

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

12-16-10
04:59 PM

Application of Pacific Gas and Electric
Company to Revise its Gas Rates and Tariffs to
be Effective July 1, 2010 (U39G)

Application 09-05-026
(Filed May 29, 2009)

**NOTICE OF EX PARTE COMMUNICATIONS OF
THE SCHOOL PROJECT FOR UTILITY RATE REDUCTION
AND TIGER NATURAL GAS**

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Date: December 16, 2010

Application of Pacific Gas and Electric
Company to Revise its Gas Rates and Tariffs to
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(Filed May 29, 2009)

**NOTICE OF EX PARTE COMMUNICATIONS OF
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AND TIGER NATURAL GAS**

In accordance with the provisions of Article 8 of the Commission's Rules of Practice and Procedure, the School Project for Utility Rate Reduction ("SPURR") and Tiger Natural Gas ("Tiger") jointly submit this notice of four ex parte discussions that took place with respect to the Proposed Decision (the "PD") of ALJ Wong at the office of the California Public Utilities Commission on December 13 and 14, 2010.

In each instance, the communication was initiated by SPURR and Tiger, who were represented by Michael Rochman, Managing Director of SPURR, and Ken Bohn, consultant for Tiger, respectively. In each instance, SPURR and Tiger communicated their concerns regarding the PD, as well as specific modifications to the PD to address those concerns, through meetings with policy advisors as specified below. First, the discussion reviewed concerns that the PD as drafted overstated the relevance of California Public Utilities Code ("Code") sections 328, 328.1, and 328.2 to the issues of cost allocation in this case. Second, the discussion reviewed concerns that the PD as drafted did not affirmatively require PG&E to produce an independent cost study that would permit the Commission to address cost allocation issues in a subsequent proceeding.

In each instance, the following documents were made available, copies of which are attached to this notice: (a) the text of Code sections 328, 328.1, and 328.2, (b) a comparison of bundled core and core transport accounts at April 1998 and April 2010, and (c) the joint Opening Comments of SPURR, Tiger, and ABAG Publicly Owned Energy Resources regarding the PD.

The following meetings with policy advisors are covered by this notice:

1. Robert Kinosian, Policy Advisor to Commissioner John Bohn. The meeting began at 10:55 AM PST on December 13, 2010, and lasted approximately 20 minutes.
2. Paul S. Phillips, Policy Advisor to Commissioner Timothy Alan Simon. The meeting began at 11:30 AM on December 13, 2010, and lasted approximately 25 minutes.
3. Scott Murtishaw, Policy Advisor to Commission President Michael Peevey. The meeting began at 12:55 PM PST on December 13, 2010, and lasted approximately 30 minutes.
4. Sepideh Khosrowjah, Chief of Staff to Commissioner Nancy E. Ryan. The meeting began at 1:30 PM PST on December 14, 2010, and lasted approximately 25 minutes.

Respectfully submitted,

December 16, 2010

/s/ MICHAEL ROCHMAN

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CERTIFICATE OF SERVICE

I hereby certify that I have served, this day, a copy of the foregoing –

**NOTICE OF EX PARTE COMMUNICATION OF
THE SCHOOL PROJECT FOR UTILITY RATE REDUCTION
AND TIGER NATURAL GAS**

via electronic mail to all parties on the service list for **A. 09-05-026** who have provided an electronic mail address and by first class mail, postage prepaid to any “Appearance” or “State Service” parties on the service list who have not provided an electronic mail address.

Executed December 16, 2010, at Concord, California.

/s/ MICHAEL ROCHMAN

Michael Rochman

VIA E-MAIL

Timothy Alan Simon
Assigned Commissioner
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John S. Wong
Administrative Law Judge
California Public Utilities Commission
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VIA E-MAIL

See attached service list

Service List for A.09-05-026, posted at

http://docs.cpuc.ca.gov/published/service_lists/A0905026_78405.htm

Last changed: November 24, 2010

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CALIFORNIA CODES
PUBLIC UTILITIES CODE
SECTION 328-328.2

328. The Legislature finds and declares both of the following:

(a) In order to ensure that all core customers of a gas corporation continue to receive safe basic gas service in a competitive market, each existing gas corporation should continue to provide this essential service.

