

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

January 26, 2021

Agenda ID #19161

Ratesetting

TO PARTIES OF RECORD IN APPLICATION 19-09-014:

This is the proposed decision of Administrative Law Judge Patrick Doherty. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's March 4, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:gp2

Attachment

ALJ/PD1/gp2 **PROPOSED DECISION** Agenda ID #19161 [\(Rev.1\)](#)
Ratesetting
[3/4/2021 Item #8](#)

Decision **PROPOSED DECISION OF ALJ DOHERTY** (Mailed 1/26/2021)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric
Company (U 902 E) for Authority to
Eliminate the Seasonal Differential in its
Residential Rates Per Decision 19-04-018.

Application 19-09-014

**DECISION CONCERNING ADJUSTMENT OF THE HIGH USAGE CHARGE
FOR THE LARGE ELECTRICAL CORPORATIONS**

TABLE OF CONTENTS

Title	Page
DECISION CONCERNING ADJUSTMENT OF THE HIGH USAGE CHARGE FOR THE LARGE ELECTRICAL CORPORATIONS.....	2
Summary.....	2
1. Background.....	2
2. Issues Before the Commission.....	4
3. Modification or Elimination of the Residential High Usage Charge.....	5 <u>4</u>
3.1. Genesis of the High Usage Charge.....	5 <u>4</u>
3.2. Party Positions on the HUC.....	7 <u>6</u>
3.2.1. Application of the HUC Beyond Original Intent.....	8 <u>7</u>
3.2.2. HUC Impact on Conservation.....	9 <u>8</u>
3.2.3. Cost of Service Concerns.....	11 <u>10</u>
3.2.4. Effect of Migration to Default TOU.....	12 <u>11</u>
3.2.5. HUC Effect on Electrification.....	14 <u>13</u>
3.2.6. Rate and Bill Impacts of HUC Elimination.....	15 <u>14</u>
3.3. Contested Settlement on HUC Issues.....	18 <u>17</u>
3.3.1. Commission Review of Settlements.....	19 <u>18</u>
3.3.2. Reasonableness in Light of the Whole Record.....	19 <u>18</u>
3.3.3. Consistency with the Law.....	20 <u>19</u>
3.3.4. Is the HUC Settlement in the Public Interest?.....	20
3.3.5. Representation of Affected Interests.....	22 <u>21</u>
3.3.6. Conservation Signal.....	22
3.3.7. Equity of Rate and Bill Impacts.....	24 <u>23</u>
3.3.8. Regulatory Certainty.....	26 <u>25</u>
4. Seasonality of SDG&E's Opt-In TOU Rates.....	31 <u>28</u>
4.1. Application of Article 12 of the Rules.....	35 <u>32</u>
5. Outstanding Motions.....	37 <u>34</u>
6. Comments on Proposed Decision.....	37 <u>34</u>
7. Assignment of Proceeding.....	37 <u>34</u>
Findings of Fact.....	37 <u>34</u>
Conclusions of Law.....	40 <u>36</u>
ORDER.....	41 <u>38</u>

DECISION CONCERNING ADJUSTMENT OF THE HIGH USAGE CHARGE FOR THE LARGE ELECTRICAL CORPORATIONS

Summary

This decision adopts an uncontested settlement to modify the seasonal price differentials in San Diego Gas & Electric Company's opt-in residential time-of-use rates. This decision modifies a contested settlement in this proceeding ~~and eliminates~~ to potentially eliminate the high usage charge of the large electrical corporations at the completion of each large electrical corporation's migration of its residential customers to time-of-use rates. ~~For San Diego Gas & Electric, this migration is complete and its high usage charge will be eliminated as soon as is practicable. For Southern California Edison Company, this migration will be complete in March 2022 and its high usage charge will be eliminated as soon as is practicable after that date. For Pacific Gas and Electric Company, this migration will be complete in April 2022 and its high usage charge will be eliminated as soon as is practicable after that date. The high usage charge shall remain at its current value relative to Tier 2 prices for Southern California Edison Company and Pacific Gas and Electric Company until it is eliminated.~~

This proceeding is closed.

1. Background

In Decision (D.) 19-04-018, the Commission considered and rejected a request by San Diego Gas & Electric Company (SDG&E) to eliminate the high usage charge¹ for its residential tiered rate customers with very high electricity usage. SDG&E's request was premised on the theory that the elimination of the

¹ The "high usage charge" is the current nomenclature for the "Super-User Electric Surcharge (SUE Surcharge)" originally adopted by D.15-07-001. All references to the high usage charge in this decision also refer to the SUE Surcharge adopted by D.15-07-001.

high usage charge would reduce summer bill volatility for tiered rate customers paying the charge. In rejecting SDG&E's proposal, the Commission ordered SDG&E to consider eliminating the seasonal differential in its residential rates instead, as the record demonstrated that such elimination would more effectively address seasonal bill volatility than SDG&E's original proposal.²

SDG&E filed the instant application in compliance with D.19-04-018 on September 23, 2019. Protests and responses to the application were filed by the Center for Accessible Technology (CforAT), the Public Advocates Office (Cal Advocates), the Utility Consumers' Action Network (UCAN), and the Utility Reform Network (TURN) on October 25 and 28, 2019. A prehearing conference was held on November 6, 2019, and an Assigned Commissioner's Scoping Memo and Ruling (scoping memo) was issued on November 21, 2019.

The scoping memo created two phases of this proceeding. In the first phase, the Commission considered whether SDG&E's proposal to eliminate the seasonal differential between summer and winter rates in all of its residential rate designs – including its residential time-of-use rates – was reasonable, and whether the rate and bill impacts that would result from an elimination of the seasonal differential between summer and winter rates, including for all-electric customers, were reasonable. According to the scoping memo, the first phase of this proceeding was to be completed by April 2020 in order to allow SDG&E to make any approved changes to the seasonal differential in its residential rates in time for the summer 2020 season.

The second phase of this proceeding is to consider whether the high usage charge (HUC) in SDG&E's residential tiered rate should be modified or

² D.19-04-018 at OP 2.

eliminated, and if so whether the rate and bill impacts that would result from a modification or elimination of the high usage charge are reasonable. The amended Assigned Commissioner's Scoping Memo and Ruling (amended scoping memo) filed on May 14, 2020 ordered Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E) to join the second phase of this proceeding to determine whether their versions of the HUC should be modified or eliminated as well.³

A Commission decision on some Phase 1 issues was approved at the Commission's business meeting on April 16, 2020 (D.20-04-007). That decision removed the seasonal differential from SDG&E's tiered residential electricity rate and postponed a decision on the seasonal differentials in SDG&E's residential time-of-use (TOU) rates. A subsequent Commission decision (D.20-05-013) temporarily adjusted the HUC of each of the large electrical corporations in response to the COVID-19 emergency. Finally, a third Commission decision in this proceeding (D.20-06-006) adjusted the seasonal differential in the default TOU rate for SDG&E's residential customers.

2. Issues Before the Commission

This fourth Commission decision in this proceeding resolves the remaining issues as defined by the amended scoping memo:

1. Whether modification or elimination of the residential HUC applied by all of the large electrical corporations to customers on tiered rates is reasonable, and if so whether the rate and bill impacts that would result from a modification or elimination of the HUC are reasonable.

³ As noted by PG&E, the term "HUC" has been used in different ways over the years. (Exh. PG&E-01 at 6.) In order to avoid confusion, this decision refers to the HUC in the same manner as PG&E in its testimony – the all-in price per kilowatt-hour (kWh) imposed on tiered rate, non-TOU customers for usage that exceeds 400 percent of baseline.

2. Whether changes to the seasonal differential present in SDG&E's opt-in residential TOU rates (including both tiered and untiered rates) are reasonable.

3. Modification or Elimination of the Residential High Usage Charge

3.1. Genesis of the High Usage Charge

The HUC is an extra charge that applies to residential energy usage on a large electrical corporation's tiered rate that exceeds 400 percent of baseline. D.15-07-001 created the HUC. That decision expressed the Commission's intent for the HUC to signal to customers that their usage was abnormally high and provide a financial incentive to reduce usage to a normal level.⁴ The HUC is only applicable to residential electricity customers on a tiered rate, and is not applied to residential electricity customers on a TOU rate.⁵ The Commission anticipated that the HUC would apply only to a "small number of customers who use an extreme amount of energy" and that there would be a minimal risk that it would be incurred by "ordinary customers."⁶ The Commission quantified this estimate when it found that it expected the HUC to be incurred by 2 percent to 10 percent of customers on a tiered rate.⁷

It should be recalled that the HUC was a small part of a much broader decision consolidating residential electricity tiers and reducing the price

⁴ D.15-07-001 at 124, finding that it is important to signal to residential customers that usage above 400 percent of baseline is high and that customers should conserve electricity once reaching that level of usage ("[w]e intend for the [HUC] adopted today to serve a similar notice role: sending a message to customers that their usage is not simply moving into another tier, but that their usage is significantly above typical household use. To be effective, this signal must go beyond a mere indication that the customer has passed into a higher usage tier; the customer must be able to clearly tell that a portion of their usage was far in excess of the typical household usage and that conservation steps should be taken").

