Date of Issuance – 5/26/09

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION | RESOLUTION E-4240
May 21, 2009

REDACTED

R E S O L U T I O N

Resolution E-4240. Pacific Gas & Electric Company (PG&E) requests approval of a power purchase agreement (PPA) for generation from a new solar photovoltaic facility owned by El Dorado Energy, LLC. The project was bid into PG&E's 2008 Renewables Portfolio Standard solicitation and shortlisted by PG&E. This Resolution approves the PPA.

By Advice Letter 3386-E filed on December 22, 2008 and Supplemental Advice Letter 3386-E-A filed on January 9, 2009.

SUMMARY

PG&E's renewable contract complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved.

PG&E filed Advice Letter (AL) 3386-E on December 22, 2008, requesting California Public Utilities Commission (Commission) review and approval of a renewable PPA with a new solar photovoltaic facility, El Dorado Energy, LLC (El Dorado Solar or Project). PG&E's request is granted because the PPA is consistent with Decision (D.) 08-02-008, which approved PG&E's 2008 RPS Procurement Plan. Deliveries from this contract 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. The energy acquired from the PPA will count towards PG&E's RPS requirements.

Generating Facility	Resource Type	Contract Term (Years)	Capacity (MW)	Expected Deliveries (GWh/yr)	Commercial Operation Date	Project Location
El Dorado Solar	Solar PV	20 years	10 MW	23 GWh/yr	January 1, 2009	Boulder City, Nevada

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 Public Utilities (Pub. Util.) Code Sections 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 20 percent of its retail sales are supplied by ERRs by 2010.[1]

In response to SB 1078 and SB 107, the Commission has issued a series of decisions that establish the regulatory and transactional parameters of the investor owned utility (IOU) renewables procurement program.[2]

- On June 19, 2003, the Commission issued its "Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program," D.03-06-071.
- Instructions for utility evaluation of each offer to sell ERRs requested in an RPS solicitation were provided in D.04-07-029, as required by Pub. Util. Code §399.14(a)(2)(B). The bid evaluation methodology is known as 'least-cost, best-fit.'

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[1] On November 17, 2008, Governor Schwarzenegger signed Executive Order S-14-08, which established a 33 percent PRS target by 2020.

[2] RPS decisions are available on the Commission's RPS website: http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm

- The Commission adopted standard terms and conditions (STCs) for RPS power purchase agreements in D.04-06-014, as required by Pub. Util. Code §399.14(a)(2)(D). These STCs are compiled in D.08-04-009, as modified by D.08-08-028, and as a result there are now thirteen STCs of which four are non-modifiable.
- In D.06-05-039, the Commission required participation of an Independent Evaluator (IE) in the IOU's competitive RPS procurement process. The IE's role is to ensure that the IOU's RPS solicitation is undertaken in a fair and consistent manner. The IE also provides additional oversight during contract negotiations.
- D.06-10-050, as modified by D.07-03-046, outlined the RPS reporting and compliance methodologies and rules. In this decision, the Commission established methodologies to calculate a load serving entities' (LSE) initial baseline procurement amount, annual procurement target (APT) and incremental procurement amount (IPT).
- The Commission adopted its market price referent (MPR) methodology in D.04-06-015 for determining the utility's share of the RPS seller's bid price (the contract payments at or below the MPR), as defined in Pub. Util. Code §399.14(a)(2)(A) and 399.15(c). The Commission refined the MPR methodology in D.05-12-042 and D.08-10-026. Resolutions adopted MPR values for the 2005, 2006, 2007, and 2008 RPS solicitations.[3]
- In D.07-05-028, the Commission established a minimum quota for contracting with new facilities or executing long-term contracts for RPS-eligible generation. Specifically, in order for an LSE to count for RPS compliance, deliveries from contracts of less than 10 years' duration with RPS-eligible facilities that commenced commercial operation prior to January 1, 2005 must in each calendar year enter into contracts of at least 10 years' duration and/or short-term contracts with facilities that commenced commercial operation on or after January 1, 2005 for energy deliveries equivalent to at least 0.25% of that LSE's prior year's retail sales.

