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 U 39 E	R.12-06-013 (Phase 2) (Filed June 21, 2012)

REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E), IN SUPPORT OF MOTION TO ADOPT PHASE 2 SETTLEMENT

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I. INTRODUCTION AND EXECUTIVE SUMMARY.

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure and the Administrative Law Judge's Ruling dated February 25, 2014, Pacific Gas and Electric Company (PG&E) hereby files this Reply Brief in Support of the March 5, 2014 Joint Motion (Joint Motion) to Adopt the Settlement (Settlement) for summer 2014 residential electric rates in Phase 2 of this proceeding.[1/]

The opening briefs demonstrate that the Settlement agreed to and filed by PG&E, the Office of Ratepayer Advocates (ORA), and The Utility Reform Network (TURN) enjoys broad and nearly unanimous support from active parties in the proceeding.[2/]

Greenlining Institute and the Center for Accessible Technology (Greenlining/CforAT)

1/ Exhibit PG&E-01. PG&E responds in a separate reply brief to the opening briefs filed on how the California Climate Credit should be used to calculate the effective CARE discount under AB 327, an issue that does not affect the PG&E Phase 2 settlement in this proceeding.

2/ Opening briefs discussing the settlement were filed on April 7, 2014 by: the Joint Parties supporting the PG&E Settlement (ORA, TURN and PG&E), the Joint Parties supporting the SCE settlement (ORA, TURN, SCE, Coalition of California Utility Employees, the Sierra Club, and Natural Resources Defense Council), the Joint Parties supporting the SDG&E settlement (ORA, TURN, UCAN, SDCAN, and the Coalition of California Utility Employees). Only Greenlining/CforAT filed a brief in opposition.

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were the only parties to file a brief opposing the Settlement.[3/] Greenlining/CforAT also oppose similar joint settlements filed by Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E).[4/] Although Greenlining/CforAT filed no comments or testimony opposing the Settlement,[5/] Greenlining/CforAT's brief argues that the joint settlements by all three utilities should be rejected because the settlements unlawfully "fail to adequately consider the impacts on affordability that would result from the changes to rates that are now under consideration."[6/]

Greenlining/CforAT's argument should be rejected as contrary to the record, unreasonable, and inconsistent with the law. As discussed in more detail below, PG&E, ORA and TURN in their Joint Opening Brief already addressed many of Greenlining/CforAT's concerns about the Settlement. The compromises set forth in Settlement among PG&E, ORA, and TURN fully consider bill impacts and affordability on all customers, including CARE and non-CARE customers, and the Settlement results in modest bill impacts while making appropriate progress in compliance with AB 327's requirement that the level of the CARE discount be reduced each year over a reasonable transition period to no higher than 35 percent.[7/] Thus, the Settlement should be promptly adopted for implementation in summer 2014.

II. THE COMMISSION SHOULD REJECT GREENLINING/CFORAT'S ARGUMENT THAT THE SETTLEMENT IS UNLAWFUL.

Greenlining/CforAT argue that "the [Investor Owned Utilities] IOU's simplified proposals and subsequent proposed settlement do not adequately address the requirement of Public Utilities (P.U.) Code Section 382(b)" to ensure that low-income ratepayers are "not jeopardized or overburdened by monthly energy expenditures."[8/] According to

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3/ Greenlining/CforAT Phase 2 Brief, pp. 1- 2.

4/ *Id.*

5/ Greenlining/CforAT provided testimony on PG&E's January 28, 2014, Phase 2 rate design proposal. However, that proposal has since been replaced by the Joint Settlement and thus is not before the Commission in this proceeding.

6/ Greenlining/CforAT Phase 2 Brief, pp. 2- 3.

7/ Public Utilities Code Section 739.1(c).

8/ Public Utilities Code Section 382(b).

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Greenlining/CforAT, until this asserted burden of proof is met, "the Commission cannot determine that the proposed rates are 'just and reasonable'" and therefore the "process for adopting changes to rates for all three IOUs before the upcoming summer season has been deeply flawed and cannot result in a just outcome."[9/] In other words, Greenlining/CforAT argue that, notwithstanding the joint settlements proposed by the utilities and other consumer groups, the Commission should do nothing to begin implementing AB 327 for summer 2014.

Greenlining/CforAT's legal argument reflects a fundamental misinterpretation of the express terms of Public Utilities Code Section 382(b) and ignores the subsequent statutory requirement in AB 327 that the CARE discount be reduced "on an annual basis…by…a reasonable percentage decrease" to no more than 35 percent.[10/]

A. The Joint Settlement's Proposed Summer 2014 Rate Changes are Modest, Reasonable and Lawful.

As Greenlining/CforAT note, the CPUC's second scoping memo simplified and narrowed the scope of the utilities' Phase 2 proposals compared to the original proposals made in November 2013.[11/] The CPUC did so in order to allow the proceeding to be decided in time for new rates in conformance with AB 327 to go into effect for summer 2014 and to begin the process of reducing the CARE discount and narrowing the differential between the highest and lowest tier rates for non-CARE customers.

Accordingly, PG&E's January 28, 2014, revised rates showed more modest bill impacts when compared to PG&E's November 22, 2013 filing. PG&E engaged in good faith settlement discussions with ORA and TURN, which resulted in the Settlement that provides for even more

9/ Greenlining/CforAT Phase 2 Brief, pp. 1- 2. Neither Greenlining/CforAT's testimony nor opening brief proposed any rates that the CPUC could adopt for summer 2014 as an alternative to the joint settlements by all three utilities. Greenlining/CforAT's legal argument on "burden of proof" is thus procedural, and would presumably mean that the CPUC would have to reopen the record to receive further evidence, a process for which Greenlining/CforAT provide no schedule, scope or framework for timely action.

