



Retrocommissioning Services & Incentives Program

Program Use Only

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| Project ID |
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2006-2008 Retrocommissioning Services & Incentives Program Owner Program Agreement

The Retrocommissioning Services & Incentives Program (Program) helps commercial, institutional, and municipal building owners improve the efficiency of their building operations by offering incentives and technical assistance for retrocommissioning (RCx) services. The Program is funded by California utility ratepayers and is administered by Portland Energy Conservation, Inc. (PECI) under a contract with Pacific Gas & Electric Company (PG&E).

By signing this Owner Program Agreement (Agreement), PEGI agrees to reserve program incentives that provide an RCx investigation, financial incentives for identified measures that have a simple payback greater than one year, and complete documentation and training on implemented RCx measures. In exchange, (Owner) commits to implementing required RCx measures and confirms their/his/her agreement to and understanding of the Program process, and the following obligations and responsibilities. As used throughout this document, the term "Party" means PEGI and Owner, collectively the "Parties".

Building Contact Information

| | | | |
|---|-------------------------------------|----------|-----|
| Building Owner | Building Name | | |
| Building Address | City | State CA | Zip |
| Mailing Address | City | State CA | Zip |
| Building Owner Representative | Building Owner Representative Title | | |
| Telephone <input checked="" type="checkbox"/> Office <input type="checkbox"/> Cellular | Fax | Email | |
| Building Contact | Building Contact Title | | |
| Telephone <input checked="" type="checkbox"/> Office <input type="checkbox"/> Cellular | Fax | Email | |

Program Term and Incentive Reservation Period

The term of this Agreement shall commence on the last signatory date that a Party executes this Agreement (Start Date) and shall terminate no later than December 31, 2008, unless canceled or terminated earlier pursuant to the terms of this Agreement.

Program funding is first-come, first-served until allocated funds are depleted. The Program may be modified or terminated without notice. PEGI's commitment to reserve incentive amounts will be void if this signed Agreement is not post-marked or received electronically by PEGI within 45 days, or by (Expiration Date).

PECI Responsibilities

1. PECI will assign a Program Representative to be the Owner's (or Owner's designated Building Contact(s)) point of contact for the project. PECI agrees to coordinate visits to the Building stated on this Agreement with the Owner so as to minimize any disruptions or inconvenience to the Owner.
2. PECI will provide a list of pre-qualified RCx Providers to perform the in-depth RCx investigation and follow-up services and will contract with the RCx Provider selected by the Owner. PECI will oversee the work of the RCx Provider and review and approve all provider project deliverables. Provider incentives will be paid as described in the Incentive Summary table below, approximately 30 business days after all the appropriate documentation is submitted to PECI. Incentive payment is contingent upon meeting all requirements of the Program. See *Attachment A* for more information on the program process and deliverables.

RCx Provider Deliverables and Incentives Summary

| Program Phase | Deliverable | Incentive | Incentive Schedule |
|----------------------|-------------------------------------|------------------|---------------------------------------|
| RCx Investigation | <i>Master List of Findings</i> | \$ | 50% paid upon approval of deliverable |
| | <i>RCx Investigation Report</i> | | 50% paid upon approval of deliverable |
| Implementation | <i>Implementation Summary Table</i> | \$ | 50% paid upon approval of deliverable |
| Follow-up | <i>RCx Final Report</i> | | 50% paid upon approval of deliverable |

3. The Program will offer Owner an implementation incentive to help offset the implementation costs of measures that pay back in greater than one year but less than four years, calculated on a per-measure basis based on the energy savings estimated in the *Master List of Findings*. The incentive amount for a given measure is capped at the amount needed to buy the measure down to a one year payback. PECI will pay \$0.08 per kWh saved for those measures that pay back in greater than one year for projects that complete implementation by August 2008. The implementation incentive rate is subject to change for projects completed after August 2008, but will not be less than \$0.039 per kWh saved.

The implementation incentive will be paid in full upon completion of implementation. Completion of implementation is defined by approval of the *Implementation Summary Table* and evidence of measure implementation. The incentive offer for the Owner will be finalized by PECI once Owner selects measures for implementation. An *Implementation Incentive Offer* form will be signed by both Parties at that time.

4. PECI will provide a pre- and post- project ENERGY STAR[®] benchmark score. The post-project score will occur 12 months after measure completion or at program end, whichever comes first.

