

Decision 08-06-011 June 12, 2008

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.
(U39M)

Application 04-06-024
(Filed June 17, 2004;
reopened April 9, 2008)

**DECISION PARTIALLY GRANTING PETITION TO MODIFY
DECISION 06-12-025 TO INCREASE ENROLLMENT IN
RATE SCHEDULES E-7 AND EL-7**

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RATE SCHEDULES E-7 AND EL-7**

1. Summary

Rate Schedules E-7 and EL-7 of Pacific Gas and Electric Company (PG&E) are voluntary, time-of-use (TOU) schedules for residential solar photovoltaic (PV) customers. Based on conditions adopted in Decision (D.) 06-12-025, these schedules were closed to new customers by the end of 2007. Today's decision partially grants a petition for modification of D.06-12-025. In particular, Schedules E-7 and EL-7 are reopened to customers who submitted the appropriate application by December 31, 2007, thereby allowing enrollment of approximately 500 additional solar customers. PG&E may recover the additional revenue shortfall of about \$100,000 per year beginning in 2011, or as otherwise permitted pursuant to any tariff revisions authorized in PG&E's next general rate case (GRC). PG&E shall file revised tariffs within 14 days, and shall promptly notify affected customers. The proceeding is closed.

2. Background

On November 8, 2002, PG&E filed a formal application for a test year (TY) 2003 GRC. The GRC included two phases: Phase 1 to establish the revenue requirement; and Phase 2 to address rate design. On May 27, 2004, the Commission issued its Phase 1 decision, and directed PG&E to file a separate rate design application. (D.04-05-055.)

On June 17, 2004, PG&E filed the instant application regarding rate design. (A.04-06-024.) On November 18, 2005, the Commission issued a decision adopting five settlements, resolving all but one issue. (D.05-11-005.) On

December 15, 2005, the Commission resolved the last issue and closed this proceeding. (D.05-12-025.)

One of the five adopted settlements addressed residential rate design.¹ Among other things, the settlement provided that PG&E's existing residential TOU rate (Schedules E-7 and EL-7) be closed and a new revenue-neutral TOU rate (Schedules E-6 and EL-6) be opened May 1, 2006.² PG&E filed an advice letter to implement this settlement consistent with D.05-11-005. California Solar Energy Industries Association (CAL SEIA) filed comments in opposition to the advice letter, asserting that the closure of Schedule E-7 would have a negative effect on the financial viability of solar projects. Despite the opposition, the advice letter was approved, with Commission consideration of CAL SEIA's concern to be taken up in PG&E's then-pending 2007 GRC Phase 2 proceeding. (A.06-03-005.)

In November 2006, PG&E requested and received an extension of the procedural schedule for its 2007 Phase 2 GRC proceeding. The extension delayed a final decision on Phase 2 issues, including the economic viability issue raised by CAL SEIA. To mitigate the effects of the delay on solar projects, on

¹ The settlement was entered into between PG&E, the Commission's Division of Ratepayer Advocates (DRA), and The Utility Reform Network (TURN).

² Schedules EL-6 and EL-7 are the low income versions of Schedules E-6 and E-7. A customer on the low income schedule denoted as "EL" must qualify for the California Alternate Rates for Energy (CARE) program under certification criteria set forth in Rules 19.1, 19.2 and 19.3 of PG&E's tariffs. References herein to Schedules E-6 and E-7 also include Schedules EL-6 and EL-7, respectively, unless specifically noted otherwise.

November 22, 2006, five parties filed a petition to modify D.05-11-005.³ The petition sought a reopening of Schedule E-7 to up to 5,000 new solar customers, subject to certain conditions, pending the final resolution of issues for the replacement tariff, Schedule E-6.

The Commission granted the petition in D.06-12-025 on December 14, 2006. As a result, Schedule E-7 was reopened until the earlier of either (a) enrollment of 5,000 new solar customers on Schedule E-7 or (b) implementation of Schedule E-6 pursuant to Phase 2 of PG&E's 2007 GRC.

The Commission adopted a settlement of 2007 GRC Phase 2 issues in September 2007, including revised rate levels for Schedule E-6 effective January 1, 2008. (D.07-09-004.) This established the date of December 31, 2007 for the end of enrollments on Schedule E-7, even if there had been fewer than 5,000 new enrollees under the criteria in D.06-12-025.

