

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



December 22, 2023

**Advice Letters 4813-G/7046-E, 5120-E,  
4300- E/3239-G, 6207-G**

Sidney Bob Dietz II - Director  
Regulatory Relations  
Pacific Gas & Electric  
300 Lakeside Drive  
Oakland, CA 94612

Connor Flanigan – Managing Director  
State Regulatory Operations  
Southern California Edison  
8631 Rush Street  
Rosemead, CA 91770

Clay Faber- Director  
Regulatory Affairs  
San Diego Gas and Electric  
8330 Century Park Court  
San Diego, CA 92123-1548

Joseph Mock – Director  
Regulatory Affairs  
Southern California Gas Company  
555 W. Fifth Street, GT14D6  
Los Angeles, CA 90013-1011

**SUBJECT: Energy Division Disposition of Pacific Gas & Electric Advice Letter 4813-G/7046-E, Southern California Edison Advice Letter 5120-E, San Diego Gas and Electric Advice Letter 4300- E/3239-G and Southern California Gas Company Advice Letter 6207-G, Regarding the 2024 Cost of Capital Formula Adjustment Mechanism.**

Dear Regulatory Affairs Managers:

Pacific Gas & Electric Company (PG&E) Advice Letter (AL) 4813-G/7046-E, Southern California Edison (SCE) AL 5120-E, San Diego Gas and Electric (SDG&E) AL 4300-E/3239-G and Southern California Gas Company (SoCalGas) AL 6207-G (collectively, the Advice Letters), are approved, with an effective date of January 1, 2024, as further described in the attached. Attachment 1 contains a detailed discussion of the Advice Letters, the Joint Protest, the Joint Reply, and Energy Division's determination that the Advice Letters should be approved.

Please contact Michael Conklin of the Energy Division at [michael.conklin@cpuc.ca.gov](mailto:michael.conklin@cpuc.ca.gov) should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Leuwam Tesfai". The signature is written in a cursive, flowing style.

Leuwam Tesfai  
Deputy Executive Director for Energy and Climate Policy/  
Director, Energy Division  
California Public Utilities Commission

cc:  
ED Tariff Unit  
Nora Sheriff – [nsheriff@buchalter.com](mailto:nsheriff@buchalter.com)  
Service List A.22-04-008

## Attachment 1

### Background

Commission Decision (D).08-05-035 adopted a uniform Cost of Capital Formula Adjustment mechanism (CCM) for PG&E, SCE and SDG&E for the purpose of streamlining the major energy utilities' Cost of Capital process and to enable "the utilities, interested parties, and Commission staff to reduce and reallocate their respective workload requirements for litigating annual cost of capital proceedings."<sup>1</sup> D.13-03-015 adopted the CCM for SoCalGas.<sup>2</sup>

Prior to D.08-05-035, PG&E and SCE were required to file annual Cost of Capital applications, while SDG&E was required to file a Cost of Capital application every five years (subject to a Market Indexed Capital Adjustment Mechanism).<sup>3</sup> Instead of annual Cost of Capital proceedings, the Commission's adoption of the CCM allowed for full Cost of Capital applications to be filed on April 20<sup>th</sup> of every third year.<sup>4</sup>

For the years in between full Cost of Capital proceedings, D.08-05-035 established initial benchmark interest rates to be compared with the October through September 12-month average Moody's utility bond interest rates. If the difference between the benchmark and the average Moody's interest rate exceeds 100 basis points, an automatic adjustment ratio of half the basis points difference would be applied to either increase or decrease the Return on Equity (ROE) of applicable utilities beginning January 1<sup>st</sup> of the following year.<sup>5</sup>

Ordering Paragraph 2 of D.08-05-035 sets forth the specific functionality for the CCM:

1. In any year where the difference between the current 12-month October through September average Moody's utility bond rates and the benchmark exceeds a trigger of 100-basis points, an automatic adjustment to the utilities' ROE shall be made as follows:
  - a. ROE is adjusted by one-half of the difference between the Aa utility bond average for AA credit-rated utilities or higher and Baa utility bond average for BBB credit-rated utilities or lower and the benchmark.
  - b. Long-term debt and preferred stock costs are updated to reflect actual August month-end embedded costs in that year and forecasted interest rates for variable long-term debt and new long-term debt and preferred stock scheduled to be issued.
  - c. Authorized capital structure is not adjusted.
  - d. On October 15 of such year, a Tier 2 advice letter is filed that updates the ROE and related rate adjustments to become effective on January 1 of the following year.
  - e. In any year where the 12-month October through September average Moody's utility bond rates triggers an automatic ROE adjustment, that average becomes the new benchmark.
  - f. Workpapers outlining the calculations required as set forth in Ordering Paragraphs 2(a), 2(b), and 2(e) shall be submitted with the advice letter to the Energy Division and active parties to this proceeding, and shall be made available to any party upon request.

On December 15, 2022, the Commission adopted D.22-12-031 which set the Test Year 2023 Cost of Capital, including the ROEs, for PG&E, SCE, SDG&E and SoCalGas (collectively, "the Utilities"). D.22-12-031 also directed the

---

<sup>1</sup>D.08-05-035 at 16.

<sup>2</sup> D.13-03-015 Ordering Paragraph 3.

<sup>3</sup> D.08-05-035 at 2.

<sup>4</sup> D.08-05-035 at 15.

<sup>5</sup> The Cost of Capital Mechanism (CCM) is also referred to by parties as the "Formula Adjustment Mechanism".

“continuation of the cost of capital mechanism through the 2023 Test Year Cost of Capital cycle.” while further stating that “we will evaluate the cost of capital mechanism, including the proposals put forth by the applicants, in a second phase of this proceeding.”<sup>6</sup>

On October 13, 2023, the Utilities submitted Tier 2 advice letters indicating that the average Moody’s utility bond index increased 141 basis points during the measurement period from October 1, 2022 through September 30, 2023.<sup>7</sup> As a result, pursuant to D.08-05-035, Ordering Paragraph 2, the Utilities’ Tier 2 advice letters requested to increase their respective ROEs by half the 141-basis points difference, which is approximately a 70 basis points increase to the Utilities’ ROEs, to be effective January 1, 2024. In addition, the Utilities’ advice letters requested updates to increase the cost of debt and preferred equity, pursuant to D.08-05-035 Ordering Paragraph 2.

The Utilities’ advice letters requested increases to ROE, cost of debt and preferred equity resulting in the following 2024 overall Rates of Return:

**Table 1: Requested 2024 Cost of Capital Components and Rates of Return**

	<b>PG&amp;E</b>	<b>SCE</b>	<b>SDG&amp;E</b>	<b>SoCalGas</b>
<b>Cost of long-term debt</b>	4.66%	4.48%	4.34%	4.54%
<b>Cost of preferred equity</b>	5.52%	7.02%	6.22%	6.00%
<b>Cost of common equity</b>	10.70%	10.75%	10.65%	10.50%
<b>Rate of Return</b>	7.80%	7.87%	7.67%	7.67%

The Utilities also indicated that as a result of the requested increases to ROE, cost of debt and preferred equity, 2024 revenue requirements would increase by approximately \$256 million for PG&E, \$200.7 million for SCE, \$53.7 million for SDG&E, and \$77 million for SoCalGas.<sup>8</sup>

Joint Protest

On November 2, 2023, PG&E Advice Letter 4813-G/7046-E, SCE Advice Letter 5120-E, SDG&E Advice Letter 4300- E/3239-G and SoCalGas Advice Letter 6207-G were timely protested (the Joint Protest) by Agricultural Energy Consumers Association (AECA), California Large Energy Consumers Association (CLECA), California Farm Bureau (Farm Bureau), California League of Food Producers (CLFP), California Manufacturers and Technology Association (CMTA), Direct Access Customer Coalition (DACC), Energy Producers and Users Coalition (EPUC), Energy Users Forum (EUF), Environmental Defense Fund (EDF), Federal Executive Agencies (FEA), the Indicated Shippers, Small Business Utility Advocates (SBUA), The Utility Reform Network (TURN), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), Walmart Inc. (Walmart), and Wild Tree Foundation (Wild Tree) (collectively, “the Joint Protestants”).

The Joint Protest states that the CCM poses a significant harm to ratepayers and is not operating as intended. The Joint Protest requests the Commission:

<sup>6</sup> D.22-12-031 at 43.

<sup>7</sup> SoCalGas which uses the Moody’s A utility bond index indicated an increase of 139.8 basis points, half of which results in a requested ROE increase of 70 basis points.

<sup>8</sup> PG&E Advice Letter 4813-G/7046-E at 3, SCE Advice Letter 5120-E at 5, SDG&E Advice Letter 4300-E/3239-G at 7 and SoCalGas Advice Letter 6207-G at 6.

1. Suspend the CCM Formula Adjustment Mechanism adjustments for 2024-2025;
2. Direct the Utilities to maintain the current ROEs adopted in D.22-12-031; and
3. Address necessary modifications to the CCM in the second phase of the 2023 Cost of Capital proceeding.

The Joint Protest states that it is submitted pursuant to Rule 7.4.2 of General Order 96-B (GO 96-B) on the following grounds:

The relief requested in the advice letter is pending before the Commission in a formal proceeding

The Joint Protest states that in D.22-12-031, the Commission stated that the CCM would be in effect during the current Cost of Capital cycle, “unless modified by subsequent Commission decision.”<sup>9</sup> The Joint Protest argues that the Commission recently adopted the scope and schedule for the Phase 2 of the TY 2023 cost of capital proceeding, which includes modifications to the CCM, and thus the Commission should “temporarily suspend the CCM mechanism, reject the Advice Letters, and evaluate the need for CCM modifications in the Cost of Capital proceeding.”<sup>10</sup> The Joint Protest asserts that it “would be inappropriate to increase revenue requirements while the Commission is actively considering modifications that could reverse these increases in a year’s time.”<sup>11</sup>

The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process

The Joint Protest argues that “GO 96-B explains the advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions.”<sup>12</sup> And asserts that “the Advice Letters’ significant ratepayer impacts and important policy questions are highly controversial, as indicated by the sixteen parties joining this protest, several of which have not traditionally engaged in cost of capital cases and are protesting a cost of capital matter for the first time.”<sup>13</sup>

The Joint Protest further argues that if implemented, “the CCM Formula Adjustment Mechanism would increase annual revenue requirements by over *half a billion dollars*, an amount that far exceeds the total amount typically requested and litigated in the Utilities’ full Cost of Capital applications.”<sup>14</sup> and that the “Advice Letters reflect increases that are on par or exceed many of the revenue requirement increases being considered in open Commission proceedings.”<sup>15</sup> The Joint Protest states that the Commission should not delegate this controversial matter to staff for ministerial review and that the advice letter process is not the appropriate forum to consider and implement bill impacts of this magnitude.

The relief requested in the advice letter is unjust, unreasonable, or discriminatory

The Joint Protest states that when the CCM would have benefitted ratepayers by decreasing ROEs, it was not implemented; but if implemented now, it would harm ratepayers.<sup>16</sup> The Joint Protest contends that the proposed increases would result in ROEs that exceed the levels necessary to maintain the Utilities’ financial integrity and that the ratepayer burden caused by these proposed rate impacts is worsened by the Utilities already planning to implement substantial increases to their respective revenue requirements over the next several years.<sup>17</sup>

---

<sup>9</sup> Joint Protest at 15 citing D.22-12-031, Ordering Paragraph 6.

<sup>10</sup> Joint Protest at 15.

<sup>11</sup> Joint Protest at 15-16.

<sup>12</sup> Joint Protest at 15 citing GO 96-B, Rule 5.1.

<sup>13</sup> Joint Protest at 15.

<sup>14</sup> Joint Protest at 15 (Joint Protest emphasis).

<sup>15</sup> Joint Protest at 15.

<sup>16</sup> Joint Protest at 7.

<sup>17</sup> Joint Protest at 8-9.

The Joint Protest maintains that because the Formula Adjustment Mechanism adjustments are not representative of changes in the Utilities' Cost of Capital, the proposed adjustments violate the legal standards established by the *Hope* and *Bluefield* United States Supreme Court decisions that the Commission has recognized require ROEs be "reasonably sufficient to ensure confidence in the financial soundness of the utility and enable it to attract capital". The Joint Protest states that the CCM is founded on the assumption that the change in interest rates correlates with the changes in the Utilities' equity requirements and that the Commission has found that the CCM does not always get adjusted when the trigger is reached, citing: "[the] CCM adjustment is only useful, and representative of a fair rate of return if the underlying assumptions hold true: that changes to the cost of equity approximately track increases or decreases in utility bond interest rates."<sup>18</sup> The Joint Protest advances the following arguments that the Utilities' requested 2024 ROEs would be excessive:

- Current and recent investment analyst ratings indicate consensus recommendations of "OVERWEIGHT" with the majority being "BUY".
- D.22-11-018 states "...the CCM adjustment should be rejected if it fails to reflect utility risk and establishes a level of ROE that is inadequate to attract capital."<sup>19</sup>
  - The Joint Protest asserts this principle applies here: the CCM adjustment should not apply if the change in interest rates does not explain the changes in cost of equity capital.
- The Joint Protest compares changes in interest rates vs. utility dividend yields during the CCM measurement period in order to demonstrate that interest rate changes are not reflective of changes in the cost of equity.<sup>20</sup>

The Joint Protest also argues that the requested increases to ROE unreasonably incentivize natural gas capital investments which is counter to the policies of both the state of California and this Commission which "are directed at achieving decarbonization and avoiding the risk of stranded gas infrastructure" and that the "proposed automatic upward adjustment to ROE would both increase the risk of excessive gas investments and increase the already heavy burden on low-income customers."<sup>21</sup>

### Reply to the Joint Protest

On November 9, 2023, the Utilities timely filed a Reply (Joint Reply) to the Joint Protest.

The Joint Reply asserts that the Joint Protest "does not identify any appropriate grounds for suspending timely implementation of the automatic trigger"<sup>22</sup> and that the Joint Protest consists of policy arguments that "are contrary to Section 7.4.2 of GO 96-B and constitute inappropriate collateral attacks on the Commission's prior cost of capital decisions."<sup>23</sup> Moreover, even if Energy Division were to consider the policy arguments, the Joint Reply asserts those arguments are incorrect. The Joint Reply provides further specificity regarding why it disagrees with the Joint Protest:

The Joint Reply contends that the Joint Protest amounts to policy arguments that are inappropriate for an advice letter protest and cites to GO 96-B Sec. 7.4.2 that states "a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility." The Joint Reply further asserts that the "Commission already determined in the 2023 Cost of Capital Decision that implementation of the automatic trigger results in just and reasonable rates in these circumstances, and that Joint Protestors acknowledge that the Utilities submitted the Advice Letters in compliance

---

<sup>18</sup> Joint Protest at 10, citing D.22-11-018 at 2-3, 21-24.

<sup>19</sup> Joint Protest at 11, citing D.22-11-018 at 22

<sup>20</sup> Joint Protest at 12-13 and Table 4.

<sup>21</sup> Joint Protest at 14.

<sup>22</sup> Joint Reply at 1.

<sup>23</sup> Joint Reply at 2.

with the 2008 Cost of Capital Decision and the 2023 Cost of Capital Decision.”<sup>24</sup> The Joint Reply addresses each of the grounds for protest put forth by the Joint Protest:

The Joint Reply argues that contrary to the Joint Protest’s assertion, the relief requested in the advice letters is not pending before the commission in a formal proceeding because the Commission set the Cost of Capital for 2023-2025 in D.22-12-031, subject to the CCM and only one party filed an application for rehearing which was denied in D.23- 08-028.<sup>25</sup> The Joint Reply states that while the Joint Protest argues the Commission should address necessary modifications to the CCM in Phase 2, D.22-12-031 specified that the CCM as constituted “should be extended through the 2023 Test Year Cost of Capital Cycle.”<sup>26</sup>

The Joint Reply asserts that the “pending phase 2 is meant to address possible changes to the CCM for the next cost of capital cycle starting in 2026.”<sup>27</sup> while further arguing that according to the Phase 2 “ALJ Ruling Outlining Phase 2 Issues and Schedules,” a Phase 2 decision would not be issued until, at the earliest, mid-2024. The Joint Reply contends that the schedule shows the prospective application of Phase 2 “because a decision regarding the CCM for 2024 would be too late to meaningfully address the cost of capital as of January 1, 2024.”<sup>28</sup>

Regarding the grounds for protest that the relief requested requires consideration in a formal hearing, the Joint Reply disagrees, noting that by design, the CCM will always lead to a similar rate impact because the change will always be at least 50 basis points if the CCM is triggered. The Joint Reply further notes the Commission recently held, if “the CCM adjustment is triggered by the change in Moody’s utility bond rates during the measurement period, then the ROE adjusts the next year, without a full cost of capital proceeding.”<sup>29</sup>

The Joint Reply states that the Joint Protest’s attempt to exclude certain adjustments due to their size is a policy change not contained in Commission precedent and notes that the Water utilities’ similar mechanism has appropriately been implemented via the advice letter process this year based on the current interest rate environment.<sup>30</sup> The Joint Reply provides an example stating that in July 2023, the Water Division accepted San Jose Water, California American Water, Golden State Water, and California Water Service Company’s advice letters to implement increases and that Water Division recently accepted Golden State Water and California Water Service Company’s advice letters further increasing their cost of capital due to their mechanisms triggering for 2024.<sup>31</sup>

Regarding the grounds for protest that the relief requested would be unjust, unreasonable, or discriminatory, the Joint Reply responds that the Commission has specified, where “the Commission has approved a rate change, an advice letter submitting tariff sheets in compliance with the Commission order approving the rate change is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.”<sup>32</sup> The Joint Reply asserts the Commission has already determined that the cost of capital is just and reasonable when the automatic adjustment is triggered, citing to D.22-12-031 Finding of Fact 51 that states “The CCM is a beneficial mechanism for the Commission to employ to protect both ratepayers and shareholders from major market shifts.”<sup>33</sup>

---

<sup>24</sup> Joint Reply at 2.

<sup>25</sup> Joint Reply at 4.

<sup>26</sup> Joint Reply at 5 citing to D.22-12-031 at 52, Finding of Fact 24.

<sup>27</sup> Joint Reply at 5.

<sup>28</sup> Id.

<sup>29</sup> Joint Reply at 5 citing to D.23-11-036 at 2.

<sup>30</sup> Joint Reply at 5.

<sup>31</sup> Joint Reply at 5-6.

<sup>32</sup> GO 96-B, Rule 7.4.2, Example 1.

<sup>33</sup> Joint Reply at 6.

