

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



May 16, 2005

Advice Letter 2592-E

Mr. Brian Cherry
Director, Regulatory Relations
Pacific Gas and Electric Company
Mail Code B10C, P.O. Box 770000
San Francisco, CA 94177

Subject: Rejection of Proposed Electric Rate Schedule E-NWDL- New WAPA
Departing Load

Dear Mr. Cherry:

With this letter, the Energy Division rejects PG&E's Advice Letter 2592-E. Advice Letter 2592-E proposes a rate schedule to assess departing load charges applicable to a new category of customers who eliminate or reduce retail electric service from PG&E after December 31, 2004, and replace that service with wholesale service supplied by the Western Area Power Administration (WAPA) or another similarly situated entity. These customers are referred to as New WAPA Departing Load. PG&E claims that this advice letter was made in connection with an Offer of Settlement filed at the Federal Regulatory Energy Commission (FERC) on October 22, 2004 in Docket No. ER04-690-001 (the Settlement Agreement).

As PG&E acknowledges in the advice letter filing, the Settlement Agreement expressly reserved for subsequent resolution the issue of whether PG&E can lawfully impose or collect departing load charges on New WAPA Departing Load. Nonetheless, PG&E filed an advice letter to set forth its proposal because it believes that since these customers will be departing PG&E retail service under the terms of the Settlement Agreement after December 31, 2004, they should owe the charges. This advice letter has been protested by federal preference power customers who are claiming that it is not based on (or supported by) any CPUC directive, is contrary to existing and applicable CPUC determinations, and presents an issue of federal jurisdiction beyond CPUC's statutory responsibility.

On December 3, 2004, FERC found the Settlement Agreement just and reasonable. With respect to the departing load charges, FERC correctly declined to assert jurisdiction to interpret to whom such charges apply because the charges are not derived from tariffs on file with FERC but rather are derived from decisions at the CPUC. Accordingly, this matter is properly addressed via an application to the CPUC, so that the CPUC can address these matters in a formal decision. The advice letter process is not appropriate in this situation.

A copy of the advice letter marked "rejected" is being returned for your use.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean H. Gallagher". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sean H. Gallagher

Director

Energy Division

cc: Gregory J. Oliver, County of Tuolumne
Peter C. Kissel, Special Counsel to Tuolumne Public Power Agency
Dennis Dickman, Calaveras Public Power Agency
Michael N. McCarty, Special Counsel to Calaveras Public Power Agency
Scott Blaising, Attorney for Power and Water Resources Pooling Authority



**Pacific Gas and
Electric Company**

Brian K. Cherry
Director
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November 19, 2004

**Advice 2592-E
(Pacific Gas and Electric Company ID U 39 E)**

Public Utilities Commission of the State of California

**Subject: *Submission of Electric Rate Schedule E-NWDL – New WAPA
Departing Load.***

Pacific Gas and Electric Company (PG&E) hereby submits for filing revisions to its electric tariffs. The affected tariff sheets are listed on the enclosed Attachment I.

Purpose

The purpose of this filing is to submit electric Rate Schedule E-NWDL – *New WAPA Departing Load (E-NWDL)* to provide a tariff that covers a new category of departed load customers. This new category of customers consists of customers that discontinue or reduce their purchases of bundled or direct access electricity service from PG&E to receive electricity from the Western Area Power Administration (WAPA) or another similarly situated entity.

Background

This filing is being made in connection with a proposed settlement between PG&E, WAPA and certain PG&E retail customers who will become full or partial requirements customers of WAPA as of January 1, 2005, pending approval of the settlement by the Federal Energy Regulatory Commission (FERC).

The settlement was filed in FERC Docket Nos. ER04-690-000 and ERO4-690-001. The settlement was reached in connection with PG&E's filing at FERC to terminate a 37-year old contract with WAPA, and the associated FERC Rate Schedule, on the contract termination date, and to replace that contract with new contracts containing terms and conditions reflecting the current regulatory framework. The replacement contract filed as part of the settlement relevant to

this filing is the Service Agreement with WAPA under PG&E's Wholesale Distribution Tariff, and the three Appendices to that Service Agreement.¹

The three Appendices reflect the specific agreements with different sets of these WAPA customers. As the Service Agreement and the Appendices state, PG&E, WAPA and these affected customers have not settled the issue of whether these customers would be liable for paying Departing Load charges, but these customers have agreed that if a competent tribunal orders them to, they will pay such charges until such time as such order may be changed. Because these customers will be departing from PG&E retail service under the terms of the settlement on or after January 1, 2005, and because PG&E believes that these customers should owe Departing Load charges, PG&E is making this filing.

