

PUBLIC UTILITIES COMMISSION

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July 17, 2013

Advice Letters 3854-E and 3854-E-A

Brian K. Cherry
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Pacific Gas and Electric Company
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P.O. Box 770000
San Francisco, CA 94177

Subject: Purchase and Sale Agreement for Procurement of Renewable Energy Credits Between Sierra Pacific Industries and PG&E

Dear Mr. Cherry:

Advice Letters 3854-E and 3854-E-A are effective January 10, 2013 per Resolution E-4560.

Sincerely,

A handwritten signature in cursive script that reads "Edward F. Randolph".

Edward F. Randolph, Director
Energy Division

June 2, 2011

Advice 3854-E
(Pacific Gas and Electric Company ID U39 E)

Public Utilities Commission of the State of California

Subject: Purchase and Sale Agreement for Procurement of Renewable Energy Credits Between Sierra Pacific Industries and Pacific Gas and Electric Company

I. INTRODUCTION

A. Purpose

Pacific Gas and Electric Company (“PG&E”) seeks California Public Utilities Commission (“Commission”) approval of an Amended and Restated Renewable Energy Credit Purchase and Sales Agreement (“PSA”) between Sierra Pacific Industries (“SPI”), and PG&E for a term of five years. SPI owns and operates four California biomass generation facilities located in Anderson, Lincoln, Quincy, and Burney (the “Projects”). SPI uses the electric energy generated at these facilities to supply both PG&E customers and its own sawmills. PG&E currently purchases energy from the SPI biomass facilities under existing Qualifying Facility (“QF”) contracts. Under the PSA, PG&E will purchase the Tradable Renewable Energy Credits (“TRECs” or “RECs”) associated with electricity generated at these biomass facilities and consumed on site by SPI’s saw mills for a five-year term beginning in 2011.

These TRECs fill PG&E’s RPS compliance needs at a reasonable price and with greater certainty and value than alternative RPS procurement options. The Projects generating the energy associated with the TRECs are operating Eligible Renewable Resource (“ERR”) facilities as certified by the California Energy Commission (“CEC”). Therefore, these TRECs fill PG&E’s short-term RPS compliance need that may arise from potential delays in the development of not-yet-operational projects. Moreover, the TRECs offered under the PSA are reasonably priced in comparison to the prices for Green Attributes available under alternative bundled energy and REC transactions (See Confidential Appendix H.). Further, the total quantity of TRECs acquired by PG&E, including under this PSA, will not exceed the temporary limit of 25 percent of PG&E’s Annual Procurement Target (“APT”) in 2011-2013 (see Confidential Appendix H). In addition, as the original agreement between SPI and PG&E was signed in 2009, the PSA

offers greater value than a TREC contract signed after June 1, 2010 because the recently enacted California Renewable Energy Resources Act, Senate Bill X1 2 (“SBX1 2”) includes a “grandfathering” provision allowing procurement under the PSA to count in full towards RPS compliance. As a result, the SPI TRECs are not subject to SBX1 2’s incremental product content requirements or banking limitations (see Section II.E, below). Thus, these TRECs will contribute significantly to PG&E’s RPS compliance position at a reasonable price (see Confidential Appendix G for the PSA’s contribution to PG&E’s RPS goals).

PG&E therefore requests that the Commission issue a resolution no later than December 15, 2011, approving the PSA and containing the findings as set forth in Section VI below.

B. Background

On October 29, 2009, PG&E filed Application (“A.”) 09-10-035 seeking Commission approval of two RECs-only purchase and sales agreements, one with SPI and the other with TransAlta Corporation (“TransAlta”). At the time PG&E filed the Application, the Commission had not yet approved REC-only transactions for Renewable Portfolio Standard (“RPS”) compliance purposes. Nonetheless, in light of the Legislature’s and Commission’s repeatedly expressed interest in the use of REC transactions for RPS compliance purposes, PG&E executed the agreements and submitted them for Commission approval in order to maintain these two beneficial transactions for PG&E’s customers.

In March 2010, the Commission issued Decision (“D.”)10-03-021, which authorized the use of RECs and sets forth specific procedural steps to obtain approval of REC-only transactions, including use of the RPS Advice Letter process. Consequently, in a Ruling dated April 22, 2010, Administrative Law Judge (“ALJ”) Simon ordered PG&E to seek approval of the contracts filed in A.09-10-035 using the Tier 3 advice letter process for RPS contracts, including the information required by D.10-03-021 for REC-only transactions. Before PG&E resubmitted either agreement for approval, however, on May 12, 2010, the Commission issued D.10-05-018, which stayed D.10-03-021 and imposed a moratorium on Commission approval of REC-only RPS contracts until issues in petitions for modification of D.10-03-021 could be resolved. On January 14, 2011, the Commission issued D.11-01-025, which modified and lifted the stay of D.10-03-021.

PG&E has amended its original agreement with SPI to comply with all requirements in D.10-03-021 as amended by D.11-01-025 (e.g., incorporating updated non-modifiable terms), and to make necessary modifications to certain terms (e.g., delivery dates, deadlines to seek CPUC approval) to accommodate the passage of time between the

execution of the original agreement and the submission of the PSA as a Tier 3 advice letter. PG&E will resubmit its agreement with TransAlta in a separate advice letter.

PG&E requests that the Commission issue a resolution no later than December 15, 2011, approving the PSA in its entirety and all payments to be made by PG&E under the PSA, and containing the findings required by the definition of CPUC Approval adopted by D.07-11-025 and D.08-04-009.¹ As discussed in further detail below and in the confidential appendices, the PSA has a reasonable contract price and high viability. PG&E found from its Least-Cost Best-Fit (“LCBF”) analysis that the PSA is reasonable, and the PSA meets PG&E’s current renewable resource needs. Furthermore, the facilities generating the RECs are located in-state within PG&E’s service territory.

Based on these and other factors discussed in this Advice Letter filing, PG&E requests that the Commission approve the PSA.

General Description of the PSA

The following table summarizes the substantive features of the PSA:

Project Name	SPI Anderson, SPI Lincoln, SPI Quincy, SPI Burney
Owner/Developer	SPI
Technology	Biomass
Capacity (MW)	Total Capacity 71.7 MW On-site Load 16.5 MW
Capacity Factor	69 percent
Expected Generation (GWh/Year)	100
Initial Commercial Operational Date (COD)	Existing and operating facilities
Date Contract Delivery Term Begins	Upon Effectiveness of PSA
Delivery Term (Years)	5 years
Vintage (New/Existing/Repower)	Existing
Location (City and State)	Anderson, Lincoln, Quincy, and Burney, CA
Control Area (e.g., California Independent System Operator (“CAISO”), Bonneville)	CAISO

¹ As provided by D.07-11-025 and D.08-04-009, the Commission must approve the PSA and payments to be made there under, and find that the procurement will count toward PG&E’s RPS procurement obligations.

