

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



January 31, 2014

**Advice Letter 2505-E**

Brian Cherry  
Vice President, Regulation and Rates  
Pacific Gas and Electric Company  
P.O. Box 770000  
San Francisco, CA 94177

**Subject: ADVANCED METERING PROJECT, DEMAND RESPONSE PROGRAMS DEMAND RESERVES  
PARTNERSHIP PROGRAM IMPLEMENTATION PLAN IN COMPLIANCE WITH  
D.03-06-032**

Dear Mr. Brian Cherry:

Advice Letter 2505-E is withdrawn effective January 28, 2014, per Pacific Gas & Electric Withdrawal Letter filed on January 28, 2014.

Sincerely,

A handwritten signature in cursive script that reads "Edward Randolph".

Edward Randolph  
Director, Energy Division

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3875  
September 23, 2004

R E S O L U T I O N

Resolution E-3875. Pacific Gas & Electric (PG&E), Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E) request approval of Agency Agreements with the California Department of Water Resources (DWR) for the implementation of the California Consumer Power and Conservation Financing Authority (CPA) Demand Reserves Partnership (DRP) Program.

By Advice Letters (ALs) 2505-E (PG&E), 1720-E-A (SCE), and 1512-E-A (SDG&E) filed on May 10, 2004.

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SUMMARY

**The submitted Agency Agreements from PG&E, SCE and SDG&E are denied.**  
The proposed agency agreements submitted by the utilities via their advice letter filings of May 10, 2004 are denied.

**Denies Utilities' Proposed DWR Revenue Requirement Increase Trigger**  
The utilities' proposal that DWR include revenue requirement language in the agency agreements is denied as such language is unnecessary.

**The Term of Agreements Should End in 2007**  
Rather than end the term of the agreements in 2004, the agreements should extend to 2007, and the utilities will be able to recover the costs of administering program for post-2004 years.

**Utility Liability As Agents for DWR is not Unreasonable**  
DWR is not unreasonable in requiring liability on the part of the utilities as its agents. A cap on liability of \$1 million should be accepted by PG&E and SCE, and a prorated amount based on potential capacity should be accepted by SDG&E for its cap.

**The Utilities Will Not Penalized for Violating Least-Cost Dispatch Requirements for DRP Reliability Events or For Certain Testing**

A previous Assigned Commissioner's Ruling on Least-Cost Dispatch requirements is clarified and affirmed by the Commission. Any reliability event triggered by the program or certain testing events for the program will be exempt from penalties should least-cost dispatch requirements be violated.

**DWR and the Utilities Will Negotiate Those Provisions of the Agency Agreements Affected by the Extension to 2007**

The utilities are ordered to submit supplemental filings in 15 days to allow them to negotiate with DWR revisions to those provisions affected by the extension of the agreements to 2007.

**BACKGROUND****The Demand Reserves Partnership Has Been a Demand Response Resource since 2002.**

The Demand Reserves Partnership (DRP) was created in 2002. The foundation of the program is a five-year contract between the California Consumer Power and Conservation Financing Authority (CPA) and the California Department of Water Resources (DWR). The contract functions much like the other power supply contracts signed by DWR on behalf of the utilities by providing power, where and when needed, but through reductions in demand, rather than generation.

There are various supporting contracts, called "Demand Reserves Provider Agreements", which underlie the contract between DWR and the CPA. These contracts, between the CPA and several third-party aggregators, specify the terms and conditions of how aggregators provide power to DWR. The terms of the supporting contracts mirror the terms of the contract between DWR and CPA. The Demand Reserve Providers, in turn, have individual agreements with electricity customers who provide the actual demand reduction.

As currently operated, the contracts provide that, when notified by DWR, customers who were consuming power in the normal course of business, curtail their load and make power available for the customers of the utilities. An electronic notification is sent from DWR, to the CPA (and its contractor Automated Power Exchange (APX)), to the aggregators and finally to the customers. In exchange for the reduction in load, participants are paid a

monthly capacity payment (based on the amount of load committed for reduction) along with an energy payment (actual amount of energy reduced) when the program is triggered.

The contract between DWR and CPA allow DWR to trigger the program during high wholesale market prices or when energy supplies are short. To date, the program has been triggered by DWR only for reliability and testing purposes. The program operates year-round, but is designed to focus on the summer months. In Summer 2002, the program's capability was 15 megawatts (MW) of capacity; by Summer 2003, the program's capability had increased to 249 MWs. The contract between DWR and CPA provides for three more summers of operation (2004, 2005 and 2006).

### **The Commission Ordered the Utilities to File Implementation Plans for the DRP**

In D.03-06-032, the Commission recognized the DRP as a viable and important program, and directed PG&E, SCE and SDG&E (the utilities) to coordinate their scheduling activities with the CPA to ensure that the DRP resources are actually dispatched when it is cost effective to do so. The utilities were specifically ordered to file implementation plans detailing how they will use the DRP resource effectively.

In compliance with D.03-06-032, the utilities filed advice letters containing their implementation plans on July 7, 2003. In these advice letters the utilities reported that they must have agency agreements with DWR that enables them to schedule and dispatch of DRP resources on behalf of DWR, essentially allowing them to operate as DWR's limited agents. At the time of their July filings, the utilities reported that negotiations with DWR were initiated and that final agency agreements were targeted for mid-July.

However for the remainder of 2003, the utilities and DWR were unsuccessful in developing the agency agreements as the negotiations between them could not resolve their differences on certain issues.

### **The Commission provided Guidance to the Utilities and DWR Regarding the Agency Agreements**

On January 26, 2004, an ALJ ruling was issued directing the utilities to file status reports on the impediments to executing the proposed agency agreements. DWR and the CPA were encouraged to file status reports as well. Each utility

complied with the ruling, and DWR submitted its status report. Several parties filed comments regarding the status reports.<sup>1</sup>

On April 1, 2004, an Assigned Commissioner's Ruling (ACR) was issued providing guidance on the impediments discussed in the reports and comments. The primary issue addressed in the ruling was absolving the utilities of least-cost dispatch requirements should DWR trigger the program for reliability or testing purposes as part of its statutory responsibility. That ruling also ordered the utilities to resume negotiations with DWR, finalize agency agreements with the department, and submit final agency agreements via supplemental advice letters.

In response to a memorandum from DWR dated April 26, 2004, a second ACR was issued on May 3, 2004, providing additional clarification on the issue of testing the DRP in relation to least-cost dispatch requirements.

### **The Utilities and DWR Have Not Finalized their Agency Agreements**

As directed by the ACRs, the utilities filed their proposed agency agreements via advice letter on May 10, 2004. However each utility noted in its filing that it was unable to resolve every issue with DWR, and thus the agency agreements, as proposed in their filings, have not been agreed to by DWR. Each utility argues that in spite of the remaining differences with DWR, the Commission should adopt the agency agreements as proposed in their respective advice letters.

### **NOTICE**

Notice of AL 2505-E, AL 1720-E and AL 1512-E-A were made by publication in the Commission's Daily Calendar. The utilities state that a copy of their AL was mailed and distributed in accordance with Section III-G of General Order 96-A.

### **PROTESTS**

DWR submitted a memorandum dated May 10, 2004 providing comments on the major unresolved issue between itself and the utilities. The memorandum also

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<sup>1</sup> DWR, CPA, APX, Celerity Energy, Onsite Energy Corp., Ancillary Services Coalition, DBS Industries, and Excel Energy Technologies, Ltd., filed comments.

included a draft Agency Agreement that DWR recommends for adoption. In effect, DWR's memorandum is a protest to the utilities' advice letters. On May 11, DWR sent a revised draft of their recommended Agency Agreement, stating that they inadvertently sent an incorrect version on May 10.

The utilities responded to DWR's protest on May 17 and 18, 2004.<sup>2</sup>

DWR submitted a memorandum dated May 20, 2004 in response to both the utilities' advice letters filing and the utilities' May 17 and 18 responses.

## **DISCUSSION**

### **The Revenue Requirement Language Proposed by the Utilities is Unnecessary**

The primary issue between DWR and all three utilities revolves around certain language that the utilities insist be included in Section 9.04 of their agency agreements with DWR. That language would require DWR to pursue an increase to its revenue requirement if moneys in its Electric Power Fund are insufficient to pay amounts owing under the agency agreement. The specific language proposed by PG&E is as follows:

“If moneys on deposit in the Fund are insufficient to pay all amounts payable by DWR under this Agreement, or if DWR has reason to believe such funds may become insufficient to pay all amounts payable by DWR under this Agreement, DWR shall diligently pursue an increase to its revenue requirements as permitted under the Act from the appropriate Governmental Authority as soon as practicable.”

According to the utilities, this language is reasonable and is also identical to that found in their respective operating agreements or servicing orders with DWR. PG&E noted that absent the disputed language, if money in the Electric Power Fund were depleted, DWR could refuse to pay amounts owing to PG&E under the agency agreement without breaching the agreement. In their response comments, the utilities proposed a simplified version of the quoted text.

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<sup>2</sup> PG&E and SCE filed their responses on May 17, while SDG&E filed its response on May 18.

DWR is opposed to the inclusion of the language on the basis that it already has a statutory duty to revise its revenue requirement under specific triggering situations and circumstances described in its Rate Agreement and bond indenture. DWR believes it is inappropriate to create a separate right for the utilities to dictate a revision to DWR's revenue requirement for the DRP, especially when the program represents an extremely small portion of DWR's overall revenue requirement. DWR notes that as a practical matter, it would revise its revenue requirement if it foresaw that there were insufficient funds to cover amounts it must pay under its contracts, but it is not willing to grant separate and independent obligations to every party to a contract it has.

We agree with DWR that it is not necessary to include the language proposed by the utilities in their respective agency agreements for the DRP. The costs of the DRP are indeed a small portion of DWR's overall revenue requirement, and we agree with DWR that most of the costs that DWR is obligated to cover are payments from DWR to the CPA for costs pursuant to the Demand Reserves Partnership Agreement. We are confident that DWR will take whatever appropriate actions available to it to ensure that there are sufficient funds to cover the amounts it owes the utilities under the agency agreements.

### **The Term of the Agency Agreement Should End in 2007**

In its May 10 memorandum DWR proposed that the agency agreements with the utilities should extend through May 17, 2007. The utilities claim that their negotiations with DWR to date have been under the assumption that the term of the agreements ends on December 31, 2004. Notwithstanding their concern that this issue was just recently raised by DWR, the utilities are generally amenable to a term ending on May 17, 2007 provided that they have the opportunity to modify other provisions in the agency agreements that are affected by the new date. PG&E notes that the modifications are expected to be minor in nature. We will grant the utilities and DWR 15 days from the effective date of this resolution to file final agency agreements, which is ample time to make any other modifications.

The most prudent course of action is make the term of the agreements extend up to May 17, 2007 as proposed by DWR, rather than December 31, 2004. It is our view that there has been too much time expended in negotiating the agreements and based our observations to date, re-starting negotiations on new agreements for 2005 is will be time-consuming and possibly lead to delays in implementing the DRP that year.

Each utility has been authorized to recover administrative, software development and capital costs for administering the DRP program for 2003 and 2004 via D.03-06-032. In their comments on the draft resolution, the utilities state they will need a mechanism for cost recovery if the Commission extends the term of the agreements with DWR beyond 2004. The utilities also suggest that they be allowed to spend any unused funds from 2003 and 2004 in future years.

We find that the utilities' request for recovery of DRP costs for subsequent years beyond 2004 is reasonable, and we will also allow unused funds to be used for years 2005-2007. We decline to adopt a specific budget amount for post-2004 DRP costs in this resolution, and direct the utilities to request additional funds for years 2005-2007 in the demand response rulemaking (R.02-06-001) or its successor rulemaking.

