Electric Sample Form No. 79-995 Sheet 1
Agreement for Customers Taking Service on Schedule E-31

**Please Refer to Attached
Sample Form**

Pacific Gas and Electric Company

AGREEMENT FOR CUSTOMERS TAKING SERVICE ON SCHEDULE E-31

DISTRIBUTION

☐ Customer
☐ ES&S
☐ Customer Billing
☐ Service Analysis
☐ ______________

REFERENCES

SA#: ______________

This Agreement for Customers Taking Service on Schedule E-31 (hereinafter "Agreement") is made between ____ ("Customer" or "the Customer"), a(n) _________________________Corporation and PACIFIC GAS AND ELECTRIC COMPANY ("PG&E"), a California corporation. PG&E and the Customer will be referred to collectively herein as the "Parties" or individually as "Party." Customer is either: (a) an existing PG&E customer who, because of Schedule E-31, is declining an offer of retail electric service from a competing irrigation district ("Competitor") through the use of Competitor's transmission and/or distribution facilities and thus is choosing not to bypass PG&E's distribution system for retail delivery of electricity to the Customer's premises; or (b) a potential PG&E customer who is currently taking, or has the option to take, retail distribution service from Competitor but, because of Schedule E-31, has decided to take retail distribution service from PG&E. Customer's premises are located at ______________
("Premises").

This Agreement provides for a discount to be applied to Customer's otherwise-applicable PG&E rate schedule, to establish an average electric rate (net of commodity costs) competitive with the rate the Customer currently pays or would pay for obtaining electricity through [ne Competitor's distribution facilities ("Discount Percentage"). This discount is determined using the price calculations described in Section 1 below and is intended to respond to the potential for bypass of PG&E's distribution system by making PG&E's rates competitive with the rates offered by Competitor.

The Parties agree to the following terms and conditions:

AGREEMENT

1. **DISCOUNTED RATE**: The Customer's Discounted Rate under this Agreement will be calculated as follows:

   a. **PG&E Average Non-Commodity Rate**. The PG&E Average Non-Commodity Rate is me projected annual PG&E revenue from the Customer (excluding commodity cost revenue and taxes and surcharges) divided by the Customer's projected annual usage in kilowatt-hours. The projected annual PG&E revenue is calculated by applying the non-commodity rates in the Customer's otherwise-applicable schedule to its historical billing determinants over the preceding twelve months. Customer's historical billing determinants will be adjusted for projected load change.

   b. **Competitor's Average Non-Commodity Rate**. The Competitor's Average Non-Commodity Rate is calculated using the identical billing determinants in Section 1.a., above. The Competitor's tariff rates (or other documented non-tariff rate offer) are applied to billing determinants adjusted as appropriate to account for differences in Competitor's billing determinant definitions (e.g. seasons, time-of-use periods) to calculate total bundled annual revenue (excluding any applicable taxes and surcharges). An estimate of Customer's annual commodity cost is then subtracted from this amount, and the result is then divided by the Customer's projected total annual usage to obtain the Competitor's Average Non-Commodity Rate. PG&E will estimate the Customer's annual commodity cost based upon the generation rate component in PG&E's owe respective tariff as a proxy for what the Competitor would pay for its generation. After April 1. 2003, the generation rate in PG&E's rate schedule will be reduced by the energy surcharges provided in Schedule E-EPS to determine the generation portion of the rates.

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

The Competitor's Average Non-Commodity Rate will reflect all applicable out-of-pocket competitive transition and other non-bypassable charges that Customer would be obligated to and would itself pay PG&E upon departure, or in the case of a Customer currently taking service from the Competitor, is already paying to PG&E and/or would pay the competitor upon departure.

