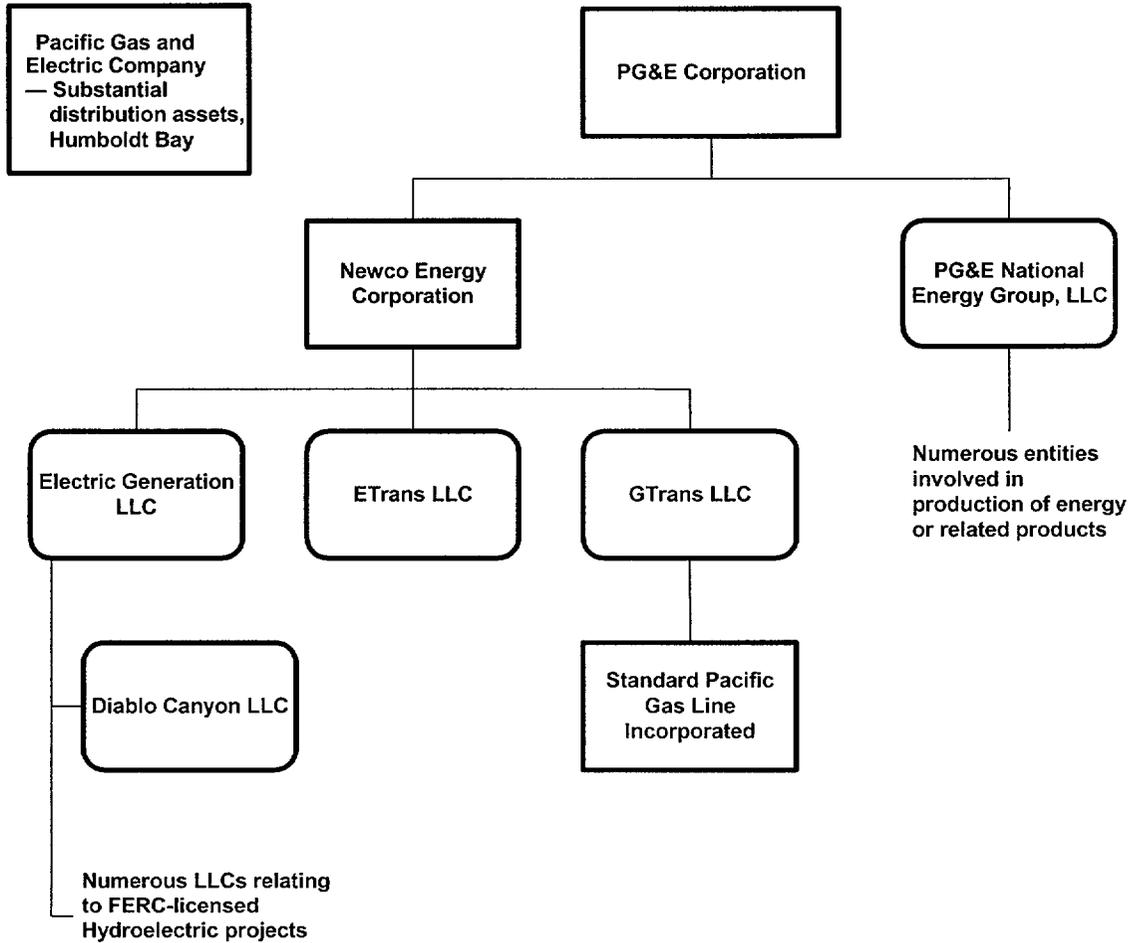


Proposed Corporate Structure of PG&E Corporation and Principal Subsidiaries
After Implementation of Plan of Reorganization

**Proposed Corporate Structure of PG&E Corporation and Principal Subsidiaries
After Implementation of Plan of Reorganization**



Note: PG&E Corporation and PG&E National Energy Group to be renamed.

Form of Diablo Canyon Facility Lease
By and Between Diablo Canyon LLC, as Lessor,
and Electric Generation LLC, as Lessee

DIABLO CANYON FACILITY LEASE

BY AND BETWEEN

**DIABLO CANYON LLC,
as Lessor**

AND

**ELECTRIC GENERATION LLC,
as Lessee**

DATED AS OF _____, ____

DIABLO CANYON FACILITY LEASE

THIS DIABLO CANYON FACILITY LEASE (this “Facility Lease”) is made and entered into as of _____, _____ by and between Diablo Canyon LLC, a California limited liability company (“Lessor”), and Electric Generation LLC, a California limited liability company and the sole member of Lessor (“Lessee”). Lessor and Lessee are individually, together with their successors and permitted assigns, referred to herein as a “Party” and, collectively, as the “Parties.”

RECITALS

A. Lessor has acquired all right, title, estate and interest in and to Units One and Two of the Diablo Canyon Power Plant and all assets related thereto (individually, a “Unit,” and collectively, the “Diablo Canyon Power Plant”), all as more particularly described on Exhibit A.

B. The United States Nuclear Regulatory Commission (the “NRC”) has issued facilities operating licenses for the Diablo Canyon Power Plant (DPR-80 for Unit 1 and DPR-82 for Unit 2) pursuant to which Lessor has been issued a license to own, and Lessee has been issued a license to possess, use and operate, the Diablo Canyon Power Plant.

C. Pursuant to this Facility Lease, Lessor will lease the Diablo Canyon Power Plant to Lessee for the Lease Term (as defined in Section 2.02 below).

In consideration of the premises and mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.01. Defined Terms. Capitalized terms used herein without definition have the meanings set forth in the Glossary of Terms attached hereto as Appendix A.

Section 1.02. References. Unless a clear contrary intention appears, in this Facility Lease,

(a) reference to the singular includes the plural and vice versa;

(b) reference to any agreement (including this Facility Lease), document or instrument means that agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;

(c) reference to any Article, Section, Appendix, Schedule or Exhibit means Articles and Sections of, and Appendices, Schedules and Exhibits to, this Facility Lease;

(d) “hereof,” “hereby” and “herein” and words of similar meaning refer to this Facility Lease as a whole and not to any particular Article, Section or provision of this Facility Lease;

(e) “include,” “includes” and “including” mean including without limiting the generality of any description preceding that term;

(f) any provision in this Facility Lease referring to an action to be taken by any Person or that such Person is prohibited from taking, shall apply whether such action is taken directly or indirectly by such Person; and

(g) any reference to a Person includes such Person’s successors and permitted assigns.

Section 1.03. Titles and Headings. Titles and headings to Articles and Sections of this Facility Lease and to Appendices and Exhibits are inserted for the convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Facility Lease. Any capitalized term used in any Appendix or Exhibit, but not defined in that Appendix or Exhibit, has the meaning assigned to that term elsewhere in this Facility Lease.

Section 1.04. No Strict Construction. The Parties have participated jointly in the negotiation and drafting of this Facility Lease. In the event an ambiguity or question of intent or interpretation arises with respect to this Facility Lease or any of the documents delivered pursuant hereto, this Facility Lease and such documents shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Facility Lease or such documents.

ARTICLE II

LEASE OF DIABLO CANYON POWER PLANT

Section 2.01. Lease of the Facility. Lessor hereby leases the Diablo Canyon Power Plant, upon the terms and conditions set forth herein, to Lessee for the Lease Term, and Lessee hereby leases the Diablo Canyon Power Plant, upon the terms and conditions set forth herein, from Lessor.

Section 2.02. Lease Term. The term of this Facility Lease (the “Lease Term”) shall commence on the Transfer Date and shall terminate, with respect to each Unit, on the date that Lessee is no longer licensed by the NRC to possess, use or operate that Unit and, with respect to Common Facilities (as described in Exhibit A), on the date that Lessee is no longer licensed by the NRC to possess, use or operate either Unit or the Common Facilities; provided that, if

Decommissioning Activities (as defined in Section 3.02(i) below) are still underway with respect to any Unit or the Common Facilities, this Facility Lease shall not terminate until all Decommissioning Activities have been completed.

Section 2.03. Rent. Lessee agrees to pay Lessor rent during the Lease Term in an amount equal to one dollar (\$1.00) per year.

Section 2.04. Quiet Enjoyment. Lessor agrees that it shall not interfere with or interrupt the quiet enjoyment of the use, operation and possession by Lessee of the interest in the Diablo Canyon Power Plant conveyed by this Facility Lease.

Section 2.05. Return of Facility. Upon the expiration of the Lease Term, Lessee, at its own cost and expense, shall return the Diablo Canyon Power Plant to Lessor by surrendering the Diablo Canyon Power Plant into the possession of Lessor. In connection with such return, Lessee shall (a) assign or transfer, to the extent permitted by applicable Law, to Lessor, any and all licenses, permits, approvals and consents of any Governmental Authorities or other Persons that are held in the name of Lessee and are or will be required to be obtained by Lessor in connection with the possession, use, operation or maintenance of the Diablo Canyon Power Plant; and (b) provide Lessor with copies of all documents, instruments, plans, maps, specifications, manuals, drawings and other documentary materials relating to the installation, maintenance, operation, construction, design, modification and repair of the Diablo Canyon Power Plant, or any portion thereof, as shall be in Lessee's possession or under its control and shall be reasonably appropriate or necessary for the ownership, possession, use, operation or maintenance of the Diablo Canyon Power Plant or any component thereof.

ARTICLE III

OBLIGATIONS AND AUTHORITIES OF LESSEE

Section 3.01. Operation of the Diablo Canyon Power Plant. Lessee shall have sole and complete authority and responsibility to possess, use and operate the Diablo Canyon Power Plant, including the exclusive right to all of the net electrical output and capacity from the Diablo Canyon Power Plant. Lessee agrees to possess, use and operate the Diablo Canyon Power Plant in accordance with (i) NRC Requirements¹; (ii) other Legal Requirements in effect from time to

¹ The term "NRC Requirements" is defined in the Glossary of Terms to mean all rules, regulations and licensing requirements of the NRC applicable to the Diablo Canyon Power Plant, including the requirements of the NRC facilities operating licenses for the Diablo Canyon Power Plant and any NRC licenses for any of the Common Facilities, the appendices to the NRC licenses, the Diablo Canyon Power Plant Technical Specifications, the Final Safety Analysis Report submitted to the NRC for the Diablo Canyon Power Plant, any Safety Analysis Report submitted to the NRC with respect to the Common Facilities, and all other documented licensing commitments to the NRC associated with Diablo Canyon Power Plant or Common Facilities, all as maintained, updated and/or amended or modified from time to time in accordance with NRC regulations.

time during the Lease Term; and (iii) the terms and conditions of this Facility Lease to the extent such terms do not conflict with NRC Requirements or other Legal Requirements.

Section 3.02. Lessee's Obligations. Without limiting the generality of Section 3.01, Lessee agrees to comply with the following obligations:

(a) Compliance with Laws and Regulations. Lessee shall, at its own cost and expense, be solely responsible for its own compliance and the compliance of the Diablo Canyon Power Plant with all NRC Requirements and other applicable Legal Requirements. In the event that the NRC or any other Government Authority imposes any fine, penalty or monetary sanction on Lessor on account of any act or omission relating to the Diablo Canyon Power Plant, Lessee shall promptly pay such fine, penalty or monetary sanction on Lessor's behalf without any right of reimbursement from Lessor, unless Lessee is in good faith and by appropriate proceedings diligently contesting the validity or appropriateness of any such fine, penalty or monetary sanction.

(b) General Operation, Maintenance, Management and Administration. Lessee shall, at its own cost and expense, be solely responsible for the day-to-day and long-term operation, maintenance, management, shutdown, retirement, decommissioning and administration of the Diablo Canyon Power Plant, including any planning, design, licensing, construction, improvement, engineering, labor, procurement of materials and supplies, materials management, supplying and managing nuclear fuel, quality assurance, training, security, environmental remediation, handling, storing and transportation of spent nuclear fuel and other hazardous materials, managing governmental affairs, public and community relations and any other activities that are required for the operation, maintenance, management, shutdown, retirement, decommissioning and administration of the Diablo Canyon Power Plant or that may be required to comply with NRC Requirements or other applicable Legal Requirements.

(c) Safety. Lessee shall, at its own cost and expense, be solely responsible for the safe possession, use, operation and maintenance of the Diablo Canyon Power Plant, including taking such actions in connection with the use, operation and maintenance of the Diablo Canyon Power Plant as Lessee, in its sole discretion and in compliance with NRC Requirements, deems necessary to protect the health and safety of the public, including the personnel engaged in the operation and maintenance of the Diablo Canyon Power Plant, and to protect the property at the Diablo Canyon Power Plant.

(d) Modifications. Lessee shall, at its own cost and expense, make or cause or permit to be made all modifications to the Diablo Canyon Power Plant as are required by NRC Requirements, any other applicable Law or any Governmental Authority having jurisdiction unless Lessee is in good faith and by appropriate proceedings diligently contesting the validity or application of such Law or ruling of any such Governmental Authority (each, a "Required Modification"). In addition, Lessee at any time may, at its own cost and expense, make or cause or permit to be made any modification to the Diablo Canyon Power Plant as Lessee considers desirable in the proper conduct of its business (any such non-Required Modification being referred to as an "Optional Modification" and, together with Required Modifications, are referred to herein as "Modifications"). Title to all Modifications shall immediately vest in Lessor.

(e) Documentation. Lessee shall, at its own cost and expense, prepare and submit on behalf of Lessor all necessary documentation, certifications, reports, budgets, estimates, tax returns, notices and other information required by the NRC or any other Governmental Authority, Law, permit or license to be submitted in connection with the operation of the Diablo Canyon Power Plant.

(f) Insurance. Lessee shall, at its own cost and expense, provide all financial protection required by NRC Requirements and all site insurance coverage required by the Price-Anderson Act and NRC Requirements. Lessee shall, at its own cost and expense, maintain (or cause to be maintained) any other risk property insurance customarily carried by prudent operators of nuclear generating facilities of comparable size and risk to the Diablo Canyon Power Plant, and against loss or damage from such causes as are customarily insured against, subject to availability on commercially reasonable terms. In addition, Lessee will maintain (or cause to be maintained) commercial general liability insurance, including sudden and accidental pollution liability coverage, contractual liability coverage and commercial automobile liability insurance, insuring against claims for bodily injury (including death) and property damage to third parties arising out of the ownership, operation, maintenance, condition and use of the Diablo Canyon Power Plant in amounts customarily maintained by prudent operators of nuclear generating facilities of comparable size and risk to the Diablo Canyon Power Plant. Lessee will periodically review the liability insurance maintained by it or on its behalf and will, if necessary, revise such coverage and limits (including deductibles) in order that the liability insurance maintained by it or on its behalf is consistent with that maintained by prudent operators of similar facilities of comparable size and risk to the Diablo Canyon Power Plant.

(g) Licenses and Permits. Lessee shall, at its own cost and expense, monitor and maintain compliance with all permits, licenses and governmental approvals required in connection with the possession, use, operation, maintenance and decommissioning of the Diablo Canyon Power Plant (collectively, the "Required Permits"). Lessee shall be solely responsible, at its own cost and expense, for implementing the onsite emergency plan for the Diablo Canyon Power Plant and for coordination activities with the appropriate Governmental Authorities in accordance with their respective offsite emergency plans. Lessee shall (i) prepare any application, filing or notice related to the Required Permits, (ii) cause such materials to be submitted to and represent Lessor in contacts with, the appropriate Governmental Authority, and (iii) perform all ministerial or administrative acts necessary for timely issuance and the continued effectiveness thereof.

(h) Contract and Claims Administration. Except for limited liability company organizational matters and other such internal matters which are within the control of Lessor, Lessee shall, at its own cost and expense, represent Lessor and shall administer and perform Lessor's obligations and responsibilities under all agreements and contracts entered into by Lessor with respect to the Diablo Canyon Power Plant (including agreements and contracts entered into prior to the date of this Facility Lease that are still in effect), and Lessor hereby authorizes Lessee to act, as Lessee deems necessary or appropriate in Lessee's sole discretion, on Lessor's behalf with respect to all matters related to or associated with all such contracts and agreements, including pursuing litigation in Lessor's name or taking such other action as Lessee may deem necessary or appropriate in its sole discretion to protect Lessor's rights or to collect

damages as a result of a breach by a third party under any such contract or agreement. Without limiting the generality of the foregoing, Lessee shall monitor the performance of the contractors under such agreements and contracts and shall perform on behalf of Lessor all of Lessor's supervisory responsibilities thereunder, including the authorizing of payments by Lessor, the review of contractor submissions and requests for approval and the giving of any notices required from Lessor under such agreements and contracts.

(i) Decommissioning. Lessee shall be solely responsible for the decommissioning of the Diablo Canyon Power Plant in accordance with NRC Requirements and any other Legal Requirements. Lessee's responsibilities shall include all necessary planning, engineering, permitting, reporting and carrying out or overseeing of such decommissioning (all of which together are referred to as "Decommissioning Activities"). Notwithstanding Section 3.02(j) below, Lessor shall reimburse Lessee for the cost of all Decommissioning Activities to the extent that such costs are payable out of the Diablo Canyon Decommissioning Master Trust Agreements. Lessee shall be solely responsible for all costs of Decommissioning Activities not paid out of the Diablo Canyon Nuclear Decommissioning Trust.

(j) Costs and Expenses. Lessee shall be solely responsible for all costs and expenses associated with the possession, use, operation and maintenance of the Diablo Canyon Power Plant, including all property and other taxes, lease payments, utilities, salaries, permit and license fees, insurance premiums, environmental and regulatory compliance costs, professional fees and expenses, capital expenditures and fuel costs.

(k) Access to and Control of the Exclusion Area. Without limiting the generality of Section 3.01 above, Lessee shall have the sole authority to determine all activities within the exclusion area boundary for the Diablo Canyon Power Plant, as that boundary is defined in the Diablo Canyon Final Safety Analysis Report, to the extent required to satisfy applicable NRC Requirements, including 10 C.F.R. Part 100. Such authority shall include authority to control ingress and egress by employees, representatives and contractors of Lessor.

ARTICLE IV

LIABILITIES OF THE PARTIES

Section 4.01. Limitations of Liability. Notwithstanding any provision in this Facility Lease to the contrary, neither Party hereto, nor their Affiliates, constituent members or their constituent members' Affiliates, nor any of their respective officers, directors, employees, agents, shareholders, members, partners or representatives shall be liable in connection with this Facility Lease or the performance of its obligations hereunder for any consequential or indirect loss or damage, including loss of revenues, cost of capital, loss of goodwill, increased operating costs or any other special or incidental damages. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, and limitations on liability expressed in this Facility Lease shall survive termination or expiration of this Facility Lease, and shall apply whether in contract, equity, tort or otherwise, even in the event of the fault, negligence, including sole negligence, strict liability or breach of the party indemnified, released or whose liabilities are

limited, and shall extend to the partners, principals, shareholders, members, directors, officers, employees and agents of each Party and their respective Affiliates.

Section 4.02. No Warranties or Guarantees. EXCEPT AS EXPRESSLY PROVIDED IN THIS FACILITY LEASE, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE DIABLO CANYON POWER PLANT, OR ANY OTHER SUBJECT MATTER OF THIS FACILITY LEASE, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW.

ARTICLE V

GENERAL PROVISIONS

Section 5.01. Complete Agreement. This Facility Lease constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between this Facility Lease and any Appendix, Schedule or Exhibit, the Appendix, Schedule or Exhibit, as the case may be, shall prevail.

Section 5.02. Counterparts. This Facility Lease may be executed in counterparts, each of which shall be deemed to be an original copy of this Facility Lease, but all of which, when taken together, shall be deemed to constitute one and the same agreement.

Section 5.03. Notices. All notices, consents, requests, waivers, claims or other communications required or permitted under this Facility Lease shall be in writing and shall be deemed effectively given the earliest of (a) when received, (b) when delivered personally (with written confirmation of receipt), (c) when delivered by facsimile (with receipt of confirmation by voice or otherwise), (d) one Business Day after being deposited with a nationally recognized overnight courier service (receipt requested) or (e) four Business Days after being deposited with the U.S. mail, registered or certified, postage prepaid, and in each case addressed as follows:

To Lessor:

Attention: _____

Facsimile No. _____

with a copy (not constituting notice) to:

Attention: _____

Facsimile No. _____

To Lessee:

Attention: _____

Facsimile No. _____

with a copy (not constituting notice) to:

Attention: _____

Facsimile No. _____

Either Party may, by written notice to the other Party, change the address or facsimile number to which notices are to be given.

Section 5.04. Waivers. No failure to exercise and no delay in exercising, on the part of any Party, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. To the maximum extent permitted by applicable Law, (a) no claim or right arising out of this Facility Lease or the documents referred to in this Facility Lease shall be discharged by a Party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by such Party; (b) no waiver that may be given by a Party shall be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one Party shall be deemed to be a waiver of any obligation of such Party or of the right of the Party giving such notice or demand to take further action without notice or demand as provided in this Facility Lease or the documents referred to in this Facility Lease.

