

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

**ENERGY DIVISION**

**I.D. #8045  
RESOLUTION E-4204  
November 21, 2008**

**REDACTED**

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

Resolution E-4204. Pacific Gas and Electric Company (PG&E) requests approval of a renewable resource procurement contract, with a new renewable facility, which resulted from PG&E's 2006 Renewables Portfolio Standard solicitation. This contract is approved without modification.

By Advice Letter 3292-E filed on July 1, 2008 and Supplemental Advice Letter 3292-E-A filed on August 8, 2008.

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**SUMMARY**

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

PG&E filed Advice Letter (AL) 3292-E on July 1, 2008, requesting Commission review and approval of a power purchase agreement (PPA) executed with Arlington Wind Power Project, LLC (Arlington). PG&E's request for approval of a renewable resource procurement contract is granted pursuant to Decision (D.) 06-05-039. The energy acquired from this PPA will count towards PG&E's RPS requirements.

<b>Generating Facility</b>	<b>Resource Type</b>	<b>Term</b>	<b>Capacity (MW)</b>	<b>Annual (GWh)</b>	<b>Online Date</b>	<b>Project Location</b>
Rattlesnake Road Wind (Arlington)	Wind	15 years	103 MW	240 GWh	Expected: 12/31/2008 Guaranteed: 8/31/2009	Gilliam County, Oregon

Deliveries from the PPA are reasonably priced and fully recoverable in rates over the life of the contract; subject to Commission review of PG&E's administration of the 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 California Renewables Portfolio Standard (RPS) Program was established by Senate Bill 1078<sup>1</sup> and codified by California Pub. Util. Code Section 399.11, et seq. The statute required that a retail seller of electricity such as PG&E purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). Originally, each utility was required to increase its total procurement of ERRs by at least 1 percent of annual retail sales per year until 20 percent is reached, subject to the Commission's rules on flexible compliance, no later than 2017.

The State's Energy Action Plan (EAP) called for acceleration of this RPS goal to reach 20 percent by 2010.<sup>2</sup> This was reiterated again in the Order Instituting Rulemaking (R.04-04-026) issued on April 28, 2004,<sup>3</sup> which encouraged the utilities to procure cost-effective renewable generation in excess of their RPS annual procurement targets (APTs)<sup>4</sup>, in order to make progress towards the goal expressed in the EAP. On September 26, 2006, Governor Schwarzenegger signed

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<sup>1</sup> Chapter 516, statutes of 2002, effective January 1, 2003 (SB 1078)

<sup>2</sup> The Energy Action Plan was jointly adopted by the Commission, the California Energy Resources Conservation and Development Commission (CEC) and the California Power Authority (CPA). The Commission adopted the EAP on May 8, 2003.

<sup>3</sup> [http://www.cpuc.ca.gov/Published/Final\\_decision/36206.htm](http://www.cpuc.ca.gov/Published/Final_decision/36206.htm)

<sup>4</sup> APT - An LSE's APT for a given year is the amount of renewable generation an LSE must procure in order to meet the statutory requirement that it increase its total eligible renewable procurement by at least 1% of retail sales per year.

Senate Bill (SB) 107,<sup>5</sup> which officially accelerates the State's RPS targets to 20 percent by 2010, subject to the Commission's rules on flexible compliance.<sup>6</sup>

### **CPUC has established procurement guidelines for the RPS Program**

The Commission has issued a series of decisions that establish the regulatory and transactional parameters of the utility renewables procurement program. On June 19, 2003, the Commission issued its "Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program," D.03-06-071.<sup>7</sup> On June 9, 2004, the Commission adopted its Market Price Referent (MPR) methodology<sup>8</sup> for determining the Utility's share of the RPS seller's bid price, as defined in Pub. Util. Code Sections 399.14(a)(2)(A) and 399.15(c). On the same day the Commission adopted standard terms and conditions for RPS power purchase agreements in D.04-06-014 as required by Pub. Util. Code Section 399.14(a)(2)(D). Instructions for evaluating the value of each offer to sell products requested in a RPS solicitation were provided in D.04-07-029.<sup>9</sup>

On December 15, 2005, the Commission adopted D.05-12-042 which refined the MPR methodology for the 2005 RPS Solicitation.<sup>10</sup> Subsequent resolutions adopted MPR values for the 2005, 2006 and 2007 RPS Solicitations.<sup>11</sup> In addition, D.06-10-050, as modified by D.07-03-046 and D.08-05-029,<sup>12</sup> further refined the RPS reporting and compliance methodologies.<sup>13</sup> In this decision, the

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<sup>5</sup> Chapter 464, Statutes of 2006 (SB 107)

<sup>6</sup> Pub. Util. Code Section 399.14(a)(2)(C)

<sup>7</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/27360.PDF](http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/27360.PDF)

<sup>8</sup> D.04-06-015; [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/37383.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/37383.pdf)

<sup>9</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/38287.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/38287.PDF)

<sup>10</sup> [http://www.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/52178.pdf](http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/52178.pdf)

<sup>11</sup> Respectively, Resolution E-3980:

[http://www.cpuc.ca.gov/WORD\\_PDF/FINAL\\_RESOLUTION/55465.DOC](http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/55465.DOC),  
Resolution E-4049:

[http://www.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/63132.doc](http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/63132.doc), Resolution E-4118: [http://www.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/73594.pdf](http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/73594.pdf)

<sup>12</sup> D.08-05-029 adopted RPS rules specific for small and multi-jurisdictional utilities.  
[http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/83534.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/83534.PDF)

Commission established methodologies to calculate an LSE's initial baseline procurement amount, annual procurement target (APT) and incremental procurement amount (IPT).<sup>14</sup>

More recently, the Commission has implemented Pub. Util. Code 399.14(b)(2), which states that before the Commission can approve an RPS contract of less than ten years' duration, the Commission must establish "for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration (long-term contracts) or from new facilities commencing commercial operations on or after January 1, 2005." On May 3, 2007, the Commission approved D.07-05-028, which established a minimum percentage of the prior year's retail sales (0.25%) that must be procured with contracts of at least 10 years' duration or from new facilities in order for short-term contracts to be used towards RPS compliance.

