

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



May 23, 2017

Advice Letters 4900-E, 4900-E-A, 4900-E-B and 4900-E-C

Erik Jacobson
Director, Regulatory Relations
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

SUBJECT: PG&E Demand Response Auction Mechanism Pilot for 2018

Dear Mr. Jacobson:

Advice Letters 4900-E, 4900-E-A, 4900-E-B and 4900-E-C are effective as of May 22, 2017, per Resolution E-4817 and Resolution E-4838 Ordering Paragraphs.

Sincerely,

A handwritten signature in cursive script that reads "Edward Randolph".

Edward Randolph
Director, Energy Division

May 22, 2017

ADVICE 3466-E-C
(Southern California Edison Company U 338-E)

ADVICE 4900-E-C
(Pacific Gas and Electric Company U 39-E)

ADVICE 2949-E-C
(San Diego Gas & Electric Company U 902-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

SUBJECT: Supplement to Advice Letter 3466-E, et al., Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company's Demand Response Auction Mechanism Pilot for 2018-2019

PURPOSE

Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E) hereby submit for approval by the California Public Utilities Commission (Commission or CPUC) the following changes to Advice Letter 3466-E et al. in compliance with Resolution E-4838. The revisions to Advice Letter (AL) 3466-E/E-A/E-B are attached hereto.

I. BACKGROUND

On September 25, 2013, the Commission issued Order Instituting Rulemaking (OIR) 13-09-011 "To Enhance the Role of Demand Response (DR) in Meeting the State's Resource Planning Needs and Operational Requirements." The Commission reviewed a Resource Adequacy (RA) Capacity Payment Mechanism for DR and Participation of Retail DR in the California Independent System Operator (CAISO) wholesale market.

On December 4, 2014, the Commission issued Decision (D.)14-12-024, "Resolving Several Phase Two Issues and Addressing the Motion for Adoption of Settlement Agreement on Phase Three Issues" (later revised to be the Joint Proposal of the Joint Sponsoring Parties). In this Decision, SCE, PG&E, and SDG&E (together, the IOUs) were ordered to file an Advice Letter for the DRAM pilot, together with a standard

contract. The DRAM pilot was intended to test: a) the feasibility of procuring DR Supply Resources for RA with third party direct participation in the CAISO markets through an auction mechanism; and b) the ability of winning bidders to integrate their DR Resources directly into the CAISO market.

While D.14-12-024 authorized a DRAM pilot for 2016 and 2017, the Commission extended the pilot for an additional year in D.16-06-029, stating: “we re-establish the DRAM working group to jointly develop a proposal for the parameters of a third pilot to be held in 2017 with delivery in 2018. The minimal requirements shall begin at the current auction level. Similar to prior Commission directives, the Utilities shall sponsor the working group meetings but all parties are encouraged to participate.”¹ D.16-06-029 thus authorized the IOUs to participate collaboratively with interested stakeholders in the DRAM working group, whose activities were conducted at the express direction and under continuing supervision of the Commission. The DRAM working group included the IOUs, Ratepayer Advocates (Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN)), DR providers, Energy Division (ED) Staff, and other interested stakeholders.

D.16-06-029 provided further parameters for the 2018 DRAM pilot including the following:

- The third auction pilot should build off of the 2017 auction mechanism taking into consideration the participation of the first two auctions.²
- The three IOUs are required to file a tier three advice letter requesting adoption of a proposal for a third DRAM pilot no later than September 1, 2016.³
- The IOUs are authorized a budget of \$27 million, double the current budget, for the continuation of the DRAM pilot in the following breakdown for the utilities: \$3 million for SDG&E and \$12 million each for PG&E and SCE. The Decision states that these funds are available beginning in 2016 to ensure that the 2017 auction will take place in time for 2018 delivery.⁴
- The IOUs are to be prudent and sensible in selecting and approving bids, being instructed to ensure that the bids fit portfolio needs and offer the best value to the ratepayers.⁵

On January 19, 2017, the CPUC issued Resolution E-4817, Approval with Modifications to Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company’s Demand Response Auction Mechanism Pilot for 2018-2019. The Resolution adopted with modifications, the auction design protocols, standard pro forma Purchase Agreement (PA), evaluation criteria and non-binding cost estimates. In addition, Ordering Paragraph (OP) 26 of the Resolution required the IOUs

¹ D.16-06-029, page 44. Also, stated in Ordering Paragraph (OP) 19.

² D.16-06-029, OP 19.

³ D.16-06-029, page 45 and OP 19.

⁴ D.16-06-029, page 45 and OP 21.

⁵ D.16-06-029, pages 45-46 and OP 21.

to file supplemental advice letters by February 2, 2017 that demonstrate compliance with all the required modifications. As such, the IOUs filed Supplemental AL 3466-E-A et al., in compliance with OP 26.

Commission staff suspended AL 3466-E-A et al. on February 29, 2017, and clarified the reasons for the suspension in a letter to IOUs on March 7, 2017, while directing the Utilities to continue with the DRAM III Request for Offers (RFO) solicitation launch as scheduled per Resolution E-4817. Commission staff found that AL 3466-E-A et al. was fully in compliance with the stipulations contained in Resolution E-4817. However, the AL was suspended in order to allow time to develop a draft resolution addressing a new issue added to AL 3466-E-A that had not been included or raised in AL 3466-E. The issue being modifying the DRAM III pro forma contract to address Commission direction in D.16-09-056 restricting the use of prohibited resources to reduce load during demand response events.

On April 28, 2017, the CPUC issued Resolution E-4838 (Resolution), Approval with Modifications to Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company's prohibited resources restrictions for Supply Side Demand Response programs and pilots; and, approval with modifications of DRAM III auction design, protocols, standard pro forma contract, evaluation criteria and non-binding cost estimates as directed in Resolution E-4817. The Resolution modifies AL 3466-E-A et al. only with respect to its prohibited resources requirements and otherwise approves its DRAM III provisions in full. OP 40 of the Resolution requires the IOUs to file supplemental advice letters by May 8, 2017 that demonstrate compliance with all the modifications to AL 3466-E-A, as approved in the Resolution. As such, this supplemental AL is filed by the IOUs in compliance with OP 40. In addition, OP 40 stated that the protest period for the supplemental AL shall be shortened to seven days and the reply period shall be shortened to five days.

II. DRAM PURCHASE AGREEMENT MODIFICATIONS

In compliance with OP 40 of the Resolution, the IOUs submit the following modifications to AL 3466-E et al. for CPUC approval. Attachment A includes the redline changes of the 2018-2019 DRAM pro forma PA that are summarized here and Attachment B includes a spreadsheet referencing the directives and the specific sections in the DRAM pro forma PA.

A. Updates to Resolution E-4838, Appendix I on Language in Section 7.2(b)(v), Section 9.1(b)(iv)

Section 7.2(b)(v) has been updated to reflect the language specified in Appendix I of the Resolution, and modifications to that language are described here:

- Section D has been modified to add specific definitions of Type 1 Non-Compliance and Type 2 Non-Compliance violations of the prohibited resources policy, before indicating the repercussions for such violations.

- Event of default (Section G of Resolution E-4838, Appendix I) has been moved to Section 9.1(b)(iv), with more specific language.
- Section 7.2(b)(v)(D) has been further updated per discussion in the Prohibited Resources public workshop held at the Commission on May 16th. The following bolded edits to the pro forma PA are the only changes, as compared to Advice 3466-E-B:

If the instance of noncompliance involves either (a) the Customer attested to the “**does not have**” or “no-use” provisions of Prohibited Resource(s) but is verified to have used a Prohibited Resource to reduce load during a demand response event; or (b), a Customer intentionally submits an invalid nameplate capacity value for the Prohibited Resource(s) (collectively “Type Two NonCompliance”), then Customer will be removed from Seller’s DR program as follows.

B. Other Updates

Exhibit C-1 and Exhibit C-2 for the Notice of Demonstrated Capacity in the attached DRAM PA⁶, are updated to add a section for the Prohibited Resources Adjustment of Adjusted MW Claimed to specify the MW portion used to meet the contract obligation. This results in the addition of two columns per resource for the DAV MW and the Net MW Claimed. This requirement is already specified in DRAM PA, Section 7.2(b)(v). Minor edit to Exhibits C-1 and C-2 to reflect Demonstrated Capacity requirements as specified in DRAM PA, Section 1.6(a).

AUTHORIZATION

This Advice Letter is filed by Southern California Edison Company on behalf of, and with the authorization from PG&E, and SDG&E.

TIER DESIGNATION

Pursuant to Resolution E-4838 and General Order (GO) 96-B, Energy Industry Rule 5.1, this Advice Letter is submitted with a Tier 1 designation.

EFFECTIVE DATE

This Advice Letter will be effective the same as filed, May 22, 2017.

⁶ The updated Exhibit C1 and Exhibit C2 are on pages D-1 and D-2 of the DRAM pro-forma in Attachment A to this Advice Letter.

NOTICE

IOUs asks that the Commission, pursuant to GO 96-B, General Rules 7.5.1, maintain the original protest and comment period designated in AL 3466-E-B and not reopen the protest period. The modifications included in this supplemental advice filing do not make substantive changes that would affect the overall evaluation of the filing.

In accordance with General Rule 4 of GO 96-B, SCE is serving copies of this advice filing to the interested parties on the attached GO 96-B and R.13-09-011 service lists. Address change requests to the GO 96-B service list should be directed by electronic mail to AdviceTariffManager@sce.com or at (626) 302-3719. For changes to all other service lists, please contact the Commission's Process Office at (415) 703-2021 or by electronic mail at Process_Office@cpuc.ca.gov.

Further, under Public Utilities Code Section 491, notice to the public is given by filing and keeping the advice filing at SCE's corporate headquarters. To view other SCE Advice Letters filed with the Commission, log on to SCE's web site at <https://www.sce.com/wps/portal/home/regulatory/advice-letters>.

For questions, please contact Gigio Sakota at (626) 302-5927 or by electronic mail at Gigio.Sakota@sce.com.

Southern California Edison Company

/s/ Russell G. Worden
Russell G. Worden

RGW:gs:cm
Enclosures

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: Southern California Edison Company (U 338-E)

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Darrah Morgan

Phone #: (626) 302-2086

E-mail: Darrah.Morgan@sce.com

E-mail Disposition Notice to: AdviceTariffManager@sce.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas
 PLC = Pipeline HEAT = Heat WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: 3466-E-C

Tier Designation: 1

Subject of AL: Supplement to Advice Letter 3466-E, et al., Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company's Demand Response Auction Mechanism Pilot for 2018-2019

Keywords (choose from CPUC listing): Compliance

AL filing type: Monthly Quarterly Annual One-Time Other

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #:

Resolution E-4838

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: _____

Summarize differences between the AL and the prior withdrawn or rejected AL: _____

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Name and contact information to request nondisclosure agreement/access to confidential information:

Resolution Required? Yes No

Requested effective date: 5/22/17 No. of tariff sheets: -0-

Estimated system annual revenue effect: (%): _____

Estimated system average rate effect (%): _____

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: None

Service affected and changes proposed¹: _____

Pending advice letters that revise the same tariff sheets: None

¹ Discuss in AL if more space is needed.

All correspondence regarding this AL filing shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, California 94102
E-mail: EDTariffUnit@cpuc.ca.gov

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Attachment A

2018 DRAM RFO PRO FORMA

**DEMAND RESPONSE AUCTION MECHANISM RESOURCE PURCHASE
AGREEMENT**

between

[NAME OF SELLER]

and

[IOU BUYER]

**DEMAND RESPONSE AUCTION MECHANISM RESOURCE PURCHASE AGREEMENT
BETWEEN
[SELLER] AND [IOU BUYER]**

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BETWEEN
[SELLER] AND [IOU BUYER]**

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BETWEEN
[SELLER] AND [IOU BUYER]**

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**DEMAND RESPONSE RESOURCE PURCHASE AGREEMENT
BETWEEN
[SELLER] AND [IOU BUYER]**

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**DEMAND RESPONSE RESOURCE PURCHASE AGREEMENT
BY AND BETWEEN
[NAME OF SELLER]
[IOU BUYER]**

PREAMBLE

This Demand Response Resource Purchase Agreement, together with its exhibits (the “Agreement”) is entered into by and between [IOU Buyer], a California corporation (“Buyer”), and [Aggregator or Demand Response Provider], a [Seller’s business registration] (“Seller”), as of [Date] (“Execution Date”). Buyer and Seller are referred to herein individually as a “Party” and collectively as “Parties.” Unless the context otherwise specifies or requires, capitalized terms in this Agreement have the meanings set forth in Exhibit A.

AGREEMENT

In consideration of the agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

ARTICLE 1. TRANSACTION

1.1. Purchase and Sale of the Product

(a) During the Delivery Period, Seller shall sell and deliver, and Buyer shall purchase and receive, the Product(s) as indicated in Table 1.1(b) in the respective amount of the Product Monthly Quantity, as indicated in Exhibit E, subject to and in accordance with the terms and conditions of this Agreement. More than one type of Product from Table 1.1(b) may be indicated. Each type of Product indicated in Table 1.1(b) shall be referred to individually or collectively as “Product” for purposes of this Agreement, as applicable.

(b) The Product is:

	Type of Product	Local Capacity Area (as applicable)
<input type="checkbox"/>	Product A: System Capacity	Not applicable
<input type="checkbox"/>	Product B-1: Local Capacity with System Capacity	[LA Basin LCA Substations][<i>For SCE Agreements</i>]

	Type of Product	Local Capacity Area (as applicable)
<input type="checkbox"/>	Product B-2: Local Capacity with System Capacity	[Big Creek/Ventura LCA Substations][<i>For SCE Agreements</i>]
<input type="checkbox"/>	Product C1: Flexible Capacity (Flexible Category 1) with System Capacity	Not applicable
<input type="checkbox"/>	Product C2: Flexible Capacity (Flexible Category 2) with System Capacity	Not applicable
<input type="checkbox"/>	Product C3: Flexible Capacity (Flexible Category 3) with System Capacity	Not applicable
<input type="checkbox"/>	Product D1-1: Flexible Capacity (Flexible Category 1) with Local and System Capacity	[LA Basin LCA Substations][<i>For SCE Agreements</i>]
<input type="checkbox"/>	Product D1-2: Flexible Capacity (Flexible Category 1) with Local and System Capacity	[Big Creek/Ventura LCA Substations] [<i>For SCE Agreements</i>]
<input type="checkbox"/>	Product D2-1: Flexible Capacity (Flexible Category 2) with Local and System Capacity	[LA Basin LCA Substations][<i>For SCE Agreements</i>]
<input type="checkbox"/>	Product D2-2: Flexible Capacity (Flexible Category 2) with Local and System Capacity	[Big Creek/Ventura LCA Substations] [<i>For SCE Agreements</i>]
<input type="checkbox"/>	Product D3-1: Flexible Capacity (Flexible Category 3) with Local and System Capacity	[LA Basin LCA Substations][<i>For SCE Agreements</i>]

	Type of Product	Local Capacity Area (as applicable)
<input type="checkbox"/>	Product D3-2: Flexible Capacity (Flexible Category 3) with Local and System Capacity	[Big Creek/Ventura LCA Substations] <i>[For SCE Agreements]</i>

{IOU Comment: IOUs to each individually update Table 1.1(b) based on the number and names of their respective LCAs. SCE's LCAs are indicated above for illustrative purposes}

(c) Seller to indicate whether the Product is:

___ a Residential Customer Product; or

___ not a Residential Customer Product

{IOU Comment: Seller to choose only one option which applies to all Products for this Agreement}

(d) If Seller has chosen to deliver Product that is not Residential Customer Product, its DRAM Resources may nevertheless include Residential Customers and Small Commercial Customers.

(e) Seller to indicate whether the Product is:

___ a Proxy Demand Resource (PDR); or

___ a Reliability Demand Response Resource (RDRR).

1.2. Term

The "Term" of this Agreement shall commence upon the Execution Date and shall continue until the expiration of the Delivery Period unless terminated earlier in accordance with the terms and conditions of this Agreement.

1.3. Delivery Period

The "Delivery Period" shall commence on the later of (a) the first day of the first month that begins after sixty (60) days following CPUC Approval, and (b) *[Date]*, and shall continue in full force and effect until *[Date]* *{IOU Comment: The Date should be the last calendar day of the last Showing Month}*, unless terminated earlier in accordance with the terms and conditions of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Delivery Period will not commence until CPUC Approval is obtained or waived by Buyer in its sole discretion.

{IOU Comment: Dates will be based on Seller's bid that was selected by the IOU in the

RFO. Currently that would be no earlier than January, 2018 and no later than December, 2019.

1.4. Seller's Designation of the DRAM Resource

- (a) On or before the later of (1) the first day of the first month that begins after the date that is sixty (60) days following CPUC Approval, and (2) the date that is sixty (60) days prior to the first Showing Month, and on a monthly basis thereafter no less than sixty (60) days prior to the applicable Showing Month if any of the information below changes, Seller shall:
 - (i) Provide to Buyer the Resource ID(s) for each PDR or RDRR providing each type of Product pursuant to this Agreement.
 - (ii) Confirm in writing to Buyer that each PDR or RDRR identified by Seller pursuant to Section 1.4(a)(i) for each type of Product is comprised solely of Bundled Service Customers or Unbundled Service Customers.
 - (iii) If the Product pursuant to this Agreement is a Joint Resource, Seller shall confirm in writing to Buyer (x) the amount of the capacity of such Joint Resource that will be used to show Demonstrated Capacity for the applicable type of Product under this Agreement and (y) the total capacity of such Joint Resource for the applicable type of Product.
- (b) Sellers may sell and deliver System Capacity and Local Capacity from PDRs or RDRRs and may sell and deliver Flexible Capacity only from PDRs.
- (c) The Parties shall cooperate to implement the requirements of Rule [24/32] to enroll Resource Customers in order for Seller to designate the PDR(s) and/or RDRR(s) pursuant Section 1.4(a)(i).

1.5. Product Monthly Quantity and Corresponding Contract Price

- (a) The Product Monthly Quantity and Contract Price for the type of Product indicated in Table 1.1(b) for each applicable Showing Month during the Delivery Period is set forth in Exhibit E.
- (b) In the event that Seller is not able to register the DRAM Resource for part or all of a Product Monthly Quantity for a Showing Month due solely to (i) the actions or inactions of Buyer or the CAISO, or (ii) insufficient Rule [24/32] registrations under D.16-06-008 [Ordering Paragraph 2, for PG&E, Ordering Paragraph 4, for SDG&E and Ordering Paragraph 6, for SCE], then Seller may, in its sole discretion, by providing Notice to Buyer on or before the date that is sixty (60) days prior to the Showing Month for which Seller is unable to register the DRAM Resource, reduce the Product Monthly Quantity for the unregistered capacity by type of Product for such Showing Month; *provided*, Seller shall demonstrate to Buyer's reasonable satisfaction that Seller made commercially reasonable efforts to register the DRAM Resource corresponding to such reduced Product Monthly

Quantity for the unregistered capacity by type of Product in the applicable Showing Month.

- (c) In the event that material changes to definition of Resource Adequacy, including but not limited to changes in the Resource Adequacy Availability Assessment Hours, are adopted during the Term of this Agreement, then Seller may, in its sole discretion, by providing Notice to Buyer on or before August 1, either (i) reduce the Product Monthly Quantity for the following year or (ii) terminate this Agreement. Any such reduction or termination will be effective as of January 1 of the year following the next August 1 after Buyer's notice (for example, a reduction or termination notice on July 31, 2017 would be effective on January 1, 2018, and a reduction or termination notice on November 1, 2017 would be effective on January 1, 2019).
- (d) In the event that the Buyer has not yet enabled real time or ancillary services functionality that is adequate for the Buyer's CPUC-approved Rule [24/32] registrations, by the time that the DRAM Resource is offered into the CAISO Markets (on or after January 1, 2018 per the terms of this Agreement), Buyer shall provide Notice to Seller at least 60 days prior to the Showing Month and Seller shall be exempt from both any obligation to provide Flexible Capacity and any associated penalties. Once Buyer has provided 30 days' Notice to Seller that Buyer has enabled real time or ancillary services functionality that is adequate for the Buyer's approved [Rule 24/32] registrations, so that Sellers are able to provide Flexible Capacity to the CAISO Markets, this Section 1.5(d) shall have no further effect.
- (e) Seller's exercise of its rights under Sections 1.5(b) or (c) will not be deemed to be a failure of Seller's obligation to sell or deliver the Product or a failure of Buyer's obligation to purchase or receive the Product, and will not be or cause an Event of Default by either Party. Neither Party shall have any further obligation or liability to the other and no Settlement Amount with respect to this Agreement will be due or owing by either Party upon termination of this Agreement due solely to Seller's exercise of its rights under Section 1.5(c).

