# BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of its Electric Vehicle Infrastructure and Education Program Application No. 15-02-009 (Filed February 9, 2015)

## PROTEST OF THE CALIFORNIA ENERGY STORAGE ALLIANCE

Donald C. Liddell
Douglass & Liddell
2928 2<sup>nd</sup> Avenue
San Diego, California 92103
Telephone: (619) 993-9096
Facsimile: (619) 296-4662

Email: <a href="mailto:liddell@energyattorney.com">liddell@energyattorney.com</a>

Counsel for the

CALIFORNIA ENERGY STORAGE ALLIANCE

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission's ("Commission"), the California Energy Storage Alliance ("CESA")<sup>1</sup> hereby submits this protest to Pacific Gas and Electric Company's ("PG&E's") *Application for Approval of its Electric Vehicle Infrastructure and Education Program* ("Application"). The Application was filed on February 9, 2015, and noticed in the Commission's Daily Calendar on February 11, 2015, and this protest is accordingly timely filed.

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<sup>&</sup>lt;sup>1</sup> 1 Energy Systems Inc., Advanced Microgrid Solutions, AES Energy Storage, Alton Energy, American Vanadium, Amperex Technology Limited, Aquion Energy, ARES North America, Beacon Power, LLC, Bosch, Bright Energy Storage Technologies, Brookfield, CALMAC, Chargepoint, Clean Energy Systems, Coda Energy, Consolidated Edison Development, Inc., Cumulus Energy Storage, Customized Energy Solutions, Demand Energy, DN Tanks, Duke Energy, Eagle Crest Energy Company, EaglePicher Technologies, LLC, East Penn Manufacturing Company, Ecoult, EDF Renewable Energy, Energy Storage Systems, Inc., Enersys, EnerVault Corporation, EV Grid, FAFCO Thermal Storage Systems, FIAMM Energy Storage Solutions, Flextronics, Foresight Renewable Solutions, GE Energy Storage, Green Charge Networks, Greensmith Energy, Gridscape Solutions, Gridtential Energy, Inc., Halotechnics, Hitachi Chemical Co., Hydrogenics, Ice Energy, Imergy Power Systems, ImMODO Energy Services Corporation, Innovation Core SEI, Inc. (A Sumitomo Electric Company), Invenergy LLC, K&L Gates, KYOCERA Solar, Inc., LG Chem, LightSail Energy, LS Power Development, LLC, Mitsubishi International Corporation, NEC Energy Solutions, Inc., NextEra Energy Resources, NRG Solar LLC, OCI, OutBack Power Technologies, Panasonic, Parker Hannifin Corporation, PDE Total Energy Solutions, Powertree Services Inc., Primus Power Corporation, Recurrent Energy, Renewable Energy Systems Americas Inc., Rosendin Electric, S&C Electric Company, Saft America Inc., Samsung, SEEO, Sharp Electronics Corporation, SolarCity, Sony Corporation of America, Sovereign Energy, STEM, Stoel Rives LLP, SunEdison, SunPower, TAS Energy, Toshiba International Corporation, Trimark Associates, Inc., Tri-Technic, UniEnergy Technologies, LLC, Wellhead Electric. The views expressed in this Prehearing Conference Statement are those of CESA, and do not necessarily reflect the views of all of the individual CESA member companies. See, http://storagealliance.org.

## I. <u>INTRODUCTION.</u>

While it is clear that PG&E's proposed program was informed by recent developments in the Commission's Alternative Fueled Vehicle rulemaking proceeding<sup>2</sup> and the proposals of the California's other two large investor-owned utilities, CESA is concerned that PG&E's proposal would set a dangerous and risky precedent for the state of California; one that could result in the erosion of competition in a market for electric vehicle ("EV") charging services that does not require vertical utility integration, one that unnecessarily risks ratepayer funding on a program that may end up in substituting for (rather than complementing) private capital, and one that erodes the role of the utility as a neutral infrastructure provider supporting a competitive behindthe-meter energy ecosystem. Other states have been moving in exactly the opposite direction, clearly establishing distributed energy resources ("DERs") as outside the role of the utility as a neutral infrastructure provider. For example, in Order 14-M-0101 adopting the policy framework for the Reforming the Energy Vision ("REV)"<sup>4</sup>, the New York Public Services Commission states: "... [B]ecause of their incumbent advantages, even the potential for utility ownership risks discouraging potential investment from competitive providers. ... Markets will thrive best where there is both the perception and the reality of a level playing field, and that is best accomplished by restricting the ability of utilities to participate."5

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<sup>&</sup>lt;sup>2</sup> See, R.13-11-007.

