

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 7, 2013

Brian Cherry
Pacific Gas & Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177
Email: PGETariffs@pge.com

Advice Letter 4210-E

Dear Mr. Cherry:

The Energy Division staff has reviewed the above mentioned advice letter and the attached Compliance Plan. Staff has also reviewed the five (5) protests filed by various parties and PG&E's Reply to those Protests. Energy Division finds that the Compliance Plan you submitted with the advice letter is not in compliance with Commission Decision D.12-12-036.

Compliance Requirements of D. 12-12-036: Pursuant to D.12-12-036/R.12-02-009, Attachment 1, the Code of Conduct and Expedited Complaint Procedure, Rule 2: "No electrical corporation shall market or lobby against a [CCA], except through an independent marketing division..."¹ Furthermore, Rule 22 provides: "...each electrical corporation that intends to market or lobby against a CCA shall submit a *compliance plan demonstrating to the Commission that there are adequate procedures in place that will preclude the sharing of information with its independent marketing division...*"²

Rule 22 in Attachment 1 of D 12-12-036 describes the compliance requirements as follows:

- 1) No later than March 31, 2013, each electrical corporation that intends to market or lobby against a CCA shall submit a compliance plan demonstrating to the Commission that there are adequate procedures in place that will preclude the sharing of information with its independent marketing division that is prohibited by these rules, and is in all other ways in compliance with these rules. The electrical corporation shall submit its compliance plan as a Tier 1 advice letter to the Commission's Energy Division and serve it on the parties to this proceeding. The electrical corporation's compliance plan shall be in effect between the submission and Commission disposition of the advice letter.
 - a. An electrical corporation shall submit a revised compliance plan thereafter by Tier 2 advice letter served on all parties to this proceeding whenever there is a proposed change in the compliance plan for any reason. Energy Division may reject the Tier 2 advice letter and require resubmission as a Tier 3 advice letter if Energy Division believes the change requires an additional level of review.
 - b. An electrical corporation that does not intend to lobby or market against any community choice aggregation program shall file a Tier 1 advice letter no later than March 31, 2013, stating that it does not intend to engage in any such lobbying or marketing.

¹ D.12-12-036/R.12-02-009, at Rule 2.

- i. If such an electrical corporation thereafter decides that it wishes to lobby or market against any community choice aggregation program, it shall not do so until it has filed and received approval of a compliance plan as described above, with its compliance plan filed as a Tier 2 advice letter with Energy Division. (*See D.97-12-088, App. A, Part VI.A.*)
- c. Any CCA alleging that an electrical corporation has 1) violated the terms of its filed compliance plan or 2) has engaged in lobbying and/or marketing after filing an advice letter stating that it does not intend to conduct such activities, may file a complaint under the expedited complaint procedure authorized in § 366.2(c)(11).

Energy Division rejects AL 4210-E for lack of compliance: In this advice letter filing, PG&E states that it “expects”³ to market against CCAs at some point in the future. However, PG&E also states it “has not yet formed an independent marketing division, does not have a specific timeline for forming one, and has no detailed plans at this time.”⁴ Energy Division cannot approve this advice letter as filed because PG&E says it expects to market against the CCAs in the future, but has not yet formed an independent marketing division. Thus, it has not demonstrated it has adequate procedures in place that will preclude the sharing of information with its independent marketing division that is prohibited by these rules.

Because PG&E expects to market against the CCAs sometime in the future, PG&E’s situation falls into the situation described in Rule 22 b)(i): “An electrical corporation that does not intend to lobby or market against any [CCA] shall file a Tier 1 advice letter ... stating that it does not intend to engage in any such lobbying or marketing. (i) *If such an electrical corporation thereafter decides that it wishes to lobby or market against any [CCA], it shall not do so until it has filed and received approval of a compliance plan as described above with its compliance plan filed as a Tier 2 advice letter.*”⁵

Advice Letter 4210-E is hereby rejected for lack of adequate procedures that will preclude the sharing of information with the independent marketing division that is prohibited by these rules. PG&E shall not engage in marketing against CCAs until such time that it has filed a tier 2 advice letter under rule 22 b)(i) “*and received approval of the compliance plan.*”⁶

Sincerely,



Edward Randolph
Director-Energy Division
California Public Utilities Commission

Cc: CPUC, Energy Division Tariff Unit

³ A.L. 4210-E at 1.

⁴ *Id.*

⁵ D.12-12-036/R.12-02-009, at Rule 22 b)(i) (emphasis added).

⁶ *Id.* (emphasis added).



Brian K. Cherry
Vice President
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77 Beale St., Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

Fax: 415.973.7226

April 2, 2013

Advice 4210-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

**Subject: PG&E's Compliance Plan Required By Decision (D.) 12-12-036
Adopting A Code Of Conduct And Enforcement Mechanisms Related
To Utility Interactions With Community Choice Aggregators**

Purpose

The purpose of this advice letter is to comply with the directions of the California Public Utilities Commission (CPUC or Commission) in its decision adopting A Code of Conduct and Expedited Complaint Procedure (Code of Conduct) related to Utility Interactions With Community Choice Aggregators (CCAs). This CCA Code of Conduct was adopted by CPUC Decision (D.) 12-12-036.

In accordance with Rule 22 of the Code of Conduct, no later than April 2, 2013¹, an electrical corporation must file a Tier 1 advice letter to declare whether it intends to engage or not engage in any marketing or lobbying.

