

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

September 19, 2023

Advice Letter 6980-ESidney Bob Dietz II
Director, Regulatory Relations
Pacific Gas and Electric Company
300 Lakeside Drive
Oakland, California 94612**SUBJECT: Advice Letter 6980-E – Submission of Draft Non-Disclosure Agreement Pursuant to Resolution E-5252**

Dear Mr. Dietz,

Energy Division is in receipt of Advice Letter 6980-E, which pertains to the Submission of Draft Non-Disclosure Agreement Pursuant to Resolution E-5252. Commission Resolution E-5252 (“Resolution”) directs Energy Division to review the draft Non-Disclosure Agreement (“NDA”) for the Transmission Project Review Process (“TPR Process”) and approve the final Non-Disclosure Agreement¹. The CPUC approves this Advice Letter, with modifications to the NDA, effective on the date of this letter.

BACKGROUND

On July 7, 2023, PG&E filed a draft NDA with Energy Division pursuant to the Resolution, seeking approval of its use in the TPR Process for providing stakeholders with access to confidential and/or certain critical energy infrastructure information (“CEII”). PG&E requested that the effective date be August 6, 2023, 30 calendar days after the date of submittal.

PG&E, Southern California Edison Company, and San Diego Gas & Electric Company developed a common proposed draft NDA for the TPR Process. Pursuant to Ordering Paragraph 3 of the Resolution, PG&E’s draft NDA for use in the TPR Process was provided as Attachment 1 to its advice letter.²

DISCUSSION

Access to Confidential Materials will be limited pursuant to Paragraph 6 of the NDA, which states that a Reviewing Representative will not be permitted to have access to Confidential Materials unless that representative has executed a Non-Disclosure Certificate.³ The IOU shall maintain a list of all Participants and their contact information.⁴ Even if no longer engaged in the TPR Process, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Agreement and the certification.⁵

The CPUC approves the final NDA incorporating the baseline showing requirements set forth in CPUC General Order 66-D into the definition of Confidential Materials in paragraph 2(b). This addition to the draft NDA is consistent with the baseline requirements governing confidential treatment of CEII outside of

¹ Resolution E-5252 at 43, Ordering Paragraph 3.

² PG&E Advice 6980-E page 1, paragraph 4.

³ Final NDA at paragraph 6.

⁴ *Id.*

⁵ *Id.* at paragraph 8.

a formal CPUC proceedings.⁶

Resolution E-5252 requires a signed NDA to access confidential data in the TPR Process.⁷ Pursuant to the final NDA:

A Participant producing the Confidential Materials shall physically mark them on each page as “CONFIDENTIAL MATERIAL,” or with words of similar import, to indicate that they are Confidential Materials. This Agreement applies to the following two categories of Confidential Materials:

- Materials that customarily are treated by the Participant as sensitive, private, proprietary, or otherwise confidential, that are not available to the public, and that, if disclosed, would subject that Participant and/or its customers to a risk of competitive disadvantage, breach of confidentiality requirements or commitments, or other potential business injury.
- Materials that contain critical energy infrastructure information, as defined in 18 C.F.R § 388.113(c)(1) (“Critical Energy Infrastructure Information”), or successor regulation *and can satisfy the baseline showing requirements for Critical Infrastructure Confidentiality Claims set forth in CPUC General Order 66-D, or successor regulation.*⁸

Finally, an addition to paragraph 10 in the Final NDA is consistent with CPUC’s practice regarding the burden of establishing confidentiality.⁹

Nothing in this Agreement precludes a Participant from challenging the designation of any material as Confidential Materials. *In the event a Participant Stakeholder in the TPR Process challenges the designation of Confidential Materials or the improper redaction thereof in the dispute resolution process outlined in section 6 of the TPR Process Description in Attachment A to Resolution E-5252, the Participant requesting confidential treatment bears the burden of proving why any particular data, document, or portion of a document, must or should be designated confidential and redacted in the manner proposed.*¹⁰

DISPOSITION

Energy Division approves Advice Letter 6980-E effective on the date of this letter, with the modifications to the Non-Disclosure Agreement reflected in Attachment 1 to this letter.

Kindly,



Leuwam Tesfai
Deputy Executive Director for Energy and Climate Policy/
Director, Energy Division
California Public Utilities Commission

cc: PG&E Tariff Unit (PGETariffs@pge.com)
ED Tariff Unit (EDTariffUnit@cpuc.ca.gov)

⁶ General Order 66-D.

