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

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 15-09-001 (Filed September 1, 2015)

PROTEST OF MERCED IRRIGATION DISTRICT AND MODESTO IRRIGATION DISTRICT OF GENERAL RATE CASE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission" or "CPUC"), Merced Irrigation District ("Merced ID") and Modesto Irrigation District ("Modesto ID") (collectively, the "Districts") submit this Protest to the Application of Pacific Gas and Electric Company ("PG&E") for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017 ("PG&E Application").

I. Introduction.

PG&E proposes to increase its gas distribution and electric distribution and generation base revenue requirements by a total of $457 million, effective January 1, 2017, compared to adopted revenue requirements for 2016.[1] This represents an almost 6% increase compared to adopted revenue requirements for 2016.[2]

In support of the proposed revenue requirement increases, PG&E reflects on its 2014 General Rate Case ("GRC") goal of "establishing PG&E among the best operating utilities in the United States."[3] PG&E asserts that it has made "substantial progress" toward this goal, but acknowledges "there is still much work to do."[4] Accordingly, as in the 2014 GRC, PG&E again

1 PG&E Prepared Testimony, Exh. PG&E-1, p. 1-5.
2 *Id*. at p. 1-25, Table 1-2.
3 PG&E Prepared Testimony, Exh. PG&E-1, p. 1-1.
4 *Id*.

states that its "goal is to provide safe and reliable gas and electric service that is affordable to our customers and environmentally sound."[5]

In the face of this purported desire to focus on safe, reliable and affordable electric service, and its proposal to increase revenues to provide such service, PG&E once again asks its ratepayers to fund a customer retention program. Specifically, PG&E would have ratepayers pay *at least* $807 thousand for customer retention activities in 2017.[6] PG&E asserts that the proposed customer retention expenses are needed to prevent *hypothetical* "adverse impacts of uneconomic bypass to PG&E's customers."[7]

The Districts (and others) have protested similar PG&E requests in PG&E's 2003, 2007, 2011, and 2014 GRCs. In the 2003 and 2007 GRCs, the Districts' concerns regarding ratepayer funding of customer retention efforts were addressed in multi-party settlements providing zero allocation for customer retention expenses.[8] In PG&E's 2011 GRC, a multi-party settlement similarly precluded ratepayer funding of customer retention expenses and also required that any such expenses be recorded below-the-line.[9] In the 2014 GRC, PG&E's customer retention revenue request was litigated, and the Commission rejected PG&E's proposal to ask ratepayers to bear the cost of customer retention activities.[10] The same facts and principles that supported no ratepayer liability for customer retention efforts in multiple prior GRC proceedings apply to PG&E's current proposal.

Also, as in prior GRCs, the Districts seek more transparency in the way PG&E develops revenue requirements and assigns costs for electric distribution projects. For example, the Districts seek to ensure that PG&E is not undervaluing the costs of projects in the distribution planning areas ("DPAs") that overlap the areas where the Districts also provide electric service. In the Phase I decision in PG&E's 2014 GRC, the Commission directed PG&E to provide project cost data by DPA in its next GRC, to allow the Commission to evaluate revenue requirements in overlapping DPAs.[11] The Districts currently are evaluating the capital

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5 *Id*. at p. 1-4.

6 PG&E Prepared Testimony, Exh. PG&E-6, p. 6-1. (*See also* footnote 19 below regarding potential additional forecast customer retention expenses.)

7 *Id*. at p. 6-1.

8 D.04-05-055, Attachment A, p. 14; D.07-03-044, Appendix C, Paragraph 19.

9 D.11-05-018, Attachment 1, Paragraph 3.5.1(b).

10 D.14-08-032, pp. 330-332.

11 D.14-08-032, pp. 219-220.

expenditure cost data PG&E provided in workpapers to determine whether PG&E is properly calculating the costs in the DPAs where the Districts also provide service.

The Districts are additionally interested in PG&E's request for approval of a $2.12 million revenue requirement for economic development activities for 2017.[12] It appears that PG&E proposes to allocate a portion of that amount to its Economic Development Rate ("EDR") program.[13] In the 2013 decision authorizing PG&E's EDR program, the Commission determined that the program would expire upon the effective date of a decision in Phase II of PG&E's 2017 GRC, and that the renewal of the EDR program would be decided in Phase II of the 2017 GRC.[14] The Districts request that the Commission make clear that any revenue requirement authorized for the EDR program in this Phase I is contingent upon the Commission authorizing renewal of the EDR program in Phase II.