### **CPUC requires standard terms and conditions for RPS contracts**

The Commission set forth standard terms and conditions (STCs) to be incorporated into RPS agreements, including bilateral contracts, in D.04-06-014 (as modified by several subsequent decisions).<sup>15, 16</sup> The Commission originally identified several STCs in confidential Appendix B of D.04-06-014 as "may not be modified". On November 16, 2007, the Commission adopted D.07-11-025, which reduced the number of non-modifiable terms from nine to four and refined the language of some of these terms in response to an amended petition for

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<sup>13</sup> D.06-10-050, Attachment A,  
[http://www.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/61025.PDF](http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/61025.PDF) as modified by  
D.07-03-046 [http://www.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/65833.PDF](http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/65833.PDF).

<sup>14</sup> The IPT represents the amount of RPS-eligible procurement that the LSE must purchase, in a given year, over and above the total amount the LSE was required to procure in the prior year. An LSE's IPT equals at least 1% of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts.

<sup>15</sup> D.07-02-011 (as modified by D.07-05-057)  
[http://www.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/68383.pdf](http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/68383.pdf)

<sup>16</sup> D.07-11-025, Attachment A  
[http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/75354.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/75354.PDF)

modification of D.04-06-014.<sup>17</sup> The remaining non-modifiable STCs include “CPUC Approval”, “Definition of RECs and Green Attributes”, “Eligibility” and “Applicable law”. On April 10, 2008 the Commission adopted D.08-04-009, which compiled RPS STCs into one decision.<sup>18</sup> Most recently, on August 21, 2008 the Commission adopted D.08-08-028, which modified STC #2 the “Definition of RECs and Green Attributes.”<sup>19</sup>

**Pursuant to SB 1036, the process for above-market cost recovery has been modified**

Pursuant to SB 1078 and SB 107, the California Energy Commission (CEC) was authorized to “allocate and award supplemental energy payments” to cover above-market costs<sup>20</sup> of long-term RPS-eligible contracts executed through a competitive solicitation.<sup>21</sup> The CEC required that developers seeking above-market costs to apply to the CEC for supplemental energy payments (SEPs).

This above-market cost recovery mechanism was reformed on October 14, 2007 with the passage of SB 1036,<sup>22</sup> which authorizes the CPUC to provide cost recovery through rates for the total costs of above-MPR contracts, when the contracts are deemed reasonable. Above-MPR cost recovery has a ‘cost limitation’ equal to the amount of funds accrued in the CEC’s New Renewable Resources Account, which had been established to collect SEP funds, plus the portion of funds which would have been collected through January 1, 2012. SB 1036 also sets forth a number of eligibility criteria that the CPUC must apply

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<sup>17</sup> On February 1, 2007, PG&E and SCE jointly filed a petition for modification of D.04-06-014. On May 22, 2007, a PD was filed and served. Prior to the PD being voted on by the Commission, PG&E and SCE filed an amended petition for modification of D.04-06-014.

<sup>18</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/81269.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/81269.PDF)

<sup>19</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/86954.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/86954.pdf)

<sup>20</sup> Note: “above-market costs” refers to the portion of the contract price that is greater than the appropriate market price referent.

<sup>21</sup> Former Pub. Util. Code 399.15(d) pursuant to SB 107 (2006)

<sup>22</sup> Chapter 685, Statutes of 2007 (SB 1036)

when awarding above-MPR cost recovery.<sup>23</sup> The CEC and CPUC are working collaboratively to implement SB 1036, which became effective January 1, 2008.<sup>24</sup>

### **California Energy Commission (CEC) certifies out-of-state facilities for RPS compliance**

The CEC is responsible for certifying the RPS-eligibility of renewable facilities located out-of-state which have their first point of interconnection to the WECC transmission system. The guidelines for certifying out-of-state facilities can be found in the CEC's *Renewables Portfolio Standard Eligibility Guidebook*.<sup>25</sup>

### **Interim Greenhouse Gas Emissions Performance Standard (EPS) established emission rate limitations for long-term electricity procurement**

A greenhouse gas emissions performance standard (EPS) was established by Senate Bill 1368,<sup>26</sup> which requires that the Commission consider emissions costs associated with new long-term (five years or greater) power contracts procured on behalf of California ratepayers.

On January 25, 2007, the Commission approved D.07-01-039 which adopted an interim EPS that establishes an emission rate quota for obligated facilities to levels no greater than the GHG emissions of a combined-cycle gas turbine (CCGT) powerplant.<sup>27</sup> The EPS applies to all long-term energy contracts for

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<sup>23</sup> Pub. Util. Code § 399.15(d)(2)

<sup>24</sup> CPUC implemented the rate-making aspects of SB 1036 in Resolution E-4160 (April 10, 2008). The CPUC held a workshop on the remaining implementation issues surrounding the above-MPR funds on May 29, 2008. Website:  
<http://www.cpuc.ca.gov/PUC/energy/electric/RenewableEnergy/SB1036implementation.htm>

<sup>25</sup> <http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-ED3-CMF.PDF>

<sup>26</sup> Chapter 598, Statutes of 2006 (SB 1368)

<sup>27</sup> D.07-01-039, which implements SB 1368, adopted an emission rate of 1,100 pounds of carbon dioxide per megawatt-hour for the proxy CCGT (section 1.2, page 8)  
[http://www.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/64072.PDF](http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/64072.PDF)

baseload generation.<sup>28</sup> Renewable energy contracts are deemed EPS compliant with the EPS except in cases where intermittent renewable energy is shaped and firmed with generation from non-renewable resources.<sup>29</sup> If the renewable energy contract is shaped and firmed with a specified energy source that is considered baseload generation, then the energy source must individually meet the EPS. If, however, the intermittent energy is firmed and shaped with an unspecified energy source (e.g. system power), then D.07-01-039 specifically defines the following eligibility condition:<sup>30</sup>

For specified contracts with intermittent renewable resources (defined as solar, wind and run-of-river hydroelectricity), the amount of substitute energy purchases from unspecified resources is limited such that total purchases under the contract (whether from the intermittent renewable resource or from substitute unspecified sources) do not exceed the total expected output of the specified renewable powerplant over the term of the contract.

