

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

**ENERGY DIVISION**

**RESOLUTION E-4770  
March 17, 2016**

**R E S O L U T I O N**

Resolution E-4770. Commission Motion Authorizing Procurement from Forest Fuelstock Bioenergy Facilities supplied from High Hazard Zones for wildfires and falling trees pursuant to the Governor's Emergency Proclamation.

**PROPOSED OUTCOME:**

- Requires Pacific Gas and Electric Company (PG&E), Southern California Edison Company and San Diego Gas & Electric Company (SDG&E) to hold a solicitation for facilities that utilize biofuel from high hazard zones using the Renewable Auction Mechanism procurement mechanism and standard contract.
- Allows PG&E and SDG&E to enter into bilateral contracts with existing forest bioenergy facilities receiving forest feedstock from high hazard zones during their 2015 Renewables Portfolio Standard solicitation cycle.

**SAFETY CONSIDERATIONS:**

- This Resolution supports the Governor's Emergency Proclamation to address public safety and property from falling dead trees and wildfire.
- Renewable Auction Mechanism standard contracts contain Commission approved safety provisions, which require the seller to comply with all applicable requirements of law relating to the projects including those related to planning, construction, ownership, and/or operation of the projects. As a result, there are not any expected incremental safety implications associated with approval of this resolution.

**ESTIMATED COST:**

- This Resolution is expected to result in additional contracts which will lead to increased ratepayer costs. Actual costs of the contracts are unknown at this time.

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By Energy Division's own motion.

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## **SUMMARY**

This Resolution orders Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) (collectively, investor-owned utilities or IOUs) to each hold a solicitation for contracts with facilities that can use biofuel from high hazard zones to address an Emergency Proclamation using the Renewable Auction Mechanism (RAM) procurement process.

This Resolution also allows PG&E and SDG&E to enter into bilateral contracts during their respective 2015 Renewables Portfolio Standard (RPS) solicitation cycles.

## **BACKGROUND**

### **Overview of the Emergency Proclamation**

Severe drought conditions and an epidemic infestation of bark beetles have caused tree mortality in several regions of California. On October 30, 2015, Governor Brown issued an Emergency Proclamation (Proclamation)<sup>1</sup> to protect public safety and property from falling dead trees and wildfire. Ordering Paragraph 1 of the Proclamation tasked the Department of Forestry and Fire Protection, the California Natural Resources Agency, Caltrans, and the California Energy Commission to immediately identify "high hazard zones for wildfire and falling trees." Other ordering paragraphs directed the California Public Utilities Commission (Commission) to take various measures to expedite contracts may be executed for bioenergy facilities that receive feedstock from high hazard zones.

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<sup>1</sup> [https://www.gov.ca.gov/docs/10.30.15\\_Tree\\_Mortality\\_State\\_of\\_Emergency.pdf](https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf)

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The Proclamation's orders are intended to address certain safety and wildfire risks. This Resolution addresses specific orders of the Proclamation that direct the Commission to:

- Use its authority to extend contracts for existing forest bioenergy facilities receiving feedstock from high hazard zones. (Ordering Paragraph 8 of Proclamation)
- Take expedited action to ensure that contracts for new forest bioenergy facilities receiving feedstock from high hazard zones can be executed within six months, including initiation of a targeted RAM and consideration of adjustments to the Bioenergy Market Adjusting Tariff (BioMAT). (Ordering Paragraph 9 of Proclamation)

### **Overview of RAM**

The RAM auction is a renewable procurement process characterized by a standard non-negotiable contract that the IOUs must use to procure RPS eligible generation via a stand-alone auction. On November 20, 2014, the Commission adopted in Decision (D.) 14-11-042, which revised the RAM process to include the following attributes:

- IOUs can determine the optimal maximum project size for any procurement targeted through RAM.
- The geographic location of projects is the entire California Independent System Operator (CAISO) control area and resources that can be dynamically scheduled into the CAISO.
- IOUs must rank and select bids using Commission-approved least-cost best-fit methodology, consistent with the RPS program.
- A Phase II Interconnection Study must be obtained prior to participating in a utility's RAM procurement process consistent with the annual IOU RPS procurement plans.
- Projects should be online within 36-months with a 6 month regulatory delay extension.