Owner Responsibilities

1. Owner's Building Contact will be responsible for working with PECI and ensuring all program requirements are met in a timely fashion.
2. Owner agrees to designate appropriate Facility staff and staff hours to participate in the RCx process and project meetings, including assistance to the RCx Provider during their RCx work, access to pertinent Building areas and systems, and training given by the RCx Provider at project end. Costs associated with the Owner's Building staff shall be at the Owner's expense.
3. Owner agrees to give CPUC, PG&E and its contractors, PECI, EM&V contractors, and RCx Providers access to their Building in order to perform work for this Program and evaluate building operations both before and after measure implementation. Owner agrees to allow monitoring equipment to be installed for purposes of the project.
4. Owner understands scheduled preventative maintenance and repair tasks (e.g. cleaning coils, changing filters, tightening belts, and calibrating strategic sensors) must be completed prior to the RCx investigation in order to optimize RCx services.
5. Following PECI approval of the *Master List of Findings*, PECI, Owner, and RCx Provider will meet to review the findings and select measures for implementation. Owner must implement ALL required RCx measures, up to the maximum investment responsibility of \$ (Implementation Cap). Required measures are those eligible under the Program that pay back in one year or less, as defined by the approved *Master List of Findings*. Eligible measures are those that fix problems with existing controls, enhance the control and operation of existing equipment, make limited repairs/upgrades to the existing equipment to make it run more efficiently, and do not adversely affect occupant/tenant comfort and/or the operation and aesthetics of the building.
6. Owner understands and agrees to the Program incentive structure and payment schedule for eligible measures the Owner chooses to implement in addition to the required measures.
7. Owner shall be responsible for all aspects of implementing the agreed upon measures. This includes, but is not limited to, getting bids, negotiating scope of work, paying for materials and labor, and approving the completed product. PECI will assist in this process, but the ultimate responsibility for proper implementation shall lie with Owner.
8. Owner agrees to reimburse PECI for the investigation costs incurred to date in full should the Owner fail to implement all the required RCx measures within six (6) months of delivery of the *Master List of Findings*, defined as the presentation of the *Master List of Findings* to the Owner by the RCx Provider.

Terms and Conditions

INCENTIVES: Owner understands Owner cannot receive incentive(s) for the same product, equipment, or service from more than one California investor-owned utility or third party energy efficiency program offering incentive(s) for the same product, equipment, or service funded with CPUC Public Goods Charge funds. Owner understands this prohibition applies three years prior to and three years after receiving the incentive(s) for the same product, equipment, or service.

If Owner has existing on site cogeneration or self-generation, PECI shall not pay incentives for energy savings that exceed the Owner's annual energy usage from PG&E. The annual energy usage shall be determined by the Owner's last 12 months of energy usage as determined from the time that the Owner signed this Agreement. This policy is subject to change with 30 day written notice to the Owner.

Implementation must be completed by 10/31/08 and all incentives must be post-marked by 12/31/08.

ELIGIBILITY: Incentives are available to commercial, institutional and municipal electric and/or gas service customers of PG&E that pay a public goods charge (PGC). Owner certifies that it/he/she is a PG&E customer with an active meter and pays the PGC.

PAYMENT DISQUALIFICATION: Owner understands implementation incentive payments are based on providing related energy benefits for five (5) years. Owner agrees that if (a) Owner knowingly takes actions that decrease savings and do not provide PG&E with 100% of the related energy benefits specified in the *Implementation Summary Table* for a period of five (5) years from receipt of implementation incentive, or (b) Owner ceases to be a distribution customer of PG&E during said time period, Owner shall refund a prorated amount of implementation incentive dollars to PG&E based on the actual period of time for which Owner provided the related energy benefits as an electric and gas customer of PG&E.

SAFETY AND BUILDING CODES: Owner represents all equipment installed and work performed complies with all federal, state, and local safety, building and environmental codes and any manufacturer instructions.

PROPERTY RIGHTS: Owner represents it has the right to perform the energy saving measures at the Building at which those measures are performed and any necessary consents have been obtained.

