

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



REVISED

September 4, 2013

Advice Letter 4260-E

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

Subject: G. Oberti and Sons Lease - Request for Approval Under Section 851

Dear Mr. Cherry:

Advice Letter 4260-E is effective August 22, 2013.

Sincerely,

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

Edward F. Randolph, Director
Energy Division

July 23, 2013

Advice 4260-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: G. Oberti and Sons Lease - Request for Approval Under Section 851

Purpose

Pacific Gas and Electric ("PG&E") submits this advice letter seeking approval, under Public Utilities Code Section 851, for PG&E to enter into a 25-year ground lease agreement ("Lease Agreement") with G. Oberti and Sons ("Oberti Farms" or "the Tenant"), allowing Oberti Farms to plant and operate an almond farm located on approximately six (6) acres in Madera County.

Background

PG&E and Oberti Farms seek approval from the California Public Utilities Commission ("Commission or CPUC") for Oberti Farms to lease certain property owned by PG&E on the north side of the San Joaquin River in Madera County and just east of California State Route 99. The property has been vacant since Fundus Farms abandoned the property after their license agreement expired in 2002.

The Lease Agreement (Attachment 1) allows for planting, cultivating, maintaining, and operating an orchard and associated irrigation system, and for no other purpose. Oberti Farms will take over the current vacant land and restore approximately six (6) acres of property before planting almond trees. To facilitate the amortization of the significant costs that Oberti Farms must incur to restore and maintain the property, which has been vacant for over ten years, PG&E is proposing to enter into a 25-year lease agreement. The annual rent the first 5 years will be zero (0) dollars because of the costs to clean up the property and also because the almond trees will not produce a harvest for the first 5 years. Beginning with year 6, the annual rent will increase to fair market rental value and increase by 50 dollars a year for every 5-year period of the lease agreement.

In accordance with General Order 173, PG&E provides the following information related to the proposed transaction:

(a) Identity and Addresses of All Parties to the Proposed Transaction:

Pacific Gas and Electric Company	G. Oberti and Sons
Darren P. Roach	PO Box 1167
Law Department	Madera, CA 93639
P.O. Box 7442	Telephone: (559) 673-2247
San Francisco, CA 94120	Facsimile: (559) 673-2251
Telephone: (415) 973-6345	Email: kenkatz@earthlink.net
Facsimile: (415) 973-5520	
Email: DPRC@pge.com	

(b) Complete Description of the Property Including Present Location, Condition and Use:

The six (6) acres of property Oberti Farms requests to lease is located on the western portion of a 66-acre parcel owned by PG&E on the north side of the San Joaquin River in Madera County and just east of California State Route 99 (Assessor's Parcel Number 048-280-006). The property has been vacant since Fundus Farms abandoned the property and their nectarine trees after their license agreement expired in 2002.

(c) Intended Use of the Property:

The terms of the proposed Lease Agreement, included herein as Attachment 1, allows for planting, cultivating, maintaining, and operating an orchard and associated irrigation system, and for no other purpose. The Tenant plans to plant and operate an almond farm.

Prior to planting almond trees, Oberti Farms will have to restore the approximately six (6) acres of property that was abandoned with nectarine trees by the previous tenant on the property.

(d) Complete Description of Financial Terms of the Proposed Transaction:

Under the proposed Lease Agreement, the Tenant will pay PG&E an annual rent due and payable in advance on the first day of each Lease Year.

Payment of the Rent will be as follows:

Annual Rent: To facilitate the amortization of the significant costs that Oberti Farms must incur to restore and maintain the property, which has been vacant for over ten years, PG&E is proposing to enter into a 25-year lease agreement. The annual rent for the first 5 years will be zero (0) dollars because of the costs to clean up the property and also because the almond trees will not produce a harvest for the first 5 years. Beginning with year 6, the annual rent will increase

to fair market rental value and increase by 50 dollars a year for every 5-year period of the lease agreement, as shown in the table below.

Lease Years 1-5:	\$0
Lease Years 6-10:	\$1,500
Lease Years 11-15:	\$1,550
Lease Years 16-20:	\$1,600
Lease Years 21-25:	\$1,650
Extension Term:	\$1,700

(e) Description of How Financial Proceeds of the Transaction Will Be Distributed:

As consideration for the grant of Lease described in this advice letter, Oberti Farms will pay PG&E rent for use of the premise. The property described in this advice letter is part of PG&E's Electric Transmission system. Any compensation received by PG&E from Oberti Farms will be credited to Other Operating Revenue and will be used to reduce PG&E's revenue requirement in future general rate cases, consistent with conventional cost-of-service ratemaking.

(f) Statement on the Impact of the Transaction on Ratebase and Any Effect on the Ability of the Utility to Serve Customers and the Public:

As a result of this transaction, no PG&E property is being sold or disposed of. As such, there will be no change in PG&E's rate base. Furthermore, granting this lease will not interfere with and/or affect PG&E's ability to provide safe and reliable service to its customers and the public at large.

On the contrary, ratepayers will benefit from granting this lease. Rental revenues collected during the duration of the lease will help reduce the rates that ratepayers would otherwise have had to pay. Further, as bound by the terms of lease, the Tenants will also be required to bear maintenance costs associated with these facilities, which PG&E customers would have otherwise had to bear.

(g) The Original Cost, Present Book Value, and Present Fair Market Value for Sales of Real Property and Depreciable Assets, and a Detailed Description of How the Fair Market Value Was Determined (e.g., Appraisal):

Not Applicable.

(h) The Fair Market Rental Value for Leases of Real Property, and a Detailed Description of How the Fair Market Rental Value Was Determined:

Fair Market rental value is approximately within the range of \$41.50 and \$66.00 per acre per month. This is based on the following information received:

PG&E relied on information published by the United States Department of Agriculture's National Agricultural Statistics Service (NASS) titled, *2012 California Land Values and Cash Rents Release*, and a University of California at Davis ("UC Davis") study, *Costs to establish an Orchard and Produce Almonds ("Study")*. Per the NASS publication, the 2012 San Joaquin Valley non-irrigated rental rate is \$41.50 per acre and the average rental rate for the last five (5) years is \$53.80. Below normal rainfall throughout the winter was a contributing factor to the lower realized rental rates.

(i) For Fair Market Rental Value of the Easement or Right-of-Way and a Detailed Description of How the Fair Market Rental Value Was Determined:

Not Applicable.

(j) A Complete Description of any Recent Past (Within the Prior Two Years) or Anticipated Future Transactions that May Appear To Be Related to the Present Transaction¹:

As part of the California Department of Transportation's (Caltrans) Island Park project in Madera County, PG&E has been requested to relocate an 8" gas transmission pipeline off the San Joaquin Bridge. In turn, PG&E plans to install a new 16" gas transmission line along Old California State Route 99 alignment. The new path will cross through the leased acreage to Oberti Farms and PG&E will request an easement for this new line within the next few years.

(k) Sufficient Information and Documentation (Including Environmental Review Information) to Indicate that All Criteria Set Forth in Rule 3 of General Order ("GO") 173 are Satisfied:

PG&E has provided information in this Advice Letter to satisfy the eligibility criteria under GO 173 in that:

- The activity proposed in the transaction will not require environmental review by the CPUC as a Lead Agency;

¹ During adoption of the Advice Letter pilot program in ALJ-186 (later followed by ALJ-202 and ALJ-244), this category of information was included to enable the CPUC to ensure that utilities were not seeking to circumvent the \$5 million Advice Letter threshold by dividing what is a single asset with a value of more than \$5 million into component parts each valued at less than \$5 million, which is clearly not the case here. (See CPUC Resolution ALJ-186, issued August 25, 2005, mimeo, p.5.)

- The transaction will not have an adverse effect on the public interest or on the ability of PG&E to provide safe and reliable service to its customers at reasonable rates;
- The transaction will not materially impact the rate base of PG&E; and
- The transaction does not warrant a more comprehensive review that would be provided through a formal Section 851 application.

(l) Additional Information to Assist in the Review of the Advice Letter:

No information is readily available other than what has already been included within this advice letter filing.

