Decision 07-09-004 September 6, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company To Revise Its Electric Marginal Costs, Revenue Allocation, and Rate Design. (U 39 M)	Application 06-03-005 (Filed March 2, 2006)

(See Appendix A for a list of appearances.)

INTERIM OPINION ADOPTING SETTLEMENTS ON MARGINAL COST, REVENUE ALLOCATION, AND RATE DESIGN

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INTERIM OPINION ADOPTING SETTLEMENTS ON MARGINAL COST, REVENUE ALLOCATION, AND RATE DESIGN

1. Summary

This decision concerning Phase 2 of Pacific Gas and Electric Company's (PG&E) general rate case (GRC) adopts electric marginal costs and principles for revenue allocation to the customer class level and the design of tariff schedule rates. Revised rates will become effective November 1, 2007 and will allow PG&E to collect the revenue requirement determined in Phase 1 of its 2007 GRC, as modified by subsequent revenue requirement authorizations.

PG&E and interested parties have submitted a range of evidence, engaged in settlement discussions, and filed motions for Commission adoption of a settlement agreement regarding marginal cost and revenue allocation, plus five supplemental rate design settlement agreements and a supplemental settlement agreement on commercial building master meter issues. We find that the marginal cost and revenue allocation and five supplemental rate design settlement agreements meet our tests for adoption, and grant the motions to adopt those settlements. We also adopt the commercial building master meter settlement agreement with the condition that PG&E and building owners provide tenants with information concerning rates and their consumer rights and that PG&E and the Building Owners and Managers Associations provide certain information on their experience with commercial building master metering in PG&E's next GRC.

The proceeding remains open to consider future dynamic pricing tariffs and options for PG&E.

2. Background

Consistent with the Commission's Rate Case Plan (RCP), PG&E's GRC is considered in two phases—Phase 1 to consider revenue requirement issues and Phase 2 to consider marginal cost, revenue allocation, and rate design issues. PG&E filed its 2007 GRC Phase 1 Application (A.) 05-12-002 on December 2, 2005. Pursuant to the RCP, PG&E's Phase 2 proposal is due 90 days after its Phase 1 filing. Thus, PG&E's Phase 2 proposal was filed on March 2, 2006 by A.06-03-005.[1] In support of its request, PG&E provided testimony on its marginal cost, revenue allocation, and rate design proposals.

Ten public participation hearings (PPHs) were held at various locations in PG&E's service territory during April and May 2006.[2] Letters, electronic mail messages and petitions representing the views of hundreds of ratepayers were also received at the Commission.

A PHC for Phase 2 was held on May 3, 2006. On May 25, 2006, the Assigned Commissioner's Ruling and Scoping Memo was issued. The Scoping

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[1] On January 23, 2006, the Commission held a prehearing conference (PHC) in PG&E's Phase 1 application. At the PHC, PG&E indicated that it planned to submit its Phase 2 proposal in the same docket as its Phase 1 showing, consistent with the RCP. Assigned Commissioner Bohn issued a ruling on February 3, 2006, directing PG&E to "file a separate application for Phase 2 issues" on the grounds that such "treatment of Phase 2 issues is consistent with recent GRC proceedings and the Commission's responsibility under Pub. Util. Code § 1701.5 to complete ratesetting proceedings within 18 months." Consistent with the ruling, PG&E submitted its test year 2007 Phase 2 showing as a separate application.

[2] The PPHs addressed both the Phase 1 and Phase 2 applications and were held at the following locations: Oakland, Ukiah, Santa Rosa, King City, Salinas, San Louis Obispo, Modesto, Fresno, Woodland, and Chico.

Memo, among other things, determined that the category for this proceeding is ratesetting, stated the issues, and set the schedule.

Consistent with the Scoping Memo schedule, PG&E served update testimony on June 26, 2006, Division of Ratepayer Advocates (DRA) served its testimony on September 13, 2006, and other parties served their testimonies on October 27, 2006.[3] A meet and confer session on settlement issues was held on September 20, 2006. A mandatory settlement conference was then held on November 1, 2006. On November 6, 2006, PG&E, on behalf of the Settling Parties, contacted the assigned administrative law judge (ALJ) and requested an extension of the schedule to accommodate further settlement discussions. That request was granted by ALJ Ruling of November 9, 2006. Subsequent requests for extensions of time to accommodate the settlement process were granted by ALJ Rulings of December 14, 2006, January 9, 2007, March 22, 2007, and April 24, 2007. Evidentiary hearing was held April 17, 2007. The marginal cost, revenue allocation, and rate design phase of this application was submitted for decision on May 25, 2007.

[3] Concurrently, on a separate track, the Commission was considering PG&E's request for an expedited decision on the agricultural definition issue. A settlement between PG&E and all parties concerned with this issue was ultimately adopted by Decision (D.) 06-11-030.

3. Settlements

On behalf of the Settling Parties,[4] PG&E filed four motions for adoption of settlement agreements. The first motion, filed on February 9, 2007, was for marginal cost and revenue allocation. The second motion, filed on March 16, 2007, was for residential rate design, streetlight rate design, and medium and large light and power rate design. The third motion, filed on April 27, 2007, was for small light and power rate design, and commercial building master metering. The fourth motion, filed on May 4, 2007, was for agricultural rate design. The five rate design settlement agreements and the commercial building master meter settlement agreement are supplemental to the marginal cost and revenue allocation settlement agreement filed on February 9, 2007. The rate design settlement agreements use the revenue allocation agreed to in the February 9

[4] The Settling Parties are the following: Agricultural Energy Consumers Association (AECA); Building Owners and Managers Associations of San Francisco, Greater Los Angeles, Orange County, and California (BOMA); California City-County Street Light Association (CAL-SLA); California Farm Bureau Federation (CFBF); California Large Energy Consumers Association (CLECA); California League of Food Processors (CLFP); California Manufacturers & Technology Association (CMTA); California Retailers Association (CRA); California Rice Millers (CRM); California Solar Energy Industries Association (CAL SEIA); Cogeneration Association of California (CAC); Direct Access Customer Coalition (DACC); DRA; Energy Producers and Users Coalition (EPUC); Energy Users Forum (EUF); Federal Executive Agencies (FEA); Indicated Commercial Parties (ICP); PG&E; PV Now; The Utility Reform Network (TURN); Vote Solar; and The Western Manufactured Housing Communities Association (WMA). All parties signed the marginal cost and revenue allocation settlement agreement. Each party signed only those supplemental settlement agreements that pertained to their specific interests.

settlement and address rate design issues that were not resolved in that settlement.

The entirety of PG&E's request in this proceeding is resolved by the marginal cost and revenue allocation settlement agreement, the five supplemental rate design settlement agreements and the supplemental commercial building master meter settlement agreement. The commercial building master meter settlement agreement is contested by TURN. All other settlement agreements are uncontested.

3.1. Marginal Cost and Revenue Allocation Settlement

The marginal cost and revenue allocation (MCRA) settlement agreement addresses three major issues. First, the Settling Parties agree that the primary purpose of determining marginal costs in this proceeding is to establish the cost of providing service by rate group for the generation and distribution functions. Since marginal costs were last adopted for revenue allocation and rate design purposes in 1993, the Settling Parties agree that this proceeding should result in updated marginal costs. While the Settling Parties disagree on the specific principles that should be employed to calculate marginal costs, the Settling Parties generally agree on the marginal cost values to be employed for the defined purposes described in this settlement agreement.

Second, the Settling Parties agree that electric revenue should be allocated on an overall revenue-neutral basis. This settlement agreement begins with the principle that generation and distribution revenue should be adjusted 85% of the way from then-current distribution and generation revenue to revenue at equal percent of marginal cost (EPMC), as defined in the settlement agreement. This settlement agreement includes additional key allocation principles and, as a final

step, the Settling Parties agree that the annual average bundled rates will be limited by adjusting the generation allocation such that total bundled rates change as provided below, with any resulting shortfall to be collected from all other customer groups except Standby based on an equal percent of generation revenue.

- Residential Class: 2.8%
- A-10 Class: -5.0%
- E-19 Secondary (firm and non-firm combined): -9.0%
- Agricultural Class: 4.0%
- Streetlighting Class: -9.0%
- E-20 Transmission Firm: 0.0%
- E-20 Primary Firm: -2.0%
- E-20 Secondary Firm: -9.0%

Third, this settlement agreement addresses rate changes between GRCs. The Settling Parties agree that each customer group will be held responsible for approximately the same percentage contribution to each component of rates. This will be accomplished by implementing changes to the revenue requirement for each component by applying to each rate schedule the same percentage change to rates by component required to collect the revenue requirement for that component, with specific exceptions to this treatment set forth in the settlement agreement.

3.2. Residential Rate Design

The residential rate design settlement agreement describes the manner in which residential rates will be designed and includes the following fundamental components:

- Total bundled residential California Alternate Rates for Energy (CARE) rates will remain unchanged subject to the provisions of the February 9 settlement.
- Residential baseline quantities will be revised in accordance with PG&E's testimony, subject to the Assembly Bill (AB) 1X restrictions on residential customers for usage up to 130% of baseline. Baseline quantities and revenue-neutral rate adjustments will be phased in beginning on May 1, 2008 for electric customers and April 1, 2008, for gas customers, subject to certain caveats.
- Total bundled rates for usage up to 130% of baseline will not be changed so long as AB 1X's rate restrictions are effective, subject to certain caveats. While such restrictions are effective, revenue increases to the residential class will be implemented as proportional changes to the generation surcharges in Tiers 3, 4, and 5, and revenue reductions to the residential class will be implemented by proportionally reducing generation surcharges in Tiers 3, 4, and 5.
- If a reduction to the residential class in excess of 3% is expected, PG&E will consult with DRA and TURN to determine the proper method of allocating that revenue between tiers, but rates for usage up to 130% of baseline will not be reduced.
- Distribution and generation rates for non-CARE residential rate schedules will be differentiated by tier, and distribution and generation revenue on non-CARE rate schedules will be collected in each tier in the same proportion as the generation and distribution revenue is allocated to each rate schedule, prior to determining rates for the California Solar Initiative (CSI).
- The CSI rate will be determined as an equal proportion of pre-CSI distribution revenue in each tier as required to collect the CSI revenue allocated to the non- CARE residential schedules. Special provisions apply to customers taking service on the Family Electric Rate Assistance (FERA) program.
- The master-meter discount for Schedules ET and ES agreed to in PG&E's 2003 GRC Phase 2 proceeding will remain in place until a

new electric master meter discount is adopted in another PG&E rate design proceeding.[5]

The residential settlement also includes provisions regarding the minimum average rate limiter for residential master-metered customers that receive a submeter discount; CARE customers taking direct access (DA) and community choice aggregation (CCA) service; ongoing time-of-use (TOU) meter charges for voluntary residential rate schedules; franchise fee surcharge calculation for DA and CCA service; time-variant tariffs for solar customers; time-of-use schedule for multifamily accounts currently eligible to take service under Schedules EM or EML; customers on submetered rate schedules and eligibility for CSI incentives; revisions to Schedule E-9 for electric vehicles; and timing of rate changes.

