

Decision 11-11-008 November 10, 2011

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Approval of its 2009 Rate Design Window Proposals for Dynamic Pricing and Recovery of Incremental Expenditures Required for Implementation (U39E).

Application 09-02-022  
(Filed February 27, 2009)

**DECISION GRANTING IN PART AND DENYING IN PART  
PETITIONS FOR MODIFICATION  
OF DECISION 10-02-032**

**TABLE OF CONTENTS**

<b>Title</b>	<b>Page</b>
DECISION GRANTING IN PART AND DENYING IN PART PETITIONS FOR MODIFICATION OF DECISION 10-02-032.....	1
1. Summary .....	2
2. Background.....	6
3. Justification for the Petition Requests.....	10
3.1. The PG&E Petition.....	10
3.2. The Joint Parties’ Petition.....	12
4. Procedural Updates and Responses to the Petitions.....	15
4.1. The Executive Director Extensions .....	15
4.2. Responses to the PG&E Petition.....	16
4.3. Responses to the Joint Parties’ Petition .....	20
5. Discussion .....	22
5.1. The PG&E Petition.....	25
5.1.1. Small- And Medium-Sized C&I Customers.....	25
5.1.2. Small- And Medium-Sized Agricultural Customers.....	28
5.1.3. Residential Customers.....	29
5.1.4. Cost Recovery .....	31
5.1.4.1. PG&E’s Request.....	31
5.1.4.2. DRA’s Response to PG&E.....	33
5.1.4.3. PG&E’s Reply to DRA .....	34
5.1.4.4. Discussion.....	35
5.2. The Joint Parties’ Petition.....	37
5.2.1. Dynamic Pricing Implementation Schedule .....	40
5.2.2. Customer Outreach and Education.....	43
6. Conclusion .....	52
7. DRA Motion to Set Aside Submission and Reopen the Record .....	53
8. Comments on Proposed Decision .....	54
9. Assignment of Proceeding.....	55
Findings of Fact .....	55
Conclusions of Law.....	58
ORDER .....	60

APPENDIX A - Ordering Paragraphs of D.10-02-032

**DECISION GRANTING IN PART AND DENYING  
IN PART PETITIONS FOR MODIFICATION OF DECISION 10-02-032**

**1. Summary**

The Petition for Modification of Decision (D.) 10-02-032, filed by Pacific Gas and Electric Company on January 14, 2011, is granted, with modifications described herein. The Petition for Modification of D.10-02-032, filed by the Division of Ratepayer of Advocates (DRA) and the California Small Business Roundtable/California Small Business Association on February 4, 2011, is granted in part and denied in part.

Pacific Gas and Electric Company (PG&E) seeks additional time to implement dynamic pricing rates for residential and small and medium agricultural and commercial customers. DRA and the California Small Business Roundtable/California Small Business Association seek improved customer education and outreach by PG&E, and request that the Commission adopt a set of qualitative standards that would determine when dynamic rates would be deployed for small commercial customers. In this decision, we provide reasonable extensions of time for PG&E to implement existing Commission orders, while ordering PG&E to engage in additional customer education and outreach efforts. We reject proposals that would change our previously adopted outcomes or “end-states” with respect to dynamic pricing rate designs, and we decline to change our implementation framework to one that depends on difficult-to-measure qualitative criteria to move forward. We direct reporting by staff that will provide the opportunity for PG&E and other interested parties to work collaboratively to achieve our long-standing goals for implementation of dynamic pricing for PG&E’s customers.

The requested changes to the dynamic pricing implementation schedule for PG&E, which are granted, include:

- Small and Medium C&I<sup>1</sup> Customers:
  - PG&E's request that these customers first default to mandatory time-of-use (TOU) beginning on November 1, 2012, and then default to Peak-Day Pricing (PDP) (including TOU) no earlier than March 1, 2014, is granted, but modified so that the deadline for default to PDP is now beginning on November 1, 2014.
  - PG&E's proposal to eliminate rolling default eligibility and move to fixed semi-annual default dates of November 1 and March 1 for all customers (including large customers) not eligible for the initial default date is granted, but modified to impose a single annual default date, November 1 of each year.
  - If it is not doing so already, PG&E shall offer its new Small C&I Time-of-Use rate (A-1 TOU) as a stand-alone rate on a voluntary basis.
- Small and Medium Agricultural Customers: these customers are currently scheduled to default to mandatory TOU on February 1, 2012. PG&E's proposed 13-month extension, until March 1, 2013, to begin to default these customers to mandatory TOU was granted by the Commission's Executive Director on May 5, 2011. This Decision affirms that change, and grants PG&E's request that all agricultural customers (including large customers) not eligible for the initial default date shall be defaulted once each year, on March 1, rather than on a rolling basis.
- Residential Customers:
  - PG&E's proposal to eliminate the requirement to implement a new residential PDP rate, and, instead, to

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<sup>1</sup> Commercial and Industrial.

retain SmartRate™ as an option for residential customers until the Commission completes its pending review of default residential dynamic pricing rates in Application 10-08-005 is granted.

- PG&E shall prepare a report that explains and illustrates the logic underlying its design of its SmartRate™ and its TOU Schedule E-6, and the benefits of those rates for its customers. PG&E's report should also provide detailed information regarding its efforts to market these rates to customers, and the results of those efforts.
- Cost Recovery:
  - PG&E's proposal that the language in D.10-02-032 should be modified to accommodate the extension of implementation dates for non-residential PDP previously authorized by the Commission and the additional extensions proposed by PG&E in the instant Petition is granted, with modifications.
  - PG&E's proposal that the language should be modified to clarify that PDP costs authorized in D.10-02-032 should now be recoverable due to the close of the record in the General Rate Case (GRC) Phase 1 and uncontested GRC Phase I settlement is granted, with modifications.

The customer education and outreach modifications proposed by DRA and the California Small Business Roundtable/California Small Business Association are granted. PG&E shall take the following actions:

- Conduct an enhanced education, outreach and marketing program to inform eligible Small C&I Customers about the availability of its A-1 TOU rate;
- In conjunction with its outreach and education campaign, conduct an aggressive outreach program providing Small and Medium C&I Customers with an integrated set of energy efficiency and demand reduction solutions through a single point of contact;
- Perform periodic assessments of customer awareness and understanding of the A-1 TOU rate and other time-varying rates offered by PG&E, track Small C&I Customer

enrollment into and disenrollment from the A-1 TOU rate and other time-varying rates, and track customer complaints regarding time-varying rates; and

- Customer Education and Outreach Report: Commission staff shall prepare a report documenting the progress, successes and remaining challenges with respect to PG&E's customer education and outreach activities and spending ordered in D.10-02-032; parties may file comments on the staff report.

The requested changes to the dynamic pricing implementation schedule for PG&E, which are denied, include the following proposals made by DRA and the California Small Business Roundtable/California Small Business Association:

- Proposal that PG&E offer A-1 TOU to Small C&I Customers on a default basis only when certain subjective conditions regarding customer awareness, understanding and complaint conditions have been met;
- Proposal that PG&E provide small C&I customers defaulting from flat rates to TOU rates one-year of bill protection relative to the preexisting flat (A-1) rate;
- Proposal that PG&E offer A-1 TOU to Small C&I Customers on a mandatory basis only when certain subjective conditions regarding customer awareness, understanding and complaint conditions have been met;
- Proposal that PG&E allow customers meeting certain narrow criteria to opt out to flat rates; and
- Proposal that PG&E continue to offer Peak-Day Pricing to its Small C&I Customers on a voluntary ("opt-in") basis only.

Appendix A provides a complete version of the Ordering Paragraphs of D.10-02-032, as modified by this decision.

This proceeding is closed.

## 2. Background

This decision continues implementation of the Commission's policy to make dynamic pricing available for all customers. On August 1, 2008, the Commission issued Decision (D.) 08-07-045 in Application (A.) 06-03-005. That decision adopted a dynamic pricing timetable and rate design guidance for Pacific Gas and Electric Company (PG&E). The guidance and timetable varied for each of PG&E's customer groups.

On March 2, 2010, the Commission issued D.10-02-032 in this PG&E 2009 Rate Design Window proceeding. That decision took a major step forward in the Commission's policy to make dynamic pricing available for all electric customers by adopting and implementing default and optional critical peak pricing (CPP) and time-of-use rates (PG&E refers to such CPP rates, in conjunction with time-of-use (TOU) rates, as Peak-Day Pricing (PDP) rates) beginning May 1, 2010 for certain customers of PG&E. The decision also adopted appropriate customer outreach and education activities and measures to ensure customer awareness and understanding of the new rates and options.

Among other things, the decision determined that:

- Large commercial and industrial customers would be defaulted to Peak-Day Pricing rates on May 1, 2010 unless they proactively chose to opt out to a time-of-use rate. Optional Peak-Day Pricing tariffs would be available on that date for those small and medium commercial and industrial, and agricultural customers who have already received the necessary metering equipment.
- Peak-Day Pricing would become the default tariff for large agricultural customers beginning February 1, 2011.
- Time-of-use rates would become the default tariff for small and medium agricultural customers beginning February 1, 2011.

- Peak-Day Pricing would become the default tariff for small and medium commercial and industrial customers beginning November 1, 2011.
- Small and medium commercial and industrial and large agricultural customers would not be defaulted to the Peak-Day Pricing tariff until 12 months of recorded interval billing data was available for use in determining their best Peak-Day Pricing options. They could also choose to opt out to time-of-use rates.
- The current SmartRate™ option available to residential customers would remain in effect until 2011 at which time SmartRate™ customers would either transition to residential Peak-Day Pricing rates or revert to non-time differentiated residential tiered rates.<sup>2</sup>

Since we adopted D.10-02-032 a number of events occurred that altered some of the timetables contained in that Decision.

In D.10-07-029, we denied a Petition for Modification of D.08-07-045 and D.10-02-032, filed by the Division of Ratepayer Advocates (DRA) and The Utility Reform Network. The Petition requested several changes to the dynamic pricing implementation schedule for PG&E.

On November 8, 2010, in response to a request by PG&E, the Commission's Executive Director approved the following extensions of time to implement two provisions of D.10-02-032: (1) defaulting small and medium agricultural customers to TOU rates was deferred from February 1, 2011 to February 1, 2012; and (2) replacing the residential SmartRate™ with optional

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<sup>2</sup> PG&E's residential SmartRate is a voluntary supplemental CPP tariff offered to its residential customers. PG&E designed the CPP rate as an "overlay" in addition to the existing inverted-tier rate structure for residential customers, with the CPP rate in effect during the summer period (May 1 through October 31).



residential Peak-Day Pricing (PDP) and defaulting residential SmartRate™ customers to PDP were deferred to November 1, 2011.

Two new and closely related Petitions to Modify D.10-02-032 are now before us. First, on January 14, 2011, PG&E filed its “Petition Of Pacific Gas And Electric Company For Modification Of Decision 10-02-032” (PG&E Petition). Second, on February 4, 2011, DRA and the California Small Business Roundtable (CSBRT)/California Small Business Association (CSBA) (Joint Parties) filed their “Petition For Modification Of The Division Of Ratepayer Advocates, The California Small Business Association and The California Small Business Roundtable Of Decision 10-02-032”.

PG&E requests the following modifications of D.10-02-032:

- For small- and medium-sized commercial and industrial (C&I) customers, PG&E proposes that these customers first default to mandatory TOU rates beginning on November 1, 2012 (rather than default to PDP on November 1, 2011, as currently required), and then default to PDP (including TOU) no earlier than March 1, 2014.
- For small- and medium-sized agricultural customers, PG&E proposes that these customers begin to default to mandatory TOU on March 1, 2013, rather than February 1, 2012, as currently required.
- For residential customers, PG&E proposes to eliminate the requirement to implement a new residential PDP rate on November 1, 2011, and, instead, to retain SmartRate™ as an option for residential customers until residential dynamic pricing options are considered again by the Commission.
- If the Commission modifies the timelines adopted in D.10-02-032, PG&E proposes related revisions to the Cost Recovery Mechanism adopted in D.10-02-032.

Joint Parties request the modification of D.10-02-032 to improve customer education and outreach, and to implement time-varying rates for PG&E’s small

business customers “when they are shown to be ready instead of on a fixed time schedule”. This would occur in three stages:

**Stage 1:** Voluntary TOU and voluntary PDP with enhanced education on time-varying rates and delivery of integrated energy efficiency and demand reduction solutions to small business customers through a single point of contact. Small business customers are allowed to continue on flat rates.

**Stage 2:** Default TOU and voluntary PDP. Defaulting customers would be allowed to opt out to flat rates.

**Stage 3:** Mandatory TOU and voluntary PDP. Only customers meeting narrow criteria (e.g., health and safety of workers, customers, or patients, public health or safety, documented economic hardship and loss of jobs) would be allowed to continue on flat rates.

Movement from one stage to the next would only occur when PG&E could demonstrate that it had met certain criteria proposed by the Joint Parties.

On February 14, 2011, DRA and the CSBRT/CSBA filed separate responses to PG&E’s Petition. Responses were also filed by the California Farm Bureau Federation and Southern California Edison Company (SCE). PG&E filed its reply on February 24, 2011.

On March 7, 2011, PG&E and SCE filed responses to the Joint Parties’ Petition. Joint Parties filed replies to the PG&E and SCE responses on March 21, 2011.

