FILED
01-10-11
04:59 PM

**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. (U39M)	A. 10-03-014

REPLY BRIEF OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION AND THE CALIFORNIA MANUFACTURERS AND TECHNOLOGY ASSOCIATION ON RESIDENTIAL RATE DESIGN ISSUES

January 10, 2011

Keith R. McCrea
Sutherland, Asbill and Brennan
1275 Pennsylvania Avenue
Washington, DC 20004
Tel: (202) 383-0705
Email: Keith.McCrea@sutherland.com

Counsel for CMTA

William H. Booth
Law Offices of William H. Booth
67 Carr Drive
Moraga, CA 94556
Tel: (925) 376-7370
Email: wbooth@booth-law.com

Counsel for CLECA

**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. (U39M)	A. 10-03-014

REPLY BRIEF OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION AND THE CALIFORNIA MANUFACTURERS AND TECHNOLOGY ASSOCIATION ON RESIDENTIAL RATE DESIGN ISSUES

The California Large Energy Consumers Association ("CLECA") and the California Manufacturers and Technology Association ("CMTA") hereby submit their Reply Brief on residential rate design issues in this proceeding.

I. INTRODUCTION

As we noted in our Opening Brief, because the CARE program requires all non-CARE load to pay for the $700 million annual CARE subsidy on an equal cents per kWh basis, and because 70% of the non-CARE load is non-residential class load, CLECA and CMTA members, along with the agricultural, commercial, industrial and institutional customers of PG&E must make a transfer payment of nearly $500 million annually to the residential class. This massive transfer payment is over and above the allocated cost-of-service rates these non-residential customers are obligated to pay and it necessarily means that the residential class, taken as a whole, pays rates that are $500 million below its allocated cost-of-service.

The CARE subsidy adds nearly 1 cent/kWh to the rates paid by CLECA and CMTA members, rendering such rates among the very highest rates for industrial customers in the country and placing CLECA and CMTA member companies at a distinct competitive disadvantage with firms in other states and other countries. Thus, we must be concerned about the effects of residential rate design decisions on the overall level of the CARE subsidy, and thus on the rates our members (and other businesses) pay for electricity. The State Legislature has, unfortunately, mandated that all non-residential customers contribute to the CARE subsidy on an equal cents/kWh basis; that aspect of the problem can not be solved here.[1] What can be addressed in this proceeding is the dysfunction in several aspects of residential rate design that leads to a huge differential between CARE and non-CARE residential rates, and the current enormous 50% discount afforded CARE customers. The CARE subsidy does not need to be $700 million and the CARE discount does not need to be 50%, particularly when the statute authorizing the CARE program identifies a 20% discount.[2] The Commission has the discretion to change PG&E's residential rate design to address this problem, and it clearly should do so in this proceeding.

II. THE ONGOING TURN AND DRA EFFORTS TO MAINTAIN THE STATUS QUO MUST GIVE WAY TO THE VERY CLEAR NEED TO RATIONALIZE RESIDENTIAL RATE DESIGN

We have read the opening briefs of the several parties with interest. We are particularly interested, of course, in the efforts of TURN and DRA to limit the extent of any rate increases for CARE customers, despite the fact that CARE rates are actually lower today than they were 20 years ago, and are, in real (inflation-adjusted) terms, fully 46% lower than their 1991 levels.[3] Both of these parties hope to preserve as much of the enormous CARE subsidy as they possibly can for as long as they can. Under the rate freeze mandated by AB 1X in early 2001, low-usage residential customers, and all CARE users, have enjoyed total immunity from the substantial rate

[1] P.U. Code § 327(a)(7). Street Lighting customers are the sole exception to this rule.
[2] P.U. Code § 739.1(b)(4).
[3] Ex. 1 at p. 3-14, Table 3-7 at p. 3-15 and Figure 3-2 at p. 3-16.

increases approved by the Commission in the wake of the energy crisis. The TURN and DRA constituencies, which apparently do not include high usage residential customers, have enjoyed an ever-increasing subsidy flow, a large portion of which has come from non-residential customers. It is certainly understandable that they would wish to keep the gravy train rolling along, but that does not mean that their positions represent good policy, or are fair and non-discriminatory or should be adopted by the Commission.