Power Administration (“BPA”)	
Nearest Competitive Renewable Energy Zone (CREZ), As Identified by the Renewable Energy Transmission Initiative (RETI)	N/A
Price Relative to Market Price Referent (MPR)	N/A – No electricity purchased.

A copy of the Amended and Restated PSA is provided in Confidential Appendix E. A copy of the original agreement is provided in Confidential Appendix F. Contract analysis is provided in Confidential Appendix D.

C. General Deal Structure

SPI’s four Projects are located in Northern California and are interconnected to the CAISO. SPI uses part of the energy generated from the Projects to serve the on-site loads associated with its sawmills; and the remaining generated energy is sold to PG&E under existing QF contracts. The Projects have a combined capacity of approximately 71.7 MW of which 16.5 MW are used by the on-site saw mills with an expected annual average energy usage of 100,000 MWhs.

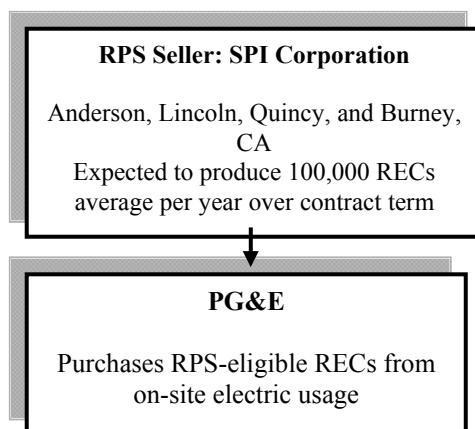
The original agreement was executed on October 29, 2009, as a result of bilateral negotiations. It was then amended and restated on April 4, 2011. Under the PSA, PG&E will purchase up to 120,000 RECs per year associated with the on-site electricity usage.

SPI’s renewable generation is being recorded in the Western Renewable Energy Generation Information System (“WREGIS”) according to its California Energy Commission (“CEC”)-issued Renewables Portfolio Standard (“RPS”) identifier. SPI reports its on-site generation to WREGIS and measures its on-site load through a netting process in accordance with the provisions WREGIS Operating Rule 9.6. The method of metering and the netting process for each of SPI’s facilities has been approved by WREGIS.² In accord with this process, WREGIS issues REC certificates to separate

² Generally, three meters have been installed at each mill. These meters were installed by a CAISO certified, independent, meter service company. One measures gross generation (M1). Another measures Station Service, or parasitic load (M2). The third measures power delivered to the grid (M3). On-site load is determined by subtracting Station Service and power to the grid from gross generation, or, $M1 - M2 - M3$. This amount is adjusted for transformer losses to get to a “grid equivalent” in accordance with WREGIS rules. SPI contracts with an independent firm to read the meters, perform the netting calculation and submit the data to WREGIS as Qualifying Reporting Entity.

WREGIS accounts for generation used to meet on-site load requirements and for generation exported to the grid under the QF contracts. This ensures that generation is not double-counted and that the appropriate amount of RECs is issued for generation used for on-site load. As a result, one REC is created in SPI's account for each MWh of metered generation used for on-site load. Under the PSA, delivery occurs when SPI transfers RECs from this WREGIS account to PG&E's WREGIS account.

Figure 1: PSA Delivery Structure



D. RPS Statutory Goals

Senate Bill (“SB”) 1078 established the California RPS Program, requiring an electrical corporation to increase its use of eligible renewable energy resources to 20 percent of total retail sales no later than December 31, 2017. The legislature subsequently accelerated the RPS goal to reach 20 percent by the end of 2010. Former Governor Schwarzenegger’s Executive Order issued in November 2008 describes a new target for California of 33 percent renewable energy by 2020, and his executive order issued in September 2009 directs the California Air Resources Board to adopt a regulation consistent with this 33 percent target by July 31, 2010. The California Air Resources Board’s Scoping Plan, adopted in December 2008, identifies an increase in the renewables target to 33 percent by 2020 as a key measure for reducing greenhouse gas emissions and meeting California’s climate change goals. In addition, the Legislature passed legislation (SBX1 2) that increases the RPS target to 33 percent by 2020. The new Senate Bill was signed by the Governor on April 12, 2011. SBX1 2 will take effect 91 days after the end of the current special session of the Legislature.

The PSA will deliver TREC to PG&E starting after CPUC final and non-appealable approval and will contribute both to PG&E’s near-term and longer-term RPS goals, including achieving 33 percent RPS by 2020.

E. Confidentiality

In support of this Advice Letter, PG&E has provided the confidential information listed under Section V.C, "Request for Confidential Treatment," below. This information includes the PSA and other information that more specifically describes the rights and obligations of the parties. 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.

II. CONSISTENCY WITH COMMISSION DECISIONS

A. Consistency With PG&E's Adopted RPS Procurement Plan

PG&E's 2011 Renewable Procurement Plan ("2011 Plan") was conditionally approved in D.11-04-030 on April 14, 2011. As required by statute, the 2011 Plan includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of compliance flexibility mechanisms established by the Commission, and a bid solicitation setting forth the need for renewable generation of various operational characteristics.³

The goal of PG&E's 2011 Plan is to procure at least one to two percent of its retail sales volume, or between 800 GWh and 1,600 GWh per year. PG&E included the use of TRECs in its 2011 Plan and part of the procurement goal can be satisfied with TRECs instead of bundled power deliveries. Projects capable of providing actual deliveries or TRECs in the near-term are especially valuable to PG&E. Additionally, the PSA will contribute to PG&E's longer-term RPS goals. The PSA's contribution to PG&E's RPS goals is discussed further in Confidential Appendix G.

B. Consistency With Commission Guidelines for Bilateral Contracting

PG&E and SPI negotiated the PSA on a bilateral basis in 2009 prior to the Commission authorizing the solicitation of REC-only transactions in the annual RPS Solicitations. On October 29, 2009 PG&E filed A.09-10-035 seeking Commission approval of the PSA with SPI. In a Ruling, dated April 22, 2010, ALJ Simon ordered PG&E to seek approval of the contracts in A.09-10-035 using a Tier 3 advice letter process for RPS contracts and

³ Pub. Util. Code § 399.14(a)(3).

present the information required by D.10-03-021 for advice letters seeking approval of contracts for procurement of unbundled RECs. On May 12, 2010, the Commission issued D.10-05-018 that stayed D.10-03-021. On January 14, 2011, the Commission issued D.11-01-025 that modified D.10-03-021 and lifted the stay of D.10-03-021 imposed by D.10-05-018.

