**PREPARED TESTIMONY OF ROBERT FINKELSTEIN**

**APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NEED TO PROVIDE TELECOMMUNICATION SERVICES**

**A.17-04-010**

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## 1. Introduction

On April 6, 2017, Pacific Gas and Electric Company (PG&E) filed the instant application requesting a Certificate of Public Convenience and Necessity (CPCN) to provide a variety of facilities-based and resold telecommunication services throughout the state of California. The Utility Reform Network (TURN) presents this testimony identifying questions and shortcomings identified in PG&E's proposal. On balance, TURN submits that the Commission should deny the application due to the insufficient support PG&E has provided for its request, the failure to disclose the third-party assessment materials on which the application appears to be based, and the inadequate revenue sharing mechanism. If the Commission opts to grant the CPCN, it must require substantial modifications to PG&E's proposal.

TURN's testimony addresses only a portion of the issues identified as being within the scope of this proceeding. However, TURN's silence on any other issue should not be interpreted or understood as anything other than TURN not having reviewed PG&E's showing sufficiently to take a position at the time this prepared testimony is due.

Robert Finkelstein, TURN's General Counsel, sponsors this testimony. His statement of qualifications is attached.

## 2. Summary of Testimony

PG&E originally served only an application seeking a CPCN, without supporting testimony. The *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* (Scoping Memo) issued July 13, 2017, directed PG&E to provide data and testimony on a number of specified topics falling into four broad categories. The first category asked whether the CPCN should be granted, while the second and third categories asked about modifications to PG&E's request or necessary conditions that should be adopted in the event the CPCN is granted.[1] The fourth category raised safety and privacy issues.

The testimony that follows raises a number of issues and concerns regarding PG&E's CPCN Application and the support therefor (or lack thereof). TURN submits that the cumulative effect of these issues and concerns warrants denial of PG&E's CPCN Application. At the very least, the Commission should require very substantial modifications to PG&E's approach as conditions of any approval of the CPCN.

**3. PG&E's Business Plan**

On the face of PG&E's testimony, the utility appears to be asking the Commission to grant it a CPCN for CLEC operations, even though the utility has not yet determined whether or not it will in fact undertake CLEC operations. In the chapter entitled "Business Plan," PG&E describes how it has evaluated "the opportunity to enter the CLEC market" without having "investigated specific offerings or evaluated its ability to meet the needs of specific communication companies." It chose this approach to "minimize its exposure from evaluating the potential new business."[2] Therefore it elected to "approach the business opportunity in a phased approach," preserving to itself the opportunity to abandon the effort should the utility determine that it "no longer makes business sense."[3] The utility describes various "stage gates" with seeking and obtaining Commission approval of a CPCN as the first such "gate.[4] PG&E does not plan to begin its efforts regarding any other gate unless and until the Commission grants the CPCN.[5] Thus under PG&E's approach, the utility could obtain a CPCN only to later abandon its efforts to pursue CLEC operations were it to later conclude that such CPCN operations are not viable, based on the business plan it has not yet developed.[6]

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[1] Scoping Memo, pp. 3-7.

[2] PG&E Testimony, pp. 2-3 to 2-4.

[3] *Id.*

[4] *Id.*, pp. 2-5 to 2-5.

[5] PG&E Response to TURN DR 2, Q. 6 (TURN Attachments).

[6] *Id.*

TURN's initial reaction to PG&E's proposed sequencing of events was that it inappropriately sought the equivalent of an "advisory opinion" from the Commission. That is, PG&E's approach effectively asks the Commission to grant a CPCN on the prospect that PG&E might decide to get into the CLEC business, without any clear commitment that PG&E will do so, even with the CPCN in hand. The Commission should reject such a request, and instead direct the utility to seek a CPCN once it has a more fully-formed business plan that is not portrayed as being simply "illustrative."[7]

As it turns out, PG&E has what appears to be a more fully-formed analysis underlying its CPCN application. PG&E's testimony presents "possible gross and net revenues" figures for the first five years of its potential CLEC business, but without any indication of the source of those figures or the underlying analysis.[8] When TURN asked for the basis and support for some of the assertions regarding market revenue, PG&E's potential market share, and potential gross and net revenue figures, the utility referred to a supporting document that "contains sensitive information associated with potential future business plans and strategies for the company."[9] The supporting documents turned out to be a 22-page "Telecom Services Market Assessment" (with an accompanying 120-page appendix) that was developed by a third-party consultant PG&E had retained to "develop a 'go-to-market' strategy" for PG&E's possible entry into the market as a CLEC.[10] In PG&E's view, even the initial "management consulting request" seeking internal approval to undertake this third-party analysis includes "sensitive information associated with potential future business plans and strategies for the company" such that it needs to continue to be treated as a confidential document.[11] Yet despite the critical role these materials and the underlying analysis seems to have played in the development of PG&E's proposal, TURN found no mention of that effort in the utility's prepared testimony.

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[7] PG&E Testimony, pp. 3-4 to 3-5.

[8] PG&E Testimony, pp. 3-4 to 3-5.

[9] PG&E Response to TURN DR 3, Q. 8 (original version) (TURN Attachments).

[10] PG&E Response to TURN DR 2, Q. 5b (TURN Attachments).

[11] PG&E Response to TURN DR 2, Q. 5c (TURN Attachments).

TURN is submitting under seal the documents PG&E has provided to date regarding its work with Altman Vilandrie & Co.[12] [redacted]

Notably absent from the third-party assessment is any meaningful estimate of the value of the costs PG&E would otherwise incur but is able to avoid by virtue of its ability to rely on capital and personnel assets associated with its electric and gas utility operations.

TURN submits that PG&E should be required to present supplemental testimony that more fully discusses the third-party assessment it obtained for purposes of developing its CLEC application. While PG&E may be of the opinion that "economic and business analyses performed prior to approval may be outdated by the time the business is authorized to commence,"[16] its failure to mention that it had obtained and relied upon such analyses for purposes of pursing this application should be of concern.

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[12] TURN's confidential attachments include PG&E's "Management Consulting Request" (one page) from January 2015, and the "final presentation material" from July 13, 2015, which includes a 22-page "final readout" document and a 122-page appendix supporting the "final readout" document.