In sum, Merced ID and Modesto ID request that the Commission:

- Deny PG&E's request to have ratepayers fund $807 thousand or more in customer retention activities and require that PG&E record any customer retention expenses below-the-line;
- Require that PG&E equitably develop the revenue requirements for, and allocate the costs of, electric distribution projects among DPAs; and
- Explicitly provide that any revenue requirement authorized for PG&E's EDR program in this Phase I is contingent upon the Commission authorizing renewal of the EDR program in Phase II.

The Districts continue to review the PG&E Application and plan to begin discovery soon. Accordingly the Districts reserve the right to address other issues raised by the PG&E Application, as appropriate. Additionally, to the extent issues arise relating to PG&E's compliance with the Agreement Regarding Removal of Idle Facilities between PG&E and Modesto ID, which was entered into in accordance with the settlement approved in D.07-03-044, Modesto ID reserves the right to address those issues consistent with the Commission's procedural rules.

II. The Districts Have a Material Interest in This Proceeding.

Merced ID and Modesto ID are publicly owned utilities ("POUs"). Each competes with PG&E in the provision of electric services to consumers in California's central valley; Merced

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12 PG&E Prepared Testimony, Exh. PG&E-6, pp. 2-27 – 2-28.
13 *Id*. at pp. 2-27 – 2-29.
14 D.13-10-019, pp. 2-3, and Appendix A, p. A-2.

ID is also a PG&E customer. Thus, both have an interest in the matters addressed in this proceeding, including, but not limited to, PG&E's proposal to use ratepayer monies to prevent customers from choosing POU electric service, the need for equitable development of revenue requirements for, and allocation of the costs of, electric distribution projects among DPAs, and PG&E's proposed EDR program revenue requirement and the requirement to obtain Commission approval to renew the program, any or all of which could harm ratepayers and provide PG&E with an unfair advantage in the provision of electric service compared to the Districts.

III. PG&E's Proposal to Have Its Ratepayers Pay to Limit Their Lawful Ability to Choose POU Service Should Be Rejected.

A. Precluding the POU Alternative Is Inconsistent With PG&E's Desire to Rebuild Relationships With Customers.

In its 2014 GRC, PG&E identified "rebuild[ing] relationships with our customers, communities and other stakeholders" as one of three general strategies it would follow in its effort to "establish[] PG&E among the best operating utilities in the United States."[15] In this proceeding, PG&E touts its progress in achieving increased customer satisfaction "through improvements to customer service, billing and payment options, and improved communications on energy programs and rate options."[16]

On its web site, PG&E highlights the fact that it "is one of the largest combination natural gas and electric utilities in the United States."[17] PG&E explains that it provides natural gas and electric service to approximately 16 million people throughout a 70,000-square-mile service area in northern and central California, through 141,215 circuit miles of electric distribution lines and 18,616 circuit miles of interconnected transmission lines.[18]

Notwithstanding PG&E's expressions of commitment to its customers, and the vast scope of its electric service operations in northern California, PG&E would ask its customers to pay at least $807 thousand in 2017 to fund PG&E's efforts to preclude those

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15 PG&E Prepared Testimony, Exh. PG&E-1, p. 1-1.
16 *Id*. at p. 1-3.
17 *See* PG&E website: http://www.pge.com/en/about/company/profile/index.page?.
18 *Id*.

very same customers from exercising their lawful right to choose to take service from POU providers.[19]

As in prior GRC applications, the main rationale offered by PG&E in support of its request is avoidance of the hypothetical scenario that "uneconomic bypass" occurs when "targeted" customers or groups of customers leave PG&E to take service from a POU.[20] Once again, PG&E's concerns are overstated and misleading. PG&E fails to mention that PG&E's customers frequently initiate the choice of POU service. PG&E also fails to mention that it can and does plan for departures to POUs. And, PG&E fails to mention that the Commission has recognized the benefits to California's electric consumers of competition among service providers. For example, in D.98-06-020, the Commission rejected a sale of facilities agreement between PG&E and Modesto ID, choosing instead to preserve the competition between PG&E and Modesto ID.[21]

