

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



**FILED**

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Application of Pacific Gas and Electric Company  
for Approval of a Power Purchase Agreement  
with Mariposa Energy, LLC.  
(U39E)

Application 09-04-001  
(Filed April 1, 2009)

**MOTION OF CARE FOR LEAVE TO FILE  
CONFIDENTIAL MATERIAL CITED IN REPLY COMMENTS**

Pursuant to Rule 11.4 of this Commission's Rules of Practice and Procedure and Decisions ("D.") 06-06-066 and 08-04-023 governing confidentiality procedures, Robert Sarvey files this motion for leave to file confidential electric procurement information and data under seal. The material the Parties seek to protect is included in the confidential, unredacted versions of the Reply Comments of CARE on the Proposed Decision<sup>1</sup> filed concurrently with this Motion.

In D.06-06-066 and D.08-04-023, the Commission adopted rules and procedures governing the submission of confidential electric procurement information to the Commission. In a Matrix, attached to D.06-06-066 as Appendix 1 (the "IOU Matrix"), the Commission established specific rules for Investor-owned Utilities ("IOUs") governing the confidentiality of certain categories of data and information. D.08-04-023 requires that material formally filed with the Commission for which a Party seeks confidential treatment must be accompanied by a Motion. In its Motion the Party must establish:

- 1) that the material it is submitting constitutes a particular type of data listed in the Matrix;
- 2) the category or categories in the Matrix to which the data correspond;
- 3) that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data;

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<sup>1</sup> The Public Version of the Reply Comments on the PD was submitted on 3/5/2012 with confirmation number 0000051996

- 4) that the information is not already public; and
- 5) that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.<sup>2</sup>

### **Material Requiring Confidential Treatment**

The accompanying Reply Comments contains confidential information protected from disclosure by D.06-06-066. The information in the Reply Comments contains confidential information as determined such by the Commission in the October 18, 2011 *Assigned Commissioner's Ruling Opening a New Phase in this Proceeding, Preliminarily Changing Categorization of New Phase to Adjudicatory, and Setting New Prehearing Conference.*

On February 18, 2011, CARE filed a motion for leave to file confidential material under seal cited in reply comments to ALJ Minkin's January 17 ruling. CARE's motion states that its reply comments contain confidential market value information protected under D.06-06-066 for five contracts that were originally bid into PG&E's 2008 LTRFO. Although not explicitly stated in CARE's motion, it appears that all of the redacted material to which CARE cites is the Direct Testimony of Kevin Woodruff in A.09-09-021 on behalf of TURN. The assigned ALJ has already granted confidential status to this material in A.09-09-021. By ruling issued on September 8, 2010, ALJ Darwin E. Farrar allowed this material to be filed under seal and remain confidential for three years from the date of the Ruling.<sup>6</sup> Therefore, I grant CARE's motion for leave to file under seal in this proceeding; however, the confidential material in question shall remain protected under the timeframe provided for in that Ruling, i.e., three years from September 8, 2010, the date the Ruling was issued. No further protections shall be granted to the material in this proceeding. [Ruling at page 10]

This data should be maintained as confidential for three years after the winning bidders are selected pursuant to the matrix attached to D.06-06-066 in that:

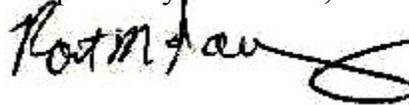
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<sup>2</sup> D.06-06-066, mimeo p. 80, Ordering Paragraph No. 2.

1. the data is listed in the matrix
2. the category of the confidential data in the matrix is at page 18, Item VIII (Competitive Solicitation Bidding Information – Electric). The information is the market valuation of the bids, which is PG&E’s quantitative analysis involving scoring and evaluation of participating bids.
3. Robert Sarvey is complying with the limitations on confidentiality specified in the Matrix for that type of data;
4. the information is not already public; and
5. the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

For all the reasons described above, CARE requests that the Commission grant this Motion. As required by Rule 11.4(a), a proposed order granting this Motion is attached.

Respectfully submitted,



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March 5, 2012

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

Application of Pacific Gas and Electric Company  
for Approval of a Power Purchase Agreement  
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(U39E)

Application 09-04-001  
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**[PROPOSED] RULING**

In accordance with its Rules of Practice and Procedure, the California Public Utilities Commission (“Commission”) has considered the motion of CARE filed March 5, 2012, for leave to file confidential materials under seal, namely certain information in the confidential, unredacted version of *Reply Comments of CARE on the Proposed Decision*.

The Commission rules as follows:

1. The Party’s Motion is granted. The protected materials in the confidential, unredacted version of *Reply Comments of CARE on the Proposed Decision* are described in the Motion.
2. The confidential, unredacted version of this information shall remain under seal, and shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the Assigned Administrative Law Judge (“ALJ”), or the ALJ then designated as Law and Motion Judge.

Dated \_\_\_\_\_, 2012 at San Francisco, California.

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Administrative Law Judge