

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY UTILITY

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

Company name/CPUC Utility No. **Liberty Utilities (CalPeco Electric) LLC (U 933-E)**

Utility type:

ELC       GAS  
 PLC       HEAT       WATER

Contact Person for questions and approval letters: **Ken Wittman**  
Phone #: 530-543-5267  
E-mail: [Ken.Wittman@libertyutilities.com](mailto:Ken.Wittman@libertyutilities.com)

### EXPLANATION OF UTILITY TYPE

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

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **38-E**

Subject of AL: **Proposed Interim Curtailment Program**

**Tier Designation:**  1    2    3

Keywords (choose from CPUC listing):

AL filing type:  Monthly    Quarterly    Annual    One-Time    Other \_\_\_\_\_

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

Does AL replace a withdrawn or rejected AL?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Summarize differences between the AL and the prior withdrawn or rejected AL<sup>1</sup>: \_\_\_\_\_

Resolution Required?  Yes    No

Requested effective date:

No. of tariff sheets: **8**

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: Schedule No. DR – Demand Response Program

Service affected and changes proposed<sup>1</sup>:

Pending advice letters that revise the same tariff sheets: n/a

**All other correspondence regarding this AL shall be sent to:**

**CPUC, Energy Division**  
**Attention: Tariff Unit**  
**505 Van Ness Ave.,**  
**San Francisco, CA 94102**  
[edtariffunit@cpuc.ca.gov](mailto:edtariffunit@cpuc.ca.gov)

**Utility Info (including e-mail)**  
**Liberty Utilities (CalPeco Electric) LLC**  
**Attention: Advice Letter Protests**  
**933 Eloise Avenue**  
**South Lake Tahoe, CA 96150**  
**Email: [ken.wittman@libertyutilities.com](mailto:ken.wittman@libertyutilities.com)**

<sup>1</sup> Discuss in AL if more space is needed.



Liberty Utilities (CalPeco Electric) LLC  
933 Eloise Avenue  
South Lake Tahoe, CA 96150  
Tel: 800-782-2506  
Fax: 530-544-4811

**VIA EMAIL AND HAND-DELIVERY**

September 10, 2014

**Advice Letter No. 38-E  
(U 933-E))**

California Public Utilities Commission  
Energy Division, Tariff Unit  
505 Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94102-3298

**Subject: Proposed Interim Curtailment Program**

Liberty Utilities (CalPeco Electric) LLC (U 933-E) (“Liberty Utilities”) hereby submits this Tier 3 advice letter to implement a new electric rate schedule (“DR Schedule”). The Schedule will be available for the customers of Liberty Utilities taking service pursuant to its A-2 (Medium General Service) and A-3 tariffs (Large General Service).<sup>1</sup>

The DR Schedule offers Eligible Customers (as defined below) compensation to participate in a voluntary demand response (“DR”) program (the “Interim Curtailment Program”). Liberty Utilities is requesting that the DR Schedule be effective for only a limited period (i.e., through the day the rates approved in its next general rate case decision become effective).

The new proposed tariff sheets for the DR Schedule are included as Attachment 1.

**Purpose**

Liberty Utilities is a winter-peaking utility, with its highest loads typically experienced during the months of December and January (and particularly the week between the Christmas and New Year’s Day holidays). Liberty Utilities’ ability to maintain system reliability and reduce the possible need for any rolling blackouts during such peak periods can be enhanced by it having the ability to order participating customers to reduce or defer electric consumption. This Interim Curtailment Program is designed to offer appropriate incentives to Eligible Customers to voluntarily reduce energy consumption in response to a request by Liberty Utility for curtailment during these peak demand periods.

---

<sup>1</sup> Customers with a maximum demand of between 50 kilowatts (“kW”) and 200 kW are served under Liberty Utilities’ A-2 tariff. The A-3 schedule is “mandatory” for “all customers whose monthly maximum demand exceeds two hundred (200) kilowatts for any three months during the preceding twelve months.”