[13] *Telecom Services Market Assessment – Appendix* (Response to TURN-1, Q. 3), pp. 3 and 30, CONFIDENTIAL ATTACHMENT.

[14] *Id.*, pp. 13-19.

[15] *Id.*, pp. 20-29. In responding to the Scoping Memo's request for a five-year projection, PG&E focused on the initial five years from this Assessment" document, thereby omitting the forecast of a 50% revenue increase in year 6 and another 25% increase in year 7 (p. 20).

[16] PG&E Testimony, p. 2-4.

### 4. Business Structure – The Commission Should Direct PG&E To Analyze The Advantages and Disadvantages of Offering CLEC Services Through an Affiliate Rather Than As Part Of The Regulated Utility.

The Scoping Memo directed PG&E to identify the business structure proposed to use for its telecommunications services under its CPCN. PG&E's testimony merely confirmed that it had chosen to offer its CLEC services through a Line of Business (LOB) within the regulated utility, rather than through a separate affiliate. TURN submits the Commission should recognize that offering the services through a separate affiliate may be preferable in a number of ways, even if it is not the utility's first choice.

Requiring PG&E to offer CLEC services through an affiliate might promote a more appropriate level of compensation to PG&E's ratepayers to the extent the services rely on obtaining access to utility facilities and assets. The Affiliate Transaction rules would apply to PG&E's transactions with a PG&E affiliate, and access to utility capacity or services would be available on the same terms offered to other similarly situated market participants, and priced at fair market value or fully loaded cost plus 5% of direct labor cost.[17] PG&E's proposal in its application would have ratepayers compensated only to the extent their share of net revenues (if any) exceeds that fair market value or fully loaded cost.

PG&E's *Telecom Services Market Assessment* raises several other points that might be better resolved through reliance on a PG&E affiliate rather than the utility itself to provide the CPCN telecom services. [redacted].[18] And PG&E states that it must be permitted to keep confidential all "contracts or terms of sale, lease or other agreements related to the telecommunications products or services provided under the

[17] D.06-12-029, Appx. A-3, Rule III.B.2 and V.H.

[18] *Telecom Services Market Assessment – Appendix* (Response to TURN-1, Q. 3), pp. 14 and 16, CONFIDENTIAL ATTACHMENT.

CPCN" lest it be placed at a competitive disadvantage.[19] Such issues and concerns would be largely if not entirely avoided if the new telecom services were offered through an affiliate rather than by a new Line of Business within PG&E.

It should not be enough for PG&E to merely identify that it has chosen the Line of Business approach. The utility must more fully discuss the advantages and disadvantages of each business structure option, and thereby provide the Commission with what it needs to assess whether PG&E's preferred structure is the one that makes sense for all of the interests involved.

**5. PG&E's Revenue Sharing Proposal Should Be Rejected In Favor Of A Gross Revenue Sharing Mechanism That Assigns The Majority Of The Gross Revenues To PG&E's Ratepayers.**

One of the conditions precedent to offering a new product or service on a non-tariffed basis is the existence of "a reasonable mechanism for treatment of benefits and revenues derived from offering" the new product or service. Rule VII.D.2 of the Affiliate Transaction Rules.[20] PG&E proposes a revenue sharing mechanism that would allocate the after-tax net revenues on a 50/50 basis between the utility and its ratepayers. In a decision issued nearly twenty years ago, the Commission adopted this revenue sharing mechanism for PG&E's then-existing Non-Tariffed Products and Services (NTP&S), but with the express understanding that it was doing so on an interim and non-precedential basis.[21] The net revenue mechanism does <u>not</u> apply to any of the telecommunications-related products and services PG&E provides at present to third parties.[22]

If the Commission issues a CPCN to PG&E, it should adopt a new revenue sharing mechanism applicable to the non-tariffed products and services offered pursuant to that CPCN. As described further below, the mechanism should allocate revenues in a manner that fairly compensates ratepayers to the extent PG&E relies on ratepayer-funded

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[19] PG&E Testimony, p. 2-7.

[20] D.06-12-029, Appx. A-3, p. 20.

[21] D.99-04-021, Conclusions of Law 1-3.

[22] PG&E Response to TURN DR 2-3c (TURN Attachments). All of the costs and revenues of currently-provided telecommunications-related products and services are included in PG&E's GRC-authorized revenue requirement.

assets to offer the NTP&S. The mechanism should also be based on <u>gross</u> rather than net revenues for purposes of determining the allocation of revenues between ratepayers and the utility.

### 5.1. The Commission Should Adopt A Revenue Sharing Mechanism That Is Consistent With The Essential Role That Ratepayer-Funded Assets Play In PG&E's Plan For Providing These Services.

PG&E's testimony states that it "may" utilize existing, available capacity to provide telecommunications services under the requested CPCN.[23] But its CLEC business would be able to use existing utility assets without being charged any cost for such use.[24] Thus PG&E would be able to offer its CLEC products and services without allocating to the CLEC business any costs associated with "existing infrastructure and available dedicated staffing."[25]

The *Telecom Services Market Assessment* that PG&E had performed for its CLEC proposal makes clear that the utility is counting on the fact that its "[redacted]

The adopted revenue sharing mechanism for the CLEC services must reasonably reflect that the total costs are greater than the amount PG&E deems the "incremental costs," as they also include the "non-incremental" costs borne by ratepayers for existing infrastructure, available staffing, and Administrative and General costs.

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[23] PG&E Testimony, p. 3-7.

[24] The costs of existing utility asset costs, as well as Administrative and General costs, are deemed "non-incremental" costs that are not allocated to the CLEC business under PG&E's proposal. PG&E Testimony, p. 3-5.

[25] *Id.*, p. 2-5.

[26] *Telecom Services Market Assessment* (Response to TURN-1, Q. 3), pp. 13 and 21, CONFIDENTIAL ATTACHMENT.

### 5.2. PG&E's Treatment Of Telecom Services as "Low Margin" Should Be Ignored, As It Is Poorly Supported And Contradicted By PG&E's Third Party Analysis.

