

Decision 11-01-036 January 27, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for approval of 2010-2011 SmartAC (TM)
Program and Budget (U39E).

Application 09-08-018
(Filed August 28, 2009)

**DECISION APPROVING PACIFIC GAS AND ELECTRIC COMPANY'S
2010-2011 SMARTAC™ PROGRAM AND BUDGET**

Table of Contents

Title	Page
DECISION APPROVING PACIFIC GAS AND ELECTRIC COMPANY'S 2010-2011 SMARTAC™ PROGRAM AND BUDGET	2
1. Summary	2
2. Background.....	2
2.1. Historical	2
2.2. Procedural	3
3. Procedural Issues	4
3.1. Admittance of Testimony and Exhibits into Record	4
3.2. Motion to Seal the Evidentiary Record	5
3.3. Motion to Modify Proposed Decision and Motion to Modify Settlement Agreement.....	6
4. The Settlement Agreement.....	6
4.1. SmartACTM Program Budget	6
4.2. Reasonableness Review.....	7
4.3. Information Technology Costs and Budget Category Flexibility	8
4.4. Reporting.....	9
4.5. Financial Incentives	9
4.6. Rate Schedules.....	10
4.7. Price Response Trigger.....	10
5. Discussion.....	11
5.1. Standard of Review.....	11
5.2. Settlement Agreement is Reasonable in Light of the Whole Record.....	12
5.3. Settlement Agreement is Consistent with Law	12
5.4. Settlement Agreement is in the Public Interest	13
6. Price Response Trigger	13
7. Comments on the Proposed Decision.....	14
8. Categorization and Need for Hearing.....	14
9. Assignment of Proceeding	14
Findings of Fact	15
Conclusions of Law.....	15
ORDER	17

Attachment A – List of Testimony and Exhibits Entered into Record
in A.09-08-018

DECISION APPROVING PACIFIC GAS AND ELECTRIC COMPANY'S 2010-2011 SMARTAC™ PROGRAM AND BUDGET

1. Summary

By this decision, we adopt an unopposed revised settlement agreement¹ for the Pacific Gas and Electric Company (PG&E) 2010-2011 SmartAC™ Program and Budget. Parties to the settlement include PG&E, the Division of Ratepayer Advocates, and The Utility Reform Network. Based on this settlement, PG&E is authorized a budget of \$52,988,709 for its SmartAC™ Program for the 2010-2011 period, which is part of the adjusted total program cost of \$112.2 million for the period 2007-December 31, 2011. With the adjusted budget, PG&E is authorized to install up to 259,000 total load control devices through December 31, 2011. PG&E estimates that 259,000 devices equate to about 161 megawatts under the 1-in-2 weather year condition.

In addition, the settlement agreement allows PG&E to add a price response trigger at bid cap beginning in 2012, increase the monetary incentive to customers, and implement additional quality control procedures with respect to its Measurement and Evaluation Procedures, which PG&E will report, and pass through to customers the financial benefit of a resolution to this issue.

2. Background

2.1. Historical

In Decision (D.) 08-02-009, the Commission approved a settlement agreement between Pacific Gas and Electric Company (PG&E), Division of Ratepayer Advocates (DRA), and The Utility Reform Network (TURN), in

¹ See <http://docs.cpuc.ca.gov/published/proceedings/A0908018.htm>.

Application (A.) 07-04-009. D.08-02-009 authorized PG&E to implement a SmartAC™ Program and Budget, as modified by the approved settlement. In part, the settlement required PG&E to file a new application in the second quarter of 2009, “to address and update or request a change to the Budget and address any refinements to the SmartAC™ Program.” The settlement also stated that “PG&E may request funding for the AC Program for the period June 1, 2011 through December 31, 2011.”

2.2. Procedural

On March 30, 2010, PG&E, on behalf of itself, DRA, and TURN (Joint Parties), sent an e-mail to the assigned Administrative Law Judge (ALJ) requesting a suspension of the schedule set out in the *Amended Assigned Commissioner’s Ruling and Scoping Memo* in order for them to continue with ongoing settlement discussions and permission to set a telephonic status meeting with the assigned ALJ and interested parties on April 14, 2010. On March 30, 2010, the assigned ALJ, via e-mail, granted the Joint Parties’ request for suspension of the schedule and required them to file a joint progress report no later than April 14, 2010 and every two weeks thereafter, until either a settlement is reached or they determined that the case needs to be resolved through briefs.

