



**VIA EMAIL**

April 8, 2011

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:

I am writing on behalf of Pacific Gas and Electric Company (PG&E) as a follow-up to the All-Party Meeting on Draft Resolution L-411 held by Commissioners Sandoval and Ferron on March 30, 2011. We greatly appreciate the Commissioners' willingness to host this very important meeting of constituent groups to consider how the Commission should respond to this proposed resolution.

**Tax Savings Estimates.** At the All-Party meeting, Commissioner Sandoval directed the larger utilities to submit letters addressing their expected tax savings, as well as any offsets, as a result of bonus depreciation in Tax Years 2010 and 2011 and any tax years prior to the effective date of each utility's next GRC.

Attached as Appendix A to this letter is PG&E's very preliminary estimate of the CPUC jurisdictional revenue requirements impacts of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (New Tax Law), should a memorandum account be established to track tax consequences under pre-existing spending assumptions.<sup>1</sup>

**PG&E Supports TURN's April 5 Proposal, With Minor Modifications And Two Specific Reservations.** On April 5, TURN sent a letter to the Commissioners proposing an

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<sup>1</sup> As PG&E Corporation's Chief Financial Officer Kent Harvey explained at the All-Party Meeting, the tax benefits from the September 2010 bonus depreciation law (Small Business Act) are offset by already incurred additional capital spending above levels reflected in our most recent GRC. Therefore, Appendix A includes only the benefits of the New Tax Law and not the Small Business Act.

alternative approach to the memorandum accounts set forth in Draft Resolution L-411. PG&E supports TURN's proposal, with certain minor modifications shown in Appendix B to this letter.

PG&E and TURN have discussed but not reached agreement on whether capital spending to improve the reliability of electric generating facilities should be included among the types of infrastructure replacement projects expressly authorized by the Commission for inclusion in the memorandum account, nor have they reached agreement on how to address PG&E's concerns about the Small Business Act and 2009 and 2010 capital investments (see discussion below). However, both PG&E and TURN remain willing and interested in resolving these issues on a reasonable basis as expeditiously as possible.

PG&E appreciates TURN's recognition of its concerns with the Draft Resolution's advice letter and application process and supports the establishment of up-front guidelines for additional capital spending. PG&E's modifications – which PG&E shared with TURN and which TURN supports as consistent with the general principles of the criteria as originally proposed in TURN's letter – are intended to provide utilities with adequate flexibility to make investments to the benefit of their customers while recognizing TURN's interest in ensuring that such investments are necessary and prudent.

**The Commission Must Remove The Small Business Act from the Scope of the Draft Resolution.** PG&E reiterates its strong opposition to including the Small Business Act within the scope of the Draft Resolution. As PG&E has explained, the Draft Resolution unfairly seeks to capture the tax benefits of the Small Business Act 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.

If the Draft Resolution continues to include the Small Business Act, with benefits clawed back to the beginning of 2010, PG&E may be unable to implement its current budget of capital and other spending, let alone engage in additional spending – resulting in the exact opposite of the intent of the New Tax Law. Therefore, PG&E strongly urges the Commission to delete the Small Business Act from the scope of the Draft Resolution, or, as a lesser alternative, to allow PG&E to include both the tax benefits of the Small Business Act and the additional capital investments in 2009 and 2010 made as a result of prior bonus depreciation laws.

**Time is of the Essence.** As TURN acknowledges, “time is of the essence here.” The longer the Commission allows there to be uncertainty about the impact of the New Tax Law, the longer the Commission undermines the intent of the law and the benefits that customers can receive through added utility infrastructure investment. PG&E has estimated that a 100% deduction of capital costs for Federal tax purposes can save customers nearly 20% on a present value ratemaking basis, and a 50% deduction can save customers nearly 10%. This means that PG&E can do more for customers at a lower customer cost. PG&E must act quickly to implement this increased spending so such spending can take place efficiently and effectively before the end of 2011, when the 100% deduction generally ends, and 2012, when all benefits are planned to expire.

**Conclusion.** For the foregoing reasons, PG&E urges the Commissioners to indicate at the Commission's next public meeting their concurrence that, should a memorandum account ultimately be established, that utilities at least can be assured that additional spending on the investments agreed upon so far between TURN and PG&E will qualify as offsets without the need for an advice filing or application. This expression of the Commissioners' opinions will enable utilities to immediately initiate planning and implementation of incremental spending, at least on the items thus far agreed upon between TURN and PG&E.

PG&E further asks the Commission to specifically request TURN, PG&E and the other interested participants to act as expeditiously as possible to reach concurrence on their remaining issues, and if not, propose a list of unresolved issues that should be addressed and decided by the Commission.

Very truly yours,



Brian K. Cherry  
VP, Regulatory Relations  
Pacific Gas and Electric Company

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