PG&E repeatedly refers to its proposed CLEC business as "low margin" by nature.[27] PG&E's characterization of the CLEC business in general is based on profit margins the utility calculated from publicly available information of eight companies that "were characterized as CLECs and do business in California."[28] But the eight companies PG&E selected, ranging from Earthlink and MagicJack to AT&T, Verizon and Comcast, offer an array of services, only part of which would be "lit fiber" and related offerings directly comparable to the services that are the subject of PG&E's CPCN. In addition, PG&E has no understanding as to whether any of its selected comparable companies either has the opportunity to provide service relying in part on assets funded through cost-of-service ratemaking, or are cost-of-service regulated themselves.[29]

For purposes here, the more useful information would be the margin achieved by a similarly regulated utility operating under similar circumstances to those PG&E would face here. An obvious comparison would be to PG&E's own telecom-related NTP&S. For the categories covering PG&E's use of underground conduit and overhead facilities for placement of fiber optic cable and dark fiber licenses, for 2012-2016 PG&E reports net expenses in the range of 3-36% of the total revenues for each year. In other words, the margin calculated by comparing pre-tax net revenues to the total revenues was 64% to 97%.[30] According to PG&E's *Telecom Services Market Assessment,* [redacted]

[27] PG&E Testimony, p. 3-2.

[28] PG&E Response to TURN DR 3, Q. 2 (TURN Attachments).

[29] PG&E Responses to TURN DR 3, Qs. 5-7 (TURN Attachments).

[30] PG&E Response to TURN DR 3, Q. 2 and Attachment (TURN Attachments).

[31] *Telecom Services Market Assessment* (Response to TURN-1, Q. 3), pp. 4 and 12, CONFIDENTIAL ATTACHMENT.

### 5.3. A Revenue Sharing Mechanism Should Be Based On Gross Revenues Rather Than Net Revenues.

The most recent decision addressing revenue sharing mechanisms for NTP&S of which TURN is aware is the Sempra Utilities' 2012 general rate case decision. There the Commission adopted a 25/75 shareholder/ratepayer revenue allocation for SDG&E's research and development activities (rather than the 40/60 allocation SDG&E proposed). It also rejected as unreasonable a 50/50 net revenue sharing mechanism for new non-tariffed products and services, in part because the return to ratepayers was not commensurate with their bearing up to 50% of the total costs of providing the product or service.[32]

PG&E's testimony did not address the Sempra Utilities GRC decision. It cited a number of reasons for favoring a net revenue mechanism. TURN submits that none of the reasons warrants adoption of a net revenue mechanism.

PG&E claims its net 50/50 sharing proposal would be "simple and easy to understand and administer."[33] TURN submits that a <u>gross</u> revenue sharing mechanism is far simpler and easier to understand and administer. It reduces the likelihood of disputes about the reasonableness of the amounts treated as "incremental" costs. And the share received by ratepayers can be calculated based on the gross revenues, without the need for any calculation of cost offsets or tax impacts in order to derive of an "after-tax" amount.

PG&E also claims that a gross sharing mechanism is "inferior" due to the low margin nature of the CLEC business.[34] As explained earlier, the "low margin nature" of the CLEC business is not established in PG&E's showing, and PG&E's own experience belies the utility's claim.

PG&E asserts that a net revenue sharing mechanism "maximizes the opportunities to achieve positive net benefits, thus maximizing the potential for ratepayer benefits."[35]

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[32] D.13-05-010 (Sempra Utilities' 2012 GRC), pp. 600 and 1023-1024.

[33] PG&E Application, p. 20; PG&E Testimony, p. 3-2.

[34] PG&E Testimony, p. 3-2.

[35] *Id.*, pp. 3-1 to 3-2.

This assertion relies on the faulty logic that having more opportunities to achieve positive net benefits of any amount will necessarily maximize the potential for total ratepayer benefits. But the amount of total ratepayer benefits depends as well on the amount of benefits obtained per sharing opportunity. That is, if ratepayers have a choice between 100 opportunities that will produce $1 each of shared revenues, or 10 opportunities that will produce $20 each of shared revenues, the latter produces a greater amount of ratepayer benefits, even though PG&E would characterize it as failing to "maximize the opportunities." So even if PG&E is correct that flowing less of the total revenues to the utility and its shareholders might result in the utility pursuing fewer NTP&S opportunities, by assigning the more appropriate share of gross revenues to ratepayers the Commission could still be providing ratepayers with a greater amount of benefits.

#### *5.3.1. Net Revenue Sharing Mechanisms Create A Counterintuitive Cost Recording Incentive Avoided Under A Gross Revenue Sharing Structure.*

A fundamental difference between a gross revenue sharing mechanism and a net mechanism is that under the gross revenue sharing mechanism, the ratepayers' share of the gross revenues is indifferent to the amount of incremental costs the utility records to the NTP&S activities. In other words, if a non-tariffed service generates revenues of $1 million, under a 30/70 gross revenue sharing mechanism the ratepayer share will be $700,000 whether the utility's incremental costs total $100,000 or $250,000 or $600,000. But under a net revenue sharing mechanism, every dollar that is record as an "incremental cost" reduces the ratepayer share by some amount.

Worse, the utility arguably has the incentive to inflate its recorded costs under a "net" mechanism, because the mechanism provides the utility with recovery of 100% of the costs but of only 50% of the "net revenues." To illustrate, for a non-tariffed service that generates revenues of $1 million, if the utility records $100,000 of incremental costs, its total recovery under a 50/50 net mechanism is $665,110 (the $100,000 of costs, plus 62.8%[36] of the net revenues). If the utility records $250,000 of incremental costs, its total

[36] The illustrative figures also indicate another disadvantage of a net revenue sharing mechanism – the ratepayer share is reduced in order to cover tax costs. In order to achieve a 50/50 allocation of "post-tax" net revenues, the ratepayer share is reduced to

recovery increases to $721,000 even though its net revenue share declines. This is a perverse incentive the Commission should avoid creating. It does not exist under a gross revenue sharing mechanism.

