



December 28, 2022

Advice 6801-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Progress on Energy Storage Procurement on the Kern-Lamont 115kV System in Compliance with Decision 22-02-004

Purpose

Pursuant to Decision (D.) 22-02-004, the 2021 Preferred System Plan Decision (PSP Decision), Pacific Gas and Electric Company (PG&E) acting as the Central Procurement Entity (CPE or PG&E CPE) under the process established in (D.) 20-06-002 (CPE Decision) hereby submits this Tier 2 advice letter to the California Public Utilities Commission (CPUC or Commission) on its progress of whether any project has been identified that meets the operational requirements identified in the California Independent System Operator Corporation's (CAISO) 2020-2021 Transmission Planning Process (TPP) for a 95 megawatt (MW) four-hour storage project on the Kern-Lamont 115 kilovolt (kV) system.¹ This Tier 2 advice letter is submitted in compliance with Ordering Paragraph (OP) 12 of the PSP Decision.

Background

On February 10, 2022, the Commission issued D.22-02-004 adopting the Preferred System Plan (PSP) after evaluating the 2020 individual integrated resource plan (IRP) filings of all load serving entities (LSE) under the Commission's jurisdiction and IRP purview.

OP 12 of D.22-02-004 states as follows:

Pacific Gas and Electric Company (PG&E) shall conduct a competitive solicitation for the 95 megawatt four-hour storage project at the Kern-Lamont Substation identified in the California Independent System Operator's 2020-2021 Transmission Planning Process as the Central Procurement Entity under the

¹ D.22-02-004, p. 157.

process established in Decision 20-06-002. PG&E shall submit the results of its progress in a Tier 2 Advice Letter by no later than December 31, 2022.

As part of its 2020-2021 Transmission Plan, the CAISO identified two non-transmission alternative energy storage projects acceptable to meet system reliability needs: (1) a 95 MW 4-hour energy storage resource on the Kern-Lamont 115 kV system; and (2) a 50 MW 4-hour energy storage resource at the Mesa 115 kV system.² The CAISO recommended that these two projects should be pursued as part of the TPP recommendations. The Commission agreed with this recommendation, recognizing that transmission projects or upgrades may be procured if the development of these storage projects were determined to be infeasible.

As a result, per OP 12 of the PSP Decision, the Commission ordered PG&E CPE to conduct a competitive solicitation for an energy storage resource on the Kern-Lamont 115 kV system and submit a Tier 2 Advice Letter by the end of 2022 indicating its progress towards procurement. This Tier 2 Advice Letter discusses PG&E CPE's progress towards procurement of an energy storage resource on the Kern-Lamont 115 kV system in compliance with OP 12 the PSP Decision.

Discussion of PG&E CPE's Procurement Progress

On October 13, 2022, PG&E CPE issued the 2022 PG&E CPE Kern-Lamont Battery Energy Storage Request for Offers (PG&E CPE Kern-Lamont RFO) to procure 95 megawatts of new, 4-hour duration battery energy storage resources located on the Kern-Lamont 115 kV system. The RFO schedule and PG&E CPE's procurement activities completed to date are listed in the table below.

Table I: PG&E CPE Kern-Lamont RFO Schedule

Event	Dates	Status
PG&E CPE issues RFO	October 13, 2022	Completed
Participants' Webinar	October 26, 2022	Completed
Deadline for PG&E CPE to receive Offers from PG&E Participant	November 29, 2022 at 1:00 P.M. PPT	Completed
Deadline for PG&E CPE to receive Offers from Non-PG&E Participants	November 30, 2022 at 1:00 P.M. PPT	Completed
PG&E notifies Shortlisted Participants	December 19, 2022	Completed
Estimated Timeframe for Agreement Execution and Tier 3 Advice Letter Filing with the CPUC for Agreement Approval	1 st Half of 2023	Not applicable

² See CAISO's 2020-2021 Transmission Plan, p. 118 at <http://www.caiso.com/Documents/BoardApproved2020-2021TransmissionPlan.pdf>.

On December 19th, 2022, the PG&E CPE sent notifications to RFO participants who had been shortlisted. Shortly thereafter, the PG&E CPE received communications from each of the shortlisted parties indicating their intent to withdraw their offers from the solicitation process due to ongoing risks and challenges associated with interconnection. With no viable offers remaining, the PG&E CPE closed the Kern-Lamont RFO. Further details on the offers received, the evaluation of those offers, the shortlisting process and ultimately the withdrawal of the shortlisted offers are provided in Confidential Attachment A.

Procurement Review Group and Cost Allocation Mechanism Group Outreach

On October 12th, 2022, the PG&E CPE presented an overview of its upcoming 2022 PG&E CPE Kern-Lamont RFO to a joint meeting of the Cost Allocation Mechanism (CAM) Group and the Procurement Review Group (PRG). The timing of the meeting was to ensure that PG&E CPE could incorporate feedback from the CAM Group and the PRG into its RFO process prior to issuing the solicitation on October 13th, 2022.

