prudently procured fuel for its utility owned generation facilities and tolling agreements, managed the fuel supply provisions of the CDWR tolling agreements, acquired water for hydroelectric generation, and procured nuclear fuel for DCP."⁴

In its Rebuttal Testimony, PG&E addressed in detail the two hydroelectric facility forced outages discussed by ORA. PG&E also indicated that it had adopted corrective actions at the two facilities as a result of these outages and was reviewing whether similar corrective actions should be implemented at other facilities. PG&E's Rebuttal Testimony also addressed the prospective activities proposed by ORA regarding the Colusa and DCP outages and concluded that a number of these recommended actions were either beyond the scope of this proceeding, or had already been implemented by PG&E.

The Proposed Settlement resolves all of the issues between PG&E and ORA regarding UOG facility administration, management, outages, and fuel usage during the Record Period:

- PG&E indicates that it either has or will implement many of ORA's recommendations for corrective or prospective activities;

³ Settlement Motion at 6, citing ORA testimony.

⁴ *Ibid.*

- Based on PG&E's Rebuttal Testimony, ORA has agreed to withdraw its testimony concerning whether PG&E acted as a reasonable manager for the two hydroelectric facility outages; and
- Based on PG&E's Rebuttal Testimony, ORA has agreed that the Commission should not order certain prospective actions based on the Colusa outage.

3.2. Administration and Management of Qualifying Facility (QF) and non-QF Contracts and the Amendments and Settlements in Chapter 9, Section I of PG&E's Initial Testimony

The Scoping Memo determined that the scope of this proceeding included the issues of (1) whether PG&E prudently administered and managed its Qualifying Facility (QF) and non-QF contracts in accordance with the contracts' provisions, and (2) whether the amendments and settlements in Chapter 9, Section I of Exhibit PG&E 1-C are reasonable and whether the costs associated with these amendments and settlements be recovered through the Energy Resource Recovery Account.

PG&E describes the administration and management of its QF and non-QF contracts in Chapter 9 of Exhibit PG&E 1-C. Settling Parties state that PG&E also provided extensive data responses and workpapers regarding contract administration. PG&E also seeks approval of twelve (12) contract amendments described in Chapter 9 of Exhibit PG&E 1-C.

ORA addressed PG&E's contract administration in Chapter 9 of Exhibit ORA 1-C. ORA focused on contract amendments and settlements that resulted in a change to the notional value of the Power Purchase Agreement. ORA concluded that it did "not object to PG&E's contract administrative process and activities for the Record Period." ORA also stated that it "does not object" to PG&E's request for approval of the contract amendments described in Chapter 9 of Exhibit PG&E 1-C.

Two areas of the Proposed Settlement address contract administration and approval of the requested contract amendments. First, PG&E and ORA agreed that any portion of PG&E's requested relief that was not directly addressed in the Proposed Settlement was "deemed to have been supported by the Parties . . .". Settling Parties state that this relief would include PG&E's request that its contract administration during the Record Period be deemed reasonable and prudent. Second, the Proposed Settlement specifically addresses the twelve contract amendments identified in Chapter 9 of Exhibit PG&E 1-C and recommends that these contract amendments be approved.

3.3. Least Cost Dispatch

The Scoping Memo determined that the scope of this proceeding included the issue of whether PG&E achieved Least-Cost Dispatch (LCD) of its energy resources.

PG&E describes LCD in Chapter 1 of Exhibit PG&E 1-C and separately addresses economically dispatched Demand Response (DR) programs in Chapter 1 of that Exhibit. Settling Parties state that PG&E provided additional information to ORA in workpapers and in PG&E's response to ORA's MDRs, as well as follow-up data requests. Settling Parties state that PG&E's testimony and workpapers were organized to comply with the December 2, 2014 *Interim Ruling Providing Guidance for the 2014 Energy Resource Recovery Account Compliance Proceedings* issued by the assigned Commissioner and assigned ALJ in Application 11-02-011. PG&E asserts in Exhibit PG&E 1-C that it correctly performed least-cost dispatch consistent with Commission directives and decisions, and reasonably utilized its demand response resources during the Record Period.

