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

Order Instituting Rulemaking To
Implement Portions of AB 117
Concerning Community Choice
Aggregation.

Rulemaking 03-10-003
(Filed October 2, 2003)

**OPENING BRIEF OF THE CITY AND COUNTY OF SAN FRANCISCO
IN RESPONSE TO THE JANUARY 14, 2011 ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE RULING**

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SUMMARY OF RECOMMENDATIONS

Based on the responses of the City and County of San Francisco (“CCSF”) to the Commission’s five questions, CCSF recommends the following changes to the Bond Settlement:

(1) The time period for the calculation of re-entry fees and bond amounts should be reduced from twelve months to six months;

(2) The stress factor multiplier should be removed from the calculation of market procurement costs; consequently, the stress factor “adder” should also be removed from the calculation of bundled generation costs;

(3) Section C.14 of the Bond Settlement should be changed to state the following:

(a) A CCA’s failure to post a required bond amount is not, by itself, a sufficient reason for a utility to seek emergency termination of a CCA program under Tariff Rule 23.T.3;

(b) A utility may not seek to terminate a CCA program under Tariff Rule 23.T.4 based on a failure to post a required bond amount if the posted bond amount exceeds the re-entry fee that would be due based on the most recent prior month for which data are available. In addition, the Commission should make clear that, even if a posted bond amount does not meet this threshold, the Commission is unlikely to terminate a CCA unless there are other indications of serious financial problems.

(c) A CCA may petition the Commission at any time for relief from all or part of a bond amount requirement based on a showing that the required bond amount is not necessary to protect bundled customers and would cause financial hardship to the CCA. CCAs may seek an expedited ruling from an administrative law judge and/or Assigned Commissioner pending a Commissioner decision on the petition.

(4) If the stress factor multiplier is removed (and only if this change is made), the Commission may wish to require the bond amount to be calculated more frequently than every six months, *e.g.*, every month. If the bond amount is calculated more frequently, the adjustment

trigger (*i.e.*, the difference from the previously set bond requirement) for re-set of the required bond amount should be increased from 10 percent to 20 percent.

(5) The phase-in period for the bond amount requirement at the outset of a CCA's operations should be increased from two years to five years, such that the required bond amount would be 50% of the calculated amount in year one, 60% in year two, 70% in year three, 80% in year four, and 90% in year five. Thereafter, the required bond amount would be equal to the calculated bond amount.

In the Amended Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Amending the Scoping Memo and Reopening the Record (“Amended Scoping Memo”) dated January 14, 2011, the Commission reopens the record and seeks additional comments on five issues related to re-entry fee and bond requirements for Community Choice Aggregation (“CCA”) programs. The City and County of San Francisco (“CCSF”) presents these opening comments on those issues.

I. SUMMARY OF COMMENTS

CCSF commends the Commission for reopening the record related to two proposed settlements to establish a methodology for calculating re-entry fees and bonds for CCA programs pursuant to Public Utilities Code Section 394.25(e).¹ As the Amended Scoping Memo recognizes, since the time the settlements were presented to the Commission in June 2009, parties have gained considerable experience with CCA programs, particularly in light of the introduction of CCA services by the Marin Energy Authority (“MEA”) in May 2010. Since June 2009, CCSF has also gained considerable experience and expertise, having obtained the Commission’s certification of its CCA program, CleanPowerSF, in May 2010. The Commission wisely recognizes that this additional experience warrants updating the record.

The common theme in the five questions posed in the Amended Scoping Memo is whether changes to the Bond/Re-Entry Fee Settlement are warranted in order to meet the statutory requirement that the adopted methodology establish: (i) re-entry fees that are “necessary” to avoid imposing costs on bundled customers and (ii) bond amounts that are “sufficient” to cover those re-entry fees, should there be an involuntary return of a CCA

¹ The two settlements are: a Bond/Re-Entry Fee Settlement among Pacific Gas and Electric Co. (“PG&E”), Southern California Edison Co. (“SCE”), San Diego Gas & Electric Co. (“SDG&E”), The Utility Reform Network (“TURN”), San Joaquin Valley Power Authority (“SJVPA”), and the City of Victorville (“Victorville”) (“Bond Settlement”); and (2) an Accounts Receivable Offset Settlement (“A/R Offset Settlement”) among PG&E, SCE, TURN, SJVPA and Victorville.

program's customers.² The questions also reflect the Commission's previously-expressed concern that the bond amount should not "serve as an impediment to the development of CCAs."³

In response to the five questions, CCSF will show that the Bond Settlement: (i) produces re-entry fees that far exceed the amount necessary to protect bundled customers, (ii) yields bond amounts that grossly surpass the level necessary even to cover the inflated re-entry fees set by the Settlement, and (iii) pose a significant impediment to the implementation and ongoing operation of CCA programs. As shown by CCSF's responses to the Commission's questions,⁴ the Bond Settlement requires significant revisions:

- (Question 4) The proposed Bond Settlement creates a significant risk that the bond amount would be set or re-set to a level that would cause an otherwise financially stable CCA to cease operations. One reason for this is the fact that the market for bonds and other security vehicles currently does not take into account the risk profile of a CCA's operations, a problem that the Commission needs to recognize, but cannot correct. The other reason is that the Settlement's methodology produces both excessive re-entry fees and excessive bond amounts, problems the Commission can correct. A key correction the Commission should make is to reduce the re-entry fee period from twelve months to six months,

² Section 394.25 provides in relevant part: "If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems *necessary* to avoid imposing costs on other bundled customers of the electric corporation shall be the obligation of the electric service provider or a community choice aggregator As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance *sufficient* to cover those reentry fees." (Emphasis added).

³ *Administrative Law Judge's Ruling Setting Forth Bond Requirement Phase of the Proceeding*, May 27, 2008, p. 6.

⁴ In the interest of a logical and efficient presentation, CCSF will answer the five questions in a different order than set out in the Amended Scoping Memo. In addition, because establishing a reasonable re-entry fee and bond methodology involves many interrelated issues, providing complete responses will sometimes require addressing matters that are not specifically mentioned in the Amended Scoping Memo.

which is the period of time the CCA tariffs recognize is sufficient to allow the utilities to adjust their procurement activity for both voluntary and involuntary returning customers. This change alone would reduce re-entry fees and the corresponding bond amounts by approximately one-half. Another necessary correction is to eliminate the stress factor multiplier from the Settlement, as discussed in response to Question 5.

- (Question 5) The implied volatility data that the Bond Settlement uses to attempt to estimate variations in future market prices for electricity are neither reliable nor objectively verifiable, particularly with respect to PG&E. The stress factor multiplier, which relies on the implied volatility data, yields bond amounts that provide coverage wildly in excess of the re-entry fees calculated by the Settlement. Historical data obtained from the utilities demonstrates that the procurement portion of bond amounts fixed by the settlement exceeds the corresponding re-entry fee by, on average, 500% over the five and one-half year period of study. Lacking any reliable and verifiable substitutes for the implied volatility data and in light of the stress factor's inherent flaws, the implied volatility data and stress factor multiplier should be removed from the bond calculation.
- (Question 2) A better way to manage uncertainty regarding future market prices for electricity is to remove the stress factor multiplier and, if the Commission deems necessary, to re-calculate the bond amount more frequently, as often as every month if deemed appropriate. The resulting bond calculation will be relatively simple and non-controversial, requiring fewer administrative resources of the Commission and the parties. To further limit administrative costs, the bond amount should not be re-set unless it differs by more than 20% from the then-current bond amount.

- (Question 3) The Bond Settlement allows the utilities -- including PG&E, which has a track record of hostility to CCAs -- to threaten CCAs with termination based solely on a CCA program's inability to post a bond amount, even if the CCA is otherwise financially stable. To correct this problem, the Bond Settlement should be changed to: (i) make clear that failure to post a prescribed bond, by itself, is not a reason for a utility to seek the emergency termination of a CCA under Tariff Rule 23.T.3; (ii) allow a CCA's failure to post a prescribed bond to support a utility request for non-emergency termination under Tariff Rule 23.T.4 only if the CCA's posted bond amount is less than the re-entry fee that would be due based on then-current market data; and (iii) allow a CCA at any time to petition the Commission for relief from a required bond amount.
- (Question 1) In recognition of the fact that it is particularly difficult for CCAs to post bonds or other security in the early years of operation, the Bond Settlement's sliding scale period should be extended from two years to five years, so that the bond amount would be: 50 percent of the calculated amount in year one, 60 percent in year two, 70 percent in year three, 80 percent in year four, 90 percent in year five, and 100 percent in year six.

Absent these revisions, the Bond Settlement methodology would pose a major impediment to the initiation and ongoing operation of CCA programs and violate Section 394.25(e) by requiring (i) re-entry fees that are more than what is necessary to protect bundled customers and (ii) bond amounts that are more than sufficient to cover re-entry fees. The Commission should prepare a new proposed decision that concludes that, unless the Bond Settlement is revised as recommended by CCSF, the Settlement should be rejected.

II. UPDATING THE RECORD ON RE-ENTRY FEE AND BOND ISSUES IS WARRANTED

The Amended Scoping Memo wisely determines that the record in this docket regarding re-entry fee and bond issues needs updating. The settlements were filed with the Commission in June 2009, twenty months ago. As the Amended Scoping Memo (p. 4) notes, the Proposed Decision (“PD”) recognized that, in light of the novelty of the issues presented, it would be appropriate to re-visit the settlements’ methodology as the Commission and parties gain more experience with CCA programs. (PD at 23.) The Commission would be wise to act now to correct the known and significant problems with the Bond Settlement (detailed in these comments and in the previous comments of CCSF and MEA on the PD), rather than approve a flawed Settlement that will clearly produce unreasonable bond amounts when the current favorable market conditions change.

