

September 18, 2003

**Advice 2423-E
(Pacific Gas and Electric Company ID U 39 E)**

Public Utilities Commission of the State of California

Subject: Interim Renewable Energy Solicitation

Pacific Gas and Electric Company (PG&E) hereby submits contracts for the procurement of renewable energy for California Public Utilities Commission (Commission) review and approval, through the advice letter process outlined in the *Assigned Commissioner's Ruling Specifying Criteria for Interim Renewable Energy Solicitations* (ACR) dated August 13, 2003.¹

All attachments to this advice letter comprise Confidential Protected Material, in accordance with the May 1, 2002, Protective Order issued in Rulemaking (R.) 01-10-024, and pursuant to Public Utilities Code Section 583.

Purpose

PG&E submits the proposed contracts in Confidential Appendix A under the advice letter timeline specified in the ACR. Under this advice letter process, PG&E makes a pro-forma request that the Commission issue a resolution no later than November 3, 2003, however, PG&E desires the Commission to approve this advice letter no later than October 2, 2003. PG&E is concurrently filing a Motion for Adoption of Expedited Review Process for PG&E Advice Letter No. 2423-E (Motion) for accelerated review and approval of these contracts. In that Motion, PG&E asks that the Commission issue a resolution no later than October 2, 2003 approving the proposed contracts as being reasonable and finding that the payments to be made by PG&E pursuant to the contracts are

¹ PG&E reserves all legal rights to challenge the decisions or statutes under which it has been required to make this filing, and nothing in this filing constitutes a waiver of such rights, including its rights to seek relief in federal court for violations of federal law or the U.S. Constitution. See *England v. Louisiana State Board of Medical Examiners*, 375 U.S. 411 (1964). In addition, PG&E reserves any additional legal rights by reason of its status as a debtor under Chapter 11 of the U.S. Bankruptcy Code, and nothing in this filing constitutes a waiver of such rights.

reasonable and prudent for purposes of recovery in full in retail rates under the Public Utilities Code for the full term of the contract(s) without further Commission review.

The Commission should find that any procurement pursuant to these contracts constitutes incremental procurement by PG&E from a renewable resource for purposes of determining PG&E's compliance with any obligation that it may have pursuant to the RPS decision (D.03-06-071), or other requirement to procure an additional one percent (1%) of its annual electricity sales from renewable resources. The deliveries received as a result of these contracts count towards PG&E's Annual Procurement Target (APT), as provided by the ACR. Although PG&E is taking the initiative to address its APT prior to its achievement of an investment grade rating, its execution of the attached contracts and the filing of this Advice Letter should not be interpreted as a waiver of the "grace period" for compliance with the APT provided by D.03-06-071.²

Further, the Commission should find that any procurement pursuant to these contracts is deemed part of PG&E's "baseline" quantity of eligible renewable resources for purposes of Section 399.15 of the Public Utilities Code or other applicable law. The Commission should approve these contracts in their entirety, and find that these contracts and PG&E's entry into them are reasonable and prudent for all purposes, including, but not limited to, PG&E's recovery in rates of all payments made under these contracts, subject only to Commission review with respect to the reasonableness of PG&E's administration of these contracts.

Background

On August 13, 2003, the Assigned Commissioner Michael Peevey issued the ACR which provides guidance and outlines the parameters of utility procurement of renewable resources prior to full Renewable Portfolio Standard (RPS) implementation. The ACR instructs utilities to abide by the terms of the first RPS decision (D.03-06-071), and also allows utilities to engage in bilateral negotiations or issue competitive solicitations.

PG&E proposes that the Commission approve the attached contracts for the purchase of renewable energy because the contracts are consistent with the criteria provided in the ACR.

In accordance with the ACR, the attached contracts do not anticipate the use of any Supplemental Energy Payments by the California Energy Commission as part of the compensation to the renewable resource. PG&E does not seek, or need, the creation of a Market Price Referent (MPR) by the Commission. The internal benchmarks PG&E used to evaluate these contracts and a detailed account of their development are presented in Confidential Appendix B. These benchmarks were also provided to PG&E's Procurement Review Group (PRG)

² D.03-06-071, O.P. 2.

during the preliminary evaluation of these contracts. These contracts do not require the use of any Public Goods Charge (PGC) funds as consideration for the transaction, nor do the proposed counterparties receive the federal Production Tax Credit (PTC).

In Confidential Appendix C, PG&E provides presentations made to its PRG and ultimate decision makers. Terms of the proposed contracts were presented to the PRG on July 2, 2003. On September 12, 2003, the revised term sheet was presented to the PRG.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **October 8, 2003**, which is 20 days from the date of this filing (however, PG&E has requested a shortened protest deadline of September 29, 2003). The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

IMC Branch Chief – Energy Division
California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: jjr@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4005 and Jerry Royer, Energy Division, at the address shown above. It is also requested that a copy of the protest be sent via postal mail and facsimile to Pacific Gas and Electric Company on the same date it is mailed or delivered to the Commission at the address shown below.

Pacific Gas and Electric Company
Attention: Brian Cherry
Director, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177
Facsimile: (415) 973-7226
E-mail: RxDd@pge.com

Effective Date

PG&E requests that this advice filing become effective on **October 28, 2003**, which is 40 days after the date of filing, should PG&E's Motion be rejected.

Notice

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter excluding the confidential appendices is being sent electronically and via U.S. mail to parties shown on the attached list and the service list for R.01-10-024. Non-market participants who are members of PG&E's Procurement Review Group and have signed appropriate Non-Disclosure Certificates will also receive the advice letter and accompanying confidential attachments by overnight mail.

The portions of this advice letter so marked Confidential Protected Material are in accordance with the May 1, 2002, Protective Order in R. 01-10-024 Regarding Confidentiality of Pacific Gas and Electric Company (PG&E) Power Procurement Information. As required by that Order, reviewing representatives of Market Participating Parties will not be granted access to Protected Material, but will instead be limited to reviewing redacted versions of documents that contain Protected Material.

Vice President – Regulatory Relations

Attachments

Confidential Appendix A	Renewable Transitional Procurement Contracts for which PG&E Seeks Commission Approval
Confidential Appendix B	Responses to Adopted Master Data Request in Appendix B of D. 02-10-062 <ul style="list-style-type: none">• Briefing Package provided to ultimate decision maker• Evaluation Process for Selection of Renewables Contracts
Confidential Appendix C	Procurement Review Group Minutes, Including Term Sheet