10/ Public Utilities Code Section 739.1(c)(2).

11/ Greenlining/CforAT Phase 2 Brief, p. 1, citing Second Amended Scoping Memo, R.12-06-013 (Phase 2), January 24, 2014.

modest changes in CARE and non-CARE rates than the January 28, 2014 proposal. But now, even though the CPUC has simplified the proceeding and PG&E, ORA and TURN have agreed to more modest rate changes for summer, 2014, Greenlining/CforAT argue that the CPUC is barred by law from enacting any rate reforms at all for summer 2014, for CARE or non-CARE customers, despite AB 327's requirements.

Contrary to Greenlining/CforAT, the Legislature has enacted a clear requirement in AB 327 directing the CPUC to lower CARE discounts to the 30 – 35 percent range, with reasonable percentage reductions each year. PG&E's current effective CARE discount is 48 percent and has a long way to go to get to the 30 – 35 percent range mandated in the statute.[12/]

The Settlement takes a modest first step in adjusting CARE rates to bring the effective CARE discount down by about 3 percent which still provides significant effective discounts for CARE customers (about 45 percent for summer 2014) -- far above the 15 percent that the CPUC found reasonable before the 2000- 2001energy crisis.[13/] Even as the Settlement takes an important first step to put PG&E's CARE rates on a glide path to gradually reach the required range, it also provides protections on the CARE rate changes to avoid rate shock for CARE customers.[14]

The Settlement further provides similarly generous discounts for FERA customers (40 percent on Tier 3 usage), and will result in Medical Baseline customers receiving greater benefits, as the current 4-cent/kilowatt-hour (kWh) discount on Tier 4 usage will increase to a 6-cent/kWh discount under the Settlement.[15/]

12/ Exhibit PG&E-08.

13/ The ultimate figure will depend on the PG&E overall revenue requirements that the CPUC adopts. While the CARE rate in the Settlement will not change with a change to the revenue requirement, Exhibit PG&E-8 shows that the Settlement's CARE discount compared to the non-CARE rate – under the scenario where 100 percent of PG&E's pending revenue requirement requests are approved– would drop from 48.4 percent to 46.5 percent (1.9 percentage points), whereas under the scenario where 50 percent of PG&E's pending revenue requirement requests are approved it would drop from 48.4 percent to 44.9 percent (3.5 percentage points).

14 Exhibit PG&E-01, p. 3.

15/ PG&E Opening Brief, p. 11.

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Contrary to Greenlining/CforAT's legal argument regarding "burden of proof," the Settlement meets the Settling Parties' burden of proof and is reasonable and lawful.

B. Greenlining/CforAT's Legal Argument Regarding Interpretation of the Rate Design Standards in AB 327 is Incorrect and should be rejected.

Greenlining/CforAT cite Public Utilities Code Section 382(b) as requiring that "all residents should be able to afford essential electricity and gas supplies," and that the Commission is unqualifiedly obligated "to ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures." Greenlining/CforAT then claim that "until these obligations are met, the CPUC cannot adequately determine that proposed rates are 'just and reasonable.'"[16/]

Greenlining/CforAT's legal argument is incorrect and contrary to the express terms of Section 382(b) as well as the new requirements for CARE rates added by AB 327. First, Greenlining/CforAT err by asserting that Public Utilities Code Section 382(b) applies to *all* ratepayers; in fact, the Commission's obligations within Section 382(b) are expressly and exclusively limited to *low income ratepayers*, not "all residents."[17/] Nevertheless, Greenlining/CforAT misapplies section 382(b) to argue that all residential electric rates must comply with Section 382.

Second, Greenlining/CforAT use Section 382(b) to imply that the statute's "do not jeopardize or overburden" provisions apply unconditionally to CARE rates. This is contrary to the express terms of AB 327 and violates the rules of statutory construction that require AB 327 and related statutes to be interpreted based on their *plain meaning* and *as a whole*.[18/] AB 327

16/ Greenlining/CforAT, Phase 2 Brief, p. 2.

17/ The full text of Public Utilities Code Section 382(b) is as follows: "*In order to meet legitimate needs of electric and gas customers who are unable to pay their electric and gas bills and who satisfy eligibility criteria for assistance, recognizing that electricity is a basic necessity, and that all residents of the state should be able to afford essential electricity and gas supplies, the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures. Energy expenditure may be reduced through the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs.*"

18/ The meaning of a statute may not be determined from a single word or sentence…" (*Lakin v. Watkins Assoc'd. Industries* (1993) 6 Cal.4th 644, 659.) "[T]he words of a statute [must be construed] in context,… harmoniz[ing] the various parts of an enactment by considering the provision at issue in the

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enacted a new, specific requirement in Section 739.1(c) that Greenlining/CforAT fail to mention. Section 739.1(c) expressly requires that the CPUC "shall ensure" that the average effective CARE discount "shall not be less than 30 percent or more than 35 percent," so long as any CARE discount in excess of that range is not reduced, "on an annual basis, by more than a reasonable percentage decrease below the discount in effect on January 1, 2013 [if it is above 35 percent]."[19/]

This provision must be given effect, and its express requirements cannot be ignored.[20/] Furthermore, because AB 327's reforms went into effect January 1, 2014, to fulfill the statutory requirement "on an annual basis," the CPUC is obligated to annually adopt a reasonable percentage decrease below the CARE discount in effect on January 1, 2013.[21/] PG&E's CARE discount is currently 48 percent and must be reduced by a "reasonable percentage decrease" this year. The Settlement's reduction of about 3 percent does this in a reasonable way that does not "jeopardize or overburden low income ratepayers," and should be promptly adopted.

C. Greenlining/CforAT's Arguments on the Bill Impacts of the Joint Settlement Should be rejected. The Joint Parties Have Made a Detailed Showing that the Bill Impacts of the Settlement Are Reasonable and Do Not Threaten or Overburden Low Income Customers.

