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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of its 2009 Rate Design Window Proposals for Dynamic Pricing and Recovery of Incremental Expenditures Required for Implementation (U39E)	Application 09-02-022 (Filed February 27, 2009)

PETITION FOR MODIFICATION OF THE DIVISION OF RATEPAYER ADVOCATES, THE CALIFORNIA SMALL BUSINESS ASSOCIATION AND THE CALIFORNIA SMALL BUSINESS ROUNDTABLE OF DECISION 10-02-032

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I. INTRODUCTION

Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA"), California Small Business Association (CSBA) and California Small Business Roundtable (CSBRT)[1] ("Petitioners") file this

[1] CSBA is a non-profit organization that grew out of the 1980 White House Conference on Small Business. It is a grassroots, volunteer-driven organization dedicated to helping members "grow their own businesses," informing members about government programs and other resources available to assist them and advocating the views of small business in Congress, the California Legislature, and federal and state agencies. CSBA regularly polls its members on public policy issues affecting small business and receives guidance from its CSBRT, which consists of leading small business owners from across the state. CSBRT is a non-profit organization incorporated to, among other things, provide general advocacy on behalf of small businesses in California, disseminate information relevant to such businesses and represent the interests of small businesses before various public agencies. As this is CSBA/CSBRT's first appearance in A.09-06-022, Petitioners ask that they be made parties and added to the service list for this proceeding.

Petition for the Modification ("Petition") of Decision (D) D.10-02-032 in Pacific Gas and Electric Company's ("PG&E") 2009 Rate Design Window proceeding, (A.) 09-02-022.

Beginning on November 1, 2011, approximately 500,000 small and medium business customers will be defaulted to Peak Day Pricing ("PDP). Under PDP, these customers will be charged electric rates which will vary according to time of use with substantially higher charges for use during the hours of 2:00 PM to 6:00 PM on 9 to 15 Event Days per year. An Event Day will be identified or "called" by the utility on 24-hours notice because of high temperatures, system emergencies or market-price conditions.

This Petition is filed on behalf of small business customers,[2] for whom PDP represents a dramatic change in how they will be charged for electricity. The vast majority of small business customers have had no experience with time-varying electric rates of any kind, much less the complexities of PDP.

For the reasons discussed in this Petition, defaulting small businesses to PDP will result in significant disruption and cost to small businesses and the state's economy. For many small businesses, adjusting to PDP will mean sending employees home from work or telling employees not to come into work on Event Days. In the short run, many small business owners will pay their workers for the time lost, but, ultimately, owners will be forced to cut back on the number of employees, adding to the number of unemployed Californians and the state's 12.4% unemployment rate.

To date, PDP has not been a success. PG&E's Large Commercial and Industrial (C&I) Customers were scheduled to default to PDP in May 2010. Despite an intensive

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[2] Small business customers referred to in this Petition as Small Commercial and Industrial Customers ("Small C&I Customers) have a maximum demand not exceeding 20 kilowatts ("kW"). Medium Commercial and Industrial Customers ("Medium C&I Customers) have a maximum demand between 20 kW and 200 kW and Large Commercial and Industrial Customers ("Large C&I Customers) have a maximum demand over 200 kW. The sole focus of this Petition for Modification is Small C&I Customers and Petitioners make no recommendation here as to rate design for other customer classes. DRA has proposed elsewhere (A.09-02-022 and A.10-03-014) that Small C&I Customers be separated from Medium C&I Customers for revenue allocation and rate design purposes. The recommendation in A.10-03-014 is pending.

education campaign through utility account representatives and direct experience with time-varying rates, 62% of Large C&I Customers have either opted out or unenrolled in PDP. ***A principal reason for opting out was that it would be too difficult for them to shift load during peak times.***[3]

The challenges to successfully defaulting small business customers to PDP are even greater. There are hundreds of thousands of small business customers, compared to a few thousand Large C&I customers. Few small business customers have any experience with time-varying rates. Small business customers do not have in-house energy experts or access to external consultants. Among small business customers, a common reaction on hearing about PDP is that the new rates are simply a way for the utility to make more money. Even after the policy reasons are explained, customers are highly skeptical about PDP. Because of the complexity and difficulty of explaining PDP rates, in a separate Petition for Modification, PG&E has requested further delay in implementing this rate for small business customers.

The purpose of this Petition is to propose a path forward by which the vast majority of small business customers would be on time-varying rates. Instead of an arbitrary date, we propose a schedule for defaulting customers to Time of Use rates, based on objective measures of customer understanding (as measured by customer awareness), customer acceptance of time-varying rates (as measured by penetration) and PG&E's ability to serve its customers on time-varying rates with no significant problem (as measured by customer complaints). Instead of a customer education plan that currently provides little by way of real solutions for small businesses to reduce their energy use during peak periods, we propose that PG&E attract and retain customers on time-varying rates by aggressively offering integrated energy efficiency and demand response solutions to help small business customers reduce their usage during peak and

[3] PG&E Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, December 3, 2010, p. 18.

non-peak periods.[4] By modifying D.10-02-032 in this manner, the Commission will transition small business customers to time-varying pricing in the least disruptive manner possible, promote job retention by small businesses in California, foster economic recovery and further the Commission's goal of providing energy efficiency and demand response solutions to customers on an integrated basis.

II. SUMMARY OF RELIEF REQUESTED

In summary, the Petitioners request that the Commission re-examine the current plan to default small business customers to PDP in light of the following guiding principle: **Complex rate designs should not be implemented before customers are shown to be ready.** In keeping with this principle, Petitioners request that time-varying rates for PG&E's small business customers be implemented as follows:

Table 1: Stages for Implementation of Time-Varying Rates

Stage 1	Voluntary TOU and voluntary PDP with enhanced education on time-varying rates and delivery of integrated energy efficiency and demand reduction solutions to small business customers through a single point of contact. Small business customers are allowed to continue on flat rates.
Stage 2	Default TOU and voluntary PDP. Defaulting customers would be allowed to opt out to flat rates.
Stage 3	Mandatory TOU and voluntary PDP. Only customers meeting narrow criteria (e.g., health and safety of workers, customers, or patients, public health or safety, documented economic hardship and loss of jobs) would be allowed to continue on flat rates.

[4] While the Commission is aware of the need to integrate energy efficiency and demand response programs, actually doing so is still in the future. This is further discussed in Section IV.D.5 below.