(b) No customer should have to pay separate fees for utilizing services that protect public or customer safety.

328.1. As used in this chapter, the following terms have the following meanings:

(a) "Basic gas service" includes transmission, storage for reliability of service, and distribution of natural gas, purchasing natural gas on behalf of a customer, revenue cycle services, and after-meter services.

(b) "Revenue cycle services" means metering services, billing the customer, collection, and related customer services.

(c) "After-meter services" includes, but is not limited to, leak investigation, inspecting customer piping and appliances, carbon monoxide investigation, pilot relighting, and high bill investigation.

(d) "Metering services" includes, but is not limited to, gas meter installation, meter maintenance, meter testing, collecting and processing consumption data, and all related services associated with the meter.

328.2. The commission shall require each gas corporation to provide bundled basic gas service to all core customers in its service territory unless the customer chooses or contracts to have natural gas purchased and supplied by another entity. A public utility gas corporation shall continue to be the exclusive provider of revenue cycle services to all customers in its service territory, except that an entity purchasing and supplying natural gas under the commission's existing core aggregation program may perform billing and collection services for its customers under the same terms as currently authorized by the commission, and except that a supplier of natural gas to noncore customers may perform billing and collection for natural gas supply for its customers. The gas corporation shall continue to calculate its charges for services provided by that corporation. If the commission establishes credits to be provided by the gas corporation to core aggregation or noncore customers who obtain billing or collection services from entities other than the gas corporation, the credit shall be equal to the billing and collection services costs actually avoided by the gas corporation. The commission shall require the distribution rate to continue to include after-meter services.

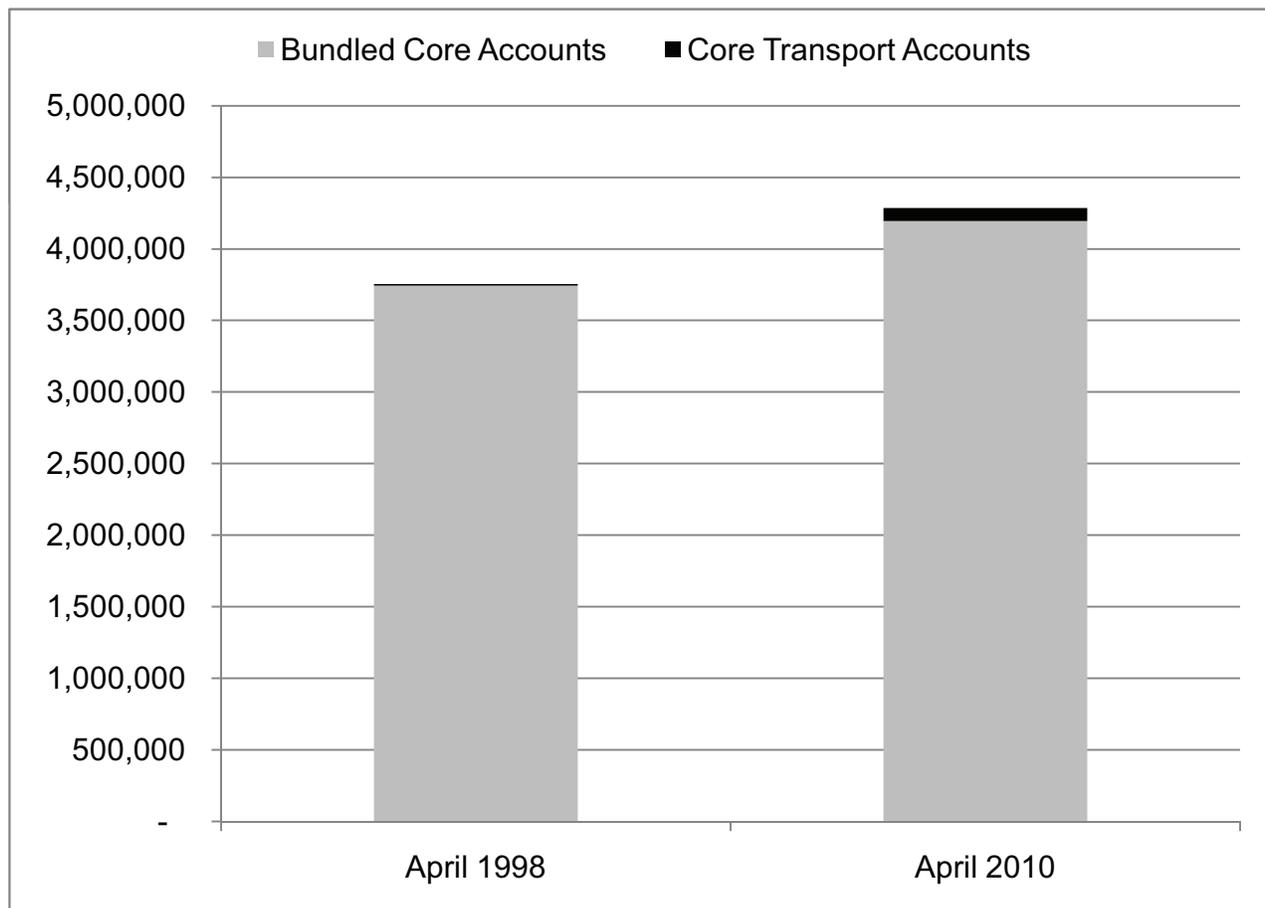
Comparison of bundled core and core transport accounts