#### *5.3.2. Because The Ratepayer Share of Net Revenue Is Affected By The Amount Of Expenses, A Net Revenue Sharing Mechanism Should Include Review and Determination Of The Reasonableness Of The Recorded Expenses.*

A gross revenue sharing mechanism has the advantage of eliminating much of the need for assessing the appropriateness of recording costs as "incremental" costs associated with a NTP&S, or the reasonableness of those recorded costs. The ratepayer share of the revenues is not affected one way or the other by those costs. A net revenue sharing mechanism, on the other hand, makes cost recording and cost reasonableness a critical issue, since higher costs have a direct and adverse effect on the amount of net revenues that flow to ratepayers.

TURN asked PG&E to describe the standards it would use to distinguish costs "directly attributable to the CLEC business" from costs that the utility believes do not fall into that category. PG&E's response said it would use procedures currently in place (which it did not describe) unless and until the utility determines that those procedures lack sufficient detail or require adjustment, at which time it would update those procedures.[37] TURN also asked which CPUC proceeding would serve as the forum for review of PG&E's showing in support of its determination of the amount of costs to treat as "incremental" expenses. PG&E responded by saying the costs would be tracked in a balancing account, with the year-end balance returned to ratepayers in the annual "true-up" advice letters.[38]

PG&E's approach is inadequate and inappropriate. It leaves the determination of cost recording practices to the utility's discretion without effective overview. The only opportunity to review the reasonableness of the recorded costs would occur in an advice

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37.2% of the "pre-tax" amount. A gross revenue sharing mechanism does not reduce the ratepayers' share of gross revenues in order to reflect pre- or post-tax amounts.

[37] PG&E Response to TURN DR 3, Q. 1b (TURN Attachments).

[38] *Id.*, Q. 1c.

letter in which the CLEC-related balancing account would be one of numerous ratemaking adjustments being put into effect, typically with costs reported only at a highly-aggregated level. A gross revenue sharing mechanism largely avoids such problems.

### 5.4. A CPCN For PG&E's CLEC Operations Should Be Conditioned Upon A Gross Revenue Sharing Mechanism That Allocates Gross Revenues On A 30/70 Basis Between PG&E And Its Ratepayers.

For the reasons described above, the Commission should reject PG&E's proposed net revenue sharing mechanism in favor of a gross revenue sharing mechanism. TURN submits that under the circumstances here, the appropriate sharing ratio would assign 30% of the gross revenues to PG&E, and 70% to PG&E ratepayers. Such an allocation would reflect the degree to which PG&E's new CLEC services rely on the utility's ability to avoid incremental costs by relying on assets funded as part of its electric and gas utility operations.

In 2015, PG&E recorded approximately $4.64 million of revenues from dark fiber licenses and use of conduit for placement of cable, and approximately $132,000 of net expense. Using these figures to illustrate the 30/70 gross revenue sharing mechanism, the 70% gross revenue share to ratepayers would be $3.25 million, and the shareholders 30% share would be $1.39 million. Reducing the shareholders 30% share by the $132,000 of net expense results in pre-tax net revenues to the utility of $1.26 million, representing a margin of 27% when comparing pre-tax net revenues to gross revenues ($1.26 million/$1.39 million), and a return on expense of approximately 950% ($1.26 million/$132,000). These figures are generally consistent with those that appear in PG&E's *Telecom Services Market Assessment* as 2015 revenues from "Current PG&E Fiber Operations."[39]

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[39] *Telecom Services Market Assessment* (Response to TURN-1, Q. 3), p. 4 and 12, CONFIDENTIAL ATTACHMENT. [redacted]

### 6. Issues Not Addressed in this Testimony

There are many important issues that are not being addressed in TURN's testimony. TURN acknowledges this point here to make clear that it may choose to raise and address these issues going forward in this proceeding, based on the record developed in the proceeding.

For example, a CPCN as PG&E has requested would grant the utility CLEC authority throughout the state of California, which may have implications beyond PG&E's current service area.[40] This raises important issues regarding the proposed CLEC's impact on telecommunications competition, safety, and reliability within PG&E's current service area and throughout the state. Competitive issues, such as (but not limited to) nondiscriminatory access to PG&E's rights of way, including poles, conduits, and other rights of way; nondiscriminatory contracting processes, including tariffing certain core CLEC wholesale transport services and allowing other wholesale customers to opt-into certain terms and conditions; and foreseeable impacts on PG&E's current wholesale telecommunications offerings. Further, especially given PG&E's current use of excess capacity and planned new excess capacity associated with facilities built to meet its electric service needs, and its potential new capacity built to support the proposed CLEC offerings, there will need to be careful consideration of situations where it would be appropriate for PG&E to comply with regulated electric utility rules, and where it would be appropriate for PG&E to comply with CLEC rules and not regulated electric utility rules.

TURN's witness is not sponsoring specific testimony on these important issues. To the extent TURN addresses them in the proceeding, it will be through the record evidence developed through other parties' prepared testimony and testimony adduced through cross-examination, plus other appropriately relied-upon materials.

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[redacted]

[40] It is also an extension of the authority granted to SCE for its CPCN, which was limited to offerings within areas that overlapped with its electric utility service territory. D.98-12-083, Ordering Paragraph 2.

## STATEMENT OF WITNESS QUALIFICATIONS

Robert Finkelstein, General Counsel of The Utility Reform Network (TURN), presents this testimony. For more than twenty-five years Mr. Finkelstein has borne substantial and increasing responsibility for coordinating the development of TURN's policy positions on energy-related issues and advocating those positions before the California Public Utilities Commission (CPUC or Commission) and in other policymaking forums.

Mr. Finkelstein received a B.A. in environmental studies and politics from the University of California at Santa Cruz in 1982, and a J.D. from Northeastern University School of Law in Boston, Massachusetts, in 1985. From 1985 through 1990 he worked with DNA-People's Legal Services, the legal services program serving the Navajo Nation. In 1990 and 1991 he worked with Legal Services of Northern California in that organization's Sacramento office. He joined TURN as a staff attorney in 1992, and became a supervising attorney in approximately 2000. In 2003 Mr. Finkelstein became TURN's Executive Director. In early 2008, having successfully worked with the TURN Board of Directors to hire his replacement as Executive Director, Mr. Finkelstein became the organization's first Legal Director. And in mid-2012, having successfully recruited his replacement as Legal Director, Mr. Finkelstein assumed his current role as General Counsel.

Since joining TURN's staff, Mr. Finkelstein has participated in, or assisted in the development of TURN's position for, many of the major energy-related proceedings before this Commission for more than twenty years. In particular, he has served as the organization's lead attorney in a number of general rate cases for the state's larger utilities, and sponsored testimony on a number of ratemaking and forecasting issues in GRCs, including on the topic of non-tariffed products and services. He has also sponsored testimony in project-specific utility applications, including PG&E's Smart Grid Pilot application (A.11-11-017), PG&E's CEMA cost recovery application (A.16-10-019), SCE's Wheeler Reef Expansion Project Application (A.16-12-002), SoCalGas's Morongo Memorandum Account application (A.16-12-011), and SCE's Aliso Canyon-related Energy Storage application (A.17-03-020).

**PACIFIC GAS AND ELECTRIC COMPANY**
**Competitive Local Exchange Carrier (CLEC)**
**Application 17-04-010**
**Data Response**

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|---|---|---|---|
| PG&E Data Request No.: | TURN_002-Q03 | | |
| PG&E File Name: | CLEC_DR_TURN_002-Q03 | | |
| Request Date: | October 27, 2017 | Requester DR No.: | 002 |
| Date Sent: | November 10, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Aaron August | Requester: | Christine Mailloux |

**QUESTION 3**

At pages 2-2 to 2-3 of its testimony, PG&E states that it "presently offers limited telecommunications related products and services to third parties" and then briefly describes five categories of such products and services. For each category described by PG&E, please provide the following:

a. The number of transactions, incremental costs and gross revenues recorded in each year from 2012-2016;

b. A description of how the product or service provided by PG&E extended beyond providing a third party with access to PG&E's existing distribution facilities; and

c. A description of how the costs and revenues associated with the described products and services are treated for ratemaking purposes.

**ANSWER 3**

a. Please see attachment CLEC _DR_TURN_002-Q03Atch01, which aggregates data from the annual Non-Tariff Products & Services Periodic Reports, General Rate Cases and Transmission Owner Rate Cases.

   In the attachment, PG&E is providing Non-Tariff Products & Services (NTP&S) recurring and non-recurring costs attributable to the product or service, such as systems development and maintenance, full labor costs (salaries plus allocations for pensions, benefits, vacation time, etc.), direct supervision and management costs, vehicle costs, and cost of materials, which PG&E's New Revenue Development group generally refers to as "expenses" or "allocated costs.".

   For the last 4 categories, PG&E does not track the number of transactions.

b. The 5 categories are listed below in the order and with the letter labels presented in testimony, with the responsive description included below each:

a) Under Non-Tariffed Products and Services (NTP&S) Category N.E.1, PG&E offers facility joint use arrangements.
    None

b) Under licenses pursuant to CPUC General Order (GO) 69C, PG&E offers licensed attachments of antennas and communications equipment to distribution and street light poles.
    None

c) When granted authority by the CPUC under Pub. Util. Code Section 851, PG&E provides use of underground conduit (distribution facilities) and overhead facilities to third parties for placement of fiber optic cable.
    In this category, PG&E provides installation coordination management services in addition to access to existing distribution and transmission facilities.

d) Under licenses pursuant to CPUC GO 69C, PG&E offers licensed use of PG&E-owned fiber optic cable ("dark fiber") not otherwise required for PG&E utility operations to third-party communication services providers.
    In this category, PG&E provides access and coordinates interconnection to existing fiber optic cables that are classified as general plant.

e) Under licenses pursuant to CPUC GO 69C, PG&E offers licensed access to PG&E-owned buildings, structures, transmission towers, substation facilities, and fee properties to third-party communication services providers for the installation of communication equipment and antennas.
    PG&E provides installation coordination management services in addition to facility access. Facility access beyond distribution assets includes access to fee property, substation facilities, building structures and transmission towers.

c. Description of how costs and revenues are treated for ratemaking purposes.

- Under Non-Tariffed Products and Services (NTP&S) Category N.E.1, PG&E offers facility joint use arrangements.
    - Forecast costs are proposed as utility expense in the General Rate Case and forecast revenues are included in Other Operating Revenues. PG&E's shareholders assume the risk of recorded expenses exceeding the adopted amount.

- Under licenses pursuant to CPUC General Order (GO) 69C, PG&E offers licensed attachments of antennas and communications equipment to distribution and street light poles.
    - Forecast costs are proposed as utility expense in the General Rate Case and forecast revenues are included in Other Operating Revenues. PG&E's shareholders assume the risk of recorded expenses exceeding the adopted amount.

- When granted authority by the CPUC under Pub. Util. Code Section 851, PG&E provides use of underground conduit (distribution facilities) and overhead facilities to third parties for placement of fiber optic cable.
    - Forecast costs are proposed as utility expense in the appropriate rate case (General Rate Case or Transmission Owner Case) and forecast revenues are included in Other Operating Revenues. PG&E's shareholders assume the risk of expenses exceeding revenues.

- Under licenses pursuant to CPUC GO 69C, PG&E offers licensed use of PG&E-owned fiber optic cable ("dark fiber") not otherwise required for PG&E utility operations to third-party communication services providers.
    - Forecast costs are proposed as utility expense in the appropriate rate case (General Rate Case or Transmission Owner Case) and forecast revenues are included in Other Operating Revenues. PG&E's shareholders assume the risk of expenses exceeding revenues.

- Under licenses pursuant to CPUC GO 69C, PG&E offers licensed access to PG&E-owned buildings, structures, transmission towers, substation facilities, and fee properties to third-party communication services providers for the installation of communication equipment and antennas.
    - Forecast costs are proposed as utility expense in the appropriate rate case (General Rate Case or Transmission Owner Case) and forecast revenues are included in Other Operating Revenues. PG&E's shareholders assume the risk of expenses exceeding revenues.

