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Administrative Law Judge Thomas Pulsifer
California Public Utilities Commission
505 Van Ness Avenue,
San Francisco, CA 94102

Re: A. 10-03-014, PG&E 2011 GRC, Phase 2, Residential Rate Design

Dear Administrative Law Judge Pulsifer:

On behalf of Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE), we are writing to inform you that the January 10, 2011 reply brief of The Utility Reform Network (TURN) misstates (1) the legal positions advocated by PG&E and SCE related to the maximum customer charge allowed by law for CARE customers, and (2) the effect of a settlement agreement in a prior proceeding in which SCE withdrew a proposal to increase its existing residential customer charge. Because TURN's assertions and calculations of maximum customer charges for CARE customers that would far exceed the customer charges for non-CARE customers purportedly based on PG&E's and SCE's legal position were presented for the first time in TURN's reply brief, PG&E and SCE did not have the opportunity to correct TURN's misstatements. The purpose of this letter is to clarify the record to ensure that you and the Commission have a clear and accurate understanding of our position on these two issues.

In Section III.D at pages 10 - 12 of its reply brief, TURN argues for the first time that PG&E's and SCE's legal interpretations of Public Utilities Code §739.9(b) would allow the Commission to impose a CARE customer charge that is more than three times the level of the maximum non-CARE customer charge.[1/] Assuming that §739.9(b) applies to limit the sum of CARE Tier 1 and CARE customer charges, it has never been PG&E's or SCE's position that §739.9(b) is the ***only*** limit on the sum of CARE Tier 1 rates and CARE customer charges. For example, increases to CARE Tier 1 and Tier 2 rates are not only constrained by §739.1(b)(2), but are also limited by §739.1(b)(4) to no

1/ See TURN reply brief, pages 10 to 11, *e.g.,* "According to PG&E and SCE ***only*** § 739.9(b) limits the magnitude of customer charges that the Commission can approve," and that "PG&E's interpretation would allow a far higher customer charge for CARE customers than would be permitted for non-CARE customers."

more than 80 percent of the rates for non-CARE customers. In addition, §739.1(b)(1) requires the Commission to "ensure that the level of discount for low-income electric customers … correctly reflect the level of need," §739.1(g) states that "[i]t is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates …," and §382(b) requires the Commission to "ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures." Thus, both SCE and PG&E believe that a CARE customer charge equal to or more than three times the non-CARE customer charge would clearly be inconsistent with these statutes. PG&E's interpretation is reflected in its proposed customer charge for CARE customers of $2.40 per month, which is eighty percent of PG&E's proposed non-CARE customer charge. SCE's opening brief also indicated that the §739.9(b) limit on the non-CARE Tier 1 rate plus non-CARE customer charge "would always be reached before a comparable limit on CARE Tier 1 rates plus customer charges would be reached because the CARE rate is discounted from the non-CARE rate." (SCE opening brief, page 18.) This statement would not be true if the CARE customer charge could exceed the non-CARE customer charge. Thus, neither PG&E's nor SCE's interpretation that the Commission may increase or implement a customer charge provided any basis for TURN to assume a CARE customer charge could exceed a non-CARE customer charge as alleged by TURN in its reply brief.

In Section III.E, pages 12 to 13 of its reply brief, TURN inaccurately contends that the Commission decided that SCE could not increase its existing customer charge under the restrictions imposed by Water Code §80110 and that from 2001 through 2009, the Commission rejected any proposals to increase fixed customer charges. Citing page 5 of SCE's opening brief, TURN asserts that "SCE essentially acknowledges this fact [*i.e.*, that the Commission prohibited any increase to a customer charge from 2001 to 2009] by referencing the failed effort to increase its own customer charge in 2008 and the legal objections raised by TURN and DRA." (TURN reply brief, page 12.) In fact, the Commission did not reject SCE's proposed customer charge increase based on an interpretation of Water Code §80110 because SCE withdrew its customer charge proposal as part of a settlement agreement. TURN's witness testified that the Commission never decided whether SCE could increase its customer charge prior to the repeal of Water Code §80110 (Tr. 3/483:23-484:4) and that PG&E never made a proposal

to implement a customer charge after December 31, 2003 until it did so in this proceeding. (Tr. 3/483:17-22). Thus, contrary to TURN's reply brief, the Commission never rejected a utility proposal to increase or implement a customer charge after January 1, 2004 based on Water Code §80110.

Very truly yours,

_*/s/ Shirley Woo*_____
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Pacific Gas and Electric Company

*/s/ Bruce Reed*_____
Bruce Reed, Attorney
Southern California Edison Company

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Enclosure
cc: Parties of Record, A.10-03-014