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

Application of Pacific Gas And Electric
Company to Revise Its Electric Marginal
Costs, Revenue Allocation and Rate Design.

(U 39 M)

Application No. 16-06-013
(Filed June 30, 2016)

**PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO ALJ
RULING DIRECTING PG&E TO PROVIDE ADDITIONAL
INFORMATION ON THE FOOD BANK DISCOUNT PROPOSAL**

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Dated: January 20, 2017

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I. INTRODUCTION

Pursuant to Rule 10.1 of the CPUC’s Rules of Practice and Procedure, PG&E hereby responds to the January 6, 2017 ruling issued by Administrative Law Judge (ALJ) Jeanne McKinney in A.16-06-013 in PG&E’s 2017 GRC Phase II proceeding. The Ruling stated as follows:

“A1606013 Email Ruling Directing PG&E to Provide Additional
Information on the Food Bank Discount Proposal

This email ruling concerns the proposed discount program for food banks. Assembly Bill 2218 (2014, Bradford) created PUC §739.3 which requires electrical and gas corporations to develop and implement a program of rate assistance to eligible food banks at a fixed percentage to be determined by the Commission. Funding source for the discount is also subject to approval by the Commission. In its Application (A.)16-06-013, PG&E proposed to expand the applicability for CARE rates for non-residential customers to qualified food banks.

In its 2016 GRC II (A.15-04-012), SDG&E proposed a line-item discount approach and funded by PPP rates from all non-CARE customers. (Fang Chapter 1, Swartz Chapter II). To date, no decision has been issued on SDG&E’s proposal in A.15-14-012. However, I believe it would be useful for parties and the Commission to have the opportunity to consider a food bank rate structure similar to that proposed by SDG&E.

This email ruling directs PG&E to develop a food bank rate using the same approach as SDG&E and to provide a comparison table(s) showing the rate impacts of the two rate designs.

This email ruling also directs PG&E to provide supplemental information on its food bank discount proposal as listed below. Both the comparison table(s) and the additional information should be submitted by January 18, 2017.¹

1. Identify the estimated electricity usage and number of customers and accounts by rate schedule in PG&E's service territory that are classified as "food banks" based upon the North American Industry Classification System "NAICS."
2. How does PG&E propose certifying for eligibility for the food bank discount program?

Parties planning to address the food bank rate in this proceeding should consider both PG&E's original proposal and the proposal submitted by PG&E in response to this ruling."

PG&E appreciates the opportunity to provide the CPUC and all interested parties with the requested information, and, because the ALJ's email Ruling was filed with the docket office, PG&E hereby files and serves the following responses in compliance with the ALJ's Ruling.

II. STATUTORY AND REGULATORY BACKGROUND

There appear to be certain assumptions embedded in the Ruling's requests for additional information that suggest this response should begin with a brief review of underlying statute that requires the CPUC to adopt a food bank rate discount for each investor-owned utility.

The relevant statute is Public Utilities (Pub. Util.) Code Section 739.3, which provides:

P.U. Code Section 739.3

(a) Subject to direction and supervision by the commission, each electrical corporation and gas corporation shall develop and implement a program of rate assistance to eligible food banks at a fixed percentage to be determined by the commission. The commission may adjust the fixed percentage as appropriate. The funding source for the rate assistance program is subject to the approval of the commission.

(b) the Legislature encourages the governing board of each local publicly owned electric utility to develop and implement a

¹ By an email Ruling of January 19, 2017, ALJ McKinney granted an extension of this original due date, and set the new deadline on January 20, 2017.

program of rate assistance to eligible food banks at a fixed percentage, to be determined by the governing board, but consistent with that fixed by the commission for electrical [and gas] corporations.

(c) For purposes of this section, the following terms have the following meanings:

(1) “Eligible food bank” means a qualified eligible recipient agency that has executed an agreement with the State Department of Social Services in order to participate in The Emergency Food Assistance Program administered by the Food and Nutrition Service of the United States Department of Agriculture.

(2) “Eligible recipient agency” has the same meaning as defined in Section 251.3(d) of Title 7 of the Code of Federal Regulations.

(3) “Agreement” means an agreement executed in compliance with Section 251.2 of Title 7 of the Code of Federal Regulations.