PG&E asserts that certain problems, discussed more below, caused difficulties in administering the limited reopening of Schedule E-7. To mitigate potential harm to affected customers, on April 9, 2008 a petition for modification of D.06-12-025 was filed by four parties: PG&E, CAL SEIA, The Vote Solar Initiative, and the Solar Alliance (previously PV Now). TURN did not join with petitioners here. Petitioning parties propose modification of D.06-12-025 to permit interconnection of new solar customers under Schedule E-7 for those PG&E customers who had submitted to PG&E, on or before December 31, 2007,

³ The five parties are: PG&E, TURN, The Vote Solar Initiative, PV Now, and CAL SEIA.

either (a) a California Solar Initiative (CSI) application, or (b) an interconnection application.

On April 21, 2008, TURN filed a response in partial opposition to the petition. TURN does not oppose providing relief to affected solar customers, but recommends against “burdening ratepayers with further unfair subsidies associated with additional E-7 enrollment.” (Response, p. 11.). TURN proposes that the Commission encourage PG&E to allow the customers described in the petition to take service on Schedule E-7, at PG&E’s own expense, if PG&E believes that it failed to implement the limits imposed by D.06-12-025 in a manner that was fair to new solar customers. TURN asserts that in this way the Commission will treat all other ratepayers equitably and enable PG&E to remedy any inequities to its solar customers.

On April 30, 2008, PG&E filed a reply to TURN’s Response. PG&E opposes TURN’s recommendation, contending that its shareholders should not be penalized for PG&E’s efforts to identify and remedy inequities resulting from the process.

No motions for hearing have been filed, and no party has identified any disputed issues of material fact. Therefore, no hearing is necessary, and the matter will be decided based on the pleadings.

3. Petition is Timely

The Commission requires that a petition for modification be filed within one year of the effective date of the decision proposed to be modified or, if filed after one year has elapsed, to explain why the petition could not have been presented within one year. If the late submission is not justified, the Commission may issue a summary denial of the petition. (Rule 16.4(d) of the Commission’s Rules of Practice and Procedure.)

D.06-12-025 was effective on December 15, 2006. The petition was filed on April 9, 2008. Petitioning parties state that the petition was not filed within one year of D.06-12-025 because PG&E felt that it could effectively manage the limited reopening, including the cap of 5,000 customers. Petitioners assert that experience in developing and implementing a queue for the 5,000 customers resulted in considerably more difficulty managing the cap than PG&E expected. Customer and installer/provider concerns and complaints were most prevalent in January and February of 2008, according to petitioners, and led them to conclude that customer placement in the queue is now viewed by customers as being unfair and inequitable. After receiving this reaction from customers, and discussing this joint petition with stakeholders, PG&E says it determined that this petition was appropriate, even though it is being filed more than a year after the date of D.06-12-025.

No party opposes the petition as being untimely. We agree with petitioning parties that events over the course of 2007, culminating in 2008, provide reasonable explanation of why the petition was not filed within one year. Therefore, we find the petition timely.

4. Discussion

We are convinced for the reasons stated below that some relief is needed to mitigate potential harm to affected solar customers and the solar program. We also partially adopt TURN's recommendation regarding treatment of the revenue shortfall.

4.1. Tariff Administration

No different than any utility, PG&E is responsible for reasonable and proper administration of its approved tariffs. Reasonable implementation includes, but is not necessarily limited to, administration that is efficient,

effective, equitable and timely. A utility must not only propose tariffs that it anticipates it can implement without unacceptable administrative problems, but it must address reasonably foreseeable concerns before they become problems.

On December 14, 2006, with adoption of D.06-12-025, PG&E knew, or should have known, that it needed a reasonable way to administer limited enrollments in reopened Schedule E-7.⁴ By late 2007, however, its administration became increasingly problematic. PG&E fails to convincingly show why its administration did not include establishment of a queue before the problem became largely unmanageable, resulting in customer allegations of unfair and inequitable treatment by PG&E, and requiring Commission involvement.

PG&E explains its administration as follows:

During 2007, PG&E maintained a tally of new solar customers applying for interconnection under Schedule E-7. As of October 5, 2007, PG&E had identified 3,690 customer-generators as having submitted interconnection applications for Schedule E-7 since the first of the year. Due to the significant pace of development, PG&E was concerned that demand for Schedule E-7 could exceed 5,000 by the end of the year. Accordingly, a method was required to place customers in line such that only the first 5,000 customers would be allowed to take service on Schedule E-7. After discussion with the CAL SEIA, Solar Alliance and The Vote Solar Initiative, PG&E initiated a queue in November based on the earlier application date for either the PG&E California Solar Initiative (CSI) application or the PG&E interconnection application. (Petition, p. 4.)