Data Source: PG&E Data Response in PG&E 2009 BCAP, A. 09-05-026
 Witness: Dan McLafferty for PG&E
 Response Date: 7/16/2010

	<u>April 1998</u>	<u>April 2010</u>	<u>April 1998</u>	<u>April 2010</u>
Bundled Core Accounts	3,743,519	4,194,113	99.73%	97.87%
Core Transport Accounts	10,124	91,164	0.27%	2.13%
Total Core Accounts	3,753,643	4,285,277	100.00%	100.00%

Average Annual Change in Core Transport, 1998 to 2010

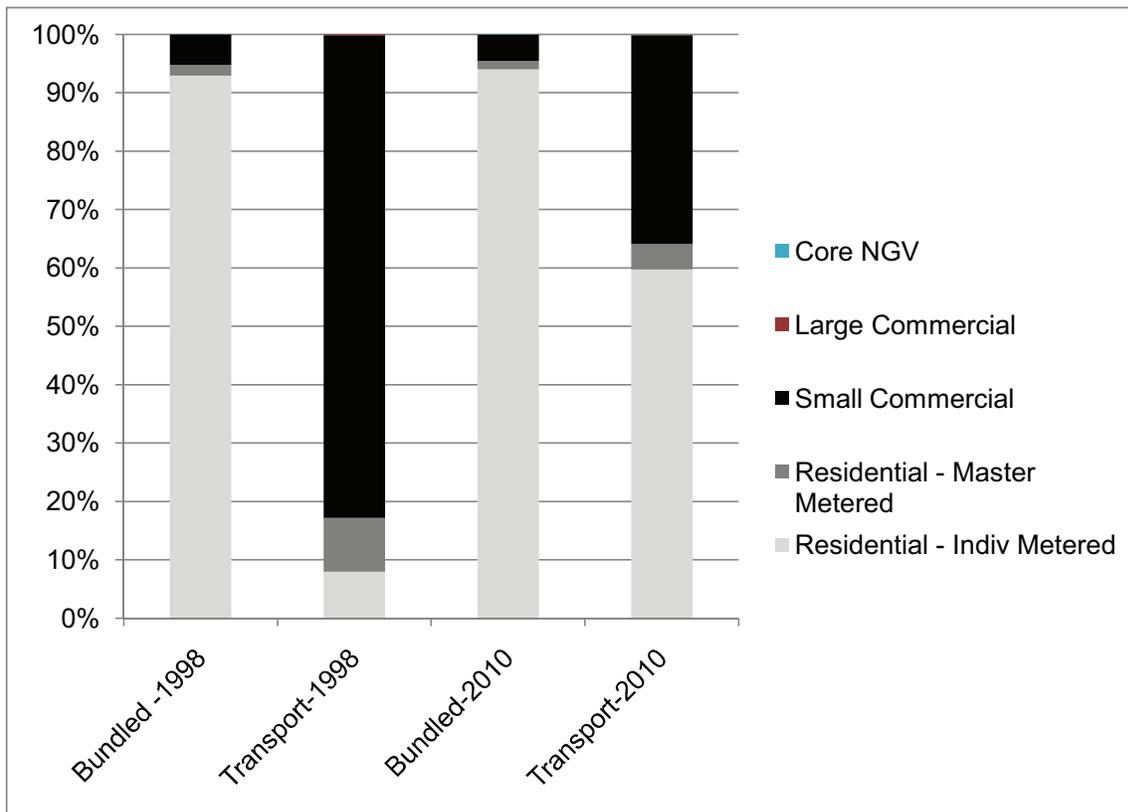
Number of Accounts 6,753
 Share of Total Core 0.15%