B. PG&E Currently has Sufficient Tools to Address Its Concerns About the POU Alternative.

Irrigation districts have had the ability to provide electric service for almost a century. In 1919, the California Legislature formally authorized irrigation districts to "provide for the acquisition, operation, leasing and control of plants for the generation, transmission, distribution, sale and lease of electric power."[22] POUs, including irrigation districts, have lawfully been providing electric service in California for decades and continue to do so. PG&E knows this, and

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19 PG&E Prepared Testimony, Exh. PG&E-6, p. 6-1. In addition to the $807 thousand, PG&E also appears to ask ratepayers to fund lobbying activities, political contributions, and customer-requested rate comparisons that may be related to customer retention, although PG&E indicates that such activities are addressed in a different chapter of PG&E's testimony, and not in its Customer Retention testimony. (*Id*. at p. 6-5.) For example, PG&E indicates that its customer retention activity may include requests from customers "for information on their past usage, for assistance in evaluating the competitive offer, or for PG&E to submit a competing bid for continuation of service." (*Id*. at p. 6-6) PG&E refers parties to Exhibit PG&E-9, Chapter 7 for a discussion of the referenced activities, however, there is no clear breakdown of amounts proposed to be allocated toward customer retention efforts. (*Id*. at p. 6-5, fn. 4.) Similarly, it is possible PG&E is proposing that some of the ratepayer monies requested for the economic development activities described in PG&E's Customer Engagement testimony may fund customer retention activities such as those described in its Customer Retention testimony. (*Id*. at pp. 2-12 – 2-14 and pp. 2-27 – 2-29.) The Districts plan to begin discovery soon, in an effort to better understand PG&E's proposals.

20 PG&E Prepared Testimony, Exh. PG&E-6, pp. 6-5 - 6-6.

21 D.98-06-020; 1998 Cal. PUC LEXIS 458, p. 12.

22 Cal. Water Code § 22125.

PG&E can, and does, forecast municipal departing load. In fact, state law requires that it do so.[23] In D.07-12-052, the Commission "concur[red] with PG&E's response … that future DG and [municipal departing load] is captured by historical trends used to develop the forecast."[24] In other words, PG&E has ample ability to account and plan for the decisions of PG&E's existing customers and new energy customers to choose POU electric service.

PG&E also fails to mention the various nonbypassable load charges the Commission has authorized PG&E to collect to minimize or eliminate most impacts to PG&E and its ratepayers as a result of load that departs to take service from a POU. In some instances, nonbypassable charges could put PG&E's remaining customers in a better position than if the departing customer stayed with PG&E. This would be the case where, for example, the cost of serving a customer exceeds the revenue provided by the customer. Similarly, it is possible that PG&E may collect the same charges twice – once from the departing customer and again from the customer who moves into the departed location. PG&E also largely ignores its ability to offer rate discounts in the face of certain POU offers for service.

PG&E has successfully opposed various POU and community choice aggregation ("CCA") efforts in recent years. In the 2006-2007 timeframe, PG&E defeated the Sacramento Municipal Utility District's proposal to annex the Cities of West Sacramento, Davis, and Woodland and nearby unincorporated areas and South San Joaquin Irrigation District's ("SSJID") proposal to provide electric service within its boundary. In 2009, the San Joaquin Valley Power Authority determined to suspend its efforts to pursue CCA service at least in part because of PG&E's opposition efforts.[25] In 2009 and 2010, PG&E spent approximately $48 million as the primary financial backer of an initiative, the "New Two-Thirds Vote Requirement for Local Electricity Providers," that would have amended the California constitution to, among other things, require that a two-thirds majority approve the formation or expansion of POU service, and the implementation of a CCA program. That measure failed. PG&E currently is involved in SSJID's renewed effort to provide electric service, and has been active during the

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23 Cal. Pub. Res. Code § 25302.5 (POUs and IOUs required to provide the California Energy Commission with load forecast information that includes forecasts of load expected to take service from POUs).

24 D.07-12-052, p. 32.

25 *See* Kings River Conservation District Newsletter, V.7, No. 1 (July 2009), available at: http://www.krcd.org/newsletters/vol7-no1-connections/index.html.

City and County of San Francisco's, the Marin Energy Authority's, and other communities' efforts to establish and implement CCA programs.

