BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

SAN JOAQUIN VALLEY POWER AUTHORITY, Complainant, v. PACIFIC GAS AND ELECTRIC COMPANY, Defendant.	)	07 06 025 Case No. _____

COMPLAINT OF THE SAN JOAQUIN VALLEY POWER AUTHORITY AGAINST PACIFIC GAS AND ELECTRIC COMPANY AND REQUEST FOR IMMEDIATE ISSUANCE OF AN ORDER TO SHOW CAUSE

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June 25, 2007

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

SAN JOAQUIN VALLEY POWER AUTHORITY, Complainant, v. PACIFIC GAS AND ELECTRIC COMPANY, Defendant.	Case No. _____

COMPLAINT OF THE SAN JOAQUIN VALLEY POWER AUTHORITY AGAINST PACIFIC GAS AND ELECTRIC COMPANY

Pursuant to *Sections 701, 702, 1702, and 2106 of the California* Public Utilities Code, and Article 4 of the Rules of Practice and Procedure of the *Public Utilities Commission of the State* of California ("Commission"), the San Joaquin Valley Power Authority ("SJVPA") hereby alleges and complains of Pacific Gas and Electric Company ("PG&E") as follows:

INTRODUCTION AND OVERVIEW

1. This Complaint first seeks an immediate Order to Show Cause requiring PG&E to appear before the Commission at the earliest possible opportunity to demonstrate why PG&E should not be held to be in violation of Commission Decision No. ("D.") 05-12-041 as a result of marketing and related activities before prospective Community Choice Aggregation ("CCA") customers. SJVPA is informed and believes and thereon alleges that these marketing and related activities were undertaken at PG&E's ratepayer expense to compete against SJVPA in the provision of generation services, in violation of D.05-12-041. This Complaint also seeks an order (a) adopting more specific standards of conduct, consistent with D.05-12-041 and other persuasive regulatory authority, that would provide greater clarity as to the impermissibility of various

marketing and related activities conducted at ratepayer expense and (b) requiring PG&E to permanently conduct itself strictly in conformity to such specific standards of conduct.

2. SJVPA is a public agency formed under the provisions of Section 6500 et seq. of the California Government Code relating to joint powers agencies, and established for the purpose of implementing a CCA program in the greater Fresno area.

3. On May 3, 2007, SJVPA's Board of Directors approved Program Agreement 1, which provides the general terms and conditions by which members of SJVPA may elect to participate in SJVPA's CCA program. Under SJVPA's Implementation Plan, local government customers will be served first as part of SJVPA's phase-in plan, with large commercial/industrial customers, medium commercial/industrial customers and small commercial/residential customers being served in subsequent phases. As a result, members of SJVPA electing to execute Program Agreement 1 will become SJVPA's first CCA customers.

4. Since early May, PG&E has been actively and affirmatively contacting representatives of SJVPA's prospective CCA customers (specifically, local government customers), seeking to dissuade or delay such customers from executing Program Agreement 1 and becoming SJVPA's CCA customers. SJVPA believes that PG&E is conducting these marketing and related activities at ratepayer expense, in violation of D.05-12-041. As other customer groups within SJVPA's phase-in plan consider service from SJVPA, SJVPA is concerned PG&E will repeat its behavior and seek to dissuade or delay these other customers from becoming SJVPA's CCA customers.

5. SJVPA has sought to informally resolve the matters described in this Complaint. In light of PG&E's continuing failure and refusal to cease activities in violation of D.05-12-041, SJVPA submits this Complaint.

PROCEDURAL INFORMATION

6. Pursuant to Rule 4.2, SJVPA states as follows:

a. Complainant, SJVPA, is a California joint powers agency established in accordance with Section 366.2(c)(10)(B) of the California Public Utilities Code (added by Assembly Bill 117 (Stats. 2002, ch. 838)), which authorizes cities and counties to participate through a joint powers agency in a CCA program. SJVPA's principal place of business is in the city of Fresno.

b. Defendant, PG&E, is a California public utility operating under the jurisdiction of the Commission with its principal place of business in the city and county of San Francisco.

c. The full name, address and telephone number of the Complainant, Defendant, and their attorneys are as follows:

Complainant:

San Joaquin Valley Power Authority
Attention: Thomas J. Haglund
Chair, Board of Directors
4886 E. Jensen Avenue
Fresno, CA 93725
Tel: (559) 585-2515

Defendant:

Pacific Gas and Electric Company
Attention: Thomas Bottorff
Senior Vice President, Reg. Relations
77 Beale Street
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Complainant's Counsel:

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d. This proceeding should be categorized as an adjudicatory proceeding.

e. SJVPA contends that the issues necessary to issue the requested Order to Show Cause may be resolved on the basis of pleadings and that hearings are not necessary before the issuance of such an order. Thereafter, hearings may be necessary to address issues of factual dispute.

f. The issues to be considered are as follows:

i. Has PG&E violated the standards described in D.05-12-041 by acting as described in this Complaint, including PG&E's use of ratepayer funds to conduct marketing and related activities in competition with SJVPA's CCA program?

ii. Are more specific standards of conduct necessary in order to restrain PG&E from continuing to violate the standards described in D.05-12-041 with respect to marketing and related activities?

g. SJVPA proposes the following schedule:

Issuance of Order to Show Cause	Week of June 25, 2007
Hearing on Order to Show Cause	Week of July 2, 2007
Issuance of Order Requiring PG&E to Cease and Desist Pending Resolution of Case	Week of July 2, 2007
Instruction to Answer	Week of June 25, 2007
Answer	As set forth in Instruction to Answer
Prehearing Conference	One week after Answer (on or about August 1)
Discovery (if necessary)	Through August 24, 2007
Evidentiary Hearings (if	September 3, 2007 through September

necessary)	14, 2007
Opening Briefs	September 28, 2007
Reply Briefs	October 5, 2007
Presiding Officer's Decision	November 2, 2007
Appeal of Presiding Officer's Decision (if any)	December 2 2007
Response to Appeal of Presiding Officer's Decision	December 18, 2007
Final Decision	January 10, 2007

FACTS

7. Pursuant to the "San Joaquin Valley Power Authority Joint Powers Agreement" ("Joint Powers Agreement"), SJVPA was established on November 15, 2006 as a public agency separate from its members. The members of SJVPA include the counties of Kings and Tulare, and the cities of Clovis, Corcoran, Dinuba, Fresno, Hanford, Kerman, Kingsburg, Lemoore, Parlier, Reedley, Selma and Sanger. A true and correct copy of the Joint Powers Agreement is attached hereto as Exhibit A.

8. As described in Section 2.4 of the Joint Powers Agreement, SJVPA was established principally to provide for the joint participation of its members in a CCA program.

9. On January 25, 2007, at a duly noticed public meeting, the SJVPA Board of Directors approved and authorized the submittal to the Commission of the San Joaquin Valley Power Authority Community Choice Aggregation Implementation Plan ("Implementation Plan"). On January 29, 2007, representatives of SJVPA submitted the Implementation Plan to the Commission. After receiving written comments on the Implementation Plan from Southern California Edison Company ("SCE") and PG&E, SJVPA revised its Implementation Plan and, on

April 27, 2007, re-submitted the Implementation Plan to the Commission. A copy of SJVPA's revised Implementation Plan is available at the following website location: www.communitychoice.info/_pdf/krcd-implementationplan041207_clean.pdf .

10. On April 30, 2007, the Commission certified via letter that the Implementation Plan, as revised, contains the information required by Section 366.2(c)(2) of the California Public Utilities Code. A true and correct copy of the Commission's letter is attached hereto as Exhibit B.

11. As contemplated in the Joint Powers Agreement, the members contemplated the development of a subsequent agreement (Program Agreement 1), which would define the terms and conditions associated with the actual implementation of SJVPA's CCA program. (*See* Sections 2.4 and 5.1.4 of the Joint Powers Agreement.)

12. On April 26, 2007, the SJVPA Board of Directors convened a duly noticed public workshop to review and take comments on a draft version of Program Agreement 1. A representative of PG&E attended the workshop, but did not provide any comments on Program Agreement 1.

13. On May 3, 2007, the SJVPA Board of Directors convened a duly noticed public meeting to consider, among other things, the approval of Program Agreement 1. A representative of PG&E attended the meeting, but did not provide any comments on Program Agreement 1. (Attached hereto as Exhibit C are true and correct copies of pertinent excerpts of the minutes of the April 26, 2007 workshop and the May 3, 2007 SJVPA Board of Directors meeting, reflecting attendance by PG&E's representative at public meetings at which Program Agreement 1 was being discussed and reviewed.)

14. In accordance with SJVPA Resolution 07-05, Thomas Haglund, chair of the SJVPA Board of Directors, executed Program Agreement 1 for SJVPA. Attached hereto as Exhibit D is a true and correct copy of Program Agreement 1. Pursuant to Section 4.1 of Program Agreement 1,

SJVPA delivered Program Agreement 1 to all parties to the Joint Powers Agreement and thereby established the "Delivery Date" of May 4, 2007.

STANDARDS OF CONDUCT

15. In D.05-12-041, the Commission found that certain dangers (namely, uneconomic costs and the creation of conflicts of interest) may result if the utility markets its generation services to prospective CCA customers or if the utility provides an evaluation of a Community Choice Aggregator's services or rates. (*See* D.05-12-041, Finding of Fact 10.) These dangers exist principally because the utility serves two potentially conflicting roles – first, as a monopoly distribution provider, and second, as a generation provider in competition with the Community Choice Aggregator.

16. In order to address these dangers, the Commission concluded that "[u]tilities' ***ratepayers*** should ***not*** be required to support in rates utility marketing activities related to services to CCA customers." (D.05-12-041, Conclusion of Law 14; emphasis added.) In support of this conclusion, the Commission expressly noted that it shared "the concerns of [The Utility Reform Network] and the [Community Choice Aggregators] that there is little if any benefit from permitting a battle for market share between CCAs and utilities." (*Id.* at 23.) The Utility Reform Network had previously testified that utilities should be barred from marketing and solicitation efforts, with TURN noting that "[t]he CCA program should be given a chance to function without utility interference in the process." (Reply Testimony of Michael Peter Florio, dated May 9, 2005, in R.03-10-003 ("TURN Testimony"), at 8.) (A true and correct copy of pertinent excerpts of the Turn Testimony is attached hereto as Exhibit E.)

17. In D.05-12-041, the Commission provided an example of the difference between permissible and impermissible ratepayer-funded activities. The Commission stated that "[w]e expect utilities to ***answer questions*** about ***their own*** rates and services and the process by which

utilities will cut-over customers to the CCA. However, if [the utilities] affirmatively contact customers in efforts to retain them or otherwise engage in actively marketing services, they should conduct those activities at shareholder expense." (D.05-12-041 at 23; emphasis added.)

18. In evaluating and applying the general standard set forth in D.05-12-041, a basic understanding of certain key terms is needed:

a. In the context of SJVPA's CCA program, the term ***"customer"*** specifically includes members of SJVPA, since by approving Program Agreement 1 the members of SJVPA agree to purchase their full electricity requirements from SJVPA. (*See, e.g.,* Section 5.3 of Program Agreement 1.) Accordingly, PG&E's marketing and related activities conducted to and before representatives of SJVPA's members are activities to and before prospective CCA customers, and are within the scope of the general standard set forth in D.05-12-041. As described in SJVPA's Implementation Plan (Section V.), local government customers (namely, SJVPA's members) constitute the first of four customer groups to be served under SJVPA's phase-in plan, with large commercial/industrial customers, medium commercial/industrial customers and small commercial/residential customers being served in subsequent phases. As other customer groups within SJVPA's phase-in plan consider service from SJVPA, based on PG&E's past conduct, SJVPA is concerned PG&E will also seek to dissuade or delay these other customers from becoming SJVPA's CCA customers.

b. Prior to the adoption of D.05-12-041, PG&E evinced an understanding as to what the term ***"marketing"*** meant in the context of Community Choice Aggregation. PG&E, together with SCE and San Diego Gas and Electric Company, stated that utilities could reasonably be expected "to refrain from 'marketing' to the CCA Provider's customers if the scope of marketing is defined as actions to dissuade the customers from taking service from the CCA Provider." (Joint Reply Brief, dated August 1, 2005, in R.03-10-003, at 27.) (A true and correct copy of pertinent

excerpts of the Joint Reply Brief is attached hereto as Exhibit F.) Additionally, the utilities agreed that "they will not disparage the customers from joining a CCA program or encourage them to opt out of such a program." (Joint Rebuttal Testimony, dated May 16, 2005, in R.03-10-003, at III-8.) (A true and correct copy of pertinent excerpts of the Joint Rebuttal Testimony is attached hereto as Exhibit G.)

c. PG&E's corporate parent has long-acknowledged that it understood what the term ***"competition"*** *means in the context of an incumbent utility, like PG&E, competing with an* alternative retail electricity supplier, such as SJVPA acting as a Community Choice Aggregator. In comments of PG&E Corporation, dated January 12, 2000, before the Illinois Commerce Commission ("ICC"), a true and correct copy of which is attached hereto as Exhibit H ("PG&E Comments"), PG&E Corporation states that "simply by offering those services as alternatives to the competitive services available from an [alternative retail electricity supplier] or from another utility, an incumbent utility is, in fact, competing with [alternative retail electricity suppliers]. Competition exists because a customer has the choice of more than one supplier for its power and energy needs." (PG&E Comments at 4.) Accordingly, under the definition submitted by PG&E Corporation and all other *reasonable interpretations of the term* "competing," PG&E has been and will be competing with SJVPA for the provision of generation services to prospective CCA customers.

19. As noted above, the Commission has developed a general standard of conduct related to marketing and related activities of utilities competing for customers with Community Choice Aggregators. The Commission is not alone in doing so. Other jurisdictions have established specific standards of conduct in similar competitive situations. Such persuasive standards adopted by a sister regulatory commission are useful to the Commission in this situation since (a) they shed light on and may help clarify the Commission's general standard of conduct and (b) they represent a model for fashioning a restraining order upon PG&E's marketing and related activities in the

context of competing CCA programs. An example of such specific standards of conduct has been developed in Illinois, and is summarized as follows:

a. The ICC adopted specific standards of conduct that apply to so-called "integrated distribution companies," namely, companies (like PG&E) that provide both distribution service and generation service to customers. (All the standards may be viewed at the following link: http://www.ilga.gov/commission/jcar/admincode/083/08300452sections.html .) The following are relevant excerpts of these standards:

i. "'Marketing' means direct contact with a customer or a prospect for the purpose of requesting or retaining patronage." (Section 452.200)

ii. "An Integrated Distribution Company shall not promote, advertise or market with regard to the offering or provision of any retail electric supply service." (Section 452.240(a))

iii. "No IDC employee or agent shall affirmatively prompt customer inquiries about the quality of the IDC's retail electric supply services. No IDC shall disparage the quality of an alternative retail electric supplier's services." (Section 452.240(d))

iv. "No IDC employee or agent shall affirmatively act to retain or obtain a customer for any retail electric supply service offered or provided by the IDC." (Section 452.240(e))

b. PG&E's parent corporation actively participated in the development of Illinois' standards of conduct for integrated distribution companies. In its comments on the standards, PG&E Corporation acknowledged the danger that the integrated distribution company will exercise its inherent advantages as a monopoly distribution provider to communicate in a way that inappropriately exploits these advantages, to the detriment of competition in the provision of generation services. Specifically, the ICC noted that "PG&E argues that ComEd's [integrated distribution company] proposal will 'advance the inherent advantages of incumbent utilities,' rather than advancing competition." (ICC Order in Docket No. 98-0147, dated February 15, 2001, at 8.)

The ICC also noted that PG&E Corporation believes "the incumbents will benefit from 'name recognition, a longstanding relationship with the customer and customer inertia.'" (Id. at 9.)

c. The ICC recognized that it is almost impossible for the incumbent utility to provide a representation about its competitor's services that is accurate and non-disparaging. In explaining its concerns about "disparaging representations," the ICC offered the following: "Subsection (d) also prohibits disparaging representations regarding the quality of competing electricity usage services. As sole source provider of distribution, IDC employees will have frequent and exclusive opportunities to dissuade customers from using alternate energy sources. Competition will not thrive if those opportunities are exploited...." (ICC Order at 28.) Based on this, and because of the clear conflict of interests and the opportunity for exploitation, the ICC explicitly does not allow employees of the integrated distribution company to speak about its competitor's services, but rather directs the employees as follows: "In response to customer-initiated queries, IDC employees can refer customers to this Commission or to unaffiliated agencies and organizations for information about the IDC's competitors." (*Id.* at 28.)

CAUSE OF ACTION FOR VIOLATIONS OF A COMMISSION ORDER AND PROVISIONS OF THE CALIFORNIA PUBLIC UTILITIES CODE

20. SJVPA incorporates by reference Paragraphs 1 through 19 of this Complaint as if they were fully stated again at this point.

21. PG&E has engaged in recurring violations of the Commission's order in D.05-12-041 (and, as a result, engaged in recurring violations of Section 702 of the California Public Utilities Code) by conducting itself as described above, as well as described below, since (a) PG&E's activities relate to PG&E's marketing of its generation services or PG&E's evaluation of SJVPA's competing services and rates (as further described in Paragraph 22, and its subparagraphs) and (b) PG&E's marketing and related activities were not conducted at PG&E's shareholder

expense, but rather were, according to SJVPA's information and belief, conducted at PG&E's ratepayer expense (as further described in Paragraph 23, and its subparagraphs).

22. PG&E has conducted numerous activities related to PG&E's marketing of its generation services and PG&E's evaluation of SJVPA's competing services and rates:

a. Attached hereto as Exhibit I is a true and correct copy of a document, dated May 10, 2007, from PG&E to a representative of the city of Hanford (one of SJVPA's prospective CCA customers) entitled "What You Need to Know About KRCD's CCA Plans." In this document, PG&E provides information about SJVPA's services and rates and affirmatively compares and promotes its generation services to a prospective CCA customer, claiming (i) that PG&E continues to take aggressive steps to increase the percentage of its power mix that comes from renewable resources and (ii) that, with corrected assumptions, customers under SJVPA's program would pay more than they would pay under PG&E's rates.

b. Attached hereto as Exhibit J are the transcribed comments made by PG&E's representative, Mr. Craig Schmidt, to representatives of the city of Fresno (one of SJVPA's prospective customers) at a meeting held on May 15, 2007. Mr. Schmidt provided information about SJVPA's services and rates, stating: "I don't think the risk, from the presentation and from the documentation that we have had an opportunity to examine, justify this body of government putting itself in harm's way, and their constituents, which are our constituents, for the possibility of rates even being higher than what their bundled rates are currently with PG&E."

c. Attached hereto as Exhibit K is a true and correct copy of a document entitled "Issues and Questions Raised by the Latest Version of the San Joaquin Valley Power Authority/Kings River Conservation District Community Choice Aggregation (CCA) Proposal and Program Agreement 1." This document was provided by PG&E on or about May 23, 2007 to representatives of the city of Corcoran (one of SJVPA's prospective CCA customers). In the

document, PG&E evaluates and questions SJVPA's CCA program, suggesting that Program Agreement 1 should be amended to address a number of purported deficiencies identified by PG&E.

d. Attached hereto as Exhibit L is a true and correct copy of an invitation sent to all prospective local government customers considering SJVPA's services under the CCA program. The invitation calls prospective CCA customers to attend a meeting called by PG&E. The meeting occurred on May 31, 2007 in Fresno. At the meeting, PG&E's representatives affirmatively promoted and marketed PG&E's generation services to all prospective CCA customers in attendance, making claims about various alleged attributes of PG&E's generation services, including representations about (i) the renewable content of PG&E's portfolio and (ii) the purported "at cost" nature of PG&E's generation service. PG&E videotaped this meeting, and a true and correct copy of the videotape is attached hereto as a supplement to Exhibit L.

e. Attached hereto as Exhibit M is a true and correct copy of a document PG&E presented to representatives of the city of Kingsburg (one of SJVPA's prospective CCA customers) on June 6, 2007. Through this presentation, PG&E provided information about SJVPA's services and rates, making numerous representations and statements about SJVPA's CCA program, including PG&E's assessment of the "risk" to cities and counties. As further described below, PG&E also disparagingly stated that "After you vote to approve PA-1, ***you are taking a leap of faith***."

f. Attached hereto as Exhibit N is a true and correct copy of an e-mail from Mr. John Nelson, PG&E's primary representative before prospective CCA customers, dated June 8, 2007. In this e-mail, Mr. Nelson requests a meeting in which he and PG&E's generation services experts could get further information about SJVPA's procurement plan for the purpose of evaluating this plan and providing PG&E's findings to representatives of the city of Clovis (one of SJVPA's prospective CCA customers). PG&E thus sought this meeting to gather information so

that PG&E could thereafter provide information about SJVPA's services and rates to representatives of the city of Clovis. (Not only does this review violate the standard described above, but this review would likely violate PG&E's Rule 23, Section B.3.b., which states that "CCAs shall be solely responsible for having contractual or other arrangements with their customers necessary to implement CCA consistent with all applicable laws, Commission requirements and this Rule. PG&E shall not be responsible for monitoring, reviewing or enforcing such contracts or arrangements.")

g. Attached hereto as Exhibit O is a true and correct copy of an article in a periodical, dated June 4, 2007, in which PG&E's representative is quoted as referring to SJVPA's rates as "***teaser rates***." This characterization, which provides information about SJVPA's services and rates, was also made by Mr. John Nelson during the May 31, 2007 meeting in Fresno and during a workshop held on June 5, 2007 in the city of Lemoore. Mr. Nelson stated something to the effect of "We have experience with teaser rates from third-party suppliers, who then jettison from the marketplace." These statements by PG&E have the undeniable effect of tending to cause prospective CCA customers to be dissuaded from taking service from SJVPA.

h. At a workshop held before representatives of the city of Lemoore (one of SJVPA's prospective CCA customers) on June 5, 2007, Mr. John Nelson stated something to the effect of "We are concerned that ***there is an ox to be gored here***, and we do not want our customers to be the ox." Not only are these and other similar statements inflammatory, provocative and unprofessional, these statements by PG&E, which implicitly provide information about SJVPA's services and rates by indicating such services and rates will be the implement by which customers will be gored, also have the undeniable effect of tending to cause prospective CCA customers to be dissuaded from taking service from SJVPA.

i. Attached hereto as Exhibit P is a true and correct copy of a document PG&E presented to representatives of the city of Clovis (one of SJVPA's prospective CCA customers) on June 11, 2007. In the document, PG&E makes numerous representations and statements about SJVPA's CCA program, including PG&E's assessment of the "key problems with [Program Agreement 1]." This document was presented by PG&E after SJVPA had made two attempts (further described in Paragraphs 25 and 26) to convince PG&E to cease its violations of the standards set forth in D.05-12-041 Despite these efforts, PG&E continued its disparaging comments, stating that "If you vote to approve PA-1, ***you are taking a leap of faith:***" Additionally, PG&E warned that "PA-1 Locks You In To CCA Without Answers...PA-1 commits you to having all your city electric load served by the CCA, WITHOUT KNOWING THE RATES YOU WILL PAY."

j. Attached hereto as Exhibit Q is a true and correct copy of an editorial written by Mr. Peter Darbee, PG&E Corporation's Chairman of the Board, Chief Executive Officer and President. Mr. Darbee's editorial is laced with innuendos and express statements painting SJVPA's operating agent, the Kings River Conservation District ("KRCD"), as a lying, misrepresenting organization. After falsely claiming that customers had been misinformed about SJVPA's CCA program, Mr. Darbee states that "People around here are smart, and practical, and have good judgment. Tell them the truth, and let them decide." Mr. Darbee summarizes his evaluation of SJVPA's program by noting that the "proposed CCA program - the first in the state - falls far short of this promise and poses more problems than solutions." This information about SJVPA's services and rates, provided by the highest level of PG&E corporate governance, has the undeniable effect of tending to cause prospective CCA customers to be dissuaded from taking service from SJVPA.

23. SJVPA is informed and believes and thereon alleges that the marketing and related activities described above were conducted at PG&E's ratepayer expense. The information supporting this belief includes the following:

a. Despite having many opportunities to do so as part of public presentations, PG&E has never denied that PG&E's ratepayer funds are being used to conduct PG&E's marketing and related activities before prospective CCA customers, nor has PG&E stated that PG&E's shareholder funds are being used to conduct such activities. In fact, at a public presentation on June 12, 2007 before representatives of Tulare County (one of SJVPA's prospective CCA customers), PG&E's primary representative before local government customers (i) affirmed his awareness of the legal requirements in D.05-12-041 with respect to the use of ratepayer funds and (ii) clarified that PG&E's activities were being conducted on behalf of customers at ratepayer expense, not on behalf of shareholders. Mr. John Nelson stated as follows: "I wanted to address a few of the comments that the proponents made this morning...and those were reflective upon why PG&E cares or would care or could care, and Mr. Chairman as you suggested what legal boundaries might be on our right to care. I will be very clear in saying that PG&E is here because we are concerned that this CCA program does not answer any of the questions that we [PG&E] would expect it to answer. We are very concerned on behalf of our customers that that is the case. Again, to be very clear, PG&E's shareholders are not financially impacted by this CCA." (Mr. Nelson's statement may be heard via an archived audio file of the June 12, 2007 meeting at the following website location: http://tulare.granicus.com/viewpublisher.php?view_id=2 . Mr. Nelson's statement occurs between time points 3:06:50 and 3:07:37.)

b. In an e-mail from PG&E's counsel, dated June 8, 2007 (described further in Paragraph 25), PG&E does not positively deny the use of ratepayer funds, but rather states that "as a practical matter" PG&E has not received such funds, presumably relying upon the claim that the

moneys expended for these activities have not been approved for recovery in PG&E's rates, a claim which ignores the nature of a utility revenue requirement set in a general rate case and ignores utility discretion in spending revenue received from ratepayers. The e-mail also fails to explain, in detail or at all, what if any accounting has been undertaken to ensure that ratepayer funds are not used for PG&E's marketing and related activities. Moreover, the e-mail fails to affirm that PG&E will undertake such accounting and disclose it to the Commission and SJVPA such that the slippery and unsupported claim of lack of ratepayer support may be examined and confirmed.

c. In a letter from PG&E's counsel, dated June 15, 2007 (described further in Paragraph 26), PG&E again does not positively deny the use of ratepayer funds, but supports the use of ratepayer funds by claiming that PG&E has a right to inform city councils using such funds, ignoring (i) the fact that PG&E's activities are marketing activities, not activities in the nature of those seeking redress from a government entity or petitioning a government entity for specific relief under that entity's jurisdiction and (ii) the fact that D.05-12-041 contains no exception to the standards it establishes for marketing-related activity before prospective customers that happen also to be government entities.