⁵ D.15-07-001 at 128.

⁶ D.15-07-001 at 108.

⁷ D.15-07-001 at 125.

differentials between those tiers. D.15-07-001 began a process by which the price for baseline electricity increased while the prices for electricity above baseline decreased, relative to their prices before adoption of D.15-07-001. These changes were applied by the large electrical corporations to their default rates for residential electricity, meaning that the rate reforms adopted by D.15-07-001 affected the majority of residential electricity customers in California. In light of these reforms that lowered the prices for electricity usage above baseline, a key factor motivating the Commission's creation of the HUC was the desire to avoid sending a "reward" signal to very high users of electricity. Had the HUC not been imposed, very high users of electricity would have seen substantial bill reductions as a result of the broader rate reforms adopted by D.15-07-001, and the Commission resolved not to allow those financial benefits to pass through without some sort of signal for those customers to conserve.⁸

This context is important to bear in mind. D.15-07-001 set in motion a series of reforms to residential rates that are ongoing more than five years after the decision's issuance. California is now in the second phase of those reforms, where customers (including very high users) that had been on reformed tiered rates are being defaulted to TOU rates. The period of time when very high users

⁸ D.15-07-001 at 126 ("[a]lthough today's rate reform is not intended [to] 'reward' any group of customers, we believe it is important to send a clear message that the most extreme users are not the intended beneficiaries of this decision, and that overall conservation by these superusers remains an important goal"). *See also* Exh. CforAT-01 at 5-6 (citing CforAT's original arguments for the HUC, including that "for a small subset of customers who use extremely high amounts of electricity, efforts to encourage conservation and energy efficiency should take priority; it should not be controversial to recognize that, for this limited subset of customers who use much more electricity than typical households, a substantial bill reduction (indeed, under many of the concepts under discussion in [R.12-06-013], households that consume the very most energy would see the highest bill reductions) would send the wrong message about the use they are making of the system").

of electricity experienced financial benefits from the consolidation and repricing of electricity tiers has passed.

3.2. Party Positions on the HUC

Generally, the large electrical corporations recommended elimination of the HUC, either immediately or after a transition period. UCAN supported SDG&E's proposal to eliminate the HUC.⁹

Cal Advocates favored raising the HUC threshold to 600 percent of baseline from the existing threshold of 400 percent of baseline, and maintaining the reduced HUC differential established by D.20-05-013 while rebalancing the prices of the various tiers in order to ensure adequate revenue collection.

TURN opposed the elimination of the HUC in its testimony, and recommended returning the HUC price to a level 75 percent higher than the Tier 2 price at the conclusion of the COVID-19 emergency.¹⁰ CforAT also opposed the elimination of the HUC, citing the bill impacts of elimination on non-HUC customers on tiered rate plans.¹¹ However, CforAT granted that some modifications to the HUC, such as a modified threshold or a fixed charge HUC replacement, may allow for the intent of the HUC to be reaffirmed even if the charge is structurally modified.¹²

3.2.1. Application of the HUC Beyond Original Intent

SDG&E argued that the original intent of the Commission to target a small number of very high users with the HUC was not being achieved. They claimed that in 2018 over 10 percent of SDG&E's customer population was assessed the

⁹ Exh. UCAN-01 at 2.

¹⁰ Exh. TURN-02-E at 4.

¹¹ Exh. CforAT-01 at 1.

¹² Exh. CforAT-01 at 14-16.

HUC during at least one month of a full calendar year,¹³ and that the trend continued in 2019 with 12 percent of tiered rate customers experiencing the HUC.¹⁴ Furthermore, SDG&E alleged that the HUC was not based on the cost to serve residential customers and was therefore an unjustified “punitive charge.”¹⁵ PG&E asserted that “the original HUC, plain and simple, is punitive and unfair.”¹⁶

Cal Advocates agreed with SDG&E that the HUC is now a “punitive” charge that is being applied to more residential customers than originally intended by the Commission in D.15-07-001.¹⁷ UCAN largely concurred, stating that “there is significant evidence the HUC is placing an undue burden on many customers just cooling homes during hot weather.”¹⁸ UCAN noted that the HUC may be incurred for a variety of reasons, and in some cases is not arguably within the control of the customer (*e.g.*, a home with a large surface area).¹⁹ While not supporting HUC elimination, CforAT nevertheless granted that “the HUC as applied appears to have impacted more customers than was the initial intent of the Commission....”²⁰

TURN disputed that the HUC had expanded to affect customers beyond the original intent of D.15-07-001, noting that “SDG&E’s and SCE’s experience of

¹³ Exh. SDG&E-03 at NM-6.

¹⁴ Exh. SDG&E-03 at NM-7.

¹⁵ Exh. SDG&E-03 at NM-9.

¹⁶ Exh. PG&E-02 at 9.

¹⁷ Exh. Cal Advocates-01 at 1-3.

¹⁸ Exh. UCAN-01 at 9.

¹⁹ Exh. UCAN-01 at 9-10.

²⁰ Exh. CforAT-01 at 1.

10 percent or 11 percent of customers incurring HUC is not inconsistent the customer impact expectations of 2 percent-10 percent of [D.15-07-00].”²¹

3.2.2. HUC Impact on Conservation

With respect to the HUC’s conservation objective, SDG&E asserted that eliminating the HUC would have a minimal impact on conservation incentives.²² UCAN concurred, reasoning that because SDG&E’s rates were among the highest in the nation, even a rate plan without a HUC element would still provide adequate financial incentives to conserve electricity.²³

SCE provided evidence that its customers that “received HUC notifications and charges in January 2018 did not demonstrate conservation in the month of February when comparing either (1) their February 2018 usage to their February 2016 and 2017 usage (relatively flat), or (2) their February 2018 versus February 2017 [kilowatt-hour (kWh)] differential to the control group (relatively flat for the HUC group versus a 42 kWh usage reduction for the control group).” SCE asserted that this trend continued in 2020.²⁴ In summary, SCE contended that “more often than not, a customer who incurred the HUC charge once was unable (or unwilling) to avoid becoming subject to the HUC again in a future month, and thus continued to be penalized.”²⁵

PG&E argued that the HUC is not necessary to drive conservation, given that the Commission previously found that “only a mild differential” between two rate tiers (*i.e.*, without the HUC) is necessary to incent conservation.²⁶ Like

²¹ Exh. TURN-02-E at 10.

²² Exh. SDG&E-03 at NM-2.

²³ Exh. UCAN-01 at 13.

²⁴ Exh. SCE-01 at 6.

²⁵ Exh. SCE-01 at 7.

²⁶ Exh. PG&E-02 at 7-8, citing D.15-07-001 Finding of Fact 62 (“[t]o the extent tiered rates may promote energy efficiency or conservation, a mild differential between two tiers is sufficient to

UCAN, PG&E argued that its rate would remain high enough in the absence of the HUC to sufficiently incent conservation.²⁷

Cal Advocates cited SCE's analysis and asserted that steeply inclining tiered rates, such as reflected by the HUC, do not necessarily lead to electricity conservation when compared to more mild increases in tiered rates.²⁸

TURN disputed the parties' assertions that the HUC was not meeting its conservation objective. TURN provided evidence that HUC usage in kWh decreased between 2017 and 2019 for all the large electrical corporations, and that the percentage of overall residential usage made up of HUC usage also declined over the same time period. TURN concluded that this "evidence clearly demonstrates that HUC is working well as an incentive for customer conservation."²⁹ In rebuttal testimony, PG&E rejected this contention, reasoning that reductions in observed HUC consumption could be attributed to other factors – such as the weather or reductions in HUC customers overall – rather than the HUC itself.³⁰

CforAT distinguished between HUC customers that chose not to conserve and those that could not conserve due to their circumstances, and argued that eliminating the HUC would unfairly reward customers with very high usage that simply chose not to conserve even though they have the ability to do so.³¹

3.2.3. Cost of Service Concerns

promote energy efficiency or conservation, a mild differential between two tiers is sufficient to maintain a conservation signal").

²⁷ Exh. PG&E-02 at 8.

²⁸ Exh. Cal Advocates-01 at 1-9 – 1-10.

²⁹ Exh. TURN-02-E at 8-10.

