Decision **PROPOSED DECISION OF ALJ BARNETT** (Mailed 5/11/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Expedited Authorization to Change Residential Electric Rates Effective June 1, 2010, To Provide Summer 2010 Rate Relief for Households With Upper Tier Consumption. (U39E)	Application 10-02-029 (Filed February 26, 2010)

DECISION MODIFYING ELECTRIC RATES

Summary

This decision approves a settlement which, relative to March 1, 2010, rates, reduces Tier 4 rates by approximately 2.5 cents/kWh; reduces Tier 5 rates by approximately 10 cents/kWh; and increases Tier 3 rates by approximately one-half cent/kWh. Tier 1 and 2 rates are unchanged.

Background

Pacific Gas and Electric Company (PG&E) requests authorization to change residential electric rates effective June 1, 2010. The requested rate change is designed to provide rate relief this summer for households with substantial upper tier consumption, who are experiencing great hardship during hot summer months due to the steeply tiered rate structure currently in place. This proposal will provide lower bills for such households, including those in the Central Valley and elsewhere with large summer cooling demands during months with sustained periods of high temperatures.

PG&E proposes to increase the Tier 3 rate, and reduce the Tier 4 and 5 rates, to bring these tiers closer together. The approximately 50 percent of residential customers who are on the California Alternative Rates for Energy (CARE) program, or are non-CARE customers whose consumption is limited to Tiers 1 and 2, will be unaffected by this proposal. Households with Tier 3 consumption and those with some amount of Tier 4 consumption will see moderate bill increases. Those whose Tier 4 consumption passes a certain threshold amount and those with Tier 5 consumption will see lower bills. The greater the kWh consumption in Tier 5, the greater the savings. Overall, this proposal is revenue-neutral, collecting the same amount of revenue as current rates. PG&E believes its request will help customers by providing critical summer rate relief and easing the financial burden of high bills this coming summer for households that consume in the upper tiers, as well as reducing month-to-month volatility in bill amounts.

Based on January 1, 2010, rates the differential between PG&E's Tier 3 and 5 rates is almost 20 cents per kWh (a differential of about 13 cents per kWh between the Tier 3 and 4 rates, and about 7 cents per kWh between Tiers 4 and 5). PG&E proposes to design its rates in a manner similar to the design the Commission approved for Southern California Edison (SCE) and San Diego Gas & Electric Company (SDG&E), to narrow these differentials to more reasonable levels. Specifically, PG&E proposes to have a five cent per kWh differential between Tiers 3 and 4, and between Tiers 4 and 5. This change would halve the overall Tier 3 to 5 differential, from near 20 cents to 10 cents per kWh, and would reduce the Tier 5 rate from 47.4 cents to 41.8 cents per kWh.

PG&E would collect the identical revenue from the three tiers as is currently collected. PG&E proposes no changes to non-CARE Tier 1 and 2 rates, nor any changes to CARE rates. The requested relief will not change PG&E's authorized overall electric revenue requirement or the revenue assigned to the residential class. Since overall revenue is unchanged, the effect of PG&E's proposal is to increase Tier 3 rates while decreasing Tier 4 and 5 rates. Table 1 shows the proposed rates compared to current (January 1, 2010 effective date) rates.

Table 1
Pacific Gas and Electric Company
Proposed Schedule E-1 Rate Changes Effective 6/1/10 (Non-CARE)

Tier	2010 Rates 1/1/10 ($/kWH)	Proposed Rates ($/kWh)	Change ($/kWh)
1	$0.11877	$0.11877	$0.00000
2	$0.13502	$0.13502	$0.00000
3	$0.27572	$0.31846	$0.04274
4	$0.40577	$0.36846	-$0.03731
5	$0.47393	$0.41846	-$0.05547

As the table shows, PG&E's proposal would reduce Tier 5 rates by 5.5 cents per kWh, and would reduce Tier 4 rates by 3.7 cents per kWh, while increasing Tier 3 rates by 4.3 cents per kWh. These proposed rates will help mitigate the large month-to-month bill increases experienced last summer in the Central Valley when sustained periods of high temperatures pushed substantial amounts of usage into Tier 5.