Given that Liberty Utilities needs this Interim Curtailment Program to be operational during the upcoming 2014-2015 winter period and that it will be filing its next general rate case application in early 2015, Liberty Utilities is requesting through this advice letter that the Interim Curtailment Program be effective for only a limited period (i.e. November 2014 through December 2015).

Liberty Utilities will include in its 2016 general rate case application a proposal for a permanent program to compensate customers who agree to curtail their load during peak periods in response to a request by Liberty Utilities (“Long-Term Curtailment Program”). Liberty Utilities will propose that the Long-Term Curtailment Program become effective upon the expiration of the Interim Curtailment Program.

### **Background**

The California Public Utilities Commission (“Commission”) broadly defines DR as “reductions or shifts in electricity consumption by customers in response to either economic or reliability signals, [which] present themselves as alerts during times when the electricity system is vulnerable to extremely high prices or reliability is compromised.”<sup>2</sup> The Commission has further explained that “[f]or more than a decade, California’s energy and air quality agencies have recognized the vital role of DR in meeting our shared responsibilities to provide clean, safe and reliable energy at reasonable rates.”<sup>3</sup> Other California utilities have worked with the Commission to develop DR programs that provide various incentives to customers for reducing and/or deferring energy consumption during times of peak demand.<sup>4</sup>

Liberty Utilities provides service to approximately 49,000 customers in seven counties around the Lake Tahoe area. In recent years, it has experienced system reliability issues during periods of peak winter demand (most notably during the week between Christmas and New Year’s Day in 2012-13). It accordingly seeks to increase its capability to respond to similar challenges in future years during periods of peak winter demand, including during this upcoming winter of 2014-2015.

During the 2013-14 winter peak demand period, Liberty Utilities addressed these system reliability issues by requesting that several of its larger A-3 customers (i.e. ski resorts) stand by to reduce their energy consumption during on-peak hours (between 5:00 p.m. and 10:00 p.m. Pacific Standard Time (“PST”) during the winter months). The ski resorts typically make artificial snow during these periods in preparation for the next day. Such snow making involves the operation of large air compressors and water pumps which consume relatively large amounts of power. In general, the ski resort customers have been willing to accommodate requests by

---

<sup>2</sup> D.12-04-045, Decision Adopting Demand Response Activities and Budgets for 2012 Through 2014 for Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric (April 19, 2012), at 2.

<sup>3</sup> D.12-04-045, at 11.

<sup>4</sup> See e.g., D.12-04-045.

Liberty Utilities to either not make snow or to defer the snow making until after 10 p.m. (i.e. after the peak demand period).

In instances in which the ski resorts defer making snow until after 10 p.m., they can incur incremental costs. For instance, the deferral of snow making until after 10 p.m. requires that ski resort employees remain available during these late evening hours.

As explained above, as part of its upcoming 2016 general rate case, Liberty Utilities intends to request the authority to implement several DR mechanisms. In the interim, Liberty Utilities proposes this Interim Curtailment Program as an additional means to reduce loads during peak winter hours. The Interim Curtailment Program provides Liberty Utilities the formal authority to request curtailment, establishes procedures for Liberty Utilities to order curtailment and for the customer to respond to a curtailment request, and authorizes Liberty Utilities to fairly compensate the A-2 and A-3 customers that agree to participate and reduce electric consumption in response to a request by Liberty Utilities to curtail.

Liberty Utilities advised the potentially affected A-2 and A-3 customers of its intent to request the authority to implement the Interim Curtailment Program. One of Liberty Utilities' A-3 customers, Squaw Valley Ski Holdings, LLC ("Squaw"), responded that it opposed the program on the basis that under certain weather and snow conditions (*e.g.*, when Squaw needs to make artificial snow to maintain snow coverage sufficient to operate the resort) it was impossible to adequately compensate Squaw for agreeing to curtail its snow making operations between 5 and 10 p.m. Another Liberty Utilities' A-3 customer, Northstar California ("Northstar"), is still considering Liberty Utilities' proposed Interim Curtailment Program and has not yet taken a definitive position regarding whether it supports or opposes the program.