On December 15th, 2022, the PG&E CPE presented the proposed shortlist of offers from its Kern-Lamont RFO and associated materials to a joint meeting of the CAM Group and the PRG. The materials included: the requirements of the 2022 PG&E CPE Kern-Lamont RFO, the offers received, and the PG&E CPE's recommended shortlist. The timing of the meeting was to ensure that the PG&E CPE could incorporate feedback from the CAM Group and the PRG into the notices to be issued to the shortlisted participants in the RFO by December 19th, 2022.

On December 23rd, 2022, the PG&E CPE provided written notice to the CAM Group and the PRG that all shortlisted offers had been withdrawn and the 2022 PG&E CPE Kern-Lamont RFO would be closed.

Confidentiality Treatment

In support of this Advice Letter, the PG&E CPE has provided the confidential information in Confidential Attachment A of this Advice Letter. This information is being submitted in the manner directed by D. 22-03-034, and General Order (GO) 66-D to demonstrate the confidentiality of the material and to invoke the protection of confidential utility information provided under applicable law, including Appendix A of Decision D. 22-03-034. A declaration seeking confidential treatment is being submitted concurrently with this Advice Letter.

In accordance with GO 96-B, a copy of PG&E's Proposed Protective Order is attached as Attachment C.

Attachments

Confidential Attachment A	Overview of PG&E CPE Kern-Lamont RFO Procurement Progress
Public Attachment B	Declaration of Amol Patel Seeking Confidential Treatment Pursuant to D.06-06-066, D.22-03-34 and Public Utilities Code §454.5(g).
Public Attachment C	Proposed Protective Order

Protests

Anyone wishing to protest this submittal may do so by letter sent electronically via E-mail, no later than January 17, 2022, which is 20 days after the date of this submittal. Protests must be submitted to:

CPUC Energy Division
ED Tariff Unit
E-mail: EDTariffUnit@cpuc.ca.gov

The protest shall also be electronically sent to PG&E via E-mail at the address shown below on the same date it is electronically delivered to the Commission:

Sidney Bob Dietz II
Director, Regulatory Relations
c/o Megan Lawson
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (GO 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 and 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 (GO 96-B, Section 3.11).

Effective Date

Pursuant to GO 96-B, Rule 5.3, and OP 12 of D.22-02-004, this Advice Letter is submitted with a Tier 2 designation. PG&E requests that this Tier 2 advice submittal become effective upon Commission approval.

Notice

In accordance with GO 96-B, Section IV, a copy of this advice letter is being sent electronically to parties shown on the attached and the parties on the service lists for R.20-05-003 and R.21-10-002. Address changes to the GO 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 submittals can also be accessed electronically at: <http://www.pge.com/tariffs/>.

/S/

Sidney Bob Dietz II
Director, Regulatory Relations

Attachments

cc: Service List R.20-05-003, R.21-10-002



ADVICE LETTER 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 ☐ WATER
☐ PLC ☐ HEAT

Contact Person: Kimberly Loo

Phone #: (415)973-4587

E-mail: PGETariffs@pge.com

E-mail Disposition Notice to: KELM@pge.com

EXPLANATION OF UTILITY TYPE

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

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 6801E

Tier Designation: 2

Subject of AL: Progress on Energy Storage Procurement on the Kern-Lamont 115kV System in Compliance with Decision 22-02-004

Keywords (choose from CPUC listing): Compliance

AL Type: ☐ Monthly ☐ Quarterly ☐ Annual ☒ One-Time ☐ Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #: D.22-02-004

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:

Confidential treatment requested? ☒ Yes ☐ No

If yes, specification of confidential information: See Attachment B

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information: Amol Patel, Amol.Patel@pge.com

Resolution required? ☐ Yes ☒ No

Requested effective date:

No. of tariff sheets: 0

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 proposed¹: N/A

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

¹Discuss in AL if more space is needed.

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

California Public Utilities Commission
Energy Division Tariff Unit Email:
EDTariffUnit@cpuc.ca.gov

Contact Name: Sidnev Bob Dietz II. c/o Megan Lawson
Title: Director, Regulatory Relations
Utility/Entity Name: Pacific Gas and Electric Company

Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email: PGETariffs@pge.com

Contact Name:
Title:
Utility/Entity Name:

Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

CPUC
Energy Division Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

Clear Form

PACIFIC GAS AND ELECTRIC COMPANY

Attachment A

Overview of PG&E CPE Kern-Lamont RFO Procurement Progress

(Confidential)

PACIFIC GAS AND ELECTRIC COMPANY

Attachment B

**Declaration of Amol Patel Seeking Confidential
Treatment Pursuant to D.06-06-066, D.22-03-34
and Public Utilities Code §454.5(g)**