On April 21, 2011 PG&E sent a letter to the Commission’s Executive Director, requesting an extension of time to comply with certain deadlines in D.10-02-032. Some of those requests were duplicates of items in PG&E’s Petition, but time-sensitive in nature. On May 5, 2011 the Executive Director granted PG&E’s requests for several extensions, but left other items in PG&E’s request to be addressed in this decision.

### 3. Justification for the Petition Requests

#### 3.1. The PG&E Petition

PG&E proposes to revise the timetable for implementation of certain default time-varying rates, and proposes to revise the corresponding cost recovery mechanism. PG&E reiterates its support and commitment to the success of the Commission's goal of engaging customer participation to address long-term energy costs in California using metering technology and time-varying dynamic pricing rates, but states that the modifications proposed in its Petition stem from PG&E's experiences to date with dynamic pricing and smart meter deployment. Based on the lessons it has learned from its implementation of dynamic pricing with large business customers and rollout of the smart meter program, PG&E is proposing improvements that it claims should foster positive customer experiences with dynamic pricing and thus should increase the success of dynamic pricing and the ability to achieve the State's energy goals.

PG&E states that in order to maximize the effectiveness of the upcoming default processes for mass market customers, the Commission should consider the following lessons learned from PG&E's recent experiences with smart meter deployment and large C&I customer PDP rollout, as well as research PG&E has conducted in preparation for mass market PDP implementation.

- **Lesson One**: Successful smart meter deployment and customer education on benefits, tools and pricing options is a critical first step to the success of the dynamic pricing program.
- **Lesson Two**: For mass market customers not currently on any form of time-varying rates, allocating time to carefully convey the additional context for the purpose and benefits of those rates is critical to ensure initial acceptance of a default program and its successful adoption.

- **Lesson Three:** PDP is a complicated rate, even for the most knowledgeable customers. In order to ensure acceptance and success, it needs to be fully explained and rolled out separately after TOU.
- **Lesson Four:** Rolling customer eligibility introduces logistical challenges and makes it harder to deploy messages that are relevant to all customers, while PG&E's proposed staging will support more effective messaging to larger groups of customers.

Based on these "lessons learned", PG&E proposes the following changes to the timetable set forth in the PDP Decision:

1. **Small and Medium C&I Customers:** these customers are currently scheduled to default to PDP, which includes mandatory TOU rates with CPP, on November 1, 2011. PG&E proposes that these customers first default to mandatory TOU beginning on November 1, 2012, and then default to PDP (including TOU) no earlier than March 1, 2014. PG&E also proposes to eliminate rolling default eligibility and move to fixed semi-annual default dates of November 1 and March 1 for all customers not eligible for the initial default date.
2. **Small and Medium Agricultural Customers:** these customers are currently scheduled to default to mandatory TOU on February 1, 2012. PG&E proposes a 13- month extension, until March 1, 2013, to begin to default these customers to mandatory TOU. PG&E also proposes defaulting all agricultural customers not eligible for the initial default date once per year, on March 1, rather than on a rolling basis.
3. **Residential Customers:** these customers are currently scheduled to have PDP as an option on November 1, 2011. In addition, customers currently on residential SmartRate™ are scheduled to default to the new PDP rate on November 1, 2011. PG&E proposes to eliminate the requirement to implement a new residential PDP rate, and, instead, to retain SmartRate™ as an option for residential customers until the Commission completes its pending review of default residential dynamic pricing rates in A.10-08-005.

If the Commission modifies the timelines adopted in D.10-02-032, PG&E proposes related revisions to the Cost Recovery Mechanism adopted in D.10-02-032, to address two issues:

- First, PG&E proposes that the language in D.10-02-032 should be modified to accommodate the extension of implementation dates for non-residential PDP previously authorized by the Commission and the additional extensions proposed by PG&E in the instant Petition.
- Second, PG&E proposes that the language should be modified to clarify that PDP costs authorized in D.10-02-032 should now be recoverable due to the close of the record in PG&E's General Rate Case (GRC) Phase 1 and the pending uncontested GRC Phase 1 settlement currently before the Commission.<sup>3</sup>

### **3.2. The Joint Parties' Petition**

The Joint Parties' Petition proposes rate changes that would only affect Small C&I Customers, those with a maximum demand not exceeding 20 kilowatts (kW). According to the Joint Parties, the purpose of the Petition "is to propose a path forward by which the vast majority of small business customers would be on time-varying rates":

Instead of an arbitrary date, we propose a schedule for defaulting customers to Time of Use rates, based on objective measures of customer understanding (as measured by customer awareness), customer acceptance of time-varying rates (as measured by penetration) and PG&E's ability to serve its customers on time-varying rates with no significant problem (as measured by customer complaints).

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<sup>3</sup> Since PG&E filed its Petition, the Commission approved D.11-05-018 on May 5, 2011, adopting the GRC settlement in Ordering Paragraph 1, with modifications and clarifications that are unrelated to the matters before us in PG&E's Petition.

Instead of a customer education plan that currently provides little by way of real solutions for small businesses to reduce their energy use during peak periods, we propose that PG&E attract and retain customers on time-varying rates by aggressively offering integrated energy efficiency and demand response solutions to help small business customers reduce their usage during peak and non-peak periods.” (Joint Parties at 3-4).

To accomplish these goals, the Joint Parties request that the Commission re-examine the current plan to default small business customers to PDP in light of the following guiding principle: “Complex rate designs should not be implemented before customers are shown to be ready.” Accordingly, Joint Parties request that the Commission modify D.10-02-032 to direct PG&E to do the following:

1. Offer its new Small C&I Time-of-Use rate (A-1 TOU) as a stand-alone rate on a voluntary basis as soon as possible and in no event later than December 31, 2011;
2. Conduct an enhanced education, outreach and marketing program to inform eligible Small C&I Customers about the availability of the A-1 TOU rate;
3. In conjunction with its outreach and education campaign, conduct an aggressive outreach program providing Small C&I Customers with an integrated set of energy efficiency and demand reduction solutions through a single point of contact;
4. Perform periodic assessments of customer awareness and understanding of the A-1 TOU rate and other time-varying rates offered by PG&E, track Small C&I Customer enrollment into and disenrollment from the A-1 TOU rate and other time-varying rates, and track customer complaints regarding time-varying rates;
5. Offer A-1 TOU to Small C&I Customers on a default basis only when the following conditions are met:
  - a. 80% of eligible customers are aware of and have a conceptual understanding of TOU rates and features;

- b. 30% of eligible customers have opted into at least one time-varying rate feature; and
- c. complaints from small business customers on time-varying rates remain at an acceptably low level.

To promote customer acceptance, Small C&I Customers defaulting from flat rates to TOU rates should be offered one-year of bill protection relative to the preexisting flat (A-1) rate.

- 6. Offer A-1 TOU to Small C&I Customers on a mandatory basis only when the following conditions are met:
  - a. 90% of eligible customers are aware of and have a conceptual understanding of TOU rates and features;
  - b. 60% of eligible customers have accepted service under the default TOU rate; and
  - c. complaints from small business customers on time-varying rates remain at an acceptably low level.

Only customers meeting certain narrow criteria would be permitted to opt out to flat rates. These criteria could include health and safety of workers, customers or patients, public health and safety, lack of available technologies for reducing electric use, documented economic hardship and loss of jobs.

- 7. Continue to offer PDP to its Small C&I Customers on a voluntary (opt-in) basis only;
- 8. Continue to offer a flat rate to qualifying Small C&I Customers as described above;
- 9. Meet the criteria for default A-1 TOU no later than December 31, 2013; and
- 10. Meet the criteria for mandatory A-1 TOU no later than December 31, 2015.

The Joint Parties recommend that default and mandatory TOU should occur only if PG&E actually achieves the criteria set forth above. While PG&E should be held responsible for achieving the specified criteria by the above dates, defaulting small business customers to time-varying pricing should be driven by

customer readiness (as measured by awareness), customer acceptance (as measured by penetration) and the utility demonstrating that it can serve customers on time-varying rates with no significant problems (as measured by level of consumer complaints). Customers should not be penalized by having time-varying rates imposed upon them if the utility fails to meet these criteria.

#### **4. Procedural Updates and Responses to the Petitions**

##### **4.1. The Executive Director Extensions**

On April 21, 2011 PG&E sent a letter to the Commission's Executive Director, requesting several extensions of time related to the requirements of D.10-02-032. PG&E made these requests, some of which mirror those in its Petition, in order to unnecessarily avoid commencing its customer outreach efforts only to have the relevant implementation dates subsequently extended, thus creating customer confusion. On May 5, 2011, the Commission's Executive Director granted PG&E the following extensions:

- For small and medium agricultural customers, an extension of time to implement mandatory time-of-use (TOU) rates from February 1, 2012 to March 1, 2013.
- For small and medium business customers an extension of the time to implement mandatory TOU rates and default Peak-Day Pricing (PDP) rates to November 1, 2012.
- For residential customers, an extension of Pacific Gas and Electric Company's (PG&E's) currently effective residential critical peak pricing rate, SmartRate™, for one year until November 2012, and suspension of the residential PDP rate approved in D.10-02-032 until November 1, 2012.

The discussion and resulting modifications to D.10-02-032 adopted herein reflect the Executive Director's actions as appropriate.



#### **4.2. Responses to the PG&E Petition**

On February 14, 2011, DRA and the CSBRT/ CSBA filed separate responses to PG&E's Petition. Responses were also filed by the California Farm Bureau Federation and SCE.

In its response, DRA recommends that the Commission should grant, in part, PG&E's Petition: for residential customers, it should eliminate the requirement to implement a new residential PDP rate on November 1, 2011, and, instead, to retain SmartRate™ as an option for residential customers until residential dynamic pricing options are considered again by the Commission. For Small C&I, it should cancel the requirement to begin default PDP for Small C&I customers on November 1, 2011.

However, DRA recommends that the Commission should deny the remaining PG&E proposals pertaining to Small C&I customers. Specifically, the Commission should not set a November 1, 2012 date for mandatory TOU, and should not set a date for default PDP for Small C&I customers. The Commission should, instead, direct PG&E to begin a staged transition to TOU rates for Small C&I customers, as described in the Joint Parties' Petition filed February 4, 2011. Finally, DRA recommends that the Commission require PG&E to clarify the portion of its petition dealing with certainty of recovery of amounts already approved, to preserve the ability to determine the reasonableness of the costs in light of any changes to the Commission's timetable for implementing dynamic rates.

The CSBRT/CSBA agree with PG&E that small business customers should not be defaulted to PDP beginning on November 1, 2011, but disagree with PG&E's proposal that small and medium C&I customers default to mandatory TOU rates beginning on November 1, 2012, and then, default to PDP beginning

on March 1, 2014. Like DRA, CSBRT/CSBA recommends that the Commission adopt the alternative approach proposed in the February 4, 2011 Joint Parties' Petition.

The California Farm Bureau Federation (Farm Bureau) states that it generally supports PG&E's proposal to extend the deadline for required default to mandatory TOU for small and medium-sized agricultural customers from February 2012 to March 2013, because the revised date comes after a winter season, which provides opportunity to review rate impacts and precedes the irrigation season so that changes can be anticipated. Farm Bureau also notes the importance of identifying a plan for educating customers in a cohesive and timely manner about the upcoming changes to the rates, stating "implementation of any plan must be managed in a way which avoids continued revisions to protect against confusion and redundancy."

SCE expresses a strong interest in the outcome of the Petitions filed by PG&E and the Joint Parties for several reasons:

First, any modified directives related to the implementation and sequencing of default CPP/TOU and time-variant rates for small and medium commercial customers or small agricultural customers provided to PG&E as a result of these Petitions will carry weight in terms of how the proposals SCE filed in A.10-09-002 will be handled (in a footnote, SCE adds: "In addition to delayed implementation of the default and mandatory rate structures adopted in D.09-08-028, SCE intends to propose a modified sequence for the implementation of CPP/TOU rates for its small and medium C&I customers when SCE files its 2012 GRC Phase 2 application in June 2011"). For example, the guidance specifically provided to PG&E in D.08-07-045 and adopted in D.10-02-032 was ultimately imposed, with minor exceptions, on SCE in D.09-08-028. SCE's

application (A.10-09-002) was filed in compliance with the implementation dates and the sequence for transition from flat rates to default CPP/TOU rate structures ordered by D.09-08-028.<sup>4</sup>

Second, SCE states that its own experience with its customers has confirmed the validity of PG&E's concerns relating to the transition of small and medium customers from flat rates to default CPP/TOU rates. While the two pending petitions do not directly affect D.09-08-028, SCE hopes that its views will help inform the Commission in making a decision on these two pending petitions and assist the Commission's consideration of the future transition of SCE's small and medium C&I and agricultural customers.

Specifically, SCE concurs with PG&E's proposal to transition small and medium C&I customers and agricultural customers to mandatory time-of-use rates for a period of time before imposing any default CPP/TOU rates on these customers. For small and medium C&I customers SCE concurs with PG&E that the first step for these customers, who for SCE consist of approximately 600,000 accounts predominantly served on rate schedules with flat rates, should be a transition to TOU rate structures (indeed, SCE prefers to never impose a default CPP/TOU rate structure on these small and medium C&I customers, even after they have had some period of experience on TOU rates). With respect to rolling transition dates versus fixed transition dates, SCE goes beyond PG&E's proposal for two fixed dates per year, stating its preference for a single transition date after the summer period has ended.

