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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company To Revise Its Electric Marginal Costs, Revenue Allocation, and Rate Design, including Real Time Pricing, to Revise its Customer Energy Statements, and to Seek Recovery of Incremental Expenditures.

(U 39 M)

Application 10-03-014
(Filed: March 22, 2010)

REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY ON RESIDENTIAL RATE DESIGN ISSUES

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REPLY BRIEF
OF PACIFIC GAS AND ELECTRIC COMPANY
ON RESIDENTIAL RATE DESIGN ISSUES

I. INTRODUCTION AND GENERAL BACKGROUND

Although there are many facts disputed between the parties, it is remarkable how much is undisputed. There is no dispute that Pacific Gas and Electric Company's (PG&E's) current Tier 4 rate is far above the cost of service, and far higher than the rate charged by other California utilities, and most other utilities in the United States for that matter. It is also clear that this rate does not serve a well thought-out rate design objective. Instead, it has resulted from the rates for non-CARE customers in the upper tiers having to bear all residential cost increases for close to a decade. It is also undisputed that CARE rates have not increased in nearly 20 years, and that non-CARE Tier 1 and 2 usage rates have barely increased since 2001.

Against these undisputed facts, it would appear obvious that changes are necessary. In particular, to the extent permitted by law, modest residential rate design changes should occur in order to collect more revenues from CARE and Tier 1 and 2 non-CARE customers to better reflect cost of service and achieve more reasonable levels of CARE discounts, enabling Tier 4 non-CARE rates to approach more rational levels. Rate design modifications that accomplish this goal include a very modest customer charge like those used by utilities across California and the United States. Adding a Tier 3 rate for CARE customers, approved by the California legislature and already in place for other utilities, would give these customers a greater incentive to conserve and reduce the existing $700 million subsidy to CARE customers. Combining non-CARE Tiers 3 and 4 rates would have a small impact on the Tier 3 rate (which will still be above cost-of-service) and help move Tier 4 rates closer to the top rate charged by other major CPUC-regulated utilities.

However, these simple and common sense proposals have been met with remarkable responses that defy common sense and fair public policy. Low income advocates argue essentially that CARE rates should **never** be increased, seeming to take the position that it is wrong to increase charges in any way for electricity supplied to low income customers. Similarly, a trade association of solar marketers argues that it should be a higher priority for the Commission to protect solar developers marketing to high-tier residential customers than to have fair rates. A customer charge of $2.40 to $3.00 per month is not a massive or "drastic" rate change, as claimed by opponents here, nor is a differential of less than 3 cents per kilowatt hour between the CARE Tier 2 rate and the proposed new CARE Tier 3 rate. Other parties argue that instead of making any change, the Commission should wait for other solutions to emerge, such as a later phase of this case (revenue allocation), other cases like the low income energy efficiency docket, or for utilities to do more to control costs. However, many cost drivers like renewable procurement obligations, natural gas volatility, and carbon dioxide regulation, are far beyond any utility control, and rate relief for higher tier non-CARE residential customers is needed soon, not in the indefinite future.

One particularly startling argument is the claim that reducing higher-tier rates to correct inequities violates the loading order in the Commission's Energy Action Plan. In particular, the Solar Alliance brief at pages 8-11 argues that any rate change that might result in increased consumption by some consumers violates the loading order. However, by this logic the Commission should never pass along cost decreases to customers, since the resulting lower rates will increase consumption. The Commission has never held that the loading order prevents any rate decrease. Indeed, if costs go down, rates should also go down, and the notion that the loading order prohibits rate decreases is irrational and irresponsible.

Rates should not and cannot be immutable, resistant to any change, even when circumstances and costs change. PG&E's current residential rate design is badly broken. The simple fixes to residential rate design proposed by PG&E and already in place at other California utilities should be adopted here.

Similarly, PG&E's proposal to flatten the generation rates across the tiers, as has already been adopted by the Commission for SCE and SDG&E, should be approved. Despite parties' strained arguments to the contrary, there is no credible evidence that generation costs increase with monthly consumption volumes, or that the proposed flattening of generation and distribution rates with the tiering instead in a Conservation Incentive Adjustment (CIA) rate components is wrong on the merits. This proposal should be adopted for PG&E's customers as it has been for the other major utilities.

II. OVERALL RESIDENTIAL RATE DESIGN

Most of the key concepts about rate design principles were addressed in PG&E's opening brief, and that discussion will not be repeated here. However, there are several new areas to address based on comments made in Opening Briefs.

A. Impact of Proposed Rate Changes Between Geographic Areas

Several parties presented testimony and briefs on the impact of PG&E's rate proposals on different geographic areas of the service area. The Utility Reform Network (TURN) cites analysis to argue that under PG&E's rate design proposals, no specific geographic area "wins" as a result of shifts in revenue requirement recovery to other geographic areas. (TURN brief pp. 13 and 28). On the other hand, Kern County and KernTax expressed their belief that their area has been paying more than it should relative to other regions, like the coast. (TURN brief p. 28; KernTax brief pp. 4 to 7). Kern County witness Krauter also testified that PG&E's rate proposals were expected to reduce revenues from Kern County by up to $7.7 million. (TURN brief p. 28).[1/]

PG&E's rate proposals may not have exactly the same impact on all parts of the service area, but PG&E does not design rates to benefit one geographic area at the expense of another. As Mr. Quadrini stated, PG&E has an obligation to design rates that are reasonable and appropriate for the entire population of its customers. (Quadrini/PG&E, Tr. p. 922, line 27 to p. 923, line 4, "We have 4.6 million customers that we have to design rates for and the tail cannot wag the dog"; see, Keane/PG&E, Ex. 2, p. 1-16, lines 26 to 30). One group, whether it is low-income customers or customers in a specific geographic location or customers with solar installations, cannot be the sole focus of any adopted rate design. Special considerations such as provided by legislation like the CARE statute or the baseline statute (which allow different levels for different climate zones) are important factors. But the basic principles of rate design enumerated by Dr. Keane in Ex. 2, page 1-1, lines 24 to 31, must be honored to produce an equitable, economically rational and fair rate design in this case.

B. Impact of Proposed Rate Changes on Conservation and Solar Programs

In their opening briefs, Vote Solar, Solar Alliance, and Sierra Club repeat arguments made in their filed testimony that reducing Tier 4 rates can reduce the value of solar to customers who wish to reduce Tier 4 usage, and that it can reduce the incentive of Tier 4 customers to install high expense energy efficiency measures. Curiously, however, none of them made any effort to address the argument PG&E presented at hearing, that these rates proposed by PG&E are very similar to the rates offered by SDG&E and Southern California Edison, and that the state has had tremendous success at encouraging both photovoltaic power and energy efficiency in both areas. (See detailed discussion in PG&E's brief pp. 14-20). There is plenty of room for continuing successful solar and energy efficiency programs if PG&E's proposal is approved. There is no reason to keep rates higher than they should be for millions of customers under the

1/ The discussion materials at page 28 in TURN's brief actually involve cross-examination on TURN's rate proposals, which TURN's questioning implied were PG&E's. The misleading characterization in TURN's brief is discussed in Section VI. B, *post*.

theory that doing so will protect the interest of solar vendors.

C. Impact of Proposed Rate Changes on Low Income and Disabled Customers

The Disability Rights Advocates (DisabRA), Greenlining Institute (Greenlining), and DRA expressed their opposition to all or part of PG&E's rate design changes because low-income and low-usage customers would see increases in their monthly bills. (DisabRA brief pp. 2 to 17; Greenlining brief pp. 2 to 8; DRA brief pp. 2 to 3). PG&E is sympathetic to the challenges faced by low-income customers, and realizes that its proposals will modestly increase CARE rates, which are currently lower than they were in 1991. Of course, Greenlining and DisabRA would like to continue that favorable treatment and they argue against any increase in rates for these customers. But the extremely high rates for upper-tier non-CARE customers are so problematic now that the rates applicable to these low-usage and low-income customers must begin to move toward their appropriate cost-based levels. (Keane/PG&E, Ex. 2, p. 1-6, lines 10 to 25; Tr. page 371, lines 4 to 9; Tr. p. 243, lines 2 to 8).

The key dispute between the parties is how significant these changes are. As PG&E explained at hearing and in its opening brief, the changes proposed are, for the most part, quite small. Adding a customer charge of $2.40 per month is not the crushing burden claimed by DisabRA and Greenlining. No doubt there are some customers who have a hard time paying anything for electricity, but it makes no sense to give away power for free, or even continue the extremely deep discounts currently received by CARE customers that average approximately 50% and are as much as 76% in Tier 4. (Quadrini/PG&E, Ex. 1, p. 3-17, Table 3-8 and Ex. 2, p. 2-23, lines 10 to 12). Instead, proposing very modest changes, in the context of nearly twenty years with no increases, is simple common sense, as well as good rate policy. (See PG&E brief pp. 20-23). These excessive CARE discounts are far above the longstanding historical CPUC program target of a 20% CARE discount. This 20% target was recently ratified as the legislated program objective in new statutory SB 695 and PUC Sections 739.1(b)(4) and (b)(5) provisions. Moving toward the legislated 20% CARE discount is long overdue.

Similarly, a Tier 3 rate for CARE customers will increase bills for CARE customers with

Tier 3 usage, and the dispute is about how significant that change will be for the average CARE customer. The 40% of above-average CARE users will see average bill increases of approximately $11.60 per month from the entire proposed package of changes proposed by PG&E. (PG&E/Quadrini, Ex. 2, p. 2-25, lines 10-19; PG&E brief p. 21).[2/] However, this proposed new rate, 12.5 cents per kilowatt hour, will still be a huge discount from the proposed non-CARE Tier 3 rate of 27.6 cents per kWh. Moreover, as explained in PG&E's opening brief, in real terms, CARE rates have declined by an enormous amount over the last two decades. It is time for some modest adjustments to these rates.

Greenlining justifies its opposition to PG&E's residential rate proposals on the grounds that "higher income customers have more upper tier energy usage." (Greenlining brief p. 10). However, the evidence does not support this claim. First, PG&E witness Faruqui noted that customers in the fourth tier are not necessarily affluent. Dr. Faruqui explained that homes in the 2,500 square foot range in warm climates such as the East Bay, Sacramento, Fresno, and Bakersfield often end up consuming in the fourth tier during the summer months. And within climate zones, there is much variation due to customer demographics (number of people in the house, their ages, education levels and so on) and the thermal integrity and geometry of dwellings. (Faruqui/PG&E, Ex. 1, p. 11-7, lines 11 to 18). He noted that "You can find people who are large users who are not wealthy. And you can find … wealthy customers who are low users." (Faruqui/PG&E, Tr. p. 35, lines 2-5).

