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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company To Revise Its Electric Marginal Costs, Revenue Allocation, and Rate Design, including Real Time Pricing, to Revise its Customer Energy Statements, and to Seek Recovery of Incremental Expenditures. (U 39 M)	Application 10-03-014 (Filed: March 22, 2010)

OPENING POST HEARING BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY ON RESIDENTIAL RATE DESIGN ISSUES

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SUMMARY OF RECOMMENDATIONS

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company presents its Summary of Recommendations for the Residential Rate Design phase of this proceeding.

PG&E respectfully requests the Commission to approve the following proposals:

1. Establish a $3.00 customer charge for all non-CARE residential schedules except E-8, a $2.40 customer charge for all CARE schedules except EL-8, and reduce the minimum charge to zero, but not eliminate it;
2. Lower residential electric baseline quantities to 55 percent, the middle of the range allowed by law and bring PG&E's rates and electric baseline quantities more into line with those of other California utilities;
3. Collapse Tiers 3 and 4 into a single tier and charge only a Tier 3 rate for non-CARE usage exceeding 130 percent of baseline;
4. Establish a California Alternate Rates for Energy (CARE) Tier 3 rate consistent with Senate Bill (SB) 695;
5. Move tiering out of the generation and distribution rate components and instead implement tiering in a new non-bypassable rate component, the Conservation Incentive Adjustment rate component;
6. Revise CARE eligibility requirements for nonprofit group living facilities in Electric and Gas Rules 19.2 and qualified agricultural employee living facilities in Electric and Gas Rules 19.3
7. Eliminate the E-7 and EL-7 baseline credits by rolling them into the baseline (Tier 1) rates;
8. Eliminate closed experimental Schedules EA-7 and EL-A7;
9. Modify the rate design for Schedules E-9A and E-9B, close separately metered Schedule E-9B to new participants, and eliminate the E-9 baseline credits by rolling them into the baseline rates;
10. Establish rate design for Schedules E-1, EL-1, E-6, EL-6, E-7, EL-7, E-8 and EL-8 consistent with PG&E's proposals in this proceeding; and
11. Adjust the average residential electric consumption (to which the approved baseline percentage will be applied) by using the same methodology approved in Decision 02-04-026, as adjusted for seasonal and vacation home usage as required by Decision 02-04-057 and modified in Decision 07-09-004, using the most recently available four years of seasonal data, which is November 2005 through October 2009.

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Application of Pacific Gas and Electric Company To Revise Its Electric Marginal Costs, Revenue Allocation, and Rate Design, including Real Time Pricing, to Revise its Customer Energy Statements, and to Seek Recovery of Incremental Expenditures. (U 39 M)	Application 10-03-014 (Filed: March 22, 2010)

OPENING POST HEARING BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY ON RESIDENTIAL RATE DESIGN ISSUES

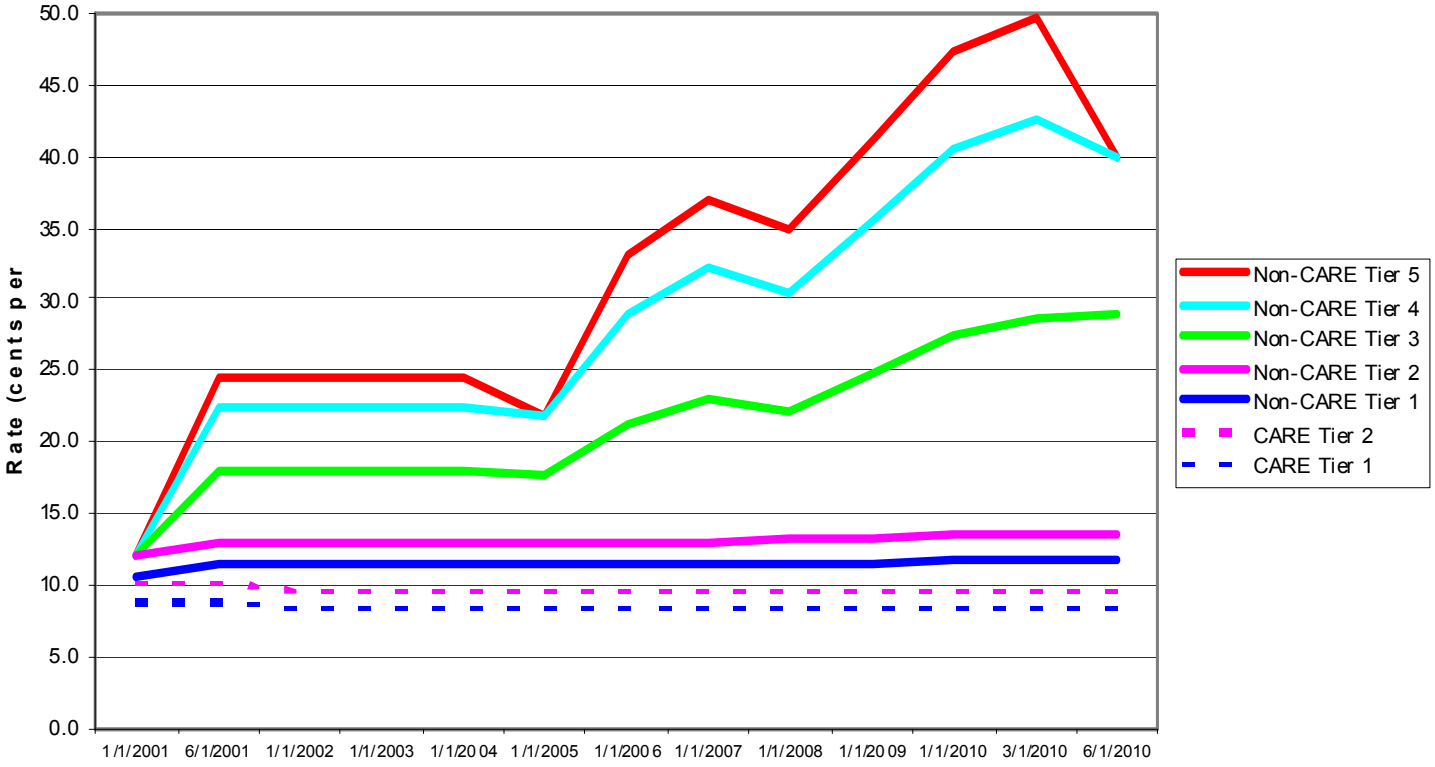
I. INTRODUCTION AND GENERAL BACKGROUND

PG&E's residential rate design presentation in its 2011 General Rate Case Phase 2 proceeding (GRC 2) proposes the most significant and time-critical changes in its residential rates in the last decade. The rate design changes are necessary to address inequities in the current rate design that result from PG&E's upper tier non-California Alternate Rates for Energy (CARE) residential sales bearing almost all cost increases allocated to the whole residential class. In contrast, CARE rates have been exempted from increases for almost two decades; and non-CARE Tier 1 and 2 rates were frozen under Assembly Bill 1X (AB 1X) since 2000 and only became subject to very modest, statutorily limited increases under Senate Bill 695 (SB 695) starting in 2010.

This situation has resulted in very large disparities in PG&E's electric residential rates. PG&E's average non-CARE Schedule E-1 rate is currently 18.3 cents per kWh, but households

in Tier 1 pay just 11.9 cents per kWh, while the Tier 4 rate is 40.0 cents, nearly 4 times as large.[1/] (PG&E/Keane, Ex. 2, p. 1-2, lines 18 to 20), as illustrated below:

EXHIBIT 37
PACIFIC GAS AND ELECTRIC
ELECTRIC RATE HISTORY FOR NON-CARE SCHEDULE E-1 AND CARE SCHEDULE EL-1
RATES FROM JANUARY 1, 2001 TO THE PRESENT



A copy is also attached as Exhibit A to this brief.

These rate disparities are the direct result of rates for CARE and non-CARE Tier 1 and 2 customers being largely frozen for the last decade, and have nothing to do with underlying cost of service. (*Id.*, lines 21 to 24.)

The reason this happened is best explained in PG&E witness Keane's testimony:

> For many years prior to the energy crisis of 2000-2001, PG&E had a two tiered residential rate structure, with the upper tier rate set just moderately above the

1/ As of March 1, 2010, the Tier 5 rate was nearly 49.778 cents per kWh. (Decision (D.) 10-05-051, p. 9, paragraph 2.) The Summer Rate Relief Decision 10-05-051 modified rates for Tiers 3, 4, and 5, to set a rate of 40 cents per kWh for Tiers 4 and 5.

> lower-tier rate. Assembly Bill (AB) 1X, enacted in 2001, changed that situation dramatically, freezing the rates in Tiers 1 and 2 at their February 1, 2001 levels. To implement AB 1X, the Commission replaced the two-tiered rate structure with a five-tiered structure. The Commission also froze rates for low-income households on the CARE program at their July 2001 levels. These frozen rates for all CARE households, and for all non-CARE usage in Tiers 1 and 2, remained in place for nearly a decade, through 2009.
>
> About half of PG&E's residential households and three-quarters of PG&E's residential sales fall into these protected categories (i.e. CARE or non-CARE consuming in Tiers 1 and 2). Consequently, virtually all residential rate increases between 2001 and 2009 were borne by just one quarter of the sales, those of non-CARE households consuming in Tiers 3, 4, and 5. Thus, over time, the upper-tier rate skyrocketed from 25 cents per kWh to 44 cents per kWh by early 2009. At those levels, coupled with hot weather in the Central Valley in the summer of 2009, there was customer unrest over unfair rates, and PG&E and the Commission fielded many high bill complaints**.**
>
> It is important to recognize that these increases in non-CARE upper-tier rates were not based upon PG&E's marginal costs or any other measure of cost of service. Rather, **they are the simple result of having no place else to collect additional revenue requirements allocated to the residential class except by increasing non-CARE tier 3, 4, and 5 rates**.

(PG&E/Keane, Ex. 2, p. 1-2, line 26 to p. 1-3, line 17, emphasis added, footnotes omitted.)

The current residential rate design is seriously broken. It has resulted in very high, unfair non-CARE upper tier rates far in excess of PG&E's cost of service. (*Id.*, p. 1-16, lines 1 to 3.) This proceeding is the Commission's primary opportunity for the next three years to approve rate proposals to get the upper-tier non-CARE rates under control before the problems worsen.

In order to bring its residential electric rates closer to cost of service, remedy the large disparity between higher and lower tiers, initiate permitted changes to CARE rates, and send more accurate price signals to customers, PG&E proposes the following changes to its residential electric rate design:

- Collapse Tiers 3 and 4 into a single tier and charge only a Tier 3 rate for non-CARE usage exceeding 130 percent of baseline;
- Lower residential electric baseline quantities to 55 percent of average usage (and 65 percent for all-electric customers) – the middle of the range allowed by law – thus bringing PG&E's rates and electric baseline quantities more into line with those of other California utilities;

- Establish a $3.00 customer charge for all non-CARE residential schedules except E-8, a $2.40 customer charge for all CARE schedules except EL-8, and reduce the minimum charge to zero, but not eliminate it;

- Establish a CARE Tier 3 rate consistent with SB 695;

- Move tiering out of the generation and distribution rate components and instead implement tiering in a new non-bypassable rate component, the Conservation Incentive Adjustment (CIA) rate component;

- Establish rate design for Schedules E-1, E-6, E-7 and E-8;

- Revise CARE eligibility requirements for nonprofit group living facilities in Electric and Gas Rules 19.2 and qualified agricultural employee living facilities in Electric and Gas Rules 19.3;

- Eliminate the E-7 and EL-7 baseline credits by rolling them into the baseline (Tier 1) rates;

- Eliminate closed experimental Schedules EA-7 and EL-A7;

- Modify the rate design for Schedules E-9A and E-9B, close separately metered Schedule E-9B to new participants, and eliminate the E-9 baseline credits by rolling them into the baseline rates.

PG&E has proposed changes to adjust the baseline percentage to 55 percent, implement a CARE Tier 3 rate, consolidate non-CARE tier 3, 4, and 5 into one rate, adopt customer charges, and flatten distribution and generation rates along with the introduction of a tiered CIA component, with the express purpose of increasing equity among residential customers and moving all residential rate schedules closer to cost-based rates, while still meeting the Commission's other design objectives. (PG&E/Keane, Ex. 1, p. 3-39, lines 1 to 7.)

II. OVERALL RESIDENTIAL RATE DESIGN

A. How Should The Commission Approach Intra-Class Differentials?

Electric rate design must consider a number of important principles beyond the need to generate sufficient revenues to allow the utility to cover its cost of service. These principles include:

- Rates should be equitable by reflecting cost of service;
- Rates should send appropriate price signals to customers;

- Rates should be easy for the utility to bill and for customers to understand;
- Rates should be implemented in a way that avoids undue rate shocks; and
- Rates should further public policy goals (e.g., protection for low income customers).

While all of these principles are important, they do not always weigh equally in a particular rate design, or at a particular time. The emphasis on one principle versus another may vary at times, depending on the situation that exists when a particular rate design is under consideration. In this case, PG&E must deal with:

- upper-tier residential rates far in excess of costs;
- lower-tier residential rates that are significantly below average cost;
- CARE rates that have not increased in almost two decades;
- legislative restrictions on the increases that can be assigned to the lower non-CARE tiers, or to CARE usage in the lower tiers or above 130 percent of baseline; and
- a shrinking pool of residential sales to recover future residential increases that cannot be recovered from usage on CARE or in lower non-CARE tiers.

(PG&E/Keane, Ex. 2, p. 1-1, lines 21 to 31.)

Under the circumstances surrounding this case, PG&E believes it is particularly important to give heavier weight to the first two principles, equity and accurate price signals. In the context of the existing huge disparities between the upper-tier and lower-tier rates, equitable rates should be set to better reflect PG&E's cost of providing service. This would also serve the principle of sending appropriate price signals, since to the extent possible, rates should reflect underlying costs. (*Id.*, p. 1-2, lines 9 to 13.) These two principles point in a singe direction: to reduce the non-CARE rates for usage in the upper tiers, where the prices are far in excess of the cost of service and hence are subsidizing consumption in lower tiers and CARE where prices are too low.[2/] (*Id.*, lines 13 to 17.)

The Division of Ratepayer Advocates (DRA) agrees with PG&E that there is a problem with the large differential between the higher tier non-CARE rates and the lower tier and CARE

2/ PG&E's non-CARE Schedule E-1 average rate is currently 18.3 cents per kWh; but households in Tier 1 pay a rate of just 11.9 cents per kWh, while households in Tier 5 are paying marginal rates of 40.0 cents per kWh. (PG&E/Keane, Ex. 2, p. 1-2, lines 17 to 20.)

rates. However, DRA disagrees with PG&E about how to fix the problem going forward. (Transcript (Tr.) p. 745, lines 11 to 23 and Tr. p. 746, lines 19 to 26, DRA/Khoury.) PG&E recognizes and appreciates that DRA has supported and continues to support steps that help, such as (1) the reduction of non-CARE Tiers 4 and 54 rates to 40 cents per kWh in D.10-05-051, (2) lowering the differential between Tiers 3 and 4, and (3) allocating more of a revenue reduction to the residential class to Tier 4. (Tr. p. 746, lines 5 to 14, DRA/Khoury.)

However, DRA's primary position here is to maintain the status quo and hope that revenue requirement and revenue allocation changes in the future will solve the problem.[3/] DRA describes its package for this proceeding as continuing recent residential rate design changes and reducing or limiting revenue requirements to the residential class. DRA proposes (1) a decrease in the revenue allocation to the residential class, (2) restraint in increasing revenue requirements, (3) continuation of the residential rate design changes adopted in D.10-05-051, (4) reliance on the residential Tier 1 and 2 non-CARE rate increases of 3 to 5 percent per year allowed by SB 695 (Public Utilities Code (PUC) § 739.9(a)), and (5) allocating a greater portion of revenue allocation decreases to the Tier 4 rate in this proceeding. (DRA/Khoury, Ex. 23, p. 6-6, lines 3 to 19.)

TURN witness Marcus also thinks the residential rate design status quo is adequate for the future. He states "Overall, TURN believes that PG&E's residential rate design proposals are largely a solution in search of a problem. The adoption of SB 695 (which provides for measured and predictable rate increases to Tiers 1 and 2) and recent changes to eliminate Tier 5 (which TURN supported) should gradually reduce the high rates over time, if the utility revenue requirement can be kept under control." (TURN/Marcus, Ex. 11, p. 60.) Similar to DRA, Mr. Marcus also argues that if revenue requirements to residential customers cause the average residential rate to go up by less than 3 percent, there will be lower percentage increases in Tiers 3

3/ DRA rejects PG&E's proposed customer charge, the reduction in the baseline percentage to 55 percent, and the recommendation for a single Tier 3 non-CARE rate for all usage above 130 percent of baseline. (DRA/Khoury, Ex. 23, p. 6-2, lines 15 to 29.) And DRA only supports CARE Tier 3 if PG&E's proposals to reduce the baseline percentage and to implement a customer charge are rejected. (*Id.,* p. 6-14, lines 18 to 20.)

and 4 than in Tiers 1 and 2, while an increase of no more than 2 percent could allow decreases in Tiers 3 and 4. (Tr. p. 198, line 20 to Tr. p. 199, line 6, TURN/Marcus). DRA and TURN's optimistic views of the future, however, do not justify failure to implement PG&E's proposal to improve residential rate design now.

The difficulty with TURN and DRA's optimistic reliance on SB 695 to reduce the large differentials between higher and lower tiers is the very limited nature of Tier 1 and 2 increases under that statute. Even with SB 695, PG&E has not been able to increase CARE Tier 1 and 2 rates in 2010 or 2011, since the index, CalWORKS, is suspended. (Tr. p. 1024, line 27 to Tr. p. 1025, line 1, PG&E/Quadrini; Tr. p. 384, lines 22 to 27, PG&E/Keane.) For non-CARE Tiers 1 and 2, the 3 percent increase effective January 1, 2010 was only approximately 3/10ths of a cent for Tier 1 and 4/10ths of a cent for Tier 2.[4/] (Tr. p. 198, lines 2 to 5, TURN/Marcus.) Cross-examination Ex. 37 (copy attached at page 3 and as Attachment A) graphs the rates for CARE Tiers 1 and 2 and non-CARE Tiers 1, 2, 3, 4, and 5 for the last decade and includes the SB 695 increase for non-CARE Tiers 1 and 2 on January 1, 2010. However, Ex. 37 demonstrates that the SB 695 rate change on January 1, 2010 is almost imperceptible compared to the rate differentials for Tiers 3, 4 and 5. This graph plainly illustrates the "limited ability" of SB 695 to help, as identified by Mr. Keane in his testimony, "While the very limited ability now afforded by SB 695 to increase Tier 1 and 2 rates helps a little, it is unlikely to be able by itself to prevent the gap between Tier 1 and 2 rates, on the one hand, and upper-tier rates on the other, from continuing to widen." (PG&E/Keane, Ex. 2, p. 1-16, lines 10 to 14.)

Furthermore, it would not take much to put the non-CARE higher tier on a higher rate trajectory. Mr. Marcus accepted (subject to check) that a 3 percent increase in non-CARE Tiers 1 and 2 potentially can absorb a 1.2 percent increase in the residential revenue requirement. With a 3 percent increase in the residential revenue requirement, however, non-CARE Tier 3

4/ For January 1, 2011, the SB 695 price index formulas will produce similar changes to the non-CARE Tier 1 and 2 rates of approximately 0.4 cents per kWh, and no increase to CARE Tier 1 and 2 rates. (PG&E/Keane, Ex. 2, p. 1-5, lines 3 to 7.)

rates would *increase* by approximately 4 percent (Tr. p. 199, line 10 to Tr. p. 200, line 6, TURN/Marcus), which would widen the cents per kWh differential between the low Tier 1 and 2 rates and the much higher Tier 3 rate. TURN witness Marcus also testified that other factors, such as customer load growth and the addition of more CARE customers, could affect the limited ability of non-CARE Tiers 1 and 2 to absorb increased revenue requirements for the residential class. (Tr. p. 201, line 9 to Tr. p. 203, line 14, TURN/Marcus.)

Neither DRA nor TURN presented any analysis showing how many years their approach would take. In the meantime, PG&E's revenue requirement continues to be exposed to factors beyond PG&E's control that could drive up the revenue requirement. For instance, gas prices are currently relatively low. But if they were to increase back to levels that prevailed in 2008, or even higher, there would be unavoidable significant increases in PG&E's revenue requirement. Moreover, there are likely going to be significant increases in PG&E's (and other utilities') revenue requirements due to the costs of complying with environmentally-related requirements, such as renewable power procurement under the renewable portfolio standards, costs of transmission lines to reach renewable power sources, etc. (PG&E/Keane, Ex. 2, p. 1-5, lines 16 to 23.) Maintaining the current tier structure would leave higher-usage customers exposed to additional risk of inequitable and disproportionate bill increases in the future, whether as the result of future cost allocation increases for the residential class, or ordinary weather variation in hot summers. (PG&E/Quadrini, Ex. 2, p. 2-22, lines 17 to 21.)

The Commission should act now to adopt PG&E's proposed residential rate design changes to better reflect potential future increases in electric rates on a more equitable basis, and to reduce the potential for the upper tier non-CARE rates to bear large increases while lower tier rates and CARE rates see little, if any, change. Furthermore, the environment is favorable to implement these changes, because the residential class is likely to see little or no increase in its overall revenue responsibility in this case. This would help mitigate adverse bill impacts for particular customer groups. (PG&E/Keane, Ex. 1, p. 1-6, lines 8 to 11.)

In contrast, DRA and TURN's proposals to essentially maintain the status quo would leave needed electric residential rate design reform to a future period when the residential class could be facing significant increases in its revenue requirement responsibility. In that situation, electric rate design changes to remedy the large disparities between upper tier rates and lower non-CARE and CARE rates would present an extremely difficult problem. The Commission should recognize that PG&E's electric rates need to be fixed now, and should approve PG&E's proposals in this proceeding rather than letting the situation get worse by implementing less effective measures and waiting to see if they might work.

B. Comparison of PG&E Proposals with Other Utilities

PG&E's proposals for (1) a CARE Tier 3 rate, (2) using the midpoint of the baseline range of 55 percent, (3) a monthly customer charge, (4) collapsing Tiers 3 and 4 into one tier, and (5) flattening its generation and distribution rates with a tiered CIA will bring its rate design into closer conformity with the rate designs and levels that the Commission has approved for Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E). At the same time, PG&E estimates its proposals would still provide lower CARE rates for all tiers, and lower non-CARE Tiers 1 and 2 rates, than either SCE or SDG&E. PG&E's proposal for a monthly customer charge is also consistent with practices at SCE and other utilities near its service area, as well as those in other states.

1. CARE Tier 3

PG&E's proposal to institute a Tier 3 rate of 12.5 cents per kWh for CARE usage above 130 percent of baseline would bring its CARE rate structure closer to SCE and SDG&E's rate structure for their CARE customers. Both of these Southern California utilities already have CARE Tier 3 rates. Moreover, even with PG&E's proposed CARE Tier 3, PG&E's CARE Tiers 1, 2, and 3 rates will be lower than SCE and SDG&E's, as shown in Mr. Quadrini's testimony, Exhibit 2, p. 3-15, Table 3-7, and illustrated in Dr. Faruqui's Figure 3-2, from Exhibit 2, p. 3-19 (copy attached as Exhibit B to this brief), as well as Table 3-1 and Table 3-3 in his rebuttal

testimony. (*See* PG&E/Faruqui, Ex. 2, p. 3-16, Table 3-1 and p. 3-17, Table 3-3; PG&E/Keane, Tr. p. 262, lines 17 to 21: "Edison has a CARE Tier 3 rate already in place that's quite a bit higher, I believe it is about 50 percent higher, than the rate we are even proposing here.") With the implementation of PG&E's proposal, CARE ratepayers of all three utilities will have the same three-tier CARE rate structure, and experience the energy conservation incentive created by the higher third tier rate. (PG&E/Quadrini, Ex. 1, p. 3-17, lines 8 to 10.)