In situations where PG&E deems that the Competitor's tariff rates do not effectively represent the true electric costs that the Customer will encounter at its site due to receipt by the Customer of a written non-tariff rate offer from the Competitor, the non-tariff rate offer may be used to make this calculation.

c. **Competitive Discount**. The Competitive Discount is calculated as the difference between the PG&E Average Non-Commodity Rate and the Competitor's Average Non-Commodity Rate. PG&E has the discretion to offer a larger discount (resulting in a lower price) if, in PG&E's business judgment, it is necessary to do so to retain or attract the Customer. However, PG&E may not discount the energy surcharges adopted by the Commission in D.01-01-018 and D.01-03-082 (as implemented in D.01-05-064).

d. **PG&E Average Non-Commodity Rate (Net of Non-Bypassable Charges)**. PG&E's Average Non-Commodity Rate (Net of Non-Bypassable Charges) is calculated by applying the functionally unbundled non-commodity rate components (except for the non-bypassable charges) in the Customer's otherwise-applicable rate schedule to the billing determinants in Section 1.a above, to calculate annual non-commodity revenue (net of non-bypassable charge revenue), then dividing by the Customer's annual usage.

e. **Allowable Discount**. The Allowable Discount is calculated by reducing the Competitive Discount, if necessary, to ensure that the resulting discounted rate (i.e., the PG&E Average Non-Commodity Rate minus the Allowable Discount) can be no lower than the Marginal Transmission and Distribution Cost. If the Customer is located in the area described in P.U. Code Section 9610(b) (i.e., the 4-city area which PG&E proposed to sell to Modesto Irrigation District in 1997), then the resulting discounted rate can be no lower than 120 percent of the Marginal Transmission and Distribution Cost. Marginal Costs are defined in Section 7 of this Agreement.

f. **Rate Discount Percentage**. The Rate Discount Percentage is the Allowable Discount expressed as a percentage of PG&E's Average Non-Commodity Rate (Net of Non-Bypassable Charges)

g. **Discounted Rate**. The Discounted Rate is calculated by applying the Rate Discount Percentage to all non-commodity rate components (excluding non-bypassable charges). These discounted rate components, along with the other non-discounted billing components found in the Customer's otherwise-applicable rate schedule, shall be combined to establish the Customer's Schedule E-31 Rate.

The Discounted Rate will be subject to annual review and possible future modifications to ensure that the constraint described in Section 1.d above, continues to be met during the term of the Agreement.

Eligibility for Schedule E-31 does not depend in any way upon whether or not the customer takes bundled service from PG&E or purchases its energy from another supplier, and customers taking service under Schedule E-31 may switch their energy supplier as allowed under PG&E's Rule 22 and applicable tariffs Since the discount calculation described in this section does not involve commodity/costs the amount of the Schedule E-31 discount is the same regardless of whether the Customer takes bundled service from PG&E or purchases its energy from another supplier.

The Rate Discount Percentage is shown in Exhibit A to this Agreement. Customer's otherwise-applicable rate schedule is _________ (include voltage level ________.).

2. INFORMATIONAL REQUIREMENTS

To qualify for service under this Agreement, Customer must first provide PG&E with the following information and demonstrate, to PG&E's satisfaction, the credibility of the same as it applies to the Premises:

- Written rate offer from Competitor or Competitor's tariff (in the case of a Customer already taking service from Competitor);

- Any other Customer cost or operational information that PG&E deems pertinent to the analysis.

Customer will sign under penalty of perjury, have notarized, and deliver ta PG&E an affidavit attesting to the fact that the Customer has received a bona fide offer from an irrigation district at rates less than PG&E's tariffed rates (see Exhibit B). PG&E shall evaluate the information provided by Customer and any other available information and determine in its sole discretion whether Customer qualifies far this Agreement.

3. REQUIREMENT OF DELIVERY OF ELECTRICITY THROUGH PG&E'S SYSTEM

Customer shall use PG&E-delivered electricity for their total electrical load requirement throughout the term of this Agreement. Customer shall not use any electricity that is not delivered By PG&E unless the Customer is:

- utilizing emergency generation in the event of an outage;

- testing emergency generation facilities (not to exceed 10 hours per month); or

- given prior written permission by PG&E or similar operational events

If Customer utilizes any electricity not delivered by PG&E other than as provided above, PG&E may cancel this Agreement as specified in Section 9 ("Cancellation and Termination").