PG&E negotiated the amendments to the original agreement with SPI, resulting in the Amended and Restated PSA, in order to comply with additional Commission requirements in D.10-03-021 as amended by D.11-01-025. Rather than requesting that SPI bid the TRECs into PG&E's 2011 RPS Solicitation, PG&E and SPI proceeded with bilateral negotiations because the transaction was offered at a competitive price and will provide deliveries of RPS-eligible TRECs during the 2010-2013 RPS flexible compliance period, which will help PG&E achieve its RPS goals.⁴

To address the issue of bilateral contracting, the Commission developed guidelines pursuant to which utilities may enter into bilateral RPS contracts. In D.03-06-071, the Commission authorized entry into bilateral RPS contracts, provided that such contracts did not require Public Goods Charge funds and were "prudent."⁵ Later, in D.06-10-019, the Commission again held that bilateral contracts were permissible provided that they were at least one month in duration, and also found that such contracts must be reasonable and submitted for Commission approval by advice letter.⁶ Also in that decision, the Commission stated that bilateral contracts were not eligible for supplemental energy payments.⁷

Based on D.03-06-071 and D.06-10-019, the Commission set forth the following four requirements for approval of bilateral contracts in a Resolution approving a bilateral RPS contract executed by PG&E: (1) the contract is submitted for approval by advice letter; (2) the contract is longer than one month in duration; (3) the contract does not receive above-market funds ("AMFs"); and (4) the contract is deemed reasonable by the Commission.⁸ The Commission noted that it would be developing evaluation criteria for bilateral contracts, but that the above four requirements would apply in the interim.⁹ On June 19, 2009, the Commission issued D.09-06-050 establishing price benchmarks and

⁴ As discussed below in Section II.E, TRECs delivered under the SPI PSA should also be available for banking under new Public Utilities Code Section 399.16(d), once SBX1 2 is effective.

⁵ D.03-06-071 at 57-58.

⁶ D.06-10-019 at 29.

⁷ *Id.* at 31.

⁸ Resolution E-4216 at 5.

⁹ *Id.*

contract review processes for short-term and bilateral RPS contracts. D.09-06-050 provides that bilateral contracts should be reviewed using the same standards as contracts resulting from RPS solicitations.

The PSA satisfies the four requirements listed above and the requirements of D.09-06-050. The PSA is being submitted for approval via this Advice Letter and is not eligible for AMFs because it is for RECs-only and resulted from bilateral negotiations. The PSA's term is longer than one month in duration; it has a term of 5 years. Finally, the PSA is reasonable when considered against the pricing and other standards used for evaluating contracts resulting from PG&E's 2009 RPS Solicitation, as PG&E explains in this Advice Letter and in the attached Confidential Appendices. The Commission should therefore approve the PSA.

C. Consistency of Bid Evaluation Process With Least-Cost, Best-Fit Decision

The RPS statute requires PG&E to procure the "least-cost, best-fit" ("LCBF") eligible renewable resources.¹⁰ The LCBF decision directs the utilities to use certain criteria in their bid ranking¹¹ and offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence negotiations. PG&E's approved process for identifying the LCBF renewable resources focuses on four primary areas:

1. Determination of market value of bid;
2. Calculation of transmission adders and integration costs;
3. Evaluation of portfolio fit; and
4. Consideration of non-price factors.

PG&E examined the reasonableness of the PSA using a modified LCBF methodology further explained in Appendix D. PG&E also compared this transaction with other recently executed and pending transactions. The general finding is that deliveries of the TRECs under the PSA are reasonably priced and highly viable. A more detailed discussion of PG&E's evaluation of the PSA is provided in Confidential Appendices A and D.

¹⁰ Pub. Util. Code § 399.14(a)(2)(B).

¹¹ D.04-07-029.

1. Market Valuation

In a “mark-to-market analysis,” the present value of the bidder’s payment stream is compared with the present value of the product’s market value to determine the benefit (positive or negative) from the procurement of the resource, irrespective of PG&E’s portfolio. This analysis includes evaluation of the bid price and indirect costs, such as transmission and integration costs. PG&E’s analysis of the market value of the PSA is addressed in Confidential Appendix A.

2. Portfolio Fit

Portfolio fit considers how well an offer’s features match PG&E’s portfolio needs. As part of the portfolio fit assessment, PG&E differentiates offers by the firmness of their energy delivery and by their energy delivery patterns. A higher portfolio fit measure is assigned to the energy that PG&E is sure to receive and fits the needs of the existing portfolio. The proposed PSA does not include deliveries of energy, but will contribute toward PG&E’s RPS goals through deliveries of RPS-eligible TRECs. The inclusion of TRECs in PG&E’s portfolio of RPS resources does not affect the energy portfolio fit. The TREC deliveries under the PSA have a strong fit with PG&E’s near-term RPS compliance need as PG&E’s RPS compliance position for 2011-2013 faces risk from the potential that other projects scheduled to commence deliveries in the 2011-2013 period may be delayed. The contribution of the SPI TRECs to PG&E’s compliance position is discussed further in Confidential Appendix G.

3. Consistency With the Transmission Ranking Cost Decision

There is no transmission issues related to the electric power associated with the RECs, since PG&E is only buying the RECs from power that is used on site.

4. Consistent Application of TOD

N/A

5. Qualitative Factors

PG&E considered qualitative factors as required by D.04-07-029 and D.07-02-011 when evaluating the PSA. The RECs were created by in-state biomass facilities. The REC revenues provide a positive revenue potential signal for the California biomass sector, which is currently experiencing operational challenges. This incentive will hopefully assist California in achieving the goal of 20 percent generation from in-state biomass, as directed by former Governor Schwarzenegger in Executive Order S-06-06. In addition,

this transaction sends a positive signal to the distributed generation market with respect to the ability to monetize RECs.

D. Compliance With Standard Terms and Conditions

The Commission set forth standard terms and conditions to be incorporated into contracts for the purchase of electricity from eligible renewable energy resources in D.04-06-014 and D.07-02-011, as modified by D.07-05-057 and D.07-11-025. These terms and conditions were compiled and published in D.08-04-009. Additionally, the non-modifiable term related to Green Attributes was finalized in D.08-08-028 and the non-modifiable terms related to TRECs were finalized in D.11-01-025.

The non-modifiable terms in the PSA conform exactly to the “non-modifiable” terms set forth in Attachment A of D.07-11-025 and Appendix A of D.08-04-009, as modified by D.08-08-028 and Appendix C of D.10-03-021 as modified by D.11-01-025. These terms may be found on the following pages of the PSA:

Non-Modifiable Term	PSA Section No.	PSA Page No.
STC 2: Renewable Energy Credits (“REC”) and Green Attributes		
• Definition of Green Attributes	1.42	4 - 5
• Conveyance of Green Attributes	2.7(b)	10
STC 17: Applicable Law	7	19
STC REC-1 Transfer of RECs	2.7(c)	10
STC REC-2 Tracking of RECs in WREGIS	2.9(a)(iv)	11
STC REC-3 CPUC Approval	1.19	2 - 3

The PSA includes all the non-modifiable terms intended for REC-only contracts.