⁴ As early as discussions with parties leading to the November 22, 2006 petition for modification of D.05-11-005, PG&E knew, or should have known, that, if the recommendation in its petition was adopted, it would need a reasonable way to administer the requested limited enrollments.

PG&E does not adequately explain why a queue was not developed prior to November 2007. In fact, PG&E says:

In addition, because a decision was not rendered until September 2007 in Phase 2 of PG&E's 2007 GRC, the date that the revised Schedule E-6 would be available and the resulting timing for termination of enrollments on Schedule E-7 were uncertain. (*Id.*, p. 5.)

This uncertainty should have prompted PG&E to do more than simply tally applications for interconnection. PG&E should have actively implemented a protocol limiting enrollments to 5,000 in the eventuality of that becoming the controlling condition. Even if PG&E was confident in September 2007 that Schedule E-6 would become effective no later than January 1, 2008, it fails to explain why reasonable administration via a queue was not implemented early in 2007, and certainly before November 2007.

In further explanation, PG&E states:

PG&E cautioned solar customer-generators and solar stakeholders during 2007 that the availability of Schedule E-7 was limited. However, it was not until late in the year that PG&E had the necessary information to inform customers that they were unlikely to be eligible for Schedule E-7. This was because the sequencing of customers was not established until November 2007 after discussion with CAL SEIA, Solar Alliance, and The Vote Solar Initiative. (*Id.*, p. 4.)

We are not convinced that the sequencing of customers could not, and should not, have been reasonably established early in 2007 so that better, even if not perfect, information could have been given to customers. It was PG&E's responsibility to reasonably administer its tariff. It was PG&E's decision when to establish the queue.

It was not until November 2007 that PG&E took decisive action. We are convinced by petitioning parties that:

As a result of establishing the queue late in the year, and in spite of the general limitation on Schedule E-7, some customers and their installer/providers have relied on Schedule E-7 in order to develop their projects...The Petitioning Parties believe that customers and their installer/providers did not have adequate information during 2007 to accurately assess the likelihood they would be allowed to take service on Schedule E-7. Subsequent denial of Schedule E-7 due to late position in the queue may then have reduced project economics for customers planning on taking service on Schedule E-7. As a result, in 2008, when customers were notified of their place in the queue, PG&E and the Commission received a number communications from customers and installer/providers indicating they thought the practice applied by PG&E to place customers in the queue was unfair. Accordingly, the Petitioning Parties propose a limited expansion to the availability of Schedule E 7 as established by Decision 06-12-025. (*Id.*, p. 5.)

We agree with petitioning parties that administration of the tariff resulted in solar customers having inadequate information during 2007, with confusion and upset in 2007 and now in 2008.

4.2. Remedy for Affected Solar Customers

While TURN opposes petitioners' proposed treatment of the incremental revenue shortfall, no party opposes petitioners' recommended remedy for the affected solar customers. We adopt the unopposed proposal.

In particular, petitioning parties propose, and we adopt, modification of D.06-12-025:

... to permit interconnection of new solar customers under Schedule E-7 for those PG&E customers that had submitted either (1) a PG&E CSI application, or (2) a PG&E interconnection application, on or before December 31, 2007. (*Id.*, p. 5.)

Further, petitioning parties propose, and we adopt, that:

... once the petition is approved, customers that have met the criteria set forth above may elect Schedule E-7 with their initial interconnection, provided that they submit to PG&E a final

approved building permit from the local authority on or before December 31, 2008. (*Id.*, p. 6.)

We also add “or reasonable evidence of continued efforts to secure an approved building permit and finalize construction as soon after December 31, 2008 as feasible.” We do this because a few otherwise eligible customers may have cancelled their solar contracts and/or plans in late 2007 or early 2008 due to the Schedule E-7 issues addressed herein. They may decide to go forward based on today’s decision, but may have inadequate time to secure a final approved building permit by the end of 2008 (particularly given possible local government budget constraints later in 2008). We keep the date of December 31, 2008 as proposed by petitioners since this provides a clear deadline in the majority of cases. We recognize a role for some flexibility, however, as long as the customer is making reasonable attempts to secure a final building permit and complete installation. We authorize PG&E to reasonably (but not indefinitely) extend the December 31, 2008 deadline in such limited cases.