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|---|---|---|---|
| PG&E Data Request No.: | TURN_002-Q05 | | |
| PG&E File Name: | CLEC_DR_TURN_002-Q05 | | |
| Request Date: | October 27, 2017 | Requester DR No.: | 002 |
| Date Sent: | November 10, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Aaron August | Requester: | Christine Mailloux |

**QUESTION 5**

At page 2-4 of its testimony, PG&E states that it began the process of evaluating a possible entry into the market as a CLEC.

a. Please state when PG&E began the process of evaluating possible entry into the market as a CLEC.

b. Please describe the process by which PG&E sought management approval for the evaluation of its possible entity into the market as a CLEC, including but not limited to the dates on which such approval was sought and obtained, and the name and job title of each person at PG&E who played a material role in seeking or providing the management approval.

c. Please provide all documents related to PG&E seeking or obtaining management approval for the evaluation of its possible entry into the market as a CLEC.

d. Please describe the process by which PG&E sought and obtained management approval for its filing of the instant application, including but not limited to the dates on which such approval was sought and obtained, and the name and job title of each person at PG&E who played a material role in seeking or providing the management approval.

**ANSWER 5**

As referenced in Chapter 1, Section D of PG&E's Prepared Testimony, employees with primary responsibility for the CLEC analysis have moved on. The team currently supporting the CLEC application has responded to this request to the best of its ability using documentation and the information currently available in the company.

a. PG&E began evaluating possible entry into the market as a CLEC in 2014.

b. PG&E has not been able to determine the specific dates for some of the steps in the process for management approval to evaluate possible market entry as a CLEC. In 2014, PG&E's New Revenue Development (NRD) department began evaluating possible entry into the market as a CLEC. In January 2015, Deanna Toy, Director of NRD, submitted a request to PG&E's Sourcing Governance Committee (part of PG&E's overall enterprise governance process) for approval to retain Altman Vilandrie & Co, a strategy consulting firm, to develop a "go-to-market strategy" regarding this potential opportunity for PG&E. Deanna's request had been approved by Aaron Johnson, then the Vice President of Customer Energy Solutions, who had oversight over NRD at the time, and Laurie Giammona, Senior Vice President of Customer Care. The Sourcing Governance Committee, made up of a number of vice presidents and senior vice presidents at the Utility, subsequently approved the request and NRD retained AltmanVilandrie & Company. AltmanVilandrie & Company provided its final presentation material on July 13, 2015.

c. The management consulting request that Deanna Toy submitted to PG&E's Sourcing Governance Committee in January 2015 includes sensitive information associated with potential future business plans and strategies for the company. As such, it contains confidential PG&E information and PG&E will provide pursuant to NDA, however PG&E has not received a signed NDA from TURN.

d. On September 30 2016, Tara Agid, then Senior Director, New Revenue Development, convened a meeting with the following employees to seek and obtain approval to move forward with a CLEC application:

- Laurie Giammona, Senior Vice President, Customer Care and Corporate Real Estate
- Deborah Affonsa, Vice President, Customer Service
- Karen Austin, Senior Vice President, Information Technology
- Valerie Bell, Vice President, IT Operations
- Laiq Ahmad, Senior Director, Tech Planning and Architecture
- David Wright, Senior Director, IT Solutions Delivery
- Jay Dore, Chief, Financial Consultant, New Revenue Development

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| PG&E Data Request No.: | TURN_002-Q06 | | |
| PG&E File Name: | CLEC_DR_TURN_002-Q06 | | |
| Request Date: | October 27, 2017 | Requester DR No.: | 002 |
| Date Sent: | November 10, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Aaron August | Requester: | Christine Mailloux |

**QUESTION 6**

At pages 2-4 to 2-5, PG&E describes its "gated implementation" and six "stage gate points" it has decided to use for its measured approach in implementation of the proposed CLEC. For each of the "stage gate points," please describe PG&E's efforts to date and PG&E's best forecast of when it will complete each "stage gate point." If PG&E has not yet begun its efforts with regard to any "stage gate point," please provide PG&E's best estimate as to when it will begin its efforts for that "stage gate point."

**ANSWER 6**

The question's reference to pages 2-4 and 2-5 in PG&E's Prepared Testimony is assumed to specifically reference the following language:

*Specifically, the stage gate points being used by PG&E are as follows:*

a. *Seek and obtain approval of a Certificate of Public Convenience and Necessity (CPCN) to operate as a CLEC from the CPUC;*
b. *Seek and obtain authority from the Federal Communications Commission to offer telecommunications services under Section 214 of the Federal Communications Act; 42 U.S.C. § 214;*
c. *Ensure any necessary local permits are in place;*
d. *Develop formal sales plan and begin assessment of business needs for staffing increasing as necessary for initial service launch;*
e. *Launch commercial service offerings and begin contacts with potential customers; and*
f. *Assess CLEC business performance periodically to evaluate whether operations should continue.*

PG&E has focused its efforts to date on stage gate point "a," seek and obtain a CPCN from the CPUC to operate as a CLEC. PG&E does not plan to begin its efforts associated with the other stage gate points unless and until it receives approval from the CPUC to operate as a CLEC. The proceeding schedule suggests the CPUC could take up that matter in the middle of 2018.

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| PG&E Data Request No.: | TURN_003-**Q01** | | |
| PG&E File Name: | CLEC_DR_TURN_003-Q01 | | |
| Request Date: | November 1, 2017 | Requester DR No.: | 003 |
| Date Sent: | November 15, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Richard Patterson | Requester: | Christine Mailloux |

**QUESTION 1**

At page 3-1 of its testimony, PG&E states that for purposes of its proposed sharing mechanism, “incremental expenses” are “expenses directly attributable to the CLEC business.”

a. How does PG&E define “directly attributable” as used in its description of “incremental expenses?”

b. Please identify and briefly describe the standards by which PG&E intends to distinguish expenses that are “directly attributable to the CLEC business” from expenses the utility deems to not be “directly attributable to the CLEC business.”

c. Please identify the CPUC proceeding in which PG&E would present its demonstration that the expenses it has recorded as “incremental expenses” for purposes of its proposed sharing mechanism represent the appropriate amount of expenses to treat as “incremental” for such purposes. Pleases also identify how regularly PG&E expects the Commission to review the amounts recorded as “incremental expenses.”

