

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



March 11, 2009

**Advice Letter 3388-E**

Brian K. Cherry  
Vice President, Regulatory Relations  
Pacific Gas and Electric Company  
77 Beale Street, Mail Code B10C  
P.O. Box 770000  
San Francisco, CA 94177

**Subject: Revisions to Electric Tariffs in Compliance with  
D.08-12-038 – Bridge Funding for 2009 Demand  
Response Programs**

Dear Mr. Cherry:

Advice Letter 3388-E is effective January 1, 2009.

Sincerely,

A handwritten signature in blue ink that reads "Julie A. Fitch".

Julie A. Fitch, Director  
Energy Division



**Brian K. Cherry**  
Vice President  
Regulatory Relations

77 Beale Street, Room 1087  
San Francisco, CA 94105

*Mailing Address*  
Mail Code B10C  
Pacific Gas and Electric Company  
P.O. Box 770000  
San Francisco, CA 94177  
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December 22, 2008

**Advice 3388-E**

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

**Subject: Revisions to Electric Tariffs in Compliance with Decision  
08-12-038 - Bridge Funding for 2009 Demand Response  
Programs**

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**

This advice letter proposes modifications to PG&E's electric demand response Schedules E-BEC and E-CBP, and standard forms 79-1074 and 79-1076 in compliance with Ordering Paragraph (OP) 1 of Decision (D.) 08-12-038, as described below. PG&E is also proposing to update an address in standard form 79-1075. Additionally, PG&E proposes modifications to electric Preliminary Statement Part ED – *Demand Response Revenue Balancing Account (DRRBA)* and electric Preliminary Statement EC – *Demand Response Expense Balancing Account (DREBA)* to remove language referencing past activities or decisions that are obsolete or have been superseded by subsequent actions of the Commission. PG&E also proposes to update certain language in these preliminary statements to reflect the on-going, continuing nature of the demand response programs, similar to PG&E's other on-going customer demand side management programs and related regulatory accounts (e.g. California Alternate Rates For Energy, Energy Efficiency, Low Income Energy Efficiency, Self-Generation Incentive, and California Solar Incentive).<sup>1</sup> PG&E is *not* proposing any changes to its currently authorized demand response cost recovery mechanism.

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<sup>1</sup> California Alternate Rates For Energy Account, electric Preliminary Statement M; Customer Energy Efficiency Adjustment, electric Preliminary Statement M; Self-Generation Program Memorandum Account, electric Preliminary Statement BY; and, California Solar Incentive Balancing Account, electric Preliminary Statement EO.

## **Background**

PG&E's 2006-2008 cost recovery mechanism for demand response programs was authorized in D.06-03-024 and implemented by approval of Advice Letter 2804-E<sup>2</sup>, which established the DRRBA and DREBA effective January 1, 2006. The DRRBA ensures recovery of PG&E's authorized demand response revenue requirements and the DREBA tracks PG&E's demand response expenditures compared to its authorized budget.

In June 2008, PG&E filed an application seeking funding for 2009-2011 Demand Response programs and budgets (Application). The Application was amended on September 19, 2008.<sup>3</sup> In that application, PG&E proposed continuing recovery of its demand response program costs through the DRRBA and DREBA. No parties to the proceeding have opposed PG&E's request to continue with its current cost recovery for demand response programs through these balancing accounts.<sup>4</sup>

On September 5, 2008, PG&E, Southern California Edison, and San Diego Gas and Electric Company (collectively, the investor owned utilities (Utilities)) filed a motion requesting bridge funding to continue their demand response programs and pilots until a final decision on their Applications. A final decision on the Applications is expected in Spring 2009. On December 18, 2008, the Commission issued D. 08-12-038, authorizing bridge funding for the Utilities' programs beginning January 1, 2009, and ending three months after the effective date of a decision on demand response programs for the remainder of 2009-2011, or December 31, 2009, whichever comes first.<sup>5</sup> As ordered by the Commission, PG&E submits this filing with the revised tariffs to reflect a program termination date consistent with the specified Bridge Period.

## **Electric Rate Tariff Revisions**

In compliance with the Ordering Paragraph (OP) 1 of D.08-12-038, PG&E proposes to make the following modifications to certain electric rate schedules and forms that currently have an expiration date of December 31, 2008.

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<sup>2</sup> Advice Letter 2804-E was approved on March 21, 2006.

<sup>3</sup> Application (A.) 08-06-003, as amended on September 19, 2008.

<sup>4</sup> On November 24, 2008, the Division of Ratepayer Advocates; The Utility Reform Network; San Francisco Community Power; Alliance for Retail Energy Markets; Transphase Co.; California Large Energy Consumers Association; ICE Energy, Inc.; Comverge, Inc; California Demand Response Coalition; and Bluepoint Energy Inc., filed opening testimony in the 2009-2011 Demand Response Programs and Budgets, A. 08-06-003.

<sup>5</sup> D. 12-18-038, Section 9, page 27 and OP 1, page 34. The decision on the Applications may amend this date. D.08-12-038, mimeo p. 29.

1. Schedule E-BEC – Business Energy Coalition
  - Revise the first paragraph under the section on Applicability to include a reference to D.08-12-038.
  - Revise the program termination date in the second paragraph under the section on Applicability from “December 31, 2008” to unless and until the pilot is revised or terminated as directed by the CPUC.”
  - Revise the program termination date in the first paragraph under the section on Program Term and Conditions from “December 31, 2008” to “unless and until the pilot is revised or terminated as directed by the CPUC.”
2. Schedule E-CBP – Capacity Bidding Program.
  - Revise the applicable dates under the section on Capacity Price to include the year “2009.”
  - Revise the program termination date in the first paragraph under the section on Term from “December 31, 2008” to “unless and until the pilot is revised or terminated as directed by the CPUC.”
3. Form 79-1074 -- Agreement for Customers Participating Directly in the Capacity Bidding Program.
  - Revised the last line of Condition 4 from “Unless Customer or PG&E terminates Customer’s participation in the CBP, the Customer shall remain enrolled until December 31, 2008.” to “Unless Customer or PG&E terminates Customer’s participation in the CBP, the Customer shall remain enrolled unless and until the CBP is terminated as the result of a CPUC ruling.”
4. Form 79-1075 – Notice to Add or Delete Customers Participating in the Capacity Bidding Program
  - Correct the PG&E address on the form. The PG&E mailing address has been changed.
5. Form 79-1076 -- Agreement for Aggregators Participating in the Capacity Bidding Program
  - Revised Condition VI.A from “The term of this Agreement shall commence as of the Effective Date and shall continue in full force

and effect until December 31, 2008.” to “The term of this Agreement shall commence as of the Effective Date and shall continue in full force and effect unless and until the CBP is terminated or revised by a CPUC ruling or this Agreement is terminated by PG&E as provided in Section VII.”

### **Preliminary Statement Revisions**

Electric Preliminary Statement Part ED – *Demand Response Revenue Balancing Account (DRRBA)* - PG&E proposes adding in the Purpose section a reference to the continuing funding of programs authorized by D.08-12-038 and delete minor language no longer relevant to the programs. Additionally, a new accounting procedure is added to allow adjustments to amounts recorded in the account that are authorized by the Commission, and language is added in part 5.a. to reference a corresponding accounting procedure in the DREBA.

Electric Preliminary Statement Part EC – *Demand Response Expense Balancing Account (DREBA)* - PG&E proposes adding in the Purpose section a reference to the continuing funding of programs authorized by D.08-12-038 and delete language no longer relevant to the programs in both the Purpose and Accounting Procedures sections. Minor clarifying language has also been included in these sections. Additionally, a new accounting procedure is added to allow adjustments to amounts recorded in the account that are authorized by the Commission.