Accordingly, Petitioners request that the Commission modify D.10-02-032 to direct PG&E to do the following:

1) Offer its new Small C&I Time-of-Use rate (A1-TOU) as a stand-alone rate on a voluntary basis as soon as possible and in no event later than December 31, 2011[5];
2) Conduct an enhanced education, outreach and marketing program to inform eligible Small C&I Customers about the availability of the A1-TOU rate;
3) In conjunction with its outreach and education campaign, conduct an aggressive outreach program providing Small C&I Customers with an integrated set of energy efficiency and demand reduction solutions through a single point of contact;
4) Perform periodic assessments of customer awareness and understanding of the A1-TOU rate and other time-varying rates offered by PG&E, track Small C&I Customer enrollment into and disenrollment from the A1-TOU rate and other time-varying rates, and track customer complaints regarding time-varying rates;
5) Offer A1-TOU to Small C&I Customers on a *default* basis only when the following conditions are met:
    a) 80% of eligible customers are aware of and have a conceptual understanding of TOU rates and features;[6]
    b) 30% of eligible customers have opted into at least one time-varying rate feature[7]; and
    c) complaints from small business customers on time-varying rates remain at an acceptably low level.

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[5] Per PG&E's January 14, 2011 Petition to Modify D.10-02-032, PG&E has already implemented opt-in PDP rates for Small and Medium C&I Customers. Petitioners see no reason for PG&E to delay offering the new, A1-TOU rate on a stand-alone basis, provided it is offered only on an "opt-in" basis until the conditions specified in this Petition denoting customer and utility readiness for *default* TOU service are met. Customers should be able to also have the option to continue on their current flat A-1 rate until the additional criteria, denoting customer and utility readiness for *mandatory* TOU rates are met.

[6] This compares to the 98% of Large C&I Customers that PG&E reports "were familiar with transition to time-varying pricing." (PG&E Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, December 3, 2010, p. 6). Petitioners propose an 80% awareness level in view of the larger number and less sophistication of Small C& I Customers.

[7] Time varying rate features could include, PDP, PG&E's existing A-6 TOU rate, or the new A1-TOU rate.

To promote customer acceptance, Small C&I Customers defaulting from flat rates to TOU rates should be offered one-year of bill protection relative to the pre-existing flat (A-1) rate.

6) Offer A1-TOU to Small C&I Customers on a *mandatory* basis only when the following conditions are met:
    a) 90% of eligible customers are aware of and have a conceptual understanding of TOU rates and features;
    b) 60% of eligible customers have accepted service under the default TOU rate[8] and
    c) complaints from small business customers on time-varying rates remain at an acceptably low level.

    Only customers meeting certain narrow criteria would be permitted to opt out to flat rates. These criteria could include health and safety of workers, customers or patients, public health and safety, lack of available technologies for reducing electric use, documented economic hardship and loss of jobs.
7) Continue to offer PDP to its Small C&I Customers <u>on a voluntary ("opt-in") basis only</u>;
8) Continue to offer a flat rate to qualifying Small C&I Customers as described above;
9) Meet the criteria for default A1-TOU no later than December 31, 2013;
10) Meet the criteria for mandatory A1-TOU no later than December 31, 2015.

Default and mandatory TOU should occur only if PG&E actually achieves the criteria set forth above. While PG&E should be held responsible for achieving the specified criteria by the above dates, defaulting small business customers to time-varying pricing should be driven by customer readiness (as measured by awareness), customer acceptance (as measured by penetration) and the utility demonstrating that it can serve customers on time-varying rates with no significant problems (as measured by level of

[8] Equivalently, no more than 40% of eligible small C&I customers have opted out of default TOU to a flat rate.

consumer complaints). Customers should not be penalized by having time-varying rates imposed upon them if the utility fails to meet these criteria.

III. PG&E's January 14, 2011 PFM

On January 14, 2011, PG&E filed a PFM to D.10-02-032. PG&E's PFM also asks for changes to the current timetable for implementing dynamic pricing for small and medium C&I customers. Specifically,

> For small- and medium-sized commercial and industrial (C&I) customers, PG&E proposes that these customers first default to mandatory TOU rates beginning on November 1, 2012 (rather than default to PDP on November 1, 2011, as currently required), and then default to PDP (including TOU) no earlier than March 1, 2014.

Petitioners agree with PG&E that small business customers should not default to PDP on November 1, 2011. However, Petitioners believe that PG&E's PFM does not go far enough to address the problems small businesses will have with dynamic pricing.

Petitioners' proposals for small C&I rate design differ from PG&E's in the following respects:

Table 2: Current and Proposed Time-Varying Rate Timetables

	D.10-02-032 Timetable	PG&E PFM	DRA/CSBA PFM
New Default A1-TOU Rate (with opt out to flat rate)	Not addressed	Not addressed	When 30% opt-in and other criteria met (Target-by year-end, 2013)
New Mandatory A1-TOU Rate	November 2011	November 2012	When 60% acceptance and other criteria met (Target-by year-end, 2015)
Hardship opt out to flat rate	No	No	Yes
Default PDP (with opt-out to TOU)	November 2011	March 2014	No[9]

[9] Petitioners propose that PDP be offered to Small C&I Customers on an opt-in basis only.

There are major differences between the two PFMs. With respect to the end-state, PG&E would default small business customers to PDP. Petitioners' proposal would default customers to A1-TOU. Petitioners believe that because of its complexity, unpredictability and disruptiveness, PDP is unsuitable for many small business customers and would cause severe economic hardship and massive customer resistance if imposed as proposed by PG&E.

With respect to timing, Petitioners commend PG&E for requesting more time (to March 1, 2014) to implement default PDP in view of the considerable obstacles to educating customers about and preparing them for this new, complex rate design. However, as stated above PG&E's proposal is date-driven. Customers would default to PDP regardless of whether PG&E was effective in educating customers and providing practical solutions to reduce use during peak periods. In contrast, Petitioners' proposal would default customers to TOU only when specified criteria have been met.

IV. REASONS FOR REQUESTING RELIEF

A. Distressed Economic Conditions

Since the Commission offered its rate design guidance in D.08-07-045, the precursor to D.10-02-032, economic conditions have changed, and much new information has surfaced. First and foremost, California small businesses have been slow to emerge from the deepest recession in 70 years, and remain under severe stress. This fact, alone, should cause the Commission to exercise great care in experimenting with rate design for this group.

Procedurally, the current mandate to default Small C&I Customers to PDP dates back to mid-2006[10]. In 2006, the California economy was at its height. According to the

[10] On July 25, 2006, the assigned Commissioner issued an Assigned Commissioner's Ruling and Supplemental Scoping Memo in PG&E's 2007 General Rate Case Phase II. "The July 25, 2006 Ruling determined that the primary objective of the dynamic pricing phase is to create a year-by-year strategic work plan that will direct PG&E to develop and integrate well-designed dynamic pricing tariffs into PG&E's rate design for all customers by 2011." (D.08-07-045, p. 3.)