INFORMATION RELEASE and CONFIDENTIALITY: Owner agrees the Program or PECI may include Owner's name, program services and resulting energy-savings in reports or other documentation submitted to PG&E and/or the CPUC. PECI maintains a list of active Retrocommissioning Services & Incentives Program participants to share publicly and acknowledge participating companies for their commitment to energy efficient building operations. Owner agrees to be included on this list and understands that, aside from Company Name and Building Address, no further identifying characteristics of the Owner's Facility shall be used for published reports, advertising, sales promotion, or other publicity without Owner's written approval. Owner agrees not to use names or identifying characteristics of PG&E or PECI for published reports, advertising, sales promotion, or other publicity without PG&E's or PECI's written approval.

COMPLIANCE with LAWS: Both Parties agree to comply with all federal, state, and municipal laws, ordinances, rules, orders, and regulations which apply to its actions at the Facility or to the Project.

GOVERNING LAW and VENUE: This Agreement shall be interpreted, governed, and construed under the laws of the State of California as if executed and to be performed wholly within the State of California.

INCIDENTAL AND CONSEQUENTIAL DAMAGES: BOTH PARTIES AGREE NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.

LIMITATION OF LIABILITY: PECI is receiving funds from PG&E for this project, but Parties agree PG&E is not liable to either Party for any losses or damages, including incidental or consequential damages, arising from this Agreement. Furthermore, PG&E makes no representation or warranty, and assumes no liability with respect to quality, safety, or performance, or other aspect of any design, system, or appliance installed pursuant to this agreement, and express disclaims any such representation, warranty, or liability.

PG&E and/or its consultant's review of the design, construction, operation or maintenance of the project, energy efficiency measures, or demand response measures do not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of the project measures. PECI is solely responsible for the economic and technical feasibility, operational capability and reliability of project sponsor's project and measures.

TERMINATION: The term of this Agreement shall not exceed the term of the Program or the availability of funds provided by PG&E to pay for the services or incentive payments provided by the Program. Either Party shall have the right to terminate this Agreement on thirty (30) days written notice in the event the other Party's service or performance fails to conform to the requirements of this Agreement. If the Owner terminates participation prior to completing measure implementation, Owner agrees to reimburse PG&E for the investigation costs incurred by the Program to date.

DISPUTES: The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between the Parties' authorized representatives. The disputing Party shall give the other Parties written notice of any dispute. Within twenty (20) days after delivery of such notice, the authorized representatives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) days of the first meeting, any Party may initiate a mediation of the dispute. The mediation shall be facilitated by a mediator that is acceptable to all Parties and shall conclude within sixty (60) days of its commencement unless the Parties agree to extend the mediation process beyond such deadline. Upon agreeing on a mediator, the Parties shall enter into a written agreement for the mediation services with each Party paying a pro rate share of the mediator's fee, if any. The mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association; provided, however, that no consequential damages shall be awarded in any such proceeding and each Party shall bear its own legal fees and expenses.

FORCE MAJEURE: Failure of a Party to perform its obligations under this Agreement by reason of any of the following shall not constitute an event of default or breach of this Agreement: strikes, picket lines, boycott efforts, earthquakes, fires, floods, war (whether or not declared), revolution, riots, insurrections, acts of God, acts of government (including, without limitation, any agency or department of the United States of America), acts of terrorism, acts of the public enemy, scarcity or rationing of gasoline or other fuel or vital products, inability to obtain materials or labor, or other causes which are reasonably beyond the control of such Party.

MISCELLANEOUS: Neither Party may assign its rights under this Agreement without the prior written consent of the other. Any assignment of such rights hereunder without such consent shall be deemed void. No waiver, consent or modification of any other provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of all Parties, and no waiver by any Party of any default of the other shall be deemed to be a waiver by such Party of any other default. Each Party represents and warrants to the other Party that they are duly authorized to execute, deliver and perform their respective obligations under this Agreement.

FACSIMILE/SCANNED SIGNATURES: Facsimile transmission of any signed original document and the retransmission of any signed facsimile transmission shall be the same as delivery of the original signed document. Scanned original documents transmitted to PECEI as an attachment via electronic mail shall be the same as delivery of the original signed document. At the request of PECEI, Owner shall confirm documents with a facsimile transmitted signature or a scanned signature by providing an original document.

TAXES: Owner is required to submit a completed W9 for tax purposes. Unless Owner is exempt, incentives greater than \$600 will be reported to the IRS as income on form 1099. Please consult your tax advisor concerning the taxability of incentives. Owner is responsible for any taxes that may be imposed as a result of receipt of incentives from this Program.