### **PG&E requests approval of renewable energy contract**

On July 1, 2008 PG&E filed AL 3292-E requesting Commission approval of a renewable procurement contract. The PPA results from PG&E's 2006 RPS Solicitation. On August 8, 2008, PG&E filed Supplemental AL 3292-E-A, to provide the Independent Evaluator report for PG&E's 2006 RPS Solicitation. If approved, PG&E is authorized to accept future deliveries of incremental supplies

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<sup>28</sup> "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." § 8340 (a)

<sup>29</sup> Terms "shaping" and "firming" are defined in the CPUC Report, "RENEWABLE ENERGY CERTIFICATES AND THE CALIFORNIA RENEWABLES PORTFOLIO STANDARD PROGRAM," refer to page 20 and A-1, respectively. "Shaping" refers to contractual arrangements whereby renewable energy, like the output of a wind generator, is delivered to some third party, displacing the output from some flexible resource, typically a hydro facility. This, in effect, stores the renewable energy which is then redelivered to the purchasing LSE at some later time. "Firming" refers to the process by which a backup resource is used to supplement the output of an intermittent resource to ensure that the total energy provided is sufficient to meet customer load.

<sup>30</sup> D.07-01-039, Conclusion of Law 40. Note: These compliance rules specifically apply to IOUs, additional compliance rules may apply to other RPS-obligated load serving entities.

of renewable resources and contribute towards the 20 percent renewables procurement goal required by California's RPS statute.<sup>31</sup>

### **PG&E requests final "CPUC Approval" of PPA**

PG&E requests that Commission approve a resolution which:

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"), Decision ("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 PPA cost recovery:
  - a. The PPA is consistent with PG&E's approved 2006 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 PPA cost recovery for the PPA:
  - a. The utility's cost of procurement under the PPA shall be recovered through PG&E's Energy Resource Recovery Account.

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<sup>31</sup> California Public Utilities Code section 399.11 et seq., as interpreted by D.03-07-061, the "Order Initiating Implementation of the Senate Bill 1078 Renewables Portfolio Standard Program", and subsequent CPUC decisions in R.04-04-026; R.06-02-012; R.06-05-027 and R.08-08-009.

- 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 being addressed in Rulemaking ("R.") 06-02-013.
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 a covered procurement subject to the EPS because the generating facility has a forecast annualized 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.
  - b. Arlington's renewable generating facility is an intermittent renewable energy resource, for purposes of compliance with the EPS adopted in R.06-04-009.
  - c. The use of system energy to deliver electricity under the terms of the PPA is consistent with the Commission's adopted greenhouse gas emission performance standards.

**In D.02-08-071, the Commission required each utility to establish a Procurement Review Group (PRG).**

The members of a PRG, subject to an appropriate non-disclosure agreement, have the right to consult with the utilities and review the details of each utility's:

1. Overall transitional procurement needs and strategy;
2. Proposed procurement processes including, but not limited to, the requests for offers (RFOs); and
3. Proposed procurement contracts before any of the contracts are submitted to the Commission for expedited review and approval.

The PRG for PG&E consists of: California Department of Water Resources (DWR), the Commission's Energy Division, Natural Resources Defense Council (NRDC), Union of Concerned Scientists (UCS), Division of Ratepayer Advocates (DRA), Coalition of California Utility Employees (CUE) and The Utility Reform Network (TURN).

PG&E informed the PRG of the proposed transaction on July 11, 2007 and March 14, 2008. The PRG did not object to PG&E's decision to enter into this contract or PG&E's decision to submit it for CPUC approval by advice letter.

Although Energy Division is a member of the PRG, it reserved judgment on the contracts until the advice letter was filed. Energy Division reviewed the transaction independently of the PRG, and allowed for a full protest period before concluding its analysis.

### **Commission has adopted minimum quotas for long-term RPS contracting**

Pub. Util. Code 399.14(b)(2) states that before the Commission can approve an RPS contract of less than ten years' duration, the Commission must establish "for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005." On May 3, 2007, the Commission approved D.07-05-028<sup>32</sup> which established a minimum percentage of the prior year's retail sales that must be contracted with contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005. As a new, long-term contract, deliveries from Arlington will contribute to PG&E's minimum quota requirement.

### **NOTICE**

Notice of AL 3292-E and AL 3292-E-A were made by publication in the Commission's Daily Calendar. Pacific Gas and Electric states that copies of the Advice Letter was mailed and distributed in accordance with Section IV of General Order 96-B.

### **PROTESTS**

PG&E's AL 3292-E was timely protested on July 21, 2008 by DRA. DRA recommends that the Commission reject PG&E's AL 3292-E without prejudice because DRA believes that the PPA violates the California EPS<sup>33</sup> and because the price of the PPA is not reasonable.<sup>34</sup> The basis of DRA's protest is that PG&E's proposed PPA concerns an out-of-state project, and moreover that PG&E is not a

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<sup>32</sup> [http://www.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/67490.PDF](http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/67490.PDF)

<sup>33</sup> DRA protest, p. 5

<sup>34</sup> *Ibid*

party to the firming and shaping agreement necessary to import the intermittent generation.<sup>35</sup>

On July 28, 2008 PG&E responded to the protest from DRA. In response, PG&E argues that its PPA with Arlington meets all Commission requirements for compliance with the EPS and is reasonably priced. Specifically, PG&E states that its PPA meets all relevant EPS requirements identified in D.07-01-039 for RPS eligible generation that is firming and shaped with unspecified power and that the PPA is reasonably priced relative to other RPS offers.<sup>36</sup>

## **DISCUSSION**

### **Description of the project**

The following table summarizes the substantive features of the PPA. See confidential Appendix B for a discussion of the PPA's terms and conditions, including price.