The terms in the PSA that correspond to the “modifiable” standard terms and conditions drafted in D.07-11-025 and D.08-04-009 have been slightly modified based upon mutual agreement reached during negotiations. Comparisons of the modifiable terms in the PSA against the modifiable terms in PG&E’s 2011 REC PSA form in the Solicitation Protocol dated April 28, 2011, is provided in Confidential Appendix E.

Each provision in the PSA is essential to the negotiated agreement between the parties, and, therefore, the Commission should not modify any of the provisions. The

Commission should consider the PSA as a whole in terms of its ultimate effect on utility customers. PG&E submits that the PSA protects the interests of its customers while achieving the Commission's goal of increasing procurement from eligible renewable resources.

E. Consistency With Unbundled Renewable Energy Credit Transactions

Consistency With the CPUC's TREC Decision:

The Commission authorized the use of unbundled RECs and determined the compliance rules for unbundled REC transactions in D.10-03-021, as amended by D.11-01-025 on January 14, 2011. Among other requirements, the Commission established the following requirements in order for an unbundled REC transaction (as a subset of CPUC-defined TREC transactions) to be eligible for RPS compliance:

- All RECs must be associated with RPS-eligible energy generated on or after January 1, 2008.
- All RECs must be tracked in WREGIS to be used for RPS compliance.
- The RECs may not be retained in active WREGIS sub-accounts for more than 3 years before they are retired.
- PG&E may meet no more than 25 percent of its Annual Procurement Target ("APT") with TRECs between 2011 and 2013.
- A TREC may not be used for RPS compliance if an IOU pays more than \$50/REC.

The PSA is for the purchase of unbundled RECs from projects located in California. All RECs purchased under the PSA are associated with energy generated by CEC certified generation facilities after 2008, and the energy associated with the unbundled RECs is metered separately and tracked in WREGIS. PG&E plans on retiring the RECs for RPS compliance within the same calendar as they are transferred to PG&E's WREGIS account. Assuming approval of this PSA and all pending and approved RPS contracts, PG&E's portfolio of TREC deliveries in each year of 2011, 2012, and 2013 is not projected to exceed the temporary limit of 25 percent of APT. Confidential Appendix H contains additional information on PG&E's procurement of TRECs, including the information required to be included in advice letters seeking approval of REC-only transactions pursuant to D.10-03-021, at page 75.

The actual price under the PSA is confidential, market sensitive information, but the price under the PSA is below the temporary limit of \$50/REC set forth in D.10-03-021.¹² Further information regarding the price is included in Confidential Appendix D.

Consistency With SBX1 2:

The PSA is also consistent with the amendments to the RPS enacted by SBX1 2, which will become effective later this year. SBX1 2 authorizes use of “unbundled renewable energy credits” to meet RPS requirements.¹³

Not only does SBX1 2 authorize use of REC-only transactions for RPS Compliance, but SBX1 2 specifically grandfathers REC-only transactions signed before June 1, 2010, to “count in full towards the [RPS] procurement requirements” if specific conditions are met.¹⁴ These conditions include:

- (1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed.
- (2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010.
- (3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.¹⁵

Upon approval by the Commission of the PSA, the PSA will meet each of these requirements. The SPI generating facilities were eligible renewable resources under the rules in place as of the date the original agreement was signed, October 29, 2009, and they continue to be RPS-eligible today. The generating facilities are existing in-state biomass QF facilities. In fact, the CEC certified the facilities as ERR with eligibility dates of December 17, 2004. In addition, the post-June 1, 2010 amendment to the

¹² D.10-03-021, O.P. 20.

¹³ Pub. Util. Code § 399.16(b)(3), as enacted by SBX1 2 (including unbundled RECs as one product that shall be eligible, subject to limitations on quantity, for RPS compliance). *See also id.* § 399.21(a), as enacted by SBX1 2 (requiring that the CPUC authorize the use of RECs for RPS compliance).

¹⁴ Pub. Util. Code § 399.16(d), as enacted by SBX1 2.

¹⁵ *Id.*

original agreement did not increase the nameplate capacity or expected quantities of annual generation, substitute the renewable energy resources generating the TRECs, or extend the duration of the contract.

Thus, if approved by the Commission, the PSA will count in full towards PG&E's RPS procurement requirements in accordance with SBX1 2. The TRECs delivered under the PSA will not be subject to certain procurement or compliance limitations and restrictions. First, the limitations on RECs set forth in Section 399.16(c) do not apply to TRECs procured under the grandfathered PSA. Second, the banking restrictions contained in Section 399.13(a)(4)(B) do not apply to grandfathered TRECs, even if those restrictions would otherwise impact non-grandfathered TREC procurement. By stating that grandfathered contracts count in full towards RSP compliance obligations, Section 399.16(d) necessarily exempts grandfathered contracts from any restrictions on banking. Any contrary reading of the statute that would limit the ability to bank grandfathered TRECs would result in the procurement *not* counting in full towards compliance, in violation of Section 399.16(d). Thus, in order to give Section 399.16(d) full force and effect, RECs procured under grandfathered contracts must be able to be used in any compliance period after which they are procured.

In addition, not only does the PSA meet delivery requirements under the pre-SBX1 2 structure (as the electricity associated with the TRECs was generated in-state), but it satisfies any remaining delivery conditions contained in the RPS Program following enactment of SBX1 2. As recognized by the Commission's recent Order Instituting Rulemaking ("OIR") in Docket R.11-05-005, SBX1 2 has eliminated the delivery requirement for TREC transactions.¹⁶ The statute requires that a "renewable energy credit" represent that one unit of electricity was generated and delivered by an ERR.¹⁷ Previously, Section 399.12(b) defined "delivered" to have the meaning set forth in the Public Resources Code Section 25741, which included in-state generation/consumption requirements.¹⁸ The clear intent of SBX1 2, however, was to eliminate delivery requirements for REC-only transactions. Not only does SBX1 2 explicitly authorize the use of REC-only transactions in new Section 399.16(b)(3), but critically SBX1 2 has repealed Section 399.12(b). Instead of requiring that all RECs satisfy an in-state generation/consumption requirement, SBX1 2 includes applicable in-state requirements within the product content definitions in new Sections 399.16(b)(1) and (2). Notably, there are no such in-state generation/consumption requirements in new Section

¹⁶ See OIR, Rulemaking 11-05-055, Att. A, p. 1 (May 5, 2011).

¹⁷ Pub. Util. Code § 399.12(f)(2).

¹⁸ See, e.g., CEC RPS Eligibility Guidebook, at 35-36 (4th ed. January 2011).

399.16(b)(3), which authorizes REC-only transactions.¹⁹ As the TRECs delivered under the PSA will correspond to energy generated to meet on-site load needs, the PSA meets the statutory requirements for REC-only transactions.