24. All these actions by PG&E violate D.05-12-041 and Section 702 of the California Public Utilities Code, entitling SJVPA to the issuance of an Order to Show Cause, a final order restraining PG&E from continuing such violations, an order establishing specific standards of conduct concerning PG&E's competitive activities in the area of CCA programs, an order mandating that PG&E comply with such specific standards of conduct, and an order providing SJVPA with relief under Section 2106 of the California Public Utilities Code for all loss, damages, or injury caused by PG&E's violations.

EFFORTS AT INFORMAL RESOLUTION

25. SJVPA has made efforts to informally resolve the matters described in this Complaint. Attached hereto as Exhibit R is a true and correct copy of an e-mail, dated June 1, 2007, from Scott Blaising, counsel for SJVPA, to Jon Pendleton, counsel for PG&E, and Sean Gallagher, Director of the Commission's Energy Division. The e-mail transmittal occurred following the PG&E-sponsored meeting in Fresno on May 30, 2007, and was aimed at resolving SJVPA's concerns on an informal basis. Attached hereto as Exhibit S is a true and correct copy of an e-mail, dated June 8, 2007, from Jon Pendleton, counsel for PG&E, responding to the above-described e-mail.

26. Attached hereto as Exhibit T is a true and correct copy of a letter (exclusive of its various attachments), dated June 9, 2007, from Scott Blaising, counsel for SJVPA, to Jon Pendleton, counsel for PG&E. The letter was written to provide further specificity as to PG&E's alleged misconduct. Additionally, the letter also specifically noted that the purpose of letter and the earlier e-mail (Exhibit R) was to bring SJVPA's concerns to the attention of PG&E's representatives and to the attention of the Commission with the intent of resolving SJVPA's concerns informally, as described in Rule 4.2(c) of the Commission's Rules of Practice and Procedure and as a means of obviating the need for SJVPA to file a formal complaint. Attached hereto as Exhibit U is a true and correct copy of a letter, dated June 15, 2007, from Jon Pendleton, counsel for PG&E, responding to the above-described letter.

REQUEST FOR RELIEF

27. Wherefore, SJVPA respectfully requests that the Commission:

a. Immediately issue an Order to Show Cause requiring PG&E to appear before the Commission at the earliest possible opportunity to demonstrate why PG&E should not be held to be in violation of D.05-12-041 as a result of activities before prospective CCA customers

undertaken at PG&E's ratepayer expense to evaluate and compete against SJVPA in the provision of competing generation services.

b. Issue an expedited order requiring PG&E to immediately cease and desist from the activities described in this Complaint and from other similar activities that violate the Commission's general standard of conduct relating to PG&E's marketing and related activities to prospective CCA customers.

c. Issue an order establishing specific standards of conduct applicable to PG&E's marketing and related activities to prospective CCA customers, taking into consideration the adoption of standards similar to those adopted by the ICC, as described above, and requiring PG&E to comply with such specific standards.

d. Issue an order providing SJVPA with relief under Section 2106 of the California Public Utilities Code for all loss, damages, or injury caused by PG&E's violations, including but not limited to payment of SJVPA's attorney's fees and costs in prosecuting this Complaint.

e. Grant such other and further relief and remedies as the Commission deems just and equitable.

Dated: June 25, 2007

Respectfully submitted,

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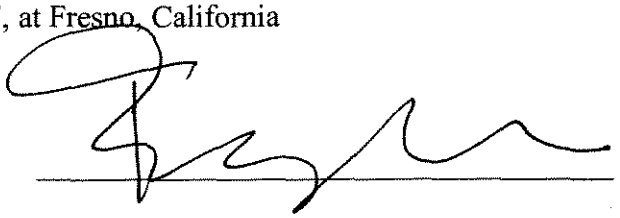
Attorneys for the San Joaquin Valley Power Authority

Verification

I am an officer for the San Joaquin Valley Power Authority and make this verification for and on behalf of the San Joaquin Valley Power Authority. I have read the foregoing "COMPLAINT OF THE SAN JOAQUIN VALLEY POWER AUTHORITY AGAINST PACIFIC GAS AND ELECTRIC COMPANY." I declare under penalty of perjury that the contents thereof, and the facts therein stated, are true to the best of my knowledge, information and belief.

Executed on June 25, 2007, at Fresno, California



Thomas J. Haglund
Chair, Board of Directors
San Joaquin Valley Power Authority

EXHIBIT A

San Joaquin Valley Power Authority
- Joint Powers Agreement -

Effective November 15, 2006

Among The Following Parties:

City of Clovis
City of Corcoran
City of Dinuba
City of Fresno
City of Hanford
City of Kerman
County of Kings
City of Kingsburg
City of Lemoore
City of Parlier
City of Reedley
City of Sanger
City of Selma

SAN JOAQUIN VALLEY POWER AUTHORITY
JOINT POWERS AGREEMENT

This ***Joint Powers Agreement*** ("Agreement"), effective as of November 15, 2006, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit B. The parties to this Agreement are either California incorporated municipalities or California counties, and shall be referred to hereafter as "Parties." The term "Parties" shall also include any incorporated municipality or county added to this Agreement in accordance with Section 3.2.

RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law to, among other things, purchase, supply, and aggregate electricity for themselves and their inhabitants (*see, e.g.,* California Public Utilities Code Sections 366.2).
2. The Kings River Conservation District ("KRCD") is a California public agency established in 1951 by the Kings River Conservation District Act (Stat. 1951, ch. 931) ("KRCD Act"), and possessing various powers relating to the establishment of works related to, among other things, water management and distribution of electricity within KRCD's service area, which encompasses over 1.2 million acres in Fresno, Kings and Tulare counties.
3. Twelve municipalities and Kings County ("Initial Participants") and KRCD entered into that certain Memorandum of Understanding, dated March 1, 2005 ("MOU"), pursuant to which the Initial Participants and KRCD have been investigating and analyzing a program for the implementation of Community Choice Aggregation ("CCA"), an electric service option available to cities and counties pursuant to Assembly Bill 117 (Stat. 2002, ch. 838) ("AB 117").
4. The Parties desire to establish a separate public agency, known as the San Joaquin Valley Power Authority ("Authority"), under the provision of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*) ("Act") in order to collectively study, promote, develop, and conduct electricity-related programs, including specifically a program relating to CCA ("CCA Program").

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1
CONTRACT DOCUMENTS

1.1 **Definitions**. Capitalized terms used in this Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2 **Documents Included**. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A:	Definitions
Exhibit B:	List of the Parties
Exhibit C:	*Annual Energy Use*
Exhibit D:	Voting Shares

1.3 **Revision of Exhibits**. The Parties agree that Exhibits B, C and D to this Agreement describe certain administrative matters necessary to implement this Agreement. Exhibits B, C and D may be revised upon the review and approval of the Board, without such revisions constituting an amendment to this Agreement, as described in Section 8.3. The Authority shall provide notice to the Parties of the revision of any such exhibit.

ARTICLE 2
FORMATION OF THE SAN JOAQUIN VALLEY POWER AUTHORITY

2.1 ***Effective Date and Term***. *This Agreement shall become effective and the San Joaquin* Valley Power Authority shall exist as a separate public agency on the date this Agreement is executed by at least two Initial Participants. The Authority shall provide notice of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.4, subject to the rights of the Parties to withdraw from the Authority.

2.2 **Initial Parties**. During the first 120 days after the Effective Date, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party and is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

2.3 **Formation**. There is formed as of the Effective Date a public agency named the San Joaquin Valley Power Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. Unless otherwise agreed, the debts, liabilities, and obligations of the Authority shall not be debts, liabilities or obligations of the Parties. The foregoing disclaimer shall not apply to a Party with respect to which this Agreement has terminated, as specified in Article 6, to the extent of such Party's obligations incurred while a party to this Agreement.

2.4 **Purpose**. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to study, promote, develop, and conduct electricity-related programs, and to exercise all other powers necessary and incidental to accomplishing said purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used, in conjunction with the MOU, as a contractual mechanism by which the Parties may initially participate as a group in the CCA Program, as further described in Section 5.1. The Parties intend that a subsequent agreement (Program Agreement 1) shall define the terms and conditions associated with the actual implementation of the CCA Program.

2.5 **Powers**. The Authority shall have all the powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to do all acts necessary or advisable to fulfill the purpose of this Agreement and programs implemented pursuant to this Agreement, including, but not limited to, each of the following:

2.5.1 make and enter into contracts;

2.5.2 employ agents and employees;

2.5.3 acquire, construct, manage, maintain, and operate any buildings, works or improvements;

2.5.4 acquire by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;

2.5.5 lease any property;

2.5.6 sue and be sued in its own name;

2.5.7 incur debts, liabilities, and obligations;

2.5.8 issue revenue bonds and other forms of indebtedness to the extent, and on the terms, provided by the Act;

2.5.9 apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;

2.5.10 submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program;

2.5.11 adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Rules and Regulations"); and

2.5.12 negotiate with KRCD a form of service agreement relating to the provision of services necessary to plan, implement, operate and administer the CCA Program, including the acquisition of electric power supply and the provision of retail and regulatory support services, as further described in Section 4.11.

2.6 **Exercise of Powers**. In accordance with Section 6509 of the Act, the Authority's powers shall be subject to the restrictions upon the manner of exercising such powers, pertaining to the city of Kerman.

ARTICLE 3
AUTHORITY PARTICIPATION

3.1 **Addition of Parties**. Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or such county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption, by an affirmative vote of the Board satisfying the requirements described in Section 4.8.1, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or

county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership payment, if any; and (e) satisfaction of any conditions established by the Board.

3.2 **Continuing Participation**. The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Sections 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

ARTICLE 4
GOVERNANCE AND INTERNAL ORGANIZATION

4.1 **Board of Directors**. The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party and appointed in accordance with Section 4.2.

4.2 **Appointment and Removal of Directors**. The Directors shall be appointed and may be removed as follows:

4.2.1 The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party may also appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the Director shall normally be the City Manager/Administrator or his or her delegate.

4.2.2 The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.11, shall specify the bases for and process associated with the removal of an individual Director for cause. The Operating Rules and Regulations may also describe disciplinary action that may be taken against an individual Director for action that is harmful to the orderly and effective operation of the Authority or the Board. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its Director and/or alternate Director has been removed may appoint a replacement.

4.3 **Terms Of Office**. Each Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director in accordance with the provisions of Section 4.2 within 90 days of the date that such position becomes vacant.

4.4 **Quorum**. A majority of the Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.

4.5 **Powers and Function of the Board**. The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law.

4.6 **Executive Committee**. The Board may establish an executive committee consisting of a smaller number of Directors. The Board may delegate to the executive committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain essential functions, as described in the Operating Rules and Regulations.

4.7 **Directors' Compensation**. Compensation for work performed by Directors for activities of the Authority shall be borne by the Party that appointed the Director. However, the Board, by resolution, may adopt a policy relating to the reimbursement of expenses incurred by Directors.

4.8 **Board Voting**.

4.8.1 To be effective, a vote of the Board shall consist of the following: (1) a majority of all Directors shall vote in the affirmative and (2) the corresponding voting shares (as described in Section 4.8.2 and Exhibit D) of all such Directors voting in the affirmative shall exceed 50%, or such other higher voting share percentage expressly set forth herein in Sections 7.2.2 and 8.3, provided that, in instances in which such other higher voting share percentage would result in any one Director having a voting share that equals or exceeds that which is necessary to effectively veto the vote, at least one other Director shall be required to vote in the negative in order to make the veto effective.

4.8.2 Unless otherwise stated herein, voting shares of the Directors shall be determined by combining the following: (1) an equal voting share for each Director determined in accordance with the formula detailed in Section 4.8.2.1, below; and (2) an additional voting share determined in accordance with the formula detailed in Section 4.8.2.2, below.

4.8.2.1 Pro Rata Voting Share. Each Director shall have an equal voting share as determined by the following formula: (1/total number of Directors) multiplied by 50, plus

4.8.2.2 Annual Energy Use Voting Share. Each Director shall have an additional voting share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 50, where (a) "Annual Energy Use" means, (i) with respect to the first 3 years following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWhs"), within the Party's respective boundary and (ii) with respect to the period after the third anniversary of the Effective Date, the annual electricity usage, expressed in kWhs, of accounts within a Party's respective boundary that are served by the Authority and (b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy Use are designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1.

4.8.2.3 The voting shares are set forth in Exhibit D.

4.9 **Meetings and Special Meetings of the Board**. The Board shall hold at least four regular meetings per year, and by action of the Board may provide for the holding of regular or special meetings at more frequent intervals. The date upon which, and the hour and place at which, each such regular meeting shall be held shall be fixed by action of the Board. Special meetings of the Board may be called in accordance with the provisions of California Government Code Section 54956. Directors may participate in all meetings telephonically, with full voting rights, pursuant to applicable statutes and regulations. All meetings of the Board shall be called, held, noticed, and conducted subject to the provisions of the Ralph M. Brown Act (California Government Code Section 54950 *et seq.*).

4.10 **Selection of Board Officers**.

4.10.1 **Chair and Vice Chair**. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit as to the number of terms held by either or both the Chair and Vice Chair. The office of either or both the Chair and Vice Chair shall be declared vacant and a new selection required if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or (b) the Party that he or she represents withdraws from the Authority pursuant to any of the provisions herein.

4.10.2 **Secretary**. The Board shall appoint and designate from time to time a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

4.10.3 **Treasurer and Auditor**. The Board shall appoint and designate from time to time a qualified person to act as the Treasurer and a qualified person to act as the Auditor, either or both of whom need not be members of the Board. If the Board so designates, and in accordance with provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depositary of the Authority and have custody of all of the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide from time to time. The duties and obligations of the Treasurer are further specified in Article 6.

4.11 **Power Services Provider**. The Parties acknowledge and agree that, pursuant to the MOU and various activities pre-dating the MOU, KRCD has served and is serving as the

lead organization in the investigation and analysis of the CCA Program. As of the Effective Date and consistent with Section 4.1 of the MOU, the Parties, on behalf of the Authority, appoint KRCD as the Authority's exclusive agent for planning, implementing, operating and administering the CCA Program, and other designated programs, in accordance with direction provided by the Authority. As soon after the Effective Date as reasonably practicable, the Authority and KRCD shall enter into an agreement (Power Services Agreement) that will set forth the material terms and conditions by which KRCD shall continue to perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program, and other designated programs. The Parties contemplate that the Power Services Agreement will include, among other things, terms (a) describing KRCD's acquisition of electric power supply and provision of retail and regulatory support services and (b) addressing the recovery of costs incurred by KRCD, including but not necessarily limited to the recovery from Parties of any net unavoidable costs associated with Local Electric Facilities constructed by KRCD in support of the CCA Program.

ARTICLE 5
IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

5.1 Preliminary Implementation of the CCA Program.

5.1.1 Relationship to MOU. The Parties intend that this Agreement shall be supplemental to, not inconsistent with, the terms and conditions of the MOU; provided, however, in the event of a conflict between a term or condition in this Agreement and a term or condition in the MOU, the term or condition in this Agreement shall prevail.

5.1.2 Enabling Ordinance. If a Party has not otherwise done so prior to its execution of this Agreement, the Party shall, as soon after the Effective Date as reasonably practicable, cause to be adopted an ordinance in accordance with Public Utilities Code Section 366.2(c)(10) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

5.1.3 Implementation Plan. As generally described in Section 1.1.3 of the MOU, the Authority shall cause to be filed an Implementation Plan with the California Public Utilities Commission as soon after the Effective Date as reasonably practicable.

5.1.4 Other Activity. The Authority shall cause to be performed such other activities relating to the CCA Program in order (a) to complete necessary work under the MOU and (b) to prepare the CCA Program for actual implementation, which shall be evidenced by the execution and effectiveness of Program Agreement 1.

5.2 Authority Documents. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies ("Authority Documents"). The Parties agree to abide by and to comply with the terms and conditions

of all such Authority Documents that may hereafter be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 7.

ARTICLE 6
FINANCIAL PROVISIONS

6.1 **Fiscal Year**. The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.

6.2 **Depositary**.

6.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

6.2.2 All funds of the Authority shall be strictly, and separately, accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

6.2.3 All expenditures within the designations and limitations of the applicable approved budget shall be made upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the approval and written order of the Board.

6.3 ***Budget and Recovery of Costs***.

6.3.1 **Budget**. KRCD shall develop an initial draft budget for the Authority and shall submit such draft budget to the Parties in a form and in accordance with a schedule reasonably established by the Board. Upon review and any necessary revision to such initial draft budget and subsequent draft budgets, the Board shall adopt a final budget as soon as reasonably practicable. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected expenses.

6.3.2 **Initial Costs**. Initial CCA costs include all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as any required accounting, administrative and legal services in support of the Authority's initial activities or in support of the finalization of Program Agreement 1 and the Power Services Agreement. As further described in Section 6.3.6, initial costs shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

6.3.3 **CCA Program Costs**. The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance

funds, shall be recovered through charges associated with such electric services. The Parties intend that all such charges will first be applied upon the commencement of electric services provided under the CCA Program.

6.3.4 General Costs. Costs that are not directly or indirectly attributable to the provision of electric services under the CCA Program, as determined by the Board, shall be defined as general costs, it being understood that such general costs, in the aggregate, are intended to be fairly minor in relation to the overall costs of the Authority. As further described in Section 6.3.6, general costs shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

6.3.5 Special Program Costs. It is anticipated that from time to time the Authority and the Parties may participate in certain additional special programs. As the Parties contemplate will be done with respect to Program Agreement 1, the terms and conditions associated with these special programs, and the costs associated therewith, shall be set forth in a separate agreement.

6.3.6 Recovery of Costs. Prior to the execution of Program Agreement 1 by the Authority, the Authority shall not incur initial and general costs in excess of $50,000 without specific authorization of the Board. The Authority shall issue an invoice to each Party for costs under this Agreement, and each Party shall provide payment to the Authority, in accordance with policies and procedures established by the Board. Upon request of any Party, the Authority shall produce and allow the inspection of all documents relating to the computation of the expenses attributable to the Parties. If the Party does not agree with the amount listed on the invoice it must still make full payment, subject to dispute. Further policies and procedures relating to disputed bills shall be established by the Board. If the amounts in dispute cannot be resolved to the satisfaction of the disputing Party, the dispute shall be resolved pursuant to Section 8.1.

6.3.7 Debt Limitation. The Parties' liability for payments under this Agreement is contingent on the approval and allocation of funds in any fiscal year hereunder, in accordance with the debt limitation set forth in the California Constitution.

ARTICLE 7
WITHDRAWAL AND TERMINATION

7.1 Withdrawal.

7.1.1 General.

7.1.1.1 Prior to a Party's execution of Program Agreement 1, such Party may withdraw its membership in the Authority by giving no less than 1 months advance written notice of its election to do so, which notice shall be given to the Authority and each Party.

7.1.1.2 Subsequent to a Party's execution of Program Agreement 1, such Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year (July 1), by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to the

Authority and each Party, and upon such other conditions as may be prescribed in Program Agreement 1.

7.1.2 Amendment. Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement and pursuant to the process described in Section 8.3.

7.1.3 Continuing Liability; Further Assurances. A Party that withdraws its membership in the Authority may be subject to certain continuing liability, as described in Section 7.3. The withdrawing Party agrees to execute and deliver all further instruments and documents, and take any further action, that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority.

7.2 Involuntary Termination of a Party.

7.2.1 Failure to Execute Program Agreement 1. This Agreement shall be deemed terminated with respect to a Party if such Party has not executed Program Agreement 1 within 90 days of the Authority's written notice to all Parties that the Authority has executed Program Agreement 1.

7.2.2 Material Non-Compliance. This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement, the Operating Rules and Regulations, or the Authority Documents upon an affirmative vote of the Board in which the minimum percentage voting share, as described in Section 4.8.1, shall be no less than 67% of the voting shares, excluding the voting shares of the Party subject to possible termination. Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be presented at a regular Board meeting with opportunity for discussion. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liability, as described in Section 7.3.

7.3 Continuing Liability; Refund. Upon any withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liability arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any such claim, demand, damage, or liability arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreement(s) relating to such program. The Authority may withhold funds otherwise owing to the Party or may require of the Party sufficient funds on deposit with the Authority, as reasonably determined by the Authority, to cover the Party's contingent liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required above shall be returned to the Party.

7.4 **Mutual Termination**. This Agreement may be terminated by mutual agreement of all Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.

7.5 **Disposition of Property Upon Termination of Authority**. Upon termination of this Agreement as to all Parties, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 8
MISCELLANEOUS PROVISIONS

8.1 **Dispute Resolution**. The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Should such efforts to settle a dispute, after reasonable efforts, fail, said dispute shall be settled by binding arbitration in accordance with policies and procedures established by the Board.

8.2 **Liability of Directors, Officers, and Employees**. The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall indemnify and hold harmless the individual Directors, officers, and employees for any action taken lawfully and in good faith on behalf of the Authority. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties the Authority, or its Directors, officers, or employees.

8.3 **Amendment of this Agreement**. This Agreement may be amended by an affirmative vote of the Board in which the minimum percentage voting share, as described in Section 4.8.1, shall be no less than 67% of the voting shares. The Authority shall provide notice to all Parties of amendments to this Agreement, including the effective date of such amendments. A Party shall be deemed to have withdrawn its membership in the Authority effective immediately upon the vote of the Board approving an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board. As described in Section 7.3, a Party that withdraws its membership in the Authority in accordance with the above-described procedure may be subject to certain continuing liability.

8.4 **Assignment**. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 8.4 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 8.4 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's

contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

8.5 **Severability**. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

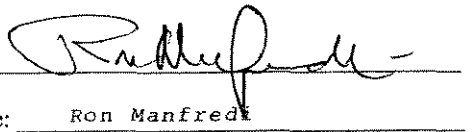
8.6 **Further Assurances**. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

8.7 **Execution by Counterparts**. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

8.8 **Parties to be Served Notice**. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: 

Name: Ron Manfredi

Title: City Manager

Date: 11/15/06

Party: City of Kerman

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: Armando Lopez

Name: Armando Lopez

Title: Mayor

Date: November 15, 2006

Party: City of Parlier

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: _____

Name: Thomas E. Buford

Title: Mayor

Date: November 28, 2006

Party: City of Lemoore

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: Karen Madruga for Dan Chin

Name: KAREN MADRUGA FOR DAN CHIN

Title: Mayor

Date: Dec 7, 2006

Party: City of Hanford

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: _____

Name: Jim Wadsworth

Title: Mayor, City of Corcoran

Date: December 11, 2006

Party: _____

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: Terry McKittrick

Name: Terry McKittrick

Title: Mayor

Date: 12-14-06

Party: City of Dinuba

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: Ray Soleno

Name: Ray Soleno

Title: Mayor

Date: December 14, 2006

Party: City of Reedley

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: _____

Name: Michael A. Montelongo

Title: Mayor

Date: December 20, 2006

Party: City of Sanger

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

CITY OF FRESNO

BY: _____
Andrew T. Souza
City Manager

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Deputy

ATTEST:

REBECCA E. KLISCH
CITY CLERK

BY: Cindy Brier 12/22
Deputy

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: _____

Name: Leland E. Beardstrom

Title: Mayor

Date: 12/28/06

Party: Kingsburg

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: _____

Name: Tony Barba

Title: VICE CHAIRMAN OF THE BOARD OF SUPERVISORS
COUNTY OF KINGS, STATE OF CALIFORNIA

Date: OCT 2 4 2006

Party: **Kings County Board of Supervisors**
Kings County Government Center
1400 W. Lacey Boulevard
Hanford, CA 93230

SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: _____

Name: D-B Heusser

Title: City Manager

Date: January 5, 2007

Party: City of Selma

CITY OF SELMA
INCORPORATED MARCH 15 1893

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the San Joaquin Valley Power Authority.

By: 

Name: Kathy Millison

Title: Clovis City Manager

Date: January 5, 2007

Party: City of Clovis

Exhibit A
To the
Joint Powers Agreement
San Joaquin Valley Power Authority

- *Definitions* -

"AB 117" means Assembly Bill 117 (Stat. 2002, ch. 838, principally codified at Public Utilities Code Section 366.2), which created the CCA option.

"Act" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)

"Agreement" means this Joint Powers Agreement.

"Annual Energy Use" has the meaning given in Section 4.8.2.2.

"Authority" means the San Joaquin Valley Power Authority, established by this Agreement.

"Authority Document(s)" means document(s) duly adopted by the Board through Board resolution and made effective as to the implementation of the Authority, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies.

"Board" means the Board of Directors of the Authority.

"CCA" or "Community Choice Aggregation" means an electric service option available to cities and counties pursuant to AB 117.

"CCA Program" means the Authority's program relating to CCA that is principally described in Sections 2.4 and 5.1.

"Director" means a member of the Board of Directors representing a Party.

"Effective Date" means the date on which this Agreement shall become effective and the San Joaquin Valley Power Authority shall exist as a separate public agency, as further described in Section 2.1.

"Implementation Plan" means the plan generally described in Section 1.1.3 of the MOU and Section 5.1.2 of this Agreement that is required under AB 117 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.

"Initial Participants" means, for the purpose of this Agreement, the twelve municipalities and Kings County that executed the MOU.

"Local Electric Facilities" means electric generating facilities developed, constructed and/or owned by KRCD in support of the CCA Program, including a proposed natural gas-fired electric generating facility, nominally rated at 500 megawatts, and associated linear interconnection facilities, as generally described in the feasibility study performed under the MOU, dated September 2005.

