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STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2020. (U39M)	A.18-12-009

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO TURN'S PETITION FOR MODIFICATION OF DECISION 20-12-005

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SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO TURN'S PETITION FOR MODIFICATION OF DECISION 20-12-005

Pursuant to Rule 16.4(f) of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), Southern California Edison Company (SCE) respectfully submits this Response to The Utility Reform Network's (TURN) March 24, 2021 Petition for Modification (PFM) of Decision 20-12-005 (the Decision). SCE shares TURN's well-intentioned and sincere concern regarding the effect of utility rate increases on the affordability of bills for some customers. But TURN's proposed solution to this important issue is both inappropriate and unnecessary for many reasons, as set forth below. SCE respectfully urges the Commission to deny the PFM.

I.

BACKGROUND AND SUMMARY OF ARGUMENTS

In December of 2020, the Commission issued D.20-12-005, resolving Pacific Gas and Electric Company's (PG&E) Test Year (TY) 2020 General Rate Case (GRC). The Decision approved a broad-based settlement negotiated between PG&E, TURN, the Commission's Public Advocates Office, the Small Business Utility Advocates, the Coalition of California Utility Employees, the Center for Accessible Technology, the Office of the Safety Advocate, and the California City/County Streetlight Association. Neither the Decision nor the settlement it adopted contemplated new procedural forecasting requirements for PG&E's next GRC. On March 24, 2021, TURN filed the PFM, seeking to modify the Decision (and by extension the underlying settlement agreement) to require PG&E to include in its TY 2023 GRC "an alternative proposal in which total GRC expenditures increase by no more than the forecasted rate of inflation of the GRC period, including the test year."[1] TURN's proposal would require

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[1] PFM at p. 4.

PG&E as part of its initial GRC showing to include a forecast – on a GRC activity-by-activity basis – that "provide[s] the amount of proposed expense and capital expenditures under the alternative CPI-constrained proposal within each area of PG&E's request … includ[ing] a showing of how these numbers differ from PG&E's preferred GRC proposal … [and] a table, broken down as described above, with a column for PG&E's CPI-constrained alternative, a column for PG&E's preferred proposal, and a column showing the difference between the two. …. PG&E's supplemental testimony should include a description of the major differences between its preferred and CPI-constrained proposals."[2] TURN's PFM is explicit that it intends this proposed new GRC forecasting requirement to broadly extend to the other Investor-Owned Utilities (IOUs), hence SCE's interest in filing this response.[3]

In Section II, SCE discusses how TURN's proposal is inconsistent with the Rate Case Plan process and would not lead to relevant information to inform reasoned Commission decisionmaking, nor would it facilitate a more efficient process. In that Section, SCE notes that TURN is free to make its own "alternative" proposals in GRCs, but that utilities should not be required to set forth forecasts untethered to their costs-of-service. Section III demonstrates that even if TURN's proposal had substantive merit – which it does not – it should only be considered in a statewide manner, and not through a utility-specific GRC. TURN's proposal would – and is indeed inappropriately intended to – affect all the major IOUs. Finally, in Section IV, SCE discusses the important regulatory principles, Commission precedents and State public policy goals that would be undermined and contravened to the extent TURN's inflation-contrained alternative proposal is actually used to set rates.

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[2] PFM at pp. 6-7.

[3] PFM at p. 3, FN 5. In addition, TURN made the same CPI-constrained forecasting proposal through a Motion in PG&E's current RAMP proceeding (A.20-06-012). TURN describes its "strong preference" for its proposal to be addressed in RAMP, rather than in this docket. PFM at p. 1 (emphasis omitted). But as stated in the April 2, 2021, Joint Response of SCE and San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) in PG&E's GRC (A.18-12-009) docket, TURN's proposal affects all utilities, and "implicates major, broad policy issues that should be addressed on a Statewide basis, not in an individual utility's GRC … ." (p. 3).

II.

TURN'S PROPOSAL IS INCONSISTENT WITH THE RATE CASE PLAN PROCESS AND WOULD NOT LEAD TO RELEVANT OR USEFUL ANALYSIS

A. TURN's Proposal Is Inconsistent With The Rate Case Plan Process

Beginning in 1989, the Commission issued guidelines to the utilities regarding GRC forecasting methodologies to estimate costs "necessarily incurred in providing utility service" for ratesetting purposes.[4] In 2000, the Commission "recognized that there are different valid and acceptable methods for account-by-account forecasting test year costs in a GRC, including using a single recorded year's expenses … and using multi-year average recorded costs … . The question at hand is which of these two methods yields the most accurate and reliable forecast of test year expenses."[5] In SCE's 2003 GRC, the Commission reiterated that "[a] central feature of conventional cost-of-service method of ratemaking is forecasting future test year costs using historical cost information as well as current information regarding the utility's operational and investment plans."[6] These principles were reiterated in several other subsequent utility GRCs.[7] All these decisions are premised on forecast-oriented ratesetting based on the utilities' *actual cost of service*, not on some national economy-wide inflation number. It is also important to note that these consistent decisions endorsing cost-of-service-based ratemaking were issued over

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[4] *Re California Water Service,* D.89-04-060, p. 43, 1989 WL 1785569.

[5] D.00-02-046 at p. 172.

[6] D.04-07-022 at p. 14.

