Date of Issuance – 5/27/11

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

**ENERGY DIVISION** **RESOLUTION E-4402**
**May 26, 2011**

**REDACTED**

# R E S O L U T I O N

Resolution E-4402. Pacific Gas and Electric Company requests approval of a purchase power agreement with Shiloh III Wind Project, LLC, a subsidiary of enXco, Inc.

PROPOSED OUTCOME: This Resolution approves cost recovery for Pacific Gas and Electric Company's renewable power purchase agreement with Shiloh Wind Project, LLC. The power purchase agreement is approved with conditions.

ESTIMATED COST: Actual costs are confidential at this time.

By Advice Letter 3735-E filed on September 10, 2010, and Supplemental Advice Letters 3735-E-A filed on March 4, 2011, and 3735-E-B filed on April 6, 2011.

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## SUMMARY

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

Pacific Gas and Electric (PG&E) filed Advice Letter (AL) 3735-E on September 30, 2010, as modified by AL 3735-E-A on March 4, 2011 and AL 3735-E-B on April 6, 2011. AL 3735-E requested the California Public Utilities Commission's (Commission) approval of a renewable purchase power agreement (PPA) with a new wind facility being developed by Shiloh III Wind Project, LLC, a subsidiary of enXco, Inc. For the purpose of meeting its RPS targets, PG&E executed a 20 year contract with Shiloh III Wind Project, LLC through bilateral negotiations.

The 100 megawatt (MW) Shiloh III wind facility (Project or Shiloh III) will be developed in the Montezuma Hills region of Solano County, CA. The Project will be located in the same area as the 150 megawatt (MW) Shiloh I, 150 MW

Shiloh II and 162 MW High Winds Energy Center wind facilities. enXco currently delivers bundled energy to PG&E under a 20 year contract from its Shiloh II facility. The Shiloh III wind facility will deliver approximately 345 gigawatt-hours (GWh) per year of as-available RPS eligible energy over a 20 year term beginning on May 31, 2012. The first point of interconnection for the Project will be into the California Independent System Operator balancing authority area (CAISO BAA) at the Birds Landing Switching Station.

The PPA for the Shiloh III Wind Project was negotiated bilaterally between enXco and PG&E. The Project was proposed to PG&E in September, 2009, one month after the close of the 2009 RPS Solicitation.

This resolution approves the Shiloh III Wind Project, LLC contract with conditions. PG&E's execution of this contract is consistent with PG&E's 2009 RPS Procurement Plan, including its resource need, which the Commission approved in Decision (D.)09-06-018. The contract with Shiloh III Wind Project is considered "bundled" for RPS compliance purposes pursuant to D.10-03-021, as modified by D.11-01-025.

RPS-eligible 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. This resolution requires that PG&E amend its contract with Shiloh III Wind Project, LLC so that the PPA conforms with the Commission's standard terms and conditions for RPS contracts.

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

| Generating Facility | Type | Term Years | MW Capacity | Annual Deliveries | Online Date | Project Location |
|---|---|---|---|---|---|---|
| Shiloh III | Wind | 20 | 100 | 345 GWh | May 31, 2012 | Solano County, CA |

## BACKGROUND

### Overview of RPS Program

The California RPS Program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107 and SB 1036.[1] The RPS program is codified in Public Utilities Code Sections 399.11-399.20.[2] The RPS program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least one percent of retail sales per year so that 20 percent of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[3]

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

## NOTICE

Notice of AL 3735-E, AL 3735-E-A and AL 3735-E-B was made by publication in the Commission's Daily Calendar. Pacific Gas and Electric Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

## PROTESTS

Advice Letter AL 3735-E was not protested.

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

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

[3] *See* § 399.15(b)(1).

