



**FILED**

04-21-08  
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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Promote Policy  
And Program Coordination and Integration in  
Electric Utility Resource Planning.

Rulemaking 04-04-003  
(Filed April 1, 2004)

Order Instituting Rulemaking to Promote  
Consistency in Methodology and Input  
Assumptions in Commission Applications of  
Short-run and Long-run Avoided Costs,  
Including Pricing for Qualifying Facilities.

Rulemaking 04-04-025  
(Filed April 22, 2004)

**PETITION OF CALIFORNIANS FOR RENEWABLE ENERGY FOR  
MODIFICATION OF DECISION 07-09-040**

**INTRODUCTION**

Pursuant to Rule 16.4 of the California Public Utilities Commission's ("Commission's") Rules of Practice and Procedure, Californians for Renewable Energy, Inc. ("CARE") respectfully submits this Petition to Modify Decision 07-09-040 ("Decision"). The Decision adopts new pricing and contract options for the investor-owned utilities' ("IOUs") purchase of energy and capacity from qualifying facilities ("QFs"). Decision 07-09-040 addressed essentially three issues in the area of QF pricing and policy: (1) a revision of short-run avoided cost ("SRAC") energy pricing formula; (2) a revision of as-available capacity pricing for existing QFs; and (3) policy and pricing for QFs with expiring contracts and new QFs, including the adoption of new standard contracts, for as-available and firm capacity products. The Decision prescribed implementation processes for the new SRAC energy pricing formula and the new standard contract options, including a workshop (held on November 14-15, 2007) and Pacific Gas and Electric Company ("PG&E") advice letters filings (made December 17, 2007 and January 14, 2008).

CARE Petition for Modification  
R.04-04-003 and R.04-04-025

CARE seeks an order modifying the Decision to provide for the compliance with environmental requirements for wind turbines operated by QFs at the [Altamont Pass Wind Resource Area](#)<sup>1</sup>.

### PROCEDURAL HISTORY

Alameda County's Altamont Pass Wind farm is one of the oldest and largest collections of windmills in the United States, with as much as 580 MW<sup>2</sup> of capacity. As many of the windmills were installed in the 1970s and are now out of date, there is great potential to replace older models with the newest and most efficient technology. In addition, newer windmills move more slowly and pose a significantly lower risk to birds.

It's been nearly a year since a controversial legal settlement<sup>3</sup> was forged among wildlife groups, wind companies, Alameda County regulators, and CARE. That agreement promised to reduce deaths of golden eagles and three other raptor species by 50 percent in three years and called for the shutdown or relocation of the 300 or so most lethal of the approximately 5,000 windmills at Altamont. The results of mitigation and monitoring have been ineffective to reduce avian mortality from wind turbines operated by QFs at the Altamont Pass Wind Resource Area as reported in a January 2, 2008 San Francisco Chronicle article.<sup>4</sup> *See Declaration of Shawn Smallwood in Support of CARE's Petition to Modify D.07-09-040.*

The long hot summers of the San Joaquin Valley suck great tsunamis of

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<sup>1</sup> <http://maps.google.com/?ie=UTF8&t=k&om=1&z=14&ll=37.721917,-121.657877&spn=0.046641,0.080166>

<sup>2</sup> 369.58 MW of output capacity in the Alameda County portion of the APWRA is exhibit F of the CUPs, see [http://www.altamontsrc.org/alt\\_doc/alt\\_permit/exhibit\\_f\\_owners\\_output.pdf](http://www.altamontsrc.org/alt_doc/alt_permit/exhibit_f_owners_output.pdf)

<sup>3</sup> [http://www.altamontsrc.org/alt\\_settlement.php](http://www.altamontsrc.org/alt_settlement.php)

<sup>4</sup> <http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2008/01/02/MNITTM9FA.DTL&type=printable>

cool coastal air through the Altamont Pass, producing winds so powerful that a person can lean nearly 45 degrees without falling down.

Such awesome force gave birth in the early 1980s to the world's largest collection of wind turbines, pioneers in what is now America's fastest-growing form of renewable energy and an increasingly important weapon in the battle against global warming.

But the Altamont Pass Wind Resource Area is also a symbol of the wind industry's biggest stain - the killings of thousands of birds, including majestic golden eagles, by turbines. The result has been a wrenching civil war among those who are otherwise united in the struggle to save the planet and its creatures.

It's been nearly a year since a controversial legal settlement was forged among wildlife groups, wind companies and Alameda County regulators. That agreement, opposed by some parties to the dispute, promised to reduce deaths of golden eagles and three other raptor species by 50 percent in three years and called for the shutdown or relocation of the 300 or so most lethal of the approximately 5,000 windmills at Altamont.

But five scientists appointed by the county say the settlement and accompanying efforts to reduce bird deaths are not on track to meet the 50 percent goal, and they recently surveyed the Altamont to determine which additional turbines should be removed or relocated to spots less likely to kill birds.

Known officially as the Scientific Review Committee, the panel agreed Dec. 21 that more turbines need to be removed or relocated. It issued a new list of 309 targeted turbines, plus 102 more if the wind companies refuse to continue a current, temporary shutdown of all their windmills into February. The wind operators had previously agreed to a two-month shutdown, for November and December.

The newly named lethal turbines are in addition to the dozens already shut down under the settlement's plan to gradually remove the most deadly windmills.

FPL Energy, the company with the most turbines in the Altamont, has not seen the specifics of the new recommendations from the scientists and cannot comment, company spokesman Steven Stengel said last week.

The scientists' findings are advisory for a continuing "meet and confer process" among all the parties, who are under instructions from Alameda County officials - who exercise regulatory authority over the wind farms

- to negotiate mutually acceptable solutions.

CARE has participated in several mediation sessions with wind companies, Audubon, and Alameda County regulators and there is an impasse on compliance enforcement to the terms of the wind farm conditional use permits (“CUPs”), the settlement agreement terms, and several wildlife protection laws, state and federal.

### **CARE ASKS FOR FUNDING TO COMPLY WITH LAWS PROTECTING BIRDS**

The APWRA provides many benefits to the State of California by generating significant amounts of renewable electric energy. However, the technology has resulted in killing a large number of endangered species. This is contrary to several laws.

The birds being killed include but are not limited to the species that are protected under the Bald and Golden Eagle Protection Act (BGEPA), 16 U.S.C. § 668, or the Endangered Species Act (ESA), 16 U.S.C. §§ 1531–1544; 50 CFR Parts 17, 401–424, 450–453, and all which are covered under the Migratory Bird Treaty Act (MBTA), 16 U.S.C. §§ 703–712. Additionally the California Fish and Game Codes, which are being enforced, are, California Fish and Game Code sections §2000, §3503.5 (unlawful to take birds of prey), §3511 (unlawful to take fully protected birds), §3513 (unlawful to take migratory none game birds), and § 3800 (unlawful to take none game birds), and §12000, as well as California Code of Regulations sections 472, 509. Regulations implementing the California Endangered Species Act in Title 14 of the California Code of Regulations as follows: Article 1. Take Prohibition; Permits for incidental take of Endangered Species, Threatened Species and Candidate Species (§§ 783.0-783.8), and Article 2. Take Incidental to Routine and Ongoing Agricultural Activities (§§ 786.0-786.8).

**CARE REPRESENTS PACIFIC GAS AND ELECTRIC COMPANY “(PG&E)”’S  
CUSTOMERS’ ENVIRONMENTAL  
PROTECTION INTERESTS**

CARE represents PG&E's customers' environmental protection interests not just before the CPUC but before other federal and state agencies. In addition to the above referenced legal actions concerning compliance with the endangered species act and other laws and regulations prohibiting taking of protected species, CARE has been monitoring the APWRA operations to determine whether the settlement agreement was adequate to assure compliance. These included attending meetings and discussions with scientific experts<sup>5</sup>. The monitoring team and the scientific review committee assigned to oversee the process have reported significant violations of the laws and regulations. This means that the APWRA could be forced to stop operations.

These problems have not been resolved by the parties to the legal settlement. Therefore the California Department of Fish and Game (“DFG”) should oversee the operations and assure compliance with all requirements concerning protection of wildlife. Alameda County should oversee the operations for which it has jurisdiction including the terms for the wind farm CUPs. However, neither Alameda County nor the DFG have funding to accomplish all this work. CARE has contacted the California Department of Fish and Game, Alameda County, and the Sierra Club, San Francisco Bay Chapter.

CARE proposes that the source for this funding should be the revenue produced by the production and sale of electricity by the participating utility companies. While the

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<sup>5</sup> [http://www.altamontsrc.org/alt\\_meetingdate.php](http://www.altamontsrc.org/alt_meetingdate.php)

environmental benefits of wind power are obvious, the environmental damage caused is not obvious to those who are not at the AWPRAs to see the damage<sup>6</sup>.

CARE proposes funding the oversight expenses by an adder to the rate for which the electricity is sold. The contracts between the wind power producers and PG&E have been approved by the advice letter process, and this addition to the contract would be the best way to fund the oversight work described below. The specific recommendations are contained in Appendix A to this document.

CARE proposes to add an ordering paragraph to D.07-09-040 as follows:

5. PG&E shall file an advice letter asking for Commission approval of contracts that PG&E has negotiated with Alameda County and the California Department of Fish and Game within 60 days of the decision. The contract terms shall be consistent with the terms contained in the CARE Petition to Modify and with PG&E's operational requirements. They shall be negotiated with Alameda County and the California Department of Fish and Game before submitting them to the Commission for approval.

CARE was provided by the DFG and Alameda County an estimate of the annual cost of this program. There should be no start-up costs because the APWRA has been operating for nearly twenty years. The total costs should be submitted to PG&E each year and PG&E should be responsible for reimbursing them. All PG&E payouts should be recorded in a balancing account with provision for an annual accounting review by any party.

### **OVERSIGHT REQUIREMENTS**

CARE believes that the following process should be ordered by the CPUC and implemented by PG&E. PG&E should negotiate the contracts with the DFG and

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<sup>6</sup> Smallwood, K. S. 2008. *Wind power company compliance with mitigation plans in the Altamont Pass Wind Resource Area [Pre-print]. Environmental & Energy Law Policy Journal, University of Houston Law Center.* A copy of this article and the Declaration of Shawn Smallwood in Support of CARE's Petition to Modify D.07-09-040 is attached to this petition to modify.

Alameda County. The contracts would be subject to CPUC approval and submitted by advice letter before they become final. Because of the ongoing environmental damage at the APWRA, this process should be started immediately.

CARE's avian wildlife protection program incorporates existing conditions for the thirty one conditional use permits approved by the County of Alameda on September 22, 2005, to allow the continued operations of wind turbines located in the APWRA in consultation with staff of Alameda County Planning Department and the California Department of Fish and Game.