Pacific Gas and Electric Company (PG&E) has not yet formed an independent marketing division, does not have a specific timeline for forming one, and has no detailed plans at this time. However, PG&E expects that at some time it will wish to express to customers or governments its views on CCA programs that can only be expressed through an independent marketing division under the rules in the CCA Code of Conduct. Any references to the independent marketing division in the attached "Community Choice Aggregation Code of Conduct Compliance Plan" (Attachment A) would become effective at a time in the future if and when PG&E forms an independent marketing division.

¹ Rule 22 of the Code of Conduct states that each electrical corporation that intends to market or lobby or does not intend to engage in any lobbying or marketing must file a Tier 1 advice letter no later than March 31, 2013. March 31 is a Sunday and April 1 is Cesar Chavez Day and is a recognized holiday by the CPUC. Commission Rules of Practice and Procedure Rule 1.15 provides that when the last day falls on a Saturday, Sunday, holiday, or other day when the Commission offices are closed, the time limit is extended to include the first day thereafter. Therefore, this advice letter is timely submitted.

Background

On February 16, 2012, the Commission adopted an Order Instituting Rulemaking (OIR) initiating a proceeding, R.12-02-009, to implement Senate Bill 790. On December 20, 2012, the Commission issued D.12-12-036 which adopted a Code of Conduct and Expedited Complaint Procedure governing the treatment of CCAs by electrical corporations.

Rule 22 of the adopted Code of Conduct describes that an electrical corporation that intends to market or lobby against a CCA as defined by those Rules is required to submit a compliance plan demonstrating to the Commission that there are adequate procedures in place that will preclude the sharing of information with its independent marketing division that is prohibited by the Code of Conduct and is in all other ways in compliance with the Code of Conduct. That rule provides that the electrical corporation shall submit its compliance plan as a Tier 1 advice letter and serve it on the parties to the proceeding. Accordingly, with this advice filing, PG&E hereby submits its "Community Choice Aggregation Code of Conduct Compliance Plan" (Attachment A) as directed by the Commission.

PG&E has not yet formed an independent marketing division, does not have a specific timeline for forming one, and has no budget or detailed plans at this time. However, PG&E expects that at some time it will wish to express to customers or governments its views on CCA programs that can only be expressed through an independent marketing division under the rules in the Code of Conduct.

Since the CCA statute provides that customers will be automatically enrolled unless they choose to opt out, it is important that customers have access to the information they need regarding their electricity provider options. The Community Choice Aggregation Code of Conduct Compliance Plan permits PG&E to provide factual answers to explicitly asked questions. However, PG&E cannot offer certain opinions or provide certain information unless or until an independent marketing division is formed. While PG&E does not currently intend to market or lobby against CCAs, PG&E will express its views on CCA programs to customers, communities or governments if appropriate in the future.

Under any and all circumstances, PG&E will continue to work with the Commission and the CCAs to assure our mutual customers are receiving clear and accurate information so that they can make well-informed decisions that may impact their energy bills.

Moreover, since mid-2010, PG&E has worked diligently to train its customer-facing employees, including account representatives and customer contact center representatives, to be strictly neutral towards CCAs, and as required by the Code of Conduct. PG&E remains committed to continuing to do so.

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, facsimile or E-mail, no later than **April 22, 2013**, which is 20 days after the date of this filing. Protests must be submitted to:

CPUC Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@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 shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) 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

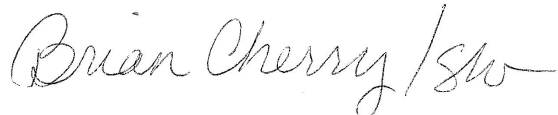
Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Rule 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Rule 3.11).

Effective Date

PG&E requests that this Tier 1 advice filing be approved effective **April 2, 2013**, the date of filing.

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 Rulemaking ("R.") 12-02-009. Address changes to the General Order 96-B service list and all electronic approvals should be directed to PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Advice letter filings can also be accessed electronically at <http://www.pge.com/tariffs>.

A handwritten signature in cursive script that reads "Brian Cherry /sw".

Vice President – Regulatory Relations

Attachment A: PG&E's Community Choice Aggregation Code of Conduct Compliance Plan

cc: Service List R.12-02-009

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 E)**

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: **Shirley Wong**

Phone #: **(415) 972-5505**

E-mail: **slwb@pge.com and PGETariffs@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) #: **4210-E**

Tier: **1**

Subject of AL: **PG&E's Compliance Plan Required By Decision (D.) 12-12-036 Adopting A Code Of Conduct And Enforcement Mechanisms Related To Utility Interactions With Community Choice Aggregators**

Keywords (choose from CPUC listing): **Compliance**

AL filing type: Monthly Quarterly Annual One-Time Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: **D.12-12-036**

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:

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: **No**

Confidential information will be made available to those who have executed a nondisclosure agreement: **N/A**

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: _____

Resolution Required? Yes No

Requested effective date: **April 2, 2013**

No. of tariff sheets: **N/A**

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:

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
ED Tariff Unit
505 Van Ness Ave., 4th Floor
San Francisco, CA 94102
EDTariffUnit@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 A
PG&E's Community Choice Aggregation
Code of Conduct Compliance Plan



**PG&E's
Community Choice Aggregation Code of Conduct
Compliance Plan**

For Rules Adopted in D.12-12-036

April 2, 2013

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INTRODUCTION

Pacific Gas and Electric Company ("PG&E" or "Utility") submits the following Compliance Plan (Plan) to comply with the Community Choice Aggregation Code of Conduct Rules (Rules) adopted by the California Public Utilities Commission (CPUC) in D.12-12-036.

