



Gas Sample Form No. 79-866
Gas Transmission Service Agreement

**Please Refer to Attached
Sample Form**

Advice Letter No: 2520-G
Decision No. 03-12-061

Issued by
Karen A. Tomcala
Vice President
Regulatory Relations

Date Filed February 19, 2004
Effective March 30, 2004
Resolution No. _____

GAS TRANSMISSION SERVICE AGREEMENT

This Gas Transmission Service Agreement (GTSA) is made by and between PACIFIC GAS AND ELECTRIC COMPANY (PG&E), a California Corporation, and _____ (Customer), a _____. PG&E and Customer each shall be referred to herein as a Party and together as Parties.

Subject to the provisions of this GTSA and the applicable PG&E gas Rules and Rate Schedules, PG&E agrees to make available to Customer the following categories of service:

Gold Coast Transportation Services
Golden Gate Market Center Services, including Storage Services

Election of any or all of such services by Customer and acceptance and authorization by PG&E shall be evidenced by the signatures of Customer and PG&E on the Exhibit(s) under this GTSA which shall describe the specific terms and conditions of the service transactions to be performed.

1. TERM

1.1 This GTSA shall be effective upon the date that both parties have executed the agreement, or on _____. The initial term shall be twelve (12) months. Thereafter this GTSA shall continue from month to month unless terminated by either Party upon thirty (30) days' prior written notice to the other. Notwithstanding the above: (a) Neither Customer nor PG&E may unilaterally terminate this GTSA prior to the termination date for service set forth in any Exhibit executed by Customer and PG&E under this GTSA, and (b) PG&E may terminate this GTSA at any time in accordance with Paragraph 6.3 hereof or in accordance with PG&E's gas Rule 25 and may do so without thirty (30) days' prior written notice to Customer.

2. RATES AND CONTRACT QUANTITIES

2.1 The rate(s) to be charged for service(s) provided pursuant to this GTSA shall be as specified in the Exhibit(s) incorporated hereunder and applicable Rate Schedule(s), and Customer shall pay PG&E each billing period for all services rendered at the agreed-upon price.

2.2 PG&E shall have the unilateral right to apply at any time to the appropriate regulatory authority and, subject to approval thereof, make effective changes in the rates and charges applicable to services provided under this GTSA, the Rate Schedule(s) pursuant to which service hereunder is rendered, or any provisions of the applicable PG&E gas Rules.

2.3 The contract quantities for all services provided pursuant to this GTSA shall be as specified in the Exhibits incorporated hereunder.

3. BILLING AND PAYMENT

3.1 Bills shall be rendered and payments shall be due in accordance with gas Rule 25, Section C.

3.2 If an error is discovered in any bill rendered by PG&E, the amount of such error shall be adjusted, provided that a valid claim therefore is made within twelve (12) months from the date of the bill containing the original error.

3.3 Either Party may submit a billing dispute for resolution in accordance with Section 8; however, PG&E's remedies for late payments pursuant to Section C of gas Rule 25 shall be available notwithstanding such dispute resolution process.

4. GAS QUALITY AND OPERATING PROCEDURES

4.1 Gas delivered to PG&E by or on behalf of Customer pursuant to this GTSA shall meet the gas quality specifications set forth in PG&E gas Rule 21, as may be amended from time to time.

4.2 Customer shall conform to the operating procedures set forth in all applicable PG&E gas Rules in effect during the term of this GTSA.

5. WARRANTY OF TITLE AND RISK OF LOSS

5.1 Customer warrants, for itself and its successors, that it will have at the time of delivery of gas to PG&E good title to such gas and that all gas delivered to PG&E for performance of service hereunder shall be eligible for all requested service under applicable rules, regulations, or orders of the California Public Utilities Commission (CPUC), or other agency having jurisdiction. Customer shall indemnify PG&E and save and hold PG&E harmless from all claims, demands, suits, actions, damages, losses, expense (including attorneys' fees) and costs connected with regulatory, administrative, or judicial proceedings arising from any breach of this warranty, or any breach of this indemnification provision.