"KRCD" means the Kings River Conservation District.

"KRCD Act" means the Kings River Conservation District Act (Stat. 1951, ch. 931) establishing KRCD.

"MOU" means that certain Memorandum of Understanding, dated March 1, 2005, pursuant to which the Initial Participants and KRCD have been investigating and analyzing a program for the implementation of Community Choice Aggregation.

"Operating Rules and Regulations" means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

"Parties" means, collectively, the signatories to this Agreement that, as necessary, have satisfied the conditions in Section 3.2 such that they are considered members of the Authority.

"Party" means, singularly, a signatory to this Agreement that, as necessary, has satisfied the conditions in Section 3.2 such that it is considered a member of the Authority.

"Power Services Agreement" means the agreement between the Authority and KRCD that the Parties contemplate will be entered into as soon after the Effective Date as reasonably practicable and that will further describe KRCD's performance of all tasks necessary for planning, implementing, operating and administering the CCA Program, as further described in Section 4.11.

"Program Agreement 1" means the agreement among the Authority and certain or all Parties that the Parties contemplate will be entered into as soon after the Effective Date as reasonably practicable and that will describe the material terms and conditions of the CCA Program and determine which of the Parties will actually implement the CCA Program.

"Total Annual Energy" has the meaning given in Section 4.8.2.2.

Exhibit B
To the
Joint Powers Agreement
San Joaquin Valley Power Authority

- Parties -

This Exhibit B is effective as of November 15, 2006.

The Parties include the following:

City of Clovis
City of Corcoran
City of Dinuba
City of Fresno
City of Hanford
City of Kerman
County of Kings
City of Kingsburg
City of Lemoore
City of Parlier
City of Reedley
City of Sanger
City of Selma

Exhibit C
To the
Joint Powers Agreement
San Joaquin Valley Power Authority

- Annual Energy Use -

This Exhibit C is effective as of November *15, 2006.*

Party	kWh
City of Clovis	502,165,597
City of Corcoran	111,770,954
City of Dinuba	114,308,669
City of Fresno	2,819,248,607
City of Hanford	279,559,906
City of Kerman	42,617,821
County of Kings	398,793,914
City of Kingsburg	57,314,064
City of Lemoore	157,434,918
City of Parlier	41,158,335
City of Reedley	113,331,752
City of Sanger	100,116,474
City of Selma	102,467,462
Authority (Total Energy Use)	**4,840,288,473**

Exhibit D
To the
Joint Powers Agreement
San Joaquin Valley Power Authority

- Voting Shares -

This Exhibit D is effective as of November 15, 2006.

Party	(kWh)	(Section 3.8.2.1)	(Section 3.8.2.2)	Voting Share
City of Clovis	502,165,597	3.85%	5.19%	***9.03%***
City of Corcoran	111,770,954	3.85%	1.15%	***5.00%***
City of Dinuba	114,308,669	3.85%	1.18%	***5.03%***
City of Fresno	2,819,248,607	3.85%	29.12%	***32.97%***
City of Hanford	279,559,906	3.85%	2.89%	***6.73%***
City of Kerman	42,617,821	3.85%	0.44%	***4.29%***
County of Kings	398,793,914	3.85%	4.12%	***7.97%***
City of Kingsburg	57,314,064	3.85%	0.59%	***4.44%***
City of Lemoore	157,434,918	3.85%	1.63%	***5.47%***
City of Parlier	41,158,335	3.85%	0.43%	***4.27%***
City of Reedley	113,331,752	3.85%	1.17%	***5.02%***
City of Sanger	100,116,474	3.85%	1.03%	***4.88%***
City of Selma	102,467,462	3.85%	1.06%	***4.90%***
	4,840,288,473	*50.0%*	*50.0%*	***100.0%***

EXHIBIT B

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 30, 2007

David Orth
General Manager
Kings River Conservation District
4886 East Jensen Avenue
Fresno, CA 93725

Dear Mr. Orth:

The California Public Utilities Commission (Commission) has reviewed the Implementation Plan (IP) submitted by Kings River Conservation District (KRCD) on behalf of San Joaquin Valley Power Authority (SJVPA). The Commission hereby certifies that the IP submitted by KRCD/SJVPA, as revised, contains the information required by California Public Utilities Code Section 366.2 (c) (7).

The KRCD/SJVPA IP was originally submitted on January 29, 2007. On April 27, 2007, the Commission received a revised IP from KRCD/SJVPA which reflected modifications made to the IP by KRCD/SJVPA following consultation by its representatives with representatives from Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE).

The Commission will notify KRCD/SJVPA of its CCA-customer vintaged Cost Responsibility Surcharge (CRS) obligation within 10 days of this letter.

In future years, the CRS obligations will be calculated annually. KRCD/SJVPA will receive notice of those future CRS obligations via PG&E and SCE utility advice letter filings, and the Commission's response to them.

Sincerely,

Paul Clanon. FOR

Steve Larson
Executive Director

cc: John Dalessi
Director
Navigant Consulting
3100 Zinfandel Drive, Suite 600
Rancho Cordova, CA 95670

Scott Blaising
Attorney
Braun & Blaising, P.C.
915 L Street, Suite 1420
Sacramento, CA 95814

EXHIBIT C

San Joaquin Valley Power Authority
Minutes
Board Workshop Meeting
April 26, 2007

Approved Minutes of the Board Workshop of the Board of Directors (Board) of the San Joaquin Valley Power Authority (Authority) held April 26, 2007.

Authority Board Chair Thomas Haglund (City of Hanford) called the meeting to order at 10:35 AM.

ROLL CALL

Board Chair Haglund requested the official roll call of Authority Board Members.

MEMBERS PRESENT

CITY OF CLOVIS
Absent
CITY OF CORCORAN
Director Ron Hoggard
CITY OF DINUBA
Alternate Director Dan Meinert
CITY OF FRESNO
Alternate Director Rene Ramirez
CITY OF HANFORD
Director Thomas J. Haglund
CITY OF KERMAN
Absent
CITY OF KINGSBURG
Director Don Pauley
KINGS COUNTY
Alternate Director Deb West
CITY OF LEMOORE
Director John Tyler
CITY OF PARLIER
Alternate Director Shun Patlan
CITY OF REEDLEY
Alternate Director Rocky Rogers
CITY OF SANGER
Alternate Director John Mulligan
CITY OF SELMA
Director D-B Heusser
Alternate Director Judy Bier

Melissa Goliti, Kings River Conservation District (KRCD), reported eleven (11) of the

thirteen (13) Authority Member Agencies were present, (total of 86.68 % voting shares under the Joint Powers Agreement), with two (2) Authority Member Agencies absent (total 13.32 % voting share under the Joint Powers Agreement).

OTHERS PRESENT

Jeff Aldolph, Pacific Gas and Electric
Scott Blaising, Braun & Blaising, P.C
Mark Blum, Counsel, City of Kerman
Meggin Boranian, Counsel, City of Reedley
Melissa Goliti, Kings River Conservation District
Brian Haddix, Tulare County
Jane Luckhardt, Downey, Brand, Seymour and Rohwer, LLP
David Orth, Kings River Conservation District
Donna Pepper, Kings River Conservation District
Jim Navarrete, Southern California Edison
Randy Shilling, Kings River Conservation District
Cristel Tufenkjian, Kings River Conservation District
Marlon Walker, Southern California Edison
Tei Yukimoto, Counsel, City of Fresno

ADDITIONS TO OR DELETIONS FROM THE AGENDA

There were no additions or deletions to the agenda.

PUBLIC PRESENTATIONS

There were no public presentations.

REVIEW AND DISCUSSION OF DRAFT PROGRAM AGREEMENT 1

Board Chair, Tom Haglund reported the Executive Committee had appointed a limited purpose ad hoc Committee to address the development of Program Agreement 1 (PA1) and the Power Services Agreement (PSA) as defined in the Joint Powers Agreement (JPA). Mr. Haglund stated the PA1 is the agreement which each Authority member entity will execute in order for Community Choice Aggregation to be implemented.

Mr. Haglund reported further the ad hoc Committee, along with Authority Legal Counsel Jane Luckhardt and Kings River Conservation District (KRCD) Legal Counsel Scott Blaising, had provided the Authority Board with a Draft PA1 for review and discussion at the Workshop.

Scott Blaising, Braun & Blaising, P.C., presented for review the Draft PA1 and invited the Authority Board Members, Counsel, and the public to provide input where applicable. Mr. Blaising stated the purpose of the PA1, in conjunction with the JPA and PSA, is to provide the contractual framework for the Community Choice Aggregation Program (CCA) through which the Authority will provide aggregated electric services to the CCA Members' respective service territories.

Mr. Blaising presented and overview of Articles 1 through 12 of the Draft PA1, addressing questions and issues needing more clarification from Authority Board Members and their Counsels. Upon discussion by the Authority Board Members, issues raised for further clarification were addressed.

After further discussion Mr. Blaising suggested the discussion points of PA1 be revised based on the input received, for redistribution to the Authority Board Members prior to the Authority Board Meeting scheduled for May 3, 2007 at 2:00 P.M.

ADJOURNMENT:

There being no further business, Board Chair Haglund adjourned the meeting at 1:00 P.M.

Respectfully submitted,

Secretary

/
/
/
/
/

San Joaquin Valley Power Authority
Minutes
Regular Board Meeting
May 3, 2007

Approved Minutes of the Regular Meeting of the Board of Directors (Board) of the San Joaquin Valley Power Authority (Authority) held May 3, 2007.

Authority Board Chair Thomas Haglund (City of Hanford) called the meeting to order at 2:00 PM.

ROLL CALL

Board Chair Haglund requested the official roll call of Authority Board Members.

MEMBERS PRESENT

CITY OF CLOVIS
Alternate Director Robert Ford
CITY OF CORCORAN
Director Ron Hoggard
CITY OF DINUBA
Alternate Director Dan Meinert
CITY OF FRESNO
Alternate Director Rene Ramirez
CITY OF HANFORD
Director Thomas J. Haglund
CITY OF KERMAN
Director Ron Manfredi
CITY OF KINGSBURG
Director Don Pauley
KINGS COUNTY
Director Larry Spikes
CITY OF LEMOORE
Director John Tyler
CITY OF PARLIER
Director Lou Martinez
CITY OF REEDLEY
Alternate Director Rocky Rogers
CITY OF SANGER
Alternate Director John Mulligan
CITY OF SELMA
Alternate Director Judy Bier

Melissa Goliti, Kings River Conservation District (KRCD), reported thirteen (13) of the thirteen (13) Authority Member Agencies were present for a total of 100% voting shares under the Joint Powers Agreement.

OTHERS PRESENT

Jeff Aldolph, Pacific Gas and Electric
Scott Blaising, Braun & Blaising, P.C
Bill Delain, Southern California Edison
Melissa Goliti, Kings River Conservation District
Brent Graham, Kings River Conservation District
Brian Haddix, Tulare County
Jane Luckhardt, Downey, Brand, Seymour and Rohwer, LLP
Mark McKean, Kings River Conservation District
Steve McKenery, SPG Solar Inc.
Patrick Mealoy, Navigant Consulting Inc.
Anna Miller, Kings River Conservation District
John Murray, City of Lemoore
David Orth, Kings River Conservation District
Donna Pepper, Kings River Conservation District
Jim Richards, Kings River Conservation District
Randy Shilling, Kings River Conservation District
Brian Trevarrow, Kings River Conservation District
Cristel Tufenkjian, Kings River Conservation District
Marlon Walker, Southern California Edison

ADDITIONS TO OR DELETIONS FROM THE AGENDA

There were no additions to or deletions from the agenda.

PUBLIC PRESENTATIONS

There were no public presentations.

APPROVAL OF MINUTES

It was moved by Director Ron Hoggard, City of Corcoran, seconded by Board Secretary John Tyler, City of Lemoore, and approved on a voice vote (voting shares: 95.71% approved, 4.29% absent, 0% opposed) to adopt the Minutes of the April 12, 2007 Authority Board Meeting as distributed. (Vice Chair Ron Manfredi, City of Kerman, arrived after the vote on Approval of Minutes)

REPORT FROM THE DIRECTORS

Director John Tyler, City of Lemoore, reported the Lemoore City Council approved an Energy Audit Agreement with Chevron Energy to perform an energy assessment for the City of Lemoore. The audit would include a potential solar facility producing 2 megawatts of power and the prospective economics it would create which could also be included as renewable energy under the CCA Agreement.

There were no other Directors reports.

APPROVAL OF PROGRAM AGREEMENT 1 (Community Choice Aggregation) AND RESOLUTION NO. 07-05

Board Chair Haglund requested discussion from Board members regarding approval of Program Agreement 1, as provided in the Sections 2.4, 5.1.4 and 7.2 of the Joint Powers Agreement, stating the Board may be requested to adopt Resolution 07-05 formally approving the Program Agreement 1 (PA1).

Mr. Scott Blaising summarized the development and advancement of PA 1. Mr. Blaising stated the purpose of the PA1, in conjunction with the JPA and PSA, is to provide the contractual framework for the Community Choice Aggregation Program (CCA) through which the Authority will provide aggregated electric services to the CCA Members' respective service territories. Mr. Blaising stated there have been numerous meetings and discussions by the Executive Committee and the ad hoc committee to discuss and develop the draft of PA 1. . A Board Workshop held April 26, 2007 further defined PA1. Mr. Blaising further stated teleconferences were held with the ad hoc committee members and their legal counsels seeking to refine and finalize a version of PA 1. Mr. Blaising noted that PA1 is now complete and is being presented to the Board for its formal consideration.

Vice Chair Ron Manfredi noted that members of the Board have been closely involved in this two (2) year accumulative process and have developed a high level of confidence regarding PA 1, noting further that moving forward is not a rush decision.

Upon further discussion, it was moved by Alternate Director Rogers, City of Reedley, seconded by Alternate Director Ford, City of Clovis, and unanimously carried by a voice vote (voting shares: 100% approved, 0% absent, 0% opposed,) to adopt Resolution 07-05 approving the Program Agreement 1, as provided in Sections 2.4, 5.1.4 and 7.2 of the Joint Powers Agreement.

NEXT MEETING DATE

The Authority Board established May 31, 2007 at 2:00 P.M as the next meeting date and time.

ADJOURNMENT:

There being no further business, Board Chair Haglund adjourned the meeting at 3:35 P.M.

Respectfully submitted,

Secretary

EXHIBIT D

San Joaquin Valley Power Authority
- Program Agreement 1 -
(Community Choice Aggregation)

Effective _____, 2007

Among

San Joaquin Valley Power Authority

And the following CCA Members:

SAN JOAQUIN VALLEY POWER AUTHORITY
PROGRAM AGREEMENT 1
(Community Choice Aggregation)

This **Program Agreement 1** ("Agreement"), effective as of _____, 2007 ("Effective Date"), is made and entered into by and among the **San Joaquin Valley Power Authority** ("Authority") and the **CCA Members** (as defined hereunder). Capitalized terms used in this Agreement without other definition shall have the meanings specified in Exhibit A.

RECITALS

1. The Authority is an independent public agency formed in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 *et seq.*) and established by that certain Joint Powers Agreement, effective as of November 15, 2006. The Authority was formed in order to study, promote, develop, and conduct electricity-related programs, including specifically a program relating to Community Choice Aggregation ("CCA"), which is an electric service option available to cities and counties pursuant to Assembly Bill 117 (Stat. 2002, ch. 838) ("AB 117").
2. The Kings River Conservation District ("KRCD") is a California public agency established in 1951 by the Kings River Conservation District Act (Stat. 1951, ch. 931), and possessing various powers relating to the establishment of works related to, among other things, water management and the generation and delivery of electricity within KRCD's service area, which encompasses over 1.2 million acres in Fresno, Kings and Tulare counties.
3. Under the Joint Powers Agreement, KRCD was appointed the Authority's exclusive agent for planning, implementing, operating and administering the Authority's CCA program in accordance with direction provided by the Authority. In furtherance of this appointment and in accordance with approval by the Authority's Board of Directors, on January 29, 2007, KRCD submitted the Authority's CCA Implementation Plan ("Implementation Plan") and statement of intent to the California Public Utilities Commission ("CPUC").
4. The CCA Members are members of the Authority, and desire to implement a CCA program whereby the CCA Members' electric loads, and the electric loads of the residents and businesses within the CCA Members' respective jurisdictions, will be aggregated and served by the Authority.
5. The Authority and the CCA Members desire to enter into this Agreement in order to establish the general terms and conditions of the Authority's CCA program ("CCA Program"). The Authority and the CCA Members desire to have representatives of the CCA Members (acting by and through the Authority's Board of Directors ("Board")) further implement the Authority's CCA Program through specific rates, rules, policies and regulations duly approved by the Board, subject to any restrictions set forth in this Agreement and the Joint Powers Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Authority and the CCA Members as follows:

ARTICLE 1
INTRODUCTION

The purpose of this Agreement, in conjunction with the Joint Powers Agreement and the Power Services Agreement, is to provide the contractual framework for the CCA Program through which the Authority will provide aggregated electric services to the CCA Members' electric loads, and the electric loads of participating residents and businesses within the CCA Members' respective jurisdictions (collectively, "CCA Customers"). The objective of the CCA Program is to provide predictable, reliable, cost-effective, cost-based electric services to the CCA Customers. This Agreement provides the general terms and conditions associated with the CCA Program, with specific implementation of the CCA Program to be accomplished through various Program Addendums, as described in Section 6.1.2, subject to the provisions contained herein.

ARTICLE 2
DEFINITIONS

Capitalized terms used in this Agreement without other definition shall have the meanings specified in Exhibit A, unless the context requires otherwise.

ARTICLE 3
RELATIONSHIP TO THE MOU

3.1 **General**. Twelve municipalities and Kings County ("Initial Participants") and KRCD entered into that certain Memorandum of Understanding, dated March 1, 2005 ("MOU"), pursuant to which the Initial Participants and KRCD have been investigating and analyzing the feasibility of implementing the CCA Program. The Initial Participants are the original signatories and parties to the Joint Powers Agreement. Under Section 5.1.4 of the Joint Powers Agreement, the Authority agreed to perform or caused to be performed activities relating to the CCA Program in order (a) to complete necessary work under the MOU and (b) to prepare the CCA Program for actual implementation, as evidenced by the execution and effectiveness of this Agreement.

3.2 **Notices.** Under the MOU, KRCD is required to provide certain notices regarding the completion of activities related to the Authority's potential role as a Community Choice Aggregator. The Authority and the CCA Members agree that the Authority has assumed KRCD's obligations with respect to all such notices. The Authority and the CCA Members further agree that, with the Authority's approval of the Implementation Plan and with the Authority's delivery of this Agreement, as described in Section 4.1, the Authority shall be deemed to have performed all obligations under the MOU with respect to notices to the CCA Members.

3.3 **Successor Agreement**. The CCA Members, which constitute the remaining participants under the MOU, agree that this Agreement is intended to describe all matters relating to the CCA Program, and that, upon this Agreement becoming effective under Section 4.2, the MOU shall terminate pursuant to Section 5.1 thereof.

ARTICLE 4
PROGRAM COMMENCEMENT

4.1 **Delivery Date**. Upon approval of the Board, the Authority shall execute this Agreement and deliver a copy of this Agreement to all Joint Powers Agreement Parties. The date on which the Authority delivers this Agreement for execution by the Joint Powers Agreement Parties shall be referred to as the "Delivery Date."

4.2 **Effective Date**. This Agreement shall become effective on the date on which the Authority has received a duly executed counterpart of this Agreement from at least 9 Joint Powers Agreement Parties ("Minimum Participation Level"). For the purpose of implementing this Section 4.2, the reference to "Joint Powers Agreement Parties" shall include the Initial Participants and Tulare County, should Tulare County become a Joint Powers Agreement Party in accordance with Section 3.1 of the Joint Powers Agreement and Authority Resolution 07-03. The Authority shall provide written notice to all Joint Powers Agreement Parties of the Effective Date.

4.2.1 **Effect of Failure to Execute**. During the first 90 days after the Delivery Date, a Joint Powers Agreement Party may cause this Agreement to be effective as to such Joint Powers Agreement Party by executing this Agreement and returning it to the Authority. A failure by a Joint Powers Agreement Party to execute and return this Agreement to the Authority during the first 90 days after the Delivery Date shall automatically cause this Agreement to be null and void as to any such Joint Powers Agreement Party.

4.2.2 **Failure to Achieve Minimum Participation Level**. If the Authority fails to achieve the Minimum Participation Level by 90 days after the Delivery Date, this Agreement shall not become effective, and neither the Authority nor any CCA Member shall have any rights or obligations under this Agreement. The Authority shall provide written notice to all Joint Powers Agreement Parties of any such occurrence.

4.3 **Commencement Notice**. Notwithstanding Section 4.2, the CCA Program shall not commence and no implementation activities under this Agreement shall be initiated unless and until (a) the Board shall have approved and the Authority and KRCD shall have executed the Power Services Agreement and (b) the Board shall have adopted a resolution finding, among other things, that the CCA Program is reasonably expected to achieve key financial goals described in the Implementation Plan, including the establishment of rates at a discount of 5 percent from comparable generation-related rates under the respective Utility Distribution Company's otherwise applicable tariff. The aforementioned resolution shall be approved by an affirmative vote of the Board in which the minimum percentage voting share, as described in Section 4.8 of the Joint Powers Agreement, shall be no less than 67% of the voting shares of the CCA Members, as further described in Section 5.2.1.

4.3.1 **Notice.** The Authority shall provide written notice to all the CCA Members of the adoption of the aforementioned resolution ("Commencement Notice").

4.3.2 **Failure to Provide Commencement Notice**. If the Authority has not delivered the Commencement Notice to the CCA Members by 90 days after the Effective Date, the CCA Members may terminate this Agreement by providing 10 days advance written notice to the Authority; provided, however, delivery of the Commencement Notice during the 10-day notice period shall automatically extinguish any such termination.

If, as a result of any such termination(s), the number of remaining CCA Members is less than the Minimum Participation Level, this Agreement shall automatically terminate without further action by the Authority. The Authority shall provide notice to all the CCA Members of any such termination.

ARTICLE 5
GOALS, SCOPE AND GENERAL ROLES

5.1 **CCA Program Goals**. As further described in the Implementation Plan, the goals for the Authority's CCA Program are (a) to enhance local electric reliability and diversity through the development of Local Electric Facilities, including local renewable generation resources (b) to achieve greater levels of electricity price stability and transparency through local decision-making, (c) to provide electricity cost savings for local businesses and residents, (d) to provide greater levels of local control over and collaboration on energy decisions, and (e) to provide revenue to the CCA Members for their respective contribution to the development and ongoing operation of the CCA Program.

5.2 **Board**. The Board, following the voting procedure described below, shall govern and be responsible for the administration of this Agreement and for the operation of the CCA Program. The CCA Members represent that their respective Director (or alternate Director, acting in the Director's absence) on the Board has authority to act for the CCA Member with respect to matters pertaining to this Agreement and the CCA Program.

5.2.1 **Voting**. The vote of the Board on any issue pertaining to this Agreement and the CCA Program (including the approval of Program Addendums, as described in Section 6.1.2) shall follow the methodology described in Section 4.8 of the Joint Powers Agreement.

5.2.2 **Representative Duties**. The Board shall adopt policies, establish rates, approve plans and procedures, and otherwise govern the CCA Program. Without limiting the generality of the foregoing, the Board shall make decisions and take actions on the following matters related to this Agreement and the CCA Program, and such other matters as may be necessary for the implementation of this Agreement and the operation of the CCA Program:

(a) Administer, enforce and interpret the provisions of this Agreement in order to accomplish the purpose and objective of this Agreement;

(b) Review, approve and, as necessary, modify the specific rules, rates and procedures required for the implementation of this Agreement and the operation of the CCA Program, as reflected in Program Addendums; and

(c) Review and approve the Authority's budget with respect to services provided under this Agreement and the CCA Program.

5.3 **CCA Members**. In accordance with the phase-in plan developed for the CCA Program, the CCA Members shall procure from the Authority their Full Electricity Requirements for Eligible Member Loads (as defined below) for the term of this Agreement. Additionally, by and through their representation on the Board, the CCA Members shall participate in the governance, control and implementation of the CCA Program.

5.4 **The Authority**.

5.4.1 **Community Choice Aggregator**. The CCA Members acknowledge and agree that the Authority shall be the "Community Choice Aggregator," as described in AB 117 and decisions of the CPUC, in the provision of electric services to the CCA Customers, it being agreed by the CCA Members that, by adopting the enabling ordinance in accordance with Public Utilities Code Section 366.2(c)(10) and execution of this Agreement, the CCA Members have transferred to the Authority their rights to serve CCA Customers within their respective boundaries effective as of the date of the ordinance, subject to their right to withdraw from this Agreement, as described in Section 11.2.

5.4.2 **Power Services Provider**. Under Section 4.11 of the Joint Powers Agreement, KRCD was appointed the Authority's exclusive agent for planning, implementing, operating and administering the CCA Program. The Authority represents that concurrent with the execution of this Agreement, or as soon thereafter after as reasonably practicable, the Authority will execute a Power Services Agreement with KRCD by which the Authority will reaffirm its authorization for KRCD to act as the Authority's exclusive agent to implement the CCA Program and will further specify the scope of services provided by KRCD. Without limiting the generality of the foregoing, under the Power Services Agreement KRCD will be expected to, among other things, plan, obtain and schedule sources of electricity to supply the CCA Customers' Full Electricity Requirements, develop and present for Board approval Program Addendums for the implementation of this Agreement, and provide retail and regulatory services in support of the CCA Program, including but not necessarily limited to rate analysis and recommendations, billing, customer service, marketing, regulatory and public relations, and serving as liaison with the Utility Distribution Company and the CPUC.

5.5 **Utility Distribution Company**. The Utility Distribution Company will provide distribution and billing services to the CCA Customers, and will provide various services to the Authority, pursuant to rules, rates, agreements and tariffs approved by and on file with the CPUC.