PG&E's Compliance and Ethics (C&E) Department, which reports to the Vice President of Internal Audit and Compliance, will implement this Plan with respect to PG&E employees. C&E will be supported by other parts of PG&E, including the Law Department. The Independent Marketing Division (IMD), if and when it is formed, will implement this Plan with respect to its employees.

In addition, PG&E will undertake these activities to implement the Rules:

1. PG&E will continue to cooperate with and assist local governments considering Community Choice Aggregation by providing necessary information. This work has been underway for some years, and is managed by the Energy Service Provider (ESP) Services team¹ within PG&E's Customer Care organization.
2. PG&E will work with active Community Choice Aggregators (CCAs) by assuring all of PG&E's CCA program obligations are met, including automatic enrollment of customers that do not opt out, providing necessary information to the CCA and its agents, and providing billing services as required by relevant CCA laws, tariffs, and decisions. This work has been underway since Marin Clean Energy began providing Community Choice Aggregation service in 2010, and is primarily managed by PG&E's ESP Services team in partnership with various cross-functional PG&E teams.
3. PG&E will work with the CPUC and CCAs to assure that customers requesting information receive clear and accurate responses so they can make well-informed decisions that may impact their energy bills. This work has been underway since Marin Clean Energy began providing Community Choice Aggregation service in 2010, and is handled by a variety of Customer Care representatives, including Customer Contact Center Representatives and Customer Relationship Managers.

¹ The ESP Services team provides account management services to alternative electric or gas suppliers such as community choice aggregators (CCAs), electric service providers (ESPs), and gas core transport agents (CTAs) that sell electric or gas commodities directly to PG&E's eligible retail customers. Specifically, the team's account managers act as the primary point of contact between PG&E and the alternative suppliers. The account managers partner with various cross-functional PG&E teams to provide guidance and decision making on customer enrollment/switching issues, metering, billing, and regulatory issues, all in an effort to help meet PG&E's objective of ensuring that customers choosing to procure from alternative suppliers enjoy a positive customer experience.

4. Employees of PG&E governed by these Rules will receive regular notice of the documents that describe these Rules and their obligations hereunder.
5. Periodic training and reminders will be provided to employees of PG&E. When needed, PG&E will provide training to targeted employee groups to sensitize them to the requirements of these Rules. In-person training is underway, and online training for the Rules will be created and made available on PG&E's training platform, My Learning.
6. PG&E has not formed an IMD, does not have a specific timeline for forming one, and has no budget or detailed plans at this time for forming one. However, PG&E expects that at some future time it will wish to express to customers, governmental entities or others certain views on CCA proposals that can only be expressed through an IMD under the Rules.
7. If PG&E elects to form an IMD to communicate with customers on Community Choice Aggregation issues, this marketing and lobbying function will be staffed by personnel who are not employees of PG&E, and who will be located at premises not owned by PG&E. These personnel will be trained on the requirements of the Rules, including the functional and physical separation requirements of the Rules.
8. All costs for personnel, services, physical plant, equipment, supplies, and other overhead incurred by the IMD will be charged to accounts paid for by PG&E Corporation shareholders. Existing below-the-line accounting rules already address these requirements, which will be supplemented with new Community Choice Aggregation IMD Transactions Procedures prior to the start of marketing or lobbying and will be located on the PG&E Intranet.
9. Very limited corporate support services will be provided to the IMD. This will primarily be corporate oversight and related compliance services. All permitted corporate support services rendered to an IMD will be charged to PG&E shareholders in accordance with the Community Choice Aggregation IMD Transactions Procedures. The Procedures will be posted on the PG&E Intranet prior to the start of marketing or lobbying.
10. Since the marketing and lobbying services of the IMD will be provided entirely by non-PG&E employees, there will no need to charge the one-time 25% transfer fee for each non-clerical Utility employee going to work for the IMD as provided in Rule 16(b).
11. Since the marketing and lobbying activities of the IMD will be performed entirely by outside personnel who are not employees of PG&E, other requirements of Rule 16 regarding movement of employees to the IMD will effectively be met.
12. Since the marketing and lobbying services of the IMD will be provided entirely by non-PG&E employees, they will bring no confidential utility information to the job. In addition, detailed training will be completed to make sure that any IMD is not given access to competitively sensitive information.
13. If an IMD is formed, detailed additional information concerning its activities will be provided quarterly as required by Rule 4 below.

In the following pages, each Rule adopted by the CPUC is shown in bold type. Following each Rule, in normal type, is PG&E's description of its plan to assure compliance with the Rule.

Respectfully submitted on April 2, 2013.

