

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

Order Instituting Rulemaking to Identify
Disadvantaged Communities in the San
Joaquin Valley and Analyze Economically
Feasible Options to Increase Access to
Affordable Energy in those Disadvantaged
Communities.

Rulemaking 15-03-010
(Filed March 26, 2015)

**PILOT TEAM COMMENTS ON
DRAFT RESOLUTION E-5034
AUTHORIZING BILL PROTECTION MECHANISMS**

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I. INTRODUCTION

Pursuant to Rule 14.5 of the Commission’s Rules of Practice and Procedure and the Energy Division’s November 5, 2019 Notice Letter, Leadership Counsel for Justice and Accountability, Self-Help Enterprises, and Center for Race, Poverty and the Environment (collectively, the “Pilot Team”) submit the following comments on Draft Resolution E-5034 Authorizing Bill Protection Mechanisms for Pacific Gas and Electric Company, Southern California Edison Company, and Southern California Gas Company San Joaquin Valley Pilot Participants Pursuant to Decision 18-12-015 (“Draft Resolution”).

The Commission initiated this rulemaking in 2015 in response to the directive of Assembly Bill (“AB”) 2672 to analyze the feasibility of affordable energy solutions for disadvantaged communities in the San Joaquin Valley (“SJV”). The parties to this proceeding should now be aware that pilot communities have faced historic and significant inequity. These communities have been deprived of affordable and reliable energy despite decades-long efforts to gain access. As the record in this proceeding shows, “[e]xclusionary zoning practices, racially restrictive covenants and redlining efforts throughout the last three centuries continue to

disproportionately burden low-income, communities of color today.”¹ The Commission has broadly acknowledged that such victims of disinvestment are owed attention and resources.² It is imperative, therefore, that the principle of restitution be present in each element of this proceeding³—and especially so in this Resolution, which goes to the heart of whether AB 2672’s affordability mandate will be realized for the pilot communities.

The motivating principle of AB 2672 and the Commission’s decision to implement pilot projects in the San Joaquin Valley is to ensure significant energy cost savings for disadvantaged communities. AB 2672 calls for increased access to affordable energy in the San Joaquin Valley; the meaning of the word “affordable” requires a context-specific interpretation that considers the history behind AB 2672 and the pilot communities. The Commission is required to set rates that are “just and reasonable,” and the Commission’s determination of what constitutes an “affordable” energy solution must be instructed by this mandate.⁴ Moreover, in the context of this proceeding, a “just” rate should account for the historic inequities that disadvantaged communities in the SJV have faced. Because of the unique circumstances in this case, the affordability analysis is markedly different here than in other Commission proceedings.

The Pilot Team strongly supports efforts to provide bill protections for pilot participants, and supports, with some modifications, the bill protection discount proposed in the Draft Resolution. The Pilot Team respectfully requests that the Commission: (1) extend the duration of

¹ Greenlining, Response to ALJ Ruling Requesting Parties’ Response to Ruling at 5 (citing C. Rechtschaffen, E. Gauna & C.A. O’Neill, *Environmental Justice Law, Policy and Regulation* (2d Ed., 2009), at 27-33).

² CPUC Environmental and Social Justice Action Plan, February 21, 2019, at 10 (stating the Commission “must focus on communities that have been underserved” including those which have experienced “historic underinvestment.”).

³ At the July 23–24, 2018 Economic Feasibility Workshop in Sacramento, the Assigned Commissioner noted that the design and implementation of pilot projects should include an element of “reparations” to account for a half-century denial of access to affordable energy.

⁴ Cal. Pub. Utilities Code § 451.

the bill protection discount to 15 years and add a second step-down evaluation after 10 years; (2) clarify that the bill protection discount must be applied directly to customer bills; (3) use an independent affordability metric (instead of a comparative cost savings) to determine whether the bill protection discount should be stepped down; (4) use 3 years of participant bill data in the affordability evaluation, and account for the influence of seasonal weather on energy costs; (5) require SoCalGas to provide a 20 percent bill protection discount for 5 years followed by an exemption from rate increases; and (6) link bill protections to the meter, not customer of record.

