

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

Petition of the Western Manufactured Housing
Communities Association to Adopt, Amend, or Repeal
a Regulation Pursuant to Cal. Pub. Util. Code
§1708.5.

Petition 10-08-_____

**PETITION OF THE WESTERN MANUFACTURED HOUSING COMMUNITY
ASSOCIATION TO ADOPT, AMEND, OR REPEAL A REGULATION
PURSUANT TO CALIFORNIA PUBLIC UTILITIES CODE §1708.5**

Pursuant to California Public Utilities Code §1708.5 and Rule 6.3 of the California Public Utilities Commission's ("Commission" or "CPUC") Rules of Practice and Procedure, the Western Manufactured Housing Community Association (WMA) files this petition seeking to establish rules and regulations to implement transfers of ownership and operation of master metered gas and electric service systems from mobilehome park owners to the local investor-owned gas and electric corporations. Such transfers would enable the residents of master metered mobilehome parks to receive gas and electric service directly from the local investor-owned gas and electric corporations and the benefits attendant with that service.

Specifically, WMA requests that the Commission commence a rulemaking proceeding in order to adopt rules and regulations that accomplish the following:

1) establish a standard transfer agreement as a basis for expedited CPUC approval of transfers pursuant to the mandate of Cal. Pub. Util. Code Section 2798 (hereinafter referred to as "Section");

2) adopt the procedural steps of the expedited approval process for transfers utilizing the standard transfer agreement;

3) adopt eligibility standards for systems subject to transfers pursuant to Section 2794(a) and as articulated by the Commission in *Harbor City*, D.09-02-030; and,

4) clarify cost sharing requirements between mobilehome park owners and utility ratepayers for converting existing master-metered systems to directly-metered service as specified in Section 2791 et seq, and adopt measure for mitigating such costs if warranted. (D.04-11-033, Findings of Fact 22-23, and Ordering Paragraph 13).

I. Introduction

State policy favors directly metered gas and/or electric service provided by investor-owned host utilities over master metered service provided by mobilehome park owners. System transfer from master metered service to direct gas and electric service benefits all stakeholders.

Currently, community residents in master metered parks are unable to participate in and access important state and utility programs such as low income energy efficiency, California Solar Initiative, Smart Meter and demand response activities since they are not utility customers and, therefore, are ineligible.

Transfers would result in service, safety and cost consistency to residents. For example, once the master metered utility system is transferred to the serving

utility, any new automatic metering infrastructure, particularly the type that requires bi-directional communication, can be extended to these customers.

The utilities would benefit as well. Transfers would allow the utilities to add the systems to their existing rate base and allow them to earn a return on investment. Further, utilities are guaranteed recovery of any costs to acquire, improve, upgrade, operate and maintain transferred mobilehome park gas and electric systems in their revenue requirements. See Section 2797. Transfers would allow the utilities to spread their fixed metering and billing costs to a wider base of customers, in excess of 440,000 added gas and electric customers, thus decreasing overall rates. The current differential, or discount, which under Section 739.5 and Decision 04-11-043, is defined by law as the **utilities'** (not the **MHP's**) full costs of adding service for an average customer, will cover the costs of upgrades and replacements since it will no longer need to reimburse the mobilehome park owners for providing master metered service. If the Commission has set the discount correctly, retention of the differential by the directly serving utility should adequately fund the costs of transfer. Thus, rates should not be impacted, and, in fact, as noted above, should be lower given economies of scale and the consequent increase in customer base.¹

¹ If the utility system met Title 25 standards when constructed, it should not have to be upgraded to a new and different public utility standard. A requirement to rebuild for the transfer would be similar to a bill of attainder, retroactively imposing new requirements, and essentially requiring the park utility systems to be built twice. Also, "utility standards" need to be clearly articulated and agreed upon by the parties. As the CPUC said in the Harbor City case, "It may be that some MHP submetered gas systems, perhaps even this System, may not meet all of the ordinarily exacting standards that SoCalGas applies to its own operations. However, the legislature did not require that a submetered gas system meet the utility's internal standards to be eligible for transfer pursuant to §§ 2791-2799. That is consistent with the Legislature's goal, in adopting §§ 2791 2799, to have gas utilities acquire, operate and maintain these MHP submetered systems,

Mobilehome park owners and residents would benefit from transferring the gas and electric service, as well as the associated safety and regulatory obligations, to the investor-owned utilities. Providing electric and gas service has become increasingly expensive and complex given the plethora of program changes and billing determinants. Further, the growing steepness of residential rate tiers is increasing disparity among individual communities in the realized aggregate master meter discounts. The result is that mobilehome parks with many CARE/FERA customers see the total effective differential becoming lower and in some cases negative. For example, the Diversity Benefit Adjustment (DBA) differentially affects MHPs depending on the composition of their tenants and energy use. MHPs with more CARE customers are more likely to be adversely impacted by the DBA.