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<sup>4</sup> On May 16, 2011 an Administrative Law Judge Ruling in A.10-09-002 directed SCE to include its proposal for dynamic pricing rates in its 2012 rate design application. SCE filed that Application, A.11-06-007, on June 6, 2011.

SCE also states that it has previously noted concerns that have also been raised by PG&E regarding the need for adequate customer education prior to the implementation of significant changes to rate structures. According to SCE, a large percentage of its own large C&I customers with many years of experience on TOU rates are choosing to leave default CPP rates, which indicates to SCE that even more education will be necessary for the smaller customer groups that have never experienced TOU rates. SCE states that the much larger numbers of smaller and less sophisticated customers should have a period of experience on TOU rate structures before being subject to default CPP/TOU. SCE agrees with PG&E that the transition from flat rates to a time-variant rate structure such as TOU will be complex for these customers and will require an extended period of time to build customer understanding. Customer education, adoption and acceptance of new dynamic pricing rates will substantially benefit by first having nonresidential customers who have been subject to default flat rate structures transition to mandatory TOU rates for a period of time, with a subsequent transition to default CPP/TOU rates, instead of a massive transition to default CPP/TOU rates, with the ability to opt-out to mandatory TOU rates. Finally, SCE notes that PG&E's proposed November 1, 2012 initial transition date to mandatory TOU rates for small and medium C&I customers and the March 1, 2013 date for small and medium agricultural customers could align relatively closely to the dates SCE would propose in its application in Phase 2 of its 2012 GRC, helping to coordinate the transition process to time-variant rates across the state.

PG&E filed reply comments on February 24, 2011. PG&E notes that the affected parties agree on postponing the November 1, 2011 deadline for default of small and medium business customers and the February 1, 2012 deadline for

mandatory TOU for small and medium-sized agricultural customers. Regarding the other issues where the Joint Parties presented an alternate approach, PG&E replies that if the Commission is interested in pursuing the Joint Parties' ideas further, PG&E recommends that informal discussions or workshops, and, as appropriate, testimony and evidentiary hearings could follow the granting of the schedule suspension requested by PG&E.

#### **4.3. Responses to the Joint Parties' Petition**

On March 7, 2011, PG&E and SCE filed responses to the Joint Parties' Petition.

PG&E, with one exception, references its February 24, 2011 reply to the February 14, 2011 comments on its own Petition that were filed by DRA and CSBA/CSBRT, because that round of comments and replies included all the proposals and reactions that the Joint Parties later placed directly before us via the Joint Parties' Petition to Modify D.10-02-032. PG&E does respond in opposition to the Joint Parties' request that small C&I customers defaulting from flat rates to TOU rates should be offered one year of bill protection relative to the pre-existing flat rate.

SCE recommends that the Commission deny the Joint Parties' Petition. First, SCE states that the Joint Parties' proposed criteria, if adopted by the Commission, would likely prevent transition of small C&I customers from flat rates to a default or mandatory TOU rate structure. According to SCE, the proposed criteria are "arbitrary and unworkable" and ignore the benefits provided by a TOU rate structure. Second, SCE states that the assertions made by the Joint Parties regarding the challenges and harm that would likely result from implementation of default CPP/TOU rate structures are unsupported, ignore bill protection and ignore customers' ability to opt out of the CPP/TOU

rate structure. Finally, SCE states that the Joint Parties' Petition provides no clear basis for the disparate treatment of small versus medium C&I customers or other customers.

Joint Parties filed replies to the PG&E and SCE responses on March 21, 2011. Joint Parties first observe that there is much common ground among the Joint Parties, PG&E, and SCE with respect to the essence of both the Joint Parties Petition and the earlier PG&E Petition. All of these parties favor implementing Time of Use rates before customers are defaulted to PDP and all prefer or do not oppose an outcome in which CPP remains voluntary and does not become the default. Most urgently, all these parties support an immediate suspension of the forthcoming November 1, 2011 target date for (1) implementation of voluntary PDP for PG&E's residential customers; (2) moving existing residential SmartRate™ customers to PDP; and (3) beginning default PDP service for PG&E's small and medium C&I customers.

The Joint Parties, however, strongly disagree with the utilities' assertions that their proposals to transition small business customers to default time-varying rates are unworkable. Joint Parties also disagree with PG&E's and SCE's assertions regarding the need for limited exceptions from time-varying rates. Third, Joint Parties disagree with PG&E and SCE that there should be an abrupt shift to time-varying rates, suggesting that such an abrupt transition could jeopardize the potential benefits of advanced meter deployment. Joint Parties also disagree with SCE's claim that bill protection, and the opportunity to opt out, provides sufficient protection to allow utilities to begin implementing default CPP. Finally, Joint Parties disagree with PG&E's opposition to bill protection for customers defaulting to TOU.

In order to help bridge the gap between the utilities and customers on these critical issues, and to develop better customer outreach and education, the Joint Parties provide recommendations regarding a structured workshop process that could be established by the Commission.

## **5. Discussion**

Rule 16.4 of the Commission's Rules of Practice and Procedure governs Petition for Modification. Rule 16.4(b) states that

a petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.

With respect to Rule 16.4(b), PG&E provided the required declaration or affidavit; Joint Parties did not provide this material. As we will discuss more specifically below, while we do make changes to the implementation timetable and the customer education and outreach approach adopted in D.10-02-032, there is no evidence in the record before us to support modifying the basic findings upon which we based our original plans for implementing the dynamic pricing rate schedules that will allow ratepayers to take advantage of advanced meters as they are installed.

We have quoted at some length from the Petitions before us, as well as other Parties' responses, in order to provide sufficient context for the steps we adopt today to further advance the implementation of dynamic pricing for customers of the investor-owned utilities in California. Our goals remain unchanged, but we re-emphasize today the importance of moving forward in a

collaborative fashion, where the IOUs seek input from stakeholders and respond to that input, and of allowing additional time for ratepayers to understand and accept the new rate designs. Our earlier orders imposed relatively compressed timetables for implementing certain rate changes, and, as we summarized above, this has resulted in several requests for extensions of time to implement these orders, as well as several petitions to modify the orders themselves, again either seeking more time to comply with an order, or seeking an alternative approach to the implementation itself. Interested parties are now speaking with a more unified voice and identifying issues that transcend any single IOU's service territory, and we account for this in our actions on the Petitions before us. Finally, issues related to the deployment of advanced metering infrastructure (AMI), and customer acceptance of that deployment, though before us in other dockets, also impact the schedules for implementing the rate changes necessary for customers to take advantage of the benefits offered by AMI.

Mindful of these interrelated challenges, we grant PG&E's Petition for Modification, with some modifications to PG&E's requests, while granting in part and denying in part the Petition for Modification filed by the Joint Parties. As discussed in greater detail below, we find it reasonable to adjust the time allowed to implement the rate design changes adopted in D.10-02-032, but we do not find it reasonable to adopt the modified conceptual approach, and the resulting alternative "end-state" outcomes, that are proposed by the Joint Parties. However, the concerns raised by the Joint Parties regarding customer education and outreach are echoed by other parties in their responses to both the PG&E and the Joint Parties' Petitions, so we therefore grant the Joint Parties' requested modifications to D.10-02-032 regarding the need for improved and better-coordinated customer education and outreach, but for all PG&E



customers, not just the small commercial customers for whom Joint Parties are advocating.

To place our actions into a broader context, a number of our findings in D.08-07-045 bear repeating here:<sup>5</sup>

- In “California Demand Response: A Vision for the Future (2002-2007),” attached to D.03-06-032 as Attachment A, the Commission stated that electric customers should have “the ability to increase the value derived from their electricity expenditures by choosing to adjust usage in response to price signals.” (Finding of Fact 1.)
- The EAP [“Energy Action Plan”] II identifies demand response, along with energy efficiency, as the State’s “preferred means of meeting growing energy needs.” (Finding of Fact 2.)
- A key action in the EAP II is “to make dynamic pricing tariffs available for all customers.” (Finding of Fact 3.)
- According to PG&E’s current advanced metering plans, by 2012, all of PG&E’s customers will have advanced meters, so all customers can take advantage of dynamic pricing. (Finding of Fact 7.)
- RTP [Real Time Pricing] is the best rate to promote economic efficiency and equity between customers; however, RTP cannot be developed and implemented until MRTU becomes operational. (Finding of Fact 11.)<sup>6</sup>
- CPP more closely aligns the retail rate with the wholesale market, and it can give customers an opportunity to manage their usage and lower their bills. (Finding of Fact 12.)

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<sup>5</sup> See, D.08-07-045, “Decision Adopting Dynamic Pricing Timetable And Rate Design Guidance For Pacific Gas And Electric Company.”

<sup>6</sup> “MRTU” refers to the California Independent System Operator’s “Market Redesign and Technology Upgrade.”

- The Commission directed the utilities to propose AMI projects primarily because AMI enables greater demand response through dynamic pricing and demand response programs. (Finding of Fact 13.)

These findings remain unchallenged in any fundamental way, even by parties who would prefer that they--or the consumers on whose behalf they advocate--not be subject to default or mandatory dynamic rates.

### **5.1. The PG&E Petition**

As described above, PG&E requests that the Commission revise D.10-02-032 with respect to (i) the timetable for certain default time-varying rates and (ii) the corresponding cost recovery mechanism.

#### **5.1.1. Small- And Medium-Sized C&I Customers**

PG&E proposes that these customers first default to mandatory TOU rates beginning on November 1, 2012 (rather than default to PDP on November 1, 2011, as currently required), and then default to PDP (including TOU) no earlier than March 1, 2014.

As noted above, on May 5, 2011 the Commission's Executive Director partially granted PG&E's request to extend, but not to modify, the schedule for mandatory TOU and default PDP for small and medium sized C&I customers. D.10-02-032 directed PG&E to implement mandatory TOU and default PDP at the same time on November 1, 1011; the Executive Director has authority to extend this date, pursuant to Rule 16.6 of the Commission's Rules of Practice and Procedure, but not to separate the implementation dates. Thus, pursuant to the Executive Director's May 5, 2011 letter, PG&E would be required to implement mandatory TOU and default PDP for small and medium sized C&I customers on November 1, 2012. In its Petition, PG&E proposes to begin defaulting small and medium C&I customers first to TOU in November 2012 and then to PDP in

March 2014, with eligible groups following twice yearly in March and November.

In support of this request, PG&E describes results of recent focus group research it has conducted with small and medium C&I customers. According to PG&E:

The difficulty of understanding default PDP is further underscored with these customers because most of them are currently on flat rates, and have no prior experience with TOU rates. The research found that the transition from a flat rate to default time-varying pricing such as TOU or PDP is complex, and requires a communications effort that has multiple phases and multiple touches over an extended period of time in order to build the level of understanding necessary for customers to confidently understand the impacts of the new default pricing schedule on their businesses.<sup>7</sup>

PG&E argues that a more deliberate transition pace for defaulting customers is required for the small and medium C&I customers whereby TOU and PDP are explained and rolled out through the following four sequential steps:

1. TOU education and awareness;
2. TOU rate understanding and bill impacts;
3. PDP education and awareness; and
4. PDP rate understanding and bill impacts.

PG&E believes that to better help smaller customers (those with demand below 200 kW) to accept the transition to PDP rates, they should have at least one year of experience on TOU before beginning the default process to PDP

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<sup>7</sup> PG&E Petition at 15.

(including TOU). A full year of experience on the TOU rate enables customers to see the impacts that their energy use and the time of day have on their total bills, and to allow time for customers to develop new patterns of use. PG&E believes that this preparation is necessary before the customer is ready to evaluate his/her ability to layer on the additional behavioral and operational changes associated with PDP event days.

As we have taken up this issue over time, we note that our thinking, as well as that of PG&E, has evolved. In the phase of this proceeding which led to D.10-02-032, we rejected, at PG&E's urging, a similar though somewhat compressed proposal by DRA to separate the implementation of TOU and CPP for this customer group: "For the reasons cited by PG&E, we believe that defaulting small and medium C&I customers first to TOU rates and then one year later defaulting them to CPP and TOU rates is not appropriate. The proposed transition process may lead to customer confusion and frustration, resulting in reduced participation in the PDP program. Therefore, it will not be adopted."<sup>8</sup> However, we are now convinced that successful implementation is, in general, likely to require more time than we first assumed in our 2008 and 2010 decisions on dynamic pricing for PG&E.

As noted above, the Commission's Executive Director has already granted PG&E additional time to implement mandatory TOU and default PDP for small- and medium-sized C&I customers on November 1, 2012. Here, we respond to the remainder of PG&E's requests, namely, to begin defaulting small and

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<sup>8</sup> D.10-02-032 at 30.

medium C&I customers to TOU in November 2012, followed by PDP in March 2014, with eligible groups following twice yearly in March and November.

As we noted above, none of the responding parties opposed PG&E's request. SCE concurs with PG&E that the first step for these customers should be a transition to TOU rate structures. Indeed, SCE's preference is not to impose a default CPP/TOU rate structure on these small and medium C&I customers, even after they have had some period of experience on TOU rates. SCE also suggests a single transition date to default or mandatory rate structures, occurring after the summer period has ended.