#### **Utility Liability As Agents for DWR is not Unreasonable**

Both SDG&E and SCE report that they have not reached agreement with DWR regarding the issue of liability. DWR seeks to make the utilities liable (with a cap on that liability) on the basis that agents are commonly liable to their principals under commercial agency agreements. PG&E does not oppose liability as DWR's agent, and has agreed to a liability cap of \$1 million.

SDG&E appears to accept the principle of liability as DWR's agent, but was unable to reach an agreement with DWR regarding a cap amount for the liability. Specifically, SDG&E proposes that its liability cap be calculated at a rate of \$10,000 per MWh of capacity allocated to SDG&E's territory, with a minimum of \$50,000 and a maximum of \$200,000 over the term of the agency agreement.

SCE reports that it has a more fundamental issue, stating that it should not be required to accept any liability as an agent for DWR since the agency agreement does not approximate a standard commercial agreement and that accepting liability makes SCE liable to two masters (DWR and the CPUC). SCE also notes that DWR insists that SCE verify invoices from DWR's counterparty, which it may be willing to do if SCE is not required to accept liability in the agency agreement.

While the agency agreement is not a typical commercial agreement, it is a commercial agreement nonetheless and DWR is not unreasonable in requiring liability on the part of the utilities as its agents. Therefore SCE's fundamental

position on this issue is rejected. Regarding the cap on liability, we direct SCE to accept a cap on liability equal to that accepted by PG&E: \$1 million. SDG&E's cap on liability should be a portion of \$1 million based on 2003 peak demand in its territory in comparison to the 2003 peak demand of the other two utilities.

**SCE Should Verify the CPA's Invoices to DWR As Part of Its Tasks of Administering the Program**

We clarify that SCE should verify the CPA's invoices to DWR as part of its responsibilities in administering the DRP. In its comments on the draft resolution, SCE considers invoice verification to be a new task unrelated to the schedule and dispatch of DRP resources, even though we stated "the IOUs must coordinate their customer, meter, scheduling and settlement activities in a manner that maximizes the full potential of the CPA DRP."<sup>3</sup> SCE appears to be alone in its perspective as neither PG&E nor SDG&E have objected to invoice verification as an additional task not previously ordered by the Commission.

SCE further claims that it will need additional cost recovery for the "considerable expense" to undertake the task of invoice verification. SCE claims that there could be potentially hundreds or thousands of accounts participating in the DRP, but that assumes that certain changes in the program will occur. We decline at this time to authorize additional funding for SCE for the task of verifying invoices. We recognize that the DRP could be modified in a way that increases enrollment, or that enrollment may simply grow without program changes, either of which could result in significant costs for invoice verification. We therefore allow the utilities to demonstrate the need for additional funds for invoice verification in the demand response proceeding (R.02-06-001) or its successor rulemaking.

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<sup>3</sup> D.03-06-032, pg. 32.

**The Utilities Will Not Be Penalized for Violating Least-Cost Dispatch Requirements for DRP Reliability Events or For Certain Testing**

PG&E states in its advice letter that the May 3 ACR could be interpreted to mean that the utilities would be protected from least-cost dispatch penalties for only four hours per month for testing and reliability events. PG&E states that it and the other parties have interpreted the ruling to mean that the four-hour limitation applies only to testing.

In response to the utilities' comments on the draft resolution, we affirm the guidance provided by the ACR on the issue of protection from least-cost dispatch penalties: the utilities will not be penalized for violating least-cost dispatch requirements if DWR instructs them to dispatch the DRP resources for (1) any reliability event (regardless of its length) or (2) for testing purposes that are limited to (a) once per month, (b) no more than four hours in length, and (c) when the program has not already been called that month.

**COMMENTS**

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

SCE, PG&E and SDG&E filed comments on June 24, 2004 and DWR filed reply comments on July 1, 2004.

All three utilities request a cost recovery mechanism for administering the DRP if the Commission extends the term of the agreement from 2004 to 2007. We find that request reasonable and grant authorization for recovery.

All three utilities request further clarification of when they would be protected from least-cost dispatch penalties and further request that the Commission affirms its agreement with the guidance provided in April 1 and May 3 ACRs. We clarify and affirm the guidance provided in the ACRs in the Discussion section.

SCE requests clarification that it is expected to verify invoices from the CPA to DWR. We clarify this issue as well as the issue of cost recovery for this task.

Both SCE and PG&E dispute that the agency agreements with DWR are “commercial” agreements and thus should not be used as the basis for imposing the risk of liability on the utilities. SCE further notes that since it has not been able to come to an agreement with DWR, the Commission should order the utilities to implement the DRP program through an operating order. We disagree with SCE and PG&E on this issue, and no changes have been made to the resolution on this issue.

PG&E argues that the disputed language concerning DWR’s revenue requirement should be made part of the agency agreements. We decline to make this change for the reasons already discussed.

DWR commented that a liability cap of \$1 million is the minimum acceptable liability cap for DWR, which affords the same level of protection for each utility. We decline to adopt a \$1 million liability cap for SDG&E, and encourage DWR and SDG&E to calculate a liability cap according to the guidance provided above.

DWR also commented on the task of invoice verification, and we agree with those comments.

## **FINDINGS**

1. The Demand Reserves Partnership (DRP), created in 2002, is based upon a five-year contract between the California Consumer Power and Conservation Financing Authority (CPA) and the California Department of Water Resources (DWR).
2. The DRP contract functions much like the other power supply contracts signed by DWR on behalf of the utilities by providing power, where and when needed, but through reductions in demand, rather than generation.
3. “Demand Reserves Provider Agreements”, which underlie the contract between DWR and the CPA, specify the terms and conditions of how aggregators provide power to DWR.
4. In exchange for the reduction in load, participants in the DRP are paid a monthly capacity payment (based on the amount of load committed for

reduction) along with an energy payment (actual amount of energy reduced) when the program is triggered.

5. To date, the DRP has been triggered by DWR only for reliability and testing purposes.
6. In D.03-06-032, the Commission recognized the DRP as a viable and important program, and directed PG&E, SCE and SDG&E to coordinate their scheduling activities with the CPA to ensure that the DRP resources are actually dispatched when it is cost effective to do so.
7. The utilities and DWR have been unsuccessful in developing agency agreements that enable the utilities to operate as DWR's limited agents for the DRP.
8. On April 1 and May 3, 2004, ACRs were issued that provided guidance to the utilities and DWR regarding impediments to the finalization of their agency agreements.
9. As of May 10, 2004, the utilities and DWR have not been able to finalize their agency agreements, and each utility urges the Commission to adopt their proposed agency agreements as submitted in their filings on May 10. DWR urges adoption of their proposed agency agreement submitted on May 11.
10. DWR protested the utilities' May 10 filings and the utilities' responded to DWR's protest on May 17 and 18, 2004. DWR submitted a memorandum on May 20, 2004 in response to both the utilities' May 10 filings and their protest responses.
11. The revenue requirement language proposed by the utilities for Section 9.04 of their respective agency agreements with DWR is unnecessary.
12. The term of the agency agreements should extend up to May 17, 2007 as proposed by DWR, rather than December 31, 2004 once the requisite modifications are made.
13. The utilities should track all expenses incurred in administering the DRP Program under the agency agreements in their respective AMDRMA or appropriate successor memorandum accounts. In addition, the utilities are

authorized to carry over any unspent 2003-2004 funding related to the DRP Program to apply towards funding in 2005-2007 that will be approved by the Commission in a future budget authorization. The utilities may also request additional funds for years 2005-2007 in the demand response rulemaking (R.02-06-001) or its successor rulemaking.

14. SCE's fundamental position on the issue of liability is rejected.
15. SCE should accept a cap on liability equal to that accepted by PG&E: \$1 million.
16. SDG&E's cap on liability should be a portion of \$1 million based on 2003 peak demand in its territory in comparison to the 2003 peak demand of the other two utilities.
17. The utilities should verify the CPA's invoices to DWR as part of their responsibilities in administering the DRP.
18. SCE's request for additional funding for the task of verifying invoices is denied at this time.
19. The utilities may demonstrate their need for additional funds for invoice verification in the demand response proceeding (R.02-06-001) or its successor rulemaking if the DRP is modified in a way that increases enrollment, or if enrollment grows, without program changes, to an extent that results in significant costs for invoice verification.
20. The utilities will not be penalized for violating least-cost dispatch requirements if DWR instructs them to dispatch the DRP resources for (1) any reliability event (regardless of its length) or (2) for testing purposes that are limited to (a) once per month, (b) no more than four hours in length, and (c) when the program has not already been called that month.
21. The proposed Agency Agreement as submitted by DWR should be modified by DWR and the utilities to accommodate those provisions affected by the term extension to May 17, 2007.
22. DWR's protest is granted.

**THEREFORE IT IS ORDERED THAT:**

1. DWR's protest is granted.
2. The agency agreement as proposed by DWR on May 11, 2004 should be modified by DWR and the utilities to accommodate those provisions affected by a term ending on May 17, 2007.
3. The utilities shall file supplemental advice letters with finalized agency agreements that comply with the findings of this resolution within 15 days of the effective date of this resolution.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 23, 2004; the following Commissioners voting favorably thereon:

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STEVE LARSON  
Executive Director

MICHAEL R. PEEVEY  
PRESIDENT  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners

I will file a dissent.  
/s/ CARL W. WOOD  
Commissioner

I reserve the right to file a dissent.  
/s/ LORETTA M. LYNCH  
Commissioner



**Pacific Gas and  
Electric Company**

**Karen A. Tomcala**  
Vice President  
Regulatory Relations

77 Beale Street, Room 1065  
San Francisco, CA 94105

*Mailing Address*  
Mail Code B10A  
P.O. Box 770000  
San Francisco, CA 94177

415.972.5209  
Internal: 222.5209  
Fax: 415.972.5625  
Internet: KAT5@pge.com

May 10, 2004

**Advice 2505-E  
(Pacific Gas and Electric Company ID U39 E)**

**Public Utilities Commission of the State of California (CPUC)**

**Subject: Advanced Metering Project – Demand Response Programs  
Demand Reserves Partnership (DRP) Program – Updated  
Implementation Plan and Related Documents in Compliance  
with the April 1, 2004, and May 3, 2004, Assigned  
Commissioner’s Rulings**

Pacific Gas and Electric Company (PG&E), hereby submits this advice filing concerning the California Power Authority (CPA) Demand Reserves Partnership (DRP) Program. This filing provides an update on PG&E’s Implementation Plan, originally filed with the CPUC on July 7, 2003, in Advice 2399-E, and updated on October 6, 2003, in Advice 2428-E. This filing also provides a description of the common meter data reporting format and includes the latest version of the proposed agency agreement between PG&E and the California Department of Water Resources (DWR).

**Purpose**

The purpose of this filing is to comply with the April 1, 2004 “Assigned Commissioner’s Ruling Providing Guidance to Facilitate an Agency Agreement Between the Utilities and Department of Water Resources and Directing Utilities to Take Certain Steps to Implement the Demand Reserve Partnership” (the “April 1 Ruling”), as modified by the May 3, 2004 “Assigned Commissioner’s Ruling Clarifying Direction to Utilities to Implement the Demand Reserve Partnership” (the “May 3 Ruling”). Specifically, this filing includes (i) a supplement to the Implementation Plan (as Exhibit A), (ii) a description of the common meter data reporting format, and (iii) the latest version of the proposed agency agreement between PG&E and DWR (as Exhibit B).

**Background**

In Decision 03-06-032, the Utilities were ordered to develop Implementation



Plans, detailing a phased approach for implementing the DRP, as well as a joint compliance filing containing a permanent proposal for allocating the DRP resources. PG&E made these filings, respectively, as Advice 2399-E on July 7, 2003, and as Advice 2428-E on October 6, 2003.

On January 26, 2004, Administrative Law Judge DeUlloa issued a ruling directing the utilities to each file a status report on the impediments to the then-unfinished agency agreements and to the implementation of the DRP Implementation Plans. On February 17, 2004, PG&E filed its status report.