The Customer may choose to purchase energy from either PG&E in a bundled transaction or from another supplier, with the power delivered over PG&E lines via direct access arrangement.

GENERAL TERMS AND CONDITIONS

4. COMMENCEMENT DATE

The rate discount shall take effect no earlier than the date on which, in PG&E's judgment, the customer would have begun taking service from the Competitor ("Commencement Date"), or, in the case of a new Customer, the date the Customer begins taking PG&E distribution service. The Commencement Date for this Agreement is The Customer will be billed at the Discounted Rate on the Customer's first regular scheduled meter read Dale after the "Commencement Date."

This Agreement must be fully executed prior to the Customer receiving the Discounted Rate.

5. TERM

This Agreement shall expire or ____, 20____.

6. COMMISSION JURISDICTION

This Agreement shall be subject to all of PG&E's tariffs on file with, and authorized by, the California Public Utilities Commission (Commission) and shall at all times be subject to such changes or modifications as the Commission may direct from time to time in the exercise of its jurisdiction. Such action by the CPUC may be grounds for cancellation of this Agreement by either Party.

7. FLOOR PRICE

Over the term of this Agreement, the sum of the non-commodity charges collected by PG&E from the Customer, exclusive of any additional applicable taxes or surcharges and expressed in units of dollars per kilowatt-hour, shall net fall below the Floor Price defined as PG&E's total, distribution planning area-specific, marginal transmission and distribution cost, expressed in units of dollars per kilowatt-hour (or, if the Customer is located in the area described in P.U. Code Section 9610(b), 120 percent thereof. The marginal costs will be determined using the appropriate CPUC-approved methodologies for marginal costing purposes in effect at the time.

8. ANNUAL REVIEW

Once each calendar year, odor to March 31 PG&E shall compute me total Schedule E-31 revenue it has collected from the Customer during the preceding calendar year to ensure that PG&E has collected, at a minimum the annual revenue (or adjusted portion thereof, if toe customer was not taking service on Schedule E-31 for the entire calendar year) associated with the Floor Price, The Parties agree that if the revenues collected during the preceding calendar year fall below the amount associated with the Floor Price Customer shall pay PG&E a lump sum equal to that shortfall amount. In no case however, shall the revenues paid exceed what the customer would pay on its otherwise-applicable schedule PG&E shall notify customer of any lump sum payment obligation as soon as possible according to Section 11 below, after it has completed its annual review. This payment; will be due and payable in full, without interest thirty (30) days after PG&E has notified the Customer in writing of its payment obligation.

If a shortfall occurs, and after all shortfall payments described above have been made by Customer, the Customer may request that PG&E simply bill the Customer at a rate equal to the Floor Price. PG&E will continue to do so until such time as the Customer's Discounted Rate exceeds the Floor Price at which time the Customer will once again be billed at the Discounted Rate established in this Agreement. This provision is intended to eliminate the potential for any future lump sum shortfall payments by the Customer.

9. CANCELLATION AND TERMINATION

The Customer may terminate this Agreement at any time prior to the end of its term by giving PG&E a minimum of thirty (30) days written notice of such termination Upon such termination Customer shall be required to pay PG&E a liquidated damages payment as specified in Section 10. Notwithstanding the foregoing, Customer shall not be liable for liquidated damages if it terminates this Agreement due to a permanent plant or business closure at the Premises

PG&E may cancel this Agreement upon thirty (30) days written notice to Customer if Customer uses electricity not delivered by PG&E to supply toe electrical load at the Premises for a total of 1,080 hours during the term of this Agreement. In the event of the termination of this Agreement pursuant to this paragraph, Customer shall be liable to PG&E for liquidated damages in an amount calculated under Section 10.

Either Party may cancel this Agreement upon thirty (30) days written notice in the event any regulatory body or court of competent jurisdiction finds that a provision of this Agreement, or a portion thereof, is unenforceable or invalid and the canceling Party determines, in good faith, that the remaining provisions of this Agreement have been rendered unenforceable or disadvantageous; provided the written notice is made within 60 days of the date of the regulatory or court decision.