ORA addressed LCD, including DR, in Chapter 2 of Exhibit ORA 1-C. ORA did not recommend any disallowances, but made several recommendations for further study and analysis with respect to these topics. ORA also reached several conclusions relating to the design and operation of specific DR programs. PG&E's Rebuttal Testimony responded to ORA's recommendations, endorsing several, proposing refinements to others, and in some cases respectfully taking issue with ORA's conclusions and recommendations.

The Proposed Settlement resolves all of the issues between PG&E and ORA regarding LCD and DR programs.

First, Section 2 of the Proposed Settlement addresses LCD:

- PG&E agrees to carry out many of the further activities recommended by ORA, and the Proposed Settlement sets out a mutually acceptable approach for those further actions, and how they are to be reflected in future ERRA Compliance proceedings, as well as the recovery of costs for independent reviews of PG&E's LCD processes proposed by ORA.

Second, Sections 2.1 and 3 of the Proposed Settlement address DR programs.

- Section 2.1 provides that in future ERRA Compliance applications, PG&E will include DR programs in the LCD chapter, which ORA recommended in its testimony.
- In Section 3, PG&E agrees with ORA that several DR-related issues that ORA raised are appropriately addressed in the Commission's DR proceeding (i.e., Rulemaking 13-09-011).
- PG&E also agrees to provide specific information regarding "operational constraints" and "opportunity costs" for DR programs as part of PG&E's Initial Testimony in future ERRA Compliance Review proceedings and to work with ORA on developing quantitative opportunity cost measures.

- Finally, ORA agrees to modify aspects of its testimony that, from PG&E's perspective, related more to DR program review than ERRA Compliance review.

3.4. Energy Resource Recovery Account Entries in 2014

The Scoping Memo determined that the scope of this proceeding included the issue of whether PG&E's entries in the ERRA for 2014 were reasonable.

PG&E describes costs PG&E recorded in the ERRA during the Record Period, as well as PG&E's cost recovery and revenue requirement requests, in Chapters 12 and 13 of Exhibit PG&E 1-C. In addition to this testimony and responses to ORA's MDRs, ORA also conducted an audit of PG&E's ERRA account entries. In Chapter 11 of Exhibit ORA 1-C, ORA addressed PG&E's entries into the ERRA and states that "ORA found the ERRA entries . . . are appropriate, correctly stated, and in compliance with applicable Commission decisions."⁵

Settling Parties state that the Proposed Settlement does not explicitly discuss PG&E's entries into the ERRA because the Proposed Settlement only sets forth the mutually acceptable resolution of issues raised by ORA in its testimony, and ORA did not identify any issues with respect to PG&E's accounting entries. Thus, Settling Parties cite the initial paragraph of the Proposed Settlement, which provides that "unless specifically addressed herein, any undisputed PG&E proposals addressed in its Application and supporting testimony . . . shall be deemed to have been supported by the Parties, and the Parties request that the CPUC approve such proposals as just and reasonable."

⁵ Exhibit ORA-1 at page 11-1.

3.5. Renewable Portfolio Standard Cost Memorandum Account Entries in 2014

The Scoping Memo determined that the scope of this proceeding included the issues of (1) whether the costs booked to the Renewable Portfolio Standard Cost Memorandum Account (RPSCMA) in 2014 were reasonable, and (2) whether PG&E met its burden of proof regarding its claim for cost recovery.

The Commission established the RPSCMA in D.06-10-050 to track the third-party consultant costs incurred by the Commission and paid by PG&E in connection with the Commission's implementation and administration of the Renewables Portfolio Standard. Commission staff reviews and approves invoices received from the independent consultants and PG&E pays the invoiced amount and records it in the RPSCMA. Pursuant to D.06-10-050 PG&E is authorized to request recovery in rates through its ERRA compliance application or other proceeding as authorized by the Commission.