December 22, 2023

Regarding the Joint Protest's claims that the ROE increases unreasonably incentivize natural gas capital investments, the Joint Reply asserts the issue is "irrelevant to an evaluation of the Advice Letters because it is yet another policy argument that is not properly raised for consideration in this CCM adjustment process."<sup>34</sup>

### Energy Division Disposition

Energy Division (ED) has reviewed PG&E Advice Letter 4813-G/7046-E, SCE Advice Letter 5120-E, SDG&E Advice Letter 4300-E/3239-G, SoCalGas Advice Letter 6207-G, the Joint Protest, the Joint Reply, GO 96-B, and the relevant decisions and finds the Utilities' advice letters should be approved because they meet the clear, specific requirements set forth by the in D.08-05-035 and D.22-12-031 for proper implementation of the Cost of Capital Formula Adjustment Mechanism for 2024.

ED addresses each of the grounds for protest below:

### The relief requested is pending before the Commission in a formal proceeding:

It is clear that D.22-12-031 adopted the CCM for the Test Year 2023 Cost of Capital cycle, unless modified by subsequent Commission Decision:

Ordering Paragraph 6 states:

The Cost of Capital Mechanism shall continue to be in effect through the 2023 Cost of Capital cycle for Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company unless modified by subsequent Commission decision.

D.22-12-031 contains other plain statements indicating the CCM is adopted for the Test Year 2023 cost of capital cycle:

- "We direct the continuation of the cost of capital mechanism through the 2023 Test Year Cost of Capital cycle."<sup>35</sup>
- "This decision also continues the previously authorized cost of capital mechanism through the 2023 test year cycle."<sup>36</sup>
- The CCM should be extended through the 2023 Test Year Cost of Capital Cycle.<sup>37</sup>
- "The CCM is a beneficial mechanism for the Commission to employ to protect both ratepayers and shareholders from major market shifts."<sup>38</sup>

D.22-12-031 notes that parties to the proceeding, some of whom are now members of the Joint Protestants, "generally supported the continuation of the cost of capital mechanism as a buffer against market volatility."<sup>39</sup>

The Joint Protest argues that the Commission should "...temporarily suspend the CCM mechanism, reject the Advice Letters, and evaluate the need for CCM modifications in the Cost of Capital proceeding [Phase 2]."<sup>40</sup>

---

<sup>34</sup> Joint Reply at 9.

<sup>35</sup> D.22-12-031 at 43.

<sup>36</sup> D.22-12-031 at 2.

<sup>37</sup> D.22-12-031, Conclusion of Law 24, at 52.

<sup>38</sup> D.22-12-031, Finding of Fact 51, at 49.

<sup>39</sup> D.22-12-031 at 42.

<sup>40</sup> Joint Protest at 15.

December 22, 2023

However, the Administrative Law Judge's Ruling Outlining the Phase 2 Issues and Schedule only identifies "Modifications to the Cost of Capital Mechanism" as an issue to be resolved in the proceeding while citing back to language in D.22-12-031.<sup>41</sup> As mentioned, D.22-12-031 adopted the CCM for the Test Year 2023 Cost of Capital cycle *unless modified by a subsequent Commission decision* and the Joint Protest does not cite to any subsequent Commission decision that modifies the operation of the CCM.

Given the multiple clear statements in D.22-12-031 adopting the CCM for the 2023 Cost of Capital cycle and the absence of any modifying subsequent Commission decision at this time, ED finds that the relief requested in the Utilities' Tier 2 advice letters is not pending before the Commission in a formal proceeding.

The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process Tier 2 Advice Letter Eligibility:

It is clear that Ordering Paragraph 2 of D.08-05-035 requires a Tier 2 Advice Letter to be filed by October 15<sup>th</sup> in the year in which the difference between the October through September average Moody's utility bond interest rates and the benchmark exceeds 100 basis points:

Ordering Paragraph 2, part (d.) states:

On October 15 of such year, a **Tier 2 advice letter is filed that updates the ROE** and related rate adjustments to become effective on January 1 of the following year. (Emphasis added).

While the Joint Protest maintains that the "advice letter process is not the appropriate forum to consider and implement bill impacts of this magnitude"<sup>42</sup> it is worth noting that even the *minimum* ROE adjustment contemplated by the design of the CCM is 50 basis points, which ED finds would have a similar financial impact to the 70 basis points change included in the Utilities' advice letters. Therefore, now arguing that the magnitude of the CCM adjustment is too large for a Tier 2 advice letter amounts to a policy argument which, pursuant to GO 96-B Section 7.4.2, is not appropriately addressed in a protest to an advice letter. It is also worth noting, as pointed out by the Joint Reply, the Commission's Water Division recently approved the similar mechanism for water utilities via Tier 2 advice letters.<sup>43</sup>

The Utilities filed Tier 2 advice letters by October 15<sup>th</sup> to update the ROEs as required by D.08-05-035, and it is not disputed that the difference between the average Moody's utility bond index and the benchmark during the October through September measurement period exceeds 100 basis points. Therefore, ED finds the relief requested in the advice letters does not require consideration in a formal hearing and is appropriate for the advice letter process, consistent with the policy set forth in D.08-05-035.

The relief requested in the advice letter is unjust, unreasonable, or discriminatory

The Joint Protest argues that the relief requested in the advice letter is unjust, unreasonable, or discriminatory because "when implementing the CCM would have benefitted ratepayers by decreasing ROEs, it was not implemented; but if implemented now, it would harm ratepayers."<sup>44</sup> Further asserting that "implementing the proposed increases would result in ROEs that exceed the levels necessary to maintain the Utilities' financial

---

<sup>41</sup> October 31, 2023 Administrative Law Judge's Ruling Outlining Phase 2 Issues and Schedule at 2 in A.22-04-008, et al.

<sup>42</sup> Joint Protest at 15.

<sup>43</sup> Joint Reply at 5-6.

<sup>44</sup> Joint Protest at 7.

integrity, thus unduly benefitting shareholders.”<sup>45</sup>

However, it is clear that GO 96-B Section 7.4.2 (6) only allows for protests on the grounds that the relief requested in the advice letter is unjust, unreasonable, or discriminatory “provided that such a protest may not be made where it would require relitigating a prior order of the Commission.” ED finds that the Tier 2 advice letters were filed consistent with Ordering Paragraph 2 of D.08-05-035 that adopted the policy for the CCM’s operation, and with Ordering Paragraph 6 of D.22-12-031 that adopted the CCM for the 2023 cycle unless modified by subsequent Commission decision. Thus, allowing a protest on these grounds would be contrary to GO 96-B because it would require relitigating one or more prior orders of the Commission contained in D.08-05-035 and D.22-12-031.

Although the Joint Protest states that it “...is not attempting to litigate the prior Commission’s decision to base the CCM on interest rate changes...”<sup>46</sup> granting the protest based on these grounds would constitute relitigating prior Commission orders and thus ED declines to do so. Moreover, GO 96-B Section 7.4.2 does not provide opportunity for protests on the grounds that the relief requested is unjust, unreasonable, or discriminatory when the Commission has previously approved the rate change.<sup>47</sup> D.22-12-031 clearly adopted the CCM for the TY 2023 Cost of Capital cycle for the Utilities, unless modified by a subsequent Commission decision; therefore, ED finds that the relief requested in the Utilities’ Tier 2 advice letters cannot be found to be unjust, unreasonable, or discriminatory.

Finally, ED finds that the Joint Protest’s argument that the requested ROE increases unreasonably incentivize natural gas capital investments is a policy argument best suited for a proceeding that reviews the reasonableness of natural gas investments and is therefore neither appropriate, nor permitted, as a grounds for protest to an Advice Letter under GO 96-B, Section 7.4.2.

### Summary

In D.22-12-031, the Commission adopted the Test Year 2023 Cost of Capital for the Utilities, and ordered the continuance of the CCM through the 2023 Cost of Capital cycle, unless modified by subsequent Commission decision.<sup>48</sup> D.08-05-035 orders Utilities to file a Tier 2 advice letter to adjust the ROE by half the difference when the difference between the Moody’s utility bond rates and the benchmark exceeds 100 basis points.<sup>49</sup> Commission General Order 96-B Section 7.4.2 states that “...a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility.”

The Joint Protest does not dispute that the relief requested in the Utilities’ Tier 2 advice letters are consistent with the Commission orders set forth in D.08-05-035 for operation of the CCM, and at this time there is no subsequent Commission decision modifying D.22-12-031 Ordering Paragraph 6. Therefore, arguments such as the appropriate magnitude of the ROE adjustment, possible incentives for natural gas capital expenditures, and whether Moody’s utility bond index changes are representative of changes in the cost of equity are policy arguments that are inappropriate for a protest to an advice letter. For the reasons stated above, ED finds that the Joint Protest does not contain sufficient grounds for protest and is denied. As a result, PG&E Advice Letter 4813-G/7046-E, SCE Advice Letter 5120-E, SDG&E Advice Letter 4300-E/3239-G and SoCalGas Advice Letter 6207-G are approved.

---

<sup>45</sup> Id.

<sup>46</sup> Joint Protest at 12, FN 56.

<sup>47</sup> GO 96-B Section 7.4.2. Example 1.

<sup>48</sup> D.08-05-035, Ordering Paragraph 2.

<sup>49</sup> D.22-12-031, Ordering Paragraph 6.



October 13, 2023

**Advice 4813-G/7046-E**

(Pacific Gas and Electric Company ID U 39 M)

Public Utilities Commission of the State of California

**Subject: Cost of Capital Formula Adjustment Mechanism Trigger for January 1, 2024 in Compliance with OP6 of D.22-12-031**

**Purpose**

Pursuant to Ordering Paragraph (OP) 6 of Decision (D.) 22-12-031, which continued the Cost of Capital Mechanism (CCM) for Pacific Gas and Electric Company (PG&E) through the 2023 Cost of Capital (COC) cycle, PG&E submits this Advice Letter in compliance with the CCM to implement the Formula Adjustment Mechanism. The October 2022 through September 2023 average index rate exceeded by 100 basis points the reference index triggering the Formula Adjustment Mechanism for Rate of Return (ROR) effective January 1, 2024.

**Background**

In D.08-05-035, the Commission adopted a uniform CCM for PG&E, Southern California Edison Company, and San Diego Gas & Electric Company.<sup>1</sup> Pursuant to the CCM, full cost of capital proceedings for the utilities were scheduled on a three-year cycle. In the interim years, the CCM authorizes two methods for setting a utility's COC: one, the Formula Adjustment Mechanism; the other, an off-cycle- COC application based on an extraordinary or catastrophic event.

If triggered, the Formula Adjustment Mechanism adjusts the COC upward or downward based on (1) the most recently adopted capital structure and COC; (2) the average of Moody's Aa utility bond index (for utilities with a credit rating of AA or higher), Moody's A utility bond index (for utilities with an A rating), or Moody's Baa utility bond index (for utilities rated BBB or lower) for the most recent 12 month October through September period; (3) a benchmark value of the applicable utility bond index to which the 12 month rolling average is compared; (4) a 100 basis point dead band; and (5) a return on equity (ROE) adjustment ratio of 50 percent of the change between the 12 month index average and the benchmark.

---

<sup>1</sup> In D.13-03-015, the Commission adopted the CCM for Southern California Gas Company.

In any year where the difference between the 12-month October through September average applicable Moody's utility bond index rate (Aa, A, or Baa) and the adopted benchmark exceeds the 100-basis point dead band, the Formula Adjustment Mechanism operates, and an automatic adjustment to the utility's ROR is made as follows:

- The ROE is adjusted either upward or downward by one half of the difference between the applicable utility bond average and the benchmark; and
- Long-term debt and preferred stock costs are updated to reflect actual August month-end embedded costs in that year, forecasted interest rates for variable long-term debt, and new long-term debt and preferred stock scheduled to be issued.

On October 15 of a year in which the Formula Adjustment Mechanism is triggered, a Tier 2 advice letter is filed with the Commission to update the utility's ROR, effective January 1 of the following year. Additionally, when the 12-month utility bond average operates to adjust the COC, that average becomes the new benchmark for the subsequent 12-month period. In PG&E's most recent COC Application (A.) 22-04-008, the CPUC continued the CCM through the 2023 COC cycle.<sup>2</sup>

### **Revised Return on Equity – Ordering Paragraph 2.a. of D.08-05-035**

PG&E's established benchmark for the period October 1, 2022 through September 30, 2023 is 4.37%, and is equal to the average of the Moody's utility Baa bond index for the period October 1, 2021 through September 30, 2022. The average of the Moody's Baa bond index for the period October 1, 2022 through September 30, 2023 is 5.78%, 141 basis points (1.41%) above the 4.37% benchmark. Taking 50% of the change in the index of 141 basis points (70 basis points) and adding to PG&E's currently adopted ROE of 10.00%<sup>3</sup> results in an ROE of 10.70%. (See Attachment 1: Formula Adjustment Mechanism Benchmark Calculations)

### **Revised Cost of Long-Term Debt and Preferred Stock – OP 2.b of D.08-05-035**

PG&E's revised cost of long-term debt is 4.66%. PG&E's cost of preferred stock has not changed, as PG&E has neither issued nor retired any preferred stock and does not plan to issue any in the foreseeable future. (See Attachment 2: Cost of Long-Term Debt Calculation). The calculation begins with the recorded cost of long-term debt as of August 31, 2023, and includes projected amounts of new debt and their projected interest rates to be issued in the remainder of 2023 and for the full year 2024. The cost of Long-term Debt reflects the most recent interest rate forecast and is higher than the amount forecast when PG&E filed its 2023 Cost of Capital Application in April 2022.

---

<sup>2</sup> D.22-12-031, p. 54 (OP 6).

<sup>3</sup> D.23-01-002, p. 1 (OP 1).

**Revised Return on Rate Base – OP 2.d of D.08-05-035**

Table 1 below shows the currently authorized return on rate base approved in D.22-12-031, as corrected by D.23-01-002, and Table 2 shows the revised return on rate base as a result of the Formula Adjustment Mechanism's operation. Paragraph 2.c of D.08-05-035 provides that the authorized capital structure is not adjusted.

**Table 1  
Currently Authorized Return on Rate Base**

	Cost	Weight	Weighted Cost
Return on Common Equity	10.00%	52.00%	5.20%
Return on Preferred Equity	5.52%	0.50%	0.03%
Return on Long-term Debt	4.31%	47.50%	2.05%
Return on Rate Base			7.28%

**Table 2  
Authorized Return on Rate Base Based on Formula Adjustment Mechanism**

	Cost	Weight	Weighted Cost
Return on Common Equity	10.70 %	52.00%	5.56 %
Return on Preferred Equity	5.52 %	0.50%	0.03 %
Return on Long-term Debt	4.66 %	47.50%	2.21 %
Return on Rate Base			7.80 %

**New Benchmark – Ordering Paragraph 2.e of D.08-05-035**

The new benchmark is 5.78%. (See Attachment 1: Formula Adjustment Mechanism Benchmark Calculations)

**Rate Impact**

The resulting increase in the CPUC jurisdictional gas and electric revenue requirements would be approximately \$256 million (\$158 million electric and \$98 million gas).<sup>4</sup> The associated increase in rates by customer class are set forth in Attachment 3. (See Attachment 3: Illustrative Rates by Customer Class)

<sup>4</sup> Revenue requirement impacts are calculated using authorized 2022 rate base from the 2020 General Rate Case (GRC) and 2019 Gas Transmission and Storage proceedings. PG&E expects a final decision in the 2023 GRC authorizing updated rate base amounts prior to implementing this advice letter. Final rate impact will be based on the outcome of the 2023 GRC.

**Protests**

Anyone wishing to protest this submittal may do so by letter sent electronically via E-mail, no later than **November 2, 2023**, which is 20 days after the date of this submittal. Protests must be submitted to:

CPUC Energy Division  
ED Tariff Unit  
E-mail: EDTariffUnit@cpuc.ca.gov

The protest shall also be electronically sent to PG&E via E-mail at the address shown below on the same date it is electronically delivered to the Commission:

Sidney Bob Dietz II  
Director, Regulatory Relations  
c/o Megan Lawson  
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name and e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

**Effective Date**

Pursuant to General Order (GO) 96-B, Rule 5.2, and OP 6 of D.22-12-031, this advice letter is submitted with a Tier 2 designation. PG&E requests that this Tier 2 advice submittal become effective on January 1, 2024.

**Notice**

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically to parties shown on the attached list and the parties on the service list for A.22-04-008. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process\_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter submittals can also be accessed electronically at: <http://www.pge.com/tariffs/>.

/S/

---

Sidney Bob Dietz II  
Director, Regulatory Relations

CPUC Communications

Attachment 1: Formula Adjustment Mechanism Benchmark Calculations

Attachment 2: Cost of Long-Term Debt Calculation

Attachment 3: Illustrative Rates by Customer Class

cc: Service List A.22-04-008



# ADVICE LETTER SUMMARY



## ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: Pacific Gas and Electric Company (U 39 M)

Utility type:

ELC       GAS       WATER  
 PLC       HEAT

Contact Person: Stuart Rubio

Phone #: 279-789-6210

E-mail: PGETariffs@pge.com

E-mail Disposition Notice to: stuart.rubio@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric      GAS = Gas      WATER = Water  
PLC = Pipeline      HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 4813-G/7046-E

Tier Designation: 2

Subject of AL: Cost of Capital Formula Adjustment Mechanism Trigger for January 1, 2024 in Compliance with OP6 of D.22-12-031

Keywords (choose from CPUC listing): Compliance

AL Type:  Monthly  Quarterly  Annual  One-Time  Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #: D.22-12-031

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL: N/A

Confidential treatment requested?  Yes  No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required?  Yes  No

Requested effective date: 1/1/24

No. of tariff sheets: 0

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed<sup>1</sup>: N/A

Pending advice letters that revise the same tariff sheets: N/A

<sup>1</sup>Discuss in AL if more space is needed.

