

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



FILED

08-24-09
04:59 PM

Order Instituting Rulemaking on the
Commission's Own Motion into Combined
Heat and Power Pursuant to Assembly
Bill 1613.

R.08-06-024

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
AND THE UTILITY REFORM NETWORK ON STAFF PROPOSAL
REGARDING AB 1613 IMPLEMENTATION ISSUES**

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August 24, 2009

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Under Assembly Bill ("AB") 1613, parties proposing to develop Combined Heat and Power ("CHP") facilities that size their facility to meet the onsite thermal demand and meet certain efficiency standards are entitled to sell excess energy to the utilities under standard form contracts. This proceeding is intended to develop the standard form contract, pricing terms, and other program requirements necessary to implement AB 1613. On July 31, 2009, the Commission's Energy Division issued its final staff proposal ("Staff Proposal") regarding the development of standard contract terms and pricing for eligible AB 1613 facilities. PG&E and TURN ("Joint Parties") are providing these comments on the Staff Proposal consistent with the *Administrative Law Judge's Ruling Incorporating Energy Division Final Staff Proposal Into The Record And Providing For Comments Thereon*.

In general, Joint Parties support Energy Division's efforts and believe that the Staff Proposal reasonably addresses a number of the critical issues and concerns related to the implementation of AB 1613. However, in some areas, the Staff Proposal is inconsistent with the clear statutory language of AB 1613 or is otherwise unclear or in need of further clarification. Below, Joint Parties address the portions of the Staff Proposal that require either correction or clarification. Joint Parties' comments address: (1) the contract terms and conditions; (2) Staff's

pricing proposal; (3) additional issues raised by Staff; and (4) responses to the questions posed by Staff.

I. CONTRACT TERMS AND CONDITIONS

Staff supports the Working Group's proposal to establish two separate AB 1613 form contract – one for projects up to 5 megawatts (“MW”) and the second for projects from 5 MWs up to 20 MWs. PG&E was part of the Working Group that made this proposal and Joint Parties fully support this approach. Although the Working Group was able to negotiate most of the terms and conditions of the two form AB 1613 contracts, some of the terms and conditions were not resolved. The Staff Proposal addresses many of the unresolved terms. In their comments below, Joint Parties do not address the Staff's proposed resolution of many of the issues because, in many cases, the Staff proposal is consistent with what PG&E proposed. However, there are some substantive differences between the Staff Proposal and the terms and conditions proposed by PG&E. These differences are addressed below.

A. Simplified Contract For CHP Exporting Up To 5 MW

In general, the Staff proposes adopting many of the terms and conditions supported by Joint Parties for the Simplified AB 1613 Contract. The most significant difference, however, involves green attributes and greenhouse gas (“GHG”) compliance costs.¹ Staff recommends transferring all GHG attributes and costs from the CHP seller to the utility's customers. This proposal is inconsistent with the indifference requirement in AB 1613 and more generally the appropriate allocation of AB 1613 costs for several reasons. First, the Staff Proposal fails to recognize that the Seller, not the utility, controls the generator production associated with a CHP facility and thus the amount of GHG produced is within the seller's control. It is inappropriate

¹ Staff Report at 5-6.

for the utility's customers to take on the cost of GHG compliance given that the utility has no control over the cost. The language proposed in the Staff recommendation assumes that the Buyer has complete control over any GHG costs associated with the facility. Customers are not indifferent if they are required to pay for GHG costs that the utility cannot control or limit. In most other procurement contracts, the utility has dispatch rights so that, even if it has agreed to bear the GHG costs, it can control those costs for its customers by utilizing economic dispatch that would include the GHG costs. If utility customers are required to pay a CHP facility's GHG costs that could have been mitigated or eliminated if the utility had dispatch rights, as the utility would with other generation options, customers are *not indifferent* between a CHP facility and other generation options because the customers will incur higher GHG costs with CHP because it cannot be controlled by the utility. This would clearly violate AB 1613.

Second, the Seller, not the utility, chooses which CHP technology to purchase and operate. If the utility's customers assume the GHG cost, Seller can choose to install and operate the cheapest and least-efficient CHP design because the cost of inefficiency, in the form of higher GHG emissions, is borne by someone else.