In Chapter 12, Section D of Exhibit PG&E 1-C, PG&E describes its accounting entries the RPSCMA. In Chapter 11 of Exhibit ORA-1, ORA states that "ORA found the . . . RPSCMA entries are appropriate, correctly stated, and in compliance with applicable Commission decisions."⁶

Settling Parties state that the Proposed Settlement does not explicitly discuss PG&E's entries into the RPSCMA because the Proposed Settlement only sets forth the mutually acceptable resolution of issues raised by ORA in its testimony, and ORA did not identify any issues with respect to PG&E's RPSCMA entries. Thus, Settling Parties cite the initial paragraph of the Proposed Settlement, which provides that "unless specifically addressed herein, any

⁶ *Ibid.*

undisputed PG&E proposals addressed in its Application and supporting testimony . . . shall be deemed to have been supported by the Parties, and the Parties request that the CPUC approve such proposals as just and reasonable.”

We have reviewed the PG&E and ORA testimony regarding the RPSCMA. Based on our review, we authorize PG&E to transfer \$239,079 (undercollected) from the Renewable Portfolio Standard Cost Memorandum Account to its Energy Resource Recovery Account for recovery in rates.

3.6. Greenhouse Gas Compliance Instrument Procurement

The Scoping Memo determined that the scope of this proceeding included the question of whether PG&E’s Greenhouse Gas Compliance Instrument Procurement complied with its Bundled Procurement Plan.

In Chapter 8 of Exhibit PG&E 1-C, PG&E describes its procurement of GHG compliance instruments during the Record Period, and how that activity complied with PG&E’s Commission-approved Bundled Procurement Plan. ORA addressed PG&E’s procurement of GHG compliance instruments in Chapter 8 of Exhibit ORA-1-C and concluded that “PG&E has shown that, during [record year] 2014, PG&E procured GHG compliance instruments in accordance with its approved GHG Procurement Plan. . . .”

PG&E filed a motion to strike a small portion of ORA’s Testimony concerning one of ORA’s recommendation regarding future GHG compliance instrument procurement demonstrations and submitted Rebuttal Testimony addressing the same recommendation. However, ORA’s amended Testimony no longer contains the GHG recommendation that PG&E opposed in its motion to strike and Rebuttal Testimony. PG&E agreed in the Proposed Settlement to withdraw its motion to strike because the motion is mooted by the Proposed Settlement.

Thus, based on ORA's Testimony as amended on September 2, no issues were identified in connection with PG&E's procurement of GHG compliance instruments.

3.7. Identification of any Safety Issues in PG&E's Application

The Parties to the Proposed Settlement did not identify any safety issues associated with PG&E's Application.

3.8. Additional Issues Addressed By the Proposed Settlement

The Proposed Settlement addresses two additional topics in addition to those identified by the Scoping Memo. Both topics are related to the maximum potential disallowance for violating Standard of Conduct (SOC) 4 of PG&E's Bundled Procurement Plan. SOC 4 provides that "[t]he utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner." Pursuant to D.02-12-074, the maximum disallowance for violation of SOC 4 is equal to twice the utility's annual procurement administrative expenditures.⁷

In the Proposed Settlement, PG&E and ORA first agree that the maximum potential disallowance for violating SOC 4 during the Record Period is \$119.356 million. Second, PG&E and ORA also agree that in PG&E's 2015 ERRA Compliance proceeding, to be filed on February 29, 2016, PG&E will include in testimony and support in workpapers its SOC 4 disallowance amount. These recommendations were made by ORA in its testimony and PG&E did not dispute them.⁸

⁷ The Commission has not considered this cap to limit disallowances related to improper utility maintenance of their own generation facilities.

⁸ See, Exhibit ORA 1-C at page 13-5.

4. Commission Review of the Proposed Settlement

The Commission has long favored the settlement of disputes. However, pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure, the Commission will not approve a settlement, whether contested or uncontested, unless it is found to be reasonable in light of the whole record, consistent with law, and in the public interest. Further, where a settlement agreement is contested, it will be subject to more scrutiny than an all-party settlement agreement. As noted above, in this proceeding the Proposed Settlement between PG&E and ORA is not contested.