Administration going forward may have other pitfalls, however, just as did administration of the prior limited reopening of Schedule E-7. We address two potential items, although there may be others.

First, PG&E identifies an exception to the requirement that the customer had submitted a CSI application to PG&E:

On a case-by-case basis, PG&E will treat the handful of customers that document that they relied on availability of Schedule E-7 when they applied to the California Energy Commission’s (CEC) New Solar Home Program in 2007 for a home-owner built single family customer home as if they had submitted a CSI application to PG&E. (*Id.*, p. 6, footnote 1.)

This is a reasonable exception to a strict requirement that the customer had submitted a CSI application to PG&E. Petitioning parties, however, neither

provide further details nor recommendations on what the documentation should be. Nor do they address the criteria PG&E should use to determine whether the documentation successfully establishes that the customer relied on the availability of Schedule E-7 when applying to the CEC for the New Solar Home Program in 2007.

We neither craft our own documentation requirements nor speculate on criteria to establish that the customer relied on Schedule E-7 when applying to the CEC. We believe these are matters reasonably left to PG&E in its administration of the modified tariff. If PG&E is unable to do so based on its own business judgment, PG&E may consider consulting with Commission staff for guidance. Responsibility for reasonable administration, however, ultimately rests with PG&E. If additional authority is needed from the Commission, PG&E may file a formal pleading asking for specific relief. Either way, we believe PG&E should be able to reasonably administer this modified tariff as proposed by petitioners and adopted herein. Each utility is responsible for reasonable administration of its approved tariffs, and PG&E is no exception.

Second, petitioning parties propose that:

Customers may not elect Schedule E-7 after their interconnection except as noted below. Specifically, new solar customer-generators that meet the criteria but were interconnected under Schedules E-1 or E-6 after January 1, 2008, but prior to a decision on this petition, would be converted to Schedule E-7, if that is their preference, at no additional charge to them (*e.g.*, no meter installation or reprogramming charge). Since meter data available under Schedules E-6 and E-1 are not compatible with meter data required to bill Schedule E-7, billing under Schedule E-7 will be prospective only once required metering and rate schedule changes are made. PG&E will proceed with conversions from Schedule E-1 or E-6 to Schedule E-7 as soon as practicable after the Commission renders a decision on this petition. (*Id.*, p. 6.)

This is also reasonable tariff administration. In particular, it is reasonable to allow a customer who proceeded with a solar installation on Schedule E-1 or E-6 despite possible confusion with respect to Schedule E-7 to, if otherwise eligible, convert back to Schedule E-7 at no additional charge with appropriate billing applied only prospectively. This enhances the integrity of the state's solar program. It does so by allowing a customer who continued to help advance the state's overall solar program objectives, even during this unfortunate period of confusion, to take advantage of what was, or appeared to be, available. Further, it does this without any seeming or actual penalty by application of additional charges or retroactive billing. Also, as petitioning parties point out, this is consistent with smooth implementation of CSI, along with the Commission's efforts to develop clean, reliable, distributed generation.

Again, however, we note that administration of this element of the modified program may involve its own pitfalls. For example, there may be differences of opinion between PG&E and a customer about when billing under the new meter should begin. This level of detail in tariff implementation is within PG&E's ability to reasonably administer, and we are confident that PG&E's administration will be prompt, proper and reasonable.

Given the prior experience with limited reopening of Schedule E-7, we caution PG&E to take timely and appropriate action well before – not concurrent with or after – problems begin to develop. That means, for example, that PG&E must have reasonable tariff administration protocols in place before problems arise. This includes (a) documentation criteria relative to when a customer applied to CEC's New Solar Home Program in 2007, (b) criteria to determine that the customer in fact relied on Schedule E-7 when he or she applied to the CEC's New Solar Home Program in 2007, (c) clear methods to determine when

prospective billing under a new meter should begin, and (d) other items as needed to address reasonably foreseeable issues. If PG&E believes tariff administration is unnecessarily and unreasonably complex (either in general, or specifically with regard to Schedule E-7), we encourage PG&E to propose simpler tariffs which can be administered in a way that is more transparent and equitable. Finally, PG&E must promptly inform affected customers of the further limited reopening of Schedule E-7.