1.6. Demonstrated Capacity

- (a) Each invoice submitted by Seller to Buyer pursuant to Section 4.2 shall include a statement, in a form substantially similar to Exhibit C, of the amount of the Product Monthly Quantity for each type of Product for such Showing Month that Seller was capable of delivering ("Demonstrated Capacity"), including one of the following, as provided below:
 - (i) The results of a Dispatch of the applicable PDR or RDRR in the DRAM Resource during the Showing Month, provided that the PDR or RDRR provided load reduction during all of the hours referenced in the Dispatch Instruction corresponding to the applicable MOO hours. The Demonstrated Capacity for System and Local Capacity will equal the

maximum hourly load reduction during any hour of such Dispatch as calculated using the Capacity Baseline and the Demonstrated Capacity for Flexible Capacity will equal the average hourly load reduction calculated using the Capacity Baseline. *(Formerly subsection iii.)*

- (ii) In the event that there is no Full Dispatch of the PDR or RDRR in the DRAM Resource during the Showing Month under 1.6(a)(i) above the results of a capacity test conducted by the Seller's SC during the applicable Showing Month, if and as required under Section 3.3(b) below. The Demonstrated Capacity for System or Local Capacity with respect to such PDR or RDRR will equal the maximum hourly load reduction during such test as calculated using the Capacity Baseline. The Demonstrated Capacity for Flexible Capacity with respect to such PDR will equal the average hourly load reduction during such test as calculated using the Capacity Baseline; or *(formerly section i. This now requires full dispatch or test to be used in the two mandatory months under section 3.3 (b).*
- (iii) In the event that there is no Full Dispatch of the applicable PDR or RDRR in the DRAM Resource during the Showing Month as contemplated under 1.6(a)(i) above, or test of the applicable PDR or RDRR in the DRAM Resource during the Showing Month as contemplated under 1.6(a)(ii) above, the average amount of capacity for the applicable PDR or RDRR in the DRAM Resource that the Seller bid into the applicable CAISO Markets solely during the hours of the Showing Month in compliance with the CAISO MOO. *(Formerly subsection ii. This lets MOO be used in months other than the two mandatory test months. It also would let the Seller use test results for months other than the two mandatory test months, instead of MOO.)*
- (b) Solely for purposes of establishing the Demonstrated Capacity pursuant to Section 1.6(a), Seller shall use data available through Buyer's Customer Data Access Systems that has been designated by Buyer as final Revenue Quality Meter Data and such data shall be considered final by the Parties as of the date Seller submits its invoice for the applicable Showing Month to Buyer.
- (c) If the DRAM Resource is comprised of more than one PDR or RDRR, then Seller may establish the portion of the Demonstrated Capacity for a specific type of Product associated with each such PDR or RDRR by using the methods based on the descriptions in Sections 1.6(a)(i)-(iii), in which case the Demonstrated Capacity for a specific type of Product will equal the sum of the individual PDR or RDRRs demonstrated capacities.
- (d) If any respective PDR or RDRR in the DRAM Resource is a Joint Resource, Seller's invoice shall indicate (x) the amount of the capacity of such Joint Resource used to show Demonstrated Capacity for a specific type of Product for such month and (y) the total capacity of such Joint Resource during such month.

- (e) If the type of Product Seller delivers under this Agreement is a Residential Customer Product, Seller's invoice shall indicate the number of Residential Customer SAID agreements and the number of Small Commercial SAID accounts in each PDR or RDRR for such type of Product.
- (f) In addition to the requirements in Section 1.6(a), if Seller is electing Demonstrated Capacity for Local Capacity, then, as part of Seller's Demonstrated Capacity for Local Capacity, Seller's invoice shall indicate the number of SAID agreements in the applicable LCA that are associated with the Local Capacity as indicated in Table 1.1(b) and Exhibit C.
- (g) Following Buyer's receipt of Seller's invoice and Notice of Demonstrated Capacity, Buyer may, upon Notice to Seller, require Seller to provide documentation from Seller or Seller's SC that establishes to Buyer's reasonable satisfaction the Demonstrated Capacity of each Product type from a PDR, RDRR or Joint Resource as stated by Seller in its invoice for the applicable Showing Month. In the event that Seller does not provide such documentation within ten (10) Business Days from Buyer's Notice or such documentation is not reasonably satisfactory to Buyer, then Buyer may require an audit of Seller or Seller's SC records upon Notice ("Audit Notice"). With respect to an Audit Notice, Seller shall cause its SC to allow Buyer or its designated independent third-party auditor to have access to the records and data necessary to conduct such audit within five (5) Business Days of Seller's receipt of an Audit Notice; *provided*, such audit will be limited solely to verification of the data upon which Seller based its claim of the amount of the Demonstrated Capacity. If the type of Product designated in Section 1.1(b) is a Residential Customer Product, then, in addition to the documentation specified above, Buyer may, in its Audit Notice, require Seller or Seller's SC to provide additional documentation that establishes to Buyer's reasonable satisfaction that the type of Product is Residential Customer Product as stated by Seller in its invoice for the applicable Showing Month. Buyer's costs, including the costs for any third-party auditor, incurred in connection with the conducting such audit are the sole responsibility of Buyer.

ARTICLE 2. CPUC APPROVAL

2.1. Obtaining CPUC Approval

Within thirty (30) days after the Execution Date, Buyer shall file with the Commission the appropriate request for CPUC Approval. Seller shall use commercially reasonable efforts to support Buyer in preparing for and obtaining CPUC Approval. Buyer has no obligation to seek rehearing or to appeal a Commission decision which fails to approve this Agreement or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.

2.2. CPUC Approval Termination Right

- (a) Either Party has the right to terminate this Agreement upon Notice, which will be effective five (5) Business Days after such Notice is given, if (i) CPUC Approval has not been obtained or waived by Buyer in its sole discretion within sixty (60) days after Buyer files its request for CPUC Approval and (ii) such Notice of termination is given on or before the ninetieth (90th) day after Buyer files the request for CPUC Approval.
- (b) Failure to obtain CPUC Approval in accordance with this Article 2 will not be deemed to be a failure of Seller to sell or deliver the Product or a failure of Buyer to purchase or receive the Product, and will not be or cause an Event of Default by either Party. No Settlement Amount with respect to this Agreement will be due or owing by either Party, and neither Party shall have any obligation or liability to the other, upon termination of this Agreement due solely to failure to obtain CPUC Approval.

ARTICLE 3. SELLER OBLIGATIONS

3.1. Delivery of Product

- (a) No later than ten (10) Business Days before the earliest monthly applicable Buyer's Compliance Showing deadlines with the CAISO and the CPUC for each Showing Month, Seller shall submit, or shall cause Seller's SC(s) to submit, Notice to Buyer which includes Seller's Supply Plan for such Showing Month in a form substantially similar to Exhibit D, or in a form as communicated in writing by Buyer to Seller no later than fifteen (15) Business Days prior to Buyer's Compliance Showing deadlines for a Showing Month.
- (b) Seller shall, on a timely basis, submit, or cause its SC to submit, a Supply Plan to CAISO in accordance with the CAISO Tariff to identify and confirm the Product Monthly Quantity for each type of Product to be provided to Buyer from the DRAM Resource for each Showing Month. The quantities in the Supply Plan that is submitted to the Buyer under Section 3.1(a) shall exactly match what is submitted by the Seller or its SC to the CAISO due on the earliest monthly applicable Buyer's Compliance Showing deadlines with CAISO and CPUC.

3.2. Resource Adequacy Benefits

Seller grants, pledges, assigns, and otherwise commits to Buyer the Product Monthly Quantity and all Resource Adequacy Benefits of the Product as associated with the DRAM Resource to enable Buyer to meet its RAR, Local RAR and/or Flexible RAR, as applicable. The Parties shall take all commercially reasonable actions, and execute all documents or instruments necessary, to effect the use of the Product for Buyer's sole benefit.

3.3. Provision of Information and Testing

- (a) Within a reasonable period of time, or such time prescribed by the CPUC, Seller shall provide to the CPUC all information requested by the CPUC relating to Seller's obligations and performance pursuant to this Agreement and the DRAM III Pilot Program to which this Agreement relates. In responding to any information request from the CPUC, the Seller may designate information for confidential treatment consistent with CAISO and/or Commission rule, tariff or decision. Any such confidential information provided by Seller to the CPUC shall be held in confidence by the CPUC and excluded from public inspection or disclosure, unless inspection or disclosure is otherwise required by Applicable Laws.
- (b) If a PDR or RDRR in the DRAM Resource has not had a Full Dispatch during August of each year when Seller is providing August capacity, then Seller shall cause a test of such PDR(s) or RDRR(s) in accordance with D.14-06-050, Appendix B, prior to expiration of that month, and provide the results of such test to Buyer through their Demonstrated Capacity.

In addition, if the Delivery Period is greater than six months per calendar year, and if a test or Full Dispatch has not occurred within the first half of the Delivery Period in said calendar year, excluding August, then a test must be conducted in accordance with D.14-06-050, Appendix B, within the first half of the Delivery Period (e.g., for an Agreement with an eight month term for 2018, a second test would be required at some point in the first four months). Such test **may** not occur in August. Seller is permitted multiple retests during the calendar month of such testing.

If the test results demonstrate a capacity of 50.00 percent (%) or less of the Product Monthly Quantity for that month, then a retest would be required for those PDR or RDRR that are 50 percent (%) or less of their Product Monthly Quantity, within 30 days of Seller receiving data of the test results, if a Full Dispatch has not occurred during that 30 day period. If the retest results demonstrate a capacity of 50 percent (50%) or less of the applicable Product Monthly Quantity, then Seller will conduct an additional retest.

- (c) Seller shall comply with the requirements for load impact analysis in D.14-06-050, Appendix B, and provide to the CPUC a load impact evaluation consistent with the Load Impact Protocols in D. 08-04-050 and data required by D.14-06-050. This Section 3.3(c) is applicable only for DRAM Resources for which historical data are available. If historical data are not available, Seller is not required to perform a load impact analysis. Pursuant to Decision 16-06-045, Ordering Paragraph 5a, this provision is moot for the 2018 and 2019 RA Compliance Year.

3.4. Seller's Obligations

- (a) Seller shall, and shall cause each of the PDRs or RDRRs in the DRAM Resource and corresponding DRPs and SCs to, comply with all applicable CAISO Tariff provisions, CPUC Decisions and all other Applicable Laws, including the Bidding of the DRAM Resource into the applicable CAISO Markets during the Availability Assessment Hours as required by the CAISO Tariff.
- (b) Seller shall or shall cause Seller's DRP to execute Buyer's Demand Response Provider Service Agreement in accordance with Rule [\[24/32\]](#).
- (c) Seller shall not include any Customer premises or resource in a PDR or RDRR in the DRAM Resource that is concurrently enrolled in or otherwise concurrently committed to any other demand response program offered, maintained, or funded by Buyer (e.g., without limitation, behind-the-meter storage products in the Energy Storage RFO), or that is registered with CAISO as a part of any other demand response resource or Distributed Energy Resource Aggregation, other than as provided under this Agreement.

3.5. Indemnities for Failure to Perform.

Seller agrees to indemnify, defend and hold harmless Buyer from any costs, penalties, fines or charges assessed against Buyer by the CPUC or the CAISO, resulting from Seller's failure to do, or cause to be done, any of the following:

- (a) Provide any portion of the Monthly Quantity for any portion of the Delivery Period, except to the extent (i) such failure is solely the result of a failure by Buyer to perform any of its obligations pursuant to Section 6.2, or (ii) Seller reduces a Monthly Quantity in accordance with Section 1.5(b) or (c);
- (b) Submit timely and accurate Supply Plans that identify Buyer's right to the Monthly Quantity for each Showing Month;
- (c) Comply with the requirements in Section 3.2 to enable Buyer to meet its RAR; or
- (d) Meet CPUC Resource Adequacy requirements per the CPUC Filing Guide.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize any such costs, penalties, fines and charges; *provided*, in no event will Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these costs, penalties, fines and charges. If Seller fails to pay the foregoing penalties, fines, charges, or costs, or fails to reimburse Buyer for those penalties, fines, charges, or costs, then Buyer may offset those penalties, fines, charges or costs against any amounts it may owe to Seller under this Agreement.

Notwithstanding Seller's obligations in Section 3.5(a), Seller is not required to indemnify or reimburse Buyer for any costs allocated to Buyer by the CAISO for any capacity

procured by CAISO pursuant to the Capacity Procurement Mechanism with respect to any Shortfall Capacity.

ARTICLE 4. PAYMENT AND BILLING

4.1. Delivered Capacity Payment

Buyer shall make a monthly payment to Seller, after the applicable Showing Month, (“Delivered Capacity Payment”) equal to the product of (A x B x C x D) for each type of Product.

$$\text{Delivered Capacity Payment} = [A \times B \times C \times D]$$

Where:

- A = The Contract Price of the applicable type of Product for the applicable Showing Month, including SC costs.
- B = The lesser of (i) the Demonstrated Capacity for each type of Product for the applicable Showing Month, and (ii) the corresponding Product Monthly Quantity for the applicable Showing Month
- C = 1.0 if Seller has chosen (i) not to deliver Residential Customer Product in Section 1.1(c) or (ii) to deliver Residential Customer Product in Section 1.1(c) and the Product delivered meets the definition of Residential Customer Product, or 0.90 if the Product delivered does not meet the definition of Residential Customer Product.
- D = (i) 1.0 if Seller has chosen to deliver RDRR in Section 1.1(e); or (ii) if Seller has chosen to deliver PDR in Section 1.1(e), the percentage of Product delivered that is PDR.

4.2. Invoice and Payment Process

- (a) As soon as practicable after the end of each Showing Month, Seller will render to Buyer an invoice for the payment obligations, if any, incurred hereunder with respect to such Showing Month.
- (b) Buyer will pay Seller all undisputed invoice amounts on or before the later of (i) the twentieth (20th) day of each month, or (ii) the tenth (10th) day after receipt of Seller’s invoice and Demonstrated Capacity or, if such day is not a Business Day, then on the next Business Day.
- (c) Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the

Cash Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

- (d) Buyer may offset against any future payments by any amount(s) that were previously overpaid.
- (e) Either Party may, in good faith, dispute the correctness of any invoice, bill, charge, or any adjustment to an invoice, rendered under this Agreement, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, bill, charge, or adjustment to an invoice, was rendered. Disputes are subject to the provisions of Article 10 below. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of such resolution.
- (f) Buyer may deduct any amounts that would otherwise be due to Seller under this Agreement from any amounts owing and unpaid by Seller to Buyer under this Agreement.
- (g) With respect to any Joint Resource, if Seller and any third party both submit claims to Buyer for payment with respect to such Joint Resource which, when added together, exceed the total capacity of the Joint Resource, Buyer shall not be obligated to make payment to Seller in respect of such Joint Resource until Seller reconciles the error with such third party and Seller re-submits the corrected invoice to Buyer.
- (h) With respect to a Joint Resource, if such Joint Resource's Demonstrated Capacity for a particular type of Product in any Showing Month is less than such Joint Resource's assigned NQC and/or EFC for such type of Product (as set forth in Exhibit C), Seller shall have the right to demonstrate to Buyer the Joint Resource's actual performance, and shall be compensated in accordance with Section 1.6. In the event Buyer finds Seller's demonstration inconclusive, the Joint Resource's total capacity shall be allocated pro-rata among the parties with rights to a portion of such Joint Resource's type of Product based on the information required to be provided in Section 1.6(d), and Seller's compensation shall be calculated using its percentage allocation of such PDR's or RDRR's capacity, accordingly.

4.3. Allocation of Other CAISO Payments and Costs

As between Buyer and Seller, Seller shall retain any revenues Seller or Seller's SC may receive from and pay all costs, penalties, charges charged to Seller or Seller's SC by the

CAISO or any other third party in connection with the DRAM Resource, except as expressly provided otherwise in this Agreement.

ARTICLE 5. CREDIT AND COLLATERAL

5.1. Seller's Credit and Collateral Requirements

- (a) If, at any time during the Term Seller does not have a Credit Rating, or if its Credit Rating is below BBB- from S&P or Baa3 from Moody's, if rated by both S&P and Moody's or below BBB- from S&P or Baa3 from Moody's, if rated by either S&P or Moody's, but not both, Seller shall provide and maintain collateral with Buyer in an amount equal to twenty percent (20%) of the sum of the estimated Delivered Capacity Payments for all of the remaining months of the Delivery Period including the current month, with such estimated Delivered Capacity Payments being based on the applicable Monthly Quantity values times the applicable Contract Price ("Performance Assurance").
- (b) If Seller's Credit Rating is at or above BBB- from S&P and Baa3 from Moody's, if rated by both S&P and Moody's, or at or above BBB- from S&P or Baa3 from Moody's, if rated by either S&P or Moody's, but not both, Seller shall have no obligation to provide Performance Assurance to Buyer, and Sections 5.2 through 5.5 will not be applicable.
- (c) If required pursuant to Section 5.1(a), Seller shall post the Performance Assurance with Buyer within ten (10) Business Days of the Execution Date.

5.2. Grant of Security Interest/Remedies

- (a) To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing security interest in, and lien on (and right of setoff against), and collateral assignment of, the Performance Assurance and all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Buyer, and each Party agrees to take such action as the other Party reasonably requires in order to perfect Buyer's first-priority security interest in, and lien on (and right of setoff against), such Performance Assurance and collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, Buyer, if it is the Non-Defaulting Party, may do any one or more of the following: (i) exercise any of the rights and remedies of a Buyer with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of the Defaulting

Party, including any equity or right of purchase or redemption by the Defaulting Party. In such an event Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under the Agreement (Seller remaining liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

5.3. Reduction and Substitution of Performance Assurance

- (a) If the amount of Performance Assurance held by Buyer exceeds the amount required pursuant to Section 5.1, on any Business Day, Seller may give Notice to Buyer requesting a reduction in the amount of Performance Assurance previously provided by Seller for the benefit of Buyer, provided that, (i) after giving effect to the requested reduction in Performance Assurance, no Event of Default or Potential Event of Default with respect to Seller has occurred and is continuing, and (ii) no Early Termination Date has occurred or been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment obligations. A permitted reduction in Performance Assurance may be effected by the Transfer of Cash to Seller or the reduction of the amount of an outstanding Letter of Credit previously issued for the benefit of Buyer. Seller shall have the right to specify the means of effecting the reduction in Performance Assurance. In all cases, the cost and expense of reducing Performance Assurance (including, but not limited to, the reasonable costs, expenses, and attorneys' fees of Buyer) shall be borne by Seller. Unless otherwise agreed in writing by the Parties, (iii) if Seller's reduction demand is made on or before the Notification Time on a Business Day, then Buyer shall have five (5) Business Days to effect a permitted reduction in Performance Assurance, and (iv) if Seller's reduction demand is made after the Notification Time on a Business Day, then Buyer shall have six (6) Business Days to effect a permitted reduction in Performance Assurance, in each case, if such reduction is to be effected by the return of Cash to Seller. If a permitted reduction in Performance Assurance is to be effected by a reduction in the amount of an outstanding Letter of Credit previously issued for the benefit of Buyer, Buyer shall promptly take such action as is reasonably necessary to effectuate such reduction.

- (b) Except when an Event of Default or Potential Event of Default with respect to Seller shall have occurred and be continuing or an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment obligations, Seller may substitute Performance Assurance for other existing Performance Assurance of equal value upon five (5) Business Days' Notice (provided such Notice is made on or before the Notification Time, otherwise the notification period shall be six (6) Business Days) to Buyer. Upon the Transfer to Buyer of the substitute Performance Assurance, Buyer shall Transfer the relevant replaced Performance Assurance to Seller within five (5) Business Days. Notwithstanding anything herein to the contrary, no such substitution shall be permitted unless (i) the substitute Performance Assurance is Transferred simultaneously or has been

Transferred to Buyer prior to the release of the Performance Assurance to be returned to Seller and the security interest in, and general first lien upon, such substituted Performance Assurance granted pursuant hereto in favor of Buyer shall have been perfected as required by applicable law and shall constitute a first priority perfected security interest therein and general first lien thereon, and (ii) after giving effect to such substitution, the substitute Performance Assurance shall equal the amount of Performance Assurance being replaced. Each substitution of Performance Assurance shall constitute a representation and warranty by Seller that the substituted Performance Assurance shall be subject to and governed by the terms and conditions of this Article 5, including without limitation the security interest in, general first lien on and right of offset against, such substituted Performance Assurance granted pursuant hereto in favor of Buyer pursuant to this Article 5.

- (c) The Transfer of any Performance Assurance by Buyer in accordance with this Section 5.3 shall be deemed a release by Buyer of its security interest, general first lien and right of offset granted pursuant to this Article 5 hereof only with respect to such returned Performance Assurance. In connection with each Transfer of any Performance Assurance pursuant to this Article 5, Seller will, upon request of Buyer, execute a receipt showing the Performance Assurance Transferred to it.

5.4. Administration of Performance Assurance

- (a) Cash. Performance Assurance provided in the form of Cash to Buyer shall be subject to the following provisions:
 - (i) Notwithstanding the provisions of applicable law, if no Event of Default has occurred and is continuing with respect to Buyer and no Early Termination Date has occurred or been designated as a result of an Event of Default with respect to Buyer for which there exist any unsatisfied payment obligations, then Buyer shall have the right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise use in its business any Cash that it holds as Performance Assurance hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.
 - (ii) So long as no Event of Default or Potential Event of Default with respect to Seller has occurred and is continuing, and no Early Termination Date for which any unsatisfied payment obligations of Seller exist has occurred or been designated as the result of an Event of Default with respect to Seller, and to the extent that an obligation to Transfer Performance Assurance would not be created or increased by the Transfer, in the event that Buyer is holding Cash, Buyer will Transfer (or caused to be Transferred) to Seller, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which may be retained by Buyer), the Interest Amount when Buyer returns the Cash to

Seller following the termination or expiration of this Agreement, as applicable and in conformity with Section 9.6. On or after the occurrence of a Potential Event of Default or an Event of Default with respect to Seller or an Early Termination Date as a result of an Event of Default with respect to Seller, Buyer shall retain any such Interest Amount as additional Performance Assurance hereunder until the obligations of Seller under the Agreement have been satisfied in the case of an Early Termination Date or for so long as such Event of Default is continuing in the case of an Event of Default.

