

Decision 10-10-025 October 28, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for a Two-Year Extension of the ClimateSmart
(TM) Program and Tariff Option. (U39M)

Application 09-05-016
(Filed May 18, 2009)

**DECISION GRANTING EXTENSION
OF CLIMATESMART PROGRAM AND TARIFF OPTION**

1. Summary

This decision grants a request by Pacific Gas and Electric Company to extend the ClimateSmart Demonstration Program and Tariff Option until December 31, 2011.

2. Background

2.1. ClimateSmart Demonstration Program

On December 14, 2006, the Commission issued Decision (D.) 06-12-032, which authorized Pacific Gas and Electric Company (PG&E) to establish the ClimateSmart Demonstration Program and Tariff Option, called the Climate Protection Tariff. The ClimateSmart Demonstration Program is a voluntary program, which allows PG&E customers the option to pay a monthly premium to offset the greenhouse gas (GHG) emissions associated with their electricity usage. The monthly premium is charged volumetrically (\$0.00254 per kilowatt-hour and \$0.06528 per therm exclusive of program administration and marketing

(A&M) costs). Thus, the more energy a customer uses, the higher the monthly premium.

Both residential and commercial customers may participate in the ClimateSmart Demonstration Program. PG&E invests 100 percent of customers' monthly premiums solely in independently verified GHG emission reducing offset projects in California. Examples of offset projects used in the ClimateSmart Demonstration Program include forestry, dairy, and landfill methane capture. Regardless of the type of project, the offset reduces or absorbs GHGs, such as carbon dioxide and methane. PG&E is not permitted to use any of the GHG reductions attained through the ClimateSmart Demonstration Program to meet other GHG emissions reduction obligations or commitments, be they mandatory or voluntary.¹

In D.06-12-032, the Commission authorized PG&E to allocate \$16.4 million in administration and marketing costs for the ClimateSmart Demonstration Program to all PG&E ratepayers because the Commission determined that the program benefits all customers. Customer benefits include education about climate change and its connection to the use of electricity and natural gas, benefits associated with emissions reductions funded by the program, as well as the development of elements of the "carbon infrastructure" necessary to mitigate climate change.

¹ D.06-12-032 at 3.

D.06-12-032 set a budget for the use of these funds and required PG&E to spend a certain amount per year for program administration and marketing.² As part of the budget set by the Commission for use of A&M funds, the Commission authorized PG&E to allocate \$900,000 to the California Climate Action Registry³ to support development of new emissions reduction protocols.

In establishing the ClimateSmart Demonstration Program, the Commission reasoned that because ratepayers were being asked to provide funding for a portion of the program, PG&E should guarantee at least some minimum amount of GHG reductions. PG&E originally estimated that between 4-5 percent of its customers would enroll in the ClimateSmart Demonstration Program, thereby resulting in GHG emission reductions of 2 million tons of Carbon Dioxide (CO₂) by the end of the three-year pilot.⁴ The performance guarantee set by the Commission requires PG&E to contract for 75 percent of the 2 million tons in GHG reductions PG&E predicted it would achieve as a result of the three-year demonstration project.⁵ The offset projects the ClimateSmart Demonstration Program invests in will create GHG emission reductions from 2007-2021, with the majority of reductions achieved by 2012.⁶ Thus, while a customer pays to make its electricity usage carbon neutral during the three years

² In order to transfer funds among budget categories or spend budgeted funds in different years, PG&E was required to file an advice letter with the Commission seeking such a change.

³ The Climate Action Reserve was formerly known (and referred to in D.06-12-032) as the California Climate Action Registry.

⁴ D.06-12-032 at 6, 10.

⁵ Thus, PG&E must contract for a minimum of 1.5 million tons of CO₂ equivalent reductions by the end of the program.

of the demonstration program by having PG&E invest in carbon offsets, and PG&E purchases a commitment for those offsets, the reductions are not immediately achieved. The GHG reductions achieved by the ClimateSmart Demonstration Program are exclusive to the customers participating, and subsequently the offsets may not be used by PG&E to meet any other obligation to reduce GHG emissions.

An External Advisory Group (EAG) was created to provide outside expertise and guidance in implementing D.06-12-032. The EAG is comprised of diverse stakeholders and provides feedback on the marketing and selection of emission reduction projects for investment by the ClimateSmart demonstration program.

Finally, D.06-12-032 set a sunset date for the demonstration program of December 31, 2009, but permitted PG&E to file an application seeking continuation of the program past that date.⁷ PG&E by this Application requests authorization to continue the ClimateSmart Demonstration Program through December 31, 2011.

2.2. The Application

PG&E asks the Commission to extend the ClimateSmart Demonstration Program, including authorizing extension of the performance standard⁸ adopted in D.06-12-032, until December 21, 2011. PG&E proposes to continue the program in its current form and requests:

⁶ ClimateSmart Report 2009 at 29.

⁷ D.06-12-032 at 52 [Ordering Paragraph 13].

⁸ PG&E uses the term “performance standard” to refer to the performance guarantee set by the Commission in D.06-12-032. They are equivalent terms.

