

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**12-07-09
03:25 PM

December 7, 2009

Agenda ID # 9103
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 09-10-013 ET AL.

This is the proposed decision of Administrative Law Judge (ALJ) Pulsifer. It will appear on the Commission's December 17, 2009 agenda. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Pursuant to Rule 14.6, comments on the proposed decision must be filed within 7 days of its mailing and no reply comments will be accepted.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Pulsifer at trp@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ MICHELLE COOKE for
Karen V. Clopton, Chief
Administrative Law Judge

KVC:gd2

Attachment

Decision **PROPOSED DECISION OF ALJ PULSIFER** (Mailed 12/7/2009)

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 January 1, 2010, as Permitted by Newly Enacted Public Utilities Code Section 739.9. (U39E)

Application 09-10-013
(Filed October 14, 2009)

And Related Matters.

Application 09-10-014
Application 09-10-015

**DECISION REGARDING THE RESIDENTIAL ELECTRIC RATE
ADJUSTMENTS PURSUANT TO PUBLIC UTILITIES CODE SECTION 739.9**

1. Introduction

This decision authorizes rate adjustments pursuant to Public Utilities Code Section 739.9 for Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), as prescribed below. Each of the three utilities are authorized to implement residential rate changes effective on January 1, 2010 under provisions of Senate Bill (SB) 695 (Stats. 2009, Ch.337), by the amounts requested in their respective applications. The utilities are authorized to propose future annual changes to residential rates pursuant to this statute by filing Tier 2 advice letters no later than November 15 of the year prior to when the rates are to change. The authorized rate adjustments will have no effect on the overall level of revenues

collected by each of the utilities, but will result in either increases or decreases in the monthly bill to individual residential customers depending upon the amount of electricity they consume.

Residential electric rates are designed in a five-tiered structure based on the customer's quantity of electricity usage. Within prescribed usage tiers, the amount of electricity consumed is priced at increasing per-unit rates. Under current rate structures, customers with the lowest consumption (defined as Tier 1 and 2) pay the lowest per-unit rates. Customers consuming larger amounts of electricity pay correspondingly higher per-unit rates for the additional usage, as prescribed by the higher per-unit rates applicable to the higher tiers. This decision does not alter that fundamental relationship. It does, however, address an anomalous situation in which certain rates were constrained from adjustment irrespective of changes in costs of energy over time.

Since February 2001, retail electric residential rates for Tiers 1 and 2 (for usage up to 130% of baseline quantities) have, with one exception, remained capped under statutory restrictions.¹ These restrictions were imposed in response to the energy crisis of 2000-2001 which led to extraordinary wholesale power cost increases. On February 1, 2001, Assembly Bill 1 from the First Extraordinary Session (Ch. 4, First Extraordinary Session 2001) (AB1X) was signed into law, implementing various measures to address the energy crisis. Among other measures, AB1X required the California Department of Water

¹ SB 1, which established the California Solar Initiative (CSI) program, specifically allowed costs to be allocated to non-CARE Residential customers' Tier 1 and Tier 2 usage. See Public Utilities Code Section 2851(d)(2).

Resources (DWR) to step in to procure electric power supplies for California residential ratepayers to ensure the continued reliability of electric retail service.

AB1X also imposed a rate cap on residential rates for usage less than 130% of baseline quantities (defined as Tier 1 and 2). Tier 1 applies to usage up to a customer's "baseline", that is, the level deemed necessary to supply a significant portion of the reasonable energy needs of the average residential customer. Tier 2 applies to usage between the baseline and 130% of that amount.

Pursuant to AB 1X, the rate cap for Tier 1 and 2 was to continue until the DWR recovered its costs to procure power on behalf of the state's electricity consumers, expected to take several years. Yet, during this period, the utilities' overall operating and capital costs have continued to increase, resulting in significant increases in their utility revenue requirements. Since the Tier 1 and 2 rate cap has remained in effect since 2001 (nearly 9 full years), all subsequent revenue requirement increases assigned to residential customers have applied only to usage in Rate Tiers 3, 4, and 5 (which account for only about 30% of total residential usage). Consequently, the Tier 1 and 2 rate restrictions have resulted in an increasing disparity between rates paid by low-usage customers in Tier 1 and 2 and rates paid by higher usage customers in Tiers 3, 4, and 5.

