BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	Rulemaking 12-06-013 (Filed June 21, 2012)

REPLY COMMENTS OF THE UTILITY REFORM NETWORK IN RESPONSE TO THE 9/20/12 RULING OF THE ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES

TURN
THE UTILITY REFORM NETWORK
Lower bills. Livable planet.

October 19, 2012

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I. INTRODUCTION

On September 20, 2012, the Commission issued the *Assigned Commissioner and Administrative Law Judges' Joint Ruling Inviting Comments and Scheduling Prehearing Conference* (*AC/ALJ Ruling*). This ruling responds to parties' input gathered by the Commission at the workshop held on August 27, 2012 in this proceeding and invites comments on several matters, including the proposed questions addressing proceeding coordination issues; proposed rate design goals; and proposed questions intended to ensure that parties' rate design proposals (to be submitted later in this proceeding) contain the information needed for the Commission to consider and adopt a specific proposal. The *AC/ALJ Ruling* sets a due date for comments of October 5, 2012, and reply comments of October 19, 2012.[1] Pursuant to the *AC/ALJ Ruling*, The Utility Reform Network (TURN) hereby submits these reply comments.

TURN does not respond to the premature substantive comments submitted by several parties. For instance, Distributed Energy Consumer Advocates (DECA) answers the proposed coordination questions, rather than commenting on their sufficiency.[2] TURN may address DECA's comments when the Commission seeks substantive responses to the final list of coordination questions, so that we can consider DECA's comments in the context of other parties' proposals and reply to all at the same time. Likewise, other parties, such as Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and Silicon Valley Leadership Group (SVLG) advocate particular rate designs elements (at high levels), rather than

[1] *AC/ALJ Ruling*, p. 1.

[2] DECA, pp. 3-6.

simply addressing the proper goals of rate design.[3] TURN will address the rate design proposals ultimately submitted by those parties at the appropriate time in this proceeding, rather than respond at this time to the merits of the rate design elements they call for in their October 5, 2012 comments.

II. RATE DESIGN GOALS

Many parties propose changes to the rate design goals in the *AC/ALJ Ruling*. TURN addresses some of those changes in the sections that follow.

A. Goal 1 (Affordability)

The Division of Ratepayer Advocates (DRA) recommends that Goal 1 be expanded to include the affordability of energy for essential uses for *all residential customers*.[4] Center for Accessible Technology (CforAT) and Greenlining Institute (Greenlining) likewise propose, in comments filed jointly, that Goal 1 be modified to extend to all residential customers, not just low-income and medical baseline customers.[5] DRA points to the "long-standing legislative and policy goal of providing affordable energy for a portion of energy usage for all residential customers" through the Baseline program.[6] DRA also explains that the income threshold for participation in low-income rate assistance programs excludes "people in San Francisco and other urban areas," who nonetheless have difficulty making ends meet because of the high cost of living.[7] TURN agrees with DRA and CforAT/Greenlining, as explained in our opening comments.

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[3] SVLG, pp. 2, 4-6; PG&E, p. 9; SCE, p. 7.

[4] DRA, pp. 1-3.

[5] CforAT/Greenlining, p. 2.

[6] DRA, p. 3.

[7] DRA, p. 3.

A fundamental problem with limiting Goal 1 to "low-income and medical baseline customers" is that it is almost impossible to draw the right line between customers with adequate means to afford energy utility services each month and those who struggle to make ends meet. We know that the income threshold for the California Alternate Rates for Energy (CARE) program excludes many customers with higher incomes who still make too little to keep up with utility bills while paying for life's other necessities.[8] In fact, in 2011, SDG&E required a higher percentage of non-CARE customers to post a deposit to open an account than CARE customers, based on credit history.[9] Clearly, households who make too much money to enroll in CARE still endure financial struggles which put them at risk of losing utility service for nonpayment.