Third, the provision in the Working Group form contract proposal transferring Green Attributes to the Buyer was inserted in recognition that some CHP facilities, such as a biomass plant co-located with a sawmill, may qualify as small, efficient CHP and be RPS eligible. Consistent with the treatment of other must take contracts, such as Qualifying Facility contracts, under the proposed form contract those Green Attributes are transferred to the Buyer. Thus, Staff's proposal significantly broadens the Green Attributes provision proposed by the Working Group by allocating additional GHG costs to utility customers in a manner inconsistent with AB 1613.

Fourth, as the Commission itself has determined, GHG costs will likely be included in the market prices that the utilities and TURN have proposed for AB 1613 pricing.² Because generators in the market receiving Locational Marginal Prices (“LMP”) in the California Independent System Operator’s (“CAISO”) market will have to pay their own GHG compliance costs, the LMP prices will naturally include GHG costs. To the extent the Commission adopts the Joint Parties’ proposal to use LMP prices for AB 1613 eligible facilities, the Sellers will already be receiving compensation for their GHG costs through the LMP price. There is no reason for utility customers to effectively pay the Seller twice for GHG costs – once through the LMP price and again through an allocation of GHG compliance costs. Customers clearly are not indifferent if they are required to pay the same GHG costs twice.³ To the extent that an efficient CHP facility has an overall lower GHG profile, it would effectively receive a higher profit margin at the market price that could be used to offset the on-site emission costs. In the event that the costs are transferred to the Buyer, then all of the benefits associated with the overall reduction in GHG use should also be transferred to the Buyer.

Finally, if the Staff Proposal on GHG costs is adopted, several clarifications need to be made. First, GHG compliance costs need to be clarified. The Staff Proposal did not indicate whether this includes, for example, any offsets or allocation credits the Seller may be required to purchase. This could be a substantial expense for utility customers. Second, if GHG costs are passed through, the Staff Proposal must be clarified to state that any and all GHG benefits will be

² D. 08-10-037 at 56; *see also* December 2008 report on the European Union’s Emission Trading Scheme at <http://www.ecn.nl/publications/default.aspx?nr=ECN-E--08-007>.

³ It should be noted that the Market Price Referent (“MPR”), the basis of one of the two pricing proposals suggested in the Staff Proposal, includes a GHG adder. Should the Commission adopt the MPR as the price for AB 1613 form contract, and the utility customers bear GHG costs, the GHG adder will need to be removed.

passed through to utility customers as well, including any allowances allocated to the Seller or any form of GHG benefit.

B. Contract For AB 1613 CHP From 5-20 MWs

Similar to the Simplified AB 1613 form contract for installations exporting up to 5 MW, many of the provisions of the AB 1613 form contract for facilities from 5-20 MWs were agreed to by the Working Group. For provisions where there was some disagreement, Joint Parties generally agree with the Staff Proposal as to how to resolve these disagreements. However, there are several parts of the Staff Proposal that should not be adopted:

Delivery Point, Section 1.03: The CHP parties, PG&E, and SDG&E were able to reach agreement on a delivery point for smaller facilities as a compromise and in recognition that they could generally interconnect at the distribution level. However, a facility of 20 MW is of a significant size and will likely not interconnect at distribution voltages. As such, it is appropriate that the Delivery Point should be the first point of interconnection with the CAISO Controlled Grid. This is consistent with the provision in the QF Contract and should be applicable to CHP projects, which are similar to cogeneration QFs. To make a distinction for CHP would unreasonably increase costs to utility customers by imposing risk of delivery and losses on them rather than the Seller. The language in the simplified PPA represents a compromise applicable only to the small PPA; Joint Parties do not agree that the language should be applicable to the larger AB 1613 form contract.

Credit and Collateral, Section 1.06 and Exhibit D. Staff has asserted that the Project Development Security (“PDS”) and Performance Assurance requirements proposed by the utilities for a form AB 1613 contract with a maximum 10-year term are excessive and inappropriate for the size of facility involved in the program. However, the credit and collateral

requirements proposed by the utilities are necessary to protect customers from relying on power from the CHP facility for planning purposes, only to find that it is not available. These provisions are particularly appropriate for larger facilities. The expected revenue upon which the performance assurance is based will be well known prior to development of the project and can easily be incorporated into the economic planning assumptions of the generator. Joint Parties do agree, however, that it does not make sense to capture a full year's revenue for a one year contract. Thus, the Performance Assurance should be based upon 10% of revenue per year multiplied by the number of years in the contract term.