In D.10-12-048, the Commission granted the Director of Energy Division the authority to "explore methodologies for aligning RAM procurement authority

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with the Commission's procurement planning process to assess the need for RAM capacity and products in the future" and that the Director of Energy Division, "may issue a resolution . . . on its own motion" to pursue these types of changes.<sup>2</sup> In D.14-11-042 the Commission determined that an IOU could use RAM procurement to satisfy a Commission or legislative mandate.<sup>3</sup>

### **Overview of D.15-12-025 accepting draft 2015 RPS Procurement Plans**

Pursuant to the authority provided in Public Utilities Code § 399.13(a)(1), D.15-12-025 accepted, with some modifications, the draft 2015 RPS Procurement Plans, including the related solicitation protocols, filed by the IOUs. The *Assigned Commissioner's Ruling Identifying Issues and Schedule of Review of 2015 RPS Plans*, issued on May 28, 2015, identified information regarding RPS Portfolio Supplies and Demand for inclusion in the 2015 Procurement Plans. D.15-12-025 accepted PG&E's and SDG&E's position that they were well-positioned to meet their RPS targets and would therefore not issue a 2015 RPS solicitation. D.15-12-025 also specified that PG&E and SDG&E were required to first seek the Commission's permission before entering into any solicitations or bilateral contracts for RPS-eligible resources during the time period covered by their respective 2015 RPS solicitation cycles.

### **DISCUSSION**

Ordering Paragraph 1 of the Proclamation directs "the Department of Forestry and Fire Protection, the California Natural Resources Agency, Caltrans, and the California Energy Commission to immediately identify areas of California that represent high hazard zones for wildfire and falling trees using best available science and geospatial data. "

Pursuant to Ordering Paragraph 1, the Department of Forestry and Fire Protection, the California Natural Resources Agency, the California Department of Transportation, and the California Energy Commission will designate the high hazard zones for wildfire and falling trees. To ensure that only fuel from high

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<sup>2</sup> See, D.10-12-048, Conclusions of Law 11, 12, and 15.

<sup>3</sup> See, D.14-11-042, page 102

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hazard zones for wildfire and falling trees is used to meet the minimum fuel requirements for the solicitation, the IOUs shall propose language similar to that used in the RPS standard contract that requires a seller to warrant that the fuel has been taken from such an area.

Ordering Paragraph 9 of the Proclamation directs the Commission to take expedited action to ensure contracts for new forest bioenergy facilities receiving feedstock from high hazard zones can be executed within six months, including initiation of a targeted RAM.

In accordance with the Proclamation, the IOUs shall execute an expedited process to hold a RAM auction targeted at facilities that utilize fuel from high hazard zones. The auction shall include the following parameters:

- The auction shall be open to both existing and new facilities but IOUs may favor earlier online dates in the bid evaluation process, in recognition of the state of emergency.
- The IOUs shall procure at least 50 MW (20 MW, PG&E; 20 MW, SCE; and 10 MW, SDG&E) from the RAM auction. The IOUs may procure more capacity than these required minimums.
- IOUs should not impose caps on facility size.
- If CAL FIRE can provide the initial high hazard zones designation by February 29, 2016, and the Commission approves the IOUs' Tier 2 Advice Letters consisting of the RAM contract rider by May 1, 2016, the IOUs shall commence the RAM auction by May 15, 2016. If either of these conditions is not met, the IOUs shall commence the RAM auction within two weeks after both conditions are met.
- The IOUs shall require the following minimum levels of the fuel source that should come from high hazard zones in the specified year of operation of the contract: 40% in 2016, 50% in 2017, 60% in 2018, and 80% for each subsequent year. This should be measured on an annual basis.
- In order to incentivize facilities that can exceed the minimum fuel requirements, IOUs shall favor bids in the solicitation that commit to meeting the fuel requirements specified above on an accelerated basis.

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- IOUs shall verify that the contracting facilities are using fuel from high hazard zones and provide information about their verification processes and findings to the Director of the Energy Division on request.
- The IOUs shall offer facilities the option to either terminate the contract or to operate at the current Renewable Market Adjusting Tariff (ReMAT) baseload price of \$89.23 /MWh for the duration of the contract once the facility can no longer meet the minimum required high hazard zone fuel requirement.
- The IOUs shall provide a five year contract as an option for existing facilities. The IOU will have the right to extend the five-year contract term for one year at a time, up to a cumulative total of ten years so long as high hazard zone fuel is available at the minimum fuel requirement.
- The IOUs shall require that the seller submit quarterly attestations to the IOU during the delivery period specifying, among other things, the designated high hazard zones and the percentage of fuel burned to fulfill the contract that came from designated high hazard zones. The IOUs have the right to audit documentation kept by the counterparty or its third-party contractor that supports the attestation provided by the counterparty. This right to audit shall be included as a clause of the rider.
- Current RAM viability screens and requirements specified in D.14-11-042 continue to apply.

