

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



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Application of Pacific Gas and Electric  
Company for Authority, Among Other Things,  
to Increase Rates and Charges for Electric and  
Gas Service Effective on January 1, 2017.  
(U 39 M)

Application No. 15-09-001  
(Filed September 01, 2015)

**PROTEST OF THE NATIONAL DIVERSITY COALITION**

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October 05, 2015

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**I. INTRODUCTION**

Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC” or “Commission”), the National Diversity Coalition<sup>1</sup> (“NDC”) hereby protests the above-captioned Application<sup>2</sup> filed September 1, 2015 by Pacific Gas and Electric Company (“PG&E” or “the Utility”). The Application first appeared on the Commission’s Daily Calendar on September 3, 2015. Thus, this protest is timely filed.

**II. GROUNDS FOR PROTEST AND ISSUES OF CONCERN**

Pursuant to Section 451 and 454 of the Public Utilities Code, no utility can change their rates unless the Commission finds that the new rate is justified. The utility has the burden to

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<sup>1</sup> National Diversity Coalition members include the National Asian American Coalition (NAAC), African American Economic Justice Organization, Asian Journal, Chinese American Institute for Empowerment, Christ Our Redeemer AME Church, COR Community Development Corporation, Ecumenical Center for Black Church Studies, Jesse Miranda Center for Hispanic Leadership, Los Angeles Latino Chamber of Commerce, Latino Coalition for Community Leadership, Macedonia Community Development Corporation, MAAC Project, National Hispanic Christian Leadership Conference, OASIS Center International, Orange County Interdenominational Alliance, and Templo Calvario CDC. Please note, in prior proceedings before this Commission, NDC members have appeared under the name “Joint Minority Parties”.

<sup>2</sup> A.15-09-001 *General Rate Case Application Of Pacific Gas And Electric Company* (9/1/2015) (the “Application”).

show that the rate they propose is “just and reasonable”<sup>3</sup>. In order to assist the Commission in conducting a thorough evaluation of PG&E’s rate proposal, the NDC has conducted an initial review of the application, and identified the issues of concern discussed below. Given the voluminous amount of information in this filing and the limited time to file protests, the following is not an exhaustive list, and the NDC may identify other concerns following more in-depth analysis, discovery, and discussions with PG&E.

### **A. Safety Reforms**

The NDC, on behalf of the millions of minority ratepayers whom we serve and represent, is very concerned with the adequacy of PG&E’s efforts to ensure the safety of their systems and operations. Given the catastrophic incidents of the past and present involving PG&E, the safe operation and proper maintenance of PG&E’s gas and electric services and infrastructure is of paramount ongoing public interest concern, and warrants close scrutiny in this GRC proceeding. While PG&E provided considerable information on the identification of risks and analysis of the metrics regarding their efforts to address safety problems<sup>4</sup>, it is not clear at this time whether these steps are actually leading to meaningful improvements, or are an effective and efficient use of resources.

Of particular interest to the NDC is the necessity to reform safety policy at the organizational level, and improve safety at PG&E by increasing accountability of their upper level management. The National Transportation Safety Board in their investigation of PG&E

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<sup>3</sup>California Public Utilities Code section 451.

<sup>4</sup> PGE GRC Ex. 2, *Safety, Risk And Integrated Planning*.

following the San Bruno pipeline rupture<sup>5</sup> found that the tragedy might have been prevented if PG&E had implemented responsible organizational changes following prior pipeline accidents in San Francisco in 1981 and Rancho Cordova in 2008. Yet PG&E's failure to respond to the earlier warnings indicated a failure at the organizational level that led to the San Bruno incident<sup>6</sup>. A report by the Independent Review Panel established by the Commission to investigate the San Bruno incident also concluded that the "dysfunctional" safety culture at PG&E resulted from "excessive levels of management, inconsistent presence of subject matter expertise in the management ranks, an appearance-led strategy setting, an insularity that impeded its ability to judge its effectiveness, and an overemphasis on financial performance."<sup>7</sup>

In considering the reasonableness of the implemented and proposed safety efforts at PG&E, the Commission must evaluate the need to reform the utility's executive management focus on and incentive to improve safety.

## **B. Excessive Compensation**

According to research from Notre Dame University, large executive pay packages bolstered by stock options encourage aggressive and risky behavior from corporate officers, which often leads to increased problems with product and service safety, such as a higher probability and instances of product recalls.<sup>8</sup> Excessive compensation plans that include stock

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<sup>5</sup> *Accident Report: Pacific Gas and Electric Company –Natural Gas Transmission Pipeline Rupture and Fire – San Bruno, California – September 9, 2010*, NTSB/PAR-11/01, PB2011-916501 (adopted by the NTSB on August 30, 2011) (NTSB Report)

<sup>6</sup>*Id.* at 117-118.

<sup>7</sup> I.15-08-019, *Order Instituting Investigation On The Commission's Own Motion Into Whether Pacific Gas And Electric Company And PG&E Corporation's Organizational Culture And Governance Prioritize Safety* (9/2/2015) (PGE Safety Culture Investigation) at 8-9, citing to *Report of the Independent Review Panel – San Bruno Explosion – Prepared for the California Public Utilities Commission* (rev'd June 24, 2011) (IRP Report) at 15-16.

<sup>8</sup> Morgenson, Gretchen, *Safety Suffers as Stock Options Propel Executive Pay Packages*, NY TIMES (9/11/2015), [http://www.nytimes.com/2015/09/13/business/safety-suffers-as-stock-options-propel-executive-pay-packages.html?\\_r=0](http://www.nytimes.com/2015/09/13/business/safety-suffers-as-stock-options-propel-executive-pay-packages.html?_r=0).

options for utility executives should therefore be closely examined to determine if they properly reward a commitment to safety, and discourage undue risk-taking aimed only at improving the bottom line.

