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**VIA ELECTRONIC MAIL**

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Re: Pacific Gas and Electric Company's Comments on the California Electricity Generation Facilities Standards Committee's Proposed Operations Standards and Guidelines for Generators

Dear Committee Members:

Pacific Gas and Electric Company ("PG&E") hereby offers its comments on the California Electricity Generation Facilities Standards Committee's ("Committee") proposed Operations Standards and Guidelines for Generators, issued August 23, 2003 (the "Operations Standards").

As an initial matter, PG&E notes that because of the very limited time period provided for review (less than three weeks to review over 100 pages of detailed standards and guidelines), PG&E is providing today its preliminary comments to the Operations Standards. PG&E anticipates providing more detailed comments at the upcoming workshops scheduled for September 20<sup>th</sup> and 21<sup>st</sup>, and may submit further comments after the workshops. In addition, PG&E respectfully requests an opportunity to provide written comments on any revisions to the Operations Standards that are produced after the workshops, prior to their adoption by the Committee.

**A. General Comments**

1. FERC-Licensed Hydroelectric Facilities Should Be Exempted From The Operations Standards.

As currently drafted, the Operations Standards contemplate application to hydroelectric generating facilities. As PG&E has discussed in numerous other filings in this proceeding before both the Committee and the Commission, the Federal Energy Regulatory Commission

("FERC") has exclusive jurisdiction over the operation and maintenance of hydroelectric generating facilities licensed under Part I of the Federal Power Act ("FPA"). Relying on United States Supreme Court precedent, the Ninth Circuit has held that Part I of the FPA has "occupied the field" of operation and maintenance of FERC-licensed facilities, leaving *no room* for supplemental state regulation with the limited exception of proprietary water rights. *Sayles Hydro Assoc. v. Maughan*, 985 F.2d 451, 455 - 456 (9<sup>th</sup> Cir. 1993).<sup>1</sup> Accordingly, the state is preempted from applying the Operations Standards to FERC-licensed hydroelectric facilities.

2. The Proposed Operations Standards Must Be Applied In A Flexible Manner.

Like the Maintenance Standards previously adopted by the Committee, many of the proposed Operations Standards are broad, qualitative principles, rather than specific, measurable criteria. *See e.g.* Standard 1, Safety ("The company behavior ensures that individuals at all levels of the organization consider safety as the overriding priority."); Standard 3, Operations Management and Leadership ("Operations Managers establish high standards of performance and align the operations organization to effectively implement and control operations activities.") While these standards may represent worthy goals, they are entirely qualitative and subjective, rendering it impossible to objectively judge whether a Generating Asset Owner ("GAO") is in "compliance" with the standard. Accordingly, the Committee should make clear that a GAO is expected to meet the *intent* of the standards.

3. The Committee Must Clarify That The Guidelines Are Not Enforceable Or "Minimum" Requirements.

While it appears from the introductory paragraphs that the guidelines accompanying the proposed Operations Standards are not intended to be enforceable obligations, the Committee should make that point explicit. As currently drafted, treatment of the guidelines is inconsistent. For example, while the introduction to the Operations Standards states that the guidelines were not adopted "as part of the Operations Standards themselves because there may be equally valid ways of meeting the standard that do not follow every provision of the Guidelines," the guidelines to Standard 28 state that, "[t]hese are considered 'minimum' guidelines." PG&E notes that many of the guidelines associated with the Operations Standards are so specific that they will inevitably become outdated as technologies and industry practices evolve. In order to make clear that the guidelines are not mandatory or "minimum" requirements, PG&E recommends that: (a) the Committee formally adopt *only* the Operations Standards, and (b) the

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<sup>1</sup> PG&E hereby incorporates its earlier comments by reference. *See* PG&E's December 6, 2002 Prehearing Conference Statement at pp. 7 - 9; Attachment to PG&E's January 17, 2003 comments on the Committee's draft Generator Maintenance Standards at pp. 11-12, PG&E's March 3, 2003 Comments and Proposals on the Commission's Implementation and Enforcement of Generator Maintenance Standards at pp. 1 - 2; PG&E's June 20, 2003 Comments and Proposals on the Commission's Implementation and Enforcement of the Revised General Duty Standards at pp. 3 - 4; and PG&E's March 18, 2004 Comments On The Draft Decision Adopting General Order Implementing And Enforcing Electric Generator General Duty Standards For Operation And Maintenance, Maintenance Standards, And CAISO's Outage Coordination Protocol at p. 2.

