

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**ID #13597
RESOLUTION E-4697
January 29, 2015**

R E S O L U T I O N

Resolution E-4697. Pacific Gas & Electric Company ("PG&E") requests approval of a contract for Resource Adequacy ("RA") capacity between PG&E and GenOn Energy Management, LLC ("GenOn").

PROPOSED OUTCOME: This resolution approves the GenOn contract without modification.

SAFETY CONSIDERATIONS: The RA Capacity in question is associated with Pittsburg 5, 6, and 7, which are units located at the existing and operational Pittsburg Generation Station facility; as such there are no incremental safety implications associated with this contract beyond status quo.

ESTIMATED COST: Contract costs are confidential at this time.

By Advice Letter 4497-E Filed on September 16, 2014.

SUMMARY

Pacific Gas & Electric Company ("PG&E") requests that the California Public Utilities Commission ("Commission" or "CPUC") approve the proposed resource adequacy ("RA") capacity agreement with GenOn Energy Management, LLC ("GenOn") for the full 2016 calendar year ("GenOn Contract").

This Contract arose from PG&E's 2014 RA Intermediate-Term Request for Offers ("ITRFO"), a competitive solicitation seeking RA benefits from 2015 through 2018. The GenOn Contract will provide PG&E with Local RA benefits from Pittsburg 5, Pittsburg 6, and Pittsburg 7, three existing natural gas-fired generating units located at Pittsburg Generation Station. The units are in the

Pittsburg/Oakland Sub-Area of the Greater Bay Area Local Capacity Area. Pittsburg 5 and 6 are subject to the State Water Resources Control Board ("SWRCB") once-through cooling ("OTC") policy, and both have an SWRBC OTC compliance deadline of December 31, 2017.

The GenOn Contract is for 1,159 megawatts ("MW") of Local RA capacity, for a term beginning on January 1, 2016 and continuing through December 31, 2016. The amount of Flexible RA attributes included in the GenOn Contract, if any, was submitted to the Commission confidentially. The Contract does not include any energy tolling capacity.

For the reasons discussed below, the Commission approves AL 4497-E without modification.

BACKGROUND

On April 22, 2014, PG&E issued its 2014 ITRFO, a competitive solicitation seeking both System and Local RA. The GenOn Contract is among the winning bids in the ITRFO, which concluded on September 4, 2014. PG&E's bid evaluations were conducted considering price, portfolio fit, credit and conformance to the RA confirmation, and supplier diversity. The ITRFO process was monitored by an independent evaluator (IE), Arroyo Seco Consulting, with the IE's observations and recommendations recorded in the IE Report included in AL 4497-E.

The GenOn Contract is for 1,159 MW of Local RA capacity from Pittsburg 5, 6 and 7, from January 1, 2016 through December 31, 2016. The Local RA capacity contracted for is equal to 100% of the combined Net Qualifying Capacities ("NQC's") of Pittsburg 5, 6, and 7, which are 312, 317, and 530 MW respectively. The Pittsburg 5, 6, and 7 units have Effective Flexible Capacities ("EFCs") of 267, 272, and 445 MW, respectively; the amount of this Flexible RA capacity, if any, that will be provided to PG&E is confidential. The GenOn Contract does not include any energy tolling capacity.

NOTICE

Notice of AL 4497-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and

distributed to the service list for Rulemaking (“R.”) 13-12-010 in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter AL 4496-E was not protested.

DISCUSSION

Decision (“D.”) 12-04-046 directed that any OTC power purchase agreement that terminates one year or less prior to the applicable SWRCB compliance deadline must be submitted to the Commission for approval via a Tier 3 advice letter. Pittsburg 5 and 6 both have a SWRCB OTC compliance deadline of December 31, 2017. The GenOn Contract ends on December 31, 2016, one year prior to the OTC deadline. Therefore, PG&E sought approval of the GenOn Contract through a Tier 3 advice letter, AL 4497-E.