In spite of these obvious benefits, mobilehome park owners are reluctant to initiate the transfer under Section 2791 et seq. due to the time and expense of the process, as well as the uncertainty engendered by ever-changing utility staffs, policies and implementation.² Currently, WMA's member park owners are caught in a bind related to provision of utility service to their residential residents. The universal preference of the member owners is to have the submetered residents directly served by the investor owned utility. However, an initial burden on any park owner having residents directly served by the utility is the upgrade or replacement of the usually 30 to 40 year old existing utility service

as long as they meet the ordinary minimum safety and reliability requirements. Decision 09-02-030, page 9.

² As a result of Section 2791(c), no new master-metered mobilehome parks can be built in the State of California.

distribution system.³ The CPUC never prospectively pays for utility investments. Those investments are always recovered after the expenditure of the funds. The differential is calculated in exactly the same manner. The differential pays for the investments that the MHP owner has already made and does not cover, in any way, future investment costs. Therefore, the discounts that have been paid out have gone to 1) return on and of past investment and 2) maintenance and billing. As these systems are generally more than 40 years old, no amount of maintenance will keep them in service in perpetuity.

It is important to note that the degree of financial risk to the park owner is entirely within the unilateral control of the local utility for two reasons. First, the CPUC has never provided an actual cost recovery mechanism for master meter customers to recover costs of replacing or upgrading the system for submetered residents as part of a transfer process. The Commission has only clarified in D.04-04-043 and D.04-11-033 such cost recovery *if the system is retained*. Even then, cost recovery for replacement is limited to the differential after the cost has been incurred unless the system has been reinforced and upgraded. The same is not true for the investor-owned utility since actual cost recovery is guaranteed through either each utility's revenue requirement or specific cost recovery from customers, as under Rule 20 undergrounding or Rule 16 reinforcements. This asymmetry in cost responsibility between the utility and the master metered customers is unfairly burdensome to master meter customers as

³ See Sections 2791-2799 for the process of turning over a master-meter system to the local utility.

a class. The cost of replacement to meet the standards the utilities have required have run from \$1,200 to \$5,000 per space or more depending upon the system and based on recent utility estimates and MHP system replacement projects.⁴ These transfer costs are not recoverable by the park owner under the current differential because the park owner will no longer be receiving the differential, nor is there sufficient clarification on what portion is recoverable from the utility or residents under Section 2791(b) or 2793 if the park owner replaces the system as a condition of acceptance by the utility. In any case, the current differential methodology does not recognize the higher cost burdens in replacement versus initial new-construction installment.

Given the economic consequences, no park owner is interested in a business loss of this magnitude, solely to enable the residents to be directly served. However unintended this result may be, this “no win” situation for master meter customers results directly from the current rules. The implication of the current framework is that mobilehome park owners would make significant investments as a gift to the local utility. No other customer carries this rate burden and no other residential class of customers, except master-meter residents, has the quality of their service dependent upon placing the cost of distribution system upgrades on their landlords instead of all ratepayers. Under the definition of “distribution system,” distribution ends at the meter, which for apartments is at the curb. For example, an apartment owner is able to recover

⁴ Lower cost estimates are based on “average” replacement costs in PG&E and SCE's GRC workpapers; upper range is from rent control applications and system transfer workpapers for individual MHPs.

all of its internal service investment costs through rents. MHP owners are prohibited from recovering most of these costs under 739.5.

Second, until the Commission's decision in *Harbor City Estates v. SoCalGas Company*,⁵ the CPUC had never clarified that the compliance standards for implementation of Section 2794(a): a system is eligible for transfer to the host utility if it is sufficiently capable of providing the end users a safe and reliable source of gas and electric service to the customary expected load and meets applicable federal, state and CPUC regulations.⁶ Until that case, mobilehome park owners have faced "standards" or requirements generated internally to each separate host utility without review by the Commission for consistency, clarity or equity. As *Harbor City* demonstrated, internal utility standards for system replacement prior to transfer have not been articulated in writing, have not been available for public inspection, were not reviewed and adopted by the Commission and have often diverged from applicable state and federal law.⁷

Accordingly, despite the many benefits to all stakeholders of system transfer, few mobilehome parkowners can overcome the significant cost and business uncertainty risks associated with the process absent further oversight and guidance from the Commission.