<sup>&</sup>lt;sup>3</sup> See, A. 14-04-014 and A. 14-10-014.

<sup>&</sup>lt;sup>4</sup> See, Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan, Issued and Effective February 26, 2015.

<sup>&</sup>lt;sup>5</sup> *Idem.*, p. 67.

#### II. **ELECTRIC** VEHICLE **SERVICE CONNECTION** AND **SUPPLY** INFRASTRUCTURE IS WHERE UTILITY SUPPORT IS NEEDED.

CESA's membership includes many of the leading developers of EV charging services in California. CESA's members have provided feedback for this and the Commission's other active EV-related proceedings that the critical hindrance to more widespread development of electric vehicle supply equipment ("EVSE") infrastructure is the typically excessively protracted and unduly expensive electric distribution system interconnection process. This process results in wildly variable and unpredictable interconnection costs that aren't known until significant time and capital has been invested in developing an EV charging station project site. The result is a higher failure rate for site development than necessary and a slower development cycle that translates into less third party host appetite for installation of EV charging stations on their property and taking the risk of site development. The constructive role that utilities could play in removing this hindrance stems from their natural monopoly position in building and maintaining their electric distribution systems. PG&E's Application defines this infrastructure as the "EV service connection and supply infrastructure," which is for the most part on the utility side of the meter up to the service drop and could also include the customer-side panel and conductor equipment that prepares an EV charging station site for connection to EVSE.

### III. PG&E'S PROPOSAL HAS ALREADY SET BACK THE COMPETITIVE ELECTRIC VEHICLE SUPPLY EQUIPMENT MARKET IN ITS SERVICE TERRITORY.

CESA sees a critical role for PG&E in facilitating installation of its EV Service Connection and EV supply infrastructure. However, PG&E's proposal to also own the "EV Charger Equipment" is fundamentally flawed. The Commission granting such a proposal would

<sup>&</sup>lt;sup>6</sup> One CESA member company has stated publicly that its EV charging station sites have averaged \$60,000 in total interconnection costs, which constitutes roughly one third of its total outlay for total site development and equipment.

transform the utility's role from that of a neutral distribution system operator to that of a direct competitor with the vast resources of a monopoly at its disposal to protect its competitive advantage over third party infrastructure developers. This is a particularly egregious conflict of interest if PG&E is allowed to earn a rate of return on that infrastructure.

Utility programs such as PG&E's place third party developers squarely in an anti-competitive bulls-eye; making it much more difficult for them to do business in PG&E's service territory should the proposed program proceed as described in the Application. Current market harm has clearly occurred already as a result of PG&E's proposal because business models that have been gaining market traction are impacted by the fear, uncertainty, and doubt that a monopoly market play can create in nascent markets. Of course, such fear, uncertainty and doubt is completely logical on the part of investors, due to the internal knowledge advantages and unfair competitive position in controlling the timing and costs of its competitors that a utility can bring to bear.

The key problem is investor perception that PG&E's proposed program would provide an insurmountably unfair utility advantage, both because it's costs would be fully subsidized by ratepayer dollars whereas private developments would not, and also because PG&E would have an incentive to prove further private market failure in order to extend the scope of its program beyond currently targeted market segments or market share.

If the playing field is not level, the primary effect will be one of simply crowding out private investment in exchange for ratepayer subsidized investment. PG&E's program may therefore have the counterintuitive effect of not growing the market at all, and of potentially even

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<sup>&</sup>lt;sup>7</sup> CESA has been made aware of one company that, as a direct result of PG&E's Application having been filed, has already been forced to defer more than 50 sites under development that were due to come online in PG&E's service territory in 2016 (well before PG&E would have even installed a single charging station under the program and in fact greater than the number of multi-unit dwelling EV charging stations PG&E proposes to come online in 2018).

shrinking the overall EV market versus what otherwise would occur due to its deleterious effect on private EV charging station investment in PG&E's service territory.