Greenlining/CforAT argue that the bill impacts of the Settlement are unreasonable and jeopardize and overburden low-income customers.[22/] Greenlining/CforAT's argument is contrary to the record and should be rejected.

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context of the statutory framework as a hole.." (*Cummins, Inc. v. Superior Court*, (2005) 36 Cal.4th 478, 487.) The statute's various components should be read together to achieve the overriding purpose of the legislation. (*Elsner v. Uveges* (2004) 34 Cal.4th 915, 933.)

19/ Public Utilities Code Section 739.1(c)(1) and (2).

20/ Courts will avoid a construction that renders any part of the statute meaningless or extraneous. (*Woosley v. State of Calif.* (1992) 3 Cal. 4th 758, 775-776.)

21/ If a statute contains a general provision inconsistent with a more specific provision, the specific provision will control the general one. (Code Civ. Proc. Section 1859.). Here the subsequently enacted provisions requiring the CPUC to move CARE discounts to the required 30 – 35 percent range on an annual basis are more specific than the general phrases quoted by CforAT, and should be controlling. *Compare*, Public Utilities Code Sections 739.1(c)(1), 382(b), 739.1(b)(1), 739.1(g).

22/ Greenlining/CforAT Phase 2 Brief, pp. 11- 12.

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1. The Settlement's Bill Impacts are Modest

Greenlining/CforAT argue that if PG&E were to receive either 50% or 100% of its requested revenue requirement under the Settlement, "99% of CARE customers (totaling 1,145,251) would experience bill impacts exceeding 10%."[23/]

However, Greenlining/CforAT's focus on the percentage bill impacts misses the important fact that the actual dollar impacts associated with these percentage impacts are very low and modest. Even small dollar increases in bills can seem like high percentages for customers with low usage and low bill amounts. Nevertheless, the actual impacts are modest, because the actual amounts are not increasing very much. By omitting this and other key facts, Greenlining/CforAT misrepresent the actual bill impacts these customers would see.

First, Greenlining/CforAT is comparing PG&E's proposed rates for summer 2014 to rates that were in effect in October 2013. The October 2013 rates were superseded by rates that went into effect on March 1, 2014.

Second, and most importantly, if Greenlining/CforAT seek to compare proposed rates in 2014 to rates in effect in 2013, they also must include the effect of the 2014 California Climate Credit, which is being applied as a $30 bill credit to customers' April and October bills. The net, and real, effect is to lower annual bills and customers' energy burdens by $60 over what they were in 2013. As PG&E pointed out in its testimony, the overall impact of the California Climate Credit will cause average CARE bills at PG&E's proposed rates to be lower for nearly half (47 percent) of CARE customers when compared to 2013, while limiting average bill increases to between $0 to $5 for 36 percent of customers.[24/] Only 17 percent of CARE customers would see a net bill increase exceeding $5 compared to 2013.[25/] Although Greenlining/CforAT claim that it would be "improper for the Commission to consider bill impacts or energy burden with the California Climate Credit included," this is the same as

23/ *Id.*, p. 12.

24/ Exhibit PG&E-06, p. 9.

25/ *Id.*

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arguing that any other reduction in a customer's energy bill cannot be used to calculate a customer's energy burden.[26/] Consequently, PG&E is unable to replicate Greenlining/CforAT's calculation of over 1.1 million PG&E CARE customers experiencing bill impacts exceeding 10% under the Settlement.

Even under PG&E's January 28, 2014 proposal, PG&E presented data showing that the bill impacts of its rate proposals for CARE customers were relatively modest, with about half receiving bill increases of $2.50 or less, and the majority of the rest under $5 a month.[27/] During hearings on the Settlement, PG&E witness Quadrini pointed out that Figure 2-4 of Exhibit PG&E-04 (provided below for convenience) showed that only 3 percent of CARE customers – the very highest users – would see bill increases greater than $10 a month.[28/]

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26/ Greenlining/CforAT Phase 2 Brief, p. 26.

27/ Exhibit PG&E-04, pp. 2-17 to 2-28. PG&E compared customer bills at current rates to proposed rates at 50% baseline quantities. Using baseline quantities at 52.5% yields similar results.

28/ Panel/Quadrini, TR. p. 33, lines 2 – 13.

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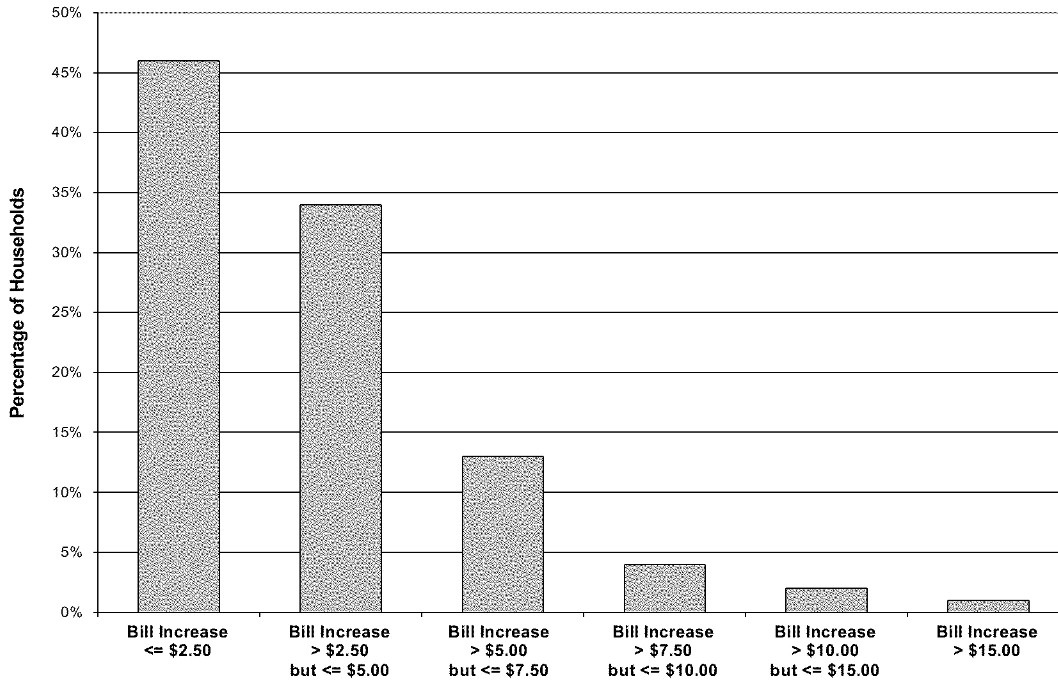
FIGURE 2-4
PACIFIC GAS AND ELECTRIC COMPANY
BILL COMPARISON (1) – DISTRIBUTION OF AVERAGE MONTHLY BILL IMPACTS
CARE (SCHEDULE EL-1) CUSTOMERS