California Department of Finance, 17.2 million Californians were employed and the state's unemployment rate was 4.9 percent; per capita income was near an all time high at $40,456[11].

1. 12.4% Unemployment and 1.4 Million Jobs Lost-- High Unemployment

Since 2006, the California economy has fallen into dire straits. In its November 2010, the Legislative Analyst's Office ("LAO") summarized the state of the California economy as follows:

> The National Bureau of Economic Research has determined that the national recession that began in December 2007 ended in June 2009. It was the longest recession since World War II and the most severe downturn since the Great Depression. The 2007-2009 recession was precipitated by the implosion of overheated housing markets in California and throughout the United States, the resulting balance sheet deterioration of financial firms and households, and the near collapse of world credit markets.
>
> *California's recession started even earlier than the nation's and was deeper. Unemployment in the state—under 5 percent as recently as 2006—has topped 12 percent for over a year now, as 1.4 million jobs have disappeared*.[12] (Emphasis added.)

The recovery from the recession is painfully slow. The LAO forecasts that real GDP growth will be 2.6 percent in 2010, 2.2 percent in 2011, and no higher than 3.1 percent in any of the years between now and 2016. (*Id.*) The LAO forecasts unemployment to remain high at 11.9 percent in 2011, 10.5 percent in 2012, 9.1 percent

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[11] (California Statistical Abstract, Table C-1, Civilian Employment and Unemployment: California and Metropolitan Areas, at http://www.dof.ca.gov/HTML/FS_DATA/STAT-ABS/documents/C1.pdf.) (California Department of Finance, Financial and Economic Data, California Income Data, at http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/FS_Income.htm.)

[12] In 2009, personal income in California dropped 2.4 percent—the first annual decline since 1933. (2011-12 California Budget: California's Fiscal Outlook, Legislative Analyst Office, November 2010, p. 13 at http://www.lao.ca.gov/reports/2010/bud/fiscal_outlook/fiscal_outlook_2010.pdf. (Emphasis added.).)

in 2013, and 8.4 percent in 2014. Personal income in California is not expected to return to healthy levels until 2014.

2. Small Business are Struggling to Stay Afloat

In California, small businesses are struggling to weather these difficult economic conditions. For most businesses, sales are down from pre-recession levels. Meanwhile, costs for workers compensation insurance, unemployment contributions, food, fuel, raw materials, and health insurance (for those businesses still able to afford providing this benefit) are increasing. With their savings depleted and credit markets tight, many small businesses owners are unable to raise additional capital needed for new equipment, make improvements to their facilities, finance new projects, expand inventory or manage cash flow more effectively.[13]

3. The Need to Support Job Retention and Job Growth in this Fragile Economy.

Historically, small businesses have been the principal engine of our economy. In these difficult economic times, small businesses are key to our economic recovery. On January 18, 2011, President Obama, in a Presidential Memorandum to the heads of all executive departments and agencies specifically recognized that critical role of small businesses stating:

> Small businesses play an essential role in the American economy; they

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[13] Small businesses rely primarily on (a) owner's savings, (b) credit cards and (c) home equity and mortgage loans. The recession has done considerable damage to all three sources of credit. For commercial lending to small business, the Small Business Administration reports:

> Lending and borrowing by lending institutions and small firms declined in response to uncertain economic conditions in 2008-2009. For the first time since the Call Reports became available in 1994, the total amount of business lending, as well as lending in all loan size categories, declined. The drop was most severe in the micro loan market for loans under $100,000, as borrowers and lenders held off on new lending activities. (Small Business and Micro Business Lending for 2008-2009, SBA Office of Advocacy, December 2010, p. 1, at http://archive.sba.gov/advo/research/rs374.pdf.)

> help to fuel productivity, economic growth, and job creation. More than half of all Americans working in the private sector either are employed by a small business or own one. During a recent 15-year period, small businesses created more than 60 percent of all new jobs in the Nation.
>
> Although small businesses and new companies provide the foundations for economic growth and job creation, they have faced severe challenges as a result of the recession. One consequence has been the loss of significant numbers of jobs. (Presidential Memoranda – Regulatory Flexibility, Small Business and Job Creation, January 18, 2011, p. 1.)

The President urges the federal executive branch to "give careful consideration to the effects of their regulations on small businesses and explore significant alternatives to minimize any significant economic impact on those businesses." (*Id.*)

B. Problems Encountered By PG&E In Its Outreach to Large C&I Customers

Second, PG&E's experience in attempting to implement PDP for its largest, most sophisticated C&I customers, has not been successful. In May 2010, 4,316 Large C&I Customers were eligible to default to PDP. Over 95% of these customers were already on TOU rates.

Because of the relatively small size of the Large C&I Customer class, PG&E was able to conduct an intensive outreach effort involving multiple customer contacts and individualized "hand-holding" by utility Account Representatives. Despite this massive effort, PG&E reports that as of November 15, 2010, only a minority (37%) of the large C&I customers have chosen to remain with the default PDP rate; 63% are not participating, either opting out prior to default or disenrolling after default.[14] PG&E states that

[14] PG&E Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, December 3, 2010, pp. 19-20.

> Many customers were inclined to believe that a rate change would equate to a rate increase, which was a barrier to participation. Also, those electing not to participate felt they would be unable to shift load during Event Days, or drop enough load to offset higher Event Day charges.[15]

The challenges are even greater when it comes to defaulting small business customers. Compared to the 4,316 customers in the Large C&I class, there are approximately 500,000 small and medium business customers. Only 6% of small and medium business customers are on TOU rates.

Regarding the scalability of its Large C&I outreach plans to small and medium business customers, "PG&E has concluded that adopting a similar tactical plan approach used with Large C&I customers is not scalable."[16] Instead, "PG&E intends to utilize person to person outreach but focus it against efforts for the 10% of [small and medium business ("SMB")] customers estimated to be most highly impacted by the default rate change and against hard to reach SMB customers."[17] This means that the vast majority of small business customers will not receive anywhere near the level of outreach that was focused on Large C&I Customers.

C. Changes in the Wholesale Market for Electricity in California

Third, market conditions have changed for suppliers and consumers of electricity in California, in a manner which reduces the need for dynamic pricing and makes it less potentially useful for achieving the State's energy policy goals. Dynamic rates are intended to enable the retail electric consumer to "see" and respond to daily and hourly

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[15], *Id*., p. 3.

[16] PG&E Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, June 1, 2010, p. 11.