Thus, eligibility for the food bank rate discount was expressly defined by the California Legislature to be “recipient agencies that have executed an agreement with the State Department of Social Services” so that they may participate in the U.S. Department of Agriculture’s Emergency Food Assistance Program.

The next legal provision of relevance here are the portions of Title 7 of the Code of Federal Regulations that are expressly referenced within Pub. Util. Code Section 739.3. These are attached in full as Appendix A to this response, but the relevant portions are summarized here:

For a utility customer to be eligible for the food bank rate discount, it must be an “eligible recipient agency” which meets the very specific requirements of Section 251.3(d) of the Code of Federal Regulations. Under CFR Section 251.3(d), an “eligible recipient agency” is an organization that:

- (1) Is public, or
- (2) Is private, possessing tax exempt status pursuant to § 251.5(a)(3); and
- (3) Is not a penal institution; and

- (4) Provides food assistance:
 - (i) Exclusively to needy persons for household consumption, pursuant to a means test established pursuant to § 251.5 (b), or
 - (ii) Predominantly to needy persons in the form of prepared meals pursuant to § 251.5(a)(2); and
- (5) Has entered into an agreement with the designated State agency pursuant to § 251.2(c) for the receipt of commodities or administrative funds, or receives commodities or administrative funds under an agreement with another eligible recipient agency which has signed such an agreement with the State agency or another eligible recipient agency within the State pursuant to § 251.2(c); and
- (6) Falls into one of the following categories:
 - (i) Emergency feeding organizations (including food banks, food pantries and soup kitchens);
 - (ii) Charitable institutions (including hospitals and retirement homes);
 - (iii) Summer camps for children, or child nutrition programs providing food service;
 - (iv) Nutrition projects operating under the Older Americans Act of 1965 (Nutrition Program for the Elderly), including projects that operate congregate Nutrition sites and projects that provide home-delivered meals; and
 - (v) Disaster relief programs.

Thus, to be eligible to receive a food bank discounted rate from an investor-owned utility, an organization must both (a) fit the definition of an “eligible recipient agency” *and* (b) have executed an agreement with the California Department of Social Services (CDSS) in order to participate in The Emergency Food Assistance Program (TEFAP) administered by the Food and Nutrition Service of the United States Department of Agriculture.

Therefore, as discussed in more detail in section IV, below, a key aspect of answering Question 1 of the Ruling – which asks “How many customers, representing how much usage, are

classified as “food banks” based upon the North American Industry Classification System ‘NAICS’?” –is whether eligibility for the food bank discount is based upon NAICS code designations. By the express terms of the statute and cited regulations, eligibility for the food bank rate discount is not based on NAICS code designations. Rather, in accord with the legal provisions reviewed above, a list of eligible organizations can be found simply by consulting the website^{2/} of CDSS Emergency Food Assistance Program (EFAP) which maintains a list of all agencies who have executed the necessary agreement, as this is the essential prerequisite for eligibility to receive the CPUC’s rate discount, as clearly spelled out in Pub. Util. Code Section 739.3. (See further discussion in Section IV below.)

III. RATE IMPACT COMPARISON

The ALJ’s email ruling “directs PG&E to develop a food bank rate using the same approach as SDG&E and to provide a comparison table(s) showing the rate impacts of the two rate designs.” In response to this directive, PG&E has developed, and presents below, a comparison of the bill impact of two alternative proposed AB 2218 eligible food bank discount rate designs: 1) Expand eligibility for Schedule E-CARE, California Alternate Rates For Energy Program Service for Qualified Non Profit Group Living and Qualified Agricultural Employee Housing Facilities, to include AB 2218 eligible food banks as proposed by PG&E, and 2) Provide a 20 percent discount to the total billed amounts as proposed by SDG&E.

PG&E’s Schedule E-CARE for non-residential CARE electric customers currently defines eligible customers as income qualified non-profit group living facilities such as homeless shelters, halfway houses, drug rehabilitation centers, group homes, and care facilities (see Rule 19.2), as well as qualified agricultural employee housing facilities (see Rule 19.3). PG&E is proposing to expand eligibility for Schedule E-CARE to include AB 2218 eligible food banks, whose clients are likely CARE eligible. Although the discount for Schedule E-CARE is targeted to living facilities for low income customers, expanding eligibility of Schedule E-CARE to AB

2/ <http://www.dss.cahwnet.gov/efap/PG1910.htm>.