The Staff Proposal also states that the development security which rises to \$60/kw eighteen months into the project development timeline for a contract of 20 MW or less is excessive and recommends that development security be capped at \$20/kw, and not rise over the project time line. Projects will have 60 months to achieve Commercial Operation. After 18 months, the developer should be reasonably knowledgeable as to whether or not the project will achieve commercial operation with the 60 month period allowed under the PPA. Absent the increase in Project Development Security, the Buyer will have no way of knowing if indeed the project will come on line. Consequently, the Buyer may be forced to procure additional resources to guard against this risk, especially in remote areas. The increase in Performance Assurance is required to protect customers from relying on power from a CHP facility for planning purposes, only to find out that it is not available.

Conveyance of the Power Product, Section 3.10 and Resource Adequacy benefits, Section 3.02. Staff proposes that Sections 3.01 and 3.02 be deleted and replaced with provisions from the simplified AB 1613 contract. This proposal should be rejected. These sections are a critical part of the AB 1613 form contract because they clearly define the product that is being

conveyed as part of the transaction, and the utility will rely upon the Seller's actions under this provision to receive the benefit of the bargain. In response to comments received during the Working Group process, the utilities diligently worked on a simplified contract that would be applicable to smaller generators. However, the provisions in the AB 1613 form contract for larger projects are more detailed, as is necessary for larger facilities. Sections 3.01 and 3.02 clearly delineate the product being provided by the Seller and the Seller's responsibilities. During the Working Group process, parties did not object to these provisions or offer alternative language. There is no reason to adopt the Staff's Proposal on this issue.

Green Attributes, Section 3.01(b). Joint Parties addressed this issue above with regard to GHG compliance costs for the simplified AB 1613 form contract.

Indemnity (for resource adequacy), Section 9.03(f). A larger facility entails greater risks. Although for the simplified AB 1613 form contract PG&E agreed not to include certain indemnity requirements, it agreed to this recognizing that smaller facilities create less significant risks for customers. If a larger facility fails to operate and the utility incurs resource adequacy penalties, the utility customers should not be required to pay these penalties. Since any resource adequacy penalty would be caused by the Seller's failure to perform under the contract, the Seller, rather than utility customers, should bear these costs. Customers will not be indifferent, as required by AB 1613, if they incur resource adequacy penalties that are a result of Seller's conduct.

Assignment, Section 9.04. Staff recommends deletion of language related to Buyer's consent to any direct or indirect change of control by Seller. PG&E and SDG&E agreed that the language could be removed if the Performance Assurance remained in place. However, Staff has proposed drastically cutting the amount of Performance Assurance required. The concern, of

course, is that similar to the Standard Offer 4 PPAs, there will be a sale or change of control that occurs without Buyer's consent that limits the ability to collect damages in the event of a default.

Provisions not addressed in Staff Proposal. There were several disputed provisions that were not addressed in the Staff Proposal. Section 2.01(j), proposed by the utilities, requires a CHP facility to be certified for the CAISO's Participating Intermittent Renewable Program ("PIRP") if the facility is PIRP eligible. Given the potential benefits of PIRP for minimizing CAISO imbalance payments that customers would ultimately be required to bear under the AB 1613 form contract, there is no reason not to include this provision. Section 3.10(a)(vi) proposed by the utilities requires a CHP developer to provide documentation to demonstrate that its facility is an Eligible CHP Facility under AB 1613. Sections 3.13(o) – (q), 3.21 and 9.03(g) require the CHP facility to comply with NERC operating and documentation requirements that are applicable to the facility. Exhibit I and a number of related provisions address scheduling deviations, which are essential to maintain customer indifference. Sections 6.01(c)(xvi) – (xvii) make it an event of default if the Seller fails to fulfill its contractual obligations or maintain its status as an Eligible CHP Facility. All of these provisions are reasonable, as the utilities explained in their comments when the Working Group report was submitted, and should be adopted by the Commission in a final order.