[17] *Id*., p. 11.

changes in electricity market conditions. In theory, high prices will occur at times of high demand or supply shortage, causing customers to reduce their usage of electricity.[18]

The motivation for dynamic pricing stems from the 2000 energy crisis and its aftermath. There were curtailments, CAISO staged alerts, and high wholesale prices during the energy crisis. In response to the crisis, the Commission completely overhauled the investor-owned utilities' (IOU) procurement processes in the years following the crisis. It established the Resource Adequacy proceeding which requires "load serving entities" to forecast their peak load and acquire sufficient generation capacity to maintain a 17 percent reserve margin. In response to this, and other Commission initiatives encouraging building new generation, there is no longer a scarcity of generation in California. As a result, unlike the period during and immediately after the energy crisis, wholesale electric energy prices are no longer volatile.

In fact, hourly wholesale prices for electricity have shown remarkably little volatility in recent years. As PG&E testified in its 2011 GRC Phase 2 proceeding:

> PG&E recognizes that CPUC and California Energy Commission (CEC) policy staff, academic economists and policy experts, and a succession of both CPUC and CEC commissioners have attached great expectations to the future of RTP[19] for at least the last 15 years. **PG&E cautions, however, that the first several quarters of day-ahead hourly CAISO prices have shown very little variation outside of the range of ordinary time-of-use (TOU) generation energy charges. (Emphasis added.)**[20]

The now-ample supply of electric generation in California, the stringent Resource Adequacy requirements, and the effects of the lingering recession in dampening demand

[18] Dynamic Rates are one type of "demand response (DR)", but DR can be achieved by means other than by high, volatile prices.

[19] Real-Time Pricing, a form of dynamic pricing in which prices vary hourly according to system conditions, which can include any or all of the following: wholesale electricity costs, reliability conditions, environmental impacts, and/or the relationship between supply and demand.

[20] A.10-03-014, Exh (PG&E-11), Ch. 1, pp. 1-2 to 1-3, Bell, January 31, 2011 [Hot off the press—repeated from earlier PG&E testimony] PG&E's witness [Bell] confirms that summer 2010 CAISO hourly prices have remained at "similarly low levels" to those observed in 2009.

all suggest that the lack of wholesale price volatility will continue. Under these conditions, there is simply not a critical need to default small business customers to PDP and other complex and burdensome types of dynamic pricing.

Even before these recent developments in California energy markets, one major dynamic pricing proponent, Dr. Severin Borenstein, sounded a cautionary note with respect to the economic benefit obtainable from dynamic pricing:

> *The results [of Dr. Borenstein's RTP simulations] were sobering because* ***as exciting as the prospect of "getting prices right" may be to economists, the potential gains were likely to be only 5 percent or less of the energy bill. And energy is generally only about half of the entire electricity bill, the remainder being transmission, distribution, and customer administration costs.*** ...utilities ***optimize by building "peaker plants" …, capacity that has low capital cost and high operating cost. The social cost of holding idle capacity of this form turns out to be not as great as one might think.***[21]

Given the limited potential economic benefits obtainable from mass-market implementation of dynamic pricing, the Commission must weigh the potential benefits against the costs of the extensive customer outreach and education programs required, the cost of the notification and automated demand response equipment required, and the cost of sending workers home and disruption of small business activities on Event Days. Such a cost-benefit analysis, to Petitioners' knowledge, has not been performed, and, if performed, would likely show that mass-market implementation of dynamic pricing to PG&E's small business customers would not be cost-effective.

D. Impact on Small Business Customers

1. Number and Nature of Small Business Customers

PG&E estimates that there are approximately 500,000 small and medium business

[21] NBER Reporter: Research Summary 2009 Number 1 Borenstein, S. Electricity Pricing That Reflects Its Real-Time Cost.

customers in its service area. Approximately 300,000 would be eligible to default to Peak Day Pricing in November 2011, with the remainder defaulting on a monthly schedule as they reach 12 months of interval data. (PG&E 2010-2011 Peak Day Pricing, Customer Outreach Plan, April 26, 2010, p. 5.) Regarding its small and medium business customers, PG&E states, "This segment of customers includes such diverse sectors as commercial offices, retail, hospitals, hotels, grocery stores and others, and the needs of one sector are vastly different from the next."

This is consistent with other data. For example, based on pre-recession data, the SBA reports that there were 637,700 firms with 1 to 19 employees in California in 2006 and these firms were in all areas of the economy. The top five areas of small business employment were: (1) health care and social assistance, (2) professional, scientific and technical services, (3) retail trade, (4) construction, and (5) accommodations and food services. (Small Business Profile: California, SBA Office of Advocacy, 2006 data, latest available at http://archive.sba.gov/advo/research/profiles/09ca.pdf.)

In addition, PG&E's Customer Outreach Plan states, "The SMB customer segment is generally regarded as a diverse and fragmented market with business owners who have very little time, resources, or money to spare; and addressing these constraints will require a careful outreach strategy." (PG&E 2010-2011 Peak Day Pricing, Customer Outreach Plan, April 26, 2010, p. 20.) When it comes to electricity, small business customers do not have access to in-house energy management staff or external private consultants. PG&E reports that only 6% of small and medium business customers are on time-of-use rates.[22]

Beginning on November 1, 2011, all of PG&E's small business customers will be defaulted to PDP. The utility will call from 9 to 15 "Event Days" per year. An Event

[22] PG&E Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, June 2010, p. 2. It should be noted these customers are on Schedule A6-TOU, which has much greater time differentiation between the on-peak and off-peak rates that does the standalone Schedule A1-TOU that will be implemented on November 1, 2011. Thus the existing Schedule A6-TOU does not serve as an existing opt-in tariff that will be suitable for most small business customers.

Day may be called because of high temperatures, system emergencies, and market-price conditions. On each Event Day, customers will be charged an additional $0.60 per kWh for electric usage during peak hours (2:00 PM to 6:00 PM)[23]. Customers will be given 24 hours prior notice of an Event Day. There will be serious consequences to small businesses and the California economy, if PDP is poorly or prematurely implemented. These consequences are as follows:

2. High Level of Unpredictability for Small Business Owners

Inherent in PDP is higher levels of unpredictability for small business owners. Event Days may be called whenever there are tight supply and demand conditions or high wholesale energy prices. While Event Days will most likely occur during the summer months and customers would receive 24-hour notice, the exact number and dates for Event Days are not predictable. For example, following are the Event Days PG&E called for Summer 2010.

- Tuesday, September 28, 2010
- Friday, September 3, 2010
- Thursday, September 2, 2010
- Wednesday, September 1, 2010
- Wednesday, August 25, 2010
- Tuesday, August 24, 2010
- Monday August 23, 2010
- Monday, August 16, 2010
- Friday, July 16, 2010

Note that on two occasions events were for multiple consecutive days (August 23, 24 and 25 and September 1, 2 and 3). Also, there were only 9 Event Days called, far fewer than the 15 that could be called under PDP.

