

**SETTLEMENT AGREEMENT REGARDING CRITICAL PEAK PRICING (CPP) FOR
LARGE CUSTOMERS IN CALIFORNIA PUBLIC UTILITIES COMMISSION
APPLICATIONS 05-01-016 AND 05-01-018**

I. INTRODUCTION

In accordance with Rule 51 et. seq. of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), the parties to this Critical Peak Pricing Settlement (CPP Settlement) hereby agree on a mutually acceptable outcome to the issues presented in Application (A.) 05-01-016, “Application of Pacific Gas and Electric Company for authority to Implement Default CPP Rate Options for Large Customers,” and Application (A.) 05-01-018, “Southern California Edison Company’s (U338-E) Application for Approval of Rate Design Proposals for Large Customers.” (CPP Proceedings) The parties to the CPP Settlement shall collectively be referred to in this settlement agreement as “the Settling Parties,” and this settlement agreement shall generally be referred to as “the CPP Settlement Agreement.” Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) shall collectively be referred to as “the Utilities.”

II. SETTLING PARTIES

The Settling Parties are as follows:

Agricultural Energy Consumers Association
Building Owners and Managers Association of San Francisco and of
California
California Farm Bureau Federation
California Large Energy Consumers Association
California League of Food Processors
California Retailers Association
Energy Producers and Users Coalition
Indicated Commercial Parties

JCPenny Company, Inc.
Kinder Morgan Energy Partners, L.P.
Lowe's Companies, Inc.
Pacific Gas and Electric Company
San Francisco Bay Area Rapid Transit District
Southern California Edison Company
Wal-Mart Stores, Inc
Western Power Trading Forum

III. SETTLEMENT CONDITIONS

The Settling Parties agree this CPP Settlement resolves the specific issues raised in A.05-01-016 and A.05-01-018, subject to the following conditions:

A. This CPP Settlement Agreement contains the entire understanding and agreement of the Settling Parties with respect to the matters described herein, and this CPP Settlement Agreement supersedes any and all prior oral or written agreements, principles, negotiations, statements, discussions, representations, or understanding among the Settling Parties with respect to the matters described herein. In the event there is any conflict between the terms and scope of this CPP Settlement Agreement and the terms and scope of the motion for adoption of this CPP Settlement Agreement by the Commission, this CPP Settlement Agreement shall govern.

B. This CPP Settlement represents a compromise among the Settling Parties' respective litigation positions, and does not constitute an agreement to or endorsement of disputed facts and law presented by the Settling Parties in the CPP Proceedings. This CPP Settlement does not constitute precedent regarding any principle or issue in this proceeding or in any future proceeding.

C. The Settling Parties agree that this CPP Settlement is reasonable in light of the testimony submitted, consistent with law, and in the public interest, in accordance with rule 51.1(e).

D. The Settling Parties agree that no provision of this Settlement shall be construed against any Settling Party because that Settling Party or its counsel, representative, or advocate drafted the provision.

E. This CPP Settlement Agreement may only be amended or changed by a writing executed by all Settling Parties.

F. The Settling Parties shall jointly request Commission approval of the CPP Settlement without change, and shall actively support prompt approval of the CPP Settlement. Active support shall include written and oral testimony if such testimony is required, briefing if briefing is required, comments on the proposed decision, advocacy to the CPUC Commissioners and their advisors as needed, and other appropriate means as needed to obtain the requested approval.

G. The Settling Parties intend that the CPP Settlement Agreement be interpreted and treated as a unified, integrated agreement. In the event the Commission rejects or modifies the CPP Settlement Agreement, the Settling Parties respectfully reserve their rights under Rule 51.7.

H. None of the provisions of this CPP Settlement Agreement shall be considered waived by any Settling Party unless such waiver is given in writing. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this CPP Settlement Agreement or to take advantage of any of their rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

I. This CPP Settlement Agreement shall be interpreted, governed, and construed under the laws of the State of California, including Commission decisions, orders, and rulings, as if executed and to be performed wholly within the State of California.

