

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND)
ELECTRIC COMPANY for authorization to)
enter into interest rate hedges in connection)
with its financing to exit Chapter 11 of the)
Bankruptcy Code and related requests.)
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(U 39 M))
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Application No. 19-11-002
(Filed November 4, 2019)

**ALLIANCE FOR NUCLEAR RESPONSIBILITY'S
PROTEST**

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PROTEST

Pursuant to Rule 2.6 of the California Public Utilities Commission (“Commission” or “CPUC”) Rules of Practice and Procedure, the Alliance for Nuclear Responsibility (“A4NR”) respectfully submits its Protest of the Application of Pacific Gas and Electric Company (“PG&E”). A4NR’s Protest is timely, based upon the November 7, 2019 Chief Administrative Law Judge’s Ruling Shortening Time which set a deadline for responses or protests to PG&E’s Application of November 19, 2019. A4NR represents both residential and small business ratepayers on nuclear energy issues before California and Federal regulatory agencies, the Legislature, and Congress. A4NR’s constituents within the PG&E service territory would be directly impacted to the extent they are made liable for the hedging costs associated with PG&E’s Application.

A4NR is a party to I.19-09-016, the Commission’s investigation into the ratemaking and other implications of PG&E’s voluntary bankruptcy. At the Prehearing Conference for that proceeding A4NR cautioned that, if authorization to enter hedging transactions is truly being sought to benefit ratepayers (as opposed to merely the proponents of PG&E’s Plan of Reorganization), such request should enjoy the support of the proponents of alternative plans of reorganization seeking to serve those same ratepayers.¹ PG&E’s Application is bereft of any suggestion of joint sponsorship, or even indication that such support has been sought. In light of the substantial costs associated with hedging as much as \$27.35 billion, ratepayers deserve to know: who eats those costs if the PG&E Plan of Reorganization is not the one eventually confirmed by the bankruptcy court or approved by the Commission?

¹ I.19-09-016, Transcript, p. 40, lines 3 – 19.

PG&E's Application is notably devoid of data from PG&E's prior experience with hedging as a bankruptcy exit strategy. What proportion of interest rate exposure was hedged, and for how long a period of time? What were the costs, especially if collateral posting was required? What were the benefits? Notwithstanding PG&E's well-publicized difficulties with recordkeeping, this empirical information should be readily available and would perhaps corroborate the claims PG&E is making about reducing the interest rate risks to ratepayers. Failure to include such analysis in PG&E's Application, which seems largely cribbed from PG&E's 2003 Petition for Modification of D.02-11-030, unavoidably implies a less-than-successful past experience. PG&E should supplement its Application with a thorough documentation of the 2003 objectives, costs, and results.

A4NR is also troubled that PG&E's Application is a blatant attempt by the proponents of one plan of reorganization to seek ratepayer absorption of a key cost of de-risking its heavily leveraged, yet-to-be-approved Plan. Fundamental fairness would require these proponents to shoulder their own hedging costs if their Plan is not approved by the Commission. At the I.19-09-016 prehearing conference, multiple parties urged the Commission to ensure a level playing field and parity treatment in evaluating all bankruptcy exit strategies brought before it. PG&E's Application presents the first test of the Commission's willingness and ability to do so.

A4NR believes that the Commission should focus on the collection of assets historically known as PG&E, and determine their best post-bankruptcy configuration in providing utility services, rather than prioritize an envisioned Company paradigm put forward by one self-interested group of equity speculators competing with another. Certain return-

on-equity generating assets like the Diablo Canyon Nuclear Power Plant may carry such exorbitant above-market costs (\$410 million in 2018, \$1.168 billion in 2019, and \$1.258 billion in 2020, based on PG&E's application of the Power Charge Indifference Adjustment methodology) as to provide little value in today's electricity market. Commission review of any plan of reorganization should meticulously search for such overvalued assets, and hedging costs for financing superfluous assets disallowed.

A4NR believes that prudent borrowers facing substantial interest rate risks should hedge those risks, but compelling a ratepayer indemnification of PG&E's hedging costs at this stage of the bankruptcy process would be premature. For the reasons stated herein, A4NR objects to the authorization sought. A4NR does not object to PG&E's proposal to categorize the proceeding as ratesetting, but cannot form an opinion about the need for hearing, issues to be considered, or PG&E's proposed schedule without knowing (1) whether PG&E's recovery from ratepayers of hedging costs would be fully contingent upon PG&E's Plan of Reorganization being approved by the Commission, and (2) the empirical results of PG&E's earlier hedging experience associated with the prior bankruptcy.

The undersigned will be A4NR's principal contact in this proceeding, but A4NR also asks that the following individuals be placed in the "*information only*" category of the Service List:

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Respectfully submitted,

By: /s/ John L. Geesman

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