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[3] MPR resolutions are available here: http://www.cpuc.ca.gov/PUC/energy/Renewables/mpr

Pursuant to SB 1036, above-MPR costs may be recovered in rates

SB 1036[4] authorizes the Commission to provide above-MPR cost[5] recovery through electric retail rates for RPS contracts that are deemed reasonable. Above-MPR cost recovery has a 'cost limitation' equal to the amount of funds currently accrued in the California Energy Commission's New Renewable Resources Account, which had been established to collect supplemental energy payments (SEP funds), plus the portion of SEP funds that would have been collected through January 1, 2012. In addition, pursuant to SB 1036, Pub. Util. Code § 399.15(d)(2) provides that:

> "The above-market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:
>
> (A) The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision(d) of Section 399.14.
>
> (B) The contract covers a duration of no less than 10 years.
>
> (C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.
>
> (D) No purchases of renewable energy credits may be eligible for consideration as an above-market cost.
>
> (E) The above-market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades."

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

On December 22, 2008, PG&E filed AL 3386-E requesting Commission approval of a renewable procurement contract with El Dorado Energy, LLC. The PPA results from PG&E's 2008 RPS Solicitation. The Commission's approval of the

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[4] Chapter 685, Statutes of 2007 (SB 1036)

[5] "Above-market costs" refers to the portion of the contract price that is greater than the appropriate market price referent (MPR).

PPA will authorize PG&E to fully recover in rates, payments made pursuant to the PPA.

PG&E requests that the Commission issue a resolution containing the findings necessary for "CPUC Approval" as defined in Appendix A of D.04-06-014. In addition, PG&E requests that the Commission issue a resolution that does the following:

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 CPUC Approval:
    a. The PPA is consistent with PG&E's approved 2008 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 cost of procurement 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 a covered procurement subject to the EPS because the generating facility has a forecast annualized capacity factor of less than 60% and therefore is not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim EPS Rules.

PG&E's Procurement Review Group participated in review of the PPA

In D.02-08-071, the Commission required each utility to establish a "Procurement Review Group" (PRG) whose members, subject to an appropriate non-disclosure agreement, would have the right to consult with the utilities and review the details of each utility's:

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

The PRG for PG&E consists of: California Department of Water Resources (DWR), the Commission's Energy Division, 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 its PRG of the El Dorado Solar negotiations on August 6, 2008 and October 17, 2008.[6] These presentations included a general overview of the negotiated terms and conditions, rationale for selection, and assessment of the PPA's price. PG&E stated that none of the PRG members objected to PG&E's execution of the PPA.

Energy Division reviewed the transaction independently of the PRG and allowed for a full protest period before concluding its analysis.

[6] PG&E inadvertently cited the incorrect PRG dates in AL 3386-E.

NOTICE

Notice of AL 3386-E and Supplemental AL 3386-E-A was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section IV of General Order 96-B.

PROTESTS

On January 12, 2009, DRA filed a timely protest with the Commission. DRA's protest was submitted as confidential and was fully redacted. PG&E filed a timely confidential response with the Commission on January 20, 2009.

DISCUSSION

The following table summarizes the substantive features of the PPA. See Confidential Appendix B for a detailed discussion of contract terms and conditions.

Generating Facility	Resource Type	Contract Term (Years)	Capacity (MW)	Annual Deliveries (GWh)	Commercial Operation Date	Project Location
El Dorado Solar	Solar PV	20 years	10 MW	23 GWh	January 1, 2009	Boulder City, Nevada

The El Dorado Solar project (Project) was completed and deemed operational at the end of 2008. El Dorado Solar utilizes proven technology, specifically, fixed-tilt, thin-film photovoltaic panels, to produce RPS-eligible energy.

PG&E began accepting deliveries from the Project on January 1, 2009. Pursuant to the PPA, PG&E pays El Dorado Solar a daily market index price for all generation prior to receiving CPUC Approval. If CPUC Approval is attained, PG&E will then pay El Dorado Solar the PPA price for each megawatt hour (MWh) of generation and will pay a onetime true-up settlement payment.[7]

[7] The true-up settlement payment will equal the difference between the PPA price and the daily market index price paid prior to CPUC Approval.