As an example, the table below shows how PG&E's rates applicable to bundled service customers on Schedule E-1, its predominant non-CARE residential rate schedule, have changed since February 2001.

Rates Applicable to PG&E Bundled Service Customers on Schedule E-1
(cents per kilowatt-hour)

Tier	February 2001 ²	June 2001 ³	December 2009	Proposed by PG&E in A.09-10-013
1. (0-100% of baseline)	12.589	12.589	11.531	12.108
2. (101-130% of baseline)	14.321	14.321	13.109	13.764
3. (131-200% of baseline)	14.321	19.333	26.078	25.414
4. (201-300% of baseline)	14.321	23.630	38.066	36.182
5. (above 300% of baseline)	14.321	25.826	44.348	41.825

On October 11, 2009, SB 695 was signed into law as an urgency statute. SB 695, in pertinent part, removes the prohibition on Tier 1 and Tier 2 rate increases. SB 695 amends Public Utilities Code § 739.1, and adds § 739.9 to allow Tier 1 and Tier 2 rates to be increased within specific limits.

Pursuant to § 739.9, the Commission has the authority to grant increases in rates charged to non-CARE residential customers for electricity usage up to 130%

² Rates shown for February 2001 include the 1 c/kWh emergency procurement surcharge applicable to all non-CARE usage of PG&E and SCE customers assessed pursuant to D.01-01-018.

³ D.01-03-082 added a 3 c/kWh surcharge applicable to non-CARE, non-medical baseline usage above 130% of baseline of PG&E and SCE customers. Tiered rates to implement this surcharge were developed in D.01-05-064 and became effective in June 2001. Rates shown for June 2001 include the 1 and 3 c/kWh surcharges.

of baseline quantities (Tiers 1 and 2) by the annual percentage change in the Consumer Price Index (CPI) from the prior year plus 1%, but not less than 3% or more than 5% per year. The annual percentage change in the CPI is to be calculated using the same formula used to determine the annual Social Security cost of living adjustment (COLA) on January 1, 2008.⁴ This process for setting rates applies until January 1, 2019, unless extended by a subsequent statutory change.

Accordingly, applicants seek authority to increase Tier 1 and 2 rates by 5% pursuant to § 739.1 and § 739.9. Applicants concurrently seek to offset the increase to Tier 1 and 2 with corresponding reductions to Tier 3, 4, and 5 rates, so that the overall level of revenue collected from residential customers as a whole remains unchanged.

The utilities are further proposing procedures to implement similar subsequent yearly rate changes pursuant to SB 695 through advice letter filings.

The scope of these consolidated applications is thus to address the relevant issues relating to the applicable residential rate changes.

2. Procedural Background

By Chief Administrative Law Judge's Ruling dated October 19, 2009, the applications for rate adjustments pursuant to SB 695 filed by PG&E, SCE, and SDG&E, respectively, were consolidated. Protests were filed by the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), and by Utility Consumer Action Network (UCAN). A joint reply to the protests was filed by applicants on November 13, 2009.

⁴ The formula to determine the Social Security COLA is based on the CPI for Urban

Footnote continued on next page

Applicants each published notice of their proposed rate changes in newspapers of general circulation and mailed notices of the applications to state and county officials pursuant to Rule 3.2. The Commission has also received letters from customers of the applicant utilities. These letters generally express opposition to granting the requested rate changes, and in particular, express the belief that increasing Tier 1 and 2 rates would be contradictory to the Commission's goal of encouraging conservation, and would penalize customers for saving energy. The customers' letters were circulated for review by the Assigned Commissioner, the Assigned Administrative Law Judge, and the other Commissioners.

The Assigned Commissioner issued a scoping memo and ruling on November 20, 2009, setting the schedule, designating the scope of the proceeding, and receiving into evidence the written testimony offered by applicants. This matter can be decided based upon the written pleadings, and thus no evidentiary hearings were conducted.

3. Applicants' Proposal

The utilities each propose to implement a 5% increase effective January 1, 2010, in Tier 1 and 2 rates (excluding the residential "California Alternate Rates for Energy" (CARE) program). The utilities propose to concurrently offset the resulting increase in revenues by decreasing Tier 3, 4, and 5 rates pursuant to the provisions of § 739.9. These rate changes are proposed pursuant to the provisions of SB 695, and are designed to begin to rectify the disparities that have accumulated between rates charged in Tier 1 and 2 versus

Wage Earners and Clerical Workers.

rates charged in Tier 3, 4, and 5. The result of these offsetting rate impacts are revenue-neutral, and are designed to keep overall utility revenues unchanged.

For the residential CARE program, pursuant to § 739.1 the Commission may increase rates (but not to exceed 3% per year) for electricity usage up to 130% of baseline quantities subject to conditions.⁵ The increase is to correspond to the annual increase in benefits provided under the CalWORK's program for the fiscal year in which the rate increase would take effect. The benefits under the CalWORK's program are subject to an annual COLA, effective July 1 of each year, as provided under the Welfare and Institutions (W&I) Code Sec. 11453 (a). Since the COLA for the CalWORK's program has been suspended for the 2009-2010 fiscal year, however, the utilities do not propose any increase to CARE Tier 1 and 2 rates.

The utilities provided illustrative calculations of the potential impact of the rate proposals on customers' retail bills, assuming varying usage levels. Some customers will see an increase in their bill, while other customers will see a decrease, depending on the customer's usage level. Overall the utilities' proposals are revenue neutral with increased revenues collected from customers with relatively low usage being offset by decreased revenues from customers with higher usage.

PG&E estimates that a typical residential customer using 550 kWh would see a monthly PG&E bill change from \$74.13 to \$76.63, an increase of \$2.50, or

⁵ Section 739.1(4) requires that CARE rates for Tiers 1, 2, and 3 shall not exceed 80% of the corresponding non-CARE rates for those tiers excluding DWR bond charges, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the CA Solar Initiative, and any charge imposed to fund any other program that exempts CARE participants from paying that charge.

3.4%. A residential customer using 850 kWh per month (i.e., about twice the baseline allowance) would see a monthly PG&E bill change from \$164.15 to \$163.46, a decrease of \$0.69 per month, or a 0.4% decrease. A residential customer using 1500 kWh per month would see a monthly PG&E bill change from \$434.98 to \$419.66, a decrease of \$15.32, or 3.5%.

SCE provided an illustrative example of the residential customer bill impacts of its rate change proposal.⁶ Based on the assumptions in its illustrative examples, a customer with consumption roughly equal to the baseline allowance of 300 kWh would see a bill increase of 4.9% (or \$1.77 per month). A typical customer using 600 kWh (or about two times the baseline allowance) would see virtually no change in the monthly bill. A higher-usage residential customer (using 1500 kWh, or five times the baseline allowance) would see about a 2.8% bill decrease (or \$10 per month).

SCE's proposed rate decrease for non-CARE Tier 3 will result in a lower Tier 3 rate for CARE customers, due to the relationship between CARE and non-CARE Tier 3 rates.⁷

SDG&E also provided illustrative bill impacts of its proposed rate changes for its Schedule DR for specific kWh usage levels, based on rates in effect as of October 1, 2009, as set forth in Attachment of its sponsored testimony. A typical SDG&E customer using 500 kWh would see a 3.7% increase in its summer monthly bill and a 3.2% increase in its winter monthly bill. A typical SDG&E

⁶ See Table III-2 of SCE Testimony of Russell Garwacki

⁷ SCE's current CARE Tier 3 rate is based on a 20% discount from the non-CARE Tier 3 rate less the DWR Bond Charge and CARE program charges (and any non-suspended CSI-related charges).

customer using 1,000 kWh would see a 1.7% decrease in its summer monthly bill and a 2% decrease in its winter monthly bill. A typical SDG&E customer using 1500 kWh would see a 2.7% decrease in the summer monthly bill and a 3% decrease in the winter bill.

4. Position of Protesting Parties

The protests filed by TURN and DRA deal with the advice letter process used to implement future residential rate changes pursuant to § 739.9 and 739.1.⁸ In their joint reply, applicants agree with the conditions proposed by TURN with respect to timing of the annual advice letters. UCAN specifically protested the SDG&E application, but the issues raised by UCAN are also relevant to the PG&E and SCE applications, as well. UCAN raises the issues of (1) whether rates for Tier 3 and above should be reduced when Tier 1 and 2 rates increase; (2) what Tier 1 and 2 rate increase percentage should be granted; and (3) whether future Tier 1 and 2 rate increase requests should be allowed by advice letter.

5. Discussion

5.1. Is Any Increase in Tier 1 and 2 Rates Justified?

In response to the notices mailed by the utilities, informing customers of the pending applications for retail rate adjustments, various customers sent

⁸ The rules applicable to advice letter filings are set forth in Commission General Order 96-B, in the General Rules, and the Energy Industry Rules. Advice letters are categorized as either Tier 1, 2, or 3. Tier 1 advice letters are effective upon filing pending Energy Division disposition. Tier 2 advice letters are effective after Energy Division approval or may be deemed approved if after the initial 30-day review period has ended there is no timely protest and the Energy Division has not notified the utility that the advice letter is being suspended. Tier 3 advice letters are effective only upon the issuance of a resolution by the Commission approving them.

letters to the Commission expressing objections to any increase in Tier 1 and 2 rates.

Particularly in view of the difficulties experienced by retail customers, particularly residential customers, in paying their utility bills in the current economic recession, we are sensitive to concerns expressed over any rate changes. In this particular instance, however, we conclude that the rate adjustments that we authorize are appropriate and consistent with the intent of the recently enacted legislation. Moreover, we do not authorize any increases to Tier 1 and 2 rates for CARE.

As a further limitation on the Tier 1 and 2 rates, under 739.9(b), the rates charged to non-CARE residential customers for usage up to the baseline quantity, including any customer charge revenues, may not exceed 90% of the system-average rate. The utilities demonstrate that the rates they propose meet this requirement.⁹

While the increases in Tier 1 and 2 rates that we authorize will result in higher rates for certain customers, such rate increases will be limited as provided in 739.9. Moreover, the intent behind the limited increases that are permitted is to bring the overall disparities among the various rate tiers into a more equitable relationship.

⁹ See the testimony of PG&E witness Breckenridge at p. 5; testimony of SCE witness Garwacki at p. 7; and testimony of SDG&E witness Davidson at pp. 4 and 5.

5.2. Should residential rates for electric usage in excess of 130% of base line decrease when Tier 1 and 2 rates decrease?

PG&E, SCE, and SDG&E each propose to reduce their non-CARE Tiers 3, 4, and 5 rates by an annual amount that offsets the revenue increase from the Tier 1 and 2 rate increases. Consistent with the Settlement Agreement on residential rate design in Phase 2 of its 2007 General Rate Case (D. 07-09-004), PG&E proposes that Tier 3, 4, and 5 generation surcharges be reduced proportionately to ensure that residential revenue calculated at present rates is collected from the residential class with the rates being proposed. PG&E forecasts a net change of just \$877 (or 0.03%) in revenues from direct access customers as a result of the rate changes proposed in its application, with some customers experiencing increases and others, decreases, as a result of the Commission-approved design methodology which includes revisions to distribution and generation component rates.

As required by the Settlement Agreement approved in D.09-08-028, SCE proposes to maintain a 3.5 cent/kWh differential between the rates applicable to SCE Tiers 3, 4, and 5.

SDG&E's proposed reductions to Tiers 3, 4, and 5 is likewise consistent with the currently authorized rate design methodology adopted in D.08-02-034 (SDG&E's GRC Phase 2) and D.09-09-036 (SDG&E's Rate Design Window).

UCAN protests SDG&E's intent to decrease Tier 3 and 4 rates,¹⁰ arguing that such a decrease contravenes the statutory requirements that rates be determined with observance of the principle that conservation is desirable. A

¹⁰ SDG&E has a 4 tier rate structure, while PG&E and SCE have a 5 tier system.

similar issue applies to the proposals of PG&E and SCE. The joint applicants argue that UCAN's argument is misplaced and at odds with statutory requirements and Commission policies. The joint applicants argue that the cumulative effects of the rate cap since 2001 have resulted in very high electric retail bills for customers whose usage places them in the upper tiers. The proposed decreases in Tier 3 and 4 rates would allow some movement toward rates that reflect the cost of providing service to residential customers. The joint applicants argue, however, that the proposed Tier 3 and 4 rate decreases would only begin to mitigate the inequities between lower and higher-usage rate tiers that have developed since 2001.

We conclude that offsetting the Tier 1 and 2 increase with corresponding decreases to Tier 3 and 4 is reasonable and consistent with the statutory provisions of 739.9. Accordingly, we find UCAN's protest is unjustified in objecting to such treatment. As stated in § 739.7, although the Commission is required to provide for baseline rates that apply to the lowest usage block of an increasing block rate structure, the Commission "shall avoid excessive rate increases for residential customers, and shall establish an appropriate gradual differential between the rates for the respective blocks of usage." (emphasis added).

We conclude that the proposed rate adjustments made pursuant to § 739.7 do not contravene any Commission policy or statute in favor of encouraging energy conservation. Customers who consume electricity in Tiers 3, 4, and 5 currently pay a higher per-unit rate for usage in those tiers in comparison to Tiers 1 and 2. After the rate increases in Tier 1 and 2 are implemented, those rate tiers will still be significantly lower than Tiers 3, 4, and 5. Accordingly, customers with electricity usage limited to Tiers 1 and 2 will continue to pay a

lower per-unit rate relative to the Tier 3, 4, and 5 per -unit rates after the proposed rate adjustments are implemented.

If the increase in revenues resulting from raising the Tier 1 and 2 rates were not used to reduce Tiers 3, 4, and 5, those revenue increases would otherwise flow through to other nonresidential customers. The most equitable allocation of the revenue increase is to reduce Tier 3, 4, and 5 tiers. In this manner, any revenue adjustments from the Tier 1 and 2 rate change will be retained within the residential classes.

5.3. Should the amount of authorized increase in Tier 1 and 2 rates be 3% or 5%?

UCAN argues that the increase proposed to be implemented on January 1, 2010, be limited to 3%, rather than the 5% proposed by the utilities. DRA and TURN do not contest the proposed 5% increase.

UCAN argues that § 739.9 calls for the annual COLA percentage change to be calculated using the same formula as was used to determine the annual Social Security COLA on January 1, 2008. SDG&E uses the December 2008 COLA as the basis for its calculations of the applicable Tier 1 and 2 rate increase. This COLA measures changes from the third quarter of 2007 to the third quarter of 2008.

UCAN argues that the COLA used by SDG&E is not the most recent figures available. UCAN believes that the COLA released on October 15, 2009, reflecting a 0% figure, provides a more accurate measure for determining the rate increase, and is more reflective of the current state of the economy. Based on the use of this revised COLA figure of 0%, UCAN argues that the applicable Tier 1 and 2 rate increases should be at the low end of the applicable range (i.e., 3%), rather than at the high end (i.e., 5%).

The applicants argue that UCAN's position is contrary to the intent of SB 695, and would create an unfair result for residential customers.

According to § 739.9, the annual percentage change in the CPI shall be calculated using "the same formula that was used to determine the annual Social Security Cost of Living Adjustment on January 1, 2008." That formula is based on the CPI for Urban Wage Earners and Clerical Workers (CPI-W).

The applicants each use the Social Security COLA effective on January 1, 2009, as the base CPI measure for its proposed 2009 rate adjustment. This COLA represents the change in the average CPI-W from the third quarter of 2007 to the third quarter of 2008. Applicants assert that it thus satisfies the requirement in § 739.9(a) that annual non-CARE Tiers 1 and 2 rate increases be based on the change in CPI for the previous year.

The 5.8% COLA was therefore in effect when SB 695 was enacted. Based on a 5.8% COLA, the "CPI-plus-1%" formula in § 739.9 equals a 6.8% increase in Tier 1 and 2 rates. Since this amount exceeds the 5% cap under § 739.9, each of the utilities proposes to increase Tier 1 and 2 rates by exactly 5% effective January 1, 2010, the maximum adjustment permitted under § 739.9(a).

Applicants state in their joint reply to protests that by accepting TURN's proposed condition on the timing of advice letters for future rate changes pursuant to SB 695, the utilities waived the opportunity to request any increase in the COLA for 2010. Applicants contend that if the Commission approves the utilities' proposed advice letter process, as modified by TURN, the next proposed residential rate changes would be effective January 1, 2011, and would reflect the 2011 COLA, not the 2010 COLA.

Applicants argue that the legislative intent of SB 695 was for a 2009 increase in Tier 1 and 2 rates, as evidenced by the legislature's designation of the

statute as “urgency,” and as immediately effective. By requesting to defer the implementation of the 2009 rate increase until January 1, 2010 due to procedural and scheduling considerations, applicants assert that such deferral does not negate the legislative intent for a rate increase for 2009. Applicants thus contend that the use of the 2010 COLA, as proposed by UCAN, instead of the 2009 COLA, would nullify the legislative intent to implement immediate, sequential annual rate changes to mitigate the unfair rate differentials that currently exist.

Public Utilities Code Section 739.9 allows the Commission to increase Tier 1 and 2 rates by the annual percentage change in the CPI from the prior year plus 1 percent, but not less than 3% and not more than 5%. The applicants propose to increase Tiers 1 and 2 rates by 5% effective January 1, 2010 based on the COLA in effect on January 1, 2009.

A 5% increase in Tiers 1 and 2 rates is minor especially considering the difference in rates customers currently pay for usage below 130% of baseline and those rates for usage in Tiers 3 through 5. Further, as shown in table in the introduction to this decision, the rates for Tiers 1 and 2 that PG&E proposes in this proceeding are lower than the comparable rates charged in 2001. The applicants have demonstrated that the rates they propose for electricity usage up to baseline quantities (i.e., Tier 1) do not exceed 90% of the system average rate, and thus comply with Section 739.9(b). We grant the applicants’ request to increase Tiers 1 and 2 rates by 5% effective on or after January 1, 2010 for non-CARE residential customers.

5.4. No Change in CARE Residential Rates

The utilities propose no increases to CARE residential Tier 1 and 2 rates. The Commission has authority under 739.1(b)(2) to increase CARE rate schedules for electricity usage up to 130% of baseline quantities by the annual

increase in benefits provided under the CalWORKs program for the fiscal year in which the rate increase would take effect, but not to exceed 3% per year. The benefit amounts provided under the CalWORKs program are subject to an annual cost of living adjustment, effective July 1st of each year, as provided under Sec. 11453(a) of the Welfare and Institutions (W&I) Code. The cost-of-living adjustment for the CalWORKs program has been suspended for the 2009-2010 fiscal year as a result of the state's financial problems. (See Sec. 11453 (c)(5) of the W&I Code).

As required by § 739.1 (b)(4), the CARE Tier 3 rate will continue to receive a 20% discount from the non-CARE Tier 3 rate, excluding the DWR Bond Charge, CARE Surcharge, and any applicable California Solar Initiative charges or other exempt charges.

5.5. Category and timing of advice letter for requesting future Tiers 1 and 2 rate changes.

The utilities proposes to use Tier 1 advice letters as the vehicle to request future rate adjustments under the provisions of §§ 739.1 and 739.9. Advice letters are categorized as either Tiers 1, 2, or 3. Tier 1 advice letters are effective upon filing pending Energy Division disposition. Tier 2 advice letters are effective only after Energy Division approval. Tier 3 advice letters are effective only upon the issuance of a resolution by the Commission approving them.

General Order 96-B, Energy Industry Rule 5.1(3) states that a "change in rate....pursuant to an index or formula that the Commission has approved for use in an advice letter by the utility submitting the advice letter...." is a matter appropriate for a Tier 1 advice letter. The applicants argue that Tier 1 advice

letters are an appropriate means of making future rate adjustments pursuant to SB 695, and consistent with the methodology presented in the applications.¹¹

The Applicants argue that Energy Division would only need to determine as a technical matter whether the proposed future rate changes are within the scope of what the Commission has authorized, pursuant to GO 96-B, General Rule 3.5. Applicants argue that the Energy Division could extend the review period, or prepare a draft resolution for the Commission's consideration in response to the advice letter filing, if deemed necessary.

DRA's protest focuses on the future yearly advice letter filings proposed to be used for making subsequent rate adjustments pursuant to SB 695. DRA states that the utilities have separately described "modified tier 1" advice letters in discussions with DRA and TURN. DRA recommends that this issue be given serious consideration in this proceeding. DRA recommends that sufficient time be allowed for advice letter filings to be reviewed before rate changes are adopted by the Commission. At the same time, DRA also understands the utilities' concerns that rate changes are not delayed unnecessarily. DRA thus recommends that the issue of which type of advice letter is used in future filings be fully examined in this proceeding.

TURN does not oppose the use of advice letters for making annual rate changes under SB 695 provided that (a) the Commission retains discretion to deny requests for such increases, and (b) the utilities file such advice letters at least 45 days in advance of the intended implementation date.

¹¹ See Joint Reply to Protests at 4-5.

The utilities agree to the conditions proposed by TURN with respect to the timing of the annual advice letters. They believe that this will provide sufficient opportunity for review of the advice letters before rate changes are implemented. The utilities argue that Tier 1 advice letters are an appropriate means of making future changes consistent with SB 695 so that the changes can be implemented without undue delay.

The Tier 1 advice letter designation is meant for routine or compliance-type filings where rates or changes have already been approved by a resolution or decision, and the utility is merely notifying the Commission that it is implementing the change. The change automatically goes into effect on the effective date, usually within 30 days of filing.

We conclude that for rate adjustments in compliance with SB 695, it is more appropriate for Tier 2 advice letter filings to be used. Energy Division would need to perform a careful review to ensure that the appropriate COLA is used to determine the rate increases for residential tiers 1 and 2, and decreases in the upper tiers so that the total impact of the offsetting changes is revenue neutral for residential customers as whole. Energy Division review is also needed to ensure consistency among the three utilities. With a Tier 2 advice letter, the requested rate changes would take effect only after Energy Division indicates its approval. A formal resolution would not be required, however, to implement a Tier 2 advice letter.

An advice letter with improperly developed rates should not become effective pending disposition by the Energy Division, as would be the case with a Tier 1 advice letter. We note that Section 739.9 establishes that the Commission may increase rates for Tiers 1 and 2 based on the CPI. The law does not require the Commission to do so. If protests on an advice letter proposing increased

Tier 1 and 2 rates are filled, the controversy should be resolved by Commission order as necessary before new rates take effect.

Given that the utilities agree to submit their advice letters by November 15th of each year, 45 days prior to an expected effective date of January 1, there should be sufficient time to address any protests, data requests, or issues that might arise during review of the advice letters. The rate changes would be different each year depending on the COLA and the Commission has not approved each year's specific rate changes to allow for automatic rate adjustments to go into effect as with a Tier 1 designation. Additionally, it would set an improper precedent if Tier 1 advice letter filings were to be allowed for this type of rate adjustment filing. Therefore, we shall require a Tier 2 advice letter filing for future rate adjustments to implement provisions of SB 695.

6. Comments on the Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. In accordance with the schedule adopted in the Assigned Commissioner's Ruling dated November 18, 2009, one round of comments on the Proposed Decision shall be due on December 14, 2009. No reply comments are scheduled.

7. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Thomas Pulsifer is the assigned ALJ for these consolidated applications.

Findings of Fact

1. Residential electric rates are designed in a five tiered structure (four for SDG&E) based on customers electricity usage levels.

2. Among the tiers, the amount of electricity consumed is priced at increasing unit rates.

3. Since February 2001, retail utility electric residential rates for usage up to 130% of baseline quantities (Tiers 1 and 2) have, with one exception, remained capped under statutory restrictions.

4. Since the Tier 1 and 2 rate cap began, all revenue increases assigned to the residential group have been applied to usage in Rate Tiers 3, 4, and 5 (which account for only about 30% of total residential usage).

5. The Tier 1 and 2 rate restrictions have resulted in an increasing disparity between low-usage customers in the Tier 1 and 2 and for rates paid by higher usage customers in Tiers 3, 4, and 5.

6. Senate Bill 695 amends Public Utilities Code § 739.1, and adds § 739.9 to allow Tier 1 and Tier 2 rates to increase by specific percentages based on specific indices.

7. Senate Bill 695 was passed as an urgency measure immediately effective.

8. Pursuant to § 739.9, the Commission has the authority to grant increases in rates charged to non-CARE residential customers for electricity usage up to 130% of baseline quantities (Tiers 1 and 2) by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% or more than 5% per year.

9. Increases in Tier 1 and 2 rates for the residential CARE program are authorized by SB 695 but linked to annual cost of living adjustments for the CalWORK's program; the increase in the COLA for the CalWORK's program is suspended for the 2009-2010 fiscal year.

10. This process for adjusting rates remains in effect until January 1, 2019, absent further legislative changes.

11. The utilities calculated the cost of living adjustment for purposes of the Tier 1 and 2 rate increases by using the cost of living index effective on January 1, 2009, which represents the index change from the third quarter of 2007 to the third quarter of 2008.

12. The authorized rate adjustments will have no effect on the overall level of revenues collected by each of the utilities, although individual customers' bills will vary depending on the amount of electricity they use.

13. The three applicant utilities concur with TURN's proposal that future advice letters implementing Tier 1 and 2 rate adjustments be filed at least 45 days before their proposed effective date.

Conclusions of Law

1. This decision does not alter the fundamental relationship among residential usage tiers in which tiers reflecting higher usage incur higher unit rates.

2. This decision does not alter the presently adopted revenue requirement for the residential class of customers for each of the three applicant utilities.

3. The rate adjustments authorized are appropriate and consistent with the intent of SB 695.

4. The COLA appropriately used calculate to calculate the rate adjustment for Tier 1 and 2 within the range authorized by SB 695 supports the proposed 5 percent increase proposed and adopted.

5. The rate adjustments authorized pursuant to § 739.7 or [739.9] do not contravene any statute or Commission policy in favor of encouraging energy conservation.

6. Offsetting Tier 1 and 2 increases with commensurate decreases in Tiers 3, 4 and 5 is reasonable and consistent with the statutory provisions of § 739.9.

7. The adjustments proposed and adopted for PG&E, SCE and SDG&E are consistent with the Tier 3, 4 and 5 (except for SDG&E, which does not have a Tier 5) relationships established in their most recent rate design proceedings.

8. No increase should be authorized for Tier 1 and 2 rates for CARE customers.

9. Advice letters to implement Tier 1 and 2 rate adjustments should be filed as General Order 96-B Tier 2 advice letters, to allow for careful review by the Energy Division and to ensure that rates that become effective have been appropriately developed.

10. There is no need for evidentiary hearings.

11. Due to legislative intent manifested by SB 695 being an urgency measure and the public interest in having the proposed rate adjustments implemented as expeditiously as possible, it is reasonable to have a shortened comment period on this decision.

12. SB 695 was adopted as an urgency measure.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company is hereby authorized to increase its Tier 1 and Tier 2 rates by 5 % on all non- California Alternate Rates for Energy (CARE) residential schedules, and to decrease the non-CARE Tier 3, 4, and 5 rates commensurately, to result in revenue-neutrality.

2. Pacific Gas and Electric Company is hereby authorized to incorporate the approved rate changes adopted in this decision into its late December 2009 update of the Annual Electric True-Up advice filing (Advice 3518-E) for rates effective January 1, 2010.

3. Southern California Edison Company is hereby authorized to increase its Tier 1 and Tier 2 rates by 5% on all non-CARE residential schedules, and to decrease non-CARE Tier 3, 4, and 5 rates commensurately, to result in revenue neutrality. These rate changes shall occur in the first rate change that takes place in 2010.

4. San Diego Gas & Electric Company is hereby authorized to increase its Tier 1 and Tier 2 rates by 5 % on all non-CARE residential schedules, and to decrease non-CARE Tier 3, 4, and 5 rates commensurately. San Diego Gas & Electric Company is authorized to include these rate changes in its annual consolidated advice letter filing to implement electric rates effective January 1, 2010.

5. Future annual filing to implement proposed changes in residential rates as authorized by Senate Bill 695 (Ch. 337, Stats. 2009) shall be by Tier 2 advice letter as set forth in General Order 96-B, filed no later than 45 days before the proposed effective date.

6. The consolidated Applications (A.) 09-10-013, A.09-10-014, and A.09-10-015, respectively, are closed.

7. This order is effective immediately.

Dated _____ in San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated December 7, 2009, at San Francisco, California.

/s/ GLADYS M. DINGLASAN
Gladys M. Dinglasan

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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