The Commission's timely approval of the Interim Curtailment Program by no later than its November 6, 2014 decision conference will provide Liberty Utilities an important cost-effective tool for best ensuring system reliability during the 2014-15 winter and the first months of the 2015-16 winter. The Interim Curtailment Program will also enable Liberty Utilities to fairly compensate the A-2 and A-3 customers for the costs they incur to participate. It will also benefit all customers by reducing the possible need for involuntary rolling black outs and other system emergencies.

### **The Interim Curtailment Program**

The following sections set forth and explain the key components of the Interim Curtailment Program that Liberty Utilities is proposing:

#### **A. Eligibility**

A Liberty Utilities' customer may qualify as an "Eligible Customer" and participate in the Interim Curtailment Program if it:

- (1) Takes electric service in accordance with Liberty Utilities' A-2 (medium general service) or A-3 (large general service) rate schedule;
- (2) Can reduce electric consumption a minimum of 2,000 kW for any or all of the 5 consecutive hours between 5:00 p.m. and 10:00 p.m. PST on any day between December 1 and February 28 (the "Winter Season On-Peak Period");
- (3) Executes a Curtailment Program Agreement with Liberty Utilities that is reasonably similar in form and substance to the form of agreement in Attachment 2,<sup>5</sup> and
- (4) Is able to timely respond to a request by Liberty Utilities to reduce electric consumption in accordance with the procedures set forth in the Interim Curtailment Program.

Third-party aggregators will not be eligible to participate in this Interim Curtailment Program.

Each Eligible Customer enrolled in the Interim Curtailment Program must continue to take service under the provisions of its otherwise-applicable rate schedule.

#### **B. Territory**

This Interim Curtailment Program will be available to Eligible Customers throughout Liberty Utilities' entire California Service Area.

#### **C. Interim Curtailment Program Procedures and Protocols**

On any day during the Winter Season On-Peak Period Liberty Utilities determines that it may face system reliability issues or for other purposes consistent with Good Utility Practice, it may request that any or all of its Eligible Customers reduce their energy consumption ("Curtailment") during any or all of the on-peak hours between 5:00 p.m. and 10:00 p.m. PST on that day (the "Curtailment Period").

Liberty Utilities will notify the Eligible Customers it wishes to reduce consumption of the requested Curtailment ("Curtailment Notice") no later than 2:00 p.m. PST on the date of the Curtailment. The form(s) of Curtailment Notice will be specified for each Eligible Customer in the Interim Curtailment Program Contract each will execute with Liberty Utilities. The Curtailment Notice shall specify the requested Curtailment Period and the kW amount the Eligible Customer is being requested to reduce its consumption (the "Curtailment Amount").

Each Eligible Customer will be required to respond to the Curtailment Notice within 30 minutes and in such response: (a) commit to reducing its energy consumption during the Curtailment

---

<sup>5</sup> Pursuant to General Order 96-B, Energy Industry Rule 6.3, this Curtailment Program Agreement at all times shall be subject to such modification as the Commission may direct from time to time in the exercise of its jurisdiction.

Period and for the Curtailment Amount the Curtailment Notice specifies; (b) commit to reducing its energy consumption during some lesser portion of the Curtailment Period, in whole hour increments, and for some lesser portion of the Curtailment Amount, in 100 kW increments, the Curtailment Notice specifies; or (c) advise Liberty Utilities that it shall not be participating in the Curtailment the Curtailment Notice requests.

In the event the Eligible Customer fails to respond within such 30 minute period that it will be reducing its energy consumption in the manner the Curtailment Notice prescribes or for some lesser portion thereof, the Curtailment Notice shall be deemed withdrawn and of no force and effect and Liberty Utilities shall have no obligation to compensate Customer in any amount with respect to that particular Curtailment Notice.