Tariff Revisions

In this filing, PG&E proposes to simplify its tariffs relating to New WAPA Departing Load by combining elements of Electric Preliminary Statement Section BB (PS Part BB) – *Competition Transition Charge Responsibility for All Customers and CTC Procedures for Departing Loads*, and the currently expired electric Rate Schedules E-DEPART-*Departing Customers*, and E-EXEMPT-*Competition Transition Charge Exemption*, into one rate schedule for New WAPA Departing Load Customers – electric Rate Schedule E-NWDL. In this way, customers that 1) take service from WAPA or another similarly situated entity², or, 2) take service from both WAPA or another similarly situated entity and PG&E, will be able to refer to fewer tariffs in order to obtain information on applicable nonbypassable charge obligations.³

Electric Rate Schedule E-NWDL defines New WAPA Departing Load as “that portion of an electric load at a Service Point, for which a New WAPA Departing Load Customer, on or after January 1, 2005, discontinues or reduces its purchases of bundled or direct access electricity service from PG&E to receive electricity from WAPA or another similarly situated entity”. Electric Rate Schedule E-NWDL also clarifies how departing load charges are to be calculated for New WAPA Departing Load Customers.

¹ The Contract is titled “Pacific Gas and Electric Company Wholesale Distribution Tariff Service Agreement For Wholesale Distribution Service To Western Area Power Administration.” [The font here needs to be changed.]

² Some New WAPA Departing Load Customers may purchase power from WAPA. Some New WAPA Departing Load Customers may, instead, take their power from another power provider, and PG&E has written tariff language to account for this possibility.

³ Section BB was implemented in the wake of Assembly Bill 1890, enacted in 1996, which obligated departing load customers for CTCs, public purpose program charges, nuclear decommissioning charges and, in certain instances, transfer trust amount charges.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **December 9, 2004**, which is 20 days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

IMC Branch Chief – Energy Division
California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: jjr@cpuc.ca.gov

Protests also should be sent by e-mail and facsimile to Mr. Jerry Royer, Energy Division, as shown above, and by U.S. mail to Mr. Royer at the above address.

The protest should be sent via both e-mail and facsimile to PG&E on the same date it is mailed or delivered to the Commission at the address shown below.

Pacific Gas and Electric Company
Attention: Brian K. Cherry
Director, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177
Facsimile: (415) 973-7226
E-mail: RxDd@pge.com

Effective Date

PG&E requests that this advice filing become effective on regular notice, **January 1, 2005**, which is 42 days after the date of filing.

Notice

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this Advice Letter is being sent electronically and via U.S. mail to parties shown on the attached list and to the Service List Rulemaking (R.) 99-10-025. Address changes should be directed to Rose De La Torre at (415) 973-4716. Advice Letter filings can also be accessed electronically at:

<http://www.pge.com/tariffs>

Brian K. Cherry
Director - Regulatory Relations

Attachments

cc: Service List R. 99-10-025

Cal P.U.C. Sheet No.	Title of Sheet	Cancelling Cal P.U.C. Sheet No.
22454-E	Electric Rate Schedule – E-NWDL – New WAPA Departing Load	New
22455-E	Electric Rate Schedule – E-NWDL (continued)	New
22456-E	Electric Rate Schedule – E-NWDL (continued)	New
22457-E	Electric Rate Schedule – E-NWDL (continued)	New
22458-E	Electric Rate Schedule – E-NWDL (continued)	New
22459-E	Electric Rate Schedule – E-NWDL (continued)	New
22460-E	Table of Contents – Rate Schedule (Continued)	21199-E
22461-E	Table of Contents	21109-E



SCHEDULE E-NWDL— NEW WAPA DEPARTING LOAD

(N)

APPLICABILITY: This schedule is applicable to customers that have WAPA Departing Load (as defined in Special Condition 1.b., below), including customers who displace all or a portion of their load with load from WAPA or another similarly situated entity (as defined in Special Condition 1.c.), and customers who assume responsibility for New WAPA Departing Load at a previously departed Service Point (those "New Parties" as defined in Special Condition 1.d.). This schedule addresses Nonbypassable Charge obligations that pertain to New WAPA Departing Load.