1. Authorization to carry forward unspent A&M funds recorded in the gas and electric subaccounts of the ClimateSmart Balancing Accounts as well as any additional unspent A&M funds, including interest, at the end of 2009.
2. Authorization to use the A&M funds carried forward without restriction to transfers among budget categories, or, consistent with D.06-12-032, authorization to allocate the remaining A&M funds to purchase offsets directly under PG&E's performance standard. Any residual balance in the A&M subaccounts would be transferred to the electric Distribution Revenue Adjustment Mechanism (DRAM) and the gas Noncore Distribution at the end of the extension period.

3. Procedural History

On May 18, 2009, PG&E filed this application. In its Application, PG&E stated that the Program will not meet the contracting and enrollment goals established in D.06-12-032 by December 31, 2009 due to various challenges. PG&E did not request additional A&M funds from PG&E ratepayers during the extension period, but rather proposes to use the unspent A&M funds collected in 2008 and 2009 to fund the extension.⁹

The Utility Reform Network (TURN) filed a timely protest to the Application. A prehearing conference (PHC) was noticed and held on July 29, 2009. At the PHC, PG&E, TURN, and the Division of Ratepayer Advocates (DRA) requested that the parties be given time to meet and seek consensus on some or all aspects of the proceeding prior to setting a firm procedural schedule. A second PHC was noticed and held on September 23, 2009.

⁹ The estimated amount of unspent A&M funds as of December 31, 2009 was \$4.078 million. (D.09-11-018 Finding of Fact 6.)

At the second PHC, parties informed the assigned Administrative Law Judge (ALJ) that they were unable to reach a consensus. PG&E also raised a concern that this proceeding would not conclude before the sunset date adopted in D.06-12-032. PG&E requested that the Commission issue a day-to-day extension order until the Commission reaches a decision on the merits of the Application.

The *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* (Scoping Memo) issued on September 29, 2009 requested comments from parties on the requested day-to-day extension order. The Scoping Memo was also served on the service list of Application 06-01-012, the proceeding which resulted in D.06-12-032. DRA/TURN supported the day-to-day extension so long as PG&E was not permitted to use any of the unspent A&M funds during the extension period.

On October 22, 2009 a workshop was held. In preparation for the workshop, PG&E filed a *Pre-Workshop Statement of Pacific Gas and Electric Company*. The workshop provided an opportunity for PG&E to address questions and concerns posed by intervening parties and provided an opportunity for intervening parties to further express and clarify their concerns.

On November 20, 2009, the Commission issued D.09-11-018, granting PG&E a day-to-day extension of the ClimateSmart Demonstration Program and Tariff Option. However, because this proceeding is addressing the extent to which PG&E's marketing program should be modified should the Application

be granted, PG&E was only allowed to expend the unspent funds collected from ratepayers for essential administration and compliance activities.¹⁰

4. Protests

The key areas of parties' disagreement with PG&E's Application¹¹ are:

1. PG&E should not be allowed to extend the ClimateSmart Demonstration Program because it has failed to show the value of extending the program beyond 2009.
2. ClimateSmart has failed to produce more than a small fraction of the enrollments predicted by PG&E in its original Application and is not a cost-effective way to procure GHG reductions.
3. Extension of ClimateSmart is unlikely to produce meaningful results for ratepayers or subscribers in part because PG&E failed to propose new strategies that are likely to yield enrollments.
4. PG&E and its shareholders, rather than ratepayers, would be the primary beneficiaries of an extension of ClimateSmart; it would reduce the amount of GHG reductions to be satisfied by shareholder contributions and allow PG&E to use ratepayer funds to rebrand PG&E as an environmental leader.

¹⁰ To the extent PG&E believed marketing expenditures are necessary during the extension period, funding for these expenditures were to have come from its shareholders.

¹¹ PG&E originally asked the Commission to clarify that the term "ton" used in the original decision refers to a "short ton" and not "metric ton." DRA and TURN ask the Commission to require that PG&E procure no less than 1.5 million metric tons rather than the 1.36 million metric tons PG&E believes would satisfy the requirements of D.06-12-032. DRA and TURN contend that while D.06-12-032 did not specify that PG&E's obligation would be measured in "short tons" that PG&E is now trying to change the measure and thereby reduce its obligation. On January 21, 2010, the Commission issued Resolution G-3425 which clarified that the type of units to be used for measuring the minimum number of tons of GHG emission reductions PG&E must procure under the ClimateSmart Demonstration Program to be short tons. Therefore this issue no longer requires clarification.

5. If the Commission approves an extension of ClimateSmart, the extension should be conditioned upon the return of any unspent A&M funds to ratepayers. The source of funding should come from the party that benefits from the extension, here the shareholders.
6. The Commission should clarify that the shareholder obligation will be calculated based on the deficit between the minimum guarantee set forth in D.06-12-032 and total GHG reductions supported through customer contributions collected through December 31, 2011.

5. Proposed Extension of ClimateSmart Until December 31, 2011

5.1. Parties' Positions – Extension of ClimateSmart

DRA and TURN both argue against any extension of the ClimateSmart Demonstration Program because the program has not succeeded in generating the customer enrollments predicted by PG&E in its original Application and they believe the educational benefits claimed by PG&E are speculative. DRA and TURN believe that ClimateSmart's failure is the result of PG&E's program design and/or execution, rather than a result of customer ignorance or due to the current economic situation as PG&E asserts. DRA and TURN state that there is no reasonable basis to conclude that an extension of ClimateSmart is likely to yield breakthrough results or meaningful incremental benefits. They believe PG&E failed to provide new strategies that would likely yield any breakthrough in enrollments to support PG&E's request for extension of the program.