If the Eligible Customer timely responds that it shall reduce its energy consumption in the manner the Curtailment Notice requests, the Eligible Customer must operate at that reduced energy load for the entire Curtailment Period.

#### **D. Rates**

In accordance with the DR Schedule and the applicable Interim Curtailment Program Contract between Liberty Utilities and each Eligible Customer, Liberty Utilities shall pay Eligible Customers \$1.00/kWh (i.e., \$1,000/MWh) for any and all qualified reduction in the Eligible Customer's energy consumption made in response a Curtailment Notice.

This rate is intended to fairly compensate the Eligible Customer for the incremental costs and inconvenience experienced by curtailing its energy consumption in response to a Curtailment Notice, while correspondingly increasing system reliability for the benefit of all its customers at a cost-effective price.

Liberty Utilities will evaluate and pay for the Eligible Customer's hourly load reductions realized under the Interim Curtailment Program within ninety (90) days after each Curtailment. The payment will be reflected as an adjustment to the Eligible Customer's next monthly bill.

#### **Protests**

Anyone wishing to protest this advice letter may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than September 30, 2014, which is 20 days after the date of this advice letter. The protest shall set forth the grounds upon which it is

///

///

based and shall be submitted expeditiously. There is no restriction on who may file a protest.

Protests should be mailed and emailed to:

CPUC Energy Division  
Attention: Tariff Unit, 4<sup>th</sup> Floor  
505 Van Ness Avenue  
San Francisco, California 94102  
Facsimile: (415) 703-2200  
Email: [EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov)

Protest and all other correspondence regarding this advice letter should be sent via email and U.S. Mail (and by facsimile, if possible) to Liberty Utilities at the addresses show below on the same date it is mailed or delivered to the Commission.

Liberty Utilities (CalPeco Electric) LLC  
Attention: Advice Letter Protests  
933 Eloise Avenue  
South Lake Tahoe, CA 96150  
Fax: 530-544-4811  
Email: [Ken.Wittman@libertyutilities.com](mailto:Ken.Wittman@libertyutilities.com)

With a copy to:

Steven F. Greenwald  
Patrick J. Ferguson  
Davis Wright Tremaine LLP  
505 Montgomery St, Suite 800  
San Francisco, CA 94111  
Fax: 415-276-6599  
Email: [stevegreenwald@dwt.com](mailto:stevegreenwald@dwt.com)  
Email: [patrickferguson@dwt.com](mailto:patrickferguson@dwt.com)

### **Tier Designation and Effective Date**

Liberty Utilities submits this advice letter as a Tier 3 advice letter, which shall only be effective after Commission approval.

Given the importance to have the Interim Curtailment Program effective and operational before the beginning of the 2014-15 winter peak load period, Liberty Utilities requests that the Commission in all events approve this advice letter by no later than the Commission's November 6, 2014 decision conference.

**Notice**

In accordance with General Order 96-B, Section 4.3, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list.

If additional information is required, please contact Ken Wittman, Manager of Rates and Regulatory Affairs ([ken.wittman@libertyutilities.com](mailto:ken.wittman@libertyutilities.com)).

Sincerely,

A handwritten signature in blue ink that reads "Ken Wittman". The signature is cursive and matches the printed name below it.

Ken Wittman  
Manager of Rates and Regulatory Affairs  
Liberty Utilities (CalPeco Electric) LLC

Attachments

cc: Liberty Utilities G. O. 96-B Advice Letter Service List



# ATTACHMENT 1

**Schedule No. DR  
Demand Response Program**

(N)

**Applicability**

This rate schedule authorizes the utility to request Eligible Customers to reduce energy consumption during a Curtailment Period for purposes of improving system reliability and to compensate Eligible Customers for agreeing to reduce energy consumption in response to a Curtailment Notice the Utility issues.

