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April 1, 2013

Hon. Brad R. Hill, Administrative Presiding Judge  
Honorable Associate Justices  
California Fifth District Court of Appeal  
2424 Venture Street  
Fresno, CA 93721

**Re: Application for Leave to File Letter Brief as Amicus Curiae and Amicus Curiae Letter in Support of Defendants / Respondents in *Poet, LLC et al. v. California Air Resources Board et al.* Court of Appeals Case No. F064045) (California Rules of Court 8.200 (c))**

Dear Administrative Presiding Justice Hill and Associate Justices:

Pacific Gas and Electric Company (PG&E) is respectfully submitting this Application for Leave to File Letter Brief as Amicus Curiae and Amicus Curiae Letter in the matter of *Poet, LLC et al. v. California Air Resources Board (CARB) et al.* and specifically responding to the correspondence to parties dated February 26, 2013 (Court of Appeals Case No. F064045).

**APPLICATION FOR LEAVE TO FILE LETTER BRIEF AS AMICUS CURIAE**

PG&E is respectfully requesting submission of this letter as Amicus Curiae. PG&E, incorporated in California in 1905, is one of the largest combination natural gas and electric utilities in the United States. Based in San Francisco, the company is a subsidiary of PG&E Corporation.

There are approximately 20,000 employees who carry out PG&E's primary business – the transmission and delivery of energy. PG&E provides natural gas and electric service to approximately 15 million people throughout a 70,000-square-mile service area in northern and central California. PG&E is one of the largest regulated entities under California greenhouse gas emission reductions laws and supports the continued application of the low-carbon fuel standard (LCFS).

A copy of PG&E's combined Amicus Curiae application and letter has been served on the parties to Court of Appeals Case No F064045 per attached certificate of service (California Rules of Court 8.200(c)(4)).

**AMICUS CURIAE LETTER TO THE COURT**

PG&E supports the California Air Resources Board (CARB) in its efforts to preserve the LCFS as part of comprehensive statewide program pursuant to Assembly Bill 32 (Chap. 488, 2006 Statute) to reduce greenhouse gas emissions. PG&E was one of the first major corporations and only public utility to support AB 32 when it was before the California State Legislature. PG&E

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also supported the LCFS when it was subsequently adopted. The LCFS is an important part of the overall California strategy to reduce greenhouse gas emissions, contributing 16 million metric tons of reductions. PG&E urges the court to preserve the LCFS. To the extent the court finds a violation of CEQA, the regulation should be kept in place while those issues are addressed.

Like other major energy policies, the LCFS will take years to implement because of the long lead time for investments to develop new technology, the capital needed to fund the investments and the permit processes. Many parties in California have been working toward creating new fuels under the LCFS and it is important to provide regulatory certainty and maintain the LCFS as a regulation. Without regulatory certainty, it is more difficult to attract capital investments and make necessary plans to enable the development alternative fuels and related infrastructure. With a significant disruption to the LCFS program, it will make it less likely that California will reach its GHG emission reductions goals.

The LCFS, like many of the programs adopted by CARB under AB 32, has multiple critical components which were subject to extensive public review and comment. For the past seven years, CARB has undertaken the enormous task of creating a framework of regulations for all major sectors – electricity, oil and natural gas, and other major industries – to meet the statewide goal to reduce GHG emission to 1990 levels by 2020. Throughout this time, CARB remained committed to a robust public process and compliance with a wide variety of state and federal laws, including but not limited to energy markets statutes, environmental protection statutes, and health and safety codes and standards.

PG&E is one of the largest regulated entities under CARB's jurisdiction and finds this agency to be extremely transparent and committed to full compliance with all relevant laws. Since the adoption of AB 32 in 2006, a broad range of regulatory programs has been promulgated at CARB to implement the statute, and CARB has consistently demonstrated a commitment to a strong public process, transparency and inclusive rulemaking processes with third parties. If the court ultimately finds through the hearing process that CEQA violations occurred, it should direct corrective action for only the portion of the LCFS that requires such action and *not* suspend the entire LCFS set of regulations as the petitioner requests. As evidenced in the filings by CARB, the agency has taken corrective action to address potential deficiencies and stands ready to fully comply with CEQA.

Respectfully submitted,

  
Judi Mosley,  
Attorney for Pacific Gas and Electric Company

Attachments  
JKM:kp

**CERTIFICATE OF SERVICE  
BY ELECTRONIC MAIL, AND U.S. MAIL**

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 1<sup>st</sup> day of April, 2013, I caused to be served a true copy of:

**Application for Leave to File Letter Brief as *Amicus Curiae* Combined with Letter Brief in Support of Continued Implementation of the Low Carbon Fuel Standard: *POET, LLC v. California Air Resources Board* (Court of Appeals Case No. F064045)**

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to those parties listed on the attached Mailing List with an e-mail address.

**AND**

[XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to all parties listed on the attached Mailing List.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 1<sup>st</sup> day of April, 2013 at San Francisco, California.



\_\_\_\_\_  
KAREN PRICE

## MAILING LIST

### Addressee:

### Attorney For:

Supreme Court of California  
Office of the Clerk, First Floor  
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*[Four (4) copies]*  
*Via U.S. Mail*

Honorable Jeffrey Y. Hamilton, Jr.  
Judge of the Superior Court  
c/o Appeals Clerk  
Fresno County Superior Court  
1130 O Street  
Fresno, CA 93721  
*[One (1) copy]*  
*Via U.S. Mail*

Trial Judge

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Respondent

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Intervenor