APPENDIX 1
NONBYPASSABLE CHARGE AGREEMENT

AGREEMENT REGARDING NON-BYPASSABLE CHARGES UNDER ELECTRIC RATE SCHEDULE E-NWDL BETWEEN PACIFIC GAS AND ELECTRIC COMPANY AND POWER AND WATER RESOURCES POOLING AUTHORITY

I. INTRODUCTION

WHEREAS the California Public Utilities Commission (CPUC) issued a series of decisions in Rulemaking (R.) 02-01-011 holding customers previously served by the investor-owned utilities (Departing Load) responsible for certain nonbypassable charges; and

WHEREAS CPUC Decision 06-05-018 orders Pacific Gas and Electric Company (PG&E) to bill nonbypassable charges to certain former PG&E customers who are now customers of the Power and Water Resources Pooling Authority (PWRPA); and

WHEREAS the CPUC has approved PG&E Electric Rate Schedule E-NWDL (New WAPA Departing Load), which contains the rates, terms and conditions for the applicability of nonbypassable charges to certain PWRPA customers; and

WHEREAS the following PWRPA customers are subject to nonbypassable charges under Schedule E-NWDL: Cawelo Water District, Glenn-Colusa Irrigation District, James Irrigation District, Santa Clara Valley Water District, Sonoma County Water Agency, and Westlands Water District (NWDL Customers); and

WHEREAS PG&E's CPUC-authorized tariffs provide an exemption from the Public Purpose Program (PPP) charge for customers who leave PG&E's service to be served by an entity which must impose a PPP surcharge pursuant to Public Utilities Code Section 385; and

WHEREAS PWRPA has provided a sworn declaration that PWRPA collects a PPP charge from its customers in conformity with Section 385; and

WHEREAS PWRPA has agreed that PG&E's agreement to grant PWRPA's customers an exemption from the PPP charge shall not be construed or otherwise used as evidence of whether PWRPA may lawfully provide electric service to any retail customers other than its current customers and shall be non-precedential with respect to any future proceedings; and

WHEREAS PG&E and PWRPA (collectively, the Parties) believe that it is expedient and cost-effective to enter into an agreement to provide for a lump-sum payment of all past, present and future nonbypassable charges applicable to the NWDL Customers under Schedule E-NWDL;

THEREFORE, PG&E and PWRPA, acting on behalf of itself and the NWDL Customers, desire to enter into this Agreement Regarding Non-Bypassable Charges under Electric Rate Schedule E-NWDL (NWDL Agreement).

II. BACKGROUND

CPUC Decision 06-05-018 orders PG&E to "promptly file an advice letter with the appropriate amendments to its tariff to and collect CRS [cost responsibility surcharge] and other applicable nonbypassable charges from preference power customers consisting of 'Additional Customer Load' relating to the specific delivery points listed in Appendix C of the WDT [Service Agreement for Wholesale Distribution Service to Western Area Power Administration], that have taken bundled service from PG&E on or after February 1, 2001, and subsequently reduced or terminated such service to take electric service from WAPA or another similarly situated entity."

PG&E filed Schedule E-NWDL in compliance with Decision 06-05-018. Special Condition 1.a of Schedule E-NWDL defines "New WAPA Departing Load" as "That portion of a New WAPA Departing Load Customer's electric load that (1) took bundled power from PG&E on or after February 1, 2001, and, (2) subsequently took electric service from WAPA or a similarly situated entity, and (3) relates to the specific list of delivery points listed in Appendix C, Exhibit 1 of the PG&E/WAPA WDT Service Agreement."

Among the nonbypassable charges applicable to New WAPA Departing Load Customers is the PPP charge, which is defined in Schedule E-NWDL as the charge that "collects the costs of state-mandated low income, energy efficiency and renewable generation programs."

Special Condition 2 of Schedule E-NWDL provides certain exemptions from the various nonbypassable charges, including the following: "Departing customers which leave PG&E's service to be served by an entity which must impose a Public Purpose Programs surcharge pursuant to Public Utilities Code Section 385 shall not thereafter be required to pay PG&E's Public Purpose Programs charge."

On August 21, 2008, PG&E sent bills pursuant to Schedule E-NWDL to PWRPA and the NWDL Customers. On September 3, 2008, counsel for PWRPA provided written notice to PG&E under Special Condition 3.e. of Schedule E-NWDL of PWRPA's disagreement with PG&E's bills. Specifically, PWRPA indicated: "The statements provided to PWRPA's customers include amounts related to PG&E's Public Purpose Program (PPP) charge. PWRPA disagrees with the applicability of PG&E's PPP charge to PWRPA's customers." Citing the PPP exemption in Special Condition 2.c, PWRPA's

counsel stated: "PWRPA's customers are being served by PWRPA, 'an entity which must impose a Public Purpose Programs surcharge pursuant to Public Utilities Code Section 385....' Accordingly, PWRPA's customers are exempt under Special Condition 2.c. from PG&E's PPP charge."