We evaluated AL 4497-E based on criteria established in previous Commission decisions and in California Public Utilities Code, Section 454.5, which provide guidance to the IOUs and the Commission for the procurement of electricity and electricity-related products. Specifically, PG&E must demonstrate that the transaction:

1. is in compliance with the Energy Action Plan (“EAP”) Loading Order;
2. is in compliance with once-through cooling Procurement Rules;
3. was discussed with the Procurement Review Group (“PRG”);
4. is in compliance with PG&E’s Public Utilities Code Section 454.5 Bundled Procurement Plan;
5. meets residual energy and capacity needs; and
6. is at a reasonable price.

The GenOn Contract is in compliance with the EAP Loading Order.

The EAP Loading Order, published on May 8, 2003, and endorsed in D.04-12-048, contains explicit direction regarding California’s preferences for meeting identified resource needs, and directs the Investor Owned Utilities (“IOUs”) to prioritize their resource selections accordingly. The EAP prioritizes resources in a “loading order” of policy preference and directs IOUs to procure resources in the following order of priority: Energy Efficiency (“EE”) and Demand Response (“DR”), renewable fuel resources, clean fossil-fired Distributed Generation

("DG"), and clean central-station generation.¹ Pittsburg 5 and 6 are existing natural gas-fueled steam boiler electric generating facilities.

The GenOn Contract does not meet all of PG&E's bundled customer needs, and PG&E states that it will not displace any preferred resources, which may be used to meet bundled customer needs. Additionally, the GenOn Contract enables PG&E to meet its CPUC-mandated Local RA capacity obligations, which currently cannot be entirely met with preferred resources. Therefore, the GenOn Contract is not inconsistent with the EAP Loading Order.

The GenOn Contract complies with OTC Procurement Rules.

D.12-04-046 directed that any OTC power purchase agreement that terminates one year or less prior to the applicable SWRCB compliance deadline must be submitted to the Commission for approval via a Tier 3 advice letter. The GenOn Contract ends on December 31, 2016, one year prior to the OTC deadline. This Contract is therefore subject to this guideline and to other procurement rules. D.12-04-046 provided guidance on how the utilities must prepare, and how the Energy Division must evaluate, such power purchase agreements. We address how the GenOn Contract complies with each of the criteria specified in D.12-04-046 below.

1) How the contract helps facilitate compliance with the SWRCB's OTC policy or, at a minimum, does not delay compliance.

Pittsburg 5 and 6 are subject to the SWRCB's OTC policy. The SWRCB OTC compliance deadline for both units is December 31, 2017. The GenOn Contract ends on December 31, 2016, one year prior to the OTC deadline. According to PG&E, GenOn has stated that the Contract will not delay compliance by the December 31, 2017 deadline, nor will it delay or prevent Pittsburg Generating Station's compliance with any current or interim requirements prior to that final compliance deadline.

More specifically, PG&E states that the GenOn Contract will not interfere with GenOn's plan to comply with the SWRCB OTC policy by either (1) retiring Pittsburg 7 and retrofitting Pittsburg 5 and 6 to utilize the existing Pittsburg 7 cooling tower system instead of their current OTC systems, or (2) retiring

¹ D.04-12-048, page 98.

Pittsburg 5 and 6. Therefore, we find PG&E compliant with this requirement because the GenOn Contract will not delay compliance.

2) Include the expected operation of the OTC facility under normal load (1 in 2) and high load (1 in 10) conditions, including number of starts and run time after each start.

Because the Dynegy Contracts are RA-only, this section is not applicable and this operational information was not included in AL 4497-E. We agree that this section is not applicable, and find PG&E compliant with this requirement.

3) Include the Local Capacity requirement ("LCR") net position with and without the OTC facility over the contract duration and two years beyond the contract duration.

The Pittsburg Generation Station is located in the Pittsburg/Oakland Sub-Area of the Greater Bay Area Local Capacity Area. Therefore, the contracted capacity can be applied towards PG&E's Local Capacity requirements. According to the California Independent System Operator ("CAISO") 2015 Local Capacity Technical Study Report, the 2015 LCR for the Pittsburg/Oakland Sub-Area is 2,524 MW.² PG&E's 2016 LCR position without the OTC facility in this Sub-Area was presented in AL 4497-E Confidential Appendix B. Its 2017 and 2018 LCR positions without the OTC facility in this Sub-Area (two years beyond the contract duration) were shared in response to an Energy Division data request. The 1,159 MW of capacity provided by the Pittsburg 5, 6, and 7 units would provide incremental local capacity beyond what has already been contracted for.