We remain intent on transitioning small and medium C&I customers to a CPP/TOU rate structure, but we are persuaded that these customers should first be exposed to TOU rates alone, in order to simplify customer education about the new rates. In keeping with our intention to provide more time for this to take place, we believe that customers should have two full years (and two summers) of TOU experience before being defaulted to a PDP rate design. Therefore, PG&E's request should be granted with this modification, so that small and medium C&I customers begin to default to PDP in November 2014. We agree with SCE that a single annual date for default is simpler, and that a date after the summer period has ended is most appropriate. After 2014, PG&E shall default eligible groups to PDP on November 1 of each year. Ordering Paragraphs 3 and 9 of D.10-02-032 should be modified accordingly.

#### **5.1.2. Small- And Medium-Sized Agricultural Customers**

In its Petition, PG&E proposes that these customers begin to default to mandatory TOU on March 1, 2013, rather than February 1, 2012, as was required in D.10-02-032. As noted above, Farm Bureau supports PG&E's proposal. The

Commission's Executive Director granted this extension in the May 5, 2011 letter to PG&E. Ordering Paragraph 2 of D.10-02-032 should be modified accordingly.

### **5.1.3. Residential Customers**

PG&E proposes to eliminate the requirement to implement a new residential PDP rate on November 1, 2011, and, instead, to retain SmartRate™ as an option for residential customers until residential dynamic pricing options are considered again by the Commission.

As noted above, on May 5, 2011 the Commission's Executive Director granted a slightly different PG&E request: to extend PG&E's currently effective residential CPP rate, SmartRate™, for one year until November 2012 and suspension of the residential PDP rate approved in D.10-02-032 until November 1, 2012. In the instant Petition, PG&E proposes to eliminate the requirement to implement a new residential PDP rate, and, instead, to retain SmartRate™ as an option for residential customers until the Commission completes its pending review of default residential dynamic pricing rates in A.10-08-005.

In D.08-07-045 we required residential PDP to be combined with TOU in non-event hours. PG&E complied with this requirement in A.09-02-022 and we adopted the rate design in D.10-02-032, Ordering Paragraph 2:

For residential customers with advanced meters, optional Peak-Day Pricing rates that include time-of-use rates during non-Peak-Day Pricing periods [shall be effective by February 1, 2011]. Prior to February 1, 2011, the current E-RSMART option available to residential customers shall remain in effect. On February 1, 2011, an E-RSMART customer shall be moved to the new residential Peak-Day Pricing rates unless the customer opts to return to a non-time differentiated residential tiered rate.

On November 8, 2010, the Commission's Executive Director approved an extension of time to implement this provision of Ordering Paragraph 2: replacing residential SmartRate™ with optional residential PDP and defaulting residential SmartRate™ customers to PDP were deferred to November 1, 2011.

In the instant Petition, PG&E now describes the difficulties it anticipates in creating and implementing a default rate that is both tiered and features TOU periods. Instead, PG&E proposes to eliminate the current requirement to design and implement a new residential PDP rate, and instead retain and promote SmartRate™ on a voluntary basis as part of the immediate benefits of SmartMeter™ deployment. The Commission could instead address proposals for default time-varying rates in the Peak Time Rebate and Default Residential Rate Program applications (A.10-02-028 and A.10-08-005).

We agree that more time is needed to develop a residential PDP rate that will be understandable and acceptable to residential customers. This additional time can be granted because in the meantime, residential customers may choose SmartRate™ or TOU. PG&E's request to modify D.10-02-032 to eliminate the requirement to implement a new residential PDP rate should be granted. Furthermore, D.10-02-032 should be modified to retain SmartRate™ as an option for residential customers until the Commission completes its pending review of default residential dynamic pricing rates. Ordering Paragraph 10 of D.10-02-032 should be modified accordingly.

While we grant the relief that PG&E requests here, we also believe that additional information from PG&E regarding the experience of residential customers with existing SmartRate™ and TOU rates (i.e., PG&E's Schedule E-6) would be helpful, since those will be the only time-varying rate schedules available to residential customers for some time. This information will be useful

to interested parties and the Commission as we consider what dynamic rate structure should eventually be put in place for PG&E's residential customers. Therefore, we direct PG&E to prepare a report that explains and illustrates not only the logic underlying its design of its SmartRate™ and its TOU Schedule E-6, but also explains the merits of these rates from the ratepayer's perspective. PG&E's report should also provide detailed information regarding its efforts to-date to market these rates to customers, and the results of those efforts. The Director of the Commission's Energy Division shall develop a reporting format to be followed by PG&E, and PG&E shall include this report in its upcoming 2012 Rate Design Window application.

#### **5.1.4. Cost Recovery**

##### **5.1.4.1. PG&E's Request**

PG&E seeks modification of the cost recovery language of D.10-02-032 to provide certainty of recovery of the expense amounts already approved by that Decision, due to the close of the record in Phase 1 of PG&E's 2011 GRC and the pending GRC Phase 1 settlement submitted to the Commission.<sup>9</sup>

In Ordering Paragraph 24 of D.10-02-032, the Commission established the following cost recovery mechanism:

PG&E's proposal to use the Dynamic Pricing Memorandum Account [DPMA] to record Peak-Day Pricing costs and the Distribution Rate Adjustment Mechanism [DRAM] for recovery of the associated revenue requirement through 2010 is adopted.

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<sup>9</sup> As noted above, since PG&E filed its Petition, the Commission approved D.11-05-018 on May 5, 2011, adopting the GRC settlement in Ordering Paragraph 1, with modifications and clarifications that are unrelated to the matters before us in PG&E's Petition.



This cost recovery mechanism may be extended beyond 2010 to recover the revenue requirement associated with (1) any additional costs above the amount approved in this case after the additional costs are determined reasonable by the Commission, and (2) any costs that are authorized by this decision for 2010, but are actually incurred in 2011, provided it is shown that such costs are not included in Pacific Gas and Electric Company's 2011 general rate case authorization.

In its Petition, PG&E proposes that this cost recovery mechanism be modified to address two issues.

First, PG&E proposes modification of the language in D.10-02-032 to accommodate the extension of implementation dates for non-residential PDP previously authorized by the CPUC and the additional extensions proposed by PG&E in this Petition.

Regarding this first issue, PG&E notes that Ordering Paragraph 24 currently addresses expenditures only through 2011 but the Commission has already extended the timeline for transition of certain agricultural customers to TOU rates until 2012, and PG&E now proposes in this Petition to extend the timeline for transition of other types of customers to TOU and CPP rates beyond 2011. Accordingly, PG&E requests that D.10-02-032 be adjusted to remove the constraints on recovery of the amounts authorized that assumes spending such amounts will be completed prior to the end of 2011.

Second, PG&E proposes modification of the language in D.10-02-032 to clarify that PDP costs authorized in D.10-02-032 should now be recoverable due to the close of the record in the GRC Phase 1 and the uncontested GRC Phase 1 settlement.

Regarding this second issue, PG&E states that the language in the latter portion of Ordering Paragraph 24 -- which appears to require a filing by PG&E

to recover 2011 costs after such costs are incurred -- creates unfair exposure for PG&E since PG&E is required to implement these Commission-directed activities. When D.10-02-032 was issued, this ordering language was understandable, given the then-early stage of the GRC and the associated uncertainty regarding what level of PDP costs would be authorized in the GRC. Since then, this uncertainty has been substantively resolved, given the close of the record in the GRC and the uncontested GRC settlement.

Therefore, given the removal of the prior uncertainty, PG&E requests that the Commission revise Ordering Paragraph 24 to authorize recovery of PDP implementation costs expended in 2011 and beyond through the DPMA and DRAM up to the amount approved in D.10-02-032 in accordance with the description of those costs in this Petition and without further Commission review. PG&E requests that such actual costs be recoverable through the DPMA and DRAM to the extent incurred through March 2014, which is the date that PG&E plans to implement default PDP for small and medium C&I customers.

PG&E emphasizes that it is not requesting an increase in authorized funding as part of this Petition. Rather, PG&E merely seeks certainty of recovery of the expense amounts already approved by the PDP Decision due to the current status of the GRC Phase 1. (PG&E Petition 4-6.)

#### **5.1.4.2. DRA's Response to PG&E**

In its Response to PG&E's Petition, DRA recommends that the Commission should require PG&E to clarify the portion of the PG&E petition dealing with certainty of recovery of amounts already approved, and retain the Ordering Paragraph 24 language to allow parties to review the reasonableness of the costs of implementing PDP, taking into consideration any deviation from the

implementation timetable adopted in D.10-02-032 resulting from granting PG&E's Petition in full or in part.

#### **5.1.4.3. PG&E's Reply to DRA**

PG&E replied on February 24, 2011, offering rebuttals to DRA's arguments:

First, PG&E states that DRA's argument emphasizes PG&E's proposed delay in implementing residential PDP as a factor that should drive down PG&E's remaining costs. PG&E replies that such a delay should have an insignificant effect on PG&E's costs authorized in the PDP Decision, because "the vast majority" of PG&E's forecasted spending for the next three years is in customer outreach and PG&E has received no funding for residential customer outreach in the PDP Decision.

Second, PG&E states that DRA's argument that overall spending may decrease ignores the fact that, under PG&E's staged implementation proposal (i.e., first TOU, followed by PDP), customer outreach costs could increase, not decrease. Despite the possibility of increased costs, as previously stated, PG&E is not seeking additional costs in this proceeding.

Third, PG&E states that DRA fails to substantively address the risk to PG&E of undertaking Commission-directed activities without assurance of cost recovery. The scenario proposed by DRA, which would require reasonableness review of all PDP costs authorized in the PDP Decision that are incurred in 2011 or thereafter, offers even greater risk to PG&E than the current language in Ordering Paragraph 24. PG&E concludes by stating "In addition to the

unfairness this presents to PG&E, these pressures create disincentives for appropriate levels of spending.”<sup>10</sup>

#### **5.1.4.4. Discussion**

We modify Ordering Paragraph 24 of D.10-02-032, but not in the precise manner requested by PG&E. PG&E makes a reasonable request for certainty of cost recovery regarding costs approved and found reasonable in D.10-02-032, because spending that appeared likely to end in early 2011 is now likely to extend through sometime in 2014. However, PG&E’s suggested language goes beyond what is required to provide this certainty.

Ordering Paragraph 24 of D.10-02-032 should be modified to read as follows:

PG&E’s proposal to use the Dynamic Pricing Memorandum Account to record Peak-Day Pricing costs and the Distribution Rate Adjustment Mechanism for recovery of the associated revenue requirement through 2010 is adopted. This cost recovery mechanism may continue through 2014 to recover the revenue requirement associated with (1) any additional costs above the amount approved in this case, after the additional costs are determined reasonable by the Commission, and (2) any costs that are authorized by this decision for 2010 and 2011, but are actually incurred through 2014, with the exception of those costs already included in Pacific Gas and Electric Company’s 2011 general rate case authorization.

In drafting this alternative language, several aspects of PG&E’s reply to DRA caused us to treat PG&E’s proposed language with some caution.

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<sup>10</sup> PG&E February 24, 2011 reply comments at 10.

First, PG&E states “the vast majority” of PG&E’s forecasted spending for the next three years is in customer outreach and PG&E has received no funding for residential customer outreach in the PDP Decision. In D.10-02-032, Table 1 (“Adopted Incremental Expenditures”) provides an itemized summary of the \$123.585 million that PG&E was authorized to spend in 2008, 2009 and 2010; it is not clear from that table, in light of the delays PG&E has either already received or now seeks in its Petition, which “vast majority” of spending PG&E now may be referencing. DRA’s request for clarity is understandable.

Second, PG&E states that “DRA’s argument that overall spending may decrease ignores the fact that, under PG&E’s staged implementation proposal (i.e., first TOU, followed by PDP), customer outreach costs could increase, not decrease. Despite the possibility of increased costs, as previously stated, PG&E is not seeking additional costs in this proceeding.” This statement leads us to question whether the extended time we grant in this decision is viewed by PG&E as a blank check for further spending, so long as they make a subsequent showing that such costs were reasonable, which they can do by citing to this very decision granting PG&E’s request for additional time to implement rate changes. In its Petition, PG&E makes reasonable policy-based arguments for staging its implementation of TOU and PDP rates, but said nothing about the possibility of higher costs until its cost recovery proposal was challenged by DRA. This leads us to conclude that adding the phrase “without further review”, as PG&E requests, to Ordering Paragraph 24 is unwise. We expect PG&E to remain within its budget for implementing D.10-02-032, even if more time is needed to accomplish those tasks.

Third, PG&E seems to equate a “reasonableness review” with “unfairness” and “risk”, when in fact it is this Commission’s core function to review PG&E’s

costs and expenditures for reasonableness. Indeed, most disconcerting of all is this statement by PG&E: "In addition to the unfairness this presents to PG&E, *these pressures create disincentives for appropriate levels of spending*" (emphasis added). It is unclear why, given the extensive record that led to D.10-02-032, PG&E believes it should be provided "incentives" for appropriate levels of spending, nor, for that matter, why PG&E believes it has any discretion with respect to complying with D.10-02-032 in the first place.