DRA and TURN believe that the real purpose of extending Climate Smart is to promote PG&E's own corporate brand using ratepayer money. DRA and TURN point to PG&E's own references to ClimateSmart as support for this contention. They argue that PG&E has cited ClimateSmart as evidence of its corporate responsibility, part of its "engagement" effort of "residential

segmentation” designed to yield an “enhanced customer experience,” and intended to enhance business customer satisfaction.¹²

DRA and TURN next argue that it is not cost-effective to procure GHG reductions through enrollment of retail customers in ClimateSmart. DRA and TURN point to the fact that the cost of new enrollments is far higher than originally estimated¹³ and the cost continues to escalate every year.¹⁴ More specifically, DRA and TURN contend that the amount of ratepayer funds spent on program administration and marketing to attract retail customer enrollments far exceeds the amount of money being collected from those customers in the form of premiums.¹⁵

DRA and TURN argue against authorizing PG&E to spend the approximately \$4 million¹⁶ in remaining A&M funds on a program that expects

¹² *Post-Workshop Brief of The Division of Ratepayer Advocates and The Utility Reform Network on Pacific Gas and Electric Company's Request for a Two-Year Extension of the ClimateSmart Program* at 9.

¹³ PG&E originally estimated it would cost \$60 per customer in the first year of the program declining to \$48 per customer by year three of the program. (PG&E testimony, A.06-01-012 at 3-21.)

¹⁴ *Post-Workshop Brief of The Division of Ratepayer Advocates and The Utility Reform Network on Pacific Gas and Electric Company's Request for a Two-Year Extension of the ClimateSmart Program* at 3.

¹⁵ Actual customer acquisition costs have consistently exceeded original estimates; the cost of customer enrollment was \$164 in 2007 and has increased every year to \$648 per customer in 2009. (*Post-Workshop Brief of The Division of Ratepayer Advocates and The Utility Reform Network on Pacific Gas and Electric Company's Request for a Two-Year Extension of the ClimateSmart Program* at 3.)

¹⁶ This is the approximate amount of A&M Funds remaining at the time the Application was filed.

to lose almost 3,000 customers and show a net loss of \$600,000.¹⁷ Ratepayer money, they argue, would be better spent directly purchasing GHG reductions through the competitive solicitation process established by ClimateSmart.

PG&E argues that the ClimateSmart Demonstration Program has a continuing role as a voluntary GHG mitigation option. PG&E contends ClimateSmart is succeeding in its objective of helping to reduce or capture GHG emissions. As evidence of this, PG&E states that it has contracted for 1,166,898 metric tons worth of GHG reductions by the end of 2009.¹⁸ PG&E also argues that ClimateSmart has played a national and groundbreaking role in the offset market, since the utility is one of the first and largest buyers of the Climate Action Reserve's verified GHG emission reductions.¹⁹ PG&E contends that the ClimateSmart Demonstration Program is producing a body of knowledge about GHG emission reduction projects and offset project protocols that would not otherwise have been available to state and national policy makers, regulated entities, electric service providers, potential offset providers and the general public.

PG&E believes that a two-year extension is both consistent with and complementary to the current state, regional and national climate change policy environment. PG&E reconfirms its commitment that GHG emission reductions

¹⁷ *Post-Workshop Brief of The Division of Ratepayer Advocates and The Utility Reform Network on Pacific Gas and Electric Company's Request for a Two-Year Extension of the ClimateSmart Program* at 7.

¹⁸ ClimateSmart 2009 Customer Annual Report at 29.

¹⁹ PG&E Application at 4.

procured by ClimateSmart will not be used to satisfy other existing or future mandated emission standard or emission reduction requirement.

PG&E contends the ClimateSmart Demonstration Program should be extended to give enrolled and potential customers the opportunity to balance out their energy usage. PG&E maintains that no changes, above those requested by its Application, should be made to ClimateSmart. PG&E pledges that ClimateSmart will continue to, among other things:

1. Support the continued development of Climate Action Reserve protocols.
2. Invest 100 percent of enrolled customers' premiums in offsets projects in order to reduce GHG emissions.
3. Permanently retire all verified offsets procured by ClimateSmart in order to ensure actual GHG emissions reductions.
4. Operate the ClimateSmart Charity to make participating customers' payments eligible for a tax deduction as a charitable contribution.
5. Convene the EAG to solicit valuable feedback and input into ClimateSmart.
6. Provide information to customers, stakeholders, and interested parties.
7. Continue the formal annual reports as required by the Commission.

Specifically, PG&E asks the Commission to extend the performance standard of contracting for at least 1.5 million short tons²⁰ set by D.06-12-032

²⁰ PG&E made its request using short tons, a measurement disputed by parties. As stated above, subsequent to filing this Application, the Commission determined that the performance guarantee is indeed measured in short tons (Resolution G-3425). The metric ton equivalent is 1.36 metric tones.

until December 31, 2011. PG&E argues that it faces two primary challenges in executing contracts for the full 1.5 million short tons. First, PG&E argues that potential ClimateSmart bidders have little or no experience in the process of developing GHG reduction projects and selling those GHG emission reductions as offsets that meet the Climate Action Reserve protocols. Second, the Climate Action Reserve protocol development process proceeded more slowly than PG&E anticipated due to the complex nature of project accounting and use of the consensus-based Climate Action Reserve's protocol development process. As a result, fewer options were available to PG&E when the ClimateSmart Demonstration Program commenced. PG&E believes that a two-year extension will enable it to contract for the remainder of the 1.5 million short tons required by D.06-12-032.

