

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

**ENERGY DIVISION**

**RESOLUTION E-4222  
February 20, 2009**

**PUBLIC**

**RESOLUTION**

Resolution E-4222. Pacific Gas and Electric Company (PG&E) requests approval of a renewable resource procurement contract with a new renewable facility, which resulted from PG&E's 2005 Renewables Portfolio Standard solicitation. This contract is approved without modification.

By Advice Letter 3367-E filed on November 21, 2008.

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**SUMMARY**

**PG&E's renewable contract complies with the Renewables Portfolio Standard (RPS) guidelines and is approved without modification**

PG&E filed Advice Letter (AL) 3367-E on November 21, 2008, requesting Commission review and approval of a power purchase agreement (PPA) executed with Hatchet Ridge Wind, LLC (Hatchet Ridge). PG&E's request for approval of a renewable resource procurement contract is granted pursuant to Decision (D.) 05-07-039, which approved PG&E's 2005 procurement plan. The energy acquired from this PPA will count towards PG&E's RPS requirements.

<b>Generating Facility</b>	<b>Resource Type</b>	<b>Term</b>	<b>Capacity (MW)</b>	<b>Annual (GWh)</b>	<b>Online Date</b>	<b>Project Location</b>
Hatchet Ridge	Wind	15 years	78 -103 MW	227-303 GWh	12/31/2009	Burney, California

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.

**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>

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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)

More recently, California's renewables goal was furthered with Governor Schwarzenegger's signing of Executive Order S-14-08 on November 17, 2008, which established a 33 percent RPS target by 2020.<sup>7</sup>

### **Commission 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>8</sup> On June 9, 2004, the Commission adopted its Market Price Referent (MPR) methodology<sup>9</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>10</sup>

On December 15, 2005, the Commission adopted D.05-12-042 which refined the MPR methodology for the 2005 RPS Solicitation.<sup>11</sup> Subsequent resolutions adopted MPR values for the 2005, 2006, 2007 and 2008 RPS Solicitations.<sup>12</sup>

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<sup>7</sup> <http://gov.ca.gov/index.php?/executive-order/11072/> (last visited December 9, 2008)

<sup>8</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/27360.PDF](http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/27360.PDF)

<sup>9</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>10</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/38287.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/38287.PDF)

<sup>11</sup> [http://www.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/52178.pdf](http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/52178.pdf)

<sup>12</sup> Respectively, Resolution E-3980:

[http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/55465.doc](http://docs.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/55465.doc), Resolution E-4049: [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/63132.doc](http://docs.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), Resolution E-4214: [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_RESOLUTION/95553.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/95553.pdf)

In addition, D.06-10-050, as modified by D.07-03-046 and D.08-05-029,<sup>13</sup> further refined the RPS reporting and compliance methodologies.<sup>14</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>15</sup>

### **Commission has adopted minimum quotas for long-term RPS contracting**

Pub. Util. Code 399.14(b)(2) 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 or from new facilities commencing commercial operations on or after January 1, 2005." On May 3, 2007, the Commission approved D.07-05-028<sup>16</sup> which established a minimum percentage of the prior year's retail sales that must be contracted with contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005. As a new, long-term contract, deliveries from Hatchet Ridge will contribute to PG&E's minimum quota requirement.

### **Commission requires standard terms and conditions for RPS contracts**

The Commission set forth standard terms and conditions (STCs) to be incorporated into RPS agreements, including bilateral contracts, in D.04-06-014

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<sup>13</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>14</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>15</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.

<sup>16</sup> [http://www.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/67490.PDF](http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/67490.PDF)

(as modified by several subsequent decisions).<sup>17, 18</sup> The Commission originally identified several STCs 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>19</sup> The remaining non-modifiable STCs include “CPUC Approval”, “Definition of 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.<sup>20</sup> Most recently, on August 21, 2008 the Commission adopted D.08-08-028, which modified STC #2 the “Definition of RECs and Green Attributes.”<sup>21</sup>

**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.

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<sup>17</sup> D.07-02-011 (as modified by D.07-05-057)

[http://www.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/68383.pdf](http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/68383.pdf)

<sup>18</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>19</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 the Commission, PG&E and SCE filed an amended petition for modification of D.04-06-014.

<sup>20</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/81269.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/81269.PDF)

<sup>21</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/86954.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/86954.pdf)

The PRG for PG&E consists of: California Department of Water Resources (DWR), the Commission's Energy Division, Union of Concerned Scientists (UCS), Division of Ratepayer Advocates (DRA), Coalition of California Utility Employees (CUE) and The Utility Reform Network (TURN).