The Joint Parties filed joint progress reports on April 14, April 28, May 12, May 26, June 9, June 23, July 7, July 21, August 4, August 18, September 1, and September 15, 2010. On August 17, 2010, the assigned ALJ issued a ruling requiring the Joint Parties to file a settlement or individual opening briefs by October 15, 2010. On September 17, 2010, the Joint Parties filed a Joint Motion for Approval of a Settlement Agreement, with the settlement attached. Also on September 17, 2010, the Joint Parties filed: 1) a Joint Motion to Offer Written Testimony into Evidence; 2) a Notice of Availability of Exhibits to Joint Motion of

PG&E, DRA, and TURN to Offer Written Testimony into Evidence; and 3) a Joint Motion to Seal the Evidentiary Record.

On January 14, 2011, the Joint Parties filed two motions – one requesting modification of the Proposed Decision and another requesting modification of their previously filed Settlement Agreement (referred to as Revised Settlement Agreement herein). Joint Parties also requested a shortened response time to both motions, which the assigned ALJ granted. No responses were received.

3. Procedural Issues

3.1. Admittance of Testimony and Exhibits into Record

Since evidentiary hearings were not held in A.09-08-018, there was no opportunity to enter testimony and exhibits into the record. In order to fairly assess the Settlement Agreement, it is necessary to admit all testimony and exhibits submitted by the Joint Parties into the record of A.09-08-018. On September 17, 2010, pursuant to Rule 13.8(d), the Joint Parties filed their *Joint Motion of Pacific Gas and Electric Company, the Division of Ratepayer Advocates and The Utility Reform Network to Offer Written Testimony into Evidence; Declaration of Susan Norris; Declaration of Jeff Nahagian; Declaration of Sudheer Gokhale; Proposed Ruling*. Also on September 17, 2010, the Joint Parties filed their *Notice of Availability of Exhibits to Joint Motion of Pacific Gas and Electric Company, the Division of Ratepayer Advocates and The Utility Reform Network to Offer Written Testimony into Evidence* requesting that each party's testimony be admitted into the record. We therefore admit into evidence both the public and confidential versions of PG&E's, DRA's, and TURN's testimony and exhibits, as detailed in Attachment A to this decision, that were served on the service list in A.09-08-018. The confidential nature of selected exhibits of the Joint Parties is addressed in Section 3.2 below.

3.2. Motion to Seal the Evidentiary Record

Pursuant to Rule 11.5(b) of the Commission's Rules of Practice and Procedure, the Joint Parties filed their Joint Motion of Pacific Gas and Electric Company (U39E), the Division of Ratepayer Advocates and The Utility Reform Network to Seal the Evidentiary Record; Declaration of Michael Alexander; Declaration of Wendy Brummer; Proposed Ruling, regarding PG&E's Exhibits PGE-1C, PGE-2C, DRA's Exhibit DRA-1C, and TURN's Exhibit TURN-1C, the confidential versions of each exhibit.² This motion states, in part, that confidential information was provided to DRA and TURN, subject to Pub. Util. Code § 583³ and General Order 66-C and subject to a stipulated protective order and non-disclosure agreement with TURN. Exhibits PGE-1C and PGE-2C include confidential prices and contract terms specifically negotiated with a program vendor, and protected by a confidentiality agreement in PG&E's contracts with its vendors. PG&E represents that the information is proprietary and commercially sensitive, and should remain confidential. Exhibit DRA-1C includes reference to a non-public confidential survey provided by PG&E. Exhibit TURN-1C included references to confidential vendor and pricing information, as well as confidential settlement negotiations and discussions of PG&E with its vendors. We have granted similar requests in the past and do so here regarding Exhibits PGE-1C, PGE-2C, DRA-1C, and TURN-1C.

² Joint Parties identified these exhibits as Exhibits 1C, 2C, 4C, and 5C in their joint motion. To more easily identify the exhibits, we have adopted exhibit names that include each Party's name.

³ All statutory cites are to the Public Utilities Code.