Consistent with the above requirements, the IOUs shall file Tier 2 Advice Letters proposing a rider to be used with the current RAM contracts and solicitation documents for Commission approval prior to initiating the RAM auctions pursuant to this Resolution.

One of the objectives of the Resolution is facilitating contracts with existing facilities by removing any regulatory barriers to bilateral contracting.

D.15-12-025 concluded that PG&E's and SDG&E's request not to hold a 2015 solicitation were reasonable. D.15-12-025 also held that should PG&E and SDG&E determine that an RPS solicitation or bilateral contracts are needed during the time period covered by the 2015 solicitation cycle, PG&E and SDG&E were directed to first seek the Commission's permission. To implement the Proclamation, it is essential that PG&E and SDG&E be allowed to enter into

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bilateral contracts to facilitate any potential contracts with existing forest bioenergy facilities receiving feedstock from high hazard zones.

Therefore, PG&E and SDG&E are allowed to enter into bilateral contracts with existing forest bioenergy facilities receiving feedstock from high hazard zones during the duration of the 2015 RPS solicitation cycle.

## **SAFETY**

Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

This Resolution supports a Governor's Emergency Proclamation to address bark beetle caused tree mortality and the hazards such tree mortality creates for the State of California, among other things, wildfires and tree falls that endanger thoroughfares, electric power lines, and public and private structures.

Additionally, RAM contracts to be used pursuant to this resolution contain Commission approved safety provisions, which require, among other things, the seller to operate the generating facility in accordance with Prudent Electrical Practices, as defined in the contracts, and all applicable requirements of law, including those related to planning, construction, ownership, and/or operation of the projects. These provisions specifically require that all sellers take a list of reasonable steps to ensure that the generation facility is operated, maintained, and decommissioned in a safe manner.

Lastly, PG&E's contracting practices for performing work pursuant to this Resolution must comply with the Contractor Safety Standard approved by the Commission in D.15-07-014.

## **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived "in an unforeseen emergency ... ." The Commission's Rules of Practice and Procedure also provides that public review

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and comment may be waived or reduced in an "unforeseen emergency situation" specifically where there are "[a]ctivities that severely impair or threaten to severely impair public health or safety (Rule 14.6(a)(1) and/or where there are "[c]rippling disasters that severely impair public health or safety" (Rule 14.6(a)(2)).

The 30-day comment period was reduced pursuant to these authorities.

Comments were filed in a timely fashion on February 16, 2015, by Assembly Member Dahle, California Farm Bureau Federation (Farm Bureau), U.S. Forest Service- Pacific Southwest Region (Forest Service), California Forestry Association (CFA), SCE, SDG&E, PG&E, Green Power Institute (GPI), Sierra Institute for Community and the Environment (Sierra Institute), Office of Ratepayer Advocates (ORA), CAL FIRE, Watershed Center, Center for Biological Diversity (CBD), California Biomass Energy Alliance (CBEA), and the State Board of Forestry and Fire Protection (Board).

The objective and timing of this Resolution is directed to address the Proclamation. Therefore, while all of the comments were read and considered, the scope of this Resolution is limited to comments relevant to the implementation of the Proclamation.

### **Accelerating the RAM procurement schedule**

Farm Bureau recommends accelerating the RAM procurement schedule to the extent feasible. The CBEA urges the Commission to require the IOUs to hold their targeted high hazard zone RAM solicitations by May 1, 2016, and file Advice Letters by August 1, 2016. These recommendations are based on the assertion that the contracts for several biomass facilities are expiring on or prior to July 1, 2016.

The Resolution does not prohibit a solicitation earlier than July 1, 2016. However, given the lack of an official definition for high hazard zones it is not prudent to mandate an earlier solicitation date without appropriate conditions. Specifically, ORA comments that although several large scale maps exist that show the general areas where tree mortality is occurring, there is no information about which of these areas will provide the high hazard trees for biofuel purposes. CAL FIRE states in its comments that it will complete the initial delineation of high hazard zones by the end of this month.



