

ATTACHMENT A

Exhibit A

SETTLEMENT AGREEMENT (Public Redacted Version)

Application (A.)08-06-001

Settlement between Division of Ratepayer Advocates (DRA), Southern California Edison Company (SCE), EnerNOC Inc. (EnerNOC), and Alternative Energy Resources (AER) (collectively, the Parties)

PUBLIC REDACTED VERSION

With respect to the contract between SCE and EnerNOC (the EnerNOC contract) and the contract between SCE and AER (the AER contract) proposed for approval in A.08-06-001 (collectively, the contracts), the Parties agree as follows.

A. Compensation for Capacity in Non-Dispatch Event Months

1. The Parties agree to modify the contracts to replace the technical potential provisions of Article 3.4 therein with provisions that require the capacity payment in an Operating Month with no dispatch event(s) to be based on the results of the most recent prior test, re-test or dispatch event if the performance during such event demonstrates less capacity than the capacity nomination for such Operating Month.

2. The specific contract language that will replace the technical potential provisions of Article 3.4 of the contracts is as follows:

“When the DR Resource is not dispatched during an Operating Month, the Seller’s Delivered Capacity Payment for such Operating Month shall be determined as follows:

- If the DR Resource Capacity Nomination for such Operating Month is higher than the Recorded Reduced Energy of the most recent prior event -- either Test Event, Re-Test Event or dispatch event -- then the Delivered Capacity Payment shall equal the Recorded Reduced Energy of that most recent prior Test, Re-Test or dispatch event times the applicable Capacity Credit Rate set forth in Section 1.4 herein.
- If the DR Resource Capacity Nomination for such Operating Month is lower than or equal to the Recorded Reduced Energy of the most recent prior event-- either Test Event, Re-Test Event or dispatch event -- then the Delivered Capacity Payment shall equal the DR Resource Capacity Nomination for such Operating Month times the applicable Capacity Credit Rate set forth in Section 1.4 herein.”

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3. The contracts will be amended to permit a test or retest for purposes of determining the compensation for Delivered Capacity in non-dispatch event months as described in Section 2 above.

B. Summer Capacity Pricing Reductions

1. **Redacted**

2. **Redacted**

C. Dual Enrollment and Participation in the Demand Bidding Program (DBP)

1. Each contract will be amended to allow DBP program participants to be enrolled and participate in the contract. Customers enrolled and participating in DBP and a contract will be dual participation customers.

2. In the occurrence of coincident event hours for DBP and the contract, any load reductions received during such coincident event hours from a dual participation customer who submitted a bid for the DBP event (including a standing bid) will not be counted toward the performance of the contract for purposes of determining Recorded Reduced Capacity and Recorded Reduced Energy for such coincident event hours.

D. Baseline

1. The Parties agree to modify the baseline for the contracts as follows.

- a. Each contract may have two sub-portfolios.
- b. If two sub-portfolios are used, each sub-portfolio will have its own baseline calculated separately using the aggregated method currently used by SCE for the contracts.
- c. EnerNOC for its contract and AER for its contract will have sole discretion to determine which customers are placed in which sub-portfolio; however one sub-portfolio cannot accept customers from the other sub-portfolio during the months of May, June, July, August, September, and October during the Term of the contract.
- d. If two sub-portfolios are used, one sub-portfolio will have a 3 day in 10 day baseline with no subsequent day-of adjustment; and the other sub-portfolio will have a 5 day in 10 baseline with a subsequent day-of adjustment.
 - i. The day-of adjustment period begins five hours before the event start time and ends two hours before the event start time.

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- ii. The day-of adjustment is limited to a maximum of 20 percent upward or downward from the initial 5 day in 10 baseline.
- e. If two sub-portfolios are used, the Recorded Reduced Capacity and the Recorded Reduced Energy of each sub-portfolio will be added together to determine Delivered Capacity Payments and the Delivered Energy Payments.
- f. If only one portfolio is used, the aggregator may elect to use either a 3 day in 10 day baseline, or a 5 day in 10 baseline with a subsequent day-of adjustment as described above.

