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Decision 18-10-040 October 25, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company to Revise its Gas Rates and
Tariffs to be Effective October 1, 2018.
(U39G).

Application 17-09-006

**DECISION ADOPTING SETTLEMENT AGREEMENT ON RESIDENTIAL
BASELINE SEASON RESTRUCTURING**

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DECISION ADOPTING SETTLEMENT AGREEMENT ON RESIDENTIAL BASELINE SEASON RESTRUCTURING

Summary

This decision approves the unopposed Settlement on Residential Baseline Season Restructuring and adopts the agreed-to residential winter baseline months restructuring proposal presented in the Residential Baseline Season Restructuring Settlement Agreement attached hereto. The interim decision resolves only those issue(s) relating to the restructuring of the residential winter baseline months/season raised in the Application. Application 17-09-006 remains open.

1. Background

On September 14, 2017, Pacific Gas and Electric Company (PG&E) submitted Application (A.) 17-09-006, a gas cost allocation and rate design (GCAP) application to the California Public Utilities Commission (Commission), in order to revise its gas rates and tariffs. Specifically, PG&E's application, submitted pursuant to California Public Utilities Code (Pub. Util. Code) § 454¹ and Rule 3.2 of the Rules of Practice and Procedure (Rules), addresses revenue requirement allocation and rate design for PG&E's gas customers that are not decided in PG&E's separate Gas Transmission and Storage (GT&S) proceeding. PG&E requests new GCAP rates effective October 1, 2018 for the 36-month period from October 1, 2018 through September 30, 2021.

As relevant to this interim decision, in this Application, PG&E proposes a residential rate design aimed to reduce excessive bill volatility in monthly residential customer bills by modifying the winter season to the three peak

¹ All statutory references are to the California Public Utilities Code, unless otherwise indicated.

months of December, January and February, with the remaining nine months in a non-peak season.² As part of its application, PG&E also submitted written direct testimony of 12 witnesses in support of various proposals made in the application, including those relating to Residential Baseline Season Restructuring.

The Public Advocates Office of the Commission (Cal-PA),³ The Utility Reform Network (TURN), and Western Manufactured Housing Communities Association (WMA) timely protested PG&E's application;⁴ and the Small Business Utility Advocates (SBUA); the School Project for Utility Rate Reduction (SPURR) and Indicated Shippers all requested and were granted party status in this proceeding. Each of PG&E, Cal-PA, TURN, WMA, SBUA, and Indicated Shippers, on behalf of Chevron U.S.A., and CRC Marketing, Inc. (Indicated Shippers) is a party in this proceeding.

2. Procedural Background

2.1 Prehearing Conferences; Scope And Issues

2.1.1 The November 20, 2017 Prehearing Conference

On November 20, 2017 Administrative Law Judges (ALJ) Adeniyi A. Ayoade and ALJ Stephen C. Roscow held a prehearing conference in this proceeding. On January 26, 2018, the Scoping Memo and Ruling of Assigned

² Other proposals to reduce bill volatility includes: reducing the residential Tier 1 and Tier 2 bundled rate differential over time; increasing the minimum monthly transportation charge currently applicable to non-CARE residential customers; and adding a second tier to the minimum monthly transportation charge for high non-CARE residential users.

³ Formerly, Commission's Office of Ratepayer Advocates (commonly referred to as ORA). ORA was renamed "the Public Advocates Office of the Public Utilities Commission" pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

⁴ PG&E replied to the protests on November 6, 2017.

Commissioner and the ALJs (Scoping Memo) was issued, which identified the scope for the proceeding, and identified issues to be briefed and decided in this proceeding. As relevant to this interim decision, the following issue was identified as Issue 4 in the Scoping Memo:⁵

Should PG&E's proposals changing the residential winter baseline months to December, January and February, and placing the remaining months of the year in a non-peak baseline season be approved?⁶

At the November 20, 2017 prehearing conference, the parties were directed to discuss the relationship between the issues in this proceeding (particularly Issue 4 above) and the Commission's obligation to implement Senate Bill

⁵ Issue 4 has been slightly reframed for clarity, but it remains substantively the same as originally identified/presented in the Scoping Memo.

⁶ The other issues identified in the Scoping Memo are: (1) Should PG&E's proposal to adopt the 2015 GT&S gas throughput forecast be adopted for this GCAP; (2) Should PG&E be authorized to update its gas distribution throughput forecasts us throughput forecasts approved in future GT&S cases, on an on-going basis, via a Tier 2 advice letter filing; (3) Should PG&E be authorized to implement the cost allocation proposal set forth in its testimony, using embedded costs, or should another methodology be used to determine cost allocation; **(4) Above;** (5) Should PG&E's proposal to reduce the residential Tier 1 and Tier 2 bundled rate differential to 1.2 over four years be approved (6) Should PG&E's proposals regarding residential minimum transportation charges be adopted: (a) a residential minimum transportation charge of \$15 dollars for non-CARE customer basic service; and, (b) a higher super-peak minimum transportation charge of \$45 for non-CARE residential customers with daily peak usage of at least 15 therms; (7) Whether the residential and non-residential gas rates proposed and the expected rate and bill impacts that result from the implementation of PG&E's cost allocation and rate design proposals, and the cost allocation methodology itself, are just and reasonable, and if so, be adopted; (8) Should PG&E's proposal for the update to the core brokerage fee be approved; (9) Should PG&E's proposal to update the master meter discount and the master meter discount diversity benefit adjustment be approved; (10) Should PG&E's proposed natural gas vehicle compression rate be approved; (11) Should PG&E's proposed modifications to the allocation of energy efficiency (EE) program costs to customer classes be approved; (12) Should the allocation of Energy Savings Assistance program costs to the residential customer class be performed as a separate step from the allocation of EE costs to all customer classes; and (13) Should the Commission adopt PG&E's proposed schedule for submission of future GCAP applications?