⁵ *Harbor City Estates, LLC., v. Southern California Gas Company*, D.09-02-030, February 24, 2009.

⁶ *Id.*, Conclusions of Law 3, 4 and 5.

⁷ *Id.*, Conclusion of Law 2.

II. Legal Support and Proposed Regulations

It has been more than thirteen years since the passage of legislation that contemplated transfer of master metered electric and gas systems operated by mobilehome park owners to the serving utilities. Despite consistent CPUC policy supporting system transfers statewide, it has been four years since the CPUC identified the need for a proceeding to address implementation. Commission leadership and guidance is clearly needed to bring the intended benefits of the original legislation to the mobilehome park owners, consumers and the utilities.

After two years of negotiation between the utilities, residents and mobile home park owners, the Public Utilities Code was amended (Chapter 6.5 added by Stats. 1996 Chp. 424, Sec 1, effective January 1, 1997) by the addition of Sections 2791-2799, providing a comprehensive framework for utility system transfers. A handful of parks have completed that process since passage of the legislation. The need for renewed Commission leadership to establish appropriate implementation rules and regulations is pressing as the park systems age and reach the end of their physical lives.

Therefore, WMA urges the Commission to initiate a rulemaking proceeding tailored in scope to fulfill the mandates of Section 2798 and establish cost mitigation measures as ordered in D.04-11-033.

A. A Standard Agreement form and associated expedited approval process is needed to streamline and facilitate timely processing of system transfers pursuant to Section 2798.

Section 2798 states:

The commission shall adopt a standard form of agreement for transfer of gas and electric distribution facilities in mobilehome parks and manufactured housing communities that shall be the basis for expedited approval of the transfers. The contract shall be based on this chapter, the regulations of the commission, and on gas or electric corporation rules and regulations, as approved by the commission.

This code section was adopted thirteen years ago, yet no such agreement has been developed and adopted and the expedited approval process contemplated by this code section has not been adopted. The Commission expressly deferred accepting this legislative mandate in D.04-11-033 in Ordering Paragraph 13. It is crucial that this mandate be fulfilled even at this late date.

The Commission's delay to develop an agreement has exacerbated the problem of transferring systems to the serving utility. It is important to note that the mandate to develop and adopt a standard transfer agreement and an expedited approval process was passed in 1996 and effective in 1997, when many of these systems still had value and an unexpired useful life that would have permitted the park owner to receive payment for the system under Section 2793(a)(2). Now that 13 years have passed, without the assistance of the Commission, and the continued resistance of the utilities, the implementation of the legislation has languished and consequently its benefits have never been realized. Many of these owners now face the prospect of needing to replace

these systems, and are weighing the cost of doing it themselves or transferring those systems. The expected remaining financial values that would have provided incentive to transfer have been squandered by the CPUC's delay in fully implementing the law. Instead, the Commission is now presented with a new situation in which the original set of incentives must be reconsidered.

The process from initiation to final transfer requires stream-lining and Commission oversight for success. As stated above, despite the policy and statutory mandate to transfer park owner utility systems to the regulated utilities, commitment of resources by the CPUC has lagged. The result is that cost estimates for transfers have varied, are often inflated by the utilities without explanation, upgrade standards are arbitrarily set by the utilities and delays in processing park owner requests for transfer are commonplace. These problems occur without Commission oversight until a formal Complaint is filed.

The recent Harbor City complaint case speaks directly to this problem. The CPUC found that the Southern California Gas utility standards were thwarting the objectives of Sections 2791-2799 and ordered transfer of the system. See D.09-02-030 at page 17. This decision took two years requiring three waivers of the statutory one-year deadline for decision.

No standard agreement form nor expedited process has yet been developed by the CPUC to facilitate the steps outlined in the Sections 2791-2799. Given the aging infrastructure within mobilehome park master metered systems, the cost pressure on mobilehome park owners for maintaining the state's affordable housing goals, the increased complexity of providing utility

service and billing, and the procedural hurdles to transfer discussed above, it is imperative that the Commission establish an expedited procedure with appropriate Commission oversight to facilitate the complete and timely transfer of mobilehome park utility systems.