- (b) Letters of Credit. Performance Assurance provided in the form of a Letter of Credit shall be subject to the following provisions:
- (i) Each Letter of Credit shall be maintained for the benefit of Buyer. Seller shall (A) renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit, (B) if the bank or financial institution that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide either a substitute Letter of Credit or Cash, in each case at least thirty (30) calendar days prior to the expiration of the outstanding Letter of Credit, and (C) if a bank or financial institution issuing a Letter of Credit shall fail to honor Buyer's properly documented request to draw on an outstanding Letter of Credit, provide for the benefit of Buyer either a substitute Letter of Credit that is issued by a bank or financial institution acceptable to Buyer or Cash, in each case within one (1) Business Day after such refusal.
 - (ii) As one method of providing Performance Assurance, Seller may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.
 - (iii) Upon the occurrence of a Letter of Credit Default, Seller agrees to Transfer to Buyer either a substitute Letter of Credit or Cash, in each case on or before the first (1st) Business Day after the occurrence thereof (or the fifth (5th) Business Day after the occurrence thereof if only clause (a) {/IOU Comment: Additional section reference only applies to PG&E Agreements} (i) under the definition of Letter of Credit Default applies).
 - (iv) Upon or at any time after the occurrence and continuation of an Event of Default or Letter of Credit Default with respect to Seller, or if an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment obligations, then Buyer may draw on the entire, undrawn portion of any outstanding Letter of Credit upon submission to the bank or financial institution issuing such Letter of Credit of one or more certificates specifying that such Event of Default, Letter of Credit Default or Early Termination Date has occurred and is continuing. Cash proceeds received from drawing upon the Letter of Credit shall be deemed

Performance Assurance as security for Seller's obligations to Buyer and Buyer shall have the rights and remedies set forth in Section 5.5 with respect to such Cash proceeds. Notwithstanding Buyer's receipt of Cash proceeds of a drawing under the Letter of Credit, Seller shall remain liable (A) for any failure to Transfer sufficient Performance Assurance and (B) for any amounts owing to Buyer and remaining unpaid after the application of the amounts so drawn by Buyer.

- (v) In all cases, the costs and expenses of establishing, renewing, substituting, canceling, and increasing the amount of a Letter of Credit shall be borne by Seller.
- (c) Care of Performance Assurance. Except as otherwise provided in Section 5.4(a)(i) and beyond the exercise of reasonable care in the custody thereof, Buyer shall have no duty as to any Performance Assurance in its possession or control or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto. Buyer shall be deemed to have exercised reasonable care in the custody and preservation of the Performance Assurance in its possession if the Performance Assurance is accorded treatment substantially equal to that which it accords its own property, and shall not be liable or responsible for any loss or damage to any of the Performance Assurance, or for any diminution in the value thereof, except to the extent such loss or damage is the result of Buyer's willful misconduct or gross negligence. Buyer shall at all times retain possession or control of any Performance Assurance Transferred to it.

5.5. Exercise of Rights against Performance Assurance

- (a) If an Event of Default with respect to Seller has occurred and is continuing or an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to Seller, Buyer may exercise any one or more of the rights and remedies provided under this Agreement, or as otherwise available under Applicable Law. Without limiting the foregoing, if at any time an Event of Default with respect to Seller has occurred and is continuing, or an Early Termination Date occurs or is deemed to occur as a result of an Event of Default with respect to Seller, then Buyer may, in its sole discretion, exercise any one or more of the following rights and remedies:
 - (i) All rights and remedies available to a Buyer under the Uniform Commercial Code and any other applicable jurisdiction and other Applicable Laws with respect to the Performance Assurance held by or for the benefit of Buyer;
 - (ii) The right to set off any Performance Assurance held by or for the benefit of Buyer against and in satisfaction of any amount payable by Seller in respect of any of its obligations; and
 - (iii) The right to draw on any outstanding Letter of Credit issued for its benefit.

- (b) Buyer shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available hereunder. Seller shall in all events remain liable to Buyer for any amount payable by Seller in respect of any of its obligations remaining unpaid after any such liquidation, application and set off.

5.6. Financial Information

- (a) If requested by a Party, the other Party shall deliver, if available, (a) within one hundred twenty (120) days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal year setting forth in each case in comparative form the figures for the previous year for the Party, as the case may be, and (b) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of a quarterly report containing unaudited consolidated financial statements for such fiscal quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, and if the Party files reports with the Securities and Exchange Commission, certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission rules and regulations. If the Party does not file reports with the Securities and Exchange Commission, the reports must be certified by a Chief Financial Officer, Treasurer or any Assistant Treasurer as being fairly stated in all material respects (subject to normal year end audit adjustments); *provided*, for the purposes of this Section 5.6, if a Party's financial statements are publicly available electronically on the Securities and Exchange Commission's website, then this requirement shall be deemed satisfied. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; *provided*, should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

5.7. Access to Financial Information

The Parties agree that Securities and Exchange Commission rules for reporting power purchase agreements may require Buyer to collect and possibly consolidate financial information. If such reporting is required for this Agreement, Buyer is obligated to obtain information from Seller to determine whether or not consolidation is required. If Buyer determines that consolidation is required, Buyer shall require the following during every calendar quarter for the Term of the Agreement:

- (a) Complete financial statements and notes to financial statements, which may include accruals and prior month estimates with true-ups to actual activity;

- (b) Financial schedules underlying the financial statements, all within fifteen (15) days of the end of each quarter; and
- (c) Access to records and personnel, so that Buyer's independent auditor can conduct financial audits (in accordance with generally accepted auditing standards) and internal control audits (in accordance with Section 404 of the Sarbanes-Oxley Act of 2002).

Any information provided to Buyer pursuant to this Section 5.7 shall be treated confidentially and only disclosed on an aggregate basis with other similar entities for which Buyer has contracts. The information will only be used for financial statement purposes and shall not be otherwise shared with internal or external parties.

{IOU Comment: This provision only applies to PG&E & SDGE Agreements.

For PG&E, this provision does not apply if the Delivery Period is for two years or less.}

- (a) Buyer shall determine, through consultation with its internal accountants and review with their independent registered public accounting firm, that Buyer is required to consolidate Seller's financial statements with Buyer's financial statements for financial accounting purposes under Accounting Standards Codification (ASC) 810/Accounting Standards Update 2009-17, "Consolidation of Variable Interest Entities" (ASC 810), or future guidance issued by accounting profession governance bodies or the SEC that affects Buyer accounting treatment for this Agreement (the "Financial Consolidation Requirement").
- (b) If the Financial Consolidation Requirement is applicable, then:

- (i) Within twenty (20) days following the end of each calendar year (for each year that such treatment is required), Seller shall deliver to Buyer unaudited financial statements and related footnotes of Seller as of the end of the year. It is permissible for Seller to use accruals and prior months' estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements. The annual financial statements should include quarter-to-date and yearly information. Buyer shall provide to Seller a checklist before the end of each year listing the items which Buyer believes are material to Buyer and required for this purpose, and Seller shall provide the information on the checklist, subject to the availability of data from Seller's records. It is permissible for Seller to use accruals and prior month's estimates with true-up to actual activity, in subsequent periods, when preparing the information on the checklist. If audited financial statements are prepared for Seller for the year, Seller shall provide such statements to Buyer within five (5) Business Days after those statements are issued.
- (ii) Within fifteen (15) days following the end of each fiscal quarter (for each quarter that such treatment is required), Seller shall deliver to Buyer unaudited financial statements and related footnotes of Seller as of the end of the quarterly period. The financial statements should include quarter-

to-date and year-to-date information. Buyer shall provide to Seller a checklist before the end of each quarter listing items which Buyer believes are material to Buyer and required for this purpose, and Seller shall provide the information on the checklist, subject to the availability of data from Seller's records. It is permissible for Seller to use accruals and prior months' estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements.

- (iii) If Seller regularly prepares its financial data in accordance with GAAP, IFRS, or Successor, the financial information provided to Buyer shall be prepared in accordance with such principles. If Seller is not a SEC registrant and does not regularly prepare its financial data in accordance with GAAP, IFRS or Successor, the information provided to Buyer shall be prepared in a format consistent with Seller's regularly applied accounting principles, e.g., the format that Seller uses to provide financial data to its auditor.

(c) If the Financial Consolidation Requirement is applicable, then promptly upon Notice from Buyer, Seller shall allow Buyer's independent registered public accounting firm such access to Seller's records and personnel, as reasonably required so that Buyer's independent registered public accounting firm can conduct financial statement audits in accordance with the standards of the Public Company Accounting Oversight Board (United States), as well as internal control audits in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, as applicable. All expenses for the foregoing shall be borne by Buyer. If Buyer's independent registered public accounting firm during or as a result of the audits permitted in this Section 5.7(c) determines a material weakness or significant deficiency, as defined by GAAP, IFRS or Successor, as applicable, exists in Seller's internal controls over financial reporting, then within ninety (90) days of Seller's receipt of Notice from Buyer, Seller shall remediate any such material weakness or significant deficiency; *provided*, Seller has the right to challenge the appropriateness of any determination of material weakness or significant deficiency. Seller's true up to actual activity for yearly or quarterly information as provided herein shall not be evidence of material weakness or significant deficiency.

(d) Buyer shall treat Seller's financial statements and other financial information provided under the terms of this Section 5.7 in strict confidence and, accordingly:

- (i) Shall utilize such Seller financial information *only* for purposes of preparing, reviewing or certifying Buyer's or any Buyer parent company financial statements, for making regulatory, tax or other filings required by law in which Buyer is required to demonstrate or certify its or any parent company's financial condition or to obtain credit ratings;
- (ii) Shall make such Seller financial information available only to its officers, directors, employees or auditors who are responsible for preparing,

reviewing or certifying Buyer's or any Buyer parent company financial statements, to the SEC and the Public Company Accounting Oversight Board (United States) in connection with any oversight of Buyer's or any Buyer parent company financial statement and to those persons who are entitled to receive confidential information as identified in Article 13; and

- (iii) Buyer shall ensure that its internal auditors and independent registered public accounting firm (1) treat as confidential any information disclosed to them by Buyer pursuant to this Section 5.7, (2) use such information solely for purposes of conducting the audits described in this Section 5.7, and (3) disclose any information received only to personnel responsible for conducting the audits.

(e) If the Financial Consolidation Requirement is applicable, then, within two (2) Business Days following the occurrence of any event affecting Seller which Seller understands, during the Term, would require Buyer to disclose such event in a Form 8-K filing with the SEC, Seller shall provide to Buyer a Notice describing such event in sufficient detail to permit Buyer to make a Form 8-K filing.

- (f) If, after consultation and review, the Parties do not agree on issues raised by Section 5.7(a), then such dispute shall be subject to review by another independent audit firm not associated with either Party's respective independent registered public accounting firm, reasonably acceptable to both Parties. This third independent audit firm will render its recommendation on whether consolidation by Buyer is required. Based on this recommendation, Seller and Buyer shall mutually agree on how to resolve the dispute. If Seller fails to provide the data consistent with the mutually agreed upon resolution, Buyer may declare an Event of Default pursuant to Section 9.1. If the independent audit firm associated with Buyer still determines, after review by the third-party independent audit firm, that Buyer must consolidate, then Seller shall provide the financial information necessary to permit consolidation to Buyer; *provided*, in addition to the protections in Article 13, such information shall be password protected and available only to those specific officers, directors, employees and auditors who are preparing and certifying the consolidated financial statements and not for any other purpose.

{IOU Comment: This provision only applies to SCE Agreements.}

5.8. Uniform Commercial Code Waiver

This Agreement sets forth the entirety of the agreement of the Parties regarding credit, collateral, financial assurances and adequate assurances. Except as expressly set forth in this Agreement, including, those provisions set forth in Article 5 and Article 9, neither Party:

- (a) has or will have any obligation to post margin, provide Letters of Credit, pay deposits, make any other prepayments or provide any other financial assurances, in any form whatsoever, or

- (b) will have reasonable grounds for insecurity with respect to the creditworthiness of a Party that is complying with the relevant provisions of Article 5 and Article 9; and all implied rights relating to financial assurances arising from Section 2-609 of the Uniform Commercial Code or case law applying similar doctrines, are hereby waived.

ARTICLE 6. SPECIAL TERMS AND CONDITIONS

6.1. Limitation of Liability

Buyer has no obligations to any person or entity that is, or may participate as, a DRAM Resource Customer, DRP (if Seller is not a DRP), or Seller's SC and Seller shall indemnify Buyer against any claim made by any such DRAM Customer, the DRP (if Seller is not a DRP), or Seller's SC with respect to its participation in or with the PDR, RDRR or DRAM Resource, as applicable.

6.2. Buyer Provision of Information

Buyer shall, to the extent available and permitted by Applicable Law, including Rule [24/32], provide specific information consistent with the CISR-DRP form adopted by the CPUC in D.13-12-029 and Resolution E-4630 including, but not limited to, usage, and/or meter data of a Customer to Seller, if Seller provides to Buyer written authorization from such Customer to release such information. Such written authorization must be provided in a form reasonably acceptable to Buyer. Buyer shall be liable for penalties or charges incurred by Seller from either the CAISO or the CPUC resulting solely from Buyer's failure to provide timely, accurate data to Seller in accordance with this Section 6.2.

6.3. Changes in Applicable Laws

- (a) If a change in Applicable Laws renders this Agreement or any material terms herein incapable of being performed or administered, then either Party, on Notice, may request the other Party to enter into good faith negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed or administered, while attempting to preserve to the maximum extent possible the benefits, burdens and obligations set forth in this Agreement as of the Execution Date. The Parties acknowledge that such changes may require the approval of the CPUC before becoming effective.
- (b) If the Parties have been unable to reach agreement within thirty (30) days after receipt of such Notice, then either Party may terminate this Agreement by providing Notice. A Party's exercise of its rights under this Section 6.3 will not be deemed to be a failure of Seller to sell or deliver the Product or a failure of Buyer to purchase or receive the Product, and will not be or cause an Event of Default by either Party. Neither Party shall have any further obligation or liability to the other and no Settlement Amount with respect to this Agreement will be due or owing by either Party upon termination of this Agreement due solely to a Party's exercise of its right pursuant to this Section 6.3.

6.4. DBE Reporting

No later than twenty (20) days after each semi-annual period ending on June 30th or December 31st during the Term, Seller shall provide to Buyer a report listing all Diverse Business Enterprises that supplied goods or services to Seller during such period, including any certifications or other documentation of such Diverse Business Enterprises' status as such and the amount paid to each Diverse Business Enterprise during such period.

- (i) Buyer has the right to disclose to the CPUC all such information provided by Seller pursuant to this Section 6.4.
- (ii) Seller shall make reasonable efforts to accommodate requests by the CPUC (or by Buyer in response to a request by the CPUC) to audit Seller in order to verify data provided by Seller pursuant to this Section 6.4.

6.5. Governmental Charges

Seller shall pay on request and indemnify Buyer against any taxes (including without limitation, any applicable transfer taxes and stamp, registration or other documentary taxes), assessments, or charges that may become payable by reason of the security interests, general first lien and right of offset granted under this Agreement or the execution, delivery, performance or enforcement of this Agreement, as well as any penalties with respect thereto.

6.6. Customers in Buyer Automated Demand Response Program or Other Utility Program

Seller agrees to and acknowledges the following with respect to Buyer's ADR Customers which are included in Seller's DRAM Resource:

- (a) ADR Customers in Buyer's ADR are eligible to participate concurrently in Buyer's ADR and Seller's DRAM Resource, subject to the requirements of this Agreement and Applicable Laws. The ADR Customer remains responsible for fulfilling its obligations under Buyer's ADR during the time period such ADR Customer is in Seller's DRAM Resource.
- (b) Seller shall be responsible for (i) notification to ADR Customers in its DRAM Resource of each Bid awarded by the CAISO ("Award") for a PDR or RDRR, and (ii) operation of the ADR Customers' ADR equipment to respond to an Award. During the time period that an ADR Customer is enrolled in a DRAM Resource, Buyer will not send notifications to such ADR Customer of Awards and will not operate ADR Customers' ADR equipment.
- (c) If Seller or its DRP enrolls an ADR Customer in Seller's DRAM Resource, Seller shall provide Buyer with Notice within five (5) Business Days of such enrollment of the ADR Customer's enrollment along with the ADR Customer's name, service account address, SAID, location, the ADR agreement, and confirmation

that the ADR Customer has unenrolled from all or any of Buyer's event-based demand response programs (other than ADR) prior to enrolling in Seller's DRAM Resource. Seller shall provide Buyer with Notice within fifteen (15) days after an ADR Customer leaves Seller's DRAM Resource.

- (d) ADR Customers in their first year of participation in ADR who enroll in a DRAM Resource will be required to demonstrate performance through the DRAM Resource to qualify for ADR technology incentive payments that future Commission decision(s) applicable to 2018 and 2019 may require.
- (e) Seller shall notify in writing all of its ADR Customers of the items set forth in this Section 6.6 prior to enrolling such ADR Customers in Seller's DRAM Resource, as applicable pursuant to Section 1.4.
- (f) Buyer may communicate (i) with the Seller's ADR Customers about the ADR Customer's participation in a DRAM Resource and ADR, and (ii) with the ADR Customers with respect to anything involving their participation in ADR.
- (g) Promptly following receipt of Buyer's Notice, Seller shall provide to Buyer all information necessary for Buyer to administer the ADR Customers' participation in Buyer's ADR, including, but not limited to: (i) the information described in Section 6.6(c), (ii) the days in each Showing Month of Dispatch of the applicable PDR or RDRR in the DRAM Resource, (iii) all hours in such Showing Month, corresponding to the days in subsection (ii), when Seller dispatched or called on the ADR Customer to respond to an Award, and (iv) information on ADR Customers that Seller did not dispatch or call on to respond to an Award for such Showing Month. The ADR Customer's participation in the Seller's DRAM Resource as described in this Section 6.6(g) will be used in conjunction with the ADR Customer's participation in Buyer's demand response programs, to calculate the ADR Customer's performance for its approved kW in the ADR.
- (h) If Seller does not provide all the information Buyer needs to administer the ADR Customer's participation in Buyer's ADR, the ADR Customer will be in non-compliance with the requirements of ADR.
- (i) Following the termination or expiration of this Agreement, Buyer may notify the ADR Customers in Seller's DRAM Resource that such ADR Customers need to participate in a utility demand response program, if such ADR Customers are within the first three years of their commitment to ADR as of the date of such termination or expiration.
- (j) Seller agrees to and acknowledges the following with respect to Buyer's Customers in another Utility program, which are also included in Seller's DRAM Resource: When a Customer's participation in another Utility program is dependent upon Customer's inclusion in Seller's DRAM Resource, Seller shall provide to Buyer all information reasonably necessary or useful to establish and confirm the inclusion of such Customers in the Seller's DRAM Resource.

ARTICLE 7. REPRESENTATIONS, WARRANTIES AND COVENANTS

7.1. Representations and Warranties of Both Parties

On the Execution Date, each Party represents and warrants to the other Party that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) Except for CPUC Approval in the case of Buyer, it has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- (c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (d) This Agreement constitutes its legally valid and binding obligation, enforceable against it in accordance with its terms;
- (e) It is not Bankrupt and there are not proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or become Bankrupt;
- (f) There is not pending or, to its knowledge, threatened against it, any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;
- (g) It (i) is acting for its own account, (ii) has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, (iii) is not relying upon the advice or recommendations of the other Party in so doing, and (iv) is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions, and risks of this Agreement; and
- (h) It has entered into this Agreement in connection with the conduct of its business and it has the capability or ability to make available or take delivery of, as applicable, the Product under this Agreement in accordance with the terms of this Agreement.

7.2. Additional Seller Representations, Warranties and Covenants

- (a) On the Execution Date, Seller represents and warrants to Buyer that Seller has not used, granted, pledged, assigned, or otherwise committed any of the Monthly Quantity to meet the RAR, Local RAR and/or Flexible RAR, as applicable, or confer Resource Adequacy Benefits upon, any entity other than Buyer during the Delivery Period.

- (b) Seller covenants that throughout the Delivery Period:
- (i) Seller will deliver the Product to Buyer free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person;
 - (ii) Seller has been authorized by each Customer, to act as an aggregator on behalf of such Customer to participate as a PDR or RDRR in the DRAM Resource, if Seller is not also a Customer;
 - (iii) The DRP has been authorized by each Customer to act on behalf of such Customer to participate as a PDR or RDRR for the DRAM Resource, if Seller is not the DRP; and
 - (iv) Seller will not use, grant, pledge, assign, or otherwise commit any Product Monthly Quantity to meet the RAR, Local RAR, and/or Flexible RAR, as applicable, of, or confer Resource Adequacy Benefits of the Product upon, any entity other than Buyer during the Delivery Period;
 - (v) During each month of the Delivery Period, if any participating Customers in the DRAM Resource have a Prohibited Resource, ~~Back-up Generation~~, Seller shall ensure that such ~~Back-up Generation~~Prohibited Resource is not used to reduce load during a Dispatch by any PDR or RDRR providing Product to Buyer during such month. ~~Seller shall, as follows: use at least one of the following options to demonstrate that participating Customers did not use Back-up Generation during a Dispatch of a PDR or RDRR providing Product to Buyer: (w) provide an attestation with each invoice that no participating Customer in the PDR or RDRR providing Product in the invoiced month used Back-up Generation during a Dispatch; (x) prohibit participating Customers from having Back-up Generation in its DRAM Resource; (y) monitor metering on the participating Customer's DRAM Resource to ensure that no Back-up Generation was used during a Dispatch of a PDR or RDRR providing Product to Buyer; and (z) require, in its agreement with its participating Customers, that no Back-up Generation may be used during a Dispatch of a PDR or RDRR providing Product to Buyer.~~ as follows:
 - A. ~~(w)~~ For all Residential Customers, Seller shall include a provision in its contract ~~prohibiting~~forbidding the use of ~~Back-up Generation~~Prohibited Resources to reduce load during a Dispatch by any PDR or RDRR providing Product to Buyer, ~~along with language explaining that such compliance may be subject to verification, and listing all potential consequences for non-compliance.~~ Seller shall provide any returning Residential Customers with notice of such provision. Any customer that does not accept the prohibition will not be eligible to participate in the Seller's DRAM Resource.