F. Consistency With Minimum Quantity Decision

In D.07-05-028, the Commission determined that in order to count energy deliveries from short-term contracts with existing facilities toward RPS goals, RPS-obligated load-serving entities must contract for deliveries equal to at least 0.25 percent of their prior year's retail sales through long-term contracts or through short-term contracts with new facilities. The Commission issued D.07-05-028 to implement the requirements of then-existing Public Utilities Code Section 399.14(b)²⁰, which created incentives for entering into particular types of procurement contracts.²¹ In order to implement these incentives, the Commission required each Load Serving Entity ("LSE") seeking approval of a contract to procure energy to indicate which category the submitted contract falls. Under this decision, the Commission measures contracted-for energy.

The minimum quantity decision is neither applicable to REC-only contracts nor necessary. REC-only contracts do not procure energy deliveries. Therefore, measurements of contracted-for energy are inapplicable. Further, the minimum quantity requirements are unnecessary to act as a "gatekeeper" for REC-only contracts. Instead, as discussed above in Section E, the Commission and the Legislature have promulgated specific restrictions applicable to REC-only transactions, which this PSA has satisfied.

Even if the Commission were to apply this requirement to RECs-only contracts, PG&E expects to be in compliance with minimum requirements for deliveries from long-term contracts in 2011.

G. Tier 2 Short-Term Contract "Fast Track" Process

PG&E is not submitting this contract under the "Fast Track" Process. REC-only contracts do not qualify for the "Fast track" process.

¹⁹ While new Section 399.12(h)(1) defines "renewable energy credit" as certifying that "one unit of electricity was generated and delivered by an eligible renewable energy resource," PG&E submits that the legislative intent of SBX1 2 to remove in-state delivery requirements for unbundled RECs requires reading "delivered" in this provision to mean that the electricity associated with the REC was merely generated or consumed within the Western Electricity Coordinating Council.

²⁰ Section 399.14 was repealed under SBX1 2, but new Section 399.13(b) contains similar provisions.

²¹ D.07-05-028, at 8.

H. Market Price Reference (“MPR”)

The PSA is for RECs-only and no MPR exist for REC-only contracts.

I. Above-Market Funds (“AMF”)

The REC PSA is not eligible for Above-Market Fund (“AMF”) because purchases of RECs are not eligible for AMF.²²

The PSA is considered “voluntary” procurement since PG&E is under no obligation to buy unbundled RECs to meet its RPS procurement goals, but may do so subject to Commission approval and a finding that the procurement is just and reasonable and fully recoverable in rates.

J. Compliance With Interim Emissions Performance Standard

A greenhouse gas Emissions Performance Standard (“EPS”) was established by Senate Bill 1368 (“SB 1368”), which requires that the Commission consider emissions costs associated with new long-term contracts for baseload generation procured on behalf of California ratepayers. The EPS was intended to reduce California’s financial risk exposure to potential future compliance costs associated with future GHG emissions restrictions.²³ Essentially the legislature and the Commission were concerned that California ratepayers not be exposed to the high cost of retrofits or potential supply disruptions if the generator must satisfy future emission control regulations.

As a result, in D.07-01-039, the Commission adopted an EPS that applies to contracts to procure baseload generation for a term of five or more years.²⁴ Baseload generation to which EPS applies is “electricity generation from a power plant” with an annualized plant capacity factor of at least 60 percent.²⁵ In other words, the statute and D.07-01-039 appear to apply only to contracts for procurement of energy, not REC-only transactions. Though D. 07-01-039 does not explicitly address the interaction between EPS compliance and REC-only transactions, the Commission distinguished the transfer of RECs from the GHG emissions rate associated with the renewable facility and found that “RECs would not have any value for EPS compliance under our rules.”²⁶

²² D.10-03-021 at 61-62

²³ *Id.* at 3.

²⁴ *Id.* at Finding of Fact 12.

²⁵ D.07-01-039 at 4.

²⁶ *Id.* at 124, *see id.* at 121-127.

Therefore, the PSA is not a covered procurement subject to the EPS because it does not involve procurement of electric energy. Even if the Commission were to apply the EPS requirements to REC-only transactions, the PSA would satisfy the EPS. The PSA procures RECs associated with electric energy generated at SPI's biomass facilities, which use the wood waste biomass that would otherwise be disposed of utilizing open burning, forest accumulation, landfill (uncontrolled, gas collection with flare, gas collection with engine), spreading or composting.²⁷

K. Procurement Review Group Participation

The Procurement Review Group ("PRG") for PG&E includes the Commission's Energy Division and Division of Ratepayer Advocates, The Utility Reform Network ("TURN"), the California Utility Employees ("CUE"), and Jan Reid, as a PG&E ratepayer. The unbundled REC transaction was discussed at the PRG meeting on August 14, 2009, October 21, 2009, and May 17, 2011.

L. Independent Evaluator

The Independent Evaluator ("IE") for this PSA is Alan Taylor of Sedway Consulting. The IE evaluated the PSA and concluded that the PSA compares favorably to alternative RPS options in the main evaluation categories of price, portfolio fit, viability, and market valuation. The findings of the IE are contained in Confidential Appendix C and Public Appendix J.

III. PROJECT DEVELOPMENT STATUS

A. Company/Development Team

The Projects are fully developed and are currently delivering energy to PG&E under existing QF Purchase Power Agreements ("PPAs").

²⁷ D.07-01-039, Conclusion of Law 35.

B. Technology**1. Technology Type and Level of Technology Maturity**

The Projects are biomass generation facilities.

2. Quality of Renewable Resource

The Projects are using well-known and proven biomass technology.

3. Other Resources Required

None.

C. Development Milestones

The Projects are fully developed.

1. Site Control

The Projects all have full site control.

2. Equipment Procurement

No new equipment is needed.

3. Permitting/Certification Status

All permits have been secured and the Projects are currently operating and delivering RPS energy to PG&E.

4. Production Tax Credit/Investment Tax Credit

N/A

5. Transmission

There are no transmission issues since PG&E is only buying RECs associated with the electricity used on-site.

D. Financing Plan

The Projects are fully financed.

IV. CONTINGENCIES AND PROJECT MILESTONES

The Projects are fully developed and operating.

V. REGULATORY PROCESS

A. Requested Effective Date

PG&E requests that the Commission issue a resolution approving this advice filing no later than **December 15, 2011**.

B. Earmarking

PG&E reserves the right to earmark deliveries from the PSA.