PG&E acknowledges that the ClimateSmart Demonstration Program failed to achieve the level of customer participation of 3.3 percent that the Commission assumed in setting the performance standard. PG&E now believes that the enrollment target of 3.3 percent of its customers (both residential and commercial) does not fit the demonstration program as it was designed. PG&E explains that enrollment of customers has been difficult due to deep educational challenges associated with describing the effects of climate change, the impact of customer energy use on climate change and linking that to how the ClimateSmart Demonstration Program would make customers' energy use "carbon neutral." Finally, PG&E states that the economic decline and uncertainty had devastating impacts on all aspects of the "green" sector. PG&E argues the negative impact and uncertainty of the current economic recession on ClimateSmart enrollment cannot be underestimated and is a factor outside of its control. Although PG&E acknowledges these challenges remain, PG&E pledges

that it will seek to increase customer enrollment if it is authorized to extend the ClimateSmart Demonstration Program until December 31, 2011.

5.2. Discussion

The Commission, in authorizing PG&E to proceed with ClimateSmart as a demonstration program, found that the program would benefit ratepayers in several ways above and beyond direct GHG reduction including: associated co-benefits derived from the offset projects themselves; educational benefits associated with informing customers of the dangers of global warming and what actions will be necessary in a carbon constrained world; and developing a body of knowledge and experience in understanding the market for offsets and the costs and benefits of using offsets as a risk mitigation tool.

While customer response and enrollment in the ClimateSmart Demonstration Program has been far less than anticipated and PG&E has fallen far short of achieving its GHG offset procurement goals, the program has achieved certain goals and benefits anticipated by D.06-12-032. The Commission, in authorizing the ClimateSmart Demonstration Program, sought to achieve goals beyond customer enrollment in the program. Among these goals was the ability to determine availability of forestry and other offset contracts, the ability to determine customer willingness to pay for climate neutrality, and customer education.

The ClimateSmart Demonstration Program assisted in the development of the nascent Climate Action Reserve offset program because it created a large buyer demanding a high quality product. PG&E closely participated in the Climate Action Reserve process to develop offset protocols in forestry and dairy methane gas, both of which will benefit ratepayers and society generally upon implementation of Assembly Bill (AB) 32, Stats. 2006, ch. 488. Extension of the

program will continue further development of the body of knowledge related to GHG emission reduction projects and protocols. This knowledge of offset procurement can benefit all ratepayers as PG&E evaluates the role offsets will play once AB 32 goes into effect in 2012. In addition, this additional body of knowledge will benefit state policy makers, regulated entities, service providers, and the general public. Therefore, we find it reasonable to extend the program through December 31, 2011 subject to the following discussion and conditions.

The ClimateSmart Demonstration Program, through its advertising and marketing efforts, also contributes to customer education, both specifically about ClimateSmart and more generally regarding the dangers of global warming and possible mechanisms to reduce customer's carbon footprint. A two-year extension of the ClimateSmart Demonstration Program would allow PG&E to continue to expand public knowledge and awareness of the dangers of global warming and introduce possible mitigation strategies, like the ClimateSmart Demonstration Program, which would be a benefit to both ratepayers and the public, especially during this period of renewed focus on climate change at both the state and federal levels.

Although the ClimateSmart Demonstration Program has been disappointing in terms of the direct GHG offsets procured, the goals and benefits associated with the ClimateSmart Demonstration Program remain consistent with Commission policy. PG&E was specifically asked to explore and present new marketing and advertising strategies designed to lead to significant improvement during the PHC.²¹ PG&E proposed some changes to its marketing

²¹ PHC Transcript at 10, lines 15-19.

and education strategies, including for example, partnering with leading environmental organizations as well as commercial, non-profit and municipal customers, development of a merchandising program, use of social networking sites to spread awareness of the program, and targeted direct mailings to customers most likely to enroll. PG&E maintains it will “seek out innovative, successful approaches for this program and to find a sustainable marketing, education and outreach formula that expands the enrollment and benefits of the program and provides benefits to ratepayers as a whole”²² PG&E seeks to obtain the benefit of the experiences of its enrolled customers for data and new ideas for future customer-driven sustainability programs.

After reviewing the marketing strategies proposed by PG&E, they appear to be very similar to what PG&E has done in the past and, while they may lead to some improvement in the program, they likely will not result in the dramatic shift in customer enrollment needed to achieve the performance standard. In order to obtain significant improvement in the program, PG&E needs to get the benefit of its customers’ knowledge and experience of the ClimateSmart Demonstration Program, both from subscribers and customers who chose not to enroll in ClimateSmart. Therefore, we direct PG&E to engage the EAG as well as in-house and Commission staff experts on customer decision-making including resources from Energy Efficiency, Demand Response, and Distributed Generation in the marketing plan development process. PG&E should use these resources to ascertain why customers chose to enroll, or not, in the program, what advertising and marketing strategies positively influenced enrollment, and

²² Pre-workshop Statement of PG&E at 4.

any other information that may help PG&E to further develop its marketing strategy.