### **Protests**

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than **January 12, 2009**, which is 21 days after the date of this filing. Protests should be mailed to:

CPUC Energy Division  
Tariff Files, Room 4005  
DMS Branch  
505 Van Ness Avenue  
San Francisco, California 94102

Facsimile: (415) 703-2200  
E-mail: [ijnj@cpuc.ca.gov](mailto:ijnj@cpuc.ca.gov) and [mas@cpuc.ca.gov](mailto:mas@cpuc.ca.gov)

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission:

Brian K. Cherry  
Vice President, Regulatory Relations  
Pacific Gas and Electric Company  
77 Beale Street, Mail Code B10C  
P.O. Box 770000  
San Francisco, California 94177

Facsimile: (415) 973-7226  
E-mail: PGETariffs@pge.com

**Effective Date**

Per D.08-12-038, PG&E requests that this filing be approved effective January 1, 2009.

**Notice**

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list and the service list for A.08-06-003. Address changes to the General Order 96-B service list 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>.



Vice President, Regulatory Relations

Attachments

cc: Service List A.08-06-003

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 M)**

Utility type:

ELC       GAS  
 PLC       HEAT       WATER

Contact Person: Megan Lawson

Phone #: 415-973-1877

E-mail: mehr@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric      GAS = Gas        
 PLC = Pipeline      HEAT = Heat      WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: 3388-E

Tier: [1]

Subject of AL: Revisions to Electric Tariffs in Compliance with Decision (D.) 08-12-038 - Bridge Funding for 2009 Demand Response Programs

Keywords (choose from CPUC listing): demand side management, compliance

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other \_\_\_\_\_

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: D.08-12-038

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL:

Resolution Required?  Yes  No

Requested effective date: January 1, 2009

No. of tariff sheets: 14

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: Rate Schedules E-BEC and E-CBP, Preliminary Statements EC and ED, and Forms 79-1074, 79-1075, and 79-1076

Service affected and changes proposed:

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

**CPUC, Energy Division**

**Tariff Files, Room 4005**

**DMS Branch**

**505 Van Ness Ave., San Francisco, CA 94102**

**jn@cpuc.ca.gov and mas@cpuc.ca.gov**

**Pacific Gas and Electric Company**

**Attn: Brian K. Cherry, Vice President, Regulatory Relations**

**77 Beale Street, Mail Code B10C**

**P.O. Box 770000**

**San Francisco, CA 94177**

**E-mail: PGETariffs@pge.com**



**ATTACHMENT 1  
Advice 3388-E**

<b>Cal P.U.C. Sheet No.</b>	<b>Title of Sheet</b>	<b>Cancelling Cal P.U.C. Sheet No.</b>
27867-E	ELECTRIC PRELIMINARY STATEMENT PART EC DEMAND RESPONSE EXPENDITURES BALANCING ACCOUNT Sheet 1	27781-E
27868-E	ELECTRIC PRELIMINARY STATEMENT PART EC DEMAND RESPONSE EXPENDITURES BALANCING ACCOUNT Sheet 2	26380-E
27869-E	ELECTRIC PRELIMINARY STATEMENT PART ED DEMAND RESPONSE REVENUE BALANCING ACCOUNT Sheet 1	27296-E
27870-E	ELECTRIC SCHEDULE E-BEC BUSINESS ENERGY COALITION Sheet 1	27536-E
27871-E	ELECTRIC SCHEDULE E-BEC BUSINESS ENERGY COALITION Sheet 5	27540-E
27872-E	ELECTRIC SCHEDULE E-CBP CAPACITY BIDDING PROGRAM Sheet 4	25934-E
27873-E	ELECTRIC SCHEDULE E-CBP CAPACITY BIDDING PROGRAM Sheet 11	25941-E
27874-E	Electric Sample Form No. 79-1074 Agreement for Customers Participating Directly in the Capacity Bidding Program	25942-E
27875-E	Electric Sample Form No. 79-1075 Notice to Add or Delete Customers Participating in the Capacity Bidding Program	25943-E
27876-E	Electric Sample Form No. 79-1076 Agreement for Aggregators Participating in the Capacity Bidding Program	25944-E

**ATTACHMENT 1  
Advice 3388-E**

<b>Cal P.U.C. Sheet No.</b>	<b>Title of Sheet</b>	<b>Cancelling Cal P.U.C. Sheet No.</b>
27877-E	ELECTRIC TABLE OF CONTENTS Sheet 1	27812-E
27878-E	ELECTRIC TABLE OF CONTENTS RATE SCHEDULES Sheet 5	27815-E
27879-E	ELECTRIC TABLE OF CONTENTS PRELIMINARY STATEMENT Sheet 9	27819-E
27880-E	ELECTRIC TABLE OF CONTENTS SAMPLE FORMS Sheet 17	27824-E



**ELECTRIC PRELIMINARY STATEMENT PART EC**  
**DEMAND RESPONSE EXPENDITURES BALANCING ACCOUNT**

Sheet 1

EC. Demand Response Expenditures Balancing Account (DREBA)

1. **PURPOSE:** The purpose of the Demand Response Expenditure Balancing Account (DREBA) is to track the authorized demand response program budget compared to costs incurred by PG&E to implement and administer demand response programs authorized by Decision (D.) 06-03-024, D.06-11-049, and D.08-12-038. (T)
  
- The DREBA is a one-way balancing account that records actual Operating and Maintenance (O&M), including customer participation incentives, and Administrative and General (A&G) expenses and capital-related revenue requirements incurred to develop and implement, or in reasonable anticipation of implementing the demand response programs in D.06-03-024, D.06-11-049, and D.08-12-038. The revenues recorded to this balancing account will include, but are not limited to the authorized program budget, equipment costs or enrollment fees, and any related non-compliance or contractual non-performance penalties paid by customers participating in these programs. (T)
  
2. **APPLICABILITY:** The DREBA shall apply to all customer classes, except those specifically excluded by the Commission. (T)
  
3. **REVISION DATE:** The revision dates applicable to the DREBA shall be determined as necessary in the Annual Electric True-Up (AET) process or other proceeding as authorized by the Commission. (T)
  
4. **RATES:** The DREBA does not have a rate component. (T)
  
5. **ACCOUNTING PROCEDURE:** The following entries shall be made at the end of each month:
  - a. A debit entry equal to O&M and A&G expenses incurred to develop and implement, or incurred in reasonable anticipation of implementing, authorized demand response programs. (T)
  
  - b. A credit entry equal to one-twelfth of the current year demand response program budget as authorized by the CPUC (D)

(Continued)



**ELECTRIC PRELIMINARY STATEMENT PART EC**  
**DEMAND RESPONSE EXPENDITURES BALANCING ACCOUNT**

Sheet 2

EC. Demand Response Expenditures Balancing Account (DREBA) (Cont'd.)

- c. A debit entry for capital-related revenue requirements associated with authorized demand response programs, equal to: (T)
  - 1) Depreciation expense on the average of the beginning and the end-of-month balance of plant installed for each program at one-twelfth of the annual depreciation rates approved by the CPUC for these plant accounts; plus (T)
  - 2) The return on investment on the average of the beginning and the end-of-month balance of plant installed for each program at one-twelfth of the annual rate of return on distribution investment last adopted for PG&E's Electric Department by the CPUC; less (T)
  - 3) The return on the average of beginning and end-of-month accumulated depreciation, and on average accumulated net of deferred taxes on income resulting from the normalization of federal tax depreciation, at one-twelfth the annual rate of return on distribution investment last adopted for PG&E Electric Department by the CPUC.
- d. A debit entry equal to federal and state taxes based on income associated with Item 5.d. above, calculated at marginal tax rates currently in effect. This will include all applicable statutory adjustments.  
  
 For federal and state taxes, this will conform to normalization requirements as applicable. Interest cost will be at the percentage of net investment last adopted by the CPUC with respect to PG&E.
- e. A debit entry equal to the monthly property taxes on the plant installed
- f. A credit entry equal to all enrollment fees, equipment fees, non-compliance or contractual non-performance penalties paid by customers participating in demand response programs (T)
- g. A debit or credit entry to transfer amounts in this account to other accounts, or amounts from other accounts to this account upon approval by the Commission; and (T) (D)
- h. A debit entry equal to the interest on the average of the balance at the beginning of the month and the balance after the above entries at a rate equal to one-twelfth the interest rate on three-month Commercial Paper for the previous month, as reported in the Federal Reserve Statistical Release, H.15 or its successor. (T)

Disposition: The DREBA is a one-way balancing account. Disposition of any remaining credit balance in DREBA once all authorized budget cycle program costs have been recorded will be determined in the AET or other proceeding authorized by the Commission.



