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Application of Pacific Gas and Electric Company to Establish a Retirement Plan Funding Mechanism and to Increase Gas and Electric Revenue Requirements, Rates and Charges for a Retirement Plan Contribution Effective January 1, 2011.

Application No. 09-03-003
(Filed March 2, 2009)

PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES

I. INTRODUCTION

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits this Protest to the Application (A.) of Pacific Gas and Electric Company (PG&E) to Establish a Retirement Plan Funding Mechanism and to Increase Gas and Electric Revenue Requirements, Rates, and Charges for a Retirement Plan Contribution Effective January 1, 2011.

A.09-03-003 first appeared on the Commission's Daily Calendar on March 5, 2009, so this Protest is timely filed.

II. BACKGROUND

In Decision (D.) 06-06-014, the Commission adopted an uncontested settlement of PG&E, DRA and the Coalition of California Utility Employees (CCUE) that allowed PG&E to include Retirement Plan contributions in its revenue requirements through 2009, the end of the 2007 General Rate Case (GRC) cycle.

In adopting the Settlement, the Commission found that the funding status of PG&E's retirement plan had dropped below 100% and would continue to decline if no contributions were made in subsequent years.¹ The Settlement provided for Retirement Plan contributions in 2006 through 2009 that would result in the trust being fully funded on January 1, 2010, on a projected basis.

¹D.06-06-014, Finding of Fact 1.

In D.07-03-044, the Commission adopted a settlement of PG&E's TY 2007 GRC. One element of the 2007 GRC Settlement extended the terms of the Retirement Plan Settlement through the end of 2010.

In this Application, PG&E says that the contributions scheduled through 2010 will not be sufficient to obtain a 100% funding status for PG&E's Retirement Plan by January 1, 2011. According to PG&E, the decline in the financial markets in 2008 reduced the value of PG&E's Retirement Plan trust assets. As of December 31, 2008, PG&E forecasted that the funding status of the pension trust, based on the actuarial value of assets will be 95.5% as of January 1, 2010, and 87.9% as of January 1, 2011.² PG&E states that to achieve a 100% funding status as of January 1, 2014, the required annual pension contribution would be \$634 million.³

DRA is reviewing PG&E's Application and Testimony to verify the accuracy of the information they contain and to perform an independent analysis. As of this writing, DRA has indentified a number of issues which are discussed in more detail below.

III. PG&E's PROPOSED MECHANISM

According to PG&E, the current, GRC-based funding method does not allow for responses to market variability, and results in large swings in Retirement Plan contributions from one rate case cycle to the next. PG&E, therefore, proposes that "... the goal of 100% funding status be targeted on a rolling basis and reviewed annually rather than once every three years in a GRC."⁴ PG&E also proposes that, to moderate year-to-year variation, rather than setting the full funding status goal three years out, the 100% full funding goal would be targeted seven years in the future. PG&E says that "[a]chieving the 100% funding goal over seven years rather than three would reduce the required annual Retirement Plan contribution from \$634 million to \$448 million."⁵

² A.09-03-003, p. 3.

³ A.09-03-003, p. 4.

⁴ A.09-03-003, p. 4.

⁵ Id.

Finally, PG&E proposes to file an Advice Letter in October of each year showing the funding status as of January 1 of that year and the annual Retirement Plan contribution required to meet the 100% funding status goal in seven years. PG&E says that the Advice Letter would also provide computation of the revenue requirement based on the required contribution. Any required revenue change would be incorporated into the Annual Electric True-Up (AET) and Annual Gas True-Up (AGT) filings.⁶

DRA is reviewing PG&E's proposals, and intends to evaluate the following:

- whether the time period should be seven years, or some other length of time,
- the merits of the AET/ AGT Advice Letter approach as opposed to some other mechanism or approach to adjust funding levels,
- the assumptions contained in the actuarial reports,
- whether to maintain the analysis of pension requirements as part of the GRC process,
- the impacts of ERISA minimum guidelines on future funding levels

Lastly, as PG&E notes in its Application, the laws governing pensions and pension contributions have changed.⁷ It is quite likely that the laws governing pensions and pension contributions may change again, and a GRC provides a forum for reviewing any such changes.

In addition to these issues, others may arise during the course of discovery.

IV. CATEGORIZATION OF PROCEEDING

DRA agrees with PG&E's categorization of this proceeding as ratesetting.

V. PROCEDURAL ISSUES

To enable DRA and other interested parties sufficient time to review the issues raised by PG&E's Application, conduct discovery, thoroughly evaluate the Application and Testimony, and develop independent recommendations, DRA recommends the following schedule, which adds a week to the schedule proposed by PG&E:

⁶ A.09-03-003, p. 5.

⁷ A.09-03-003, Prepared Testimony, p. 3-5.

Application appears on Daily Calendar	March 5
Pre-hearing conference	TBD
DRA and Intervenor Testimony Served	June 5
Rebuttal Testimony Served	June 19
Hearings	July 6-10
Opening Briefs Filed	August 10
Reply Briefs Filed	August 17
Proposed Decision Issued	November 17
Final Commission Decision Issued	TBD

VI. CONCLUSION

DRA respectfully recommends that the proceeding be categorized as ratesetting, that the matter be set for hearing and that the scope of the proceeding include, but not be limited to, the issues identified in this Protest. DRA also recommends the schedule above be adopted.

Respectfully submitted,

/s/ LAURA TUDISCO

Laura Tudisco
Staff Counsel

Attorney for the Division of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2164
Fax: (415) 703-2262
E-mail: ljt@cpuc.ca.gov

April 6, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES**” in **A.09-03-003** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **April 6, 2009** at San Francisco, California.

/s/ REBECCA ROJO
Rebecca Rojo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

SERVICE LIST
A.09-03-003

Cassandra.sweet@dowjones.com;
WMLb@pge.com;
bts1@pge.com;
case.admin@sce.com;
dss8@pge.com;
francis.mculty@sce.com;
ljt@cpuc.ca.gov;
lls@cpuc.ca.gov;
mfg@cpuc.ca.gov;
mrw@mrwassoc.com;