



Electric Sample Form No. 79-1050
Contract for Customer Provision of Physically Assured Load Reduction

Sheet 1

**Please Refer to Attached
Sample Form**



CONTRACT FOR CUSTOMER PROVISION OF PHYSICALLY ASSURED LOAD REDUCTION

Pacific Gas and Electric Company hereinafter referred to as "PG&E" and _____, hereinafter referred to as "Customer" (collectively referred to as "Parties" or separately as the "Party").

1. RECITALS

WHEREAS, PG&E and Customer desire to enter into a contract for the provision of electric distribution service wherein the Customer will provide for physically assured load reduction ("Load Reduction") based on either the availability of the installed capacity (the "Capacity") of a distributed generation facility ("DG") at the Customer's site(s) or by Load Reduction if the full Capacity is unavailable.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

2. APPLICABILITY

The rates set forth in this Contract shall apply only to PG&E's electric distribution rates and reservation charges for service to Customer located at _____, City/County of _____. This Contract shall be applicable to those customers that can provide physical assurance for Load Reduction at any time the Customer's DG is not operating at full Capacity. An equal amount of Customer load to the DG capacity would be interrupted to prevent adverse consequences to the distribution system and to other customers.

3. TERM AND TERMINATION

3.1 Term

The initial term of this Agreement shall be for a period of one (1) year from the date the standby service under this Agreement is first made available to Customer as such date is established in PG&E's records and shall continue thereafter from year to year. This Contract shall become effective on _____; provided, however, the rates set forth in Section 4 hereof shall not be effective until Customer can provide for physically assured load reduction as defined in Section 5.1 hereof.

3.2 Termination

Either party may terminate this Contract at the end of each one (1) year term by providing notice in accordance with Section 11.2. Such notice shall provide PG&E enough time to design and install any necessary distribution system upgrades to accommodate the additional load, and shall be determined on a case-by-case basis depending on current local lead-times. In addition, in accordance with section 6.1 below, either party may terminate this Contract during any year by giving written notice of termination in the event that the other party commits any material default under this Contract which, if capable of being remedied, is not remedied in accordance with the process set out in section 6.1.

† Information collected on this form is used in accordance with PG&E's Privacy Policy. The Privacy Policy is available at pge.com/privacy.

3.3 Survival

Sections 6.2, 6.3, 8, 9, 10, 11.2, 11.3, 11.5 and 12 shall survive termination until all obligations set forth in these provisions are satisfied.

4. RATES

4.1 The rates to be applied to Customer's electric load shall be those contained in PG&E's Electric Schedule S or Schedule SB, if applicable, or the otherwise applicable rate schedule for standby customers who take supplemental service, or such superseding Rate Schedules as may from time to time be approved by the California Public Utilities Commission. PG&E shall waive standby reservation and distribution energy (kWh) charges for backup standby service provided under Schedule S or Schedule SB. The standby reservation charge shall be waived for standby customers that take supplemental service from PG&E under the otherwise applicable rate schedule.

4.2 The capitalized terms used in Section 4.1, unless otherwise defined in this Contract, shall have the meanings set forth in PG&E's Rate Schedules referenced in Section 4.1.

5. CUSTOMER'S COVENANTS

5.1 Customer shall install, cause to be installed, or utilize its existing DG with Capacity of _____ kW ("Capacity") that shall be commercially operable by, or on, _____ (the "In-Service Date"). Customer represents that it shall rely upon the DG to meet all, or a portion of, its electric energy requirements in an amount equal to the Capacity after the In-Service Date. For purposes of this Contract, "physically assured load reduction" shall mean the application of devices and equipment that interrupt a Customer's load when the DG does not provide Capacity for any reason, including an Uncontrollable Force.

5.2 If the Capacity is not available for any reason, including an Uncontrollable Force, the Customer agrees that Customer shall automatically drop load in an amount equal to the energy shortfall arising from the DG not operating at full Capacity. Customer shall cause an appropriate amount of Load Reduction to make up the energy shortfall through use of Relay Equipment described in Section 5.3.

5.3 Customer shall own, design, install and operate relay equipment and software on the Customer's side of the meter ("Relay Equipment") that will automatically and instantaneously protect PG&E's distribution system and service to other PG&E customers in the event the DG fails for any reason to perform at its full Capacity. Prior to installation, the design of Relay Equipment shall be submitted to PG&E for review and approval as to its adequacy to protect PG&E's distribution system and maintain the reliability of service to other PG&E customers. Prior to receiving the provisions of this Contract, PG&E shall have physically inspected the installation of Relay Equipment, witnessed its successful operation, and provided written confirmation of its approval prior to Customer commencing operation under this Contract. PG&E shall have the right to inspect and verify the operation of the Relay Equipment during the term of this contract.

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5.4 Review, if any, by PG&E of the design, construction, operation, or maintenance of the DG and Relay Equipment, including modifications thereto, shall not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of such facilities except as to the adequacy of such facilities to protect PG&E's distribution system and maintain the reliability of service to other PG&E customers. Customer shall in no way represent to any third party that any such review by PG&E of such facilities including but not limited to any review of the design, construction, operation, or maintenance of such facilities by PG&E is a representation by PG&E as to the economic or technical feasibility, operational capability, or reliability of such facilities. Customer is solely responsible for economic and technical feasibility, operational capability, and reliability of the DG and the Relay Equipment except as otherwise provided in this Section 5.4.

5.5 Customer shall be responsible for all its costs incurred in meeting its obligations under this Contract.

5.6 Customer shall notify PG&E in advance of its intent to remove Relay Equipment. Such notification shall in accordance with Section 11 of this Contract. The amount of time required prior to Customer's removal of Relay Equipment shall allow PG&E adequate time review and install any necessary distribution facilities to accommodate additional load on its distribution system. Section 6 of this Contract shall apply to those Customers who fail to provide such notice.

5.7 Customer may be allowed to place maintenance load on the distribution system during mutually agreed times (Scheduled Maintenance). Maintenance load is defined as Customer's load that would have otherwise been served by the DG that is down for maintenance. Customer shall provide four (4) days notice prior to PG&E determining whether and when Scheduled Maintenance is available ("Request"). For each Request, Customer agrees to pay PG&E at the time of such notification for its expenses related to the scheduling and any necessary rearrangement of its facilities to accommodate Scheduled Maintenance. Such fee per Request shall be as stated in the PG&E Schedule S or Schedule SB on file with the California Public Utilities Commission at the time the Request is made.

6. DEFAULTS AND REMEDIES

6.1 Termination for Default

If either Party breaches its material obligations under this Contract, such breach shall constitute an event of default. If any Party defaults under this Contract, the other Party may terminate this Contract; provided that prior to such termination the other Party must provide the defaulting Party with written notice stating: (i) the Party's intent to terminate; (ii) the date of such intended termination; (iii) the specific grounds for termination; (iv) specific actions which the defaulting Party must take to cure the default, if any; and (v) a reasonable period of time, which shall not be less than 10 calendar days, within which the defaulting Party may take action to cure the default and avoid termination, provided there is any action which can be taken to cure the default. The pendency of any dispute resolution procedure pursuant to Section 10 with regard to any separate

dispute(s) or Sections 3.2 and 6.1 hereof shall not limit the right to terminate this Contract under Section 3.2.

6.2 Damages for Failure to Provide Load Reduction

If Customer breaches its obligation to provide Load Reduction, then the resulting damages shall be calculated to be (i) 18 multiplied by (ii) the Capacity multiplied by (iii) waived distribution reservation charges set forth in Section 4.1 during the prior twelve (12) months. The Parties agree that the factor set forth in subsection (i) is derived by taking savings Customer would achieve from this Contract during the prior 12 months of this Contract times 1.5, and may be applied to each occurrence. In addition, Customer shall be responsible for all damages to PG&E personnel and equipment and third party personnel and equipment resulting from the failure to provide Load Reduction.

6.3 Damages for Failure to Continue to Provide Load Reduction

If after reasonable notice, Customer continues to fail to provide Load Reduction, then the resulting damages shall be calculated to include any cost associated with the accelerated construction of facilities required in PG&E's reasonable discretion to reliably and safely provide service to all customers on the affected circuits and substation, e.g., any cost of overtime hours for PG&E's own resources, additional contract personnel, additional payments to contractors for expedited delivery of equipment and materials and premiums paid, if any, to obtain necessary rights of way or permits. PG&E selection of any facilities contemplated by this Section 6.3 shall be based on good utility practices, including, but not limited, to its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements and applicable laws and regulations.

6.4 Service Interruption Until Remedial Measures Installed

In addition, if Customer breaches its obligation to provide Load Reduction, then until PG&E places into commercial operation those facilities it has determined are necessary pursuant to Section 6.3 hereof, the Customer shall curtail or interrupt its electric requirements at its site using the Relay Equipment described in Section 5.3 whenever directed by PG&E in order to avoid damage to PG&E's distribution system or harm to other customers. If in PG&E's sole discretion it determines the Customer is unable or unwilling to comply with PG&E's curtailment or interruption directions, then PG&E may immediately disconnect service to Customer until such time as the facilities identified pursuant to Section 6.3 have been placed into commercial operation.

6.5 Other Remedies

The remedies available under Section 6.1 through 6.4 are not exclusive, and subject to Section 10 either Party also shall be entitled to pursue any other legal, equitable or regulatory rights and remedies it may have in response to a default by the other Party.

7. NON-INTERFERENCE

Nothing in this Contract shall in any way interfere with Customer contracting for generation or meter related services with any other party.

8. INDEMNITY**8.1 Indemnity**

Each Party shall indemnify, defend and hold the other Party harmless from and against all losses, damages, claims, liabilities, costs or expenses (including legal expenses) whatsoever for injuries to or death of any person (including, but not limited to, agents, employees, contractors and invitees of PG&E and Customer) and for all loss, damage or destruction of electrical equipment or electric or gas meters or any other property (including, but not limited to, property of PG&E, Customer, and their respective agents, employees, contractors and invitees) arising out of any act or omission except to the extent that they result from any breach of this Contract by the indemnifying Party or the indemnified Party's negligence or intentional wrongdoing.

9. UNCONTROLLABLE FORCES

Any act beyond the reasonable control of a Party and which by the exercise of due diligence by such Party is unable to prevent or overcome. In the event of the occurrence of an Uncontrollable Force which prevents a Party from performing any of its obligations under this Contract such Party shall: (i) promptly notify the other party; (ii) not be entitled to suspend performance of any greater scope or longer duration than is required by the Uncontrollable Force (iii) use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance hereunder; (iv) keep the other Party apprised of such efforts on a continual basis; and (v) provide written notice of the resumption of performance hereunder.

10. DISPUTE RESOLUTION**10.1 Mediation, Arbitration and/or Litigation**

Any dispute that cannot be resolved between the Parties shall be settled by means of conference, mediation and/or litigation as provided for herein.

10.1.1 The first step in the disputed resolution process shall be a conference by which the dispute is referred to a designated officer of each Party for resolution. If those two officers cannot reach an agreement within a reasonable period of time, the Parties may submit the dispute to mediation in accordance with the Commercial Rules of the American Arbitration Association.

10.1.2 If the dispute is not resolved by the mediation, the Parties shall submit the dispute to the California Public Utilities Commission for final resolution unless the relief sought cannot be awarded by the CPUC in which case a Party may proceed to a Superior Court for the State of California, City and County of San Francisco.

10.2 Recovery of Costs and Attorneys' Fees

If either Party to this Contract begins any legal action or proceeding against the other by reason of the alleged failure of the other to perform under this Contract, or for the interpretation of any provision thereof, the Party prevailing in said action or proceeding shall be entitled to recover, in addition to its costs, reasonable attorneys' fees, whether retained or in-house counsel, and costs. Such recovery shall include court costs and



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attorneys' fees on appeal, if any. As used herein, "the Party prevailing" means the Party in whose favor final judgment is rendered.

11. MISCELLANEOUS

11.1 Assignment. This Contract is intended to be between the two Parties and neither Party may assign this Contract without prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

11.2 Notices.

11.2.1 Except for notices provided pursuant to Section 11.2.3, any notices or demands to be served here under by either Party to the other shall be in writing and effected either by personal delivery or by mail, registered or certified, with return receipt requested. Mailed notices shall be addressed as follows to:

Pacific Gas and Electric Company
Customer Operations Regulatory Policy Department –
300 Lakeside Drive
Oakland, CA 94612
Attention: Tariff Interpretation c/o Service Planning & Design

Customer _____

Attention _____

11.2.2 Except for noticed provided pursuant to Section 11.2.3, until written notice of a different address is furnished in accordance herewith to the other Party, all such notices shall be delivered to the addresses above. Such notices shall be deemed to have been served at the time personally delivered to either Party or within ninety-six (96) hours after the same have been deposited, postage prepaid, in the United States Post Office, which shall be a valid and sufficient service of notice for all purposes.

11.2.3 PG&E shall inform Customer when Load Reduction is required in writing or by such other means of communication as may be jointly agreed in writing.

11.3 Governing Law. The formation, interpretation and performance of this Contract shall be governed by California law, without regard to its principles of conflict of law.

11.4 Entire Agreement. This Contract, in combination with PG&E's tariffs as approved by the California Public Utilities Commission ("Commission"), contains the entire agreement between the Parties



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11.5 Disclaimer of Warranty. No promise, representation, warranty, or covenant not included in this Contract has been, or is relied on by either Party. Each Party has relied on its own examination of this Contract, the counsel of its own advisors, and the warranties, representations, and covenants in the Contract itself.

12. COMMISSION CONTINUING AUTHORITY

This Contract shall at all times be subject to the Commission and to any changes or modification that the Commission may, from time to time, direct in the exercise of its jurisdiction. Notwithstanding any other provision of this Contract, either Party shall have the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for a change in rates, charges, classification, or any rule, regulation, or agreement relating thereto.

IN WITNESS WHEREOF, PG&E and Customer have executed this Contract on _____.

_____	PACIFIC GAS AND ELECTRIC COMPANY
(Customer)	_____
_____	_____
(Signature)	(Signature)
_____	_____
(Type/Print Name)	(Type/Print Name)
_____	_____
(Title)	(Title)
_____	_____
(Date)	(Date)