Since June 2009, the parties have indeed garnered significant real-world experience. Most notably, MEA has run the gauntlet of steps required to begin serving customers and launched its program in May 2010. As a result, MEA is particularly well-positioned to speak to the ability of CCAs to obtain a bond or other security to meet the bond requirement, which the Commission has identified as one of the four issues for this phase.⁵ In addition, since the submission of the settlements to the Commission, CCSF has gained significantly more experience and resources on the path to launching a program, including: obtaining the Commission’s certification of its Implementation Plan in May 2010; gaining the Commission’s certification of CleanPowerSF as a California CCA program; executing a Service Agreement with PG&E in May 2010; negotiating with potential suppliers of electricity and other services in the first half of 2010 and resuming such negotiations in February 2011; and increasing its staff devoted to CCA issues from 1.0 full-time equivalent (“FTE”) to 3.5 FTEs, adding considerable technical and financial expertise that CCSF has been able to utilize to analyze some of the highly

⁵ *Administrative Law Judge’s Ruling Setting Forth Bond Requirement Phase of the Proceeding*, R.03-10-003, May 27, 2008, p. 6.

complex elements of the Bond Settlement. The bottom line is that MEA and CCSF bring far more experience and expert analysis to the settlements than they possessed twenty months ago.

As discussed in the accompanying Declaration of Margaret Meal (“Meal Declaration”),⁶ CCSF used its additional experience and resources to undertake a close analysis of the Bond Settlement beginning in September 2010. (Meal Decl., ¶ 3). As part of that analysis and in conjunction with MEA, CCSF served data requests on the utilities to obtain historical data to facilitate comparisons between re-entry fees and corresponding bond amounts going back to January 1, 2005. (*Id.*, ¶ 4). Until that point, such data had never been requested or provided. In addition, CCSF and MEA sought to test the reliability and transparency of the implied volatility data – a key input to the Bond Settlement’s highly complex stress factor, which, in turn, serves as a multiplier to current market prices to determine the bond amount. (*Id.*) These comments reflect the important information gained from the data request responses.

Another significant development since the settlements were filed with the Commission is the fact that the CCA parties who took the lead in negotiating the settlements, SJVPA and Victorville, have given up their efforts to pursue CCA programs.⁷ In light of the settling parties’ contractual obligation to support the settlements,⁸ if SJVPA, Victorville, or any other settling party now believe that the settlements should be modified, they are unable to express such a view to the Commission without risking a breach of their contractual duties. As a result, the settlements: (i) do not enjoy the support of any active CCA parties; (ii) are strongly opposed by the only currently active CCAs -- MEA and CCSF; and (iii) may no longer be supported in their current form by some of the signatories.

⁶ The Meal Declaration can be found in Attachment A to these comments. Ms. Meal is the Regulatory and Legislative Affairs Manager for the Power Enterprise of the San Francisco Public Utilities Commission.

⁷ Reply Comments of SJVPA and Victorville on the PD, Dec. 14, 2009, pp. 1-2.

⁸ The Bond Settlement, Section F, requires the settling parties to use their best efforts to obtain Commission approval of the Agreement and to request that the Commission adopt the Agreement in its entirety “without modification.”

III. RESPONSE TO QUESTIONS

A. **The Implied Volatility Data and the Stress Factor Multiplier, Which Relies on That Data, Should Be Removed from the Bond Settlement**

Question 5: MEA and CCSF have both challenged the implied volatility data used to calculate the stressed energy price. CCSF has also challenged the reliability of the implied volatility data used by PG&E. If the implied volatility data set proposed in the Bond/Re-Entry Fee Settlement Agreement is not used, what should be used instead? If the implied volatility data proposed in the Bond/Re-Entry Fee Settlement Agreement is used, should it be verified by the Commission's Energy Division? If so, how?

1. **Nature of the Problem**

a. **The Utilities Have Failed to Demonstrate that the Implied Volatilities and Stress Factors Will Be Based on Reliable Data**

Under the Bond Settlement, the basic methodology for calculating the procurement portion of the bond amount⁹ is to subtract what bundled customers pay for power procurement -- the bundled generation rate -- from the current market price for power procurement, as that difference represents the incremental costs the utility would bear if CCA load returns. However, the Bond Settlement incorporates a "stress factor" multiplier for the current market price -- a key input of which is "implied volatility" -- which can have the effect of significantly increasing the bond amount above the re-entry cost.¹⁰ As one example, in the sample calculation in Exhibit 1 to the Settlement, the stress factor increased the market price for re-entry by a multiplier of 1.5688. As described further below, based on historical data from 2005-2010, this multiplier, when run through the bond amount calculation, is in turn multiplied further such that on average, bond amounts would have been 500% higher than the average re-entry fee that could have become due.

Given the magnitude of the stress factor in determining bond amounts, its determination deserves close scrutiny. While at first glance appearing straightforward, on closer look, the

⁹ In the Bond Settlement, the bond amount consists of two parts, one part to cover incremental procurement costs associated with re-entry, described here, and one part to cover administrative costs of re-entry. These comments generally do not refer to the administrative costs portion, unless specifically indicated.

¹⁰ Note that the Bond Settlement provides for applying a stress factor multiplier to the market price and a stress factor "adder" to the bundled generation rate. In both the Settlement example and the historical data provided by the utilities, the stress factor multiplier on the market price far exceeds the stress factor adder on the bundled generation rate.

stress factor component of the Bond Settlement is quite complicated and almost indecipherable. The stress factor formula is, in fact, so complicated that the motion seeking approval of the settlements does not even attempt to explain it; the motion merely directs the reader to the 13-page Attachment 2 to the Settlement containing a highly technical and mathematical discussion of “Black’s Model,”¹¹ but with little or no explanation of why application of this options pricing model is appropriate in this instance.¹² Further, the Bond Settlement never specifies what data would be used to calculate implied volatility or otherwise what sources would be used for the implied volatility inputs that are needed to determine bond amounts, other than vague references to “independent broker quotes” from “independent brokers of NP 15 and SP 15 forward and options prices and implied volatilities.”¹³

Through data requests to the utilities and other independent research, CCSF has attempted to learn exactly what data PG&E would use directly for the implied volatility inputs or how it would otherwise calculate the implied volatilities needed to determine bond amounts for its service territory. CCSF contacted five major brokers and energy data providers and was told that there is no publicly available data or even subscription service data for implied volatility at NP15, the delivery point used in the calculation for PG&E. (Meal Decl., ¶ 9). In response to a data request, PG&E would neither reveal the source of the implied volatility data it used for a CCSF bond amount calculation it provided on October 6, 2010, nor provide the data. PG&E would only state that it used “brokers’ data, using an NP15 implied volatility input estimate

¹¹ *Joint Motion for Adoption of Settlement Agreements*, June 24, 2009, p. 11.

¹² CCSF has additional concerns, not detailed here, that other elements of the Black’s Model are applied inappropriately in this instance and do not reflect the objective to estimate future uncertainty regarding re-entry fees that might become due. For example, the application of annualized implied volatilities and an average time to expiration of 6 months to a strip of options for monthly forward contracts with expiration dates varying from one to twelve months appears to be inconsistent with the Settlement structure for re-entry fees and bond amounts, where the re-entry fee is determined based on the annual forward contract price and bond amounts are reset every six months. These concerns are described in further detail in CCSF’s comments on the PD, pp. 8-9.

¹³ Bond Settlement, Attachment 2, Workbook Notes, p. 3 of 13.

based on SP15.” (Meal Decl., ¶¶ 4-6, Ex. 1, response no. 2.c, emphasis added). In other words, using a proprietary internal model, PG&E used SP15 data to estimate the necessary implied volatility values for NP15 that the Settlement requires. (See also Meal Decl., Ex. 2, response no. 1).¹⁴ In response to a CCSF data request, PG&E was not able to state whether NP 15 prices are more or less volatile than SP 15 prices, admitting that it had not performed a study comparing NP 15 and SP 15 volatilities. (Meal Decl., ¶ 11 and Ex. 5, response 2.c).

In addition, although the utilities have indicated that the Settlement contemplates using implied volatility data based on actual market transactions (“transactional data”) (Meal Decl., Ex. 1, response no. 2.f), CCSF has been informed by Amerex Brokers LLC (“Amerex”) that it is only able to provide “indicative data,” meaning that the data are based in whole or in part on estimates or approximations of what prices would have been in a given period. (Meal Decl., ¶ 10).¹⁵ Typically, indicative data are provided when either no transactional data are available, or the data aggregator believes that insufficient transactional data are available to provide a reliable price indicator for the given period. Amerex makes clear that its implied volatility data are based to some extent on judgment-based estimates in the following disclaimer it includes in its implied volatility reports:

This Data consists of purely indicative market prices and no warranty that the Data represents or indicates prices at which transactions may be or were effected at any time is given by Amerex. Any opinion expressed or assumption made in association with the Data is a reflection of the judgment of Amerex or any person who supplies all or part of the data to Amerex at the time of compiling the Data and is subject to change without notice. (Meal Decl., ¶ 10)

The bottom line is that: (i) because NP 15 implied volatility data is not available, PG&E relies on proprietary, internal estimates; (ii) PG&E refuses to share how it calculated its

¹⁴ In response to CCSF data requests, the utilities stated that they had yet to determine, and would need to determine *separately with each CCA*, exactly what data sources would be used and whether and how those data would need to be modified in order to be used as inputs in the bond calculation. (Meal Decl., Ex. 1, response no. 1)

¹⁵ In their reply comments on the PD, the utilities claim that Amerex provides “a robust set of data.” Joint Reply Comments, Dec. 14, 2010, p. 2.

estimates; and (iii) in any event, the information upon which the estimates are based is not reliable because it is derived not from objectively verifiable transactions in a robust market, but rather from a third party broker's subjective estimates.