Fortunately, we note that in its reply to DRA, PG&E expresses openness to deferral of this issue:

In terms of timing, this issue is also of importance to PG&E. However, if the Commission immediately suspends the November 1, 2011 and February 1, 2012 deadlines, such a suspension would take significant pressure off of PG&E's spending for 2011. Accordingly, with such a suspension, PG&E would support deferral of the cost recovery issue until consideration of the other PDP implementation issues raised elsewhere by PG&E's Petition and the Joint Petition.

If PG&E continues to believe that Ordering Paragraph 24 of D.10-02-032, as modified herein, is problematic, it may raise this issue in one of its future ratemaking proceedings.

## **5.2. The Joint Parties' Petition**

The Joint Parties emphasize that their Petition is filed only on behalf of Small C&I Customers, with demand below 20 kW.<sup>11</sup> However, in resolving

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<sup>11</sup> See Joint Parties Petition, footnote 2: "Small business customers referred to in this Petition as Small Commercial and Industrial Customers (Small C&I Customers) have a maximum demand not exceeding 20 kilowatts (kW)...The sole focus of this Petition for Modification is Small C&I Customers and Petitioners make no recommendation here as to rate design for other customer classes."

certain issues raised in the Joint Parties' Petition, we extend some of our modifications more broadly to apply to other customer groups served by PG&E which have not yet transitioned to dynamic pricing.

Joint Parties identify several fundamental issues at the core of our dynamic pricing initiative, and while we do not find it necessary to grant all of the specific relief sought in their Petition in order to address these issues, we do find it necessary to initiate several actions in order to determine whether we should order PG&E to redirect its customer education and outreach efforts and funding. We will make this determination in a future order, following our review of the additional information we request below.

The issues raised, and relief sought, by the Joint Parties fall into two broad categories. First, Joint Parties request that, instead of what they describe as the "arbitrary" implementation dates required by the Commission, a schedule be adopted for defaulting customers to Time of Use rates "based on objective measures of customer understanding (as measured by customer awareness), customer acceptance of time-varying rates (as measured by penetration) and PG&E's ability to serve its customers on time-varying rates with no significant problem (as measured by customer complaints)." Second, instead of a customer education plan that, according to Joint Parties, currently provides little by way of real solutions for small businesses to reduce their energy use during peak periods, the Commission should require that PG&E attract and retain customers on time-varying rates "by aggressively offering integrated energy efficiency and demand response solutions to help small business customers reduce their usage during peak and non-peak periods." (Joint Parties at 3-4).

Joint Parties offer a number of reasons for requesting relief:

- Distressed economic conditions

- 12.4% unemployment and 1.4 million jobs lost--high unemployment
- Small businesses are struggling to stay afloat
- The need to support job retention and job growth in this fragile economy.
- Problems encountered by PG&E in its outreach to large C&I customers
- Changes in the wholesale market for electricity in California
- Impact on small business customers
  - Number and nature of small business customers
  - High level of unpredictability for small business owners
  - Lack of products, services and programs to assist small business customers to respond to peak-day pricing
  - Lack of effective customer outreach necessary to make peak-day pricing work
  - Lack of integrated solutions for small businesses
  - Sending workers home from work and laying off workers
  - Disruption to operations, higher costs and loss of business
  - Unpredictable electric bills
  - Frustration with utility and commission programs

As explained in detail below, we deny the Joint Parties' "implementation-related" requests, but grant the Joint Parties' "customer education-related" requests. Joint Parties enumerate economic issues that are of fundamental concern to us, but have not provided any factual information that specifically connects these issues, in terms of causality, to implementation of dynamic pricing rates for small commercial customers.<sup>12</sup> We continue to believe

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<sup>12</sup> Rule 16.4(b) states, in part, "Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or

*Footnote continued on next page*



that clear and specific implementation deadlines will benefit both PG&E and its customers, so we decline to adopt the alternative approach proposed by the Joint Parties. However, we are concerned that PG&E's present approach to customer education and outreach, which we endorsed in D.10-02-032, has not been shown to be the most effective means of meeting those deadlines. The extensions of these deadlines that we grant elsewhere in this decision will also provide the time and opportunity to revisit PG&E's approach. To support this effort, we modify D.10-02-032 accordingly, as detailed below.

### **5.2.1. Dynamic Pricing Implementation Schedule**

The Joint Parties' requested changes to the dynamic pricing implementation schedule for PG&E, which are denied, include the following proposals:

- Proposal that PG&E offer A-1 TOU to Small C&I Customers on a default basis only when certain subjective conditions regarding customer awareness, understanding and complaint conditions have been met;
- Proposal that PG&E provide small C&I customers defaulting from flat rates to TOU rates one-year of bill protection relative to the preexisting flat (A-1) rate;
- Proposal that PG&E offer A-1 TOU to Small C&I Customers on a mandatory basis only when certain subjective conditions regarding customer awareness, understanding and complaint conditions have been met;
- Proposal that PG&E allow customers meeting certain narrow criteria to opt out to flat rates; and

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affidavit." Joint Parties provide limited citations and no affidavit supporting allegations of new or changed facts.

- Proposal that PG&E continue to offer PDP to its Small C&I Customers on a voluntary (“opt-in”) basis only.

SCE’s Response to the Joint Parties’ Petition offers a succinct analysis of the problems with these proposed modifications to D.10-02-032. First, SCE observes that the Joint Parties’ proposed criteria, if adopted by the Commission, would likely prevent small C&I customers from ever transitioning from flat rates to a default or mandatory TOU rate structure. According to SCE, the proposed criteria are “arbitrary and unworkable” and ignore the benefits provided by a TOU rate structure. Second, SCE states that the assertions made by the Joint Parties regarding implementation of default CPP/TOU rate structures are unsupported, ignore bill protection and ignore customers’ ability to opt out of the CPP/TOU rate structure. Finally, SCE states that the Joint Parties’ Petition provides no clear basis for the disparate treatment of small versus medium C&I customers or other customers.<sup>13</sup>

PG&E identifies similar practical problems with the Joint Parties’ proposals, stating “in practice, the Joint Parties’ proposal, as currently developed, is not feasible.”<sup>14</sup> PG&E observes that the Joint Parties have not provided any data that would suggest that it is feasible to generate and measure awareness levels of 80 to 90 percent, nor does the proposal provide a feasible method for how such “awareness” should be defined or measured. Nevertheless, PG&E concludes that “if the Commission is interested in pursuing the Joint Parties’ ideas further, PG&E recommends that informal discussions or

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<sup>13</sup> SCE Response to the Joint Parties’ Petition at 5-10.

<sup>14</sup> PG&E Response to the Joint Parties’ Petition, Attachment A at 12.

workshops, and, as appropriate, testimony and evidentiary hearings, should follow the granting of the schedule suspension discussed above.”

Joint Parties reply to the criticisms levied by SCE and PG&E by noting that the IOUs nevertheless share broadly similar concerns about the challenges involved in transitioning small and medium commercial customers to time-variant rates. Joint Parties recommend a “structured workshop process” that would consider the adoption of a plan to transition small business customers to TOU rates based on the “awareness-driven” approach that they recommend.

We find merit in the IOU’s concerns about the practicalities of the Joint Parties’ proposals. We will not adopt those proposals in this decision, and we see little value in scheduling workshops to discuss them further. We find no support for the implicit assumptions in the Joint Parties’ Petition: not only that small commercial customers should not be exposed to more accurate price signals than those afforded by a flat, unchanging rate, but that they would neither respond to such information, nor benefit if they do respond to price signals. “Flat” rates for small commercial customers are currently designed such that all customers pay the same price at all hours, regardless of differences in their individual hourly usage profiles or the cost of energy throughout the day. Some customers benefit from this highly averaged approach, but some surely do not. Joint Parties’ proposals would effectively deny the entire customer class the opportunity to participate in, and benefit from, time-variant pricing programs, by imposing threshold criteria that are so vague and difficult to measure that they are unlikely to ever be met, no matter which utility or third party might be responsible for customer education and outreach. Furthermore, just as their Petition does not establish a connection between California’s economic problems and the implementation of dynamic pricing, here Joint Parties again fail to offer

new information that challenges the validity of the underlying findings that support our dynamic pricing and advanced metering initiatives.<sup>15</sup> The portions of the Joint Parties Petition to Modify D.10-02-032 with respect to the implementation dates for dynamic pricing should be denied.

Joint Parties separately request that the Commission modify D.10-02-032 to direct PG&E to “offer its new Small C&I Time-of-Use rate (A-1 TOU) as a stand-alone rate on a voluntary basis as soon as possible and in no event later than December 31, 2011.” This request is unclear, because it appears from PG&E’s current A-1 tariff that customers may already choose this option: “Customers with a SmartMeter™ system installed that can be remotely read by PG&E may also voluntarily elect to enroll on A-1 TOU rates prior to their TOU default dates.”<sup>16</sup> PG&E did not respond to this aspect of the Joint Parties’ Petition, but we clarify here that, if it is not doing so already, PG&E shall immediately offer its A-1 TOU rate as a stand-alone rate on a voluntary basis.

### **5.2.2. Customer Outreach and Education**

Regarding customer outreach and education, Joint Parties propose that PG&E be ordered to undertake the following actions on behalf of its small C&I customers:

- Conduct an enhanced education, outreach and marketing program to inform eligible Small C&I Customers about the availability of its A-1 TOU rate;

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<sup>15</sup> We note again that, pursuant to Rule 16.4(b), “any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.”

<sup>16</sup> See [http://www.pge.com/tariffs/tm2/pdf/ELEC\\_SCHS\\_A-1.pdf](http://www.pge.com/tariffs/tm2/pdf/ELEC_SCHS_A-1.pdf), Revised Cal. P.U.C. Sheet No. 30506-E.

- In conjunction with its outreach and education campaign, conduct an aggressive outreach program providing Small C&I Customers with an integrated set of energy efficiency and demand reduction solutions through a single point of contact;
- Perform periodic assessments of customer awareness and understanding of the A-1 TOU rate and other time-varying rates offered by PG&E, track Small C&I Customer enrollment into and disenrollment from the A-1 TOU rate and other time-varying rates, and track customer complaints regarding time-varying rates.

Joint Parties support these proposals by citing PG&E statements in the reports that the utility was required to submit by D.10-02-032. Joint Parties also cite statements in the Commission's "Energy Efficiency Strategic Plan" regarding the importance of providing customers with integrated demand side management solutions, and suggest that little evidence exists to verify any such activities on behalf of the customer group they represent here.<sup>17</sup>

PG&E's March 7, 2011 Response does not address this aspect of the Joint Parties' Petition in detail, beyond suggesting that these topics be further explored in workshops.<sup>18</sup>

We grant the Joint Parties' request to modify D.10-02-032 to include the customer outreach and education proposals listed above. In D.10-02-032, we stated "(a)s indicated in other parts of this decision, if customer outreach and education problems arise, it may be necessary to delay certain aspects of PDP implementation."<sup>19</sup> Today, we are delaying certain aspects of PDP

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<sup>17</sup> Joint Parties' Petition at 17-20.

<sup>18</sup> PG&E's March 7, 2011 Response, Attachment A at 13-14.

<sup>19</sup> D.10-02-032 at 38.

implementation, and our reasons have much to do with apparent problems with customer outreach and education. Having now denied the Joint Parties' requested modifications to PG&E's dynamic pricing implementation schedule, while also granting PG&E the additional time it seeks to meet our originally adopted schedule, we are still left with uncertainty regarding how PG&E will successfully and effectively meet even the extended deadlines it has requested and now been granted.

In reviewing the reasons PG&E offered for seeking the delayed implementation schedule that we are granting here in this decision, one theme that underlies PG&E's Petition is PG&E's unwillingness to take responsibility for the lack of success of its own efforts in the area of customer education and outreach. For example, in describing the "lessons learned" from its dynamic pricing and SmartMeter™ implementation efforts to date, PG&E suggests that recent high bill complaints were incorrectly attributed (by its own customers) to installation of the SmartMeters™, rather than being attributed to rate increases, residential rate design, and weather-related usage. PG&E says nothing of its own failure to inform its customers, in an effective and timely manner, that changes were coming that could expose them to higher bills, or to explain those bills to its customers once they arrived.<sup>20</sup> In short, PG&E faces documented challenges when it comes to its relationship with its own customers, and we must account for that in this decision; this is consistent with our message to

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<sup>20</sup> PG&E Petition, at 10-11. We further note that the September, 2010 independent evaluation of PG&E's Smart Meter deployment identified, as one of multiple factors that appeared to contribute to the escalation of Smart Meter-related high bill complaints, PG&E's customer service practices. See <http://docs.cpuc.ca.gov/EFILE/RULINGS/122935.PDF> at 13-14

PG&E in D.10-02-032. Therefore we will adopt, with some additional refinements, the customer outreach and education modifications to D.10-02-032 proposed by Joint Parties.

