



Generator Special Facilities Agreement

At the request of _____ (**Applicant**), **PACIFIC GAS AND ELECTRIC COMPANY (PG&E)** hereby agrees to furnish at Applicant's expense those facilities described in Exhibit 1 to Appendix A (Special Facilities). The Special Facilities are expected to be necessary on or about _____ (date) for the interconnection of Applicant's electric generating project with PG&E's system and/or PG&E's delivery of electrical standby service to Applicant's premises at _____ (complete address).

1. This Generator Special Facilities Agreement (Agreement) includes Appendix A, Detail of Special Facilities Charges, and Appendix B, Project Development Milestones, which are attached and incorporated herein by reference. Appendix A and B may be revised or superseded by mutual written agreement and without formal amendment of the remainder of this Agreement. In addition, Appendix B may be revised or superseded pursuant to orders of the Federal Energy Regulatory Commission (FERC) without formal amendment of the remainder of this Agreement.
2. Applicant shall pay PG&E, on written demand prior to commencement of any work by PG&E, an initial charge equal to the sum of the amounts that are specified in Appendix A. Furthermore, Applicant shall pay PG&E all of PG&E's actual costs reasonably incurred in connection with installing the Special Facilities. Within 180 days of completion of the work, PG&E shall determine the actual cost of installing the Special Facilities and shall provide Applicant a final accounting. If the actual cost is greater than the total amount that has been paid by Applicant, then PG&E shall bill Applicant for the remaining amount, including interest determined pursuant to Section 35.19(a) of FERC's Regulations, 18 CFR § 35.19(a). If the actual cost is less than the total amount that has been paid by Applicant, then PG&E shall pay Applicant the difference, including interest determined pursuant to Section 35.19(a) of FERC's Regulations, 18 CFR § 35.19(a).
3. Applicant also shall pay PG&E any applicable monthly rates and charges for service under PG&E's tariff schedules plus an ownership charge, either (a) or (b) below as specified in Appendix A, namely:
 - (a) COST-OF-OWNERSHIP CHARGE representing PG&E's continuing monthly cost of financing (if applicable), owning and maintaining Special Facilities; or
 - (b) An EQUIVALENT ONE-TIME CHARGE which is equal to the present worth of the monthly COST-OF-OWNERSHIP CHARGE in perpetuity. The COST-OF-OWNERSHIP CHARGE shall commence on the date Special Facilities are first available for Applicant's use, as such date is established in PG&E's records. PG&E will notify Applicant, in writing, of such commencement date. The EQUIVALENT ONE-TIME CHARGE (if applicable) shall be payable by Applicant to PG&E on demand.
4. The COST-OF-OWNERSHIP CHARGE for FERC jurisdictional Interconnections set forth herein is determined in accordance with FERC-approved methodology. Initially, the ownership charge is determined in accordance with the applicable percentage rates established in the Special Facilities section of PG&E's Electric Rule 2 as approved by the FERC. Should the CPUC or FERC, as applicable, subsequently authorize higher or lower percentage rates, the monthly COST-OF-OWNERSHIP CHARGE shall automatically increase or decrease without formal amendment to Appendix A as of the effective date of the CPUC's or FERC's authorization.
5. Where it is necessary to install Special Facilities on Applicant's premises, Applicant hereby grants to PG&E:
 - (a) the right to make such installation on Applicant's premises along the shortest practical route thereon with sufficient legal clearance from all structures now or hereafter erected on Applicant's premises; and
 - (b) the right of ingress and egress from Applicant's premises at all reasonable hours for any purposes reasonably connected with the operation and maintenance of Special Facilities.
6. Where formal rights of way or easements are required on or over property of Applicant or the property of others for the installation of Special Facilities, Applicant agrees that PG&E shall use all reasonable efforts to obtain such rights of way or easements which shall be at Applicant's expense, or if Applicant and PG&E agree otherwise, Applicant shall obtain any necessary permanent rights of way or easements, satisfactory to and without cost to PG&E.