In reply comments on the PD, the utilities claim that the Bond Settlement "purposely" leaves the "details" regarding the calculation of implied volatility "for the parties to determine."¹⁶ However, there is nothing on the face of the settlement or the settlement motion indicating that the settling parties agreed to reserve such an important and potentially controversial input to the bond amount for future agreement. Even if this assertion were true, the settlement would be fatally flawed in expecting CCAs to agree with the utilities that there is currently a reliable and objectively verifiable method for calculating implied volatility, particularly for PG&E. Everything CCSF has learned in the last six months points to the opposite conclusion.

b. The Use of Unreliable Implied Volatilities and Stress Factors Leads to Excessive Bond Amounts

As previously noted, CCSF and MEA asked the utilities for historical data comparing the Settlement-determined bond amounts with the re-entry fees that the bonds are supposed to be "sufficient" to cover. The information provided is graphed in Figures One and Two.¹⁷

¹⁶ Joint Reply Comments, Dec. 14, 2010, p. 3

¹⁷ In their reply comments on the PD, the utilities suggest that it is inappropriate to draw conclusions from the data because of the limited number of data points. (Joint Reply Comments, p. 2). This is a surprising contention because CCSF and MEA asked the utilities to provide first-of-month re-entry fee data for the period from January 1, 2005 to the present, i.e. approximately 70 data points. However, only SCE provided information that was at all responsive, and SCE chose to only provide 35 re-entry fee data points. (Meal Decl., ¶ 7, Ex. 3).

Figure 1: Bond and Re-entry Fees

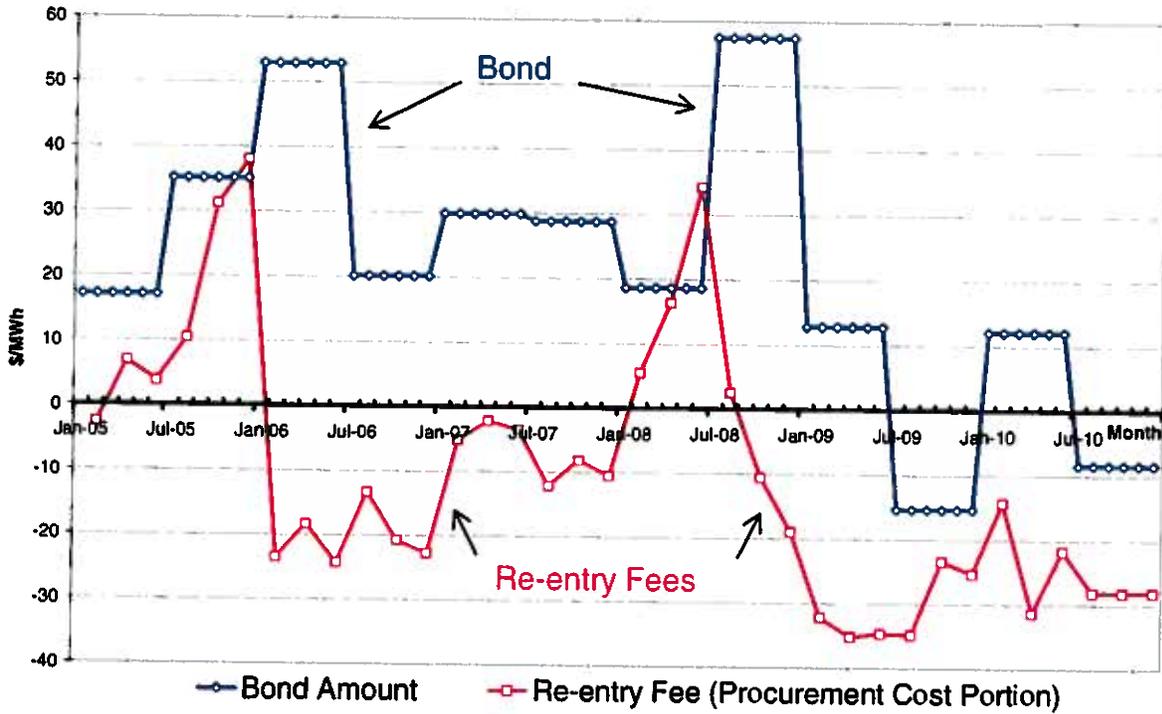
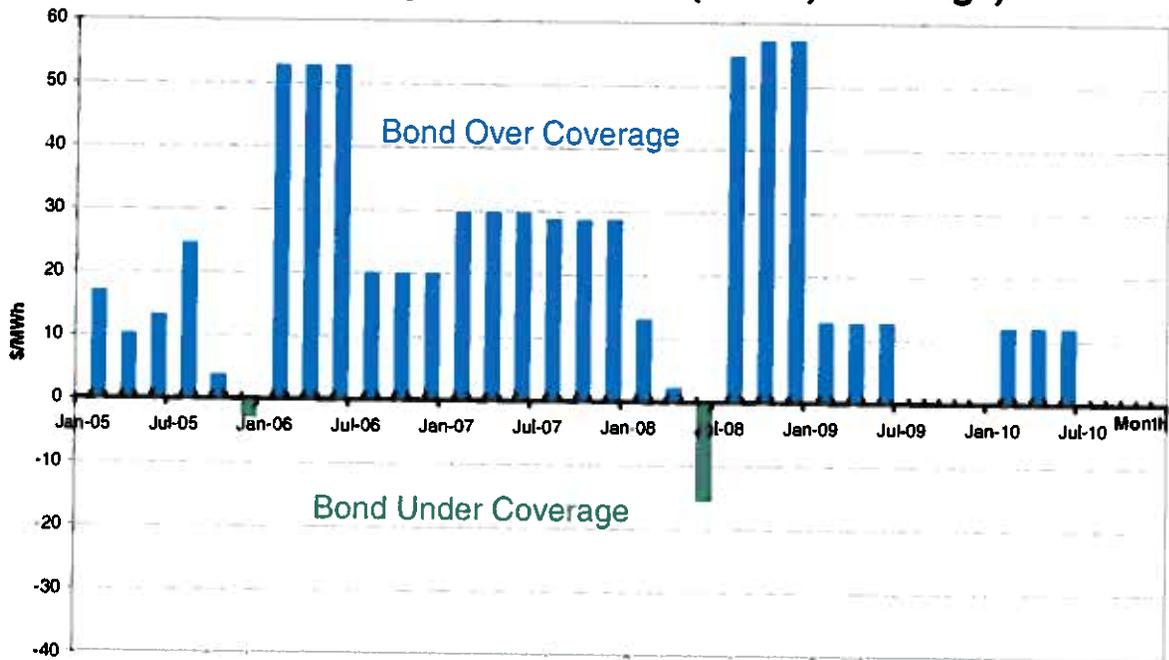


Figure 2: Bond Amount Less Re-entry Fee (Showing Extent of Over (Under) Coverage)



Although it is to be expected that the bond amount would in most instances be higher than the re-entry fee, Figures 1 and 2 show that, for all but two of the 35 dates for which data to determine re-entry fee amounts were provided, the bond requirement would have dramatically exceeded the re-entry fees that could have become due if CCA load had returned, resulting in significant and costly over-coverage of re-entry fees. On average, the bond amount over the period (approximately \$24/MWh) is 500% higher than the average re-entry re-entry fee (approximately \$4/MWh) that could have become due during the period. In many periods (e.g., most of the data points in 2006 and 2007 and several in 2009 and 2010), even though the re-entry fee is negative, and any bond amount would provide unnecessary security, the bond requirement (excluding administrative fees) would range from positive \$15/MWh to amounts approaching \$60/MWh. Figure 2 shows that the Bond Settlement would have produced significantly excessive security for almost all re-entry fee data points, even more than \$50/MWh excessive in six instances.

Applying these historical results to CCSF's projected CCA load,¹⁸ the bond amount over the five-year period would have averaged approximately \$90 million and would have been as high as \$214 million. In comparison, the approximate average re-entry fee for CCSF, had CCSF's load been returned during that period, would have been only \$15 million, six times less than the average bond amount. (Meal Decl., ¶ 8, Ex. 4). CCSF projected annual revenues are on the order of \$300-\$400 million dollars (id.), so meeting this average bond requirement with a cash deposit would require setting aside 25 percent or more of all annual receipts (prior to funding any operating expenses) of the CCA program simply to fund the average bond amount required. To meet a \$200 million bond amount, CCSF would need to dedicate as much as two-thirds of its annual gross revenue to post the required bond.

¹⁸ Note that here CCSF is applying SCE data to CCSF's load. Although it would be more appropriate to use PG&E data, SCE's data was more fully responsive to CCSF's data requests so has been used here. Based on the more limited data provided by PG&E, CCSF expects the results would be similar if PG&E data were used.

In short, to the enormous detriment of CCAs and their customers, the Bond Settlement requires excessive bond amounts that provide far more coverage than is reasonable or necessary to maintain bundled customer indifference to an involuntary return of CCA customers to the utility. Because the stress factor multiplier is the main difference between the methodologies used to calculate bond amounts and re-entry fees, it follows that the stress factor and implied volatility data are primarily responsible for the unreasonable disparity.

2. Solution to the Problem

Question five asks, if the implied volatility data is not used, what should be used instead? In summary, CCSF's response is that, because of the serious inherent problems with the implied volatility data and the stress factor, the stress factor component should be removed from the bond calculation methodology, and, if deemed necessary, the Commission should consider more frequent re-sets of the bond amount as a way of addressing market risk.

Even if there were a reliable, objectively verifiable data source to accurately account for future market volatility (and CCSF does not believe such a data source currently exists), it would still be inappropriate to use a stress factor multiplier to determine bond amounts. Using a 95% confidence interval, the Bond Settlement's stress factor is designed to ensure that the posted bond amount will exceed any potential re-entry fees 95 percent of the time. As the historical data shows, the stress factor multiplier certainly achieves that objective, but at the cost of producing bond amounts that, in most instances, wildly exceed corresponding re-entry fees. Section 394.25(e) sets a standard that the bond should be "sufficient" to avoid imposing costs on bundled customers. However, the Bond Settlement goes far beyond sufficiency, instead producing bond amounts that would be better described as "generous" and "excessive." By analogy to insurance policies, in most instances, the Bond Settlement provides excessive coverage far beyond the amount necessary to cover the risk at hand. For all its seeming mathematical precision, the stress factor turns out to be a blunt instrument.

The crudeness of the stress factor multiplier becomes even more apparent when one recognizes that CCAs are public entities accountable to public bodies whose activities are subject to open government laws. The Commission has recognized that such laws provide strong consumer protections:

Entities of local government, such as CCAs, are subject to numerous laws that will have the effect of protecting CCA customers and promoting accountability by CCAs. Under existing law, a CCA must conduct public hearings, operate within a budget and disclose most types of information to members of the public. To the extent that a CCA fails to consider the interests of its customers -- who are local citizens -- there is recourse in subsequent elections, the courts and before local government agencies. (D.05-12-041, mimeo, pp. 10-11).