(m) Environmental Information

Pursuant to GO 173, the Advice Letter program applies to proposed transactions that will not require environmental review by the CPUC as a lead agency under the California Environmental Quality Act ("CEQA") either because: (a) a statutory or categorical exemption applies (the applicant must provide a notice of exemption from the Lead Agency or explain by an exemption applies), or (b) because the transaction is not a project under CEQA (the applicant must explain the reasons why it believes that the transaction is not a project), or (c) because another public agency, acting as the Lead Agency under CEQA, has completed environmental review of the project, and the Commission is required to perform environmental review of the project only as a Responsible Agency under CEQA.

(1) Exemption

- a. Has the proposed transaction been found exempt from CEQA by a government agency?
 - i. If yes, please attach notice of exemption. Please provide name of agency, date of Notice of Exemption, and State Clearinghouse number.

Not Applicable.
 - ii. If no, does the applicant contend that the project is exempt from CEQA? If yes, please identify the specific CEQA exemption or exemptions that apply to the transaction, citing to the applicable State CEQA Guideline(s) and/or Statute(s).

Not Applicable.

(2) Not a "Project" Under CEQA

If the transaction is not a "project" under CEQA, please explain why.

The transaction is not a "project" under CEQA as there is no change in the use of the land, and therefore there is no cognizable project under CEQA.

(3) CPUC as a Responsible Agency Under CEQA

If another public agency, acting as the Lead Agency under CEQA, has completed an environmental review of the project and has approved the final CEQA documents, and the Commission is a Responsible Agency under CEQA, the applicant shall provide the following.

- a. The name, address, and phone number of the Lead Agency, the type of CEQA document that was prepared (Environmental Impact Report, Negative Declaration, Mitigated Negative Declaration), the date on which the Lead Agency approved the CEQA document, the date on which a Notice of Determination was filed.

No Applicable.

- b. A copy of all CEQA documents prepared by or for the Lead Agency regarding the project and the Lead Agency's resolution or other document approving the CEQA documents.

No Applicable.

- c. A list of section and page numbers for the environmental impacts, mitigation measures, and findings in the prior CEQA documents that relate to the approval sought from the Commission.

No Applicable.

- d. An explanation of any aspect of the project or its environmental setting which has changed since the issuance of the prior CEQA document.

No Applicable.

- e. A statement of whether the project will require approval by additional public agencies other than the Commission and the Lead Agency, and, if so, the name and address of each agency and the type of approval required.

No Applicable.

Protests

Anyone wishing to protest this filing may do so by sending a letter by August 12, 2013, which is 20 days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

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

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

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

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

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

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

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

Effective Date

Pursuant to the review process outlined in General Order 173, PG&E requests that this **Tier 2** advice filing become effective on August 22, 2013, which is 30 days after the date of filing.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and/or via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs>.

Handwritten signature of Brian Cherry / IG in black ink.

Vice President – Regulatory Relations

Attachments

***** SERVICE LIST Advice 4260-E *****
APPENDIX A

***** 3rd Parties *****

Karen Clopton
Administrative Law Judge Division
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2008
kvc@cpuc.ca.gov

G. Oberti and Sons
PO Box 1167
Madera, CA 93639
Telephone: (559) 673-2247
Facsimile: (559) 673-2251
Email: kenkatz@earthlink.net

Myra J. Prestidge
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San Francisco, CA 94102
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efr@cpuc.ca.gov

Brewster Fong
Division of Ratepayer Advocates
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bfs@cpuc.ca.gov

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505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-3221
bca@cpuc.ca.gov

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

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

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

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Igor Grinberg

Phone #: (415) 973-8580

E-mail: ixg8@pge.com and PGETariffs@pge.com

EXPLANATION OF UTILITY TYPE

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

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **4260-E**

Tier: 2

Subject of AL: **G. Oberti and Sons Lease – Request for Approval Under Section 851**

Keywords (choose from CPUC listing): Agreements, Contracts

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

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: N/A

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

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

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

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

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

Resolution Required? Yes No

Requested effective date: **August 22, 2013**

No. of tariff sheets: N/A

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

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

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

Tariff schedules affected: N/A

Service affected and changes proposed: N/A

Pending advice letters that revise the same tariff sheets: N/A

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

CPUC, Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Pacific Gas and Electric Company
Attn: Brian Cherry
Vice President, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177
E-mail: PGETariffs@pge.com

GROUND LEASE

BETWEEN

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation,

as Landlord

and

G. OBERTI AND SONS,
a California limited partnership

as Tenant

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SUMMARY OF GROUND LEASE TERMS

- A. Date (For Reference Purposes Only): April 1, 2013
- B. Landlord: Pacific Gas and Electric Company, a California corporation

- C. Landlord's address for notices:
[Section 25]

If by registered or certified mail, return receipt requested:

Land Agent
1455 E. Shaw Avenue
Fresno, CA 93710

With a copy to:

Law Department
Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, CA 94120
Attn: Senior Director & Lead Counsel,
Contracts Section (Real Estate)
Facsimile: (415) 973-5520

Landlord's address for notices:
[Section 25]

If by personal delivery or overnight courier:

Land Agent
1455 E. Shaw Avenue
Fresno, CA 93710

With a copy to:

Law Department
Pacific Gas and Electric Company
77 Beale Street, Mail Code B30A
San Francisco, CA 94105
Attn: Senior Director & Lead Counsel,
Contracts Section (Real Estate)
Facsimile: (415) 973-5520

- D. Landlord's address for payments:
[Section 4] Pacific Gas and Electric Company
Land Agent
1455 E. Shaw Avenue
Fresno, CA 93710
- E. Tenant: G. Oberti and Sons
- F. Tenant's address for notices:
[Section 25]
- If by registered or certified mail, return receipt requested: G. Oberti and Sons
P.O. Box 1167
Madera, CA 93639
- If by personal delivery or overnight courier: G. Oberti and Sons
425 N. Gateway Drive, Suite B
Madera, CA 93637
- G. Default Rate:
[Section 1(b)] Ten percent (10%) per annum
- H. Description of Premises and Property: Approximately 6 acres of unimproved land just North of the San Joaquin River and East of State Route 99, in Madera County, as shown on Exhibit "A" (the "Premises") located on the western portion of APN 048-280-006 (the "Property").
- I. Term:
[Section 2] The Term of this Lease shall commence on the first day of the first month following approval of this Lease by the California Public Utilities Commission (the "CPUC") (the "Commencement Date") and shall expire the day before the twenty-fifth anniversary of commencement (the "Expiration Date") (each successive twelve month period, a "Lease Year"), subject to Tenant's option to extend the Term for a period of five (5) years (the "Extension Term").

- | | | |
|----|---------------------------------------|---|
| J. | Annual Rent:
[Section 4(a)] | Due and payable in advance on the first day of each Lease Year, as follows:

Lease Years 1-5: \$0
Lease Years 6-10: \$1,500
Lease Years 11-15: \$1,550
Lease Years 16-20: \$1,600
Lease Years 21-25: \$1,650
Extension Term: \$1,700 |
| K. | Tenant's Permitted Use
[Section 5] | Planting, cultivating, harvesting, maintaining and operating an orchard, and associated irrigation system, and for no other purpose |
| L. | Late Fee:
[Section 4(d)] | 10% of any Rent or sum due not paid within thirty (30) days after the due date. |
| M. | Landlord's Broker(s):
[Section 28] | None |
| N. | Tenant's Broker(s):
[Section 28] | None |
| O. | CPUC Approval
[Section 3] | CPUC Decision _____
(Application No. _____) |
| . | Exhibit
[Section 31] | <u>Exhibit "A"</u> - Map of Premises |

The provisions of the Ground Lease identified above in brackets are those provisions where references to particular Ground Lease terms appear. Each such reference shall incorporate the applicable Ground Lease terms. In the event of any conflict between this Summary of Ground Lease Terms (the "Summary") and the Ground Lease, the latter shall control.

(no further text on this page)

GROUND LEASE

THIS GROUND LEASE (this "Lease") is dated for references purposes only as of the date set forth in the Summary, effective upon approval of this Lease by the CPUC as set forth in Section 3 below, and the full execution and delivery of this Lease (the "Effective Date") by and between Landlord and Tenant, as identified in the Summary.

Landlord hereby leases to Tenant, and Tenant hires from Landlord, the Premises described in the Summary for the term and subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which Tenant and Landlord hereby mutually agree.