No one knows how high the CARE eligibility threshold would need to be set to ensure that California consumers are not burdened by the cost of energy services necessary for basic needs. Data that does exist suggests that the income limit should vary by region of the state, if not by county, given the wide variation in costs of living.[10] Adjusting CARE eligibility thresholds to better align with need for assistance is a laudable goal that would no doubt confer important benefits on many households and increase affordability. It would presumably also increase the administrative complexity and costs of the program as compared to the current approach, where 200% of federal poverty level is the statewide income cap.

Another tool for advancing the goal of affordability is the Baseline program, wherein all residential customers receive basic quantities of electricity and natural gas at a low rate. DRA argues that "maintaining the Baseline program should be an important goal of any residential rate

[8] *See, i.e.,* TURN, Attachment 2.

[9] Testimony of SDG&E witness David Cheng, Oct. 10, 2012, in A.11-10-002 (5 RT 289:27 – 299:10, SDG&E/Cheng).

[10] *See, i.e.,* TURN, pp. 6-7.

design that results from" this proceeding.[11] While TURN does not view the preservation of the Baseline program as a goal in itself, TURN agrees that this approach, used in California for nearly 40 years, is a fair and administratively simple way to advance the goal of affordability. This approach also recognizes the importance of electricity as a basic necessity by extending comparable benefits to all residential customers. Moreover, as the Commission explained in D.04-02-57, the Baseline program advances the additional goal of conservation by "providing incentives for conservation focused on higher usage levels that are more likely to be discretionary."[12]

B. Goal 2 (Marginal Cost) / Goal 3 (Cost-Causation Principles)

Sierra Club and SVLG recommend that Goal 2 be modified to prioritize consideration of long-run marginal costs.[13] TURN recommends that this Commission reject this approach as overly prescriptive at this juncture. The proposed agenda for Workshop Day 2, attached to the *AC/ALJ Ruling*, includes among the issues to be discussed the definition of "marginal cost."[14] The appropriate definition of marginal cost to be used in the evaluation of rate design proposals vis-à-vis the goals can be discussed by parties at that time. Additionally, as the Solar Energy Industries Association (SEIA) suggests, the Commission could direct parties offering rate design proposals to discuss "in general terms how the marginal costs you have used are derived, and support the time horizon (i.e. short-run, medium-term, or long-run) used in those derivations."[15]

The Coalition of Utility Employees (CUE) recommends removing Goals 2 and 3 and

[11] DRA, p. 3.

[12] D.04-02-057, p. 31.

[13] Sierra Club, pp. 4-5; SVLG, p. 3.

[14] *AC/ALJ Ruling*, Attachment A, p. 2.

[15] SEIA, p. 2.

replacing them with the goal that "rate design should encourage equitable sharing of costs."[16] CUE explains that marginal costs and cost-causation principles should be considered tools in reaching this goal, rather than goals in themselves. TURN agrees with CUE that looking to marginal cost and cost-causation principles are relevant to the overarching consideration of an "equitable" assignment of costs among customers, though they are certainly not the only or most important factors to consider.[17] In fact, Bonbright's Principles do not mention marginal cost or cost-causation; instead, Bonbright offers that rates should be "apportioned fairly" among customers and customer classes.[18] Accordingly, TURN supports CUE's suggested revision in principle.

However, as a practical matter, we note that using the word "equitable" or "fair" in a rate design goal may necessitate Commission guidance as to what that means, as parties will surely proffer an impressive array of interpretations. If the Commission believes that marginal cost and cost-causation principles should be considered (among other factors) in designing rates that reflect a fair allocation of costs among customers, the Commission should probably reflect this expectation in the goals themselves.

C. Goal 4 (Energy Efficiency, Conservation)

Several parties, including Sierra Club, Environmental Defense Fund (EDF), CUE, and SVLG propose revisions to Goal 4, which states that "Rates should encourage conservation and energy efficiency." These parties seek, in various ways, to blend the goals of encouraging

[16] CUE, p. 5.

[17] TURN notes marginal costs (both generation and distribution) are heavily considered and litigated for purposes of customer class allocation in rate case (Phase 2) proceedings. We presume that parties here are primarily concerned with marginal generation costs, though this is a topic worth discussing.