2. Reduction of Baseline from 60% to 55% of Average Usage

PG&E proposes to adjust its baseline percentage from 60 percent of average residential consumption (the highest percentage allowed in PUC § 739(a)(1) for non-heating electric customers) to 55 percent of average residential consumption (the mid-point of the statutory range). For all-electric baseline quantities in the winter season, PG&E proposes to set the percentage at 65 percent of average usage (also at the mid-point of the statutory range). The change from the top of the statutory range to the middle would bring PG&E's baseline percentage in line with SCE's and SDG&E's baseline percentages. The Commission has already approved similar baseline percentage reductions for both of those Southern California utilities without any customer confusion or difficulty. (PG&E/Quadrini, Ex. 2, p. 2-3, lines 26 to 29.)

3. Customer Charge

PG&E's proposal to institute a monthly residential customer charge conforms to the practice at leading utilities around the nation and is consistent with SCE's residential rate design in Southern California. Dr. Faruqui surveyed rates charged by the top 20 utilities (by retail energy sales) that serve residential customers, including SCE but excluding PG&E. He found that all twenty include a monthly fixed charge for residential customers. Furthermore, 18 of these top 20 utilities have a monthly charge that exceeds PG&E's proposed $3 per month charge for non-CARE customers. (PG&E/Faruqui, Ex. 1, p. 11-10, lines 21 to 26.) Dr. Faruqui's findings on these twenty utilities also are presented in Attachments 11A-8 and 11A-9 in Exhibit 3, pp. 11A-13 and 11A-14.

Dr. Faruqui also surveyed eight other electric utilities that have active demand-side programs. Seven of the eight utilities have a monthly customer charge; and six of them charge more than PG&E's proposed $3 per month customer charge. (PG&E/Faruqui, Ex. 1, p. 11-11, lines 1 to 6.) His findings on the eight utilities are summarized in Attachments 11A-10 and 11A-11, in PG&E, Ex. 3, pp. 11A-15 and 11A-16.

Finally, Dr. Faruqui surveyed 16 publicly-owned utilities (POUs) that operate in PG&E's vicinity. Eight of these POUs have a monthly customer charge. This list includes the Sacramento Municipal Utility District, Silicon Valley Power, and Redding Electric Utility. (PG&E/Faruqui, Ex. 1, p. 11A-11, lines 8 to 11.)

All told, Dr. Faruqui's surveys of other utilities establish that including fixed charges like customer charges in residential rates is a wide-spread, well-accepted practice. It also demonstrates that PG&E's proposed customer charge amount compares favorably with other utilities' charges. Approval of $3 non-CARE and $2.40 CARE customer charges for PG&E would be reasonable and consistent with utility industry practice.

4. Combining Tiers 3 and 4

PG&E has proposed to combine non-CARE usage above 130 percent of baseline into a single Tier 3. This would continue the consolidation of upper non-CARE tiers that began with the Summer Rate Relief Decision 10-05-051, which set non-CARE Tiers 4 and 5 at the same rate. PG&E proposes to combine Tiers 3 and 4 in order to bring its upper tier non-CARE rate to a more reasonable level. PG&E's proposal is consistent with the two-tier structure that existed prior to the Commission's implementation of AB 1X in 2001 (PG&E/Keane, Ex. 2, p. 1-2, lines 30 to 31). Currently SCE and SDG&E have two to three tiers for usage beyond 130 percent of baseline. PG&E's proposal to combine Tiers 3 and 4 will result in an upper tier rate that is in the range of SCE and SDG&E's upper tier rates, instead of the current 40 cent rate which is 25 to 30 percent higher. (PG&E/Faruqui, Ex. 2, p. 3-17, Table 3-2.) Consolidation of Tiers 3 and 4 contributes to reducing the disparity between PG&E's upper tier rate and the rates charged by

SCE and SDG&E for usage in their upper tiers (Tiers 4 and 5).

PG&E estimates that with tier consolidation and the other elements of its residential rate proposal, its non-CARE upper tier rate would be in the range of 27 to 28 cents per kWh. (PG&E/Quadrini, Ex. 1, p. 3-5, Table 3-2; Tr. p. 400, lines 5 to 17, PG&E/Quadrini.) This rate is within the range of SCE and SDG&E's rates for non-CARE usage in Tiers 3, 4, and 5, which are approximately 26 to 30 cents per kWh (with the exception of SCE's Tier 3 rate, which is even lower at 23.6 cents per kWh). (PG&E/Quadrini, Ex. 2, p. 3-16, Table 3-1.) The substantial disparity between PG&E's existing non-CARE Tier 4 rate versus SCE's and SDG&E's, and the significant improvement in the relative levels of PG&E's upper tier rate compared to SCE and SDG&E's, also is graphically presented in Figure 3-1 of Exhibit 2, p. 3-18 (copy attached as Exhibit C). The Commission has the opportunity in this case to bring PG&E's non-CARE upper tier rate more in line with the upper tier rates of the other utilities by approving consolidation of PG&E's Tiers 3 and 4, along with other parts of PG&E's residential electric rate design proposal.

5. Generation Rate Flattening/Conservation Incentive Adjustment (CIA) Rate

In the last five years, the Commission has determined in SCE and SDG&E proceedings that flat generation rates across tiers provide an appropriate price signal for customers choosing between bundled and direct access (DA) or Community Choice Aggregation (CCA) service. (D.05-12-003, D.08-02-034, D.09-08-028, and D.09-09-036.) To implement flat rates, the Commission has approved a Conservation Incentive Adjustment (CIA) rate component (or a similar component called the Total Rate Adjustment Component for SDG&E). The CIA preserves the inclining block pricing structure for total residential rates, while avoiding tiered generation rates that send inappropriate price signals because they do not accurately reflect cost of service. (PG&E/Keane, Ex. 1, p. 3-16, lines 21 to 26; PG&E, Ex.-2, p. 1-17, lines 13 to 20, and footnote 18.) Thus, the CIA levels the playing field, and would not affect the CCA's rate-setting authority, or harm the CCAs or their customers.

Adoption of PG&E's proposal to flatten its generation rate and implement tiering through a CIA rate component would extend the Commission policy to the one remaining utility for which it has not yet been implemented. There is no reason to treat PG&E differently than SCE and SDG&E on this issue.

C. Impact of Proposed Rate Changes on Conservation

PG&E's opening testimony included the analysis by Dr. Ahmad Faruqui, who concluded that taken as a whole, PG&E's proposals provide a pro-conservation signal, and should be expected to produce a net decrease in energy sales of nearly 166,000 MWh per year. (PG&E/Faruqui, Ex. 1, p. 11-9, lines 11-14.) This occurs largely because CARE customers will have stronger incentives to use less energy under the proposed rate design, while the use by non-CARE Tier 4 customers increases only marginally. (*Id.*, lines 15 to 20.)

A number of parties focused solely on the impacts on conservation by Tier 4 customers, largely ignoring Dr. Faruqui's testimony on the other impacts of PG&E's rate design proposal. Only Sierra Club witness Dr. Spearot challenged Dr. Faruqui's overall findings. However, rebuttal testimony and cross examination demonstrated that Dr. Spearot's conclusions were not accurate.

Dr. Spearot's primary challenges were a) an analysis he prepared based on average prices instead of marginal prices, and b) his choice of elasticity figures. However, he made serious errors in both areas. As the rebuttal testimony of Dr. Faruqui demonstrated, Dr. Spearot's average cost analysis left out a key element: the proposed customer charge. By definition, an average bill includes all the elements of that bill, including the customer charge, but Dr. Spearot left out this element of the bill. When Dr. Faruqui corrected and re-ran the Sierra Club's own analysis, it showed that consumption would <u>decrease</u> by over 0.5%, not increase as claimed in the Sierra Club testimony. (PG&E/Faruqui, Ex. 2, p. 3-14, line 21 to 29.) Sierra Club made no attempt to impeach Dr. Faruqui's rebuttal testimony.

Similarly, cross examination revealed the flaws in Dr. Spearot's elasticity figures. As he admitted in cross examination, he relied on a paper by U.C. Berkeley graduate student Koichiro Ito concerning responses of customers to price changes that occurred during the energy crisis. However, Ito himself cautioned against generalized use of such results. As Dr. Spearot testified:

> Q. Ito says, "The results from this time period may not be generalized to the effect of typical rate changes." Do you see that?
>
> A. I do see that. Yeah.
>
> Q. But that's what you did here. You generalized from that text that Ito said could not be generalized.
>
> A. Well -- fair enough. Yeah. I'm not sure I have much to say about that. I mean, it's –

(Tr. p. 146, line 22 to Tr. p. 147, line 14, Sierra Club/Spearot.)

The contrast between the level of expertise and experience of Dr. Faruqui and Dr. Spearot is stark. Dr. Faruqui has 30 years of experience in consulting, research, publication, and testimony on innovative customer-side programs, including inclining block rates, time-of-use rates, and dynamic pricing. Since 2001, he has assisted 14 utilities in 12 states make such assessments. (PG&E/Faruqui, Ex. 1, p. 11-1, lines 11 to 15.) In contrast, Dr. Spearot admitted that before this assignment, he had never taught a course, done any research, written any papers, or done any other work related to the subject of his testimony. (Tr. p. 137, lines 4 to14, Sierra Club/Spearot.) His specialty is international trade and industrial organization (topics irrelevant here). Prior to this engagement, he had not done any work related to the electric industry other than being part of a team evaluating a proposed cogeneration unit at U.C. Santa Cruz. (Tr. p. 137, lines 15 to 20, Sierra Club/Spearot.) Dr. Faruqui's conclusion that the overall effect of PG&E's proposal will be to improve conservation should be accepted.

Indeed, in contrast to Dr. Spearot, the other witnesses on the Sierra Club panel put in their own evidence about the energy savings that could result from PG&E's proposals. They noted, in particular, that current CARE rates create no incentive to conserve. (Tr. p. 801, lines 17-23, Sierra Club/panel.) They argued that lower rates for Tier 4 customers could adversely

affect customer purchasing decisions for very expensive energy efficiency equipment. However, they admitted in response to questions:

> Q. …Would you agree that utilities with rates [lower than 20 cents per kWh] can have successful energy efficiency programs?
>
> A. I would say that there is a lot to consider beyond the price of kilowatt-hour. There is education, there is outreach, there is rebates. There is a huge number of considerations. And to just pinpoint a [cents] per kilowatt-hour is almost meaningless in trying to understand the success of a program.

(Tr. p. 818, lines 1-18, Sierra Club/Barsimantov.) The Eco-Shift report identifies areas where residential customers could reduce their energy use, in light of the energy usage reductions during the energy crisis. (Sierra Club/Eco Shift, Ex. 7, pp. 57 to 58.) These represent areas where residential customers in general, whether higher or lower income, could make decisions that could result in substantial energy savings. Using a specific action like turning off a PlayStation, they agreed that the amount of kilowatt hours of energy saved would be identical, whether the customer was a high income customer or a CARE customer. (Tr. p. 821, line 27 to Tr. p. 822, line 4, Sierra Club/Barsimantov.)

The record is clear that the overall net effect of PG&E's proposed rate changes would be to further encourage conservation.

D. Impact of Proposed Rate Changes on Solar Programs

Solar Alliance, Vote Solar, and Sierra Club note that high residential rates help make solar projects more cost-effective to customers and express concern that any change that reduces Tier 3 or 4 rates could harm California's solar program. (Sierra Club, Ex. 7, pp. 29 to 53). Indeed, Solar Alliance asks for a return of a Tier 5 rate. However, the record demonstrates that PG&E's rate proposal would allow California's already successful solar program to continue growing and expanding.

Vote Solar's witness Gwendolyn Rose described the current picture well. As she explained, California leads the entire rest of the nation in installation of solar cells, and PG&E

leads California's other investor-owned utilities in installed residential capacity by a substantial margin. (Tr. p. 504, lines 16-26, Vote Solar/Rose.) Indeed, she testified that PG&E, by itself probably has more on-site solar installations than any other utility in the United States. (Tr. p. 505, lines 8 to 12, Vote Solar/Rose). Even the Sierra Club panel, which had much less knowledge of the solar business, agreed:

> Q. Do you have any understanding of PG&E's -- PG&E's customers' market share as to residential PV either within California or nationally?
>
> A. Not in the terms of market share.
>
> Q. Did you have any understanding at all? Are we a leader? Are we way behind?
>
> A. WITNESS MULVANEY: A. It's a leader, I would say.
>
> WITNESS BARSIMANTOV: A. California's one of the top --
>
> WITNESS MULVANEY: A. California is number one, obviously.

(Tr. p. 807, lines 8 to 24, Sierra Club Eco Shift panel).

PG&E has no interest in reducing the success of its solar program. The evidence from Southern California makes clear that reducing the top rate to the level proposed by PG&E will not harm the solar industry. PG&E has proposed a top rate for Schedule E-1 customers of 27.6 cents per kWh. This rate is far in excess of what is charged in every state except California, Hawaii and Arizona,[5/] and is only slightly below the top rate charged by SCE and SDG&E. (Faruqui, Ex. 2, page 3-18, Figure 3-1, copy attached as Exhibit C.) A robust solar industry exists in both areas. Like PG&E, residential customers in SDG&E's service area have already moved into step 8 of the ten steps of the California Solar Initiative (CSI), only four years into this ten year program. Residential customers in SCE's service area are now in step 5. (Tr. p. 521, line 1 to Tr. p. 523, line 7, Vote Solar/Rose.) Earlier this year, the CPUC described in glowing terms the success of the California solar program in all three service areas in its press release and report to the legislature, and reported that a significant number of installations were continuing in all three service areas. (Tr. p. 525, line 5 to Tr. p. 527, line 9, Vote Solar/Rose.)

5/ PG&E/Quadrini, Ex. 2, p. 2-18, lines 2 to 3.

Indeed, even after PG&E combined Tiers 4 and 5 last spring and reduced its top tier rate from nearly 50 cents per kWh to 40 cents per kWh, applications for solar incentives continued to increase in PG&E's service area in most months, and in a few months increased spectacularly. (Tr. p. 530, line 12 to Tr. p. 531, line 19,Vote Solar/Rose; and Solar Alliance/Beach, Ex. 53.)

Against this record, the Vote Solar witness Rose, who is very informed about the solar business, offered testimony quite at odds with the claim that PG&E's rate proposal threatens the solar industry. Instead, Ms. Rose stated:

> [W]e don't specify what rate is necessarily going to hurt the solar industry. We haven't drawn a line that said we are going to fall off a cliff here.

(Tr. p. 528, lines 10 to 14, Vote Solar/Rose.)

In contrast, the Sierra Club solar panel had much less information about what is going on in the solar industry,[6/] and offered testimony directly at odds with real world trends and common sense. Sierra Club's prepared testimony (Figure 5.1 on page 34) claimed that the average value per kWh for investment in solar by PG&E's non-CARE customers will be 2 to 4 cents per kWh short of the break-even point, if PG&E's proposed rates are adopted. For CARE customers, the Eco-Shift report (Figure 5.2 on page 35) shows the average value per kWh for investment in solar will be more than 10 cents per kWh short of the break-even point if PG&E's proposed rates are adopted.[7/] (Sierra Club/Eco Shift, Ex. 7, pp. 1-33 to 1-36.) The conclusion of the Sierra Club was that "Under the new rates, no PG&E customer will have an incentive to install solar." (Tr. p. 804, lines 12 to 14, Sierra Club/Barsimantov.) The Sierra Club panel was given an opportunity at hearing to explain how the solar industry had continued so successfully in Southern California, even though top rates in Southern California fall far short of this claimed

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6/ The Sierra Club witness admitted that its filed testimony contained several errors concerning the CSI step process. (Tr. p. 806, line 26 to p. 807 line 7, Sierra Club/Mulvaney.) He also admitted that prices had dropped substantially from the $9.21 prices quoted in its filed testimony. (Tr. p. 813, lines 18 to 22, Sierra Club/Mulvaney.)

7/ The Sierra Club testimony's statement that the average value per kWh for CARE customers will be approximately 10 to 12 cents per kWh short of the breakeven point due to PG&E's proposal is a little puzzling. Since the CARE rates increase, but do not decrease, under PG&E's proposal, the 10 to 12 cent per kWh shortfall is entirely due to the low level of CARE rates, with an even larger shortfall under present CARE rates.

"breakeven point," but they provided no explanation. (Tr. p. 808, line 6 to Tr. p. 809, line 22, Sierra Club/Eco Shift.) Instead, the Eco Shift witnesses offered only the admission that "there are many factors to consider besides single dollar amount of the highest tiered rate." (Tr. p. 808 lines 25 to 27, Sierra Club/Eco Shift.)

Moreover, Sierra Club's analysis assumed a total installed cost for residential PV solar of $9.21 per watt, and that this price will only drop by only 1 percent per year so that "in ten years, system costs would still be $8.3/W." (Sierra Club/Eco Shift, Ex. 7, p. 38.) In fact, prices have already dropped far below this level. For PG&E, the average system cost in the third quarter for residential systems was $7.76 per watt. (Sierra Club, Ex. 75, p. 5.) Vote Solar testified that in 2010 roughly half the residential projects completed fell in a range about $6.30 a watt to $7.70 per watt, with a large distribution of installed systems that fell into the range of $6.20 to $7.00 per watt. (Tr. p. 507, lines 8 to 13, Vote Solar/Rose.) For its analysis, Vote Solar assumed that the installed price of solar should be $6.50 per watt. (Tr. p. 506, line 25 to p. 507 line 4 and p. 507 lines 22-26, Vote Solar/Rose.) This price is nearly 30 percent lower than the $9.21 price used by Sierra Club in its analysis. Indeed, in its own sensitivity analysis, Sierra Club's witness testified that if the customer price of solar is $7.00 per watt, PG&E's proposal would have no impact on the installation of solar in PG&E's service area. (Sierra Club, Ex. 7, p. 39, Table 5-5, and Tr. p. 814, lines 26 to Tr. p. 815, line 9, Sierra Club/Barsimantov.)

Some aspects of PG&E's proposal could help the solar industry. A higher Tier 3 rate would increase the likelihood of prospective PV customers increasing the size their PV systems to reduce not just the Tier 4 and Tier 5 usage, but the Tier 3 usage as well. (PG&E/Quadrini, Ex.-2, p. 2-18, lines 3 to 6.) As the Executive Director of Vote Solar explained, PG&E's "proposal, while it lowers the top tier, also expands the middle tier and could possibly bring more people into a sweet spot for solar." (Tr. p. 514, lines 24 to Tr. p. 515, line 25, Vote Solar/Rose.)

Indeed, Vote Solar's testimony showed examples where the net present value (NPV) of a customer installing a solar system at PG&E's proposed rates would range from $12,000 to

$16,000. (Vote Solar/Rose, Ex. 16, pp. 32 and 34.) This means that these projects have a NPV of over $10,000 in excess of the total costs, even after discounting the stream of future benefits (i.e., electric bill savings) to account for the time value of money. While Vote Solar complains that PG&E's proposed lowering of the Tier 4 rate would decrease the financial value of this investment, the significantly positive NPV demonstrates that those affluent enough to afford to install a PV system would still gain financially under PG&E's proposed rates. (PG&E/Quadrini, Ex. 2, p. 2-18, lines 1 to 19.)

Although the higher rates for higher tiers make a solar installation more cost-effective for higher usage customers, not all such customers can avail themselves of this option. Many customers do not own their own homes; many customers do not have a roof that is appropriately situated for solar (due to shading, orientation, age, etc.). One of PG&E's primary ratemaking obligations is to set rates equitably for its 4.6 million residential electric customers as well as for the 1.5 million households with usage in Tier 4. Given the inherent unfairness of a subsidized rate, it is hard to justify overcharging 1.5 million customers so that 42,000 customers can realize a quicker payback from the PV systems they have already installed. (PG&E/Quadrini, Ex. 2, p. 2-18, line 31 to p. 2-19, line 14.)

E. Bill Impacts of Proposed Rate Changes on CARE (Low Income and Disabled) and non-CARE Customers

1. CARE-Customer Bill Impacts, Including Low Income and Disabled Customers

DRA and intervenors representing low-income or disabled customers oppose PG&E's electric rate design proposals due to the projected impacts on bills for these customers. (DRA/Khoury, Ex. 23, pp. 6-7 to 6-8; DRA, Ex. 14, p. 10.) The City and County of San Francisco (CCSF) pointed out that the average bill increase for CARE customers will be 14 percent. (CCSF/Meal, Ex. 5, p. 9 line 21 to p. 10, line 1.) In connection with CARE Tier 3, DRA objects that 99.7 percent of low income residential customers on CARE would receive bill increases. (DRA/Khoury, Ex. 23, p. 6-14, lines 22 to 24.) DRA elaborates on this percentage

with information that 86.5 percent would receive bill increases of 10 percent or greater, and 5.6 percent would see bill increases of 20 percent or greater. (*Id.,* p. 6-15, lines 2 to 5.)

The critics of PG&E's proposals, however, fail to recognize that these percentage figures do not translate into large dollar increases, in general. With low CARE bills, even a modest dollar increase can translate into a significant percentage. Mr. Quadrini notes this fact and points out that the CARE increases are small in dollar terms. Forty-six percent of customers would have average bill increases ranging from $2.40 to $4.20 per month, while another 15 percent would have bill increases averaging $5.40 per month. The approximately 40 percent of CARE customers who are above-average users will see average bill increases of approximately $11.60 per month. (PG&E/Quadrini, Ex. 2, p. 2-25, lines 10 to 19; SCE/Garwacki, Ex. 18, p. 5, lines 5 to 7.)

Moreover, these bill impacts for CARE customers must be viewed in the context of the historical pattern of residential rates. As described elsewhere in this brief, for almost two decades, CARE rates have been either frozen or declining while the consumer price index has increased by approximately 51 percent. Thus, in real terms, CARE customers' bills have declined by an enormous amount. (PG&E/Quadrini, Ex. 2, p. 2-26, line 15 to p. 2-27, line 2.) Furthermore, there are more CARE customers and CARE usage than ever before, and the discounts have risen dramatically from their former 20 percent level. The discounts now range from 29 to 30 percent in the lower two tiers and up to 76 percent in Tier 4. (*Id.,* p. 2-27, lines 3 to 7.) Adjusted for inflation, the average CARE rate is 46 percent lower than it was in 1991. (SCE/Garwacki, Ex. 18, p. 6, lines 12 to 13.)

Also, more than one million households participate in PG&E's CARE program and receive these substantial discounts on their electric service. And their CARE Tier 1 and 2 rates may not increase in the near future because the index specified in Section 739.1 for CARE rate increases is not expected to trigger any increase in those tiers. (*Id.,* p. 6, lines 13 to 16; Tr. p. 384, lines 22 to 27, PG&E/Keane.) Thus the CARE program itself, with its statutory restrictions, mitigates concerns about the affordability of PG&E's proposals for customers on CARE.

(SCE/Garwacki, Ex. 18, p. 6, lines 6 to 9.)