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Additionally, pursuant to this Resolution, the IOUs are ordered file a Tier 2 Advice Letter with a RAM contract rider, which has to be approved by the Commission before the IOUs can commence the RAM auction.

If CAL FIRE can provide the initial high hazard zones designation by February 29, 2016, and the Commission approves the IOUs' Tier 2 Advice Letters consisting of the RAM contract rider by May 1, 2016, the IOUs shall commence the RAM auction by May 15, 2015. If either of these conditions is not met, the IOUs shall commence the RAM auction within two weeks after both conditions are met.

### **Size of solicitation**

Parties recommend different minimum procurement requirements. Several parties like GPI, CFA, the Watershed Center, and CEBA recommend a solicitation of at least or upwards of 400 MW based on capacity of idle biomass facilities. The Forest Service, Assembly member Dahle, the Sierra Institute and CAL FIRE recommend that the minimum capacity levels of the solicitation should be expanded. ORA recommends that the program be firmly capped at 30 MW to address the emergency. PG&E believes that the 30 MW minimum procurement requirement is justifiable in light of estimates of the forest-derived fuel available.

The scope and timing of this Resolution are directed to address the Proclamation - to protect public safety and property from falling dead trees and wildfire. The authorized procurement is meant to incentivize facilities to use removed high hazard biomass fuel from high hazard zones.

Comments by various parties highlight the uncertainty related to the amount of high hazard fuel available to be utilized by existing biomass facilities. The Forest Service comments that it might not have enough fuel to supply existing plants. It cites the example of the 24 MW Rio Bravo Fresno biomass facility which is located near the Sierra National Forest, one of the areas in the Southern Sierra Nevada with very high volumes of dead/dying trees and numerous designated high hazard zones. The Forest Service asserts that high hazard zone biomass from National Forest Service (NFS) lands could only supply the one plant

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between 44% - 57% of its total supply needs. These calculations assume local NFS biomass will go to just one plant, additional Forest Service funds (\$ 6.4 million) are obtained,<sup>4</sup> and there are no major fires or other events that could disrupt supply. Lastly, the Forest Service notes that the amount and timing of high hazard zone fuel available to biomass facilities is dependent on the creation of biomass "storage locations," and that there are significant costs associated with biomass or log storage sites.

CBEA highlights similar uncertainties and supply "bottlenecks" in its comments by stating that, "land owners and forest managers in the designated zones may not have the funding needed to underwrite forestry operations, or the storage yards for the removals that are discussed in the Proclamation may not be established, or there may be environmental objections to harvesting in certain areas, despite their being designated as high-hazard zones." CBEA also comments that 15-20 % of the total volume of dead trees in the 6 principally affected counties (Tuolumne, Mariposa, Madera, Fresno, Tulare, and Kern) creates a public safety issue in that they are located within proximity to assets (transmission lines, structures, etc.); however, it is not known over what time period these trees will be removed.

CFA's comments reflect that the capacity of several existing biomass facilities is over 20 MW. Consequently, to enable more existing facilities to participate in the solicitation while recognizing the uncertainty regarding fuel availability, it is reasonable to increase the minimum procurement requirements to 50 MW.

The IOUs shall procure at least 50 MW from the RAM auction. As information on the availability and timing of high hazard fuel becomes clearer over time and as the results of this RAM solicitation are known, the Commission will consider authorizing additional procurement.

IOUs should not impose caps on facility size to enable a competitive solicitation.

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<sup>4</sup> Forest Service highlights in its comments the uncertainty in obtaining additional federal funds (\$ 6.4 million) for biomass removal activities. The Forest Service comments that it has requested additional funds from the National Forest Service Office. However, it is unknown if and to what extent the request will be granted.

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### **Contract duration**

SCE and PG&E recommend that the Commission allow the IOUs to execute contracts of 3-5 year in length for existing facilities, and 10-year terms for new facilities. For existing facilities, the IOUs recommend that the IOU should have the right to extend the contract term for one year at a time, up to a cumulative total of 10 years so long as emergency conditions persist.

The Forest Service suggests that the Commission consider ensuring that contracts are renewed, issued or reissued with valid, multi-year contracts (minimum 3-5 years). ORA assert that it is unreasonable for IOUs to lock ratepayers into expensive long-term contracts when the intent of the Proclamation is to address a specific temporary situation. Instead, short-term contracts lasting 1-5 years should be approved for the targeted RAM auction, and may include an option to extend the contracts for another term if the Commission determines an additional need after the emergency is over.

