

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)	Application 15-02-023
Administration, Economic Dispatch of Electric)	(Filed February 27, 2015)
Resources, Utility Retained Generation Fuel)	
Procurement, and Other Activities for the Period)	
January 1 through December 31, 2014.)	
(U 39 E))	
_____)	

**ALLIANCE FOR NUCLEAR RESPONSIBILITY'S
REPLY BRIEF**

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I. INTRODUCTION.

Pursuant to Rule 13.11 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”) and the briefing schedule established by the Scoping Memo and Ruling of Assigned Commissioner Michel Peter Florio,¹ the Alliance for Nuclear Responsibility (“A4NR”) files its Reply Brief in the 2014 Energy Resource Recovery Account Compliance (“ERRA Compliance”) application filed by the Pacific Gas and Electric Company (“PG&E”).

PG&E’s Opening Brief resorts to hyperbole (“*PG&E has complied with both the letter and spirit of the Commission decisions relating to the IPRP.*”²) and embellishment (“*PG&E has interacted with the IPRP exactly as the Commission prescribed, and has followed the established review process for the research.*”³), calling attention to the company’s abject failure to meet its burden of proof. The extensive citations to D.12-09-008 and D.10-08-003 in A4NR’s Opening Brief clarify the “*spirit*” of the Commission’s directions and the “*exact*” nature of the Commission’s prescriptions. As to any “*established review process,*” the preponderance of the evidence shows none was observed by PG&E. Instead, PG&E rebuffed IPRP requests for drafts until “*(t)he final report*”⁴ could be submitted to the Nuclear Regulatory Commission (“NRC”). PG&E knowingly used delay of IPRP review to impair the acknowledged IPRP “*role to assure the proper integration of AB 1632 studies with the LTSP and the SSHAC process.*”⁵

¹ Scoping Memo and Ruling, June 26, 2015, p. 4.

² PG&E Opening Brief, p. 18. “*PG&E has also demonstrated that its interactions with the IPRP during the Record Period were consistent with the letter and the spirit of the Commission decisions establishing the IPRP and setting its areas of responsibility.*” *Id.*, p. 20.

³ PG&E Opening Brief, p. v.

⁴ *Id.*, p. 9.

⁵ *Id.*, p. 18.

These fundamental points are discussed at length in A4NR's Opening Brief. To minimize repetition, this Reply Brief will focus on the several regulatory misconceptions which feature most prominently PG&E's Opening Brief. They inadvertently memorialize the thought process which led PG&E's IPRP interactions so far astray from D.12-09-008 and D.10-08-003.

II. PG&E's UNILATERAL DECISIONS CIRCUMSCRIBED IPRP ROLE.

PG&E asserts it had no "*obligation to provide a draft of the report to the IPRP,*"⁶ but acknowledges the company "*originally anticipated that it would share a draft study with the IPRP.*"⁷ Without directly saying so, PG&E's Opening Brief implies that PG&E changed course when "*it became clear to PG&E that it would take longer for PG&E to process and interpret the data than it had originally anticipated.*"⁸ Left unaddressed, however, is when and by whom the decision was made to make the NRC the primary audience for the CCCSIP Report.⁹ There is no evidence that the IPRP or the Commission was ever consulted. Neither D.10-08-003 nor D.12-09-008 mentions submittal of the CCCSIP Report directly to the NRC.¹⁰

PG&E's Opening Brief acknowledges the company ventured even further down this unilateral path: "*PG&E also determined that providing the IPRP with piecemeal data and incomplete reports as PG&E went along would not provide the IPRP with a clear picture of the*

⁶ *Id.*, p. 26.

⁷ *Id.*

⁸ *Id.*

⁹ CCCSIP is an acronym for the Central Coastal California Seismic Imaging Project.

¹⁰ D.12-09-008 at p. 6 instead observes, "*The new seismic research projects are designed **also** to provide sufficient information for PG&E to respond*" to the NRC's 10 CFR 50.54(f) letter. (emphasis added) As pointed out in A4NR's Opening Brief at p. 4, even if submittal of the CCCSIP Report to the NRC is considered the primary objective of the AB 1632 studies, PG&E would still run afoul of Commission direction: "*Our order in this application will require PG&E to submit its ... **completed study findings to the IPRP for review prior to implementation.***" (emphasis added) D.10-08-003, p. 10.