- B. For all non-Residential Customers, Seller shall require that each Customer execute an attestation ~~stating that (1a) agreeing that it does not have, and will not use, a Prohibited Resource to reduce load include a provision in its contract requiring each such Customer to (a) agree not to use a Back-up Generation)~~ indicating whether it has a Prohibited Resource on site; (2) indicating that if it has a Prohibited Resource it will not use the resource to reduce load during a Dispatch by any PDR or RDRR providing Product to Buyer; or, ~~(2b) in cases where the~~ 3) if applicable, certifying that the Customer is required to, and affirmatively elects to, use Back-up Generation may have to use a Prohibited Resource for during Demand Response events for operational, health or safety reasons, providing the nameplate capacity of the Prohibited Resource, and agreeing to a default adjustment in which the amount of Product such Customer can provide is reduced by the nameplate capacity of the Prohibited Resource (or, if the Customer has multiple Prohibited Resources, by the sum of the nameplate capacity values from all Prohibited Resources on the site), regardless of whether the Prohibited Resource was actually used. Seller shall collect and store all such Customer attestations and make them available upon request after December 31, 2017, to the CPUC or to the Buyer, as directed by the CPUC.
- C. ~~Contract Such provision must include language explaining that Customers such compliance may would be subject to verification, and listing all potential consequences for non-compliance.~~ For new non-Residential Customers, the attestation shall occur at the time of enrollment and shall be provided with an electronic signature. For returning non-Residential Customers, Seller shall provide notice to the Customers of the new provision and outreach to the Customers that a signature, which may be an electronic signature, ~~agreeing attesting attesting~~ to the prohibition or the default adjustment, shall be provided to Seller no later than December 31, 2017. Any new non-Residential customer that does not complete this component of the enrollment process will not be eligible to participate in Seller's DRAM Resource. Any existing non-Residential Customer that fails to do so by December 31, 2017 will be removed from Seller's DRAM Resource but will be eligible to re-enroll subject to the requirements associated with the prohibition.
- D. Seller shall include additional and separate provisions near the beginning of its contracts with Customers explaining and implementing these restrictions ~~in its agreements with Customers, and listing all potential consequences for non-compliance~~ indicating the consequences for noncompliance with the provision. All Contracts with non-Residential Customers shall indicate that the non-compliance consequences will be as set forth in this section. If the instance of non-

compliance involves clerical or administrative errors, such as an inaccurate listing of a Customer name or the nameplate value of a Prohibited Resource in an attestation, or a failure to include a Customer's Prohibited Resource on an attestation, provided in all cases that such Prohibited Resource is not used in violation of the terms of this Agreement (collectively, "Type One Non-Compliance"), Seller shall specify that Customers will have sixty days from receipt of notice to cure such Type-One Non-Compliance. If the instance of non-compliance involves either (a) the Customer attested to the "does not have" or "no-use" provisions of Prohibited Resource(s) but is verified to have used a Prohibited Resource to reduce load during a demand response event; or (b), a Customer intentionally submits an invalid nameplate capacity value for the Prohibited Resource(s) (collectively "Type Two Non-Compliance"), then Customer will be removed from Seller's DR program as follows. If there is an instance of (a) an uncured Type One Non-Compliance, or (b) a Type Two Non-Compliance, the consequences will be removal from Seller's DR program and ineligibility to enroll in any DR program subject to the prohibited resource requirement in D.16-09-056 for twelve calendar months from the removal date (for a single instance of noncompliance), or three years from the removal date (for two or more instances of noncompliance).

E. Seller shall provide such documentation as may be reasonably necessary for Buyer to verify the accuracy of the attestations referenced in subsections B (1) ~~and (2)~~ above and Seller's compliance with and enforcement of this Section 7.2(b) ~~(v)~~, ~~and Seller (v)~~. For all non-Residential Customers, (a) Sellers will provide default adjustment values (DAVs) monthly (with Demonstrated Capacity information); and, (b) Sellers will ensure that bids in the wholesale market reflect portfolio amounts prior to de-rating. Seller shall comply with any Prohibited Resource audit verification plan that is developed in accordance with D. 16-09-056 and approved by the CPUC: (the Plan). For Customer contracts executed with Seller prior to the CPUC's adoption of the Plan, installation of additional interval metering will not be required for verification purposes.

~~(i) If the Commission approves a policy and/or requirement dictating an approach for regulating the usage of generation or storage during demand response events on or before the date on which this Agreement is signed by the Parties, then that policy and/or requirement shall apply, and this Agreement shall be modified as directed by the Commission or its staff.~~

F. By December 31, 2017, and on an annual basis thereafter for all residential customers Seller shall provide to Buyer the language on the prohibition included in its respective residential customer contracts. Seller will develop metrics, targets and record keeping systems to

assess the effectiveness of its Customer outreach and notification efforts required under this Section 7.2(b) (v), and will provide such materials to the CPUC upon Buyer's request.

G. Seller shall include provisions in its contracts with non-Residential Customers providing that Customers may adjust their DAV, if (a) the Customer's change in DAV results from a change in the operational status of a Prohibited Resource associated with the Customer's Service Account; and, (b) Seller has verified this change in operational status

- (vi) If any respective PDR or RDRR is a Joint Resource, Seller shall ensure that: (x) the use of the Joint Resource does not result in Buyer making payment in respect of Demonstrated Capacity for a type of Product in excess of the total capacity of the Joint Resource, whether to Seller or any other party, regardless of whether payment is made under this Agreement, another agreement in the DRAM III Pilot Program, any other demand resource agreement or program, or any combination thereof; (y) the use of the Joint Resource does not result in Buyer making payment more than once in respect of capacity relating to a particular customer registered in the Joint Resource, regardless of whether payment is made under this Agreement, another agreement in the DRAM III Pilot Program, any other demand resource agreement or program, or any combination thereof; and (z) Seller has the right to access and provide to Buyer the records and data regarding any DRAM Resource Customer that is not designated by Seller under Section 1.6(d) as part of the amount to be used to show Demonstrated Capacity for a type of Product under this Agreement to permit Buyer to audit such Joint Resource under Section 1.6(g) to the same extent Buyer may audit PDRs or RDRRs that are not Joint Resources.

ARTICLE 8. NOTICES

8.1. Notices

Notices, requests, statements or payments from one Party to the other Party shall be made to the addresses and persons specified in Section 8.2. All Notices, requests, statements or payments from one Party to the other Party shall be made in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, e-mail or facsimile. Notice from one Party to the other Party by e-mail or facsimile (where confirmation of successful transmission is received) shall be deemed to have been received on the day on which it was transmitted (unless transmitted after 5:00 p.m. at the place of receipt or on a day that is not a Business Day, in which case it shall be deemed received on the next Business Day). Notice from one Party to the other Party by hand delivery or overnight delivery shall be deemed to have been received when delivered. A Party may change its contact information by providing Notice of the same in accordance herewith.

8.2. Contact Information

For Buyer:

Billing Representative

[Name]

Phone:

Facsimile:

Email:

Contract Representative

[Name]

Phone:

Facsimile:

Email:

Supply Plan Contact

[Name]

Phone:

Facsimile:

Email:

Settlements

[Name]

Phone:

Facsimile:

Email:

Other Buyer Contact Information

Wire Transfer

BNK:

ABA:

ACCT:

Credit and Collections

Attn:

Phone:

Facsimile:

Email:

Notices of Event of Default or Potential Event of Default to:

[Name]

Phone:

Facsimile:

Email:

For Seller:

Billing Representative

[Name]

Phone:

Facsimile:

Email:

Contract Representative

[Name]

Phone:

Facsimile:

Email:

Supply Plan Contact

[Name]

Phone:

Facsimile:

Email:

Other Seller Contact Information

ACH

BNK:

ABA:

ACCT:

Credit and Collections

Attn:

Phone:

Facsimile:

Email:

Notices of Event of Default or Potential Event of Default to:

[Name]

Phone:

Facsimile:

Email:

The Parties acknowledge and agree that those persons set forth in this Section 8.2 are designated by each Party as their respective authorized representatives to act on their behalf for the purposes described therein.

ARTICLE 9. EVENTS OF DEFAULT; TERMINATION

9.1. Events of Default

An “Event of Default” shall mean, with respect to a Party (“Defaulting Party”), the occurrence of any of the following:

- (a) With respect to either Party:
 - (i) The failure to make, when due, any payment required to be made to the other Party pursuant to this Agreement, if such failure is not remedied

within three (3) Business Days after written Notice of such failure is given by the Non-Defaulting Party;

- (ii) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature;
 - (iii) The failure to perform any material covenant, obligation, term or condition of this Agreement (except to the extent constituting a separate Event of Default), where such breach is not remedied within five (5) Business Days of Notice of such breach by the Non-Defaulting Party; provided that a single occurrence during the Delivery Period of Demonstrated Capacity for a type of Product being less than Product Monthly Quantity for such type of Product in a Showing Month shall not be a Seller Event of Default.
 - (iv) Such Party becomes Bankrupt; or
 - (v) A Merger Event occurs with respect to such Party.
- (b) With respect to Seller:

- (i) The failure of Seller to satisfy the collateral requirements set forth in Article 5;
- (ii) During the Term, Seller makes any material misrepresentation or omission in any report required to be made or furnished by Seller, the Seller's DRP or the Seller's SC pursuant to this Agreement;
- (iii) During the Delivery Period, Seller sells, assigns, or otherwise transfers, or commits to sell, assign, or otherwise transfer, the Product, or any portion thereof, to any party other than Buyer without Buyer's written consent; or

During the Term, the occurrence and continuation of a default, event of default or other similar condition or event (however described) in respect of Seller under one or more agreements or instruments relating to indebtedness for borrowed money (whether present or future, contingent or otherwise), which results in such indebtedness for borrowed money (whether present or future, contingent or otherwise) becoming, or becoming capable at such time of being declared, immediately due and payable under such agreements or instruments, before it would otherwise have been due and payable, or a default by Seller in making one or more payments on the due date thereof in an aggregate amount of not less than **[To be determined]** under such agreements or instruments (after giving effect to any applicable notice requirement or grace period).

- (iv) During the Term, Seller fails to comply with the requirements of Section 7.2(b)(v), where such breach is not remedied within thirty (30) days of Notice of such breach by Buyer.

9.2. Early Termination

If an Event of Default shall have occurred, the Party taking the default (the “Non-Defaulting Party”) has the right:

- (a) To designate by Notice, which will be effective five (5) Business Days after the Notice is given, a day, no later than twenty (20) calendar days after the Notice is effective, for the early termination of this Agreement (an “Early Termination Date”);
- (b) Withhold any payments due to the Defaulting Party under this Agreement;
- (c) Suspend performance of this Agreement, but excluding Seller’s obligation to post and maintain Performance Assurance in accordance with Article 5; and
- (d) To pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

9.3. Termination Payment

- (a) As soon as practicable after an Early Termination Date is declared, the Non-Defaulting Party shall provide Notice to the Defaulting Party of the amount of the Termination Payment. The Notice must include a written statement setting forth, in reasonable detail, the calculation of such Termination Payment including the Settlement Amount, together with appropriate supporting documentation.
- (b) If the Termination Payment is positive, the Defaulting Party shall pay such amount to the Non-Defaulting Party within two (2) Business Days after the Notice is provided. If the Termination Payment is negative (i.e., the Non-Defaulting Party owes the Defaulting Party more than the Defaulting Party owes the Non-Defaulting Party), then the Settlement Amount shall be zero dollars (\$0), and the Non-Defaulting Party shall only pay to the Defaulting Party, within thirty (30) days after the Notice is provided, any amounts owed by the Non-Defaulting Party to the Defaulting Party determined as of the Early Termination Date.
- (c) If a Party disputes the other Party’s calculation of the Termination Payment, in whole or in part, the disputing Party shall, within two (2) Business Days of receipt of the Party’s calculation of the Termination Payment, provide to the other Party a detailed written explanation of the basis for such dispute. Any disputes as to the calculation of the Termination Payment which the Parties are unable to resolve may be submitted to dispute resolution as provided in Article 10.

9.4. Reserved

9.5. Suspension of Performance

Notwithstanding any other provision of this Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon Notice to the Defaulting Party, shall have the right (i) to suspend performance under this Agreement and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

9.6. Rights and Obligations Surviving Termination or Expiration

The rights and obligations that are intended to survive a termination or expiration of this Agreement are all of those rights and obligations that this Agreement expressly provides survive any such termination or expiration and those that arise from a Party's covenants, agreements, representations, and warranties applicable to, or to be performed, at or during any time before or as a result of the termination or expiration of this Agreement, including:

- (a) A Party's obligation to provide information, including but not limited to Sections 3.3, 5.7, 6.2 and 6.4.
- (b) A Party's obligations with respect to invoices and payments pursuant to this Agreement;
- (c) The obligation of Seller to maintain Performance Assurance as set forth in Section 5.1;
- (d) The obligation of Buyer to return any Performance Assurance under Section 5.3;
- (e) The right to pursue remedies as set forth in Sections 9.2(d) and Article 10;
- (f) The obligations with respect to a Termination Payment as set forth in Section 9.3;
- (g) The dispute resolution provisions of Article 10;
- (h) The indemnity obligations expressly set forth in this Agreement;
- (i) The limitation of liabilities as set forth in Sections 3.5, 6.1 and Article 12; and
- (j) The obligation of confidentiality as set forth in Article 13.

ARTICLE 10. DISPUTE RESOLUTION

10.1. Dispute Resolution

Other than requests for provisional relief under Section 10.4, any and all Disputes which the Parties have been unable to resolve by informal methods after undertaking a good faith

effort to do so, must first be submitted to mediation under the procedures described in Section 10.2 below, and if the matter is not resolved through mediation, then for final and binding arbitration under the procedures described in Section 10.3 below.

The Parties waive any right to a jury and agree that there will be no interlocutory appellate relief (such as writs) available. Any Dispute resolution process pursuant to this Article 9 shall be commenced within one (1) year of the date of the occurrence of the facts giving rise to the Dispute, without regard to the date such facts are discovered; *provided*, if the facts giving rise to the Dispute were not reasonably capable of being discovered at the time of their occurrence, then such one (1) year period shall commence on the earliest date that such facts were reasonably capable of being discovered. If the Dispute resolution process pursuant to Article 10 with respect to a Dispute is not commenced within such one (1) year time period, such Dispute shall be barred, without regard to any other limitations period set forth by law or statute.

10.2. Mediation

Either Party may initiate mediation by providing Notice to the other Party of a written request for mediation, setting forth a description of the Dispute and the relief requested.

The Parties will cooperate with one another in selecting the mediator (“Mediator”) from the panel of neutrals from Judicial Arbitration and Mediation Services, Inc. (“JAMS”), its successor, or any other mutually acceptable non-JAMS Mediator, and in scheduling the time and place of the mediation.

Such selection and scheduling will be completed within forty-five (45) days after Notice of the request for mediation.

Unless otherwise agreed to by the Parties, the mediation will not be scheduled for a date that is greater than one hundred twenty (120) days from the date of Notice of the request for mediation.

The Parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs (other than each Party’s individual attorneys’ fees and costs related to the Party’s participation in the mediation, which fees and costs will be borne by such Party).

All offers, promises, conduct and statements, whether oral or written, made in connection with or during the mediation by either of the Parties, their agents, representatives, employees, experts and attorneys, and by the Mediator or any of the Mediator’s agents, representatives and employees, will not be subject to discovery and will be confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding between or involving the Parties, or either of them; *provided*, evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

10.3. Arbitration

Either Party may initiate binding arbitration with respect to the matters first submitted to mediation by providing Notice in accordance with Article 7 of a demand for binding arbitration before a single, neutral arbitrator (the "Arbitrator") within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 10.2, above. If Notice of arbitration is not provided by either Party within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 10.2 above, the Dispute resolution process shall be deemed complete and further resolution of such Dispute shall be barred, without regard to any other limitations period set forth by law or statute.

The Parties will cooperate with one another in selecting the Arbitrator within sixty (60) days after Notice of the demand for arbitration and will further cooperate in scheduling the arbitration to commence no later than one hundred eighty (180) days from the date of Notice of the demand.

If, notwithstanding their good faith efforts, the Parties are unable to agree upon a mutually-acceptable Arbitrator, the Arbitrator will be appointed as provided for in California Code of Civil Procedure Section 1281.6.

To be qualified as an Arbitrator, each candidate must be a retired judge of a trial court of any state or federal court, or retired justice of any appellate or supreme court.

Unless otherwise agreed to by the Parties, the individual acting as the Mediator will be disqualified from serving as the Arbitrator in the dispute, although the Arbitrator may be another member of the JAMS panel of neutrals or such other panel of neutrals from which the Parties have agreed to select the Mediator.

Upon Notice of a Party's demand for binding arbitration, such Dispute submitted to arbitration, including the determination of the scope or applicability of this agreement to arbitrate, will be determined by binding arbitration before the Arbitrator, in accordance with the laws of the State of California, without regard to principles of conflicts of laws.

Except as provided for herein, the arbitration will be conducted by the Arbitrator in accordance with the rules and procedures for arbitration of complex business disputes for the organization with which the Arbitrator is associated.

Absent the existence of such rules and procedures, the arbitration will be conducted in accordance with the California Arbitration Act, California Code of Civil Procedure Section 1280 et seq. and California procedural law (including the Code of Civil Procedure, Civil Code, Evidence Code and Rules of Court, but excluding local rules).

Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration will be in Los Angeles County, California.

Also notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, discovery will be limited as follows:

- (a) Before discovery commences, the Parties shall exchange an initial disclosure of all documents and percipient witnesses which they intend to rely upon or use at any arbitration proceeding (except for documents and witnesses to be used solely for impeachment);
- (b) The initial disclosure will occur within thirty (30) days after the initial conference with the Arbitrator or at such time as the Arbitrator may order;
- (c) Discovery may commence at any time after the Parties' initial disclosure;
- (d) The Parties will not be permitted to propound any interrogatories or requests for admissions;
- (e) Discovery will be limited to twenty-five (25) document requests (with no subparts), three (3) lay witness depositions, and three (3) expert witness depositions (unless the Arbitrator holds otherwise following a showing by the Party seeking the additional documents or depositions that the documents or depositions are critical for a fair resolution of the Dispute or that a Party has improperly withheld documents);
- (f) Each Party is allowed a maximum of three (3) expert witnesses, excluding rebuttal experts;
- (g) Within sixty (60) days after the initial disclosure, or at such other time as the Arbitrator may order, the Parties shall exchange a list of all experts upon which they intend to rely at the arbitration proceeding;
- (h) Within thirty (30) days after the initial expert disclosure, the Parties may designate a maximum of two (2) rebuttal experts;
- (i) Unless the Parties agree otherwise, all direct testimony will be in form of affidavits or declarations under penalty of perjury; and
- (j) Each Party shall make available for cross examination at the arbitration hearing its witnesses whose direct testimony has been so submitted.

Subject to Article 11, the Arbitrator will have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of the Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Article 13.

Judgment on the award may be entered in any court having jurisdiction.

The Arbitrator must, in any award, allocate all of the costs of the binding arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs will be borne by such Party), including the fees of the Arbitrator and any expert witnesses, against the Party who did not prevail.

Until such award is made, however, the Parties will share equally in paying the costs of the arbitration.

At the conclusion of the arbitration hearing, the Arbitrator shall prepare in writing and provide to each Party a decision setting forth factual findings, legal analysis, and the reasons on which the Arbitrator's decision is based. The Arbitrator shall also have the authority to resolve claims or issues in advance of the arbitration hearing that would be appropriate for a California superior court judge to resolve in advance of trial. The Arbitrator shall not have the power to commit errors of law or fact, or to commit any abuse of discretion, that would constitute reversible error had the decision been rendered by a California superior court. The Arbitrator's decision may be vacated or corrected on appeal to a California court of competent jurisdiction for such error. Unless otherwise agreed to by the Parties, all proceedings before the Arbitrator shall be reported and transcribed by a certified court reporter, with each Party bearing one-half of the court reporter's fees.

{IOU Comment: This provision will only apply to SCE Agreements.}

10.4. Dispute Resolution.

Mindful of the high costs of litigation, not only in dollars but time and energy as well, the Parties intend to and do hereby establish a final and binding out-of-court dispute resolution procedure to be followed in the event any controversy should arise out of or concerning the performance of the Agreement. Accordingly, it is agreed as follows:

(a) Negotiation.