PG&E informed the PRG of the proposed transaction on several occasions between May 2006 and October 2008 as negotiations developed. The PRG did not object to PG&E's decision to enter into this contract or PG&E's decision to submit it for Commission approval by advice letter.

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

**Pursuant to SB 1036, the process for above-market cost recovery has been modified**

Pursuant to SB 1078 and SB 107, the California Energy Commission (CEC) was authorized to "allocate and award supplemental energy payments" to cover above-market costs<sup>22</sup> of long-term RPS-eligible contracts executed through a competitive solicitation.<sup>23</sup> The CEC required that developers seeking above-market costs to apply to the CEC for supplemental energy payments (SEPs).

This above-market cost recovery mechanism was reformed on October 14, 2007 with the passage of SB 1036,<sup>24</sup> which authorizes the Commission to provide cost recovery through rates for the total costs of above-MPR contracts, when the contracts are deemed reasonable. Above-MPR cost recovery has a 'cost limitation' equal to the amount of funds accrued in the CEC's New Renewable Resources Account, which had been established to collect SEP funds, plus the portion of funds which would have been collected through January 1, 2012. SB 1036 also sets forth a number of eligibility criteria that the Commission must apply when awarding above-MPR cost recovery.<sup>25</sup> The CEC and the

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<sup>22</sup> Note: "above-market costs" refers to the portion of the contract price that is greater than the appropriate market price referent.

<sup>23</sup> Former Pub. Util. Code 399.15(d) pursuant to SB 107 (2006)

<sup>24</sup> Chapter 685, Statutes of 2007 (SB 1036)

<sup>25</sup> Pub. Util. Code § 399.15(d)(2)

Commission are working collaboratively to implement SB 1036, which became effective January 1, 2008.<sup>26</sup>

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

On November 21, 2008 PG&E filed AL 3367-E requesting Commission approval of a renewable procurement contract. The PPA results from PG&E's 2005 RPS Solicitation. 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>27</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. Approves PG&E's exercise, at PG&E's discretion, of its option under the PPA to purchase some or all of the additional 25 MWs after June 30, 2009 under the same price, terms, and conditions applicable to the initial purchase of 78.2 MW under this PPA. Any purchase of the additional 25 MWs pursuant to the options provided in this PPA, whether before or after June 30, 2009, is approved to the same extent as the purchase of the initial 78.2 MW under this PPA.
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.

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<sup>26</sup> CPUC implemented the rate-making aspects of SB 1036 in Resolution E-4160 (April 10, 2008). The CPUC held a workshop on the remaining implementation issues surrounding the above-MPR funds on May 29, 2008. Website: <http://www.cpuc.ca.gov/PUC/energy/electric/RenewableEnergy/SB1036implementation.htm>

<sup>27</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 R.04-04-026; R.06-02-012; R.06-05-027 and R.08-08-009.

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 2005 and 2007 RPS procurement plans.
  - 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 for the PPA:
  - a. The utility's cost 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. Hatchet Ridge's renewable generating facility is an intermittent renewable resource, for purposes of compliance with the EPS.
  - b. The generating facility employs wind technology,
  - c. The renewable resource is pre-approved as compliant with the EPS.

### **NOTICE**

Notice of AL 3367-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**

AL 3367-E 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 the PPA’s terms and conditions, including price.

<b>Generating Facility</b>	<b>Resource Type</b>	<b>Term</b>	<b>Capacity (MW)</b>	<b>Annual (GWh)</b>	<b>Online Date</b>	<b>Project Location</b>
Hatchet Ridge	Wind	15 years	78 -103 MW	227-303 GWh	12/31/2009	Burney, California

Hatchet Ridge is a new wind project under development in Burney, California (Shasta County) with deliveries expected to commence by the end of 2009. Through its proposed PPA with Hatchet Ridge, PG&E will procure a minimum of 76 percent of the facility’s output. The PPA provides that PG&E may procure the generation from the remaining 24 percent of the facility’s capacity upon notification by Hatchet Ridge by June 30, 2009. Pursuant to the PPA, the same price and terms and conditions apply to all generation procured from the facility throughout the 15-year contract term.

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

- Consistency with PG&E’s RPS procurement plans
- Consistency with RPS Standard Terms and Conditions (STC)
- Reasonableness of the levelized all-in price
- Compliance with Emission Performance Standard (EPS)
- Project viability

**PPA is consistent with PG&E’s CPUC adopted 2005 RPS Plan**

California’s RPS statute requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility. PG&E’s 2005 RPS procurement plan (Plan) was approved by D.05-07-039 on July 21, 2005. Pursuant to statute, the 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.