While we appreciate the fact that both TURN and DRA acknowledge the need to create, finally, a separate Tier 3 CARE rate, and while we appreciate the fact that TURN also "does not oppose" PG&E's proposal to drop the baseline to 55% of average residential use,[4] these changes alone are not sufficient to rectify the current enormous subsidy for CARE customers (and, indeed, for lower usage residential customers in general). Unfortunately, both of these parties argue strenuously against other, much-needed residential rate design reforms.

TURN and DRA oppose the establishment of a customer charge for residential customers despite the fact that virtually all utilities have such charges in place to recover fixed and unavoidable costs, and despite the fact that PG&E incurs $425 million per year of such costs in serving the residential class, approximately $93 per residential customer, without any explicit charge in place to cover such costs. They also oppose any further increase in the CARE Tier 3 rate for 2012 and 2013 beyond the initial 2.9 cent increase proposed by PG&E for 2011. Under the TURN and DRA approach, ***the new CARE Tier 3 rate would be frozen for the full three-years of the rate case cycle at just 12.5 cents***, fully 2.5 cents below the proposed residential class average rate,[5] more than 5 cents lower than Edison's current rate for CARE Tier 3 service (18.1 cents),[6] and roughly 15 cents below PG&E's proposed rate for non-CARE Tier 3 usage (27.6 cents). [7]

[4] TURN Opening Brief at p. 1. DRA apparently would not support any change in the baseline level. DRA Opening Brief, at pp. 17-18.
[5] Ex. 1, App. A, p. A-2.
[6] Ex. 1, Table 3-7 at p. 3-15.
[7] Ex. 1, Table 3-2 at p. 3-5.

These two items, the customer charge and the year 2 and 3 increases in the CARE Tier 3 rate, are very important elements of PG&E's effort to reform its residential rate design. Without them, any reduction in the CARE subsidy amount will be very limited and could even be overtaken by further growth in the number of CARE customers and in CARE per-customer usage. TURN and DRA clearly appreciate receiving a $500 million annual transfer payment from non-residential customers and they thus offer both policy and legal arguments in opposition to PG&E's proposals to rationalize residential rate design. Those arguments are not sound, however, and they should be rejected in favor of the changes PG&E has proposed.

A. DRA and TURN Argue That PG&E's Proposed Changes Will Create Too Large A Burden For CARE Customers

DRA argues that the rate design changes proposed by PG&E will lead to "unacceptable bill impacts for low usage and low income customers".[8] DRA states that the implementation of all of the PG&E proposals would cause more than 86% of CARE customers to experience bill increases of 10% or more,[9] bill impacts which DRA terms "drastic". Really? Drastic? This group of customers currently receives a 50% discount from otherwise applicable rates. It currently receives a $700 million annual subsidy from other customers. It pays rates that are, in real terms, 46% lower than they were 20 years ago. This rapidly growing group of customers pays rates that are lower in nominal terms than they were 20 years ago. Customers in this select group can currently consume 2,000 or even 3,000 kWh per month and still pay less than 10 cents for every kWh they use.[10] And a 10% bill increase for most of these customers after a 20-year effective rate freeze is to be considered drastic?

We simply do not agree. It is time for CARE rates to be increased. The severe limitations on CARE Tier 1 and 2 rate increases (at the CALWORKS benefit increase but no more than 3% per year) mandated by SB 695 resulted in ***no increase for such rates*** in 2010 or in 2011 because the CALWORKS program has seen no benefit increases due to the state's budget

[8] DRA Opening Brief, at p. 2.
[9] Id., at p. 3.
[10] Ex. 1, Table 3-8 at p. 3-17.

problems (see PG&E AL 3762-E). PG&E has now proposed to add a new discounted $2.40 customer charge for CARE customers, a charge that will collect just a small fraction of the $7.75/month customer costs it incurs to serve each CARE customer. And it has proposed a new CARE Tier 3 rate of 12.5 cents, a modest 2.9 cent increase over the existing Tier 2 rate, with further, moderate 1.5 cent increases in each of 2012 and 2013. These proposals are not "drastic" by any measure. Rather, they are long over-due, they are to be implemented in measured steps over the full three-year rate case cycle, and they will leave CARE customers with a continuing very large discount from otherwise applicable rates.[11]

DRA and TURN would have the Commission take a different approach to address the problem of high rates for high-use residential customers. (We note that they view the problem not in terms of high rates for non-residential customers, who actually supply the bulk of the $700 million annual CARE subsidy transfer payment, but rather as an entirely intra-residential class issue.) Unfortunately, the DRA-TURN approach is either cynical and/or naive.

