



# 2017 Renewable Energy Sale - Request for Offers Solicitation Protocol

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## **LIST OF ATTACHMENTS**

Attachment A: Renewable Energy Sale Offer Form

Attachment B: Renewable Energy Sale Confirmation

## I. Overview

### A. Overview

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Pacific Gas and Electric Company (“PG&E”) is issuing this 2017 Renewable Energy Sale Request for Offers (“RFO” or “2017 Renewable Energy Sale RFO”). The 2017 Renewable Energy Sale RFO is intended to solicit offers (“Offers”) from participants (“Participants” or “Bidders”) to procure Portfolio Content Category 1 (“PCC 1”) eligible renewable energy resource electricity product (“Product”) from PG&E pursuant to a confirmation (the “Agreement”). This Solicitation Protocol describes the process by which PG&E seeks, evaluates, and accepts Offers in the RFO from winning Bidders (“Buyers”).

The 2017 Renewable Energy Sale RFO complies with PG&E’s 2016 RPS Plan, which was approved by the California Public Utilities Commission (“CPUC” or “Commission”) in Decision 16-12-044.

Subject to Bid pricing and other factors in this Solicitation Protocol, PG&E seeks to sell a volume of Product commensurate with Bid prices received. PG&E will utilize a proprietary price curve to determine the volume of Product available for sale at different price points.

PG&E will make all sales according to the terms and conditions set forth in the Agreement. This Solicitation Protocol sets forth the procedures a Bidder must follow in order to participate in the RFO. Capitalized terms used in this Solicitation Protocol, but not otherwise defined herein, have the meanings set forth in the Agreement.

### B. Renewable Energy Sale RFO Communication

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PG&E has established the 2017 Renewable Energy Sale RFO website at <http://www.pge.com/rfo> and click on “2017 Renewable Energy Sale RFO.” This site will be where Bidders register and where all the RFO documents, information, announcements and questions and answers are posted and available to Bidders.

To promote accuracy and consistency of the information provided to all Bidders, PG&E encourages Bidders to submit any inquiries via e-mail to [RECSolicitations@pge.com](mailto:RECSolicitations@pge.com) for matters related to the 2017 Renewable Energy Sale RFO. With respect to matters of general interest raised by any Bidder, PG&E may, without reference to the specific Bidder raising such matter or initiating the inquiry, post the questions and responses on its website. PG&E may, in its sole discretion, decline to respond to any email or other inquiry.

Any exchange of material information regarding this RFO between Bidder and PG&E must be submitted to both PG&E and the Independent Evaluator (“IE”). The IE is an independent, third party evaluator who is required by CPUC Decision 14-12-048 to ensure this RFO is conducted in a reasonable and neutral manner.

### C. Schedule

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The RFO schedule is subject to change to conform to any CPUC requirements but otherwise is at the discretion of PG&E. PG&E will post any schedule change on PG&E's 2017 Renewable Energy Sale RFO website. Also, as further described below, Bidders may register at PG&E's RFO website to receive notice of these and other RFO changes by electronic mail. PG&E will have no liability or responsibility to any Bidder for any change in the schedule or for failing to provide notice of any change.

The schedule for this RFO is (all times are in Pacific Prevailing Time ["PPT"]):

**Table 1: 2017 Renewable Energy Sale RFO Schedule of Events (Tentative)**

Date/Time	Event
Ongoing	Bidders may register online at PG&E's RFO website to receive notices regarding the RFO.
Week of January 23, 2017	PG&E issues the RFO.
February 8, 2017 1:00 PM	Offers Due. Offer(s) must be submitted to the online platform at Power Advocate.
Week of February 13, 2017	PG&E notifies shortlisted Participants
Week of March 20, 2017	PG&E and shortlisted Participants complete negotiation of an Agreement, which shall be subject to "CPUC Approval," as provided in the Agreement
Approx. 30 days after execution	PG&E submits Agreements for CPUC Approval

### D. Events in the RFO Schedule

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- a. Registration. Bidders may register online to receive announcements and updates about this RFO through at [www.pge.com/rfo](http://www.pge.com/rfo)
- b. Issuance. PG&E will issue the 2017 Renewable Energy Sale RFO and post the Solicitation Protocol, form of Agreement, and all other RFO materials on the 2017 Renewable Energy Sale RFO website.
- c. Offers Due. Bids must be submitted via Power Advocate and must include all of the documents described in Section IV, Required Information. By submitting an Offer and responding to this RFO, the Bidder agrees to be bound by all of the terms, conditions and other provisions of this RFO and any changes or supplements to it that may be issued by PG&E.
- d. PG&E Selects Offers. Selected Bids ("Selected Bids") will be notified via email. PG&E will select Bids according to the evaluation criteria described in Section III, Evaluation Criteria. Offers beyond the Selected Bids may be placed on a

waitlist to be selected in order of evaluation results and selection constraints, should any Selected Bids fail to complete the RFO process.