II. RECOMMENDED CHANGES TO DRAFT RESOLUTION E-5034

The Pilot Team strongly supports the 20 percent bill protection discount outlined in the Draft Resolution. As the Draft Resolution points out, the modeling of bill savings is imprecise, and the potential for rebound effect, rate design choices, and the lack of reliable data lead to uncertainty.⁵ Consequently, bill protections must be sufficiently robust to provide an adequate margin of safety and to ensure that AB 2672's affordability goal is met. The Pilot Team supports the sequential stacking of discounts, the use of a percentage discount, and the 20 percent transitional community solar discount.

Because this program presents a new model for Commission work—all-electric home retrofits for low-income residents—the results may be unpredictable. The timing and duration of benefits may not be realized by pilot participants in the manner the Commission anticipates. And while the experimental nature of this pilot program provides opportunities for learning, this is an experiment that will impact real people's lives, and as such comes with a responsibility to ensure that those people are adequately protected. Given this experimental nature and the vulnerability of the consumer base, long-term cost-savings protections must be in place. While the proposed

⁵ Draft Resolution E-5034 at 27-28.

bill savings discount is a strong foundation, the Pilot Team urges the Commission to incorporate the following changes into the bill protection mechanism.

A. The Commission should extend the duration of the bill protection discount to 15 years and add a second step-down evaluation after 10 years.

The Commission should extend the duration of the bill protection discount to 15 years to account for the full lifetime of electric appliances, the uncertainty of future electricity rates, and the long-term impacts of the pilot projects on SJV households' energy access. The 10-year period for bill savings protection proposed in the Draft Resolution is insufficient to ensure pilot participants do not experience cost increases due to participation. The pilot projects are experimental, and long-term cost impacts are unknown. In addition, the households who will participate in these projects are highly vulnerable. Therefore, we encourage the Commission to exercise a greater degree of caution when designing the bill protection discount.

We recommend the Commission add a second evaluation after 10 years that repeats the evaluation process in year five. If the evaluation finds all residents (excluding outliers) have affordable energy costs after 10 years, the bill protection discount can be eliminated. However, if all participants do not have affordable energy costs, the 10 or 20 percent discount should be extended for an additional 5 years. Fifteen years of bill protection covers appliance lifespans and provides greater assurance to participants who agree to receive electric appliances, while the additional step-down evaluation would ensure that costs to ratepayers remain reasonable.⁶

⁶ The Draft Resolution cites concerns with administrative burdens associated with managing the bill protection discount. If it would be administratively difficult to manage another evaluation and step-down, the Commission could instead evaluate once at 5 years and extend the discount for the following 10; or evaluate once after 10 years of 20 percent discounts and extend the discount for the following 5 years. Either way, the Pilot Team believes it is essential that the discount cover 15 years. Managing a second evaluation will likely pose fewer administrative burdens than the first, as utilities already will be collecting customer data and have an established methodology for evaluating customer savings.

i. A 15-year duration is necessary to cover the full expected lifespan of electric appliances.

The Commission should extend the discount duration to cover the full expected lifespan of electric appliances, rather than constraining bill protection discounts to the shortest possible lifespan of those appliances. The Draft Resolution finds that “linking the [10-year] duration of the pilot bill protection discount to the life expectancy of the appliances ensures that participants receive energy cost savings while relying on electrical appliances,” noting that heat pump space conditioning systems are expected to last 15 years and heat pump water heaters are expected to last ten.⁷ Other sources cite the expected lifespan of heat pump water heaters as 13 to 15 years.⁸

Heat pump space and water heaters account for the majority of home energy loads and will be the most significant determinants of energy costs. Currently, space conditioning and water heating accounts for 65 percent of average home energy use in California homes.⁹ If the bill protection discount is only available for the first 10 years, pilot participants could experience significant bill increases for one-third of products’ expected lifespans. Importantly, residents of pilot communities could be discouraged from participating in the pilots if they know the expected lifespan of appliances exceeds bill protection.

ii. A 15-year duration would account for the long-term change in energy source that pilot participants will undergo.

In addition to receiving electric appliances, pilot participants will also undergo a relatively permanent change in energy sources. The Draft Resolution discusses the potential cost

⁷ Draft Resolution E-5034 at 46.