Committee issues the guidelines in a separate document, which is clearly labeled as “For Advisory Purposes Only.”

4. References To “Operations Personnel” Should Be Changed To A More Generic Term Such As GAO Staff, Employees Or Contractors.

Throughout the proposed Operations Standards, references are made to obligations of “operating” or “operations” personnel. *See e.g.*, Operations Standard 16 (“Operations personnel identify problems requiring work orders, and initiate work orders to correct those problems”). The Operations Standards should focus on clearly identifying the objective of the standards; they should not dictate to a GAO which personnel are required to perform the task. PG&E recommends that any references to specific personnel types be replaced with a more generic reference to GAO staff, employees, or contractors.

5. Operations Standards 1 Through 11 Should Be Deleted As Duplicative Of Existing Maintenance Standards.

Operations Standards 1 through 11 largely duplicate Maintenance Standards already adopted by the Committee. GAOs have already submitted verified statements certifying that their generating facilities meet the intent of these standards. No value is added by repeating these standards in this document.

6. The Operations Standards Should Not Duplicate Existing CAISO Tariff Obligations Or Other Regulatory Requirements.

Some of the proposed Operations Standards duplicate existing CAISO Tariff provisions or other regulatory requirements applicable to generators. *See e.g.*, Standard 19, (dealing with how a GAO communicates with and responds to orders from the CAISO); Standard 14 (referencing Cal-OSHA obligations). As PG&E previously has noted in this proceeding, the existing CAISO Tariff contains detailed requirements applicable to all participating generators, including obligations to maintain communications with the CAISO, and respond to CAISO dispatch orders during system emergencies. CAISO Tariff § 5.6.1 (During emergencies, CAISO may order a generator to bring its generating unit on- or off-line, to increase or curtail the unit’s output, or to alter scheduled deliveries of energy or ancillary services). Failure to respond to such orders subjects a generator to potential sanctions. *See* CAISO Tariff §§ 5.6.3.1 – 5.6.3.2. Inclusion of existing CAISO Tariff obligations and other regulatory requirements in the Operations Standards is not only unnecessary, but sets the stage for potentially duplicative and inconsistent enforcement efforts.

7. The Operations Standards Should Not Include Standards Related To Maintenance Activities.

Several of the Operations Standards focus on preventative maintenance procedures rather than standards for operating operations. *See e.g.*, Operations Standards 18 (Unit Performance Testing) and 27 (Flow-Assisted Corrosion). PG&E believes the existing Maintenance Standards

adopted by the Committee on May 2, 2003 already contain sufficient standards related to preventative maintenance and therefore these additional standards are not necessary. *See e.g.*, Maintenance Standards VII.A. "Equipment Performance and Materiel Condition" Standard, which requires GAOs to employ "a strategy that includes methods to anticipate, prevent, identify, and promptly resolve equipment performance problems and degradation." Accordingly, these standards should be deleted.

8. The Implementation Section In the Operations Standards Should Be Deleted.

At page 8 of the Operations Standards, the Committee has included a section entitled "Implementation," in which it recommends to the Commission that it implement the standards by requiring GAOs to file an Operations Plan for each generating unit, "detailing how the generation owner meets (or plans to meet) the Operations Standards."

PG&E submits that, consistent with Public Utilities Code § 761.3, implementation and enforcement of the Operations Standards should be left to the Commission and the proposed "Implementation" section in the Operations Standard should be deleted. Indeed, this is entirely consistent with the comments made by Commissioner Wood in the notice accompanying the proposed Operations Standards: "The Commission will separately consider implementation and enforcement. . . . As a result, participants need not submit comments to the Committee on implementation and enforcement."

In the event the Committee determines it is appropriate to retain this section on implementation, PG&E notes that it does not support the proposal to have each GAO file a detailed Operations Plan for each generating unit, as suggested. Requiring a separate submittal for each generating unit would result in unnecessary and voluminous duplication. Rather, as was the case with the Maintenance Standards, GAO's should be permitted to file a single statement applicable to multiple generating plants, which verifies that the GAO has a program in place that meets the general intent of the Operations Standards.