3.3. Streetlight Rate Design

The streetlight rate design settlement agreement describes the manner in which rates for streetlight customers will be designed and includes the following fundamental components:

- Non-energy streetlight rates are set forth in Exhibits A and B to the settlement.
- A specific formula will be used to calculate the energy charge for streetlights.

[5] By letter of June 27, 2007 to the Executive Director of the Commission, PG&E, on behalf of itself, TURN, WMA and DRA requested that the deadline for completing a new diversity benefit study, which will be used to determine a new electric master meter discount, be extended from July 1, 2007, to August 1, 2007. That request was reasonable, and since the study was filed by August 1, 2007, we consider the parties to be in compliance with the filing date requirements for the study.

- There will be an upper-most limit of 150 watts of non-conforming load on customer-owned streetlight circuits.

The streetlight settlement also includes provisions regarding Schedule TC-1 (traffic control service) and additional streetlight rate design matters as set forth in PG&E's direct testimony. The streetlight settlement includes attachments with draft tariffs required to implement the settlement's terms.

3.4. Medium and Large Light & Power Rate Design

The medium and large light & power (MLLP) rate design settlement agreement describes the manner in which rates for the customer class will be designed and includes the following fundamental components:

- The basic rate designs for each of the applicable MLLP rate schedules will be updated upon settlement implementation using the methods underlying development of the illustrative settlement rates for Schedules A-10, A-10 TOU, E-19, E-20, and Standby presented in Exhibit A to the settlement.
- There will be one additional modification of PG&E's MLLP proposals to ensure that total bundled service volumetric rates by TOU period under Schedules E-19 and E-20 will vary at least in proportion to the variation in PG&E's marginal energy costs. That is, for service at transmission and primary distribution service voltages, Schedule E-19 and E-20 TOU generation energy charges will be set residually so that the sum of generation energy charges and those non-bypassable charges that do not vary by TOU period vary in direct proportion to the TOU profile established by the settlement generation energy marginal costs.
- PG&E's proposed customer charges for the MLLP rate schedules are reasonable, and the ongoing monthly TOU meter charges currently applicable for customers taking voluntary TOU service under Schedules E-19V and A-10 TOU should no longer be applied when the customer's existing TOU meter is replaced as

part of the Advanced Meter Infrastructure (AMI) Project and the new meter is activated and used for billing.

- Rate Limiters for Schedules E-19 and E-20 will be modified so that summer season average rate limiters will continue for Schedule E-19 and E-20 customers taking service at secondary and primary distribution voltages (at revised levels set forth in Exhibit A to the settlement).

The MLLP settlement also includes provisions regarding standby service rates, non-firm customers transferring to base interruptible program Schedule E-BIP and enrolling on Schedule E-DBP (PG&E's demand bidding program), franchise fee surcharge calculation for DA and CCA customers, and timing of rate changes.

3.5. Small Light & Power Rate Design

The small light & power (SLP) rate design settlement describes the manner in which rates for that customer class will be designed and includes the following fundamental components:

- Revenue neutrality will be established between Schedules A-1 and A-6 in two steps. In the first step, upon settlement implementation, Schedules A-6 and A-1 will move approximately two-thirds of the way toward full revenue neutrality. The movement toward full revenue neutrality will occur on January 1, 2010, and will be maintained until the next GRC Phase 2 proceeding. These adjustments will correct current inappropriate rate relationships whereby customers can realize significant bill savings simply by switching from Schedule A-1 to A-6 despite having poor TOU load profiles.
- The basic rate designs for each of the applicable SLP rate schedules will be updated upon settlement implementation using the methods underlying development of the illustrative settlement rates for Schedules A-1, A-6, A-15, and TC-1 presented in Exhibit B to the settlement.

- The maximum demand limit for up to a cumulative total of 20 megawatts of solar system capacity among participating Schedule A-6 customers who install a solar photovoltaic system will increase from 500 kilowatts to 1,000 kilowatts. This increase will allow a customer whose maximum billing demand has been between 499 and 999 kilowatts for at least three consecutive months during the most recent 12-month period, or who otherwise is currently taking service, or would be required to take service, on Schedule E-19 on a mandatory basis to voluntarily move to Schedule A-6, so long as the customer installs a solar photovoltaic system that meets at least 20% of the measured maximum demand. Current mandatory Schedule E-19 solar customers who meet these criteria will have a one-time option to switch to Schedule A-6 within 90 days of settlement implementation, and will count toward the 20 megawatt pilot program cap.
- The ongoing monthly TOU meter charges currently applicable for customers taking voluntary TOU service under SLP schedules will cease once the customer's existing TOU meter is replaced as part of the AMI Project and the new meter is activated and used for billing.
- The calculation of the CARE discount for commercial CARE customers under Schedule E-CARE shall be based on a rate per kWh discount, rather than the current methodology, which is tied to percentage discount, surcharges, and June 10, 1996 rates. The new methodology will improve customer understanding of the rate, simplify billing, avoid the current requirement to calculate a phantom bundled bill for DA commercial CARE customers, and maintain parity between residential and commercial CARE average discount percentages.
- Revised SLP TOU tariffs are deemed to fulfill the requirements of Senate Bill (SB) 1, Public Utilities Code Section 2851(a)(4), in terms of creating the maximum incentive for ratepayers to install solar systems, but settling parties are not restricted from taking positions they deem appropriate in a subsequent proceeding that addresses time-variant rates. However, prior to the next GRC Phase 2 proceeding, no settling party may argue that the SLP TOU rates do not meet the SB 1 requirement.

The SLP settlement also includes provisions regarding the SLP fixed monthly customer charge, the special facility charge related to direct current electrical service on Schedule A-15, and the franchise fee surcharge calculation applicable to DA and CCA service.

3.6. Agricultural Rate Design

The agricultural settlement describes the manner in which agricultural rates will be designed and includes the following fundamental components:

- The basic rate designs for each of the applicable agricultural rate schedules will be updated upon settlement implementation using the methods underlying development of the illustrative settlement rates for Schedules AG-1, AG-R, AGV, AG-4, AG-5, and E-37 presented in Exhibit B to the settlement. These methods include a general widening of TOU energy charge differentials and mitigation of summer maximum demand charges where necessary.
- Customer charges for Schedules AG-A, AG-B, AG-C, AG-5B, AG-5C, and AG-4C will be increased as shown in Exhibit B to the settlement.
- The ongoing monthly TOU meter charges currently applicable to voluntary AG TOU rate schedules will no longer be applied as each customer's AMI meter is installed and used for billing.

The agricultural settlement also includes a provision regarding the franchise fee surcharge calculation applicable to DA and CCA service.

3.7. Commercial Building Master Meter Issues

The commercial building master meter (MM) settlement agreement describes principles to govern the manner in which commercial building owners may allocate costs to their commercial tenants so that those tenants may receive price signals through the allocation of non-common master meter energy costs. The MM settlement includes the following fundamental components:

- The settling parties (PG&E and BOMA) agree that it is in the public interest that commercial building tenants receive price signals and have the opportunity to participate in dynamic pricing and energy conservation programs.
- PG&E and BOMA agree that it is in the public interest that building owners participate in dynamic pricing and energy conservation programs, and BOMA agrees to encourage its membership to do so, and to timely pass on to commercial tenants dynamic pricing and energy conservation options or incentives that may become available. Revisions to PG&E Electric Rules 1 and 18 designed to accomplish the goals of the MM settlement are attached to the MM settlement.
- Nothing in this MM settlement is intended to create or constitute evidence of a wholesale relationship between PG&E and commercial building owners, a commercial relationship between PG&E and tenants in commercial buildings, or a utility relationship between commercial building owners and their tenants.
- PG&E and BOMA agree that the cost of electricity allocated to commercial building tenants will, in total, be equal to the charges billed by PG&E to the building owners under the Commission approved rate schedule servicing the master meter.
- PG&E and BOMA agree that all attachments and devices on the customer's side of the master meter used to measure tenant electricity use for the purpose of taking advantage of dynamic pricing and energy conservation opportunities shall conform to all applicable safety rules, regulations, and general orders established by state and local governments.

The MM settlement also includes provisions further defining the applicability and limitations of the new rules, regarding participation in Commission proceedings addressing how dynamic pricing and energy conservation programs may be made available to commercial building tenants, and providing for the payment of the costs associated with implementation of the terms of this agreement.

4. Standard of Review

In reviewing settlements, we have often acknowledged California's strong public policy favoring settlements. This policy supports many worthwhile goals, such as reducing litigation expenses, conserving scarce resources of parties and the Commission, and allowing parties to reduce the risk that litigation will produce unacceptable results.

In assessing settlements we consider individual settlement provisions but, in light of strong public policy favoring settlements, we do not base our conclusion on whether any single provision is the optimal result. Rather, we determine whether the settlement as a whole produces a just and reasonable outcome.

We have specific rules regarding approval of settlements:

> "The Commission will not approve settlements whether contested or uncontested, unless settlement is reasonable in light of the whole record, consistent with law, and in the public interest."
> (Rule 12.1(d).)

4.1. All-Party Settlements

As first articulated in 1992, we condition our approval of an all-party settlement on the following factors:

a. The settlement agreement commands the unanimous sponsorship of all active parties;

b. Sponsoring parties are fairly reflective of the affected interests;

c. No settlement term contravenes statutory provisions or prior Commission decisions; and

d. The settlement conveys sufficient information to permit the Commission to discharge future regulatory obligations with respect to parties and their interests.[6]

Settling Parties assert that the MCRA Settlement and the five rate design settlements each meet the all-party tests. Further, they contend that each of these settlements meet the broader tests of being reasonable in light of the whole record, consistent with law, and in the public interest.

4.2. Contested Settlements

We recently affirmed our long-standing policy "that contested settlements should be subject to more scrutiny compared to an all-party settlement."[7] We explained the rationale behind this heightened scrutiny in D.07-03-044:

> In judging the reasonableness of a proposed settlement, we have sometimes inclined to find reasonable a settlement that has the unanimous support of all active parties in the proceeding. In contrast, a contested settlement is not entitled to any greater weight or deference merely by virtue of its label as a settlement; it is merely the joint position of the sponsoring parties, and its reasonableness must be thoroughly demonstrated by the record. (D.07-03-044, p. 13 (quoting D.02-01-041, p. 13).)

Accordingly, we undertook a careful review of every issue raised by the parties contesting the settlement at issue in D.07-03-044.

The MM settlement is not an all-party settlement. It is contested and opposed by TURN. Therefore, in considering whether it warrants adoption we must review it as the joint position of PG&E and BOMA, who have the burden to

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[6] D.92-12-019 (64 CPUC 2d 538, 550-551).

[7] D.07-03-044, Opinion Authorizing PG&E's GRC Revenue Requirement for 2007-2010, mimeo., p. 13 (citing D.96-01-011, Finding of Fact 5).

thoroughly demonstrate its reasonableness. This is accomplished further in the decision where we address TURN's objections to the MM settlement and BOMA's and PG&E's responses to those objections.