(SB) 711, which was signed by the Governor in October 2017, after PG&E had filed this application.⁷ Among others, SB 711 requires the Commission to make efforts to minimize bill volatility for residential customers and authorizes the Commission to do this, either by modifying the length of baseline seasons or defining additional baseline seasons.⁸ Per SB 711, the Commission may review and/or revise (restructure) the baseline season during a utility's general rate case or other ratesetting proceeding.

Based on the parties' discussion of SB 711-related matters at the November 20, 2017 prehearing conference, PG&E agreed to look further into this matter – and assist parties and the Commission in identifying certain rate impacts of PG&E's residential rate design proposals in this proceeding that are relevant to SB 711.

As a result of the SB 711 discussion at the November 20, 2017 prehearing conference (PHC), PG&E agreed to determine the deadline by which it must have a final Commission decision in order to implement structural changes to

⁷ Stats. 2017, Ch. 467.

⁸ See § 739 (a) (1), which provides: "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 these commodities, except that, for residential gas customers and 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. In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios and may do so during the rate case or other ratesetting proceeding of a gas corporation or electrical corporation. **The commission shall make efforts to minimize bill volatility for residential customers, including all-electric residential customers. Those efforts may include modifying the length of the baseline seasons or defining additional baseline seasons.**" (Emphasis added.)

mitigate bill volatility for the upcoming 2018-2019 winter season. On November 29, 2017 PG&E reported that it anticipated requiring approximately 9 months in 2018 to implement the structural baseline changes proposed in this proceeding.

Thus, it was determined that a second prehearing conference would be held in order to discuss and consider the question of whether any of PG&E's residential rate design proposals, and particularly the residential winter baseline months restructuring, could be approved by the Commission on an interim basis and implemented in time to mitigate excessive bill volatility that could occur during the 2018-2019 winter season. Accordingly, the January 26, 2018 Scoping Memo scheduled a second prehearing conference in the proceeding to take place of February 7, 2018.

2.1.2 The February 7, 2018 Prehearing Conference

On February 7, 2018, a second PHC was held in this proceeding in order "to discuss whether any issues may be resolved by the Commission on an expedited basis so that the outcome may be implemented by PG&E prior to the 2018 winter heating season."⁹

At the February 7, 2018 second prehearing conference, the parties, the assigned ALJs and the assigned Commissioner discussed and considered options on how the Commission could adopt a proposal to implement the residential winter baseline months restructuring on an expedited basis (before other issues in this proceeding are resolved) in time to mitigate bill volatility for the 2018-2019 winter season. Despite the Commission's efforts and the efforts by the parties to reach a consensus on the best proposal to address the baseline season

⁹ See the January 26, 2018 Scoping Memo, at 1 (Summary).

restructuring that could be approved for implementation on an interim basis, the parties were unable to agree on a proposal at the February 7, 2018 second prehearing conference. On March 19, 2018, the Amended Scoping Memo and Ruling of the assigned Commissioner and the ALJs (Amended Scoping Memo) was issued, which adopted a new procedural schedule for this proceeding.

2.1.3 Public Workshop; Public Participation Hearings and Information Sessions; Evidentiary Hearings

As adopted in the March 19, 2018 Amended Scoping Memo, a public workshop was noticed and held in the proceeding on March 14, 2018 (in San Francisco, CA).

On June 26, 27 and 28, and July 10, 11, 16 and 17, 2018, Public Participation Hearings and Information Sessions were held in in the cities of Sacramento, Fresno, Bakersfield, Chico, San Francisco, San Jose, and Oakland, respectively, in order to obtain comments and feedback on the Application from PG&E's customers.¹⁰

Evidentiary hearings were held on July 23-26, 2018, in San Francisco, CA, and Testimony from PG&E, ORA, TURN, WMA, SBUA, and Indicated Shippers was received into the evidentiary record. Post hearing briefs are currently being filed, as scheduled.

3. Legal and Policy Framework

Section 451 provides that public utilities may demand and receive only just and reasonable charges, and must provide "adequate, efficient, just and reasonable service" in a way that promotes the "safety, health, comfort, and

¹⁰ See ALJ's May 29, 2018 "Ruling Setting Dates, Time and Venues for Public Participation Hearings and Information Sessions in Application 17-09-006."

convenience of [their] patrons, employees, and the public.” Section § 454 requires the Commission to review proposed rates changes, make a finding that they are justified, and authorize the proposed rates changes before they can take effect.

According to § 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 these commodities, except that, for residential gas customers and 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. “In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios and may do so during the rate case or other ratesetting proceeding of a gas corporation or electrical corporation. The commission shall make efforts to minimize bill volatility for residential customers, including all-electric residential customers. Those efforts may include modifying the length of the baseline seasons or defining additional baseline seasons.”¹¹

¹¹ In addition, “The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. In estimating those quantities, the commission shall take into account differentials in energy needs between customers whose residential energy needs are currently supplied by electricity alone or by both electricity and gas. The commission shall develop a separate baseline quantity for all-electric residential customers. For these purposes, “all-electric residential customers” are residential customers having electrical service only or whose space heating is provided by electricity, or both. The commission shall also take into account differentials in energy use by climatic zone and season.” (Pub. Util. Code § 739 (b))

Lastly, pursuant to Rule 12.1, parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties, but settlements in applications must be signed by the applicant. “Prior to signing any settlement, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing settlements in the proceeding. Notice of the date, time, and place shall be served on all parties at least seven (7) days in advance of the conference. . . .” Pursuant to Rule 12.1(d), “the Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.” Thus, in evaluating a settlement, the Commission is guided by Rule 12.1(d).¹² Generally, the parties’ evaluation carries material weight in the Commission’s review of a settlement.¹³

4. Proposed Residential Baseline Season Restructuring by PG&E

In PG&E’s opening testimony, submitted with its 2018 GCAP Application on September 14, 2017, PG&E proposed restructuring of the residential baseline seasons into a three-month winter (December, January, February) and nine-month non-winter season. In support of its proposal, PG&E offered in its testimony that along with its proposal to update throughput, “PG&E’s residential rate design proposals would improve the existing rate structure with

¹² Rule 12.1(d); *See also* D.07-05-060.

¹³ *In re Southern California Gas Co.* (1999) D.00-09-034, 2000 Cal. PUC LEXIS 694 at *31.

reduction of bill volatility for all customers as the primary goal,”¹⁴ and thus, PG&E has proposed changing the residential winter baseline months to December, January and February, and place the remaining months of the year in a non-peak baseline season, as part of its effort to reduce bill volatility.

In its testimony, Cal-PA agreed with PG&E’s three-month winter season, but added a third season with two non-consecutive winter months, November and March.¹⁵ In PG&E’s rebuttal testimony, PG&E attempted to address Cal-PA’s concerns and submitted a revised restructure proposal, containing: a two-month October and November season; a two-month December and January season; a two-month February and March season; and a six-month summer baseline (“non-peak”) season for the remaining months.¹⁶ TURN appeared to have no preference between Cal-PA’s proposal and PG&E’s rebuttal proposal, and took no position on the issue.¹⁷

During the evidentiary hearings, PG&E, Cal-PA and TURN witnesses discussed, and were cross-examined on, their testimony and/or position(s) on the Residential Baseline Season Restructuring.

¹⁴ PG&E’s Prepared Testimony dated September 14, 2017, Chapter 7, at 7-1; and 7-3.

¹⁵ See Cal-PA Exhibit: “ORA-5”, at 63, lines 28-31. In its testimony, Cal-PA argues that PG&E’s proposal for a 3-month Winter Baseline includes a companion proposal to shift both November and March into a new 9-month non-peak season which may have the unintended consequence of increasing the average Residential customer bill when all 12-months are combined. Thus, Cal-PA recommends that the creation of the 3-month peak winter baseline should be in tandem with the creation of a two-month off-peak winter season, as explained in section (f) of ORA-5.

¹⁶ See Exhibit PGE-3, p. 6/7/8, lines 7-11.

¹⁷ See *Hearing Transcripts*, at page 892, lines 20-24.

4.1. Energy Division's Alternative Residential Baseline Season Restructuring Proposal

During the evidentiary hearings,¹⁸ the Commission's Energy Division (ED) identified an Alternative Residential Baseline Season Restructuring proposal (ED Alternative Baseline Proposal), which was shared with the parties. As presented at the hearings, ED Alternative Baseline Proposal would restructure the current baseline season as follows:¹⁹

- December and January would be the Peak Winter Season with baseline allowances by climate zone calculated using the current 70% winter season factor.
- November, February, and March would be conceptually the Off-Peak Winter Season and calculated using the current 70% winter season factor for calculation of baseline allowances by climate zone.
- The Summer baseline season would remain April to October as currently defined and using the current 60% summer season factor for calculation of baseline allowances by climate zone.

At the hearings PG&E, Cal-PA and TURN representatives and/or witnesses agreed that ED Alternative Baseline Proposal appears reasonable,²⁰ and that the proposal may be acceptable to each.²¹ They all agreed to further evaluate ED Alternative Baseline Proposal for the proposed baseline restructuring.

¹⁸ Evidentiary hearings were held on July 23-26, 2018, in San Francisco, California.

¹⁹ Carlos Velasquez (Energy Division Analyst) presented the alternative Residential Winter Baseline Months Restructuring proposal during the evidentiary hearings on July 26, 2018. (*See Hearing Transcripts*, at 1153, line 11, through page 1156, line 24.

²⁰ *See Hearing Transcripts*, at 1159, line 1 - 28 (PG&E, Sokoloff).

²¹ *See Hearing Transcripts*, at 1162, line 4-28 (ORA, Pocta).

4.2. Baseline Season Settlement; Motion for Adoption of Settlement; and Motion for Expedited Interim Decision on Settlement

After the evidentiary hearings, the parties held a duly-noticed²² settlement conference on August 10, 2018 in accordance with Rule 12.1(b), which resulted in the execution of a “*Settlement Agreement in PG&E’s 2018 Gas Cost Allocation Proceeding (Application 17-09-006) on Residential Baseline Season Restructuring*” (Baseline Season Settlement)²³ resolving all issues relating to the restructuring of the residential winter baseline months presented in this Application.

On August 21, 2018, the Commission received a “*Joint Motion of Office of Ratepayer Advocates [ORA], The Utility Reform Network, and Pacific Gas and Electric Company For Adoption of Settlement Agreement on Residential Baseline Season Restructuring*” (Motion for Adoption of Baseline Settlement), together with a copy of the Baseline Season Settlement Agreement entered into by Cal-PA (formerly, ORA; See FN 3); TURN, and PG&E (the Settling Parties). Both the Baseline Season Settlement Agreement and the joint Motion for Adoption of Baseline Settlement are attached together as **Appendix 1**.

Concurrently with the joint Motion for Adoption of Baseline Settlement, on August 21, 2018, PG&E filed a Motion for an expedited interim Commission decision approving the Baseline Season Settlement (Motion for Expedited Decision). In its Motion for Expedited Decision, PG&E argues that time is of the

²² On August 3, 2018, PG&E filed with the Commission Notice of Settlement Conference, to be held on August 10, 2018, in compliance with Rule 12.1(b).

²³ In this decision the “*Settlement Agreement in PG&E’s 2018 Gas Cost Allocation Proceeding (A.17-09-006) on Residential Baseline Season Restructuring*” (Appendix 1), is interchangeably referred to as: the “*Settlement Agreement on Residential Baseline Season Restructuring*” or the “**Baseline Season Settlement.**” Each, and all, mean(s) one and the same.

essence, and that an expedited decision on the Residential Baseline Season Restructuring is required in order for PG&E to: build the necessary systems to implement the residential baseline season change/restructuring; adequately test changes to its systems before launching; and finally, be ready to apply the Baseline Season change to the bills of PG&E's 4.2 million gas customer accounts beginning November 1, 2019. PG&E argues that the Residential Baseline Season Restructuring could be implemented by November 1, 2019 for all residential customers, only if the Commission approves the Baseline Season Settlement in a decision no later than December 1, 2018. Therefore, PG&E requests an expedited decision approving the Baseline Settlement Agreement in November 2018.²⁴

5. Terms of the Baseline Season Restructuring Settlement²⁵

As specifically set forth in the Baseline Season Settlement, and based on mutual agreement of the Settling Parties, the parties agree to a resolution of the residential winter gas baseline months/season restructuring issue(s) raised in this Application, as described below:²⁶

²⁴ PG&E believes it would need to begin work in advance (as early as December 2018) in order to accommodate: (1) necessary IT work; (2) needed testing to make sure there are not major flaws in IT deployment; and (3) launching of the new residential baseline structure in time for November 1, 2019. (See Motion For Expedited Decision, at 1-2.)

²⁵ As noted above, the Settling Parties have agreed to the Commission's Energy Division' Alternative Residential Baseline Season Restructuring proposal, and have presented the same as the Baseline Season Settlement herein submitted to the Commission for approval, and/or adoption.

²⁶ If approved by the Commission, the current Residential Winter Gas Baseline Months/Season for PG&E's customers will be restructured and re-aligned according to these terms.

5.1. Agreed-to Residential Baseline Season Restructuring

The residential winter baseline months/season for the gas customers of Pacific Gas and Electric Company shall be restructured and/or modified as follows:

- i. **December and January** shall be the Peak Winter Season with baseline allowances by climate zone calculated using the current 70% winter season factor.²⁷
- ii. **November, February, and March** shall be the Off-Peak Winter Season and calculated using the current 70% winter season factor for calculation of baseline allowances by climate zone. PG&E may determine how best to refer to these non-consecutive off-peak months for purposes of communications with customers.
- iii. The Summer baseline season shall remain April to October as currently defined and using the current 60% summer season factor for calculation of baseline allowances by climate

5.2. Implementation of the Baseline Season Restructuring

The Residential Baseline Season Restructuring shall be implemented as follows:

- i. The residential gas baseline season structure (adopted herein) shall be implemented using the four-year customer usage history from PG&E's 2017 GRC [General Rate Case (GRC) Phase II that underlies the residential baseline allowance amounts approved in Decision (D.) 18-08-013.
- ii. Changes to residential baseline allowances pursuant to 2017 GRC Phase II decision, D.18-08-013, shall be deferred

²⁷ When used in this decision, a "season factor" (e.g. "winter season factor" or "summer season factor") is the "percentage" or "percentage factor" applicable to each month (and/or group of months) when determining/calculating baseline season allowances by climate zone, as established in Section 739 (a)(1).

- until the residential baseline season structure herein adopted goes into effect. Until the residential baseline season structure adopted herein is launched for customer billing, the current residential baseline allowances approved consistent with PG&E's 2014 Phase II decision shall remain in effect.²⁸
- iii. No later than 50 working days after a Commission decision in the 2018 GCAP that approves the residential baseline season structure described in this Baseline Season Settlement, PG&E will make a Tier 2 Advice Letter compliance filing with the Commission to provide the revised allowances by climate zone under the Baseline Season Settlement.
 - iv. PG&E will update the gas baseline allowances using the adopted settlement baseline season structure for more recent usage history in its 2020 GRC Phase II testimony.
 - v. After the 2020 GRC Phase II, the gas baseline allowances may be updated in subsequent GRC Phase II proceedings, and their successor proceedings, as long as the Baseline Season Settlement remains in effect.
 - vi. The Baseline Season Settlement shall remain in effect no less than five (5) winter seasons after the Commission decision approving it, unless the Commission or the California Legislature directs otherwise. Absent legislative or CPUC directive ordering an evaluation of gas baseline season structure, parties shall support the Baseline Season Settlement Structure for five winter seasons from the date of its submission with the Commission. This shall not preclude parties from making proposals to change baseline territory boundaries or the percentage factors applicable to

²⁸ On August 30, 2018, PG&E requested a deferment in the implementation of the gas residential baseline allowances approved in D.18-08-013 to take effect on November 1, 2018. In a September 17, 2018 letter by the Commission's Executive Director to PG&E, the Commission approved PG&E's deferment request, as requested herein.

- each month (and/or group of months) when determining baseline season allowances.
- vii. If the Commission or the California Legislature directs that residential baseline season structure, baseline allowances, and/or baseline territory definitions and/or boundaries should be reviewed, the Settling Parties may make proposals in light of those Commission or legislative developments, without regard to any time limitations contained in the Baseline Season Settlement. Nothing in the Baseline Season Settlement shall prevent a party from proposing changes to residential baseline seasons and percentage amounts for the period after the five winter seasons referenced in the Baseline Season Settlement.
 - viii. The Settling Parties agree that PG&E may file a motion for an expedited interim decision on the Baseline Season Settlement to obtain Commission approval in time to build, test and launch the necessary changes in PG&E's billing systems to implement the baseline season structure contained in the Baseline Season Settlement by November 1, 2019.

5.3. Other Terms and Agreements

Other than the above specific provisions in the Baseline Season Settlement, resolving the Residential Baseline Season Restructuring issues, the Settling Parties further agree to the following essential terms, among others:

- i. The Baseline Season Settlement shall be binding on the Settling Parties. Nothing contained in this Baseline Season Settlement shall be considered an admission of, acceptance of, agreement to, or endorsement of any disputed fact, principle, or position previously presented by any of the parties to A.17-09-006 on these matters.
- ii. No term in the Baseline Season Settlement shall constitute a precedent on the Commission, or regarding any principle or issue in any future proceeding.
- iii. The language and terms used in all the provisions of the Baseline Season Settlement shall be construed according to

- its fair meaning and any uncertainty or ambiguity in the Baseline Season Settlement shall not be construed or interpreted against any party on the basis that such party drafted or prepared the Baseline Season Settlement.
- iv. This Baseline Season Settlement may be amended or changed only by a written agreement signed by the Settling Parties.
 - v. The Settling Parties intend that the terms of the Baseline Season Settlement are to be interpreted and treated as a unified, integrated agreement. In the event that the Commission rejects or modifies any portion of this Baseline Season Settlement, the Settling Parties reserve their rights under CPUC Rule 12.4, and agree that the Baseline Season Settlement should not be admitted into evidence in this or any other proceeding.
 - vi. The Baseline Season Settlement shall resolve issue(s) relating to the restructuring of the residential winter baseline months/season raised in the Application.

6. Rule 12.1 and the Baseline Season Settlement

In this proceeding, the Settling Parties contend that the Baseline Season Settlement, set forth above, is reasonable in light of the whole record, consistent with law, and is in the public interest as further discussed below.²⁹ Thus they argue that the Baseline Season Settlement meets the requirements and/or standards under Rule 12.1(d), and accordingly, the Commission should approve and adopt the same without modification in full resolution of the residential winter baseline months/season restructuring issue presented in this proceeding.

²⁹ The Settling Parties contend that the Baseline Season Settlement is reasonable because the Settling Parties represent all active parties who submitted prepared or oral testimony on the baseline season restructuring issue resolved by the settlement. Parties to the proceeding that did not sign the Baseline Season Settlement were notified about the settlement talks through a notice of settlement conference served pursuant to Commission Rule 12.1(b) on August 3, 2018.

In support of their request for approval, the Settling Parties note that the Commission has a history of supporting settlement of disputes if they are, among other things, fair and reasonable in light of the whole record.³⁰ They point out that the “Commission favors settlements because they generally support worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results;”³¹ and that “this strong public policy favoring settlements weighs in favor of our [the Commission] resisting the temptation to alter the results of the negotiation process as long as a settlement taken as a whole is reasonable in light of the record, consistent with the law, and in the public interest it should be adopted.”³²

The Settling Parties contend that the ED Alternative Baseline Proposal, accepted herein and presented for approval as the Baseline Season Settlement and consensus proposal for addressing the residential winter gas baseline months/season restructuring raised in this Application “is responsive to the residential gas winter bill volatility issue (addressed in SB 711 and raised in this proceeding), and accordingly it is consistent with law. Further, the Settling

³⁰ Citing D.05-03-022, *mimeo*, at 7-8, citing D.88-12-083 (30 CPUC 2d 189, 221-223) and D.91-05-029 (40 CPUC 2d 301, 326).

³¹ Citing D.10-12-035, 2010 Cal PUC LEXIS 467 at *87; and *see* D.05-03-022, *mimeo*, at 8, citing D.92-12-019, 46 CPUC 2d 38, 553. *See also* D.10-12-051, 2010 Cal. PUC LEXIS 566 at *55 (Commission decisions “express the strong public policy favoring settlement of disputes if they are fair and reasonable”); D.10-11-035, 2010 Cal. PUC LEXIS 495 at *17 (the Commission’s longstanding policy favoring settlement...reduces litigation expenses, conserves scarce Commission resources...” and *see* D.10-11-011, 2010 Cal. PUC LEXIS 533 at *50 (“There is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation.”))

³² Citing D.05-03-022, at 8-9.

Parties contend that the Baseline Season Settlement, which resulted from a duly-noticed settlement conference on August 10, 2018, is in compliance with Rule 12.1(b) and is unopposed by any party,³³ and if approved, will benefit residential customers in several ways as specifically identified in the Baseline Season Settlement.³⁴ Finally, the Settling Parties contend that the testimony submitted in this proceeding, the Baseline Season Settlement Agreement, and the concurrent Motion for Adoption of Baseline Settlement contain sufficient information and evidence for the Commission to judge the reasonableness of the Baseline Season Settlement.

Accordingly, the Settling Parties argue that Baseline Season Settlement is reasonable in light of the whole record, consistent with law, and is in the public interest and it should be approved and adopted by the Commission without modifications.

6.1. Rule 12.1(d): Application and Discussion

The Settling Parties are correct in stating that, in evaluating a settlement, the Commission is guided by Rule 12.1(d), which requires that the settlement be reasonable in light of the whole record, consistent with law, and be in the public interest.³⁵ Generally, the parties' evaluation carries material weight in the Commission's review of a settlement.³⁶

³³ See, *Hearing Transcript*, at 1154-1156; also Motion for Adoption of Baseline Settlement, at 3, Section III; and the Baseline Season Settlement, at 3, Section XII.

³⁴ See relevant arguments/statements of specific benefits to customers in the Baseline Season Settlement Agreement (Appendix I), at 4-5.

³⁵ Rule 12.1(d); See also D.07-05-060.

³⁶ In re Southern California Gas Co. (1999) D.00-09-034, 2000 Cal. PUC LEXIS 694 at *31.

We agree that the Residential Baseline Season Restructuring Settlement Agreement (Baseline Season Settlement) presented herein for approval and adoption, is reasonable in light of the whole record, consistent with law, and is in the public interest, as further discussed below.

6.1.1. The Baseline Settlement is Reasonable in Light of the Whole Record and Consistent with Law

First, we find that the Baseline Season Settlement is reasonable in light of the whole record of this proceeding. The parties held a duly-noticed settlement conference on August 10, 2018, in compliance with Rule 12.1(b), which resulted in the execution of the Baseline Season Settlement herein. The notice of the date, time, and place of the settlement conference was served on August 3, 2018 in advance of the August 10, 2018 settlement conference, as required by with Rule 12.1(b). The notice of the settlement conference provided all parties with an opportunity to participate in the discussion of settlements in the proceeding. PG&E signed the Baseline Season Settlement, as required by Rule 12.1(a). We further find that Baseline Season Settlement addressed the requirement of § 739, and accordingly, based on this record, we find that the Baseline Season Settlement is consistent with law.

On August 21, 2018, the Commission received a joint Motion for Adoption of the Baseline Season Settlement from the Settling Parties. The Baseline Season Settlement resolves all issues relating to the restructuring of the residential winter baseline months presented in this Application. Finally, the Baseline Season Settlement was reached after significant discovery and data exchange between the parties, submission of testimony, evidentiary hearings, and examination of testimony and evidence. We find that the testimony submitted, the evidentiary hearings records and admitted exhibits, the submitted Baseline

Season Settlement Agreement, and the Settling Parties' Motion for Adoption of Baseline Settlement contain sufficient information and evidence for the Commission to judge the reasonableness of the Baseline Season Settlement.³⁷

6.1.2. The Baseline Settlement is in the Public Interest

The Baseline Season Settlement is in the public interest. In recent winters the Commission has observed that the dual tiered aspect of residential customers' gas bills - along with the current baseline usage levels (the amount of usage priced at the lower Tier 1 rate) in each of PG&E's climate zones - can increase customers' monthly bill volatility. This is especially true during unseasonably cold winters.

Accordingly, we agree that the Baseline Season Settlement presented herein represents a fair and helpful compromise for addressing the residential baseline restructuring issue(s) presented in this Application. The Baseline Season Settlement is a reasonable compromise of the Settling Parties' respective positions, and represents a reasonable balance of public interests on the issue of residential winter baseline restructuring. The Settlement provides residential customers with a winter baseline season structure that can better mitigate excessive bill volatility during the coldest winter months. In addition, the Baseline Season Settlement, if adopted by the Commission, avoids the time, expense and uncertainty associated with further litigating this issue(s).

³⁷ According to the Settling Parties: (1) prior to reaching the Baseline Season Settlement, the parties served testimony on the issue and conducted extensive discovery on the issue; (2) the Baseline Season Settlement was reached only after evaluations of different ideas and positions for restructuring the residential baseline seasons to address winter bill volatility through prepared and oral testimony, and considerable give-and-take between the parties; and (3) each Settling Party made significant concessions in its position on the issues in order to reach the Baseline Season Settlement - "a reasonable compromise of their litigation positions." (See, D.13-11-003, at 6-7; D. 13-07-0299, at 7-8; and D.13-12-045, at 10-11.)

The Baseline Season Settlement will benefit residential customers in several ways. First, the winter baseline season restructuring proposed herein isolates the two coldest months of December and January into a “Peak” Winter Season, and utilizes the historic December and January usage data to develop commensurately higher December and January baseline allowances. As such, increasing the baseline usage level in all of PG&E’s climate zones during the two coldest winter months (December and January), as proposed in the Baseline Season Settlement, should help address excessive natural gas bill volatility during these months.

Additionally, the Peak Winter Season baseline structure proposed herein does not include November, February or March with December and January (as in PG&E’s existing baseline structure) since the inclusion of these less-cold winter months into the baseline calculation decreases the resulting baseline allowances for December and January, which historically are the highest natural gas usage months in PG&E’s service territory.

Furthermore, combining the historical natural gas usage for November, February and March (while omitting December/January) provides customers with a more appropriate baseline allowances for the “off-peak” winter months, while still providing the necessary (and commensurate) protection from excessive bill volatility in the early and late winter heating season.

In short, the Baseline Season Settlement effectively provides a better baseline structure that affords the maximum, commensurate, baseline protection allowed by existing legislation throughout the entirety of winter.

7. Safety Considerations

We have considered the potential safety implications of the Settlement Agreement and are satisfied that the Residential Baseline Season Restructuring

approved in this decision will help PG&E meet the Commission's safety goals and expectations as a public utility that is required to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public," pursuant to Pub. Util. Code § 451.

8. Conclusion

We conclude that the Baseline Season Settlement is reasonable in light of the whole record, consistent with law (in compliance with Rule 12.1(b), applicable statutes, including § 739, and Commission precedent), and is in the public interest. While the Baseline Season Settlement is binding on the Settling Parties, it creates no precedent on the Commission, and it preserves the Commission's authority and jurisdiction over the Residential Winter Baseline Months Restructuring issue, and over the parties with regards to the interpretation, implementation and enforcement of the Baseline Season Settlement Agreement.

The Baseline Season Settlement provides sufficient information to enable the Commission to enforce its terms and discharge the Commission's future regulatory responsibilities with respect to the parties and interests in this proceeding. The Baseline Season Settlement does not contravene any statutory provisions or prior Commission decisions or precedent.

The Baseline Season Settlement fairly resolves the issue of Residential Winter Baseline Months Restructuring in this proceeding and complies with the requirements of Rule 12.1(d). Accordingly, we adopt the residential winter baseline months restructuring proposal (presented in the Residential Baseline Season Settlement attached hereto) in full resolution of the all issue(s) relating to

the residential winter baseline months/season restructuring raised in the Application. The Residential Baseline Season Settlement Agreement is adopted without modification.

9. Categorization and Need For Hearing

Resolution ALJ 176-3405, issued on September 28, 2017, preliminarily categorized this proceeding as ratesetting and determined that evidentiary hearings are required. Evidentiary hearings were held on July 23-26, 2018, in San Francisco, CA. This decision confirms the categorization, and determination that evidentiary hearings are needed.

10. Waiver of Public Review and Comment Period

This is an uncontested Motion to adopt the Settlement Agreement on Residential Baseline Season Restructuring, which is unopposed. The interim decision grants the relief requested by the parties, and adopts the agreed-to residential winter baseline months restructuring proposal presented in the Settlement Agreement. Pursuant to Section 311(g)(2) and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

11. Assignment of Proceeding

Clifford Rechtschaffen is the assigned commissioner, and Adeniyi A. Ayoade is the assigned ALJ to the proceeding.

Findings of Fact

1. The Parties engaged in significant data exchange, contests and analysis of each other's positions and arguments regarding PG&E's initial proposal to reduce excessive bill volatility in monthly residential customer bills by restructuring the residential winter baseline months into three peak months of December, January and February, with the remaining nine months in a non-peak season.

2. PG&E, Cal-PA and TURN (Settling Parties) represent all active parties who submitted prepared or oral testimony on the baseline season restructuring issue resolved by the settlement.

3. The Baseline Season Settlement resolves only issues relating to the restructuring of the residential winter baseline months/season raised in the Application.

4. No party has opposed the Baseline Season Settlement.

5. The Baseline Season Settlement is in the public interest, as it provides residential customers with a winter baseline season structure that can better mitigate excessive bill volatility during the coldest winter months, and a better baseline structure that affords the maximum, commensurate, baseline protection allowed by existing legislation throughout the entirety of winter.

6. Based on the foregoing discussion and analysis, it is reasonable to restructure PG&E's Residential Winter Baseline Months as provided and specifically set forth in the Baseline Season Settlement, and described in Section 5 above.

7. The Baseline Season Settlement includes needed information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

8. Approving the Baseline Season Settlement grants the relief requested by the Settling Parties, and this relief is not opposed by any party in this proceeding.

9. The Baseline Season Settlement is consistent with Commission's laws, prior decisions and precedent.

10. The Baseline Season Settlement is binding on the Settling Parties and creates no precedent on the Commission.

11. The Baseline Season Settlement preserves the Commission's authority and jurisdiction over the Residential Winter Baseline Months Restructuring issue.

Conclusions of Law

1. The Residential Baseline Season Restructuring Settlement Agreement (Baseline Season Settlement) presented herein for approval and adoption is consistent with law. It is in compliance with Rule 12.1, § 739, and/or Commission precedent.

2. The Baseline Season Settlement is in the public interest, and is reasonable in light of the whole record, as the Baseline Season Settlement fairly resolves the issue of Residential Winter Baseline Months Restructuring in this proceeding to the benefit of the public, and complies with the requirements of Rule 12.1(d).

3. The Settling Parties' joint Motion for Adoption of Baseline Settlement and the PG&E's Motion for Expedited Decision should be granted.

4. The Commission should approve the Baseline Season Settlement on Residential Baseline Season Restructuring (**Appendix 1**), and adopt the agreed-to and unopposed residential winter baseline months restructuring proposal as specifically presented in the Baseline Season Settlement, and ordered below.

ORDER

IT IS ORDERED that:

1. The August 21, 2018 Joint Motion of the Public Advocates Office of the Public Utilities Commission, The Utility Reform Network, and Pacific Gas and Electric Company For Adoption of Settlement Agreement on Residential Baseline Season Restructuring is granted pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure.

2. The "Settlement Agreement in PG&E's 2018 Gas Cost Allocation Proceeding (Application 17-09-006) on Residential Baseline Season

Restructuring” (Appendix 1), executed on August 20, 2018 by the Public Advocates Office of the Commission, The Utility Reform Network and Pacific Gas and Electric Company, is approved and adopted for the purpose of modifying and/or realigning the residential winter baseline months for the gas customers of Pacific Gas and Electric Company.

3. Pacific Gas and Electric Company (PG&E) must implement the Residential Winter Baseline Months Restructuring for its gas customers as follows:

- a. December and January shall be considered the Peak Winter Season. Baseline allowances during December and January shall be calculated using the historical average residential natural gas consumption for December and January in each of PG&E’s distinct climate zones and applying the 70% winter season factor to that specific two-month historical average; the resulting amount will be the new “Peak” Winter Season baseline, specific to the given climate zone. Seventy percent is the maximum winter season factor permitted in Public Utilities Code Section 739 (a)(1).
- b. November, February, and March shall be the Off-Peak Winter Season. Baseline allowances during November, February and March shall be calculated using the historical average residential natural gas consumption for November, February and March in each of PG&E’s distinct climate zones and applying the 70% winter season factor to that specific three-month historical average; the resulting amount will be the new “Off-Peak” Winter Season baseline, specific to the given climate zone. Seventy percent is the maximum winter season factor permitted in Public Utilities Code Section 739 (a)(1). Pacific Gas and Electric Company may determine how best to refer to these non-consecutive off-peak months for purposes of communications with customers.
- c. The Summer baseline season shall remain defined as occurring from April to October; baseline allowances for

each of PG&E's climate zone during these seven summer months shall be calculated using the current 60% summer season factor.

4. The Settlement Agreement on Residential Baseline Season Restructuring shall be implemented as provided in the Baseline Season Settlement and adopted herein.

5. No later than 50 working days after the effective date of this decision, Pacific Gas and Electric Company must make a Tier 2 Advice Letter compliance filing with the Commission to provide the revised allowances by climate zone under the Baseline Season Settlement.

6. The Baseline Season Settlement will remain in effect no less than five (5) winter seasons after the Commission decision approving it, unless otherwise directed by the Commission.

7. The Baseline Season Settlement is binding on the Settling Parties.

8. No term in the Baseline Season Settlement constitutes a precedent on the Commission, or regarding any principle or issue in any future proceeding.

9. The Baseline Season Settlement resolves all issue(s) relating to the restructuring of the residential winter baseline months/season raised in this Application.

10. The Commission retains exclusive jurisdiction over all issues related to this Baseline Season Settlement.

11. Application 17-09-006 remains open.

This order is effective today.

Dated October 25, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

Appendix 1

Consisting of:

The “Joint Motion of Office of Ratepayer Advocates, the Utility Reform Network, and Pacific Gas and Electric Company for Adoption of Settlement Agreement on Residential Baseline Season Restructuring;”

AND

The “Settlement Agreement in PG&E’s 2018 Gas Cost Allocation Proceeding (Application 17-09-006) On Residential Baseline Season Restructuring”