2. Non-CARE Customer Bill Impacts

PG&E's electric rate design proposals seek to remedy several problems in the current residential rates. First, there continues to be a large disparity between the upper tier and lower tier non-CARE rates. PG&E's current Tier 4 rate of 40 cents per kWh is still three times the Tier 2 rate of 13.5 cents per kWh. This represents an enormous subsidy paid by upper-tier consuming households to lower-tier consuming ones. (PG&E/Quadrini, Ex. 2, p. 2-22, lines 11 to 15.) Second, over the past decade, 25 percent of PG&E's residential usage has borne almost 100 percent of rate increases in the residential class. That percentage is now down to 21 percent. (PG&E/Quadrini, Ex. 2, p. 2-26, lines 10 to 12; p. 2-22, line 32 to p. 2-23, line 2.) Since a small minority of residential sales has borne almost all the increases assigned to the residential class for the last decade, this minority has been subsidizing the remaining 75 to 79 percent of residential usage's portion of revenue requirement increases for almost 10 years.[8/]

To remedy this situation, bills for a large percentage of residential customers will need to increase under a more equitable rate design. It should be no surprise that approximately three-quarters of non-CARE customers would see bill increases with the proposed residential rate revisions. Also, since PG&E proposes to reduce baseline quantities and implement a customer charge, this percentage would include nearly all households with consumption not exceeding 130 percent of baseline. The increase for non-CARE customers, however, is modest. The average increase ranges from just $1.20 per month to $4.60 per month. (PG&E/Quadrini, Ex. 2, p. 2-26, lines 1 to 2.)

Bill increases for the 75 to 79 percent of residential usage that has been protected from increases for the last ten years are necessary to lift the burden of bearing all increases from the other 25 to 21 percent. However, because sales are distributed more heavily in the lower two tiers than the upper tiers, it is possible to decrease the upper tier rate significantly with only

8/ Beginning in 2010, SB 695 now allows very limited increases for Tier 1 and 2 non-CARE sales—so they are finally starting to bear a small share of the burden.

modest bill increases for those consuming in the lower tiers at this time. (*Id.,* p. 2-26, lines 12 to 18.)

III. PROPOSED MONTHLY CUSTOMER CHARGE

PG&E proposes to implement a $3.00 monthly customer charge for non-CARE residential customers and a $2.40 monthly customer charge for CARE customers. DRA, Solar Alliance, and TURN argue that PG&E's proposal violates SB 695. (DRA/Khoury, Ex. 23, pp. 6-8 to 6-11; Solar Alliance/Beach, Ex. 26, pp. 17-19; TURN/Florio, Ex. 13, pp. 1-5.) As discussed below, PG&E's customer charge proposal is fully consistent with law, and intervenors' legal arguments to the contrary are without merit. In addition, PG&E's customer charge proposal is consistent with the rate structures of other IOUs across the country, and is in the public interest by increasing equity among residential customers and moving rates closer to a cost basis.

A. PG&E's Customer Charge Proposal Does Not Violate SB 695.

DRA, Solar Alliance, and TURN oppose PG&E's customer charge proposal on the grounds that that Public Utilities Code Section 739.9 does not allow the Commission to authorize such a charge. PG&E disagrees. As explained below, the plain language of Section 739.9(a) permits the Commission to authorize PG&E's proposed customer charge. Further, both TURN's interpretation of Section 739.9(a) as well as the Legislative Counsel's analysis that TURN solicited are illogical and should be disregarded.

It is undisputed that the Commission's authority to approve a customer charge involves a question of statutory interpretation. (*See, e.g.,* Tr. p. 468-469, TURN/Florio.) In *HSU v. Abbara (1995) 9 Cal 4th 863, 871,* the California Supreme Court stated:

> In construing a statute, a court's objective is to ascertain and effectuate legislative intent (*Kimmel v. Goland (1990) 51 Cal.3d 202, 208 [271 Cal.Rptr. 191, 793 P.2d 524*.) To determine legislative intent, a court begins with the words of the statute, because they generally provide the most reliable indicator of legislative intent. (*Burden v. Snowden (1992) 2 Cal.4th 556, 562 [7 Cal.Rptr.2d 531, 828 P.2d 672*].)

As further explained in *Herman v. Los Angeles County Metropolitan Transportation Authority (1999) 71 Cal.App.4th 819, 825,* statutory interpretation involves a three-step analysis.

- First, the court should examine the actual language of the statute, as "it is the language of the statute itself that has successfully braved the legislative gauntlet. It is that language which has been lobbied for, lobbied against, studied, proposed, drafted, restudied, redrafted, voted on in committee, amended, re-amended, analyzed, reanalyzed, voted on by the two houses of The Legislature, sent to a conference committee, and, after perhaps more lobbying, debate, and analysis, finally signed 'into law' by the Governor."
- Second, and only if the meaning of the language is not clear, must the courts refer to legislative history.
- And third, if the first two steps have failed to reveal clear meaning, the courts apply reason, practicality and common sense.

Applying this three-step process, the only logical interpretation of Section 739.9's plain language is that the Commission is authorized to approve PG&E's proposed customer charge, and that, in fact, the legislature specifically contemplated the imposition of a customer charge. Steps two and three of the statutory analysis process are therefore unnecessary.

The full text of Section 739.9(a) and (b) is as follows:

> (a) ***The commission may***, subject to the limitation in subdivision (b), ***increase the rates charged residential customers for electricity usage*** up 130 percent of the baseline quantities, as defined in Section 739, by the annual percentage changes in the Consumer Price Index from the prior year plus 1 percent, but not less than 3 percent and not more than 5 percent per year. For purposes of this subdivision, the annual percentage change in the Consumer Price Index shall be calculated using the same formula that was used to determine the annual Social Security Cost of Living Adjustment on January 1, 2008. This subdivision shall become inoperative on January 1, 2019, unless a later enacted statute deletes or extends that date.

> (b) The rates charged residential customers for electricity usage up to the baseline quantities, ***including any customer charge revenues***, shall not exceed 90 percent of the system average rate prior to January 1, 2019, and may not exceed 92.5 percent after that date. For purposes of this subdivision, the system average rate shall be determined by dividing the electrical corporation's total revenue requirements for bundled service customers by the adopted forecast of total bundled service sales. [Emphasis added.]

There is nothing in the plain language of this provision that prohibits the Commission from approving a customer charge generally. To the contrary, by expressly referencing "any customer charge revenues," Subsection (b) confirms that residential rates *may* include customer charges.

PG&E's interpretation of Section 739.9 as permitting the Commission to authorize customer charges is also supported by the plain language of Section 739(d)(3), which provides:

> At least until December 31, 2003, the commission shall require that all charges for residential electric customers are volumetric, and shall prohibit any electrical corporation from imposing any charges on residential consumption that are independent of consumption, unless those charges are in place prior to April 12, 2001.

As this language makes clear, when the Legislature wants to prohibit the Commission from approving customer charges generally, it does so in express terms. Section 739(d)(3) expressly authorizes the Commission to approve customer charges generally, so long as such charges go into effect after December 31, 2003. TURN's reading proposes to abolish this legislative authority.

Having thus established that the Commission is not generally prohibited from authorizing a customer charge so long as it goes into effect after December 31, 2003, the question arises whether the Commission is barred from authorizing PG&E's specific customer charge proposal. Section 739.9(a) states that any "increase [in] the rates charged residential customers for electricity usage up 130 percent of the baseline quantities" should be capped at the "annual percentage changes in the Consumer Price Index from the prior year plus 1 percent, but not less than 3 percent and not more than 5 percent per year." TURN interprets this language to mean that any increase in rates, <u>including any customer charges</u>, should be capped at 3-5 percent per

year. (TURN/Florio, Ex. 13, p. 4.)[9/] However, that is not what Section 739.9(a)'s plain language provides. To the contrary, Section 739.9(a) refers simply to "rates," with no mention of "customer charges." Instead, it refers to rates charged for "electricity usage." A customer charge, however, is not based on usage. As a result, the 3 to 5 percent limit on annual increases in Section 739.9(a) applies only to the volumetric rates. This interpretation also is bolstered by the second subsection of Section 739.9, Section 739.9(b), which imposes a separate limitation on increases. The differences in the plain language between subsections (a) and (b) of Section 739.9 show that customer charge revenue is treated differently in the subsection (a) and (b) tests.

The language of Section 739.9(a) is in stark contrast to Section 739.9(b), which directly follows and expressly states that "rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, shall not exceed 90 percent of the system average rate prior to January 1, 2019, and may not exceed 92.5 percent after that date." (Emphasis added.) Again, when the Legislature wanted to place caps on total rates including customer charges, it did so in express terms. The Legislature's omission of the phrase "including any customer charges" from Section 739.9(a) can only mean one thing: that the 3-5 percent cap placed on the "increase [in] the rates" applies only to the volumetric rate, not including any customer charges.

B. The Commission Should Give Little Weight To Legislative Counsel's Arguments Issued A Year After SB 695 Became Law, Which Make No Sense.

In addition to its plain language argument, TURN relies on a Legislative Counsel opinion dated September 22, 2010 (approximately a year after SB 695 was signed into law) supporting TURN's position that a customer charge cannot be imposed in addition to increasing commodity rates by the maximum percentages provided for in Sections 739.1 and 739.9. (*See* TURN/Florio,

9/ TURN witness Florio offered a more detailed and somewhat different interpretation of Section 739.9 in verbal testimony. Mr. Florio testified at the hearing that PG&E could not implement a customer charge under Section 739.9 at all:

Ex. 13, Attachment A.)[10/] None of the Legislative Counsel's arguments has any merit.

First, the Legislative Counsel argues that the "term 'rates' encompasses any charge made by a public utility for providing service." (TURN/Florio, Ex. 13, Attachment A, p. 9, *citing* Pub. Util. Code §210.) Section 210 actually states: "'Rates' includes rates, fares, tolls, rentals, and charges, unless the context indicates otherwise." (Emphasis added.) Section 739 provides a more specific set of definitions and terms to be used in the context of the baseline legislation, including the following:

> (d)(1) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing baseline rates. The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity. In establishing these rates, the commission shall avoid excessive rate increases for residential customers, and shall establish an appropriate gradual differential between the rates for the respective blocks of usage. [Emphases added.]

Thus, under Section 739(d)(1), the Legislature distinguished between rates and charges. More importantly, Section 739(d)(1)'s plain language supports PG&E's position in this case; namely, that the "rates" referenced in Section 739.9(a) refer to the volumetric baseline rates described in Section 739(d)(1). (i.e. The baseline rate is to apply to the first block, the baseline quantity. The gradual differential shall apply to rates for respective blocks of usage.) In contrast, Section 739(d)(3) specifically refers to "charges on residential consumption that are independent of consumption," which would include the customer charges proposed by PG&E and referenced in Section 739.9(b).

Second, the Legislative Counsel argues: "In our view, a fixed customer charge is encompassed within the term 'rates' as that term is used in Sections 739.1 and 739.9." (TURN/Florio, Ex. 13, Attachment A, p. 9.) The only basis cited by legislative counsel for this "view" is PG&E's statement in its GRC Phase 2 application that its customer charge proposal is

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10/ It should be noted that TURN solicited this opinion from the Legislative Counsel (TURN/Florio, Tr. p. 471-473), and that the opinion was made well after the fact, not contemporaneous with consideration of the legislation in question. As such, the Legislative Counsel's opinion should be accorded little weight.

intended to "make its rates fairer." As evident from the discussion of Section 210 above, the term "rates" may be used generically to refer to rates, charges, tolls, and fares. The fact that PG&E uses the term "rates" in the context quoted above ("make its rates fairer") simply has no bearing on whether the Legislature intended in Section 739.9(a) to limit the Commission's authority to approve customer charges.

Third, the Legislative Counsel argues: "In construing a statute, the ordinary rules of grammar must be applied unless they lead to an absurd result. Here, the construction given to subdivision (b) of Section 739.9 by PG&E is contrary to the ordinary rules of grammar and, in our view, would lead to an absurd result." (*Id.*) Specifically, the Legislative Counsel argues that the phrase "including customer charge revenue" in Section 739.9(b) should be interpreted as "words of enlargement and not of limitation" and as "modifying the term 'baseline quantities' and not the term 'rates.'" (*Id.*) However, the Legislative Counsel fails to explain how PG&E's interpretation either defies the ordinary rules of grammar or leads to absurd results. To the contrary, it is the Legislative Counsel's interpretation that is unreasonable and absurd.

Legislative Counsel argues that the phrase "including customer charges" should not restrict the term "rates" in subsection (a) because the word "including" is a word of "enlargement." While the phrase "including any customer charge revenues" could be interpreted as words of enlargement and not limitation in an abstract context, such an interpretation is unreasonable in the context of Section 739.9. The phrase does not appear in subsection (a) but is included in subsection (b), which was enacted concurrently, as a companion subsection with a separate limitation on baseline increases that is specifically referenced in subsection a).[11] If the Legislature had wanted the phrase to apply to both sections, it would have been more reasonable to include it in subsection (a), when the concept of the "rates charged residential customers" is introduced, and to omit it from subsection (b). To insert the phrase for the first time into subsection (b) strongly suggests, as a matter of common sense, that the Legislature intended the

[11] Section 739.9(a) specifically refers to subsection (b) as a "limitation". It states in part: "The Commission may, *subject to the limitation in subdivision (b) increase the rates* . . . " (emphasis added.)

phrase to apply only to subsection (b).

Moreover, it is absurd to interpret the phrase "including any customer charge revenues" as modifying the term "baseline quantities." As defined in Section 739(a)(1), baseline quantity "means a quantity of electricity or gas allocated by the commission for residential customers based on from 50 to 60 percent of average residential consumption of those commodities…" It is impossible to even imagine how revenues could be added to quantities of consumption for purposes of calculating the 90 percent and 92.5 percent caps set by Section 739.9(b), which is what the Legislative Counsel's interpretation would require. Instead, the terms "rates" and "customer charge" are both monetary concepts which supports the interpretation of Section 739.9(b) to mean that the total amount collected from residential customers using up to the baseline quantities – whether in the form of baseline rates or customer charges – cannot exceed the 90 percent and 92.5 percent caps described therein. The Legislative Counsel's interpretation, on the other hand, is simply nonsensical.

Fourth, the Legislative Counsel argues at page 10 that the phrase "including customer charge revenue" (Counsel's words) in Section 739.9(b) merely evidences the Legislature's awareness of SCE's customer charge. Legislative Counsel, however, provides absolutely no evidence that this is what the Legislature had in mind (and there is none in the legislative history). More significantly, Legislative Counsel misquotes the statute. The statute actually uses the words "including **any** customer charge revenues" (emphasis added). This wording does not suggest that the reference was only to **existing** customer charges.

Fifth, the Legislative Counsel briefly refers to the legislative history of SB 695, but only in the context of very broad principles. (*Id.*, p. 10.) Notably, the Legislative Counsel ignores legislative history that actually addresses the specific meaning of Section 739.9 and supports PG&E's position. For example, the Legislative Counsel's Digest that accompanied the final amended bill that became law stated the following (at p.3):

> This bill would delete the prohibition that the commission not increase the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of the existing baseline quantities. *The bill would authorize the commission to increase the rates charged residential customers for electricity usage* up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. *This authorization would be subject to the limitation that rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, not exceed 90% of the system average rate, as defined*. (Emphasis added.)[12/]

This same language is found with every version of the bill, and very similar statements are found in the May 29, 2009 and September 2, 2009 memoranda of the Senate Rules Committee. This language supports PG&E's interpretation of the meaning of Section 739.9 and undercuts Legislative Counsel's argument.

Notably, this legislative history language uses two words that do not appear in the current Legislative Counsel's opinion: "authorization" and "limitation." As quoted above, SB 695 deleted the then-applicable prohibition on the Commission's authority to increase charges under AB 1X, and "authorizes" the Commission to increase rates for residential usage up to 130% of baseline, subject to the 3-5 percent cap. Thus, the first purpose of SB 695 – as reflected in Section 739.9(a) – was to authorize the Commission to increase baseline rates. However, this authorization is tempered by a limitation: that rates charged for residential usage up to the baseline quantities, including customer charges, not exceed 90% of the system average rate. Thus, the second purpose of SB 695 – as reflected in Section 739.9(b) – was to limit the total rates for usage up to the baseline quantities including any customer charges.[13/]

12/ This digest can be found in the Chaptered text of the Bill itself. See page 3 at http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_695_bill_20091011_chaptered.pdf.

13/ Solar Alliance added little useful to this debate. In its filed testimony, it claimed support for TURN's legal position. However, it then argued that the statute permitted a $1 per month customer charge. When confronted with the fact that its theory is quite at odds with TURN's legal theory, Mr. Beach only responded "Well, I'm not aware of what TURN's theory is." (Ex. 26, pp. 7-8; Tr. p. 947, lines 4-24, Solar Alliance/Beach.)

C. The Commission Should Approve PG&E's Customer Charge As A Matter Of Sound Public Policy

The dominant issue surrounding PG&E's customer charge proposal was the Commission's legal authority to approve such a charge. In addition, however, there are important policy considerations that support approval of the customer charge. The fundamental driver of PG&E's residential rate proposals is to start reversing the inequity in the current inclining block rate design and the associated rate disparities between the lower and higher tier non-CARE rates and between CARE and non-CARE rates. Adoption of the customer charge will contribute to reversing these disparities. The customer charge is expected to produce approximately $160 million annually, and would allow an approximately 2 cent per kWh reduction in PG&E's proposed Tier 3 rate. (PG&E/Keane, Ex. 2, p. 1-8, lines 22 to 32.) In that respect, it is a key component of PG&E's total residential rate design proposal.

The customer charge also would implement a very important principle in PG&E's residential rates. These are the costs of connecting the customer to the grid, maintaining that connection and service to the account—including metering, preparing and sending bills, processing payments and providing service center resources. These costs exist regardless of the customer's level of energy usage. Since these costs are largely fixed and cannot be avoided, setting a rate to recover at least a portion of these costs on a fixed basis appropriately reflects cost causation, and supports more equitable recovery of PG&E's fixed costs among customers. (PG&E/Quadrini, Ex. 1, p. 3-10, lines 4 to 10; PG&E/Faruqui, Ex. 1, p. 11-10, lines 7 to 18.) As Dr. Keane states "These costs should be paid by all customers, as opposed to avoided by some and thus shifted to, and paid by, others." (PG&E, Ex. 2, p. 1-11, lines 19 to 21; *Id.,* p. 1-12, lines 22 to 25.) Dr. Keane goes on to explain "Since PG&E incurs these costs to serve the customer independent of its consumption level, an economically efficient and fair way to collect these costs is through a fixed customer charge that similarly does not vary with consumption." (*Id.,*

lines 25 to 29.) The Commission has approved customer charges for every single *non-residential* rate schedule PG&E has—in recognition that it is an appropriate way to collect fixed costs.

The proposed monthly customer charge of $3.00 would not cover all of the fixed costs to serve the customer. In this case, PG&E has calculated the residential marginal customer cost at approximately $93 per year. (PG&E/Quadrini, Ex. 1, p. 3-10, lines 2 to 3.) The proposed $3.00 and $2.40 customer charges represent just 39 percent of these estimated marginal customer costs for non-CARE customers and 31 percent for CARE customers. Although the proposed customer charge levels are modest, implementation of the customer charge would make PG&E's residential rates more consistent with those of other utilities. Other utilities in the top 20 all include a monthly fixed charge for residential customers, as shown in Attachments 11A-8 and 11A-9 to Dr. Faruqui's testimony. (PG&E/Faruqui, Ex. 3, pp. 11A-13 to 11A-14.) Of these 20 utilities, 18 have monthly charges that exceed PG&E's proposed $3.00 fee. *(Id.)* In addition, out of 16 municipal utilities operating in PG&E's area, eight have a monthly customer charge, including the Sacramento Municipal Utility District, Silicon Valley Power, and Redding Electric Utility.[14/] (PG&E/Faruqui, Ex. 1, p. 11-11, lines 8 to 13.)[15/]

Since the customer charge would be billed every month, irrespective of the customer's energy usage level, the customer would not be able to avoid the charge. A question may arise whether the customer charge would reduce the incentive for energy efficiency or conservation. According to Dr. Faruqui, who has worked extensively on demand side issues (PG&E/Faruqui, Ex. 3, p. 11A-1), it would have a minimal effect since PG&E's proposed rates rise steeply between tiers 2 and 3, e.g. 14.1 cents per kWh for non-CARE. (PG&E/Faruqui, Ex. 1, p. 11-11, lines 19 to 22.)

14/ SMUD's residential customer charge is $7 per month—more than double PG&E's proposed amount. (PG&E/Keane, Ex. 2, p. 1-12, lines 9 to 12.)

15/ Many other kinds of utilities charge a fixed customer charge, including water utilities, garbage, communications, etc. (PG&E/Keane, Ex. 2, p. 1-12.)

PUC § 739.7 indicates that the Commission should retain "an appropriate inverted rate structure" for residential rates. With the introduction of a customer charge, there is a question about how to treat a charge that is independent of usage under this statute. Approximately six months after PUC § 739.7 went into effect, the Commission decided in PG&E's 1993 GRC 2 case to use a simple tier ratio calculation. (D.93-06-087, 50 CPUC 2d 1, page 35, "We adopt PG&E's proposal to use a simple tier ratio calculation excluding the minimum bill revenues.") In a gas utility decision issued after 1993, the Commission included a customer charge in the Tier 1 rate to develop a composite Tier 1 rate for evaluation under PUC § 739 and 739.7. However, the gas utility's residential rate structure only had two tiers. (D.00-04-060, Appendix D, Tables 2 and 3, 5 CPUC 3d 697, pp. 785 to 786.)[16/] So the total effect of the gas utility's inverted rate structure was reflected in the comparison between its Tier 2 rate and composite Tier 1 rate.[17/]

With PG&E's present multi-tiered electric rate structure, basing the differential on only the difference between Tier 2 and a composite Tier 1 rate would ignore the effect of inversion achieved with usage in tiers above Tier 2. Therefore, it would be inappropriate to compare Tier 1 only to Tier 2 to establish a reasonable "approximate differential." Instead, if the Commission uses a composite Tier 1 in this case, it also should capture all the inversion in PG&E's rates by utilizing an average rate for all "over-baseline" usage in PG&E Tiers 2, 3, and 4. (PG&E/Quadrini, Ex. 2, p. 2-6, lines 3 to 12; SCE/Garwacki, Ex. 28, p. 10, lines 4 to 6.) The tier differentials for PG&E's CARE and non-CARE rates based on this composite-to-composite analysis is presented in PG&E/Quadrini, Ex. 2, Table 2-2, lines 12 to 13, and represents substantial inversion.

PUC § 739.7 does not specify what the minimum percentage differential should be. (SCE/Garwacki, Ex. 18, p. 9, lines 8 to 11.) In D.00-04-060 cited above, the Commission

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16/ PG&E's residential gas rates continue to have only 2 tiers. (PG&E/Quadrini, Ex. 1, p. 3-6, line 19 to p. 3-7, line 3.)

17/ When PUC § 739.7 became law, the non-baseline tier applied to **all** usage above the baseline allocation. (SCE/Garwacki, Ex. 18, p. 9, lines 27 to 28.) There were only two tiers until 2001, with slightly inclining blocks. (Tr. p. 243, lines 2 to 5, PG&E/Keane.)

adopted a 5 percent tier differential. (D.00-04-060, p. 108.) In D.93-06-087, the Commission found that the tier differential should be greater than 10 percent. However, that differential was for a simple tier ratio, not a composite one. (D.93-06-87, 50 CPUC 2d 1, p. 35.) The Commission is free to determine what an appropriate differential would be for a composite Tier 1 versus composite Tiers 2, 3, and 4 rates. As shown in PG&E/Quadrini, Ex. 2, Table 2-2, lines 12 to 13, PG&E's proposed rates easily satisfy differentials that have been identified to date.

The evidentiary record and the discussion above establish that PG&E's customer charge proposal represents sound policy, satisfies legal provisions in the Public Utilities Code, contributes to increasing equity among residential customers, and will assist in moving rates closer to a cost basis. The Commission should authorize PG&E to implement its proposed customer charges.

