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VIA EMAIL

Commission President Michael Peevey
Commissioner Mark Ferron
Commissioner Mike Florio
Commissioner Catherine J. K. Sandoval
Commissioner Timothy Alan Simon
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Draft Resolution L-411

Dear Commission President Peevey, and Commissioners Ferron, Florio, Sandoval and Simon:

PG&E would like to respond briefly to the letter submitted by TURN on April 11, 2011.

TURN urges the Commission to issue a resolution establishing the memorandum account at this week's meeting. PG&E is encouraged by the progress that it has made with TURN, but there are important remaining issues that must be resolved before the Commission issues its resolution.

From the outset, PG&E has taken the position that a memorandum account is not needed for utilities to initiate the additional spending intended by the tax laws and that a memorandum account may actually impede such additional spending. Specifically, as PG&E stated in its March 21 letter, by including the Small Business Act (SBA) within the scope of the memorandum account, the draft resolution unfairly seeks to capture the tax benefits of the SBA without making compensating adjustments to recognize that utilities such as PG&E made additional capital investments in 2009 and 2010 to take advantage of bonus depreciation laws passed in 2008 and 2009 – additional investments that are not reflected in PG&E's 2011 rate base.¹ If the Commission includes the SBA within the scope of the memorandum account, PG&E may be unable to implement its current budget of capital and other spending, let alone engage in the hundreds of millions of dollars of additional spending that PG&E has identified – resulting in the exact opposite of the intent of the new tax laws.

In addition, PG&E has indicated in its previous letters that the technical issues surrounding the proposed memorandum account are numerous and complex. As PG&E Corporation's Chief Financial Officer Kent Harvey stated at the All-Party meeting, if the Commission adopts a

¹ In footnote 20 of its April 11 letter, TURN questions "why 2009 capital expenditures would be included in PG&E's analysis, given that the Small Business Act of 2010 covers only investments made after January 1, 2010." As PG&E has explained in its previous letters and at the All-Party Meeting, Congress has passed bonus depreciation laws numerous times in this decade alone, and the Commission has never previously tried to quantify and capture such tax benefits. PG&E has used such benefits to invest in its infrastructure, so any "claw back" of the SBA's tax benefits should reasonably be offset by additional investments made in the same timeframe and not reflected in PG&E's 2011 rate base.

memorandum account, the Commission has to get all the details right so that the memorandum account works as intended, particularly given the complexity of taxes and ratemaking. TURN's April 11 letter has unfortunately revived PG&E's concerns regarding memorandum account implementation. In particular, TURN's criticism (at p.4) of SCE's working cash adjustment suggests that even TURN – which is very knowledgeable about ratemaking generally – does not understand the full ramifications of implementing the new tax laws.² If the Commission adopts a memorandum account without fully considering the details of implementation, it may well thwart efforts to take advantage of the new tax laws for the benefit of customers.

TURN and PG&E made important steps towards establishing general criteria that should be taken into account for the proposed memorandum account, but crucial steps remain before the Commission should consider ordering such an account. Absent an agreement on the terms of a memorandum account, PG&E urges the Commission to withdraw the resolution, vote it down, or in the alternative, provide general guidance to the utilities that bonus depreciation will be reviewed in the next general rate case so that the utilities can begin their incremental capital expenditure programs immediately.

Very truly yours,



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cc : Mark S. Wetzell
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Service List for Draft Resolution L-411

² PG&E, too, is proposing a working cash adjustment. This is because, even before the new tax laws, PG&E gave customers the benefit from deferral of its test year Federal tax payments until November 1 of the Test Year. Thus, an incremental deferral of test year taxes attributable to the stimulus legislation can only *begin in November 2011, not on January 1, as TURN claims*. A principal purpose of the working cash adjustment is to make this adjustment.