

December 17, 2009

**Advice 3570-E**  
(Pacific Gas and Electric Company ID U39 E)

Public Utilities Commission of the State of California

**Subject: First Amendments to PG&E's Wind Energy Purchase Agreements with PacifiCorp in Compliance with Resolution E-4285**

## **I. INTRODUCTION**

### **A. Purpose**

In compliance with Resolution (“Res.”) E-4285, Pacific Gas and Electric Company (“PG&E”) submits this Tier 1 Advice Letter containing first amendments to two wind energy purchase agreements between PG&E and PacifiCorp (“First Amendments”). The original wind energy purchase agreements (“2009 Agreement” and “2010-2012 Agreement”) (collectively the “Agreements”) were submitted for California Public Utilities Commission (“Commission” or “CPUC”) approval on September 18, 2009 in Advice Letters 3526-E and 3527-E, respectively. The CPUC conditionally approved the Agreements on November 20, 2009 in Res. E-4285, and directed PG&E to modify certain provisions in the Agreements relating to unspecified “Complying Facilities”. The First Amendments incorporate the changes required by Res. E-4285.

### **B. Background**

The Agreements are short-term, bilateral contracts for a portion of generation from wind facilities operating in PacifiCorp’s service territory in Idaho, Washington and Wyoming and were initially submitted for Commission approval on September 18, 2009. Under the terms of the Agreements, PacifiCorp can remedy any imbalances or delivery shortfalls from any “Qualified Project” or “Complying Facility.” Res. E-4285 conditionally approved the Agreements, subject to PG&E and PacifiCorp modifying the Agreements such that: (1) the deliveries from the “Qualified Projects” or “Complying Facilities” are a bundled product or the result of PacifiCorp purchasing bundled energy and green

attributes and the deliveries comply with the approved delivery structure; and (2) any “Complying Facility” is a wind facility.

### **C. Description of the First Amendments**

The First Amendments amend the original Agreements so that they are consistent with Commission direction in Res. E-4285 by changing terms and wording to:

- Specify that deliveries used to remedy any imbalances or shortfalls are a bundled product or the result of PacifiCorp purchasing bundled energy and green attributes and that the deliveries comply with the approved delivery structure and;
- Specify that any “Complying Facility” must be a wind facility.

The Agreements provide that PacifiCorp has rights to the generation from any Qualified Project or Complying Facility, consistent with the delivery structure approved by the California Energy Commission.

Confidential Appendices A and B contain the First Amendments, and Confidential Appendix C provides further detail about the changes made in the First Amendments.

## **II. REGULATORY PROCESS**

### **A. Requested Effective Date**

In compliance with Res. E-4285, PG&E submits the First Amendments as a Tier 1 filing, effective pending Energy Division disposition. Accordingly, PG&E requests that this filing become effective on **December 17, 2009**, which is the date of filing.

### **B. Request for Confidential Treatment**

In support of this Advice Letter, PG&E has provided the following confidential attachments. This information is being submitted in the manner directed by D.08-04-023 and the August 22, 2006 Administrative Law Judge’s Ruling Clarifying Interim Procedures for Complying with D.06-06-066 to demonstrate the confidentiality of the material and to invoke the protection of confidential utility information provided under either the terms of the IOU Matrix, Appendix 1 of D.06-06-066 and Appendix C of D.08-04-023, or General Order 66-C. A separate Declaration Seeking Confidential Treatment is being filed concurrently with this Advice Letter.

**Confidential Attachments:**

- Appendix A: First Amendment to 2009 Agreement Between PG&E and PacifiCorp**
- Appendix B: First Amendment to 2010-2012 Agreement Between PG&E and PacifiCorp**
- Appendix C: Comparison of Terms in the Agreements against Terms in the First Amendments to the Agreements**

**Protests:**

Anyone wishing to protest this filing may do so by sending a letter by **January 6, 2010**, 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:

CPUC Energy Division  
Attention: Tariff Unit, 4<sup>th</sup> Floor  
505 Van Ness Avenue  
San Francisco, California 94102

Facsimile: (415) 703-2200  
E-mail: [mas@cpuc.ca.gov](mailto:mas@cpuc.ca.gov) and [jjj@cpuc.ca.gov](mailto:jjj@cpuc.ca.gov)

Copies should also be mailed to the attention of the Director, Energy Division, Room 4005 and Honesto Gatchalian, Energy Division, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission.

Pacific Gas and Electric Company  
Attention: Brian Cherry  
Vice President, Regulatory Relations  
77 Beale Street, Mail Code B10C  
P.O. Box 770000  
San Francisco, California 94177

Facsimile: (415) 973-7226  
E-mail: PGETariffs@pge.com

**Effective Date:**

PG&E requests that this filing become effective on **December 17, 2009**, the date of filing. PG&E submits this filing as a Tier 1 filing.

**Notice:**

In accordance with General Order 96-B, Section IV, a copy of this Advice Letter, excluding the confidential appendices, is being sent electronically to parties shown on the attached list and the service lists for R.08-08-009, R.08-02-007 and R.06-02-012. Non-market participants who are members of PG&E's Procurement Review Group and have signed appropriate Non-Disclosure Certificates may also receive the Advice Letter and accompanying confidential attachments. Address changes should be directed to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs>

*Brian K. Cherry (sc)*

Brian K. Cherry  
Vice President - Regulatory Relations

cc: Service List for R.08-08-009  
Service List for R.08-02-007  
Service List for R.06-02-012  
Paul Douglass, Energy Division  
Sean Simon, Energy Division

Attachments

**Limited Access to Confidential Material:**

The portions of this Advice Letter marked Confidential Protected Material are submitted under the confidentiality protections of Sections 583 and 454.5(g) of the Public Utilities Code and General Order 66-C. This material is protected from public disclosure because it consists of the contract itself, including price information, which is protected pursuant to D.06-06-066 and D.08-04-023. A separate Declaration Seeking Confidential Treatment regarding the confidential information is filed concurrently herewith.

**Confidential Attachments:**

- Appendix A: First Amendment to 2009 Agreement Between PG&E and PacifiCorp**
- Appendix B: First Amendment to 2010-2012 Agreement Between PG&E and PacifiCorp**
- Appendix C: Comparison of Terms in the Agreements against Terms in the First Amendments to the Agreements**

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 M)**

Utility type:

ELC

GAS

PLC

HEAT

WATER

Contact Person: David Poster and Sally Cuaresma

Phone #: (415) 973-1082; (415) 973-5012

E-mail: DXPU@pge.com; A2C7@pge.com

### EXPLANATION OF UTILITY TYPE

ELC = Electric

GAS = Gas

PLC = Pipeline

HEAT = Heat

WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **3570-E**

**Tier: [1]**

Subject of AL: **First Amendments to PG&E's Wind Energy Purchase Agreements with PacifiCorp in compliance to Resolution E-4285**

Keywords (choose from CPUC listing): Contracts; Agreements, Compliance

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other \_\_\_\_\_

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL:

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: Yes. See the attached matrix that identifies all of the confidential information.

Confidential information will be made available to those who have executed a nondisclosure agreement: All members of PG&E's Procurement Review Group who have signed nondisclosure agreement will receive the confidential information.

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: Richard Miram, (415) 973-1170

Resolution Required?  Yes  No

Requested effective date: **December 17, 2009**

No. of tariff sheets: N/A

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected:

Service affected and changes proposed:

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

**CPUC, Energy Division**

**Tariff Files, Room 4005**

**DMS Branch**

**505 Van Ness Ave., San Francisco, CA 94102**

**[jn@cpuc.ca.gov](mailto:jn@cpuc.ca.gov) and [mas@cpuc.ca.gov](mailto:mas@cpuc.ca.gov)**

**Pacific Gas and Electric Company**

**Attn: Brian K. Cherry, Vice President, Regulatory Relations**

**77 Beale Street, Mail Code B10C**

**P.O. Box 770000**

**San Francisco, CA 94177**

**E-mail: [PGETariffs@pge.com](mailto:PGETariffs@pge.com)**

**DECLARATION OF RICH MIRAM  
SEEKING CONFIDENTIAL TREATMENT  
FOR CERTAIN DATA AND INFORMATION  
CONTAINED IN ADVICE LETTER 3570-E  
(PACIFIC GAS AND ELECTRIC COMPANY - U 39 E)**

I, Rich Miram declare:

1. I am presently employed by Pacific Gas and Electric Company ("PG&E") and have been an employee at PG&E since 1973. My current title is Principal within PG&E's Energy Procurement organization. In this position, my responsibilities include negotiating power purchase agreements with counterparties in the business of producing electric energy. In carrying out these responsibilities, I have acquired knowledge of PG&E's contracts with numerous counterparties and have also gained knowledge of the operations of electricity sellers in general. Through this experience, I have become familiar with the type of information that would affect the negotiating positions of electricity sellers with respect to price and other terms, as well as with the type of information that such sellers consider confidential and proprietary.

2. Based on my knowledge and experience, and in accordance with Decision ("D.") 08-04-023 and the August 22, 2006 "Administrative Law Judge's Ruling Clarifying Interim Procedures for Complying with Decision 06-06-066," I make this declaration seeking confidential treatment of Appendices A, B and C to Advice Letter 3570-E, submitted on December 17, 2009. By this Advice Letter, PG&E is submitting first amendments to the wind energy purchase agreements that PG&E has executed with PacifiCorp in compliance with Commission Resolution E-4285.

3. Attached to this declaration is a matrix identifying the data and information for which PG&E is seeking confidential treatment. The matrix specifies that the material PG&E is seeking to protect constitutes the particular type of data and information listed in Appendix 1 of

D. 06-06-066 and Appendix C of D. 08-04-023 (“the IOU Matrix”), or constitutes information that should be protected under General Order 66-C. The matrix also specifies the category or categories in the IOU Matrix to which the data and information corresponds (where applicable), and why confidential protection is justified. Finally, the matrix specifies: (1) that PG&E is complying with the limitations specified in the IOU Matrix for that type of data or information (where applicable); (2) that the information is not already public; and (3) that the data cannot be aggregated, redacted, summarized or otherwise protected in a way that allows partial disclosure. By this reference, I am incorporating into this declaration all of the text in the attached matrix that is pertinent to this filing.

I declare under penalty of perjury, under the laws of the State of California that, to the best of my knowledge, the foregoing is true and correct. Executed on December 17, 2009 at San Francisco, California.



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Rich Miram

		PACIFIC GAS AND ELECTRIC COMPANY Advice Letter 3570-E December 17, 2009		IDENTIFICATION OF CONFIDENTIAL INFORMATION PER DECISION 06-08-068 AND DECISION 08-04-023			
Redaction Reference	1) The material submitted constitutes a particular type of data listed in the Matrix, appended as Appendix 1 to D.06-068 and Appendix C to D.08-04-023 (Y/N)	2) Which category or categories in the Matrix the data correspond to:	3) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data (Y/N)	4) That the information is not already public (Y/N)	5) The data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure (Y/N)	PG&E's Justification for Confidential Treatment	Length of Time
1 Document AL 3570-E	Y	Item VII (G) Renewable Resource Contracts under RPS program - Contracts without SEPs. General Order 66-C.	Y	Y	Y	These Appendices contain the first amendments to the confirmations to the Edison Electric Institute ("EEI") master power purchase and sale agreements between PacifiCorp and PG&E ("First Amendments"). Disclosure of this information would provide valuable market sensitive information to competitors. Since negotiations are still in progress with bidders from the 2005, 2006, 2007, 2008, and 2009 solicitations and with other counterparties, this information should remain confidential. Release of this information would be damaging to negotiations. Furthermore, the counterparty to the First Amendments has an expectation that the terms of the First Amendments will remain confidential pursuant to confidentiality provisions in the EEI master power purchase and sale agreement. I am informed and believe that General Order 66-C provides a basis for confidential treatment. General Order 66-C includes in its category of records not open to public inspection "information obtained in confidence from other than a business regulated by this Commission where the disclosure would be against the public interest." (Paragraph 2.8). It is in the public interest to treat such information as confidential because if such information were made public, it could put the counterparty at a business disadvantage, could create a disincentive to do business with PG&E and other regulated utilities, and could have a damaging effect on current and future negotiations with other counterparties.	For information covered under Item VII (G) remain confidential for three years after the commercial operation date  For information covered by General Order 66-C, remain confidential
2 Appendices A and B	Y	Item VII (G) Renewable Resource Contracts under RPS program - Contracts without SEPs. General Order 66-C.	Y	Y	Y	This Appendix contains terms of the First Amendments. Disclosure of this information would provide valuable market sensitive information to competitors. Since negotiations are still in progress with bidders from the 2005, 2006, 2007, 2008, and 2009 solicitations and with other counterparties, this information should remain confidential. Release of this information would be damaging to negotiations. Furthermore, the counterparty to the First Amendments has an expectation that the terms of the First Amendments will remain confidential pursuant to confidentiality provisions in the EEI master power purchase and sale agreement. I am informed and believe that General Order 66-C provides a basis for confidential treatment. General Order 66-C includes in its category of records not open to public inspection "information obtained in confidence from other than a business regulated by this Commission where the disclosure would be against the public interest." (Paragraph 2.8). It is in the public interest to treat such information as confidential because if such information were made public, it could put the counterparty at a business disadvantage, could create a disincentive to do business with PG&E and other regulated utilities, and could have a damaging effect on current and future negotiations with other counterparties.	For information covered under Item VII (G) remain confidential for three years after the commercial operation date  For information covered by General Order 66-C, remain confidential
3 Appendix C	Y	Item VII (G) Renewable Resource Contracts under RPS program - Contracts without SEPs. General Order 66-C.	Y	Y	Y	This Appendix contains terms of the First Amendments. Disclosure of this information would provide valuable market sensitive information to competitors. Since negotiations are still in progress with bidders from the 2005, 2006, 2007, 2008, and 2009 solicitations and with other counterparties, this information should remain confidential. Release of this information would be damaging to negotiations. Furthermore, the counterparty to the First Amendments has an expectation that the terms of the First Amendments will remain confidential pursuant to confidentiality provisions in the EEI master power purchase and sale agreement. I am informed and believe that General Order 66-C provides a basis for confidential treatment. General Order 66-C includes in its category of records not open to public inspection "information obtained in confidence from other than a business regulated by this Commission where the disclosure would be against the public interest." (Paragraph 2.8). It is in the public interest to treat such information as confidential because if such information were made public, it could put the counterparty at a business disadvantage, could create a disincentive to do business with PG&E and other regulated utilities, and could have a damaging effect on current and future negotiations with other counterparties.	For information covered under Item VII (G) remain confidential for three years after the commercial operation date  For information covered by General Order 66-C, remain confidential

**PG&E Gas and Electric  
Advice Filing List  
General Order 96-B, Section IV**

Alcantar & Kahl	Defense Energy Support Center	North Coast SolarResources
Ameresco	Department of Water Resources	Northern California Power Association
Anderson & Poole	Department of the Army	Occidental Energy Marketing, Inc.
Arizona Public Service Company	Dept of General Services	OnGrid Solar
BART	Division of Business Advisory Services	Praxair
BP Energy Company	Douglas & Liddell	R. W. Beck & Associates
Barkovich & Yap, Inc.	Douglass & Liddell	RCS, Inc.
Bartle Wells Associates	Downey & Brand	Recon Research
C & H Sugar Co.	Duke Energy	SCD Energy Solutions
CA Bldg Industry Association	Dutcher, John	SCE
CAISO	Ellison Schneider & Harris LLP	SMUD
CLECA Law Office	FPL Energy Project Management, Inc.	SPURR
CSC Energy Services	Foster Farms	Santa Fe Jets
California Cotton Ginners & Growers Assn	G. A. Krause & Assoc.	Seattle City Light
California Energy Commission	GLJ Publications	Sempra Utilities
	Goodin, MacBride, Squeri, Schlotz & Ritchie	Sierra Pacific Power Company
California League of Food Processors	Green Power Institute	Silicon Valley Power
California Public Utilities Commission	Hanna & Morton	Silo Energy LLC
Calpine	Hitachi	Southern California Edison Company
Cameron McKenna	International Power Technology	Sunshine Design
Cardinal Cogen	Intestate Gas Services, Inc.	Sutherland, Asbill & Brennan
Casner, Steve	Los Angeles Dept of Water & Power	Tabors Caramanis & Associates
Chamberlain, Eric	Luce, Forward, Hamilton & Scripps LLP	Tecogen, Inc.
Chevron Company	MBMC, Inc.	Tiger Natural Gas, Inc.
Chris, King	MRW & Associates	Tioga Energy
City of Glendale	Manatt Phelps Phillips	TransCanada
City of Palo Alto	Matthew V. Brady & Associates	Turlock Irrigation District
Clean Energy Fuels	McKenzie & Associates	U S Borax, Inc.
Coast Economic Consulting	Merced Irrigation District	United Cogen
Commerce Energy	Mirant	Utility Cost Management
Commercial Energy	Modesto Irrigation District	Utility Specialists
Consumer Federation of California	Morgan Stanley	Verizon
Crossborder Energy	Morrison & Foerster	Wellhead Electric Company
Davis Wright Tremaine LLP	New United Motor Mfg., Inc.	Western Manufactured Housing Communities Association (WMA)
		eMeter Corporation
Day Carter Murphy	Norris & Wong Associates	