³⁰ Exh. PG&E-02 at 6.

³¹ Exh. CforAT-01 at 11-12.

PG&E argued for elimination of the HUC in part due to the claimed lack of relationship between the HUC and cost of service. PG&E alleged that the “very steep HUC element of an inclining block rate structure bears no relationship to actual cost of service, where the cost per kWh does not increase as a customer’s cumulative monthly usage increases.”³² PG&E claimed that the lack of cost basis for the HUC was particularly inequitable given that “[m]any of those hitting the HUC tier do not earn high incomes but may simply have an above average number of family members at home and are home for many or all hours of the month.”³³

Cal Advocates agreed with the reasoning and concurred that the HUC does not reflect the cost to serve residential customers that consume electricity in excess of 400 percent of baseline.³⁴

3.2.4. Effect of Migration to Default TOU

SCE made several contentions that the composition of HUC customers was likely to change after the transition of most residential electricity customers to TOU rates. As TOU rates do not include the HUC, by definition moving most residential customers to TOU means moving those customers away from the HUC – regardless of whether or not they are very high users of electricity. Those customers that may not be defaulted to TOU rates – and that therefore remain on tiered rates with the HUC – are disproportionately low-income customers in hot climate zones. Because of their presence in hot climate zones, the probability that their usage may approach the level required to trigger the HUC is greater. By SCE’s estimate, approximately 36,000 low-income customers in its hot climate

³² Exh. PG&E-01 at 2.

³³ Exh. PG&E-01 at 3.

³⁴ Exh. Cal Advocates-01 at 1-3 and 1-5.

zones would be ineligible for the default TOU transition and may trigger the HUC during a one-year period in the future.³⁵

The upshot of the transition to default TOU, according to SCE, is that far fewer customers will be exposed to the HUC and those that remain exposed will be disproportionately low-income or otherwise vulnerable customers.³⁶ SCE contends that the “Commission could not have anticipated this development when it enacted the HUC,” and that it “favors the reduction and elimination of the HUC given the expected disproportionate impact on economically vulnerable customers once the TOU transition takes place.”³⁷ PG&E made similar arguments in its testimony,³⁸ contending that “the remaining pool of E-1 customers by early 2022 [after implementation of default TOU] is expected to have a disproportionately higher percentage of [] lower-income hot climate-zone customers compared to today’s E-1 customer population.”³⁹

Cal Advocates concurred that the HUC is expected to disproportionately affect low-income customers, and cited this concern when recommending that the HUC threshold be increased to 600 percent of baseline. Cal Advocates argued that raising the threshold to 600 percent would reduce by 90 percent the number of CARE customers affected by the HUC.⁴⁰ Cal Advocates also cited analysis demonstrating that HUC customers were more likely to be disconnected

³⁵ Exh. SCE-01 at 8-9.

³⁶ While customers of any economic class and usage level may choose to opt-out of default TOU rates, SCE argued that it does not believe many very high users of electricity will opt-out given the bill savings they will experience under TOU rates. “SCE’s data illustrates that the highest usage customers will benefit significantly by moving to TOU” (Exh. SCE-01 at 11).

³⁷ Exh. SCE-01 at 11.

³⁸ Exh. PG&E-01 at 5, 9-10.

³⁹ Exh. PG&E-02 at 26.

⁴⁰ Exh. Cal Advocates-01 at 1-12.

than non-HUC customers. Cal Advocates reasoned that the HUC was one of several factors that contributed to disconnections for HUC customers, and therefore recommended raising the HUC threshold to 600 percent of baseline to reduce the number of customers potentially exposed to the HUC.⁴¹

TURN disagreed that the HUC disproportionately affects low-income customers. TURN provided analysis that the majority of HUC kWh usage and charges are “incurred by customers who are not on low-income programs or otherwise economically vulnerable and as such will be defaulted to TOU rates by the end of 2020” and that HUC charges “are incurred disproportionately in communities where customers typically have a high ability to pay for their electricity usage.”⁴² TURN also argued that it was not a given that customers remaining on tiered rates after the transition to default TOU would be disproportionately low-income, stating that customers of any income level could always return to tiered rates if they wished.⁴³

3.2.5. HUC Effect on Electrification

Each of the large electrical corporations argued that elimination of the HUC would promote the state’s policy goal of increased electrification. PG&E asserted that for those customers that remain on tiered rates in the future, due to either personal preference or difficulty in shifting load, the existence of the HUC would disincentivize electrification. PG&E reasoned that electrification necessarily increases electricity usage to high levels, leading to the HUC rate becoming the marginal electricity price faced by residential customers

⁴¹ Exh. Cal Advocates-01 at 1-10 and 1-11.

⁴² Exh. TURN-02-E at 10-12.

⁴³ Exh. TURN-02-E at 13.

considering electrification, which would tend to discourage electrification given its high price compared to Tier 1 and Tier 2 prices.⁴⁴

TURN argued that the HUC incentivizes installations of solar generation systems,⁴⁵ and therefore does not create the barrier to electrification posited by the large electrical corporations. TURN stated that “the goal of electrification is not to increase overall electricity usage for its own sake but rather to continue California’s movement toward sustainable sources of energy.”⁴⁶ TURN reasoned that if the HUC is eliminated from a tiered rate it would reduce the marginal cost of electricity for those on a tiered rate, but would not incentivize the load shifting or specific technology adoptions necessary to realize beneficial residential electrification.⁴⁷

CforAT argued that if the question is how to best promote electrification, then the answer is non-tiered TOU rates designed to accommodate beneficial electrification with low off-peak prices. Elimination of the HUC would, in CforAT’s view, reward very high usage customers regardless of whether or not that usage was beneficial and helped meet state policy goals. In essence, CforAT contended that the tiered non-TOU rate is not the appropriate rate to rely on to achieve this important state policy goal, regardless of whether or not the HUC is eliminated.⁴⁸

⁴⁴ Exh. PG&E-01 at 4-5.

⁴⁵ Exh. TURN-02-E at 18 (“for 2017-2019, the percentage of customers incurring HUC in one year who became NEM customers in the following year averaged 14 percent, 20 percent and 26 percent of total new NEM customers for PG&E, SCE and SDG&E indicating that a significant number of new NEM customers were incentivized by HUC charges to make the investment”).

⁴⁶ Exh. TURN-02-E at 17.

⁴⁷ Exh. TURN-02-E at 17-19.

⁴⁸ Exh. CforAT-01 at 13-14.

3.2.6. Rate and Bill Impacts of HUC Elimination

Those parties that argued for the elimination of the HUC asserted that the rate and bill impacts of such an elimination would be reasonable. SCE claimed that if the HUC were eliminated immediately, the result would be monthly bill increases of between \$0 and \$4 per month for lower and moderate usage non-CARE and CARE customers. For higher users, there would be anticipated bill reductions. For example, SCE estimated that if the HUC were eliminated, CARE customers in hot climate zones with monthly usage above 2,000 kWh could save \$39 or more on their monthly bills. Overall, SCE proposed that these were reasonable rate and bill impacts to result from HUC elimination.⁴⁹

PG&E reported that HUC elimination would lead to 94.4 percent of non-CARE customers on tiered rates experiencing higher bills, with 62.5 percent experiencing bill increases of less than \$5 per month.⁵⁰ They also reported that HUC elimination would lead to 97.8 percent of CARE customers on tiered rates experiencing higher bills, with 82.4 percent experiencing bill increases of less than \$5 per month.⁵¹

As noted by SCE, eliminating the HUC also creates bill impacts for residential customers on TOU rates with a baseline credit, which includes the default residential TOU rate for each of the large electrical corporations. In SCE's case, for example, it argued that nearly 33 percent of its non-CARE customers would see bill savings on a TOU rate if the HUC were eliminated, while those

⁴⁹ Exh. SCE-01 at 20-21.

⁵⁰ Exh. PG&E-01 at 13.

⁵¹ Exh. PG&E-01 at 16.

customers who would see a bill increase would only see a monthly increase of between \$1 and \$2. SCE considered these TOU bill impacts reasonable.⁵²

UCAN considered the bill impacts calculated by SDG&E to be justifiable in light of the advantages in eliminating the HUC.⁵³

Cal Advocates noted that the bill impacts associated with the adjustment of the HUC threshold to 600 percent of baseline would be significantly less than the bill impacts associated with the elimination of the HUC (where the HUC price is 75 percent higher than the Tier 2 price).⁵⁴

TURN cited the bill impacts calculated by the large electrical corporations as evidence that the elimination of the HUC would actually harm, rather than benefit, low-income customers remaining on a tiered rate. They reasoned that if the over \$400 million in annual revenue currently collected through the HUC were to be redistributed to other customers, there would be an overall negative bill impact on non-HUC customers as a result of HUC elimination.⁵⁵ To the extent certain customers would experience very high bills if the HUC were retained, TURN recommended “identifying and targeting the individual customers that are expected to experience extreme HUC impacts to encourage them to opt-in to TOU rates” and if the customers will not switch to TOU, then extend a year of bill protection to further entice them to switch to a TOU rate.⁵⁶

CforAT noted that the bill impacts of HUC elimination were similar to those considered and cited by the Commission in rejecting SDG&E’s proposal to

⁵² Exh. SCE-01 at 22-23.