II. **Preliminary Comments On Specific Standards**

1. Standard 6 Should Be Modified To Make Clear That Its Objective May Be Met Through On-The-Job Training.

Standard 6 requires GAOs to "provide a formal, site-specific training program covering all aspects of site operations, including abnormal and emergency operations." This standard should be modified to make clear that a GAO may satisfy the objective of this standard by providing on-the-job training to its employees. PG&E recommends the language be modified to require each GAO to "provide a site-specific training program, which may consist of on-the-job training, covering all aspects of site operation, including abnormal and emergency operations."

2. The Tables Referenced In The Guidelines Associated With Standard 18 Should Be Deleted.

Guideline 18 states that a GAO should conduct “periodic performance tests to identify trends and possible improvements in unit operation.” The guidelines associated with this standard include two tables, which set forth detailed “recommended” schedules for various tests to be performed on different types of generating units. PG&E is concerned that the detailed, recommended schedules set forth in the tables could be interpreted as the “default” schedule against which GAOs will be judged. PG&E does not believe the time periods set forth in the tables represent reasonable, prudent or cost-effective testing schedules. Nor does PG&E believe GAOs should have to defend their programs against these tables each time they deviate from them. Rather, GAOs should be free to set testing schedules for equipment based on prudent industry practice and the most up to date manufacturer’s recommendations. The tables attached to Standard 18 should be deleted from the guidance. Alternatively, they should be clearly marked as “For Illustrative Purposes Only,” similar to other tables provided within the guidance.

3. Standard 19 Is Duplicative Of Existing CAISO Tariff Obligations And Should Be Deleted In Its Entirety; At A Minimum It Should Be Modified To Remove The Obligation To “Obtain Regulatory Relief” From Operating Limitations When Emergencies “Appear Imminent”.

As noted above, Standard 19 duplicates existing CAISO Tariff obligations and should be deleted in its entirety. In addition, PG&E notes that Standard 19 purports to impose an obligation on GAOs to “clarif[y] the regulatory requirements which will apply during emergencies, and obtain[] regulatory relief when emergencies appear imminent.” Although the intent of this obligation is not clear, it could be interpreted as imposing unreasonable obligations on GAOs. If a GAO is prohibited from operating a plant due to environmental restrictions such as NOx emissions, is it nevertheless required to “obtain” regulatory relief from this restriction? What is the standard for determining when an emergency “appears imminent”? These vagaries highlight the impractical nature of this obligation.

4. Standard 22 Should Be Modified To Make Clear That A GAO Is Only Required To Operate At Its Declared Available Capacity.

Operations Standard 22 states that except during necessary maintenance outages or an approved change in plant status, a GAO must be able to “operate at full power if the CAISO so requests, after notice, when such operation is permitted by law and regulation.” Use of the term “full power” in this standard is problematic as it fails to account for curtailments or other legitimate circumstances (e.g., high ambient temperatures, high water temperatures, and high dew point) that may limit a unit’s availability. Accordingly, the term “full power” should be replaced by “its declared available power.”

5. Standards 23 and 26 Should Be Combined And Modified To Clarify That They Only Apply To Long-term Changes In Plant Or Unit Status Such As Shutdown, Cold Layup, Retirement, Or Decommissioning.

Operations Standard 23 requires a GAO to notify the Commission and the CAISO at least 90 days prior to changing the “availability status” of a unit or plant, except in the case of forced

or planned outages. Operations Standard 26 requires a GAO to prepare and submit “plans and procedures for storage” of a unit 30 days prior to notifying the Commission and CAISO of a change in its “availability status,” other than permanent shutdown and/or decommissioning.

As an initial matter, although these standards appear to be related, that relationship is not explicit. Assuming they are intended to relate to each other, they should be combined. It is not necessary to have two different standards with two different time periods (90 days for “notification” under Standard 23 and 120 days [30 days prior to the 90-day notification] for submission of the plans and procedures under Standard 26). Submission of plans and procedures for shutdown should also constitute adequate notice of the proposed shutdown; there is no need for two separate filings.

