STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

February 7, 2014 **Advice Letters 4160-E and 4161-E**

Brian K. Cherry
Vice President, Regulation and Rates
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

SUBJECT: Disposition rejecting without prejudice Pacific Gas and Electric Company's Advice Letters requesting to terminate its Photovoltaic Program and to seek the remaining 252 megawatts through the Renewable Auction Mechanism Program

Dear Mr. Cherry:

On December 10, 2012, Pacific Gas and Electric Company (PG&E) concurrently submitted advice letters 4160-E and 4161-E, which requested the authority to terminate PG&E's Photovoltaic (PV) Program and to seek the remaining 252 megawatts (MW) associated with the PV Program through the Renewable Auction Mechanism (RAM).

PG&E's requests to terminate its PV Program and to seek the remaining capacity volumes through RAM are not matters appropriate to advice letters, as the relief requested in the advice letters is seeking to modify a decision issued in a formal proceeding (see General Rule 5.2 of General Order 96-B). Therefore, PG&E's advice letters 4160-E and 4161-E are rejected without prejudice pursuant to General Rule 5.3 of General Order 96-B.

Sincerely,

Edward Randolph
Director, Energy Division

Pacific Gas and Electric Company®

Brian K. Cherry
Vice President
Regulatory Relations

Pacific Gas and Electric Company
77 Beale St., Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

Fax: 415-973-7226

December 10, 2012

Advice 4160-E
(Pacific Gas and Electric Company ID U39 E)

Public Utilities Commission of the State of California

Subject: **The Termination of Pacific Gas and Electric Company's Photovoltaic Program**

Pursuant to California Public Utilities Commission ("CPUC" or "Commission") Decision ("D.") 10-04-052, approving Pacific Gas and Electric Company's ("PG&E") Photovoltaic ("PV") Program, PG&E hereby submits this Advice Letter to request authority to terminate the PV Program. PG&E is submitting concurrently a separate Advice Letter seeking authority to procure the remaining volumes associated with the PV Program through the Renewable Auction Mechanism ("RAM") Program.

In its Decision approving the PV Program, the Commission recognized that there may be factors that would justify the early termination of the Program.[1] It therefore required that PG&E file an advice letter demonstrating the need for any such termination.[2] This Advice Letter describes the changed circumstances since the approval of the PV Program that now justify its early termination and the procurement of the remaining Program volumes through RAM. PG&E requests that the Commission issue a Resolution with the findings specified below to authorize the termination of the PV Program following the implementation of Program Year ("PY") 3 of the PV Utility-Owned Generation ("UOG") Program and PY 2 of the PV Power Purchase Agreement ("PPA") Program.

I. BACKGROUND

A. Regulatory History of PV Program

On February 2, 2009, PG&E filed Application ("A.") 09-02-019, seeking authorization for a five-year, 500 megawatt ("MW") PV Program designed to promote the development of smaller scale solar PV in PG&E's service territory and to help the State meet its aggressive Renewables

[1] D. 10-04-052 at 54; *see also id.* at 77-78 (Conclusion of Law ("COL") 10).
[2] *Ibid.*

Portfolio Standard ("RPS") goals. On April 22, 2010, the Commission adopted D.10-04-052, which authorized PG&E to develop, own and operate 250 MW of primarily ground-mounted PV facilities of 20 MW or less and to enter into long-term PPAs for 250 MW for similar facilities. The final program design included a target of 50 MW per year for 5 years for each component of the Program.

The development of the PV UOG Program projects occurred more quickly than the development of the PV PPA Program resources since D.10-04-052 established a deadline to bring the UOG facilities online by each respective Program Year anniversary date. As a result, the PY 1 UOG projects came online in 2011; PY 2 UOG projects came online in 2012; and PY 3 UOG projects are under construction and expected to come online in 2013. In total, PG&E expects to develop approximately 150 MW as a result of PY 1-3 of the PV UOG Program.

PG&E's solicitation protocol for the PV PPA Program was approved by Commission Resolution E-4368, and the compliance versions of PG&E's PV solicitation protocol and PPA became available in January 2011. PG&E launched the first PV PPA Solicitation on February 2, 2011 and sought approval of the 50 MW resulting from the selected offers via Advice Letter 3877-E, filed on July 20, 2011. Advice Letter 3877-E was approved by the Commission on August 22, 2011. PG&E launched the PY 2 PV PPA Solicitation on April 3, 2012 and sought approval of 48 MW from that solicitation via Advice Letter 4106-E, filed on September 7, 2012. The PY 2 PV PPA Advice Letter was approved by the Commission on October 16, 2012. Each of the PV PPA projects remains under development at this time, and it appears likely that successful projects in both tranches of the PV PPA Program will begin coming online in 2014 and thereafter. In total, PG&E expects to procure 98 MW as a result of PY 1-2 of the PV PPA Program.