On April 1, 2004, Commissioner Peevey issued the April 1 Ruling directing the utilities to resume negotiations with DWR on the agency agreements and to file supplemental compliance advice letters within 30 days. Under the terms of the April 1 Ruling, these advice letters should provide an updated Implementation Plan, include a description of a common meter data reporting format, and include a final version of the agency agreement. On April 26, 2004, DWR sent a memorandum to Commissioner Peevey and ALJ Cooke, seeking clarification of certain aspects of the April 1 Ruling.

On May 3, 2004, Commissioner Peevey issued the May 3 Ruling providing additional information concerning the April 1 Ruling and extending the deadline for filing the supplemental compliance advice letters to today, May 10, 2004. This Advice 2505-E complies with the directive in the April 1 Ruling and the May 3 Ruling to make such a filing.

### **A Supplement to PG&E's Implementation Plan**

The structure of this supplement to PG&E's Implementation Plan follows the general structure of PG&E's previous Implementation Plan submitted with Advice 2399-E and updated by Advice 2428-E. This supplement does not reiterate all of the information provided in the previous submittals; rather, this supplement provides an update on developments since those submittals.

This supplement reflects delays in implementation of certain aspects relating to PG&E administration of the Call Option Program caused by the lack of an agency agreement with DWR and continuing uncertainty over the products to be offered under the underlying agreement between DWR and CPA. Regarding the latter, PG&E has not yet received finalized information concerning the CPA DRP product(s) to be offered for the summer of 2004. This could affect the success of the program for this summer. These delays and other developments are reflected in this supplemental Implementation Plan, attached hereto as Exhibit A.

### **The Common Meter Data Reporting Format**

In accordance with the directive in the April 1 Ruling, PG&E reiterates here that - as was agreed upon last summer and is still the case -- PG&E will continue to



provide meter usage data for the DRP program in the agreed-upon format known as Meter Data Exchange Format (MDEF/CMEP). As far as PG&E is aware, PG&E is currently providing and has always provided meter usage data to APX in an agreed-upon format and PG&E has consistently met APX's requests for data on either a daily or monthly interval. Details concerning this process were described more fully in the meter data usage procedures included with PG&E's Implementation Plan, filed with Advice 2399-E.

### The Proposed Agency Agreement

In accordance with the April 1 Ruling and the May 3 Ruling, PG&E has attached hereto as Exhibit B a version of the proposed agency agreement between PG&E and DWR that has been agreed-upon in all material respects by the management of both DWR and PG&E, except for one. That one issue, which remains unresolved, concerns Section 9.04 of the agreement. PG&E supports the inclusion therein of language identical to that found in the DWR Operating Agreement, which was approved by the CPUC in Decision 03-04-029 (see Appendix AA, Sec. 10.03), and identical in substance to the provision adopted by the CPUC in the DWR Servicing Order in Decision 02-12-072 (see Appendix A, Sec. 13.2). Specifically, PG&E proposes the inclusion of the following language, which is marked in bold in Exhibit B:

"If moneys on deposit in the Fund are insufficient to pay all amounts payable by DWR under this Agreement, or if DWR has reason to believe such funds may become insufficient to pay all amounts payable by DWR under this Agreement, DWR shall diligently pursue an increase to its revenue requirements as permitted under the Act from the appropriate Governmental Authority as soon as practicable."

To date, DWR has opposed the inclusion of this language, which remains the only open substantive item preventing the parties from reaching an agreement over the material terms of this version of the agreement.<sup>1</sup> To the extent the CPUC wishes to facilitate resolution of this matter between the parties, PG&E reserves the right to explain in full its position on this issue and to respond to whatever arguments DWR may make concerning this issue.

Furthermore, it should be noted that in reaching agreement with DWR on the remainder of the attached version, the parties have understood the May 3 Ruling to provide PG&E with protections against penalties for violating least cost dispatch requirements if DWR instructs PG&E to dispatch the DRP resources for

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<sup>1</sup> Due to the amount of time between the May 3 Ruling and today's deadline, and the significance of the issues raised by both the April 1 Ruling and the May 3 Ruling, the parties have yet to complete certain remaining non-substantive administrative tasks that must proceed execution, such as the attachment of certain exhibits, completion of references and checking of cross-references. The parties will need to address these remaining tasks, the open issue concerning section 9.04, and any other feedback from the CPUC, prior to execution.



May 10, 2004

any reliability event without a limitation on hours<sup>2</sup> (although testing is being limited to four hours per month). Because of the importance of this issue, PG&E's agreement with DWR on this version is explicitly conditioned on this understanding of the May 3 Ruling. If PG&E has misunderstood the May 3 Ruling, PG&E seeks clarification from the CPUC on this issue and reserves the right to revisit the substance of Section 2.01 of the proposed agency agreement with DWR.

### Protests

In compliance with the shortened time period set forth in the Assigned Commissioner's Rulings dated April 1, 2004, and May 3, 2004, anyone wishing to protest this filing may do so by sending a letter by **May 20, 2004**, which is **10 days** from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

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

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

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

Pacific Gas and Electric Company  
Attention: Brian Cherry  
Director, Regulatory Relations  
77 Beale Street, Mail Code B10C  
P.O. Box 770000

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<sup>2</sup> The language on page 2 of the May 3 Ruling could be read to imply that PG&E would only be so protected for up to four hours per month. The specific statement reads:

“Therefore, I rule that the utilities should not be penalized for violating least cost dispatch requirements if DWR instructs them to dispatch the DRP resources **for any reliability event or for testing purposes for not more than four hours**, once a month, in the event the program has not already been called that month.” (May 3 Ruling, p. 2 (emphasis added).)

The precise question is whether or not the four-hour limitation applies to just testing or to both testing and reliability. The parties have interpreted the phrase to apply the four-hour limitation only to testing.



May 10, 2004

San Francisco, California 94177  
Facsimile: (415) 973-7226  
E-mail: RxDd@pge.com

**Effective Date**

PG&E respectfully requests that the Commission rule expeditiously on this advice filing so that PG&E may move forward to implement the DRP Implementation Plan as directed by the Commission in Decision 03-06-032.

**Notice**

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list, and the service list parties for Rulemaking (R.) 02-06-001. Address changes should be directed to Sharon K. Tatai at (415) 973-2788 or at skt2@pge.com.. Advice letter filings can also be accessed electronically at:

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

*Karen A. Tomeale / DP*

Vice President - Regulatory Relations

Attachments

cc: Service List R. 02-06-001

PG&E'S SUPPLEMENT TO THE JULY 7, 2003, IMPLEMENTATION PLAN FOR  
THE CALIFORNIA POWER AUTHORITY'S  
DEMAND RESERVES PARTNERSHIP PROGRAM

May 10, 2004

INTRODUCTION

On June 5, 2003, the California Public Utilities Commission (CPUC) issued Decision (D.) No. 03-06-032, which addressed various statewide demand response goals. Ordering Paragraph No. 9 of D.03-06-032 stated that Pacific Gas and Electric Company (PG&E) and the other investor-owned utilities (IOUs) were required to file an Implementation Plan for the California Power Authority's (CPA's) Demand Reserves Partnership (DRP) Program within 30 days of the issuance of the decision. On July 7, 2003, PG&E filed advice 2399-E with an Implementation Plan (the Original Implementation Plan). In addition, on October 6, 2003, PG&E filed advice 2428-E providing an update on limited aspects of the Original Implementation Plan.

On April 1, 2004, Commissioner Peevey issued an Assigned Commissioner's Ruling (ACR) requesting this update on the Implementation Plan. On May 3, 2004, Commissioner Peevey issued a clarification to his April 1, 2004, ACR and reaffirmed his directive to file this update.

## SUPPLEMENT TO THE ORIGINAL IMPLEMENTATION PLAN

The following supplement to the Original Implementation Plan follows the phased structure of the Original Implementation Plan. The updated phases are reflected in the chart below and discussed in more detail in the following sections.

### KEY EVENTS TIMELINE

Time Period	Phase or Event	Key Activities
July 7, 2003 to Present	Phase I	The parties have conducted customer outreach; developed common standards for metering and data transfer; continued negotiations on an agency agreement; and PG&E has provided support (including the acceptance of SC trades) to DWR's dispatch of DRP day-ahead resources.
May 10, 2004 <b>(COMPLETED)</b>	Compliance Filing with CPUC	This filing includes this update to the Original Implementation Plan, a description of the parties' common meter data reporting format, and the latest version of an agency agreement between PG&E and DWR.
Summer 2004	Phase II	Pending the CPUC's approval and the parties execution of an agency agreement, the parties will continue operations as in Phase I. Upon the execution of an agency agreement, PG&E will commence dispatch of the program for economic dispatch purposes as set forth in the agreement.  PG&E will work together with DWR, the CPA and other parties to evaluate, improve, and update, as appropriate, the implementation of the Call Option Program.
November 2004 to March 2005	Phase III	PG&E will continue to work with DWR and interested parties to resolve any issues associated with the Call Option Program and begin development discussions for the scheduling of the DRP Ancillary Services Programs.

**PHASE I: PREPARATION FOR, AND SUPPORT TO, IMPLEMENTATION OF  
THE CALL OPTION PROGRAM**

PG&E, CPA and the other utilities have been working toward full implementation of CPA's DRP program. These activities have included customer outreach efforts, the development of common standards for metering and data transfer, continued negotiations on an agency agreement, and PG&E support (including the acceptance of SC trades) to DWR's dispatch of DRP day-ahead resources.

In terms of customer outreach, PG&E worked with CPA and the other utilities in a joint effort to present a complete marketing concept that would create a common statewide "look and feel". For fall 2003, a customer education "kit" was developed to incorporate a portfolio of program options available to customers. The CPA DRP material was included as a blended part of the package. The material provided a brief description of the CPA program along with reference to the CPA DRP website where interested customers were able to determine how to enroll and/or request additional information about the program. In addition, PG&E developed its own fact sheet that provided customers with additional information about the CPA DRP program.

PG&E has pursued efforts towards marketing the CPA DRP program to customers on an equal basis with other demand response programs offered by the utility. PG&E has conducted several internal workshops introducing the CPA program to various internal marketing groups and has held numerous individual customer meetings educating customers on the benefits of participating in the DRP program.

Also, during the Summer 2003, PG&E worked with APX and CPA to provide the appropriate information needed to manage the CPA DRP Day-Ahead Call Option program. Last summer, the active participants' load in the Day-Ahead Call Option program consisted roughly of an average of 245MWs. During the past year, DWR has dispatched these resources. Recently, PG&E has provided additional support to this effort establishing an interim protocol which allows the acceptance of scheduling coordinator (SC) trades.

As described in the Original Implementation Plan, there are issues associated with customer participation in multiple demand response programs; 1) to avoid double counting of demand reduction resources and; 2) to avoid double payment for the same resources across demand response programs. This portion of the Original Implementation Plan was based on D.03-06-032, which specifically stated the conditions under which a participant may enroll in more than one particular program. PG&E has developed a process to monitor dual participation. When a customer is enrolled into the CPA DRP program, the customer is entered into a database. On a monthly basis, PG&E reviews enrollment and notes those customers who have multiple participation. When multiple programs are called at the same time, a customer's CPA DRP (the adjustment could be capacity and or energy) payment is overridden by the utility's program payment. Finally, as described in the Original Implementation Plan (on page 17), PG&E has established an account for CPA's DRP program to track costs toward the incremental revenue requirement. This account, the Advanced Metering and Demand Response Account (AMDRA), was authorized for Phase 1 pursuant to Ordering Paragraph 8 of

Decision 03-03-036 and in Phase 2 is pursuant to the Assigned Commissioner's Ruling and Scoping Memo, dated November 24, 2003.

