



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

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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 No. 10-03-014
(Filed March 22, 2010)

**COMMENTS OF THE KERN COUNTY TAXPAYERS ASSOCIATION
TO DRAFT OPINION OF ALJ PULSIFER
AND DRAFT ALTERNATIVE OPINION OF PRESIDENT PEEVEY**

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April 25, 2011

A.10-03-014

Michael Peevey, Commissioner
Thomas R. Pulsifer, Administrative Law Judge

KernTax views any government collection of funds through any financial conduit to be taxation, be it clearly identified as a tax, a fee for government service or a regulated rate structure. If it is excessive or not appropriate, KernTax must, by charter, act to educate and facilitate resolution and ensure fair representation and treatment. Kern County citizens should expect no less from KernTax and its members. We do not seek subsidies; we simply seek fair return to our local citizens from all regulatory bodies and their agent for levied taxes, fees, rates etc. We believe that this perspective aligns closely with the underlying constitutional compact from which the CPUC derives authority to regulate the rates of public utilities as well as the goals of PG&E and other public utilities, and we hope to represent the broad public interests of ratepayers, taxpayers, utilities and the CPUC in achieving a lasting resolution of the current structurally flawed statutorily-mandated residential electricity rate system.

It is both the absence of the ability of the Public Utilities Commission under current law to establish just and reasonable pricing and rate designs, as well as the unduly discriminatory treatment among similarly-situated electric ratepayers, external to the residential electric ratepayer class and within the residential rate class that compelled KernTax to participate in PG&E GRC A.1003014, particularly residential electric rates, before the California Public Utilities Commission.

KernTax is deeply concerned that the continued extreme disparity in electricity rates will unfairly burden certain unprotected electricity ratepayers with high and volatile electricity rates that far exceed the average cost of the utility

service being provided them, thus crushing them with more and more “price gouging” when they can afford it less and less.

Over ten years ago, the State Legislature enacted laws that were intended to freeze certain electric rates and provide more preference for customers who use less electricity than others. Unfortunately, over time, as the overall costs of electricity have gone up, the unintended consequences of these laws has been the creation of different “tiers” of electric rates charged residential that have raised electric bills to certain Californians to extremely high levels never intended when the Legislature originally enacted the laws. These “tiered” electric rates, similar to the automatic “bracket creep” of some tax laws, have resulted in highly discriminatory and inequitable electricity rate structures for both residential and non-residential electricity customers. Also unfortunately, the laws are written so that the Commission's authority is limited from making substantive reform to these inequitable rates unless the laws are changed.

In PG&E's service area, rates for residential customers with normal lower usage and for low income residential customers have been frozen for nearly 20 years at a level that is below the national average, and some are more than 50 percent below the current PG&E average cost of power. Meanwhile rates for residential customers with normal higher usage reached \$.498/kWh, over 160 percent above PG&E's average cost of power. The very legislation producing these rate disparities that now far exceed a reasonable discount for low-usage

and low income customers would also exempt most residential electricity customers from demand response conservation. Unless legislative changes to the current laws are made these customers which consume over 80% of PG&E's residential energy generation will be protected from having to pay the true cost of power, including the costs of greenhouse gas emissions intended to be included in electricity rates under the Global Climate Solutions Act of 2006 and SB 2x recently signed by the Governor. The Proposed and Alternate Decisions that you have before you seek to begin addressing the rate disparities caused by the unintended consequences of past legislation.

KernTax intervened in A.1003014 because no one was representing the interests of the "unprotected class" of PG&E residential ratepayers. For decades, organizations have claimed to be "advocates for the ratepayer". This advocacy, for protected ratepayers and the current unsustainable rate structure, is well-documented.

In PG&E's December 20, 2010 response filing under application A1003014, PG&E stated that increases in non-CARE upper-tier rates were not based upon PG&E's marginal costs or any other measure of cost of service. Rather, they are the simple result of having no place else to collect additional revenue requirements allocated to the residential class except by increasing non-CARE tier 3, 4, and 5 rates. PG&E stated their current residential rate design is seriously broken, and it has resulted in very high, unfair non-CARE upper tier rates far in excess of PG&E's cost of service. KernTax estimates that the application of these

unfair rates have unnecessarily placed billions of dollars in costs on the backs of Central Valley and other upper tier ratepayers, and alarmingly no one is advocating for a recovery of these over-billed costs. KernTax cannot state its concerns strongly enough: PG&E's rate structure is broken; PG&E's rate-setting mechanism continues to be flawed and is still producing upper-tier rates that are unfair and discriminatory; and, due to the looming cost effects of green house gas regulation, renewable portfolio standard legislation, SB 2X, AB 32, etc, non-CARE tier 3, 4, and 5 rates for captive residential ratepayers will skyrocket beyond comprehension and beyond most ratepayers ability to pay simply because, as PG&E so eloquently stated in its Commission filing, "Rather, they are the simple result of having no place else to collect additional revenue requirements allocated to the residential class except by increasing non-CARE tier 3, 4, and 5 rates." KernTax compliments PG&E for revealing this and telling the Commission this unbelievable truth.

Within the defined boundaries of ill-conceived restrictions of state law, the GRC A.1003014 has attempted to bring some minor improvements to a rate structure that without either regulatory or legislative reform is flawed by its degree of discrimination. The upcoming rate-shock due to implementation of programs including but not limited to RPS, AB 32 and SB 2x will add tens of billions of dollars in costs to the IOU's, that should be fairly borne by all ratepayers, not just the unprotected ratepayers. Summer approaches and unprotected Valley

residents see the writing on the wall. Without some reform in rates their only hope for cost relief is to have mild summer temperatures.

KernTax has analyzed ALJ Pulsifer's Proposed and President Peevey's Alternative Opinions:

- Introduction of Customer Charge. KernTax agrees with President Peevey's opinion that PPG&E be allowed to establish a uniform customer charge that address costs borne by all customers in a fair and equal manner. This decision aligns PG&E practices with those of other IOUs.
- Reduction of Baselines. KernTax agrees with both President Peevey and ALJ Pulsifer that PG&E should be allowed to immediately lower its baseline allocations to match the practices of other IOUs.
- KernTax agrees with the introduction of a Tier 3 CARE rate by 2012, followed by a Tier 3 CARE rate increase in 2013. KernTax supports the decisions of President Peevey and ALJ Pulsifer. This is a necessary first step in addressing the massive inequities between non-CARE and Care upper-tier users and promoting energy conservation goals. Even with this new tier in place, CARE customers will be paying rates, in real terms, equal to 1991 rates and more than 50 percent below comparable Non-Care rates.
- Collapse of all upper-tier rates into a single Tier 3 rate. KernTax must respectfully disagree with both President Peevey and ALJ Pulsifer. There is no reasonable economic basis for Tier 4 which simply serves as the Residential Roof-Top Solar Subsidy. Residential Roof Top Solar installations

cannot be justified in any economic way, except when compared to a false benefit judged against artificially contrived high electric rates as an avoided cost. KernTax does not oppose solar energy. But, we must state an undeniable fact. The avoided cost of large solar fields is \$.17/kWh. The avoided cost of roof-top solar is promoted by the industry itself as being \$.32/kWh. What is the cost containment or price driver for economic improvements? CPUC would limit a utility to a reasonable return of approximately 12%. Government is forcing the IOU's to create and charge artificially inflated rates to support a particular unregulated industry. This policy is flat wrong! Doubly wrong is maintaining an artificially inflated rate structure that forces only certain unprotected residential customers to make an investment in a solar system to escape unnecessary and unreasonable upper tier rates. On top of this, federal and state government has provided tens of millions of tax dollars for the subsidization of the industry. If ratepayers voluntarily want to purchase artificially expensive electricity, that is consumer choice. KernTax prefers President Peevey's Alternative Decision since it provides a Tier 4 rate \$.022/kWh less than ALJ Pulsifer's Decision.

Finally, and most importantly, KernTax respectfully reminds the Commission that time is of the essence. The Commission must adopt a decision at the May 5 meeting to grant Central Valley upper-tier ratepayers some relief before the 2011 summer season is arrives. The current Tier 4 rate is only \$.04/kWh below the

unbearable rates of 2009 that created the “Bakersfield Problem”. As Commissioners and most Californians understand now, the problems of 2009 were not created by the “Smart Meter”. The Smart Meter was nothing more than a state-of-the-art harbinger. Top Tier E-1 rates had quadrupled in 10 years: rising from \$.125/kWh in 2000, to \$.22/kWh in 2005, to \$.498/kWh in March, 2010. That is when KernTax was compelled by Central Valley ratepayers to become involved. KernTax thanks the Commission for its support in our effort to participate in this process and implores the Commission to adopt President Peevey's Alternative Decision on May 5.

Respectfully Submitted,

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CERTIFICATE OF SERVICE, A.1003014

I certify that I have, by electronic mail, served a true copy of " Comments of the Kern County Taxpayers Association to Draft Opinion of ALJ Pulsifer and Draft Alternative Opinion of President Peevey" to all parties of A.1003014 listed below.

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