The actual impacts for this group of CARE customers will be much less than this, because, as Mr. Quadrini explained, PG&E is completing the process of implementing CPUC Decision (D.) 12-08-044, under which notice is being sent to all CARE customers exceeding 400 percent of baseline usage in a single month, requiring them to submit income documentation from the IRS and agree to participate in the Energy Savings Assistance Program to become more energy efficient. Per D.12-08-044, CARE customers with usage over 600 percent of baseline in any given month must either get their usage below that level or be removed from the CARE program.[29/] PG&E's experience in implementing D.12-08-044 indicates that 85 – 90 percent of CARE customers with usage over 400 percent of baseline are ineligible and are being removed from the program.[30/]

29/ *Id.* lines 13 – 26. Public Utilities Code Section 382(b) expressly permits low income ratepayer assistance to be in the form of energy efficiency programs in lieu of rate discounts or other forms of rate assistance.

30/ Exhibit PG&E-06, p. 7.

Due to this compliance process, which should be completed by October 2014, it is reasonable to assume that 85 – 90 percent of the bill impacts in the "high usage CARE customer" bars to the far right of Figure 2 – 4 of Exhibit PG&E-04 will go away, and about half of the column showing $7.50 - $10 a month impacts will also disappear.[31/]

Moreover, the bill impacts of PG&E's Settlement on CARE customers will be even less than those indicated in Exhibit PG&E-04. This is due to the nature of the California Climate Credit, which is distributed in a lump sum twice a year to CARE and non-CARE customers without reference to the amount of their electric bills. The California Climate Credit effectively offsets almost $5 per month of any bill increase between January 2014 and summer 2014.[32/]

2. PG&E's CARE Rates Have Become More Affordable in Real Terms over the Last 21 Years.

CforAT/Greenlining's claim that PG&E, ORA and TURN have failed to meet their burden of proof to demonstrate that the Settlement is reasonable further fails, because it ignores the extensive factual showing in PG&E's opening testimony that electricity has become more affordable for CARE customers in real terms over the past two decades due to CARE customer assistance growing significantly faster than inflation in the general economy. Specifically, today's average PG&E CARE rate of 10.0 cents/kWh is, in nominal terms, below the average discounted CARE rate of 10.5 cents/kWh provided to assist low-income ratepayers back in 1993.

Figure 2-2 from Exhibit PG&E-04 shows that if the 1993 rate of 10.5 cents/kWh had simply increased each year with the rate of inflation, it would be 17.3 cents/kWh today.[33/] Instead, today's CARE rate is just 10.0 cents, which represents a 42 percent decrease in the average CARE rate in real terms over the past 21 years, including a significant decrease in the last 5 years alone.

31/ Panel/Quadrini, TR. p 33 line 27 – p. 34, line 12.

32/ PG&E's residential customers receive a California Climate Credit of $29.82 every six months, which reduces average monthly bills by $4.97 per month.

33/ Exhibit PG&E-04, Figure 2-2, p. 2-24.