ARTICLE 6
METHOD OF IMPLEMENTATION

6.1 **General**. This Agreement provides the general framework by which the Authority will conduct the CCA Program. The Authority and the CCA Members expect the CCA Program to evolve from that described in the initial Implementation Plan and this Agreement. As generally described in Section 5.2, the Board shall govern and be responsible for the actual operation of the CCA Program. The Authority and the CCA Members agree that rules, rates and procedures shall be developed for the implementation of this Agreement and the operation of the CCA Program, as further described below.

6.1.1 **Implementation Plan**. The current plan for implementing the CCA Program is described in the Implementation Plan, which is hereby incorporated into this Agreement by this reference. The Authority intends to modify the Implementation Plan from time to time to more accurately reflect the then-current CCA Program.

6.1.2 **Program Addendums**. Rules, rates and procedures for the specific implementation of this Agreement and operation of the CCA Program shall be set

forth in writing from time to time and presented for approval by the Board as Program Addendums. In developing Program Addendums, the Authority shall endeavor to develop Program Addendums in a manner that best preserves the principles of this Agreement in light of the evolving conditions then-affecting the CCA Program. The CCA Members will be given an opportunity to review such proposed rules, rates and procedures, and to present their respective views to the Board concerning such proposed rules, rates and procedures. Upon approval by the Board, the specific rule, rate or procedure shall be referred to as a Program Addendum, with individual, sequential numbers (or other numbering system approved by the Board) being used to reference such Program Addendums.

6.1.2.1 Incorporation by this Reference. Subject to Section 6.1.2.2, the CCA Members agree that Program Addendums shall constitute addendums to this Agreement and shall, by this reference and except as may be specifically stated otherwise in such Program Addendum, be automatically incorporated into this Agreement and made subject to the terms and conditions hereof.

6.1.2.2 Need for Written Consent. In developing Program Addendums, a distinction exists with respect to obligations that relate to CCA Members as parties to this Agreement and obligations that relate to CCA Members as CCA Customers. The Authority and the CCA Members agree that (a) a Program Addendum may not impose any additional obligations on CCA Members in their role as parties to this Agreement without their express written consent and (b) a Program Addendum may impose additional obligations on CCA Members without their express written consent if such additional obligation is a term or condition of service under the CCA Program that applies to all similarly situated CCA Customers.

6.1.3 Conflicts. In resolving any conflict between or among the components of this Agreement, a Program Addendum and the Implementation Plan, the following priority shall control: (a) this Agreement, (b) a Program Addendum and (c) the Implementation Plan.

6.2 Agency Relationship.

6.2.1 General. The CCA Members hereby authorize the Authority to act as their respective agent to implement the CCA Program with respect to the CCA Customers.

6.2.2 Relationship with CCA Customers. The Authority and the CCA Members agree that the relationship with CCA Customers shall exist with and be maintained by the Authority, not the CCA Members.

6.2.3 Further Assurances. Subject to the limitations set forth in Section 6.1.2.2, the Authority and the CCA Members agree to execute and deliver all further instruments and documents, and take any further action, that may be reasonably necessary to implement this Agreement, including specifically the transfer of rights from the CCA Members to the Authority, as described in Section 5.4.1, the appointment of the Authority as the CCA Members' respective agent, as described in Section 6.2.1, or as necessary to allow the Authority to satisfy its obligations under the Power Services Agreement with respect to the CCA Program.

ARTICLE 7
RESOURCE PLAN AND OPERATION

7.1 **General**. Through the Power Services Agreement, the Authority shall cause to be provided the necessary administrative, technical, financial, regulatory and management services to effectuate the resource planning and operations required under this Agreement for the CCA Program.

7.2 **Initial Phase-in**.

7.2.1 **General**. The Authority anticipates that it will implement a phase-in plan with respect to the type and number of CCA Customers to be initially served by the Authority, it being understood by the Authority and the CCA Members that the Authority intends to eventually provide universal access to all eligible customers, as described in AB 117 and decisions of the CPUC. The Authority's phase-in plan is described in the Implementation Plan.

7.2.2 **Eligible Member Loads; Full Electricity Requirements**. As described in the Implementation Plan, the initial phase of the CCA Program will consist of all eligible electric loads of the CCA Members ("Eligible Member Loads"). The CCA Members agree that, for the term of this Agreement, they will procure from the Authority their Full Electricity Requirements for the Eligible Member Loads.

7.2.3 **Waiver of Certain Rights**. The CCA Members acknowledge that there are various rights accorded to customers under AB 117 and decisions of the CPUC with respect to the implementation of AB 117. As partial consideration hereunder, and in light of the CCA Members' relationship to the Authority and to the Board, the CCA Members agree to waive (a) their respective right to receive all opt-out notices otherwise required under the Utility Distribution Company's rules and described in Section IX.1 of the Implementation Plan as it exists on the Delivery Date and (b) their respective right to opt-out of the CCA Program, subject to their right to withdraw from this Agreement.

7.3 **Annual Resource Plan and Periodic Reports**. Through the Power Services Agreement, the Authority shall cause to be developed (a) an Annual Resource Plan for the purpose of implementing the CCA Program, which such plan shall include, but not be limited to, information relative to load demand forecasts, projected resource availability, adherence to pertinent regulatory requirements (including resource adequacy, renewable portfolio and greenhouse gas requirements), and scheduling plans and (b) periodic reports to the CCA Members describing key elements of the implemented Annual Resource Plan, including any variances to the plan or contingency actions taken by the Authority.

7.4 **Electric Resources**. Through the Power Services Agreement, the Authority shall cause to be procured or acquired, electric resources to meet the CCA Customers' anticipated demands. It is anticipated that such electric resources shall consist of a mix of short and long-term electric resources, which may include Local Electric Facilities. In this regard, as described in the Implementation Plan, the CCA Members acknowledge that KRCD is currently investigating the development of a local natural gas-fired electric generating facility with the intent of supplying power for electric loads served under the CCA Program.

7.4.1 **Objectives**. The primary objectives of the Authority's electric resource acquisition program are:

(a) to provide economic benefits to the CCA Members and to CCA Customers from pooling electric resources to meet the aggregated electric loads of CCA Customers

(b) to supply the CCA Customers' Full Electricity Requirements at the lowest practicable cost; and

(c) to promote the development of local electric generating facilities, including local renewable generation resources.

7.4.2 Net Unavoidable Costs. All costs associated with the CCA Program, including debt service and related finance costs, shall be recoverable through rates from all CCA Customers existing as of the effective date of the commitment to such purchases and acquisitions, and from all future CCA Customers reasonably forecasted to be served by such electric resources. As described in the Implementation Plan, a termination fee (including a Cost Recovery Charge) will apply to recover, among other things, the net unavoidable costs of electric resource commitments attributable to the CCA Customers that terminate service under the CCA Program. The methodology for calculating the "net unavoidable cost" and other matters related to the termination fee shall be further described in a Program Addendum.

ARTICLE 8
RATES

8.1 General. Except as expressly stated otherwise herein, all costs incurred by the Authority in the performance of this Agreement and the CCA Program shall be recovered through rates applicable to the CCA Customers. The Board shall approve the rates for electric services under the CCA Program, and the rules describing the CCA Customers' obligations to pay such rates.

8.1.1 Initial Rates. As described in Section 6.3.3 of the Joint Powers Agreement, the CCA Members desire that, to the extent reasonably practicable, all costs that are attributable to the provision of electric services under the CCA Program, including costs of development and start-up (as described in Section 8.1.2), and costs of various reserve funds, credit requirements and insurance coverage, shall be recovered through rates from CCA Customers under the CCA Program. The CCA Members intend that all such rates will first be applied upon the commencement of electric services provided under the CCA Program.

8.1.2 Development and Start-up Costs. As described in Section IV of the Implementation Plan, KRCD has incurred and will continue to incur various costs in the development and start-up of the CCA Program, with such costs to be addressed in the Power Services Agreement.

8.1.3 Participation Fee. The Authority and the CCA Members acknowledge that the CCA Members have incurred and will continue to incur various costs (including opportunity costs) with respect to the development, operation and oversight of the CCA Program. In recognition of these costs and other contributions made by the CCA Members to the CCA Program, and upon an affirmative vote of the Board,

the Board may establish discounted rates for CCA Members, or provide other comparable economic benefits to CCA Members.

8.2 **Rate Principles**. Rates for CCA Customers shall be based on rate principles agreed upon by the Board, as generally described in the Implementation Plan. The Board shall establish appropriate rate and customer classifications. The Authority and the CCA Members agree that similarly situated customers served by the Authority within each of the CCA Members' respective boundaries shall be subject to the same rate; provided, however, for a legitimate purpose and upon an affirmative vote of the Board consisting of no less than 67% of the voting shares of the CCA Members, the Board may establish preferential rates for certain CCA Customers and/or customer classifications, including economic development rates.

8.3 **Adjustments**. Rates may be adjusted by the Board as may be reasonably required to collect additional operating funds to address shortfalls or to return amounts of any over-collection that may occur due to various factors, including but not limited to seasonal adjustments.

8.4 **Target Rate Benefit**. The Authority shall endeavor to establish and maintain rates for CCA Customers at levels equal to or less than comparable generation-related rates under the respective Utility Distribution Company's otherwise applicable tariff. As described in the initial Implementation Plan, and as specified in Section 4.3 (Commencement Notice), the Authority's goal is to offer initial program rates under the CCA Program that provide a discount of 5 percent from comparable generation-related rates under the respective Utility Distribution Company's otherwise applicable tariff.

8.5 **Records and Accounts**. The Authority shall keep, or cause to be kept, records and accounts of operations under the CCA Program. Each CCA Member shall have the right at its own expense to examine and copy the records and accounts referred to above, and records and accounts relating to the computation of the rates, charges and costs attributable to the CCA Customers under this Agreement, on reasonable notice during regular business hours and subject to confidentiality requirements established by the Board in accordance with applicable law.

8.6 **Cooperation in the Collection of Delinquent Charges**. The CCA Members agree to cooperate with the Authority as may be reasonable in the collection of delinquent charges under the CCA Program from CCA Customers within the CCA Members' respective jurisdiction.

ARTICLE 9
ANNUAL REVIEW

All transactions of and costs incurred by the Authority under the CCA Program shall be subject to an annual audit, which shall be completed as soon as reasonably practicable following the end of each fiscal year, as described in Section 6.1 of the Joint Powers Agreement. In connection with this annual audit, the Authority shall produce and provide to the CCA Members cost accounting reports pertaining to the operations of the CCA Program.

ARTICLE 10
BILLING

10.1 ***Billing Statement***. *In accordance with procedures reviewed and approved by the Board, and* consistent with the Utility Distribution Company's rules, a billing statement shall be delivered to each CCA Customer for charges owed by the CCA Customer under the CCA Program.

10.2 **Authority Responsibility for Billing CCA Customers**. Consistent with Section 6.2.2, the CCA Members shall not be responsible for billing CCA Customers within the CCA Members' respective boundaries, it being agreed by the Authority and the CCA Members that, as generally described in Section 10.1, the Authority shall cause the CCA Customers to be billed for electric services provided under the CCA Program.

10.3 **Payment**. Certain information concerning the CCA Customer's responsibility for payment of services under the CCA Program is described in the Implementation Plan. The Authority shall establish specific rules and procedures describing the CCA Customers' respective rights and obligations concerning payments, including the rights of a CCA Customer to dispute a bill.

ARTICLE 11
TERM AND TERMINATION

11.1 **Term**. The term of this Agreement shall commence on the Effective Date and shall continue in effect from year to year until terminated as described herein.

11.2 **Continuing Participation**. The CCA Members acknowledge that participation in the CCA Program may change by the addition and/or withdrawal of the CCA Members, and by the addition or opt-out of CCA Customers. The CCA Members agree that the withdrawal or termination of a CCA Member (and its associated CCA Customers), and the opt-out of CCA Customers, shall not affect this Agreement or the remaining CCA Members' continuing obligations under this Agreement and the CCA Program.

11.3 **Addition of CCA Members.** As described in Section 3.1 of the Joint Powers Agreement, additional parties may be included in the Joint Powers Agreement, and, subject to the satisfaction of any additional conditions established by the Board, may also be included as an additional CCA Member.

11.4 **Withdrawal of CCA Members.**

11.4.1 General. A CCA Member may withdraw from this Agreement upon written notice given to the Authority and to the other CCA Members no less than 6 months prior to the CCA Member's designated withdrawal date.

11.4.2 Responsibility for Returned CCA Customers. Withdrawal of a CCA Member from this Agreement may result in the CCA Customers within the withdrawing CCA Member's jurisdiction being returned to bundled electric service provided by the Utility Distribution Company. The withdrawing CCA Member and the Authority shall cooperate with each other, and the respective Utility Distribution Company, to minimize or eliminate costs attributable to the return of formerly CCA Customers to bundled electric service provided by the Utility Distribution Company Should there be any costs reasonably determined by the Board to be

attributable to the return of formerly CCA Customers, including costs specified in Sections S.7 and T.2 of the Utility Distribution Companies' CCA rules (as amended from time to time), the withdrawing CCA Member agrees to be responsible for all such costs.

11.4.3 Continuing Obligations. A CCA Member's withdrawal shall not relieve such CCA Member of any obligation arising prior to the effective date of such withdrawal. Without limiting the generality of the foregoing, the withdrawing CCA Member agrees (a) to be responsible for the termination fee (including Cost Recovery Charge) determined by the Board to be applicable to recover, among other things, the net unavoidable costs of electric resource commitments, as generally described in Section 7.4.2, attributable to the withdrawing CCA Member's Eligible Member Loads and (b) to cooperate with the Authority as may be reasonably necessary to effectuate an orderly transition.

11.5 Termination of this Agreement. This Agreement may be terminated by written consent of all the CCA Members; provided, however, the foregoing shall not be construed as limiting the rights of an individual CCA Member to withdraw from this Agreement (as described in Section 11.4) and thus to terminate this Agreement as to such CCA Member.

ARTICLE 12
MISCELLANEOUS

12.1 No Joint and Several Liability. The CCA Members shall not be jointly and severally liable for obligations of the Authority under third-party agreements, it being the intent and agreement of the Authority and the CCA Members that liabilities under third-party agreements shall be incurred directly by the Authority. The Authority shall be responsible for its debts, liabilities and obligations, which shall not be the debts, liabilities, or obligations of any CCA Member, unless the governing body of that CCA Member has expressly agreed in writing that the CCA Member shall assume such specifically described debts, liabilities or obligations.

12.2 Amendments. To be effective, an amendment to this Agreement must include the following two elements: (a) an affirmative vote of the Board and (b) the written consent of each then-existing CCA Member.

12.3 Dispute Resolution. The dispute resolution process to be followed for matters related to this Agreement is described in Section 8.1 of the Joint Powers Agreement, which Section is hereby incorporated into this Agreement.

12.4 Liability of Authority, Officers, and Employees. The Authority's Board members, officers, employees and agents (including KRCD) shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties under the CCA Program. No Authority Board member, officer, employee or agent shall be responsible for any act or omission by another Board member, officer, employee or agent. The Authority shall indemnify and hold harmless the individual Authority Board members, officers, employees and agents for any action taken lawfully and in good faith under the CCA Program. Nothing in this section shall be construed to limit the defenses available under the law to the CCA Members, the Authority, or Authority Board members, officers, employees or agents.

12.5 **Assignment.** The rights and duties of the CCA Members with respect to this Agreement may not be assigned or delegated without the advance unanimous written consent of the Authority and the other CCA Members, which consent shall not be unreasonably delayed or withheld. The rights and duties of the Authority may not be assigned or delegated without the advance unanimous written consent of the CCA Members, which consent shall not be unreasonably delayed or withheld; provided, however, the Authority may, without any additional consent, (a) delegate the Authority's obligations to KRCD pursuant to the Power Services Agreement and (b) assign rights to KRCD in connection with services provided under the Power Services Agreement. This Agreement shall inure to the benefit of, and be binding upon, the successors and authorized assigns of the Authority and the CCA Members.

12.6 **Severability.** If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Authority and the CCA Members that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

12.7 **Execution by Counterparts.** This Agreement may be executed in any number of counterparts, and upon execution by the Authority and the CCA Members, each executed counterpart shall have the same force and effect as an original instrument and as if the Authority and the CCA Members had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

12.8 **Notices.** The notice process to be followed for matters related to this Agreement is described in Section 8.8 of the Joint Powers Agreement, which Section is hereby incorporated into this Agreement.

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ARTICLE 13
SIGNATURE

IN WITNESS WHEREOF, the Authority and the CCA Members have executed this Program Agreement 1 as of date written below.

SAN JOAQUIN VALLEY POWER AUTHORITY

By: _____

Title: Chairman

Date: 5/3/2007

CCA MEMBER

By: _____

Name: _____

Title: _____

City/County: _____

Date: _____

Exhibit A
To
Project Agreement 1

- Definitions -

"AB 117" means Assembly Bill 117 (Stat. 2002, ch. 838, principally codified at Public Utilities Code Section 366.2), which created the CCA option.

"Agreement" means this Program Agreement 1.

"Annual Resource Plan" means the plan developed by KRCD under the Power Services Agreement, and approved by the Board, for the purpose of implementing this Agreement and the CCA Program, as described in Section 7.2.

"Authority" means the San Joaquin Valley Power Authority, an independent public agency formed in accordance with the Joint Powers Act of the State of California (Government Code Section 6500, *et seq.*) and established by the Joint Powers Agreement.

"Board" means the Authority's Board of Directors.

"CCA" means Community Choice Aggregation, an electric service option available to cities and counties pursuant to AB 117.

"CCA Customers" means the CCA Members and residential and business customers within the CCA Members' respective jurisdictions for whom the Authority is providing electric services under the CCA Program, as described in Article 1.

"CCA Members" means Joint Powers Agreement Parties that are also signatories to this Agreement.

"CCA Program" means the CCA program described in this Agreement by which the Authority aggregates and serves the electric loads of the CCA Customers.

"Commencement Notice" means the written notice provided by the Authority to the CCA Members under Section 4.3.1 by which the Authority notifies the CCA Members of the satisfaction to certain conditions precedent to the commencement of the CCA Program, as described in Section 4.3.

"Community Choice Aggregator" means the Authority serving in the role as community choice aggregator, as described in AB 117 and decisions of the CPUC.

"Cost Recovery Charge" means the charge described in the Implementation Plan, and generally in Section 7.3.2, applicable to the CCA Customers that terminate service under the CCA Program for costs reasonably attributable to the CCA Customers' electric loads, as determined by the Board.

"CPUC" means the California Public Utilities Commission.

"Delivery Date" means the date on which the Authority delivers this Agreement for execution by Joint Powers Agreement Parties, as generally described in Section 4.1.

"Director" means, as defined in the Joint Powers Agreement, a member of the Board representing a Joint Powers Agreement Party.

"Effective Date" means the date on which this Agreement has become effective, as described in Section 4.2.

"Eligible Member Loads" means the electric loads of the CCA Members that are eligible for service under the CCA Program, as described in the Utility Distribution Company's rules, excluding any electric loads served under a "direct access" service option (as described in the Utility Distribution Company's rules) through the duration of the contract for such service, as such contract existed as of the Delivery Date.

"Full Electricity Requirements" means, with respect to electricity accounts served under the CCA Program, all of the CCA Customer's electricity requirements, excepting from such requirement all load that may be self-supplied by a CCA Customer through qualifying electric generation.

"Implementation Plan" means the plan required for submittal to the CPUC under Assembly Bill 117 as the means of describing the CCA Program and assuring compliance with various elements contained in Assembly Bill 117, as initially submitted by the Authority on January 29, 2007 and as it may be modified from time to time.

"Initial Participants" means Kings County and the cities of Clovis, Corcoran, Dinuba, Fresno, Hanford, Kerman, Kingsburg, Lemoore, Parlier, Reedley, Sanger and Selma, as described in Section 3.1.

"Joint Powers Agreement" means that certain Joint Powers Agreement, effective as of November 15, 2006, establishing the Authority as an independent public agency pursuant to the Joint Powers Act of the State of California (Government Code Section 6500, *et seq.*).

"Joint Powers Agreement Parties" means, collectively, as of the Delivery Date, the Initial Participants and, thereafter, all then-existing parties to the Joint Powers Agreement, reflecting the fact (a) that parties to the Joint Powers Agreement may withdraw from the Joint Powers Agreement or have the Joint Powers Agreement terminated as to such party and (b) that parties other than the Initial Participants may be added to the Joint Powers Agreement, including Tulare County should Tulare County become a party to the Joint Powers Agreement in accordance with Section 7.1 of the Joint Powers Agreement and Authority Resolution 07-03.

"Joint Powers Agreement Party" means, singularly, as of the Delivery Date, each of the Initial Participants and, thereafter, each then-existing party to the Joint Powers Agreement, reflecting the fact (a) a party to the Joint Powers Agreement may withdraw from the Joint Powers Agreement or have the Joint Powers Agreement terminated as to such party and (b) a party other than the Initial Participants may be added to the Joint Powers Agreement, including Tulare County should Tulare County become a party to the Joint Powers Agreement

in accordance with Section 7.1 of the Joint Powers Agreement and Authority Resolution 07-03.

"KRCD" means the Kings River Conservation District, a California public agency established in 1951 by the Kings River Conservation District Act (Stat. 1951, ch. 931).

"Local Electric Facilities" means electric generating facilities, including local renewable generation resources, developed and constructed in support of the CCA Program, as described in a separate agreement with the Authority or in a Program Addendum, including a proposed natural gas-fired electric generating facility to be owned by KRCD, nominally rated at 500 megawatts, and associated linear interconnection facilities, as generally described in the initial Implementation Plan.

"Minimum Participation Level" means at least 9 Joint Powers Agreement Parties, with the reference to "Joint Powers Agreement Parties" including the Initial Participants and Tulare County, should Tulare County become a Joint Powers Agreement Party in accordance with Section 3.1 of the Joint Powers Agreement and Authority Resolution 07-03, as further described in Section 4.2.

"MOU" means the Memorandum of Understanding, dated March 1, 2005, among KRCD, and the Initial Participants, pursuant to which the MOU parties have been investigating and conducting certain preliminary implementation activities for a CCA program, as described in Section 3.1.

"Power Services Agreement" means the agreement contemplated to be entered into between the Authority and KRCD, the execution of which is a condition precedent to the commencement of the CCA program, as described in Section 4.3, pursuant to which KRCD shall continue to serve as the exclusive provider of services necessary to fulfill the Authority's role as Community Choice Aggregator under this Agreement and the CCA Program.

"Program Addendum" means a specific rule, rate or procedure for the implementation of this Agreement and the CCA Program, as generally described in Section 6.1.2.

"Utility Distribution Company" means either Pacific Gas and Electric Company or Southern California Edison Company, as the case may be, as an investor-owned utility acting in the role described by the CPUC pursuant to rules and decisions relating to CCA.

EXHIBIT E

Energy Crisis RPS purchases from the CRS calculation, in the same way that all "New World" utility procurement is currently excluded from the DA CRS. This treatment would apply to all post-crisis RPS procurement costs, not just those incurred under contracts signed *after* a particular CCA's binding notice of intent. Since CCA customers will not (and should not) receive "credit" for an IOU's RPS purchases, they should not have to pay any CRS associated with those purchases *either*. This approach would place IOUs and CCAs on a "level playing field" with respect to RPS compliance.

Q Some of the CCA witnesses suggest that the IOUs be barred from marketing or soliciting "opt-outs" from a CCA program during the automatic enrollment period. Do you agree?

A Yes, I do. As long as customers departing to CCA are required to pay a properly determined CRS, there should be no harm to bundled customers or the utility as a result of customers shifting to CCA service. There should therefore be no reason for a utility to actively seek to encourage opt-outs. The CCA program should be given a chance to function without utility interference in the process. However, if the Commission fails to require a fully compensatory CRS, I may take a different view on this issue.

Q Does this complete your reply testimony?

A Yes, thank you.

EXHIBIT F

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Portions of AB 117 Concerning Community Choice Aggregation U 39 E	Rulemaking 03-10-003

REPLY BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY AND PACIFIC GAS AND ELECTRIC COMPANY REGARDING PHASE 2 ISSUES FOR COMMUNITY CHOICE AGGREGATION

CRAIG M. BUCHSBAUM

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Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: August 1, 2005

2. Local Power engages in a long discussion to prove that the CCA Provider's success in meeting its binding commitment will depend on the environment in which it will be operating. For example, it argues that future Commission-adopted utility rate structures and levels will impact the CCA Provider's ability to meet its binding commitment or stay within the 10% deadband proposed by the Utilities.[68] There is no question that any CCA Provider entering the energy procurement business will be taking some risk including future variations in market energy prices and utility rates. A CCA Provider wishing to engage in the open season process may seek to hedge these risks in negotiations with an ESP or in the marketplace. However, the statute does not require, and Local Power should not expect, the Utilities or the Commission to accept the risk of cost-shifting to bundled service customers, by altering otherwise cost-effective activities, merely to satisfy a CCA Provider voluntarily engaging in the Open Season process that it will not be negatively impacted by the Utilities' actions. The only area that the Utilities can reasonably be expected to cooperate is to refrain from "marketing" to the CCA Provider's customers if the scope of marketing is defined as actions to dissuade the customers from taking service from the CCA Provider.[69]

Incredibly, Local Power goes even one step further and argues that because the Commission's or Utilities' actions such as modifications to the Utilities' tariffs could result in a CCA Provider not meeting its commitment, the incremental costs resulting from such failure should be considered implementation costs and charged to all ratepayers.[70] These costs have nothing to do with implementation of the CCA program, as referenced in the statute, such as the costs associated with "all business and information system changes" that the utility must make to

[68] Local Power's Opening Brief, pp. 16-19.

[69] Ex. 3A (Utilities' Rebuttal), pp. III-8 to III-9.

[70] Local Power's Opening Brief, p. 25.