### **AVIAN WILDLIFE PROTECTION PROGRAM**

#### **1. Scientific Review Committee, monitoring team, and operational budget**

(a) The Altamont Pass Wind Resource Area Scientific Review Committee (SRC) shall serve as a balanced and independent panel of technical experts with appropriate scientific knowledge of and experience with avian safety and wind energy issues. Each of the following major stakeholder groups will have one individual member of the SRC selected to represent their perspective: 1) the County of Alameda; 2) the Permittee(s); 3) the environmental community (e.g., Center for Biological Diversity, CARE, Golden Gate Audubon Society, Sierra Club, or other similar group); 4) a California state resource agency; and 5) a federal resource agency. In the event only one state or federal resource agency nominates a qualified representative, the remaining representative shall be appointed by the Board of Supervisors to represent the public-at large. The SRC shall represent but collectively balance the fundamental interests and input of all stakeholders, and shall be responsible for developing scientifically-supported strategies to reduce injury and mortality to avian wildlife associated with wind turbine operations in the APWRA, including existing and future repowering projects, turbine relocation and removal. The SRC shall also assist in technical evaluation of the scope and determinations of an Environmental Impact Report to be completed in accordance with the schedule set by the Planning Director. The SRC should utilize an approach under which there is a continual cycle of assessment, design, implementation, monitoring, evaluation, adjustment and re-assessment of strategies, except where experimentation on this basis is deemed by the SRC to be in conflict with the overall program of strategies and schedule. The SRC shall provide its recommendations to the Planning Director for the implementation of specific strategies to reduce avian mortality, and the conduct of research and monitoring activities.

On the basis of recommendations by the SRC, the Planning Director shall have the authority to impose new conditions on this Permit to address avian safety and other

environmental and operational issues, and to establish and manage the budget of the SRC for monitoring and research costs. Such new conditions will be within the general scope set forth by the Permits and its conditions. Minor, non-substantive changes to timing or implementation may be imposed directly by the Planning Director, whereas major substantive, material or considerable changes to the conditions shall be subject to a public hearing after notice as provided for in the initial hearing.

The Planning Director's decisions may be appealed to the Board of Zoning Adjustments, or a rehearing may be set by the Planning Director, on an annual basis after notice as provided for in the initial hearing, for the purpose of modifying such decisions or adding conditions that may be required to guarantee the continuance of the affirmative findings contained herein. By exercise of this Permit, the Permittee QF agrees to contribute funds for the budget of the SRC in proportion to the rated megawatt (MW) capacity of the facility as listed in Exhibit F of the September 22, 2005 CUPs, adjusted annually for turbines permanently removed under the requirements of these conditions.

(b) Monitoring team by County Consultant(s): The County of Alameda shall retain qualified professional consultants to conduct intensive, scientifically-rigorous and independent monitoring of avian injury and mortality in the Alameda County portion of the APWRA, including existing and future repowering projects, as a neutral third party. The selected biological resource monitoring consultant ("County consultant") shall be responsible for using appropriate protocols and methodologies to enumerate and describe the relevant circumstances and apparent causes of bird injuries and deaths (e.g., location and pattern of turbines, avian behavior, environmental conditions, etc.), conduct other research objectives to be established by the SRC and/or the Planning Director, and to assemble such data for use by the SRC. The consultant shall provide monthly reports on observed avian injuries and deaths and other wildlife conditions to the SRC, the Planning Director, the U.S. Fish and Wildlife Service (FWS), and the California Department of Fish and Game (DFG).

The Planning Director shall have the authority to designate a consultant for this purpose on a temporary basis for up to 180 days following the grant of this Permit. The consultant may be retained for guidance regarding the scope and preparation of an Environmental Impact Report (EIR) consistent with the Program Schedule. Permittee shall agree to provide full facility site access to the designated consultant or associated personnel, and shall be responsible for reporting to the consultant any avian injury or fatality on the facility site discovered by its own personnel. By exercise of this Permit, the Permittee agrees to contribute funds for the budget of the consultant selected by the Planning Director, in proportion to the rated MW capacity of the facility as listed in Exhibit F, adjusted annually. A generalized annual budget for the County consultant shall be established by the Planning Director, but reimbursement for consultant and staff time and expenses shall take place on a time-and-materials basis.

(c) The operational budget for the previous year for the SRC and monitoring team is \$1,200,000 and anticipated to increase at least \$50,000 in the near term due to increased mortality results despite mitigation efforts. Due to this fact also a higher level of CUP

enforcement measures will need to be implemented by the County to establish compliance that will require an additional 2 FTE positions for an additional cost of \$350,000, for a total operational budget of \$1,600,000.

## 2. Non-recurring cost for research

Several years of monitoring data have been collected by the monitoring team, but the operational budgets proved insufficient to process and analyze the data. These data need to be digitized and integrated into a Geographic Information System, and then analyzed. Approximately \$100,000 is needed for this job. A focused burrowing owl study is needed to understand the causes of burrowing owl mortality and of the impacts on the local and regional population. This study would cost about \$400,000. In total, the SRC and monitoring team require \$500,000 to perform spatial analysis of behavior and utilization data and a focused burrowing owl study.