[7] *See, e.g.*, D.12-11-051 (resolving SCE's TY 2012 GRC) at p. 13 ("Forecasting costs is central to the art of determining the revenue requirement. … Several different methods can be used to calculate test year estimates of expenses, e.g., linear trending, averaging (e.g., five year average (5YA) recorded expenses), last recorded year (LRY), and budget based estimates. We recognize that the forecasting principles discussed in prior decisions are generally appropriate and applicable here.") (internal citations omitted); D.15-11-021 (resolving SCE's TY 2015 GRC) at p. 8 ("The record of this proceeding relies heavily on recorded spending information, particularly for the period 2008 through 2012. … Some common forecasting techniques that rely on historical data are LRY or a five-year average (5YA), which generally refers to 2008-2012, unless otherwise noted.").

decades, and relate to several periods of time where utility costs were not in the near term "synced" with economy-wide inflation rates.

In late 2013, the Commission opened a rulemaking to revise the General Rate Case Plan (RCP) for energy utilities (R.13-11-006 or RCP OIR). One of the primary issues addressed in the RCP OIR was whether "elements of the RCP [should] be modified to promote more efficient and effective management of the rate case proceedings[.]"[8] Indeed, the Commission invited a round of party comments exclusively to consider that specific issue.[9] In its Comments, TURN argued that the Commission should adopt a GRC forecasting methodology whereby a subset of certain historical O&M costs, adjusted for inflation, should be presumed to be just and reasonable and set the TY revenue requirement. Specifically, TURN contended:

> The Commission should adopt guidelines for test year forecasting, including a rebuttable presumption that base year O&M recorded costs, escalated for inflation, are generally a reasonable representation of test year O&M expense, and should apply this presumption at a very high level of utility operations (e.g., line of business, A&G), as opposed to the program or project levels that are the hallmark of recent GRCs. Costs of safety, reliability, and regulatory programs should be excluded from this rebuttable presumption, as should other specific types of O&M expenses that are more appropriately subject to special calculations, such as items that tend to fluctuate or that are cyclical (where averaging is normally used), or costs set at a percentage of revenue (which should be averaged as a percent of revenue, not a dollar amount). A utility or intervenor could seek to overcome the rebuttable presumption where it applies by presenting certain types of evidence, including but not limited to, evidence of known and measurable changes impacting the base year or test year costs.[10]

In other words, seven years ago TURN effectively urged the Commission to adopt a variation of the proposal it makes now through this PFM, though TURN had initially taken a more measured approach that would not constrain the "[c]osts of safety, reliability, and

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[8] May 15, 2014 Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge in R.13-11-006 at p. 5.

[9] *See id.* at p. 6.

[10] July 25, 2014 "Second Round" Opening Comments of The Utility Reform Network Proposing Revisions to the Rate Case Plan to Promote a More Efficient and Manageable Rate Case Process" in R.13-11-006 at p. 3 (internal citations omitted).

regulatory programs" to the rate of inflation, and which would make the CPI-based forecast only a "rebuttable presumption." The utilities opposed TURN's proposal in the RCP OIR, because, among other reasons, it would not comport with cost-of-service ratemaking principles and would burden rather than streamline the GRC process.[11] Specifically, the utilities noted that:

> [T]he RCP does not (and never has) set any presumption that recorded costs plus inflation equal test year costs. TURN offers no support for such a presumption and it is incorrect. Utility costs are driven by many factors other than some average inflation rate; these include new compliance requirements, customer growth, mandated programs, and many other drivers. Furthermore, the extensive use of averaging in the Commission's GRC decisions clearly demonstrates that a presumption of "base year recorded plus inflation" is inappropriate. The RCP should not be modified to include presumptions that are inaccurate.[12]

At the conclusion of the RCP OIR, the Commission issued D.20-01-002 (the RCP Decision), in which it addressed its preference for greater efficiencies in processing the large energy utilities' GRCs, to "ensure that complex and financially significant GRC proceedings follow a predictable schedule that balances the need for timely Commission decisions with procedural fairness for all parties."[13] The RCP Decision made certain significant revisions to the Rate Case Plan, including moving certain important filing dates and transitioning to a four-year GRC cycle. Notably, however, the RCP Decision did *not* adopt TURN's proposal to use inflation-based forecasts of some O&M cost categories as a "rebuttable presumption," noting that "[t]he Public Advocates Office expressed more caution regarding these suggestions" and that "[t]he Staff Report suggests that a workshop examine whether the Commission can adopt stipulated terms or rebuttable presumptions without compromising its ability to determine

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[11] *See, e.g.*, January 30, 2014 Southern California Edison Company's (U 338-E) Reply Comments at p. 3; August 22, 2014 Southern California Edison Company's (U 338-E) Second Round Reply Comments at pp. 10-11.

[12] August 22, 2014 Second Round Reply Comments of San Diego Gas & Electric Company and Southern California Gas Company at p. 2.

[13] D.20-01-002 at p. 2.

whether the funding requests are just and reasonable."[14] That ensuing workshop is discussed in Section IV.C, below.

In the end, the relevant portion of the RCP – with proposed authorized GRC revenues premised on *utility cost-based* forecasts – remains unchanged and does not reflect TURN's proposed approach. Rather, consistent with the RCP, the utilities strive to meet their burden of proof as applicants by forecasting their cost of service, providing detailed workpapers supporting the same, producing responses to hundreds of master data requests negotiated over several rate case cycles, and then engaging in extensive fact-specific discovery before responding to intervenor proposals and then defending their forecasts in evidentiary hearings. TURN's proposal in a utility-specific GRC docket to move to an unnecessary and unprecedented new approach – completely unconnected to actual utility costs – is in tension with on the Commission's recent decision not to adopt TURN's short-cut approach.

