

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**10-21-16  
01:21 PM

October 21, 2016

**Agenda ID # 15263**  
**Ratesetting**

## TO PARTIES OF RECORD IN APPLICATION 16-04-024:

This is the proposed decision of Administrative Law Judge Michelle Cooke. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's December 1, 2016 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ RICHARD SMITH for  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC: ge1

Attachment

Decision PROPOSED DECISION OF ALJ COOKE (Mailed 10/21/16)

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

Second Application of Pacific Gas and Electric Company for Approval of Agreements Resulting from Its 2014-2015 Energy Storage Solicitation and Related Cost Recovery (U39E).

Application 16-04-024  
(Filed April 29, 2016)

**DECISION REJECTING ENERGY STORAGE AGREEMENT**

**Summary**

This decision rejects an energy storage agreement proposed by Pacific Gas and Electric Company (PG&E) as part of its 2014 Request for Offers. The decision determines that PG&E has not yet met its 2014 targets but that the 2016 storage target should be increased by four megawatts to account for this shortfall. This proceeding is closed.

**1. Background**

On December 16, 2010, the California Public Utilities Commission (Commission) opened Rulemaking (R.) 10-12-007 to implement the provisions of Assembly Bill (AB) 2514 (Stats. 2010, Ch. 469). AB 2514 directed the Commission to determine appropriate targets, if any, for each Load-Serving Entity as defined by Pub. Util. Code § 380(j) to procure viable and cost-effective energy storage systems and set dates for any targets deemed appropriate to be achieved.

In response to this state mandate, the Commission adopted Decision (D.) 13-10-040, its “Decision Adopting Energy Storage Procurement Framework and Design Program.” The energy storage framework and procurement applications for the 2014 biennial period were subsequently approved in D.14-10-045.

In compliance with Ordering Paragraph (OP) 6 of D.14-10-045, Pacific Gas and Electric Company (PG&E) filed Application (A.) 15-12-004 seeking approval of the results of its 2014 Energy Storage Request for Offers. A.15-12-004 indicated that PG&E continued to negotiate with additional bidders and would submit a second application if those negotiations proved fruitful. The instant application is the result of those continuing negotiations. PG&E seeks approval for an agreement with Stem Energy Northern California LLC (Stem) to provide PG&E with a total of four megawatts (MW) of resource adequacy resources aggregated from behind-the-meter storage devices.

A.16-04-024 was filed on April 29, 2016. Protests were filed by the Office of Ratepayer Advocates (ORA) and jointly by Marin Clean Energy and Sonoma Clean Power Authority (CCA Parties). A Response was filed by Green Power Institute. PG&E filed a Reply. Administrative Law Judge (ALJ) Michelle Cooke held a telephonic prehearing conference (PHC) on July 18, 2016. The assigned Commissioner and ALJ issued a scoping memo on July 25, 2016.

The scoping memo set September 23, 2016, for opening briefs surrounding the reasonableness of the contract, classification of the energy storage contract by type (which governs cost allocation), and what remedy should occur if PG&E has not met its 2014 Energy Storage target. Opening Briefs were filed by PG&E, ORA, and Stem. Reply Briefs were filed on October 7, 2016, by PG&E, ORA, and Stem.

## 2. Issues before the Commission

The issues set forth in the scoping memo were:

1. Was the solicitation conducted in a fair and competitive manner?
2. In selecting winners, did PG&E apply the evaluation methodologies approved in D.14-10-045 correctly?
3. Were any deviations from pro forma contracts approved in D.14-10-045 warranted?
4. Are the prices, terms, and conditions resulting from the solicitations reasonable?
5. Should the contracts be approved?
6. Does the contract promote safe and reliable operation and maintenance of the energy storage systems?
7. Is the contract properly categorized by function?
8. If the PG&E contract is not approved, PG&E will be short of meeting its 2014 energy storage goal. What should occur to remedy this shortfall?

The first three issues go to the question of reasonableness and whether the contract should be approved, and thus the first five questions will be addressed together. Issues 6 and 7 are only relevant if the contract is approved, and Issue 8 is only relevant if the contract is not approved.

## 3. Is the Proposed Contract Reasonable?

PG&E received over 200 offers consisting of more than 700 variations from more than 50 participants, which totaled over 5,000 MW of energy storage capability (including offer variations). PG&E's evaluation began with Net Market Value, then looked at Portfolio Adjusted Value as the primary metric for assessing cost-effectiveness. Where projects had similar Portfolio Adjusted Values, PG&E chose offers that would lead to a diverse set of final agreements representing multiple technologies, sizes, configurations, online dates, and terms.