4.3. Treatment of the Revenue Shortfall

The only real dispute regarding this petition is whether or not to permit PG&E to charge ratepayers the incremental revenue shortfall resulting from the relief authorized herein. PG&E estimates the revenue shortfall to be less than \$200,000 per year. This is based on PG&E's estimate that approximately 1,000 customers (in addition to the 5,000 customers originally permitted by D.06-12-025) will become eligible under the criteria proposed in the petition. PG&E reports that in the original joint petition to reopen Schedule E-7 (dated November 22, 2006), PG&E estimated the lower revenue on Schedule E-7 compared to Schedule E-6 for the cap of 5,000 customers would be equal to \$900,000 annually. This is \$180 per customer per year. The additional 1,000 customers at issue here would, therefore, increase the revenue need by less than \$200,000 per year, according to PG&E.

TURN argues that ratepayers should not pay this extra revenue shortfall. In support, TURN points out that petitioners urge adoption of the requested relief on the basis of fairness to new solar customers. For example, petitioners say customers "thought the practice applied by PG&E to place customers in the queue was unfair." (Petition, p. 5.) Petitioners also say that "customer and installer/provider concerns and complaints...led to the conclusion that the

method of placing customers in a queue for Schedule E-7 is viewed by customers as being inequitable.” (Petition, p. 7.) TURN agrees that fairness is the principal issue here. In considering that relief, however, TURN cautions that the Commission must be mindful not only of fairness to new solar customers but also to PG&E’s general body of ratepayers.

TURN is correct. The conditions placed on the original reopening of Schedule E-7 balanced competing interests and established reasonable limits. The further limited reopening authorized today should do the same.

The original reopening of Schedule E-7 potentially required support by the general body of ratepayers of up to \$200 per customer per year for an indefinite period. TURN says in the spirit of compromise it agreed to the original reopening in order to mitigate financial concerns of the solar industry, but only on the condition that the reopening not be completely unlimited. The compromise included limiting enrollment to 5,000 customers. TURN states that it did not enter into this compromise lightly, given that even the cap of 5,000 customers would burden the general body of ratepayers by nearly \$1,000,000 annually for potentially an indefinite period.

TURN now recommends that we should encourage PG&E to allow customers described in the petition to take service on Schedule E-7, at the utility’s own expense, if PG&E believes that it failed to implement the limits imposed by D.06-12-025 in a manner that was fair to new solar customers. We decline to adopt TURN’s recommendation. This approach would leave the decision to PG&E. We are convinced the relief is necessary and justified, and that the decision should not be left to PG&E. Rather, we adopt modifications to D.06-12-025 that ensure certain relief is available.

Further, TURN's recommendation would charge all of the revenue shortfall to PG&E. Petitioners' recommendation would charge all of the revenue shortfall to ratepayers. Neither extreme is reasonable.⁵ PG&E clearly could have done better in its implementation and administration of Schedule E-7. We are convinced, however, that even if imperfect, PG&E sought ways to administer the tariff. For example, even if late in the process, PG&E sought to develop a protocol in cooperation with DRA, TURN, CAL SEIA, PV Now/Solar Alliance and The Vote Solar Initiative. It reached agreement for purposes of the petition for modification, but without the signatures of DRA and TURN. Nonetheless, it tried to address the problem.

PG&E argues that failure to recover this revenue shortfall from ratepayers is the same as imposing a penalty on PG&E's shareholders. To the contrary, the issue here is equity and allocation of responsibility for the revenue shortfall given certain unfortunate administrative problems. This is coupled with the need to provide relief to customers who were otherwise disadvantaged while reasonably maintaining the initial limits and balance of cost responsibility between the solar industry, new solar customers and the general body of ratepayers.

We consider in our assessment of equity, cost responsibility and revenue shortfall recovery that PG&E was in the position to have had the most direct ability to prevent the incurrence of any of the concerns at issue here. At the same time, PG&E should not be responsible for all of the incremental revenue shortfall

⁵ Hypothetically (assuming a 25-year life for solar projects on Schedule E-7 and no change over those 25 years in the revenue difference between Schedules E-7 and E-6), this could be a revenue shortfall of \$5,000,000 (\$200,000 per year for 25 years).

since the administration was complex and PG&E, even if imperfect and late, actively made attempts to administer the tariff.

Therefore, we tie recovery from ratepayers to PG&E's next GRC cycle, with a TY of 2011. (D.07-03-044.) That is, we adopt TURN's proposed treatment of the revenue shortfall through 2010. Beginning January 1, 2011, PG&E may seek recovery from ratepayers of the revenue shortfall going forward. The additional burden of the relief adopted herein is thereby balanced between PG&E and its ratepayers.