⁵³ Exh. UCAN-01 at 12.

⁵⁴ Exh. Cal Advocates-01 at 1-12.

⁵⁵ Exh. TURN-02-E at 15-16.

⁵⁶ Exh. TURN-02-E at 19.

eliminate the HUC in D.19-04-18. CforAT argued that the bill impacts on the majority of non-TOU, tiered rate customers militate against HUC elimination. CforAT contended that arguments for HUC elimination “fail to provide adequate support for a change in rate design which would benefit a small group of customers who use very high levels of electricity at the expense of virtually everyone else.”⁵⁷ PG&E responded to CforAT’s arguments by asserting that the HUC was a subsidy that deserved to be eliminated, and that therefore the bill impacts of HUC elimination on non-HUC customers were justified.⁵⁸

3.3. Contested Settlement on HUC Issues

On October 23, 2020, Cal Advocates, TURN, UCAN, PG&E, SDG&E, and SCE (the Settling Parties) jointly filed a motion to adopt a settlement agreement resolving the HUC issues within the scope of this proceeding (HUC settlement). CforAT did not join the settlement and therefore the HUC settlement is regarded as a contested settlement under Article 12 of the Commission’s Rules of Practice and Procedure (Rules).

The HUC settlement contains a roadmap for altering the HUC, and perhaps eliminating the HUC if certain criteria are met. The HUC settlement proposes the following significant elements related to HUC modification and elimination:

- Each large electrical corporation shall maintain a HUC price ratio at the level established by D.20-05-013 (*i.e.*, 25 percent more expensive than Tier 2).
- In order to ensure revenue neutrality given the maintenance of the price ratio established by D.20-05-013, each large electrical corporation shall rebalance their tiered non-TOU residential rates as soon as is

⁵⁷ Exh. CforAT-01 at 10, restating one of the guiding principles of D.19-04-018.

⁵⁸ Exh. PG&E-02 at 10.

practicable, so that the rates collect the authorized revenue requirement.

- Each large electrical corporation may file a Tier 1 advice letter in the future that eliminates the HUC if the following criteria are met:
 - The large electrical corporation has completed a mass default of its residential customers to TOU rates,⁵⁹ and
 - For a period of three consecutive months, HUC usage in a month is less than or equal to the difference between a) the total HUC usage measured at a threshold of 400 percent of baseline for that same month in 2018 (for SDG&E) or 2019 (for SCE and PG&E) and b) the total HUC usage measured at a threshold of 600 percent of baseline for that same month in 2018 (for SDG&E) or 2019 (for SCE and PG&E).

The HUC settlement also required the large electrical corporations to comply with certain reporting requirements if the HUC is eliminated.

3.3.1. Commission Review of Settlements

The Commission has long favored the settlement of disputes. Article 12 of the Rules generally concerns settlements. Pursuant to Rule 12.1(d), the Commission will not approve a settlement unless it is found to be reasonable in light of the whole record, consistent with law, and in the public interest. This standard applies to settlements that are contested as well as uncontested. Where a settlement is contested, such as the HUC settlement, it will be subject to more scrutiny than an uncontested settlement.⁶⁰

3.3.2. Reasonableness in Light of the Whole Record

The first question considered is whether the HUC settlement is reasonable in light of the whole record. The motion filed by the Settling Parties asserted that

⁵⁹ The completion has already occurred for SDG&E, will occur by March 2022 for SCE, and will occur by April 2022 for PG&E (RT Ramirez/Keane/Malik 69:5-26).

⁶⁰ D.18-08-013 at 11.

the HUC settlement is reasonable in light of the whole record as it is the product of settlement negotiations that led to outcomes that “are within the range of positions and outcomes presented by the parties in the instant proceeding.”⁶¹

The motion recalled that the range of HUC proposals in this proceeding included elimination of the HUC at one end of the spectrum, and retention of the HUC without modification at the other, “with various proposals in between aimed at refining the HUC to mitigate its impact on customers.”⁶² CforAT disagreed that the outcome of the HUC settlement should be accepted simply because it was within the range of possible outcomes posed by parties in their testimony, and instead sought broader Commission review of the HUC settlement outcomes.⁶³

Because the HUC settlement adopts a position that is within the range of positions and outcomes proffered by the parties in their testimony, this decision finds that the HUC settlement is reasonable in light of the whole record. Nevertheless, the substantive policy arguments posed by CforAT in opposition to the HUC settlement are considered when evaluating whether the HUC settlement is in the public interest.

3.3.3. Consistency with the Law

The motion to adopt the HUC settlement argued that the settlement is fully consistent with relevant statutes and Commission decisions.⁶⁴ No party disputed that the HUC settlement is consistent with the law, and this decision finds that there is no inconsistency. Therefore, this decision finds that the HUC settlement is consistent with the law.

⁶¹ Motion to adopt HUC settlement at 8.

⁶² Motion to adopt HUC settlement at 10. *See also* SCE opening brief at 10.

⁶³ CforAT reply brief at 2-3.

⁶⁴ Motion to adopt HUC settlement at 11.

3.3.4. Is the HUC Settlement in the Public Interest?

The motion to adopt the HUC settlement argued that eliminating the HUC using the proposed criteria “will reduce the impact of the HUC on CARE customers and will reduce the bill impacts to all other customers when compared to the immediate and full elimination of the HUC” and “provides a process to eliminate the HUC in a manner that produces mild bill impacts.”⁶⁵ This is because the HUC settlement requires the amount of HUC revenue to fall to a relatively low amount compared with today’s HUC revenue, which in turn should reduce the amount of HUC revenue that must be collected through Tier 1 and Tier 2 rates on a per customer basis if the HUC is eliminated.⁶⁶

The motion to adopt the HUC settlement also argued that by maintaining the HUC price at the level established by D.20-05-013, the settlement terms allow for the moderation of HUC impacts on HUC customers as originally sought by some parties.⁶⁷ Finally, the motion asserted that the HUC settlement “provides more certainty to residential customers regarding their present and future costs, which is in the public interest.”⁶⁸

SCE also argued that the HUC settlement was in the public interest because it is supported by parties that fairly represent the affected interests at stake in this proceeding (namely, residential customers of the large electric utilities).⁶⁹

⁶⁵ Motion to adopt HUC settlement at 11.

⁶⁶ SCE opening brief at 14, citing Tr. Vol. 1, PG&E/Keane, 80:22 – 81:1 and SCE/Ramirez, 80:1-3.

⁶⁷ HUC settlement at 11.

⁶⁸ Motion to adopt HUC settlement at 12.

⁶⁹ SCE opening brief at 16.

CforAT disputed that the HUC settlement is in the public interest on several grounds. First, they asserted that the HUC settlement is intended to establish a path toward HUC elimination, which should not be considered to be in the public interest for reasons established in previous Commission decisions (e.g., that the HUC should exist to serve as a clear signal to customers to reduce their electricity usage).⁷⁰ Second, they argued that even if there are disproportionate impacts on some customers caused by the HUC, the public interest demands modifying or adjusting the HUC as blunt HUC elimination would “benefit an even smaller number of customers at the expense of all other customers.”⁷¹ Finally, CforAT rejected the argument that the HUC settlement’s mitigation of bill impacts is in the public interest, arguing that the logic of raising non-HUC customer bills to eliminate the HUC remains unjustified even if the bill impacts are mitigated.⁷²

CforAT raises critical issues that must be addressed if the Commission is to find that the HUC settlement is in the public interest.

3.3.5. Representation of Affected Interests

SCE’s argument that the parties to the HUC settlement represent the interests of residential customers of the large electrical corporations is indisputable. While the party opposing the settlement represents those interests as well, this decision finds that TURN and Cal Advocates also represent the interests of residential customers⁷³ and therefore their support of the settlement buttresses a finding that the HUC settlement is in the public interest.

⁷⁰ CforAT opening brief at 7-8, 11.

⁷¹ CforAT opening brief at 10.

⁷² CforAT reply brief at 10.

⁷³ See, e.g., TURN reply brief at 2.

