

**CANADA**

**PROVINCE OF QUEBEC**

**DISTRICT OF MONTREAL**

**R-3401-98**

**QUÉBEC ENERGY BOARD**

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Re: Revised application for the modification of  
rates for the transmission of electric power

**HYDRO-QUÉBEC**

(« HQ »)

**Applicant**

and

**PG&E NATIONAL ENERGY GROUP, INC.**

(“NEG”)

**Intervenor**

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**NEG BRIEF**

**I. INTRODUCTION**

In accordance with the process prescribed by the Régie de l'Énergie du Québec (“Régie”) for Application R-3401-98, PG&E National Energy Group, Inc. (“NEG”) hereby submits its comments and evidence on TransÉnergie, a division of Hydro-Québec, (“HQ-TE”) Amended Application of August 15, 2000.

NEG, through its subsidiaries, owns and manages more than 8,000 MW of generation facilities, and it has natural gas facilities that connect major producing regions in Canada to some of the fastest-growing markets in North America. It operates one of the highest volume energy trading businesses in North America, and in a manner similar to how Hydro-Québec (“HQ”) now does business in wholesale power markets in the United States. NEG views the reciprocal nature of U.S. and Canadian energy company participation in each country's energy markets to be an important element of wholesale competition because the joint activity contributes to liquidity, market efficiency and downward pressure on

consumer prices. In 1999 alone, NEG's subsidiaries traded over 200 TWh, and ranked 3rd among all trading organizations in the United States:

<u>Year</u>	<u>NEG Energy Trading Volume (TWh)</u> <u>(U.S. / Northeast - NPCC )</u>
1997	18 / 0.5
1998	83 / 30
1999	200 / 75
YTD Q3 2000	210 / 68

\* *Reference: FERC, Power Marketing Ranking*

NEG desires to participate more actively in Quebec's markets, but has found its effort thwarted in large part by HQ's use of the transmission system. NEG believes that the questions raised and the decisions rendered in the present proceedings will substantially affect the market conditions, supplies and prices applicable to all market participants.

NEG's objective in filing this brief is to provide the views of a marketer, in complement of the other intervenor commentaries, regarding the current state of affairs on the Hydro-Québec transmission system similar to those that HQ-TE marketing affiliate enjoys in the United States. Specifically, NEG requests that the Régie act to require HQ-TE to guarantee an administration of the terms and conditions of its transmission tariff in a fair and non-discriminatory manner that is comparable to FERC and industry practices. NEG wishes to address certain issues that will affect its ability to serve Quebec wholesale markets, including its ability to manage risk in the applicable regional markets.

**Only when all market participants have equal and open access to HQ-TE's transmission system, will the best and highest use of the system be possible. Increasing competition could maximize revenues from other sources than Hydro-Québec, maximize potential alternative supply sources, and allow Quebec ratepayers to obtain maximum benefits from the deregulation of energy industry.**

## II. ACCESS TO TRANSMISSION SERVICE

The reservation priority clause, as described in Section 2.2 of the Open Access Transmission Tariff (“OATT”) for existing firm long-term service customers essentially permits HQ-Generation to perpetually lock-in firm long-term transmission reservations, leaving next to nothing for other market participants.

At the opening of the market in 1997, HQ-Marketing had to choose between grandfathering contracts until they expire without any request on OASIS or making a request on OASIS for all of the contracts they wanted to have under OASIS treatment. The Firm Energy Contract (“FEC”), signed with the New England Utilities (“NEU”), and the one entered with the Vermont Joint Owners (“VJO”) were placed under the OASIS regime. HQ-Generation decided at such time not to grandfather the FEC in order to keep control over its most important interconnection with New England following the end of the FEC in 2001.

By following this process, HQ-TE is not required to conduct an “Open Season” process in the form of an auction of interconnection capacities. This procedure precludes access to the transmission system for all parties except its generating affiliate. By this initial allocation of transmission capability, HQ-Generation reserved most, if not all, of the firm long-term transmission capability on the New York (“NY”), New England (“NE”) and New Brunswick (“NB”) interconnections (see Table p.5). The effect of this lack of transmission access has been to the detriment of all other wholesale participants, the market and the ratepayers. To facilitate new entry and to stimulate competition, the renewal provision should not be available to maintain the favored position of Hydro-Québec’s affiliate. The Régie should require Hydro-Québec to hold an open season for this transmission capacity.