4.1. Is the Proposed Settlement Reasonable In Light Of The Whole Record?

Settling Parties assert that the Proposed Settlement was reached only after the submission of lengthy testimony, extensive discovery, careful analysis of the issues, and settlement discussions between the Settling Parties:⁹

PG&E and ORA represent two distinct and affected interests, namely, PG&E, which is responsible for procuring power to serve all of its customers, and ORA, the Commission's independent ratepayer advocacy office. The fact that PG&E and ORA were able to find common ground with respect to the areas where they originally differed indicates that the Settlement is reasonable in light of the whole record.

Settling Parties note that the Proposed Settlement resolves all of the issues and recommendations raised by ORA in this proceeding. In many cases, PG&E has agreed to implement ORA's recommendations. In other cases, the Settling Parties have agreed that certain recommendations should be addressed in other Commission proceedings (i.e., the DR proceeding in Rulemaking 13-09-011) or

⁹ Settlement Motion at 14.

that, based on PG&E's Rebuttal Testimony, ORA would withdraw or modify certain recommendations or conclusions.

Finally, Settling Parties assert that the record in this proceeding, including the PG&E and ORA testimony that has been offered into evidence, also shows that the Proposed Settlement Agreement was reached after substantial give-and-take between the parties and that the Proposed Settlement represents a reasonable compromise between the principles and legal theories of the adverse parties.

4.1.1. Discussion

We find that the Proposed Settlement is reasonable in light of the whole record. As noted by the Settling Parties, the Commission has previously stated that settlements that demonstrate a "reasonable compromise between the principles and legal theories of the adverse parties" merit approval. In this case, we find that the Proposed Settlement reasonably resolves all of the remaining contested issues in the proceeding.

4.2. Is The Proposed Settlement Consistent With The Law?

The Settling Parties believe that the terms of the Proposed Settlement comply with all applicable statutes, including the prospective actions that PG&E will take in future ERRA Compliance proceedings. Applicable statutes include Pub. Util. Code § 451, which requires that utility rates must be just and reasonable, and Public Utilities Code § 454, which prevents a change in public utility rates unless the Commission finds such an increase justified.

To cite one example of the manner in which our approval of the Proposed Settlement would affect PG&E's rates, the Settling Parties described how ORA reviewed the ERRA account, as well as the RPSCMA, including a review of testimony, discovery, and an audit of entries. Based on that review, ORA

concluded that the ERRRA and RPSCMA were accurately and appropriately stated. The Proposed Settlement addresses the ERRRA and RPSCMA by noting that PG&E's requests related to these accounts should be approved. At the conclusion of the Record period, PG&E's ERRRA account ending balance was an under-collection of \$276 million.¹⁰ This under-collection balance will be collected from ratepayers in their future rates. Similarly, as discussed earlier in this decision, based on our review of the RPSCMA we authorized PG&E to transfer \$239,079 (undercollected) from the Renewable Portfolio Standard Cost Memorandum Account to its Energy Resource Recovery Account for recovery in rates.

4.2.1. Discussion

We find that the Proposed Settlement is consistent with the law because Settling Parties have sufficiently demonstrated pursuant to Pub. Util. Code § 451 that the resulting rates will be just and reasonable. Settling Parties have also provided sufficient information pursuant to Pub. Util. Code § 454 to allow the Commission to find the resulting increase to be justified.

4.3. Is The Proposed Settlement In The Public Interest?

Settling Parties argue that the Proposed Settlement is in the public interest because it conserves Commission resources and the resources of the Settling Parties from having to litigate the issues in this proceeding:¹¹

But for the Settlement, ORA and PG&E would have participated in hearings, and submitted post-hearing briefs regarding the disputed issues in this proceeding. The resources of the Settling Parties and the Commission are conserved by entering into a Settlement which

¹⁰ Reporter's Transcript at 165.

¹¹ Settlement Motion at 17-18.

resolves all of the outstanding issues between the Parties so that, if the Commission approves the Settlement, all of the disputed issues between them will be resolved.