Composition of Bundled Core and Core Transport Accounts

Data Source: PG&E Data Response in PG&E 2009 BCAP, A. 09-05-026
 Witness: Dan McLafferty for PG&E
 Response Date: 7/16/2010

	<u>Bundled -1998</u>	<u>Transport-1998</u>	<u>Bundled-2010</u>	<u>Transport-2010</u>
Residential - Indiv Metered	3,479,921	806	3,943,797	54,452
Residential - Master Metered	67,896	935	58,773	4,001
Small Commercial	195,345	8,370	189,012	32,601
Large Commercial	93	13	128	90
Core NGV	264	-	2,403	20
	<hr/>	<hr/>	<hr/>	<hr/>
	3,743,519	10,124	4,194,113	91,164



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**OPENING COMMENTS OF
THE SCHOOL PROJECT FOR UTILITY RATE REDUCTION,
ABAG PUBLICLY OWNED ENERGY RESOURCES,
AND TIGER NATURAL GAS
ON PROPOSED DECISION OF ALJ WONG**

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Date: December 6, 2010

TABLE OF AUTHORITIES

Cases

Commission D.94-12-052 2, 3
Commission D.95-07-048 2, 3

Statutes

California Public Utilities Code 328.1 1, 2, 3
California Public Utilities Code 328.1(a)..... 2
California Public Utilities Code 328.1(b)..... 2
California Public Utilities Code 328.2 3

**OPENING COMMENTS OF
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ABAG PUBLICLY OWNED ENERGY RESOURCES,
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ON PROPOSED DECISION OF ALJ WONG**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the School Project for Utility Rate Reduction ("SPURR"), ABAG Publicly Owned Energy Resources ("ABAG POWER"), and Tiger Natural Gas ("Tiger"), jointly submit these Opening Comments on the Proposed Decision of ALJ Wong, filed on November 15, 2010 (the "PD"). SPURR, ABAG POWER, and Tiger are collectively called "SAT" in these Opening Comments.

SAT respectfully disagrees with many of the conclusions reached in the PD, for the reasons stated in our briefs. However, pursuant to Rule 14.3, we will restrict our Opening Comments to discussion of revisions to the PD that are necessary to avoid error.

The general theme of SAT's Opening Comments is that the PD should describe the evidence presented and the conclusions reached, and should not state assumptions or conclusions beyond what can be supported in the record. Specifically, the PD should restrict its holding to the facts at hand and should allow for flexibility to allocate costs as needed in the future, to ensure that rates are not unjust, unfair, or discriminatory if additional facts or circumstances come to light.

Also, the PD should state accurately the role of California Public Utilities Code ("Code") section 328.1 in this case. Since the code section does not mention cost allocation, it can be read as informative in the matter of cost allocation, but it cannot be read as compelling the Commission to adopt one cost allocation measure or another. Overstating the determinative effect of Code section 328.1 on this matter would be an error of law.