Furthermore, HQ-TE has applied such rules as there are in a way that further advantages its generating affiliate. For example, in 1998 and 1999, HQ renewed its transmission reservation on the NE interconnection only a few days before the expiration deadline, without any fears of being “bumped out” of the queue. HQ-Generation knew that no market participants had the ability to receive additional deliveries due to its FEC

commitments. From 1997 up to the end of 2000, the energy to be delivered by HQ marketing under the FEC did not allow any other market participants to justify pursuing a yearly request under the HQ-TE tariff due to the economic burden of such request. NEG is prepared to offer testimony from its employees with day-to-day responsibility for the marketing of power from and through Quebec, and who routinely experience Hydro-Québec's discriminatory treatment.

In another situation, HQ-TE required from NEG to have a point of entry attached with any out service request, a condition not required of HQ-Generation. However, HQ-Generation was able place a reservation in advance for a single wheel-out path, and was not required to provide the origin of the power. HQ-TE argued that such requirement wasn't necessary for its affiliate. Such practice of asking additional information from a third party is discriminatory and ultimately discourages usage of the HQ-TE' system.

In the fall of 2000, NEG asked HQ-TE if it would accept a request for yearly firm service from any of HQ's Control point of receipt ("HQT"), to a specific delivery point. HQ-TE representatives refused this request, based on the fact that NEG had no generation under control or under operation within HQT. NEG presented a request using the concept for a daily transaction, which was also denied (OASIS#111680). Shortly after, NRG Power Marketing Inc. attempted to buy yearly firm service using the HQT to NE path, without success either.

Furthermore, NRG placed 25 requests on the HQ-TE OASIS in 2000, which were all rejected or invalidated for various reasons. Several of those were for service on the HQT-NE path, after the 60-day deadline (industry practice) for HQ-Generation to confirm its intent to renew its yearly firm reservation on this path. HQ-TE argued, and subsequently posted on its OASIS, that such intent had been expressed on a written form conveniently dated prior to the deadline but not disclosed until after the deadline.

As compelling as the foregoing examples are, the statistical data confirms the stranglehold exerted by Hydro-Québec and its affiliates on transmission capacity.

Reservations for the long-term firm point-to-point service in 2000 clearly demonstrates the strong anti-competitive tendencies resulting from HQ-Generation activities. The chart presented by HQ (HQT-13, Document 1, Page 20) presents a yearly average of 3,300 MW still reserved for 2001, with the total capacity (posted and real) per surrounding market (obtained from HQ-TE's OASIS) as shown below:

Total Available Transmission Capacity per region interconnected ("MW")

	ON	NB	NE	N Y
Posted	1,200	1,200	2,000	1,850
Real	1,100	900	1,700	1,200

HQ-Generation firm reservations 2000 / 2001

Path	Yearly Firm		Monthly Firm			
	2000 (MW)	2001 (MW)	2000 (MW)		2001 (MW)	
HQT-NE	2,000	2,000	-200	Sept		
HQT-NB	500	0	200	Sept	680	Jan
			-125	Sept / Dec	580	Feb
HQT-LAW (ON)	0	0	500	12 Months		
HQT-MASS (NY)	1,300	1,300	125	Sept		
			125	Dec		

According with HQT-13, Doc. 13, p. 15, no other client other than HQ-Generation has actually had a reservation for firm service confirmed in HQ-TE's OASIS. Furthermore, the renewal of reservations for 2001 by HQ-Generation of the total capacity of 2,000 MW on the DC interconnection with New England, without having a corresponding transmission capacity reserved on the U.S. side of the interconnection, is economically irrational when, in fact, only 1,200 to 1,700 MW of capacity is available and serves as yet another clear

example of HQ-Generations intent to monopolize the transmission facilities denying access to market participants at the expense of ratepayer.

