



October 7, 2004

**Advice 2562-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

Under this advice letter process, PG&E requests that the Commission approve this advice letter via resolution no later than November 19, 2004.

Summary

The new contract with a Florida Power and Light Energy Co., LLC-owned entity Diablo Winds, LLC, (FPLE) allows for the repowering of 17.72 megawatts (MW) of existing wind turbines in the Altamont Pass Area of Alameda County. 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 agreements (PPAs) associated with the existing turbines 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

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

repowered Project will be eligible for the federal Production Tax Credit (PTC) if the PTC is extended.²

PG&E and FPLE 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 FPLE 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 FPLE 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 583.³

Purpose

PG&E submits the proposed contract in Confidential Appendix B for approval under the standard advice letter timeline specified in the August ACR. Under this advice letter process, PG&E requests that the Commission approve the advice letter via resolution no later than November 19, 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.

² The House and Senate approved HR1308 on September 23, 2004. The bill contains provisions to extend the PTC and is expected to be signed by President Bush.

³ The May 20, 2003 protective order modified an earlier protective order adopted on May 1, 2002.

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), 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.⁴

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. The FPLE agreement obviates the need for two prices by assuming that PTCs are extended and providing a termination option if they are not.⁵

The Facility will continue to operate under the existing ISO4 contract until purchases begin under the new PPA at which time the facility will no longer be included in the Ongoing CTC calculation.

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 members. Terms of the proposed contract were provided to the PRG on September 28, 2004. The contract was on the agenda for the September 29,

⁴ 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.").

⁵ Both PG&E and FPLE fully expect that HR 1308 authorizing an extension of the PTC will be signed into law.

2004, PRG meeting, but due to lack of time no formal presentation was made at the meeting. It was agreed that parties who had questions or concerns about the contract should contact PG&E. No concerns have been raised to date.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **October 27, 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:

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 **November 19, 2004**,

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.

Brian K. Cherry / *BSN*

Director, Regulatory Relations

Attachments

Confidential Appendix A	Historical Output from Facility
Confidential Appendix B	Renewable Contracts for which PG&E Seeks Commission Approval
Confidential Appendix C	Briefing Package to the Ultimate Decision Maker for Evaluating Proposed Contract
Confidential Appendix D	Material Presented to the Procurement Review Group

cc: Service List – R.01-10-024

**PGE Gas Advice Filing
List**

General Order 96-A, Section III(G)

ABAG Power Pool	Energy Law Group LLP	Seattle City Light
Accent Energy	Energy Management Services, LLC	Sempra
Aglet Consumer Alliance	Enron Energy Services	Sempra Energy
Agnews Developmental Center	Exelon Energy Ohio, Inc	Sequoia Union HS Dist
Ahmed, Ali	Exeter Associates	SESCO
Alcantar & Elsesser	Foster Farms	Sierra Pacific Power Company
Applied Power Technologies	Foster, Wheeler, Martinez	Silicon Valley Power
Arter & Hadden LLP	Franciscan Mobilehome	Simpson Paper Company
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BART	GLJ Energy Publications	SPURR
Blue Ridge Gas	Goodin, MacBride, Squeri, Schlotz &	St. Paul Assoc
BP Energy Company	Grueneich Resource Advocates	Stanford University
Braun & Associates	Hanna & Morton	Sutherland, Asbill & Brennan
C & H Sugar Co.	Heeg, Peggy A.	Tabors Caramanis & Associates
CA Bldg Industry Association	Hogan Manufacturing, Inc	Tansev and Associates
CA Cotton Ginners & Growers Assoc.	House, Lon	Tecogen, Inc
CA League of Food Processors	Integrated Utility Consulting Group	TFS Energy
CA Water Service Group	International Power Technology	TJ Cross Engineers
California Energy Commission	Interstate Gas Services, Inc.	Transwestern Pipeline Co
California Farm Bureau Federation	J. R. Wood, Inc	Turlock Irrigation District
California Gas Acquisition Svcs	JTM, Inc	U S Borax, Inc
California ISO	Kaiser Cement Corp	United Cogen Inc.
Calpine	Korea Elec Power Corp	URM Groups
Calpine Corp	Luce, Forward, Hamilton & Scripps	Utility Cost Management LLC
Calpine Gilroy Cogen	Marcus, David	Utility Resource Network
Cambridge Energy Research Assoc	Masonite Corporation	Wellhead Electric Company
Cameron McKenna	Matthew V. Brady & Associates	Western Hub Properties, LLC
Cardinal Cogen	Maynor, Donald H.	White & Case
Chevron Texaco	McKenzie & Assoc	WMA
Chevron USA Production Co.	McKenzie & Associates	
Childress, David A.	MEEK, Daniel W.	
City of Glendale	Mirant California, LLC	
City of Palo Alto	Modesto Irrigation Dist	
City of Redding	Morrison & Foerster	
CLECA Law Office	Morse Richard Weisenmiller & Assoc.	
Constellation New Energy	Navigant Consulting	
CPUC	New United Motor Mfg, Inc	
Creative Technology	Norris & Wong Associates	
Cross Border Inc	Northern California Power Agency	
Crossborder Inc	Office of Energy Assessments	
CSC Energy Services	Palo Alto Muni Utilities	
Davis, Wright Tremaine LLP	PG&E National Energy Group	
Davis, Wright, Tremaine, LLP	Pinnacle CNG Company	
Defense Fuel Support Center	PITCO	
Department of the Army	Plurimi, Inc.	
Department of Water & Power City	PPL EnergyPlus, LLC	
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