Finally, the PD should describe accurately the relief requested by SAT and the issue before the Commission. The issue in this BCAP is fair, just, and nondiscriminatory cost allocation, not service unbundling. In this case, SAT is not seeking any unbundling of services, only a proper allocation of PG&E's costs to provide retail commodity supply.¹ Unbundling puts

¹ As stated in SAT's Reply Brief, at page 4: "SAT does not contend that PG&E should cease providing after-meter services, such as leak investigations and pilot light relighting. SAT does not contend that customers should pay separately for after-meter
Footnote continued on next page

utility rate recoveries at risk. A proper cost allocation would not put PG&E's rate recovery at risk. If there was an under-recovery in one BCAP period, that could be rectified in a subsequent period.

Therefore, SAT requests the following revisions to the PD, to correct legal, technical, or factual errors.²

Revise PD Section 3.1 to delete a conclusory statement regarding the definition of the core brokerage fee. The definition of the core brokerage fee was at issue in this case. A statement that assumes the definition of the core brokerage fee that the Commission later adopts is inappropriate for a background discussion. Therefore, the text should be revised, as follows:

~~The core brokerage fee issue concerns the costs associated with the business functions that are necessary for procuring or purchasing natural gas for PG&E's core customers.~~ The core brokerage fee is one of five cost components which make up PG&E's Schedule G-CP. Schedule G-CP represents the charge that PG&E's bundled gas customers pay for gas procurement services.

Revise PD Section 3.1 to state accurately the effects of cost allocation and the respective positions of the parties. In fact, from the time of Gas Accord I to the present the core brokerage fee amount has been a negotiated number. The Commission had never ruled specifically on the cost elements that should be included in the core brokerage fee. Therefore, descriptive text should be revised as follows:

The core brokerage fee issue centers around what costs should be included within this fee. The core brokerage fee is a cost component of PG&E's Schedule G-CP. Schedule G-CP represents the gas procurement charges that PG&E's bundled core customers pay. As more costs are allocated to the core brokerage fee, ~~there is a corresponding decrease~~ fewer costs are allocated to the transportation rate. Thus, if more costs are allocated to the core brokerage fee,

services. SAT does not contend that PG&E should cease being the default provider of 'safe basis gas service' in its service territory. . . Nor does SAT contend that "revenue cycle services," as defined by Code section 328.1, should be further unbundled at this time. SAT is not arguing, for example, that customers should be allowed to opt out of PG&E metering services and receive a credit for that avoided cost. SAT is not arguing that customers should be allowed to opt out of PG&E billing for transportation services and receive a credit for that avoided cost. That would constitute unbundling. SAT is merely arguing that where PG&E bills for two services, transportation and commodity, there should be a fair allocation of costs between those two services and PG&E should not be able to bury the costs of commodity billing wholly within its monopoly recovery for transportation billing." (Emphases in original.)

² Strikethroughs represent proposed deletions and underlining represents proposed insertions.

the more competitive a competing gas supplier looks to a bundled core customer who is contemplating a switch. In this proceeding, SAT seeks to ~~broaden~~ establish the definition of the core brokerage fee to include billing, collection, and other costs, while PG&E seeks to ~~continue the same kind of~~ include only procurement-related costs ~~that have been included in the core brokerage fee in the past.~~

Revise a portion of PD Section 3.4.2, at page 13, to state accurately the holdings of prior Commission decisions, including decision text stating that the Commission adopted its position on a “preliminary” basis. Therefore, the text should be revised as follows:

It is apparent from the above review of past Commission decisions that the core brokerage fee has been deemed to represents the costs associated with gas procurement/purchasing, and not the costs associated with customer service fees such as billing and payment policies, meter reading, and safety inspections, at least on a “preliminary” basis, as stated in D.95-07-048.