3.3. Motion to Modify Proposed Decision and Motion to Modify Settlement Agreement

The purpose of the Joint Parties' proposed modifications to the Proposed Decision and Settlement Agreement filed on January 14, 2011, are to: 1) to update the timing and manner in which PG&E will return funds to customers, as the opportunity to do so through the advice letter currently referenced in the Settlement Agreement passed prior to issuance of a final decision; 2) to clarify the timing for service of the Annual Report as ordered herein; and 3) clarify language in the Proposed Decision only regarding the discussion surrounding currently and previously-authorized enrollment incentive amounts.

Given that all parties to the Settlement Agreement agree to the requested revisions, and we find the proposed revisions to the Proposed Decision and Revised Settlement Agreement to be reasonable, we have made the requested revisions to the Proposed Decision herein, and adopt the Revised Settlement Agreement in its entirety.

4. The Settlement Agreement

The Revised Settlement Agreement is an all-party settlement and resolves all issues raised in the protests and all elements of PG&E's request. No protests or comments were filed in response to the joint motion to adopt the settlement. Rather than summarize every term of the Revised Settlement Agreement attached to the joint motion, we summarize the key portions of the Revised Settlement Agreement as follows.

4.1. SmartACTM Program Budget

PG&E requested a SmartACTM Program budget for the period 2007 through the end of 2011 of \$123.5 million, a reduction of \$55.3 million from the budget authorized in D.08-02-009. PG&E also requested a SmartACTM Program budget for the period 2010-2011 of approximately \$58 million.

In its protest, DRA raised concerns regarding the level of expenditures given the change in size and focus of the program, and wanted to explore whether PG&E could increase cost effectiveness of certain program elements.

In Exhibit TURN-1, TURN recommended that the Commission consider what PG&E actually spent during the years 2007-2009, and recommended a 2010-2011 budget of approximately \$32.7 million.

The Joint Parties settled on a SmartAC™ Program budget for the period 2007 through the end of 2011 of \$112.2 million, a reduction of \$11.2 million from PG&E's request and a reduction of \$66.6 million from the authorized budget.

The Joint Parties also agreed that since PG&E had already collected approximately \$148.69 million in rates for funding of the SmartAC™ Program, which is approximately \$36.47 million more than the budget settled on by the Joint Parties, PG&E would return this difference to customers beginning January 1, 2011 through its Annual Electric True-Up (AET) Advice Letter filing. Also, as of December 31, 2011, PG&E will return any remaining unspent SmartAC™ Program funds recorded in the Air-Conditioning Expense Balancing Account (ACEBA) through its AET.

4.2. Reasonableness Review

In its protest, DRA questioned whether the Commission should approve PG&E's expenditures for the SmartAC™ Program without a reasonableness review. In the Revised Settlement Agreement, the Joint Parties agree that PG&E should be allowed to recover all SmartAC™ Program expenditures incurred by PG&E that are consistent with the Revised Settlement Agreement without an after the fact reasonableness review by the Commission.

4.3. Information Technology Costs and Budget Category Flexibility

In its served testimony, PG&E requests that \$5 million of funds from other budget categories within the SmartAC™ Program budget be shifted to the Information Technology (IT) budget category, in order to integrate the SmartAC™ Program devices and related operations from third-party managed systems into the enterprise-wide standard that will be developed to track and maintain the devices connected to PG&E's Advanced Metering Infrastructure (AMI) network.

In its served testimony, DRA recommends that the Commission should deny PG&E's request to double its IT budget to cover AMI-related system integration work during the SmartAC™ Program years 2010-2011. DRA recommends that PG&E defer consideration of this IT integration until the 2012-2014 demand response program cycle.

The Joint Parties agree that, with the exception of Measurement and Evaluation (M&E) costs and contingency funds, PG&E may have budget flexibility for all budget categories, including: PG&E Administrative (IT); Administrative (Labor); Marketing and Incentives; and Purchase, Install, and Maintenance of Air Conditioning Load Control Devices. With the exception of M&E and contingency funds, PG&E will be permitted to shift up to 15% of the 2010-2011 authorized budget from any budget category without prior Commission authorization. This way, PG&E may shift funds to cover IT costs without increasing the program budget.

If PG&E plans to shift more than 15% from one budget category to another, it must first seek Commission approval through an advice letter filing prior to shifting those funds. PG&E may also request budget flexibility for M&E costs and contingency funds through an advice letter filing.

