

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

ENERGY DIVISION

RESOLUTION E-4156

April 10, 2008

**PUBLIC**  
**RESOLUTION**

Resolution E-4156 Agreement between Pacific Gas & Electric (PG&E) and State of California Department of Water Resources (DWR) for demand response during the summers of 2008 and 2009.

By Advice Letter (AL) 3168-E Filed on December 3, 2007.

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**SUMMARY**

**This Resolution approves PG&E's agreement (Agreement) with DWR to provide demand response during the summers of 2008 and 2009.** The Agreement is proposed pursuant to Resolution E-4062, which approved a previous agreement between PG&E and DWR to provide demand response during the summer of 2007. It will insure continuing participation by DWR in California's demand response programs. The Energy Action Plan identifies demand response as a preferred means of meeting growing energy needs for California and the Commission wishes to encourage demand response whenever possible.

**BACKGROUND**

PG&E seeks approval of this Agreement in order to retain the demand response provided by DWR to PG&E under a similar agreement for summer 2007. Prior to the execution of the 2007 agreement, DWR provided demand response MWs to PG&E as a participant in the California Power Authority – Demand Reserves Partnership (CPA-DRP) program. DWR has been consistently providing 200 MW of demand response to PG&E, and previously to the CPA-DRP, when called.

The Commission approved the PG&E-DWR 2007 agreement in Resolution E-4062, dated February 15, 2007. The Agreement, as proposed in PG&E AL 3168-E, retains most of the terms of the 2007 agreement, including the pricing terms,

notice requirement, delivery months, call hours, maximum amount of delivery, scheduling, and payment terms. The Agreement will terminate if not approved by the Commission by April 30, 2008.

In AL 3168-E, PG&E presents the Agreement and requests that the Commission:

- approve the Agreement in its entirety;
- find that the Agreement costs are eligible for recovery in the Energy Resource Recovery Account (ERRA); and
- find that the 200 MW of demand response from DWR count towards PG&E's resource adequacy requirements.

The Agreement covers summer 2008 and 2009 only. The terms of the Agreement are the same as those of the 2007 agreement, except for some minor adjustments. DWR will receive capacity payments, based on the amount of capacity nominated each month. DWR will receive reduced payments if the demand reductions are between 50% and 100% of the nominated amount, and will incur a penalty if the demand reduction is less than 50% the nominated amount. The exact reduction and penalties are determined by a schedule agreed upon by PG&E and DWR, and is classified as confidential by PG&E. DWR also receives energy payments, based on their reduction in energy consumption in kWh, when an event is called. The exact amount of the capacity and energy payments are determined by a schedule agreed upon by PG&E and DWR, and is classified as confidential by PG&E.

PG&E can trigger a demand reduction event at its discretion during the hours 11 a.m. - 7 p.m. on non-holiday weekdays from June 1 through September 30, for a maximum number of hours per month as determined by the Agreement. The maximum number of hours per month is classified as confidential by PG&E. PG&E will provide notification of day-ahead events at least one hour prior to the close of the CAISO day-ahead market, and notification of hour-ahead events at least one hour prior to the close of the CAISO hour-ahead market.

The detailed confidential information in the Agreement can be found in Appendix A.

## **NOTICE**

Notice of AL 3168-E 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 III-G of General Order 96-A. PG&E also notified the service list of A.05-06-006 et al. by email.

## **PROTESTS**

PG&E's Advice Letter 3168-E was timely protested by the Division of Ratepayer Advocates (DRA) on December 24, 2007. PG&E submitted a reply to DRA on January 2, 2008.

## **DISCUSSION**

**The determination of the amount of Resource Adequacy fulfilled by a Demand Response resource is outside the scope of this proceeding.** DRA protests PG&E's request that the Commission issue a Resolution which "finds that the 200 MW of demand response from DWR counts towards PG&E's resource adequacy (RA) requirements." DRA points out that "the amount of RA capacity counted for PG&E's demand response programs to meet PG&E's 2008 and 2009 RA requirements will be determined by the California Energy Commission (CEC) pursuant to Decision (D.) 05-10-042." DRA therefore recommends that the Commission should **not** find that the 200 MW of demand response from DWR continue to count towards PG&E's resource adequacy requirements, but instead should defer that determination to the process established in D. 05-10-042. Energy Division agrees with DRA that the determination of the amount of Resource Adequacy fulfilled by a Demand Response resource is outside the scope of this proceeding, and is addressed within the guidelines set out in D. 05-10-042, or in any subsequent ruling in the Resource Adequacy proceeding (R. 05-12-013).

In Resolution E-4062, Energy Division recommended that the Commission find that the 200 MWs *already* credited to PG&E as part of the CPA-DRP continue to count toward PG&E's 2007 Resource Adequacy requirement. This recommendation was made only for the purpose of confirming that the 200 MW of demand response referred to in the 2007 agreement was the consistent with the 200 MW already credited by the CEC for 2007.

As PG&E notes in its response to DRA's protest, the CEC has already determined that DWR's participation in PG&E's DR portfolio counts as 200 MW towards PG&E's 2008 RA requirements, based on DWR's performance during summer 2007. According to the guidelines set out in D. 05-10-042, the amount of RA credit that PG&E receives for the 2009 will be determined by the CEC during 2008, and will be based partly on DWR's demand reductions during the summer of 2008.

**This Agreement covers only 2008 and 2009.** The Commission is concerned that this resource continues to be available beyond 2009. The Commission directs PG&E to propose a new Agreement with DWR for two years commencing in 2010. The Commission further directs PG&E to propose its 2010-2011 agreement with DWR as part of its 2009-2011 demand response program budget application that is scheduled to be filed in June 2008.

A recent Administrative Law Judge (ALJ) Ruling (in Rulemaking 07-01-041) titled *Guidance on Content and Format of 2009-2011 Demand Response Activity Applications* outlined several demand response attributes that the investor-owned utilities are encouraged to develop in their 2009-2011 Demand Response Program Applications. Relevant is Section 4.1 of the ruling which encourages the IOUs to propose "modifications to existing programs in order to allow them to transition into Participating Load."<sup>1</sup> Based on our understanding of the terms of the Agreement, we believe that it could qualify as a Participating Load resource for PG&E in 2009, assuming the Market Redesign and Technology Upgrade Release 1A framework is finalized by that time. As described in the ALJ ruling, PG&E should consider potential modifications to the Agreement if such changes are appropriate to enable the contract to qualify as a Participating Load resource, and provide the details of those potential modifications in its 2009-2011 Demand Response budget applications<sup>2</sup>.

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<sup>1</sup> Participating Load as described in the ruling is a demand response resource in the CAISO's Market Redesign and Technology Upgrade Release 1A framework that will compete directly with generation in all of CAISO's wholesale markets, such as ancillary services, Residual Unit Commitment, day-of, day-ahead, and real-time markets.

<sup>2</sup> We recognize that any changes to the Agreement would need to be re-negotiated with, and agreed to, by DWR.

## **COMMENTS**

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

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

PG&E filed comments on the draft version of this Resolution on March 27, 2008. PG&E appended to those comments a First Amendment to the Agreement, extending the date for final Commission approval of the Agreement from April 30, 2008 to May 31, 2008.

## **FINDINGS**

1. Resolution E-4062, dated February 15, 2007, approved an agreement between PG&E and DWR to provide up to 200 MW of demand response during the summer of 2007.
2. PG&E proposed a new Agreement with DWR covering 2008 and 2009, requesting also that the Commission find that its costs are eligible for recovery in the Energy Resource Recovery Account (ERRA), and that the 200 MW of demand response from DWR continue to count towards PG&E's resource adequacy requirements.
3. The Agreement, including the First Amendment filed in PG&E's March 27, 2008 comments, should be approved in its entirety.
4. The Agreement costs should be eligible for recovery in the Energy Resource Recovery Account (ERRA) and PG&E's tariff sheets should be changed accordingly.
5. The demand response product provided by DWR qualifies to count towards PG&E's resource adequacy (RA) requirements. The exact amount of demand response from DWR that counts towards PG&E's RA requirements will

continue to be determined through the process established by the Commission in the Resource Adequacy Proceeding (R. 05-12-013) and is therefore outside the scope of this proceeding.

6. To ensure continuing availability of this resource after 2009, PG&E should propose a new two-year agreement with DWR commencing in 2010.
7. PG&E should consider modifications to the Agreement for the purpose of enabling it to qualify as a CAISO Participating Load for summer 2009 and describe those potential modifications in its 2009-2011 demand response budget application in accordance with the ALJ Ruling issued in R.07-01-041 on February 27, 2008.

**THEREFORE IT IS ORDERED THAT:**

1. The request of Pacific Gas & Electric to contract with State of California Department of Water Resources (DWR) for demand response per the proposed Agreement during the summers of 2008 and 2009, as requested in Advice Letter 3168-E, is approved.
2. The costs from the Agreement are eligible for recovery in PG&E's Energy Resource Recovery Account (ERRA).
3. The demand response product provided by DWR qualifies to count towards PG&E's resource adequacy (RA) requirements. The exact amount of demand response from DWR that counts towards PG&E's RA requirements will continue to be determined through the process established by the Commission in the Resource Adequacy Proceeding (R. 05-12-013 ), and is therefore outside the scope of this proceeding.
4. PG&E shall propose a new two-year agreement with DWR, commencing in 2010, as part of its 2009-2011 demand response budget application that is due on June 1, 2008.
5. In its 2009-2011 demand response budget application, PG&E shall also propose potential modifications to the 2008-2009 Agreement for the purpose of enabling it to qualify as CAISO Participating Load by summer 2009.

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 April 10, 2008; the following Commissioners voting favorably thereon:

/s/ Paul Clanon  
Paul Clanon  
Executive Director

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

**APPENDIX A -- CONFIDENTIAL**

CONFIDENTIAL INFORMATION REDACTED