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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ID #12703

ENERGY DIVISION **RESOLUTION E-4639**
February 5, 2014

REDACTED

R E S O L U T I O N

Resolution E-4639. Pacific Gas and Electric Company (PG&E) requests approval of two renewable energy sales agreements with Tenaska Power Services Company.

PROPOSED OUTCOME: This resolution approves PG&E's request to enter into two renewable energy sales agreements with Tenaska Power Services Company. The agreements are approved without modification.

SAFETY CONSIDERATIONS: The agreements approved by this resolution will not alter existing agreements or any facility operations. Because these sales agreements do not require a change in facility operations, there are no incremental safety implications associated with approval of these agreements beyond the status quo.

ESTIMATED COST: Costs of these agreements are confidential at this time.

By Advice Letter 4329-E filed on December 19, 2013.

SUMMARY

Pacific Gas and Electric Company's proposed renewable energy sales agreements with Tenaska Power Services Company are consistent with the Renewables Portfolio Standard guidelines and other Commission rules and decisions and are therefore approved.

Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 4329-E on December 19, 2013 requesting California Public Utilities Commission (Commission) review and approval of two power purchase and sale agreements (PPSAs) for the resale of renewable energy and associated renewable energy credits (RECs) to Tenaska Power Services Company (Tenaska). The PPSAs are short-term bilateral contracts for renewable generation from various RPS-certified facilities that are currently operating in California and under contract to PG&E.

This resolution approves the PPSAs without modifications. PG&E's execution of these PPSAs is consistent with its 2012 RPS Procurement Plan, including its resource needs, which the Commission approved in Decision (D.) 12-11-016. Sales from PG&E pursuant to the PPSAs are reasonably priced over the life of the sales agreement, subject to Commission review of PG&E's administration of the PPSAs. Payments received by PG&E under the PPSAs shall be credited to PG&E's ratepayers via PG&E's Energy Resource Recovery Account (ERRA).

The following table summarizes PG&E's two PPSAs with Tenaska:

Table 1: Summary of the Sales Agreements between PG&E and Tenaska

Seller	Buyer	Technology Type	Term	Expected Energy	Contract Start-Finish Date	Location
PG&E	Tenaska Power Services Company	Existing, RPS-eligible Geothermal and Hydroelectric facilities	1 month, 9 days	42,000 MWh	11/22/13-12/31/13	All facilities are located in California
PG&E	Tenaska Power Services Company	Existing, RPS-eligible Geothermal and Hydroelectric facilities	1 month	100,440 MWh	12/1/13-12/31/13	All facilities are located in California

BACKGROUND

Overview of the Renewables Portfolio Standard (RPS) Program

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X).[1] The RPS program is codified in Public Utilities Code Sections 399.11-399.31.[2] Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.[3] Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm and http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm.

NOTICE

Notice of PG&E AL 4329-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the AL was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

No protests were filed.

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[1] SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session).

[2] All further references to sections refer to Public Utilities Code unless otherwise specified.

[3] D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020).

DISCUSSION

PG&E requests approval of two renewable energy PPSAs with Tenaska Power Services Company.

On December 19, 2013, PG&E filed AL 4329-E requesting Commission approval of two renewable energy sales agreements with Tenaska. The PPSAs provide that PG&E will sell RPS-eligible energy and the associated RECs to Tenaska. The RPS-eligible energy that PG&E will sell to Tenaska will be generated by one or a combination of the facilities listed in Table 2, with which PG&E currently has a Commission-approved power purchase agreement (PPA). All of the facilities are located in California and are interconnected into the California Independent System Operator (CAISO) grid.