Community Choice Aggregation Code of Conduct and Expedited Complaint Procedure

Rules of Conduct for Electrical Corporations Relative to Community Choice Aggregation Programs

- 1) The following definitions apply for the purposes of these rules:
 - a) “Market” means communicate with customers, whether in oral, electronic, or written form, including but not limited to letters, delivery of printed materials, phone calls, spoken word, emails, and advertising (including on the Internet, radio, and television), regarding the electrical corporation’s and community choice aggregators’ energy supply services and rates. Marketing under this definition does not include the following:
 - i) Communications provided by the electrical corporation throughout all of its service territory to its retail electricity customers that do not reference community choice aggregation programs.
 - ii) Communications that are part of a specific program that is authorized or approved by the California Public Utilities Commission (CPUC), including but not limited to customer energy efficiency, demand response, SmartMeter™, and renewable energy rebate, or tariffed programs such as the California Solar Initiative and other similar CPUC-approved or authorized programs. (See Decision (D.) 08-06-016, Appendix A.
 - iii) Provision of factual answers about utility programs or tariffs, including but not limited to rate analyses, in answer to the questions of individual customers.
 - b) “Lobby” means to communicate whether in oral, electronic, or written form, including but not limited to letters, delivery of printed materials, phone calls, spoken word, emails, and advertising (including on the Internet, radio, and television), with public officials or the public or any portion of the public for the purpose of convincing a government agency not to participate in, or to withdraw from participation in, a community choice

aggregation program. (Cf. D.08-06-016, Appendix A.)² Lobbying under this definition does not include

- i) Provision of factual answers about utility programs or tariffs, including but not limited to rate analyses, in answer to questions from a government agency or its representative.**
- ii) Provision of information to potential Community Choice Aggregators related to Community Choice Aggregation program formation rules and processes.**
- c) "Promotional or political advertising" means promotional or political advertising as defined in 16 U.S.C. Sec. 2625(h).**
- d) "Competitively sensitive information" means non-public information and data specific to a utility customer which the utility acquired or developed in the course of its provision of utility services. This includes, without limitation, information about which customers have or have not chosen to opt out of community choice aggregation service. (See D.97-12-088, App. A, Part I.D.)**

PG&E has not yet formed an IMD. If it elects to do so, the IMD will fully comply with these Rules.

- 2) No electrical corporation shall market or lobby against a community choice aggregation program, except through an independent marketing division that is funded exclusively by the electrical corporation's shareholders and that is functionally and physically separate from the electrical corporation's ratepayer-funded divisions.³ (See Pub. Util. Code § 707(a)(1).)**

From the May 2010 timeframe to the present, PG&E has not marketed against any CCA, and has gone to great efforts to train its Utility customer-facing employees, including customer contact center representatives and customer relationship managers, to provide factually accurate information in response to CCA questions, and to be neutral when asked about PG&E's stance on Community Choice Aggregation. It has done this through

² The language from D.08-06-016, Appendix A has been modified to cover the conduct of electrical corporations relative to consideration and formation of community choice aggregation programs, as required by Cal. Pub. Util. Code § 707(a). All statutory references are to the California Public Utilities Code unless otherwise stated.

³ Footnote regarding Sempra Energy in Code of Conduct omitted.

in-person training, conference calls, updating the General Reference Guide, posting information to the external and internal Community Choice Aggregation web pages, and other communication materials. PG&E has also incorporated many of Marin Clean Energy's (MCE) edits to its online Frequently Asked Question (FAQ)'s regarding Community Choice Aggregation.

PG&E has begun and will continue to expand its training and refresher programs to assure Utility employees are aware of the Rules and comply with them. This will include in-person and on line training, as well as the distribution of periodic reminders. The Compliance and Ethics (C&E) Department is responsible for issuing periodic communications to PG&E employees governed by these Rules.

These communications will outline the importance of complying with the Rules and may refer to corporate guidance documents, e.g., policies, standards, and procedures. The guidance documents will articulate what the Utility and any IMD must do to ensure compliance with the Rules. A series of in-person training programs for Utility's customer-facing employees governed by these Rules, e.g., customer relationship managers and customer contact center representatives, have been underway since the CPUC adopted the Code of Conduct. A new communication will be sent to these employees by June 2013 regarding their obligations under the Code of Conduct. An annual communication will be issued to all Utility employees and the IMD, directing them to comply with these Rules. A copy of the Compliance Plan will be available to all employees of PG&E via the PG&E Intranet.

3) Not later than July 1, 2013, and annually thereafter, each electrical corporation and any community choice aggregator (CCA) or CCAs within its service territory shall prepare and distribute jointly to the customers within the CCA boundaries a neutral, complete, and accurate written comparison of their average tariffs for each customer class, sample bills for a mutually agreed amount of usage under residential tariffs, and generation portfolio contents. This comparison shall be distributed to all customers within the CCA boundaries. In addition, the CCA and electrical utility shall prepare a neutral, complete, and accurate comparison of all their tariffs, sample bills under those tariffs, and generation portfolio contents, and post these comparisons on their Web sites. The information posted on these Web sites containing will be updated within 60 days after any tariff changes. The comparison of average tariffs will refer customers to this Web site for more complete information.

a) The electrical corporation and CCA(s) shall share equally the costs of the design, preparation, and

distribution of the notice to customers, as well as the design and preparation of the detailed tariff comparison to be posted on their Web sites. Each entity will be responsible for its own costs for posting the detailed tariff comparison in its Web site.

- b) **The Commission's Public Advisor's office must review and approve the wording of the comparison before it is distributed to customers, and by this final approval shall resolve any disputes about the contents of the written notice or Web site contents that the CCA and utility cannot resolve informally.**

PG&E is in discussions with its only current CCA, MCE, about the format of the required materials to be sent to customers showing their rates and generation portfolio contents. After the CPUC Public Advisor's office has approved the format of PG&E and MCE's comparisons, both parties will jointly distribute the comparisons to customers in MCE's CCA boundaries by July 1, 2013. PG&E will work with MCE and other CCAs on similar notices in future years.