Section 5.05. Amendments. Neither this Facility Lease nor any terms, covenants, agreements, conditions or provisions hereof may be amended, supplemented or modified except in accordance with this Section 5.06. The Parties may, from time to time, (a) enter into written amendments, supplements or modifications hereto for the purpose of adding or modifying any provisions to this Facility Lease or changing in any manner the rights of the Parties hereunder or (b) waive, on such terms and conditions as may be specified in writing, any of the requirements of this Facility Lease.

Section 5.06. Assignment. The rights of the Parties under this Facility Lease shall not be assignable or transferable (whether by operation of law or otherwise) without the prior written consent of the non-assigning Party, which consent may be granted or withheld in such Party's sole discretion.

Section 5.07. Successors and Assigns. This Facility Lease shall be binding in all respects upon, inure to the benefit of and be enforceable by the successors and permitted assigns of the Parties.

Section 5.08. Third Party Beneficiaries. This Facility Lease and all of its provisions and conditions are solely for the benefit of the Parties and shall not be deemed to confer upon third parties any remedy, claim, liability, right of reimbursement, cause of action or other right in excess of those existing without reference to this Facility Lease.

Section 5.09. Governing Law. This Facility Lease shall be governed by, and construed and enforced in accordance with, the Laws of the State of California without regard to the principles of conflicts of Laws thereunder, except to the extent that certain matters are preempted by federal Law or by the Law of the jurisdiction of organization of the applicable Party. Except as expressly provided in this Section 5.09, the scope of the foregoing governing law provision is intended to be all-encompassing of any and all disputes that may be brought in any court or any mediation or arbitration proceeding and that relate to the subject matter of this Facility Lease, including, without limitation, contract claims.

Section 5.10. Severability. Any provision of this Facility Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Furthermore, if any provision of this Facility Lease or the application thereof to any Person or circumstance is determined by a nonappealable decision by a court, administrative agency or arbitrator with jurisdiction of the matter to be invalid, void or unenforceable in any respect, the remaining provisions of this Facility Lease, or the application of such provision to Persons or circumstances other than those as to which it has been held invalid, void or unenforceable, shall remain in full force and effect and in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Facility Lease so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible, provided any such amendments, supplements or modifications are consistent with the Plan of Reorganization and the Confirmation Order.

Section 5.11. Compliance with Laws. This Facility Lease and all rights, obligations and performances of the Parties hereunder, are subject to all applicable federal and state Laws and to all duly promulgated orders and other duly authorized action of all Governmental Authority having jurisdiction.

Section 5.12. No Joint Venture. Nothing in this Facility Lease, creates or is intended to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to any Party.

Section 5.13. Further Assurances. The Parties agree to (a) furnish upon request to each other such further information, (b) execute and deliver to each other such other documents, and (c) do such other acts and things, all as the other Party may reasonably request for the purpose of carrying out the intent of this Facility Lease and the documents referred to in this Facility Lease.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Facility Lease through their duly authorized officers or representatives as of the date first set forth in the Preamble to this Facility Lease.

ELECTRIC GENERATION LLC

By: _____
Name:
Title:

DIABLO CANYON LLC

By: _____
Name:
Title:

EXHIBIT A

Description of Diablo Canyon Power Plant

1. [Legal description of land to follow.]
2. [Description of all offsite facilities or equipment that Diablo Canyon LLC will acquire, such as the sirens, to follow.]
3. [Description of Common Facilities to follow. Among other things, the term “Common Facilities” will include any independent spent fuel storage installation at the Diablo Canyon Power Plant.]

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Marked-up Pages of Operating License for Proposed Conforming Changes
Related to DCPP Unit 1



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

PACIFIC GAS AND ELECTRIC COMPANY
DIABLO CANYON NUCLEAR POWER PLANT, UNIT 1

DOCKET NO. 50-275

FACILITY OPERATING LICENSE

License No. DPR-80

1. The Nuclear Regulatory Commission (the Commission) has found that:

- INSERT A**
- A. The application for licenses by ~~Pacific Gas and Electric Company~~ **Electric Generation LLC** complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations set forth in 10 CFR Chapter I, and all required notifications to other agencies or bodies have been duly made;
- B. Construction of the Diablo Canyon Nuclear Power Plant, Unit 1 (the facility), has been substantially completed in conformity with Provisional Construction Permit No. CPPR-39 and the application, as amended, the provisions of the Act, and the regulations of the Commission;
- C. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission, except as exempted from compliance in Section 2.D below;
- D. There is reasonable assurance (i) that the activities authorized by this operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission set forth in 10 CFR Chapter I, except as exempted from compliance in Section 2.D below;
- E. ~~The Pacific Gas and Electric Company~~ **Electric Generation LLC** is technically qualified to engage in the activities authorized by this operating license in accordance with the Commission's regulations set forth in 10 CFR Chapter I;
- F. ~~The Pacific Gas and Electric Company~~ **Electric Generation LLC and Diablo Canyon LLC have** satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements", of the Commission's regulations;
- G. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public;

INSERT A

Electric Generation LLC, acting on its own behalf and as agent for Diablo Canyon LLC, ETrans LLC, and Pacific Gas and Electric Company (collectively, the licensees),*

* Electric Generation LLC succeeds Pacific Gas and Electric Company as the operator of Diablo Canyon Nuclear Power Plant, Unit 1, and is authorized to act on behalf of the facility owner, Diablo Canyon LLC, and has exclusive authority, responsibility and control over physical construction, operation and maintenance of the facility. ETrans LLC and Pacific Gas and Electric Company are licensees only with respect to the Antitrust Conditions in Section 2.F of this License.

H. After weighing the environmental, economic, technical, and other benefits of the facility against environmental and other costs and considering available alternatives, the issuance of Facility Operating License No. DPR-80, subject to the conditions for protection of the environment set forth herein, is in accordance with applicable Commission regulations governing environmental reviews (10 CFR Part 50, Appendix D and 10 CFR Part 51) and all applicable requirements have been satisfied; and

i. The receipt, possession, and use of source, byproduct, and special nuclear material as authorized by this license will be in accordance with the Commission's regulations in 10 CFR Parts 30, 40 and 70.

2. Pursuant to Commission's Memorandum and Order CLI-84-13, dated August 10, 1984, Facility Operating License No. DPR-76 issued September 22, 1981, as subsequently amended, is superseded by Facility Operating License No. DPR-80, hereby issued to ~~Pacific Gas and Electric Company~~ to read as follows:

A. This License applies to the Diablo Canyon Nuclear Power Plant, Unit 1, a pressurized water nuclear reactor and associated equipment (the facility), owned by ~~the Pacific Gas and Electric Company (PG&E)~~. The facility is located in San Luis Obispo County, California, and is described in ~~PG&E's~~ Final Safety Analysis Report as supplemented and amended, and the Environmental Report as supplemented and amended.

B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses ~~the Pacific Gas and Electric Company~~:

(1) Pursuant to Section 104(b) of the Act and 10 CFR Part 50, "Licensing of Production and Utilization Facilities", to possess, use, and operate the facility at the designated location in San Luis Obispo County, California, in accordance with the procedures and limitations set forth in this license;

(2) Pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Final Safety Analysis Report, as supplemented and amended;

(3) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use at any time any byproduct, source and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;

INSERT
(B)

the licensees
Diablo Canyon LLC

and operated by Electric Generation LLC

Electric Generation LLC

Electric Generation LLC

Electric Generation LLC

INSERT B

- (2) Diablo Canyon LLC, pursuant to the Act and 10 CFR Part 50, to possess the facility at the designated location in San Luis Obispo County, California, in accordance with the procedures and limitations set forth in this license;

Electric Generation LLC

- (4) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
- (5) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This License shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

~~The Pacific Gas and Electric Company~~ is authorized to operate the facility at reactor core power levels not in excess of 3411 megawatts thermal (100% rated power) in accordance with the conditions specified herein.

(2) Technical Specifications

The Technical Specifications contained in Appendix A and the Environmental Protection Plan contained in Appendix B, as revised through Amendment No. ~~133~~, are hereby incorporated in the license. ~~Pacific Gas & Electric Company~~ shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan, except where otherwise stated in specific license conditions.

(3) Initial Test Program

The Pacific Gas and Electric Company shall conduct the post-fuel-loading initial test program (set forth in Section 14 of Pacific Gas and Electric Company's Final Safety Analysis Report, as amended), without making any major modifications of this program unless modifications have been identified and have received prior NRC approval. Major modifications are defined as:

- a. Elimination of any test identified in Section 14 of PG&E's Final Safety Analysis Report as amended as being essential;

*
INSERT (C)

INSERT C

- * References to Pacific Gas and Electric Company, the initial licensed operator, are retained on certain historical license conditions.

Electric Generation LLC

- 4 -

- b. Modification of test objectives, methods, or acceptance criteria for any test identified in section 14 of PG&E's Final Safety Analysis Report, as amended, as being essential;
- c. Performance of any test at a power level different from that described in the program; and
- d. Failure to complete any test included in the described program (planned or scheduled for power levels up to the authorized power level).

✓ (4) Special Tests

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PG&E is authorized to perform steam generator moisture carryover studies and turbine performance tests at the Diablo Canyon Nuclear Power Plant, Unit 1. These studies involve the use of an aqueous tracer solution of three (3) curies of sodium-24. PG&E's personnel shall be in charge of conducting these studies and be knowledgeable in the procedures. PG&E shall impose personnel exposure limits, posting, and survey requirements in conformance with those in 10 CFR Part 20 to minimize personnel exposure and contamination during the studies. Radiological controls shall be established in the areas of the chemical feed, feedwater, steam, condensate and sampling systems where the presence of the radioactive tracer is expected to warrant such controls. PG&E shall take special precautions to minimize radiation exposure and contamination during both the handling of the radioactive tracer prior to injection and the taking of system samples following injection of the tracer. PG&E shall ensure that all regulatory requirements for liquid discharge are met during disposal of all sampling effluents and when re-establishing continuous blowdown from the steam generators after completion of the studies.

2.C.(5)

Fire Protection

- a. PG&E shall implement and maintain in effect all provisions of the approved fire protection plan as discussed in the Final Safety Analysis Report Update, in PG&E's December 6, 1984, Appendix R Report, and in the NRC staff's Fire Protection Evaluation in Supplements 8, 9, 13, 23, and 27 to the Diablo Canyon Safety Evaluation Report, subject to provision b below.
- b. PG&E may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.
- c. Deleted.

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1/ (6) NUREG-0737 Conditions

Each of the following conditions shall be completed to the satisfaction of the NRC as indicated below. Each of the following conditions references the appropriate Section in SER Supplements No. 10 and/or No. 12.

a. Shift Technical Advisor (Section I.A.1.1)

~~PG&E~~ shall provide a fully-trained, on-shift technical advisor to the Shift Foreman.

Electric Generation LLC

b. Shift Staffing (Section I.A.1.3)

Until the plant has completed its startup test program, licensed personnel who are not regularly assigned members of the shift staff, including but not limited to the Operations Supervisor, shall not be assigned shift duties to satisfy the minimum staffing requirements for operation in Modes 1, 2, 3 and 4 except for cases of emergencies such as unexpected illness. Exceptions to this requirement may be made only after prior consultation with and approval by the NRC.

c. Management of Operations (Section I.B.1)

The Pacific Gas and Electric Company shall augment the plant staff to provide on each shift an individual experienced in comparable size pressurized water reactor operation. These individuals shall have at least one year of experience in operation of large pressurized

water reactors or shall have participated in the startup of at least three pressurized water reactors. At least one such experienced individual shall be on duty on each shift through the startup test program whenever the reactor is not in a cold shutdown condition for at least the first year of operation or until the plant has attained a nominal 100% power level, whichever occurs first.

d. Procedures for Verifying Correct Performance of Operating Activities (Section I.C.6)

Procedures shall be available to verify the adequacy of the operating activities.

e. Deleted

f. Relief and Safety Valve Test Requirements (Section II.D.1)

PG&E shall implement the results of the EPRI test program.

g. Containment Isolation Dependability (Section II.E.4.2)

~~PG&E~~ shall limit the 12-inch vacuum/overpressure relief valve opening to less than or equal to 50 degrees.

Electric Generation LLC

h. Calculations for Small-Break LOCAs (Sections II.K.3.30 and II.K.3.31)

PG&E is participating in the Westinghouse Owners Group effort for this item and shall conform to the results of this effort. Within one year of staff approval of the Westinghouse generic methodology for calculating small break LOCAs (II.K.3.30), PG&E shall submit a plant specific calculation (II.K.3.31) for staff review and approval.

i. Long-Term Emergency Preparedness (Section III.A.2)

- (1) PG&E shall submit a detailed control room design review summary report by December 31, 1984.
- (2) PG&E shall complete operator training on the Safety Parameter Display System and emergency operating procedures by March 28, 1985.

- (3) PG&E shall implement emergency operating procedures based upon Westinghouse Owners Group guidelines by March 28, 1985.

(7) Seismic Design Bases Reevaluation Program (SSER 27 Section IV.5)

PG&E shall develop and implement a program to reevaluate the seismic design bases used for the Diablo Canyon Nuclear Power Plant.

The program shall include the following Elements:

- (1) PG&E shall identify, examine, and evaluate all relevant geologic and seismic data, information, and interpretations that have become available since the 1979 ASLB hearing in order to update the geology, seismology and tectonics in the region of the Diablo Canyon Nuclear Power Plant. If needed to define the earthquake potential of the region as it affects the Diablo Canyon Plant, PG&E will also reevaluate the earlier information and acquire additional new data.
- (2) PG&E shall reevaluate the magnitude of the earthquake used to determine the seismic basis of the Diablo Canyon Nuclear Plant using the information from Element 1.
- (3) PG&E shall reevaluate the ground motion at the site based on the results obtained from Element 2 with full consideration of site and other relevant effects.
- (4) PG&E shall assess the significance of conclusions drawn from the seismic reevaluation studies in Elements 1, 2 and 3, utilizing a probabilistic risk analysis and deterministic studies, as necessary, to assure adequacy of seismic margins.

PG&E shall submit for NRC staff review and approval a proposed program plan and proposed schedule for implementation by January 30, 1985. The program shall be completed and a final report submitted to the NRC three years following the approval of the program by the NRC staff.

PG&E shall keep the staff informed on the progress of the reevaluation program as necessary, but as a minimum will submit quarterly progress reports and arrange for semi-annual meetings with the staff. PG&E will also keep the ACRS informed on the progress of the reevaluation program as necessary, but not less frequently than once a year.

(8) Control of Heavy Loads (SSER 27, Section IV.6)

Prior to startup following the first refueling outage, the licensee shall submit commitments necessary to implement changes and modifications as required to satisfy the guidelines of Section 5.1.2 through 5.1.6 of NUREG-0612 (Phase II: 9-month responses to the NRC Generic Letter dated December 22, 1980).

(9) Emergency Preparedness (SSER 27, Section IV.3)

In the event that the NRC finds that the lack of progress in completion of the procedures in the Federal Emergency Management Agency's final rule, 44 CFR Part 350, is an indication that a major substantive problem exists in achieving or maintaining an adequate state of preparedness, the provisions of 10 CFR Section 50.54(s)(2) will apply.

(10) Masonry Walls (SSER-27, Section IV.4: Safety Evaluation of November 2, 1984)

Prior to start-up following the first refueling outage, ~~the~~ licensee shall (1) evaluate the differences in margins between the staff criteria as set forth in the Standard Review Plan and the criteria used by the licensee, and (2) provide justification acceptable to the staff for those cases where differences exist between the staff's and the licensee's criteria.

PG&E

PG&E

(11) Spent Fuel Pool Modification

The licensee is authorized to modify the spent fuel pool as described in the application dated October 30, 1985 (LAR 85-13) as supplemented. Amendment No. 8 issued on May 30, 1986 and stayed by the U.S. Court of Appeals for the Ninth Circuit pending completion of NRC hearings is hereby reinstated.

PG&E

PG&E's

Prior to final conversion to the modified rack design, fuel may be stored, as needed, in either the modified storage racks described in Technical Specification 5.6.1.1 or in the unmodified storage racks (or both) which are designed and shall be maintained with a nominal 21-inch center-to-center distance between fuel assemblies placed in the storage racks.

(12) Additional Conditions

The Additional Conditions contained in Appendix D, as revised through Amendment No. 120, are hereby incorporated into this license. ~~Pacific Gas and Electric Company~~ shall operate the facility in accordance with the Additional Conditions.

Electric Generation LLC

D. Exemption

Exemption from certain requirements of Appendix J to 10 CFR Part 50 is described in the Office of Nuclear Reactor Regulation's Safety Evaluation Report, Supplement No. 9. This exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, this exemption, previously granted in Facility Operating License No. DPR-76, is hereby reaffirmed. The facility will operate, to the extent authorized herein, in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission.

E. Physical Protection

Electric Generation LLC
 The Licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "Diablo Canyon Power Plant, Units 1 and 2 Physical Security Plan," with revisions submitted through March 4, 1988; "Diablo Canyon Power Plant, Units 1 and 2 Security Force Training and Qualification Plan," with revisions submitted through August 16, 1985; and "Diablo Canyon Power Plant, Units 1 and 2 Safeguards Contingency Plan," with revisions submitted through November 9, 1987. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.

F. Antitrust

Electric Generation LLC and ETrans LLC
 Pacific Gas and Electric Company shall comply with the antitrust conditions in Appendix C to this license.

G. Reporting

Electric Generation LLC
 PG&E shall report any violations of the requirements contained in Sections 2.C(3) and 2.C(4), 2.C(6) through 2.C(10), 2.E and 2.F, of this License within 24 hours. Initial notification shall be made in accordance with the provisions of 10 CFR 50.72 with written follow-up in accordance with the procedures described in 10 CFR 50.73(b), (c), (d) and (e).

H. Financial Protection

Electric Generation LLC
 PG&E shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with Section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.

I. Term of License

This License is effective as of the date of issuance and shall expire at midnight on September 22, 2021.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed by:
 Edson G. Case for

Harold R. Denton, Director
 Office of Nuclear Reactor Regulation

Attachments:

1. Appendix A - Technical Specifications
2. Appendix B - Environmental Protection Plan
3. Appendix C - Antitrust Conditions
4. Appendix D - Additional Conditions

APPENDIX B

TO FACILITY OPERATING LICENSES NOS. DPR-80 AND DPR-82

DIABLO CANYON NUCLEAR GENERATING STATION,

UNITS 1 AND 2

ELECTRIC GENERATION LLC

~~PACIFIC GAS AND ELECTRIC COMPANY~~
DOCKET NOS. 50-275 and 50-323

ENVIRONMENTAL PROTECTION PLAN
(NON-RADIOLOGICAL)

AUGUST 1985

APPENDIX C

ANTITRUST CONDITIONS

FACILITY OPERATING LICENSE NO. DPR-80

"Licensees"

Electric Generation LLC
and ETrans LLC, or

(1) Definitions

- a. "Applicant" means Pacific Gas and Electric Company, any successor corporation, or any assignee of this license.
- b. "Service Area" means that area within the exterior geographic boundaries of the several areas electrically served at retail, now or in the future, by Applicant, and those areas in Northern and Central California adjacent thereto.
- c. "Neighboring Entity" means a financially responsible private or public entity or lawful association thereof owning, contractually controlling or operating, or in good faith proposing to own, to contractually control or to operate facilities for the generation, or transmission at 60 kilovolts or above, of electric power which meets each of the following criteria: (1) its existing or proposed facilities are or will be technically feasible of direct interconnection with those of Applicant; (2) all or part of its existing or proposed facilities are or will be located within the Service Area; (3) its primary purpose for owning, contractually controlling, or operating generation facilities is to sell in the Service Area the power generated; and (4) it is, or upon commencement of operations will be, a public utility regulated under applicable state law or the Federal Power Act, or exempted from regulation by virtue of the fact that it is a federal, state, municipal or other public entity.
- d. "Neighboring Distribution System" means a financially responsible private or public entity which engages, or in good faith proposes to engage, in the distribution of electric power at retail and which meets each of the criteria numbered (1), (2) and (4) in subparagraph "C" above.

Licenses

- e. "Costs" means all capital expenditures, administrative, general, operation and maintenance expenses, taxes, depreciation and costs of capital including a fair and reasonable return on Applicant's investment, which are properly allocable to the particular service or transaction as determined by the regulatory authority having jurisdiction over the particular service or transaction.
- f. "Good Utility Practice" means those practices, methods and equipment, including level of reserves and provisions for contingencies, as modified from time to time, that are commonly used in the Service Area to operate, reliably and safely, electric power facilities to serve a utility's own customers dependably and economically, with due regard for the conservation of natural resources and the protection of the environment of the Service Area, provided such practices, methods and equipment are not unreasonably restrictive.
- g. "Firm Power" means that power which is intended to be available to the customer at all times and for which, in order to achieve that degree of availability, adequately installed and spinning reserves and sufficient transmission to move such power and reserves to the load center are provided.

