



**Pacific Gas and
Electric Company**

Karen A. Tomcala
Vice President
Regulatory Relations

77 Beale Street, Room 1065
San Francisco, CA 94105

Mailing Address
Mail Code B10A
P.O. Box 770000
San Francisco, CA 94177

415.972.5209
Internal: 222.5209
Fax: 415.972.5625
Internet: KAT5@pge.com

April 23, 2004

**Advice 2494-E
(Pacific Gas and Electric Company ID U 39 E)**

Public Utilities Commission of the State of California

Subject: Interim Renewable Energy Solicitation

Pacific Gas and Electric Company (PG&E) hereby submits a contract for the procurement of renewable energy for California Public Utilities Commission (Commission) review and approval, through the advice letter process outlined in the *Assigned Commissioner's Ruling Specifying Criteria for Interim Renewable Energy Solicitations* dated August 13, 2003 (August ACR) as modified on September 29, 2003 (September Ruling).¹

Summary

The new contract with Buena Vista Energy, LLC (BV) allows for the repowering of an existing 37.55 megawatt (MW) wind facility in the Altamont Pass. The repowered project will use new state-of-the-art wind turbines that will result in significantly greater amounts of renewable energy production than the existing facility. The existing legacy Qualifying Facility power purchase agreement (PPA) will be terminated and replaced with an Edison Electric Institute (EEI)-based contract of a commensurate term. The new contract has a rate that is significantly lower than that of the existing Standard Offer 4 (SO4) contract.

The new contract's unit pricing structure replaces the SO4 capacity and Short-Run Avoided Cost (SRAC) energy components, diversifying PG&E's exposure away from natural gas and providing the Project greater price certainty. The repowered Project will be eligible for the federal Production Tax Credit (PTC) if the PTC is extended.

¹ *Assigned Commissioner's Ruling Granting Motion for Reconsideration by the Independent Energy Producers Association*. September 29, 2003, in R.01-10-024.

PG&E and BV were motivated in part by the encouragement of the Commission and interested parties, such as The Utility Reform Network (TURN), to modernize antiquated wind facilities in a manner that increased renewable production yet saved ratepayers money. The new renewable contract between PG&E and BV achieves these dual objectives. The contract results in considerable savings to ratepayers in comparison to SO4 contract rates, yet provides the price certainty to enable BV to enter into the transaction.

All attachments to this advice letter are designated as Confidential Protected Material, in accordance with the May 20, 2003 Protective Order issued in Rulemaking (R.) 01-10-024, and pursuant to Public Utilities Code Section 583.²

Purpose

PG&E submits the proposed contract in Confidential Appendix B for approval under the standard advice letter timeline specified in the ACR. Under this advice letter process, PG&E requests that the Commission approve the advice letter via resolution no later than June 9, 2004.

The Commission should find that any new procurement pursuant to the contract constitutes incremental procurement by PG&E from a renewable resource for purposes of determining PG&E's compliance with any obligation that it may have pursuant to Public Utilities Code 399.11 et seq., the Renewable Portfolio Standard (RPS) decision (D.03-06-071), or other requirement to procure an additional one percent (1%) of its annual electricity sales from renewable resources. The deliveries received as a result of the contract above the historical baseline level attributed to this resource should count towards the incremental portion of PG&E's Annual Procurement Target (APT). PG&E includes historical output from this resource in Appendix A.

Further, the Commission should find that all electricity procured pursuant to this contract is obtained from an eligible renewable resource for purposes of Section 399.15 of the Public Utilities Code or other applicable law. The Commission should approve this contract in its entirety, and find that this contract and PG&E's entry into it is reasonable and prudent for all purposes, including, but not limited to, PG&E's recovery in rates of all payments made under this contract, subject only to Commission review with respect to the reasonableness of PG&E's administration of this contract.

Background

On August 13, 2003, Assigned Commissioner Michael Peevey issued the August ACR, which provides guidance and outlines the parameters of utility procurement of renewable resources prior to full RPS implementation. The August ACR instructs utilities to abide by the terms of the first RPS decision (D.03-06-071),

² The May 20, 2003 protective order modified an earlier protective order adopted on May 1, 2002.

and also allows utilities to engage in bilateral negotiations or issue competitive solicitations. In D. 03-06-071 the Commission endorsed negotiated repowerings of existing wind facilities.³

On September 29, 2003, the Assigned Commissioner issued the September Ruling adopting Independent Energy Producers Association's (IEP's) motion for reconsideration and requiring bidders to provide two offers to the utility for consideration, one that assumes a renewal of the PTC, and one that does not. The purpose of this requirement was to allow solicitations to proceed when it was uncertain whether the PTC legislation would be extended. While this uncertainty still exists, the BV agreement obviates the need for two prices by assuming that PTCs are extended and providing a termination option if they are not. Therefore, the negotiated price reflects the impact of the anticipated PTC, and the generator will not earn an unanticipated windfall at the expense of ratepayers.