PG&E estimates that about 9 percent of non-CARE Schedule E-1 households would see average monthly bill decreases of some amount. About one-third of households would see no change in their average monthly bill. The remaining 58 percent of households would see increases in average monthly bills. However, for most of these households the increases would be quite small.

Only 1 percent would see increases greater than $9.03 in their average monthly bill.

Until the energy crisis of 2000 to 2001, PG&E had a two-tiered residential rate structure, with the upper-tier rate somewhat above the lower-tier rate. Assembly Bill (AB) 1X, enacted in 2001, changed that situation dramatically. The CPUC replaced the two-tier rate structure with a five-tier structure. In addition, AB 1X froze the rates in Tiers 1 and 2 at their levels as of February 1, 2001, and the Commission froze the rates for customers on the CARE program at their July 2001 levels, after increasing the CARE discount from 15 to 20 percent. With one minor exception, these frozen rates remained in place through 2009.

PG&E provides electric service to 4.67 million residential households. Table 2 shows the distribution of these customers by tier and type of rate (CARE versus non-CARE). Of these households, 1.08 million (23.1 percent) take service on CARE rates and 1.21 million (25.9 percent) take service on non-CARE rates but maintain their usage within Tiers 1 and 2. So nearly half of PG&E's residential customers experienced no rate increases from 2001 through 2009. Considering the impact of inflation, which has increased by 23 percent since 2001, in real terms these customers enjoyed rate decreases over this period.

Table 2
Pacific Gas and Electric Company
Distribution of Residential Households by Tier
Twelve Months Ending September 2009

	Number of Households			Percentage of Customers		
Tier	**Non-CARE**	**CARE**	**Total**	**Non-CARE**	**CARE**	**Total**
1	774,122	246,693	1,020,815	16.6%	5.3%	21.8%
2	432,817	831,710	1,264,527	9.3%	17.8%	27.1%
3	933,880		933,880	20.0%		20.0%
4	842,683		842,683	18.0%		18.0%
5	612,351		612,351	13.1%		13.1%
Total	3,595,853	1,078,403	4,674,256	76.9%	23.1%	100.0%

On a percentage of sales basis, the impact of the residential rate freeze has been even more dramatic. As shown in Table 3, PG&E's total residential sales are about 31,246 GWh per year. Of these, CARE sales are 7,086 GWh per year (22.7 percent) and non-CARE Tier 1 and 2 sales are 17,038 GWh/yr (54.5 percent). So more than three-quarters of PG&E's residential sales were insulated from every rate increase since 2001 and through 2009. As a result, residential rate increases have been absorbed by less than one-quarter of the sales.

Table 3
Pacific Gas and Electric Company
Distribution of Residential Sales by Tier
Twelve Months Ending September 2009

	Sales (GWh/yr)			Percentage of Sales		
Tier	**Non-CARE**	**CARE**	**Total**	**Non-CARE**	**CARE**	**Total**
1	14,499	4,778	19,276	46.4%	15.3%	61.7%
2	2,539	2,308	4,847	8.1%	7.4%	15.5%
3	3,625		3,625	11.6%		11.6%
4	2,057		2,057	6.6%		6.6%
5	1,441		1,441	4.6%		4.6%
Total	24,160	7,086	31,246	77.3%	22.7%	100.0%

Collecting revenues from a relatively small base of sales has resulted in substantial increases from 2001 through 2009 in the non-CARE Tier 3 through 5 rates. During that nine-year period, the Tier 5 rate nearly doubled, increasing from 24.5 cents per kWh at the height of the energy crisis to 44.3 cents per kWh at the end of 2009. Such upper-tier rates can cause very high bills when combined with high usage during a month with extreme temperatures.