(2) Interconnection

Interconnection agreements negotiated pursuant to these license conditions shall be subject to the following paragraphs "a" through "g":

- a. Applicant shall not unreasonably refuse to interconnect and operate normally in parallel with any Neighboring Entity, or to interconnect with any Neighboring Distribution System. Such interconnections shall be consistent with Good Utility Practice.
- b. Interconnection shall be at one point unless otherwise agreed by the parties to an interconnection agreement.

Licenses

Licenseses

Interconnection shall not be limited to lower voltages when higher voltages are preferable from the standpoint of Good Utility Practice and are available from Applicant. Applicant may include in any interconnection agreement provisions that a Neighboring Entity or Neighboring Distribution System maintain the power factor associated with its load at a comparable level to that maintained by Applicant in the same geographic area and use comparable control methods to achieve this objective.

- c. Interconnection agreements shall not provide for more extensive facilities or control equipment at the point of interconnection than are required by Good Utility Practice unless the parties mutually agree that particular circumstances warrant special facilities or equipment.
- d. The Costs of additional facilities required to provide service at the point of interconnection shall be allocated on the basis of the projected economic benefits for each party from the interconnection after consideration of the various transactions for which the interconnection facilities are to be used, unless otherwise agreed by the parties.
- e. An interconnection agreement shall not impose limitations upon the use or resale of capacity and energy sold or exchanged under the agreement except as may be required by Good Utility Practice.
- f. An interconnection agreement shall not prohibit any party from entering into other interconnection agreements, but may provide that (1) Applicant receive adequate notice of any additional interconnection arrangement with others, (2) the parties jointly consider and agree upon additional contractual provisions, measures, or equipment, which may be required by Good Utility Practice as a result of the new arrangement, and (3) Applicant may terminate the interconnection agreement if the reliability of ~~the~~ ^{their} system or service to ~~the~~ ^{their} customers would be adversely affected by such additional interconnection arrangement.

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Licensees

g. Applicant may include provisions in an interconnection agreement requiring a Neighboring Entity or Neighboring Distribution System to develop with Applicant a coordinated program for underfrequency load shedding and tie separation. Under such programs the parties shall equitably share the interruption or curtailment of customer load.

(3) Reserve Coordination

Interconnection agreements negotiated pursuant to these license conditions shall be subject to the following paragraphs "a" through "e" regarding reserve coordination:

a. Applicant and any Neighboring Entity with which ^{they} interconnect shall jointly establish and separately maintain the minimum reserves to be installed or otherwise provided under an interconnection agreement. Unless otherwise mutually agreed upon, reserves shall be expressed as a percentage of estimated firm peak load and the minimum reserve percentage shall be at least equal to Applicant's planned reserve percentage without the interconnection. A Neighboring Entity shall not be required to provide reserves for that portion of its load which it meets through purchases of Firm Power. While different reserve percentages may be specified in various interconnection agreements, no party to an interconnection agreement shall be required to provide a greater reserve percentage than Applicant's planned reserve percentage, except that if the total reserves Applicant must provide to maintain system reliability equal to that existing without a given interconnection arrangement are increased by reason of the new arrangement, then the other party or parties may be required to install or provide additional reserves in the full amount of such increase.

Licensees

b. Applicant and Neighboring Entities with which ^{they} interconnect shall jointly establish and separately maintain the minimum spinning reserves to be provided under an interconnection agreement. Unless otherwise mutually agreed upon, spinning reserves shall be expressed as a percentage of peak load and the minimum spinning reserve percentage shall be at least equal to Applicant's spinning

reserve percentage without the interconnection. A Neighboring Entity shall not be required to provide spinning reserves for that portion of its load which it meets through purchases of Firm Power. While different spinning reserve percentages may be specified in various interconnection agreements, no party to an interconnection agreement shall be required to provide a greater spinning reserve percentage than that which Applicant provides, except that if the total spinning reserves Applicant must provide to maintain system reliability equal to that existing without a given interconnection arrangement are increased by reason of the new arrangement, then the other party or parties may be required to provide additional spinning reserves in the full amount of such increase.

Licenses

c. Applicant shall offer to sell, on reasonable terms and conditions, including a specified period, capacity to a Neighboring Entity for use as reserves if such capacity is neither needed for Applicant's own system nor contractually committed to others and if the Neighboring Entity will offer to sell, on reasonable terms and conditions, its own such capacity to the Applicant.

Licenses

d. Applicant may include in any interconnection agreement provisions requiring a Neighboring Entity to compensate Applicant for any reserves Applicant makes available as the result of the failure of such Neighboring Entity to maintain all or any part of the reserves it has agreed to provide in said interconnection agreement.

e. Applicant shall offer to coordinate maintenance schedules with Neighboring Entities interconnected with Applicant and to exchange or sell maintenance capacity and energy when such capacity and energy are available and it is reasonable to do so in accordance with Good Utility Practice.

(4) Emergency Power

Applicant shall sell emergency power to any interconnected Neighboring Entity which maintains the level of minimum reserve agreed upon with Applicant, agrees to use due diligence to correct the emergency and agrees to sell

Licenses

emergency power to Applicant. Applicant shall engage in such transactions if and when capacity and energy for such transactions are available from the own generating resources, or may be obtained by Applicant from other sources, but only to the extent that it can do so without impairing service to Applicant's retail or wholesale power customers or impairing the ability to discharge prior commitments.

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(5) Other Power Exchanges

Should Applicant have on file, or hereafter file, with the Federal Energy Regulatory Commission, agreements or rate schedules providing for the sale and purchase of short-term capacity and energy, limited-term capacity and energy, long-term capacity and energy or economy energy, Applicant shall, on a fair and equitable basis, enter into like or similar agreements with any Neighboring Entity, when such forms of capacity and energy are available, recognizing that past experience, different economic conditions and good utility practice may justify different rates. Terms and conditions. Applicant shall respond promptly to inquiries of Neighboring Entities concerning the availability of such forms of capacity and energy from the system.

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(6) Wholesale Power Sales

Upon request, Applicant shall offer to sell firm, full or partial requirements power for a specified period to an interconnected Neighboring Entity or Neighboring Distribution System under a contract with reasonable terms and conditions including provisions which permit Applicant to recover its costs. Such wholesale power sales must be consistent with Good Utility Practice. Applicant shall not be required to sell firm power at wholesale if it does not have available sufficient generation or transmission to supply the requested service or if the sale would impair service to its retail customers or the ability to discharge prior commitments.



Licensees'

(7) Transmission Services

a. Applicant shall transmit power pursuant to interconnection agreements, with provisions which are appropriate to the requested transaction and which are consistent with these license conditions. Except as listed below, such service shall be provided (1) between two or among more than two Neighboring Entities or sections of a Neighboring Entity's system which are geographically separated, with which, now or in the future, Applicant ~~is~~ interconnected, (2) between a Neighboring Entity with which, now or in the future, ~~is~~ interconnected and one or more Neighboring Distribution Systems with which, now or in the future, ~~is~~ interconnected and (3) between any Neighboring Entity or Neighboring Distribution System(s) and the Applicant's point of direct interconnection with any other electric system engaging in bulk power supply outside the area then electrically served at retail by Applicant. Applicant shall not be required by this Section to transmit power (1) from a hydroelectric facility the ownership of which has been involuntarily transferred from Applicant or (2) from a Neighboring Entity for sale to any electric system located outside the exterior geographic boundaries of the several areas then electrically served at retail by Applicant if any other Neighboring Entity, Neighboring Distribution System, or Applicant wishes to purchase such power at an equivalent price for use within set areas. Any Neighboring Entity or Neighboring Distribution System(s) requesting transmission service shall give reasonable advance notice to Applicant of its schedule and requirements. Applicant shall not be required by this Section to provide transmission service if the proposed transaction would be inconsistent with Good Utility Practice or if the necessary transmission facilities are committed at the time of the request to be fully-loaded during the period of which service is requested, or have been previously reserved by Applicant for emergency purposes, loop flow, or other uses consistent with Good Utility Practice; provided, that with respect to the Pacific Northwest-Southwest Intertie, Applicant shall not be required by this Section to provide the requested transmission service if it would impair Applicant's own use of this facility consistent with Bonneville Project Act, (50 Stat. 731, August 20, 1937), Pacific Northwest Power Marketing Act (78 Stat. 756, August 31, 1964) and the Public Works Appropriations Act, 1965 (78 Stat. 682, August 30, 1964).

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b. Applicants shall include in ~~the~~ planning and construction programs such increases in ~~the~~ transmission capacity or such additional transmission facilities as may be required for the transactions referred to in paragraph (a) of this Section, provided any Neighboring Entity or Neighboring Distribution System gives Applicant sufficient advance notice as may be necessary to accommodate its requirements from a regulatory and technical standpoint and provided further that the entity requesting transmission services compensates Applicant for the Costs incurred as a result of the request. Where transmission capacity will be increased or additional transmission facilities will be installed to provide or maintain the requested service to a Neighboring Entity or Neighboring Distribution System, Applicant may require, in addition to a rate for use of other facilities, that payment of Costs associated with the increased capacity or additional facilities shall be made by the parties in accordance with and in advance of their respective use of the new capacity or facilities.

c. Nothing herein shall require Applicant (1) to construct additional transmission facilities if the construction of such facilities is inconsistent with Good Utility Practice or if such facilities could be constructed without duplicating any portion of Applicant's transmission system, (2) to provide transmission service to a retail customer of (3) to construct transmission outside the area then electrically served at retail by Applicant.

Licensees'

d. Rate schedules and agreements for transmission services provided under this Section shall be filed by Applicant with the regulatory agency having jurisdiction over such rates and agreements.

(8) Access to Nuclear Generation

a. If a Neighboring Entity or Neighboring Distribution System makes a timely request to Applicant for an ownership participation in the Stanislaus Nuclear Project, Unit No. 1 or any future nuclear generating unit for which Applicant applies for a construction permit during the 20-year period immediately following the date of the construction permit for Stanislaus Unit 1, Applicant shall offer the requesting party an opportunity to participate in such units, up to an amount reasonable in light

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of the relative loads of the participants. With respect to Stanislaus Unit No. 1 or any future nuclear generating unit, a request for participation shall be deemed timely if received within 90 days after the mailing by Applicant to Neighboring Entities and Neighboring Distribution Systems of an announcement of its intent to construct the unit and a request for an expression of interest in participation. Participation shall be on a basis which compensates Applicant for a reasonable share of all ~~its~~ Costs, incurred and to be incurred, in planning, selecting a site for, constructing and operating the facility.

- b. Any Neighboring Entity or any Neighboring Distribution System making a timely request for participation in a nuclear unit must enter into a legally binding and enforceable agreement to assume financial responsibility for its share of the costs associated with participation in the unit and associated transmission facilities. Unless otherwise agreed by Applicant, a Neighboring Entity or Neighboring Distribution System desiring participation must have signed such an agreement within one year after Applicant has provided to that Neighboring Entity or Neighboring Distribution System pertinent financial and technical data bearing on the feasibility of the project which are then available to Applicant. Applicant shall provide additional pertinent data as they become available during the year. The requesting party shall pay to Applicant forthwith the additional expenses incurred by Applicant in making such financial and technical data available. In any participation agreement subject to this Section, Applicant may require provisions requiring payment by each participant of its share of all costs incurred up to the date of the agreement, requiring each participant thereafter to pay its pro rata share of funds as they are expended for the planning and construction of units and related facilities, and requiring each participant to make such financial arrangements as may be necessary to ensure the ability of the participant to continue to make such payments.

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(9) Implementation

- a. All rates, charges, terms and practices are and shall be subject to the acceptance and approval of any regulatory agencies or courts having jurisdiction over them.

Licensees

- b. Nothing contained herein shall enlarge any rights of a Neighboring Entity or Neighboring Distribution System to provide services to retail customers of Applicant beyond the rights they have under state or federal law.
- c. Nothing in these license conditions shall be construed as a waiver by Applicant of ~~its~~ rights to contest the application of any commitment herein to a particular factual situation.
- d. These license conditions do not preclude Applicant from applying to any appropriate forum to seek such changes in these conditions as may at the time be appropriate in accordance with the then-existing law and Good Utility Practice.
- e. These license conditions do not require Applicant to become a common carrier.

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Appendix D

ADDITIONAL CONDITIONS

FACILITY OPERATING LICENSE NO DPR-80

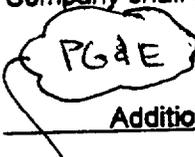
Pacific Gas & Electric Company shall comply with the following conditions on the schedules given below:

Amendment
Number

Additional Conditions

Implementation
Date

120

The licensee is authorized to relocate certain technical specification requirements to the equipment control guidelines (ECGs) as referenced in the Updated Final Safety Analysis Report. Implementation of these amendments shall include relocation of these technical specification requirements to the ECGs as described in the licensee's application dated October 4, 1995, as supplemented by letters dated July 17, 1996, August 20, 1996, and June 2, 1997, and evaluated in the staff's safety evaluation dated February 3, 1998.

The amendment shall be implemented within 90 days of its issuance.

135

This amendment authorizes the relocation of certain Technical Specification requirements to licensee-controlled documents. Implementation of this amendment shall include the relocation of these Technical Specification requirements to the appropriate documents, as described in Table LG of Details Relocated from Current Technical Specifications, Table R of Relocated Current Technical Specifications, Table LS of Less Restrictive Changes to Current Technical Specifications, and Table A of Administrative Changes to Current Technical Specifications that are attached to the NRC staff's Safety Evaluation enclosed with this amendment.

The amendment shall be implemented by June 30, 2000.

<u>Amendment Number</u>	<u>Additional Conditions</u>	<u>Implementation Date</u>
135	<p>The schedule for the performance of new and revised Surveillance Requirements (SRs) shall be as follows:</p> <p>For SRs that are new in this amendment, the first performance is due at the end of the first surveillance interval that begins on the date of implementation of this amendment.</p> <p>For SRs that existed prior to this amendment whose intervals of performance are being reduced, the first reduced surveillance interval begins upon completion of the first surveillance performed after implementation of this amendment.</p> <p>For SRs that existed prior to this amendment that have modified acceptance criteria, the first performance is due at the end of the first surveillance interval that began on the date the surveillance was last performed prior to the implementation of this amendment.</p> <p>For SRs that existed prior to this amendment whose intervals of performance are being extended, the first extended surveillance interval begins upon completion of the last surveillance performed prior to implementation of this amendment.</p>	<p>The amendment shall be implemented by June 30, 2000.</p>

Marked-up Pages of Operating License for Proposed Conforming Changes
Related to DCPP Unit 2



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

PACIFIC GAS AND ELECTRIC COMPANY
DIABLO CANYON NUCLEAR POWER PLANT, UNIT 2

DIABLO CANYON LLC
ELECTRIC GENERATION
LLC
ETRAVS LLC

DOCKET NO. 50-323

FACILITY OPERATING LICENSE

License No. DPR-82

1. The Nuclear Regulatory Commission (the Commission) has found that:

- ^{INSERT A}
- A. The application for licenses by ~~Pacific Gas and Electric Company (PG&E)~~ ^{Electric Generation LLC} complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations set forth in 10 CFR Chapter I, and all required notifications to other agencies or bodies have been duly made;
 - B. Construction of the Diablo Canyon Nuclear Power Plant, Unit 2 (the facility), has been substantially completed in conformity with Provisional Construction Permit No. CPPR-69 and the application, as amended, the provisions of the Act, and the regulations of the Commission;
 - C. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission, except as exempted from compliance in Section 2.D below;
 - D. There is reasonable assurance (i) that the activities authorized by this operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission set forth in 10 CFR Chapter I, except as exempted from compliance in Section 2.D below;
 - E. ~~The Pacific Gas and Electric Company~~ ^{Electric Generation LLC} is technically qualified to engage in the activities authorized by this operating license in accordance with the Commission's regulations set forth in 10 CFR Chapter I;
 - F. ~~The Pacific Gas and Electric Company~~ ^{Electric Generation LLC and Diablo Canyon LLC} have satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements", of the Commission's regulations;

INSERT A

Electric Generation LLC, acting on its own behalf and as agent for Diablo Canyon LLC, ETrans LLC, and Pacific Gas and Electric Company (collectively, the licensees),*

* Electric Generation LLC succeeds Pacific Gas and Electric Company as the operator of Diablo Canyon Nuclear Power Plant, Unit 2, and is authorized to act on behalf of the facility owner, Diablo Canyon LLC, and has exclusive authority, responsibility and control over physical construction, operation and maintenance of the facility. ETrans LLC and Pacific Gas and Electric Company are licensees only with respect to the Antitrust Conditions in Section 2.F of this License.

- G. The issuance of this license will not be inimical to the common defense and security or to the health and safety of the public;
- H. After weighing the environmental, economic, technical, and other benefits of the facility against environmental and other costs and considering available alternatives, the issuance of Facility Operating License No. DPR-82, subject to the conditions for protection of the environment set forth herein, is in accordance with applicable Commission regulations governing environmental reviews (10 CFR Part 50, Appendix D and 10 CFR Part 51) and all applicable requirements have been satisfied; and
- I. The receipt, possession, and use of source, byproduct, and special nuclear material as authorized by this license will be in accordance with the Commission's regulations in 10 CFR Parts 30, 40 and 70.

2. Pursuant to approval by the Nuclear Regulatory Commission in its Memorandum and Order (CLI-85-14) dated August 1, 1985, the license for fuel loading and low power testing, Facility Operating License No. DPR-81, issued on April 26, 1985, is superseded by Facility Operating License No. DPR-82, hereby issued to ~~Pacific Gas and Electric Company~~ to read as follows:

A. This License applies to ^{the licensees} the Diablo Canyon Nuclear Power Plant, Unit 2, a pressurized water nuclear reactor and associated equipment (the facility), owned by PG&E. The facility is located in San Luis Obispo County, California, and is described in ~~PG&E's~~ Final Safety Analysis Report as supplemented and amended, and the Environmental Report as supplemented and amended.

B. Subject to the conditions and requirements ^{Diablo Canyon LLC and operated by} incorporated herein, the Commission hereby licenses ~~the Pacific Gas and Electric Company:~~ ^{Electric Generation LLC,} ~~Electric Generation LLC~~

(1) Pursuant to Section 104(b) of the Act and 10 CFR Part 50, "Licensing of Production and Utilization Facilities", to possess, use, and operate the facility at the designated location in San Luis Obispo County, California, in accordance with the procedures and limitations set forth in this license;

(2) Pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Final Safety Analysis Report, as supplemented and amended;

(3) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use at any time any byproduct, source and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;

Electric Generation LLC,

INSERT (B) >

INSERT B

- (2) Diablo Canyon LLC, pursuant to the Act and 10 CFR Part 50, to possess the facility at the designated location in San Luis Obispo County, California, in accordance with the procedures and limitations set forth in this license;

- 3 -

Electric Generation LLC,

- (A) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
- (5) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This License shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

~~The Pacific Gas and Electric Company~~ is authorized to operate the facility at reactor core power levels not in excess of 3411 megawatts thermal (100% rated power) in accordance with the conditions specified herein.

Electric Generation LLC

(2) Technical Specifications (SSER 32, Section 8)* and Environmental Protection Plan

The Technical Specifications contained in Appendix A, as revised through Amendment No. , and the Environmental Protection Plan contained in Appendix B are hereby incorporated in this license. PGE shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

✓ (3) Initial Test Program (SSER 31, Section 4.4.1)

Any changes to the Initial Test Program described in Section 14 of the FSAR made in accordance with the provisions of 10 CFR 50.59 shall be reported in accordance with 50.59(b) within one month of such change.

*The parenthetical notation following the title of many license conditions denotes the section of the Safety Evaluation Report and/or its supplements wherein the license condition is discussed.

- 4 -

Electric Generation LLC

(4) Fire Protection (SSER 31, Section 9.6.1 and SSER 32, Section 10)

- a. PG&E shall maintain in effect all provisions of the approved fire protection program as discussed in ~~the~~ ^{the} Final Safety Analysis Report, in PG&E's December 6, 1984 Appendix R Report, and in the NRC staff's Fire Protection Evaluation in Supplements 8, 9, 13, 23, 27 and 31 to the Diablo Canyon Safety Evaluation Report, subject to provisions b. and c. below.
- b. PG&E shall make no change to features of the approved fire protection program which would decrease the level of fire protection in the plant without prior approval of the Commission. To make such a change, PG&E must submit an application for license amendment pursuant to 10 CFR 50.90.
- c. PG&E may make changes to features of the approved fire protection program which do not decrease the level of fire protection without prior Commission approval, provided:
- (1) such changes do not otherwise involve a change in a license condition or technical specification or result in an unreviewed safety question (see 10 CFR 50.59); and
 - (2) such changes do not result in failure to carry out the fire protection program approved by the Commission prior to license issuance.