B. Nothing In The Currently Operative Rate Case Plan Precludes TURN From Submitting Its Own Evidence As To The Purported Relevance of CPI

As discussed above, nothing in the RCP contemplates a utility putting forth an alternative inflation-constrained forecast in its GRC case-in-chief. Nor should it. As the applicant in a GRC, the utility has the burden of proof to make a prima facie case supporting the reasonableness of its forecast of the cost for the work that the utility believes is necessary to complete over the GRC cycle. Once it does so, "when other parties propose a different result, they too have a 'burden of going forward' to produce evidence to support their position and raise a reasonable doubt as to the utility's request,"[15] based on their own judgment and evidence-based assertions.[16] If after examining the utility's direct showing TURN believes an inflation-based

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[14] D.20-01-002 at p. 62.

[15] D.20-07-038, pp. 3-4 (rejecting TURN's repeated claims that the Commission failed to hold the applicant utilities to their burden of proof).

[16] *See, e.g.*, *Re Pacific Bell*, D.87-12-067 at p. 22, 27 CPUC2d 1 ("[W]here other parties propose a result different from that asserted by the utility, they have the burden of going forward to produce

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alternative revenue requirement will adequately fund utility operations consistent with public safety and reliability, statutory mandates, public policy requirements, and customer needs, it should submit testimony under oath making such assertions. But the utility witnesses should not be forced to sponsor an inaccurate forecast that they cannot and do not support.

C. <u>TURN's Proposal Is Not Likely To Lead To Useful, Relevant Information and Would Weigh Down Instead Of Streamline The Rate Case Process</u>

As discussed in Section IV.B below, because the Commission is extremely unlikely to adopt a CPI-constrained forecast to set rates, requiring the IOUs to produce such a forecast is not likely to lead to useful, relevant information to inform reasoned Commission decision-making. Rather, a CPI-constrained forecast would instead weigh down the evidentiary record with irrelevant information and distract the parties from focusing on what is relevant in a GRC: the utilities' forecast costs of service.

As discussed above, utility GRCs currently follow a prescribed, regimented schedule and process set by the RCP. A GRC is one of the most complicated and important proceedings the Commission adjudicates. Because the Commission is considering evidence to support costs that span a broad group of categories and objectives, in many ways the GRC process is already exceedingly protracted, with hundreds of Master Data Requests and follow-up discovery, thousands of pages of utility and intervenor testimony with voluminous supporting workpapers, and often extensive evidentiary hearings. One reason the Commission moved to a four-year GRC cycle is to optimize the opportunity to timely issue GRCs before the start of the Test Year, as this very basic goal has remained elusive in recent cycles. TURN's proposal would add a duplicative and counterproductive layer onto an already thorough process. TURN's proposed

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evidence, distinct from the ultimate burden of proof. The burden of going forward to produce evidence relates to raising a reasonable doubt as to the utility's position and presenting evidence explaining the counterpoint position."). *See also Universal Studios Inc. v. Southern California Edison Co.*, D.04-04-074, pp. 31-32, 2004 Cal. PUC LEXIS 173; *Re Golden State Water Co.*, D.07-11-037, 2007 Cal. PUC LEXIS 648.

forecasting requirement would increase rather than decrease the burdens of GRCs on all parties, including the Commission, contrary to the intent of D.20-01-002, and contrary to TURN's stated intentions throughout the RCP OIR process.[17] Whether the totality of a utility's GRC request is "just and reasonable" is already the subject of appropriate debate, refinement and litigation under the current RCP process.

TURN's proposal also seems to be internally contradictory: TURN would simultaneously require a utility to produce a burdensome "alternative CPI-constrained proposal within *each area* of [a utility's] request (i.e., testimony chapter), broken down by Major Work Category (MWC) and/or Administrative and General (A&G) expense category,"[18] while only applying the final "inflation constraint … to the *totality* of GRC operations, *i.e.*, the combination of electric and gas operations covered by the GRC."[19] If TURN is concerned only about the utility's *overall* GRC request from an inflation-constrained perspective, it is unnecessary to entertain a category-by-category detailed exercise. In other words, it does not take any particular "analysis" to multiply a utility's existing authorized GRC revenues by the forecast rate of inflation.

D. <u>**TURN's Proposal Assumes, Without Evidence, That Utilities' GRC Showings Do Not Already Provide A Cost-Effective, Reasonable, Balanced Forecast Consistent With An Assessment Of The Necessary Costs To Provide Safe, Reliable, Clean Service**</u>

Implicit in TURN's proposal is the incorrect assumption that the utilities are not already doing all they can to put forward GRC forecasts that are cost-effective without compromising safety, reliability, public policy mandates, and customer needs, and which are also consistent with the actual costs of providing service to customers. As discussed below in Section IV.C,

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[17] *See, e.g.*, Second Round Reply Comments Of The Utility Reform Network Addressing Revisions To The Rate Case Plan To Promote A More Efficient And Manageable Rate Case Process at p. 7.

[18] PFM at pp. 6-7 (emphasis added).

[19] PFM at p. 4 (emphasis added).