IV. SETTLEMENT HISTORY

1. On April 21, 2005, the Commission issued D. 05-04-053, "Opinion Addressing Critical Peak Pricing Rates for Customers 200 Kilowatts (kW) and Larger" (Decision). The

Decision directed the utilities to “file new critical peak pricing proposals including testimony, in these dockets on August 1, 2005, consistent with the principles adopted today.” (D.05-04-053, ordering paragraph 2, slip opinion p. 81.)

2. On August 1, 2005, PG&E and SCE served their respective sets of testimony setting forth new critical peak pricing proposals for customers 200 kW or larger.

3. On August 31, 2005, SCE served Southern California Edison Company’s Supplemental Exhibits.

4. On September 1, 2005, PG&E served three documents with customer bill impact information.

5. On October 4, 2005, PG&E served three bill impact summary tables, together with accompanying charts.

6. On October 6, 2005, interveners served their initial testimony.

7. On October 19, 2005, parties served their rebuttal testimony.

8. Pursuant to Rule 51.1(b), on September 12, 2005, PG&E and SCE provided notice to all parties of an initial settlement conference. PG&E and SCE hosted this initial settlement conference on September 22, 2005. Follow-up settlement discussions were held amongst most of the active major parties in subsequent weeks through a series of conference calls. On October 20, 2005, the parties to the settlement discussions reached agreement in principle on the terms of the CPP Settlement, and counsel and representatives for the various parties notified Administrative Law Judge (ALJ) Cooke that the Settling Parties had reached an agreement in principle. In light of the settlement in principle, the Settling Parties respectfully requested that the hearings scheduled for the week of October 31, 2005 be suspended. ALJ Cooke agreed to do so.

V. SETTLEMENT TERMS

The Settling Parties agree that all testimony, supplemental exhibits and bill impact documents served after July 31, 2005 and prior to the date of this CPP Settlement should be admitted into evidence without cross-examination by any of the Settling Parties.

The Settling Parties agree that all issues in A.05-01-016 and A.05-01-018 are settled as follows:

1. Eligibility

The CPP tariffs will be available to the Utilities' bundled, firm service customers served on interval meters who have peak demands equal to or greater than 200 kW (Eligible Customers). The CPP tariffs will be implemented on a voluntary, opt-in basis. The implementation of the CPP Settlement according to its terms shall occasionally be referred to herein as the "CPP Program."

Bundled customers who are participating in, or who elect to participate in, certain other of the Utilities' demand response programs shall not be eligible to participate in the CPP Program as long as that participation continues. For PG&E, these programs include, but are not necessarily limited to, the Demand Bidding Program (E-DBP), the Base Interruptible Program (E-BIP), the Business Energy Coalition program (E-BEC), the Non-Firm Program, and the California Power Authority Demand Reserves Partnership (CPA-DRP) program. For SCE, these programs include, but are not necessarily limited to, Super Off-Peak Rates (SOP), Departing Load, Demand Bidding Program (DBP), Optional Binding Mandatory Curtailment (OBMC), I-6, Base Interruptible Program (BIP), Scheduled Load Reduction Program (SLRP), California Demand Reserves Program (CAL DRP), and Real-Time Pricing (RTP).

Direct access customers, and customers (such as Bay Area Rapid Transit (BART)) that receive electric power from third parties, will not be eligible for the CPP Program. Net metered customers, standby customers, customers on the Agricultural Internal Combustion Engine

Conversion Incentive Rate (Ag-ICE), and customers without communication links will not be eligible for the CPP Program.

2. PG&E and SCE CPP Tariff Rates

A. For PG&E's Eligible Customers:

(1) The CPP tariff rates applicable during CPP events would be based on PG&E's rate proposals for voluntary CPP presented in its August 1, 2005 testimony in this case, and as revised in Attachment 2 to its October 19, 2005 rebuttal testimony. For PG&E, the CPP event rate would be a rate rider of 75 cents per kWh for all Light and Power rate schedules and 37.5 cents per kWh for the AG 4 C and F, and AG 5 C and F rate schedules that would be added to the customer's normal TOU rate.