We also note that PG&E's initial testimony provided extensive information regarding LCD and DR, fuel costs, contract administration, and GHG compliance instrument procurement. ORA reviewed this testimony, as well as workpapers and PG&E's responses to discovery requests. As a result of its review, ORA made certain recommendations, specifically regarding LCD and DR. Most of these recommendations have been adopted and included in the Proposed Settlement. Finally, under the Proposed Settlement, PG&E agrees to undertake several prospective actions that will improve PG&E's operational practices or further improve PG&E's showings in future ERRA Compliance proceedings.

4.3.1. Discussion

We find that the Proposed Settlement is in the public interest. Settling Parties correctly note that we encourage parties to bring us settlements that are fair and reasonable because such settlements reduce the expense of litigation and conserve Commission resources. The Proposed Settlement meets that standard. Furthermore, as noted above, the Proposed Settlement includes agreements that will further the public interest by improving PG&E's operational practices or lead to more efficient reviews of PG&E's compliance activities in future ERRA Compliance proceedings.

4.4. Conclusion

For the reasons discussed above, we find that the Proposed Settlement is reasonable in light of the whole record, consistent with law, and in the public interest. The Proposed Settlement should be approved.

5. Costs Incurred and Recorded In the Diablo Canyon Seismic Studies Balancing Account

As noted above, the Proposed Settlement between PG&E and ORA did not resolve PG&E's recovery of costs associated with the Diablo Canyon Seismic Studies Balancing Account (DCSSBA) because A4NR also filed testimony and raised issues concerning this topic, and did not enter into the Proposed Settlement. We address PG&E's request for recovery of DCSSBA costs here.

In Chapter 6 of Exhibit PG&E-1, "Costs Incurred in the Diablo Canyon Seismic Studies Balancing Account," PG&E presents testimony supporting its request that the Commission authorize PG&E to transfer \$8.691 million from its DCSSBA to its Utility Generation Balancing Account (UGBA), for recovery in rates.

The purpose of the DCSSBA is to allow PG&E to record, for eventual recovery in rates, its actual costs of implementing what are known as the Diablo Canyon seismic activities. These activities consist of certain seismic studies in the area at and around the Diablo Canyon Power Plant that were recommended by the California Energy Commission (CEC) in 2008. In 2010, PG&E requested and received authority from the Commission to (1) proceed with the CEC-recommended additional seismic studies, and (2) establish a new balancing account to record and recover in rates (via the UGBA) the actual costs of those seismic studies. The Commission authorized recovery of up to \$16.73 million for the studies. In 2011 PG&E requested authority to recover an additional \$47.5 million above the amount approved in D.10-08-003, for a total of \$64.25 million, in order to perform expanded studies that had been determined to be necessary. The Commission approved PG&E's Application in D.12-09-008, determining that PG&E should use the same cost recovery and ratemaking method approved in D.10-08-003, and that "costs recorded to the DCSSBA shall

be recovered in PG&E's annual ERRA compliance proceedings, where PG&E will provide support for the amounts actually incurred and recorded in the DCSSBA."

In Chapter 6 of Exhibit PG&E-1, PG&E states that the total actual costs for the Diablo Canyon seismic activities recorded in the DCSSBA as of December 31, 2014, had reached \$55.51 million, and PG&E asserts that this amount is consistent with the costs and programs approved by the Commission in D.12-09-008. Therefore, PG&E now requests authority to transfer the uncollected amount as of December 31, 2014, \$8.691 million, from the DCSSBA to the UGBA.

After reviewing PG&E's testimony and conducting discovery, ORA concluded that the "entries in the [DCSSBA] are appropriate, correctly stated, and in compliance with Commission decisions." However, the Proposed Settlement between PG&E and ORA does not resolve the recovery of DCSSBA costs, because A4NR also submitted testimony regarding the DCSSBA and supplemental testimony proposing a disallowance related to costs incurred during the Record Period. At that time, PG&E, ORA, and A4NR were not able to reach a settlement on DCSSBA issues.