⁸ J. Trout, “Are heat pump water heaters worth the cost?” *Consumer Affairs*. 28 August 2019. <https://www.consumeraffairs.com/homeowners/heat-pump-water-heater-value.html>

⁹ Water heating (27%), space heating (31%), air conditioning (7%) among Pacific households. From: “Table CE3.5 Annual household site end-use consumption in the West—totals and averages, 2015.” *EIA*. 2015. <https://www.eia.gov/consumption/residential/data/2015/index.php?view=consumption#undefined>

impacts of the pilots as limited to the lifespan of installed electric appliances, but in fact the pilots are implementing a more lasting change by switching residents from propane and wood appliances to electric ones.

Bill protection mechanisms can and should consider the longevity of this change and err on the side of greater bill protection. The Draft Resolution focuses too narrowly on the appliances themselves, finding that a 10-year duration is sufficient because it “ensures that participants receive energy cost savings while relying on electrical appliances for heating, cooling, and cooking needs.”¹⁰ This finding is misaligned with the broader goal of the pilots to “find affordable energy alternatives to propane and wood burning for SJV DACs.”¹¹ The Commission should revise its findings to reflect the broader goals and long-term outcomes of the pilots—to secure long-term access to affordable energy for these communities.

Importantly, the Commission should consider the risk that electricity costs could rise significantly in the next decade, impacting long-term cost savings for pilot participants. An increase in electricity rates would off-set the predicted savings from pilot participation and the bill protection discount’s ability to guarantee affordable monthly energy costs. PG&E has already proposed increasing electricity rates over 20 percent by 2022.¹² The Commission should extend the bill protection discount to provide protection against electricity rate increases.

The Commission should employ a more protective approach when designing the bill protection discount and extend the discount an additional 5 years beyond the first 10 years of the pilots. While this may increase the costs of bill protection mechanism (if the evaluation in year 10 requires extending the discount), these potential additional costs are more than justified as

¹⁰ Draft Resolution E-5034 at 46.

¹¹ D.18-12-015 at 10.

¹² J. Lin, “How much could PG&E’s rates rise? What you need to know.” (Aug. 22, 2019) <https://calmatters.org/economy/2019/08/pges-rate-increases-what-you-need-to-know/>.

reparations to these communities, who, as ratepayers themselves, have been denied access to the full benefits of California’s energy infrastructure which they are owed.

B. The bill protection discount should be applied directly to customer bills.

The Commission should clarify that bill protection discounts must be directly applied to customer bills, and that vouchers are not permitted as a mechanism to disseminate bill protection discounts. Vouchers would put unnecessary and harmful burdens on pilot participants to receive savings they have been allocated. Many SJV disadvantaged community residents have limited access to broadband, experience language barriers, and may not know how to navigate the process of redeeming a voucher. Shifting the burden of redeeming a voucher to pilot participants would run contrary to Decision 18-12-015 (“Pilot Decision”), which requires that the utilities’ bill protection mechanisms “minimize[] administrative barriers and undue burdens for pilot participants.”¹³ To serve broader goals of accessibility and equity, the Commission should clarify that utilities must apply bill protection discounts directly to customer bills. Pilot communities are taking on a risk with a new form of energy, and it is important for the discount to be provided clearly and transparently for residents to build trust with the utilities, and to better understand their energy bills and adjust usage if necessary.

C. The step-down evaluations at years 5 and 10 should analyze an independent energy affordability metric, not a comparative cost savings.

When the utilities evaluate pilot participants’ energy costs to determine whether the bill protection discount should be extended or stepped down, that evaluation should not look at relative cost savings, but should instead evaluate *affordability*, independent of pre-pilot costs.

AB 2672 mandates increased access to “*affordable* energy,” not “lower energy costs.” The Draft Resolution “clarifies . . . that the objective of the bill protection mechanism is to

¹³ D.18-12-015 at 78.

ensure that, at a minimum, no customer participating in an SJV pilot will experience an increase in their total energy costs above what their total energy costs were in the year before they participated in the pilot.”¹⁴ However, this is contrary to the Decision, which identifies the central objective of the pilots as “ensuring cost savings *and* affordability for participating households.”¹⁵ Thus, while costs savings may be the minimum requirement, affordability is the goal.