First, TURN complains that non-CARE residential rates have increased rapidly over the past six years, roughly twice as much as system average rates.[12] While that statement is technically correct, it is merely a function of the "broken" residential rate design which has exempted more than 75% of residential load from any rate increase. Thus, when the residential class as a whole is allocated its cost-based share of system revenue requirement increases, the impact on the non-CARE usage in excess of 130% of baseline is exaggerated. If more than 75% of residential load is exempt from any rate increases, the impact on the remaining 25% of the load obviously will be made more severe.

We also note that TURN is not very careful in making this argument and that, shifting its reference to the entire residential class, TURN states "it is critical to clarify that residential customers have been forced to bear a disproportionate burden of the rate increases occurring over the past 6 years." This statement is simply not true. TURN's Exhibit 44 only displays the impact

[11] 15.5 cents for CARE Tier 3 vs. 27.6 cents for non-CARE Tier 3.
[12] TURN Opening Brief at p. 3, citing Ex. 44.

on non-CARE usage, ignoring the frozen rate CARE usage which is very much a part of the residential class, more than 26% of its total load currently. Further, the TURN exhibit only displays results over the past six years, ignoring what happened before, during and immediately after the energy crisis. In fact, as Dr. Barkovich's *Comparison of Average Bundled Rates by Class 1996 to 2010* demonstrates, the residential class as a whole has experienced far smaller rate increases over time than either the system average or other customer classes, save Agriculture.[13] As a result of AB 1X and the CARE program, it was spared much of the pain of the energy crisis.

TURN is not being forthright when it asserts that the residential class has borne the larger part of the revenue requirement burden in recent years; in fact what the TURN exhibit shows is that a subset of the residential class, non-CARE usage above 130% of baseline, is experiencing larger than average rate increases as the Commission attempts to bring the class as a whole back to some semblance of cost of service. While the class is playing "catch up" at the expense of high-use residential customers, there remains a $500 million subsidy transfer payment from non-residential customers to the residential class.

DRA and TURN would have the Commission solve the high rate problem for usage in excess of 130% of baseline by allocating less of PG&E's overall revenue requirement to the residential class.[14] But this approach would simply increase through another, more direct, route the current unfair burden placed on non-residential customers, and both of these parties understand that very well. While it might aid high-use residential customers, it would not solve the problem facing industrial, agricultural, commercial and institutional customers who are currently forced to make these enormous subsidy transfer payments. The fact is that each customer class, including the residential class, should pay its own allocated cost of service, and

[13] Ex. 6, Table 1 at p. 2. Over that 15 year period, the average residential rate has increased by 39%, while the system average rate has increased by 54% and the E-20 industrial class average rate has increased by 86%.
[14] DRA Opening Brief at p. 2. TURN Opening Brief at pp, 3-4.

that no class should be required to pay rates well in excess of cost of service to subsidize another customer class.

DRA also suggests that the Commission do a better job of limiting PG&E revenue requirement increases. While we certainly agree with this suggestion, it really misses the point in the context of this discussion of residential rate design; the revenue requirement determined in Phase 1, or elsewhere, will be what it is and the problems of residential rate design will remain. The Commission has shown little restraint in recent years in approving utility requests for more money, and there is little reason to think that it will in the future. Whether it be a request for shareholder monetary incentives to spend ratepayer money on energy efficiency programs, or a proposal to build/buy 500 MW of solar PV generating facilities at an average lifetime cost of 28 cents/kWh, or the current exaggerated rate of return on equity that PG&E is afforded, the Commission has shown that it is more than willing to increase overall rates for a variety of purposes. Wishing that the overall revenue requirement will drop as we move forward with a host of new initiatives for RPS and GHG is simply naive, and it is quite unlikely to solve the problem of high rates for high-use residential customers and high CARE subsidies. We must address the "broken" residential rate design directly.