Furthermore, HQ recently made the following explanations on scheduling on that line:

*“As to Table 1 showing imports to New England and Table 3, most, if not all, of the quantities imported by New England on the Phase I/II intertie are scheduled by the New England Utilities and related agreements. The New England Utilities presumably vary imports from Hydro-Québec in accordance with their own supply strategy. Any assumption about Hydro-Québec’s ability to utilize transmission rights on phase I/II HVDC line to Sandy Pond after the expiration of the Firm Energy Contract would be purely speculative. At the present time, the capacity on the HVDC line on the U.S. side of the border is controlled by New England utilities.”*

FERC Docket No. ER97-851-12, Dec. 21, 2000. *Motion for Leave to File Answer and Answer of H.Q. Energy Services (U.S.) Inc.*, p. 8

NEG believes that the actual transfer capability of the Phase I/II transmission facility fluctuates from 1,200 to 1,800 depending on the system conditions on the U.S. side. NEG, as a beneficiary of a portion of the line capacity under the FEC, has scheduled power in window referred in the quote mentioned above, which is June 2000 to August 31, 2000. NEG agrees with the statement above that HQ-Generation has no control over the energy scheduled during that period. In effect, the last year of the FEC, under which the NEUs are obligated to schedule 9 TWh per contract year ends in August 2001. Since the electricity is the most valuable during the summer period, it is normal that NEU participants schedule the highest quantities of MWhs over the interconnect during such period. For the last contractual year (September 2000 – August 2001), the NEUs have started to schedule the remaining 2.3 TWh, leaving a lot of available capacity on the Quebec side of that interconnection. The Régie should consider this fact in its consideration of HQ-Production’s behavior.

NEG remains concerned that the NEUs, jointly owners of the line on the U.S. side of the interconnection, will not be able to benefit from the available capacity at the termination of the FEC, which will be used at the sole discretion of HQ-Generation. Thus, only non-firm

service remains available with the associated consequence to be the first one to face a potential capacity reduction, or in the worst case, an interruption of scheduled power deliveries. It remains essential for the market to have access to the real available capacities at each interconnection.

Additional factual data, compiled from HQ-TE's OASIS, clearly shows the lack of competition to the benefit of its generating affiliate for every type of service. Of the thirteen HQ-TE customers currently registered, only two customers other than HQ-Generation have obtained confirmed reservation in 2000 (65 for Energie MacLaren and 16 for NEG) mostly for short term services. In comparison, HQ-Production made over 620 reservations in 2000, which includes its entire yearly firm ones. Furthermore, HQ-TE OASIS does not show a single confirmed reservation for the remaining 10 customers.

The following chart presents for 5 other transmission providers the number of monthly firm reservations made by marketing affiliates in contrast to the ones made by other customers.

This clearly shows the lower market shares of their marketing affiliates:

	<u>AP</u>	<u>DUKE</u>	<u>VEPCO</u>	<u>AMEREN</u>	<u>SOUTHERN</u>
Affiliate reservations /	1/18	2/35	14/21	250/440	0/90
Other reservations in 2000					

**URL reference:** [www.oasis.ecar.org:488/OASIS/AP](http://www.oasis.ecar.org:488/OASIS/AP); [www.vacar.jtsin.com:488/OASIS/DUK](http://www.vacar.jtsin.com:488/OASIS/DUK);  
[www.vacar.jtsi.com:488/OASIS/VAP](http://www.vacar.jtsi.com:488/OASIS/VAP); [www.maininc.org:488/OASIS/AMRN](http://www.maininc.org:488/OASIS/AMRN);  
[www.weboasis.com/oasis/soco](http://www.weboasis.com/oasis/soco)

Control of long-term transmission service confers an unfair competitive advantage on HQ-Generation, which is the only competitor with guaranteed access to firm transmission service. This privileged position occupied by HQ-Generation could be foreseen as discriminatory by other market participants. It leaves no room for other market participants to acquire long-term transmission service and eliminates any possible competition with HQ-Generation for this class of service. Considering HQ-Generation's monopoly position with respect to installed generation capacity in the Province, Section 2.2 should be amended in order to permit access by other market participants. As it was envisioned by BC Hydro, a

mechanism could be implemented to guarantee a minimal capacity on the day-ahead market for other clients, which could be made available on a first-come first-serve or auction basis.

### ***Regional Transmission Organizations (“RTO”)***

NEG strongly believes that participation by HQ-TE in the RTO process announced by FERC in its Order 2000 would stimulate competition, and facilitate access to Hydro-Québec’s network. NEG is also concerned by the limited interest expressed by HQ-TE in joining forces with surrounding systems and more actively working on the development of a Northeast-RTO. Our concerns have increased with HQ-TE’s initial argument that it already satisfies the minimum characteristics and functions of an RTO under the proposed FERC RTO NOPR (FERC, Docket No. RM99-2-000, Initial Comments of TransÉnergie, August 23, 1999).