4) How any other available generation resources compare under these criteria.

The GenOn Contract stem from a competitive solicitation, PG&E's 2014 ITRFO. Bids were evaluated considering price, portfolio fit, credit and conformance to the RA confirmation, and supplier diversity. The solicitation was monitored by an Independent Evaluator, Arroyo Seco Consulting, which found the process to be fairly conducted.

The GenOn Contract is compliant with the first two OTC contract criteria specified in D.12-04-046 - as described in sections 1) and 2) above - and it provides Local RA. Therefore, other available generation resources would only be preferable under these criteria if they were higher on the EAP loading order

² http://www.caiso.com/Documents/Final2015LocalCapacityTechnicalStudyReportApr30_2014.pdf, page 55.

(such as renewable energy facilities), or if they were lower priced. All other available generation resources had the opportunity to compete in the ITRFO, and if any other resources had been preferable, they would have been selected according to PG&E's least cost-best fit methodology. We agree with the Independent Evaluator that the ITRFO process was fairly conducted and that the competitively-procured GenOn Contract therefore represents the best available resource to meet both the OTC criteria and PG&E's other bid evaluation criteria.

Consistent with D.02-08-071, PG&E's Procurement Review Group ("PRG") was notified of the GenOn Contract.

The Commission established PRGs to oversee the procurement activities of IOUs and mandated that each IOU maintain and routinely consult with its PRG. The purpose of the PRG is to review and assess the details of the IOUs' overall procurement strategy and specific proposed procurement contracts and processes prior to submitting filings to the Commission.³ PG&E briefed the PRG on the forthcoming ITRFO on April 8, 2014. On June 10, 2014, it presented on offers, bid evaluation, and procurement recommendations.

The GenOn Contract is in compliance with PG&E's Public Utilities Code Section 454.5 Bundled Procurement Plan.

A Commission-approved AB 57 Bundled Procurement Plan establishes the limits and criteria that guide utility procurement activities. All transactions and actions that fall within the boundaries of a Commission-approved AB 57 procurement plan are compliant and are assured cost recovery.

In D.12-01-033, the Commission adopted PG&E's 2010 Bundled Procurement Plan compliance filing covering the years 2012 through 2022 with modifications. This Decision required PG&E to file a conformed version of the 2010 Bundled Procurement Plan through a Tier 3 advice letter, which was approved by Resolution E-4544 on October 11, 2012.

Among other things, PG&E's Bundled Procurement Plan specifies electrical capacity position limits and transaction rate limits (referred to as "ratable rates") that apply to electrical capacity transactions for delivery months that occur two or more calendar years beyond the transaction year. Ratable rates are calculated

³ D.02-08-071, pages 7 and 8.

by dividing the maximum transaction volume requirements by the number of months or years available to conduct transactions. The construct of ratable rates prevents PG&E from procuring too much of its forward requirements too far in advance and thereby constraining future procurement.

In Confidential Appendix B of AL 4497-E, PG&E provided details on its maximum capacity procurement limits for 2016. We verified this information and found that the capacity requested for approval in AL 4497-E does not exceed PG&E's approved capacity purchase authority for 2016.

The GenOn Contract meets residual capacity needs for PG&E's bundled customers.

PG&E demonstrates its residual need in Confidential Appendix B of Advice Letter 4497-E. We evaluated this information and determined that the GenOn Contract meets residual local capacity needs for PG&E's bundled customers.

The GenOn Contract is reasonably priced.

PG&E employed a confidential methodology to evaluate bids in the ITRFO, though the overall criteria were made public as part of the solicitation process (price, portfolio fit, credit and conformance to the RA confirmation, and supplier diversity). As the Independent Evaluator Report states, "The quantitative analysis aligns closely with the principle of achieving least-cost procurement over the 2015-2018 period while seeking to meet the volume targets of the RFO and meeting constraints on RA imports," and "[e]valuations and selection decisions are based almost entirely on information submitted in Offers."⁴ We agree that these contracts are reasonably priced.