4.4. Reporting

In the Revised Settlement Agreement, the Joint Parties agree that PG&E will provide the Energy Division, DRA, and TURN, an annual report on the SmartAC™ Program for program years 2010 and 2011, no more than six weeks after the annual Ex Ante Load Impact Evaluation Reports, which are due April 1 of each year. The annual report will address the SmartAC™ Program's performance, potential design modifications, enrollment, and current budget estimates.

4.5. Financial Incentives

Part of PG&E's currently authorized marketing program for the SmartAC™ Program includes an incentive of \$50 for residential customers and \$100 for business customers to enroll in the program. However, PG&E, TURN and DRA had previously agreed that PG&E would initially market the program offering a \$25 incentive to both residential and commercial customers and that PG&E may increase the incentive after consultation with TURN and DRA.⁴ In its application, PG&E requested authorization to market the program offering incentives in the amount of \$50 for residential and \$100 for business customers.

In its served testimony, DRA recommended that the incentives remain the same, stating in part, that the results of a PG&E survey show that the incentive payment is not the primary driver for participation in the program.

⁴ *Settlement Agreement Between and Among Pacific Gas and Electric Company, The Division of Ratepayer Advocates, and The Utility Reform Network*, Sec. III.G., adopted in D.08-02-009, issued February 14, 2008.

In the Revised Settlement Agreement, the Joint Parties agree that PG&E will begin testing enrollment incentives of up to \$50 for residential customers and \$100 for small and medium business customers.

4.6. Rate Schedules

In the Revised Settlement Agreement, the Joint Parties request that the Commission approve the changes to Schedule E-RSAC, Schedule E-CSAC, and PG&E's electric rate schedules for the SmartAC™ program, and add clarifying language similar to that approved by the Commission for the Base Interruptible Program rate schedule. The proposed revisions to the tariffs are attached to the Revised Settlement Agreement as Exhibits A and B.

PG&E agrees to seek Commission approval by advice letter, for future revisions to these rate schedules regarding implementation of a price trigger. PG&E also reserves the right to request via advice letter, any revision to the above referenced rate schedule, provided that the requested revision are not inconsistent with the Revised Settlement Agreement.

4.7. Price Response Trigger

The Revised Settlement Agreement provides a starting point for integration of this demand response program with the California Independent System Operator's (CAISO) market. The Joint Parties agreed that PG&E will add a price response trigger at bid cap (currently expected to be \$1,000/megawatt hour) that will be dispatched beginning in 2012. The addition of a price response trigger to the SmartAC™ program would allow PG&E to bid the load into the CAISO market.

The setting of a price response trigger is consistent with the Commission's policy supporting integration of demand response programs with the CAISO's markets, in particular, with the requirements of D.10-06-034 in Phase III of

Rulemaking 07-01-041, *Decision Adopting Settlement Agreement on Phase 3 Issues Pertaining to Emergency Triggered Demand Response Programs*. D.10-06-034, in part, limits the amount of emergency- or reliability-triggered demand response that counts toward resource adequacy and promotes transitioning customers onto price-based demand response products bid into the Market Redesign and Technology Upgrade at the CAISO.

5. Discussion

5.1. Standard of Review

We review this uncontested settlement pursuant to Rule 12.1(d) which provides that, prior to approval, the Commission must find a settlement “reasonable in light of the whole record, consistent with the law, and in the public interest.” We find the Revised Settlement Agreement meets the Rule 12.1(d) criteria, and discuss each of the three criteria below.

Initially, we note that the circumstances of the settlement, particularly its endorsement by all parties, generally support its adoption. DRA, which represents ratepayer interests, initially protested the application. DRA and TURN, which also represents ratepayer interests, both actively participated in the proceeding and in the settlement negotiations. In addition to PG&E’s application, testimony, and exhibits, DRA and TURN served testimony on all issues raised in the application. Thus, the Revised Settlement Agreement was reached after careful analysis of the application by parties representing a broad array of affected interests. The record also shows that the Revised Settlement Agreement was reached after substantial give-and-take between the parties which occurred over several settlement conferences. This give-and-take is demonstrated by the positions initially taken by parties in the application,

testimony, and the final positions agreed upon in the Revised Settlement Agreement.

