

## SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("Agreement" or "Release"), dated February 20, 2015, is made by and between the City and County of San Francisco, a municipal corporation (the "City"), acting by and through the San Francisco Public Utilities Commission ("SFPUC"), and Pacific Gas and Electric Company ("PG&E"), a California corporation. The City and PG&E are sometimes referred to in this Agreement as the "Parties."

### RECITALS

This Agreement is made with regard to the following facts, intentions and understandings:

A. The City filed a complaint in the Superior Court of San Francisco, entitled *City and County of San Francisco v. Pacific Gas and Electric Company*, Case No. CGC-13-529309, in which the City alleges that PG&E failed to pay certain franchise fees that were due and owing the City based on PG&E's gross annual receipts from the sale of electricity within San Francisco, pursuant to Ordinance No. 414, an Electric Franchise Agreement with PG&E, and seeks recovery of those franchise fees with interest, including interest arising pursuant to San Francisco Administrative Code, Chapter 11, section 11.27 ("City's Action").

B. PG&E denies any liability to the City for the matters alleged in the City's Action and denies that it would have been found liable for such additional annual franchise fees or interest had the matter gone to trial.

C. PG&E filed a complaint in the Superior Court of San Francisco, entitled *Pacific Gas and Electric Company v. City and County of San Francisco*, Case No. CGC-07-470086, in which PG&E alleges that the City breached the parties' 1987 Interconnection Agreement ("IA") and 1997 Master Settlement Agreement ("MSA") by requiring PG&E to transmit and deliver electricity to the Ferry Building for service to the City as municipal load, and seeks recovery of damages and interest on those damages ("PG&E's Action"). PG&E also sought declaratory relief which was granted by order dated July 16, 2009. The California Court of Appeal decision (206 Cal.App.4th 897) affirmed the July 16, 2009 order that granted declaratory relief for PG&E and remanded PG&E's claim for damages for breach of contract for a new trial.

D. The City denies any liability to PG&E for the matters alleged in PG&E's Action and denies that it would be found liable in damages to PG&E had that matter gone to trial on the breach of contract claim remanded by the Court of Appeal.

NOW, therefore, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the promises and mutual covenants contained in this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and PG&E agree as follows:

1. **Settlement of the City's Action.** In full and complete settlement of the City's Action, the Parties agree to each of the following:

the Ferry Building, once service under the WDT begins ("NBC Disputes"). The Parties preserve their claims concerning the NBC Disputes and defer resolution of those claims to future negotiations or other determination.

e. PG&E will not assert that the City's existing intervening facilities at the Ferry Building do not satisfy the requirements of either section 212(h) of the Federal Power Act or PG&E's WDT.

f. The City will not assert that the Court of Appeal's decision (206 Cal.App.4th 897) is invalidated, in whole or in part, by this Agreement.

**3. Payment of Compensation Due.** In the interest of efficiency, the SFPUC will make a payment in the amount of \$1,563,963.29 to the General Fund of the City and County of San Francisco. The Parties agree that the SFPUC's payment to the General Fund will fully satisfy each Party's financial obligation under this Agreement.

**4. General Release of Claims.**

a. In consideration of the settlement of the City's Action and PG&E's Action, and in consideration of the covenants, promises, terms and conditions herein, each Party, on behalf of itself and all of its representatives, officers, employees, attorneys, agents and assigns, hereby releases and forever discharges the other Party to this Agreement, including its representatives, officers, employees, attorneys, agents and assigns, of and from all claims, demands, controversies, actions, causes of action, obligations, damages, liabilities, costs, (including attorneys' fees) that arise or may arise out of the City's Action and PG&E's Action. This Release is limited to the Parties' disputes as alleged in both the City's Action and PG&E's Action, and has no effect on the rights and liabilities of the Parties at issue in any other litigation, including the City's claims in the City's complaint in the Superior Court of San Francisco entitled *City and County of San Francisco v. Pacific Gas and Electric Company*, Case No. CGC-13-529310.

b. In regard to the released matters, the City and PG&E knowingly, voluntarily, and unconditionally waive the provisions of Section 1542 of the Civil Code of the State of California, which provides:

**"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."**

c. This Release is the result of a compromise between the Parties and it will never at any time or for any purpose be considered an admission of liability, fault and/or responsibility, waiver, or acquiescence by the City or PG&E, nor will the payment or

b. Subject to the requirements of Section 7 above, the City represents and warrants that the persons signing this Agreement on behalf of the City have the power and authority to bind the City to the terms and conditions contained herein.

**10. Miscellaneous.**

a. This Agreement may be modified only in writing and by mutual consent of both parties.

b. Except as set forth in Section 7 above, this Agreement shall become effective when signed by the authorized representatives of the City and PG&E.

c. This Agreement shall be governed by the applicable laws of California.

d. There are no intended third party beneficiaries of this Agreement. The Parties acknowledge and agree that this Agreement is entered into for their benefit and not for the benefit of any other party.

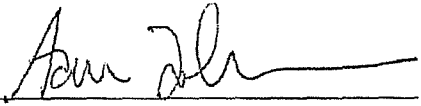
e. This Agreement contains the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this Agreement.

f. This Agreement may be executed in multiple counterparts and signatures may be exchanged by facsimile or electronically, each of which shall be deemed to be an original document, and all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

PACIFIC GAS AND ELECTRIC COMPANY CITY AND COUNTY OF SAN FRANCISCO  
A California corporation

Recommended:

By: 

AARON JOHNSON

Senior Director of ~~Customer Programs~~ <sup>(#3)</sup>  
*Customer Energy Solutions*

By: \_\_\_\_\_

MICHAEL CARLIN

Deputy General Manager and Chief Operating Officer  
San Francisco Public Utilities Commission

By: \_\_\_\_\_

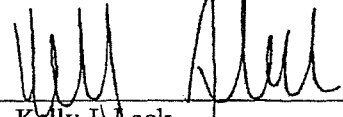
ALBERT TORRES  
Vice President  
Customer Operations

DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_

William K. Sanders  
Deputy City Attorney

APPROVED AS TO FORM:

By:   
Kelly J. Lack  
Attorney