**Territory**

Entire California Service Area.

**Eligibility**

A customer is eligible for this schedule (an "Eligible Customer") if it:

1. Takes electric service in accordance with Liberty Utilities' A-2 (medium general service) or A-3 (large general service) rate schedule;
2. Can reduce electric consumption a minimum of 2,000 kilowatt ("kW") for any or all of the five (5) consecutive hours between 5:00 p.m. and 10:00 p.m. Pacific Standard Time ("PST") on any day between December 1 and February 28 (the "Winter Season On-Peak Period");
3. Executes a Curtailment Program Agreement with the utility; and
4. Timely responds to a request by the utility to reduce electric consumption in accordance with the procedures set forth in this schedule.

An Eligible Customer enrolled in this schedule must continue to take service under the provisions of its otherwise-applicable rate schedule.

**Rates**

Utility shall pay the Eligible Customer \$1.00/kWh for any and all qualified reduction in the Eligible Customer's energy consumption made in response to a Curtailment Notice.

(Continued)

(N)

**Schedule No. DR**  
**Demand Response Program**  
(continued)

**Special Conditions**

1. Curtailment: When the utility determines that it must reduce system load for reliability purposes or other purposes in accordance with Good Utility Practice, utility may issue a Curtailment Notice to an Eligible Customer and request that it reduce its energy consumption in the MW amounts ("Curtailment Amount") and during the hours ("Curtailment Period") the Curtailment Notice requests.
2. Winter Season On-Peak Period: The utility may issue a Curtailment Notice to be applicable on any day between December 1 and February 28, and for any or all of the hours between 5:00 p.m. and 10:00 p.m. PST.
3. Curtailment Notice: Utility will provide Eligible Customer with a Curtailment Notice no later than 2:00 p.m. PST on the day on which the Curtailment is to occur. The Curtailment Notice shall specify the Curtailment Amount in 100 kW increments and the Curtailment Period in whole hour increments.
4. Communication: The form(s) of Curtailment Notice will be specified for each Eligible Customer in the Curtailment Program Agreement it will execute with the utility. Customer is responsible for responding to the communications in a manner consistent with this schedule.
5. Acceptance/Non-Acceptance. Each Eligible Customer will be required to respond to the Curtailment Notice within thirty (30) minutes and in such response: (a) commit to reducing its energy consumption during the Curtailment Period and for the Curtailment Amount the Curtailment Notice specifies; (b) commit to reducing its energy consumption during some lesser portion of the Curtailment Period, in whole hour increments, and for some lesser portion of the Curtailment Amount, in 100 kW increments, the Curtailment Notice specifies; or (c) advise the utility that it shall not be participating in the Curtailment the Curtailment Notice requests. In the event that the Eligible Customer fails to respond that it will be reducing its energy consumption in the manner and within the thirty (30) minute period prescribed by the Curtailment Notice or for some portion thereof, the Curtailment Notice shall be deemed withdrawn and of no force and effect and utility shall have no obligation to compensate the Eligible Customer in any amount with respect to that particular Curtailment Notice. If the Eligible Customer timely responds that it shall reduce its energy consumption in the manner the Curtailment Notice requests, the Eligible Customer must operate at that reduced energy load for the entire Curtailment Period.

(continued)

(N)

(N)

**Schedule No. DR**  
**Demand Response Program**  
(continued)

(N)

**Special Conditions** (continued)

- 6. Contracts: Customer shall execute a Curtailment Program Agreement with the utility to become an Eligible Customer in accordance with this rate schedule. A customer's participation in this schedule can only become effective after the utility determines the customer has complied with all the terms and conditions of this schedule.
- 7. Curtailment Credit: Utility will evaluate and pay for the Eligible Customer's hourly load reductions realized under the Interim Curtailment Program within ninety (90) days after each Curtailment. The payment will be reflected as an adjustment to the Eligible Customer's next monthly bill.
- 8. Termination of Schedule: Unless terminated earlier by the California Public Utilities Commission, this schedule will terminate and be replaced upon the effectiveness of a replacement demand response tariff providing for curtailment during peak hours which utility intends to propose in its upcoming 2016 general rate application.