Section 1. Definitions. The following terms shall have the meanings herein specified:

(a) Alterations. The term "Alterations" shall mean all alterations, additions or additional improvements to or of the Premises or any part thereof, but shall not include removing trees or planting replacement trees.

(b) Default Rate. The term "Default Rate" shall mean the percentage interest per annum set forth in the Summary, provided that in no event shall the Default Rate of interest charged on any sum then due or past due hereunder exceed the maximum rate of interest, if any, which may then be lawfully charged on such amount.

(c) Hazardous Material. The term "Hazardous Material" means (a) petroleum or petroleum products, diesel fuel, natural or synthetic gas, asbestos in any form, urea formaldehyde foam insulation, radon gas, polychlorinated biphenyls (PCBs), electromagnetic fields (EMFs), special nuclear or byproduct material, lead based paint and other lead contamination; (b) any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable federal, state or local statute, law, rule, regulation, ordinance, code, policy or rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health or safety; and (c) any other substance the exposure of which is regulated by any governmental authority.

(d) Hazardous Material Laws. The term "Hazardous Material Laws" means all Legal Requirements relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, presence, disposal or transportation of any Hazardous Material, as defined above.

(e) Improvements. The term "Improvements" shall mean the trees, plantings and irrigation system that will be installed by the Tenant.

(f) **Legal Requirements.** The term "Legal Requirements" shall mean all laws, statutes, ordinances, rules, regulations, requirements or orders of municipal, state, and federal authorities now in force, as such may be amended or that may later be in force, including, but not limited to, all provisions of the Americans With Disabilities Act of 1990, Title 24 of the California Administrative Code and all Hazardous Material Laws, the requirements of any board of fire underwriters or other similar body now or in the future constituted, any occupancy certificate issued by public officers, and any recorded covenants, conditions and restrictions applicable to the Premises.

(g) **Tenant Parties.** The term "Tenant Parties" shall mean Tenant and its employees, agents, contractors, licensees, invitees and visitors.

Section 2. Term; Option to Extend; Delivery.

(a) The term of this Lease (the "Term") shall commence on the Commencement Date set forth in the Summary and, unless sooner extended or terminated as hereinafter provided, shall expire on the Expiration Date as set forth in the Summary. Landlord shall deliver the Premises on the Commencement Date. Tenant and the Tenant Parties shall not access, pass over, or across any portion of the Property other than the Premises, and shall access the Premises from the public road. Upon the Expiration Date, Tenant shall surrender possession of the Premises as set forth in Section 22 of this Lease.

(b) Landlord hereby grants Tenant one (1) option (the "Option") to extend the Term of this Lease with respect to all of the Premises for the period of the Extension Term, as set forth in the Summary, on the terms and conditions set forth in this Lease, except that the Annual Rent payable during the Extension Term shall be as set forth in the Summary. The Option shall be exercised by Tenant giving written notice to Landlord not less than ninety (90) days before the Expiration Date. If Tenant exercises the Option, all references in this Lease to the "Term" and "Expiration Date" shall mean the Term and Expiration Date, as so extended.

(c) Tenant is thoroughly familiar with the current condition of the Premises, and Tenant agrees to accept the Premises in their existing "as-is" condition on the date hereof, without any representations or warranties of any kind, express or implied, with respect to the condition of the Premises, and with no obligation on the part of Landlord to investigate the condition of the Premises, or to alter, remodel, improve, maintain or repair the Premises or any part thereof, or to construct or install any improvements or perform any work therein. Tenant acknowledges that there may be Hazardous Material, fuel or chemical storage tanks, electric and magnetic fields or other substances, materials, products, or conditions, in, on, under or about the Premises that may be hazardous. Tenant shall use the Premises at its sole risk and expense. Tenant's accepting delivery of the Premises shall conclusively evidence its agreement that the Premises are in the condition required hereunder.

Section 3. CPUC Approval. Landlord has determined that approval of the CPUC will be required ("CPUC Approval") as a condition precedent to the effectiveness of this Lease. Tenant acknowledges and agrees that CPUC Approval shall not be deemed to have occurred for purposes of this Lease, unless and until the CPUC approves of this Lease in a form that is final, unconditional and unappealable, including exhaustion of all administrative appeals or remedies

before the CPUC, and such CPUC Approval is approved by Landlord in its sole and absolute discretion, including approval of the proposed accounting and ratemaking treatment. Tenant further acknowledges and agrees that Landlord makes no representation or warranty with respect to the likelihood of, or timing of, CPUC Approval, and Tenant hereby waives all claims against Landlord for losses, expenses or damages suffered or incurred by Tenant as a result of the need for CPUC Approval, any delay in receipt of CPUC approval, or the failure of the CPUC to approve of this Lease. This Lease is made subject to all the provisions of the CPUC Approval, as identified in the Summary, as more particularly set forth in like manner as though said provisions were set forth in full herein.

Section 4. Rent.

(a) Tenant agrees to pay to Landlord as "Annual Rent" for the Premises the sums specified in the Summary.

(b) All charges and other amounts of any kind payable by Tenant to Landlord pursuant to this Lease, other than the Annual Rent, shall be deemed additional rent hereunder ("Additional Rent"). Landlord shall have the same remedies for default in the payment of Additional Rent as for default in the payment of Annual Rent, and the term "Rent" shall include Annual Rent and Additional Rent.

(c) Rent shall be paid to Landlord, without deduction, recoupment, offset or counterclaim, in lawful money of the United States of America, at Landlord's address for payment set forth in the Summary to such other person or at such other place as Landlord may from time to time designate in writing. All Rent payable by Tenant to Landlord hereunder, if not received by Landlord within thirty (30) days after the due date (or if no due date is otherwise specified hereunder, within thirty (30) days following Landlord's invoice or demand therefor) shall bear interest at Default Rate from the due date (or the date of such invoice or demand) until paid. Landlord's acceptance of interest shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the rights and remedies available to Landlord under this Lease or by law.

(d) Tenant acknowledges that late payment of Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs (other than interest and attorneys' fees and costs) being extremely difficult and impractical to fix. Such costs include, without limitation, processing and accounting charges and costs of collection. Therefore, if any installment of Rent is not received by Landlord within thirty (30) days after its due date, then Tenant shall pay a late charge of the sum set forth in the Summary ("Late Fee") to Landlord, which sum shall constitute liquidated damages for such late payment, in lieu of actual damages (other than interest and attorneys' fees and costs, which shall be payable by Tenant in accordance with the provisions of this Lease) which Landlord may suffer on account of such default. The parties agree that the amount set forth as the Late Fee in the Summary represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Acceptance of any liquidated damages shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the rights and remedies available to Landlord under this Lease or by law. Such liquidated damages shall

constitute Additional Rent hereunder, and shall be payable in addition to interest and any attorneys' fees and costs which may be payable under this Lease.

(e) In addition to all other sums to be paid by Tenant hereunder, Tenant shall pay, before delinquency, any and all taxes allocable to the Term on the Improvements, Alterations, equipment and other personal property located at, on, under or in the Premises. If Landlord is assessed for such taxes as part of Landlord's real property tax bill or otherwise, Landlord shall have the right, but not the obligation, to pay such taxes, and in that event, Tenant shall reimburse Landlord for the portion of such taxes attributable to the Improvements, Alterations, equipment and other personal property within thirty (30) days after receipt of an invoice therefor.

Section 5. Use.

(a) Tenant acknowledges and agrees that as of the Effective Date, the primary use of Landlord's property in the vicinity of the Premises and the Property is for an electrical substation and appurtenant improvements.

(b) The Premises shall be used for Tenant's Permitted Use as set forth in the Summary, and for no other purpose without Landlord's written consent, which may be granted or withheld by Landlord in its sole and absolute discretion. Tenant acknowledges that Landlord has made no representation to Tenant regarding the fitness or suitability of the Premises for Tenant's Permitted Use. Tenant shall prepare a work plan that describes with specificity the plans and specifications and the schedule for the installation of the irrigation system (the "Work Plan"). The Work Plan will be submitted to the following person for approval: Nicholas Minas, Land Agent, 1455 E. Shaw Ave., Fresno, CA 93710, (559) 263-7375. Tenant shall not commence the installation of the irrigation system without the prior written consent of Landlord to the Work Plan as set forth above, which consent shall be granted in Landlord's sole and absolute discretion.

