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Decision **PROPOSED DECISION OF ALJ SIMON** (Mailed 8/8/2011)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Approval of Renewable Energy Credit Purchase Agreements with SPI Corporation and TransAlta Corporation and for Authority to Recover Costs of the Agreements In Rates (U39E).

Application 09-10-035  
(Filed October 29, 2009)

**DECISION DISMISSING APPLICATION****Summary**

Because the applicant, Pacific Gas and Electric Company, has submitted the procurement contracts at issue in this proceeding for Commission approval via advice letter, this proceeding is dismissed.

**Procedural Background**

Pacific Gas and Electric Company (PG&E) filed this application on October 29, 2009, requesting approval of two five-year purchase and sale agreements (PSA) for tradable renewable energy credits (TREC)s, one PSA with Sierra Pacific Industries (SPI) and one with TransAlta Corporation (TransAlta).

Southern California Edison Company (SCE) and the Center for Energy Efficiency and Renewable Technologies (CEERT) filed responses to the application on December 7, 2009. On December 7, 2009, the Alliance for Retail Energy Markets filed a protest to the application. Also on that date, the Division of Ratepayer Advocates (DRA) filed a protest, as well as a motion to dismiss the application, on the grounds that, at the time the application was filed, the Commission had

not authorized the use of TRECs for compliance with the renewables portfolio standard (RPS) program. PG&E filed its reply to the protests on December 17, 2009, and its response to the motion on December 22, 2009.<sup>1</sup>

The Commission adopted Decision (D.) 10-03-021 on March 11, 2010.<sup>2</sup> Among other things, that decision authorizes the use of TRECs for RPS compliance and sets out rules and procedures for procurement of TRECs by investor-owned utilities. The ALJ's Ruling Setting Briefing Schedule on Procedural Issues (March 18, 2010) sought the parties' views on how this application should proceed, in light of D.10-03-021.<sup>3</sup> The ALJ's Ruling on Status of Application (April 22, 2010) directed PG&E to submit the two contracts at issue in this application for Commission approval using the Tier 3 advice letter process, including the information required by D.10-03-021 for advice letters seeking approval of TREC procurement contracts. The ruling further stated that the proceeding would be dismissed after PG&E notified the ALJ and the service list for this proceeding that PG&E had submitted the contracts for approval by advice letter.

On May 17, 2010, the ALJ's Ruling Staying Proceeding imposed a stay in this proceeding in light of D.10-05-018, which stayed D.10-03-021 pending

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<sup>1</sup> TransAlta and CEERT were allowed to become parties by the Administrative Law Judge's (ALJ) Ruling Granting Motions for Party Status (January 8, 2010). SPI was allowed to become a party by the ALJ's Ruling Granting Motion for Party Status (March 29, 2010).

<sup>2</sup> D.10-03-021 was modified in part by D.11-01-025, but the modifications are not relevant to the disposition of this application.

<sup>3</sup> PG&E, DRA, TransAlta, SPI, and SCE filed and served briefs on March 29, 2010. DRA filed and served a reply brief on April 5, 2010.

resolution of the petitions for modification of D.10-03-021 that were filed in April 2010. The stay of this proceeding was ended by ALJ's Ruling Lifting Stay and Requiring Status Reports (January 20, 2011), issued after the stay of D.10-03-021 was lifted by D.11-01-025. PG&E filed a status report on February 4, 2011, stating among other things that it had not yet submitted the contracts via advice letter for Commission approval.

On June 16, 2011, PG&E filed its notice that the contracts had been submitted for approval by Tier 3 advice letter.<sup>4</sup> No party filed a response to PG&E's notice.

### **Discussion**

DRA's motion to dismiss has been overtaken by events. The Commission has authorized the use of TREC's for RPS compliance and set the framework for consideration of TREC's contracts by advice letter in D.10-03-021, as modified by D.11-01-025.

PG&E has completed all steps required by the ALJ's Ruling on Status of Application. No party objects to the RPS procurement contracts at issue in this proceeding being considered through the RPS advice letter process rather than in this application proceeding. This proceeding is no longer relevant to the Commission's consideration of these contracts, and should be dismissed.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3244 dated November 20, 2009, the Commission preliminarily categorized this application as Ratesetting and preliminarily

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<sup>4</sup> PG&E submitted an advice letter seeking approval of the amended SPI PSA on June 2, 2011, and an advice letter seeking approval of the amended TransAlta PSA on June 16, 2011.

determined that hearings were necessary. Because the RPS procurement contracts at issue in this application will be considered by advice letter, a public hearing is not necessary.

### **Comments on Proposed Decision**

The proposed decision of ALJ Anne E. Simon in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. ~~Comments were filed on \_\_\_\_\_ and reply~~ No comments were filed ~~on \_\_\_\_\_ by \_\_\_\_\_.~~

### **Assignment of Proceeding**

Mark J. Ferron is the assigned Commissioner and Anne E. Simon is the assigned ALJ for this proceeding.

### **Finding of Fact**

~~1. —~~ The two RPS procurement contracts at issue in this proceeding have been submitted for Commission review in accordance with the direction provided in this proceeding and the procedure for advice letters for RPS procurement contracts.

### **Conclusions of Law**

1. The advice letter process is the appropriate method for Commission review of the two RPS procurement contracts at issue in this proceeding.

2. DRA's motion to dismiss this proceeding, filed December 7, ~~2009~~ 2009, is moot.

3. In order to eliminate any confusion about the status of these RPS procurement contracts, this order should be effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. This proceeding is dismissed.
2. No hearings are necessary.
3. Application 09-10-035 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

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