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

**PACIFIC GAS AND ELECTRIC COMPANY
CENTRAL PROCUREMENT ENTITY (CPE)**

**DECLARATION OF AMOL PATEL
SEEKING CONFIDENTIAL TREATMENT
FOR CERTAIN DATA AND INFORMATION CONTAINED IN
PROGRESS ON ENERGY STORAGE PROCUREMENT ON THE KERN-LAMONT
115KV SYSTEM IN COMPLIANCE WITH DECISION 22-02-004
ADVICE LETTER 6801-E
FILED DECEMBER 28, 2022**

I, Amol Patel, declare:

1. I am the Director of the CPE Implementation Department within the Energy Policy and Procurement organization at Pacific Gas and Electric Company (PG&E). In this position, my responsibilities include overseeing Resource Adequacy (RA) commercial and compliance activities at PG&E for the CPE. This declaration is based on my personal knowledge of PG&E CPE's practices and my understanding of the Commission's decisions protecting the confidentiality of market-sensitive procurement information.

2. Based on my knowledge and experience, and in accordance with the Decisions (D.) 06-06-066, 20-06-002, 22-03-034, and relevant Commission rules, I make this declaration seeking confidential treatment for certain procurement data and information contained in this Advice Letter detailing Progress on energy storage procurement on the Kern-Lamont 115kV system in compliance with Decision 22-02-004.

3. Attached to this declaration is a matrix identifying the data and information for which PG&E CPE is seeking confidential treatment. The matrix specifies that the material PG&E CPE is seeking to protect constitutes confidential market sensitive procurement data and information covered by D.06-06-066 (as modified by subsequent decisions), identified in D.22-03-034 for CPE-specific data, and/or other relevant Commission rules. The matrix also specifies why confidential protection is justified. Further, the data and information (1) is not already

public; and (2) cannot be aggregated, redacted, summarized or otherwise protected in a way that allows partial disclosure. By this reference, I am incorporating into this declaration all the explanatory text that is pertinent to my declaration in the attached matrix.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 28, 2022, at San Rafael, California.

/s/

AMOL PATEL

PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)

**PG&E CENTRAL PROCUREMENT ENTITY
PROGRESS ON ENERGY STORAGE PROCUREMENT ON THE KERN-LAMONT 115KV SYSTEM
IN COMPLIANCE WITH DECISION 22-02-004
ADVICE LETTER 6801-E
Submitted on December 28, 2022**

IDENTIFICATION OF CONFIDENTIAL INFORMATION

Redaction Reference	Category from D.06-06-066, Appendix 1, D.22-03-034, Appendix A or Separate Confidentiality Statute, or Order That Data Corresponds To	Justification for Confidential Treatment	Length of Time Data To Be Kept Confidential
Document: PROGRESS ON ENERGY STORAGE PROCUREMENT ON THE KERN-LAMONT 115KV SYSTEM IN COMPLIANCE WITH DECISION 22-02-004 – Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO Procurement Progress			
Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO Procurement Progress	D.22-03-034, Appendix A: Score sheets, analysis and evaluation	Disclosure of the score sheets, analysis and evaluation for CPE procurement could potentially have an adverse effect on the market, put the CPE at a competitive disadvantage with regard to other market participants, and impact participants' future bidding behavior for capacity that has not yet been procured.	3 years after conclusion of solicitation
	D.22-03-034, Appendix A: Bid/Offer data	Disclosure of the bid/offer data received during CPE procurement could potentially have an adverse effect on the market, put the CPE at a competitive disadvantage with regard to other market participants, and impact participants' future bidding behavior for capacity that has not yet been procured.	3 years after conclusion of solicitation

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

**DECLARATION SUPPORTING CONFIDENTIAL DESIGNATION
ON BEHALF OF
PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
CENTRAL PROCUREMENT ENTITY (CPE)**

1. I, Amol Patel, am the Director of the Central Procurement Entity (“CPE”) Implementation at Pacific Gas and Electric Company (“PG&E”), a California corporation. Fong Wan, the Senior Vice President of Energy Policy and Procurement at PG&E, delegated authority to me to sign this declaration. My business office is located at:

Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105

2. PG&E will produce the information identified in paragraph 3 of this Declaration to the California Public Utilities Commission (“CPUC”) or departments within or contractors retained by the CPUC in response to a CPUC audit, data request, proceeding, or other CPUC request.