State law and Commission policy imperatives require the utilities to immediately and for the foreseeable future make significant investments in critical safety-related and other public policy programs. The utilities strive to do so, however, using their best judgment about the balance of competing interests, including affordability, while also providing customers with safe, reliable, and clean electric service. In SCE's view, TURN is focusing too heavily one important consideration – customer affordability – and doing so using an inappropriate CPI-based index. If TURN or other intervenors have a different view, they are free to make alternative proposals in their GRC testimony pursuant to the established RCP process.

This balanced approach was exemplified by SCE's currently pending 2021 GRC (A.19-08-013), in which SCE's requested revenue increase – although significant – was constrained and tempered by customer affordability concerns. For its request in that pending proceeding, SCE endeavored to reprioritize or scale back other initiatives, where possible, to meet the pressing need to undertake significant measures to reduce wildfire risk. Although it was still necessary to seek an overall revenue increase, SCE proposed a balanced approach with evidence anchored in affordability metrics that relied on analysis of the long-term trend in SCE's rates and how those rates compare to other major utilities, and by SCE's calculation of affordability metrics like energy burden and Hours at Minimum Wage. In the long-term, SCE's business model and the electrification-driven public policy of the State rely on electric rates remaining affordable to customers. In future GRCs, when presenting its initial forecast, SCE commits to continue to employ this prudent approach of balancing customer affordability concerns with necessary revenue increases to uphold statutory mandates, implement critical State public policy imperatives, and otherwise meet customer needs.

III.

TURN'S PROPOSAL SHOULD NOT BE CONSIDERED IN A UTILITY-SPECIFIC PROCEEDING

TURN's proposal raises issues of statewide importance that should not be considered in a utility-specific proceeding. Indeed, TURN acknowledges that it intends its proposal to be much broader, stating that "*utilities* should generally be required to submit their alternative CPI-constrained proposals at the same time as their application and direct testimony"[20] and that it "intends to make a similar request for California's other large energy utilities in an appropriate docket."[21] The Commission should concur with TURN's acknowledgement that this statewide issue should be examined in an "appropriate docket," such as a joint IOU rulemaking like the RCP proceeding, not a PG&E-specific GRC.

A. The Appropriate Place For Consideration Of TURN's Sweeping Proposal Is In A Rulemaking Applicable To All Large Electric And Gas IOUs

When confronted with an issue of statewide importance applicable to all utilities such as the one presented by TURN here, the Commission regularly defers consideration of the issue to a broadly applicable rulemaking. For example, in the very Decision at issue in this PFM, the Commission rejected the Joint Community Choice Aggregators' (JCCA) attempts to adjudicate a microgrid issue in PG&E's Test Year 2020 GRC. The JCCA proposed, among other things, requiring PG&E to coordinate with local governments in planning the construction of "Resilience Zones" that are located in CCAs' service areas. In rebuffing the JCCA's proposal, the Commission held that "[o]ther than the cost allocation issues, we determine that the Resilience Zone issues raised by the JCCA are out of the scope of this proceeding and are more appropriately addressed in R.19-09-009 (Microgrid OIR). D.20-06-017, issued in the Microgrid

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[20] PFM at p. 11 (emphasis added).
[21] PFM at p. 3, FN 3.

OIR, adopts solutions to accelerate Microgrid deployment and addresses many of the JCCAs' issues."[22]

Similarly, in an SDG&E/SoCalGas-specific natural gas cost allocation proceeding, SCE requested "that the Commission initiate a rulemaking to implement an optional full requirement, cost-based gas tariff for electric generation customers."[23] SDG&E/SoCalGas contended SCE's request was beyond the scope of that utility-specific application, an assertion with which SCE disagreed given that its request at that time was only pertinent to SDG&E/SoCalGas. The Commission, however, decided that SCE's discrete request was mooted by the Commission's initiation of a statewide rulemaking, the scope of which included the very policy issues SCE raised, among others of statewide concern.[24]

In both these examples, the Commission appropriately -- whether implicitly or explicitly -- determined that the kind of policy issues of statewide importance that would affect many stakeholders including various utilities should be resolved in a broadly applicable rulemaking, not in a utility-specific application proceeding.[25] That same unremarkable proposition holds true here: The Commission's recently concluded RCP OIR was an appropriate venue to entertain TURN's misguided proposal, and the Commission did not adopt that proposal in its final decision.[26]

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[22] D.20-12-005 at pp. 335-336.

[23] D.20-02-045 at p. 66.

[24] D.20-02-045 at p. 67.

[25] *See also* D.20-05-019 at p. 66 ("If the R[oot] C[ause] A[nalysis] reports identify broader wildfire risk mitigation policies that should be examined, including potential changes to GO 95, it may be more appropriate for the Commission to consider these issues in a rulemaking applicable to electric utilities statewide."); D.17-01-006 at Conclusion of Law 1 ("This rulemaking is an appropriate vehicle to develop high-level policy guidelines to apply in the consideration, development, and implementation of specific changes in TOU time periods applicable to the major California investor-owned electric utilities."); D.91-12-076 at pp. 134-35 (holding that the Demand Supply Management rulemaking was the appropriate forum to consider the merits of interruptible bidding, because policy choices will affect all utilities).

[26] In closing the RCP OIR, the Commission preserved its options for acting upon later proposed party recommendations by either "reopen[ing] this proceeding or [by] initiat[ing] a new rulemaking, depending on the recommendations ultimately provided by parties." *See* D.20-01-002 at p. 74.