2218 eligible food banks will minimize implementation costs, implementation timeframe and ongoing maintenance for this new discount for food bank accounts. PG&E views the integration of the eligible food bank discount and Schedule E-CARE as an opportunity to potentially leverage the eligible food bank network with outreach to build awareness among a large population of eligible residential CARE customers that may not yet be aware of or enrolled in the program. The AB 2218 eligible food banks listed in Table 4, in aggregate, distribute about 100 million pounds of food a year and serve approximately a million people a month.^{3/} Customer income eligibility requirements for AB 2218 eligible food banks are aligned with CARE. EFAP eligible income levels are lower than for CARE, meaning that any customer that is receiving EFAP services would also be eligible for the CARE program.^{4/ 5/}

The discount for Schedule E-CARE is established to be equal to, on average, the residential CARE distribution percentage discount. Like CARE, customers that take service on Schedule E-CARE also do not pay the CARE surcharge portion of the Public Purpose Program rate or the Department of Water Resources Bond Charge. The average total residential CARE discount is currently 37.0 percent, and serves as the basis for the discount for Schedule E-CARE. The total residential average CARE discount is scheduled to be adjusted every year to achieve a 35.0 percent discount. The glide path to achieve a total average electric CARE discount of 35 percent is provided in Table 1 below. The discount for Schedule E-CARE would be revised each year at the same time as the total average residential CARE discount is revised. PG&E expects to implement a total CARE discount of 36.5 percent for 2017 on March 1, 2017.

3/ Email communication with Don Williams, Unit Manager, Emergency Food Assistance Program, Department of Social Services on January 13, 2017. Contact information available at <https://www.fns.usda.gov/tefap/tefap-contacts>. Phone: 916-229-3336. Email: Don.Williams@dss.ca.gov.

4/ <http://www.cdss.ca.gov/cdssweb/entres/forms/English/EFA14.pdf>

5/ https://www.pge.com/en_US/residential/save-energy-money/help-paying-your-bill/longer-term-assistance/care/program-guidelines.page

By comparison, PG&E understands that SDG&E proposes to implement a discount for food banks of 20 percent total billed revenue. PG&E notes, that unlike SDG&E’s flat percent discount proposal for a food bank rate, PG&E’s larger discount for E-CARE will be calculated as a \$/kWh discount in the same manner as Schedule E-CARE.

TABLE 1
PG&E CARE Discount Glide path

Year	Effective Average CARE discount*
2016	37.0%
2017	36.5%
2018	36.0%
2019	35.5%
2020	35.0%
*See Advice Letter 4697-E	

In the supplemental questions posed by the Administrative Law Judge, information was requested for both the usage and number of customers based on NAICS code and for the method PG&E would use to assess eligibility for the food bank discount. As explained in Section IV below, there is not a specific NAICS code for food banks. Food banks are only one of the many establishments categorized under NAICS code 624210 as “community food services.” Community food services includes several *other* types of establishments primarily engaged in the collection, preparation, and delivery of food for the needy. Other establishments included in NAICS code 624210 include: community meals, social services; food pantries; meal delivery programs; mobile soup kitchens; and soup kitchens.^{6/} Food banks are not tracked at any finer level of NAICS code, which only have six digits.

In Table 2, PG&E has provided the bill impact comparison for all accounts that have been coded as “community food services” based upon the NAICS code 624210, and also for those customers that PG&E proposes to be eligible for the discount based on their certification

6/ <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=624210&search=2017> NAICS Search

CDSS as an EFAP Eligible Recipient Agency (ERA) as described below and set forth in Table 4.^{7/}

Table 2 provides the number of accounts, the total bundled billed amount under the standard bundled tariff, the discount^{8/} assuming a 20% discount and by applying the current Schedule E-CARE discount, the discounted bill, and the average percent discount.