**PHASE II: IMPLEMENTATION, EVALUATION AND IMPROVEMENT OF  
THE CALL OPTION PROGRAM FOR SUMMER 2004**

For Phase II, PG&E will continue to implement the Call Option Program until such time as an agency agreement is both approved by the CPUC and executed by the parties. After an agency agreement is approved and executed, PG&E will commence dispatch and scheduling responsibilities, as set forth in the agreement.

Furthermore, in Phase II, PG&E, DWR, CPA and interested parties, will be evaluating the operation of the Call Option Program and looking for ways to improve the program. In this regard, PG&E understands that DWR and CPA are considering substantial modifications to the Call Option program. However, PG&E has not yet received a final product sheet describing the terms, conditions and prices of the Day-Ahead and Same-Day Call Option program to be offered for the summer of 2004. To the extent that any announcements regarding (or changes to) the program to be offered this summer are delayed, the success of this summer's program could be impacted.

**A. KEY RESPONSIBILITIES PENDING COMPLETION OF CONTRACT**

As explained in PG&E's Original Implementation Plan, PG&E's assumption of certain key administrative responsibilities of the DRP resources, such as dispatch and scheduling of resources, awaits the CPUC's approval and the parties' execution of an agency agreement with DWR that enables PG&E to act as DWR's agent. Upon the CPUC's approval of an agreement and the parties' execution thereof, PG&E will implement the

Call Option Program in the summer of 2004 as provided for in the agency agreement. Until such time, PG&E will continue to support the Call Option Program as done in Phase I.

#### B. CUSTOMER EDUCATION, MARKETING AND RECRUITMENT

In Phase I, PG&E worked closely with SDG&E, SCE and the CPA in the design and development of marketing and customer outreach materials to promote demand response. For Phase II, PG&E has initiated a DRP CPA Customer Meeting scheduled for May 24, 2004, for PG&E's customers, PG&E account representatives, Demand Reserves Providers and the CPA. The purpose of the meeting is to provide CPA with an opportunity to educate customers about the current CPA DRP Call Option program and provide information about the potential changes for the Summer 2004. The meeting will give the Demand Reserves Providers a forum to discuss the services their companies have to offer in addition to getting exposure to PG&E's customers. PG&E will also provide information about the possibility for dual program customer participation with some of the other load management programs managed by PG&E. The meeting will also provide additional guidance and training to the Demand Reserves Providers so they better understand and appreciate the enrollment process, ultimately resulting in a more efficient customer enrollment process.

Future marketing plans, which could include customer workshops, seminars, and other joint utility efforts, are anticipated to include CPA DRP as part of the overall mix.

#### C. CUSTOMER REGISTRATION AND METER DATA TRANSFER

As stated in the Original Implementation Plan, to enable settlement calculations to be performed by CPA, or its scheduling coordinator, APX, PG&E will provide meter data for bundled customers.

Since July 2003, PG&E has been able to provide APX with both daily raw meter and monthly VEE'd data, excluding the distribution line loss factor, for the participating bundled customers on the CPA DRP program. PG&E has also agreed to provide monthly billing cycle meter data to APX within 10 days after the close of each calendar month assuming the potential participants have agreed and given permission to change their billing cycle data, if required. As was agreed upon last summer, and is still the case currently, PG&E will continue to provide meter usage data for the CPA DRP program in the agreed upon format known as CMEP/MDEF.

#### D. NOMINATION AND SCHEDULING

APX will be the scheduling coordinator for the DRP program and the utility interface for nomination and scheduling of the Day-Ahead Call Option. Once an agency agreement is finalized, APX will provide notice to each utility of the available quantity of demand reduction two days in advance. APX will also provide a breakdown of the quantity available from bundled utility customers and direct access customers in advance of the PG&E day-ahead scheduling timeline. The separate breakout of bundled and direct access customer quantities is required since their demand response will be scheduled differently.

In accordance with the terms of the proposed agency agreement, the decision to exercise the Day-Ahead Call Option will be made as part of the normal day ahead dispatch of the joint PG&E – DWR portfolio to serve PG&E bundled load. If demand

reduction at the Day-Ahead Call Option strike price is part of the least cost dispatch solution for any hour, then PG&E will notify APX of the quantity and hours in which it is exercising the option. For demand reduction from PG&E bundled customers, PG&E will lower its load schedules that are submitted to the CAISO. For demand reduction from direct access customers, PG&E will receive an inter-scheduling coordinator trade of supply from APX.

#### E. SETTLEMENT AND BILLING

The settlement with those customers participating in the program will be the responsibility of APX, using meter data provided to APX either through PG&E or the customer's Electric Service Provider (ESP). The revenue to support the program is part of the DWR revenue requirement and payment to DWR will be through the normal DWR retail remittance process, which is described in PG&E's Operating Agreement with DWR and Servicing Order.

While APX will be responsible for settlement with participant customers based on their compliance with the dispatched demand response, any deviation from the dispatched demand response by bundled customers may show up in utility imbalance charges from the CAISO. As stated in the latest draft of the agency agreement, PG&E does not expect to be responsible for any CAISO imbalance charges that result from its implementation of this DWR contract.

### **PHASE III: THE ANCILLARY SERVICES SUBPROGRAMS**

As described in the Original Implementation Plan, the Ancillary Services Program has important and unique issues associated with it, and faces several barriers to full implementation.

Several such issues are discussed in PG&E's Original Implementation Plan (pp. 15-17) and will not be repeated here. However, it should be noted that changes in California Independent System Operator (CAISO) market design could affect the Ancillary Services Program. For example, while the CAISO currently procures replacement Reserves, which require a 60-minute response, changes in the CAISO market design planned for implementation in 2004 will likely eliminate the need for replacement Reserves. Thus, it would not be prudent to implement a demand response program for replacement Reserves only to see them dropped as a CAISO requirement.

Notwithstanding changes due to CAISO Market Re-Design, the CAISO currently has specific protocols that must be met before resources may provide ancillary services. In addition, the CAISO requires resources providing ancillary services be scheduled and metered using unique protocols. All parties, including the CPA, agree that additional time is required to coordinate the CPA program's capabilities with these protocols.

For these and the other reasons discussed in the Original Implementation Plan, PG&E continues to support the concept of a "pilot" Ancillary Services program in order to obtain a more comprehensive understanding of the issues associated with implementation of the Ancillary Services Program. PG&E remains committed to work with CPA, CAISO and the other utilities to develop solutions to these issues.

**AGENCY AGREEMENT**

**between**

**[UTILITY]**

**and**

**DEPARTMENT OF WATER RESOURCES**

The parties to this Agency Agreement (“Agency Agreement”) are [UTILITY], a California corporation (“Utility”), and the **STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES**, acting solely under the authority and powers granted by ABIX, codified as Sections 80000 through 80270 of the California Water Code (the “Act”), and not under its power and responsibilities with respect to the State Water Resources Development System (in such capacity, the “Department” or “DWR”). Utility and the Department are sometimes referred to in this Agency Agreement individually as a “Party” and jointly as the “Parties.”

**RECITALS**

A. Under the Act, pursuant to the Demand Reserves Partnership program (“DRP”), the Department entered into a Demand Reserves Purchase Agreement (as amended from time to time, the “DR Agreement”) dated as of May 17, 2002 with the California Consumer Power and Conservation Financing Authority (the “Authority”), whereby Department can purchase from Authority and schedule with the California Independent System Operator (“CAISO”), demand reserve resources, including the dispatch of capacity. Qualified End Users (as such term is defined in the DR Agreement) under contract with Authority provide the demand reserve resources that are scheduled and dispatched under the DR Agreement.

B. On June 5, 2003, the California Public Utilities Commission (the “Commission” or “CPUC”) issued Decision 03-06-032 (the “Decision”) in Rulemaking 02-06-001, setting demand response goals for each of California’s three investor owned electric utilities, including Utility. The Decision also provides in pertinent part that the utilities, including Utility, may receive credit towards its respective demand response goals for any resources under the DR Agreement that each utility schedules. The Decision orders the utilities to submit a DRP implementation plan in coordination with the Authority. In accordance with the Decision, Utility filed such plan with the CPUC on July 7, 2003.

C. In order to implement the Decision, the Department, Utility and the Authority have engaged in discussions relating to the administration and implementation of the DRP. The Department and the Authority have agreed to amend the DR Agreement to disaggregate into three territories the scheduling and dispatch offered under the DR Agreement thereunder for each of the three Utilities (each a "Designated DR Territory") in a manner that will allow Utility to file an implementation plan that is consistent with the Decision. The Parties have agreed that Utility shall enter into an agency agreement with the Department, whereby Utility will act as the Department's limited agent for purposes of scheduling and dispatching energy and capacity (and later, if and when appropriate, Ancillary Services) for Utility's Designated DR Territory and the Department will retain legal and financial obligations, together with any other functions not explicitly provided for in this Agency Agreement, with respect to the DR Agreement, as amended. The Department and Utility intend that this Agency Agreement will not constitute an assignment of the DR Agreement or any right thereunder for any purpose.

**NOW, THEREFORE**, in consideration of the mutual obligations of the Parties, the Department and Utility agree as follows:

## **ARTICLE I** **DEFINITIONS**

Section 1.01. Definitions. The following terms are defined as set forth below:

The following terms, when used herein (and in the attachments hereto) with initial capitalization, shall have the meaning specified in this Section 1.01. Certain additional terms are defined in the attachments hereto. The singular shall include the plural and the masculine shall include the feminine and neuter, and *vice versa*. "Includes" or "including" shall mean "including without limitation." References to a section or attachment shall mean a section or attachment of this Agreement, as the case may be, unless the context requires otherwise, and reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made (except as otherwise specifically provided herein). Unless the context otherwise requires, references to Applicable Laws or Applicable Tariffs shall be deemed references to such laws or tariffs as they may be amended, replaced or restated from time to time. References to the time of day shall be deemed references to such time as measured by prevailing Pacific time.

"Act" means Sections 80000 through 80270 of the California Water Code.

"Applicable CPUC Orders" means such rules, regulations, decisions, opinions or orders as the CPUC may lawfully issue or promulgate from time to time, which relate to the subject matter of this Agreement.

"Applicable Law" means the Act, Applicable CPUC Orders and any other applicable statute, constitutional provision, rule, regulation, ordinance, order, decision or code of a Governmental Authority.

“Applicable Tariffs” means Utility’s tariffs, including all rules, rates, schedules and preliminary statements, governing electric energy service to Utility’s customers in its service territory, as filed with and approved by the CPUC and, if applicable, the Federal Energy Regulatory Commission.

“Assign(s)” shall have the meaning set forth in Section 12.01 herein.

“Associated Resource” shall have the meaning set forth in Section 2.04 herein.

“Authority” shall mean the California Consumer Power and Conservation Financing Authority.

“CAISO” shall mean the California Independent System Operator, or any successor thereto.

“Commission” or “CPUC” shall mean the California Public Utilities Commission.

“Decision” shall have the meaning set forth in Recital B herein.

“Department” or “DWR” shall mean the California Department of Water Resources.

“Designated DR Territory” shall have the meaning set forth in Recital C herein.

“Direct Access” shall refer to any end-use customer electing to procure its electricity, any other CPUC-authorized energy services, directly from electric service providers.

“DR Agreement” shall have the meaning set forth in Recital A herein.

“DRP” means the Demand Reserves Partnership program, administered by the DWR and the Authority under the DR Agreement.

“DRP Call Option” means any and all Monthly Nominated Capacity, Additional Hourly Capacity, Contracted Energy, and any energy reductions associated with Capacity or any other Energy reductions offered by the Authority pursuant to the DR Agreement.

“DRP Power” means electric energy and capacity made available under the DR Agreement, including but not limited to capacity and output.

“DWR Revenues” means those amounts required to be remitted to DWR by Utility in accordance with this Agency Agreement and as further provided in the Servicing Arrangement.