## DISCUSSION

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

On September 30, 2010, Pacific Gas & Electric (PG&E) filed Advice Letter (AL) 3735-E, as modified by AL 3735-E-A on March 4, 2011 and AL 3735-E-B on April 6, 2011. AL 3735-E requested Commission approval of a renewable procurement contract with Shiloh III Wind Project, LLC for generation from its proposed Shiloh III wind facility (Project or Shiloh III). AL 3735-E-A was filed to amend the original contract to increase the size of the Project from 60 megawatts (MW) to 100 MW. AL 3735-E-B was filed to amend the original contract to increase the deadline for approval by the California Public Utilities Commission (CPUC).

Generation from the Project is expected to contribute an average of 345 gigawatt-hours (GWh) annually towards PG&E's annual procurement target, pursuant to the Commission's renewables portfolio standard (RPS) program. Under the terms of the bilaterally negotiated purchase power agreement (PPA), the Project has a commercial operational date (COD) of May 31, 2012 and is expected to deliver bundled energy to PG&E for a term of 20 years.

The Project will be located in Solano County, CA in the Montezuma Hills area which is a known wind resource area. Two existing wind facilities in this area, Shiloh I and Shiloh II, currently deliver energy to PG&E under two separate PPA contracts. enXco is the owner of Shiloh II and delivers all of the bundled energy to PG&E from this 150 MW wind facility over a 20 year term. The Project's first point of interconnection with the California Independent System Operator balancing authority area (CAISO BAA) is the Birds Landing Switching Station.

The Commission's approval of the contract will authorize PG&E to accept future RPS-eligible generation that will contribute towards PG&E's 20% RPS mandate for 2010 and longer-term 33% RPS mandate.[4]

[4] SB 2 was signed by Governor Brown on April 12, 2011.

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

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

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

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

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

   b. Any stranded costs that may arise from the PPA are subject to the provisions of D.04-12-048 that authorize recovery of stranded renewables procurement costs over the life of the contract. The implementation of the D.04-12-048 stranded cost recovery mechanism is addressed in D.08-09-012.
6. Adopts the following findings with respect to resource compliance with the Emissions Performance Standard ("EPS") adopted in R.06-04-009:

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

**Energy Division Evaluated the Shiloh III Contract on These Grounds:**

- Consistency with Commission guidelines for bilateral contracting
- Consistency with PG&E's 2009 RPS Procurement Plan
- Consistency with PG&E's Least-Cost, Best-Fit requirements
- Independent Evaluator review
- Consistency with RPS standard terms and conditions
- Cost reasonableness
- Cost containment
- Project viability assessment and development status
- Compliance with the minimum quantity condition
- Consistency with the Emissions Performance Standard
- Procurement Review Group participation

**Consistency with Commission Guidelines for Bilateral Contracting**

The parties pursued bilateral negotiations in September, 2009, one month after the close of the 2009 RPS Solicitation. PG&E entered into bilateral negotiations with enXco to secure near-term deliveries from a viable project to meet its RPS mandate given the project's online date of May 31, 2012.

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. PG&E adhered to these bilateral contracting rules because the contract is longer than one month in duration, the contract was filed by advice letter, the above market costs will not be applied to PG&E's RPS cost limitation and the contracts are reasonably priced, as discussed in more detail below.

In D.09-06-050, this Commission determined that bilateral contracts should be reviewed according to the same processes and standards as contracts that come through a solicitation. Accordingly, the Shiloh III contract was compared to other RPS contracts received in PG&E's 2009 RPS solicitation, the proposed agreement was reviewed by PG&E's Procurement Review Group and an independent evaluator oversaw the contract evaluation and negotiation.

The Shiloh III contract is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

**Consistency with PG&E's 2009 RPS Procurement Plan**

California's RPS statute requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.[5] PG&E's 2009 RPS Procurement Plan (Plan) was conditionally approved by D.09-06-018. 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.[6]

PG&E states that the generation procured under the PPA will meet the resource needs identified in its Plan. In its Plan, PG&E's goal was to procure approximately one to two percent of its retail sales volume, or between 800 to 1,600 GWh per year. The Project is expected to deliver approximately 345 GWh per year for a term of 20 years with full commercial operation commencing by May 31, 2012. Deliveries from the Project meet the criteria for renewables procurement contained in PG&E's 2009 Plan and will contribute to PG&E's 20 percent RPS goal under the current flexible compliance rules.