TABLE 2
PG&E Comparison of Electric Rate Impacts
from a Flat 20% Discount vs. Schedule E-CARE

	20% Discount	E-CARE
All Community Food Services (NAICS 624210)		
Service Agreements	102	102
Full Bundled Tariff	\$1,729,535	\$1,729,535
Discount	\$345,907	\$631,252
Discounted Bill	\$1,383,628	\$1,098,282
Average Percent Discount	20%	36.5%
Already CDSS Certified Eligible Recipient Agencies		
Service Agreements	29	29
Full Bundled Tariff	\$847,824	\$847,824
Discount	\$169,565	\$311,000
Discounted Bill	\$678,259	\$536,824
Average Percent Discount	20%	36.7%

7/ PG&E clarifies that there is a fixed amount of funding for the CDSS ERA program, and it is highly unlikely that any more food banks would be added, unless it was to replace one that closes. The state program administrators have already carefully balanced and distributed the participating certified food banks for effective coverage by county. The participating food banks are very large in scale, and must meet a number of specialized criteria to be selected and certified. As a result, PG&E expects the group of AB 2218 eligible food banks to be very stable.

8/ Under Schedule E-CARE, bundled, direct access and community choice aggregation customers may participate. The discount for unbundled customers is calculated as if the customer were a PG&E bundled service customer and the discount amount is applied to reduce the distribution, PPP and DWR Bond charges. Thus, similar customers receive the same discount in dollars regardless of their choice of energy supplier. PG&E proposes to recover the cost of the distribution discount in the same manner as the CARE discount. The CARE distribution discount is funded by all customers through the Public Purpose Program (PPP) rate.

PG&E has identified 29 accounts (i.e., service agreements) in PG&E's service territory associated with the food banks listed in Table 4. Extending Schedule E-CARE eligibility to these already certified AB 2218 eligible food banks would result in a discount equal to \$311,000, while providing a 20 percent discount to these customers would be \$169,565. A discount equal to 20% applied to the entire NAICS 624210 code population (all community food services establishments) would be equal to \$345,907.

PG&E also proposes to expand the eligibility for Schedule G-CARE for non-residential CARE gas customers to include eligible food bank customers with natural gas services. Schedule G-CARE already provides for a 20 percent discount.^{9/}

IV. SUPPLEMENTAL INFORMATION

The ALJ's January 6 Ruling directed that two types of supplemental information be provided by PG&E:

1. Identify the estimated electricity usage and number of customers and accounts by rate schedule in PG&E's service territory that are classified as "food banks" based upon the North American Industry Classification System "NAICS."
2. How does PG&E propose certifying for eligibility for the food bank discount program?

A. Response to Question 1

As discussed in Section II above, classification as eligible for the food bank discount is not based upon NAICS code designations. Rather, in accord with the legal provisions reviewed above, a list of eligible organizations can be found simply by consulting the website of State

9/ Schedule G-CARE, CARE Program Service for Qualified Non Profit Group Living and Qualified Agricultural Employee Housing Facilities, is applied as a 20 percent discount to the charges billed under the otherwise applicable schedule. For purposes of calculating bill for Schedule G-CARE service, the otherwise applicable commodity charge or volumetric charge, will be the adopted charge, less the PPP-CARE rate component. Core transport eligible customers receiving service in conjunction with Schedule G-CT will receive a 20 percent discount on the transportation charges billed under the otherwise applicable rate schedule. They will receive an additional 20 percent discount on the procurement charge for their otherwise applicable rate schedule. This is to ensure that bundled and unbundled customers receive the same dollar discount. The amount of the discount would similarly be funded through the gas PPP charge.

Department of Social Services, which maintains a list of all agencies who have executed the necessary agreement. It is the execution of such an agreement with the State that is the essential prerequisite under Pub. Util. Code Section 739.3 for eligibility to receive the CPUC's food bank rate discount

As discussed in Section III, above, even if NAICS codes were relevant (which they are not under the statute's express terms), food banks are only one of the establishments categorized by the NAICS code 624210 as community food services. The "community food services" NAICS code also includes several other types of establishments.^{10/} The NAICS codes, which only have six digits, do not track food banks at any finer level of designation. Perhaps this is one reason the legislature did not define food bank using NAICS codes at all, but defined eligibility for the food bank discount based on the CFR's definition of an "eligible recipient agency."

Therefore, PG&E objects to the question's request for NAICS-based data, as being irrelevant under the clear language of the applicable originating statute.