The Commission should require utilities to use an independent affordability metric in step-down evaluations. This affordability metric would be a fixed dollar amount, calculated for each census tract as 2 percent of area median income for that census tract. Low-income customers typically spend 5 to 7.2 percent of their income on energy costs, while non-low-income customers spend only 1.5 to 2.3 percent.¹⁶ In California, some low-income residents spend as much as 11 percent of their income on energy.¹⁷ Given the historic denial of access to affordable energy that SJV communities continue to experience, the Pilot Team suggests that a 2 percent energy burden is a just and reasonable affordability metric. If, after 5 years, all participants have reached this level of affordability before the bill protection discount is applied, the bill protection discount may be stepped down.

The Commission should also clarify that post-pilot affordability will be measured *before* the 20 percent bill discount is applied, not after. The Draft Resolution states that post-pilot

¹⁴ Draft Resolution E-5034 at 27.

¹⁵ D.18-12-015 at 77 (emphasis added).

¹⁶ A. Dreobl & L. Ross, *Lifting the High Energy Burden in America’s Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities* (American Council for an Energy-Efficient Economy, 2016), at 4, available at <https://aceee.org/sites/default/files/publications/researchreports/u1602.pdf> (median energy burden for low-income households is 5-7.2%; 1.5-2.3% for non-low-income households).

¹⁷ According to the U.S Department of Energy’s Low-Income Energy Affordability Data (LEAD) tool (available at <https://www.energy.gov/eere/slsc/maps/lead-tool>), Californians below the Federal Poverty Level spend 11% of their income on energy costs, while those at more than 400% of the Federal Poverty Level spend only 1 percent.

energy costs will be based on “24 consecutive months of electricity bills,” but does not specify whether the dollar amount analyzed is the cost before or after the bill protection discount is applied.¹⁸ The purpose of the affordability evaluation is to ensure that participants will have affordable bills even after the removal or reduction of the bill protection discounts, so the evaluation must look at the pre-discount costs.

D. The affordability analysis should use 3 full years of participant bill data and account for the influence of seasonal weather on energy costs.

The Pilot Team is concerned that a data sample of, at minimum, 24 months post-implementation, as proposed, is far too small to conduct a robust, statistically-driven analysis of affordability and reliably determine a bill savings trend. The Draft Resolution expresses a clear intent for the energy affordability analysis to be based on the maximum sample size of pilot participant data.¹⁹ The Pilot Team concurs. The Commission should require the utilities to use at least 3 full years of post-pilot participant data, and to exclude the first 12 months of participant data, to ensure a more representative data sample and reduce the influence of expected bias in the energy cost analysis, as explained below.

Energy usage varies greatly based on seasonal weather, as well as behavior and efficient appliance use. The first 12 months of participant data post-installation of electric appliances will likely reflect noise due to pilot participants’ unfamiliarity with those new appliances, the rebound effect, and/or bill shock. Excluding this 12 month “learning period” from the energy cost analysis will reduce bias and provide for a more accurate signal of bill savings outcomes.

¹⁸ Draft Resolution E-5034 at 54.

¹⁹ Draft Resolution E-5034 at 37 (“The advice letters shall, at a minimum, reference anonymized and aggregated post-pilot electricity bill data, *using as much bill data that is available* at the time of the advice letter filing.”) (emphasis added).

The Commission should also require the utilities to track and mitigate the influence of annual temperature variability in the energy cost analysis. Years with unusually high numbers of heating and cooling degree days may increase or decrease energy costs beyond modeled or average costs. If, for instance, the utilities analyze only two years of bill data, and pilot participants experience temperatures that diverge from historical averages in one or both of those years, this bias will be reflected in customer energy loads and energy costs. The Pilot Team is concerned that one year of abnormally warm winter weather could indicate future energy cost savings that will not be sustained over the lifetime of the appliances. To address this concern, the Commission should require utilities to track and mitigate the bias of annual weather variation and require the affordability analysis use at least 3 years of bill data.

Justifying a decision that lowers the bill discount rate and exposes pilot participants to bill increases on a signal observed from a non-representative dataset is counter to the information feedback expectation of the Pilot Decision.²⁰ In order to ensure that the decision to tune the bill savings discount rate is driven by a robust dataset, the Commission should direct PG&E and SCE to use 3 full years of participant data, excluding the first 12 months post-installation, and to account for the bias of seasonal weather in their analysis.

E. The Commission should require SoCalGas to provide a 20 percent bill protection discount for 5 years, followed by exemption from rate increases.