(N)

## ATTACHMENT 2

## CURTAILMENT PROGRAM AGREEMENT

This Curtailment Program Agreement (“Agreement”) is made and entered into by and between Liberty Utilities (CalPeco Electric) LLC (U 933-E) (“Utility”) and \_\_\_\_\_ (“Customer”) on \_\_\_\_\_, 2014 (the “Effective Date”). Utility and Customer are referred collectively as the “Parties” and individually as a “Party.”

The Parties agree as follows:

1. Term. The term of this Agreement shall commence when both Parties sign the Agreement and shall remain in effect until terminated pursuant to Section 9 of this Agreement. In all events, this Agreement shall terminate upon Liberty Utilities’ Schedule No. \_\_, Demand Response Program Tariff (“Demand Response Program”), being cancelled or terminated (the “Term”).

2. Customer Representations. Customer, and if applicable, its successors, represents and warrants to Utility throughout the Term, that it:

(a) Takes electric service in accordance with Utility’s A-2 (medium general service) or A-3 (large general service) rate schedule;

(b) Can reduce electric consumption a minimum of two thousand (2,000) kilowatts (“kW”) for any or all of the five (5) consecutive hours between 5:00 p.m. and 10:00 p.m. Pacific Standard Time (“PST”) on any day between December 1 and February 28; and

(c) Is able to timely respond to a request by Utility to reduce electric consumption in accordance with the procedures set forth in this Agreement.

3. Curtailment. Utility may issue a notice to Customer (“Curtailment Notice”) whenever it determines that it must reduce load in accordance with the terms of its Demand Response Program. Utility may issue a Curtailment Notice to Customer requesting the Customer to curtail its electric consumption on any day between December 1 and February 28, and for any or all of the hours between 5:00 p.m. and 10:00 p.m. PST.

4. Curtailment Notice: Utility will provide Customer with a Curtailment Notice as soon as practicable after Utility determines the need to reduce load and in all events no later than 2:00 p.m. PST on the day on which the Utility is requesting Customer to reduce load. The Curtailment Notice shall request that Customer reduce its electric consumption in the kW amount (“Curtailment Amount”) and during the hours (“Curtailment Period”) the Curtailment Notice requests. The Curtailment Amount shall be specified in 100 kW increments and the Curtailment Period shall be specified in hour increments.

5. Acceptance/Non-Acceptance. Customer must respond to the Curtailment Notice within thirty (30) minutes and in such response:

(a) Commit to reducing its energy consumption during the Curtailment Period and for the Curtailment Amount the Curtailment Notice specifies;

Curtailment Program Agreement

(b) Commit to reducing its energy consumption during some lesser portion of the Curtailment Period, in whole hour increments, and for some lesser portion of the Curtailment Amount, in increments of 100 KWs, the Curtailment Notice specifies; or

(c) Advise Utility that it shall not be participating in the Curtailment the Curtailment Notice requests.

(d) In the event that Customer fails to respond within such thirty (30) minute period that it will be reducing its energy consumption in the manner the Curtailment Notice prescribes or for some portion thereof pursuant to Section 5(b), the Curtailment Notice shall be deemed withdrawn and of no force and effect and Utility shall have no obligation to compensate Customer in any amount with respect to that particular Curtailment Notice. If Customer timely responds that it shall reduce its energy consumption, Customer must operate at that reduced energy load for the entire Curtailment Period.

6. Communication/Notice: Utility shall provide a Curtailment Notice to Customer and Customer shall respond to the Curtailment Notice by telephone communication using the following telephone numbers. All other notices, requests, statements or payments made pursuant to this Agreement shall also be directed to following persons.

