DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #10417
RESOLUTION E-4405
August 18, 2011

REDACTED

R E S O L U T I O N

Resolution E-4405. Pacific Gas and Electric Company requests approval of a purchase power agreement with North Star Solar, LLC.

PROPOSED OUTCOME: This Resolution denies cost recovery for the long-term renewable energy power purchase agreement between Pacific Gas and Electric Company and North Star Solar, LLC.

ESTIMATED COST: None

By Advice Letter 3759-E Filed on November 12, 2010.

SUMMARY

Pacific Gas and Electric Company's renewable energy power purchase agreement with North Star Solar, LLC is rejected without prejudice.

Pacific Gas and Electric (PG&E) filed Advice Letter (AL) 3759-E on November 12, 2010. In AL 3759-E, PG&E requested the California Public Utilities Commission's (Commission) approval of a renewable purchase power agreement (PPA) with a new solar photovoltaic facility being developed by North Star Solar, LLC. PG&E asserts that for the purpose of meeting RPS targets, PG&E executed a 20-year contract with North Star Solar, LLC resulting from the 2009 RPS Solicitation.

The 60 megawatt (MW) North Star Solar photovoltaic facility (Project or North Star) will be developed in the Westlands Water District near Mendota, California. PG&E states that the Project will be located in a known solar resource area and will deliver approximately 119 gigawatt-hours (GWh) per year of as-available

RPS-eligible energy over a 20-year contract term beginning on June 30, 2013. The first point of interconnection for the Project will be into the California Independent System Operator balancing authority area which PG&E states is likely to be at the Mendota substation.

The Commission rejects, without prejudice, the proposed North Star Solar agreement because the Project is not price competitive with projects that are currently being offered to PG&E. Furthermore, highly viable projects with more competitive pricing currently exist in the marketplace based on results from recent solicitations in 2010 and 2011. This includes PG&E's most recent solicitation in February 2011 to execute on 50 MW of solar photovoltaic (PV) contracts for new PV facilities to be located in PG&E's service territory.

The advice letter is rejected *without prejudice* because if North Star Solar, LLC executes a new agreement with competitive pricing and meets the needs of PG&E's 33% RPS goals, it will be evaluated on its own merits.

The following table summarizes the Project-specific features of the agreement:

Generating Facility	Type	Term Years	MW Capacity	Annual Deliveries	Online Date	Project Location
North Star Solar	Solar PV	20	60	119 GWh	June 30, 2013	Fresno County, CA

NOTICE

Notice of AL 3759-E was made by publication in the Commission's Daily Calendar. Pacific Gas and Electric Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

Advice Letter AL 3759-E was not protested.

DISCUSSION

Overview of RPS Program

The California RPS Program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107 and SB 1036.[1] The RPS program is codified in Public Utilities Code Sections 399.11-399.20.[2] The RPS program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least one percent of retail sales per year so that 20 percent of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[3] Furthermore, SBX1 2 mandates that the amount of electricity generated per year from eligible renewable resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, 25% of retail sales by December 31, 2016, and 33% or retail sales by December 31, 2020.[4]

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm and http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm.

PG&E requests Commission approval of a new renewable energy contract

On November 12, 2010, Pacific Gas and Electric (PG&E) filed Advice Letter (AL) 3759-E. In AL 3759-E, PG&E requested Commission approval of a renewable procurement contract with North Star Solar, LLC for generation from its proposed North Star Solar photovoltaic facility (Project or North Star). The Project is the result of PG&E's 2009 RPS solicitation. The contract price exceeds the 2009 market price referent (MPR).

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[1] SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007).

[2] All further references to sections refer to Public Utilities Code unless otherwise specified.

[3] *See* § 399.15(b)(1).

[4] SBX1 2 was signed by Governor Brown on April 12, 2011. The Commission will begin implementation of the law 60 days from the conclusion of the extraordinary session.

Generation from the Project is expected to contribute an average of 119 gigawatt-hours (GWh) annually towards PG&E's annual procurement target, pursuant to the Commission's renewables portfolio standard (RPS) program. Under the terms of the purchase power agreement (PPA), the Project has a commercial operational date (COD) of June 30, 2013 and is expected to deliver bundled energy (i.e. energy plus the underlying green attribute) to PG&E for a term of 20 years.

The Project will be located in Fresno Country, CA on leased land from the Westlands Water District. Renewable Energy Corporation ASA, one of the two partners in North Star Solar, will provide all of the approximately 300,000 solar PV modules for the Project. North Star's first point of interconnection will be with the California Independent System Operator balancing authority area (CAISO BAA).

PG&E requests that the Commission issue a resolution containing the following findings:

1. Approves the PPA in its entirety, including payments to be made by PG&E pursuant to the PPA, subject to the Commission's review of PG&E's administration of the PPA.
2. Finds that any procurement pursuant to the PPA is procurement from an eligible renewable energy resource for purposes of determining PG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.) ("RPS") D.03-06-071 and D.06-10-050, or other applicable law.
3. Finds that all procurement and administrative costs, as provided by Public Utilities Code section 399.14(g), associated with the PPA shall be recovered in rates.
4. Adopts the following finding of fact and conclusion of law in support of CPUC Approval:

   a. The PPA is consistent with PG&E's 2009 RPS procurement plan.

   b. The terms of the PPA, including the price of delivered energy, are reasonable.
5. Adopts the following finding of fact and conclusion of law in support of cost recovery for the PPA:

a. The utility's costs under the PPA shall be recovered through PG&E's Energy Resource Recovery Account.

b. Any stranded costs that may arise from the PPA are subject to the provisions of D.04-12-048 that authorize recovery of stranded renewables procurement costs over the life of the contract. The implementation of the D.04-12-048 stranded cost recovery mechanism is addressed in D.08-09-012.

6. Adopts the following findings with respect to resource compliance with the Emissions Performance Standard ("EPS") adopted in R.06-04-009:

a. The PPA is not covered procurement subject to the EPS because the generating facility has a forecast capacity factor of less than 60 percent and, therefore, is not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim EPS Rules.

Energy Division Rejects the Proposed Agreement on the Following Grounds:

- Reasonableness of the proposed contract price

Reasonableness of the Proposed Contract Price

The Commission's reasonableness review for RPS contract prices includes a comparison of the proposed PPA to other proposed RPS projects from recent RPS solicitations, bilateral offers that are being negotiated between the utility and developers and recent Commission-approved RPS projects. A contract's price should be competitive with a utility's other offers.

The Commission compared the proposed contract price for the North Star Solar agreement against the prices for competitive projects bid into recent RPS solicitations as well as against prices for contracts that the utility is currently negotiating bilaterally. Specifically, the Commission compared the price of the proposed project with other projects that 1) have online dates that are similar or more near-term than that of North Star Solar agreement, and 2) have been selected or shortlisted from a competitive bidding process or are currently in active bilateral negotiations with PG&E, including PG&E's recent solar photovoltaic solicitation.[5]

[5] PG&E's 2011 Photovoltaic solicitation is the first of five solicitations that the company will be conducting to execute 50 MW of contracts per year for new PV facilities.

The Commission finds that the North Star Solar contract price is unreasonably high compared to other comparable renewable RPS-eligible projects that have been recently offered to PG&E. PG&E provides no additional rationale or justification for this contract price. Accordingly, the North Star Solar agreement should be rejected without prejudice. Refer to Confidential Appendix A for a comparison of North Star Solar's price, viability and value to other comparable projects.

Confidential Information

The Commission, in implementing Pub. Util. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin, except contracts between IOUs and their affiliates, which are public.

The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

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 upon the stipulation of all parties in the proceeding.
The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS AND CONCLUSIONS

1. The North Star Solar proposed contract price is unreasonably high compared to other renewable RPS-eligible projects that have been recently offered to Pacific Gas and Electric Company.
2. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
3. The North Star Solar agreement in AL 3759-E should be rejected effective today, without prejudice.

THEREFORE IT IS ORDERED THAT:

1. The power purchase agreement between Pacific Gas and Electric Company and North Star Solar, LLC proposed in Advice Letter 3759-E is rejected without prejudice.
2. 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 August 18, 2011; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

Confidential Appendix A

Comparison of North Star Solar Pricing, Viability and Value

[REDACTED]