**ELECTRIC PRELIMINARY STATEMENT PART ED**  
**DEMAND RESPONSE REVENUE BALANCING ACCOUNT**

Sheet 1

ED. Demand Response Revenue Balancing Account (DRRBA)

1. **PURPOSE:** The purpose of the Demand Response Revenue Balancing Account (DRRBA) is to record the difference between authorized Demand Response revenue requirements and dedicated distribution rate revenues to provide full recovery of authorized Demand Response program revenue requirements. Pursuant to Decisions (D.) 06-03-024 and D. 08-12-038, the DRRBA will allow recovery of Demand Response program costs recorded in the Demand Response Expenditure Balancing Account (DREBA). Similarly, D. 08-02-009 adopted a settlement agreement providing for recovery of revenue requirements associated with a full-scale Air Conditioning Direct Load Control Program (AC Program) during 2007 and a large scale AC Program beginning with PG&E's 2008 AC Program cycle. (T)
2. **APPLICABILITY:** The DRRBA shall apply to all customer bills for service under all rate schedules and contracts for electric service subject to the jurisdiction of the Commission, except for those rate schedules or contracts specifically excluded by the Commission. (T)
3. **REVISION DATE:** Disposition of the balance in this account shall be through the Annual Electric True-Up advice letter process. (T)
4. **RATES:** The DRRBA is collected as part of the distribution rate set forth in each rate schedule. The DRRBA rate component is separately identified in Preliminary Statement Part I. (T)
5. **ACCOUNTING PROCEDURES:** The following entries shall be made at the end of each month:
  - a. A debit entry equal to one twelfth the annual Commission-authorized demand response revenue requirements (See corresponding credit entry, less franchise fees and uncollectibles, in the DREBA); (T)
  - b. A debit entry equal to one twelfth the annual Commission-authorized Air Conditional Direct Load Control revenue requirements (See corresponding credit entry, less franchise fees and uncollectibles, in the Air Conditioning Expense Balancing Account); (T)
  - c. A debit or credit entry equal to any expense or adjustment adopted by the CPUC;
  - d. A credit entry equal to the revenue from the Demand Response Revenue Balancing Account distribution rate subcomponent;
  - e. A debit or credit entry to transfer amounts in this account to other accounts, or amounts from other accounts to this account upon approval by the Commission; and, (N)
  - f. An entry equal to interest on the average balance in the account at the beginning of the month and the balance after the above entries, at a rate equal to one-twelfth of the interest rate on three-month Commercial Paper for the previous month, as reported in the Federal Reserve Statistical Release, H.15 or its successor. (N)



**ELECTRIC SCHEDULE E-BEC  
 BUSINESS ENERGY COALITION**

Sheet 1

APPLICABILITY: The Business Energy Coalition (BEC) program is a pilot demand response program ordered in Decision (D.) 05-01-056 and revised in D.06-11-049, D.07-12-048, Resolution E-4163, and D.08-12-038. The Program is an initiative between both PG&E and major business leaders to demonstrate load curtailment. Customers enrolled in the Program will be required to reduce their load within the time frame specified in their event notification. (T)  
 (T)

The pilot Program is available unless and until the pilot is revised or terminated as directed by the CPUC. (T)

TERRITORY: This schedule is available throughout PG&E's electric service area.

ELIGIBILITY: PG&E bundled-service customers, Community Choice Aggregation Service (CCA Service), Direct Access (DA) customers, and wholesale customers, that are hard-to-reach, are eligible for Schedule E-BEC. Hard-to-reach customers are defined as customers that (a) have never participated in a PG&E demand response event and (b) have rejected enrollment in at least one PG&E demand response program other than the BEC program. Each participant should have a minimum average monthly demand of 200 kilowatts (kW), and should be able to reduce their demand by a minimum of 200 kW. Participants must take service on a PG&E demand time-of-use rate schedule. In addition, each participant (or account) is responsible for any processing fees associated with any rate schedule change required to participate in the Program.

Customers on a net energy metering rate schedule (i.e., NEM, NEMFC, or NEMBIO), Standby, Critical Peak Pricing Program (E-CPP), Schedule Load Reduction Program (E-SLRP), or any other performance tariffs are not eligible to participate in the Program.

Customers with a blend of cogeneration and utility services or customers participating in another demand response program will be evaluated for eligibility by PG&E on a case-by-case basis. Customers with cogeneration will be eligible based only on their actual PG&E demand.

Customers must have the required metering equipment, KYZ pulse output device, and Internet access in place prior to participation in the BEC Program.

The Energy Coalition (Program Manager) is the organization managing and signing-up customers on this pilot program. Customers must demonstrate to PG&E's satisfaction that they can meet the Program's minimum requirements.

Customers who are deemed essential under the Electric Emergency Plan as adopted in Decision 01-04-006 and Rulemaking 00-10-002, must submit to PG&E a written declaration that states that the customer is, to the best of that customer's understanding, an essential customer under California Public Utilities Commission (Commission) rules and exempt from rotating outages. It must also state that the customer voluntarily elects to participate in an interruptible program for part or its entire load based on adequate backup generation or other means to interrupt load upon request by the respondent utility, while continuing to meet its essential needs. In addition, an essential customer may commit no more than fifty percent (50%) of its average peak load to interruptible programs.

(Continued)



**ELECTRIC SCHEDULE E-BEC  
 BUSINESS ENERGY COALITION**

Sheet 5

**PROGRAM TERM AND CONDITIONS:** The pilot program is available unless and until the pilot is revised or terminated as directed by the CPUC. This electric rate schedule 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. (T)  
 (T)

PG&E reserves the right to modify or terminate the Program, with Commission approval and thirty (30) days' written notice to participants.

**BILLING:** Participants' regular electric service bills will continue to be calculated each month based on their actual recorded monthly demands and energy usage and their otherwise applicable schedule.

**INTERACTION WITH CUSTOMER'S OTHER APPLICABLE CHARGES OR PROGRAMS:** Load can only be committed to one interruptible program for any given hour of a curtailment, and customers will be paid for performance under only one program for a given load reduction.

Customers who participate in PG&E's Critical Peak Pricing Program (E-CPP) or PG&E's Schedule Load Reduction Program (E-SLRP) may not participate in the BEC Program while on E-CPP or E-SLRP.

With limitations, participants in PG&E's Base Interruptible Program (E-BIP), or the Optional Binding Mandatory Curtailment Programs (E-OBMC/E-POBMC) may participate in the BEC Program. These customers may participate in the BEC Program provided that their BEC committed load is below the non-BEC Program's FSL.

Customers who participate in a third party sponsored interruptible load program must immediately notify PG&E, and such activity may affect the customer's BEC Program eligibility.

**DIRECT ACCESS CUSTOMERS:** Customers participating in this program and receiving service under CCA Service/DA must notify their Community Choice Aggregator (CCA)/Energy Service Provider that they are participating in this Program and when they participate in a BEC event. The per event notification must include the amount of hourly load reduction committed for a day-ahead event, or the customer's committed load reduction for an hour-ahead event.

A CCA Service/DA customer must arrange for a Scheduling Coordinator to Scheduling Coordinator (SC to SC) trade with PG&E's scheduling agent for payments to be received for the CCA Service/DA customer's participation in the program. The CCA Service/DA customer is responsible for the following: (1) the SC to SC trade must be submitted in a timeframe that complies with the CAISO's requirements; and (2) all imbalance or other additional costs incurred by PG&E or PG&E's program coordinator if the customer's SC fails to submit a SC to SC trade, or if the SC to SC trade is not accepted by the CAISO because of an action or inaction of the customer's SC.