EXHIBIT G

Order Instituting
Rulemaking: 03-10-003
(U 39 M)
Exhibit No.: _____
Date: May 16, 2005

JOINT REBUTTAL TESTIMONY OF

SAN DIEGO GAS & ELECTRIC COMPANY, PACIFIC GAS & ELECTRIC COMPANY, AND SOUTHERN CALIFORNIA EDISON COMPANY

COMMUNITY CHOICE AGGREGATION OIR

PHASE 2

May 16, 2005

SDGE

Second, AB 117 is structured on preventing any cost-shifting to bundled service customers. That would require providing an opportunity to CCA Providers who want to mitigate their level of CRS to make a binding commitment to the load they plan to serve. AB 117 is not premised on minimizing procurement risk to CCA Providers or the level of risk the CCA Providers consider reasonable or acceptable. Moreover, AB 117 is clear as to the responsibility of the CCA Providers for the utility's purchase power obligations prior to CCA Providers commencing service to their customers. These costs have not been classified as "implementation costs" to be paid for by all ratepayers and do not even appear in the same section as the implementation costs.[20]

Q. 9. Do you have any other comments on the CCSF's reply testimony?

A. 9. Yes, CCSF raises three additional issues that warrant a response. The first issue relates to the impact of Utilities' "marketing" on the percentage of customers that may opt out of the CCA program and the deviation between the binding load forecast of a CCA Provider and its actual load. The Utilities have previously stated, and state again, that they will not disparage the customers from joining a CCA program or encourage them to opt out of such a program. However, it is important to determine what CCSF means by "marketing." The Utilities would not agree to refrain from educating our customers about their choice to be part of, or opt out of a CCA program, with the communication designed in a completely neutral fashion to provide the customers with information they need to make a decision. Similarly, the Utilities would not agree to ignore a question by a potential CCA customer that, for example, inquires about the utility's generation rate in comparison to what a CCA Provider is offering to the customer. The Utilities do not object to formalizing this commitment not to "market" to the potential

[20] PUC Sections 366.2 (c)(17) and 366.2(f)(2).

CCA customers during the mass enrollment/opt-out period if that term is defined as active encouragement of customers to opt out of the CCA program. Moreover, as TURN notes,[21] a commitment by the Utilities not to "market" should be accompanied by a fully compensatory CRS to protect the bundled service customers.

Next, CCSF[22] desires language in the Open Season Tariff stating that the CCA Provider will be indemnified if it does not satisfy its binding commitment due to the utility's failure to meet its commitments to the CCA Provider in any way. This proposal is unworkable and could lead to CCA Providers requesting indemnification even if the utility inadvertently fails to mail a notice to a single potential CCA customer.

Moreover, this language is unduly vague and unnecessary because a utility's services to the CCA Providers and the terms and conditions of providing those services to the CCA Providers will be defined in the Utilities' tariffs. If a CCA Provider at any time believes that the utility has not met its obligation, the CCA Provider can file a complaint with the Commission requesting dispensation which could include the waiver of fees imposed under the Open Season Tariff.

Additionally, CCSF[23] argues that to the extent that the CCA Providers are required to comply with the Commission- and State-mandated obligations (including those imposed by the Independent System Operator) such as resource adequacy and Renewable Procurement Standards (RPS), those requirements should not appear in the Open Season Tariff. This begs the question of whether the CCA Providers intend to comply with these obligations after they have become final and unappealable. CCA

[21] TURN, Reply Testimony, Florio, p. 8.
[22] CCSF, Reply Testimony, Hyams, p. 7.
[23] CCSF, Reply Testimony, Hyams, p. 8.

EXHIBIT H

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION On Its Own Motion	)	
Rulemaking proceeding to implement Section 16-119A(a) of the Public Utilities Act regarding standards of conduct	)	No. 98-0147
and	)	
ILLINOIS COMMERCE COMMISSION On Its Own Motion	)	
Rulemaking proceeding to implement Section 16-119A(b) of the Public Utilities Act regarding Functional Separation between generation services and delivery services of Illinois electric utilities	)	No. 98-0148 (Cons.)

Comments of PG&E Corporation
In Response to
Commonwealth Edison Company's
Integrated Distribution Company Proposal

PG&E Corporation ("PG&E Corp.) offers the following comments in response to the Integrated Distribution Company Proposal ("IDC Proposal") described in the Memorandum of November 24, 1999 which was distributed to the parties to this proceeding by Commonwealth Edison Company ("ComEd"). As shown below, PG&E Corp. recommends that the IDC Proposal be rejected and that all electric utilities be required to comply with standards of conduct and

functional separation rules issued by the Commission pursuant to 220 ILCS 5/15-119A.

I. Description of PG&E Corporation

PG&E Corporation is one of the nation's largest diversified energy holding companies with more than $33 billion in assets, and is one of the nation's largest natural gas and electricity suppliers. PG&E Corp. is the parent company of four competitive business units and of the Pacific Gas and Electric Company, an electric and gas utility regulated by the California Public Utilities Commission which serves retail customer in northern and central California. Through its four competitive business units, PG&E Energy Services, PG&E Energy Trading (which has offices in the Chicago suburbs), PG&E Generating and PG&E Gas Transmission, PG&E Corp. provides a broad range of energy services nationwide. These services range from retail energy services and wholesale energy trading to power generation and natural gas transmission. PG&E Corp. has a strong interest in expanding its services to customers in Illinois, both in terms of energy services and power plant development. PG&E Corp. was not a party to this proceeding before the record was reopened to consider the IDC Proposal, but has filed a Motion to Intervene in this docket simultaneously with the filing of these comments.

II. The IDC Proposal Will Deter Competitors From Entering the Illinois Electric Market

PG&E Corp. has intervened in this reopened proceeding because of a firm belief that the IDC Proposal will not advance competition as suggested by ComEd, but will instead enhance the inherent advantages of incumbent utilities that choose to operate under the IDC approach.[1] This will, in turn,

[1]PG&E Corp. believes that the IDC Proposal is so egregious in concept that it cannot be redeemed by fine-tuning or modification. For that reason, and because PG&E Corp. understands that ComEd is expected to present an edited or revised version of the IDC Proposal on the due date for comments, these comments do not detail the problems and inconsistencies inherent in the specific provisions contained in the IDC Proposal as set out in ComEd's Memorandum of November 24, 1999. PG&E

deter competitive electric suppliers from entering the Illinois market and deprive Illinois consumers of the benefits of a competitive electric marketplace. Simply stated, adoption of the IDC Proposal will send a message to competitive electric suppliers that Illinois is not hospitable to the development of competition.

Competition in the retail electric market will bring consumers lower costs, more choices and better services. However, competition will not develop unless competitive suppliers of power and energy enter the Illinois market. For a new market entrant, the costs of entering the market are not insignificant. For example, the initial cost to PG&E Corp.'s retail energy services unit to enter the Illinois market will be several million dollars simply for certification, development and establishment of communications and electronic data exchange systems and protocols, and other one-time costs. These costs do not include ongoing marketing, promotional sales and other recurring costs necessary to induce customers to switch from their incumbent utility. (It should be noted that the incumbent utility has no such customer acquisition costs.) In a state that protects rather than mitigates the incumbent utility's natural competitive advantage, there is no incentive for competitive suppliers to spend millions of dollars to enter the market.

III. The IDC Proposal Benefits Only the Incumbent Utility

The IDC Proposal would allow a utility that provides both generation services and delivery services to avoid implementing functional separation between those services. In return, the utility would (i) not market or advertise retail electric supply out of the utility; (ii) provide bundled or unbundled non-tariffed retail electric supply; (iii) refrain from offering billing and pricing

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Corp. reserves the right to offer more specific and detailed comments on the IDC Proposal in response to ComEd's comments.

experiments unrelated to the provision of distribution; and (iv) forgo the right to lower tariff rates on seven days notice. ComEd argues that, by taking the above steps, the utility will no longer be in the business of marketing electric supply in competition with ARES. (ComEd Memorandum of November 24, 1999, p.3) For that reason, ComEd concludes that the flow of information between the generation and distribution functions will be "neutralized" because it cannot offer a competitive advantage to the utility. Because any such flow of information will be neutralized, the argument continues, there will be no need to separate the functions to prevent the flow of information.

The IDC Proposal assumes that a utility that provides bundled (or default) generation service to its existing customers, and also offers to serve customers under the PPO, is not competing with ARES so long as those services are not marketed or advertised and so long as the utility otherwise complies with the IDC Proposal. This reasoning ignores the fact that, simply by offering those services as alternatives to the competitive service available from an ARES or from another utility, an incumbent utility is, in fact, competing with ARES. Competition exists because a customer has the choice of more than one supplier for its power and energy needs. Only the supplier that actually provides the service to the customer benefits. Therefore, the suppliers are competing with one another for the customer's business. This fact is unchanged by the utility's agreement to forgo advertising and marketing of its generation services.

The incumbent utility gives up nothing by agreeing to refrain from advertising and marketing its bundled default generation service because it has no need to market or advertise to its existing bundled customers. In fact, on day one of customer choice the incumbent serves 100% of the market with no acquisition costs.

As with bundled default service, there is no need to market or promote the PPO. ComEd is

required to offer the PPO to its existing customers and to notify customers of the availability of the PPO. In addition, the PPO is clearly identified as an option for utility customers in educational materials concerning the Customer Choice Law, on the Commission's website and elsewhere. Here again, there is no need for the utility to market. The PPO speaks for itself. The PPO allows - and in fact requires - the utility to offer its customers generation service at an artificially determined "market" price that, in many cases, is lower than the price at which a competitive supplier can serve the customer. It is hard to envision a situation where the utility has a greater competitive advantage. No advertising is necessary here.

As shown above, Customer acquisition is simply not an issue for the incumbent utility, in contrast to the new competitive market entrant[2]. Nonetheless, the IDC Proposal would confer a substantial advantage on the incumbent utility that agrees not to market or advertise generation services by eliminating the need for the utility to separate its distribution function from its generation function. ComEd complains of the cost of separation, but the potential harm to the customer - as competition fails to develop - is likely to be of greater magnitude.

Rather than customer acquisition, customer retention is the competitive issue for the

[2]On this point, ComEd notes that the IDC Proposal would benefit consumers by allowing a utility to divert resources away from sales activities and focus them on customer assistance. (ComEd Memorandum, p. 3). The utility already has the option to focus on customer assistance and has no need to engage in sales activities if it chooses to provide only those generation services required by law, as contemplated by the IDC proposal.

incumbent.[3] Here, the incumbent starts with advantages that include: name recognition[4], a longstanding relationship with the customer and customer inertia - all in contrast to the new, competitive market entrant. Customer retention is achieved by a more subtle type of marketing that is not included in the definition of "marketing" for purposes of the IDC Proposal - the provision of superior service to existing customers, which might include the addition of value added services. This is the arena in which incumbent utilities compete with ARES and other utilities and an arena where the absence of separation can confer great advantage on the IDC. For example, proposed Section 452.270 provides that information available to IDC employees with regard to the IDC's delivery service system or facilities need not be made available to non-affiliated ARES or to utilities offering competitive service to the IDC's customers, including value-added services. Yet this information is available to those in the IDC who are providing value-added services in competition with ARES. Clearly, this unique access to information about the distribution system could benefit the IDC in its customer relationship.[5] The ability to unfairly cement the relationship between a valued customer and the IDC is a significant advantage for the IDC's supply services as well. Many customers will want one-stop shopping for supply and value-added services and will therefore

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[3]The HEPO acknowledged that utilities will attempt to retain bundled service customers when competition provides alternatives and that bundled service employees will have an incentive to retain customers parallel to the incentives of unbundled service employees, and that pro-competitive rules should apply to bundled service. (HEPO, P. 69).

[4]ComEd's proposed Section 452.210(c) of the proposed rule specifically authorizes use of the ComEd name and logo in connection wit the provision of services that an Integrated Distribution Service is permitted to offer.

[5]The HEPO acknowledged that disclosure of delivery service information to ARES is necessary to remedy a situation where a utility's retail unit acquires competitively advantageous information from the delivery services unit. Under the IDC Proposal, there would be no separation and no requirement of comparable disclosure to ARES.

remain with the utility for both services. Thus, preferential access to information for those providing value-added services will be far more valuable to the IDC than the ability to advertise bundled service or the PPO.

As shown above, the flow of information between the distribution and generation functions can most benefit the incumbent and most harm the incumbent's competitors. This flow of information is more likely to occur where the functions are not separated and where .. nployees perceive themselves as members of the same "team".

Under the IDC Proposal, common employees would provide the bundled generation service characterized by ComEd as not competitive, and competitive service such as value added services. These employees would enjoy access to customer information that would advantage the IDC's value added services over the value added services offered by ARES. As the following example demonstrates, provision of value added services related to the distribution function can be a marketing tool with respect to customer retention. In the example, an industrial customer might complain to its IDC account representative about voltage anomalies that can severely damage its computerized industrial process. In response, the IDC would be able to provide a power quality solution to the customer before any competitor even learns that the customer has a power quality problem. It follows naturally that the customer would remain an electric supply customer of the IDC as well.

Monitoring improper information flow is difficult to detect and, if detected after the fact, will already have damaged the fragile, developing competitive markets. For this reason, separation of functions that includes physical separation and separate employees is necessary, especially during the early development of a competitive market. The need for and benefits of functional separation

were recognized by HEPO and need not be discussed in further detail here.

At present, Illinois law requires incumbent utilities to offer generation services that compete with ARES. The incumbent utility cannot remove the competitive character of such services simply by choosing the IDC alternative. If an incumbent utility truly wishes to exit the competitive arena and become a distribution company, the remedy lies with the Illinois General Assembly and not in the hands of the Commission. That remedy would be an amendment to the Customer Choice Law that eliminates the utility's obligation to provide generation service, by eliminating the PPO and the obligation to provide bundled default service. This result could be accomplished without depriving existing utility customers of the ability to continue receiving bundled default service and PG&E Corp. would be pleased to consider joining with ComEd to seek appropriate modifications to Illinois law.

Absent a change in the law, Illinois utilities must continue to provide generation service that competes with other suppliers. Functional separation between the distribution and generation functions is critical to mitigate the incumbent utility's inherent advantage, without regard to whether the utility actively markets to new customers or offers only those generation services required by law.

IV. Conclusion

For the reasons set out above, the Commission should reject the IDC Proposal. Even without the IDC alternative, Illinois law offers advantages to incumbent utilities that exacerbate rather than mitigate market power. These advantages include (without limitation):

1. A transition charge that is not adjusted to reflect sales of utility generation for prices above book value;

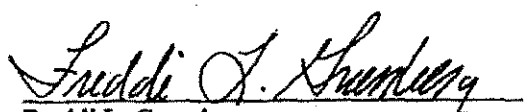
2. Utilities are permitted to offer competitive services and regulated services from the same company;

3. The Commission is not authorized to consider the need for separation between a utility's regulated and competitive functions until 2003; and

4. Utilities are permitted to engage in billing experiments that can easily be used as vehicles to compete with new market entrants.

Unfortunately, Illinois law provides the Commission with few tools to address market power of the incumbent in a manner that facilitates the development of competition, particularly in its early stages. The authority to require separation between the generation and distribution function is one such tool. PG&E Corp. urges the Commission to use this tool by requiring electric utilities to separate their distribution and generation functions without the alternative of becoming an IDC.

Respectfully submitted,



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ARDC No. 1046837

Dated: January 12, 2000

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION On Its Own Motion	)	
Rulemaking proceeding to implement Section 16-119A(a) of the Public Utilities Act regarding standards of conduct	)	No. 98-0147
and	)	
ILLINOIS COMMERCE COMMISSION On Its Own Motion	)	
Rulemaking proceeding to implement Section 16-119A(b) of the Public Utilities Act regarding Functional Separation between generation services and delivery services of Illinois electric utilities	)	No. 98-0148 (Cons.)

NOTICE OF FILING

TO: *Attached Service List*

PLEASE TAKE NOTICE that on this 12th day of January, 2000, I have filed with the Chief Clerk of the Illinois Commerce Commission, (1) Petition of PG&E corporation to Intervene and Request for Leave to File Comments *Instanter* and (2) the Comments of PG&E Corporation In Response to Commonwealth Edison Company's Integrated Distribution Company Proposal, copies of which are hereby served upon you.

Freddi L. Greenberg

Freddi L. Greenberg
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ARDC No. 1046837

STATE OF ILLINOIS
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Rulemaking proceeding to implement Section 16-119A(b) of the Public Utilities Act regarding Functional Separation between generation services and delivery services of Illinois electric utilities	)	No. 98-0148 (Cons.)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Filing, together with (1) Petition of PG&E corporation to Intervene and Request for Leave to File Comments *Instanter* and (2) Comments of PG&E Corporation In Response to Commonwealth Edison Company's Integrated Distribution Company Proposal, was served upon the parties on the attached service list by first class U.S. mail, postage prepaid, on the 12th day of January, 2000.

Freddi L. Greenberg

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EXHIBIT I

Pacific Gas and Electric Company

705 P Street, 3rd Floor
Fresno, CA 93760

May 10, 2007

Councilmember Chin:

Here's some important information that we wanted to provide you about KRCD's plan regarding Community Choice Aggregation. Please contact either of us with any questions or to discuss this further.

Regards,

Cam Maloy
559/263-5527

Jeff Adolph
559/263-5520

What You Need to Know About KRCD's CCA Plans

Rates

You Need To Know - KRCD claims that it can offer power cost savings of approximately 5% relative to PG&E. However, even if KRCD is correct, this is only 2.5% of your total electric bill.

There is very little detail provided in the KRCD Implementation Plan (IP) that would allow for a reasoned analysis of its costs. All that KRCD has presented is an estimate of PG&E's *and SCE's* generation costs, and a "target" of 5% below these costs to estimate KRCD's revenues. But the generation rate is only about half of the total rate paid by customers. Thus, even assuming that KRCD's estimates of PG&E's (and SCE's) generation rates are correct, and further assuming that KRCD can save 5% on the generation component, this represents a total savings of only 2.5% off the total rate. Thus, for a customer with a *$100* monthly electric bill, KRCD has only presented the possibility of $2.50 of savings.

You Need To Know – *there is nothing about KRCD's proposal that guarantees* that rates will be lower than those of PG&E or SCE.

In fact, for a variety of reasons related to underestimated costs, and overestimations of PG&E's ad SCE's rates, it is very likely that KRCD's rates will be higher. These are discussed below.

You Need To Know – KRCD and its consultant, Navigant, seem to have underestimated the costs of providing power.

- The Navigant analysis, developed *in 2005, assumed a cost of* the new 500 MW power plant to be $323 million (500 MW at $646/kw as indicated on page 50). KRCD, in its January 2007 Implementation Plan, assumed a cost of $400+ million. (VII.C.2, pg.54) Actual recent costs suggest a number of over $500 million.
- The Navigant study used a natural gas price in 2010 of $6.90/MMBtu, presumably estimated sometime in 2005. Since that time, natural gas prices have continued to be higher. As a result, the KRCD Implementation Plan should have used a natural gas price closer to $7.90/MMBtu.
- Using these more updated assumptions as applied to Navigant's analysis, the corrected costs for "Electricity Procurement" shown in the KRCD Implementation Plan *should be* $36.7 million higher, *wiping* out any potential CCA Program Surplus (estimated in the Implementation Plan at $13 million), and erasing any CCA Program Savings (estimated at $23 million). In short, KRCD's customers would pay more.

What You Need to Know About KRCD's CCA Plans

You Need to Know – *Even Navigant had to admit the risks associated with trying* to buy less expensive power than PG&E. KRCD seems to have ignored these warnings.

Navigant's study states, "NCI's savings estimates do not assume that KRCD can buy electricity cheaper or more efficiently than PG&E and SCE. As many large customers were able to obtain under California's direct access program, KRCD may be able to obtain additional benefits beyond those estimated in this analysis from competition among suppliers for the right to serve the community's load; however, it would be speculative to assume that suppliers would offer below-market prices to KRCD, and NCI's analysis assumes that PG&E, SCE, and KRCD face the same market prices for wholesale electricity purchases."[1] *Despite this caveat from its own consultant, KRCD inexplicably shows savings from power procurement in its Implementation Plan.*

You Need To Know – KRCD has also overestimated PG&E's and SCE's rates, adding further to the illusion of savings which are unlikely to exist.

KRCD's estimates of PG&E's generation costs are high. Specifically, according to Table 29, KRCD has estimated *PG&E's generation cost in 2007 to be* $0.077/kwh. In fact, PG&E's generation cost in 2007 is $0.075/kwh, or approximately 3% below those *estimated by* KRCD. In its March 12, 2007 comments submitted to KRCD, SCE provides a corrected Table 29 that shows that SCE's generation rate is significantly below those shown by the Implementation Plan ($0.072/kwh, as compared with KRCD's estimate of $0.093/kwh). Thus, KRCD is basing its 5% savings estimate on a benchmark that is too high for both utilities. A lower PG&E/SCE generation cost reduces any prospect of savings relative to PG&E's rates.

Risks

You Need To Know **– Members <u>can</u> lose by joining this CCA program. Rates must be set to cover costs.**

It is very likely that KRCD's generation costs will be higher than those of PG&E. Section III.D.4 (pg. 15) of the Implementation Plan describes the fact that "<u>The final approved rates must, at a minimum, meet the annual revenue requirement developed by KRCD</u>." If the rates set to recover all those costs are higher than PG&E's rates, those are what members will pay. *Thus, if KRCD's costs of providing power* exceed the generation rate charged by PG&E, customers will end up paying more.

[1] Report on the Feasibility Assessment of a Community Choice Aggregation Program In the San Joaquin Valley, Prepared by Navigant Consulting, Inc. Sept. 2005 pg. 13

What You Need to Know About KRCD's CCA Plans

You Need to Know – Members can't simply pull out and return to PG&E supply without potentially incurring costs, particularly after executing Program Agreement 1 (PA-1).

In fact, the vote that is coming up in the May-June timeframe to execute Program Agreement 1 very squarely places the financial risk on the cities that elect to move forward, along with their constituents. According to the Implementation Plan, the financial obligations for the participating cities and counties become much more significant, moving from approximately a few million dollars, to approximately **$50 million** for start-up costs, followed by **over $400 million** (and likely much more) for the proposed 500 MW power plant. According to the Implementation Plan, this latter financing is expected to take place in late 2008/early 2009 (see VII.C.3, page 56).

Section XI.C (pg. 70), "Termination by Members", states that: "As set forth in the Joint Powers Agreement[2], Members may withdraw from the Authority upon six months written notice provided that such Members will be obligated to pay their pro-rata share of all encumbrances and indebtedness of the Authority as of the date of notice of termination on the Authority. In order to better understand the nature of these encumbrances and indebtedness, Section IX.1.b (pg. 63) describes Termination Fees that would apply to terminating customers, which include among other things, a "cost recovery charge (CRC) that would apply in the event that the Authority is unable to recover the costs of supply commitments attributable to the customer that is terminating service."

Thus, the decision to move ahead with the program in the next few months is anything but a "free option" without the possibility of higher costs.

You Need to Know – Members have been told that KRCD is handling the risk for the program including the bonds that would be used to finance the construction of the baseload power plant. This is not what the Implementation Plan says.

KRCD is acting as the exclusive agent of the SJVPA in development and implementation of the CCA program for the member cites and counties. However, it is the SJVPA, its members and constituents that will ultimately bear the risks associated with the costs and commitments that KRCD is making on their behalf. Although the bonds to be issued are Revenue Bonds, not General Obligation bonds, it is the revenues of the CCA program paid by its members in the electric rates that will be obligated for use to pay off those bonds. By taking the next step, executing the Program Agreement 1 and subsequently taking service from the CCA program, member cities and their constituents, assume the risks the bond obligations entail. If the revenues resulting from the rates set to recover those costs are not adequate to cover all the costs (including the bond costs), rates will have to increase to ensure those obligations are met. If members decide to withdraw from the program after those costs have been incurred, they will be obligated to a pro-rata share of the costs incurred to date.

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[2] Section 7.1 of the Joint Powers Agreement, "Withdrawal", states that Parties may withdraw their membership by giving 6 months notice after it executes the program Agreement 1. According to Section 7.3, "upon termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liability arising from the party's membership ...". In addition, such party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreement(s) relating to such program."

What You Need to Know About KRCD's CCA Plans

The Joint Powers Agreement states, "The Parties contemplate that the Power Services Agreement will include, among other things, terms (a) describing KRCD's acquisition of electric power supply and provision of retail and regulatory support services and (b) addressing the recovery of costs incurred by KRCD, including but not necessarily limited to the recovery from Parties of any net unavoidable costs associated with Local Electric Facilities constructed by KRCD in support of the CCA Program." (JPA Sec 4.11 pg. 7)

It further states, "A Party that withdraws its membership in the Authority may be subject to certain continuing liability, as described in Section 7.3. (JPA Sec. 7.1.3 pg. 10)[3]

Reliability

You Need To Know – KRCD has made assertions that, absent the formation of the CCA and construction of the proposed 500 MW power plant, PG&E will be unable to provide reliable electric supply to the Greater Fresno Area (GFA). This is not correct!

PG&E is fully prepared to provide reliable electric supply to the GFA. PG&E rigorously follows transmission planning standards as required by all relevant jurisdictional entities[4]. These include annual assessments of PG&E's transmission system to identify facilities requiring upgrades within the ten-year planning horizon and to propose transmission projects that address all applicable reliability criteria.

You Need to Know – PG&E is spending over $1 billion ensure that it can continue to provide reliable electric service to the Greater Fresno Area.

PG&E has undertaken a number of important investments in this area, collectively representing a $150 million dollars since 2002. Additional transmission projects that will support reliability or provide economic benefits are either on-going or proposed to be completed within the ten-year planning horizon; these additional projects represent a further investment of as much as $1.2 billion.

You Need to Know – KRCD incorrectly believes its proposed 500 MW natural gas fired power plant is needed to provide reliable supply to the GFA.

KRCD has provided no evidence to support this argument. In addition to the completed and ongoing electric transmission upgrades being undertaken by PG&E, there are also several new power plants proposed for Fresno County that represent approximately 1,830 MWs of additional capacity scheduled to be built ahead of the proposed KRCD Community power project. Included in that list are plants being built under contract to PG&E which will generally operate as needed to ensure that supply can meet demand.