(c) Tenant shall clear away all the remnants of the fallen peach and nectarine trees that previously grew on the Premises. Tenant shall haul away any rubbish and trash from the Premises. Furthermore, Tenant agrees not to dispose of any personal property or materials of any kind, including, but not limited to, any vehicles or equipment on the Premises or the Property. Tenant further shall conduct Tenant's agricultural operations in accordance with good and prudent management practices and shall be responsible for the control of rodents, insects or other vermin, and for weed abatement as required by good business practices or by the Legal Requirements. Tenant shall not pile or burn any tree limbs, trimmings, brush or debris on the Property.

(d) Tenant, and the Tenant Parties, shall not do or permit to be done on, onto or about the Premises, nor keep thereon, anything which is prohibited by or will in any way conflict with any Legal Requirements now in force or which may hereafter be enacted or promulgated, or will in any way increase the existing rate of or affect any fire or other insurance, or cause a cancellation of any insurance policy covering the Premises. Tenant shall take all reasonable precautions to prevent and suppress fires. Tenant shall not allow any party to stay on the Premises overnight. Tenant shall not bring, nor allow any of the Tenant Parties to bring, any animal whatsoever, including, but not limited to, dogs, on the Premises. Tenant shall not commit

or suffer to be committed any waste in, on, or about the Premises, nor shall Tenant cause or permit objectionable noises or odors to emanate from the Premises, or cause, maintain or permit in, on or about the Premises any nuisance or other act or condition which may in any way injure or annoy, disturb the quiet enjoyment of, or obstruct or interfere with the rights of, any occupant of the surrounding area of the Premises, nor shall Tenant use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, as determined by Landlord's sole discretion.

(e) Tenant and the Tenant Parties shall not in any way interfere or permit any interference with the use of any of property in the vicinity of the Premises or the Premises by Landlord. Interference shall include, but not be limited to, any activity by Tenant that places any gas or electric facilities in violation of any of the provisions of General Order Nos. 95 (Overhead Electric), 112E (Gas), or 128 (Underground Electric) of the CPUC or any other applicable provisions of the laws and regulations of the State of California or other governmental agencies (whether federal, state or local). Tenant shall not erect, handle, or operate any tools, machinery, apparatus, equipment, or materials closer to any of high-voltage electric conductors than the minimum clearances set forth in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety, which minimum clearances are incorporated herein by reference, but in no event closer than ten (10) feet to any energized electric conductors or appliances.

(f) Tenant shall not install any signs without the prior written approval of Landlord, including approval of complete plans and specifications for each such sign. Tenant acknowledges that Landlord's approval may be given or withheld in Landlord's sole and absolute discretion. All signs must be in compliance with all Legal Requirements.

(g) Tenant and the Tenant Parties may not use any water from any source, except from Tenant's adjoining properties. Landlord makes no representation or warranty regarding the quality, availability or quantity of water, and Tenant and the Tenant Parties use such water at their own risk.

(h) If Landlord determines that Tenant's activities in any way endanger, or reasonably could be anticipated to endanger, the Premises, utility facilities, the environment, or the health or safety of any person or persons, Landlord may, at Landlord's sole discretion, temporarily halt Tenant's use and activities until proper and appropriate protective measures may be taken to eliminate such endangerment. Landlord's right to halt activities shall not in any way affect or alter Tenant's obligations under this Lease, nor shall it release Tenant from any of its obligations hereunder that pertain to health, safety, or the protection of the environment.

Section 6. Hazardous Material.

(a) Tenant, at its expense, shall comply with all Hazardous Material Laws which impose any obligation on Landlord or Tenant with respect to the Premises or the use or occupation thereof, including, without limitation, (i) any obligation to post so called "Proposition 65" notices or similar disclosures of the existence of Hazardous Material on or about the Premises which may be required by the circumstances of Tenant's business, (ii) concerning the use of fungicides, herbicides, pesticides or other Hazardous Material on the Premises. Tenant shall not cause or permit any Hazardous Material to be brought upon, kept, used, released,

discharged or disposed of in or about the Premises or the Property without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. Tenant shall prepare a work plan for the review and approval of Landlord, which describes with specificity the exact substances, including, but not limited to, all Hazardous Material proposed to be used on the Premises, the schedule, the proposed area of exposure and method of application (the "Hazardous Material Work Plan"). The Hazardous Material Work Plan will be submitted to the following person for approval: Nicholas Minas, Land Agent, 1455 E. Shaw Ave., Fresno, CA 93710, (559) 263-7375. Tenant shall not commence any planting or installation of the irrigation system without the prior written consent of Landlord to the Hazardous Material Work Plan as set forth above, which consent shall be granted in Landlord's sole and absolute discretion. Notwithstanding the foregoing, Tenant may use on the Premises (i) Hazardous Material specifically allowed, and in the manner specified in this Lease, (ii) Hazardous Material authorized in writing by Landlord, such permission to be at Landlord's sole and absolute discretion and subject to whatever conditions Landlord may impose, and (iii) de minimus quantities of gasoline, diesel or other fuel contained within the gas tanks of automobiles or equipment on the Premises. Tenant shall maintain Material Safety and Data Sheets (and supply copies thereof to Landlord as requested) for each and every Hazardous Material brought into the Premises. The disposal of Hazardous Material shall be in approved containers which shall be removed from the Premises only by duly licensed carriers. Any removal, manifesting, transport or disposal of Hazardous Material shall be conducted pursuant to an EPA generator number or other appropriate license obtained by Tenant or its authorized agents.

(b) The Work Plan and the Hazardous Material Work Plan are hereinafter collectively referred to as the "Work Plans". Landlord reserves the right to request Tenant to provide additional information, reports, studies or other documents not included in the Work Plans. Tenant acknowledges and agrees that Landlord's review of the Work Plans is solely for the purpose of protecting Landlord's interests, and shall not be deemed to create any liability of any kind on the part of Landlord, or to constitute a representation on the part of Landlord or any person consulted by Landlord in connection with such review that the Work Plans are adequate or appropriate for any purpose, or comply with applicable Legal Requirements. Tenant agrees that the use of the Premises shall be in strict accordance with the approved Work Plans.

(c) If any clean-up, remedial removal or restoration work is required by any federal, state or local governmental agency or political subdivision ("Governmental Agency") because of the presence of Hazardous Material in or about the Premises, then Tenant shall, at its sole cost, promptly take any and all action necessary to perform such clean-up, remedial removal or restoration in compliance with all Hazardous Material Laws to the extent caused or permitted by Tenant or any of the Tenant Parties. Such clean-up, remedial removal or restoration work shall also be performed to Landlord's satisfaction, at Landlord's sole and absolute discretion, to an "unrestricted use" standard, and Landlord shall not be obligated to place a deed restriction or comply with any other condition imposed by a Governmental Agency in order to lessen the standard of clean-up, remedial removal or restoration. The disposal of Hazardous Material shall be in approved containers which shall be removed from the Premises only by duly licensed carriers. Tenant shall deliver immediately to Landlord a copy of any notice regarding the Premises received from any person, including any Governmental Agency, relating to, or asserting a violation of any Hazardous Material Laws or a claim arising under or relating to any Hazardous Material Laws.

(d) If Landlord has good cause to believe that the Premises have or may have become contaminated by Hazardous Material caused or permitted by Tenant or any of the Tenant Parties, Landlord may cause tests to be performed, including tests of the air, soil and groundwater, to detect the presence of Hazardous Material and may elect to perform any clean-up, remedial removal or restoration work. The cost of such tests, clean-up, remedial removal or restoration work shall be paid by Tenant within thirty (30) days after written demand and receipt of supporting documentation, as Additional Rent.

(e) The rights and obligations of the parties under this Section 6 shall survive the expiration or termination of this Lease and/or Tenant's leasehold estate hereunder.

Section 7. Maintenance; Vegetation; Security; Utilities.