C. Request for Confidential Treatment

In support of this Advice Letter, PG&E has provided the following confidential information, including the PSA and other information that more specifically describes the rights and obligations of the parties. 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 – Consistency With Commission Decisions and Rules and Project Development Status

Appendix B – 2009 Solicitation Overview

Appendix C – Independent Evaluator Report (Confidential)

Appendix D – Contract Summary

Appendix E – Amended and Restated PSA

Appendix F – Purchase and Sale Agreement**Appendix G – Project’s Contribution Toward RPS Goals****Appendix H – Project’s Contribution to the TREC Usage Cap****Appendix I – Comparison of Amended and Restated PSA With the Utility’s 2011 Pro Forma Purchase and Sale Agreement.****Public Attachment:****Appendix J – Independent Evaluator Report (Public)****VI. REQUEST FOR COMMISSION APPROVAL**

PG&E requests that the Commission issue a resolution no later than **December 15, 2011**, that:

1. Approves the Amended and Restated Renewable Energy Credit Purchase and Sales Agreement (“PSA”) between PG&E and SPI in its entirety, including payments to be made by PG&E pursuant to the PSA, subject to the Commission’s review of PG&E’s administration of the PSA.
2. Finds that any procurement pursuant to the PSA is procurement from an eligible renewable energy resource for purposes of determining PG&E’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.) (“RPS”) Decision (“D.”) 03-06-071 and D.06-10-050, or other applicable law.
3. Finds that pursuant to Public Utilities Code Section 399.16(d), as enacted by the California Renewable Energy Resources Act, Senate Bill X1 2 (“SBX1 2”), the PSA shall count in full towards RPS procurement requirements, and thus is not subject to procurement or compliance limitations and restrictions, including those set forth in or developed pursuant to Sections 399.13(a)(4)(B) or 399.16(c), as enacted by SBX1 2.
4. Finds that all procurement and administrative costs, as provided by Public Utilities Code section 399.14(g), associated with the PSA shall be recovered in rates.

5. Adopts the following finding of fact and conclusion of law in support of CPUC Approval:
 - a. The PSA is consistent with PG&E's 2011 RPS procurement plan.
 - b. The terms of the PSA, including the price of delivered TRECs, are reasonable.

6. Adopts the following finding of fact and conclusion of law in support of cost recovery for the PSA:
 - a. The utility's costs under the PSA shall be recovered through PG&E's Energy Resource Recovery Account.
 - b. Any stranded costs that may arise from the PSA are subject to the provisions of D.04-12-048 that authorize recovery of stranded renewables procurement costs over the life of the contract. The implementation of the D.04-12-048 stranded cost recovery mechanism is addressed in D.08-09-012.

7. Adopts the following findings with respect to resource compliance with the Emissions Performance Standard ("EPS") adopted in R.06-04-009:
 - a. The PSA is not covered procurement subject to the EPS because it does not involve procurement of electric energy.

Protests:

Anyone wishing to protest this filing may do so by sending a letter by **June 22, 2011**, 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 it should be submitted expeditiously. Protests should be mailed to:

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

Facsimile: (415) 703-2200
E-mail: mas@cpuc.ca.gov and jnj@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4004, 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 K. Cherry
Vice President, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-6520
E-Mail: PGETariffs@pge.com

Effective Date:

PG&E requests that the Commission issue a resolution approving this advice filing on **December 15, 2011**.

Notice:

In accordance with General Order 96-B, Section IV, 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 lists for A.09-10-035, R.11-05-005, R.08-08-009 and R.10-05-006. 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. Address changes to the GO 96-B service list and 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>.

Handwritten signature of Brian Cherry in cursive script.

Vice President – Regulation and Rates

cc: Service List for R.11-05-005
Service List for R.10-05-006
Service List for A.09-10-035
Service List for R.08-08-009
Paul Douglas – 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, among other items, the contract itself, price information, and analysis of the proposed RPS contract, which are 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.

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 Linda Tom-Martinez

Phone #: (415) 973-1082 and (415) 973-4612

E-mail: dxpu@pge.com and lmt1@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) #: **3854-E**

Tier: **3**

Subject of AL: Purchase and Sale Agreement for Procurement of Renewable Energy Credits Between Sierra Pacific Ind and Pacific Gas and Electric Company

Keywords (choose from CPUC listing): Contracts, Portfolio

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: Yes No All members of PG&E's Procurement Review Group who have signed nondisclosure agreements 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: Michael Avidan (415) 973-4858

Resolution Required? Yes No

Requested effective date: **December 15, 2011**

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 proposed¹: 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:

CPUC, Energy Division

Tariff Files, Room 4005

DMS Branch

505 Van Ness Ave.,

San Francisco, CA 94102

jnj@cpuc.ca.gov and mas@cpuc.ca.gov

Pacific Gas and Electric Company

Attn: Brian Cherry

Vice President, Regulation and Rates

77 Beale Street, Mail Code B10C

P.O. Box 770000

San Francisco, CA 94177

E-mail: PGETariffs@pge.com

**DECLARATION OF MICHAEL AVIDAN
SEEKING CONFIDENTIAL TREATMENT
FOR CERTAIN DATA AND INFORMATION
CONTAINED IN ADVICE LETTER 3854-E
(PACIFIC GAS AND ELECTRIC COMPANY - U 39 E)**

I, Michael Avidan declare:

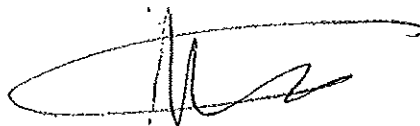
1. I am presently employed by Pacific Gas and Electric Company ("PG&E"), and have been an employee at PG&E since 2008. My current title is Principal within PG&E's Energy Procurement organization. In this position, my responsibilities include negotiating PG&E's Renewables Portfolio Standard Program ("RPS") Power Purchase Agreements. 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, C, D, E, F, G, H, and I to PG&E's Advice Letter 3854-E submitted on May 31, 2011.

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"), and/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, if applicable, and why confidential protection is justified. Finally, the matrix specifies that: (1) PG&E is complying with the limitations specified in the IOU Matrix for that type of data or information, if applicable; (2) the information is not already public; and (3) 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 explanatory 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 June 2 2011 in San Francisco, California.

A handwritten signature in black ink, appearing to read 'Michael Avidan', written over a horizontal line.