**ELECTRIC SCHEDULE E-CBP  
 CAPACITY BIDDING PROGRAM**

Sheet 4

CAPACITY PRICE: Capacity Price by Month for 2007, 2008, and 2009

(T)

Aggregators in Day-Ahead Option

<u>Product</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>
1-4 Hour	\$0.00/kW	\$3.71/kW	\$15.60/kW	\$21.57/kW	\$13.30/kW	\$0.00/kW
2-6 Hour	\$0.00/kW	\$3.71/kW	\$15.60/kW	\$21.57/kW	\$13.30/kW	\$0.00/kW
4-8 Hour	\$0.00/kW	\$3.71/kW	\$15.60/kW	\$21.57/kW	\$13.30/kW	\$0.00/kW

Directly-Enrolled Customers in Day-Ahead Option

<u>Product</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>
1-4 Hour	\$0.00/kW	\$2.97/kW	\$12.48/kW	\$17.26/kW	\$10.64/kW	\$0.00/kW
2-6 Hour	\$0.00/kW	\$2.97/kW	\$12.48/kW	\$17.26/kW	\$10.64/kW	\$0.00/kW
4-8 Hour	\$0.00/kW	\$2.97/kW	\$12.48/kW	\$17.26/kW	\$10.64/kW	\$0.00/kW

Aggregators in Day-Of Option

<u>Product</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>
1-4 Hour	\$0.00/kW	\$4.27/kW	\$17.94/kW	\$24.81/kW	\$15.30/kW	\$0.00/kW
2-6 Hour	\$0.00/kW	\$4.27/kW	\$17.94/kW	\$24.81/kW	\$15.30/kW	\$0.00/kW
4-8 Hour	\$0.00/kW	\$4.27/kW	\$17.94/kW	\$24.81/kW	\$15.30/kW	\$0.00/kW

Directly-Enrolled Customers in Day-Of Option

<u>Product</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>
1-4 Hour	\$0.00/kW	\$3.42/kW	\$14.35/kW	\$19.85/kW	\$12.24/kW	\$0.00/kW
2-6 Hour	\$0.00/kW	\$3.42/kW	\$14.35/kW	\$19.85/kW	\$12.24/kW	\$0.00/kW
4-8 Hour	\$0.00/kW	\$3.42/kW	\$14.35/kW	\$19.85/kW	\$12.24/kW	\$0.00/kW

(Continued)



**ELECTRIC SCHEDULE E-CBP  
 CAPACITY BIDDING PROGRAM**

Sheet 11

ACCESS TO  
 CUSTOMER  
 SPECIFIC USAGE  
 DATA:

PG&E will provide an aggregated customer's electric usage and electric meter data for the Service Agreements to its Aggregator so Aggregator can determine the payment payable to and penalties chargeable to Customer under Schedule E-CBP.

TERM:

The initial term is 12 months. After the initial 12 months, a directly-enrolled customer or Aggregator may request to terminate its participation in this program by submitting to PG&E a completed Cancellation of Contract (Form 62-4778). The termination will be effective on the later of: (1) the beginning of the calendar month that is immediately after the initial 12 month term; and (2) the beginning of the calendar month that is closest to but at least thirty (30) calendar days after PG&E received the Cancellation of Contract. The Schedule E-CBP will remain available unless and until Schedule E-CBP is revised or terminated as directed by the CPUC.

(T)  
 (T)

PAYMENTS, AND  
 AFFECT ON  
 CUSTOMER'S  
 BILL FOR THE  
 OAS:

For directly-enrolled customers, the payments and penalties due under this program will be added to the customer's bill for the OAS within 60 calendar days after the end of the operating month.

For Aggregators, payments due under this program will be sent as a check to the Aggregator within 60 calendar days after the end of the operating month. The charges under the OAS for an aggregated customer will not be adjusted.



**Electric Sample Form No. 79-1074**  
Agreement for Customers Participating Directly in the Capacity Bidding Program

**Please Refer to Attached  
Sample Form**

Advice Letter No: 3388-E  
Decision No.

Issued by  
**Brian K. Cherry**  
Vice President  
Regulatory Relations

Date Filed December 22, 2008  
Effective January 1, 2009  
Resolution No. \_\_\_\_\_

**AGREEMENT FOR CUSTOMERS PARTICIPATING DIRECTLY  
IN THE CAPACITY BIDDING PROGRAM**

This Agreement (Agreement) for Customers participating directly in the Capacity Bidding Program (CBP) is entered into by and between Pacific Gas and Electric Company (PG&E), a California corporation, and \_\_\_\_\_ (Customer), a \_\_\_\_\_ PG&E and Customer may sometimes be referred to herein as a “Party” and collectively as the “Parties”.

WHEREAS, the California Public Utilities Commission (CPUC) has authorized the CBP, a capacity bidding program as set forth in PG&E’s Schedule E-CBP, (Schedule E-CBP), which is attached hereto as **Attachment A** and incorporated herein by this reference, whereby PG&E pays eligible customers for participating in the CBP; and

WHEREAS, Customer desires to participate directly in the CBP for the service agreements listed on **Attachment B** subject to the applicable PG&E tariff rules and rate schedules.

NOW, THEREFORE, in consideration of the mutual undertakings set forth below, the Parties agree as follows:

1. For the term of this Agreement, Customer shall receive service in accordance with Schedule E-CBP and Customer’s Otherwise Applicable Schedule filed with the CPUC, as such schedules now exist or may hereafter be amended or superseded. If the CPUC approves any modification to Schedule E-CBP, any such modification shall be incorporated herein and this Agreement will continue in full force and effect as to Schedule E-CBP as so modified, unless and until the Parties execute a new agreement, or unless and until PG&E or Customer terminates this Agreement.
2. Customer understands that Schedule E-CBP is a voluntary program whereby Customer receives Capacity and Energy Payments for delivered Capacity and delivered Energy during CBP Events. Customer understands that the Customer may receive penalties for non-performance under Schedule E-CBP.
3. PG&E reserves the right to contact Customer to confirm its Capacity Nominations, to clarify possible errors, and to remove Customer from Schedule E-CBP if Customer does not comply with the terms and conditions of Schedule E-CBP or this Agreement.
4. Schedule E-CBP has an initial term of 12 months. A directly-enrolled customer may request to terminate its participation in this program by submitting to PG&E a completed Cancellation of Contract (Form 62-4778). The termination will be effective on the later of 1) the beginning of the calendar month that is immediately after the initial 12 month term, and 2) the beginning of the calendar month that is closest to but at least thirty (30) calendar days after PG&E received the Cancellation of Contract. Unless Customer or PG&E terminates Customer’s participation in the CBP, the Customer shall remain enrolled unless and until the CBP is terminated as the result of a CPUC ruling.
5. Direct Access (DA) customers shall be solely responsible for having an arrangement with its energy service provider (ESP) and/or scheduling coordinator for the purposes of ensuring that PG&E’s Scheduling Coordinator receives a delivery of an amount of energy that is equal to the amount of load dropped by customer during a CBP Event. The trade shall be scheduled as a Scheduling Coordinator to Scheduling Coordinator (SC-to-SC) trade to the congestion zone in which the DA customer is located. DA customers shall not be entitled to any capacity or energy payment from PG&E for the load dropped by a DA customer during a CBP Event unless PG&E receives a trade for such load reductions during the CBP Event. PG&E shall not be responsible for enforcing requirements applicable to the performance of the Scheduling Coordinators. DA customers agree to follow the SC-to-SC trade protocol in Attachment C. DA customer shall also be required to pay any imbalance charges imposed on PG&E by the California Independent System Operator arising from Customer’s failure to make a compliant SC-to-SC trade. DA

customer is responsible for notifying its ESP that the ESP will not be compensated by PG&E for SC-to-SC trades submitted as a result of CBP Events.