[18] F. Weston, The Regulatory Assistance Project, "Charging for Distribution Utility Services: Issues in Rate Design," December 2000, p. 24 (citing Bonbright, p. 291; Bonbright *et al.*, pp. 384-385); The Brattle Group, "Rethinking Rate Design," September 2007, p. 13.

energy efficiency (EE) and conservation with other environmentally-beneficial objectives. TURN recommends that Goal 4 remain unchanged and that the policy objectives raised by these parties be reflected in other goals.

Sierra Club suggests that Goal 4 be revised to state that "Rates should encourage meaningful conservation and energy efficiency measures, *including solar photovoltaic self-generation*."[19] It would be inappropriate to include solar photovoltaic (PV) self-generation in a goal about conservation and EE because solar PV is neither "EE" nor "conservation" under the Commission's definitions of those terms.

Conservation, according to the Commission's Energy Efficiency Policy Manual, is the "[r]eduction of a customer's energy use achieved by relying on changes to the customer's behavior which may result in a lower level of end use service," where "end use" is "the purpose for which energy is used (e.g., heating, cooling, lighting)."[20] Conservation is turning down the furnace thermostat by 5 degrees or remembering to turn the lights off in unoccupied rooms.

Energy efficiency is defined as "[a]ctivities or programs that stimulate customers to reduce customer energy use by making investments in more efficient equipment or controls that reduce energy use while maintaining a comparable level of service as perceived by the customer."[21] Energy efficiency measures, by definition, "decrease the amount of energy used to provide a specific service or to accomplish a specific amount of work (e.g., kWh per cubic foot of a refrigerator held at a specific temperature, therms per gallon of hot water at a specific temperature, etc.)"[22] Replacing a standard efficiency furnace with a high efficiency furnace and

[19] Sierra Club, p. 3 (emphasis in original).

[20] Energy Efficiency Policy Manual, Appendix B, pp. 2 (definition of "Conservation"), 5 ("End Use").

[21] Id, p. 5 (definition of "Energy Efficiency").

[22] Id, p. 5 (definition of "Energy Efficiency Measure").

continuing to keep the home the same temperature is energy efficiency.

In D.09-12-022, the Commission clarified that all stand-alone solar-powered technologies – meaning equipment that is solar-powered "but does not utilize this resource beyond its own operation to power additional equipment or processes" – are categorically included within the definition of an EE measure.[23] However, solar PV on-site distributed generation is not an EE measure. As such, it should not be combined with EE and conservation in Goal 4. Goal 8, with TURN's proposed revisions ("Rates should support economically efficient customer investment in energy efficiency, DSM technology, storage, and renewable distributed generation"), more appropriately captures Sierra Club's objective of encouraging rooftop solar PV.[24]

SVLG proposes to modify Goal 4 to eliminate EE and instead state, "Rates should encourage conservation and *integration of renewables*."[25] As explained above, conservation and EE are distinct from one another. The original Energy Action Plan names both in combination as the first loading order resource.[26] They should both be explicitly called out in this goal.[27] Integration of renewables is an entirely distinct matter and should not be blended with the concepts of conservation and EE.

CUE suggests that Goal 4 be replaced with an overarching policy goal of reducing greenhouse gas emissions, "with conservation, energy efficiency and increasing renewable energy as tools to implement this policy."[28] While TURN is sympathetic to CUE's effort to improve the logic of the goals by separating true policy goals from implementation tools, CUE is

[23] D.09-12-022, p. 1.

[24] Sierra Club, p. 4; TURN, p. 9.

[25] SVLG, p. 3.

[26] *Energy Action Plan*, 2003, p. 5.

[27]

[28] CUE, p. 3.

wrong is suggesting that conservation and EE are not in themselves well-established state policy goals.