During its evaluation process and discussion with potential counterparties, PG&E determined that the initial agreement structure for behind-the-meter projects needed to be modified to address needs unique to the behind-the-meter developers. PG&E notified all participants that submitted behind-the-meter offers to submit a new offer structured as a capacity agreement with an energy settlement component.

The agreement before us requires Stem to aggregate customers in PG&E's service territory to deliver four MW of resource adequacy. Stem will develop, install, and operate energy storage projects at each customer site, provide charging energy to the storage projects through the customer meter, and deliver energy for on-site load reduction at the customer facility. The expected initial delivery date for the agreement is September 1, 2017, with a duration of five years. The initial delivery date can be as early as June 1, 2017, but not later than September 1, 2017. PG&E will pay Stem a monthly payment comprised of a monthly capacity payment minus a monthly energy settlement amount.

The Independent Evaluator reports that Stem should have a reasonable prospect for success in completing the project as required by the agreement. The Independent Evaluator recommends the Commission consider approval of the behind-the-meter agreement with Stem "based on the notion that experience with these types of resource adds value as a learning experience." (Exhibit PG&E-1C at C-57.) The Independent Evaluator describes the economics of the behind-the-meter projects and the Stem agreement's position within that list under seal.

ORA recommends that the Commission not approve the Stem agreement because it is not cost-effective on either a Net Market Value or a Portfolio Adjusted Value basis, and was not competitive compared to other offers outside

of the behind-the-meter sector. Citing the Independent Evaluator, ORA also notes that PG&E's evaluation of behind-the-meter resources did not follow the Least Cost Best Fit evaluation methodology approved in D.14-10-045. (ORA Opening Brief at 13-14.) Additionally, ORA argues that the agreement is not needed to fulfill PG&E's resource adequacy obligations and therefore the fact that the agreement provides resource adequacy is not adequate justification for approval.

Stem argues in favor of approval of the agreement because "[i]t contains an innovative pricing mechanism that encourages the project to more actively participate in the California Independent System Operator (CAISO) markets, thus providing higher value RA [resource adequacy] for California ratepayers." (Stem Opening Brief at 1.) Stem argues that the pricing approach makes this agreement superior to traditional demand response programs and the early online date is beneficial for testing this pricing mechanism. Stem also notes that the agreement provides a superior resource to demand response because it will allow customers to maintain their operations without need for backup generators, reducing the local air quality issues that occur when backup generation is relied on to accomplish demand reductions. Stem believes this "is the ideal project to demonstrate how clean [behind-the-meter] BTM storage can benefit California ratepayers." (Stem Opening Brief at 7.)

Stem also argues its belief that the Energy Settlement subcontractor in the pricing mechanism will prove beneficial by encouraging the project to bid into the CAISO market more frequently at prices lower than the typical wholesale market clearing price, thus reducing the wholesale energy clearing price for all market participants. Stem argues that "this impact on the wholesale market

clearing prices could translate into millions of dollars in savings for ratepayers.” (Stem Opening Brief at 9.)

PG&E’s primary argument in favor of the agreement is that it introduces additional diversity into PG&E’s storage portfolio and provides a low-cost means to gain experience utilizing behind-the-meter storage to deliver resource adequacy. PG&E states that it “made a cost/benefit tradeoff in order to consider other qualitative factors when evaluating potential storage projects.” (PG&E Opening Brief at 13.) “PG&E selected this offer from the final [behind-the-meter] BTM energy storage offers because it aligned with PG&E’s project attribute preferences.” (Exhibit PG&E-1: 3-6.)

While we agree that there is value in adding diversity to the portfolio and gaining experience to support behind-the-meter storage, given that the proposed agreement is not cost-effective as required by Pub. Util. Code § 380(j), we find that the agreement should not be approved. We remind PG&E that it is always free to pursue projects it believes are cost-effective within its normal planning and acquisition framework and support the reasonableness of those costs through ex-post reasonableness review as needed.

#### **4. Safety Considerations**

In its application, PG&E described its efforts to ensure that the proposed contract operates in a safe and reliable manner. For example, PG&E required offering parties to provide information about the safety history and practices of the entities that would construct, operate, own or maintain the projects. Shortlisted participants were required to submit safety plans that would demonstrate responsible safety management during all phases of the project lifecycle. (Exhibit PGE-1: 2-8; 4-9.) Because we do not approve the contract, there are no safety implications of this proceeding, and we need not decide this

issue, however, were the contract approved, we would find that PG&E has addressed potential safety concerns in a proactive and responsible manner and that there are no obvious safety concerns that remain to be addressed.