*final Report.*¹¹ There is no evidence that PG&E ever consulted the IPRP or the Commission about this “*clear picture*” concern or alternative ways to address it. PG&E chose intuition instead. “*Based on this, PG&E decided to provide the completed Report to the IPRP.*”¹² From this precipice of self-persuasion, PG&E’s Opening Brief makes its leap: “*In short, due to both timing and practical considerations, PG&E determined that providing drafts of the CCCSIP Report **might hinder, rather than enhance the review** PG&E received from the IPRP.*”¹³ (emphasis added)

To paraphrase, PG&E had to destroy the review in order to save it. “*Nothing in A4NR’s testimony,*” PG&E’s Opening Brief solemnly intones, “*suggests that the approach PG&E ultimately followed diminished the input the IPRP provided in IPRP Report Nos. 7, 8, and 9.*”¹⁴ PG&E is right – it is A4NR’s Opening Brief, not its testimony, which points out those reports came three weeks, six and a half weeks, and 18 weeks, respectively, **after** the Participatory Peer Review Panel for PG&E’s seismic source characterization SSHAC received its dispositive “*final*” briefing.¹⁵ Even if not “*diminished*” in PG&E’s eyes, the IPRP’s written “*input*” had demonstrably no impact on the SSHAC because PG&E’s information-control tactics successfully ran out the clock. And, by definition, a post-publication IPRP review could have no effect on the content of the CCCSIP Report.

The doublespeak in PG&E’s Opening Brief climbs to an exuberant crescendo: “*PG&E’s determination to provide the final CCCSIP report to the IPRP for comment, rather than to*

¹¹ PG&E Opening Brief, p. 26.

¹² *Id.*, p. 26, citing PG&E-2, p. 6-6, Ins. 3 – 11.

¹³ *Id.*, p. 26.

¹⁴ *Id.*

¹⁵ A4NR Opening Brief, p. 7.

provide drafts on a piecemeal basis, was ... a reasoned, productive way to obtain IPRP review.”¹⁶ This is only true if PG&E’s objective was to obtain “IPRP review” which could have no conceivable effect on the “final” CCCSIP Report already submitted to the NRC, and would come too late to have any conceivable impact on the SSHAC Report. Seen with this objective in mind, PG&E’s approach was “reasoned” and “productive.” From the standpoint of D.12-09-008 and D.10-08-003, it was not.

III. PG&E RECASTS ITS NET IN ATTEMPTING TO ENSNARL THE IPRP.

Despite choosing not to raise the matter in its prepared, rebuttal, or surrebuttal testimony, PG&E’s Opening Brief selectively quotes from a February 2, 2015 IPRP letter to CPUC President Michael Picker and Energy Commission Chair Robert Weisenmiller to suggest “*the IPRP has effectively guided seismic hazard studies toward the investigations that would best enhance our understanding of seismic hazards.*”¹⁷ Had this letter been introduced into the record, there would have been ample opportunity to discover the IPRP discussion that preceded its authorship, properly distinguish between study plans and study results, and explore the significance of several of its conclusions.¹⁸ Irrespective, A4NR’s position in this

¹⁶ PG&E Opening Brief, p. 21.

¹⁷ PG&E Opening Brief, pp. 24 – 25.

¹⁸ As stated in the February 2, 2015 IPRP letter to President Picker and Chair Weisenmiller:

***“The three parameters shown in green near the top of the revised ‘tornado’ [distributed by PG&E at the January 8, 2015 IPRP meeting] are items that the IPRP has recognized as important factors. IPRP has recommended that PG&E further justify the values that they are using for these parameters in their calculation of seismic hazard.*”**

“The IPRP has long-recognized that not all sources of uncertainty in seismic hazard were on the original ‘tornado’ diagram prepared by PG&E. Seismic hazard analysis is commonly divided into ‘seismic source characterization’ (about the faults) and ‘ground motion calculation’ (about wave propagation and site response to seismic waves). PG&E originally considered only ‘seismic source characterization’ to be part of their AB1632 studies. The IPRP recognized that some ground motion issues were at least as important as any seismic source issues and that the types of ‘advanced techniques’ envisioned in the AB1632 report could help resolve uncertainties in seismic

proceeding specifically contests PG&E's 2014 efforts to circumvent IPRP review as study results became available – there is no dispute over the IPRP's participation in earlier study planning. The same is true regarding A4NR's protest of PG&E's 2013 conduct in A.14-02-007. Notably, A4NR did not intervene in PG&E's 2012 ERRA Compliance proceeding, which involves a time prior to PG&E's avoidance of proper IPRP review of study results.