Utility:

Liberty Utilities (CalPeco Electric) LLC  
933 Eloise Avenue  
South Lake Tahoe, CA 96150

Attn: Ken Wittman

Phone: 530-543-5267

Customer:

[Customer Name]

[Attn: \_\_\_\_\_]

[Phone: \_\_\_\_\_]

7. Curtailment Credit: Utility will evaluate and pay for Customer's hourly load reductions made in response to a Curtailment Notice within ninety (90) days after each such Curtailment. The payment will be reflected as an adjustment to Customer's next monthly bill.

8. Curtailment Rate: Utility shall pay Customer \$1.00/kWh for any and all qualified reduction in the Customer's energy consumption made in response to a Curtailment Notice.

9. Termination: This Agreement may be terminated: (a) by mutual agreement of the Parties; (b) automatically by the Demand Response Program being cancelled or terminated; or (c) by Customer or Utility, upon providing at least sixty (60) days written notice to the other Party.

10. Commission Jurisdiction: This Agreement at all times shall be subject to such modification as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction.

## Curtailment Program Agreement

11. General Representations and Warranties. On the Effective 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) It is acting for its own account and is sophisticated, experienced, and knowledgeable regarding the electricity industry, is able to evaluate the risks and merits of the transactions contemplated herein, and is not relying in any manner on the other Party for advice or analysis regarding the risks or merits of any such transaction; and

(c) The execution, delivery, and performance of this Agreement is within its powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions of its governing documents, any contracts to which it is a Party, or any laws applicable to it.

12. Written Records. Utility shall maintain records of all qualified reduction in the Customer's energy consumption made in response to a Curtailment Notice. Utility shall provide such records to Customer upon request.

13. Limitation of Remedies, Liability, and Damages. A Party's liability for breach of any provision of this Agreement shall be limited to direct actual damages only. Such actual damages shall be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived. Neither Party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits, or other business interruption damages, by statute, in tort, or in contract.

14. Dispute Resolution.

(a) Disputes involving this Agreement, including any transaction governed hereby, will be addressed first by a meeting of the Parties' management ("Management Meeting"). The Management Meeting will involve one or more senior executives nominated by each Party, who will meet within twenty-one (21) days of written notice from one Party to the other at a time and place to be agreed. If both Parties agree, the Management Meeting can take place by telephone conference.

(b) If the Management Meeting does not resolve the dispute, evidenced by a writing signed by both Parties within fourteen (14) days after the meeting, the Parties shall initiate binding arbitration to be conducted by and under the rules of the American Arbitration Association ("AAA"). Any such arbitration shall be conducted in San Francisco, California. Utility and Customer agree that the award of the arbitrator shall be the sole and exclusive remedy between them regarding any claims, counterclaims, issues or accountings presented or pleaded to the arbitrator. Judgment upon arbitration awards may be entered in any court, state or federal, having jurisdiction. The provision of this section shall not preclude either Party from commencing action in any court of proper jurisdiction to seek injunctions or other equitable relief; *provided* that neither Party may seek money damages in such court action.



## Curtailment Program Agreement

15. Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion.

16. Governing Law and Jury Trial Waiver. 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 law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

17. Interpretation. This Agreement shall not be construed against a Party as a result of the preparation, drafting, or execution of it.

18. Indemnities.

(a) Indemnity by Utility. Utility shall release, indemnify, and hold harmless Customer or Customer's respective directors, officers, agents, and representatives against and from any and all loss, claims, actions, or suits, including costs and prevailing awarded attorney's fees resulting from, or arising out of or in any way connected with this Agreement, including, without limitation, any loss, claim, action, or suit, for or on account of injury to, bodily or otherwise, or death of persons, or for damage to or destruction of property belonging to Utility, Customer, or others, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or gross negligence of Customer, its affiliates, or Customer's and its affiliates' respective agents, employees, directors or officers.