5.2 Risk of loss of gas delivered to PG&E pursuant to an Exhibit incorporated hereunder shall pass to PG&E upon delivery of such gas to PG&E and shall pass from PG&E to Customer upon delivery from PG&E to or on behalf of Customer.

6. GOVERNMENTAL AUTHORITY

6.1 All of the provisions of this GTSA shall be subject to all present and future applicable federal or state laws, orders, rules and regulations of governmental authorities having jurisdiction. This GTSA shall at all times be subject to such changes or modifications by the CPUC as the CPUC may, from time to time, direct in the exercise of its jurisdiction.

6.2 The Parties recognize that PG&E has entered into transactions hereunder based on its good faith understanding that all acts, obligations, and services performed or to be performed by PG&E hereunder, and the charges therefore, are exempt from the regulation of the Federal Energy Regulatory Commission (FERC), except those interstate transactions that are permitted under PG&E's blanket certificate issued pursuant to Section 284.224 of the FERC's regulations. These interstate transactions shall be provided subject to the provisions of Part 284, Subpart C of the FERC's regulations as may be amended from time to time.

6.3 PG&E retains the right to terminate immediately the offering or furnishing of any services hereunder if the continued performance of such services could reasonably be determined to jeopardize continuance of PG&E's Hinshaw Exemption pursuant to Section 1 (c) of the Natural Gas Act.

7. ASSIGNMENT

7.1 Assignment of GTSA by PG&E: Assignment of the entire interest and obligations of PG&E hereunder may be made to an entity succeeding to all or substantially all of the business properties and assets of PG&E used to provide services hereunder. PG&E must obtain the Customer's written consent to assign.

7.2 Assignment of Exhibits by Customer: Customer may assign individual Exhibits incorporated hereunder to third parties who have executed a GTSA with PG&E subject to the following conditions:

7.2.1 Such assignments may consist of all or a portion of Customer's contract quantity and all or part of Customer's remaining contract term as set forth in the subject Exhibit. In order to effect assignment of an individual Exhibit, Customer must provide PG&E with written notice using an Assignment of Gas Transmission Services (Form No. 79-867) bearing the proposed assignee's authorized signature and must obtain PG&E's written consent.

7.2.2 If PG&E determines that the proposed assignee satisfies PG&E's creditworthiness requirements as specified in gas Rule 25, PG&E shall approve the assignment and thereafter the assignee shall be responsible for the performance of all obligations and duties pursuant to the assigned Exhibit and shall make any payments due under the assigned Exhibit directly to PG&E.

7.2.3 If PG&E determines that the proposed assignee does not satisfy PG&E's creditworthiness requirements, PG&E will approve the assignment if Customer agrees in writing to be secondarily liable for non-performance under the Exhibit by the assignee and if PG&E determines that Customer is sufficiently creditworthy.

8. DISPUTE RESOLUTION

8.1 Any dispute, claim, or need for interpretation arising out of or relating to this GTSA which cannot be resolved after good faith discussions between the Parties within thirty (30) days of written notice from either Party to the other that there is such a dispute, claim, or need for interpretation shall be resolved in the manner set forth in Paragraphs 8.2 and 8.3, which shall be in lieu of litigation before any regulatory agency or in any state or federal court except to the extent that (i) both Parties agree to bring the matter before the CPUC; (ii) the matter is within the jurisdiction of the CPUC, and (iii) the CPUC is willing to accept the matter for resolution.

8.2 At either Party's request, the Parties shall submit their dispute to non-binding mediation in accordance with the Commercial Mediation Rules of the American Arbitration Association (AAA). The Parties shall establish specific ground rules for the mediation at least fourteen (14) days in advance of the mediation meeting. The mediation shall be held in San Francisco, California, and shall commence within thirty (30) days of a Party's request for mediation. Each Party shall bear its own mediation costs. The costs and expenses of the mediator shall be divided equally between the Parties.