5. Uncontested Settlement Agreements

5.1. All-Party Settlements

We agree with the Settling Parties' assertions that the MCRA settlement and five rate design settlements are all party settlements. Each settlement was signed and endorsed by each and all of the parties that provided testimony on that particular settlement's subject matter.[8] While participation in each of the settlements varied depending on parties' specific interests, a review of the signatories to each of the settlements indicates that the sponsoring parties are fairly reflective of the affected interests. Also, as discussed below, the settlements are consistent with law. Finally, based on the record that contains the testimonies of all parties and the settlement provisions regarding the timing of rate changes and the manner of implementing rate changes between GRCs, we determine that the settlements convey sufficient information to permit the Commission to discharge future regulatory obligations.

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[8] Merced Irrigation District (Merced ID) and Modesto Irrigation District (Modesto ID) filed comments on the MCRA settlement, requesting certain marginal cost reporting requirements for PG&E to provide information that may be of use in future proceedings. The manner in which information should be reported for future proceedings is not addressed by the MCRA settlement. Also, neither Merced ID nor Modesto ID filed testimony in this proceeding, and they indicate they do not oppose the MCRA settlement. For these reasons, we consider the MCRA settlement to be an all-party settlement, even though Merced ID and Modesto ID were not sponsors.

5.2. Reasonableness in Light of the Record

The MCRA settlement is an uncontested all-party settlement. In total there were 22 parties participating in negotiations related to the MCRA settlement, with representation for all affected rate classes. While there were a number of differences in the marginal costs and revenue allocations proposed by the various parties in prepared testimonies, settlement appears to provide a reasonable compromise of parties' positions in developing marginal costs and calculating revenue allocation for this proceeding. The settlement does not adopt any of the Settling Parties' marginal cost principles or proposals, but the Settling Parties do agree that it is reasonable for the Commission to approve the marginal costs in the settlement for the purposes of establishing unit costs in the development of revenue allocation and rate design in this proceeding and for customer-specific contract rate floors for customer retention and attraction.

By the EPMC revenue allocation, the revenue requirement is allocated proportionately to the various rate classes based on the marginal costs, or a certain percentage of the marginal costs, of each class. The Commission's general policy goal is full or 100% EPMC revenue allocation for all rate classes.[9] Consistent with this policy, the settlement moves the allocation of revenues to the various customer classes to more closely reflect full marginal costs on an EPMC basis. The following table shows the present revenue allocation and the settlement proposed revenue allocation, each with the associated percentages of EPMC.

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[9] See D.82-12-113 (10 CPUC 2d 512), D.83-12-065 (13 CPUC 2d 619), D.83-12-068 (14 CPUC 2d 15), and D.84-12-068 (16 CPUC 2d 721).

REVENUE ALLOCATION SUMMARY
(Revenue in Thousands of Dollars)

Bundled	Full EPMC Revenue	Present Revenue	% of Full EPMC	Settlement Revenue	% of Full EPMC
Residential	$4,846,274	$4,667,646	96.31%	$4,798,987	99.02%
Small L&P	1,395,156	1,328,011	95.19%	1,402,254	100.51%
Medium L&P	1,635,253	1,784,596	109.13%	1,695,207	103.67%
Schedule E-19	1,084,588	1,218,790	112.37%	1,115,054	102.81%
Streetlights	62,066	69,413	111.84%	63,166	101.77%
Standby	30,693	29,823	97.16%	30,689	99.99%
Agriculture	632,012	565,022	89.40%	587,570	92.97%
Schedule E-20	1,064,023	1,103,240	103.69%	1,060,222	99.64%
Total Bundled	$10,750,066	$10,766,541	100.15%	$10,753,149	100.03%
Direct Access					
Residential	$4,029	$4,102	101.81%	$4,021	99.82%
Small L&P	6,835	5,887	86.13%	6,807	99.59%
Medium L&P	71,928	67,124	93.32%	71,847	99.89%
Schedule E-19	66,223	69,221	104.53%	67,432	101.83%
Agriculture	2,693	2,960	109.90%	2,794	103.75%
Schedule E-20	117,423	104,726	89.19%	113,781	96.90%
FPP	4,403	3,086	70.08%	3,791	86.08%
Total Direct Access	$273,533	$257,106	93.99%	$270,473	98.88%
Total Bundled & DA	$11,023,599	$11,023,647	100.00%	$11,023,622	100.00%

As can be seen from the table, the MCRA settlement proposal makes significant progress towards 100% EPMC revenue allocation for all rate classes. We find the settlement revenue allocation proposal to be reasonable.

The rate design settlements for each of the customer classes provide principles for developing the various rate tariffs from which customer bills will be calculated. Illustrative rates based on the revenue allocations included in the MCRA Settlement are provided. While rate design is an extremely complex process, compared to the number of marginal cost and revenue allocation issues identified in and addressed in the MCRA settlement, the number of identified rate design issues was small.

The residential, streetlight, SLP, MLLP and agricultural rate design settlements are all-party settlements. Each settlement included participation and agreement from each of the parties that prepared testimony related to the particular customer class being addressed.[10] There is no opposition to any of these five rate design settlements. We note that all parties had the opportunity to

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[10] CAL SEIA, DRA, PG&E, PV Now, TURN, Vote Solar, and WMA are signatories to the residential rate design settlement.

CAL-SLA and PG&E are signatories to the streetlight rate design settlement.

CAL-SLA, CAL SEIA, DRA, PG&E, PV Now, TURN, and Vote Solar are signatories to the small light & power rate design settlement

BOMA, CLECA, CLFP, CMTA, CRA, CAC, DACC, EPUC, EUF, FEA, ICP, and PG&E, are signatories to the medium and large light & power rate design settlement.

AECA, CFBF, CRM, CAC, EPUC and PG&E are signatories to the agricultural rate design settlement.

review the results of other settlements for impacts on their interests, and no party objects to any of the settlements being discussed here.

Based on the evidentiary record of this proceeding, principally prepared testimonies, and the all-party status of the settlements, we find that each of the five rate design settlements fairly resolves identified issues and is reasonable.

5.3. Consistency with Law

We agree with the Settling Parties' assertion that the MCRA settlement agreement and each of the five rate design agreements are consistent with law. The process for conducting these settlements was in accordance with Article 12 of the Rules of Practice and Procedure. Further, there are no allegations, and we do not detect, that any element of the MCRA or five rate design settlements is inconsistent in any way with Public Utilities Code Sections, Commission decisions, or the law in general.

We do note certain consistencies such as conformance to the AB 1X residential rate restrictions; consistency with Section 2851(d)(2) which requires CSI costs to be imposed on all customers not participating in the California CARE or FERA programs, including those residential customers subject to the rate cap for existing baseline quantities or usage up to 130% of existing baseline quantities of electricity; the phase-in of full cost streetlight rates for the City and County of San Francisco, consistent with prior Commission directives (Resolution E-3203 and D.93-06-087); and the development of revised Schedules E-6 and EL-6 to fulfill the requirements of Section 2851(a)(4), requiring

"a time-variant tariff that creates the maximum incentive for ratepayers to install solar systems…"[11]

5.4. The Public Interest

We agree with the Settling Parties' assertion that the MCRA settlement agreement and each of the five rate design agreements are in the public interest. There are no allegations, and we do not detect, that any element of the MCRA or five rate design settlements is inconsistent in any way with the public interest.

The settlements are reasonable compromises of Settling Parties' respective litigation positions. The settlements avoid the cost of further litigation, and conserve scarce resources of parties and the Commission. It was important to get marginal costs revised in this proceeding because they had not been revised and adopted by the Commission since 1993. The settled revenue allocation moderates potentially harsh bill impacts while better aligning rates with costs.

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[11] Since the settlement agreements were filed with the Commission, the Legislature passed Assembly Bill 1714, amending SB 1 to allow the Commission to delay the requirement that CSI customers take time variant pricing "until the effective date of the rates subject to the next general rate case of the state's three largest electrical corporations, scheduled to be completed after January 1, 2009." (See Pub. Util. Code § 2851(a)(4)(B).) In Decision 07-06-014, Opinion Modifying Decision 06-12-033 Regarding Time Variant Pricing Requirements (at p. 10), the Commission adopted such a delay. Accordingly, while the Settling Parties endorsed the schedules set forth in the Residential and Small Light and Power Agreements as being compliant with the time-variant requirement of Public Utilities Code Section 2851(a)(4), PG&E acknowledges that customers will not be required to take service on these time-variant rate schedules in order to receive CSI incentives until the first general rate case with rates effective after January 1, 2009. All the Settling Parties endorse and support PG&E's acknowledgement.

Also as stated earlier, Schedules E-6 and EL-6 provide a time-variant tariff that creates the incentives for ratepayers to install solar systems.

5.5. Annual Reports to Provide Information on Marginal Costs Are Unnecessary

Merced ID and Modesto ID (collectively, the Districts) filed comments on the proposed MCRA settlement. Merced ID and Modesto ID are both customers of PG&E and competitors in the provision of electric services to customers in California's central valley, and as such have an interest in the matters addressed in the Settlement Agreement. While the Districts do not oppose the Settlement Agreement, they indicate they were not able to participate as settling parties because of competitive concerns regarding PG&E's calculation of distribution marginal costs.

PG&E's location-specific distribution marginal cost approach was first litigated and adopted in Phase 2 of PG&E's 1993 GRC and has remained in place to date. In this proceeding, PG&E continues to use location-specific marginal costs. The Districts understand that PG&E's marginal distribution capacity cost approach in this proceeding is consistent with past practice and have not raised this as an issue in this proceeding. However, the Districts are concerned that this approach is outmoded and does not accurately reflect PG&E's current approach to evaluating and implementing new distribution projects within its overall system.

The Districts recommend that PG&E be required to submit annual reports describing in detail the location of distribution projects undertaken during the year, the cost of each project and the portion(s) of its territory the project is intended to serve. That information could then be used in an appropriate future

proceeding to determine whether it is appropriate to calculate distribution marginal capacity costs on a system-wide, rather than division, basis.

According to PG&E, it already provides the data requested by the Districts in its GRCs, it will provide the same information in its next GRC, and there is no need for the Commission to impose an additional annual reporting requirement on PG&E that will provide no tangible value. PG&E states that if the Commission were interested in reconsidering location-specific versus system-wide distribution marginal cost methodologies, the Commission has many years of historic data to rely on. Also, if the Districts wish to raise this issue in future GRC Phase 2 or other proceedings, the Districts or Commission could also request more updated information from the utilities at that time, instead of requiring annual reports in between rate proceedings.

We agree with PG&E on the need to file annual reports on marginal costs. For GRCs, in general, there may be a number of issues that rely on the analysis of detailed historic data. To require annual reporting of such information for costs or methodologies that might be at issue in future proceedings is not an efficient procedure. PG&E has provided evidence that the necessary information identified by the Districts is available in its workpapers, and the amount of information is substantial.[12] Going forward, PG&E should continue to maintain the same detailed information describing the location of distribution projects undertaken during the year, the cost of the each project and the portion(s) of its territory the project is intended to serve. If needed in future proceedings that might consider the issue of location-specific versus system-wide marginal cost

[12] Information contained in exhibits 23, 24, 25, and 26.

methodologies, this information will be available, if not in workpapers then through data requests. This procedure is reasonable, and we will not require PG&E to file annual reports.

