

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



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**Application of PACIFIC GAS AND
ELECTRIC COMPANY to Defer
Consideration of Default Residential Time-
Variant Pricing until Its Next General Rate
Case Phase 2 Proceeding, or in the
Alternative for Approval of its Proposal for
Default Residential Time-Variant Pricing
and For Recovery of Incremental
Expenditures Required for Implementation**

(U 39 E)

**Application No. 10-08-005
(Filed August 9, 2010)**

**REPLY OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
TO PROTESTS OF THE DIVISION OF RATEPAYER ADVOCATES
AND THE UTILITY REFORM NETWORK**

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September 23, 2010

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

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Pursuant to Rule 2.6 (e) of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) submits its reply to the protests of the Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) in this proceeding.^{1/}

This proceeding involves PG&E's proposals for default residential Peak Day Pricing (PDP) which PG&E filed in compliance with Decision (D.) 08-07-045. PG&E's primary proposal is to defer further consideration of default residential PDP until its 2014 General Rate Case (GRC). In case the Commission does not accept that proposal, PG&E has presented a default residential PDP rate design and program proposal which would apply to eligible residential customers with usage both below and above 130 percent of baseline, unless they choose to opt-out of default residential PDP.

DRA and TURN support PG&E's primary proposal in this proceeding, (TURN protest, p.1; DRA protest, p. 2) but both DRA and TURN oppose PG&E's alternative proposal and argue that it does not comply with Public Utilities Code (PUC) section 745(d).

^{1/} DRA's protest was filed September 10, 2010, while TURN filed its protest on September 13, 2010 after receiving a one day extension. Therefore PG&E's reply is due September 23, 2010.

I. THE COMMISSION SHOULD ACCEPT THE UNANIMOUS RECOMMENDATION OF PG&E, DRA AND TURN THAT DEFAULT RESIDENTIAL PDP BE DEFERRED UNTIL PG&E'S NEXT GRC

Millions of PG&E's residential customers have no experience with time-varying rates like default residential PDP, which charges a significantly higher price per kwh during certain event hours and days, in return for a modest price reduction during the remainder of the year. PG&E and TURN agree that moving these households to default residential PDP represents an enormous challenge. (TURN protest, p. 1.) TURN believes "that the Commission's long-term goal of promoting residential demand response will actually be better served by a more gradual and phased implementation of dynamic pricing." (*Id.* p. 2.) PG&E agrees with TURN that the massive cultural shift required for millions of residential energy users to accept and adjust successfully to a rate like default residential PDP will require extensive education, preparation and real-world experience over time with more moderate residential time-varying rates.

Were the Commission to approve PG&E's primary proposal to defer consideration of default residential PDP to PG&E's next GRC, it would not mean that no progress towards residential time-varying pricing would occur. As noted by TURN and DRA, a compelling reason for the primary deferral proposal is to allow residential customers to gain experience with a time-varying tariff through the Peak Time Rebate (PTR) program. The PTR program provides rewards for reducing usage during event hours, but unlike default residential PDP, PTR will not increase the customer's bill as a result of event hours. TURN, DRA and PG&E all agree that PTR is critical to building customer understanding and acceptance of dynamic pricing. (*Id.*, p. 3; DRA protest, p. 4.) All three parties agree that allowing PTR to operate for several years before consideration of default residential PDP will provide invaluable information about residential demand response, including whether PTR motivates sufficient demand response by itself, and how to develop better dynamic pricing design.^{2/} (TURN protest p.3,4; DRA protest, p.3, 4.)

^{2/} PG&E agrees with TURN's recommendation that the Commission allow *de novo* review of whether a dynamic pricing tariff is appropriate as a default tariff for residential customers, and if so, whether a PTR or PDP tariff better meets the various policy goals of residential rate design. (TURN protest, p. 13.)

DRA, TURN and PG&E therefore recommend that the Commission authorize PG&E to defer consideration of default residential PDP until the 2014 GRC.

DRA further recommends that the Commission make a decision on the primary deferral proposal before the parties proceed further with this case. (DRA protest, p. 4; TURN protest, p. 6.) DRA points out that Commission guidance on the deferral proposal now would be useful before parties expend their limited resources on conducting discovery and producing testimony on a rate design that may not be implemented for several years, if at all. Timely guidance would also potentially allow parties to concentrate on implementation and improvement of PTR. (DRA protest, pp. 4 to 5.) PG&E agrees that Commission guidance on the primary deferral proposal would be useful before it and the other parties would need to prepare testimony and rebuttal.