The first annual PV Program compliance report was filed on March 1, 2011 and included information regarding the solicitation for contracts to engineer, procure, and construct the PY 1 UOG PV projects. Per Resolution E-4368, PG&E filed a supplement to the first annual compliance report on August 19, 2011 containing information regarding the first PPA solicitation in PY 1 of the PPA PV program. The second annual PV Program compliance report contains the information regarding both PY 2 and PY 3 UOG PV projects as well as PY2 PPA PV program and was filed on October 8, 2012.

B. Status of PV Program Implementation

In the first two program years of the PV UOG Program, six projects comprising 100 MW have been constructed and are in operation. As detailed in the PV Program compliance reports cited above, the capital costs for UOG are below the original estimates included in PG&E's application for the PV Program.

The PV UOG Program has played an important role in facilitating the development and transformation of the smaller scale PV market in California. The prices of systems have declined appreciably each year, driven primarily by lower panel costs and increased efficiency in the construction of smaller-sized systems. The PV PPA Program has similarly contributed to the maturation of the PV market through its successful solicitations that resulted in robust market responses. As detailed more fully in the advice filings seeking approval of the executed PPAs resulting from the PV PPA Program and in the PV Program compliance reports, the transformation of the PV market in California has led to highly competitive pricing in the PV PPA solicitations.

II. REQUEST TO TERMINATE PG&E'S PV PROGRAM.

Given the successful transformation of the PV market in California, the PV Program's goals have been largely accomplished, and the PV Program is no longer a necessary or efficient procurement tool. Accordingly, PG&E proposes to terminate the remainder of the PV Program, including PY 4-5 of the PV UOG Program and PY 3-5 of the PV PPA Program. The remaining 252 MW of uncommitted but authorized PV Program capacity should instead be procured through the RAM. PG&E is concurrently submitting a separate advice letter seeking authority to utilize the RAM for that purpose.

A. Given the Transformation of the PV Market in California, the PV Program Is No Longer Needed.

The implementation of PG&E's PV Program contributed to the expeditious deployment of solar PV facilities less than or equal to 20 MW. In 2010, the Commission determined that this subset of smaller-sized projects could not effectively compete in the general RPS solicitations,[3] and so approved the PV Program as a way to focus on and transform this under-represented market segment.[4] Additionally, this focus on expeditious deployment of smaller-sized PV facilities was a direct response to the possibility that PG&E could fall short of its RPS targets because of various project development challenges such as financing, transmission, or permitting delays that were impeding the development of larger-sized independent power producer ("IPP") projects under contract to PG&E.[5] More specifically, the Commission recognized and encouraged UOG proposals, and specifically approved the PV UOG Program, in part to provide a backstop against the risk that a significant portion of IPP projects would fail to come online successfully and on time.[6]

Since the establishment of PG&E's PV Program in 2010, the Commission has designed and implemented additional procurement programs, such as the RAM Program, targeted at a similar sector of smaller-scale renewable projects. While the new projects from RAM are still under development, the solicitations have received robust and highly competitive responses, and PG&E therefore no longer needs to procure similarly-sized projects through a separate procurement process using a similar (and ideally, the same) form contract and process for selecting winning projects. Administration of multiple, overlapping solicitations targeted at the same market segment can lead to inefficiencies, increase the complexity of market participation and regulatory oversight.

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[3] D.10-04-052 at 74 (Finding of Fact "FOF") 6), 75 (FOF 17).
[4] *Id.* at 74 (FOF 11),
[5] *See id.*at 73 (FOF 1-3), 77 (Conclusion of Law "COL" 1).
[6] *See id.*at 73, (FOF 2-3), 74 (FOF 9-11).

B. The PV Program is No Longer Needed to Ensure Near-Term RPS Compliance.

PG&E's expected RPS need calculation is a snapshot of its anticipated residual demand for long-term renewable volumes and is based on project-specific information that can change with time. PG&E's expectation for the overall success rate of its existing RPS portfolio has improved significantly since the time that it filed its application for approval of the PV Program. This improved expectation is mainly driven by the observed progress of key projects in PG&E's portfolio, many of which met significant development milestones over the course of 2011 and 2012. Progress in the siting and permitting of projects has been a factor driving PG&E's revised success rate estimate. Additionally, relatively inexpensive project financing, made possible by tax incentives (*e.g.*, the Production Tax Credit and Investment Tax Credit) and by the recently expired stimulus subsidies available through the American Recovery and Reinvestment Act of 2009 ("ARRA") – such as the Department of Energy ("DOE") loan guarantee, Treasury grant, and Bonus Depreciation programs – have enabled many developers to reach the critical milestone of project construction.