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[3] According to Section 7.3, "upon termination of a Party, the Party shall remain responsible for any claims, demands, damages, or *liability arising from the party's membership ...*". In addition, such party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreement(s) relating to such program."

[4] Jurisdictional entities include: regionally, the Western Electricity Coordinating Council (WECC), continentally, the North American Electric Reliability Corporation (NERC), and within the State of California, the California Independent System Operator (CAISO).

What You Need to Know About KRCD's CCA Plans

With the PG&E proposed transmission projects discussed previously and given that other investments in generation are proceeding ahead of KRCD's proposed generation facility, PG&E believes that there will be no discernable improvement in reliability in the GFA from the addition of KRCD's base-load facility.

Renewables

You Need To Know – PG&E continues to take aggressive steps to increase the percentage of its power mix provided by renewable resources

PG&E has been actively procuring renewable resources for years. Presently, 54% of PG&E's supply comes from carbon-free sources. Over 30% of PG&E's supply comes from a diverse portfolio of renewable energy: hydroelectric, biomass, wind, solar and geothermal. About 20% comes from PG&E's large hydro system, and approximately 12% comes from smaller renewable generation sources. PG&E is increasing its renewable supplies in compliance with the state's 2010 requirement that 20% of its portfolio comes from these small renewable sources. PG&E's longer-term plan currently before the CPUC details PG&E's expectation to increase renewable content beyond 20%.

You Need To Know - KRCD has stated it intends to match PG&E for the portion of its power portfolio that is comprised of renewable resources. However, this is easier said than done.

By law, KRCD is also required to ensure that 20% of its energy supply is comprised of state eligible renewable resources by 2010. KRCD hopes to match PG&E's renewable procurement until 2010, at which time it expects to meet its obligation of 20%. Missing however, is key detail that would support the ability of KRCD to actually achieve PG&E's renewable procurement and still supply the cost savings promised in its plan. The detail necessary to support such a claim would, at a minimum, be the renewable resources and amount of energy contracted along with their respective costs to supply the KRCD portfolio. KRCD's ability to procure clean renewable resources as a 20% target of its portfolio while meeting price goals may be hindered by the main sources of supply in its implementation plan– the largest pieces of which are a 500 MW gas-fired power plant (in 2010) and the 97 MW Malaga peaking plant (in 2015). In addition, its Pine Flats hydro resource (under contract to DWR until 2034) exceeds the size threshold for hydro facilities to qualify as a renewable resource.

You Need To Know These Facts Before You Take the Next Steps

PG&E Supports Customer Choice

PG&E Wants You To Be Fully Informed
When You Make Your Choice

EXHIBIT J

Transcription of comments made by Craig Schmidt
Director, Public Affairs - PG&E
Fresno City Council Meeting - May 15, 2007

"Good morning council members my name is Craig Schmidt. I'm the Public Affairs Director for Pacific Gas and Electric Company, your utility company.

What you're asked to do today is basically make a decision as council member Duncan has said. You have an opportunity today to make a statement. Are you going to side-step the issue or are you going to address it head-on; and that is air quality issues. That's one portion of the equation that we have to work with.

The other one is the risk versus the possible gain. I don't think the risk, from the presentation and from the documentation that we have had an opportunity to examine, justify this body of government putting itself in harm's way, and their constituents, which are our constituents, for the possibility of rates even being higher than what their bundled rates are currently with PG&E.

That's a concern of ours because what's going to happen at the end of the day, if this comes to fruition, and our worst nightmares are revealed, it'll be us who our customers will blame and not anybody else, because their billing will come from us, and all their anger will be addressed to us just as it was during the energy crisis - that it was our fault and that's why they're paying so much for it. That's a concern that we have, as a constituent that we tried to harbor goodwill with and we try to work with on a daily basis to promote conservation.

PG&E was the first utility and the first major company to support AB 32, the governor's proposal on cleaning up the environment. We are proud of that fact and we are continuing to work with that, as you the City has been benefactors of some of our programs that we have had on energy conservation. We want to continue to do that and we want to do that with the spirit of cooperation with you folks and to make sure that we have that open dialogue so we can continue.

We believe that in the community choice conservation as a philosophy. However, in this particular situation we don't believe that the numbers add up.

And I would like you to consider the opportunity that you have right now to make a stand.

Thank you."

The video stream of Mr. Schmidt's address can be viewed at:
http://www.fresno.gov/Government/CityCouncil/CityHallLiveCouncilBroadcast/VideoArchive.htm, see the May 15, 2007 city council meeting, at time point 2:59:27.

EXHIBIT K

Issues and Questions Raised
by the Latest Version of the
San Joaquin Valley Power Authority/Kings River Conservation District
***Community Choice Aggregation* (CCA) Proposal and Program Agreement 1.**

1. **ISSUE: $2.5 million in startup costs.** In the SJVPA/KRCD/Citigroup presentation, the statement was made repeatedly that all the startup costs and financial risk is being absorbed by KRCD, and that KRCD would only recover those costs if the CCA begins operation. However, the Program Agreement 1 clearly states that the city and county members who adopt PA-1 would be responsible for the pro-rata share of these costs (currently estimated by KRCD to be $2.5 million). The PA-1 should be amended to reflect the guarantee by KRCD that it will absorb all costs until implementation.

2. **ISSUE: Staff time/cost for startup.** How is the considerable amount of city staff's time spent on SJVPA work being handled? Will KRCD agree to absorb those costs as well (i.e., reimburse the city for those costs if the CCA does not move forward)?

3. **ISSUE: 5% rate reduction not guaranteed.** Representatives from SJVPA, KRCD, and Citigroup all said they would guarantee a 5% rate reduction, or else the plan would not go forward. However, the PA-1 states only that the plan should be "reasonably expected" to reduce rates by 5%. This is nowhere near the level of guarantee that the presenters promised at the podium. The PA-1 should be amended to change the language in section 4.3 to match the guarantee of 5% rate reduction.

4. **ISSUE: Rates could be higher under CCA.** As currently structured and if everything works out right, the CCA rates would only be lower at the outset, then would become disconnected from PG&E's rates, rising as much as 2% per year. If PG&E's rates don't rise that fast, or fall (both of which have happened in the past), customers would pay CCA rates that are higher than PG&E's. to return to PG&E, they would likely have to pay a fee, so switching is not free. If Citigroup can really provide 5% lower rates on day one, can't they lock that guarantee in, and always provide CCA customers with lower rates than PG&E?

5. **ISSUE: Status of gas-fired power plant.** At Corcoran on May 21, representatives from SJVPA, KRCD and Citigroup all insisted that the 500 megawatt gas-fired power plant cited in Parlier was no longer necessary, and not a part of PA-1. However, the next night in Reedley, under questioning by the City Council, these same representatives acknowledged they are still moving full speed ahead with the plant, and intend to file for a permit with the California Energy Commission in the next three weeks. Please clarify the status of the power plant: Is it still part of the Implementation Plan? Has it been delayed? Has it changed in any way from originally described in the Implementation Plan? How does the

agreement with Citigroup address the construction of the plant? If the plant is built, will KRCD be contractually obligated to sell its power to SJVPA?

6. **ISSUE: Citigroup's background and references.** With the success or failure of the CCA now appearing to ride on the Energy Service Provider agreement with Citigroup, it would be valuable to learn much more about Citigroup's experience as an ESP. Has Citigroup ever performed as an ESP in California before? If so, what are some of the details of that service? Are there customers who will serve as references? Has Citigroup ever returned any of its customers to the resident utility? Under what circumstances? Has Citigroup ever been fined by the FERC, the SEC or any other regulatory or agency for energy-related transactions in California or elsewhere?

7. **ISSUE: Changing rate estimates.** SJVPA's consultant, Navigant, previously estimated that PG&E's generation rates would increase by 1.7% per year, over the next 8 years. Now the Navigant representative is saying that PG&E's rates are likely to increase by 4.4%, but offer no analysis or updated information to suggest their initial estimate was wrong. What changed? How was the updated analysis done?

8. **ISSUE: Renewable Portfolio Standards.** All electricity providers are required by California law to provide at least 20% of their sales from qualifying renewable resources by year 2010. In the SJVPA/KRCD/Citigroup presentation, the SJVPA representative claimed that they would meet this requirement, but gave no indication where this qualifying renewable generation would come from. Does the PA-1 include this as a requirement for Citigroup? If not, the PA-1 should be amended to include this legal requirement.

9. **ISSUE: Greenhouse Gas Standards.** All electricity providers are required by California law to reduce greenhouse gas emissions to 1990 levels by the year 2020. Have SJVPA, KRCD, and/or Citigroup indicated how they will achieve these reductions and at what cost? Does the PA-1 include this as a requirement for Citigroup? If not, the PA-1 should be amended to include this legal requirement.

10. **ISSUE: Resource Adequacy requirements of CPUC.** Why is there no mention of the CPUC's local resource adequacy requirements, and the cost of meeting these, in the Implementation Plan?

11. **ISSUE: Exit fee amnesty for customers opting out.** Other CCA models elsewhere in the nation offer customers regular, exit fee amnesty periods, where on an annual basis, customers can leave the CCA without paying a fee or penalty. Will SJVPA/KRCD offer this consumer benefit?

12. **ISSUE: City exit fees on a per meter basis.** Please explain and verify that there is a potential of up to $2,500 per meter exit fee for cities and counties that participate in CCA.

13. **ISSUE: Citigroup buying power in the same market as PG&E.** Citigroup has no power plants of its own, and all available inexpensive power is already committed. How will Citigroup purchase power at a lower rate, with what is left over?

14. **ISSUE: Regulatory oversight of Citigroup.** As a regulated utility, PG&E has a high level of oversight from various government agencies including the CPUC. In sharp contrast, who will be regulating Citigroup?

15. **ISSUE: Rate increases.** When and if SJVPA decides to raise rates, who would oversee/ regulate them? Most ESP contracts, like the one roughly described so far with Citigroup, include clauses that allow for automatic rate increases, should energy costs go up. Does the contract KRCD is negotiating with Citigroup include this typical clause?

EXHIBIT L

Community Choice Aggregation Workshop

An Information Exchange

with

Pacific Gas and Electric Company

and

Kings River Conservation District

This workshop is intended
to answer questions about this critical issue
for local government leaders

Thursday, May 31, 2007
5:30 p.m.

(Light refreshments will be served)

Radisson Hotel and Conference Center

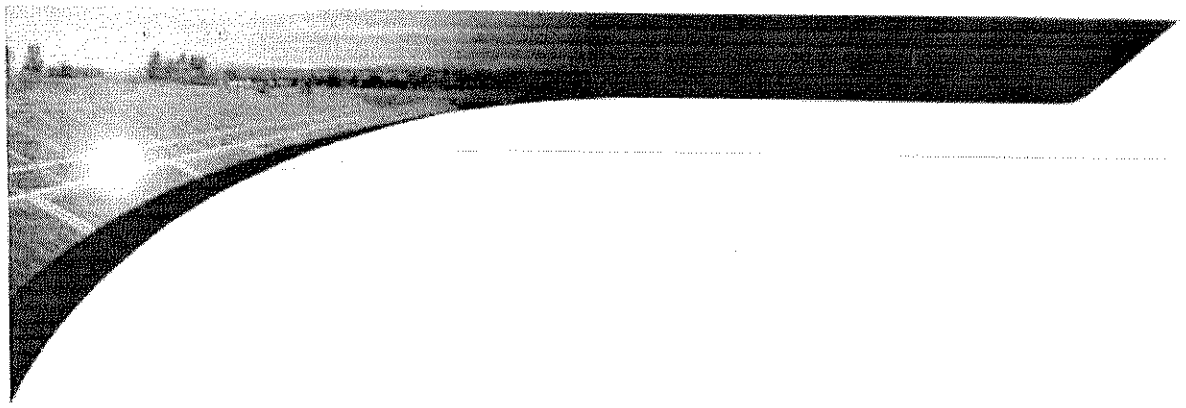
2233 Ventura Avenue

(Ventura at M Street)

Fresno, California

Please RSVP to Julia Childs at 559-263-5303

EXHIBIT M

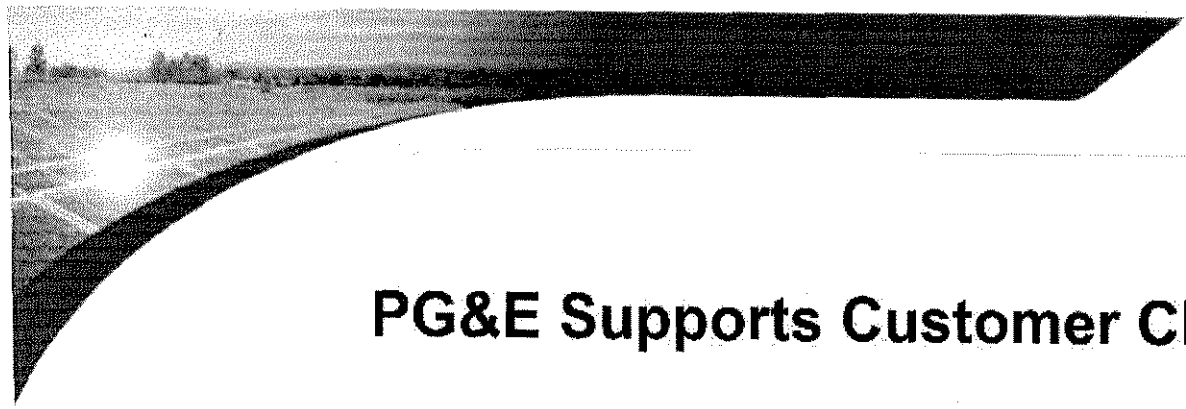


Pacific Gas and Electric Company

SJVPA – KRCD
Community Choice Aggregation

City of Kingsburg

June 6, 2007



Pacific Gas and Electric Company

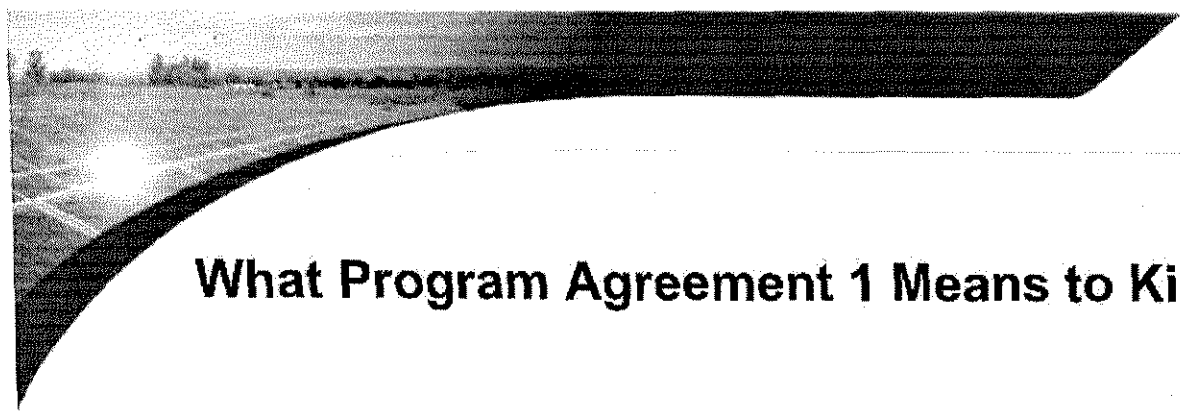
PG&E Supports Customer Choice

- PG&E supports CCA and its customers' rights to choose alternate generation providers
- PG&E supported AB 117 legislation, and actively participated in CPUC proceedings with the objective of developing rules and procedures to enable CCA, while protecting our customers and your constituents
- PG&E has been and will continue to cooperate fully with communities that proceed with implementing CCA

→ Aim is to educate, inform, find answers

Generation component ≅ 50% of bill. PG&E does not make $ on generation. We have no return

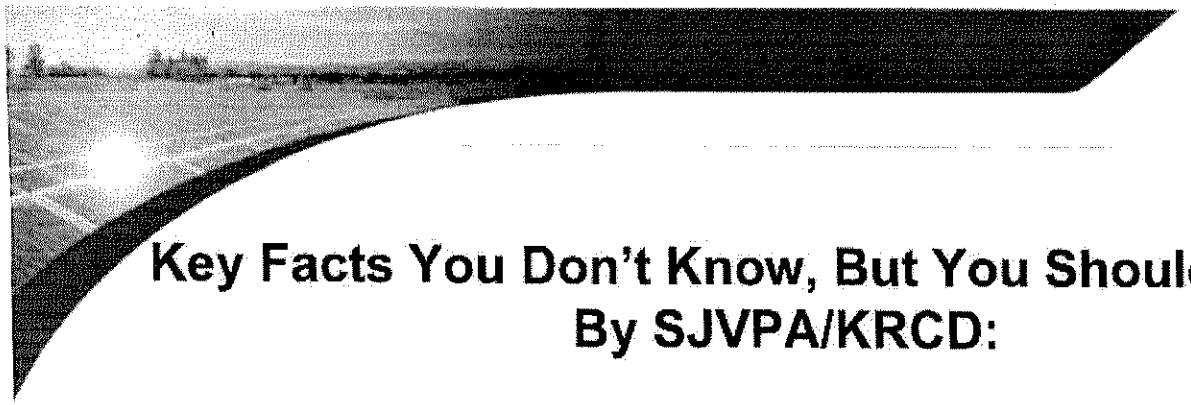
PG&E customers still our customers. Our concern is that customers are "better off".



Pacific Gas and Electric Company

What Program Agreement 1 Means to Kingsburg

- Approval of Program Agreement 1 is your last realistic opportunity to opt out. After you vote to approve PA-1, you are taking a leap of faith:
- That KRCD will negotiate a good power deal with Citigroup that delivers on verbal promises, and protects customers from harm.
- That KRCD's power plant won't have any additional cost overruns, or if they do, that those will not be passed on to CCA customers.
- That the Power Authority sets rates at levels that don't disadvantage anyone.
- That the Power Authority sets exit fees fairly.
- That your city will not be held responsible for all the CCA exit fees of all your constituents, should you ever, later on, try to leave the JPA.



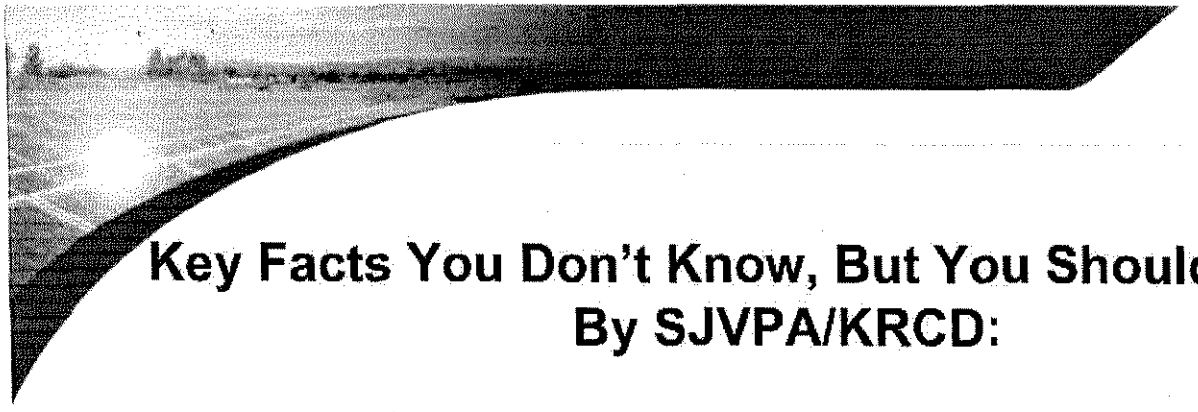
Pacific Gas and Electric Company

Key Facts You Don't Know, But You Should Be Told By SJVPA/KRCD:

Rates and Fees

- Why is the much-promised 5% rate cut not guaranteed in PA-1?
- Why is the 2% annual increase not guaranteed in PA-1?
- Will the Power Authority rates use the same residential tiers as the utilities? If not, what will rates be for residential customers, others?
- Who will pay the $2.5 million in startup costs, if the CCA does not go forward? PA-1 does not address this, but should.
- How much will the CCA charge in exit fees? The administrative fees are not yet guaranteed, and the Cost Responsibility Surcharge is still being negotiated with Citigroup.

intentions are good
Assurances are not there.

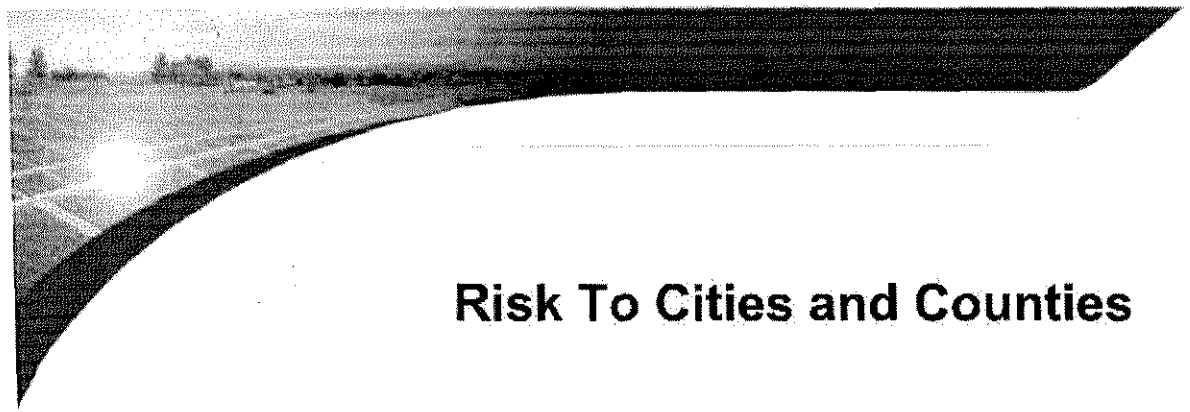


Pacific Gas and Electric Company

Key Facts You Don't Know, But You Should Be Told By SJVPA/KRCD:

Costs and Risks

- If costs go up to build or operate KRCD's proposed 500 megawatt power plant, how will those costs be passed on to CCA customers? (Bonds always require this provision.)
- If natural gas prices increase dramatically, as they did in 2001 and again in 2004, will CCA customers pay any increases?
- Can cities approve PA-1, but choose NOT to be served by the CCA for its energy use? (see Art. 7.2.2.)
- PA-1 states that cities would be responsible for paying their constituents exit fees if the city leaves the JPA (Art. 11.4.2. and 11.4.3.). This could be millions of dollars.



Pacific Gas and Electric Company

Risk To Cities and Counties

- Customers will automatically be opted in
- Customers will be obligated for the costs associated with start up and issuance of any revenue bonds to finance the program and power plant construction, once the community executes the PA-1.
- Furthermore, even if the 500 MW power plant is not pursued, Citigroup will no doubt be executing longer term agreements in order to fulfill an 8-year commitment. These contracts typically include take-or-pay terms, which means there will be stranded costs if customers decide to opt-out.

Conclusion: We don't oppose CCA. Asking for "no vote" w.r.t.

EXHIBIT N

-----Original Message-----
From: Nelson, John E (Gov Rel) [mailto:JEN6@pge.com]
Sent: Friday, June 08, 2007 1:22 PM
To: Dave Orth
Subject: Can we get our folks together to talk?
Importance: High

David –

As you and I discussed after the May 31 CCA workshop, I'd like to see if we can get together for a meeting or conference call to better understand the way in which KRCD and Citigroup plan to purchase power for the CCA load. *As I think we both strongly agreed, such a conversation might go a very long* way to help ease the growing concerns we have. It's possible that our concerns are misplaced, but we just can't tell because there are so few details out about your power procurement strategy. If we're wrong, or our concerns were not warranted, you have our commitment that we will say so to each of the JPA-member cities and counties.

My call to you yesterday was to try to set up such a call/meeting. Please give me a call back at your earliest convenience, at 415-973-8703 (or we can have an email exchange, if that's more convenient). I'm thinking what might be the most productive would be a 1 hour conference call, with your and Citigroup's procurement experts, and 4 or 5 of the experts from our energy procurement team. If we could pull this *together today or Monday, we could possibly have something worthwhile to say at the Clovis City Council* meeting Monday evening.

Let me know what works best for you.

Thank you,

John

John Nelson
Pacific Gas and Electric Company
San Francisco, California
415-973-8703

EXHIBIT O

<<Return to Previous Page

Power - Regulatory and Legal Developments

SNL EXTRA

Fresno, Calif., neighbors to decide fate of district's efforts to leave PG&E

June 04, 2007 6:30 PM ET

By Jeff Stanfield

San Joaquin Valley, Calif., communities are debating this month whether to join the San Joaquin Valley Power Authority to obtain power supply independent of Pacific Gas and Electric Co., but elected officials in the city of Fresno, Calif., which has at least a 45% share of the electrical load the authority would serve, are divided over whether to join the authority.

City officials are expected to hear presentations on June 19 from the authority and its administrative arm, the Kings River Conservation District, as well as warnings from the PG&E Corp. subsidiary not to take a risk by leaving its service. The Fresno City Council has scheduled a June 26 decision date but did so only after voting 4-3 to consider the matter further. The minority wanted an immediate vote on the issue before hearing the presentations.

With Fresno and 13 other municipalities joining, the authority would buy power for more than 300,000 residential, business and municipal customers in the San Joaquin Valley. The California Public Utilities Commission approved the authority's Community Choice Implementation Plan about a month ago, and now the authority and district are making presentations to the municipalities to convince them that its power supply service will be superior to PG&E's.

Besides Fresno, the cities of Clovis, Hanford, Lemoore, Corcoran, Reedley, Sanger, Selma, Parlier, Kingsburg, Dinuba and Kerman, and Kings County and Tulare County agreed to join the authority at least as an exploratory move. All except Tulare, which voted to become the authority's 14th member on May 31, filed the implementation plan the PUC approved in which the authority would set electrical generation rates for customers and buy power from the Kings River Conservation District.