Revise a portion of PD Section 3.4.2, at page 16, to state accurately the positions of the parties, as follows:

SAT argues that these three code sections may restrict unbundling of certain costs, but have no bearing on the core brokerage fee issue, SAT argues that the core brokerage fee issue is one of cost allocation, where total revenue recovery should remain the same and is not, as in the case of unbundling, subject to reduction. In contrast, while PG&E argues that these statutes restrict the Commission and the gas utilities from any allocation of such costs to the core brokerage fee ~~further unbundling of gas rates.~~

Revise a portion of PD Section 3.4.2, at page 17, to state accurately the positions of the parties and to define accurately the difference between cost allocation and the unbundling of services. Therefore, the text should be revised as follows:

As defined by § 328.1(a), the term “basic gas service” includes, among other things, “purchasing natural gas on behalf of a customer,” and “revenue cycle services.” “Revenue cycle services” are defined in § 328.1(b) to mean “metering services, billing the customer, collection, and related customer services.” It is clear from a reading of those two definitions that the Legislature

intended to distinguish between the purchasing/procurement of natural gas on behalf of a customer, and revenue cycle services such as billing and collection services. As noted earlier, D.94-12-052 and D.95-07-048 removed the core brokerage fee from the transportation rate and included it in the procurement rate. Although cost unbundling (where utility revenue requirements are at risk) is different from allocation (where utility revenue requirements are not at risk), the text of § 328.1(a) indicates that we must carefully consider cost allocations in this area.

SAT contends that the definition of the core brokerage fee is an allocation issue, which is different from an unbundling issue. SAT argues that where PG&E bills for two services, transportation and commodity, there should be a fair and nondiscriminatory allocation of costs between those two services. According to SAT, PG&E should not be able to allocate the costs of providing commodity supply wholly within the transportation rate. In contrast, where services are unbundled, customers may opt out of a utility service and the utility would have no opportunity to recover its costs for such services or offerings. For example, if unbundling of gas metering services were allowed (which it is not), then third parties could provide metering services and PG&E would be left with “stranded” metering systems. That is not the case here. Nothing in what SAT proposes would put PG&E’s revenue recovery at risk.

Revise a portion of PD Section 3.4.2, at page 17, to clarify that Code section 328.1, which does not mention cost allocation, may be informative in this case but it does not compel one cost allocation method or another. Code section 328.1 precludes unbundling of certain services, but that was never the issue in this case. SAT did not present any argument that services should be unbundled. The issue here is cost allocation. The Commission can reach its desired cost allocation result by properly citing to the Commission’s own prior holdings and to the facts presented in this case. Therefore, to accurately state the applicable facts and law in this case, the text should be revised as follows:

Although SAT seeks to include billing and collection costs, as well as other costs related to the provision of commodity gas supply to bundled customers, as part of the core brokerage fee, we decline at this time to allocate such costs out ~~it is clear from the discussion above that the core brokerage fee is made up of costs related to the procurement or purchasing of gas, and that billing~~

~~and collection costs are part of the transportation rate and cannot be unbundled into the core brokerage fee. The billing costs that SAT seeks to include into the core brokerage fee are not procurement-related costs, but instead are recurring costs that are associated with revenue cycle services, i.e., customer services fees. As noted earlier, § 328.1, D.94-12-052 and D.95-07-048 classify revenue cycle services or customer service fees as part of the transportation cost rather than as a procurement-related cost.~~

Revise a portion of PD Section 3.4.2, at page 18, to conform with prior changes, as follows:

We do not agree with SAT that the definition of the core brokerage fee should be expanded at this time. First of all, as discussed earlier, the prior Commission decisions ~~and § 328.1 (a)~~ clearly draw a distinction between procurement/purchasing-related costs and ~~revenue cycle or customer services~~. ~~These revenue cycle or customer services are included within the definition of basic gas service.~~ Second, §§ 328.1 and 328.2 make clear that billing, collection, and related customer services are part of the revenue cycle services, and that revenue cycle services are separate and distinct from the costs of procuring or purchasing gas. Since revenue cycle services, such as billing and collection, are distinct from the costs of procuring or the purchasing of gas, and the core brokerage fee is part of the costs of procuring or the purchasing of gas, the billing and collection costs should not be unbundled from revenue cycle services ~~and allocated to the core brokerage fee.~~