- 4) The cost of an electrical corporation's independent marketing division's use of support services from the electrical corporation's ratepayer-funded divisions shall be allocated to the independent marketing division on a fully allocated embedded cost basis, supported by detailed public reports of such use. For this purpose, fully allocated embedded cost basis means a fully loaded cost basis (i.e., the sum of all direct costs and all appropriately allocated indirect costs and overhead costs; transfers from the utility to its independent marketing division of goods and services not produced, purchased or developed for sale by the utility will be priced at fully loaded costs plus 5% of direct labor cost). These calculations shall be supported by public reports of such use. These reports shall be filed quarterly with the Commission's Energy Division as an information only filing, no later than one month after the end of each quarter, and shall be made available on the utility's website at the same time. (See § 707(a)(2), D.97-12-088, App. A, Part V.H.5.)**

The very limited support services provided by PG&E to the IMD shall be charged as required by this Rule. See discussion below concerning Rule 13. The marketing and lobbying activities of the IMD will be performed entirely by outside personnel who are not employees of PG&E.

PG&E shall submit quarterly reports on these charges to the Energy Division, and shall make them available on the utility's website at the same time. PG&E will provide the utility's website name in its quarterly reports.

- 5) An electrical corporation's independent marketing division shall not have access to competitively sensitive information. (See § 707(a)(3).)**

An annual communication will be issued to all PG&E employees and employees of the IMD directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

- 6) No electrical corporation shall recover the costs of any direct or indirect expenditure by the electric utility for promotional or political advertising, including advertising distributed in billing envelopes or by other means, from any person other than the shareholders or other owners of the utility. (See Pub. Util. Code § 707(a)(5).)**

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

- 7) An electric corporation shall provide access to utility information, rates and services to community choice aggregators on the same terms as it does for its independent marketing division. (See D.97-12-088, App. A, Part III.B.1.)**

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

- 8) An electrical corporation shall not provide access to market analysis reports or any other types of proprietary or non-publicly available reports, including but not limited to market, forecast, planning or strategic reports, to its independent marketing division. (See D.97-12-088, App. A, Part III.E.)**

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

- 9) An electrical corporation shall refrain from: 1) speaking on behalf of a CCA program; 2) giving any appearance of speaking on behalf of any CCA program; or 3) making any statement**

relating to the community choice aggregator's rates or terms and conditions of service that is untrue or misleading, and that is known, or that, by the exercise of reasonable care, should be known, to be untrue or misleading.

PG&E has been providing training to Utility employees governed by this Rule to ensure employees are in compliance. Training will also be provided to employees of the IMD if and when it is created.

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (*See Discussion following Rule 2 above*).

10) An electrical corporation and its independent marketing division shall keep separate books and records. (*See D.97-12-088, App. A, Part V.B.*)

PG&E shall keep separate records for its IMD. PG&E and its IMD's financial statements will be audited annually by independent accountants for compliance with GAAP. The books and records of PG&E are open for examination by the Commission and its staff consistent with the provisions of Public Utilities Code Section 314.

11) An electrical corporation shall not share office space equipment, services, and systems with its independent marketing division, nor shall an electrical corporation access the computer or information systems of its independent marketing division or allow its independent marketing division to access its computer or information systems, except to the extent appropriate to perform shared corporate support functions. Physical separation required by this rule shall be accomplished by having office space in a separate building, or, in the alternative, through the use of separate elevator banks and/or security-controlled access. (*See D.97-12-088, App. A, Part V.C.*)

The marketing and lobbying activities of the IMD will be performed by personnel who are not employees of PG&E, who will be located at premises separated from PG&E office space as required by the Rules.

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (*See Discussion following Rule 2 above*).

As of the date of this Compliance Plan's filing, no IMD has been formed.

- 12) An electrical corporation and its independent marketing division may make joint purchases of goods and services, other than purchases of electricity for resale. The electrical corporation shall ensure that all joint purchases are priced, reported, and conducted in a manner that permits clear identification of the portions of such purchases made by the utility and its independent marketing division, and in accordance with these rules. (See D.97-12-088, App. A, Part V.D.)**

PG&E and any IMD will not make any joint purchases of goods or services. Services to be provided to the IMD will be limited to the permitted corporate support services as described in Rule 13 below.

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

The Community Choice Aggregation IMD Transactions Procedures will provide guidance for compliance with this Rule. These procedures will be periodically updated and issued to all Utility and IMD personnel.

- 13) As a general principle, an electrical corporation may share with its independent marketing division joint corporate oversight, governance, support systems and support personnel; provided that support personnel shall not include any persons who are themselves involved in marketing or lobbying. Any shared support shall be priced, reported and conducted in accordance with applicable Commission pricing and reporting requirements. As a general principle, such joint utilization shall not allow or provide a means for the transfer of competitively sensitive information from the electrical corporation to the independent marketing division, create the opportunity for preferential treatment or unfair competitive advantage, lead to customer confusion, or create significant opportunities for cross-subsidization of the independent marketing division. (See D.97-12-088, App. A, Part V.E.)**

PG&E intends for minimal corporate support services to be provided by the Utility to the IMD. This will primarily be corporate oversight and limited related legal and regulatory compliance services to the extent necessary to ensure compliance with applicable requirements.

PG&E affirms that any provision of corporate oversight and support services by the Utility to the IMD shall not provide a means for the transfer of confidential

non-public utility information. Nor shall it create the opportunity for preferential treatment or unfair competitive advantage, lead to customer confusion, or create significant opportunities for cross-subsidization of the IMD.