7. PG&E shall not be responsible for any delay in completion of the installation of Special Facilities resulting from shortage of labor or materials, strike, labor disturbance, war, riot, weather conditions, governmental rule, regulation or order, including orders or judgments of any court or regulatory agency, delay in obtaining necessary rights of way and easements, acts of God, delays resulting from PG&E's responsibility to coordinate certain electric interconnections with the California Independent System Operator Corporation or any other cause or condition beyond the control of PG&E, nor shall PG&E be liable for incidental, indirect, special, punitive, or consequential damages for any such delay. PG&E shall have the right, if for one of the above reasons it is unable to obtain materials or labor for all of its construction requirements, to allocate materials and labor to construction projects which it deems, in its sole discretion, most important to serve the needs of its customers, and any delay in construction, hereunder resulting from such allocation shall be deemed to be a cause beyond PG&E's control. In any event, PG&E's total liability for any delay in the completion of the installation of Special Facilities shall not exceed the amount of Special Facilities Charges paid by Applicant.
8. In the event that PG&E is prevented from completing the installation of Special Facilities for reasons beyond its control after twelve (12) months following the date this Agreement has been executed by all the parties, PG&E shall have the right to supersede this Agreement, subject to Applicant's election as provided below, upon at least thirty (30) days' written notice to Applicant and adjust any amounts paid or required to be paid by Applicant hereunder that may be due based on that portion of the Special Facilities then completed, if any, utilizing the estimated costs developed by PG&E for this Agreement. Such a superseding agreement, if any, shall be in substantially the same form as this Agreement, be executed by both parties hereto, and shall provide that costs be allocated to the portion of the Special Facilities then completed, if any, consistent with those costs estimated by PG&E for this Agreement. If Applicant elects not to execute a superseding agreement, this Agreement shall be terminated and the provisions of paragraph 11 herein shall be applied to that portion of Special Facilities then completed, if any. Applicant also shall reimburse PG&E for any expenses it may have incurred for engineering, surveying, right of way acquisition and other work associated with that portion of special facilities not installed.
9. If it becomes necessary for PG&E to alter, rearrange or make addition to Special Facilities in order to maintain parallel operation of Applicant's generation or electrical standby service to Applicant's premises, Applicant shall be notified, in writing, of such necessity and shall be given the option to either terminate this Agreement upon thirty (30) days' written notice to PG&E, or to pay to PG&E additional Special Facilities charges consisting of:
 - (a) a facility termination charge for that portion of Special Facilities which is being removed because of alteration, rearrangement or addition to Special Facilities. Such charge to be determined in the same manner as described in paragraph 11 herein; plus,
 - (b) an additional ADVANCE and/or REARRANGEMENT CHARGE, if any for any new Special Facilities which shall be applied in the same manner as prescribed in paragraph 2 herein; plus,
 - (c) a revised monthly COST-OF-OWNERSHIP CHARGE or EQUIVALENT ONE-TIME CHARGE based on the estimated installed costs of all new and remaining Special Facilities. Such revised monthly COST-OF-OWNERSHIP CHARGE or EQUIVALENT ONE-TIME CHARGE shall be applied in the same manner as prescribed in paragraph 3 herein.
10. This Agreement shall become effective when executed by the parties hereto and, except as provided for in paragraphs 8 and 9 herein, shall remain in force until one of the following events occurs:
 - (a) Applicant fails to meet the project development milestones listed in Appendix B of this Agreement, or
 - (b) A Generator Interconnection Agreement or parallel operation agreement (if applicable) no longer exists between Applicant and PG&E which would occasion the need for Special Facilities; or
 - (c) The ownership of Special Facilities or any portion thereof is deeded to a public authority; or
 - (d) Applicant fails to pay the monthly COST-OF-OWNERSHIP CHARGE prescribed in this Agreement, if applicable.Either party shall provide the other at least thirty (30) days' written notice of termination and an opportunity to cure before termination becomes effective pursuant to this paragraph.
11. Upon termination of the Agreement for any reason:
 - (a) Applicant shall pay to PG&E on written demand (in addition to all other monies to which PG&E may be legally entitled by virtue of such termination) a facility termination charge defined as the estimated installed cost, plus the estimated removal cost less the estimated salvage value for any Special Facilities which can be removed, all as determined by PG&E in accordance with its standard accounting practices. PG&E shall deduct from the facility termination charge the ADVANCE plus the unamortized balance of the EQUIVALENT ONE-TIME CHARGE previously paid, if any. If the ADVANCE paid plus the unamortized balance of the EQUIVALENT ONE-TIME CHARGE, if any, is greater than the facility termination charge, PG&E shall refund the difference, without interest to Applicant; and