Appended to the September 3 notice was a declaration from PWRPA's general manager, W. Kent Palmerton (Palmerton Declaration), providing facts to support the claim that PWRPA is "an entity which must impose a Public Purpose Programs surcharge pursuant to Public Utilities Code Section 385...." (A copy of the Palmerton Declaration is appended to this Agreement as Exhibit 1.) The Palmerton Declaration, which was signed under penalty of perjury, had previously been filed with the CPUC in support of PWRPA's protest of PG&E's advice letter proposing Schedule E-NWDL.

III. CONDITIONS

Subject to the conditions set forth below, this NWDL Agreement (1) addresses the issue raised by PWRPA concerning the applicability of PG&E's PPP charge to NWDL Customers and (2) describes the rates, terms and conditions associated with a lump sum payment of all charges under Schedule E-NWDL

1. This NWDL Agreement embodies the entire understanding and agreement of the Parties with respect to the matters described, and it supersedes prior oral or written agreements, principles, negotiations, statements, representations, or understandings among the Parties with respect to those matters.

2. This NWDL Agreement represents a compromise among the Parties' respective litigation positions, not agreement to or endorsement of disputed facts and law presented by the Parties in R.02-01-011 and its successor advice letter proceedings. This NWDL Agreement does not constitute precedent regarding any principle or issue in

R.02-01-011, its successor advice letter proceedings, or in any future proceeding.

3. The Parties agree that this NWDL Agreement is reasonable in light of the information shared by the Parties, consistent with law, and in the public interest.

4. The Parties agree that no provision of this NWDL Agreement shall be construed against either Party because that Party or its counsel or advocate drafted the provision.

5. This NWDL Agreement may be amended or changed only by a written agreement signed by the Parties.

6. The Parties intend this NWDL Agreement to be interpreted and treated as a unified, integrated agreement.

IV. TERMS

1. The Parties agree that the New WAPA Departing Load of the NWDL Customers (NWDL Accounts) shall be exempt from PG&E's PPP charge based on the assertions contained in the Palmerton Declaration. To the extent the CPUC determines that the facts contained in the Palmerton Declaration are not accurate or do not justify exemption from PG&E's PPP charge, PWRPA agrees to reimburse PG&E or its ratepayers for PG&E's PPP charges that the NWDL Customers should have paid under Schedule E-NWDL.

2. The Parties have thoroughly investigated the past, present and estimated future nonbypassable charges under Schedule E-NWDL, the historic usage amounts (as described in Schedule E-NWDL, Special Condition 5), and other relevant factors, and have concluded that $3,398,603 represents a reasonable lump-sum payment under Schedule E-NWDL for the NWDL Accounts (Lump Sum Amount).

3. PG&E shall invoice PWRPA for the Lump Sum Amount within a reasonable time after CPUC approval of this NWDL Agreement. Invoices shall be sent to PWRPA at the following address:

Power and Water Resources Pooling Authority
Attention: Dave Nixon, PWRPA Treasurer
Post Office Box 175
Arvin, CA 93203
(661) 854-5573
(661) 854-5213 (facsimile)

PWRPA shall pay the Lump Sum Amount in four installments pursuant to the following schedule:

PAYMENT SCHEDULE	
30 days from receipt of invoice	First installment payment ($849,650.75)
On or before 1/1/10	Second installment payment ($849,650.75)
On or before 1/1/11	Third installment payment ($849,650.75)
On or before 6/1/12	Second installment payment ($849,650.75)

Payments shall be made to PG&E by wire transfer to the following:

Mellon Trust of New England, N.A.
Boston, MA
ABA Routing Number: 011001234
For credit to: PG & E Depository Account
Account number: 075477

4. The Parties acknowledge and agree that, with the exception of the Energy Cost Recovery Amount (ECRA) charge discussed in Paragraph 5 below, the estimate of charges and other input factors upon which the Lump Sum Amount is based represents a binding estimate, and the payment amount and the terms and conditions herein shall not be affected or in any manner altered if actual charges and other input factors are different than those reflected in the binding estimate.

5. The Parties agree that, to the extent the actual ECRA charge in 2010, 2011, or 2012 differs from the ECRA charge reflected in the Lump Sum Amount calculation, the

installment payment for the given year shall be reduced or increased to reflect this difference. In addition, the Parties agree that, to the extent the duration of the ECRA charge differs from the duration reflected in the Lump Sum Amount calculation, the installment payment for 2012 shall be reduced or increased to reflect this difference.