The PPA is consistent with PG&E's 2009 RPS Procurement Plan, including PG&E's RPS resource needs, approved by D.09-06-018.

**Consistency with PG&E's Least-Cost Best-Fit (LCBF) Requirements**

The LCBF decision directs the utilities to use certain criteria in their bid ranking.[7] The decision offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids as to which it will commence negotiations. PG&E's bid evaluation includes a quantitative and qualitative analysis, which focuses on four primary areas: 1) determination of a bid's market

[5] § 399.14.

[6] §399.14(a)(3).

[7] *See* D.04-07-029.

value; 2) calculation of transmission adders and integration costs; 3) evaluation of portfolio fit; and 4) consideration of non-price factors. The LCBF evaluation is generally used to establish a shortlist of proposals from PG&E's solicitation as to which PG&E will engage in contract negotiations.

In the case of a bilateral contract, the investor-owned utility evaluates the offer using the same LCBF criteria employed for evaluating competitively bid offers and compares the results to offers under negotiation from recent solicitations. PG&E's 2009 RPS solicitation protocol included an explanation of its LCBF methodology.

PG&E examined the reasonableness of the Shiloh III offer using the same LCBF evaluation methodology it used for RPS offers received for the 2009 RPS Solicitation. PG&E also examined the reasonableness of the Shiloh III offer against other bilaterals that were offered to PG&E. PG&E asserts that the contract is competitive compared to offers PG&E received in its 2009 RPS solicitation and bilateral contracts it is currently negotiating, and review of that material provides verification of PG&E's claim . Refer to Confidential Appendix A for a comparison of the Shiloh III offer to contracts bid in the 2009 RPS solicitation and other bilateral contracts currently being negotiated by PG&E.

<u>PG&E's decision to execute the Shiloh III contract is consistent with PG&E's RPS Least-Cost, Best-Fit cost protocols.</u>

**Independent Evaluator Review**

PG&E retained independent evaluator (IE) Lewis Hashimoto of Arroyo Seco Consulting to oversee PG&E's bilateral negotiations with Shiloh III and to evaluate overall merits for Commission approval of the contract. AL 3735-E included a confidential Independent Evaluator's report.[8] The IE in its report

[8] AL 3735-E included an IE report concerning the negotiation of the Shiloh III PPA and the value of the contract based on a price comparison with other renewable energy projects, portfolio fit, project viability, and compliance with PG&E's RPS goals.

determined that negotiations between PG&E and Shiloh III were fair and that Shiloh III was not given preferential treatment over sellers participating in the RPS solicitation. The IE considers the Project's viability to be high, and ranks the net market valuation of the Project to be moderate to high in the context of today's market for long-term renewable energy contracts. The IE concludes that the contract merits Commission approval. Refer to Confidential Appendix B for the IE's contract specific assessment.

<u>Consistent with D.06-05-039, an independent evaluator oversaw PG&E's negotiations with Shiloh III. The IE concurs with PG&E's decision to execute the agreement and finds that the Shiloh III contract merits Commission approval.</u>

**Consistency with RPS Standard Terms and Conditions**

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. More recently in D.10-03-021, as modified by D.11-01-025, the Commission further refined these STCs.

While the terms and conditions of the PPA conform to the Commission's decisions requiring RPS standard terms and conditions at the time the Shiloh III PPA was executed and filed for approval, the PPA does not include the revised "non-modifiable standard terms and conditions" established in D.10-03-021, as modified by D.11-01-025, for bundled RPS contracts.

Therefore, <u>Commission approval of the Shiloh III PPA is conditioned upon PG&E and Shiloh III modifying the Shiloh III PPA to include the new non-modifiable standard terms and conditions as required in D.10-03-021, as modified in D.11-01-025. Within 30 days from the effective date of this Resolution, PG&E shall file a Tier 1 advice letter compliance filing demonstrating that the Shiloh III PPA includes all of the relevant non-modifiable standard terms and conditions.</u>

**Cost Reasonableness**

The Commission's reasonableness review for RPS PPA prices includes a comparison of the proposed contract price(s) to other RPS offers received in recent RPS solicitations and contracts that have recently received Commission approval. Using this analysis, and the confidential analysis provided by PG&E

in AL 3735-E, the Commission determines that the cost of the Shiloh III contract is reasonable. Confidential Appendix A includes a detailed discussion of the contractual pricing terms.

The Shiloh III Wind Project, LLC contract compares favorably to the results of PG&E's 2009 solicitation and other comparable contracts.

Payments made by PG&E under the Shiloh III contract are fully recoverable in rates over the life of the contract, subject to Commission review of PG&E's administration of the contract.

**Cost Containment**

Pursuant to statute, the Commission calculates a market price referent (MPR) to assess whether a proposed RPS contract has above-market costs.[9] Based on the Shiloh III project's 2012 initial commercial operational date, PG&E estimates that the price of the contract exceeds the applicable 2009 MPR.[10]

Contracts that meet certain criteria are eligible for above-MPR funds (AMFs).[11] The Shiloh III contract was bilaterally negotiated, and therefore does not meet the eligibility criteria for AMFs.[12] Public Utilities Code §399.15 (d)(4) states that an investor-owned utility can voluntarily procure contracts at above-MPR prices that are not counted toward the cost limitation.

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[9] § 399.15(c).

[10] *See* Resolution E-4298.

[11] SB 1036 codified in § 399.15(d)(2) the following criteria: the contract was selected through a competitive solicitation, the contract covers a duration of no less than 10 years, the contracted project is a new facility that will commence commercial operations after January 1, 2005, the contract is not for renewable energy credits, and 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.

[12] Additionally, on May 28, 2009, the Director of the Energy Division notified PG&E that it had exhausted its AMF account, meaning PG&E is no longer required to sign contracts for power priced above the MPR, but may voluntarily choose to do so.

PG&E voluntarily entered into the Shiloh III contract, which PG&E estimates will exceed the applicable 2009 MPR on an all-in levelized cost basis.

**Project Viability Assessment and Development Status**

PG&E asserts that the Shiloh III project is viable and will be developed according to the terms and conditions in the PPA. PG&E evaluated the viability of the Shiloh III project using the Commission-approved project viability calculator, which uses standardized criteria to quantify a project's strengths and weaknesses in key areas of renewable project development. The confidential work papers for AL 3735-E include a comparison of Shiloh III's project viability score relative to all bids PG&E received in its 2009 RPS solicitation and all shortlisted projects. Refer to Confidential Appendix A for the viability comparison of Shiloh III with contracts bid in the 2009 RPS solicitation. Based on this analysis, the viability of the Shiloh III project is reasonable compared to other recent projects offered to PG&E.

The following information about the project's developer and development status was provided by PG&E in AL 3735-E.

Company/Development Team

enXco has experience in previously developing over 1,000 MW of installed wind capacity and is the third largest provider of third-party wind operations and maintenance in North America. enXco developed the 150 MW Shiloh II wind facility in Solano County, CA which is currently delivering bundled energy to PG&E.

Technology Type and Level of Maturity

REpower 2.05 MW wind turbines have been secured by enXco for the Project. REpower Systems AG is an established wind turbine manufacturer with thousands of turbines in commercial operation.

Quality of Renewable Resource

Montezuma Hills is a known and proven wind resource area with several wind projects already operating in this region which include Shiloh I, Shiloh II and High Winds Energy Center.

Site Control and Permitting Status

enXco and PG&E agreed to increase the size of the Project from 60 MW to 100 MW. enXco currently has site control for most of the land necessary to construct the 100 MW facility and anticipates receiving site control of the remaining land in 2011[13]. All land leases are on private land and extend through the term of the PPA.

Transmission

The Project will interconnect to the CAISO BAA at the Birds Landing Switching Station. PG&E states that enXco will finalize its modified Large Generator Interconnection Agreement (LGIA) with the CAISO in early 2011 to accommodate the increase in Project capacity from 60 MW to 100 MW.[14]

**Contribution to Minimum Quantity Requirement for Long-Term/New Facility Contracts**

D.07-05-028 established a "minimum quantity" condition on the ability of utilities to count a contract of less than 10 years duration with an existing facility for compliance with the RPS program.[15] In the calendar year that a short-term contract with an existing facility is executed, the utility must also enter into long-term contracts or contracts with new facilities equivalent to at least 0.25% of the utility's previous year's retail sales.

[13] AL 3735-E states that site control has been secured for the 60 MW facility. AL 3735-E-A increased the size of the Project to 100 MW. Through a data request by Energy Division to PG&E, it was found that site control for most of the property has been secured. PG&E states the entire site will be under the control of enXco by April 2011. Energy Division will verify PG&E's assertion.

[14] PG&E notified Energy Division through a data request that it expects to finalize a modified LGIA in early 2011.

[15] For purposes of D.07-05-028, contracts of less than 10 years duration are considered "short-term" contracts and facilities that commenced commercial operations prior to January 1, 2005 are considered "existing."

As a new facility, delivering pursuant to a 20 year contract, the Shiloh III PPA will contribute to PG&E's minimum quantity requirement established in D.07-05-028.

**Compliance with the Greenhouse Gas Emissions Performance Standard**

California Pub. Util. Code §§ 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) power contracts procured on behalf of California ratepayers. D.07-01-039 adopted an interim Emissions Performance Standard (EPS) that establishes an emission rate quota for obligated facilities to levels no greater than the greenhouse gas (GHG) emissions of a combined-cycle gas turbine power plant.

The EPS applies to all energy contracts that are at least five years in duration for baseload generation, which is defined as a facility with a capacity factor greater than 60 percent. In most cases, generating facilities using eligible renewable resources are deemed compliant with the EPS.

The Shiloh III PPA is not subject to the EPS under D.07-01-039 as the Shiloh III facility will generate intermittent energy using wind technology at an estimated capacity factor less than 60 percent.

**Procurement Review Group Participation**

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the investor owned utilities' (IOU) overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.[16] PG&E asserts that it informed its PRG of the Project on April 9, 2010.[17]

Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the Shiloh III PPA.

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[16] PG&E's PRG includes representatives of the Union of Concerned Scientists, the California Utility Employees, The Utility Reform Network, the California Public Utilities Commission's Energy Division and Division of Ratepayer Advocates, the Department of Water Resources and PG&E ratepayer Jan Reid.

[17] AL 3735-E at 11.

**RPS Eligibility and CPUC Approval**

Pursuant to Pub. Util. Code § 399.13, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable "eligibility" language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an "Eligible Renewable Energy Resource," that the project's output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.[18]

The Commission requires a standard and non-modifiable clause in all RPS contracts that requires "CPUC Approval" of a PPA to include an explicit finding that "any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer'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*.), Decision 03-06-071, or other applicable law."[19]

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, nor can the Commission determine prior to final CEC certification of a project, that "any procurement" pursuant to a specific contract will be "procurement from an eligible renewable energy resource."

Therefore, while we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation. Nor shall such finding absolve the seller of its obligation to obtain CEC certification, or the utility of its obligation to pursue remedies for breach of contract. Such contract

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[18] *See, e.g.* D. 08-04-009 at Appendix A, STC 6, Eligibility.

[19] *See id.* at Appendix A, STC 1, CPUC Approval.

enforcement activities shall be reviewed pursuant to the Commission's authority to review the utilities' administration of contracts.

**Confidential Information**

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

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

## COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments on April 22, 2011.

No comments were received.

## FINDINGS AND CONCLUSIONS

1. Pacific Gas and Electric's contract with Shiloh III Wind Project, LLC is consistent with the bilateral contracting guidelines established in Decision 06-10-019 and Decision 09-06-050.

2. Pacific Gas and Electric Company's contract with Shiloh III Wind Project, LLC is consistent with Pacific Gas and Electric Company's 2009 Renewables Portfolio Standard (RPS) Procurement Plan, approved by Decision 09-06-018.
3. Pacific Gas and Electric Company's decision to execute a contract with Shiloh III Wind Project, LLC is consistent with Pacific Gas & Electric Company's least-cost, best-fit protocols.
4. Consistent with Decision 06-05-039 and Decision 09-06-050, an independent evaluator oversaw Pacific Gas and Electric Company's negotiation of the Shiloh III Wind Project, LLC contract.
5. Pacific Gas and Electric Company's contract with Shiloh III Wind Project, LLC must be amended to conform with the Commission's standard terms and conditions required for contracts executed pursuant to the renewables portfolio standard program.
6. The total all-in costs of the proposed contract are reasonable based on their relation to bids received in response to Pacific Gas and Electric Company's 2009 solicitation for renewable resources and recent bilateral offers.
7. Pacific Gas and Electric Company estimated that the levelized all-in costs for the Shiloh III Wind Project, LLC contract will exceed the applicable 2009 market price referent.
8. Pursuant to Public Utilities Code § 399.15(d), Pacific Gas and Electric Company voluntarily enters into the contract with Shiloh III Wind Project, LLC.
9. The viability of the Shiloh III project is reasonable compared to other projects offered to Pacific Gas and Electric Company.
10. The Shiloh III PPA will contribute to PG&E's minimum quantity requirement established in D.07-05-028.
11. The Shiloh III contract is not subject to the Emissions Performance Standard under Decision 07-01-039 as the Shiloh III facility will generate intermittent energy using wind technology at an estimated capacity factor less than 60 percent.
12. Pursuant to Decision 02-08-071, Pacific Gas and Electric Company's Procurement Review Group participated in the review of the Shiloh III contract.
13. Procurement pursuant to the Shiloh III contract is procurement from an eligible renewable energy resource for purposes of determining Pacific Gas

and Electric Company'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.), Decision 03-06-071 and Decision 06-10-050, or other applicable law.

14. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource to count towards an RPS compliance obligation. Nor shall that finding absolve Pacific Gas and Electric Company of its obligation to enforce compliance with this agreement.
15. Payments made by Pacific Gas and Electric Company under the Shiloh III contract are fully recoverable in rates over the life of the contract, subject to Commission review of Pacific Gas and Electric Company's administration of the contract.
16. The confidential appendices, marked "[REDACTED]" in the public copy of this Resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
17. Advice Letters 3735-E, 3735-E-A and 3735-E-B should be approved with conditions.

**THEREFORE IT IS ORDERED THAT:**

1. Pacific Gas and Electric Company's contract with Shiloh III Wind Project, LLC filed in Advice Letters 3735-E, 3735-E-A and 3735-E-B are approved with conditions.
2. Within 30 days from the effective date of this Resolution, Pacific Gas and Electric Company shall file a Tier 1 Advice Letter compliance filing to demonstrate that the Shiloh III Wind Project, LLC contract has been amended to include all relevant non-modifiable standard terms and conditions currently required by the Commission.

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 26, 2011; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON
PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

# Confidential Appendix A

## Summary of Shiloh III Contract Terms and Conditions

[REDACTED]

# Confidential Appendix B

## Independent Evaluator's Report

[REDACTED]