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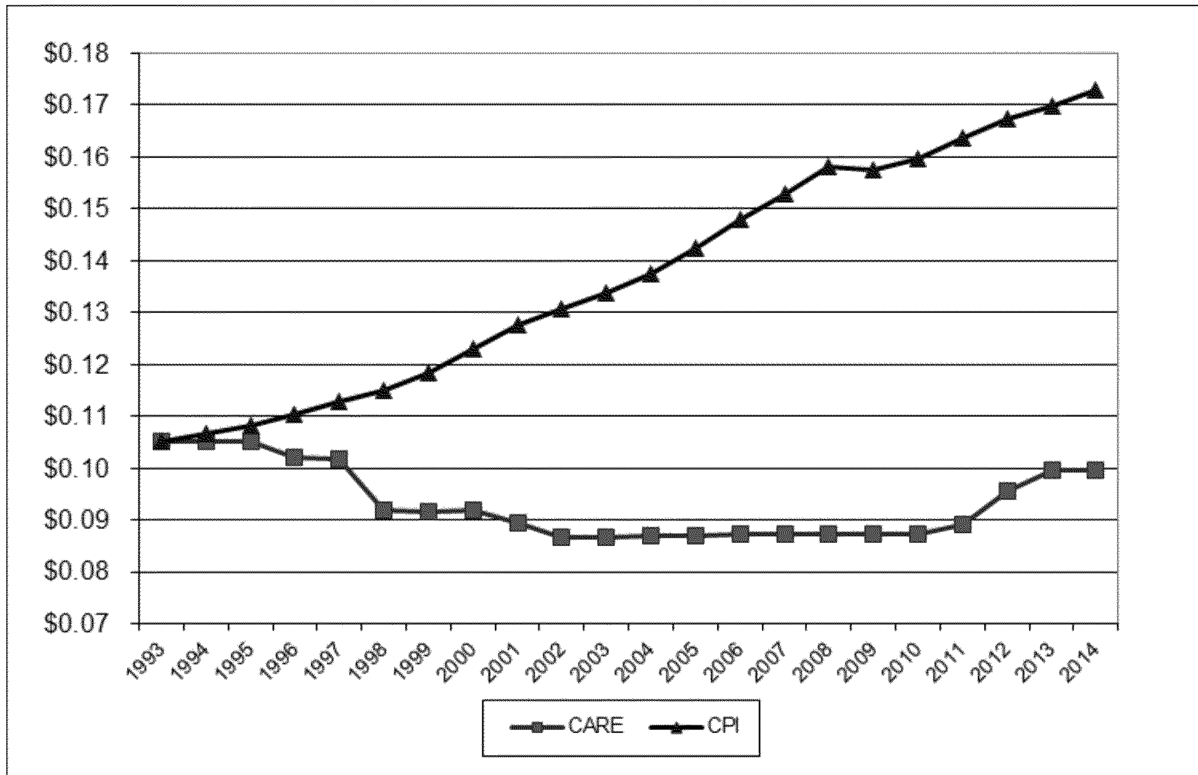
FIGURE 2-2
PACIFIC GAS AND ELECTRIC COMPANY
AVERAGE CARE (EL-1) RATE VS. CONSUMER PRICE INDEX (CPI)
1993 TO 2014



Clearly, electricity has already become much more affordable for CARE customers in real terms. Although the Settlement would increase the average CARE rate from the current 10.0 cents to 10.9 cents/kWh, this average rate would still remain far below the 17.3 cents/kWh nominal level rate in 2014 that is equivalent to the CARE rate level approved by the CPUC in 1993, adjusted by inflation.

As shown in Table 2-3 of Exhibit PG&E-04, PG&E's proposed Tier 1 and Tier 2 rates remain considerably below the Tier 1 and 2 rates charged in 1993.[34/] This showing alone provides an adequate basis for the CPUC to adopt the Settlement's modest movement forward on reduction of the CARE discount. Even after PG&E's CARE rates are eventually brought into alignment with the legislatively required 30 – 35 percent range, PG&E's average CARE rate will

34/ Exhibit PG&E-04, p. 2-20. PG&E's Tier 1 and Tier 2 Settlement rates are both 9 percent lower than 1993 Tier 1 and 2 rates.

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still be below the 17.3 cents/kWh inflation-adjusted 1993 level.[35/]

No other basic consumer commodity is priced today at the same price as consumers paid in 1993 with no inflation adjustment, and far below actual cost. Nor does PG&E know of any other income assistance program where a 15 percent discount has been, in just over a decade, increased to a nearly 50 percent discount that at a cost of $700 million a year shifted to other customers. The current situation is unreasonable and unfair to all customers, as the Legislature found in mandating that the discount be brought down to a still-historically very generous 30 – 35 percent range.

Greenlining/CforAT's argument fails as a matter of the record evidence as well as a matter of common sense, and cannot be used a backdoor means of circumventing AB 327's legal requirement that CARE rates gradually move to within the mandated 30 – 35 percent range.

3. PG&E Has Shown that the Settlement Rates Are Lower than the National Average Overall Energy Burden from the Low Income Needs Assessment Reports.

Greenlining/CforAT claim that "No party other than CforAT and Greenlining attempted to evaluate either the initial proposals or the settlements in light of the new data recently issued in the Commission's Low Income Needs Assessment (2013 LINA Report), or in light of the economic context of the state facing low-income customers in particular."[36/] This is not only incorrect as a factual matter, but also mistakenly confuses individual customer impacts with overall low-income needs assessment.

a. PG&E's Testimony Contains Detailed Consideration of the LINA Report, Contrary to Greenlining/CforAT's Assertion

First, contrary to Greenlining/CforAT's claim, PG&E's rebuttal testimony did provide specific and detailed analysis of the LINA Report. For example, PG&E showed that the "*overall*

35/ Based on an arithmetic calculation, a 30 percent CARE discount from the average non-CARE rate, assuming 100 percent of proposed revenue requirement requests are adopted, would put the average CARE rate at 14.6 cents per kWh.

36/ Greenlining/CforAT Phase 2 Brief, p. 3.

energy burden" for California's low income customers has remained essentially unchanged at 4.1 percent in 2013 compared to 4.2 percent in 2003.[37/] And the "*customer* energy burden" shown in the LINA report for PG&E's low income customers of 9.9 percent in 2013 is *lower* than the national average of 13.6 percent in 2007.[38/] Importantly, the LINA analysis did not specifically take into account any of the other income assistance already received by low income customers, such as the Earned Income Tax Credit, Supplemental Nutrition Assistance Program (SNAP), Section 8 housing subsidies, school lunch programs, etc.[39/]

The monthly benefit from each one of these important income assistance programs is significant, and especially so in combination with CARE assistance. Not including these benefits in the energy burden calculation greatly distorts a factual consideration of the actual energy burden.

b. Greenlining/CforAT Misapply the LINA Report's "Customer Energy Burden" Analysis

The 2013 LINA Report presents two different energy burden calculation methodologies – the "Overall Energy Burden" approach which was previously used in the 2007 KEMA Report and showed a 4.1 percent energy burden (virtually identical to the 2007 Report's result), and a new "Customer Energy Burden" calculation under which the results show a 9.9 percent energy burden. The CPUC can and should consider the merits and limitations of both the Overall

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37/ Exhibit PG&E-06, pp. 4- 5.