(a) **Maintenance.** Tenant shall maintain the Improvements and/or Alterations, including, without limitation, the trees, plantings and irrigation system, in reasonably good order and condition to the reasonable satisfaction of Landlord, and Landlord shall have no obligation whatsoever to maintain the Premises or any part thereof. If in Landlord's opinion any of the Improvements and/or Alterations are not in reasonably good order or condition, Landlord may provide Tenant with written notice to repair, replace, renovate or close the affected Improvements and/or Alterations. Tenant shall make the necessary repairs and/or renovations within thirty (30) days after receipt of Landlord's notice. All repairs, replacement or renovations shall be performed by Tenant in compliance with Section 8 of this Lease.

(b) **Vegetation.** Tenant shall maintain the grounds in a safe condition and will remove any hazardous, dead or dying trees at Tenant's own risk and expense.

(c) **Security.** Tenant shall be responsible for the safety and security of Tenant's agents, employees, contractors, licensees, invitees, visitors or other persons or property in, upon or about the Premises. Landlord does not assume any responsibility for the security of the Premises.

(d) **Utilities.** Landlord shall have no obligation to provide the Premises with any utility services whatsoever. Tenant agrees to abide by any and all reasonable requirements that Landlord may prescribe for the proper functioning and protection of utility and other systems.

(e) **Interruption of Services.** Landlord has no obligation to provide any services to the Premises, and Landlord shall not be liable for any damages directly or indirectly resulting from, nor shall Tenant be entitled to any reduction or abatement of Rent, should there be a failure or interruption in services, including, without limitation, water service.

(f) **No Offset.** Tenant acknowledges that Landlord is executing this Lease in its capacity as the owner of the Premises, and not in its capacity as a public utility company or provider of electricity and natural gas. Notwithstanding anything to the contrary contained herein, no act or omission of Landlord or its employees, agents or contractors as a provider of electricity and natural gas shall abrogate, diminish or otherwise affect the respective rights, obligations and liabilities of Tenant under this Lease. Further, Tenant covenants not to raise as a defense to its obligations under this Lease, or assert as a counterclaim or cross-claim in any

litigation or arbitration between Tenant and Landlord relating to this Lease, any claim, loss, damage, cause of action, liability, cost or expense (including, without limitation, attorneys' fees) arising from or in connection with providing (or failure to provide) electricity and natural gas.

Section 8. Alterations.

(a) Tenant will not make or allow to be made any Alterations without in each instance first obtaining Landlord's written consent to such Alterations, which can be withheld at Landlord's reasonable discretion. Tenant will not make any Alterations which consist of buildings or structures. Notwithstanding the foregoing, Tenant may make customary repairs, maintenance, improvements and upgrades to the irrigation system and may plant or remove trees without Landlord's consent, as long as underground improvements are not added or relocated. When requesting Landlord's consent to new or relocated underground improvements, Tenant shall furnish complete plans and specifications for the proposed Alterations.

(b) All work of constructing or installing Alterations shall be performed diligently, in a good and workerlike manner, at Tenant's sole cost and expense, in accordance with plans and specifications previously approved in writing by Landlord. All Alterations shall comply with all applicable Legal Requirements. Tenant shall comply with Section 13 below in regard to compliance with Legal Requirements and the process of obtaining permits and other governmental authorizations related to any Alterations.

(c) Upon completion of construction of any Alterations that involve underground improvements, Tenant shall furnish to Landlord "as-built" plans for the completed Alterations and a copy of any applicable permit, showing any required inspection approvals.

(d) Prior to the expiration, or upon earlier termination, of this Lease, Tenant shall surrender the Premises in the condition required by Section 22 of this Lease, which requires, among other things, that Tenant remove any Improvements and Alterations, as more specifically set forth in Section 22.

Section 9. Liens. Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by or for the benefit of Tenant. Should Tenant fail to remove any such lien within five (5) business days after notice to do so from Landlord, Landlord may, in addition to any other remedies, record a bond pursuant to California Civil Code Section 3143 and all costs incurred by Landlord in so doing, plus all other amounts which Landlord shall become obligated to pay the surety issuing such bond, shall be due and payable by Tenant to Landlord within thirty (30) days after demand and receipt of supporting documentation, as Additional Rent.

Section 10. Destruction or Damage.

(a) In the event the Improvements or Alterations are damaged by fire or other casualty, neither Landlord nor Tenant shall have any obligation to repair and restore any damage. Should Tenant elect to repair and restore the Improvements and/or Alterations, such repair and restoration shall be performed in compliance with Section 8 of this Lease. If any repair or restoration resulting from any damage to the Improvements or Alterations is not capable of being completed within a period of ninety (90) days after the date of such damage, as reasonably

determined by Tenant, then Tenant may elect to terminate this Lease by giving written notice of such termination to Landlord.

(b) Landlord and Tenant acknowledge that this Lease constitutes the entire agreement of the parties regarding events of damage or destruction, and Tenant waives the provisions of California Civil Code Sections 1932(2) and 1933(4) and any similar statute now or hereafter in force.

Section 11. Insurance.

(a) At all times during the Term, Tenant, at its sole expense, shall procure and maintain, and shall cause any subtenant, contractor or subcontractor to procure and maintain, the following types of insurance coverage:

(1) Commercial general liability insurance with coverage at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions, insuring against any and all damages and liability, including attorneys' fees and other costs and expenses, on account of or arising out of injuries to or the death of any person or damage to property, however occasioned, in, on, or about the Premises, in the minimum amount of One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000.00) aggregate for all claims. In addition, such insurance shall insure the performance by Tenant of its indemnity and other contractual obligations set forth in this Lease.

(2) Workers' Compensation insurance or self-insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal.

(3) Employers' Liability insurance shall not be less than One Million Dollars (\$1,000,000) each accident for injury or death.

(4) Such other insurance as shall reasonably be deemed necessary by Landlord from time to time.

(b) The insurance required under this Section 11 and all renewals thereof shall be issued by companies qualified to do business in the State of California and rated A: X or better in "Best's Key Rating Guide." The insurance described in this Section 11 shall be endorsed to include Landlord, its directors, officers, agents and employees and any mortgagees, property managers and other parties as Landlord may specify from time to time, as additional insureds, as their interests may appear. Tenant shall immediately notify Landlord if any of the policies required by this Lease are cancelled or altered in such a manner as adversely to affect the coverage afforded thereby, or are threatened to be so cancelled or altered. Each policy shall provide expressly, in the form of such policy or by endorsement, (i) that the policy shall not be cancelled or altered in such a manner as adversely to affect the coverage afforded thereby without thirty (30) days' prior written notice to Landlord, (ii) that the coverage shall be primary and noncontributing with any insurance that may be carried by Landlord, (iii) that any loss shall be payable notwithstanding any act of negligence of any additional insured that might otherwise result in a forfeiture of coverage, (iv) that the word "Insured" is used therein severally and not collectively and insurance coverage hereunder shall apply as though a separate policy were

issued to each insured, although the inclusion of more than one insured party shall not operate to increase the limits of the insurer's liability, and (v) if applicable, for waiver of the insurer's rights of subrogation against Landlord. If at any time or from time to time, the insurance coverage specified herein is no longer adequate in the opinion of Landlord's insurance department, Tenant shall change the types of coverage, or increase the coverage to the amount, as specified by Landlord within thirty (30) days after notice from Landlord, provided that Tenant shall not be required to increase its coverage more often than once in any 24-month period.

(c) Prior to the Effective Date, and thereafter at least thirty (30) days prior to the expiration date of any policy, Tenant shall provide Landlord with evidence of the insurance coverage, or continuing coverage, as applicable, in the form of certificates of insurance and applicable endorsements, required by this Lease, which shall be signed and submitted by a person authorized by Tenant's insurance carrier to bind coverage on its behalf. Tenant shall furnish Landlord the same evidence of insurance for Tenant's subtenants, contractors or subcontractors as Landlord requires of Tenant. Such evidence shall be sent to the following: Nicholas Minas, Land Agent, 1455 E. Shaw Ave., Fresno, CA 93710, (559) 263-7375. Landlord may inspect the original policies or require complete certified copies, at any time. In the event that Tenant shall fail to insure or shall fail to furnish Landlord satisfactory evidence of any such policy as herein required, Landlord may from time to time effect such insurance for the benefit of Tenant or Landlord or both of them, and any premium paid by Landlord shall be recoverable from Tenant as Additional Rent within thirty (30) days after demand and receipt of supporting documentation. Tenant's compliance with the provisions of this Section 11 shall in no way limit Tenant's liability under any of the other provisions of this Lease.