The issues raised here by the Joint Parties are not new to this proceeding. DRA first raised its concerns in the portion of this proceeding that led to D.10-02-032. We addressed DRA's position in several Findings of Fact (FOF) and Conclusions of Law (COL), expressing qualified support for the approach PG&E proposed to take:

- FOF 62 It is not clear what aspects of customer outreach and education, if anything, would be improved by segregating small commercial customer's costs as recommended by DRA.
- FOF 65 Certain aspects of PG&E's planned efforts, such as customer workshops and partnering with industry and community groups, would duplicate what an outreach advisory panel might accomplish.
- FOF 69 It is important that PG&E is able, in a transparent way, to demonstrate that it will evaluate its outreach and education efforts and, if necessary, that it will modify its efforts appropriately. PG&E has not provided sufficient details on how this would be done.
- COL 39 The further segregation of costs for small commercial customers will not likely be that revealing with respect to our outreach and education goals, and DRA's proposal to require such segregation will not be adopted.
- COL 40 Rather than establishing an outreach advisory panel, PG&E should (1) work with Energy Division and the Business & Community Outreach group and develop a written customer education and outreach plan, (2) work with the Business & Community Outreach group to determine how the group can assist PG&E in outreach efforts to small and medium customers, and (3) hold quarterly meetings.
- COL 41 PG&E should be subject to a number of reporting requirements in order for the Commission to gather information and to

provide a means for parties to express concerns and a means to address any such concerns.

As shown in the material quoted above, in D.10-02-032 we determined that PG&E should be subject to a number of reporting requirements in order for the Commission to gather information and to provide a means for parties to express concerns and a means to address any such concerns.<sup>21</sup> To assist in this effort, we imposed extensive reporting requirements on PG&E and ordered PG&E to take the following actions:

- File an advice letter clearly identifying and describing the specific performance measurements, for each of its customer classes, which it will use to determine that its outreach and education campaign is successful. After reviewing any protests and comments, Energy Division prepared a resolution adopting specific performance measurements;
- Prepare and provide a monthly report to the Energy Division to provide a breakdown of cost categories and money spent on education and outreach as well as a narrative description that describes the costs;
- Provide a semi-annual written progress report to all parties on the service list, which includes foundational research conducted and findings, and all outreach activities that have occurred;
- Hold quarterly progress report presentations. Two of the meetings shall be with Energy Division, DRA and the Business & Community Outreach group. Two of the meetings shall be in conjunction with the semi-annual written reports and open to all parties on the service list;

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<sup>21</sup> D.10-02-032, Conclusion of Law 41. We expressed this somewhat differently in our discussion on page 3 of that Decision: “PG&E should be subject to a number of reporting requirements in order for the Commission and other parties to monitor PG&E’s customer outreach and education efforts.”



- Provide, to the Commission's Business & Community Outreach group, PG&E's schedule of outreach events, at which PG&E staff will be educating customers about PDP and TOU rates. To the extent possible, we stated that PG&E should coordinate such events with the Business & Community Outreach group; and
- After each of the presentations to parties on the service list, provide an addendum to the semi-annual written report to parties on the service list. The addendum shall include a workshop report describing recommendations and issues raised during the presentation, and how PG&E will proceed as a result of the discussions and recommendations.

After ordering the preparation and submittal of the information listed above, we concluded:

If the Commission finds, based on the information 1) in the monthly, quarterly or semi-annual reports, 2) through the advice letter process, 3) through feedback from the Business & Community Outreach group, or 4) through the formal third party evaluation reviewed by the DREMC that PG&E's methods of education and outreach are failing to satisfactorily educate customers or reach specific market segments that are most at risk, it may be necessary for the Commission to order PG&E to redirect its customer outreach and education efforts and funding. PG&E remains subject to the education and outreach performance criteria established for PDP, and the effectiveness of the utility's education and outreach efforts approved here will be a factor in approving requests for additional funding for customer education and outreach for PDP in future proceedings.<sup>22</sup>

As part of its compliance with our reporting requirements, PG&E describes focus group results that indicate that its customer education and

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<sup>22</sup> Decision 10-02-032 at 93-94.

outreach efforts may face greater-than-anticipated challenges in meeting the expectations we included in D.10-02-032.<sup>23</sup> Indeed, Joint Parties, including members of the small business community, report that PG&E's efforts suffer from a lack of products, services and programs to help small business customers to respond to PDP; a lack of effective customer outreach necessary to make PDP work; and a lack of integrated solutions for small businesses. Issues like these should have been raised, and addressed by PG&E, in the stakeholder reporting processes we established in D.10-02-032, rather than requiring parties to resort to a petition to modify that decision.

Based on the concerns expressed in the two Petitions before us, we must question whether PG&E's present approach to customer education and outreach, which we endorsed in D.10-02-032, is the most effective means of meeting our deadlines for implementing dynamic rates. Furthermore, we are specifically concerned that PG&E's methods of education and outreach may not reach specific market segments that are most at risk of being significantly impacted by the transition to dynamic rates; we first raised this concern in D.10-02-032. Therefore, we conclude that we should reevaluate the approach to customer education and outreach that we required of PG&E in D.10-02-032. As described below, we order two specific actions to be undertaken by PG&E, interested parties, and the Commission's Energy Division and Business & Community Outreach staff. We believe that the extensions granted in this decision that provide PG&E more time to implement dynamic rates will also create the

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<sup>23</sup> PG&E Petition at 12-13.

additional time needed for interested parties to review PG&E's present approach to customer education and outreach.

First, we grant those portions of the Joint Parties' Petition seeking modifications to D.10-02-032 regarding PG&E's customer education efforts. PG&E shall revise the "customer education and outreach plan" that it filed pursuant to Ordering Paragraph 12 of D.10-02-032 and include specific plans for accomplishing the tasks below:

1. Conduct an enhanced education, outreach and marketing program to inform eligible Small C&I Customers about the availability of its A-1 TOU rate;
2. In conjunction with its outreach and education campaign, conduct an aggressive outreach program providing Small C&I Customers with an integrated set of energy efficiency and demand reduction solutions through a single point of contact; and
3. Perform periodic assessments of customer awareness and understanding of the A-1 TOU rate and other time-varying rates offered by PG&E, track Small C&I Customer enrollment into and disenrollment from the A-1 TOU rate and other time-varying rates, and track customer complaints regarding time-varying rates.

PG&E shall prepare its revisions by collaborating with DRA and the CSBRT/CSBA, as well as any other interested parties who wish to participate, to ensure that the revised plan satisfactorily addresses the items listed above. PG&E shall serve its revised plan on the service list within 60 days of today's date. In the meantime, the Commission's Energy Division and Business & Community Outreach staff shall work with PG&E to ensure that PG&E's existing customer education and outreach plan remains on track. To this end, we modify Ordering Paragraph 15 of D.10-02-032 to ensure more collaboration between PG&E and Commission staff.

Second, in order to determine whether PG&E should redirect its customer outreach and education efforts and funding, we will direct the Commission's Energy Division and Business & Community Outreach staff to review all of the material submitted pursuant to Ordering Paragraph 15 of D.10-02-032, and submit a report with recommended changes. As noted above, in D.10-02-032 we stated "in adopting and supplementing various aspects of PG&E's outreach and education proposals, as well as deferring the default date for small and medium C&I customers, we believe there is a much greater chance that the transition to PDP will be successful." Now, we believe that participants other than PG&E should report to us on the success of PG&E's efforts to date. As detailed below, we direct Commission staff to report to us on their assessment of PG&E's progress, and to suggest specific, actionable steps that PG&E can take to improve its efforts.

Specifically, the Commission's Energy Division and Business & Community Outreach staff shall prepare a report documenting the progress, successes and remaining challenges with respect to the customer education and outreach actions and spending ordered in D.10-02-032. The report shall include recommendations of specific, actionable steps that PG&E can take to improve its efforts, and recommendations regarding how the Commission could link PG&E's cost recovery to the outcomes expected when PG&E's funding was approved. The report shall be served on the service list 60 days from today. Parties may comment on the report 10 days later.

The assigned Commissioner or assigned Administrative Law Judge (ALJ) may issue additional rulings after reviewing the documents and actions listed above. We remind PG&E that in Ordering Paragraph 16 of D.10-02-032, we stated "the effectiveness of the utility's education and outreach efforts shall be a

factor in approving requests for additional funding for customer education and outreach for Peak-Day Pricing in future proceedings.” At this point, we remain unconvinced that PG&E’s efforts to-date have been effective; PG&E must find a way, in collaboration with stakeholders as well as Commission staff, to help us to weigh the effectiveness of current efforts when we evaluate any possible additional funding requests PG&E may make in the future. We will not approve new funding for PG&E to accomplish tasks that have already been found reasonable and funded in D.10-02-032, but we will hold PG&E accountable for the results to which it committed in that proceeding. If those funds have been spent but have not produced the results we expected, we will need to determine what, instead, those funds may have purchased and whether PG&E’s spending was prudent.

## **6. Conclusion**

We conclude by reminding PG&E, Joint Parties and other interested parties of our reasons for embarking upon our dynamic pricing initiative in the first place. The Commission articulated a comprehensive demand response policy in its 2003 Vision Statement. In that statement, the Commission stated that electric customers should have “the ability to increase the value derived from their electricity expenditures by choosing to adjust usage in response to price signals” as customers are equipped with advanced meters as a result of the Commission’s AMI decisions. Our policy remains unchanged, and thus the basis for moving forward remains unchanged as well. In the several instances since the issuance of D.08-07-045 where we modified the details of IOU implementation schedules, we acknowledged the complexities of the undertaking, and typically granted additional time, or a simplified approach, accordingly. Nevertheless, our underlying conclusions, that this approach is not

only necessary but will ultimately benefit California ratepayers, remain unchanged.

## **7. DRA Motion to Set Aside Submission and Reopen the Record**

On October 31, 2011, DRA filed a Motion to Set Aside Submission and Reopen the Record for the Taking of Additional Evidence. DRA states its belief that submission of new evidence in its Motion is necessary in order for the Commission to have the best available data on which to base a decision in this proceeding.

The assigned ALJ shortened the time for responses to the motion. Responses in support of DRA's motion were filed on November 7, 2011 by the CSBRT/CSBA association and the Greenling Institute. PG&E filed a response opposing the Motion.

DRA seeks to submit the following documents as evidence in this proceeding:

- 1) CAISO MRTU Hourly Price Data from 2009-2011;
- 2) DRA "white paper", "Time-Variant Pricing for California's Small Business Customers", published in May 2011;
- 3) "2010 California Statewide Non-Residential Critical Peak Pricing Evaluation, April 1, 2011";
- 4) PG&E's "Peak-Day Pricing June 2010, December 2010, and June 2011 Semi-Annual Education and Outreach Assessment Reports";
- 5) Testimony of Andrew Bell in A.10-03-014;
- 6) A research paper: "Household Response to Dynamic Pricing of Electricity: A Survey of the Experimental Evidence," by Ahmad Faruqui and Sanem Sergici, January 10, 2009; and
- 7) Comparison of 2010 and 2011 PDP Event day CAISO MRTU hourly Price Data and A1-PDP retail CPP rate.

For the reasons detailed below, DRA's motion is denied. As PG&E succinctly observes, "DRA's Motion would deprive the parties, and the record itself, of the procedural process of testimony, discovery, responding testimony and cross-examination that are integral to the development of an evidentiary record."<sup>24</sup> While this proceeding could conceivably be delayed to provide for all of these steps, DRA has not made a convincing case that the delay in submitting this material was unavoidable, and therefore justifies reopening the record in this proceeding. Most importantly, as PG&E establishes in some detail, most of the material is not so new that DRA could not have offered it sooner: "DRA has not adequately explained why it did not reference the then-available documents in its February 4, 2011 petition to modify, or make its motion in the months since." Such a showing is required under Rule 13.14 of the CPUC's Rules of Practice and Procedure.<sup>25</sup> PG&E also observes that DRA's Motion does not provide other parties adequate time to review or conduct discovery on the documents, or to present other documents that would be responsive to DRA's materials and possible assertions. We note that DRA will not face these restrictions in future PG&E rate design proceedings, which may be the more appropriate forum should it wish to offer similar evidence for the record.

## **8. Comments on Proposed Decision**

The proposed decision of ALJ Stephen C. Roscow 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

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<sup>24</sup> PG&E November 7, 2011 Response at 3.

<sup>25</sup> See Rule 13.14: The moving party must "explain why such evidence was not previously adduced."

Practice and Procedure. Comments were filed on October 31, 2011 by PG&E, DRA, CSBRT/CSBA, and the Greenlining Institute. Reply comments were filed on November 7, 2011 by PG&E, CSBRT/CSBA, the Greenlining Institute, and the California Farm Bureau Federation.

On October 31, 2011, the Greenlining Institute filed a Motion for Party Status, as well as comments on the proposed decision. The assigned ALJ shortened the time for responses to Greenlining's motion. No responses were filed; we hereby grant the motion.

The comments that focused on factual, technical, and legal errors have been considered, and, if appropriate, changes have been made. The final order adopted by the Commission contains several technical clarifications to the ALJ's proposed decision.

## **9. Assignment of Proceeding**

Mark J. Ferron is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. PG&E provided a sworn declaration supporting allegations of new or changed facts in support of its Petition to Modify D.10-02-032.
2. Joint Parties did not provide a declaration or affidavit to support allegations of new or changed facts in support of their Petition to Modify D.10-02-032.
3. On May 5, 2011 the Commission's Executive Director granted PG&E's request to delay implementing mandatory TOU and default PDP for small and medium sized C&I customers until November 1, 2012.



4. Small and medium sized commercial customers should have two full years (and two summers) of experience on TOU rates alone before being defaulted to a combined TOU and PDP rate design.

5. For commercial customers, a single annual date for default to a PDP rate design is simpler, and a date after the summer period has ended is most appropriate.