**Protests and correspondence regarding this AL are to be sent via email and are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:**

California Public Utilities Commission  
Energy Division Tariff Unit Email:  
[EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov)

Contact Name: Sidnev Bob Dietz II. c/o Megan Lawson  
Title: Director, Regulatory Relations  
Utility/Entity Name: Pacific Gas and Electric Company  
  
Telephone (xxx) xxx-xxxx: (415)973-2093  
Facsimile (xxx) xxx-xxxx:  
Email: PGETariffs@pge.com

Contact Name:  
Title:  
Utility/Entity Name:  
  
Telephone (xxx) xxx-xxxx:  
Facsimile (xxx) xxx-xxxx:  
Email:

CPUC  
Energy Division Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102

Clear Form

# **Attachment 1**

Formula Adjustment Mechanism Benchmark Calculations

## FORMULA ADJUSTMENT MECHANISM

Moody's Utility Bond Yield (per Mergent Bond Record)  
Monthly Rate

Oct-21	3.32	
Nov-21	3.25	
Dec-21	3.36	
Jan-22	3.57	
Feb-22	3.95	
Mar-22	4.28	
Apr-22	4.61	
May-22	5.07	
Jun-22	5.22	
Jul-22	5.15	
Aug-22	5.09	
Sep-22	5.61	
Benchmark: Oct '21-Sep '22 Average	<b>4.37</b>	Benchmark for TY 2023

Oct-22	6.18	
Nov-22	6.05	
Dec-22	5.58	
Jan-23	5.49	
Feb-23	5.54	
Mar-23	5.68	
Apr-23	5.47	
May-23	5.71	
Jun-23	5.73	
Jul-23	5.73	
Aug-23	6.01	
Sep-23	6.15	
Baa Index: Oct '22-Sep '23 Average	<b>5.78</b>	New Benchmark effective for TY 2024

Change in Index: 1.410  
50% of Change in Index: 0.705

Currently Adopted ROE 10  
Currently Adopted ROE Adjusted for  
Decrease in Index **10.70** Adjusted ROE

## **Attachment 2**

Cost of Long-Term Debt Calculation

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2023 - 2024 AVERAGE EMBEDDED COST OF DEBT**  
(\$ in thousands)

Line No.	Description	Outstanding (a)	Net Premium (Discount) or (Expense) (b)	Net Proceeds (c)	Annual Charges (d)	Embedded Cost (e = d / c)	Average Embedded Cost (f)
1	August 2023 CBM (recorded)	\$34,996,948	(\$297,934)	\$34,581,191	\$1,542,521	4.46%	
2							
3							
4	2023						
5							
6	December 31, 2023 (Forecast)	\$34,549,948	(\$305,942)	\$34,126,775	\$1,562,694	4.58%	
7							
8							
9	2024						
10							
11	December 31, 2024 (Forecast)	\$35,738,500	(\$334,126)	\$35,290,500	\$1,672,754	4.74%	
12							
13							
14	Average for 2023 and 2024						4.66%

## **Attachment 3**

Illustrative Rates by Customer Class

Table 1  
Pacific Gas and Electric Company  
Illustrative Electric Revenue Increase and Class Average Rates  
ACCAM

Line No.	<u>Customer Class</u>	Proposed Revenue Increase (000's)	Present Rates (\$/kWh)	Proposed Rates (\$/kWh)	Percentage Change	Line No.
Bundled Service*						
1	Residential	\$ 23,274	\$ 0.32153	\$ 0.32358	0.6%	1
2	Small Commercial	\$ 9,543	\$ 0.36225	\$ 0.36504	0.8%	2
3	Medium Commercial	\$ 6,024	\$ 0.33912	\$ 0.34124	0.6%	3
4	Large Commercial	\$ 8,823	\$ 0.29293	\$ 0.29505	0.7%	4
5	Streetlights	\$ 251	\$ 0.48301	\$ 0.48594	0.6%	5
6	Standby	\$ 371	\$ 0.19218	\$ 0.19310	0.5%	6
7	Agriculture	\$ 13,275	\$ 0.33072	\$ 0.33325	0.8%	7
8	Industrial	<u>\$ 3,317</u>	<u>\$ 0.23026</u>	<u>\$ 0.23116</u>	<u>0.4%</u>	8
9	Total	\$ 64,879	\$ 0.31332	\$ 0.31540	0.7%	9
Direct Access and Community Choice Aggregation Service**						
10	Residential	\$ 36,971	\$ 0.19621	\$ 0.19843	1.1%	10
11	Small Commercial	\$ 13,243	\$ 0.21789	\$ 0.22068	1.3%	11
12	Medium Commercial	\$ 10,491	\$ 0.17796	\$ 0.18003	1.2%	12
13	Large Commercial	\$ 20,509	\$ 0.14062	\$ 0.14262	1.4%	13
14	Streetlights	\$ 415	\$ 0.28592	\$ 0.28885	1.0%	14
15	Standby	\$ 93	\$ 0.13741	\$ 0.13867	0.9%	15
16	Agriculture	\$ 3,159	\$ 0.18221	\$ 0.18458	1.3%	16
17	Industrial	<u>\$ 8,297</u>	<u>\$ 0.09504</u>	<u>\$ 0.09582</u>	<u>0.8%</u>	17
18	Total	\$ 93,178	\$ 0.16261	\$ 0.16451	1.2%	18
Departing Load***						
19	Residential	\$ (0)			-0.1%	19
20	Small Commercial	\$ 2			0.3%	20
21	Medium Commercial	\$ 14			0.6%	21
22	Large Commercial	\$ 68			2.1%	22
23	Streetlights	\$ -			0.0%	23
24	Standby	\$ -			0.0%	24
25	Agriculture	\$ 8			1.0%	25
26	Industrial	\$ 151			0.4%	26

\* Customers who receive electric generation as well as transmission and distribution service from PG&E.

\*\* Customers who purchase energy from non-PG&E suppliers.

\*\*\* Customers who purchase their electricity from a non-utility supplier and receive transmission and distribution service from a publicly owned utility or municipality. A rate comparison cannot be provided for Departed Load as the applicable rates vary by specific departed load customer categories and any average rate that could be derived, would not be representative of any particular departed load category.

**EXECUTIVE SUMMARY**  
**PACIFIC GAS AND ELECTRIC COMPANY**  
**Proposed Automatic Cost of Capital Adjustment Mechanism (ACCAM)**  
**Class Average Bundled and Transportation/PPPS Rates (\$/th)**

Line No.	Customer Class	Present	Proposed	\$ Change	% Change
		September 1, 2023			
1	<b>BUNDLED—RETAIL CORE*</b>				
2	Residential Non-CARE	\$2.235	\$2.267	\$0.032	1.4%
3	Small Commercial Non-CARE	\$1.682	\$1.702	\$0.021	1.2%
4	Large Commercial	\$1.279	\$1.291	\$0.012	1.0%
5	Uncompressed Core NGV	\$1.252	\$1.265	\$0.013	1.0%
6	Compressed Core NGV	\$2.928	\$2.935	\$0.007	0.3%
7	<b>TRANSPORT ONLY—RETAIL CORE</b>				
8	Residential Non-CARE	\$1.601	\$1.633	\$0.032	2.0%
9	Small Commercial Non-CARE	\$1.071	\$1.092	\$0.021	1.9%
10	Large Commercial	\$0.711	\$0.723	\$0.012	1.7%
11	Uncompressed Core NGV	\$0.689	\$0.702	\$0.013	1.8%
12	Compressed Core NGV	\$2.365	\$2.373	\$0.007	0.3%
13	<b>TRANSPORT ONLY—RETAIL NONCORE (NONCOVERED ENTITIES)</b>				
14	Industrial – Distribution	\$0.618	\$0.630	\$0.012	2.0%
15	Industrial – Transmission	\$0.328	\$0.334	\$0.006	1.9%
16	Industrial – Backbone	\$0.183	\$0.184	\$0.002	1.0%
17	Uncompressed Noncore NGV – Distribution	\$0.581	\$0.593	\$0.012	2.1%
18	Uncompressed Noncore NGV – Transmission	\$0.308	\$0.314	\$0.006	1.9%
19	Electric Generation – Distribution/Transmission	\$0.257	\$0.263	\$0.006	2.3%
20	Electric Generation – Backbone	\$0.122	\$0.124	\$0.002	1.6%
21	<b>TRANSPORT ONLY—RETAIL NONCORE (COVERED ENTITIES)</b>				
22	Industrial – Distribution	\$0.499	\$0.511	\$0.012	2.4%
23	Industrial – Transmission	\$0.209	\$0.215	\$0.006	2.9%
24	Industrial – Backbone	\$0.064	\$0.066	\$0.002	2.9%
25	Uncompressed Noncore NGV – Distribution	\$0.462	\$0.474	\$0.012	2.6%
26	Uncompressed Noncore NGV – Transmission	\$0.189	\$0.195	\$0.006	3.1%
27	Electric Generation – Distribution/Transmission	\$0.139	\$0.144	\$0.006	4.3%
28	Electric Generation – Backbone	\$0.003	\$0.005	\$0.002	60.3%
29	<b>TRANSPORT ONLY—WHOLESALE</b>				
30	Alpine Natural Gas (T)	\$0.136	\$0.142	\$0.006	4.3%
31	Coalinga (T)	\$0.137	\$0.143	\$0.006	4.3%
32	Island Energy (T)	\$0.145	\$0.151	\$0.006	4.0%
33	Palo Alto (T)	\$0.134	\$0.140	\$0.006	4.4%
34	West Coast Gas – Castle (D)	\$0.466	\$0.479	\$0.013	2.9%
35	West Coast Gas – Mather (D)	\$0.697	\$0.715	\$0.019	2.7%
36	West Coast Gas – Mather (T)	\$0.138	\$0.144	\$0.006	4.2%

\* Illustrative Bundled Rates incorporate an illustrative procurement revenue requirement as filed in PG&E's 2023 AGT.

- (1) CARE Customers receive a 20% discount off of PG&E's total bundled rate and are exempt from the CARE portion of PG&E's Public Purpose Program Surcharge (G-PPPS) rates and cost recovery of the California Solar Initiative Thermal Program.
- (2) Transportation rates paid by all customers include an additional GHG Compliance and obligation Cost Recovery component of \$0.12054 per therm.
- (3) Covered Entities (i.e. customers that currently have a direct obligation to pay for allowances directly to the Air Resources Board) will pay a GHG Compliance Recovery Cost component of \$0.00168 per therm to cover PG&E allowance costs associated with lost & unaccounted for (LUAF) gas and compression costs. Covered entities will see a line item credit on their bill equal to \$0.11886 (\$0.12054 minus \$0.00168) per therm times their monthly billed volumes.

**PG&E Gas and Electric  
Advice Submittal List  
General Order 96-B, Section IV**

AT&T  
Albion Power Company

Alta Power Group, LLC  
Anderson & Poole

Atlas ReFuel  
BART

Barkovich & Yap, Inc.  
Braun Blaising Smith Wynne, P.C.  
California Community Choice Association  
California Cotton Ginners & Growers Assn  
California Energy Commission

California Hub for Energy Efficiency  
Financing

California Alternative Energy and  
Advanced Transportation Financing  
Authority  
California Public Utilities Commission  
Calpine

Cameron-Daniel, P.C.  
Casner, Steve  
Center for Biological Diversity

Chevron Pipeline and Power  
City of Palo Alto

City of San Jose  
Clean Power Research  
Coast Economic Consulting  
Commercial Energy  
Crossborder Energy  
Crown Road Energy, LLC  
Davis Wright Tremaine LLP  
Day Carter Murphy

Dept of General Services  
Don Pickett & Associates, Inc.  
Douglass & Liddell  
Downey Brand LLP  
Dish Wireless L.L.C.

East Bay Community Energy Ellison  
Schneider & Harris LLP

Electrical Power Systems, Inc.  
Fresno  
Engineers and Scientists of California

GenOn Energy, Inc.  
Green Power Institute  
Hanna & Morton  
ICF

iCommLaw  
International Power Technology  
Intertie

Intestate Gas Services, Inc.

Johnston, Kevin  
Kelly Group  
Ken Bohn Consulting  
Keyes & Fox LLP  
Leviton Manufacturing Co., Inc.

Los Angeles County Integrated  
Waste Management Task Force  
MRW & Associates  
Manatt Phelps Phillips  
Marin Energy Authority  
McClintock IP  
McKenzie & Associates

Modesto Irrigation District  
NRG Solar

OnGrid Solar  
Pacific Gas and Electric Company  
Peninsula Clean Energy

Pioneer Community Energy

Public Advocates Office

Redwood Coast Energy Authority  
Regulatory & Cogeneration Service, Inc.

Resource Innovations

SCD Energy Solutions  
San Diego Gas & Electric Company

SPURR  
San Francisco Water Power and Sewer  
Sempra Utilities

Sierra Telephone Company, Inc.  
Southern California Edison Company  
Southern California Gas Company  
Spark Energy  
Sun Light & Power  
Sunshine Design  
Stoel Rives LLP

Tecogen, Inc.  
TerraVerde Renewable Partners  
Tiger Natural Gas, Inc.

TransCanada  
Utility Cost Management  
Utility Power Solutions  
Water and Energy Consulting Wellhead  
Electric Company  
Western Manufactured Housing  
Communities Association (WMA)  
Yep Energy



425 Market Street  
Suite 2900  
San Francisco, CA 94105  
415.227.0900 Phone  
415.227.0770 Fax

File Number: E6213-0032  
415.227.3551 Direct  
nsheriff@buchalter.com

November 2, 2023

**VIA E-MAIL (EDTARIFFUNIT@CPUC.CA.GOV)**

ED Tariff Unit  
CPUC Energy Division  
505 Van Ness Avenue, 4th Floor  
San Francisco, California 94102

Re: Joint Protestants' Protest to Southern California Gas Company (SoCalGas) Advice Letter (AL) 6207-G, Pacific Gas & Electric Company (PG&E) AL 4813-G/7046-E, Southern California Edison (SCE) AL 5120-E, and San Diego Gas & Electric Company (SDG&E) AL 4300-E/3239-G

Dear ED Tariff Unit:

Pursuant to General Order (GO) 96-B, General Rule 7.4.1, the Agricultural Energy Consumers Association (AECA),<sup>1</sup> California Large Energy Consumers Association (CLECA),<sup>2</sup>

---

<sup>1</sup> AECA is a nonprofit organization that represents the energy interests of California agriculture. AECA was founded in 1991 by growers and other members of the agricultural community concerned about rapidly rising electricity costs. AECA represents the collective interests of the state's leading agricultural associations and works on behalf of the combined interests of several county Farm Bureaus and more than forty agricultural water districts. AECA's membership is broad-based, reflecting family farmers from Redding in the north to San Diego in the south who grow crops ranging from alfalfa to walnuts. Through its members and membership associations, AECA represents in excess of 40,000 California agricultural producers.

<sup>2</sup> CLECA member companies produce goods essential for daily life including critical infrastructure, oxygen for hospitals and food distribution. CLECA's members represent the steel, cement, industrial and medical gas, beverage, minerals processing, cold storage, and pipeline transportation industries. Their aggregate electrical demand exceeds 500 Megawatts, which is equivalent to the electricity consumption of approximately 470,000 average California households. CLECA members are large, high load factor and high voltage industrial electric customers in California for whom the price of electricity is essential to their competitiveness and for whom the reliability of electricity service is critically important. For both

buchalter.com

Los Angeles  
Denver  
Napa Valley  
Orange County  
Portland  
Sacramento  
Salt Lake City  
San Diego  
San Francisco  
Scottsdale  
Seattle

ED Tariff Unit  
CPUC Energy Division  
November 2, 2023  
Page 2

California Farm Bureau (Farm Bureau),<sup>3</sup> California League of Food Producers (CLFP),<sup>4</sup> California Manufacturers and Technology Association (CMTA),<sup>5</sup> Direct Access Customer Coalition (DACC),<sup>6</sup> Energy Producers and Users Coalition (EPUC),<sup>7</sup> Energy Users Forum (EUF),<sup>8</sup> Environmental Defense Fund (EDF),<sup>9</sup> Federal Executive Agencies (FEA),<sup>10</sup> the Indicated

---

reasons, CLECA member companies have participated for decades in the Base Interruptible Program (BIP), providing reliability demand response to the grid in times of need.

<sup>3</sup> Farm Bureau is California's largest farm organization, working to protect family farms and ranches on behalf of its nearly 29,000 members statewide and as part of a nationwide network of more than 5.3 million members. Organized over 100 years ago as a voluntary, nongovernmental and nonpartisan organization, it advances its mission throughout the state together with its 53 county Farm Bureaus. Farm Bureau works closely with its county Farm Bureaus to advance their concerns with matters arising at the CPUC.

<sup>4</sup> CLFP has been the voice and the advocate for California's food producing industry since 1905. CLFP represents the interests of both large and small food processors and beverage producers throughout the state. Member companies include canners, freezers, dryers, and dehydrators of fruits and vegetables. Additional processor members include snack foods, juice and beverage bottlers, and specialty processors of a variety of food products. Food processing is the third-largest manufacturing industry in California. California's more than 3,400 food manufacturing establishments generate \$82 billion in value added to the state's economy annually. Each additional job in food and beverage processing generates 2.84 more jobs through multiplier impacts, with total sector-related employment estimated as 760,000 full- and part-time jobs in California. Many CLFP members operate their plants in disadvantaged communities throughout the Central Valley, providing much needed jobs and economic stimulus to these communities.

<sup>5</sup> CMTA represents the interests of 25,000 large and small manufacturers in California with 1.2 million employees, about 8% of total state employment and about 11% of gross state product. Manufacturing creates the most wealth of any sector – for every \$1 invested in manufacturing, another \$1.35 is added to the economy, and every one manufacturing job supports an additional 2.5 jobs in the local region. Since 1918, CMTA has supported state laws and regulations to maintain a competitive business climate to encourage manufacturing investment and job growth.

<sup>6</sup> The Direct Access Customer Coalition is a regulatory alliance representing the interests of educational, commercial and industrial customers that utilize direct access for all or part of their demand.

<sup>7</sup> EPUC represents the electricity end-use interests of the following companies in this proceeding: California Resources Corp., Chevron U.S.A. Inc., PBF Holding Company, Phillips 66 Company, and Tesoro Refining & Marketing Company LLC.

<sup>8</sup> EUF is an ad hoc coalition that represents the interests of medium and large bundled service, DA, and CCA customers in California, taking service on rate schedules for accounts with demands above approximately 50 kW.

<sup>9</sup> EDF is one of the world's largest environmental organizations, with more than 500,000 members and supporters in California. EDF espouses the idea that prosperity and environmental stewardship must go hand in hand.

<sup>10</sup> FEA represents the consumer interests of the Department of Defense and all other Federal Executive Agencies in regulatory proceedings on public utility matters before the California Public Utilities Commission.