PG&E did not receive Commission approval of its PPA with El Dorado Solar prior to taking deliveries under the PPA. In general, CPUC approval is required for generation under a PPA to be used for RPS compliance. In this instance, because the PPA conforms to the Commission's procurement guidelines, and the fact that PG&E was in the unique position of executing a PPA with a new facility on the eve of its achieving commercial operation, there is no harm to ratepayers from PG&E's failure to submit the contract for approval in a timely manner.

Energy Division has reviewed the proposed PPA pursuant to Commission decisions

Specifically, Energy Division evaluated the PPA for the following criteria:

- Consistency with PG&E's 2008 RPS procurement plan
- Consistency with RPS Standard Terms and Conditions (STC)
- Reasonableness of the levelized all-in price
- Project viability assessment
- Consistency with Emissions Performance Standard
- SB 1036 guidelines

PPA is consistent with PG&E's Commission adopted 2008 RPS Plan

California's RPS statute requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.[8] PG&E's 2008 RPS procurement plan (Plan) was approved by D.08-02-008 on February 14, 2008. Pursuant to statute, PG&E's 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.[9]

[8] Pub. Util. Code, Section §399.14

[9] Pub. Util. Code, Section §399.14(a)(3)

PPA is consistent with identified resource needs

The stated goal of PG&E's 2008 RPS Solicitation Plan was to procure 1-2 percent of PG&E's retail sales volume or between 750 and 1,500 GWh per year to achieve 20 percent renewables by 2010. This PPA is consistent with PG&E's 2008 Plan because, if approved, generation from the 10 MW facility will contribute to PG&E's 2010 RPS requirement.

PPA selection is consistent with RPS Solicitation Protocol

The independent evaluator[10] (IE) has verified that the PPA is consistent with PG&E's objectives set forth in its 2008 RPS Plan. The IE's project specific report included a discussion of how PG&E added El Dorado Solar to its 2008 RPS shortlist after the final shortlist had been submitted to the Commission. The IE appropriately highlights this event because it has an appearance that one project was treated differently than other bidders. In fact, El Dorado Energy, LLC clarified the details of its proposed project, which resulted in a decision by PG&E to add El Dorado Solar to its shortlist. The IE concludes that no other individual bid, solicitation participant, or project appears to have been disadvantaged by PG&E's actions. Finally, the IE supports PG&E's decision to execute discussed herein and concurs with PG&E that the PPA merits CPUC Approval.[11]

We agree with PG&E's IE. Rather than add El Dorado Solar to its shortlist late in the Solicitation schedule, PG&E instead could have pursued the Project as a bilateral. Doing so, would have been consistent with PG&E's Solicitation Protocol, but would not necessarily have been in the best interest of ratepayers. The benefits of having El Dorado Solar added to PG&E's shortlist are that the IE then participates in the evaluation and negotiations with the counterparties. The Commission requires the use of an IE, in part, because of the benefits third party oversight provides to the procurement process. We believe that adhering to the Solicitation Protocol is singularly important so that one bidder is not advantaged

[10] PG&E employed Arroyo Seco Consulting as independent evaluator for its 2008 RPS Solicitation.

[11] First Advice Letter Report of the Independent Evaluator on the Bid Evaluation and Selection Process. (AL 3386-E, Appendix I, page 53.) http://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC_3386-E.pdf

over another. However, on balance, we accept PG&E's departure in this instance because the IE determined that no other bidder was disadvantaged and because shortlisting the Project enabled the IE to continue its oversight of the parties negotiations.

PPA selection consistent with LCBF requirements

The LCBF decision directs the utilities to use certain criteria in their bid ranking.[12] 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 negotiations. PG&E's solicitation protocol included an explanation of its LCBF methodology. The IE oversaw the bid evaluation process and concluded in its report that the LCBF evaluation methodology was generally employed consistently and the process was conducted fairly. El Dorado Solar's superior project viability elevated its LCBF ranking.

Qualitative Factors

PG&E considered qualitative factors as required by D.04-07-029 and D.08-02-008 when evaluating the PPA. Approval of the PPA will add to the diversity of technologies in PG&E's renewables portfolio. El Dorado Solar represents the first operational solar photovoltaic project in PG&E's portfolio.