PG&E shall maintain, in an auditable form, a current record of all such changes including an analysis of the effects of the change on the fire protection program and shall make such records available to NRC inspectors upon request. All changes to the approved program made without prior Commission approval shall be reported annually to the Director of the Office of Nuclear Reactor Regulation, together with supporting analyses.

(5) NUREG-0737 Items

Each of the following conditions shall be completed to the satisfaction of the NRC as indicated below. Each condition references the appropriate Section in SER Supplements.

a. I.D.1 Detailed Control Room Design Review (SSER 31, Section 4.13)

*
PG&E shall comply with the requirements of Supplement 1 to NUREG-0737 for the conduct of a Detailed Control Room Design Review (DCRDR) in accordance with a schedule acceptable to the NRC staff.

b. II.E.4.2 Containment Isolation Dependability (SSER 31, Section 4.21)

Electric Generation LLC PG&E shall limit the 12-inch vacuum/overpressure relief valve opening to less than or equal to 50 degrees.

(6) Emergency Preparedness (SSER 31, Section 4.23.2 and SSER 32, Section 7)

In the event that the NRC finds that the lack of progress in completion of the procedures in the Federal Emergency Management Agency's final rule, 44 CFR Part 350, is an indication that a major substantive problem exists in achieving or maintaining an adequate state of preparedness, the provisions of 10 CFR Section 50.54(s)(2) will apply.

(7) Masonry Walls (SSER 31, Section 4.7)

PGE
Prior to start-up following the first refueling outage, PG&E shall (1) evaluate the differences in margins between the staff criteria as set forth in the Standard Review Plan and the criteria used by the licensee, and (2) provide justification acceptable to the staff for those cases where differences exist between the staff's and PG&E's criteria.

(8) Reactor Trip System Reliability - Generic Letter 83-28 (SSER 31, Section 4.8)

PG&E shall submit responses to and implement the requirements of Generic Letter 83-28 on a schedule which is consistent with that given in the PG&E letters dated January 24, and March 13, 1985.

(9) Steam Generator Tube Rupture Analysis (SSER 31, Section 4.25)

Prior to restart following the first refueling outage, PG&E shall submit for NRC review and approval an analysis which demonstrates that the steam generator tube rupture (SGTR) analysis presented in the FSAR is the most severe case with respect to the release of fission products and calculated doses. Consistent with the analytical assumptions, PG&E shall propose all necessary changes to the Technical Specifications (Appendix A) to this license.

* In sert (C)

INSERT C

- * References to Pacific Gas and Electric Company, the initial licensed operator, are retained on certain historical license conditions.

(10) Pipeway Structure DE and DDE Analysis (SSER 32, Section 4)

Prior to start-up following the first refueling outage PG&E shall complete a confirmatory analysis for the pipeway structure to further demonstrate the adequacy of the pipeway structure for load combinations that include the design earthquake (DE) and double design earthquake (DDE).

(11) Spent Fuel Pool Modification

The licensee is authorized to modify the spent fuel pool as described in the application dated October 30, 1985 (LAR 85-13) as supplemented. Amendment No. 6 issued on May 30, 1986 and stayed by the U.S. Court of Appeals for the Ninth Circuit pending completion of NRC hearings is reinstated.

PG&E

Prior to final conversion to the modified rack design, fuel may be stored, as needed, in either the modified storage racks described in Technical Specification 5.6.1.1 or in the unmodified storage racks (or both) which are designed and shall be maintained with a nominal 21-inch center-to-center distance between fuel assemblies placed in the storage racks.

(12) Additional Conditions

The Additional Conditions contained in Appendix D, as revised through Amendment No. 118, are hereby incorporated into this license. ~~Pacific Gas and Electric Company~~ shall operate the facility in accordance with the Additional Conditions.

Electric Generation LLC

D. Exemption (SSER 31, Section 6.2.6)

An exemption from certain requirements of Appendix J to 10 CFR Part 50 is described in the Office of Nuclear Reactor Regulation's Safety Evaluation Report, Supplement No. 9. This exemption is authorized by law and will not endanger life or property of the common defense and security and is otherwise in the public interest. Therefore, this exemption previously granted in Facility Operating License No. DPR-81 pursuant to 10 CFR 50.12 is hereby reaffirmed. The facility will operate, with the exemption authorized, in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission.

E. Physical Protection

The licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "Diablo Canyon Power Plant, Units 1 and 2 Physical Security Plan," with revisions submitted through March 4, 1988; "Diablo Canyon Power Plant, Units 1 and 2 Security Force Training and Qualification Plan," with revisions submitted through August 16, 1985; and "Diablo Canyon Power Plant, Units 1 and 2 Safeguards Contingency Plan," with revisions submitted through November 9, 1987. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.

- F. Antitrust
PG&E, Electric Generation LLC and ETrans LLC shall
- G. Reporting
comply with the antitrust license conditions in Appendix 1
C to this license.

Except as otherwise provided in the Technical Specifications or Environmental Protection Plan, the licensee shall report any violations of the requirements contained in Sections 2.C(3), 2.C(5) through 2.C(10), 2.E and 2.F of this license in the following manner: initial notification shall be made within 24 hours to the NRC Operations Center via the Emergency Notification System with written followup within thirty days in accordance with the procedures described in 10 CFR 50.73(b), (c), and (e).

H. Financial Protection

PG&E shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with Section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.

I. Term of License

This License is effective as of the date of issuance and shall expire at midnight on April 26, 2025.

Electric Generation LLC FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed by:
Harold R. Denton

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Attachments:

1. Appendix A - Technical Specifications (NUREG-1151)
2. Appendix B - Environmental Protection Plan
3. Appendix C - Antitrust Conditions
4. Appendix D - Additional Conditions

Date of Issuance: August 26, 1985

APPENDIX B

TO FACILITY OPERATING LICENSES NOS. DPR-80 AND DPR-82

DIABLO CANYON NUCLEAR GENERATING STATION,

UNITS 1 AND 2

ELECTRIC GENERATION LLC

~~PACIFIC GAS AND ELECTRIC COMPANY~~
DOCKET NOS. 50-275 and 50-323

ENVIRONMENTAL PROTECTION PLAN
(NON-RADIOLOGICAL)

AUGUST 1985

APPENDIX CANTITRUST CONDITIONSFACILITY OPERATING LICENSE NO. DPR-82(1) Definitions

-
- a. "Applicant" means Pacific Gas and Electric Company, any successor corporation, or any assignee of this license.
- b. "Service Area" means that area within the exterior geographic boundaries of the several areas electrically served at retail, now or in the future, by Applicant, and those areas in Northern and Central California adjacent thereto.
- c. "Neighboring Entity" means a financially responsible private or public entity or lawful association thereof owning, contractually controlling or operating, or in good faith proposing to own, to contractually control or to operate facilities for the generation, or transmission at 60 kilovolts or above, of electric power which meets each of the following criteria: (1) its existing or proposed facilities are or will be technically feasible of direct interconnection with those of Applicant; (2) all or part of its existing or proposed facilities are or will be located within the Service Area; (3) its primary purpose for owning, contractually controlling, or operating generation facilities is to sell in the Service Area the power generated; and (4) it is, or upon commencement of operations will be, a public utility regulated under applicable state law or the Federal Power Act, or exempted from regulation by virtue of the fact that it is a federal, state, municipal or other public entity.
- d. "Neighboring Distribution System" means a financially responsible private or public entity which engages, or in good faith proposes to engage, in the distribution of electric power at retail and which meets each of the criteria numbered (1), (2) and (4) in subparagraph "C" above.

Licensees'

- e. "Costs" means all capital expenditures, administrative, general, operation and maintenance expenses, taxes, depreciation and costs of capital including a fair and reasonable return on ~~Applicant's~~ investment, which are properly allocable to the particular service or transaction as determined by the regulatory authority having jurisdiction over the particular service or transaction.
- f. "Good Utility Practice" means those practices, methods and equipment, including levels of reserves and provisions for contingencies, as modified from time to time, that are commonly used in the Service Area to operate, reliably and safely, electric power facilities to serve a utility's own customers dependably and economically, with due regard for the conservation of natural resources and the protection of the environment of the Service Area, provided such practices, methods and equipment are not unreasonably restrictive.
- g. "Firm Power" means that power which is intended to be available to the customer at all times and for which, in order to achieve that degree of availability, adequately installed and spinning reserves and sufficient transmission to move such power and reserves to the load center are provided.

(2) Interconnection

Interconnection agreements negotiated pursuant to these license conditions shall be subject to the following paragraphs "a" through "g":

- a. ~~Applicant~~ shall not unreasonably refuse to interconnect and operate normally in parallel with any Neighboring Entity, or to interconnect with any Neighboring Distribution System. Such interconnections shall be consistent with Good Utility Practice.
- b. Interconnection shall be at one point unless otherwise agreed by the parties to an interconnection agreement.

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Interconnection shall not be limited to lower voltages when higher voltages are preferable from the standpoint of Good Utility Practice and are available from ~~Applicant~~. ~~Applicant~~ may include in any interconnection agreement provisions that a Neighboring Entity or Neighboring Distribution System maintain the power factor associated with its load at a comparable level to that maintained by ~~Applicant~~ in the same geographic area and use comparable control methods to achieve this objective.

- c. Interconnection agreements shall not provide for more extensive facilities or control equipment at the point of interconnection than are required by Good Utility Practice unless the parties mutually agree that particular circumstances warrant special facilities or equipment.
- d. The Costs of additional facilities required to provide service at the point of interconnection shall be allocated on the basis of the projected economic benefits for each party from the interconnection after consideration of the various transactions for which the interconnection facilities are to be used, unless otherwise agreed by the parties.
- e. An interconnection agreement shall not impose limitations upon the use or resale of capacity and energy sold or exchanged under the agreement except as may be required by Good Utility Practice.
- f. An interconnection agreement shall not prohibit any party from entering into other interconnection agreements, but may provide that (1) ~~Applicant~~ receive adequate notice of any additional interconnection arrangement with others, (2) the parties jointly consider and agree upon additional contractual provisions, measures, or equipment, which may be required by Good Utility Practice as a result of the new arrangement, and (3) ~~Applicant~~ may terminate the interconnection agreement if the reliability of ~~its~~ system or service to ~~its~~ customers would be adversely affected by such additional interconnection arrangement.

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g. ~~Applicant~~ may include provisions in an interconnection agreement requiring a Neighboring Entity or Neighboring Distribution System to develop with ~~Applicant~~ a coordinated program for underfrequency load shedding and tie separation. Under such programs the parties shall equitably share the interruption or curtailment of customer load.

(3) Reserve Coordination

Interconnection agreements negotiated pursuant to these license conditions shall be subject to the following paragraphs "a" through "e" regarding reserve coordination:

a. ~~Applicant~~ and any Neighboring Entity with which ~~it~~^{they} interconnects shall jointly establish and separately maintain the minimum reserves to be installed or otherwise provided under an interconnection agreement. Unless otherwise mutually agreed upon, reserves shall be expressed as a percentage of estimated firm peak load and the minimum reserve percentage shall be at least equal to ~~Applicant's~~ planned reserve percentage without the interconnection. A Neighboring Entity shall not be required to provide reserves for that portion of its load which it meets through purchases of Firm Power. While different reserve percentages may be specified in various interconnection agreements, no party to an interconnection agreement shall be required to provide a greater reserve percentage than ~~Applicant's~~ planned reserve percentage, except that if the total reserves ~~Applicant~~ must provide to maintain system reliability equal to that existing without a given interconnection arrangement are increased by reason of the new arrangement, then the other party or parties may be required to install or provide additional reserves in the full amount of such increase.

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b. ~~Applicant~~ and Neighboring Entities with which ~~it~~^{they} interconnects shall jointly establish and separately maintain the minimum spinning reserves to be provided under an interconnection agreement. Unless otherwise mutually agreed upon, spinning reserves shall be expressed as a percentage of peak load and the minimum spinning reserve percentage shall be at least equal to ~~Applicant's~~ spinning

reserve percentage without the interconnection. A Neighboring Entity shall not be required to provide spinning reserves for that portion of its load which it meets through purchases of Firm Power. While different spinning reserve percentages may be specified in various interconnection agreements, no party to an interconnection agreement shall be required to provide a greater spinning reserve percentage than that which Applicant provides, except that if the total spinning reserves Applicant must provide to maintain system reliability equal to that existing without a given interconnection arrangement are increased by reason of the new arrangement, then the other party or parties may be required to provide additional spinning reserves in the full amount of such increase.

- c. Applicant shall offer to sell, on reasonable terms and conditions, including a specified period, capacity to a Neighboring Entity for use as reserves if such capacity is neither needed for Applicant's own system nor contractually committed to others and if the Neighboring Entity will offer to sell, on reasonable terms and conditions, its own such capacity to the Applicant.
- d. Applicant may include in any interconnection agreement provisions requiring a Neighboring Entity to compensate Applicant for any reserves Applicant makes available as the result of the failure of such Neighboring Entity to maintain all or any part of the reserves it has agreed to provide in said interconnection agreement.
- e. Applicant shall offer to coordinate maintenance schedules with Neighboring Entities interconnected with Applicant and to exchange or sell maintenance capacity and energy when such capacity and energy are available and it is reasonable to do so in accordance with Good Utility Practice.

Licenses

(4) Emergency Power

Applicant shall sell emergency power to any interconnected Neighboring Entity which maintains the level of minimum reserve agreed upon with Applicant, agrees to use due diligence to correct the emergency and agrees to sell

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emergency power to Applicant. Applicant shall engage in such transactions if and when capacity and energy for such transactions are available from its own generating resources, or may be obtained by Applicant from other sources, but only to the extent that it can do so without impairing service to Applicant's retail or wholesale power customers or impairing its ability to discharge prior commitments.

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(5) Other Power Exchanges

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Should Applicant have on file, or hereafter file, with the Federal Energy Regulatory Commission, agreements or rate schedules providing for the sale and purchase of short-term capacity and energy, limited-term capacity and energy, long-term capacity and energy or economy energy, Applicant shall, on a fair and equitable basis, enter into like or similar agreements with any Neighboring Entity, when such forms of capacity and energy are available, recognizing that past experience, different economic conditions and Good Utility Practice may justify different rates, terms and conditions. Applicant shall respond promptly to inquiries of Neighboring Entities concerning the availability of such forms of capacity and energy from its system.

(6) Wholesale Power Sales

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Upon request, Applicant shall offer to sell firm, full or partial requirements power for a specified period to an interconnected Neighboring Entity or Neighboring Distribution System under a contract with reasonable terms and conditions including provisions which permit Applicant to recover its costs. Such wholesale power sales must be consistent with Good Utility Practice. Applicant shall not be required to sell firm Power at wholesale if it does not have available sufficient generation or transmission to supply the requested service or if the sale would impair service to its retail customers or its ability to discharge prior commitments.

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(7) Transmission Services

a. ~~Applicant~~ shall transmit power pursuant to interconnection agreements, with provisions which are appropriate to the requested transaction and which are consistent with these license conditions. Except as listed below, such service shall be provided (1) between two or among more than two Neighboring Entities or sections of a Neighboring Entity's system which are geographically separated, with which, now or in the future, ~~Applicant is~~ interconnected, (2) between a Neighboring Entity with which, now or in the future, ~~it is~~ interconnected and one or more Neighboring Distribution Systems with which, now or in the future, ~~it is~~ interconnected and (3) between any Neighboring Entity or Neighboring Distribution System(s) and the Applicant's point of direct interconnection with any other electric system engaging in bulk power supply outside the area then electrically served at retail by Applicant. Applicant shall not be required by this Section to transmit power (1) from a hydroelectric facility the ownership of which has been involuntarily transferred from Applicant or (2) from a Neighboring Entity for sale to any electric system located outside the exterior geographic boundaries of the several areas then electrically served at retail by Applicant if any other Neighboring Entity, Neighboring Distribution System, or Applicant wishes to purchase such power at an equivalent price for use within set areas. Any Neighboring Entity or Neighboring Distribution System(s) requesting transmission service shall give reasonable advance notice to Applicant of its schedule and requirements. Applicant shall not be required by this Section to provide transmission service if the proposed transaction would be inconsistent with Good Utility Practice or if the necessary transmission facilities are committed at the time of the request to be fully-loaded during the period of which service is requested, or have been previously reserved by Applicant for emergency purposes, loop flow, or other uses consistent with Good Utility Practice; provided, that with respect to the Pacific Northwest-Southwest Intertie, Applicant shall not be required by this Section to provide the requested transmission service if it would impair Applicant's own use of this facility consistent with Bonneville Project Act, (50 Stat. 731, August 20, 1937), Pacific Northwest Power Marketing Act (78 Stat. 756, August 31, 1964) and the Public Works Appropriations Act, 1965 (78 Stat. 682, August 30, 1964).

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- b. ~~Applicant~~ shall include in ~~its~~ planning and construction programs such increases in ~~its~~ transmission capacity or such additional transmission facilities as may be required for the transactions referred to in paragraph (a) of this Section, provided any Neighboring Entity or Neighboring Distribution System gives ~~Applicant~~ sufficient advance notice as may be necessary to accommodate its requirements from a regulatory and technical standpoint and provided further that the entity requesting transmission services compensates ~~Applicant~~ for the Costs incurred as a result of the request. Where transmission capacity will be increased or additional transmission facilities will be installed to provide or maintain the requested service to a Neighboring Entity or Neighboring Distribution System, ~~Applicant~~ may require, in addition to a rate for use of other facilities, that payment of Costs associated with the increased capacity or additional facilities shall be made by the parties in accordance with and in advance of their respective use of the new capacity or facilities.
- c. Nothing herein shall require ~~Applicant~~ (1) to construct additional transmission facilities if the construction of such facilities is inconsistent with Good Utility Practice or if such facilities could be constructed without duplicating any portion of ~~Applicant's~~ transmission system, (2) to provide transmission service to a retail customer or (3) to construct transmission outside the area then electrically served at retail by ~~Applicant~~.
- d. Rate schedules and agreements for transmission services provided under this Section shall be filed by ~~Applicant~~ with the regulatory agency having jurisdiction over such rates and agreements.

Licensees

(8) Access to Nuclear Generation

- a. If a Neighboring Entity or Neighboring Distribution System makes a timely request to ~~Applicant~~ for an ownership participation in the Stanislaus Nuclear Project, Unit No. 1 or any future nuclear generating unit for which ~~Applicant~~ applies for a construction permit during the 20-year period immediately following the date of the construction permit for Stanislaus Unit 1, ~~Applicant~~ shall offer the requesting party an opportunity to participate in such units, up to an amount reasonable in light

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of the relative loads of the participants. With respect to Stanislaus Unit No. 1 or any future nuclear generating unit, a request for participation shall be deemed timely if received within 90 days after the mailing by ~~Applicant~~ to Neighboring Entities and Neighboring Distribution Systems of an announcement of ~~its~~ intent to construct the unit and a request for an expression of interest in participation. Participation shall be on a basis which compensates ~~Applicant~~ for a reasonable share of all ~~its~~ Costs, incurred and to be incurred, in planning, selecting a site for, constructing and operating the facility.

- b. Any Neighboring Entity or any Neighboring Distribution System making a timely request for participation in a nuclear unit must enter into a legally binding and enforceable agreement to assume financial responsibility for its share of the costs associated with participation in the unit and associated transmission facilities. Unless otherwise agreed by ~~Applicant~~, a Neighboring Entity or Neighboring Distribution System desiring participation must have signed such an agreement within one year after ~~Applicant~~ has provided to that Neighboring Entity or Neighboring Distribution System pertinent financial and technical data bearing on the feasibility of the project which are then available to ~~Applicant~~. ~~Applicant~~ shall provide additional pertinent data as they become available during the year. The requesting party shall pay to ~~Applicant~~ forthwith the additional expenses incurred by ~~Applicant~~ in making such financial and technical data available. In any participation agreement subject to this Section, ~~Applicant~~ may require provisions requiring payment by each participant of its share of all costs incurred up to the date of the agreement, requiring each participant thereafter to pay its pro rata share of funds as they are expended for the planning and construction of units and related facilities, and requiring each participant to make such financial arrangements as may be necessary to ensure the ability of the participant to continue to make such payments.

(9) Implementation

- a. All rates, charges, terms and practices are and shall be subject to the acceptance and approval of any regulatory agencies or courts having jurisdiction over them.

