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, 2014. (U 39 M)	Application No. 12-11-009 (November 15, 2012)

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, 2014 ("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 $1.282 billion, effective January 1, 2014, compared to currently authorized and pending revenue requirements for 2014.[1] This represents a 22.4% increase compared to the 2012 authorized revenue requirement and an 18.8% increase compared to the authorized and pending revenue requirements for 2014.[2] The proposed electric revenue requirement represents a 7.8% increase compared to 2012 authorized electric revenues and a 14.5% increase compared to authorized and pending 2014 electric revenue requirements.[3]

In their testimony, PG&E executives acknowledge that the San Bruno accident pointed out certain aspects of PG&E's operations that could be improved.[4] PG&E further acknowledges that after San Bruno, PG&E is rededicating itself to "safe, reliable and affordable gas and electric

1 PG&E Prepared Testimony, Exh. PG&E-1, p. 5-1.
2 PG&E Application, p. 3, Table 2.
3 *Id.*, pp. 3-4, Tables 2 and 3.
4 *See, e.g.*, PG&E Prepared Testimony, Exh. PG&E-1, pp. 1-1 and 2-1.

operations," with the goals of "establish[ing] PG&E among the best operating utilities in the United States," and "be[ing] the safest utility in the country."[5]

Notwithstanding this purported emphasis on safe, reliable and affordable electric service, and PG&E's proposal for revenue requirement increases necessary to move toward such service, PG&E once again asks ratepayers to fund a customer retention program. Specifically, PG&E would have ratepayers pay $1,500,000 for customer retention activities in 2014.[6] This is a 250% increase over 2011 below-the-line adjusted costs.[7] PG&E asserts that "[t]hese expenditures support efforts to ensure that customers and others receive fully accurate data and information when publicly-owned utilities ("POUs") are taking steps to provide service within PG&E's service area."[8]

The Districts (and others) have protested similar PG&E requests in PG&E's 2003, 2007, and 2011 General Rate Cases ("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.[9] 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.[10] The same principles that supported no ratepayer liability for customer retention efforts in 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 that overlap the areas where the Districts also provide electric service.

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

- Deny PG&E's request to have ratepayers fund $1,500,000 in customer retention activities and require that PG&E record any customer retention expenses below-the-line; and

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5 PG&E Prepared Testimony, Exh. PG&E-1, pp. 1-1 and 2-1.

6 PG&E Prepared Testimony, Exh. PG&E-5, p. 8-1.

7 *Id.*

8 *Id.*

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

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

- Require that PG&E equitably develop the revenue requirements for, and allocate the costs of, electric distribution projects among distribution planning areas.

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 relating to 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.[11]

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

Merced ID and Modesto ID each compete with PG&E in the provision of electric services to customers in California's central valley; Merced 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 and the need for equitable development of revenue requirements for, and allocation of the costs of, electric distribution projects among distribution planning areas, either or both 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 Ratepayers Pay to Limit their Ability to Switch to Other Service Providers is Inconsistent with PG&E's "Commitment to Excellence" and Customer Satisfaction Goals.

A. Restoring PG&E to a "Position of Operational Excellence" Does Not Require Precluding the POU Alternative.

PG&E states that "restoring PG&E to a position of operational excellence in the energy sector is vital to our customers and to the long-term success of California."[12] PG&E also indicates that it "must find new ways to connect with, and be more responsive to, the customers and communities who rely on us every day."[13] Perhaps most importantly, PG&E recognizes that it "must earn back the trust of our customers."[14]

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11 D.07-03-044, Appendix C, Paragraph 49.

12 PG&E Prepared Testimony, Exh. PG&E-1, p. 1-1.

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

14 *Id.*, Exh. PG&E-5, p. 1-1.

