

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4223  
February 20, 2009PUBLICR E S O L U T I O N

Resolution E-4223. Pacific Gas and Electric Company (PG&E) requests authorization to extend the delivery term of its power purchase agreements with three biomass generators of electricity: Madera Power, LLC; Community Renewable Energy Services, Inc.; and Sierra Power Corporation, pursuant to the Renewables Portfolio Standard. PG&E's request is approved without modification.

By Advice Letter 3368-E filed on November 24, 2008 and Supplemental Advice Letter 3368-E-A filed on January 5, 2009

SUMMARY

**PG&E's request to extend the terms of three existing renewable contracts complies with the Renewable Portfolio Standard (RPS) procurement guidelines and is approved without modification**

PG&E's renewable contracts comply with the RPS guidelines. PG&E's request to extend the delivery terms pursuant to three existing power purchase agreements (PPAs) is granted without modification.

Generating Facility	Resource Type	Contract Term	Capacity (MW)	Expected Deliveries (GWh)	New Expiration Date	Location
Madera	Biomass	Additional 5 years	24.0	~184	July 8, 2014	Firebaugh, CA
CRES	Biomass	Additional 5 years	12.0	~92	July 8, 2014	Reedley, CA
Sierra	Biomass	Additional 5 years	7.0	~54	July 8, 2014	Terra Bella, CA

Deliveries from the PPAs are reasonably priced and fully recoverable in rates over the life of the contract; subject to Commission review of PG&E's administration of the contract.

**Confidential information about the contract should remain confidential**

This resolution finds that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583, General Order (G.O.) 66-C, and D.06-06-066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

**BACKGROUND**

The California Renewables Portfolio Standard (RPS) Program was established by Senate Bill 1078<sup>1</sup> and codified by California Pub. Util. Code Section 399.11, et seq. The statute required that a retail seller of electricity such as PG&E purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). Originally, each utility was required to increase its total procurement of ERRs by at least 1 percent of annual retail sales per year until 20 percent is reached, subject to the Commission's rules on flexible compliance, no later than 2017. On September 26, 2006, Governor Schwarzenegger signed Senate Bill (SB) 107,<sup>2</sup> which officially accelerated the State's RPS targets to 20 percent by 2010, subject to the Commission's rules on flexible compliance.<sup>3</sup> More recently, California's renewables goal was furthered on November 17, 2008, with Governor Schwarzenegger's signing of Executive Order S-14-08 which established a 33 percent RPS goal by 2020.<sup>4</sup>

**PG&E requests approval of contract extensions**

On November 24, 2008, PG&E filed AL 3368-E requesting Commission approval of extensions to its PPAs with three existing biomass facilities.<sup>5</sup> If approved, the PPAs, which are currently set to expire in July 2009, will be extended for an

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

<sup>2</sup> Chapter 464, Statutes of 2006 (SB 107)

<sup>3</sup> Pub. Util. Code Section 399.14(a)(2)(C)

<sup>4</sup> <http://gov.ca.gov/index.php?/executive-order/11072/> (last visited December 9, 2008)

<sup>5</sup> On January 5, 2009, PG&E filed Supplemental Advice Letter 3368-E-A correcting pricing information provided in Advice Letter 3368-E, Confidential Appendix A.

additional five-year delivery term. PG&E will procure generation from the facilities according to the previously determined pricing terms and conditions set forth in the PPAs. PG&E expects the facilities to continue delivering approximately 330 gigawatt hours (GWhs), cumulatively, which represents approximately 2 percent of PG&E's 2010 RPS goal.<sup>6</sup>

### **PG&E requests final "CPUC Approval" of contract extensions**

PG&E requests that Commission approve a resolution which:

1. Approves the PPAs in their 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 PPAs.
2. Finds that the any procurement pursuant to the PPAs constitutes procurement from eligible renewable energy resources 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 associated with the PPAs shall be recovered in rates.
4. Adopts the following findings of facts and conclusions of law in support of cost recovery for the PPAs:
  - a. The PPAs are consistent with PG&E's approved 2008 RPS procurement plan.
  - b. The terms of the PPA, including the price of delivered electricity, are reasonable.
  - c. The utility's costs under the PPAs shall be recovered through PG&E's Energy Resources Recovery Account.
  - d. Any stranded costs that may arise from the PPAs are subject to the provisions of D.04-12-048 that authorize recovery of stranded renewables procurement costs over the life of the contracts. The

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<sup>6</sup> Renewables Portfolio Standard August 2008 semi-annual compliance report and project development status report of Pacific Gas and Electric (public version). Served August 15, 2008.

implementation of the D.04-12-048 stranded cost recovery mechanism is addressed in D.08-09-012.

5. 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 biomass used by the facilities for electric generation would otherwise be disposed of utilizing open burning, forest accumulation, landfill, spreading or composting.
  - c. The renewable resources are approved as compliant with the Interim EPS adopted in D.07-01-039.

### **NOTICE**

Notice of AL 3368-E and AL 3368-E-A were made by publication in the Commission's Daily Calendar. Pacific Gas and Electric states that copies of the ALs were mailed and distributed in accordance with Section IV of General Order 96-B.

### **PROTESTS**

This AL was not protested.

### **DISCUSSION**

#### **Description of the PPAs**

The following table summarizes the substantive features of the PPAs.