For this proceeding, A4NR recognizes the record regarding the February 2, 2015 letter and the precipitant January 14, 2015 A4NR letter is limited to the exchange between ALJ Stephen Roscow and A4NR and PG&E which took place at the May 8, 2015 Prehearing Conference.¹⁹ A4NR believes the Commission should attach at least some significance to PG&E's apparent instantaneous rejection²⁰ at the Prehearing Conference of A4NR's suggestion that PG&E sponsor IPRP testimony to support its recovery of DCSSBA recorded costs.²¹

IV. PG&E's SANCTIMONY ABOUT PRIORITIES IS CONTRIVED.

PG&E's Opening Brief waves off Dr. Blakeslee's criticism of the procedural sleight of hand in PG&E's suppression of its agreement with IPRP Report No. 7 that "*absolute age dating is necessary to reduce the uncertainty associated with the [Hosgri and Shoreline] slip rates.*"²²

hazard related to these issues. That is why the IPRP issued IPRP Report No. 6. IPRP Report No. 6 focuses on site amplification and the site-specific sigma model, two of the parameters not on PG&E's original 'tornado', but near the top of the current PG&E 'tornado'. The IPRP discussed those hazard parameters at a public meeting on July 11, 2013 (with representatives of A4NR in attendance) and received commitments from PG&E to further analyze the data on those parameters and gather additional data to constrain them." (emphasis in original) *Id.*, unnumbered p. 2.

¹⁹ Transcript, p. 11, ln. 1 – p. 16, ln. 18.

²⁰ *Id.*, p. 16, lns. 6 – 16.

²¹ *Id.*, (A4NR-Geesman) p. 15, ln. 3 – 7: "Well, I think that if PG&E felt they could receive some solace or support from the IPRP for their recovery [of] funds, they could certainly offer that testimony on their own behalf."

²² A4NR-2, p. 19.

Rather than enable the discussion with the IPRP envisioned by D.12-09-008²³ on a topic on which PG&E scientists apparently concurred (*“the ages of the offset channels and paleo strandlines imaged in both the Hosgri and Shoreline fault zone LESS surveys are not well constrained”*²⁴), PG&E struck its earlier suggestion of a shallow-depth coring program from its final response to IPRP Report No. 7. The rationale:

*... it should be a lower priority as compared to improving rock ground motion models and site amplification models, as these areas currently contribute more to seismic uncertainties than does uncertainty in slip rates ... on balance, PG&E places a higher priority on other activities that PG&E believes, all things considered, will make a greater contribution to reducing seismic uncertainty.*²⁵

While unconvinced that the *“large age uncertainties”*²⁶ regarding the Hosgri and Shoreline faults merit no further pursuit, A4NR has previously spotlighted the primacy the IPRP has long placed on the dominant influence PG&E’s ground motion assumptions hold in its calculation of seismic hazard at DCNPP:

As described in the evidentiary record of A.14-02-008, the extensive criticism of PG&E’s ground motion assumptions at the July 11, 2013 IPRP meeting, followed by the eviscerating IPRP Report No. 6, appears to have significantly chilled relations between PG&E and the IPRP. One month after publication of IPRP Report No. 6, PG&E regulatory affairs personnel were complaining to CPUC staff about self-initiated reports by the IPRP and questioning whether the IPRP could be “decommissioned” after submittal of the “final” report.

It had taken more than six months of repeated requests by IPRP chair Chris Wills to obtain PG&E’s documentation of its Vs measurements at the DCNPP plant site, and his efforts established that PG&E’s Vs assumptions had a 50% greater impact on the seismic

²³ D.12-09-008, p. 16: *“... the IPRP as a body of technical expert scientists needs to be able to talk and discuss ideas more freely amongst themselves to provide their assessment, input, and recommendations to the utility.”*

²⁴ A4NR-2, p. 19.

²⁵ PG&E Opening Brief, pp. 22 – 23.

²⁶ A4NR-2, p. 18.