Over time the differentials between the Tiers 3, 4, and 5 have grown larger and larger, and thus so have the cents-per-kWh differentials between the Tier 3 through 5 rates themselves. The differentials between the Tier 3 and 4 rates and between the Tier 4 and 5 rates have grown from about 4 and 2 cents per kWh, respectively, in 2002, to about 13 and 7 cents per kWh on January 1, 2010.

The combination of these legislative and regulatory constraints has led to a difficult situation for Tier 5 customers. The Tier 5 rate is far in excess of the cost to produce and deliver those kWhs, and far in excess of what is necessary to encourage conservation. For example, SCE's and SDG&E's highest tier rates are about 29 cents per kWh. Last summer, when PG&E's Tier 5 rate was 44.1 cents per kWh, there were many high bill complaints from upper-tier users, particularly those located in areas subject to sustained high temperatures that drive usage into the upper tiers. Since the current Tier 5 rate is now higher, at 47.4 cents per kWh, an even worse situation could occur this coming summer unless the Commission acts to mitigate the high Tier 5 rates.

The Protests

DRA protested PG&E's rate proposal. DRA would prefer to modify the rate design in PG&E's general rate case where there is sufficient time to examine potential changes. Nevertheless, DRA is willing to discuss reasonable modifications to the rate design adopted in D.07-09-004. DRA prefers a more moderate residential rate design change than PG&E's proposal. DRA prefers to combine Tier 4 and 5 rates, which means PG&E residential rates would be comprised of Tiers 1, 2, 3, and 4. The Tier 4 rate would be a combination of the current Tiers 4 and 5 rates. This collapsing of Tiers 4 and 5 would result in fewer bill impacts, but would nonetheless reduce Tier 5 rates. DRA is concerned about the bill impacts, particularly on Tier 3 customers. PG&E's proposal results in a significant rate increase for Tier 3 customers, and DRA believes that many more customers will experience rate increases than decreases. PG&E's proposal will especially hurt medical baseline customers who consume more than 130% of baseline as medical baseline customers do not pay Tier 4 and 5 rates. Medical baseline customers would experience the increase to Tier 3 rates but would receive none of the benefit of reducing Tier 4 and 5 rates. DRA's proposal to combine the Tier 4 and Tier 5 rates has the additional advantage of not adversely impacting medical baseline customers.

TURN also protests PG&E's application. It says that under normal circumstances TURN would urge the Commission to deny PG&E's application because it fails to produce the benefits it purports to achieve, and because the inadequate benefits it does produce come at too high a price. However, given the growing pressure in the Central Valley over upper-tier rates, TURN understands that the Commission may wish to provide some amount of relief. Therefore, TURN would support an approach that would combine Tiers 4 and 5, increasing Tier 4 rates to permit reducing Tier 5 rates to the Tier 4 level.

The Settlement

On April 20, 2010 the parties to this application presented their Settlement Agreement. (Attachment A.) The settling parties are PG&E, DRA, and TURN.

Settlement History

In the summer of 2009, PG&E's residential customers with substantial upper-tier usage faced extremely high bills due to the confluence of higher Tier 4 and 5 rates and sustained periods of high temperatures. PG&E filed Application (A.) 10-02-029 seeking to mitigate in the summer of 2010 some of the impact that the higher Tier 4 and 5 rates had on higher-than-expected bills last summer. PG&E proposed to lower Tier 4 and 5 rates by increasing Tier 3 rates. DRA and TURN filed timely protests objecting to the proposed Tier 3 increases and conducted discovery. A prehearing conference was held on April 1, 2010.

On several occasions before and after filing the application, PG&E met with DRA and TURN regarding the need to provide summer 2010 rate relief. Those meetings ultimately led to the agreement of all active parties on a reasonable outcome for this proceeding. On April 13, 2010, PG&E provided notice of mandatory settlement conference to take place on April 20, 2010, pursuant to Rule 12.1(b). The parties filed their motion for approval of the settlement after that settlement conference.