At a minimum, any standard agreement for system transfer should explicitly state that a system is eligible for transfer if it meets applicable federal, state and Commission adopted regulations, namely those found at General Orders 95, 112 and 128, the California Code of Regulations, Title 25 and 49 CFR 192 et seq.

Accordingly, WMA proposes the attached Exhibit A agreement template for the Commission's consideration and adoption. WMA urges the Commission to adopt the proposed agreement in accordance with the standards for eligible parks under Section 2794 a) as articulated in the *Harbor City* Decision. Once adopted, the standard agreement will go a long way toward facilitating efficient and timely transfer of mobilehome park utility systems to direct service by streamlining many of the milestones implicit in all system transfer transactions. In this manner, the Commission will fulfill its mandate under existing legislation and provide sorely needed guidance to both sides of any system transfer transaction.

- B. The CPUC should open the proceeding called for in Ordering Paragraph 3 in D.05-04-031 to clarify the cost responsibilities of MHP owners and the utilities for replacement or repairs to existing systems and to consider the issue of whether there are fair and reasonable ways to mitigate the cost to MHP owners of converting existing submetered systems to directly-metered service.**

The CPUC has broad discretion to establish procedures and guidelines to facilitate timely transfers. Section 2794(a)(2). However, the CPUC has taken no action to investigate methods to mitigate the cost to master metered parks of meeting the standards for transfer since it adopted D.04-11-033 in November, 2004, despite the identification of this issue in the original OIR/OII decision. Decision D.05-04-03, which affirmed D.04-11-033 on Rehearing, clarified that it was appropriate to address system transfer issues in a new proceeding.⁸ It is imperative that the Commission exercise leadership and provide guidance on the precise standards for upgrade and replacement necessary for gas and electric system transfer, assignment of cost responsibility and/or provision of fair and reasonable mitigation measures for consequent cost responsibility to MHP owners. However, the Commission should bear in mind that D. 04-04-043 does not address cost recovery in transfers at all. D. 04-04-043 only lists the costs that are in and out of the discount. Therefore, the Commission should provide guidance about the cost the park owner should bear when transferring a system that is capable of providing safe and reliable service, was constructed in

⁸ D.04-11-033, Ordering Paragraph 13: "The motion, filed by the active parties on January 16, 2004, to establish a new proceeding to consider the issue of whether there are fair and reasonable ways to mitigate the cost to MHP owners of converting existing submetered systems to directly-metered service, is denied. This issue is reserved for consideration in a future proceeding."

accordance with the then-applicable general orders, and is capable of serving the expected load in the park

As discussed above, MHP owners are caught in a double bind and potentially even in a no-win situation with respect to recovery of their costs to upgrade or replace portions of existing submetered systems in the context of a transfer to direct service. A MHP owner can recover the costs to upgrade or replace a system that is beyond its useful life or otherwise requires infrastructure investment from the submetered residents *only* if a MHP owner does so outside the context of a potential transfer of that system to direct service. However, if the same upgrade or replacement is required to meet the criteria articulated in Section 2794 a) to make the park system acceptable for transfer, Section 2791(3) prohibits the MHP owner from recovering those costs from residents or the local serving utility. That means if a system is beyond its useful life or requires an upgrade, the only entity that can recover the cost of investment is the local gas or electric utility. The assignment of cost responsibility between the MHP owner undertaking a transfer and the local utility that will provide the direct service post-transfer is the major source of contention in transfer situations. The rate differential only provides for recovery of costs if the MHP owner continues to own and operate the system. If the system is transferred, the MHP owner no longer gets the differential and the utility now collects those funds from the residents. The problems associated with agreement to design, upgrade and investment requirements typically plague each transfer process. The lack of set standards, increased budget estimates, changing utility personnel who interface

with MHP owners during the long transfer process and disagreements over cost responsibility have served as a complete deterrent to initiating transfers for the majority of MHP owners:

WMA recommends that the Commission clarify the upgrade and replacement standards applicable to submetered gas and electric systems. Additionally, WMA urges the Commission to clarify assignment of cost responsibility between the MHP owner and the local serving utility for system upgrades and replacements when a system has no remaining useful life or requires infrastructure investment to meet the requirements of Section 2794(a). As pointed out above, MHP community submetered residents are the only residents in California who are dependent upon their landlords for distribution level service investments. The current situation is unfair to both the MHP owners and their residents and should be remedied with Commission regulations as proposed below.

Specifically, if a system no longer has remaining useful life at the time of a transfer, the host utility should bear the cost of upgrade or replacement needed to extend the system's life necessary to provide direct service on a going forward basis. An MHP owner would receive no compensation for the transfer of the system, but would also be relieved of making investments for which there is no opportunity for recovery through future revenues. In other words, a transferring MHP owner cannot be fairly required to invest in an extension upgrade or replacement of a system as a condition of transferring that system, and thus make a gift to the future direct service utility. In contrast, a residential developer

gets an allowance to cover the costs of the line extension based on the average cost of installation for such extensions, and the applicant then transfers the extension to the utility in return for the allowance. This unfairness is compounded by the fact that the local directly serving utility no longer pays the differential to the MHP owner post-transfer. The incentives and responsibilities are clearly unjust and unreasonable in this context.

To the extent that investment is required to meet other criteria under Section 2794(a), the MHP owner would bear that cost responsibility. The Commission should also consider additional measures to mitigate the cost impact of 2794(a) upgrades on the MHP owner, including examining whether funds allocated for statewide system upgrades to implement smart metering, smart grid interconnection systems and other public goods charge programs can be properly allocated to the submetered residents that will become directly served utility customers following system transfer. As noted above, submetered residents pay into the public goods charge through their utility rates but cannot receive the benefits of those programs because they are not utility customers and are therefore ineligible.

Pursuant to the requirements of Rule 6.3, WMA urges the consideration and adoption of the following regulations:

1. A gas or electric shall be transferred if it is compliance with the following criteria:
 - a. Is capable of providing the end users a safe and reliable source of gas and electric service
 - b. It meets the requirements of the Commission's General Order 112-E, 95, 128 etc.
 - c. Is capable of serving the current load in the park.
2. The Commission shall develop and adopt a standard form of agreement for the transfer of gas and electric systems that shall be the basis of an expedited transfer in the form of Exhibit A. WMA submits that the Advice Letter process should be followed to approve a standard form agreement entered into between the customer and the utility.
3. The procedural steps for the expedited approval of transfer utilizing the standar transfer agreement shall be those outlined in General Order 96-B, Energy Industry Rule 7 as it relates to contracts being submitted by Advice Letter.
4. The assignment of cost responsibility between the MHP owner undertaking a transfer and the local utility that will provide the direct service post-transfer is the major source of contention in transfer situations. In order for mobilehome park owners to mitigate the costs of converting existing submetered systems to directly-metered service as ordered in D.05-04-031 (Ordering Paragraph 3). The Commission should clarify the upgrade and replacement

standards applicable to submetered gas and electric systems.

5. The Commission should clarify assignment of cost responsibility between the MHP owner and the local serving utility for system upgrades and replacements when a system has no remaining useful life or requires infrastructure investment to meet the requirements of Section 2794(a).


III. Conclusion

For all the foregoing reasons, WMA urges the Commission to adopt the recommendations to establish a proceeding in order to adopt rules and regulations to implement the mandates of Sections 2791, et seq. to facilitate the transfer of master metered mobilehome park utility systems to direct service by the local investor-owned utility. In furtherance of the this recommendation, WMA urges the adoption of the recommendations and regulations set forth above herein and the attached Exhibit A.

Dated: August 20, 2010

Respectfully submitted,

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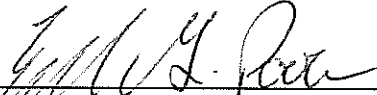
On behalf of the Western Manufactured
Housing Community Association

VERIFICATION

I am the attorney for the Petitioner herein; said Petitioner is absent from the County of San Francisco, California, where I have my office, and I make this verification for said Petitioner for that reason; the statements in the foregoing documents are true of my own knowledge, except those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 20, 2010, at San Francisco, California



Edward G. Poole

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached:

PETITION OF THE WESTERN MANUFACTURED HOUSING COMMUNITY ASSOCIATION TO ADOPT, AMEND, OR REPEAL A REGULATION PURSUANT TO CALIFORNIA PUBLIC UTILITIES CODE §1708.5

was served on each party or the party's attorney of record listed on the attached service lists in R. 03-03-017, I. 03-03-018, C. 00-01-017, and C. 07-01-007 via electronic mail to those who have provided email addresses and via U.S. First Class mail to those who do not have email addresses.

In addition, copies were mailed to the following:

California Department of Consumer Affairs
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Golden State Manufactured-Home Owners League (GSMOL)
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Greenlining Institute
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Joseph Como
Acting Director, Department of Ratepayer Advocates
California Public Utilities Commission
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Further, copies were sent via hand delivery to the following:

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Dated on August 20, 2010 in San Francisco, California.

Edward G. Poole

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California Public
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CPUC Home

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EXHIBIT A

GAS AND ELECTRIC FACILITIES TRANSFER AGREEMENT

This Agreement for Transfer of Ownership of Distribution System (Agreement) is entered into this _____ day of _____, 20____, by and between _____ [Investor Owned Utility] _____ (Utility) and _____ (Transferor).

Transferor owns and operates a gas and electric distribution system (System), the components of which are listed on Appendix I. To the best of Transferor's knowledge, the System is in reasonably good operating condition and is capable of providing a safe and reliable source of supply and meets the requirements of the California Public Utilities Commission (CPUC) General Orders and is capable of serving the customary expected load at the System Location.

Transferor desires to transfer its ownership of the gas and electric distribution system to Utility and Utility is willing to accept the transfer of ownership of the System and supply gas and electric service in accordance with Utility's applicable rates and rules, subject to the terms and conditions set forth in this Agreement. The System, once conveyed to Utility, shall at all times be and remain the property of Utility.

Now, therefore, in consideration of the mutual promises, covenants and conditions set forth herein, Transferor and Utility agree as follows:

1. System Location

Transferor desires to transfer ownership of the System located on the property more particularly described as follows:

Address: _____

2. Records for System

Transferor agrees to provide all documentation of the construction, operation and condition of the gas or electrical systems, or both, including but not limited to operation records, maintenance records, inspection and/or testing records, and any repair records to the extent those records exist. Transferor agrees to make a good faith effort to locate all such records upon the signing of this agreement and agrees to produce any such additional records as they may become available for one (1) year after the transfer of the System.

3. Inspection of System by Utility

Upon execution of this Agreement, Utility shall meet with Transferor to describe the procedures involved in the transfer of the System, and perform a preliminary review of the gas or electric systems, or both, and inspect any documentation provided. Transferor agrees to cooperate in good faith with the Utility to permit Utility access to the system and records.

4. Liens and Encumbrances

Transferor represents that Transferor is the sole owner of the System and that no part of the System is subject to any lien or encumbrances of any nature whatsoever including, without limitation, any governmental imposition(s) such as taxes or assessments.

5. Contributions, Advances and Allowances

5.1 Value of System. Utility shall determine the value of the System and Transferor shall contribute such value to Utility as specified in Public Utilities Code Section 2793(b)(1). The value of the System is described in Appendix II.

5.2 Income Tax Component Contribution (ITCC). All contributions and advances by Transferor are taxable and shall include ITCC at the rate provided in the Preliminary Statement of Utility's California Public Utilities Commission-approved tariff schedule.

5.3 Allowances. Allowances or credits granted based on net incremental increases in revenue associated with the transfer of ownership of System as specified in Appendix II.

5.4 Contribution Adjustments. Contributions, advances and associated ITCC for new extensions served directly from the System may be subject to refund to Transferor, without interest based upon principles set forth in Utility's Line Extension rules.

6. General Access

Transferor hereby grants to Utility, its successors and assigns, the right of ingress and egress from Transferor's premises for any purpose connected with the operations and maintenance of the System.

7. Rights of Way

Where new formal rights of way, easements, land leases, or permits are required by Utility for the System on or over Transferors property, or the property of others, Transferor understands and agree that Utility shall not be obligated to accept ownership of the System unless and until any necessary permanent rights of way, easements, land leases and permits satisfactory to Utility are granted to or obtained for Utility without cost to or condemnation by Utility.

8. Ownership of System.

Upon completion of construction work and installation of any new facilities, if any, receipt of inspection approval from Utility and authorities having jurisdiction for the inspections, and completion of all financial transactions between Utility and Transferor, Utility shall own, operate and maintain the system. At such time, title to the System and each and every component part thereof shall immediately pass from Transferor to Utility free and clear of all liens and encumbrances.

