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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of Economic Development Rate for 2013-2017 (U39E)	Application 12-03-001 (Filed March 1, 2012)

REBUTTAL TESTIMONY OF JAMES RENZAS

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Dated: October 19, 2012

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REBUTTAL TESTIMONY OF JAMES RENZAS

I. INTRODUCTION

Q1. Please state your name, business address, and employment status.

A1. My name is James Renzas. I remain employed as President and CEO of The RHS Group with my business address remaining 7545 Irvine Center Drive, Suite 200 Irvine, California 92618.

Q2. Have you previously submitted testimony in this proceeding?

A2. Yes, I submitted Direct Testimony on behalf of the Local Government Parties (LGP). In addition I also submitted detailed information on my qualifications and experience, all of which remains current.

Q3. What is the purpose of this testimony?

A3. The purpose of this testimony is to address issues raised by intervenors in testimony and, in certain cases, to highlight omissions. Specifically, I have serious concerns with the underlying approach of the Division of Ratepayer Advocates (DRA) and, as consequence of reliance on DRA testimony by other parties - including by The Utility Reform Network

(TURN)[1] – the position of other parties. I believe the communication of key issues to the Commission risks being distorted and that those matters are being subject to flawed analysis by intervenors.

Q4. Which "key issues" of intervenor testimony in this proceeding do you mean?

A4. Specifically, the failure to apprehend and/or address the core economic issues raised in the Application *and* the failure to address the consequences of past unsuccessful economic development rates (EDR). Of greatest concern is the 'business as usual' approach of intervenors to the economic distress highlighted in the Application. The Cities and Counties of the LGP, probably the largest coalition of municipal government ever to come before the Commission in this way, have come together to call upon the Commission to recognize the urgent issue facing large parts of California. As California's Cities and Counties struggle to attract and retain jobs, the need is for the Commission to support those efforts by approving *effective* EDRs.

However, the intervenors' recipe of re-imposing past *failed* EDR approaches, or worse, pays only lip service to the needs of California's hardest hit Cities and Counties. Each week jobs are lost. For example, just two days before serving this testimony, I had to report to my clients that another *270 California jobs* were lost to Texas.[2] There are not enough means at hand to keep such jobs here. So when the intervenors propose 'more of the same' throughout their testimony, they show themselves to be disconnected from reality. Worse, they are impediments to action and advocates of failure.

Q5. How is your testimony organized?

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[1] "TURN has been coordinating its position with DRA and therefore offers relatively limited testimony to amplify on DRA's comments…" (TURN Testimony, p.1)

[2] http://austin.ynn.com/content/top_stories/288848/hid-global-to-bring-operations-center--276-jobs-to-austin

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A5. I address key items in turn, mostly by reference to specifics in the testimony of various intervenors. The subject I address include: issues of overall content and the format of parties' testimony, the risks/rewards and benefits of EDR programs, the issue of whether parties propose safeguards or merely raise hurdles and the contrasting views of what constitutes burdens and impediments to economic development.

II. QUALIFICATIONS AND FORMAT ISSUES

Q6. What are your initial concerns about the testimony led by the intervenors?

A6. I am concerned about the focus of the intervenors and here is why. With all but one *limited* exception, each of the intervenors relies on its usual utility-qualified, rates experts for testimony.[3] I will note my qualifications are neither utility focused nor am I a rates expert, so my testimony here is not intended to criticize the value, role and use of such witnesses *where appropriate*. However, this proceeding clearly called for a different approach. Local government pressed for the relief sought in the Application. Local government also consulted directly with the key intervenors before the Application was even drafted.[4] Local government then provided significant input to PG&E in crafting the Application, input that was derived from direct experience of job attraction and economic development generally. The LGP, therefore, selected me as their witness, precisely because the main issue before the Commission in this proceeding is *economic development*.