ED Tariff Unit  
CPUC Energy Division  
November 2, 2023  
Page 3

Shippers,<sup>11</sup> Small Business Utility Advocates (SBUA),<sup>12</sup> The Utility Reform Network (TURN),<sup>13</sup> Public Advocates Office at the California Public Utilities Commission (Cal Advocates),<sup>14</sup> Walmart Inc. (Walmart),<sup>15</sup> and Wild Tree Foundation (Wild Tree)<sup>16</sup> (collectively, the Joint Protestants) submit this joint protest to Southern California Gas Company (SoCalGas) Advice Letter (AL) 6207-G, Pacific Gas & Electric Company (PG&E) AL 4813-G/7046-E, Southern California Edison (SCE) AL 5120-E, and San Diego Gas & Electric Company (SDG&E) AL 4300-E/3239-G (the Advice Letters) regarding the Cost of Capital Mechanism (CCM) Formula Adjustment Mechanism trigger for January 1, 2024. This joint protest is timely submitted within 20 days of the date on which PG&E, SCE, SDG&E, and SoCalGas (collectively, the Utilities) served the Advice Letters, October 13, 2023.

## I. INTRODUCTION

The Joint Protestants represent a diverse range of the Utilities' customer classes, all of which have and continue to experience increases in gas and electric rates driven by consistent, substantial increases to the Utilities' revenue requirements; Joint Protestants also include

---

<sup>11</sup> The Indicated Shippers represent the natural gas non-core customer interests of the following companies in this proceeding: California Resources Corp., Chevron U.S.A. Inc., ConocoPhillips, PBF Holding Company, Phillips 66 Company, and Marathon Petroleum Company LP.

<sup>12</sup> SBUA's mission is to represent the utility concerns of the small business community. Maintaining reasonable revenue requirements and promoting utility rate structures that facilitates the success of small commercial customers with cost effective utilities that are fair and just is central to this mission. As of 2022, there were approximately 4.2 million small businesses in the state that comprised 99.8% of all employer firms and provided 47.9% of private sector employment. Between March 2020 and March 2021, 180,829 small businesses opened in California. In 2020, exports by small firms in California reached \$58.3 billion, making up 39.9% of all exports. Small businesses are not only vital to California's economic health and welfare but also constitute an important class of ratepayers for utility companies.

<sup>13</sup> TURN represents the interests of residential and small commercial customers of the California investor owned utilities.

<sup>14</sup> "The Public Advocates Office (Cal Advocates) at the California Public Utilities Commission (PUC) is an independent organization within the PUC that advocates solely on behalf of utility ratepayers. Cal Advocates' statutory mission is to obtain the lowest possible rate for service consistent with reliable and safe service levels. As the only State entity charged with this responsibility, Cal Advocates has a critical role in ensuring that consumers are represented at the PUC on matters that affect how much consumers pay for utility services and the quality of those services."

<sup>15</sup> Walmart operates 97 stores and related facilities and 3 distribution centers in PG&E's service territory, 125 stores and related facilities and 8 distribution centers in SCE's service territory and 29 stores and related facilities in SDG&E's service territory that are served through a combination of direct access and bundled service. Collectively, these facilities consume over 588 million kWh of electricity annually.

<sup>16</sup> Wild Tree represents the interests of our environment, climate, wildlife, and ratepayers that are concerned about their protection.

ED Tariff Unit  
CPUC Energy Division  
November 2, 2023  
Page 4

environmental groups. The Advice Letters would exacerbate the trend of substantial rate increases by implementing the CCM's Formula Adjustment Mechanism for Rate of Return (ROR) to adjust each of the Utilities' current authorized returns on equity (ROE) by 0.70%, effective January 1, 2024. If implemented, the adjustments would result in annual increases to the Utilities' respective authorized base revenue requirements totaling approximately \$587 million.<sup>17</sup> These costs would be incremental to the already substantial increases in the Utilities' multi-billion dollar revenue requirements that will be implemented over the rest of the 2023 Cost of Capital cycle.<sup>18</sup>

In light of the current and worsening affordability crisis affecting all customer classes, the Joint Protestants have serious concerns with allowing the Utilities to increase authorized ROEs through the advice letter process. Rather, the magnitude of the Advice Letters' impacts on customer rates warrants more careful consideration of affordability impacts, and whether the CCM adjustments in fact result in appropriate ROEs that balance shareholder and ratepayer interests. The Joint Protestants contend that the adjustments do not align with the California Public Utilities Commission's (Commission) intent supporting the adoption of the CCM in decision (D.) 08-05-035, since the adjusted ROEs exceed the just and reasonable levels representative of the Utilities' respective ability to attract capital.

Since the CCM poses a significant risk of harm to ratepayers and is not operating as intended, the Joint Protestants respectfully request that the following relief be granted in response to this protest:

- Suspend CCM Formula Adjustment Mechanism adjustments for 2024 and 2025;
- Direct the Utilities to maintain current authorized ROEs adopted in D.22-12-031; and
- Address necessary modifications to the CCM in the second phase of the 2023 Cost of Capital proceeding (A.22-04-008 et al.).

---

<sup>17</sup> See **Table 2** reflecting a breakdown of the estimated rate impact for each of the Utilities.

<sup>18</sup> See **Attachment A: Utilities' Itemized Lists of Revenue Requirements (Summary of Selected Data) as of Sep. 1, 2023** (Served on the R.18-07-006 service list on Sep. 1, 2023 and available at <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/affordability/quarterly-revenue-request-reports>).

## II. GROUNDS FOR PROTEST

The Joint Protestants submit this protest to the Advice Letters pursuant to Rule 7.4.2 of General Order 96-B on the following grounds:

- The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process;
- The relief requested in the advice letter is unjust, unreasonable, or discriminatory.

In D.22-12-031, the Commission adopted test year (TY) 2023 ROEs that were in the mid-upper range of just and reasonable ROEs identified for each of the Utilities, and acknowledged that the Utilities’ adopted ROEs were significantly higher than national averages.<sup>19</sup> **Table 1** reflects that, if implemented, the CCM adjustment would increase ROEs further above average and beyond the top end of the just and reasonable ranges identified for each of the Utilities in D.22-12-031.

**Table 1**

Utility	Just and Reasonable Ranges identified in D.22-12-031 <sup>20</sup>	TY 2023 ROE Authorized in D.22-12-031 <sup>21</sup>	CCM Adjusted 2024 ROE <sup>22</sup>	Amount in Excess of Top Range
PG&E	9.60% - 10.20%	10.00%	10.70%	0.50%
SCE	9.65% - 10.25%	10.05%	10.75%	0.50%
SDG&E	9.55% - 10.15%	9.95%	10.65%	0.50%
SoCalGas	9.40% - 10.00%	9.80%	10.50%	0.50%

The CCM is intended to adjust ROEs in off-cycle years where there are significant changes in interest rates that have impacted the utility’s cost of equity capital.<sup>23</sup> As discussed below, the proposed CCM adjustments are not reflective of changes in the Utilities’ cost of

<sup>19</sup> D.22-12-031 at pp. 35-38.

<sup>20</sup> D.22-12-031 at pp. 51-52 (Findings of Fact (FoF) 16-19.

<sup>21</sup> D.22-12-031 at p. 53 (Ordering Paragraphs (OP) 1-4.

<sup>22</sup> See PG&E AL 4813-G/7046-E at p. 3; SCE AL 5120-E at p. 4; SoCalGas AL 6207-G at p. 4; SDG&E AL 4300-E/3239-G at p. 5.

<sup>23</sup> D.08-05-035 at p. 12.

ED Tariff Unit  
CPUC Energy Division  
November 2, 2023  
Page 6

equity capital in the current market, nor are the adjustments needed to maintain the utilities' ability to attract capital. Thus, implementing the proposed CCM's upward adjustments would result in above-market compensation to the Utilities, and unjustifiably increase tariff rate charges, despite ongoing and increasing affordability concerns. Since the Advice Letters' upward adjustments are not cost-justified, the resultant impacts on tariff rate charges are unjust, unreasonable, and discriminatory against ratepayers.

The Joint Protestants submit that the proposed 2024 adjustments are not appropriate to the Commission's advice letter process due to the magnitude of the resultant rate impacts, the imbalanced application of the CCM, and the ratepayers' right to rates set at a just and reasonable level. Although the CCM provides an advice letter process for implementing the CCM's Formula Adjustment Mechanism when triggered, the Commission has suspended implementation where it has found that the adjustment would not result in a fair and reasonable ROE.<sup>24</sup> The Utilities' current authorized returns are already set at levels that are fair and reasonable, had the CCM been implemented as designed in a consistent and balanced manner over time—which it has not.

Instead, as the Commission has consistently done with prior Formula Adjustment Mechanism trigger adjustments, the Joint Protestants respectfully request the Commission suspend implementation of the proposed CCM adjustments and direct the Utilities to maintain current authorized ROEs. In the meantime, the Commission has the opportunity to more closely examine these and other CCM concerns in the second phase of the 2023 Cost of Capital proceeding (A.22-04-008, et al.). This course of action would protect ratepayers without detriment to investors, and uphold the Commission's statutory duty to ensure just and reasonable rates. It would also avoid unnecessary and improper revenue requirement increases under the CCM, while protecting shareholders by allowing the Utilities to maintain ROEs that produce fair and reasonable returns. Furthermore, this course of action would benefit ratepayers, shareholders, and the Commission by allowing for a more holistic consideration of these important concerns and the consideration of the CCM in an appropriate forum.

The supporting factual information and legal argument for each of these grounds is expanded upon below.

---

<sup>24</sup> D.22-11-018 at pp. 33-34 (FoF 23-25); *see also* D.09-10-016 (extending the cost of capital cycle by one year and permitting SCE and PG&E to forgo filing a CCM trigger advice letter because “the transitory increases in authorized cost of capitals ... could be reversed in a year's time as the financial markets stabilize”).

### III. THE ADVICE LETTERS' RATE IMPACTS ARE UNJUST, UNREASONABLE, AND DISCRIMINATORY

In D.08-05-035, the Commission adopted the CCM in an effort to “maintain fair and reasonable capital structures and ROEs for the major energy utilities while reducing ROE proceedings and simplifying workload requirements and regulatory costs.”<sup>25</sup> Accordingly, the CCM requires the Utilities to file cost of capital applications every three years,<sup>26</sup> and authorizes two methods for changing cost of capital in an interim year: the Formula Adjustment Mechanism;<sup>27</sup> and the off-cycle application.<sup>28</sup> The Formula Adjustment Mechanism provides for an automatic upward or downward adjustment in an off-cycle year, where the difference between the trailing 12-month October through September average change in Moody’s utility bond rates and the Utility’s benchmark exceeds 100 basis points.<sup>29</sup>

The Joint Protestants submit that the Advice Letters’ proposed ROE adjustments are unjust, unreasonable, and discriminatory against ratepayers; when implementing the CCM would have benefitted ratepayers by decreasing ROEs, it was not implemented; but if implemented now, it would harm ratepayers. Moreover, implementing the proposed increases would result in ROEs that exceed the levels necessary to maintain the Utilities’ financial integrity, thus unduly benefitting shareholders. As such, if implemented, the adjustments would result in unnecessary rate increases and exacerbate the current affordability crisis.

In D.22-12-031, the Commission recognized that the legal standards established by *Hope*<sup>30</sup> and *Bluefield*<sup>31</sup> require that ROEs be “reasonably sufficient to ensure confidence in the financial soundness of the utility and enable it to attract capital.”<sup>32</sup> Importantly, the Commission also recognized that the legal standards should “ensure the rates charged to customers for maintaining utilities’ financial integrity will be just and reasonable.”<sup>33</sup> As set forth below, the Formula Adjustment Mechanism adjustments for 2024 would violate these legal standards, and

---

<sup>25</sup> D.08-05-035 at p. 3.

<sup>26</sup> D.08-05-035 at OP 1.

<sup>27</sup> *Id.* at OP 2.

<sup>28</sup> *Id.* at Conclusion of Law (CoL) 6.

<sup>29</sup> *Id.* at p. 15.

<sup>30</sup> *Federal Power Commission et al. v. Hope Natural Gas Co.* (“*Hope*,” 320 U.S. 591, 64 S.Ct. 281 (1944)).

<sup>31</sup> *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia et al.* (“*Bluefield*,” 262 U.S. 679, 43 S.Ct. 675 (1923)).

<sup>32</sup> D.22-12-031 at p. 34, and CoL 2.

<sup>33</sup> D.22-12-031 at p. 34.

thus fail to achieve the CCM’s intended purpose of maintaining fair and reasonable ROEs in off-cycle years.<sup>34</sup>

**A. Implementation of the CCM as Proposed by the Advice Letters Will Exacerbate Ratepayer Burden**

The Utilities indicate that the CCM Formula Adjustment Mechanism would result in a 0.70% increase to their respective authorized ROEs, beginning January 1, 2024. The Utilities also provide the estimated impacts of the CCM Formula Adjustment Mechanism on their respective authorized revenue requirements. **Table 2** below shows the ROE adjustments and associated revenue requirement impact reflected in each of the Advice Letters.

**Table 2**

Utility	TY 2023 ROE Authorized in D. 22-12-031	CCM Adjusted 2024 ROE	Revenue Requirement Increase (\$ millions)
PG&E	10.00%	10.70%	\$256.0 <sup>35</sup>
SCE	10.05%	10.75%	\$200.7 <sup>36</sup>
SoCalGas	9.80%	10.50%	\$77.0 <sup>37</sup>
SDG&E	9.95%	10.65%	\$53.7 <sup>38</sup>
<b>Total</b>			<b>\$587.4</b>

The Joint Protestants note that these illustrative rate impacts likely represent the *minimum* revenue requirement increases under the CCM adjustments, given expected increases to the Utilities’ rate bases that will occur over the 2023 cost of capital cycle.

The ratepayer burden caused by these rate impacts is worsened by the fact that the Utilities already plan to implement substantial increases to their respective revenue requirements over the next several years. D.22-08-083 (*Decision implementing the Affordability Metrics*) issued in the Commission’s Affordability proceeding (R.18-07-006), requires the Utilities to

<sup>34</sup> D.08-05-035 at p. 3.

<sup>35</sup> PG&E AL 4813-G/7046-E at p. 3.

<sup>36</sup> SCE AL 5120-E at p. 6.

<sup>37</sup> SoCalGas AL 6207-G at p. 6.

<sup>38</sup> SDG&E AL 4300-E/3239-G at p. 7.

ED Tariff Unit  
CPUC Energy Division  
November 2, 2023  
Page 9

submit quarterly reports listing recent, current, approved but not yet implemented, and pending revenue requirements.<sup>39</sup> The Utilities' most recent reports, issued September 1, 2023, reflect that the majority of the Utilities' multi-billion dollar revenue requirements are all expected to increase by hundreds of millions of dollars.<sup>40</sup> The outlier is PG&E, whose electric revenue requirement is expected to increase by several *billions* of dollars through 2023 and 2024.<sup>41</sup> **Table 2** reflects that PG&E's CCM Formula Adjustment Mechanism adjustment would also have the highest revenue requirement impact among the Utilities.

As the Commission is well aware, ratepayers are already suffering under the crushing burden of ever-increasing utility rates, with no clear end in sight. Observations from the 2021/2022 Annual Affordability report states that "electric bills started becoming much less affordable in 2022 and will continue on that trend until at least 2026, driven by forecasted increases in electric rates."<sup>42</sup> That report also observes that "the most serious affordability concerns continue to be in particularly low-income parts of major metropolitan areas, as well as in the Central Valley."<sup>43</sup> In its 2023 Senate Bill 695 Report the Commission clearly recognized the affordability crisis in utility rates, which are vastly outpacing the rate of inflation.<sup>44</sup>

If the CCM Formula Adjustment Mechanism adjustment were to operate in 2024, it would worsen the affordability crisis and further hinder ratepayers' ability to keep up with increasingly unaffordable rates.

## **B. The Adjustments Are Not Representative of Changes to the Utilities' Cost of Capital, and as Such, Would Be Unjust and Unreasonable**

The CCM adjustment is founded on the assumption that a change in interest rates correlates with changes in the utility's equity requirements.<sup>45</sup> Simply put, an increase in applicable bond rates above the CCM trigger is presumed to reflect an increase in the level of authorized ROEs needed to attract equity capital to fund needed utility investments. The Commission based the CCM's Formula Adjustment Mechanism on utility bond interest rates in

---

<sup>39</sup> D.22-08-083 at OP 4.

<sup>40</sup> See **Attachment A**.

<sup>41</sup> PG&E's September 1, 2023 report for gas revenue requirements did not include a "summary of selected data" tab.

<sup>42</sup> *2021/2022 Annual Affordability Report*, October 2023 at p. 6 (available at: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/affordability-proceeding/2021-2022/2021-and-2022-annual-affordability-report.pdf>).

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

<sup>44</sup> *2023 Senate Bill 695 Report to the Governor and Legislature on Actions to Limit Utility Cost and Rate Increases Pursuant to Public Utilities Code Section 913.1*, May 2023 at p. 10.

<sup>45</sup> D.22-11-018 at pp. 21-22 (citing to D.08-05-035 at pp. 14-18, FoF 16, OP 2).

order to “gauge changes in interest rates that also indicate changes in the equity costs of utilities.”<sup>46</sup> The adjustment ratio, i.e., percentage of the difference used to adjust the ROEs, is intended to represent the “point where a utility’s debt cost and equity investment becomes volatile.”<sup>47</sup> To avoid adjustments for minor changes while balancing shareholder and ratepayer interests, the Commission adopted an adjustment ratio of 50%.<sup>48</sup> Thus, the CCM Formula Adjustment Mechanism is triggered in an off-cycle year, when the difference between the prior year’s average utility bond interest rates and the utility’s benchmark interest rate exceeds 100 basis points.<sup>49</sup> The 50% adjustment ratio is applied to the difference and added to or subtracted from the utility’s authorized ROE in the same direction as the interest rate change.<sup>50</sup>

Importantly, the Commission has expressed that it does not intend for unexamined application of the CCM Formula Adjustment Mechanism anytime the trigger is reached. Rather, in assessing whether the CCM adjustment should have applied to 2022 ROEs, the Commission noted:

[the] CCM adjustment is only useful, and representative of a fair rate of return if the underlying assumptions hold true: that changes to the cost of equity approximately track increases or decreases in utility bond interest rates.<sup>51</sup>

As set forth below and in the attached affidavit, market evidence shows that the CCM adjustments reflected in the Advice Letters overstate utility risk, and would establish ROEs that go beyond just and reasonable levels necessary to attract capital. In addition, current and recent investment analyst ratings (**Table 3**) for all of the applicant utilities indicate current consensus recommendations of “OVERWEIGHT,”<sup>52</sup> with the majority of recent analyst recommendations (10/27/2023) being “BUY.”

---

<sup>46</sup> *Id.* at pp. 12-13.

<sup>47</sup> D.08-05-035 at p. 14.

<sup>48</sup> *Id.* at pp. 14-15.