The Commission's final resolution should require SoCalGas to provide a bill protection discount of 20 percent for the first 5 years of the pilots. After 5 years, if gas prices have increased above 2020 prices, pilot participants should be exempted from those rate increases.

²⁰ See D.18-12-015 at 12.

The Draft Resolution approves SoCalGas' Bill Protection Advice Letter 5439-G as filed.²¹ However, this Advice Letter does not adequately account for bill shock and rebound effects, miscalculates of energy costs due to inadequate data, and does not consider the rising costs of natural gas. Without robust protections responsive to these concerns, pilot communities may experience increased energy bills, contravening the purpose of pilot participation.

Neither SoCalGas' Advice Letter nor its response to the Pilot Team's Protest explain why additional bill protections are unnecessary. SoCalGas simply reiterates that its modeling—using natural gas consumption in nearby communities to approximate pre-pilot propane use in pilot communities—is an adequate starting point, and that it lacks the data to make determinations about other potential cost increases.²² SoCalGas seems to imply that because of limited data on the rebound effect and curtailment of propane usage due to cost, the Commission should ignore those factors and accept SoCalGas's modeling as the best and most appropriate estimates without considering additional protections.²³ SoCalGas also fails to respond to a study cited in the Pilot Team Protest that discusses the wide-ranging fluctuations and general uncertainty of costs when new energy sources are introduced.²⁴ Consequently, SoCalGas' tautological reasoning exposes pilot communities to the risk of higher bills without proper justification.

Nor does SoCalGas' Advice Letter account for rising natural gas rates—SoCalGas's rates are projected to increase by 30 percent over the next two to three years.²⁵ Should gas prices continue to rise and perhaps outpace the costs propane and wood, the pilot project will have

²¹ Draft Resolution E-5034 at 42-43.

²² SoCalGas Reply to Protests of SoCalGas' Advice Letter (AL) 5439 (Apr. 15, 2019) at 4.

²³ *Id.*

²⁴ See Pilot Team and Greenlining Protest of SoCalGas Advice Letter 5439 (Apr. 8, 2019) at 8 n.25.

²⁵ California Electric and Gas Utility Cost Report (June 6, 2019) at 20, available at https://ww2.energy.ca.gov/research/notices/2019-06-06_workshop/2019-06-06_Future_of_Gas_Distribution.pdf.

failed its essential purpose of bringing affordable energy to disadvantaged SJV communities. Thus, the Pilot Team proposes that SoCalGas use 2020 natural gas prices as a baseline, and if rates increase above baseline more than the rate of inflation, pilot customers should be exempted from those increases.

The overarching lack of data and uncertainty of modeling should militate towards designing bill protections with an adequate margin of safety to ensure affordability. The Pilot Team urges the Commission to include in its final resolution a requirement that SoCalGas implement a 20 percent discount for 5 years, and a requirement that if natural gas rates have increased above 2020 baseline rates beyond the rate of inflation after the 5-year period, pilot customers will be exempted from those increases. These protections are reasonably simple to administer and will insulate pilot communities from rebound effects with a margin of safety. Further, these protections have a restitutive effect which will begin to correct injustices faced by these disadvantaged communities that have been denied service for over 50 years.

F. The bill protection mechanism should be linked to the meter, not to the customer of record.

If the customer of record moves out of the electrification-treated home during the bill protection period, the bill protection discount and transitional community solar discount associated with the property should not be terminated. Rather, any new resident moving into treated homes should receive the full complement of bill protection discounts. Specifically, the bill protection mechanisms should be linked to the meter associated with the treated home.

The Draft Resolution notes that because the bill protection mechanisms are intended to mitigate energy cost increases, the bill protections should be associated with the customer of record who incurs those costs.²⁶ Accordingly, the Draft Resolution states that bill protection

²⁶ Draft Resolution E-5034 at 42.

discounts and transitional community solar discounts will terminate if the customer of record moves out of the treated home within the bill protection period.²⁷ As discussed above, bill protections should be focused on affordability, not merely comparative cost savings,²⁸ and the bill protections should be linked to the meter of a treated home, not a customer of record.