Name or Docket No. of CPUC Proceeding (if applicable): R.20-05-003

3. Title and description of document(s):

Advice Letter 6801-E: Progress on Energy Storage Procurement on the Kern-Lamont 115kV System in Compliance with Decision 22-02-004

4. These documents contain confidential information that, based on my information and belief, has not been publicly disclosed. These documents have been marked as confidential, and the basis for confidential treatment and where the confidential information is located on the

documents are identified on the following chart, with further detail provided in Appendix A,
which is incorporated into this declaration:

Check	Basis for Confidential Treatment	Where Confidential Information is located on the documents
<input type="checkbox"/>	<p>Customer-specific data, which may include demand, loads, names, addresses, and billing data</p> <p>(Protected under PUC § 8380; Civ. Code §§ 1798 <i>et seq.</i>; Govt. Code § 6254; Public Util. Code § 8380; Decisions (D.) 14-05-016, 04-08-055, 06-12-029)</p>	
<input type="checkbox"/>	<p>Personal information that identifies or describes an individual (including employees), which may include home address or phone number; SSN, driver's license, or passport numbers; education; financial matters; medical or employment history (not including PG&E job titles); and statements attributed to the individual</p> <p>(Protected under Civ. Code §§ 1798 <i>et seq.</i>; Govt. Code § 6254; 42 U.S.C. § 1320d-6; and General Order (G.O.) 77-M)</p>	
<input type="checkbox"/>	<p>Physical facility, cyber-security sensitive, or critical energy infrastructure data, including without limitation critical energy infrastructure information (CEII) as defined by the regulations of the Federal Energy Regulatory Commission at 18 C.F.R. § 388.113</p> <p>(Protected under Govt. Code § 6254(k), (ab); 6 U.S.C. § 131; 6 CFR § 29.2)</p>	

<input checked="" type="checkbox"/>	<p>Proprietary and trade secret information or other intellectual property and protected market sensitive/competitive data</p> <p>(Protected under Civ. Code §§3426 <i>et seq.</i>; Govt. Code §§ 6254, <i>et seq.</i>, e.g., 6254(e), 6254(k), 6254.15; Govt. Code § 6276.44; Evid. Code §1060; D.11-01-036)</p>	<p>Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO Procurement Progress</p>
<input type="checkbox"/>	<p>Corporate financial records</p> <p>(Protected under Govt. Code §§ 6254(k), 6254.15)</p>	
<input checked="" type="checkbox"/>	<p>Third-Party information subject to non-disclosure or confidentiality agreements or obligations</p> <p>(Protected under Govt. Code § 6254(k); see, e.g., CPUC D.11-01-036)</p>	<p>Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO Procurement Progress</p>
<input checked="" type="checkbox"/>	<p>Other categories where disclosure would be against the public interest (Govt. Code § 6255(a)):</p> <p>The PG&E CPE Progress on Energy Storage Procurement on the Kern-Lamont 115kV System in Compliance with Decision 22-02-004 Advice Letter contains commercially sensitive information detailing the specific resources that have been offered to PG&E CPE as part of its competitive solicitation process. Disclosure of the specific resource information that has been offered to the CPE as part of its competitive solicitation process, could</p>	<p>Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO Procurement Progress</p>

potentially have an adverse effect on the market and impact participants' future bidding behavior for resources that have not yet been procured. Release of this information is against the public interest because this information can provide a commercial advantage to new bidders and existing contract counterparties, materially impact the price of capacity procurement.

5. The importance of maintaining the confidentiality of this information outweighs any public interest in disclosure of this information. This information should be exempt from the public disclosure requirements under the Public Records Act and should be withheld from disclosure.
6. I declare under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge.
7. Executed on this 28th day of December, 2022 at San Rafael, California.

/s/
Amol Patel
Director, CPE Implementation
Pacific Gas and Electric Company

PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)

PG&E CENTRAL PROCUREMENT ENTITY

ADVICE LETTER 6801-E: PROGRESS ON ENERGY STORAGE PROCUREMENT ON THE KERN-LAMONT 115KV SYSTEM IN COMPLIANCE WITH DECISION 22-02-004

ATTACHMENT TO DECLARATION SUBMITTED ON DECEMBER 28, 2022

ATTACHMENT NAME	DOCUMENT NAME	CATEGORY OF CONFIDENTIALITY	LOCATION
Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO Procurement Progress	Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO Procurement Progress.pdf	Proprietary and trade secret information or other intellectual property and protected market sensitive/competitive data. (Protected under Civ. Code §§3426 <i>et seq.</i> ; Govt. Code §§ 6254, <i>et seq.</i> , e.g., 6254(e), 6254(k), 6254.15; Govt. Code § 6276.44; Evid. Code §1060; D.11-01-036)	Confidential Attachment A: Overview of PG&E CPE Kern-Lamont RFO
		Third-Party information subject to non-disclosure or confidentiality agreements or obligations. (Protected under Govt. Code § 6254(k); see, e.g., CPUC D.11-01-036)	
		Other categories where disclosure would be against the public interest (Govt. Code § 6255(a))	

PACIFIC GAS AND ELECTRIC COMPANY

Attachment C

Proposed Protective Order

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Progress on Energy Storage Procurement on the)
Kern-Lamont 115kV System in Compliance with)
Decision 22-02-004)
_____)

Advice 6801-E

[PROPOSED] PROTECTIVE ORDER

1. Scope. This Protective Order shall govern access to and the use in connection with the above-referenced Advice Letter (the “Advice Letter”) of Protected Materials, produced by, or on behalf of, any Disclosing Party.