IV. PROPOSED CARE TIER 3 RATE

For the first time in nearly twenty years, PG&E is proposing an increase in a rate for CARE customers in this proceeding. For the last two decades, all of a CARE customer's usage has been subject to either CARE Tier 1 or Tier 2 rates—no matter how much energy the customer used. (PG&E/Quadrini, Ex. 1, p. 3-15, lines 3 to 4.) Now PG&E proposes to implement a modest CARE Tier 3 for usage above 130 percent of baseline.[18/] The rate for the new CARE Tier 3 would be 12.5 cents per kWh, or 2.9 cents per kWh higher than the CARE Tier 2 rate in the first year. The new CARE Tier 3 rate would be 150 percent of the CARE Tier 1 rate, as permitted by PUC § 739.1(b)(5). PG&E also proposes increases of 1.5 cents per kWh per year in 2012 and 2013. With the increases in 2012 and 2013, the CARE Tier 3 rate in 2013 will still be significantly less than 80 percent of the non-CARE tier 3 rate, consistent with PUC § 739.1(b)(5). (*Id.,* p. 3-13, lines 7 to 15.) It will also be significantly lower than the CARE Tier 3 rates of the other utilities.

18/ PG&E's rates for CARE Tiers 1 and 2 will remain unchanged in 2011, for yet another year. (PG&E/Keane, Tr. p. 384, lines 22-27.)

A. The Current CARE Rates Are Inequitable

The only changes that PG&E's CARE rates have seen since 1993 have been decreases: approximately 3% in 1996, 10% in 1998, and 6% in 2001. This has occurred despite the fact that PG&E's cost of service has increased. Thus, for nearly two decades, CARE rates have slipped further and further below the cost of service and have not tracked the rate of inflation. (*Id.,* p. 3-14, lines 28 to 30.) The level of CARE rates compared to non-CARE rates and the burgeoning amount of the CARE subsidy borne by other customers, both non-CARE residential and non-residential customers, has contributed significantly to huge disparities in PG&E's rates and inequities in the residential rate structure.

Here are the undisputed facts about PG&E's CARE rates:

1. The average CARE discount has grown from approximately 20 percent prior to 2001 to nearly 50 percent as of June 1, 2010. (PG&E/Quadrini, Ex. 2, p. 2-7, lines 6 to 9.)
2. Adjusting for inflation, the average CARE rate is now 46 percent lower than it was in 1991. (PG&E/Quadrini, Ex. 1, p. 3-15, lines 5 to 6, and p. 3-16, Figure 3-2.)
3. For upper tier CARE usage, the discount is higher still, in excess of 67 percent at the Tier 3 usage level (9.6 cents per kWh versus 29 cents per kWh) and 76 percent at Tiers 4 and 5 usage levels (9.6 cents per kWh versus 40.0 cents per kWh.) (PG&E/Quadrini, Ex. 1, p. 3-17, Table 3-8, and PG&E/Quadrini, Ex. 2, p. 2-7, lines 9 to 11.)
4. Over 26 percent of PG&E's residential load is estimated to be on CARE rates in the test year, representing "a very large group of subsidized customers, a very large amount of subsidized load, and an enormous dollar transfer from other customers." (CLECA/CMTA/Barkovich, Ex. 6, p. 3.)
5. The cost of the discount (the CARE subsidy) paid by other customers has increased dramatically in recent years from a level of approximately $30 million in 2000 to $662 million as of March 1, 2010 (*Id.* p. 2) and $700 million estimated for 2010. (PG&E/Quadrini, Ex. 2, p. 2-7, lines 11 to 13.)

The situation with PG&E's CARE rates and the CARE subsidy is a significant factor contributing to the huge disparity between PG&E's CARE and non-CARE residential rates. PG&E, Ex. 37 (copy attached as Exhibit A and on page 3 of this brief) shows the rates for CARE usage above 130 percent of baseline (CARE Tier 2) versus rates for non-CARE usage above 130 percent of baseline. PG&E recognizes that CARE is a complex issue, but continuing the status quo for CARE is not sustainable. (Tr. p. 193, lines 16 to 19, TURN/Marcus.) Action needs to

occur in this case to change CARE rates, to the extent allowed by law.

PG&E's proposal for CARE rates (along with other changes proposed in the proceeding) would lower the average CARE discount in the first year to approximately 41 percent. (PG&E/Quadrini, Ex. 1, p. 3-16, lines 6 to 8.) Moreover, even with the combination of the CARE Tier 3 rate, the proposed CARE customer charge, and the proposed change in the baseline quantities to 55 percent of average usage, the average CARE rate in the first year following this decision would be only slightly above where it was in 1991, in nominal terms. (*Id.,* p. 3-15, lines 10 to 14.)

Dr. Faruqui's testimony provides the estimated CARE discount by tier with PG&E's proposals. PG&E/Faruqui, Ex. 1, p. 11A-2, Attachment A-3, reveals that the Tier 1 discount would reflect a 30 percent discount for Tier 1, a 29 percent discount for Tier 2 and a 55 percent discount for Tiers 3 and 4. These results would still provide a CARE discount well above the 20 percent minimum required under PUC § 739.1(b)(4). (CLECA/CMTA/Barkovich, Ex. 6, p. 3, and footnote 4.) These discounts are still substantial compared to the rates paid by non-CARE customers. (PG&E/Faruqui, Ex. 1, p. 11-5, lines 23 to 25.)

B. Low Income Customers Can Conserve More

Very low CARE rates do not provide an incentive for conservation for CARE customers with high usage. Of the nearly $700 million CARE subsidy, half of the discounts, $364 million per year, will go to the 14 percent of CARE customers with Tier 5 usage (usage exceeding 300 percent of baseline). (PG&E/Quadrini, Ex. 1, p. 3-17, lines 5 to 8, and p. 3-18, table 3-9.) Three Sierra Club expert witnesses from Eco-Shift Consulting also agree that CARE customers do not have a conservation or energy efficiency incentive under current rates.

> Q: "And would you agree that the current CARE rates, quote, provide no incentive for conservation?" A: Spearot: "Yeah, I would agree with that." (Tr. p. 139, line 26 to Tr. p 140, line 1, Sierra Club/Spearot.)

Q: "Do you agree that current CARE rates provide no incentive for conservation?" A. Barsimantov: "Very little incentive. No incentive, yeah, sure." Q: "Was your answer no incentive?" A. Mulvaney: "yes", Barsimantov: "No incentive." (Tr. p. 801, lines 17 to p. 23, Sierra Club/panel.)

By increasing the CARE rate for consumption above 130 percent of baseline, PG&E's CARE Tier 3 rate proposal provides an incentive to conserve for households in Tier 3. (PG&E/Keane, Ex. 2, p. 1-13, lines 20 to 22 and footnote 15; PG&E/Quadrini, Ex. 1, p. 3-17, lines 8 to 9.) Sierra Club's expert economist agrees. (Q: "Would you agree that the proposal to create a CARE Tier 3 rate by itself would reduce consumption?" A. Spearot: "Yes, it would." (Tr. p. 139, lines 22 to 25, Sierra Club/Spearot.)

In opposition to PG&E's CARE Tier 3 proposal, Greenlining witness Aguilar claims that "the vast majority of CARE customers (more than a million customer bills) are extremely conservationist, more so than other residential customers." (Greenlining/Aguilar, Ex. 14, pp. 5 to 6.) Mr. Aguilar bases this assertion on the amount of CARE customers' energy use that reaches the higher tiers as compared to non-CARE customers. (*Id.* pp. 3 to 4.) However, this information does not establish that CARE customers do not have the potential to conserve. Greenlining provides no other data or research to support its unsubstantiated claims about CARE customer behavior. (PG&E/Quadrini, Ex. 2, p. 2-9, lines 3 to 4.)

Moreover, the KEMA report, PG&E Cross-Examination Ex. 39, indicates that low-income customers in PG&E's service have the potential to save 160 kWh a year through energy efficiency, on average. (PG&E Ex. 39, p. 6-5, table 6-4; Tr. p. 220, lines 19 to 24, Greenlining/Aguilar.) Among the energy efficiency measures that low income households could undertake include 1) compact fluorescent bulbs, 2) water heater tank wraps, 3) weather stripping on exterior doors, 4) caulking, 5) ceiling insulation. (Tr. p. 219, line 17 to Tr. p. 220, line 18, Greenlining/Aguilar.) Thus the record demonstrates that Greenlining's claims regarding conservation and low income customers are contrary to the evidence.

In contrast to Greenlining, Dr. Faruqui actually conducted simulations of PG&E electric rate proposals using The Brattle Group's Green PRISM model to compute expected changes in energy sales. (PG&E/Faruqui, Ex. 1, p. 11-8 line 27 to p. 11-9, line 2.) His simulations predicted a net decrease in energy sales, which "occurs largely because CARE customers have stronger incentives to use less energy under the proposed rate design." (*Id.,* p. 11-9, lines 15 to 17.)[19/] These results for CARE customers are consistent with the general indications in the KEMA report that low income customers have the potential to undertake energy efficiency measures and conserve energy.

Indeed, information presented by Mr. Quadrini indicates that CARE customers are using more energy, versus reducing or conserving. As shown in PG&E/Quadrini, Ex. 2, p. 2-10, Table 2-4, while non-CARE usage has been flat or declining for most years since 2005, CARE customer usage has risen significantly. Both CARE all-electric and basic average usage has increased 11 percent, while non-CARE all-electric usage has declined 4 percent and non-CARE basic average usage has declined 1 percent. CARE all-electric usage is already equal to non-CARE electric usage while CARE basic average usage should exceed non-CARE average usage in 2012 or 2013. (PG&E/Quadrini, Ex. 2, p. 2-9, lines 7 to 15.)

In response to the data in Table 2-4, Greenlining stated in its rebuttal that "a small number of outlying CARE customers skew the energy usage data for all CARE customers. (Greenlining/Aguilar, Ex. 15, p. 7.) Greenlining then removed the Tier 5 usage of "exceptionally high energy users" of the four largest counties, Humboldt, Mendocino, Santa Cruz and Sonoma, from the CARE population and recalculated the CARE Tier 5 average usage. This cut the average CARE Tier 5 usage by more than half, which Greenlining cited as proof that the remaining CARE Tier 5 customers are conserving in contrast to non-CARE Tier 5 customers.

19/ Dr. Faruqui's simulations included all the changes proposed for residential rate design, including the CARE Tier 3 proposal. The reduction in CARE customer usage comes from "the response of customers who previously had lower prices, to the extent that TIER 3 has come in for CARE customers, they're seeing a higher price." (PG&E/Faruqui, Tr. p. 22, lines 7 to 10.)

However, Greenlining did not remove the same type of customers from its non-CARE Tier 5 average usage calculation.

PG&E witness Quadrini pointed out that in making comparisons of energy usage between CARE and non-CARE customer groups, adjustments to the data need to be consistent. If certain high users are going to be removed from the CARE population, the same types of customers need to be removed from the non-CARE population so a side-by-side comparison can be made. (Tr. p. 1050, lines 4 to 9; Tr. p. 1052, lines 10 to 14; Tr. p. 1054, lines 18 to 21, PG&E/Quadrini.) Mr. Quadrini then stated that he re-did the data analysis contained in Table 2-4 after subtracting out all usage in Humboldt, Mendocino, Santa Cruz and Sonoma Counties from both the CARE and non-CARE populations. He found that there was very little change in the annual ratios of CARE average usage to non-CARE average usage in Table 2-4. (Tr. p. 1050, lines 19 to 24, PG&E/Quadrini.) In support of his finding, he stated that among the roughly 4,300 customers exceeding 50,000 kWh per year, the ratio of non-CARE to CARE customers "might be 3 to 1, 2.5 to 1" whereas the ratio of all non-CARE to CARE customers is 3 to 1. (Tr. p. 1052, lines 24 to 26 and Tr. p. 1051, lines 15 to 19, PG&E/Quadrini.)

Mr. Quadrini also emphasized that comparing average usage to evaluate relative conservation efforts through a "snapshot in time" is not useful:

> (Question) And would you agree that if CARE customers use less energy than non-CARE customers in Tier 5, that they are doing a better job conserving energy?
>
> (Answer) …if you are in Tier 4 for 12 months, whether you are CARE or non-CARE, you are pretty much doing the same thing. You can't say, well, this person is conserving and that person isn't. They are both in Tier 4 for the entire year. You have a choice, either they are conserving or they are not.

(Tr. p. 1035, lines 7 to 14, PG&E/Quadrini; Tr. p. 1061, line 22 to Tr. p. 1062, line 7, PG&E/Quadrini.)

Mr. Quadrini pointed out that the difference in average usage in Tiers 4 and 5 for CARE and non-CARE customers was due to the fact that CARE customers had a slightly higher percentage of customers who were in Tiers 4 and 5 for just one or two months out of the year

compared to non-CARE customers, 50% vs. 45% in Tier 4, and 50% vs. 43% in Tier 5. (Tr. p. 1034, lines 10 to 16 and Tr. p. 1036, lines 7 to 9, PG&E/Quadrini.)

> (Answer) It is a weighting issue. You just have a little bit higher weight of CARE customers that are in Tier 5 or Tier 4 for a few months of the year. But once you line them up side by side, Tier 5, four months, Tier 5, four months, CARE, non-CARE, there is no difference. (Tr. p. 1036, lines 16 to 22, PG&E/Quadrini,)

Thus, the lack of weighting by number of months reduces the statistical validity of Greenlining's Exhibit 79 data, which is a snapshot of average use in each upper tier by CARE and non-CARE customers. (Tr. p. 1063, lines 8 to 15, PG&E/Quadrini.)[20/]

C. The Hardship Claims Do Not Defeat The Need For This Change

Disability Rights Advocates (DisabRA) opposes PG&E's CARE rate changes and Tier 3 proposals on the grounds of hardship. DisabRA witness Reyes' primary point was that customers with disabilities (disabled customers), cannot afford substantial energy rate increases or shifts in rate design that burden lower-tier energy consumers. (DisabRA/ Reyes, Ex. 19, p. 4, answer 5.) DisabRA includes survey responses from a number of individuals claiming such hardship as attachments to DisabRA/ Reyes, Ex. 19. These survey responses constitute hearsay, and for individual statements, the DisabRA witness could not verify information about the responses in cross-examination.

> Q. (Lichtblau), "You don't know whether any of the customers whose stories you've told here consume energy in Tier 3; isn't that true?"
>
> A. (Reyes), "That's true." (Tr. p. 634, lines 14 to 17, DisabRA /Reyes);
>
> Q. (Lichtblau), "But you've told the stories of certain specific CARE customers who have particular financial troubles. And for those CARE customers who don't necessarily represent all CARE customers, all 1 million CARE customers we have, for the stories you've told, you don't know if these people are going into CARE Tier 3 rates, correct?"

20/ Usage by Tier and the number of months a customer is in their highest tier is contained in the electronic workpapers filed in what was originally pre-marked as Exhibit PG&E-7, now received into evidence as Exhibit 1. The workpaper tabs which summarize this data by tier and month into Tiers 1 to 5 are shown in WP3-39-June 30, 2010 Update and WP3-61-June 30, 2010 Update. The electronic file, Res By Highest Monthly Tier – 2011 GRC June Update.xls, contains both the tabs printed in the workpapers and the underlying data by month referenced in this Brief.

A. (Reyes), "I don't know." (Tr. p. 634, line 17 to Tr. p. 635, line 7, DisabRA/Reyes);

Q. (Lichtblau), "So this customer must not be on CARE?"

A. (Reyes), "I don't know if she is on CARE. This was an e-mail response. I didn't speak with her directly." (Tr. p. 639, lines 18 to 22, DisabRA/Reyes.)

After this cross-examination of Ms. Reyes, Counsel for the Energy Producers and Users Coalition (EPUC) brought out the fact that the statements appended to Ms. Reyes prepared testimony, Ex.19 are really simply in the nature of public participation hearing statements.

Q. (Ms. Sheriff), "So you don't assert that you are giving these statements any greater weight by reiterating them here in this forum than they otherwise would have had at a public participation hearing?"

A. (Ms. Reyes), "No, I think this is consistent with what's in the public record." (Tr. p. 647, lines 2 to 8, DisabRA/Reyes.)

PG&E agrees with EPUC that the proper forum for these stories is the public participation hearings. The statements lacked the substantiation necessary to be factual evidence as proof of the truth of the matters asserted in an evidentiary hearing. (Tr. p. 655, lines 14 to 23, DisabRA/Reyes.)

PG&E is cognizant that disabled and low-income customers in its service area are struggling economically. But the problem of income insufficiency cannot be addressed in any meaningful way by electric rates. Dr. Faruqui observed that the KEMA study indicates the energy burden on low-income customers is approximately 4 percent—a relatively small number. (Tr. p. 67, lines 6 to 10, PG&E/Faruqui.) As Dr. Faruqui observes, these individuals need greater assistance, for instance, from other governmental programs. (Faruqui, "I don't believe how continuing to lower the price of electricity or keeping it at an artificially low level for a long period of time is going to make their life any easier." *Id.*, lines 24 to 28.) Dr. Faruqui stated

> [T]hat the way to deal with poverty, it's a societal and humanitarian issue. Electricity costs are a very small share of the household budget for people who are low income. And so tweaking that 4 percent to be 3 percent or 5 percent is not going to change their life as much as changing the price of food would or changing the price of housing.

(Tr. p. 78, lines 5 to 13, PG&E/Faruqui.)

Additionally, Dr. Faruqui considered SCE and SDG&E who have higher CARE rates that are paid by these same income groups. Those Southern California CARE rates are 50 percent higher, but Dr. Faruqui has not heard that they have created any huge problem.[21/] (Tr. p. 76, line 22 to Tr. p. 77, line 3; Tr. p. 73, lines 19 to 26, PG&E/Faruqui.)

DisabRA's hardship arguments against PG&E's CARE Tier 3 proposal simply seek to maintain the status quo for CARE, which has led to the current untenable residential rate relationships and CARE subsidy. That position does nothing to deal with the problems in PG&E's residential rates. In contrast, PG&E's proposal starts to address those problems, while still providing a very substantial discount for the disabled and low-income customers on the CARE rate schedule.

D. Other Utilities Have a Tier 3 CARE Rate Higher Than That Proposed Here

As mentioned in the preceding section, PG&E's CARE Tier 3 proposal will increase its CARE rate for upper tier usage, but that rate will still be substantially less than is currently paid by customers in southern California. With the CARE Tier 3 and other CARE proposals, PG&E's weighted average CARE rate in 2011 would still be 10.0 cents per kWh, just 83 percent of SCE's average rate of 11.5 cents per kWh and 86 percent of SDG&E's average rate of 12.1 cents. (PG&E/Quadrini, Ex. 2, p. 2-8, lines 1 to 6.) To the extent CARE discounts are disproportionately high in PG&E's service area, other PG&E customers end up funding a disproportionately large discount. This is an inappropriate outcome for a statewide program that is premised on the same state law. (*Id.,* lines 9 to 12.)

E. Other Parties Support A CARE Tier 3 Rate

PG&E's CARE Tier 3 proposal is supported by Kern County, Kern County Taxpayers, and the California Large Energy Consumers Association (CLECA). DRA and TURN also have

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21/ PG&E is proposing a 12.5 cent per kWh CARE Tier 3. SCE has an 18.1 cent per kWh CARE Tier 3 rate. SDG&E's CARE Tier 3 rate is 17.6 cents per kWh in summer and 16.5 cents per kWh in winter. (PG&E/Quadrini, Ex. 2, p. 2-8, Table 2-3.)

expressed qualified support.

The Board of Supervisors of Kern County has endorsed PG&E's residential rate design changes by accepting and authorizing its Chairman to send a letter to the Commission on the subject, as described by its policy witness, Mr. Krauter. (Tr. p. 567, lines 1 to 5, Kern County/Krauter.) In testimony relevant specifically to the CARE Tier 3 proposal, Mr. Krauter testified

> The board of supervisors, upon whose behalf I'm testifying, they believe based on their support for PG&E that it's possible that CARE customers could pay slightly more in order to provide rate relief to certain classes of non-CARE customers.

(Tr. p. 579, lines 17 to 22, Kern County/Krauter.) Kern County's other witness, Dr. Grammy, addressed the fact that Kern County has a higher rate of poverty on average than California, a per capita income that is lower, and an unemployment rate that is higher. (Tr. p. 558, lines 8 to 19; Kern County/Grammy, Ex. 22, *passim*.) Both Dr. Grammy and Mr. Krauter acknowledged that the percentage of PG&E customers in Kern County on CARE is 44 percent—well above the 25 percent average of PG&E customers on CARE. (Tr. p. 559, lines 12 to 25, Kern County/Grammy; Tr. p. 580, line 18 to Tr. p. 581, line 8, Kern County/Krauter.) Those Kern County CARE customers whose usage exceeds Tiers 1 and 2 would see an increase in the rate for their Tier 3 usage under PG&E's proposal. Nonetheless, Kern County's policy witness has provided testimony that Kern County's Board of Supervisors supports a slight increase in CARE rates to provide relief for the exceedingly high rates faced by non-CARE residential customers. This is important, persuasive support for PG&E's CARE Tier 3 proposal.

The Kern County Taxpayers Association (KernTax) also supports PG&E's CARE Tier 3 rate. KernTax understands that the CARE program provides assistance to low-income customers. However, KernTax also indicates that the CARE Tier 3 proposal is needed for fairer rates and to promote conservation. KernTax states:

> For fairer rates and tariff simplification, and to enhance ratepayer equity, PG&E has proposed several changes to make its rates fairer, easier to understand and to apply, including: . . . Introduction of a Tier 3 rate for CARE customers with usage in excess of 130 percent of their baseline quantities, bringing PG&E's CARE rates more into line with those of other California utilities; KernTax understands the need for the CARE program, but, in the spirit of actually promoting conservation, CARE customers should not be given unlimited electric usage for $0.095 per kWh.

(KernTax/Turnipseed, Ex. 28, p. 18.) KernTax's witness acknowledged that the increase in rates for CARE customers has an adverse effect on them, but KernTax counters that those rates have been frozen for 20 years, even though the CARE customers' incomes have gone up. KernTax maintains that the rates should go up (which will not change the fact that the CARE rates will continue to be subsidized.) (Tr. p. 968, lines 1 to 22, KernTax/Turnipseed.)

TURN witness Marcus takes a similar position to DRA's. In oral testimony, Mr. Marcus also took a qualified position on CARE Tier 3. While Mr. Marcus thinks that never increasing CARE rates in Tier 3 and above is not sustainable, he objects to PG&E's proposal for an automatic annual increase of 1.5 cents in the next two years between rate cases. (Tr. p. 193, lines 16 to 27, TURN/Marcus.) Mr. Marcus also opines that "some serious work needs to be done on verification and use of low-income energy-efficiency funds on CARE baseline customers with usage in Tiers 4 and 5." (Tr. p. 193, line 28 to Tr. p. 194, line 12, TURN/Marcus.) Due to these complexities, Mr. Marcus indicated that he did not comment on the CARE Tier 3 proposal in his prepared testimony. (Tr. p. 194, lines 13 to 15, TURN/Marcus.) Mr. Marcus' points about the operation of the CARE program and LIEE funds are legitimate concerns, but they are outside the scope of this case. PG&E believes that the Commission should move ahead with the proposed addition of the CARE Tier 3 rate in this case, leaving the operational issues to be addressed in an appropriate future proceeding.[22/] The CARE subsidy under PG&E's CARE rate proposal will

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22/ Many parties in this case have expressed concern about the size of the CARE subsidy and the CARE customers who use large amounts of energy. Potential ways to address these matters other than rate design may be appropriate for the Low Income Energy Efficiency proceeding expected in May 2011. PG&E intends to consult with parties to this proceeding under the settlement rule about ideas to address large

still be approximately $560 million. (PG&E/Quadrini, Ex. 2, p. 2-7, lines 13 to 14.) This amount of subsidy and the associated average CARE rate discount of approximately 41 percent (PG&E/Quadrini, Ex. 1, p. 3-16, lines 7 to 8), would still leave plenty of room for future work on CARE eligibility and use of LIEE funds that may reduce the CARE subsidy further, while still meeting or exceeding the legislatively required 20 percent discount.