DRA and TURN argue that it would be more cost effective to simply use the remaining ratepayer funds to procure GHG offsets directly. While in the strictest sense this may be true, this argument ignores the benefits of continued customer education and development of a body of knowledge related to customer behavior of the ClimateSmart Demonstration Program identified by the Commission that only inure to ratepayers through continuing the program.

Although DRA and TURN argue that PG&E may be trying to avoid its obligation to procure the minimum GHG reductions guaranteed by D.06-12-032, extension of the ClimateSmart Demonstration Program would not alter PG&E's obligations to meet the minimum performance standards set by that decision. Shareholders will be obligated to make up the difference between the GHG reductions supported through customer contributions and the minimum guarantee of 1.5 million short tons set by D.06-12-032 regardless of program extension.²³ PG&E has contracted for slightly over 1.1 million short tons as of December 31, 2009, but will pay for the reductions as the GHG emissions are retired. PG&E estimates that the total reductions supported by customer enrollments, with the extension, will be 850,000 short tons resulting in shareholder responsibility to procure an additional 650,000 short tons upon program completion.²⁴

²³ PG&E predicted it would be able to achieve 2 million tons of CO₂ equivalent reductions through ClimateSmart. D.06-12-032 determined that PG&E had to guarantee reductions of at least 75 percent of that amount, or 1.5 million tons. Resolution G-3425 clarified that the performance guarantee is 1.5 million short tons.

²⁴ *Pre-Workshop Statement of Pacific Gas and Electric Company, Attachment A.*

If the ClimateSmart Demonstration Program is extended two years, PG&E has forecasted total customer revenues will be approximately \$6.5 million dollars (over the entire four years of the program). The estimated cost to fully cover the 1.5 million short tons is around \$15 million dollars. Thus, the shortfall is estimated to be around \$8.5 million dollars even if the program is extended.²⁵ PG&E's shareholders will be responsible to pay for these reductions with shareholder funds.

Terminating the program as DRA & TURN recommend does not definitively reduce PG&E's shareholder obligation to meet the performance guarantee. As of July 2009, customer enrollments supported approximately 400,000 short tons of GHG reductions. If no extension is granted and PG&E uses the remaining A&M funds to directly procure offsets, PG&E would then need to fund approximately 1.1 million short tons in GHG reductions. As of the same time period, customer billings yielded approximately \$3.8 million dollars in revenues. Using the same estimated \$15 million cost for retirement of 1.5 million short tons, PG&E shareholders would be responsible for an estimated \$7.1 million in reduction costs upon program termination.²⁶ Thus, PG&E shareholders will face a significant responsibility regardless of an extension and may even be worse off as a result of such an extension. Therefore, the concern that PG&E is trying to avoid its shareholder responsibility through a program

²⁵ Based on the prior rate of expenditures, it is not anticipated that there will be any A&M funds remaining.

²⁶ (\$15 million - \$3.8 million in customer revenues - \$4.1 million in remaining Administration and Marketing funds = \$7.1 million)

extension is not supported by the data. For this reason, it is reasonable to extend the program term through December 31, 2011, as set forth in this decision.

6. Use of A&M funds

TURN and DRA argue that if the Commission allows PG&E to continue the ClimateSmart Demonstration Program through December 31, 2011, such an extension should be conditioned upon return of all unspent A&M funds to ratepayers. DRA and TURN assert that the limitations on the use of A&M funds specified in D.06-12-032 only apply to the initial three-year pilot period. They contend returning this money to ratepayers is a reasonable solution because ratepayers should not be asked to fund an experiment of minimal value to them. In addition, DRA and TURN note that this outcome would allow PG&E to evaluate marketing strategies free of Commission oversight.

PG&E asks for authority to carry forward unspent A&M funds recorded in the administration and marketing subaccount of the electric and gas ClimateSmart Balancing Accounts, as well as any additional unspent A&M funds, including interest at the end of 2009. PG&E requests authority to use the A&M funds carried forward for A&M expenses during the extension period without restriction to transfers among budget categories or years, or, consistent with the Decision, authority to purchase offsets directly under PG&E's performance standard. PG&E states that at the end of the extension period, any residual balance in the A&M subaccounts will be transferred to the electric DRAM and the gas Noncore Distribution Fixed Cost Account, ultimately returning any unused funds to customers in rates through the existing Annual Electric True-up and Annual Gas True-up.

6.1. Discussion

PG&E stopped collecting the ClimateSmart Demonstration Program administration and marketing costs from ratepayers after December 31, 2009 and does not seek through this Application any additional amounts from ratepayers for advertising and marketing of the demonstration program. D.06-12-032 established the ClimateSmart Balancing Accounts for gas and electric service. The ClimateSmart Balancing Accounts each have two subaccounts; the Premium Subaccount, which tracks collections from the participant rate or premium billed to ClimateSmart subscribers to fund GHG emission reduction projects and the Administration and Marketing Subaccount, which tracks the authorized administration and marketing budget and actual expenses. PG&E proposes no change to the Premium Subaccounts.

D.06-12-032 did not contemplate returning unspent A&M funds to ratepayers. Ratepayer monies were to be used for program administration and marketing during the program and if any funds remained, they were to be used to procure GHG offsets rather than being returned to ratepayers. In this Application, PG&E does not ask the ratepayers for additional money to continue the ClimateSmart Demonstration Program. Instead, PG&E seeks to use remaining ratepayer money set aside for ClimateSmart administration and marketing for ClimateSmart administration and marketing during extension of the program, if granted. Therefore, ratepayers should be indifferent to allowing PG&E to carry-forward the A&M funds for use during the extension of ClimateSmart.