B. <u>**The Commission Is Comprehensively Considering Affordability Issues Through an Open Rulemaking And In Non-Docketed Arenas Such As The Recent Energy Rates And Costs *En Banc* And White Paper Process, Which Are Appropriately Much Broader Than Utility-Specific GRCs**</u>

SCE agrees customer affordability is a relevant and important issue in utility-specific GRCs, and SCE considers affordability in all aspects of our GRC planning. But using a CPI-constrained forecasting methodology is not an appropriate tool, especially considering that the Commission has an open rulemaking specifically dedicated to broadly and holistically consider customer affordability issues (*i.e.*, the Affordability OIR (R.18-07-006)). In Phase 1, the Commission defined "affordability" and adopted three metrics and supporting methodologies to be used by the Commission for assessing the affordability of essential electricity, gas, water, and communications utility services over time in California. The Commission also authorized Commission staff to create an annual Affordability Report to analyze trends in the relative affordability of essential utility services. In Phase II of the Affordability OIR, the Commission will consider how to implement affordability metrics and identify the appropriate proceedings to apply the metrics. That proceeding is one example of a docketed, rulemaking effort to examine wide-ranging affordability questions affecting not just electric customers, but all customers under the Commission's regulation.

Separately, in a non-docketed context, the Commission convened an Electricity Rates and Costs *en banc* on February 24, 2021 to address customer affordability concerns and the impact of utility rates on California's de-carbonization goals. At the *en banc* – at which TURN was a panelist -- the Energy Division reported that it looked for an area of utility spending that was not necessary and could not locate one. In the words of Energy Division director Edward Randolph: "there is no silver bullet" to the affordability issue. The *en banc* encouraged the search for new solutions (*e.g.*, federal stimulus funding, setting rates to align more closely with customers' ability-to-pay by leveraging income tax markers, searching for ways to socialize public benefit investments to a base broader than IOU customers, etc.) to address customer affordability concerns. As acknowledged by experts at the *en banc* where an important Commission staff White Paper[27] was presented, the benefits of achieving climate and environmental goals reach beyond the CPUC-jurisdictional energy utilities, and the State should look at all options to achieve these goals in an affordable manner for all Californians. Panelists at the *en banc* recognized the limits of using the utility bill to address the equity challenges presented by these increasing societal costs. In fact, the panelists recognized that using the utility bill to achieve these goals could penalize lower-income customers and drive customers away from electricity use at the same time the State is appropriately encouraging comprehensive, economy-wide electrification to meet critical GHG emissions-reduction mandates.

The White Paper acknowledged that many different cost pressures are leading to increasing utility rates, including:

- Wildfire mitigation-driven grid hardening and vegetation management, both of which are mandated by State law, are a significant statewide driver of rate increases. The authors and *en banc* panelists all acknowledged that this work is urgently needed to reduce the increasing risk of wildfires driven by climate change and other factors and must be funded.
- Net Energy Metering (NEM) tariff rates continue to shift costs from participating to non-participating customers. The current estimated annual cost shift to non-participating customers for the three IOUs under the existing NEM paradigm is approximately \$3.0 billion and is projected to rise to \$5.0 billion by 2030.[28]
- FERC-jurisdictional transmission rates, which are increasing for several reasons, including CPUC mandates, a need to accommodate customer generation, and increased amounts of renewable generation.

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[27] *Utility Costs and Affordability of the Grid of the Future: An Evaluation of Electric Costs, Rates, and Equity Issues Pursuant to P.U. Code Section 913.1* (February 2021) (White Paper).

[28] *See* PG&E Vice President Robert S. Kenney letter to the CPUC, March 19, 2021, p. 4. The White Paper determined that "compared to the general California population, NEM customers are disproportionately older, located in high-income areas, likely to own their home, and less likely to live in a disadvantaged community. Consequently, the costs of NEM are disproportionately paid by younger, less wealthy, and more disadvantaged ratepayers, many of whom are renters." White Paper at p. 28.

- Public Purpose Programs and other mandated programs, which the White Paper estimates cost SCE's customers approximately $3.2 billion annually, not including programs that provide discounts for residential customers.[29]

In sum, the Commission is already holistically and comprehensively addressing affordability issues through the Affordability OIR and the Electricity Rates and Costs *en banc* process. TURN's PFM, in this utility-specific GRC, is neither necessary nor sufficient to address customer affordability concerns. It is unnecessary because, as discussed in Section IV.D below, the Legislature and the Commission have wide-ranging tools to address customer affordability issues. It is not sufficient because it ignores the reality that the majority of a utility's costs are not GRC-related, including for SCE approximately 35% of total costs that are procurement-related and that fluctuate in real time pursuant to market conditions.

C. TURN's Proposal Is Inconsistent With Rule 16.4 Applicable To Petitions For Modification Of Final Commission Decisions

As discussed in Section I above, less than five months after the Commission adopted the Decision, and little more than a year after TURN negotiated and signed the broadly-supported settlement agreement approved by the Decision, TURN now seeks to unilaterally modify that Decision. But TURN cannot plausibly demonstrate any "new or changed facts" that justify a change to the Decision.[30] Nor does TURN even attempt to support a finding of new or changed facts with the declaration or affidavit required by Rule 16.4(b).