<b>Generating Facility</b>	<b>Resource Type</b>	<b>Term</b>	<b>Capacity (MW)</b>	<b>Annual (GWh)</b>	<b>Online Date</b>	<b>Project Location</b>
Rattlesnake Road Wind (Arlington)	Wind	15 years	103 MW	240 GWh	Expected: 12/31/2008 Guaranteed: 8/31/2009	Gilliam County, Oregon

Through its proposed PPA with Arlington, PG&E will procure total generation from the facility throughout the 15-year contract term. Arlington is a new wind project under development in Gilliam County, Oregon, with deliveries expected to commence by the end of 2008. Energy deliveries under the PPA include firming and shaping of the facility's intermittent generation to provide PG&E RPS eligible generation at the California-Oregon Border (COB). The firming and shaping agreement exists between Arlington and a third party firming and shaping service provider. See Appendix A for a schematic diagram of PPA's

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<sup>35</sup> The California Independent System Operator requires that California utilities' energy imports are firm; therefore, out-of-state intermittent generation must be firming and shaped for delivery.

<sup>36</sup> PG&E Response, pp. 2 - 6

delivery structure and confidential Appendix B for details of the firming and shaping agreement.

**Energy Division has reviewed the proposed PPA based upon multiple grounds:**

- Consistency with PG&E's 2006 RPS procurement plan
- Consistency with RPS Standard Terms and Conditions (STC)
- Reasonableness of the levelized all-in price
- Compliance with the Interim Emissions Performance Standard (EPS)
- Consideration of DRA's protest
- Project viability

**PPA is consistent with PG&E's CPUC adopted 2006 RPS Plan**

California's RPS statute requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility.<sup>37</sup> PG&E's 2006 RPS procurement plan (Plan) was approved by D.06-05-039 on May 25, 2006. Pursuant to statute, the plan includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of flexible compliance mechanisms established by the Commission, and a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.<sup>38</sup>

The stated goals of PG&E's 2006 Plan was to procure approximately 1-2 percent of retail sales volume or between 727 and 1,454 GWh per year, with delivery terms of 10, 15, or 20 years. Participants could submit offers for four specific products - as-available, baseload, peaking and/or dispatchable resources. The PPA is consistent with PG&E's goal of procuring energy from projects with deliveries expected to contribute towards 20% renewables in 2010.

On August 8, 2008 PG&E filed Supplemental AL 3292-E-A, which included the Independent Evaluator report for PG&E's 2006 RPS Solicitation. In the report, PG&E's Independent Evaluator<sup>39</sup> explains that Arlington, the sixth executed PPA

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<sup>37</sup> Pub. Util. Code, Section §399.14

<sup>38</sup> Pub. Util. Code, Section §399.14(a)(3)

<sup>39</sup> Sedway Consulting, Inc. served as independent evaluator for PG&E's 2006 RPS Solicitation.

resulting from PG&E's 2006 RPS Solicitation, is consistent with the Solicitations objectives and that the PPA was negotiated fairly and appropriately.

#### PPA selection consistent with RPS Solicitation Protocol

The PPA is consistent with the RPS plan because it was achieved through PG&E's adherence to its CPUC approved Solicitation Protocol:

1. PG&E generally followed the RPS Solicitation schedule set forth in its Solicitation Protocol, but ultimately, the schedule for concluding negotiations was necessarily extended.<sup>40</sup>
2. Using the approved bid solicitation protocol and forms of power purchase agreements, PG&E commenced its solicitation on June 30, 2006. Bids were received until September 8, 2006, consistent with the published schedule. All of the accepted bids conformed to the RPS protocol; that is, they offered power from eligible renewable energy resources, they were submitted using the standard forms, they executed the bid protocol and confidentiality agreements, and they posted the required bid deposit. One bid was disqualified because of its reliance on natural gas at levels greater than the CEC's eligibility requirements for hybrid projects.
3. These bids were evaluated and scored in the manner prescribed in the Solicitation Protocol. In particular, evaluation of the offer price took into account PG&E's published Time of Delivery factors and imputed the potential cost of transmission adders. PG&E scored the offers pursuant to a methodology that considered market valuation, portfolio fit, credit and other non-price factors of the Solicitation Protocol.
4. The bids were ranked according to the protocols, and were placed on PG&E's "Short List" and presented to PG&E's PRG on October 26, 2006. PG&E notified short-listed bidders and PG&E negotiations with short-listed bidders began once they submitted the required bid deposit. The interim results of negotiations were presented to the PRG on several occasions between December 14, 2006 and May 30, 2007. At those meetings, PRG members discussed the importance that the Arlington contract ensures compliance with the emissions performance standard, no

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<sup>40</sup> On December 6, 2007, the three large IOUs were granted an extension by letter from the Executive Director (CPUC) on the date by which contracts eligible for earmarking in 2006 must be executed and submitted to the CPUC for approval.

PRG members objected to PG&E proceeding to execute the PPA presented by this advice letter.

5. PG&E submitted its "Shortlist Report" to the CPUC on December 22, 2006.<sup>41</sup> The Shortlist Report consists of PG&E's Least-Cost Best-Fit Evaluation report, the Independent Evaluator's report and PG&E's confidential Shortlist selection. PG&E's Shortlist Report conformed to the format developed by Energy Division Staff.