We also tie recovery to the next GRC cycle since all rate schedules (including Schedules E-1, E-6 and E-7) are examined in each GRC. Parties may consider appropriate modifications to all schedules at that time. Remaining revenue shortages from Schedule E-7 relative to E-6, if any, may be recovered from the general body of ratepayers beginning in 2011 and going forward.

We consider establishing a numerical limit (*e.g.*, 1,000 customers) on the further reopening as we did before, but we decline to do so. No party makes such a recommendation. The eligible population is already limited to new solar customers who by December 31, 2007 submitted to PG&E either (a) a CSI application, or (b) an interconnection application. No party alleges the eligible population may be more than 1,000. In fact, TURN reports that inadvertent double counting (acknowledged by PG&E in a data response) may mean the actual number of additional customers is not 1,000 but only 500. (TURN Response, p. 11.) PG&E does not dispute this statement in its reply.⁶ Therefore,

⁶ If PG&E's estimate of 500-1,000 customers for the eligible population is incorrect, we will not necessarily be sympathetic to PG&E seeking recovery of the extra revenue

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no numerical limit appears to be reasonably necessary. We also note that there were difficulties in administering a numerical cap with the prior reopening. We seek to avoid adopting another cap that may complicate implementation of this limited further reopening.

We also conclude that the right balance of responsibility is reached when considering other factors. For example, PG&E does not dispute that its original estimate may include inadvertent double counting. The cost of the further limited reopening may, therefore, be less than \$100,000 per year (*i.e.*, less than \$200 per customer per year for 500 (not 1,000) customers). In arguing against any cost responsibility, PG&E says we should consider that it will not request funding for the additional metering and conversion expenses for those customers electing Schedule E-7 who interconnected under Schedules E-1 or E-6 since January 1, 2008. PG&E does not estimate these metering and conversion expenses. We have no reason to believe they are large.⁷ We agree with PG&E that these expenses should not be recovered from ratepayers but should be paid by PG&E. In accepting that PG&E does not request, and we do not authorize, funding of the additional metering and conversion expenses we note that the incremental revenue shortfall is likely to be less than the \$200,000 originally estimated by PG&E. This results in a reasonable balance of the overall cost responsibility and revenue shortfall.

shortfall indefinitely, and we may address the matter in a future rate recovery proceeding, if and as necessary.

⁷ We are reasonably certain that petitioning parties (or PG&E) would have stated these costs if they are estimated to be large, consistent with expecting all material facts to be presented in a petition.

5. Comments on Proposed Decision

Petitioners requested that the comment period on the proposed decision be reduced. By Ruling dated April 15, 2008, parties were asked to address this request in their responses to the petition and, absent an objection stated in a response, the presumption would be that all parties agree and stipulate to a shortened comment period. (Rule 14.6(b) of the Commission's Rules of Practice and Procedure (Rules).) No party objected. As a result, the period for comments is reduced from 20 to 10 days, and the period for reply comments is reduced from five to three days.

On May 27, 2008, the proposed decision of Administrative Law Judge (ALJ) Mattson was mailed to parties in accordance with Section 311 of the Public Utilities Code and Rule 14.3 of the Commission's Rules. On June 6, 2008, comments were filed by PG&E, TURN and jointly by CAL SEIA and the Solar Alliance. On June 9, 2006, reply comments were filed by PG&E and TURN.

Consistent with our rules, we consider comments that focus on factual, legal or technical errors and, in citing such errors, make specific references to the record. We give no weight to comments which fail to comply with these directions, and no weight to comments which merely reargue positions already taken.⁸ (Rule 14.3(c).)

⁸ For example, in its comments but without citation to the record, PG&E states that the increment metering and reprogramming costs "could run as high as \$100,000." (Comments, p. 6.) Also without citation to the record, PG&E disputes TURN's estimate of about \$100,000 per year in revenue shortfall, now saying the "current estimates put that figure closer to \$135,000 per year, or \$405,000 over three years." (*Id.*) In their comments but without reference to the record, CAL SEIA and Solar Alliance introduce information about allegedly similar solar tariff experience in southern California, asserting the activity there was nearly one-third to one-tenth the experience of PG&E.