DRA witness Khoury expressed qualified support for the CARE Tier 3 proposal. Mr. Khoury stated "And I would also note in my testimony that I did agree with the CARE Tier 3 rate." (Tr. p. 746, lines 5 to 7; DRA/Khoury, Ex. 23, p. 6-1, lines 27 to 28.) However, DRA's prepared testimony indicates that DRA accepts the CARE Tier 3 rate, "so long as the proposals to implement a customer charge and reduce baseline allowances are rejected." (DRA/Khoury, Ex. 23, p. 6-14, lines 19 to 20.) DRA does not deny that there is a problem, but disagrees with PG&E about how to fix the problem. (Tr. p. 745, lines 10 to 16, DRA/Khoury.)

As discussed above in Section II.A., DRA's idea of how to remedy the situation would accomplish too little, too late, leaving in place the current status quo with its high Tier 4 non-CARE rate and very large disparities between that rate, on the one hand, and the CARE and non-CARE Tiers 1 and 2 rates on the other hand. As noted by PG&E witness Keane, the non-CARE Tier 4 rates are at significant risk of increasing to even more problematic levels, especially if revenue requirements increase due to factors beyond PG&E's control like increasing gas prices, or the costs of implementing renewables and climate change initiatives. (PG&E/Keane, Ex. 2, p. 1-16, lines 16 to 20.) Action is needed now to counter this risk, and that action needs to include approval of PG&E's CARE Tier 3 proposal.

F. Effect of a CARE Tier 3 Rate on Non-CARE Residential Rates and Non-Residential Rates

Implementation of PG&E's CARE Tier 3 rate proposal, among other things, will help reduce the CARE subsidy which will benefit both residential and non-residential customers. In a

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CARE users, in anticipation of the LIEE application. (Tr. p. 840, lines 5 to 7 and lines 21 to 28, PG&E/Quadrini.)

data response identified as Exhibit 70, PG&E stated that "the additional revenue generated through the increase in the tier 3 CARE rates will be kept within the residential class and used to reduce the tier 3 rate for non-CARE customers." (Tr. p. 1068, lines 18 to 20, PG&E/Quadrini.) However, on redirect, it was clarified that the initiation of the CARE Tier 3 rate would also serve to reduce the magnitude of the CARE Surcharge imposed on all non-exempt customer classes to pay for the CARE discounts. (cf., Tr. p. 1068, lines 20 to 24, PG&E/Quadrini, "by increasing the CARE Tier 3 rate we reduce the CARE discount. By reducing the CARE discount, that reduces the CARE surcharge which everyone but the CARE customers pay.") PG&E also proposes that the "CARE Shortfall Rates" would be reset annually, in each AET, rather than frozen throughout the entire three-year GRC cycle, as was done in the 2007 GRC Phase 2 settlement in D.07-09-004.[23/]

Exhibit 70 is consistent with the effect of a CARE Tier 3 rate under PUC § 739.1 (b) (5) prior to the next GRC 2 proceeding after the statute's enactment:

> Any additional revenues collected by an electrical corporation resulting from the adoption of a tier 3 CARE rate shall, until the utility's next periodic general rate case review of cost allocation and rate design, be credited to reduce rates of residential ratepayers not participating in the CARE program with usage above 130 percent of baseline quantities.

PUC § 739.1(b)(5) was enacted as part of SB 695 in fall 2009. From fall 2009 to PG&E's next GRC 2 proceeding for 2011, additional revenue from a CARE tier 3 would have been credited to reduce upper tier residential rates. The next periodic GRC review of cost allocation and rate design where the CARE shortfall rate would initially be reset is this proceeding. At that time, another section enacted in SB 695, PUC § 327(a)(7), must be harmonized with PUC § 739.1. To give effect to both code sections, the "next periodic general rate case review" in PUC § 739.1 must refer to the 2011 GRC 2 proceeding so that PUC § 327 (a)'s requirement to "allocate the costs of the CARE program on an equal cents per kilowatthour . . . basis to all classes of

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23/ D.07-09-004, Appendix B, page 18, "The CARE Shortfall rates will be differentiated by schedule and tier, and **will not change between GRCs** unless otherwise ordered by the Commission." (D.07-090-004, Appendix B, p. 18, paragraph 1, emphasis added.)

customers that were subject to the surcharge that funded the program on January 1, 2008" can be followed.

V. PROPOSED REDUCTION IN BASELINE PERCENTAGE FROM 60% TO 55%

As in every GRC Phase 2 proceeding, the CPUC must adjust baseline quantities, including updating them to reflect more recent historical usage information upon which the statute requires them to be based. Baseline quantities are the designated daily amounts of electricity and natural gas that are considered necessary to supply a significant portion of the reasonable energy needs of the average residential customer. Pursuant to P.U. Code Section 739, the baseline quantities must be based on:

> from 50 to 60 percent of average residential consumption…except that, for … all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season…. The Commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios.

P.U. Code Section 739(a)(1). For the reasons discussed below, to provide rate relief for upper-tier consuming households, and effect a more equitable sharing of cost increases between low and high usage customers, the CPUC should adopt PG&E's proposal to use the midpoint of the allowed ranges, putting PG&E on a par with the CPUC-adopted percentages now successfully used by SCE and SDG&E.

A. PG&E's Proposal to Set Electric Baseline Quantities at 55 Percent is Consistent with the CPUC's Recent Actions Regarding Other Utilities and Will Provide More Equitable Sharing of Cost Increases between Low-Usage and High-Usage Customers

PG&E proposes in this proceeding to adjust its electric baseline quantities from 60 percent to 55 percent of the average usage.[24/] As quoted above, P.U. Code Section 739(a)(1) specifies that the baseline percentage must be set from 50 to 60 percent of average residential consumption.

24/ For all-electric baseline quantities, PG&E proposes to set the percentage at 65 percent of average usage.

PG&E's proposal would set its electric baseline percentage at the middle of the range allowed by law. This proposal contributes to reducing the large disparity between PG&E's upper tier non-CARE rates and the lower tier rates. Lowering the baseline percentage reduces the amount of kWhs in Tiers 1 and 2, and increases the amount of usage in Tier 3. For non-CARE, the Tier 3 usage increases by 11.6%, and for CARE usage, Tier 3 would increase by 11.4%. (PG&E/Quadrini, Ex. 1, p. 3-7, Tables 3-3 and 3-4, and lines 8 to 11.) The effect of increasing the usage billed in Tier 3 is to reduce the proposed non-CARE Tier 3 rate by approximately 2 cents, which helps to reduce the disparity between upper tier rates and Tiers 1 and 2. (*Id.* Lines 11 to 13.)

PG&E's baseline percentage proposal is supported by the Kern County Taxpayer Association (KernTax), which recognizes that the proposal will move usage out of the lower tiers where rates have been subsidized, into the upper tiers. Kern County also supports it as part of PG&E's residential rate design proposal. (Kern County/Krauter, Ex. 22, *passim.)* KernTax states

> [l]owering baseline usage allowances will produce the almost immediate results by aligning revenue to PG&E's cost to service. As the baseline usage allowance is lowered, ratepayers' heavily subsidized "normal" Tier 1 and 2 usage will be moved into PG&E's higher E-1 tiers that are not subsidized. Discounted rates will still apply to a level of usage as Tier 1 and 2 rates are legislatively frozen. But the era of 75% of PG&E's sales being made at a loss and that loss being shifted to ratepayers that were not responsible for it must come to an immediate end.

(KernTax/Krauter, Ex. 28, p. 13, line 20 to p. 14, line 1.) KernTax further suggests that PG&E's baseline percentage move to the *minimum* percentage allowed under the statute. (KernTax/Krauter, Ex. 28, p. 18, lines 6 to 8.) KernTax's testimony underscores the conservative nature of PG&E's proposal.

PG&E's proposed 55 percent for baseline is consistent with the percentages adopted for SCE[25/] and SDG&E.[26/] (PG&E/Quadrini, Ex. 1, p. 3-6, lines 10 to 16.) Lowering PG&E's baseline quantities from 60 to 55 percent thus results in a more consistent treatment of its ratepayers relative to SCE and SDG&E's in the application of PUC § 739, which applies to all three utilities. Moreover, PG&E's proposal results in upper versus lower tier rate differentials more similar to those SCE and SDG&E's ratepayers experience, as discussed in section II.B.4, above, and illustrated in Tables 3-1 and 3-2 in PG&E/Faruqui, Ex. 2, p. 3-18 and 3-19 (copies attached as Attachments B and C.)

PG&E's proposed reduced baseline percentage, per se, has a beneficial conservation impact by pushing more usage into the higher tiers. (Tr. p. 24, lines 1 to 7, PG&E/Faruqui.) TURN witness Marcus also stated that PG&E's proposed changes in baseline quantities "clearly will increase conservation." (Turn/Marcus, Ex. 11, p. 79, lines 7 to 8.)[27/] And SCE's rebuttal testimony in this proceeding notes that no party – even parties vigorously contesting most elements of PG&E's rate design proposals – disputes that lowering the baseline percentage will tend to provide an energy conservation incentive. (SCE/Garwacki, Ex. 18, p. 12.) Of course, in evaluating conservation impacts, PG&E's residential rate proposals should be considered as a package since it was designed to be revenue neutral in total. (Tr. p. 23, lines 11 to 17, PG&E/Faruqui.) However, the beneficial conservation effect of reducing the baseline percentage to 55 percent is another factor in its favor.

[25/] See D.09-08-028, mimeo, p. 16 in which the CPUC approve SCE's request to set its baseline quantities at the midpoint of the legally allowed range.

[26/] See D.09-09-036, Appendix C, in which the CPUC generally set baseline quantities near the midpoint of the legislated range in settlement year 1, with a further slight reduction in settlement year 2.

[27/] Dr. Spearot, a Sierra Club witness, also testified that the baseline reduction by itself would reduce usage. (Tr. p. 139, lines 10 to 13, Sierra Club/Spearot.) Sierra Club's Eco Shift quantitative study calculated that the usage reduction from changing baseline to 55% would be significant: the resulting in usage would be 142,208 MWh lower than without this change. (Sierra Club Eco Shift Study, (Ex. 7, p. 20 lines 21 to 25, subtracting Eco Shift's two figures.) Of course, as noted elsewhere, there are a number of errors in this study.

B. TURN's Unprecedented Proposal to "Cap" Actual Baseline Quantities at their Levels as of 2001 Lacks Legal Basis and Would Fail to Recognize the Current Usage Assumptions and Methods

TURN witness Marcus indicated TURN "would not oppose a limited reduction to baseline quantities (subject to limiting the actual baseline quantities to their levels as of the time AB 1X was passed), given that the Commission has previously reduced baseline quantities for Edison and SDG&E, and there will at least be a modest conservation incentive from such a change." (TURN/Marcus, Ex. 1, p. 60, lines 11 to 14.) Although PG&E is pleased that TURN can support a reduction in the baseline quantities, PG&E does not accept the principle of using baseline quantities under AB 1X as a limitation; and TURN witness Marcus admitted that his proposal is based on policy, and not a statutory requirement. (Tr. p. 190, lines 21 to 24 TURN/Marcus; *see also* PG&E/Quadrini, Ex. 2, p. 2-4, footnote 1 referencing October 26, 2010 TURN data response.)[28/] There is no legal or policy reason that baseline quantities in effect in 2001 should control for purposes of setting baseline quantities today.

It would be unreasonable to rely on Mr. Marcus' policy recommendation here because the baseline quantities in effect in 2001 were established in 1993 and using them as a basis to set today's baseline quantities would fail to recognize the current usage assumptions and methods. Thus, TURN's capping proposal runs contrary to Section 739(a)(1)'s requirement that "[t]he Commission shall review and *revise baseline quantities as average consumption patterns change* in order to maintain these ratios" (emphasis added), which reflects a clear legislative intent that whatever the CPUC adopts must reflect *changes* in consumption patterns. This requires that recent data be used. For all of these reasons, TURN's unprecedented and unfounded proposal of a 2001 cap for of baseline amounts a decade later must be rejected.

28/ As a factual matter, PG&E's proposed 55 percent baseline percentage results in baseline quantities that generally do not exceed the levels Mr. Marcus wants. As shown in Exhibit 56, the baseline quantity levels in effect at the time of AB 1X were in general lower than the quantities that would result from PG&E's proposed 55 percent of average residential usage for all but three out of the twenty summer/winter quantities by baseline territory. (See CPUC-approved tariffs in effect in 2001.)

C. The Opponents' Arguments Lack Factual Foundation and Should Be Rejected

PG&E's baseline quantity proposal is opposed by the City and County of San Francisco (CCSF), Disability Rights Advocates (DisabRA), the Division of Ratepayer Advocates (DRA), the Greenlining Institute (Greenlining), and the Solar Alliance.[29/]

DRA opposes PG&E's proposed decrease in the baseline percentage because it would increase bills for customers who are predominantly consuming in Tier 1, 2 and 3. For example, DRA claims that a customer consuming the maximum Tier 2 allowance would see a "bill increase as part of the usage would now be billed at 29 cents per kWh rather than the Tier 2 rate of 13.5 cents per kWh." (DRA/Khoury, Ex. 23, p. 6-11, line 26 to p. 6-12, line 3.) However, the bill impacts are quite limited. Table 2-7 of Mr. Quadrini's rebuttal testimony (PG&E/Quadrini, Ex. 2) isolates that effect of the lower proposed baseline quantities and the proposed rates (without the customer charge). This table shows that, for CARE customers currently in Tier 2, the average bill impact from having a small portion of their usage pushed into Tier 3 is only 18 cents a month. CARE customers who are already in Tier 3 (between 130% to 200% of Baseline) would see more usage in Tier 3 as well, with a mere $1.61 per month average bill impact. Similarly, for non-CARE customers, those currently in Tier 2 would see a 33 cent average monthly bill impact, and those in tier 3, a $2.35 bill increase. No party disputed these figures, which show only a very modest bill impact.

DRA also recommends caution when making changes in baseline quantities because it is concerned about the "difficulty of explaining this change to customers." (DRA/Khoury, Ex. 23, p. 6-12, lines 5-9.) However, baseline quantities change in every GRC Phase 2 proceeding as usage data is updated, which will occur in this proceeding (independent of the baseline percentage change) as the historical usage information is updated as the statute requires. Moreover, there is no evidence that SCE's or SDG&E's customers had particular difficulty or customer confusion after the CPUC recently adopted a similar baseline percentage reduction for

29/ CCSF, Ex. 5, p. 10; DisabRA, Ex. 19, p. 12; DRA, Ex. 23, p. 6-11;and Solar Alliance, Ex. 26, p. 12, line 4.

those utilities. (PG&E/Quadrini, Ex. 2, p. 2-3, lines 21 to 32.)

CCSF opposes lowering baseline quantities because "…the Commission has historically set the baseline quantities for PG&E at the maximum allowed." (CCSF/Meal, Ex. 5, p. 10, lines 19 to 20.) However, this was so only because PG&E had requested the maximum baseline percentage, which was all AB 1X allowed.[30/] Since PG&E's last GRC, AB 1X has been superceded. The CPUC has also set the baseline quantities at the midpoint of the legal range for SCE and SDG&E, as discussed above. CCSF also argues that decreasing baseline allocations along with SB 695's allowance for specific annual increases in Tier 1 and 2 would result in "rate increases" for some usage that currently falls in tiers 1 and 2, above the rate increases allowed by SB 695. (CCSF/Meal, Ex. 5, p. 11, lines 1 to 4.) CCSF's argument, however, does not interpret the interaction of sections 739 and 695 correctly. Nothing in SB 695 prevents adjustment of the baseline amount pursuant to PUC § 739. SB 695 superseded AB 1X and ended the rate freeze. In place of the freeze, SB 695 added P.U. Code Section 739.9(a) which specifically references baseline quantities "as defined in Section 739," and Section 739 expressly authorizes the CPUC to adopt baseline quantities anywhere within the range of 50 – 60% of average usage for non-all-electric customers. The legislature did nothing to supersede or constrain that percentage range, so these two statutes must be harmonized with each other so as to give effect to the provisions of each. (S*ee, e.g., Moyer v. Workman's Comp. Appeals* Board (1973) 10 Cal.3d 222, 230 (the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole); *Palos Verdes Faculty Assn. v. Palos Verdes Peninsula Unified Sch. Dist.* (1978) 21 Cal.3d 650.)

Both DisabRA and Greenlining argue that PG&E's proposals would put a greater burden on low-income customers and/or disabled customers. DisabRA's presentation relied on unverified survey responses and anecdotes claiming potential harm. (DisabRA, Ex. 19, p. 12,

30/ AB 1X provided "that the Commission not increase the electricity charges in effect on February 1, 2001 [for Tiers 1 and 2]" which, until that provision was recently eliminated, prevented PG&E from lowering baseline quantities below 2001 levels (because that would have raised "charges" (bills) for usage that had been within 130 percent of then-existing baseline quantities.

Attachments A, B, C and D). Cross-examination of DisabRA's witness revealed a complete lack of customer usage data to back this up. (Tr. p. 634, line 14 to p. 635, line 7, and Tr. p. 639, lines 18-22/DisabRA/Reyes.) Similarly, Greenlining argues that the baseline allowance reduction would cause higher bills for low-income customers previously within Tiers 1 and 2 who would end up in Tier 3 due to the lower baseline percentage. Greenlining claims that CARE and other lower income customers are making the greatest efforts to conserve energy and many of these customers would find it difficult to further reduce their use. (Greenlining, Ex. 14, pp. 3 to 9.) However, as discussed in section IV.B. above, Greenlining's analysis is faulty and fails to recognize the increasing trend of usage by CARE customers since 2005. (PG&E/Quadrini, Ex. 2, p. 2-10, Table 2-4, and p. 2-9, lines 8 to 16.)

Finally, the Solar Alliance opposes any change to baseline, but offers little explanation. However, it admitted that it is a trade association of for-profit solar companies, and that it seeks to keep the rate in the upper tier as high as possible so that the payback period for the purchase of solar panels will be shorter. (Ex. 26, pages 2, 14; Tr. p. 993 lines 4-15, Solar Alliance/Beach.) It appears that Solar Alliance would like to see nothing change – either rate levels or amount of usage charged to those rates, which flies in the face of the clear need for rate relief illustrated by the avalanche of complaints the CPUC received from high usage customers in Kern County and elsewhere in the Central Valley in 2009, and the huge discrepancies between PG&E's upper tier rates and its lower tier and CARE rates.

VI. PROPOSED TIER CHANGES FOR NON-CARE CUSTOMERS

PG&E has proposed to collapse Tiers 3 and 4 into a single tier and charge only a Tier 3 rate for usage exceeding 130 percent of baseline.

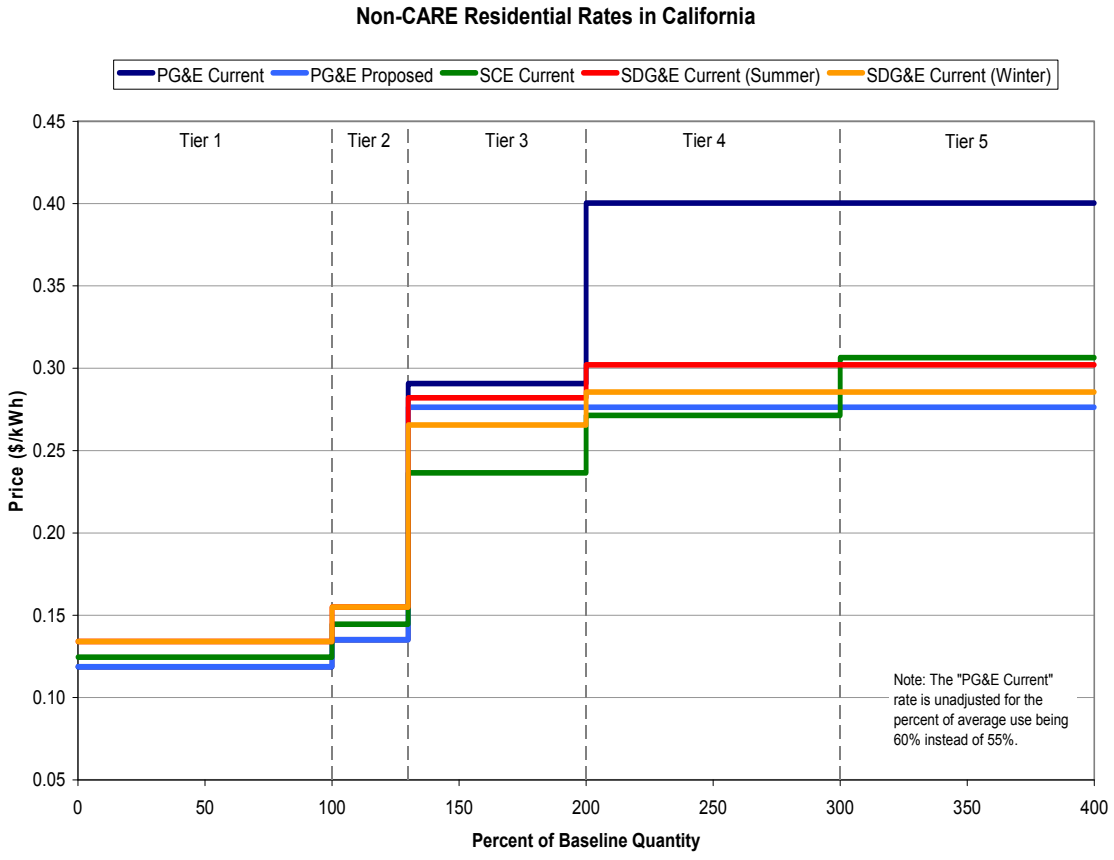
A. Rate History

Between 2001 and 2009, AB 1X capped Tier 1 and Tier 2 rates at levels in effect when AB 1X was adopted. This meant that all rate increases had to be absorbed by usage exceeding 130 percent of baseline. In addition, in PG&E's 2003 and 207 GRC Phase 2 cases, rates above

130% of baseline were also frozen for PG&E's CARE customers, whose numbers have increased by more than 300 percent since 2000. Consequently, one-quarter of all residential usage had to absorb all residential rate increases. Primarily because of these existing policies, the Tier 5 rate had doubled since it was initiated in 2001 and PG&E's upper tier rates had been much higher than those of the other California utilities. (PG&E/Quadrini, Ex. 1, p. 3-3, lines 16 to 25.)

The chart below shows this relationship.

EXHIBIT 2
FIGURE 3-1, P. 3-18
NON-CARE CLIFORNIA INVESTOR-OWNED UTLITY RESIDENTIAL RATE STRUCTURES



B. The Rate Revolt

By 2009, PG&E's upper tier rates had become so high that households consuming in the upper tiers (particularly those in hot climates like the Central Valley where very hot summer

temperatures occur, often for multiple consecutive days) complained about their extremely high summer bills. (PG&E/Quadrini, Ex.-1, p. 3-3, line 30 to p. 3-4, line 2.)

The testimony in this case highlighted the profound discontent of customers over their high bill and these rates, nearly 50 cents per kWh for Tier 5 usage earlier in 2010. In the summer of 2009, PG&E's high upper tier rate precipitated numerous complaints to both PG&E as well as the Commission, and public meetings were held in the Central Valley at which where customers expressed their extreme displeasure over the high bills that resulted from PG&E's high upper-tier rates. (PG&E/Keane, Ex. 2, p. 1-7, lines 14 to 17.) KernTax witness Turnipseed labeled summer 2009 "The Summer of Discontent", during which complaints brought to it by PG&E customers prompted KernTax to review PG&E's rates and to become involved in the issue with the Kern County Board of Supervisors and the Commission. (KernTax/Turnipseed, Ex. 28, p. 14.) On the stand, PG&E witness Keane described the public meetings held in Bakersfield regarding the public's displeasure over high bills as "very ugly." (Tr. p. 244, lines 13 to Tr. p. 245, line 14, PG&E/Keane.)