BUILDING OWNER REPRESENTATIVE SIGNATURE

| | | |
|---|--|---|
| By signing this Owner Program Agreement, Owner represents and warrants that it/he/she has read, understands and agrees to the terms and conditions of this agreement. Please include your filing status and tax ID Number. | | |
| Tax Status | <input type="checkbox"/> Corporation <input type="checkbox"/> Exempt (Non-Profit, Tax Exempt) | <input type="checkbox"/> Individual/Sole Proprietor <input type="checkbox"/> Non-corporation |
| | | Tax ID |
| Owner or Authorized Representative (print name): | | |
| Signature: | | Date: |

PROGRAM REPRESENTATIVE SIGNATURE

| |
|--|
| Authorized Program Representative (print name): Phil Welker, Executive Director |
| Signature: _____ Date: _____ |

CPUC Disclosure Statement

California customers are not obligated to purchase any full fee service or other services not funded by this Program. This Program is funded by California utility ratepayers under the auspices of the California Public Utilities Commission (CPUC).

Los Consumidores de California no están obligados a comprar servicios completos o adicionales que no esten cubiertos bajo este programa. Este programa está financiado por los usuarios de servicios públicos en California bajo la jurisdicción de la Comisión de Servicios Públicos de California (CPUC).



Retrocommissioning Services & Incentives Program

Attachment A: Program Overview

Through the Retrocommissioning Services & Incentives Program (RCx Program), PECE provides RCx project support services from start to finish and works closely with the Owner through each of the six project phases: **Application, Screening, Agreement Development, Investigation, Implementation, and Follow-Up**. Each of these phases is described briefly below.

1. **Application.** The *Program Application* collects basic building and contact information and must be completed prior to the on-site building screening. In addition, the *Authorization to Receive Customer Information or Act on a Customer's Behalf Form (Utility Authorization Form)* must be submitted at this time to allow the Program access to the building's utility history data.
2. **Screening.** PECE conducts a free on-site building screening to confirm eligibility for the Program.
3. **Agreement Development.** To proceed, the Owner must sign the *Owner Program Agreement (OPA)*. The key commitment in the OPA is to implement identified RCx measures with a one year or less payback, up to a pre-determined Implementation Cap and within 12 months of project start.
4. **Investigation.** The investigation is estimated to take 3-4 months to complete. The customized RCx investigation of building operations will be conducted by an RCx provider the Owner selects from the Program's pool of pre-qualified subcontractors who have been selected based on their previous RCx experience and expertise. Under a subcontract with PECE, the RCx provider conducts the investigation and helps the Owner select cost-effective measures for implementation. The RCx provider subcontract is available upon request.
5. **Implementation.** Implementation of selected energy-saving measures is estimated to take 3-4 months to complete. The Program allows flexibility in who the Owner wishes to implement measures (e.g. existing contractors, in-house staff, and/or the RCx provider). During this phase, the Program presents the Owner with an *Implementation Incentive Offer* detailing incentives for implementing energy saving improvements that pay back in greater than one year, which are calculated based on energy savings per measure.
6. **Follow-up.** At project end, the RCx provider will provide free documentation and training to Owner and building staff on implemented RCx measures.

The RCx provider will provide the Owner and PECE with following deliverables throughout the RCx project:

| Program Phase | Deliverable | Description |
|----------------|-------------------------------------|--|
| Investigation | <i>Master List of Findings</i> | Summary of investigation results, including findings, measure baseline information, measure descriptions, estimated energy savings and implementation costs, measure simple paybacks, and estimated program incentives for implementation. Presented to Owner by RCx Provider once approved by PECE. |
| | <i>RCx Investigation Report</i> | Narrative report on measures selected by Owner for implementation, including detailed RCx Provider recommendations for implementation. |
| Implementation | <i>Implementation Summary Table</i> | Summary of implemented measures, including updated calculations (as needed) and evidence of measure completion. |
| Follow-up | <i>RCx Final Report</i> | Narrative report on implemented measures, the energy savings impact of the measures, and the requirements for ongoing maintenance and monitoring of the measures. |

The Owner will also receive free pre- and post-project **ENERGY STAR® Performance Ratings**. In addition, if major retrofit and equipment replacement measures *not* covered by the RCx Program are identified, the Program will assist the Owner in determining whether other PG&E programs have potential to provide funding for these measures. For more information on retrocommissioning or the Retrocommissioning Services & Incentives Program, visit the program website at <http://www.RCx-Program.com/>.