Rate design has been used to encourage energy conservation in California since the passage of Assembly Bill 167, the Warren-Miller Energy Lifeline Act, in 1975, which added Section 739 to the Public Utilities Code.[29] As the Commission explained in D.04-02-057:

> § 739(c)(2) establishes joint principles of affordability and conservation, which must both be observed in establishing residential electric and gas rates. … We view the principles of affordability and conservation as complementary underpinnings of a sound rate design. As a general matter, basic energy needs should be affordable, with incentives for conservation focused on higher usage levels that are more likely to be discretionary.[30]

Rate design that supports the goal of conservation is also consistent with California's loading order of electric resources. Since the adoption of the *Energy Action Plan* in 2003 by the Commission, the California Energy Commission, and the California Power Authority, conservation and energy efficiency have been first in the State's loading order, ahead of all other resource types, including peak-shaving resources like demand response and renewable supply-side resources.[31]

The reduction of energy consumption through conservation and energy efficiency is also the least cost strategy to achieve the State's AB 32 greenhouse gas emissions reduction goals for the energy sector.[32] Moreover, California looks to EE to be "the least cost, most reliable, and

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[29] D.86087, 80 CPUC 182, 1976 Cal. PUC LEXIS 387, *13 ("The statute is also specific in its criticism of present rate structures' encouraging wastefulness by large users and in its intent to encourage conservation of scarce energy sources.").

[30] D.04-02-057, p. 31; s*ee also*, p. 24 (acknowledging the legislative intent to continue encouraging energy conservation through rate design, as provided for by the Warren-Miller Energy Lifeline Act of 1975, at the time AB 2443 was enacted in 1982).

[31] *See, i.e., Energy Action Plan*, 2003, p. 5; *Energy Action Plan II*, 2005, p. 3; *Energy Action Plan 2008 Update*, 2008, p. 1.

[32] *See, i.e., Energy Action Plan II*, 2005, p. 3; *Energy Action Plan 2008 Update*, 2008, p. 6.

most environmentally-sensitive resource."[33] Thus, EE and conservation confer economic benefits to ratepayers, in addition to their environmental benefits. EE and conservation should not be subsumed under the overarching goal of reducing greenhouse gas emissions. Their encouragement should be a stand-alone goal of rate design.

EDF suggests that Goal 4 state as follows: "Rates should encourage conservation, energy efficiency *and the fulfillment of the state's environmental requirements*."[34] TURN opposes blending the universe of California's environmental requirements with the concrete and well-established goals of EE and conservation, which, as just explained, have economic as well as environmental benefits.

Limiting Goal 4 to EE and conservation, rather than adding the encouragement of solar PV, or supporting renewable integration, or greenhouse gas reduction, or the fulfillment of the state's myriad "environmental requirements," will make the analysis of how each proposed rate design impacts this goal more straight-forward. TURN recommends that these other objectives be reflected in separate rate design goals, as discussed above and below.

D. Goal 8 (Economic Efficiency)

The Black Economic Council, National Asian American Coalition, and Latino Chamber of Greater Los Angeles (collectively, Joint Parties) support the revisions to this goal offered by TURN (and DRA) to promote economically efficient customer investment in energy efficiency, DSM technology, storage, and renewable distributed generation. However, Joint Parties point out that "rates should support these investments from customers who can afford these changes and should not penalize those who cannot."[35] TURN agrees that the price signals intended to

[33] *Energy Action Plan II*, 2005, p. 3.

[34] EDF, p. 3 (emphasis added).

[35] Joint Parties, pp. 5-6.

increase the economic efficiency of these investments must be balanced against the goal of affordability. As discussed above, the Baseline program is an appropriate and effective way of tempering the impact on customers who cannot afford to purchase their way into a more advantage position vis-à-vis rate design by making such investments.

E. Goal 10 (Customer Acceptance and Understandability)

PG&E proposes that the Commission adopt "as a priority rate design goal the ongoing, continuous solicitation of direct opinion and feedback from a statistically significant sample of California IOU residential electricity customers regarding their preferences and needs for electricity pricing and choices."[36] According to PG&E, "Understanding the perspectives of customers about the proposed rate structures, as well as about the transition process from one rate structure to another, can help to ensure engagement with all of the other goals of this proceeding."[37]

TURN shares PG&E's view that the success of any new rate design will depend, at least in part, on customer preferences, as those preferences will influence the likelihood of customer acceptance. While TURN disagrees that the collection of data on customer rate design preferences should be characterized as a rate design "goal," we wholeheartedly agree with PG&E that such data should inform the Commission's consideration of the optimal residential rate design. Having customer preference data would improve the Commission's ability to evaluate rate design proposals relative to Goal 10, as well as to plan for any necessary transition process. If available in relatively short order, such data would also be useful to parties intending to present rate design proposals.