Approximately \$4.1 million in A&M funds remained as of December 31, 2009. The total amount remaining is less than the average administration and marketing allocations for any prior year of the ClimateSmart

Demonstration Program. Therefore, while PG&E offers to return any unspent funds, we fail to understand how any remaining funds will be available for return to ratepayers upon completion of the extension.

In seeking this extension, PG&E finds merit in the ClimateSmart Demonstration Program. In order to fully support ClimateSmart, PG&E has made a commitment to utilize innovative marketing, education and outreach strategies. A lack of ratepayer funds should not be a reason to fail to deploy new marketing strategies. PG&E may need to spend shareholder funds to achieve its marketing objectives.²⁷ Given the limited funds remaining, the Commission anticipates that PG&E will spend all remaining A&M funds during the extension period, as well as any shareholder funds that may be necessary, to maximize success of the demonstration program.

In regards to the allocation of the remaining A&M funds, we find that PG&E's request for authority to use the funds without restriction between program administration and marketing has merit. Given the small amount of funds available, however, we would encourage PG&E to budget as much as possible towards effective marketing while seeking to minimize program administration costs. While we will not set a specific program administration budget for any individual year, we require that PG&E spend at least half of the funds remaining on marketing to maximize the amount of dollars used towards marketing to enroll new customers and retain existing customers in the program.

²⁷ The average annual program administration budget in program years 2007-2009 was around \$1.1 million. If PG&E expends a similar amount in 2010 and 2011, a mere \$2 million will be available for program marketing over the two-year extension period.

7. Program Evaluation

All parties agree that the performance of the ClimateSmart Demonstration Program to date has been disappointing. D.06-12-032 requires PG&E to submit annual reports on the 15th of March detailing program performance for the proceeding year. PG&E has submitted a report for each of program years 2007-2009 detailing program performance, offering possible explanations for performance and outlining possible next steps to continue development of the program. While these reports provide insight and we will continue to require that PG&E submit an annual report for 2010, part of the value of a demonstration program is the ability to take a comprehensive look at performance for the duration of the program.

The ClimateSmart Demonstration Program is a first of its kind and, as such, we cannot rely on examining other programs such as green tariff options to explain the poor program enrollment. There are several possible explanations for such poor enrollment including the economic downturn, lack of customer familiarity with the connection between individual electricity use and climate change or misinformed marketing techniques. Without a comprehensive evaluation of the program, we cannot draw any conclusions about program performance nor glean any valuable lessons learned that might be useful in developing similar programs in California in the future. In approving ClimateSmart as a demonstration program, the Commission saw the ClimateSmart Demonstration Program as an opportunity to implement a unique program with many co-benefits beyond GHG reductions. We now seek to understand all aspects of program performance to ascertain what worked, what did not work and what could be done differently.

Therefore, in lieu of an annual report for 2011, which would have been due March 15, 2012, we require PG&E to hire an external consultant to comprehensively evaluate its program by June 30, 2012. We direct PG&E to work with Energy Division staff to develop the selection protocol for choosing an appropriate consultant. Energy Division staff will participate in the Request For Proposal process and will assist PG&E in choosing a consultant, and the consultant will be paid for out of the ClimateSmart program administration funds.²⁸ PG&E is responsible for hiring the consultant and management of the consultant who will produce a comprehensive program evaluation report. The consultant should be knowledgeable and experienced in evaluation of voluntary carbon offset programs and utility green tariff programs. Minimum requirements for the report are set forth in Attachment A to this decision. However, PG&E and Energy Division staff shall work together to set further areas for inclusion in the evaluation of the ClimateSmart Demonstration Program.

8. Clarification of Shareholder Obligation and Enforcement

DRA and TURN ask the Commission to take this opportunity to clarify the mechanism for enforcing the shareholder obligation. DRA and TURN believe PG&E should be allowed to use a combination of shareholder dollars and A&M funds to wind down the program and procure GHG reductions if the extension is denied. If, however, the extension is approved, DRA and TURN argue that the

²⁸ We note, however, that because a 2011 annual report will not be required, PG&E will have use of funds initially set aside for the development of the 2011 report to use towards the comprehensive report. PG&E should budget administration funds accordingly. The program evaluation is in lieu of an annual report for 2011.

shareholder obligation should be calculated based on the deficit between the minimum guarantee and total GHG reductions supported through customer contributions collected through December 31, 2011.

We hold that consistent with D.06-12-032, the PG&E shareholder obligation is the difference between the minimum performance guarantee of 1.5 million short tons minus the total GHG reductions supported through customer collections through December 31, 2011.

9. Comments on Proposed Decision (PD)

The proposed decision of the assigned ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on October 18, 2010. Reply comments were filed on October 25, 2010. In this section we address the major issues addressed by the parties.

DRA and TURN reiterated arguments previously raised in their protests to the application, including their concern that PG&E will use A&M funds for self-promoting marketing rather than for increasing customer enrollment, that extending ClimateSmart will not produce any incremental benefits to ratepayers, and that ClimateSmart is not a cost-effective means to procure GHG emission reductions. These arguments were previously addressed by the proposed decision.