6. Master Meter Settlement Agreement

The MM settlement agreement was negotiated between, and proposed by, PG&E and BOMA. BOMA is a statewide association whose members are commercial real estate professionals that own and/or manage commercial office buildings in their respective regions and across other regions. Statewide, BOMA members own and/or manage in excess of 600 million square feet of office space. These buildings are occupied by approximately 50,000 California businesses that employ about two million workers.

Most commercial office building tenants are not customers of the serving energy utility nor directly metered by the serving energy utility. Accordingly, BOMA members take the responsibility for purchasing energy and managing energy costs on behalf of their tenants. Under the existing language of PG&E's Rule 18, the cost of electricity to the building may only be recovered through rent, regardless of the tenant's individual usage. The Rule expressly provides that nothing replicating a separate energy charge that varies with tenant usage appear on statements for lease payments.

The restrictions embraced in Rule 18 have lead to the emergence of tenant leases that require tenants to annually pay a share of electricity costs in proportion to the square footage that they occupy. According to BOMA,

> The allocation system based on square footage yields inequitable and inefficient allocations of energy costs. Low energy-intensive tenants subsidize the energy use of high energy-intensive tenants, and none of the tenants have the information and price incentives to efficiently manage their energy usage. That being the case, the tenant controlled portion of high rise commercial building load (30%

> to 40%) is shielded from participating in any form of demand response, thus impeding the State's efforts toward achieving higher level of demand response. The Settlement seeks modification of Rule 18 to allow more equitable and efficient allocation of electricity cost among tenants and, in so doing, to enhance the potential for obtaining greater statewide demand response and a more efficient electric system. The proposal is concerned with building owner recovery of electricity costs (and no more) in a manner that is more beneficial to tenants and electricity consumers than Rule 18 currently allows.

6.1. TURN Contests the Master Meter Settlement

On May 22, 2007, TURN filed comments contesting the MM settlement. TURN states the MM settlement asks the Commission to lift the ban on new submetering in commercial buildings which has been in effect since 1962. TURN argues that the Commission should find that PG&E and BOMA have failed to carry their burden of demonstrating that the MM settlement is in the public interest. TURN recommends that the Settlement be rejected. However, if the Commission is inclined to adopt the MM settlement, TURN urges the Commission to condition approval on PG&E's and BOMA's acceptance of certain modifications as proposed by TURN.

6.2. Reasonableness in Light of the Record

6.2.1. Position of TURN

According to TURN, the Commission has little to work with in terms of a record, noting that PG&E and BOMA arrived at a settlement agreement prior to parties having an opportunity to prepare testimony in rebuttal to BOMA's Testimony, or before BOMA's Testimony could be tested through cross-

examination.[13] It is TURN's position that neither the MM settlement nor BOMA's Testimony provides sufficient information for the Commission to conclude that the MM settlement is reasonable in light of the record.

TURN asserts that the proposed change to Rule 18 that would allow implementation of commercial building master metering is too vague to provide the Commission with any sense of what building owners may or may not do. To illustrate its assertion, TURN posed a number of questions which are detailed later in this decision along with the responses by BOMA. TURN also explains its position that the MM settlement provides no guidance regarding how the master meter customer will allocate electricity costs between submetered and non-submetered tenants in a partially submetered building and does not specify whether the building owner will be permitted to allocate costs associated with common load electricity to tenants, such as through a proportionate share allocator based on submetered tenant usage.

TURN also argues the following:

- The Commission should have the same concerns with meter accuracy and reliability, meter reading, billing and adjustments as the Commission did in D.63562, D.92109 and D.99-10-065.
- Tenants will receive bills from building owners that may or may not provide clear and useful information, such as would allow a tenant to verify charges. Tenants who suspect something might be wrong will have no real recourse other than to go to the building owner, whose practices may be the source of dispute.
    - Submetered commercial tenants will pay more for utility services than any other class of end users because they will

[13] In its comments, TURN did not request evidentiary hearing or the opportunity to prepare testimony on contested issues as provided in Rules 12.2 and 12.3.

effectively pay twice for meter installation and O&M, meter reading and billing.

- In stark contrast to commercial tenants and the general body of ratepayers, commercial building owners would clearly benefit from the MM settlement. Building owners could pass to tenants all of the electricity costs associated with the building each month, and collect additional, seemingly unlimited costs associated with owning and operating the submetering and billing systems. Likewise, the MM settlement places glaringly few restrictions on building owners, other than requiring that their costs be allocated to submetered tenants such that electricity is billed at the same rate charged by PG&E to the master meter. As a result, the electric metering and billing practices of commercial building owners would be remarkably divergent, unexamined, and unregulated, to the detriment of their tenants.
- Allocating to tenants a "proportional" share of the common costs of loads within the building owner's control will not promote demand response or increased efficiency in those loads, but will instead eliminate the incentive that building owners currently have "to retrofit buildings, to invest in high efficiency equipment and appliances, and to adopt cutting edge energy management practices." Unless such potential is fully captured, allowing building owners to allocate common load costs to tenants through submetering will create lost opportunities for efficiency and demand response in high rise buildings in PG&E's service territory.
- Claims of benefits related to dynamic pricing as applied to tenants are speculative and are inconsistent with the California Statewide Pricing Pilot's findings about demand elasticity in small commercial plug load. The Statewide Pricing Pilot found only a small amount of price elasticity from small commercial customers who comprise the bulk of commercial tenancies in California. Those with loads greater than 20 kW reduced usage an average of 9.1% during critical

days, whereas those with loads less than 20 kW had merely a 1.5% reduction.[14] Moreover, the MM settlement would merely provide most tenants with TOU price signals, far less drastic than the CPP "signals" at issue in the State Pricing Pilot (and, presumably, far less likely to produce reduced usage).

- Submetered tenants may not receive dynamic pricing signals at all under the MM settlement, since it does not require a building owner to take service on a "dynamic pricing" tariff, and currently some eligible high rise buildings take service on Rate Schedule A-10, which is not even a TOU schedule. Thus, the Commission should give little weight to the MM settlement's suggestion that it will provide commercial tenants with "dynamic price signals" and capture significant demand response.
- Some of PG&E's energy efficiency programs limit participation in the rebate/incentive component to the customer of record, meaning that submetered tenants could only participate with the assistance of the building owner. A submetered tenant desiring to take advantage of a PG&E rebate/incentive program and invest in high efficiency office appliances or equipment would still be dependent on the building owner's willingness and cooperation, even under the MM settlement. And in a submetered environment, the building owner would not have the same economic motivation to help tenants reduce their loads as they would under today's Rule 18. Furthermore, the energy efficiency programs PG&E administers do not provide rebates or incentives for measures generally encompassed by tenant plug loads in high rise buildings, aside from certain lighting that may be under the building owner's control.

[14] "Impact Evaluation of the California Statewide Pricing Pilot," Charles River Associates, 3/16/05, R.02-06-001, p. 13.

6.2.2. Position of BOMA

In replying to TURN, BOMA argues that the terms of the MM settlement are clear and Commission has a clear basis for concluding that adoption of the settlement is preferable, as a matter of public policy, to maintaining the present flat rate regime for high-rise commercial building tenants.

BOMA replied as follows to specific questions posed in TURN's comments on the MM settlement:

> *1) Could the building owner charge any volumetric rate so long as the total bill is less than what PG&E would have charged the customer?*
>
> Answer: The simple language of the proposed Rule 18 states the following: "...commercial building tenants will be billed at the same rate as the master meter billed by PG&E under the CPUC approved rate schedule servicing the master meter" The building owner can only charge the volumetric rate that is charged to the master meter customer.
>
> *2) How will the building owner allocate demand charges, as opposed to energy charges for tenants?*
>
> Answer: Under the proposed Rule 18, demand charges must be allocated to tenants in accordance with their measured coincident demand.
>
> *3) Must the submeters be TOU or other advanced meters?*
>
> Answer: To meet the requirements of the proposed Rule 18, the submeters must have the capability to provide the same billing measurements as the master meter serving the building.
>
> *4) Will common area usage be allocated, or simply the usage under the tenants control?*
>
> Answer: To be consistent with the proposed Rule 18, all common area usage will be metered and allocated across all tenants in accordance with leases and recovered through rent.
>
> *5) What would happen in a building where some tenants agreed to submetering, but others either refused, or where some leases had yet to expire and be subject to the modification?*
>
> Answer: To be consistent with the proposed Rule 18, all metered customers would be billed in accordance with the master meter tariff. A

bill would be calculated for the metered common areas in the same way and the common areas bill would be allocated across all customers in accordance with leases and recovered through rent as is done today. The balance of the building metered usage would be allocated to the non-metered customers as specified in their leases.

As TURN suggests, regardless of when meters are installed, an individual tenant will not be assessed metered energy charges by the building owner until the tenant has agreed to the same by executing a lease.

6) What would stop the building owner from collecting more from tenants than charged by PG&E, when costs allocated by submetering were collected from some tenants, in addition to costs allocated on a square-footage basis to other tenants?

Answer: To do so would violate the Rule 18 requirement that tenants be billed at the same rate as the master meter. It would also violate cost pass through terms of leases and subject the building owner to civil action. The total collected by the building owner for energy charges from tenants (regardless of how calculated) may not exceed that billed to the master meter customer. The change in Rule 18 would not make cheating by building owners any more likely than under the current Rule.

7) How much could building owners charge for hardware, software, O&M and administrative costs associated with submetering?

Answer: Paragraph 9 of the proposed Settlement refers to owners charging for "costs" of the metering and information services, according to terms jointly agreed to by tenants and owners and specified in leases. The costs for such services will likely vary by the effort required to provide the services and are optional for the tenant. As a practical matter, the need of the building owner to remain competitive will limit the building owner's expenses for such items.

8) What would protect tenants from paying twice for meter and billing-related O&M and administrative costs-once through the PG&E charges for these same services allocated to tenants, and a second time though the separate charges from the building owner?

Answer: The charges for PG&E's master meter customer charge would be allocated across all tenants. The charges for additional submetering and information services charges would be billed to those customers who elect to take the service. There would be no double charge as asserted.

> *9) What kinds of information would tenants receive in bills from building owners?*
> Answer: The bills would have the same level of detail as the master meter bill from PG&E, as required for billing the customer in accordance with the same rate as the master meter for the tenant metered portion of the bill. The bill would also show the customer's square footage allocation of common area charges. In addition to billing data, information services could be available for virtual real time tracking of customer and building energy usage and costs to assist the tenant in managing energy costs.

In replying to TURN's arguments, BOMA states (a) the proposed MM settlement requires that tenants be charged for electricity in accordance with the rate schedule that applies for the master meter and no more; (b) the MM settlement allows building owners to recover the costs of providing metering and information service and no more; (c) building owners will not make a profit on the allocation of the costs of electricity nor on the optional metering and informational services; (d) tenants will benefit from the MM settlement to the extent that they are able to better manage their load and reduce costs; (e) tenant efficiency helps owners achieve exceptional building energy efficiency, become more competitive and build asset value; and (f) more efficient buildings also benefit ratepayers by reducing overall system demand and flattening load curves.