6. On May 5, 2011 the Commission's Executive Director granted PG&E's request that small- and medium-sized agricultural customers begin to default to mandatory TOU on March 1, 2013, rather than February 1, 2012, as was required in D.10-02-032.

7. On May 5, 2011 the Commission's Executive Director granted PG&E's request to extend PG&E's currently effective residential CPP rate, SmartRate™, for one year until November 2012, and to suspend the residential PDP rate approved in D.10-02-032 until November 1, 2012.

8. More time is needed to develop a residential PDP rate that will be understandable and acceptable to residential customers. This additional time can be granted because in the meantime, residential customers may choose SmartRate™ or TOU.

9. PG&E is scheduled to file a Rate Design Window application in February 2012.

10. More information is required regarding the experience of residential customers with existing SmartRate™ and TOU rates (i.e., PG&E's Schedule E-6).

11. Dynamic pricing implementation activities that appeared likely to end in early 2011 are now likely to extend through sometime in 2014. PG&E is not seeking additional costs for these activities in this proceeding.

12. Joint Parties have not provided any factual information that specifically connects current economic difficulties to the implementation of dynamic pricing rates for small commercial customers.

13. Joint Parties have not demonstrated that an “awareness-driven” approach to transitioning customers to time-varying rates would be either feasible or practical.

14. Joint Parties have not offered new information that challenges the validity of the underlying findings that continue to justify our dynamic pricing and advanced metering initiatives.

15. Customers with a SmartMeter™ system installed may qualify to voluntarily elect to enroll on A-1 TOU rates prior to their TOU default dates.

16. The September, 2010 independent evaluation of PG&E’s SmartMeter™ deployment identified PG&E’s customer service practices as one of multiple factors that appeared to contribute to the escalation of SmartMeter™-related high bill complaints.

17. PG&E describes focus group results that indicate that its customer education and outreach efforts may face greater-than-anticipated challenges in meeting the expectations we included in D.10-02-032.

18. PG&E’s customer education and outreach efforts require products, services and programs to help small business customers to respond to PDP; effective customer outreach to make PDP work; and integrated solutions for small businesses.

19. PG&E’s present approach to customer education and outreach, which we endorsed in D.10-02-032, may not be the most effective means of meeting our deadlines for implementing dynamic rates.

20. PG&E's methods of education and outreach may not most effectively educate customers or reach specific market segments that are most at risk.

21. The extensions granted to PG&E will allow time for interested parties to review PG&E's present approach to customer education and outreach.

22. On October 31, 2011, DRA filed a Motion to Set Aside Submission and Reopen the Record for the Taking of Additional Evidence, offering extensive material almost 10 months after Joint Parties' Petition was filed. Much of the material described as new has existed for some time.

### **Conclusions of Law**

1. Rule 16.4 of the Commission's Rules of Practice and Procedure governs Petition for Modification.

2. PG&E's request to delay default to PDP for small and medium commercial customers should be granted as modified, so that these customers begin to default to PDP in November 2014.

3. PG&E should default eligible groups commercial and industrial customers to PDP in November of each year.

4. Ordering Paragraph 3 of D.10-02-032 should be modified to reflect the changes adopted in this Decision regarding the timing of the implementation of TOU and PDP rates for small and medium commercial customers.

5. Ordering Paragraph 9 of D.10-02-032 should be modified to require PG&E to default eligible small and medium commercial customers to PDP beginning on November 1 of each year.

6. Ordering Paragraph 2 of D.10-02-032 should be modified to reflect PG&E's request that small- and medium-sized agricultural customers begin to default to mandatory TOU on March 1, 2013, rather than February 1, 2012.

7. PG&E's request to eliminate the requirement to implement a new residential PDP rate should be granted. Ordering Paragraph 10 of D.10-02-032 should be modified accordingly.

8. PG&E's request to retain SmartRate™ as an option for residential customers until the Commission completes its pending review of default residential dynamic pricing rates should be granted. Ordering Paragraph 10 of D.10-02-032 should be modified accordingly.

9. PG&E's 2012 Rate Design Window application should include a report on the logic underlying its design of SmartRate™ and Schedule E-6, including the merits of these rates for ratepayers, and provide detailed information regarding its efforts to market these rates to customers, and the results of those efforts.

10. PG&E's request for certainty of cost recovery regarding costs approved and found reasonable in D.10-02-032 is reasonable, but PG&E has not clearly updated and identified these costs. Ordering Paragraph 24 of D.10-02-032 should be modified to allow PG&E to return to the Commission with a more thoroughly developed request.

11. PG&E should remain within its budget for implementing D.10-02-032, even if more time is needed to accomplish those tasks.

12. The proposals of the Joint Parties to modify the dynamic pricing implementation framework adopted in D.10-02-032 should be denied.

13. PG&E should ensure that eligible customers are aware that they may voluntarily elect to enroll on A-1 TOU rates prior to their TOU default dates.

14. The approach to customer education and outreach that was required of PG&E in D.10-02-032 should be reevaluated to determine whether it is failing to satisfactorily educate customers or reach specific market segments that are most at risk.

15. Several actions should be initiated in order to determine whether we should order PG&E to redirect its customer education and outreach efforts and funding.

16. The customer education and outreach-related modifications requested in the Petition for Modification of D.10-02-032, filed by DRA and the CSBRT/CSBA on February 4, 2011 should be granted.

17. The Commission's Energy Division and Business & Community Outreach staff should prepare a report providing their assessment of PG&E's progress on customer education and outreach, and suggest specific, actionable steps that PG&E can take to improve its efforts.

18. DRA's Motion to Set Aside Submission and Reopen the Record for the Taking of Additional Evidence is not timely and should not be granted.

## **O R D E R**

### **IT IS ORDERED** that:

1. The Petition for Modification of Decision (D.) 10-02-032, filed by Pacific Gas and Electric Company (PG&E) on January 14, 2011 is granted, with modifications:

a. Ordering Paragraph 2 of D.10-02-032 is modified to read as follows:

2. The following rates shall be effective:

- By February 1, 2011, for large agricultural customers that have access to at least 12 months of interval billing data, default Peak-Day Pricing rates that include time-of-use rates during non-Peak-Day Pricing periods. Such customers can choose to opt out to a time-of-use rate or other time-variant rate; and

- By March 1, 2013, for small and medium agricultural customers that have access to at least 12 months of interval billing data, default time-of-use rates. Flat rates will no longer be available to these customers.
- b. Ordering Paragraph 3 of D.10-02-032 is modified to read as follows:
3. The following rates shall be effective:
- By November 1, 2012, for small and medium commercial and industrial customers that have access to at least 12 months of interval billing data, default time-of-use rates. Flat rates will no longer be available to these customers; and
  - By November 1, 2014, for small and medium commercial and industrial customers that have access to at least 12 months of interval billing data, default Peak-Day Pricing rates that include time-of-use rates during non-Peak-Day Pricing periods. Such customers can choose to opt out to a time-of-use rate or other time-variant rate. Flat rates will no longer be available to these customers.
- c. Ordering Paragraph 4 of D.10-02-032 is modified to read as follows:
4. Peak-Day Pricing rates, with the exception of that for Schedules A-10, and time-of-use rates, as specified in Exhibit 7, Tables 2-3 through 2-5, are adopted. The adopted Peak-Day Pricing rate for Schedule A-10 is \$0.90 per kWh. PG&E shall be allowed to continue its E-RSMART critical peak pricing program for residential customers.
- d. Ordering Paragraph 9 of D.10-02-032 is modified to read as follows:
9. The default process shall not begin until Pacific Gas and Electric Company's implementation processes meet the requirement that affected customers have access to 12 months of recorded interval billing data at least 45 days prior to their default date. Once 12 months of data is available for small and medium agricultural and

commercial and industrial customers, each customer will be assigned the next available default date which is at least 60 days later. Agricultural customers will default once per year beginning on March 1, and commercial and industrial customers will default once per year beginning on November 1. For all non-residential customer classes, individual customers shall default beginning with the customer's first billing cycle that begins after the applicable annual default date in this decision.

e. Ordering Paragraph 10 of D.10-02-032 is modified to read as follows:

10. Pacific Gas and Electric Company's Alternative 1 residential Peak-Day Pricing proposal is denied. PG&E shall be allowed to continue its E-RSMART critical peak pricing program for residential customers.

f. Ordering Paragraph 14 of D.10-02-032 is modified to read as follows:

14. Pacific Gas and Electric Company shall issue a request for proposals in 2012, in order to engage a third party to conduct an evaluation in 2013 of the effectiveness of customer education and outreach efforts regarding time-of-use rates for small and medium customers. Pacific Gas and Electric Company shall work with the Demand Response Evaluation and Measurement Committee, which will have input into the project design and scope of work for the request for proposals and also take part in scoring proposals and reviewing the final report.

g. Ordering Paragraph 18 of D.10-02-032 is modified to read as follows:

18. Pacific Gas and Electric Company shall file a Tier 2 advice letter 30 days after it has completed its proposed incremental Customer Service On-line activities. Pacific Gas and Electric Company shall provide sufficient information for Energy Division staff to verify that the new Peak-Day Pricing functionalities that Pacific Gas and Electric Company has implemented on its website appropriately suit ratepayer needs. The anticipated

Peak-Day Pricing default processes shall not begin until affected customers have had access to the verified Peak-Day Pricing-related customer service on-line tools for at least 45 days.

h. Ordering Paragraph 21 of D.10-02-032 is modified to read as follows:

21. To the extent that actual expenditures, except those related to the Customer Care and Billing Version 2.3 upgrade provided for in Ordering Paragraph 17, exceed the amounts authorized by this decision, Pacific Gas and Electric Company may request cost recovery in a separate after-the-fact reasonableness review application or included as part of the Customer Care and Billing Version 2.3 upgrade application authorized in Ordering Paragraph 19.

i. Ordering Paragraph 24 of D.10-02-032 is modified to read as follows:

24. PG&E's proposal to use the Dynamic Pricing Memorandum Account to record Peak-Day Pricing costs and the Distribution Rate Adjustment Mechanism for recovery of the associated revenue requirement through 2010 is adopted. This cost recovery mechanism may continue through 2014 to recover the revenue requirement associated with (1) any additional costs above the amount approved in this case, after the additional costs are determined reasonable by the Commission, and (2) any costs that are authorized by this decision for 2010 and 2011, but are actually incurred through 2014, with the exception of those costs already included in Pacific Gas and Electric Company's 2011 general rate case authorization.

2. Pacific Gas and Electric Company shall seek approval from the Commission's Executive Director, or the Director of the Commission's Energy Division, as appropriate, for additional time, consistent with the extensions of time granted in this Decision or the May 5, 2011 letter from the Executive



Director, to comply with the first bullet of Ordering Paragraph 15 of Decision 10-02-032.

3. Pacific Gas and Electric Company (PG&E) shall prepare a report that explains and illustrates the logic underlying its design of its SmartRate™ and its TOU Schedule E-6. PG&E's report should also provide detailed information regarding its efforts to market these rates to customers, and the results of those efforts. The Director of the Commission's Energy Division shall develop a reporting format to be followed by PG&E, and PG&E shall include this report in its upcoming 2012 rate design window application.

4. The Petition for Modification of Decision 10-02-032, filed by Pacific Gas and Electric Company on January 14, 2011 is denied in all other respects.

5. The Petition for Modification of Decision 10-02-032, filed by the Division of Ratepayer Advocates the California Small Business Roundtable/California Small Business Association on February 4, 2011 is granted in part:

- a. PG&E shall revise the "customer education and outreach plan" that it filed pursuant to Ordering Paragraph 12 of D.10-02-032 and include specific plans for accomplishing the tasks below:

- Conduct an enhanced education, outreach and marketing program to inform eligible Small C&I Customers about the availability of its A-1 TOU rate;
  - In conjunction with its outreach and education campaign, conduct an aggressive outreach program providing Small and Medium C&I Customers with an integrated set of energy efficiency and demand reduction solutions through a single point of contact;
  - Perform periodic assessments of customer awareness and understanding of the A-1 TOU rate and other time-varying rates offered by PG&E, track Small C&I Customer enrollment into and disenrollment from the A-1 TOU rate and other time-varying rates, and track customer complaints regarding time-varying rates.
- b. PG&E shall prepare the revisions listed above by collaborating with DRA and the California Small Business Roundtable/California Small Business Association, as well as any other interested parties who wish to participate, to ensure that the revised plan satisfactorily addresses the items listed above. PG&E shall serve its revised plan on the service list in this proceeding within 60 days of today's date.
- c. The Commission's Energy Division and Business & Community Outreach staff shall work with PG&E to ensure that PG&E's existing customer education and outreach plan remains on track.

6. The Petition for Modification of Decision 10-02-032, filed by the Division of Ratepayer Advocates the California Small Business Roundtable/California Small Business Association on February 4, 2011 is denied in all other respects.

7. If it is not doing so already, Pacific Gas and Electric Company shall immediately offer its A-1 Time-of-Use rate as a stand-alone rate on a voluntary basis.

8. The final bullet of Ordering Paragraph 15 of Decision 10-02-032 is modified to read:

- After each of the presentations to parties on the service list, provide an addendum to the semi-annual written report to parties on the service list. The addendum shall be drafted collaboratively with staff from the Commission's Business and Community Outreach group and Energy Division, and signed by the Directors of each group. The addendum shall include a workshop report describing recommendations and issues raised and how Pacific Gas and Electric Company will proceed as a result of the discussions and recommendations.