PG&E's Community Choice Aggregation IMD Transactions Procedures will state that the portion of the fully-loaded costs of shared corporate services that are incurred to directly support the IMD shall be charged to PG&E shareholders. On a monthly basis, Corporate Accounting shall charge PG&E shareholders for its allocated share of the costs of corporate services provided by PG&E. In addition, PG&E's corporate services employees providing corporate support services will charge time spent on IMD matters to shareholders by reporting the time spent on these matters as below-the-line costs.

For the purposes of this Rule, PG&E considers shared services to include the following:

- corporate oversight and governance;
- legal and regulatory compliance, including Community Choice Aggregation Rules compliance;
- compliance and ethics activities.

IMD personnel will not be granted access to any confidential Utility information.

14) An electrical corporation shall apply tariff provisions in the same manner to the same or similarly situated entities if there is discretion in the application of the provision.

PG&E complies with the provisions of its filed tariffs and gas and electric rules, including Electric Rule 23.B.2. (Tariff responsibilities to be discharged in neutral manner at http://www.pge.com/tariffs/tm2/pdf/ELEC_RULES_23.pdf) Similarly, PG&E's Community Choice Aggregation Code of Conduct corporate guidance procedures will state that there will be no preferential or different treatment by PG&E based on CCA status, except as permitted by approved CPUC rules and tariffs, such as when the Commission concludes that certain rates, programs, and services are only available to bundled service customers. (See Rule 14 below).

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

PG&E will also continue to implement this Rule through its Customer Service General Reference Guide. Over the last three years, as MCE began service, and eventually expanded to serve all of Marin County, PG&E has provided a variety of detailed instructions to employees to treat CCA customers identically with other customers, except where the CPUC has specifically authorized otherwise. Many of these guidelines

and communications have been reviewed and discussed with MCE. These materials will continue to be revised and updated as MCE proceeds with expanding its CCA program to the City of Richmond, and as other CCAs go forward.

- 15) Except as permitted in Rule 13 of this Code of Conduct, employees of an electrical corporation's independent marketing division shall not otherwise be employed by the electrical corporation. (See D.97-12-088, App. A, Part V.G.1.)**

The marketing and lobbying activities of the IMD will be performed entirely by outside personnel who are not employees of PG&E. These personnel will be trained on the requirements of these Rules.

- 16) All employee movement between the independent marketing division and other divisions of the electrical corporation shall be consistent with the following provisions:**

- a) **An electrical corporation shall track and report to the Commission all employee movement between the independent marketing division and other divisions of the electrical corporation. The electrical corporation shall report this information annually pursuant to our Affiliate Transaction Reporting Decision, D.93-02-016, 48 CPUC2d 163, 171-172 and 180 (Appendix A, Section I and Section II H.).**

The marketing and lobbying activities of the IMD will be performed entirely by outside personnel who are not employees of PG&E. The Community Choice Aggregation IMD Transactions Procedures will also provide guidance for compliance with this Rule. These procedures will periodically be updated and issued to relevant Utility personnel and the IMD's employees.

- b) **Once an employee of an electrical corporation becomes an employee of the independent marketing division, the employee may not return to another division of the electrical corporation for a period of one year. In the event that such an employee returns to another division of the electrical corporation after the one year period, such employee cannot be retransferred, reassigned, or otherwise employed by the independent marketing division for a period of two years. Employees transferring to the independent marketing division are expressly prohibited from using competitively sensitive information gained from the electrical corporation, to the benefit of the**

electrical corporation or to the detriment of community choice aggregators. Any electrical corporation employee transferring to the independent marketing division shall not remove or otherwise provide information to the independent marketing division which the independent marketing division would otherwise be precluded from having pursuant to these rules. An electrical corporation shall not make temporary or intermittent assignments, or rotations to its independent marketing division. (See D.97-12-088, App. A, Part G.)

The marketing and lobbying activities of the IMD will be performed entirely by outside personnel who are not employees of PG&E. The Community Choice Aggregation IMD Transactions Procedures will also provide guidance for compliance with this Rule. These procedures will be periodically updated and issued to relevant Utility personnel and the IMD employees.

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

See also Compliance Plan for Rules 5 and 8, above, regarding the use of proprietary information gained from the Utility.

- c) **When an employee of a utility is transferred, assigned, or otherwise employed by the independent marketing division, the independent market division shall make a one-time payment to the utility in an amount equivalent to 25% of the employee's base annual compensation, unless the utility can demonstrate that some lesser percentage (equal to at least 15%) is appropriate for the class of employee included. This transfer payment provision will not apply to clerical workers. (D.97-12-088, App. A, Part V.G.2.c.)**

The marketing and lobbying activities of the IMD will be performed entirely by outside personnel who are not employees of PG&E. The Community Choice Aggregation IMD Transactions Procedures will also provide guidance for compliance with this Rule. These procedures will be periodically updated and issued to all Utility personnel.

- 17) **Neither electrical corporations nor their marketing divisions can offer to provide, or provide, any goods, services, or programs to a local government or to the customers within a**

local government's jurisdiction on the condition that the local government not participate in a community choice aggregation program, or for the purpose of inducing the local government not to participate in a community choice aggregation program. This restriction applies regardless of whether the goods, services, or programs are funded by ratepayers or shareholders. This restriction also applies to any plan whereby the utility would pay someone else to provide such goods, services, or programs. (See Resolution E-4250, Ordering Paragraph 4.) This restriction does not apply to optional rates, programs, and services authorized or approved by the Commission that are only available to bundled service customers.