To the contrary, TURN acknowledges that its PFM is not based on new or changed facts, but rather is based on "policy considerations."[31] But those purported policy considerations – namely, the affordability impacts of increased rates on residential customers – are not "new or changed facts." The Affordability rulemaking – to which TURN is a party – was opened in 2018

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[29] White Paper at pp. 41-42.
[30] *See* Rule 16.4; *see also* D.20-04-005 at p. 8 (denying a petition for modification because it was not based on "new circumstances" or "changed facts").
[31] PFM at p. 12.

to consider the impact of rate increases on residential customers. TURN's "policy considerations" could be addressed there. Moreover, it was obvious at the time TURN signed the settlement agreement endorsing a 6.75% TY increase in December 2019 – an amount several times the CPI metric at the time – as well as when the Commission approved it in December 2020, that utility rates were increasing beyond the rate of economy-wide inflation. The fact that a few months later the Commission issued the White Paper and held the rates-related *en banc* discussed above does not transform customer affordability issues into "new or changed facts" sufficient to modify a Commission final decision as contemplated by Rule 16.4(b).

Finally, as discussed above, neither the Decision nor the settlement agreement addressed or established a requirement for changes to PG&E's 2023 GRC forecast methodology, and thus there is no relevant language in the Decision adopting that settlement agreement to "modify." SCE acknowledges that it is not a signatory to the PG&E 2020 GRC settlement, but questions whether other parties to that agreement would have agreed to it had it imposed such an unprecedented requirement.

IV.

INFLATION-CONSTRAINED GRC RATES WOULD BE CONTRARY TO DECADES OF COMMISSION PRECEDENT AND REGULATORY PRINCIPLES AND WOULD UNDERMINE CRUCIAL STATE POLICY GOALS

TURN's stated goal in its PFM is to have the utilities make an inflation-adjusted "showing" in their GRCs, not necessarily for the Commission to adopt an inflation-constrained forecast. But that alternative showing could not be ultimately adopted. Instead, any such showing would counter-productively lend credence to a regulatory framework that ignores the broader balance of interests at play in a GRC (safety, reliability, affordability, etc.), as well as dangerously undermine the long-standing cost-of-service paradigm that is the foundation of decades of Commission ratemaking precedent. Utility cost-of-service ratemaking and cost recovery is also essential if the State intends to meet its critical policy goals and statutory mandates.

A. Longstanding And Important Regulatory Principles Support Cost-Of-Service-Based Ratemaking

The longstanding California utility regulatory framework is based on cost-of-service ratemaking. The utilities are obligated to provide safe, reliable, clean, and affordable service to their customers on a universal, non-discriminatory basis and, in return, the Commission allows the utilities to recover their prudently-incurred costs and provides them with a reasonable opportunity to earn a regulated rate of return. In the long-run, an inflation-constrained structure is inconsistent with the long-standing regulatory framework, as it would not provide the utilities a fair expectation of recovering their cost of service. This could lead to impaired utility financial health or more limited access to capital, ultimately interfering with the quality, cost, or pace of introduction of other utility services. TURN's proposal here would undermine that regulatory framework, by tearing asunder one half of the equation from the other: An inflation-constrained authorized revenue requirement would force utilities to incur costs for unfunded yet mandated operations. The Commission should not countenance such a result.

Under cost-of-service ratemaking – a well-accepted concept used by the Commission for decades – the Commission approves in GRC proceedings a forecast revenue requirement sufficient for the utilities to recover their reasonably-incurred costs plus the opportunity to earn a reasonable rate of return. The Commission cannot substitute this cost-based recovery with revenues arbitrarily capped at the rate of nationwide inflation, which makes adoption of TURN's CPI-constrained alternative forecast unworkable. This is especially true in today's economic environment. While economy-wide inflation is currently relatively low, the utilities' reasonable and prudent costs continue to increase, in large part due to necessary expenditures to reduce risks from destructive wildfires and to further the State's clean-energy public policy agenda. Constraining the utilities' cost recovery by an economy-wide inflation number would potentially prevent them from meeting many crucial requirements and objectives, which would be unacceptable for SCE's customers and the State. Indeed, when voting to approve the GRC Decision that is the subject of the PFM, and which provided sufficient funding for PG&E's wildfire mitigation that well exceeds the rate of inflation, Commission President Batjer stated: "These [wildfire-mitigation-related] system hardening efforts are not only necessary, but, frankly, not negotiable … and are indeed lifesaving."[32]

In addition, financially healthy utilities are crucial to customers, because those IOUs have access to lower cost financing – the savings of which are passed through to customers – and because they have the ability to make necessary infrastructure investments on customers' behalf. TURN's apparent ultimate aim – utility GRC rates that are constrained by inflation (or something even lower)[33] – would likely directly and detrimentally impact the utilities' ability to make these investments and otherwise imperil their financial health, by not allowing the utilities to recover their prudently-incurred costs of service. The Commission has correctly acknowledged that it must play a crucial role in preventing such a result, because it ultimately would harm customers:

> We know that California depends on having financially viable public utilities, and therefore all of our decisions must ensure that these regulated entities have a reliable process to recover just and reasonable costs and an opportunity to earn a fair return.[34]

> We understand that the investment community is vitally interested in the decisions of this Commission. We also recognize that an investor-owned utility's credit rating and its access to capital are of critical importance to its ability to provide the infrastructure it needs to meet its customer service obligations.[35]

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[32] December 3, 2020 CPUC Voting Meeting Commissioner's Discussion Re Item 17 (PG&E TY 2020 GRC).

[33] *See* PFM at p. 10: "Indeed in PG&E's upcoming GRC, TURN may contend that the just and reasonable standard requires cost increases to be kept well below inflation … ."