II. SHOULD THE COMMISSION DECLINE TO DEFER RESIDENTIAL DEFAULT PDP, IT SHOULD FIRST DETERMINE WHETHER PG&E'S PROPOSAL IS CONSISTENT WITH SB 695

The DRA and TURN protests identify a pivotal legal issue in this case. The default residential PDP rate design presented in this Application would subject all usage occurring during PDP events to PDP rates. PDP rates would apply during events regardless without respect to tiers. Customers would be defaulted to the PDP schedule when they have at least 12 months of interval data, but they would have the ability to opt out of PDP to a different residential schedule with otherwise applicable tier 1 and 2 rates.

DRA and TURN argue that this default residential PDP design does not comply with PUC sections 745 (d) and 739.9. (DRA protest, p. 5; TURN protest, p. 7.) They maintain that PDP rates are not permitted for electricity usage at or below 130 percent of baseline. (DRA protest, p. 6; TURN protest, p. 9.) PG&E, however, maintains that its default residential PDP rate design does not violate the code sections.

PG&E identified this legal issue in its Application, pages 6 to 8, and page 13, issues 3 and 4. As noted in TURN's protest, PG&E also indicated that if the Commission determined

that the proposed default residential PDP rate design is not acceptable and wanted a different rate design, PG&E would need more time to revise its proposal. (TURN protest, p. 7.)

DRA, TURN and PG&E agree that the question of whether PG&E's proposed default residential PDP rate design contravenes PUC sections 739.9 and 745 (d) is a critical and threshold legal issue in this case. DRA and TURN urge that the procedural schedule accommodate an early decision on it:

Because this legal issue is so fundamental to the ultimate design of DRPDP rates, it has to be **resolved prior** to any preparation of testimony and evidentiary hearings in this proceeding.

(TURN protest, p. 9, emphasis in original.) DRA recommends that

[T]he Commission consider the legal parameters of designing default residential time-variant pricing in a separate phase of this proceeding. In this phase, parties could submit testimony or briefs on this legal issue on which the Commission could rule **before** the parties proceed to design default residential PDP rates.

(DRA protest, p. 6, emphasis added.) PG&E also strongly supports an early decision on the legal issues identified in the DRA and TURN protests, and the Application.

Litigating and resolving this legal issues before the parties address the default residential PDP rate design and program would allow parties' discovery and testimony to focus on PDP proposals known to be legally viable.^{3/}

III. DEFAULT RESIDENTIAL COSTS AND EXEMPTIONS ARE WITHIN THE SCOPE OF THIS PROCEEDING

TURN questions the implementation costs for dynamic pricing spanning six cases, in addition to the default residential PDP case: the AMI case, the SmartMeter™ Program Upgrade, the 2009-2011 Demand Response proceeding, the 2009 Rate Design Window, the 2010 Rate Design Window, and the 2011 GRC Phase 2 case. To the extent TURN presents arguments based on these cases and the table on page 10 of its protest in its testimony, PG&E will respond as appropriate. At this point, PG&E believes that certain of these cases and/or costs as presented

^{3/} The legal question of whether PUC sections 739.9 and 745(d) preclude a default residential PDP rate from applying to usage at or below 130 percent of baseline under PG&E's proposal does not require additional factual information beyond what is presented in PG&E's application and testimony served on August 9, 2010.

by TURN may not be properly within the scope of this default residential PDP program proceeding. PG&E also will review and respond to any cost figures presented for these cases by TURN testimony, in its own testimony and pleadings.

TURN also objects that PG&E's proposed exemptions from default residential PDP do not go far enough. TURN's protest expresses concern about the impact of default residential PDP on fixed-income elderly residents who depend on air conditioning, and the difficulty of identifying them. PG&E agrees that the question of exemptions from default residential PDP is an appropriate issue for this proceeding.

IV. CONCLUSION

PG&E requests that the Commission adopt the unanimous recommendation of PG&E, DRA, and TURN that consideration of default residential PDP be deferred until PG&E's next GRC. Should the Commission decline to adopt this recommendation, then PG&E requests that the Commission adopt the parties' suggestion to address and decide the legal issue of PUC section 745(d)'s impact on default residential PDP design as the first order of business in this proceeding. Briefing and decision of this legal question should occur promptly and should be based on the default residential PDP proposal contained in PG&E's testimony and application.

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Respectfully submitted,

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By: _____ /s/
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September 23, 2010

CERTIFICATE OF SERVICE

I, the undersigned, state that I am a citizen of the United States and 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, 77 Beale Street, San Francisco, California 94105.

On September 23, 2010, I caused to be served true copies of:

**REPLY OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
TO PROTESTS OF THE DIVISION OF RATEPAYER ADVOCATES
AND THE UTILITY REFORM NETWORK**

by transmitting an electronic version of the above-referenced notice to all parties having an e-mail address listed on the Commission's official service lists in:

Application No. 10-08-005

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

Dated this 23rd day of September, 2010, at San Francisco, California.

/s/
PAMELA J. DAWSON-SMITH

**THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
EMAIL SERVICE LIST**

Last Updated: September 15, 2010

CPUC DOCKET NO. A1008005

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