In AL 3367-E, PG&E stated that its negotiations with Hatchet Ridge were suspended for longer than one year. PG&E explained that negotiations were suspended while the project, which was bid by RES America Development, was sold to Babcock & Brown. Therefore, while Hatchet Ridge was shortlisted in PG&E's 2005 solicitation, PG&E also compared the value of the proposed project to RPS offers received in their 2007 RPS solicitation, which were being negotiated during the same time.

### **PPA is consistent with identified resource needs**

The stated goal of PG&E's 2005 RPS Plan was to procure approximately 1-2 percent of PG&E's retail sales volume or between 700 and 1,400 GWh per year with delivery terms of 10, 15, or 20 years. Participants could submit offers for four specific products - as-available, baseload, peaking, and dispatchable resources. More recently, PG&E's 2007 and 2008 RPS Plan identified ongoing need for RPS eligible resources. If approved, Hatchet Ridge is expected to contribute approximately 2 percent to PG&E's 2010 RPS goal.

### **PPA selection is consistent with RPS Solicitation Protocol**

The PPA is consistent with the RPS plan because it was achieved through PG&E's adherence to its Solicitation Protocol:

1. PG&E generally followed the RPS Solicitation schedule set forth in its Solicitation Protocol, but ultimately, the schedule for concluding negotiations was necessarily extended.
2. Using the approved bid solicitation protocol and forms of power purchase agreements, PG&E commenced its solicitation on August 4, 2005. Bids were received until September 15, 2005, consistent with the published schedule. All of the accepted bids conformed to the RPS protocol; that is, they offered power from eligible renewable energy resources, they were submitted using the standard forms, they executed the bid protocol and confidentiality agreements, and they posted the required bid deposit.
3. These bids were evaluated and scored in the manner prescribed in the Solicitation Protocol. In particular, evaluation of the offer price took into

account PG&E's published Time of Delivery factors and imputed the potential cost of transmission adders. PG&E scored the offers pursuant to a methodology that attributed the proper weight to market valuation, portfolio fit, credit and other non-price factors of the Solicitation Protocol.

4. The bids were ranked according to the protocols, and were placed on PG&E's "Short List" and presented to PG&E's PRG on October 24, 2005. PG&E notified short-listed bidders and PG&E negotiations with short-listed bidders began once they submitted the required bid deposit. The interim results of negotiations were presented to the PRG on several occasions between December 2 and May 3, 2006. PG&E continued to discuss the project with its PRG as negotiations unfolded throughout 2007 and 2008.

### **Bid evaluation process consistent with Least-Cost Best-Fit (LCBF) decision**

The LCBF decision directs the utilities to use certain criteria in their bid ranking. It offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence serious negotiations. Much of the bid ranking criteria described in the LCBF decision is incorporated in PG&E's Solicitation Protocol and is discussed below. PG&E included a description of its LCBF process with its proposed 2005 procurement plan and bid protocol; no parties protested the reasonableness of PG&E's methodology for evaluating its RPS bids.

Due to the length of time between when the project was originally shortlisted (2005), to when the viability of the project was more certain and negotiations resumed, PG&E evaluated Hatchet Ridge relative to bids received in their 2007 and 2008 RPS solicitations. PG&E believes that Hatchet Ridge represents a good value relative to other bids and that the project would have been shortlisted in these more recent solicitations.

### **Market Valuation**

In its "mark-to-market analysis," PG&E compares the present value of the bidder's payment stream with the present value of the product's market value to determine the benefit (positive or negative) from the procurement of the resource, regardless of PG&E's larger portfolio. A product's benefits are the market value of the energy, capacity, and ancillary services. PG&E evaluates the bid price and indirect costs, such as debt equivalence, and the costs to the utility transmission system caused by interconnection of the resource to the grid or

integration of the generation into the system-wide electrical supply. The benefit/cost analysis yields a Net Market Value; a \$/MWh comparison of the value of generation from a proposed contract and PG&E's forward curve, i.e., its proxy for firm system energy.

### Portfolio Fit

Portfolio fit considers how well an offer variation's features match PG&E's portfolio needs, with special consideration of project online and generation profile. This analysis includes the anticipated transaction costs involved in any energy remarketing (i.e., the bid-ask spread) if the contract adds to PG&E's net long position. PG&E states that the project's intermittent generation profile fits into its portfolio in a satisfactory manner.