Notwithstanding and without waiving its objection, PG&E provides, in Table 3 below, the requested data for all accounts that have been coded in PG&E's billing system as "community food services" based upon the NAICS code 624210,^{11/} and also for those accounts that PG&E proposes to be eligible for the discount based on their certification by the CDSS as an ERA as described below for Question 2. Please note that the revenue shown is calculated based on current rates and as if all customers were bundled.

10/ <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=624210&search=2017> NAICS Search

11/ To respond to the request from the ALJ, PG&E has utilized the NAICS data that is available in its billing system. PG&E notes however, that NAICS data is not typically used for billing and is generally not considered to be of billing quality.

TABLE 3
PG&E's Community Food Services and
Eligible Recipient Agencies Electric Customers

	Rate Schedule A-1	Rate Schedule A-6	Rate Schedule A-10	Rate Schedule E-19	Total
All Community Food Services (NAICS 624210)					
Customers*	N/A	N/A	N/A	N/A	69
Service Agreements	73	10	17	2	102
Usage (kWh)	1,918,890	1,256,570	4,768,758	751,929	8,696,146
Revenue (\$)	\$431,245	\$255,518	\$903,069	\$139,703	\$1,729,535
Already CDSS Certified Eligible Recipient Agencies					
Customers*	N/A	N/A	N/A	N/A	26
Service Agreements	16	3	9	1	29
Usage (kWh)	756,618	656,913	2,289,604	628,530	4,331,665
Revenue (\$)	\$167,818	\$130,304	\$431,232	\$118,470	\$847,824
* Customers were identified by full name, even though individual service agreements identified by the same name may have been at different locations.					

B. Response to Question 2

PG&E has identified 29 service agreements for 26 currently eligible ERA certified food banks in its service territory. As discussed in detail in section II above, Pub. Util. Code Section 739.3^{12/} defines food bank eligibility for an electric and gas discount as follows:

12/ In 2014, AB 2218 (Bradford) was signed into law effective 1/1/2015 and added Section 739.3 to the Public Utilities Code, which directs IOUs to develop and implement a program of rate assistance to eligible food banks at a fixed percentage to be determined by the commission.

(1) “Eligible food bank” means a qualified eligible recipient agency that has executed an agreement with the State Department of Social Services in order to participate in The Emergency Food Assistance Program administered by the Food and Nutrition Service of the United States Department of Agriculture.

The United States Department of Agriculture (USDA) maintains The Emergency Food Assistance Program (TEFAP), and the TEFAP program’s website provides a link to the California administrator^{13/} which is The California State Department of Social Services (CDSS). The CDSS distributes the USDA commodities through the California Emergency Food Assistance Program (EFAP). The CDSS is responsible for overseeing EFAP and ensures that USDA commodities are provided and distributed to eligible individuals and households in all 58 California counties. The EFAP administers the USDA commodities to Eligible Recipient Agency (ERA) county food banks. Table 5 indicates that the EFAP has executed agreements with 42 ERA county food banks^{14/} statewide in California which are listed on the EFAP website, of which 26 have been identified as PG&E customers for purposes of this analysis.^{15/}

Food banks will certify annually their eligibility for the PG&E electric and gas discount by providing a copy of their Memorandum of Understanding (MOU) executed with the CDSS that qualifies them to participate in EFAP, cross-checked with the list provided at the CDSS EFAP site.^{16/} See <http://www.dss.cahwnet.gov/efap/res/pdf/ProcedureManual.pdf> at page 78 for a copy of the MOU template that must be executed by food banks participating in EFAP.

13/ <https://www.fns.usda.gov/tefap/tefap-contacts>

14/ Some ERA food banks serve more than one county.

15/ <http://www.dss.cahwnet.gov/efap/PG1910.htm>

16/ Telephone conversation with Don Williams, Unit Manager, Emergency Food Assistance Program, Department of Social Services on January 12, 2017. Contact information available at <https://www.fns.usda.gov/tefap/tefap-contacts>. Phone: 916-229-3336. Email: Don.Williams@dss.ca.gov.

