



ELECTRIC SAMPLE FORM NO. 79-1031
COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT

Sheet 1

**Please Refer to Attached
Sample Form**



COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“Agreement”) is entered into by and between Pacific Gas and Electric Company (“Utility”) and _____

_____, a _____ [name]

_____, a _____ [describe political entity]

_____ (“CCA”) as of _____ (“Effective Date”). This Agreement is executed pursuant to California Public Utilities Commission (“CPUC”) Order Instituted Rulemaking (“OIR”) 03-10-003, California Public Utilities Code (“PU Code”) Section 366.2 et seq., and applicable Utility tariffs (as modified hereafter from time to time). As used herein Utility and CCA may each be referred to individually as a “Party” and collectively as “Parties.”

The CPUC has determined that CCA may obtain specified confidential customer information from Utility pursuant to Tariff Schedules E-CCAINFO-Information (as modified hereafter from time to time) (“E-CCAINFO”) as a community choice aggregator, as defined by PU Code Section 331.1, solely in order to investigate, pursue or implement community choice aggregation pursuant to PU Code Section 366.2, et seq. or confidential customer electric and gas consumption data to implement energy efficiency programs pursuant to PU Code section 381.1. The provisions of this Agreement and E-CCAINFO govern the disclosure of Utility’s confidential customer information to CCA (“Disclosure Provisions”) under Schedules E-CCAINFO and E-CCA.

The Parties hereby mutually agree that:

1. Subject to the terms and conditions of this Agreement, current proprietary and confidential information of Utility regarding customers of Utility (“Utility Customers”) may be disclosed to CCA from time to time in connection herewith as provided by the Disclosure Provisions and solely for the purpose of investigating, pursuing or implementing community choice aggregation pursuant to PU Code Section 366.2, et seq. as a community choice aggregator or to implement energy efficiency programs pursuant to PU Code section 381.1. Such disclosure is subject to the following legal continuing representations and warranties by CCA:

(a) CCA represents and warrants that, pursuant to PU Code Section 331.1,

- (1) it is either (i) a city, county, or other entity as defined in PU Code Section 331.1 whose governing board has elected to combine the loads of its residents, businesses, and municipal facilities in a community wide electricity buyers program or (ii) a city, county, or other entity as defined in PU Code Section 331.1 that intends to actively investigate or pursue delivery of electric service to customers located within the geographic territory of the CCA, and
- (2) that to investigate, pursue or implement community choice aggregation under PU Code Section 366.2 et seq., or to implement energy efficiency programs pursuant to PU Code section 381.1;

† Information collected on this form is used in accordance with PG&E’s Privacy Policy. The Privacy Policy is available at pge.com/privacy.

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- (b) CCA represents and warrants that it has all necessary authority to enter into this Agreement, and that it is a binding enforceable Agreement according to its terms;
 - (c) CCA represents and warrants that the authorized representative(s) executing this Agreement is authorized to execute this Agreement on behalf of the CCA; and
 - (d) CCA confirms its understanding that the information of Utility Customers is of a highly sensitive confidential and proprietary nature, and that such information will be used as contemplated under the Disclosure Provisions solely for the purposes of investigating, pursuing or implementing Community Choice Aggregation under PU Code Section 366.2 as a community choice aggregator or to implement energy efficiency programs pursuant to PU Code section 381.1, and that any other use of the information may permit Utility to suspend providing further information hereunder.
 - (e) CCA represents and warrants that it will implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for a secondary commercial purpose not related to community choice aggregation or energy efficiency purposes without the customer's prior consent to that use.
2. The confidential and proprietary information disclosed to CCA in connection herewith may include, without limitation, the following billing information about Utility Customers: Customer-specific information from the current billing periods as well as prior 12 months consisting of: service agreement number, name on agreement, service address with zip code, mailing address with zip code, telephone number, meter number, monthly kWh usage, monthly maximum demand where available, electrical or gas consumption data as defined in PU Code Section 8380, other data detailing electricity or gas needs and patterns of usage, Baseline Zone, CARE participation, End Use Code (Heat Source) Service Voltage, Medical Baseline, Meter Cycle, Bill Cycle, Budget Billing and other plans, HP Load and Number of Units and monthly rate schedule for all accounts within the CCA's territory. In addition, PG&E will provide the CCA the following additional information regarding customers currently enrolled in its CCA service: current and historical billing information for non-CCA services provided by PG&E or other electric service providers (collectively, "Confidential Information"). Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by CCA or its representatives that are derived from or based on Confidential Information disclosed by Utility, regardless of the form of media in which it is prepared, recorded or retained.

