



June __, 2010

Advice 2XXX-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: PG&E-San Francisco Community Choice Aggregation Service Agreement

Pursuant to General Order 96-B, Section 8.2.3, Pacific Gas and Electric Company (PG&E) hereby submits for Commission review and approval a specifically negotiated Community Choice Aggregation (CCA) Service Agreement between PG&E and the City and County of San Francisco (CCSF). Pursuant to Decision 05-12-041, the specifically negotiated Service Agreement has been tailored from Electric Sample Form No. 79-1029 by mutual agreement of PG&E and CCSF.

Purpose

This Advice Filing seeks Commission approval of a CCA Service Agreement negotiated by PG&E and San Francisco under the close supervision of senior CPUC staff. The specifically negotiated Service Agreement contains provisions that differ from Sample Form No. 79-1029. PG&E specifically seeks (1) a Commission resolution approving and finding that these different provisions adequately protect bundled ratepayers and customer privacy rights, and (2) Commission approval and authorization to implement sections 11.2, 22.1(c) and 22.2 (with respect to release of the identity of customers who have opted out prior to mass enrollment) and 23.8, including directing PG&E to disclose customer-specific information to CCSF as provided under this negotiated agreement, and to waive, as may be necessary, the standard CCA tariff language contained in PG&E Electric Rule 23.C.3.a and J.2 and the customer privacy requirements in PG&E Electric Rule 9.M.

Background

In 2002, the California legislature approved Assembly Bill 117, authorizing Community Choice Aggregation (CCA) Service. In Decisions 04-12-046 and 05-12-041, the Commission developed detailed rules for implementing such Service. In Decision 05-12-041, and Advice filing 2784-E-A, the Commission approved a form Service Agreement, to be executed prior to a CCA initiating service, to

address the obligations of the utility and the CCA. The CCA Service Agreement is an approved tariff form, Electric Sample Form No. 79-1029.

Decision 05-12-041 provided that the form Service Agreement is exemplary and may be modified, explaining:

We adopt [this form Service Agreement] with the understanding that it is exemplary and may be tailored by the mutual agreement of the utility and the CCA to accommodate specific circumstances, as long as utility bundled customers would be no worse off as a result.

D.05-12-041, p. 40.

In 2010, CCSF approached PG&E about negotiating a Service Agreement between the parties that differed from the form Service Agreement. CCSF and PG&E then had a number of discussions. Many of these discussions were facilitated by and conducted under the close supervision of the senior CPUC staff from Energy Division and Legal Division. As a result of these negotiations, the parties have reached agreement on revised terms for the CCA Service Agreement between PG&E and CCSF, and this Advice Filing seeks approval of this negotiated Service Agreement. PG&E and CCSF have agreed that, in general, the provisions of the negotiated Service Agreement were effective upon its execution, consistent with General Order 96-B, section 8.2.3, but the agreement specifically requires Commission approval and authorization of four identified provisions as a condition precedent to their becoming effective. The provisions requiring Commission approval before becoming effective are set forth below (See Effective Date).

Differences from the Form Service Agreement

The most significant differences from the form Service Agreement are:

- Term of Service: this is a two year agreement, with a duty to negotiate a successor agreement. Section 3.
- Events of Default: these terms are revised and clarified. Section 4.
- Billing and Payment: the rules and processes are revised and clarified, including provisions for interest if payments are late, and limiting the parties' offset rights. Section 5.
- Limitation of liability: these terms are revised and clarified. Section 6.
- Dispute resolution: these terms are revised and clarified. Section 15.
- Unauthorized energy use: these terms are revised and clarified. Section 18.
- Audits: PG&E provides substantially expanded audit rights; CCSF provides some audit rights as well. Section 22.
- Data to CCSF: Upon satisfaction of specified conditions, PG&E will provide opt out information, including customer names, to CCSF prior to mass

enrollment. PG&E believes that it is not now authorized or required to disclose this information; CCSF believes that current decisions and rules, including Decision 04-12-046 (pp. 51-52), permit release of this information. Section 23.8.

The attached document shows the differences from the form Service Agreement.

PG&E has been authorized to represent that CCSF supports approval of this Advice Letter.

Specific Approval Requested

PG&E seeks approval of the negotiated Service Agreement between PG&E and CCSF, particularly the provisions that differ from those in Electric Sample Form No. 79-1029. Because there is a risk that the changes in the negotiated Service Agreement may result in higher payments to CCSF (such as interest payments that would be owed if PG&E were late in remitting customer payments to CCSF) that would not otherwise have been due, PG&E seeks a specific finding from the Commission that these changes will leave utility bundled customers no worse off as a result. (See D.05-12-041 at page 40, quoted above).

In addition, PG&E seeks (1) a specific finding from the Commission that providing opt out information and names to CCSF prior to mass enrollment is consistent with AB 117 and other applicable law and will not adversely affect the privacy rights of PG&E's customers and waiving Rules 9 and 23 to the extent necessary to allow the provision of this customer-specific information to CCSF, and (2) a Commission resolution or order directing PG&E to release this customer-specific information to CCSF pursuant to the terms of the negotiated Service Agreement.

Protests

CCSF states that it requests all provisions of the negotiated Service Agreement to become effective as quickly as possible. In connection with PG&E's statutory duty to cooperate with CCSF regarding execution of a CCA Service Agreement, PG&E requests an expedited protest period and review period pursuant to General Order 96-B, Section 1.3 Construction; Waiver and Variance. Anyone wishing to protest this filing may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than **[Date]** with replies to protests due **[a few days afterwards]**. Protests should be mailed to:

CPUC Energy Division
Tariff Files, Room 4005
DMS Branch
505 Van Ness Avenue
San Francisco, California 94102

Facsimile: (415) 703-2200

E-mail: jnj@cpuc.ca.gov and mas@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 also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E 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

Effective Date

Per General Order 96-B, Section 8.2.3, in general, the provisions of the negotiated Service Agreement became effective upon execution of the negotiated Service Agreement. However, as noted above, the parties have agreed that four specific provisions will not become effective until approved by the Commission. Accordingly, PG&E requests that sections 11.2, 22.1(c) and 22.2 (with respect to release of the identity of customers who have opted out prior to mass enrollment) and 23.8 become effective upon Commission approval and authorization.

PG&E submits this advice letter as a Tier 3 filing and therefore requests that the advice letter in its entirety be approved no later than June 24, 2010.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. **[and the parties on the service list for R.03-10-003_____]** . Address changes to the General Order 96-B service list should be directed to Rose de la Torre at (415) 973-4716. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: **<http://www.pge.com/tariffs>**

Vice President, Regulatory Relations

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Attachments

cc: Service List