**ANSWER 1**

a. PG&E defines “directly attributable” to mean both recurring and non-recurring costs (labor, material, or capital) that are caused by activities of the CLEC business and which are charged against order numbers that are unique to the CLEC business, as described in PG&E’s testimony Chapter 3, Section H. PG&E expects the vast majority of the CLEC work to be done by NRD and IT personnel, who will directly charge their time to the CLEC. All other costs are expected to be A&G and are expected to be de minimus. If the CLEC activities by departments other than IT and NRD result in incremental cash costs, then such cash costs will be charged separately (outside of any A&G allocation factor) to the CLEC.

b. PG&E’s New Revenue Development department plans to use procedures currently in place for establishing orders to track costs and revenues directly attributable to the CLEC business. All revenues, expenses, and capital expenditures will be charged to unique order numbers created for the CLEC business.

   If, after the CPUC has granted the CPCN, PG&E determines that existing procedures lack sufficient detail or require adjustment due to the nature of the CLEC business, PG&E will establish updated or new procedures or standards to distinguish expenses attributable to the CLEC business from those that are not. Please refer to PG&E's Application, p. 25.

> "*Applicant will update its existing accounting, budgeting, and internal controls, policies, standards, and procedures to incorporate the cost and revenue allocations discussed herein.*"

c. Please refer to PG&E's Application, p. 24.

> "…*to appropriately track the revenues and costs (both expenses and capital expenditures) of the CLEC business, Applicant proposes to establish a new telecommunications services balancing account. The telecommunications services balancing account will track the ratepayer share of after-tax net revenues from the CLEC business for annual disbursement to ratepayers of any positive balances calculated using the 50/50 after-tax net revenue sharing formula described…*"

Revenues will be returned to customers through the Annual Electric True-Up and Annual Gas True-Up Advice Letters submitted to the Commission.

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| PG&E Data Request No.: | TURN_003-**Q02** | | |
| PG&E File Name: | CLEC_DR_TURN_003-Q02 | | |
| Request Date: | November 1, 2017 | Requester DR No.: | 003 |
| Date Sent: | November 15, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Richard Patterson | Requester: | Christine Mailloux |

**QUESTION 2**

At page 3-2 of its testimony, PG&E twice refers to the "low margin nature of the CLEC Business."

a. Please describe in detail the basis for PG&E's characterization of the CLEC Business as being of a "low margin nature."

b. Please provide a copy of all analysis PG&E performed or considered in support of its determination that its proposed CLEC Business would be of a "low margin nature."

c. Did PG&E perform or consider any analysis of whether "lit fiber offerings" with characteristics as described on page 2-6 of its testimony would be of a "low margin nature?" If so, please provide a copy of all such analyses.

d. In determining that PG&E's CLEC Business would be of a "low margin nature," did PG&E factor in the utility's ability to rely on existing utility assets to provide the products and services offered through the CLEC Business? If the answer is anything other than an unqualified negative, please describe in detail how PG&E factored reliance on existing utility assets into its determination that the CLEC Business would be of a "low margin nature."

**ANSWER 2**

a. PG&E's characterization of the CLEC business[1] as low margin is based on the net profit margins of eight companies PG&E identified on the FCC Form 499 Filer Database that were characterized as CLECs and do business in California. PG&E used publicly available financial information for those companies to calculate their pre-tax margins. The table in Chapter 3 Attachment A of the testimony shows the average pre-tax net operating margin of the eight companies over the past three years is 7.1%, and, assuming the after-tax net margin is 60% of the pre-tax amount, then their after-tax net margins would average around 4%. PG&E considers 4% a low margin since a cost or revenue shift of only a few percent would have a very substantial impact on profitability.

[1] To be clear, PG&E's testimony here is discussing the CLEC business in general, and is not speculating whether PG&E's CLEC business will be a low or high margin business.

b. Please see the attachment to this data request, Atch01_CLEC_DR_TURN_003_Q02. The average pre-tax margin over the past three years of the businesses listed in the table is 7.1%. As stated in its response to part a. of this question, this analysis is intended to address the CLEC industry in generally, not PG&E's proposed CLEC business.

c. No. The financial data used by PG&E did not have detail for that type of analysis.

d. As explained above in responses to parts a and b of this question, PG&E has made no determination of whether PG&E's proposed CLEC business will evolve into a high or low margin business. Although use of PG&E's existing fiber cable could lead to a high margin for PG&E's CLEC business, market forces could result in PG&E's CLEC business evolving into a low, rather than a high, margin business. In such an event, a gross revenue sharing mechanism may lead to fewer investment opportunities and less profit to share with ratepayers.

# CLEC Comps

| | Average | 2016 | 2015 | 2014 |
|---|---|---|---|---|
| **Earthlink ($Thousands)** | | | | |
| Revenue | | $959,874 | $1,097,252 | $1,176,895 |
| Pre tax Income | | $8,625 | ($40,480) | ($77,115) |
| Margin | -3.1% | 0.9% | -3.7% | -6.6% |
| **Windstream ($Millions)** | | | | |
| Revenue | | $5,387 | $5,765 | $5,830 |
| Pre tax Income | | ($524) | $43 | ($65) |
| Margin | -3.4% | -9.7% | 0.8% | -1.1% |
| **CenturyLink ($Millions)** | | | | |
| Revenue | | $17,470 | $17,900 | $18,031 |
| Pre tax Income | | $1,020 | $1,316 | $1,110 |
| Margin | 6.4% | 5.8% | 7.4% | 6.2% |
| **MagicJack ($Millions)** | | | | |
| Revenue | | $97,398 | $100,962 | $116,322 |
| Pre tax Income | | $13,775 | $25,312 | $13,530 |
| Margin | 16.9% | 14.1% | 25.1% | 11.6% |
| **Sprint ($Millions)** | | | | |
| Revenue | | $33,347 | $32,180 | $34,532 |
| Pre tax Income | | ($771) | ($1,854) | ($3,919) |
| Margin | -6.5% | -2.3% | -5.8% | -11.3% |
| **AT&T ($Millions)** | | | | |
| Revenue | | $163,786 | $146,801 | $132,447 |
| Pre tax Income | | $19,812 | $20,692 | $10,355 |
| Margin | 11.3% | 12.1% | 14.1% | 7.8% |
| **Comcast ($Millions)** | | | | |
| Revenue | | $80,403 | $74,510 | $68,775 |
| Pre tax Income | | $14,353 | $13,372 | $12,465 |
| Margin | 18.0% | 17.9% | 17.9% | 18.1% |
| **Verizon ($Millions)** | | | | |
| Revenue | | $125,980 | $131,620 | $127,079 |
| Pre tax Income | | $20,986 | $28,240 | $15,270 |
| Margin | 16.7% | 16.7% | 21.5% | 12.0% |
| **Total Average** | 7.1% | 6.9% | 9.7% | 4.6% |

