



**FILED**

05-10-10

04:59 PM

## GWF REVISED APPENDIX A

### PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS PURSUANT TO RULE 14.3 (B).<sup>1</sup>

#### PROPOSED FINDINGS OF FACT

FINDING #	TEXT
4.	<del>The main</del> <u>One</u> purpose of the 254 MW of new capacity from the proposed Tracy Upgrade PPA and LECEF Upgrade PPA is to hedge the risk that other projects for new capacity might fail or be delayed significantly.
5.	<del>PG&amp;E does not need to procure new capacity from the Upgrade PPAs at this time to (i) hedge the</del> <u>There is substantial</u> risk that other projects for new capacity might fail or be delayed significantly, or <del>(ii) integrate intermittent renewable generation.</del>
6.	The cost of the Upgrade PPAs is <del>un</del> reasonable when compared to the market price for capacity, energy, and ancillary services contained in the winning bids from PG&E's 2008 LTRFO.
7.	<del>D.07-10-017 and the Mariposa settlement agreement limit PG&amp;E's procurement of new capacity from the 2008 LTRFO to no more than 1,512 MW. PG&amp;E has requested authority to procure 1,743 MW of new capacity from the 2008 LTRFO, including 254 MW in the instant proceeding.</del>
10.	<del>The cost of the Upgrade PPAs would become reasonable if a fossil project authorized by the Commission fails, as PG&amp;E will not have any cheaper alternatives available at that time from a competitive procurement process to fill the need for new capacity authorized by D.07-12-052.</del> <u>The Tracy Upgrade has completed its CEC permitting process. LECEF has nearly completed this process. These two projects are highly viable.</u>

<sup>1</sup> Additional language is underlined, deleted language is in strike-out, and original language is left unchanged.

**PROPOSED CONCLUSIONS OF LAW**

CONCL. #	TEXT
2.	The Upgrade PPAs do not <u>need to</u> comply <del>at this time</del> with D.07-12-052, D.09-10-017, and the Mariposa settlement agreement.
3.	The Tracy Transaction and LECEF Transaction are <del>not</del> just and reasonable under § 451 and § 454.5 <del>at this time</del> . <del>Both Transactions should be denied without prejudice.</del>
4.	Pursuant to D.08-11-056, it is in the public interest to novate the DWR-GWF Contract and the DWR-LECEF Contract to PG&E. <del>PG&amp;E should work with DWR to novate these contracts as soon as practical and submit the novated agreements for Commission approval using the Tier 3 advice letter process.</del>
5.	If a <del>Commission approved project for new fossil capacity fails</del> , PG&E may be able to procure one or both of the Upgrade PPAs and not exceed 1,512 MW of new capacity. <del>Under this scenario, the Upgrade PPAs would be in compliance with D.07-12-052, D.09-10-017, and the Mariposa settlement agreement.</del>
6.	PG&E should be authorized to resubmit the Tracy and LECEF Transactions, or substantially similar transactions, if any <del>Commission approved project for new fossil capacity fails</del> , subject to the conditions specified in the body of today's decision and order. PG&E should be allowed to exclude the novation of DWR contracts from the resubmitted transactions if PG&E intends to seek, or has already sought, separate <del>Commission approval for the novations.</del>
13.	The IE is not authorized by D.07-12-052 to opine on whether PG&E should be allowed to procure more new capacity than authorized by D.07-12-052. <del>Any costs incurred by PG&amp;E to obtain the IE's opinion on this matter should not be recovered from ratepayers.</del>

**PROPOSED ORDERING PARAGRAPHS**

PARAGRAPH #	TEXT
1.	Application (A.) 09-10-022 is <u>granted</u> , <del>denied without prejudice.</del>
2.	A.09-10-034 is <u>granted</u> , <del>to the extent it requests Commission approval of the Peakers Transaction. A.09-10-034 is denied, without prejudice, to the extent it requests Commission approval of the Los Esteros Transaction.</del>
3.	<del>Pacific Gas and Electric Company shall work with the California Department of Water Resources to novate to Pacific Gas and Electric Company as soon as practical Department of Water Resources' existing contracts to purchase power from the Tracy Facility and the Los Esteros Critical Energy Facility. Pacific Gas and Electric Company may submit the novated agreements for Commission approval using the Tier 3 advice letter process.</del>
4.	<del>Pacific Gas and Electric Company may resubmit the Tracy Transaction and/or the Los Esteros Critical Energy Facility Transaction, or substantially similar transactions, for Commission approval via the Tier 3 advice letter process if any Commission-authorized project for new fossil capacity fails. The resubmitted transactions must (i) not exceed the new capacity authorized by Decision (D.) 07-12-052; (ii) be no more costly to ratepayers in terms of out-of-pocket costs and levelized net market value than the transactions submitted in the instant proceeding; and (iii) provide at least the same level of operating flexibility as the transactions submitted in the instant proceeding. All of the capacity provided by the resubmitted transactions must have the ability to support the integration of intermittent renewable generation. The resubmitted transactions may exclude the novation of existing contracts if Pacific Gas and Electric Company intends to seek, or has already sought, separate Commission approval for the novations.</del>
5.	<del>Pacific Gas and Electric Company's may resubmit the Tracy Upgrade Power Purchase Agreement, the Los Esteros Upgrade Power Purchase Agreement, or substantially similar agreements, using the Tier 3 advice letter process no later than (i) the issuance of Pacific Gas and Electric Company's next long-term request for offers, or (ii) the issuance of the next Commission decision establishing Pacific Gas and Electric Company's long-term procurement plan pursuant to Pub. Util. Code § 454.5, whichever occurs first. If Pacific Gas and Electric Company submits the Tier 3 advice letter after (i) or (ii), Pacific Gas and Electric Company shall explain in the advice letter why the resubmitted Upgrade Power Purchase Agreements should be approved apart from the next long-term request for offers or long-term procurement plan decision.</del>

6.	Pacific Gas and Electric Company (PG&E) may recover via the Energy Resources Recovery Account the net costs it incurs under the <del>Peakers Novation Agreement and the Peakers Power Purchase Agreement, including any stranded costs agreements approved herein</del> . The recovery of stranded costs, if any, from departing load customers shall be implemented via a non-bypassable charge in accordance with D.04-12- 048 and D.08-09-012.
7.	Pacific Gas and Electric Company may <del>not</del> recover the costs that it incurred to obtain an opinion from the Independent Evaluator on whether Pacific Gas and Electric Company should be allowed to procure more new capacity than authorized by D.07-12-052.