38/ *Id.*, p. 5. The "Customer Energy Burden" methodology gives equal weights to each customer's energy burden by separately dividing each customer's energy bill by its total income, then taking the average of each customer's energy burden and accumulating those numbers. The "Overall Energy Burden" methodology totals all customer bills and divides that number by total customer income. (Exh. PG&E-6 p. 4 footnote 3.) The 2013 LINA Report notes that the "Overall Energy Burden" approach "was used in the 2007 LINA and *is the only method available to estimate the burden for the general population*." (2013 LINA Vol. 2 p. 5- 85, lines 15 – 16.)

39/ *Id.*, p. 5. See also PG&E Advice Letters 3385-G/4224-E, May 31, 2013, identifying the following as some of the income assistance programs available on a comparable basis to CARE customers pursuant to D.12-08-044: Bureau of Indian Affairs General Assistance; CalFresh/Supplemental Nutrition Assistance Program (SNAP); CalWORKs/Temporary Assistance for Needy Families (TANF); Head Start Income Eligible (Tribal Only); Healthy Families A&B; Low-Income Home Energy Assistance Program (LIHEAP); Medicaid/Medi-Cal; National School Lunch Program (NSLP); Supplemental Security Income (SSI); Tribal TANF; Women, Infants, and Children Program (WIC). The list is not exhaustive.

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Energy Burden and Customer Energy Burden figures to determine that the CARE rates in the Settlement are reasonable.

The 2013 LINA Report states that the Overall Energy Burden approach "*is the only method available to estimate the burden for the general population*." (2013 LINA Report, Vol. 2 p. 5- 85, lines 15 – 16.) Moreover, the LINA Report's "Customer Energy Burden" assumptions and data that appear to show a "higher" energy burden must be considered in context and comparison to the Overall Energy Burden data and assumptions.

First, the Customer Energy Burden analysis only draws from a sample size of 340 PG&E CARE customers which is a much less robust sample size compared to PG&E's Residential Appliance Saturation Survey (RASS) data; in contrast, PG&E's bill impact study uses over 2,300 CARE customers for a more robust data set that is better suited for our diverse customer base of 4.7 million residential households spread across a geographically diverse service territory.

Second, the LINA study Overall Energy Burden "income" data was gathered through self-reporting during phone interviews that were not verified or cross-checked. It is common in such interviews that many customers interviewed may not understand that all forms of assistance that they receive must be included as part of "income" or known the value of each of the many forms of assistance they are likely also receiving (e.g. Earned Income Tax Credit, Section 8 Housing subsidies, etc.)[40/] As explained in Mr. Quadrini's testimony, if all of these additional sources of income had been taken into account, the customer energy burden figure for PG&E customers would be far less than the 9.9 percent in the 2013 LINA report. Even so, the "customer energy burden" figure is substantially below the LIHEAP national average of 13.6

40/ Specifically, the dataset for PG&E showed a significant number of customers (10 percent) reporting an income of less than $5,000 per year, which did not include all other forms of assistance that would be received by such a household despite the fact that the term "income" was supposed to have them include *all* sources. (2013 LINA Report, Volume 3: Technical Appendix, p. 7-16.) For example, the earned income tax credit for a single head of household in 2013 is $3,250 for earned income of $10,000, as calculated by the U.S. Internal Revenue Service at the following official IRS website.: http://www.irs.gov/Individuals/Earned-Income-Tax-Credit-(EITC)-%E2%80%93--Use-the-EITC-Assistant-to-Find-Out-if-You-Should-Claim-it. It represents a one-third increase in income. Customers were asked to state their total household income, but were not specifically asked about income or assistance from other programs. This omission in the data overstates the energy burden, and undermines the new method's results.

percent.[41/]

Contrary to Greenlining/CforAT's reliance on the Customer Energy Burden limited data, the CPUC should use the overall energy burden data from both the 2013 LINA and 2007 KEMA Reports showing average California energy burdens below 5 percent, as well as PG&E's larger sample of bill-to-income ratios showing that three-quarters of all CARE customers are less than 5 percent. Contrary to Greenlining/CforAT, there is ample evidence to support a finding that the monthly energy expenditures under the Settlement's CARE rates would "not jeopardize or overburden low-income ratepayers" (P.U. Code Section 739.1(b)(1)) or impose an unfair economic burden on them (P.U. Code Section 739.1(g)).[42/]

c. Greenlining/CforAT's Use of Single Customer Impacts Distorts and Ignores the Fundamental Reasonableness of the Settlement for the Overwhelming Majority of Customers

On a more fundamental level, Greenlining/CforAT's focus on individual income assessments distorts the overall reasonableness of the Settlement's impacts on the great majority of customers.

Greenlining/CforAT's approach focuses on whether any individual customer's energy bill is over 5 percent of total household income. However, the citation Greenlining/CforAT provides for this 5 percent threshold references pp. 5 – 84 to 5-85 of the 2013 LINA Report – but there is no reference on those pages to any such 5 percent threshold.[43/] Nor is PG&E aware of any such CPUC precedent in any prior rate proceeding or any federal or state standard that uses such a threshold.

Having set this 5 percent figure up as its "standard," Greenlining/CforAT then proceeds to look for any subset of individual customers – no matter how few – that exceeds this threshold

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41/ Exhibit PG&E-06, p. 5.

42/ Public Utilities Code Section 739.1(b)(1), (g).

43/ Greenlining/CforAT Phase 2 Brief, p. 4. See also, Exhibit PG&E-06, p. 5, fn. 6, referencing the LIHEAP Home Energy Notebook FH 2007, Executive Summary, p. i, U.S. Department of Health and Human Services, June, 2009. The Executive Summary calculated a "mean individual energy burden" of 7 percent of income for all households in 2007.