## IV. PG&E'S PROPOSAL HAS SIGNIFICANT DESIGN FLAWS.

The PG&E proposal is not financially viable for electric vehicle service providers ("EVSP") to participate in the program, and could put EVSPs at risk of bankruptcy. Fixed revenue of \$400/year per EV charger proposed by PG&E is barely enough to cover even the data connection each EV charging station will need to operate – to say nothing of any other O&M requirements – and the pricing is proposed to be set by PG&E's tariff (e.g., A1 or other potentially with demand charges and PDP pricing) with the retail price chargeable to the EV driver. This not only limits the business models that can be offered to those circumscribed by PG&E, but also locks in those business models for years to come, and forces the EVSP to bear 100% of the risk of cost changes. Californians have seen these market design flaws before in the electric market as a result of the deregulation approach of the late 1990s that resulted in PG&E itself declaring bankruptcy in 2001 during the energy crisis. Fixed revenue coupled with variable cost rarely works.

Other design issues exist in PG&E's proposal, such as a lack of clarity concerning how PG&E plans to secure property easements with site hosts, how to ensure a firewall separating information acquired from competitors by PG&E transmission planning/generation interconnection teams and PG&E sales and business development teams proposing sites, and protection of competitors' site installation information and cost structures.

In addition, other key areas, such as medium and heavy duty vehicle fleets, could be obvious "low hanging fruit" to target for the program, as they are a significant source of GHGs in the state, they generally have centralized depots where they fuel. Interconnection costs could

be substantial to electrify such fleets, however, the grid impacts (if done in a grid interactive manner) could be very beneficial.

## V. <u>CESA'S POLICY RECOMMENDATIONS.</u>

PG&E states in its Testimony that its goal is an ultimate 25% market share in its target segments. CESA is extremely skeptical that this level of utility ownership in the competitive market for EVSE and EVSE services would promote healthy competition or consumer choice, and does not believe it to be in the public interest. Other potentially large EV markets in the United States are moving in exactly the opposite direction, such as the Public Service Commission of New York's recent Order Adopting Regulatory Policy Framework and Implementation Plan.

Should the Commission choose to rule on PG&E's application prior to addressing broader utility ownership issues in the AFV Rulemaking, the Commission must ensure that PG&E's interests are truly aligned with what (i) is in the public interest and state policy goals, (ii) promotes consumer choice, (iii) preserves a competitive landscape for EVSE service providers, and (iv) avoids waste of ratepayer dollars most effectively.

CESA believes this outcome would best be accomplished by excluding EVSE entirely from PG&E's program. However, should the Commission allow PG&E to own EVSE, CESA submits the following recommendations to ensure that PG&E's market share remains in line with the 25% target market penetration that PG&E identifies in its Application:

1. In line with policies adopted by other states such as New York, the Commission should adopt a policy that "In the limited situation that utilities will be allowed to

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<sup>&</sup>lt;sup>8</sup> PG&E Testimony, page 1-3.

own DER [such as EVSE] as a regulated asset, they will be restricted to recovery of their actual costs;"9

- 2. 25% of the funding approved in the Application would go to PG&E-owned and operated EVSEs, while the remaining 75% would be allocated to "make-ready" infrastructure and EVSE rebates to third parties; and
- 3. PG&E would be required to report annually on deployments achieved in each preceding program year (both PG&E-owned and third party-owned). PG&E's program would demonstrate that it is facilitating the market growth of third party-owned infrastructure in line with utility-owned EVSE infrastructure build out. PG&E's target for the next year would be capped to ensure that its approved build out over the next year would be in-line with, and never exceed, a 25% market share (annual or cumulative) based its then-current market share compared with the historic year-over-year growth in EVSE build out in PG&E's service territory.

CESA believes the question of the appropriate role of the utility in DER ownership (such as EVSE service plans in competition with EVSPs) remains to be resolved. CESA does not view EV charging station ownership as an appropriate role for utilities in the face of what can be insurmountable anti-competitive advantages that cannot be adequately mitigated on a case-by-case basis.