Despite its size, Fresno does not have to be a member for the plan to go forward. However, at least nine of the municipalities must agree to make contractual commitments to buy the district's power, according to an earlier pact the group made.

District and authority officials say they can save members at least 5% on generation costs and keep rate increases capped at no more than 2% per year.

Power would come from the district's proposed 500-MW, gas-fired Community Power Plant, which is still in the permit application stage but is slated for service at the end of 2010. The district also has some smaller existing facilities.

The authority also issued a request for proposals for up to 400 MW of renewable energy capacity, with a deadline of May 24 for responses.

In the interim, the district has retained CitiGroup Energy to buy power on its behalf.

PG&E spokesman Jeff Smith said the utility is concerned whether its customers could get cheaper rates and questioned whether the authority's promise is grounded in fact.

Smith said PG&E would not lose money if customers no longer take its generation service because they would still remain distribution customers. Even as bundled customers, the costs of providing power are passed through without the utility making a profit, he said.

"They would still get a bill from PG&E, but if the numbers and data are not accurate, and customers then get essentially teaser rates that have been put out there, ultimately, PG&E will be getting the calls to explain the bills to customers," Smith said.

District spokeswoman Cristel Tufenkjian said each city is being presented with a pro forma agreement on whether they want to go forward. Kings, Hanford and Kerman have so far agreed, and presentations will be made to the remaining members through June 26, she said. The councils and supervisors will be asked to execute an agreement for the district to finalize a contract with CitiGroup.

California passed a law in 2002 that allows cities and counties to combine the electrical load of their residents and businesses for bulk electricity purchases, providing the customers are allowed to opt out and keep PG&E as the electrical supplier.

Options Toolbox

Source URL

- http://www.krcd.org/_pdf/krcd_...

Related Companies

- Kings River Conservation Dist
- Pacific Gas and Electric Co.
- PG&E Corp. (PCG)
- San Joaquin Valley Power

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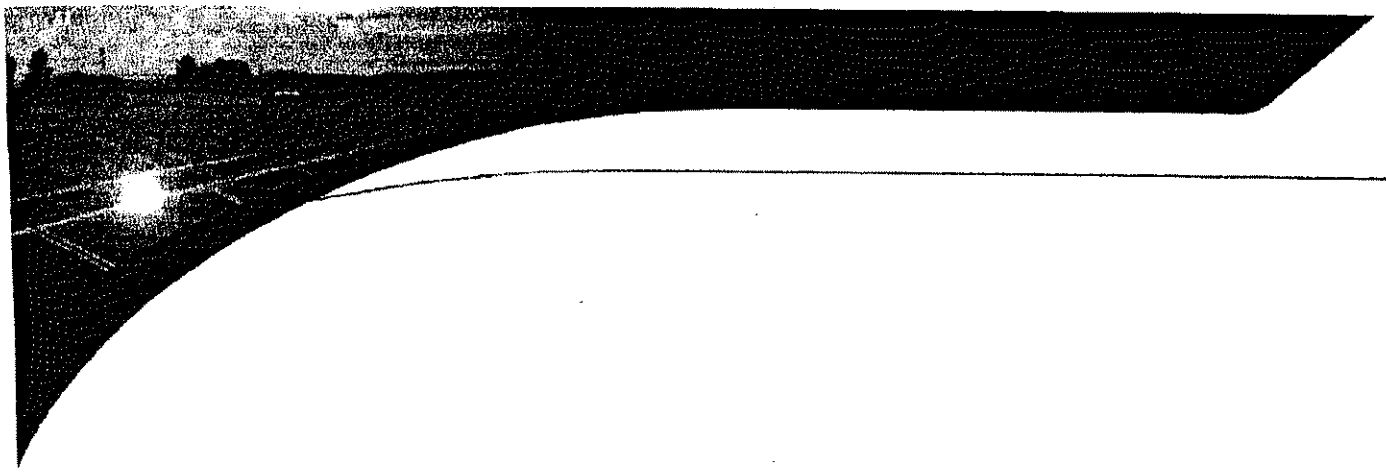
EXHIBIT P

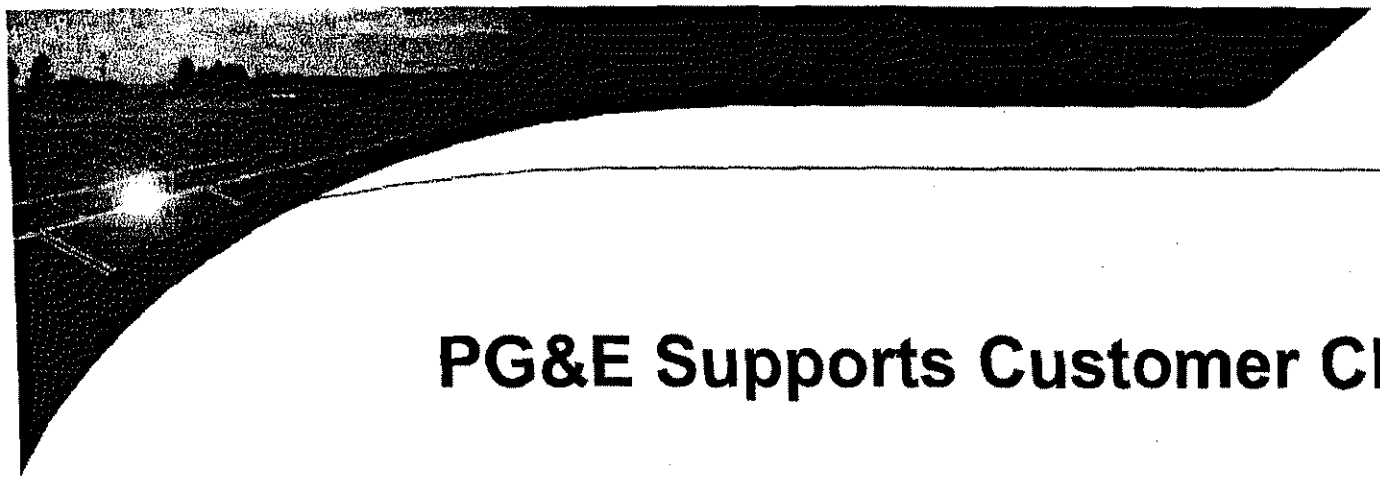


Pacific Gas and Electric Company®

SJVPA – KRCD – Citigroup Community Choice Aggregation

City of Clovis

June 11, 2007



Pacific Gas and Electric Company®

PG&E Supports Customer Choice

- PG&E supports CCA and its customers' rights to choose alternate generation providers
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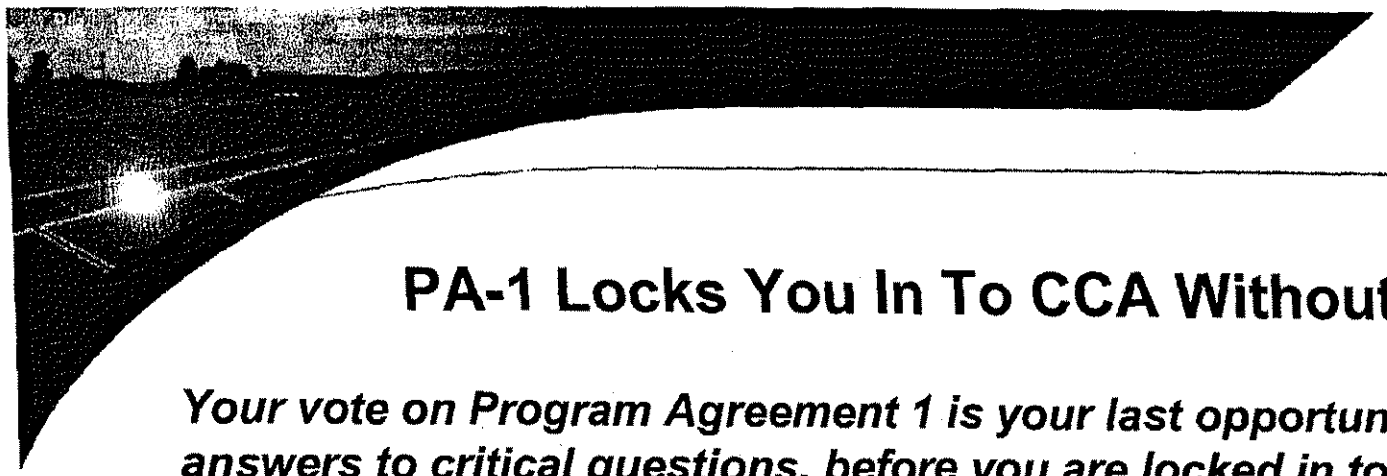
- PG&E has been and will continue to cooperate fully with communities that proceed with implementing CCA

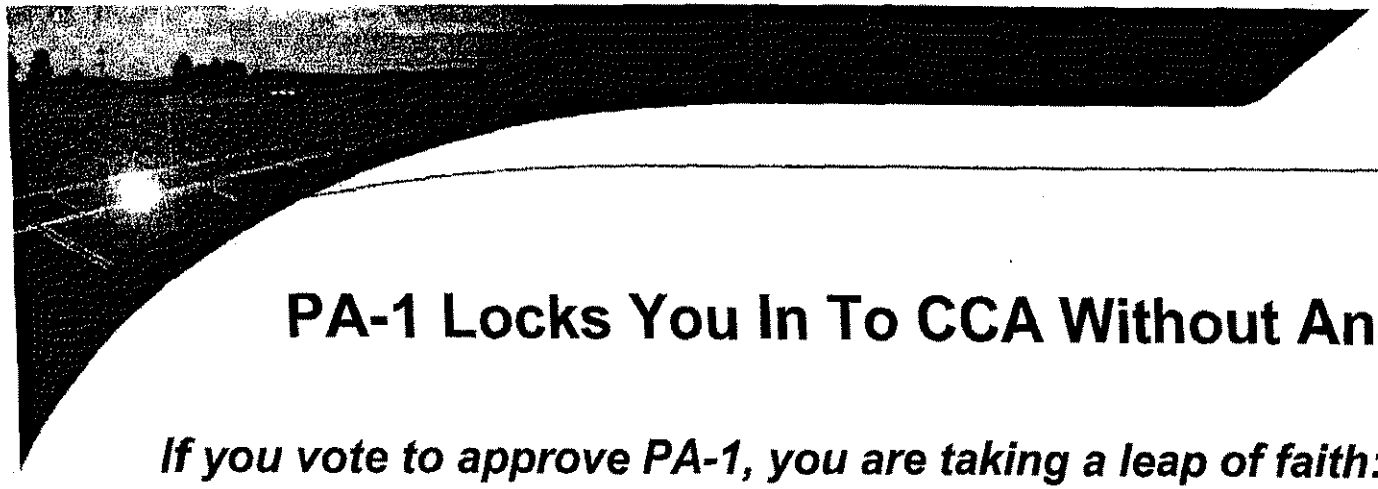


Pacific Gas and Electric Company®

PA-1 Locks You In To CCA Without Answers

Your vote on Program Agreement 1 is your last opportunity to get answers to critical questions, before you are locked in to a program that could have different results than have been presented.

- PA-1 commits you to having all your city electric load served by the CCA, WITHOUT KNOWING THE RATES YOU WILL PAY.
- Even if your rates go up, you cannot return to PG&E, under PA-1, unless you opt to leave the Joint Powers Authority.
- PA-1 commits you to pay all the CCA exit fees of every one of your constituents, should you ever wish to leave the JPA. This is millions of dollars in exit fees you would pay to Citigroup and KRCD.
- BUT, you don't know how much the CCA will charge your constituents (or your city) in exit fees. That's because KRCD is waiting until you vote to lock your city into the CCA, before determining how much it and Citigroup will be paid in exit fees.

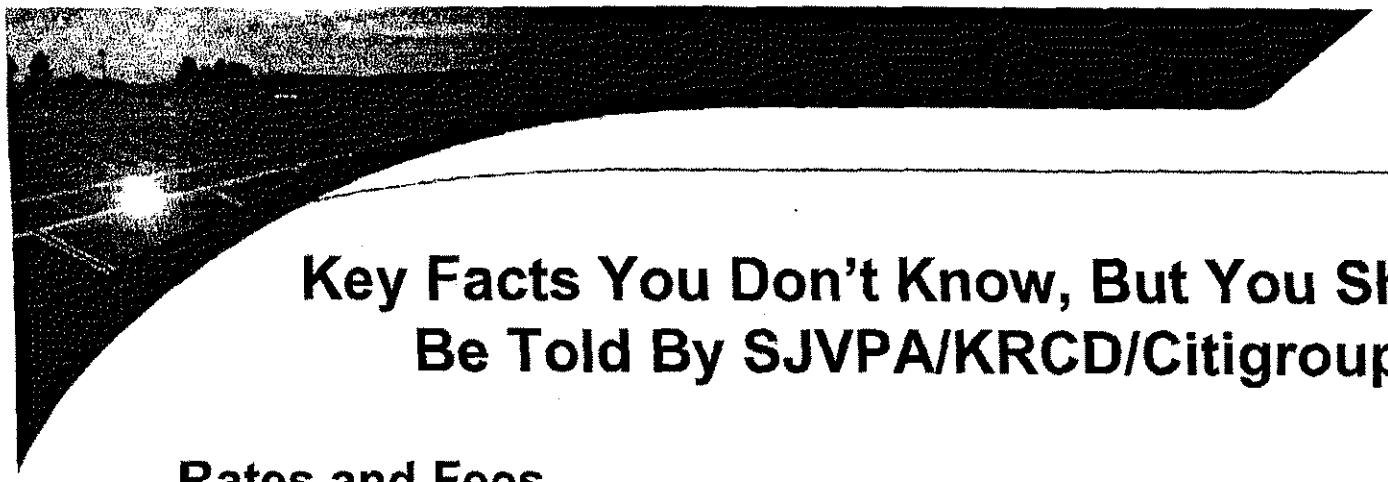


Pacific Gas and Electric Company®

PA-1 Locks You In To CCA Without Answers

If you vote to approve PA-1, you are taking a leap of faith:

- That KRCD will negotiate a good power deal with Citigroup that delivers on verbal promises, and protects customers from harm.
- That KRCD's power plant won't have any additional cost overruns, or if they do, that those will not be passed on to CCA customers.
- That the Power Authority sets rates at levels that don't disadvantage anyone, including your city, low-income customers, businesses, etc.
- That the exit fees to be paid to Citigroup and KRCD will not be excessive, and effectively trap customers in the CCA because they are too high.

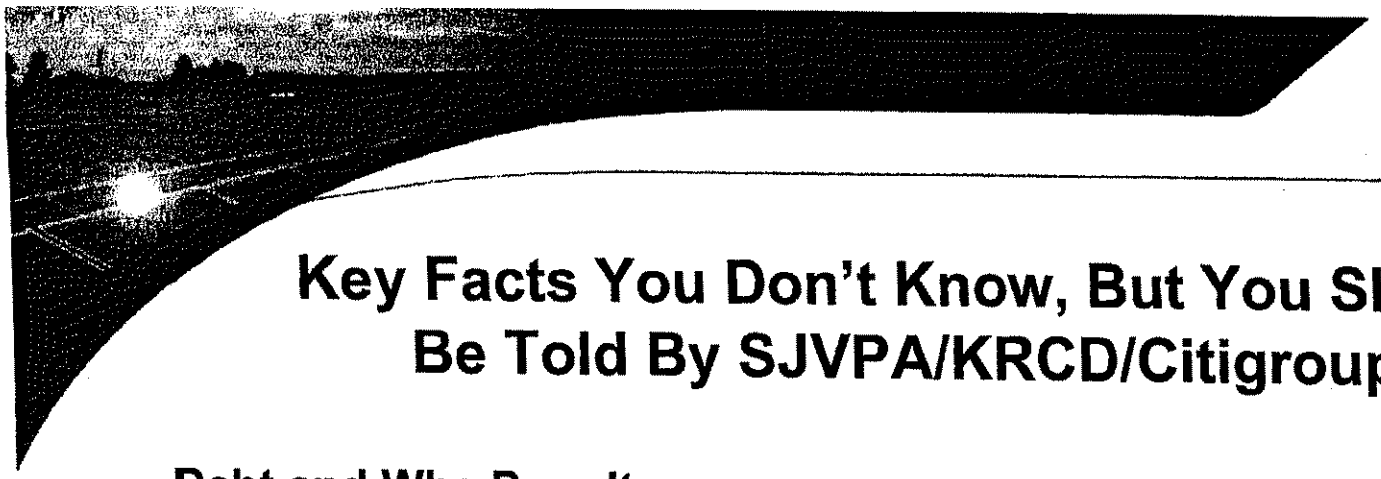


Pacific Gas and Electric Company®

Key Facts You Don't Know, But You Should Be Told By SJVPA/KRCD/Citigroup:

Rates and Fees

- Will the Power Authority rates use the same residential tiers as the utilities? If not, what will rates be for residential customers, others?
- How much will the CCA charge in exit fees, and for how long? The administrative fees are not yet guaranteed, and the Cost Responsibility Surcharge is still being negotiated with Citigroup.
- SJVPA should determine the rates for municipal customers now, before requiring a vote. PA-1 commits JPA members to join the CCA, with no ability to opt-out, and without knowing what their rate will be.

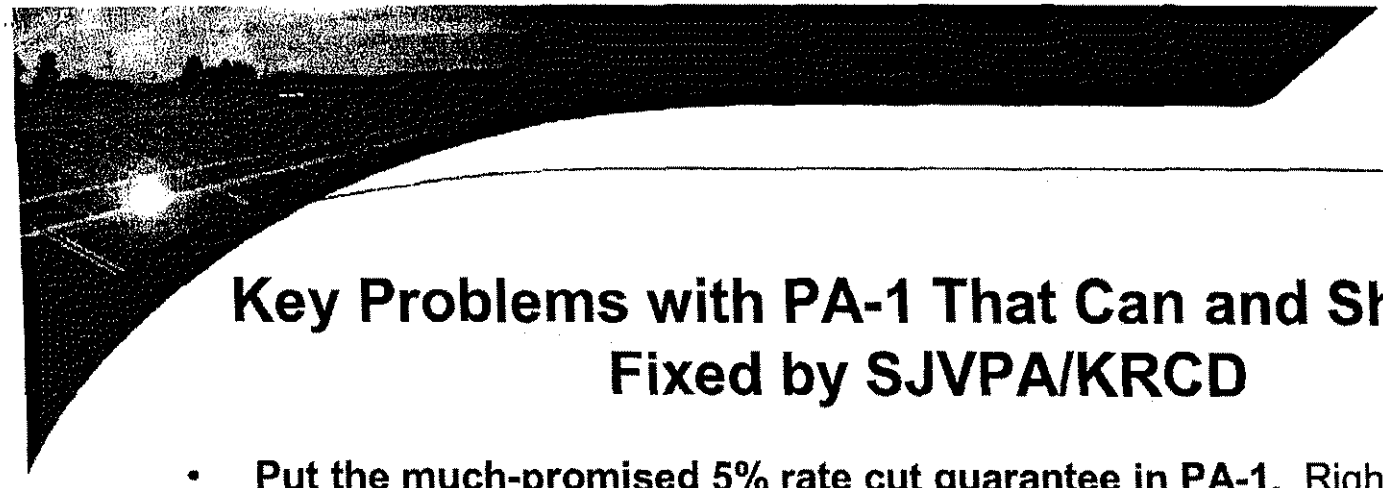


Pacific Gas and Electric Company®

Key Facts You Don't Know, But You Should Be Told By SJVPA/KRCD/Citigroup:

Debt and Who Pays It

- How much debt will KRCD issue to get the lower rate? $800 million? More or less?
- Who is responsible for paying off that debt? Will CCA customers be held responsible?
- If costs go up to build or operate KRCD's proposed 500 megawatt power plant, how will those costs be passed on to CCA customers? (Bonds always require this provision.)
- If natural gas prices increase dramatically, as they did in 2001 and again in 2004, will CCA customers pay any increases?



Pacific Gas and Electric Company®

Key Problems with PA-1 That Can and Should Be Fixed by SJVPA/KRCD

- **Put the much-promised 5% rate cut guarantee in PA-1.** Right now, all it says is that rates will be "reasonably expected" to start 5% lower. (Art. 4.3)
- **Put the 2% annual rate increase guarantee in PA-1.** Right now, there is no mention at all of this key promise in PA-1.
- **Put the guarantee that KRCD will absorb all start-up costs ($2.5 million) if the CCA does not go forward, in PA-1.** Right now, PA-1 says the JPA members are responsible for a share of the costs, should the CCA be terminated.
- **Allow cities to approve PA-1, but then still get a choice whether or not to be served by the CCA for municipal energy use.** Currently PA-1 requires cities/counties to lock themselves in to CCA service (see Art. 7.2.2.)
- **Allow JPA members to leave the JPA without being responsible for paying all their constituents exit fees.** PA-1 currently states that a city/county would be responsible for paying its constituents' exit fees if it leaves the JPA (Art. 11.4.2. and 11.4.3.). This could be millions of dollars.

EXHIBIT Q

Giving customers the right choice

By Peter A. Darbee

PG&E has believed for years that the idea behind Community Choice Aggregation — where communities could take charge of helping meet their own energy requirements — could help California broaden its energy supply, and position us better for the future. However, it is increasingly clear that KRCD's proposed CCA program falls far short of this promise and poses more problems than solutions.

The desire for lower energy costs is one of the few things in life on which almost everyone can agree. The difference in opinion comes about how to achieve this objective.

There are many ways to cut energy costs about which we can agree — energy efficiency, conservation, new technologies, for example — all hold great promise and deliver solid results. Sometimes new ways to save money on energy costs are proposed, and they deserve our full consideration. But energy is too important to our daily lives and our economy to jump at the first promise of a cheap way to buy power, without making sure it's a sound decision.

The Bee recently editorialized about a proposal by the Kings River Conservation District (KRCD) to launch a Community Choice Aggregation (CCA) program to 12 cities and two counties in the greater Fresno area. Through such a program, KRCD would take on the task of buying or generating much of the power used in the region, while Pacific Gas & Electric would continue to deliver it.

PG&E has believed for years that the idea behind Community Choice Aggregation — where communities could take charge of helping meet their own energy requirements — could help California broaden its energy supply, and position us better for the future.

However, it is increasingly clear that KRCD's proposed CCA program — the first in the state — falls far short of this promise and poses more problems than solutions.

The fundamental problem with the program is that the numbers don't add up. For example, in an apparent effort to create the appearance that the CCA rates will be lower, advocates of the CCA plan claim PG&E's power generation rates will increase at double their expected level.

Further, CCA proponents say that rates under the CCA are guaranteed to stay capped at only a 2% increase each year. In fact, it appears that CCA rates will increase by a minimum of 2% every year — even if power prices fall elsewhere — and could increase by even more.

Another major area of concern, beyond the numbers, is the risk. KRCD has placed the future of this program in the hands of a third party that owns no power plants but rather intends to buy power on the market. While this arrangement may work fine, elected officials are being informed that KRCD is taking on all the risk if things go wrong. But that is not true.

The truth is, under the very terms of the CCA program, it is the cities and counties, and all their constituents, who bear the risks for the hundreds of millions of dollars in costs and commitments that KRCD plans to make on their behalf. Consumers will be required to pay these costs through their CCA rates.

Should rates go up, and a consumer wishes to leave the CCA, they will have to pay an "exit fee" to cover a share of the costs of these commitments. And regardless of how high rates go, they will only be allowed to leave the CCA once every three years.

Some have suggested that PG&E shouldn't care about much of this — after all, PG&E's other customers and its shareholders are generally protected under the law from being harmed by this program. PG&E doesn't lose any customers, the electrons for those customers just come from another source. And because PG&E doesn't mark up the cost of energy it buys for its customers, but rather passes that cost directly through, under a CCA program PG&E will not earn any less money.

Yes, we could ignore the problems with this CCA plan, and suffer no harm should things go wrong. But our Fresno area customers could suffer, and we feel very strongly that it is our obligation to make sure our customers have complete and factual information when considering such a program. Our customers, and the elected officials asking for our analysis, rely on us for information about energy issues — from how to use less energy at home, to what the state's future energy policy should look like. We don't want to let them down.

PG&E is urging CCA proponents to give elected decisionmakers accurate and complete information about this program, both the good and the bad, and let them decide what they think is best for their constituents. People around here are smart, and practical, and have good judgment. Tell them the truth, and let them decide.

► Peter A. Darbee is chairman of the board, CEO and president of PG&E Corporation.

EXHIBIT R

Scott Blaising

From: Scott Blaising
Sent: Friday, June 01, 2007 11:14 AM
To: 'J1Pc@pge.com'; 'SHG@cpuc.ca.gov'
Cc: Judi Mosley (JKM8@pge.com); Velasquez, Carlos A.; Perlstein, Joel T.
Subject: SJVPA Informal Complaint Against PG&E's Conduct

Sean and Jon –

The purpose of this e-mail is to communicate SJVPA's informal complaint regarding PG&E's continuing conduct that SJVPA believes violates the letter and intent of the Commission's principal policy decision on Community Choice Aggregation. I am writing to Jon as PG&E's legal representative, and ask that Jon communicate SJVPA's concerns to PG&E's management, including John Nelson who organized and conducted PG&E's meeting last evening in Fresno. I am writing to Sean since I understand that the Energy Division has the role of assisting in informal disputes under the Commission's decisions on Community Choice Aggregation.

In short, SJVPA is concerned with PG&E's mounting use of ratepayer money to fund a marketing effort in competition with SJVPA's program, and, more specifically, PG&E's exercise of its inherent monopoly power to communicate in a way that fails to disclose its conflict of interests and that inappropriately exploits PG&E's status as the monopoly distribution provider.