<sup>49</sup> D.08-05-035 at OP 2.

<sup>50</sup> *Id.*

<sup>51</sup> D.22-11-018 at pp. 2-3, 21-24.

<sup>52</sup> “An overweight rating indicates that an analyst has a high conviction that a stock can outperform a market benchmark or its peers over the next six to 12 months. To capture this outperformance, the analyst recommends investors buy more shares to increase their portfolio weighting to the stock” (Source: The Motley Fool, definitions of financial terms, available at: <https://www.fool.com/terms/o/overweight-stock/>).

**Table 3**

Summary of Recent Investment Analyst Ratings California Investor-Owned Utilities (10/27/2023)

Analyst Ratings	PG&E Corporation (PCG)			SoCal Edison (EIX)			Sempra (SRE)		
	3 Months Ago	1 Month Ago	Current	3 Months Ago	1 Month Ago	Current	3 Months Ago	1 Month Ago	Current
BUY	7	8	8	6	7	8	N/A	10	10
OVERWEIGHT	0	1	2	1	1	1	N/A	2	2
HOLD	6	4	4	6	8	6	N/A	7	6
UNDERWEIGHT	1	1	1	1	1	1	N/A	0	0
SELL	0	0	0	2	1	2	N/A	0	1
Total Analyst Coverage	14	14	15	16	18	18	N/A	19	19
Analyst Consensus	OVERWEIGHT	OVERWEIGHT	OVERWEIGHT	HOLD	OVERWEIGHT	OVERWEIGHT	N/A	OVERWEIGHT	OVERWEIGHT

**Sources:**

1. Wall Street Journal Markets Research and Ratings PCG, available at: <https://www.wsj.com/market-data/quotes/PCG/research-ratings>
2. Wall Street Journal Markets Research and Ratings EIX, available at: <https://www.wsj.com/market-data/quotes/EIX/research-ratings>.
3. Wall Street Journal Markets Research and Ratings SRE, available at: <https://www.wsj.com/market-data/quotes/SRE/research-ratings>

These analyst ratings of BUY and OVERWEIGHT support the contention that current authorized ROEs are sufficient to compensate equity capital, and need not be increased in order to attract investors. Accordingly, it would be unnecessary, unjust, unreasonable, and discriminatory to increase customer bills via the proposed ROEs and the corresponding increases to revenue requirements.

The Commission most recently addressed the circumstances warranting a departure from the CCM Formula Adjustment Mechanism trigger adjustments in D.22-11-018. In that decision, the Commission approved SCE, PG&E, and SDG&E’s off-cycle applications recommending rejection of automatic adjustments to 2022 ROEs due to the existence of extraordinary circumstances from the COVID-19 pandemic.<sup>53</sup> Notably, the rejection prevented a 0.59% downward reduction to PG&E, SCE, and SDG&E’s respective 2022 ROEs that would have resulted in a total revenue requirement decrease of approximately \$404 million.<sup>54</sup> In its analysis, the Commission stated:

Although a decrease in the ROE would reduce customer bills via corresponding reduction in revenue requirements, the CCM adjustment should be rejected if it fails to reflect utility risk and establishes a level of ROE that is inadequate to attract capital.<sup>55</sup>

Although D.22-11-018 concerned off-cycle applications and reduced ROEs, its rationale is instructive here since it affirms the core principle that the CCM adjustments should not apply if changes in interest rates do not explain changes to the utility’s cost of equity capital. The Joint Protestants submit that market conditions and circumstances surrounding the present proposed

<sup>53</sup> D.22-11-018 at p. 23.

<sup>54</sup> D.22-11-018 at pp. 20-21, footnote 84.

<sup>55</sup> D.22-11-018 at p. 22.

ED Tariff Unit  
CPUC Energy Division  
November 2, 2023  
Page 12

CCM Formula Adjustment Mechanism demonstrate that a 0.70% adjustment is unwarranted, and would pose an undue burden on ratepayers. **Attachment B** to this protest details the market evidence showing the disconnect between recent interest rate changes and the Utility's cost of equity over the measurement period.<sup>56</sup>

When the Commission first adopted the CCM in D.08-05-035, it reduced the frequency of cost of capital application filings from one year to three years, and set initial CCM Formula Adjustment Mechanism benchmarks at 5.87% (Moody's AA) and 6.21% (Moody's Baa).<sup>57</sup> Under the CCM, the interest rate benchmarks were intended to be reset at the start of each cost of capital cycle, or in interim years where the Formula Adjustment Mechanism is triggered.<sup>58</sup> However, since its adoption in 2008, the CCM has not been consistently applied, and benchmarks were not consistently updated in this manner. In fact, the Advice Letters represent the first instance in which the CCM Formula Adjustment Mechanism has been triggered and proposed to be implemented in advice letters since the CCM was adopted. In prior instances of CCM Formula Adjustment Mechanism triggers, adjustments were either suspended or waived.<sup>59</sup> Similarly, the Utilities' ROEs and benchmarks were subject to fewer cost of capital application updates than envisioned by the CCM.<sup>60</sup> **Attachment B** reflects that, due to this historical inconsistent application of the CCM, the Utilities' 2023 authorized ROEs are already at levels reflecting a fair and reasonable rate of return under current market conditions.<sup>61</sup>

This assessment is supported by a comparison of changes in interest rates with changes in utility dividend yields between the Benchmark Period (October 2021 – September 2022) and Trigger Period (October 2022 - September 2023). Whereas utility bond interest rate changes exceeded the applicable benchmarks by more than 100 basis points over the past year, **Table 4** below reflects that utility dividend yields have only increased by approximately 35 basis points.<sup>62</sup> If an increase in ROE was truly explained by changes in market interest rates, one would expect utility dividend yield changes to align with increasing utility bond yield changes. This has not

---

<sup>56</sup> The Joint Protestants note that the protest is not attempting to litigate the prior Commission's decision to base the CCM on interest rate changes. Rather, this comparison is intended to show that current conditions warrant foregoing the adjustments.

<sup>57</sup> D. 08-05-035 at CoL 12, OP 1.

<sup>58</sup> *Id.*, at OP 1-2.

<sup>59</sup> See D.09-10-016, D.22-11-018.

<sup>60</sup> See D.17-07-005 (the Commission authorized a Joint Petition for Modification that slightly reduced the TY 2013 ROEs for 2018 and kept 2013 benchmarks in place); see also D. 19-12-056 (Authorizing the Utilities' TY 2020 ROEs and updated benchmarks in the first full Cost of Capital application proceeding since 2012).

<sup>61</sup> **Attachment B** at p. 4.

<sup>62</sup> **Attachment B** at p. 7.

been the case; hence, equity returns have not increased in response to, or in alignment with, increases in utility bond yields.

<u>Benchmark Period</u>		<u>Trigger Period</u>	
<u>Month</u>	<u>Dividend Yield</u> (1)	<u>Month</u>	<u>Dividend Yield</u> (2)
October-21	3.32%	October-22	3.41%
November-21	3.43%	November-22	3.21%
December-21	3.14%	December-22	3.29%
January-22	3.21%	January-23	3.31%
February-22	3.24%	February-23	3.59%
March-22	2.95%	March-23	3.46%
April-22	3.07%	April-23	3.40%
May-22	2.94%	May-23	3.68%
June-22	3.15%	June-23	3.59%
July-22	3.02%	July-23	3.51%
August-22	3.04%	August-23	3.78%
September-22	3.49%	September-23	4.01%
Average	3.17%	Average	3.52%

Notes:  
 PG&E and Constellation Energy Corporation were excluded from the index.  
 Data retrieved from S&P Global, 10/26/23.

The relative stability in utility stock valuations clearly indicates that the Utilities’ cost of common equity has not moved in line with the recent changes in utility bond yields that triggered the Formula Adjustment Mechanism in 2023.<sup>63</sup> Accordingly, the CCM adjustment should not apply in this case, since the CCM’s underlying assumptions about the highly correlative relationship between interest rates and cost of capital do not hold true.

<sup>63</sup> Attachment B at p. 7.

Furthermore, **Attachment B** cites to independent economists' projections that interest rates are expected to decrease over the next six quarters.<sup>64</sup> These projections track with the market evidence supporting the view that the recent interest rate increases are not reflective of the changes in Utilities' cost of common equity, and show that the increases are expected to be transitory over the rest of the 2023 Cost of Capital cycle. As such, it would be unjust and unreasonable, and discriminatory to implement the CCM adjustments and subject ratepayers to rate increases based on a temporary rise in interest rates that is expected to subside.<sup>65</sup>

### **C. The Adjustments Unreasonably Incentivize Natural Gas Capital Investments, Increasing the Risk of Stranded Gas Assets and Increasing the Heavy Rate Burden on Low-Income Customers**

An increase in ROE, as would be the case were the CCM adjustments to be implemented, reward and incentivize capital investments. With regard to the proposed upward adjustments to the ROE for the Utilities providing gas service (SoCalGas, SDG&E, and PG&E), such increases unreasonably incentivize significant continued investments in the natural gas system without adequate Commission review. The policies of both the state of California and this Commission are directed at achieving decarbonization and avoiding the risk of stranded gas infrastructure. As the Commission clearly stated in the recent Decision adopting General Order 177 regarding natural gas infrastructure, “[t]here is an urgent need to minimize the risk of stranded assets and rising energy bills, which place an especially heavy burden on low-income customers.”<sup>66</sup> The proposed automatic upward adjustment to ROE would both increase the risk of excessive gas investments and increase the already heavy burden on low-income customers.

## **IV. THE SHEER SIZE OF THE REVENUE REQUIREMENT IMPACT, EXCEEDING HALF A BILLION DOLLARS, RENDERS THE REQUEST INAPPROPRIATE FOR AN ADVICE LETTER PROCESS**

Although the CCM Formula Adjustment Mechanism provides for an advice letter process, the circumstances and concerns discussed above warrant a higher level of scrutiny in a formal Commission proceeding. GO 96-B explains the “advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial

---

<sup>64</sup> **Attachment B** at pp. 8-9 (citing to *Blue Chip Financial Forecasts*, October 2, 2023 at 2) (“However, the BCFF consensus thinks that the rise in longer-term market yields has mostly run its course. It looks for no further rise from current levels with longer-term yields gradually falling over the next six quarters.”).

<sup>65</sup> See D.09-10-016 (the Commission approved a Petition for Modification of D. 08-05-035 to forego SCE and PG&E’s ROE increases caused by the 2008 financial crisis “that could be reversed in a year’s time as the financial markets stabilize.”).

<sup>66</sup> D.22-12-021 at p. 71.

nor to raise important policy questions.”<sup>67</sup> In contrast, the Advice Letters’ significant ratepayer impacts and important policy questions are *highly* controversial, as indicated by the sixteen parties joining this protest, several of which have not traditionally engaged in cost of capital cases and are protesting a cost of capital matter for the first time.<sup>68</sup>

Furthermore, if implemented, the CCM Formula Adjustment Mechanism would increase annual revenue requirements by over *half a billion dollars*, an amount that far exceeds the total amount typically requested and litigated in the Utilities’ full Cost of Capital applications. In fact, the Utilities’ respective Advice Letters reflect increases that are on par or exceed many of the revenue requirement increases being considered in open Commission proceedings.<sup>69</sup> Moreover, this annual increase would apply for the remainder of the current cost of capital cycle, unless the CCM is triggered again next fall. Consistent with the Commission’s heightened attention to issues of affordability in recent years, the Commission should not delegate this controversial matter to Staff for a ministerial review. Accordingly, the advice letter process is not the appropriate forum to consider and implement bill impacts of this magnitude.

## **V. THE CCM ADJUSTMENTS SHOULD BE SUSPENDED AND ADDRESSED IN THE 2023 COST OF CAPITAL PROCEEDING**

The Commission is currently considering issues related to the CCM in the second phase of the 2023 Cost of Capital proceeding. In D.22-12-035, the Commission stated that the CCM would be in effect during the current cost of capital cycle, “unless modified by subsequent Commission decision.”<sup>70</sup> On September 20, 2023, the Commission identified CCM modifications as one of the issues to be considered over the next several months.<sup>71</sup> On October 31, 2023, the Commission issued a ruling in A.22-08-004 et al., adopting a scope and schedule for Phase 2 that includes modifications to the CCM, with testimony and briefing to occur in the first half of 2024.<sup>72</sup> The Commission should therefore temporarily suspend the CCM mechanism, reject the Advice Letters, and evaluate the need for CCM modifications in the Cost of Capital proceeding. In that forum, the Commission can consider the application of the CCM during this cost of capital cycle, as well as other policy changes pending in Phase 2 that may impact the authorized cost of capital. It would be inappropriate to increase revenue requirements while the Commission is actively considering modifications that could reverse these increases in a year’s

---

<sup>67</sup> GO 96-B, Rule 5.1

<sup>68</sup> AECA, CLECA, CMTA, CLFP, and DACC.

<sup>69</sup> See **Attachment A**.

<sup>70</sup> D.22-12-035 at OP 6.

<sup>71</sup> *Administrative Law Judge’s Ruling Regarding Resolution of the Remaining Issues Scoping into this Proceeding*, A. 22-04-008 et al., September 20, 2023.

<sup>72</sup> *Administrative Law Judge’s Ruling Outlining Phase 2 Issues and Schedule*, A. 22-04-008 et al., October 31, 2023.

ED Tariff Unit  
CPUC Energy Division  
November 2, 2023  
Page 16

time. Accordingly, the Joint Protestants respectfully request the Commission suspend any CCM adjustments while the Commission addresses concerns with the CCM's operation and ratepayer impacts in the 2023 Cost of Capital Proceeding.

## VI. CONCLUSION

The Joint Protestants appreciate the Commission's attention to these important concerns and the relief requested; we urge the Commission to reject the Advice Letter requests to increase ratepayers' burdens by increasing utility ROEs. This protest was sent to PG&E, SCE, SoCalGas, and SDG&E no later than the day on which the protest was submitted to Energy Division.

Very truly yours,

BUCHALTER  
A Professional Corporation



Nora Sheriff  
Counsel to the Energy Producers and Users Coalition, the Indicated Shippers, the California Large Energy Consumers Association, and on behalf of Agricultural Energy Consumers Association, California League of Food Producers, California Manufacturers and Technology Association, Direct Access Customer Coalition, Environmental Defense Fund, Energy Users Forum, California Farm Bureau Federation, Federal Executive Agency, Small Business Utility Advocates, The Utility Reform Network, Public Advocates Office, Walmart Inc., Wild Tree Foundation

NS:mm

cc: A. 22-04-008 service list  
Tariffs@socalgas.com  
Connor Flanigan (AdviceTariffManager@sce.com)  
Marissa Blunschi (c/o Karyn Gansecki: Karyn.Gansecki@sce.com)  
Greg Anderson (GAnderson@sdge.com & SDGETariffs@sdge.com)  
Sidney Bob Dietz II (c/o Megan Lawson: PGETariffs@pge.com)

## Attachment A

### **Utilities' Itemized Lists of Revenue Requirements (Summary of Selected Data) as of September 1, 2023<sup>1</sup>**

<sup>1</sup> Served on the R. 18-07-006 service list on September 1, 2023 and available at: <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/affordability/quarterly-revenue-request-reports>

**Pacific Gas & Electric Company  
Electric Revenue Requirements Q3 2023  
(Summary of Selected Data)<sup>2</sup>**

<sup>2</sup> Summary of Selected Data was not included in PG&E's itemized list of gas revenue requirements.

Summary of Selected Data

	Revenue Requirement \$000	
1 Current total system-level revenue requirement that is used for defining the reporting threshold:	17,759,989	
A One-percent reporting threshold	177,600	
2 List of currently open proceedings that exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):		
A A.21-06-021 2023 GRC	3,762,248	
B A.22-12-009 2022 WMCE	176,101	
C A.22-05-002 Demand Response	199,905	
D A.23-07-012 2023 ERRA Trigger	620,000	
E A.23-06-008 Wildfire Gas and Safety Costs	506,987	
F A.21-09-008 2021 WMCE (VMBA)	295,765	
3 List of currently open proceedings for which affordability metrics have been filed:		
A A.21-06-021 2023 GRC Note: Ordered in ACR Scoping Memo and Ruling filed October 1, 2021	3,762,248	
B A.22-12-009 2022 WMCE	176,101	
C A.23-05-012 2024 ERRA Forecast Note: While this proceeding's revenue requirement does not exceed the threshold, affordability metrics were filed.	(\$183,230)	
D A.23-06-008 Wildfire Gas and Safety Costs	\$506,987	
E A.23-07-012 2023 ERRA Trigger	\$620,000	
4 List of currently open proceedings that do not exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):		
A A.18-11-015 Customer Data Access - Click-Through	3,551	
B A.21-06-021 2023 GRC Phase I Track 2	17,857	
C A.23-05-012 2024 ERRA Forecast	(\$183,230)	
D D.23-04-057 Santa Nella	\$3,570	
E A.21-12-007 Nuclear Decommissioning Adjustment	\$0	
5 Total system-level revenue requirement if all pending revenue were granted in full:		
A YE 2023	23,647,071	
B YE 2024	20,436,745	
C YE 2025	17,850,046	
D YE 2026	17,215,968	
6 Bundled residential average rate (RAR) if all pending revenue were granted in full (from Cost and Rate Tracker (CRT) as submitted by utility):		<u>cents/kWh</u>
A YE 2023		41.6
B YE 2024		36.7
C YE 2025		32.9
D YE 2026		32.0
7 Bundled residential average monthly bill corresponding to RAR above for typical customer in climate zone X using 500 kWh (from CRT as submitted by utility):		<u>Non-CARE    CARE</u>
A YE 2023		\$249.64    \$160.12
B YE 2024		\$219.93    \$140.79
C YE 2025		\$196.60    \$125.62
D YE 2026		\$191.54    \$122.33