(2) The CPP tariff rates applicable during non-CPP event hours also would be based on PG&E's voluntary CPP rate proposal in its August 1, 2005 testimony in this case (copy attached as Attachment 1 to this document). For PG&E, the rate for non-CPP event hours would be subject to combined on-peak demand and energy charge reductions stated as a rate rider to the customer's normal TOU rate for the summer period from May 1 to October 31.

(3) The CPP tariff rates are and shall continue to be designed to be revenue neutral by customer class, as described in PG&E's August 1, 2005 testimony. All CPP rate riders will be applied to the generation component of participating customers' bills.

(4) The CPP tariff shall not include participation credits for customers with demand equal to or greater than 200 kW who elect to take service under the tariff, and shall not include hedging premiums for customers with demand equal to or greater than 200 kW who do not take CPP service.

B. For SCE's Eligible Customers:

SCE's methodology is generally similar to PG&E's, and the details of the CPP tariff rate and rate design that will apply to SCE's Eligible Customers are found in SCE's CPP proposal as presented in its August 1, 2005 testimony in this proceeding.

3. Number of CPP Events and Hours

The maximum number of CPP events in the respective summer seasons for the Utilities shall be the number of CPP events used to develop the CPP rates on a class revenue neutral basis. Both utilities have used 15 CPP events to develop their respective CPP rates. PG&E's summer season runs from May 1 through October 31, while SCE's summer season runs from the first Sunday in June to the first Sunday in October. In their respective summer seasons, the Utilities will endeavor to, but will not be obligated to, call at least 12 CPP events in a given summer season. The Utilities will not call more than 15 CPP events per summer. Further, the Utilities shall not call a CPP event on more than three consecutive weekdays within one work week.

The CPP event hours will be 2:00 p.m. to 6:00 p.m. Nothing in this settlement changes the Utilities' existing 6-hour on-peak TOU period to which TOU rates apply.

4. CPP Event Triggers

A. For PG&E's Eligible Customers:

PG&E will use one or more of the following criteria to call CPP events on a day-ahead basis: the day-ahead maximum temperature forecast for its service area, high demand, high day-ahead prices, CAISO alerts. However, PG&E will retain discretion NOT to call an event even if one or more of these criteria are met.

B. For SCE's Eligible Customers:

SCE may call CPP events on a day-ahead basis if day-ahead forecast system demand is within 9% of SCE's forecast annual system peak demand, and forecasted generation heat rates indicate that power supplies are limited.

5. CPP Event Notification Process to CPP Customers

The Utilities will attempt to notify all CPP customers of the CPP event by 3:00 p.m. the day before the CPP event, using two methods: (1) a telephone call, page, fax, or e-mail depending on the choice of the customer; and (2) a dedicated website informational display that will be updated in real time with the CPP status.

6. Cost Recovery

A. For PG&E:

PG&E's opt-in CPP program cost estimate in A.05-01-016 is \$1,648,480 in 2006, \$388,587 in 2007 and \$370,167 in 2008 (A.05-01-016 Amounts). (If evaluation of the Utilities' CPP programs is conducted on a statewide basis so that PG&E's CPP program is not evaluated independent of the SCE and SDG&E's CPP programs, the A.05-01-016 Amounts for 2006, 2007 and 2008 can each be reduced by \$150,000.) These A.05-01-016 Amounts will be part of PG&E's adopted revenue requirement for 2006, 2007 and 2008, respectively, and are in addition to the revenue requirement for voluntary CPP in A.05-06-006. PG&E shall be authorized to flow these authorized revenue requirement A.05-01-016 Amounts through its Utility Generation Balancing Account (UGBA), for recovery from its bundled customers only. To the extent that CPP participation produces lower total billed revenue than would have been billed under the CPP participants' standard tariffs, any such revenue reductions (together with any fuel and purchased power cost savings that result from reduced usage during CPP events) would be reflected in PG&E's Energy Resource Recovery Account (ERRA) and UGBA through the normal operations of these accounts.