B. The TURN and DRA Legal Arguments Against PG&E's Proposal To Add A New Customer Charge Are Thoroughly Refuted by Edison's Opening Brief

Both TURN and DRA are vehement in their opposition to PG&E's proposal to add a new customer charge for CARE and non-CARE residential customers. Both parties argue that the provisions of SB 695 which limit the amount by which the rates for Tier 1 and 2 usage may be increased each year, also work to ban any introduction of a new customer charge.[15] They are wrong, and Edison has, in its Opening Brief, very carefully and quite comprehensively explained why and how they are wrong. While the Legislature placed strict limits on increases in *rates for usage,* it did not prohibit the introduction of a customer charge because a customer charge clearly is not a *rate for usage*. As Edison notes, would it make any sense at all for the Legislature to

[15] DRA Opening Brief at pp. 5-8, and TURN Opening Brief at pp. 4-14.

permit the Commission to approve increases in Edison's existing customer charge while prohibiting PG&E's attempt to introduce such a charge? CLECA and CMTA will not attempt here to replicate Edison's sound arguments; we will, however, heartily endorse them.

C. TURN's Legal Arguments Against The Implementation of CARE Tier 3 Increases in Years 2 and 3 Are Simply Wrong.

Much like its self-serving and strained interpretation of Section 739.9(a) and (b) used to support its opposition to PG&E's customer charge proposal, TURN proffers a rather tortured interpretation of other provisions of SB 695 concerning the establishment of the CARE Tier 3 rate and the limitations on its initial level. Specifically, it argues, on legal grounds, against the proposal for subsequent 1.5 cent increases to the CARE Tier 3 rate in 2012 and 2013.[16] In essence, TURN argues that even though the Legislature provided for a limit on both the initial level of the CARE Tier 3 rate and on the level of that rate following subsequent increases (thereby clearly indicating that it envisioned such subsequent increases), the absence of a specific statutory authorization to make such subsequent increases at specific intervals means that there can be no further increase in the rate until the next general rate case proceeding, three years hence.

TURN is saying that the "initial" CARE Tier 3 rate, once approved by the Commission, must remain in place for three years before it can be changed. This is simply wrong. The Commission has discretion to approve changes in rates from time to time; this is the very heart of its regulatory authority. Public Utilities Code, Chapter 3, Article 1, beginning with § 451 sets forth the Commission's comprehensive authority to assure that all charges for utility service are *just and reasonable,* and to approve changes in rates from time to time to assure that they are just and reasonable. The Commission does not need specific or express Legislative authorization, over and above these provisions, to approve changes in rates and, unless the Legislature has specifically forbidden such action, the Commission is free to act in years two and three to

[16] TURN Opening Brief, at p.15-17.

approve increases in the CARE Tier 3 rate. Furthermore, SB 695 does not impose the limitations claimed by TURN.

1. TURN's Selective Application of a Single Criteria to an Exaggerated Statement of PG&E's Proposal Should Be Rejected

P.U. Code § 739.1(b)(5) authorizes the establishment of a CARE Tier 3 rate for a utility, such as PG&E, that does not have such a rate. It limits the initial amount of such rate to no more than 150% of the CARE baseline rate, and it also limits the ultimate level of such rate, following further "phased in" increases, to no more than 80% of the non-CARE residential Tier 3 rate.

> Rates charged to CARE program participants shall not have more than three tiers. An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, ... , shall be phased in to 80 percent of the corresponding rates charged to residential customers not participating in the CARE program, ...
>
> For an electrical corporation that does not have a Tier 3 CARE rate that introduces a Tier 3 CARE rate, the initial rate shall be no more than 150 percent of the CARE baseline rate.

TURN argues that the "initial" rate at no more than 150% of the CARE baseline rate must remain in effect for the full duration of the general rate case cycle, or until 2014 in the case of PG&E. It states that any increase in the CARE Tier 3 rate in 2012 or 2013 would violate this 150% of CARE baseline rate criterion.[17] In other words, TURN states that the increased CARE Tier 3 rates in 2012 or 2013 would also have to be considered "initial" rates subject to the 150% limit. Its argument appears to be that because the legislation fails to specify when or how often the Tier 3 rate can be increased, we must conclude that it can only be increased once in each rate case cycle.

This is nonsense. TURN's argument fails to consider all the criteria for a utility implementing a new CARE Tier 3 rate and actually disregards the specific criterion that directly

[17] Even under TURN's tortured reasoning this does not follow because the CARE baseline rate can be increased in the intervening years per § 739.1(b)(2) thus allowing for an increase in the CARE Tier 3 rate even with the application of the purported 150% limit to subsequent changes in the CARE Tier 3 rate.

addresses permitted increases to a new CARE Tier 3 rate, specifically the second sentence of § 739.1(b)(5) stating that it "*shall be phased in to 80%...*". Instead, TURN only considers the criterion in the third sentence for the initial CARE Tier 3 rate: that the initial rate be capped at 150%,[18] and then misapplies that sole limit on the initial CARE Tier 3 rate to the permissible phased-in increases to the initial rate in years 2012 and 2013. TURN wrongly claims, "*the automatic increases proposed for 2012 and 2013 violate this section because the resulting rate would exceed the 150% cap for those years.*"[19] But that 150% limitation has no application to subsequent increases in the Tier 3 rate such as PG&E has proposed - they do not constitute the "initial rate".

TURN's selective reading of the statute renders surplusage the second sentence's criteria on phased increases (80% of the non-CARE tier 3 rate), in contradiction of long-standing rules of statutory construction. TURN utterly ignores the section of the statue permitting phased-in increases. As Edison explained in its opening brief, case law on statutory construction is clear: "*The words of a statute are to be construed in context, so that each of its provisions is given significance, surplusage is avoided, and the provisions harmonize.*"[20] To harmonize this statutory section (739.1(b)(5)), the 150% cap only applies to the initial rate, and not the phased-in increases that are permitted up to 80% of corresponding non-CARE residential rates. PG&E's proposal for the creation of a new CARE Tier 3 rate in 2011 is set at a level that does not exceed 150% cap, and the increases in the rate in years 2012 and 2013 will meet the specific criteria for phased increases set out in the first sentence of § 739.1(b)(5).

TURN compounds this error by applying its selective reading of the statute to a mischaracterization of PG&E's position. TURN alleges that PG&E "illogically assumes" that the

---

[18] TURN Opening Brief, at 15.

[19] Ibid.

[20] SCE Opening Brief at p. 17 (citing People ex rel. Dept. of Transp. V. Maldonado, (2011) 86 Cal.App.4th 1225, 1232; *see also* State Office of Inspector General v. Superior Court (2010) 189 Cal.App.4th 695, 2010 WL 3898237, (citing Arnett v. Dal Cielo, (1996) 14 Cal.4th 4, 22, 56 Cal.Rptr.2d 706).

CARE Tier 3 initial rate could be increased "only moments" after the rate is implemented.[21] This is not PG&E's proposal.[22] Nor is it PG&E's testimony.

> Question: "Isn't it possible, then, that PG&E could raise that Tier 3 CARE rate before an additional year passes?"
>
> Answer: "No, because we are applying here for an increase in 2011, followed by an increase in 2012, followed by an increase in 2013."[23]

PG&E's phased approach fully complies with the explicit statutory requirements for increases to a new CARE Tier 3 rate.[24] Those requirements do not include any limitation on the timing of subsequent phased-in increases in the CARE Tier 3 rate, leaving that question to the Commission's discretion under its general ratemaking authority. TURN's mischaracterization fails to reflect both the full criteria in the statute and the reality of PG&E's phased proposal and thus should be disregarded.

2. TURN's Overreaching Interpretation Based on a Single Sentence Should Be Rejected

TURN's position that the "*legislature has already specified the duration"* for the initial CARE Tier 3 rate - that is, a three year period until PG&E's 2014 General Rate Case[25] - is wishful overreaching. There is no indication in Section 739.1(b)(5) that the term "initial" means until the next rate case or that somehow the Commission's ratemaking authority was constrained to prohibit phased-in rate increases such as proposed by PG&E in this case. In contravention of the plain meaning rule, TURN disregards that fact that when SB 695 was enacted in 2009,

[21] TURN Opening Brief, at 16.
[22] PG&E's proposal for the CARE Tier 3 rate increases is clearly phased, with the first increase planned for 2012 and the second increase planned for 2013. CLECA/CMTA Opening Brief, at 15.
[23] 4 Tr. 836: 19-25 (Nov. 19, 2010) (PG&E/Quadrini).
[24] PU Code § 739.1(b)(5) (explicitly limiting the level, but not the timing, of CARE Tier 3 rate increases); *see also* 4 Tr. 834: 19-26 (Nov. 19, 2010) (PG&E/Quadrini) ("*(T)here was a limitation in the statute as to how high we could go [for the initial CARE Tier 3 rate]. And that would put us at 12.5 cents. But there was nothing in the statute to prohibit us beyond that except not to exceed 80 percent of the non-CARE Tier 3 rate less the DWR bond charge, the CSI adder and the CARE surcharge.*")
[25] TURN Opening Brief, at p. 16.

PG&E's "*next periodic general rate case review*" was ***this*** 2011 general rate case, not the 2014 general rate case. Indeed, the provision at the end of §739.1(b)(5) requiring the funds associated with the initial adoption of a new CARE Tier 3 rate to be retained within the residential class is applicable only until the "next periodic general rate case", i.e., *this* proceeding.

TURN's argument that the limit on the use of the incremental revenue resulting from the new CARE Tier 3 rate requires the retention of such funds within the residential class until the next proceeding in 2014 violates standard rules of statutory construction, which require harmonization of the entire statute. Rather than harmonization, TURN's interpretation would create a conflict between § 739.1(b)(5) and § 327(a)(7). The statutory time period relied upon by TURN in § 739.1(b)(5) refers to the time period for retention of additional revenue from the CARE Tier 3 in the residential class. If this time period is deemed to last until 2014, as TURN desires, then § 327(a)(7), requiring an equal cents per kilowatt-hour cost allocation of CARE costs to all customer classes, would be violated. This interpretation fails to harmonize the entire statute, and should be rejected. Indeed, when the CARE Tier 3 rate is increased in years 2 and 3, the increase may well result in a reduction in the differential between the CARE Tier 3 rate and the non-CARE Tier 3 rate, thereby reducing the CARE subsidy requirement. If and when that occurs, the subsidy payment must be reduced for all customers, both non-CARE residential and non-residential alike.

Finally, TURN wrongly asserts that use of a one-year time period for the initial CARE Tier 3 rate would be "arbitrary."[26] In jumping to this conclusion, TURN relies on the lack of references "*to this duration of time [one year] in the relevant subsection*".[27] TURN urges the Commission to apply 150% cap on a Tier 3 rate "*consistent with a reasonable reading of the entire section*."[28] Indeed, a reasonable reading of SB 695 reveals the legislature's clear

[26] TURN Opening Brief, at 16.
[27] *Ibid.*
[28] Id, at p. 17.

contemplation of yearly CARE rate increases and the use of one year time periods in connection with residential rates.[29]

- § 739.1(b)(2) "*the commission may …increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the* ***annual*** *percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal* ***year*** *in which the rate increase would take effect, but not to exceed 3 percent* ***per year****.*"
- § 739.9(a) "*The commission may … increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities … by the* ***annual*** *percentage change in the [CPI] from the prior* ***year*** *plus 1 percent, but not less than 3 percent and not more than 5 percent per* ***year****.*"

Use of a one-year time period would not be arbitrary. A reasonable reading of SB 695 supports PG&E's proposal. TURN's reading ignores the statute's multiple references to one-year time periods and annual residential rate increases, including CARE rate increases, and should be rejected. In any event, the Commission has ample discretion under its general regulatory authority to authorize rate changes on any schedule it chooses, and it makes changes once each year for each utility with regard to particular types of expenses, e.g., the annual AET filings, and it makes other changes from time to time as it deems necessary and appropriate. There is nothing in § 739.1(b)(5) limiting the *timing* of the Commission's approval of changes in CARE tier 3 rates, as opposed to the level of such rates.

III. CONCLUSION

For the reasons set forth above as well as in our opening brief, CLECA and CMTA urge the Commission to take the necessary steps to fix a badly broken residential rate design by adopting PG&E's residential rate design proposals, including its proposed customer charge, its proposed reduction in baseline percentage and its proposed Tier 3 rate structure with increases in

[29] SB 695's use of the year time period is not limited to rate increases; § 739.1.(b)(1) refers to "annual household incomes"; § 365.1(b) refers to an "annual limit" and "any sequential 12 month period"; § 745.(d)(3) refers to "one-year" period twice

2012and 2013. These proposed changes are necessary to make residential rates fairer and more equitable for both CARE and non-CARE customers, including non-residential customers who bear a substantial portion of the CARE subsidy.