Similarly, PG&E witness Keane also stated "While household usage and income may be correlated to some degree, it is not a perfect correlation. So PG&E's proposals to decrease the high upper-tier rates currently in place benefit many households that do not have high incomes." (Keane/PG&E, Ex. 1, p. 1-15, lines 24-27). Dr. Keane concluded "Rates should be cost-based

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2/ Indeed, the $2.40 bill increase can be fairly easily offset by decreasing usage a mere 28.9 kWh per month ($2.40 per month divided by $0.08316 per kWh) if the household is consuming in Tier 1, or an even smaller 25.1 kWh per month ($2.40 per month divided by $0.09563 per kWh) if the household is consuming in Tier 2. As Greenlining's witness testified, "all customers can do more to reduce their energy usage" and then agreed with a long list of specific areas where CARE customers could achieve such energy savings. (Aguilar/Greenlining, Tr. p. 217, line 28 to p. 218, line 1, and Tr. pp. 219-220).

and fair, not used as a form of crude income redistribution." (*Id*., lines 31 to 32). Indeed, even TURN's witness Marcus offered evidence of a significant number of Tier 4 and 5 customers at **all** income levels. (Marcus/TURN, Ex. 11, p. 73, Figure 9, and p. 70) ("consumption is obviously not in lockstep with income.")

In other words, the residential rate proposals adopted in this case needs to return PG&E's rate design to a balance of the principles presented by PG&E:

- Rates should be equitable by reflecting cost of service:
- Rates should send appropriate price signals to customers;
- Rates should be easy for the utility to bill and for customers to understand;
- Rates should be implemented in a way to avoid rate shock; and
- Rates should further public policy goals (e.g., protection for low-income customers).

(Keane/PG&E, Ex. 2, p. 1-1, lines 19-31). The principle of protection for low-income customers should not eclipse the other four principles and prevent them from informing the adopted rate design.

III. PROPOSED MONTHLY CUSTOMER CHARGE

A. Legal Discussion

The opening briefs of twelve parties address PG&E proposed monthly customer charge. The California Large Energy Customers Association/California Manufacturing and Technology Association (CLECA/CMTA), KernTax, Kern County and Southern California Edison Company (SCE) support PG&E's proposal. TURN, DRA, DisabRA, Greenlining, Vote Solar, the Sierra Club and the Solar Alliance oppose it.

Legal arguments against implementation of a customer charge are presented in the DRA and TURN briefs. (DRA brief pp. 4 to 13; TURN brief pp. 3 to 14). Sierra Club, Greenlining and DisabRA voice opposition primarily based on conservation concerns and/or burdens on low-income and low usage customers, but also state their support for TURN's legal arguments without presenting their own legal analyses. (Sierra Club brief pp. 12 to 13; Greenlining brief pp. 16 to 19; DisabRA brief pp. 17 to 19). Solar Alliance does describe why it believes the proposed customer charge is not permitted under PUC § 739.9(a), but also endorses TURN witness Florio's oral testimony that would prevent institution of a customer charge if a utility did not have a customer charge when SB 695 was enacted. (Solar Alliance brief pp. 5 to 7).

PG&E's opening brief at pages 23 to 30 already presented legal analyses rebutting the legal arguments of the opposing parties. The excellent discussion of the legal issues involving the customer charge in SCE's brief at pages 11 to 37 also demonstrates why DRA and TURN's legal arguments are wrong. Reference is made to both the PG&E and SCE briefs for their legal analyses on the customer charge issues. However, PG&E briefly responds to the briefs of parties opposing the customer charge proposal below.

The legal arguments in the DRA and TURN briefs are that PG&E's interpretation would result in rate changes in excess of what they see as allowed by law. DRA and TURN's positions essentially depend on the following statutory interpretations:

1. Under PUC § 739.9(a) [and PUC § 739.1(b)(2)] the Commission should include customer charge revenues when determining whether an increase in "rates for usage" meets the applicable percentage test, i.e. 3 to 5 percent in 739.9(a).
2. The Commission should compare an inverted Tier 1 composite rate with the customer charge against the Tier 2 rate to determine if the rate structure satisfies PUC § 739.7's requirement that the Commission maintain an appropriate inverted rate structure.

The rest of the DRA and TURN legal arguments are to bolster these two main points.

1. Senate Bill 695 Permits a Customer Charge

With regard to the statutory language itself, DRA's brief (p. 6) claims that PG&E contends that a customer charge is not a rate. That statement reflects a basic misunderstanding of PG&E's position. Based on the specific language of PUC § 739.9(a) and (b), the legislature has distinguished between "rates charged residential customers for electric usage up to the baseline quantity" in subsection (a) and "rates charged residential customers for usage up to the baseline quantity, *including customer charge revenues*" in subsection (b) (emphasis added.) That difference in language between these two contemporaneously-enacted subsections of the same code section (which jointly impose limits on annual increases to formerly frozen Tier 1 and 2 rates), is the foundation for how PG&E interprets PUC § 739.9. PG&E understands subsection (a)'s "rates for usage" to be volumetric rates, since that type of rate is what is charged based on usage. The language in PUC § 739.9(b), "rates for usage including customer charge revenues," is clearly different and specifically incorporates non-volumetric customer charges into the second subsection (b) test, which subsection (a) does not do.

TURN at least, recognizes the difference in terminology between subsections (a) and (b) of PUC § 739.9, but tries to take refuge by describing the way fractions are constructed. TURN states that Section 739.9 "necessarily describes how both the numerator and the denominator of the calculation are to be determined" (to conduct the 90 percent test in subsection (b).) (TURN brief p. 7). Like DRA, however, TURN takes the position that customer charges must be included in the "rate," based both on historical practice and legislative interpretation. (*Id.,* pp. 7 to 10). Under both TURN and DRA's interpretation, there would be no need for section (b) to specifically mention "customer charge revenue" because such revenue would already be included in the concept of "rate" for subsection (b) as well as subsection (a). TURN's description of how fractions are composed does not explain the differences in the relevant, plain language in subsections (a) and (b) of PUC § 739.9. The plain language of the statute must be the starting point for any statutory construction, and differences in phrasing cannot be read so as to render any language mere surplusage.[3/]

Both DRA and TURN also assert that customer charges should be part of baseline rates based on past Commission practice. The examples of the practice cited by these two parties all predate the enactment of PUC § 739.9(a) and (b) in SB 695, and indeed pre-date the energy crisis and the enactment of AB 1X in 2001 which resulted in freezing non-CARE Tiers 1 and 2 rates.

3/ *Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230 – 231, 110 Cal.Rptr. 144, 514 P.2d 1224: "In determining [the] intent [of the legislature] the court turns first to the words themselves for the answer. We are required to give effect to statutes according to the usual, ordinary import of the language employed in framing them. If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose; a construction making some words surplusage is to be avoided." (citations omitted).

(DRA brief pp. 8 to 10; TURN brief pp. 7 to 8). The Commission now has a new statute requiring interpretation, under circumstances that did not exist prior to the energy crisis and the resulting rate freeze. That new statute has specific language on "rates for usage." It would be consistent with the statutory language for the Commission to interpret this code section as PG&E does. Moreover, PG&E's interpretation would preserve the Commission's discretion and flexibility to establish future rates compared to DRA and TURN's more restrictive interpretation.

TURN's brief at pages 9 to 10 also relies on the Legislative Counsel opinion issued in consultation with TURN approximately a year after SB 695 was enacted. PG&E's opening brief (at pp. 26 – 30) discussed the problems with TURN's use of a non-contemporaneous Legislative Counsel opinion and why it is in error and not entitled to any special weight. In addition, however, PG&E here points out that TURN is entirely wrong when it claims that PG&E's statutory interpretation would "essentially render Section 739.9(a) a nullity . . . a utility could at its first opportunity simply propose a customer charge large enough to bring the composite Tier 1 rate up to the maximum level allowed by Section 739.9(b). This would completely negate the limitation on the magnitude of *annual* increases included in Section 739.9(a) and render that provision meaningless." (TURN brief pp. 10 to 11). Section 739.9(a) plainly states that the limited increase permitted in that subsection is subject to the further limitation in subsection (b). And as SCE witness Garwacki testified, the operation of Section 739.9(b)'s 90 percent of the average residential rate test caused SCE's January 1, 2011 Tier 1 and 2 increase to be less than it would otherwise have been under Section 739.9(a). (Garwacki/SCE, Tr. p. 432, line 25 to p. 433, line 15; Tr. p. 435, line 15 to p. 436, line 3).

2. The "Inverted Rate Structure" Legislation Permits PG&E's Proposed Customer Charge

The TURN, DRA and DisabRA briefs also claim that PG&E's customer charge proposal is inconsistent with PUC § 739.7 because the differential between Tiers 1 and 2 would be too small. These parties claim that the differential must also be at least 10 percent between Tiers 1 and 2. (DRA brief p. 10 to 11; TURN brief p. 11 to 12; DisabRA brief p. 18). TURN and DRA argue that for purposes of this code section, Tier 1 should be a composite of the customer charge and the volumetric Tier 1 rates. The statutory language, however, does not specify what tier or tiers to use to maintain an appropriate inverted tier structure. And the code section certainly does not mandate a comparison between a composite Tier 1 rate and the Tier 2 rate, as PG&E noted in its opening brief at page 33. Moreover, PG&E's opening brief has already explained that if a composite analysis is used, the comparison should be based on all the tiers above Tier 1, not just Tier 2, in order to reflect the complete effect of the inversion. (PG&E brief p. 33).[4/] When composite tiers are used for both Tier 1 and usage above, PG&E's proposal easily meets the 10% differential in the TURN and DRA briefs. However, the Commission has the discretion to determine whether or not to use composite tiers, and what an appropriate inversion differential would be under current circumstances. (*Id.*)

Solar Alliance's brief repeats that same position as DRA and TURN that the customer charge should be included in calculating the Section 739.9(a) 3 to 5 percent increase and for analyzing the Tier 1 and 2 differential under Section 739.7. (Solar Alliance brief pp. 5 to 6). PG&E has responded to those arguments in its opening brief and in its reply brief discussion of DRA and TURN's briefs, *ante,* and will not repeat them here. Solar Alliance, however, goes on to endorse TURN witness Florio's interpretation that Section 739.9(a) does not allow implementation of a customer charge if one did not already exist, notwithstanding its testimony to the contrary that the statute permits a $1.00 per month customer charge. (Solar Alliance brief, pp. 6 to 7, and Solar Alliance's testimony to the contrary addressed in PG&E opening brief p. 30, fn. 13). In effect, this interpretation would not allow the Commission to approve any new residential rate component that could affect rates for customers using up to 130% of baseline if that rate component did not exist when SB 695 was enacted. This extreme interpretation would limit the statutory language "rates charged residential customers for usage up to 130% of

4/ When section 739.7 was enacted, there were just two tiers, one for usage up to the baseline quantity and one for usage over the baseline quantity. (Quadrini/PG&E, Ex. 2. p. 2-22, lines 22-25). TURN is now trying, for purposes of calculating the tier differential, to redefine "above-baseline" to include only usage between 100 and 130 percent of baseline, while ignoring usage above 130 percent of baseline.

baseline" to existing rates only. There is absolutely no basis in the statute itself or its legislative history to support such a claim, which would completely tie the Commission hands. Such an interpretation must be rejected as completely unsupported and highly unreasonable.