The proposal to allow shorter term contracts is reasonable. Shorter contracts will provide facilities with more certainty that they will be able meet minimum fuel requirements.

The IOUs shall offer a five-year contract as an option to existing facilities. The IOU will have the right to extend a five-year contract term for one year at a time, up to a cumulative total of 10 years so long as high hazard zone fuel is available at the minimum fuel requirement.

### **Minimum fuel requirements for existing biomass facilities**

The Draft Resolution required that at least 80% of the fuel source, measured on an annual basis, should come from high hazard zones. The Forest Service and CAL FIRE are concerned that the 80% high hazard zone requirement may be far in excess of what can realistically be supplied. They suggest that 20% is a more realistic figure.

GPI and CBEA recommend that the target 80% be converted into a must-take requirement for high hazard fuel subject to availability, rather than an absolute requirement. GPI points out that the basic problem with this provision is that despite the fact that the state's inventory of dead trees is enormous, there are no

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guarantees that enough material will actually be removed from the state's high-hazard zones in order to provide 80% of the facilities' fuel needs.

The Watershed Center recommends that the Commission require that only biomass facilities that are located within a 100 mile haul distance from a high hazard zone location be allowed to participate in the RAM auction. Lastly, the Farm Bureau and Sierra Institute comment that overly restricting facilities could lead to operational constraints due to the current seasonal limitation on the availability of wood. Furthermore, the Sierra Institute points out that the proposed 80% requirement is difficult to meet, if access to forests is constrained by winter or wet weather for an extended period.

The objective of this RAM solicitation is to address the Proclamation – to protect public safety and property from falling dead trees and wildfire. Therefore, it is imperative to maintain a minimum fuel requirement to meet the mandates of the Proclamation and remove feedstock from high hazard zones. However, comments suggest that a relaxation of the 80% minimum requirement is required to account for short term constraints around fuel supply and long term constraints around the seasonal availability of wood. In addition, pursuant to the Proclamation, it is expected that other agencies will develop infrastructure to address shortages in the availability of fuel. Therefore, having a lower minimum fuel requirement that increases annually is reasonable.

The IOUs shall require the following minimum levels of the fuel source that should come from high hazard zones in the specified year of operation of the contract: 40% in 2016, 50% in 2017, 60% in 2018, and 80% for each subsequent year. This should be measured on an annual basis.

In order to incentivize facilities that can exceed the minimum fuel requirements, IOUs shall favor bids in the auction that commit to exceeding the fuel requirements specified above.

The Draft Resolution stated that the IOUs should propose contract language which permits fuel switching from high hazard zone fuel to other RPS-eligible fuels once the emergency is declared over or once there is insufficient fuel from high hazard zones to meet the minimum requirements. In their comments on the draft resolution, PG&E and SCE proposed that the RAM rider should contain provisions that effectively reset the contract terms once the emergency has ended or the facility is no longer meeting the high hazard zone fuel supply requirement.

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PG&E recommends using the current ReMAT price for as-available peaking products. In addition, PG&E also proposed to offer the seller an option to terminate the contract once the emergency is over or the facility can no longer meet the 80% high hazard supply requirement. SDG&E also recommended terminating contracts executed under the RAM program once the high hazard zone feedstock source for the particular facility is no longer available.

It is reasonable that the RAM rider consist of provisions that address when a facility cannot meet the high hazard fuel requirements or the emergency has ended, so we adopt PG&E's proposal with modifications. The IOUs shall offer facilities the option to terminate the contract once the facility can no longer meet the minimum required high hazard zone fuel requirement. In addition, the suggestion to pay the ReMAT price to facilities when they cannot meet the minimum fuel requirement is reasonable. However, biomass facilities are baseload facilities so they should receive the baseload category price, not the as-available peaking category price as proposed by PG&E.

The IOUs shall offer facilities the option to either terminate the contract or to operate at the current ReMAT baseload price of \$89.23/MWh for the duration of the contract once the facility can no longer meet the minimum required high hazard zone fuel requirement.

### **Fuel verification requirements**

PG&E requests that the RAM rider require that the seller submit monthly attestations to the IOU during the delivery period specifying, among other things, the percentage of fuel burned to fulfill the contract that came from designated high hazard zones. Second, the rider should provide the IOUs with the right to audit documentation kept by the counterparty or its third-party contractor that supports the attestation provided by the counterparty.