2. Modification. This Protective Order shall remain in effect until it is modified or terminated by the Commission or the Administrative Law Judge Division (“ALJ Division”). The parties acknowledge that the identity of the parties submitting Protected Materials may differ from time to time. In light of this situation, the parties agree that modifications to this Protective Order may become necessary, and they further agree to work cooperatively to devise and implement such modifications in as timely a manner as possible. Each party governed by this Protective Order has the right to seek changes in it as appropriate from the ALJ Division or the Commission.

3. Definitions

A. The term “Protected Material(s)” means (i) trade secret, market sensitive, or other confidential and/or proprietary information as determined by the Disclosing Party in accordance with the provisions of D.06-06-066 and subsequent decisions, General Order 66-Cand 454.5(g), or any other right of confidentiality provided by law, or (ii) any other materials that are made subject to this Protective Order by the ALJ Division, Law and Motion Administrative Law Judge

(“Law and Motion ALJ”), Assigned Commissioner, the Commission, or any court or other body having appropriate authority. Protected Materials also includes memoranda, handwritten notes, spreadsheets, computer files and reports, and any other form of information (including information in electronic form) that copies, discloses, or compiles other Protected Materials or from which such materials may be derived (except that any derivative materials must be separately shown to be confidential). Protected Materials do not include: (i) any information or document contained in the public files of the CPUC or any other state or federal agency, or in any state or federal court; or (ii) any information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order or any other protective order.

B. The term “redacted” refers to situations in which Protected Materials in a document, whether the document is in paper or electronic form, have been covered, blocked out, or removed. The term “unredacted” refers to situations in which the Protected Materials in a document, whether in paper or electronic form, have not been covered, blocked out, or removed.

C. The term “Disclosing Party” means a party who initially discloses any specified Protected Materials in connection with the Advice Letter.

D. The term “Market Participant” (“MP”) refers to a party that is:

- 1) A person or entity, or an employee of an entity, that engages in the wholesale purchase, sale or marketing of energy or capacity, or the bidding on or purchasing of power plants, or bidding on utility procurement solicitations, or consulting on such matters, subject to the limitations in 3) below.
- 2) A trade association or similar organization, or an employee of such organization,
 - a) whose primary focus in proceedings at the Commission is to advocate for persons/entities that purchase, sell or market energy or capacity at wholesale; bid on, own, or purchase power plants; or bid on utility procurement solicitations; or
 - b) a majority of whose members purchase, sell or market energy or capacity at wholesale; bid on, own, or purchase power plants; or bid on utility procurement solicitations; or

- c) formed for the purpose of obtaining market sensitive information; or
 - d) controlled or primarily funded by a person or entity whose primary purpose is to purchase, sell or market energy or capacity at wholesale; bid on, own, or purchase power plants; or bid on utility procurement solicitations.
- 3) A person or entity that meets the criteria of 1) above is nonetheless not a market participant for purpose of access to market sensitive data unless the person/entity seeking access to market sensitive information has the potential to materially affect the price paid or received for electricity if in possession of such information. An entity will be considered not to have such potential if:
- a) the person or entity's participation in the California electricity market is *de minimis* in nature. In the resource adequacy proceeding (R.05-12-013) it was determined in D.06-06-064 § 3.3.2 that the resource adequacy requirement should be rounded to the nearest megawatt (MW), and load serving entities (LSEs) with local resource adequacy requirements less than 1 MW are not required to make a showing. Therefore, a *de minimis* amount of energy would be less than 1 MW of capacity per year, and/or an equivalent of energy; and/or
 - b) the person or entity has no ability to dictate the price of electricity it purchases or sells because such price is set by a process over which the person or entity has no control, *i.e.*, where the prices for power put to the grid are completely overseen by the Commission, such as subject to a standard offer contract or tariff price. A person or entity that currently has no ability to dictate the price of electricity it purchases or sells under this section, but that will have such ability within one year because its contract is expiring or other circumstances are changing, does not meet this exception; and/or
 - c) the person or entity is a cogenerator that consumes all the power it generates in its own industrial and commercial processes, if it can establish a legitimate need for market sensitive information.

E. A Market Participant's Reviewing Representatives are limited to persons designated by the Market Participant who meet the following criteria:

1. Are outside experts, consultants or attorneys;
2. Are not currently engaged, directly or indirectly, in (a) the purchase, sale, or marketing of electrical energy or capacity or natural gas (or the direct supervision of any employee(s) whose duties include such activities), (b) the bidding on or purchasing of

power plants (or the direct supervision of any employee(s) whose duties include such activities), or (c) consulting with or advising others in connection with any activity set forth in subdivisions (a) or (b) above (or the direct supervision of any employee(s) whose duties include such activities or consulting); and

3. Are not an employee of a market participant.

F. Persons or entities that do not meet the definition of market participant are non-market participants (“NMPs”), and may have access to market sensitive information through their designated Reviewing Representatives. An attorney or consultant that simultaneously represents market participant(s) and non-market participant(s) may not have access to market sensitive data. If, on the other hand, simultaneous representation is of market participant and non-market participant clients involved in completely different types of matters, there should be no bar (although there may be ethical implications of such representation that we do not address here). If, for example, an attorney represents a market participant in matters unrelated to procurement, resource adequacy, RPS, or the wholesale purchase, sale or marketing of energy or capacity, or the bidding on or purchasing of power plants, or bidding on utility procurement solicitations, in a forum other than this Commission, and simultaneously represents a non-market participant in cases related to these topics before the Commission, there should be no bar to the attorney's receipt of market sensitive data (pursuant to a non-disclosure agreement and protective order) in the latter matter. In close cases, the balance should militate to bar simultaneous representation because of the risks it poses.

H. All Reviewing Representatives are required to execute a non-disclosure agreement and are bound by the terms of this Protective Order.

4. Designation of Materials. When submitting materials in connection with the Advice Letter containing Protected Materials, a party shall physically mark such documents on each page (or in the case of non-documentary materials such as computer diskettes, on each item) as “PROTECTED MATERIALS SUBJECT TO PROTECTIVE ORDER,” or with words of similar import as long as one or more of the terms, “Protected Materials,” “Protective Order,” or

“General Order No. 66-C” is included in the designation to indicate that the materials in question are protected.

All materials so designated shall be treated as Protected Materials unless and until (a) the designation is withdrawn pursuant to Paragraph 17 hereof, or (b) an ALJ, Commissioner or other Commission representative makes a determination pursuant to Paragraph 4 hereof changing the designation.

All documents containing Protected Materials that are submitted to Commission Staff in connection with the Advice Letter, or filed with the Commission or served, shall be placed in sealed envelopes or otherwise appropriately protected and shall be endorsed to the effect that they are submitted, filed or served under seal pursuant to this Protective Order. Such documents shall be served upon Reviewing Representatives and persons employed by or working on behalf of the state governmental agencies referred to in Paragraph 12 hereof who are eligible and have requested to review such materials. Service upon the persons specified in the foregoing sentence may either be (a) by electronic mail in accordance with the procedures adopted in connection with advice letters, (b) by facsimile, or (c) by overnight mail or messenger service. Whenever service of a document containing Protected Materials is made by overnight mail or messenger service, Commission Staff and/or the ALJ Division, as may be appropriate for purposes of review and disposition of the Advice Letter, shall be served with such document by hand on the date that service is due.

5. Redaction of Documents. Whenever a party submits to Commission Staff, or files, serves or provides in discovery, a document that includes Protected Materials (including but not limited to briefs, testimony, exhibits, and responses to data requests), such party shall also prepare a redacted version of such document. The redacted version shall enable persons familiar with the Advice Letter to determine with reasonable certainty the nature of the data that has been redacted and where the redactions occurred. The redacted version of a document to be submitted or filed shall be served on all persons on the utility’s advice letter service list and on any third

parties as specified by statute or other Commission order, and the redacted version of a discovery document shall be served on all persons entitled thereto.

6. Selection of Reviewing Representatives. Each MP and NMP selecting a Reviewing Representative shall first identify its proposed Reviewing Representative to the Disclosing Party. An attorney or consultant that simultaneously represents market participant(s) and non-market participant(s) may not have access to market sensitive data, subject to the exception in paragraph 3.F. Any designated Reviewing Representative has a duty to disclose to the Disclosing Party any potential conflict that puts him/her in violation of Decision 06-12-030. A resume or curriculum vitae is reasonable disclosure of such potential conflicts, and should be the default evidence provided in most cases.

7. Access to Protected Materials and Use of Protected Materials. Subject to the terms of this Protective Order, Reviewing Representatives shall be entitled to access to Protected Materials. All other parties in this proceeding shall not be granted access to Protected Materials, but shall instead be limited to reviewing redacted versions of documents. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials. Protected Materials obtained by a party in connection with the Advice Letter may also be requested by that party in a subsequent Commission proceeding, subject to the terms of any protective order governing that subsequent proceeding, without constituting a violation of this order.