TERRITORY: The entire territory served.

RATES: Customers under this schedule are responsible for the following charges unless expressly exempted from such charges under Special Condition 2 below:

1. **DWR BOND CHARGE:** The California Department of Water Resources (DWR) Bond Charge recovers DWR's bond financing costs, and is set by dividing the annual revenue requirement for DWR's bond-related costs by an estimate of the annual consumption not excluded from this charge. The DWR Bond Charge is the property of DWR for all purposes under California law. The DWR Bond Charge applies to New WAPA Departing Load unless sales under the Otherwise Applicable Schedule (OAS) were CARE or medical baseline. The DWR Bond Charge is separately shown in the customer's OAS.
2. **DWR POWER CHARGE:** The DWR Power Charge recovers the uneconomic portion of DWR's prospective power purchase costs. The DWR Power Charge applies to New WAPA Departing Load. The DWR Power Charge shall be set equal to the difference between the Cost Responsibility Surcharge (CRS) cap as set in Direct Access Suspension OIR Proceeding (Rulemaking 02-01-011) and the sum of the DWR Bond Charge, Competition Transition Charge, and the Regulatory Asset Charge.
3. **COMPETITION TRANSITION CHARGE (CTC):** The CTC recovers the cost of qualifying facilities and power purchase agreements that are in excess of a market benchmark determined by the California Public Utilities Commission (Commission), plus employee transition costs, and is determined in the annual Energy Resource Recovery Account proceeding. The CTC charge is separately shown in the customer's OAS.
4. **TRUST TRANSFER AMOUNT (TTA) CHARGE:** The TTA funds the cost of bonds used for paying for a 10 percent rate reduction for residential and small commercial customers and is shown in the OAS. As required by Schedule E-RRB, customers that are required to pay the TTA charge will also receive the benefit of the Rate Reduction Bond Memorandum Account (RRBMA) rate shown in the OAS.
5. **NUCLEAR DECOMMISSIONING (ND) CHARGE:** The ND charge collects the funds required for site restoration when a nuclear power plant is removed from service and is shown in the OAS.
6. **PUBLIC PURPOSE PROGRAM (PPP) CHARGE:** The PPP charge collects the costs of state-mandated low income, energy efficiency and renewable generation programs and is shown in the OAS.
7. **REGULATORY ASSET (RA) CHARGE:** The RA charge recovers the costs associated with the Regulatory Asset adopted by the Commission in Decision (D.) 03-12-035 and is shown in the OAS.

(N)

(Continued)



SCHEDULE E-NWDL— NEW WAPA DEPARTING LOAD
(Continued)

(N)

SPECIAL
CONDITIONS:

1. DEFINITIONS: The following terms when used in this tariff have the meanings set forth below:
 - a. Service Point: A Service Point is the point at which PG&E physically provided service to the customer's retail Account (as defined in PG&E's electric Rule 1) prior to the customer's full or partial departure for service from WAPA or another similarly situated entity. Service Points as defined herein exclude service points served in whole or in part by WAPA pursuant to Contract 2948A, which is defined in PG&E's electric Rate Schedule E-SDL.
 - b. New WAPA Departing Load: New WAPA Departing Load is that portion of an electric load at a Service Point, for which a New WAPA Departing Load Customer, on or after January 1, 2005, discontinues or reduces its purchases of bundled or direct access electricity service from PG&E to receive electricity from WAPA or another similarly situated entity.
 - c. New WAPA Departing Load Customer: A New WAPA Departing Load Customer (or Customer) is a customer, who, on or after January 1, 2005, discontinues or reduces its purchases of bundled or direct access electricity service at a Service Point from PG&E to receive electricity from WAPA or another similarly situated entity.
 - d. Change of Party: When a person or agency with New WAPA Departing Load at a Service Point ceases to be the customer of record at that Service Point, and another person or agency (New Party) assumes liability for the New WAPA Departed Load at that same Service Point.
 - e. Nonbypassable Charges: The DWR Bond Charge, the DWR Power Charge, the CTC, the TTA charge (including the RRBMA), the ND charge, the PPP charge, and the RA charge.
 - f. Cost Responsibility Surcharge (CRS): The Cost Responsibility Surcharge is the energy cost obligations recoverable from New WAPA Departing Load Customers. The CRS includes the DWR Power Charge, the DWR Bond Charge, the CTC, and the RA Charge.