**5. Is the Contract Correctly Classified?**

Classification of the contract by function is important as that function governs cost recovery and how and from whom any above market costs are recoverable. No party disputed that PG&E correctly characterized its energy storage agreement as serving the Generation/Market function. Because we do not approve the contract, this issue need not be decided but were it required, we would approve PG&E's designation.

**6. Has PG&E Met its 2014 Storage Procurement Obligation?**

PG&E's 2014 storage target was 50 MW connected at the transmission level and 24 MW connected at the distribution level after credits for other purchases, resulting in a total target of 74 MW. In D.16-09-004, we approved 70 MW of agreements. With denial of preapproval of the Stem agreement totaling 4 MWs, we must conclude that PG&E has not yet met its storage target from the 2014 request for offers process.

As part of the scope of this proceeding, we asked what remedy should occur if PG&E has not met its 2014 Energy Storage target. PG&E proposes that any shortfall be incorporated into its 2016 energy storage target. ORA agrees with this recommendation. The 2016 energy storage target was adopted in D.16-09-007. We agree that in light of the shortfall only being four MW, the simplest and most logical outcome is to add four MW to the adopted 2016 target, resulting in a new target of 119.3 MW. (See D.16-09-007 at 3.)

**7. Outstanding Procedural Matters**

The parties have proposed that the following exhibits be admitted under seal because they contain market-sensitive data: Exhibits PGE-1C and ORA-2C. Good cause being shown, these exhibits are admitted under seal for durations consistent with the timing specified in Exhibit PGE-1: D-7 through D-10.

The following parties were granted party status but did not actively participate in the proceeding after the prehearing conference and thus their party status is rescinded consistent with the admonition in the Scoping Ruling at 5, and they will be moved to information only status: Green Power Institute, Marin Clean Energy, and Sonoma Clean Power Authority.

The Commission affirms all rulings made by the assigned Commissioner and assigned ALJ. All motions not previously ruled on are denied as moot.

**8. Categorization and Need for Hearing**

In the Assigned Commissioner and Administrative Law Judge's Scoping Ruling, the Commission affirmed that these Applications were ratesetting, and determined that hearings were not necessary. A formal change to the hearing determination was made in Resolution ALJ-332, therefore the *ex parte* rules as set forth in Rules 8.1, 8.2, 8.3, and 8.5 and §1701.3(c) no longer apply.

**9. Comments on Proposed Decision**

The proposed decision of ALJ Michelle Cooke 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 comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

**10. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Michelle Cooke is the assigned ALJ in this proceeding.

**Findings of Fact**

1. PG&E's proposed agreement with Stem is not cost-effective.
2. PG&E's 2014 storage target is 74 MW.
3. PG&E is four MW short of meeting its 2014 storage target.
4. Green Power Institute, Marin Clean Energy, and Sonoma Clean Power

Authority did not actively participate in these proceedings.

**Conclusions of Law**

1. PG&E's proposed agreement with Stem should not be approved.
2. PG&E has not met its 2014 Energy Storage Procurement target established in D.13-10-040 and D.14-10-045.
3. Four MW should be added to the 2016 storage target adopted in D.16-09-009, resulting in a new target of 119.3 MW.
4. Exhibits PGE-1C and ORA-2C should be admitted under seal for durations consistent with the timing specified in Exhibit PGE-1: D-7 through D-10.
5. Because Green Power Institute, Marin Clean Energy, and Sonoma Clean Power Authority did not actively participate in these proceedings, they do not maintain their party status consistent with the Scoping Ruling and should be shifted to information only status.

**ORDER**

**IT IS ORDERED** that:

1. The proposed energy storage contract between Pacific Gas and Electric Company and counterparty Stem Energy Northern California LLC is not approved.

2. Pacific Gas and Electric Company's 2016 storage target is now 119.3 megawatts.

3. Exhibits PGE-1C and ORA-2C are admitted under seal for durations consistent with the timing specified in Exhibits PGE-1: D-7 through D-10. During this time frame, the specified information may not be publicly disclosed except on further California Public Utilities Commission order or Administrative Law Judge ruling. If Pacific Gas and Electric Company believes that it is necessary for this information to remain under seal for longer than specified in Exhibits PGE-1: D-7 through D-10, the utility may file a motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

4. Green Power Institute, Marin Clean Energy, and Sonoma Clean Power Authority are converted from party status to Information Only status.

5. Application 16-04-024 is closed.

This order is effective today.

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