Regarding TURN's concern that the MM settlement leaves to the submetered high-rise tenant and the building owner the resolution of any disputes concerning the billing and measuring of electricity, BOMA responds that it is a feature of other landlord provisioned and measured utility services. According to BOMA, similar provisions are embraced in Commission-mandated

provision of telecommunications,[15] water service,[16] and residential gas and electric service.[17]

Regarding TURN's statement that allocating to tenants a "proportional share" of the costs of load within the building owner's control will not promote demand response or increased efficiency in those loads, BOMA states that TURN misses the point of the proposal. According to BOMA, the real objective of the settlement proposal is to help tenants manage the energy use under their direct control. There has been no suggestion whatever that the MM settlement will make any significant change in the efficiency of energy use in the common areas of commercial buildings. Furthermore, electricity costs for common areas are currently allocated to tenants and will continue to be allocated in the same way with or without the settlement. To the extent that submetering makes tenants more aware of energy costs they may be inclined to be more conscious about common area use but any effect would probably be marginal.

Regarding TURN's allegation that submetered tenants may not receive dynamic price signals at all under the MM settlement, because some eligible high rise buildings take service under Rate Schedule A -10, which is not even a TOU Rate Schedule, BOMA points out that most all of the eligible buildings are under

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[15] D.87-01-063, 23 CPUC 2d 554, 571 (Guideline 13. "Any billing disputes by tenants or joint users shall be taken up with the provider not with the utility or the Commission.")

[16] D.01-05-058 (unless an apartment building is deemed a public utility, "then water service disputes are landlord/tenant issues subject to local rent control authorities and the rent control ordinance applies, or to the jurisdiction of the civil courts").

[17] D.05-05-026 permits residential customers to complain to the Commission (because Section 739.5 requires the Commission to entertain such complaints) but does not require or authorize the serving utility to entertain or resolve such disputes.

E20, or E19, with a few possibly on A10. Also, all A10 customers with demand over 200KW are required to be on A10 TOU, and any building that chooses to implement submetering would have options to be billed under a TOU schedule.

Regarding TURN's arguments that the MM settlement will not likely capture significant demand response, BOMA states that the settlement does not suggest any level of demand response will be achieved, but strives to create opportunities for tenants to embrace demand response and efficiency. BOMA points to the first two terms of the MM settlement, which state:

1) PG&E and BOMA agree that it is in the public interest that commercial building tenants receive price signals and have the opportunity to participate in dynamic pricing and energy conservation programs.
2) PG&E and BOMA agree that it is in the public interest that building owners participate in dynamic pricing and energy conservation programs, and BOMA will encourage its membership to do so, and to timely pass on to commercial tenants dynamic pricing and energy conservation options and incentives that become available.

6.2.3. Discussion

The record upon which we must determine the reasonableness of the MM Settlement consists of BOMA's prepared testimony (Exhibit 8), the proposed MM Settlement, TURN's Comments in Opposition to MM settlement,[18] PG&E's Reply to TURN's Opposition, and BOMA's Reply to TURN's Opposition.

[18] While TURN opposed the MM Settlement Agreement, they did not request hearing or the opportunity to present testimony as provided by Rules 12.2 and 12.3 of the Rules of Practices and Procedure.

In its comments, TURN has raised legitimate issues and questions related to the reasonableness of the settlement. While the replies of BOMA and PG&E adequately address many of TURN's concerns, imposition of certain conditions related to monitoring and customer information are necessary to support a finding that the settlement is reasonable in light of the record.

Many elements of the MM settlement agreement are reasonable. First, as a matter of policy, it is important for commercial building tenants to receive appropriate price signals and to have the opportunity to effectively use dynamic pricing options and participate in energy conservation programs. We understand that the extent of any related energy savings is questionable. BOMA estimates its members alone manage 600 million square feet of office space and estimates a related maximum demand of approximately 3,500 to 4,000 MW. However, BOMA indicates that tenants may control only 30% to 40% of the energy consumed in commercial buildings and TURN notes that demand elasticity may only be in the range of 1.5% to 9.1% based on the California Statewide Pricing Pilot's findings. Furthermore, implementation of any master metering, including changes to lease terms and installation of submeters and associated equipment, will take time. Even so, the evolution from essentially flat rate electric billing with no incentive for tenants to control their use to a system where tenants can cost effectively manage energy use under their direct control provides persuasive reasoning when evaluating the overall reasonableness of the MM settlement.

Second, tenants would be appropriately billed for the usage under their direct control. The building manager can only charge tenants the volumetric rate that is charged to the master meter customer and the demand charges must be allocated to tenants in accordance with their measured coincident peak demand.

Charges for additional submetering and information services charges would be billed to those tenants that elect to take the service.

Third, with respect to common load, there will be no difference in the way tenants are billed. Common usage will be metered separately and continue to be billed and paid in proportion to the square footage tenants occupy.

Fourth, in buildings where some tenants agree to submetering and others either refuse or are under leases that have not yet expired, metered tenants would be billed in accordance with the master meter tariff for their controlled usage, common usage would be metered and allocated across all customers in accordance with leases (generally square footage) and recovered through rent as is done today, and the balance of the building metered usage would be allocated to the non-metered customers as specified in their leases.

Fifth, bills from building owners for submetered tenants would have the same level of detail as the master meter bill from PG&E. The bill would also show the customer's square footage allocation of common area charges. In addition to billing data, information services could be available for virtual real time tracking of customer and building energy usage and costs to assist the tenant in managing energy costs.

Sixth, the MM settlement provision that leaves the resolution of any disputes concerning the billing and measuring of electricity to the submetered tenant and the building owner is comparable to that for other landlord provisioned and measured utility services for telecommunications, water, and residential gas and electricity.

However, in considering the reasonableness of the settlement, we agree with certain of the concerns raised by TURN. The ultimate cost to commercial tenants, especially compared to what is now embedded in rent, whether or not

commercial tenants will actually be afforded opportunities to more efficiently meet their electricity needs, and whether or not commercial tenants will actually be able to more efficiently meet their electricity needs are considerations that must be taken seriously. While BOMA indicates that its members have incentives to keep building owner charges for electricity low, that it is in the public interest that building owners participate in dynamic pricing and energy conservation programs, and that BOMA will encourage its members to so, there is little on the record that quantifies the effect of building owner charges for meters, meter reading and billing services or quantifies the potential dynamic pricing and energy conservation effects and savings that might accrue under the MM settlement. Rather than dismissing or delaying commercial building master metering because of these concerns, which may or may not evolve into actual problems, we would rather monitor the program as it develops and then address any actual problems as needed. To this end, we condition adoption of the settlement on the following reporting requirement.

For PG&E's next Phase 2 GRC, PG&E and BOMA should conduct a statistically significant survey regarding commercial building master metering experience to date, in order to answer the following questions:

1) How many commercial buildings managed by BOMA members in PG&E's service territory provide submetering options to its tenants? What percent of commercial buildings managed by BOMA members in PG&E's service territory does this represent?
2) What is the approximate total building demand associated with commercial buildings managed by BOMA members in PG&E's service territory that provide submetering options to their tenants?
3) Were there any noticeable changes to total building usage and usage patterns after the implementation of commercial

submetering? Can those changes be quantified? If so, what are the results?

4) What were the actual monthly meter, meter reading and billing charges for submetered service that were billed to submetered customers?

5) How were the monthly meter, meter reading and billing charges determined and calculated?

6) Were the monthly meter, meter reading and billing charges determined and calculated consistently by building owners?

7) How do the building owner charges for the monthly meter, meter reading and billing compare to what PG&E would charge for the same activities?

8) How do submetered tenants' total bills (metered plus common allocation) compare to what would have been charged under the previous square footage allocation for the entire bill?

9) For submetered tenant charges, including those related to metered energy use, allocated demand charges and landlord determined charges for meters, meter reading and billing, how do commercial tenant bills compare to what PG&E would have charged a customer for direct service on an appropriate comparable tariff schedule?

10) What types of guidelines and help, if any, were provided to building owners by BOMA or PG&E regarding meter installation, meter O&M, meter reading, and billing?

11) What types of problems were experienced by building owners with regard to meter installation, meter O&M, meter reading, and calculating bills? How were those problems reconciled?

12) To what extent did building owners provide appropriate information to their submetered tenants relating to available dynamic pricing options and energy efficiency programs, including those programs requiring landlord assistance in order to participate?

13) To what extent did commercial tenants participate in dynamic pricing and energy efficiency programs, including those programs requiring landlord assistance in order to participate?

14) How can commercial building master metering be improved?

Information provided in response to these questions will then be evaluated by the Commission and appropriate action will be taken as needed.

6.3. Alternative Terms and Conditions

TURN advocates rejection of the MM settlement. However, TURN also offers the following modifications to address some (but not all) of the shortcomings of the Settlement identified above, in the event that the Commission intends to adopt the settlement. In that case, TURN strongly recommends that the Commission's adoption of the MM settlement be conditioned upon the acceptance of alternative terms. Those alternative terms, BOMA's response to the need for them,[19] and our resolution of conflicting views follow.

6.3.1. Common Loads Should Not Be Allocated To Tenants

TURN recommends that the MM settlement be modified to prohibit the use of submeters to allocate common costs to tenants. According to TURN, tenants have no control over common loads, and the incentive to minimize and control these loads should remain with the entity that controls common loads: the building owners.

[19] PG&E, the other party to the settlement, replied to TURN's alternative terms by emphasizing that since it has no customer relationship with submetered tenants and has no role in the commercial agreement between landlord and its tenants, PG&E cannot be responsible for enforcing requirements proposed by TURN as detailed in this section of the decision.

BOMA states that submeters will not be used for this purpose. Costs related to common load will be allocated to tenants consistent with the current practices of allocating costs, typically on a square footage basis.

To the extent that it is not clear in the MM settlement, we clarify that submeters shall not be used to allocate common costs to tenants.

6.3.2. Submeters Should Provide at Least the Same Information as the Master Meter

In order to facilitate accurate bill calculation at the same rates charged by PG&E to the master meter, TURN recommends that the settlement be modified to make it clear that building owners who install submeters should be required to install submeters with at least the same degree of sophistication as the master meter. For instance, if the master meter is a TOU meter, the submeters should have the same capabilities. If PG&E upgrades the master meter for purposes of applying a more "dynamic" or "advanced" rate schedule, the submeters should likewise be updated.

We agree with BOMA's response that this requirement is already implicit in the proposed modification of Rule 18 for submetered bills to be calculated using the same tariff as the master meter. The need for submeters to provide at least the same information as the master meter is clear.

6.3.3. Tenants Should Be Provided With the Same Information Currently Provided to Residential Submetered Tenants by the Utility and the Master Meter Customer Pursuant to D.04-11-033 and D.05-05-026

In D.04-11-033 and D.05-05-026, the Commission placed several requirements on residential landlords who submeter their tenants' usage, as well as on the serving utility, to provide such tenants with basic consumer protections. TURN argues that the MM settlement should be modified to

incorporate similar requirements. First, as a general matter, building owners installing submeters should be required to provide all tenants with the following information: (1) the PG&E rate schedule serving the master meter; (2) the contact information for PG&E; (3) the contact information for the Commission's Consumer Affairs Branch; and (4) the contact information for the California Department of Food and Agriculture, Division of Measurement Standards, who is responsible for regulating measuring devices, including submeters, by testing for accuracy, evaluating suitability of devices for installation and use, and reviewing billing, pricing, and metering complaints.