B. For SCE:

SCE's current CPP program cost estimate is \$1,816,800, although SCE notes that this estimate was developed for a default CPP program rather than a voluntary opt-in one. All billing and customer communication system infrastructure modifications, administrative, and customer education expenses will be recorded in SCE's Advanced Metering and Demand Response Memorandum Account (AMDRMA) and then transferred upon approval into SCE's ERRA for recovery as prescribed by D. 05-01-056 from bundled customers only. To the extent that CPP participation produces lower total billed revenue than would have been billed under the CPP participants' standard tariffs, any such revenue reductions (together with any fuel and purchased power cost savings that result from reduced usage during CPP events) would be reflected in SCE's ERRA through the normal operations of that account.

7. Implementation and coordination with other tariffs

If Commission approval of this settlement is granted by January 31, 2006, the CPP rates for the opt-in CPP Program resulting from this settlement will be implemented June 1, 2006 for PG&E. If Commission approval is granted after January 31, 2006, the CPP rates for the opt-in CPP Program will go into effect in 2007 for PG&E. (If PG&E's opt-in CPP Program does not go into effect until 2007, the A.05-01-016 Amounts for 2006, 2007, and 2008 will be part of PG&E's adopted revenue requirement for 2007, 2008, and 2009, respectively.) The CPP rates for the opt-in CPP Program will go into effect in 2007 for SCE.

The Settling Parties agree that the Utilities' existing voluntary CPP tariffs will be eliminated when the CPP tariff implementing this settlement goes into effect. The Utilities will automatically transfer customers currently taking service on their existing CPP rates to the new CPP tariff.

PG&E will provide bill protection for new CPP customers who opt in to the CPP tariff authorized as a result of a decision approving this settlement. The bill protection will be applicable through the conclusion of the first full summer of a customer's participation on the

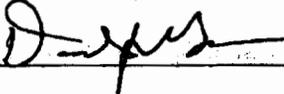
program and different CPP rate design proposals for Eligible Customers for 2009 and subsequent years.

The Settling Parties agree that nothing in this settlement affects the Utilities' ability to propose or implement changes to their TOU tariffs or to any other non-CPP rate tariff or rule, or to propose new rate tariffs.

VI. SETTLEMENT EXECUTION

This CPP Settlement 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 CPP Settlement Agreement shall become effective among the Settling Parties on the date the last Settling Party executes the CPP Settlement Agreement as indicated below. In witness whereof, intending to be legally bound, the Settling Parties hereto have duly executed this CPP Settlement Agreement on behalf of the Settling Parties they represent. The undersigned expressly represent that they are authorized to sign on behalf of the Settling Party represented.

Agricultural Energy Consumers Association

By: 

Title: Asst. Executive Director

Building Owners and Managers Associations of San Francisco and of California

By: _____

Title: _____

California Farm Bureau Federation

**Building Owners and Managers Associations of
San Francisco and of California**

By: *Bill F. Roberts*
BILL F. ROBERTS

Title: President, Economic Sciences Corp.