In D.05-12-041, the Commission set forth its general views on the inappropriate cost and confusion that can occur by the use of the utility's status as the monopoly distribution provider as a platform from which the utility markets its own generation services and evaluates the services of its competitor – the Community Choice Aggregator. The Commission acknowledged that "[u]tility marketing of procurement services to CCA customers and providing information about a CCA's services and rates to customers may create conflicts of interest...." (D.05-12-041 at 57; Finding of Fact 10.) This conflict of interests is created by the fact that the utility serves two roles – first as a monopoly distribution provider and second as a competitive generation provider. In other newly competitive areas, specific standards of conduct have been established that govern how the utility conducts itself so that it does not exploit this conflict of interest and squelch competition. The Commission has yet to set specific standards of conduct with respect to CCA efforts (but it may want to do so); however, the Commission has provided general guidance on this issue. In D.05-12-041, the Commission allows the utility to answer questions about its own rates and the process of cutting-over customers to CCA service, but if the utility wants to evaluate the rates and services of a Community Choice Aggregator or if it wants to affirmatively contact customers, the utility must do so with shareholder funds and presumably must disclose the fact that it is not conducting such activities as the monopoly distribution provider but rather as a competitive generation provider. (See D.05-12-041 at 23; see also id. at 62, Conclusion of Law 14.)

Yesterday evening, PG&E conducted a public meeting in Fresno. PG&E's representatives affirmatively contacted local government customers and invited them to an "information exchange" to evaluate the merits of PG&E's and SJVPA's respective generation programs. As noted at the meeting, SJVPA protested this type of meeting, but felt compelled to attend the meeting and respond to PG&E's questions. PG&E's meeting last night is not an isolated event; PG&E's representatives are canvassing the San Joaquin Valley and contacting local government customers. PG&E reported that it videotaped the meeting last night with the intent of contacting other local government customers.

I encourage Sean to get a copy of the videotape of PG&E's meeting last night. It is impossible for me to come to the conclusion that PG&E was not marketing its services last night. Moreover, with equal inappropriateness, PG&E was clearly using its role as monopoly distribution provider to question, evaluate and criticize its competitor's services. PG&E's representatives repeatedly asked questions and made statements such as "Is this safe for our customers?" and "We want to get the truth out." Again, I encourage Sean to get a copy of the videotape. I also understand that audio tapes are available from various city council meetings at which PG&E's representatives have engaged in the same type of inappropriate conduct.

SJVPA believes PG&E's continuing conduct before local government customers is inappropriate and violates the letter and intent of D.05-12-041 with respect to PG&E's conflict of interests and PG&E's failure to follow appropriate codes of conduct to address such conflict of interests. Again, SJVPA is NOT saying that PG&E should be constrained from communicating with local government customers. Rather, if PG&E continues in its practice of affirmatively contacting customers, PG&E should carefully adhere to the principles set forth in D.05-12-041 (and other conflict of interest standards).

SJVPA specifically requests that PG&E stop the type of inappropriate conduct described in this e-mail. SJVPA asks the Energy Division to assist SJVPA in ensuring that future conduct in violation of the letter and intent of D.05-12-041 is stopped. Moreover, since (as has been recognized in other newly competitive areas) it is almost impossible for the monopoly utility to self-police its practices in accordance with general standards, SJVPA requests that the Commission develop and enforce specific conflict of interest standards as it relates to the utilities' interaction with CCA programs.

Please feel free to contact me concerning the matters addressed in this e-mail.

Take care,

Scott Blaising

(916) 682-9702 (Telephone)
(916) 682-1005 (Facsimile)
(916) 712-3961 (Cellular)
blaising@braunlegal.com (e-mail)

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EXHIBIT S

Scott Blaising

From: Pendleton, Jonathan (Law) [J1Pc@pge.com]
Sent: Friday, June 08, 2007 2:40 PM
To: Scott Blaising
Cc: SHG@cpuc.ca.gov; Velasquez, Carlos A.; Perlstein, Joel T.
Subject: RE: SJVPA Informal Complaint Against PG&E's Conduct

Scott,

Thank you for your e-mail of June 1, 2007 on behalf of the San Joaquin Valley Power Authority (SJVPA). SJVPA's e-mail expresses concern regarding PG&E's alleged use of ratepayer funds to communicate with elected public officials, customers and members of the public regarding its views on the facts and merits of SJVPA's proposal to provide community choice aggregation (CCA) services to certain of PG&E's existing retail customers. CPUC decisions require PG&E to use shareholder funds to "...affirmatively contact customers in efforts to retain them or otherwise engage in actively marketing services..."
regarding CCA proposals such as SJVPA's. (See D.05-12-041 at 23.)

However, PG&E has the right and even an obligation to respond to inquiries from and communicate with elected officials regarding our views on a proposed CCA program, to engage in fact-finding and ask probing questions of CCA proponents, and to make the facts and our concerns known. Such efforts are not only legally proper but also in the best interests of our customers who shortly may also become customers of the SJVPA, as well as the elected officials who represent them. Questions and statements such as those highlighted in SJVPA's informal complaint - i.e., "Is this safe for our customers?" - are critical to the long-term success of any CCA program.

Indeed, SJVPA has publicly acknowledged that some of the questions PG&E has raised have helped improve SJVPA's proposed CCA program. It appears that SJVPA is assuring local elected officials that they welcome these questions from PG&E, but is at the same time quietly complaining to the CPUC that PG&E is asking them.

As a practical matter, PG&E has received no ratepayer funds for the purpose of affirmatively contacting PG&E's customers regarding SJVPA's proposal, if and when PG&E chooses to do so. As you may know, PG&E's rates for service analysis and public affairs activities are set in general rate cases based on forecasts of PG&E's needs. PG&E's most recent general rate case was filed in 2005 and approved in 2007 using costs forecasted in 2005, prior to the initiation of SJVPA's CCA proposal. PG&E did not and could not have sought rate recovery of any CCA-related customer "marketing" costs, because the SJVPA proposal did not even exist when PG&E filed its most recent general rate case. PG&E's next general rate case will not be until 2011.

PG&E fully intends to continue to comply with CPUC orders and decisions regarding CCA, consistent with our legal rights to do so.

Thank you,

Jon Pendleton
Attorney
Pacific Gas and Electric Company
(415) 973-2916

-----Original Message-----
From: Scott Blaising [mailto:blaising@braunlegal.com]
Sent: Friday, June 01, 2007 11:14 AM
To: Pendleton, Jonathan (Law); SHG@cpuc.ca.gov
Cc: Mosley, Judi (Law); Velasquez, Carlos A.; Perlstein, Joel T.
Subject: SJVPA Informal Complaint Against PG&E's Conduct

Sean and Jon --

The purpose of this e-mail is to communicate SJVPA's informal complaint regarding PG&E's continuing conduct that SJVPA believes violates the letter and intent of the Commission's principal policy decision on Community Choice Aggregation. I am writing to Jon as PG&E's legal representative, and ask that Jon communicate SJVPA's concerns to

PG&E's management, including John Nelson who organized and conducted PG&E's meeting last evening in Fresno. I am writing to Sean since I understand that the Energy Division has the role of assisting in informal disputes under the Commission's decisions on Community Choice Aggregation.

In short, SJVPA is concerned with PG&E's mounting use of ratepayer money to fund a marketing effort in competition with SJVPA's program, and, more specifically, PG&E's exercise of its inherent monopoly power to communicate in a way that fails to disclose its conflict of interests and that inappropriately exploits PG&E's status as the monopoly distribution provider.

In D.05-12-041, the Commission set forth its general views on the inappropriate cost and confusion that can occur by the use of the utility's status as the monopoly distribution provider as a platform from which the utility markets its own generation services and evaluates the services of its competitor - the Community Choice Aggregator. The Commission acknowledged that "[u]tility marketing of procurement services to CCA customers and providing information about a CCA's services and rates to customers may create conflicts of interest...." (D.05-12-041 at 57; Finding of Fact 10.) This conflict of interests is created by the fact that the utility serves two roles - first as a monopoly distribution provider and second as a competitive generation provider. In other newly competitive areas, specific standards of conduct have been established that govern how the utility conducts itself so that it does not exploit this conflict of interest and squelch competition. The Commission has yet to set specific standards of conduct with respect to CCA efforts (but it may want to do so); however, the Commission has provided general guidance on this issue. In D.05-12-041, the Commission allows the utility to answer questions about its own rates and the process of cutting-over customers to CCA service, but if the utility wants to evaluate the rates and services of a Community Choice Aggregator or if it wants to affirmatively contact customers, the utility must do so with shareholder funds and presumably must disclose the fact that it is not conducting such activities as the monopoly distribution provider but rather as a competitive generation provider. (See D.05-12-041 at 23; see also id. at 62, Conclusion of Law 14.)

Yesterday evening, PG&E conducted a public meeting in Fresno. PG&E's representatives affirmatively contacted local government customers and invited them to an "information exchange" to evaluate the merits of PG&E's and SJVPA's respective generation programs. As noted at the meeting, SJVPA protested this type of meeting, but felt compelled to attend the meeting and respond to PG&E's questions. PG&E's meeting last night is not an isolated event; PG&E's representatives are canvassing the San Joaquin Valley and contacting local government customers. PG&E reported that it videotaped the meeting last night with the intent of contacting other local government customers.

I encourage Sean to get a copy of the videotape of PG&E's meeting last night. It is impossible for me to come to the conclusion that PG&E was not marketing its services last night. Moreover, with equal inappropriateness, PG&E was clearly using its role as monopoly distribution provider to question, evaluate and criticize its competitor's services. PG&E's representatives repeatedly asked questions and made statements such as "Is this safe for our customers?" and "We want to get the truth out." Again, I encourage Sean to get a copy of the videotape. I also understand that audio tapes are available from various city council meetings at which PG&E's representatives have engaged in the same type of inappropriate conduct.

SJVPA believes PG&E's continuing conduct before local government customers is inappropriate and violates the letter and intent of D.05-12-041 with respect to PG&E's conflict of interests and PG&E's failure to follow appropriate codes of conduct to address such conflict of interests. Again, SJVPA is NOT saying that PG&E should be constrained from communicating with local government customers. Rather, if PG&E continues in its practice of affirmatively contacting customers, PG&E should carefully adhere to the principles set forth in D.05-12-041 (and other conflict of interest standards).

SJVPA specifically requests that PG&E stop the type of inappropriate conduct described in this e-mail. SJVPA asks the Energy Division to assist SJVPA in ensuring that future conduct in violation of the letter and intent of D.05-12-041 is stopped. Moreover, since (as has been recognized in other newly competitive areas) it is almost impossible for the monopoly utility to self-police its practices in accordance with general standards, SJVPA requests that the Commission develop and enforce specific conflict of interest standards as it relates to the utilities' interaction with CCA programs.

Please feel free to contact me concerning the matters addressed in this e-mail.

Take care,

Scott Blaising

(916) 682-9702 (Telephone)
(916) 682-1005 (Facsimile)
(916) 712-3961 (Cellular)

blaising@braunlegal.com (e-mail)

****

EXHIBIT T

Braun & Blaising, P.C.

Attorneys at Law

June 9, 2007

VIA ELECTRONIC MAIL

Jon Pendleton
Attorney
Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105

Re: Further Allegations of Misconduct by PG&E

Dear Jon:

The e-mail I received from you, dated June 8, 2007, suggests that it is appropriate for me to provide further specificity as to the misconduct the San Joaquin Valley Power Authority (SJVPA) believes is occurring. The purpose of my previous e-mail, dated June 1, 2007, and this letter is to bring this matter to the attention of Pacific Gas and Electric Company's (PG&E) legal representatives and to the attention of the California Public Utilities Commission (Commission) with the intent of resolving this matter informally, as described in Rule 4.2(c) of the Commission's Rules of Practice and Procedure and as a means of obviating the need for SJVPA to file a formal complaint. As further described below, if PG&E does not immediately cease the alleged misconduct, SJVPA intends to file a formal complaint, seeking a Commission order requiring PG&E to cease such misconduct, and requesting the imposition of penalties upon the Commission's finding of intentional misconduct (namely, conduct by PG&E after it has been informed by SJVPA that such conduct violates the Commission's orders and standards).

USE OF RATEPAYER FUNDS

It is difficult for me to understand from your e-mail whether you are acknowledging that ratepayer funds are being used to support PG&E's current activities with respect to SJVPA's Community Choice Aggregation (CCA) program. It appears that this is the case. In any event, as necessary, this fact can be determined through an admission by PG&E or through discovery if it is necessary for SJVPA to file a complaint.

GENERAL STANDARDS OF CONDUCT

The alleged misconduct flows from violations of the Commission's orders and standards prohibiting ratepayer-funded activity in two broad areas: (1) PG&E's marketing of its procurement services and (2) PG&E's provision and dissemination of information about SJVPA's rates and services. (See generally, D.05-12-041; Finding of Fact 10.) The justification you provide for PG&E's conduct (namely, PG&E is acting under the banner of customer

protection) is unavailing and was specifically rejected in Decision (D.) 05-12-041, as discussed below under the heading "Customer Protection."

SPECIFIC STANDARDS OF CONDUCT AND DEFINITIONS

The prohibition of certain activity under D.05-12-041 flows from a concern about an integrated distribution company's conflict of interests. (See D.05-12-041; Finding of Fact 10.) As I mentioned in my previous e-mail, this conflict of interests is created by the fact that an integrated distribution company serves two roles - first as a monopoly distribution provider and second as a competitive generation provider. While the Commission has yet to establish specific standards of conduct in such situations, other jurisdictions have, and such specific standards may be used to further define the nature and application of the Commission's general standard in D.05-12-041.

Illinois has developed specific standards of conduct. Interestingly, PG&E (as an energy service provider) actively participated in the development of Illinois' standards of conduct for integrated distribution utilities. In its comments on the standards, PG&E acknowledged the precise danger that I described in my previous e-mail, namely, the danger that the integrated distribution company will exercise its inherent advantages as a monopoly distribution provider to communicate in a way that that inappropriately exploits these advantages, to the detriment of competition in the provision of generation services. Specifically, the Illinois Commerce Commission (ICC) noted that "PG&E argues that ComEd's [integrated distribution company] proposal will 'advance the inherent advantages of incumbent utilities,' rather than advancing competition." (ICC Order in Docket No. 98-0147, dated February 15, 2001, at 8.) The ICC also noted that PG&E believes "the incumbents will benefit from 'name recognition, a longstanding relationship with the customer and customer inertia.'" (Id. at 9.) In this context, PG&E appears to understand the dangers that SJVPA is concerned about, namely, PG&E's exploitation of its status as the incumbent integrated distribution company to squelch generation competition from community choice aggregators, such as SJVPA.

To address the concerns raised by PG&E and others, the ICC adopted specific standards of conduct that apply to so-called "integrated distribution companies," namely, companies (like PG&E) that provide both distribution service and generation service to customers. (All the standards may be viewed at the following link: http://www.ilga.gov/commission/jcar/admincode/083/08300452sections.html .)

The following are relevant excerpts of these standards:

> "'Marketing' means direct contact with a customer or a prospect for the purpose of requesting or retaining patronage." (Section 452.200)
>
> "An Integrated Distribution Company shall not promote, advertise or market with regard to the offering or provision of any retail electric supply service." (Section 452.240(a))

> "No IDC employee or agent shall affirmatively prompt customer inquiries about the quality of the IDC's retail electric supply services. No IDC shall disparage the quality of an alternative retail electric supplier's services." (Section 452.240(d))
>
> "No IDC employee or agent shall affirmatively act to retain or obtain a customer for any retail electric supply service offered or provided by the IDC." (Section 452.240(e))

As specified below, SJVPA's chief concern is that PG&E is actively and earnestly providing opinions, representations and comments about SJVPA's services and rates. PG&E should not be in this role. The ICC recognized that it is almost impossible for the incumbent utility company to provide a representation about its competitor's services that is accurate and non-disparaging. In explaining its concerns about "disparaging representations," the ICC offered the following: "Subsection (d) also prohibits disparaging representations regarding the quality of competing electricity usage services. As sole source provider of distribution, IDC employees will have frequent and exclusive opportunities to dissuade customers from using alternate energy sources. Competition will not thrive if those opportunities are exploited...." (ICC Order at 28.) Based on this, and because of the clear conflict of interests and the opportunity for exploitation, the ICC explicitly does not allow employees of the integrated distribution company to speak about its competitor's services, but rather directs the employees as follows: "In response to customer-initiated queries, IDC employees can refer customers to this Commission or to unaffiliated agencies and organizations for information about the IDC's competitors." (ICC Order at 28.) This is appropriate, and it is what PG&E ought to be doing.

ALLEGED MISCONDUCT

The following is a summary of PG&E's misconduct. Certain support for these allegations is provided as attachments hereto. Should affidavits or other forms of factual support be needed, SJVPA will provide such support. SJVPA also understands that PG&E has recorded and is continuing to record or transcribe communication occurring at certain meetings. For example, PG&E videotaped its meeting in Fresno on May 31, 2007. Additionally, SJVPA understands that PG&E has retained the services of Ms. Virginia Madrid-Salazar to transcribe various meetings.

1. PG&E-Initiated Marketing Activity: As noted above, PG&E is prohibited from affirmatively acting to retain a customer or group of customers in the provision of retail electricity procurement services.

    a. Set forth as an attachment hereto is an invitation sent to all local government customers currently considering SJVPA's services under a CCA program. The invitation calls customers to attend a meeting called by PG&E. The meeting occurred on May 31, 2007 in Fresno. At the meeting, PG&E affirmatively promoted its procurement services, noting various attributes of PG&E's

procurement services, including PG&E's representations about (i) the renewable content of PG&E's portfolio and (ii) the purported "at cost" nature of PG&E's procurement services. A videotape is available from this meeting.

b. Set forth as an attachment hereto is an example of a transmittal to a local government customer, dated May 10, 2007, entitled "What You Need to Know About KRCD's CCA Plans." In this document, PG&E affirmatively compares and promotes its procurement services, noting (i) that PG&E continues to take aggressive steps to increase the percentage of its power mix that comes from renewable resources and (ii) that, with corrected assumptions, customers under SJVPA's program would pay more than they would pay under PG&E's rates.

2. PG&E's Evaluation of SJVPA's CCA Program: As noted above, PG&E is prohibited from using ratepayer-funds to affirmatively prompt customer inquiries about the quality of SJVPA's retail electricity procurement services. The standard also requires that, in response to any customer-initiated inquiry, PG&E should refer the customer to the Commission or another non-biased organization.[1] In violation of this standard, PG&E is actively and earnestly providing its unsolicited evaluation of the quality of SJVPA's retail electricity procurement services.

a. Described in paragraphs 1.a. and 1.b., above, are presentations and documents in which PG&E affirmatively (and without inquiry from any customer) provides its evaluation of SJVPA's CCA program.

b. Set forth as an attachment hereto is document entitled "Issues and Questions Raised by the Latest Version of the San Joaquin Valley Power Authority/Kings River Conservation District Community Choice Aggregation (CCA) Proposal and Program Agreement 1." This document was provided by PG&E to the city of Corcoran representatives. In the document, PG&E provides a number of issues and questions concerning SJVPA's CCA program, all of which are aimed at causing a PG&E-prompted evaluation of SJVPA's CCA program.

c. Set forth as an attachment hereto is a document PG&E presented to the Kingsburg City Council on June 6, 2007. Again, this document was not in response to a customer inquiry, but rather was provided on an unsolicited basis by PG&E. In the document, PG&E makes numerous representations and statements about SJVPA's CCA program, including PG&E's assessment of the "risk" to cities and counties. As further described below, PG&E also disparagingly notes that "After you vote to approve PA-1, ***you are taking a leap of faith***."

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[1] *See also,* PG&E Rule 23, Section C.1. ("Customers contacting the utility requesting information on CCA Service shall be referred to the CCA for assistance. PG&E shall provide the customer with the CCA's telephone number.")

d. Set forth as an attachment hereto is an e-mail from John Nelson, PG&E's primary representative before local government customers, dated June 8, 2007. In this e-mail John Nelson requests a meeting in which he and PG&E's procurement experts could get further information about SJVPA's procurement plan for the purpose of evaluating this plan and providing PG&E's findings to the Clovis City Council. Not only does this review violate the standard described above, but this review would likely violate PG&E's Rule 23, Section B.3.b., which states that "CCAs shall be solely responsible for having contractual or other arrangements with their customers necessary to implement CCA consistent with all applicable laws, Commission requirements and this Rule. PG&E shall not be responsible for monitoring, reviewing or enforcing such contracts or arrangements."[2]

3. PG&E's Disparaging Characterizations of SJVPA's CCA Program. As noted above, PG&E should not, in any instance, disparage the quality of service provided under SJVPA's CCA program. It is in this area, in particular, that PG&E's conduct is most egregious. Not only has PG&E's comments been disparaging, they have been provocative, inflammatory and injurious. The undeniable effect of such statements is the creation of doubt, distrust, fear and confusion in the minds of customers.

   a. Described in paragraph 2.c., above, is a representations by PG&E that "After you vote to approve PA-1, ***you are taking a leap of faith***."

   b. Set forth as an attachment hereto is a document from a periodical in which PG&E's representative is quoted as referring to SJVPA's rates as "***teaser rates***." This representation was also made by Mr. John Nelson during the May 31, 2007 meeting in Fresno and during a workshop held on June 5, 2007 in the city of Lemoore. Mr. Nelson stated something to the effect of "We have experience with teaser rates from third-party suppliers, who then jettison from the marketplace." (The videotape from the meeting in Fresno is available, and PG&E can produce its transcription of the Lemoore workshop, if the Commission needs to verify whether these statements were made.)

   c. At a workshop held in the city of Lemoore on June 5, 2007, Mr. John Nelson stated something to the effect of "We are concerned that ***there is an ox to be gored here***, and we do not want our customers to be the ox." (Again, PG&E can produce its transcription of the Lemoore workshop if the Commission needs to verify whether this statement was made.)

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[2] Also, to the extent that PG&E seeks to interfere with any contract between SJVPA's operating agent, Kings River Conservation District, and its supplier, grounds could exist for an action relating to tortuous interference with such contract.

CUSTOMER PROTECTION

In your e-mail, you seem to justify PG&E's actions by claiming that the kind of activities described above "*are not only legally proper but also in the best interests of our customers.*" You are wrong for a number of reasons. Anti-competitive activity along the lines PG&E is pursuing is inherently uneconomic, and contrary to the best interests of customers. More importantly, however, as clearly described in Assembly Bill 117 and in the Commission's implementation of CCA programs, customer protection is not best guarded by PG&E, as a competitor for procurement services. Rather, customer protection is properly guarded by the processes set forth under California law for public agencies, such as SJVPA and its members. As the Commission has aptly stated, "[n]othing in AB 117 suggests that [the Commission] act as a forum to negotiate or rule on disputes between CCAs and their customers. Many local governments provide utility services and we have no evidence to suggest their consumer protections are lacking." (D.05-12-041 at 19-20.)

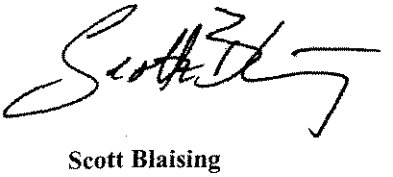
The Commission has reviewed and certified the adequacy of SJVPA's consumer protection mechanisms, as described in SJVPA's Implementation Plan. It is unavailing for PG&E to justify its anti-competitive activity on a belief (feigned or otherwise) that such activity is needed to safeguard the interests of customers.

REQUESTED ACTION

In light of the conduct described above, SJVPA asserts that PG&E is violating various orders and standards set forth by the Commission, and accordingly SJVPA requests that PG&E immediately cease such misconduct and similar such activities. If, in response to this request, PG&E does not immediately cease such misconduct and similar such activities, SJVPA will represent to the Commission that PG&E's is engaging in "intentional" misconduct and will request that the Commission impose commensurate penalties upon PG&E.

Your immediate attention to this matter is requested. Please contact me if you have any questions concerning the matters described herein.

Respectfully,



Scott Blaising
Attorney for the San Joaquin Valley Power Authority

Attachments

EXHIBIT U

Pacific Gas and Electric Company®

Jonathan D. Pendleton
Attorney at Law

77 Beale Street, B30A
San Francisco, CA 94105-1814

Mailing Address:
Mail Code B30A
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415.973.2916
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June 15, 2007

VIA EMAIL AND U.S. MAIL

Scott Blaising
Braun & Blaising, P.C.
915 L Street, Suite 1420
Sacramento, CA 95824

Dear Scott,

PG&E has reviewed your letter dated June 9, 2007 on behalf of the San Joaquin Valley Power Authority.

The letter contains two critical misstatements that are addressed here.

First, page 3 of the letter asserts that "PG&E is prohibited from affirmatively acting to retain a customer or group of customers in the provision of retail electric procurement services." This is patently untrue. The California Public Utility Commission (CPUC) decisions authorizing Community Choice Aggregation (CCA) expressly permit PG&E to affirmatively communicate with its customers regarding CCA, as long as the costs of such communications are at shareholder expense and not included in PG&E's rates. (See D.05-12-041 at p. 23; see p. 62, Conclusion of Law 14.) Additionally, the CPUC decisions do not in any way affect PG&E's rights to communicate with public and government officials on matters within their jurisdiction.

Second, your letter cites certain "standards of conduct" adopted by the Illinois Commerce Commission as if they were applicable to CCA in California. Your letter even goes so far as to allege that PG&E has "violated" these standards, without making it clear the standards you reference are imported from another state. The Illinois standards do not apply in California, they have not been adopted by the CPUC, and PG&E continues to comply in full with all rules and requirements applicable to CCA in California, including the rules and orders adopted by the CPUC.

In our communications on this matter with government officials, our customers and members of the public, we intend to continue to be fair, factual and accurate, and we would expect that SJVPA would do the same.

Finally, it is our understanding that SJVPA has been sharing its informal complaints with government officials of SJVPA's member cities and counties as officials consider whether to go forward with SJVPA's proposed CCA program as currently formulated. It does not appear that SJVPA likewise shared PG&E's response. For this reason, we will be providing copies of this letter to those government officials to inform them that PG&E is acting properly and fully in accordance with California law when it attempts to ask questions and raise its concerns about SJVPA's proposed CCA program.

If you have any questions, please feel free to give me a call.

Sincerely,

Jon Pendleton SLG

Jon Pendleton
Attorney
Pacific Gas and Electric Company

JP/ad