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3. Except for electric and gas usage information provided to CCA pursuant to this Agreement, Confidential Information does not include information that CCA proves (a) was properly in the possession of CCA at the time of disclosure; (b) is or becomes publicly known through no fault of CCA, its employees or representatives; or (c) was independently developed by CCA, its employees or representatives without access to any Confidential Information.
4. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by CCA, or used for any purpose other than to investigate, pursue or implement community choice aggregation under PU Code Section 366.2 et seq. as a community choice aggregator or to implement energy efficiency programs pursuant to PU Code section 381.1 as permitted under this Agreement and the Disclosure Provisions.
5. CCA shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. CCA shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for a secondary commercial purpose not related to community choice aggregation or energy efficiency. Specifically, CCA shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of CCA who have a “need to know” such Confidential Information in the course of their duties with respect to the CCA program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement, provided, however, that, an Energy Service Provider, agent, or any other entity, including entities that provide both direct access (as codified in Assembly Bill No. 1890, Stats. 1996, ch. 854) and community choice aggregation services shall limit their utilization of the information provided to the purposes for which it has been provided and shall not utilize such information, directly or indirectly, in providing other services, including but not limited to Direct Access services, in order to effectuate the obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, CCA shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree in writing to be bound by the terms of this Agreement by signing the “Non-Disclosure Agreement for CCA Employees or Representatives” form attached as Exhibit A hereto. CCA shall provide Utility with copies of the signed Exhibit A forms at Utility request. CCA shall also provide Utility with a list of the names, titles, and addresses for all persons or entities to which Confidential Information is disclosed in connection herewith (“Disclosure List”). This Disclosure List shall be updated by CCA on a regular basis, and will be provided to Utility once each quarter at a minimum.

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6. CCA shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Utility directly against such employees or representatives for improper disclosure and/or use. In no event shall CCA or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. CCA shall immediately notify Utility in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by CCA or any of its employees or representatives. However, nothing in this Agreement shall obligate the Utility to monitor or enforce the CCA's compliance with the terms of this Agreement.
7. CCA shall comply with the consumer protections concerning subsequent disclosure and use that are in Attachment B to CPUC Decision No. 12-08-045.
8. CCA acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Utility and/or Utility Customers, the amount of which may be difficult to assess. Accordingly, CCA hereby confirms that the Utility shall be entitled to apply to a court of competent jurisdiction or the CPUC for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by CCA or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the Utility, in law or equity.
9. In addition to all other remedies, CCA shall indemnify and hold harmless Utility, its affiliates, subsidiaries, parent company, officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of CCA and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.
10. If, at any time, CCA ceases its investigation, pursuit or implementation of community choice aggregation pursuant to PU Code Section 366.2 et seq., CCA shall promptly return or destroy (with written notice to Utility itemizing the materials destroyed) all Confidential Information then in its possession at the request of Utility. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.
11. This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the Parties hereto. This Agreement shall not be assigned, however, without the prior written consent of the non-assigning Party, which consent



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may be withheld due to the confidential nature of the information, data and materials covered.

- 12. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior discussions, negotiations, understandings, communications, correspondence and representations, whether oral or written. This Agreement shall not be amended, modified or waived except by an instrument in writing, signed by both Parties, and, specifically, shall not be modified or waived by course of performance, course of dealing or usage of trade. Any waiver of a right under this Agreement shall be in writing, but no such writing shall be deemed a subsequent waiver of that right, or any other right or remedy.
- 13. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without reference to its principles on conflicts of laws.
- 14. This Agreement shall, at all times, be subject to such changes or modifications by the CPUC as it may from time to time direct in the exercise of its jurisdiction.

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Agreement as of the Effective Date.

PACIFIC GAS AND ELECTRIC COMPANY

(Customer)

(Signature)

(Type/Print Name)

(Title)

(Date)

(Signature)

(Type/Print Name)

(Title)

(Date)



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EXHIBIT A NON-DISCLOSURE AGREEMENT FOR CCA EMPLOYEES OR REPRESENTATIVES

I, _____, declare under penalty of perjury that

(1) I am employed as _____ (title) at _____
_____ (employer and address); and

(2) I have personally reviewed the attached **COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT** relating to disclosure and use of Confidential Information (as defined therein) and I agree to be bound by its provisions.

Signed: _____

Print Name: _____

Dated: _____