C. Partial Relief Arrives in June 2010

In response, PG&E filed Application A 10-02-029 on February 26, 2010, to decrease the differentials between Tiers 3, 4 and 5 as an interim means of lowering the Tier 5 rate to provide rate relief for all customers, including those in the Central Valley, in time for the summer of 2010, and to reduce month- to-month bill volatility for such customers. In D.10-05-051, the Commission approved a Joint Settlement filed by PG&E, DRA and TURN, approving the proposal to consolidate Tiers 4 and 5 into a single tier and determine a fixed differential (approximately 11 cents per kWh) between Tiers 3 and 4 to be maintained through any future rate changes until the Commission issues a decision in this proceeding. (PG&E/Quadrini, Ex. 1, p. 3-4, lines 2 to 11.)

D. Further Rate Relief For Tier 4 Customers Is Needed

The current Tier 4 rate must be decreased. The rate is too high and the differential between costs and rates is inequitable. Generally, the Commission tries, on grounds of equity, to minimize the degree to which some customer segments subsidize others by paying rates in excess of their cost of service, so that other segments can pay rates less than their cost of service. In the residential sector, this is very difficult to accomplish, due to legislative restrictions on the degree to which Tier 1 and 2 non-CARE rates may be increased, which along with CARE usage, currently represents a whopping 79 percent of all residential usage. However, there are actions the Commission can take to mitigate this problem. Even after the consolidation of Tiers 4 and 5, PG&E's highest tier rate is still above 40 cents per kWh, not that much lower than the 44 cent per kWh rate which, in the summer of 2009, precipitated numerous complaints to both PG&E and the Commission, as well as public meetings in the Central Valley where customers expressed their extreme displeasure with PG&E's high upper-tier rates. In contrast, SCE's and SDG&E's upper tier rates are in the 24 to 31 cent per kWh range. PG&E's proposals here represent some additional steps the Commission should take to bring PG&E's very high rates down as quickly as possible. (PG&E/Keane, Ex. 2, p. 1-7, lines 12-20.)

Moreover, charging upper-tier users rates in excess of 40 cents per kWh when the cost to provide service is an average of only 18 cents per kWh high is economically inefficient. While it may be appropriate to charge very high prices during critical periods on hot summer days when capacity is strained, as with peak-day pricing (PDP) rates, it is not appropriate to charge all upper-tier usage such high rates to discourage consumption in many hours of the month and year which do not coincide with peak demand, when there are no shortages at all and their demand could easily be met at a cost much less than they are being charged. For example, the incremental cost to PG&E of providing electricity in the middle of the night to a household for security lighting is generally very small (currently averaging less than 5 cents per kWh). Yet a household consuming in Tier 4 and willing to pay up to, say, five times what it costs (i.e., 25 cents per kWh) for the value the security lighting provides, would choose to forego that value

given it would be charged 40 cents per kWh for additional Tier 4 consumption. (PG&E/Keane, Ex. 2, p. 1-7, line 23 to p. 1-8 line 4.)

One of the problems with inclining block rates is their nonlinearity. As customers move from lower to higher tiers, their bills increase by a much greater proportion than their kWh consumption increases, particularly when there are large differentials between the rates in the various tiers. PG&E's Rebuttal Testimony with bill calculations for an illustrative Kern County household demonstrates this problem. (PG&E/Keane, Ex. 2, Table 1-2, pp. 1-9 to 1-11). It shows that at current rates, a 38 percent increase in consumption results in the bill increasing by 63 percent, an improvement from the 72 percent figure in 2009, but still quite volatile. Under PG&E's proposed rates, there is a further reduction in volatility, as the bill would increase by just 50 percent in response to the 38 percent increase in consumption. (*Id.*)

E. Arguments That There Is No Need For Further Rate Relief Are Inaccurate

Several parties argue that there is no need for further relief for Tier 4 customers. First, DRA argues that expected increases in Tier 1 and 2 rates should address the issue, if PG&E will reduce the rate of increases in its rates. This issue is addressed in detail in Section II.A above. Although SB 695 now allows non-CARE Tier 1 and 2 rates to increase by 3 to 5 percent per year, these changes are not likely to provide significant reductions to upper tier rates absent other policy changes. (*See also* PG&E/Keane, Ex. 2, p. 1-3, line 18 to p. 1-6, line 11.)

Solar Alliance suggests that the PG&E's proposed rate adjustments are not justified in light of more recent data suggesting fewer bill complaints. (Solar Alliance/Beach, Ex. 26, p. 16. Solar Alliance's suggestion is that the weather in 2009 was somehow a fluke and that the reduction in high bill complaints in 2010 proves that the previous problems are now solved. These arguments should be rejected. It is true that the summer 2009 was unusually warm, and especially so in the southern portion of the Central Valley. However, the summer 2010 was unusually cool across PG&E's entire service territory, and this factor alone would have contributed significantly to reduced numbers of high bill inquiries and complaints. Both the

summers 2009 and 2010 have been within the general range of ordinary year to year weather variation, and PG&E's proposal to combine Tiers 3 and 4 is important for the purpose of insulating the higher-use non-CARE households from extreme and inequitable bill increases during hot weather months in future summers. (PG&E/Quadrini, Ex. 2, p. 2-13, lines 6 to 17.)

It is also important to note that this issue is not limited to inland areas with hot summer temperatures. In fact, the percentages of usage by tier are quite similar across PG&E's various climate zones, due in part to the fact that the baseline quantities are set higher in climate zones with higher historical usage levels and lower in climate zones with lower historical usage levels. Thus, even cooler coastal areas with relatively low air conditioner penetrations nonetheless have a significant percentage of Tier 4 usage (due to the lower baseline quantities in coastal areas). (PG&E/Keane, Ex. 2, p. 1-11, lines 7 to 14.)

F. Arguments That High Tier 4 Rates Are Needed To Encourage Solar and Energy Efficiency are Incorrect

DRA, Greenlining, Sierra Club (Eco Shift Consulting), TURN, Solar Alliance, and Vote Solar argue that combining Tiers 3 and 4 will reduce the incentives for customers to pursue conservation and energy efficiency and solar. PG&E strongly supports energy conservation, energy efficiency and solar energy. Its proposals here do not signal any desire to harm these very successful programs. Indeed, as explained in detail in Sections II.C and II.D above, the evidence is overwhelming that the proposed rates will leave plenty of incentive for the continued success of solar and energy efficiency programs.

However, even if this proposal did have a minor effect on either of these programs, that would not be an adequate reason to reject the proposal. Providing a price signal to incent conservation behavior is just one of a number of sometimes competing rate design objectives. In the current environment, where a decade of restrictions has led to seriously distorted inclining block rates, PG&E believes that equity considerations, and charging customers rates that are fairer in terms of what it costs to provide them service, should be the Commission's higher priority in this proceeding. PG&E's proposal to combine Tiers 3 and 4 into a single Tier 3

rate—along with PG&E's other rate proposals—are all designed to achieve this objective by reducing the punitive upper-tier rate levels that exist today. But even if one believed providing an overall incentive to conserve is the sole objective of rate design, none of the parties have presented credible evidence that their proposals to maintain the current tier structure would do that, since PG&E's proposal to combine Tiers 3 and 4 will slightly increase the incentive for Tier 3 conservation for 2.4 million non-CARE households with Tier 3 usage, while modestly decreasing the incentive for Tier 4 conservation for a smaller number of households consuming in Tier 4. (PG&E/Quadrini, Ex. 2, p. 2-14, lines 32 to 34.)

As described in the Rebuttal Testimony of Dr. Faruqui, PG&E's proposals overall have a pro-conservation effect. Focusing only on the conservation incentive provided by the top tier rate is insufficient to make this assessment. (PG&E/Faruqui, Ex. 2, p. 3-2, lines 16 to 23.)

The arguments for essentially maximizing the rate in the highest non-CARE tier seek a kind of social engineering without any consideration of other factors that should drive rate design. Taken to an extreme, if all one cares about is providing the highest possible upper-tier rate to maximize the incentive for households consuming in that tier to conserve or purchase a solar system, why not charge $1.00 per kWh or implement a steep ten-tier rate structure to maximize upper-tier rates? The upper tier rates are now punitive and unfair. The Commission does not authorize rates in the 40 to 50 cent per kWh range to upper-tier consuming households in any other service territory, nor does it do that to any of PG&E's non-residential customers, and it should not continue do so to any of the residential customers in PG&E's service territory. (PG&E/Keane, Ex. 2, p. 1-8, lines 5 to 16.)

G. Alternative Rate Design Proposals For Tiers 3-5 Are Inferior To PG&E's Proposal

DRA proposed a four-tier structure. DRA's Table 6-2 proposes a Tier 4 rate of 34.7 cents/kWh, below today's 40 cent/kWh level. (DRA/Khoury, Ex. 23, pp. 6.1, 6.18.) However, this rate is still more than 2.5 times the Tier 2 rate. Moreover, it is only this low because DRA has recommended changes to revenue allocation that shift additional revenues away from the

residential class and onto other classes. Relying as heavily on changes to revenue allocation favorable to residential customers as DRA has, to minimize residential rate design changes, continues to leave higher users exposed to much higher future rate levels than lower tier users. The Commission needs to move further at this time to set prices that better reflect cost and to minimize the risk that upper-tier rates will reach unacceptable levels before the next GRC. (PG&E/Quadrini, Ex. 2, p. 2-11, line 26 to p. 2-12, line 2.)

Solar Alliance offered a five tier structure, with the differential between Tier 3 and 4 set at 3 cents per kWh, and the differential between Tier 4 and 5 at 7 cents per kWh. (Solar Alliance/Beach, Ex. 26, p. 11, lines 15 to 21.) However, Solar Alliance does not even try to claim that a five-tier structure better reflects cost of service or is more equitable for customers. Rather, the only reason offered for this structure is to support a "vibrant" solar industry. (Solar Alliance/Beach, Ex. 26, p. 14, line 1.) As explained in detail above, the evidence shows that there is plenty of room for a vibrant solar industry under PG&E's proposed three-tier rate structure. The Commission should reject Solar Alliance's proposal to reverse the progress made in D.10-05-051 toward a more equitable, cost-based, rate structure with fewer tiers and a less steeply inclining block rate structure.

H. Other Arguments Offered To Reject This Proposal Are Meritless

A number of other arguments are advanced by various parties for opposing the combination of the non-CARE Tier 3 and Tier 4 rates into a single Tier 3 rate. First, DRA argued that combining Tiers 3 and 4 would confuse customers. (DRA/Khoury, Ex. 23, pp. 6 to 12, lines 18-19.) However, it is difficult to believe that customers would be more confused by a simpler, three-tier structure than by a four-tier structure, and DRA presents no evidence supporting this counter-intuitive proposition. For many years, customers faced just two tiers and only the advent of the energy crisis led to the introduction of the 5-tier system, resulting in skyrocketing upper tier rates. The Commission should take advantage of this opportunity to simplify the rate structure and reduce the unfairly high rates paid by households currently

consuming in Tier 4. (PG&E/Quadrini, Ex. 2, p. 2-12, lines 5 to 12.)

DRA also argues that combining Tier 3 and 4 rates would likely lead to increased future differentials between the Tier 2 and Tier 3 rates. (DRA/Khoury, Ex. 23, pp. 6-12, lines 24 to 25.) A combined Tier 3 rate would lie in between the Tier 3 and 4 rates if they were not combined, and so it would increase the differential between Tier 2 and Tier 3 rates as DRA states. However, DRA's proposal would increase the differential between Tier 2 and Tier 4 rates. Again, the issue is one of equity in overall residential rate design, and PG&E believes that it is preferable to spread this burden across as many kWh as possible. This is accomplished by combining Tiers 3 and 4. (PG&E/Quadrini, Ex. 2, p. 2-12, lines 26 to 32.)

DRA expressed concern that combining Tiers 3 and 4, which would raise Tier 3 relative to where it would be if there was a Tier 4 rate, would put extra pressure on CARE Tier 3 rates which are linked to the level of non-CARE Tier 3." (DRA/Khoury, Ex. 23, pp. 6-12, line 27, and p. 6-14, lines 4.) However, even the CARE Tier 3 rate PG&E has proposed for 2013 (i.e., PG&E's initial proposal for 2011 plus its proposed 1.5 cent per kWh increases in 2012 and 2013), 15.5 cents per kWh, would still represent a 44 percent discount relative to the proposed non-CARE Tier 3 rate. Any increases beyond that would have to be approved by the CPUC in a future proceeding. (PG&E/Quadrini, Ex. 2, p. 2-13, lines 22 to 25.)

Greenlining, DisabRA, and Sierra Club argued that raising the Tier 3 rate relative to Tier 4 would be regressive in nature and harmful to moderate users, that is, Tier 3 customers whose usage never exceeds Tier 3. It comes down to a question of equity. The policy choice for the Commission is whether it is fair to continue to charge households with Tier 4 consumption more so that those with Tier 3 consumption pay less. The parties arguing for four of five tiers provide no support for this on cost of service or equity grounds. Rather, they merely express a preference for Tier 3 consumers not to face a rate increase, while ignoring the fact that their proposition harms Tier 4 consumers. PG&E believes that there is no cost or equity basis for continuing with four tiers, and that it is preferable to spread the revenue burden more evenly across all usage in excess of 130 percent of baseline usage, in order to mitigate the high rates

faced by Tier 4 consumers. (PG&E/Quadrini, Ex. 2, p. 2-14, lines 3 to 12.)

The current residential rate design is seriously broken. While the very limited ability now afforded by SB 695 to increase Tier 1 and 2 non-CARE and CARE rates helps a little, it is unlikely to be able by itself to prevent the gap between Tier 1 and 2 rates, on the one hand, and upper-tier rates on the other, from continuing to widen. The Commission needs to act now while conditions are favorable. Absent approval of PG&E's rate proposals, non-CARE Tier 4 rates are likely to quickly return to problematic levels, with high bill volatility and a resurgence of high bill complaints—especially if revenue requirements increase in the future due to factors like increasing gas prices, or the costs of implementing renewables and climate change initiatives. PG&E's rate proposals are reasonable, fair, and move rates in the direction of more fairly allocating costs among different customer segments in the residential class. Even with their approval, PG&E's rates will have an inclining block rate structure that continues to provide a strong pro-conservation signal for upper tier users in excess of 25 cents per kWh – it just won't be over 40 cents per kWh as it is today. (PG&E/Keane, Ex. 2, p. 1-16, lines 10 to 25.)

VII. PROPOSED TOU RATES, AND PROPOSALS FOR E-A7, EL-A7, BASELINE CREDIT FOR E-7 AND EL-7, AND E-9A AND E-9

PG&E proposed a number of other changes in residential rates. Most were uncontested. In this group, only the proposal to close Schedule E-9B and for Time of Use (TOU) Rates were contested.

A. Closing Experimental Schedules EA-7 and EL-A7

Schedules EA-7 and EL-A7 are experimental schedules that have been closed to new participants since January 1, 1996. Only 44 customers remain. In addition, these schedules are not cost-based, which means they are subsidized by others in the residential class. Although this experimental program ended more than a decade ago, AB 1X prohibitions prevented this rate schedule from being eliminated. Now that AB 1X has been superseded by SB 695, PG&E requests that these schedules be eliminated and the affected customers transferred to either E-

1/EL-1 or E-6/EL-6. (PG&E/Quadrini, Ex.-1, p.3-23, lines 12 to 23.) No party opposed this request.

B. Revising Electric Vehicle Schedules E-9A and E-9B

Schedules E-9A and E-9B are voluntary[31/] schedules for residential customers who own electric vehicles. Schedule E-9A is for the whole house and Schedule E-9B is for a separately metered electric vehicle (EV). There are 140 customers on E-9A and just 17 on E-9B. PG&E proposes four changes, only one of which is contested.

First, PG&E proposes a Tier 3 rate design for Schedule E-9 that is different from the rest of the residential class. Rather than use the same Tier 3 differential as other customers, PG&E has designed a significantly higher Tier 3 differential for Schedule E-9 that makes Schedule E-9 revenue neutral with the total non-CARE class as a whole. Then, to remove the penalty this significantly higher rate would create for incremental off-peak EV charging on Schedule E-9A, PG&E has lowered the E-9A off-peak rate so that most customers exceeding 130 percent of baseline would pay approximately 11 cents to 14 cents per incremental kWh for recharging their electric vehicles. (PG&E/Quadrini, Ex. 1, p. 3-24, line 28 to p. 3-25, line 2.) Additional details of this proposal are at the next few paragraphs of this testimony. No party opposed this proposal.

Second, because there is no CARE electric vehicle schedule, PG&E proposes to waive the mandatory requirement for CARE customers temporarily. (*Id.*, p. 3-25, lines 19 to 22.) No party opposed this proposal. However, this proposal is moot as a result of the Commission recent approval of PG&E's Advice Letter 3751-E.

Third, just as with Schedule E-7, PG&E proposes to roll the baseline credit into Tier 1 rates so that Schedules E-9A and E-9B show the same Tier 1/Tier 2 rate structure as Schedules E-1 and E-6. (*Id.*, p. 3-25, lines 23 to 25.) No party opposed this proposal.

31/ On December 6, 2010, the Commission approved PG&E's proposal filed in Advice 3751-E to make these schedules optional for EV customers, in anticipation that these rates will all be replaced with rates for electric vehicles that better reflect costs.

Fourth, PG&E proposes closing Schedule E-9B, the rate for those who separately meter their electric vehicles, because its off-peak rates are so far below PG&E's marginal cost to serve. (*Id.*, p. 3-25, line 26 to p. 3-26, line 2.) DRA opposed this proposal, stating that issues relating to electric vehicle rates are being considered in the Plug-in Electric Vehicle (PEV) Rulemaking 09-08-009. DRA recommends leaving the current schedule E-9B open and examining this issue in the PEV Rulemaking. (DRA/Khoury , Ex. 23, p. 6-16, line 25 to p. 6-17, line 3.) However, there was no dispute that these off peak rates are far below PG&E's marginal costs of service, and that it does not serve other PG&E's customers to put such customers on a rate schedule with such exceedingly low rates. (PG&E/Quadrini, Ex. 1, p. 3-25, lines 26 to 29.) Thus, Schedule E-9B should be closed for now, and the Commission can decide the need for and design of a separately metered EV charging rate in the PEV proceeding.

C. Changing Baseline Credit for E-7 and EL-7

Schedules E-7 and EL-7 are TOU schedules that were closed in 2007 and replaced by cost-based Schedules E-6 and EL-6. PG&E proposes one rate design change. Rather than show Tier 1 rates lower than Tier 2 rates, as is done on Schedules E-1 and E-6, the Schedules E-7 and EL-7 have a "baseline credit" that produces the same result but in a convoluted and easily misunderstood manner. In this 2011 GRC Phase 2, PG&E proposes to roll the baseline credits into Tier 1 rates so that Schedules E-7 and EL-7 show the same Tier 1 vs. Tier 2 relationship as PG&E's other residential rates.[32/] No party opposed this proposal.

D. Time of Use Rate Design for E-6, EA-6, E-7, and EA-7

Schedules E-6 and EL-6 are optional TOU schedules open to the residential class. They replaced closed Schedules E-7 and EL-7 as the residential TOU rate option in 2007, six years after AB 1X became law. PG&E designed its proposed rates for Schedule E-6 based on billing determinants and load shapes for the entire residential class, and then incorporated price differentials between TOU periods with TOU rate design guidelines, recommending that TOU

32/ PG&E/Quadrini, Ex. 1, p. 3-22, line 24-p. 3-23, line 2.

price signals not exceed underlying differences in marginal costs. (PG&E/Quadrini, Ex.-1, p. 3-21, lines 14 to 22.) PG&E proposes to continue its current approach to rate design for Schedules E-6 and EL-6. These schedules are designed to be revenue neutral with the residential class. Schedule E-6 is designed to collect the non-CARE residential revenue requirement while EL-6 is designed to collect the CARE residential revenue requirement. The details of this process are set out in PG&E's Exhibit 1. (PG&E/Quadrini, Ex. 1, p. 3-21 line 23 to p. 3-23, line 10.)

Solar Alliance opposed this approach, and proposed increasing the TOU differentials for upper-tier usage under Schedules E-6 and E-7 by increasing on-peak and part peak prices and lowering them for off-peak rates. The resulting rates would peak at over 70 cents per kWh in E-6 and over 90 cents per kWh in E-7. (Solar Alliance/Beach, Ex.-26, p. 32 and following table; Tr. p. 951, lines 22 to 27, Solar Alliance/Beach.) Solar Alliance claimed that it simply used long-established Equal Percentage of Marginal Cost (EPMC) principles to develop its proposed TOU rates for Schedules E-6 and E-7. However, its witness could not identify any decision where the CPUC had used EPMC principles to set the rate design within a class. (Tr. p. 953, line 12 to Tr. p. 954, line 24, Solar Alliance/Beach.) But more importantly, there is no real relationship between EPMC rate allocation and the Solar Alliance's new method for artificially inflating on-peak TOU prices (and on-peak TOU bill credits) for upper tier usage. (PG&E/Quadrini, Ex. 2, p. 2-21, lines 3 to 8.)

PG&E's proposed rates apply a consistent and understandable common set of tier differentials across all of the non-CARE schedules, whereby both the Schedules E-6 and E-7 rates in each TOU period increase by 1.6 cents per kWh as a customer moves from Tier 1 into Tier 2, and then by an additional 14.1 cents per kWh when usage increases to Tier 3 levels. This method for applying the tier differentials has been used by PG&E ever since the current tier structure was first adopted in 2001. In contrast, Solar Alliance's proposed Schedule E-6 rates would increase by between 13 cents and 24 cents per kWh as a customer moves from Tier 2 to Tier 3, and by as much as 40 additional cents per kWh (as measured relative to Tier 2 prices) when a customer reaches Tier 5 usage levels. These differences would be even more pronounced

under Schedule E-7, where Solar Alliance's unusual interpretation of "EPMC" rate design principles would produce Tier 5 prices (or bill credits) of 90 cents per kWh across the entire summer on peak TOU period. This would make it possible for a single kW of solar production to produce over $600 of bill credits across the approximately 750 on-peak TOU hours each summer, far in excess of any reasonable estimate of annual avoided costs. (PG&E/Quadrini, Ex. 2, p. 2-21, lines 8 to 25.)

PG&E's proposed TOU differentials for Schedules E-6 and E 7 are based on estimate of actual marginal costs. Although the residential TOU tariffs are designed to be revenue neutral relative to the residential E-1 tariff, customers who reduce their usage in higher TOU periods (or who produce solar energy during these periods) will receive bill savings based on the marginal cost based differentials reflected in the tiers. Artificially increasing these TOU differentials would result in cost shifting, because those who shift their usage would see their bills drop by more than the cost that PG&E avoids. This lost margin would have to be made up by other customers. The result would simply be another subsidy from PG&E customers to those favored by Solar Alliance -- relatively wealthy households who own their own homes and can afford to purchase solar units. (PG&E/Quadrini, Ex. 2, p. 2-21, lines 26 to 34.) In addition, similarly situated customers but with usage in different tiers would see different savings from shifting the same amount of kWh from the peak to the off-peak. As witness Quadrini pointed out, two customers side by side who shift one kWh should receive similar incentives. (Tr. p. 884, lines 9 to 22, PG&E/Quadrini.)

Solar Alliance repeatedly referred to Senate Bill 1 as supporting its proposal, but admitted that the CPUC has already held that SB 1 does not reflect a simple desire to maximize the incentive to install solar panels. (*See* Tr. p. 935 line 22 to Tr. p. 936, line 6, Solar Alliance/Beach; D.07-06-014, mimeo p. 8 ("the Commission does not agree with Petitioner's narrow interpretation of SB 1 that a TOU tariff should merely provide the maximum incentives to install solar energy systems.")) PG&E's proposed Schedule E-6 and E-7 tariffs are compliant

with Senate Bill 1.[33/] Schedule E-6 is a cost-based rate with on-peak, part-peak and off-peak TOU periods in the summer. And since the Schedule E-6 TOU price differentials are based on actual marginal cost differences (unlike Solar Alliance's proposal), other ratepayers do not subsidize customers on the rate schedule with solar units – thus ensuring that the other ratepayers "receive due value." PG&E/Quadrini, Ex. 2, p. 2-17, lines 21 to 26.)