The GRC application contains concerning elements related to rate increase requests to fund compensation that call into question the reasonableness of the request, such as the Total Compensation Study being conducted without ORA participation<sup>9</sup>. Furthermore, the Application proposes to shift the cost recovery burden for the utility's Short-Term Incentive Plan, Supplemental Executive Retirement Plan, Employee Service Awards, and Directors and Officers Liability Insurance away from shareholders (who previously covered 32%-50% of these costs) and entirely onto ratepayers<sup>10</sup>. The Commission must first carefully evaluate whether these costs are designed specifically to benefit ratepayers and align executive and employee interests with ratepayer interests, then decide to what degree ratepayers and shareholders will benefit from these programs, before determining what percentage of these costs ratepayers and shareholders should be made responsible for.

To the extent that ratepayers are required to pay for utility executive compensation and benefits, the utility should provide transparency and accountability to ratepayers. The Commission should consider a mechanism to give ratepayers a "say on pay" opportunity, similar to that for shareholders, allowing ratepayers to vote on pay levels for utility executives. Further, more useful information should be disclosed to ratepayers about salaries, such as the number of employees who receive total compensation (not just base pay) in excess of \$125,000 annually, and their titles. GRC filings should require, consistent with SEC requirements, that the utility divulge the differential in overall compensation between the CEO and the average non-

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<sup>9</sup> PGE GRC at 13.

<sup>10</sup> *Id.* at 13-15.

management employee. Such an evaluation of executive compensation is necessary to address operational and systemic issues that directly affect the safe and responsible operation of utility systems, and are reasonable in reviewing the funding request in this GRC.

### **C. Public Participation Hearings**

In order to encourage public participation and increase awareness and understanding of the many CPUC proceedings that directly affect ratepayers, the assigned Commissioner should convene and attend each public participation proceedings, and the Commission should adopt rules to make public comments at hearings a part of the evidentiary record, as provided in AB 825. The Commission should also evaluate the effectiveness of current efforts to communicate with the public about the issues and importance of public participation hearings, and consider partnering with community based organizations in developing and disseminating notices.

### **D. Marketing, Education, and Outreach**

ME&O must be funded at sufficient levels to educate ratepayers on the changes that are occurring with utility rates, excessive compensation their bills are covering, and reforms in safety policies. Key groups should receive targeted materials, including low-income, fixed-income elderly, and non-English speaking communities, to better understand and utilize the resources available to them.

### **E. Supplier and Employment Diversity**

Sufficient funding must be allocated to increase diversity in supplier contracts as well as in employment at all levels. PG&E should set aspirational goals for supplier and employment diversity that more closely reflect the diversity of the communities they serve. At least 50% of supplier contacts should be with diverse business enterprises (DBE), and the utility should disclose the number of contracts and the dollar amount they spend with small businesses that

generate under \$1 million in annual revenue. Reported diversity information should be broken down by Asian sub-ethnic groups, as defined by the US Census categories or the University of California admission categories. The NDC will continue to make efforts to support the utility in achieving these goals.

#### **F. Consideration of Economic Conditions in Calculating Rate Request**

The Commission should consider the economic conditions within the utility service areas when calculating new utility rates. Economic conditions would include unemployment rates, amounts of annual wage increase, changes in cost of living and prices for other basic goods and services, etc. There should at least be a higher level of scrutiny applied to determining the reasonableness of rate increases when they exceed the average wage increase in an area, as when rate increases for CARE participants exceeds increases in other available benefits.

#### **G. Customer Service**

PG&E proposes to close up to 26 of its existing 75 Customer Service Offices (CSO)<sup>11</sup>. These closures may provide cost savings, but could also result in a significant decline in customer service, particularly to low-income and minority groups that prefer to conduct transaction and raise concerns in person. The NDC will explore the possibility of establishing CSOs that are located within storefronts that serve the minority community, which can be run by community based organizations. Such an arrangement would realize cost savings for ratepayers and still maintain or increase PG&E's accessibility in the minority community.

### **III. PROCEDURAL ISSUES**

#### **A. Categorization**

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<sup>11</sup> PGE GRC Ex. 6, *Customer Care* at 5-11, 5-12.

The NDC has no objection to the proposal to categorize this proceeding as ratesetting.

#### **B. The Effect of the Application on the Protestants**

The NDC is made up of community based organizations that advocate for racial and economic equality. The NDC is actively involved in representing the interests of minority and low-income ratepayers before this Commission and other legislative and regulatory bodies. The proposed rate increase in this proceeding will directly affect NDC constituents by raising their utility bills, and proposed changes in utility operations will affect the quality and scope of services that our constituents receive.

#### **C. Proposed Schedule**

The NDC defers to the judgment of the Commission to set an appropriate schedule, and will provide input into a proposed schedule at a later prehearing conference. We urge the Commission to include sufficient time for public participation hearings in the proceeding schedule.

#### **D. Hearings**

The NDC believes that evidentiary hearings will be necessary in this matter. The NDC also respectfully requests that numerous public participation hearings are scheduled, to allow for meaningful public feedback and input. Parties should be given ample advanced notice of the scheduling details for public hearings to allow time to organize ratepayer participation. We reiterate that statements delivered at public participation hearings should be made a part of the record, in order to encourage and validate public participation. Finally, interpreters should be made available in the major languages spoken within the service areas where public participation hearings are held.



#### **IV. CONCLUSION**

For the reasons set forth herein, NDC protests PG&E's proposed rate increases, and requests that the scope of the proceeding include, but not be limited to, the matters discussed above. The NDC looks forward to fully participating in this proceeding.

October 05, 2015

Respectfully Submitted,

/s/  
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THE NATIONAL ASIAN AMERICAN  
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