Settlement Terms

The Settlement Agreement provides rate relief as of June 1, 2010 for non-California Alternate Rates for Energy (CARE) households with substantial upper tier electricity consumption. The Settlement Agreement will result in lower bills for such households, including those in the Central Valley and elsewhere, with large summer cooling demands. The Settlement Agreement should also help reduce month-to-month bill volatility for such customers. The Settlement Agreement achieves this outcome through modest rate increases for usage that falls into Tiers 3 and 4 (as compared to rates that would have gone into effect June 1, 2010, in the absence of A.10-02-029) and by allocating to the new combined Tier 4/5 the residential class's share of other revenue requirement reductions.

The settlement terms are as follows:

1) As of June 1, 2010, in conjunction with certain revenue reductions initiated by PG&E,[1] Tier 3 rates on all non-CARE residential rate schedules will be set one-half cent higher than the currently effective

[1] In addition to this application, PG&E has filed the following pleadings designed to reduce overall revenue requirements effective June 1, 2010: 1) a February 10, 2010 Petition to Modify D.08-12-004 to suspend California Solar Initiative (CSI) rates, adopted by the Commission in D.10-04-017; 2) Advice Letter 3625-E to accelerate generator settlement refunds; 3) a Federal Energy Regulatory Commission (FERC) filing and Advice Letter 3633-E to accelerate the Transmission Owner (TO) 11 refund; and 4) a FERC settlement in the TO12 rate case filed in Advice Letter 3652-E.

rate levels filed in Advice 3603-E-A, which went into effect March 1, 2010.

2) Tiers 4 and 5 will be consolidated into a single tier and the applicable Tier 4/5 rate will be set at the level required to fully collect the remaining residential revenue requirement. As of March 1, 2010, the Schedule E-1 Tiers 4 and 5 rates are $0.42482 and $0.49778, respectively. Assuming approval of all revenue reductions requested by PG&E for June 1, 2010, and applying the residential class's share of that reduction to the Tier 4/5 consumption only, the Schedule E-1 Tier 3 rate will be $0.29062, and the new Schedule E-1 Tier 4/5 rate will be $0.40029, representing almost a 2.5 cent decrease for Tier 4 and almost a 10 cent decrease for Tier 5 from March 1, 2010, levels.

3) Illustrative June 1, 2010 Schedule E-1 electric rates per kWh that are expected to result from the Settlement Agreement are as follows:

Tier 1	$0.11877
Tier 2	$0.13502
Tier 3	$0.29062
Tier 4/5[2]	$0.40029

4) The parties intend that these new rates be effective June 1, 2010.

5) In case of any increases or reductions in revenue requirements after June 1, 2010, PG&E shall maintain the Schedule E-1 differential (e.g., $0.10967 based on rates provided herein) between Tier 3 and the new consolidated Tier 4/5

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[2] In order to implement this change by June 1, 2010, PG&E will continue to display Tier 4 and 5 rates and usage separately on customer bills, and will continue to show Tier 4 and 5 rates separately in its tariffs. However, the Tier 4 and Tier 5 rates will be identical.

until the Commission issues a decision on other upper-tier mitigation efforts PG&E has proposed in Phase 2 of its 2011 General Rate Case (GRC), A.10-03-014, and those approved rates are implemented.

6) Should PG&E sponsor an advertising campaign to publicize the rates implemented pursuant to this Settlement Agreement, such paid media shall include the following disclosure: "For those customers seeing Tier 5 rate reductions, the reductions are funded by Tier 3 and 4 rate increases pursuant to rates approved by the CPUC."