II. STAFF'S PRICING PROPOSAL

Staff has proposed two alternative pricing options for AB 1613 contracts. However, both options violate the clear statutory requirement in AB 1613 that non-participating utility customers be held "indifferent" to AB 1613 contracts. Customers can be held indifferent only if AB 1613-eligible CHP facilities are paid for the products they are providing at the price the utilities would otherwise have had to pay for those products. Neither of Staff's pricing options accomplishes this indifference.

By way of background, a CHP facility essentially produces two products -- as-available energy and as-available capacity (to the extent the capacity is recognized by the CAISO). A utility can purchase as-available energy at the CAISO's LMP at a CHP's delivery point to the CAISO grid. For as-available energy, this would be the indifference price for utility customers. With regard to as-available capacity, the utility can purchase this product through bilateral market transactions for Resource Adequacy. The price of these bilateral transactions would be the indifference price for utility customers for as-available capacity. In the Working Group Report filed in June, the utilities proposed two pricing alternatives for the AB 1613 form contract.⁴ First, for eligible CHP facilities that are also QFs, the Commission can direct the utilities to pay avoided costs (*i.e.*, the Market Index Formula ("MIF") energy price and the as-available capacity price adopted in D.07-09-040). Second, for CHP facilities that are not QFs, the Commission can approve contractual language that allows the CAISO hourly LMP calculated in the CAISO's integrated forward day-ahead market to govern prices for power purchased under AB 1613 form contracts. To the extent the CAISO recognizes a CHP's as-available capacity, an as-available capacity price could be included with the LMP pricing.

As the utilities explained in their pricing proposal, under the Federal Power Act the Federal Energy Regulatory Commission ("FERC") has exclusive authority to set rates for wholesale power purchases, such as the purchases that would occur under the AB 1613 form contract. FERC's exclusive jurisdiction over wholesale power rates is well-established.⁵ A

⁴ See Working Group Report, Appendix D (pricing proposals).

⁵ See 16 U.S.C. § 824(a) – (b) (2008); *Federal Power Commission v. Southern California Edison*, 376 U.S. 205, 210 (1964); *Miss. Power & Light v. Moore*, 487 U.S. 354, 371-372 (1988); *Barton Village v. Citizens Utilities*, 100 FERC ¶ 61,244 at P. 12 (2002); *Midwest Power Systems*, 78 FERC ¶ 61,067 (1997) (state utilities board cannot set rates for wholesale power sales); *Connecticut Light & Power Co.*, 70 FERC ¶ 61,012, *reconsideration denied*, 71 FERC ¶ 61,035 (1995) (state statute cannot set rates for wholesale power sales; wholesale power sales within FERC's exclusive jurisdiction).

narrow exception exists under the Public Utility Regulatory Policies Act (“PURPA”) which allows rates for QFs to be established by the states.⁶ However, “states cannot, consistent with the express language of PURPA and the FERC’s regulations, require rates that exceed avoided cost for QF sales at wholesale.”⁷ Other than this narrow exception for QF prices under PURPA, the Commission has no jurisdiction to set wholesale rates. To implement AB 1613, the Commission effectively has two choices with regard to the rates to be paid under a form contract – either the avoided cost rate adopted for QF contracts or the CAISO’s LMP pricing. The Staff Report includes two pricing proposals, neither of which use LMP or avoided cost pricing, and neither of which comply with the requirements of AB 1613.

A. Staff's First Option – MPR Based Pricing.

Under the first option, the Staff proposes a proxy market price based largely on the 2008 MPR formula. Staff asserts that the costs of a combined cycle included in the MPR are a “reasonable proxy for the costs that would be incurred by the utility on behalf of ratepayers if not for a CHP facility participating in this program.” This assumption is simply incorrect. Customers would not be indifferent if the utilities were required to pay the fixed component of the 2008 MPR, escalated at 2.5% a year, to CHP counterparties for their as-available capacity. The MPR is calculated to approximate the all-in cost—both fixed and variable—of a fully-dispatchable, 500 MW combined-cycle, fossil-fueled power plant that provides *firm* capacity. One of the key values of a combined cycle plant is its dispatchability. A combined-cycle facility under a utility’s operational control is an aid to serving load. Customer-owned CHP-produced electricity, by design, is not dispatchable, nor is it firm. Rather, it is produced only when the CHP’s steam host requires steam. CHP capacity can appear and disappear at will, creating a

⁶ *Connecticut Light & Power Co.*, 70 FERC ¶ 61,012 at 61,023.