(N)

(Continued)



SCHEDULE E-NWDL— NEW WAPA DEPARTING LOAD
(Continued)

(N)

SPECIAL
CONDITIONS:
(Cont'd.)

1. DEFINITIONS: (Cont'd.)
 - g. Otherwise-Applicable Schedule (OAS): The Otherwise-Applicable Schedule is the last PG&E rate schedule under which the customer was billed at a Service Point, prior to departure for service by WAPA or another similarly situated entity.
 - h. WAPA: The Western Area Power Administration.
2. EXEMPTIONS: The following exemptions apply:
 - a. New WAPA Departing Load that qualifies under the OAS as CARE or medical baseline is exempt from the DWR Bond Charge and the DWR Power Charge, for that portion of their its New WAPA Departing Load.
 - b. New WAPA Departing Load Customers that were exempt from payment of the TTA charge as specified in Schedule RRB remain exempt from the TTA charge.
3. PROCEDURES FOR NEW WAPA DEPARTING LOAD: Customers are obligated to notify PG&E of their intent to discontinue or reduce electric service in a manner that would qualify their load as New WAPA Departing Load in accordance with the following procedures:
 - a. Customer Notice to PG&E: Customers shall notify PG&E, in writing or by reasonable means, through a designated PG&E representative authorized to receive such notification, of their intention to take steps that will qualify their load as New WAPA Departing Load at least 30 days in advance of discontinuation or reduction of electric service from PG&E. The customer shall specify in its notice the following:
 - 1) The date on which the customer will reduce or discontinue its electric service from PG&E to take electric service from WAPA or another similarly situated entity (Date of Departure);
 - 2) A description of the load that will qualify as New WAPA Departing Load;
 - 4) The PG&E account number assigned to this load; and
 - 5) An identification of any exemptions that the customer believes are applicable to the load.

Failure to provide notice including all the elements specified above will constitute a violation of this tariff and a breach of the customer's obligations to PG&E, entitling PG&E (subject to the provisions of Electric Preliminary Statement Part BB.4.f. and g.) to collect the applicable Nonbypassable Charges from the customer.

(N)

(Continued)



SCHEDULE E-NWDL— NEW WAPA DEPARTING LOAD
(Continued)

(N)

SPECIAL
CONDITIONS:
(Cont'd.)

3. PROCEDURES FOR NEW WAPA DEPARTING LOAD: (Cont'd.)

b. New WAPA Departing Load Nonbypassable Charge Statement:

By no later than 20 days after receipt of customer's notice (provided pursuant to Special Condition 3.a.), PG&E shall mail or otherwise provide the customer with a New WAPA Departing Load Nonbypassable Charge Statement containing any applicable confirmation of the customer's exemption claim. If the New WAPA Departing Load Nonbypassable Charge Statement does not confirm the customer's claimed exemption, it will set forth the reason for rejecting the claimed exemption.

If PG&E fails to provide a customer with a New WAPA Departing Load Nonbypassable Charge Statement within 20 days of PG&E's receipt of the customer's notice containing all of the information required under Special Condition 3.a., the customer's obligation to pay New WAPA Departing Load Nonbypassable Charges shall not commence until the later of the Date of Departure or 30 days from the customer's receipt of PG&E's New WAPA Departing Load Nonbypassable Charge Statement.

c. Change of Party:

1) Notice and Procedure for Customers with New WAPA Departing Load:
New WAPA Departing Load Customers that intend to take action such that they will no longer be responsible for Nonbypassable Charges for New WAPA Departing Load, in whole or in part, at the Customer's Service Point shall give PG&E not less than 30 days notice of the proposed action, including the date on which the termination of liability is intended to become effective, and the reason for termination of liability, subject to approval by PG&E. Reasons for termination of liability may include vacating the property, change of ownership, or return to PG&E bundled service.

- a) If the notice of termination of liability is approved by PG&E, PG&E will stop billing the customer for Nonbypassable Charges on the effective date of the termination of liability.
- b) If the notice of termination of liability is not approved by PG&E, PG&E will advise the customer in writing and state the reason(s) for such disapproval.
- c) If that customer does not agree with PG&E's response to the notice of termination of liability, the Customer may invoke the dispute resolution provisions of Electric Preliminary Statement Part BB.4.f.