PG&E's request that the RAM rider require periodic attestations is reasonable and is accepted with modification. Rather than requiring a monthly attestation, IOUs shall require a quarterly attestation, which will minimize the administrative burden for the seller. Facilities should also include the designated high hazard zone from recent CAL FIRE maps as part of the attestation.

The IOUs should require that the seller submit quarterly attestations to the IOU during the delivery period specifying, among other things, the designated high

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hazard zones and the percentage of fuel burned to fulfill the contract that came from designated high hazard zones. The IOUs have the right to audit documentation kept by the counterparty or its third-party contractor that supports the attestation provided by the counterparty.

**Require contract extensions for existing biomass facilities**

CBEA comments that the Commission must require the IOUs to provide long-term contracts with as many of the eligible facilities as possible. The Watershed Center comments that the Commission should require price amendment extensions or contract extensions for facilities that would prefer to continue using their existing contracts and price amendments versus participating in the RAM auction. CAL FIRE recommends that the Commission should order the IOUs to enter into bilateral contracts with facilities, not just "allow" them to enter into bilateral contracts.

The Commission does not have the authority to unilaterally extend or alter contracts between utilities and third parties.

**California Environmental Quality Act (CEQA)**

The CBD commented that this resolution triggered a CEQA review. The Commission has repeatedly found that contracts for power purchases do not equate to a project under CEQA. (See, for example, Resolution E-4171 pp.15-16; Resolution E-467; D.86-06-060 pp.29-30, 21 CPUC 2d 296; D. 86-10-044 pp.16-19, 22 CPUC 2d 114). This Resolution does not authorize any construction, it does not confer a lease, permit, license, certificate, or any other entitlement to build or construct any facilities. Any facilities that may be constructed in the future must go through the CEQA process as appropriate to those specific facilities.

Contracts for power purchases do not equate to a project under CEQA.

**RAM contracts costs considered in Cost Allocation Mechanism (CAM)**

PG&E, SCE, and SDG&E request that the costs of this RAM procurement be allocated among all benefiting customers through the Cost Allocation Mechanism (CAM). The IOUs assert that the benefits conferred by this solicitation are statewide and benefit all California electricity consumers, whether they are served by their utility, Direct Access (DA) or Community

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Choice Aggregation (CCA) providers. Accordingly the costs of the program should and must be shared on a statewide basis - and not paid for solely by bundled ratepayers.

In D.10- 12-048, the Commission mandated that an IOU recovers the costs incurred in meeting its RPS obligation from its bundled sales customers. CAM treatment for the cost of generation procured through RAM would require a modification of the above decision, which is outside the scope of this resolution. Therefore, the IOU's CAM request cannot be authorized by this Resolution.

### **Treatment of excess generation associated with RAM Contracts**

PG&E requests that as part of this Resolution, the Commission should provide assurance that new RAM contracts with the delivery terms proposed in the preceding section will not be deducted from excess generation under the new rules so long as: (1) the Renewable Energy Credit (REC)s associated with the new contracts are retired for use in or after the 2017-2020 RPS compliance period; and (2) the Load serving Entity retiring the RECs meets the statutory requirements to be eligible to use the new banking rules beginning in the 2017-2020 compliance period.

The Commission has not yet issued a decision implementing the new banking rules required by SB 350. Therefore, it is inappropriate for this Resolution to speculate on or provide assurance about future Commission rules and policy. RECs generated under the contracts originating from this solicitation will count toward each LSE's RPS obligations to the extent rules applicable at the time of retiring the RECS allow so.

PG&E's request that all procurement mandated under the Proclamation is bankable under the RPS is outside the scope of this Resolution.

### **FINDINGS**

1. For the purpose of the solicitation authorized herein, the Department of Forestry and Fire Protection, the California Natural Resources Agency, the California Department of Transportation, and the California Energy Commission will designate the high hazard zones for wildfire and falling trees.