3.3.6. Conservation Signal

First, with respect to the HUC's impact as a conservation signal, the Commission must be able to find that the elimination of the HUC would be in the public interest despite any effect that elimination would have on conservation. This is because the HUC was designed as a tool to incent conservation among the highest users of electricity on tiered rates, and the state policy goals supporting that determination – and therefore the public interest in those goals – have not changed since the issuance of D.15-07-001.⁷⁴ While parties to the HUC settlement argued that the Commission need not make a finding regarding the HUC's conservation effect,⁷⁵ this decision finds that it is necessary to do so in order to determine if the HUC settlement is in the public interest.

In this proceeding, several parties have provided evidence that the HUC does not actually lead to conservation by HUC customers. While TURN attempted to provide evidence to the contrary, SCE correctly pointed out that the failure by TURN to consider other causal factors for declines in HUC usage, and the exclusive use by SCE of HUC data disaggregated on a per customer basis, means that TURN's data cannot be relied on to show to the HUC actually leads to conservation by *individual* HUC customers.⁷⁶ Cal Advocates summarized the direction of evidence well in briefs, stating that “[t]hough the Commission

⁷⁴ See, e.g., D.15-07-001 at 124. Notably, some parties argued that this policy goal has changed in recent years to embrace less conservation in the name of residential electrification. Because the merits of residential electrification may depend on the time electricity is used and the technologies that consume the electricity, which are not factors specifically influenced by the HUC, it is not necessary to consider whether the HUC benefits or harms residential electrification goals. See also CforAT opening brief at 13. Instead, this decision evaluates whether the HUC has achieved its original goal of reducing electrical usage by the highest users of electricity taking service on a tiered non-TOU rate.

⁷⁵ See, e.g., PG&E reply brief at SR-1.

⁷⁶ Exh. SCE-02 at 2-4.

adopted the HUC to incentivize conservation, the [large electrical corporations'] data compellingly illustrates that the HUC no longer serves the purpose for which it was intended."⁷⁷ Based on the preponderance of the evidence provided in this proceeding, this decision finds that the HUC does not have a substantial impact on the conservation of electricity by individual HUC customers. The HUC is therefore failing in its original purpose to signal to HUC customers that they should conserve electricity.⁷⁸

Because the HUC is not fulfilling its purpose to reduce the consumption of very high users of electricity, it is consistent with the public interest to adopt a settlement that will lead to the elimination of the HUC.

3.3.7. Equity of Rate and Bill Impacts

The second issue raised by CforAT is whether it is in the public interest to eliminate the HUC given that the financial benefits of HUC elimination will accrue to a small number of very high electricity users, while rates and bills for the majority of tiered rate customers (*i.e.*, non-HUC customers) will rise as a result. CforAT cites previous Commission decisions that establish a principle that the HUC should not be eliminated if it will only benefit a few customers at the expense of many others.⁷⁹

This principle was at the heart of the rationale for adopting the HUC in D.15-07-001. As described earlier in this decision, the context for the adoption of the HUC is important to keep in mind. At that time, customers using baseline

⁷⁷ Cal Advocates opening brief at 7. *See also* PG&E opening brief at 21-22.

⁷⁸ Semantically, one could argue that the mere existence of the HUC signal complies with the stated intent of D.15-07-001 that the HUC should signal to very high users that their usage is abnormally high; but retaining a signal that does not result in a desired customer response would be illogical.

⁷⁹ CforAT opening brief at 9-10.

amounts of electricity were facing large increases in their rates and bills due to reform of the tiered rate structure. The effect of the HUC was to help moderate the impact of rate reform on prices for baseline quantities of electricity.⁸⁰ At the time this principle supporting the HUC was restated in D.19-04-018 the tiered rate was still the default rate for most residential customers of the large electrical corporations.

As noted previously in this decision, the phase of rate reform where baseline prices for electricity were undergoing significant increases for most residential electricity customers has passed. California is now in a subsequent phase of residential rate reform, where most residential customers will be defaulted to a TOU rate without a HUC component by 2022. The impact of HUC elimination on tiered rate customers using baseline quantities of electricity, while still evident, is not an imposition on the majority of residential electricity customers as it would have been in 2015 or 2019.

As noted by PG&E in its testimony, the HUC was adopted as part of a compromise to ensure the issuance of D.15-07-001.⁸¹ Part of the rationale for the HUC was to limit the rate increases for Tier 1 (or baseline) customers that resulted from the rate reforms imposed by D.15-07-001. Even with the HUC in place, D.15-07-001 allowed increases to Tier 1 rates resulting from rate reform of 5 percent per year.⁸²

⁸⁰ CforAT opening brief at 9, citing D.15-07-001 at 108 (“the [HUC] is a mechanism to target the small number of customers who use an extreme amount of energy while minimizing the risk that ordinary customers will inadvertently be hit with electricity rates set significantly higher than cost”).

⁸¹ While the foundation for the statement by the PG&E witness is unclear, this decision accepts that the HUC was intended to facilitate a broader compromise leading to the adoption of D.15-07-001.

⁸² D.15-07-001 at 277, 285, 294.

Before issuance of the HUC settlement, SCE estimated that HUC elimination would increase Tier 1 rates by 3.7 percent,⁸³ SDG&E estimated an increase to Tier 1 rates of 3.8 percent,⁸⁴ and PG&E estimated an increase to Tier 1 rates of 3.9 percent.⁸⁵ Therefore, the impact of HUC elimination on Tier 1 electricity prices in 2021 for SDG&E and 2022 for SCE and PG&E will be less than the impact on Tier 1 rates approved by D.15-07-001. Parties to the HUC settlement testified, and the motion to adopt the HUC settlement argued, that these impacts would be lessened by adoption of the HUC settlement. Consequently, this decision finds that at a minimum the elimination of the HUC will not lead to rate and bill impacts on Tier 1 customers that are greater than those imposed by D.15-07-001.

Because the rate and bill impacts of HUC elimination under the terms of the HUC settlement would be less than the impacts of rate reform imposed by D.15-07-001, and because the rate and bill impacts of HUC elimination will not affect most residential customers after the transition to default TOU rates is complete, this decision holds that it is in the public interest to adopt the HUC settlement despite the rate and bill impacts that would result.

3.3.8. Regulatory Certainty

The motion to adopt the HUC settlement argued that it was in the public interest because it provides more “certainty” to residential customers regarding their current and future costs on a tiered rate.⁸⁶ SCE’s opening brief made a

⁸³ Exh. SCE-01 at 15.

⁸⁴ Exh. SDG&E-03 at NM-17.

⁸⁵ Exh. PG&E-01 at 12.

⁸⁶ Motion to adopt the HUC settlement at 12.

similar argument.⁸⁷ However, the record reveals that the HUC settlement does not actually provide the asserted certainty. In fact, there are two levels of uncertainty that muddle the potential elimination of the HUC. The first is whether the revenue criteria established by the HUC settlement as a condition precedent for HUC elimination will ever be realized, and the second is whether the HUC will be eliminated by a large electrical corporation even if the revenue criteria are met.⁸⁸

This decision agrees with the position of SCE and the motion to adopt the HUC settlement that regulatory certainty is a public interest objective that should be satisfied when the Commission adopts a settlement. Therefore, this decision rejects ~~elements~~an element of the HUC settlement on the grounds that the uncertainty ~~they create~~it creates is not in the public interest, and alters the HUC settlement to ensure that certainty is achieved.

~~First~~Therefore, the discretion afforded to the large electrical corporations by the HUC settlement to seek elimination of the HUC is removed. Instead, the large electrical corporations shall file a Tier 1 advice letter to eliminate the HUC once the relevant ~~condition is~~conditions are met, without the exercise of discretion.

~~Second, the condition for HUC elimination appearing in paragraph two of section B.2 of the HUC settlement is removed. The use of the somewhat complex HUC revenue calculation condition introduces considerable uncertainty to the process of HUC elimination. It is entirely possible that under the HUC settlement's terms the HUC revenue calculation condition will never be satisfied~~

⁸⁷ SCE opening brief at 17.

⁸⁸ TR Ramirez 66:2-14.

and the HUC may therefore never be eliminated. Or it could be that the HUC is eliminated for SDG&E in 2021, and for SCE and PG&E as early as 2022.

This uncertainty as to the timing or even possibility of HUC elimination is contrary to the public interest in regulatory certainty embraced by SCE and the motion to adopt the HUC settlement. Furthermore, as the parties to the HUC settlement appear to assume that the HUC revenue calculation condition *will* be met at some point in the near future,⁸⁹ simplifying the settlement by eliminating the ambiguity of the HUC revenue calculation condition would guarantee resolution of the HUC question once and for all, as apparently intended by the HUC settlement.⁹⁰ As stated by CforAT in its reply brief, the question before the Commission is indeed: is it reasonable to adopt an agreement that would eliminate the HUC in the relatively near term?⁹¹ This decision agrees that this is the central question before the Commission, and chooses to answer it decisively rather than in an ambiguous fashion.