6. The Parties agree that certain NWDL Accounts have inadvertently participated, subsequent to the effective date of Schedule E-NWDL, in PG&E's energy efficiency program and other programs funded by PG&E's PPP charge, and therefore PWRPA shall reimburse PG&E for the $2,485.58 in financial benefits received under such programs. Such payment shall be added to the first installment payment described in Section 3 above.

7. The Parties agree that NWDL Accounts shall not be eligible for PG&E's energy efficiency program and other programs funded by PG&E's PPP charge.

8. The Parties agree that PG&E's agreement to provide NWDL Customers an exemption from PG&E's PPP charge with respect to the NWDL Accounts shall not be construed or otherwise used as evidence of whether PWRPA may lawfully provide electric service to any retail customers other than its current customers and shall be non-precedential with respect to any future proceedings.

9. The Parties agree that the payment made by PWRPA of the Lump Sum Amount, as described in Section 3, shall be a full and complete satisfaction of the obligations of the NWDL Customers for charges under Schedule E-NWDL. PG&E expressly waives any and all claims for additional payment of nonbypassable charges from the NWDL Customers, it being understood that this NWDL Agreement constitutes a full and complete settlement of PG&E's past and future claims against the NWDL Customers for charges under Schedule E-NWDL.

10. The Parties agree that all workpapers and documentation relative to this NWDL Agreement, whether in written or electronic form, and the substantive content of the discussions and related communications, whether written or verbal, leading up to this

NWDL Agreement, shall be considered Confidential Information and shall not be disclosed by either Party during the term of this NWDL Agreement, except to such employees and agents of each Party who need access to the Confidential Information in order to ensure performance of this NWDL Agreement. In the event that a Party is required by law or regulatory authority to disclose any Confidential Information, such Party will provide the other Party with prompt written notice so that the other Party may seek a protective order or other remedy. In the event such protective order or other remedy is not obtained or that the Party waives compliance with the provisions of this Section 10, the first Party will furnish only that portion of the Confidential Information that is legally required. If a Party elects to contest the disclosure of any Confidential Information, that Party may, at its own cost and expense, assume the defense of such claim or litigation. The Parties agree to abide by the final decision of a court of competent jurisdiction in connection with such claim. Notwithstanding the foregoing, the Parties hereby acknowledge that PWRPA is a local government agency and is subject to provisions of the California Public Records Act (California Government Code Sections 6250 *et seq.)* and the Ralph M. Brown Act (California Government Code Sections 54950 *et seq.),* and that PWRPA will be entitled to make records related to this NWDL Agreement public to the extent required under these statutory provisions.

11. Each Party expressly agrees to waive the provisions of California Civil Code section 1542, which section provides as follows: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

12. While this Agreement is between PG&E and PWRPA, it is understood that it fully satisfies the NWDL charge obligations of the NWDL Customers, and PG&E agrees that it will have no right to seek further payment or pursue any claim against NWDL Customers for charges under Schedule E-NWDL.

13. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever, whether in contract, tort, or special liability.

14. Except as otherwise provided for in this NWDL Agreement, any dispute arising between the Parties relating to interpretation of the provisions of this NWDL Agreement or to the performance of either Party of its obligations hereunder shall be reduced to writing and referred to the Parties' duly appointed representatives for resolution, as indicated below:

For PG&E: Ann Kim
PG&E Law Department
77 Beale Street
San Francisco, CA 94105
Phone: (415) 973-7467
Email: ahk4@pge.com

For PWPRA: Scott Blaising
Braun Blaising McLaughlin, P.C.
915 L Street, Suite 1270
Sacramento, CA 95814
Phone: (916) 682-9702
Email: blaising@braunlegal.com

Should such a dispute arise, the Parties shall be required to meet and confer in an effort to resolve their dispute. Pending resolution, the Parties shall proceed diligently with the performance of their respective obligations under this NWDL Agreement. If the Parties fail to reach agreement within a reasonable period of time, the matter shall, upon demand of either Party, by submitted to a non-binding alternative dispute resolution (ADR) process before the CPUC. In such event, the Parties will mutually determine the time and conditions governing the ADR process, and each Party shall be solely responsible for all of its costs, including attorneys fees, except that the Parties will equally share the cost of the mediator, if any, and any related expenses. If the matter is not resolved through this non-binding ADR process, or if non-binding ADR is not demanded by either Party, then the matter shall be submitted to the CPUC for

resolution of any matter or dispute hereunder, it being further agreed by the Parties that no discussion, admission, concession or offer to stipulate or settle by either Party, whether oral or written, made during or before the ADR process, nor any decision or recommendation of the CPUC arising out of the ADR process, shall be subject to discovery or admissible in the CPUC proceeding.

