

**Meeting Date:** 5/8/2014

**Report Type:** Consent

**Report ID:** 2014-00269

**Title:** Subpoena to Pacific Gas & Electric for Business Records

**Location:** Citywide

**Recommendation:** Pass a Resolution authorizing the City Attorney to issue a subpoena to Pacific Gas & Electric (PG&E) requiring the production of business records necessary for an audit of Utility User Tax.

**Contact:** Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance

**Presenter:** None

**Department:** Finance

**Division:** Revenue Administration

**Dept ID:** 06001211

**Attachments:**

1-Description/Analysis

2-Resolution

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**City Attorney Review**

Approved as to Form

Gerald Hicks

4/18/2014 9:37:06 AM

**Approvals/Acknowledgements**

Department Director or Designee: Dennis Kauffman - 4/16/2014 10:38:11 AM

## Description/Analysis

**Issue Detail:** Effective September 27, 2013, PG&E discontinued its practice of billing and collecting Utility User Tax (UUT) from owners of master meter accounts that resell to their sub-metered tenants. Typical users of sub-meters include mobile home parks, multi-tenant communities, and commercial plazas. The City of Sacramento requests a complete list of master meter accounts with sub-metered tenants from PG&E. The list will enable the City to contact the master meter holders and ensure the City continues to collect all the UUT due. PG&E requires the receipt of a subpoena ordering the production of such records in order to comply with the City's request.

**Policy Considerations:** The collection and recovery of tax revenues due the City is consistent with the City Council's policy of collecting funds in order to provide essential City services.

**Economic Impacts:** None.

**Environmental Considerations:** This action is not subject to the California Environmental Quality Act because the action does not constitute a "project," as defined in section 15378. The action consists only of organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines § 15378(b)(5).)

**Sustainability:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** The Department of Finance desires to identify all of PG&E's customers with master meters so the City can contact the master meter holders and ensure they stay in compliance with City code and remit UUT to the City.

**Financial Considerations:** The City may experience a reduction in UUT revenue if we do not receive the master meter accounts from PG&E and attempt to collect directly from the master meter holders.

**Local Business Enterprise (LBE):** Not Applicable.

## **RESOLUTION NO.**

Adopted by the Sacramento City Council

### **AUTHORIZING THE CITY ATTORNEY TO ISSUE A SUBPOENA TO PACIFIC GAS AND ELECTRIC COMPANY REQUIRING THE PRODUCTION OF BUSINESS RECORDS NECESSARY FOR AN AUDIT OF UTILITY USER TAX**

#### **BACKGROUND**

- A. The City of Sacramento (“City”) imposes utility user taxes on users of certain utility services, including gas and electricity services.
- B. The Sacramento City Code requires the gas user tax to be collected and remitted to the City by the person selling the gas.
- C. The Sacramento City Code requires the electricity user tax to be collected and remitted to the City by the person supplying the electrical energy.
- D. Pacific Gas and Electric Company (“PG&E”) has recently notified the City that it has discontinued its practice of collecting and remitting utility user taxes from its customers with master meters. According to PG&E, the owners of master-meter accounts are responsible for collecting and remitting the taxes, not PG&E, since the owners resell the gas and electric services to their sub-metered tenants.
- E. As a utility service supplier, PG&E is required to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of utility user taxes it may have been required to collect and remit to the City.
- F. The City, through the Revenue Division of the Department of Finance and its designated agents, desires to identify all of PG&E’s customers with master meters so the City can contact the master meter holders and ensure the City continues to collect all the UUT due.
- G. Section 37104 of the California Government Code empowers the City Council to authorize the issuance of a subpoena requiring the attendance of witnesses or production of documents in connection with a City Utility User Tax compliance audit.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

Section 1. The City Council authorizes the City Attorney, or his designee, to issue a subpoena to PG&E requiring the production of witnesses or records necessary to identify all of its customers with master meters so the City can contact the master meter holders and ensure they stay in compliance with City code and remit UUT to the City.