Based on PG&E's current expected need scenario, PG&E's existing portfolio is expected to provide sufficient RPS-eligible deliveries to meet RPS compliance requirements in the first compliance period (2011 – 2013).[7] Additionally, PG&E expects to significantly exceed the RPS procurement targets set for the second compliance period (2014 – 2016). Notwithstanding its forecast of limited near-term need, PG&E has fairly significant incremental need over the third compliance period (2017 – 2020) (prior to applying any excess procurement from earlier compliance periods) and beyond in order to maintain a 33% RPS level.

Terminating its PV Program and procuring the remaining authorized volumes through the RAM procurement mechanism will result in a slight shift to the expected deliveries of these projects. The UOG portion of the PV Program is roughly two years ahead of the PPA portion, meaning that UOG volumes for PY 4 and 5 would have come online in 2014 and 2015. PV PPA volumes for PY 3–5, if the Program had been continued, would have likely come online between 2015 and 2017. If these volumes (both UOG and PPA) are moved to PPAs with solicitations in 2014 through 2016, anticipated Commercial Operation Dates ("COD") will likely occur between two to three years after contract execution, resulting in CODs between 2016 and 2019, respectively. Thus, the termination of the PV Program, combined with the authority to procure the remaining volumes through special RAM solicitations, as requested in a separate, concurrently-filed advice letter, will result in procurement that better matches PG&E's demonstrated RPS need, which is later in the decade.

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[7] *See* PG&E's Final 2012 Renewable Energy Procurement Plan, filed in R.11-05-005, Section 6 and Appendix 1, November 29, 2012.

C. PG&E Is Concurrently Filing an Advice Letter to Seek Authority to Procure Remaining PV Program Volumes through RAM.

Given the similarities between the nature of the PV PPA Program and RAM, which was adopted after the PV Program, it makes sense from an administrative efficiency standpoint for PG&E to use the RAM procurement process to fill the remaining 252 MW from the PV Program.[8] In fact, in response to a request from the Division of Ratepayer Advocates to combine the proposed PV PPA Program with the then-evolving RAM program, the Commission stated that it "may reconsider whether to incorporate the PV Program solicitation with RAM at a future date, depending on the outcome of the RAM proposal."[9]

The market and the Commission are already familiar with the RAM protocols and the RAM Non-modifiable Form PPA, so the transition of the capacity should not result in market confusion or uncertainty. In addition, the two PV PPA Program Non-modifiable Form PPAs are outdated in several areas and would require extensive modification to align them to the current RAM PPA if the PV PPAs were going to continue to be used. For example, updates would be required for the Resource Adequacy requirements, buyer bid curtailment and the scheduling and outage reporting provisions. These updates have already been incorporated in the RAM Form PPA. Shifting PV Program volumes to the RAM solicitation process is more efficient than seeking to repeatedly update the PV Program form PPA to conform to changes in the RAM form PPA as it evolves over time.

The authority to solicit the remaining PV Program capacity in RAM is being requested and more specifically described in the concurrently filed Advice Letter 4161-E. PG&E is providing information regarding its proposal to use RAM for the remaining volumes in this Advice Letter for context only.

D. Ratemaking Impacts of Early Termination

As described in PG&E's General Rate Case Application for the 2014-2016 period (the "2014 GRC"), PG&E has proposed a PV Program cost savings credit to account for the substantially lower actual and forecasted PV Program costs compared to the revenue requirement authorized in D.10-04-052.[10] Additionally, PG&E has proposed in the 2014 GRC to reduce the revenue requirement for the PV Program on a prospective basis to minimize any excess revenue collection from 2014 onward.[11] These proposals are unaffected by the present request to terminate PY 4-5 of the PV UOG Program since the GRC proposals only forecasted cost savings

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[8] 252 MW corresponds to the authorized procurement of up to 100 MW in the PV UOG Program PY 4 and 5 (50 MW each year), 150 MW in the PV PPA Program PY 3-5, and 2 MW rolled over from the PV PPA Program PY 2 (in which 48 MW of the authorized 50 MW was procured). PG&E proposes that the volumes associated with any drop-out PPAs from PV PPA Program PY 1-2 (i.e., executed PPAs that are terminated in the future due to unviability) are addressed outside the PV Program, which would terminate in its entirety.

[9] D.10-04-052 at 41.

[10] Application ("A.") 12-11-009, *Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2014*, Opening Testimony, Chapter 6, pp. 6-6 through 6-8, filed November 15, 2012.

[11] *Id.* at p. 6-7.

for PY 1-3.[12]

Separate from the GRC true-up proposals, PG&E will follow the Commission's direction to file a Tier 2 Advice Letter establishing eligibility for any cost-savings incentives authorized by the PV Program decision after completion of all construction of the PV UOG projects.[13] Assuming the Commission approves PG&E's proposal to terminate the PV Program, PG&E would submit the Tier 2 Advice Letter after completion of the PY 3 UOG projects and all actual capital cost data has been finalized.