Even if the principle of regulatory certainty did not warrant removal of paragraph 2 of section B.2 of the HUC settlement, the argument for the condition's appeal is not supported by the record. SCE argued in its reply brief

⁸⁹ TR Ramirez 65:4-12; PG&E opening brief at 1 (noting that the HUC settlement “delays PG&E’s preferred 2021 elimination of the HUC”) and 14-15 (“[t]he [forecasted] annual HUC sales of this customer group remaining on E-1 were 93,000 [megawatt-hours] compared to 480,000 [megawatt-hours] in 2019, a reduction of 81 percent. Annual HUC revenues showed a similar decline compared to 2019 levels, decreasing by 84 percent (from \$232.4 million to \$36.7 million)”); TURN opening brief at 4.

⁹⁰ Motion to adopt HUC settlement at 11 (asserting that the HUC settlement provides “a reasonable pathway to HUC elimination”); SDG&E opening brief at 7 (“...the objective of the settlement negotiation was to attempt to identify a compromise solution that would permit resolution of disputed issues related to the HUC”) (emphasis added); CforAT opening brief at 7 (“the [HUC settlement] is set to move the [large electrical corporations] toward elimination of the [HUC]”). See also TURN opening brief at 3-4.

⁹¹ CforAT reply brief at 1.

~~that the HUC revenue calculation condition helped to ensure that “the bill impacts on lower and moderate usage customers from eliminating the HUC will be milder than they would have been if SDG&E’s prior petition [to immediately eliminate the HUC] had been granted.”⁹²—Testimony provided by the settling parties at evidentiary hearing established that this argument is based on an assumption that the proportion of HUC customers to non-HUC customers (and HUC kWh sold to non-HUC kWh sold) will drop as the transition to default TOU is completed, just as the amount of HUC revenue is expected to drop.⁹³—This assumption regarding the declining ratio of HUC customers to non-HUC customers does not appear to have been tested by the settling parties through modeling and is an intuition.⁹⁴—In the event that the proportion of HUC kWh sold to non-HUC kWh sold actually *increases* after the transition to default TOU even as the amount of HUC revenue falls, the HUC revenue calculation condition will not actually serve to reduce the bill impacts of HUC elimination as averred by the HUC settlement.⁹⁵—Instead, the bill impacts could theoretically be greater than under immediate HUC elimination. For these reasons, **this decision finds that** it is not necessary for the Commission to adopt paragraph 2 of section B.2 of the HUC settlement in order to find that the rate and bill impacts of HUC elimination are reasonable. As found previously in this decision, the rate and bill~~

⁹²—~~SCE reply brief at 3.~~

⁹³—~~TR Ramirez 79:2-5, 20-28, 80:1-17.~~

⁹⁴—~~TR Keane 81:11-19.~~

⁹⁵—~~This is because the rate and bill impacts of HUC elimination are not simply a function of the amount of HUC revenue, but also the ratio of HUC customers to non-HUC customers (or more specifically the kWh consumed by each group of customers). Even if HUC revenue declines precipitously in a manner acceptable to the HUC settlement, if the number of non-HUC customers and non-HUC sales decline very rapidly then the rate and bill impacts of HUC elimination would not necessarily be milder than in the absence of the HUC settlement.~~

~~impacts of HUC elimination are reasonable given that changing circumstances of residential rate reform since 2015 and 2019, and the nature of the impact on Tier 1 rates when compared to Tier 1 rate impacts approved by D.15-07-001.~~

Given ~~these changes~~this change to the HUC settlement, this decision finds that the HUC settlement is in the public interest.

~~Because~~ While the proposed version of this decision ~~removes~~sought the removal of the HUC revenue calculation condition, ~~as described~~ outlined in paragraph 2 of section B.2 of the HUC settlement, the ~~HUC shall be eliminated by each large electrical corporation once the migration of residential customers to default TOU rates is complete for each large electrical corporation. Therefore, SDG&E shall file a Tier 1 advice letter seeking to eliminate the HUC as soon as practicable, SCE shall file a Tier 1 advice letter seeking to eliminate the HUC as soon as practicable after March 2022, and PG&E shall file a Tier 1 advice letter seeking to eliminate the HUC as soon as practicable after April 2022~~Settling Parties opposed the removal of that condition in their comments to the proposed decision. Regulatory certainty would be enhanced if the HUC revenue calculation condition were removed. However, this decision holds that traditional Commission respect for settlements and record indicating that the inclusion of the HUC revenue calculation condition may lead to mitigated bill impacts allows for a finding that acceptance of the HUC revenue calculation condition is reasonable in spite of its diminution of regulatory certainty.⁸⁹

⁸⁹ The comment of the Settling Parties on the proposed decision indicated that they preferred the maintenance of electrical corporation discretion as described in the HUC settlement. However, the comment also indicated that the Settling Parties only sought, at a minimum, the reinsertion of the HUC revenue calculation condition. This decision therefore interprets the comment of the Settling Parties on the proposed decision as accepting the removal of electrical corporation discretion to seek elimination of the HUC once relevant elimination criteria are met.

The treatment of the HUC in the period of time between this decision and the effective date of the potential advice letter for each large electrical corporation that seeks elimination of the HUC shall be in accord with section B.1 of the HUC settlement, and the prices of Tier 1, Tier 2, HUC electricity shall be rebalanced accordingly. This means that for SDG&E, SCE, and PG&E customers, the HUC price will remain 25 percent greater than the Tier 2 price until the HUC is eliminated.⁹⁰ In accordance with the terms of the HUC settlement, this decision expressly modifies Ordering Paragraphs 2, 4, and 6 of D.20-05-013 and no longer allows for a letter from the Commission's Executive Director to reset the HUC price to its former amount.

In order to maintain revenue neutrality, SDG&E, SCE, and PG&E shall periodically file advice letters to rebalance their tiered rates while maintaining a HUC price that is 25 percent greater than the Tier 2 price. ~~Because this decision orders SDG&E to eliminate its HUC as soon as practicable, these orders regarding rebalancing do not apply to it.~~

For the sake of clarity, this decision holds that all elements of the HUC settlement should be approved pursuant to Article 12 of the Rules, with the exception of the ~~modifications~~modification to the HUC settlement ~~made by this decision and described above~~that removes electrical corporation discretion to seek elimination of the HUC once the relevant elimination conditions are met.

4. Seasonality of SDG&E's Opt-In TOU Rates

SDG&E proposed to modify its opt-in residential TOU rates for the purpose of 1) reducing summer bill volatility by decreasing summer rates and 2) conforming rate designs of the opt-in residential TOU rates with the rate design

⁹⁰ In the event that the HUC elimination criteria are not met, then this price ratio would remain until modified by a subsequent Commission decision.

approved in D.20-06-006 for SDG&E's default residential TOU rate, Schedule TOU-DR1.⁹⁶⁹¹ SDG&E's opt-in residential TOU rates are Schedules TOU-DR2, DR-SES, DR-TOU, TOU-DR, TOU-DR-P, EV-TOU2 and EV-TOU-5.

SDG&E stated that D.20-06-006 modified SDG&E's default TOU rate, Schedule TOU-DR1, by decreasing summer rates by approximately 5 percent and increasing winter rates by approximately 4 percent. In order to conform the rate designs of SDG&E's opt-in residential TOU rates with that change, and to provide summer bill relief to all residential customers similar to the bill relief provided to customers on Schedule DR and Schedule TOU-DR1, SDG&E proposed the following changes to its opt-in residential TOU rates:

- Lower summer rates and raise winter rates for opt-in residential TOU rate customers, which has the effect of reducing summer bill volatility and summer bills.
- Use the TRAC mechanism to modify the rate designs of the tiered opt-in residential TOU rates, rather than the commodity cost component of the rate, as was endorsed by D.20-06-006 for purposes of adjusting SDG&E's default TOU rate design.
- For untiered opt-in residential TOU rates, adjust the commodity rate component, also known as the Electric Energy Commodity Cost (EECC) rate component, to make the desired rate design changes instead of the TRAC component.⁹⁷⁹²
- For Schedule TOU-DR2, lower summer on-peak rates by 3.6 percent and summer off-peak rates by 5.7 percent, while raising winter on-peak rates by 4.3 percent and winter off-peak rates by 4.5 percent.

⁹⁶⁹¹ Exh. SDG&E-04 at NM-1.