**Southern California Edison  
Electric Revenue Requirements Q3 2023  
(Summary of Selected Data)**

Summary of Selected Data

			2023 Revenue Requirement \$000
1 Current total system-level revenue requirement that is used for defining the reporting threshold:			\$17,378,755
A One-percent reporting threshold			\$173,788
2 List of currently open proceedings that exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):			Annual Revenue
A	A.19-08-013	2021 GRC Track 4 (2024 Attrition Bridge Year)	\$8,371,337
B	A.23-05-010	2025 GRC	\$10,363,325
C	A.23-06-001	2024 ERRR Forecast	\$4,932,045
D	A.22-06-003	2021 WM/VM (2021 over authorized)	\$327,000
E	A.22-03-018	2022 CEMA (2020 Storms)	\$198,000
F	A.22-03-007	2024-2027 EE Application (Inc. IDSM)	\$431,000
G	A.23-08-013	TKM CEMA/WEMA FRC	\$189,846
H	A.21-12-009	Building Electrification	\$73,507
I	A.22-05-004	2023-2027 Demand Response	\$54,309
			Reduction from prior year
			Sum of requested years exceeds thr
			Sum of requested years exceeds thr
3 List of currently open proceedings for which affordability metrics have been filed:			Annual Revenue
A			
4 List of currently open proceedings that do not exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):			Annual Revenue
A	A.21-09-019	2021 CEMA/WEMA - 2019/2020 Drought, COVID, 2018-2019 Storm Events, Property Ins	\$132,148
B	A.22-04-001	2021 ERRR Review	\$25,706
C	Advice 4881-E	Z-Factor AL for Track 3 Category 2 Veg Costs	\$35,772
D	A.18-11-025, -026, -027	Click Through Authorization Process	\$1,983
E	A.23-04-003	2022 ERRR Review	\$50,874
G	TO 2024	2024 FERC Base TRR	\$1,128,936
			Reduction from prior year
5 Total system-level revenue requirement if all pending revenue were granted in full: requests were granted in full			
A		YE 2023	17,534,741
B		YE 2024	16,272,352
C		YE 2025	17,645,192
D		YE 2026	18,598,969
E		YE 2027	19,125,054
F		YE 2028	19,635,048
6 Bundled residential average rate (RAR) if all pending revenue were granted in full (from Cost and Rate Tracker (CRT) as submitted by utility):			cents/kWh
A		YE 2023	30.4
B		YE 2024	28.0
C		YE 2025	30.3
D		YE 2026	31.9
E		YE 2027	32.4
F		YE 2028	32.8
7 Bundled residential average monthly bill corresponding to RAR above for typical customer in climate zone 9 using 500 kWh (from CRT as submitted by utility):			Non-CARE    CARE
A		YE 2023	\$203.92    \$133.95
B		YE 2024	\$183.73    \$120.32
C		YE 2025	\$199.34    \$130.86
D		YE 2026	\$208.15    \$136.81
E		YE 2027	\$209.26    \$137.56
F		YE 2028	\$210.04    \$138.09

**Southern California Gas Company  
Gas Revenue Requirements Q3 2023  
(Summary of Selected Data)**

**SoCalGas Revenue Requirement List**

**Annual Period 2023**

**Reporting Date: Quarter Ended September 30**

**Summary of Selected Data**

		Revenue Requirement \$000
		<u>                    </u>
1	Current total system-level revenue requirement that is used for defining the reporting threshold:	\$7,898,617
	A One-percent reporting threshold	\$78,986
2	List of currently open proceedings that exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):	
	A A.22-05-015 2024 GRC Application	\$5,344,497
	B AL 6060 TIMPBA	\$234,719
3	List of currently open proceedings for which affordability metrics have been filed:	
	A A.22-05-015 2024 GRC Application	\$5,344,497
4	List of currently open proceedings that do not exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):	
	A A.22-05-015 Pipeline Safety Enhancement Plan (PSEP) GRC - Local Transmission	(\$5,487)
	B A.22-05-015 Pipeline Safety Enhancement Plan (PSEP) GRC -Distribution	\$63,455
	C A.22-05-015 NonCore Backbone Transmission	\$22,240
	D A.22-09-006 Hydrogen Blending	\$14,979
	E AL 5950 Natural Gas Leak Abatement	\$18,069
	F A.22-03-008 Energy Efficiency	\$60,415
	G A.23.01-004 Demand Response	\$12,500
5	Total system-level revenue requirement if all pending revenue were granted in full:	
	A YE 2023	\$7,903,455
	B YE 2024	\$8,770,288
	C YE 2025	\$8,373,714
	D YE 2026	\$8,637,449
	E YE 2027	\$6,114,354
6	Bundled residential average rate (RAR) if all pending revenue were granted in full (from Cost and Rate Tracker (CRT) as submitted by utility):	<u>cents/therm</u>
	A YE 2023	215.9
	B YE 2024	247.8
	C YE 2025	249.9
	D YE 2026	258.3
	E YE 2027	184.1

**San Diego Gas & Electric Company  
Electric Revenue Requirement List  
(Summary of Selected Data)**

**SDG&E Electric Revenue Requirement List**  
**Annual Period 2023**  
**Reporting Date: Quarter Ended September 30**  
**Submitted: September 1, 2023**

Summary of Selected Data

		<u>Revenue Requirement (\$000)</u>		
1	Current total system-level revenue requirement that is used for defining the reporting threshold:	\$4,376,474		
	A One-percent reporting threshold	\$43,765		
2	List of currently open proceedings that exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):	<u>Incremental Rev Req</u>		
	A A.22-05-003 2023-2027 Demand Response (Distribution & Generation)	\$48,322		
	B A.22-05-016 2024 GRC	\$1,198,071		
	C A.22-12-008 2020-2021 Tree Trimming Balancing Account (TTBA)	\$72,898		
3	List of currently open proceedings for which affordability metrics have been filed:	<u>Incremental Rev Req</u>		
	A A.22-05-016 2024 GRC	\$1,198,071		
	B A.22-05-016 2024 GRC P2*	\$0		
	C A.22-12-008 2020-2021 Tree Trimming Balancing Account (TTBA)	\$72,898		
4	List of currently open proceedings that do not exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):	<u>Incremental Rev Req</u>		
	A A.18-11-017 Click-Through	\$1,435		
	B A.21-12-006 Real Time Pricing (RTP) Pilot	\$2,122		
	C A.22-10-021 Catastrophic Events Memorandum Account (CEMA)	\$32,238		
	D A.23-05-013 2024 ERRR Forecast	(\$88,953)		
5	Total system-level revenue requirement if all pending revenue were granted in full:			
	A YE 2023	\$4,376,474		
	B YE 2024	\$4,535,870		
	C YE 2025	\$4,883,760		
	D YE 2026	\$5,054,762		
	E YE 2027	\$5,298,103		
6	Bundled residential average rate (RAR) if all pending revenue were granted in full (from Cost and Rate Tracker (CRT) as submitted by utility):		<u>cents/kWh</u>	
	A YE 2023		40.2	
	B YE 2024		38.8	
	C YE 2025		45.5	
	D YE 2026		46.9	
	E YE 2027		48.7	
7	Bundled residential weighted average monthly bill corresponding to RAR above for typical customer in Coastal climate zone using 400 kWh on Basic service (from CRT as submitted by utility):		<u>Non-CARE</u>	<u>CARE</u>
	A YE 2023		\$185.99	\$121.08

**SDG&E Electric Revenue Requirement List**  
**Annual Period 2023**  
**Reporting Date: Quarter Ended September 30**  
**Submitted: September 1, 2023**

Summary of Selected Data

B	YE 2024	\$181.00	\$117.84
C	YE 2025	\$208.64	\$135.81
D	YE 2026	\$214.56	\$139.65
E	YE 2027	\$222.65	\$144.91

\* Rate design proceeding which does not request incremental revenues; however, pursuant to D.22-08-023, OP 7, the Commission required SDG&E to submit affordability metrics.

**San Diego Gas & Electric Company  
Gas Revenue Requirement List  
(Summary of Selected Data)**

**SDG&E Gas Revenue Requirement List**  
**Annual Period 2023**  
**Reporting Date: Quarter Ended September 30**  
**Submitted: September 1, 2023**

Summary of Selected Data

		Revenue Requirement \$000		
1	Current total system-level revenue requirement that is used for defining the reporting threshold:	\$1,229,992		
	A One-percent reporting threshold	\$12,300		
2	List of currently open proceedings that exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):			
	A A.22-05-016 2024 GRC Application	\$659,591		
	B A.22-05-016 Pipeline Safety Enhancement Plan (PSEP) - High Pressure Distribution	\$40,844		
	C A.22-09-006 Hydrogen Blending	\$13,784		
	E A.22-03-005 Energy Efficiency	\$47,840		
3	List of currently open proceedings for which affordability metrics have been filed:			
	A A.22-05-016 2024 GRC Application	\$659,591		
4	List of currently open proceedings that do not exceed the threshold for use of the affordability metrics (proceedings shaded gray filed prior to D.22-08-023):			
	A A.22-05-016 Pipeline Safety Enhancement Plan (PSEP) -Local T	(\$706)		
	B A.22-10-021 Catastrophic Event Memorandum Account (CEMA)	\$7,122		
	C A.22-05-016 TAMPBA	\$8,045		
	D AL 3071-G Natural Gas Leak Abatement	\$3,014		
5	requests were granted in full	Total		
	A YE 2023	\$1,233,244		
	B YE 2024	\$1,285,106		
	C YE 2025	\$1,264,734		
	D YE 2026	\$1,367,857		
	E YE 2027	\$980,165		
6	Bundled residential average rate (RAR) if all pending revenue were granted in full (from Cost and Rate Tracker (CRT) as submitted by utility):		cents/Therm	
	A YE 2023		266.9	
	B YE 2024		294.8	
	C YE 2025		293.4	
	D YE 2026		320.4	
	E YE 2027		223.4	
7	Bundled residential average monthly bill corresponding to RAR above for typical customer using a Typical 5-year average usage (from CRT as submitted by utility):		Non-CARE	CARE
	A YE 2023		\$66.00	\$42.37
	B YE 2024		\$72.90	\$46.81
	C YE 2025		\$72.58	\$46.60
	D YE 2026		\$79.24	\$50.87
	E YE 2027		\$55.24	\$35.47

**Attachment B**

**Affidavit of Michael P. Gorman in Support of Joint Protest**

**Affidavit of Michael P. Gorman**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**Q1 PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A Michael P. Gorman. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

**Q2 WHAT IS YOUR OCCUPATION?**

A I am a consultant in the field of public utility regulation and a Managing Principal of the firm of Brubaker & Associates, Inc. ("BAI"), energy, economic and regulatory consultants.

**Q3 WHAT IS THE PURPOSE OF YOUR AFFIDAVIT?**

A I will respond to Advice Letter ("AL") filings by Southern California Edison Company ("SCE") (AL 5120-E), Southern California Gas Company ("SoCalGas") (AL 6207-G), Pacific Gas and Electric Company ("PG&E") (AL 4813-G/7406-E), and San Diego Gas & Electric ("SDG&E") (AL 4300-E/3239-G) filed in October of this year requesting an increased return on equity ("ROE") based on a Cost of Capital Mechanism ("CCM") trigger adjustment to be effective January 1, 2024.

**Q4 SHOULD THE COMMISSION APPROVE AN INCREASE IN THE 2024 ROE BASED ON THE CCM TRIGGER MECHANISM?**

A No. An adjustment to the authorized ROE under the CCM as proposed by the Utilities would not produce an ROE that is just and reasonable, and would expose customers to paying rates in excess of a just and reasonable level for the following reasons:

1. The CCM was originally adopted in 2008. However, in 2009 the Commission approved an agreement between SCE and the Division of Ratepayer Advocate ("DRA") to leave in place the current authorized ROE in 2010, and directed the Utility to file a Cost of Capital application in 2012 based on a

1 2013 test year. Similarly, PG&E and DRA jointly filed a petition to modify  
2 PG&E's requirements to leave in effect its current authorized ROE in 2010,  
3 and extend the Company's Cost of Capital application for 2013 based on a  
4 2012 test year.<sup>1</sup> Based on this decision to delay changes in ROE until after  
5 2010, I reviewed the CCM mechanisms from 2010 through 2023. This was  
6 the time period that followed modification of the CCM mechanism approved  
7 in 2008, and tracks changes in ROE based on the workings of the CCM.

8 2. From 2020 to 2023, adjustments to ROE based on the CCM mechanism  
9 had exceeded the decline in authorized ROEs for California Utilities during  
10 the same time period. Hence, the authorized ROE approved for 2024  
11 already reflects CCM adjustments based on changes in interest rates since  
12 2010. Market evidence indicates that the Utilities' 2024 cost of common  
13 equity has not increased from the current authorized returns, and equity  
14 costs have not changed in line with changes in bond interest rates in the  
15 Benchmark versus Trigger time periods. Therefore, the CCM trigger  
16 mechanism does not produce a just and reasonable ROE for 2024.

17 3. Consensus market participant outlooks are for long-term interest rates to  
18 decline from current highs, and trigger period interest rates are not a good  
19 reflection of capital market costs during 2024. Adjusting the ROE for  
20 prospective rates when interest rates are not expected to remain high will  
21 expose customers to excessive ROE charges in rates.

## 22 **Consistent CCM Application**

23 **Q5 WHY DO YOU CONCLUDE THAT CONSISTENT APPLICATION OF THE CCM**  
24 **ADJUSTMENTS TO THE ROE, HAD THEY BEEN CONSISTENTLY APPLIED,**  
25 **WOULD NOT RESULT IN AN INCREASE IN THE ROE FOR 2024?**

26 A I state this based on a review of the interest rate benchmarks and trigger mechanism  
27 for CCMs since they were implemented in 2008. The Commission has never adjusted  
28 the ROE based on the CCM mechanisms in prior rates, and it should not do so here.

29 Prior application of the CCM over time would have resulted in reductions in ROE  
30 based for Baa-rated utilities of:

- 31 1. A 62 basis point decrease in 2012;
- 32 2. A 59 basis points decrease in 2021; and

---

<sup>1</sup>Application 07-05-003, Application 07-05-007, and Application 07-05-008, date of issuance of Decision December 15, 2009.

1                   3. A 70 basis points increase in 2023.  
2                   The equity return adjustments would be implemented in the subsequent year.  
3                   The CCM indicated adjustments over this time are shown below in **Table 1** for utilities  
4                   with Baa-rated utility bonds.

<u>Month</u>	<u>CCM Adjustment</u>			<u>ROE Adjustment (4) = 0.5 * (3)</u>
	<u>Benchmark<sup>1</sup> (1)</u>	<u>Trigger<sup>2</sup> (2)</u>	<u>Int. Rate Change (3) = (2) - (1)</u>	
<b>2010</b>	6.20%	6.05%	-0.15%	
<b>2011</b>	6.20%	5.75%	-0.45%	
<b>2012</b>	6.20%	4.97%	-1.23%	-0.62%
<b>2013</b>	5.00%	4.80%	-0.20%	
<b>2014</b>	5.00%	4.93%	-0.07%	
<b>2015</b>	5.00%	4.82%	-0.18%	
<b>2016</b>	5.00%	4.91%	-0.09%	
<b>2017</b>	5.00%	4.48%	-0.52%	
<b>2018</b>	5.00%	4.48%	-0.52%	
<b>2019</b>	5.00%	4.50%	-0.50%	
<b>2020</b>	4.50%	3.53%	-0.97%	
<b>2021</b>	4.50%	3.33%	-1.17%	-0.59%
<b>2022</b>	4.50%	4.36%	-0.14%	
<b>2023</b>	4.37%	5.78%	1.41%	0.70%

Notes:  
Source: <https://credittrends.moody.com/>.  
<sup>1</sup>Benchmark was set in the October 2006-September 2007 period and changes when a new trigger is set.  
<sup>2</sup>Average yields from October-September of the current year.  
In 2009, 2013, 2020, and 2023, CCM Benchmarks changed due to cost of capital rate cases.

1           A consistent application of CCM adjustments to the authorized ROE would have  
2           amounted to a decrease to PG&E and SCE's authorized return on equity in 2012, and  
3           then again in 2021. Neither of those CCM ROE reductions were implemented.<sup>2</sup> The  
4           combined effect of all three CCM-indicated ROE adjustments over the period 2010-  
5           2023 would have been two decreases in the authorized ROE of 111 basis points in  
6           2012 and 2021, offset by the 70 basis point increase in the authorized ROE of the  
7           Utilities in 2024. Authorized ROEs were adjusted based on a CCM with a test year of  
8           2013. So simply looking at the CCM adjustments post-2013 would indicate that a  
9           decrease in the ROE of 59 basis points would have been appropriate in 2021, offset by  
10          a nearly equal increase in 2023 of 70 basis points. This would only be approximately  
11          an 11 basis point adjustment to the ROE authorized in 2013.

12   **Q6    IF UTILITIES' ROE HAD BEEN CALIBRATED OVER A THREE-YEAR COST OF**  
13   **CAPITAL CYCLE AND ANNUALLY ADJUSTED BASED ON CCM REFLECTIONS**  
14   **AND CHANGES IN INTEREST RATES, COULD THE COMMISSION HAVE MORE**  
15   **CONFIDENCE THAT THE ROE USED TO SET RATES YEAR IN AND YEAR OUT**  
16   **WOULD HAVE BEEN FAIR AND REASONABLE TO BOTH UTILITIES AND**  
17   **CUSTOMERS?**

18   A    Yes. However, inconsistent application of the CCM, and deferral of Cost of Capital  
19    proceedings, have distorted the process, with the result that both shareholders and  
20    customers are not being fairly treated under both the Cost of Capital three-year cycle  
21    and the annual CCM adjustments to the ROE used to set utility revenue requirements  
22    in between Cost of Capital filings. The Commission should ensure that the authorized

---

<sup>2</sup>The CCM ROE adjustment did not apply because the Utilities were required to file Cost of Capital applications in 2012 (A. 12-04-015 et al.). The Commission authorized TY 2013 ROEs in D. 12-12-034 and updated the Utilities' ROE benchmarks beginning 2013 in D. 13-03-015.

1 ROE reflects complete evidence of what the current market cost of equity is, and ensure  
2 that it is fair to both shareholders and to customers. Because of this, any adjustment in  
3 the 2024 cost of capital based on only the Utilities' CCM advice letter filings should be  
4 rejected.

5 **Q7 HOW HAVE UTILITIES' AUTHORIZED RETURNS ON EQUITY VARIED OVER THIS**  
6 **TIME PERIOD?**

7 A The Utilities' authorized returns on equity as a result of both CCM adjustments and  
8 periodic Cost of Capital filings are summarized in **Table 2** below.

**TABLE 2**  
**Authorized ROE by Utility 2013-2023**

<b>Date</b>	<b>PG&amp;E -Electric</b>	<b>PG&amp;E - Gas</b>	<b>SDG&amp;E</b>	<b>SoCalGas</b>	<b>SCE</b>
<b>2013</b>	10.40%	10.40%	10.30%	10.10%	10.45%
<b>2014</b>	10.40%	10.40%	10.30%	10.10%	10.45%
<b>2015</b>	10.40%	10.40%	10.30%	10.10%	10.45%
<b>2016</b>	10.40%	10.40%	10.30%	10.10%	10.45%
<b>2017</b>	10.40%	10.40%	10.30%	10.10%	10.45%
<b>2018</b>	10.25%	10.25%	10.20%	10.05%	10.30%
<b>2019</b>	10.25%	10.25%	10.20%	10.05%	10.30%
<b>2020</b>	10.25%	10.25%	10.20%	10.05%	10.30%
<b>2021</b>	10.25%	10.25%	10.20%	10.05%	10.30%
<b>2022</b>	10.25%	10.25%	10.20%	10.05%	10.30%
<b>2023</b>	10.00%	10.00%	9.95%	9.80%	10.05%

9  
10

11 CCM adjustments apply a relatively small change in the authorized ROEs based on  
12 this limited market measurement factor, changes in interest rates. However, based on  
13 the Commission's review of a full record on estimates of changes in capital market  
14 costs generally, and specifically increases in the Utilities' cost of equity, shows a larger  
15 decline in the cost of equity for the California Utilities. **Table 2** above shows authorized  
16 ROEs changing based on Cost of Capital proceedings in test year 2013 and in 2018.

1 Commission-authorized ROEs must be made with recognition of more than just  
2 changes in interest rates.

3 **Q8 WHY DO YOU BELIEVE THAT THE MARKET EVIDENCE DOES NOT SUPPORT**  
4 **AN INCREASE IN ROE IN LINE WITH CHANGES IN INTEREST RATES?**

5 A Utility stock price valuations have stayed far more stable compared to utility bond  
6 prices. This difference in valuation or price stability is evidenced by a comparison of  
7 the change in yields between stocks and bonds – annual dividend/coupon payment  
8 divided by the stock/bond market price. As noted by the Utilities, the change in utility  
9 bond yield between the Trigger Period (12-month period ending September 2023) and  
10 the Benchmark Period (12-month period ending September 2022) has been more than  
11 100 basis points for both Baa and A Moody’s-rated utility bonds. Indeed, the change in  
12 A and Baa yields has been around 1.4 percentage points over the Benchmark and  
13 Trigger periods. In significant contrast to this change in utility bond yields during the  
14 Benchmark to Trigger Point time periods, the change in utility stock yields has only  
15 been approximately 35 basis points. This is shown below in **Table 3**, with an average  
16 Trigger Period utility stock yield of 3.52%, compared to a utility stock yield during the  
17 Benchmark Period of 3.17%.

<u>Benchmark Period</u>		<u>Trigger Period</u>	
<u>Month</u>	<u>Dividend Yield</u> (1)	<u>Month</u>	<u>Dividend Yield</u> (2)
October-21	3.32%	October-22	3.41%
November-21	3.43%	November-22	3.21%
December-21	3.14%	December-22	3.29%
January-22	3.21%	January-23	3.31%
February-22	3.24%	February-23	3.59%
March-22	2.95%	March-23	3.46%
April-22	3.07%	April-23	3.40%
May-22	2.94%	May-23	3.68%
June-22	3.15%	June-23	3.59%
July-22	3.02%	July-23	3.51%
August-22	3.04%	August-23	3.78%
September-22	3.49%	September-23	4.01%
Average	3.17%	Average	3.52%

Notes:  
PG&E and Constellation Energy Corporation were excluded from the index.  
Data retrieved from S&P Global, 10/26/23.

1            This comparison of utility stock index to the utility bond index shows there is  
2 significantly more stability in utility stock valuations in the Trigger Period to the  
3 Benchmark Period, compared to utility bond valuations. Because stocks have remained  
4 more stable in the face of increasing levels of inflation than have bond investments and  
5 other market factors, this is a clear indication that the Utilities' cost of common equity  
6 has not moved in line with changes in utility bond yields. To the contrary, utility stock  
7 valuations have remained relatively stable, and utilities' market-required ROE, which is  
8 largely determined by variations in stock price valuation, has also remained relatively  
9 stable.



1 levels with longer-term yields gradually falling over the next six  
2 quarters.<sup>3</sup>

3 **Q11 SHOULD THE UTILITIES' PROPOSAL TO INCREASE THEIR AUTHORIZED ROE**  
4 **STARTING IN 2024 UNDER THE CCM BE APPROVED?**

5 A No. The proposed adjustments to the authorized ROE would result in an ROE that is  
6 not reasonable, because it exceeds current capital market costs and is based on an  
7 interest rate to equity cost premium that does not align with current capital market cost  
8 differences for equity versus utility debt securities. The increase in the authorized ROE  
9 will produce an excessive increase in the Utilities' revenue requirement and retail rates.  
10 Customers under the proposed change in the authorized ROE would be harmed  
11 because rates would be set above a just and reasonable level.

12 **Q12 DOES THIS CONCLUDE YOUR AFFIDAVIT?**

13 A Yes, it does.

480289

---

<sup>3</sup>Blue Chip Financial Forecasts, October 2, 2023 at 2.

---

November 9, 2023

Energy Division  
Attention: Tariff Unit  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: Reply to Joint Protest of Southern California Edison Company Advice 5120-E, Pacific Gas and Electric Company Advice 4813-G/7046-E, San Diego Gas & Electric Company Advice 4300-E/3239-G, and Southern California Gas Company Advice 6207-G

Dear Energy Division Tariff Unit:

In accordance with Section 7.4.3 of General Order (GO) 96-B of the California Public Utilities Commission (Commission or CPUC), Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas) (collectively, the Utilities) hereby reply to Joint Protestors<sup>1</sup> November 2, 2023 Protest (the Joint Protest) to SoCalGas Advice 6207-G, PG&E Advice 4813-G/7046-E, SCE Advice 5120-E, and SDG&E Advice 4300-E/3239-G (collectively, the Advice Letters).

On October 13, 2023, the Utilities timely submitted the Advice Letters to adjust the Utilities' authorized cost of capital for 2024 and associated tariffs pursuant to the procedures set forth in Decision (D.) 08-05-035 (2008 Cost of Capital Decision), which established the Cost of Capital Mechanism (CCM), and as continued for this cost of capital cycle in D.22-12-031 (2023 Cost of Capital Decision).

As discussed further below, the Joint Protest fails to comply with Section 7.4.2 of GO 96-B. The Joint Protest does not identify any appropriate grounds for suspending timely implementation of the automatic trigger. GO 96-B specifically provides that a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order

---

<sup>1</sup> The Joint Protestors are the Agricultural Energy Consumers Association, California Large Energy Consumers Association, California Farm Bureau, California League of Food Producers, California Manufacturers and Technology Association, Direct Access Customer Coalition, Energy Producers and Users Coalition (EPUC), Energy Users Forum, Environmental Defense Fund, Federal Executive Agencies, the Indicated Shippers (IS), Small Business Utility Advocates, The Utility Reform Network (TURN), Public Advocates Office at the California Public Utilities Commission, Walmart Inc., and Wild Tree Foundation.

applicable to the utility.<sup>2</sup> The Commission already determined in the 2023 Cost of Capital Decision that implementation of the automatic trigger results in just and reasonable rates in these circumstances, and Joint Protestors acknowledge that the Utilities submitted the Advice Letters in compliance with the 2008 Cost of Capital Decision and 2023 Cost of Capital Decision.<sup>3</sup> Joint Protestors' policy arguments should therefore be rejected as they are contrary to Section 7.4.2 of GO 96-B and constitute inappropriate collateral attacks on the Commission's prior cost of capital decisions. And even if the Energy Division were to consider Joint Protestors' policy arguments as to why the CCM should not be implemented, they are without merit.

Accordingly, the Utilities respectfully request that the Energy Division timely approve the Advice Letters through disposition letter as provided in Section 7.6.1 of GO 96-B so that rate changes can be implemented by January 1, 2024, as required by prior Commission decisions.

## **UTILITIES' REPLY TO PROTEST**

### **1. Joint Protestors Have Not Identified Appropriate Grounds for Protest**

The Utilities followed the rules established by the Commission to implement the automatic adjustment. The Joint Protestors' arguments, by contrast, are contrary to the governing tariffs and constitute policy arguments not appropriate for this prescribed Advice Letter process. They are instead collateral attacks on the 2008 and 2023 Cost of Capital Decisions and should be rejected.

#### **A. The Utilities Followed the Proper Process and the Automatic Adjustment Should be Implemented, as Mandated by the Commission**

The Commission's established process for implementing the CCM change is clear and indeed recognized by the Joint Protestors. The Joint Protestors acknowledge that under the 2008 and 2023 Cost of Capital Decisions, during an interim year when the CCM applies, there are only two methods for changing the cost of capital—(i) the CCM process or (ii) a utility off-cycle application.<sup>4</sup> And the Joint Protestors further acknowledge that the CCM process “provides for an *automatic* upward or downward adjustment in an off-cycle year, where the difference between the trailing 12-month October through September average change in Moody's utility bond rates and the

---

<sup>2</sup> GO 96-B Section 7.4.2.

<sup>3</sup> GO 96-B Section 7.4.2 (where “the Commission has approved a rate change, an advice letter submitting tariff sheets in compliance with the Commission order approving the rate change is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory”).

<sup>4</sup> Joint Protest at 7 (“Accordingly, the CCM requires the Utilities to file cost of capital applications every three years, and authorizes two methods for changing cost of capital in an interim year: the Formula Adjustment Mechanism; and the off-cycle application”) (citations omitted). *Accord* D.22-11-018 at 3 (“During the three-year cycle, the return on revenue may change in two ways”—“[o]ne way is the CCM adjustment,” and the other way is a utility filing “a cost of capital application outside the CCM process upon an extraordinary or catastrophic event”).

Utility's benchmark exceeds 100 basis points.”<sup>5</sup> Therefore, the Commission has already determined that the cost of capital is just and reasonable under the circumstances when the CCM is triggered. As the Commission recently found, if “the CCM adjustment is triggered by the change in Moody's utility bond rates during the measurement period, then the ROE adjusts the next year, without a full cost of capital proceeding.”<sup>6</sup>

That automatic adjustment is effectuated through an advice letter. As the 2008 Cost of Capital Decision states, an “automatic adjustment to the utilities' returns on equity (ROE) *shall* be made by an October 15 advice letter to become effective on January 1 of the next year.”<sup>7</sup> This same process is enshrined in SDG&E, SoCalGas, and SCE's tariffs,<sup>8</sup> which have the force and effect of law.<sup>9</sup>

The CCM has triggered for the Utilities for 2024. Per the 2008 and 2023 Cost of Capital Decisions, the Utilities filed their required Advice Letters on October 13, 2023.<sup>10</sup> Under those decisions, the CCM must be automatically implemented through the Advice Letters. The Joint Protestors—many of whom were parties to those prior cost of capital proceedings and are fully familiar with these established processes—cannot credibly claim otherwise.o

### **B. The Joint Protest Is Premised on Impermissible Policy Arguments and Should be Rejected**

Rather than abide by the Commission-mandated process, the Joint Protestors protest the Advice Letters under the “Protests and Responses” provisions of GO 96-B, which sets forth the rules governing advice letters. But the Joint Protestors lack any legal basis for the relief they seek of suspending the CCM.<sup>11</sup> Instead, they impermissibly raise policy arguments, none of which are permitted under Commission precedent.

The principal function of the advice letter process is to provide speed and efficiency in processing routine tariff filings by the utilities.<sup>12</sup> As the Commission determined in its

---

<sup>5</sup> Joint Protest at 7 (citing D.08-05-035 at 15) (emphasis added).

<sup>6</sup> D.22-11-018 at 3.

<sup>7</sup> D.08-05-035 at 15 (emphasis added); see *also* D.21-12-029 at 8 (finding that the CCM advice letter must be filed even when a utility files an “extraordinary or catastrophic event” application).

<sup>8</sup> See SCE Preliminary Statement CCC, Section 5 (“SCE will submit a Tier 2 advice letter on October 15 to implement the automatic Cost of Capital adjustment on January 1 of the following year, in accordance with D.08-05-035”); SDG&E Preliminary Statement Sections VII and IX, Part C (providing that “[t]he currently authorized capital structure is used to calculate an updated rate of return, which is submitted by advice letter on October 15 of the trigger year to be effective January 1 of the following year”); SoCalGas Preliminary Statement Section XIV, Part C (same).

<sup>9</sup> See, e.g., *Trammell v. Western Union Tel. Co.*, 57 Cal. App. 3d 538, 550-51 (1976) (noting “California cases have held that ‘A public utility's tariffs filed with the PUC have the force and effect of law’”); D.11-12-023 at 5, note 8 (rejecting argument that the Commission erred in relying on SDG&E's Commission-approved tariff because “a utility's tariffs carry the force of law and cannot be ignored”).

<sup>10</sup> October 15, 2023 was a Sunday; the Utilities submitted their respective Advice Letters on October 13, 2023.

<sup>11</sup> Joint Protest at 4.

<sup>12</sup> D.99-08-026, 1999 Cal. PUC LEXIS 441 at \*3 – 4.

rulemaking that resulted in GO 96-B, “an advice letter follows law and policy that have already been established by statute or Commission order.”<sup>13</sup>

The Commission added in that rulemaking that a “protestant may not make ‘policy’ arguments as a way to indirectly attack prior Commission determinations.”<sup>14</sup> The Commission thus codified Section 7.4.2, which provides that “[a] protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility.” Nor, under that rule, may a party use an advice letter protest to relitigate a prior Commission decision.<sup>15</sup> The Commission has consistently and repeatedly rejected advice letter protests when those protests do not satisfy any of the six grounds allowed by GO 96-B for protesting an advice letter but are instead based upon policy objections or represent an attempt to relitigate prior Commission determinations.<sup>16</sup>

Joint Protestors claim that their protests fall within the grounds set forth in Section 7.4.2.<sup>17</sup> This claim is without merit as none of the cited grounds is applicable here.

i. The Relief Requested Is Not Pending Before the Commission Because Phase 2 Only Applies to Future Cost of Capital Cycles

The Joint Protestors state that the “relief requested is pending before the Commission in a formal proceeding.”<sup>18</sup> This is incorrect. The issue of whether the CCM should be implemented for 2024 is not in a formal proceeding before the Commission. Rather, the Commission already set the Utilities’ cost of capital for the current cycle in the 2023 Cost of Capital Decision for 2023 to 2025, subject to the CCM.<sup>19</sup> One party filed an application for rehearing of that decision, which was denied on August 11, 2023.<sup>20</sup> Notably, and as discussed further below, parties to that proceeding “generally supported the continuation of the cost of capital mechanism as a buffer against market volatility,” and the Commission declined to adopt any proposed modifications to the CCM for this cycle.<sup>21</sup>

---

<sup>13</sup> D.05-01-032 at 26.

<sup>14</sup> D.05-01-032 at 26.

<sup>15</sup> See Resolution TL-19145 (“Per GO 96-B Rule 7.4.2(6), a protest may not be made where it would require relitigating a prior order of the Commission. Further, a protest may not rely purely on policy objections.”).

<sup>16</sup> See Resolution E-4533 at 7-8 (“The protest . . . of PG&E’s Advice Letter was rejected because it failed to satisfy any of the six grounds allowed by GO 96-B for protesting an Advice Letter. Rather, [the] protest to the Advice Letter improperly relied upon policy objections where the relief requested in the advice letter followed the rules and directions established by the CPUC order applicable to the utility.”); see also Resolution No. W-4921 at 4 (proper place for the objections should have been to the substantive resolutions; a “protest to an advice letter that complies with the Commission’s prior orders is not the proper place to make such policy objections”).

<sup>17</sup> Joint Protest at 5.

<sup>18</sup> Joint Protest at 5.

<sup>19</sup> D.22-12-031 at 52, Conclusion of Law 24.

<sup>20</sup> D.23-08-028.

<sup>21</sup> D.22-12-031 at 42-43.

Although the Joint Protestors argue that the Commission should “[a]ddress necessary modifications to the CCM in the second phase of the 2023 Cost of Capital proceeding (A.22-04-008 et al.),”<sup>22</sup> the 2023 Cost of Capital Decision specified that the CCM as constituted “should be extended through the 2023 Test Year Cost of Capital Cycle.”<sup>23</sup> By comparison, the pending phase 2 is meant to address possible changes to the CCM for the next cost of capital cycle starting in 2026. The Joint Protestors cannot use phase 2 as a pretext for mounting a procedurally inappropriate collateral attack on the 2023 Cost of Capital Decision.

Moreover, per the Administrative Law Judge’s “Ruling Outlining Phase 2 Issues and Schedules,” a phase 2 decision would not be issued until, at the earliest, mid-2024.<sup>24</sup> This only underscores the prospective application of the outcome of that phase because a decision at that point regarding the CCM for 2024 would be too late to meaningfully address the cost of capital as of January 1, 2024.

ii. The Relief Requested Does Not Require Consideration in a Formal Hearing

The Joint Protestors next assert that the “relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process,”<sup>25</sup> due to the “magnitude of the resultant rate impacts.”<sup>26</sup>

By design, an upward CCM adjustment would always lead to a similar rate impact. The CCM only is triggered for adjustments that are significant enough to exceed the 100-basis point deadband—that is, the CCM trigger will always result in at least a 50 basis point adjustment. As the Commission recently held, if “the CCM adjustment is triggered by the change in Moody’s utility bond rates during the measurement period, then the ROE adjusts the next year, without a full cost of capital proceeding.”<sup>27</sup> The Joint Protestors’ attempt to exclude certain adjustments due to their size is a policy change not contained in Commission precedent.

Moreover, the water utilities’ similar mechanism has appropriately been implemented via the advice letter process this year based on the current interest rate environment. On July 30 and 31, 2023, the Commission’s Water Division accepted San Jose Water Company, California American Water Company, Golden State Water Company, and California Water Service Company’s advice letters to implement increases in those

---

<sup>22</sup> Joint Protest at 4.

<sup>23</sup> D.22-12-031 at 52, Finding of Fact 24; *accord* D.22-12-031 at 2 (“This decision also continues the previously authorized cost of capital mechanism through the 2023 test year cycle.”).

<sup>24</sup> A.22-04-008 et al, Administrative Law Judge’s Ruling Outlining Phase 2 Issues and Schedule (Oct. 31, 2023) at 5.

<sup>25</sup> Joint Protest at 5.

<sup>26</sup> Joint Protest at 6; *accord* Joint Protest at 15.