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[23] The resulting total rate during these hours would be about $0.80 per kWh, roughly 4 times the summer average rate for small business customers, based on Exh. (PG&E-7) in A.09-02-022.

3. Lack of Products, Services and Programs to Assist Small Business Customers to Respond to Peak Day Pricing.

One of the assumptions underlying mandatory dynamic pricing was that there would be a variety of new products, services and programs that will enable small business owners to reduce their usage during peak periods. Currently, on the PG&E website, the only demand response incentive offered to small business customers is the Smart AC program, which provides a free communicating thermostat to cycle air conditioning (AC) usage on Event Days. While AC cycling is important, this is hardly innovative technology or the broad menu of cutting edge products, services and programs needed to help small businesses reduce load during peak periods.[24]

4. Lack of Effective Customer Outreach Necessary to Make Peak Day Pricing Work

Related to and compounding the problem of a lack of enabling technologies, services and programs is the lack of an effective customer outreach effort. Regarding outreach, the Statewide Process Evaluation of demand response programs conducted by California's investor owned electric utilities has made the following recommendations:

> Face-to-face contact along with follow-up to answer questions appears to be the most successful way to promote DR programs. It also helps to present customers with visual explanations (e.g. charts and graphs) and analysis that demonstrates the rate impacts of different scenarios. This will help a customer understand how a tariff could potentially impact their bill and provide guidance on which tariff to enroll in.
>
> The biggest barrier to customer participation in DR is related to concerns that curtailing load would impact the customers' core business functions. To engage customers on DR strategies, IOUs need to first fully understand what these core business functions are and then figure out what load reduction strategies will work within those constraints. (California Statewide Process Evaluation of Selected Demand Response Programs, Process Evaluations of PG&E, SCE and

[24] Communicating thermostats are at least five-year old technology. Yet to be developed is an inexpensive, user-friendly communicating thermostat that operates on the non-proprietary ZigBee Smart Meter 2.0 communications protocol built into PG&E's Smart Meters. The standards bodies have been very slow to adopt this new protocol, and mass retail availability of such devices is at least two years away.

SDG&E's Critical Peak Pricing and Base Interruptible Programs: Final Report, KEMA Inc., April 2010, p. ES 1-2).

Despite these recommendations, PG&E's outreach plan (a) Calls for the utility to make "direct contact" with only 10 percent of its small and medium business customers and (b) Does not reflect any substantial effort to understand how "curtailing load would impact the customers' core business functions" and "figure out what load reduction strategies will work within those constraints."[25]

5. Lack of Integrated Solutions for Small Businesses

In its *Energy Efficiency Strategic Plan*, the Commission identified the lack of integrated solutions as a critical problem for utility customers. The Commission stated:

> Historically, demand side management (DSM) options for energy consumers have been "siloed" activities within regulatory bodies, utilities, environmental organizations, and among private sector service providers. The programs are focused on mass delivery and promotion of individual products, for example efficient air conditioners, rather than on integrated packages of measures, for example, air conditioner rebates with duct sealing, weather-stripping, programmable

[25] The Customer Outreach Plan states "Customers identified as the 10% most at risk of significant negative bill impacts will receive incremental forms of outreach, including out□bound phone calls and field canvassing." (PG&E 2010-201 Peak Day Pricing, Customer Outreach Plan, April 26, 2010, p. 21.) Further, it seems that PG&E has limited ability to gain an in-depth understanding of operational constraints. The Outreach Plan simply states:

> Also important to note, usage data analysis tells PG&E that there are no hard and fast rules as to which customers or industries will or will not automatically benefit from the new PDP rate. This adds additional complexity to outreach plans. PG&E cannot assume how each industry will perform and focus plans accordingly. Results on the rate depend on how a customer operates their business. In turn, PG&E's role is to help all customers make the pricing plan decision which best meets their needs, including helping customers assess new ways to manage their businesses and to save energy. (*Id*., p. 4.)

No further details are given. In addition, its first Semi-Annual Education and Outreach Assessment Report, PG&E stated:

> The number of SMB customers (service agreements) is more than 80 times greater than Large C&I customers. Due to the labor and cost-intensive nature of person to person outreach and the sheer number and geographic distribution of SMB customers, PG&E has concluded that adopting a similar tactical plan approach used with Large C&I customers is not scalable. (PG&E Peak Day Pricing, Semi-Annual Education and Outreach Assessment Report, June 2010, p. 11.)

> thermostats, and advanced meters. This current narrow focus on a single product offering does not maximize energy savings nor minimize the costs of program delivery.
>
> A narrow, single-product approach also results in customer confusion by requiring the customer to seek out information on a wide array of different programs with multiple points of contact in order to acquire a basic understanding of the DSM options available and the various benefits they offer. Most energy users across all economic sectors do not have the time or expertise to seek this information; as a result, many opportunities to accomplish DSM actions are lost. (*Energy Efficiency Strategic Plan: Achieving Maximum Energy Savings in California For 2009 and Beyond*, California Public Utilities Commission, September 2008, p. 71.)

Given these problems, the Commission makes it a goal to "Deliver integrated DSM options that include efficiency, demand response, energy management and self generation measures through coordinated marketing and regulatory integration." (*Id*., p. 72.) The Commission goes on to state, "***Outreach and consumer education, and DSM program options must be offered in a unified fashion so that energy users receive complete DSM information with minimum effort, preferably through single points of contact.***" (*Id*. (emphasis added).)

The Statewide Process Evaluation of demand response programs also stressed the importance of utilities offering practical, integrated solutions when implementing dynamic pricing, recommending that utilities

> **Continue efforts to integrate DR/EE to increase customer options for programs.** [Utility Account Executives] like having different program options to present to customers. The variety enables AEs to find programs to best suit customer needs and address concerns related to risk, flexibility and ability to choose level of curtailment commitment.[26]

The Statewide Process Evaluation also found that helping customers with solutions must

[26] California Statewide Process Evaluation of Selected Demand Response Programs, Process Evaluations of PG&E, SCE and SDG&E's Critical Peak Pricing and Base Interruptible Programs: Final Report, KEMA Inc., April 2010, p. ES 1-8.

continue after signing up customers to dynamic rates.

> AEs are found to play an important role in assisting customers to identify opportunities to reduce load for DR events. In most cases, it is not enough to sign the customer up to the program, and then hope they will know what to do when an event is called. One rep mentioned that there is too much emphasis on just getting the initial sign-up, and that more education is needed to assist customers with curtailment efforts.[27]

So far, the Petitioners see little evidence of a coordinated effort to provide integrated solutions to small businesses scheduled to default to dynamic rates as part of the Peak Day Pricing. There is no mention of delivering integrated solutions in the Outreach Plan or Semi-Annual Reports, much less how the utility would address the problems associated with fragmented delivery identified by the Commission in the Strategic Plan.