(b) Indemnity by Customer. Customer shall release, indemnify, and hold harmless Utility or Utility's respective directors, officers, agents, and representatives against and from any and all loss, claims, actions, or suits, including costs and attorney's fees resulting from, or arising out of or in any way connected with this Agreement, including, without limitation, any loss, claim, action or suit, for or on account of injury to, bodily or otherwise, or death of persons, or for damage to or destruction of property belonging to Utility, Customer, or others, excepting only such loss, claim, action, or suit as may be caused solely by the willful misconduct or gross negligence of Utility, its affiliates, or Utility and its affiliates' respective agents, employees, directors or officers.

19. Recordings. The Parties agree that telephone conversations may be recorded; that such recordings are evidence of binding transactions; and that they are admissible evidence in the event of a dispute.

20. Entire Agreement. This Agreement sets forth all understandings (whether oral or written) between the Parties with respect to the matters described herein as of the Effective Date.

21. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement, and may be delivered by facsimile or via electronic mail.

Curtailment Program Agreement

22. Third Party Beneficiaries. Nothing in this Agreement is intended to confer upon any person other than the Parties to this Agreement any rights or remedies of any nature whatsoever under or by reason of this Agreement.

23. Survival. Notwithstanding anything to the contrary in this Agreement, any charges or other amounts due and owing under this Agreement shall survive the end of the Term and shall be paid, and any corrections or adjustments to payments shall be determined, as soon as practicable, and all indemnity and confidentiality obligations shall survive the end of the Term.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

Liberty Utilities (CalPeco Electric) LLC

[Customer]

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

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

Name:

Name:

Title:

Title:

Liberty Utilities (CalPeco Electric) LLC  
Advice Letter Filing Service List  
General Order 96-B, Section 4.3

**VIA EMAIL**

gbinge@ktmnc.com  
emello@sppc.com  
epoole@adplaw.com  
cem@newsdata.com  
rmccann@umich.edu  
sheila@wma.org  
abb@eslawfirm.com  
cbk@eslawfirm.com  
bhodgeusa@yahoo.com  
chilen@nvenergy.com  
phanschen@mofo.com  
liddell@energyattorney.com  
cem@newsdata.com  
dietrichlaw2@earthlink.net  
abb@eslawfirm.com  
glw@eslawfirm.com  
clerk-recorder@sierracounty.ws  
plumascoco@gmail.com  
marshall@psln.com  
stephenhollabaugh@tdpud.org  
gross@portersimon.com  
mclcluretahoe@yahoo.com  
catherine.mazzeo@swgas.com  
Theresa.Faegre@libertyutilities.com  
Ken.Wittman@libertyutilities.com  
SDG&ETariffs@semprautilities.com

AdviceTariffManager@sce.com  
edtariffunit@cpuc.ca.gov  
dlf@cpuc.ca.gov  
jrw@cpuc.ca.gov  
xjv@cpuc.ca.gov  
rmp@cpuc.ca.gov  
jaime.gannon@cpuc.ca.gov  
mas@cpuc.ca.gov  
jm3@cpuc.ca.gov  
Jeannie.chang@cpuc.ca.gov  
txb@cpuc.ca.gov  
efr@cpuc.ca.gov  
joc@cpuc.ca.gov  
tlg@cpuc.ca.gov  
dao@cpuc.ca.gov  
ljt@cpuc.ca.gov  
dlf@cpuc.ca.gov  
mmg@cpuc.ca.gov  
md2@cpuc.ca.gov  
kjl@cpuc.ca.gov  
denise.tyrrell@cpuc.ca.gov  
fadi.daye@cpuc.ca.gov  
winnie.ho@cpuc.ca.gov  
usrb@cpuc.ca.gov  
Rob.Oglesby@energy.ca.gov  
stevegreenwald@dwt.com  
vidhyaprabhakaran@dwt.com  
judypau@dwt.com  
jeffreygray@dwt.com  
dwtcpudockets@dwt.com  
patrickferguson@dwt.com