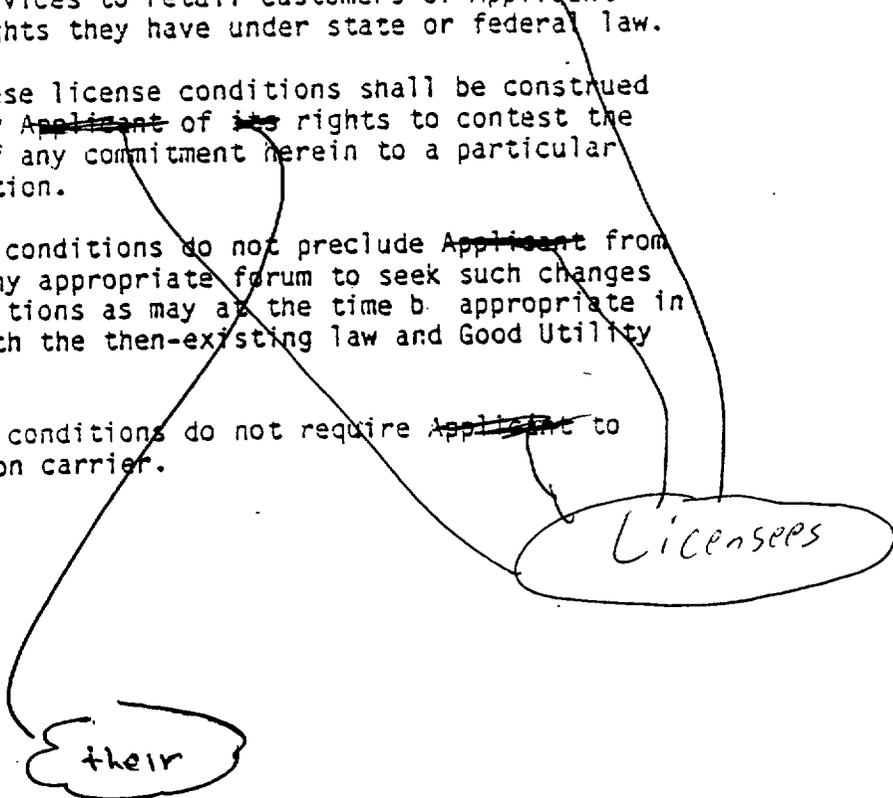
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- b. Nothing contained herein shall enlarge any rights of a Neighboring Entity or Neighboring Distribution System to provide services to retail customers of ~~Applicant~~ beyond the rights they have under state or federal law.
- c. Nothing in these license conditions shall be construed as a waiver by ~~Applicant~~ of ~~its~~ rights to contest the application of any commitment herein to a particular factual situation.
- d. These license conditions do not preclude ~~Applicant~~ from applying to any appropriate forum to seek such changes in these conditions as may at the time be appropriate in accordance with the then-existing law and Good Utility Practice.
- e. These license conditions do not require ~~Applicant~~ to become a common carrier.



Appendix D

ADDITIONAL CONDITIONS

FACILITY OPERATING LICENSE NO. DPR-82

Pacific Gas & Electric Company shall comply with the following conditions on the schedules given below:

<u>Amendment Number</u>	<u>Additional Conditions</u>	<u>Implementation Date</u>
118	<p><i>PG&E</i></p> <p>The licensee is authorized to relocate certain technical specification requirements to the equipment control guidelines (ECGs) as referenced in the Updated Final Safety Analysis Report. Implementation of these amendments shall include relocation of these technical specification requirements to the ECGs as described in the licensee's application dated October 4, 1995, as supplemented by letters dated July 17, 1996, August 20, 1996, and June 2, 1997, and evaluated in the staff's safety evaluation dated February 3, 1998.</p>	<p>The amendment shall be implemented within 90 days of its issuance.</p>
135	<p>This amendment authorizes the relocation of certain Technical Specification requirements to licensee-controlled documents. Implementation of this amendment shall include the relocation of these Technical Specification requirements to the appropriate documents, as described in Table LG of Details Relocated from Current Technical Specifications, Table R of Relocated Current Technical Specifications, Table LS of Less Restrictive Changes to Current Technical Specifications, and Table A of Administrative Changes to Current Technical Specifications that are attached to the NRC staff's Safety Evaluation enclosed with this amendment.</p>	<p>The amendment shall be implemented by June 30, 2000.</p>

<u>Amendment Number</u>	<u>Additional Conditions</u>	<u>Implementation Date</u>
135	<p>The schedule for the performance of new and revised Surveillance Requirements (SRs) shall be as follows:</p> <p>For SRs that are new in this amendment, the first performance is due at the end of the first surveillance interval that begins on the date of implementation of this amendment.</p> <p>For SRs that existed prior to this amendment whose intervals of performance are being reduced, the first reduced surveillance interval begins upon completion of the first surveillance performed after implementation of this amendment.</p> <p>For SRs that existed prior to this amendment that have modified acceptance criteria, the first performance is due at the end of the first surveillance interval that began on the date the surveillance was last performed prior to the implementation of this amendment.</p> <p>For SRs that existed prior to this amendment whose intervals of performance are being extended, the first extended surveillance interval begins upon completion of the last surveillance performed prior to implementation of this amendment.</p>	<p>The amendment shall be implemented by June 30, 2000.</p>

No Significant Hazards Considerations Determination

No Significant Hazards Considerations Determination

Description of the Change

The transfers of ownership of and operating responsibility for Diablo Canyon Power Plant, Units 1 and 2, involve a number of conforming changes to the operating licenses for the units to reflect the new generating company, Electric Generation LLC (Gen), as the operator of the two units, and to reflect that the ownership of the assets will be assigned to Diablo Canyon LLC (Nuclear), a wholly-owned subsidiary of Gen. In addition, these conforming changes to the licenses include changes that are necessary to reflect additional entities responsible for compliance with the existing antitrust licenses conditions. Consistent with the generic determination in 10 CFR Part 2.1315(a), which became effective December 3, 1998, these administrative license amendments involve no significant hazards considerations.

Basis for Proposed No Significant Hazards Considerations Determination

1. The conforming amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

- The amendments do not involve any change in the design, configuration, or operation of the nuclear plant. All Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications remain unchanged. Also, the Physical Security Plan, the Operator Training and Requalification Program, the Quality Assurance Program, and the Emergency Plan are not being substantively changed by the proposed transfer and amendment.
- The technical qualifications of Gen to carry out its responsibilities under the operating licenses, as amended, will be equivalent to the present technical qualifications of PG&E. Upon the effective date of the transfer of the licenses, Gen will operate, manage, and maintain the nuclear plant in accordance with the conditions and requirements established by the NRC as defined in the current operating licenses. The organization and the qualifications of the personnel engaged in the operation, maintenance, engineering, assessment, training, and other related services will be essentially unchanged as a result of the transfer. The key executives currently responsible for the overall safe operation of the nuclear plant as designated in plant Technical Specifications will continue to be responsible, although their titles may change.

Therefore, the proposed amendments do not involve an increase in the probability or consequences of an accident previously analyzed.

2. The conforming amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because of the following:

- The amendments do not involve any change in the design, configuration, or operation of the nuclear plant. The current plant design and design bases will remain the same. The current plant safety analyses, therefore, remain complete and accurate in addressing the design basis events and in analyzing plant response and consequences.
- The Limiting Conditions for Operations, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications are not affected by the change. As such, the plant conditions for which the design basis accident analyses were performed remain valid.
- The amendments do not introduce a new mode of plant operation or new accident precursors, does not involve any physical alterations to plant configurations, or make changes to system set points that could initiate a new or different kind of accident.

Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The conforming amendments do not involve a significant reduction in a margin of safety.

The proposed amendments do not involve a significant reduction in a margin of safety because of the following:

- The amendments do not involve a change in the design, configuration, or operation of the nuclear plant. The change does not affect either the way in which the plant structures, systems, and components perform their safety function or their design and licensing bases.
- Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications. Because there is no change to the physical design of the plant, there is no change to any of these margins.

Therefore, the proposed amendments do not involve a significant reduction in a margin of safety.

Form of Bilateral Power Sales Agreement
By and Between Electric Generation LLC and Reorganized PG&E

Execution Copy

Master Power Purchase & Sale Agreement



Issued By: Bruce R. Worthington
President

Issued on: November 30, 2001

Effective Date: Effective Date of Plan of
Reorganization

MASTER POWER PURCHASE AND SALES AGREEMENT

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MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* ("Master Agreement") is made as of the following date: November 30, 2001 but shall not become effective until the Effective Date. The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the "Agreement." The Parties to this *Master Agreement* are the following:

Name ("Electric Generation LLC" or "Party A")

Name ("Pacific Gas and Electric Company" or "Party B")

All Notices:

All Notices:

Street: _____

Street: _____

City: _____ Zip: _____

City: _____ Zip: _____

Attn: Contract Administration

Attn: Contract Administration

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Duns: _____

Duns: _____

Federal Tax ID Number: _____

Federal Tax ID Number: _____

Invoices:

Invoices:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Scheduling:

Scheduling:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Payments:

Payments:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Wire Transfer:

Wire Transfer:

BNK: _____

BNK: _____

ABA: _____

ABA: _____

ACCT: _____

ACCT: _____

Credit and Collections:

Credit and Collections:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

With additional Notices of an Event of Default or
Potential Event of Default to:

Attn: _____
Phone: _____
Facsimile: _____

With additional Notices of an Event of Default or
Potential Event of Default to:

Attn: _____
Phone: _____
Facsimile: _____

[NOTE: THE FOREGOING INFORMATION WILL BE PROVIDED ON OR BEFORE THE EFFECTIVE
DATE.]

[Balance of Page Intentionally Blank]

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Agreement, including the confirm and addenda, that will be filed at FERC for acceptance or approval

Party B Tariff Tariff: Not Applicable Dated _____ Docket Number _____

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies Cross Default for Party A:
 Party A: _____ Cross Default Amount \$ _____
 Other Entity: _____ Cross Default Amount \$ _____
 Cross Default for Party B:
 Party B: _____ Cross Default Amount \$ _____
 Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

- Option A (Applicable if no other selection is made.)
- Option B – Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____

Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: Pacific Gas and Electric Company
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

Not Applicable
 Applicable

If applicable, complete the following:

Party B Collateral Threshold: \$ _____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$ _____

(d) Downgrade Event:

Not Applicable
 Applicable

If applicable, complete the following:

It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

Other:
Specify: _____

(e) Guarantor for Party B: _____

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

Option A
 Option B Specify: Electric Generation LLC
 Option C Specify: _____

(b) Credit Assurances:

Not Applicable
 Applicable

(c) Collateral Threshold:

Not Applicable
 Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's
- Other:
Specify: _____

(e) Guarantor for Party A: _____

Guarantee Amount: _____

Article 10

Confidentiality

Confidentiality Applicable If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
 - Party B is a Governmental Entity or Public Power System
 - Add Section 3.6. If not checked, inapplicable
 - Add Section 8.6. If not checked, inapplicable
-

Other Changes

1. Section 1.23 is deleted and the following substituted in its place:
"Force Majeure" means any occurrence beyond the reasonable control of a party which causes the party to be unable to perform an obligation under this Agreement in whole or in part and which could not have been avoided by the exercise of due diligence. Force Majeure includes an act of God; actual or threatened civil disturbance, terrorism, war, or riot; strike or other labor dispute; emergencies declared by the California Independent System Operator or any other authorized successor or regional transmission organization or any state or federal regulator or legislature; explosion; tsunami, fire, ice, flood, earthquake, earth movement (including mud slides or rock slides), storm, effect of storm, drought, lightning and other natural catastrophes; regulatory requirements of generic applicability or regulatory requirements not related directly to actions of the Party claiming Force Majeure requiring a shut-down or curtailment of Diablo Canyon; or system transients or voltage reduction requiring a shut-down or curtailment of Diablo Canyon. Force Majeure shall not be based on (i) Buyer's inability economically to use or resell the Product purchased hereunder, or (ii) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) the Party claiming Force Majeure contracts for firm transmission service with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing events shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such events establish that a Force Majeure as defined in the first sentence hereof has occurred. Applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P and as set forth in any Confirmations for any Transactions.
2. A new Section 1.62 is added to read: "Good Industry Practice" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric power industry for the applicable type of electric generation facilities (e.g., conventional hydro, pumped storage, or nuclear,) during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Industry Practice does not require use of the optimum practice, method, or act, but only requires use of practices, methods, or acts generally accepted in the region covered by the Western Systems Coordinating Council or any other successor or similar organization.
3. Section 1.19 is deleted and the following substituted in its place:
"Effective Date" means the Effective Date of the Proposed Plan of Reorganization Under Chapter 11 of the Bankruptcy Code for Pacific Gas and Electric Company, Chapter 11 Case No. 01-30923-DM.
4. The first sentence of Section 2.3 is deleted and the following substituted in its place: Seller may confirm a Transaction by forwarding to Buyer by facsimile or electronic mail (e-mail) ~~the Effective Date of the Proposed Plan of Reorganization~~ ~~of Business Days~~ after a Transaction is entered into a confirmation ("Confirmation") substantially in the form of Exhibit A and, to the extent that either party sends the other an invoice for a payment

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Electric Generation LLC

Pacific Gas and Electric Company

By: _____

By: _____

Name: Bruce R. Worthington

Name: Gordon R. Smith

Title: President

Title: President and Chief Executive Officer

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 "Affiliate" means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 "Agreement" has the meaning set forth in the Cover Sheet.

1.3 "Bankrupt" means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 "Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 "Buyer" means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 "Call Option" means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 "Claiming Party" has the meaning set forth in Section 3.3.

1.8 "Claims" means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.9 "Confirmation" has the meaning set forth in Section 2.3.

1.10 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

1.11 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13 “Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14 “Defaulting Party” has the meaning set forth in Section 5.1.

1.15 “Delivery Period” means the period of delivery for a Transaction, as specified in the Transaction.

1.16 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17 “Downgrade Event” has the meaning set forth on the Cover Sheet.

1.18 “Early Termination Date” has the meaning set forth in Section 5.2.

1.19 “Effective Date” has the meaning set forth on the Cover Sheet.

1.20 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.21 “Event of Default” has the meaning set forth in Section 5.1.

1.22 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.23 “Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force

Majeure shall not be based on (i) the loss of Buyer's markets; (ii) Buyer's inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24 "Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.25 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

1.26 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.27 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28 "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.29 "Master Agreement" has the meaning set forth on the Cover Sheet.

1.30 "Moody's" means Moody's Investor Services, Inc. or its successor.

1.31 "NERC Business Day" means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless

otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.32 “Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.33 “Offsetting Transactions” mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.

1.34 “Option” means the right but not the obligation to purchase or sell a Product as specified in a Transaction.

1.35 “Option Buyer” means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.

1.36 “Option Seller” means the Party specified in a Transaction as the seller of an option , as defined in Schedule P.

1.37 “Party A Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party A.

1.38 “Party B Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party B.

1.39 “Party A Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party A.

1.40 “Party B Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party B.

1.41 “Party A Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.42 “Party B Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.43 “Party A Tariff” means the tariff, if any, specified in the Cover Sheet for Party A.

1.44 “Party B Tariff” means the tariff, if any, specified in the Cover Sheet for Party B.

1.45 “Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.

1.46 “Potential Event of Default” means an event which, with notice or passage of time or both, would constitute an Event of Default.

1.47 “Product” means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48 “Put Option” means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49 “Quantity” means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50 “Recording” has the meaning set forth in Section 2.4.

1.51 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.53 “Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

1.54 "Schedule" or "Scheduling" means the actions of Seller, Buyer and/or their designated representatives, including each Party's Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.55 "Seller" means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56 "Settlement Amount" means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57 "Strike Price" means the price to be paid for the purchase of the Product pursuant to an Option.

1.58 "Terminated Transaction" has the meaning set forth in Section 5.2.

1.59 "Termination Payment" has the meaning set forth in Section 5.3.

1.60 "Transaction" means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 "Transmission Provider" means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation

(“Confirmation”) substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer’s receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller’s receipt thereof, failing which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party’s Confirmation within two (2) Business Days of receipt, Seller’s Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller’s Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer’s Confirmation was sent prior to Seller’s Confirmation, in which case Buyer’s Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the general terms and conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording (“Recording”) of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties’ agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller’s and Buyer’s Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the

preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer's failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller's failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default. An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;
- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);
- (h) with respect to such Party's Guarantor, if any:

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- (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
 - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;
 - (iii) a Guarantor becomes Bankrupt;
 - (iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or
 - (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the

amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and

notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if "Accelerated Payment of Damages" is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month, each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party

for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party's performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

- (a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and
- (b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE

ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.1(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60

days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

(b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

(b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B

will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) ("Party A Performance Assurance"), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a "Pledgor") hereby grants to the other Party (the "Secured Party") a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Master Agreement in accordance with the intent of the parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.
- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this

Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);

- (viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (ix) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;
- (x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;
- (xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and
- (xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the

exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this

Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute "forward contracts" within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

SCHEDULE M

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX ON THE COVER SHEET IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

A. The Parties agree to add the following definitions in Article One.

“Act” means _____.¹

“Governmental Entity or Public Power System” means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Public Power System’s obligations under this Master Agreement for the entire Delivery Period.

B. The following sentence shall be added to the end of the definition of “Force Majeure” in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and the Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the

¹ Cite the state enabling and other relevant statutes applicable to Governmental Entity or Public Power System.

duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System' obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) an opinion of counsel for Governmental Entity or Public Power

System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Cover Sheet, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Cover Sheet, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other

Party a security interest in all of Public Power System's right, title and interest in and to [specify collateral].

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT AS HEREIN PROVIDED, THE LAWS OF THE STATE OF _____² SHALL APPLY.

² Insert relevant state for Governmental Entity or Public Power System.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services” including, but not limited to, regulation and frequency response, energy imbalance, operating reserve-spinning and operating reserve-supplemental, as may be specified in the Transaction.

“Capacity” has the meaning specified in the Transaction.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

“Firm (LD)” means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four.

“Firm Transmission Contingent - Contract Path” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product in the case of the Seller from the generation source to the Delivery Point or in the case of the Buyer from the Delivery Point to the ultimate sink, and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This contingency shall excuse performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary.

“Firm Transmission Contingent - Delivery Point” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission to the Delivery Point (in the case of Seller) or from the Delivery Point (in the case of Buyer) for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product, in the case of the Seller, to be delivered to the Delivery Point or, in the case of Buyer, to be received at the Delivery Point and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary. Interruptions or curtailments of transmission other than the transmission either immediately to or from the Delivery Point shall not excuse performance

“Firm (No Force Majeure)” means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to

which performance is owed shall be entitled to receive from the Party which failed to perform an amount determined pursuant to Article Four. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction.

“Into _____ (the “Receiving Transmission Provider”), Seller’s Daily Choice” means that, in accordance with the provisions set forth below, (1) the Product shall be scheduled and delivered to an interconnection or interface (“Interface”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Product shall be delivered. An “Into” Product shall be subject to the following provisions:

1. Prescheduling and Notification. Subject to the provisions of Section 6, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer (“Seller’s Notification”) of Seller’s immediate upstream counterparty and the Interface (the “Designated Interface”) where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer’s immediate downstream counterparty.

2. Availability of “Firm Transmission” to Buyer at Designated Interface; “Timely Request for Transmission,” “ADI” and “Available Transmission.” In determining availability to Buyer of next-day firm transmission (“Firm Transmission”) from the Designated Interface, a “Timely Request for Transmission” shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than 30 minutes after delivery of Seller’s Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller’s Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an “ADI”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as “Available Transmission”) within the Receiving Transmission Provider’s transmission system.

3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission.

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to Article Four.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make

alternative scheduling arrangements for delivery at the Designated Interface or an ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated

Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

4. Transmission.

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to Article Four.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. An "Into" Product shall be subject to the "Force Majeure" provisions in Section 1.23.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain Transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the

Designated Interface be later than the prescheduling deadline pertaining to the Transaction between Buyer and Seller pursuant to Section 1.

B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to 30 minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this "Into Product" (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain Transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product

"Native Load" means the demand imposed on an electric utility or an entity by the requirements of retail customers located within a franchised service territory that the electric utility or entity has statutory obligation to serve.

"Non-Firm" means, with respect to a Transaction, that delivery or receipt of the Product may be interrupted for any reason or for no reason, without liability on the part of either Party.