## 3. Compliance monitoring

(a) The county shall utilize the existing Scientific Review Committee (hereinafter “SRC”) and Monitoring Team to monitor and verify compliance that the Wind Power Companies shall achieve a 50% reduction in raptor mortality for the four target raptor species that shall be evaluated to determine the percentage reduction in raptor mortality these being Golden Eagle, Burrowing Owl, American Kestrel, and Red-Tailed Hawk in compliance with applicable CUP conditions by the wind companies. The county shall assess annually each and every Wind Power Company, proportional to its share of total MW share in that year, and each company shall pay its share, for the cost of the SRC the Monitoring Team and other compliance programs. Wind Power Companies may provide funding in the form of a large up front surety bond, annual payment, or utilizing investor owned utility ratepayer funding under contract with PG&E.

(b) The total cost for code enforcement shall not exceed \$350,000 per year allocated to a California Department of Fish and Game and/or US Department of Fish and Wildlife Service Altamont Pass Wind Resources Area Game Warden position(s) paid by each and every Wind Power Company, as specified, to pay its proportional share. CDFG shall have the flexibility to allocate these funds for over time for existing FTE position(s), a new FTE position, or a combination of both.

The Game Warden (hereinafter “Warden”) shall be responsible for compliance and the enforcement of respective state and federal law for identified bird kills including but not limited to the included species that are protected under the Bald and Golden Eagle Protection Act (BGEPA), 16 U.S.C. § 668, or the Endangered Species Act (ESA), 16 U.S.C. §§ 1531–1544; 50 CFR Parts 17, 401–424, 450–453, and all which are covered under the Migratory Bird Treaty Act (MBTA), 16 U.S.C. §§ 703–712. Additionally the California Fish and Game Codes, which are being enforced, are, California Fish and Game Code sections §2000, §3503.5 (unlawful to take birds of prey), §3511 (unlawful to take fully protected birds), §3513 (unlawful to take migratory none game birds), and § 3800 (unlawful to take none game birds), and §12000, as well as California Code of

Regulations sections 472, 509. Regulations implementing the California Endangered Species Act in Title 14 of the California Code of Regulations as follows: Article 1. Take Prohibition; Permits for incidental take of Endangered Species, Threatened Species and Candidate Species (§§ 783.0-783.8), and Article 2. Take Incidental to Routine and Ongoing Agricultural Activities (§§ 786.0-786.8).

(c) The Warden shall have other duties as further set forth herein or as determined by the Planning Director, in consultation and approval by California Department of Fish and/or US Department of Fish and Wildlife Service consistent with the paramount duty set forth in subsection (b).

(d) “Wind Power Company” is defined to be each and every company that has turbines in the Alameda County portion of the APWRA, and each of its turbines in the APWRA.

(e) The Warden shall work cooperatively with the Monitoring Team and SRC in sharing information about compliance enforcement.

(f) All information that the Warden determines is protected from public release as part of law enforcement investigation will be prohibited from being provided to any Wind Power Company during the pendency of the investigation and under the terms of any subsequent enforcement action(s) taken by law enforcement.

#### 4. On-Site/Off-Site Habitat Mitigation Implementation Program

(a) The Planning Director, with input from the SRC and the County consultant(s), and CDFG shall develop a program that the Permittee(s) shall fund and otherwise participate in, to provide for protection and enhancement of the habitat of raptors and other wildlife through conservation easements or other means on suitable properties to compensate for avian mortality and injury effects that remain unaffected by the Avian Wildlife Protection Program and Schedule (AWPPS). The properties on which habitat enhancement is provided should be within Alameda County to the greatest extent possible, and the selection of properties and administration of the program shall be based on the recommendations of the SRC. The Mitigation Implementation Program will require the SRC to investigate formulae, criteria, techniques and costs of conservation easements or similar strategies to be carried out by the Permittee(s). Any properties selected for use in carrying out this program, including on-site portions of properties leased by the Permittee(s) must be appropriately separated from active wind farm turbine fields, represent viable, favorable raptor habitat, and have significant potential to protect and enhance raptor habitat as determined by the SRC. This funding is not limited to property acquisition but may also include ongoing funding to existing offsite habitat mitigation programs and these funds may be utilized in combination with other offsite mitigation funding from other wind farm mitigation programs administered by CDFG or other federal, state, or local governmental agencies; including non-profit foundations.

**EXISTING COMMISSION APPROVED WIND TURBINE QFS**

The Commission has given its approval of other wind turbine projects throughout California including those covered in this Petition for Modification as show in Table 1 below. Several other applications are pending. *See*

<http://www.cpuc.ca.gov/PUC/energy/electric/RenewableEnergy/rpsprojects.htm>

CARE’s avian wildlife protection program is designed to be utilized as a pilot mitigation and monitoring program to be deployed by the Commission for other wind turbine projects listed and we respectfully request the Commission modify Decision 07-09-040 to adopt policies to protect avian species from harm by wind turbines.

<b>Projects Online</b>	<b>Status</b>	<b>IOU</b>	<b>Min MW</b>	<b>Min Expected GWh/yr</b>	<b>Technology</b>	<b>Vintage</b>	<b>Contract Term (years)</b>
<a href="#">WTE Acquisitions, Green Power Wind</a>	Operational	SDG&E	17	48	wind	existing	15
<a href="#">PacifiCorp Power &amp; SeaWest</a>	Operational	SDG&E	25	89	wind	new	15
<a href="#">Oasis Power Partners</a>	Operational	SDG&E	60	179	wind	new	15
<a href="#">Boxcar II</a>	Operational	SCE	8	20	wind	repower	30
<a href="#">Diablo Winds</a>	Operational	PG&E	18	65	wind	repower	11.5
<a href="#">Karen Windfarm</a>	Operational	SCE	12	36	wind	repower	30
<a href="#">Kumeyaay Wind</a>	Operational	SDG&E	51	101	wind	new	20
<a href="#">Coram Energy</a>	Operational	SCE	3	11	wind	repower	30
<a href="#">CTV Power</a>	Operational	SCE	14	41	wind	repower	30
<a href="#">Shiloh 1 Wind Project</a>	Operational	PG&E	75	225	wind	new	15
<a href="#">Buena Vista Energy</a>	Operational	PG&E	38	108	wind	repower	15
<a href="#">PPM Klondike III</a>	Operational	PG&E	86	265	wind	new	15
<b>Approved</b>	<b>Status</b>	<b>IOU</b>	<b>Min</b>	<b>Min</b>	<b>Technology</b>	<b>Vintage</b>	<b>Contract</b>

