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

Application of Pacific Gas and Electric Company for Expedited Authorization to Change Residential Electric Rates Effective June 1, 2010, To Provide Summer 2010 Rate Relief for Households With Upper Tier Consumption.

Application 10-02-029

(U 39 E)

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY, THE
DIVISION OF RATEPAYER ADVOCATES, AND THE UTILITY
REFORM NETWORK FOR APPROVAL OF SETTLEMENT
AGREEMENT AND APPENDICES
(ATTACHED)**

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Dated: April 20, 2010

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(ATTACHED)**

Pursuant to Rule 12.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), Pacific Gas and Electric Company (PG&E), the Division of Ratepayer Advocates (DRA), and The Utility Reform Network (TURN) (the Settling Parties) submit this Motion to respectfully request that the Commission approve the “Settlement Agreement for Summer 2010 Rate Relief in PG&E’s Application (A.) 10-02-029” (Settlement Agreement), which is attached to this Motion as Appendix B. As described herein, the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest, and should therefore be adopted without modification. Due to the time sensitive nature of the relief provided under this all-party settlement, the Settling Parties are also separately seeking waiver of the comment period on this settlement motion and a shortened comment period on the resulting Proposed Decision (PD).

I. OVERVIEW OF SETTLEMENT AGREEMENT

In the summer of 2009, PG&E’s residential customers with significant upper-tier usage faced extremely high bills due to the confluence of higher Tier 4 and 5 rates and

sustained periods of high temperatures. PG&E filed this Application seeking to mitigate in the Summer of 2010 some of the impact that the higher Tier 4 and 5 rates had on higher-than-expected bills last summer, and proposed to lower Tier 4 and 5 rates by increasing Tier 3 rates. In separate protests, DRA and TURN objected to the proposed Tier 3 increases, among other things.

The Settlement Agreement provides rate relief this summer for non-California Alternate Rates for Energy (CARE) households with substantial upper tier electricity consumption.¹ This Settlement Agreement will result in lower bills for such households, including those in the Central Valley and elsewhere with large summer cooling demands during months with sustained periods of high temperatures. The Settlement Agreement should also help reduce month-to-month bill volatility for such customers. The Settlement Agreement achieves this outcome through modest rate increases for usage that falls into Tiers 3 and 4 (as compared to rates that would have gone into effect June 1, 2010, in the absence of this Application), and by allocating to the new combined Tier 4/5 the residential class's share of other revenue requirement reductions.

II. PROCEDURAL HISTORY

PG&E filed and served its Application in this proceeding on February 26, 2010. It filed a separate motion to shorten time, requesting that the allotted time for protests and responses be shortened from 30 to 20 days and that the allotted time for PG&E's reply be shortened from 10 to 5 days, so that a final decision could be voted on at the Commission's May 20, 2010 meeting to accommodate implementation of the requested rates, if approved, by June 1, 2010. Administrative Law Judge (ALJ) Barnett granted PG&E's motion to shorten time on March 4, 2010. DRA and TURN conducted discovery in the form of data requests, to which PG&E responded. DRA and TURN filed timely protests on March 23, 2010. PG&E filed reply comments March 29, 2010. ALJ

¹ This Settlement Agreement will have no effect on rates for CARE customers.

Barnett held a prehearing conference on April 1, 2010, and established the proceeding's scope and schedule.

Prior to filing the Application, PG&E, DRA and TURN met several times regarding the need to provide summer 2010 rate relief. Shortly after PG&E filed the Application, those meetings resumed and ultimately led to the agreement of all active parties on a reasonable outcome for this proceeding. When it became clear to the parties that a settlement of all disputed issues was probable, they advised ALJ Barnett of this development. On April 13, 2010, PG&E provided notice of a mandatory settlement conference to take place on April 20, 2010, pursuant to Rule 12.1(b). The parties filed this motion after that settlement conference.

III. SETTLEMENT TERMS

The Settlement Agreement provides that as of June 1, 2010, in conjunction with certain revenue reductions scheduled to go into effect that day,² Tier 3 rates on all non-CARE residential schedules will increase by one-half cent over March 1, 2010 levels. In particular, the Schedule E-1 Tier 3 rate, which as of March 1, 2010, is \$0.28562, will increase to \$0.29062, effective June 1, 2010. The Settlement Agreement further provides that PG&E shall consolidate Tiers 4 and 5 into a single tier and set the applicable Tier 4/5 rate at the level required to fully collect the remaining residential revenue requirement.³ As of March 1, 2010, the Schedule E-1 Tiers 4 and 5 rates are \$0.42482 and \$0.49778,

² In addition to this Application, PG&E has filed the following pleadings designed to reduce overall revenue requirements effective June 1, 2010: 1) a February 10, 2010 Petition to Modify D.08-12-004 to suspend California Solar Initiative (CSI) rates, adopted by the Commission in D.10-04-017; 2) Advice Letter 3625-E to accelerate generator settlement refunds, approved by the CPUC in a disposition letter dated March 30, 2010; 3) a Federal Energy Regulatory Commission (FERC) filing and Advice Letter 3633-E to accelerate the Transmission Owner (TO) 11 refund, approved by FERC in a letter dated April 16, 2010 in Docket ER-10-809-000 (CPUC notice Advice Letter 3633-E); and 4) a FERC settlement in the TO12 rate case, approved by FERC in an Order Granting Interim Rates issued April 8, 2010 in Docket ER-09-1521-000 (CPUC notice Advice Letter 3652-E).

³ The consolidated Tier 4/5 rate will be determined in a consistent manner across all non-CARE residential rate schedules, preserving any seasonal and time-of-use variation which currently exists.

respectively. The new consolidated Schedule E-1 Tier 4/5 rate, based on implementation of the June 1 revenue requirement reduction (and applying the residential class's share of that reduction to the Tier 4/5 consumption only), will be \$0.40029, representing almost a 2.5 cent decrease for Tier 4 and almost a 10 cent decrease for Tier 5 from March 1, 2010 levels.

Illustrative June 1, 2010 Schedule E-1 electric rates per kWh that are expected to result from the Settlement Agreement are as follows:⁴

Tier 1	\$0.11877
Tier 2	\$0.13502
Tier 3	\$0.29062
Tier 4/5	\$0.40029

The Settlement Agreement further provides that PG&E shall maintain the Schedule E-1 differential between Tier 3 and the new consolidated Tier 4/5 (e.g., \$0.10967 based on rates provided herein) when implementing revenue requirement increases or reductions after June 1, 2010, until the Commission issues a decision on other upper-tier mitigation efforts PG&E has proposed in Phase 2 of its 2011 General Rate Case (GRC), A. 10-03-014.⁵

Finally, should PG&E sponsor an advertising campaign to publicize the rates implemented pursuant to this Settlement Agreement, such paid media shall include the following disclosure: "For those customers seeing Tier 5 rate reductions, the reductions are funded by Tier 3 and 4 rate increases pursuant to rates approved by the CPUC."

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⁴ The rates as of June 1, 2010, are based on the estimated revenue requirement after inclusion of the revenue reductions reflected in footnote 2, above. In order to implement this change by June 1, 2010, PG&E will continue to display Tier 4 and 5 rates and usage separately on customer bills, and will continue to show Tier 4 and 5 rates separately in its tariffs. However, the Tier 4 and Tier 5 rates will be identical.

⁵ Once established, the Schedule E-1 fixed differential between the Tier 3 and the Tier 4/5 rates will be used consistently across all non-CARE residential rate schedules to set upper tier rates.

IV. THE COMMISSION SHOULD ADOPT THE SETTLEMENT AGREEMENT

A. Commission Policy Favors Settlements

The Commission has a history of supporting settlement of disputes if they are fair and reasonable in light of the whole record.⁶ This policy supports many 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.⁷ This strong public policy favoring settlements weighs in favor of 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.⁸

Each portion of the Settlement Agreement is dependent upon the other portions of the Settlement Agreement. Changes to one portion of the Settlement Agreement would alter the balance of interests and the mutually agreed upon compromises and outcomes contained in the Settlement Agreement. As such, the Settling Parties request that it be adopted as a whole by the Commission, without modification.

B. The Settlement Agreement Is An All-Party Settlement

To qualify as an all-party settlement, the sponsoring parties must show that a settlement meets the following four conditions:

1. It commands the unanimous sponsorship of all active parties to the proceeding;
2. The sponsoring parties fairly reflect the affected interests;
3. No term contravenes statutory provisions or prior Commission decisions; and

⁶ D.05-03-022, mimeo, pp. 7-8, citing D.88-12-083 (30 CPUC 2d 189, 221-223) and D.91-05-029 (40 CPUC 2d. 301, 326).

⁷ D.05-03-022, mimeo, p. 8, citing D.92-12-019, 46 CPUC 2d 538, 553.

⁸ See generally D.05-03-022, mimeo, pp. 7-12.

4. It conveys to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.⁹

The Settlement Agreement meets the first condition because the Settling Parties are all the active parties (*i.e.*, those parties submitting testimony or protests or appearing at the prehearing conference) in this proceeding. The Settlement Agreement meets the second condition because the Settling Parties fairly represent the interests of the parties affected by the Settlement Agreement, which directly involves only residential customers. DRA represents the interests of all utility customers, while TURN represents residential and small business utility customers. The Settlement Agreement meets the third condition because it is consistent with law.¹⁰ Finally, the Settlement Agreement meets the final condition because the record will contain PG&E's application and supporting testimony,¹¹ the protests of DRA and TURN, and the reply of PG&E, and because the Settlement Agreement describes the timing and manner of implementing the rate change.

C. The Settlement Is Reasonable In Light Of The Record, Consistent With Law, And In The Public Interest.

The Commission should adopt the Settlement Agreement because it represents a reasonable compromise of the parties' positions. As shown in the Comparison Exhibit attached as Appendix A and required under Rule 12.1(a), the rate changes resulting from the Settlement Agreement reflect movement from both the PG&E and the DRA and TURN litigation positions.¹²

⁹ D.05-03-032, p. 9, citing D.92-12-019, 46 CPUC 2d 538, 550-551 (1992); D.97-06-066, 1997 Cal PUC LEXIS 229, *19; D.96-09-037, 1996 Cal. PUC Lexis 904, p. 12; and D.96-07-057, 1996 Cal. PUC Lexis 809, p. 25.

¹⁰ DRA waives its objection that the rate structure modifications agreed to herein violate the spirit of the residential settlement approved in D.07-09-004.

¹¹ PG&E's testimony included two chapters. At the prehearing conference, PG&E withdrew Chapter 2, sponsored by Dr. Faruqui. Only Chapter 1 is necessary to support the settlement.

¹² DRA and TURN filed separate protests that addressed different reasons for rejecting PG&E's proposal, and proposed the same alternative rate change.

PG&E's Application sought to increase Tier 3 rates in order to achieve a five-cent tier differential between Tiers 3 and 4, and between Tiers 4 and 5. As illustrated in Table 1-4 of PG&E's prepared testimony, this approach would have increased the Tier 3 rate by approximately 4.3 cents, while reducing the Tier 4 and Tier 5 rates by 3.7 cents and 5.5 cents, respectively (as compared to January 1, 2010 rates).

DRA and TURN each objected to the adverse impact this approach would have on PG&E residential customers who reach Tier 3 levels of consumption, but not Tier 4 or 5. As an alternative, DRA and TURN proposed merging Tiers 4 and 5 into a single tier, with no increase to the Tier 3 rate.

The settlement proposes a reasonable compromise of these positions, as it provides relief to PG&E residential customers whose electricity use reaches levels that presently incur the Tier 5 rate, while limiting the rate increase to Tier 3 customers to one-half cent over current levels.

The Settlement complies with all applicable statutes and prior Commission decisions. By resolving the high tier rate issue raised in the Application, the Settlement Agreement saves the Commission and parties from the time, expense, and uncertainty associated with litigating this issue. For these reasons, the Settlement Agreement is in the public interest.

V. CONCLUSION

For the reasons set forth above, the Settling Parties respectfully request that the Commission:

1. Find that the attached Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest;
2. Adopt the Settlement Agreement without modification;

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3. Authorize PG&E to implement changes in non-CARE residential rates in accordance with the terms of the Settlement Agreement; and

4. Grant such other and further relief as may be just and proper.

Respectfully Submitted,

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SHIRLEY A. WOO

JONATHAN A. BROMSON

By: _____/s/
JONATHAN A. BROMSON

By: _____/s/
DEBORAH S. SHEFLER

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Attorney for
THE UTILITY REFORM NETWORK

Dated: April 20, 2010

APPENDIX A

APPENDIX B

APPENDIX B

SETTLEMENT AGREEMENT ON SUMMER 2010 RATE RELIEF IN PG&E'S APPLICATION 10-02-029

I. INTRODUCTION

In accordance with Rule 12 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), the parties to this Settlement Agreement (Settling Parties) agree on a mutually acceptable outcome to the summer 2010 rate relief issues in Application (A.) 10-02-029, Application Of Pacific Gas And Electric Company for Expedited Authorization to Change Residential Electric Rates Effective June 1, 2010, to Provide Summer 2010 Rate Relief for Households With Upper Tier Consumption (Application). The details of this Settlement Agreement are set forth herein.

II. SETTLING PARTIES

The Settling Parties, who represent all the active parties in this proceeding, are:

Division of Ratepayer Advocates (DRA)

Pacific Gas and Electric Company (PG&E)

The Utility Reform Network (TURN)

III. SETTLEMENT CONDITIONS

This Settlement Agreement resolves the contested issues raised in A.10-02-029 on summer 2010 rate relief for non-California Alternate Rates for Energy (CARE) residential customers with significant upper tier usage, subject to the conditions set forth below:

1) This Settlement Agreement embodies the entire understanding and agreement of the Settling Parties with respect to the matters described, and it supersedes prior oral or written agreements, principles, negotiations, statements, representations, or understandings among the Settling Parties with respect to those matters.

2) This Settlement Agreement represents a compromise among the Settling Parties' respective litigation positions, not agreement to or endorsement of disputed facts and law presented by the Settling Parties in this proceeding. This Settlement Agreement does not constitute precedent regarding any principle or issue in this proceeding or in any future proceeding.

3) The Settling Parties agree that this Settlement Agreement is reasonable in light of the testimony and protests submitted, consistent with law, and in the public interest.

4) The Settling Parties agree that no provision of this Settlement Agreement shall be construed against any Settling Party because that Settling Party or its counsel or advocate drafted the provision.

5) This Settlement Agreement may be amended or changed only by a written agreement signed by the Settling Parties.

6) The Settling Parties shall jointly request Commission approval of this Settlement Agreement and shall actively support its prompt approval. Active support shall include written and oral testimony if testimony is required, briefing if briefing is required, comments and reply comments on the proposed decision, advocacy to Commissioners and their advisors as needed, and other appropriate means as needed to obtain the requested approval.

7) The Settling Parties intend the Settlement Agreement to be interpreted and treated as a unified, integrated agreement. In the event the Commission rejects or modifies this Settlement Agreement, the Settling Parties reserve their rights under CPUC Rule 12.4.

IV. SETTLEMENT HISTORY

In the summer of 2009, PG&E's residential customers with substantial upper-tier usage faced extremely high bills due to the confluence of higher Tier 4 and 5 rates and sustained periods of high temperatures. PG&E filed Application (A.) 10-02-029 on

February 26, 2010, seeking to mitigate in the summer of 2010 some of the impact that the higher Tier 4 and 5 rates had on higher-than-expected bills last summer. PG&E proposed to lower Tier 4 and 5 rates by increasing Tier 3 rates. It filed a separate motion to shorten time, requesting that the allotted time for protests, responses and reply be shortened so that a final decision could be voted on at the Commission's May 20, 2010, meeting, to accommodate implementation of the requested rates, if approved, by June 1, 2010. Administrative Law Judge (ALJ) Barnett granted PG&E's motion to shorten time on March 4, 2010. DRA and TURN conducted discovery in the form of data requests, to which PG&E responded. DRA and TURN filed timely protests on March 23, 2010, objecting to the proposed Tier 3 increases, among other things. PG&E filed reply comments March 29, 2010. ALJ Barnett held a prehearing conference on April 1, 2010, and established the proceeding's scope and schedule.

On several occasions before and after filing the Application, PG&E met with DRA and TURN regarding the need to provide summer 2010 rate relief. Those meetings ultimately led to the agreement of all active parties on a reasonable outcome for this proceeding. When it became clear to the parties that a settlement of all disputed issues was probable, they advised ALJ Barnett of this development. On April 13, 2010, PG&E provided notice of a mandatory settlement conference to take place on April 20, 2010, pursuant to Rule 12.1(b). The parties filed their motion for approval of the settlement after that settlement conference.

V. SETTLEMENT TERMS

The Settlement Agreement provides rate relief for summer 2010 for non-California Alternate Rates for Energy (CARE) households with substantial upper tier electricity consumption. This Settlement Agreement will result in lower bills for such households, including those in the Central Valley and elsewhere with large summer cooling demands during months with sustained periods of high temperatures. The Settlement Agreement should also help reduce month-to-month bill volatility for such

customers. The Settlement Agreement achieves this outcome through modest rate increases for usage that falls into Tiers 3 and 4 (as compared to rates that would have gone into effect June 1, 2010, in the absence of A. 10-02-029) and by allocating to the new combined Tier 4/5 the residential class's share of other revenue requirement reductions.

The settlement terms are as follows:

1) As of June 1, 2010, in conjunction with certain revenue reductions scheduled to go into effect that day,¹³ Tier 3 rates on all non-CARE residential rate schedules will be set one-half cent higher than the currently effective rate levels filed in Advice 3603-E-A, which went into effect March 1, 2010.

2) Tiers 4 and 5 will be consolidated into a single tier and the applicable Tier 4/5 rate will be set at the level required to fully collect the remaining residential revenue requirement. As of March 1, 2010, the Schedule E-1 Tiers 4 and 5 rates are \$0.42482 and \$0.49778, respectively. With implementation of all revenue reductions requested by PG&E for June 1, 2010, and applying the residential class's share of that reduction to the Tier 4/5 consumption only, the Schedule E-1 Tier 3 rate will be \$0.29062, and the new Schedule E-1 Tier 4/5 rate will be \$0.40029, representing almost a 2.5 cent decrease for Tier 4 and almost a 10 cent decrease for Tier 5 from March 1, 2010, levels.

3) Illustrative June 1, 2010 Schedule E-1 electric rates per kWh that are expected to result from the Settlement Agreement are as follows:

¹³ In addition to this Application, PG&E has filed the following pleadings designed to reduce overall revenue requirements effective June 1, 2010: 1) a February 10, 2010 Petition to Modify D.08-12-004 to suspend California Solar Initiative (CSI) rates, adopted by the Commission in D.10-04-017; 2) Advice Letter 3625-E to accelerate generator settlement refunds, approved by the CPUC in a disposition letter dated March 30, 2010; 3) a Federal Energy Regulatory Commission (FERC) filing and Advice Letter 3633-E to accelerate the Transmission Owner (TO) 11 refund, approved by FERC in a letter dated April 16, 2010 in Docket ER-10-809-000 (CPUC notice Advice Letter 3633-E); and 4) a FERC settlement in the TO12 rate case, approved by FERC in an Order Granting Interim Rates issued April 8, 2010 in Docket ER-09-1521-000 (CPUC notice Advice Letter 3652-E).

Tier 1	\$0.11877
Tier 2	\$0.13502
Tier 3	\$0.29062
Tier 4/5 ¹⁴	\$0.40029

4) The parties intend that these new rates be effective June 1, 2010.

5) In case of any increases or reductions in revenue requirements after June 1, 2010, PG&E shall maintain the Schedule E-1 differential (e.g., \$0.10967 based on rates provided herein) between Tier 3 and the new consolidated Tier 4/5 until the Commission issues a decision on other upper-tier mitigation efforts PG&E has proposed in Phase 2 of its 2011 General Rate Case (GRC), A. 10-03-014, and those approved rates are implemented.

6) Should PG&E sponsor an advertising campaign to publicize the rates implemented pursuant to this Settlement Agreement, such paid media shall include the following disclosure: “For those customers seeing Tier 5 rate reductions, the reductions are funded by Tier 3 and 4 rate increases pursuant to rates approved by the CPUC.”

VI. SETTLEMENT EXECUTION

This document may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Settlement Agreement shall become effective among the Settling Parties on the date the last Settling Party executes the Settlement Agreement, as indicated below. In witness whereof, intending to be legally bound, the Settling Parties hereto have duly executed this Settlement Agreement on behalf of the Settling Parties they represent.

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¹⁴ In order to implement this change by June 1, 2010, PG&E will continue to display Tier 4 and 5 rates and usage separately on customer bills, and will continue to show Tier 4 and 5 rates separately in its tariffs. However, the Tier 4 and Tier 5 rates will be identical.

The undersigned represent that they are authorized to sign on behalf of the Party represented.

PACIFIC GAS AND ELECTRIC COMPANY

By: _____ /s/
THOMAS E. BOTTORFF
Senior Vice President

Dated: April 20, 2010

THE UTILITY REFORM NETWORK

By: _____ /s/
ROBERT FINKELSTEIN
Legal Director

Dated: April 20, 2010

DIVISION OF RATEPAYER ADVOCATES

By: _____ /s/
DANA S. APPLING
Director

Dated: April 20, 2010

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is 77 Beale Street, San Francisco, California 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On April 20, 2010, I served a true copy of:

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY,
THE DIVISION OF RATEPAYER ADVOCATES, AND
THE UTILITY REFORM NETWORK FOR APPROVAL
OF SETTLEMENT AGREEMENT AND APPENDICES
(ATTACHED)**

By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for **A.10-02-029** with an email address.

By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for **A.10-02-029** without an e-mail address.

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

Executed in San Francisco, California on April 20, 2010.

/s/
ANNABEL STRIPLIN

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Last Updated: April 19, 2010

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