(N)

(Continued)



SCHEDULE E-NWDL— NEW WAPA DEPARTING LOAD
(Continued)

(N)

SPECIAL
CONDITIONS:
(Cont'd.)

3. PROCEDURES FOR NEW WAPA DEPARTING LOAD: (Cont'd.)

c. Change of Party: (Cont'd.)

2) Notice to PG&E from New Party at the Existing Service Point: At least two days in advance of receiving electric service from WAPA at a Service Point with New WAPA Departing Load, the New Party shall notify PG&E, in writing or by reasonable means through a designated PG&E representative authorized to receive such notification, of its intention to assume responsibility for the New WAPA Departing Load.

a) The New Party shall specify in its notice the date the person or agency will begin, or already began, consuming electricity at the Service Point, and, if known, the name of the prior New WAPA Departing Load customer or the relevant PG&E account number(s).

b. PG&E will issue a bill for the time period beginning with the date the New Party began to consume electricity at the Service Point.

d. New WAPA Departing Load Customer Obligation To Make New WAPA Departing Load Payments: PG&E will issue monthly bills in accordance with the provisions of this schedule. New WAPA Departing Load Consumers shall pay Nonbypassable Charges in full to PG&E within 20 days of receipt of the bill.

4. SERVICE VOLTAGE OR SCHEDULE CHANGES: If the New WAPA Departing Load Customer has switched between applicable rate schedules or service voltages during the 36-month period prior to the Date of Departure, the New WAPA Departing Load Non-bypassable Charge Statement will nonetheless be based on that Customer's final applicable rate schedule and service voltage, except provided further, the applicable rate schedule to be used for Non-bypassable Charge purposes shall be a rate schedule that is consistent with that current metered information.

5. MEASUREMENT OF NEW WAPA DEPARTING LOAD:

a. Nonbypassable Charges for the New WAPA Departing Load will be billed based upon metered usage data. Nonbypassable Charges for the portion of the New WAPA Departing Load Customer's retail electric usage delivered by PG&E will continue to apply in accordance with the OAS.

b. The New WAPA Departing Load Customer's New WAPA Departing Load charges will be calculated by multiplying that Customer's New WAPA Departing Load usage by the Nonbypassable Charge rates under the applicable OAS and service voltage options.

(N)

(Continued)



SCHEDULE E-NWDL— NEW WAPA DEPARTING LOAD
(Continued)

SPECIAL
CONDITIONS:
(Cont'd.)

- 6. NEW ELECTRIC CONSUMPTION: A consumer that installs new load in PG&E's service area as it existed on December 21, 1995 is obligated to pay applicable non-bypassable charges, pursuant to electric Preliminary Statement Part BB. A customer that (a) establishes a new service point in PG&E's service area as it existed on December 21, 1995; and (b) accepts delivery of electricity supplied by WAPA or a similarly situated entity and wheeled by PG&E to the service point; and (c) uses the electricity supplied by WAPA or a similarly situated entity to serve a new load which did not previously receive electricity at that location from any source; is considered a New WAPA Departing Load Customer, and is obligated to pay Nonbypassable charges in accordance with this rate Schedule.
- 7. EXPIRATION: This schedule will expire on the date on which all Commission-authorized Nonbypassable Charges for New WAPA Departing Load Customers have expired.

(N)

(N)

(Continued)



TABLE OF CONTENTS
(Continued)

RATE SCHEDULES

SCHEDULE	TITLE OF SHEET	CAL P.U.C. SHEET NO.
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COMMERCIAL/INDUSTRIAL
(Continued)

E-25	Restricted Variable-Peak-Period Time-of-Use Service to Water Agencies.....	20947,21083,21084,21085,20023,20746,15378,20747,20948,20949-E
E-31	Distribution Bypass Deferral Rate.....	20620,20621,20622-E
E-36	Small General Service to Oil and Gas Extraction Customers.....	20950,21086,20952-E
E-37	Medium General Demand-Metered Time-of-Use Service to Oil and Gas Extraction Customers.....	20953,17108,21087,20031,19315,20954,20955-E
ED	Experimental Economic Development Rate.....	20956,20957-E
E-CARE	CARE Program Service for Qualified Nonprofit Group-Living and Qualified Agricultural Employee Housing Facilities.....	20705-E