(d) With respect to loss or damage resulting from any cause insured against by the insurance carried by Tenant, or required to be carried by Tenant pursuant to the terms of this Lease, Tenant waives any and all rights of subrogation against Landlord, its agents and employees, and Tenant hereby agrees that it shall not make any claim against Landlord, its agents and employees, or seek to recover from Landlord, for loss or damage to Tenant, or its property, or property of others under its control, which may be insured against by such insurance, and Tenant shall give notice to any insurance carrier of the foregoing waiver of subrogation, and obtain a waiver of the right to recovery against Landlord, its agents and employees.

Section 12. Indemnification; Release.

(a) Tenant shall indemnify, defend and hold Landlord and Landlord's directors, officers, employees, agents, successors and assigns (collectively, "Indemnitees") harmless from and against any and all claims, demands, obligations (including remedial obligations, removal of Hazardous Material, clean up or restoration work, including all materials), damages (including consequential and/or punitive damages), losses, lost profits, costs and liabilities, including attorneys' fees and costs (collectively, "Claims"), including, without limitation, Claims for injury or damage to persons or property, and Claims for penalties, fines and attorneys' fees and costs (including attorneys' fees and costs incurred to enforce this indemnity), incurred in connection with or arising from this Lease, however the same may have been caused (including, without limitation, if caused in whole or in part by the act, omission, or active or passive negligence of the Indemnitees, except with respect to any Indemnitee, to the extent caused by the sole gross negligence or willful misconduct of such Indemnitee), and

including, without limiting the generality of the foregoing, Claims arising out of or in connection with: (i) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease on Tenant's part to be observed or performed, or (ii) the use or occupancy or manner of use or occupancy of the Premises by Tenant, the Tenant Parties or any person or entity claiming through or under Tenant, or (iii) the condition of the Premises or any occurrence or happening on the Premises from any cause whatsoever, or (iv) any act, omission or negligence of Tenant, the Tenant Parties or any person or entity claiming through or under Tenant, occurring in, on or about the Premises, including without limitation any acts, omissions or negligence in the construction of the Improvements or in the making or performing of any Alterations, or (v) the actual or alleged presence of Hazardous Material in or about the Premises to the extent caused or permitted by Tenant or any of the Tenant Parties, or (vi) any violation of any Legal Requirement, including, without limitation, violation of any Hazardous Material Laws, by Tenant or any of the Tenant Parties, or (vii) any delay or action caused or taken by Landlord to temporarily halt Tenant's use and activities as allowed by the terms of this Lease, or (viii) any failure to surrender possession upon the Expiration Date or sooner termination of the Term as required by Section 22 of this Lease, or (ix) any broker, agent or finder claiming any commissions or fees on the basis of contacts or dealings with Tenant. In the event any action or proceeding is brought against any Indemnitee for any Claim against which Tenant is obligated to indemnify or provide a defense to an Indemnitee hereunder, Tenant upon notice from Landlord shall defend such action or proceeding at Tenant's sole expense by counsel approved by Landlord, which approval shall not be unreasonably withheld. Tenant's obligation to defend includes, but is not limited to, the obligation to defend claims and participate in administrative proceedings, even if they are false or fraudulent.

(b) Tenant accepts all risk relating to its occupancy and use of the Premises. Landlord shall not be liable to Tenant for, and Tenant hereby waives and fully and forever releases, exonerates, discharges and covenants not to sue Landlord, the other Indemnitees and/or each and all of Landlord's past, present and future officers, directors, partners, employees, agents, representatives, shareholders, attorneys, affiliates, parent and subsidiary corporations, divisions, insurance carriers, heirs, legal representatives, beneficiaries, executors, administrators, predecessors, transferees, successors (including, without limitation, lenders who become successors-in-title) and assigns, from and for any and all Claims, based in whole or in part on any and all liability, whether in contract, tort or on any other basis, for any injury, damage, or loss resulting from or attributable to any occurrence on or about the Premises, the condition of Premises, or the use or occupancy of the Premises, arising prior to, during or subsequent to the expiration or termination of this Lease (including, without limitation, if caused in whole or in part by the act, omission, or active or passive negligence of Landlord or any of the Indemnitees), except for Claims to the extent resulting from the sole gross negligence or willful misconduct of Landlord, its agents or employees.

(c) The provisions of this Section 12 shall survive the expiration or earlier termination of this Lease.

Section 13. Compliance With Legal Requirements.

(a) Tenant, at its sole cost and expense, shall promptly comply with all Legal Requirements, regardless of when they become effective, insofar as they relate to the condition,

use, or occupancy of the Premises, including, without limitation, the Immigration Control and Reform Act of 1986, the Fair Labor Standards Acts, and the Food, Drug and Cosmetics Act. Tenant shall obtain and maintain, at no cost to Landlord, all land use permits, grading permits, farming permits or other permits or licenses, approvals and authorizations from all local, state, and federal governmental or permitting authorities and shall provide all notifications to all such authorities as required for Tenant's Permitted Use, the Improvement or any Alterations. Prior to submission to the Planning Department or any other governmental entity or agency, Tenant shall submit all applications to Landlord for Landlord's review and written consent, which consent may be withheld at Landlord's sole and absolute discretion. Thereafter, Tenant shall also obtain Landlord's written consent, which consent may be withheld at Landlord's sole and absolute discretion, to any conditions imposed by any governmental entity related thereto. Subject to the consent requirements set forth in this Section 13, Tenant is authorized to apply for all necessary land use entitlements, permits and authorizations, and to provide all notifications required in connection therewith, on behalf of Landlord as the owner of the Premises at no cost to Landlord.

(b) Notwithstanding anything to the contrary set forth in Section 13(a) above, Tenant shall not seek any change or amendment related to subdivisions or zoning. Tenant shall not attempt to record any document against the Premises, including, but not limited to, any parcel map. Tenant shall not obtain or apply for any zoning variance. Landlord makes no representation regarding compliance with any and all subdivision laws.

(c) If any local, state or federal governmental entity, agency or regulatory authority requires Landlord to construct or install certain improvements in connection with Tenant's use of the Premises, including, but not limited to, roads, grading and erosion control, either to comply with Legal Requirements or as a condition to the issuance of any land use entitlements, permits, approvals or authorizations in relation to the Premises, Tenant shall reimburse Landlord for the reasonable costs of such improvements and for assessments related thereto, in an amount reasonably determined by Landlord. Tenant shall pay such reimbursement to Landlord within thirty (30) days after demand and receipt of supporting documentation.

(d) If as a result of Tenant's acts, the construction or installation of the Improvements or Alterations by or for Tenant, or the particular character of Tenant's use of the Premises, Landlord shall be required to comply with any Legal Requirements or pay any cost related to any permit, authority or other governmental approval, Landlord shall send to Tenant an invoice, and Tenant shall pay such amount, as Additional Rent, within thirty (30) days after receipt of such invoice and supporting documentation.

(e) The provisions of this Section 13 shall survive the expiration or earlier termination of this Lease.

Section 14. Assignment or Subletting.

(a) Tenant acknowledges that Tenant's identity, reputation and experience, the specific character of Tenant's business and anticipated use of the Premises and the relationship between such anticipated use and other present and/or future planned uses of the Premises have been a material consideration to Landlord's entering into this Lease. Tenant is prohibited from assigning this Lease without Landlord's prior written consent, which consent shall not be

unreasonably withheld. Tenant shall not, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, mortgage, pledge, encumber or otherwise hypothecate or create any security interest in this Lease or the Premises or any part thereof in any manner whatsoever. Tenant may sublease or license all or any part of the Premises only with Landlord's prior written consent, which consent shall not be unreasonably withheld; provided, however, that it shall be reasonable for Landlord to withhold its consent to any sublease or license that requires CPUC approval in the sole opinion of Landlord. Tenant shall remain primarily liable for all of its obligations under this Lease, notwithstanding any assignment, sublease, license, mortgage, pledge, encumbrance or other transfer. Any assignment, sublease, license, mortgage, pledge, encumbrance or other transfer violating the requirements of this Section 14 shall be voidable at Landlord's election, and, at the option of Landlord, shall constitute an Event of Default hereunder.