B. Policy Discussion

Sierra Club, Vote Solar, Greenlining, and TURN argue against the customer charge proposal on the grounds that it would reduce customers' incentive to conserve because it cannot be avoided by reducing usage. (Sierra Club brief pp. 12 to 13; Vote Solar brief pp. 10 to 11; Greenlining brief pp. 17 to 18; TURN brief pp. 12 to 14). These parties make this assertion simply because it is a fixed charge and without considering what effect the rate design would have on the overall conservation incentive. PG&E witness Faruqui took this larger view and stated that the customer charge would have a minimal effect since PG&E's proposed rates rise steeply between tiers 2 and 3, i.e. by 14.1 cents per kWh for non-CARE. (Faruqui/PG&E, Ex. 1, p. 11-11, lines 19 to 22; see PG&E brief p. 32). He also stated that because customers pay more attention to their total bill, as opposed to energy rates, any increase in the total bill, regardless of the cause, could increase the conservation response.[5/]

But more importantly, as PG&E witness Keane testified, conservation is only one among several important rate design objectives in this case, and should not be the dominant consideration here because changes are needed to fix major inequities in the current rate design while recovering the revenue requirement. (Keane/PG&E, Ex. 2, p. 1-16, lines 26 to 30). Therefore the concerns expressed by Sierra Club, Vote Solar, Greenlining and TURN over potential qualitative impacts on conservation incentives should not deter the Commission from approving the customer charge proposal.

DisabRA, Greenlining and DRA urge the Commission to reject the customer charge due to concerns about its impact on CARE and low usage customers. (Greenlining brief pp. 16 to 19;

5/ Faruqui/PG&E, Ex. 2, p. 3-14, lines 1-2 (Econometric work from Koichiro Ito finds that customers have historically responded to average prices), and Tr. p. 24, lines 15-21 ("the introduction of a customer charge would represent a higher average price for those customers. You would see some conservation coming from there…") (additional impacts of customer charge discussed at Tr. pp. 24, line 22 to p. 26, line 8).

DisabRA brief p. 19; DRA brief p. 12). DRA objects that no change in customer behavior or consumption would reduce or eliminate the fixed customer charge, giving customers less control over their bills. DisabRA argues that CARE and non-CARE low usage customers will pay the additional charge, but receive no offset. Greenlining's brief also characterized the customer charge as completely unavoidable and regressive with disproportionate impacts on CARE and "Basic Energy" needs customers. These arguments assume that customers should be able to avoid costs which are largely fixed and unavoidable. As discussed in PG&E's opening brief, pages 31 to 32, the proposed residential customer charge, like the existing Commission-approved customer charges for all of PG&E's non-residential customers, reflects costs that exist regardless of the customer's level of energy usage.[6/] DisabRA, Greenlining and DRA, however, advocate shifting these fixed and unavoidable costs -- that are necessary to serve CARE and low usage non-CARE customers -- to other customers. These parties ignore the fact that setting a customer charge to recover at least a portion of these costs (which do not vary with usage) on a fixed basis appropriately reflects cost causation, and supports more equitable recovery of PG&E's fixed costs among customers. These costs should be paid by all customers, as opposed to avoided by some and thus shifted to and paid by others. (PG&E, Ex. 2, p. 1-11, lines 19 to 21; *Id.* p. 1-12, lines 22 to 25).

IV. PROPOSED CARE TIER 3 RATE

PG&E has proposed to implement a Tier 3 for CARE which would apply to usage by CARE customers above 130 percent of baseline. The new Tier 3 would not affect rates in CARE Tier 1 and 2, which remain at levels which have not increased for approximately two decades. The proposed CARE Tier 3 rate would increase by 2.9 cents per kWh to 12.5 cents per kWh, or 150 percent of the CARE baseline rate of 8.3 cents per kWh as permitted by statute. PG&E also requests authority to increase the CARE Tier 3 rate by 1.5 cents per kWh per year in the second and third year of the 2011 GRC 2 rate case cycle (2012 and 2013). These two increases are

6/ PG&E/Keane, Ex. 2, p. 1-11 line 17 through p. 1-12, line 5.

consistent with PUC § 739.1(b)(5), which permits the CARE Tier 3 rate to phase in to 80% of the corresponding non-care Tier 3 rate.

Parties that briefed PG&E's CARE Tier 3 proposal took several different positions. Kern County, KernTax, and CLECA/CMTA support PG&E's proposal. (Kern County brief pp. 7 - 9; KernTax brief pp. 22 - 24; CLECA/CMTA brief pp. 15 – 16). DisabRA and Greenlining oppose the proposal entirely. (DisabRA brief pp. 19 - 22; Greenlining brief pp. 20 – 40). TURN accepts the creation of CARE Tier 3 with a 12.5 cent per kWh rate, but opposes the subsequent 1.5 cent per kWh increases in 2012 and 2013. (TURN brief pp. 14 – 19). DRA only accepts a CARE Tier 3 if the customer charge and baseline 55 percent proposals are rejected, and the 1.5 cent increases for 2012 and 2013 are not approved. (DRA brief pp. 13 – 17). The arguments made in opposition to the CARE Tier 3 proposal or elements thereof take extreme or erroneous positions, and should be rejected.

A. CARE Customers Should Not Be Exempted From Rate Increases Forever

DisabRA's brief opposes the proposed CARE Tier 3 on grounds that it will adversely affect CARE customer households that are already experiencing energy insecurity. (DisabRA brief p. 21). In effect, DisabRA wants all CARE usage above 130% of baseline to continue to be charged the Tier 2 frozen rate. This position would continue exempting all usage by CARE customers from any rate increase. The provisions governing CARE rates, however, do not go to the extreme advocated by DisabRA. It is clear that PUC § 739.1(b)(5) anticipates increases for CARE usage above 130 percent of baseline for a utility like PG&E that did not have a third CARE tier when SB 695 was enacted.[7/] Introduction of CARE Tier 3 does not affect the CARE Tier 1 and 2 usage rates, which are not increasing under the formula in PUC § 739.1(b)(2) since CalWORKS is suspended. CARE customers will all receive SB 695's protection limiting

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7/ "An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to 80 percent of the corresponding rates charged to residential customers not participating in the CARE program . . ." and "For an electrical corporation that does not have a tier 3 CARE rate that introduces a tier 3 CARE rate, the initial rate shall be no more than 150 percent of the CARE baseline rate." (PUC § 739.1(b)(5)).

increases to Tier 1 and 2 rates, and will only see an increase for Tier 3 usage (usage above 130 percent of baseline) that is consistent with PUC § 739.1(b)(5). The fact that the legislature enacted this code section last fall establishes that a rate design enacting the code section's provisions is consistent with the baseline and CARE protections for those customers. DisabRA's arguments should not be accorded any weight in the face of the legislative provisions.

B. Greenlining's Statutory Arguments Against the CARE Tier 3 Rate Are Wrong; The Legislature Specifically Approved Such A Rate

Greenlining's brief also cites low-income needs, while devoting most if its discussion to its claims that CARE customers are "extremely conservationist" for usage up to 200 percent of baseline, which would include usage above Tier 2. (CARE brief p. 38). Greenlining refers to PUC § 382(b), which reads:

> In order to meet legitimate needs of electric and gas customers who are unable to pay their electric and gas bills and who satisfy eligibility criteria for assistance, recognizing that electricity is a basic necessity, and that all residents of the state should be able to afford essential electricity and gas supplies, the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures. Energy expenditures may be reduced through the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs.

PG&E's CARE Tier 3 proposal is consistent with this statute. The proposed CARE Tier 3 rate is still an enormous discount from the non-CARE Tier 3 rate, (i.e. a 57 percent discount [12.5 cents to 29.1 cents] from the current non-CARE Tier 3 rate and a 56 percent discount [12.5 cents to 27.6 cents] from the proposed non-CARE Tier 3 rate. (See Ex. 2, p. 2-8). Moreover, the sales weighted overall CARE discount from non-CARE rates will be approximately 41 percent. (Quadrini/PG&E, Ex. 1, page 3-16, lines 6 to 8). So, even with the CARE Tier 3 increase, CARE customers will have hugely discounted rates for all their usage – far in excess of the 20 percent discount adopted by the legislature. There is certainly nothing in PUC § 382(b) to support keeping all CARE usage at rates that have not increased for almost 20 years, or to justify rejecting implementation of a CARE Tier 3 for PG&E similar to (though lower than) those of SCE and SDG&E. Indeed, the legislature has expressly authorized a CARE Tier 3 rate.

C. Greenlining's Arguments About "Extremely Conservationist" CARE Customers Are Not Accurate

Greenlining's brief contains numerous variations on the theme that CARE customers are "extremely conservationist," cannot conserve more, and that CARE customers "do not need additional price signals to discourage usage above 300% -- or even above 200% -- of baseline." (Greenlining brief p. 24). As discussed in PG&E's opening brief, PG&E disagrees with Greenlining's general claims and finds the data comparisons made by Greenlining are faulty. As stated by PG&E witness Quadrini,

> Greenlining provides no data or research to support these unsubstantiated claims about CARE customer behavior other than the current difference in average usage. In fact, the data shown in Table 2-4 below supports the opposite of Greenlining's contention that CARE customers have been conserving. Since 2005, non-CARE usage has been flat or declining for most years. But CARE customer usage has risen significantly.

(Quadrini/PG&E, Ex. 2, pp. 2-9 to 2-10; PG&E brief pp. 36 to 40).

Indeed, there are nearly 450,000 CARE customers in Tiers 4 and 5, accounting for 37% of all CARE customers and 94% of all CARE usage exceeding Tier 2 (130% of baseline). (PG&E/Quadrini, Ex. 1, p. 3-18, Table 3-9, lines 4 and 5).[8/] These numbers are quite similar to non-CARE customers in Tiers 4 and 5 who account for 40% of all non-CARE customers and 94% of all non-CARE usage exceeding Tier 2.

The Greenlining brief's primary response to Mr. Quadrini's testimony is a claim that "a small number of CARE customers skew the energy usage data for all CARE customers," which Greenlining relies upon to claim that its different ways of selectively eliminating portions of the data supports its assertions. (Greenlining brief, *passim,* esp. pp. 25 to 34). However, Greenlining's data manipulation is flawed. For example on page 22 (Section C "Contrary to PG&E's Assertions, CARE Customers Conserve More Energy than Other Ratepayers"), Greenlining claims that "much of CARE customers' upper tier usage is attributable to the extreme usage of a very small group of approximately 17,000 customers who are likely ineligible

8/ See also PG&E's workpapers (WP 3-39-June 30, 2010 Update and WP 3-61-June 30, 2010 Update).

for the CARE program." For proof, Greenlining relies on Table 7, page 23 of its brief. Table 7's presentation of statistics, however, amounts to comparing brussel sprouts to oranges. Table 7 does not show the average usage of Tier 4 and 5 customers, CARE versus non-CARE.[9/] Instead, Greenlining has taken the total CARE Tier 5 usage and divided it by the total number of CARE customers in all tiers, including Tiers 1 and 2. This weighting calculation is inappropriate. Since CARE has a higher percentage of customers in Tiers 1 and 2 than non-CARE, Greenlining's math will bring down the average CARE Tier 5 kWh. In essence, Greenling is using CARE customers in Tiers 1 and 2 to camouflage CARE Tiers 4 and 5 customers' usage in those tiers. What Greenlining is **not** doing is comparing CARE and non-CARE Tier 4 and 5 customers side-by-side. Another similar example of Greenlining's misunderstanding of statistics is Table 9, on page 29, where the table also takes total usage by tier and divides it by total CARE customers, instead of dividing by the number of CARE customers in each specific tier.[10/] These types of mistakes pervade the use of data and statistics in the Greenlining brief.