8.3 If no settlement is reached as a result of the procedures prescribed in Paragraph 8.2, the matter shall be submitted to binding arbitration pursuant to the Commercial Arbitration Rules of the AAA (including any rules for expedition of the hearing process); provided, however, such rules shall be modified as necessary to reflect the following:

8.3.1 Unless the Parties otherwise agree, the arbitration panel shall be composed of three persons. Each Party shall nominate one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall act as the presiding arbitrator or chair of the panel. If either Party fails to nominate an arbitrator within thirty (30) days of receiving notice of the nomination of an arbitrator by the other Party, such (second) arbitrator shall be appointed by the AAA at the request of the first Party. If the two arbitrators so selected fail to select a third arbitrator, the third arbitrator shall be appointed by the AAA. Should a vacancy occur on the panel, it shall be filled by the method by which that arbitrator was originally selected.

8.3.2 The arbitration shall be held at a location to be agreed to by the Parties, or, failing such an agreement, at San Francisco, California.

8.3.3 The arbitrators shall hold a preliminary meeting with the Parties within thirty (30) calendar days of the appointment of the third arbitrator for the purpose of determining or clarifying the issues to be decided in the arbitration, the specified procedures to be followed, and the schedule for briefing and/or hearings. The arbitrators shall hold a hearing and, within one hundred and twenty (120) calendar days of the preliminary meeting (except in extraordinary cases), shall issue a written decision, supported by a majority of the arbitrators, and include findings of fact and conclusions of law. Such decision shall thereafter be deemed to be part of this GTSA and incorporated by reference herein.

8.3.4 If one or both of the Parties have a substantial need for discovery in order to prepare for the arbitration hearing, the Parties shall attempt in good faith to agree on a minimum plan for expeditious discovery. Should they fail to reach agreement, either Party may request a joint meeting with the presiding arbitrator to explain points of agreement and disagreement, and the presiding arbitrator shall thereafter promptly determine the scope of discovery and the time allowed therefore.

8.3.5 Pending such written decision and findings of facts and conclusions of law as set forth in subparagraph 8.3.3, the Parties shall continue to operate under the GTSA as on the date the arbitration was requested; however, the decision by the panel should consider specifically the appropriateness of retroactive adjustments to the date the dispute first arose.

8.3.6 The allocation of costs of arbitration shall be considered and determined by the panel in connection with its decision, and, for example, the entire costs of such proceeding, including reasonable attorneys' fees (for in-house and outside counsel) may be awarded to the prevailing Party.

8.3.7 The United States District Court for the Northern District of California or a Superior Court of the State of California may enter judgment upon the panel's decision, either by confirming the decision or by vacating, modifying, or correcting the decision. The Court may vacate, modify, or correct any such decision only: (i) if there exist any of the grounds referred to in the United States Arbitration Act, or (ii) to the extent that the panel's conclusions of law are erroneous.

8.3.8 In the event it is necessary to enforce an arbitration award, all costs of enforcement, including reasonable attorneys' fees (for in-house and outside counsel), shall be payable to the prevailing Party.

8.4 The resolution of disputes subject to this Section 8 shall be governed, and the arbitrators shall render their decision in accordance with, the substantive laws of the State of California, without regard to its choice of law rules. Notwithstanding the foregoing, questions concerning the arbitrability of any issue under this dispute resolution clause shall be governed exclusively by the United States Arbitration Act.

8.5 Neither Party shall be liable under this GTSA for any punitive or exemplary damages.

9. FORCE MAJEURE

9.1 The term "force majeure," as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockage, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, washouts, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, the necessity for making non-routine repairs, non-routine alterations to machinery or lines of pipe, freezing lines of pipe, acts of civil or military authority (including, but not limited to, courts, or administrative or regulatory agencies), and any other cause, whether of the kind herein enumerated or otherwise, not within the control of the Party claiming suspension and which, by the exercise of due diligence, that Party is unable to prevent or overcome.