The Revised Settlement Agreement is also consistent with Commission decisions on settlements, which express the strong public policy favoring settlement of disputes if they are fair and reasonable in light of the whole record.⁵ This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.⁶ As long as a settlement, taken as a whole, is reasonable in light of the record, consistent with law, and in the public interest, it may be adopted. We next analyze these criteria with specific reference to the Revised Settlement Agreement.

5.2. Settlement Agreement is Reasonable in Light of the Whole Record

The documents filed and served in this proceeding, including but not limited to, the Application, DRA's and TURN's protests, testimony and exhibits served by the various parties and admitted to the record by this Decision, the Joint Motion, and Revised Settlement Agreement, contain the information necessary for us to find that the rate reduction and other items in the Revised Settlement Agreement are reasonable, supported by the record, and represent a reasonable compromise of the parties' positions.

5.3. Settlement Agreement is Consistent with Law

The Joint Parties believe that the terms of the Revised Settlement Agreement comply with all applicable statutes. These include, e.g., § 451, which

⁵ See D.05-03-022 at 9.

⁶ *Id.*

requires that utility rates must be just and reasonable, and § 454, which prevents an increase in public utility rates unless the Commission finds such an increase justified. We agree that the required showings under §§ 451 and 454 have been made. Further, nothing in the Revised Settlement Agreement contravenes statute or prior Commission decisions.

5.4. Settlement Agreement is in the Public Interest

The Revised Settlement Agreement is in the public interest and in the interest of PG&E's customers. The agreed-upon SmartAC™ Program budget is significantly below PG&E's original request.

Approval of the Revised Settlement Agreement avoids the cost of further litigation, and reduces the use of valuable resources of the Commission and the parties. Finally, we note that the settling parties comprise all of the active parties in PG&E's application, and no party contests the Settlement Agreement. Thus, the Revised Settlement Agreement commands the unanimous sponsorship of all active parties in this proceeding, who fairly represent the interests affected by the Revised Settlement Agreement. We find that the evidentiary record contains sufficient information for us to determine the reasonableness of the Revised Settlement Agreement and for us to discharge any future regulatory obligations with respect to this matter. For all these reasons, we approve the Revised Settlement Agreement as proposed.

6. Price Response Trigger

As discussed in Section 4.7 above, the Joint Parties agreed that PG&E will add a price response trigger as part of its demand response program with the CAISO market. We agree that the price response trigger is in compliance with Commission policy on demand response, in particular with D.10-06-034. We are concerned, though, that setting such a high price response trigger may limit the

program's usefulness to PG&E as well as the value of the program. Setting the SmartAC™ Program's price response trigger at a lower price range may provide a more flexible resource.

Even though we authorize the Revised Settlement Agreement in its entirety, including the portion regarding the price response trigger, we encourage PG&E to consider improving this price response trigger as they are applied to demand response and the CAISO market in PG&E's upcoming 2012-2014 Demand Response Portfolio Application.

7. Comments on the Proposed Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

8. Categorization and Need for Hearing

By Resolution ALJ 176-3240, dated September 10, 2009, the Commission preliminarily determined that this was a ratesetting proceeding and that hearings were necessary. There was no objection to the ratesetting categorization. At the second PHC, the parties agreed that no hearings were necessary. On March 12, 2010, the assigned Commissioner issued his *Amended Assigned Commissioner's Ruling and Scoping Memo*, in which he stated there was no need for hearing and discussed the revised schedule for this proceeding. We affirm this change today.

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ in this proceeding.

Findings of Fact

1. On September 17, 2010, the Joint Parties filed an All-Party Motion requesting the Commission to adopt a settlement agreement entitled *Settlement Agreement Between and Among Pacific Gas and Electric Company, the Division of Ratepayer Advocates, and The Utility Reform Network*.
2. On January 14, 2011, the Joint Parties filed two motions – one requesting modification of the Proposed Decision and another requesting modification of their previously filed Settlement Agreement. Joint Parties also requested a shortened response time to both motions, which the assigned ALJ granted. No responses were received.
3. All issues in this proceeding are encompassed by, and resolved in, the Settlement Agreement.
4. The parties to the Revised Settlement Agreement are all of the active parties in this proceeding.
5. The parties are fairly reflective of the affected interests.
6. No term of the Revised Settlement Agreement contravenes statutory provisions or prior Commission decisions.
7. The Revised Settlement Agreement conveys to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.
8. The Settlement Agreement is reasonable in light of the record, is consistent with law, and is in the public interest.