<b>Generating Facility</b>	<b>Resource Type</b>	<b>Contract Term</b>	<b>Capacity (MW)</b>	<b>Expected Deliveries (GWh)</b>	<b>New Expiration Date</b>	<b>Location</b>
Madera	Biomass	Additional 5 years	24.0	~184	July 8, 2014	Firebaugh, CA
CRES	Biomass	Additional 5 years	12.0	~92	July 8, 2014	Reedley, CA
Sierra	Biomass	Additional 5 years	7.0	~54	July 8, 2014	Terra Bella, CA

### **Summary of PG&E's request**

PG&E's request would effectuate a five-year extension of three existing RPS-eligible biomass contracts: Madera Power, LLC (Madera), Community Renewable Energy Services, Inc. (CRES) and Sierra Power Corporation (Sierra). If approved, PG&E is authorized to continue procuring renewable generation from the facilities through July 8, 2014. The PPAs include mutually agreed upon pricing terms and conditions throughout the extended delivery period, and require Commission approval. See Confidential Appendix A for a detailed discussion on contract price.

### **History of the PPAs**

The Commission first approved these contracts in Resolution E-3853 on October 16, 2003, which authorized PG&E to enter into a Phase One contractual agreement with three renewable biomass energy contracts.<sup>7</sup> Phase One initiated the terms of the agreement between PG&E and Madera, CRES and Sierra (Sellers), on a year to year basis until PG&E attained an investment grade rating. On July 8, 2004, this Commission approved Resolution E-3877, authorizing PG&E to enter into a Phase Two contractual agreement, amending the original PPAs to a 5-year term agreement with the Sellers.<sup>8</sup> On October 6, 2006, PG&E filed AL 2911-E requesting a price amendment and further clarified certain terms and conditions to its agreements with the Sellers. The Commission approved these amendments in Resolution E-4058, on January 11, 2007.<sup>9</sup> Pursuant to the existing PPAs, PG&E has the unilateral option to extend the agreements for an additional five-year delivery period (Phase Three), which PG&E is now exercising through AL 3368-E.

### **Evaluation Methodology**

Energy Division reviewed PG&E's request to enter into the Phase Three delivery period based on:

1. Reasonableness of the price
2. Ongoing viability of the facilities
3. Compliance with the Interim Emissions Performance Standard

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<sup>7</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/30816.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/30816.pdf)

<sup>8</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/38202.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/38202.pdf)

<sup>9</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/63700.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/63700.pdf)

The PPAs' levelized price is reasonable

In AL 3368-E, PG&E stated that its ratepayers will benefit financially from the contract extension because the levelized price for the Phase Three delivery period is below the 2007 market price referent (MPR).<sup>10</sup> The 2007 MPR did not calculate an MPR for a five-year contract term, and therefore, the MPR may not serve as the best benchmark for reasonableness in this instance. That said, we agree with PG&E that the all-in levelized contract price is reasonable, as described further below.

The original PPAs included price terms and conditions for the Phase Three delivery period considered herein. PG&E submitted work papers with supplemental AL 3368-E-A, which demonstrated that the expected cost to ratepayers throughout the Phase Three delivery period conforms to the terms and conditions set forth in the PPAs.

Approval of the Phase Three delivery period retains viable generation in PG&E's renewable energy portfolio

All three PPAs concern existing biomass facilities, which generate baseload, RPS-eligible energy, in PG&E's service territory. Approval of the Phase Three delivery period will preserve the contractual arrangements, which provide valuable energy and capacity to PG&E's ratepayers.

The PPAs comply 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>11</sup>

The three generating facilities are fueled by biomass that would otherwise be disposed of by open burning, forest accumulation, landfill, spreading or composting, and therefore, the PPAs are deemed EPS compliant.

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<sup>10</sup> Resolution E-4118

[http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/73594.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/73594.pdf)

<sup>11</sup> D.07-01-039, COL #35

## **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

## **FINDINGS**

1. 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.
2. On November 17, 2008, Governor Schwarzenegger signing of Executive Order S-14-08 which furthered California's RPS goal to 33 percent by 2020.
3. On November 24, 2008, PG&E filed Advice Letter 3368-E requesting Commission review and approval of a five-year extension of its contracts with Madera Power, LLC, Community Renewable Energy Services, Inc. and Sierra Power Corporation.
4. On January 5, 2009, PG&E filed Supplemental Advice Letter 3368-E-A correcting information provided in Advice Letter 3368-E, Confidential Appendix A.
5. Advice Letter 3368-E was not protested.
6. Procurement pursuant to the PPAs constitutes procurement from eligible renewable energy resources 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.
7. The payments made by PG&E pursuant to the PPAs are reasonable and in the public interest; accordingly, these payments are fully recoverable in rates over the life of the project, subject to Commission review of PG&E's administration of the contract.
8. All renewable procurement and administrative costs, pursuant to the PPAs, identified in Section 399.14(g) shall be recovered in rates.
9. 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.

10. PG&E's request to extend the PPAs for an additional five-year term is reasonable and should be approved.
11. Advice Letter 3368-E, as supplemented by Advice Letter 3368-E-A, should be approved effective today.

**THEREFORE IT IS ORDERED THAT:**

1. Advice Letter 3368-E, as supplemented by Advice Letter 3368-E-A, is approved without modification.
2. 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 February 20, 2009; 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]**