9.1.1 It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts when such course is inadvisable in the discretion of the Party having the difficulty.

9.1.2 It is understood and agreed that "force majeure" as used herein shall not include, nor are exclusions limited to, scheduled and routine maintenance and repairs of machinery and lines of pipe, operational flow orders or emergency flow orders in accordance with PG&E gas Rule 14, financial considerations, or the unavailability of upstream or downstream transportation or supply.

9.2 In the event Customer or PG&E is rendered unable, wholly or in part, by force majeure to carry out its obligations under this GTSA, it is agreed that, upon such Party giving notice and reasonably full particulars of such force majeure in writing (or by facsimile or telephone if confirmed in writing within seventy-two (72) hours) to the other Party within five business days of the onset of the force majeure condition, then the obligations of the Party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the effects of the cause, and the Party subject to such cause shall remedy it so far as possible with all reasonable dispatch; provided, however, that no force majeure shall be cause for delay in the payment for services rendered prior to its inception.

10. NOTICE

10.1 Unless expressly provided herein to the contrary, any notice called for in this GTSA shall be in writing and shall be considered as having been given if delivered by facsimile (if followed in a timely manner by confirming documents), courier, or registered mail, with all postage or charges prepaid, to either PG&E or Customer at the address designated below.

10.2 Routine communications, including monthly statements and payment, shall be considered duly delivered when received by ordinary mail or by facsimile (if confirmed by telephone communication and followed by confirming documents).

10.3 Customer's daily nominations shall be considered as duly delivered when received by ordinary mail, facsimile, or electronic data interchange.

10.4 The addresses of the Parties to be used for notices are as follows:

Formal Communications, Offers and Acceptances

Name: _____
Company: _____

Department: _____
Address: _____

Telephone No.: _____
Facsimile No.: _____

Pacific Gas and Electric Company
Director, Products and Sales
P.O. Box 770000, Mail Code N15A
San Francisco, CA 94177
Telephone No.: (415) 973-7974
Facsimile No.: (415) 973-0881

Billing Communications

Name: _____
Company: _____

Department: _____
Address: _____

Telephone No.: _____
Facsimile No.: _____

Pacific Gas and Electric Company
Director, Products and Sales
P.O. Box 770000, Mail Code N15A
San Francisco, CA 94177
Telephone No.: (415) 973-7974
Facsimile No.: (415) 973-0881

Payments

Name: _____
Company: _____

Department: _____
Address: _____

Telephone No.: _____
Facsimile No.: _____

PG&E Billing Center
c/o Payment Research
885 Embarcadero Drive
West Sacramento, CA 95605-1503
Telephone No.: (800) 343-4743

Operating Communications

Name: _____
Company: _____

Department: _____
Address: _____

Telephone No.: _____
Facsimile No.: _____

Pacific Gas and Electric Company
Gas Transportation Supervisor
P.O. Box 770000, Mail Code B16A
San Francisco, CA 94177
Telephone No.: (415) 973-2424
Facsimile No.: (415) 973-0649

10.5 Either Party may from time to time change or designate any other name or address for such purposes upon timely notice by the Party requesting such change.

11. ADDITIONAL PROVISIONS

11.1 This GTSA and the obligations of the Parties hereunder shall be controlled by, interpreted, and construed in accordance with the laws of the state of California without regard to the principles of conflicts of law or other principles that might refer the governance of the construction of this GTSA to the law of another jurisdiction.

11.2 This GTSA in all respects shall be and remains subject to applicable PG&E gas Rules and Rate Schedules in effect during the term of this GTSA as they may change from time to time.