### **Bid evaluation process consistent with Least-Cost Best Fit (LCBF) criteria**

The LCBF decision directs the utilities to use certain criteria in their bid ranking.<sup>42</sup> Specifically, the decision offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence serious negotiations. Much of the bid ranking criteria described in the LCBF decision is incorporated in PG&E's Solicitation Protocol and is discussed below.

The Commission has issued several decisions that require PG&E to employ an Independent Evaluator (IE) in RPS Solicitations.<sup>43</sup> On December 22, 2006, PG&E submitted its 2006 Shortlist Report which included a report from the IE employed to oversee PG&E's 2006 RPS Solicitation. The IE report provided an assessment of PG&E's 2006 RPS Solicitation and specifically addressed the design and administration of PG&E's LCBF evaluation process, and the reasonableness of PG&E's shortlist selections. PG&E's IE concluded in its report that PG&E performed reasonable outreach activities for its 2006 Solicitation, and provided adequate guidance for potential bidders on its website and at its open pre-solicitation bidder's conference. The IE report also stated that PG&E conducted a fair, consistent and effective evaluation of the offers without bias, and made the appropriate selection decisions in its 2006 RPS Solicitation Shortlist.

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<sup>41</sup> PG&E's 2006 Renewables Portfolio Standard Short List Report, December 22, 2006 (R.06-05-027).

<sup>42</sup> D.04-07-029

<sup>43</sup> D.04-12-048 (Findings of Fact 94-95, Ordering Paragraph 28) and D.06-05-039 (Finding of Fact 20, Conclusion of Law 3, Ordering Paragraph 8).

### Market Valuation

In its “mark-to-market analysis,” PG&E compares the present value of the bidder’s payment stream with the present value of the product’s market value to determine the benefit (positive or negative) from the procurement of the resource, irrespective of PG&E’s portfolio. Offer benefits are the market value of the energy, capacity, and ancillary services. PG&E evaluates the bid price and indirect costs, such as debt equivalence, and the costs to the utility transmission system caused by interconnection of the resource to the grid or integration of the generation into the system-wide electrical supply.<sup>44</sup> The benefit/cost analysis yields a Net Market Value; a \$/MWh comparison of the value of generation from a proposed contract and PG&E’s forward curve, or its proxy for firm system energy.

### Portfolio Fit

Portfolio fit considers how well an offer’s features match PG&E’s portfolio needs, with special consideration of project online date and generation profile. This analysis includes the anticipated transaction costs involved in any energy remarketing (i.e., the bid-ask spread) if the contract adds to PG&E’s net long position. Because these deliveries are anticipated to occur at a time when PG&E is experiencing moderate need for baseload energy, the acceptance of these baseload deliveries should not result in significant remarketing costs.

### Consideration of Transmission Adders

The RPS statute requires the “least cost, best fit” eligible renewable resources to be procured. Under the RPS program, the potential customer cost to accept energy deliveries from a particular project must be considered when determining a project’s value for bid ranking purposes. PG&E’s 2006 transmission ranking cost report (TRCR)<sup>45</sup> identified the remaining available transmission capacity and upgrade costs for PG&E substations at which renewable resources are expected to interconnect. PG&E determined the TRCR cluster at which each shortlisted project would interconnect to the transmission grid. Consistent with Commission Decisions, based on the potential transmission congestion, the associated proxy transmission network upgrades and the associated capital costs that may be need

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<sup>44</sup> PG&E’s RPS Renewable Energy Procurement Plan, June 30, 2006, section XI, page (p.) 34-35.

<sup>45</sup> PG&E’s 2006 Transmission Ranking Cost Report, filed March 15, 2006

to accommodate delivery at this cluster, PG&E assigned a transmission adder to each Offer for evaluation.

### Terms and Conditions of Delivery

Pursuant to the PPA, delivery point for the firm and shaped power will be COB. PG&E will be the scheduling coordinator for deliveries at COB and the firming and shaping service provider will be responsible for scheduling Arlington's generation throughout the delivery term.

### **Consistency with Adopted Standard Terms and Conditions**

The proposed PPA conforms to the Commission's decisions requiring STCs for RPS contracts.

### "May Not be Modified" Terms

The PPA does not deviate from the non-modifiable terms and conditions.

### "May be Modified" Terms

During the course of negotiations, the parties identified a need to modify some of the modifiable standard terms in order to reach agreement. These terms had all been designated as subject to modification upon request of the bidder in Appendix A of D.08-04-009.

### **PPA Price is Reasonable**

While PG&E's proposed PPA exceeds the MPR, we determine that PG&E's PPA with Arlington is reasonably priced.<sup>46</sup> Specifically, the price is reasonable when compared to other RPS contracts from PG&E's 2006 and 2007 RPS solicitations. In addition to providing near-term deliveries that will contribute to PG&E's 2010 RPS goal, the intermittent generation is firm and shaped, which results in firm 7 X 24 deliveries and incremental resource adequacy benefits.<sup>47</sup>

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<sup>46</sup> Pursuant to SB 1036 (2007), the Commission is authorized to approve cost recovery through rates for RPS contracts which exceed the MPR.

<sup>47</sup> Resource Adequacy (RA) is a mandatory planning and procurement process. The intent of the Resource Adequacy program is to ensure adequate capacity is under contract to meet the needs CPUC jurisdictional load serving entities. The CPUC's RA program is implemented in R.08-01-025. Website (last visited October 21, 2008): <http://www.cpuc.ca.gov/PUC/hottopics/1Energy/R0404003.htm>

**PPA is consistent with SB 1036 requirements and will count towards PG&E's Above-MPR Funds (AMFs) cost limitation**

SB 1036, effective January 1, 2008 set forth five conditions, codified in Pub. Util. Code § 399.15(d)(2), for PPAs to be counted toward the cost limitation. The Arlington PPA satisfies the conditions:

- Selected through PG&E's 2006 competitive solicitation; the PPA is consistent with PG&E's approved procurement plan,
- PPA is at least 10 years in duration,
- PPA concerns a new facility,
- PPA does not concern unbundled renewable energy credits, and
- PPA does not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.

The Commission issued Draft Resolution E-4160 on March 12, 2008, which proposes additional eligibility and reasonableness review standards for contracts requesting above-market funds. On March 28, 2008, however, the Executive Director of the Commission granted a Joint Party Request to bifurcate out some issues addressed in the Draft Resolution in order to obtain additional party comments on issues related to establishing the cost limitation and administering the AMFs. Resolution E-4160 was approved on April 10, 2008 and final implementation of SB 1036 is in progress.

**PPA complies with the Interim EPS**

Pursuant to SB 1368, D.07-01-039 adopted an interim Greenhouse Gas Emissions Performance Standard (EPS) for new long-term financial commitments by all LSEs. D.07-01-039 defined the conditions under which long-term baseload contracts for renewable energy, that are shaped and firmed energy with non-renewable energy sources, may be deemed EPS-compliant. For specified contracts with intermittent renewable resource, such as Arlington, "the amount of substitute energy purchases from unspecified resources is limited such that total purchases under the contract (whether from the intermittent renewable resource or from substitute unspecified sources) do not exceed the total expected output of the specified renewable powerplant over the term of the contract."<sup>48</sup>

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<sup>48</sup> D.07-01-039, COL #40

The Decision also states the Commission's expectations for an LSE to demonstrate compliance with the EPS and the condition stated above. Specifically, D.07-0-039 states:<sup>49</sup>

The burden is on the LSE to provide sufficient documentation in compliance submittals to demonstrate that the above requirements are met. In particular, the LSE is required to make available to Commission staff the source data and methodology it uses in developing the level of expected output from renewable resources under contracts with a term of five years or longer that permit substitute energy purchases from unspecified resources, in order to demonstrate that the limits for substitute energy purchases for both intermittent and dispatchable renewable resources were properly established under the substitute energy provisions.

To verify the expected output from the facility, Arlington provided PG&E with meteorological data (met data) recorded from meteorological towers around the project site. Meteorological towers record the information required to forecast a wind resource area's generation potential, such as, wind speed, wind direction, air temperature and barometric pressure.<sup>50</sup> Based on the met data for Arlington, it is reasonable to expect a new wind facility in this proven wind resource area to operate at an average capacity factor of approximately 27 percent.<sup>51</sup>

The PPA includes terms and conditions to prevent PG&E from receiving a greater quantity of system energy than is generated by the project as required for EPS compliance. Each week throughout the delivery term, generation from the project will be metered and an equal volume of shaped energy will be delivered to PG&E two weeks later. Arlington is obligated to meet delivery requirements throughout the contract term to ensure the ratio of system energy delivered to COB does not exceed the ratio of green energy. Delivery requirements are supported by financial penalties if these delivery terms are not met.

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<sup>49</sup> D.07-01-039, page 151

<sup>50</sup> <http://www.caiso.com/1bad/1bade8443eb80.pdf>

<sup>51</sup> A 2004 Black&Veatch study reported California's average installed wind capacity factor to be 26.6 percent. [http://www.regie-energie.qc.ca/audiences/3526-04/MemoiresParticip3526/Memoire\\_CCVK\\_33\\_BV\\_int\\_renew2.pdf](http://www.regie-energie.qc.ca/audiences/3526-04/MemoiresParticip3526/Memoire_CCVK_33_BV_int_renew2.pdf)

### **DRA's protest is rejected**

On July 21, 2008 DRA filed a protest in response to PG&E's AL 3292-E on the grounds that the proposed PPA would violate California's EPS, pursuant to SB 1368 and D.07-01-039, and because the price exceeds the MPR. We address each issue separately.

#### PG&E's PPA with Arlington complies with the EPS

DRA claims that pursuant to D.07-01-039, intermittent renewable generation procured from one location and delivered from another through a firming and shaping agent is the "...equivalent of a contract with an unspecified source."<sup>52</sup> Therefore, DRA argues that the Commission cannot determine that PG&E's "...use of system energy to deliver electricity under the terms of the PPA is consistent with the Commissions' adopted greenhouse gas emission performance standards."<sup>53</sup>

PG&E, in its response to DRA, asserts that its PPA with Arlington meets the three EPS compliance tests for generation from an out-of-state facility. Specifically, 1) the PPA is with a specific renewable facility, 2) the firming and shaped energy delivered into California will be from unspecified resources, and 3) the firming and shaped energy delivered into California will not exceed the total expected output from the renewable facility over the term of the contract.

While we appreciate DRA's concern with upholding the intent of the EPS decision and encouraging the Commission to thoroughly review RPS contracts for which the EPS rules must be applied, we disagree with DRA. We considered DRA's protest based on the clear language of D.07-01-039,<sup>54</sup> the Commission's EPS decision, and information disclosed in the confidential terms and conditions of the PPA and the associated firming and shaping agreement; we find that the PPA complies with the EPS. Specifically, we find that PG&E has demonstrated that AL 3292-E concerns a long-term contract with a renewable wind facility, that the substitute energy delivered pursuant to the firming and shaping agreement is not unit specific and that the substitute energy imported for PG&E's customers will not exceed Arlington's actual generation. Consequently, DRA's protest as it relates to compliance with the EPS is rejected.

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<sup>52</sup> DRA protest, p. 4

<sup>53</sup> *Ibid*

<sup>54</sup> D.07-01-039; section 4.12 and Conclusions of Law 40.

PG&E demonstrated that Arlington's contract price is reasonable

Through its protest to AL 3292-E, DRA argues that the PPA should be rejected because the contract price is above the MPR. Specifically, DRA asserts that an out-of-state facility does not provide California ratepayers any benefits intended under the RPS statute, and therefore, generation from the project should come at a discount<sup>55</sup> to California ratepayers.<sup>56, 57</sup> Moreover, DRA argues that PG&E cannot determine that the PPA's price is reasonable because PG&E was not a party to the firming and shaping agreement.

PG&E rebuts DRA's claim that the Arlington project will not provide any benefits to California ratepayers and that the price is unreasonable. PG&E notes benefits from the project's near term deliveries contributing to the State's RPS goal, as well as, incremental resource adequacy benefits. Further, PG&E argues that the all-in cost of the PPA is explicit and reasonable when compared to offers recently executed and under-consideration from its recent RPS Solicitations. Also, while PG&E was not a party *per se* to the firming and shaping agreement, in its AL filing, PG&E discloses the cost components of the firming and shaping agreement and demonstrates that PG&E was provided a copy of the final firming and shaping agreement.

We agree with PG&E that the all-in price of its PPA provides adequate information to determine price reasonableness. In addition, PG&E demonstrated that the firming and shaping agreement was negotiated in a transparent manner amongst the parties and that PG&E is aware of the cost and cost components of the firming and shaping agreement. Accordingly, DRA's protest as it relates to the reasonableness of the contract price is rejected.

**Arlington is a viable project**

PG&E believes the project is viable because:

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<sup>55</sup> We assume here that DRA equates "discount" to any price below the MPR.

<sup>56</sup> RPS legislation is codified at Pub. Util. Code §§ 399.11-399.20.

<sup>57</sup> DRA describes the benefits of the RPS statute to include fuel diversity, local environmental and health, employment and reduced energy costs. DRA protest at p. 5

### Project Milestones

The PPA identifies the agreed upon commercial operation date as a guaranteed project milestones. Arlington notified PG&E that it has met all its project milestones, including permitting, and expects to achieve commercial operation prior to the guaranteed commercial operation date.

### Financeability of resource

Arlington has received all necessary financing for the project and will become fully operational on or before the guaranteed commercial operation date.

### Seller's creditworthiness and experience

Arlington's parent, Horizon Wind Energy, LLC, has successfully developed over 2,000 MW of wind energy projects and currently owns and operates over 1,500 MW of wind energy facilities.<sup>58</sup>

### Technology and Fuel Supply

Wind is a proven resource and Gilliam County, Oregon, which is located in the Columbia Plateau Regions, is a known wind resource area.<sup>59</sup> Arlington has completed all resource studies and has commenced construction of its facility. Turbines have been purchased and are in the process of being installed.

### Production Tax Credit (PTC)

Arlington is eligible for the federal PTC. On October 3, 2008, President Bush signed the Emergency Economic Stabilization Act of 2008, House Resolution (H.R.) 1424 (2008), which in part extended the PTC for wind energy projects.<sup>60</sup>

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<sup>58</sup> Horizon Wind Energy LLC (<http://www.horizonwind.com/company/about.aspx#>) is wholly owned by EDP Renovaveis, an industrial and energy company based in Portugal (<http://www.edprenovaveis.com/en/index.asp>)

<sup>59</sup> [http://www.oregon.gov/ENERGY/SITING/docs/Wind\\_Projects80304.pdf](http://www.oregon.gov/ENERGY/SITING/docs/Wind_Projects80304.pdf)

<sup>60</sup> <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:H.R.1424>: (Last visited October 6, 2008)

### Transmission

No new transmission facilities or network upgrades are required for PG&E to accept deliveries under the PPA.

### 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. PG&E filed Advice Letter (AL) 3292-E on July 1, 2008 requesting Commission review and approval of a renewable energy resource power purchase agreement (PPA) with Arlington Wind power Project, LLC.
2. 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.
3. D.04-06-014 and D.07-11-025 set forth standard terms and conditions to be incorporated into each RPS PPA. Those terms were compiled and published by D.08-04-009.
4. The PPA includes the Commission adopted RPS Standard Terms and Conditions deemed "non-modifiable".
5. Pursuant to Senate Bill 1036, the Commission is authorized to provide above-market cost recovery through rates.
6. D.07-01-039 adopted an interim Greenhouse Gas Emissions Performance Standard for contracts greater than 5 years in length and included compliance guidelines for when renewable intermittent generation is firmed with energy from unspecified resources.

7. The Commission requires each utility to establish a Procurement Review Group (PRG) to review the utilities' interim procurement needs and strategy, proposed procurement process, and selected contracts.
8. The approved costs above the MPR may be applied toward the cost limitation, pursuant to the Commission's implementation of Senate Bill 1036.
9. DRA protested AL 3292-E on July 21, 2008 and PG&E responded on July 28, 2008.
10. DRA's protest that PG&E's PPA with Arlington Wind power Project, LLC conflicts with D.07-01-039 and is not reasonably priced, is rejected.
11. 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"), Decision ("D.") 03-06-071 and D.06-10-050, or other applicable law.
12. The payments made under this PPA between PG&E and Arlington Wind power Project, LLC 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 CPUC review of PG&E's administration of the PPA.
13. 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.
14. The PPA is reasonable and should be approved.
15. The payments made under the PPA, including all renewable procurement and administrative costs identified in Section 399.14(g) shall be recovered in rates.
16. AL 3292-E should be approved effective today.

**THEREFORE IT IS ORDERED:**

1. AL 3292-E is approved without modification.
2. The payments made under this PPA between PG&E and Arlington Wind power Project, LLC 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 CPUC review of PG&E's administration of the PPA.

3. 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 November 21, 2008; the following Commissioners voting favorably thereon:

\_\_\_\_\_  
PAUL CLANON  
Executive Director

## **Appendix A**

# CEC Pre-Certification of Out-of-State Delivery

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA ENERGY COMMISSION**

1515 NINTH STREET  
SACRAMENTO, CA 95814-5512  
www.energy.ca.gov



October 7, 2008

The California Energy Commission, through its staff, has reviewed the proposed contracting structure between Arlington (for the Rattlesnake Road Wind Power Project) and PG&E, as identified in Advice Letter #3292-E and shown in the attached schematic design titled, 'Diagram of Delivery Structure' (page 3 of AL-3292-E).

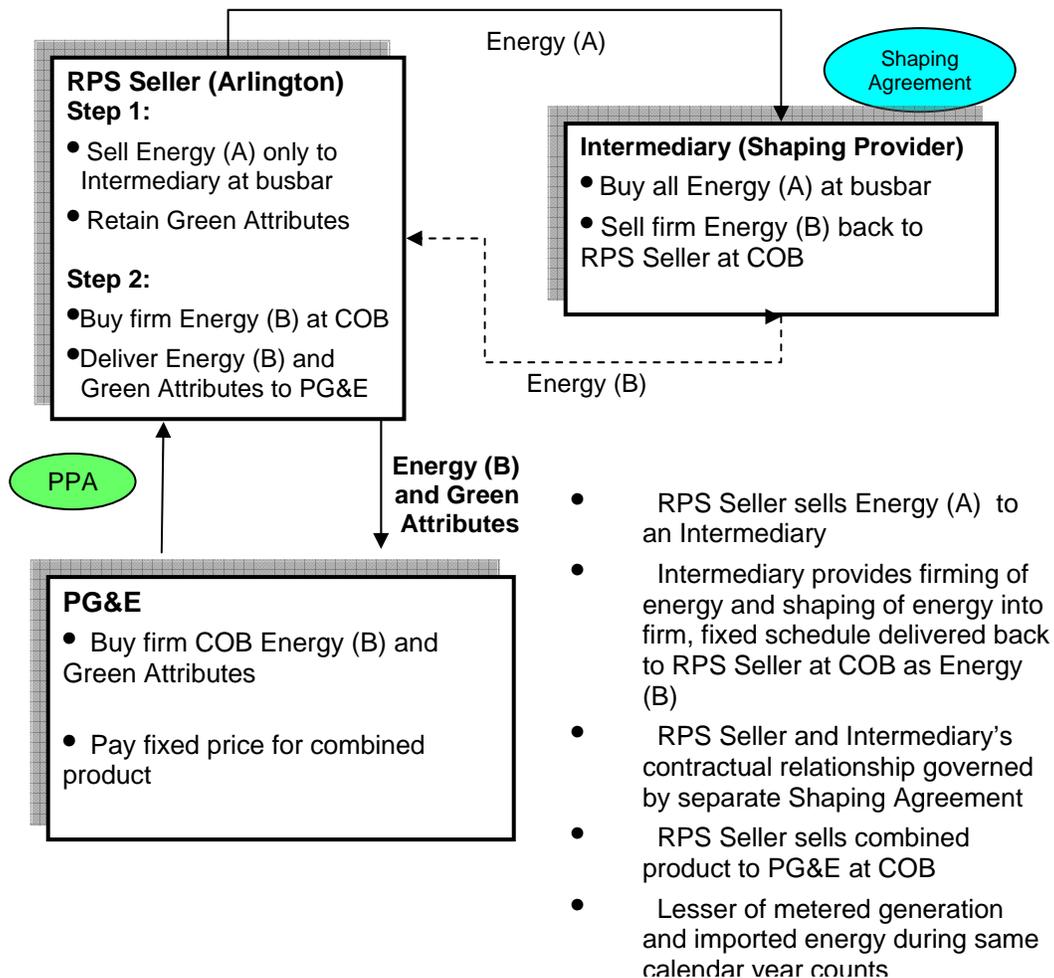
The Energy Commission staff has determined that this structure would meet the RPS delivery requirements according to the *Renewables Portfolio Standard Eligibility Guidebook* (CEC-300-2007-006-ED3-CMF, January 2008).

A handwritten signature in black ink, appearing to read 'M. Hutchison'.

Mark Hutchison  
Manager, Renewable Energy Office  
California Energy Commission

Attachment

# Diagram of Delivery Structure



# **Confidential Appendix B**

## Contract Summary

**[REDACTED]**

# **Confidential Appendix C**

## Contract Price Analysis

**[REDACTED]**

# **Confidential Appendix D**

## **MPR – AMF Worksheet**

**[REDACTED]**

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**October 22, 2008****I.D. #8045  
Draft Resolution E-4204  
November 21 Commission Meeting**

TO: PARTIES TO DRAFT RESOLUTION E-4204  
(R.06-02-012, R.06-02-013, R.08-08-009)

Enclosed is draft Resolution E-4204 of the Energy Division addressing PG&E's advice letter (AL) 3292-E. It will be on the agenda at the November 21, 2008 Commission meeting. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution no later than Tuesday, November 11, 2008.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Honesto Gatchalian  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
fax: 415-703-2200  
email: [jnj@cpuc.ca.gov](mailto:jnj@cpuc.ca.gov)

An electronic copy of the comments should be submitted to:

Sean Simon  
Energy Division  
[svn@cpuc.ca.gov](mailto:svn@cpuc.ca.gov)

Those submitting comments and reply comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division.

Comments may be submitted electronically.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Reply comments shall be served on parties and Energy Division no later than Monday, November 17, 2008 and may also be submitted electronically.

Late submitted comments or reply comments will not be considered.

Paul Douglas  
Project and Program Supervisor  
Energy Division

Attachment:  
Certificate of Service

## CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-4204 on all parties in these filings or their attorneys as shown on the attached list.

Dated October 22, 2008 at San Francisco, California.

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Maria Salinas

## NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.