LIGHTING RATES

LS-1	PG&E-Owned Street and Highway Lighting	20808,21088,15395,15396,20958-E
LS-2	Customer-Owned Street and Highway Lighting	20810,21089,20039,15401,15402,15403,20959-E
LS-3	Customer-Owned Street and Highway Lighting Electrolier Meter Rate	21090,15406,15407,20960-E
TC-1	Traffic Control Service	21091,20763,20961-E
OL-1	Outdoor Area Lighting Service.....	21092,15413,20766,20962-E

OTHER

S	Standby Service.....	19218,21093,21094,21095,19281,16200,15421,16201,16202,15424,19282,16203,16204,16205,20771,19220,20963-E
E-DEPART	Departing Customers	15905-E
E-EXEMPT	Competition Transition Charge Exemption	16068,17116,16070,16071,16072,16073-E
E-MDL	Municipal Departing Load	21197,21198,20820,20821,20822,20836,20824,20825,20837-E
E-NWDL	New WAPA Departing Load.....	22454 to 22459-E
E-LORMS	Limited Optional Remote Metering Services.....	20194-E
E-RRB	Rate Reduction Bonds Bill Credit and Fixed Transition Amount Charge	20773,14799-E
E-NET	Net Energy Metering Service	18711,18712,18313,18314-E
E-BIO	Net Energy Metering Service for Biogas Customer-Generators	20465 to 20469-E
E-EPS	Emergency Procurement Surcharges	20053,18515,18179,18180,18181,19727,18183,20774-E

(N)

(Continued)



TABLE OF CONTENTS

	CAL P.U.C. SHEET NO.
Title Page	8285-E
Table of Contents:	
Rate Schedules	22461,22102,22085,22460-E
Preliminary Statements	21813,21010,21644-E
Rules, Maps, Contracts and Deviations	22094-E
Sample Forms	22108,20472,21583,19236,20509,19572,21472-E

(T)

RATE SCHEDULES

SCHEDULE	TITLE OF SHEET	CAL P.U.C. SHEET NO.
RESIDENTIAL RATES		
E-1	Residential Service	21708,22028,21219,19910,21220,21221-E
E-2	Experimental Residential Time-of-Use Service	21222,21710,22029,21712,22030,21227,22031,21229,22032,21231,21614,21232,21233-E
E-3	Experimental Residential Critical Peak Pricing Service	21234,21716,22033,21718,22034,21239,22035,21241,22036,21243,21615,19896,21244-E
EE	Service to Company Employees	21245-E
EM	Master-Metered Multifamily Service	21722,22037,21248,20648,21249,21250-E
ES	Multifamily Service	21724,22038,21253,21254,21255,21256-E
ESR	Residential RV Park and Residential Marina Service	21726,22039,21259,20657,21260,21261-E
ET	Mobilehome Park Service	21728,22040,21264,21265,21266,21267-E
E-7	Residential Time-of-Use Service	21268,21730,22041,21271,21272,21273-E
E-A7	Experimental Residential Alternate Peak Time-of-Use Service	21274,21732,22042,21277,21278,21279-E
E-8	Residential Seasonal Service Option	21734,22043,21571,21283-E
E-9	Experimental Residential Time-of-Use Service for Low Emission Vehicle Customers	20891,21736,22044,21738,22045,21288,21289,21290,21291-E
EL-1	Residential CARE Program Service	21292,22046,21294,21295,21296-E
EML	Master-Metered Multifamily CARE Program Service	21297,22047,21299,21300,21301-E
ESL	Multifamily CARE Program Service	21742,22048,21304,21305,21306,21307-E
ESRL	Residential RV Park and Residential Marina CARE Program Service	21744,22049,21310,21311,21312,21313-E
ETL	Mobilehome Park CARE Program Service	21746,22050,21316,21317,21318,21319-E
EL-7	Residential CARE Program Time-of-Use Service	21320,21321,22051,21323,21324,21325-E
EL-A7	Experimental Residential CARE Program Alternate Peak Time-of-Use Service	21326,21327,22052,19783,21329,21330-E
EL-8	Residential Seasonal CARE Program Service Option	21331,22053,21572,21334-E
COMMERCIAL/INDUSTRIAL		
A-1	Small General Service	21751,22054,21337,21338,21339-E
A-6	Small General Time-of-Use Service	21340,21753,22055,21343,21344,21345-E
A-10	Medium General Demand-Metered Service	21346,22056,22057,22058,22059,21351,21352,21353,21354,21355-E
A-15	Direct-Current General Service	22060,21357-E
E-19	Medium General Demand-Metered Time-of-Use Service	21358,17092,21359,17900,21760,22061,21762,22062,21364,20932,20723,21365,18864,18039,20933,18865,16414,15330,20512,21764,22063,21368,20935,21369,20729,19805,21370,21371-E
E-20	Service to Customers with Maximum Demands of 1,000 Kilowatts or More	21372,21373,21766,22064,21377,21376,19314,20736,21378,18044,20942,18867,15356,21379,15358,20513,21768,22065,21382,20944,17101,20945,21383-E