Table 4
Comparison Exhibit
At proposed 6/1/2010 Revenue Requirement

	3/1/10 Rates	PG&E's Proposal	DRA/TURN Proposal	Settlement Proposal
Tier 1	$0.11877	$0.11877	$0.11877	$0.11877
Tier 2	$0.13502	$0.13502	$0.13502	$0.13502
Tier 3	$0.28562	$0.30969	$0.27006	$0.29062
Tier 4	$0.42482	$0.35969	$0.42184	$0.40029
Tier 5	$0.49778	$0.40969	$0.42184	$0.40029

Rates shown for Schedule E-1

Request for Adoption of the Settlement Agreement

This Settlement Agreement is submitted pursuant to Rule 12.1 et seq. of the Commission's Rules of Practice and Procedure (Rules). The Settling Parties assert that the Settlement Agreement is consistent with Commission decisions on settlements which express the strong public policy favoring settlement of disputes if they are fair and reasonable in light of the whole record.[3] This policy

[3] *See,* e.g., D.88-12-083 (30 CPUC2d 189, 221-223) and D.91-05-029 (40 CPUC2d 301, 326).

supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.[4] As long as a settlement taken as a whole is reasonable in light of the record, consistent with law, and in the public interest it should be adopted.

The general criteria for approval of settlements are stated in Rule 12.1(d) as follows:

> The Commission will not approve stipulations or settlements, whether contested to uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest.[5]

The Settlement Agreement meets the criteria for a settlement pursuant to Rule 12.1(d), as discussed below.

The Settlement is Reasonable in Light of the Record

The prepared testimony, the Settlement Agreement itself, and the Settling Parties' motion contain the information necessary for the Commission to find the Settlement Agreement reasonable in light of the record. Prior to the settlement parties conducted discovery, and PG&E served testimony on the issues related to rate relief. While only PG&E has served its testimony, the other parties have had

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[4] D.92-12-019 (46 CPUC2d 538, 553).

[5] *See* also, Re San Diego Gas & Electric Company, (D.90-08-068) 37 CPUC2d 346, 360: "[S]ettlements brought to this Commission for review are not simply the resolution of private disputes, such as those that may be taken to a civil court. The public interest and the interest of ratepayers must also be taken into account and the Commission's duty is to protect those interests."

the opportunity to review and assess PG&E's litigation positions and their potential responses to PG&E.

The prepared testimony, the protests, and the motions contain sufficient information for the Commission to judge the reasonableness of the Settlement Agreement. The Settlement Agreement represents a reasonable compromise of the parties' positions and is reasonable in light of the entire record of this proceeding.

The Settlement Agreement is Consistent with Law

Upon review of the Settlement we conclude that the terms of the Settlement Agreement comply with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof. In agreeing to the terms of the Settlement Agreement, the Settling Parties have explicitly considered the relevant statutes and Commission decisions and believe that the Commission can approve the Settlement Agreement without violating applicable statutes or prior Commission decisions. The April 20, 2010 settlement conference was properly noticed.

The Settlement Agreement is in the Public Interest

The Settlement Agreement is in the public interest and in the interest of PG&E's customers. For example, the Settlement Agreement avoids the cost of further litigation, and frees up Commission resources, as well as the resources of other parties. The information in the record is adequate for the Commission to judge the reasonableness of the Settlement Agreement and to discharge any future regulatory obligations with respect to it. We also remind the parties that, pursuant to Rule 12.5, this Settlement is not precedential.

Rule 12.5 states:

> **(Rule 12.5) Adoption Binding, not Precedential**
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> Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

Categorization and Need for Hearing

This proceeding is categorized as a ratesetting proceeding. Because of the Settlement, a public hearing is not necessary.

Reduction of Comment Period

Pursuant to Rule 14.6(b) of the Commission's Rules of Practice and Procedure, all parties stipulated to reduce the 30-day public review and comment period required by Section 311 of the Public Utilities Code and agreed that the public review period for comments would be limited to 5 days and reply comments would be waived. Pursuant to the parties' stipulation, comments were filed on May 14, 2010, requesting minor changes, which were adopted.