Given the customer retention tools presently available to PG&E, and PG&E's substantial customer retention efforts in recent years, presumably with zero allocation of ratepayer monies, it is not at all clear why PG&E needs ratepayers to contribute at least $807 thousand in 2017 toward customer retention activities.

C. PG&E's Characterization of the POU Alternative Is Erroneous.

PG&E's suggestion that departures to POU service are the result of POU "takeover efforts" is also misleading.[26] The reality is that PG&E's customers quite often initiate a potential move to POU service. For example, Modesto ID electric service expansions in Escalon, Oakdale, Ripon, and Riverbank were initiated at the request of the respective city councils. Similarly, in 2005, the governing bodies of the Cities of West Sacramento, Davis, and Woodland and Yolo County unanimously voted to pursue annexation into the Sacramento Municipal Utility District's service area.[27] This approach makes good business sense – a community would not seek to initiate or expand POU service, especially considering the formidable resources PG&E brings to bear to oppose such efforts, without willing customers.

PG&E further misleads with the statement that "[w]hen these conventional takeover attempts are initiated, proponents typically put forth a number of assertions that *PG&E believes* are based on incomplete information or faulty assumptions, therefore leading to false conclusions."[28] PG&E may disagree with the assertions and conclusions of customers seeking POU service, however, absent evidence to the contrary, that does not mean the POU proponents "typically" are working off of inaccurate assertions or false conclusions.

PG&E proposes to spend $542 thousand of the requested 2017 customer retention amounts on its efforts to address SSJID's electric service efforts.[29] Given that PG&E has not previously been authorized to spend ratepayer monies on its efforts to block POU service, including SSJID's efforts to date, it is not clear why PG&E now needs ratepayer funds in connection with SSJID's plans to provide retail electric service.

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26 *See, e.g.*, PG&E Prepared Testimony, Exh. PG&E-6, p. 6-5 (describing conventional "takeover" efforts).

27 Joint Resolution of the Cities of Davis, West Sacramento and Woodland and the County of Yolo, Annexation by the Sacramento Municipal Utility District (April 5, 2005).

28 PG&E Prepared Testimony, Exh. PG&E-6, p. 6-5 (emphasis added).

29 PG&E Prepared Testimony, Exh. PG&E-6, p. 6-9, Table 6-1.

Additionally, PG&E does not provide a specific plan or schedule for the customer retention activities on which it proposes to spend the remaining $265 thousand ($807 thousand minus $542 thousand), other than a need to respond to questions from elected officials or interested community members with a "specialized knowledge regarding PG&E's service characteristics, cost structure and rates, as well as research, review and analysis of the third-party proposal."[30] Customer retention activities are not otherwise defined, and there is no meaningful breakdown of the costs PG&E expects to incur in undertaking any such activities.

Ratepayers should not be forced to bear $807 thousand, and possibly more, in costs in 2017 based on summary generalizations, particularly where, as noted above, PG&E historically has been willing and able to fund substantial customer retention efforts, including efforts to respond to SSJID's plans, presumably with zero allocation of ratepayer monies.

D. The POU Alternative Benefits All California Electricity Consumers.

PG&E relies solely on the Ratepayer Impact Measure ("RIM") Test from the California Standard Practice Manual: Economic analysis of Demand-Side Management Programs to estimate the cost effectiveness of its customer retention expenditures.[31] A cost-effectiveness analysis considers whether the benefits of a program outweigh its costs and, therefore, requires that costs and benefits be identified and quantified. Avoided costs can make up a substantial portion of a program's quantifiable benefits. Here, PG&E has not enumerated the costs and benefits of its customer retention efforts. And, PG&E appears to ignore the fact that customer departures to POU service could avoid costs.

POU service affects more than PG&E and its ratepayers. POU service affords California's electric consumers with a competitive alternative to investor owned utility service, thereby affecting the State as a whole, including POU and investor owned utility customers. In order to capture all of the benefits of POU service, it must be considered from society's perspective, using the Total Resource Cost Test from the Standard Practices Manual.[32]

Customer choice is valuable to society. Consumers look for opportunities to reduce costs and maintain or improve their competitive position. Cost control is more important than ever during the current extended economic downturn affecting California's central valley (where

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[30] PG&E Prepared Testimony, Exh. PG&E-6, p. 6-4.

[31] PG&E Prepared Testimony, Exh. PG&E-6, pp. 6-10 - 6-14.