VIII. PROPOSAL FOR FLAT GENERATION AND DISTRIBUTION RATES WITH TIERED CONSERVATION INCENTIVE ADJUSTMENT

A. Overview of Proposal

Currently, the tiering in PG&E's residential rates is accomplished via tiered generation and distribution rates, while all other rate components are flat (i.e., do not vary by tier). PG&E has proposed flat generation and distribution rates across tiers, with all tiering to occur through a new Conservation Incentive Adjustment (CIA) rate component. The CIA levels the playing field and sends clearer price signals, while it better reflects generation costs which do not vary by monthly usage. Moreover, it would not affect CCA's rate-setting authority, or harm CCAs or their customers.

Adoption of PG&E's proposal to flatten its generation rate and implement tiering through a CIA rate component, which has broad support, would extend Commission policy to the one remaining utility for which it has not yet been implemented. There is no reason to treat PG&E differently than SCE and SDG&E on this issue.

PG&E's proposal consists of several elements. First, PG&E proposes to charge customers flat generation and distribution rates that do not vary by tier. To accomplish the flattening of the generation and distribution rate components, PG&E proposes to introduce a CIA rate component similar to SCE's CIA rate and SDG&E's TRAC rate, rates which the Commission has previously approved and which are now in effect. After designing flat

33/ Pub. Util. Code Section 2851(a)(4) provides that "…the commission may develop a time-variant tariff that creates the maximum incentive for ratepayers to install solar energy systems so that the system's peak electricity production coincides with California's peak electricity demands and that assures that ratepayers receive due value for their contribution to the purchase of solar energy systems and customers with solar energy systems continue to have an incentive to use electricity efficiently."

generation and distribution rates, the CIA rate will be calculated residually for each tier by subtracting all rate components (including generation and distribution) from the total rate by tier. Total rates will remain as designed, but the tiering will be accomplished exclusively via the tiered CIA rate component. (PG&E/Keane, Ex. 1, p. 3-29, lines 20 to 28.)

The new CIA rate component will be charged to all customers, bundled and Direct Access (DA) or Community Choice Aggregation (CCA) service alike. Thus the Commission will be assured that the conservation incentive embodied in tiered rates cannot be avoided by customers receiving DA/CCA service, since neither DA nor CCA providers are required to charge tiered rates. (PG&E/Keane, Ex. 1, p. 3-26, lines 14 to 17; p. 3-30, lines 1 to 4.)

The resulting tiered CIA rates will generally be negative in Tiers 1 and 2 and positive in Tier 3. The CIA rates are designed on a forecast basis to collect a zero revenue requirement from the entire residential class. In other words, the CIA rates would neither increase nor decrease the total revenue collected from the residential class. However, to the extent actual sales by tier vary from forecasted levels, the CIA may collect a non-zero amount of revenue—either a positive or negative amount. PG&E proposes to combine any positive or negative CIA revenues with distribution for revenue accounting purposes. Thus, any CIA under-collection or over collection would accrue to the Distribution Revenue Adjustment Mechanism (DRAM) on a monthly basis and be trued up in PG&E's Annual Electric True-Up process. (PG&E/Keane, Ex. 1, p. 3-30, lines 6 to 16.)

Because the CIA rates are calculated residually, PG&E's proposal to flatten generation and distribution rates does not affect the total rates, and thus there are no bill impacts to bundled customers. However, the CIA can have an impact on DA/CCA bills. Because the CIA rate will be generally negative in Tiers 1 and 2 and positive in Tier 3, PG&E's proposal will generally reduce the PG&E bills of lower tier consuming DA/CCA households and increase the PG&E bills of upper tier consuming households. The overall effect on DA/CCA customers' bills (i.e., the combined PG&E and DA/CCA bill paid), though, will depend upon the rates charged by the DA/CCA provider. (PG&E/Keane, Ex. 1, p. 3-31, lines 1 to 9.)

B. The CPUC Has Previously Approved This Proposal For SCE and SDG&E

In various decisions since 2005 involving SCE and SDG&E, the Commission has determined that flat generation rates across tiers provide an appropriate price signal for customers choosing between bundled and DA or CCA service. To implement flat generation rates, the Commission approved a CIA rate component for SCE (and in the case of SDG&E, a similar component called the TRAC rate) which preserves the inclining block pricing structure for total rates. In one of these decisions involving SCE, D. 09-08-028, the Commission specifically rejected arguments similar to the ones made by MEA and CCSF here. Another Community Choice Aggregator (CCA), the San Joaquin Valley Power Authority (SJVPA), intervened in SCE's case and argued against SCE's proposal to flatten the generation component of its rates across tiers. The Commission found as follows:

> SJVPA claims that by shifting costs from generation to delivery rates, the CIA shifts delivery costs significantly among communities within SCE's service territory. According to SJVPA, this shift in costs among communities is discriminatory, as the delivery revenue in higher-usage communities will be artificially higher than in lower-usage communities….
>
> **We agree with SCE that adoption of the CIA is revenue neutral for residential customers.** Under SCE's proposal, implementation of the CIA does not change the overall allocation of generation and delivery revenues to be recovered from residential customers. Instead, the CIA will shift the allocation of delivery revenues to be collected from the different tiers. **While this shift will impact the amount to be collected from different tiers of CCA customers, CCA customers as a group will still be paying the same total for delivery.**
>
> **Further, the CIA is consistent with State policy. Pursuant to the EAP, energy conservation is one of the specific identified actions to eliminate energy outages and excessive price spikes in electricity or natural gas. Thus, signals to encourage conservation should be provided to all customers, regardless of their energy provider.**

(D.09-08-028, pp. 18 to 19, footnotes not shown, emphasis added.}

PG&E's flat generation rate proposal here would further statewide consistency by structuring PG&E's rates to match those approved and in place for SDG&E and SCE, who base

their rate tiers on non-generation rate components so that there is a level playing field for residential customers of all consumption levels where there is a choice of generation providers.

C. This Proposal Levels The Playing Field and Sends Clearer Price Signals

Currently, the average generation rate paid by PG&E's Schedule E-1 customers is 8.2 cents per kWh. Yet the generation rate component on this schedule ranges from 4.6 cents per kWh in Tier 1 to 20.3 cents per kWh in Tier 4. So the generation rate in Tier 1 does not cover the average cost of generation, while the generation rate in Tier 4 is far more than the average cost. In other words, PG&E's current tiered generation rate structure produces results whereby households consuming in the upper tiers are subsidizing households with consumption limited to the lower tiers. (PG&E/Keane, Ex. 1, p. 3-27, line 12 to p. 3-28 line 4.)

The result is that for households with a significant percentage of usage in the lower tiers, the average generation rate they pay is well below PG&E's system average generation rate, and well below market generation costs incurred by (and rates likely to be charged by) CCA providers. Similarly, for households with a significant amount of usage in the upper tiers, the average generation rate they pay is well above PG&E's system average generation rate, and well above market generation rates likely to be incurred by DA or CCA providers. Consequently, tiered IOU generation rates are inaccurate in both circumstances – too low for lower-tier consuming households and too high for upper-tier consuming households. That is why the Commission has approved flat generation rates for SCE and SDG&E, to level the playing field and enable all residential customers, regardless of their usage level, to have accurate, cost-based, price signals under which to choose between IOU and third party utility service. (PG&E/Keane, Ex. 2, p. 1-23, lines 4 to 22.[34/])

34/ Another characteristic of PG&E's proposed generation tier flattening proposal that is overlooked by the CCAs is its positive impact on their rate planning. Both MEA and CCSF noted that frequent generation rate changes by PG&E make it difficult for CCAs wishing to match PG&E's generation rate to keep up. One of the characteristics of PG&E's flat generation proposal is that, once implemented, it would make it much easier for CCAs desiring to maintain parity with PG&E's generation rate to do so. Specifically, other residential rate design changes (e.g., changes in the number of tiers, customer charge, baseline quantities, etc) would no longer directly impact the generation charge. (PG&E/Keane, Ex. 2, p. 1-29, line 17 to p. 1-30, line 2.)

While the Commission and state legislators have determined that tiering of total rates furthers public policy goals (e.g., providing an incentive for households to conserve) and warrants intra-class subsidies, this tiering should not be accomplished via a rate component, generation, that can be avoided by customers choosing DA or CCA service.[35/] Otherwise, the upper tier consuming households have an incentive to depart bundled service while the lower tier consuming households do not. The inevitable result is a loss of generation revenue to the utility in excess of the avoided generation cost of service, which in turn requires that generation rates be increased for PG&E's remaining customers. (PG&E/Keane, Ex. 1, p. 3-28, lines 5 to 14; D.09-08-028, mimeo p. 19.)

The Commission should level the playing field between PG&E and non-utility generation suppliers by ensuring (as it has done for SDG&E and SCE) that generation rates do not vary by residential tier. By doing so, the Commission will eliminate the situation in existence today where higher use bundled customers are artificially made more attractive to DA and CCA providers, and lower use bundled customers are made less attractive. This change would provide all customers—including lower tier consuming households—a fair and transparent choice between bundled and non-utility generation service, a choice that is not distorted by subsidies built into the generation rate to achieve public policy goals (tiered residential rates) that are better achieved by other means. Through this change the Commission will be establishing cost-based generation rates, and maintaining the conservation incentive for all customers (bundled and DA/CCA alike) through the utility's tiered CIA rates. (PG&E/Keane, Ex. 1, p. 3-28, line 15 to p. 3-29, line 6.)

D. This Proposal Has Broad Support

A number of other parties support PG&E's proposal for cost-based flat generation rates.

35/ AB 1X, enacted in 2001, suspended DA for all customers, although those who were taking DA service at the time were allowed to continue to do so. More recently, SB 695, enacted in 2009, re-opened DA on a limited basis, but only to non-residential customers. Consequently ESPs are not able to offer DA service to any new residential customers. CCAs, though, have no such restrictions. (PG&E/Keane, Ex. 2, p. 1-23, fn. 23.)

PG&E originally made this proposal in a Petition to Modify D.07-09-004 ("Petition") from Phase 2 of PG&E's 2007 GRC. That Petition was made jointly by PG&E, DRA, TURN, and Western Manufactured Housing Communities Association (WMA), who were all signatories to a residential rate design settlement in that proceeding. Three other solar parties to that settlement (Vote Solar, PV Now, and California Solar Energy Industries Association), while not co-signing the Petition, did not oppose it. None of the parties that signed the Petition, or the solar parties who did not oppose it, has opposed PG&E's proposal here. (PG&E/Keane, Ex. 2, p. 1-21, lines 1 to 14.)

Moreover, TURN is on record in Phase 2 of SCE's 2009 GRC in support of flat generation rates across tiers. D.09-08-028 quotes TURN as follows:

> TURN felt that it was important to have the differential in the distribution rate because if it's in the generation rate, it creates perverse incentives for certain customers to adopt direct access or community choice aggregation solely because of the rate design. So a customer that was high usage – if the tier differential was in the generation rate, they could switch away from bundled service solely to get a lower rate, and at the same time the low-usage customer would never want to leave bundled service because they would get a rate increase just by doing so. So it really makes the rate design competitively neutral to the extent that there are alternatives like CCA out there for residential customers.

D.09-08-028, p. 19, footnotes not shown.

DRA also testified at hearing that it continues to support the proposal. As its witness, Dexter Khoury explained in response to questions from CCSF, it had supported the generation flattening proposal when proposed by SCE, and continues to support it today. (Tr. p. 766 line 20 to Tr. p. 767 line 4; Tr. p. 768 lines 10 to 17, DRA/Khoury) ("this is a position that DRA has taken in the past"), and Tr. p. 770 lines 4 to 8, DRA/Khoury, ("I was the witness [in SCE's GRC] which supported a similar proposal. And we would have to have a very good reason to disagree with ourselves two years ago.")

Moreover, in the testimony about marginal energy costs that were submitted on the marginal cost phase of the case, no party proposed that marginal energy costs vary with customers' monthly usage. A total of seven other parties (in addition to PG&E) have provided

testimony on marginal energy costs – DRA, TURN, California Large Energy Consumers Association/California Manufacturers and Technology Association, Federal Executive Agencies, Energy Producers and Users Coalition, California Farm Bureau Federation and Solar Alliance. While all proposed marginal energy costs that vary by TOU period, no party proposed that they vary solely with the level of customers' monthly usage. (PG&E/Keane, Ex. 2, p. 1-20, lines 14 to 22.)

E. This Proposal Better Reflects Generation Costs, Which Do Not Vary By Monthly Usage

PG&E's testimony explained that there is no cost basis for setting a tiered monthly generation rate. Marin Energy Authority (MEA) and the City and County of San Francisco (CCSF) disputed this claim, arguing that monthly tiers reflect cost of service. However, neither MEA nor CCSF provided any evidence that generation costs increase as a residential customer's monthly usage moves into successively higher tiers. Neither presented any information that their respective electricity suppliers (or potential suppliers) are charging or will be charging them for electricity in an inverted block tier fashion, whereby the costs for their next purchases increase as they purchase increasingly larger cumulative amounts over a month. Quite the contrary, MEA testified that its energy supplier charge a fixed price for usage falling within identified quantities of electricity (both basic power, as well as the premium for renewable power). Outside that band, MEA pays a market price, which recently has been lower than the contract price. (Tr. p. 708, lines 5 to 23, MEA/Dusel.) CCSF does not yet have an energy supplier, but its bidders appear to be offering similar terms. (Tr. p. 173, line 3 to Tr. p. 174, line 5, CCSF/Meal.)

Moreover, CCSF's witness, despite claiming 20 years of experience in the electricity business, could not identify a single wholesale power purchase agreement where the prices go up based on total monthly usage. CCSF's witness could not even address whether the City's own wholesale power purchase agreements to sell Hetch Hetchy power had such characteristics. (Tr. p. 172, line 18 to Tr. p. 174, line 5, CCSF/Meal.) MEA's witness did not offer a word supporting the claim that wholesale power prices increase as monthly usage increases.

CCSF argued that, as instantaneous demand for electricity increases, that utilities dispatch power plants that are less and less efficient, and thus it costs more per kWh to supply that power. However, this is evidence in favor of time-of-use (TOU) rates, not tiered rates based on total monthly usage. CCSF's argument pertains to how the IOUs meet the hourly kilowatt (kW) demands of its customers at particular hours, and not to serving the kWh energy of customers over the course of a month (i.e., dispatch of power plants generally occurs on a daily or hourly basis, whereas residential tier usage accumulates over the course of a month starting with the first tier and moving into the upper tiers as the month progresses.) On hot summer afternoons, as aggregate kW demands grow, it likely costs more to either produce or procure power. But this provides a cost justification for TOU rates which charge customers more during on-peak periods and less during off-peak periods, rather than a justification for tiered generation rates based upon a given customer's total monthly usage. (PG&E/Keane, Ex. 2, p. 1-18, line 33 to p. 1-19, line 3.[36/]) An extra kWh costs the same in the wholesale competitive generation market whether the customer is in Tier 1 or Tier 4. (Tr. p. 326, line 26 to p. 327, line 1, PG&E/Keane, "it [incremental cost] would really depend on what hour of the year the increment occurred. It wouldn't depend on what tier the customer is in when the increment occurs." (Tr. p. 323, lines 1 to 3, PG&E/Keane, "I think our cost of supply depends upon their hourly usage regardless of what tier you're in." Tr. p. 354, lines 4 to 7, PG&E/Keane, "I think it would be unusual because I don't think generation costs increase with tiers.")

In its rebuttal testimony, PG&E gave an example of two customers, one with flat load and another with substantial usage in the peak periods. As this example illustrated, because its total usage put it well into Tier 4, Customer A would pay an average generation rate for the month of 14.1 cents per kWh. In contrast, Customer B would pay an average generation rate

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36/ Even if it were true that power costs increase with a residential customer's total monthly usage for hypothetical purposes, it strains credibility to believe that a Tier 4 generation rate in excess of 20 cents per kWh is appropriate. No party, including CCSF, even tried to claim that, much less provide any evidence to support its argument that a 20 cent per kWh generation rate for usage that can occur at any time of day, or any day during the month, actually reflects underlying costs. Since PG&E's current tiered generation rates are set based upon formulas adopted by the Commission which are entirely independent of any marginal energy cost data, they have no cost basis. (PG&E/Keane, Ex. 2, p. 1-20, lines 4 to 13.)

about half that level, 7.6 cents per kWh, despite having a load during the more expensive on-peak hours that is 50 percent higher than that of Customer A. (PG&E/Keane, Ex. 2, p. 1-19 line 4 to p. 1-20, Table 1-3.) As this unrebutted example shows, cumulative monthly usage over an entire month is a poor indicator of the degree to which a household's load is coincident with the hours when power costs the most.

Other than residential households, no other PG&E customers pay energy rates (in units of dollars per kWh) for generation that increase with usage tier. Non-residential customers' generation charges have various rate structures depending upon their size. Thus, the Commission has approved electric rate structures for non-residential customers that reflect the fact that generation costs vary by season and by TOU period, but in no case has the Commission approved a structure that charges non-residential customers more based upon being in a higher or lower monthly usage tier. (PG&E/Keane, Ex. 2, p. 1-22, lines 1 to 15.) Even MEA, while claiming to be primarily concerned about setting rates to incent conservation, has not adopted tiered generation rates for its non-residential customers. (Tr. p. 700, lines 2 to 5, MEA/Dusel.)

F. This Proposal Would Not Affect CCA's Rate-Setting Authority.

Both MEA and CCSF argued that this proposal would interfere with their rate setting authority. However, on cross examination, both admitted that the CPUC has held that it is not going to regulate CCA rates, and that this proposal does not regulate the CCA rates. For example, CCSF's witness Margaret Meal testified:

> Q. Would you agree that the CPUC has held that it will not regulate the rates offered by CCAs?
>
> A. Yes.
>
> Q. And therefore, if CCSF wants to set rates different than PG&E's rates it will be permitted to do so; is that correct?
>
> A. We would be permitted to do so.

(Tr. p. 174, lines 15 to 22, CCSF/Meal. *See also*, Tr. p. 699, lines 20 to 24, MEA/Dusel: "Q: Does changing PG&E's rates stop MEA from setting its rates however it wants to incent conservation? A: MEA has discretionary ratemaking authority, subject to board approval.")

MEA's claim that it had engage in a good deal of deliberation about how to design rates to enhance conservation is quite at odds with reality. As its witness admitted on cross-examination it merely charged (and is continuing to charge today) tiered rates identical to the tiered generation rates PG&E was charging in May 2010 when MEA began serving customers:

> Q. But didn't Marin MEA just precisely copy PG&E's rates that were in place at the time?
>
> A. Absolutely it did. Absolutely it did, because those rates provided very strong conservation incentives.
>
> Q. Did Navigant retain an economist to prepare a way to do conservation signals even better?
>
> A. I don't believe so.
>
> Q. They just copied PG&E's rates, correct?
>
> A. At the time they used PG&E's rates.
>
> Q. Now, as we know on June 1st PG&E's rates changed. Tiers -- among other changes, Tiers 4 and 5 were combined; is that correct?
>
> A. That is correct.
>
> Q. And did Marin change its rates after that?
>
> A. No. In fact, it elected to leave rates unchanged…

(Tr. p. 693, line 22 to Tr. p. 694, line 14, MEA/Dusel.)

Moreover, both MEA and CCSF also admitted that if PG&E's generation rate flattening proposal is adopted, if a DA or CCA provider wishes to reinforce the conservation signal provided by the CIA rate, the DA or CCA provider retains the ability to charge a tiered generation rate and make the customer's total rate even more steeply tiered. Indeed, after PG&E combined Tiers 4 and 5 on June 1, 2010, MEA kept a Tier 5 generation rate, meaning its rates now are more tiered than PG&E's. MEA did not lose a significant amount of customers as a result, and its witness stated that he was not sure if MEA even lost "more than a handful" of customers as a result of not reducing its Tier 5 rate to match PG&E's lower rate effective June 1, 2010. (PG&E/Keane, Ex. 2, p.1-26, line 19 to p. 1-27, line 2, PG&E/Keane; Tr. p. 695, lines 9 to 23, MEA/Dusel.)

G. This Proposal Would Not Adversely Affect CCAs or Their Customers

CCSF and MEA argue that this proposal is offered to thwart the development of CCA. However, they offer no specifics on how this proposal would harm them or their programs. See, for example, the testimony of MEA's witness, who answered:

> Q: But I am asking where in your prepared testimony there is any quantified impact [on MEA]?
> A: There is no quantified impact.

(Tr. p. 708, lines 2 to 13, MEA/Dusel.) Similarly, MEA admitted that in response to data requests from PG&E, it failed to "specifically address what the direct financial impacts would be at the agency." (Tr. p. 708, lines 14 to 25, MEA/Dusel.) Instead, eliminating artificial and inaccurate generation rates will not adversely affect these CCAs or the overall rates of customers who choose unbundled generation service, such as from DA or CCA providers.

As explained earlier, overall this proposal will, on a forecast basis, collect zero CIA revenue over the entire PG&E system. However, since the distributions of usage by tier vary between communities, some communities will contribute positive CIA revenue in the aggregate while others contribute negative CIA revenue. Residential customers in San Francisco, for example, have a usage distribution that tends to be more heavily concentrated in the lower tiers. So PG&E's proposal to flatten generation rates would result in San Francisco customers in the aggregate paying slightly higher average generation rates than at present, largely offset by paying a negative average CIA rate. This would make it easier for CCSF to move forward with its planned CCA program, since it will be competing to beat a slightly higher PG&E average generation rate and can gain additional revenue as a result if it serves all residential customers within its boundaries. (*See*, Tr. p. 168, line 13 to p. 169, line 17; Tr. p. 358, lines 10 to 17, PG&E/Keane, "The CIA rate is designed to collect zero revenue over PG&E's entire system. So there will be some cities or counties that produce positive CIA revenue and some that produce regular negative CIA revenue; for example, San Francisco overall. For San Francisco to serve all of its customers, you would have negative CIA revenue.")

In contrast, residential customers in Marin have a usage distribution that tends to be more heavily concentrated in the higher tiers. Thus PG&E's proposal would result in Marin residential customers in the aggregate paying slightly lower average generation rates than at present (if they were PG&E generation customers, or if MEA chooses to match PG&E's generation rates, which it did initially), largely offset by paying a positive average CIA rate. However, the impact would be small, particularly once MEA begins serving all residential customers, as required by law. (*See* Tr. p. 359, lines 7 to 12, PG&E/Keane, "I mean the reason it's affecting the customer they're serving is because MEA has enrolled only the very largest customers to date. And that figure comes way down once MEA starts serving the lower usage customers."). For example, if MEA begins serving all residential customers in Marin County, the increase in revenue for the CIA for Tier 3 and above usage (over $20 million per year) would slightly exceed the decrease in CIA revenue from users in Tiers 1 and 2, for a net increase of less than $1 million. (PG&E/Keane, Ex. 63.)

During the period in which a community is phasing in its CCA program, the impact can be different. Indeed, by initially enrolling and serving only the very largest residential customers, MEA has been able to take advantage of the subsidies inherent in PG&E's tiered generation rates to finance its CCA program. In MEA's first phase of CCA service, it offered service almost exclusively to high usage residential customers in Tiers 4 and 5.[37/] The 5,471 households in Phase 1A of MEA's phase-in plan have an average monthly usage of 1,433 kWh per month, nearly three times the 553 kWh average monthly usage of all households in MEA's area. (PG&E/Keane, Ex. 2, p. 1-24, lines 13 to 15.) Since these Phase 1A households have substantial consumption in the upper two tiers, their PG&E average generation rate is approximately 15 cents per kWh -- nearly double PG&E's average cost of generation. In contrast, the Phase 1A households would pay just 8.0 cents per kWh if PG&E charged cost-

37/ MEA's phase-in plan has resulted in it initiating service only to the very largest residential users in its service area, representing only about 10 percent of the overall customer base it ultimately must serve. (PG&E/Keane, Ex. 2, p. 1-24, lines 9 to 12.)

based flat generation rates. (PG&E/Keane, Ex. 2, p. 1-24, lines 15 to 20.)