Additionally, TURN recommends PG&E should be required to respond to inquiries from submetered commercial tenants, as required of the utility by D.04-11-033 for residential submetered tenants. PG&E should at least provide information about the rate schedule applied to the master meter, and explain how it calculates its bills on that rate schedule, since the building owner must allocate energy costs at the same scheduled rate as billed by PG&E to the master meter. PG&E should additionally refer the tenant to the Commission's Consumer Affairs Branch, for resolution of complaints, if the tenant and building owner cannot reach resolution.

Finally, TURN recommends the MM settlement should require building owners to clearly notify tenants that energy charges will be removed from rent when submetering commences. PG&E explains that under the settlement, "The master-meter customer should simultaneously be removing from rent the corresponding submetered charges," but "PG&E will not be monitoring this activity." To provide tenants with an opportunity to detect a problem, TURN argues that PG&E should be required to notify a master meter customer installing submeters that the customer must notify tenants that they are entitled

to have energy charges removed from rent when submetering commences. This requirement would be consistent with the requirement adopted by the Commission in D.05-05-026 for residential submetering.

BOMA indicates that it intends to make available as much information as possible that can assist tenants in understanding and managing their energy costs. BOMA also agrees that tenants should be informed about how to contact the Division of Measurement Standards and others for dealing with any issues of meter accuracy, etc, that may arise. However, BOMA asserts that there is no need to modify the settlement, since there is already a body of State law that provides consumer protections.

6.3.3.1. Discussion

TURN's recommendation that tenants should be provided with the same information currently provided to residential submetered tenants pursuant to D.04-11-033 and D.05-05-026 is generally reasonable. Knowing the rate schedule of the master meter and contact information that might be of assistance in addressing meter, meter reading or billing problems is essential and we will require such information be made available to commercial tenants. In response to BOMA, we note that having consumer protections in a body of State law may be much different than tenants knowing the protections exist at all and knowing who to contact when problems arise.

In its reply to TURN's comments, BOMA points out that the Department of Food and Agriculture has set up a complaint procedure using the offices and persons of the county sealers as contact points through which customers may complain about their meters. Building owners should provide tenants the appropriate contact information for this process.

The proposed requirement for PG&E to respond to inquiries from submetered commercial tenants, even if only in a general sense, provides some assurance that commercial tenants will have reasonable means to examine how fairly they are being treated by their landlords. For instance, having PG&E available to explain how bills are calculated provides a reasonable means for commercial tenants to verify their submeter bills.[20]

We will not require building owners to provide contact information for the Commission's Consumer Affairs Branch. As indicated previously, disputes concerning the billing and measuring of electricity are to be resolved between the tenant and landlord. PG&E should be able to assist tenants in understanding how their bills should be calculated consistent with the clarifications provided in this decision.

We do agree that it is important that tenants be notified that they are entitled to have tenant controlled energy charges removed from rent when submetering commences.[21] However, rather than requiring PG&E to notify a master meter customer installing submeters that the customer must notify tenants that they are entitled to have energy charges removed from rent when submetering commences, we will impose that requirement directly on the building owner. That information should be provided along with the other information that the building owner must provide to its submetered tenants.

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[20] We note PG&E's assertion that commercial submetered tenants are not and will not be entitled to information about their landlord's utility bill under Commission policies on an individual customer's information. Access to confidential customer information is not necessary under TURN's proposal.

[21] See D.05-05-026, *mimeo.*, pp. 16 -17.

Besides these requirements, we will add that the building owner should provide sufficient information and guidance for their submetered customers to be able to replicate and verify their total bills. Additionally, the building owner should provide information on dynamic pricing options and all energy efficiency programs that are relevant to its submetered customers, including those programs that require landlord assistance for participation. Both conditions slightly expand on MM settlement terms, provide more explicit expectations on our part and are consistent with BOMA's stated intention to make available as much information as possible that can assist tenants in understanding and managing their energy costs.

6.3.4. PG&E Should Allow Submetering Only Where the Master Meter Customer Meets Certain Requirements

The MM settlement would modify PG&E's Rule 18 to permit any commercial customer receiving electric serve at an eligible high rise office building to install submeters, so long as the owner charges the tenants at the same rate as PG&E bills the master meter. TURN recommends that each of the following conditions be added to those proposed by PG&E and BOMA as modifications to Rule 18.C.2.b.

(a) It is impractical for PG&E to separately bill each tenant.

(b) The master meter customer has participated in PG&E's energy efficiency programs or has otherwise implemented all cost-effective energy efficiency retrofits to the building, not including equipment solely within the possession of and maintained by tenants.

(c) Each tenant has control over the majority of her or his electric energy use.

(d) Substantial energy conservation will be effected by submetering.

(e) The master meter customer takes service on a "dynamic pricing" PG&E rate schedule.

BOMA is in agreement with item (a) which replicates conditions already stated in Rule 18.C.2.c and item (e) since all buildings with demand in excess of 200 KW must be on a TOU schedule. With respect to items (b), (c) and (d), BOMA argues that TURN has made no case as to how the requirements would enhance the potential for fulfilling objectives under the proposed settlement or what the requirements would accomplish.

In this instance, we agree with BOMA. Items (a) and (e) are important but are already sufficiently addressed such that there is no need to modify the settlement. Regarding Item (b), we encourage customers to participate in all available cost effective energy efficiency programs, but see no reason or logic in penalizing tenants by withholding the option to obtain submetered service and the opportunity to better manage their usage solely because the landlord did not pursue every energy efficiency option. Regarding (c), BOMA makes a valid point. Without submetering it is impossible to know what portion of a tenant's usage relates to submetered usage and what portion relates to common usage. Item (d) is, in general, a desired result but the chances of achieving that result are not specifically known and may not be known until the energy efficiency measures are actually pursued. In this case, rather than guessing as to what portion of usage is under the control of a tenant or how much energy efficiency can be obtained, we feel it is more appropriate to provide commercial tenants with the opportunity to participate in dynamic pricing and energy efficiency programs and to provide proper incentives to make the programs successful. There is always a possibility that commercial building master metering may fail to provide the envisioned benefits, but it is in the public interest to put our best

efforts into effect now rather than later. We note that this is an area that would be monitored under the reporting requirement condition that was previously specified and discussed.

6.4. Consistency with Law

TURN asserts that the MM settlement is inconsistent with the law in that it contradicts the spirit, if not the letter, of D.63562 and D.92109, which adopted and reaffirmed the prohibition on commercial submetering and ignores the Commission's prior directives in D.99-10-065 and D.05-05-026 regarding the procedural vehicle and issues to consider if and when the Commission reconsiders commercial submetering.

BOMA argues that D.63562 and D.92109 have not aged well in an era of technological advances and are not entitled to the veneration TURN seeks for them. BOMA also states D.99-10-065 is not the logical offspring of D.63562 and D.92109 that TURN suggests.

We find that the MM settlement, as conditioned by our decision today, is consistent with law. We analyze each of decisions cited by TURN below. In summary, while the MM settlement imposes a result (authorization of commercial submetering) that is different than the results of D.63562 and D.92109, (prohibition of commercial submetering), the Commission's reasons for prohibiting commercial submetering are no longer applicable or are now sufficiently addressed by the terms of the conditioned MM settlement. That is, when evaluated in terms of what concerned the Commission in D.63562 and D.92109 and led to the prohibition of commercial submetering and reaffirmation of the prohibition, the MM settlement, with the conditions discussed above, is consistent with those decisions. In D.99-10-065, the Commission described certain issues requiring further thought before it would decide to modify the

commercial submetering prohibition. As described below, after consideration of those issues, we feel comfortable moving forward with the program. In D.05-05-026, the Commission offered but did not mandate the rulemaking process for parties to pursue commercial submetering. Commercial submetering can also be addressed in a utility specific proceeding. Either method is consistent with law.

6.4.1. D.63562

In 1962, the Commission issued D.63562, barring nondomestic customers from billing their tenants for electricity based on submetering other than for domestic use or by municipalities or other public utilities purchasing utility service under wholesale schedules designed for resale purposes. The Commission authorized this change in policy after concluding that elimination of nondomestic submetering was in the public interest.

Prior to that decision, PG&E had the right to either grant or deny resale privileges to a customer. The purpose of changing Rule 18 at that time was to clarify the intent and set forth more clearly PG&E's practice thereunder. PG&E maintained that the intent of, and practice related to, the then-current Rule 18 was to prohibit resale by submetering other than for domestic use or by municipalities or other public utilities purchasing utility service under wholesale schedules designed for resale purposes. There were, however, some customers who had been permitted to resell electricity or gas to commercial tenants by submetering. This had been allowed when the convenience of PG&E, type of service, or other considerations indicated that no substantial adverse effect would accrue to PG&E or to its ratepayers generally.

At the time PG&E made that request it had 15 requests for nondomestic resale by submetering of which 8 involved requests to change from direct

metering to master metering and resale through submeters. PG&E's principal concern appeared to be potential substantial revenue loss which presented a real and present danger of adversely affecting PG&E and its existing and future ratepayers in a manner not consistent with the public interest.

Also, according to Commission staff at that time, elimination of nondomestic submetering was desirable and the practice of permitting master metering was not in the public interest, because it puts an unregulated person into the utility business and affords no recourse to the ultimate consumer either as to rates or as to conditions of service.

Regarding PG&E and Commission staff concerns regarding rates and revenues, under the terms of the MM settlement whereby the cost of electricity allocated to commercial building tenants will be billed at the same rate as the master meter billed by PG&E, revenues to PG&E would not be affected by submetering for reasons other than changed usage behavior of tenants implemented as a result of having the opportunity to directly benefit from the changed behavior. Such a result is consistent with the public interest.

It is not clear what the Commission staff's concern was with respect to consumer recourse as to conditions of service. However, based on the discussion concerning the reasonableness of the settlement, we believe the commercial tenants subject to submetering are reasonably protected as to:

How they are put on such service.
How they will be billed for such service.
How complaints regarding service will be addressed.

Based on consideration of the intent of PG&E in requesting modification to Rule 18 in 1962 and the reasons for requesting the modification, reinstitution of submetering for commercial customers is not inconsistent with D.63562 because

concerns regarding rates and conditions of service have been addressed and alleviated by the terms of the conditioned MM settlement.