[32] All cost-effectiveness tests must be based on valid, verifiable inputs regarding the costs and benefits of PG&E's customer retention activities.

PG&E alleges "customer retention activities are significant").[33] If electric costs are too high, or if service reliability is at issue, consumers will look for alternatives.

As in any competitive market, the existence of the POU alternative should prompt PG&E to develop more competitive revenue requirements and rates and improve its system reliability. There is no reason why a utility seeking to improve its relationship with its customers should put its customers in the position of funding activities intended to minimize or eliminate useful competition and customer choice. Rather, the focus should be on offering lower rates and safe, reliable service to satisfied customers.

IV. PG&E Should Be Required to Equitably Allocate the Costs of Distribution Project Expenses Among Distribution Planning Areas.

Merced ID and Modesto ID provide electric service in areas that are also within PG&E's DPAs. Thus, the Districts seek more transparency in the way PG&E develops revenue requirements and assigns costs for electric distribution projects. For example, the Districts seek to ensure that PG&E is not undervaluing the costs of projects in the DPAs that overlap the areas where the Districts also provide electric service. In the Phase I decision in PG&E's 2014 GRC, the Commission directed PG&E to provide project cost data by DPA in its next GRC, to allow the Commission to evaluate revenue requirements in overlapping DPAs.[34]

The Districts currently are evaluating the capital expenditure cost data PG&E provided in workpapers to determine whether PG&E is properly calculating the costs in the DPAs where the Districts also provide service. The Districts respectfully request that the Commission carefully review in this proceeding PG&E's proposed revenue requirements for distribution projects and upgrades in the DPAs where the Districts also provide service, consistent with its decision in Phase I of PG&E's 2014 GRC.

V. The Commission Should Condition Any Revenue Requirement for PG&E's Economic Development Rate Program on Commission Approval of a Renewed Program.

PG&E requests approval of a $2.12 million revenue requirement for economic development activities for 2017.[35] It appears that PG&E proposes to allocate a portion of that amount to its EDR program.[36] In the 2013 decision authorizing PG&E's EDR program, the

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33 PG&E Prepared Testimony, Exh. PG&E-6, p. 6-3.
34 D.14-08-032, pp. 219-220.
35 PG&E Prepared Testimony, Exh. PG&E-6, pp. 2-27 – 2-28.
36 *Id*. at pp. 2-27 – 2-29.

Commission determined that the program would expire upon the effective date of a decision in Phase II of PG&E's 2017 GRC, and that the renewal of the EDR program would be decided in Phase II of the 2017 GRC.[37] If PG&E proposes to continue offering the EDR program after the effective date of a decision in Phase II of its 2017 GRC, PG&E is to "include a firm showing of programmatic positive contribution to margin (CTM), and full payment of Non-bypassable charges (NBCs) in its 2017 Phase II GRC application."[38] The Districts request that the Commission make clear that any revenue requirement authorized for the EDR program in this Phase I is contingent upon the Commission authorizing renewal of the EDR program in Phase II, based on the required showing by PG&E, and that PG&E is not authorized to spend any EDR monies authorized in Phase I on other matters if the EDR program is not renewed.

VI. Schedule and Hearings.

Hearings in this PG&E Application proceeding likely will be necessary to resolve the various factual issues described herein, and possibly other issues. The Districts continue to review the PG&E Application and plan to begin discovery soon. Through the review and discovery process, the Districts may identify additional issues of import to the Districts, and that may require resolution in hearings.

The schedule that is adopted for this proceeding should allow all interested parties sufficient time to address the important issues that have been raised and develop a complete record.

VII. Requested Relief.

The Districts respectfully request that the Commission:

- Deny PG&E's request to have ratepayers fund $807 thousand or more in customer retention activities and require that PG&E record any customer retention expenses below-the-line;
- Require that PG&E equitably develop the revenue requirements for, and allocate the costs of, electric distribution projects among DPAs; and
- Explicitly provide that any revenue requirement authorized for PG&E's EDR program in this Phase I is contingent upon the Commission authorizing renewal of the EDR program in Phase II.

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37 D.13-10-019, pp. 2-3, and Appendix A, p. A-2.
38 *Id*. at pp. 2-3.

VIII. Conclusion.

The Districts appreciate the Commission's consideration of the important issues raised herein.

DATED: October 5, 2015 DAY CARTER & MURPHY LLP

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