V. EXECUTION

Each Party represents and warrants that (1) it has the full power and authority to execute and deliver this NWDL Agreement and to perform its terms and conditions; (2) the execution, delivery and performance of this NWDL Agreement have been duly authorized by all necessary corporate, municipal, or other action by such Party; and (3) this NWDL Agreement constitutes such Party's legal, valid, and binding obligation, enforceable against such Party in accordance with its terms.

This NWDL Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This NWDL Agreement shall become effective on the date the last Party executes this NWDL Agreement, as indicated below.

In witness whereof, intending to be legally bound, the Parties hereto have duly executed this NWDL Agreement on behalf of the Parties they represent.

Pacific Gas and Electric Company

By: /s/
HELEN BURT

Title: Senior Vice President

Date: May 19, 2009

In witness whereof, intending to be legally bound, the Parties hereto have duly executed this NWDL Agreement on behalf of the Parties they represent.

Power and Water Resources Pooling Authority

By: /s/
W. KENT PALMERTON

Title: General Manager

Date: May 15, 2009

Exhibit 1

Palmerton Declaration

**DECLARATION OF W. KENT PALMERTON
IN SUPPORT OF PWRPA'S PROTEST
OF PG&E ADVICE LETTER 2835-E-B**

I, W. Kent Palmerton, do hereby declare and state as follows:

1. I am General Manager of the Power and Water Resources Pooling Authority ("PWRPA"). In this capacity I have overall responsibility for the operation of PWRPA and the provision of electric services to PWRPA's customers.

2. PWRPA was created by a Joint Powers Agreement, dated January 22, 2004, to among other things, study, promote, develop conduct, finance, acquire, construct and/or operate water and energy-related projects and programs.

3. PWRPA operates as a local publicly owned electric utility, as defined in Public Utilities Code Section 9604(d), and provides retail electric service to its end-use customers under a master rate and service agreement. In its role as a local publicly owned electric utility, PWRPA supplies full electricity requirements to its customers. PWRPA's current resource mix consists of a base resource contract with the Western Area Power Administration ("WAPA"), the electrical output from the Sonoma County landfill gas-to-energy project, and various power purchase contracts with third-party wholesale electricity suppliers. PWRPA is a certified scheduling coordinator under tariffs established by the California Independent System Operator ("CAISO"), and has various wholesale contracts providing for the transmission and distribution of electricity to PWRPA's retail customers.

4. PWRPA is governed by a Board of Directors, which acts as PWRPA's local regulatory authority and in this function, among other things, sets rates for electric services and establishes policies.

5. PWRPA's Board of Directors has adopted a formal policy for implementing PWRPA's public purpose programs. Included as an element of this policy is the requirement that PWRPA collect through rates a nonbypassable, usage based charge in conformity with the requirements of Public Utilities Code Section 385, and the requirement that such amounts collected by PWRPA be used to fund investments in qualifying projects, as described below.

6. PWRPA first began providing electric services to its customers on or about January 1, 2005. For the period beginning with the commencement of electric services (on or about January 1, 2005) through the current billing period, PWRPA has collected public purpose program funds from its customers in an amount consistent with the requirements of Public Utilities Code Section 385. PWRPA has established a separate account for public purpose program funds. PWRPA's Treasurer records deposits into and withdrawals from PWRPA's public purpose program account.

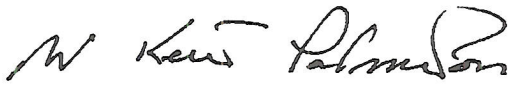
7. PWRPA's Board of Directors has established a list of qualifying projects (namely, projects that are in conformity with Public Utilities Code Section 385 and with PWRPA's public

purpose program policy). PWRPA has implemented projects specified on its list of qualifying projects.

8. In compliance with Assembly Bill 2021 (Stats. 2006, ch. 734), PWRPA has provided a report to the California Energy Commission identifying all potentially achievable cost-effective electricity efficiency savings and establishing annual targets for energy efficiency savings and demand reduction for the next 10-year period. In all other respects, PWRPA is complying with the reporting requirements applicable to local publicly owned electric utilities under the Public Utilities Code.

I declare under penalty of perjury under the laws of the State of California that, to the extent this Declaration contains factual material, it is true and correct to the best of my knowledge and, to the extent this Declaration contains opinion, it reflects my best professional judgment.

Executed on August 30, 2007 at Sacramento, California.



W. Kent Palmerton

(END OF APPENDIX 1)