- (b) PG&E shall be entitled to remove and shall have a reasonable time in which to remove any portion of the Special Facilities located on the Applicant's premises; and
 - (c) PG&E may, at its option, alter, rearrange, convey or retain in place any portion of the Special Facilities located on other property off Applicant's premises. Where all or any portion of the Special Facilities located off Applicant's premises are retained in place in anticipation of providing permanent service to customers of PG&E, an equitable adjustment shall be made in the facility termination charge.
12. In the event any of the Special Facilities are used during the term of this Agreement to provide service to a party other than the Applicant, an adjustment shall be made in accordance with then-current regulatory policy.
13. Special Facilities shall at all times be the property of PG&E.
14. This Agreement does not give the Applicant any right to build, place, or maintain any of Applicant's or third party facilities on, under or over any PG&E land, easements or property. If Applicant wishes to build, place, or maintain its facilities (or a third party's facilities) associated with the generation project on, under or over any PG&E land, easements or property, Applicant must specifically request the right to make such use and identify the PG&E property involved, regardless of whether Applicant wants a lease, easement, license or other agreement from PG&E. PG&E will separately consider whether or not it is willing to permit such use. In addition, PG&E may need to obtain approval from the CPUC through a filing under section 851 of the California Public Utilities Code, or obtain a waiver of such filing requirements, before PG&E can provide Applicant with any right to use its land. This CPUC approval could potentially take six to eighteen months or longer to obtain, and the CPUC may deny such applications. Applicant should notify PG&E as soon as possible of any potential request for permission to use or cross PG&E land, easements or property. PG&E shall bear no responsibility for any inability to obtain such CPUC approval or for any delays connected with obtaining such CPUC approval.
15. This Agreement shall be subject to all of PG&E's applicable tariffs on file with and authorized by the CPUC and FERC, and shall at all times be subject to such changes or modifications as the CPUC and FERC may direct from time to time in the exercise of their jurisdictions.
16. [] (check if applies) Applicant and PG&E agree that the Special Facilities described in this Agreement are already in place as of the date this Agreement has been executed by all the parties and that paragraphs 6, 7, and 8 of this Agreement and Appendix B of this Agreement are not applicable.
17. Nothing contained herein shall be construed as affecting in any way the right of PG&E to unilaterally make application to the FERC for a change in rates under section 205 of the Federal Power Act (FPA) and pursuant to the FERC's Rules and Regulations promulgated thereunder, Applicant shall have the right to protest and object to such change in rates and otherwise to exercise any and all rights it may have with respect thereto, including its rights under Section 206 of the FPA. The term "rates" as used herein shall mean all rates, terms and conditions contained in this Agreement. A change in rates may include, but not be limited to, not only changes in rates and charges but also in the underlying methodology by which such rates and charges are developed.
18. No transfer or assignment of either party's rights, benefits or duties under this Agreement shall be effective without the prior written consent of the other party, which consent shall not be withheld unreasonably; provided, however, that this Section 18 shall not apply to interests that arise by reason of any deed of trust, mortgage, indenture or security agreement heretofore granted or executed by either party. No partial assignment of either party's rights, benefits or duties shall be permitted under this Agreement unless otherwise agreed to by the parties. Any successor to or transferee or assignee of the rights or obligations of a party, whether by voluntary transfer, judicial sale, foreclosure sale or otherwise, shall be subject to all terms and conditions of this Agreement to the same extent as though such successor, transferee, or assignee were an original party.
19. Taxes Resulting from Applicant's Contribution of Special Facilities
- (a) Representations And Covenants. In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Applicant represents and covenants that (i) ownership of the electricity generated at Applicant's electric generating plant will pass to another party prior to the transmission of the electricity on PG&E's system, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to PG&E for the Special Facilities will be capitalized by Applicant as an intangible asset and recovered using the straight-line method over a useful life of 20 years, and (iii) any portion of the Special Facilities that is a "dual-use intertie" within the meaning of IRS Notice 88-129, is reasonably expected to carry only a *de minimis* amount of electricity to the direction of Applicant or parties related to the Applicant during the first ten taxable years of PG&E, beginning with the year in which the transferred property is placed in service. For this purpose, "*de minimis* amount" means no more than 5% of the total power flows in both directions, calculated in accordance with the "5% test" set forth in IRS Notice 88-129. At PG&E's request, Applicant shall provide PG&E with a report from an independent engineer confirming its representation in clause (iii), above.
 - (b) Indemnification for Taxes Imposed Upon PG&E. Notwithstanding paragraph 19(a), Applicant shall protect, indemnify and hold harmless PG&E from income taxes imposed against PG&E as the result of payments or property transfers made by Applicant to PG&E under this Agreement for the construction of Special Facilities, as well as any interest and penalties (other than interest and penalties attributable