E. Recommend Approval of the Contracts

1. The parties agree to recommend approval by the CPUC of the contracts as revised in accordance with this settlement.

**DRA:
DIVISION OF RATEPAYER
ADVOCATES**

**SCE:
SOUTHERN CALIFORNIA EDISON
COMPANY**

By:
Title:
Date

By:
Title:
Date

**ENERNOC:
ENERNOC, INC.**

**AER:
ALTERNATIVE ENERGY
RESOURCES, INC.**

By:
Title:
Date

By:
Title:
Date

Exhibit B

AMENDMENT TO THE 2009-2012 ENERNOC CONTRACT

(Omitted from Public Redacted Version)

Exhibit C

AMENDMENT TO THE 2009-2012 AER CONTRACT

(Omitted from Public Redacted Version)

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of **JOINT MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND DIVISION OF RATEPAYER ADVOCATES FOR ADOPTION OF SETTLEMENT AGREEMENT** on all parties identified on the attached service list(s).

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this 23rd day of February 2009, at Rosemead, California.

/s/ Meraj Rizvi
Meraj Rizvi
Project Analyst
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770

(END OF ATTACHMENT A)

ATTACHMENT B

EXHIBIT A
**Settlement Agreement Between Pacific Gas and Electric
Company and San Francisco Community Power**

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E) for Approval of Demand Response Programs, Goals and Budgets for 2009- 2011.

Application 08-06-001
(Filed June 2, 2008)

Application of San Diego Gas & Electric Company (U 902 M) for Approval of Demand Response Programs and Budgets for Years 2009 through 2011.

Application 08-06-002
(Filed June 2, 2008)

Application of Pacific Gas and Electric Company for Approval of 2009-2011 Demand Response Programs and Budgets (U 39-E)

Application 08-06-003
(Filed June 2, 2008)

**SETTLEMENT AGREEMENT BETWEEN
PACIFIC GAS AND ELECTRIC COMPANY AND
SAN FRANCISCO COMMUNITY POWER**

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Attorneys for: SAN FRANCISCO COMMUNITY POWER

Dated: March 25, 2009

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E) for Approval of Demand Response Programs, Goals and Budgets for 2009- 2011.	Application 08-06-001 (Filed June 2, 2008)
Application of San Diego Gas & Electric Company (U 902 M) for Approval of Demand Response Programs and Budgets for Years 2009 through 2011.	Application 08-06-002 (Filed June 2, 2008)
Application of Pacific Gas and Electric Company for Approval of 2009-2011 Demand Response Programs and Budgets (U 39-E)	Application 08-06-003 (Filed June 2, 2008)

**SETTLEMENT AGREEMENT BETWEEN
PACIFIC GAS AND ELECTRIC COMPANY AND
SAN FRANCISCO COMMUNITY POWER**

I. INTRODUCTION

In accordance with Rule 12.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) and San Francisco Community Power (SFCP) (collectively referred to as "the Parties" or individually as a "Party"), hereby enter into this Settlement Agreement to resolve certain issues, as more fully described below, raised in both *San Francisco Community Power v. Pacific Gas and Electric Company* (C.08-10-015) (hereinafter referred to as the "Complaint Case") and testimony submitted in *Application of Pacific Gas and Electric Company for Approval of 2009-2011 Demand Response Programs and Budgets* (A.08-06-001) (hereinafter referred to as the "Application proceedings").

This Settlement Agreement is in the public interest and represents an equitable resolution of issues raised in the Complaint case and in the Application proceedings regarding the existing Small Commercial Aggregation Pilot (SCAP). The Parties request that the Commission approve the Settlement Agreement without modification.

II. RECITALS

A. The Commission approved SCAP in a 2006 decision approving an amended multi-party settlement of the investor-owned utilities' (IOUs') applications for approval of their 2006-2008 demand response budgets, programs and pilots.^{1/} The Amended Settlement provided funds for SFCP to market "a DRP program to small and medium sized commercial customers in the Bay Area with a goal of shifting two megawatts (MW) by the end of 2008."^{2/}

B. Pursuant to SCAP, SFCP aggregated "small and medium commercial customer market segment (less than 200 kW)"^{3/} in the Capacity Bidding Program (CBP), the successor to the Demand Reserves Partnership Program.