### Consideration of Transmission Adders

The RPS statute requires the "least cost, best fit" eligible renewable resources to be procured. Under the RPS program, the potential customer cost to accept energy deliveries from a particular project must be considered when determining a project's value for bid ranking purposes. PG&E's 2005 transmission ranking cost report (TRCR) identified the remaining available transmission capacity and upgrade costs for PG&E substations at which renewable resources are expected to interconnect. PG&E determined the TRCR cluster at which each shortlisted project would interconnect to the transmission grid. Consistent with Commission decisions, based on the potential transmission congestion, the associated proxy transmission network upgrades and the associated capital costs that may be needed to accommodate delivery at this cluster, PG&E assigned a transmission adder to each Offer for evaluation.

Hatchet Ridge was assigned Round Mountain as its transmission cluster. PG&E used project specific costs from the California Independent System Operator's large generator interconnection agreement report to assess the transmission adder for the project.

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

The proposed PPA conforms to the Commission's decisions requiring STCs for RPS contracts.

“May Not be Modified” Terms

The PPA does not deviate from the non-modifiable terms and conditions.

“May be Modified” Terms

During the course of negotiations, the parties identified a need to modify some of the modifiable standard terms in order to reach agreement. These terms had all been designated as subject to modification upon request of the bidder in Appendix A of D.08-04-009.

**PPA Price is Reasonable**

PG&E’s proposed PPA exceeds the 2005 MPR. However, we determine that PG&E’s PPA with Hatchet Ridge is reasonably priced.<sup>28</sup> Specifically, the price is reasonable when compared to other RPS contracts from PG&E’s 2007 and 2008 RPS solicitations. Hatchet Ridge has a high likelihood of providing near-term deliveries that will contribute to PG&E’s 2010 RPS goal and resource adequacy benefits.<sup>29</sup>

**PPA is consistent with SB 1036 requirements and will count towards PG&E’s Above-MPR Funds (AMFs) cost limitation**

SB 1036, effective January 1, 2008 set forth five conditions, codified in Pub. Util. Code § 399.15(d)(2), for PPAs to be counted toward the cost limitation. The Hatchet Ridge PPA satisfies the conditions:

- Selected through PG&E’s 2005 competitive solicitation; the PPA is consistent with PG&E’s approved procurement plan,
- PPA is at least 10 years in duration,
- PPA concerns a new facility,
- PPA does not involve unbundled renewable energy credits, and

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<sup>28</sup> Pursuant to SB 1036 (2007), the Commission is authorized to approve cost recovery through rates for RPS contracts which exceed the MPR.

<sup>29</sup> Resource Adequacy (RA) is a mandatory planning and procurement process. The intent of the Resource Adequacy program is to ensure adequate capacity is under contract to meet the needs CPUC jurisdictional load serving entities. The CPUC’s RA program is implemented in R.08-01-025. Website (last visited January 14, 2009): <http://www.cpuc.ca.gov/PUC/hottopics/1Energy/R0404003.htm>

- PPA does not employ any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.

The Commission issued Draft Resolution E-4160 on March 12, 2008, which proposes additional eligibility and reasonableness review standards for contracts requesting above-market funds. On March 28, 2008, however, the Executive Director of the Commission granted a Joint Party Request to bifurcate out some issues addressed in the Draft Resolution in order to obtain additional party comments on issues related to establishing the cost limitation and administering the AMFs. Resolution E-4160 was approved on April 10, 2008 and final implementation of SB 1036 is in progress.

The above-MPR costs of the PPA will be applied to PG&E's cost limitation, pursuant to the Commission's implementation of SB 1036.

### **PPA complies with the Interim EPS**

Pursuant to SB 1368, D.07-01-039 adopted an interim Greenhouse Gas Emissions Performance Standard (EPS) for power procurement contracts greater than 5 years in length and included compliance guidelines for all LSEs. D.07-01-039 clearly states that unit specific contracts with intermittent renewable resources may be deemed EPS-compliant, with conditions.<sup>30</sup> These conditions concern procurement that requires firming and shaping. The decision requires that only unspecified system power may be used for firming and shaping and that any purchase of unspecified system power cannot exceed the expected generation from the specified renewable facility.

Hatchet Ridge is an in-state facility and is not expected to rely on firming and shaping to deliver its generation. Pursuant to D.07-01-0389, we determine that PG&E's contract with Hatchet Ridge is EPS-compliant.

### **Project Development status**

PG&E believes the project is highly viable and that the project will be developed according to the PPA because:

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<sup>30</sup> D.07-01-039; Ordering Paragraphs 35, 40.

### Project Milestones

The PPA identifies agreed upon project milestones, including the construction start date and commercial operation date. The Seller's obligations to meet these milestones are supported by performance assurance securities. PG&E believes that the Seller's project development plan allows all milestones to be achieved.