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Based on careful consideration of the comments, we make limited changes to the proposed decision. For example, we change several references from “cost” to “revenue shortfall.”⁹ At PG&E’s request, we increase from 7 to 14 the number of days for PG&E to file revised tariffs. We make other changes for improved clarity.

We decline to make other changes. For example, in its opposition to the revenue treatment in the proposed decision, PG&E argues that the requested reopening of Schedule E-7 does not benefit either PG&E or its shareholders. PG&E says the reopening benefits the state’s interest in promoting solar energy, as well as the interest of its customers who want to advance the state’s solar program objectives, but does not benefit PG&E’s shareholders. PG&E concludes that it would be erroneous to require PG&E and its shareholders to bear even limited revenue shortfalls. (Comments, pp. 2-4.)

The issue is not who benefits from the reopening. Rather, it is that PG&E had the authority, ability and responsibility to efficiently, effectively, equitably

(Comments, p. 2.) Comments may not introduce new facts, and we disregard alleged new facts in the comments of parties.

⁹ The estimate of the revenue shortfall is based on the difference in the revenue received by PG&E from customers under Schedule E-7 compared to what would have been received from those customers if they had been on Schedule E-6. (Petition, p. 6.) TURN refers to this difference as an “unfair subsidy” for customers on Schedule E-7. (Response, p. 11.) This difference, or subsidy, must be paid by someone. The difference, or subsidy, is a cost to someone. Nonetheless, we adopt the recommendation of PG&E and TURN to describe the dollars at issue here as those resulting from a “revenue shortfall.” This helps differentiate the dollars at issue from those related to additional metering costs and reprogramming expenses.

and properly administer its tariffs. PG&E failed to do all it reasonably could, and should, have done.

PG&E also argues that the proposed decision constitutes bad public policy because it effectively penalizes PG&E for acting in the best interest of the state and its customers. PG&E is mistaken. We applaud PG&E for acting in the best interest of the state's solar program and a subset of PG&E's solar customers (*i.e.*, those on Schedule E-7, not E-6).

Our responsibility, however, includes balancing all competing interests. It is good public policy to remedy an unfortunate situation created by complex and imperfect tariff administration. It is reasonable not to burden all ratepayers with the revenue shortfalls that now result. It is good public policy to align revenue shortfall responsibility with the entity that had authority, ability and responsibility to implement its tariff efficiently, effectively, equitably and properly. It is reasonable not to burden PG&E with the entire revenue shortfall given that that tariff administration was complex and PG&E's implementation was active, even if imperfect and late. We balance competing interests and limit PG&E's responsibility for the revenue shortfall to three years. This is a just and reasonable result consistent with good public policy.

6. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner. Burton W. Mattson is the assigned ALJ in this proceeding.

Findings of Fact

1. No motion for hearing has been filed.
2. With adoption of D.06-12-025 on December 14, 2006, PG&E knew or should have known that it needed to develop a reasonable way to administer the

limited enrollments of no more than 5,000 customers on reopened Schedule E-7, and that this reasonable administration might involve a queue.

3. Difficulty in Schedule E-7 administration grew in late 2007, and, upon learning of their place in the queue in early 2008, customers along with installers/providers began alleging unfair and inequitable treatment.

4. PG&E maintained a tally of new solar customers applying for Schedule E-7 in 2007, and in November 2007 developed a queue for allocating the first 5,000 enrollments.

5. PG&E does not adequately explain why a queue was not developed prior to November 2007.

6. It is PG&E's responsibility to reasonably administer its approved tariffs, and it was PG&E's decision when to establish the queue.

7. PG&E's administration of Schedule E-7 resulted in solar customers having inadequate information in 2007, with resulting customer confusion and unhappiness in 2007 and 2008.

8. Administration of the tariff as modified by this order may have its own pitfalls and PG&E remains responsible for reasonable tariff administration, including prompt notification to affected customers and establishment of reasonable administrative protocols before problems arise (*e.g.*, documentation criteria relative to when a customer applied to CEC's New Solar Home Program in 2007, criteria to determine whether or not the customer relied on Schedule E-7 for application to CEC's New Solar Home Program in 2007, clear methods to determine when prospective billing will begin).

9. PG&E's proposed tariff administration for certain limited customers (*i.e.*, those who elected Schedule E-1 or E-6 after January 1, 2008 but before this decision on the petition) enhances the integrity of the state's solar program.