- (i) Except for disputes arising with respect to a Termination Payment, the Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement by prompt negotiations between each Party's Contract Representative, as identified on the Cover Sheet hereof, or such other person designated in writing as a representative of the Party ("Manager"). Either Manager may request a meeting (in person or telephonically) to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt such request, at a mutually agreed time and place. If the matter is not resolved within 15 Business Days of their first meeting ("Initial Negotiation End Date"), the Managers shall refer the matter to the designated senior officers of their respective companies, who shall have authority to settle the dispute ("Executive(s)"). Within five (5) Business Days of the Initial Negotiation End Date ("Referral Date"), each Party shall provide one another written notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

- (ii) Within 5 Business Days of the Referral Date the Executives shall establish a mutually acceptable location and date, which date shall not be greater than 30 calendar days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary to exchange the relevant information and to attempt to resolve the dispute.
- (iii) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process between the Parties.
- (iv) If the matter is not resolved within 45 calendar days of the Referral Date, or if the Party receiving the written request to meet, pursuant to subpart (a) above, refuses or will not meet within 10 Business Days, either Party may initiate mediation of the controversy or claim according to the terms of the following Section 10.1(b).
- (v) If a dispute exists with respect to the Termination Payment, and such dispute cannot be resolved by good faith negotiation of the Parties within 10 Business Days of the Non-Defaulting Party's receipt of the detailed basis for the explanation of the dispute then either Party may refer the matter directly to Arbitration, as set forth in Section 10.1(c) below.

(b) Mediation. If the dispute (other than a dispute regarding the Termination Payment) cannot be resolved by negotiation as set forth in Section 10(a) above, then either Party may initiate mediation, the first-step of a two-step dispute resolution process, which JAMS, Inc., or its successor entity, a judicial arbitration and mediation service ("JAMS"). As the first step, the Parties agree to mediate any controversy before a commercial mediator from the JAMS panel, pursuant to JAMS's then-applicable commercial mediation rules, in San Francisco, California. Either Party may initiate such a mediation by serving a written demand for mediation. The mediator shall not have the authority to require, and neither Party may be compelled to engage in, any form of discovery prior to or in connection with the mediation. If within sixty (60) days after service of a written demand for mediation, or as extended by mutual agreement of the Parties, the mediation does not result in resolution of the dispute, then the Parties shall resolve such controversy through Arbitration by one retired judge or justice from the JAMS panel, which Arbitration shall take place in San Francisco, California, and which the arbitrator shall administer by and in accordance with JAMS's Commercial Arbitration Rules ("Arbitration"). If the Parties cannot mutually agree on the arbitrator who will adjudicate the dispute, then JAMS shall provide the Parties with an arbitrator pursuant to its then-applicable Commercial Arbitration Rules. The period commencing from the date of the written demand for mediation until the appointment of a mediator shall be included within the sixty (60) day mediation period. Any mediator(s) and arbitrator(s) shall have no affiliation with, financial or other interest in, or prior employment with either Party and shall be

knowledgeable in the field of the dispute. Either Party may initiate Arbitration by filing with the JAMS a notice of intent to arbitrate within sixty (60) days of service of the written demand for mediation

(c) Arbitration.

- (i) At the request of a Party, the arbitrator shall have the discretion to order depositions of witnesses to the extent the arbitrator deems such discovery relevant and appropriate. Depositions shall be limited to a maximum of three (3) per Party and shall be held within thirty (30) days of the making of a request. Additional depositions may be scheduled only with the permission of the arbitrator, and for good cause shown. Each deposition shall be limited to a maximum of six (6) hours duration unless otherwise permitted by the arbitrator for good cause shown. All objections are reserved for the Arbitration hearing except for objections based on privilege and proprietary and confidential information. The arbitrator shall also have discretion to order the Parties to exchange relevant documents. The arbitrator shall also have discretion to order the Parties to answer interrogatories, upon good cause shown.
- (ii) The arbitrator, once chosen, shall consider any transaction tapes or any other evidence which the arbitrator deems necessary, as presented by each Party. In deciding the award, the provisions of this Agreement will be binding on the arbitrator. The arbitrator will deliver his or her decision in writing within 30 days after the conclusion of the Arbitration hearing. The arbitrator shall specify the basis for his or her decision, the basis for the damages award and a breakdown of the damages awarded, and the basis of any other remedy. Except as provided in the Federal Arbitration Act, the decision of the arbitrator will be binding on and non-appealable by the Parties. Each Party agrees that any arbitration award against it may be enforced in any court of competent jurisdiction and that any Party may authorize any such court to enter judgment on the arbitrator's decision.
- (iii) The arbitrator shall have no authority to award punitive or exemplary damages or any other damages other than direct and actual damages.
- (iv) Any expenses incurred in connection with hiring the arbitrators and performing the Arbitration shall be shared and paid equally between the Parties. Each Party shall bear and pay its own expenses incurred by each in connection with the Arbitration, unless otherwise included in a solution chosen by the Arbitration panel. In the event either Party must file a court action to enforce an arbitration award under this Article, the prevailing Party shall be entitled to recover its court costs and reasonable attorney fees.
- (v) In the event the Parties choose to litigate any matter hereunder, the Parties

hereby waive the right to jury trial.

- (vi) Except as may be required by Applicable Law, the existence, contents or results of any Arbitration hereunder may not be disclosed by a Party or the arbitrator without the prior written consent of both Parties.

{IOU Comment: This provision only applies to PG&E and SDG&E Agreements. Throughout this Article 10, references to “San Francisco” will be changed to “San Diego” in SDG&E Agreements.}

10.5. Provisional Relief

The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of this Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of Article 13 in any court of competent jurisdiction, notwithstanding the obligation to submit all other Disputes (including all claims for monetary damages under this Agreement) to arbitration pursuant to this Article 10. The Parties further acknowledge and agree that the results of the arbitration may be rendered ineffectual without the provisional relief.

Such a request for provisional relief does not waive a Party’s right to seek other remedies for the breach of the provisions specified above in accordance with Article 10, notwithstanding any prohibition against claim-splitting or other similar doctrine. The other remedies that may be sought include specific performance and injunctive or other equitable relief, plus any other remedy specified in this Agreement for the breach of the provision, or if the Agreement does not specify a remedy for the breach, all other remedies available at law or equity to the Parties for the breach.

ARTICLE 11. INDEMNIFICATION

11.1. Seller’s Indemnification Obligations

- (a) In addition to any other indemnification obligations Seller may have elsewhere in this Agreement, which are hereby incorporated in this Section 11.1, Seller releases, and shall indemnify, defend and hold harmless Buyer, and Buyer’s directors, officers, employees, agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, penalty, fine or expense of any kind or nature (including any direct, damage, claim, cost, charge, demand, or expense, and attorneys’ fees (including cost of in-house counsel) and other costs of litigation, arbitration or mediation, and in the case of third-party claims only, indirect or consequential loss or damage of such third-party), arising out of or in connection with:

- (i) any breach made by Seller of its representations, warranties and covenants in Article 7 or any payment disputes resulting from the use of a Joint Resource;
- (ii) Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth in Article 3;
- (iii) any violation of Applicable Law arising out of or in connection with Seller's performance of, or failure to perform this Agreement;
- (iv) injury or death to persons, including Buyer employees, and physical damage to property, including Buyer property, where the damage arises out of, is related to, or is in connection with, Seller's obligations or performance under this Agreement.

This indemnity applies notwithstanding Buyer's active or passive negligence; *provided*, Buyer will not be indemnified for its loss, liability, damage, claim, cost, charge, demand or expense to the extent caused by its gross negligence or willful misconduct.

11.2. Indemnification Claims

All claims for indemnification by Buyer will be asserted and resolved as follows:

If a claim or demand for which Buyer may claim indemnity is asserted against or sought to be collected from Seller by a third party, Buyer shall as promptly as practicable give Notice to Seller; *provided*, failure to provide this Notice will relieve Seller only to the extent that the failure actually prejudices Seller.

- (a) Seller will have the right to control the defense and settlement of any claims in a manner not adverse to Buyer but cannot admit any liability or enter into any settlement without Buyer's approval.
- (b) Buyer may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; *provided*, if counsel is employed due to a conflict of interest or because Seller does not assume control of the defense, Seller will bear the expense of this counsel.

ARTICLE 12. LIMITATION OF REMEDIES, LIABILITY, AND DAMAGES

EXCEPT AS SET FORTH HEREIN WITH RESPECT TO THE PRODUCT, THERE ARE NO WARRANTIES BY EITHER PARTY UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY WILL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE.

SUBJECT TO SECTION 9.3, IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE PROVISIONS OF ARTICLE 11 (INDEMNITY), NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

NOTHING IN THIS ARTICLE PREVENTS, OR IS INTENDED TO PREVENT BUYER FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY PERFORMANCE ASSURANCE.

ARTICLE 13. CONFIDENTIALITY

13.1. Confidentiality Obligation

Neither Party shall disclose the terms or conditions of this Agreement to a third party (other than the Party's or the Party's Affiliates' officers, directors, employees, lenders, counsel, accountants, advisors, or Rating Agencies, who have a need to know such information and have agreed to keep such terms confidential) except (a) in order to comply with any Applicable Law, summons, subpoena, exchange rule, or accounting disclosure rule or standard, or to make any showing required by any applicable Governmental Body other than as set forth in Sections 13.1(e) and (f); (b) to the extent

necessary for the enforcement of this Agreement; (c) as may be obtained from a non-confidential source that disclosed such information in a manner that did not violate its obligations to the non-disclosing Party in making such disclosure; (d) to the extent such information is or becomes generally available to the public prior to such disclosure by a Party; (e) when required to be released in connection with any regulatory proceeding (provided that the releasing Party makes reasonable efforts to obtain confidential treatment of the information being released); (f) with respect to Buyer, as may be furnished to its duly authorized Governmental Bodies, including without limitation the Commission and all divisions thereof, to Buyer's Procurement Review Group, a group of participants including members of the Commission and other governmental agencies and consumer groups established by the Commission in Commission decisions 02-08-071 and 03-06-071, and to Buyer's Cost Allocation Mechanism Group established by the CPUC in D.07-12-052, or (g) Seller may disclose the transfer of the Monthly Quantity under this Agreement to its SC in order for such SC to timely submit accurate Supply Plans. The existence of this Agreement is not subject to this confidentiality obligation; *provided*, neither Party shall make any public announcement relating to this Agreement unless required pursuant to subsection (a) or (e) of the foregoing sentence of this Article 13.

13.2. Obligation to Notify

In connection with discovery requests or orders pertaining confidential information in connection with this Agreement as referenced in Section 13.1(a) ("Disclosure Order") each Party shall, to the extent practicable, use reasonable efforts to:

- (a) Notify the other Party before disclosing the Confidential Information; and
- (b) Prevent or limit such disclosure.

After using such reasonable efforts, the Disclosing Party will not be:

- (c) Prohibited from complying with a Disclosure Order; or
- (d) Liable to the other Party for monetary or other damages incurred in connection with the disclosure of the Confidential Information.

13.3. Remedies; Survival

The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. With respect to information provided in connection with this Agreement, this obligation shall survive for a period of three (3) years following the expiration or termination of this Agreement.

ARTICLE 14. FORCE MAJEURE

To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its

obligations with respect to this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE 15. MISCELLANEOUS

15.1. General

- (a) This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.
- (b) The term “including,” when used in this Agreement, shall be by way of example only and shall not be considered in any way to be in limitation.
- (c) The headings used herein are for convenience and reference purposes only.
- (d) Each Party agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.
- (e) Words having well-known technical or industry meanings have these meanings unless otherwise specifically defined in this Agreement.
- (f) Whenever this Agreement specifically refers to any Applicable Law, tariff, government department or agency, or Rating Agency, the Parties hereby agree that the reference also refers to any successor to such law, tariff or organization.
- (g) Nothing in this Agreement relieves either Party from, or modifies, any obligation or requirement that exists in any Applicable Law, tariff, rule, or regulation.
- (h) The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” within the meaning of the Bankruptcy Code and that Buyer and Seller are each “forward contract merchants” within the meaning of the Bankruptcy Code.

15.2. Governing Law and Venue

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY DISPUTE ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

15.3. Amendment

This Agreement can only be amended by a writing signed by both Parties.

15.4. Assignment

Neither Party shall assign this Agreement or its rights hereunder, as the case may be, without the prior written consent of the other Party, which consent may not be unreasonably withheld; *provided*, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof or thereof, as the case may be, in connection with any financing or other financial arrangements to any person or entity whose creditworthiness is equal to or higher than that of such Party, (ii) transfer or assign this Agreement to an Affiliate of such Party which Affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party and whose creditworthiness is equal to or higher than that of such Party; *provided*, in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

15.5. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of, the Parties and their respective successors and assigns. This Agreement is not intended to confer any rights or remedies upon any other persons other than the Parties.

15.6. Waiver

None of the provisions of this Agreement shall be considered waived by either Party unless the Party against whom such waiver is claimed gives the waiver in writing. The failure of either Party to insist in any one instance upon strict performance of any the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishments of such rights for the future but the same shall continue and remain in full force and effect. Waiver by either Party of any default of the other Party shall not be deemed a waiver of any other default.

15.7. No Agency

Except as otherwise provided explicitly herein, in performing their respective obligations under this Agreement, neither Party is acting, or is authorized to act, as the other Party's agent.

15.8. No Third-Party Beneficiaries

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound by this Agreement).

15.9. Entire Agreement

This Agreement, when fully executed, constitutes the entire agreement by and between the Parties as to the subject matter hereof, and supersedes all prior understandings, agreements or representations by or between the Parties, written or oral, to the extent they have related in any way to the subject matter hereof. Each Party represents that, in entering into this Agreement, it has not relied upon any promise, inducement, representation, warranty, agreement or other statement not set forth in this Agreement.

15.10. Severability

If any term, section, provision or other part of this Agreement, or the application of any term, section, provision or other part of this Agreement, is held to be invalid, illegal or void by a court or regulatory agency of proper jurisdiction, all other terms, sections, provisions or other parts of this Agreement shall not be affected thereby but shall remain in force and effect unless a court or regulatory agency holds that the provisions are not separable from all other provisions of this Agreement.

15.11. Multiple Originals

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any of the signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

15.12. Mobile Sierra

Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to the FERC pursuant to the provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party, or the FERC acting *sua sponte* shall be the “public interest” standard of review set forth in *United States Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

15.13. Performance Under this Agreement

Each Party and its representatives shall maintain records and supporting documentation relating to this Agreement, and the performance of the Parties hereunder in accordance with, and for the applicable time periods required by, all Applicable Laws.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Execution Date.

[SELLER]

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A
DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below:

“Affiliate” means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with that Party. For this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person.

{IOU Comment: This definition only applies to SCE & SDG&E Agreements.}

“Affiliate” means with respect to a Party, any entity which directly or indirectly controls, is controlled by, or is under a common control with that Party For purposes of this definition, “control” (including, with correlative meaning, the terms “controlling”, “controlled by” and “under common control with”), shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies through the ownership of voting securities, by agreement or otherwise.

{IOU Comment: This definition only applies to PG&E Agreements.}

“Agreement” has the meaning in the Preamble.

“Applicable Laws” means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Body that apply to either or both of the Parties, the DRP, the PDR or the terms of this Agreement.

“Arbitrator” has the meaning set forth in Article 10.

“Audit Notice” has the meaning set forth in Section 1.6(g).

“Automated Demand Response” or “ADR” is Buyer’s demand response program offering Customers an incentive to install automated communication equipment and associated software that enhances their ability to reduce load during Buyer’s demand response program events. For purposes ADR, Seller’s participation in the CAISO Markets pursuant to this Agreement is a Buyer demand response program, pursuant to the September 24, 2015 disposition letter from Commission staff. The CPUC approved the ADR programs by Decision 12-04-045 and Decision 14-05-025.

“Automated Demand Response Customer” or “ADR Customer” is a Non-Residential Customer that has installed the ADR equipment under Buyer’s ADR and received, at minimum, approval from Buyer that it has been approved for its first (60%) incentive payment.

“Award” has the meaning set forth in Section 6.6(a).

~~“Back-up Generation” means fossil fueled back-up generation owned or used by a Customer including but not limited to the following: (i) distributed generation technologies using diesel, natural gas, gasoline, propane or liquefied petroleum gas, whether or not in a excluding pressure~~

~~reduction turbines and bottoming in topping cycle combined heat and power (“CHP”) or non-CHP configurations, exempting the following resources: pressure reduction turbines and waste-heat-to-power bottoming cycle CHP. Back-up Generation does not include energy storage systems, including storage coupled with renewable generation; provided such energy storage systems meet the greenhouse gas emission factor thresholds in effect from time to time under the CPUC’s Self-Generation Incentive Program. [The following programs for residential Customers are exempt from the prohibition: air conditioner cycling programs, permanent load shifting programs, schedule load reduction programs, the optional binding mandatory curtailment, time of use rates, critical peak pricing, real time pricing, and peak time rebate.]~~

“Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

“Bankruptcy Code” means the United States Bankruptcy Code (11 U.S.C. §101 *et seq.*), as amended, and any successor statute.

[“Big Creek/Ventura LCA Substations” means the following substations located in the CAISO area: ACTON SC, ANAVERDE, BIG CRK1, DEL SUR, FRAZPARK, GOLETA, GORMAN, GREATLKS, HELIJET, LANCSTR, LANPRI, LITTLERK, MOORPARK, NEENACH, OASIS SC, OSO, PALMDALE, PIUTE, PSTRIA, PURIFY, QUARTZHL, RECTOR, REDMAN, RITE AID, RITTER, ROCKAIR, ROSAMOND, S.CLARA, SAUGUS, SHUTTLE, SPRINGVL, TORTOISE, VESTAL, WESTPAC, and WILSONA][*SCE only*].

“Bid” shall have the meaning in the CAISO Tariff.

“Bundled Service Customer” means a customer of Buyer as a utility distribution company who takes bundled services from Buyer as a utility distribution company including having all its power requirements purchased by Buyer.

“Business Day” means a day that is not a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday immediately following the U.S. Thanksgiving holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

“Buyer” has the meaning set forth in the preamble.

“CAISO” means the California Independent System Operator or any successor entity performing the same functions.

“CAISO Markets” has the meaning set forth in the CAISO Tariff.

“CAISO Tariff” means the tariff and protocol provisions, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” as amended or supplemented from time to time, of the CAISO.

“Capacity Baseline” means the CAISO baseline as applicable to the PDR(s) or RDRR(s) in the DRAM Resource, as specified in the CAISO Tariff.

“Capacity Procurement Mechanism” has the meaning set forth in the CAISO Tariff.

“Cash” means U.S. Dollars held by or on behalf of Buyer as Performance Assurance hereunder.

“Cash Interest Rate” means the Federal Funds Effective Rate - the rate for that day opposite the caption “Federal Funds (Effective)” as set forth in the weekly statistical release designated as H.15 (519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

{IOU Comment: This definition only applies to SCE & SDG&E Agreements.}

“Cash Interest Rate” means the Federal Funds Effective Rate - the rate per annum equal to the “Monthly” Federal Funds Rate (as reset on a monthly basis based on the latest month for which such rate is available) as reported in Federal Reserve Bank Publication H.15-519, or its successor publication.

{IOU Comment: This definition only applies to PG&E Agreements.}

“Claiming Party” has the meaning set forth in Article 14.

“Commission” or “CPUC” means the California Public Utilities Commission, and all divisions thereof, or any successor thereto.

“Compliance Showings” means the (i) RAR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, to the CAISO pursuant to the CAISO Tariff, or to any Governmental Body having jurisdiction.

“Contract Price” means the price for each type of Product as specified in Exhibit E for each Showing Month.

“CPM Capacity” has the meaning set forth in the Tariff.

“CPUC Approval” means a decision of the CPUC that (i) is final and no longer subject to appeal, which approves the Agreement in full and in the form presented on terms and conditions acceptable to both Parties, including without limitation terms and conditions related to cost recovery and cost allocation of amounts paid to Seller under the Agreement; (ii) does not contain conditions or modifications unacceptable to both Parties; and (iii) finds that any procurement pursuant to this Agreement satisfies the requirement to procure preferred resources under Commission Decision 13-02-015.

“CPUC Decisions” means Commission Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-031, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 09-12-053, 10-06-036, 10-

12-038, 11-06-022, 11-10-003, 12-06-025, 13-02-006, 13-04-013, 13-06-024, 14-03-026, 14-06-050, 14-12-024, 15-02-007, 15-06-063, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

“CPUC Filing Guide” is the 2016 annual document issued by the Commission which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the Commission’s resource adequacy program.

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by the Ratings Agencies.

{IOU Comment: This definition only applies to SCE & SDG&E Agreements.}

“Credit Rating” means, with respect to any entity, (a) the rating then assigned to such entity’s unsecured senior long-term debt obligations (not supported by third party credit enhancements), or (b) if such entity does not have a rating for its unsecured senior long-term debt obligations, then the rating assigned to such entity as an issuer rating by S&P and/or Moody’s. If the entity is rated by both S&P and Moody’s and such ratings are not equivalent, the lower of the two ratings shall determine the Credit Rating. If the entity is rated by either S&P or Moody’s, but not both, then the available rating shall determine the Credit Rating.

{IOU Comment: This definition only applies to PG&E Agreements.}

“Customer” means a person or entity that is either a: (i) Bundled Service Customer; (ii) community choice aggregation customer or direct access customer who would otherwise be eligible to be a Bundled Service Customer; or (iii) Unbundled Service Customer.

“Customer Data Access Systems” has the meaning described in CPUC Decision 13-09-025.

“Day-Ahead Market” has the meaning set forth in the CAISO Tariff.

“Day-Ahead Schedule” has the meaning set forth in the CAISO Tariff.

“Defaulting Party” has the meaning set forth in Section 9.1.

“Delivered Capacity Payment” has the meaning described in and is calculated pursuant to Section 4.1.