6. PG&E shall not be liable to Customer for any damages caused by PG&E's conduct in compliance with, or as permitted by, Schedule E-CBP or other tariffs, this Agreement and associated legal and regulatory requirements related to the CBP. PG&E shall not be liable for any damages caused by Customer's failure to comply with PG&E's tariffs, this Agreement and associated legal and regulatory requirements.
7. Customer shall not assign this Agreement without prior written consent of PG&E.
8. PG&E may immediately terminate this Agreement upon written notice to Customer if Customer breaches any material obligation under this Agreement and fails to cure such breach within fifteen (15) calendar days after receiving written notice of the breach. Customer must notify PG&E upon curing the identified breach.
9. Customer agrees to allow personnel from the California Energy Commission (CEC), PG&E and their contracting agents' reasonable access to conduct a site visit for measurement and evaluation, access to the Customer's interval meter data, and agree to complete any surveys needed to enhance this program.
10. This Agreement shall at all times be subject to the changes or modifications by the CPUC as the CPUC may, from time to time, direct in the exercise of its jurisdiction.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized agents to be effective on the date of PG&E's signature below provided all necessary requirements of Schedule E-CBP have been met.

Customer		Pacific Gas and Electric Company	
Signature:	_____	Signature:	_____
Print Name:	_____	Print Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

The following attachments are attached hereto and incorporated by reference:

- Attachment A: Schedule E-CBP
- Attachment B: Customer Information
- Attachment C: Protocol for SC-to-SC Trade

**ATTACHMENT A**  
**Schedule E-CBP**

**ATTACHMENT B**  
**Customer Information**

**Site Information:**

Site Name: \_\_\_\_\_  
Service Address: \_\_\_\_\_  
\_\_\_\_\_  
Service Agreement Number: \_\_\_\_\_  
Electric Meter Number: \_\_\_\_\_

**Site Contact:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Pager Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**Primary CBP Event Contact:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Pager Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**Secondary CBP Event Contact:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Pager Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**ATTACHMENT C**  
**Protocol for SC-to-SC Trade**

Five calendar days prior to the beginning of each operating month, Customer shall provide to PG&E via PG&E's CBP website, monthly nominations of demand response broken down by Option, Product and Congestion Zone (i.e., NP-15 or ZP-26, or as currently established by the CAISO) to be made available under this Agreement.

For the Day-Ahead option, PG&E or PG&E's program coordinator shall notify Customer by 1500 hours if a dispatch is required the next business day. PG&E's notification shall specify the quantity of each Product in each hour and by Congestion Zone. Such schedules shall be for contiguous hours only. Each business day following a PG&E notification, Customer shall perform or cause to be performed a Scheduling Coordinator to Scheduling Coordinator trade to PG&E's scheduling agent at least ninety (90) minutes in advance of the CAISO's Hour-Ahead scheduling time line equivalent to the demand reduction set forth in PG&E's notification for that hour. Such traded quantity shall be adjusted by the Distribution Loss Factor for each Customer to account for delivery at the CAISO interface. The Electric Service Provider will not be compensated by PG&E for SC-to-SC trades submitted as a result of CBP Events.

For the Day-Of option, PG&E or PG&E's program coordinator shall notify Customer with up to thirty (30) minutes notice prior to the close of the CAISO Hour-Ahead Market (approximately three hours prior to the start of a Day-Of Event). PG&E's notification shall specify the quantity of each Product in each hour and by Congestion Zone. Such schedules shall be for contiguous hours only. Customer shall perform or cause to be performed a Scheduling Coordinator to Scheduling Coordinator trade to PG&E's scheduling agent prior to the close of the CAISO's Hour-Ahead Market. Such traded quantity shall be adjusted by the Distribution Loss Factor for each Customer to account for delivery at the CAISO interface. The Electric Service Provider will not be compensated by PG&E for SC-to-SC trades submitted as a result of CBP Events.

#### Market Redesign and Technology Upgrade

The foregoing protocols are intended for implementation under the current CAISO electric market structure. At this time, the precise treatment of Demand Response by the CAISO under Market Redesign and Technology Upgrade (MRTU) is uncertain. PG&E reserves the right to modify these protocols so that utilization of the Products can be consistent with MRTU requirements.



**Electric Sample Form No. 79-1075**  
Notice to Add or Delete Customers Participating in the Capacity Bidding Program

**Please Refer to Attached  
Sample Form**

Advice Letter No: 3388-E  
Decision No.

Issued by  
**Brian K. Cherry**  
Vice President  
Regulatory Relations

Date Filed December 22, 2008  
Effective January 1, 2009  
Resolution No. \_\_\_\_\_



**NOTICE TO ADD OR DELETE CUSTOMERS PARTICIPATING  
IN THE CAPACITY BIDDING PROGRAM**

**Instructions:** Aggregators and Customers use this notice to officially notify Pacific Gas and Electric Company (PG&E) of your intent to add or delete PG&E customers from the Aggregator’s CBP portfolio. Send the completed notice to PG&E’s Demand Response Program Department by U.S. mail or fax; however, the original must be mailed as soon as possible if the notice was faxed.

**Fax to:** Pacific Gas and Electric Company  
Demand Response Program Department  
Attn: CBP Manager  
FAX: 415-973-4177

**Mail signed original to:** Pacific Gas and Electric Company  
Demand Response Program Department  
Attn: CBP Manager  
245 Market Street, N3E  
San Francisco, CA 94105

PG&E may verify the information on this notice with the Customer.

Aggregator Company Name:		Aggregator Code:	
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This notice adds or deletes a customer’s Service Agreements from the Aggregator’s CBP portfolio. PG&E will review and approve each Service Agreement to be added to determine if it meets the minimum requirements as specified in Schedule E-CBP. PG&E must approve each Service Agreement before the Service Agreement can be included in an Aggregator’s portfolio. Additions to the portfolio will be effective upon PG&E’s approval date. Deletions from the portfolio will be effective at the end of the current calendar month in which this notice is received provided PG&E receives this notice at least 15 calendar days prior to the end of the current month.

By signing this notice, Aggregator and Customer understand that the Aggregator has the authority to act on behalf of the Customer in connection with the CBP for the Customer’s Service Agreements shown below. Such authority is subject to the applicable terms and conditions of Schedule E-CBP and the Agreement For Aggregators Participating In The Capacity Bidding Program (Form 79-1076).

Customer designates the above-named Aggregator to act on its behalf as its Aggregator pursuant to Schedule E-CBP for all purposes, including, but not limited to, the receipt of payments, the payment of penalties, if any, and the receipt of all notices sent by PG&E under the E-CBP program.

Customer understands that PG&E will provide its electric usage and electric meter data for the Service Agreements to Aggregator so Aggregator can determine the payment payable to and penalties chargeable to Customer under Schedule E-CBP. Customer also agrees to allow personnel from the California Energy Commission (CEC), PG&E, and their contracting agents, reasonable access to conduct a site visit for measurement and evaluation, access to the Customer’s interval meter data, and agree to complete any surveys needed to enhance this program.

Customer acknowledges that Aggregator is not PG&E’s agent for any purpose. PG&E shall not be liable to the Customer for any damages resulting from any acts, omissions, or representations made by Aggregator in connection with Aggregator’s solicitation of Customer or with the Aggregator’s performance any of its functions in the CBP. PG&E shall not be liable to Customer for any damages caused to the Customer by any failure by Aggregator to comply with PG&E’s tariffs or for any damages caused by Aggregator’s failure to perform any commitment to the Customer.

Customer Name:		Aggregator Name	
Title:		Title	
Signature:		Signature:	
Date:		Date:	

**Notice by Aggregator to Add/Delete Customers**  
**Please Print or Type Clearly**

Aggregator Name: \_\_\_\_\_

	Add/ Delete	Customer Site Name	PG&E Service Agreement Number	Electric Meter Number	Service Address and City
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					



**Electric Sample Form No. 79-1076**  
Agreement for Aggregators Participating in the Capacity Bidding Program

**Please Refer to Attached  
Sample Form**

Advice Letter No: 3388-E  
Decision No.