(Continued)

**PG&E Electric Advice Filing List
General Order 96-A, Section III(G)**

ABAG Power Pool
Aglet Consumer Alliance
Agnews Developmental Center
Ahmed, Ali
Alcantar & Elsesser
Anderson Donovan & Poole P.C.
Applied Power Technologies
APS Energy Services Co Inc
Arter & Hadden LLP
Avista Corp
Barkovich & Yap, Inc.
BART
Bartle Wells Associates
Blue Ridge Gas
Bohannon Development Co
BP Energy Company
Braun & Associates
C & H Sugar Co.
CA Bldg Industry Association
CA Cotton Ginners & Growers Assoc.
CA League of Food Processors
CA Water Service Group
California Energy Commission
California Farm Bureau Federation
California ISO
Calpine
Calpine Corp
Calpine Gilroy Cogen
Cambridge Energy Research Assoc
Cameron McKenna
Cardinal Cogen
Cellnet Data Systems
Chevron Texaco
Childress, David A.
City of Glendale
City of Healdsburg
City of Palo Alto
City of Redding
CLECA Law Office
Constellation New Energy
Cooperative Community Energy
CPUC
Creative Technology
Crossborder Inc
CSC Energy Services
Davis, Wright Tremaine LLP
Davis, Wright, Tremaine, LLP
Defense Fuel Support Center
Department of the Army
Department of Water & Power City
Dept of the Air Force
DGS Natural Gas Services
DMM Customer Services
Douglass & Liddell

Downey, Brand, Seymour & Rohwer
Duke Energy
Duke Energy North America
Duncan, Virgil E.
Dutcher, John
Dynegy Inc.
Ellison Schneider
Energy Law Group LLP
Energy Management Services, LLC
Enron Energy Services
Exeter Associates
Foster, Wheeler, Martinez
Franciscan Mobilehome
Future Resources Associates, Inc
G. A. Krause & Assoc
Gas Transmission Northwest Corporation
GLJ Energy Publications
Goodin, MacBride, Squeri, Schlotz &
Hanna & Morton
Heeg, Peggy A.
Hogan Manufacturing, Inc
House, Lon
Imperial Irrigation District
Integrated Utility Consulting Group
International Power Technology
J. R. Wood, Inc
JTM, Inc
Kaiser Cement Corp
Korea Elec Power Corp
Marcus, David
Masonite Corporation
Matthew V. Brady & Associates
Maynor, Donald H.
McKenzie & Assoc
McKenzie & Associates
Meek, Daniel W.
Mirant California, LLC
Modesto Irrigation Dist
Morrison & Foerster
Morse Richard Weisenmiller & Assoc.
New United Motor Mfg, Inc
Norris & Wong Associates
North Coast Solar Resources
Northern California Power Agency
PG&E National Energy Group
Pinnacle CNG Company
PITCO
PPL EnergyPlus, LLC
Praxair, Inc.
Price, Roy
Product Development Dept
R. M. Hairston & Company
R. W. Beck & Associates
Recon Research

Regional Cogeneration Service
RMC Lonestar
Sacramento Municipal Utility District
SCD Energy Solutions
Seattle City Light
Sempra
Sempra Energy
Sequoia Union HS Dist
SESCO
Sierra Pacific Power Company
Silicon Valley Power
Simpson Paper Company
Smurfit Stone Container Corp
Southern California Edison
SPURR
St. Paul Assoc
Stanford University
Sutherland, Asbill & Brennan
Tabors Caramanis & Associates
Tansev and Associates
Tecogen, Inc
TFS Energy
TJ Cross Engineers
Transwestern Pipeline Co
Turlock Irrigation District
U S Borax, Inc
United Cogen Inc.
URM Groups
Utility Cost Management LLC
Utility Resource Network
Wellhead Electric Company
Western Hub Properties, LLC
White & Case
WMA