### ***Information Posted on the OASIS***

NEG requests that a complement of information be posted on TransÉnergie OASIS web site and be made available to all market participants similar to those available on other OASIS web sites. This supplemental information would enhance competition by providing information useful for the planning of commercial activities. Furthermore, data on the load situation should be available on a real-time basis, like it is the case with NB Power. Improvements should be made to the TTC/ATC postings such that the information concerning available capacity is consistent on both sides of an interconnection.

Furthermore, the addition of the following data would be consistent with commercial practices of surrounding independent system operators:

- *Interruption Information:* Grouped by operating area within the Province of Quebec, both planned and unplanned interruptions posted and updated every 5 minutes into a single chart;

- *Transmission System Flows*: Internal load, operating capacity reserve situation, next hour non-firm available transfer capability (ATC), winter and summer transfer capability (TTC ) made available and updated every 5 minutes for each interconnection if applicable;
- *Daily operations report*: Prior-day system net peak (with time of occurrence), as well as net quantity of MWh interchanged at each interconnection;
- *Weather Information*: Grouped by operating area within the Province of Quebec and updated every hour, temperature, wind direction and speed, humidity factor and pressure;
- *Forecasts (7-day rolling)*: Internal load with system net peak and estimated time of occurrence, as well as net interchanges for each interconnection.

**Even if some basic information is made available on HQ-TE OASIS, it does not represent a complete picture of the real firm capacity available to external users. NEG strongly opposes HQ-TE's assertion that the information necessary to verify exact ATC is strategic, confidential and cannot be divulged. It remains unacceptable for a regulated monopoly transmission operator not to divulge such important data to all HQ-TE clientele. Also, this information is readily available on other OASIS web sites (BC Hydro, ISO-NE, etc).**

### III. RATE STRUCTURE CONSIDERATIONS

Transmission rates should be fair, equitable, and exclude subsidies of sunk cost or other categories of services. Optimal use of HQ-TE's network by clients other than HQ-Production would generate additional revenues, instead of cash flow transfer between two department affiliates, for the ultimate benefit of the Quebec population

### 3.1 Tariff Design

No matter which methodology is used to calculate an applicable fee structure, the result remains exorbitant tariffs that prevent third party customers from accessing on a reasonable basis the Quebec transmission network. Only HQ-TE's generating affiliate can economically use the network at such high rates. Thus, such service is economically unfeasible and probably the most expensive network in North America (US\$52/KW-year compare with ISO-NE at US\$15.50 and ISO-NY at US\$24). The following table compares the HQ-TE Monthly Firm Tariff (US\$5,430/MW-Mth) and Hourly Non-Firm (US\$11.30/MWh) with others:

	<u>AP</u>	<u>DUKE</u>	<u>VEPCO</u>	<u>AMEREN</u>	<u>SOUTHERN</u>	
Tariff Monthly Firm	US\$1,490	US\$1,030	US\$1,066	US\$65	US\$1,109.4	/MW-Mth
Hourly Non-firm	US\$1.30	US\$1.40	US\$1.46	US\$2.22	US\$2.10	/MWh

*URL reference:* [www.oasis.ecar.org:488/OASIS/AP](http://www.oasis.ecar.org:488/OASIS/AP); [www.vacar.jtsin.com:488/OASIS/DUK](http://www.vacar.jtsin.com:488/OASIS/DUK);  
[www.vacar.jtsi.com:488/OASIS/VAP](http://www.vacar.jtsi.com:488/OASIS/VAP); [www.maininc.org:488/OASIS/AMRN](http://www.maininc.org:488/OASIS/AMRN);  
[www.weboasis.com/oasis/soco](http://www.weboasis.com/oasis/soco)

HQ-TE's policy to offer non-firm short-term services at higher prices than a firm long-term service defies any logical explanation. Every other Transmission Provider charges less for non-firm short term as compare to firm long-term service.