“Delivery Period” has the meaning set forth in Section 1.3.

“Demand Response Provider” or “DRP” has the meaning in the CAISO Tariff.

“Demonstrated Capacity” has the meaning set forth in Section 1.6(a).

“Dispatch” means the act of reducing all or a portion of the electrical consumption of the PDR pursuant to a Dispatch Instruction.

“Dispatch Instruction” has the meaning in the CAISO Tariff.

“Dispute” means any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Agreement, or to either Party’s performance or failure of performance under this Agreement.

“Distributed Energy Resource Aggregation” has the meaning in the CAISO Tariff.

“Diverse Business Enterprises” or “DBE” means Women, Minority, Disabled Veteran (WMDV) and Lesbian, Gay, Bisexual and Transgender (LGBT) Business Enterprises as defined in CPUC General Order 156.

“DRAM III Pilot Program” means the program during 2018 and 2019 for the Product as described in CPUC D.14-12-024 and D.16-06-029.

“DRAM Resource” means the PDR(s) or RDRR(s) that Seller identifies pursuant to Section 1.4 that will provide Product to Buyer.

“DRAM Resource Customer” is a Bundled Service Customer and/or Unbundled Service Customer account at the Service Account Identification level that is included in the DRAM Resource.

“Early Termination Date” has the meaning set forth in Section 9.2(a).

“EFC” shall mean Effective Flexible Capacity as defined in the CAISO Tariff.

“Event of Default” has the meaning set forth in Section 9.1.

“Execution Date” has the meaning set forth in the preamble.

“FERC” means the Federal Energy Regulatory Commission, or any division thereof.

“Financial Consolidation Requirement” has the meaning set forth in Section 5.7(a).

{IOU Comment: This definition only applies to SCE Agreements.}

“Fitch” means Fitch Ratings Ltd. or its successor.

{IOU Comment: This definition only applies to SCE & SDG&E Agreements.}

“Flexible Capacity” means any and all flexible resource adequacy attributes associated with the PDR(s) or RDRRs designated by Seller pursuant to Section 1.4, as such attributes may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward Flexible RAR, and which may be (i) exclusive of Local Capacity and (ii) be in Flexible Category 1 (base flexibility), 2 (peak flexibility) or 3 (super-peak flexibility) as described in the CAISO Tariff.

“Flexible RAR” means the flexible resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

“Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the Execution Date, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller’s supply; (iv) Seller’s ability to sell the Product at a greater price; (v) a failure of performance of any other entity that is not a Party, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event; or (vi) breakage or malfunction of equipment, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event.

“Full Dispatch” means a dispatch of a PDR or RDRR of the DRAM Resource in the CAISO market for 100% of the associated monthly capacity, as submitted in a Seller’s Supply Plan for that Showing Month.

“GAAP” means United States generally accepted accounting principles as in effect from time to time, consistently applied.

{IOU Comment: This definition only applies to SCE Agreements.}

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“IFRS” means the International Financial Reporting Standards.

{IOU Comment: This definition only applies to SCE Agreements.}

“Interest Amount” means with respect to a Party and an Interest Period, the sum of the daily interest amounts for all days in such Interest Period; each daily interest amount to be determined by such Party as follows: (i) the amount of Cash held by such Party on that day; multiplied by (ii) the Cash Interest Rate for that day, divided by (iii) 360.

“Interest Period” means the period from (and including) the last Business Day on which an Interest Amount was Transferred by a Party (or if no Interest Amount has yet been Transferred by such Party, the Business Day on which Cash was Transferred to such Party) to (but excluding) the Business Day on which the current Interest Amount is to be Transferred.

“JAMS” has the meaning set forth in Article 10.

“Joint Resource” means respectively a PDR or RDRR which includes DRAM Resource Customers registered by the Seller (or its DRP) and other customers registered by another aggregator (or its DRP) who are not considered part of the respective PDR or RDRR for purposes of meeting Seller’s obligations under this Agreement.

[“LA Basin LCA Substations” means the following substations located in the CAISO area: ALMITOSW, AMERON, BANNING, BARRE, BOTTLE, CABAZON, CARODEAN,

CENTER, CHEVMAIN, CHINO, CONCHO, DELAMO, DEVERS, EAGLROCK, EISENHOW, EL CASCO, EL NIDO, ELLIS, ETIWANDA, FARREL, GARNET, GOODRICH, GOULD, HI DESER, HINSON, IEEC-G1, IEEC-G2, INDIAN W, JOHANNA, LA FRESA, LAGUBELL, LCIENEGA, LITEHIPE, LTHRNECK, LWIS ANM, MARASCHI, MESA CAL, MIRALOMA, OLINDA, PADUA, RIOHONDO, SANBRDNO, SANTA RO, SANTIAGO, SONG2XR1, SONG2XR2, SONG2XU1, SONG2XU2, SONG3XR1, SONG3XR2, SONG3XU1, SONG3XU2, TAMARISK, THORNHIL, VALLEY-S, VALLEYS, VIEJO66, VILLA PK, VSTA, WALNUT, WINTEC8, WINTECX1, WINTECX2, YUCCA, and ZANJA.] *[For SCE Agreements only]*

“LCA Customers” means a Customer that either (i) directly takes or receives electricity services from Buyer’s LCA or (ii) directly takes or receives electricity services from a lower voltage substation that electrically connects to Buyer’s LCA.

“Letter of Credit” means an irrevocable, nontransferable standby letter of credit, substantially in the form of Exhibit B and acceptable to Buyer, provided by Seller from an issuer acceptable to Buyer that is either a U.S. financial institution or a U.S. commercial bank or a U.S. branch of a foreign bank with such financial institution or the bank (i) having a Credit Rating of at least (a) Credit Ratings of at least "A-" by S&P, "A-" by Fitch and "A3" by Moody's, if such entity is rated by the Ratings Agencies; (b) if such entity is rated by only two of the three Ratings Agencies, a Credit Rating from two of the three Ratings Agencies of at least "A-" by S&P, if such entity is rated by S&P, "A-" by Fitch, if such entity is rated by Fitch, and "A3" by Moody's, if such entity is rated by Moody's; or (c) a Credit Rating of at least "A-" by S&P or "A3" by Moody's, or "A-" by Fitch if such entity is rated by only one Ratings Agency; and (ii) having shareholder equity (determined in accordance with generally accepted accounting principles) of at least \$1,000,000,000.00 (ONE BILLION AND 00/100 DOLLARS). Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

{IOU Comment: This definition only applies to SCE & SDG&E Agreements.}

“Letter of Credit” means an irrevocable, non-transferable standby letter of credit, the form of which must be substantially as contained in Exhibit B attached hereto; provided that, the issuer must be a Qualified Institution.

{IOU Comment: This definition only applies to PG&E Agreements.}

“Letter of Credit Default” means with respect to a Letter of Credit, the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to maintain a Credit Rating of at least (A) "A-" by S&P, "A-" by Fitch, and "A3" by Moody's, if such issuer is rated by the Ratings Agencies, (B) "A-" by S&P, "A-" by Fitch or "A3" by Moody's if such issuer is rated by only two of the Ratings Agencies, or (C) "A-" by S&P, "A-" by Fitch, or "A3" by Moody's, if such issuer is rated by only one Ratings Agency; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect at any time during the Term of the Agreement, in any such case without replacement; or (v) the issuer of such Letter of Credit shall become Bankrupt; *provided*, no Letter of Credit Default shall occur or be continuing in any event with respect to a

Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party in accordance with the terms of this Agreement.

{IOU Comment: This definition only applies to SCE & SDG&E Agreements.}

“Letter of Credit Default” means with respect to a Letter of Credit, the occurrence of any of the following events: (a) the issuer of such Letter of Credit shall fail to maintain a Credit Rating of at least (i) “A”-, with a stable outlook designation from S&P and A3, with a stable outlook designation from Moody’s, if such issuer is rated by both S&P and Moody’s, (ii) “A-“ by S&P with a stable outlook designation, if such issuer is rated only by S&P, or (iii) "A3" by Moody’s with a stable outlook designation, if such issuer is rated only by Moody’s; (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (c) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (d) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect at any time during the term of the Agreement, in any such case without replacement; or (e) the issuer of such Letter of Credit shall become Bankrupt; provided, however, that no Letter of Credit Default shall occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party in accordance with the terms of this Agreement.

{IOU Comment: This definition only applies to PG&E Agreements.}

“Local Capacity” means any and all resource adequacy attributes or other locational attributes associated with the PDR(s) or RDRRs designated by Seller and comprised of LCA Customers pursuant to Section 1.4, from a Local Capacity Resource (as defined in CAISO Tariff) in Buyer’s Local Capacity Area, as applicable and as such attributes may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward Local RAR, which may be exclusive of any Flexible Capacity, as applicable to the Product.

“Local Capacity Area” or “LCA” means [the areas where LCA Customers are electrically interconnected to any of the PG&E LCA Substations] *[PG&E definition]* [the areas where LCA Customers are electrically interconnected to any of the LA Basin LCA Substations and/or the Big Creek/Ventura LCA Substations.] *[SCE definition]*.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

“LSE” means load-serving entity.

“Mediator” has the meaning set forth in Section 10.2.

“Merger Event” means, with respect to a Party, that such Party consolidates or amalgamates with, merges into or with, or transfers substantially all its assets to another entity and (i) the resulting entity fails to assume all the obligations of such Party hereunder, or (ii) the resulting entity’s creditworthiness is materially weaker than that of such Party immediately prior to such action. The creditworthiness of the resulting entity shall not be deemed to be ‘materially weaker’

so long as the resulting entity maintains a Credit Rating of at least that of the applicable Party, as the case may be, immediately prior to the consolidation, merger or transfer.

“Monthly Quantity” means the aggregate amount of all Product Monthly Quantities set forth in Exhibit E that Seller has agreed to provide to Buyer from the DRAM Resource for each day of the respective Showing Months for the respective types of Product.

“Moody’s” means Moody’s Investor Services, Inc. or its successor.

“Must-Offer Obligation” or “MOO” means Seller’s obligation to Bid or cause Seller’s SC to Bid the DRAM Resource into the CAISO Markets based on the type of Product and in accordance with the CAISO Tariff.

“NQC” shall mean Net Qualifying Capacity as defined in the CAISO Tariff.

“Notification Time” means the 10:00 a.m. Pacific Prevailing Time on a Business Day.

“Non-Competitive Behavior” means bidding behavior providing clear evidence of market manipulation or collusion.

“Non-Defaulting Party” has the meaning set forth in Section 9.2.

“Notice” means notices, requests, statements or payments provided in accordance with Article 8.

“Performance Assurance” has the meaning set forth in Section 5.1(a). Performance Assurance must be in the form of Cash or Letter of Credit. Any Cash received and held by Buyer after drawing on any Letter of Credit will constitute Performance Assurance in the form of Cash.

[“PG&E LCA Substations” means the substations located in Buyer’s service territory as designated in EXHIBIT F and corresponding to the following LCAs as designated on EXHIBIT F: Kern, Stockton, Sierra, Other, North Coast/North Bay, Humboldt, Greater Fresno Area, and/or Greater Bay Area.][*PG&E Definition*]

“Potential Event of Default” means an event which, with Notice or passage of time or both, would constitute an Event of Default.

“Procurement Review Group” has the meaning set forth in Article 13.

“Product” means either System Capacity (PDR or RDRR), Local Capacity (PDR or RDRR) and/or Flexible Capacity (PDR). The particular type of Product sold by Seller to Buyer under this Agreement is specified in Table 1.1(b). Buyer and Seller will have separate contracts for separate products and will combine multiple awards of the same product into one contract at a weighted average price.

“Prohibited Resource” means a technology using diesel, natural gas, gasoline, propane, or liquefied petroleum gas, in topping cycle Combined Heat and Power (CHP) or non-CHP configuration (~~“Prohibited Resources”~~). The following resources are exempt: pressure reduction turbines and waste-heat-to-power bottoming cycle CHP, as well as storage and storage coupled

with renewable generation that meet the relevant greenhouse gas emissions standards adopted for the Self Generation Incentive Program.

“Proxy Demand Resource” or “PDR” has the meaning in the CAISO Tariff.

“Product Monthly Quantity” means the respective amount of each type of Product set forth in Exhibit E that Seller has agreed to provide to Buyer from the DRAM Resource for each day of the respective Showing Months.

“Qualified Institution” means either a U.S. commercial bank, or a U.S. branch of a foreign bank acceptable to Buyer in its sole discretion; and in each case such bank must have a Credit Rating of at least: (a) “A-, with a stable designation” from S&P and “A3, with a stable designation” from Moody’s, if such bank is rated by both S&P and Moody’s; or (b) “A-, with a stable designation” from S&P or “A3, with a stable designation” from Moody’s, if such bank is rated by either S&P or Moody’s, but not both, even if such bank was rated by both S&P and Moody’s as of the date of issuance of the Letter of Credit but ceases to be rated by either, but not both of those Ratings Agencies.

{IOU Comment: This definition only applies to PG&E Agreements.}

“RAR” means the resource adequacy requirements established for LSEs by the Commission pursuant to the CPUC Decisions, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Body having jurisdiction, or successor program requirements.

“Ratings Agency” means any of S&P, Moody’s, and Fitch (collectively the ‘Ratings Agencies’).

“Reliability Demand Response Resource” or “RDRR” has the meaning in the CAISO Tariff.

“Resource Adequacy Benefits” has the meaning in the CPUC Decisions.

“Resource ID” has the meaning in the CAISO Tariff.

“Residential Customer” means a DRAM Resource Customer *[which is a Single Family or Multi-Family Dwelling customer on a Domestic rate, including RV Parks, Residential Hotels, and Mobile Home Parks and includes electric vehicle charging for customers on Domestic Rate if separately metered, as such capitalized terms are defined in Rule 1] {For SCE} [which is a single family or multi-family dwelling customer on SDG&E domestic rate schedule "DR", "DR-TOU", "TOU-DR", "DR-SES", "DM", "DS", "DT", "DT-RV", "EV-TOU", or "EV-TOU-2] {for SDG&E} [whose dwelling is single-family units, multi-family units, mobile homes, or other similar living establishments] {for PG&E} .*

“Residential Customer Product” means Product that is comprised solely of Residential Customers and Small Commercial Customers; *provided* that the percentage of Residential Customers in the PDR(s) constituting the DRAM Resource is equal to or greater than ninety percent (90%). Where multiple PDRs, or portions thereof, are used to meet Seller’s Demonstrated Capacity obligations, the percentage requirements apply in the aggregate, based on the total number of PDR Customer service accounts in the DRAM Resource used to show Demonstrated Capacity.

“Revenue Quality Meter Data” means Interval Meter Data that has been validated, edited, and estimated in accordance with the Direct Access Standards for Metering and Meter Data as described in Rule 22.

“Rule 24/32” means Direct Participation Demand Response: PG&E:
https://www.pge.com/regulation/DemandResponseOIR/Other-Docs/Joint-PSS/2013/DemandResponseOIR_Other-Doc_Joint-PSS_20130204_262339Atch01_262340.pdf ;
SCE: https://www.sce.com/NR/sc3/tm2/pdf/Rule_24.pdf ; SDG&E ERule 32:
http://regarchive.sdge.com/tm2/pdf/ELEC_ELEC-RULES_ERULE32.pdf.

“S&P” means Standard & Poor’s Financial Services LLC, or its successor.

“SAID” or “Service Account Identification” means a Buyer specific identifier or number for tracking energy service deliveries for a specific load through one or more meters at a customer premises or location as described in Rule 1.

“Scheduling Coordinator” or “SC” has the meaning set forth in the CAISO Tariff.

“Seller” has the meaning set forth in the preamble.

“Settlement Amount” means the sum of the estimated Delivered Capacity Payments for all of the remaining months of the Delivery Period, including the current month if not invoiced pursuant to Section 4.2, as of the Early Termination Date, with such estimated Delivered Capacity Payments being based on the sum of the applicable Product Monthly Quantity times the applicable Contract Price for each type of Product.

“Shortfall Capacity” means the amount of capacity with respect to the Product Monthly Quantity for a type of Product for any portion of a Showing Month which was shown by Buyer in its Compliance Showing that CAISO determines requires outage replacement in accordance with Section 40.7 of the CAISO Tariff.

“Showing Month” shall be each day of each calendar month of the Delivery Period that is the subject of the Compliance Showing, as set forth in the CPUC Decisions and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and CPUC Decisions in effect as of the Execution Date, the monthly Compliance Showing made in June is for the Showing Month of August.

“Small Commercial Customer” means a DRAM Resource Customer *[which is a non-residential customers with monthly maximum demand of 20 kW or less, including agricultural/pumping customers (PA-1, PA-2, TOU-PA-2 rates) and TOU-EV3, service to electric charging facilities with monthly maximum demand of 20 kW or less. Excludes customers on rate schedules for fixed usage and unmetered service (Schedules LS-1, LS-2, OL-1, TC-1, Wi-Fi-1, and WTR)] {for SCE}[that is on SDG&E commercial rate schedule "A", "A-TOU", or "TOU-A"] {for SDG&E} [who: (1) has a maximum billing demand of 20 kW, or less, per meter during the most recent 12 month period, or (2) has an annual usage of 40,000 kWh, or less, during the most recent 12 month period.] {for PG&E}.*

“Successor” means any successor accounting practices to GAAP or IFRS.
{IOU Comment: This definition only applies to SCE Agreements.}

“Supply Plan” has the meaning set forth in the CAISO Tariff.

“System Capacity” means system Resource Adequacy Benefits associated with the PDR(s) or RDRRs designated by Seller pursuant to Section 1.4, as such attributes may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR, which may be exclusive of any Local Capacity and Flexible Capacity as indicated on Table 1.1(b).

“Term” has the meaning set forth in Section 1.2.

“Termination Payment” means the sum of all amounts owed by the Defaulting Party to the Non-Defaulting Party under this Agreement, which shall include the Settlement Amount, less any amounts owed by the Non-Defaulting Party to the Defaulting Party determined as of the Early Termination Date. If Buyer is the Non-Defaulting Party and reasonably expect to incur penalties, fines or costs from the CPUC, the CAISO, or any other Governmental Body, then Buyer may estimate the of those penalties or fines and include them in the Termination Payment amount.

“Transfer” means, with respect to any Performance Assurance or Interest Amount, and in accordance with the instructions of the Party entitled thereto: (i) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the recipient; (ii) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the recipient.

“Unbundled Service Customer” means a retail customer of the Buyer acting as a utility distribution company, who takes and receives its electrical power requirements from a different Load Serving Entity that is not the Buyer, pursuant to CPUC Rule 22 Direct Access or Rule 23 Community Choice Service.

EXHIBIT B

Form of Letter of Credit

[For SCE and SDG&E]

IRREVOCABLE NONTRANSFERABLE STANDBY

LETTER OF CREDIT

Reference Number:

Transaction Date:

BENEFICIARY:

Southern California Edison Company
2244 Walnut Grove Avenue
Risk Control GO#1, Quad 1D
Rosemead, CA 91770

Ladies and Gentlemen:

Nontransferable Standby Letter of Credit (“Letter of Credit”) in favor of Southern California Edison Company, a California corporation (the “Beneficiary”), for the account of _____, a _____ corporation (the “Applicant”), for the amount of XXX AND XX/100 Dollars (\$ _____) (the “Available Amount”), effective immediately and expiring at 5:00 p.m., California time, on _____ (the “Expiration Date”).

This Letter of Credit shall be of no further force or effect upon the close of business on the Expiration Date or, if such day is not a Business Day (as hereinafter defined), on the next Business Day.

For the purposes hereof, “Business Day” shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by presentation in compliance on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. The original or a photocopy of this Letter of Credit and all amendments; and

2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any full or partial drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at _____ or such other number as specified from time-to-time by the Bank.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; *provided*, the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment shall be void and of no force or effect.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

The Bank engages with the Beneficiary that Beneficiary's drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Issuer

(Name)

Title: _____

ATTACHMENT A

TO ***[ISSUING BANK NAME]***

IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT

No. _____

DRAWING CERTIFICATE

Bank

Bank Address

Subject: Irrevocable Non-transferable Standby Letter of Credit

Reference Number _____

The undersigned _____, an authorized representative of Southern California Edison Company (the "Beneficiary"), hereby certifies to ***[Issuing Bank Name]*** (the "Bank"), and _____ (the "Applicant"), with reference to Irrevocable Nontransferable Standby Letter of Credit No. { _____ }, dated _____, (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to \$ _____, for the following reason(s) [check applicable provision]:
 - A. An Event of Default , as defined in that certain Demand Response Resource Purchase Agreement between Applicant and Beneficiary, dated as of ***[Date of Execution]*** (the "Agreement") with respect to the Applicant has occurred and is continuing.
 - B. A Letter of Credit Default (as defined in the Agreement) has occurred and is continuing

[]C. An Early Termination Date (as defined in the Agreement) has occurred or been designated as a result of an Event of Default (as defined in the Agreement) with respect to the Applicant for which there exist any unsatisfied payment obligations.

[]D. The Letter of Credit will expire in fewer than twenty (20) Business Days (as defined in the Agreement) from the date hereof, and Applicant has not provided Beneficiary alternative Performance Assurance (as defined in the Agreement) acceptable to Beneficiary.

[]E. The Bank or Applicant has heretofore provided written notice to the Beneficiary of the Bank's or Applicant's intent not to renew the Letter of Credit following the present Expiration Date thereof, and Applicant has failed to provide the Beneficiary with a replacement letter of credit satisfactory to Beneficiary in its sole discretion within thirty (30) days following the date of the notice of non-renewal.