C. The Commission subsequently authorized, in *Order Adopting Changes to 2007 Utility Demand Response Programs*, D.06-11-049, SCAP to be increased to a total size of five MW.^{4/}

D. During a single 2008 test event, SCAP participants achieved a total load reduction of 1.4 MW, according to PG&E's analysis, measured using the current CBP baseline methodology

E. On June 2, 2008, PG&E filed an Application, which was subsequently amended on September 19, 2008. Both the Application and the Amended Application proposed to

^{1/} *Decision Adopting Settlement*, D.06-03-024.

^{2/} *Id.*, mimeo p. 15.

^{3/} D.06-03-024, Attachment B, p. B-2.

^{4/} D.06-03-024, mimeo, pp. 55-56.

discontinue SCAP effective December 31, 2008. (The Application and Amended Application shall be referred to herein as the "Application.")

F. On September 29, 2008 SFCP protested PG&E's Application and requested that SCAP be continued through 2011. PG&E replied to the protests to the Application on October 9, 2008.

G. On October 23, 2008, SFCP initiated the Complaint Case. SFCP's Complaint requested that SCAP be continued in 2009 and beyond.

H. On November 24, 2008, SFCP filed its opening written testimony which opposed or commented upon several of PG&E's proposals, including PG&E's proposal to discontinue SCAP.

I. PG&E filed written rebuttal testimony on December 15, 2008, which responded to SFCP's opening written testimony.

J. A Prehearing conference was held in the Application proceedings on September 24, 2008.

K. Evidentiary hearings were conducted in the Application proceedings on January 6 through 9, 2009. A fifth day of hearings was held on January 20, 2009 during which SFCP and PG&E cross-examined each other's witnesses regarding SCAP.

L. A Prehearing conference was held in the Complaint case on March 4, 2009.

M. The Parties attended a Commission-sponsored mediation of the Complaint case on March 10, 2009 and negotiated the primary terms of the Settlement Agreement, set forth in detail below.

III. SETTLEMENT AGREEMENT

As a compromise among their respective litigation positions, and subject to the recitals and reservations set forth in this Settlement Agreement, the Parties agree to continue SCAP in

2009 as a means to settle all issues raised in the Complaint and issues relating to the continuation or discontinuation of SCAP in the Application proceedings. The Settlement is intended to resolve: (1) all issues raised in the SFCP Complaint; and (2) all, but only those, issues regarding SCAP raised by the Parties in the Application proceeding documented in the following portions of the evidentiary record: PG&E Ex. 201, pp. 2-58 to 2-60; PG&E Exhibit 202, pp. 2-2 line 31 to 2-7, line 20; and SFCP Ex. 801, page 14 line 4 to page 26, line 19, page 30 line 19 to page 30 line 2 and page 30, lines 5 - 7., based on the terms and conditions set forth below.

A. SCAP 2009 Activities

1. PG&E agrees to pay SFCP up to \$12,500 per month for reasonable time and material expenses for services rendered between April 2009 and November 2009 for approved education and outreach activities for currently-enrolled SCAP participants and for the preparation of the report referenced in section A 5 below. The Parties agree that currently-enrolled SCAP participants consist of the 449 participants who are currently enrolled in SCAP and have interval meters installed by PG&E for the purpose of participating in SCAP. Currently-enrolled SCAP participants do not include customers enrolled in SCAP who do not currently have interval meters or those customers with peak electric loads exceeding 200 kW. The \$12,500 includes the \$3,000 monthly payment authorized by the Commission for SCAP in the *Decision Adopting Bridge Funding For 2009 Demand Response Programs*, D.08-12-048, Table 6-2. No payment shall be due for any services rendered or materials acquired after November 30, 2009.

2. Approved education and outreach activities that may be funded pursuant to Section A 1, include: customer interactions; preparation of educational and instructional collateral material; web-based educational interventions, resources and tools; assistance with development of customer load reduction strategies to maximize

participation in demand response events; gathering and communicating best practices amongst participants; assisting participants in executing event day activities to ensure participation; customer-patron communication strategies (e.g., table tents, posters) that communicate demand response participation to patrons and employees in order to create awareness and counter anti-participation behavior; pre-event communications (e.g., email and telephone call reminders) and post-event communications (e.g., providing feedback on event performance, recommended corrections). Subsequent to the execution of this Settlement Agreement, the Parties will sign a contract that establishes the scope of work and the terms and conditions for payment. No payment will be due pursuant to this Settlement Agreement until the contract is executed by both Parties.