solely to failure by PG&E to pay taxes in a timely manner for which Applicant made timely payment to PG&E). PG&E shall not include a gross-up for income taxes in the amounts it charges Applicant under this Agreement unless (i) PG&E has determined, in good faith, that the payments or property transfers made by Applicant to PG&E for the construction of Special Facilities should be reported as taxable income, or (ii) any governmental authority with taxing or rate jurisdiction over PG&E directs PG&E to report such payments or property transfers as taxable income. Applicant shall reimburse PG&E for such taxes on a fully grossed-up basis, calculated in accordance with paragraph 19(c), within 30 days of receiving written notification from PG&E of the amount due, including detail about how the amount was calculated.

- (c) Tax Gross-Up Amount. Applicant's liability for taxes under this paragraph 19 shall equal the product of (i) the gross income realized by PG&E for income tax purposes, whether attributable to the circumstances described in paragraph 19(b) or paragraph 19(d), with respect to the payments or property transfers made by Applicant to PG&E under this Agreement for the construction of Special Facilities (but not including any gross income attributable to the payment of the gross-up calculated under this paragraph 19(c)) (the "Gross Income Amount") multiplied by (ii) the "Gross-up Percentage" (as defined below). The "Gross-up Percentage" shall equal the gross-up percentage determined in accordance with "method 5," as described in CPUC Decision 87-09-026 for taxable contributions-in-aid-of-construction paid to PG&E in the year the Gross Income Amount is includable in PG&E's taxable income. The "Gross-up Percentage" shall be presumed to be the percentage set forth in PG&E's electric tariffs accepted by the CPUC for taxable contributions in aid of construction. To the extent FERC requires that an alternative gross-up calculation be used to compute generator liability for taxes covered by this Agreement, such alternative methodology shall be used, but only if FERC directs that its order should modify gross-up agreements entered into prior to the date of the FERC order.
- (d) Subsequent Taxable Events. If, within 10 years from the date on which the Special Facilities are placed in service, (i) Applicant breaches any of the covenants contained in paragraph 19(a), (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this Agreement terminates and PG&E retains ownership of the Special Facilities, then Applicant shall pay a tax gross-up for the taxes imposed on PG&E, calculated using the methodology described in paragraph 19(c); provided, however, that Applicant will also reimburse PG&E for any such taxes imposed more than 10 years after the date the Special Facilities are placed in service, but only to the extent either 1) PG&E is unable to include such tax costs in its cost of service or 2) such tax costs are included in PG&E's cost of service but the FERC (or other governing regulatory authority) directs that such taxes should nevertheless also be subject to reimbursement.
- (e) Security.
 - (i) To ensure payment of any indemnity required by paragraphs 19(b) and (d), not later than sixty (60) days prior to initial energy deliveries, Applicant shall provide security which PG&E deems adequate. PG&E shall deem satisfactory any security provisions of general applicability which FERC establishes in docket number RM02-1-000, or any other docket in which FERC resolves the issue of the need for, and possible form and amount of residual security associated with generator interconnections.
 - (ii) Unless and until FERC provides such guidance, Applicant shall either provide a letter of credit or equivalent security in the amount of the gross-up computed as if tax had been incurred at inception; or pay PG&E in cash an amount equal to 20% of the amount of the gross-up computed as if tax had been incurred at inception.
 - (iii) In the alternative, if the equity interest in Applicant is ultimately owned at least 80% by a parent company which owns multiple generation projects interconnected with PG&E, which all qualify for the safe harbor in IRS Notice 2001-82, and is willing to provide a letter of credit that would apply to the potential gross-up for any of those projects, then such parent company may provide a letter of credit equal to the potential ITCC tax liability associated with the generation project for which PG&E's potential ITCC liability is the greatest; provided that the equity ownership interest for such generation project is ultimately owned at least 80% by such parent. A parent providing a letter of credit under this subsection shall provide PG&E with documentation satisfactory to PG&E that it satisfies (and continues to satisfy) the 80% equity ownership condition of the preceding sentence. To the extent the parent no longer qualifies under this subparagraph 19(e)(iii), additional security may be required at PG&E's sole discretion in accordance with subparagraphs 19(e)(i) and 19(e)(ii). The terms of the letter of credit or other security arrangement shall provide PG&E with reimbursement for the potential taxes imposed on the reportable gross income described in paragraph 19(b) or 19(d) on a fully grossed-up basis, calculated in accordance with paragraph 19(c), within 30 days of receiving written notification from PG&E of the amount due, including detail about how the amount was calculated. The security option provided in this paragraph 19(e)(iii) is intended to apply only to FERC-jurisdictional interconnection arrangements, and shall not apply to generation projects interconnected under CPUC-jurisdictional arrangements. The fact that the ultimate owner of a particular generation project interconnected under FERC-jurisdiction also owns

a project interconnected under CPUC authority shall not disqualify it from eligibility for this security option for its FERC-jurisdictional projects.

- (f) No Waiver with Respect to Residual Security Obligations. Nothing in this paragraph 19 shall waive either Party's rights pursuant to sections 205 or 206 of the Federal Power Act or otherwise to support or oppose, in any proceeding or forum, the need for, the form of, and the amount of any residual ITCC security, if any, which PG&E may obligate Applicant to maintain.
20. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) the same with the same force and effect as if such facsimile signature page were an original thereof.

PACIFIC GAS AND ELECTRIC COMPANY

By: _____
Signature

Thomas B. King

Senior Vice President

Date

Applicant

By: _____
Signature

Name

Title

Date

Mailing Address:

Attachments:

- Appendix A
- Appendix B (if applicable)
- Generator Interconnection Agreement
- Exhibit 1 to Appendix A

Appendix A

Detail of Special Facilities Charges

I. Applicability

The application of charges specified herein are pursuant to the provisions of this Agreement between _____ (Applicant) and **PACIFIC GAS AND ELECTRIC COMPANY (PG&E)** and shall be a part thereof and in effect until superseded by mutual agreement.

II. Initial Charge

A. Net cost of all Direct Assignment Special Facilities	\$ _____ ¹
B. Plus Net cost of all Network Upgrade Special Facilities	\$ _____ ²
C. <u>Less</u> the cost of "removable and reusable" Special Facilities which are provided, installed and furnished by PG&E pursuant to Rule No. 21	(\$ _____) ¹
D. ADVANCE	\$ _____ ³
E. <u>Less</u> PG&E's estimate of the cost of Special Facilities provided, installed and deeded to PG&E by Applicant (includes costs of design and administration by PG&E)	(\$ _____)
F. <u>Plus</u> the cost of design, administration and inspection by PG&E of Special Facilities provided, installed and deeded to PG&E by Applicant	\$ _____ N/A
G. Initial Charge	\$ _____

III. Installed Cost of PG&E's Existing Facilities Allocated for Applicant's Use

\$ _____ N/A

1 This is the portion of costs related to Direct Assignment Work used to calculate the monthly COST OF OWNERSHIP CHARGE or EQUIVALENT ONE-TIME CHARGE.
 2 This is the portion of costs related to Network Upgrade Work. No monthly COST OF OWNERSHIP CHARGE or EQUIVALENT ONE-TIME CHARGE is applicable.
 3 This is the estimated total cost of Special Facilities including Direct Assignment Work, Network Upgrade Work, and ITCC (see breakdown in Exhibit 1).

IV. Monthly Cost of Ownership Charge

Special Facilities financed by:	Application Base	Current Percentage Rate	Monthly Charge
A. Applicant	ADVANCE (II.C above = 1. + 2. below) 1. Cost of distribution facilities \$ _____ ^{4 5} Less allowance for existing facilities (\$ <u>N/A</u>) ^{4 5} Net amount = \$ _____ 2. Cost of transmission facilities \$ <u>N/A</u> Less allowance for existing facilities (\$ <u>N/A</u>) ⁴ Net amount = \$ <u>N/A</u>	x <u>0.46%</u> /mo x <u>0.31%</u> /mo	= \$ _____ /mo = \$ <u> </u> /mo
B. PG&E	“Removable and reusable” Special Facilities (II.B above = 3. + 4. below) 3. Distribution facilities \$ <u>N/A</u> 4. Transmission facilities \$ <u>N/A</u>	x <u>N/A</u> /mo x <u>N/A</u> /mo	= \$ <u>N/A</u> /mo = \$ <u>N/A</u> /mo
C. PG&E	Existing facilities allocated as Special Facilities (III above = 5. + 6. below) 5. Distribution facilities \$ <u>N/A</u> 6. Transmission facilities \$ <u>N/A</u>	x <u>N/A</u> /mo x <u>1.14%</u> /mo	= \$ <u>N/A</u> /mo = \$ <u>NA</u> /mo