[3] **DRA Witness LEVIN**: "Works primarily on gas AMI and electric rate design proceedings". Ph.D. in Operations Research and a BA & M.A. in Mathematics. **DRA Witness TORRES**: Public Utilities Regulatory Analyst since June 2012. J.D. & a B.S. in City and Regional Planning. **MID Witness OUCHLEY**: "44 years of experience in the municipal/public electric power industry". B.S. in Electrical Engineering, MBA & PE. **MID Witness KIMBALL**: Responsible for the "engineering, construction, and maintenance of transmission and distribution facilities". B.S. Electrical Engineering & PE. **MID Witness McCLARY**: "Specialist in economic and regulatory policy analysis, gas and electric supply planning, contract development, and transmission". **TURN Witness MARCUS:** "32 years of experience in analyzing electric and gas utilities", published on Performance Based Ratemaking and electric restructuring. A.B & M. A. in economics. **Greenlining Witness GALLARDO**: Lawyer. (Extracts: *parties' own statements of qualifications of witnesses.)*

[4] Several briefings and solicitations of input were conducted with both TURN and DRA throughout early 2012.

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The Application raises macroeconomic and fiscal issues, issues of state economic performance and economic policy, concerns about barriers to economic development and the failures of past EDR designs. So, while rate design is clearly inherent in any such application, it is simply staggering that none of the main intervenors offered expert testimony on economic development itself.[5] This is even more surprising when one considers the lack of success past EDRs – where the problematic provisions were drafted by some of the same intervenors! So when, for example, a witness for the Irrigation Districts describes contribution to marginal distribution as "the *only*" appropriate measure of benefits,[6] not only is that erroneous but the witness has not even established the basis on which he can dismiss all other measures of benefit.

The Local Government Parties do not understand how this approach is designed to create a record sufficient to help the Commission decide on economic development matters. It is a disservice to the Commission, and to the needs of the economically distressed parts of the state, that in reviewing economic development rate proposals, the main intervenors offer no experts on the subject of economic development.

Q7. Do you have a concern about format?

A7. It is actually a concern about content but the format chosen by certain parties allow them to dodge specific content. Various parties chose not to submit testimony in the format set out in the Ruling of the Assigned Commissioner.[7] As a result, those parties provided testimony that did not cover the range of issues included within the sope.[8] To be fair, not all intervenors are interested in all aspects of the PG&E Application, but for parties who

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[5] DRA devotes just over one page (p.1-16/1-17) from a total of its 187 pages of testimony to the policy level needs driving the Application

[6] (MID/MID Testimony p.34 – emphasis added.)

[7] Scoping Memo and Ruling of Assigned Commissioner issued August 7, 2012.

[8] Moreover, chosing to ignore the Ruling not only makes it harder for the ALJ to build a record on all the issues, it places any party that complied with the Ruling at a disadvantage, in terms of time and cost., Again, this seems to be a disservice to the Commission as it seeks to develop a full record on these matters.

previously took a key role drafting the current EDR conditions and restrictions, as both DRA and TURN did, failing to provide comprehensive testimony allows those parties to dodge the central issues of economic development as well as any responsibility for poor advice to the Commission in the past.[9] DRA in particular claims authorship of many of the restirctions and conditions imposed on current and past EDR programs. Yet DRA ignores the impact of those very same restrictions and conditions, seemingly content with the prospect that EDR program options present not risk to ratepayers if they have no customers. As I outline below, DRA specifically dodges the issue of the effects of its own proposals.

III. RISKS, REWARDS AND BENEFITS

Q8. Do you agree with how intervenors characterize the risks, rewards and benefits of EDRs?

A8. No, and here again I am forced to talk specifically about the position of the lead intervenor, DRA. There are multiple benefits of a successful EDR program, jobs being the primary one. New businesses, jobs and increasing economic activity are all benefits that would be broadly felt. However, there is a fundamental disconnect between DRA's approach (which, unfortunately, is followed by too many of the other intervenors) and the reality of any incentive program, including the EDR & enhanced EDR proposed by PG&E. DRA seems to believe that the risks are all the ratepayers yet the rewards go principally to the utility. In particular, DRA seems to equate the benefits of a succesful EDR as being benefits that will be enjoyed by the utility and not by *any* of the wider community.[10] This is a huge error and betrays a flawed outlook.

DRA (and others, including the Irrigtion Districts) adopts a narrow approach contending that "*only*" a positive Contribution to Margin (CTM) qualifies as ratepayer benefit and,

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[9] DRA chose to address the questions raised in the Scoping Memo and Ruling in Appendix B to its testimony. However, DRA also elected not to address all of the questions posed by the Commissioner and ALJ specifically DRA ignored questions 6. 10. 11, 12, 13, 14 and 32.