"System Firm" means that the Product will be supplied from the owned or controlled generation or pre-existing purchased power assets of the system specified in the Transaction (the "System") with non-firm transmission to and from the Delivery Point, unless a different Transmission Contingency is specified in a Transaction. Seller's failure to deliver shall be excused: (i) by an event or circumstance which prevents Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Seller; (ii) by Buyer's failure to perform; (iii) to the extent necessary to preserve the integrity of, or prevent or limit any instability on, the System; (iv) to the extent the System or the control area or reliability council within which the System operates declares an emergency condition, as determined in the system's, or the control area's, or reliability council's reasonable judgment; or (v) by the interruption or curtailment of transmission to the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Seller's performance. Buyer's failure to receive shall be excused (i) by Force Majeure; (ii) by Seller's failure to perform, or (iii) by the interruption or curtailment of transmission from the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Buyer's performance. In any of such events, neither party shall be liable to the other for any damages, including any amounts determined pursuant to Article Four.

“Transmission Contingent” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is unavailable or interrupted or curtailed for any reason, at any time, anywhere from the Seller’s proposed generating source to the Buyer’s proposed ultimate sink, regardless of whether transmission, if any, that such Party is attempting to secure and/or has purchased for the Product is firm or non-firm. If the transmission (whether firm or non-firm) that Seller or Buyer is attempting to secure is from source to sink is unavailable, this contingency excuses performance for the entire Transaction. If the transmission (whether firm or non-firm) that Seller or Buyer has secured from source to sink is interrupted or curtailed for any reason, this contingency excuses performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Article 1.23 to the contrary.

“Unit Firm” means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller’s failure to deliver under a “Unit Firm” Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer’s failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article Four.

EXHIBIT A

**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER**

This confirmation letter shall confirm the Transaction agreed to on November 30, 2001 between Electric Generation LLC ("Party A") and Pacific Gas and Electric Company ("Party B") regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: Electric Generation LLC

Buyer: Pacific Gas and Electric Company

Product:

Into _____, Seller's Daily Choice

Firm (LD)

Firm (No Force Majeure)

System Firm

(Specify System: _____)

Unit Firm

(Specify Unit(s)): Capacity and associated Energy, Ancillary Services and any other electrical product that Party B may utilize or sell ("Other Products") (Energy and Ancillary Services hereafter referred to collectively as "Associated Products" and Capacity, Associated Products and Other Products hereafter referred to collectively as "Products") from each of the Units specified in Schedule 1 of this Confirmation. All of the foregoing Units collectively are referred to as the "Portfolio." Each Unit is hereafter referred to as a Unit or Units, a Hydro Unit or Hydro Units or a Diablo Canyon Unit or Diablo Canyon Units, as applicable. The Hydro Units comprise: (1) each of the generating units in the nineteen facilities owned by irrigation districts shown on Schedule 1, which are hereafter referred to as the "I.D. Hydro Units"; (2) each of the generating units in the Hydro Facilities owned directly or indirectly by Gen shown on Schedule 1, which are hereafter referred to as the "Owned Hydro Units"; and (3) the generating unit in the Grizzly Hydro Facility, which is hereafter referred as the "Grizzly Hydro Unit". A "Hydro Facility" is comprised of the powerhouse (including all electrical/mechanical equipment included therein), its directly associated water conveyance system, and its generation tie equipment up to the Interconnection Point. The "Diablo Canyon Facility" means the Diablo Canyon Nuclear Power Plant (including all electrical/mechanical equipment included therein) as described in License Nos. DPR-80 and DPR-82, issued by the Nuclear Regulatory Commission and its generation tie equipment up to the Interconnection Point. Clauses (i) and (ii) of the definition of "Unit Firm" in Schedule P do not apply for this Transaction. Either Party shall be relieved of its obligations to sell and deliver or purchase and receive the Product without liability only to the extent that,

and for the period during which, such performance is prevented by Force Majeure and in such case, only to the extent provided for in this Transaction.

Other: (_____)

Transmission Contingency (If not marked, no transmission contingency)

FT-Contract Path Contingency Seller Buyer

FT-Delivery Point Contingency Seller Buyer

Transmission Contingent Seller Buyer

Other transmission contingency

Specify: In accordance with the terms and conditions of this Transaction.

Contract Quantity: The contract quantity respecting the Capacity of each Unit is as set forth in Section 1 of the Confirmation Addendum. Party B is required to accept all Associated Products from the Diablo Canyon Units ("Diablo Canyon Must-Take Quantity") and from the Hydro Units to the extent that hydrological conditions require that such Units operate ("Hydro Units Must-Take Quantity"), subject to Section 4 of the Confirmation Addendum. Except to the extent of accepting the Diablo Canyon Must-Take Quantity and the Hydro Units Must-Take Quantity, Party B shall have the right to dispatch the Units in accordance with the terms and conditions of this Transaction

Delivery Point: The Delivery Point is at the point of interconnection with the transmission or distribution system, as appropriate, for each of the Units as set forth more particularly in the Interconnection Agreements between Party A and Etrans LLC dated as of the Effective Date and between Party A and Party B dated as of the Effective Date. The Delivery of Products from the Tule River Hydro Facility shall be at the fence line of the Tule switchyard.

Contract Price:

- (1) Capacity Charge: Peak Season: July and August – \$20.50/kW-Month; Shoulder Season: June, September, and October – \$15.25/kw-Month; Off-Peak Season: November through May - \$12.00/kw-Month, multiplied in each case by the Contract Capacity and as adjusted pursuant to Section 1.3 and 2 of the Confirmation Addendum and the following paragraph (3) of this section on Contract Price;
- (2) Energy Charge: For all Units other than Helms Pumped Storage Project No. 2735 ("Helms"), \$8/MWh as adjusted by the following paragraph (3) of this section on Contract Price; For Helms, \$0.4/MWh as adjusted by the following paragraph (3) of this Section on Contract Price.
- (3) Starting on the first day of the Second Contract Year, the Capacity Charge and the Energy Charge shall be escalated based on the percentage change in the then most recently published final Consumer Price Index, All Urban Consumers, All Cities as published by the U.S. Department of Labor, Bureau of Labor Statistics ("CPI-U"), using as a base for determining such escalation the most recently published final CPI-U as of the Effective Date. Thereafter the base for determining escalation shall be the most

recently published final CPI-U as of the first day of the Contract Year immediately preceding the Contract Year for which the escalation is computed.

- (4) Notwithstanding Section 9.2 of the Master Agreement, the Capacity Charge shall be increased or decreased to account for the effect of any imposition of a new tax or other assessment or increase in an existing tax or other assessment (but not local real property taxes or other similar taxes) or a tax credit or other reduction in an existing tax or other assessment (but not local real property taxes or other similar taxes) enacted after the date on which this Master Agreement and Confirmation Letter are filed with FERC that is not of general applicability and is instead directed at the generation, sale, purchase, ownership, operation and/or transmission of Capacity, Energy or Ancillary Services, and/or other energy goods and services or ownership or operation of assets related to same.
- (5) If Party A deviates from a dispatch instruction of Party B that conforms to the requirements of this Transaction and, as a result, Party B incurs a net loss as a result of an ISO charge, penalty or other similar assessment, Party A shall be responsible for all such charges, penalties or other similar assessments if such deviation from a dispatch instruction was the result of Party A's failure to apply Good Industry Practice. To compute such net loss, Party B shall for each event determine the total amount of gains and losses associated with Party A's deviation from any dispatch instruction of Party B that conforms to the requirements of this Transaction. Such gains include but are not limited to revenues Party B may receive from the ISO as a result of over-generation. If, on an annual basis, the losses for such events exceed the gains, Party B shall submit to Party A an invoice setting forth the amount of any ISO charge, penalty or other similar assessment for which Party A is responsible. Notwithstanding the foregoing: (1) Party B shall take all commercially reasonable steps to mitigate such charges, penalties or other similar assessments following notification by Seller of such deviation or upon Party B's otherwise becoming aware of such deviation and (2) Party A may not without Party B's consent deviate from a prior dispatch instruction of Party B that conforms to the requirements of this Transaction in order to maximize gains to Party B and to thereby reduce its potential liability to Party B under this Section.
- (6) To the extent required in any currently effective Reliability Must Run ("RMR") Contracts, on or before the Effective Date, Party A will assign any such RMR contracts to Party B in accordance with their applicable terms and Party B agrees to accept such assignment and to be bound to such RMR contracts. To the extent Party B receives any revenues from any assigned RMR Contract, it shall retain all such revenue, except for Incremental Administrative Costs, Monthly Surcharge Payments, the ISO Repair Share, and Motoring Charges for Ancillary Services Dispatch, as each is defined in the applicable RMR Contracts, all of which shall be remitted to Party A. If, following the Effective Date, Party A enters into any new RMR contracts affecting Units then subject to this Transaction, Party A will assign such RMR contracts to Party B in accordance with their applicable terms and Party B will agree to accept such assignment and to be bound to such RMR contracts. Revenues from such additional RMR contracts shall be treated in accordance with the second sentence of this Paragraph 6. If Party B requests Party A to provide motoring services, the charge to Party B shall be the charge for

Motoring Charges for Ancillary Services Dispatch set forth in the RMR Contract applicable to the Unit from which Party A requests such services or, if there is no RMR Contract applicable to such Unit, from a comparable Unit owned by Party A or any of its subsidiaries as to which there is an RMR Contract applicable.

Delivery Period: Twelve (12) Contract Years from the Effective Date.

Special Conditions:

1. The Effective Date of this Transaction shall be the same as the Effective Date of the Proposed Plan of Reorganization under Chapter 11 of the Bankruptcy Code for Pacific Gas and Electric Company, Chapter 11 Case No. 01-30923-DM.
2. Sections 8.1(b), 8.1(c), 8.1(d), Section 8.2(b), 8.2(c) and 8.2(d) and Section 8.3 of the Master Power Purchase and Sale Agreement dated as of November 30, 2001 (the "Master Agreement") do not apply to this Transaction.
3. Energy shall be measured in MWh at the California Independent System Operator or its successor ("ISO") revenue meter, which amount shall then be multiplied by the applicable generation meter multiplier (or any successor method to account for losses established by the ISO) for each Unit to determine the amount of Energy delivered at the Delivery Point.
4. Contract Month shall mean a calendar month except with respect to the first Contract Month, which shall be the period from the Effective Date until the end of the first full calendar month following the calendar month in which the Effective Date occurs. Contract Year shall mean twelve calendar months, the first of which shall be the first Contract Month.
5. Party A's performance shall be subject to the requirements imposed on it by applicable FERC-approved tariffs, including but not limited to RMR Contracts, issued from time to time by the ISO or its successor. Party A's performance shall also be subject to the requirements imposed on it by the Irrigation District Contract for the Units on Confirmation Addendum Schedule 1 and the water delivery obligations existing on the Effective Date.
6. Party A agrees (1) to use Good Industry Practice so that there is not a material change in the operating characteristics of the Units over the period of time in which the Units are subject to this Transaction and (2) to use all commercially reasonable efforts to obtain and maintain all regulatory approvals needed to operate and maintain the Units.
7. In accordance with Section 4.1 of the Master Agreement, the Parties agree that if Party A fails to satisfy its obligations to deliver the Product pursuant to this Transaction, there shall be adjustments in the Capacity Charge as set forth in Section 2.2 of the Confirmation Addendum; Party A may make certain payments to Party B pursuant to Section 2.1 and Section 5 of the Confirmation Addendum; and that Party A shall not be required to pay Party B any amounts specified in clause (x) of Section 4.1 of the Master Agreement.

8. The failure of Party A to maintain Availability equal to or greater than sixty percent (60%) for twelve consecutive full Contract Months (the "Short Fall Period") constitutes an additional Event of Default under Section 5.1 of the Master Agreement. However, if, before the end of a Short-Fall Period, Party A elects, by sending notice to Party B in accordance with Section 10.7 of the Master Agreement, to pay Party B the Capacity Payment Amount (as defined in the next sentence), then no such Event of Default shall have occurred. The Capacity Payment Amount is (x) the difference between the Capacity Charge determined in accordance with this Transaction at an Availability level equal to sixty (60%) for the Short Fall Period minus the actual Capacity Charge paid by Party B for such Short Fall Period less (y) any downward adjustment in Party B's actual Capacity Charge computed pursuant to Section 2.2 of the Confirmation Addendum as a result of Availability falling below sixty percent (60%) for the Short-Fall Period. If Party A fails to elect before the end of the Short-Fall Period to pay the Capacity Payment Amount, it shall have three (3) Business Days after written notice from Party B to pay the Capacity Payment Amount in order to cure the Event of Default arising under this Special Condition 8.
9. Subject to Special Condition 18, Party B shall be responsible for all Scheduling Coordinator duties under the currently applicable ISO tariffs and any successor tariffs for the Units that are subject to this Transaction. Subject to Paragraph 5 under Price, above, Party B shall be responsible for and pay all Scheduling Coordinator costs and charges associated with this Transaction.
10. Party A shall have the right in its sole and absolute discretion but on ninety (90) days' written notice to Party B to remove from this Transaction any Units (up to 150 MW of Contract Capacity in total over the Term) that are not listed in Schedule 1 as being certified to provide Ancillary Services; provided, however, that it shall thereafter no longer operate the Unit for electrical service. If Party A sells any Unit removed from this Transaction pursuant to this Special Condition 10 to a third party for a price greater than its historic cost plus capital investments less depreciation at the time of the sale, such sale shall be subject to Party B's consent which shall not be unreasonably withheld. Notwithstanding the foregoing, if Party A wants to remove, pursuant to this Special Condition 10, any Units that are listed in Schedule 1 as being certified to provide Ancillary Services, it may do so provided that Party B agrees to their removal upon terms and conditions acceptable to Party B. In no event may the total amount of Contract Capacity removed pursuant to this Special Condition 10 exceed 150 MW. Except for payments in connection with such Hydro Units that were due and owing prior to the removal date, neither Party shall have any further obligations to the other respecting such Hydro Unit(s) on or after the date of removal pursuant to this paragraph.
11. Subject to Clause 2 of Special Condition 6, if, at anytime, Party A or any of its subsidiaries (or any entity with which any of the foregoing has contracted or otherwise arranged for the operation of any of the Hydro Unit(s) on its behalf) is no longer authorized to operate a Hydro Unit(s) as a result of its failure either to (x) maintain the existing license issued by FERC under Part I of the Federal Power Act for the operation of such Hydro Unit(s) or (y) obtain a new license from FERC under

Part I of the Federal Power Act for the continued operation of such Hydro Unit(s), then upon the expiration of the existing license, such Hydro Unit(s) shall be removed from this Transaction effective as of the date its license terminates or expires (the "Removal Date"). If as a result of new or changed regulatory requirements there is a change in the operation of a Hydro Unit resulting in a loss of capacity, then the Contract Capacity for such Unit shall, effective as of the date upon which the change in operation commences, be adjusted downward to reflect such loss of capacity. Except for any payments in connection with such Hydro Units referenced in the first sentence of this Special Condition 11 or in connection with the lost capacity referenced in the second sentence of this Special Condition 11 that were due and owing, respectively, prior to the Removal Date or the date in which there was a change in the operation of a Hydro Unit resulting in the loss of capacity, neither Party shall have any further obligations to the other respecting such Hydro Unit(s) or the Contract Capacity removed from the Transaction pursuant to the first or second sentence, respectively, of this Special Condition 11.

12. Subject to Clause 2 of Special Condition 6, if, at any time, Party A or any of its subsidiaries decides to surrender its license under Part I of the Federal Power Act for the operation of one or more Hydro Unit(s), it shall notify Party B no later than sixty days prior to the date on which Party A or any of its subsidiaries intends to surrender such license (the "Surrender Date"). No later than thirty days prior to the Surrender Date, Party B shall advise Party A whether it intends to purchase such Hydro Unit(s) at a cost equal to the fair value of the property. If Party B elects by such date not to undertake such purchase or the transaction is not closed by the Surrender Date, then, effective on the Surrender Date such Hydro Unit(s) shall be removed from this Transaction. If, for any reason, FERC agrees to extend the Surrender Date, then the period for completing the purchase shall continue for the duration of such extension. Except for payments in connection with such Hydro Units that were due and owing prior to the Surrender Date, neither Party shall have any further obligations to the other respecting such Hydro Unit(s) removed from the Transaction pursuant to this Special Condition 12.
13. Subject to Clause 2 of Special Condition 6, if, at any time, Party A or any of its subsidiaries (or any entity with which any of the foregoing has contracted or otherwise arranged for the operation of Diablo Canyon on its behalf), is no longer authorized pursuant to the Atomic Energy Act to operate Diablo Canyon, such Unit(s) shall be removed from this Transaction effective as of the date on which such authorization lapses (the "Diablo Removal Date"). If as a result of new or changed regulatory requirements there is a change in the operation of the Diablo Canyon Unit(s) resulting in a loss of capacity, then the Contract Capacity for such Unit(s) shall, effective as of the date upon which the change in operation commences, be adjusted downward to reflect such loss of capacity. Except for any payments in connection with the Diablo Canyon Unit(s) referenced in the first sentence of this Special Condition 13 or in connection with the lost capacity referenced in the second sentence of this Special Condition 13 that were due and owing, respectively, prior to the Diablo Removal Date or the date in which there was a change in the operation of

Diablo Canyon Unit(s) resulting in the loss of capacity, neither Party shall have any further obligations to the other respecting the Diablo Canyon Unit(s) or the Contract Capacity removed from this Transaction pursuant to the first or second sentence, respectively, of this Special Condition 13.

14. If Party A is required to incur material additional costs in connection with the Diablo Canyon Facility relating to security (including, for example but not by way of limitation, increased staffing or physical modifications to the Diablo Canyon Facility) after the date on which this Master Agreement and Confirmation Letter are filed with FERC, Party A and Party B will agree on a commercially reasonable equitable adjustment to the Capacity Charge respecting the Diablo Canyon Facility. The adjustment shall take into account such factors as the duration of the time and extent to which the Diablo Canyon Facility will remain subject to this Transaction; the remaining useful life of the Diablo Canyon Facility; the useful life of any capital items acquired by Party A, the cost of which is subject to this Special Condition 14; and the then existing obligations of each of the Parties entered into in connection with this Transaction. If, within ninety days from the date on which Party A provides Party B with notice of its decision to invoke this Special Condition 14, the Parties are unable to reach agreement on a commercially reasonable equitable adjustment to the Capacity Charge respecting the Diablo Canyon Facility, Party A may, notwithstanding Section 10.15 of the Master Agreement and Section 6.1 of the Confirmation Addendum, petition FERC pursuant to Section 205 of the Federal Power Act to make a determination of the just and reasonable adjustment to such Capacity Payment in light of the factors set forth above. Notwithstanding Section 6.2 of the Confirmation Addendum, the Parties agree that FERC shall have exclusive jurisdiction over this matter.
15. To the extent that the State of California or any agency thereof imposes additional requirements respecting the decommissioning of Diablo Canyon, the costs of such requirements shall be borne entirely by Party B, and Party B shall reimburse Party A for all such costs and keep Party A neutral from the effects of such new requirements. Both Parties agree to enter into or to cause any of their subsidiaries to enter into such new or amended agreements as are necessary to implement the foregoing arrangement.
16. The Parties acknowledge that the Contract Capacity for each Unit set forth in Section 1 of the Confirmation Addendum is net of station service. If a Unit cannot self-supply station service, Party A may, if permitted by tariff, use remotely provided station service from its other Units. When Party A does so, such amount of Energy as is necessary for remotely provided station service shall be deducted from the total amount of Energy delivered to Party A. If Party A is not permitted by any other applicable tariff or elects not to use remotely provided self-supplied station service, Party A shall purchase such station service from Party B or any third party.
17. Party A agrees to provide Party B with copies of any material regulatory filings made on or after the Effective Date that bear on Party A's performance under Special Conditions 10 through 15 of this Confirmation.

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18. Sales of Capacity and Associated Products shall be subject to the Grizzly Development and Mokelumne Settlement Agreement between Pacific Gas and Electric Company and the City of Santa Clara dated March 8, 1990, and as amended and in force as of the Effective Date ("Grizzly Contract"). The Grizzly Contract has been assigned to Party A. Party B acknowledges the obligation of Party A under the Grizzly Contract to provide to Silicon Valley Power ("SVP"): (1) the output of the Grizzly Unit; (2) 27.66 MW of power under a sale that terminates December 31, 2003; and (3) certain supplemental sales of energy. Party B agrees that Party A will satisfy these obligations from the Portfolio. For so long as these obligations under the Grizzly Contract remain in effect and the Bucks Creek Hydro Facility is subject to this Transaction, Party B agrees to arrange for the delivery of Energy to SVP provided by Party A under the Grizzly Contract, including arranging for transmission service and assuming all Scheduling Coordinator duties under the currently applicable ISO tariffs and any successor tariffs. Party B shall reduce its payments to Party A under this Transaction to reflect all Energy and actual capacity from the Portfolio used by Party A to satisfy its obligations under the Grizzly Contract as well as for all Scheduling Coordinator charges and transmission charges incurred by Party B as set forth in this Special Condition 18, provided that Party A shall not be responsible for, and such reduction in payments shall not include any imbalance charges associated with the timing differences between actual dispatch by Party B of the Grizzly Powerhouse and SVP's schedules for delivery of such output.
19. The Parties designated this Transaction as a Major Transaction within the meaning of Section 5(1) (b) of the Master Agreement.