Michael Avidan

PACIFIC GAS AND ELECTRIC COMPANY
Advice Letter 3854-E
June 2, 2011

IDENTIFICATION OF CONFIDENTIAL INFORMATION PER DECISION 06-06-086 AND DECISION 06-04-023

Redaction Reference	1) The material submitted constitutes a particular type of data listed in the Matrix, appended as Appendix 1 to D.06-06-066 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: Advice Letter 3854-E						
2	Appendix A Consistency with Commission Decisions and Rules and Project Development Status	Item VII (G) Renewable Resource Contracts under RPS program - Contract without SEPs. Item VII (un-numbered category following VII (G)) Score sheets, analyses, evaluations of proposed RPS projects. Item VIII (A) Bid information and B) Specific quantitative analysis involved in scoring and evaluation of participating bids. General Order 66-C.	Y	Y	Y	This Appendix contains bid information and evaluation from the 2009 Solicitation; discusses, analyzes, and evaluates the Project and the terms of the PSA; and contains confidential information of the counterparties. Disclosure of this information would provide valuable market sensitive information to competitors. Since negotiations are still in process with bidders for 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. Finally, this information has been obtained in confidence from the counterparties under an expectation of confidentiality. It is in the public interest to treat such information as confidential because if such information were made public, it would put the counterparties 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) and Item VII, remain confidential for three years. For information covered under Item VIII (A), remain confidential until after final contracts submitted to CPUC for approval. For information covered under Item VIII (B), remain confidential for three years after winning bidders selected. For information covered by General Order 66-C, remain confidential.
3	Appendix B 2009 Solicitation Overview	Item VIII (A) Bid information and B) Specific quantitative analysis involved in scoring and evaluation of participating bids.	Y	Y	Y	This Appendix contains bid information and evaluation from the 2009 Solicitation. This information would provide market sensitive information to competitors and is therefore considered confidential. Furthermore, offers from the 2005, 2006, 2007, 2008, and 2009 solicitations and offers received outside of those solicitations are still under negotiation, further substantiating why releasing this information would be damaging to the negotiation process.	For information covered under Item VIII (A), remain confidential until after final contracts submitted to CPUC for approval. For information covered under Item VIII (B), remain confidential for three years after winning bidders selected.
4	Appendix C Independent Evaluator Report	Item VII (G) Renewable Resource Contracts under RPS program - Contract without SEPs. Item VII (un-numbered category following VII (G)) Score sheets, analyses, evaluations of proposed RPS projects. Item VIII (A) Bid information and B) Specific quantitative analysis involved in scoring and evaluation of participating bids. General Order 66-C.	Y	Y	Y	This Appendix contains bid information and bid evaluations from the 2009 Solicitation; discusses, analyzes and evaluates the Project and the terms of the PSA; contains confidential information of the counterparties; and contains analyses and evaluations of project viability. 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. Finally, this information has been obtained in confidence from the counterparties under an expectation of confidentiality. It is in the public interest to treat such information as confidential because if such information were made public, it would put the counterparties 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) and Item VII, remain confidential for three years. For information covered under Item VIII (A), remain confidential until after final contracts submitted to CPUC for approval. For information covered by General Order 66-C, remain confidential.

	1) The material submitted constitutes a particular type of data listed in the Matrix, appended as Appendix 1 to D.06-06-066 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
5	Appendix D Contract Summary	Item VII (G) Renewable Resource Contracts under RPS program - Contracts without SEPs. Item VII (un-numbered category following VII G) Score sheets, analyses, evaluations of proposed RPS projects. Item VIII (A) Bid information and (B) Specific quantitative analysis involved in scoring and evaluation of participating bids. General Order 66-C.	Y	Y	Y	This Appendix contains bid information and evaluation from the 2009 Solicitation; discusses, analyzes, and evaluates the Project and the terms of the PSA, and contains confidential information of the counterparties. 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 counterparties to the PSA have an expectation that the terms of the PSA will remain confidential, pursuant to confidentiality provisions in the PSA.	For information covered under Item VII (G) and Item VII, remain confidential for three years. For information covered under Item VIII (A), remain confidential until after final contracts submitted to CPUC for approval. For information covered under Item VIII (B), remain confidential for three years after winning bidders selected. For information covered by General Order 66-C, remain confidential.
	Appendix E Amended and Restated PSA	Item VII (G) Renewable Resource Contracts under RPS program - Contracts without SEPs.	Y	Y	Y	This Appendix contains the terms of the PSA. Disclosure of certain terms of the PSA 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 counterparties to the PSA have an expectation that the terms of the PSA will remain confidential, pursuant to confidentiality provisions in the PSA.	Remain confidential for three years.
7	Appendix F Purchase and Sale Agreement	Item VII (F) Renewable Resource Contracts under RPS program - Contracts with SEPs.	Y	Y	Y	This Appendix contains the PSA. Disclosure of the PSA 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 counterparties to the PSA have an expectation that the terms of the PSA will remain confidential, pursuant to confidentiality provisions in the PSA.	Remain confidential for three years.
8	Appendix G Project's contribution toward RPS Goals	Item VII (un-numbered category following VII G) Score sheets, analyses, evaluations of proposed RPS projects. Item VI (B) Utility Bundled Net Open Position for Energy (MWh).	Y	Y	Y	This Appendix contains information that, if disclosed, would provide valuable market sensitive information to competitors and allow them to see PG&E's remaining RPS net open energy position. 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 for three years.	Remain confidential for three years.

Public Appendix J
Independent Evaluator Report

PG&E Advice Letter

Sedway Consulting, Inc.

**INDEPENDENT EVALUATION REPORT
FOR PACIFIC GAS & ELECTRIC'S
SIERRA PACIFIC INDUSTRIES
REC TRANSACTION**

Submitted by:

*Alan S. Taylor
Sedway Consulting, Inc.
Boulder, Colorado*

May 25, 2011

Introduction and Background

This Independent Evaluation Report addresses a renewable energy credit (REC) transaction/contract associated with Pacific Gas & Electric's (PG&E) Renewables Portfolio Standard (RPS) efforts. The contract – the Sierra Pacific Industries (SPI) purchase and sale agreement (PSA) – was initiated through bilateral negotiations and was originally executed on September 23, 2009. It called for the expected delivery of 100,000 Renewable Energy Credits (RECs) to PG&E for five years from biomass-fueled electric generation facilities that provide on-site electricity for four of SPI's saw mills in California (as well as surplus generation for Qualifying Facility [QF] sales). The deliveries were to commence upon approval of the contract by the California Public Utilities Commission (CPUC), which was expected to occur in 2010.

On October 29, 2009, PG&E filed the contract for approval with the CPUC via an application. However, the CPUC was in the process of formulating its tradable REC (TREC) policies. In March, 2010, the CPUC issued a decision (D.10-03-021) where it established approval procedures for REC transactions, requiring utilities to file such contract under advice letters. However, the CPUC continued to formulate its TREC policies and placed a moratorium on approving REC transactions in a decision it issued on May 12, 2010 (D.10-05-018). A final TREC decision (D11-01-025) was issued on January 13, 2011.

Because of the passage of time and the final TREC decision, PG&E and SPI revised the original contract, making it compliant with the new TREC decision and fixing the term of the PSA so that the delivery period would be 2011-2015, in addition to other changes. An amended and restated PSA was executed on April 4, 2011. That amended PSA is the primary focus of this IE report.

On April 12, 2011, a new piece of state legislation (SBX1 2) was signed into law that will affect California's RPS program and REC rules. The legislation places certain restrictions on utilities' use of RECs for RPS compliance. Much of the details have yet to be promulgated in the form of final rules. However, the SPI transaction is "grandfathered" under this legislation, not affected by the new restrictions, and therefore is likely to be more valuable than current or future REC offers that are affected by the SBX1 2 restrictions.