Moreover, while the guidelines to these standards suggest they are directed at *long-term* changes in *plant* or *unit* status, such as shutdown, cold layup, mothballing, retirement, or decommissioning, the standards themselves use the term “availability status,” which potentially extends their reach far beyond such long-term changes. The “availability status” of a plant or unit can change on a minute-by-minute basis, due to curtailments or other circumstances such as high ambient temperatures, high water temperatures, and high dew point. Accordingly, Standard 23 should be modified to state that notice is required 90 days prior to a “change in plant or unit status, such as shutdown, cold layup, mothballing, retirement, or decommissioning” and that where the GAO is proposing to put the plant or unit into long-term storage, the notice should include plans and procedures for such storage.

Finally, PG&E believes the guidelines accompanying Standard 26 are entirely too detailed and prescriptive and should be deleted in their entirety. GAOs should be free to tailor their own plans and procedures to fit the circumstances of the proposed storage of a particular plant or unit.

6. Standard 24 Should Be Deleted.

Standard 24 requires a GAO to “maintain a unit in readiness for service” unless the Commission, after consultation with the CAISO, “affirmatively declares that a generation facility is unneeded during a specified period of time.” This standard appears to have been taken in part from the revised General Duty Standard (GDS) 4 previously proposed by the Committee on June 7, 2004. As PG&E noted in its comments on the revised GDS 4, such a standard unnecessarily duplicates and potentially frustrates the implementation of existing CAISO Tariff obligations by inserting the Commission into the decision-making process regarding the CAISO’s need for generation. This decision is appropriately reserved to the CAISO, as the entity responsible for maintaining the reliability of the transmission system.

7. Standard 25 Should Be Modified To Shift The Obligation Of Complying With The Operations Standards To Any New Owner Of A Generating Asset.

Standard 25 states that a GAO must notify the Commission and CAISO at least 90 days prior to any change in ownership, and requires the GAO to “secure[] the agreement of the new

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owner to maintain the GAO's operation, maintenance, and logbook plans, policies, and practices until such time as the new owner makes updated filings to the Commission." The burden of ensuring compliance with the Committee's Operations, Maintenance and Logbook Standards should lie with the new owner of a generating asset. The seller of the asset should not be required to dictate the terms of such compliance. This standard should be modified to simply require a new owner to comply with the Committee's standards in whatever manner it chooses.

8. Standard 27 Is Too Narrowly Prescribed And Relates To A Maintenance Activity.

Operations Standard 27 requires each GAO to have a flow-assisted corrosion program. As discussed above, this standard relates to a preventative maintenance program and does not belong in the Operations Standards. Moreover, it is too narrowly prescribed. A flow-assisted corrosion program is only one of many methods a GAO could use to manage the risk of a high energy pipe failure. To the extent this standard is retained at all, the term "flow-assisted corrosion program" should be replaced with "high energy piping program."

9. The Guidelines Accompanying Standard 28 Are Too Detailed And Narrowly Prescribed And Should Be Deleted.

Standard 28 requires GAOs to ensure that "plant equipment and systems are operated safely in accordance with prescribed published operating procedures to ensure reliability, availability, and prevent unnecessary accelerated degradation." However, rather than permit GAOs to meet this standard using the most up to date, relevant "prescribed published operating procedures," this standard is accompanied by 52 pages of detailed procedures for various systems and components that will inevitably become outdated as technology and industry practice continue to evolve. Even more troubling, the guidelines themselves state that "[t]hese are considered 'minumum' guidelines." PG&E submits that these guidelines are entirely unnecessary and unduly restrict a GAO's ability to adopt appropriate, up to date, operating procedures tailored to its own facilities. They should be deleted in their entirety.

### III. Conclusion

PG&E would like to thank the Committee for the opportunity to comment on the proposed Operations Standards. We look forward to participating in the upcoming workshops. PG&E may submit further comments after the workshops. In addition, we respectfully request an opportunity to provide written comments on any revised Operations Standards prior to their adoption by the Committee.

Sincerely,

/s/

Janet C. Loduca

cc: Electronic Service List, Rulemaking 02-11-039