In addition to promoting conservation, a purpose for CARE Tier 3 is to unfreeze rates for CARE usage above 130 percent of baseline so that for the first time in almost 20 years CARE rates will increase to reflect a bit larger fraction of the cost to provide service. The conservation effect identified in PG&E witness Faruqui's testimony (Ex. 1, pp. 11-8, line 23 to 11-9, line 20), is a consequence, but not the only reason for the CARE Tier 3 proposal. Even if they were

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9/ As pointed out in PG&E's opening brief, pages 38 to 39, Greenlining's claim that a small number of CARE customers "skew" the energy usage data for all CARE customers versus non-CARE customers is based on a skewed Greenlining analysis itself. Greenlining reduced the average CARE Tier 5 usage by excluding the exceptionally high energy users in Humboldt, Mendocino, Santa Cruz and Sonoma from the CARE customer population. It did not, however, remove the same type of non-CARE exceptionally high energy user from the non-CARE population for that analysis. As a result, the CARE and non-CARE populations used in Greenlining's analysis are not comparable because Greenlining has skewed the CARE population to have lower usage than the non-CARE population. PG&E witness Quadrini pointed out the problem with the Greenlining analysis in hearings. (Tr. p. 1050, lines 4 to 9; Tr. p. 1052, lines 10 to 14; Tr. p. 1054, lines 18 to 21, PG&E/Quadrini). When Mr. Quadrini redid the analysis by subtracting out all usage in Humboldt, Mendocino, Santa Cruz and Sonoma counties, both CARE and non-CARE, to have comparable CARE and non-CARE populations, he found very little change in annual ratios of average CARE usage to non-CARE usage. (Tr. p. 1050, lines 19 to 24, PG&E/Quadrini).

10/ Another example is Table 11 on page 33 of Greenlining's brief, where Greenlining has divided total Tier 5 usage by all CARE customers, instead of just CARE Tier 5 customers.

accurate, which they are not, Greenlining's arguments do not refute the need on grounds of equity and better reflecting cost of service to start exposing CARE usage in Tier 3 and above to rate increases as PUC § 739.1(b)(5) now permits.

D. The Increases In The CARE Tier 3 Rate Proposed For 2012 and 2013 Should Also Be Approved

TURN recognizes that the rate freeze protecting all CARE usage from any rate increase is not sustainable and accepts the need to implement CARE Tier 3 with a 2.9 cents per kWh increase. (TURN brief p.15). However, TURN opposes PG&E's request to increase the CARE Tier 3 rate by 1.5 cents per kWh in 2012 and 2013. TURN advances two arguments against the 2012 and 2013 increases. First, TURN claims that PUC § 739.1(b)(5) does not allow these increases. (*Id.*) Second, TURN indicates that the impact of the increases has not been assessed and would create serious burdens for many customers. (*Id.,* page 17). PG&E disagrees with TURN and maintains that the record supports approval of the CARE Tier 3 increases for 2012 and 2013.

TURN's legal argument requires interpreting PUC § 739.1(b)(5) as allowing only one CARE Tier 3 rate change in the entire 2011 GRC rate case cycle, i.e. the initial increase to 150% of the CARE baseline rate. The statute, however, does not contain any such limitation:

> *For an electrical corporation that does not have a Tier 3 CARE rate that introduces a Tier 3 CARE rate, the initial rate shall be no more than 150 percent of the CARE baseline rate.* Any additional revenue collected by an electrical corporation resulting from the adoption of a Tier 3 CARE rate shall, until the utility's next periodic general rate case review of cost allocation and rate design, be credited to reduce rates of residential ratepayers not participating in the CARE program with usage above 130 percent of baseline quantities.

(emphasis added). TURN claims that the initial rate cannot be increased until PG&E's next general rate case because the rate resulting from another increase would exceed the 150 percent cap. Nothing in the statutory language, however, indicates that the initial rate must remain unchanged for multiple years. TURN argues that absent TURN's interpretation, PG&E could interpret the statute to allow a second increase taking the rate above 150 percent of CARE baseline the day after the initial rate is set at the 150 percent level. (TURN brief p. 16). TURN then cites PG&E witness Quadrini's testimony that implementing a second increase above the cap the next day would not make sense to him. TURN's cross-examination of Mr. Quadrini using the hypothetical of a one day gap between rate increases is a red herring. Moreover, TURN's interpretation is contrary to the plain meaning of the statutory language, and ignores the fact that the Commission is the entity empowered to determine when the next utility rate change would go into effect.[11/]

PUC § 739.1(b)(5) does not specify any particular time interval between implementation of the initial Tier 3 CARE rate and the next adjustment to that rate. It merely limits the initial rate level to no more than 150 percent of the CARE Tier 1 rate. The result is to leave to the Commission's discretion when the next change in the CARE Tier 3 rate would occur. This is consistent with other Public Utility Code sections which address rate increases without specifying their frequency.[12/] The legislature has simply left to the Commission the authority to decide when and how frequently to change the CARE Tier 3 rate (including, if it desires, subsequently decreasing it). In interpreting PUC § 739.1(b)(5), the Commission should not read a limitation into the statute that is not there. Instead, the Commission should be mindful of preserving its discretion and flexibility to make decisions, as Southern California Edison Company discusses in its brief at pages 2 to 10. Annual changes to the CARE Tier 3 rate would be completely consistent with the long established Commission procedural schedule for annual electric rate review and changes under the long established Rate Case Plan. (See D.89-01-040). The CPUC should decline TURN's invitation that it box itself in, and should reject this flawed

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11/ TURN pointed out that nothing in the statute indicates that the initial CARE Tier 3 rate should remain in place for a year and criticizes Mr. Quadrini for making that assumption. (TURN brief pp. 15 to 16). Mr. Quadrini's assumption that the initial rate period would be a year, however, is consistent with Commission's Rate Case Plan (RCP), which has governed rate changes since at least 1989. (See D.89-01-040). The Rate Case Plan provides for electric rate changes annually through GRC or Rate Design Window proceedings. Thus Mr. Quadrini's assumption actually reflects the Commission's procedural schedule and as a result, is reasonable.

12/ Examples of PUC sections which authorize costs to be included in rates, or provide for rate design changes, without referencing a specific schedule include PUC § 701.6 (c) – certain research and development (R&D) costs and incentives for energy efficiency , PUC § 739 (a) – baseline quantities, PUC § 739.5 – rates charged by a master-metered customers, PUC § 740 – R&D expenses, PUC § 740.4 (b) – economic development expenses.

statutory interpretation that is not supported by the statutory language.

TURN's second argument against the proposed 1.5 cent per kWh increases in 2012 and 2013 claims that the cumulative impact of the increases has not been assessed and would create serious burdens for many customers. (TURN brief p. 17). Mr. Quadrini, however, pointed out that even with the proposed increases in 2012 and 2013, PG&E's CARE Tier 3 rate will be just 15.5 cents per kWh, which is less than the *current* CARE Tier 3 rates for SCE and SDG&E. (Quadrini/PG&E, Ex. 2, p. 2-10, lines 10 to 13). Dr. Faruqui also testified that SCE and SDG&E CARE customers are paying CARE rates higher than PG&E's proposed CARE rates without complaint. (Faruqui/PG&E, Tr. p. 65, lines 11 to 20 and p. 66, lines 9 to 17). Moreover, at 15.5 cents per kWh, PG&E's CARE tier 3 rate would still represent a hefty discount from both the current PG&E non-CARE Tier 3 rate (53% of 29.1 cents per kWh, for a 47% discount) and the proposed non-CARE Tier 3 rate (56% of 27.6 cents per kWh for a 44% discount). These discounts would be more than double the minimum 20% discount required under PUC § 739.1(b)(5):

> . . . may introduce a tier 3 CARE rate, that in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to 80 percent of the corresponding rates charged to residential customers not participating in the CARE program.

PG&E's proposal in this case involves three years of phased changes that still keep the CARE Tier 3 rate significantly below this 80 percent threshold, and well below SCE and SDG&E's current CARE Tier 3 rates. Under these circumstances, approving PG&E's proposal to increase CARE tier 3 by 1.5 cent per kWh in 2012 and 2013 would be reasonable, appropriate and justified. Approving such future increases in this proceeding also achieves judicial efficiency and preserves the resources of all parties who might otherwise litigate this issue in the intervening years.

DRA's brief accepts PG&E's proposal to implement a CARE Tier 3 rate on the condition that the customer charge and baseline percentage revision are rejected. (DRA brief p. 16). Based on CARE bill impact percentages, DRA argues that only implementation of CARE Tier 3 should be approved because the combined effect of CARE Tier 3, the baseline percentage reduction and the customer charge proposal (a 14 percent average rate increase) would be too much. (*Id.*) PG&E respectfully disagrees with DRA about whether the bill impact on CARE customers is too great. As pointed out in PG&E's opening brief, the CARE bill impact percentages are high because the CARE rates have not increased in approximately 20 years, causing current CARE bills to be extremely low and very far from properly reflecting costs to serve. (Further discussion can be found at pages 20 to 22 of PG&E's opening brief). Regardless, DRA's concern about CARE bill impacts does not prevent it from endorsing implementation of a CARE Tier 3 rate for PG&E.

DRA, however, joins TURN in opposing PG&E's proposal to increase the CARE Tier 3 rate in 2012 and 2013 by 1.5 cents per kWh. DRA argues that these proposed increases would increase the CARE Tier 3 rate "too much too fast." DRA asserts that major lifestyle and home improvements would be required, which customers would find difficult to implement in the period involved. (*Id.*) DRA then claims that the proposed 2012 and 2013 increase would contradict the principle of avoiding undue rate shocks in implementing rates. Since the existing PG&E rate for CARE usage over 130% of baseline is so low, the increases proposed for the initial rate in 2011 and the subsequent 1.5 cents per kWh increases in 2012 and 2013 do represent a significant percentage increase (on a combined basis) over the currently frozen CARE Tier 2 rate. That situation, however, does not mean that PG&E's proposal is inconsistent with the principle of avoiding undue rate shocks. One significant reason for the current predicament is the fact that CARE rates have not increased for two decades. To avoid situations where rate shocks become inevitable, rates need to be adjusted on a regular basis. CARE rates should not be exempted and instead should be adjusted on a parallel schedule with non-CARE rates, as permitted by statute. PG&E's proposed 2012 and 2013 CARE Tier 3 adjustments are consistent with that principle.

The Commission should not be swayed by DisabRA, Greenlining, TURN and DRA's arguments against all or portions of PG&E's CARE Tier 3 proposal, Instead, the Commission should adopt PG&E's proposal, supported by Kern County, KernTax, and CLECA/CMTA, to create a CARE Tier 3 rate and to increase it by 1.5 cents per kWh in 2012 and 2013.

V. PROPOSED REDUCTION IN BASELINE PERCENTAGE FROM 60% TO 55%

In their opening briefs, TURN, CLECA and CMTA, Kern County, and KernTax agree with PG&E's proposal to adjust the baseline percentages downward to 55% for basic (65% for winter heating). (TURN brief p. 20; CLECA/CMTA brief p. 17; Kern County brief p. 10; KernTax brief p. 25). DRA, DisabRA, Greenlining, and Solar Alliance oppose PG&E's proposed reduction to the baseline percentage. (DRA brief p. 17; DisabRA brief p. 23; Greenling brief p. 39; Solar Alliance brief, p. 7). Sierra Club and Vote Solar take no position on the baseline percentage issue. (Sierra Club brief p. 14; Vote Solar brief p. 13).

The reasons expressed in the DRA brief for now opposing PG&E's proposed baseline percentages are essentially the same reasons contained in the DRA witness' testimony opposing PG&E's residential rate design package, including a reduction in the baseline percentage. These reasons are concern over bill impacts, impact on CARE customers, the work DRA has already done to reduce residential upper tier rates, and the fact that the 55% baselines for SCE and SDG&E were adopted in settlements. PG&E responded to DRA's concern about bill impacts for CARE and non-CARE customers in PG&E's opening brief, page 51. As stated there, the bill impacts in dollar terms are small and justified, especially since the lower non-CARE tier rates were frozen from 2001 to 2010, while CARE rates have not only not increased, but have decreased three times since 1993.[13/] PG&E also rebutted DRA's arguments that it has done enough for now at pages 7 to 10 of its opening brief. PG&E refers the reader to the discussion on those pages about the dangers of DRA's proposal to maintain the status quo rate design and to hope that revenue requirement and allocation reductions will solve the problem.

With respect to the argument that the CPUC's adoption of a 55 percent baseline quantity for SCE and SDG&E was through approval of settlements, Rule 12.5 does provide that adoption of a settlement does not constitute approval of, or precedent regarding any principle or issues for

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13/ Decreases were implemented in 1996, 1998, and 2001, as noted in PG&E's opening brief.

any future proceeding. However, Rule 12.5 definitely does not prevent later adoption of the principles or resolution of issues in a future proceeding if the Commission deems it appropriate. (PG&E/Keane, Tr. p. 252, lines 2 to 7). For the baseline percentage, it would make sense for SCE, SDG&E and PG&E to have similar baseline percentages under a law that applies to all of them. Since SCE and SDG&E already have their basic baseline percentage set at 55%, adopting PG&E's proposed baseline percentage would bring it in line with the other two IOUs, while still remaining at the mid-point of the legislated range. (PG&E brief pp. 47 to 49).

DisabRA and Greenlining oppose the 55% baseline proposal because there would be an adverse impact on CARE customers and customers whose usage does not exceed Tier 2. This would occur because some usage formerly in Tier 1 would now be in Tier 2 and some usage formerly in Tier 2 would now be in Tier 3. Both DisabRA and Greenlining are concerned that these customers likely could not adjust their usage to avoid the bill impact. (DisabRA brief pp. 22; Greenlining brief pp. 39 to 40). As discussed in PG&E's opening brief, these intervenors' claims are based on faulty analyses. (PG&E brief pp. 52 to 53). The amounts involved in the shift of some usage from Tier 1 to Tier 2, and some usage from Tier 2 to Tier 3, with the baseline change are very small. PG&E witness Quadrini's rebuttal testimony shows that even with the proposed 55 percent baseline, the percentage of non-CARE Tier 3 usage would only go from 7.4 percent to 11 percent of total usage. For CARE Tier 3 customers, the increase would be to about 10 percent of total usage. Moreover, the bill impacts are quite limited. Table 2-7, Exhibit 2, page 2-25, shows that for CARE customers the monthly impact would be only $0.18 for Tier 2 and $1.61 for Tier 3. For non-CARE customers, the monthly bill impact would be only $0.33 for Tier 2 and $2.35 for Tier 3. (Quadrini/PG&E, Ex. 2, p. 2-24, line 8 to p. 2-25, line 7).

DisabRA and Greenlining's rejection of the 55% baseline percentage is part of both intervenors' basic position that no rate design change should occur that would increase the bills of CARE and low usage customers, no matter how small the increase or how long it has been since the last increase. In essence, DisabRA and Greenlining want to maintain the exemption from rate and bill increases that has largely prevailed for almost two decades for these customers.

(*Ante*, section II.A). The imbalances now present in PG&E's residential rate design make that position untenable at this point. To the extent allowed by law, CARE customers and non-CARE low usage customers need to start sharing the responsibility for PG&E's revenue requirement to a greater extent. The 55% baseline percentage has been proposed for all PG&E residential customers and previously approved by the Commission for SCE and SDG&E. The DisabRA and Greenlining's opposition due to CARE and low usage customer concerns should be rejected because their very favorable past treatment cannot continue indefinitely. PG&E's 55% baseline proposal is part of the suite of rate changes necessary to fix the structural problems in its rate design, and the modest increases it produces for CARE and low usage customers is a necessary result of needing to fix the rate design.

Solar Alliance opposes PG&E's proposal to reduce the baseline allowances from 60 to 55% of average residential usage for the applicable climate zone because this intervenor believes that its E-1 rate design proposal provides adequate additional relief to high-usage residential customers. Therefore Solar Alliance maintains that the baseline percentage reduction is not needed. (Solar Alliance brief p. 7). Solar Alliance's rate design proposal consists of returning to a 5 tier rate design with differentials between tiers 3 and 4 of 3 cents per kWh, and between tiers 4 and 5 of 7 cents per kWh. (*Id.,* pp. 18 to 19). Solar Alliance defends its proposal as advancing energy efficiency and conservation goals, while bringing the top three tiers (Tiers 3, 4, and 5) closer together than they have been. (*Id.,* pp. 19 to 21). The Tier 5 rate under Solar Alliance's proposal is approximately 41.5 cents per kWh, while the Tier 4 rate would be approximately 34.5 cents per kWh. (Solar Alliance/Beach, Ex. 26, Table 1, column Solar Alliance 5-tier). At those levels, Solar Alliance's E-1 rate design proposal does nothing to protect against future increases that could quickly take the upper tier rates back to the high levels (44 cents per kWh) that generated protests in the Central Valley in 2009. Solar Alliance's proposal is essentially to return to the earlier status quo prior to D.10-05-051 and continue the upper tier rates at levels far above the average cost to serve – in order to make it easier for vendors of solar generation units to target their product to upper-tier consumers.[14/]

PG&E next addresses a new TURN baseline proposal that was not addressed in filed testimony, but rather introduced just now in its opening brief. Although TURN now agrees with PG&E's 55% baseline proposal, TURN's brief contains a new baseline proposal. TURN's brief states that PG&E should consider changing the baseline seasons to a four month summer period and a longer 8 month winter period. (TURN brief p. 20). TURN notes that these periods would be consistent with SCE's practice and would result in higher baselines during the peak summer months to help mitigate high bills associated with concentrations of cooling degree days in those months. TURN then recommends that PG&E propose this modification through a ministerial Tier 3 Advice letter filing.

PG&E is interested in evaluating TURN's proposal for a four month summer baseline period and an eight month winter period, but PG&E believes that concluding that such a change is appropriate is premature. No analysis whatsoever was presented for this proposal in testimony or rebuttal testimony, and the brief questions about the topic at hearing did not adequately explore the issue. As it now stands, the record in this case is not sufficient to support adoption of TURN's proposal. PG&E instead proposes that it evaluate the impacts of a four month summer period and an eight month winter period, and then present the evaluation in a future evidentiary proceeding such as its 2012 Rate Design Window proceeding. This would allow parties time to review the rate and bill impacts of a movement to a shorter summer and a longer winter season for all of PG&E's baseline zones. Reviewing the information developed on TURN's proposal should help avoid unintended consequences and would provide a better evidentiary basis for the Commission to decide whether or not to change the months assigned to the summer and winter seasons for PG&E.

14/ In a nutshell, Solar Alliance's strategy seems to be to first persuade the Commission to adopt upper-tier rates far in excess of cost of service, then to sell solar units to households consuming in the upper tiers to allow them to avoid those artificially high rates. But this, of course, simply leads to even higher upper-tier rates (to make up the lost revenue in excess of avoided cost) that must be paid by other upper-tier consuming households who cannot afford solar units (or who do now own their homes), and thus cannot avoid these exorbitant rates.

VI. PROPOSED TIER CHANGES FOR NON-CARE CUSTOMERS

Many of the parties that were active at the hearing addressed the proposal to consolidate Tiers 3 and 4. Several parties supported this proposal. (See Kern County brief pp. 10-13; KernTax brief p. 11). CLECA/CMTA described itself as "somewhat ambivalent." (CLECA/CMTA brief p. 17). Opposition was expressed by TURN, DRA, Greenlining, DisabRA, Vote Solar, Solar Alliance, Sierra Club, and the Marin Energy Authority (MEA). (TURN brief pp. 21-29; DRA brief pp. 19-21; Greenlining brief pp. 40-43; DisabRA brief pp. 23-25; Vote Solar brief pp. 13-20; Solar Alliance brief pp.7-21; Sierra Club brief pp. 14-16, and MEA brief pp. summary and 4).

A. The Weight of Evidence Supports Combining Tiers 3 and 4

Many of the arguments against this proposal were fully addressed in PG&E's opening brief. These include the arguments that this proposal will have an anti-conservation effect and will harm the solar industry, that there is no need for further relief for Tier 4 customers, that it will put pressure on CARE Tier 3 rates,[15/] and that the alternative proposal of Solar Alliance is superior to the proposal here. (See detailed discussion in PG&E's opening brief at pp. 56-61).

However, there are some arguments raised by opposing parties not fully addressed in PG&E's opening brief. First, Greenlining argues that moderate energy users will see "drastic" increases in their rates under this proposal. (Greenlining brief p. 42). In fact, the record shows that the current Tier 3 rate is 29.0 cents per kilowatt-hour, and the proposed new rate will be **lower**, at 27.6 cents per kilowatt hour.[16/] (PG&E/Quadrini, Ex. 1, p. C-1). While this proposal

15/ See DRA brief p. 21 and Greenlining brief p. 42, fn. 115, quoting Public Utilities Code section 739.1(b)(5), which limits the CARE Tier 3 rate to no more than 80% of the non-CARE Tier 3 rate. However, as explained in PG&E's opening brief, PG&E's proposed 2013 CARE Tier 3 will be just 56% of its proposed non-CARE Tier 3 rate, and any further change would require Commission approval. (PG&E brief p. 62).

16/ In the interest of fair disclosure, we note that PG&E's rates dropped slightly on January 1, 2011, and on January 7th, PG&E served updated testimony for the non-residential phase of this case, PG&E Exhibits 13-16, proposing to slightly increase the costs allocated to the residential class. As shown in Ex. 14, page C-1, with this updated information, the proposed Tier 3 rate would now be a very slight **increase** from the Jan. 2011 rate (less than 0.3 cents per kWh) if PG&E's residential rate proposals are adopted. However, Ex. 14 has not been admitted in evidence, and except in this footnote, this brief uses the rates discussed in the record at the hearing in this case. This reference to post-hearing information is offered solely in the interest of fair disclosure, since the record evidence showed Tier 3 rates **decreasing** from current rates under PG&E's proposal.

will result in higher rates for Tier 3 customers than they would otherwise pay, there is no way to describe this as a "drastic" increase.

Second, Solar Alliance and TURN argue that this proposal will not cover the cost of service to high energy users. (See TURN brief p. 23, Solar Alliance brief pp. 13-15). However, the actual record evidence shows that the proposed Tier 4 rates **far** exceed the cost of service. Moreover, the evidence cited by TURN and Solar Alliance in their briefs does not support the claim. For example, the only evidence cited in TURN's argument is evidence that the 27.6 cent per kilowatt hour rate proposed for Tier 3 and 4 usage may not cover the cost of generation in the highest peak hour of the year. (TURN brief p. 23, which only compares this rate with the proposed TOU rate for peak periods). Similarly, Solar Alliance only cites to the fact that the proposed Tier 3/4 rate will be below the TOU peak period rate. (Solar Alliance brief pp. 14-15, claiming without evidence that the top tier TOU rate is PG&E's marginal cost[17/]). However, the proposed 27.6 cent per kilowatt hour price will be charged for all non-TOU Tier 3 and 4 usage **every single hour of the year**. It is incomprehensible to understand how a 27.6 cent price applicable at all times during the year will fail to cover costs when the average cost of service for residential customers is near 18 cents per kilowatt hour.[18/] As PG&E's testimony demonstrated, there is no cost basis for continuing with four tiers. (PG&E/Quadrini, Ex. 2, p. 2-14, lines 8-10).

Third, Greenlining argues essentially that Tier 4 users are energy hogs who should be punished for using too much power. (Greenlining brief pp. 8-11, 41). It complains that such use is "excessive and wasteful" (Greenlining brief p. 14) and blames high usage customers for health problems suffered by low income households that live near power plants and other large facilities. (Greenling brief pp. 41-42).[19/] Similarly, DisabRA opposes any relief for Tier 4

17/ WP 3-20-June 30, 2010 and WP 3-21-June 30, 2010 show that the summer peak marginal cost is actually 25 cents/kWh. The Tier 1 rate shown at the top of WP-3-20 includes 3 cents/kWh of non-bypassable charges.

18/ The actual cost of service is actually less than 18 cents per kWh, since that average rate includes a portion of the $700 million subsidy for CARE customers.

19/ Greenlining offers no explanation why the 21% of load falling in non-CARE Tiers 3-5 cause any different health effects than the 79% of load which serves CARE customers and non-CARE Tier 1 and 2 usage.

customers, complaining that PG&E's efforts at rate relief are "unconscionable" and "shameful." (DisabRA brief pp. 2, 5). However, the premise for these arguments is simply wrong: Tier 4 users are not evil people who must be punished. Such users include homes with air conditioning, apartments with large families, families with specialized medical and other needs, and 450,000 CARE customers.[20/] (See, for example, TURN/Marcus, Ex. 11, p. 77; PG&E/Fauqui, Ex. 1, p. 11-7, lines 10-27). These are not evil activities or people who must be punished by the CPUC by punitive rates.[21/] There is no basis in equity for continuing with four tiers. (PG&E/Quadrini, Ex. 2, p. 2-14, lines 8-10).

Fourth, several parties argue that Tier 4 users are wealthy, and that they therefore should be charged more. The most dramatic expression of this is by DisabRA, which describes PG&E's proposal as "a reverse-Robin-Hood plan, taking from the poor to give to the rich." (DisabRA brief p. 5). Similarly, Greenlining claims at brief page 10 that there is a high correlation between energy usage and income. However, the testimony it relies on from William Marcus (TURN, Ex. 11 at p. 70) does not actually support that finding. Instead, he quotes Dr. Faruqui's testimony that customers who consume energy in the fourth and fifth tiers are not necessarily wealthy and affluent, and then states "At a high level, I agree; consumption is obviously not in lockstep with income." He then presents a table that shows significant Tier 4 and 5 usage at all income levels. (Marcus/TURN, Ex. 11, p. 73, Figure 9. See also testimony of Dr. Keane and Dr. Faruqui quoted in section II.C. above). As this evidence shows, there is a far from perfect correlation, so trying to punish high-income customers by punishing high-usage ones results in hardship for plenty of low- to middle-income households who, for a variety of reasons (e.g., renting poorly insulated homes, living in more extreme climate zones) may need to consume in

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20/ Although the 450,000 CARE customers in Tier 4 are not subject to the Tier 4 rate in question, they are nonetheless Tier 4 users.

21/ It is important to keep in mind that additional discretionary use of electricity provides real value to customers. For example, as noted in Dr. Keane's rebuttal testimony, charging rates far in excess of cost of service causes households to have to forego valuable consumption for things like security lighting, even though they would be willing to pay a price in excess of the actual cost of electricity (but just not in excess of the artificially inflated upper-tier rate). (PG&E/Keane, Ex. 2, p.1-7, line 23 through p.1-8, line 4).

the upper-tiers.

Fifth, TURN argues that Dr. Faruqui's testimony contradicts the claim for three tiers instead of four. TURN claims that Dr. Faruqui's published work concludes that the maximum conservation impact is produced by a scenario with a ratio of 3.72 to 1 between the bottom and top tiers. (TURN brief p. 26). In fact, the examples used in Dr. Faruqui's paper are exactly that, examples. There are an infinite number of inclining block rate combinations that would have higher price ratios and therefore higher energy savings in various tiers. The number of tiers is only one component of an inclining block rate. In fact, his paper argued that significant energy savings can be achieved simply with a two-tiered rate, not a four-tiered rate as argued by TURN.[22/] Simplicity is a key rate-making objective and significant energy savings can be achieved with the simpler design, so there is no need to complicate the design with more tiers. Indeed, Dr. Faruqui's testimony demonstrated that, based upon empirical estimates of price responsiveness, the three-tier design proposed by PG&E should cause a ***decrease*** in energy use compared with current rate design. (PG&E/Faruqui, Ex. 1, p. 11-9, lines 11-14).

Sixth, DRA argues that this proposal will have an adverse effect on medical baseline customers, since medical baseline customers do not pay rates higher than Tier 3 rates. (DRA brief p. 20.) First, DRA's claim does not distinguish between medical baseline CARE customers and non-CARE customers. Medical baseline CARE customers would pay the CARE tier 3 rates proposed by PG&E, i.e. 12.5 cents per kWh, with increases of 1.5 cents per kWh in 2012 and 2013. Thus the medical baseline CARE customers' tier 3 rate would not be changed by combining the non-CARE upper tiers into a single Tier 3.

Moreover, PG&E witness Quadrini's testimony rebutted DRA's unadorned statement. Mr. Quadrini pointed out that the proposed Tier 3 rate of 27.6 cents per kWh is less than the current Tier 3 rate of 29.0 cents per kWh. But most importantly, most medical baseline customers are largely insulated from Tier 3 or 4 rates because medical baseline allowances

22/ As Dr. Faruqui explained, "a large number of tiers included in an inkling block rate is neither a necessary nor sufficient condition for energy conservation." (Faruqui/PG&E, Ex. 2, p. 3-11, lines 29-31).

increase a customer's allowance by multiples of 500 kWh per month. (Quadrini/PG&E, Ex. 2, p. 2-23, lines 17 to 34). The additional baseline allowance is higher than the baseline allowances provided to over 80 percent of residential customers and means that a medical baseline customer must exceed 130 percent of baseline plus 650 kWh per month to reach Tier 3. (*Id.*) In addition, many medical baseline customers receive multiple medical baseline quantities due to multiple medical needs. With a second medical baseline quantity, the customers would have to exceed 130 percent of baseline plus 1,300 kWh per month to reach Tier 3. Table 2-6 in Exhibit 2, page 2-24 contains the kWh levels that customers would need to exceed to reach Tier 3, based on annual monthly usage at 130% of the proposed baseline, plus medical baseline, by climate zone and end-use. Mr. Quadrini's table demonstrates that the resulting allowances are extremely generous.

Moreover, the statutory protection afforded for non-CARE medical baseline, does not extend to rate protection for usage beyond the special baseline. Instead, the protection is provided through the higher baseline quantities discussed above. PG&E notes that unlike CARE under PUC § 739.1, medical baseline under PUC § 739 does not include special rate treatment for usage above the medical baseline amount. For these reasons, DRA's argument about Tier 3's effect on bills for upper tier usage by non-CARE medical baseline customers should not impede adoption of PG&E's proposal.

Seventh, Solar Alliance argues that the loading order prevents any rate changes that could increase consumption. (Solar Alliance brief pp. 8-11). In fact, as noted in the introduction to this reply brief, this argument turns rational utility regulation and ratemaking on its head. The only economists to offer elasticity evidence in this case, Drs. Faruqui and Spearot, both testified that average consumption increases to varying degrees as rates decrease. As a result, **every** rate decrease could increase average consumption. However, the notion that the loading order prohibits any rate decreases is simply ludicrous, and in any event is irrelevant when the rate reduction is targeted to a rate for a given usage tier.

Finally, Solar Alliance argues that the alternative it presented here is similar to the one presented in PG&E's summer rate relief application in 2010. (Solar Alliance brief pp. 16, 19). In fact, the evidence it relies on is not in evidence in this case. Moreover, Solar Alliance offers no credible evidence why there needs to be any additional increment for usage above Tier 3, as a 27 cent per kilowatt hour rate is still a powerful incentive to conserve and to install solar power. (See additional discussion in PG&E's brief pp. 59-60).

PG&E's proposal to combine Tiers 3 and 4 should be adopted.

B. TURN Is Describing Its Own Residential Rate Design Proposal, Not PG&E's, When It Asserts That PG&E Provided Misleading And Incomplete Information To Kern County

At page 28 of its opening brief (middle paragraph), TURN uses Exhibit 55 (fifth page) to point out that two elements of its proposal, retaining a 4-tier rate structure and not adopting a customer charge would "have virtually no impact on the total amount of revenue collected from Kern County residential customers." TURN's brief also points out that retaining a 4-tier rate structure by itself would yield a revenue reduction of $291,402 (0.17%) for Kern County, while eliminating the customer charge and retaining a 4 tier rate structure would result in a $458,843 (0.27%) revenue increase relative to PG&E's base proposal. TURN also references its cross-examination of Kern witness Krauter on the impact of retaining a 4-tier structure and not instituting a customer charge where Mr. Krauter noted that he was unaware of these impacts. TURN then proceeds to claim that PG&E "provided misleading and incomplete information to the Kern County board of Supervisors in order to gain support for the suite of rate changes sought in this application." In making this argument, TURN has misused the record.

