

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



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Application of Pacific Gas and Electric)
Company (U 39-E) for Approval of 2008)
Long-Term Request for Offer Results and for)
Adoption of Cost Recovery and Ratemaking)
Mechanisms.)
_____)

Application No. 09-09-021
(Filed September 30, 2009)

**MOTION OF
CONTRA COSTA GENERATING STATION, LLC
FOR PARTY STATUS**

In accordance with Rule 1.4 of the Commission's Rules of Practice and Procedure, Contra Costa Generating Station, LLC ("CCGS LLC") hereby submits its Motion for Party Status in the above-captioned application of Pacific Gas and Electric Company ("PG&E"). By this application, PG&E seeks Commission approval of several purchase power agreements ("PPAs") or purchase and sale agreements ("PSAs") arising from its 2008 Long-Term Request for Offers ("LTRFO"), including a PPA for new generation related to the Marsh Landing Generating Station (the "Marsh Landing Project") and a PSA related to the Contra Costa Generating Station (the "Oakley Project"). CCGS LLC respectfully requests that this motion be acted upon in time to permit CCGS LLC to participate as a party in the Commission's consideration of the proposed decision of Administrative Law Judge ("ALJ") Farrar, entitled "Decision on Pacific Gas and Electric Company's 2008 Long-Term Request for Offer results and Adopting Cost Recovery and Ratemaking Mechanisms" (the "PD"), which was released for comment on May 26, 2010.

CCGS LLC is a wholly owned subsidiary of Radback Energy, a Contra Costa County-based developer of renewable and gas-fired generation projects, and is the owner and developer of the Oakley Project. As a result of the competitive long-term procurement process ordered by the Commission in D.07-12-025, PG&E selected CCGS LLC to bring the state-of-the-art Oakley Project on line. CCGS LLC is alarmed by the PD's unexplained

failure to approve PG&E's PSA with CCGS LLC that would permit construction of the Oakley Project, particularly in light of the overwhelmingly positive endorsement of this combined-cycle electrical generating facility detailed in PG&E's application for approval and in PG&E's brief, and the PD's lack of justification for its failure to grant such approval.

CCGS LLC acknowledges that this request for party status is being made at a late stage in this proceeding. However, this late request is justified by extraordinary circumstances, and so its timing should not prevent the Commission from granting the present motion.

In Commission proceedings reviewing PPAs and PSAs and considering whether to approve an electric utility's request to recover power purchase costs in rates, the project developer typically does not participate as a party. This is due in large part to the reality that, as a consequence of the Commission's rules protecting the confidentiality of the economic terms of PPAs and PSAs submitted for review in Commission proceedings, the project developer has very limited access to critical information about comparative power purchase costs. Meaningful participation is therefore frustrated by the necessary lack of access to such information. Project proponents typically rely on the utility to advocate for the contracts at issue.

In the present case, CCGS LLC has been satisfied with PG&E's advocacy in favor of approval of all the subject contracts, including that for the Oakley Project. In its opening brief, PG&E strongly supported both the Marsh Landing Project and the Oakley Project as providing cost-effective, efficient, and operationally flexible generation resources at reasonable and competitive prices.¹ In fact, PG&E supported the two projects nearly in tandem, describing both as jointly filling the need for new resources² and providing environmental benefits by facilitating the retirement of older units.³

¹ PG&E Opening Brief, at 2, 23-24, 29.

² *Id.* at 3-4, 23-24.

³ *Id.* at 4, 22.

The PD's "discussion" of the Oakley Project cites these numerous benefits, makes nominal reference to opposition presented by Californians for Renewable Energy, Inc. ("CARE") and The Utility Reform Network ("TURN"), and then, other than in the context of the Partial Settlement Agreement, never mentions the Oakley Project again. The PD approves the application's remaining agreements, including the comparably beneficial Marsh Landing Project, as reasonable and in the public interest, without even a reference to how or why the Oakley Project failed to meet this standard.⁴ CCGS LLC considers the PD's inexplicable failure to provide an adequate basis for its refusal to approve the Oakley Project to be discriminatory.

In fact, the Oakley Project offers unique benefits in comparison to competing projects. As PG&E explained in its opening brief, the Oakley Project will be designed to utilize an advanced series of 7FA GE turbines, which will provide one of the lowest heat rates and one of the most flexible operating capabilities for a combined cycle facility in California, setting new standards for power plants including reduced CO2 emissions due to the low heat rate. The Oakley Project also has one of the best market valuations of all of the offers received in PG&E's 2008 LTRFO, which is even further enhanced by the Partial Settlement Agreement, which lowers the initial capital costs and fixes the O&M costs for a period of time the O&M costs. Finally, like the Marsh Landing Project, the Oakley Project is operationally flexible and capable of providing a number of ancillary services meeting needs of CAISO.⁵ As PG&E demonstrated, the Oakley Project "is exactly the type of resource that the Commission directed PG&E to procure in the LTPP Decision and is the type of resource that is essential for integrating the increasing number of renewable projects being developed in California."⁶

⁴ PD, at 38.

⁵ PG&E Opening Brief, at 10-11.

⁶ *Id.* at 11.

In short, the Oakley Project offers consistent and, in some important respects, superior benefits as compared to the other projects selected by PG&E in their 2008 LTRFO. The PD recites some of the evidence supporting approval of the Oakley Project PSA, presents no criticism of the Oakley Project PSA at all, but inexplicably fails to approve it. This failure to conduct reasoned decision making came as a shock and surprise to CCGS LLC and is the reason why CCGS LLC finds it necessary, at this late stage of the proceeding, to move for party status.

For all of the foregoing reasons, CCGS LLC respectfully requests the Commission grant this Motion for Party Status.

Respectfully submitted,

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