~~Nor are we persuaded by SAT's argument that do we have sufficient evidence at this time to declare that a subsidy will result from limiting the core brokerage fee to procurement-related costs, and having billing and collection costs remain as part of the transportation rate. ~~As we discussed earlier, the decisions and applicable code sections distinguish between revenue cycles services, such as billing and collection costs, and procurement-related costs. In addition, we agree with PG&E's point that as the default provider of revenue cycle services, its billing system must be ready to accommodate any customer who decides to return to PG&E for bundled core gas service.~~~~

Revise a portion of PD Section 3.4.2, at page 19, to instruct PG&E to conduct a cost study that would allow the Commission to have the necessary facts to determine whether costs can be allocated between procurement and transportation rates to avoid any unfair, unjust, or discriminatory effects on customers. Based on the PD, it appears that the ALJ has concluded that the record in this case was insufficient to support a determination that unfair, unjust, or discriminatory rates would result from adoption of the core brokerage fee either as proposed by PG&E or as modestly revised by the PD. However, it would be error to state that the Commission has had an opportunity to review all of the relevant facts that might support such a determination. PG&E has produced no evidence that its current or proposed cost allocation between transportation and procurement rates is fair, just, and nondiscriminatory as between bundled core customers and those who obtain commodity supply from non-PG&E sources. Therefore, so that the Commission can have the relevant facts available in the next PG&E BCAP, the text should be revised as follows:

Based on the above review of the applicable decisions, ~~code sections~~, and the arguments of PG&E and SAT, we decline to adopt SAT's proposal to include billing and other costs as part of the core brokerage fee. However, we will instruct PG&E to provide evidence in its next BCAP, in the form of an independent study, regarding all costs that are necessary for PG&E to provide commodity natural gas supply to core customers and the extent to which those costs could be allocated between transportation and procurement rates to ensure that there is no unfair, unjust, or discriminatory allocation between groups of core customers.

Revise a portion of Section 3.4.3, at page 19, for consistency with the foregoing, as follows:

As we discussed in section 3.4.2., the core brokerage fee excludes these kinds of billing and collection costs because they are not related to the cost of procuring or the purchasing of gas. Since the rates in Schedule G-ESP are directly related to ~~the revenue cycle services of~~ billing and collecting from customers, the use of Schedule G-ESP as a proxy for the core brokerage fee would be inappropriate. Accordingly, SAT's proposal to use an interim core brokerage fee of \$0.1347 per Dth until an independent study of the cost elements that are necessary to provide commodity gas supply on the PG&E system is completed, should not be adopted.

Revise a portion of PD Section 3.4.3, at pages 19 through 21, for consistency with the foregoing and to clarify that the Commission is setting the core brokerage fee in part to stimulate competition that will benefit core customers, as follows:

SAT's argument about PG&E's cost study is based on the cost functions that SAT believes "are necessary for PG&E to sell commodity gas to core customers..." However, as we discussed earlier, the core brokerage fee is has been held by the Commission to related to the ~~procurement~~ or purchasing of the gas supply, and not the cost functions that are used to "sell" or supply gas to customers. The types of costs that SAT seeks to include in the cost study are revenue cycle services that are separate and distinct from the ~~procurement~~/purchasing costs. Accordingly, we are not persuaded by SAT's argument that PG&E's cost study is deficient under existing Commission decisions.

We do, however, find some merit in SAT's argument that the purpose of the core brokerage fee is to facilitate competition between the utility and the competing gas suppliers. The amount of the core brokerage fee is a factor that gas customers consider in deciding whether to take gas service from competing gas suppliers or from PG&E. PG&E's recommended core brokerage fee of \$0.0188 per Dth is 41.25% lower than the current core brokerage fee of \$0.032 per Dth, and is lower than the \$0.024 per Dth core brokerage fee that was adopted in the first Gas Accord decision.

