

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company (U 39 E) for a certificate of public convenience and necessity to provide: (i) full facilities-based and resold competitive local exchange service throughout the service territories of AT&T California, Frontier California Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California; and (ii) full facilities-based and resold non-dominant interexchange services on a statewide basis.

Application No. 17-04-010
(Filed April 6, 2017)

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
TO WITHDRAW APPLICATION 17-04-010**

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Pursuant to Rule 11.1 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Pacific Gas and Electric Company (“PG&E”) respectfully moves to withdraw, without prejudice, Application 17-04-010 filed by PG&E to request Commission approval for a certificate of public convenience and necessity (“CPCN”) to provide: (i) full facilities-based and resold competitive local exchange service throughout the service territories of AT&T California, Frontier California Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California; and (ii) full facilities-based and resold non-dominant interexchange services on a statewide basis (“CLEC Application”).

In filing the CLEC Application in April of 2017, PG&E recognized that obtaining approvals from multiple regulatory agencies is not guaranteed and could be time consuming.^{1/} This recognition coupled with the market realities of a fast-paced communication industry led PG&E to cautiously engage in the endeavor with the need to ensure that appropriate off-ramps are available should economic and business analyses performed become outdated and offering

^{1/} PG&E Prepared Testimony, Chapter 2, at p. 2-4.

CLEC services no longer make business sense.^{2/} PG&E’s circumstances have significantly changed since April of 2017, and PG&E no longer believes that pursuing a CLEC business, at this time, is a prudent business decision.^{3/} Accordingly, PG&E respectfully requests the Commission grant its motion to withdraw the CLEC Application without prejudice.

I. PROCEDURAL BACKGROUND

On April 6, 2017, PG&E filed its CLEC Application. On May 15, 2017, the Office of Ratepayer Advocates (“ORA”), the Utility Reform Network (“TURN”), and the California Association of Competitive Telecommunications Companies (“CALTEL”) filed protests to the Application, and the California Cable and Telecommunications Association (“CCTA”), the City and County of San Francisco (“CCSF”), Crown Castle NG West LLC (“Crown Castle”), and the Greenlining Institute (“Greenlining”) filed responses. PG&E filed replies to the protests and responses on May 25, 2017.

On June 13, 2017, the Commission convened a prehearing conference (“PHC”). On July 13, 2017, the *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* (“Scoping Memo”) was issued, which set the procedural schedule and address the scope of the proceeding and other procedural matters. The evidentiary hearing was scheduled for January 8-12, 2018.

PG&E served Prepared Testimony on September 22, 2017. On November 11, 2017, TURN, ORA, and CALTEL served Prepared Testimony in response to PG&E’s CLEC Application and Prepared Testimony. PG&E served Rebuttal Testimony on December 8, 2017.

^{2/} *Id.*

^{3/} PG&E continues to face extraordinary uncertainties that could significantly impact our ability to access capital on favorable terms. PG&E’s ability to raise capital is impacted by ongoing uncertainty associated with both the 2017 Northern California Wildfires and future risks resulting from climate change. These uncertainties have led to credit rating downgrades with ongoing scrutiny and weakened demand for PG&E Corporation stock. These financial uncertainties could impact the amount of work PG&E can commit to financing. Should these financial uncertainties persist or should PG&E’s ability to access capital on favorable terms become compromised, financing discretionary, non-safety related projects with higher-cost capital would not be beneficial for our customers.

PG&E reached out to parties on December 11, 2017, to coordinate and request feedback on the need for an informal workshop and other procedural next steps and to explore whether parties were open to participate in settlement discussions.

Beginning in mid-December 2017 and continuing during the months thereafter, PG&E and the parties that served Prepared Testimony (TURN, ORA, and CALTEL) engaged in settlement discussions. These discussions led to various extensions of the procedural schedule.^{4/}

PG&E held an all-party technical workshop on January 19, 2018. Pursuant to the procedural schedule, PG&E, TURN, Greenlining, CCSF, CCTA, and CALTEL jointly filed a Case Management Statement on January 22, 2018; ORA also separately filed a Case Management Statement on the same day.

PG&E responded to numerous data requests from TURN, ORA, CALTEL, CCSF, and the Commission's Communications Division from September 29, 2017 to March 23, 2018.

On January 31, 2018, PG&E met with the Communications Division and provided information on PG&E's existing telecommunication infrastructure that may be used to provide services under the CPCN.

On May 22, 2018, all parties and the ALJ participated in a settlement status conference.

On June 8, 2018, the ALJ issued a *Ruling Setting Settlement Status Conference and Evidentiary Hearing*, which ordered parties to file a written settlement update with the Commission on Friday, August 3, 2018, if settlement was not reached. In addition, a second

^{4/} On December 14, 2017, PG&E, TURN, CCSF, CALTEL, and CCTA submitted to the ALJ a joint motion requesting an extension of time, which was granted on December 19, 2017. As a result, on January 4, 2018, the Commission issued a *Notice Resetting Dates of Evidentiary Hearing* to reset the dates of the evidentiary hearing to February 20-23, 2018. On February 6, 2018, PG&E, TURN, ORA, CALTEL, and CCTA jointly submitted a motion for extension to the ALJ and requested for evidentiary hearings to be taken off the calendar. The ALJ issued a ruling granting the joint motion on February 9, 2018.

settlement status conference was scheduled for August 8, 2018.^{5/} The evidentiary hearing is set for September 25-28, 2018.