In the context of re-entry fee and bond issues, the public scrutiny, oversight, and accountability of CCAs provide the necessary assurances that CCAs will be prudently managed and operated and that, in the unlikely event a CCA runs into financial difficulties, there will be significant advance notice to the public (and utilities) of such difficulties and the efforts of the CCA to address them. In its crude attempt at managing market risk, the stress factor multiplier fails to account for the offsetting protections afforded by public oversight.

Given the likelihood that CCAs will be prudently managed, the risk that fluctuations in market prices will increase the risk of sudden, involuntary termination is extremely low. However, if the Commission believes that it is necessary to accommodate market risk to some extent, the better way to address market uncertainty between re-sets of the bond amount is to consider setting the bond amount more frequently than once every six months. This concept is addressed further in response to question 2 below.

Question five further asks, if implied volatility data is used, whether it should be verified by the Commission. CCSF's response is that even the most exacting Commission scrutiny cannot salvage the poor implied volatility data the utilities propose to use. Nothing the Commission can do can transform data that is based on opaque and subjective estimates of an illiquid options market into reliable, objectively verifiable barometers of market prices. Put another way: garbage in, garbage out.

B. In Addition To Removing the Stress Factor, The Bond Settlement Should Be Revised To Change the Re-Entry Fee/Bond Period To Six Months, In Order To Reduce the Possibility that the Settlement's Bond Amount Would Force an Otherwise Stable CCA Out Of Business

Question 4: What procedures, if any, should be in place to ensure that changes in a CCA's bond obligation due to market volatility does [sic] not cause an otherwise financially stable CCA to cease operations?

1. Nature of the Problem

a. The Security Instruments Currently Available in the Market Fail to Reflect a Risk Analysis of CCA Operations

Question two reflects the Commission's longstanding concern that the bond amount should not serve as an impediment to the formation of CCA programs.¹⁹ In this regard, the original Scoping Memo identified as one of the four issues for this phase: "Assessment of the ability of CCAs to obtain a bond or insurance to meet their bond requirement."²⁰ With MEA's commencement of CCA services, the Commission now has real-world evidence about the nature of security vehicles available to CCA programs.

As MEA explained in its comments on the PD, MEA's research has shown that the type of bond that would be required by the Bond Settlement is not obtainable absent the pledge of liquid assets such as cash or a letter of credit or guarantee from a rated entity.²¹ MEA was also unable to find insurance that would enable it to meet the bond requirement.²² In effect, MEA would be required to post cash as collateral for the bond amount.²³ MEA encountered these results even though MEA is fully hedged against market price increases for the next five years.²⁴

¹⁹ *Administrative Law Judge's Ruling Setting Forth Bond Requirement Phase of the Proceeding*, May 27, 2008, p. 6.

²⁰ *Assigned Commissioner's and Administrative Law Judge's Ruling and Amended Scoping Memo*, R.03-10-003, October 8, 2008, p. 4.

²¹ Opening Comments of MEA on PD, Dec. 9, 2011, pp. 8-9.

²² *Id.*, p. 9.

²³ *Id.*

²⁴ *Id.*, p. 8.

The experience of MEA and CCSF since the settlements were presented to the Commission also shows that the A/R Offset Settlement does not offer a realistic option for meeting the bond requirement. MEA has explained that its electric supply agreement precludes use of accounts receivable assets as an offset.²⁵ CCSF has similarly found that it has little chance of being able to offset bond requirements using accounts receivable. From extensive negotiations with a potential supplier, CCSF has learned that, because accounts receivable are the source from which suppliers will be paid for the electricity they furnish, suppliers wish those assets to be unencumbered and insist that they that have the first security interest in those assets prior to committing to provide service.

In short, the available security instruments currently fail to take into account the risk profile of a CCA's operations, which means that CCAs will effectively be forced to post cash or cash equivalents to meet the Settlement's bond amount requirement, regardless of their own risk management or their ability to cover re-entry fees in the event of an involuntary return of customers. To the extent that the Settlement's bond amounts are excessive or otherwise unreasonable and are allowed to trigger the involuntary termination of a CCA program, the Bond Settlement puts CCAs at significant risk of being forced out of business even when they are financially stable.

b. The Bond Settlement's Twelve-Month Period for Calculating Re-Entry Fees and Bonds Is Excessive

Above, in response to question five, CCSF has demonstrated that the stress factor multiplier – and the unreliable implied volatility data on which it relies – in most instances produce bond amounts that wildly exceed the corresponding re-entry fees that the bonds are supposed to cover. There is another equally serious problem with the Bond Settlement that causes the bond amounts to be grossly excessive: the Settlement's twelve-month period for

²⁵ *Id.*

calculating re-entry fees and bond amounts is twice as long as it should be, effectively doubling both the re-entry fee and bond amounts.²⁶

The premise that the re-entry fee should be set to one year could only be supported if the Commission were to determine that utilities would require such a long period to adjust their procurement portfolios in the event of re-entry. In fact, the CCA tariffs adopted by the Commission make clear that six months is the appropriate period. PG&E Electric Rule No. 23.L.3.b. states that: “Customers must provide a six-month advance notice to PG&E prior to becoming eligible for BPS [Bundled Portfolio Service] so PG&E can adjust its procurement activity to accommodate the additional load.” (Emphasis added.) Returning CCA customers who give six months notice will be billed at the ordinary bundled service rates, while those who fail to give such notice will pay the higher Transitional Bundled Service (“TBS”) rate for the six-month period.²⁷ This six-month advance notice requirement applies to involuntarily returning customers, as shown by Rule 23.T, which states that, in the event of involuntary termination of a customer’s CCA service, the customer is subject to the provisions of Rule 23.L (which specifies the six-month notice requirement).²⁸ Thus, the Commission has determined that six months is sufficient for a utility to adjust its procurement in the event of an involuntary mass return of customers, precisely the situation the re-entry fee and bond methodology is meant to address.²⁹

²⁶ This problem also magnifies the excessive bond amounts caused by the stress factor multiplier. Because the Settlement’s one-year calculation period is double what it should be, the stress factor multiplier is grossing up an unreasonably high number.

²⁷ PG&E Electric Rule No. 23.L.3.c.

²⁸ PG&E Rule 23.T.4.d specifically states that, if a customer’s CCA service is terminated, the customer will be “subject to the provisions of Section L and the terms and conditions of Bundled Portfolio Service.” One of those terms and conditions under Rule 23.L is the aforementioned six-month notice requirement to allow PG&E to adjust its procurement activity. Rule 23.T.7 similarly states that “Upon termination of CCA service pursuant to this Section T,” the customer’s return to BPS is subject to the terms and conditions of Rule 23.L.

²⁹ The utilities have claimed (Joint Reply Comments on PD, p. 3) that Tariff Rule 23.S.1 points to a one-year period for calculating re-entry fees. However, that rule deals with the different situation of the amount of notice CCA programs should give utilities before they voluntarily wind up their CCA programs. Nothing in that rule speaks to the amount of time utilities need to adjust their procurement. In contrast, Rule 23.L.3.b specifically states that the six-month period is the time needed for the utility to “adjust its procurement activity to accommodate the additional load.”

Two of the settling parties have recognized that six months is the appropriate period for calculating re-entry fees. SDG&E has concluded that a re-entry fee based on a six-month TBS “would likely not produce a cost impact to bundled customers.”³⁰ In recent comments filed on the legal issues under Section 394.25(e), TURN has also indicated that a six-month TBS meets statutory requirements and would avoid imposing costs on bundled customers.³¹ In addition, the Division of Ratepayer Advocates (“DRA”) has indicated in R.07-05-025 that it believes re-entry fees should be based on the TBS rate for six months.³²

c. The Bond Settlement Makes It Too Easy for a Utility to Threaten a Financially Stable CCA with Termination

Another important means by which the Bond Settlement would inappropriately allow financially stable CCAs to be forced out of business is the provision in Section C.14 that would allow a utility to seek to terminate a CCA program based on a financial “emergency” under Tariff Rule 23.T.3 whenever a CCA – even if financially secure and operationally stable -- fails to post the required bond. This problem -- and its solution -- is discussed in response to question three below.

2. Solution to the Problems

The Commission is not able to direct sureties, insurers, and other purveyors of security vehicles to develop products that take into account the risk profile of a CCA program. Accordingly, the Commission must be vigilant to adopt a re-entry fee and bond methodology

³⁰ San Diego Gas & Electric Company’s Comments to Administrative Law Judge’s Ruling Setting Forth Bond Requirement Phase of the Proceeding, July 14, 2008, pp. 2-3.

³¹ Opening Brief of The Utility Reform Network on ESP and CCA Financial Security Requirements, January 24, 2011, pp. 5-7.

³² DRA Testimony on the Methodology for Calculating Departing Load Non-Bypassable Charges, Direct Access Switching Rules, Electric Service Provider Financial Security Requirement and Transitional Bundled Service Rate, R.07-05-025, Jan. 31, 2011, p. 10. While DRA expressed this view with respect to security requirements for electric service providers (“ESPs”), nothing in DRA’s testimony indicates that its reasoning would not be equally applicable to CCAs.

that (i) avoids excessive re-entry fee and bond amounts and (ii) includes safety valves to prevent market anomalies from driving a stable CCA out of business.

To accomplish these objectives, the Commission should make three important revisions to the Bond Settlement. First, as discussed in response to question five above, the Commission should remove the stress factor multiplier. Second, the Commission should change the calculation period for re-entry fees and bond amounts from twelve months to six months. This necessary change will reduce re-entry fees and bond amounts by approximately one-half. Third, the Commission should adopt safety valve provisions to ensure that a CCA program's failure to post a required bond amount does not force the termination of a financially stable CCA. The details of such safety valves are discussed in response to question three below.

Another less significant, but still helpful, revision to the Bond Settlement would be to require that negative procurement costs offset administrative costs for both re-entry fees and bond amounts. If the Settlement's calculated procurement cost component of the re-entry fee or bond amount is less than zero, this is an indication that the utility will financially benefit from an involuntary return of CCA customers because procurement costs for the returning load would be less than the bundled generation rate. Consequently, such negative amount should offset the administrative cost component of the re-entry fee and the bond amount.