<sup>27</sup> D.23-11-046 at 2; *accord* D.22-11-018 at 3 (same).

utilities' cost of capital for 2023 due to their mechanisms triggering.<sup>28</sup> Similarly, the Water Division recently accepted Golden State Water and California Water Service's advice letters further increasing their cost of capital due to their mechanisms triggering for 2024.<sup>29</sup>

Arguing that an advice letter is not the appropriate way to effectuate such a change stands at odds with these precedents as well as the design of the CCM trigger. It is thus merely an improper attempt to change the mechanism itself and, thus, re-litigate the Commission's 2008 and 2023 Cost of Capital Decisions.

iii. Arguments that the Relief Would Be Unjust, Unreasonable, or Discriminatory Are Not Permitted Where the Commission Has Approved the Action

Finally, the Joint Protestors argue that the relief would be unjust, unreasonable, or discriminatory.<sup>30</sup> Yet as the Commission has specified, where "the Commission has approved a rate change, an advice letter submitting tariff sheets in compliance with the Commission order approving the rate change is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory."<sup>31</sup> Indeed, the Commission has already determined that the cost of capital is just and reasonable when the automatic adjustment is triggered.<sup>32</sup> Joint Protestors' reliance on the range of reasonable ROEs from the 2023 Cost of Capital Decision to argue that the adjusted ROEs would be unjust and unreasonable is without merit given market changes since that time, which are exactly what the CCM is intended to address.

A valid protest here would thus only be that the Utilities' implementation of the change was not calculated properly or that the Utilities did not serve or provide adequate notice. No such arguments have been made by Joint Protestors. Nor would any such argument have any merit. Instead, the Joint Protestors focus on policy arguments such as affordability, the impact of interest rate changes on the Utilities' cost of equity, and how the Commission has previously handled the CCM triggering.<sup>33</sup> Joint Protestors'

---

<sup>28</sup> See Water Division Advice California Water Service Company 2485-W, California American Water Company Advice 1415-W, Golden State Water Company Advice 1897-W, and San Jose Water Company Advice 598-W.

<sup>29</sup> See Water Division Golden State Water Company Advice 1910-W and California Water Service Company Advice 2495-W.

<sup>30</sup> Joint Protest at 5.

<sup>31</sup> GO 96-B, Rule 7.4.2, Example 1.

<sup>32</sup> See D.22-12-031 at 49, Finding of Fact 51 ("The CCM is a beneficial mechanism for the Commission to employ to protect both ratepayers and shareholders from major market shifts.").

<sup>33</sup> For instance, the Joint Protestors assert that "when implementing the CCM would have benefitted ratepayers by decreasing ROEs, it was not implemented; but if implemented now, it would harm ratepayers." Joint Protest at 7. In addition to being a policy argument, this characterization is also inaccurate. In D.09-10-016, cited by the Joint Protestors, the Commission did not implement an ROE increase resulting from the CCM.

objections are squarely policy arguments that are inappropriate for an Advice Letter protest and were not approved as exceptions to the automatic trigger.

### **C. Prior CCM Suspensions Have Been Achieved Through Proper Legal Mechanisms**

In making their policy arguments, the Joint Protestors also argue that the Commission has suspended implementation “where it has found that the adjustment would not result in a fair and reasonable ROE” and that “the CCM has not been consistently applied.”<sup>34</sup> But both examples cited by the intervenors where the mechanism was suspended were handled in the procedurally proper manner. In D.09-10-016, SCE, PG&E, and, at that time, the Division of Ratepayer Advocates filed separate joint petitions for modifications to suspend the automatic mechanism for 2010 based on the parties’ conclusion that interest rate increases due to the September 2008 bankruptcy of Lehman Brothers would be transitory.<sup>35</sup>

The other example cited by the Joint Protestors—D.22-11-018—resulted from the Utilities’ right to file a “cost of capital application outside the CCM process upon an extraordinary or catastrophic event.”<sup>36</sup> The Joint Protestors’ argument here that the Commission did not intend for an “unexamined application” of the CCM by citing to D.22-11-018<sup>37</sup> ignores that the examination was done under the specified process provided for in the applicable cost of capital decisions. That is, the Commission only “examined” whether the CCM should apply in 2022 through a full application because the issue was raised through a proper procedure for doing so—an extraordinary or catastrophic event application.<sup>38</sup>

Contrary to the Joint Protestors’ claim, applicable prior Commission decisions do not hold that application of the CCM is subject to being revisited any time the mechanism is triggered.<sup>39</sup> Indeed, this claim is nonsensical given that the mechanism is specifically designed to work in between litigated three-year cycles. The adjustment will be suspended in limited circumstances and only if a proper procedural path is followed. Otherwise, the adjustment will be ministerially implemented through the advice letter process, as provided for in Commission decisions.<sup>40</sup> The Joint Protestors simply did not

---

<sup>34</sup> Joint Protest at 6, 12.

<sup>35</sup> D.09-10-016 at 3-4.

<sup>36</sup> D.22-11-018 at 3 (quoting D.08-03-035 at 19, Conclusion of Law 6).

<sup>37</sup> Joint Protest at 10.

<sup>38</sup> See D.23-11-046 at 6 (the 2008 Cost of Capital Decision “established a utility’s right to file an off-cycle application based on extraordinary circumstances”); *accord* D.23-11-046 at 8 (finding that the Commission properly considered whether those off-cycle applications were warranted or whether the CCM should be utilized).

<sup>39</sup> Joint Protest at 10.

<sup>40</sup> See D.22-11-018 at 3; D.13-03-015 at 2; D.08-03-035 at 21.

avail themselves of an appropriate method for seeking to suspend operation of the CCM for 2024. They cannot do so now through an improper advice letter protest.

#### **D. The Joint Protest is an Impermissible Collateral Attack on the 2008 and 2023 Cost of Capital Decisions**

The Joint Protest also is an impermissible collateral attack on the 2008 and 2023 Cost of Capital Decisions. The Joint Protestors request “careful consideration . . . of whether the CCM adjustments in fact result in appropriate ROEs that balance shareholder and ratepayer interests.”<sup>41</sup> But that exact issue was already decided in the 2023 Cost of Capital Decision. There, the Commission continued the CCM unchanged for the 2023-2025 cycle, finding that the “CCM is a beneficial mechanism for the Commission to employ to protect both ratepayers and shareholders from major market shifts.”<sup>42</sup>

Indeed, as noted, the intervenors to that proceeding generally supported maintaining the CCM as established in the 2008 Cost of Capital Decision, including the limited exceptions for where the trigger would not automatically apply. Several intervenors in that proceeding (who are now Joint Protestors) emphasized the importance of providing certainty in the CCM through the automatic Advice Letter process.

For instance, EPUC/IS stated the “Commission should continue to require automatic implementation of the CCM in the balanced manner it currently is supposed to operate, and adjust the ROE when observable changes in capital market costs occur during the three-year cost of capital cycle.”<sup>43</sup> TURN likewise argued that the “CCM is designed to adjust the Cost of Capital based on changes to the market” and “when triggered the CCM should go into effect with all required advice letter filings and rate changes occurring automatically.”<sup>44</sup> Intervenors made these statements even as interest rates were rising; indeed, EPUC/IS responded to the Utilities’ observations of rising interest rates by noting that “[i]n the unlikely event that market volatility drives increases far beyond industry projections, the CCM will serve to protect IOU investors’ interests by requiring a corresponding increase to the ROE.”<sup>45</sup> These same parties’ abrupt reversal thus reflects a collateral attack on the 2023 Cost of Capital Decision that should be rejected.

In sum, the argument that the Commission should “temporarily suspend the CCM mechanism, reject the Advice Letters, and evaluate the need for CCM modifications in the Cost of Capital proceeding”<sup>46</sup> is not provided for by the 2023 Cost of Capital Decision, advice letter process, or the Scoping Memo for phase 2 of A.22-04-008. To

---

<sup>41</sup> Joint Protest at 4.

<sup>42</sup> D.22-12-031 at 49, Finding of Fact 51.

<sup>43</sup> A.22-04-008, *et al.* EPUC/IS Opening Brief at 103-05.

<sup>44</sup> A.22-04-008, *et al.* TURN Opening Brief at iv; 42; 43.

<sup>45</sup> A.22-04-008, *et al.* EPUC/IS Reply Brief at 11.

<sup>46</sup> Joint Protest at 15.

grant the protest would be contrary to the plain language of numerous cost of capital decisions and lack any legal basis.

### **E. The Joint Protestors' Arguments Regarding Incentivizing Gas Investment are Policy Arguments Outside the Scope of this Advice Letter Process**

Finally, Joint Protestors argue that the “adjustments unreasonably incentivize natural gas capital investments, increasing the risk of stranded gas assets and increasing heavy rate burden on low-income customers.”<sup>47</sup> This issue is irrelevant to an evaluation of the Advice Letters because it is yet another policy argument that is not properly raised for consideration in this CCM adjustment process.

#### **2. Joint Protestors' Affordability Arguments Are Without Merit**

In making their policy arguments, Joint Protestors oppose the adjustment on affordability grounds, describing a “ratepayer burden” that would increase as a result of the adjustment.<sup>48</sup> The Utilities share Joint Protestors' interest in setting affordable rates. But the Joint Protestors' request would undermine affordability over the long-term. The most effective means of making rates affordable are reducing risk, cutting costs without compromising safety and reliability, and improving utility financial health.

Customers benefit from lower rates when, as *Bluefield* and *Hope* require, “utilities [are] authorized an ROE at a level for which they can attract capital to raise money for the proper discharge of their public utility duties and maintain creditworthiness.”<sup>49</sup> The Commission has already found that the CCM balances ratepayer and shareholder interests and that the CCM ensures a fair rate of return under *Bluefield* and *Hope* when there are significant and specified market changes.<sup>50</sup> The Commission determined in the 2008 Cost of Capital Decision that a 100-basis point change in bond rates correlates to changes in equity.<sup>51</sup> The rate of return that the Commission sets in a cost of capital decision may no longer reflect a fair and reasonable return under subsequent market conditions, so the CCM helps ensure that a utility's return remains fair and reasonable, which balances shareholder and ratepayer interests.

Utility work is capital intensive. Each year, the Utilities collectively must seek from investors approximately \$21 billion in new capital. When the Commission sets rates at levels that allow the Utilities to attract this capital, customers benefit from better service and lower long-term costs, including financing costs.

---

<sup>47</sup> Joint Protest at 14.

<sup>48</sup> Joint Protest at 8-9.

<sup>49</sup> D.22-12-031 at 49 (Finding of Fact 50).

<sup>50</sup> See D.22-12-031 at 49, Finding of Fact 51 (“The CCM is a beneficial mechanism for the Commission to employ to protect both ratepayer and shareholders from major market shifts.”).

<sup>51</sup> D.08-03-035 at 14.

Moreover, a supportive and predictable regulatory framework reduces the regulatory risk that otherwise turns away investors. Credit rating agencies and investors understand the importance of the CCM operating as intended. As an analyst report for SCE observed in January 2023, when the average Moody's Baa index within the measurement period was 57 basis points higher than the level required to trigger the CCM, the negative impact to SCE's credit profile following the 2023 Cost of Capital Decision's downward adjustment to SCE's ROE was "partially mitigat[ed]" by the continuation of the CCM, which "could provide some cash flow relief given the recent period of rising interest rates, suggesting a potential upward adjustment to the overall cost of capital at some point in the cycle."<sup>52</sup> Investors and credit agencies are expecting changes to the Utilities' ROEs given current market conditions and the significant rise in interest rates. Deviating from prior Commission precedent and established rules will undermine confidence in the regulatory environment and could negatively impact financing costs in the long term.

### **3. Joint Protestors Fail to Show that the Adjustments Are Not Representative of Changes to the Utilities' Cost of Capital**

Finally, Joint Protestors erroneously rely on analyst ratings, historical application of the CCM, dividend yields, and interest rate predictions to argue that the Utilities' ROEs should not be adjusted notwithstanding that the CCM conditions have been met. Notably, Joint Protestors do not offer any arguments that long-term debt and preferred stock costs should not be updated given the significant increase in interest rates.<sup>53</sup>

As discussed in Section 1, Joint Protestors' arguments are outside of the scope of an appropriate grounds for protest. But even if the Energy Division were to consider these arguments, they are incorrect. The Commission adopted Moody's utility bond index rates as the index for the CCM based on the understanding that they appropriately "gauge changes in interest rates that also indicate changes in the equity costs of utilities."<sup>54</sup> The measures on which Joint Protestors rely do not undermine that relationship and are not determinative of the Utilities' cost of capital. Accordingly, the CCM should be implemented, consistent with prior Commission direction.

#### **A. Analyst Ratings Reflect Current Expected Regulatory Outcomes, Not the Adequacy of Current Authorized ROEs**

Joint Protestors argue based on a selected set of positive analyst ratings for the Utilities that "current authorized ROEs are sufficient to compensate equity capital, and need not be increased in order to attract investors."<sup>55</sup> Not so. First, analyst ratings are based on expectations of future earnings and cash flow and therefore incorporate the impact of regulatory mechanisms like the CCM on authorized embedded costs and ROEs. Second, the Commission and utility customers have an interest in financially healthy

---

<sup>52</sup> S&P Global Ratings, RatingsDirect, *Edison International* (Jan. 12, 2023).

<sup>53</sup> See D.08-03-035 at 16.

<sup>54</sup> D.08-05-035 at 12.

<sup>55</sup> Joint Protest at 10-11.

utilities. Positive analyst ratings should be viewed positively and as a reason to maintain, not break, the established, constructive regulatory structures that reduce risk related to changes in the Utilities' cost of capital.

### **B. ROEs Authorized for Prior Cost of Capital Periods Are Not Relevant to Whether the CCM Should Be Implemented for 2024**

Joint Protestors next argue that because there are prior instances of the CCM triggering and being suspended or waived, "the Utilities' 2023 authorized ROEs are already at levels reflecting a fair and reasonable return under current market conditions."<sup>56</sup> In so arguing, Joint Protestors imply that a decision from a cost of capital proceeding on the authorized level of ROE is primarily dependent on the level of authorized ROE from past decisions (and the impacts of the operation or waived operation of the CCM). But this argument fails to recognize that in each full cost of capital proceeding, the Commission sets the Utilities' authorized ROEs from the ground-up, based on then-current market conditions.<sup>57</sup>

The Commission last set authorized ROEs for the Utilities in 2022 for 2023 and the CCM operates based on interest rate changes only since that decision. As the Commission has found, such a mechanism is necessary for ensuring that a utility's rate of return remains fair and reasonable under different market conditions. This is reflected in the fact that the CCM not only resets a utility's ROE, but also a utility's cost of debt and preferred equity. ROEs authorized for prior cost of capital periods and whether the CCM was implemented prior to the 2023 Cost of Capital Decision or not are therefore irrelevant to whether it should be implemented now.

### **C. Past Dividend Yield Is Not Reflective of an Appropriate ROE**

Joint Protestors next argue that, because utility dividend yields have not increased as much as utility bond yields in the last year, "equity returns have not increased in response to, or in alignment with, increases in utility bond yields."<sup>58</sup> This is a false comparison. Dividend yields are not equivalent to the cost of equity. Dividend yields are (1) dividends divided by (2) stock prices. Dividends are determined by utility boards, and are therefore discretionary.<sup>59</sup> Only price is determined in the marketplace. Moreover, the total return to shareholders is composed of the dividend plus the accretion of share prices—the dividend yield fails to consider the second return

---

<sup>56</sup> Joint Protest at 12.

<sup>57</sup> D.22-12-031 at 15.

<sup>58</sup> Joint Protest at 13.

<sup>59</sup> Moreover, dividends can reflect unique circumstances unrelated to the cost of capital; for example, PG&E has not paid dividends since 2017, which would result in a dividend yield of zero. This dividend yield is not representative of PG&E's cost of capital, nor has PG&E's cost of capital remained static since 2017.

component.<sup>60</sup> Dividend yield on its own therefore indicates little in trying to ascertain the appropriate level of ROE.

#### **D. Interest Rate Increases Are Not Expected to Be Transitory Over this Cost of Capital Cycle**

Finally, Joint Protestors assert that “independent economists’ projections” show that interest rate increases are expected to be transitory over the rest of the 2023 Cost of Capital cycle. But their source (Blue Chip Financial Forecasts, October edition) projects that Corporate Baa bond rates, as well as long-term 30-year treasury rates, would continue to increase in the near term, with little change through 2024. In the November edition, economists have increased their projected rates in the near term, through 2024, and into 2025.<sup>61</sup> For both Corporate Baa rates and long-term 30-year treasury rates, forecasts for every quarter of 2024 are higher than rates in the third quarter of 2023.<sup>62</sup> Other sources have indicated that interest rate increases are likely to be “higher for longer,” and would last at least through the end of this cost of capital cycle.<sup>63</sup> Joint Protestors’ assertion that the current increase is a “temporary rise in interest rates that is expected to subside”<sup>64</sup> is therefore unfounded. Moreover, if, contrary to expectations, interest rates do decline next year, the CCM is designed to account for those changes.

---

<sup>60</sup> In the 2023 cost of capital proceeding, Mr. Gorman—who submitted an affidavit in support of the Joint Protest—acknowledged that “[t]otal expected returns on utility stock is very heavily weighted by dividend yields *and by expected stock price appreciation.*” A.22-04-008 Exh. EPUC/IS/TURN-1 at VI-63 (emphasis added).

<sup>61</sup> Blue Chip Financial Forecasts, Nov. 1, 2023 at 2.

<sup>62</sup> Blue Chip Financial Forecasts, Nov. 1, 2023 at 2.

<sup>63</sup> CNBC, “Top economists unanimous on ‘higher for longer’ rates as inflation threats linger,” Oct. 23, 2023, available at <https://www.cnbc.com/amp/2023/10/17/top-economists-unanimous-on-higher-for-longer-rates-as-inflation-threats-linger.html> (“Top economists and central bankers appear to be in agreement on one thing: interest rates will stay higher for longer, clouding the outlook for global markets.”); The Economist, “Markets think interest rates could stay high for a decade or more,” Nov. 2, 2023, available at <https://www.economist.com/briefing/2023/11/02/markets-think-interest-rates-could-stay-high-for-a-decade-or-more> (“The conviction that rates will remain ‘higher for longer’ is spreading around the world.”); Federal Open Market Committee Summary of Economic Projections, Sept. 20, 2023, Table 1 (projecting the median Federal funds rate will remain above 5.0 through 2024).

<sup>64</sup> Joint Protest at 14.

**CONCLUSION**

For the foregoing reasons, the Utilities respectfully request that the Energy Division approve the Advice Letters timely through disposition letter so that rate changes can be implemented by January 1, 2024, as required by the 2008 and 2023 Cost of Capital Decisions.

Sincerely,

/s/ Connor Flanigan  
Connor Flanigan

CF:ac:bvs

cc: Service List for A.22-04-008, *et al.*  
Nora Sheriff, as Counsel to the Joint Protestors