DRA and TURN also contend that updated enrollment information, provided after the record in this matter was closed, shows a continued decline in customer enrollment over the past 12 months and that this trend is unlikely to reverse itself before expiration of the program. Although we agree that information appears to show that customer enrollment has declined in the last

12 months, we cannot use this information as a basis for a conclusion that PG&E cannot change enrollment trends or that extension of ClimateSmart is not warranted. PG&E's use of A&M funds was limited to only to essential program administration. PG&E was prohibited from using A&M funds for marketing activities during the last 12 months. Thus, no correlation can be made between PG&E's marketing activities and customer enrollment over the last 12 months.

DRA and TURN are also particularly concerned by PG&E's use of its Facebook page to promote its desired public relations messaging on an unrelated aspect of its operations. Given the spate of negative publicity in 2010 around Smart Meters, Proposition 16 and the San Bruno explosion, DRA and TURN urge the Commission not allow PG&E to use ratepayer funds to launch public campaigns to promote a positive corporate image in the midst of widespread public criticism associated with PG&E. PG&E must limit use of ClimateSmart Demonstration program A&M funds to the marketing and administration of the ClimateSmart Demonstration program.

PG&E supports the PD and requests certain modifications. First, PG&E requests that the PD be revised to combine the independent external evaluation of the program with the marketing plan development process. PG&E states that both should be done by the end of 2011 so that the findings and conclusions can be available to the Commission and stakeholders to evaluate any successor or replacement of the ClimateSmart program. Although PG&E agrees both evaluations should be performed, they also believe that the evaluations should be combined and scheduled consistent with the wind-down of the existing program and consideration of any proposal to replace the program in 2012.

We decline to modify the PD to combine the external evaluation of the program with the requirement to solicit input into the development of any

ClimateSmart marketing plan. Each serves a different function. In order to develop the most effective marketing strategy utilizing the knowledge of all stakeholders, the PD requires PG&E seek input into its marketing plan. It is important that this information be obtained prior to launching the next round of ClimateSmart advertising/marketing campaigns. The PD only requires PG&E to solicit the advice and input from EAG and other stakeholders but does not mandate any formal process, report or Commission approval because of the limited time available before the end of the program. However, the value of such input is greater if PG&E can utilize the information prior to beginning a new marketing or advertising campaign. The success of the ClimateSmart Demonstration program's ability to enroll new customers and retain exiting customers could be positively influenced by an effective strategy.

With respect to the timing of the final evaluation of the program, PG&E may submit the comprehensive evaluation before the June 30, 2012 date set by the PD but such a report shall be submitted no later than June 30, 2012.

Second, PG&E requests that the PD clarify that the date for calculating the amount of unspent A&M funds available to be spent on marketing is the end of the month in which the Commission issues a final decision in this matter. We agree. The PD estimated the amount of A&M funds available based on the record. The actual amount of A&M funds remaining will depend on when the Commission issues a final decision in this case.

10. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Katherine Kwan MacDonald is the assigned ALJ in this proceeding.

Findings of Fact

1. The ClimateSmart Demonstration Program adopted in D.06-12-032 is a voluntary program which allows both residential and commercial customers to pay a monthly premium to offset the GHG emissions associated with their electricity usage.

2. D.06-12-032 requires PG&E to contract for at least 75 percent of the 2 million short tons in GHG reductions PG&E predicted it would achieve during the three-year demonstration project, using shareholder funds if necessary.

3. D.06-12-032 allows A&M costs for the demonstration program to be recovered from all PG&E ratepayers.

4. Approximately 30 percent of the A&M budget adopted in D.06-12-032 was for administrative expenses.

5. D.06-12-032 authorized PG&E to spend any unspent A&M funds to procure GHG emission reduction contracts in order to meet its minimum procurement obligation of 1.5 million tons of carbon dioxide equivalent reductions.

6. As of December 31, 2009, there were approximately \$4.078 million of unspent A&M funds remaining.

7. PG&E's request to extend the program is evidence that PG&E finds merit in the ClimateSmart Demonstration Program.

8. PG&E was granted a day-to-day extension of the Program until the Commission reaches a decision on the merits of its Application.

9. Customer enrollment in ClimateSmart did not meet the level anticipated by PG&E. As a result, PG&E has fallen short of achieving its GHG offset procurement goals.

10. PG&E's participation in the Climate Action Reserve's process to develop offset protocols in forestry and dairy methane gas was a benefit to both ratepayers and society generally.

11. The ClimateSmart Demonstration Program produced a body of knowledge about GHG emission reduction projects and offset project protocols that would not otherwise have been available. Extension of the ClimateSmart Demonstration Program will further develop this body of knowledge.

12. The ClimateSmart Demonstration Program supported development of the Climate Action Reserve protocol.

13. Extension of the ClimateSmart Demonstration Program is consistent with current state, regional and national climate change policy.

14. The advertising and marketing efforts in support of the ClimateSmart Demonstration Program contribute to customer education of the ClimateSmart Demonstration Program, the dangers of global warming, and options customers can take to mitigate their carbon footprint. Using the remaining A&M funds to directly procure GHG offsets does not achieve these program benefits, specifically identified by the Commission, which only inure to ratepayers through continuing the program.

15. PG&E has not proposed significant changes to its marketing and education strategies.

16. PG&E shareholders may be obligated to procure an estimated 650,000 short tons upon project completion even if ClimateSmart is extended, depending on ultimate program performance.