PG&E presented additional information on its evaluation process in Confidential Appendix A of Advice Letter 4497-E. The ITRFO bids and ensuing contract negotiations are further documented in Appendix D, the Independent Evaluator Report for the 2014 ITRFO. We evaluated PG&E's assumptions, evaluation criteria, and evaluation process, and found them reasonable. The quantitative evaluation results show that the GenOn Contract is reasonably priced, and provides cost certainty to PG&E customers for future years. These findings are confirmed by the Independent Evaluator Report.

⁴ AL 4496-E, Appendix E, page 14.

The GenOn Contract does not violate safety concerns.

The GenOn Contract includes a number of general provisions that require the seller to comply with certain operational and maintenance obligations in accordance with General Order 167, industry standards, and CAISO-mandated standards, as well as requirements to comply with accepted electrical practices, applicable laws and permits, and other governmental authorities. In response to an Energy Division data request, PG&E has also reported to the Commission that the GenOn Pittsburg Generating Station has not had any Occupational Safety and Health Administration (“OSHA”) recordable safety incidents since December 2011, and has reported on the facility’s safety training program.⁵

In light of the preceding discussion, we are convinced that PG&E’s entrance into the GenOn Contract complies with all relevant requirements. We also expect that PG&E will refrain from exercising market power in the resale of any excess capacity.

The disclosure of the GenOn Contract is subject to the Public/Confidential treatment specified in D.06-06-066 and other relevant precedent. The GenOn Contract begins on January 1, 2016; the confidential terms of this contract will become public after three years,⁶ unless D.06-06-066 is modified to amend the current confidentiality treatment.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for

⁵ Provided in PG&E Data Request No. ED_002-02, *AdviceLetterRelatedDocuments4496-E/4497-E_DR_ED_002-Q02PUBLIC*, pp. 2-3.

⁶ D.06-06-066, Appendix 1, page 15.

comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. Decision.12-04-046 directed that any once-through-cooling (“OTC”) power purchase agreement that terminates one year or less prior to the applicable State Water Resources Control Board (“SWRCB”) compliance deadline must be submitted to the Commission for approval via a Tier 3 advice letter.
2. On September 16, 2014 Pacific Gas & Electric Company (“PG&E”) submitted Advice Letter 4497-E seeking Commission approval for a resource adequacy (“RA”) capacity agreement (“GenOn Contract”) between PG&E and GenOn Energy management, LLC for capacity from Pittsburg 5, Pittsburg 6, and Pittsburg 7, three electric generation units located at Pittsburg Generating Station.
3. Pittsburg Generating Station is located within the Pittsburg/Oakland Sub-Area of the Greater Bay Area Local Capacity Area.
4. The GenOn Contract is for 1,159 MW of Local RA capacity.
5. The amount of Flexible RA capacity included in the GenOn Contract, if any, is confidential.
6. The GenOn Contract will provide PG&E with resource adequacy benefits for a term beginning on January 1, 2016, and ending on December 31, 2016.
7. Pittsburg 5, 6, and 7 are natural-gas-fired steam boiler resources; Pittsburg 5 and 6 utilize once-through cooling technology, while Pittsburg 7 utilizes cooling tower technology.
8. Pittsburg 5 and 6 are subject to the SWRCB OTC policy and both have a compliance deadline of December 31, 2017.
9. The GenOn Contract ends on December 31, 2016, one year prior to the SWRCB OTC deadline for Pittsburg 5 and 6.
10. The GenOn Contract meets residual system and local capacity needs for PG&E’s bundled customers.
11. Consistent with Decision 02-08-071, PG&E’s Procurement Review Group was briefed on the forthcoming ITRFO on April 8, 2014, and notified of the GenOn Contract on June 10, 2014.

12. The GenOn Contract does not exceed PG&E's approved Assembly Bill 57 bundled procurement authority for 2016.

THEREFORE IT IS ORDERED THAT:

1. The request of Pacific Gas and Electric Company ("PG&E") that the Commission approve the resource adequacy ("RA") agreement between PG&E and GenOn Energy Management, LLC arising from the PG&E Intermediate-Term Request for Offers, as requested in Advice Letter AL 4497-E, is granted.
2. We expect that PG&E shall refrain from exercising market power in the resale of excess capacity.

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 January 29, 2015; the following Commissioners voting favorably thereon:

TIM SULLIVAN
Executive Director