Date: November 7, 2005

California Farm Bureau Federation

By: _____

Title: _____

Date: _____

California Large Energy Consumers Association

By: _____

Title: _____

Date: _____

California League of Food Processors

By: _____

Title: _____

Date: _____

**Building Owners and Managers Associations of
San Francisco and of California**

By: _____

Title: _____

Date: _____

California Farm Bureau Federation

By: Karen Nunez

Title: Associate Counsel

Date: November 8, 2005

California Large Energy Consumers Association

By: _____

Title: _____

Date: _____

California League of Food Processors

By: _____

Title: _____

Date: _____

**Building Owners and Managers Associations of
San Francisco and of California**

By: _____

Title: _____

Date: _____

California Farm Bureau Federation

By: _____

Title: _____

Date: _____

California Large Energy Consumers Association

By: William H. Booth

Title: Counsel

Date: 11/8/05

California League of Food Processors

By: _____

Title: _____

Date: _____

Date: _____

**Building Owners and Managers Associations of
San Francisco and of California**

By: _____

Title: _____

Date: _____

California Farm Bureau Federation

By: _____

Title: _____

Date: _____

California Large Energy Consumers Association

By: _____

Title: _____

Date: _____

California League of Food Processors

By: Rob Neenan

Title: Director of Regulatory Affairs

Date: November 7, 2005

California Manufacturers & Technology Association

By: *Kevin M. Macer*

Title: Attorney

Date: November 8, 2005

California Retailers Association

By: _____

Title: _____

Date: _____

Energy Producers and Users Coalition

By: _____

Title: _____

Date: _____

Indicated Commercial Parties

By: _____

Title: _____

Date: _____

California Manufacturers & Technology Association

By: _____

Title: _____

Date: _____

California Retailers Association

By: James R. Quinn

Title: Counsel

Date: November 7, 2005

Energy Producers and Users Coalition

By: _____

Title: _____

Date: _____

Indicated Commercial Parties

By: _____

Title: _____

Date: _____

California Manufacturers & Technology Association

By: _____

Title: _____

Date: _____

California Retailers Association

By: _____

Title: _____

Date: _____

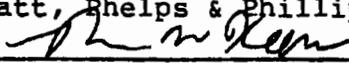
Energy Producers and Users Coalition

By: _____

Title: _____

Date: _____

Indicated Commercial Parties
Manatt, Phelps & Phillips, LLP

By: 
Randall W. Keen

Title: Attorneys for Indicated
Commercial Parties

Date: November 10, 2005

J.C. Penney Company, Inc.

By: Craig Klatt

Title: Attorney at Law

Date: Nov. 11, 2005

Kinder Morgan Energy Partners, L.P.

By: _____

Title: _____

Date: _____

Lowe's Companies, Inc.

By: _____

Title: _____

Date: _____

Pacific Gas and Electric Company

By: _____

Title: _____

Date: _____

JCPenny Company, Inc

By: _____

Title: _____

Date: _____

Kinder Morgan Energy Partners, L.P.

By: Daniel L. Rial VAW

Title: DIRECTOR OF ENERGY MGMT

Date: 9 NOV 2005

Lowc's Companies, Inc.

By: _____

Title: _____

Date: _____

Pacific Gas and Electric Company

By: _____

Title: _____

Date: _____

JCPenny Company, Inc

By: _____

Title: _____

Date: _____

Kinder Morgan Energy Partners, L.P.

By: _____

Title: _____

Date: _____

Lowe's Companies, Inc.

By: _____

Title: _____

Date: _____

Pacific Gas and Electric Company

By: Thomas S. Guller

Title: Sr. Vice President of Regulatory Relations

Date: November 8, 2005.

San Francisco Bay Area Rapid Transit District

By: Robert H. Mey

Title: Attorney

Date: November 9, 2005

Southern California Edison Company

By: _____

Title: _____

Date: _____

Wal-Mart Stores, Inc.

By: _____

Title: _____

Date: _____

Western Power Trading Forum

By: _____

Title: _____

Date: _____

San Francisco Bay Area Rapid Transit District

By: _____

Title: _____

Date: _____

Southern California Edison Company

By: _____

Title: _____

Date: _____

Wal-Mart Stores, Inc.

By: Gregory Klatt

Title: Attorney at Law

Date: Nov. 11, 2005

Western Power Trading Forum

By: _____

Title: _____

Date: _____

San Francisco Bay Area Rapid Transit District

By: _____

Title: _____

Date: _____

Southern California Edison Company

By: _____

Title: _____

Date: _____

Wal-Mart Stores, Inc.

By: _____

Title: _____

Date: _____

Western Power Trading Forum

By: Gary B. Ahe

Title: Executive Director

Date: November 9, 2005