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety

and expedition. Good Utility Practice does not require the optimum practice, method, or act to the exclusion of all others, but rather is intended to include acceptable practices, methods, or acts generally accepted in the Western Electric Coordinating Council region.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to a government, including the CPUC.

“Operating Arrangement” means that certain Operating Agreement dated as of April 17, 2003 by and between DWR and Utility, approved by the Commission pursuant to Decision 03-04-029, as such agreement may be amended or supplemented from time to time.

“Priority Long Term Power Contract” shall have the meaning set forth in the Rate Agreement.

“Rate Agreement” means the Rate Agreement between DWR and the Commission adopted by the Commission on February 21, 2002 in Decision 02-02-051

“Reimbursable Cost” means (i) any costs or charges imposed on or associated with the Monthly Nominated Capacity and any Additional Hourly Capacity and Contracted Energy, including without limitation any CAISO charges and penalties for not making available Capacity as bid or Scheduled or Contracted Energy as Scheduled into the CAISO markets, or (ii) any imbalance energy charges arising as a result of any failure to reduce Energy as Scheduled by Utility or CAISO, and (iii) Replacement Energy Cost.

“Replacement Energy” shall have the meaning set forth under the definition of “Replacement Energy Cost” contained in Section 1.01 herein.

“Replacement Energy Cost” means, to the extent not covered by imbalance energy charges reimbursements, the positive difference, if any, between (i) the price at which the Utility, acting in a commercially reasonable manner, purchases Energy in the amount which the Authority fails to reduce Contracted Energy as Scheduled or dispatched by the Utility in accordance with the DR Agreement (“Replacement Energy”), plus costs reasonably incurred by the Utility in purchasing such Energy and additional transmission charges, if any, reasonably incurred by the Utility to deliver such Energy, and (ii) the Energy Price.

“Servicing Arrangement” means the Servicing Order as specified in the Commission Decision 02-05-048 dated May 16, 2002, as such order may be amended or supplemented from time to time.

“Utility” means [Utility].

Section 1.02. Undefined Terms. Capitalized terms not otherwise defined in Section 1.01 herein shall have the meanings set forth in the Amended and Restated Demand Reserves Purchase Agreement dated as of May 17, 2002 by and between DWR and the Authority, not as amended. A copy of this agreement is included as Exhibit [ ] hereto.

**ARTICLE II**  
**OPERATIONAL ALLOCATION AND MANAGEMENT OF AMENDED AND**  
**RESTATED DEMAND RESERVES PURCHASE AGREEMENT**

Section 2.01. Operational Allocation of Amended and Restated Demand Reserves Purchase Agreement. On behalf of the Department, pursuant to the DRP, Utility shall schedule and dispatch Energy located in its Designated DR Territory and forward information to Department setting forth the amounts of Energy scheduled or dispatched by Utility and the dates of the scheduling, as set forth more fully in this Section below. The Parties understand that this Agency Agreement in its present form does not provide for scheduling or dispatch of Ancillary Services.

Utility shall follow CPUC dispatch guidelines that take into account many factors including availability and performance characteristics of the resource, contribution to system reliability and cost effectiveness. Utility shall schedule the DRP Call Option in accordance with CPUC dispatch guidelines and when it determines in its discretion it is prudent to do so for either reliability or economic reasons. Utility's decision will consider the availability of the Call Option (i.e., it is energy limited) and when scheduling it would yield the most value.

In scheduling and dispatching the DRP resources, the Parties shall follow the protocols set forth in Schedule 2, Section B, as may be modified from time to time in writing by mutual agreement of the Parties. Utility shall accept and perform dispatch instructions from the Department for reliability and testing purposes; provided that such dispatch instructions are in writing, and include the purpose for the dispatch and the information set forth in Schedule 2, Section A. Utility's obligation to accept and perform dispatch instructions for testing purposes from the Department shall be limited to four (4) hours per calendar month. The Department may independently dispatch and schedule DRP resources either on its own or through a third-party (whether or not in excess of the four-hour limitation), however, in the event that the Department independently dispatches and schedules such resources (whether or not in excess of the four-hour limitation), Utility shall have the right to terminate this Agreement as provided for in Section 2.05 (vii) herein. Provided further; to the extent that the Department independently dispatches or schedules the DRP resources either on its own or through a third-party and Utility has not terminated this Agreement as provided for above, Utility shall accept any inter-scheduling coordinator trades from direct access customers resulting from the dispatch of such resources by the Department.

Section 2.02. Standard of DR Agreement Management.

(a) Utility agrees to perform the functions specified in this Agency Agreement relating to the DR Agreement in a commercially reasonable manner, exercising Good Utility Practice, and in a fashion reasonably designed to serve the overall best interests of retail electric customers.

(b) To the extent requested by Utility, DWR shall provide evidence in CPUC proceedings describing Utility's and DWR's performance, rights and obligations under this Agency Agreement.

(c) DWR acknowledges the Commission's exclusive authority over whether the Utility has managed DRP Power available under the DR Agreement in a just and reasonable manner and DWR and Utility agrees that none of the provisions of this Agency Agreement shall be interpreted to reduce, diminish, or otherwise limit the scope of any CPUC authority or to give DWR any authority over such matters.

(d) Utility acknowledges DWR's separate and independent right to evaluate and enforce Utility's commercial performance under this Agency Agreement.

(e) Utility agrees to provide any information not otherwise required herein that is reasonably necessary to allow DWR to exercise its rights in subsection (d) above, provided that all such information shall be used solely for the purposes of exercising such rights.

Section 2.03. Good Faith. Each Party hereby covenants that it shall perform its actions, obligations and duties in connection with this Agency Agreement in good faith.

Section 2.04. Associated Resources. Any energy provided to Utility which arises from the reduction of load by a non-bundled Qualified End User pursuant to the DR Agreement and any Replacement Energy shall be collectively referred to herein as an "Associated Resource". Associated Resources shall constitute "DWR Power" for all purposes of the Servicing Arrangement, with such amendments to incorporate the Settlement Principles for Remittances and Surplus Revenues as provided in Exhibit C of the Operating Arrangement. The Parties agree that Utility shall have no obligation to remit to Department of any reduction of bundled customer load within Utility's service territory. Nothing in this Section is intended to change or expand any right, duties or obligations under, or add additional parties to, the Servicing Arrangement or the Operating Arrangement.

Section 2.05 Term. (a) This Agency Agreement shall commence on the Effective Date (as defined in Section 2.06, below) and terminate on the earliest of the following dates: (i) 11:59 p.m. on December 31, 2004; (ii) five (5) days after the CPUC Disapproval Date (as defined below); (iii) the date that the DR Agreement terminates; (iv) the date that the DR Agreement is modified in a manner that materially affects Utility's rights or obligations under this Agency Agreement and for which no notice was given pursuant to Section 5.01(g) below; or (v) upon five (5) days' written notice from Department to Utility; or (vi) upon consultation with the Commission and no less than five (5) days' written notice from Utility to the Department; provided that Utility shall cooperate with Department during a period not to exceed five (5) days in order to facilitate Department's assumption of Utility's duties under this Agency Agreement; or (viii) notwithstanding any cure periods otherwise provided for in Section 6.01 of this Agency Agreement, upon five (5) days' written notice by either Party that the Authority has failed to remit payment to such Party for Reimbursable Costs as provided for in Section 5.01(e) of this Agency Agreement.

(b) After termination of this Agency Agreement for any of the reasons set forth in Section 2.05(a), above, the Department's obligations under Section 5.01(e) herein will continue with respect to any invoice or demand for payment for Reimbursable Costs incurred by Utility in connection with the performance of its duties prior to the termination of this Agreement.

Section 2.06 Effective Date. The Effective Date of this Agency Agreement shall mean the date that it is fully executed by both Parties.

Section 2.07 Condition Subsequent of CPUC Approval. This Agency Agreement is subject to a condition subsequent of "Final CPUC Approval" as defined below.

- (a) Final CPUC Approval shall mean the issuance of a decision by, or order or finding of, the CPUC or any of its constituent departments acting on behalf of the CPUC, approving in its entirety this Agency Agreement, without conditions or modifications unacceptable to any Party, that has become final and is no longer subject to appeal and with findings that are acceptable to Utility.
- (b) Utility shall seek Final CPUC Approval of this Agency Agreement by submitting an advice letter or other appropriate filing (the "Filing") for a CPUC decision or order approving it and containing findings acceptable to Utility.
- (c) "CPUC Disapproval Date" means (i) Final CPUC Approval is not obtained by July 30, 2004 or such other later date mutually agreed to by the Parties in writing or (ii) the date CPUC issues a decision or order or finding in response to the Filing that is final and no longer subject to appeal and which disapproves the Filing, that does not contain findings acceptable to Utility or imposes conditions upon or modifications to this Agency Agreement that are unacceptable to either Party in its sole discretion.

Section 2.08 Ownership of Power. Notwithstanding any other provision herein, and in accordance with the Act and Section 80110 of the California Water Code, Utility and Department agree that Department shall retain title to all DRP Power, including Associated Resources. In accordance with the Act and Section 80104 of the California Water Code, upon the delivery of DRP Power to Utility's customers, these customers shall be deemed to have purchased that power from Department and payment for such sale shall be a direct obligation of such customer to Department.

### **ARTICLE III** **LIMITED AGENCY/NO ASSIGNMENT**

Section 3.01 Limited Agency. Utility is hereby appointed as the Department's agent for the limited purposes set forth in this Agency Agreement. Utility shall not be deemed to be acting, and shall not hold itself out, as agent for DWR for any purpose other than those described in this Agreement and the Operating Arrangement.

Section 3.02 No Assignment. The Department shall remain legally and financially responsible for performance under the DR Agreement and shall retain liability to the Authority for any failure of Utility to perform the functions referred to in this Agency Agreement on behalf of the Department as its limited agent under the DR Agreement in accordance with the terms thereof. Utility and the Department intend that the provisions of this Agency Agreement shall not constitute an "assignment" of the DR Agreement as such term is used, and as provided, therein.

**ARTICLE IV**  
**LIMITED DUTIES OF UTILITY**

Section 4.01 Limited Duties of Utility as to the DR Agreement. Subject to Utility's receipt of scheduling and dispatch information for resources under the DR Agreement disaggregated for its Designated DR Territory, during the Term of this Agency Agreement, on behalf of the Department, and as limited agent therefor, Utility shall:

- (a) Schedule and/or dispatch Energy in its Designated DR Territory pursuant to the terms of Article II of the DR Agreement, substantially in accordance with the guidelines set forth in Section 2.01 herein;
- (b) Transmit to the Department by close of business on the fifth Business Day of every month, a written statement (i) setting forth all Energy and Capacity that were Scheduled and/or dispatched by Utility during each hour of the immediately prior month, or (ii) stating that no Energy was scheduled or dispatched by Utility during the immediately prior month, in a format consistent with a data template to be developed by Utility and the Department;
- (c) Promptly remit to the Department at the rate for DWR power delivered to bundled customers set by the Commission for any Associated Resource in accordance with Exhibit C of the Operating Arrangement and the Servicing Arrangement;
- (d) Promptly transmit to the Department for reimbursement by Authority under the DR Agreement any invoice or other demand for payment of Reimbursable Costs incurred by Utility in connection with the performance of its duties hereunder, and provide any information requested by the Department or the Authority necessary for the Department or the Authority to validate such invoice or demand for payment;
- (e) Provide the information and validation services described under Schedule 1 attached hereto;
- (f) Appoint a primary and secondary contact person, as set forth in Schedule A hereto, to coordinate the responsibilities listed in this Article IV; and
- (g) At all times in performing its obligations under this Agency Agreement, (i) comply with the provisions of the DR Agreement, (ii) follow Good Utility Practice, and (iii) comply with all Applicable Laws and Applicable Commission Orders.

