

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

ENERGY DIVISION

RESOLUTION E-4181  
July 31, 2008

REDACTED

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

Resolution E-4181. Pacific Gas and Electric Company (PG&E) requests approval of a renewable procurement contract, with an existing renewable facility. This contract is approved without modification.

By Advice Letter 3230-E filed on March 14, 2008.

**SUMMARY**

**PG&E’s renewable contract is consistent with PG&E’s 2007 Renewable Portfolio Standard (RPS) procurement plan and is approved without modification**

PG&E filed Advice Letter (AL) 3230-E on March 14, 2008, requesting Commission review and approval of a power purchase agreement (PPA) executed with Wadham Energy Limited Partnership (Wadham). The PPA replaces an existing Transitional Standard Offer 1 Qualifying Facility (QF) contract between the two parties, which expires December 31, 2009. The 10-year PPA was negotiated bilaterally. PG&E’s request is granted without modification.

<b>Generating Facility</b>	<b>Type</b>	<b>Term</b>	<b>Capacity (MW)</b>	<b>Annual (GWh)</b>	<b>Online</b>	<b>Location</b>
Wadham	Biomass	10 years	26 MW	141 GWh	Currently Operating	Colusa County, CA

**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 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

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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.

<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)

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

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<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)

<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.

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.

### **The Commission has established bilateral procurement guidelines for the RPS Program**

While the focus of the RPS program is procurement through competitive solicitations, Commission decisions have adopted interim guidelines for approving RPS bilateral contracts.<sup>15</sup> Going forward, the Commission will look further at evaluation criteria for bilateral RPS contracts.<sup>16</sup> However, in the interim, utilities' bilateral contracts can be evaluated on a case-by-case basis prior to establishing formal evaluation criteria.

### **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, 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.<sup>17</sup>

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<sup>15</sup> RPS bilateral contract approval guidelines: 1) the PPA is not seeking recovery for funds above the MPR through the above-market costs fund (D.03-06-071 p. 59, CoL 31, OP 29), 2) the PPA was submitted by advice letter (D.03-06-017, *mimeo.*, p. 59), and 3) the PPA is at least one month in duration (D.06-10-019 p. 29).

<sup>16</sup> Rulings on May 10, 2007 and September 4, 2007 in R.06-02-012 requested comments and proposals on three subject areas; 1) short-term MPR methodology, 2) reasonableness criteria for IOU bilateral contracts and reasonableness criteria for energy service providers and community choice aggregators requests for public funds to cover above market costs, and 3) comments on draft guidelines for CPUC review and process for all RPS contract types. Parties' responses to the rulings will inform a Commission decision.

<sup>17</sup> Chapter 464, Statutes of 2006 (SB 1368)

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) power plant.<sup>18</sup> The EPS applies to all long-term energy contracts for baseload generation.<sup>19</sup> Renewable energy contracts are deemed EPS compliant in cases where the generating facility uses biomass that would otherwise be disposed of by open burning, forest accumulation, landfill, spreading or composting.<sup>20</sup>

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

On March 14, 2008, PG&E filed AL 3230-E requesting Commission approval of a renewable procurement contract. The PPA results from bilateral negotiations with Wadham Energy Limited Partnership. If approved, PG&E is authorized to accept future deliveries of incremental supplies of renewable resources and contribute towards the 20 percent renewables procurement goal required by California's RPS statute.<sup>21</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

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<sup>18</sup> D.07-01-039 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)

<sup>19</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>20</sup> D.07-01-039, Conclusion of Law 35.

<sup>21</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 Rulemaking (R.) 04-04-026.

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 2007 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:
  - 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 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. PG&E has requested pre-approval of RPS-eligible procurement covered by SB 1368 as required by D.07-01-039.
  - b. The generating facility employs biomass that would otherwise be disposed of utilizing open burning, forest accumulation, landfill, spreading or composting.
  - c. The renewable resource is pre-approved as compliant with the Interim EPS adopted by D.07-01-039.

**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.

PG&E informed the PRG of the proposed transaction on May 30, 2007, November 30, 2007, and February 22, 2008. None of the PRG members objected to this PPA.

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.

**NOTICE**

Notice of AL 3230-E was 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**

This AL was not protested.

**DISCUSSION**

**Description of the project**

The following table summarizes the substantive features of the PPA. See confidential Appendix A for a discussion of price and PPA terms and conditions.

Generating Facility	Type	Term	Capacity (MW)	Annual (GWh)	Online	Location
Wadham	Biomass	10 years	26 MW	141 GWh	Currently Operating	Colusa County, CA

PG&E’s proposed PPA replaces an existing Transitional Standard Offer 1 Qualifying Facility (QF) contract<sup>22</sup> between PG&E and Wadham, which expires on December 31, 2009 (existing QF contract), with 10-year PPA for firm renewable energy deliveries. The PPA eliminates contract termination risk inherent with Wadham’s existing QF contract, which provides Wadham a unilateral right to terminate its existing QF contract on 30 days notice without penalty.