### Financeability of resource

PG&E believes that Hatchet Ridge has a reasonable likelihood of being financed. Hatchet Ridge's parent company, Babcock & Brown, has extensive experience in financing wind energy projects and will arrange the project financing.<sup>31</sup>

Given the current credit crisis, new renewable energy projects face financing risk. In order to utilize the federal production tax credit (PTC), Hatchet Ridge must partner with a tax equity provider. The tax equity market has shrunk as a result of the current recession and may negatively impact a renewable energy project developer's ability to use the PTC.<sup>32</sup> We believe Babcock & Brown's proven track record will put it at an advantage in competing for financing, but this is clearly a potential source of risk.

### Seller's creditworthiness and experience

PG&E evaluated the company's profile and the credit-related information provided by Hatchet Ridge and determined that the Seller possesses the necessary financing, development, and operational skills to develop the project and meet the obligations of the PPA. Babcock & Brown has a financial interest in approximately 2,880MW of operating wind capacity and approximately 1,355MW under development.

### Technology and fuel supply

Wind is a proven resource that uses commercially proven technology. Shasta County has been identified as a viable wind resource area.<sup>33</sup>

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<sup>31</sup> <http://www.babcockbrown.com/bnb-business-groups/infrastructure-/business-activities.aspx> (Last visited December 23, 2008)

<sup>32</sup> "Downturn to hurt energy projects," Financial Times, December 8, 2008, <http://www.ft.com/cms/s/0/49ad8896-c4c8-11dd-8124-000077b07658.html>

<sup>33</sup> <http://www.energy.ca.gov/maps/wind.html> (Last visited December 23, 2008)

### Production Tax Credit (PTC)

Hatchet Ridge is eligible for the federal PTC. On October 3, 2008, President Bush signed the Emergency Economic Stabilization Act of 2008, House Resolution (H.R.) 1424 (2008), which in part extended the PTC for wind energy projects.<sup>34</sup>

### Interconnection and Transmission

Generation interconnection studies have been completed by the California Independent System Operator. The project will be located in PG&E's service territory and will connect to PG&E's Pit #3 - Round Mountain 230 kV Line.<sup>35</sup> Hatchet Ridge is responsible for constructing a gen-tie and switching station to enable delivery of its generation. PG&E believes that all transmission and interconnection work will be completed on schedule for the project to achieve its commercial online date.

### COMMENTS

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

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on January 20, 2009.

No comments were filed.

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<sup>34</sup> <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:H.R.1424>; (Last visited December 23, 2008)

<sup>35</sup> Interconnection Facilities Re-Study Report, Generation Interconnection: RES North American Leasing, LLC, Hatchet Ridge Wind Farm Project. Report is available at: <http://www.caiso.com/202e/202e903e40570.pdf>

## **FINDINGS**

1. PG&E filed Advice Letter (AL) 3367-E on November 21, 2008 requesting Commission review and approval of a renewable energy resource power purchase agreement (PPA) with Hatchet Ridge Wind, LLC.
2. 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.
3. 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.
4. The PPA includes the Commission adopted RPS Standard Terms and Conditions deemed "non-modifiable".
5. Pursuant to Senate Bill 1036, the Commission is authorized to provide above-market cost recovery through rates.
6. The Commission requires each utility to establish a Procurement Review Group to review the utilities' interim procurement needs and strategy, proposed procurement process, and selected contracts.
7. AL 3367-E was not protested.
8. D.07-01-039 adopted an interim Greenhouse Gas Emissions Performance Standard for contracts greater than 5 years in length and included compliance guidelines for when renewable intermittent generation is firmed with energy from unspecified resources.
9. PG&E's PPA with Hatchet Ridge Wind, LLC is EPS-compliant.
10. The approved costs above the MPR may be applied toward the cost limitation, pursuant to the Commission's implementation of Senate Bill 1036.
11. 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.
12. The payments made under this PPA between PG&E and Hatchet Ridge Wind, LLC are reasonable and in the public interest; accordingly, the payments to be made by PG&E are fully recoverable in rates over the life of

the project, subject to Commission review of PG&E's administration of the PPA.

13. 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.
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. The PPA is reasonable and should be approved.
16. AL 3367-E should be approved effective today.

**THEREFORE IT IS ORDERED:**

1. AL 3367-E 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]

## **Confidential Appendix B**

### Contract Price Analysis [Redacted]

## **Confidential Appendix C**

### **Project Viability Assessment [Redacted]**

## **Confidential Appendix D**

### **MPR - AMF Worksheet [Redacted]**