Scheduling: As set forth in Section 5 of the Confirmation Addendum.

Option Buyer: Not Applicable.

Option Seller: Not Applicable.

Type of Option: Not Applicable.

Strike Price: Not Applicable.

Premium: Not Applicable.

Exercise Period: Not Applicable.

This confirmation letter, including the Confirmation Addendum and all accompanying schedules, is being provided pursuant to and in accordance with the Master Agreement, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

Party A

Party B

Electric Generation LLC

Pacific Gas and Electric Company

Name: Bruce R. Worthington
Title: President
Phone No: (415) 267-7000

Name: Gordon R. Smith
Title: President and Chief Executive Officer
Phone No: (415) 973-7000

Confirmation Addendum

Section 1 – Capacity

Section 1.1 – Contract Capacity. The Contract Capacity for each Unit as of the Effective Date is set forth in Schedule 1 to this Confirmation Addendum. Thereafter, Contract Capacity shall be adjusted pursuant to Special Conditions 10, 11, 12 and/or 13 of the Confirmation, and/or Sections 1.2 and/or 1.4 of this Confirmation Addendum. Schedule 1 shall from time to time be revised to reflect each of the foregoing adjustments.

Section 1.2 – Automatic Reduction of Contract Capacity. The Contract Capacity shall be reduced as set forth in Schedule 1. Following such reduction, there shall be an equivalent reduction in the Capacity Charge and the reduced Contract Capacity shall not be subject to this Transaction. Party B shall use its reasonable efforts to dispatch Hydro Units during the Contract Year immediately prior to their removal from this Transaction so that upon their removal reservoir levels are consistent with historical reservoir levels during comparable hydrologic periods (which periods may include multiple years).

Section 1.3 – Effect of Force Majeure. In the event of Force Majeure, Party B's Capacity Charge shall be reduced in accordance with Section 2.2. Party A shall be excused from delivering Energy and Associated Products and Party B shall be excused from accepting any Energy or Associated Products and from paying any Energy Charges with respect to a Unit or Unit(s) immediately upon the occurrence of an event of Force Majeure to the extent such Unit or Unit(s) are unable to perform as a result of the event of Force Majeure.

Section 1.4 – Increases in Contract Capacity. If Party A completes capital additions or refurbishments to an existing Unit that increases its capacity, such additional capacity shall be reflected in the Availability Notice delivered pursuant to Section 2.1 of this Confirmation Addendum; provided, however, that, (1) as specified in Section 2.2 of this Confirmation Addendum, Availability for the Portfolio in any month may not be greater than one hundred percent (100%); and (2) starting in Contract Year Twelve, the maximum capacity identified in an Availability Notice that may be delivered for Diablo Canyon Unit 1 and Unit 2 shall be as reflected in Schedule 1. Notwithstanding the foregoing, the Parties may agree to reflect permanently any such additional capacity in the Contract Capacity for such Unit, in which case the additional capacity shall be added to the Contract Capacity for such Unit shown on Schedule 1.

Section 2 – Availability

Section 2.1 – Availability Notice. "Availability" means the actual mechanical/electrical capability of a Unit. "Availability" applies only to the Unit (except to the extent set forth in the third and fourth sentences of this Section 2.1) and shall not take into account hydrological or other conditions external to the Unit, notwithstanding the definition of Force Majeure. To the extent that the condition of the Hydro Facility in which one or more Hydro Units are located

affects the ability of such Units to deliver Products, such condition shall be reflected in the Availability Notice for each of the affected Hydro Units. To the extent that the condition of the Diablo Canyon Facility affects the ability of the Diablo Canyon Units to deliver any Products, such condition shall be reflected in the Availability Notice for each of the affected Diablo Canyon Units. For the purpose of calculating adjustments to the Capacity Charge as set forth in Section 2.2 of the Confirmation Addendum, Party A shall provide Party B with a statement as to the Availability of each Unit (the "Availability Notice") for every hour or portion thereof. Party A may at any time change an Availability Notice to reflect the then Availability of any Unit. Party B shall be bound by Availability Notices when exercising its dispatch rights pursuant to Section 5 of this Confirmation Addendum. To the extent that the Availability Notice for any Unit reflects that the Unit is not able to perform to the full extent of such Unit's Contract Capacity as set forth on Schedule 1, Party A will be deemed in such Availability Notice to represent and warrant that: (x) except with respect to generation, deliveries or sales required by FERC-approved tariffs (including but not limited to RMR Contracts), sales otherwise permitted under this Transaction, or to the extent such Unit is not subject to this Transaction, no Product from such Unit is being generated, delivered or sold, whether directly or indirectly, to any other person or for the benefit of Party A and that (y) the issuance of such Availability Notice represents the application of Good Industry Practice to the Unit's operation. If Party A delivers to Party B an incorrect Availability Notice that results in a material economic loss to Party B under this Transaction, such action shall be deemed to constitute a failure to deliver within the meaning of Article Four of the Master Agreement and the sole remedy of Party B shall be: (x) to the extent that the Availability Notice overstated the Availability of a Unit, a refund in its Capacity Charge to the extent of the overstatement; and (y) to the extent that the Availability Notice understated the Availability of a Unit, fifty percent (50%) of the difference between the Capacity Charge determined in accordance with this Transaction had the Availability Notice for that Unit been accurate and the Capacity Charge that Party B actually paid for the period of the understatement, less any downward adjustment in Party B's actual Capacity Charge computed pursuant to Section 2.2 of the Confirmation Addendum as a result of the Availability understatement for that Unit; provided, however, the maximum payment shall not exceed the equivalent of the Capacity Charge for that Unit calculated at zero Availability. Knowing, continuing, and repeated misstatements in Availability Notices, which misstatements are material to the overall Transaction shall constitute an Event of Default within the meaning of Section 5.1(c) of the Master Agreement; provided, that Party B has first notified Party A of such misstatements and Party A has failed within thirty days from its receipt of such notice to take such actions as are reasonable to prevent such misstatements from occurring in the future.

Section 2.2 – Availability Adjustment. Each Contract Month, the Capacity Charge will be adjusted to reflect the actual Availability delivered from the Portfolio. The Availability of the Portfolio shall be computed as follows:

$$\text{Availability} = \sum_{\text{units} = 1}^M \text{Monthly Unit Capability}$$

$$\text{Monthly Unit Capability} = \sum_{\text{hour} = 1}^{\text{Period Hours}} \text{Available Capacity} * \text{Fraction of Hour Available}$$

The equation above defines Monthly Unit Capability as the sum of Available Capacity multiplied by the Fraction of Hour Available for each hour from 1 to the total Period Hours.

Where: M means the number of Units not on Force Majeure;

Available Capacity means the lesser of the Availability of each Unit for each hour or portion thereof as set forth in the Availability Notice provided by Party A pursuant to Section 2.1 of this Confirmation Addendum, or the actual Availability of each Unit for such hour or portion thereof, subject to the adjustment provided in Section 3.1 respecting scheduled outages at the Diablo Canyon Facility;

Fraction of Hour Available means the period of the hour, expressed as a percentage, that the Unit was available at Available Capacity;

Period Hours means the total number of hours in the Contract Month; and

Hourly Contract Capacity means the sum for all Units not affected by an Event of Force Majeure of the Contract Capacity for each Unit, as defined in Section 1.1 of the Confirmation Addendum.

The monthly Capacity Charge will be adjusted to reflect the Availability of the Portfolio in accordance with the following schedule, however, in no event will Availability be more than 100%. In those months when Availability is greater than One Hundred Percent (100%), One Hundred Percent (100%) will be substituted for Availability in the equations below:

During the Peak Season (July and August):

If Availability is equal to or greater than 95%, the Capacity Charge shall be multiplied by $[1 + 1.5 * (\text{Availability} - 95\%)]$, or;

If Availability is less than 95%, the Capacity Charge shall be multiplied by $[1 - 1.5 * (95\% - \text{Availability})]$.

During the Shoulder Season (June, September, and October):

If Availability is equal to greater than 92%, the Capacity Charge shall be multiplied by $[1 + 1.0 * (\text{Availability} - 92\%)]$, or;

If Availability is less than 92%, the Capacity Charge shall be multiplied by $[1 - 1.0 * (92\% - \text{Availability})]$.

During the Off-Peak Season:

December and January:

If Availability is equal to greater than 91%, the Capacity Charge shall be multiplied by $[1 + 1.0 * (\text{Availability} - 91\%)]$, or;

If Availability is less than 91%, the Capacity Charge shall be multiplied by $[1 - 1.0 * (91\% - \text{Availability})]$;

November and February through May:

If Availability is equal to or greater than 90%, the Capacity Charge shall be multiplied by one; or;

If Availability is less than 90%, the Capacity Charge shall be multiplied by $[1 - 1.0 * (90\% - \text{Availability})]$.

Section 3 – Scheduled Outages

Section 3.1 – Diablo Canyon Units. Schedule 3 outlines the general timing of scheduled outages for Diablo Canyon through the Delivery Period. Party A shall provide an update to this schedule to Party B at least annually, but more often if changes occur during a Contract Year affecting that Contract Year or the following Contract Year. These updates shall reflect changes in the start and completion dates of the then current scheduled outages. Party A will not schedule any of these outages between June 15 and September 30. Subject to any applicable regulatory requirements, Party B shall have the right to approve the dates of such outages, which approval shall not be unreasonably withheld. The total number of these scheduled

outage days may not exceed forty-two days for each scheduled outage except as provided for in the following two sentences. Party A may, with one year notice to Party B and for each of the two Units at Diablo Canyon extend the length of a scheduled outage by fifteen twenty-four consecutive hour periods for turbine rotor replacements and fifty-five twenty-four consecutive hour periods for steam generator replacements. However, if a turbine rotor replacement is scheduled for the same outage as a steam generator replacement, the total extension will be just fifty-five twenty-four consecutive hour periods. The periods for scheduled outages identified in the sixth, seventh and eighth sentences of this Section 3.1 are allowance periods for the scheduled outages. Party A shall begin and end the scheduled outages under this Section 3.1 by sending Party B an Availability Notice specifying the date and hour on which such scheduled outage shall begin and an Availability Notice specifying the date and hour on which such Scheduled Outage shall end. Notwithstanding any such Availability Notice, for the purposes of computing the Availability Adjustment, Diablo Canyon shall be deemed to be 100% Available during the full allowance periods permitted by (as appropriate) the sixth, seventh and eighth sentences of this Section 3.1. With respect to all other outages, Party A shall coordinate with Party B during the Off-Peak Season (November through May) and for all other times, Party A shall coordinate and agree with Party A on the schedule for such other outages. Nothing in this Section 3.1 limits the right of Party A to schedule such other outages at any time if required for purposes of Good Industry Practice relating to the condition of the Diablo Canyon Units or if required by any applicable regulatory requirement. All outages within the scope of the previous two sentences shall be reflected in a reduction of the Available Capacity used in computing the Availability Adjustment pursuant to Section 2.2.

Section 3.2 – Hydro Units. Party A shall coordinate with Party B respecting outages of the Owned Hydro Units during the Off-Peak Season (November through May). For all other times, Party A shall coordinate and agree with Party B on the outage schedule for the Owned Hydro Units; provided, however, that Party A may schedule an outage at any time if required for purposes of Good Industry Practice relating to the condition of the Unit or if required by any applicable regulatory requirement. Subject to the next sentence of this Section 3.2, if a Hydro Unit is not Available as a result of an outage, whether scheduled or not, such outage shall be reflected in a reduction of the Available Capacity used in computing the Availability Adjustment pursuant to Section 2.2. If due to hydrological or other external conditions, Party B concludes that an Hydro Unit cannot produce Associated Products for a period of time Party B designates, and Party A elects to perform maintenance or repairs on such Hydro Unit during this period, then such Hydro Unit may be deemed in an Availability Notice delivered by Party A pursuant to Section 2.1 to Party B to be Available to the extent and for the period of time as to which the Parties may agree.

Section 4 – Right of Party B to Back-Down Diablo Canyon Units and Hydro Units

Section 4.1 - Diablo Canyon. From time to time Party B may back-down the Diablo Canyon Units in accordance with back-down procedures that the parties will develop. In the event Party B elects to back-down the Diablo Canyon Units in accordance with this Section 4.1 and the Diablo Canyon back-down procedures, it nevertheless shall pay an Energy Charge as if such back-down had not occurred; provided, however, that no such payment for Energy shall be required if the back-down occurs during implementation of the ISO or its successor over-generation protocol or any successor protocol.

Section 4.2 - Hydro Units. From time to time Party B may request that Party A back-down a Hydro Unit even when doing so will result in spill. Party A will, to the extent reasonably practicable, accommodate such request, after taking into consideration public safety requirements, existing or new regulatory, legal, WSCC or ISO requirements, sound environmental stewardship policies, existing water supply or other contracts, applicable RMR or successor contracts and Good Industry Practice. If Party B's spill request is accommodated, Party B shall nevertheless pay an Energy Charge as if the water spilled had been used to generate Energy; provided, however, that no such payment shall be required if: (x) subject to Party B's obligation to dispatch the Hydro Units in accordance with clause (2) of Section 5, the Hydro Unit is operating at its Available Capacity, (y) the spills occur during implementation of the ISO or its successor over-generation protocol or any successor protocol, or (z) there is a curtailment initiated by the ISO or its successor in the operation of a transmission line that is the sole means by which Energy from a Hydro Unit is delivered, regardless of whether such curtailment constitutes Force Majeure.

Section 5 - Dispatch

Party B shall issue and Party A shall implement dispatch instructions governing the scheduling and operating levels of the Units in accordance with the Transaction and subject to the limitations and rights set forth in this Section 5. The Parties shall develop operating procedures intended to implement the rights of Party B to dispatch the Units. The operating procedures shall reflect: (1) the hydro staff operating practices in effect as of the Effective Date; (2) the need for the Hydro Units to be dispatched so as to achieve a balanced beneficial use of water resources; (3) the obligation of Party B to accept or pay for the Diablo Canyon Must-Take Quantity and the Hydro Units Must-Take Quantity; (4) the obligations of Party A impacting the dispatch of the Units, including, but not limited to, public safety requirements, existing or new regulatory, legal, WSCC or ISO requirements, sound environmental stewardship policies, existing water supply or other contracts and applicable RMR or successor contracts; and (5) the requirement that dispatch be consistent with Good Industry Practice (collectively, the "Dispatch Principles").

The operating procedures shall require the accurate and timely exchange of data and information. It is the express intention of the Parties that Party A provide Party B with all data and information in its possession affecting the dispatch of the Units. Party A may at any time change data and information to account for then current conditions. If Party A delivers to Party B inaccurate data or information that substantially bears on Party B's formulation of dispatch instructions and that result in a material economic loss to Party B under this Transaction, such action shall be deemed to constitute a failure to deliver within the meaning of Article Four of the Master Agreement and the sole remedy of Party B shall be the positive difference between the number of MWhr of Energy that Party B could have received from the affected Unit (taking into account the Dispatch Principles) less the MWhr of Energy that the Unit actually produced multiplied by the weighted average MWhr price for Energy purchased by Party B during the Contract Month in which the inaccurate data or information was provided. Knowing, continuing and repeated misstatements by Party A that substantially bear on Party B's formulation of dispatch instructions, which misstatements are material to the overall Transaction, shall constitute an Event of Default within the meaning of Section 5.1(c) of the Master Agreement; provided, that Party B has first notified Party A of such misstatements and Party A has failed

within thirty days from its receipt of such notice to take such actions as are reasonable to prevent such misstatements from occurring in the future.

Without limiting the foregoing, and by way of example, Party A shall provide Party B information respecting current and future hydrological conditions, physical constraints on operation, ramp rates, and any other factors that could affect dispatch. Information respecting hydrological conditions to be provided to Party B includes but is not limited to data on potential future water availability (including snow-pack), current reservoir volumes, steam flows (including in-low and out-flow at the Hydro Units), and maximum and minimum water storage capacity. Information respecting physical constraints to be provided to Party B includes but is not limited to data on the natural conditions of the water sheds (e.g., landslides or forest fires) affecting operations and any information provided in an Availability Notice delivered by Party A to Party B pursuant to Section 2 of this Confirmation Addendum. Party B shall also provide such information, including real time information, as is necessary for Party A to dispatch the Units consistent with the terms and conditions of this Transaction. The operating procedures shall also include specific operating protocols for Helms, which protocols shall include (but not be limited to) run times, cycling and pumping schedules.

Section 6 – Dispute Resolution

Section 6.1 - Senior Officers. Each of Party A and Party B will designate in writing to the other Party a representative who will be authorized to resolve any dispute arising under this Agreement in an equitable manner and, unless otherwise expressly provided herein, to exercise the authority of such Party to make decisions by mutual agreement. If such designated representatives are unable to resolve a dispute under this Agreement, such dispute will be referred by each Party's representatives, respectively, to a senior officer designated by Party A and a senior officer designated by Party B for resolution upon five Business Days' written notice from either Party. The Parties hereto agree (i) to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner; and (ii) to provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such dispute.

Section 6.2 – Arbitration. All disputes under this Agreement that are not resolved pursuant to Section 6.1 within 30 Days after either Party's receipt of notice referring the dispute to the senior officers of Party A and Party B (and in any event within the time which legal or equitable proceedings based on such claim, dispute, or controversy would not be barred by the applicable statute of limitations) will be submitted upon written request of either Party to binding arbitration. Each Party will have the right to designate an arbitrator of its choice, who need not be from the American Arbitration Association ("AAA") panel of arbitrators but who will be an expert in the electricity industry and will not have a direct or indirect interest in either Party or the subject matter of the arbitration. Such designation will be made by notice to the other Party and to the AAA within 10 Business Days or, in the case of payment disputes, five Days after the date of the giving of notice of the demand for arbitration. The arbitrators designated by the Parties will designate a third arbitrator, who will have a background in legal and judicial matters (and who will act as chairman), within 10 Business Days after the date of the designation of the last of the arbitrators to be designated by the Parties, and the arbitration will be decided by the three arbitrators. If the two arbitrators cannot or do not select a third independent arbitrator

within such period, either Party may apply to the AAA for the purpose of appointing any person listed with the AAA as the third independent arbitrator under the expedited rules of the AAA. Such arbitration will be held in alternating locations of the home offices of the Parties, commencing with Party A's home office, or in any other mutually agreed upon location. The rules of the AAA will apply to the extent not inconsistent with the rules herein specified. Each Party will bear its own expenses (including attorneys' fees) with respect to the arbitration. To the extent that the dispute concerns the calculation of: (1) the Contract Price (including but not limited to the determination of the Availability Adjustment, the determination of the Energy Charge, the impact on the Capacity Charge of new or reduced taxes or other assessments, and the application of revenues from RMR Contracts); (2) the allocation as between Party A and Party B of ISO charges, penalties or other assessments; (3) the amount of any payments or refunds made by Party A to Party B pursuant to Section 2.1 or Section 5 of the Confirmation in connection with a failure to deliver within the meaning of Article Four of the Master Agreement; (4) the amount of any Capacity Payment Amount Party A elects to pay Party B under Special Condition 8 of the Confirmation Letter; or (5) the amount of a Termination Payment (but not whether there has been an Event of Default giving rise to the right to require such Termination Payment), each of the Parties shall submit to the arbitrators, in accordance with a schedule set by the arbitrators, offers in the form of the award they consider the arbitrators should make. If the arbitrators require that the Parties submit more than one such offer, the arbitrators shall designate a deadline by which time the Parties shall submit their last and best offer. In such proceedings the arbitrators shall be limited to awarding only one of the two proposed offers submitted, and may not determine an alternative or compromise remedy. All arbitration awards will be in writing, shall be final and binding upon the Parties, and shall be the sole and exclusive remedy between the Parties regarding any claims, counterclaims, issues, or accountings presented to the arbitrators. All awards granted shall be consistent with the terms and conditions of this Transaction, including the limitation on damages set forth in Article 7 of the Master Agreement.

Section 6.3. Binding Nature of Proceedings. Each Party understands that this Agreement contains an agreement to arbitrate with respect to specified disputes. After signing this Agreement, each Party understands that it will not be able to bring a lawsuit concerning any dispute that may arise that is covered by this arbitration provision. Any award of the arbitrator may be enforced by the Party in whose favor such award is made in any court of competent jurisdiction.