3. PG&E will pay SFCP a one-time payment of \$16 per kilowatt (kW) for load reductions above 1.4 MW from currently-enrolled SCAP participants, calculated based on the average of the highest hourly performance during CBP events in 2009, up to a total of 5 MW. The load reduction will be measured as follows: (1) Calculation of the performance will be made using the CBP baseline in effect in 2008, irrespective of whether that baseline is otherwise in effect for the CBP program for 2009. The 2008 CBP baseline methodology is the 3-in-10 days without morning adjustment. (2) The load reduction for the payment will be calculated as the average of the maximum hourly load reduction during each CBP event (including test events) minus 1.4 MW. If no CBP events (or test events) are called during 2009 PG&E will call a SCAP specific test event to calculate the payment due under this section. The maximum payment under this section will be \$60,000.

4. PG&E will not install any additional interval meters for SCAP

participants.

5. SFCP will draft a report on SCAP that describes the following program attributes:

- An overview of program performance, including a description of the activities in which SFCP engaged in to improve participant performance, as well as an assessment of the impact of these activities;
- A description of customer sites, including the market segment and/or NAICS 1 & 2 codes they occupy, contact information based on decision making status, and whether enabling technologies, such as EMS systems or automated devices, are present.
- A description of the engagement/outreach methods used to recruit participants, the success/response rates of each of the methods; the number of contacts/methods employed before the summer program period; and an effectiveness matrix of outreach and educational resources employed (e.g., web, collateral, site visits).
- Recommendations to maximize participation during events, including whether efforts should be market segmented.
- Best practices employed by market segment, and associated impacts if available.

Other potential areas SFCP should attempt to explore and document include:

- (a) effects that provision of customer curtailment strategies had on (1) curtailment performance, (2) customer satisfaction with participation in a Demand Response program, (3) costs , and (4) return on investment (e.g.,

cost to develop curtailment strategy per customer averages)

- (b) effects that employee and patron communications had on customer curtailment performance and customer satisfaction with participation in a Demand Response program, and which communication methods had the highest return on investment (e.g., effectiveness of posters as compared to emails).
- (c) effects that pre-event reminders, post-event evaluations and data provision had on customer curtailment performance and customer satisfaction with participation in a Demand Response program, and which communication methods had highest return on investment. (e.g., pre-event reminders and post event evaluations increased curtailment performance by what amount)
- (d) effects that customer education and outreach efforts had on customer curtailment performance and satisfaction with participation in Demand Response, and which education and outreach methods had the highest return on investment (e.g., customer reported that web based customer education and outreach was their preferred choice and was associated with the highest resulting customer curtailment performance).
- (e) cost of customer education and outreach efforts in comparison to curtailment performance derived

A draft of the report shall be provided to PG&E for review and comment by December 31, 2009. A final report that incorporates PG&E's comments shall be provided by SFCP to PG&E by January 31, 2010.

6. SCAP shall terminate on November 30, 2009. SFCP agrees that it will not request Commission approval to extend SCAP beyond November 30, 2009.

7. SFCP shall continue to serve as an aggregator under the CBP for SCAP participants and other CBP participants.

8. The monthly payment set forth in Section A 1 above is in addition to the amounts that will be paid to SFCP under the PG&E CBP electric rate schedule. PG&E agrees to activate all meters installed for CBP participants with electric loads exceeding 200 kW by May 1, 2009.

9. PG&E will include SCAP participants' load reductions in its measurement and evaluation of the CBP performance in 2009.

10. PG&E shall recover the costs incurred under this Settlement Agreement from electric distribution customers via the Demand Response Revenue Balancing Account (DRRBA), effective when the Commission issues its final decision in the Application proceedings, as part of PG&E's 2009-2011 Demand Response program budget.

B. Intervenor Compensation.

SFCP agrees to withdraw its request for intervenor compensation in the Complaint case, but will request intervenor compensation in the Application proceedings based on the results obtained in the Application proceeding. PG&E agrees that SFCP's participation in the Application proceeding on issues related to SCAP has (1) avoided litigation; (2) reduced duplication of work by other intervenors; and (3) advanced the record in the proceeding. Notwithstanding the preceding sentence, PG&E reserves its right to oppose SFCP's request for intervenor compensation in the Application proceedings.