C. The Bond Settlement Should Be Revised To: (1) Prevent Utilities From Threatening To Terminate a CCA Based Solely on a CCA's Failure To Post a Bond Amount and (2) Include Safety Valves To Prevent Termination of a Financially Stable CCA

Question 3: Should Section C.14, Failure to Post the Required Bond Amount, of the Bond/Re-Entry Fee Settlement Agreement be approved as proposed? Under what circumstances, if any, should a CCA's failure to post the required bond not be considered an emergency under Rule 23.T.3? Under what circumstances, if any, should a utility be allowed to pursue the termination process under Rule 23.T.4?

1. Nature of the Problem

Section C.14 of the Bond Settlement states: "The Parties acknowledge that under certain circumstances a CCA's failure to post the required bond amount may constitute an emergency

under Rule 23.T.3 (“Change of Service Election in Exigent Circumstances”), namely, the failure poses a substantial threat of irreparable economic or other harm to the utility or the customer.” This vague language would give the utilities license to seek to terminate a CCA program any time a CCA failed to post a required bond, if, in the biased judgment of the utility, an argument could be made that the failure to pay the bond threatens irreparable harm. Rule 23.T.3 allows utilities to request an order, on unspecified shortened notice, from an administrative law judge providing interim authority to terminate a CCA program. Once a utility files such a request, the targeted CCA would be forced to fight for its very survival – and incur the attendant crippling publicity, expense and uncertainty. This is too powerful a weapon with which to arm the utilities, particularly PG&E, which has repeatedly shown that it will take aggressive steps to undermine CCA programs.³³ Giving the utilities such an opportunity would be particularly inappropriate in light of the excessive and unreasonable bond amounts that the Bond Settlement is likely to yield and in light of the current failure of the security markets to offer a product that takes into account a CCA’s risk profile.³⁴

The last sentence of Section C.14 similarly confers too much discretion on the utilities to seek to terminate a CCA under Rule 23.T.4 for failure to post a required bond amount.³⁵ Rule 23.T.4 requires the utility to afford the CCA a thirty-day cure period, but, if a CCA were not able to muster the cash to satisfy the bond amount, the utility would be free to seek to terminate the CCA program. Once the utility made such a request, the CCA would again be forced into the highly disadvantageous position of having to defend its financial viability both before the Commission and in the equally important court of public opinion.

³³ For a discussion of PG&E’s many efforts in opposition to CCA programs, see, e.g., CCSF’s *Petition to Modify D. 05-12-041*, R.03-10-003, January 11, 2010, pp. 5-9.

³⁴ See the detailed discussions of these problems in the responses to questions five and four, above.

³⁵ The last sentence states: “The Parties also acknowledge that the utility may, alternatively, pursue the termination process described under Rule 23.T.4 (“Change of Service Election Absent Exigent Circumstances”).

2. The Solution to the Problem

In summary, the Settlement should be revised regarding the effect of a CCA's failure to post a required bond amount, as it relates to both Rules 23.T.3 and 23.T.4. In addition, at any point, a CCA should be free to petition the Commission for relief from some or all of its bond obligation.

With respect to Rule 23.T.3, the Bond Settlement should be revised to state that a CCA's failure to post a required bond amount, by itself, is not a basis for a utility to claim that there is a threat of irreparable harm justifying emergency termination. As these comments have shown, such a failure is more likely to be the result of excessive bond amounts or limitations of the security products market than an indication that a CCA is experiencing serious financial or operational difficulties. Utilities should be required to identify other facts that truly demonstrate imminent and irreparable harm to support an emergency termination petition.

With respect to Rule 23.T.4, the Bond Settlement should be revised to state that a utility may pursue termination under this rule based on failure to post a required bond, only if the utility can demonstrate that the CCA's posted bond amount is less than the re-entry fee that would be due based on market prices for the most recent prior month for which the relevant data are available. If the posted bond amount exceeds this threshold, then a CCA will be fully able to meet its re-entry fee obligations and bundled customers will be fully protected. In addition, the Commission should make clear that, even if a posted bond amount does not meet this threshold, the Commission is unlikely to terminate a CCA unless there are other indications of serious financial problems.

Finally, CCAs should have the right at any time to petition the Commission for relief from some or all of a bond obligation, based on a showing that the otherwise required bond amount is not necessary to protect bundled customers and posting the required amount would cause financial hardship to the CCA. In addition, CCAs should be able to seek an expedited ruling from an administrative law judge and/or Assigned Commissioner providing temporary relief pending a Commission ruling on the CCA petition. Such provisions would enable CCAs

to take proactive steps to prevent escalating bond requirements from harming otherwise financially healthy programs and their customers, rather than having to wait to defend against a termination action by a hostile utility.

D. If the Commission Removes the Stress Factor Multiplier, It Should Consider More Frequent Calculations of the Bond Amount as a Way To Address Market Uncertainty

Question 2: Section C.12, Posting and Adjustments to CCA Bond Amounts, of the Bond/Re-Entry Fee Settlement Agreement proposed that the bond amount be calculated twice a year (unless a new phase of the CCA Service program is implemented) and adjusted if/when the amount is more than 10% above or below the then-current CCA posted bond amount. In comments to the proposed decision, the City and County of San Francisco (CCSF) has proposed that the bond amount be calculated on a monthly basis, with adjustments when the amount is more than 20% above or below the then-current CCA posted bond amount. Should the frequency of the bond calculation or the trigger amount before the bond amount is adjusted be revised, as proposed by CCSF in its comments to the proposed decision? Why or why not?

If the Commission is concerned about market price uncertainty between settings of the bond amount, the better way to address this uncertainty is to calculate the bond amount more frequently, rather than to rely on the highly flawed stress factor multiplier and the unverifiable implied volatility data on which it depends.³⁶ CCSF wishes to emphasize that more frequent calculations of the bond amount would only be appropriate if the Commission (wisely) required the removal of the stress factor multiplier from the bond methodology.³⁷

If the stress factor were eliminated, calculation of the bond amount would be based on non-controversial, easily verified data inputs. CCAs would thus be able to quickly verify utility calculations of bond amounts and easily resolve questions regarding potential calculation errors with the utilities. As a result, the process for establishing the bond amount would be considerably quicker and less controversial than the methodology proposed in the Bond Settlement.

³⁶ The serious problems with the implied volatility data and the stress factor multiplier are discussed in response to question five above.

³⁷ Stress factors would be removed in both the calculation of market procurement costs and bundled generation costs.

In light of the relative administrative ease of calculating the bond amount without the stress factor, the bond could be calculated more frequently, as often as monthly, without imposing any undue administrative burdens. Such a methodology would do a much better job than the Bond Settlement of adapting the bond amount to changes in the market without requiring bond amounts that wildly exceed the re-entry fees that the bonds are designed to cover. Referring back to Figure One, the calculated bond amount would no longer be the top line but would essentially track the bottom line representing re-entry fees.³⁸

If the Commission were to require more frequent bond amount calculations, CCSF continues to recommend increasing the adjustment trigger for re-set of the bond amount from 10 percent (*i.e.*, a 10 percent difference from the previously set bond amount) to 20 percent. This change would limit the need for re-posting of changed bond amounts, by only requiring bond amount re-sets when there is a significant change in the bond calculation. Note that this change would be “neutral” as between CCAs and utilities, in that it could prevent a re-set of a bond amount to either a higher or lower amount.

E. The Bond Settlement Should Be Revised To Phase In the Bond Requirement Over Five Years Rather Than Two Years

Question 1: Should there be a different methodology for calculating the bond requirement for a CCA during its first few years of operation? If so, why? How would this methodology differ from the sliding scale factors proposed in Section C.10 of the Bond/Re-Entry Fee Settlement Agreement? Parties advocating for a different methodology should also explain why the sliding scale factors proposed in Section C.10 do not adequately address the needs of a new CCA program.

When CCA programs begin operations, they will need time to build up successful track records and credit histories in order to become entities that can incur significant debt and other large financial obligations in their own right.³⁹ In the early years of operations, CCA programs will find it particularly difficult to meet a substantial bond requirement, especially if the bond

³⁸However, when the procurement portion of re-entry fees is negative, the procurement portion of the bond calculation would not go below zero.

³⁹ See Opening Comments of MEA on PD, p. 8.

amount is a significant percentage of annual operating revenues. As shown in response to question five above, historical data shows that the Bond Settlement would have produced bond amounts as high as two-thirds of the CCSF program's gross annual revenue.

The Bond Settlement's two-year phase-in period is insufficient to accommodate the need for CCA programs to become established financial entities. CCSF recommends a five-year phase-in period, such that the required bond amount would be 50% of the calculated amount in year one, 60% in year two, 70% in year three, 80% in year four, and 90% in year five. Thereafter, the required bond amount would be equal to the calculated bond amount.

CCSF wishes to emphasize, however, that a longer phase-in period is insufficient to remedy the major problems with the Bond Settlement. Excessive bond requirements – primarily caused by the stress factor multiplier and the use of a twelve-month rather than six-month calculation period – would cause great harm to CCA programs at any point in their operating histories. At any time, a \$200 million bond for a \$300 million program would be extremely difficult to meet, and, at the very least, would drive up operating costs and make CCAs less competitive with their utility competitors, which are not required to post similarly-structured bonds.

IV. CONCLUSION

CCSF commends the Commission for re-opening the record in this phase and for seeking additional information regarding the Bond Settlement. Based on the foregoing responses to the Commission's five questions, CCSF recommends the following changes to the Bond Settlement:

(1) The time period for the calculation of re-entry fees and bond amounts should be reduced from twelve months to six months;

(2) The stress factor multiplier should be removed from the calculation of market procurement costs; consequently, the stress factor "adder" should also be removed from the calculation of bundled generation costs;

(3) Section C.14 of the Bond Settlement should be changed to state the following:

(a) A CCA's failure to post a required bond amount is not, by itself, a sufficient reason for a utility to seek emergency termination of a CCA program under Tariff Rule 23.T.3;

(b) A utility may not seek to terminate a CCA program under Tariff Rule 23.T.4 based on a failure to post a required bond amount if the posted bond amount exceeds the re-entry fee that would be due based on the most recent prior month for which data are available. In addition, the Commission should make clear that, even if a posted bond amount does not meet this threshold, the Commission is unlikely to terminate a CCA unless there are other indications of serious financial problems.