Table 2: List of Facilities under contract to PG&E that may provide RPS-eligible energy to Tenaska pursuant to the PPSAs

Name of Facility	Technology	Location (all CA)	CEC ID	Host Balancing Authority
Geysers Power Plant – Calpine Geothermal Unit 11	Geothermal	Middletown	60025B	CAISO
Geysers Power Plant – Calpine Geothermal Unit 12	Geothermal	Middletown	60004A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 13	Geothermal	Middletown	60005A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 14	Geothermal	Middletown	60026B	CAISO
Geysers Power Plant – Calpine Geothermal Unit 16	Geothermal	Middletown	60006A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 17	Geothermal	Middletown	60007A	CAISO

Geysers Power Plant – Calpine Geothermal Unit 18	Geothermal	Middletown	60008A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 20	Geothermal	Middletown	60009A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 5/6	Geothermal	Middletown	60002A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 7/8	Geothermal	Middletown	60003A	CAISO
Geysers Power Plant – Sonoma/Calpine Geyser	Geothermal	Middletown	60010A	CAISO
Geysers Power Plant – Calistoga Power Plant	Geothermal	Middletown	60117A	CAISO
Geysers Power Plant – West Ford Flat Power Plant	Geothermal	Middletown	60114A	CAISO
Geysers Power Plant – Aidlin Power Plant	Geothermal	Middletown	60115A	CAISO
Geysers Power Plant – Bear Canyon Power Plant	Geothermal	Middletown	60112A	CAISO
PCWA (French Meadows Powerhouse 2)	Small Hydro	Forestville	60268A	CAISO
PCWA (Oxbow Powerhouse 1)	Small Hydro	Forestville	60269A	CAISO
PCWA (Hell Hole Powerhouse 1)	Small Hydro	Forestville	60234A	CAISO

In AL 4329-E, PG&E states that it entered into the sales transactions because PG&E forecasts that it will have surplus RPS procurement relative to its RPS procurement quantity requirement for Compliance Period 2011-2013 (CP 1). The PPSAs with Tenaska are expected to reduce PG&E's forecasted RPS procurement portfolio by 142,440 megawatt-hours (MWh) over the agreements' terms. The terms of the agreements are 1 month and 1 month and 9 days, respectively. Pursuant to the PPSAs, PG&E will provide firm deliveries of generation to Tenaska at the North of Path 15 Existing Zone Generation Hub (NP-15 EZ Gen Hub).

PG&E requests the Commission issue a resolution that:

1. Approves the Power Purchase and Sale Agreements in their entirety;
2. Finds that these Power Purchase and Sale Agreements are consistent with PG&E's Commission-approved RPS Plan and that the sale of the renewable electricity and green attributes under the Power Purchase and Sale Agreements is reasonable and in the public interest;
3. Finds that all costs of the Power Purchase and Sale Agreements, including broker fees associated with the Transactions, are fully recoverable in rates over the life of the PPSAs, subject to Commission review of PG&E's administration of the PPSA;
4. Finds that the Power Purchase and Sale Agreements are reasonable;
5. Finds that the payments received by PG&E pursuant to the Power Purchase and Sale Agreements shall be credited to PG&E customers through PG&E's Energy Resource Recovery Account over the life of the Power Purchase and Sale Agreements, subject to Commission review of PG&E's administration of the Power Purchase and Sale Agreements; and
6. Any other and further relief as the Commission finds just and reasonable.

Energy Division Review of the Proposed Sales Agreements

Energy Division evaluated the PPSAs using the following criteria:

- Consistency with bilateral contracting guidelines
- Consistency with PG&E's 2012 RPS Procurement Plan (Plan) and RPS Procurement Portfolio Need
- Consistency with RPS standard terms and conditions (STCs)
- Independent Evaluator review
- Procurement Review Group (PRG) participation
- Price and cost reasonableness
- Public safety

- Contract viability

Consistency with Bilateral Contracting Guidelines

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. In D.09-06-050, the Commission established review standards and processes for short-term and bilateral contracts. PG&E adhered to these bilateral contracting rules and processes because the PPSAs are at least one month in duration, the PPSAs were filed by advice letter, the PPSAs were reviewed by PG&E's Procurement Review Group, negotiations were overseen by an independent evaluator, and the PPSAs are reasonable, as discussed in more detail below.

<u>The sales agreements are consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050</u>.