Marin Energy Authority Motion for Party Status

By motion dated May 17, 2010, the Marin Energy Authority seeks party status for the purpose of filing comments on the proposed decision. The time for filing comments expired May 16, 2010, and the proposed decision has been duly placed on the agenda for Commission vote at its May 20, 2010, business meeting. This motion is untimely and its grant would subject the parties to prejudice by not allowing them an opportunity to respond to Marin Energy Authority's comments or, in the alternative, by delaying the timely resolution of this matter. The motion is denied.

Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Robert Barnett is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Households with substantial upper tier consumption are experiencing great hardship during hot summer months due to the steeply tiered rate structure currently in place. It is reasonable to provide lower bills for such households, including those in the Central Valley and elsewhere with large summer cooling demands during months with sustained periods of high temperatures.

2. AB 1X froze the rates in Tiers 1 and 2 at their levels as of February 1, 2001, and the Commission froze the rates for customers on the CARE program at their July 2001 levels, after increasing the CARE discount from 15 to 20 percent. With one minor exception, these frozen rates remained in place through 2009.

3. Nearly half of PG&E's residential customers experienced no rate increases from 2001 through 2009. Considering the impact of inflation, which has increased by 23 percent since 2001, in real terms these customers enjoyed rate decreases over this period.

4. More than three-quarters of PG&E's residential sales were insulated from every rate increase since 2001 and through 2009. As a result, residential rate increases have been absorbed by less than one-quarter of the sales.

5. Collecting revenues from a relatively small base of sales has resulted in substantial increases from 2001 through 2009 in the non-CARE Tier 3 through 5 rates. During that nine-year period, the Tier 5 rate nearly doubled, increasing from 24.5 cents per kWh at the height of the energy crisis to 44.3 cents per kWh at

the end of 2009. Such upper-tier rates can cause very high bills when combined with high usage during a month with extreme temperatures.

6. Over time the cents-per-kWh differentials between the Tiers 3, 4, and 5 have grown larger and larger. The differentials between the Tier 3 and 4 rates and between the Tier 4 and 5 rates have grown from about 4 and 2 cents per kWh, respectively, in 2002, to about 13 and 7 cents per kWh on January 1, 2010.

7. SCE's and SDG&E's highest tier rates are about 29 cents per kWh, when PG&E's Tier 5 rate was 44.1 cents per kWh.

8. On April 20, 2010 the parties to this application presented their Settlement Agreement. The settling parties are PG&E, DRA, and TURN. The Settlement Agreement provides rate relief as of June 1, 2010 for non-CARE households with substantial upper tier electricity consumption. The Settlement Agreement will result in lower bills for such households and should also help reduce month-to-month bill volatility for such customers.

9. The following tier rates are reasonable for residential service on and after June 1, 2010:

Tier 1	\$0.11877
Tier 2	\$0.13502
Tier 3	\$0.29062
Tier 4	\$0.40029
Tier 5	\$0.40029

Conclusions of Law

1. The Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest.

2. The Settlement Agreement is not precedential in any other proceeding before this Commission.

O R D E R

IT IS ORDERED that:

1. The Settlement Agreement appended as Attachment A is approved.

2. Pacific Gas and Electric Company shall place the approved rates in the Settlement Agreement into effect June 1, 2010. PG&E shall file a Tier 1 advice letter within 10 days of today's date to revise tariffs in compliance with this order.

3. Should PG&E sponsor an advertising campaign to publicize the rates implemented pursuant to this Settlement Agreement, such paid media shall include the following disclosure: "For those customers seeing Tier 5 rate reductions, the reductions are funded by Tier 3 and 4 rate increases pursuant to rates approved by the CPUC."

4. In order to implement this change by June 1, 2010, PG&E will continue to display Tier 4 and 5 rates and usage separately on customer bills, and will continue to show Tier 4 and 5 rates separately in its tariffs. However, the Tier 4 and Tier 5 rates will be identical.

5. Application 10-02-029 is closed.

This order is effective today.

Dated ____________________________, at San Francisco, California.