(c) A CCA may petition the Commission at any time for relief from all or part of a bond amount requirement based on a showing that the required bond amount is not necessary to protect bundled customers and would cause financial hardship to the CCA. CCAs may seek an expedited ruling from an administrative law judge and/or Assigned Commissioner pending a Commissioner decision on the petition.

(4) If the stress factor multiplier is removed (and only if this change is made), the Commission may wish to require the bond amount to be calculated more frequently than every six months, *e.g.*, every month. If the bond amount is calculated more frequently, the adjustment trigger (*i.e.*, the difference from the previously set bond requirement) for re-set of the required bond amount should be increased from 10 percent to 20 percent.

ATTACHMENT A
Declaration of Margaret Meal

I, Margaret A. Meal, declare as follows:

1. I am Manager of Regulatory and Legislative Affairs for the Power Enterprise of the San Francisco Public Utilities Commission ("SFPUC"). My duties include managing regulatory affairs related to the efforts of the City and County of San Francisco ("CCSF") to launch CleanPowerSF, its community choice aggregation ("CCA") program. I began working for the SFPUC on February 22, 2010. I make this declaration based on my own personal knowledge.
2. I have worked in the electric power industry for my entire professional career (over twenty years), primarily as a consultant advising business interests, public agencies, investors, lenders and regulatory agencies on financial and economic issues, including asset valuation, risk assessment, financial alternatives, utility cost of capital and ratemaking.
3. Beginning in September 2010, under my direction, SFPUC has undertaken a close analysis of the provisions of the proposed Bond/Re-Entry Fee Settlement ("Settlement") to assess, among other things, the reasonableness of the bond amounts and re-entry fees that would be fixed under the Settlement, whether and how well the Settlement serves its intended purpose of providing coverage for re-entry fees, and the transparency and reliability of the data needed to calculate the bond amounts and re-entry fees.
4. To assist in this analysis, SFPUC, in conjunction with the Marin Energy Authority ("MEA"), served data requests on Pacific Gas & Electric Co. ("PG&E"), Southern California Edison Co. ("SCE") and San Diego Gas and Electric Co. ("SDG&E") (collectively "the IOUs") on October 21, 2010. The main purposes of the data requests were to obtain information that would help in assessing the transparency, verifiability and reliability of the implied volatility data used to calculate the bond amount, and to obtain historical data that would facilitate a comparison of the bond amounts and re-entry fees that would have been fixed by the Settlement going back to January 1, 2005.

5. CCSF obtained from the IOUs a first set of responses to those data requests on November 4, 2010. These responses are attached to this declaration as Exhibit 1.

6. CCSF and MEA served follow-up data requests to the IOUs on November 10, 2010. On November 17, 2010, the IOUs provided responses to those follow-up questions, as well as additional information responsive to the November 4, 2010 data requests. The November 17, 2010 responses are attached to this declaration as Exhibit 2.

7. As part of the November 17, 2010 response, SCE provided calculations of the procurement cost component of bond amounts under the Settlement for each six-month period from 2005 to 2010, as well as the procurement cost component of re-entry fees for a sample of re-entry dates spread throughout the period. On December 3, 2010, SCE provided additional data for additional sample dates and calculations of the procurement cost component of re-entry fees for those dates. All of the data provided by SCE, together with CCSF's calculations of the procurement cost component of re-entry fees for additional sample dates (using SCE's data), are included in Exhibit 3 to this declaration. CCSF used these data to prepare Figure 1 in the comments on the Proposed Decision to which this declaration is attached.

8. Using the data in Exhibit 3, CCSF estimated the bond amounts that would have applied to CCSF during the period 2005 to the present, and estimated re-entry fees for the sample dates that were available as described above, assuming CCSF was located in SCE's service territory. (PG&E did not provide comparable data and calculations.) The calculations on which CCSF based its estimates are shown in Exhibit 4 to this declaration. For purposes of preparing this estimate, CCSF assumed that it would serve 80% of its potential load. As shown in Exhibit 4, CCSF also estimated the revenues it would receive as a provider of CCA services. For purposes of this estimate, CCSF assumed per unit revenues ranging from \$80/MWh to \$100/MWh. For both bond amounts and re-entry fees, the administrative costs are assumed to be zero, and for any calculation where the procurement cost component is negative, the corresponding bond amount or re-entry fee is set to zero.

9. As another part of CCSF's analysis of the Settlement (specifically the implied volatility data), in September and October of 2010, SFPUC employees corresponded by e-mail with the following five major brokers / energy data providers regarding the availability of subscription services for NP 15 implied volatility: (1) Amerex Brokers LLC ("Amerex"), (2) ICAP Energy, (3) Tradition Financial Services Energy Division, (4) ICE Energy and (5) Platts. We learned that none of these entities offered a product that provides implied volatility data for NP 15.

10. In October 2010, SFPUC contacted by email Amerex (the source for implied volatility data the IOUs referenced in their data request responses) to gain more information regarding the quality and reliability of its implied volatility data product. Amerex informed CCSF that it provides "indicative" data rather than "transactional" data. Typically, indicative data are provided when either no transactional data are available, or the data aggregator believes that insufficient transactional data are available to provide a reliable price indicator for the given period. A sample implied volatility report that Amerex provided to CCSF included the following disclaimer:

This Data consists of purely indicative market prices and no warranty that the Data represents or indicates prices at which transactions may be or were effected at any time is given by Amerex. Any opinion expressed or assumption made in association with the Data is a reflection of the judgment of Amerex or any person who supplies all or part of the data to Amerex at the time of compiling the Data and is subject to change without notice. To the fullest extent permitted by law, no responsibility or liability for, nor warranty or representation as to, the accuracy, quality, speed, correctness or completeness, frequency or provision, merchantability or fitness for a particular purpose or requirement of the Data will be accepted or is given by Amerex or by any person supplying any or all of the Data to Amerex, whether or not arising from the negligence or otherwise of Amerex or any other such person including, without limiting the foregoing, any liability for economic loss or any indirect or consequential loss or damage, including loss of business or profits.

11. CCSF served a data request to PG&E on February 10, 2011, in connection with R.07-05-025 and the phase of that proceeding that relates to ESP financial security requirements.

Question 2.c of that data request asks for additional information regarding how NP15 and SP15 volatilities relate to each other. On February 17, 2011, PG&E provided a response to that data request in which it indicated that it could not answer the question because it has not performed a

Exhibit 1 to Meal Declaration

Joint Responses of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) to Information Requests from City and County of San Francisco and Marin Energy Authority Regarding Bond Settlement

Date of Request: October 21, 2010

Responses: November 4, 2010

- 1. We would like to get a better sense of how implied volatility has varied historically, to see the range of implied volatilities that has occurred, and whether there have been short-term spikes or crashes in implied volatilities that might result in bond amounts that are artificially too high or too low if the bond reset happens to coincide with a spike or crash in implied volatility. Please provide historical implied volatility data for NP15 that are required for the inputs for the bond calculation for the past five years (and up to ten years if available), by trading day if possible, or monthly averages. Please provide the corresponding forward contract prices for each implied volatility. If this data is not available for NP15, please provide SP15 data.**

Response

The requested historical data on implied volatilities is the proprietary property of the brokers that make those calculations and therefore cannot be shared by the IOUs. For example, SCE subscribes to Amerex in order to get such information, which makes monthly combined SP 15/ NP 15 implied volatility data available. Pursuant to the terms and conditions of SCE's Amerex subscription, SCE cannot share this information with third parties; however, this information is available to all Amerex subscribers. An IOU's approximation of the data for any given delivery point is also proprietary information that cannot be shared.

However, in an effort to provide CCSF and MEA the data needed to calculate the range of possible financial security amounts over the last several years, the IOUs have attached a worksheet that provides the volatilities and prices for the lowest and highest one year strips that PG&E has observed since 2005 on NP 15. 2005 and 2008 price points and volatilities are highlighted in yellow.

Also, in response to Question 3 of this data request, SCE will be providing the average historical implied volatilities used in its illustrative calculations; SCE requires some additional time to complete the illustrative bond and re-entry fee calculations requested in Question 3, and expects to provide those calculations by November 16, 2010.

The IOUs have also attached names and contact information of brokers for purchase of the volatility and price data needed to perform the daily or monthly calculations outlined in this request.

Also, please note that the source, location, type and provider of data to be used for price and volatility inputs for each CCA's bond calculation are open for discussion and ultimately subject to mutual agreement by an IOU and each CCA.

2. **We would like to make sure it is clear (and that we understand) how published market data are transferred into inputs to the bond model, as follows:**
 - a. **Are the monthly implied volatilities shown in the bond model (and as shown in PG&E's update of the bond calculation dated October 6, 2010¹) the average of the published implied volatility for each trading day of the month, a single trading day, or something else?**

Response

The data provided is an example of how the model works and the price and volatility are approximated volatilities and prices as of that day.

- b. **Are the monthly implied volatilities shown in the bond model (and as shown in PG&E's update of the bond calculation dated October 6, 2010) the published implied volatilities for the on-peak price, the off-peak price, or something else?**

Response

They are for on-peak.

- c. **What published or other sources are used for the implied volatility inputs in: (i) PG&E's update of the bond calculation dated October 6, 2010, and (ii) the sample bond calculation attached to the settlement agreement? Please provide a copy of the source material used for these calculations.**

Note: we have contacted both Amerex and ICAP regarding their published implied volatility data. Neither provides implied volatility data for NP15.

Response

PG&E's update of the bond calculation was based on brokers' data, using an NP15 implied volatility input estimate based on SP15. As stated in response to Question 1, the IOUs cannot provide the source material for the calculations run for this exercise; however, the data is available to anyone under a paid subscription with Amerex or other comparable source.