Consistency with PG&E's 2012 RPS Procurement Plan and RPS Portfolio Need

<u>PG&E's 2012 RPS Procurement Plan</u>

Pursuant to statute, PG&E's 2012 RPS Procurement Plan (2012 RPS Plan) includes: an assessment of supply and demand to determine the optimal mix of renewable generation resources; description of potential RPS compliance delays; status update of projects within its RPS portfolio; and an assessment of the project failure and delay risk within its RPS portfolio.[4] Specifically, PG&E states in its 2012 RPS Plan that PG&E will continue to assess the value to PG&E's customers of sales of excess procurement and consider such sales if the value of the sale is greater than value of banked procurement.[5]

[4] Pub. Util. Code § 399.13(a)(5).

[5] PG&E's 2012 RPS Plan at 16-17.

PG&E's RPS Portfolio Need

In AL 4329-E, PG&E states that it is projecting to have exceeded its RPS procurement quantity requirement for CP 1. PG&E asserts that the sale of 142,440 MWh of renewable energy to Tenaska during CP 1 is not expected to materially change PG&E's overall procurement need in relation to PG&E's CP 1 RPS procurement quantity requirement.

PG&E's statements in AL 4329-E are consistent with PG&E's 2012 RPS Plan and Preliminary 2012 RPS Compliance Report, in which PG&E projects that its expected total RPS procurement for CP 1 will be in excess of its procurement quantity requirement.[6] Thus, it is likely that PG&E will procure more than the required average of 20 percent renewables in CP 1. [7] See Confidential Appendix A for details on PG&E's forecasted RPS procurement needs.

Based on PG&E's RPS portfolio needs described in its 2012 RPS Plan and AL 4329-E, the Commission concludes that the Tenaska PPSAs are consistent with PG&E's 2012 RPS Plan. The short-term sales agreements are for one month and one month and nine days, respectively, during CP 1. The short-term PPSAs are for generation from renewable energy facilities that will reduce the amount of forecasted surplus RECs that PG&E is projected to have in its RPS procurement portfolio.

PG&E's renewable energy sales agreements with Tenaska allow PG&E to recover RPS procurement costs while maintaining RPS compliance.

The sales agreements are consistent with PG&E's 2012 RPS Procurement Plan, approved by D.12-11-016.

[6] PG&E Final 2012 Renewables Portfolio Standard Procurement Plan, November 29, 2012, Appendix 1 and PG&E 2012 Preliminary Annual 33% RPS Compliance Report, August 1, 2013.

[7] The amount of electricity generated per year from eligible renewable resources is to be increased to an amount that averages 20 percent of the total electricity sold to retail customers in California for the period 2011-2013.

Consistency with RPS Standard Terms and Conditions

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. More recently in D.10-03-021, as modified by D.11-01-025, the Commission further refined these STCs.

<u>The sales agreements include the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025.</u>

Independent Evaluator Review

PG&E retained independent evaluator (IE) Charles Adkins of Ventyx, LLC to oversee PG&E's bilateral negotiations with Tenaska and to evaluate the PPSAs' overall merit for CPUC approval. AL 4329-E included a public and confidential independent evaluator's report.

In the IE report (p. 2), the IE states, "Mr. Adkins supports the two REC agreements with Tenaska and recommends approval of these two agreements."

<u>Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw PG&E's negotiations with Tenaska.</u>

Procurement Review Group Participation

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.[8] PG&E asserts that the first PPSA was presented to the PRG on November 12, 2013 and the second PPSA was presented via e-mail on November 27, 2013.

[8] PG&E's PRG includes representatives of the Commission's Energy Division and Office of Ratepayer Advocates, Department of Water Resources, Union of Concerned Scientists, The Utility Reform Network, the California Utility Employees, and Jan Reid, as a PG&E ratepayer.

Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the sales agreements.

Price Reasonableness

PG&E's states that it validated the reasonableness of the Tenaska PPSAs' prices through outreach to power marketers and renewable developers throughout the sales process. Based on the confidential analysis provided by PG&E in a data response regarding AL 4329-E, the Commission finds that the PPSAs' prices are reasonable. The Commission notes, however, that the Commission has not established rules for price reasonableness review of agreements for RPS sales by IOUs and that the analysis of the sales agreements' price reasonableness here is not precedent setting. Confidential Appendix A includes a detailed discussion of the contractual pricing terms and the analysis of the reasonableness of the PPSAs' prices.

The total expected revenues from the sales agreements are reasonable based on their comparison to market data provided by PG&E.

Payments received by PG&E under the sales agreements shall be credited to PG&E's ratepayers through PG&E's Energy Resource Recovery Account (ERRA) over the life of the sales agreements, subject to Commission review of PG&E's administration of the sales agreements.

PG&E is required to demonstrate in its ERRA Review Proceedings that its least-cost dispatch processes, operations and related spot market transactions comply with all applicable Standards of Conduct (SOC) (including SOC No. 4 concerning cost dispatch obligations). PG&E shall record the transactions authorized in this Resolution in its ERRA Balancing Accounts, and these transactions shall be subject to the Commission's ERRA Review Proceeding.

Public Safety

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

This resolution approves PPSAs for the sale of RPS-eligible generation from operating facilities. The PPSAs do not alter PG&E's existing power purchase agreements or any facility operations. Based on the information before us, these

PPSAs do not appear to result in any adverse safety impacts on the facilities or operations of PG&E.

Contract Viability

The generation to be sold under the PPSAs is from operating facilities that have been certified by the California Energy Commission (CEC) as RPS-eligible. Additionally, the combined capacity and expected annual generation of the facilities that may provide generation to Tenaska pursuant to the contract considered herein is greater than the amount to be sold. Thus, <u>it is reasonable that PG&E will be able to meet the terms and conditions of the sales agreements</u>.

CONFIDENTIAL INFORMATION

The Commission, in implementing Pub. Util. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin or one year after expiration, whichever comes first, except contracts between IOUs and their affiliates, which are public. In this case, deliveries for the PPSAs will begin on November 22, 2013 or September 1, 2013 and the PPSAs both will terminate on December 31, 2013; thus, the contracts will be public one year after the contracts terminate.

<u>The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.</u>

COMMENTS ON THIS RESOLUTION

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS AND CONCLUSIONS

1. The sales agreements are consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

2. PG&E's renewable energy sales agreements with Tenaska allow PG&E to recover Renewables Portfolio Standard procurement costs while maintaining Renewables Portfolio Standard compliance.
3. The sales agreements are consistent with PG&E's 2012 Renewables Portfolio Standard Procurement Plan, approved by D.12-11-016.
4. The sales agreements include the Commission-adopted Renewables Portfolio Standard terms and conditions including those deemed "non-modifiable."
5. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw PG&E's negotiations with Tenaska.
6. Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the sales agreements.
7. The total expected revenues of the sales agreements are reasonable based on their comparison to market data provided by PG&E.
8. The analysis used to determine that the sales agreements' prices are reasonable is not precedent setting.
9. Payments received by PG&E under the sales agreements shall be credited to PG&E's ratepayers via PG&E's Energy Resource Recovery Account over the life of the sales agreements, subject to Commission review of PG&E's administration of the sales agreements.
10. PG&E is required to demonstrate in its Energy Resource Recovery Account Review Proceedings that its least-cost dispatch processes, operations and related spot market transactions comply with all applicable Standards of Conduct (including Standard of Contact No. 4 concerning cost dispatch obligations). PG&E shall record the transactions authorized in this Resolution in its Energy Resource Recovery Account Balancing Accounts, and these transactions shall be subject to the Commission's Energy Resource Recovery Account Review Proceeding.
11. It is reasonable that PG&E will be able to meet the terms and conditions of the sales agreements.
12. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
13. AL 4329-E should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas and Electric Company's Advice Letter 4329-E that requests Commission approval of two renewable energy sales agreements with Tenaska Power Services Company is approved.
2. Pacific Gas and Electric Company shall record the transactions authorized in this Resolution in its Energy Resource Recovery Account Balancing Accounts, and these transactions shall be subject to the Commission's Energy Resource Recovery Account Review Proceeding.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on February 5, 2014; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

Confidential Appendix A

Analysis and Summary of the Tenaska PPSA

[REDACTED]