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January 18, 2012

Mr. Honesto Gatchalian
Ms. Maria Salinas
CPUC Energy Division
Tariff Files, Room 4005
DMS Branch
505 Van Ness Avenue
San Francisco, California 94102

RE: Protest to PG&E Advice Letter 3983-E

Dear Mr. Gatchalian and Ms. Salinas:

On December 29, 2011, PG&E filed its advice letter 3983-E in compliance with Ordering Paragraphs 14, 15, 16 and 32 of California Public Utilities Commission's ("Commission") Decision ("D.") 11-12-018 with regard to the ESP Financial Security Requirement ("FSR"). PG&E Advice 3983-E is entitled "Revisions to Electric Rule 22 – Direct Access and the Submittal of Electric Service Provider (ESP) Financial Security Requirements in Compliance With Decision (D.) 11-12-018."

The advice letter notes that, "PG&E is submitting revisions to its electric Rule 22, Direct Access, to incorporate the Electric Service Provider (ESP) financial security provisions and re-entry fee provisions applicable to the involuntary return of direct access (DA) customers, and its calculation of the financial security requirements for the ESPs serving customers within its service territory." The following limited protest to the PG&E advice letter is offered by the Alliance for Retail Energy Markets,¹ the Direct Access Customer Coalition,² the Retail Energy

¹ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California's direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

² DACC is a regulatory alliance of commercial, industrial and governmental customers who have opted for direct access for some or all of their loads.

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Supply Association,³ the Energy Users Forum⁴ and the School Project for Utility Rate Reduction⁵ (“Joint Protestors”). The advice letter contains multiple revisions to Rule 22 to implement the new requirements pertaining to the FSR. In general, the revisions proposed by PG&E are appropriate. However, the utility does not adequately address the small commercial customer issue in its proposed tariff revisions. Specifically, D.11-12-018 postponed a decision on the FSR that would be applicable to ESPs serving residential and small commercial customers. However, the decision makes it very clear that the FSR approved for ESPs did not apply to small commercial load that was affiliated with the load of large commercial or industrial customers:

However, we also determine that the re-entry fee and ESP financial security requirements for involuntarily returned small commercial and residential DA customers should include a provision to cover their incremental procurement costs. For this purpose, we intend to limit this latter requirement to exclude small commercial DA customers that are affiliated with a large DA customer. We defer to the next phase of this proceeding the specific process by which to define small commercial customers for purposes of calculating the ESP financial security requirement.⁶

PG&E makes this point in the advice letter,⁷ but neglects to include this distinction in its proposed tariff revisions. The Joint Protestors therefore recommend that the following modification be made to PG&E proposed new language in Section Q of Rule 22:

³ RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

⁴ EUF is an ad hoc association of medium and large commercial and industrial customers with accounts behind all three California Investor-Owned Utilities and most California municipal utilities.

⁵ SPURR is a joint powers authority, a membership organization that aggregates utilities services purchasing power and expertise for over 200 California public K-12 school districts, county offices of education, and community college districts.

⁶ D.11-12-018, at pp. 3-4 (emphasis added). See also pp. 69-70, Findings of Fact 27, 47 and 48 and Conclusion of Law 11.

⁷ PG&E states, “In D.11-12-018, the Commission concluded that re-entry fees and rate treatment for large and small customers would differ.” Advice Letter, at p. 2.

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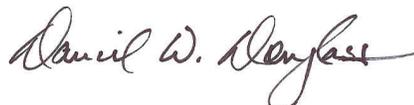
Q. ESP FINANCIAL SECURITY REQUIREMENTS

As a described in Section D.3, all new and existing ESPs are required to post a bond or demonstrate insurance sufficient to cover the re-entry fees associated with the involuntary return of its DA customers to PG&E's bundled service. The calculated bond amount will include the administrative costs related to switching a customer back to bundled service, and, subject to CPUC approval of a calculation methodology in a subsequent proceeding, the incremental procurement costs for involuntarily returned residential and small commercial customers accounts that are not affiliated with a large DA customer for a safe harbor period and then for an additional six-month period for those customers remaining on bundled service.

In the Draft Resolution to be issued in response to this advice letter, PG&E should be directed to make the change recommended above. Such a change would reflect the clear direction in D.11-12-018 and avoid any possible confusion that might be caused in the future for parties unfamiliar with the full regulatory history attendant to this issue. Furthermore, the recommended change would not in any way predispose of issues that are to be considered in the next phase of R.07-05-025, as directed in D.11-12-018.

The Joint Protestors thank the Energy Division for its attention to this request.

Respectfully submitted,



Daniel W. Douglass
DOUGLASS & LIDDELL

Counsel for the
ALLIANCE FOR RETAIL ENERGY MARKETS
DIRECT ACCESS CUSTOMER COALITION

AND ON BEHALF OF THE JOINT PROTESTORS

cc: Director, Energy Division, Room 4004
Brian K. Cherry, Vice President, Regulation and Rates
Pacific Gas and Electric Company