Conclusions of Law

1. Pursuant to the motions filed on January 14, 2011, the Joint Parties requested revisions should be made to the decision herein, and the Revised Settlement Agreement should be adopted.

2. The settlement agreement as revised by the Joint Parties' January 14, 2011 motion, is reasonable in light of the whole record, consistent with law, in the public interest, and should be approved.

3. In the next regularly scheduled rate change following approval of the Revised Settlement Agreement, PG&E should return to customers the difference between what has been already included in rates through 2010 (\$148.69 million) and the total budget included in the Revised Settlement Agreement adopted herein (\$112.22 million), which is approximately \$36.47 million.

4. After all authorized program costs have been recorded in the ACEBA for this program cycle (ending December 31, 2011), including any program costs committed and expected to be incurred or paid after 2011, PG&E should return to customers any remaining unspent program funds through its AET advice letter filing.

5. PG&E should provide to the Energy Division and the Parties of this proceeding annual reports on the SmartAC™ Program for program years 2010 and 2011. These reports should be submitted no more than six weeks after the annual Ex Ante Load Impact Evaluation Reports, which are due April 1 of the following year.

6. PG&E Schedules E-RSAC, E-CSAC, and electric rate schedules for the SmartAC™ Program, should be revised as shown in Exhibits A and B to the Settlement Agreement, in order to add clarifying language similar to that approved by the Commission for the Base Interruptible Program rate schedule.

7. PG&E should seek Commission approval by advice letter, of future requests to revise Schedules E-RSAC, E-CSAC, and electric rate schedules for the SmartAC™ Program. Revisions should be consistent with the Settlement Agreement authorized herein.

8. PG&E should seek Commission approval by advice letter, of future revisions to the Schedule E-RSAC, Schedule E-CSAC, and rate schedules regarding implementation of a price trigger as described in the Revised Settlement Agreement and authorized herein.

9. This decision should be effective today so that the Revised Settlement Agreement may be implemented expeditiously.

10. The testimony and exhibits served by PG&E, DRA, and TURN in A.09-08-018 should be admitted into the record (see Attachment A).

11. The Joint Parties' motion to seal portions of the evidentiary record, including PG&E's Exhibits PGE-1C and PGE-2C, DRA's Exhibit DRA-1C, and TURN's Exhibit TURN-1C should be granted for 2 years.

12. A.09-08-018 should be closed.

O R D E R

IT IS ORDERED that:

1. The *Settlement Agreement Between and Among Pacific Gas and Electric Company, the Division of Ratepayer Advocates and The Utility Reform Network* filed on January 14, 2011, is approved.

2. Pursuant to the motions filed on January 14, 2011, the Joint Parties requested revisions have been made to the decision herein.

3. In the next regularly scheduled rate change following approval of *The Settlement Agreement Between and Among Pacific Gas and Electric Company, The Division of Ratepayer Advocates, and The Utility Reform Network*, filed on January 14, 2011, Pacific Gas and Electric Company must return to customers the difference between what has already been included in rates through 2010 (\$148.69 million) and the total budget included in the Settlement Agreement adopted herein (\$112.22 million), which is approximately \$36.47 million.

4. After all authorized program costs have been recorded in the Air-Conditioning Expense Balancing Account for this program cycle (ending December 31, 2011), including any program costs committed and expected to be incurred or paid after 2011, Pacific Gas and Electric Company must return to customers any remaining unspent program funds through its Annual Electric True-up advice letter filing.

5. Pacific Gas and Electric Company must provide to the Energy Division and the Parties of this proceeding, annual reports on the SmartAC™ Program for program years 2010 and 2011. These reports must be submitted no more than six weeks after the annual Ex Ante Load Impact Evaluation Reports, which are due April 1 of each year.

6. Pacific Gas and Electric Company Schedules E-RSAC, E-CSAC, and electric rate schedules for the SmartAC™ Program, must be revised as shown in Exhibits A and B to the Settlement Agreement approved in Ordering Paragraph 1, in order to add clarifying language similar to that approved by the Commission for the Base Interruptible Program rate schedule.

7. Pacific Gas and Electric Company must seek Commission approval by advice letter, of future requests to revise Schedules E-RSAC, E-CSAC, and electric rate schedules for the SmartAC™ Program. Revisions must be consistent with the Settlement Agreement approved in Ordering Paragraph 1.