TABLE 4
ERA Food Banks

Alameda Alameda County Community Food Bank 7900 Edgewater Drive Oakland 510-635-3663	Orange Second Harvest Food Bank of Orange County 8014 Marine Way Irvine 949-653-2900 Community Action Partnership of Orange County 11870 Monarch Street Garden Grove 714-897-6670
Alpine Food Bank of El Dorado County 4550 Business Drive Cameron Park 530-621-9950	Placer Placer Food Bank 8284 Industrial Avenue Roseville 916-783-0481
Amador Interfaith Council of Amador County 12181 Airport Road Jackson 209-267-9006	Riverside Second Harvest Food Bank serving Riverside and San Bernardino Counties 2950-B Jefferson Street Riverside 951-359-4757
Butte Community Action Agency of Butte County 2640 S. Fifth Avenue, Suite 7 Oroville 530-538-7559	Sacramento California Food Bank of Sacramento 5800 Foodlink Street Sacramento 916-387-9000
Calaveras Resource Connection 206 George Reed Drive San Andreas 209-754-1257	San Benito The Community Food Bank of San Benito County 1133 San Felipe Road Hollister 831-637-0340
Contra Costa Food Bank of Contra Costa & Solano 4010 Nelson Avenue Concord 925-676-7543	San Bernardino Community Action Partnership of San Bernardino County 696 S. Tippecanoe Avenue San Bernardino 909-723-1500
Del Norte Rural Human Services, Inc. 286 M Street Suite A Crescent City 707-464-7441	San Diego San Diego Food Bank 9850 Distribution Avenue San Diego 858-527-1419

El Dorado Food Bank of El Dorado County 4550 Business Drive Cameron Park 530-621-9950	San Francisco San Francisco Food Bank 900 Pennsylvania Avenue San Francisco 415-282-1907
Fresno Community Food Bank 3403 E. Central Avenue Fresno 559-237-3663	San Joaquin San Joaquin County Human Services Agency 2736 North Teepee Dr., Suite C Stockton 209-468-0982
Humboldt Food For People, Inc. 307 West 14th Street Eureka 707-445-3166	San Luis Obispo Food Bank Coalition of San Luis Obispo County 2212 Golden Hill Road Paso Robles 805-238-4664
Imperial Imperial Valley Food Bank 329 Applestill Road El Centro 760-370-0966	San Mateo Second Harvest Food Bank of Santa Clara/San Mateo 750 Curtner Avenue San Jose 408-266-8866
Inyo Inyo/Mono Advocates For Community Action 137 East South Street Bishop 760-873-8557	Santa Barbara Food Bank of Santa Barbara 4554 Hollister Santa Barbara 805-967-5741
Kern Community Action Partnership of Kern 1807 Feliz Drive Bakersfield 661-336-5236	Santa Clara Second Harvest Food Bank of Santa Clara/San Mateo 750 Curtner Avenue San Jose 408-266-8866
Kings Kings County Community Action Organization 1130 North 11th Avenue Hanford 559-582-4386	Santa Cruz Second Harvest Food Bank Serving Santa Cruz 800 Ohlone Parkway Watsonville 831-722-7110
Lake Clearlake Gleaners, Inc. 1896 Big Valley Road Finley 707-263-8082	Shasta Shasta Senior Nutrition Programs, Inc. 100 Mercy Oaks Drive Redding 530-226-3060
Lassen Lassen County Council on Aging 1545 Paul Bunyan Road Susanville 530-257-4884	Siskiyou Great Northern Corporation 310 Boles Street Weed 530-938-4115

Los Angeles Food Bank of Southern California 1444 San Francisco Avenue Long Beach 562-435-3577 Los Angeles Regional Food Bank 1734 East 41st Street Los Angeles 323-234-3030	Solano Food Bank of Contra Costa & Solano 4010 Nelson Avenue Concord 925-676-7543
Madera Madera County Food Bank 225 South Pine Street, Suite 101 Madera 559-674-1482	Sonoma Redwood Empire Food Bank 3990 Brickway Blvd. Santa Rosa 707-523-7900
Marin SF-Marín Food Bank 75 Digital Drive Novato 415-883-1302	Stanislaus Salvation Army Modesto Citadel 600 Janopaul Way Modesto 209-522-3209
Mariposa Merced County Food Bank, Inc. 2000 West Olive Merced 209-726-3663	Sutter Yuba/Sutter Gleaners Food Bank, Inc. 760 Stafford Way Yuba City 530-673-3834
Mendocino Mendocino Food and Nutrition Program, Inc. 910 North Franklin Fort Bragg 707-964-9404	Tehama Tehama County Gleaners 20699 Walnut Street Red Bluff 530-529-2264
Merced Merced County Food Bank, Inc. 2000 West Olive Merced 209-726-3663	Trinity Trinity County Food Assistance Program 9069 3rd Street Weaverville 530-623-5409
Modoc Lassen County Council on Aging 1700 Sunkist Drive Susanville 530-257-4884	Tulare Foodlink for Tulare County 7427 West Sunnyview Visalia 559-651-3663
Mono Inyo/Mono Advocates For Community Action 137 East South Street Bishop 760-873-8557	Tuolumne Amador/Tuolumne Community Action Agency, Inc. 935 South State Highway 49 Jackson 209-223-1485

Monterey Food Bank for Monterey County 815 West Market Street, #5 Salinas 831-758-1523	Ventura Food Share Inc. of Ventura County 4156 North Southbank Road Oxnard 805-983-7100
Napa Community Action of Napa Valley 3273 Claremont Way, Suite 207 Napa 707-253-6100	Yolo Food Bank of Yolo County 1244 Fortna Street Woodland 530-668-0690
Nevada Food Bank of Nevada County 12048 Charles Drive #9 Grass Valley 530-272-3796	Yuba Yuba/Sutter Gleaners Food Bank, Inc. 760 Stafford Way Yuba City 530-673-3834

Respectfully submitted,

By: /s/ Gail L. Slocum
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Dated: January 20, 2017

Attorneys for:
PACIFIC GAS AND ELECTRIC COMPANY

Appendix A

Title 7 of the Code of Federal Regulations

(Yellow highlighting added by PG&E for emphasis)

§ 251.2 Administration.

(a) Food and Nutrition Service. Within the United States Department of Agriculture (the "Department"), the Food and Nutrition Service (FNS) shall have responsibility for the distribution of food commodities and allocation of funds under the part.

(b) State agencies. Within the States, distribution to eligible recipient agencies and receipt of payments for storage and distribution shall be the responsibility of the State agency which has: (1) Been designated for such responsibility by the Governor or other appropriate State executive authority; and (2) entered into an agreement with the Department for such distribution and receipt in accordance with paragraph (c) of this section.

(c) Agreements -

(1) Agreements between Department and States. Each State agency that distributes donated foods to eligible recipient agencies or receives payments for storage and distribution costs in accordance with § 251.8 must perform those functions pursuant to an agreement entered into with the Department. This agreement will be considered permanent, with amendments initiated by State agencies, or submitted by them at the Department's request, all of which will be subject to approval by the Department.

(2) Agreements between State agencies and eligible recipient agencies, and between eligible recipient agencies. Prior to making donated foods or administrative funds available, State agencies must enter into a written agreement with eligible recipient agencies to which they plan to distribute donated foods and/or administrative funds. State agencies must ensure that eligible recipient agencies in turn enter into a written agreement with any eligible recipient agencies to which they plan to distribute donated foods and/or administrative funds before donated foods or administrative funds are transferred between any two eligible recipient agencies. All agreements entered into must contain the information specified in paragraph (d) of this section, and be considered permanent, with amendments to be made as necessary, except that agreements must specify that they may be terminated by either party upon 30 days' written notice. State agencies must ensure that eligible recipient agencies provide, on a timely basis, by

amendment to the agreement, or other written documents incorporated into the agreement by reference if permitted under paragraph (d) of this section, any information on changes in program administration, including any changes resulting from amendments to Federal regulations or policy.

(d) Contents of agreements between State agencies and eligible recipient agencies and between eligible recipient agencies.

(1) Agreements between State agencies and eligible recipient agencies and between eligible recipient agencies must provide:

(i) That eligible recipient agencies agree to operate the program in accordance with the requirements of this part, and, as applicable, part 250 of this chapter; and

(ii) The name and address of the eligible recipient agency receiving commodities and/or administrative funds under the agreement.

(2) The following information must also be identified, either in the agreement or other written documents incorporated by reference in the agreement:

(i) If the State agency delegates the responsibility for any aspect of the program to an eligible recipient agency, each function for which the eligible recipient agency will be held responsible; except that in no case may State agencies delegate responsibility for establishing eligibility criteria for organizations in accordance with § 251.5(a), establishing eligibility criteria for recipients in accordance with § 251.5(b), or conducting reviews of eligible recipient agencies in accordance with § 251.10(e);

(ii) If the receiving eligible recipient agency is to be allowed to further distribute TEFAP commodities and/or administrative funds to other eligible recipient agencies, the specific terms and conditions for doing so, including, if applicable, a list of specific organizations or types of organizations eligible to receive commodities or administrative funds;

(iii) If the use of administrative funds is restricted to certain types of expenses pursuant to § 251.8(e)(2), the specific types of administrative expenses eligible recipient agencies are permitted to incur;

(iv) Any other conditions set forth by the State agency.

[51 FR 12823, Apr. 16, 1986, as amended at 52 FR 17933, May 13, 1987; 59 FR 16974, Apr. 11, 1994; 62 FR 53731, Oct. 16, 1997; 64 FR 72902, 72903, Dec. 29, 1999]

§ 251.3 Definitions.

(a) The terms used in this part that are defined in part 250 of this chapter have the meanings ascribed to them therein, unless a different meaning for such a term is defined herein.

(b) **Charitable institution** (which is defined differently in this part than in part 250 of this chapter) means an organization which -

- (1) Is public, or
- (2) Is private, possessing tax exempt status pursuant to § 251.5(a)(3); and
- (3) Is not a penal institution (this exclusion also applies to correctional institutions which conduct rehabilitation programs); and
- (4) Provides food assistance to needy persons.

(c) **Distribution site** means a location where the eligible recipient agency actually distributes commodities to needy persons for household consumption or serves prepared meals to needy persons under this part.

(d) **Eligible recipient agency** means an organization which -

- (1) Is public, or
- (2) Is private, possessing tax exempt status pursuant to § 251.5(a)(3); and
- (3) Is not a penal institution; and
- (4) Provides food assistance -

(i) Exclusively to needy persons for household consumption, pursuant to a means test established pursuant to § 251.5 (b), or

(ii) Predominantly to needy persons in the form of prepared meals pursuant to § 251.5(a)(2); and

(5) Has entered into an agreement with the designated State agency pursuant to § 251.2(c) for the receipt of commodities or administrative funds, or receives commodities or administrative funds under an agreement with another eligible recipient agency which has signed such an agreement with the State agency or another eligible recipient agency within the State pursuant to § 251.2(c); and

(6) Falls into one of the following categories:

(i) Emergency feeding organizations (including food banks, food pantries and soup kitchens);

(ii) Charitable institutions (including hospitals and retirement homes);

(iii) Summer camps for children, or child nutrition programs providing food service;

(iv) Nutrition projects operating under the Older Americans Act of 1965 (Nutrition Program for the Elderly), including projects that operate congregate Nutrition sites and projects that provide home-delivered meals; and

(v) Disaster relief programs.

(e) *Emergency feeding organization* means an eligible recipient agency which provides nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons. Emergency feeding organizations have priority over other eligible recipient agencies in the distribution of TEFAP commodities pursuant to § 251.4(h).

(f) *Food bank* means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

(g) *Food pantry* means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(h) *Formula* means the formula used by the Department to allocate among States the commodities and funding available under this part. The amount of such commodities and funds to be provided to each State will be based on each State's population of low-income and unemployed persons, as compared to national statistics. Each State's share of commodities and funds shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State. The surplus commodities will be allocated to States on the basis of their weight (pounds), and the commodities purchased under section 214 of the Emergency Food Assistance Act of 1983 will be allocated on the basis of their value (dollars). In instances in which a State determines that it will not accept the full amount of its allocation of commodities purchased under section 214 of the Emergency Food Assistance Act of 1983, the Department will reallocate the commodities to other States on the basis of the same formula used for the initial allocation.

(i) *State agency* means the State government unit designated by the Governor or other appropriate State executive authority which has entered into an agreement with the United States Department of Agriculture under § 251.2(c).

(j) *Soup kitchen* means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

(k) *Value of commodities distributed* means the Department's cost of acquiring commodities for distribution under this part.

[64 FR 72903, Dec. 29, 1999]