[36] PG&E, p. 8.

[37] PG&E, pp. 8-9.

F. Additional Goals Proposed By Parties

1. Reduction of Greenhouse Gas Emissions

A number of parties propose the addition of a rate design goal related to the reduction of greenhouse gas emissions and/or advancing other state environmental policy goals.[38] TURN originally recommended only the addition of evaluation questions related to the impact of various rate designs on greenhouse gas emissions, rather than a goal to this effect.[39] TURN supports the addition of an overarching environmental goal. We tend to prefer the Natural Resources Defense Council's (NRDC's) articulation of the goal, as it is broad enough to capture environmental goals beyond reducing greenhouse gas emissions. Focusing exclusively on greenhouse gas emissions overlooks the policy goals of reducing other toxic emissions associated with the energy sector. As NRDC suggests, the Commission should add the goal that *Rates should be compatible, or at least not in conflict, with other energy and environmental policy goals, including California's global warming law AB32.*[40]

2. "Enabling" or "Encouraging" Customers to Reduce or Modify Consumption Patterns or Otherwise Manage Usage through Innovative Technologies

The Vote Solar Initiative (Vote Solar) suggests the addition of the goal that "Rates should enable customers to reduce or shift consumption, including enabling innovative technologies that support reduced or shifted consumption patterns."[41] The Demand Response and Smart Grid

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[38] *See, i.e.,* DRA, p. 4 ("Rate design in conjunction with other policy goals should support California's climate change initiatives."); NRDC, p. 2 ("Rates should be compatible, or at least not in conflict with other energy and environmental policy goals, including California's global warming law AB32."); Sierra Club, p. 4 ("The Commission should include an additional environmental goal for rates to "encourage reductions in greenhouse gas pollution."); EDF, p. 3-5 ("Rates should encourage .. the fulfillment of the state's environmental requirements" and "mitigate environmental impacts to current and future generations on an accelerated basis"); CUE, p. 3 (rates should reduce greenhouse gas emissions).

[39] TURN, p. 13.

[40] NRDC, p. 2.

[41] Vote Solar, p. 2.

Coalition (DRSG) suggests a similar goal: "Rates should encourage the deployment and utilization of innovative technologies that facilitate customer participation in demand response activities."[42] Enabling or encouraging customers to reduce or modify consumption patterns or otherwise manage usage through innovative technologies need not be a stand-alone goal. Goals 4 and 5 already capture consumption reduction and load shifting, and Goal 8, with the modifications proposed by TURN, addresses economically efficient investment in DSM technology.

3. Using Locational Marginal Costs and/or Otherwise Prioritizing Incentives for Renewable DG

EDF argues, "Tariffs that accurately reflect locational differences in marginal costs or value of service [cost of service?] should be a goal of this proceeding."[43] DECA recommends the encouragement of rates "that produce a net benefit across all customers based on geographically limited factors such as local capacity prices or Locational Marginal Prices."[44] DECA clarifies its intent that "[p]rograms that reduce overall system costs should be encouraged even if they create locational disparities relative to access to incentives, or other concerns."[45] TURN opposes the notion that a goal of rate design should be to reflect locational differences in marginal cost.

It would be inappropriate for the Commission to adopt general residential rates that charge customers rates based on locational marginal costs, if that is what EDF and DECA are suggesting. Charging residential customers locationally-based marginal prices is an unworkable mechanism due to its complexity. Moreover, it is inequitable because it forces residential

[42] DRSG, pp. 3-4.

[43] EDF, p. 4.

[44] DECA, p. 7.

[45] Id.

customers to pay differential amounts based on utility infrastructure characteristics over which they have little to no control, such as transmission and generation siting.