6. Sending Workers Home From Work and Laying Off Workers

Under these circumstances, to avoid large bills, on each Event Day, small businesses could need to change their operations by:

- Telling workers not to come in;
- Sending workers home;
- Closing down or reducing operations;
- Rescheduling work to non-peak hours; and/or
- Reduce use of HVAC and other electric equipment.

The degree to which small businesses can adjust their operations will vary from business to business. For example, some businesses, particularly those in moderate climate zones, may be able to continue operations and reduce their usage during peak hours through relatively simple measures (e.g., no air conditioning, turning lights down, turning off office equipment).

[27] *Id.*, p. 2-46.

However, for many small businesses, adjusting to PDP could mean cutting back on employee hours on Event Days. Workers will be told not to come in or sent home early on those days. The problems are magnified when there are two, three or more Event Days in a row. In the short run, many small business owners would pay their workers for the time lost to retain a quality workforce. In the medium and long run, owners could be forced to cut back on the number of employees, adding to the number of unemployed Californians. Out of anger and frustration, many small businesses will eventually opt out of PDP.

7. Disruption to Operations, Higher Costs and Loss of Business

For those who do not opt out, there will be other disruptions to operations as well. Businesses would have to reschedule deliveries, production, serving customers and clients, appointments, and other basic commercial activity. For businesses that are able to adjust their operations, there will be loss of productivity, higher costs to complete work after or before normal business hours and loss of business.[28] For some types of businesses, making these kinds of adjustments may not be feasible on 24-hours notice (for example, restaurants, medical offices, senior centers, professional offices).

8. Unpredictable Electric Bills

For small businesses that are not able to adjust their operations and do not opt out, Peak Day Pricing will result in bills that can vary significantly from month to month. Depending on the number of Event Days called in a billing period, a customer's bill may be low one month and extremely high the following month. This lack of predictability is

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[28] The need to address these kinds of problems were documented in the Statewide Process Evaluation of Selected Demand Response Program, which stated:

There are multiple considerations (e.g. staff time, production schedule, costs) that must be evaluated to identify strategies to reduce load during peak periods, in addition to technical potential. For instance, staffing considerations are found to be extremely important, as companies do not want their staff to be idle during a DR event; so plans for responding to events must include strategies for re-organizing employee work, in addition to the technical strategies. (California Statewide Process Evaluation of Selected Demand Response Programs, Process Evaluations of PG&E, SCE and SDG&E's Critical Peak Pricing and Base Interruptible Programs: Final Report, KEMA Inc., April 2010, p. ES 1-3.)

a serious problem for small business owners, who must operate on tight budgets and carefully manage cash flow.

9. Frustration With Utility and Commission Programs

Currently, there is a significant amount of suspicion among small business owners about PG&E's Peak Day Pricing and other dynamic pricing tariffs proposed for other Commission regulated utilities. For example, when CSBRT recently made a presentation to its members about dynamic pricing, the reaction was whether this was a scheme to increase the profits of utility companies. Members were skeptical even after they are told about the policy reasons behind dynamic pricing.

This concern is widely shared in the small business community. For example, in its latest Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, PG&E states:

> **Learning:** When customers first hear about the rate, many incorrectly assume it's an attempt of PG&E to make more money and/or unfairly target their business. (PG&E Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, December 3, 2010, p. 8.)

The Report states that to counter this impression, PG&E will incorporate messages indicating that Peak Day Pricing is "a statewide policy supported by leading utilities across the state that will be rolled out overtime to all customer classes."

We do not know whether PG&E will be successful in this endeavor. However, it is a certainty that poor or untimely implementation of Peak Day Pricing will lead to further suspicion of and frustration towards utility and Commission programs. Already, high bill complaints and poor customer communications have created public controversy about advanced meters and whether they will benefit the utility ratepayers.

V. REASONS FOR REQUESTING RELIEF NOW

Petitioners are seeking relief now in light of PG&E's experience to date in implementing PDP for Large C&I Customers. In its December 2010 Semi-Annual Education and Outreach Assessment Report, PG&E reports that despite an intensive, one-on-one outreach campaign, only 37% of its Large C&I Customers are participating in

PDP. 63% are not participating, either opting out prior to being defaulted or unenrolling after being defaulted. The low participation rate among Large C&I Customers, who are more sophisticated, have more experience with time-varying rates, have more resources to devote to responding to PDP, and received far more attention than small business customers, strongly indicates that defaulting small business customers to PDP in November 2011 will be extremely harmful to small businesses, their workers, the state's economy and state energy policy.

Petitioners are seeking relief now also in light of the PG&E's Petition for Modification, which concedes that small business customers will not be ready for PDP in November 2011. While PG&E requests additional time for this to occur, Petitioners believe that PDP is unsuitable for many small businesses. Petitioners support TOU rates, but rather than impose fixed transition dates, customers should be transitioned to time-varying rates based on objective criteria of customer awareness, customer acceptance and the utility's ability to serve customers on time-varying rates without significant problems.

In view of the above, a Petition for Modification is timely and now is an appropriate time for the Commission to modify D.10-02-032 by adopting the relief requested in this Petition.

VI. CONCLUSION

Petitioners request that the Commission adopt the modifications to D.10-02-032 as described above and show in Appendix A hereto. By granting the relief requested, the Commission will:

1. Transition small business customers to time-varying pricing in the least disruptive manner possible;
2. Promote job retention and job growth by small businesses;
3. Foster economic recovery;
4. Further the Commission's goal of providing energy efficiency and demand response solutions on an integrated basis.

Respectfully Submitted,

/s/ GREGORY HEIDEN

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February 4, 2011

APPENDIX A

PROPOSED MODIFICATIONS TO D.10-02-032

1. Summary

This decision continues implementation of the Commission's policy to make ~~dynamic~~ time-variant pricing available for all electric customers by adopting and implementing default and optional critical peak pricing and/or time-of-use rates (together, referred to as Peak Day Pricing) beginning May 1, 2010 for Pacific Gas and Electric Company. This decision also adopts appropriate customer outreach and education activities and measures to ensure customer awareness and understanding of the new rates and options.

Among other things, this decision determines that:

- Large commercial and industrial customers will be defaulted to Peak Day Pricing rates on May 1, 2010 unless they proactively choose to opt out to a time-of-use rate. Optional Peak Day Pricing tariffs will be available on that date for those small and medium commercial and industrial, and agricultural customers who have already received the necessary metering equipment.
- Peak Day Pricing will become the default tariff for large agricultural customers beginning February 1, 2011.
- Time-of-use rates will become the default tariff for small agricultural customers beginning February 1, 2011.
- Peak Day Pricing will become the default tariff for medium commercial and industrial customers beginning November 1, 2011.
- TOU Pricing will become the default tariff for small commercial and industrial customers only after specified criteria, signaling customer readiness, have been met.
- Small and medium commercial and industrial and large agricultural customers will not be defaulted to the Peak Day Pricing tariff until 12 months of recorded interval billing data is

FINDING OF FACTS:

23. Delaying the PDP default date for ~~small and~~ medium C&I customers will provide additional time for customer outreach and education with respect to PDP effects and customers' options. PDP is unsuitable for many small C&I customers who cannot readily reduce their peak loads; therefore, PDP should be offered to small C&I customers on a voluntary (opt-in) basis only.

24. PG&E's alternating day and six-hour window options to mitigate bill volatility provide customers with an incentive to choose or stay on PDP rates, by offering an option to reduce their exposure to potential increases related to those rates.

25. DRA's "soft cap" proposal and the current BPP are mechanisms that spread the effect of monthly rate increases over a longer timeframe.

26. A-10 customers are the only ones that have a PDP default where 100% of peak time usage would be set at the $1.20/kWh charge.

27. The first year of bill stabilization/protection will protect customers who are on PDP rates by allowing them to experience the actual effects of such rates in situations where between 9 and 15 PDP events are called, without facing financial harm over that period, if the PDP is disadvantageous when compared to the otherwise applicable TOU rate.

28. In the current economic climate a small or medium commercial or industrial customer that experiences a high bill during a particularly hot month could have difficulty paying. In extreme circumstances a customer might be faced with a disconnection.

29. Through customer outreach and education, it is extremely important that, as their first year on PDP progresses, customers (especially defaulted customers) become well aware of the PDP program, the details as they affect their rates, their

111. In fall 2010, PG&E expects to have 12 months of available interval load information for at least 10,000 agricultural customers, with data from the AMI system and proposes to develop an analysis of the projected bill impacts under TOU for this 10,000 customer sample of agricultural customers by November 2010.

112. PG&E is already under orders to assess the load impacts and financial benefits of its active and anticipated DR programs including D.08-04-050, D.09-03-026, D.08-07-045, D.08-02-009, and D.06-07-027. Also in D.09-03-026, Ordering Paragraph 10, the Commission directed PG&E to report annually the financial benefits of DR programs enabled by its AMI system, and, in D.08-04-050, PG&E was directed to assess the load impacts of each DR resource on an ex post and ex ante basis, annually.

113. A 2012 RDW could review 2010 and 2011 PDP performance and identify any PDP program deficiencies or problems and address them in a timely manner, if necessary.

114. DRA's Request for Official Notice of Documents, dated January 11, 2010, is consistent with the provisions of Rule 13.9 of the Commission's Rules of Practice and Procedure and Section 452 of the Evidence Code.

Conclusions of Law

1. The PDP program should go forward, in furtherance of the Commission's long-term policy to provide dynamic pricing, as an option, to all customers.

2. PDP rates should not be applicable to the following customer groups: DA, Community Choice Aggregation service, Transitional Bundled Commodity Cost, street light and traffic control, NEM, residential master-metered customers with or without tenant sub-meters, and standby (Schedule S). Partial standby customers will be eligible for PDP for the load PG&E serves on a regular basis.

3. The following customer groups, among others, should be eligible for PDP rates: Non-residential master-metered customers that qualify and elect to install sub-metering under rule 18.C.2 shall be subject to ~~default~~ opt-in PDP; nonresidential customers on a discount tariff rider option or stand-alone special tariff associated with an otherwise-applicable rate schedule, e.g., Schedules ED, E-31, will be eligible for ~~default or~~ to elect PDP based on their underlying rate; and nonresidential customers on a stand-alone special tariff, e.g., Schedules AG-ICE, E-37, will be eligible for ~~default or~~ to elect PDP, based on an applicable rate schedule.

4. PG&E's revised PDP rate levels are reasonable.

5. The TOU rates for PDP, as now proposed by PG&E, are reasonable.

6. An annual minimum of 9 and a maximum of 15 PDP calls, as well as PG&E's proposal for enforcing the PDP call bounds by raising or lowering the temperature thresholds, are reasonable.

7. PG&E's first year bill stabilization/protection proposal is reasonable.

8. To avoid unnecessary disconnections, when applying Electric Rule No. 11, D, 1 (Inability to Pay—Nonresidential), PG&E should endeavor to extend payment arrangements to customers that did not pay their full monthly bill but would be able to pay the bill if it were recalculated under the otherwise applicable rate.

9. With respect to under- and over-collections due to first year bill stabilization/protection and the variation in the number of PDP events, it is reasonable for non-participants to share in a portion of the risk and costs of the PDP program, since its purpose is to lower rates for all customers in the long term.

10. It is reasonable that under- and over-collections due to first year bill stabilization/protection and the variation in the number of PDP events should be allocated to all customers by class.

11. The EUF/CMTA proposed change to PG&E's capacity reservation proposal is not necessary, since most customers will have made their initial capacity reservation choice prior to the May 2010 implementation of PDP and would be able to change their capacity reservation prior to the 2011 summer season or any time after that.

12. PG&E's capacity reservation proposal, including the condition that the capacity reservation may not be changed for 12 months, is reasonable.

13. Defaulting small and medium C&I customers first to TOU rates and ~~then one year later defaulting~~offering ~~them to~~ CPP rates to them only on a voluntary (opt-in) basis may ~~lead to~~reduce customer confusion and frustration, resulting in ~~reduced~~ enhanced participation in ~~the PDP~~time-varying rates programs.

14. It is reasonable to defer the effective date for defaulting small ~~and medium~~ C&I customers to ~~PDP~~ TOU ~~from February 1, 2011 to November 1, 2011.~~until the following conditions are met:

a. 80% of eligible customers are aware of and have a conceptual understanding of TOU rates and features;[46]

b. 30% of eligible customers have opted into at least one time-varying rate feature[47]; and

[46] This compares to the 98% of Large C&I Customers that PG&E reports "were familiar with transition to time-varying pricing." (PG&E Peak Day Pricing Semi-Annual Education and Outreach Assessment Report, December 3, 2010, p. 6). Petitioners propose an 80% awareness level in view of the larger number and less sophistication of Small C& I Customers.

[47] Time varying rate features could include, PDP, PG&E's existing A-6 TOU rate, or the new A1-TOU rate.

c. complaints from small business customers on time-varying remain at an acceptably low level.

15. PG&E's alternating day and six-hour window options to mitigate bill volatility are preferable to DRA's "soft cap" proposal or PG&E's current BPP.

16. To provide bill volatility protection for PDP default A-10 customers, it is reasonable to set the PDP charge at $0.90 per kWh.

17. One year of bill stabilization/protection should be sufficient for all PDP customers to get the point that, when there are PDP events, any usage during the peak period will be significantly more expensive than before.

18. The proposal to extend bill stabilization/protection for two additional years for small commercial customers should not be adopted.

19. The proposal to provide an up-front lump sum credit for notification information for small and medium C&I customers should not be adopted.

20. The proposal that revenue shortfalls resulting from annual bill stabilization should be amortized over multiple years, for specific rate classes, if recovery in one year would cause rates to rise by more than 1%, should not be adopted.

21. Customers subject to the February 1, 2011 and November 1, 2011 default dates should have 12 months of interval data before being subject to those processes.

22. The CSOL feature that would aggregate multiple meter information should be available to the large agricultural customers before they are subject to being defaulted to PDP.

ORDERING PARAGRAPHS:

- For large agricultural customers that have access to at least 12 months of interval billing data, default Peak Day Pricing rates that include time-of-use rates during non-Peak Day Pricing periods. Such customers can choose to opt out to a time-of-use rate or other time-variant rate;
- For small and medium agricultural customers that have access to at least 12 months of interval billing data, default time-of-use rates. Flat rates will no longer be available to these customers; and
- For residential customers with advanced meters, optional Peak Day Pricing rates that include time-of-use rates during non-Peak Day Pricing periods. Prior to February 1, 2011, the current E-RSMART option available to residential customers shall remain in effect. On February 1, 2011, an E-RSMART customer shall be moved to the new residential Peak Day Pricing rates unless the customer opts to return to a non-time differentiated residential tiered rate.

3. The following rates shall be effective by November 1, 2011:
   - For ~~small and~~ medium commercial and industrial customers that have access to at least 12 months of interval billing data, default Peak Day Pricing rates that include time-of-use rates during non-Peak Day Pricing periods. Such customers can choose to opt out to a time-of-use rate or other time-variant rate. Flat rates shall no longer be available to these customers, <u>but shall continue to be available to small commercial and industrial customers.</u>
4. Peak Day Pricing rates, with the exception of that for Schedule A-10, and time-of-use rates, as specified in Exhibit 7, Tables 2-3 through 2-5, and Table 2-6, Alternative 1 are adopted. The adopted Peak Day Pricing rate for Schedule A-10 is $0.90 per kWh.
5. An annual minimum of 9 and a maximum of 15 Peak Day Pricing calls, as well as Pacific Gas and Electric Company's proposal for enforcing the Peak Day Pricing call bounds by raising or lowering the temperature thresholds, are adopted.

is shown that such costs are not included in Pacific Gas and Electric Company's 2011 general rate case authorization.

25. Pacific Gas and Electric Company shall develop an analysis of the projected bill impacts under time-of-use rates for a 10,000 customer sample of agricultural customers by November 2010. The information should be provided to the Energy Division and the Agricultural Energy Consumers Association and the availability of the information should be made to the service list.

26. Pacific Gas and Electric Company shall file a 2012 Rate Design Window application in February 2012, to address the following:

- An assessment of the performance of the 2010 and 2011 summer season Peak Day Pricing programs, in terms of customer participation and achieved demand response, with proposed adjustments, if any, to improve program performance;
- Proposed adjustments to Peak Day Pricing charges and credits, to reflect marginal costs adopted in the 2011 General Rate Case Phase 2; and
- Proposed new time-of use and time-of-use/Peak Day Pricing rates for medium commercial and industrial customers, intermediate in time-differentiation between the proposed A1-TOU and A6-TOU rate designs.

27. The January 11, 2009 Motion of the Division of Ratepayer Advocates for Official Notice of Documents is granted.

28. Pacific Gas and Electric Company shall:

1) Offer its new Small C&I Time-of-Use rate (A1-TOU) as a stand-alone rate on a voluntary basis as soon as possible and in no event later than December 31, 2011;
2) Conduct an enhanced education, outreach and marketing program to inform eligible Small C&I Customers about the availability of the A1-TOU rate;
3) In conjunction with its outreach and education campaign, conduct an aggressive outreach program providing Small C&I Customers with an integrated set of energy efficiency and demand reduction solutions through a single point of contact;

4) Perform periodic assessments of customer awareness and understanding of the A1-TOU rate and other time-varying rates offered by PG&E, track Small C&I Customer enrollment into and disenrollment from the A1-TOU rate and other time-varying rates, and track customer complaints regarding time-varying rates;

5) Offer A1-TOU to Small C&I Customers on a *default* basis only when the following conditions are met:

   a) 80% of eligible customers are aware of and have a conceptual understanding of TOU rates and features;

   b) 30% of eligible customers have opted into at least one time-varying rate feature[48]; and

   c) complaints from small business customers on time-varying remain at an acceptably low level.

   To promote customer acceptance, Small C&I Customers defaulting from flat rates to TOU rates should be offered one-year of bill protection relative to the pre-existing flat (A-1) rate.

6) Offer A1-TOU to Small C&I Customers on a *mandatory* basis only when the following conditions are met:

   a) 90% of eligible customers are aware of and have a conceptual understanding of TOU rates and features;

   b) 60% of eligible customers have accepted service under the default TOU rate[49] and

   c) complaints from small business customers on time-varying rates remain at an acceptably low level.

   Work with the Commission's Business & Community Outreach group to develop criteria under which qualifying small C&I customers would be permitted to opt out to flat rates. These criteria could include health and safety of workers, customers

[48] Time varying rate features could include, PDP, PG&E's existing A-6 TOU rate, or the new A1-TOU rate.

[49] Equivalently, when no more than 40% of eligible small C&I customers have opted out of default TOU to a flat rate.

or patients, public health and safety, lack of available technologies for reducing electric use, documented economic hardship and loss of jobs.

7) Continue to offer PDP to its Small C&I Customers on a voluntary ("opt-in") basis only;

8) Continue to offer a flat rate to qualifying Small C&I Customers as described above;

9) Meet the criteria for default A1-TOU no later than December 31, 2013;

10) Meet the criteria for mandatory A1-TOU no later than December 31, 2015.

~~28~~.29. Application 09-02-022 is closed.

This order is effective today.

Dated February 25, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

SERVICE LIST - A0902022

I hereby certify that I have this day served a copy of **"PETITION FOR MODIFICATION OF THE DIVISION OF RATEPAYER ADVOCATES, CALIFORNIA SMALL BUSINESS ASSOCIATION AND CALIFORNIA SMALL BUSINESS ROUNDTABLE OF DECISION 10-02-032"** to the official service list in **A.09-02-022,** by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[ ] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **February 4, 2011** at San Francisco, California.

/s/ NELLY SARMIENTO

NELLY SARMIENTO

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