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

Order Instituting Rulemaking to Continue
Implementation and Administration, and
Consider Further Development, of California
Renewables Portfolio Standard Program.

Rulemaking 15-02-020
(Filed February 26, 2015)

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E)
COMMENTS ON PROPOSED DECISION IMPLEMENTING
PROVISIONS OF GOVERNOR'S PROCLAMATION OF A
STATE OF EMERGENCY RELATED TO TREE MORTALITY AND
SENATE BILL 840 RELATED TO THE BIOENERGY FEED-IN TARIFF
IN THE RENEWABLES PORTFOLIO STANDARD PROGRAM**

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Dated: October 17, 2016

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Pacific Gas and Electric Company (“PG&E”) respectfully submits its opening comments regarding the Proposed Decision issued by Administrative Law Judge Simon on September 27, 2016 (“Proposed Decision”) implementing provisions of the Governor’s proclamation of a state of emergency related to tree mortality and Senate Bill 840. The Proposed Decision would modify the currently effective tariffs and standard contracts administered by PG&E, Southern California Edison Company, and San Diego Gas & Electric Company (collectively the “IOUs”) to implement the Bioenergy Market Adjusting Tariff (“BioMAT”) Program. PG&E generally supports the Proposed Decision as a reasonable approach to implementing Senate Bill 840 and the applicable provisions of the Governor’s emergency proclamation.

PG&E’s comments are limited to the following three areas:

- Cost Allocation Mechanism (“CAM”) - PG&E requests the Commission modify the CAM language in the Proposed Decision, specifically to note that the CAM charge is not limited to above-market costs or to incentives, surcharges or adders. PG&E also notes that procurement under the BioMAT Program is, and will continue to be, much higher cost than procurement of other RPS eligible resources and the procurement of

energy from the wholesale market. The Proposed Decision should not imply that BioMAT Program transactions are not above-market.

- Interconnection Application Time Limit - PG&E requests that the Commission clarify that if a counterparty fails to submit the required interconnection application within the 30 days prescribed by the statute, such failure will be cause for automatic termination of the contract.
- High Hazard Zone Fuel Verification and Monitoring - PG&E requests the Commission set a reasonable timeframe for Energy Division staff to conduct a workshop to solicit input and proposals for a third-party verification process in order to help provide clarity to the IOUs and to the market.

II. THE CAM DISCUSSION SHOULD BE MODIFIED

The Proposed Decision adds new features to the BioMAT program to address the tree mortality emergency identified in the Governor’s Proclamation of a State of Emergency (October 30, 2015) (Emergency Proclamation) and amendments made to California Public Utilities Code Section 399.20¹ by Senate Bill 840.

In its comments on the Staff Proposal issued in this matter, PG&E suggested that if the Commission were to adopt a surcharge for high hazard fuel, it should utilize the CAM charge to allocate costs associated with the surcharge.² PG&E explained that “because of the direct connection between the Commission’s authorization and system reliability,” it would be appropriate to allocate such costs to all benefitting customers under CAM, as provided in Section 365.1(c)(2).³ That statutory provision allows for the allocation of procurement costs incurred to provide system or local reliability.⁴

The Proposed Decision declines to adopt a surcharge for high hazard fuel. With regard to cost allocation, the Proposed Decision reasons that it is “unnecessary to address the details of the

¹ All further statutory references are to the California Public Utilities Code unless otherwise noted.

² *PG&E’s Reply Comments on Staff Proposal to Implement Governor’s Emergency Proclamation on Tree Mortality* (March 7, 2016), at p. 2 (“PG&E Reply Comments”).

³ *PG&E’s Opening Comments on Staff Proposal to Implement Governor’s Emergency Proclamation on Tree Mortality* (February 26, 2016), at p. 3 (“PG&E Opening Comments”).

⁴ Pub. Util. Code § 365.1(C)(2).

CAM proposal on the merits, because the underlying premise of the IOUs' proposal is not consistent with the treatment of BioMAT Category 3 procurement in this decision.”⁵ The Proposed Decision then goes on to state the following:

The Commission is not creating any incentives, surcharges, adders, or other above-market costs in the BioMAT Program. Rather, we are allowing the BioMAT market-based mechanism to adjust as designed in D.14-12-081, and temporarily using more frequent program periods. There will therefore be no above-market costs that could be collected through the use of CAM.⁶

There are two clarifications that should be made to this language. First, the Proposed Decision misstates the purpose of CAM and thus is legally erroneous. Section 365.1(c)(2)(A) addresses the allocation of net capacity costs to all benefitting customers, including utility bundled, direct access and Community Choice Aggregation customers. The CAM charge is not limited to above-market costs or to incentives, surcharges or adders, as the Proposed Decision suggests.⁷ Indeed, none of those terms appear anywhere in Section 365.1(c)(2). Instead, the statute provides for the allocation of net capacity costs, which the Legislature defined in Section 365.1(c)(2)(C), to all benefitting customers where an electrical corporation is required “to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electric corporation’s distribution service territory.”⁸ Whether a contract is above or below market is not relevant to the allocation of CAM charges intended to ensure system and local reliability. Thus, at a minimum, the Proposed Decision should be modified to delete the sentence: “There will therefore be no above-market costs that could be collected through the use of CAM.” Because CAM does not collect above market costs, this sentence is legally erroneous.

⁵ Proposed Decision, p. 26.

⁶ Proposed Decision, p. 26.

⁷ Proposed Decision, p. 26.

⁸ Pub. Util. Code § 365.1(C)(2)(A).

Second, the Proposed Decision assumes that contracts procured through the BioMAT program are not above-market. Procurement under the BioMAT Program is, and will continue to be, much higher cost than procurement of other Renewable Portfolio Standard (“RPS”) eligible resources and the procurement of energy from the wholesale market. PG&E understands the BioMAT Program is designed to allow for above-market prices and the policy reasons for that, especially in light of the Emergency Proclamation. While PG&E is not opposed to these policy objectives, or to the very real need to address tree mortality in California, the Proposed Decision needs to be corrected so that it does not imply that BioMAT Program transactions are not above market.

III. CLARIFICATION REGARDING THE 30-DAY TIME LIMIT FOR SUBMITTING A NEW INTERCONNECTION APPLICATION

Section 399.20(f)(4)(B)(ii) provides that a project “shall submit a new application for interconnection within 30 days of execution of a standard contract pursuant to the tariff if it does not have a pending, active interconnection application or a completed interconnection.”

PG&E requests that the Commission clarify that if a counterparty fails to submit the required interconnection application within the 30 days prescribed by the statute, such failure will be cause for automatic termination of the contract. Since the timing of the filing of an interconnection application is solely within the control of the project proponent, a cure period is not appropriate.

IV. HIGH HAZARD ZONE FUEL VERIFICATION AND MONITORING TIMELINE

The Proposed Decision directs Energy Division staff to conduct a workshop to solicit input and proposals for a third-party verification process to ensure that fuel used in a BioMAT generation facility meets the requirements of the fuel category for which it is claimed.⁹ PG&E appreciates the proposal to convene stakeholders in the fuel verification process across the entire

⁹ Proposed Decision, p. 28.

BioMAT Program. PG&E requests that the Commission set a reasonable timeframe for initiating this process to help provide clarity to the IOUs and to the market.

Respectfully submitted,

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