For 2001, HQ-TE anticipates yearly firm reservation of 3,800 MW, for a total of 289 M\$ and revenues for short-term for 11.2 M\$ (HQT-10, document 1), which represents only 0.4% of total HQ-TE 2.6 B \$ revenue requirements for 2001. In comparison, the 4.9 M\$ for 1999 for short-term non-firm transactions illustrates perfectly the fact that such transaction are not attractive enough for the HQ-TE client base, even with the application of significant discounts. As indicated in HQT-13, Doc. 1 Page 134, most of the increase in the short-term services comes from HQ-Generation, thus illustrating one more time their monopolistic activities. The requested increase of 5.8% for 2001 will certainly not improve such a situation.

### ***Discount Methodology***

Since the issue of discounts for point-to-point transmission service should be addressed in this hearing (D-2000-102), NEG remains dissatisfied with HQ-TE's approach.

In Order 888-A, FERC determined that the potential for abuse was most obvious with discount practice in situation involving affiliates (pp.319-320). By revising its discounting policy, FERC allowed discounts applicable only to particular paths, but expressed some concerns in the development of patterns of discounting that could indicate affiliate abuse.

Discounting for short-term service provides opportunities for higher usage on the Quebec system by third party customers. The spread in prices between surrounding markets only allows very marginal economic trading activities, which can currently only be executed at a higher rate by a sister division, cash flow staying under the same corporate umbrella.

HQ-TE offers discounts on short-term services when it deems such an offer would increase usage of the network and generate additional revenues by allowing transactions to take place which otherwise would not be economically viable (HQT-13, doc. 13.1, p.2). HQ-TE's testimony (HQT-10, doc. 1, Section 2.6.3) on this matter provides a complement of information and a clear intent to maintain such practice.

Thus, it is of the highest importance that there be a transparent and constant practice in place for the administration of these discounts. HQ-TE provided no information on the actual process used in the management of the discounting mechanism, besides general considerations.

One of the objectives pursued with the discount policy is to increase usage by other users. However, HQ-TE has not provided any evidence that its discounts have resulted in significant additional usage by non-affiliated transmission customers. NEG concludes that such practice simply favors HQ-TE's generating affiliate.

NEG has never been aware of any discount applied to firm services, only to short-term non-firm services. Furthermore, NEG has not been informed that the HQ-TE tariff has ever been discounted for use by its trading partners.

### **3.2 Treatment of Generation Related Transmission Assets**

Generation integration leads are normally defined as the section of line from the generation switchyard to the first node on the integrated grid. The industry practice in many control areas is to charge the cost of those facilities to the concerned generator and not recover those through transmission rates.

Accordingly, the costs of radial interconnection lines built to reach the Northern Quebec generation stations should be classified as generation expenses for cost allocation purposes. This is the common practice followed by both Canadian and American entities. The inclusion of these costs is significant and represents one of the biggest components of the Tariffs. Removal of the generator related costs would comply with industry standards, produce rates more in line with industry standards, and enhance revenue recovery from third parties within HQ-TE's network.

A relevant example of a similar case illustrates how such facilities have been treated by the British Columbia Utilities Commission in evaluating the inclusion of such assets necessary to connect hydro generating facilities far from load centers in BC Hydro's proposed Tariff (BC Utilities Commission, *Decision on British Columbia Hydro and Power Authority, Wholesale Transmission Services*, April 23, 1998).

In its June 25, 1996 Decision, the British Columbia Utilities Commission, in the evaluation of Wholesale Transmission Services, judged that B.C. Hydro had not justified the functionalization of generation related transmission assets ("GRTAs") to transmission and accordingly such assets were not included.

In accordance with FERC Transmission Policy Statement (*Inquiry Concerning the Commission's Pricing Policy for the Transmission Services Provided by Public*), a transmission owner should charge itself and its affiliates on the same or comparable basis that it charges others for the same service. But the interconnection equipment and radial lines needed to connect existing generators are rolled into the average rate, rather than being assigned directly to those generators, a situation that creates different treatment for new generators than existing ones. Since HQ-Generation is the owner of the vast majority of the existing generating assets installed in the Province of Quebec, as well as being an important stakeholder and beneficiary of Churchill Falls and Labrador Hydro facility output, such a policy represents a clear advantage for HQ-Generation compared with other generators.