10. LIQUIDATED DAMAGES

PG&E's electric business is based upon furnishing services to its customers under its standard tariffs authorized by the CPUC. This Agreement provides a special rate and service level to Customer that is outside of the bounds of these standard tariffs. It will be extremely difficult for the Parties to identify the amounts of increased or additional costs attributable to Customer's termination of this Agreement. The liquidated damages payment is required to ensure that neither PG&E nor its ratepayers are financially or otherwise damaged if the Customer chooses to prematurely terminate this Agreement. Parties agree the liquidated damages specified herein are a reasonable approximation of damages which PG&E and its ratepayers may incur as a result of such termination, and that the damage amount does not represent a penalty.

The Customer shall not be liable for liquidated damages to the extent termination, automatic or otherwise, is due to permanent plant or business closure at the Premise.

Customer's liquidated damages payment, if applicable, will be due to PG&E within ninety (90) days of the date this Agreement is terminated. As of the date of termination, the liquidated damage payment amount shall be calculated as follows:

For termination within 30 months of the Commencement Date (i.e., one-half of the rate discount period):

The liquidated damages payment shall equal the net present value amount of the discount provided by PG&E to the Customer under this Agreement until and on the date of its termination.

For termination later than 30 months after the Commencement Date:

The liquidated damages payment shall equal the net present value amount of the discount provided by PG&E to the Customer under this Agreement, until and on the date of its termination, less that amount multiplied by the ratio of: (a) the number of months between the Commencement Date and the termination date minus 30 months: to (b) 30 months. This formula is mathematically expressed as follows:

Damages = Discount - (Discount x Ratio),

where Ratio = (Commencement Date - Termination Date - 30) / 30

11. NOTICE

Any notice either PG&E or Customer may wish to give to the other must be in writing. Such notice must be either hand delivered, or sent by U.S. certified or registered mail postage prepaid, to the person designated to receive notice for the other Party, or to such other address as either may designate by written notice. Notices delivered by hand shall be deemed effective when delivered. Notices delivered by mail shall be deemed effective when received, as acknowledged by the receipt of the certified or registered mailing,

To: (Customer) ____
____
____
____

PG&E: Pacific Gas and Electric Company
Tariffs and Compliance
Mail Code H28H
P.O. Box 777000
San Francisco, CA 94177

12. SERVICE RELIABILITY

PG&E's standard for reliability of service for Customer shall be as dictated in PG&E's Electric Rule 14 or its successor, a copy of which is attached to this Agreement and incorporated by reference herein.

13. ASSIGNMENT

Customer may not assign this Agreement to a third party without the prior written permission of an authorized representative of PG&E. Any assignment is subject to any applicable CPUC authorization or regulation except as waived by the CPUC.

14. SEVERABILIT

In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforcement of the remaining provisions or portions thereof shall not be affected thereby; provided, however, that should either Party determine, in good faith, that such unenforceability or invalidity renders the remaining provisions of this Agreement economically infeasible or disadvantageous, such Party may terminate this Agreement upon thirty (30) days prior written notice to the other, provided such written notice is made within 60 days of the date of the court decision.

15. FORCE MAJEURE

Neither Party hereto shall be liable for any failure of performance, other than the continuing obligation to make payments due hereunder for periods prior to the event of force majeure, owing to causes beyond its reasonable control and the occurrence of which could not have been prevented by the exercise of due diligence. Refusal by either Party to accede to demands of laborers or labor unions that it considers unreasonable shall not deny it the benefits of this provision. If either Party hereto is unable, for any reason, to deliver or receive full or partial quantities of electricity contemplated by this Agreement due to force majeure, the Party so unable to perform shall promptly advise the other Party that such condition exists, and the Parties shall suspend operations under this Agreement to the extent dictated by the force majeure event, until the event of force majeure is remedied and both Parties can once again deliver and receive electricity, respectively. Any force majeure event shall be remedied as far as possible with all reasonable dispatch. The term "force majeure" as employed herein shall include, but is not be limited to: acts of God; strikes or other industrial disturbances; acts of a public enemy; the direct or indirect effect of governmental orders actions, or interference civil disturbances; explosions; breakage of or accidents to machinery or power lines; power outages; the necessity of making repairs to or alterations of machinery or power lines; landslides; lighting; earthquakes; fires: storms; floods; and washouts. Force majeure shall not include financial considerations.