Schedule 1
Contract Capacity of Each Facility;
Date Capacity is Removed from Contract;
and Ancillary Service Certification

	Unit 1	Unit 2	Unit 3	Unit 4	Capacity Removal Date (at 12am first day of)	Ancillary Service Certified			
						Reg	Spin	NSpin	Rep
Diablo Canyon	1087	1087			see note 1				
Owned Hydro Units									
HAT CREEK #1	8.5				end of contract				
HAT CREEK #2	8.5				end of contract				
PIT #1	30.5	30.5			end of contract		Y	Y	Y
PIT #3	23.3	23.3	23.4		end of contract		Y	Y	Y
PIT #4	47.5	47.5			end of contract		Y	Y	Y
PIT #5	40.0	40.0	40.0	40.0	end of contract	Y	Y	Y	Y
JAMES B. BLACK	86.0	86.0			end of contract	Y	Y	Y	Y
PIT #6	40.0	40.0			end of contract	Y	Y	Y	Y
PIT #7	56.0	56.0			end of contract	Y	Y	Y	Y
VOLTA #1	9.0				12th contract year				
VOLTA #2	0.9				12th contract year				
SOUTH	7.0				12th contract year				
INSKIP	8.0				12th contract year				
COLEMAN	13.0				12th contract year				
KILARC	1.6	1.6			12th contract year				
COW CREEK	0.9	0.9			12th contract year				
TOADTOWN	1.5				12th contract year				
DeSABLA	18.5				12th contract year				
CENTERVILLE	5.5	0.9			12th contract year				
LIME SADDLE	1.0	1.0			12th contract year				
COAL CANYON	0.9				12th contract year				
HAMILTON BRANCH	2.4	2.4			12th contract year				
BUTT VALLEY	41.0				12th contract year		Y	Y	Y
CARIBOU #1	25.0	25.0	25.0		12th contract year		Y	Y	Y
CARIBOU #2	60.0	60.0			12th contract year	Y	Y	Y	Y
OAK FLAT	1.3				12th contract year				
BELDEN	125.0				12th contract year	Y	Y	Y	Y
ROCK CREEK	56.0	56.0			12th contract year	Y	Y	Y	Y
BUCKS CREEK	33.0	32.0			12th contract year	Y	Y	Y	Y
CRESTA	35.0	35.0			12th contract year	Y	Y	Y	Y
POE	60.0	60.0			12th contract year	Y	Y	Y	Y

**Schedule 1 (cont.)
Contract Capacity of Each Facility;
Date Capacity is Removed from Contract;
and Ancillary Service Certification**

	Unit 1	Unit 2	Unit 3	Unit 4	Capacity Removal Date (at 12am first day of)	Ancillary Service Certified			
						Reg	Spin	NSpin	Rep
NARROWS #1	12.0				12th contract year				
POTTER VALLEY	4.5	2.0	2.7		12th contract year				
SPAULDING #3	5.8				12th contract year				
SPAULDING #2	4.4				12th contract year				
DEER CREEK	5.7				12th contract year				
ALTA	1.0	1.0			12th contract year				
SPAULDING #1	7.0				12th contract year				
DRUM #1	13.2	13.2	13.1	14.5	12th contract year		Y	Y	Y
DRUM #2	49.5				12th contract year		Y	Y	Y
DUTCH FLAT #1	22.0				12th contract year		Y	Y	Y
HALSEY	11.0				12th contract year				
WISE	14.0				12th contract year				
WISE #2	3.2				12th contract year				
NEWCASTLE	11.5				12th contract year				
CHILI BAR	7.0				12th contract year				
SALT SPRINGS #1	11.0				12th contract year				
SALT SPRINGS #2	33.0				12th contract year				
TIGER CREEK	29.0	29.0			12th contract year		Y	Y	Y
WEST POINT	14.5				12th contract year		Y	Y	Y
ELECTRA	31.0	31.0	36.0		12th contract year	Y	Y	Y	Y
SPRING GAP	7.0				12th contract year				
STANISLAUS	91.0				12th contract year	Y	Y	Y	Y
PHOENIX	2.0				12th contract year				
MERCED FALLS	3.5				12th contract year				
CRANE VALLEY	0.9				12th contract year				
SAN JOAQUIN #3	4.2				12th contract year				
SAN JOAQUIN #2	3.2				12th contract year				
SAN JOAQUIN #1-A	0.4				12th contract year				
WISHON	5.0	5.0	5.0	5.0	12th contract year				
KERCKHOFF	12.6	12.6	12.8		12th contract year				
KERCKHOFF #2	155.0				12th contract year	Y	Y	Y	Y
HELMS	404.0	404.0	404.0		end of contract	Y	Y	Y	Y
HAAS	72.0	72.0			end of contract		Y	Y	Y
KINGS RIVER	52.0				end of contract		Y	Y	Y
BALCH #1	34.0				end of contract				
BALCH #2	52.5	52.5			end of contract		Y	Y	Y
TULE RIVER	3.2	3.2			12th contract year				
KERN CANYON	11.5				12th contract year				

**Schedule 1 (cont.)
Contract Capacity of Each Facility (in MW);
Date Capacity is Removed from Contract;
and Ancillary Service Certification**

	Unit 1	Unit 2	Unit 3	Unit 4	Capacity Removal Date (at 12am first day of)	Ancillary Service Certified			
						Reg	Spin	NSpin	Rep
Contracted Hydro Units									
Grizzly	20.2				12th contract year		Y	Y	Y
Irrigation District Contracts									
OWID									
SLY CREEK	13.2				7/1/2010		Y	Y	Y
WOODLEAF	55.0				7/1/2010		Y	Y	Y
FORBSTOWN	39.7				7/1/2010		Y	Y	Y
KELLY RIDGE	10.0				7/1/2010				
YCWA									
COLGATE	170.0	170.0			12th contract year	Y	Y	Y	Y
NARROWS #2	55.0				12th contract year				
SID									
MONTICELLO	4.0	4.0	3.9		12th contract year				
NID									
DUTCH FLAT #2	26.0				7/1/2013		Y	Y	Y
CHICAGO PARK	38.0				7/1/2013		Y	Y	Y
ROLLINS	13.0				7/1/2013				
PCWA									
FRENCH MEADOWS	17.0				5/1/2013		Y	Y	Y
MIDDLE FORK	68.0	68.0			5/1/2013				
RALSTON	86.0				5/1/2013				
OXBOW	6.0				5/1/2013				
Tri-Dam									
DONNELLS	67.5				1/1/2005		Y	Y	Y
BEARDSLEY	11.0				1/1/2005				
TULLOCH	9.0	9.0			1/1/2005				
MID									
EXCHEQUER	94.5				12th contract year	Y	Y	Y	Y
McSWAIN	10.0				12th contract year				

Note 1:

Diablo Canyon Contract Capacity is as follows

	Unit 1	Unit 2
Prior to Contract Year 12	1087	1087
Contract Year 12	650	650

Schedule 3
Diablo Canyon Scheduled Outages

	Start	Days
Unit 2	spring 2003	42
Unit 1	spring 2004	42
Unit 2	fall 2004	42
Unit 1	fall 2005	42
Unit 2	spring 2006	42
Unit 1	spring 2007	42
Unit 2	fall 2007	42
Unit 1	fall 2008	42
Unit 2	spring 2009	42
Unit 1	spring 2010	42
Unit 2	fall 2010	42
Unit 1	fall 2011	42
Unit 2	spring 2012	42
Unit 1	spring 2013	42
Unit 2	fall 2013	42
Unit 1	fall 2014	42

Non-Proprietary

Financial Qualifications Information:
Financial Statement and Related Information

GEN
PROJECTED INCOME STATEMENT
(\$ Millions)

	Year 1 ¹⁵	Year 2	Year 3	Year 4	Year 5
Operating Revenues					
Nuclear					
Other Generation					
Total Operating Revenues	1473	1492	1510		
Operating Expenses					
Purchased Power	76	72	62		
Fuel	96	90	94		
Operation & Maintenance	365	401	354		
Depreciation & Amortization	49	53	62		
Administrative & Other	81	82	84		
Total Operating Expenses	667	697	657		
Operating Income (Loss)	805	795	853		
Other Non-Operating Income (Deductions)	(195)	(191)	(185)		
Income Before Income Taxes	611	605	668		
Income Taxes	247	245	271		
Net Income (Loss)	363	360	397		

¹⁵ Year 1 is the first 12 month period following closing on the transaction and implementation of the license transfers.

GEN
PROJECTED OPENING BALANCE SHEET
(\$ Millions)

ASSETS		LIABILITIES	
Current Assets		Current Liabilities	
Cash and Temporary Cash Investments	0	Accounts Payable	72
Accounts Receivable	200	Other Current Liabilities	0
Inventories	66	Total Current Liabilities	72
Other Current Assets	0		
Total Current Assets	266		
Fixed Assets		Non-Current Liabilities	
Plant	874	DOE Decontamination & Decommissioning Assessment	6
Fuel	170	Funded Decommissioning Liability	1,219
Total Fixed Assets	1,044	Unfunded Decommissioning Liability	0
		Other Long Term Liabilities	16
		Total Non-Current Liabilities	1,242
Other Long Term Assets		Capitalization	
Decommissioning Funds	1,219	Debt	2,400
Goodwill	0	Equity	(1,183)
Other Long Term Assets	1	Total Capitalization	1,217
Total Other Assets	1,220		
Total Assets	2,530	Total Liabilities & Capitalization	2,530

GEN
KEY ASSUMPTIONS

	Year 1	Year 2	Year 3	Year 4	Year 5
Generation (GWh) ¹⁶					
Nuclear					
Non-Nuclear					
Purchases					
Total Supply (GWh)					
Market Sales (GWh)					
Average Market Price (\$/MWh) ¹⁷					
Total Generation Revenues (\$ Millions)					
Nuclear Capacity Factor					

¹⁶ Net of transmission line losses.

¹⁷ Average Market Price is derived from the proposed bilateral power sales agreement rather than forward market price projections. The Average Market Price is calculated as total revenue divided by total electric output.

GEN
ESTIMATED NUCLEAR COSTS

AGGREGATE: TWO DCPD UNITS

(\$ Millions)

Year	Operating and Maintenance Expenses	Fuel Capital Expenses	Additional Capital Expenses		Total ¹⁸
			Base Capital	Major Projects ¹⁹	
1					
2					
3					
4					
5					

¹⁸ These totals exclude approximately _____ per year of Administrative and General expenses attributed to DCPD.

¹⁹ Major Projects in Years 1 through 3 include _____. Major Projects in Years 4 through 5 include partial cost of _____. DCPD Independent Spent Fuel Storage Installation (dry cask storage) is reflected as an operating expense, not a capital expense.

Decommissioning Funding Assurance:
Calculation Demonstrating Adequacy of "Prepayment Amount"

**Diablo Canyon Power Plant, Unit 1
License Expires September 22, 2021**

**Funding Status Assuming 0.84% Net After-Tax Earnings²⁰
(\$ Millions)**

Calendar Year	Contribution	Earnings	Balance	NRC Minimum (2002)	NRC Minimum Status
2001	1.92	-	482.75 ²¹	347.88	Fully Funded
2002	7.68	30.61	521.04	367.01	Fully Funded
2003	-	33.03	554.07	387.20	Fully Funded
2004	-	35.13	589.20	408.50	Fully Funded
2005	-	37.36	626.56	430.96	Fully Funded
2006	-	39.72	666.28	454.67	Fully Funded
2007	-	42.24	708.52	479.67	Fully Funded
2008	-	44.92	753.44	506.06	Fully Funded
2009	-	47.77	801.21	533.89	Fully Funded
2010	-	50.80	852.01	563.25	Fully Funded
2011	-	54.02	906.03	594.23	Fully Funded
2012	-	57.44	963.47	626.91	Fully Funded
2013	-	61.08	1,024.55	661.39	Fully Funded
2014	-	64.96	1,089.51	697.77	Fully Funded
2015	-	69.07	1,158.58	736.15	Fully Funded
2016	-	73.45	1,232.04	776.64	Fully Funded
2017	-	78.11	1,310.15	819.35	Fully Funded
2018	-	83.06	1,393.21	864.42	Fully Funded
2019	-	88.33	1,481.54	911.96	Fully Funded
2020	-	93.93	1,575.47	962.12	Fully Funded
2021	-	72.05	1,647.53	1,000.33	Fully Funded

²⁰ The assumption is based upon the current California Public Utilities Commission authorized after-tax earnings rate.

²¹ Reflects projected end-of-year 2001 balance, including contributions made in 2001. Liquidation value as of September 30, 2001, was \$473.5 million.

Calculation Notes for DCP Unit 1

Contribution: PG&E is currently authorized to contribute a total of \$24.003 million per year to the Diablo Canyon Nuclear Decommissioning Master Trusts. Unit 1's portion of the total contribution is \$7.68 million. For 2001, only the 4th Quarter contribution, to be made December 28, 2001, is shown as a contribution. Contributions for the first three Quarters are included in the end-of-year 2001 balance.

Earnings: PG&E has assumed after-tax earnings to the trust of 6.34 percent per year. (The liability (cost estimate) is grown at 5.5 percent per year, resulting in a 0.84 percent after-tax real growth rate on the trust.) Earnings are calculated each year by multiplying the prior year's balance by 6.34 percent. Year 2021 earnings are calculated on a partial-year basis.

Balance: The end-of-year 2002 balance is determined as follows —

PG&E used the liquidation value of the Unit 1 trust (\$473.5 million) as of September 30, 2001 and determined an end-of-year 2001 balance by escalating the trust asset at 6.34 percent per annum for the remaining 3 months of 2001. After adding in the 4th Quarter 2001 contribution, the resulting end-of-year 2001 balance was \$482.75 million. $(\$473.5 * (1.0634^{(3/12)}) + \$1.92)$

Contributions of \$7.68 million and earnings of \$30.61 million (calculated at 6.34 percent of the year 2001 balance) are then added to the year end 2001 balance of \$482.75 million to derive the end-of-year 2002 balance of \$521.04 million.

Current year end balances are calculated by adding prior end-of-year balances to the current year's earnings and contributions.

Year 2021 balances are calculated on a partial-year basis.

NRC Minimum: The Calendar Year 2002 NRC Minimum for Unit 1 of \$367.01 million is calculated as follows —

PG&E's March 2001 letter to the NRC (DCL-01-026) indicated the total NRC decommissioning fund estimate in January 2001 dollars, based on preliminary October 2000 through January 2001 data, was \$793.4 million. That number represents the combined Unit 1 and Unit 2 NRC decommissioning fund estimate.

PG&E updated the January 2001 estimate to reflect actual October 2000 through January 2001 data. The January 2001 actual combined Unit 1 and Unit 2 NRC decommissioning fund estimate is \$795.6 million.

To determine the end-of-year 2001 total decommissioning fund estimate, PG&E escalated the balance at 5.5 percent per annum for the remaining 11 months of

2001. The resulting end-of-year 2001 balance was \$835.6 million. ($\$795.6 * (1.055^{(11/12)})$).

The \$835.6 million was allocated to Units 1 and 2 using site-specific decommissioning cost estimates prepared for PG&E by TLG, Inc. By Unit, the NRC amount is as follows:

	TLG Estimate	Percent of Total	NRC Decom
Unit 1	436.6	41.6 %	\$347.88 (41.6% * \$835.6)
<u>Unit 2</u>	<u>612.1</u>	<u>58.4 %</u>	<u>\$487.72</u> (58.4% * \$835.6)
Total	1,048.7	100.0 %	\$835.6

Years 2002 forward, are determined by multiplying the end-of-year 2001 amount by an escalation factor of 5.5 percent.

Diablo Canyon Power Plant, Unit 2
License Expires April 26, 2025

Funding Status Assuming 0.84% Net After-Tax Earnings²²
(\$ Millions)

Calendar Year	Contribution	Earnings	Balance	NRC Minimum (2002)	NRC Minimum Status
2001	4.08	-	641.28 ²³	487.72	Fully Funded
2002	16.32	40.66	698.26	514.54	Fully Funded
2003	0.00	44.27	742.53	542.84	Fully Funded
2004	0.00	47.08	789.60	572.70	Fully Funded
2005	0.00	50.06	839.67	604.20	Fully Funded
2006	0.00	53.23	892.90	637.43	Fully Funded
2007	0.00	56.61	949.51	672.49	Fully Funded
2008	0.00	60.20	1,009.71	709.47	Fully Funded
2009	0.00	64.02	1,073.72	748.50	Fully Funded
2010	0.00	68.07	1,141.80	789.66	Fully Funded
2011	0.00	72.39	1,214.19	833.09	Fully Funded
2012	0.00	76.98	1,291.17	878.91	Fully Funded
2013	0.00	81.86	1,373.03	927.25	Fully Funded
2014	0.00	87.05	1,460.08	978.25	Fully Funded
2015	0.00	92.57	1,552.65	1,032.06	Fully Funded
2016	0.00	98.44	1,651.09	1,088.82	Fully Funded
2017	0.00	104.68	1,755.76	1,148.71	Fully Funded
2018	0.00	111.32	1,867.08	1,211.88	Fully Funded
2019	0.00	118.37	1,985.45	1,278.54	Fully Funded
2020	0.00	125.88	2,111.33	1,348.86	Fully Funded
2021	0.00	133.86	2,245.19	1,423.05	Fully Funded
2022	0.00	142.34	2,387.53	1,501.31	Fully Funded
2023	0.00	151.37	2,538.90	1,583.89	Fully Funded
2024	0.00	160.97	2,699.87	1,671.00	Fully Funded
2025	0.00	55.89	2,755.76	1,701.09	Fully Funded

²² The assumption is based upon the current California Public Utilities Commission authorized after-tax earnings rate.

²³ Reflects projected end-of-year 2001 balance, including contributions made in 2001. Liquidation value as of September 30, 2001, was \$627.5 million.

Calculation Notes for DCPP Unit 2

Contribution: PG&E is currently authorized to contribute a total of \$24.003 million per year to the Diablo Canyon Nuclear Decommissioning Master Trusts. Unit 2's portion of the total contribution is \$16.32 million. For 2001, only the 4th Quarter contribution, to be made December 28, 2001, is shown as a contribution. Contributions for the first three Quarters are included in the end-of-year 2001 balance.

Earnings: PG&E has assumed after-tax earnings to the trust of 6.34 percent per year. (The liability (cost estimate) is grown at 5.5 percent per year, resulting in a 0.84 percent after-tax real growth rate on the trust.) Earnings are calculated each year by multiplying the prior year's balance by 6.34 percent. Year 2025 earnings are calculated on a partial-year basis.

Balance: The end-of-year 2002 balance is determined as follows —

PG&E used the liquidation value of the Unit 2 trust (\$627.48 million) as of September 30, 2001 and determined an end-of-year 2001 balance by escalating the trust asset at 6.34 percent per annum for the remaining 3 months of 2001. After adding in the 4th Quarter 2001 contribution, the resulting end-of-year 2001 balance was \$641.28 million. $(\$627.48 * (1.0634^{(3/12)}) + \$4.08)$

Contributions of \$16.32 million and earnings of \$40.66 million (calculated at 6.34 percent of the year 2001 balance) are then added to the year end 2001 balance of \$641.28 million to derive the end-of-year 2002 balance of \$698.26 million.

Current year end balances are calculated by adding prior end-of-year balances to the current year's earnings and contributions.

Year 2025 balances are calculated on a partial-year basis.

NRC Minimum: The Calendar Year 2002 NRC Minimum for Unit 2 of \$514.54 million is calculated as follows —

PG&E's March 2001 letter to the NRC (DCL-01-026) indicated the total NRC decommissioning fund estimate in January 2001 dollars, based on preliminary October 2000 through January 2001 data, was \$793.4 million. That number represents the combined Unit 1 and Unit 2 NRC decommissioning fund estimate.

PG&E updated the January 2001 estimate to reflect actual October 2000 through January 2001 data. The January 2001 actual combined Unit 1 and Unit 2 NRC decommissioning fund estimate is \$795.6 million.

To determine the end-of-year 2001 total decommissioning fund estimate, PG&E escalated the balance at 5.5 percent per annum for the remaining 11 months of

2001. The resulting end-of-year 2001 balance was \$835.6 million. ($\$795.6 * (1.055^{(11/12)})$).

The \$835.6 million was allocated to Units 1 and 2 using site-specific decommissioning cost estimates prepared for PG&E by TLG, Inc. By Unit, the NRC amount is as follows:

	TLG Estimate	Percent of Total	NRC Decom
Unit 1	436.6	41.6 %	\$347.88 (41.6% * \$835.6)
<u>Unit 2</u>	<u>612.1</u>	<u>58.4 %</u>	<u>\$487.72</u> (58.4% * \$835.6)
Total	1,048.7	100.0 %	\$835.6

Years 2002 forward, are determined by multiplying the end-of-year 2001 amount by an escalation factor of 5.5 percent.