This Rule has been in place since April 2010, when the Commission issued Resolution E-4250, and PG&E will continue to comply with it. PG&E will continue to instruct its employees that this is the required process.

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

- 18) An electrical corporation shall not, through a tariff provision or otherwise, discriminate between its own customers and those of a CCA in matters relating to any product or service that is subject to a tariff on file with the Commission. An electrical corporation shall not condition or tie the provision of any product, service, or rate agreement to a customers' participation or non-participation in a CCA program. This restriction does not apply to optional rates, programs, and services authorized or approved by the Commission that are only available to bundled service customers.**

PG&E complies with the provisions of its filed tariffs and gas and electric rules, including Electric Rule 23.B.2. (Tariff responsibilities to be discharged in neutral manner at http://www.pge.com/tariffs/tm2/pdf/ELEC_RULES_23.pdf) Similarly, PG&E's CCA Code of Conduct corporate guidance procedures will state that there will be no preferential or different treatment by PG&E based on CCA status, except as permitted by approved CPUC rules and tariffs.

An annual communication will be issued to all employees of PG&E directing them to comply with this Rule. PG&E will also provide training, as necessary, to targeted groups affected by these Rules. (See Discussion following Rule 2 above).

PG&E has also implemented this Rule through its Customer Service General Reference Guide, and will continue to update and revise those communications.

- 19) Electrical corporations shall not make available to their customers any mechanism for opting out of community choice aggregation programs unless requested to do so by the CCA. (See D.10-05-050, Ordering Paragraph 1.)**

This Rule has been in place since May 2010 when the Commission issued D.10-05-050, and PG&E will continue to comply with it. PG&E sends no opt out notices unless requested by the CCA. When customers ask PG&E how they may opt out, PG&E directs them to the CCA. PG&E will continue to instruct its employees that this is the required process.

- 20) Electrical corporations may not refuse to make economic sales of excess electricity to a community choice aggregation program, nor refuse in advance to deal with any community choice aggregation program in selling electricity because it is a community choice aggregation program. (See Resolution E-4250, Ordering Paragraph 5.)**

This Rule has been in place since April 2010, when the Commission issued Resolution E-4250, and PG&E will continue to comply with it. PG&E has instructed its procurement personnel of this Rule, and will continue to instruct them to comply with this Rule.

- 21) The electrical corporation shall maintain a log of all new, resolved, and pending complaints submitted in writing relating to services provided for the CCA and CCA customers. The log shall be subject to review by the CCA and the Commission, and shall include the date each issue was received; the customer's name, address, and Service Account ID number if the issue is in relation to a specific customer; a written description of the complaint; and the resolution of the complaint, or the reason why the complaint is still pending.**

PG&E has developed a process for tracking the complaints submitted in writing. It will be administered by PG&E's ESP Services team. PG&E will instruct its employees to forward such written complaints to that team, and has instructed that team to maintain a log of written complaints. After the written complaint is first logged, it will be maintained for 3 years, unless an active complaint process remains underway, in which case, the log will maintain the complaint for 3 years after the complaint process concludes.

- 22) No later than March 31, 2013, each electrical corporation that intends to market or lobby against a CCA shall submit a**

compliance plan demonstrating to the Commission that there are adequate procedures in place that will preclude the sharing of information with its independent marketing division that is prohibited by these rules, and is in all other ways in compliance with these rules. The electrical corporation shall submit its compliance plan as a Tier 1 advice letter to the Commission's Energy Division and serve it on the parties to this proceeding. The electrical corporation's compliance plan shall be in effect between the submission and Commission disposition of the advice letter.

- a) An electrical corporation shall submit a revised compliance plan thereafter by Tier 2 advice letter served on all parties to this proceeding whenever there is a proposed change in the compliance plan for any reason. Energy Division may reject the Tier 2 advice letter and require resubmission as a Tier 3 advice letter if Energy Division believes the change requires an additional level of review.**
- b) An electrical corporation that does not intend to lobby or market against any community choice aggregation program shall file a Tier 1 advice letter no later than March 31, 2013, stating that it does not intend to engage in any such lobbying or marketing.
 - (i) If such an electrical corporation thereafter decides that it wishes to lobby or market against any community choice aggregation program, it shall not do so until it has filed and received approval of a compliance plan as described above, with its compliance plan filed as a Tier 2 advice letter with Energy Division. (See D.97-12-088, App. A, Part VI.A.)****
- c) Any CCA alleging that an electrical corporation has 1) violated the terms of its filed compliance plan or 2) has engaged in lobbying and/or marketing after filing an advice letter stating that it does not intend to conduct such activities, may file a complaint under the expedited complaint procedure authorized in § 366.2(c)(11).**

PG&E makes this filing in compliance with this Rule.

- 23) Beginning in 2015 and every other year thereafter, the Commission's Executive Director shall have audits prepared by independent auditors verifying that each electrical corporation was in compliance with the rules set forth herein during the preceding two years. The Commission shall have the auditor serve a copy of the audit report on each party to this proceeding, and publish the audit at the same time on the Commission's website. The Energy Division shall send an invoice to each electrical corporation for payment of auditor expenses. The cost of audits of utilities that form an independent marketing division according to these rules shall be at shareholder expense. Audits of non-marketing electrical corporations shall be at ratepayers' expense, but audit costs will be charged to shareholders if the audit finds a violation of the restrictions on their operations. (See D.06-12-029, App. A-1, Part VI.C.)**

PG&E will follow this Rule as stated and will cooperate with the Energy Division and its independent auditors during the audit. So long as PG&E has an IMD, the full costs of these audits will be charged to PG&E Corporation shareholders.