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and tries to use this as a basis to forbid – for all customers -- any rate change that would result in Greenlining/CforAT's hypothetically excessive level of energy burden even for a very small number of individual customers.

Greenlining/CforAT further compound this gross analytical error by claiming that "high energy burdens are found through a broad range of customers" and that this is "not an issue solely of concern for the highest usage customers."[44/] This is not supported by the record. PG&E provided bill-to-income ratios for all-electric customers, at the request of the CPUC, which showed an average bill-to-income ratio of 5.0 percent.[45/] That analysis still included customers with usage exceeding 400 percent of baseline in any one month who have been, or will be, dropped from the CARE program due to lack of eligibility. It also included a group of customers with usage between 300 percent and 400 percent of baseline in any one month for which PG&E stated in its rebuttal that "it is likely over half … are also ineligible."[46/] Removing these ineligible customers from the bill-to-income calculations of energy burden would reduce the average energy burden to 4.6 percent, primarily because they include a disproportionate number of customers with high bill-to-income ratios.[47/] Finally, PG&E's analysis of the same all-electric bill-to-income data cited by Greenlining/CforAT shows that 76 percent of CARE customers, after removing ineligible customers, have bill-to-income ratios below 5.0 percent.[48/] In addition, 86 percent of non-CARE all-electric customers in the 100 percent revenue requirement scenario are also below the 5.0 percent level.

Needs assessment, whether for income assistance programs generally or rate design specifically, is, by its nature, focused on averages – otherwise needs assessment would be driven

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44/ *Id.*, p. 5.

45/ Exhibit PG&E-09.

46/ Exhibit PG&E-06, p. 7.

47/ PG&E performed an arithmetic calculation to exclude customers with the highest ratio of usage to baseline in each climate zone (baseline territory) equal to 87.5 percent of customers using over 400 percent of baseline and 50 percent of customers using between 300 percent and 400 percent of baseline.

48/ Exhibit PGE-09 and performing the same arithmetic calculation as in the previous footnote. This would drop to 72 percent if all CARE customers were included.

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by the "least common denominator" – one customer whose bill impact exceeds that of the 99.9 percent of other customers. PG&E and the Settling Parties are well aware that there are individual customers who are still struggling and whose bill impacts may exceed the modest bill impacts of the great majority of customers under the Settlement, and are sensitive to those customers' circumstances. However, the way to address such individual needs of very low income customers is on a comprehensive basis that takes into account all their living costs and all their sources of assistance through the wide array of existing needs-based income assistance programs – not to design an individual electric rate assistance amount for every individual customer.[49/]

In fact, the Joint Settlement has considered the differential impact of proposed rate changes on segments of customers.[50/] The CPUC traditionally has reviewed the bill impacts of proposed rates to see the dollar impacts on customers in different usage segments, for both CARE and non-CARE customers. This gives a sense of how many "outlier" customers may see effects over a certain dollar amount, allowing the CPUC to determine whether any mitigation is warranted. PG&E provided such a bill impact showing here in support of the Joint Settlement.[51/] ORA and TURN have reviewed those bill impacts,[52/] negotiated for additional protections, and found reasonable the dollar impacts of the Settlement's compromise rates – including CARE rates where 83 percent of customers see impacts of $5 or less a month.[53/]

49/ The LINA Report itself states that it was c*onducted for the purpose of providing information that the utilities may use to plan and implement the next cycle of low income energy efficiency programs, as well as the Energy Savings Assistance (ESA) and CARE programs.* (2013 LINA Volume 1, p. iii) – not for use in general rate design. Moreover, energy costs are such a small part of these customers' overall picture, which may explain why the 2013 LINA Report showed that over 80 percent of low income customers reported that they either never or rarely cut back on medicine or food to pay their utility bills. (2013 LINA Report Vol. 2, p. 5-93 as cited in Exhibit PG&E-06, p. 3.)

50/ Exhibit PG&E-01, pp. 2- 3.

51/ Exhibit PG&E-09.

52/ ORA/Tan, TR. p. 27 lines 5 – 18 and TR. p. 48, lines 22 – p. 49 line 2; TURN/Marcus, TR. p. 47, lines 1 – 21.

53/ Exhibit PG&E-06, p. 9. Even without considering the California Climate Credit, 81 percent of customers see impacts of $5 or less per month (Exhibit PG&E-04, p. 2-27).

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Put simply, the bill impact data and other testimony in the record provides significant support for the Settlement. The CPUC should reject Greenlining/CforAT's unfounded energy burden arguments against the Settlement.

D. Greenlining/CforAT's Opposition to the Settlement Ignores Affordability Issues for Middle Class Families Who Have for Too Long Unfairly Suffered Under Excessive Upper Tier Rates.

There is another important reason the CPUC should not follow Greenlining/CforAT's approach of doing nothing at all this summer: rejecting the PG&E Settlement would fail to timely address the upper tier non-CARE rates that have skyrocketed during the past 13 years. As explained in PG&E's testimony, post-energy crisis legislative restrictions on raising CARE rates and lower-tier non-CARE rates have forced a small percentage of PG&E's non-CARE customers who consume in the upper tiers to absorb virtually all revenue increases.[54/]

Providing relief to upper tier non-CARE customers suffering under very high bills was the key motivation for the passage of AB 327. As stated by the author of AB 327 in the Assembly Committee on Utilities and Commerce staff report on the bill:

> *...The gap between Tier 2 and 5 increased from 5 cents to 15 cents/kWh today. Absent rate reform, the gap between Tier 2 and Tier 5 will double to nearly 29 cents per kWh by 2022, causing tens of thousands of customers to pay rates significantly higher than the actual cost of electricity. Without legislative changes, the CPUC has only very limited ability to fix this unfair residential rate structure.*[55/]

With AB 327 now in place, for the CPUC to take no action to provide relief for summer 2014, as Greenlining/CforAT advocate, would ignore the need for rate relief for other customers on whose behalf AB 327 was enacted.