Provided, however, that Utility is expressly relieved of its above obligations to the extent Utility does not receive scheduling and dispatch information for resources under the DR Agreement disaggregated for its Designated DR Territory, and provided further, that in the event that the Department or the Authority fail to provide information or provides inaccurate information which results in Utility's non-compliance with its obligations under this Agency Agreement, the resulting non-compliance by Utility shall not constitute an Event of Default under Section VI.

Section 4.02. No Payment by Utility. Unless otherwise specifically provided in this Agency Agreement, Utility will not be required at any time to advance or pay any of its own funds in the fulfillment of its responsibilities under this Agency Agreement.

**ARTICLE V**  
**DUTIES OF THE DEPARTMENT**

Section 5.01 Duties of the Department. With respect to the Designated DR Territory, during the Term of this Agency Agreement, the Department shall:

- (a) Provide Utility with written notice of any event in which the Department dispatches and schedules the DRP resources independently of Utility, as provided for in Section 2.01 herein. Such notice shall be provided to Utility as much in advance as practicable, but in no case later than concurrently with the Department's (or its agent's) notice to the Authority (or its agent) dispatching the DRP resources, and such notice shall contain the information set forth in Schedule 2, Section A;
- (b) Remain fully responsible for and make all payments owed to Authority under the DR Agreement, including payment of or based upon the statements submitted to it by Utility as contemplated in Section 4.01(b) of this Agency Agreement;
- (c) Promptly forward to Utility all information that Department receives from Authority pursuant to Article II of the DR Agreement that is related to and/or necessary for the performance of Utility's duties as Department's limited agent under this Agency Agreement;
- (d) Remain fully responsible for resolving any dispute with the Authority about payments in accordance with Section 5.04 of the DR Agreement;
- (e) Upon receipt of any invoice or demand for payment for any Reimbursable Cost incurred by Utility in connection with the performance of its duties hereunder as described in Section 4.01(d) hereof, promptly forward same to Authority for payment and, upon Department's receipt of a payment from Authority for such Reimbursable Cost, transmit same to Utility. Department shall use commercially reasonable efforts to pursue any amounts due to Utility for all validly incurred and properly verified Reimbursable Costs. Should Authority reasonably dispute the validity of some or all of a Utility invoice or demand for payment, DWR shall express such dispute in writing to Utility within thirty (30) days of the date of such invoice or demand for payment, after which the parties will resolve the matter in accordance with Article X of this Agency Agreement;
- (f) Modify the DR Agreement in order to create a separate and independent right for Utility, as the Department's limited agent, to seek reimbursement directly from Authority for Reimbursable Costs that have not otherwise been paid by the Department under Section 5.01(e);

(g) Require that any amendment, change or modification to the DR Agreement that materially affects Utility's rights or obligations under this Agency Agreement shall only become effective after Utility has received thirty (30) days' written notice of the amendment, change or modification; and

(h) Appoint a primary and secondary contact person, as set forth in Schedule A hereto, to coordinate the responsibilities listed in this Article V.

Provided, however, that in the event that Utility fails to provide information or provides inaccurate information which results in the Department's non-compliance with its obligations under this Agency Agreement, the resulting non-compliance by the Department shall not constitute an Event of Default under Section VI.

Section 5.02. No Changes to DR Agreement. The Parties intend and understand that this Agency Agreement does not address, change or affect Department's rights and duties under the DR Agreement, other than as related to the Designated DR Territory.

## **ARTICLE VI** **EVENTS OF DEFAULT**

Section 6.01. Events of Default. The following events shall constitute "Events of Default" under this Agency Agreement:

- (a) Except as provided in subsection (c) below, any failure by a Party to duly observe or perform in any material respect any term or condition of such Party as set forth in this Agency Agreement, which failure continues and/or is not remedied for a period of fifteen calendar days after written notice thereof to such Party by the other Party; provided, however, that if such default cannot be remedied by the defaulting Party within the fifteen calendar day period, it shall not constitute a Event of Default if corrective action is commenced by the defaulting Party within the fifteen calendar day period and diligently pursued until the default is remedied;
- (b) Any representation or warranty made by a Party proves to be false, misleading or incorrect in any material respect as of the date made.

Section 6.02. Consequences of Event of Default.

- (a) Upon any Event of Default by Utility, DWR may, in addition to exercising any other remedies available under this Agency Agreement or under Applicable Law, terminate this Agency Agreement in whole or in part.
- (b) Upon any Event of Default by DWR, Utility may, in addition to exercising any other remedies available under this Agency Agreement or under Applicable Law, exercise its rights under Section 2.05 to terminate this Agency Agreement in whole or in part.

Section 6.03. Remedies. Subject to Article IX of this Agency Agreement, upon any Event of Default, the non-defaulting Party may exercise any other legal or equitable right or remedy that may be available to it under applicable law or under this Agency Agreement.

Section 6.04. Remedies Cumulative. Except as otherwise provided in this Agency Agreement, all rights of termination, cancellation, or other remedies in this Agency Agreement are cumulative. Use of any remedy shall not preclude any other remedy available under this Agency Agreement.

Section 6.05. Waivers. None of the provisions of this Agency Agreement shall be considered waived by either Party unless the Party against whom such waiver is claimed gives such waiver in writing. The failure of either Party to insist in any one or more instances upon strict performance of any of the provisions of this Agency Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

## **ARTICLE VII REPRESENTATIONS AND WARRANTIES**

### Section 7.01 Representations and Warranties.

(a) Each person executing this Agency Agreement on behalf of a Party expressly represents and warrants that he or she has authority to bind the Party for whom he or she signs.

(b) Each Party represents and warrants that it has the full power and authority to execute and deliver this Agency Agreement and to perform its terms, that execution, delivery and performance of this Agency Agreement has been duly authorized by all necessary corporate or other action by such Party, and that this Agency Agreement constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.

(c) The Department represents and warrants that all necessary and appropriate notices, inducements, undertakings, approvals, and consents have been obtained from the Authority in order for Utility to undertake its duties set forth in this Agency Agreement in a timely and appropriate fashion.

## **ARTICLE VIII PAYMENT OF FEES AND CHARGES**

Section 8.01 Utility Fees and Charges. The Decision has established cost recovery mechanisms that apply to this phase of Utility's implementation of the DRP. The Parties agree that Utility's administrative costs will be recovered pursuant to the Decision and that Utility shall enter such costs in its [Advanced Metering and Demand Response Memorandum

Account]. Utility shall seek cost recovery of its administrative costs under this Agency Agreement pursuant to such Commission proceeding.

## ARTICLE IX LIMITATIONS ON LIABILITY

Section 9.01 Consequential Damages. Except as otherwise provided under this Agency Agreement, in no event will either Party be liable to the other Party for any indirect, special, exemplary, incidental, punitive, or consequential damages under any theory. Nothing in this Section 9.01 shall limit either Party's rights as provided in Article VII above.

Section 9.02 [Reserved]

Section 9.03. Limited Obligations of DWR. Any amounts payable by DWR under this Agreement shall be payable solely from moneys on deposit in the Department of Water Resources Electric Power Fund established pursuant to Section 80200 of the California Water Code (the "Fund").

Section 9.04. Sources of Payment; No Debt of State. DWR's obligation to make payments hereunder shall be limited solely to the Fund and shall be payable as an operating expense of the Fund solely from Power Charges subject and subordinate to each Priority Long Term Power Contract in accordance with the priorities and limitations established with respect to the Fund's operating expenses in any indenture providing for the issuance of Bonds and in the Rate Agreement and in the Priority Long Term Power Contracts. Any liability of DWR arising in connection with this Agency Agreement or any claim based thereon or with respect thereto, including, but not limited to, any payment arising as the result of any breach or Event of Default under this Agreement, and any other payment obligation or liability of or judgment against DWR hereunder, shall be satisfied solely from the Fund. **NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS AGREEMENT.** Revenues and assets of the State Water Resources Development System, and Bond Charges under the Rate Agreement, shall not be liable for or available to make any payments or satisfy any obligation arising under this Agreement. **If moneys on deposit in the Fund are insufficient to pay all amounts payable by DWR under this Agreement, or if DWR has reason to believe such funds may become insufficient to pay all amounts payable by DWR under this Agreement, DWR shall diligently pursue an increase to its revenue requirements as permitted under the Act from the appropriate Governmental Authority as soon as practicable.** To the extent DWR's obligations are "administrative costs," they will require annual appropriation by the legislature.

Section 9.05 Cap on Liability. In no event will Utility be liable to DWR for damages under this Agency Agreement, including indemnification obligations, whether in contract, warranty, tort (including negligence), strict liability or otherwise (referred to as "Damages" for purposes of this Section, in an amount in excess of \$1,000,000 in total aggregate liability over the term of the Department's DR Agreement. Furthermore, Utility shall in no case be liable to the Department in an amount greater than the limit specified in Section 10.04 of the Operating Arrangement when liabilities under the Operating Arrangement and this Agency Agreement

are combined. The Department hereby releases and hold harmless Utility from any liability for Damages in excess of the limitations of liability set forth in this Section 9.05; provided, however, that this limitation of Utility liability shall not apply to the extent the liability is a result of Utility's gross negligence or willful misconduct.

## **ARTICLE X** **DISPUTE RESOLUTION**

Section 10.01 Dispute Resolution. Should any dispute arise between the Parties relating to this Agency Agreement, the Parties shall undertake good-faith negotiations to resolve such dispute. If the Parties are unable to resolve such dispute through good-faith negotiations, either Party may submit a detailed written summary of the dispute to the other Party. Upon such written presentation, each Party shall designate an executive with authority to resolve the matter in dispute. If the Parties are unable to resolve such dispute within 30 days from the date that a detailed summary of such dispute is presented in writing to the other Party, then either Party may, at its sole discretion, submit the dispute to binding arbitration for final resolution.

## **ARTICLE XI** **RECORDS AND AUDIT RIGHTS**

Section 11.01. Records. Utility shall maintain accurate records and accounts relating to the DR Agreement in sufficient detail to permit DWR to audit and monitor the functions to be performed by Utility on behalf of DWR, as its limited agent, under this Agency Agreement. In addition, Utility shall maintain accurate records and accounts relating to DWR Revenues to be remitted by Utility to DWR, consistent with the Settlement Principles for Remittances and Surplus Revenues set forth in Exhibit C of the Operating Arrangement. Utility shall provide to DWR and its Assign(s) access to such records. Access shall be afforded without charge, upon reasonable request made pursuant to Section 11.02. Access shall be afforded only during Business Hours and in such a manner so as not to interfere unreasonably with Utility's normal operations. Utility shall not treat DWR Revenues as income or assets of Utility or any affiliate for any tax, financial reporting or regulatory purposes, and the financial books or records of Utility and affiliates shall be maintained in a manner consistent with the absolute ownership of DWR Revenues by DWR and Utility's holding of DWR Revenues in trust for DWR (whether or not held together with other monies).

### Section 11.02. Audit Rights.

- (a) Upon 30 calendar days' prior written notice, DWR may request an audit, conducted by DWR or its agents (at DWR's expense), of Utility's records and procedures, which shall be limited to records and procedures containing information bearing upon Utility's performance of its obligations under this Agency Agreement. The audit shall be conducted during Business Hours without interference with Utility's normal operations, and in compliance with Utility's security procedures.

- (b) Utility agrees that, DWR or the State of California Department of General Services, the Bureau of State Audits, or their designated representative ("DWR's Agent") shall have the right to review and to copy (at DWR's expense) any non-confidential records and supporting documentation pertaining to the performance of this Agency Agreement and to conduct an on-site review of any confidential information. Utility agrees to maintain such records for such possible audit for three years after final remittance to DWR. Utility agrees to allow such auditor(s) access to such records during business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Utility agrees to include a similar right for DWR or DWR's Agent to audit records and interview staff in any contract between Utility and a subcontractor directly related to performance of this Agency Agreement.