⁷ *Connecticut Light & Power Co.*, 71 FERC ¶ 61,035 at 61,151.

scheduling problem that will have to be cured though the added expense of ancillary services, up to and including the equivalent of a 500 MW combined-cycle power plant to back-up the as-available CHP electricity. This Commission has already determined, in the context of the QF program, that firm and as-available resources cannot be priced identically:

First, firm, unit-contingent capacity is more valuable than as-available capacity because, it is much more predictable and, therefore, much more reliable. Thus, firm power and as-available power cannot be priced identically.⁸

The only advantage of the Staff Proposal to use the MPR is because it is simple and easily available, not because it provides the appropriate price. The MPR is required by statute and is developed as a benchmark price for renewable contracts entered into through a competitive solicitation.⁹ The MPR is *not* intended to set a specific price, but instead is used as a benchmark. Moreover, the MPR is created for renewable power resources.¹⁰ CHP is not a renewable resource and thus using a renewable resource benchmark is inappropriate.

Other components of Staff's MPR pricing proposal demonstrate some confusion regarding how power contracts are priced. First, where ED staff refers to an "intrastate gas transportation rate" it appears to be referring to local transportation charges. Second, Staff proposes to apply a time of delivery factor to a fixed capacity component. If this is an attempt to substitute for the lack of performance requirements in the CHP contract, it does not achieve that goal without further clarification.

⁸ D.07-09-040 at 92.

⁹ Resolution E-4124 at 5 (describing the purpose of the MPR); *see also Pre-Workshop Comments Of The Utility Reform Network*, filed February 17, 2009 in this proceeding (outlining the reasons why use of the MPR is inappropriate).

¹⁰ *Id.* at 3.

B. Staff's Second Option – Generation Component of Retail Rates

Staff's second option is based on the generation component of the utility's retail rates.

The generation component of the retail rate is also an inappropriate choice for the AB 1613 contract because it does not represent an avoided cost and, accordingly, would not satisfy FERC restrictions on price, nor the customer indifference criteria required by AB 1613. The generation component of retail rates represents an allocation of generation revenues to various customer classes. Granted, the allocation is based on the use of generation marginal capacity and energy costs; however, the generation revenues that are allocated are embedded, *i.e.*, average, costs and are not avoided, *i.e.*, marginal, costs. Accordingly, because they are not avoided costs and do not represent the costs that utilities would otherwise have to pay, customers would not be held indifferent.

Further, the utility's average cost of generation is a result of historical contracting and construction decisions that have nothing to do with the cost of building a new CHP facility. The generation component also varies significantly across time periods and between different rate schedules. For example, as the Staff Proposal shows, for PG&E's E-20 rate, the generation component varies from \$0.05785 to \$0.12876 per kWh. For PG&E's A-6 rate, the generation component varies from \$0.05676 to \$0.25032. An electricity price that can vary by a factor of two from one customer to another clearly does not reflect avoided costs; is a totally inappropriate choice for the AB 1613 contract; and thwarts the concept of ratepayer indifference.

Using a retail rate "average generation cost" would include many above-market costs that are legacy obligations. This includes above-market costs from contracts DWR signed during the energy crisis; above-market costs from QF contracts; and (at least potentially) above-market costs from renewable generation where the fact that it is renewable creates a premium. Because

the generation component includes above market costs, it violates the “indifference” requirement in AB 1613. Under AB 1613, CHP payments must be structured to hold utility customers indifferent. To ensure compliance with AB 1613, none of these costs should be reflected in a price paid for AB 1613 CHP generation. In fact, to maintain consistency with the intent of AB 1613, no above-market costs should be included in the price paid for an AB 1613 contract.

C. Generation Location Bonus and Determining T&D-constrained Areas

Staff’s proposal to add a 10% location bonus to both the capacity and energy price components is unsupported by any analysis. The CAISO LMP for generation pricing nodes—at the point of interconnection between a CHP and the CAISO grid—contains within it the marginal cost of both congestion and losses. The value—or cost—of congestion and losses are generator-specific and are determined by the CAISO’s full network model. Those components are the only objective measure of the value or cost of a CHP’s location. Anything else is an unsubstantiated estimate and will not hold utility customers indifferent. No new process is required to determine transmission- or distribution-constrained areas. Moreover, if a bonus above the average price is provided to some CHP units because of their favorable location, then those units that have a poor location should be paid less than the average. Otherwise, customers cannot possibly be held indifferent.