Issued by  
**Brian K. Cherry**  
Vice President  
Regulatory Relations

Date Filed December 22, 2008  
Effective January 1, 2009  
Resolution No. \_\_\_\_\_

**AGREEMENT FOR AGGREGATORS PARTICIPATING IN THE  
CAPACITY BIDDING PROGRAM**

This Agreement (Agreement) for Aggregators participating in the Capacity Bidding Program (CBP) is entered into by and between Pacific Gas and Electric Company (PG&E), a California corporation, and \_\_\_\_\_ (Aggregator), a \_\_\_\_\_ . PG&E and Aggregator may sometimes be referred to herein as a “Party” and collectively as the “Parties”.

WHEREAS, the California Public Utilities Commission (CPUC) has authorized the CBP, a capacity bidding program as set forth in PG&E’s Schedule E-CBP, (Schedule E-CBP), which is attached hereto as **Attachment A** and incorporated herein by this reference, whereby PG&E pays eligible Aggregators for participating in the CBP; and

WHEREAS, the CPUC has authorized the participation of Aggregators in the CBP, and Aggregator desires to participate in the CBP subject to the applicable PG&E tariff rules and rate schedules.

NOW, THEREFORE, in consideration of the mutual undertakings set forth below, the Parties agree as follows:

**I. AGGREGATOR’S OBLIGATIONS**

A. Status; Subject to Applicable PG&E Tariffs. Aggregator’s status in the CBP shall be as an “Aggregator” under Schedule E-CBP. Aggregator shall be subject to all applicable tariff rules and regulations (which rules and regulations are hereby incorporated herein as an integral part of this Agreement), including, but not limited to, the rates, terms and conditions set forth in Schedule E-CBP, as such rules and regulations may be amended from time to time.

B. Representation of Customers. Aggregator shall represent those customers in PG&E’s electric service territory eligible to participate in the CBP, who have elected to participate through Aggregator with respect to such customer’s service agreement(s), by having appropriate contractual or other arrangements with each such eligible customer whereby such customer authorizes Aggregator, as its representative, to receive payments and to pay penalty charges on behalf of such customer in connection with the customer’s participation, through Aggregator, in the CBP. Aggregator shall be solely responsible for having the appropriate contractual or other arrangements with each customer whom Aggregator represents in the CBP. PG&E shall not be responsible for monitoring, auditing, reviewing or enforcing such arrangements. Aggregator acknowledges and agrees that, in its representation of PG&E customers for the CBP, Aggregator is subject to the terms and conditions of Schedule E-CBP and this Agreement.

C. Aggregator Service Establishment. Aggregator must submit an executed Agreement for Aggregators Participating in the CBP. The Agreement becomes effective upon execution by PG&E.

D. Required Notice to Add or Delete Customers. Once Aggregator has entered into the appropriate contractual or other arrangements with each customer whom Aggregator represents in the CBP, Aggregator shall deliver to PG&E a “Notice to Add or Delete Customers Participating in the Capacity Bidding Program” in the form attached hereto as **Attachment B**, adding such customer’s service agreement(s) to Aggregator’s portfolio. The Notice shall be executed by the Aggregator and each affected customer. Aggregator shall notify PG&E that it has dropped a customer service agreement from its portfolio by delivering to PG&E a “Notice to Add or Delete Customers Participating in the Capacity

Bidding Program” signed by customer and Aggregator. Aggregator shall deliver such Notices to PG&E as specified in the Notice.

PG&E must approve each Service Agreement before the Service Agreement can be included in the Aggregator’s portfolio. Additions to and deletions from the Aggregator’s portfolio will be effective as specified in the E-CBP Tariff and the Notice.

E. Ensure Necessary Arrangements with Scheduling Coordinators for Direct Access Customers. Aggregator shall be solely responsible for having the appropriate contractual or other arrangements with the Scheduling Coordinator (SC) and/or the Energy Service Provider (ESP) for each DA customer whom Aggregator represents in the CBP to ensure that PG&E’s SC receives a of an amount of energy that is equal to the amount of load dropped by Aggregator’s customer during a CBP Event. The trade shall be scheduled as a Scheduling Coordinator to Scheduling Coordinator (SC-to-SC) trade to the congestion zone in which the DA customer is located. Aggregator shall not be entitled to any capacity or energy payment from PG&E for load dropped by a DA customer during a CBP Event pursuant to an Aggregator nomination unless PG&E’s receives a SC-to-SC trade for such load reductions during the CBP Event. If a SC-to-SC trade of a sufficient capacity is not delivered to PG&E, the DA customer’s performance shall be deemed zero for the purpose of calculating payments and penalties due under Schedule E-CBP. PG&E shall not be responsible for enforcing requirements applicable to the performance of the Scheduling Coordinators. The Aggregator agrees to follow the SC-to-SC trade protocol in **Attachment C**. Aggregator shall be required to pay any imbalance charges imposed on PG&E by the California Independent System Operator arising from the Aggregator’s failure to make a compliant SC-to-SC trade for its DA customer’s load drop. The Aggregator is responsible for notifying the ESP for its DA customers that the ESP will not be compensated by PG&E for SC-to-SC trades submitted as a result of CBP Events.

F. Secure Customer Participation in Measurement and Evaluation Activities. Aggregator shall agree, and shall cause each customer whom Aggregator represents on the CBP to agree, to (i) allow personnel from the California Energy Commission, PG&E, and their contracting agents reasonable access to customer’s facilities to conduct a site visit for measurement and evaluation of activities related to the CBP; and (ii) participate in and complete any surveys needed to enhance the CBP. Aggregator’s failure to secure these agreements may result in the termination of this Agreement and/or a determination by PG&E that Aggregator is ineligible to participate in the CBP.

G. Timeliness and Due Diligence. Aggregator shall exercise due diligence in meeting its obligations and deadlines under Schedule E-CBP and this Agreement to facilitate customer participation through Aggregator in the CBP.

## **II. GENERAL TERMS**

A. Definitions. Except where explicitly defined herein, the capitalized terms used in this Agreement shall have the meanings set forth in Schedule E-CBP.

B. Customer-Specific Usage or Meter Data. Upon the addition of a Service Agreement to an Aggregator’s portfolio, Usage or meter data for the Service Agreement will become available on a going forward basis via the format available in PG&E’s CBP Website.

**III. LIMITATION OF LIABILITIES**

A. PG&E shall not be liable to the Aggregator for any damages caused by PG&E's conduct in compliance with, or as permitted by, Schedule E-CBP or other tariffs, this Agreement and associated legal and regulatory requirements related to the CBP.

B. PG&E's liability to Aggregator for any loss, cost, claim, injury, liability or expense, including reasonable attorneys' fees, relating to or arising from any act or omission in PG&E's performance of this Agreement shall be limited to the amount of direct damage actually incurred. In no event shall PG&E be liable to Aggregator for any indirect, special, consequential or punitive damages of any kind whatsoever, whether in contract, tort or strict liability.

**IV. PAYMENT**

A. Payment Terms. During the term of this Agreement, PG&E shall make any payments due to Aggregator (after deducting any amounts due to PG&E) pursuant to the terms and conditions of Schedule E-CBP within sixty (60) calendar days following the end of each operating month by mailing an invoice and check payable to Aggregator to the following address:

Name: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address 1: \_\_\_\_\_  
Address 2: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

B. Late Payments. PG&E's charges to Aggregator as provided in Schedule E-CBP and Commission rules will be considered past due if it is not paid within 15 calendar days after transmittal of an invoice by PG&E. If an Aggregator does not pay PG&E's invoice within such 15 calendar days, then:

1. A 7-day notice may be mailed to the Aggregator and to each of the customers in the Aggregator's portfolio. If the charges in the notice remain unpaid after the expiration of the 7-day notice, PG&E shall have the right to terminate the Aggregator Agreement and Aggregator's participation in the CBP. If Aggregator's participation in the CBP is terminated, the Aggregator remains responsible for all outstanding charges billed pursuant to Schedule E-CBP, even if such charges are identified after the termination becomes effective.

2. If the Aggregator agreement is not terminated, the Aggregator will be unable to add customers to its portfolio until late payments are cured.