D. Total Monthly COST OF OWNERSHIP CHARGE \$ _____ / month

V. EQUIVALENT ONE-TIME CHARGE (in lieu of monthly COST OF OWNERSHIP CHARGE)

_____ Check here if applicable

\$ _____ / month (IV.D above) x 12 months x 12.8 (present worth factor) = \$ _____

VI. PAYMENT SCHEDULE

Applicant shall pay, in advance within 30 days of receipt of an invoice from PG&E, the estimated cost for the scope of work to be undertaken by PG&E in the next quarter. PG&E and Applicant shall coordinate on the schedule and scope of work to be undertaken by PG&E for construction of the Special Facilities by the target date set forth in the introductory paragraph of this Agreement. In the event Applicant fails to make such advance payment, PG&E shall have no obligation to continue construction or to incur any expenses associated with this Agreement. However, Applicant shall remain obligated to pay any outstanding amounts incurred by PG&E under this Agreement that have not been previously reimbursed by Applicant.

In no event shall either party hereto or any subcontractor be liable for indirect, special, incidental, consequential or exemplary damages, including but not limited to, the loss of profits or revenue, loss of use of the equipment or any associated equipment, cost of capital, cost of substitute equipment, facilities or services, down time costs, costs in excess of estimates, loss of opportunity, loss of data, loss of goodwill and/or claims of customers of the other party for such damages, and each party hereby releases each other party therefrom.

4 This percentage rate is set forth in Section I of PG&E’s Electric Rule No. 2 and is subject to change upon authorization by the California Public Utilities Commission. The current applicable CPUC-approved monthly Cost of Ownership Rates for Distribution-level, customer-financed Special Facilities and Transmission-level, customer-financed Special Facilities are **0.46%** and **0.31%**, respectively, which became effective August 5, 1996.

- 5 Where Special Facilities displace PG&E's existing facilities, this allowance assures the exclusion of PG&E's existing ownership costs from Applicant's monthly COST OF OWNERSHIP CHARGE or EQUIVALENT ONE-TIME CHARGE.

[INSERT EXHIBIT 1 TO APPENDIX A HERE]

Appendix A Exhibit 2

Interim Crediting Mechanism For Network Upgrades Funded By FPL ENERGY, MIDWAY POWER, LLC As Modified Pursuant to the Commission's Order Dated October 25, 2002 in FERC Docket No. ER02-1330-000 and ER02-1330-001

A. Method of Providing Credits

PG&E will pay to the generator that funded network upgrades credits based on the cost of the network upgrades funded by the generator, on the amortization schedule described in paragraph B below, with interest at the rate specified in 18 C.F.R. section 35.19a(a)(2).

B. Amortization Schedule for Term Credits

The credit will be paid in quarterly installments. For all projects, regardless of the costs of the network upgrades, the credits will be amortized over a five-year term that commences with commercial operation of the project. However, if the project commenced commercial operation prior to January 28, 2003 (the date of the Commission's *Duke-Hinds II* order (102 FERC ¶ 61,068), and if an agreement requiring generator funding of upgrades, without any crediting mechanism, was previously filed with and approved by the Commission, then no credits will be payable for such prior period of commercial operation. In that case, the total amount of the credit due to the generator will be reduced proportionately to account for the period of commercial operation prior to January 28, 2003.

C. Duration of This Credit Mechanism and Section 205 Rights.

This credit will be paid until the entire amount has been refunded or PG&E obtains FERC permission to terminate providing the credit. PG&E anticipates that this will only be an interim credit mechanism, and that it will seek FERC permission to revise this mechanism to reflect the policy directions given by FERC in its final Interconnection Rulemaking in Docket RM02-1-000. Nothing contained herein shall be construed as affecting in any way the right of PG&E to unilaterally make application to the FERC for a change in rates under Section 205 of the Federal Power Act ("FPA") and pursuant to the FERC's Rules and Regulations promulgated thereunder. Applicant shall have the right to protest and object to such change in rates and otherwise to exercise any and all rights it may have with respect thereto, including its rights under Section 206 of the FPA. The term "rates" as used herein shall mean all rates, terms and conditions contained in this mechanism. A change in rates may include, but not be limited to, not only changes in rates and charges but also in the underlying methodology by which such rates and charges are developed.