11.3 PG&E shall not be required to perform or to continue to perform service under this GTSA if Customer becomes insolvent, or fails to establish or confirm its creditworthiness within a reasonable period following PG&E's request. Customer agrees to provide PG&E, initially and on a continuing basis as requested by PG&E, evidence of Customer's creditworthiness as a condition of Customer's eligibility to receive service under this GTSA.

11.4 No consent or waiver, express or implied, by either Party to any breach or default by the other Party in the performance of obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default, whether of a like or of a different character. Failure on the part of either Party to complain of any act or failure to act by the other Party or to declare the other Party in default, regardless of how long such failure continues, shall not constitute a waiver by such Party of any of its rights hereunder.

11.5 No Party shall be obligated to finance, construct, add to, alter, or modify any facilities in connection with the receipt or performance of services pursuant to this GTSA.

11.6 This GTSA is intended to be solely for the benefit of the Parties and their permitted successors and assigns, and, except as may be specifically set forth herein, is not intended to and shall not be construed to confer upon any other party any other rights or benefits. Nothing in this GTSA shall be construed to create any duty to, any standard of care with reference to, or any liability to any third party.

11.7 Nothing in this GTSA shall be deemed to create any rights or obligations between the Parties hereto after the termination or expiration of this GTSA; however, termination or expiration of this GTSA shall not relieve either Party of the obligation to correct any volume imbalances, or relieve Customer of the obligation to pay any amounts due to PG&E for service provided prior to the date of termination or expiration.

11.8 PG&E shall have no liability to any Customer, or any assignee thereof, for any curtailment or interruption of service or losses of gas pursuant to this GTSA, PG&E's gas Rules or rate schedules. The liability of PG&E for any curtailments or interruptions or gas losses otherwise arising out of mistakes, omissions, interruptions, delays, errors or defects in any of the gas services or facilities furnished by PG&E shall in no event exceed an amount equal to any applicable pro rata charges for the period during which the services or facilities are affected by the mistake, omission, interruption, delay, error or defect and under no circumstances shall PG&E be liable to Customer, or assignee thereof, for consequential, indirect or punitive damages for an interruption or curtailment of service or losses of gas, whether arising in contract, Tort (including negligence) or otherwise; provided, however, that the provisions hereof shall not apply to damages caused by willful misconduct, fraudulent conduct or violations of law.

11.9 Unless otherwise provided, all substances, whether or not of commercial value and including all liquid hydrocarbons of whatever nature, that PG&E recovers in the normal course of providing service to Customer hereunder, shall be PG&E's sole property, and PG&E shall have no obligation to account to Customer for any value that may attach or be said to attach to such substances.

11.10 Any provision of this GTSA that is prohibited by or unenforceable in any applicable jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of that provision in any other jurisdiction.

11.11 PG&E may accept facsimile copies of this GTSA and any other notices or agreements hereunder, and the same shall be binding on Customer as though they were original signed documents. PG&E may accept the signature of any representative of Customer on any such agreement or notice, and the same shall be binding on Customer without any obligation on PG&E's part to verify that the person so signing has authority to bind Customer provided that Customer may, and has the affirmative obligation to, provide PG&E with a list of people authorized by Customer to execute such documents or agreements with PG&E, and, if Customer provides such a list, PG&E shall limit its acceptance of and reliance on such documents accordingly.

11.12 This GTSA and the Exhibits executed by Customer and PG&E under this GTSA constitute the entire agreement of the Parties on the matters set forth herein, and may be amended or modified only by an instrument in writing executed by both Parties (except changes to names and addresses in Paragraph 10.4).

IN WITNESS WHEREOF, the Parties hereto have caused this GTSA to be executed and in effect.

FOR CUSTOMER

FOR PACIFIC GAS AND ELECTRIC COMPANY

Signature _____
Name _____
Date _____

Signature _____
Name _____
Date _____

Title of Authorized Representative

Title of Authorized Representative

Incorporated Attachment(s): Applicable Exhibit(s)
Illustrative Attachments: Gas Rules 1, 14, 21, 25, 26