C. SCAP Customers Who Are Enrolled But Without Interval Meters.

For the 72 customers identified by SFCP who qualify for CBP and that are not equipped with an interval meter , PG&E agrees to allow the customers to enroll in the SmartAC program and install a programmable communicating thermostat, provided the customers meet the eligibility requirements for participation in the SmartAC program. PG&E further agrees to provide to SFCP information regarding existing energy efficiency programs and rebates to educate its customers regarding energy efficiency programs and SFCP agrees to provide such information to its customers.

D. SFCP Participation in PG&E's Solicitation For Its Proposed Small Customer Load Aggregation Pilot.

PG&E has proposed a Small Customer Load Aggregation Pilot (SCLAP) in the Application proceedings (PG&E Ex. 201, pp. 2-59 -2-59). SFCP opposed PG&E's proposal. (SFCP, Ex. 801, p. 20, line 14). SFCP withdraws its opposition to PG&E's proposal. If PG&E's SCLAP proposal is approved by the Commission, SFCP may submit a bid in the solicitation and PG&E will consider SFCP's bid along with other bids received.

E. Commission Approval

This Settlement Agreement shall become effective on the mailing date of a final Commission decision approving the terms of this Settlement Agreement without modifications unacceptable to any Party.

F. Dismissal Of Complaint Case.

SFCP will take any necessary steps to dismiss its Complaint case with prejudice within 10 days of a final Commission decision approving the Settlement Agreement:

G. Disposition Of Other Issues In The Application Proceeding.

The Settlement Agreement is not intended to preclude any Party from advocating any position on issues within the scope of the Application proceeding that are outside of the scope of the Settlement Agreement.

H. General Terms and Conditions.

1. The Parties agree to support the Settlement Agreement and perform diligently, and in good faith, all actions required or implied hereunder to obtain Commission approval of the Settlement Agreement and dismissal of the Complaint, including without limitation, the preparation of written pleadings. No Party will contest in this proceeding, or in any other forum or in any manner before this Commission, this Settlement Agreement.

2. The Parties understand that time is of the essence in obtaining the Commission's approval of this Settlement Agreement and that each will extend its best efforts to ensure that the Commission issues a final decision approving the Settlement Agreement.

3. The Parties agree by executing and submitting this Settlement Agreement that the relief requested herein is just, fair and reasonable, and in the public interest.

4. The Settlement Agreement is not intended by the Parties to be precedent regarding any principle or issue. The Parties have assented to the terms of this Settlement Agreement only for the purpose of arriving at the compromise embodied in this Settlement. Each Party expressly reserves its right to advocate, in current and future proceedings, positions, principles, assumptions, and arguments which may be different than those underlying this Settlement Agreement and each Party declares that this Settlement Agreement should not be considered as precedent for or against it.

5. This Settlement Agreement embodies compromises of the Parties' positions. No individual term of this Settlement Agreement is assented to by any Party, except in consideration

of the other Parties' assent to all other terms. Thus the Settlement Agreement is indivisible and each part is interdependent on each and all other parts. Any Party may withdraw from this Settlement Agreement if the Commission modifies, deletes from, or adds to the disposition of the matters stipulated herein. The Parties agree, however, to negotiate in good faith with regard to any Commission-ordered changes in order to restore the balance of benefits and burdens, and to exercise the right to withdraw only if such negotiations are unsuccessful.

6. The terms and conditions of the Settlement Agreement may only be modified in writing subscribed to by the Parties.

The Parties have caused this Settlement Agreement to be executed by their authorized representatives. By signing this Settlement Agreement, the representatives of the Parties warrant that they have the requisite authority to bind their respective principals.

By: _____ /s/
STEVEN J. MCCARTY
Director, Demand Response
Pacific Gas and Electric Company

DATED: March 25, 2009

By: _____ /s/
STEVEN MOSS
Director
San Francisco Community Power

DATED: March 25, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **“MOTION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) AND SAN FRANCISCO COMMUNITY POWER FOR APPROVAL OF SETTLEMENT AGREEMENT”** on all known parties to A.08-06-001 et al
by

- transmitting an e-mail message with the document attached to each party on the official service list providing an email address; or
- by first-class mail, postage prepaid, to each party on the official service list not providing an email address.

Executed on March 25, 2009, at San Francisco, California.

/s/
MARTIE L. WAY

(END OF ATTACHMENT B)