[34] D.09-05-019 at p. 7; D.10-10-035 at p. 6.

[35] D.04-07-022 at p. 11. *See also* D.19-12-056, Finding of Fact 37, p. 51.

The California Legislature agrees, as evidenced by the passage of AB 1054, which was designed in large part to ensure the financial health of the utilities. It stated in AB 1054: "The state has a substantial interest that its electrical corporations are operating in a safe and reliable manner, and have access to capital at reasonable cost to make safety investments."[36] The Legislature recognized that the financial health of the utilities is important for customers and the State because it is necessary for the utilities "to provide safe and reliable electric and gas service, to reduce the risk of future catastrophes, to provide service at just and reasonable rates, to meet the state's mandates to reduce carbon emissions, and to address the risks of climate change."[37] The Commission should once again reaffirm that bedrock principle of the longstanding California utility regulatory framework here by rejecting TURN's PFM.

B. <u>The Commission Has Repeatedly Declined To Use CPI For GRC Ratesetting Purposes Because It Is Not Based On The Utilities' Cost Of Service</u>

SCE acknowledges that TURN's proposal is not officially that the Commission must *adopt* an inflation-constrained forecast, but rather that the utilities must be required to provide that analysis as an alternative for *consideration*.[38] But proposing such a non-cost-based forecast would be an exercise in futility. The Commission has repeatedly and for good reason declined to adopt the CPI as an appropriate GRC benchmark to set customer rates.

Specifically, as discussed below, the Commission has repeatedly recognized that the CPI is an indicator of price trends that are largely unrelated to the costs to operate a utility. The CPI does not measure increases in utility costs, the cost of labor, or wage growth. Rather it is a general indicator of the increases in the cost of urban living throughout the United States.[39] It

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[36] Assembly Bill No. 1054 (2019-2020 Reg. Sess.) §2(c).
[37] Pub. Util. Code §854.2(a)(6).
[38] *See* TURN PFM at 10: "To be clear, this Petition is not asking the Commission to decide *now* that PG&E's GRC spending should be constrained by the rate of inflation." (emphasis added).
[39] D.04-07-022 at p. 346, Finding of Fact (FOF) 229. TURN acknowledges that the CPI does not meaningfully relate to the amount of costs that the utility is likely to incur to serve customers. Its PFM states: "The consumer-focused CPI should be used, *rather than* projections of utility cost

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does not reflect California-specific cost pressures – such as labor and equipment costs – that impact utility costs. It also does not meaningfully reflect utility-specific cost pressures necessary to reduce wildfire risk and lead the transition to California's clean energy-based economy. Simply put, use of the CPI is not a valid way to forecast utility costs.

In PG&E's 2014 GRC, the Commission considered a proposal to use CPI as an escalation factor for the GRC attrition year adjustments. It correctly rejected that proposal, stating:

> We decline to adopt DRA's primary proposal to set post-test-year revenue increases simply based on a single index, with no distinction between expenses versus capital additions. While applying a single index, as proposed by DRA, offers simplicity, we conclude that such an approach fails to adequately capture the distinctions between expense and capital expenditure attrition. *We also decline to apply the CPI as an escalation factor. The CPI reflects consumer retail price changes, not the escalation in wholesale purchases of utility goods and services.* Accordingly, we generally adopt industry-specific escalation factors, rather than use of the CPI.[40]

The Commission summarized the inherent shortcoming of using the CPI to estimate utility expenses in its decision resolving SCE's 2003 GRC:

> The CPI may be a simple, accessible measure of general inflation faced by urban U.S. consumers, but that alone does not make it appropriate as a measure of price changes faced by an electric utility. It does not specifically cover the prices of the typical goods SCE purchases. Conversely, SCE's proposed escalation rates were not designed to track the general level of inflation, and there is no reason why they should do so.[41]

The Commission has continued to reject using the CPI as the appropriate barometer of rate increases in more recent utility GRCs, concluding, again more recently, that the CPI "does not reflect how utilities incur costs."[42] Because the Commission has repeatedly and correctly

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increases, in order to better reflect changes in ratepayer purchasing power as a gauge of affordability impacts." TURN PFM at p. 6 (emphasis added). TURN's PFM does not explain why the CPI would be an appropriate "gauge" of customer "purchasing power," the latter of which presumably would be much more closely correlated with other macro-economic fundamentals such as forecast customer employment and income growth, not the CPI.

[40] D.14-08-032 at p. 653 (emphasis added).

[41] D.04-07-022 at p. 278.

[42] D.15-11-021 at pp. 390-391 (resolving SCE's TY 2015 GRC); D.19-09-051 at p. 707 (resolving San SDG&E and SoCalGas TY 2019 GRC); *see also* March 19, 2021 Proposed Decision Regarding San

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refused to adopt CPI as an *end result* in GRCs, there is no reason the utilities should be required to use it as a *forecasting method* even at the outset.