The fifth page of Exhibit 55 shows the effects of individual rate design elements relative to PG&E's base case reduction using 6/1/2011 rates and PG&E's GRC 2 proposals (column (b) of Ex. 55.) Column (d) of Exhibit 55 show the results if Tier 4 is retained and column (e) shows results if two elements of TURN's proposal are used, i.e. the customer charge is rejected and Tier 4 is retained. These two positions however are TURN's -- not PG&E's. In reality, TURN complains that PG&E did not tell the Kern Board about the individual impacts of these two elements of TURN's package. TURN, in essence, is berating PG&E for not presenting analyses to the Kern Board of TURN proposals first made by TURN in this case. The March 2, 2010 presentation to the Kern Board, however, was based on PG&E's package of proposals with information available at the time.[23/] TURN's specific positions in this case certainly were not known in March 2010, and PG&E would have had no obligation to present TURN's positions in any event. Moreover, information continues to change as time passes, which has occurred with approval of the settlement for summer rate relief in D.10-05-051.[24/]

It is misleading and inappropriate for TURN to insinuate that PG&E provided inaccurate information to the Kern Board in March 2010 because two elements of TURN's rate design proposals (retaining a 4 tier structure and rejecting a customer charge) were not separately analyzed. In fact, even after TURN presented its argument at the hearing, Kern County continues to support PG&E's proposal. Indeed, the Kern County witness testified that the County understands that some customers in Kern will be worse off (e.g., CARE, low users), but the County believes this is a reasonable trade-off to avoid a repeat of the summer of 2009. It concluded: "The County of Kern supports PG&E's application and the residential rate design changes contemplated in that application. These changes in residential rate design will support a more equitable residential rate structure." (Kern County brief p. 3).

VII. PROPOSED TOU RATES, AND PROPOSALS FOR E-A7, EL-A7, BASELINE CREDIT FOR E-7 AND EL-7, AND E-9A AND E-9

Most of the rate issues raised in these areas were not addressed in opening briefs by any party. Two of these proposals, closing schedules EA-7 and El-A7, and changing baseline credit for E-7 and EA-7, have been unopposed throughout the case. One of the proposals for changing Electric Vehicle rate schedules was opposed by DRA in its testimony, but not addressed in

23/ Later, the Commission issued D.10-05-051 which adopted rate relief in time for summer 2010, including reducing the Tier 5 rate to 40 cents per kWh. The rate changes authorized in D.10-05-051 went into effect June 1, 2010. The base case in Ex. 55, p. 5, starts with the June 1, 2010 rates in column (a), and then shows the effect of PG&E's GRC 2 rate proposals in column (b).

24/ Moreover, development of Ex. 55 started in summer 2010 (Ex. 55, p. 1), and therefore used PG&E's full GRC Phase 1 revenue requirement rather than the settlement amounts that are pending before the Commission.

DRA's opening brief. (See PG&E brief p. 64).

The one issue in this group that did attract discussion was Time of Use (TOU) rate design. The party primarily interested in TOU rate design for residential customers was Solar Alliance, and Sierra Club supported the Solar Alliance proposal. (See Solar Alliance brief pp. 21-25, Sierra Club brief p. 18). The Vote Solar Alliance did not support any particular proposal, but only noted the importance of a meaningful differential between on-peak and off-peak rates. (Vote Solar brief p. 20). PG&E's proposal, which offers peak summer rates from 27.9 to 43.7 cents per kWh, versus off-peak rates of 8.5 to 24.3 cents per kWh, meets this objective. (PG&E/Quadrini, Ex. 1, page C-8, proposed rates for Schedule E-6).

Solar Alliance makes two arguments regarding TOU rate design. First, it argues that PG&E's proposal violates Senate Bill 1. There, it miscites the text of Public Utilities Code § 2851(a)(4). That section previously stated what the Commission "shall" do, but in 2008 the statute was amended by Assembly Bill 2768 to state what the CPUC "may" do. The correct text is cited in PG&E's opening brief at page 67, fn. 33. It is unclear in what way Solar Alliance thinks PG&E's proposal violates SB 1. It claims that PG&E's rate does not provide the "maximum incentive" to install solar, but PG&E's opening brief pointed out that the Commission has already concluded that "the Commission does not agree with Petition's narrow interpretation of SB 1 that a TOU tariff should merely provide the maximum incentives to install solar energy systems." (D.07-06-014, p. 8).

Solar Alliance goes on to argue that its TOU proposal for enormous 70 to 90 cent per kilowatt hour peak prices better reflects utility cost of service. However, PG&E's opening brief walked through the details of and flaws with the Solar Alliance proposal. The Solar Alliance brief repeats the same arguments, most of which are responded to at pages 64-66 of PG&E's opening brief. As explained there, using Equal Percentage of Marginal Cost (EPMC) allocators to design rates within monthly tier categories would not match marginal costs, would not be revenue neutral between TOU and non-TOU classes, would result in cost shifting, and would be at odds with how rates have previously been designed by the CPUC. Solar Alliance claims in its brief that no cost shifting will result (p. 26), but it cites no analytical evidence for this claim.[25/] It simply defies logic to claim that 70 to 90 cents per kilowatt hour is a "cost" based rate. (Quadrini/PG&E, Ex. 2, p. 2-21, lines 24-25) (the TOU rates proposed by Solar Alliance are far in excess of any reasonable estimate of avoided costs).

Solar Alliance claims that the Commission "has a long-standing practice of using EPMC to scale marginal costs up to recover additional non-marginal costs included in the revenue requirement… PG&E uses exactly the same EPMC method to scale its marginal generation energy costs in each TOU period up to equal the generation revenues allocated to energy charges." (Solar Alliance brief p. 24). This is not true. First, there are no additional non-marginal costs, such as non-bypassable charges, included in the generation revenue allocation. The generation revenue requirement is the generation revenue at current rates less non-allocated generation revenues. Once this is calculated, the generation revenue requirement for each rate schedule is adjusted ***upward or downward*** based on each schedule's actual marginal generation (energy and capacity) costs. The result is a small percentage adjustment, ***up or down***. (WP 2-223-June 30, 2010 Update.) For example, the total generation revenue requirement in the June 30, 2010, Update was set at 96% of total generation marginal costs, not the nearly 200% of generation marginal costs proposed by Solar Alliance for the Schedule E-6 summer peak Tier 3, Tier 4 and Tier 5 rates.[26/] (Beach/Solar Alliance, Ex. 30, Table 3). Not only is Solar Alliance's proposal a misapplication of EPMC principles, but using the Generation EPMC multiplier as proposed by Solar Alliance would require PG&E to ***lower*** the E-6 summer peak rates (Tiers 1, 2 and 3) by up to 4 percent, depending on the tier.

The Solar Alliance TOU proposal should be rejected.

25/ Nor, in hearings, could Solar Alliance's witness cite to any Commission rate design decision (for PG&E, SCE, or SDG&E) which approved an EPMC-based design like Solar Alliance has proposed here. (Tr. p. 953, line 12 to p. 954, line 24, Solar Alliance/Beach).

26/ Based on the weighted average of Solar Alliance's proposed rates for E-6 Tiers 3, 4 and 5.

VIII. PROPOSAL FOR FLAT GENERATION AND DISTRIBUTION RATES WITH TIERED CONSERVATION INCENTIVE ADJUSTEMENT

In opening briefs, five parties besides PG&E addressed the proposal to flatten generation and distribution rates, and put the tiering in a conservation incentive adjustment. DRA and SCE supported this proposal. (DRA p. 22; SCE pp. 38-41). MEA, CCSF, and Sierra Club opposed the proposal. (MEA pp. 1-22, CCSF pp. 1-15, Sierra Club pp. 18-22). Most of the arguments raised were addressed in PG&E's opening brief, and that discussion will not be repeated here. However, several additional issues were raised, which are discussed here.

First, CCSF and MEA argue that PG&E had a duty to conduct a "cost study" and that absent such a "study," PG&E has failed to meet its burden of proof. (See, esp. CCSF brief pp. 2-3 and 3-8 and MEA brief p. 12). However, Decision 10-06-030, which set this issue for resolution in this proceeding, contained no special "cost study" requirement. Instead, it allowed the concept to be explored in evidentiary hearings, which has now occurred.

Moreover, the record presented at the hearing overwhelmingly supported the conclusion that there is no cost basis for tiering the generation rate based on monthly consumption. (See discussion in PG&E's brief pp. 73 to 75). CCSF claims that the evidence shows that unit generation costs increase as usage increases. (CCSF brief pp. 6-8). However, this discussion deliberately skews the record about usage on an instantaneous or daily basis, versus usage on a <u>monthly</u> basis. PG&E's witnesses acknowledged that costs could increase in any given hour as usage increases, but the witnesses all clarified that there is no such correlation with **monthly** usage. (See Tr. p. 323 lines 1 to 3, p. 326, line 26 to 327 line 1, p, lines 4-7, PG&E/Keane; Tr. page 275, lines 1 to 3, PG&E/Faruqui, Tr. page 127, lines 7 to 17).[27/] Even CCSF's own witness

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<u>27</u>/ CCSF claims that witnesses Faruqui and Garwacki admitted that costs increase with usage. (CCSF brief p. 6). In fact, Dr. Faruqui made expressly clear that there is no correlation between monthly usage and generation costs, stating:

> Q. As consumption of power goes up within a month, do you know if the costs of generation go up?
> A. … It won't rise in a cumulative fashion necessarily. It could, but that would be quite a coincidence.

(Tr. p. 127, lines 7-17, PG&E/Faruqui). Similarly, Mr. Garwacki testified that on a monthly basis, unit costs decrease, not increase, as consumption increases. (See Tr. p. 455, lines 14-24) (on a bundled basis).

was unable to identify any transactions where generation costs increase on a monthly basis, without regard to when the power is being consumed. (Tr. p. 172, lines 18 to p. 174, line 5, CCSF/Meal). Moreover, as discussed in PG&E's opening brief, while MEA's costs can vary if its usage goes above or below its monthly band, it then pays a market price, not an inclining price, and in recent months, the price outside the contract band has been **lower** than the contract price. (Tr. p. 708, lines 5-23, MEA/Dusel). CCSF does not yet have a supplier, but its bidders seem to be offering similar terms. (Tr. p. 173, line 3 to p. 174, line 5, CCSF/Meal).[28/] The evidence shows that there is no cost basis for tiered generation prices based upon cumulative monthly usage.

In an attempt to bolster its argument that generation costs somehow increase with a customer's cumulative monthly usage, at page 7 of its brief, CCSF, for the first time, provides an example. In this example, PG&E's overall generation cost is assumed to be 8 cents per kWh, with on-peak generation costing 15 cents per kWh and off-peak generation costing 5 cents per kWh. A residential customer is assumed to initially be consuming 500 kWh in a month. In CCSF's example, this customer then increases her consumption by 100 kWh, with the increase occurring all in the on-peak period, thus increasing PG&E's generation cost by $15. But since, under PG&E's flat rate proposal, she would only be charged 8 cents per kWh (i.e., the average cost), PG&E's revenue of $8 would not recover its costs. CCSF concludes from this example that an inclining block generation rate structure is thus appropriate, so that some or all of the increased costs would be recovered from the customer. But CCSF selectively ignores the situation where the customer's incremental usage occurs in the off-peak rather than the on-peak period. In that situation, PG&E's costs would increase by only $5 and the $8 collected by PG&E

28/ CCSF's brief at page 8, citing Ms. Meal's testimony in the hearing room, states that CCSF anticipates entering into a banded contract wherein CCSF would pay a certain price as long as demand was within prescribed usage bands but pay a higher price if usage reached a higher band. It is not clear why the price for incremental usage under this anticipated hypothetical contract would necessarily be higher than the contract price. The only *real* contract examined during hearings was that of MEA with its power supplier, and that contract calls for MEA to pay market prices for incremental purchases outside the band – prices which could be higher or lower than the contract price (and which MEA's witness admitted would be lower in today's market).

would collect more than its costs. Using CCSF's logic, the conclusion would then be that generation rates should have a declining block structure. But this is precisely the point made in Dr. Keane's rebuttal testimony: absent time-of-use meters and rates, we do not know whether incremental usage is in the on- or off-peak period and there is thus no cost justification for charging anything other than a flat rate (and, even for time-of-use rate schedules, the rates should be flat within each time-of-use period).[29/]

Second, CCSF claims that PG&E's reliance on the fact that SCE and SDG&E have these structures in place somehow violates the CPUC's rules of practice and procedure, because these structures were put in place following settlement agreements. In fact, this argument is misplaced. Nothing in the CPUC's Rules of Practice and Procedure prohibit a party from citing the fact that its proposal is similar to that in place at other utilities, or of citing a Commission decision on a contested matter, as occurred when the CIA was approved for SCE in D.09-09-036, over the objections of the San Joaquin Valley Power Authority (SJVPA), which was not a settling party. Rule 12.5 does state that "Unless the Commission expressly provides otherwise, [adoption of a settlement] does not constitute approval of or precedent regarding any principle or issue in the proceeding or in any future proceeding." CCSF claims that PG&E has directly violated this rule by arguing that prior CPUC decisions are a "Commission determination that flat generation rates are warranted for PG&E." (CCSF brief p. 13). However, PG&E made no such argument, and the CPUC is free to reject this proposal for PG&E. However, if it does so, it will be rejecting the structure the Commission put in place elsewhere in this state, as a means to both ensure that all customers (including those served by CCAs) see tiered rates[30/] and that the

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29/ See the discussion and example in PG&E/Keane, Ex. 2, p. 1-18, line 33 through p. 1-19, line 25 illustrating why cumulative usage over an entire month may be a very bad indicator of the degree to which a household's load is coincident with periods of high-cost power.

30/ Absent approval of PG&E's CIA rate proposal, the Commission will have no assurance that CCA customers will see tiered rates designed to achieve its public policy objective of incenting conservation. The Commission has concluded that it has no regulatory authority over CCA pricing decisions. Consequently, if PG&E's proposal is rejected and the tiering remains in PG&E's generation rate, then a CCA's customers would see no tiering in their total rate if the CCA decided (as it has the sole authority to do) to charge a flat rate for power – thus thwarting the Commission's policy objective. (PG&E/Keane, Ex.2, p. 1-30, lines 19 to 27). The Commission recognized this in D.09-08-028 approving a CIA rate for SCE, concluding, "Thus, signals to encourage conservation should be provided to all customers, regardless playing field is level for customers choosing between bundled and direct access or CCA service -- a structure which was approved for SCE over nearly identical objections to those presented here.[31/] CCSF's argument also ignores the fact that, despite opposition from SJVPA, the Commission found the settlement on SCE's CIA to be in the public interest. In fact, when the Commission finds settlements to be reasonable and in the public interest on a particular issue, this in practice often provides foundation for transferability to other utilities based on the facts and circumstances of each utility.

Third, MEA claims that support for PG&E's proposal has evaporated. Indeed, it claims that TURN, which supported the original petition to modify, and is on record supporting the proposal in testimony in a SCE case, now opposes the idea. (MEA brief p. 8). In fact, TURN said no such thing, and no party which co-signed the petition (or which chose to remain neutral, like the solar advocacy groups) has opposed the proposal, and DRA and SCE expressly support it in this case.

Fourth, CCSF claims that the CIA would create significant customer confusion, require extensive customer education, and that PG&E is asking the Commission to write a blank check. (CCSF brief p. 10-12). This claim, like most of CCSF's arguments, is meritless. SCE and SDG&E implemented a similar proposal without significant customer confusion or complication. Indeed, for non-CCA customers, the detail of bill will change, but the total bill will not change in any respect. For CCA customers, CCSF argues that in a few rate categories, the bill components

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of their energy provider." (D.09-08-028, pp. 18-19).

31/ CCSF also claims on pp. 13-14 of its brief that D.09-08-028 in SCE's last GRC Phase 2 proceeding is "of no persuasive value" because PG&E's situation is different than SCE's, specifically because the tiering in PG&E's rates is partly in the distribution component of the rate and partly in the generation component, whereas SCE's rates in 2009 had tiering only in the generation component. But this is a distinction without relevance. PG&E is proposing in this proceeding to flatten its distribution rates as well, and that proposal is unopposed. Once flat distribution rates are approved, PG&E's situation will be identical to SCE's in 2009, and the Commission's public policy objective of ensuring that all customers see tiered rates could be thwarted if PG&E's CIA proposal is not approved and the tiering remains in the generation rate that is not paid by CCA customers. But even if a portion of the tiering remained in the distribution rate component (which no party has proposed), it would still be the case that failure to approve PG&E's CIA proposal could lead to a partial thwarting of the Commission's objective in the event the CCA chose to charge flat rates, since the tiering in a CCA customer's total rate would be less pronounced than it would be for a bundled customer.

will be negative. But PG&E's testimony explained that any negative components will generally be offset by positive rate components, and that PG&E has proposed a zero minimum bill. (PG&E/Keane, Ex. 2, p. 1-32, lines 5-15). Administering and explaining this bill should not be unduly difficult or complicated.

CCSF's brief also criticizes PG&E for waiting to formulate the details of its customer education plans related to the CIA. (CCSF brief pp. 11 to 12). CCSF's accusation that PG&E is asking for a blank check for customer education on CIA is completely wrong. Customer outreach on CIA would be part of PG&E's general customer outreach effort, and would not be subject to special funding. It makes economic sense for PG&E to await the specifics of what the Commission approves in this docket before proceeding with a detailed plan, to make the most judicious use of money.

Fifth, MEA claims that adoption of this proposal could cause "massive customer opt-outs" as a result of the cost increase to its Phase 1 customers if MEA did not adjust its rates in response. (MEA brief p. 10). Notably, MEA cites to no evidence for this claim, because there is none. Instead, the record shows that MEA's rates to most of its customers have been above PG&E's rates for all but one month of the time it has been actually serving customers and it has experienced very little attrition in its customer base as a result. (PG&E/Keane, Ex. 2 p. 1-26 line 19 to p. 1-27, line 2).[32/]

Sixth, CCSF asks that the Commission deduct $3.6 million in costs from PG&E's rates if this proposal is rejected. (CCSF brief pp. 9 and 16). PG&E's 2011 GRC revenue requirements are beyond the scope of this phase of this case. The costs of this proposal were presented in Phase 1 of the GRC, and a settlement for significantly less than PG&E requested with no specific funding for this item is pending before the Commission. CCSF's attempt here to modify the

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32/ Moreover, nothing would stop MEA from adjusting its rates. MEA appears to want to be able to continue to earn the windfall profits it currently is earning, at the expense of higher rates for PG&E's bundled customers, by selectively serving only extremely large customers with usage almost triple the average usage of a Marin household. (Keane/PG&E, Ex. 2, p. 1-24, lines 4-14, and p. 1-26 lines 9 to p. 1-27, line 2).

pending GRC Phase 1 settlement by claiming that an estimated $3.6 million for CIA implementation is included therein is misleading and contrary to the four corners of that settlement. Under the settlement, approval or rejection of the CIA proposal will not affect PG&E's rates. CCSF's argument is out of scope should not be tolerated here.

Finally, MEA asks that if the generation flattening proposal is not rejected, that its Phase 1 customers be exempted from this change. It notes that SDG&E's existing direct access customers received such an exemption when it implemented the Total Rate Adjustment Component (a similar charge to the CIA). (MEA brief p. 20). However, more recently, when the CIA was adopted for SCE, no similar exemption was created. Moreover, MEA was advised by its consultants that this issue was pending over two and a half years ago – long before it began offering service almost exclusively to high usage residential customers -- and it has built up a substantial financial surplus at the expense of PG&E's other customers with knowledge that this issue will be resolved by the Commission. (Tr. p. 675, lines 20-28, p. 679 lines 4 -28, p. 680, lines 16 - 21, MEA/Dusel; PG&E/Keane, Ex. 2, p. 1-26, lines 11-19 and p. 1-25, line 25 through p. 1-26, line 8). For MEA to receive the benefits of the CIA for its remaining lower usage residential customers, which will save it money, but receive an exemption for its high usage Phase 1 customers, would not be evenhanded and would require PG&E's remaining bundled customers to continue subsidizing MEA's operations indefinitely, to a tune of approximately $6.6 million per year. (See PG&E's brief p. 79). MEA's "grandfathering" proposal should be rejected.

IX. OTHER ISSUES

In its opening brief, PG&E noted two additional issues, PG&E's proposal to change CARE rate eligibility for non-profit group living and qualified group living and qualified agricultural employee housing and other uncontested elements of its baseline proposal. (PG&E brief pp 83-85). No other party addressed these issues.

X. CONCLUSION

For the reasons set forth in PG&E opening brief and this reply brief, PG&E respectfully requests that the Commission approve its residential rate design proposals, and make them effective in time to afford rate relief in the summer of 2011.

Respectfully Submitted,

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PACIFIC GAS AND ELECTRIC COMPANY

Dated: January 10, 2011

CERTIFICATE OF SERVICE BY HAND DELIVERY OR 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 Pacific Gas and Electric Company, Law Department, PO Box 7442, San Francisco, CA 94120.

On the 10th day of January, 2011, I served a true copy of:

**REPLY BRIEF OF
PACIFIC GAS AND ELECTRIC COMPANY
ON RESIDENTIAL RATE DESIGN ISSUES**

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for **A.10-03-014** with an e-mail address.

[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 list for A.10-03-014 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 10th day of January, 2011, at San Francisco, California.

/s/
PATRICIA A. KOKASON