- e. Negotiation of Agreement. PG&E will engage in limited negotiations with Participants with Selected Bids.
- f. Execution and Regulatory Approval. Once PG&E and the Participants with Selected Bids execute Agreements, if any, resulting from this RFO, PG&E will submit all such Agreements to the CPUC for approval via an advice letter filing. Additional regulatory approval information is provided in Section VII, Regulatory Approval.

### **E. Disclaimers for Rejecting Offers and/or Terminating this RFO**

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This RFO does not constitute an offer to sell and creates no obligation to execute any Agreement or to enter into a transaction under an Agreement as a consequence of the RFO. PG&E shall retain the right at any time, at its sole discretion, to reject any Offer on the grounds that it does not conform to the terms and conditions of this RFO and reserves the right to request information at any time during the solicitation process.

PG&E retains the discretion, subject to, if applicable, the approval of the CPUC, to: (a) reject any Offer for any reason, including but not limited to the basis that an Offer is the result of market manipulation or is not cost competitive or any other applicable reason; (b) modify this RFO and the form Agreement as it deems appropriate to implement the RFO and to comply with applicable law or other decisions or direction provided by the CPUC; and (c) terminate the RFO should the CPUC not authorize PG&E to sell the Product in the manner proposed in this RFO. In addition, PG&E reserves the right to either suspend or terminate this RFO at any time if such suspension is required by or with the approval of the CPUC. PG&E will not be liable in any way, by reason of such withdrawal, rejection, suspension, termination or any other action described in this Solicitation Protocol to any Bidder, whether submitting an Offer or not.

## **II. RFO Product and Goals**

PG&E is seeking to sell Product with the exact volume to be determined based on the price of bids received.

### **A. Product Attributes**

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1. PCC 1 eligible renewable energy resource electricity product with the resources defined by PG&E.
2. Price: NP15 or SP15 Day Ahead Index + REC Price to be specified by Buyer.
3. Location: Buyer to choose energy deliveries at NP15 DLAP or SP15 DLAP.
4. Scheduled Energy Deliveries: Buyer may propose energy delivery beginning April

2017 or later. Energy deliveries may be in any months or hours that are mutually agreeable.

5. Delivery Term: Up to 1 year.

\*If energy deliveries begin before CPUC Approval, PG&E will not transfer the corresponding RECs until CPUC Approval is obtained. Full contract price is expected to be paid regardless of CPUC approval. If CPUC approval is not obtained then Buyer will receive credit.

### III. Evaluation Criteria

PG&E will evaluate Offers using the evaluation criteria outlined below.

#### A. Quantitative Evaluation

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For Offers in the 2017 Renewable Energy Sale RFO, PG&E will consider Price offered as the sole quantitative value.

#### B. Qualitative Evaluation

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For the 2017 Renewable Energy Sale RFO, PG&E will apply a qualitative adjustment factor for counterparties that have acceptable credit with PG&E and minimize proposed edits to the form of Agreement.

##### 1. Credit

PG&E may consider the Participant's capability to perform all of its financial and financing obligations under the Agreement and PG&E's overall credit concentration with the Participant or its banks, including any of Participant's affiliates.

##### 2. Agreement Modifications

PG&E may assess the materiality and cost impact of any of Participant's proposed modifications to the Agreement.

##### 3. Other Qualitative Considerations

In addition to the criteria specifically listed above, PG&E may consider other qualitative factors that could impact the value of Offers, including, but not limited to: PG&E's past commercial experience with a Participant; Participant concentration; and existence of an acceptable EEI Master Agreement between PG&E and Participant.

## IV. Required Information

### A. Submission Overview

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All Offer submittal information pertaining to this RFO will be hosted on the Power Advocate site. Telephonic, hardcopy or facsimile transmission of an Offer is not acceptable. In order to participate in this RFO, Bidders must register and be accepted through Power Advocate at the Public Registration Link:

TBA

PG&E strongly encourages Bidders to register with Power Advocate well before Offers are due. Detailed instructions for submitting Offer(s) and using Power Advocate are on PG&E's Renewable Energy Sale RFO website.

**Electronic Documents:** The electronic documents for the attachments must be in a Microsoft Word, Excel file or Adobe Acrobat PDF file as applicable. For each document, please include the Bidder's company name in each file name.