Contracts			MW	Expected GWh/yr			Term (years)
<a href="#">PPM Dillon</a>	Delayed	SCE	45	128	wind	new	20
<a href="#">Pacific Renewable Energy Generation</a>	On schedule	PG&E	83	256	wind	new	20
<a href="#">Caithness 251 I</a>	On schedule	SCE	15	44	wind	repower	20
<a href="#">Caithness Ridgetop I</a>	On schedule	SCE	6	40	wind	repower	20
<a href="#">FPL Montezuma Wind</a>	Delayed	PG&E	32	107	wind	new	20
<a href="#">Mountain View Power Partners</a>	On schedule	SCE	37	118	wind	new	20
<a href="#">Caithness 251 II</a>	On schedule	SCE	6	40	wind	repower/new	20
<a href="#">Caithness Ridgetop II</a>	On schedule	SCE	5	42	wind	repower/new	20
<a href="#">Coram Energy - Brodie</a>	Delayed	SCE	12	47	wind	new	20
<a href="#">Windstar 1, Aero Energy</a>	Delayed	SCE	50	154	wind	new	20
<a href="#">Pacific Wind LLC</a>	Delayed	SDG&E	206	603	wind	new	20

Contracts Pending Approval		IOU	Min MW	Min Expected GWh/yr	Technology	Vintage	Contract Term (years)
Klickitat (White Creek)	Pending approval	PGE	50	147	wind	new	3.25
Baja Wind	Pending approval	SCE	200	578	wind	new	20
Shiloh II	Pending approval	PGE	150	509	wind	new	20
Granite Wind	Pending approval	SCE	42	96	wind	new	20
Daggett Ridge	Pending approval	SCE	79.5	197	wind	new	20
Alta	Pending approval	SCE	1500	4730	wind	new	20

**Table 1 Wind turbine projects online approved contracts and contracts pending approval**

## CONCLUSION

For the above stated reasons, CARE requests the Commission to order PG&E to file an advice letter implementing this process as soon as possible.

Respectfully submitted,



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Lynne Brown Vice-President (CARE)  
CALifornians for Renewable Energy, Inc.  
24 Harbor Road, San Francisco, CA 94124  
Phone: (415) 285-4628



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Michael E. Boyd President (CARE)  
CALifornians for Renewable Energy, Inc.  
5439 Soquel Drive, Soquel, CA 95073  
Phone: (408) 891-9677  
E-mail: [michaelboyd@sbcglobal.net](mailto:michaelboyd@sbcglobal.net)

April 21, 2008

## APPENDIX A

**A new ordering paragraph 5 should be added, and the following ordering paragraphs should be renumbered.**

CARE proposes to add an ordering paragraph to D.07-09-040 as follows:

5. PG&E shall file an advice letter asking for Commission approval of contracts that PG&E has negotiated with Alameda County and the California Department of Fish and Game within 60 days of the decision. The contract terms shall be consistent the terms contained in the CARE Petition to Modify and with PG&E's operational requirements. They shall be negotiated with Alameda County and the California Department of Fish and Game before submitting them to the Commission for approval.

### Verification

I am an officer of the Intervening 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 21<sup>st</sup> day of April, 2008, at San Francisco, California.



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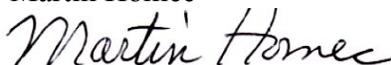
Lynne Brown Vice-President  
CALifornians for Renewable Energy, Inc.  
(CARE)

### 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 "*Petition of CALifornians for Renewable Energy, Inc. (CARE) for Modification of Decision 07-09-040*" under CPUC Docket R.04-04-003 and R.04-04-025. 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 April 21<sup>st</sup>, 2008 for the proceedings.

Martin Homec



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Martin Homec  
P. O. Box 4471  
Davis, CA 95617  
Tel.: (530) 867-1850  
E-mail: [martinhomec@gmail.com](mailto:martinhomec@gmail.com)  
Attorney for CALIFORNIANS FOR  
RENEWABLE ENERGY