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. The changes were based upon mutual agreement reached during negotiations.

[12] D.04-07-029

PPA price is reasonable and recoverable in rates

The levelized price is greater than the 2008 MPR,[13] but the PPA price is reasonable when compared to other bids PG&E received through its 2008 RPS solicitation. Specifically, El Dorado Solar was competitive relative to other solar PV bids and PG&E believed at the time of contract execution that the Project's viability was high. Confidential Appendix B includes a detailed discussion of the PPA's pricing terms.

Project is Eligible for Above Market Funds

El Dorado Solar meets the eligibility criteria for Above Market Funds (AMFs) established in SB 1036 and provided in the background section of this resolution. This Project is eligible for AMFs.

Above Market Funds May Not be Available

PG&E may not have sufficient AMFs to meet the needs of this Project.[14] The RPS statute provides that if PG&E's AMF fund is exhausted, PG&E may enter into contracts to procure RPS eligible energy, that exceed the MPR, and that this Commission may approve the costs of the contract in rates. Specifically, while the Commission must allow an IOU to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the MPR once its AMF funds are depleted, § 399.15 (d)(4) states:

> Nothing in this section prevents an electrical corporation from voluntarily proposing to procure eligible renewable energy resources at above-market prices that are not counted toward the cost limitation. Any voluntary procurement involving above-market costs shall be subject to commission approval prior to the expense being recovered in rates.

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[13] See Resolution E-4214

[14] On March 12, 2009, the Commission adopted Resolution E-4199, which implements SB 1036. Pursuant to Resolution E-4199, on April 16, 2009, the IOUs submitted AMF Calculators to the Director of Energy Division that reveals each utility's AMF balance. The Director of Energy Division will notify the IOUs and relevant service lists about what each IOU's AMF balance is after Energy Division staff reviews the materials submitted.

PG&E has not yet hit its 20 percent RPS target, but has nonetheless likely contracted for enough above-MPR RPS-eligible energy to have met its cost limitation. This implies either that the utility has been signing unnecessarily expensive contracts, or that the above-market funds set aside by the legislature in 2002 are insufficient for meeting the state's RPS goals in the manner envisioned by statute.

The Commission believes the latter to be true. The prices bid into RPS solicitations have risen consistently since 2002, and although the MPR has risen as well, the utilities are having difficulty filling their RPS procurement needs with viable, "least cost, best fit" projects, without exceeding their respective AMF allocations. As described above, the Independent Evaluator for PG&E's 2008 RPS solicitation concluded that PG&E conducted its solicitation and subsequent contract negotiations in a fair and reasonable manner. The El Dorado Solar PPA that resulted from that competitive solicitation represents a valuable balance of viability and cost reasonableness. Consequently, the Commission finds it to be reasonably consistent with PG&E's approved 2008 RPS Plan, and that approving the PPA is in the interest of PG&E's ratepayers.

Transmission and delivery

No transmission upgrades are necessary for PG&E to accept deliveries from the Project. El Dorado Solar is located in NV Energy's service territory; however, there is a contiguous transmission path from the facility to California Independent System Operator's control area, via Sempra's Eldorado-Merchant 230 kv transmission line. The seller will schedule and deliver generation from the Project to PG&E at the 230 kv El Dorado Substation, which is located in the CAISO control area.

Contribution to minimum quota requirement for long-term/new facility contracts

As a new facility, delivering pursuant to a long-term PPA, deliveries from El Dorado Solar will contribute to PG&E's minimum quota requirement under D.07-05-028, described above.

PG&E began procuring energy under the PPA prior to obtaining Commission approval of the PPA

PG&E filed the PPA with the Commission on December 22, 2008, and began procuring energy under the PPA on January 1, 2009, prior to obtaining

Commission approval of the PPA. As a general rule, this Commission requires that a utility seek approval of long-term contracts prospectively. PG&E accordingly placed itself at some risk by incurring costs under the PPA, as the Commission could potentially deny or condition approval of the PPA. Under the specific circumstances of this case, the Commission concludes that advice letter should be approved, despite PG&E's "jumping the gun."