As stated in PG&E's Opening Brief in this matter, "there is no question that the purpose of the core brokerage fee is to facilitate competition between utilities and others who procure gas." (PG&E's Opening Brief, at page 4). Moreover, we are mindful that our responsibility is not to protect PG&E, or to protect non-utility suppliers, but to protect all ratepayers from unjust, unfair or discriminatory rates. There is no question that customers are benefitted by competition for their business.

In order to encourage competition between PG&E and competing gas suppliers, we recognize an appropriate balance must be reached in setting the core brokerage fee. If the core brokerage fee is set too low, this will act as a deterrent for customers to switch to a competing gas supplier. If the core brokerage fee is set too high, this will encourage gas customers to switch to a competing gas supplier.

As shown in Figure 1 in Exhibit 41 and in Exhibit 45, there has been an large increase in the number of large commercial customers, as well as other customer groups, that have switched to competing gas suppliers. The large commercial customers use large volumes of gas. During the four-year time period from January 2006 to January 2010, the gas volumes that larger customers who have migrated to competing gas supplier use has grown substantially. During this four-year period of time, the core brokerage fee was set at \$0.024 per Dth, and then increased to \$0.032 per Dth in January 2008.

The evidence presented in this case does not directly tie the level of the core brokerage fee to increased core purchasing from non-utility suppliers. However, it is reasonable to assume that the level of the core brokerage fee has some effect on customer choice.

Pursuant to Rule 14.3(b), SAT's requested revisions to the Findings of Fact, Conclusions of Law, and Ordering sections of the PD are attached to these Opening Comments in an Appendix. SAT respectfully requests that the Commission adopt the PD revisions set forth above and in the Appendix, to avoid legal, technical, or factual errors.

Respectfully submitted,

December 6, 2010

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APPENDIX

PROPOSED REVISIONS TO FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS

Findings of Fact

2. The core brokerage fee ~~issue concerns the costs associated with the business functions that are necessary for procuring or purchasing natural gas for PG&E's core customers, and is one of the five cost components which make up PG&E's Schedule G-CP.~~
3. As more costs are allocated to the core brokerage fee, there is a corresponding lower allocation to decrease in the transportation rate.
5. SAT seeks to ~~broaden the definition of~~ allocate to the core brokerage fee ~~to include~~ billing, collection, and other costs, while PG&E seeks to continue the same kind of procurement-related costs that have been included in the core brokerage fee to date ~~in the past~~.
7. The billing costs that SAT seeks to include into the core brokerage fee are not procurement-related costs, but instead are recurring costs that ~~are associated with revenue cycle services and~~ are part of the transportation rate.
8. On the evidence available to date, a subsidy will not result from limiting the core brokerage fee to procurement-related costs, and having billing and collection costs remain as part of the transportation rate.
14. To ensure that one group of ratepayers is not subsidizing any other group of ratepayers, we will require PG&E to commission an independent study of all costs that are necessary for PG&E to provide commodity natural gas supply to core customers and the extent to which those costs could be allocated between transportation and procurement rates to ensure that there is no unfair, unjust, or discriminatory allocation between groups of core customers.
15. The independent study should be conducted by someone with significant experience in energy sales to retail customers, should be completed prior to the commencement of PG&E's next BCAP, and should be entered into evidence, together with all supporting workpapers, in the next PG&E BCAP.

Conclusions of Law

1. Based on a review of past Commission decisions, the core brokerage fee represents the costs associated with gas ~~procurement/purchasing~~, and not the costs associated with customer service fees such as billing and payment policies, meter reading, and safety inspections.

Order

7. PG&E shall commission an independent study of all costs that are necessary for PG&E to provide commodity natural gas supply to core customers and the extent to which those costs

could be allocated between transportation and procurement rates to ensure that there is no unfair, unjust, or discriminatory allocation between groups of core customers. The study shall be conducted by someone with significant experience in energy sales to retail customers, shall be completed prior to the commencement of PG&E's next BCAP, and shall be entered into evidence, together with all supporting workpapers, in the next PG&E BCAP.