It is true that customers can impact the build out of new generation or new transmission by putting renewable distributed generation (DG) on their homes, but only a fraction of customers are able to afford to do that at this juncture. The general population of customers should not be hammered by rate design intended first and foremost to motivate customers to install renewable DG. As Joint Parties point out, rates should support investment in renewable DG (and DSM technology, storage and EE) "from customers who can afford these changes and should not penalize those who cannot."[46]

TURN supports the state goal of promoting distributed generation, including rooftop solar PV. However, the Commission has much better mechanisms than rate design at its disposal to impact the development of utility generation and transmission assets, as well as investments in renewable DG. In fact, the California CPUC has just recently adopted several tariff and procurement program mechanisms to boost both small (<3 MW) and mid-size (3-20 MW) distributed generation.[47] TURN recognizes that it may be appropriate to consider differential incentive payments for customers who install renewable DG based on locational avoided costs, but only if such installations really avoid or defer utility distribution investments. Potential residential rate designs that promote solar installations – high summer afternoon rates, etc. – may have detrimental impacts on many other customers who cannot install solar. TURN agrees that a rate design option should exist that appropriately compensates solar owners, but such a rate design may be inappropriate for all residential customers. Indeed, a preferable and more

[46] Joint Parties, pp. 5-6.

[47] Re-MAT (FiT) tariff and RAM program for 1000 MW of DG. Not to mention utility solar UOG and PPA programs authorized for all three major electric utilities.

equitable outcome is to pay a fair and equitable price for DG power exported to the grid, rather than to devise a rate originally intended for consumption (i.e. load) that will also apply to production (i.e. generation).

III. QUESTIONS REGARDING RATE DESIGN PROPOSALS

The *AC/ALJ Ruling* explains that the forthcoming scoping memo will set forth a list of instructions for proposing rate designs, including questions that proponents should address as part of their proposals. The *AC/ALJ Ruling* includes the tentative list of questions for this purpose and solicits comment on whether the questions "should be modified to ensure that proposals contain the information needed for the Commission to consider and adopt a specific proposal."[48] TURN replies to some of those comments below.

A. Question 2 (Evaluation of Rate Design's Impact on Goals; Cross-Subsidies; Trade-Offs Between Goals)

NRDC proposes that Question 2 be modified to incorporate the following sub-question: *If you believe the particular goal can better be addressed through a targeted program, please explain.*[49] TURN supports the addition of this question.

The Commission should have parties' opinions on whether each goal would be better addressed through a targeted program instead of rate design in evaluating the strengths and weaknesses of rate design proposals relative to the goals. For instance, some goals, such as peak load reduction (Goal 5), may be more effectively achieved through technology-based solutions, such as air conditioner cycling, than through rate design, as TURN discussed at length in our rate design policy comments filed in A.10-02-028/A.10-08-005 on March 30, 2012. Before the Commission determines what the "optimal" residential rate design should look like, the

[48] *AC/ALJ Ruling*, pp. 8-9.

[49] NRDC, p. 3.

Commission should have a full record upon which to base its assumptions about the extent to which it should look to rate design to accomplish various policy goals.

B. Question 6 (Interactions Between Innovative Technologies & Rate Design)

The Consumer Federation of California (CFC) recommends that the Commission ask parties to address "what types of technologies might be necessary to implement" their proposed optimal rate design.[50] TURN agrees with CFC that this information should inform the Commission's evaluation of the rate design proposals it receives. Rate designs that are dependent on technologies to confer their intended benefits may create new costs for customers or utility ratepayers. They may also be more or less effective at delivering intended benefits, depending on the availability of such technologies, their known efficacy, and customer adopted rates.

The Commission could either add this question or incorporate it into the *AC/ALJ Ruling's* proposed Question 6, along with the modifications to that question that TURN addressed in our opening comments. Question 6 asks about compatibility of rate designs with innovative technologies that can help customers manage their consumption and energy costs. CFC's question about necessary technologies is distinct from but related to this question because it also asks about the interactions between rate design and technologies.

C. Question 7 (Transition Plan)

Joint Parties argue that the Commission "must include a goal that the rates will be easy to understand for all ratepayers," including the "significant population of Californians for whom

[50] CFC, p. 3.

English is a second language."[51] Joint Parties explain, this objective "indicates a need for customer outreach and education materials in a variety of languages in order to ensure true customer understanding and acceptance."[52] TURN agrees that the goal of understandability and customer acceptance (Goal 10, with TURN's modifications)[53] requires that that customer outreach and education be accessible to all utility customers, including those for whom English is a second language and those with vision- or hearing-related disabilities. The Commission should ensure that the transition plans for any new rate design ultimately adopted include communications that are accessible to all customers.

CFC recommends that the Commission ask parties to address the costs associated with transitioning to their proposed optimal rate designs, including but not limited to costs associated with changes in "technology[,] metering, billing, & financial transactions associated with energy consumption."[54] Additionally, CFC suggests that parties should be required to explain how the benefits of their proposed rate design justify the additional cost.[55] TURN supports these proposals. Considering the benefits of a fundamental change in residential rate design without considering the associated implementation costs would prevent the Commission from comprehensively evaluating what rate design would best serve the interests of utility consumers, the body of ratepayers, and California.

D. Additional Questions

CFC suggests the addition of a question about price risk, particularly whether a party's proposed rate design "will carry a customer price risk," and if so, whether this customer price

[51] Joint Parties, p. 4.

[52] Id.

[53] TURN, pp. 9-10.

[54] CFC, p. 3.

[55] Id.

risk can be mitigated.[56] TURN agrees that price risk, and the risk of bill volatility more generally, should be considered by the Commission in evaluating various rate design proposals. One of Bonbright's rate design principles is that rates should be stable and predictable and provide bill stability for customers.[57]

CFC's price risk question highlights the need to strike the right balance between bill stability and sending accurate price signals in order for rate design to be acceptable to customers. As discussed above, PG&E recommends that research on customer rate design preferences be conducted, and TURN agrees with the value of such research. Research on the importance of bill stability to customers (among other attributes of rate design) should be used in determining what rate designs will be acceptable to customers.

IV. OTHER MATTERS

A. Agendas for Workshops

Greenlining/CforAT propose that the order of workshops in the *AC/ALJ Ruling* be reversed, such that the "Data and Definitions Questions" are addressed on Day 1 and the "Specific Rate Design Elements and Concepts" are addressed on Day 2.[58] TURN agrees that definitions should be addressed first and should precede the discussion of specific rate design elements and concepts. However, because we believe that the data needs and bill impact calculator discussion should occur after the discussion of rate design element and concepts, we suggest a different agenda adjustment than Greenlining/CforAT. TURN recommends that Question 5 on the Workshop Day 2 agenda be moved to the top of Workshop Day 1, with Day 2

[56] CFC, p. 3.

[57] F. Weston, The Regulatory Assistance Project, "Charging for Distribution Utility Services: Issues in Rate Design," December 2000, p. 24 (citing Bonbright, p. 291; Bonbright *et al.*, pp. 384-385); The Brattle Group, "Rethinking Rate Design," September 2007, p. 13.

[58] Greenlining/CforAT, pp. 5-6.

otherwise remaining the same.

B. PG&E's Identification of "Factual Matters That Are Not in Dispute"

PG&E requests that the forthcoming Scoping Memo include an "order of priority" which excludes "factual matters that are not in dispute and therefore need not be subject to extensive comment."[59] PG&E offers, "[I]t is undisputed that current tiered residential electricity rates are *not* cost-based, are *not* simple for customers to understand, and *do* contain extensive cross-subsidies on both an inter-class and intra-class basis."[60]

The Commission should reject PG&E's proposal. PG&E's list of "factual matters not in dispute" contains concepts which the *AC/ALJ Ruling* correctly identifies as in need of definition during the workshop process, such as "cross-subsidy."[61] Likewise, the concept of "cost-based" is arguably related to "cost-causation" and "marginal cost", both of which appear on the list of terms to be defined.[62] Moreover, TURN disputes the notion that current tiered rates are inherently "not simple for customers to understand." As Sierra Club points out,

> Rates may adopt complex features, but can be understandable to customers with appropriate customer outreach and education. A customer asked to review an existing E-1 (residential) tariff may deem it complex, but if shown effective utility customer outreach materials, the customer would be able to understand key features important for fair disclosure about billing and usage, and to respond to conservation incentives.[63]

Thus, customer understanding of current inverted tiered rates is directly related to the quality of utility marketing and customer education and outreach materials.

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[59] PG&E, p. 9.

[60] Id.

[61] *AC/ALJ Ruling*, Attachment A, p. 2.

[62] Id.

[63] Sierra Club, p. 6.

C. Schedule

PG&E and SCE propose that the Commission approach the California Legislature posthaste to seek legislative changes prior to determining, through the course of this proceeding, what legislative change might be necessary to implement the "optimal residential rate design" the Commission ultimately finds to be in the best interest of residential customers and utility ratepayers as a whole.[64] PG&E suggests that the Commission "ask the Legislature to restore the Commission's basic authority to review and determine 'just and reasonable' electric rates and rate structures, without the constraints imposed on that authority by SB 695."[65] SCE similarly argues that the Commission should "consider either issuing a decision, after receiving additional comments from parties, or directly communicating to the legislature the statutory restrictions that should be either be modified or removed in order to permit the Commission to authorize reasonable rate reform measures, where such reforms are warranted."[66] Of course the determination of whether reforms are warranted and what reforms are reasonable will occur *after* the Commission's plea for more authority under PG&E's and SCE's vision. In essence, they want the Commission to ask for a 'blank check' that could have significant political consequences if the reforms go awry.

It is surprising that PG&E and SCE presume that the Legislature would readily cede control over residential rate design to the Commission, particularly without any indication from the Commission as to how California consumers might be impacted. The Legislature has placed limits on the Commission's residential rate design authority since at least the passage of the Warren-Miller Energy Lifeline Act of 1976, the first in a series of statutes intended to afford all

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[64] *AC/ALJ Ruling*, p. 9 ("This proceeding ultimately seeks to identify an optimal residential rate design."); PG&E, p. 7; SCE, p. 3.

[65] PG&E, p. 7.

[66] SCE, p. 3.

residential customers with basic quantities of affordable energy, which also includes Assembly Bill 1X (2001) and Senate Bill 695 (2009).[67] The Legislature takes its authority very seriously, as recent history makes clear. Despite strong support from the utilities for Assembly Bill 1755 (Perea) in the current Legislative Session, the Legislature ultimately agreed with consumer advocates opposing the bill that the rate design restrictions in SB 695 should not be lessened at this time.

Given the fact that neither the shape nor impact of major rate reforms would be disclosed to the Legislature prior to a vote to remove statutory limits, TURN does not expect that a request by the Commission would be well received by the Legislature. Far more reasonable is the logical sequence of events the Commission laid out in opening this rulemaking. As the Commission explained in the *Order Instituting Rulemaking*, the Commission has opened this proceeding:

> to examine whether the current residential rate structure continues to support the overall goals of the state's electricity policies, whether and how rates should be modified to better support existing and future customer needs, whether the rates are equitable, and whether changes to the current statutes are needed to implement preferable rate structure.[68]

TURN supports this course of action. The path toward legislative change will be smoothest if the Commission and stakeholders approach the Legislature *after* the Commission has issued a well-reasoned decision, adopting an "optimal residential rate design," which is based on a robust record with broad stakeholder participation.

V. CONCLUSION

TURN appreciates the opportunity to assist the Commission in framing this proceeding

[67] *See* Order Instituting Rulemaking (O.I.R.)12-06-013, pp. 2-6 ("The History of Residential Rate Design in California").

[68] O.I.R.12-06-013, p. 12.

and encouraging the development of a thorough record upon which the Commission can base its ultimate conclusion about the optimal residential rate design. Toward this end, TURN requests that the Commission adopt the recommendations we put forth in these reply comments, as well as those discussed in the opening comments we filed on October 5, 2012.

Date: October 19, 2012

Respectfully submitted,

By: _____/s/_____
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