9. The Commission's Energy Division and Business & Community Outreach staff shall prepare a report documenting the progress, successes and remaining challenges with respect to the customer education and outreach actions and spending ordered in Decision (D.) 10-02-032. The report shall include recommendations of specific, actionable steps that Pacific Gas and Electric Company (PG&E) can take to improve its efforts, and recommendations regarding how the Commission could link PG&E's cost recovery to the outcomes expected when PG&E's funding was approved. The report shall be served on the service list 60 days from today. Parties may comment on the report 10 days later. The assigned Commissioner or assigned Administrative Law Judge may

issue additional rulings, and reopen the proceeding if necessary, after reviewing the documents and actions listed above.

10. The October 31, 2011 Motion of the Division of Ratepayer Advocates to Set Aside Submission and Reopen the Record for the Taking of Additional Evidence is denied.

11. Application 09-02-022 is closed.

This order is effective today.

Dated November 10, 2011, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
TIMOTHY ALAN SIMON  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
Commissioners

I abstain.

/s/ MICHEL PETER FLORIO  
Commissioner

## APPENDIX A

### ORDER

**IT IS ORDERED** that:

1. The following rates shall be effective by May 1, 2010:
  - For large commercial and industrial customers, default Peak Day Pricing rates that include time-of-use rates during non-Peak Day Pricing periods. Such customers can choose to opt out to a time-of-use rate or other time-variant rate; and
  - For agricultural and small and medium commercial and industrial customers with advanced meters, optional Peak Day Pricing rates that include time-of-use rates during non-Peak Day Pricing periods.
2. The following rates shall be effective:
  - By February 1, 2011, for large agricultural customers that have access to at least 12 months of interval billing data, default Peak-Day Pricing rates that include time-of-use rates during non-Peak-Day Pricing periods. Such customers can choose to opt out to a time-of-use rate or other time-variant rate; and
  - By March 1, 2013, for small and medium agricultural customers that have access to at least 12 months of interval billing data, default time-of-use rates. Flat rates will no longer be available to these customers.
3. The following rates shall be effective:
  - By November 1, 2012, for small and medium commercial and industrial customers that have access to at least 12 months of interval billing data, default time of-use rates. Flat rates will no longer be available to these customers; and
  - By November 1, 2014, for small and medium commercial and industrial customers that have access to at least 12 months of interval billing data, default Peak Day Pricing rates that include time-of-use rates during non-Peak Day Pricing periods. Such

customers can choose to opt out to a time-of-use rate or other time-variant rate. Flat rates shall no longer be available to these customers.

4. Peak Day Pricing rates, with the exception of that for Schedule A-10, and time-of-use rates, as specified in Exhibit 7, Tables 2-3 through 2-5 are adopted. The adopted Peak Day Pricing rate for Schedule A-10 is \$0.90 per kWh. PG&E shall be allowed to continue its E-RSMART critical peak pricing program for residential customers.

5. An annual minimum of 9 and a maximum of 15 Peak Day Pricing calls, as well as Pacific Gas and Electric Company's proposal for enforcing the Peak Day Pricing call bounds by raising or lowering the temperature thresholds, are adopted.

6. Pacific Gas and Electric Company's proposed first year bill stabilization/protection proposal is adopted.

7. Under- and over-collections due to first year bill stabilization/protection and the variation in the number of Peak Day Pricing events shall be allocated to all customers by class, by spreading adjustments on an even percentage basis among all generation demand and energy charges.

8. Pacific Gas and Electric Company's proposed capacity reservation option and alternating day and six-hour window options to mitigate bill volatility for those customers that do not have a capacity reservation option are adopted.

9. The default process shall not begin until Pacific Gas and Electric Company's implementation processes meet the requirement that affected customers have access to 12 months of recorded interval billing data at least 45 days prior to their default date. Once 12 months of data is available for small and medium agricultural and commercial and industrial customers, each customer will be assigned the next available default date which is at least 60 days

later. Agricultural customers will default once per year beginning on March 1, and commercial and industrial customers will default once per year beginning on November 1. For all non-residential customer classes, individual customers shall default beginning with the customer's first billing cycle that begins after the applicable annual default date in this decision.

10. Pacific Gas and Electric Company's Alternative 1 residential Peak Day Pricing proposal is denied. PG&E shall be allowed to continue its E-RSMART critical peak pricing program for residential customers.

11. Regarding person-to-person outreach, Pacific Gas and Electric Company shall ensure that a customer service representative directly contacts at least the 10% of small and medium customers whose bills are likely to be increased by the largest percentage based on previous year's usage, if they are defaulted to and stay on the PDP rate. PG&E shall include a description of how utility representatives will engage these customers in its Customer Education and Outreach plan.

12. Pacific Gas and Electric Company shall work with Energy Division and the Business & Community Outreach group and develop a written customer education and outreach plan. The utility shall post the plan to the service list within 60 days of the final decision. Pacific Gas and Electric Company shall provide parties to the proceeding the opportunity to provide comments and feedback on the plan. Pacific Gas and Electric Company must include the plan and may include revisions based on feedback from parties in the advice letter required in Ordering Paragraph 15. The plan shall be submitted with the advice letter for informational purposes only and the utility may begin implementing the plan prior to a resolution on the advice letter. The plan shall include:

- Education goals the utility expects to have achieved with customers by the time they reach their default date;
- A list of monthly timelines for activities, the types of activities that will be conducted (i.e., mailings, e-mails, calls, workshops, meetings with business or agricultural leaders or organizations), as well as the geographic area, customer groups, and market segments that will be targeted, including ethnic and traditionally “hard to reach” customers;
- The methods that will be used to directly educate the 10% of small and medium customers whose bills are likely to be increased by the largest percentage based on previous year’s usage if they stay on the Peak Day Pricing rate;
- A description of how customers will be educated about the tools and programs available to enable them to reduce energy consumption when a peak event is called, including energy efficiency and distributed generation and storage (effort should be made to coordinate this approach with other integrated marketing approaches); and
- A summary of other outreach and education plans, models or strategies around the country that PG&E can incorporate into its proposal to increase the number of small and medium customers that experience person to person interactions.

The Director of the Energy Division may direct the utility to make additions to the plan if necessary.

13. Pacific Gas and Electric Company shall work with the Commission’s Business & Community Outreach group to determine how the group can assist Pacific Gas and Electric Company in outreach efforts to small and medium customers.

14. Pacific Gas and Electric Company shall issue a request for proposals in 2012, in order to engage a third party to conduct an evaluation in 2013 of the effectiveness of customer education and outreach efforts regarding time-of-use rates for small and medium customers. Pacific Gas and Electric Company shall



work with the Demand Response Evaluation and Measurement Committee, which will have input into the project design and scope of work for the request for proposals and also take part in scoring proposals and reviewing the final report.

15. Pacific Gas and Electric Company shall:

- File a Tier 3 advice letter within 120 days of this final decision clearly identifying and describing the specific performance measurements, for each of its customer classes, which it will use to determine that its outreach and education campaign is successful;
  - Possible examples of measurements could include, but should not be limited to, quantifying benchmarks of successful outreach efforts such as: number of workshops held, minimum participants attended, number of customers signed up for “My Account,” number of customers that respond to the utility indicating they will stay on or opt out of Peak Day Pricing, and maximum number of customers calls or complaints after a Peak Day Pricing event, and number of customers educated about demand response and energy efficiency opportunities;
  - Pacific Gas and Electric Company should also include a detailed plan with a timeline to develop customer surveys for each customer class. The plan should include a description of the information the utility will gather from customers through survey questions to measure the success of its outreach;
- Prepare a monthly report to be provided to the Energy Division and posted on a public website. This monthly report shall include a breakdown of cost categories and money spent on education and outreach as well as a narrative description that describes the costs. Pacific Gas and Electric Company shall work with the Energy Division to design an appropriate format for the reports. Reports should be filed until customer outreach and education activities approved in this decision and the 2011 general rate case are completed;

- Provide a semi-annual written report to all parties on the service list, which includes foundational research conducted and findings, all outreach activities that have occurred, including number of customers that have received person to person contact, lessons learned from interactions, performance measurements that have or have not been met and if necessary modifications to outreach efforts going forward. The form and content of the report should be coordinated with the Energy Division and should be modified as necessary on an ongoing basis. The first of these reports should be completed and served on all parties no later than June 1, 2010, and reports should continue until six months after customer outreach and education activities approved in this decision and in the 2011 general rate case are completed;
- Hold quarterly progress report presentations. Two of the meetings shall be with Energy Division, the Division of Ratepayer Advocates and the Business & Community Outreach group. Two of the meetings shall be in conjunction with the semi-annual written reports and open to all parties on the service list;
- Provide to the Commission's Business & Community Outreach group, Pacific Gas and Electric Company's schedule of outreach events, at which Pacific Gas and Electric Company staff will be educating customers about Peak Day Pricing and time-of-use rates. (Events include workshops, industry meetings, and meetings with members of Chambers of Commerce, or other industry or customer segments that may not be represented by Chambers of Commerce, etc.) To the extent possible, Pacific Gas and Electric Company should coordinate such events with the Business & Community Outreach group; and
- After each of the presentations to parties on the service list, provide an addendum to the semi-annual written report to parties on the service list. The addendum shall be drafted collaboratively with staff from the Commission's Business and Community Outreach group and Energy Division, and signed by the Directors of each group. The addendum shall include a workshop report describing recommendations and issues raised

and how Pacific Gas and Electric Company will proceed as a result of the discussions and recommendations.

16. The effectiveness of the utility's education and outreach efforts shall be a factor in approving requests for additional funding for customer education and outreach for Peak Day Pricing in future proceedings.

17. Within 60 days of the issuance of this decision, Pacific Gas and Electric Company shall file an advice letter to explain and support an alternative cut-off time for notification of event cancellation. Parties shall have the opportunity to respond. If no protests are filed, Pacific Gas and Electric Company's proposed cut-off time will be adopted and should be included in its tariffs. If protested, the cut-off time will be determined by Commission resolution.

18. Pacific Gas and Electric Company shall file a Tier 2 advice letter 30 days after it has completed its proposed incremental Customer Service On-line activities. Pacific Gas and Electric Company shall provide sufficient information for Energy Division staff to verify that the new Peak Day Pricing functionalities that Pacific Gas and Electric Company has implemented on its website appropriately suit ratepayer needs. The anticipated Peak Day Pricing default processes shall not begin until affected customers have had access to the verified Peak Day Pricing-related customer service on-line tools for at least 45 days.

19. For cost recovery of Customer Care and Billing transition costs from Version 1.5 to Version 2.3, above the amount authorized by this decision, Pacific Gas and Electric Company shall file a reasonableness application within 120 days of completing the transition to Customer Care and Billing Version 2.3.

20. Any costs related to the Customer Care and Billing transition from Version 1.5 to Version 2.3 shall be removed from Pacific Gas and Electric Company's test year 2011 general rate case proceeding.

21. To the extent that actual expenditures, except those related to the Customer Care and Billing Version 2.3 upgrade provided for in Ordering Paragraph 19, exceed the amounts authorized by this decision, Pacific Gas and Electric Company may request cost recovery in a separate after-the-fact reasonableness review application or included as part of the Customer Care and Billing Version 2.3 upgrade application authorized in Ordering Paragraph 19.

22. Pacific Gas and Electric Company shall use its results of operations model to calculate the revenue requirements related to the costs adopted by our decision today, and shall include details of the calculations when requesting rate recovery through its Annual Electric True-up advice filing process.

23. The adopted incremental expenditures that shall be used in determining the revenue requirements for this decision total \$123,585,000 for the years 2008-2010.

24. PG&E's proposal to use the Dynamic Pricing Memorandum Account to record Peak-Day Pricing costs and the Distribution Rate Adjustment Mechanism for recovery of the associated revenue requirement through 2010 is adopted. This cost recovery mechanism may continue through 2014 to recover the revenue requirement associated with (1) any additional costs above the amount approved in this case, after the additional costs are determined reasonable by the Commission, and (2) any costs that are authorized by this decision for 2010 and 2011, but are actually incurred through 2014, with the exception of those costs already included in Pacific Gas and Electric Company's 2011 general rate case authorization.

25. Pacific Gas and Electric Company shall develop an analysis of the projected bill impacts under time-of-use rates for a 10,000 customer sample of agricultural customers by November 2010. The information should be provided

to the Energy Division and the Agricultural Energy Consumers Association and the availability of the information should be made to the service list.

26. Pacific Gas and Electric Company shall file a 2012 Rate Design Window application in February 2012, to address the following:

- An assessment of the performance of the 2010 and 2011 summer season Peak Day Pricing programs, in terms of customer participation and achieved demand response, with proposed adjustments, if any, to improve program performance;
- Proposed adjustments to Peak Day Pricing charges and credits, to reflect marginal costs adopted in the 2011 General Rate Case Phase 2; and
- Proposed new time-of-use and time-of-use/Peak Day Pricing rates for medium commercial and industrial customers, intermediate in time-differentiation between the proposed A1-TOU and A6-TOU rate designs.

27. The January 11, 2009 Motion of the Division of Ratepayer Advocates for Official Notice of Documents is granted.

**(END OF APPENDIX A)**