⁷ *Id.* at 15, 42-43; Attachment A, provision 2.1.8.

⁸ Final NDA at paragraph 2. (Emphasis added for new text included in the final NDA.)

⁹ See General Order 96-B, general rule 10.

¹⁰ *Id.* at paragraph 10. (Emphasis added for new text included in the final NDA.)



July 7, 2023

Advice 6980-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Submission of Draft Non-Disclosure Agreement Pursuant to Resolution E-5252

Purpose

Pursuant to Ordering Paragraph (“OP”) 3 of Resolution E-5252 (“Resolution”), Pacific Gas and Electric Company (“PG&E”) hereby seeks approval of the draft non-disclosure agreement (“NDA”) to be used in the Transmission Project Review Process (“TPR Process”) for providing stakeholders with access to confidential and/or certain critical energy infrastructure information (“CEII”).

Background

On April 27, 2023, the California Public Utilities Commission (“Commission” or “CPUC”) adopted the Resolution, establishing the TPR Process effective January 1, 2024.

OP 3 of the Resolution requires that “Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall each file via Tier 2 Advice Letter, for review and approval by Energy Division, a draft Non-disclosure Agreement to be used in the Transmission Project Review Process” by no later than July 11, 2023.

Draft Non-Disclosure Agreement

PG&E, Southern California Edison Company, and San Diego Gas & Electric Company worked together to develop a common non-disclosure agreement for the TPR Process. The utilities started with the non-disclosure agreement approved by the Federal Energy Regulatory Commission as a part of PG&E’s Stakeholder Transmission Asset Review (“STAR”) Process and modified that agreement so that it was a consistent template for all three utilities. Pursuant to OP 3, PG&E’s draft NDA for use in the TPR Process is provided as Attachment 1 to this advice letter.

Protests

Anyone wishing to protest this submittal may do so by letter sent electronically via e-mail, no later than July 27, 2023, which is 20 days after the date of this submittal. Protests must be submitted to:

CPUC Energy Division
ED Tariff Unit
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) at the address shown below on the same date it is mailed or delivered to the Commission:

Sidney Bob Dietz II
Director, Regulatory Relations
c/o Megan Lawson
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

Effective Date

Pursuant to General Order (GO) 96-B, Rule 5.2, and OP 3 of the Resolution, this advice letter is submitted with a Tier 2 designation. PG&E requests that this Tier 2 advice submittal become effective on regular notice, August 6, 2023, which is 30 calendar days after the date of submittal.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list and the parties on the service lists for A.19-08-013, A.21-06-021, A.22-05-016, I.00-11-001, R.20-05-003, and R.20-07-013. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com.



ADVICE LETTER SUMMARY

ENERGY UTILITY



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

Company name/CPUC Utility No.: Pacific Gas and Electric Company (ID U39 E)

Utility type:

- ELC GAS WATER
 PLC HEAT

Contact Person: Kimberly Loo

Phone #: (279)789-6209

E-mail: PGETariffs@pge.com

E-mail Disposition Notice to: KELM@pge.com

EXPLANATION OF UTILITY TYPE

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

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 6980-E

Tier Designation: 2

Subject of AL: Submission of Draft Non-Disclosure Agreement Pursuant to Resolution E-5252

Keywords (choose from CPUC listing): Compliance

AL Type: Monthly Quarterly Annual One-Time Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #: E-5252

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

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

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? Yes No

Requested effective date: 8/6/23

No. of tariff sheets: 0

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

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: N/A

Service affected and changes proposed¹: N/A

Pending advice letters that revise the same tariff sheets: N/A

¹Discuss in AL if more space is needed.