PG&E proposes that the Commission approve the attached contract for the purchase of renewable energy because the contract is consistent with the criteria provided in the August ACR, as modified by the September Ruling.

In accordance with the August ACR, the attached contract does not anticipate the use of any Supplemental Energy Payments by the California Energy Commission as part of the compensation to the renewable resource. PG&E does not seek, or need, the creation of a Market Price Referent (MPR) by the Commission. The criteria PG&E used to evaluate this contract are presented in Confidential Appendix C. This analysis was also provided to PG&E's Procurement Review Group (PRG) during the preliminary evaluation of this contract. This contract does not require the use of any Public Goods Charge (PGC) funds as consideration for the transaction.

In Confidential Appendix D, PG&E provides the presentation made to its PRG and meeting minutes. Terms of the proposed contract were presented to the PRG during a conference call on March 30, 2004. During the call, the Office of Ratepayer Advocates (ORA) and TURN explicitly expressed their support for the arrangement and no other PRG member objected.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **May 13, 2004**, which is 20 days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

³ See D.03-06-071, p. 57 ("TURN argues that the Commission should specifically require prompt negotiation to resolve what it characterizes as a stalemate around repowering of existing wind facilities. (TURN Opening Brief, p. 51) We endorse this goal, as the repowering of existing wind facilities in prime locations is a common-sense approach to increasing procurement of renewable energy, with costs that should be lower than for new greenfield projects.").

IMC Branch Chief – Energy Division
California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: jjr@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4005 and Jerry Royer, Energy Division, at the address shown above. It is also requested that a copy of the protest be sent via postal mail and facsimile to Pacific Gas and Electric Company on the same date it is mailed or delivered to the Commission at the address shown below.

Pacific Gas and Electric Company
Attention: Brian Cherry
Director, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177
Facsimile: (415) 973-7226
E-mail: RxDd@pge.com

Effective Date

PG&E requests that this advice filing become effective on **June 2, 2004**, which is 40 days after the date of filing.

Notice

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter excluding the confidential appendices is being sent electronically and via U.S. mail to parties shown on the attached list and the service list for R.01-10-024. Non-market participants who are members of PG&E's Procurement Review Group and have signed appropriate Non-Disclosure Certificates will also receive the advice letter and accompanying confidential attachments by overnight mail.

The portions of this advice letter so marked Confidential Protected Material are in accordance with the May 20, 2003 Protective Order in R. 01-10-024 Regarding Confidentiality of Pacific Gas and Electric Company (PG&E) Power Procurement Information. As required by that Order, reviewing representatives of Market Participating Parties will not be granted access to Protected Material, but will instead be limited to reviewing redacted versions of documents that contain Protected Material.

Karen D. O'McCarthy
Vice President – Regulatory Relations

Attachments

Confidential Appendix A	Historical Output from Facility
Confidential Appendix B	Renewable Transitional Procurement Contract for which PG&E Seeks Commission Approval
Confidential Appendix C	Briefing Package Presented to Ultimate Decision Maker for Evaluating Proposed Contract
Confidential Appendix D	Procurement Review Group Presentation Slides and Meeting Minutes (Buena Vista Portion Only)

**- PG&E Electric Advice Filing List
General Order 96-A, Section III(G)**

ABAG Power Pool
Aglet Consumer Alliance
Agnews Developmental Center
Ahmed, Ali
Alcantar & Elsesser
Anderson Donovan & Poole P.C.
Applied Power Technologies
APS Energy Services Co Inc
Arter & Hadden LLP
Avista Corp
Barkovich & Yap, Inc.
BART
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CA Bldg Industry Association
CA Cotton Ginners & Growers Assoc.
CA League of Food Processors
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CSC Energy Services
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Davis, Wright, Tremaine, LLP
Defense Fuel Support Center
Department of the Army
Department of Water & Power City
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DGS Natural Gas Services
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Imperial Irrigation District
Integrated Utility Consulting Group
International Power Technology
J. R. Wood, Inc
JTM, Inc
Kaiser Cement Corp
Korea Elec Power Corp
Marcus, David
Masonite Corporation
Matthew V. Brady & Associates
Maynor, Donald H.
McKenzie & Assoc
McKenzie & Associates
Meek, Daniel W.
Mirant California, LLC
Modesto Irrigation Dist
Morrison & Foerster
Morse Richard Weisenmiller & Assoc.
New United Motor Mfg, Inc
Norris & Wong Associates
North Coast Solar Resources
Northern California Power Agency
PG&E National Energy Group
Pinnacle CNG Company
PPL EnergyPlus, LLC
Price, Roy
Product Development Dept
Provost Pritchard
R. M. Hairston & Company
R. W. Beck & Associates
Recon Research
Regional Cogeneration Service
RMC Lonestar
Sacramento Municipal Utility District
SCD Energy Solutions
Seattle City Light
Sempra

Sempra Energy
Sequoia Union HS Dist
SESCO
Sierra Pacific Power Company
Silicon Valley Power
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