Linking bill protections to individual customers creates a significant hole in the proposed bill protections. The Draft Resolution does not specify that the bill protections will follow the customer of record to their next residence if it is another treated home within the same or another pilot community, and it also prevents future, remaining, or returning occupants of a treated property from receiving of bill protections. The result is a no man's land in which pilot residents may lose eligibility if they move within their community, and which prevents new or remaining residents (who may have been victims of the same historic disinvestment) from experiencing the full benefits of newer, safer, and more affordable energy.

Two examples among many illustrate this problem. First, a landlord who rents units in a home she also occupies may be the only customer of record if the structure has only one meter. Should the landlord vacate or sell the property while the tenants remain, the Draft Resolution's proposed restriction would mean that every remaining tenant loses the bill mechanisms specifically designed to protect them. As currently proposed, the Draft Resolution offers these individuals no means to continue accessing bill protections.

Second, a significant portion of SJV residents engage in seasonal work and leave the SJV for blocks of time throughout the year. When they depart for planting or harvesting work in other regions, they may close their utility account. Under the proposed Draft Resolution, these long-

²⁷ *Id.*

²⁸ *See supra* section II.C.

term SJV residents will lose bill protections simply because they have to travel to earn enough to care for their dependents.

Further, the Commission risks losing critical data under the current Draft Resolution. As written, the customer of record restriction removes treated homes from the pilot program once the customer of record terminates their account. The number of eligible homes for the pilot programs is already limited, with some pilot communities having only 200 pilot-treated homes. By eliminating from the data set every treated home vacated by a customer of record, the Commission would severely limit the usefulness and accuracy of any data coming out of the pilot programs. This result would be contrary to express data collection purpose of the Pilot Decision and would make the work of Phase III exponentially more difficult.²⁹

The purpose of this program is to offer benefits and protections to communities that have long been left out in the cold by California government. While incrementally helping individual energy customers will yield some benefits, the communities as a whole also deserve attention.³⁰ Pilot communities have faced historic and significant inequality. Pilot communities have been asking for help since the 1970s,³¹ and the California government has largely ignored these pleas for over four decades. Given this history, many pilot community residents are mistrustful of state government,³² and overcoming this distrust is critical if pilot programs are to ensure broad participation and robust data. By building an artificial and insignificant restriction into the bill protection design, the Commission increases the risk of further community dissatisfaction and

²⁹ See D.18-12-015 at 10-11.

³⁰ CPUC Environmental and Social Justice Action Plan, February 21, 2019, at 10 (stating the Commission “must focus on communities that have been underserved” including those which have experienced “historic underinvestment.”).

³¹ See R.15-03-010 Pilot Team Responses to ALJ Ruling Questions, Attachment B.

³² Cal. Energy Comm’n, Low-Income Barriers Study (Dec. 2016) at 48, available at https://www2.energy.ca.gov/sb350/barriers_report/.

mistrust. The pilot treatments involve a total of just over 1,000 homes, and most are in communities with fewer than 500 residents.³³ Because of the location of pilot communities and the relatively small number of homes and individual customers at issue, the program’s potential for fraud is relatively low. As a result, the potential goodwill and equity benefits of extending bill protections to all residents of a treated home—for the full lifetime of the bill protections—far outweigh the risk of abuse.

The Commission should apply the bill protections broadly so that they offer the most holistic benefit to both individual consumers and the community as a whole. Therefore, the Commission should link bill protections to the meter associated with treated homes.

III. CONCLUSION

The Pilot Team appreciates the opportunity to comment on the Draft Resolution and strongly supports efforts to provide bill protection for pilot participants. AB 2672 calls for analysis of increased access to “affordable” energy in the SJV, and the Decision calls for pilot projects that will inform a cost-effectiveness study. There are no compelling reasons against setting the bar high to create the best data for pilots that will be replicated in disadvantaged communities throughout the SJV. Furthermore, all residents in the SJV are ratepayers who help ensure that the California grid is safe and pay into the various mitigation needed by all three utilities, regardless of having the highest cost of energy in the state of California. In a context of incomplete information and risk management, the Pilot Team’s proposed changes are necessary required to ensure the letter of the law, the success of the pilot process, and that restitution is conferred. Investing more in these pilots now—rather than later when they are replicated—will ensure a robust analysis pursuant to AB 2672.

³³ D. 18-12-015 at 68.

Dated: November 26, 2019

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