C. State Law and Public Policy Goals Require Utilities To Make Safety Their Top Priority And Otherwise Provide Reliable And Adequate Service To Customers

SCE's most important responsibility is the safety of our customers and the communities we serve. While SCE is committed to keeping customer bills as low as reasonably possible, customer affordability must be balanced against the statutory mandate for SCE to provide "such adequate, efficient, just, and reasonable service instrumentalities, equipment and facilities … as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees and the public."[43] Indeed, both Senate Bill (SB) 901 and AB 1054 require SCE to "construct, maintain, and operate its electrical lines and equipment in a manner that will *minimize* the risk of catastrophic wildfire posed by those electrical lines and equipment."[44] In order to achieve this risk reduction, SCE's wildfire mitigation programs – the costs and incremental work of which make up a material component of SCE's pending GRC request – must be designed "to ensure its system will achieve the *highest* level of safety, reliability, and resiliency, and to ensure that its system is prepared for a major event, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities … ."[45] As the White Paper acknowledged, wildfire mitigation costs are a significant driver of the recent increases in utility rates.[46] In addition to wildfire risk reduction programs, in the near term it will be necessary for the utilities to make significant infrastructure investments to enable the State to

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Diego Gas & Electric Company's and Southern California Gas Company's Post Test Year Mechanism for 2022 and 2023 in A.17-10-007 at p. 11 ("In contrast, the decision added that escalation based on CPI, a broad wholesale pricing index, reflects price increases for goods and services in general and does not sufficiently capture the O&M escalation inputs of SDG&E [and] SoCalGas in this instance.").

43 Pub. Util. Code §451.

44 Pub. Util. Code §8386(a) (emphasis added).

45 Pub. Util. Code §8386(c)(13) (emphasis added).

46 *See* White Paper at p. 36.

achieve some of its other highest priority policy goals, including through widespread electrification of the economy to dramatically reduce greenhouse gas emissions. The utilities' GRC adopted forecasts must be sufficient for them to fully recover the costs required to provide safe and reliable service, consistent with the law.[47]

Because the utilities must invest substantially in these critical safety-related and public policy programs, adopting a CPI-constrained overall GRC forecast would be *per se* unworkable. Indeed, TURN effectively acknowledged that reality recently in the RCP OIR, where in a September 24, 2020 workshop it re-offered the watered-down version of its approach proposed in the RCP OIR discussed above in Section II.A that would apply *only* to "base" GRC programs, *not* "new or expanding programs put in place for safety, reliability, and public policy reasons."[48] TURN's more modest proposal in the workshop also provided additional "exceptions" and "adjustments" to what it deemed a "rebuttable presumption" of a CPI-constrained forecast."[49] During the workshop, TURN acknowledged that its proposal was merely "a starting point for parties to discuss and explore potential alternatives for rebuttable presumptions."[50] The IOUs once more vigorously opposed that less-radical version of TURN's proposal there,[51] and the Commission has appropriately not endorsed it.

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47 *See generally*, April 8, 2021, Opposition of the Coalition of California Utility Employees to Motion of The Utility Reform Network to Require Pacific Gas and Electric Company to Present an Inflation-Constrained Alternative Proposal in its Upcoming General Rate Case in A.20-06-012.

48 *See* September 4, 2020 Rate Case Plan (Decision 20-01-002) Workshop #1 Stipulated Terms, Rebuttable Presumptions & Standardized Attrition Year Revenue Requirements Presentation at Slide 20.

49 *Id.* at Slides 20 and 21.

50 *See* October 5, 2020 General Rate Case Plan Workshop #1 Report (Stipulated Terms, Rebuttable Presumptions, Standardized Attrition Year Ratemaking) in R.13-11-006 at p. 6.

51 *See* September 29, 2020 Joint Comments of Southern California Gas Company (U 904-G), San Diego Gas & Electric Company (U 902-M), Southern California Edison Company (U 338-E) and Pacific Gas and Electric Company (U 39-M) to Rate Case Plan Workshop Number 1 in R.13-11-006.

D. The Commission And Legislature Have Numerous Other Tools To Address Customer Affordability Concerns

Finally, adopting TURN's unprecedented and unworkable proposal is also unnecessary. The Commission and Legislature already have the required tools they need to comprehensively address customer affordability concerns. Those other, more appropriate approaches include: employing society-wide progressive taxation initiatives instead of continuing inappropriate pass-through cost mandates through utility rates;[52] securitization of certain eligible utility costs;[53] ratemaking and rate design alternatives;[54] and various important customer protection programs.[55] Impeding the utilities' ability to implement crucial public safety measures and advance important State public policy goals is not an appropriate alternative.

V.

CONCLUSION

For all the reasons set forth herein, SCE respectfully requests the Commission deny TURN's PFM.

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[52] *See, e.g.*, February 1, 2021 Joint Advice Letters 4406-E, 4374G/6070E, 3679/2949-G, and 5761-G of the major energy IOUs instituting the Legislative mandate to pass through to customers $220 million in costs to fund the State's "school energy efficiency stimulus program" for 2021 in compliance with D.21-01-004.

[53] *See, e.g.,* D.20-11-007 (approving SCE's first post-AB 1054 securitization application (A.20-07-008) and issuing a financing order to authorize the recovery of certain fire risk mitigation capital expenditures that the Commission had previously determined to be just and reasonable).

[54] *See, e.g.*, A.20-10-021 (SCE's 2021 GRC Phase 2), Exhibit SCE-01 at pp. 10-17 (explaining how SCE's rate design proposals align with the Commission's four main rate design principles: (1) cost of service, (2) affordable electricity, (3) conservation), and (4) customer acceptance).

[55] For example, the Commission's CARE and FERA programs provide rate discounts to eligible customers of 30% and 18%, respectively. In addition, in response to the global health-related pandemic, in 2020 the Commission instituted a residential customer disconnection moratorium, which remains in effect to this day.

Respectfully submitted,

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