

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of Pacific Gas and Electric
Company for Approval of 2008 Long-Term
Request for Offer Results and for Adoption
of Cost Recovery and Ratemaking
Mechanisms

Application 09-09-021
(Filed September 30, 2009)

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**PROTEST OF CALIFORNIANS FOR RENEWABLE ENERGY, INC. (CARE) TO
APPLICATION OF PG&E FOR APPROVAL OF 2008 LONG-TERM RFO RESULTS
AND FOR ADOPTION OF COST RECOVERY AND RATEMAKING MECHANISMS**

Pursuant to Rule 2.6¹ of the Commission's Rules of Practice and Procedures
Californians for Renewable Energy, Inc. (CARE) respectfully Protests the *Application of
Pacific Gas and Electric Company (PG&E) for Approval of 2008 Long-Term RFO
Results and for Adoption of Cost Recovery and Ratemaking Mechanisms.*

¹ 2.6. (Rule 2.6) Protests, Responses, and Replies.

(a) Unless otherwise provided by rule, decision, or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar, and shall be concurrently served on each person listed in the certificate of service of the application.

(b) A protest objecting to the granting, in whole or in part, of the authority sought in an application must state the facts or law constituting the grounds for the protest, the effect of the application on the protestant, and the reasons the protestant believes the application, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

(c) Any person may file a response that does not object to the authority sought in an application, but nevertheless presents information that the person tendering the response believes would be useful to the Commission in acting on the application.

(d) Any person protesting or responding to an application shall state in the protest or response any comments or objections regarding the applicant's statement on the proposed category, need for hearing, issues to be considered, and proposed schedule. Any alternative proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).

(e) An applicant may file replies to protests and responses within 10 days of the last day for filing protests and responses, unless the Administrative Law Judge sets a different date. Replies must be served on all protestants, all parties tendering responses, and the assigned Administrative Law Judge.

INTRODUCTION

The Decision (D.) 07-12-052) Long Term Procurement Plans (LTPP) s used CEC demand forecasts to estimate the amount of new generation that would be required in the PG&E service area from 2008 to 2018. In September of 2009 the California Energy Commission Staff issued a revised demand and peak load forecast. The new forecast predicts that peak demand in 2010 will be 779 MW or 3.37% lower than the 2007 forecast utilized for the LTPP. According to the CEC's revised forecast peak demand in 2015 will be 886 MW or 4.48% lower than the 2007 forecast. The 2018 peak demand is 1,012 MW or 5.28% lower than the forecast Utilized in the LTPP.² Consumption is expected to fall 2.26% or 2,759 GWH for the new 2018 scenario over the 2007 CEC forecast.

The LTTP proceeding identified a need for PG&E's service area of 800 to 1,200 MW (to provide a PRM between 15% and 17%) by 2015 utilizing the CEC's 2007 demand forecast.³ The revised forecast reduces need for new generation in the PG&E service area for the 2008 to 2018 planning period. In this Application PG&E seeks approval of two agreements that will provide 1,305 megawatts (MW) of gas-fired resources to meet an asserted need for new resources in PG&E's service area.

We believe that the new information provided by the CEC's revised 2009 demand forecast could not have possibly been foreseen in the 2006 LTPP. The *California Energy Demand (CED) 2009 Revised* forecasts of PG&E's planning area electricity consumption and peak demand are lower than *CED 2007* levels because of

² See <http://www.energy.ca.gov/2009publications/CEC-200-2009-012/CEC-200-2009-012-SF.PDF>
CALIFORNIA ENERGY DEMAND 2010-2020 STAFF REVISED FORECAST page 35

³ D.07-12-052 page 105

the economic downturn, increased efficiency impacts, and increased adoption of photovoltaic systems.⁴

This unanticipated turn of events meets the primary principles that are of importance to the Commission and provide the procurement of the preferred resources set forth in the EAP in the following “loading order”: energy efficiency, demand response, renewables (including self-generation), followed at the end of the loading order with efficient fossil-fuel resources.

PG&E’s application for an additional 1,305 MW of new fossil fuel resources is contrary to the loading order and will result in a lot of expensive new idle natural gas fueled capacity. There already exists an overabundance of idle fossil fuel capacity that is bleeding ratepayers for billions of dollars and redirecting resources away from energy efficiency and renewable projects. We urge the Commission to reject this application outright in light of the new demand information provided by the CEC.

