BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.	Rulemaking 06-04-009

REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON PROPOSED DECISION OF PRESIDENT PEEVEY AND ALJ GOTTSTEIN

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I. INTRODUCTION

Pursuant to Rule 14.3(d) of the Commission's Rules of Practice and Procedure (Rules), Pacific Gas and Electric Company (PG&E) provides these reply comments on the Proposed Decision of President Peevey and ALJ Gottstein (PD) to adopt a greenhouse gases (GHG) emission performance standard (EPS) in this proceeding.

As discussed below, PG&E notes that (1) Many parties' opening comments agree with PG&E's opening comments regarding the need for the PD to be revised to delete the prohibition on procurement of unspecified energy under the EPS; (2) Many parties recommend that the EPS be set at 1,100 lbs CO2/MWh rather than 1,000 lbs, which recommendation PG&E believes has merit; and (3) Some parties support PG&E's request that the compliance process for all load-serving entities be an up-front, not after-the-fact process, where as other parties, mainly electric service providers (ESPs) prefer the PD's after-the-fact, "self-attestation" process, which PG&E believes is discriminatory and inadequate.

II. PG&E AGREES WITH THE NUMEROUS PARTIES WHO REQUEST THAT THE PD'S PROHIBITION ON UNSPECIFIED ENERGY BE ELIMINATED OR CLARIFIED

Numerous parties echo PG&E's concerns about potential adverse impacts on energy markets and costs that could be caused by the PD's outright prohibition on unspecified energy. (See, e.g. SMUD, pp. 3- 5; CMUA, p. 12; Barclays Capital, J.Aron & Company, Morgan Stanley Capital Group, Inc. ("Filing Parties"), pp. 2- 8; Constellation/NewEnergy, pp. 2- 3; SCE, pp. 10-11.) PG&E agrees with these parties that the ban on unspecified energy poses a potentially severe and unintended problem for all load-serving entities under the EPS. In particular, PG&E agrees with the comments of the Filing Parties, consisting of active marketers and traders in wholesale energy markets throughout the West, who reject as unsupported in the record the PD's conclusion that other jurisdictions have demonstrated the feasibility of tracking the emissions characteristics of unspecified wholesale energy. (Filing Parties, pp. 2, 7- 9.) The Filing Parties point out that when FERC recently made a similar proposal to require only unit-specific resources under Open Access Transmission Tariffs, parties demonstrated that such an approach was not only inconsistent with the way current wholesale markets work, but also could have significant adverse impacts on wholesale market flexibility and liquidity as well as system reliability. (*Id.*, pp. 7- 9)

Other parties, such as SMUD and CMUA, agree. SMUD provides extensive details on the different and beneficial roles of unspecified energy in wholesale energy markets, including firming support for renewables. (SMUD, pp. 7- 10.) SMUD makes a recommendation similar to one PG&E made earlier in this proceeding, i.e. that instead of banning unspecified contracts and energy, the Commission should undertake additional research to develop a fair and accurate "proxy" method of imputing emissions characteristics to unspecified energy. (*Id.*, p. 7.)

Based on its review of these comments from other parties, as well as the proposal on

unspecified energy it made in its own opening comments, PG&E believes that it has proposed a workable approach to "unspecified energy" that the Commission can adopt as part of the interim EPS. This compromise approach would not derail the EPS or create an attractive loophole, and would allow sufficient contracting and procurement flexibility while this issue is further reviewed and considered. In short, the Commission should:

1. Adopt PG&E's compromise "15% unspecified energy" if the Commission remains inclined to restrict "unspecified energy" on an interim basis; and

2. Immediately convene a "Phase 1A" in this proceeding, to consider more technical and commercial input on how to design and implement a "proxy" for imputing GHG emissions characteristics to system and unspecified energy. This is a way to ensure that the Commission is appropriately careful that an interim policy that restricts unspecified energy does not interfere with wholesale market practices and market efficiencies. Phase 1A would run in parallel with Phase 2 implementing AB 32, and resolution of the technical and commercial issues relating to unspecified and system energy would carry over and benefit similar issues which are likely to recur during Phase 2 in any event.

III. PG&E SUPPORTS THE REQUEST BY SEVERAL PARTIES THAT THE EPS BE SET AT 1,100 LBS CO2 PER MWH, INSTEAD OF 1,000 LBS CO2 PER MWH

A diverse group of several parties request that the EPS be set at 1,100 lbs, rather than 1,000 lbs. (CMUA, p. 10; CAC/EPUC, pp. 9- 10; NCPA, pp. 3- 9; SDG&E/SoCal Gas, pp. 2-4.) Although PG&E did not reiterate its similar request for a higher EPS in its opening comments, we nonetheless concur with the points made by parties in support of the 1,100 lbs standard. The higher standard, coupled with PG&E's proposal that the EPS be applied using International Standardization Organization (ISO) protocols, will achieve all the primary goals of SB 1368 and will prevent "backsliding" and maintain flexibility in California electricity procurements undertaken prior to full implementation of AB 32.

IV. PG&E AGREES WITH NRDC, ET AL, AND DISAGREES WITH AREM, ON THE NEED FOR CONSISTENT UP-FRONT, PUBLIC REVIEW OF COMPLIANCE WITH THE EPS

Consistent with our opening comments, PG&E supports NRDC, et al.'s call for up-front

review of compliance by all LSEs with the EPS, instead of the "self-attestation" process proposed for non-IOU ESPs. (NRDC, et al., pp. 4- 5.) In contrast, AReM supports the "attestation" process and urges that it be further loosened by eliminating the opportunity for public review and protest. (AReM, pp. 3- 4.)

PG&E agrees with NRDC, et al. and urges that the Commission reject AReM's approach. If the EPS is to be applied and enforced against investor-owned utilities through a formal, up-front, filing and documentation process at the Commission, then the same process should apply to all LSEs—there is no justification, under SB 1368 or otherwise, to treat similarly-situated entities differently in this respect. In fact, many non-IOU LSEs are subject already to extensive filing and compliance requirements under air quality and water quality laws, and/or are owned by non-California utility subsidiaries or affiliates whose utility parents or affiliates are subject to extensive compliance obligations in their home states. There is no record support for the differential treatment proposed by the PD, and therefore NRDC, et al's and PG&E's recommendations for up-front review of all LSEs should be adopted.

V. IN RESPONSE TO PARTIES' COMMENTS ON COMPLIANCE DOCUMENTATION AND INTERPRETATION, THE COMMISSION SHOULD ORDER ENERGY DIVISION TO HAVE A TECHNICAL WORKSHOP AND REPORT ITS RESULTS TO THE COMMISSION

Several parties raise different issues regarding how the EPS rules' definitions regarding multiple contracts and multiple facilities at single sites should be interpreted and applied during the compliance phase of the EPS. (See, e.g., AReM, pp. 6- 7; Constellation/New Energy, pp. 4- 8; IEP, pp. 5- 6.) PG&E agrees with most of these comments, but recommends that, given the shortness of time for issuing the final decision in this proceeding, the Commission delegate to the Energy Division, with support from the Division of Strategic Planning, the authority to convene a technical workshop to develop more specific guidelines on compliance documentation and then

report back to the Commission within 60 days on the results. To the extent that the report indicates consensus on these various technical issues, then parties and the Energy Division can proceed with a common understanding. To the extent there are any significant differences, the Commission can provide guidance through a supplemental order clarifying or modifying the EPS.

Respectfully Submitted,

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I hereby certify that I have this day served a copy of **"REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON PROPOSED DECISION OF PRESIDENT PEEVEY AND ALJ GOTTSTEIN"** on the parties listed below and the parties listed in the official service list for R.04-04-009 by

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Executed on January 8, 2007, at San Francisco, California.

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ALJ Assigned: Jonathan Lakritz on May 9, 2006; ALJ Assigned: Meg Gottstein on April 17, 2006

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