III. FINDINGS REQUESTED

PG&E respectfully requests that the Commission issue a Resolution approving the termination of the PV Program as requested herein, including the following specific findings:

1. PG&E's PV Program has achieved its objectives of contributing to the participation of smaller-scale PV facilities in California's renewables market, of contributing to the transformation of the PV market through reductions in price and increases in installations, and in reducing uncertainty regarding PG&E's ability to comply with near-term RPS procurement requirements.

2. Cost and administrative efficiencies can be achieved through the early termination of the PV Program.

3. Termination of the PV Program will not create RPS compliance issues, consistent with PG&E's RPS Net Short demonstration included in its 2012 Renewable Energy Procurement Plan. PG&E does not need the remaining PV Program volumes on the timetable originally proposed.

4. PG&E shall terminate further activities to implement the remainder of its PV Program. Specifically, the authorized PV Program shall be scaled back to include only Program Years 1 and 2 of the PV PPA Program and Program Years 1-3 of the PV UOG Program. PG&E is relieved of any requirement to initiate or complete Program Years 3-5 of the PV PPA Program and Program Years 4-5 of the PV UOG Program.

5. All other aspects of D.10-04-052, which authorized the original PV Program, remain in effect with regard to the portions of the Program already implemented. As provided in D.10-04-052, PG&E may file a Tier 2 advice letter to address eligibility for any cost savings incentives once construction of the Program Year 3 facilities is complete. PG&E must continue to comply with PV Program compliance reporting requirements until it has submitted its Tier 2 advice letter establishing cost savings incentives or otherwise establishes final costs and true-ups for the PV UOG Program, after which the PV Program compliance reporting obligations shall terminate.

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[12] *Id.* at pp. 6-7 to 6-8.
[13] D.10-04-052 at 79 (OP 4(c)).

6. The Commission will address separately, if necessary, any "drop-out" PPAs (i.e., PV PPAs from Program Years 1-2 that terminate prior to their online dates due to nonviability). The volumes from such drop-out PPAs will not be procured through additional PV Program solicitations.

Protests:

Anyone wishing to protest this advice letter may do so by letter sent via U.S. mail, facsimile or E-mail, no later than **December 31, 2012**, which is 21 days[14] after the date of this submission. Protests must be submitted to:

CPUC Energy Division
E D Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

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

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

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

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter. (General Order 96-B, Section 7.4.) The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order

[14] The 20 day protest period concludes on a weekend. PG&E hereby moves this date to the following business day.

96-B, Section 3.11).

Approval Date:

PG&E requests that that the CPUC approve this advice filing on the April 4, 2013 Business Meeting. PG&E submits this as a Tier 3 filing.

Notice:

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list and the service list for R.11-05-005 and A.09-02-019. Address changes to the General Order 96-B service list and all electronic approvals should be directed to e-mail PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Advice letter filings can also be accessed electronically at: http://www.pge.com/tariffs.

Brian Cherry

Vice President - Regulatory Relations

cc: Service List for A.09-02-019 and R.11-05-005
Paul Douglas – Energy Division
Adam Schultz - Energy Division

Attachments

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 E)**

Utility type:	Contact Person: Kimberly Chang
☑ ELC ☐ GAS	Phone #: (415) 972-5472
☐ PLC ☐ HEAT ☐ WATER	E-mail: kwcc@pge.com

EXPLANATION OF UTILITY TYPE	(Date Filed/ Received Stamp by CPUC)
ELC = Electric GAS = Gas PLC = Pipeline HEAT = Heat WATER = Water	

Advice Letter (AL) #: **4160-E** **Tier: 3**

Subject of AL: **The Termination of Pacific Gas and Electric Company's Photovoltaic Program**

Keywords (choose from CPUC listing): Compliance, Procurement

AL filing type: ☐ Monthly ☐ Quarterly ☐ Annual ☑One-Time ☐ Other ______________________________

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: D. 10-04-052

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:

Confidential information will be made available to those who have executed a nondisclosure agreement: ☐ Yes ☐ No

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: ____

Resolution Required? ☑Yes ☐No

Requested effective date: **April 4, 2013** 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: N/A

Service affected and changes proposed: N/A

Pending advice letters that revise the same tariff sheets: N/A

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:

California Public Utilities Commission
Energy Division
EDTariffUnit
505 Van Ness Ave., 4th Flr.
San Francisco, CA 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Pacific Gas and Electric Company
Attn: Brian Cherry
Vice President, Regulatory Relations
77 Beale Street, Mail Code B10C
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San Francisco, CA 94177
E-mail: PGETariffs@pge.com

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

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Spark Energy, L.P.
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Sunrun Inc.
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Utility Specialists
Verizon
Wellhead Electric Company
Western Manufactured Housing Communities Association (WMA)
eMeter Corporation