PG&E, TURN, ORA, and CALTEL continued settlement discussions through the month of July 2018. However, despite the good faith effort of the parties, it became clear that an agreement would not be reached on any of the issues and all settlement discussions ended on July 30, 2018. PG&E, TURN, ORA, and CALTEL filed a *Joint Settlement Status Update* on August 3, 2018 indicating to the ALJ that all settlement discussions have ended and requested that the August 8, 2018 settlement status conference be taken off the calendar.

II. PG&E'S MOTION SHOULD BE GRANTED AS IT IS CONSISTENT WITH THE STANDARD FOR WITHDRAWAL OF APPLICATIONS

PG&E recognizes that it is a discretionary act for the Commission to allow PG&E to withdraw its CLEC Application. The Commission has clearly established its position and standard of review on withdrawing an application:

The Commission has sole authority to close a proceeding. An applicant's motion to withdraw its application does not by itself, close a proceeding or change its status in any way. Although the Commission has usually granted such motions, the Commission may deny motions to withdraw when doing so is in the public interest and pursue matters of public concern after an applicant has moved to withdraw an application.^{6/}

The approval of PG&E's motion to withdraw the CLEC Application promotes the public interest. PG&E has been consistently transparent in its measured "stage gates" approach to entering the market as a Competitive Local Exchange Carrier (CLEC) by assessing the significant assets available to create an opportunity to provide benefits to PG&E's ratepayers and

^{5/} The *Administrative Law Judge's Ruling Resetting Settlement Status Conference* issued on June 19, 2018, resets the settlement status conference from August 14, 2018 to August 8, 2018 before Administrative Law Judge Zita Kline. The dates of the evidentiary hearings remained unchanged from the June 8, 2018 ruling.

^{6/} D.04-06-016, at p.7 (*summarizing* D.89-09-025, D.01-02-017, and D.01-02-040).

shareholders.^{7/} Obtaining Commission approval for the CPCN was the first step followed by the need to obtain authority from the Federal Communications Commission (FCC) to offer telecommunications services under Section 214 of the Federal Communications Act, 42 U.S.C. §214.^{8/} PG&E further explained that the “stage gates” implementation approach allows PG&E to “suspend the process at various points in the approval and implementation process in order to reassess the risks and benefits of the proposed business.”^{9/} Given PG&E’s present circumstances, it is in the public interest that PG&E make current informed decisions in light of the new environment before investing significant resources in launching the new CLEC business. PG&E and parties have diligently engaged in settlement negotiations to expeditiously make progress towards full resolution of the issues in this proceeding. However, as more time passes, the uncertainties of PG&E’s current circumstances outweigh the potential economic and business benefit of the proposed CLEC business. Therefore, the public interest is protected by allowing PG&E to exercise its prudent business decision-making to not continue to pursue the CLEC business, at this time, given the significant change in circumstances since the filing of the CLEC Application in April of 2017.

In addition, PG&E’s withdrawal of the CLEC Application does not prevent the Commission from pursuing matters of public concern after the CLEC Application has been withdrawn because the specific issues raised by the proposed CLEC will either no longer be contentious or can be addressed in other proceedings. Specifically, the issues delineated in sections 2.1 - 2.4 of the Scoping Memo, related to whether the CPCN should be granted or modified and whether the proposed CLEC business will raise any public interest or safety concerns, will no longer be controversial since PG&E will not operate a CLEC business; and therefore, no additional concerns of safety or public interest will be realized. To the extent that

^{7/} PG&E Prepared Testimony, Chapter 2, at p. 2-4.

^{8/} *Id.*, at p. 2-5.

^{9/} *Id.*, at p. 2-4.

there are broader policy issues raised by this proceeding, section 2.5 of the Scoping Memo directed that this proceeding “is not the appropriate venue for parties to attempt to resolve broad policy issues such as ensuring infrastructure access in general... [and] are more appropriately addressed in other proceedings...”^{10/} Given the other open proceedings to address broader issues, PG&E’s withdrawal of the CLEC Application does not hinder the Commission’s ability to continue to address matters of public concern. In fact, PG&E is also already a party in other relevant proceedings.^{11/}

Lastly, there is precedent of Commission standard for denying motions to withdraw applications when there is already “submission of a matter upon an evidentiary record and obtaining a proposed decision”^{12/} or that the withdrawal is “for the purpose of avoiding an adverse outcome.”^{13/} In this case, evidentiary hearings are scheduled for September 25-28, 2018, so the evidentiary record for this proceeding has not been developed. Moreover, there is not yet a proposed decision or any indication of an adverse outcome of this proceeding which PG&E’s withdrawal could avoid. PG&E’s decision to timely file this motion to withdraw its CLEC Application at this point in the proceeding is deliberate given its present circumstances. Nonetheless, PG&E appreciates the time and resources that the Commission and parties have invested thus far in this proceeding.

III. CONCLUSION

For the foregoing reasons, PG&E respectfully request that the Commission grant PG&E’s motion to withdraw Application 17-04-010 without prejudice.

^{10/} Scoping Memo, at p. 8.

^{11/} PG&E is a party in the following open proceedings referenced in section 2.5 of the Scoping Memo: R.17-03-009, R.17-06-028, and R.17-05-010.

^{12/} D.92-04-027, 43 CPUC2d 639, at p. 641.

^{13/} D.04-16-016, at p. 8.