**R.04-04-003 Service List**

daking@sempra.com  
rick\_noger@praxair.com  
keith.mccrea@sablauw.com  
roger@berlinerlawpllc.com  
garson\_knapp@fpl.com  
Cynthia.A.Fonner@constellation.com  
jimross@r-c-s-inc.com  
toms@i-cpg.com  
todil@mckennalong.com  
stacy.aguayo@apses.com  
chilen@sppc.com  
dmahmud@mwdh2o.com  
hchoy@isd.co.la.ca.us  
nwhang@manatt.com  
mmazur@3phasesRenewables.com  
klatt@energyattorney.com  
bdelamer@capstoneturbine.com  
douglass@energyattorney.com  
allwazeready@aol.com  
annette.gilliam@sce.com  
berj.parseghian@sce.com  
beth.fox@sce.com  
Case.Admin@sce.com  
woodrujb@sce.com  
michael.backstrom@sce.com  
rkmoore@gswater.com  
daking@sempra.com  
dgarber@sempra.com  
fortlieb@sandiego.gov  
gbaker@sempra.com  
KMelville@sempra.com  
troberts@sempra.com  
mshames@ucan.org  
jkloberdanz@semprautilities.com  
bpowers@powersengineering.com  
tdarton@pilotpowergroup.com  
wkeilani@semprautilities.com  
lschavrien@semprautilities.com  
jennifer.holmes@itron.com  
jleslie@luce.com  
aweller@sel.com  
cneedham@edisonmission.com  
llund@commerceenergy.com  
chris@emeter.com  
mdjoseph@adamsbroadwell.com  
jeanne.sole@sfgov.org  
mflorio@turn.org  
armi@smwlaw.com  
ayk@cpuc.ca.gov  
chh@cpuc.ca.gov  
edd@cpuc.ca.gov  
fjs@cpuc.ca.gov  
gtd@cpuc.ca.gov  
kpp@cpuc.ca.gov  
filings@a-klaw.com  
nes@a-klaw.com  
rsa@a-klaw.com  
evk1@pge.com  
jilm@pge.com  
mrh2@pge.com  
bill.chen@constellation.com  
agrimaldi@mckennalong.com  
bcragg@goodinmacbride.com  
jsqueri@goodinmacbride.com  
jarmstrong@gmsr.com  
lcottle@winston.com  
sleeper@manatt.com  
jkarp@winston.com  
edwardoneill@dwt.com  
jeffgray@dwt.com  
stevegreenwald@dwt.com  
alhj@pge.com  
ssmyers@att.net  
l\_brown369@yahoo.com  
mecsoft@pacbell.net  
bkc7@pge.com  
kowalewskia@calpine.com  
linda.sherif@calpine.com  
eric@strategyi.com  
ramonag@ebmud.com  
hoerner@redefiningprogress.org  
rschmidt@bartlewells.com  
cchen@ucusa.org  
elarsen@rcmdigesters.com  
gmorris@emf.net  
clyde.murley@comcast.net  
nrader@calwea.org  
tomb@crossborderenergy.com  
pcmcdonnell@earthlink.net  
michaelboyd@sbcglobal.net  
jbradley@svlg.net  
bmcc@mccarthyaw.com  
sberlin@mccarthyaw.com  
tomk@mid.org  
joyw@mid.org  
sarveybob@aol.com  
dkates@sonic.net  
brbarkovich@earthlink.net  
johnrredding@earthlink.net  
jweil@aglet.org  
gabriellilaw@sbcglobal.net  
Dick@DavisHydro.com  
grosenblum@caiso.com  
sford@caiso.com  
wamer@kirkwood.com  
matt@bradylawus.com  
abb@eslawfirm.com  
glw@eslawfirm.com  
dcarroll@downeybrand.com  
dkk@eslawfirm.com  
lmh@eslawfirm.com  
rriebert@cbbf.com  
atrowbridge@daycartermurphy.com  
notice@psrec.coop  
mpa@a-klaw.com  
ryan.flynn@pacificcorp.com  
dws@r-c-s-inc.com  
carlo.zorzoli@enel.it  
dhecht@sempratrading.com  
ron.cerniglia@directenergy.com  
aweller@sel.com  
sdavis@ccap.org  
myuffee@mwe.com  
porter@exeterassociates.com  
dmcfarian@mwgen.com  
brianhaney@useconsulting.com  
ghinners@reliant.com  
william.tomlinson@elpaso.com  
dsaul@pacificsolar.net  
ckmitchell1@sbcglobal.net  
rprince@semprautilities.com  
dhuard@manatt.com  
pucservice@manatt.com  
curtis.kebler@gs.com  
npedersen@hanmor.com  
sam@climateregistry.org  
cmlong@earthlink.net  
mgibbs@icfconsulting.com  
frank.cooley@sce.com  
laura.genao@sce.com  
dwood8@cox.net  
tim.hemig@nrgenergy.com  
aabed@navigantconsulting.com  
kmelville@sempra.com  
rru@sandag.org  
gbass@semprasolutions.com  
tcorr@sempraglobal.com  
liddell@energyattorney.com  
ygross@sempraglobal.com  
kмкиener@cox.net  
scottanders@sandiego.edu  
centralfiles@semprautilities.com  
irene.stillings@energycenter.org  
jennifer.porter@energycenter.org  
mschmidt@semprautilities.com  
susan.freedman@sdenergy.org  
dpapapostolou@semprautilities.com  
kjk@kjkammerer.com  
lkostrzewa@edisonmission.com  
pherrington@edisonmission.com  
ctoca@utility-savings.com  
jskillman@prodigy.net  
rhoffman@anaheim.net  
louden@co.kern.ca.us  
matthewsj@co.kern.ca.us  
lcasentini@rsgp.com  
diane\_fellman@fpl.com