3. PG&E may require full collateral in the form of cash, irrevocable standby letter of credit, security bond or any other security instrument deemed appropriate by PG&E if the Aggregator makes more than one late payment. If such collateral is requested and not provided by the Aggregator to PG&E, the Aggregator's participation will be subject to termination by PG&E.

**V. REPRESENTATIONS AND WARRANTIES**

A. Each Party represents and warrants that it is and shall remain in compliance with all applicable laws.

B. Each Party represents and warrants that (a) it has the full power and authority to execute and deliver this Agreement and to perform its terms and conditions; (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action by

such Party; and (c) this Agreement constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.

C. Each Party shall exercise all reasonable care, diligence and good faith in the performance of its duties pursuant to this Agreement, and carry out its duties in accordance with applicable recognized professional standards in accordance with the requirements of this Agreement.

D. With each submission of a "Notice to Add or Delete Customers Participating in the Capacity Bidding Program," and until such time as Aggregator submits such Notice for the removal of such customer from Aggregator's representation, Aggregator represents and warrants that:

1. Each customer whom Aggregator represents is eligible to participate in the CBP and has elected to participate in the CBP through Aggregator;

2. Aggregator has entered into the appropriate contractual or other arrangements with such customer whereby such customer has authorized Aggregator to receive payments from and to pay penalty charges to PG&E on behalf of such customer in connection with such customer's participation in the CBP.

## **VI. TERM**

A. The term of this Agreement shall commence as of the Effective Date and shall continue in full force and effect unless and until the CBP is terminated or revised by a CPUC ruling or this Agreement is terminated by PG&E as provided in Section VII.

B. An Aggregator may request to terminate its participation in this program by submitting to PG&E a completed Cancellation of Contract (Form 62-4778). The termination will be effective on the later of 1) the beginning of the calendar month that is immediately after the initial 12 month term, and 2) the beginning of the calendar month that is closest to but at least thirty (30) calendar days after PG&E received the Cancellation of Contract.

## **VII. TERMINATION**

A. Termination for Default. PG&E may immediately terminate this Agreement upon written notice to Aggregator if Aggregator breaches any material obligation under this Agreement and fails to cure such breach within fifteen (15) calendar days after receiving written notice of the breach. Customer must notify PG&E upon curing identified breach

B. Effect of Termination. Upon an issuance of a notice to terminate this Agreement, PG&E shall have the right to solicit the direct participation in the CBP of customers represented by Aggregator who are eligible to participate directly in the CBP. All Service Agreements will be removed from the Aggregator's portfolio upon the effective date of the termination.

## **VIII. INDEMNIFICATION**

A. Indemnification of PG&E. To the fullest extent permitted by law, Aggregator shall indemnify, defend and hold harmless PG&E, and its parent company, subsidiaries, affiliates and their respective shareholders, officers, directors, employees, agents, representatives, successors and assigns (collectively, the "Indemnified Parties"), from and against any and all claims, actions, suits, proceedings, losses,

liabilities, penalties, fines, damages, costs or expenses, including without limitation reasonable attorneys' fees (Claim), resulting from (a) any breach of the representations, warranties, covenants and obligations of Aggregator under this Agreement, (b) any act or omission of Aggregator, whether based upon Aggregator's negligence, strict liability or otherwise, in connection with the performance of this Agreement, or (c) any third party claims of any kind, whether based upon negligence, strict liability or otherwise, arising out of or connected in any way to Aggregator's performance or nonperformance under this Agreement.

B. Defense of Claim. If any Claim is brought against the Indemnified Parties, Aggregator shall assume the defense of such Claim, with counsel reasonably acceptable to the Indemnified Parties, unless in the opinion of counsel for the Indemnified Parties a conflict of interest between the Indemnified Parties and Aggregator may exist with respect to such Claim. If a conflict precludes Aggregator from assuming the defense, then Aggregator shall reimburse the Indemnified Parties on a monthly basis for the Indemnified Parties' reasonable defense costs through separate counsel of the Indemnified Parties' choice. If Aggregator assumes the defense of the Indemnified Parties with acceptable counsel, the Indemnified Parties, at their sole option and expense, may participate in the defense with counsel of their own choice without relieving Aggregator of any of its obligations hereunder.

C. Survival. Aggregator's obligation to indemnify the Indemnified Parties shall survive the expiration or termination of this Agreement.

## **IX. NOTICES**

A. Mailing Address. Except for payments, which shall be made pursuant to Section IV, any formal notice, request, or demand required or permitted under this Agreement shall be given in writing by PG&E and Aggregator, and shall be (a) mailed by first-class mail, (b) mailed by registered, certified, (c) mailed by overnight mail, (d) delivered by hand, or (e) faxed with confirmation as set forth below, to the other Party as indicated below, or to such other address as the parties may designate by written notice.

To Aggregator:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

To PG&E:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

B. Notices. Notices delivered by hand shall be deemed received when delivered. Notices sent by facsimile shall be deemed received upon receipt but must be confirmed by mail within seventy-two (72) hours. Notices delivered by first class mail shall be deemed received forty-eight (48) hours (not including weekends and holidays) after deposit, postage prepaid, in the

U.S. mail, or if certified, registered or overnight mailing is used, as acknowledged by the signed receipt of mailing.

## **X. CONFIDENTIALITY**

A. **Confidentiality.** Aggregator shall not disclose any Confidential Information obtained pursuant to this Agreement to any third party, including any affiliates of Aggregator, without the express prior written consent of PG&E. As used herein, the term “Confidential Information” means proprietary business, financial and commercial information pertaining to PG&E, customer names and other information related to customers, including energy usage data (Customer Information), any trade secrets and any other information of a similar nature, whether or not reduced to writing or other tangible form. Confidential Information shall not include: (a) information known to Aggregator prior to obtaining the same from PG&E; (b) information in the public domain at the time of disclosure by Aggregator; (c) information obtained by Aggregator from a third party who did not receive the same, directly or indirectly, from PG&E; or (d) information approved for release by express prior written consent of an authorized representative of PG&E.

B. **Use of Confidential Information.** Aggregator hereby agrees that it shall use the Confidential Information solely for the purpose of performing under this Agreement. Aggregator agrees to use at least the same degree of care Aggregator uses with respect to its own proprietary or confidential information, which in any event shall result in a reasonable standard of care to prevent unauthorized use or disclosure of the Confidential Information.

C. **Authorized Disclosure.** Notwithstanding any other provisions of this Section Aggregator may disclose any of the Confidential Information in the event, but only to the extent, that, based upon advice of counsel, Aggregator is required to do so by the disclosure requirements of any law, rule, regulation or any order, decree, subpoena or ruling or other similar process of any court, governmental agency or regulatory authority. Prior to making or permitting any such disclosure, Aggregator shall provide PG&E with prompt written notice of any such requirement so that PG&E (with Aggregator’s assistance if requested by PG&E) may seek a protective order or other appropriate remedy.

D. **Term.** The confidentiality provisions set forth in this Section shall remain in full force and effect with respect to any Confidential Information until the date that is five (5) years after the date of PG&E’s disclosure of such Confidential Information to Aggregator pursuant to this Agreement; provided, further, that such confidentiality provisions shall remain in full force and effect with respect to any Customer Information in perpetuity.

E. **Remedies.** The Parties acknowledge that the Confidential Information is valuable and unique, and that damages would be an inadequate remedy for breach of this Section and the obligations of Aggregator are specifically enforceable. Accordingly, the Parties agree that in the event of a breach or threatened breach of this Section by Aggregator, PG&E shall be entitled to seek an injunction preventing such breach, without the necessity of proving damages or posting any bond. Any such relief shall be in addition to, and not in lieu of, monetary damages or any other legal or equitable remedy available to PG&E.

## **XI. MISCELLANEOUS**

A. **Assignment.** This Agreement, and the rights and obligations granted and/or obtained by Aggregator hereunder, shall not be further transferred or assigned by Aggregator without the prior written consent of PG&E. Any assignment in violation of this section shall be void.