Subsequent to the filing of the Proposed Settlement, as part of the July 2016 Joint Proposal regarding Diablo Canyon submitted by, among others, A4NR and PG&E, A4NR agreed to withdraw its pending objections and recommendations regarding PG&E's recovery of costs in the DCSSBA in PG&E's 2013 and 2014 ERRA proceedings. Earlier in this decision we granted the Joint Motion of PG&E and A4NR to set aside submission and reopen the record, so that A4NR could withdraw the relevant testimony on this matter. We also authorized A4NR to withdraw its pending objections and recommendations regarding PG&E's recovery of costs in the DCSSBA that A4NR has made in this proceeding.

Based on the above, the record in this proceeding regarding the 2014 costs incurred in the Diablo Canyon Seismic Studies Balancing Account consists of PG&E's opening testimony and ORA's testimony, wherein ORA concluded that the entries in the DCSSBA are appropriate, correctly stated, and in compliance with Commission decisions.

We have reviewed the PG&E and ORA testimony regarding the DCSSBA. Based on our review, we authorize PG&E to transfer \$8.691 million from its DCSSBA to its Utility Generation Balancing Account for recovery in rates.

6. Requests and Motions for Confidential Treatment

The testimony, briefs, and certain other exhibits submitted by PG&E and ORA sometimes included confidential material. As noted above, on September 16, 2015, PG&E filed a Motion to Seal the Evidentiary Record under Rule 11.5. On October 12, 2015, ORA filed a Motion to Seal a Portion of the Evidentiary Record. PG&E and ORA requested confidential treatment of this material pursuant to the Public Utilities Code, Commission Rules and Commission precedent.

Rule 11.5 addresses sealing all or part of an evidentiary record. D.06-06-066 addresses Commission practices regarding confidential information, such as electric procurement data (that may be market sensitive) submitted to the Commission. The Commission's General Order (G.O.) 66-C addresses access to records in the Commission's possession.

6.1. PG&E

The material in the evidentiary record that PG&E seeks to protect is included in the following documents:

1. PG&E's Amended Prepared Testimony, which has been designated as Exhibits PG&E-1 (Public Version) and PG&E-1-C (Confidential Version);
2. PG&E's Rebuttal Testimony, which has been designated as Exhibits PG&E-2 (Public Version) and PG&E-2-C (Confidential Version);
3. PG&E's Least Cost Dispatch Demonstration (Chapter 1 Workpapers), which has been designated as Exhibit PG&E-4-C (confidential in its entirety); and,
4. PG&E's Chapter 9 Workpapers (Contract Amendments Identified In Chapter 9, Section I), which has been designated as Exhibit PG&E-5-C (confidential in its entirety).

Pursuant to D.06-06-066 and Rule 11.5, PG&E requests that the Commission grant its request to seal the evidentiary record for the confidential, unredacted versions of Exhibits PG&E-1-C, PG&E-2-C, PG&E-4-C, and PG&E-5-C.

PG&E states that these documents contain information that complies with the confidentiality requirements of D.06-06-066 and Rule 11.5, and should therefore be treated confidentially. We agree that the information contained in these exhibits is market-sensitive, electric procurement-related information. Therefore, pursuant to D.06-06-066 and Rule 11.5, we grant PG&E's request to treat as confidential its Exhibits PG&E-1-C, PG&E-2-C, PG&E-4-C, and PG&E-5-C, as detailed in the ordering paragraphs of this Decision. The confidential version of each of these exhibits will be denoted by a "C" after the number of the exhibit.

6.2. ORA

Pursuant to Rules 11.4 and 11.5 (b), D.06-06-066, and GO 66-C, ORA requests leave to treat as confidential its Exhibit ORA-1-C. ORA states that

Exhibit ORA-1-C contains information identified by Pacific Gas & Electric Company as confidential per D.06-06-066 and GO 66-C and therefore not subject to public disclosure.

Rule 11.4 addresses confidentiality of filed documents. Because ORA's testimony was served, not filed, we do not use Rule 11.4. GO 66-C addresses access to records in the Commission's possession. We grant ORA's request to treat as confidential its Exhibit ORA-1-C, as detailed in the ordering paragraphs of this Decision. The confidential version of each of these exhibits will be denoted by a "C" after the number of the exhibit.