[10] DRA does concede ratepayer benefit, but only if there is positive CTM, as defined by DRA. (DRA Testimony p.12.)

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1 further, that without a positive CTM any such EDR would fail the statutory test for
2 "ratepayer benefit" set out in Public Utility Code 740.4(h).[11] (DRA then goes on to devise
3 an overly restrictive means of calculating CTM.[12]) DRA is wrong and the Irrigtion
4 Districts are wrong.[13]
5
6 Despite being listed by the Commission in its last decision on EDR, DRA fails to
7 acknowledge the range of benefits that inure to ratepayers. Specifically, the Commission
8 has distinguished between "direct" benefits such as positive CTM and "indirect" benefits
9 which it describes as including (i) "employment opportunities", (ii) "improved local and
10 economic vitality", (iii) "multiplier effect resulting from local spending", (iv)
11 "strengthened economic base" and (v) "fuller use of the utility's transmission and
12 distribution facilities, which further reduce rates" As the Commission concluded at the
13 time:
14
15 *[These] benefits from a successfully implemented EDR program appear to sufficiently satisfy the ratepayer benefit test.* [14]
16
17 In fact *no intervenor* (except for the LGP) addressed the multiplier effect referenced by
18 the Commission, or even *used the term* "multiplier" anywhere in testimony. It can hardly
19 be a surprise then that in failing to address this key issue, the intervenors, inevitably come
20 to the wrong conclusion about the benefits of EDRs.
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[11] "While PG&E cites the benefits of job retention and job creation, these are not "ratepayer benefits" as that term is used in P.U. Code 740.4(b) and (h), and thus, cannot offset a negative CTM." (DRA Testimony p 1-3.)

[12] DRA's anyalysis contemplates a scenareo where all enhanced EDR customers would be in constrained areas. This iassumption is not only non sequitur, it is offered as a prospect without any supporting evidence that it would or even could be the case. (DRA Testimony: p.1-7 *et seq.*)

[13] The Districts further contend that the Commission has routinely "required " a positive CTM citing Finding of Fact No. 2 in Decision (D.)05-09-018 issued September 8, 2005 (the decision authorizing the current EDR). (MID/MID Testimony, p.32) That is simply incorrect. FoF 2 States: "The implementation of successful economic development projects would benefit ratepayers directly by increasing the revenues available to contribute to the utilities' fixed costs of doing business, thus lowering rates to other customers."

[14] D.05-09-018, p.13.

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That same logic that ignores the rewards of a successful EDR for the wider community also drives DRA to make no less than three separate proposals that PG&E should contribute shareholder funds. As DRA sees the utility seeking only its own benefit in proposing EDRs, it is a logical consequence for DRA to propose punishments for any prospect of failure or shareholder cost conditions as quid-pro-quo for EDR approval.[15] Again, this misapprehends the core issue – *this is not about benefits for the utility*. In fact it seems to me that if PG&E did not apply for an EDR option in the first place the utility would be no better or worse off. This is about California communities in need of economic development assistance from wherever it is to be found, and those communities asking the Commission and the utility for this relief. I have personally had to advise local government and economic development clients of the difficulties the business community has with high electric rates in California. Those difficulties directly impact the ability of economic development experts to attract or retain jobs here. As much as the Commission presides over our high (and increasing) rates, it also has the authority to assist struggling communities with their inward investment efforts. That is the issue. Seeking to punish the utility for responding to local government requests that it be part of that assistance, as DRA does, is a *fundamentally flawed approach*. The Commission should reject such advice.

Q9. Do you accept the intervenors' criticisms of the period for calculating positive CTM?

A9. No, I think various intervenors lack an understanding how business financial decisions are made, and therefore how they should be evaluated. For example, when asked: "should contribution to margin be calculated annually, or over some other time period?", Irrigation District witness McClary states: "Any analysis of program benefits should be considered over the time period in which the customer receives the EDR discount." Why? If benefits last longer than the time of the discount, why not count the period of those benefits?

[15] (DRA Testimony p.7, *et seq.*)

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If, in order to combat air pollution, a customer is induced to lease a hybrid car, by either the state or a dealer subsidizing the first year of the lease, is that first year the only or best way to measure the resulting benefits? Isn't the time the car is on the road a better measure of the benefit, or the time a more polluting car would have been on the road? The benefit is what maters – not the length of time of the incentive program.