The IOUs are granted significant flexibility to enter into a variety of contracts[15] with RPS-eligible generators, subject to RPS procurement rules set out in statute and Commission decisions. Once filed for approval, Energy Division staff evaluates whether the IOU adhered to its protocols set forth in its RPS procurement plan, consistency with Commission decisions, and whether the PPA itself is reasonable and in the best interest of ratepayers.

In this instance, PG&E discussed the project with its PRG, the PPA complies with Commission decisions, and we have determined that the price is reasonable. Furthermore, PG&E filed the PPA by advice letter permitting a full comment period, and no party protested that the PPA should not be approved. On balance, there is no harm to ratepayers from PG&E's failure to submit the PPA for approval in a timely manner. Accordingly, the Commission finds, based on the specific facts in this case, that PG&E's failure to submit this advice letter in a timely manner should not preclude or alter our approval of the PPA. Our approval of this PPA is not precedential, and does not constitute any change in standard Commission procedures or practices.

DRA filed a confidential protest to PG&E's advice letter

On January 12, 2009, DRA filed a confidential protest to AL 3386-E with the Commission. Of course, we are limited in how we can respond to DRA's confidential protest. We note that DRA did not oppose Commission approval of PG&E's PPA with El Dorado Solar, but rather, DRA's protest related to the process by which the PPA was selected. For the reasons discussed above, we find that that PG&E's bid evaluation and selection process was conducted fairly, and accordingly we reject DRA's protest. (See Confidential Appendix A)

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[15] For example; an IOU may seek approval for bilateral contracts, contracts with existing facilities, and short-term contracts (less than 10 years).

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 on April 9, 2009.

No comments were filed.

FINDINGS

1. PG&E filed Advice Letter (AL) 3386-E on December 22, 2008 requesting Commission review and approval of a renewable energy resource power purchase agreement (PPA) with El Dorado Energy, LLC.
2. PG&E filed Supplemental Advice Letter 3386-E-A on January 7, 2009, to correct PG&E's above-MPR funds calculation presented in AL 3386-E.
3. 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.
4. November 17, 2008, Governor Schwarzenegger issued Executive Order S-14-08, which sets a target for energy retailers to deliver 33 percent of electrical energy from renewable resources by 2020.
5. The PPA is consistent with PG&E's approved 2008 RPS Procurement Plan, which was approved by D.08-02-008.
6. 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.
7. The PPA includes the Commission adopted RPS Standard Terms and Conditions deemed "non-modifiable".
8. A confidential protest to AL 3386-E was filed by DRA on January 12, 2009, and PG&E responded to the protest, confidentially, on January 20, 2009.

9. Any stranded costs that may arise from the PPA are subject to the provisions of D.08-09-012 that authorize recovery of stranded renewables procurement costs over the life of the contract.
10. D.06-05-039 requires participation of an independent evaluator in RPS solicitations.
11. The independent evaluator employed for PG&E's 2008 RPS solicitation concluded in its report that PG&E's bid evaluation and selection process was conducted fairly.
12. The Commission supports the IE's finding that PG&E's bid evaluation and selection process was conducted fairly.
13. PG&E began to take delivery under the PPA prior to receiving CPUC approval for AL 3386-E.
14. PG&E should have obtained CPUC approval prior to taking delivery under the PPA.
15. PG&E's failure to submit this advice letter in a timely manner did not cause any ratepayer harm.
16. DRA's confidential protest is rejected for the reasons stated above.
17. 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.
18. 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.), D.03-06-071 and D.06-10-050, or other applicable law.
19. The payments made under this PPA between PG&E and El Dorado Energy, 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 Commission review of PG&E's administration of the PPA.
20. 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.

21. The PPA is reasonable and should be approved.
22. AL 3386-E, as supplemented by AL 3386-E-A, should be approved effective today.

THEREFORE IT IS ORDERED:

1. AL 3386-E, as supplemented by AL 3386-E-A, 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 May 21, 2009; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

Confidential Appendix A

Disposition of Confidential Protest from the Division of Ratepayer Advocates

[REDACTED]

Confidential Appendix B

Contract Analysis

[REDACTED]