7. Comments on Proposed Decision

The proposed decision (PD) of the assigned ALJ 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 December 5, 2016 by PG&E. No reply comments were filed.

PG&E requests that the PD be modified to authorize PG&E to transfer \$8.691 million in revenue requirement from the Diablo Canyon Seismic Studies Balancing Account (DCSSBA) to PG&E's Utility Generation Balancing Account (UGBA), for recovery in rates. As written, the PD authorizes PG&E to transfer a smaller amount, \$8.56 million. The difference between the two amounts is attributable to interest and franchise fees and uncollectibles. PG&E explains that once those items are incorporated, it is the resulting revenue requirement of

\$8.691 million that PG&E should be authorized to transfer from the DCSSBA to the UGBA, for recovery in rates, not the expenditure amount of \$8.56 million.¹²

PG&E's comments are correct, and the PD has been revised accordingly.

8. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

Findings of Fact

1. PG&E's application was accompanied by exhibits and testimony in support of the reasonableness of its fuel procurement, administration of power supply contracts, and least-cost dispatch activities for the 2014 Record Period.

2. The Proposed Settlement between PG&E and ORA was reached only after the submission of testimony, conduct of discovery, analysis of the issues by PG&E and ORA, and settlement discussions between PG&E and ORA.

3. Article 12 of the Commission's Rules of Practice and Procedure addresses Settlements. Pursuant to Rule 12.1(d), the Commission will not approve a settlement, whether contested or uncontested, unless it is found to be reasonable in light of the whole record, consistent with law, and in the public interest.

4. PG&E's testimony and workpapers were organized to comply with the December 2, 2014 *Interim Ruling Providing Guidance for the 2014 Energy Resource Recovery Account Compliance Proceedings* issued by the assigned Commissioner and assigned ALJ in A.11-02-011.

5. PG&E administered and managed its Utility-Owned Generation facilities prudently during the Record Period.

¹² PG&E cites Exhibit PG&E-1 at pages 13-1 – 13-2 and PG&E's Opening Brief at 28.

6. PG&E prudently managed Utility-Owned Generation outages and associated fuel costs during the Record Period.

7. PG&E prudently administered and managed its Qualifying Facilities (QF) and non-QF contracts in accordance with the contracts' provisions during the Record Period.

8. The contract amendments and settlements identified in Chapter 9, Section I of PG&E's Prepared Testimony are reasonable.

9. During the Record Period PG&E correctly performed least-cost dispatch consistent with Commission directives and decisions, and reasonably utilized its demand response resources.

10. PG&E's Greenhouse Gas Compliance Instrument Procurement complied with PG&E's Bundled Procurement Plan.

11. The purpose of the ERRA balancing account is to record the actual ERRA revenues and electric procurement costs, to ensure recovery of those costs.

12. Costs recorded in the ERRA include the cost of fuel for utility-retained generation, Qualifying Facility contracts, inter-utility contracts, California Independent System Operator charges, irrigation district contracts and other Power Purchase Agreements, bilateral contracts, forward hedges, pre-payments and collateral requirements associated with electric procurement and ancillary services, along with other authorized power procurement costs.

13. As of December 31, 2014, the balance in the ERRA was under-collected by \$276 million.

14. ORA reviewed PG&E's ERRA balancing account to determine whether entries recorded in the accounts were appropriate, correctly stated, and in compliance with applicable Commission decisions. ORA's review did not note any items of a material nature requiring adjustments to PG&E's ERRA, and ORA

noted no exceptions to the recovery requirements adopted by the Commission for this account.

15. PG&E's ERRAs for the Record Period are accurate and in compliance with Commission decisions.

16. The entries in the ERRAs for 2014 were reasonable.

17. The purpose of the Diablo Canyon Seismic Studies Balancing Account (DCSSBA) is to allow PG&E to record, for eventual recovery in rates, its actual costs of implementing Diablo Canyon seismic studies.

18. PG&E has met its burden of proof by providing support for the amounts actually incurred and recorded in the DCSSBA and in demonstrating that such costs are consistent with PG&E's request in its original seismic studies application, A.10-01-014.