Approval of the PPA will allow PG&E to retain reliable renewable generation and capacity in its portfolio at a reasonable price and will provide Wadham a guaranteed fixed price for 10 years. We do note an inconsistency between the expected annual deliveries of 141 GWh and recent historic deliveries. That is, in 2004 and 2005 Wadham delivered to PG&E approximately 108 and 107 GWh respectively, which is significantly less than the expected deliveries pursuant to the PPA.<sup>23</sup>

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

- Consistency with PG&E’s 2007 RPS procurement plan
- Compliance with RPS bilateral guidelines
- Consistency with RPS Standard Terms and Conditions (STC)
- Compliance with the Interim Emissions Performance Standard (EPS)

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<sup>22</sup> Standard Offer 1 contracts were offered to as-available QFs that could not make a firm commitment to be available at peak times. SO1 contracts paid the short-run avoided cost (SRAC) for energy and as-delivered capacity prices for capacity.

<sup>23</sup> California Energy Commission’s “Renewables Portfolio Standard 2005 Procurement Verification” (August 2007); Appendix, pages PGandE-9 and PGandE-17 <http://www.energy.ca.gov/2007publications/CEC-300-2007-001/CEC-300-2007-001-CMF.PDF>

- Reasonableness of the levelized all-in price
- Project viability

### **PPA is consistent with PG&E's 2007 RPS Procurement Plan**

California's RPS statute requires the Commission to review renewable energy contracts submitted for approval by a utility. The Commission will then accept or reject proposed PPAs based on their consistency with the utility's approved renewable procurement plan.<sup>24</sup> PG&E's 2007 RPS plan was conditionally approved by D.07-02-011 on February 15, 2007.<sup>25</sup> As required by statute, it includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of compliance flexibility mechanisms established by the Commission, and a bid solicitation setting forth the need for renewable generation of various operational characteristics.<sup>26</sup>

### The PPA fits with identified renewable resource needs

In order to meet the 20 percent renewable energy target by 2010, PG&E requires incremental energy deliveries from newly contracted resources at an average rate of approximately 750 GWh per year.<sup>27</sup> The PPA is consistent with PG&E's goal of procuring energy from projects with deliveries expected to contribute towards 20% renewable in 2010. The Project's annual deliveries of 141 GWh are currently in PG&E's baseline; approval of the PPA will allow PG&E to retain a portion of its baseline portfolio and provide additional deliveries towards PG&E's 2010 goal. The annual deliveries represent approximately 18 percent of PG&E's 2008 incremental procurement target (IPT) and approximately 0.2% of PG&E's 2010 RPS obligation.

### **PPA meets CPUC's guidelines for RPS bilateral contracting**

The proposed PPA is consistent with Commission decisions regarding RPS

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<sup>24</sup> Pub. Util. Code Section 399.14 (c).

<sup>25</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/64640.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/64640.PDF)

<sup>26</sup> Pub. Util. Code Sec. 399.14 (a)(3).

<sup>27</sup> In its 2007 Renewable Portfolio Standard Solicitation Protocol, filed on March 12, 2007, page 5, PG&E state that it seeks RPS-eligible deliveries between 750 - 1500 GWh, or between 1-2% of its retail sales.

bilateral contracts.<sup>28</sup> In this case; 1) the price in the PPA does not exceed the MPR and therefore does not require above-market funds, 2) the PPA was filed by advice letter and 3) the project is existing, currently delivering to PG&E and expected to contribute to the State's RPS goal of 20% renewables in 2010.

The Commission intends to include more explicit standards for evaluating the reasonableness of short-term and bilateral RPS contracts in a decision in the near future. Until such a decision is approved, the Commission will continue to consider the approval of RPS short-term bilateral contracts only on a case-by-case basis.

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

The Commission set forth Standard Terms and Conditions to be incorporated into RPS agreements, including bilateral contracts, in D.04-06-014, D.07-02-011 (as modified by D.07-05-057<sup>29</sup>), D.07-11-025<sup>30</sup> and D.08-04-009<sup>31</sup>. Standard Terms and Conditions (STC) were originally identified 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 modification of D.04-06-014.<sup>32</sup> The remaining non-

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<sup>28</sup> "[The CPUC]...will allow prudent bilateral contracts only when such contracts do not require any PGC funds" (D.03-06-071 p. 59, CoL 31, OP 29). "For now, utilities' bilateral RPS contracts, of any length, must be submitted for approval by advice letter. Such contracts are not subject to the MPR, which applies to solicitations, but they must be reasonable (D.03-06-017, *mimeo.*, p. 59)... No bilateral contracts are currently eligible for SEPs." (D.06-10-019, pp.31-32) Our direction in D.06-10-019 that bilateral contracts be submitted by advice letter did not address the possibility that such contracts would exceed the MPR. Since these PPAs demonstrate that utilities are negotiating bilateral contracts that exceed the MPR, we will reconsider our process in this regard.

<sup>29</sup> D.07-05-057 Order Modifying Decision 07-02-011 Regarding Definition of Green Attributes [http://www.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/68383.pdf](http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/68383.pdf)

<sup>30</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)

<sup>31</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/81269.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/81269.PDF)

<sup>32</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

modifiable STCs include “CPUC Approval”, “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.

“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.

**The 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 an upfront determination of EPS compliance may be made for long-term baseload renewable energy contracts.<sup>33</sup>

Wadham’s facility is fueled by biomass that would otherwise be disposed of by open burning, forest accumulation, landfill, spreading or composting, and therefore, the PPA is deemed EPS compliant.

**PPA Price is Reasonable**

The levelized contract price does not exceed the 2007 MPR<sup>34</sup> and therefore, the PPA is considered *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015, D.04-07-029, and D.05-12-042. The net present value of the sum of payments to be made under the PPA is less than the net present value of payments that would be made at the market price referent for the anticipated delivery. See confidential Appendix A for detailed discussion of contract price.

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the Commission, PG&E and SCE filed an amended petition for modification of D.04-06-014.

<sup>33</sup> D.07-01-039, COL #35

<sup>34</sup> 2007 MPR Resolution E-4118

### **Wadham's facility is a viable renewable resource facility**

The PPA is for an existing facility, so project viability risk is minor. PG&E believes that the project is viable because:

#### Project milestones

The PPA concerns an existing facility; therefore, only CPUC approval is necessary for Wadham to deliver under the terms of the PPA.

#### Technology

Biomass is a proven resource and Wadham's facility has reliably delivered renewable generation to PG&E over the last 18 years.

#### Fuel Source

The facility uses rice hulls as its fuel source; Wadham expects reliable availability of fuel resources throughout the PPA term.<sup>35</sup>

#### Permitting and site control

As an existing facility, which is currently operating, permitting and site control are not an issue.

#### Production tax credit

The PPA is not contingent upon the extension of the federal production tax credits as provided in Section 45 of the Internal Revenue Code of 1986, as amended.

#### Sponsor's creditworthiness and experience

Wadham has successfully demonstrated its experience having reliably delivered to PG&E throughout the Parties' existing QF contact.

#### Transmission

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<sup>35</sup> 20 percent of the U.S. rice crop is produced in Colusa County, where Wadham's facility is located; the facility is the largest rice hull-to-energy plant operating today.  
<http://www.enpowercorp.com/index.cfm?page=wadham>

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

### **Terms and Conditions of Delivery**

The Project's delivery point is at the busbar. PG&E will remain the Scheduling Coordinator (SC) or will designate a qualified third party to perform that role and PG&E will be responsible for imbalance energy charges; Wadham will provide forecasts and expected changes of delivered energy from the Project.

Wadham asserts it will maintain its QF status<sup>36</sup>, and therefore, should be able to maintain its existing California Independent System Operator (CAISO) interconnection and operational agreements. In the event that Wadham is unable to maintain its existing interconnection and operational agreements, Wadham will work with the CAISO to comply with its requirements pursuant to its Large Generator Interconnection Procedure (LGIP).<sup>37</sup>

### **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.

No comments were filed.

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<sup>36</sup> Here "QF status" refers strictly to Wadham's interconnect requirements. If the proposed PPA discussed herein is approved, Wadham will be subject to all PPA terms and conditions, notably all Commission adopted RPS Standard Terms and Conditions.

<sup>37</sup> Wadham may be required to comply with the CAISO's Large Generator Interconnection Agreement (LGIA), which may or may not require an interconnection feasibility study, system impact study and facilities study.

<http://www.caiso.com/1790/1790ade463710ex.html>

## FINDINGS

1. PG&E filed Advice Letter 3230-E on March 15, 2008 requesting Commission review and approval of a renewable energy resource power purchase agreement (PPA) with Wadham Energy Limited Partnership (Wadham).
2. Wadham's facility is currently operating and delivering to PG&E pursuant to an existing Transitional Standard Offer 1 Qualifying Facility (QF) contract, which expires December 31, 2009.
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. 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.
5. The PPA includes the Commission adopted RPS Standard Terms and Conditions deemed "non-modifiable".
6. D.07-01-039 adopted an interim Greenhouse Gas Emissions Performance Standard for contracts greater than 5 years in length and determined that long-term renewable energy contracts are deemed EPS compliant in cases where the generating facility uses biomass that would otherwise be disposed of by open burning, forest accumulation, landfill, spreading or composting.
7. D.03-06-071 allows a utility and a generator to enter into bilateral contracts outside of the competitive solicitation process.
8. 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.
9. Advice letter 3230-E was not protested.
10. 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.

11. The payments made under this PPA between PG&E and Wadham 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.
12. 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.
13. The PPA is reasonable and should be approved.
14. The payments made under the PPA, including all renewable procurement and administrative costs identified in Section 399.14(g) shall be recovered in rates.
15. AL 3230-E should be approved effective today.

**THEREFORE IT IS ORDERED THAT:**

1. Advice Letter AL 3230-E is approved without modification.
2. The payments made under this PPA between PG&E and Wadham 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. The Parties are obligated to comply with Commission adopted RPS Standard Terms and Conditions as described in the PPA.
4. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 31, 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

# **Confidential Appendix A**

## Contract Summary

(REDACTED)

## **Confidential Appendix B**

PPA's Contribution Toward RPS Goals

(REDACTED)

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