To evaluate an EDR program the Commission is right to consider the overall benefits (as described above), but it also need not exclude CTM. However, where CTM *is* used, there is no reason that each and ever year has to be positive or that it must be positive for the limited life of the offer. If a positive CTM can be found within the likely life of the investments or the wider benefits, that matters more.

IV. SAFEGUARDS V HURDLES

Q10. Do you accept the many safeguards offered by intervenors are needed to protect ratepayers?

A10. No. In fact it seems there is more interest in creating hurdles than in actually working towards an effective EDR that promotes economic development and protects ratepayers. The testimony of the intervenors, particularly the Irrigation Districts, DRA and by extension, TURN, asserts the need to protect ratepayers. While fundamental protection, such as establishing that a risk to, or prospect of, jobs actually exists and requiring some third party evaluation of claims,[16] is appropriate, they are also already *included* in the Application. Beyond that DRA, TURN, the Irrigation Districts, Greenlining and the Joint Parties seek to weigh down the proposed EDR and enhanced EDR in ways that would repeat the failures of past EDRs.

[16] The LGP view is that proections in addition to PG&E review should be alternative- not cumulative - and constitute third party evaluation by CalBIS *or* the appropriate local authority *or* by self-certification, i.e. the affidavit.

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DRA in particular spends an extraordinary amount of time devising hurdles to prevent parties from benefiting from either form of proposed EDR, adopting *as policy* that if there are enough hurdles, there will be no applications. (I detail below why I describe this as DRA "policy"). While the bulk of DRA's testimony is a rehash of the range of restrictions imposed on prior EDRs, DRA also comes up with new restrictions. Inexplicbly, given how few parties have ever applied for past EDR programs, and offering no evidence of free-ridership having been or now being a real issue, DRA demands *additional* anti-free rider restrictions.[17] DRA proposes a *new* liqudated damges provision, a *new* prohibition on assignment of any EDR contract to a new business owners should the contract holder's business be sold or acquired and DRA seeks a *new* range of shareholder cost impositions as conditions on the EDR.

Q11. Apart from proposing new additional conditions, do you have other reasons to conclude that DRA is more interested in hurdles than ratepayer protection?

A11. Yes, there are two main reasons I would point to for my conclusion that DRA in particular is absolutely not committed to helping the Commission develop workable EDR options.

Firstly: in more than one place in testimony, the DRA approach betrays what can only be described as either a lack of understanding of the nature of incentives or a deep anti-business bias. Either way, DRA's conclusions do not provide good advice to the Commission. Specifically, in addressing the issue of free riders (which, again, is nowhere shown in evidence to be a real prospect from either past history or on current practice) DRA states that "third party oversight is a vital tool to *discourage free-riders from applying* for and obtaining EDR discounts".[18]

In other words, the standards to qualify for EDR that DRA has insisted upon in the past

[17] DRA: "the Commission should tighten the cur rent EDR programs safeguards against free riders"! (DRA Testimony Appendix B, Answer No. 29.)
[18] (DRA Testimony: Appendinx B, Answer 17.)

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(and insists upon again in the current proceeding) are not even to be used as the means of determining whether a party is "free-rider" or not. Instead, DRA seeks to *discourage applications* in the first place – before evaluations are even made. While this could be simply attributed to poorly worded testimony, the repeated use of the concept makes that unlikely (the same flawed logic is also applied in respect of the customer affidavit).[19] In fact DRA conflates the wholly different concepts of 'preventing free-ridership' with 'discouraging applications', stating that hurdles "ideally *prevent or discourage* free-riders from obtaining EDR status".[20] Mechanisms to prevent abuse of an EDR are one thing, but attempting to *discourage applications* before they can even be evaluated is quite another. In this respect alone DRA can claim success, as so few employers even bother to apply for EDR. The Commission should reject the DRA view and instead affirm its own previously-stated position of "ensuring that energy rates no longer act as a hindrance to companies looking to do business in California."[21]