Protests and correspondence regarding this AL are to be sent via email and are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

California Public Utilities Commission
Energy Division Tariff Unit Email:
EDTariffUnit@cpuc.ca.gov

Contact Name: Sidnev Bob Dietz II. c/o Megan Lawson
Title: Director, Regulatory Relations
Utility/Entity Name: Pacific Gas and Electric Company

Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email: PGETariffs@pge.com

Contact Name:
Title:
Utility/Entity Name:

Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

CPUC
Energy Division Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

Clear Form

Attachment 1

Draft Non-Disclosure Agreement

TRANSMISSION PROJECT REVIEW PROCESS NON-DISCLOSURE AGREEMENT

1. This Non-Disclosure Agreement (“Agreement”) shall govern the use of all Confidential Materials produced between and among [add utility name] and [add stakeholder name] pursuant to the Transmission Project Review Process (“TPR Process”) approved by the California Public Utilities Commission (“CPUC”) in Resolution E-5252. This Agreement shall remain in effect until all Confidential Materials are returned to the producing Participant or destroyed by the receiving Participant.
2. A Participant producing the Confidential Materials shall physically mark them on each page as “CONFIDENTIAL MATERIAL,” or with words of similar import, to indicate that they are Confidential Materials. This Agreement applies to the following two categories of Confidential Materials:
 - (a) Materials that customarily are treated by the Participant as sensitive, private, proprietary or otherwise confidential, that are not available to the public, and that, if disclosed, would subject that Participant and/or its customers to a risk of competitive disadvantage, breach of confidentiality requirements or commitments, or other potential business injury.
 - (b) Materials that contain critical energy infrastructure information, as defined in 18 C.F.R § 388.113(c)(1) (“Critical Energy Infrastructure Information”), or successor regulation.
3. For purposes of this Agreement, the following words or phrases shall have the following meanings:
 - (a) “Non-Disclosure Certificate” means the certificate annexed hereto by which Participants who have been granted access to Confidential Materials shall certify their understanding that such access to Confidential Materials is provided pursuant to the terms and restrictions of this Agreement, and that such Participants have read the Agreement and agree to be bound by it.
 - (b) “Participant” means [utility name] and/or [stakeholder name].
 - (c) “Confidential Materials” mean any of the following:
 - (1) Materials provided by a Participant pursuant to the TPR Process and designated by the producing Participant as Confidential Materials in accordance with Paragraph 2.
 - (2) Any information contained in or obtained from such designated Confidential Materials.
 - (3) Notes of Confidential Materials.
 - (4) Copies of Confidential Materials.

- (d) “Notes of Confidential Materials” means memoranda, handwritten notes, or any other form of information (including an electronic form) that copies or discloses Confidential Materials described in Paragraph 3(c)(1).
 - (e) “Confidential Materials” do not include any of the following:
 - (1) Any information or document that has been filed with and accepted into the public files of the California Public Utilities Commission or is contained in the public files of any other federal agency, state agency, federal court, or state court, unless the information or document has been determined to be protected by such agency or court.
 - (2) Information that is public knowledge or that becomes public knowledge, other than through disclosure in violation of this Agreement.
 - (f) “Confidential Materials” include any information or document contained in the files of FERC that has been designated by FERC as Critical Energy Infrastructure Information.
 - (g) “Reviewing Representative” means a person who has signed a Non-Disclosure Certificate or who may otherwise review Confidential Materials pursuant to Section 6 below.
4. Access to Confidential Materials shall be limited pursuant to Paragraph 6. Confidential Materials shall be treated as confidential by each Participant. However, Reviewing Representatives may make copies of Confidential Materials and may make notes of Confidential Materials. Confidential Materials, including, without limitation, any information that can reasonably be used to identify an individual, consumer, family, household, residence or non-residential customer, shall be maintained in a secure place and protected by each Participant using reasonable security procedures and practices to protect such information from unauthorized access, use, modification or disclosure, including, without limitation, encryption of the Confidential Materials, password-protected workstations, and documented training of all persons with access to the Confidential Materials. Under no circumstances shall any Participant receiving Confidential Materials sell or obtain any consideration for transfer of the Confidential Materials to any third party.
5. If a Reviewing Representative’s scope of employment includes the marketing of energy, the direct supervision of any employee or employees whose duties include the marketing of energy, the provision of consulting services to any person whose duties include the marketing of energy, or the direct supervision of any employee or employees whose duties include the marketing of energy, that Reviewing Representative shall not use information contained in any Confidential Materials obtained under this Agreement to give any Participant or any competitor of any Participant a commercial advantage.
6. Except as provided in Paragraph 7, a Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Confidential Materials pursuant to this Agreement unless that Reviewing Representative has first executed a Non-Disclosure Certificate. A copy of each executed Non-Disclosure Certificate shall be provided to

counsel for the Participant asserting confidentiality prior to disclosure of any Confidential Material to that Reviewing Representative. [Utility] shall maintain a list of all Participants and their contact information.

7. If an attorney qualified as a Reviewing Representative has executed a Non-Disclosure Certificate, the paralegals, secretaries, and clerical personnel under the attorney's supervision or control do not need to execute a Non-Disclosure Certificate. Attorneys qualified as Reviewing Representatives are responsible for ensuring that such persons under their supervision or control comply with this Agreement.
8. Any Reviewing Representative may disclose Confidential Materials to any other Reviewing Representative if the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. If any Reviewing Representative to whom Confidential Materials are disclosed ceases to be engaged in the TRP Process, access to Confidential Materials by that person shall be terminated. Even if no longer engaged in the TPR Process, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Agreement and the certification.
9. No Participant waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Confidential Materials.
10. Nothing in this Agreement precludes a Participant from challenging the designation of any material as Confidential Materials.
11. This Agreement shall be governed and construed according to the laws of the State of California. Participants agree to comply with all federal, state, and local laws governing the protection of the Confidential Materials and all applicable laws, rules, and regulations protecting consumer privacy, including, without limitation, the California Consumer Privacy Act.

[Add utility signature information]

[Add stakeholder signature information]

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Confidential Materials is provided to me pursuant to the terms and restrictions of the Non-Disclosure Agreement in this proceeding, that I have been given a copy of and have read the Non-Disclosure Agreement, and that I agree to be bound by it. I understand that the contents of the Confidential Materials, any notes or other memoranda, or any other form of information that copies or discloses Confidential Materials, shall not be disclosed to anyone other than in accordance with that Non-Disclosure Agreement.

By: _____

Printed Name: _____

Title: _____

Representing: _____

Date: _____

Email: _____

**PG&E Gas and Electric
Advice Submittal List
General Order 96-B, Section IV**

AT&T
Albion Power Company

Alta Power Group, LLC
Anderson & Poole

Atlas ReFuel
BART

Barkovich & Yap, Inc.
Braun Blaising Smith Wynne, P.C.
California Community Choice Association
California Cotton Ginners & Growers Assn
California Energy Commission

California Hub for Energy Efficiency
Financing

California Alternative Energy and
Advanced Transportation Financing
Authority
California Public Utilities Commission
Calpine

Cameron-Daniel, P.C.
Casner, Steve
Center for Biological Diversity

Chevron Pipeline and Power
City of Palo Alto

City of San Jose
Clean Power Research
Coast Economic Consulting
Commercial Energy
Crossborder Energy
Crown Road Energy, LLC
Davis Wright Tremaine LLP
Day Carter Murphy

Dept of General Services
Don Pickett & Associates, Inc.
Douglass & Liddell
Downey Brand LLP
Dish Wireless L.L.C.

East Bay Community Energy Ellison
Schneider & Harris LLP
Engineers and Scientists of California

GenOn Energy, Inc.
Green Power Institute
Hanna & Morton
ICF

iCommLaw
International Power Technology
Intertie

Intestate Gas Services, Inc.

Johnston, Kevin
Kelly Group
Ken Bohn Consulting
Keyes & Fox LLP
Leviton Manufacturing Co., Inc.

Los Angeles County Integrated
Waste Management Task Force
MRW & Associates
Manatt Phelps Phillips
Marin Energy Authority
McClintock IP
McKenzie & Associates

Modesto Irrigation District
NLine Energy, Inc.
NRG Solar

OnGrid Solar
Pacific Gas and Electric Company
Peninsula Clean Energy

Pioneer Community Energy

Public Advocates Office

Redwood Coast Energy Authority
Regulatory & Cogeneration Service, Inc.

Resource Innovations

SCD Energy Solutions
San Diego Gas & Electric Company

SPURR
San Francisco Water Power and Sewer
Sempra Utilities

Sierra Telephone Company, Inc.
Southern California Edison Company
Southern California Gas Company
Spark Energy
Sun Light & Power
Sunshine Design
Stoel Rives LLP

Tecogen, Inc.
TerraVerde Renewable Partners
Tiger Natural Gas, Inc.

TransCanada
Utility Cost Management
Utility Power Solutions
Water and Energy Consulting Wellhead
Electric Company
Western Manufactured Housing
Communities Association (WMA)
Yep Energy