16. NO INCIDENTAL OR CONSEQUENTIAL DAMAGES

PG&E shall not be liable for any incidental special or consequential damages, including but not limited to lost profits and loss of power related in any way with the performance of either Party under this Agreement.

17. WAIVER

A waiver by either Party or any one or more defaults by the other hereunder shall not operate as a waiver of any future default or defaults, whether of a like or of a different character.

18. SURVIVAL

The provisions of this Agreement which by their nature should survive expiration, cancellation or other termination of this Agreement, including but not limited to provisions regarding financial obligations, shall survive such expiration, cancellation or other termination.

IN WITNESS THEREOF, the Parties have executed this Agreement in multiple originals of equal dignity by their respective duly authorized representatives.

Executed this ________day of ______________________, 20_____

	PACIFIC GAS AND ELECTRIC COMPANY
______________________________ (Customer)	______________________________
______________________________ (Signature)	______________________________ (Signature)
______________________________ (Type/Print Name)	______________________________ (Type/Print Name)
______________________________ (Title)	______________________________ (Title)

Attachments: Exhibit A
Exhibit B
Electric Rule 14

AGREEMENT FOR CUSTOMERS TAKING SERVICE ON SCHEDULE E-31

Exhibit A – Discount Amount Worksheet

1. **PG&E's Average Non-Commodity Rate (S/kWh)**

   (Under otherwise-applicable rate schedule attach calculation
   ____

2. **Competitor's Average Non-Commodity Rate (S/kWh)**

   (Reference Competitor's tariff or other written offer, including out-of-pocket non-bypassable charges that customer would pay; attach calculation)
   ____

3. **Competitive Discount ($1kWh)**

   (Item 1 minus Item 2)
   ____

4. **PG&E's Average Non-Commodity Rate (Net of Non-bypassable Charges) (S/kWh)**

   (Under otherwise-applicable rate schedule: attach calculation)
   ____

5. **Allowable Discount (S/kWh)**

   (Matching Discount adjusted to account for constraints on discounting; attach calculation)
   ____

6. **Rate Discount Percentage (%)**

   (Item 5 divided by Item 4)
   ____

AGREEMENT FOR CUSTOMERS TAKING SERVICE ON SCHEDULE E-31

Exhibit B – Affidavit Regarding Receipt of Bona Fide Offer from An Irrigation District

Under perjury, I, ____, hereby state:

I am the _____________________________________, of __________________________________
(Title) (Parent Company)

a ____ corporation, and am authorized to make this affidavit
(State)

on behalf of ____ ("Company").
(Company)

Pacific Gas and Electric Company (PG&E) and Company propose to enter into an agreement under which PG&E would deliver electric service to Company's Premises. This Proposed Agreement for Customers Taking Service on Schedule E-31 ("Agreement") conveys PG&E's offer of an electric service pricing discount at Company's premises, if Company decides not to take (or continue to take) delivery of electricity at its Premises through Competitor's proposed distribution facilities. The current electric load already being served to the Company by PG&E (or to be served by PG&E by the year___________________.), which could be (or currently is) served by Competitor's proposed system, is approximately___________kWh/yr.

Premises Location ____

____

____

Company has decided not to proceed with receiving (or to continue receiving) electric service from the Competitor's distribution facilities at this time. Furthermore, the Company has received a bona fide offer from an irrigation district at rates less than PG&E's tariffed rates.

Executed at____________________________, California, this_________day of_____________,20_____.

Notarized by:

____
(enter full Company name)

By:_________________________________

Title: _______________________________