Role of Independent Evaluator

The California Public Utilities Commission (CPUC) has issued several decisions in the last several years that require California's investor-owned utilities (IOUs) to retain an Independent Evaluator (IE) in RPS solicitations¹ or to review RPS-related transactions.

¹ D.04-12-048 (Findings of Fact 94-95, Ordering Paragraph 28) and D.06-05-039 (Finding of Fact 20, Conclusion of Law 3, Ordering Paragraph 8).

In late 2010, in compliance with these CPUC decisions, PG&E retained Sedway Consulting as an IE to review the SPI PSA process. It was recognized that much of the negotiations had already occurred in the development of the original PSA, but PG&E endeavored to provide sufficient background materials for Sedway Consulting to understand the transaction and perform the necessary evaluations and comparisons.

In instances where an IE is reviewing a contract that is the product of bilateral negotiations (as is the case with the SPI REC PSA), the CPUC has requested that the IE opine on whether the IOU's contract evaluation process accurately reflects the PPA's market valuation and whether the PPA's market valuation is competitive relative to the IOU's other options in the most recent solicitation.

Sedway Consulting was the IE in PG&E's 2005 and 2006 RPS solicitations but not the utility's most recent (2009) RPS solicitation. However, Sedway Consulting has an adequate understanding of the market valuation processes that PG&E employed in the 2009 solicitation. Sedway Consulting was able to rely on its knowledge from the earlier solicitations, supplement that knowledge with new information regarding PG&E's 2009 solicitation and recently executed RPS contracts, and perform the necessary comparisons for a determination of the SPI REC PSA's competitiveness with PG&E's other procurement options.

This report touches on several of the items listed in the CPUC Independent Evaluator Report Template (Short Form);² however, that template was developed for reports associated with the annual RPS solicitations and many of the elements are not particularly applicable to bilateral contract reviews.

Independent Evaluator Activities and Analysis

Sedway Consulting reviewed the original SPI REC PSA and the subsequently executed amended and restated PSA. Sedway Consulting also reviewed other communications between PG&E and SPI, the Procurement Review Group (PRG) presentations that were made on August 14, 2009 and May 17, 2011, PRG meeting minutes for the meeting on October 21, 2009, and drafts of PG&E's advice letter filing for the SPI REC PSA.

With regard to the 2009 RPS solicitation, Sedway Consulting was provided with PG&E's market valuation results and related information for all shortlisted bids. Sedway Consulting recognized, however, that comparing an executed contract with a short list of potential projects/contracts could be problematic. Few of the 2009 shortlisted bids have translated into executed contracts, the bid information for the entire group is becoming somewhat dated, and most of the bids are for long-term offers that are not good points of comparison for a short-term transaction. Therefore, Sedway Consulting decided to supplement its SPI/2009 short list analysis with two additional comparisons: one with

² Administrative Law Judge's Ruling Issuing Templates for Independent Evaluator Reports and Contract Approval Requests, Attachment B, R.06-02-013, Carol Brown, ALJ filed May 8, 2008.

PG&E's recently executed RPS contracts (i.e., those signed in 12 months prior to the execution of the amended and restated SPI REC PSA) and a second with short-term RPS offers (i.e., those with a duration of less than 10 years) that PG&E has reviewed and/or executed over the last several years and which have deliveries in a similar time period to that of the SPI transaction.

The primary basis of Sedway Consulting's quantitative comparative analysis involved examining the SPI REC PSA's net market value relative to those of PG&E's other RPS options. For a REC transaction, the net market value of a REC transaction is simply the inverse of the transaction's levelized price.³ For bundled RPS transactions, the net market value is calculated by subtracting the present value of a contract/proposal's monthly energy payments from the present value of its energy and capacity benefits and dividing the result by the present value of the proposed project's generation to yield a \$/MWh levelized value. In both cases (i.e., for REC and bundled RPS transactions), the net market value yields an estimate of the cost of RPS-qualified MWhs/certificates from the transaction and thus is a good measure for determining the lowest cost sources of RPS-qualified MWhs/certificates for PG&E.

The TREC decision recognized that the least-cost, best-fit methodology that has been employed in California utility RPS procurement activities in recent years may not provide an adequate framework for evaluating REC contracts or for comparing REC contracts to bundled contracts. Especially with the passage of SBX1 2, Sedway Consulting agrees that new REC transactions – those entered into on or after June 1, 2010 – may be subject to rules that make their evaluation and comparison with bundled RPS transactions difficult. For example, under SBX1 2, new REC transactions may not constitute any more than 25% of a utility's incremental annual RPS procurement in the 2011-2013 period, no more than 15% in the 2014-2016 period, and no more than 10% thereafter. Also, there are potential limitations on the ability to bank RECs from new transactions for use in a future year. The details of these rules have yet to be finalized. However, the SPI REC transaction was initiated before both the TREC decision and SBX1 2. It is Sedway Consulting's understanding that the transaction has been "grandfathered," is unaffected by the new rules associated with SBX1 2, and therefore can be compared directly to bundled RPS transactions in the manner outlined above. This "grandfathering" of the SPI transaction is a key factor in the value of the transaction.

Sedway Consulting found that the SPI REC PSA's net market value compared quite favorably to the 2009 short list, to the recently executed RPS contracts, and to the set of short-term offers/contracts considered by PG&E in recent years. The results of Sedway Consulting's three comparative analyses are provided in the Confidential Appendix A to this report. This material is being afforded confidential treatment in line with the CPUC's Decision 06-06-066 (issued on June 29, 2006) which included guidelines for defining what constitutes confidential versus public information in California utility

³ Ignoring any debt equivalence issues, as PG&E has chosen to do in its evaluation process.

electricity procurement and related activities. Pursuant to Public Utilities Code Section 583, General Order (G.O.) 66-C, and the above decision, score sheets, analyses, and evaluations of proposed RPS projects are deemed confidential.⁴

Conclusion

Sedway Consulting believes that PG&E's contract evaluation process reasonably reflected the SPI REC PSA's market valuation and that the PSA's market valuation is competitive relative to PG&E's other RPS options. Specifically, Sedway Consulting concludes that the SPI REC PSA compares quite favorably with PG&E's 2009 RPS solicitation short list, with the RPS contracts that PG&E has executed in the previous 12 months, and with short-term RPS offers for deliveries in a similar time period that PG&E has reviewed and/or executed over the last several years.

Sedway Consulting does not believe that there is any material issue or deficiency that would warrant the CPUC's rejection of the SPI REC PSA.

⁴ "Interim Opinion Implementing Senate Bill No. 1488, Relating to Confidentiality of Electric Procurement Data Submitted to the Commission", June 29, 2006, Appendix 1, page 17

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