CARE Petition for Modification  
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freedman@turn.org  
 eks@cpuc.ca.gov  
 nao@cpuc.ca.gov  
 Dan.adler@calcef.org  
 ddowers@sfwater.org  
 mramirez@sfwater.org  
 norman.furuta@navy.mil  
 ek@a-klaw.com  
 sdhilton@stoel.com  
 brbc@pge.com  
 cbaskette@enernoc.com  
 cbaskette@enernoc.com  
 jy2378@att.com  
 rcounihan@enernoc.com  
 sara.oneill@constellation.com  
 kfox@wsgr.com  
 jscancarelli@flk.com  
 ldolqueist@manatt.com  
 cem@newsdata.com  
 lisa\_weinzimer@platts.com  
 CRMd@pge.com  
 cpuccases@pge.com  
 mdbk@pge.com  
 ecrem@ix.netcom.com  
 ELL5@pge.com  
 GXL2@pge.com  
 MWZ1@pge.com  
 pcg8@pge.com  
 sscb@pge.com  
 SEHC@pge.com  
 sv56@pge.com  
 S1L7@pge.com  
 vjw3@pge.com  
 k.abreu@sbcglobal.net  
 brflynn@flynnrci.com  
 service@spurr.org  
 beth@beth411.com  
 mark\_j\_smith@fpl.com  
 ralf1241a@cs.com  
 andy.vanhorn@vhcenergy.com  
 gblue@enxco.com  
 duggank@calpine.com  
 wbooth@booth-law.com  
 pthompson@summitblue.com  
 philha@astound.net  
 sia2@pwrval.com  
 ceyap@earthlink.net  
 mrw@mrwassoc.com  
 dmarcus2@sbcglobal.net  
 janice@strategenconsulting.com  
 craigtyler@comcast.net  
 elvine@lbl.gov  
 rhwiser@lbl.gov  
 knotsund@berkeley.edu  
 philm@scdenergy.com  
 keithwhite@earthlink.net  
 cpechman@powereconomics.com  
 janreid@coastecon.com  
 bill@jbsenergy.com  
 demorse@omsoft.com  
 martinhomec@gmail.com  
 eleuze@caiso.com  
 jgoodin@caiso.com  
 katherine.gensler@ferc.gov  
 mdozier@caiso.com  
 ppettingill@caiso.com  
 rsparks@caiso.com  
 rsmutny-jones@caiso.com  
 saeed.farokhpay@ferc.gov  
 sdavies@caiso.com  
 e-recipient@caiso.com  
 kenneth.swain@navigantconsulting.com  
 mary.lynn@constellation.com  
 edchang@flynnrci.com  
 brian.theaker@dynegy.com  
 blaising@braunlegal.com  
 dgeis@dolphingroup.org  
 wynne@braunlegal.com  
 kdw@woodruff-expert-services.com  
 blaising@braunlegal.com  
 gbrowne@smud.org  
 vwood@smud.org  
 hcronin@water.ca.gov  
 cabaker906@sbcglobal.net  
 kmills@cfbf.com  
 rlauckhart@globalenergy.com  
 karen@klindh.com  
 ntoyama@smud.org  
 alan.comnes@nrgenergy.com  
 mtrexler@climateservices.com  
 kyle.l.davis@pacificorp.com  
 Shayleah.LaBray@Pacificorp.Com  
 samuel.r.sadler@state.or.us  
 lscott@landsenergy.com  
 jesus.arredondo@nrgenergy.com  
 bsk@cpuc.ca.gov  
 cab@cpuc.ca.gov  
 dsh@cpuc.ca.gov  
 djh@cpuc.ca.gov  
 cpe@cpuc.ca.gov  
 jef@cpuc.ca.gov  
 jf2@cpuc.ca.gov  
 kdw@cpuc.ca.gov  
 kl1@cpuc.ca.gov  
 kd1@cpuc.ca.gov  
 lrm@cpuc.ca.gov  
 lp1@cpuc.ca.gov  
 map@cpuc.ca.gov  
 msw@cpuc.ca.gov  
 mjd@cpuc.ca.gov  
 mts@cpuc.ca.gov  
 mkh@cpuc.ca.gov  
 ner@cpuc.ca.gov  
 nil@cpuc.ca.gov  
 pw1@cpuc.ca.gov  
 psd@cpuc.ca.gov  
 rae@cpuc.ca.gov  
 gig@cpuc.ca.gov  
 rls@cpuc.ca.gov  
 rl4@cpuc.ca.gov  
 sjl@cpuc.ca.gov  
 svn@cpuc.ca.gov  
 skh@cpuc.ca.gov  
 seb@cpuc.ca.gov  
 sst@cpuc.ca.gov  
 car@cpuc.ca.gov  
 scr@cpuc.ca.gov  
 skg@cpuc.ca.gov  
 tdp@cpuc.ca.gov  
 tcx@cpuc.ca.gov  
 tbo@cpuc.ca.gov  
 vjb@cpuc.ca.gov  
 ztc@cpuc.ca.gov  
 JMcMahon@navigantconsulting.com  
 bfranklin@eob.ca.gov  
 cleni@energy.state.ca.us  
 dks@cpuc.ca.gov  
 kgriffin@energy.state.ca.us  
 kris.chisholm@eob.ca.gov  
 mpryor@energy.state.ca.us  
 mjaske@energy.state.ca.us  
 pduvair@energy.state.ca.us  
 trf@cpuc.ca.gov  
 wsm@cpuc.ca.gov