6.4.2. D.92109

The Commission reconsidered the issue of commercial submetering in D.92109, issued in 1980. In that proceeding, two commercial customers of PG&E filed an application with the Commission for authority to deviate from PG&E's submetering rules. In denying applicants' request, the Commission stated:

> The reasons for invoking the restriction against nondomestic submetering appear to be as valid today as they did in 1962. Use of PG&E's trained personnel does assure a uniformity of meter reading, billing, and adjustments. Being headquartered in Illinois would require an employee of EMC to travel to the shopping centers once a month for the purpose of reading meters. All bills would be prepared in Illinois and mailed to the tenants in California. The usual problems relating to meter reading, the testing and repair of meters, billing, and the processing of disputed bills would be compounded because of the geographical distance between EMC and the tenants.
>
> Even this geographically remote service would be jeopardized if the funds generated by submetering failed to produce a profit. The record is silent on what service would be provided if EMC failed to perform. According to applicants' proposal, EMC's compensation would be determined by a formula upon a percentage of the profits derived from the resale of electricity. When preparing their revenue and cost estimates, applicants gave no consideration to time-of-use rates, and the record clearly demonstrates that with time-of-use rates there would be no profit. Unless some suitable arrangement could be made between applicants and EMC an alternative service would have to be made available. In either event, there would be no regulatory accountability that would ensure consistent maintenance of suitable operating standards and billing practices.
>
> We believe that metering of individual end users has a beneficial effect on the conservation of energy, but these benefits would be greatly offset by a variety of potential problems that could arise if

> the resale of energy by submetering was authorized for nondomestic customers. We believe that direct metering by PG&E would be the best way to achieve conservation and at the same time assure applicants' tenants of a uniform and reliable standard of service. But, in the absence of a rule change eliminating the provision for master metering where the charge to tenants is absorbed in the rental of the premises, the only way that this can be accomplished is by way of mutual agreement between applicants and PG&E. We strongly suggest that the parties work toward this end.[22]

TURN cites D.92109 to support its claim that the MM settlement is inconsistent with law. However, D.92109 bases much of its reasoning for rejecting commercial submetering on D.63562. In our above discussion of D.63562, we determined that reinstitution of submetering for commercial customers is not inconsistent with D.63562 because concerns regarding rates and conditions of service have been addressed and alleviated by the terms of the conditioned MM settlement. That alleviates much of our concern with the MM settlement when reviewed in light of D.92109.

In D.92109 the Commission also expressed concern with the geographical problem of having an Illinois based company providing the meter reading and billing services. We would expect that in general building owners would solicit the most cost effective services and that technology advances since 1980 would address at least some of the concerns of using out-of-state services. Nonetheless, we are interested in the costs and charges related to these services since they will essentially be unregulated charges to the submetered tenants. As discussed earlier, for monitoring and evaluation purposes, we have conditioned adoption of the MM settlement with a requirement that PG&E and BOMA provide certain

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[22] Application of H.A.R.T Properties and Sun Valley (1980) 4 CPUC 2d 179, 186.

information in the next rate design proceeding. Some of that information pertains specifically to the costs of meters, meter reading and billing.

D.92109 also mentions a concern with submeter accuracy and reliability. In its reply to TURN, BOMA notes the state statutes and regulations that address the testing and installation of non-utility electric meters.[23] As an attachment to its reply, BOMA also provided a written description and explanation of the scheme of regulation that exists to protect commercial customers served through electric energy submeters. This includes general regulation of all measuring instruments as well as regulation of service agencies that might install and repair electrical energy submeters. Such evidence alleviates our concern on this topic.

For the above stated reasons, we determine that the conditioned MM settlement is consistent with law when viewed in light of D.92109.

6.4.3. D.99-10-065

In D.99-10-065, the Commission addressed issues related to distributed generation and electric distribution competition. Although the focus of the OIR was principally on distributed generation and distribution competition, the OIR also solicited comment on whether there should be a broader more comprehensive review of the utility distribution company (UDC) and what the ultimate role of the UDC should be in a restructured electric industry. As part of this discussion, the Commission noted the desire of some parties for the Commission to reassess restrictions on commercial building submetering.

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[23] BOMA cites California Business & Professions Code Sections 12200-12203; 12240, 12500.10, 12505-6, 12510, & 12531 and Title 4 California Code of Regulations, Sections 4027, 4080-1 and 4085-6.

The Commission in D.99-10-065 commented on a number of issues raised by commercial submetering that would require further thought before the Commission would decide to modify the commercial submetering prohibition. TURN notes two issues in particular, as follows:

> Second, we should determine if the submetering technology is capable of providing accurate and reliable meter usage data. Such an inquiry could include whether meter design specifications are needed for submeters. Also, some coordination with local governmental agencies, who are responsible for the accuracy of weights and measures, may be needed to ensure that any submeters used by a property owner remain accurate.
>
> Third, if submetering is permitted, the Legislature should consider whether amendment of § 739.5 is necessary to ensure that the submetered tenants of commercial buildings are billed at the same rate that the property owner pays for the electricity. That is, should all of the cost savings or discounts that the property owner receives from the utility be passed directly through to the submetered tenant? If on-site distributed generation is used to generate electricity for the building tenants, the Legislature may need to consider what rate the submetered tenants should be charged. Consideration of how much submetered tenants should be charged would help resolve some of the concern that the UDCs raised concerning the creation of an unregulated private distribution system.[24]

TURN notes the concerns regarding meter accuracy and reliability as well as billing and cost allocation to submetered tenants were consistent with the concerns that had persuaded the Commission in D.63562 and D.92109 that commercial submetering was not in the public interest.

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[24] D.99-10-065, 3 CPUC 3d 151, 184.

Our discussion of D.92109 addresses the statutes and regulations that govern non-utility meter installations and testing. Regarding the amendment of Section 739.5, BOMA suggests that the legislature and Commission will want to benefit from experience before deciding whether to seek new legislation or impose additional restrictions. From our standpoint, we agree with BOMA, as evidenced by our condition to the MM settlement that requires certain information related to submeter rates be provided in PG&E's next GRC rate design proceeding.

Therefore, while the Commission expressed concerns related to submetering in D.99-10-065, the particular concerns identified by TURN have been satisfactorily reconciled with the terms of the MM settlement as conditioned by our decision today.

6.4.4. D.05-05-026

On August 26, 2004, the National Submetering and Utility Allocation Association filed a petition for rulemaking, P.04-08-038, requesting that the Commission open a rulemaking to consider rule changes to permit owners of existing master-metered multi-unit residential buildings to submeter electricity and natural gas service to individual tenants. The petition identified two types of buildings that could fall into this category, multi-unit residential buildings constructed before December 1981 and buildings constructed at any point in time for a commercial purpose that have since been converted into a multi-unit residential purpose. The petition also requested that the Commission consider allowing building owners/operators to submeter service to non-residential customers but did not pursue this second request in significant detail. BOMA had filed a petition to intervene, on March 17, 2005, to address solely the question of allowing submetering in commercial buildings. Because of the lack

of development of this issue by petitioner, the Commission, in D.05-05-026, denied up front the request to open a rulemaking on the commercial property issue and focused solely on the issue of submetering as it relates to existing multi-unit residential buildings. The Commission also denied BOMA's petition to intervene. However, BOMA, or any other interested party, was invited to file a petition for rulemaking, if it so desired, to pursue this topic. Because of this invitation to file a petition for rulemaking, TURN suggests the MM settlement is inconsistent with law because the topic of commercial submetering was pursued through a utility specific application rather than through a rulemaking. We disagree.

D.05-05-026 did not preclude the issue of commercial submetering from being raised in utility specific proceedings, nor did it discuss the relative merits or preferences related to the different forums. A rulemaking is one type of proceeding by which we can consider commercial submetering issues. However, moving forward in a specific utility proceeding is also a valid option, and we choose to do so now with PG&E, because providing commercial tenants with the opportunity to engage in dynamic pricing and energy efficiency programs in a timely manner is important from a policy perspective. This is especially true in light of the Energy Action Plan's statement of continued support of the loading order that identifies energy efficiency and demand response as the State's preferred means of meeting growing energy needs.[25]

TURN has raised valid concerns with the commercial submetering proposal, but BOMA has responded adequately to most of those concerns. We

[25] See Energy Action Plan II, p. 2.

feel comfortable moving forward now, with certain conditions as discussed above. Problems or new issues may arise over time, but they can be addressed in subsequent proceedings. Experience gained through PG&E's program may be valuable in formulating such programs for SCE and SDG&E. We see no reason why uniformity in commercial master metering cannot be achieved over time through utility specific proceedings. For instance, D.63592, the 1962 decision that prohibited commercial submetering for PG&E customers was done in a PG&E specific proceeding. A result of the Commission adopting PG&E's proposal in that proceeding was "...uniformity with the language of similar rules of the other major utilities in California will be more nearly achieved,"[26]

6.5. The Public Interest

PG&E and BOMA state that by resolving the master meter issues raised in PG&E's application, the settlement agreement saves the Commission and parties from the time, expense and uncertainty associated with litigating these issues and is thus in the public interest.

TURN argues that the settlement is not in the public interest because it serves the interests of commercial building owners alone, harms commercial tenants and does not meaningfully benefit commercial tenants or PG&E ratepayers.

6.5.1. Discussion

We find that the MM settlement, with conditions, is in the public interest. The public interest of commercial master metering is broad and lies in providing commercial tenants with the opportunity to better manage their loads and reduce

[26] D.63562, 59 CPUC 547, 551.

costs. Also, overall reduction of system demand and flattening load curves are in the interest of ratepayers at large. As indicated previously, the public policy considerations are persuasive in our actions related to approving this settlement. We have imposed certain reporting requirements and consumer protections as conditions for adoption of the settlement. These conditions provide assurance that the settlement is both reasonable and in the public interest.

6.6. Conclusion on Master Meter Settlement

As discussed above, we find reasons to condition the MM settlement. For consumer protection purposes, we require the building owner and PG&E to provide certain specific information to submetered tenants. Also, in order to monitor and evaluate the commercial submetering option, we require PG&E and BOMA to provide certain information in PG&E's next GRC rate design proceeding. With these conditions, the MM settlement is reasonable in light of the record, consistent with law, in the public interest and should be adopted.

In their comments on the August 7, 2007 proposed decision (PD), both PG&E and BOMA agreed to the conditions specified in Conclusion of Law 2. The conditioned MM Settlement will therefore be adopted.

To comply with Conclusion of Law 2, BOMA will conduct surveys of its members to gather the information necessary to answer the questions in Section 6.2.3 and will work with PG&E to process, analyze, and present the survey information (plus relevant building load data from PG&E) in PG&E's next Phase 2 GRC. Also, BOMA will work with PG&E to develop an informational packet that will be provided to BOMA Members specifying the detailed requirements of building owners to provide tenant information as specified in Findings of Fact 12 and 13, plus details concerning tenant electricity cost allocation and billing in accordance with the new Rule 18 and the PD.

7. Comments on Proposed Decision

The PD of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on or before August 27, 2007. No reply comments were filed.

PG&E filed comments on behalf of the Settling Parties, and BOMA filed separate comments on the MM Settlement issue. The comments address MM Settlement conditions and request that the PD be adopted with certain minor modifications. Where appropriate, changes have been made to the PD.

Regarding implementation of rate changes, the PD specified an effective date on or after November 1, 2007. In comments, PG&E indicates that it will consolidate most Phase 2 changes with the Annual Electric True-Up (AET) for implementation on January 1, 2008.[27] This approach both minimizes the number of electric rate changes and allows the Phase 2 rate change to take place in the context of more extensive changes to rates contemplated in the AET. Further, by timing its Phase 2 rate changes to coincide with the projected elimination of the Fixed Transition Amount on January 1, 2008, PG&E hopes to reduce the effect of the increased allocation of costs for residential and small commercial customers associated with the settlement agreements. PG&E's proposal is reasonable and consistent with the intent of the PD.