8. Maintaining Confidentiality of Protected Materials. Each Reviewing Representative shall treat Protected Materials as confidential in accordance with this Protective Order and the Non-Disclosure Certificate executed pursuant to Paragraph 7 and 8 hereof. Protected Materials shall not be used except as necessary in connection with review and disposition of the Advice Letter, and shall not be disclosed in any manner to any person except (i) Reviewing

Representatives who have executed Non-Disclosure Certificates; (ii) Reviewing Representatives' paralegal employees and administrative personnel, such as clerks, secretaries, and word processors, to the extent necessary to assist the Reviewing Representatives, provided that they shall first ensure that such personnel are familiar with the terms of this Protective Order, and have signed a Non-Disclosure Certificate, (iii) persons employed by or working on behalf of the CEC or other state governmental agencies covered by Paragraph 12. Reviewing Representatives shall adopt suitable measures to maintain the confidentiality of Protected Materials they have obtained pursuant to this Protective Order, and shall treat such Protected Materials in the same manner as they treat their own most highly confidential information. Reviewing Representatives shall be liable for any unauthorized disclosure or use by their paralegal employees or administrative staff. In the event any Reviewing Representative is requested or required by applicable laws or regulations, or in the course of administrative or judicial proceedings (in response to oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any of Protected Materials, they shall immediately inform the Disclosing Party of the request, and the Disclosing Party may, at its sole discretion and cost, direct any challenge or defense against the disclosure requirement, and the Reviewing Representative shall cooperate in good faith with such party either to oppose the disclosure of the Protected Materials consistent with applicable law, or to obtain confidential treatment of them by the person or entity who wishes to receive them prior to any such disclosure. If there are multiple requests for substantially similar Protected Materials in the same case or proceeding where a Reviewing Representative has been ordered to produce certain specific Protected Materials, the Reviewing Representative may, upon request for substantially similar materials by another person or entity, respond in a manner consistent with that order to those substantially similar requests.

9. Exception for California Independent System Operator (ISO). Notwithstanding any other provision of this Protective Order, with respect to an ISO Reviewing Representative only, participation in the ISO's operation of the ISO-controlled grid and in its administration of the

ISO-administered markets, including, but not limited to, markets for ancillary services, supplemental energy, congestion management, and local area reliability services, shall not be deemed to be a violation of this Protective Order.

10. Non-Disclosure Certificates. A Reviewing Representative shall not inspect, participate in discussions regarding, or otherwise be granted access to, Protected Materials unless and until he or she has first completed and executed a Non-Disclosure Certificate, attached hereto as Appendix A, and delivered the original, signed Non-Disclosure Certificate to the Disclosing Party. The Disclosing Party shall retain the executed Non-Disclosure Certificates pertaining to the Protected Materials it has disclosed and shall promptly provide copies of the Non-Disclosure Certificates to Commission Staff upon request.

11. Return or Destruction of Protected Materials. Protected Materials shall remain available to Reviewing Representatives until the later of the date that disposition of the Advice Letter becomes no longer subject to review, or the date that any other Commission proceeding relating to the Protected Material is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Reviewing Representatives shall, within fifteen days of such request, return the Protected Materials (including Notes of Protected Materials) to the Participant that produced them, or shall destroy the materials, except that copies of materials submitted to the Commission in connection with the Advice Letter that contain Protected Materials, and Notes of Protected Material may be retained, if they are maintained in accordance with Paragraph 8. Within such time period each Reviewing Representative, if requested to do so, shall also submit to the Disclosing Party an affidavit stating that, to the best of its knowledge, all Protected Materials and all Notes of Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 8. To the extent Protected Materials are not returned or destroyed, they shall remain subject to the Protective Order and CPUC General Order No. 66-C. In the event that a Reviewing Representative to whom Protected Material are disclosed ceases to be engaged to provide services in connection with the

Advice Letter, then access to such materials by that person shall be terminated. Even if no longer engaged in connection with the Advice Letter, every such person shall continue to be bound by the provisions of this Protective Order and the Non-Disclosure Certificate.

12. Access and Use by Governmental Entities.

(a) In the event the CPUC receives a request from the CEC for a copy of or access to any party's Protected Materials, the procedure for handling such requests shall be as follows. Not less than five (5) days after delivering written notice to the Disclosing Party of the request, the CPUC shall release such Protected Materials to the CEC upon receipt from the CEC of an Interagency Information Request and Confidentiality Agreement ("Interagency Confidentiality Agreement"). Such Interagency Confidentiality Agreement shall (i) provide that the CEC will treat the requested Protected Materials as confidential in accordance with this Protective Order, (ii) include an explanation of the purpose for the CEC's request, as well as an explanation of how the request relates to furtherance of the CEC's functions, (iii) be signed by a person authorized to bind the CEC contractually, and (iv) expressly state that furnishing of the requested Protected Materials to employees or representatives of the CEC does not, by itself, make such Protected Materials public. In addition, the Interagency Confidentiality Agreement shall include an express acknowledgment of the CPUC's sole authority (subject to judicial review) to make the determination whether the Protected Materials should remain confidential or be disclosed to the public, notwithstanding any provision to the contrary in the statutes or regulations applicable to the CEC.