Second: as I have already noted above, DRA asserts that the various conditions it proposes are necessary to "ensure the effective and efficient administration of the EDR program"[22] However, DRA takes no interest in testing the validity of *any* its many claims and various proposals. Despite two decades of available evidence on the effectivenss of current and past EDR programs, DRA declines even to respond to a policy question posed by the Assigned Commissioner on this issue. In the Scoping Memo & Ruling, under the heading "Documenting Ratepayer Benefits of Economic Development Rate[s]", parties were specifically asked "to what extent have previously authorized EDR programs accomplished these objectives?" DRA's answer? "*DRA has not prepared a response to this question*."[23] On that basis it is hardly surprising to note that DRA devotes its testimony to re-arguing for the same conditions and restrictions it previously advocated

[19] (*Ibid*, Answer 20.)
[20] (DRA Testimony p.1-4. Emphasis added.)
[21] D.05-09-018, p.19.
[22] (DRA Testimony p.14.)
[23] (*Ibid*, Appendix B. Answer 32.)

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(and, as conditions are no object, throwing in new additional conditions). This is done without any regard for the impact, as DRA does not contemplate impacts.

Certainly those who do not learn from history are doomed to repeat it. Those who *choose* not to acknowledge the impact of their own advocacy do not deserve an audience. While some intervenors blindly follow DRA back down the same rabbit hole where past EDR programs were stuffed, the Commission need not. Indeed, the Commission should not.

V. BURDENS AND IMPEDEMENTS

Q12. Are the intervenors correct in assessing what is and is not a burden on businesses?

A12. I am sorry to say no, they are not. For example while admitting the affidavit is a burden, DRA asserts that executed under penalty of perjury it is not "*overly* burdensome"[24]. The Irrigation Districts assert it is not "*unduly* burdensome"[25] Greenlining states, "a customer would *simply* sign the affidavit".[26] Yet none of these assertions are tested against reality.

For example, were any businesses asked by the intervenors, in the preparation of testimony "what pushes a requirement from 'burden' to an 'undue' or 'overly burdensome' requirement"? As none of the testimony cites to any such survey – one concludes not. On the other hand I have first hand experience of business assessments of such burdens, and they are not favorable, they *are* considered undue and overly burdensome. Similarly, the proposal that customers demonstrate that energy account for a minimum of 5% of business operating costs is a random number without any foundation. While intervenors might regard this as a non-issue, businesses that would need to breakdown and share details of their costs of operation would not likely share that view.

Did any of the intervenors test their assertions against requirements found in other states?

[24] (DRA Testimony p.3-2)
[25] (MID/MID Testimony p.22)
[26] (Greenlining Testimony p.3 –emphasis added)

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1 Again, the lack of testimony on that speaks for itself. Yet I *have* testified that these
2 burdens and restrictions are not found in competitor states' incentive packages. As such
3 bald assertions that another additional restriction or requirement 'shouldn't be a problem'
4 or 'isn't really an issue' should be viewed for what they are, unsubstantiated assertions.
5 The Commission should accord no weight to mere unsubstantiated assertions.
6
7 Q13. What about the suggestion that EDR customers should report on jobs created?
8 A13. As I testified before, in principle that is a good idea. In fact the notion that local
9 governments would provide incentive packages (which the EDR options would be part of)
10 and not track the results, betrays a lack of understanding of the roles and responsibilities
11 of local government as guardians of public resources. Local governments *cannot* make
12 gifts of their resources; as such they *will* require a quid-pro-quo for any incentive package.
13 That legal requirement is the Commission's best assurance the creation of new jobs will
14 be recorded and, for that matter, that local government will cooperate with PG&E as it
15 reports those result to the Commission.
16
17 However, neither the local governments nor EDR contract holders should be treated as
18 though they are Commission jurisdictional entities. The heavy handed approach
19 suggested by Greenlining, for example, is just the sort of burden I refer to in my previous
20 answer. Greenlining's whole approach is wrong when suggesting that "even if the
21 statements of the affidavit are taken at face value, there is still no assurance that any jobs
22 are created or retained" adding that "[a]s a condition of receiving the EDR discount,
23 participating customers should report on the number of jobs created, the level of salary
24 and whether the jobs included healthcare benefits". If it works the EDR will not create
25 government jobs, and they should not be subject to conditions that regard them as such.
26
27 Q14. Does this conclude your testimony?
28 A14. Yes, it does.

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