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[27] The Settling Parties recognize that certain initiatives require employee training and/or changes to PG&E systems beyond a normal change to a rate value; that such systems and program changes will be implemented by PG&E diligently as time permits and in a manner consistent with maintaining the secure, smooth operations of the systems involved; and that some initiatives could take several months to implement.

8. Assignment of Proceeding

Rachelle B. Chong is the assigned Commissioner and David Fukutome is the assigned ALJ in this proceeding.

Findings of Fact

1. The MCRA, residential rate design, streetlight rate design, SL&P rate design, MLLP rate design, and agricultural rate design settlements are uncontested all-party settlements.

2. The MCRA, residential rate design, streetlight rate design, SL&P rate design, MLLP rate design, and agricultural rate design settlement agreements are each reasonable in light of the record, consistent with law and in the public interest.

3. PG&E has provided a substantial amount of information on distribution marginal costs, which describes the location of distribution projects undertaken during the year, the cost of each project and the portion(s) of its territory the project is intended to serve, in its workpapers and will have the same type of information available in its next GRC proceeding. It is not necessary for PG&E to file annual reports to provide this information.

4. The MM settlement is not an all party settlement and is contested.

5. It is important for commercial building tenants to receive appropriate price signals and to have the opportunity to effectively use dynamic pricing options and participate in energy conservation programs.

6. Under the MM settlement, commercial tenants would be appropriately billed for the usage under their direct control, and common usage will be metered separately and continue to be billed and paid in proportion to the square footage tenants occupy.

7. Under the MM settlement, in commercial buildings where some tenants agree to submetering and others either refuse or are under leases that have not yet expired, metered tenants would be billed in accordance with the master meter tariff for their controlled usage, common usage would be metered and allocated across all customers in accordance with leases (generally square footage) and recovered through rent as is done today, and the balance of the building metered usage would be allocated to the non-metered customers as specified in their leases.

8. Under the MM settlement, bills from commercial building owners for submetered tenants would have the same level of detail as the master meter bill from PG&E.

9. The MM settlement provision that leaves the resolution of any disputes concerning the billing and measuring of electricity to the submetered tenant and the commercial building owner is comparable to that for other landlord provisioned and measured utility services for telecommunications, water, and residential gas and electricity.

10. While BOMA indicates that its members have incentives to keep building owner charges for electricity low, that it is in the public interest that building owners participate in dynamic pricing and energy conservation programs, and that BOMA will encourage its members to so, there is little on the record that quantifies the effect of building owner charges for meters, meter reading and billing services or quantifies the potential dynamic pricing and energy conservation effects and savings that might accrue under the MM settlement.

11. Rather than dismissing or delaying commercial building master metering because of concerns related to building owner charges and implementation of energy efficiency measures, which may or may not evolve into actual problems,

it is reasonable to monitor the program as it develops and then address any actual problems as needed.

12. Commercial tenants should be provided with certain information currently provided to residential submetered tenants pursuant to D.04-11-033 and D.05-05-026 including the following:

(a) Building owners installing submeters should provide all tenants with the following information: (1) the PG&E rate schedule serving the master meter; (2) the contact information for PG&E; (3) the contact information for the California Department of Food and Agriculture meter complaint process; and (4) notification that tenant controlled energy charges will be removed from rent when submetering commences.

(b) PG&E should respond to inquiries from submetered commercial tenants and at least provide information about the rate schedule applied to the master meter and explain how it calculates its bills on that rate schedule.

13. Consistent with BOMA's stated intention to make available as much information as possible that can assist tenants in understanding and managing their energy costs, it is reasonable for building owners to provide the following information to submetered tenants:

(a) Sufficient information and guidance for their submetered customers to be able to replicate and verify their total bills.

(b) Information on dynamic pricing options and all energy efficiency programs that are relevant to its submetered customers, including those programs that require landlord assistance for participation.

14. Based on consideration of the intent of PG&E in requesting modification to Rule 18 in 1962 and the reasons for requesting the modification, reinstitution of submetering for commercial customers is not inconsistent with D.63562 because concerns regarding rates and conditions of service have been addressed and

alleviated by the terms of the MM settlement, as conditioned by our decision today.

15. D.92109 bases much of its reasoning for rejecting commercial submetering on D.63562.

16. State statutes and regulations sufficiently address the testing and installation of non-utility electric meters.

17. While the Commission expressed concerns related to submetering in D.99-10-065, the particular concerns identified by TURN have been satisfactorily reconciled with the terms of the MM settlement, as conditioned by our decision today.

18. This issue of commercial submetering can be addressed in either a generic rulemaking proceeding or in a utility specific proceeding.

19. The public interest of commercial master metering is broad and lies in providing commercial tenants with the opportunity to better manage their loads and reduce costs.

20. Overall reduction of system demand and flattening load curves are in the interest of ratepayers at large.

21. The MM settlement, as conditioned by our decision today, is reasonable in light of the record, consistent with law and in the public interest.

Conclusions of Law

1. The MCRA, residential rate design, streetlight rate design, SL&P, MLLP, and agricultural rate design settlement agreements should be approved.

2. The MM settlement should be approved once PG&E and BOMA agree to the following:

(a) In PG&E's next Phase 2 GRC, BOMA and PG&E will provide sufficient information, based on actual commercial building

master metering experience to date, to answer the questions specified in Section 6.2.3 of this decision

(b) PG&E and building owners will be required to provide the information summarized above in Findings of Fact 12 and 13 to commercial submetered tenants.

3. This order should be effective immediately so that PG&E may prepare the necessary advice letter, parties may review and comment on that advice letter, and rates may be timely adjusted.

INTERIM ORDER

IT IS ORDERED that:

1. The motions dated February 9, March 16, and May 4, 2007 which request adoption of the marginal cost and revenue allocation settlement agreement, the residential rate design settlement agreement, the streetlight rate design settlement agreement, the medium and large light & power rate design settlement agreement, and the agricultural rate design settlement agreement are granted. The settlement agreements in Appendices B, C, D, E and F are adopted.

2. Regarding the motion dated April 27, 2007, which requests adoption of the small light & power rate design settlement agreement, the small light & power rate design settlement agreement, as detailed in Appendix G, is adopted. Also, since Pacific Gas and Electric Company (PG&E) and the Building Owners and Managers Associations of San Francisco, Greater Los Angeles, Orange County, and California agree to the conditions specified in Conclusion of Law 2, the commercial building master meter settlement agreement, as detailed in Appendix H, is adopted.

3. Within 45 days of the date this order is mailed, PG&E shall file an advice letter in compliance with General Order 96-B. The advice letter shall include revised tariff sheets to implement the revenue allocations and rate designs adopted in this order. The tariff sheets shall become effective on or after November 1, 2007, subject to Energy Division determining that they are in compliance with this order. No additional customer notice need be provided pursuant to General Rule 4.2 of General Order 96-B for this advice letter filing.

4. This proceeding remains open to consider future dynamic pricing tariffs and options for PG&E.

This order is effective today.

Dated September 6, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX A
List of Appearances

Applicant: Ann H. Kim, Daniel Cooley, Deborah S. Shefler and Shirley A. Woo, Attorneys at Law, and Rene Thomas, for Pacific Gas and Electric Company.

Interested Parties: R. Thomas Beach for Crossborder Energy; Law Offices of William H. Booth, by William H. Booth, Attorney at Law, for California Large Energy Consumers Association; McCracken, Byers & Haesloop, by David J. Byers, Attorney at Law, for California City-County Street Light Association; Sean Casey, for San Francisco Public Utilities Commission; Goodin, MacBride, Squeri, Ritchie & Day, LLP, by Michael B. Day and Joseph F. Wiedman, Attorneys at Law, for PV Now, by Thomas J. MacBride, Jr., Attorney at Law, for Building Owners and Managers Associations of San Francisco and California, and by James D. Squeri, Attorney at Law, for California Retailers Association; Douglass & Liddell, by Daniel W. Douglass, Attorney at Law, for Direct Access Customer Coalition, and by Gregory S. G. Klatt, Attorney at Law, for Wal-Mart/JC Penney; Kelly M. Ford, Attorney at Law, for San Diego Gas & Electric Company; Matthew Freedman and Haley Goodson, Attorneys at Law, for The Utility Reform Network; Department of the Navy, by Norman J. Furuta, Attorney at Law, for Federal Executive Agencies; Morrison & Foerster, LLP, by Peter Hanschen, Attorney at Law, for Agricultural Energy Consumers Association; Ellison, Schneider & Harris, LLP, by Lynn Haug, Attorney at Law, for California Department of General Services/Energy Policy Advisory Committee and East Bay Municipal Utility District, and by Greggory L. Wheatland, Attorney at Law, for Vote Solar Initiative; Gregory Heiden, Attorney at Law, for the Division of Ratepayer Advocates; Alcantar & Kahl, by Evelyn Kahl, Attorney at Law, for Energy Producers and Users Coalition, and by Seema Srinivasan, Attorney at Law, for Cogeneration Association of California; Manatt, Phelps & Phillips, LLP, by Randall W. Keen, Attorney at Law, for Indicated Commercial Parties; Carolyn Kehrein, of Energy Management Services, for Energy Users Forum; Paul Kerkorian, of Utility Cost Management, LLC, for California Rice Millers, ADM Rice, Inc.; Ronald Liebert, Attorney at Law, for California Farm Bureau Federation; Sutherland, Asbill & Brennan, LLP, by Keith R. McCrea, Attorney at Law, for California Manufacturers & Technology Association; Frank A. McNulty and Maricruz Prado, Attorneys at Law, for Southern California Edison Company; Gail A. McNulty, for Native American Heritage Commission, Stephen A. S. Morrison, Attorney at Law, for City and County of San Francisco; Rob Neenan, for California League of Food Processors; Les Nelson, for Western Renewables Group; Andersen & Poole, by Edward G. Poole, Attorney at Law, for Western Manufactured Housing Communities Association; Bill F. Roberts, of Economic Sciences Corporation, for Building Owners and Managers Associations; J. P. Ross, for Vote Solar Initiative; James Ross, of RCS, Inc., for Cogeneration Association of California; Charmin Roundtree-Baaqee, for East Bay Municipal Utility District; Reed V. Schmidt, of Bartle Wells Associates, for California City-County Street Light Association; Day, Carter and Murphy, LLP, by Ann L. Trowbridge, Attorney at Law, for Modesto Irrigation District and Merced Irrigation District; and Joy A. Warren, Attorney at Law, for Modesto Irrigation District.

State Service: Dexter E. Khoury and Cherie Chan, for the Division of Ratepayer Advocates; Donald J. LaFrenz, Robert Benjamin, Bruce Kaneshiro, Felix Robles, and Maryam Ghadessi, for the Energy Division; Christopher R. Villarreal, for the Division of Strategic Planning; and Ron Wetherall, for the California Energy Commission.

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(END OF APPENDIX A)