*hazard calculation than the slip rate on the Hosgri Fault, previously labeled the top uncertainty in the PG&E model.*²⁷ (footnotes omitted)

Given the post-CCCSIP continued resentment voiced within PG&E's Geosciences Department about IPRP ground motion concerns,²⁸ A4NR believes PG&E's newfound prioritization must be interpreted in the context of the stunning disclosure by PG&E Chief Seismologist Dr. Norman Abrahamson at the IPRP's January, 8, 2015 meeting. As explained in A4NR's Protest:

Having successfully circumvented the IPRP before submitting its "final" report to the NRC, and choosing to absorb the criticism of IPRP Report No. 8 without response, the PG&E Geosciences Department could not resist engaging in its own form of end-zone dance at the January 8, 2015 meeting of the IPRP. With peculiar aplomb, Dr. Norman Abrahamson blithely distributed a new hazard sensitivity chart ... and acknowledged that the six highest ranked uncertainties (each relating to earthquake-induced ground motions at the plant) had never before been presented to the IPRP. Despite admitting that PG&E's void of site-specific ground motion data dominates Diablo Canyon's probabilistic seismic hazard, Dr. Abrahamson nonchalantly suggested this deficiency be addressed in PG&E's 2025 update. There was no mention of the staggering difference in magnitude between the six newly identified uncertainties and the ones which had been selected for the AB 1632 studies.

His unmistakable message: having feasted on a \$64.25 million authorization²⁹ for ratepayer-funded studies, we never addressed the most significant issues or even told you what they were. But now we've run out the clock. Too bad, chumps.³⁰

²⁷ A4NR Protest, pp. 5 – 6, incorporated by reference in A4NR-1, p. 2.

²⁸ PG&E's CCCSIP Technical Director Dr. Stuart Nishenko as late as February, 2015 bitterly disputed whether ground motion issues are even within the IPRP's purview, emailing one of PG&E's Regulatory Relations staff: "*Gibson and others (e.g., Blakeslee) were posturing that they want to spend more time delving into ground motion issues – this is beyond the original AB 1632 scope and outside the expertise of the IPRP (once again).*" A4NR-2, p. 25.

²⁹ D.12-09-008 went even further (FOF 5: "*It is reasonably foreseeable that the costs for Diablo Canyon seismic activities may exceed the current estimates of \$64.25 million.*"), creating an advice letter process to accommodate increased costs and rejecting a hard cost cap: "*We agree with PG&E. Placing a hard cap on seismic studies could cause a slowdown of the activity and could cause an increase in costs; two results to be avoided. All costs are subject to reasonableness reviews, which is our traditional method of controlling costs.*" *Id.*, p. 21.

³⁰ A4NR Protest, p. 16, incorporated by reference in A4NR-1, p. 2.

PG&E's belated acknowledgment of the priority which it should attach to ground motion and site amplification issues is the quintessence of its flawed IPRP interactions – from denial of data sparseness, to stonewalling of information requests, to delay of resolution until plant license expiry. That the admission only comes **after** the ostensible completion of the most expensive seismic re-evaluation of a nuclear plant in North American history suggests the willfulness of PG&E's defiance of the Commission's independent peer review expectations.

V. PG&E's CHANGES ITS STORY AGAIN ABOUT THE IRISH HILLS.

PG&E's Opening Brief simply ignores the extensive discussion in A4NR-1 of PG&E's unfulfilled commitment to equally weight the three competing tectonic models of the Irish Hills.³¹ This misrepresentation to the IPRP, which appears to have also been made internally to PG&E Chief Nuclear Officer Ed Halpin, is significant because it represents the only example PG&E could identify where IPRP input was alleged to have an impact on the SSHAC process. Because this subject is fully addressed in A4NR's Opening Brief,³² A4NR will limit its discussion here to an observation that PG&E's new claim (*"based on all the material it has considered, PG&E believes there is a preferred model of fault location and geometry in the Irish Hills"*³³) is arithmetically impossible to reconcile with the 40-40-20 weighting of the three models in PG&E's SSHAC Report.³⁴

³¹ A4NR-1, pp. 34 – 37, 39 – 40.

³² A4NR Opening Brief, pp. 8 – 9.

³³ PG&E Opening Brief, p. 23.

³⁴ A4NR-1, p. 40.