⁹⁷⁹² Exh. SDG&E-04 at NM-8. SDG&E reported that the EECC is designed to reflect the marginal generation costs by season and by TOU period as approved in SDG&E's 2016 GRC Phase 2 and that in order to adjust untiered opt-in residential TOU rates to moderately reduce summer rates, SDG&E would adjust the recovery of the summer on-peak generation demand costs and the summer generation capacity costs by shifting some of those costs to the winter commodity rates. (Exh. SDG&E-04 at NM-9.)

- For Schedule TOU-DR, lower summer on-peak rates by 4.2 percent, summer off-peak rates by 4.8 percent and summer super off-peak rates by 5.5 percent, while raising winter on-peak rates by 4.5 percent, winter off-peak rates by 4.6 percent, and winter super off-peak rates by 4.7 percent.
- For Schedule DR-TOU, lower summer on-peak rates by 4.2 percent and summer off-peak rates by 5.1 percent, while raising winter on-peak rates by 5.0 percent and winter off-peak rates by 5.1 percent.
- For Schedule TOU-DR-P, lower summer on-peak rates by 4.7 percent, summer off-peak rates by 4.8 percent and summer super off-peak rates by 6.1 percent, while raising winter on-peak rates by 4.5 percent, winter off-peak rates by 4.6 percent, and winter super off-peak rates by 4.7 percent.⁹⁸⁹³
- For Schedule DR-SES, lower summer on-peak rates by 4.8 percent and summer off-peak rates by 5.1 percent, while raising winter on-peak rates by 7.1 percent and winter off-peak rates by 5.1 percent. Super off-peak rates in both seasons would remain unchanged.
- For Schedule EV-TOU, lower summer on-peak rates by 4.4 percent and summer off-peak rates by 4.5 percent, while raising winter on-peak rates by 6.1 percent and winter off-peak rates by 4.4 percent. Super off-peak rates in both seasons would remain unchanged.
- For Schedule EV-TOU2, lower summer on-peak rates by 4.4 percent and summer off-peak rates by 4.5 percent, while raising winter on-peak rates by 6.1 percent and winter off-peak rates by 4.4 percent. Super off-peak rates in both seasons would remain unchanged.
- For Schedule EV-TOU-5, lower summer on-peak rates by 4.9 percent and summer off-peak rates by 5.3 percent, while raising winter on-peak rates by 7.3 percent and winter off-peak rates by 5.3 percent. Super off-peak rates in both seasons would be lowered by 0.1 percent.⁹⁹⁹⁴

The bill impacts of SDG&E's proposed rate design changes are summarized in the table below. Generally speaking, average summer bills

⁹⁸⁹³ Exh. SDG&E-04 at NM-5 to NM-7.

⁹⁹⁹⁴ Exh. SDG&E-04 at NM-11 to NM-12.

would decrease 4-5 percent and average winter bills would increase 4-5 percent, in line with the objective of the proposed rate design changes.¹⁰⁰⁹⁵

Schedule	Non-CARE Average Summer Bill Impact	Non-CARE Average Winter Bill Impact	CARE Average Summer Bill Impact	CARE Average Winter Bill Impact
TOU-DR2	- 4.9%	4.4%	- 5.2%	4.6%
TOU-DR	- 4.8%	4.6%	- 5.0%	4.8%
TOU-DR-P	- 5.1%	4.6%	- 5.3%	4.8%
DR-TOU	- 4.9%	5.1%	- 5.1%	5.4%
DR-SES	- 4.0%	3.8%	- 4.1%	3.8%
EV-TOU2	- 3.6%	3.5%	- 3.7%	3.8%
EV-TOU-5	- 4.0%	4.0%	- 4.3%	4.4%

UCAN, TURN and CforAT each argued that SDG&E implement any changes to its opt-in TOU rates at the start of the summer season of 2021 in order to avoid adverse bill impacts during the winter season.¹⁰¹⁹⁶ SDG&E agreed that changes to untiered rates could occur by summer 2021, but argued that it was not possible to make changes to the tiered rate designs until “its next available rate change.”¹⁰²⁹⁷

CforAT expressed no opposition to the modified rate designs put forward by SDG&E for opt-in residential TOU rates.¹⁰³⁹⁸

UCAN supported the proposed revisions to the rate designs of SDG&E’s tiered opt-in residential TOU rates, and argued that the rate and bill impacts of

¹⁰⁰⁹⁵ Exh. SDG&E-04 at NM-15 to NM-21.

¹⁰¹⁹⁶ Exh. UCAN-01 at 17; Exh. TURN-03 at 2; CforAT-01 at 4-5.

¹⁰²⁹⁷ Exh. SDG&E-07 at NM-6 to NM-7.

¹⁰³⁹⁸ Exh. CforAT-01 at 5.

the proposed revisions were reasonable.¹⁰⁴⁹⁹ However, with respect to the untiered rate design modifications using the EECC in lieu of the TRAC rate component, UCAN expressed concern. UCAN noted that the modifications to the untiered rates showed no changes to the super off-peak prices, while modifications to the tiered rates showed changes to super off-peak prices where applicable. UCAN argued that for simplicity's sake the super off-peak prices be adjusted for the untiered rates as they are for the tiered rates.¹⁰⁵¹⁰⁰

SDG&E attempted to refute UCAN's concerns by noting that the objective of the modified rate designs for the untiered rates is to reduce summer bills and seasonal bill volatility by reducing average summer bills slightly and increasing winter bills slightly. In SDG&E's view, the proposed modifications achieve those goals without resorting to modifications to the super off-peak prices.¹⁰⁶¹⁰¹

On October 23, 2020, SDG&E, UCAN, CforAT, TURN, and Cal Advocates filed a joint motion to adopt a joint settlement agreement regarding changes to the seasonal differential present in SDG&E's opt-in residential TOU rates (TOU settlement).

The terms of the TOU settlement are consistent with SDG&E's originally proposed rate design modifications and rate and bill impacts, including the use of the TRAC component to adjust tiered TOU rates and the EECC component to adjust untiered TOU rates. The TOU settlement also stated that all seasonality adjustments shall become effective the beginning of the summer period in June 2021.

¹⁰⁴⁹⁹ Exh. UCAN-01 at 14-15.

¹⁰⁵¹⁰⁰ Exh. UCAN-01 at 15-17.

¹⁰⁶¹⁰¹ Exh. SDG&E-07 at NM-5 to NM-6.

4.1. Application of Article 12 of the Rules

The Commission has long favored the settlement of disputes. Article 12 of the Rules generally concerns settlements. Pursuant to Rule 12.1(d), the Commission will not approve a settlement unless it is found to be reasonable in light of the whole record, consistent with law, and in the public interest. This standard applies to settlements that are contested as well as uncontested. The TOU settlement is uncontested.

The motion to adopt the TOU settlement claimed that the settlement should be found to be reasonable in light of the whole record as it adopts rate design proposals put forward by SDG&E while adopting implementation timeframes recommended by TURN, CforAT, and UCAN.¹⁰⁷¹⁰² This decision agrees that the TOU settlement is reasonable in light of the whole record for those reasons.

The motion to adopt the TOU settlement argued that the settlement was consistent with the law as the terms complied with relevant statutes, Commission decisions, and public policy. The motion to adopt the TOU settlement also noted that the settlement's revisions to the rate designs of SDG&E's opt-in residential TOU rates are consistent with the Commission's changes to other SDG&E residential rate designs made by D.20-06-006.¹⁰⁸¹⁰³ This decision agrees that the TOU settlement is consistent with the law for those reasons.

The motion to adopt the TOU settlement argued that the settlement was in the public interest because it commanded broad support among participants fairly reflective of the affected interests and does not contain terms which

¹⁰⁷¹⁰² Motion to adopt TOU settlement at 8-9.

¹⁰⁸¹⁰³ Motion to adopt TOU settlement at 9.

contravene statutory provisions or prior Commission decisions.¹⁰⁹¹⁰⁴ The motion also asserted that the TOU settlement will reduce bill volatility and provide greater certainty to SDG&E's residential opt-in TOU customers regarding their present and future costs.¹¹⁰¹⁰⁵

This decision agrees that the TOU settlement is in the public interest for the reasons stated by the motion, however this decision must also evaluate the rate and bill impacts of the rate design changes proposed by the TOU settlement to complete a public interest analysis. Because the rate and bill impacts for SDG&E's opt-in residential TOU rates are relatively modest and mirror those adopted by the Commission in D.20-06-006 for other SDG&E residential customers, the rate and bill impacts are reasonable. Adopting the TOU settlement will harmonize seasonal rate designs across all of SDG&E's residential rates, and therefore the TOU settlement should be approved. SDG&E shall execute the terms of the TOU settlement as soon as practicable.

5. Outstanding Motions

This decision closes the proceeding. All motions not previously ruled on are deemed denied. All previous rulings of the ALJ are affirmed.