Additionally PG&E is seeking authorization (Application (A.) 09-10-022) to procure additional new fossil fuel resources through a California Department of Water Resources (DWR) contract novation which will add 147MW’s of capacity which is not accounted for in the LTPP in PG&E’s service area.⁵ We believe this DWR novation which includes 147MW of new generation through repower of an existing facility at a brownfield site more closely meets the Commission directives than the generation proposed in Contra Costa. The repower also includes a possible 40 to 50 MW of Solar and is a better alternative to PG&E’s Contra Costa proposal.

⁴ See <http://www.energy.ca.gov/2009publications/CEC-200-2009-012/CEC-200-2009-012-SF.PDF>
CALIFORNIA ENERGY DEMAND 2010-2020 STAFF REVISED FORECAST page 34

⁵ See <http://docs.cpuc.ca.gov/efile/A/108656.pdf>

OAKLEY GENERATING STATION

Cost is not Just and Reasonable

We continue to have concerns over PG&E's propensity to value its Purchase and Sale Agreement (PSA) offers over the Power Purchase Agreement (PPA) offers. We don't believe that PG&E's current evaluation method correctly reflects the value of the project in relation to other offers. The project's delivery flexibility does not justify the contract price for the Oakley Generating Station. PG&E's notice indicates that a residential customer who uses 850 KW a month will see an increase of \$3.25 a month for the Oakley Generating Station which is about a 2% rate increase for one project. We believe the PSA is overpriced and contains terms and conditions detrimental to the ratepayer

PG&E has now acquired over 1,396 MW of fossil fueled generation including the Gateway Project, the Colusa Project, and the Humboldt Project. This inherent flaw in the LTTP process is exacerbated by possible approval of the Oakley Generating Station. The hybrid market that the Commission sought to create has been damaged by allowing PG&E to build over 50% of the new generation that has come out of the LTTP.

Environmental Leadership

Of the over 1,500 MW of projects proposed by PG&E in the 2006 LTTP 1,325 MW are in close proximity in Contra Costa County. Directly west of the proposed Oakley Generating station is the power plant complex that includes the proposed Marsh Landing Project. This follows on the heels of PG&E's Gateway project which is located

on the same parcel as the Mirant Marsh landing Proposal and the Contra Costa 6&7 units. The Contra Costa area is recognized as the second most industrialized area in the State of California and is host to an Environmental Justice Community. Every Project that has been chosen by PG&E in the 2006 LTTP has the lowest scores for environmental leadership.

Project Viability

The Environmental Community is growing weary of repeated power plant sites located in close proximity in Contra Costa County. The Oakley Generating Station is likely to face the same level of opposition as the Eastshore and Russell City Projects. CEC Staff has also identified air quality impacts to San Joaquin Valley in its issues identification report as a major issue.⁶

Operational Flexibility

The Oakley generating Station carries an extremely large price tag but does not provide the delivery flexibility to justify the price. The project as it is apparently being permitted at the CEC is limited to 11 hours of operation a day to limit PM 2.5 emissions.⁷ Because the project area has so many new sources PG&E is seeking to avoid a Clean Air Act analysis. The poor environmental conditions in the Oakley area are leading to operational constraints on the proposed project.

Compliance with Commission Directives

Greenfield Site

⁶ See http://www.energy.ca.gov/sitingcases/contracosta/documents/2009-10-27_Issues_Identification_Report_TN-53814.pdf

⁷ 4000 hours of full load with 1,500 hours at peak load, 1 cold start, 51 warm/hot starts and 52 shutdowns per year for a total of 5,525 hours per year with no more than **11 hours per day of operation** The need for setting a lower limit on the daily and annual emissions for PM2.5 is a direct result of the Environmental Protection Agency repealing the PM10 surrogacy policy for purposes related to air quality impact analysis..

The Commission has placed a preference on repowers and brownfield sites. The portion of the site on which the power plant would be constructed is within an area called the “Western Development Area” and is currently used as a vineyard. A 1.6-acre conservation area, which includes a 0.62-acre mitigation wetland (Wetland E), is adjacent to the western property line at Bridgehead Road.⁸ The site fails to comply with the Commission’s preference for brownfield sites.

Loading Order

PG&E’s efforts were deficient in regards to addressing filling their net short position with preferred resources from the California Energy Commission’s (CEC) Energy Action Plan (EAP) loading order and particularly inadequate in accounting for GHG emission reductions. The Oakley Generating Station is the typical fossil fuel resource which is the bottom of the loading order.

All 1525 MW chosen by PG&E were fossil fueled generation. Currently there are many idle fossil fuel plants, some new, which are costing ratepayers billions of dollars. In light of the CEC’s recent California Electricity demand forecast the Oakley Generating station is unneeded and prevents ratepayer resources from being utilized for more renewable, energy efficiency and storage projects.

PG&E touts this 586 MW project as needed to back up intermittent renewable resources. It makes the same claim about Marsh Landing and Mariposa. D.07-12-052 requires PG&E to demonstrate how each application for fossil generation filed based on the procurement authority granted in the proceeding fits into each IOU’s GHG reduction

⁸ See <http://docs.cpuc.ca.gov/efile/A/107933.pdf> Application for Certification Oakley Generating Station Page 5.1-69

strategy.⁹ PG&E provides no analysis of the intermittent generation that these projects support and continues to make this claim on all of the 1525 MW proposed for the LTTP.

MARSH LANDING

The Price is not Just and Reasonable

Marsh Landing is overpriced and does not provide the operational flexibility that an asset at this price should deliver. The project was originally proposed at the CEC utilizing two turbines in combined cycle and two turbines in simple cycle.¹⁰

Subsequently an amendment was filed to convert the project to four combustion turbines all in simple cycle to satisfy PG&E's LTTP contract proposal.¹¹ The heat rate for this project is too high and the need for 719 MW of peaking capacity is questionable with the new fast start combined cycles.

Environmental Leadership

PG&E is proposing another 719 MW of peaking capacity in close proximity to several other power projects including Gateway, Contra Costa 6&7, the proposed Oakley Generating station and now Marsh Landing. PG&E's website states in its LTTP protocol for environmental leadership that "PG&E will assess the potential cumulative pollution exposure of the community to criteria pollutants in air water and soil within 1 mile of the Participants proposed facility."

Loading Order

⁹ D.07-12-052 page 6

¹⁰ See <http://www.energy.ca.gov/sitingcases/marshlanding/index.html>

¹¹ See http://www.energy.ca.gov/sitingcases/marshlanding/documents/applicant/2009-09-15_Applicants_Amendment_to_the_Application_for_Certification_TN-53293.PDF

The Marsh Landing Project as another fossil fuel project is at the bottom of the loading order. As a four turbine simple cycle project its high heat rate ranks it at the bottom of the loading order. The projects original design had a much higher heat rate with the same operational flexibility as the simple cycle turbines, The projects high heat rate leads to additional unnecessary greenhouse gas emissions which would not occur if the project were proposed in a fast start combined cycle configuration. As stated in D. 07-12-052: “We expect the utilities to show a commitment to not only meet the targets set by the Legislature and this Commission but to try on their own to integrate research and technology to strive to improve the environment, without compromising reliability or our obligation to ratepayers.”¹² The Marsh Landing Project as originally proposed had two turbines in combined cycle with a heat rate around 6,900.¹³ Now all four turbines will have a heat rate around 10,000. Start time were expected to be similar for the combined cycle train and the simple cycle turbines.

CONTRA COSTA 6&7 CONTRACT EXTENSION

We believe that this PPA extension has no place in the LTPP. It does not generate any new resources and keeps an old inefficient power plant in service for another 18 months. PG&E should seek another venue for approval of this PPA.

REQUEST FOR HEARINGS AND DISCOVERY

CARE believes hearings will be required after sufficient time for an opportunity for discovery to deduce additional facts in addition to those presented above that CARE would present at an evidentiary hearing to support its request for whole or partial denial

¹² D.07-12-052 page 4

¹³ See

http://www.energy.ca.gov/sitingcases/marshlanding/documents/applicant/afc/Volume%20I/2_0%20Project%20Description.pdf Figure 2.5-5

of the application. CARE requests PG&E to provide CARE the appropriate non-disclosure agreement (NDA) to have access to its confidential in this proceeding.

CORRESPONDENCE AND COMMUNICATION REGARDING THE APPLICATION

Correspondence regarding this Application should be directed to CARE's Officers listed below.

Respectfully submitted,



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Verification

I am an officer of the Protesting Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of October 2009, at San Francisco, California.



Lynne Brown Vice-President
CALifornians for Renewable Energy, Inc.
(CARE)

Certificate of copy sent electronically

To reduce the burden of service in this proceeding, the Commission will allow the use of electronic service, to the extent possible using the electronic service protocols provided in this proceeding. All individuals on the service list should provide electronic mail addresses. The Commission and other parties will assume a party consents to electronic service unless the party indicates otherwise.

I hereby certify that I have this day served the foregoing document "*Protest of Californians for Renewable Energy, Inc. (CARE) to Application of PG&E for Approval of 2008 Long-Term RFO Results and for Adoption of Cost Recovery and Ratemaking Mechanisms*" under CPUC Docket Application 09-09-021. Each person designated on the official service list, has been provided a copy via e-mail, to all persons on the attached service list on October 30, 2009, for the proceeding, Application 09-09-021.



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