[]F. The Beneficiary has not been paid any or all of the Applicant's payment obligations now due and payable under the Agreement.

2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. DOLLARS AND ____/100ths (U.S.\$_____), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.
3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire transferred to the Beneficiary in accordance with the following instructions:

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Beneficiary by its authorized representative as of this ____ day of _____, _____.

Beneficiary: SOUTHERN CALIFORNIA EDISON COMPANY

By:

Name:

Title:

EXHIBIT B

PG&E'S FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXXX

Date: [insert issue date]

Beneficiary:

Applicant: [Insert name of Applicant and address]

Attention:

Letter of Credit Amount: [insert amount]

Expiry Date: [insert expiry date]

Ladies and Gentlemen:

By order of **[Insert name of Applicant]** ("Applicant"), we hereby issue in favor of **[Insert name of Beneficiary]** (the "Beneficiary") our irrevocable standby letter of credit No. **[Insert number of letter of credit]** ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. \$ **[Insert amount in figures followed by (amount in words)]** ("Letter of Credit Amount"). This Letter of Credit is available with **[Insert name of bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately. This Letter of Credit will expire at our close of business on **[Insert expiry date]** (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents:

1. Beneficiary's signed and dated sight draft in the form of Annex A hereto, referencing this Letter of Credit No. **[Insert number]** and stating the amount of the demand; and
2. One of the following dated statements signed by an authorized representative or officer of Beneficiary:
 - A. "[**Insert name of Beneficiary**] (the "Beneficiary") is entitled to draw the amount of **[Spell out the amount followed by (US\$xxxxxxx.xx)]**, under Letter of Credit No. **[Insert number]** owed by **[Insert name of Beneficiary's counterparty under the DRAM Resource Purchase Agreement]** or its assignee to Beneficiary under or in connection with the **Demand Response Auction Mechanism Resource Purchase Agreement dated [Insert the Execution Date of the DRAM Resource Purchase Agreement]** between the Beneficiary and **[Insert name of Beneficiary's counterparty under the DRAM Resource Purchase Agreement]** or its assignee"
 - B. "Letter of Credit No. **[Insert number]** will expire in thirty (30) days or less and **[Insert name of Beneficiary's counterparty under the DRAM Resource Purchase Agreement]** or its assignee has not provided replacement Performance Assurance acceptable to **[Insert name of Beneficiary] (the Beneficiary)**, and the amount of **[Spell out the amount followed by (US\$xxxxxxx.xx)]** of the accompanying sight draft does not exceed the amount of Performance Assurance that **[Insert name of Beneficiary's counterparty under the DRAM Resource Purchase Agreement]** or its assignee is required to transfer to the Beneficiary under the terms of the **Demand Response Auction Mechanism Resource Purchase Agreement dated**

[Insert the Execution Date of the DRAM Resource Purchase Agreement] between **[Insert name of Beneficiary's counterparty under the DRAM Resource Purchase Agreement]** and the Beneficiary.

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable; and
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount.

We engage with you that drafts drawn under and in compliance with the terms and conditions of this Letter of Credit will be duly honored upon presentation, if presented on or before the Expiry Date (or after the Expiry Date as provided below regarding events of Force Majeure), at **[Insert bank's address for drawings]**.

All demands for payment shall be made by presentation of copies or original documents, or by facsimile transmission of documents to **[Insert fax number or numbers]**. Attention: **[Insert name of bank's receiving department]**. If a demand is made by facsimile transmission, the originals or copies of documents must follow by overnight mail, and you may contact us at **[Insert phone number(s)]** to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the sixth (6th) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision*, International Chamber of Commerce (ICC) Publication No. 600 (the "UCP 600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit if presented within thirty (30) days after the resumption of our business and we will effect payment accordingly.

The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[insert number and any other necessary details]**.

Very truly yours,

[insert name of issuing bank]

By: _____
Authorized Signature

Name: _____ **[print or type name]**

Title: _____ **[print or type title]**

Annex A SIGHT DRAFT

TO

[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: \$ _____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF [insert name of Beneficiary] THE AMOUNT OF U.S.\$ _____ (_____ U.S. DOLLARS)

DRAWN UNDER [INSERT NAME OF ISSUING BANK] LETTER OF CREDIT NO. XXXXXX.

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER

BY: _____
NAME AND TITLE

EXHIBIT C-2

Form of Notice of Demonstrated Capacity

EXHIBIT C2 - Notice of Demonstrated Capacity (EFC)

Demand Response Auction Mechanism (DRAM)

For use with Flexible Capacity Product

Showing Month: _____
 Seller: _____
 Seller Contact Name: _____
 Seller Contact Phone: _____
 SCID: _____
 Local Capacity Area (LCA): _____ *(mark "N/A" if not a Local Capacity product)*

Total "Monthly Quantity"^{**} (MW): _____
 Total "Demonstrated Capacity" (MW), Net of Prohibited Resources Adjustment: 0.00 MW
 Residential Product (Yes/No): _____

Therefore, in Delivered Capacity Payment formula, 'B' = ##### and 'D' = _____

PDRs in the DRAM Resource				--- "Demonstrated Capacity" (MW) --- It is Seller's responsibility to use the required Demonstrated Capacity method for each Resource per Section 1.6(a) of DRAM Purchase Agreement.						Joint Resource Adjustment		Prohibited Resources Adjustment		Residential Product Delivery			Local Capacity Product Delivery		
PDR Resource Name	CAISO Resource ID	Assigned EFC (MW)*	Flexible Category (1, 2, or 3)	For each PDR Resource (row), chose one demonstration method (column) to establish monthly Demonstrated Capacity						Complete for all resources		Complete for all resources		This section is only required if delivering Residential Customer Product			This section is only required if delivering Local Capacity Product		
				Capacity Test Average hourly load reduction during capacity test conducted by Seller's SC during Showing Month		Must Offer Obligation (MOO) Average capacity amount Seller bid into CAISO during Showing Month		Dispatch Results Average hourly load reduction resulting from Dispatch during Showing Month		MW Claimed Specify the MW portion used to meet the contract obligation		Adjusted MW Claimed Specify the MW portion used to meet the contract obligation		Residential Product			Local Capacity Product		
				Raw Demonstrated Capacity	Lesser of Assigned EFC or Raw Demonstrated Capacity	Raw Demonstrated Capacity	Lesser of Assigned EFC or Raw Demonstrated Capacity	Raw Demonstrated Capacity	Lesser of Assigned EFC or Raw Demonstrated Capacity	Joint Resource? (Yes/No)	MW Claimed	Default Adjustment Value (DAV) (MW)	Net MW Claimed	Total Service Accounts**	Residential Customer Service Accounts**	Small Business Customer Service Accounts**	Total Service Accounts**	Customer Service Accounts within specified LCA**	
		0.00 MW			0.00 MW	0.00 MW		0.00 MW											
					0.00 MW	0.00 MW		0.00 MW											
					0.00 MW	0.00 MW		0.00 MW											
					0.00 MW	0.00 MW		0.00 MW											
					0.00 MW	0.00 MW		0.00 MW											
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					0.00 MW	0.00 MW		0.00 MW											
					0.00 MW	0.00 MW		0.00 MW											
					0.00 MW	0.00 MW		0.00 MW											
					0.00 MW	0.00 MW		0.00 MW											
Demonstrated Capacity ==>					0.00 MW	0.00 MW		0.00 MW		0.00 MW		0.00 MW		0.00 MW	0	0	0	0	0
IMPORTANT NOTES: * "Monthly Quantity" is from the quantity & pricing Table in Exhibit E. ** In case of a Joint Resource, report full PDR EFC here. *** If using a Joint Resource, report Service Account information (count) only for the portion used.				1) Each capacity test must be at least two (2) consecutive hours long 2) Should be calculated using the PDR Capacity Baseline	1) Must be bid into the Day-Ahead and Real-Time Market 2) Only include bids submitted in compliance with the MOO	1) An eligible Dispatch requires that the PDR provided load reduction in all applicable hours of the CAISO Dispatch Instructions. Only include dispatch results during the MOO hours. 2) Should be calculated using the PDR Capacity Baseline	For PDRs that are not Joint Resources, MW Claimed = MW Demonstrated (Column F, Hor J) For Joint PDRs, MW Claimed is a portion of MW Demonstrated	Per pro-forma Section 7.2(b)(v), provide the DAV adjustment, if any.	Percent Residential Accounts	Percent Local Accounts									

The information provided by Seller in this Notice of Demonstrated Capacity is required by Section 1.6 of the DRAM Resource Purchase Agreement with (insert IOU name).

**EXHIBIT E
PRODUCT MONTHLY QUANTITY
AND
CORRESPONDING CONTRACT PRICE**

Showing Month	Product [Insert]			
	2018		2019	
	Monthly Quantity (kW for each day of Showing Month)	Contract Price (\$/kW-month)	Monthly Quantity (kW for each day of Showing Month)	Contract Price (\$/kW-month)
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				

[Parties to complete one table for each type of Product indicated in Table 1.1(b) and accepted bid information.]

EXHIBIT F
PG&E LCA SUBSTATIONS
[For PG&E Agreements only]

Local Capacity Area	Substation_cd	Substation Description
Greater Bay Area	1201	OAKLAND_C
Greater Bay Area	1202	CLAYTON
Greater Bay Area	1204	OAKLAND_D
Greater Bay Area	1206	BERKELEY_F
Greater Bay Area	1208	OAKLAND_I
Greater Bay Area	1209	OAKLAND_J
Greater Bay Area	1210	OAKLAND_K
Greater Bay Area	1211	OAKLAND_L
Greater Bay Area	1213	ANTIOCH
Greater Bay Area	1214	LIVERMORE
Greater Bay Area	1216	PITTSBURG
Greater Bay Area	1220	WALNUT_CREEK
Greater Bay Area	1222	NEWARK
Greater Bay Area	1224	HAYWARD_O
Greater Bay Area	1233	MIRA_VISTA
Greater Bay Area	1235	ORINDA
Greater Bay Area	1243	ALTAMONT
Greater Bay Area	1250	EL_CERRITO_G
Greater Bay Area	1252	RICHMOND_Q
Greater Bay Area	1254	OAKLAND_X
Greater Bay Area	1260	OAK
Greater Bay Area	1264	BECK_STREET
Greater Bay Area	1265	FAIRMOUNT
Greater Bay Area	1266	BERKELEY_T
Greater Bay Area	1267	8TH_AVENUE
Greater Bay Area	1269	FLORENCE
Greater Bay Area	1284	RIDGE
Greater Bay Area	1296	CONCORD_NO_1
Greater Bay Area	1298	WARD
Greater Bay Area	1302	BARRETT
Greater Bay Area	1303	BANCROFT
Greater Bay Area	1309	BRYANT
Greater Bay Area	1311	SAN LEANDRO
Greater Bay Area	1314	SOLANO
Greater Bay Area	1315	RADUM
Greater Bay Area	1317	HOLLYWOOD
Greater Bay Area	1318	PALO_SECO
Greater Bay Area	1321	BROOKSIDE
Greater Bay Area	1323	LONE_TREE

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Greater Bay Area	1324	WHITNEY
Greater Bay Area	1326	SOTO
Greater Bay Area	1330	PLEASANT_HILL
Greater Bay Area	1331	RUSSELL
Greater Bay Area	1334	SPRUCE
Greater Bay Area	1335	WALDO
Greater Bay Area	1338	WOOD
Greater Bay Area	1343	FAIRVIEW
Greater Bay Area	1346	SAN_LORENZO
Greater Bay Area	1347	RICHMOND_R
Greater Bay Area	1348	ESTUDILLO
Greater Bay Area	1350	JARVIS
Greater Bay Area	1352	MAPLE
Greater Bay Area	1353	LAKESWOOD
Greater Bay Area	1355	GILL
Greater Bay Area	1356	SARANAP
Greater Bay Area	1358	ROBLES
Greater Bay Area	1359	GEARY
Greater Bay Area	1360	LAS_AROMAS
Greater Bay Area	1365	CONTRA_COSTA
Greater Bay Area	1366	PARSONS
Greater Bay Area	1368	EDES
Greater Bay Area	1370	ARLINGTON
Greater Bay Area	1373	ORIOLE
Greater Bay Area	1374	WALL
Greater Bay Area	1375	VASCO
Greater Bay Area	1376	MT_EDEN
Greater Bay Area	1378	VIRGINIA
Greater Bay Area	1380	MORAGA
Greater Bay Area	1381	WAYNE
Greater Bay Area	1384	STUART
Greater Bay Area	1385	BABEL
Greater Bay Area	1391	WILLOW_PASS
Greater Bay Area	1392	FRANKLIN
Greater Bay Area	1405	NORTH_DUBLIN
Greater Bay Area	1409	CASTRO_VALLEY
Greater Bay Area	1410	ALHAMBRA
Greater Bay Area	1416	ROSSMOOR
Greater Bay Area	1423	SAN_RAMON
Greater Bay Area	1424	SUNOL
Greater Bay Area	1426	POINT_PINOLE
Greater Bay Area	1430	MEADOW_LANE
Greater Bay Area	1432	BALFOUR

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Greater Bay Area	1434	VALLEY_VIEW
Greater Bay Area	1435	FREMONT
Greater Bay Area	1437	SAN_PABLO
Greater Bay Area	1438	GRANT
Greater Bay Area	1440	LAS_POSITAS
Greater Bay Area	1442	CAYETANO
Greater Bay Area	1445	KIRKER
Greater Bay Area	1447	DUMBARTON
Greater Bay Area	1450	VINEYARD
Greater Bay Area	1459	BRENTWOOD
Greater Bay Area	1465	TIDEWATER
Greater Bay Area	1466	TASSAJARA
Greater Bay Area	1467	SOBRANTE
Greater Bay Area	1469	RESEARCH
Greater Bay Area	1472	DIXON_LANDING
Greater Bay Area	1809	MCAVOY_TAP
Greater Bay Area	1810	SHORE_ACRES_BANK
Greater Bay Area	1812	PIPER_BANK
Greater Bay Area	1815	BETHEL_BANK
Greater Bay Area	1832	JERSEY_ISLAND
Greater Bay Area	2201	SF_X
Greater Bay Area	2203	SF_A
Greater Bay Area	2207	SF_E
Greater Bay Area	2209	SF_G
Greater Bay Area	2210	SF_H
Greater Bay Area	2213	SF_K
Greater Bay Area	2222	SF_J
Greater Bay Area	2226	SF_L
Greater Bay Area	2227	SF_M
Greater Bay Area	2228	SF_N
Greater Bay Area	2233	SF_P
Greater Bay Area	2234	SF_Q
Greater Bay Area	2239	18TH_STREET
Greater Bay Area	2240	JUDAH
Greater Bay Area	2244	LAWNDALE
Greater Bay Area	2247	ACTON
Greater Bay Area	2248	CASTRO
Greater Bay Area	2249	YOSEMITE
Greater Bay Area	2250	TARAVAL
Greater Bay Area	2251	NORIEGA
Greater Bay Area	2253	6TH_AVENUE
Greater Bay Area	2255	21ST_AVENUE
Greater Bay Area	2257	EAST_GRAND

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Greater Bay Area	2258	OCEAN
Greater Bay Area	2259	RANDOLPH
Greater Bay Area	2260	WESTLAKE
Greater Bay Area	2261	PORTOLA
Greater Bay Area	2264	DALY_CITY
Greater Bay Area	2265	DALY_CITY_UNIT_SUB
Greater Bay Area	2267	SILVER
Greater Bay Area	2268	PLYMOUTH
Greater Bay Area	2269	MILLBRAE
Greater Bay Area	2270	SAN_BRUNO
Greater Bay Area	2272	SNEATH_LANE
Greater Bay Area	2278	MARINA
Greater Bay Area	2280	SF_Y
Greater Bay Area	2281	PACIFICA
Greater Bay Area	2285	SULLIVAN
Greater Bay Area	2286	SERRAMONTE
Greater Bay Area	2287	SF_Z
Greater Bay Area	2289	BAYSHORE
Greater Bay Area	2401	BAY_MEADOWS
Greater Bay Area	2402	BELL_HAVEN
Greater Bay Area	2403	BELMONT
Greater Bay Area	2404	BERESFORD
Greater Bay Area	2405	BURLINGAME
Greater Bay Area	2406	CAROLANDS
Greater Bay Area	2408	EMERALD_LAKE
Greater Bay Area	2409	GLENWOOD
Greater Bay Area	2410	HALF_MOON_BAY
Greater Bay Area	2411	HILLSDALE
Greater Bay Area	2412	LAS_PULGAS
Greater Bay Area	2413	MENLO
Greater Bay Area	2414	RALSTON
Greater Bay Area	2416	REDWOOD_CITY
Greater Bay Area	2418	SAN_CARLOS
Greater Bay Area	2419	SAN_MATEO
Greater Bay Area	2424	WATERSHED
Greater Bay Area	2425	WOODSIDE
Greater Bay Area	2426	BAIR
Greater Bay Area	8201	EVERGREEN
Greater Bay Area	8202	LOS_GATOS
Greater Bay Area	8203	MOUNTAIN_VIEW
Greater Bay Area	8216	LOYOLA
Greater Bay Area	8219	MABURY
Greater Bay Area	8224	LOS_ALTOS

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Greater Bay Area	8225	SAN_JOSE_A
Greater Bay Area	8226	SAN_JOSE_B
Greater Bay Area	8231	ALMADEN
Greater Bay Area	8234	RIVER_OAKS
Greater Bay Area	8246	NORTECH
Greater Bay Area	8283	MILPITAS
Greater Bay Area	8292	EL_PATIO
Greater Bay Area	8295	EDENVALE
Greater Bay Area	8300	LOCKHEED NO.2
Greater Bay Area	8318	LLAGAS
Greater Bay Area	8324	MORGAN_HILL
Greater Bay Area	8337	SARATOGA
Greater Bay Area	8339	SWIFT
Greater Bay Area	8342	LAWRENCE
Greater Bay Area	8343	HICKS
Greater Bay Area	8348	STELLING
Greater Bay Area	8353	MC_KEE
Greater Bay Area	8361	BRITTON
Greater Bay Area	8363	WHISMAN
Greater Bay Area	8367	WOLFE
Greater Bay Area	8370	STONE
Greater Bay Area	8377	VASONA
Greater Bay Area	8380	TRIMBLE
Greater Bay Area	8387	FMC
Greater Bay Area	8389	MONTAGUE
Greater Bay Area	8390	AMES
Greater Bay Area	8391	PIERCY
Greater Fresno Area	25204	AIRWAYS
Greater Fresno Area	25205	ASHLAN_AVE
Greater Fresno Area	25215	ANGIOLA
Greater Fresno Area	25216	COALINGA_NO_1
Greater Fresno Area	25217	CORCORAN
Greater Fresno Area	25221	BIOLA
Greater Fresno Area	25224	KINGSBURG
Greater Fresno Area	25228	CALIFORNIA_AVE
Greater Fresno Area	25229	PARLIER
Greater Fresno Area	25230	CAMDEN
Greater Fresno Area	25234	REEDLEY
Greater Fresno Area	25235	SANGER
Greater Fresno Area	25236	SAN_JOAQUIN
Greater Fresno Area	25237	CARUTHERS
Greater Fresno Area	25238	COALINGA_NO_2
Greater Fresno Area	25241	COPPERMINE

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Greater Fresno Area	25250BALCH_NO_1	
Greater Fresno Area	25256KERCKHOFF	
Greater Fresno Area	25266GUERNSEY	
Greater Fresno Area	25268HENRIETTA	
Greater Fresno Area	25270KEARNEY	
Greater Fresno Area	25271KERMAN	
Greater Fresno Area	25273KETTLEMAN_HILLS	
Greater Fresno Area	25284OROSI	
Greater Fresno Area	25285PINEDALE	
Greater Fresno Area	25289SCHINDLER	
Greater Fresno Area	25292STONE_CORRAL	
Greater Fresno Area	25294TIVY_VALLEY	
Greater Fresno Area	25295TULARE_LAKE	
Greater Fresno Area	25315GIFFEN	
Greater Fresno Area	25316HURON	
Greater Fresno Area	25344CALFLAX	
Greater Fresno Area	25345DEVILS_DEN	
Greater Fresno Area	25353BOWLES	
Greater Fresno Area	25357BARTON	
Greater Fresno Area	25359CANTUA	
Greater Fresno Area	25360LEMOORE	
Greater Fresno Area	25366STROUD	
Greater Fresno Area	25371HARDWICK	
Greater Fresno Area	25373WEST_FRESNO	
Greater Fresno Area	25392MANCHESTER	
Greater Fresno Area	25393GATES	
Greater Fresno Area	25396BULLARD	
Greater Fresno Area	25400ALPAUGH	
Greater Fresno Area	25406DUNLAP	
Greater Fresno Area	25408CLOVIS	
Greater Fresno Area	25409DINUBA	
Greater Fresno Area	25412MC_CALL	
Greater Fresno Area	25415AUBERRY	
Greater Fresno Area	25418RESERVE_OIL	
Greater Fresno Area	25425MALAGA	
Greater Fresno Area	25441MC_MULLIN	
Greater Fresno Area	25444RAINBOW	
Greater Fresno Area	25453WAHTOKE	
Greater Fresno Area	25455FIGARDEN	
Greater Fresno Area	25460SAND_CREEK	
Greater Fresno Area	25477JACOBS_CORNER	
Greater Fresno Area	25480RANCHERS_COTTON	
Greater Fresno Area	25491WOODCHUCK	