Rules Regarding Enforcement Procedures

- 24) A complaint filed pursuant to § 366.2(c)(11) by an existing or prospective community choice aggregator or community choice aggregation program alleging a violation of an electrical corporation's obligation to cooperate fully with community choice aggregators or community choice aggregation programs, or any other provision of § 366.2 or § 707, shall be resolved in no more than 180 days following the filing of the complaint. This deadline may only be extended under either of the following circumstances:**
- a) Upon agreement of all of the parties to the complaint.**
 - b) The commission makes a written determination that the deadline cannot be met, including findings for the reason for this determination, and issues an order extending the deadline. A single order pursuant to this subparagraph shall not extend the deadline for more than 60 days.**
- 25) The complaint shall be filed pursuant to Commission rules for complaints (Article 4 of the Commission's Rules of Practice and Procedure), except to the extent provided otherwise herein.**

The complainant shall serve the complaint on the defendant electrical corporation, and the complaint shall be accompanied by documentary evidence, prepared testimony supporting the complaint, and a declaration affirming that the complainant has made a good faith attempt to meet and confer with the defendant electrical corporation in an attempt to resolve the dispute informally.⁴ In the caption under the blank docket number, the complaint shall specifically state that the expedited procedures adopted in these rules are applicable to the case by the following language: (Subject to CAA expedited complaint procedures).

- 26) Unless otherwise specified by the assigned Commissioner or Administrative Law Judge, answers to complaints filed by a CCA under these procedures shall be filed and served within 15 days of the date the complaint is filed, and shall be accompanied by documentary evidence and prepared testimony supporting the answer. All parties to the complaint shall respond to related discovery requests on an expedited basis.
- 27) The assigned Commissioner or Administrative Law Judge (ALJ) shall set the matter for evidentiary hearing for 30 to 45 days after the initiation of the proceeding or as soon as practicable after the Commission makes the assignment.
- 28) Unless otherwise directed by the assigned ALJ, three business days before the scheduled beginning of hearings, parties shall file a joint case management statement. This statement shall include any agreements or stipulations by the parties that narrow the issues since the filing of testimony, an updated discussion of the issues to be resolved, a proposed order of witnesses for hearing, any other information parties believe the Commission would find useful for the efficient disposition of the case, and any other information that may be required by the assigned ALJ.
- 29) In its expedited adjudication of the complaint, the Commission may impose fines, injunctive relief, or grant any other appropriate

⁴ Service by complainant will help expedite the proceeding. The Commission will also perform service, as required by Pub. Util. Code § 1704. (See also Rule 4.3 of the Commission's Rules of Practice and Procedure.).

remedy without the initiation of a separate Order Instituting Investigation. (§ 366.2(c)(9), § 366.2(c)(10), §§ 366.2(c)(11), 701, 702, 2100-2109.)

If a complaint is filed against PG&E under these Rules, PG&E will follow all provisions of Rules 24-29.

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

1st Light Energy	Douglass & Liddell	North America Power Partners
AT&T	Downey & Brand	Occidental Energy Marketing, Inc.
Alcantar & Kahl LLP	Ellison Schneider & Harris LLP	OnGrid Solar
Anderson & Poole	G. A. Krause & Assoc.	Pacific Gas and Electric Company
BART	GenOn Energy Inc.	Praxair
Barkovich & Yap, Inc.	GenOn Energy, Inc.	Regulatory & Cogeneration Service, Inc.
Bartle Wells Associates	Goodin, MacBride, Squeri, Schlotz & Ritchie	SCD Energy Solutions
Bear Valley Electric Service	Green Power Institute	SCE
Braun Blasing McLaughlin, P.C.	Hanna & Morton	SDG&E and SoCalGas
CENERGY POWER	In House Energy	SPURR
California Cotton Ginners & Growers Assn	International Power Technology	San Francisco Public Utilities Commission
California Energy Commission	Intestate Gas Services, Inc.	Seattle City Light
California Public Utilities Commission	Kelly Group	Sempra Utilities
Calpine	Lawrence Berkeley National Lab	SoCalGas
Casner, Steve	Linde	Southern California Edison Company
Center for Biological Diversity	Los Angeles Dept of Water & Power	Sun Light & Power
City of Palo Alto	MAC Lighting Consulting	Sunshine Design
City of San Jose	MRW & Associates	Tecogen, Inc.
Clean Power	Manatt Phelps Phillips	Tiger Natural Gas, Inc.
Coast Economic Consulting	Marin Energy Authority	TransCanada
Commercial Energy	McKenna Long & Aldridge LLP	Utility Cost Management
Consumer Federation of California	McKenzie & Associates	Utility Power Solutions
Crossborder Energy	Modesto Irrigation District	Utility Specialists
Davis Wright Tremaine LLP	Morgan Stanley	Verizon
Day Carter Murphy	NLine Energy, Inc.	Water and Energy Consulting
Defense Energy Support Center	NRG Solar	Wellhead Electric Company
Dept of General Services	Nexant, Inc.	Western Manufactured Housing Communities Association (WMA)