(b) Regardless of Landlord's consent, no assignment shall release Tenant of Tenant's obligations or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. At the option of Landlord, an assignee of Tenant shall become directly liable to Landlord for all obligations of Tenant hereunder, but no assignment by Tenant shall release Tenant from its obligations hereunder. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment shall not be deemed consent to any further assignment, hypothecation or third party use. In the event of default by any assignee or successor of Tenant, in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against said assignee or successor. Landlord may consent to subsequent assignments or subletting of this Lease or amendments or modifications to this Lease with assignees of Tenant, without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereto and such action shall not relieve Tenant or any successor of Tenant of liability under this Lease.

(c) Tenant shall pay Landlord's attorneys' fees and costs incurred in connection with Tenant's request to assign this Lease, whether or not Landlord consents to the proposed transfer, payable within thirty (30) days after receipt by Tenant of an invoice therefor.

Section 15. Rights Reserved to Landlord.

(a) Landlord reserves the right to restrict access to the Premises or any portion or portions thereof in the event of civil disturbance, fire, earthquake or other casualty or emergency, or in connection with Landlord's response thereto, or otherwise when Landlord deems it advisable to do so, including in connection with events and emergencies occurring or affecting Landlord's business operations located outside the immediate vicinity of the Premises. Landlord further reserves the right to access the Premises to construct, reconstruct, maintain, operate and use such facilities on the Premises as Landlord deems appropriate for the conduct of Landlord's business, including, without limitation, electric lines, telecommunication lines and pipelines.

(b) Landlord also reserves the right to grant easements and rights of way in, on and across the Premises to third parties, as determined by Landlord in its sole and absolute discretion.

(c) Landlord may enter the Premises at any time to (i) inspect the same, (ii) exhibit the same to prospective purchasers or lenders, (iii) determine whether Tenant is complying with all its obligations hereunder, (iv) post notices of nonresponsibility, (v) perform geotechnical, biological, environmental or other surveys, tests, or investigations, both non-invasive and invasive, and (vi) enforce the provisions of this Lease. In addition, federal, state and local agricultural, environmental and similar inspectors and officials shall be entitled to enter the Premises for the purpose of inspecting same. Any such entry shall not be deemed a forcible or unlawful entry or detainer of the Premises or an eviction. Except in the case of emergency, Landlord shall use reasonable efforts to provide advance notice to Tenant with respect to any such entry, and Tenant and its representatives shall have a right to be present during any such entry. Landlord shall exercise reasonable efforts in connection with any such entry to minimize any disruption or interference with the Permitted Use of the Premises by Tenant.

Section 16. Events of Default. The occurrence of any one or more of the following events (each, an "Event of Default") shall constitute a breach of this Lease by Tenant for which Landlord may exercise any of the remedies set forth in Section 17 of this Lease or provided by law or equity: (i) if Tenant shall fail to pay any Rent when due and payable hereunder and such failure shall continue for thirty (30) days after written notice thereof from Landlord; or (ii) if Tenant shall fail to perform or observe any other term, covenant or obligation to be performed or observed by Tenant under this Lease, and such failure shall not have been cured by Tenant within thirty (30) days after notice thereof from Landlord.

Section 17. Remedies for Default. Upon the occurrence of any Event of Default, Landlord may terminate this Lease or exercise the remedy described in California Civil Code Section 1951.4 (lessor may continue the lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). If Landlord elects to terminate this Lease, Landlord may recover from Tenant: (a) the worth at the time of award of the unpaid Rent which had been earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could reasonably have been avoided; (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the term of this Lease after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom. The "worth at the time of award" of the amount referred to in clauses (a) and (b) above is computed by allowing interest at the legal rate, as contemplated by California Civil Code Section 1951.2. The "worth at the time of award" of the amount referred to in clause (c) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%. The remedies provided for in this Lease are in addition to all other remedies available to Landlord at law or in equity, by statute or otherwise.

Section 18. Landlord's Right to Cure Default. All agreements and provisions to be performed by Tenant under any of the terms of this Lease shall be at its sole cost and expense and without abatement of Rent. If Tenant shall fail to pay any sum of money, other than Rent, required to be paid by it hereunder or shall fail to perform any other act on its part to be

performed hereunder and such failure shall not be cured within the applicable cure period provided for herein, Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs shall be deemed Additional Rent hereunder and shall be payable to Landlord within thirty (30) days after demand and receipt of supporting documentation.

Section 19. Attorneys' Fees. If as a result of any breach or default on the part of Tenant under this Lease, Landlord uses the services of an attorney in order to secure compliance with this Lease, Tenant shall reimburse Landlord within ten (10) days following demand, as Additional Rent, for any and all attorneys' fees and expenses incurred by Landlord, whether or not formal legal proceedings are instituted. Should either party bring an action or other proceeding against the other party, arising from or related to this Lease, whether for declaratory or other relief, then the party which prevails in such action shall be entitled, in addition to any other recovery or relief, to its attorneys' fees (of both in-house and outside counsel), costs and expenses incurred in the action or proceeding, including any appeal thereof. Tenant shall also pay all attorneys' fees and costs Landlord incurs in defending this Lease or otherwise protecting Landlord's rights in any voluntary or involuntary bankruptcy case, assignment for the benefit of creditors, or other insolvency, liquidation or reorganization proceeding involving Tenant or this Lease. The reasonable fees of Landlord's in-house attorneys who perform services in connection with any such action or proceeding are recoverable, and shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the relevant subject matter of the law, in law firms in the City and County of San Francisco with approximately the same number of attorneys as are employed by Landlord's law department.

Section 20. Sale, Conveyance or Transfer. If Landlord shall sell, convey or otherwise transfer the Premises, and assign the interest in this Lease, concerning the Premises or any portion thereof, Landlord shall thereupon be released from any and all covenants, liabilities and obligations (express or implied) on the part of Landlord under this Lease, accruing from or after the date of such sale, conveyance or transfer, and Tenant shall look solely to the transferor or transferors for performance of the obligations of Landlord under this Lease. This Lease shall not be affected by such sales, conveyances or transfers, and Tenant agrees to attorn to the transferee or transferees, such attornment to be effective and self-operative without the execution of any further instrument by the parties to this Lease.

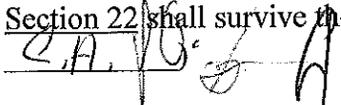
Section 21. Estoppel Certificates and Rights of Mortgagees.

(a) At any time and from time to time, Tenant shall execute, acknowledge and deliver to Landlord, within ten (10) days after receipt thereof, a certificate certifying (i) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification), (ii) the date, if any, to Annual Rent and other sums payable hereunder have been paid, (iii) that no notice has been received by Tenant of any default which has not been cured, except as to defaults specified in said certificate, (iv) that Tenant does not claim the existence of any default on the part of Landlord, except as specified in such certificate, and (v) such other matters as reasonably may be requested by Landlord, or any mortgagee, beneficiary, purchaser or

prospective purchaser of the Premises or any interest therein. Any such certificate may be relied upon by Landlord and any mortgagee, beneficiary, purchaser or prospective purchaser of the Premises or any interest therein. Tenant's failure to execute, acknowledge and deliver such certificate within such period of time shall, at the option of Landlord, and without further notice, constitute an Event of Default hereunder. In addition, Tenant hereby irrevocably appoints Landlord as its agent and attorney in fact to execute, acknowledge and deliver any such certificate in the name of and on behalf of Tenant in the event that Tenant fails to so execute, acknowledge and deliver any such certificate within ten (10) days after receipt thereof.

(b) This Lease and the rights of Tenant hereunder are subject and subordinate to any mortgage or deed of trust which now or in the future encumbers the Premises. Such subordination shall be effective without executing any further instrument; provided, however, that Tenant agrees to execute such documentation as may be reasonably requested to evidence such subordination.