VI. A SCOFFLAW CULTURE SAILS ON ITS OWN WIND.

Compared to the large-consequence regulatory misconceptions discussed above, A4NR's other points of difference with PG&E's Opening Brief may individually appear to be simple disagreement over choice of words. Collectively, however, they outline a profile of how PG&E's non-compliance with D.10-08-003 and D.12-09-008 was internally rationalized:

- *“An additional panel of independent experts, the Participatory Peer Review Panel (‘PPRP’), also reviewed PG&E’s research as part of a larger effort initiated by the Nuclear Regulatory Commission ...”*³⁵ A4NR response: The NRC effort was certainly not “larger” in terms of ratepayer costs, aggregating to a small fraction of the \$64.25 million D.12-09-008 authorization.³⁶ A4NR’s Opening Brief explains why the PPRP members, especially Dr. Neal Driscoll, fail to meet the standard of independence the Commission has previously applied to Diablo Canyon matters and were not a worthy substitute for IPRP review.³⁷
- *“PG&E has met its burden of proof ... to ‘provide support for the amounts actually incurred and to demonstrate that such costs ‘are consistent with PG&E’s request’ in PG&E’s seismic studies application.”*³⁸ A4NR response: establishing that amounts have been incurred and recorded, and are consistent with a request, still falls considerably short of proving that they were reasonably incurred.

³⁵ PG&E Opening Brief, p. v.

³⁶ PG&E recorded \$2.19 million for SSHAC costs in 2014, the year of peak activity. PG&E-01, Table 6-1, ln. 10.

³⁷ A4NR Opening Brief, pp. 26 – 30.

³⁸ PG&E Opening Brief, p. 8.

- *“Without the permit from the CCC, PG&E could not move forward with the offshore HESS.”*³⁹ A4NR response: As addressed in the A.14-02-008 proceeding, PG&E’s unilateral decision to simply drop HESS, rather than respond to the concerns expressed in the Coastal Commission decision, usurped the IPRP’s consultative role and contradicted guidance from the CPUC’s Energy Division.⁴⁰
- *“Not surprisingly, there was not very much interaction between PG&E and the IPRP from mid-2013 until PG&E issued the CCCSIP Report. During this time period, PG&E was completing its interpretation of processed seismic data and writing its report. The IPRP did not have a specific role in this phase of the effort.”*⁴¹ A4NR response: The repeated pre-publication requests in 2014 from the IPRP,⁴² often communicated through CPUC Energy Division staff, for drafts and update briefings indicate the information embargo was surprising to the IPRP. It is hard to imagine what insufficiency PG&E attributes to D.12-09-008’s guidance (e.g., *“We expect PG&E to continue to meet with the IPRP to present and review changes to the seismic study plans, to provide process updates to the IPRP regarding implementation of the studies, and to receive IPRP comments.”*⁴³) to obscure a *“specific role”* for the IPRP *“in this phase of the effort.”*

VII. CONCLUSION.

PG&E’s Opening Brief raises a good point left unaddressed by A4NR’s Opening Brief and testimony: PG&E’s proposed \$8.691 million revenue requirement associated with the \$8.56

³⁹ PG&E Opening Brief, p. 10.

⁴⁰ A.14-02-008, A4NR Opening Brief, pp. 16 – 25; A4NR Reply Brief, p. 3.

⁴¹ PG&E Opening Brief, pp. 19 – 20.

⁴² A4NR-1, pp. 6 – 7, 9.

⁴³ D.12-09-008, p. 16. As then-Geosciences Director Richard Klimczak agreed under cross-examination in the 2013 ERRR Compliance proceeding, this language was a *“substantive”* requirement incorporated within D.10-08-003 and D.12-09-008. A.14-02-008 Transcript, Klimczak-PG&E, p. 147, lns. 21 – 23, 26.

million in expenditures recorded in the DCSSBA embeds a gross-up to account for interest accrued and an allowance for franchise fees and uncollectables.⁴⁴ As a percentage, this gross-up amounts to 1.530374%. Because A4NR's recommended disallowance of \$5.46 million is expressed in terms of expenditures, converting this recommendation to a change in PG&E's revenue requirement will require a similar gross-up. By A4NR's calculation, its recommended disallowance of \$5.46 million translates into a reduced revenue requirement of \$5.544 million.

Respectfully submitted,

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⁴⁴ PG&E Opening Brief, p. 28.