**R.00404025 Service List**

roger@berlinerlawpllc.com  
jimross@r-c-s-inc.com  
spatrick@sempra.com  
berj.parseghian@sce.com  
janet.combs@sce.com  
larry.cope@sce.com  
jyamagata@semprautilities.com  
gbaker@sempra.com  
mflorio@turn.org  
cwl@cpuc.ca.gov  
dil@cpuc.ca.gov  
map@cpuc.ca.gov  
ek@a-klaw.com  
evk1@pge.com  
saw0@pge.com  
kbowen@winston.com  
jkarp@winston.com  
edwardoneill@dwt.com  
ssmyers@att.net  
cchen@ucsusa.org  
gmorris@emf.net  
clyde.murley@comcast.net  
tomb@crossborderenergy.com  
pcmcdonnell@earthlink.net  
joyw@mid.org  
brbarkovich@earthlink.net  
bill@jbsenergy.com  
Dick@DavisHydro.com  
dcarroll@downeybrand.com  
dkk@eslawfirm.com  
steven@iepa.com  
mpa@a-klaw.com  
carlo.zorzoli@enel.it  
dgulino@ridgewoodpower.com  
bshort@ridgewoodpower.com  
sesco@optonline.net  
csmoots@perkinscoie.com  
rshapiro@chadbourne.com  
phoover@prodigy.net  
gstaples@mendotagroup.net  
dsaul@pacificsolar.net  
hchoy@isd.co.la.ca.us  
curtis.kebler@gs.com  
jbloom@winston.com  
bob@energydynamix.net  
amber.dean@sce.com  
Case.Admin@sce.com  
j.eric.isken@sce.com  
gary.allen@sce.com  
woodrujb@sce.com  
Jennifer.Shigekawa@sce.com  
laura.genao@sce.com  
lizbeth.mcdannel@sce.com  
tory.weber@sce.com  
dwood8@cox.net  
liddell@energyattorney.com  
centralfiles@semprautilities.com  
gdixon@semprautilities.com

jkloberdanz@semprautilities.com  
jleslie@luce.com  
cneedham@edisonmission.com  
jskillman@prodigy.net  
Jeff.Hirsch@DOE2.com  
loudenj@co.kern.ca.us  
matthewsj@co.kern.ca.us  
bjl@bry.com  
pepper@cleanpowermarkets.com  
chris@emeter.com  
mdjoseph@adamsbroadwell.com  
slefton@aptecheng.com  
diane\_fellman@fpl.com  
freedman@turn.org  
nao@cpuc.ca.gov  
Dan.adler@calcef.org  
norman.furuta@navy.mil  
filings@a-klaw.com  
nes@a-klaw.com  
rsa@a-klaw.com  
sdhilton@stoel.com  
brbc@pge.com  
cbaskette@enernoc.com  
ell5@pge.com  
mekd@pge.com  
mrh2@pge.com  
rgermain@navigantconsulting.com  
rcounihan@enernoc.com  
SRH1@pge.com  
kfox@wsgr.com  
taj8@pge.com  
bcragg@goodinmacbride.com  
koconnor@winston.com  
ren@ethree.com  
bobgex@dwt.com  
stevegreenwald@dwt.com  
cem@newsdata.com  
lisa\_weinzimer@platts.com  
cpuccases@pge.com  
mdbk@pge.com  
GXL2@pge.com  
MWZ1@pge.com  
SEHC@pge.com  
S1L7@pge.com  
hxag@pge.com  
vjw3@pge.com  
rwaltherr@pacbell.net  
ron.dahlin@ge.com  
beth@beth411.com  
mhharrer@sbcglobal.net  
mbyron@gwfpower.com  
alexm@calpine.com  
duggank@calpine.com  
phanschen@mof.com  
wbooth@booth-law.com  
pthompson@summitblue.com  
philha@astound.net  
mrw@mrwassoc.com  
rschmidt@bartlewells.com

cpechman@powereconomics.com  
tomk@mid.org  
rmccann@umich.edu  
martinhomoc@gmail.com  
jsanders@caiso.com  
mdozier@caiso.com  
sdavies@caiso.com  
e-recipient@caiso.com  
kenneth.swain@navigantconsulting.com  
cpucrulings@navigantconsulting.com  
david.reynolds@ncpa.com  
steveng@destrategies.com  
dougdpucmail@yahoo.com  
abb@eslawfirm.com  
glw@eslawfirm.com  
etiedemann@kmtg.com  
kdw@woodruff-expert-services.com  
pstoner@lgc.org  
blaising@braunlegal.com  
vwood@smud.org  
rlauchhart@henwoodenergy.com  
karen@klindh.com  
pholley@covantaenergy.com  
rfp@eesconsulting.com  
tom@ucons.com  
dws@r-c-s-inc.com  
ppl@cpuc.ca.gov  
ayk@cpuc.ca.gov  
cf1@cpuc.ca.gov  
tam@cpuc.ca.gov  
djh@cpuc.ca.gov  
eks@cpuc.ca.gov  
jm3@cpuc.ca.gov  
jst@cpuc.ca.gov  
jym@cpuc.ca.gov  
jmh@cpuc.ca.gov  
kd1@cpuc.ca.gov  
mts@cpuc.ca.gov  
mmw@cpuc.ca.gov  
mkh@cpuc.ca.gov  
pw1@cpuc.ca.gov  
psd@cpuc.ca.gov  
rls@cpuc.ca.gov  
svn@cpuc.ca.gov  
seb@cpuc.ca.gov  
car@cpuc.ca.gov  
tcx@cpuc.ca.gov  
tcr@cpuc.ca.gov  
bmeister@energy.state.ca.us  
jsugar@energy.state.ca.us  
mjaske@energy.state.ca.us  
wsm@cpuc.ca.gov  
ntronaas@energy.state.ca.us  
ikwasny@water.ca.gov  
mmiller@energy.state.ca.us