¹ Here and as referenced throughout, we are referring to the file named '10-06-10 Bond_Calc_100110_v1.xls.'

- d. What is the cost of PG&E's source for implied volatility data? If part of a package, please provide details on package components and cost.**

Response

The requested information is confidential. Subscription cost information is available directly from power and gas delivery points data sources, like Amerex.

- e. We have obtained a limited sample of implied volatility data on a trial basis for SP15 from Amerex. The data show, for a given date, both "monthly" implied volatilities and "daily" implied volatilities for options for a given monthly forward contract. Which (monthly or daily) implied volatility do each of the IOUs use for the inputs to the bond model, and why?**

Response

In an effort to make the calculations as transparent as possible, the settlement contemplates an average implied volatility from 30 concurrent days of available implied volatility data. For the illustrative calculations in response to Question 3, which SCE expects to provide by November 16, 2010, SCE will use the monthly implied volatilities.

Also, as stated in the response to Question 1, the IOUs and each CCA will together decide the mutually acceptable pricing point, volatility and provider of data for the CCA's bond.

- f. Do the data sources available to the IOUs for the implied volatility inputs use indicative or transactional implied volatility data? For the purposes of the bond model inputs, is it the intent of the settlement that any source used for input data would be required to meet a minimum quality standard (e.g. number of option contracts or volume of energy in option contracts per month) to provide assurances that the model produces reliable results? Is this information available for the implied volatility inputs included in PG&E's October 6, 2010 update and in the calculation attached to the settlement agreement, either from PG&E's brokers or their published sources?**

Response

The settlement contemplates using transactional implied volatility data, as well as a minimum of 30 concurrent days of available implied volatility data from an agreed upon, qualified data source, which would be sufficient to produce reliable results .

SCE will use the transactional implied volatility data from the source described above for the illustrative calculations it will be providing by November 16, 2010 in response to this data request.

3. We would like to see historical results for bond amounts and re-entry fees. Assuming a CCA in PG&E's service territory had started serving customers on January 1, 2005, please provide (i) bond amounts in \$/MWh assuming a re-set of the bond amount every six months (January 1 and July 1 of each year), (ii) re-entry fees assuming involuntary return of CCA customers on the first of each month from January 1, 2005 to the present.

For simplicity please assume

- a. Administrative fees = zero
- b. No load shape adjustments to forward prices in the bond amount, i.e., current ERRA MPB methodology applies
- c. CCA load shape and class makeup matches IOU load shape and class makeup
- d. RPS forbearance applies
- e. RA adder reported in MPB Calculation (\$4/MWh) applies
- f. The CCA provides no notice and customers are returned en masse on the first of each month
- g. No sliding scale factors apply
- h. No bond offset amounts apply

Provide a summary table that shows the following inputs and results:

Re-Entry Fee input/result	Monthly amounts, Jan 2005-Oct 2010
Market price benchmark prior to loss adjustments and capacity adder, adjusted for load shape (\$/MWh)	
Loss adjustment (%)	
Capacity adder (\$/MWh)	
Resulting procurement price (\$/MWh)	
IOU system-average bundled generation rate (\$/MWh)	
Resulting re-entry fee (showing negative amounts if negative) (\$/MWh)	

Bond Amount input/result	Semi-annual amounts, Jan and July, 2005-2010
Market price benchmark prior to loss adjustments and capacity adder (\$/MWh)	
Loss adjustment (%)	
Capacity adder (\$/MWh)	
Resulting procurement price (\$/MWh)	
Derived average volatility (%)	
Stress factor	
Resulting stressed procurement price (\$/MWh)	
Stressed bundled generation rate (\$/MWh)	
Resulting bond amount ("bundled customer exposure," showing negative amounts if negative) (\$/MWh)	

Response

The assessment of risk is something that each entity must perform separately, to the standards appropriate to that entity. As described in the response to Question 1, PG&E has shared volatility and pricing information for NP 15 to enable CCSF and MEA to calculate a range of historical financial security amounts over the past 5 years, which is provided in the attached workbook. In addition, by November 16, 2010, SCE will be providing illustrative financial security calculations for each six-month period from 2005 to 2010, as well as re-entry fee calculations for those same six-month periods. Performing these calculations is a time consuming process. The original data request asked for re-entry fee calculations for each month from Jan 2005 through Oct 2010 this equates to 70 separate re-entry fee calculations. SCE proposes to perform re-entry fees calculation assuming that the CCA had an involuntary return two months after the bond was posted. For example if the bond is posted for Jan 2005 assume that the involuntary return occurs in March 2005 and calculate the re-entry fee. This will limit the number of calculations required to 12 and still provides a representative data set.

After CCSF and MEA receive all of this information, the IOUs are willing to participate in a further "walk through" discussion if needed, similar to one we conducted in October.

4. For each of the monthly re-entry dates above, show monthly average rates (in \$/MWh) that a CCA customer would have paid had the CCA customer returned to bundled service on those dates and elected to waive the six-month notice period, i.e., had the CCA customer been placed on TBS service (PG&E tariff E-TBCC) immediately upon its return. Assume a system-average load profile for the returning CCA customer.

Response

This question assumes a voluntary customer return to IOU procurement service. However, the bond or security requirement and re-entry fees at issue in the CCA Bond and Re-Entry Fee Settlement are relevant only in the context of involuntary returns of CCA customers to IOU procurement service. Customers involuntarily returned to IOU

procurement service by their CCAs will not be placed on TBS service, so TBS rates are not relevant in the context of involuntary returns.

Historical TBS rates are available on SCE's website at <http://www.sce.com/CustomerService/direct-access-switching/> under the section entitled "Procurement Charge Documents."

Historical TBCC rates are available on PG&E's website at <http://www.pge.com/notes/rates/tariffs/tbcc/> under the section entitled "Transitional Bundled Service Electric Commodity Prices (TBCC)".

Exhibit 2 to Meal Declaration

Joint IOU Responses to Request for Follow-Up Information from
City and County of San Francisco and Marin Energy Authority
Regarding Bond Settlement. Issued November 10, 2010

1. Response 1, second paragraph, states:

However, in an effort to provide CCSF and MEA the data needed to calculate the range of possible financial security amounts over the last several years, the IOUs have attached a worksheet that provides the volatilities and prices for the lowest and highest one year strips that PG&E has observed since 2005 on NP 15. 2005 and 2008 price points and volatilities are highlighted in yellow.

Please clarify: are the volatility and price data provided based on third-party sources, published or otherwise, or PG&E's internal analysis? If the data are from a third party source, please describe.

RESPONSE: For the NP15 Price, PG&E used a simple average of broker quotes and implemented the computation via a third-party software. For NP15 Volatilities, PG&E used the Amerex quotes for SP15. Amerex used to provide volatility quotes for the first 12 forward monthly strips, but they are currently only providing data for the first 10 monthly strips. The volatilities for the remainder (2 month strips) are extrapolated via an internal model.

PG&E's internal model is proprietary; however, Amerex provides volatility quotes for the quarterly strip that would include the 2 monthly strips that PG&E extrapolates from its internal model. The 10 monthly strips, together with the quarterly strip, provide sufficient information for any party to derive volatilities for those two months.

2. Response 1, second to last paragraph, references an attachment with names and contact information of brokers for data. Please provide the attachment.

RESPONSE: The names and contact information of brokers for this data are as follows:

Power Forwards:

ICAP –
Jeff Teague
(919) 969-9779
jeff.teague@us.icapenergy.com

Prebon –
Ben Preston
(201) 557-5904
bpreston@tpinformation.com

Amerex –

Melissa Gist
(281) 340-5206
mgist@amerexenergy.com

Tullett –
Michael Esposito
(212) 208-5876
MEsposito@tullett.com

ICE –
Ed Fraim
(646) 733-5018
Ed.Fraim@theice.com

Power volatility:

Amerex –
Melissa Gist
(281) 340-5206
mgist@amerexenergy.com

3. Response 2c states that “PG&E’s update of the bond calculation was based on brokers’ data, using an NP15 implied volatility estimate based on SP 15.”

a. Did PG&E and/or the brokers’ data use monthly or daily SP15 volatilities to estimate NP 15 volatilities?

RESPONSE: PG&E used daily quotes of monthly volatilities.

b. To estimate NP15 volatilities, were the SP15 volatilities used directly or adjusted in some way? If they were adjusted, please provide a description of the adjustment.

RESPONSE: PG&E adjusted the SP15 volatilities by up to three percent for illustration purposes only.

Exhibit 3 to Meal Declaration

Based Amount Input/result	Jan-05	Jul-05	Jan-06	Jul-06	Jan-07	Jul-07	Jan-08	Jul-08	Jan-09	Jul-09	Jan-10	Jul-10
Trade dates averaged for Market Price Benchmark (all trade days in month)	Oct-04	Apr-05	Oct-05	Apr-06	Oct-06	Apr-07	Oct-07	Apr-08	Oct-08	Apr-09	Oct-09	Apr-10
1 Market Price Benchmark prior to loss adjustments and capacity adder (\$/MWh)	60.48	67.70	90.72	69.42	67.14	72.39	68.79	66.06	60.75	40.36	51.44	43.00
2 Loss Adjustment (%)	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
3 Capacity Adder (\$/MWh)	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
4 Resulting procurement price (\$/MWh) [(Line1* Line2)+(Line3*115%)]	72.17	79.81	104.21	81.64	79.22	84.79	78.84	99.27	72.45	50.83	62.58	53.63
5 Derived Average Volatility (%)	30.09%	36.56%	42.24%	44.30%	44.79%	36.84%	32.12%	38.94%	38.09%	43.78%	41.45%	32.93%
6 Stress Factor	1.39	1.48	1.56	1.59	1.60	1.48	1.42	1.51	1.50	1.50	1.55	1.43
7 Resulting stressed procurement price (\$/MWh)	\$ 100.12	\$ 118.10	\$ 162.90	\$ 130.12	\$ 126.86	\$ 125.80	\$ 111.64	\$ 150.33	\$ 108.81	\$ 80.63	\$ 97.09	\$ 76.56
8 Stressed bundled generation rate (\$/MWh)	\$ 83.00	\$ 83.00	\$ 110.00	\$ 110.00	\$ 97.00	\$ 97.00	\$ 93.00	\$ 93.00	\$ 96.00	\$ 96.00	\$ 85.00	\$ 85.00
9 Resulting bond amount (bundled customer exposure*) (\$/MWh) assuming zero admin costs	\$ 17.12	\$ 35.10	\$ 52.90	\$ 20.12	\$ 29.86	\$ 28.60	\$ 18.64	\$ 57.33	\$ 12.81	\$ (15.37)	\$ 12.09	\$ (8.44)

Re-Entry Fee Input/result	Feb-05	Aug-05	Feb-06	Aug-06	Feb-07	Aug-07	Feb-08	Aug-08	Feb-09	Aug-09	Feb-10	Aug-10
Trade dates averaged for Market Price Benchmark (all trade days in month)	Feb-05	Aug-05	Feb-06	Aug-06	Feb-07	Aug-07	Feb-08	Aug-08	Feb-09	Aug-09	Feb-10	Aug-10
1 Market Price Benchmark prior to loss adjustments and capacity adder, adjusted for load shape (\$/MWh)	58.72	71.09	64.55	74.19	69.83	63.02	75.87	73.05	43.17	40.66	49.63	36.62
2 Loss Adjustment (%)	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
3 Capacity Adder (\$/MWh)	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
4 Resulting procurement price (\$/MWh) [(Line1* Line2)+(Line3*115%)]	70.28	83.41	78.48	86.89	81.88	74.85	88.47	85.48	53.81	51.14	60.65	48.86
5 IOU system-average bundled generation rate (\$/MWh)	\$ 73.00	\$ 73.00	\$ 100.00	\$ 100.00	\$ 87.00	\$ 87.00	\$ 83.00	\$ 83.00	\$ 86.00	\$ 86.00	\$ 75.00	\$ 75.00
6 Resulting re-entry fee (bundled customer exposure*) (\$/MWh) assuming zero admin costs	\$ (2.71)	\$ 10.41	\$ (23.52)	\$ (13.31)	\$ (5.14)	\$ (12.15)	\$ 5.47	\$ 2.48	\$ (32.19)	\$ (34.86)	\$ (14.35)	\$ (28.14)

*Assumes 64% OnPeak and 36% OffPeak average 12 month load shape adjustment based on SCE Load Forecast

Additional Data points for Re-Entry Fee Calculation

Re-Entry Fee Input/result	Jun-05	Dec-05	Jun-06	Dec-06	Jun-07	Dec-07	Jun-08	Dec-08	Jun-09	Dec-09	Jun-10	Dec-10
Trade dates averaged for Market Price Benchmark (all trade days in month)	Jun-05	Dec-05	Jun-06	Dec-06	Jun-07	Dec-07	Jun-08	Dec-08	Jun-09	Dec-09	Jun-10	Dec-10
1 Market Price Benchmark prior to loss adjustments and capacity adder, adjusted for load shape (\$/MWh)	64.85	97.13	83.78	65.24	71.16	64.55	102.95	52.82	40.62	49.62	42.65	42.65
2 Loss Adjustment (%)	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
3 Capacity Adder (\$/MWh)	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
4 Resulting procurement price (\$/MWh) [(Line1* Line2)+(Line3*115%)]	78.79	111.01	75.66	77.20	83.48	76.47	117.18	64.04	51.32	60.65	53.26	53.26
5 IOU system-average bundled generation rate (\$/MWh)	\$ 73.00	\$ 73.00	\$ 100.00	\$ 100.00	\$ 87.00	\$ 87.00	\$ 83.00	\$ 83.00	\$ 86.00	\$ 86.00	\$ 75.00	\$ 75.00
6 Resulting re-entry fee (bundled customer exposure*) (\$/MWh) assuming zero admin costs	\$ 3.79	\$ 38.01	\$ (24.34)	\$ (22.80)	\$ (3.52)	\$ (10.53)	\$ 34.18	\$ (18.96)	\$ (34.68)	\$ (25.35)	\$ (21.74)	\$ (21.74)

Additional re-entry fee sample dates added by CCSF, using SCE data

Re-Entry Fee Input/result	Oct-04	Apr-05	Oct-05	Apr-06	Oct-06	Apr-07	Oct-07	Apr-08	Oct-08	Apr-09	Oct-09	Apr-10
Trade dates averaged for Market Price Benchmark (all trade days in month)	Oct-04	Apr-05	Oct-05	Apr-06	Oct-06	Apr-07	Oct-07	Apr-08	Oct-08	Apr-09	Oct-09	Apr-10
1 Market Price Benchmark prior to loss adjustments and capacity adder (\$/MWh)	60.48	67.70	80.72	69.42	87.14	72.39	86.79	86.06	60.75	40.36	51.44	43.00
2 Loss Adjustment (%)	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
3 Capacity Adder (\$/MWh)	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
4 Resulting procurement price (\$/MWh) ((Line1* Line2)+(Line3*115%))	72.17	79.81	104.21	81.64	79.22	84.78	78.84	99.27	72.45	50.83	62.58	53.63
5 IOU system-average bundled generation rate (\$/MWh)	\$ 73.00	\$ 73.00	\$ 73.00	\$ 100.00	\$ 100.00	\$ 87.00	\$ 87.00	\$ 83.00	\$ 83.00	\$ 66.00	\$ 66.00	\$ 85.00
6 Resulting re-entry fee ("bundled customer exposure") (\$/MWh) assuming zero admin costs	\$ (0.83)	\$ 6.81	\$ 31.21	\$ (18.36)	\$ (20.78)	\$ (2.21)	\$ (8.16)	\$ 16.27	\$ (10.55)	\$ (35.17)	\$ (23.42)	\$ (31.37)

Exhibit 4 to Meal Declaration

CCSF total potential load (2009 data)

4,668,759 MWh

Assumed opt out rate

20%

CCA load

3,735,007 MWh

	<u>\$/MWh</u>	<u>Annual amount</u>	<u>Monthly amount</u>
Maximum Bond posting	57.33	\$ 214,144.375	
Average bond posting (no negative procurements)	23.73	\$ 88,631.721	
Average of new procurement amounts	(10.17)	\$ (37,989.738)	
Average re-entry fee (no negative procurements)	4.10	\$ 15,320.256	
Minimum bond	-	\$ -	
CCA revenues (at \$80/MWh)	80.00	\$ 298,800.576	\$ 24,900.048
CCA revenues (at \$100/MWh)	100.00	\$ 373,500.720	\$ 31,125.080

CCA @ \$80/MWh

Max bond as proportion of CCA revenues

72%

Average bond as proportion of CCA revenues

30%

CCA @ \$100/MWh

Max bond as proportion of CCA revenues

57%

Average bond as proportion of CCA revenues

24%

Exhibit 5 to Meal Declaration

**PACIFIC GAS AND ELECTRIC COMPANY
Direct Access Reopening OIR
Rulemaking 07-05-025
Data Response**

PG&E Data Request No.:	CCSF_001-02		
PG&E File Name:	DirectAccessReopeningOIR_DR_CCSF_001-Q02		
Request Date:	February 10, 2011	Requester DR No.:	CCSF-01
Date Sent:	February 17, 2011	Requesting Party:	The City and County of San Francisco
PG&E Witness:	Shahrokh Hessami	Requester:	Tom Long

QUESTION 2

PG&E Testimony Page 4-14, Line 33 – Page 4-14, Line 3, states “The IOUs have provided sufficient description for the sources available to any party to access market prices and volatilities. This information is not free and is subscription based. However, there should be no doubt about its availability to anyone in the public. The name and contact of these providers are provided below in Table 4-3.” Table 4-3 Line No. 6 then lists Amerex as the sole source of volatility data for the bond calculation.

CCSF understands that Amerex does not offer an NP15 volatility product and as of 2010 no longer offers a combined NP15/SP15 volatility product. CCSF further understands that Amerex’ volatility products are for “Mid C”, “Palo Verde” and “SP”.

- a. Which of these Amerex price points does PG&E propose to be used for ESPs and CCAs operating in PG&E’s service territory?
- b. How does PG&E propose to adjust these data to be relevant to PG&E’s service territory?
- c. Does PG&E expect that NP15 is more or less volatile than SP15? Why or why not? Please provide supporting evidence.

ANSWER 2

- a. PG&E, as part of the Community Choice Aggregation (“CCA”) proceedings, applied the NP-15 prices and the SP-15 implied volatility as proxy for NP-15 in the illustrative examples. However, PG&E is open to discuss a proxy volatility that is acceptable to all parties for NP-15.
- b. PG&E proposes using available implied volatilities of other related delivery points or historical volatility as a proxy for implied volatility. There are various approaches and methodologies to quantifying historical volatilities. Attached as an example of a methodology is an approach offered by NYMEX posted on the CMEGroup website.

- c. PG&E is unable to respond to this subpart because it has not performed a study of volatilities comparing NP15 and SP15.

CERTIFICATE OF SERVICE

I, PAULA FERNANDEZ, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4623.

On March 4, 2011, I served the **OPENING BRIEF OF THE CITY AND COUNTY OF SAN FRANCISCO IN RESPONSE TO THE JANUARY 14, 2011 ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE RULING**

by electronic mail on all parties on the service list in Proceeding No. R.03-10-003.

The following addressee(s) without an email address were served:

BY UNITED STATES MAIL: Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

David Hamner
County Counsel
County of Trinity
P.O. Box 1428
Weaverville, CA 96093-1426

Jim Doolittle
Orado Management Group
1116 Elm Ave.
Placerville, CA 95667-4712

City Administrator
City of Vernon
4305 Santa Fe Avenue
Vernon, CA 90058

Peter Dragovich
Assistant to the City Manager
City of Concord
1950 Parkside Drive, MS 01A
Concord, CA 94519

Michael Nelson
1119 Glen Court
Walnut Creek, CA 94595-2318

Carol Misseldine
Mayor's Office
City of Oakland
1 Frank Ogawa Plaza, d/F
Oakland, CA 94612

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 4, 2011, at San Francisco, California.

/S/

PAULA FERNANDEZ