Dated: January 10, 2011

Respectfully submitted,

/s/

Keith R. McCrea
Sutherland, Asbill and Brennan
1275 Pennsylvania Avenue
Washington, DC 20004
Tel: (202) 383-0705
Email: Keith.McCrea@sutherland.com

Counsel for CMTA

/s/

William H. Booth
Law Offices of William H. Booth
67 Carr Drive
Moraga, CA 94556
Tel: (925) 376-7370
Email: wbooth@booth-law.com

Counsel for CLECA

CERTIFICATE OF SERVICE

I, the undersigned, declare that I am employed in the County of Contra Costa, California, that I am over the age of eighteen years and not a party to the within action. My business address is 67 Carr Drive, Moraga, California 94556.

On January 10, 2011 I electronically served a true copy of the document described as **REPLY BRIEF OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION AND THE CALIFORNIA MANUFACTURERS AND TECHNOLOGY ASSOCIATION ON RESIDENTIAL RATE DESIGN ISSUES** attached hereto on the accompanying service list:

Executed on January 10, 2011 at Moraga, California.

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

/s/
Christine Dable
Legal Assistant to William H. Booth

SERVICE LIST
A.10-03-014

kmills@cfbf.com
keith.mccrea@sutherland.com
douglass@energyattorney.com
bruce.reed@sce.com
ccollins@co.kern.ca.us
kerntax@kerntaxpayers.org
pk@utilitycostmanagement.com
dbyers@landuselaw.com
sue.mara@rtoadvisors.com
nao@cpuc.ca.gov
rhd@cpuc.ca.gov
norman.furuta@navy.mil
matthew@turn.org
nes@a-klaw.com
gwen@votesolar.org
epoole@adplaw.com
jarmstrong@goodinmacbride.com
vidhyaprabhakaran@dwt.com
saw0@pge.com
wbooth@booth-law.com
kfox@keyesandfox.com
samk@greenlining.org
pucservice@dralegal.org
pucservice@dralegal.org
erasmussen@marinenergyauthority.org
wem@igc.org
cmkehrein@ems-ca.com
jim.metropulos@sierraclub.org
atrowbridge@daycartermurphy.com
mrw@mrwassoc.com
DWTCPUCDOCKETS@dwt.com
judypau@dwt.com
khojasteh.davoodi@navy.mil
larry.r.allen@navy.mil
jimross@r-c-s-inc.com
mbrubaker@consultbai.com
kjsimonsen@ems-ca.com
case.admin@sce.com
liddell@energyattorney.com
theresa.mueller@sfgov.org
thomas.long@sfgov.org
ethans@sunrunhome.com
mang@turn.org
bfinkelstein@turn.org
DSS8@pge.com
ELL5@pge.com
J4LR@pge.com

filings@a-klaw.com
kmsn@pge.com
LDRi@pge.com
cpuccases@pge.com
steven@moss.net
salleyoo@dwt.com
edwardoneill@dwt.com
jeffgray@dwt.com
cem@newsdata.com
rjl9@pge.com
regrelcpuccases@pge.com
jwiedman@keyesandfox.com
rschmidt@bartlewells.com
enriqueg@greenlining.org
tomb@crossborderenergy.com
sara@solaralliance.org
ed.mainland@sierraclub.org
wendy@econinsights.com
brbarkovich@earthlink.net
rmccann@umich.edu
kenneth.swain@navigantconsulting.com
andykatz@sonic.net
dgeis@dolphingroup.org
blaising@braunlegal.com
lmh@eslawfirm.com
regclfp@gmail.com
SGM@cpuc.ca.gov
cyc@cpuc.ca.gov
ctd@cpuc.ca.gov
crv@cpuc.ca.gov
dbp@cpuc.ca.gov
bsl@cpuc.ca.gov
dlf@cpuc.ca.gov
fvr@cpuc.ca.gov
jw2@cpuc.ca.gov
kkm@cpuc.ca.gov
lwt@cpuc.ca.gov
lmi@cpuc.ca.gov
mmg@cpuc.ca.gov
nb2@cpuc.ca.gov
rl4@cpuc.ca.gov
scr@cpuc.ca.gov
trp@cpuc.ca.gov
tcr@cpuc.ca.gov