19. The costs incurred and recorded in the Diablo Canyon Seismic Studies Balancing Account in 2014, including Long-Term Seismic Program costs, were reasonable.

20. The purpose of the Renewable Portfolio Standard Cost Memorandum Account is to track the third-party consultant costs incurred by the Commission and paid by PG&E in connection with the Commission's implementation and administration of the Renewables Portfolio Standard. Pursuant to D.06-10-050, PG&E is authorized to request recovery of these costs in rates through its ERRAs compliance application.

21. The costs booked to the Renewable Portfolio Standard Cost Memorandum Account in 2014 were reasonable.

22. Rule 11.5 addresses sealing all or part of an evidentiary record.

23. D.06-06-066 addresses our practices regarding confidential information.

24. General Order 66-C addresses access to records in the Commission's possession.

Conclusions of Law

1. The September 10, 2015 Proposed Settlement between PG&E and ORA is reasonable in light of the record, consistent with law, and in the public interest.

2. The September 10, 2015 Proposed Settlement between PG&E and ORA should be approved.

3. All dispatch-related activities performed by PG&E during the Record Period complied with Commission orders and PG&E's bundled procurement plan.

4. PG&E's management and administration of its demand response contracts during the Record Period complied with the terms of those agreements, as well as with Standard of Conduct 4.

5. Any costs associated with the contract amendments and settlements identified in Chapter 9, Section I of PG&E's Prepared Testimony should be recovered through the Energy Resource Recovery Account.

6. PG&E should be authorized to recover in rates \$8.59 million for costs incurred and recorded in the Diablo Canyon Seismic Studies Balancing Account, including Long-Term Seismic Program costs, plus Franchise Fees and Uncollectibles.

7. PG&E should be authorized to recover in rates \$0.239 million for the costs incurred and recorded in the Renewable Portfolio Standard Cost Memorandum Account, along with Franchise Fees and Uncollectibles.

8. PG&E's request to seal the confidential versions of its testimony should be granted.

9. ORA's request to seal the confidential version of its testimony should be granted.

O R D E R

IT IS ORDERED that:

1. The September 10, 2015, Proposed Settlement between Pacific Gas and Electric Company and the Office of Ratepayer Advocates is approved.

2. Pacific Gas and Electric Company is authorized to transfer \$8.691million from its Diablo Canyon Seismic Studies Balancing Account to its Utility Generation Balancing Account, for recovery in rates.

3. Pacific Gas and Electric Company is authorized to transfer \$239,079 (undercollected) from the Renewable Portfolio Standard Cost Memorandum Account to the Energy Resource Recovery Account for recovery in rates.

4. Pacific Gas and Electric Company's (PG&E) request to treat as confidential its Exhibits PG&E-1-C, PG&E-2-C, PG&E-4-C, and PG&E-5-C is granted. These exhibits shall remain sealed and confidential for a period of three years after the date of this order, and shall not be made accessible or disclosed to anyone other than the Commission staff or on further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge (ALJ), the Law and Motion Judge, the Chief ALJ, or the Assistant Chief ALJ, or as ordered by a court of competent jurisdiction. If PG&E believes that it is necessary for this information to remain under seal for longer than three years, PG&E may file a new motion stating the justification of further withholding of the information from public inspection. This motion shall be filed at least 30 days before the expiration of this limited protective order.

5. The Office of Ratepayer Advocates' (ORA) request to treat Exhibit ORA-1-C as confidential is granted. That exhibit shall remain sealed and confidential for a period of three years after the date of this order, and shall not be made accessible or disclosed to anyone other than the Commission staff or on further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge (ALJ), the Law and Motion Judge, the Chief ALJ, or the Assistant Chief ALJ, or as ordered by a court of competent jurisdiction. If ORA believes that it is necessary for this information to remain under seal for longer than three years, ORA may file a new motion stating the justification of further withholding of the information from public inspection. This motion shall be filed at least 30 days before the expiration of this limited protective order.

6. Application 15-02-023 is closed.

This order is effective today.

Dated December 15, 2016, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners