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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
(filed February 26, 2010)

(U 39 E)

**REPLY OF PACIFIC GAS AND ELECTRIC COMPANY
TO PROTESTS OF THE DIVISION OF RATEPAYER ADVOCATES
AND THE UTILITY REFORM NETWORK**

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March 29, 2010

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I. INTRODUCTION AND SUMMARY

Pursuant to Rule 2.6(e) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) replies to the protests of the Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) to the 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. Administrative Law Judge Barnett approved the filing of reply comments on an expedited basis through his March 4, 2010, Ruling Granting The Motion To Shorten Time To Respond To The Application Of Pacific Gas and Electric Company.

Neither DRA nor TURN seriously disputes PG&E's central point – that Tier 4 and 5 rates are too high. Rather, they focus their arguments on the remedy. PG&E

proposes that, since Tiers 1 and 2 rates are effectively frozen until 2011, Tier 3 rates should rise so that Tiers 4 and 5 may be reduced. DRA and TURN propose that Tier 3 rates should remain unchanged and that Tiers 4 and 5 should be combined. They are particularly concerned about the impact of PG&E's proposal on the less than one percent of non-California Alternative Rates for Energy (CARE) households who are in the medical baseline program. PG&E's proposal would produce meaningful reductions for households that are forced to use air conditioning to cool their homes during heat spells. The protesters' proposal would not.

DRA also claims that reducing Tier 5 rates is inconsistent with the "spirit" of the residential rate design settlement approved in the 2007 General Rate Case (GRC) Phase 2 Decision (D.) 09-07-004. DRA argues that Tiers 4 and 5 are high because PG&E's revenue requirements, including those approved by the Commission, are allegedly too high. TURN argues that PG&E should not have provided bill credits late last year. Both protesters contend hearings will be required, although they are not specific as to what the disputed factual issues may be.

As PG&E demonstrates below, its proposal

- is procedurally proper;
- would not unreasonably impact Tier 3 or medical baseline customers; and
- would merely bring rates for PG&E customers more into line with the rates of other California utilities;

PG&E also shows that

- Collateral attacks on PG&E's revenue requirements and revenue collection practices are inappropriate and irrelevant; and

- TURN and DRA have not demonstrated the necessity of hearings, which if scheduled would likely compromise the possibility of summer 2010 rate relief for PG&E’s heavily burdened high tier customers.

PG&E believes its proposed rate design is reasonable and fair, but is open to discussing an alternative approach. As noted by both protesters, before filing this Application PG&E engaged in negotiations with TURN and DRA about various ways of lowering what all parties implicitly acknowledge to be unreasonably high Tier 5 rates. During those negotiations, PG&E in fact evaluated merging Tiers 4 and 5 while holding the Tier 3 rate at its present level.^{1/} Unfortunately, PG&E found the resulting rates would not provide sufficient rate relief for upper-tier consumers.

II. DISCUSSION

A. **PG&E’s Proposed Rate Design Does Not Violate The “Spirit” of the 2007 GRC Phase 2 Residential Rate Design Settlement Approved in D.07-09-004.**

DRA claims that this Application “does not abide by the *spirit* of the settlement” of the 2007 GRC Phase 2 proceeding because Senate Bill (SB) 695 still “limits the revenue that can be collected in tier 1 and tier 2 rates, and the remaining residential revenue allocation still must be collected in tier 3, 4, and 5 rates.”^{2/} DRA’s argument is without merit.

As discussed in the Application,^{3/} subpart D of the settlement provides that during its term “revenue increases to the residential class will be implemented as proportional changes to the generation surcharges in Tiers 3, 4 and 5....” Thus, the settlement governs

1/ PG&E testimony, Exhibit (PG&E-1), Chapter 1, “Residential Rate Proposal,” page 1-13, footnote 17.

2/ DRA Protest, pp. 2-4, emphasis added.

3/ PG&E’s Application, p. 7, footnote 1.

rate design changes to accommodate revenue increases between GRCs, but only “[w]hile the rate restrictions of AB 1X are in effect.” SB 695 eliminated those restrictions:

This bill would delete the prohibition that the commission not increase the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities. The bill would authorize the commission to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. (SB 695, page 3, emphasis added.)

Although there is now a new statutory restriction that “limits the revenue that can be collected in tier 1 and tier 2 rates,” it is nevertheless true that “the rate restrictions of *AB 1X*” are no longer “in effect.”

DRA further claims, “Subpart E of the Settlement supports an interpretation that maintains the requirement of agreement amongst all parties to modify rates even if it is interpreted that AB 1X’s literal rate restrictions are no longer in effect.”^{4/} DRA’s reliance on subpart E is also without merit. Subpart E^{5/} provides for multi-party consultation and negotiation in the event a residential rate reduction would occur in excess of 3 percent *while AB 1X restrictions were still in place*. Subpart E was intended to allow the parties in such a situation to consider alternatives to the equal percentage change method prescribed in subpart D for allocating that 3 percent or more reduction to Tiers 3, 4, and

4/ DRA Protest, p. 4.

5/ Subpart E reads as follows:

Should a reduction to the residential class in excess of three percent be expected, PG&E will consult with DRA and TURN to determine the proper method of allocating that revenue between tiers, provided however, that rates for usage up to 130 percent of baseline shall not be reduced. Should DRA, TURN and PG&E be unable to agree on the method to allocate the revenue reduction between tiers, PG&E will implement the change in the manner described in Part D, above.

5. Here again, since AB 1X restrictions are no longer in place, subpart E is moot.

Nevertheless, PG&E has been discussing methodological changes with DRA and TURN.

Thus this Application does not violate the 2007 GRC Phase 2 settlement, and the Commission may consider it regardless of whether other parties to the settlement have agreed to it.

B. PG&E's Proposed Rate Design Modifications Do Not Impose Unreasonable Impacts on Tier 3 or Medical Baseline Customers.

While under PG&E's proposal certain customers with Tier 3 usage would experience increased bills, the bill impacts show that the average monthly increases would be modest. As set forth in Table 1-4 of Dr. Dennis Keane's testimony,^{6/} PG&E's proposed rates would impose approximately a 4.3 cent per kWh, or 15.5 percent, increase on Tier 3 rates. But Tier 1 and 2 rates would remain unchanged and the Tier 3 rate applies to consumption amounts that are, at most, equal to 70 percent of baseline usage for a customer with consumption at the upper threshold of Tier 3 *every single month*. But most customers, of course, have consumption that varies from month to month, and it would be rare for a customer to be at this usage level month after month.^{7/} If consumption increases into Tier 4, the 9.2 percent lower Tier 4 rate begins to cancel out some or all of the Tier 3 increase.

Month to month increases that DRA and TURN oppose could be mitigated were affected customers with Tier 3 usage simply encouraged to sign up for PG&E's Balanced Payment Plan, which is specifically designed to maintain consistent monthly payments during extreme-weather months by calculating monthly payment amounts based on average energy use costs over several months.

6/ Exhibit (PG&E-1), p. 1-11.

7/ Exhibit (PG&E-1), p. 1-14 to 1-15.

TURN and DRA are particularly concerned about the impact of PG&E's proposal on medical baseline customers, who represent about one percent of E-1 customers overall. First, almost half of these customers – 41,695 – participate in the CARE program and PG&E's proposal would have no impact on them as Schedule EL-1 does not include a Tier 3.^{8/} The remaining medical baseline customers – 44,580 – are on non-CARE Schedule E-1 service, and are subject to Tier 3 rates.^{9/}

The non-CARE medical baseline customers are not low income households, and it is not unusual for them to have Tier 3 rate increases. In fact, they have been subject to every Tier 3 rate increase since 2001. So PG&E's proposal is not out of the norm for them. However, as explained below, medical baseline customers enjoy a significantly higher baseline than other non-CARE E-1 customers, and thus are much less likely to have their consumption even reach Tier 3. Moreover, medical baseline rates only have three tiers, all usage above Tier 2 being charged at Tier 3 rates.^{10/} While, as TURN and DRA observe, this means medical customers would not benefit from PG&E's proposal, it is equally true that they will be less adversely affected by it than other customers since they must consume much greater amounts of electricity before they reach Tier 3.

The medical baseline allowance equals the otherwise applicable allowance plus an additional 500 kWh per month, which more than doubles the average baseline quantity other customers receive.^{11/} For example, a non-medical baseline customer who receives a

8/ Appendix 1B to Dr. Keane's testimony, "Bill Comparisons," pp. 19-20.

9/ Id., pp. 17-18.

10/ To qualify for medical baseline service, although life-support equipment such as a ventilator or a sleep apnea machine is generally a qualifying criterion, such equipment need not necessarily involve substantial electric usage to operate. As a result, even if the life support equipment creates only minimal incremental energy usage, the entire household receives significant rate reductions on all its usage, both medical and non-medical.

11/ Additional 500 kWh per month medical baseline allowances are administered as an additional 16.438 kWh per day.

baseline allowance of 300 kWh would, if in the medical baseline program, receive a total Tier 1 allowance of 300 kWh plus 500 kWh, or 800 kWh in total. Further, some medical baseline customers may qualify for additional baseline allowances in multiples of 500 kWh, each one adding 500 kWh to their total baseline allowance. So a medical baseline customer entitled to a regular 300 kWh allowance with two medical allowances would receive a monthly baseline allowance of $300 + 500 + 500 = 1300$ kWh, and a customer with three medical allowances would receive a monthly baseline allowance of 1800 kWh. These higher baseline quantities are then proportionally increased to set the usage boundary between Tiers 2 and 3. The combination of much higher tier boundaries and not being charged Tier 4 and 5 rates results in very substantial savings for medical baseline customers.

As Appendix 1B to Dr. Keane's testimony shows,^{12/} of the 44,580 non-CARE customers on Schedule E-1 medical baseline service, approximately 46 percent would receive no bill increase at all since they never consume above Tier 2. About 84 percent, or roughly 37,000, of Schedule E-1 medical baseline customers would receive an average monthly bill increase of less than \$9.89.^{13/} Only three percent of the very highest usage customers would see average monthly bill increases above 10 percent. Such households must consume on average three times what the average PG&E household consumes to have a bill increase in excess of 10 percent.

For these reasons, TURN and DRA overstate the severity of bill impacts on Tier 3 regular and medical baseline customers. PG&E believes its proposal strikes a reasonable

12/ "Bill Comparisons," p. 17.

13/ See the two leftmost columns on page 17 of Appendix 1B, titled "\$ PCT" and "MONTHLY \$ DIFFERENCE."

balance between achieving meaningful high tier rate reductions, and avoiding the imposition of unfair rate increases on Tier 3 or medical baseline program usage.

C. PG&E’s Proposal Would Bring Its Residential Rates More Into Line With the Rates of Other California Utilities.

As noted in Dr. Keane’s testimony, PG&E’s proposed modification to the methodology for setting PG&E’s Tier 3, 4, and 5 rates is comparable to the methods currently used by Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E) to set rates for residential electric customers.^{14/} PG&E’s current methodology uses equal percent changes to the Tier 3, 4, and 5 surcharges, and has resulted in much wider tier differentials than those at SCE and SDG&E.

PG&E also uses the upper end of the legislated range to set baseline quantities, while SCE and SDG&E now generally use the mid-point of the legislated range^{15/} to further reduce rates in the upper tiers (resulting in more usage above baseline). While PG&E proposes in its 2011 GRC Phase 2 application to move to the mid-point (55 percent) of the legislated range, such a change, if approved, would not occur until the summer of 2011, too late to provide summer 2010 rate relief. PG&E has proposed a number of additional residential rate design changes in its 2011 GRC Phase 2 application that, if approved, would lower Tier 5 rates. But they, too, will not be available this summer.

D. Collateral Attacks on PG&E’s Revenue Requirements and Revenue Collection Practices Are Inappropriate and Irrelevant.

DRA argues that PG&E’s upper tier rates would not have reached today’s high levels if PG&E had not repeatedly sought CPUC approval of revenue requirement

14/ PG&E testimony, Chapter 1, “Residential Rate Proposal,” page 1-9.

15/ Public Utilities Code, Section 739(a)(1).

increases.^{16/} TURN chastises PG&E for providing a one-time bill credit rather than lowering rates to collect the overage over time.^{17/} First, this is not the place to make collateral attacks on PG&E's revenue requirements and revenue collection practices. Customers received a benefit from the credit. Revenue requirement increases are generally the result of litigated rate cases in which DRA and TURN participate. Many relate to maintaining safe and reliable service. Others cover new programs or requirements mandated by the CPUC, the legislature, or other government bodies. Some are supported by DRA and TURN.

At any rate, customers paying inappropriate rates should not be deprived of relief because PG&E is erroneously perceived by protesters to make excessive revenue requirement requests or to have provided a credit when it could have lowered rates. As an editorial in the Redding Record Searchlight recently concluded, "Tiered rates make sense to a point to promote conservation, but charging one customer five times as much as another – with no regard to the underlying expense – is beyond reason."^{18/} PG&E's Tier 5 rate is currently nearly 50 cents per kWh, far in excess of the average residential rate, and is arguably punitive to upper-tier consumers.

Protestors also ignore the fact that PG&E has proposed three separate rate reductions to reduce rates effective June 1, 2010, that would help to ameliorate today's situation.

16/ DRA protest, p. 8.

17/ TURN protest, pp. 4-5.

18/ Record Searchlight, March 16, 2010, <http://www.redding.com/news/2010/mar/16/pacific-gas-and-electric-rates-are-both-soaring-an/>. According to the March 26, 2010, Contra Costra Times, "[T]he current five tiers of rates heavily penalize people living in warm regions." http://www.contracostatimes.com/search/ci_14757755?IADID=Search-www.contracostatimes.com-www.contracostatimes.com.

DRA^{19/} also claims that PG&E should have attended to the high tier rate issue earlier, another irrelevant argument. Again, customers paying inappropriate rates should not be deprived of relief because PG&E is erroneously perceived to have been untimely in seeking change. In fact, PG&E has used the current rate design methodology since the surcharges were introduced in 2001 and the method was once again agreed to by all the settling parties in PG&E's 2007 GRC. More recently, parties began to realize that the rate design was beginning to cause quite high rates for upper-tier consumers, as evidenced by the successful negotiations to enact SB 695. But it was only during the July 2009 Kern County heat wave that some customers first began to perceive the high rate levels in the upper tiers as punitive in terms of the absolute magnitude of bills for upper tier users, and in terms of the month-to-month bill volatility, during the heat wave month of July 2009 compared to June 2009 or July 2008.

E. The Testimony of Dr. Ahmad Faruqui Addresses Important Policy Considerations.

DRA and TURN suggest that hearings are necessary but are not specific as to what the disputed issues of fact may be. TURN suggests that Dr. Faruqui's testimony²⁰ raises unspecified evidentiary issues that require hearings and therefore must be withdrawn if PG&E seeks to implement new rates by June 1 of this year.²¹ Dr. Faruqui's testimony addresses several important equity and efficiency issues critical to the policy considerations surrounding PG&E's proposed rate design revisions. Accordingly, it would be premature at this time to deprive the Commission of his insights. Moreover,

19/ DRA protest, p.8.

²⁰ Exhibit (PG&E-1), Chapter 2, "Inclining-Block Rate Research."

²¹ DRA Protest, pp. 9-11.

PG&E believes the Commission can consider PG&E's proposal on the merits without the need for hearings.

F. PG&E Remains Open to Alternative Rate Design Proposals.

Nevertheless, PG&E is cognizant of current economic conditions and the hardships many of its customers are experiencing, and is open to pursuing a reasonable solution that makes rates more equitable for all customers. Thus, in parallel with filing this reply, PG&E is evaluating alternative modifications to the design of its upper tier rates, and intends to work cooperatively with DRA and TURN to explore an expeditious settlement.

III. CONCLUSION

For all of the foregoing reasons, PG&E respectfully requests that the Commission deny the protests of DRA and TURN. PG&E will cooperatively work with DRA and TURN to explore alternative rate designs in hopes of reaching an expeditious settlement that will facilitate a Commission final decision that can be implemented by June 1, 2010.

Respectfully Submitted,

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By: _____ /s/
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Dated: March 29, 2010

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CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. 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 Pacific Gas and Electric Company, Law Department B30A, Post Office Box 7442, San Francisco, CA 94120.

On the 30th day of March, 2010, I served a true copy of:

**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
TO PROTESTS OF THE DIVISION OF RATEPAYER ADVOCATES AND THE
UTILITY REFORM NETWORK**

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service lists for **A.10-02-029** and the following individuals:

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[XX] 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 lists 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 on this 30th day of March, 2010, at San Francisco, California.

/s/
MARTIE L. WAY

**THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
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Last Updated: March 19, 2010

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