6. Comments on Proposed Decision

The proposed decision of ALJ Doherty 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 February 16, 2021 by CforAT and the Settling Parties, and reply comments were filed on February 22, 2021 by the Settling Parties.

¹⁰⁹¹⁰⁴ Motion to adopt TOU settlement at 9.

¹¹⁰¹⁰⁵ Motion to adopt TOU settlement at 10.

~~Parties to the HUC settlement are requested to register their acceptance or rejection of the proposed decision's modifications to the HUC settlement in comments~~

Changes have been made throughout the decision in response to party comments. CforAT sought clarity on the factors that distinguish this decision from previous decisions that established and maintained the HUC. Discussion of those distinguishing factors can be found throughout this decision but center on 1) the transition of most residential electric customers away from tiered non-TOU rates, which obviates the need to protect most residential electric customers from Tier 1 rate increases resulting from HUC elimination, and 2) the demonstrated failure of the HUC to meet its conservation objective. Because the HUC is no longer needed to fulfill one of its original goals (FOF 11), and is apparently incapable of meeting its other original goal (FOF 9), this decision finds that the elimination of the HUC is reasonable.

7. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Patrick Doherty is the assigned ALJ in this proceeding.

Findings of Fact

1. A key factor motivating the Commission's creation of the HUC was the desire to avoid sending a "reward" signal to very high users of electricity.
2. Had the HUC not been imposed, very high users of electricity would have seen substantial bill reductions as a result of the broader rate reforms adopted by D.15-07-001, and the Commission resolved not to allow those financial benefits to pass through without some sort of signal for those customers to conserve.

3. The period of time where very high users of electricity experienced financial benefits from the consolidation and repricing of electricity tiers has passed.

4. The HUC settlement adopts a position that is within the range of positions and outcomes proffered by the parties in their testimony.

5. The HUC settlement is fully consistent with relevant statutes and Commission decisions.

6. Parties to the HUC settlement such as TURN and Cal Advocates represent the interests of residential customers of the large electrical corporations.

7. The HUC was designed as a tool to incent conservation among the highest users of electricity on tiered rates.

8. The HUC does not have a substantial impact on the conservation of electricity by individual HUC customers.

9. The HUC is failing in its original purpose to signal to HUC customers that they should conserve electricity.

10. Most residential customers of the large electrical corporations will be defaulted to a TOU rate without a HUC component by 2022.

11. The impact of HUC elimination on tiered rate customers using baseline quantities of electricity is not an imposition on the majority of residential electricity customers as it would have been in 2015 or 2019.

12. Even with the HUC in place, D.15-07-001 allowed increases to Tier 1 rates resulting from rate reform of 5 percent per year.

13. The impact of HUC elimination on Tier 1 electricity prices in 2021 for SDG&E and 2022 for SCE and PG&E will be less than the impact on Tier 1 rates approved by D.15-07-001.

14. The elimination of the HUC will not lead to rate and bill impacts on Tier 1 customers that are greater than those imposed by D.15-07-001.

~~15. — The HUC settlement includes two levels of uncertainty regarding the potential elimination of the HUC: whether the revenue criteria established by the HUC settlement as a condition precedent for HUC elimination will ever be realized, and whether the HUC will be eliminated by a large electrical corporation even if the revenue criteria are met.~~

~~16. — In the event that the proportion of HUC kWh sold to non-HUC kWh sold actually increases after the transition to default TOU even as the amount of HUC revenue falls, the HUC revenue calculation condition will not actually serve to reduce the bill impacts of HUC elimination as averred by the HUC settlement.~~

15. ~~17.~~ The TOU settlement adopts rate design proposals put forward by SDG&E while adopting implementation timeframes recommended by TURN, CforAT, and UCAN.

16. ~~18.~~ The TOU settlement complies with relevant statutes, Commission decisions, including D.20-06-006, and public policy.

17. ~~19.~~ The TOU settlement commanded broad support among participants fairly reflective of the affected interests and does not contain terms which contravene statutory provisions or prior Commission decisions.

18. ~~20.~~ The TOU settlement will reduce bill volatility and provide greater certainty to SDG&E's residential opt-in TOU customers regarding their present and future costs.

19. ~~21.~~ The rate and bill impacts for SDG&E's opt-in residential TOU rates, as a result of the TOU settlement, are relatively modest and mirror those adopted by the Commission in D.20-06-006 for other SDG&E residential customers.

20. ~~22.~~ Adopting the TOU settlement will harmonize seasonal rate designs across all of SDG&E's residential rates.

Conclusions of Law

1. The HUC settlement is reasonable in light of the whole record.
2. The HUC settlement is consistent with the law.
3. The state policy goals supporting the use of the HUC to incent conservation – and therefore the public interest in those goals – have not changed since the issuance of D.15-07-001.
4. It is necessary to make a finding regarding the HUC's conservation effect in order to determine if the HUC settlement is in the public interest.
5. Because the HUC is not fulfilling its purpose to reduce the consumption of very high users of electricity, it is consistent with the public interest to adopt a settlement that will lead to the elimination of the HUC.
6. It is in the public interest to adopt the HUC settlement despite the rate and bill impacts that would result.
7. Regulatory certainty is a public interest objective that should be satisfied when the Commission adopts a settlement.
8. The uncertainty as to the timing or even possibility of HUC elimination under the terms of the HUC settlement is contrary to the public interest in regulatory certainty.

~~9. ——— It is not necessary for the Commission to adopt paragraph 2 of section B.2 of the HUC settlement in order to find that the rate and bill impacts of HUC elimination are reasonable.~~

9. ~~10.~~ With the ~~changes~~change to the HUC settlement made by this decision (i.e., ~~striking paragraph 2 of section B.2 and~~ removing discretion to seek

elimination of the HUC once relevant elimination criteria are met), the HUC settlement is in the public interest.

10. ~~11.~~ In accordance with the terms of the HUC settlement, Ordering Paragraphs 2, 4, and 6 of D.20-05-013 are modified to no longer allow a letter from the Commission's Executive Director to reset the HUC price to its former amount.

11. ~~12.~~ All elements of the HUC settlement should be approved, with the exception of the ~~modifications to~~ provision of the HUC settlement ~~made~~ eliminated by this decision.

12. ~~13.~~ The TOU settlement is reasonable in light of the whole record.

13. ~~14.~~ The TOU settlement is consistent with the law.

14. ~~15.~~ The TOU settlement is in the public interest.

15. ~~16.~~ The rate and bill impacts of the TOU settlement are reasonable.

16. ~~17.~~ The TOU settlement should be approved.

O R D E R

IT IS ORDERED that:

1. San Diego Gas & Electric Company shall file a Tier 1 advice letter seeking to eliminate the High Usage Charge as soon as practicable after the relevant elimination criteria of the High Usage Charge settlement are met.

2. Southern California Edison Company shall file a Tier 1 advice letter seeking to eliminate the High Usage Charge as soon as practicable after ~~March 2022~~ the relevant elimination criteria of the High Usage Charge settlement are met.

3. Pacific Gas and Electric Company shall file a Tier 1 advice letter seeking to eliminate the High Usage Charge as soon as practicable after ~~April 2022~~ the relevant elimination criteria of the High Usage Charge settlement are met.

4. San Diego Gas & Electric Company shall periodically file advice letters to rebalance its tiered rate while maintaining a High Usage Charge price that is 25 percent greater than the Tier 2 price.

5. ~~4.~~ Southern California Edison Company shall periodically file advice letters to rebalance its tiered rate while maintaining a High Usage Charge price that is 25 percent greater than the Tier 2 price.

6. ~~5.~~ Pacific Gas and Electric Company shall periodically file advice letters to rebalance its tiered rate while maintaining a High Usage Charge price that is 25 percent greater than the Tier 2 price.

7. ~~6.~~ San Diego Gas & Electric Company (SDG&E) shall execute the terms of the joint settlement agreement regarding changes to the seasonal differential present in SDG&E's opt-in residential time-of-use rates as soon as practicable.

8. ~~7.~~ Application 19-09-014 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

Document comparison by Workshare Compare on Friday, February 26, 2021
8:32:48 AM

Input:	
Document 1 ID	file:///C:/Users/gp2/Desktop/A1909014 Doherty PD (mailing) 3-4-21 Agenda.docx
Description	A1909014 Doherty PD (mailing) 3-4-21 Agenda
Document 2 ID	file:///C:/Users/gp2/Desktop/A1909014 (Rev.1) Concerning Adjustment of the High Usage Charge.docx
Description	A1909014 (Rev.1) Concerning Adjustment of the High Usage Charge
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	115
Deletions	145
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	262