Greenlining/CforAT seem to agree that bill impact analysis is relevant for *all* ratepayers, not just low income ones.[56/] But they ignore the compelling fact that one-fifth of PG&E's residential electric customers – about 1 million – now pay an average of over $500 per year in

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54/ Exhibit PG&E-04, pp.1-5- 1-8.

55/ California Assembly Committee on Utilities and Commerce Analysis, April 15, 2013, p. 2 The Committee Analysis can be found by searching AB 327 at the following California Legislature website: http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml.

56/ Greenlining. CforAT Phase 2 Brief, p. 11.

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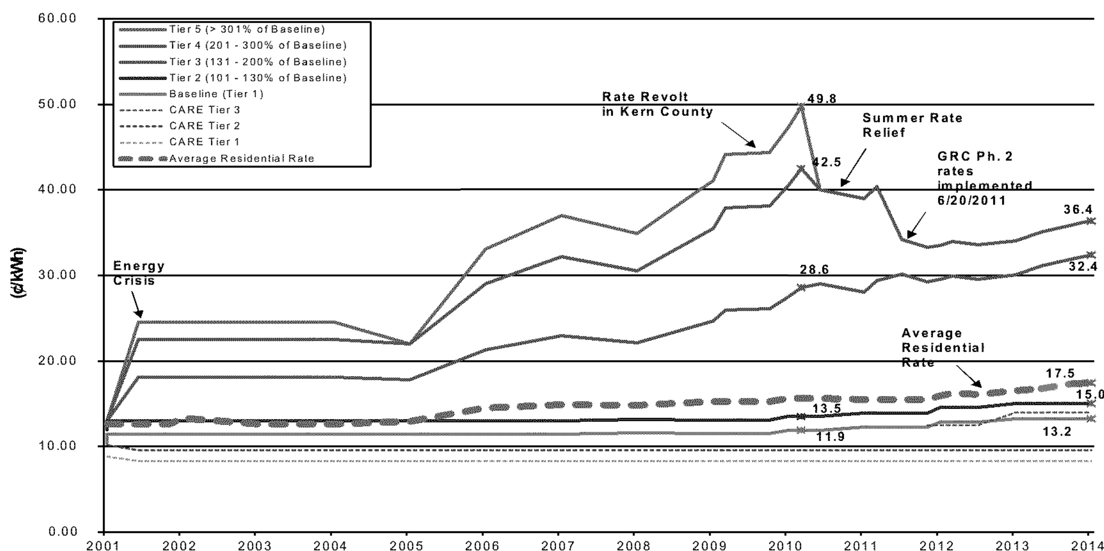
excess of the average residential rate.[57/] The majority of these impacted customers are not rich, and they are not eligible for low-income discounts. More than half a million PG&E customers charged for usage at or above Tier 3 are middle class families with household incomes of less than $75,000 per year. In Figure 1-1 of Exhibit PG&E-4, PG&E graphically illustrated the broken state of PG&E's present rates which spurred both the CPUC and the Legislature to take action.



It must be remembered that these upper tier consuming households, who have been burdened for over a decade by high electric bills, need relief this summer. PG&E's current non-CARE Tier 4 rate is 35.9 cents/kWh. If the Settlement is not approved for summer, that already-high rate would spike up even higher. Under the Settlement, given a 100% revenue requirement scenario, the top-tier rate to those households would not spike up further, but would drop slightly to 35.7 cents/kWh (or, if actual revenue requirement changes are closer to 50% of those pending, the Settlement would cause the Tier 4 rate to drop slightly further to 34.0 cents/kWh.)[58/] As it is, PG&E's current highest tier non-CARE rate is one of the highest non-time-of-use residential

57/ Exhibit PG&E-04., pp 1-7 to 1-8.

58/ *See* Exhibit PG&E-01, p. 9, Table 1, Column I (assuming 100% of pending revenue increases are approved, and baseline quantities are reduced to 52.5% of historical average usage.)

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electric rates in California.[59] This inequity dating from the energy crisis should not be made worse; so action is needed now. Otherwise, as the CPUC recognized in its Second Amended Scoping memo for this phase of the RROIR, there is risk of bill volatility and rate shock this summer for non-CARE customers with upper tier usage.[60] CforAT's do-nothing delay tactics, which ignore this fundamental need, are unreasonable.

The process of providing needed relief by bringing upper-tier non-CARE rates closer to the class average cost of service necessarily requires raising Tier 1 and 2 rates. Consistent with Commission guidance, the Settlement among ORA, TURN and PG&E takes great care to limit summer 2014 increases in the lower tiers to modest levels that are commensurate with projected increases in PG&E's overall revenue requirement allocated to the residential class, plus no more than a few percentage points. And it does so in a way that keeps bill impacts for most lower tier customers to $5 or less – a very manageable amount compared with the huge bills middle class families in the upper tiers will face without this initial step toward reform.

The Settlement is a reasonable and necessary step forward in beginning to mitigate the very high summer bills of hundreds of thousands of PG&E customers, while also moderating effects on lower tier customers. Greenlining/CforAT's arguments to the contrary should be rejected.

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59/ Exhibit PG&E-04, Table 2-2.

60/ Second Amended Scoping Memo, R.12-06-013 (Phase 2), January 24, 2014, pp. 2-3.

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III. CONCLUSION

For the reasons discussed above, PG&E respectfully requests that the Commission reject the arguments of Greenlining/CforAT, and promptly approve the Settlement as reasonable in light of the whole record, consistent with law, and in the public interest.

Respectfully Submitted,

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