Section 11.03. Other Information. Upon the reasonable request of DWR or its Assign(s), Utility shall provide to DWR or its Assign(s) any public financial information in respect of Utility applicable to services provided by Utility under this Agency Agreement, to the extent such information is reasonably available to Utility, which (i) is reasonably necessary and permitted by Applicable Law to monitor the performance by Utility hereunder, or (ii) otherwise relates to the exercise of DWR's rights or the discharge of DWR's duties under this Agency Agreement or any Applicable Law. In particular, but without limiting the foregoing, Utility shall provide to DWR any such information that is necessary or useful to calculate DWR's revenue requirements (as described in Sections 80110 and 80134 of the California Water Code)

Upon the reasonable request of DWR, Utility shall provide to DWR any information in respect of Utility that is applicable to the rights and obligations of the Parties under this Agency Agreement or any material information that is reasonably necessary for DWR to monitor and manage its risks and perform its fiduciary duties.

Upon the reasonable request of Utility, DWR will provide to Utility any information in respect of DWR that is applicable to the rights and obligations of the Parties under this Agency Agreement or any material information that is reasonably necessary for Utility to operationally administer the DR Agreement under this Agency Agreement.

Section 11.04. Data and Information Retention. All data and information associated with the provision and receipt of services pursuant to this Agency Agreement shall be maintained for the greater of (a) the retention time required by Applicable Law or Applicable Tariffs for maintaining such information, or (b) three (3) years.

## **ARTICLE XII** **MISCELLANEOUS**

Section 12.01. Assignment

(a) Except as provided in paragraphs (b) and (c) below, neither Party shall assign or otherwise dispose of this Agency Agreement, its right, title or interest herein or any part hereof to any part hereof to any entity, without the prior written consent of the other Party. No assignment of this Agency Agreement shall relieve the assigning Party of any of its obligations under this Agreement until such obligations have been assumed by the assignee. When duly assigned in accordance with this Section 12.01(a) and when accepted by the assignee, this Agency Agreement shall be binding upon and shall inure to the benefit of the assignee. Any assignment in violation of this Section 12.01 shall be void.

(b) Utility acknowledges and agrees that DWR may assign or pledge its rights to receive performance hereunder to a trustee or another party ("Assign(s)") in order to secure DWR's obligations under its bonds (as that term is defined in the Act), and any such Assign shall be a third party beneficiary of this Agreement; provided, however, that this authority to assign or pledge rights to receive performance hereunder shall in no event extend to any person or entity that sells power or other goods or services to DWR.

(c) Any person (i) into which Utility may be merged or consolidated, (ii) which may result from any merger or consolidation to which Utility shall be a party or (iii) which may succeed to the properties and assets of Utility substantially as a whole, which person in any of the foregoing cases executes an agreement of assumption to perform every obligation of Utility hereunder, shall be the successor to Utility under this Agreement without further act on the part of any of the Parties to this Agreement; provided, however, that Utility shall have delivered to DWR and DWR its Assign(s) an opinion of counsel reasonably acceptable to DWR stating that such consolidation, merger or succession and such agreement of assumption complies with this Section 13.01(c) and that all of Utility's obligations hereunder have been validly assumed and are binding on any such successor or assign.

(d) Notwithstanding anything to the contrary herein, DWR's rights and obligations hereunder shall be transferred, without any action or consent of either Party hereto, to any entity created by the State legislature which is required under Applicable Law to assume the rights and obligations of DWR under Division 27 of the California Water Code.

Section 12.02 Force Majeure. Neither Party shall be liable for any delay or failure in performance of any part of this Agency Agreement (including the obligation to remit money at the times specified herein) from any cause beyond its reasonable control, including but not

limited to, unusually severe weather, flood, fire, lightning, epidemic, quarantine restriction, war, sabotage, act of a public enemy, earthquake, insurrection, riot, civil disturbance, strike, restraint by court order or Government Authority, or any combination of these causes, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by the exercise of due diligence is unable to overcome.

Section 12.03 Severability. In the event that any one or more of the provisions of this Agency Agreement shall for any reason be held to be unenforceable in any respect under applicable law, such unenforceability shall not affect any other provision of this Agency Agreement, but the Agency Agreement shall be construed as if such unenforceable provision or provisions had never been contained herein.

Section 12.04 Third Party Beneficiaries. The provisions of this Agency Agreement are exclusively for the benefit of the Parties and any permitted assignee of either Party and there are no third party beneficiaries under this Agency Agreement.

Section 12.05 Governing Law. This Agency Agreement shall be interpreted, governed and construed under the laws of the State of California, without giving effect to choice of law provisions.

Section 12.06 Section Headings. Section and Article headings appearing in this Agency Agreement are inserted for convenience only and shall not be construed as interpretations of text.

Section 12.07 Amendments. No amendment, modification, or supplement to this Agency Agreement shall be effective unless it is in writing and signed by the authorized representatives of both Parties and approved as required, and by reference incorporates this Agency Agreement and identifies the specific portions that are amended, modified, or supplemented or indicates that the material is new. No oral understanding or agreement not incorporated in this Agency Agreement is binding on either of the Parties.

Section 12.08 Amendment Upon Changed Circumstances. The Parties acknowledge that compliance with any Commission decision, legislative action or other governmental action (whether issued before or after the Effective Date of this Agency Agreement), including, but not limited to, the modification of the DR Agreement, affecting the operation of this Agency Agreement may require that amendment(s) be made to this Agency Agreement. The Parties therefore agree that if either Party reasonably determines that such a decision, action or modification would materially affect the services to be provided hereunder or the reasonable costs thereof, then upon the issuance of such decision or the approval of such action (unless and until it is stayed) or modification, the Parties will negotiate the amendment(s) to this Agency Agreement that is (or are) appropriate in order to effectuate the required changes in services to be provided or the reimbursement thereof. If the Parties are unable to reach agreement on such amendments within 60 days after the issuance of such decision or approval of such action or modification, either Party may, in the exercise of its sole discretion, submit the disagreement to binding arbitration for final resolution. Nothing herein shall preclude either Party from exercising its rights to terminate this Agency Agreement or from challenging

the decision, action or modification which such Party deems may adversely affect its interests in any appropriate forum of the Party's choosing.

The Parties agree that, if the rating agencies request changes to this Agency Agreement which the Parties reasonably determine are necessary and appropriate, the Parties will negotiate in good faith, but will be under no obligation to reach agreement or to ask the Commission to amend this Agreement to accommodate the rating agency requests and will cooperate in obtaining any required approvals of the Commission or other entities for such amendments.

Section 12.09 Indemnification.

(a) Indemnification of DWR. Utility (the "Indemnitor") shall at all times protect, indemnify, defend and hold harmless DWR, and its elected officials, appointed officers, employees, representatives, agents and contractors (each, an "Indemnified Party" or an "Indemnitee") from and against (and pay the full amount of) any and all claims (whether in tort, contract or otherwise), demands, expenses (including, without limitation, in-house and retained attorneys' fees) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), of third parties arising from or in connection with (or alleged to arise from in connection with): (1) any failure by Utility to perform its material obligations under this Agency Agreement; (2) any material representation or warranty made by Utility shall prove to be false, misleading or incorrect in any material respect as of the date made; (3) the gross negligence or willful misconduct of Utility or any of its officers, directors, employees, agents, representatives, subcontractors or assignees in connection with this Agency Agreement; and (4) any violation of or failure by Utility or Indemnitor to comply with any Applicable Commission Orders or Applicable Law; provided, however, that the foregoing indemnifications and protections shall not extend to any losses arising from gross negligence or willful misconduct of any Indemnified Party.

(b) Obligation of Utility. Utility shall not, in acting as Department's limited agent hereunder, be required to perform any obligations under the DR Agreement or to make any payments on behalf of Authority or the Department or as a result of the failure of (i) DRP participants to fulfill their obligations under the DRP Program, (ii) the Authority or Department to perform under the DR Agreement, or (iii) third-party Scheduling Coordinators to perform any requisite inter-scheduling coordinator trade pursuant to the DRP.

(c) Indemnification of Utility. To the extent permitted by law, DWR (“Indemnitor”) shall at all times protect, indemnify, defend and hold harmless Utility, and its officers, employees, representatives, agents and contractors (each, an “Indemnified Party” or “Indemnitee”), from and against (and pay the full amount of) any and all claims (whether in tort, contract or otherwise), demands, expenses (including, without limitation, in-house and retained attorneys’ fees) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), of third parties arising from or in connection with (or alleged to arise from on in connection with): (1) any failure by DWR to perform its material obligations under this Agency Agreement or the DR Agreement; (2) any material representation or warranty made by DWR shall prove to be false, misleading or incorrect in any material respect as of the date made; (3) the gross negligence or willful misconduct of the DWR or any of its officers, directors or employees, agents, representatives, subcontractors or assignees in connection with this Agreement; (4) any violation of or failure by DWR or Indemnitor to comply with any Applicable Law; and (5) any action claiming that as DWR’s limited agent under this Agreement, Utility failed to perform the obligations of the Authority or an aggregator for the Authority, such as APX under the DR Agreement, provided, however, that the foregoing indemnifications and protections shall not extend to any losses arising from the gross negligence or willful misconduct of any Indemnified Party, and provided further that the foregoing indemnifications and protections shall not extend to any losses arising from penalties imposed by the Commission.

(d) Indemnification Procedures. Indemnitee shall promptly give notice to Indemnitor of any claim or action to which it seeks indemnification from Indemnitor. Indemnitor shall defend any such claim or action brought against it, and may also defend such claim or action on behalf of the Indemnitee (with counsel reasonably satisfactory to Indemnitor) unless there is any actual or potential conflict between Indemnitor and Indemnitee with respect to such claim or action. If there is any actual or potential conflict between Indemnitor and Indemnitee with respect to such claim or action, Indemnitee shall have the opportunity to assume (at Indemnitor’s expense) defense of any claim or action brought against Indemnitee by a third party; however, failure by Indemnitee to request defense of such claim or action by the Indemnitor shall not affect Indemnitee’s right to indemnity under this Section 12.09. In any action or claim involving Indemnitee, Indemnitor shall not settle or compromise any claim without the prior written consent of Indemnitee.

Section 12.10 Notices. Any notice, demand or request under this Agency Agreement shall be in writing and shall be deemed to have been given (i) on the date delivered in person, (ii) on the date sent when transmitted by facsimile or by electronic mail, or (iii) 72 hours after delivery to a United States post office when sent by certified or registered United States mails postage prepaid, and addressed as set forth below:

Utility: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Department: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Either Party may change its address as set forth above by providing the other Party with notice of the change under this Section 12.10.

Section 12.11 Entire Agreement. This Agency Agreement contains the entire agreement and understanding between the Parties as to the subject matter of this Agency Agreement and supercedes all prior agreements, representation and discussions between the Parties concerning its subject matter. Each Party further represents that, in entering into this Agency Agreement, it has not relied on any promise, inducement, representation, warranty, agreement or other statement not set forth herein.

Section 12.12. Successors and Assigns. This Agency Agreement shall be binding upon and inure to the benefit of the Parties' respective heirs, administrators, representatives, executors, successors and assigns permitted under Section 12.01 hereto.

Section 12.13. Further Assurances. The Parties agree to cooperate promptly and fully in taking such other actions as may later be determined to be reasonably necessary to effectuate the provisions of this Agency Agreement, including but not limited to, petitioning the Commission for modification of the Operating Arrangement or Servicing Arrangement, if necessary and appropriate.

Section 12.14 Government Code and Public Contract Code Inapplicable. The Department has determined, pursuant to Section 80014(b) of the California Water Code that application of certain provisions of the Government Code and Public Contract Code applicable

to State contracts, including but not limited to advertising and competitive bidding requirements and prompt payment requirements, would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the California Water Code and that such provisions and requirements are therefore not applicable to or incorporated in this Agency Agreement.