Section 22. Surrender. Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Premises to Landlord in the condition required by this Section 22. Tenant agrees that upon Landlord's written request made within ninety (90) days prior to the expiration of the Term, or within ninety (90) days following any earlier termination of this Lease, Tenant, at its sole cost and expense, shall (i) remove promptly any Improvements and Alterations, including without limitation, the trees, plantings, roots, irrigation system and any signage, and (ii) clean-up and perform any remedial removal or restoration work to Landlord's satisfaction to an "unrestricted use" standard as more specifically set forth in Section 6 above. Tenant shall also remove all equipment, personal property, debris and waste material resulting from the use and occupancy of the Premises by Tenant and/or any of the Tenant Parties, and Tenant shall promptly repair, at its sole cost and expense, any damage to the Premises caused by such removal. To the extent Tenant fails to perform its obligations under this Section 22, Landlord may, but need not, (i) remove or demolish any Improvements, Alterations, signage, equipment, personal property, debris and waste material, and (ii) perform any clean-up, remedial removal or restoration work, and Tenant shall pay the cost thereof within sixty (60) days after receipt of an invoice therefor with supporting documentation. Tenant's obligations under this Section 22 shall survive the termination of this Lease. (TENANT TO INITIAL HERE


Section 23. Holdover. Tenant shall have no right to holdover possession of the Premises after the expiration or termination of this Lease without Landlord's prior written consent, which Landlord may withhold in its sole and absolute discretion. If Tenant retains possession of any part of the Premises after expiration or termination, without the written consent of Landlord, Tenant shall become a tenant at sufferance only, for the entire Premises upon all of the terms of this Lease as might be applicable to such tenancy, except that Tenant shall pay Annual Rent at one hundred and twenty-five percent (125%) of the rate in effect immediately prior to such holdover, computed on a monthly basis for each full or partial month Tenant remains in possession. If Tenant remains in possession of the Premises after the expiration or other termination of the Term of this Lease, with Landlord's written consent, Tenant shall be deemed to be occupying the Premises as a month-to-month tenant only, at a monthly rent equal to one-twelfth (1/12th) of the Annual Rent in effect immediately prior to such holdover. Tenant shall also pay Landlord all of Landlord's direct and consequential damages

resulting from Tenant's holdover. No acceptance of Rent or other payments by Landlord under this holdover provision shall operate as a waiver of Landlord's right to regain possession or any other of Landlord's remedies.

Section 24. Waiver. The waiver by Landlord or Tenant of any agreement, condition or provision herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition or provision herein contained, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be construed to waive or to lessen the right of Landlord or Tenant to insist upon the performance by Tenant or Landlord in strict accordance with said terms. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any agreement, condition or provision of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

Section 25. Notices. Any notice to be given in connection with this Lease shall be in writing, and shall be served by personal delivery or be sent by certified mail, post pre-paid, return receipt requested, or by reputable courier service that provides written evidence of delivery, addressed as specified in the Summary or to such other address as requested by either party in the manner specified herein. Notices shall be effective upon actual receipt or upon refusal to accept delivery.

Section 26. Complete Agreement. There are no oral agreements between Landlord and Tenant affecting this Lease, and this Lease shall constitute the entire agreement between the parties relative to the subject matter hereof, and supersedes and cancels any and all prior negotiations, arrangements, correspondence, communications, leases, licenses, agreements and understandings, if any, whether oral or written, between Landlord and Tenant with respect to the subject matter of this Lease. There are no representations between Landlord and Tenant other than those contained in this Lease and all reliance with respect to any representations is based solely upon the terms of this Lease. No amendment or modification of this Lease shall be binding or valid unless expressed in writing and executed and delivered by Landlord and Tenant. Subject to the limitations provided herein, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

Section 27. Limitation of Liability. Tenant agrees to look only to the interest of Landlord in the Premises and not to any assets of Landlord, its directors, officers, shareholders, employees, or agents personally with respect to any obligations or payments due or which may become due from Landlord to Tenant hereunder, or for the satisfaction of any of Tenant's remedies hereunder.

Section 28. Broker. Tenant represents and warrants to Landlord that no real estate broker, agent or finder negotiated or was instrumental in negotiating or representing Tenant in the negotiation of this Lease or the consummation hereof. Tenant shall pay the commission or fee of any broker, agent or finder acting for Tenant or claiming any commissions or fees on the basis of contacts or dealings with Tenant.

Section 29. Quiet Possession. Landlord agrees that Tenant, upon paying Rent and performing the terms, covenants and conditions of this Lease, may quietly have, hold and enjoy the Premises without disturbance by Landlord or any person claiming under Landlord during the Term of this Lease, subject, however, to the rights of Landlord set forth in this Lease.

Section 30. Miscellaneous.

(a) The word "Tenant" as used herein shall include the plural as well as the singular.

(b) If a partnership or more than one legal person is at any time Tenant, each partner and each legal person is jointly and severally liable for the keeping, observing and performing of all of the terms, covenants, conditions, provisions and agreements of this Lease to be kept, observed or performed by Tenant, and the term "Tenant" as used in this Lease shall mean and include each of them jointly and severally and the act of or notice from, or notice or refund to, or the signature of, any one or more of them, with respect to the tenancy or this Lease, including but not limited to, any renewal, extension, expiration, termination or modification of this Lease, shall be binding upon each and all of the persons executing this Lease as Tenant with the same force and effect as if each and all of them had so acted or so given or received such notice or refund or so signed.

(c) Time is of the essence of this Lease and each and all of its provisions.

(d) Submission of this instrument for examination or signature by Tenant does not constitute an offer to lease or a reservation of or option to lease. Landlord shall not be bound by this Lease until CPUC Approval is obtained and Landlord has executed and delivered this Lease to Tenant, notwithstanding Tenant's execution and delivery of this Lease to Landlord.

(e) The waivers of claims or rights, the releases and the obligations under this Lease to indemnify, protect, defend and hold harmless Landlord and other Indemnitees shall survive the expiration or earlier termination of this Lease, and so shall all other obligations or agreements hereunder which by their terms survive the expiration or earlier termination of this Lease.

(f) Subject to the provisions of this Lease as to assignment, the agreements, conditions and provisions herein contained shall apply to and bind the heirs, executors, administrators, successors and assigns of the parties hereto.

(g) If any provisions of this Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect.

(h) This Lease shall be governed by and construed pursuant to the laws of the State of California.

(i) The language in all parts of this Lease shall be construed according to its normal and usual meaning and not strictly for or against either Landlord or Tenant.

(j) Neither this Lease, nor any notice nor memorandum regarding the terms hereof, shall be recorded by Tenant. Any such unauthorized recording shall give Landlord the right to declare a breach of this Lease and pursue the remedies provided herein.

Section 31. Exhibit. The exhibit attached to this Lease is hereby incorporated into this Lease and made a part hereof.

(no further text on this page)

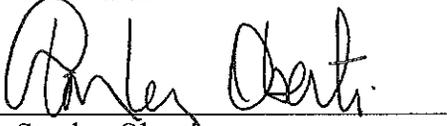
IN WITNESS WHEREOF, the parties have executed this Lease on the respective dates indicated below, to be effective upon the Effective Date.

TENANT:

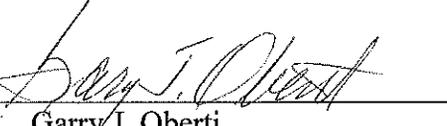
G. OBERTI AND SONS,
a California limited partnership

By: 
Phillip J. Oberti
Sole Trustee or His Successors In Trust
Under the Phillip J. Oberti Living Trust dated 8/2/99

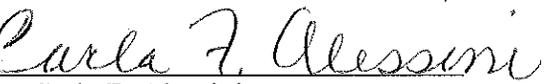
Its: General Partner

By: 
Stanley Oberti
Trustee of the Stanley and Lynda Oberti Family Trust dated 2/24/99

Its: General Partner

By: 
Garry J. Oberti
Trustee of the Gary and Mary Oberti Family Trust dated 9/17/98

Its: General Partner

By: 
Carla F. Alessini
Sole Trustee Under the Carla F. Alessini Living Trust, dated June 22, 1999

Its: General Partner

Date of Execution by Tenant: April 3, 2013

LANDLORD:

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation

By: _____

Name: _____

Title: _____

Date of Execution by Landlord: _____

Attach Exhibit A

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

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