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2. Ordering Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company (the Investor-owned utilities or IOUs) to hold a solicitation for facilities that can use biofuel from high hazard zones using the Renewable Auction Mechanism procurement process and standard contract is consistent with Ordering Paragraph 9 of the Tree Mortality Emergency Proclamation.
3. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company holding an expedited Renewable Auction Mechanism auction targeted at facilities (RAM solicitation) is consistent with Ordering Paragraph 9 of the Tree Mortality Emergency Proclamation.
4. One of the objectives of the Resolution is facilitating contracts with existing facilities by removing any regulatory barriers to bilateral contracting.
5. Allowing Pacific Gas and Electric Company and San Diego Gas & Electric to enter into bilateral contracts with facilities receiving feedstock from high hazard zones during the duration of the 2015 Renewables Portfolio Standard solicitation cycle is consistent with Ordering Paragraph 8 of the Tree Mortality Emergency Proclamation.
6. The objective and timing of this Resolution is directed to address specific orders of the Proclamation.
7. The RAM solicitation requires an official designation of high hazard zones.
8. CAL FIRE states that it will complete the initial delineation of high hazard zones by the end of February 2016.
9. The IOUs' Advice Letters consisting of the RAM contract rider must be approved by the Commission before the IOUs can commence the RAM auction.
10. There is considerable uncertainty related to the amount of high hazard fuel available to be utilized by existing biomass facilities.
11. The capacity of several existing biomass facilities exceeds 20 MW.
12. To enable more existing facilities to participate in the solicitation it is reasonable to increase the minimum procurement requirements for the RAM solicitation to 50 MW.



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13. Establishing a higher minimum procurement is not prudent at this time due to the current uncertainty around fuel supply from high hazard zones.
14. Allowing the execution of shorter contracts will provide facilities with more certainty that they will be able meet the minimum fuel requirements.
15. Maintaining a minimum fuel requirement from high hazard zones in the contracts originating from the RAM solicitation is integral to meeting the mandates of the Tree Mortality Emergency Proclamation.
16. A relaxation of the 80% minimum fuel requirement from high hazard zones in the contracts originating from the RAM auction is required to account for short-term constraints regarding fuel supply and long-term constraints regarding the seasonal availability of wood.
17. Starting with a low minimum fuel requirement that increases annually is reasonable.
18. It is reasonable that the RAM rider consist of provisions that address when a facility cannot meet the high minimum hazard fuel requirements.
19. Since biomass facilities are baseload facilities, they should receive the Renewable Market Adjusting Tariff baseload category price for the duration of the contract once the facility can no longer meet the minimum required high hazard zone fuel requirement.
20. The IOUs should offer facilities the option to terminate the contract if the facility can no longer meet the minimum required high hazard zone fuel requirement.
21. Requiring the seller to submit periodic attestations to the IOU during the delivery period is reasonable.
22. Quarterly attestation can meet the attestation requirements without being administratively burdensome.
23. The IOUs right to audit documentation kept by the counterparty or its third-party contractor that supports the attestation provided by the counterparty is reasonable.
24. The Commission does not have authority to unilaterally extend or alter contracts between utilities and third parties.

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25. Consistent with longstanding Commission precedent, approval of this Resolution is not a "project" pursuant to the California Environmental Quality Act.
26. The IOU's request that the costs of the procurement for the RAM auction be allocated among all benefiting customers through Cost Allocation Mechanism is outside the scope of this Resolution.
27. PG&E's request that all procurement mandated under the Tree Mortality Emergency Proclamation be bankable under the Renewable Portfolio Standard is outside the scope of this Resolution.

**THEREFORE IT IS ORDERED THAT:**

1. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company, are ordered to hold a solicitation using a Renewable Auction Mechanism procurement process and standard contract with rider for facilities that can use biofuel from the high hazard zones, as designated pursuant to the Governor's Tree Mortality Emergency Proclamation. The solicitation should be consistent with the parameters on Page 5 and 6 of this Resolution.
2. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are ordered to file Tier 2 Advice Letters consisting of a rider to be used along with the current, approved standard Renewable Auction Mechanism contract for the above solicitation and the solicitation documents, within 21 days from today.
3. Pacific Gas and Electric Company and San Diego Gas & Electric Company are allowed to enter into bilateral contracts with facilities receiving feedstock from high hazard zones during the duration of the 2015 Renewables Portfolio Standard solicitation cycle.

Energy Division's Own Motion Regarding Procurement Utilizing Biofuel  
From High Hazard Zones/MLA

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on March 17, 2016; the following Commissioners voting favorably thereon:

/s/TIMOTHY J. SULLIVAN

TIMOTHY J. SULLIVAN

Executive Director

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners