



December 7, 2015

Michael Picker, President
California Public Utilities Commission
505 Van Ness Ave., San Francisco, CA 94102

Tim Sullivan, Executive Director
California Public Utilities Commission
505 Van Ness Ave., San Francisco, CA 94102

**RE: Application 15-02-009
In the Matter of the Application of Pacific Gas and Electric Company for
Approval of its Electric Vehicle Infrastructure and Education Program (U39E)**

Dear Mr. Picker and Mr. Sullivan:

The Public Utilities Commission (PUC) should be a forum where the public participates and such participation is encouraged. Given the recent scandals over improper ex parte communications between PUC officials, utility company executives and other lobbyists, one would think the PUC's commissioners and administrative law judges would be motivated to facilitate greater public participation in order to restore public confidence in the agency's integrity. However, Consumer Watchdog's recent experience indicates nothing has changed at the PUC. Not only was Consumer Watchdog's right to intervene in a current PUC proceeding improperly denied, but our subsequent effort to have the error corrected has been ignored. We ask that you act on the matter immediately to make sure that every member of the public and its representatives can be heard at the Public Utilities Commission, not just those the PUC considers friendly.

Consumer Watchdog is a nationally recognized, nonprofit, nonpartisan public interest group founded thirty years ago. It has initiated or participated on behalf of consumers in dozens of proceedings before California state agencies, including the PUC. Consumer Watchdog filed a Notice of Intent to Claim Intervenor Compensation ("NOI") on July 10, 2015 in order to participate in a proceeding now underway that will determine whether the PUC will bestow upon PG&E a complete monopoly over Electric Vehicle charging stations throughout PG&E's service territory. The NOI was wrongfully rejected on August 27, 2015 on the erroneous basis that Consumer Watchdog did not have an "affirmative statement" in its Articles of Incorporation ("Articles") that it "is authorized to

advocate, litigate, or appear before the Commission to represent the interests of residential customers.” (ALJs’ Ruling, Aug. 27, 2015, p. 6.)

In response, Consumer Watchdog filed an Amended NOI and Motion for Reconsideration of ALJs’ Ruling on NOI (“Motion”) on September 18, 2015.

In our Motion, Consumer Watchdog pointed out that the PUC’s interpretation of the intervenor statute (Pub. Util. Code § 1802(b)(1)) is contrary to its plain language and does not require an “affirmative statement” that an organization is authorized to “advocate, litigate, or appear before the Commission.” Those words are nowhere to be found in the statute. The statute only requires that the Articles “authorize” an organization “to represent the interests of residential customers.” No prior decision of the PUC, including those cited by the ALJs has interpreted the statute in the narrow manner in which it was applied to Consumer Watchdog here. Indeed, Consumer Watchdog pointed out that the Articles of other consumer organizations whose NOIs have been granted refer to “consumers” (as do Consumer Watchdog’s Articles) and do not contain such an “affirmative statement” using the specific language “residential customers” or “before the Commission.” For example, the National Consumer Law Center’s Articles include the following purpose:

To provide relief for poor, distressed and underprivileged consumers; to undertake research into the legal aspects of consumer problems; to maximize the rights available to consumers and to assist consumers in obtaining needed reformation of the law through the judicial and other lawful processes; to enhance the protection of the consumer from adverse market conditions and to strengthen their bargaining power and increase their freedom of choice; to promote the social welfare of consumers...

Similarly, Consumer Watchdog’s Articles state that the primary public purposes for which the organization was formed are “to conduct educational and research activities *on consumer and public interest issues including, without limitation, issues affecting consumer protection and environmental and government reform.*”¹ That our Articles clearly authorize us to represent the interests of consumer ratepayers on the public interest issues affecting consumer protection and environmental reform at stake in this proceeding is

¹ Additionally, we pointed out that our Articles’ specific authorization for the organization to work on environmental reform issues qualifies Consumer Watchdog to participate under past PUC decisions that have held that environmental organizations are eligible to participate in PUC proceedings “to represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging.” (D.98-04-059, p. 29, fn. 14.)

evident from our very long history of advocacy on behalf of consumer ratepayers in this state, as highlighted in our NOI, our Amended NOI, and our Motion. For over 30 years, Consumer Watchdog has initiated and/or participated in numerous proceedings before the PUC, the Legislature, and the courts to advocate on behalf of ratepayers. Moreover, our nonprofit was the driving force behind a ballot measure to curb the worst excesses of electricity deregulation in 1998, Proposition 9. Consumer Watchdog also filed a petition for writ of mandate in the California Supreme Court seeking to prevent the PUC from consenting in secret to PG&E's bankruptcy plan that would cost ratepayers \$6.6 billion. If the ALJs' ruling were to stand, many high-profile and effective consumer organizations in America would not have standing to intervene before the PUC – not merely Consumer Watchdog.

The ALJs have had our Amended NOI and Motion for two and a half months and have failed to issue a ruling. Since intervenor testimony was due on November 30, 2015, the refusal to rule on our Amended NOI and Motion has effectively prevented Consumer Watchdog from representing the public in this proceeding, even though the ALJs' September 4, 2015 Scoping Memo specifically adopted a substantive position taken by Consumer Watchdog. (Scoping Memo, pp. 5-10; CWD Comments, Jul. 2, 2015, pp. 3-4.)² The careless disregard for our nonprofit, nonpartisan group's right to participate as an intervenor in a proceeding in which we have already committed substantial time and resources is deeply troubling.

The ministerial machinations that have blocked Consumer Watchdog from representing ratepayers in a matter of extraordinary importance exposes again that the Public Utilities Commission is leaving the "Public" out of its process. The PUC's inexplicable inability or refusal to accept our legal documents, its refusal to provide a timely ruling on our filings, and the disregard displayed by the PUC's employees for our statutory rights is unacceptable. Delay is the unaccountable bureaucrat's tool of denial, and Consumer Watchdog is currently caught in its web.

It is now incumbent upon you, the President and Executive Director of the PUC, to take immediate action to address this issue.

We request that you direct the ALJs to immediately extend the deadline for intervenor testimony and to rule on our Amended NOI and Motion.

² The Scoping Memo erroneously stated that Consumer Watchdog did not comment on the issue of phasing, even though other parties acknowledged that Consumer Watchdog submitted comments on phasing. (See The Office of Ratepayer Advocates' Reply Comments, pp. 2, 4; Joint Technology Parties' Reply Comments, pp. 2-3.)

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You have a duty to restore public trust in the Commission. We call your attention to the failure of the Commission to abide by its statutory responsibilities and look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Court". The signature is written in a cursive style with a large initial "J" and a stylized "Court".

Jamie Court
President