9. Maintenance of System During Period of Transfer

During the pendency of Transferor's request, Transferor shall be responsible for the continued maintenance to preserve the integrity of the System and for the safe and reliable operation of the System in accordance with applicable laws. During the pendency of Transferor's Transfer request, Transferor shall remain liable for injury and damage resulting from operation of the System. -

10. Hazardous Substances.

Transferor shall be solely responsible for taking and paying for remedial action relating to hazardous substances or materials present in and around the System acquired by Utility and on lands occupied by the System and in and on structures located on such lands. Transferor shall be solely liable for all costs, losses and damages from such hazardous substances and materials to property or injuries to any person and natural resources including but not limited to costs, damages and injuries arising from, and incident to, Transferor's activities related to the gas and electric System. Utility is not responsible for pre-existing conditions, including but not limited to any costs, claims or delays associated with the remediation of hazardous substances.

"Hazardous Substances" means any chemical, material or substance that is listed or regulated under applicable federal, state and local environmental laws, including but not limited to Comprehensive Environmental Response, Compensation, and Liability Act, and the Resource Conservation and Recovery Act, as a "hazardous" or "toxic" substance or waste, or as a "contaminant", or as

is otherwise listed or regulated under applicable environmental laws because it poses a hazard to human health or the environment, including but not limited to asbestos in any form, polychlorinated biphenyls (PCBs), and lead paint and coatings.

11. Governmental Compliance.

To the best of Transferor's knowledge, the System has been operated by or on behalf of Transferor in full compliance with all applicable laws, rules, and regulations, including ordinances, codes, permits and licenses of all city, county, state, and federal governments, and including, but not limited to, laws, rules, and regulations relating to environmental matters; and no notice from any governmental body has been served upon Transferor or its agents or upon the System, claiming violation of any law, ordinance, code, rule, or regulation or calling attention to the need for any work, repairs, construction, alterations, or installation on or in connection with the System with which the Transferor has not complied and Utility was not notified.

12. Assignment of Agreement.

Transferor may assign this Agreement, in whole or in part, only if Utility consents in writing and the party to whom the Agreement is assigned agrees in writing, to perform the obligations of Transferor thereunder. Consent will not be unreasonably withheld. Assignment of the Agreement shall not release Transferor from any of the obligations under this Agreement unless otherwise provided therein.

Utility may assign this Agreement, in whole or in part, only if Transferor consents in writing and the party to whom the Agreement is assigned agrees in writing, to perform the obligations of the Utility thereunder. Consent will not be unreasonably withheld. Assignment of the Agreement shall not release the Utility from any of the obligations under this Agreement unless otherwise provided therein

13. Indemnification.

Each party shall, at its own cost, defend, indemnify, and hold harmless the other party, its direct and indirect parent company, affiliates, subsidiaries, and their respective officers, agents, employees, assigns, and successors in interest from and against any and all liability, damages, losses, claims, demands, actions, causes of action, costs including attorney's fees and expenses, or any of them, resulting from the death or injury to any person or damages to any property caused by it or its contractor and employees, officers or agents arising out of the performance or nonperformance of their obligations under this Agreement.

14. Joint and Several Liability.

Where two or more individuals or entities are joint Transferors under this Agreement, all Transferors shall be jointly and severally liable to comply with all terms and conditions herein.

15. Notices.

Any notice either Transferor or Utility may wish to provide the other regarding this Agreement must be in writing. Such notice must be either hand-delivered, sent by U.S. registered or certified mail, postage prepaid, sent by U.S. mail, postage prepaid, or sent by telecopy and telephonically confirmed the same day, to the person designated to receive notice for the other party below, or to such other address as either may designate by written notice. Notices delivered by hand shall be deemed effective when delivered, and notices sent by telecopy shall be deemed effective on the day sent (if confirmed as provided below). Notices delivered by registered or certified mail shall be deemed effective when received, as acknowledged by the receipt of the certified or registered mailing. Notices delivered by U.S. mail shall be deemed effective three business days after mailing.

16. Litigation, Proceedings and Claims.

There are no investigations, charges, proceedings, actions, suits, or arbitration proceedings pending, or, to the best of Transferor's knowledge, overtly threatened, involving tax, environmental or land use matters, before any court or governmental agency, or any other public forum, that could affect, encumber or burden the System, or the ability of Utility to operate the System, or could result in impairment or loss of Utility's title to the System.

TRANSFEROR:

_____ (entity)
 _____ (name)
 _____ (title)
 _____ (address)
 _____ (city, state, zip code)

UTILITY:

_____ (entity)
 _____ (name)
 _____ (title)
 _____ (address)
 _____ (city, state, zip code)