### B. Required Forms

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#### 1. Offer Package

The following documents, which are on the 2017 Renewable Energy Sale RFO website, must be completed and included with each Offer:

- a. Introductory Letter
- b. Offer Form (Attachment A) - Bidder must provide all applicable information requested in the form and all inputs must match the respective information provided in other required documentation.
- c. Redline of Agreement (Attachment B)

#### 2. Shortlist Documents (if applicable)

If the Bidder is notified via an emailed letter that they are eligible for PG&E's Shortlist ("Shortlist Letter"), then they must complete the following documents:

- a. Signed Shortlist Letter – Bidder must return a signed Shortlist Letter to PG&E, accepting the terms set forth in the Shortlist Letter and agreeing to continued participation of their Selected Offers in the 2017 Renewable Energy Sale RFO.

## V. Confidentiality

No Bidder shall collaborate on or discuss with any other Bidder or potential Bidder Offer strategies, the substance of any Offer(s), including without limitation the price or any other terms or conditions of any Offer(s), or whether PG&E has Selected Offers or not.

All information and documents in Bidder's Offer that have been clearly identified and marked by Bidder as "Proprietary and Confidential" on each page on which confidential information appears shall be considered confidential information. PG&E shall not disclose such confidential information and documents to any third parties except for PG&E's employees, agents, counsel, accountants, advisors, or contractors who have a need to know such information and have agreed to keep such information confidential and except as provided otherwise in this section. In addition, Bidder's Offer will be disclosed to the IE.

Notwithstanding the foregoing, it is expressly contemplated that the information and documents submitted by Bidder in connection with this RFO, including Bidder's confidential information, may be provided to the CPUC, its staff, and the Procurement Review Group ("PRG"), and established pursuant to Decision 02-08-071. PG&E retains the right to disclose any information or documents provided by Bidder to the CPUC, the PRG, in the advice letter filing or in order to comply with any applicable law, regulation, or any exchange, control area or California Independent System Operator ("CAISO") rule, or order issued by a court or entity with competent jurisdiction over PG&E at any time even in the absence of a protective order, confidentiality agreement, or nondisclosure agreement, as the case may be, without notification to Bidder and without liability or any responsibility of PG&E to Bidder. PG&E cannot ensure that the CPUC will afford confidential treatment to Bidder's confidential information, or that confidentiality agreement or orders will be obtained from and/or honored by the PRG, the California Energy Commission ("CEC"), or the CPUC. By submitting an Offer, Bidder agrees to adhere and be bound by the confidentiality provisions described in this section.

The treatment of confidential information described above shall continue to apply to information related to Selected Offers.

## VI. Procurement Review Group Review

Following completion of the evaluation and rankings of Offers, PG&E will submit the results of the evaluation and its recommendations to its PRG members. PG&E will consider any alternative recommendations proposed by the PRG. PG&E, in its sole discretion, shall determine whether any alternatives proposed by the PRG should be adopted. PG&E has no obligation to obtain the concurrence of the PRG with respect to any Offer.

PG&E assumes no responsibility for the actions of the PRG, including actions that may delay or otherwise affect the schedule for this Solicitation, including the timing of the selection of Offers and the obtaining of Regulatory Approval.

## VII. Regulatory Approval

After Agreement execution, PG&E is required to submit executed Agreements to the CPUC for approval via an advice letter filing.

The effectiveness of any executed Agreement is expressly conditioned on PG&E's receipt of final and non-appealable CPUC approval of such Agreement ("Regulatory Approval").

## VIII. Dispute Resolution

Except as expressly set forth in this Solicitation Protocol, by submitting an Offer, Bidder knowingly and voluntarily waives all remedies or damages at law or equity concerning or related in any way to the RFO, the Solicitation Protocol and/or any attachments to the Solicitation Protocol ("Waived Claims"). The assertion of any Waived Claims by Bidder may, to the extent that Bidder's Offer has not already been disqualified, automatically disqualify such Offer from further consideration in the RFO

By submitting an Offer, Bidder agrees that the only forums in which Bidder may assert any challenge with respect to the conduct or results of the RFO is through the Alternative Dispute Resolution ("ADR") services provided by the CPUC pursuant to Resolution ALJ-185, August 25, 2005. The ADR process is voluntary in nature, and does not include processes, such as binding arbitration, that impose a solution on the disputing parties. PG&E will consider the use of ADR under the appropriate circumstances. Additional information about this program is available on the CPUC's website at the following link: [www.cpuc.ca.gov/PUBLISHED/Agenda\\_resolution/47777.htm](http://www.cpuc.ca.gov/PUBLISHED/Agenda_resolution/47777.htm).

Participant further agrees that other than through the ADR process, the only means of challenging the conduct or results of the RFO is a protest to an Advice Letter Filing seeking approval of one or more Agreements entered into as a result of the RFO, that the sole basis for any such protest shall be that PG&E allegedly failed in a material respect to conduct the RFO in accordance with this Solicitation Protocol, and the exclusive remedy available to Bidder in the case of such a protest shall be an order of the CPUC that PG&E again conduct any portion of the RFO that the CPUC determines was not previously conducted in accordance with the Solicitation Protocol. Bidder expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs, and/or attorney's fees. Unless PG&E elects to do otherwise in its sole discretion during the pendency of such a protest or ADR process, the RFO and any related regulatory proceedings related to the RFO, will continue as if the protest had not been filed, unless the CPUC has issued an order suspending the RFO or PG&E has elected to terminate the RFO.