B. Independent Contractor. Aggregator shall perform its obligations under this Agreement as an independent contractor, and no principal-agent or employer-employee relationship or joint venture or partnership shall be created with PG&E.

C. Choice of Law. This Agreement shall be carried out and interpreted under the laws of the State of California, without regard to any conflict of law principles thereof. Except for matters and disputes with respect to which the CPUC is the proper venue for dispute resolution pursuant to applicable law or this Agreement, the federal and state courts located in San Francisco, California shall constitute the sole proper venue for resolution of any matter or dispute hereunder. The Parties submit to the exclusive jurisdiction of such courts with respect to such matters and disputes.

D. Resolution of Disputes. Any dispute arising between the Parties relating to the interpretation of this Agreement or to the performance of a Party's obligations hereunder shall be reduced to writing and referred to the Parties' designated representative for resolution. The Parties shall be required to meet and confer in an effort to resolve any such dispute.

E. Waiver. Any failure or delay by either Party to exercise any right, in whole or part, hereunder shall not be construed as a waiver of the right to exercise the same, or any other right, at any time thereafter.

F. CPUC Jurisdiction: This Agreement shall be subject to all of PG&E's applicable tariffs on file with and authorized by the Commission and shall at all times be subject to changes or modifications as the Commission may, from time to time, direct in the exercise of its jurisdiction.

G. Entire Agreement; Amendments. This Agreement, including the Attachments listed below, sets forth the entire understanding of the Parties as to the subject matter hereof, and supersedes any prior discussions, offerings, representations or understanding (whether written or oral), and shall only be superseded by an instrument in writing executed by both Parties. This Agreement shall not be modified by course of performance, course of conduct or usage of trade.

*Attachment A: Schedule E-CBP*

*Attachment B: Notice to Add or Delete Customers Participating in the Capacity Bidding Program*

*Attachment C: Protocol for SC-to-SC Trade*

H. Survival. Notwithstanding the expiration or termination of this Agreement, the Parties shall continue to be bound by the provisions of this Agreement, which, by their nature, survive completion or termination.

I. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

J. Headings. The headings contained in this Agreement are solely for the convenience of the Parties and shall not be used or relied upon in any manner in the construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the authorized representatives of PG&E and Aggregator have executed this Agreement as of the Effective Date.

AGGREGATOR

PACIFIC GAS AND ELECTRIC COMPANY

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT A  
SCHEDULE E-CBP

ATTACHMENT B

Notice to Add or Delete Customers Participating in the Capacity Bidding Program

## ATTACHMENT C

### Protocol for SC-to-SC Trade

Five calendar days prior to the beginning of each operating month, Aggregator shall provide to PG&E via PG&E's CBP website, monthly nominations of demand response broken down by Option, Product and Congestion Zone (i.e., NP-15 or ZP-26, or as currently established by the CAISO) to be made available under this Agreement.

For the Day-Ahead option, PG&E or PG&E's program coordinator shall notify Aggregator by 1500 hours if a dispatch is required the next business day. PG&E's notification shall specify the quantity of each Product in each hour and by Congestion Zone. Such schedules shall be for contiguous hours only. Each business day following a PG&E notification, Aggregator shall perform or cause to be performed a Scheduling Coordinator to Scheduling Coordinator trade to PG&E's scheduling agent at least ninety (90) minutes in advance of the CAISO Hour-Ahead scheduling time line equivalent to the demand reduction set forth in PG&E's notification for that hour. Such traded quantity shall be adjusted by the Distribution Loss Factor for each Customer to account for delivery at the CAISO interface. The Electric Service Provider will not be compensated by PG&E for SC-to-SC trades submitted as a result of CBP Events.

For the Day-Of option, PG&E or PG&E's program coordinator shall notify Customer with up to thirty (30) minutes notice prior to the close of the CAISO Hour-Ahead Market (approximately three hours prior to the start of a Day-Of Event). PG&E's notification shall specify the quantity of each Product in each hour and by Congestion Zone. Such schedules shall be for contiguous hours only. Customer shall perform or cause to be performed a Scheduling Coordinator to Scheduling Coordinator trade to PG&E's scheduling agent prior to the close of the CAISO's Hour-Ahead Market. Such traded quantity shall be adjusted by the Distribution Loss Factor for each Customer to account for delivery at the CAISO interface. The Electric Service Provider will not be compensated by PG&E for SC-to-SC trades submitted as a result of CBP Events.

### Market Redesign and Technology Upgrade

The foregoing protocols are intended for implementation under the current CAISO electric market structure. At this time, the precise treatment of Demand Response by the CAISO under Market Redesign and Technology Upgrade (MRTU) is uncertain. PG&E reserves the right to modify these protocols so that utilization of the Products can be consistent with MRTU requirements.



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**PG&E Gas and Electric  
Advice Filing List  
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Aglet	Department of the Army	Northern California Power Association
Agnews Developmental Center	Dept of General Services	Occidental Energy Marketing, Inc.
Alcantar & Kahl	Division of Business Advisory Services	OnGrid Solar
Ancillary Services Coalition	Douglas & Liddell	PPL EnergyPlus, LLC
Anderson & Poole	Douglass & Liddell	Pinnacle CNG Company
Arizona Public Service Company	Downey & Brand	Praxair
BART	Duke Energy	R. W. Beck & Associates
BP Energy Company	Duncan, Virgil E.	RCS, Inc.
Barkovich & Yap, Inc.	Dutcher, John	RMC Lonestar
Bartle Wells Associates	Ellison Schneider & Harris LLP	Recon Research
Blue Ridge Gas	Energy Management Services, LLC	SCD Energy Solutions
Braun & Associates	FPL Energy Project Management, Inc.	SCE
C & H Sugar Co.	Foster Farms	SESCO
CA Bldg Industry Association	Foster, Wheeler, Martinez	SMUD
CAISO	Franciscan Mobilehome	SPURR
CLECA Law Office	G. A. Krause & Assoc.	Santa Fe Jets
CSC Energy Services	GLJ Publications	Seattle City Light
	Goodin, MacBride, Squeri, Schlotz & Ritchie	Sempra Utilities
California Cotton Ginners & Growers Assn	Green Power Institute	Sequoia Union HS Dist
California Energy Commission	Hanna & Morton	Sierra Pacific Power Company
California League of Food Processors	Heeg, Peggy A.	Silicon Valley Power
California Public Utilities Commission	Hitachi	Smurfit Stone Container Corp
Calpine	Hogan Manufacturing, Inc.	Southern California Edison Company
Cameron McKenna	Imperial Irrigation District	St. Paul Assoc.
Cardinal Cogen	Innercite	Sunshine Design
Casner, Steve	International Power Technology	Sutherland, Asbill & Brennan
Cerox	Intestate Gas Services, Inc.	TFS Energy
Chamberlain, Eric	J. R. Wood, Inc.	Tabors Caramanis & Associates
Chevron Company	JTM, Inc.	Tecogen, Inc.
Chris, King	Los Angeles Dept of Water & Power	Tiger Natural Gas, Inc.
City of Glendale	Luce, Forward, Hamilton & Scripps LLP	Tioga Energy
City of Palo Alto	MBMC, Inc.	TransCanada
City of San Jose	MRW & Associates	Turlock Irrigation District
Clean Energy Fuels	Manatt Phelps Phillips	U S Borax, Inc.
Coast Economic Consulting	Matthew V. Brady & Associates	United Cogen
Commerce Energy	McKenzie & Associates	Utility Cost Management
Commercial Energy	Meek, Daniel W.	Utility Resource Network
Constellation	Merced Irrigation District	Utility Specialists
Constellation New Energy	Mirant	Vandenberg Air Force
Consumer Federation of California	Modesto Irrigation District	Verizon
Crossborder Energy	Morgan Stanley	Wellhead Electric Company
Davis Wright Tremaine LLP	Morrison & Foerster	Western Manufactured Housing Communities Association (WMA)
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Day Carter Murphy	New United Motor Mfg., Inc.	eMeter Corporation
Defense Energy Support Center	Norris & Wong Associates	
Department of Water Resources	North Coast SolarResources	