(b) In the event the CPUC receives a request for a copy of or access to a party's Protected Materials from a state governmental agency other than the CEC that is authorized to enter into a written agreement sufficient to satisfy the requirements for maintaining confidentiality set forth in Government Code Section 6254.5(e), the CPUC may, not less than five (5) days after giving written notice to the Disclosing Party of the request, release such protected material to the requesting governmental agency, upon receiving from the requesting

agency an executed Interagency Confidentiality Agreement that contains the same provisions described in Paragraph 10(a) above.

(c) The CEC may use Protected Materials when needed to fulfill its statutory responsibilities or cooperative agreements with the CPUC. Commission confidentiality designations will be maintained by the CEC in making such assessments, and the CEC will not publish any assessment that directly reveals the data or allows the data submitted by an individual load serving entity (“LSE”) to be “reverse engineered.”

13. Dispute Resolution. All disputes that arise under this Protective Order, including but not limited to alleged violations of this Protective Order and disputes concerning whether materials were properly designated as Protected Materials, shall first attempted to be resolved through meet and confer. If the meet and confer process is unsuccessful, the involved parties may present the dispute for resolution to the ALJ Division.

14 Other Objections to Use or Disclosure. Nothing in this Protective Order shall be construed as limiting the right of a party, the Commission Staff, or a state governmental agency covered by Paragraph 12 from objecting to the use or disclosure of Protected Material on any legal ground, such as relevance or privilege.

15. Remedies. Any violation of this Protective Order shall constitute a violation of an order of the CPUC. Notwithstanding the foregoing, the parties and Commission Staff reserve their rights to pursue any legal or equitable remedies that may be available in the event of an actual or anticipated disclosure of Protected Materials.

16. Withdrawal of Designation. A Disclosing Party may agree at any time to remove the “Protected Materials” designation from any materials of such party if, in its opinion, confidentiality protection is no longer required. In such a case, the Disclosing Party will notify all other parties that the Disclosing Party believes are in possession of such materials of the change of designation.

17. Interpretation. Titles are for convenience only and may not be used to restrict the scope of this Protective Order.

Entered: _____
Administrative Law Judge

Date: _____

APPENDIX A TO PROTECTIVE ORDER

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Progress on Energy Storage Procurement on the)
Kern-Lamont 115kV System in Compliance with)
Decision 22-02-004.)
_____)

Advice 6801-E

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Protective Order in connection with the above referenced Advice Letter, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with that Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of California Public Utilities Commission.

By: _____
Title: _____
Representing: _____
Date: _____

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

AT&T
Albion Power Company

Alta Power Group, LLC
Anderson & Poole

Atlas ReFuel
BART

Barkovich & Yap, Inc.
Braun Blaising Smith Wynne, P.C.
California Cotton Ginners & Growers Assn
California Energy Commission

California Hub for Energy Efficiency
Financing

California Alternative Energy and
Advanced Transportation Financing
Authority
California Public Utilities Commission
Calpine

Cameron-Daniel, P.C.
Casner, Steve
Center for Biological Diversity

Chevron Pipeline and Power
City of Palo Alto

City of San Jose
Clean Power Research
Coast Economic Consulting
Commercial Energy
Crossborder Energy
Crown Road Energy, LLC
Davis Wright Tremaine LLP
Day Carter Murphy

Dept of General Services
Don Pickett & Associates, Inc.
Douglass & Liddell
Dish Wireless L.L.C.

East Bay Community Energy Ellison
Schneider & Harris LLP
Engineers and Scientists of California

GenOn Energy, Inc.
Goodin, MacBride, Squeri, Schlotz &
Ritchie
Green Power Institute
Hanna & Morton
ICF

iCommLaw
International Power Technology
Intertie

Intestate Gas Services, Inc.

Johnston, Kevin
Kelly Group
Ken Bohn Consulting
Keyes & Fox LLP
Leviton Manufacturing Co., Inc.

Los Angeles County Integrated
Waste Management Task Force
MRW & Associates
Manatt Phelps Phillips
Marin Energy Authority
McClintock IP
McKenzie & Associates

Modesto Irrigation District
NLine Energy, Inc.
NRG Solar

OnGrid Solar
Pacific Gas and Electric Company
Peninsula Clean Energy

Pioneer Community Energy

Public Advocates Office

Redwood Coast Energy Authority
Regulatory & Cogeneration Service, Inc.

Resource Innovations

SCD Energy Solutions
San Diego Gas & Electric Company

SPURR
San Francisco Water Power and Sewer
Sempra Utilities

Sierra Telephone Company, Inc.
Southern California Edison Company
Southern California Gas Company
Spark Energy
Sun Light & Power
Sunshine Design
Stoel Rives LLP

Tecogen, Inc.
TerraVerde Renewable Partners
Tiger Natural Gas, Inc.

TransCanada
Utility Cost Management
Utility Power Solutions
Water and Energy Consulting Wellhead
Electric Company
Western Manufactured Housing
Communities Association (WMA)
Yep Energy