III. ADDITIONAL ISSUES RAISED BY STAFF

In addition to terms and conditions and pricing issues, Staff raises four additional issues: (1) total program size; (2) ratepayer funded incentives; (3) reporting requirements; and (4) utility-owned CHP. The Joint Parties agree with Staff’s proposals on all of these issues except ratepayer incentives. If a CHP has received ratepayer incentives under another program, such as the Self Generator Incentive Program (“SGIP”), it should not be eligible for additional customer subsidies. If the utilities’ and TURN’s pricing proposals are adopted, customers will

not be receiving additional subsidies through the energy prices. However, if Staff's pricing proposal is adopted, or another proposal is adopted, CHP developers will be receiving above-market payments under the AB 1613 form contract and thus will be receiving a subsidy from utility customers. If Staff's pricing proposal is adopted (or another similar proposal), CHP developers who received SGIP or a similar customer-paid incentive should not also be eligible for a subsidized AB 1613 form contract. The CAISO LMP is a more appropriate implementation of T&D benefits (or costs) that would automatically be implemented if the CPUC were to adopt Joint Parties' pricing proposal.

IV. RESPONSE TO STAFF QUESTIONS

Staff asked for comment on six additional issues in its Staff Proposal. These issues are addressed below.

Additional Terms and Conditions In Dispute. For the simplified AB 1613 form contract, the Staff Proposal addressed all of the disputed terms and conditions. For the AB 1613 form contracts for 5-20 MW facilities, the Staff Proposal did not address several important, disputed terms. These terms were described in Section II.B above, and the positions of the parties are stated in more detail in their comments on the Working Group Report.

GHG Compliance Costs. The Staff Proposal does not adequately address GHG compliance costs, as Joint Parties explained above in Section II.A. With regard to allowances that a GHG generator receives – if customers are required to bear all GHG compliance costs as Staff proposes, customers should also receive all GHG benefits, including any allocated allowances or other GHG benefits attributable to the CHP facility. With regard to splitting GHG benefits and costs between thermal and electricity output, this will need to be done by the parties after the GHG rules are in place and more fully understood. The AB 1613 form contract should

include a provision that expressly makes the contract subject to a later determination on this issue, including potentially a determination in a subsequent Commission proceeding.

Green Attributes. Any Green Attributes associated with the CHP facility should be allocated to the utility and its customers, who are purchasing the entire “product” from the facility. Green attributes attributed to the thermal load or site host should be retained by the CHP developer, or can be sold to the utility separately if the Commission approves tradable renewable energy credits (“RECs”). In Section 3.01(b), the AB 1613 form contract adequately specifies that Seller is only conveying the Green Attributes associated with the Related Products, which distinguishes between Green Attributes for the site host and for the generating facility.

Comments on Pricing Proposals. Joint Parties provided comments on the pricing proposals in Section II.

Comments on Location Bonus. Joint Parties provided comments on the location bonus in Section II.C.

Venue for Establishing Capacity Goals. At a minimum, two key issues must be addressed before meaningful capacity goals can be set: (1) an economic-potential study must be undertaken to develop a realistic estimate of the amount of small-scale CHP that can be built in each utility’s service territory given the terms and conditions set forth in the standard contract; and (2) an assessment must be done of each utility’s ability to absorb additional non-dispatchable

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baseload supply. The first analysis could be undertaken as a part of the California Energy Commission's IEPR process. The second analysis should be done in the long-term procurement plan proceedings conducted by the Commission.

Respectfully submitted,

By: _____/s/
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Dated: August 24, 2009

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 24th day of August 2009, I caused to be served a true copy of:

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
AND THE UTILITY REFORM NETWORK ON STAFF PROPOSAL
REGARDING AB 1613 IMPLEMENTATION ISSUES**

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for R.08-06-024 with an e-mail address.

[XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for R.08-06-024 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 24th day of August, 2009 at San Francisco, California.

/s/

STEPHANIE LOUIE

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Downloaded August 24, 2009; last updated: August 10, 2009

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ALJ Assigned: Amy C. Yip-Kikugawa on July 1, 2008

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