17. Terminating the ClimateSmart Demonstration Program does not definitively reduce PG&E shareholder's obligation to meet the performance guarantee.

18. PG&E shareholders will face a significant responsibility regardless of extension of the program and may even be worse off as a result of such an extension.

19. PG&E requests authority to use the remaining A&M funds without restriction between program administration and marketing.

20. Since the ClimateSmart Demonstration Program is the first of its kind, there is no clear way to assess its performance in relation to other similar programs.

21. A comprehensive evaluation of the program would allow PG&E and the Commission to draw conclusions about the program and glean any valuable lessons that would be useful in developing similar programs in California in the future.

Conclusions of Law

1. The ClimateSmart Demonstration Program should be extended to allow further development of the body of knowledge related to GHG emission reduction projects and protocols; continued contribution to customer education; continued opportunity for customers to balance out the carbon impact generated by their energy usage; and to give PG&E more time to contract for the remainder of the 1.5 million short tons required by D.06-12-032.

2. PG&E's shareholders remain obligated to make up the difference between the GHG reductions supported through customer contributions and the minimum performance guarantee of 1.5 million tons set by D.06-12-032 regardless of program extension.

3. PG&E should engage the EAG, in-house staff, and Commission staff experts on customer decision-making including resources from Energy

Efficiency, Demand Response, and Distributed Generation in the marketing plan development process.

4. Ratepayers should be indifferent to allowing PG&E to carry-forward the A&M funds for use during the extension of ClimateSmart because D.06-12-032 did not contemplate returning unspent A&M funds to ratepayers and ratepayers are not being asked to contribute any additional money.

5. A comprehensive evaluation of the program should be conducted by an external consultant to allow PG&E, the Commission and ratepayers to draw conclusions and glean valuable information about ClimateSmart that may be useful in developing similar programs in California in the future.

6. Unused A&M funds remaining at the end of December 31, 2011, should be used towards the direct purchase of offsets in accordance with D.06-12-032.

7. Consistent with D.06-12-32, the PG&E shareholder obligation is the difference between the minimum performance guarantee of 1.5 million short tons of GHG reductions minus the total GHG reductions supported through customer collections through December 31, 2011.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company's ClimateSmart Demonstration Program and Tariff Option is extended until December 31, 2011 as conditioned in Ordering Paragraph 2 through 5 below.

2. The time for Pacific Gas and Electric Company to fulfill the performance guarantee of 1.5 million short tons of greenhouse gas emission reductions adopted in Decision 06-12-032 is extended until December 31, 2011. The amount Pacific Gas and Electric Company shareholders will have to fund is the

difference between the minimum performance guarantee of 1.5 million short tons of greenhouse gas reductions minus the total greenhouse gas reductions supported through customer collections through December 31, 2011.

3. Pacific Gas and Electric Company is authorized to carry over unspent Administrative and Marketing without restriction between marketing and administration funds to continue the program until December 31, 2011. At least half of the remaining funds, as of the end of the month in which this decision is issued, must be spent on marketing.

4. Pacific Gas and Electric Company must file an annual report for 2010 as required by Decision 06-12-032 by March 15, 2011.

5. In lieu of an annual report for 2011, Pacific Gas and Electric Company must hire an external consultant to conduct a comprehensive evaluation of the ClimateSmart program. Pacific Gas and Electric Company must work with the Energy Division staff to develop the selection protocol for choosing the consultant. The Energy Division staff will participate in the request for proposal process and will assist Pacific Gas and Electric Company in choosing a consultant. Pacific Gas and Electric Company shall pay the consultant with ClimateSmart program administration funds. Pacific Gas and Electric Company is responsible for hiring the consultant and management of the consultant who will produce a comprehensive program report. The evaluation report must contain the information set forth in Attachment A. Pacific Gas and Electric Company must file the comprehensive evaluation report no later than June 15, 2012.

6. Application 09-05-016 is closed.

This order is effective today.

Dated October 28, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

JOHN A. BOHN

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners

Commissioner Dian M. Grueneich, being necessarily absent, did not participate.

ATTACHMENT A

Comprehensive Evaluation Report Requirements

Pacific Gas and Electric Company (PG&E) must file, no later than June 15, 2012, a comprehensive evaluation report of the ClimateSmart demonstration program. In addition to a comprehensive wrap-up of all program metrics usually included in the annual reports (broken down by year), the comprehensive program evaluation must also, at a minimum, address the following issues:

1. Did the economic downturn play a role in new customer enrollment;
2. Did the economic downturn play a role in PG&E's customer enrollment attrition rate and if so, how large a role did it play;
3. Evaluate the advertising and marketing strategies utilized by PG&E to determine which strategies were most effective;
4. Could PG&E have employed different marketing strategies to achieve higher customer enrollment;
5. What, if any, is the relationship between customer enrollments in green tariff programs versus customer enrollments in carbon offset programs;
6. Would PG&E customers have preferred to enroll in a third-party carbon offset program versus a program offered through a utility;
7. How could PG&E have lowered the dollars spent per customer enrolled, including, but not limited to marketing, enrollment and administration costs,
8. How could PG&E have lowered the dollars per ton reduced;
9. Could the greenhouse gas offset procurement process be improved in order to streamline the purchase of offsets; and
10. The overall lessons learned from the program: PG&E's perspective and the consultant perspective.

(END OF ATTACHMENT A)