

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

ENERGY DIVISION

ID #8652  
RESOLUTION E-4255  
July 30, 2009

**REDACTED**

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

Resolution E-4255. Pacific Gas and Electric Company (PG&E).  
PROPOSED OUTCOME: This Resolution approves an amendment to PG&E's renewable energy procurement contract with Hatchet Ridge Wind LLC, pursuant to California's renewable portfolio standard program. The amendment results in an extension of the new wind facility's commercial online date by one year. ESTIMATED COST: None beyond the previously approved power purchase agreement costs.

By Advice Letter 3452-E filed on April 27, 2009.

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**SUMMARY**

**PG&E's amended renewable contract complies with the Renewable Portfolio Standard (RPS) procurement guidelines and is approved without modification**

PG&E filed Advice Letter (AL) 3452-E filed on April 27, 2009, requesting Commission review and approval of an amendment (Amendment) to an existing agreement between PG&E and Hatchet Ridge Wind LLC (Hatchet Ridge).<sup>1</sup> The Amendment extends the commercial online date and other project development milestones by one year. PG&E's request is granted without modification.

Generating Facility	Resource Type	Term	Capacity (MW)	Annual (GWh)	Commercial Online Date	Project Location
Hatchet Ridge	Wind	15 years	103 MW	303 GWh	12/31/2010	Burney, California

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<sup>1</sup> The original contact was filed by AL 3367-E on November 21, 2008, and was approved by Resolution E-4222 on February 20, 2009.

The Amendment does not impact the contract price, which was previously determined by the Commission to be reasonable. Therefore, payments for deliveries from this amended contract are fully recoverable in rates over the life of the contract, subject to Commission review of PG&E's administration of the amended contract.

### **Confidential information about the contract should remain confidential**

This resolution finds that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583, General Order (G.O.) 66-C, and D.06-06-066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

### **BACKGROUND**

#### **The RPS Program requires each utility to increase the amount of renewable energy in its portfolio**

The California RPS Program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107 and SB 1036. The RPS program is set forth in Pub. Util. Code §§ 399.11-399.20. An RPS is a market-based policy mechanism that requires a retail seller of electricity purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). Under the California RPS, each utility is required to increase its total procurement of ERRs by at least 1 percent of annual retail sales per year so that, subject to the Commission's rules on flexible compliance, 20 percent of its retail sales are supplied by ERRs by 2010.<sup>2</sup>

#### **PG&E requests approval of contract amendments**

On April 27, 2009, PG&E filed AL 3452-E requesting Commission approval of an amendment to a Commission approved renewable procurement contract. The Amendment extends the project's commercial online date (COD) and other project development milestones by one year, which will allow the agreement between the parties to remain viable. The online date is the only substantive term of the contract that would be changed if the amendment is approved. The quantity of renewable energy to be delivered and the price of the energy will not be affected by the proposed Amendment. Commission approval will facilitate the development of incremental supplies of renewable resources and contribute

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<sup>2</sup> On November 17, 2008, Governor Schwarzenegger signed Executive Order S-14-08, which established a 33 percent PRS target by 2020.

towards the state's renewables procurement and greenhouse gas emission reduction goals required by California's RPS and climate change statutes.<sup>3</sup>

**PG&E requests final "CPUC Approval" of contract amendments**

PG&E requests that Commission approve a resolution which:

1. Finds that entry into the Amendment is reasonable;
2. Approves the Amendment in its entirety;
3. Finds that the Amendment has no effect upon the RPS eligibility of the project.

**NOTICE**

Notice of AL 3452-E was made by publication in the Commission's Daily Calendar. PG&E states that copies of the Advice Letter were mailed and distributed in accordance with Section IV of General Order 96-B.

**PROTESTS**

On May 18, 2009, Californians for Renewable Energy, Inc. (CARE) filed a timely protest with the Commission. PG&E filed a timely response with the Commission on May 26, 2009.

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<sup>3</sup> California Public Utilities Code sections 399.11-399.20 and California Health and Safety Code 38500-38501, respectively.

**DISCUSSION**

**Description of the amended contract**

The following table summarizes the substantive features of the amended contract. The online date reflects the one-year extension pursuant to the Amendment.

<b>Generating Facility</b>	<b>Resource Type</b>	<b>Term</b>	<b>Capacity<sup>4</sup> (MW)</b>	<b>Annual (GWh)</b>	<b>Commercial Online Date</b>	<b>Project Location</b>
Hatchet Ridge	Wind	15 years	103 MW	303 GWh	<b>12/31/2010</b>	Burney, California

The Amendment was executed by the parties to permit additional time for the developer to secure financing for the project. The proposed Amendment results in a one-year extension of the project's guaranteed commercial operation date. Specifically, the Hatchet Ridge wind facility is now expected to achieve commercial operation by December 31, 2010. The original PPA, which was approved on February 20, 2009 by Resolution E-4222, is otherwise unchanged. See Confidential Appendix A for detailed description of the Amendment.

While the PPA price is unchanged by the Amendment, the later commercial online date results in a smaller requirement of above-market funds (AMFs) for the project.<sup>5</sup> See Confidential Appendix B for detailed description of the Amendment's impact on PG&E's AMFs and Confidential Appendix C for documentation of PG&E's AMF account balance.

Each year, the Commission adopts by resolution, the market price referent (MPR) for use in the annual RPS solicitations.<sup>6</sup> The MPR functions to deem per se

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<sup>4</sup> Since resolution E-4222 was approved, the parties executed the agreement to have PG&E procure 100 percent of the wind generation from the project. Resolution E-4222 authorized PG&E to procure a minimum of 76 percent of the project's output and permitted PG&E to procure 100 percent, pursuant to the PPA terms and conditions.

<sup>5</sup> The PPA price exceeds the applicable 2005 MPR.

<sup>6</sup> The MPR functions to deem per se reasonable, and allow to be recovered in rates, procurement and administrative costs associated with long-term contracts which result from a competitive solicitation.

reasonable, and allow to be recovered in rates, procurement and administrative costs associated with long-term contracts which result from a competitive solicitation. The annual MPR resolution produces a matrix of MPR values differentiated by the length of contract term and project online date. Because the 2005 MPR for a 15-year contract with a 2011 online date is greater than the 2010 online date, the amended contract requires less AMFs.<sup>7</sup>

### **The project remains viable**

The Amendment considered herein identifies agreed upon project milestones. The Sellers' obligations to meet these milestones are supported by performance assurance securities.

### **CARE's protest is denied**

CARE filed a protest in response to AL 3452-E on the grounds that (i) wind generation from the facility in the later years of the contract term may require transmission system regulation and load following services, which then may result in additional Carbon Dioxide production; and (ii) because of concerns CARE has regarding the environmental impact report adopted for Hatchet Ridge.<sup>8</sup> In its reply, PG&E argues that CARE's protest is outside the scope of AL 3452-E.

We have carefully considered CARE's protest and determine that the issues raised are outside the scope of this resolution. Specifically, CARE's concerns regarding the greenhouse gas emission impacts of integrating incremental wind generation is a policy level question not appropriate for consideration here. Similarly, CARE's protest based of the veracity of the environmental impact report (EIR) adopted for the Hatchet Ridge Wind project is also out of scope. PG&E's advice letter does not propose any physical changes to the previously approved project. It only seeks to extend the online date of the project by one year. This advice letter is not the proper venue for CARE to re-litigate settled issues. Accordingly, we deny CARE's protest.

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<sup>7</sup> The Commission adopted eligibility criteria and guidelines for approving requests for above-market costs of renewable energy contracts in resolution E-4199. [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/98603.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/98603.pdf)

<sup>8</sup> The Shasta County Department of Resource Management was the lead agency under the California Environmental Quality Act for the environmental review of Hatchet Ridge.

## **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 nor 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**

1. The RPS Program requires each utility, including PG&E, to increase the amount of renewable energy in its portfolio to 20 percent by 2010, increasing by a minimum of one percent per year.
2. PG&E filed AL 3452-E on April 27, 2009 requesting Commission review and approval of an Amendment to its renewable energy contract with Hatchet Ridge Wind LLC.
3. The original contract between PG&E and Hatchet Ridge Wind LLC was approved on February 20, 2009 by Resolution E-4222.
4. CARE protested AL 3452-E on May 18, 2009 and PG&E responded on May 26, 2009.
5. CARE's protest is denied because the issues raised are outside the scope of this resolution.
6. Procurement pursuant to the amended contract 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"), Decision ("D.") 03-06-071 and D.06-10-050, or other applicable law.
7. The payments made under the amended contract between PG&E and Seller are reasonable and in the public interest; accordingly, the payments to be made by PG&E are fully recoverable in rates over the life of the project, subject to Commission review of PG&E's administration of the contract.

8. The payments made under the amended contract including all renewable procurement and administrative costs identified in Section 399.14(g) shall be recovered in rates.
9. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the confidential appendices, marked "[REDACTED]" in the redacted copy, should not be made public upon Commission approval of this resolution.
10. The amended contract is reasonable and should be approved.
11. AL 3452-E should be approved effective today.

**THEREFORE IT IS ORDERED THAT:**

1. Pacific Gas and Electric Company's Advice Letter 3452-E, requesting Commission review and approval of an amendment to its renewable energy contract with Hatchet Ridge Wind LLC, is approved.

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 July 30, 2009; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

# **Confidential Appendix A**

## **Summary of the Amendment**

**[REDACTED]**

## **Confidential Appendix B**

### **Above-MPR Funds Calculation**

**[REDACTED]**

## **Confidential Appendix C**

### **PG&E's Above-MPR Funds Account Balance**

**[REDACTED]**