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Greater Fresno Area	25492	LAS_PALMAS
Greater Fresno Area	25494	BOSWELL
Greater Fresno Area	25500	AVENAL
Greater Fresno Area	25525	RIVER_ROCK
Greater Fresno Area	25529	WOODWARD
Greater Fresno Area	25859	TULE_POWER_HOUSE
Greater Fresno Area	25888	SO._CAL._EDISON
Humboldt	4214	CLEAR_LAKE
Humboldt	4225	HOPLAND
Humboldt	4228	POTTER_VALLEY_P_H
Humboldt	4260	PHILO
Humboldt	4266	WILLITS
Humboldt	4268	LAYTONVILLE
Humboldt	4276	FORT_BRAGG_A
Humboldt	4277	UKIAH
Humboldt	4284	GUALALA
Humboldt	4286	ANNAPOLIS
Humboldt	4287	UPPER_LAKE
Humboldt	4295	MENDOCINO
Humboldt	4298	ELK
Humboldt	4304	GARCIA
Humboldt	4306	COVELO
Humboldt	4308	BIG_RIVER
Humboldt	4314	MIDDLETOWN
Humboldt	4319	REDBUD
Humboldt	4321	HARTLEY
Humboldt	4331	KONOCTI
Humboldt	4335	LUCERNE
Humboldt	4336	HIGHLANDS
Humboldt	4338	POINT_ARENA
Humboldt	4341	CALPELLA
Humboldt	19202	ARCATA
Humboldt	19210	MAPLE_CREEK
Humboldt	19212	EUREKA_A
Humboldt	19215	NEWBURG
Humboldt	19217	WILLOW_CREEK
Humboldt	19218	BLUE_LAKE
Humboldt	19222	GARBERVILLE
Humboldt	19223	TRINIDAD
Humboldt	19225	RIO_DELL
Humboldt	19226	ORICK
Humboldt	19229	CARLOTTA
Humboldt	19231	FRUITLAND

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Humboldt	19232	FORT_SEWARD
Humboldt	19233	STATION E EUREKA
Humboldt	19234	HUMBOLDT_BAY
Humboldt	19236	BIG_LAGOON
Humboldt	19238	EEL_RIVER
Humboldt	19239	JANES_CREEK
Humboldt	19240	HOOPA
Humboldt	19241	LOW_GAP
Humboldt	19243	HARRIS
Humboldt	19245	FAIRHAVEN
Humboldt	19246	BRIDGEVILLE
Humboldt	19247	RUSS_RANCH
Kern	25202	ANTELOPE
Kern	25208	TAFT
Kern	25232	CARNERAS
Kern	25244	ELK_HILLS
Kern	25246	FAMOSO
Kern	25255	TEMBLOR
Kern	25261	MIDWAY
Kern	25272	KERN_OIL
Kern	25277	MAGUNDEN
Kern	25278	MCKITTRICK
Kern	25282	OLD_RIVER
Kern	25286	RIO_BRAVO
Kern	25290	SEMITROPIC
Kern	25293	TEJON
Kern	25296	WASCO
Kern	25297	WEEDPATCH
Kern	25314	CUYAMA
Kern	25318	MC_FARLAND
Kern	25319	SAN_BERNARD
Kern	25337	BAKERSFIELD
Kern	25339	FRUITVALE
Kern	25341	LAKEVIEW
Kern	25342	PANAMA
Kern	25346	CARRIZO_PLAINS
Kern	25348	WHEELER_RIDGE
Kern	25349	LERDO
Kern	25355	SMYRNA
Kern	25364	POSO_MOUNTAIN
Kern	25365	SHAFTER
Kern	25370	WESTPARK
Kern	25380	ARVIN

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Kern	25387	COPUS
Kern	25391	LAMONT
Kern	25395	COLUMBUS
Kern	25407	STOCKDALE
Kern	25420	GOOSE_LAKE
Kern	25421	MARICOPA
Kern	25424	FELLOWS
Kern	25429	WELLFIELD
Kern	25437	BELRIDGE_1A
Kern	25440	TWISSELMAN
Kern	25448	BERRENDA_C
Kern	25450	CHARCA
Kern	25451	TECUYA
Kern	25454	GANSO
Kern	25456	TUPMAN
Kern	25457	RENFRO
Kern	25458	7TH_STANDARD
Kern	25468	BLACKWELL
Kern	25469	NORCO
Kern	25476	ROSEDALE
Kern	25482	CADET
Kern	25493	GARDNER
Kern	25526	KERN_POWER
Kern	25527	CELERON
Kern	25528	CARNATION
Kern	25531	PENTLAND
Kern	25532	TEVIS
Kern	25542	TEXACO_EMIDIO
Kern	25544	PACIFIC_PIPE_GRAPEVINE
Kern	25545	CAL_WATER
Kern	25811	SCE_MCFARLAND
Kern	25813	SCE_TEHACHAPI
North Coast and North Bay	4201	SAN_RAFAEL
North Coast and North Bay	4202	NAPA
North Coast and North Bay	4203	ALTO
North Coast and North Bay	4204	NORTH_TOWER
North Coast and North Bay	4205	PARKWAY
North Coast and North Bay	4209	MIRABEL
North Coast and North Bay	4212	PETALUMA_A
North Coast and North Bay	4215	SANTA_ROSA_A
North Coast and North Bay	4221	NOVATO
North Coast and North Bay	4226	BOLINAS
North Coast and North Bay	4227	COTATI

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
North Coast and North Bay	4229	OLEMA
North Coast and North Bay	4230	TULUCAY
North Coast and North Bay	4245	VALLEJO_B
North Coast and North Bay	4246	BASALT
North Coast and North Bay	4248	IGNACIO
North Coast and North Bay	4249	SAUSALITO
North Coast and North Bay	4255	VALLEJO_C
North Coast and North Bay	4256	FULTON
North Coast and North Bay	4257	MOLINO
North Coast and North Bay	4263	PETALUMA_C
North Coast and North Bay	4265	HIGHWAY
North Coast and North Bay	4271	CALISTOGA
North Coast and North Bay	4272	SONOMA
North Coast and North Bay	4275	FITCH_MOUNTAIN
North Coast and North Bay	4281	MONTE_RIO
North Coast and North Bay	4282	CLOVERDALE
North Coast and North Bay	4285	FORT_ROSS
North Coast and North Bay	4289	GEYSERVILLE
North Coast and North Bay	4299	LAS_GALLINAS_A
North Coast and North Bay	4302	WOODACRE
North Coast and North Bay	4305	MONTICELLO
North Coast and North Bay	4307	DUNBAR
North Coast and North Bay	4309	GREENBRAE
North Coast and North Bay	4315	TOCALOMA
North Coast and North Bay	4316	SALMON_CREEK
North Coast and North Bay	4318	BELLEVUE
North Coast and North Bay	4320	STAFFORD
North Coast and North Bay	4325	BAHIA
North Coast and North Bay	4328	CARQUINEZ
North Coast and North Bay	4329	PUEBLO
North Coast and North Bay	4330	MONROE
North Coast and North Bay	4332	RINCON
North Coast and North Bay	4334	SKAGGS_ISLAND
North Coast and North Bay	4337	LAKEVILLE
North Coast and North Bay	4343	SILVERADO
North Coast and North Bay	4347	PENNGROVE
North Coast and North Bay	4349	CORONA
North Coast and North Bay	4801	CALPINE
Other	6202	COLUSA
Other	6203	WOODLAND
Other	6204	DAVIS
Other	6205	WILLIAMS
Other	6206	DIXON

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Other	6207	COLUSA_JUNCTION
Other	6208	ARBUCKLE
Other	6213	SUISUN
Other	6246	GRAND_ISLAND
Other	6254	MERIDIAN
Other	6270	CORDELIA
Other	6272	KNIGHTS_LANDING
Other	6277	WILKINS_SLOUGH
Other	6283	RICE
Other	6288	MAXWELL
Other	6312	CORTINA
Other	6313	WEST_SACRAMENTO
Other	6314	RUSSELL_(SMUD)
Other	6317	MADISON
Other	6319	ZAMORA
Other	6332	WINTERS
Other	6344	PLAINFIELD
Other	6359	VACA_DIXON
Other	6360	VACAVILLE
Other	6362	DEEPWATER
Other	6364	PEABODY
Other	6368	PUTAH_CREEK
Other	6380	JAMESON
Other	6381	DUNNIGAN
Other	6866	BATAVIA
Other	6867	MAINE_PRAIRIE
Other	8284	BIG_BASIN
Other	8293	POINT_MORETTI
Other	8301	ARANA
Other	8304	BEN_LOMOND
Other	8305	BIG_TREES
Other	8311	CASSERLY
Other	8314	FELTON
Other	8319	GREEN_VALLEY
Other	8323	CLIFF_DRIVE
Other	8325	PAUL_SWEET
Other	8326	RIO_DEL_MAR
Other	8330	SOQUEL
Other	8333	WATSONVILLE
Other	8345	OPAL_CLIFFS
Other	8350	SEACLIFF
Other	8351	ERTA
Other	8362	CAMP_EVERS

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Other	8369	ROB_ROY
Other	8375	ROLAND
Other	8882	COAST_RD.
Other	8887	QUARRY_RD.
Other	10132	PIT_NO_5
Other	10202	CENTERVILLE
Other	10204	NOTRE_DAME
Other	10205	CHICO_A
Other	10211	CAPAY
Other	10212	HAMILTON_A
Other	10217	ESQUON
Other	10221	BUCKS_CREEK
Other	10236	HAMILTON_BRANCH
Other	10249	CHICO_B
Other	10252	OROVILLE
Other	10253	GRAYS_FLAT
Other	10254	VOLTA
Other	10255	EAST_QUINCY
Other	10260	GLENN
Other	10265	CHICO_C
Other	10270	ORLAND_B
Other	10274	WILLOWS_A
Other	10278	ELK_CREEK
Other	10281	BIG_MEADOWS
Other	10283	PARADISE
Other	10284	ANITA
Other	10285	JACINTO
Other	10291	WYANDOTTE
Other	10293	COTTONWOOD
Other	10294	DAYTON_ROAD
Other	10297	SYCAMORE_CREEK
Other	10302	GANSNER
Other	10303	ORO_FINO
Other	10307	NORD
Other	10308	BUTTE
Other	10309	CLARK_ROAD
Other	10310	SPANISH_CREEK
Other	10313	CRESCENT_MILLS
Other	10314	LOGAN_CREEK
Other	10318	CHESTER
Other	10319	BANGOR
Other	10320	CHALLENGE
Other	10321	HONCUT

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Other	10322	KANAKA
Other	10324	PEACHTON
Other	10325	TRES_VIAS
Other	10326	ANDERSON
Other	10327	ANTLER
Other	10330	BOGARD
Other	10331	BURNEY
Other	10332	CEDAR_CREEK
Other	10333	CORNING
Other	10334	DAIRYVILLE
Other	10335	DESCHUTES
Other	10338	FRENCH_GULCH
Other	10339	GERBER
Other	10340	GIRVAN
Other	10344	JESSUP
Other	10345	KESWICK
Other	10346	PANORAMA
Other	10348	LOS_MOLINOS
Other	10349	MC_ARTHUR
Other	10350	PIT_NO_7
Other	10352	OREGON_TRAIL
Other	10353	RAWSON
Other	10354	RED_BLUFF
Other	10355	RISING_RIVER
Other	10356	STILLWATER
Other	10357	TYLER
Other	10358	VINA
Other	10360	WHITMORE
Other	10361	WILDWOOD
Other	10372	PIT_NO_1
Other	10373	PIT_NO_3
Other	16267	WESTLEY
Other	16274	NEWMAN
Other	16283	SPRING_GAP
Other	16298	VALLEY_HOME
Other	16311	GUSTINE
Other	16316	PINECREST
Other	16319	RIVERBANK
Other	16324	TAR_FLAT
Other	16325	CROWS_LANDING
Other	16335	CURTIS
Other	16366	MIWUK
Other	16371	COTTLE

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Other	16376	RACETRACK
Other	16378	PEORIA FLAT
Other	18201	SALINAS
Other	18203	KING_CITY
Other	18204	CARMEL
Other	18205	SOLEDAD
Other	18206	FAIRWAY
Other	18207	CAMPORA
Other	18208	LOS_OSITOS
Other	18209	MONTEREY
Other	18213	GONZALES
Other	18215	LOS_COCHES
Other	18219	SAN_ARDO
Other	18220	SPENCE
Other	18222	DEL_MONTE
Other	18226	BUENA_VISTA
Other	18229	HATTON
Other	18230	INDUSTRIAL_ACRES
Other	18233	GABILAN
Other	18235	CASTROVILLE
Other	18237	LAURELES
Other	18238	DOLAN_ROAD
Other	18239	OILFIELDS
Other	18240	FORT_ORD
Other	18244	PACIFIC_GROVE
Other	18246	BORONDA
Other	18249	HOLLISTER
Other	18254	ATASCADERO
Other	18255	CAYUCOS
Other	18256	CHOLAME
Other	18257	DIVIDE
Other	18258	GOLDTREE
Other	18260	OCEANO
Other	18261	PASO_ROBLES
Other	18263	SAN_LUIS_OBISPO
Other	18266	SAN_MIGUEL
Other	18267	SANTA_MARIA
Other	18268	ZACA
Other	18272	SANTA_YNEZ
Other	18273	RESERVATION_ROAD
Other	18274	SAN_BENITO
Other	18277	CAMBRIA
Other	18280	BAYWOOD

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Other	18281	SISQUOC
Other	18282	MESA
Other	18285	VIEJO
Other	18294	OTTER
Other	18295	FOOTHILL
Other	18296	PRUNEDALE
Other	18297	PURISIMA
Other	18298	JOLON
Other	18301	MORRO_BAY
Other	18303	PALMER
Other	18304	BUELLTON
Other	18305	TEMPLETON
Other	18307	PERRY
Other	18310	CABRILLO
Other	25151	WISHON
Other	25209	CANAL
Other	25219	BEAR_VALLEY
Other	25226	LIVINGSTON
Other	25231	MENDOTA
Other	25242	DAIRYLAND
Other	25245	EL_NIDO
Other	25252	SAN_JOAQUIN_#2_PH
Other	25253	SAN_JOAQUIN_#3_PH
Other	25269	INDIAN_FLAT
Other	25276	MADERA
Other	25280	MERCED
Other	25281	MERCED_FALLS
Other	25340	HAMMONDS
Other	25347	FIREBAUGH
Other	25354	SANTA_RITA
Other	25361	ATWATER
Other	25388	EL_CAPITAN
Other	25398	EL_PECO
Other	25404	DOS_PALOS
Other	25405	SANTA_NELLA
Other	25410	CHOWCHILLA
Other	25427	CASSIDY
Other	25430	WILSON
Other	25431	ORTIGA
Other	25442	OAKHURST
Other	25443	COARSEGOLD
Other	25445	MARIPOSA
Other	25446	NEWHALL

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Other	25461	STOREY
Other	25464	WRIGHT
Other	25470	CRESSEY
Other	25490	GALLO
Other	25512	BORDEN
Other	25536	LE_GRAND
Other	25537	ORO_LOMA
Other	25539	BONITA
Other	25885	SO._CAL._EDISON_#2
Other	25886	SO._CAL._EDISON_#3
Sierra	15201	MARYSVILLE
Sierra	15203	GRASS_VALLEY
Sierra	15206	ROCKLIN
Sierra	15210	ALLEGHANY
Sierra	15211	BARRY
Sierra	15215	EAST_NICOLAUS
Sierra	15216	AUBURN
Sierra	15218	FORESTHILL
Sierra	15220	PIKE_CITY
Sierra	15224	HALSEY
Sierra	15225	SPAULDING
Sierra	15226	DIAMOND_SPRINGS
Sierra	15227	WISE
Sierra	15228	MOUNTAIN_QUARRIES
Sierra	15229	TAMARACK
Sierra	15230	BONNIE_NOOK
Sierra	15232	DRUM
Sierra	15233	EAST_MARYSVILLE
Sierra	15243	SHADY_GLEN
Sierra	15244	PLEASANT_GROVE
Sierra	15246	PLACER
Sierra	15247	COLUMBIA_HILL
Sierra	15248	BRUNSWICK
Sierra	15249	WEIMAR
Sierra	15253	FLINT
Sierra	15256	PENRYN
Sierra	15257	HORSESHOE
Sierra	15258	DEL_MAR
Sierra	15259	SUMMIT
Sierra	15269	HIGGINS
Sierra	15270	BELL
Sierra	15276	EL_DORADO_PH
Sierra	15281	WHEATLAND

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Sierra		15285 HARTER
Sierra		15290 OLIVEHURST
Sierra		15292 BROWNS_VALLEY
Sierra		15308 PLACERVILLE
Sierra		15313 NARROWS
Sierra		15361 CLARKSVILLE
Sierra		15365 SHINGLE_SPRINGS
Sierra		15366 APPLE_HILL
Sierra		15370 LINCOLN
Sierra		15371 TUDOR
Sierra		15373 PLUMAS
Sierra		15374 DOBBINS
Sierra		15375 PEASE
Sierra		15376 CATLETT
Sierra		15377 LIVE_OAK
Sierra		15378 BOGUE
Sierra		15379 SMARTVILLE
Sierra		15803 ECHO_SUMMIT
Stockton		16138 TIGER_CREEK
Stockton		16207 LINDEN
Stockton		16208 NEW_HOPE
Stockton		16209 MIDDLE_RIVER
Stockton		16211 LODI
Stockton		16216 ELECTRA
Stockton		16221 CALAVERAS_CEMENT
Stockton		16223 COLONY
Stockton		16230 MONARCH
Stockton		16237 STOCKTON_A
Stockton		16242 STAGG
Stockton		16247 BANTA
Stockton		16261 MANTECA
Stockton		16270 VIERRA
Stockton		16277 LAMMERS
Stockton		16282 STANISLAUS
Stockton		16288 TRACY
Stockton		16299 CORRAL
Stockton		16301 MARTELL
Stockton		16302 TERMINOUS
Stockton		16307 CHANNEL
Stockton		16308 ROUGH_AND_READY_ISL
Stockton		16309 CARBONA
Stockton		16312 COUNTRY_CLUB
Stockton		16313 EAST_STOCKTON

TABLE 1.1(b) (CONT'D)

Local Capacity Area	Substation_cd	Substation Description
Stockton		16315 WATERLOO
Stockton		16320 WEST_POINT
Stockton		16321 MORMON
Stockton		16322 STOCKTON_ACRES
Stockton		16323 NORTH_BRANCH
Stockton		16327 OAK_PARK
Stockton		16328 VICTOR
Stockton		16329 FRENCH_CAMP
Stockton		16330 HAMMER
Stockton		16331 HARDING
Stockton		16334 CLAY
Stockton		16345 FROGTOWN
Stockton		16348 WEBER
Stockton		16354 OLETA
Stockton		16356 ALPINE
Stockton		16357 AVENA
Stockton		16362 WEST_LANE
Stockton		16365 CHEROKEE
Stockton		16368 LOCKEFORD
Stockton		16369 SALT_SPRINGS
Stockton		16370 METTLER
Stockton		16372 MOSHER
Stockton		16374 HERDLYN
Stockton		16375 PINE_GROVE
Stockton		16380 RIPON
Stockton		16388 IONE
Stockton		16391 EIGHT_MILE
Stockton		16888 TOKAY

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Style change	
Format change	
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Inserted cell	
Deleted cell	
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Insertions	66
Deletions	65
Moved from	1
Moved to	1
Style change	0
Format changed	0
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General Order 96-B, Section IV**

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Braun Blaising McLaughlin, P.C.	Goodin, MacBride, Squeri, Schlotz & Ritchie	San Francisco Water Power and Sewer
CENERGY POWER	Green Charge Networks	Seattle City Light
CPUC	Green Power Institute	Sempra Energy (Socal Gas)
CalCom Solar	Hanna & Morton	Sempra Utilities
California Cotton Ginners & Growers Assn	ICF	SoCalGas
California Energy Commission	International Power Technology	Southern California Edison Company
California Public Utilities Commission	Intestate Gas Services, Inc.	Southern California Gas Company (SoCalGas)
California State Association of Counties	Kelly Group	Spark Energy
Calpine	Ken Bohn Consulting	Sun Light & Power
Casner, Steve	Leviton Manufacturing Co., Inc.	Sunshine Design
Center for Biological Diversity	Linde	Tecogen, Inc.
City of Palo Alto	Los Angeles County Integrated Waste Management Task Force	TerraVerde Renewable Partners
City of San Jose	Los Angeles Dept of Water & Power	TerraVerde Renewable Partners, LLC
Clean Power	MRW & Associates	Tiger Natural Gas, Inc.
Clean Power Research	Manatt Phelps Phillips	TransCanada
Coast Economic Consulting	Marin Energy Authority	Troutman Sanders LLP
Commercial Energy	McKenna Long & Aldridge LLP	Utility Cost Management
Cool Earth Solar, Inc.	McKenzie & Associates	Utility Power Solutions
County of Tehama - Department of Public Works	Modesto Irrigation District	Utility Specialists
Crossborder Energy	Morgan Stanley	Verizon
Crown Road Energy, LLC	NLine Energy, Inc.	Water and Energy Consulting
Davis Wright Tremaine LLP	NRG Solar	Wellhead Electric Company
Day Carter Murphy	Nexant, Inc.	Western Manufactured Housing Communities Association (WMA)
Defense Energy Support Center	ORA	YEP Energy
Dept of General Services	Office of Ratepayer Advocates	Yelp Energy