Bidder agrees to indemnify and hold PG&E harmless from any and all claims by any other Bidder asserted in response to the assertion of a Waived Claim by Bidder or as a result of a Bidder's protest to an advice letter filing with the CPUC resulting from the RFO.

Except as expressly provided in this Solicitation Protocol, nothing herein including

Bidder's waiver of the Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of PG&E. Nothing in this Solicitation Protocol is intended to prevent any Bidder from informally communicating with the CPUC or its staff regarding this RFO.

## **IX. Termination of the RFO-Related Matters**

PG&E reserves the right at any time, in its sole discretion, to terminate the RFO for any reason without prior notification to Bidders and without liability to, or responsibility of, PG&E or anyone acting on PG&E's behalf. Without limitation, grounds for termination of the RFO may include the assertion of any Waived Claims by a Bidder or a determination by PG&E that, following evaluation of the Offers, there are no Offers that meet the requirements of this RFO.

PG&E reserves the right to terminate further participation in this process by any Bidder, to accept any Offer or to enter into any Agreement, and to reject any or all Offers, all without notice and without assigning any reasons and without liability to PG&E or anyone acting on PG&E's behalf. PG&E shall have no obligation to consider any Offer.

In the event of termination of the RFO for any reason, PG&E will not reimburse Bidder for any expenses incurred in connection with the RFO. PG&E shall have no obligation to reimburse any Bidder's expenses regardless of whether such Bidder's Offer is selected, not selected, rejected or disqualified. Unless earlier terminated, the RFO will terminate automatically upon the execution of one or more Agreements by Participants with Selected Bids. In the event that no Agreements are executed, then the RFO will terminate automatically on July 31, 2017.

## **X. Bidder's Representations and Warranties**

1. By submitting an Offer and clicking "Yes" to the "Acknowledgment of Protocol" section of the Offer Form, Bidder agrees to be bound by the conditions of the RFO, and makes the following representations, warranties, and covenants to PG&E, which representations, warranties, and covenants shall be deemed to be incorporated in their entirety into each of Bidder's Offers. Bidder agrees that an electronic signature of a duly authorized representative of Bidder shall be the same as delivery of an executed original document for purposes of the Offer Form.
  - Bidder has read, understands and agrees to be bound by all terms, conditions and other provisions of this Solicitation Protocol;
  - Bidder has had the opportunity to seek independent legal and financial advice of its own choosing with respect to the RFO and this Solicitation Protocol, including the submittal forms and documents listed in this Solicitation Protocol which are posted on the RFO website;

- Bidder has obtained all necessary authorizations, approvals and waivers, if any, required by Bidder to submit its Offer pursuant to the terms of this Solicitation Protocol and to enter into an Agreement with PG&E;
  - Bidder's Offer complies with all applicable laws;
  - Bidder has not engaged, and covenants that it will not engage, in any communications with any other actual or potential Bidder in the RFO concerning this solicitation, price terms in Bidder's Offer, or related matters and has not engaged in collusion or other unlawful or unfair business practices in connection with the RFO;
  - Any Offer submitted by Bidder is subject only to PG&E's acceptance, in PG&E's sole discretion; and
  - The information submitted by Bidder to PG&E in connection with the RFO and all information submitted as part of any Offer is true and accurate as of the date of Bidder's submission. Bidder also covenants that it will promptly update such information with PG&E upon any material change thereto.
2. By submitting an Offer, Bidder acknowledges and agrees:
- That PG&E may rely on any or all of Bidder's representations, warranties, and covenants in the RFO (including any Offer submitted by Bidder);
  - That in PG&E's evaluation of Offers pursuant to the RFO, PG&E has the right to disqualify a Bidder that is unwilling or unable to meet any other requirement of the RFO, as determined by PG&E in its sole discretion.
3. BY SUBMITTING AN OFFER, BIDDER HEREBY ACKNOWLEDGES AND AGREES THAT ANY BREACH BY BIDDER OF ANY OF THE REPRESENTATIONS, WARRANTIES AND COVENANTS IN THESE RFO INSTRUCTIONS SHALL CONSTITUTE GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH BIDDER, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE TO PG&E UNDER APPLICABLE LAW, AND DEPENDING ON THE NATURE OF THE BREACH, MAY ALSO BE GROUNDS FOR TERMINATING THE RFO IN ITS ENTIRETY.