8. Pacific Gas and Electric Company must seek Commission approval by advice letter of future revisions to the Schedule E-RSAC, Schedule E-CSAC, and rate schedules regarding implementation of a price trigger as described in the Settlement Agreement and approved in Ordering Paragraph 1.

9. The testimony and exhibits served by Pacific Gas and Electric Company, the Division of Ratepayer Advocates, and The Utility Reform Network in

Application 09-08-018 are admitted into the record (see Attachment A for list of documents entered into the record).

10. The Joint Parties' motion to seal portions of the evidentiary record, including Exhibits PGE-1C, PGE-2C, Exhibit DRA-1C, and TURN-1C is granted. The information will remain under seal for a period of two years after the date of this order. During this two-year period, this information may not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judge, the Assistant Chief Administrative Law Judge, or the Chief Administrative Law Judge, except as agreed to in writing by Pacific Gas and Electric Company, the Division of Ratepayer Advocates, and The Utility Reform Network, or as ordered by a court of competent jurisdiction. If Pacific Gas and Electric Company, the Division of Ratepayer Advocates, or The Utility Reform Network believes that it is necessary for this information to remain under seal for longer than two years, Pacific Gas and Electric Company, the Division of Ratepayer Advocates, or The Utility Reform Network may file a new motion at least 30 days before the expiration of this limited protective order.

11. The preliminary determination regarding the need for hearing is changed from yes to no. Hearings are not necessary.

12. Application 09-08-018 is closed.

Dated January 27, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

Commissioners

Commissioner Timothy Alan Simon, being
necessarily absent, did not participate.

Attachment A

List of Testimony and Exhibits

Entered into Record in A.09-08-018

Exh. No.	Sponsor/Witness	Description
PARTY	Pacific Gas and Electric Company	
PGE-1	Kenneth E. Abreu Michael A. Alexander Wendy L. Brummer Lucy G. Fukui William H. Gavelis Steven J. McCarty Susan F. Norris Wendy A. Trotter	Pacific Gas and Electric Company 2010-2011 SmartAC™ Program and Budget Prepared Testimony (Public Version)
PGE-1C	Kenneth E. Abreu Michael A. Alexander Wendy L. Brummer Lucy G. Fukui William H. Gavelis Steven J. McCarty Susan F. Norris Wendy A. Trotter	Pacific Gas and Electric Company 2010-2011 SmartAC™ Program and Budget Prepared Testimony (Confidential Version)
PGE-2	Kenneth E. Abreu Michael A. Alexander Wendy L. Brummer Lucy G. Fukui Tracy S. Lessin Susan F. Norris	Pacific Gas and Electric Company 2010-2011 SmartAC™ Program and Budget Rebuttal Testimony (Public Version)
PGE-2C	Kenneth E. Abreu Michael A. Alexander Wendy L. Brummer Lucy G. Fukui Tracy S. Lessin Susan F. Norris	Pacific Gas and Electric Company 2010-2011 SmartAC™ Program and Budget Rebuttal Testimony (Confidential Version)
PGE-3	William Gavelis	Pacific Gas and Electric Company Supplemental Testimony of William Gavelis in Support of Motion of Pacific gas and Electric Company, the Division of Ratepayer Advocates, and The Utility Reform Network for Approval of Settlement Agreement

Exh. No.	Sponsor/Witness	Description
PARTY	Division of Ratepayer Advocates	
DRA-1	Rebecca Lee	Testimony of Rebecca Lee on the Application of Pacific Gas and Electric Company for Approval of 2010-2011 SmartAC™ Program and Budget (U39E) (Public Version)
DRA-1C	Rebecca Lee	Testimony of Rebecca Lee on the Application of Pacific Gas and Electric Company for Approval of 2010-2011 SmartAC™ Program and Budget (U39E) (Confidential Version)
PARTY	The Utility Reform Network	
TURN-1	Jeffrey A. Nahigian	TURN Testimony in PG&E's 2010-2011 Smart AC Program and Budget Application (Public Version)
TURN-1C	Jeffrey A. Nahigian	TURN Testimony in PG&E's 2010-2011 Smart AC Program and Budget Application (Confidential Version)

(End of Attachment A)