10. The revenue shortfall caused by the relief proposed here is between about \$100,000 and \$200,000 per year.

11. TURN's recommendation would leave the decision to PG&E whether or not to provide relief to affected solar customers.

12. TURN's recommendation would charge all additional annual revenue shortfalls to PG&E, and petitioner's recommendation would charge all additional annual revenue shortfalls to ratepayers.

13. PG&E was in the best position to prevent or mitigate the incurrence of any of these additional revenue shortfalls.

14. It is reasonable to require PG&E to bear a portion of the revenue shortfall because PG&E failed to do all it reasonably could, and should, have done to administer the tariff.

15. It is reasonable that PG&E not be required to bear all of the revenue shortfall because PG&E attempted to mitigate problems when they became aware of them.

16. The result here is not a penalty to PG&E shareholders but an equitable allocation of responsibility for additional revenue shortfalls given unfortunate administrative difficulties with Schedule E-7.

17. Linking cost recovery to the next GRC cycle balances allocation of the extra revenue shortfalls at issue here, and allows parties at that time to consider appropriate modification to all schedules (including Schedules E-1, E-6 and E-7).

18. All issues are now resolved.

Conclusions of Law

1. No hearing is needed.

2. The petition was filed more than one year after D.06-12-025 but is timely given that problems did not fully develop until late 2007, and customer

allegations of unfair and inequitable treatment did not fully surface until early 2008.

3. With proper Schedule E-7 tariff administration (including establishing a queue in early 2007 for implementation of the limited number of enrollments, if and as needed), PG&E should have been able to more reasonably manage, if not completely avoid, the problems that occurred here.

4. The petition should be granted to the extent D.06-12-025 is modified to permit interconnection of new solar customers under a further, limited reopening of Schedule E-7 to customers who meet certain requirements.

5. Administration of the further limited reopening of Schedule E-7 may have its own pitfalls, and PG&E should take timely and appropriate action to prevent or mitigate reasonably foreseeable tariff administration problems before they begin to develop.

6. TURN's proposed revenue shortfall recovery treatment should be adopted through 2010, and PG&E should be permitted to seek recovery of the additional annual revenue shortfalls incurred pursuant to the limited further reopening of Schedule E-7 beginning January 1, 2011.

7. PG&E should not be permitted to charge ratepayers the additional annual revenue shortfalls for 2008, 2009 or 2010; and should not be permitted to charge ratepayers the costs of additional metering and conversion expenses for those customers electing Schedule E-7 who were interconnected under Schedules E-1 or E-6 since January 1, 2008.

8. This proceeding should be closed.

9. This order should be effective immediately so that uncertainty is minimized for customers made eligible by this order for Schedule E-7, and the

relief found reasonable and appropriate is provided to those customers to without delay.

O R D E R

IT IS ORDERED that:

1. The petition to modify Decision (D.) 06-12-025 is granted as set forth herein and denied in all other respects.

2. D.06-12-025 is modified to provide that:

a. Tariff Rate Schedules E-7 and EL-7 are reopened to those Pacific Gas and Electric Company (PG&E) customers who submitted to PG&E, on or before December 31, 2007, either (i) a California Solar Initiative application, or (ii) an interconnection application; and

b. Customers meeting the above criteria may elect Schedule E-7 or EL-7 with their initial interconnection provided that they submit to PG&E a final approved building permit from the local authority on or before December 31, 2008, or reasonable evidence of continued efforts to secure an approved building permit and finalize construction as soon after December 31, 2008 as feasible.

3. PG&E may seek recovery of the additional revenue shortfall incurred by this modification of D.06-12-025 beginning with the additional revenue shortfall incurred on January 1, 2011 and thereafter. Recovery shall not be permitted of the annual additional revenue shortfalls for 2008, 2009 or 2010. Recovery shall not be permitted of the additional metering and conversion expenses for those newly eligible customers electing Schedule E-7 who interconnected under Schedules E-1 or E-6 since January 1, 2008.

4. Within 14 days of the date of this order, PG&E shall file revised tariff sheets with the Commission's Energy Division to implement the orders herein. The revised tariff sheets shall comply with General Order 96-B, or its successor,

and may be filed pursuant to Tier 1. The revised tariff sheets shall be subject to verification of compliance by the Director of the Energy Division. Once effective, PG&E shall promptly notify each affected customer of the further limited reopening of Schedules E-7 and EL-7.

5. Application 04-06-024 is closed.

This order is effective today.

Dated June 12, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners