October 7, 2004

Advice 2562-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 a contract 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 dated August 13, 2003 (August ACR) as modified on September 29, 2003 (September Ruling).¹

Under this advice letter process, PG&E requests that the Commission approve this advice letter via resolution no later than November 19, 2004.

Summary

The new contract with a Florida Power and Light Energy Co., LLC-owned entity Diablo Winds, LLC, (FPLE) allows for the repowering of 17.72 megawatts (MW) of existing wind turbines in the Altamont Pass Area of Alameda County. The repowered project will use new state-of-the-art wind turbines that will result in significantly greater amounts of renewable energy production than the existing facility. The existing legacy Qualifying Facility power purchase agreements (PPAs) associated with the existing turbines will be terminated and replaced with an Edison Electric Institute (EEI)-based contract of a commensurate term. The new contract has a rate that is significantly lower than that of the existing Standard Offer 4 (SO4) contract.

The new contract’s unit pricing structure replaces the SO4 capacity and Short-Run Avoided Cost (SRAC) energy components, diversifying PG&E’s exposure away from natural gas and providing the Project greater price certainty. The

repowered Project will be eligible for the federal Production Tax Credit (PTC) if the PTC is extended.²

PG&E and FPLE were motivated in part by the encouragement of the Commission and interested parties, such as The Utility Reform Network (TURN), to modernize antiquated wind facilities in a manner that increased renewable production yet saved ratepayers money. The new renewable contract between PG&E and FPLE achieves these dual objectives. The contract results in considerable savings to ratepayers in comparison to SO4 contract rates, yet provides the price certainty to enable FPLE to enter into the transaction.

All attachments to this advice letter are designated as Confidential Protected Material, in accordance with the May 20, 2003, Protective Order issued in Rulemaking (R.) 01-10-024, and pursuant to Public Utilities Code Section 583.³

**Purpose**

PG&E submits the proposed contract in Confidential Appendix B for approval under the standard advice letter timeline specified in the August ACR. Under this advice letter process, PG&E requests that the Commission approve the advice letter via resolution no later than November 19, 2004.

The Commission should find that any new procurement pursuant to the contract 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 Public Utilities Code 399.11 et seq., the Renewable Portfolio Standard (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 the contract above the historical baseline level attributed to this resource should count towards the incremental portion of PG&E's Annual Procurement Target (APT). PG&E includes historical output from this resource in Appendix A.

Further, the Commission should find that all electricity procured pursuant to this contract is obtained from an eligible renewable resource for purposes of Section 399.15 of the Public Utilities Code or other applicable law. The Commission should approve this contract in its entirety, and find that this contract and PG&E's entry into it is reasonable and prudent for all purposes, including, but not limited to, PG&E's recovery in rates of all payments made under this contract, subject only to Commission review with respect to the reasonableness of PG&E's administration of this contract.

² The House and Senate approved HR1308 on September 23, 2004. The bill contains provisions to extend the PTC and is expected to be signed by President Bush.
³ The May 20, 2003 protective order modified an earlier protective order adopted on May 1, 2002.
Background

On August 13, 2003, Assigned Commissioner Michael Peevey issued the August ACR, which provides guidance and outlines the parameters of utility procurement of renewable resources prior to full RPS implementation. The August 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. In D. 03-06-071 the Commission endorsed negotiated repowerings of existing wind facilities.\(^4\)

On September 29, 2003, the Assigned Commissioner issued the September Ruling adopting Independent Energy Producers Association’s (IEP’s) motion for reconsideration and requiring bidders to provide two offers to the utility for consideration, one that assumes a renewal of the PTC, and one that does not. The purpose of this requirement was to allow solicitations to proceed when it was uncertain whether the PTC legislation would be extended. The FPLE agreement obviates the need for two prices by assuming that PTCs are extended and providing a termination option if they are not.\(^5\)

The Facility will continue to operate under the existing ISO4 contract until purchases begin under the new PPA at which time the facility will no longer be included in the Ongoing CTC calculation.

PG&E proposes that the Commission approve the attached contract for the purchase of renewable energy because the contract is consistent with the criteria provided in the August ACR, as modified by the September Ruling.

In accordance with the August ACR, the attached contract does 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 criteria PG&E used to evaluate this contract are presented in Confidential Appendix C. This analysis was also provided to PG&E’s Procurement Review Group (PRG) during the preliminary evaluation of this contract. This contract does not require the use of any Public Goods Charge (PGC) funds as consideration for the transaction.

In Confidential Appendix D, PG&E provides the presentation made to its PRG members. Terms of the proposed contract were provided to the PRG on September 28, 2004. The contract was on the agenda for the September 29,

\(^4\) See D.03-06-071, p. 57 ("TURN argues that the Commission should specifically require prompt negotiation to resolve what it characterizes as a stalemate around repowering of existing wind facilities. (TURN Opening Brief, p. 51.) We endorse this goal, as the repowering of existing wind facilities in prime locations is a common-sense approach to increasing procurement of renewable energy, with costs that should be lower than for new greenfield projects.").

\(^5\) Both PG&E and FPLE fully expect that HR 1308 authorizing an extension of the PTC will be signed into law.
2004, PRG meeting, but due to lack of time no formal presentation was made at the meeting. It was agreed that parties who had questions or concerns about the contract should contact PG&E. No concerns have been raised to date.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **October 27, 2004**, which is 20 days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

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 **November 19, 2004**.

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 20, 2003, 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.

[Signature]

Brian K. Cherry
Director, Regulatory Relations

Attachments

Confidential Appendix A  Historical Output from Facility
Confidential Appendix B  Renewable Contracts for which PG&E Seeks Commission Approval
Confidential Appendix C  Briefing Package to the Ultimate Decision Maker for Evaluating Proposed Contract
Confidential Appendix D  Material Presented to the Procurement Review Group

cc: Service List – R.01-10-024
PGE Gas Advice Filing
List
General Order 96-A, Section III(G)

ABAG Power Pool
Accent Energy
Aglet Consumer Alliance
Agniesz Developmental Center
Ahmed, Ali
Aldar & Elsesser
Applied Power Technologies
Arter & Hadden LLP
Avista Corp
Barkovich & Yap, Inc.
BART
Blue Ridge Gas
BP Energy Company
Braun & Associates
C & H Sugar Co.
CA Bldg Industry Association
CA Cotton Ginners & Growers Assoc.
CA League of Food Processors
CA Water Service Group
California Energy Commission
California Farm Bureau Federation
California Gas Acquisition Svcs
California ISO
Calpine
Calpine Corp
Calpine Gilroy Cogen
Cambridge Energy Research Assoc
Cameron McKenna
Cardinal Cogen
Chevron Texaco
Chevron USA Production Co.
Childress, David A.
City of Glendale
City of Palo Alto
City of Redding
CLECA Law Office
Constellation New Energy
CPUC
Creative Technology
Cross Border Inc
Crossborder Inc
CSC Energy Services
Davis, Wright Tremaine LLP
Davis, Wright, Tremaine, LLP
Defense Fuel Support Center
Department of the Army
Department of Water & Power City
Dept of the Air Force
DGS Natural Gas Services
DMM Customer Services
Downey, Brand, Seymour & Rohwer
Duke Energy
Duke Energy North America
Duncan, Virgil E.
Dutcher, John
Dynegy Inc.
Effenberg, Stover & Cullinan
Energy Law Group LLP
Energy Management Services, LLC
Enron Energy Services
Exelon Energy Ohio, Inc
Exeter Associates
Foster Farms
Foster, Wheeler, Martinez
Franciscan Mobilehome
Future Resources Associates, Inc
G. A. Krause & Assoc
GLJ Energy Publications
Goodin, MacBride, Squeri, Schlotz & Grueneich Resource Advocates
Hanna & Morton
Heg, Peggy A.
Hogan Manufacturing, Inc
House, Lon
Integrated Utility Consulting Group
International Power Technology
Interstate Gas Services, Inc.
J. R. Wood, Inc
JTM, Inc
Kaiser Cement Corp
Korea Elec Power Corp
Luce, Forward, Hamilton & Scripps
Marcus, David
Masonite Corporation
Matthew V. Brady & Associates
Maynor, Donald H.
McKenzie & Assoc
McKenzie & Associates
Meek, Daniel W.
Mirant California, LLC
Modesto Irrigation Dist
Morrison & Foerster
Morse Richard Weisenmiller & Assoc.
Navigant Consulting
New United Motor Mfg, Inc
Norris & Wong Associates
Northern California Power Agency
Office of Energy Assessments
Palo Alto Muni Utilities
PG&E National Energy Group
Pinnacle CNG Company
PITCO
Plurimi, Inc.
PPL EnergyPlus, LLC
Price, Roy
Product Development Dept
Provost Pritchard
R. M. Hairston & Company
R. W. Beck & Associates
Recon Research
Regional Cogeneration Service
RMC Lonestar
Sacramento Municipal Utility District
SBC Energy Solutions
Seattle City Light
Sempra
Sempra Energy
Sequoia Union HS Dist
SESCO
Sierra Pacific Power Company
Silicon Valley Power
Simpson Paper Company
Smurfit Stone Container Corp
Southern California Edison
SPURR
St. Paul Assoc
Stanford University
Sutherland, Asbill & Brennan
Tabors Carmanis & Associates
Tansem and Associates
Tecogen, Inc
TFS Energy
TJ Cross Engineers
Transwestern Pipeline Co
Turlock Irrigation Dist
U S Borax, Inc
United Cogen Inc
URM Groups
Utility Cost Management LLC
Utility Resource Network
Wellhead Electric Company
Western Hub Properties, LLC
White & Case
WMA