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| PG&E Data Request No.: | TURN_003-**Q05** | | |
| PG&E File Name: | CLEC_DR_TURN_003-Q05 | | |
| Request Date: | November 1, 2017 | Requester DR No.: | 003 |
| Date Sent: | November 15, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Richard Patterson | Requester: | Christine Mailloux |

**QUESTION 5**

At page 3-3, PG&E refers to "net margins experienced by typical telecom companies" and refers to Table 1 in Attachment A. For each of the eight companies listed in Attachment A, please indicate whether the calculation of the "net revenue margin" is based on pre-tax income and revenue attributable solely to services similar to the "lit fiber offerings" with characteristics as described on page 2-6 of its testimony. If so, please provide the figures PG&E used for the calculation and explain how PG&E derived those figures. If not, please provide PG&E's best estimate of the portion of pre-tax income and revenue each company derived from offering services similar to the "lit fiber offerings" PG&E describes at page 2-6.

**ANSWER 5**

The financial reports used by PG&E for the eight companies did not contain information for PG&E to determine which revenues and expenses are attributable solely to services similar to the "lit fiber offerings" as described on page 2-6 of PG&E's testimony. Given that the information in the annual reports of the eight companies is not separated by line of business, PG&E cannot provide an estimate of the portion of pre-tax income and revenue for each company derived solely from "lit fiber offerings".

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| PG&E Data Request No.: | TURN_003-**Q06** | | |
| PG&E File Name: | CLEC_DR_TURN_003-Q06 | | |
| Request Date: | November 1, 2017 | Requester DR No.: | 003 |
| Date Sent: | November 15, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Richard Patterson | Requester: | Christine Mailloux |

**QUESTION 6**

For each of the eight companies listed in Attachment A, please state PG&E's understanding as to whether its provision of "lit fiber offerings" relies on assets that are subject to cost-of-service ratemaking by a state or federal regulatory commission, including but not limited to the California PUC.

**ANSWER 6**

PG&E's does not know whether the provisions of "lit fiber offerings" for the eight companies rely on assets that are subject to cost-of-service ratemaking by a state or federal regulatory commission, including but not limited to the California PUC.

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|---|---|---|---|
| PG&E Data Request No.: | TURN_003-**Q07** | | |
| PG&E File Name: | CLEC_DR_TURN_003-Q07 | | |
| Request Date: | November 1, 2017 | Requester DR No.: | 003 |
| Date Sent: | November 15, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Richard Patterson | Requester: | Christine Mailloux |

**QUESTION 7**

For each of the eight companies listed in Attachment A, please state PG&E's understanding as to whether its CLEC operations rely on assets that are subject to cost-of-service ratemaking by a state or federal regulatory commission, including but not limited to the California PUC.

**ANSWER 7**

PG&E does not know whether each company's CLEC operations rely on assets that are subject to cost-of-service ratemaking by a state or federal regulatory commission, including but not limited to the California PUC.

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| PG&E Data Request No.: | TURN_003-**Q08** | | |
| PG&E File Name: | CLEC_DR_TURN_003-Q08 | | |
| Request Date: | November 1, 2017 | Requester DR No.: | 003 |
| Date Sent: | November 15, 2017 | Requesting Party: | The Utility Reform Network |
| PG&E Witness: | Richard Patterson | Requester: | Christine Mailloux |

**QUESTION 8**

At page 3-4, PG&E presents a table of "possible gross and net revenues for the first five years of PG&E's CLEC Business."

a. Please state the amount that PG&E assumes as the "total, projected market revenue" for purposes of this illustration, and provide all supporting documentation for that amount.

b. Please explain the basis for PG&E's assumption that its market share could grow to 2 percent over four years.

c. For each year covered in the table, please provide (separately stated) the amount of capital and expense assumed for purposes of this illustration.

d. PG&E describes the numbers in its table as "illustrative" and "not based on a business plan." Please describe in detail what the numbers are based on, and provide all supporting documentation.

**ANSWER 8**

a. PG&E assumes the "total, projected market revenue" to be $1,257 billion. As noted in PG&E's testimony, pages 3-4 and 3-5, *these numbers are illustrative and not based on a business plan, and will very likely change materially in the event PG&E's CLEC application is approved and a business plan is developed.*

   The supporting document contains sensitive information associated with potential future business plans and strategies for the company. As such it contains confidential PG&E information and PG&E will provide pursuant to NDA, however PG&E has not received a signed NDA from TURN.

b. The 2 percent market share assumption is based on the supporting document, which contains sensitive information associated with potential future business plans and strategies for the company. As such it contains confidential PG&E information and PG&E will provide pursuant to NDA, however PG&E has not received a signed NDA from TURN.

As noted in PG&E's testimony, pages 3-4 and 3-5, *these numbers are illustrative and not based on a business plan, and will very likely change materially in the event PG&E's CLEC application is approved and a business plan is developed.*

c. Capital and expense below:

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
|---|---|---|---|---|---|
| Capital ($Thousands) | - | 2,147 | 6,212 | 10,454 | 12,480 |
| Expense ($Thousands) | 2,366 | 3,806 | 6,592 | 10,816 | 16,227 |

d. These numbers are based on the supporting document, which contains sensitive information associated with potential future business plans and strategies for the company. As such it contains confidential PG&E information and PG&E will provide pursuant to NDA, however PG&E has not received a signed NDA from TURN.