Specifically, utility competition in owning EV charging equipment creates a direct conflict of interest in utilities' role maintaining a fair interconnection process for third parties. PG&E's gate keeping role in the electric distribution system interconnection process, as the local regulated monopoly, gives it a unique and privileged position to impact the timing, viability, and

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<sup>&</sup>lt;sup>9</sup> Order 14-M-101, infra., Fn. 4.

relative competitiveness of projects developed by third parties versus those of PG&E-owned infrastructure. Allowing PG&E a competitive role in EV charging development while allowing it to also remain in control of its competitors' interconnection requests is akin to "putting the fox in charge of the henhouse." There is still too much unsupervised room for subjectivity in the process despite the best of intentions. CESA is very concerned that PG&E could use its privileged position in a manner that contributes to third party-developed EV assets appearing to customers as uncompetitive from a timing and cost standpoint. For example, currently interconnection customers frequently must pay for upgrades for equipment that is already overloaded or past its service life because a utility's plan of service has deferred necessary but non-critical upgrades. These can frequently be extremely expensive upgrades, costing tens of thousands of dollars. If PG&E is able to rate base upgrades for its own EV charging sites, and ensure that the interconnection process for its own sites is completed as fast as possible, while, at the same time, ensuring that competitors' sites proceed as slowly as its tariffs allow and that the competitive site is responsible for as many upgrades as PG&E can justify, then it would be virtually impossible for third party sites to fairly compete.

# VI. THE COMMISSISSION SHOULD CONSOLIDATE THE APPLICATION WITH THE AFV RULEMAKING AND THE SAN DIEGO GAS & ELECTRIC COMPANY VGI APPLICATION.

Regardless of the program specifics of PG&E's program, certain core issues in the AFV Rulemaking still need to be addressed. CESA's view is that, as proposed, PG&E's proposal would go too far ahead of determining the specific anti-competitive market power factors and mitigation measures contemplated by the balancing test articulated by the Commission in the AFV Rulemaking.<sup>10</sup> This is particularly true regarding PG&E's Application, but also SDG&E's

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<sup>&</sup>lt;sup>10</sup> D.14-12-079, issued December 22, 2014.

VGI Application as well <sup>11</sup> due to the fundamental shift in the role of the utility that is proposed in both programs.

Following the successful model of the California Solar Initiative, CESA urges the Commission to seriously consider program designs in the AFV Rulemaking that are consistent across all three of California's investor owned utilities. By aligning program design on a statewide basis, the California Air Resources Board, Energy Commission, and Air Quality Districts, local government, automotive original equipment manufacturers ("OEMs") and other stakeholders can develop complementary efforts that will apply uniformly. In addition to the economies of scale for industry to develop similar approaches in each service territory, the success of the programs can more easily be measured and lessons learned can be readily be applied in a transparent, ratepayer benefiting manner.

The Commission's decisions concerning the appropriate role of the utility in owning DERs and customer sited EV charging infrastructure will be with California for a generation or more, and will have a profound impact on the global viability and success of the entire EV industry. The Commission simply cannot begin to address either PG&E's Application or the comparable SDG&E VGI Pilot Application without first informing the debate and framing statewide policy objectives through the AFV Rulemaking. To do otherwise might tactically be seen to make sense in the near term due to the timing of the Applications. But it would be a strategic mistake, when billions of ratepayer dollars are on the line and the success of California's carbon reduction goals hang in the balance, not to take the long, programmatic view of what is in the best interests of the state overall before approving the Application. CESA therefore urges the Commission to consolidate PG&E's Application with that of SDG&E and the

<sup>&</sup>lt;sup>11</sup> See. A. 14-04-014.

AFV Rulemaking and address key programmatic aspects contemplated by the AFV Rulemaking

prior to proceeding with a decision on the Application.

VII. PROCEDURAL ISSUES.

A. Category.

PG&E proposes that this proceeding be categorized as "rate setting." CESA agrees with

PG&E's proposed category.

1. Need for Hearings.

PG&E believes that evidentiary hearings will be required. CESA agrees, but the

Commission should require PG&E to revise its Application to allow PG&E to address CESA's

concerns raised in this protest before scheduling any hearings.

2. Proposed Procedural Schedule.

PG&E proposes that intervener testimony should be due approximately one month after

issuance of an anticipated Scoping Memo. CESA reserves the right to propose a more realistic

schedule upon review of Protests and Responses filed by other parties.

VIII. CONCLUSION.

The Commission should accept CESA's recommendations set forth in this protest, and

require PG&E to revise and resubmit its Application accordingly.

Respectfully submitted,

Donald C. Liddell

Douglass & Liddell

Counsel for the

CALIFORNIA ENERGY STORAGE ALLIANCE

March 13, 2015

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