D. First Payment Date

Payment will commence sixty (60) days after FERC accepts the crediting mechanism for the specific project, or after it begins commercial operations, whichever occurs later.

Appendix B

Project Development Milestones

This Appendix B describes project milestones to be met by developers of new generation resources. If any of the following project milestones are missed, the Generator Special Facilities Agreement (GSFA) executed by _____ (Applicant) on or before _____ (insert date) will terminate pursuant to the terms of Section 10 (a) of the GSFA.

Milestones

Failure to comply with the applicable milestones results in the loss of interconnection priority and termination of the GSFA. If lost, interconnection priority for a project can be reestablished by submitting a new Application.

The project milestones to be met by Applicant are as follows:

1. Submit a Final Project Development Schedule within 8 months of executing the Generator Special Facilities Agreement. A GSFA for this project was executed on or before (insert date); therefore, a final project development schedule must be received by _____ (insert date).
2. Provide within 6 months of executing a GSFA: (a) proof of filing and acceptance of the Applicant's Critical Path Permit, and (b) the expected date of receipt of such permit.
3. Provide by the date specified by the Applicant in the Final Project Development Schedule either (a) written request to PG&E to begin interconnection engineering and material procurement and make payments to PG&E as specified in the GSFA or (b) the date when the Applicant will start construction of any interconnection facilities it plans to build.
4. By the date specified in the Final Project Development Schedule, start construction of the project.
5. If Applicant has completed all previous applicable project milestones and intends to begin parallel operation, it must execute a Generator Interconnection Agreement prior to parallel operation with PG&E transmission or distribution facilities but no sooner than 6 months prior to expected Operation of the new generating resource(s).
6. Successfully complete parallel testing and start Operation within three years of executing the GSFA no later than – _____ (insert date).

Missed Milestones

The parties have an obligation to meet the milestone deadlines pursuant to terms of the applicable tariffs and agreements. Exceptions may be granted by PG&E on a non-discriminatory basis where: (1) no other prospective generator would be harmed by the exception e.g., if no other generators were in the priority queue behind the party which had missed a milestone, or (2) the milestone was missed for reasons outside of the party's control e.g., due to an Uncontrollable Force.^{1/}

Definitions

Final Project Development Schedule: A written document which includes the following information concerning the Applicant's generation project.

1. Type of project (technology)
2. Capacity
3. Estimated average annual energy output
4. Location and description of site
5. Project ownership or management
6. Fuel source
7. Type of generating and ancillary equipment
8. Method for affirming primary energy source
9. Permit application schedule
10. Permit receipt schedule
11. Construction start date
12. On-line or operation date

^{1/} This term is used as defined in PG&E's Transmission Owner's Tariff.

Generator Interconnection Agreement: An agreement between PG&E and the Applicant which describes the interconnection service to be provided by PG&E, operating and maintenance provisions required by PG&E as the owner of interconnection and transmission facilities used to deliver facility output, interconnection facility testing rights and obligations, and miscellaneous legal provisions governing the relationship and obligations of the parties including provisions for any electric standby service.

Operation: A generating facility is considered to be in operation: (1) after it has passed parallel testing with the electric grid, (2) obtained any necessary approvals from the California Independent System Operator Corporation, and (3) when it can consistently meet its energy delivery obligations pursuant to applicable ISO Tariff provisions and/or any bilateral contracts to supply power to customers.

Critical Path Permit: The critical path permit for various IPP and QF technologies are as follows:

For All Non-Thermal Projects and Thermal Projects Exempt from CEC Site Certification:

- Geothermal: County Conditional Use Permit or Special Zone Permit
- Biomass: County Conditional Use Permit or Special Zone Permit, or Air Quality Permit
- Wind: County Conditional Use Permit or Special Zone Permit
- Cogeneration: Air Quality Permit
- Hydro: FERC License or Exemption

For Non-Exempt Thermal Projects Over 50 MW:

California Energy Commission Site Certification

If, for whatever reason, the permit cited above is not applicable to a project, a different critical path permit may be substituted, with PG&E's agreement.