Notably, PG&E "is one of the largest combination natural gas and electric utilities in the United States."[15] PG&E provides natural gas and electric service to approximately 15 million people throughout its service area of approximately 70,000 square miles in northern and central California, through 141,215 circuit miles of electric distribution lines and 18,616 circuit miles of interconnected transmission lines.[16]

Notwithstanding PG&E's expressions of commitment to operational improvements and its customers, and the vast scope of its electric service operations in northern California, PG&E would ask its customers to pay $1,500,000 in 2014 to fund PG&E's efforts to preclude those very same customers from choosing to take service from other providers who PG&E says generally "offer service at a price lower than PG&E's current retail rate but which is higher than PG&E's marginal cost of service."[17]

As in prior GRC applications, the main rationale offered by PG&E in support of its request is that "when targeted customers or groups of customers leave PG&E to take service from a POU, "the result is recognized by the Commission as 'uneconomic bypass' and it demonstrably harms PG&E's remaining customers by increasing the share of fixed costs by the reduced number of customers (*i.e.*, causes increased rates for remaining customers)."[18] Once again, PG&E's concerns are overstated and misleading. PG&E fails to mention that it can and does plan for departures to POUs. PG&E also 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 and long-term service agreement between PG&E and Modesto ID, choosing instead to preserve the competition between PG&E and Modesto ID.[19]

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,

15 *See* PG&E website: http://www.pge.com/about/company/profile/ .
16 *Id.*
17 PG&E Prepared Testimony, Exh. PG&E-5, p. 8-3.
18 *Id.*
19 D.98-06-020; 1998 Cal. PUC LEXIS 458, p. 12.

sale and lease of electric power."[20] POUs, including irrigation districts, have lawfully been providing electric service in California for decades and continue to do so. PG&E knows this, and PG&E can, and does, forecast municipal departing load. In fact, state law requires that it do so.[21] 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."[22] 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.[23] 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

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20 Cal. Water Code § 22125.

21 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).

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

23 *See* San Joaquin Valley Power Authority press release (June 25, 2009), available at: http://www.communitychoice.info/news/nr2009-06-25.php.

involved in SSJID's renewed effort to provide electric service, and has been active during the City and County of San Francisco's and the Marin Energy Authority's 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 $1,500,000 in 2014 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 "take-over efforts" is also misleading.[24] The reality is that PG&E's customers quite often initiate a potential move to PG&E 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.[25] This approach makes logical sense from a business perspective. 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 unfounded statement that "[w]hen these conventional takeover attempts are initiated, proponents typically put forth a number of assertions that, perhaps because of incomplete information or faulty assumptions, are often inaccurate or lead to false conclusions."[26] 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" and "often" are working off of inaccurate assertions or false conclusions.

PG&E does not provide a specific plan or schedule for customer retention activities, other than a need to respond "urgent 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."[27] Customer

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24 *See, e.g.*, PG&E Prepared Testimony, Exh. PG&E-5, p. 8-4 (describing conventional "take-over" efforts).

25 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).

26 PG&E Prepared Testimony, Exh. PG&E-5, p. 8-4.

27 PG&E Prepared Testimony, Exh. PG&E-5, p. 8-2.

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 $1,500,000 in costs in 2011 based on summary generalizations, particularly where, as noted above, PG&E historically has been willing and able to fund substantial customer retention efforts, 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.[28] 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.[29]

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. 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.

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[28] PG&E Prepared Testimony, Exh. PG&E-5, pp. 8-5 - 8-9.

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

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

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 cost of projects in the distribution planning areas that overlap the areas where the Districts also provide electric service.

Merced ID and Modesto ID provide electric service in areas that are also within PG&E distribution planning areas. The Commission should carefully evaluate in this proceeding PG&E's proposed revenue requirements for distribution projects and upgrades in those distribution planning areas, so that it may determine in the next phase of this GRC whether the distribution rates PG&E proposes for those areas reflect the costs necessary to allow for reliable service.

V. 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, and through that process may identify other issues to be resolved in hearings.

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

VI. Requested Relief.

The Districts respectfully request that the Commission:

- Deny PG&E's request to have ratepayers fund $1,500,000 in customer retention activities and require that PG&E record any customer retention expenses below-the-line; and

- Require that PG&E equitably develop the revenue requirements for, and allocate the costs of, electric distribution projects among distribution planning areas.

VII. Conclusion.

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

DATED: December 17, 2012 DAY CARTER & MURPHY LLP

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