The Régie should also explore the possibility of applying different charges to generators who are located differently. The Régie should also explore the possibility of providing different levels of credits to new generators who choose to locate in places on the grid that will allow for the deferral of transmission reinforcements.

HQ-TE's proposed policy to roll-in all such upgrades, regardless of their size, results in unacceptable rate impacts for other users. The Régie should serve ratepayers' interest and require HQ-TE to charge these costs directly to generators in accordance with FERC policy.

### **3.3 Methodological Aspects:**

#### ***Coincident Peaks***

In its proposed Tariff structure, HQ-TE applies the "one coincident-peak" ("1-CP") method for its annual tariff and then changes to the "twelve coincident-peaks" ("12-CP") method to define its monthly rate. This methodology generates the lowest possible rate for the yearly tariff (where HQ-Production has been most active), while arriving at the highest possible value for the monthly Tariff (where other market participants are more susceptible to be active).

The objective pursued with this approach is to provide a lower rate for the long-term class of users, which is composed exclusively of its affiliate, over short-term users category. Moreover, the 1-CP remains highly irregular, does not respect industry standards on this matter and is not used in any other jurisdictions in North America.

The logic beyond the better price for longer firm term is totally unacceptable since it favors only HQ-Generation. HQ-TE must be consistent and not favor a particular class of customers in detriment of the others. NEG urge the Régie to order HQ-TE to use a consistent approach, in respect of the industry standards.

### ***Methodology for Daily Rates***

HQ-TE proposes a daily tariff based on a 20-working-day-per-month and a weekly rate, which is derived by multiplying the previously defined daily rate by 7 days (instead of using working days). There is no off peak/on peak differentiation for hourly service and the hourly rate is derived by dividing the daily rate by 24 hours. Again, HQ-TE gives a similar rationale for its determination of the daily rate. The argument that leads to a preference for longer reservations is discriminatory and favors its marketing affiliate. All categories of services should be based on the number of calendar days in the period and not business days.

NEG believes that encouraging short-term use of a transmission system will improve economic efficiency, by filling in demand during lower-demand periods. Furthermore new market participants consider first such service category before yearly firm service, which bring a significant financial exposure.

HQ-TE should use consistent cost-allocation methods when setting rates for long-term and short-term point-to-point service.

#### IV. NEG'S COMMENTS ON HQ-TERMS AND CONDITIONS OF SERVICES

NEG considers that the use of HQ-TE's network needs to be exercised in a fair and non-discriminatory manner in order to allow minimum participation from customers other than HQ-Production. The proposed HQ-TE-OATT modifications should respect principles laid out by FERC and the Régie, which adhere to sound market practices.

Since there is no relevant reference in Canada to provide NEG some guidance on the examination of the relevance for HQ-TE to adopt the *pro forma* FERC OATT, NEG believes it is necessary to perform an in-depth study on how FERC would likely rule on these proposed modifications. The adaptation of the OATT to the Quebec context in 1997 and HQ-TE's intent to update and improve its Tariffs to the Quebec context (HQT-13, doc. 1, R90.1) urged such an analysis to avoid unnecessary liberty. The burden should be on Hydro-Québec to justify these changes in more than the cursory fashion it has to date.

#### V. CONCLUSION

The reality is that Hydro-Québec administers its transmission system in a manner that has the effect of discouraging competition and favoring its generating affiliate while eliminating any meaningful market and ultimately harming ratepayers. NEG's sole intent is that Hydro-Québec make available point-to-point service in a non-discriminatory manner and at a fair price. To achieve this objective, the Régie should consider:

1. Implementing a mechanism, such as the auction mechanism described herein, to facilitating access for third-party customers to long-term reservations;
2. Reducing short-term non-firm tariffs and maintaining consistency in the methodology applied to different service categories.
3. Considering other tariff structures such as 'Megawatt-Mile', 'Zonal' or 'Locational based marginal pricing'.

The beneficiaries will be market participants who will be able to meaningfully compete for transmission capacity and the ratepayers of Quebec whose transmission costs will be reduced as the value of transmission is realized through competition.

**RESPECTFULLY SUBMITTED.**

Signed in Bethesda, this 16<sup>th</sup> day of February, 2001

**(Sgd.) PG&E NATIONAL ENERGY GROUP, INC.**

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**PG&E NATIONAL ENERGY GROUP, INC.**