Section 12.15. Survival of Payment Obligations. Upon termination of this Agency Agreement, each Party shall remain liable to the other Party for all amounts owing under this Agency Agreement. Utility shall continue to collect and remit, pursuant to the terms of the Servicing Arrangement and the principles provided in the Settlement Principles for Remittances and Surplus Revenues provided in Exhibit C of the Operating Arrangement and any DWR Charges (as defined in the Servicing Arrangement) billed to customers attributable to Associated Resources delivered to Utility's customers before the effective date of termination of the Servicing Arrangement.

Section 12.16 Multiple Originals. This Agency Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document.

Section 12.17. Other Agency Agreement. It is DWR's intent to have a consistent agency agreement with respect to the subject matter of this Agency Agreement with all three of California's investor-owned electric utilities. Should DWR reach an agency agreement with another utility relating to the subject matter of this Agency Agreement, that in Utility's judgment is more favorable on the whole than this Agency Agreement, Utility shall have the right to receive the same terms and conditions as such other utility. This provision specifically does not allow Utility to select particular portions or provisions of such other utility's agency agreement. In addition, if Utility elects to be subject to such other utility's agency agreement's terms and conditions, Utility shall be subject to such other utility's agency agreement with only such modifications agreed to by DWR as necessary to address operating differences between that other utility and Utility. Utility shall exercise the foregoing right within 30 days following Commission approval of such other agency agreement or within 30 days of the Department's written notification to Utility that the Department has amended such other agency agreement if Commission approval of such other agency agreement is not anticipated by Utility.

Section 12.18. Enforcement of Agency Agreement. The Department acknowledges that Utility has a right to evaluate and enforce DWR's commercial performance under this Agency Agreement.

### ARTICLE XIII

#### CONFIDENTIALITY

Section 13.01. Proprietary Information.

(a) Nothing in this Agreement shall affect Utility's obligations to observe any Applicable Law prohibiting the disclosure of Confidential Information regarding its customers.

(b) Nothing in this Agreement, and in particular nothing in Sections 13.01(e)(x) through 13.01(e)(z) of this Agreement, shall affect the rights of the Commission to obtain from Utility, pursuant to Applicable Law, information requested by the Commission, including Confidential Information provided by DWR to Utility. Applicable Law, and not this Agreement, will govern what information the Commission may disclose to third parties, subject to any confidentiality agreement between DWR and the Commission.

(c) The Parties acknowledge that each Party may acquire information and material that is the other Party's confidential, proprietary or trade secret information. As used herein, "Confidential Information" means any and all technical, commercial, financial and customer information disclosed by one Party to the other (or obtained from one Party's inspection of the other Party's records or documents), including any patents, patent applications, copyrights, trade secrets and proprietary information, techniques, sketches, drawings, maps, reports, specifications, designs, records, data, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, object code, source code, and information related to the current, future and proposed products and services of each of the Parties, and includes, without limitation, the Parties' respective information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, business forecasts, sales and merchandising, and marketing plans and information. In all cases, Confidential Information includes proprietary or confidential information of any third party disclosing such information to either Party in the course of such third party's business or relationship with such Party. Utility's Confidential Information also includes any and all lists of customers, and any and all information about customers, both individually and aggregated, including but not limited to customers' names, street addresses of customer residences and/or facilities, email addresses, identification numbers, Utility account numbers and passwords, payment histories, energy usage, rate schedule history, allocation of energy uses among customer residences and/or facilities, and usage of DWR Power. All Confidential Information disclosed by the disclosing Party ("Discloser") will be considered Confidential Information by the receiving Party ("Recipient") if identified as confidential and received from Discloser.

(d) Each Party agrees to take all steps reasonably necessary to hold in trust and confidence the other Party's Confidential Information. Without limiting the generality of the immediately preceding sentence, each Party agrees (i) to hold the other Party's Confidential Information in strict confidence, not to disclose it to third parties or to use it in any way, commercially or otherwise, other than as permitted under this Agreement; and (ii) to limit the disclosure of the Confidential Information to those of its employees, agents or directly related subcontractors with a need to know who have been advised of the confidential nature thereof and who have acknowledged their express obligation to maintain such confidentiality. DWR shall not disclose Confidential Information to employees, agents or subcontractors that are in any respect responsible for power marketing or trading activities associated with the State Water Resources Development System.

(e) The foregoing two paragraphs will not apply to any item of Confidential Information if: (i) it has been published or is otherwise readily available to the public other than by a breach of this Agreement; (ii) it has been rightfully received by Recipient from a third party without breach of confidentiality obligations of such third party and outside the context of the provision of services under this Agreement; (iii) it has been independently developed by Recipient personnel having no access to the Confidential Information; (iv) it was known to Recipient prior to its first receipt from Discloser, or (v) it has been summarized, processed and incorporated for incorporation into reports, discussions, statements or any other further work product. In addition, Recipient may disclose Confidential Information if and to the extent required by law or a Governmental Authority, provided that (x) Recipient shall give Discloser a reasonable opportunity to review and object to the disclosure of such Confidential Information, (y) Discloser may seek a protective order or confidential treatment of such Confidential Information, and (z) Recipient shall make commercially reasonable efforts to cooperate with Discloser in seeking such protective order or confidential treatment. Discloser shall pay Recipient its reasonable costs of cooperating.

Section 13.02. No License. Nothing contained in this Agreement shall be construed as granting to a Party a license, either express or implied, under any patent, copyright, trademark, service mark, trade dress or other intellectual property right, or to any Confidential Information now or hereafter owned, obtained, controlled by, or which is or may be licensable by, the other Party.

Section 13.03. Survival of Provisions. The provisions of this Article XIII shall survive the termination of this Agreement.

**IN WITNESS WHEREOF, IT IS SO AGREED BY THE PARTIES:**

[UTILITY],

By: \_\_\_\_\_

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

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

**STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES**, acting solely under the authority and powers granted by ABIX, codified in Section 80000 through 80270 of the Water Code, as amended from time to time, and not under its powers and responsibilities with respect to the State Water Resources Development System

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

*Schedule 1*

Information and Validation Under Section 4.01(e)

<b><u>UTILITY SCHEDULE/BILATERAL INVOICE – SCHEDULE 1</u></b>			
<b><u>REQUIREMENT</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>FREQUENCY</u></b>	<b><u>DELIVERY METHOD</u></b>
MWh Schedule	Provide the amount of demand reduction scheduled through the APX by hour.	Monthly - 5 days after the end of the Invoice Month	Electronic Format / Standard Form TBD
Validate MWh Meter Reads	Validate Qualified End Users meter reads used by APX to determine Contracted Energy under DR Agreement, Attachment B and notify DWR of any discrepancies, provided, however, that such data is available to Utility to make such validation.	Monthly - 30 days after the end of the Invoice Month or 30 days after the receipt of the requisite data from APX, whichever is later	Electronic Format / Standard Form TBD
Validate Calculations	Validate APX calculated payments and charges for Contracted Energy under DR Agreement, Attachment B and notify DWR of accuracy.	Monthly - 30 days after the end of the Invoice Month or 30 days after the receipt of the requisite data from APX, whichever is later	Electronic Format / Standard Form TBD

<u>UNBUNDLED SCHEDULE/BILATERAL INVOICE – SCHEDULE 1</u>			
<u>REQUIREMENT</u>	<u>DESCRIPTION</u>	<u>FREQUENC</u>	<u>DELIVERY METHOD</u>
MW/h Scheduled	Provide the amount of demand reduction scheduled by Utility through the APX and SC Trades scheduled with the CAISO by hour.	<u>Y</u> Monthly - 5 days after the end of the Month	Electronic Format / Standard Format TBD

*Schedule 2*Information and Protocols Required to Schedule and Dispatch CPA's Call Option**A. Information Needed by Utility**

The Department shall provide Utility with the following information in conjunction with all requests to schedule and dispatch DRP Program resources:

1. MW for each product type;
2. Product type separated into demand zones;
3. Items 1 and 2 shall be further disaggregated into Utility and "unbundled" customers; and
4. Sub-division of each product when the offering of any type exceeds 100 MW.

**B. Operational Protocols**

The Parties shall follow the protocols set forth below in scheduling and dispatching the DRP Program resources. New or modified products may require modifications to this schedule prior to such new product implementation or testing.

The CPA SC and the Utility shall agree upon the format and systems for the exchange of data as provided in this Schedule.

Product *	Requirements
Day Ahead Reservation **	<ol style="list-style-type: none"> <li>1. Prior to the start of the delivery month, the Scheduling Coordinator for the CPA Call Option ("CPA SC") shall provide Utility with the amount of Monthly Nominated Capacity available for scheduling by Utility. By no later than 0600 hours, one business day prior to delivery, the CPA SC shall provide total capacity (i.e. Monthly Nominated Capacity plus any Additional Hourly Capacity) available for scheduling by Utility in the detail specified in this Schedule.</li> <li>2. By the end of the business day prior to delivery, Utility shall notify the CPA SC of its hourly reservation of capacity for each daily product type by demand zone.</li> <li>3. Three and one-half hours prior to the initiation of demand reduction, Utility shall notify the CPA SC of the dispatch of its hourly reserved capacity for each "Daily Product" type by demand zone.</li> <li>4. Demand reductions provided by "unbundled" customers shall be accomplished by an inter-SC trade of the dispatched demand reduction between the CPA SC (sending SC) and Utility (receiving SC) following standard CAISO hour-head</li> </ol>

	protocols.
Same Day Dispatch	<ol style="list-style-type: none"> <li>1. By the beginning of the business day, one business day prior to delivery, CPA SC shall provide Utility the amount of "Same Day Products" available for scheduling by Utility in the detail specified in this Schedule.</li> <li>2. Three and one-half hours prior to the initiation of demand reduction, Utility shall notify the CPA SC of the dispatch of its hourly, available capacity for each "Same Day Product" type" by demand zone.</li> <li>3. Demand reductions provided by "unbundled" customers shall be accomplished by an inter-SC trade of the dispatched demand reduction between the CPA SC (sending SC) and the Utility (receiving SC) following standard CAISO hour-ahead protocols.</li> </ol>

\* "Daily" and "Same Day Products" are as described in Kellan Fluckiger's April 8, 2004, "DRP New Product Sheet."

\*\* "Day Ahead Reservation" product capacity must be reserved before it can be dispatched, but reservation does not require dispatch and does not count against allowed called hours for participating customers.

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

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

Duncan, Virgil E.  
Dutcher, John  
Dynegy Inc.  
Ellison Schneider  
Energy Law Group LLP  
Enron Energy Services  
Exeter Associates  
Foster, Wheeler, Martinez  
Franciscan Mobilehome  
Future Resources Associates, Inc  
GLJ Energy Publications  
Goodin, MacBride, Squeri, Schlotz &  
Grueineich Resource Advocates  
Hanna & Morton  
Heeg, Peggy A.  
Hogan Manufacturing, Inc  
House, Lon  
Imperial Irrigation District  
Integrated Utility Consulting Group  
International Power Technology  
J. R. Wood, Inc  
JTM, Inc  
Kaiser Cement Corp  
Korea Elec Power Corp  
Marcus, David  
Masonite Corporation  
Matthew V. Brady & Associates  
Maynor, Donald H.  
McKenzie & Assoc  
McKenzie & Associates  
Meek, Daniel W.  
Mirant California, LLC  
Modesto Irrigation Dist  
Morrison & Foerster  
Morse Richard Weisenmiller & Assoc.  
New United Motor Mfg, Inc  
Norris & Wong Associates  
North Coast Solar Resources  
Northern California Power Agency  
PG&E National Energy Group  
Pinnacle CNG Company  
PPL EnergyPlus, LLC  
Price, Roy  
Product Development Dept  
Provost Pritchard  
R. M. Hairston & Company  
R. W. Beck & Associates  
Recon Research  
Regional Cogeneration Service  
RMC Lonestar  
Sacramento Municipal Utility District  
SCD Energy Solutions  
Seattle City Light  
Sempra

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