The result was an adverse impact on PG&E's remaining customers. PG&E's unrebutted testimony included a calculation of the 7.0 cent per kWh difference between the average rate paid by the Phase 1A customers (15.0 cents per kWh) and the average rate they would pay under PG&E's flat generation rate proposal (8.0 cents per kWh) and multiplied it by the total annual MEA sales of approximately 94 million kWh per year. This yields an artificially higher amount of generation revenue, about $6.6 million per year, that MEA's Phase 1A customers were formerly contributing to PG&E in excess of their cost of service – revenues which will be have to be made up by remaining PG&E bundled service customers. (PG&E/Keane, Ex. 2, p. 1-25, lines 13 to 21.)

It was easy to procure power for less than the price per kWh price charged by PG&E for Tier 4 and 5 usage when MEA began providing service in May 2010. As a result of selecting and serving almost exclusively high usage residential customers, MEA has been able to more than cover the cost of buying power and its start-up debt. Unrebutted testimony showed that MEA is expecting revenues of over $18 million for its first year of service, well above the $11.4 million forecast of the cost of electricity and debt service of only $1.1 million. MEA is on track to have a $3.8 million surplus for its first year of operations as a result of its selective enrollment of just households consuming in the upper tiers. (PG&E/Keane, Ex. 2, p. 1-26, lines 11 to 19.)

MEA originally sought only a temporary continuation of the tiered rates, apparently hoping to keep this financing opportunity during initial startup. In its May 24, 2010 comments on ALJ Fukutome's Proposed Decision (which would have approved the joint Petition for Modification filed jointly by PG&E, DRA, TURN, and WMA to flatten generation rates), MEA indicated that it just needed a little bit of breathing room before it would be able to compete against a flat rate structure: "A fundamental issue here is that MEA is unable to adjust (flatten) its rates to match the proposed new flat PG&E generation rate until such time as MEA can obtain greater scale economies for its administrative and general (A&G) costs when it implements Phase 2 and refinances its startup loans over a longer amortization period. Once it has

implemented Phase 2 and refinanced its start-up loans, MEA will be able to implement a rate structure that accommodates the proposed flattened rate structure…" (Comments of the MEA on Proposed Decision of ALJ Fukutome, May 24, 2010, p. 7.) MEA's testimony here, though, makes no mention of MEA, having received its requested breathing room from the Commission (at the expense of PG&E's bundled customers), now being able to accommodate PG&E's flat generation rates. (PG&E/Keane, Ex. 2, p. 1-27, fn. 30.)

Once MEA begins providing service to all residential customers as required by law, the effect of generation rate flattening on MEA will be small. In fact, MEA's remaining non-Phase 1 lower usage customers will receive a significant reduction in their overall bills compared with the status quo without generation flattening. (Tr. p. 674, line 5 to p. 676, line 23, MEA/Dusel; *See* Exhibit 63). Indeed, as explained above, MEA offers no explanation of the details of how it might be financially harmed by the generation flattening proposal, either now or once it begins serving all residential customers, as it is required to do by law. (Tr. p. 708 line 2 to p. 709, line 25, MEA/Dusel.)

Similarly, San Francisco offers no details on how generation flattening could harm the finances of its CCA program. It has not selected an energy supplier, does not know its generation costs, and has not announced its generation rate structure. It does not know whether it will provide service in phases. (Tr. p. 160 line 27 to p. 162, line 22, CCSF/Meal.) It offered no explanation on how a change that would make it ten million dollars per year **easier** for CCSF to compete against PG&E bundled sales could hurt its CCA plan. (Tr. p. 168 line 5 to p. 170 line 17, CCSF/Meal.) In sum, except perhaps for a wish to have bundled PG&E customers similarly subsidize its startup plans (by selectively enrolling just upper-tier consuming households in its initial phase as MEA has done), CCSF offers no specifics on how generation flattening will harm it.

Moreover, neither CCSF nor MEA offer any policy explanation why bundled customers should subsidize the startup or the long term operation of their CCA programs. Instead, in other places, CCSF stated that "On behalf of the business and residents of San Francisco that remain

bundled customers, the City seeks true customer indifference to departing load." (Tr. p. 163, lines 9-12, CCSF/Meal, emphasis added.) Similarly, MEA has stated that it "seeks an equitable calculation of these charges such that bundled customers are indifferent, not benefitted." (Tr. p. 669, lines 19-25, MEA/Dusel) (Joint departing load pleading of CCSF, MEA, and others.)

MEA complains that the approval of this rate will increase rates to its existing customers. It is correct that the introduction of the CIA rate will raise the PG&E portion of the bill for existing DA/CCA households with consumption in the upper tiers (where the CIA rate is positive). However, it will lower the PG&E portion of the bill for DA/CCA households with consumption in the lower tiers (where the CIA rate is negative). To the extent that this proposal would increase the bills of existing MEA customers, absent compensatory changes in the generation rates charged by MEA, that is a direct result of the fact that MEA to date is only serving households with substantial upper-tier consumption and chose not to adjust its rates. If MEA was serving households with consumption exclusively in Tiers 1 and 2, PG&E's proposal would lower those customers' bills. (PG&E/Keane, Ex. 2, p. 1-31, lines 3 to 12.) Similarly, if MEA chooses to match PG&E's generation rates, its customers would be indifferent.

H. There Are No Other Reasons To Reject This Proposal

The Sierra Club submitted testimony by witness Paul Fenn opposing the generation flattening proposal. Most of this testimony was irrelevant to the issues in this proceeding. For example, witness Fenn made arguments about Enron's role in the Energy Crisis (Sierra Club/Fenn, Ex. 9 pp. 28-33), erroneously claimed that PG&E is building a Liquefied Natural Gas Terminal (*Id*., p. 34), and addressed a rate called "PCIA". (*Id.*, p. 16.) None of these subjects are at issue in this proceeding. When asked why this testimony was relevant, Mr. Fenn offered no logical response.[38/]

With respect to PG&E's proposal to flatten generation rates, Sierra Club argued that the proposed CIA rate somehow violates Assembly Bill 117 because CCA customers who formerly

38/ Tr. pp. 721 to 728 (Sierra Club/Fenn).

did not pay a "fee" attributable to bundled customers are now made to pay one through a distribution charge.[39/] But witness Fenn is mistaken. The CIA rate is not a fee. Rather, as already adopted by the Commission for SDG&E and SCE, the CIA is a rate component designed to implement the tiering in the overall rate charged to customers required by the legislature and Commission. Further, unlike a fee, the CIA is designed to collect zero revenue over the course of the year across all of PG&E's customers.

CCSF claimed that PG&E's proposal may create negative total rates in certain limited circumstances. (CCSF/Meal, Ex. 5, pages 7 to 8.) However, any negative total rate components, such as off-peak rates, will generally be offset by positive rate components, such as on-peak rates. Furthermore, PG&E has proposed a zero minimum bill to compensate for the proposed elimination of the residential minimum PG&E bill to prevent negative total bills. Under any reasonable interpretation, it is inappropriate for PG&E to pay a customer to depart (or partially depart) its system, as occurs when customers select a DA or CCA provider, or for such a customer to get a negative bill which fails to cover PG&E's positive costs of service. A zero minimum bill is therefore appropriate.

PG&E's generation flattening proposal should be approved. The tiering was intended by the legislature and Commission to send a conservation price signal that would apply to all customers, bundled and those served by a DA or CCA provider, which is what the CIA rate ensures. In contrast, with PG&E's current tiered generation rates, a CCA could charge its customers a flat generation rate and CCA customers' total rates would then also be flat. Moving the tiering from the generation to the CIA rate ensures that a DA or CCA provider cannot circumvent the Commission's desire that all customers see tiered total rates in accordance with public policy. If a DA or CCA provider wishes to reinforce the PG&E conservation signal, it retains the ability to charge a tiered generation rate and make the customer's total rate even more steeply tiered.

39/ Ex. 9, pp. 7-8 (Sierra Club/Fenn).

IX. OTHER ISSUES

A. Change To CARE Rate Eligibility For Nonprofit Group Living and Qualified Agricultural Employee Housing Facilities

In its Opening Testimony, PG&E proposed changes to the CARE Eligibility requirements for nonprofit group living and qualified agricultural employee housing facilities. No party opposed this proposal. The testimony supporting this proposal may be found at PG&E/Quadrini, Ex. 1, p. 3-18, line 8 to p. 3-20, line 23.

Nonprofit group living facilities are identified as nonprofit by the IRS and provide one of the following services: homeless shelter, transitional housing (e.g., half-way house), short or long-term care (e.g., nursing home), or a group home for physically or mentally disabled people. Qualified agricultural employee living facilities are migrant centers, privately owned employee housing and agricultural employee housing operated by nonprofit agencies.

Most of the facilities using more than 100,000 kWh per year take service on master-meter Schedule EML, which, unlike most other residential schedules, provides one baseline allowance for each of the housing units in a multifamily residence metered by a single PG&E meter. As a result, 74 percent of EML usage is billed at the lower Tier 1 rate, and just 13 percent of usage exceeds 130 percent of baseline. Consequently, these customers would see an average bill increase of only 5 percent under PG&E's proposal for a new CARE Tier 3 rate.

There are approximately 200 nonprofits with usage exceeding 25,000 kWh per year which do not take service on Schedule EML. Seventy percent take service on standard Schedule EL-1, nearly 30 percent take service on closed seasonal Schedule EL-8, and just a few customers take service on closed TOU Schedule EL-7. All would be adversely affected by a Tier 3 rate increase. Unlike EML customers, most of their usage exceeds 130 percent of baseline because they are limited to one baseline allowance. As a result, the EL-1 and EL-7 nonprofits would see an average bill increase of 26 percent while the EL-8 nonprofits would see an average bill increase of 45 percent under this proposal.[40/] If they could migrate to Schedule EML, however,

40/ Although the nearly 60 EL-8 nonprofits in this group would see an average bill increase of 29 percent by migrating to Schedule EML, that is only because their current rates are so far below cost. Schedule EL-8

the average EL-1/EL-7 bill would drop 2 percent compared to the current average bill.

Electric and Gas Rules 19.2 and 19.3 currently prevent these nonprofits from taking service on Schedule EML or GML because of the requirement that each and every household unit within the facility must individually qualify for CARE in order for the entire facility to take service on Schedule EML or GML. For example, if a group living facility houses 100 families/individuals and 99 of them qualify for CARE, the non-profit cannot take service on Schedule EML even if the facility would qualify based on total income. There is no current justification for this requirement.

For the above reasons, and for consistency, PG&E proposes that nonprofit group living facilities be allowed at the customer's option to take service on Schedule EML under regular CARE income guidelines applied to the facility as a whole. This would substantially mitigate the effects of PG&E's proposed CARE Tier 3 rate on such facilities. PG&E also proposes to allow these customers to elect to take service on gas Schedule GML, the gas schedule counterpart of Schedule EML, even though the bill savings on the gas side would be significantly less than the electric side because of the much smaller spreads between Tier 1 and Tier 2 residential gas rates and the absence of any tiers above Tier 2..

Therefore, PG&E requests that gas and electric Rule 19.2, Section B.4 and Rule 19.3, Section B.4 be modified as follows:

> The total gross income for all persons residing in each household at a Facility may not exceed the following:
>
> — replace with —
>
> The total gross income for all persons residing at a Facility may not exceed the following:

In the event a non-profit cannot qualify for Schedule EML or gas Schedule GML for other reasons, it can still qualify for the Commercial CARE discount which provides virtually the

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nonprofits currently pay significantly lower Tier 2 rates than other nonprofits, 8.6 cents in the summer and 5.2 cents in the winter vs. 9.6 cents year round for EL-1 and EML nonprofits. This disparity would end under this proposal. As a result, the EL-1/EL-7 nonprofits would pay an average rate of about 9.2 cents per kWh while the EL-8 nonprofits would pay about 9.1 cents per kWh.

same average percentage discount given to the CARE residential class.

B. The CPUC Should Adopt the Other, Uncontested Elements of PG&E's Baseline Proposal

PG&E also presented testimony on updating the baseline quantity calculation for more recent usage data, as required by PUC § 739(a) (1) that are consistent with prior precedent and were not opposed by any party. Specifically, PG&E requested that the CPUC authorize updated baseline usage quantities using the same baseline methodology approved in D.02-04-026, as adjusted for seasonal and vacation home usage as required by D.04-02-057 and modified in D.07-09-004, using the most recently available four years of seasonal data, which is November 2005 through October 2009. (PG&E/Quadrini, Ex. 1, page 3-6, lines 4 to 9.) There is no dispute about PG&E's four years of average baseline data, adjusted for seasonal vacation homes, and it should be adopted. Furthermore, in addition, PG&E proposed that electric baseline quantities should incorporate revenue neutral electric rate adjustments. Consistent with the residential rate design guidelines presented in PG&E's overall showing, revenue neutral rate adjustments will be accomplished by an equal cents per kWh change to PG&E's proposed non-CARE rates for usage in excess of 130 percent of baseline. (PG&E/Quadrini, Ex. 1, p. 3-8, lines 10 to 14). Therefore, the CPUC should adopt the proposed target baseline quantities based on 2006 to 2009 usage for individually metered and master meter customers, as shown in Table 3-6 on p. 3-9 of PG&E/Keane, Ex. 1.

X. CONCLUSION

For all the foregoing reasons, PG&E respectfully requests that the Commission approve PG&E's residential rate design proposals, and make them effective in time to afford rate relief for the summer of 2011.

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Respectfully Submitted,

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December 20, 2010

Exhibit A

EXHIBIT 37
PACIFIC GAS AND ELECTRIC
ELECTRIC RATE HISTORY FOR NON-CARE SCHEDULE E-1 AND CARE SCHEDULE EL-1
RATES FROM JANUARY 1, 2001 TO THE PRESENT

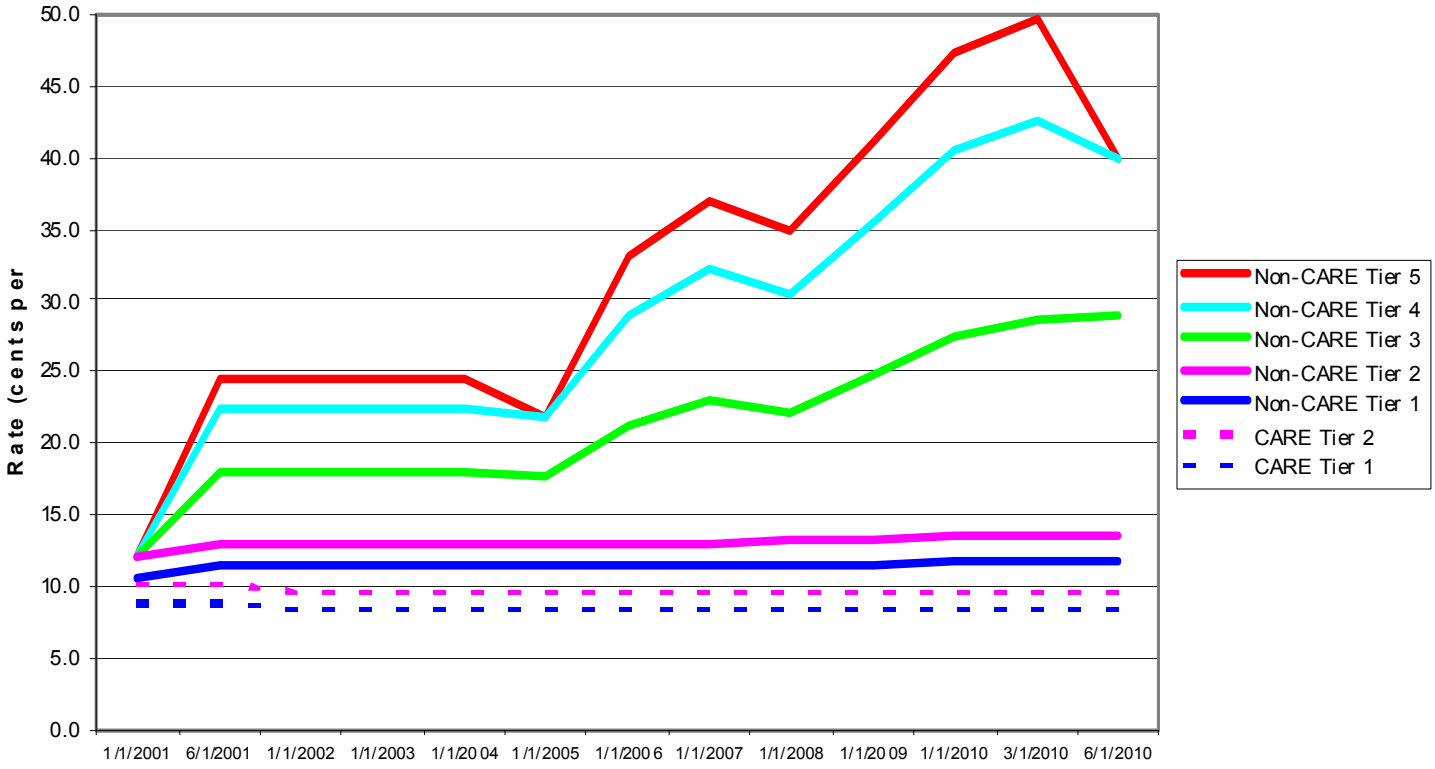


Exhibit B

EXHIBIT 2
FIGURE 3-2, PAGE 3-19
CARE CLIFORNIA INVESTOR-OWNED UTLITY RESIDENTIAL RATE STRUCTURES

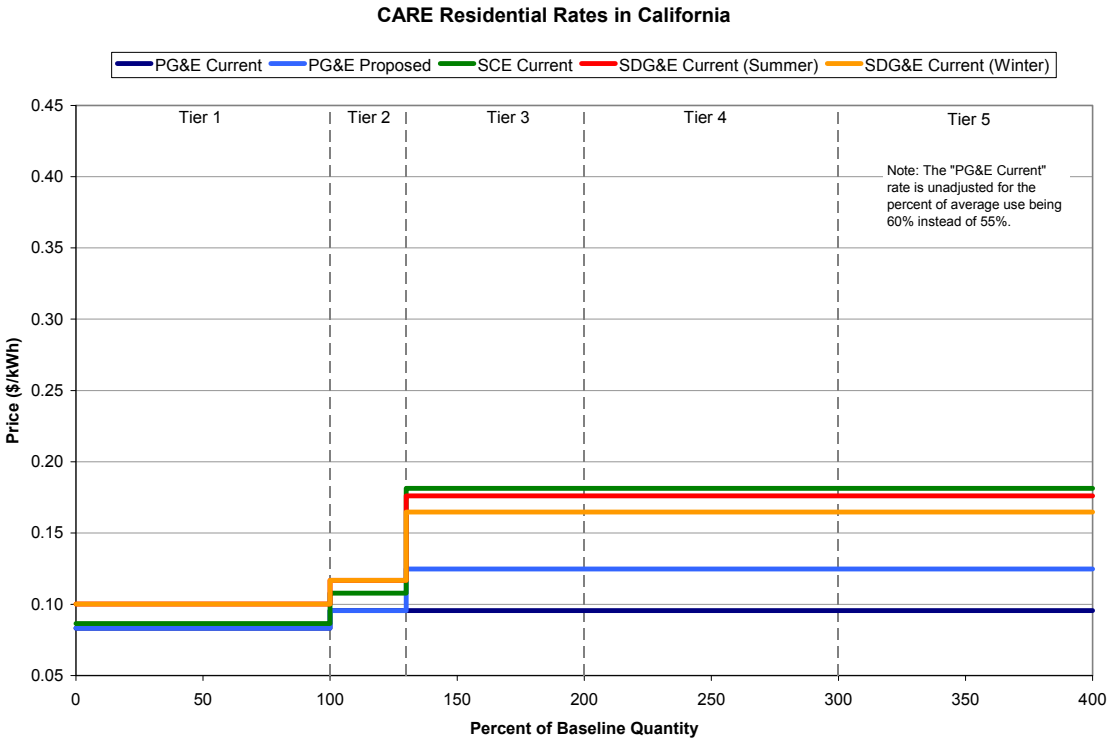
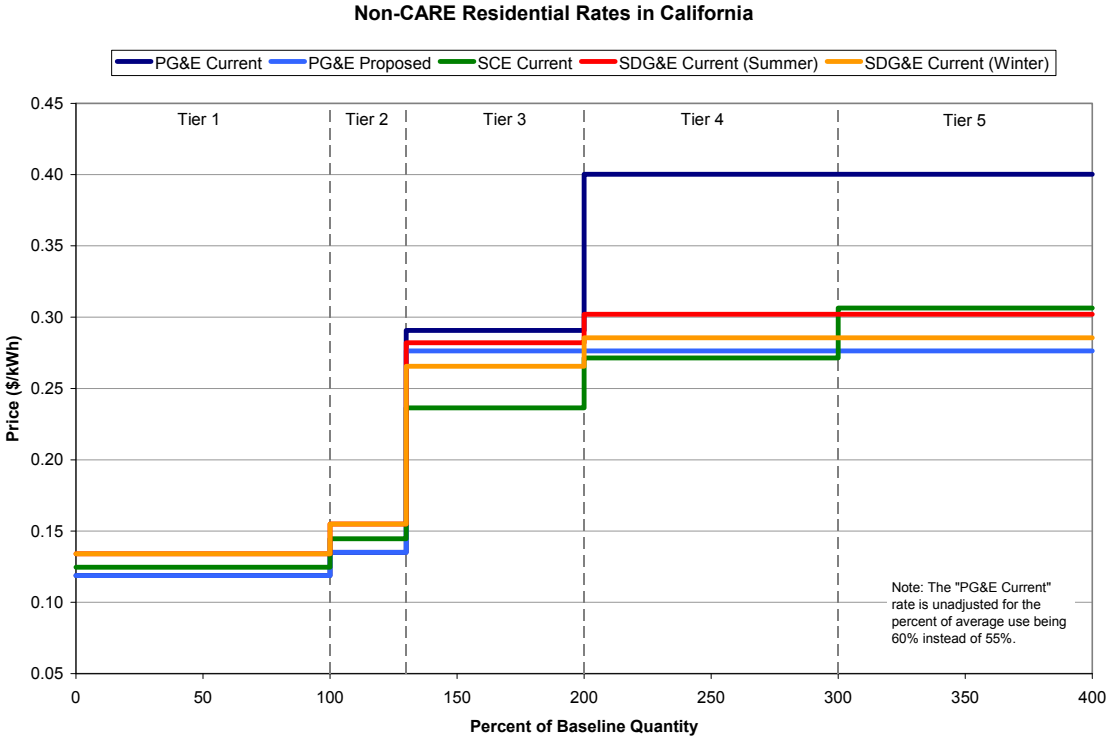


Exhibit C

EXHIBIT 2
FIGURE 3-1, PAGE 3-18
NON-CARE CLIFORNIA INVESTOR-OWNED UTLITY RESIDENTIAL RATE STRUCTURES



CERTIFICATE OF SERVICE BY HAND DELIVERY OR ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department, PO Box 7442, San Francisco, CA 94120.

On the 20th day of December, 2010, I served a true copy of:

OPENING POST HEARING BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY ON RESIDENTIAL RATE DESIGN ISSUES

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for **A.10-03-014** with an e-mail address.

[XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for A.10-03-014 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 20th day of December, 2010, at San Francisco, California.

/s/
PATRICIA A. KOKASON