

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

ENERGY DIVISION

RESOLUTION E-4528  
September 13, 2012

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

Resolution E-4528. Pacific Gas & Electric Company requests extension of power purchase agreement with Bailey Creek.

PROPOSED OUTCOME: This Resolution approves without modification the extension of a power purchase agreement with Bailey Creek while Bailey Creek seeks to obtain a California Independent System Operator Resource ID.

ESTIMATED COST: The resolution approves the extension of the expired contract with no modifications.

By Advice Letter 4069-E filed on June 22, 2012.

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**SUMMARY**

**Pacific Gas and Electric Company ("PG&E") requests the California Public Utilities Commission's ("Commission" or "CPUC") approval of an amendment to the power purchase agreement ("PPA") between PG&E and Bailey Creek Hydroelectric Inc. ("Bailey Creek"). This amendment will extend the now expired PPA beginning June 1, 2012 through the date Bailey Creek obtains a California Independent System Operator ("CAISO") Resource ID, but no later than January 1, 2013.**

Bailey Creek is a 630 kilowatt run-of-the-river hydroelectric Qualifying Facility ("QF") located in Shasta County and has sold power to PG&E under a legacy contract which expired on May 31, 2012. In the past, PG&E has aggregated Bailey Creek's deliveries under an aggregate CAISO Resource ID for the purpose of scheduling its deliveries to the CAISO market. Bailey Creek requested to have its own individual CAISO Resource ID and be removed from the aggregate CAISO Resource ID in order to use a different scheduling coordinator under a successor contract. To obtain a new ID the CAISO requires the generator's attributes to be

modeled in its Full Network Model (“FNM”) before the generator can be scheduled; only then will a Resource ID be issued.

On June 22, 2012 PG&E filed Advice Letter (“AL”) 4069-E seeking Commission approval of an amendment to the expired PPA between Bailey Creek and PG&E. The amendment would extend the expired PPA between PG&E and Bailey Creek for the period beginning June 1, 2012 until the earlier of January 1, 2013 or the date that Bailey Creek obtains a CAISO Resource ID. This will allow Bailey Creek to obtain a CAISO Resource ID and enable Bailey Creek to sign a successor contract with a different scheduling coordinator. Once the CAISO assigns Bailey Creek a unique CAISO Resource ID number Bailey Creek will seek a new successor PPA with PG&E.

For the reasons discussed in detail below the Commission approves Advice Letter 4069-E without modifications.

## **BACKGROUND**

On June 22, 2012 PG&E filed Advice 4069-E with the Commission, requesting a short term extension of a now-expired PPA with the Bailey Creek facility. PG&E asserts the request is consistent with the Qualifying Facility and Combined Heat and Power Program Settlement approved by Commission in Decision (D.) 10-12-035 (“QF/CHP Settlement”). A subsequent PPA has not been signed with this facility due to regulatory delays the facility has faced in obtaining a CAISO Resource ID.

Under its now-expired PPA, Bailey Creek was aggregated with other small generators under one CAISO Resource ID. Because the facility is aggregated with other resources under a single CAISO Resource ID, it is unable to schedule its individual deliveries to the CAISO. In order to have the option of using a scheduling coordinator other than PG&E under a successor contract, Bailey Creek must obtain its own individual CAISO Resource ID. However, Bailey Creek’s legacy PPA expired before it could obtain this ID, due largely to the fact that new generating units are added to the CAISO Full Network Model only on a

quarterly basis.<sup>1</sup> PG&E is requesting that the Seller be allowed to continue generating under its now-expired PPA until its generation is incorporated into the CAISO FNM and its own Resource ID is issued. According to the CAISO's FNM update schedule, this should occur no later than December 31, 2012.

## **NOTICE**

Notice of AL 4069-E was made by publication in the Commission's Daily Calendar. Pacific Gas & Electric states that a copy of the Advice Letter was mailed and distributed in accordance with Section IV of General Order 96-B.

## **PROTESTS**

Advice Letter 4069-E was not protested.

## **DISCUSSION**

Bailey Creek Hydro is a small run-of-river hydroelectric facility that produces RPS eligible energy a few months each year, beginning in late spring. Bailey Creek's PPA expired on May 31, 2012. According to PG&E, PG&E has contacted Bailey Creek on several occasions to remind Bailey Creek of its option to continue deliveries under a new contract pursuant to the QF/CHP Settlement once its PPA has expired. However, shortly before its expiration date, Bailey Creek informed PG&E of its decision to obtain an individual Resource ID from the CAISO so that its generation can be scheduled by a third party. Without the extension of its existing PPA or a new PPA, Bailey Creek's deliveries to PG&E would cease.

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<sup>1</sup> The CAISO Full Network Model (FNM) is a system reliability simulation model that provides a detailed representation of the power system under CAISO control. Any facility seeking its own CAISO Resource ID is required to go through the CAISO FNM to ensure it meets the CAISO network operating constraints. After Bailey Creek meets the CAISO FNM constraints, the facility will be assigned a Resource ID and be allowed to have its own scheduling coordinator.

The need for an individual CAISO Resource ID for Bailey Creek stems from Bailey Creek facility's request for the option to be scheduled into the CAISO market by a third party scheduling coordinator under the CAISO tariff. Bailey Creek needs additional time to undergo the regulatory process required by the CAISO to provide the facility a new CAISO Resource ID.

PG&E suggests that its request to extend Bailey Creek's now-expired PPA is consistent with the Section 11.2.1 of the QF/CHP Settlement term sheet. Under the QF/CHP Settlement, CHP and Utility Prescheduled Facilities operating under contract extensions ordered by the CPUC in D.07-09-040 were required to enter into a Subsequent PPA within 120 days of the Settlement Effective Date, absent showing of good cause for why transition to a Subsequent PPA was not possible within this timeframe. The Settlement Term Sheet notes that "good cause" can include "pending regulatory approvals from the CPUC, CAISO or other Governmental Authority that prevents the delivery of power under a Subsequent PPA". To the degree there is a dispute between a QF and an IOU regarding impediments to entering into a subsequent PPA, the Settlement provides that the QF may submit a letter to the Director of Energy Division.

We note that Bailey Creek is not a "CHP or Utility Prescheduled Facility operating under an extension ordered by the Commission in D.07-09-040" under section 11.2.1 of the QF/CHP Settlement. However, the fact remains that Bailey Creek is a QF facility, and Bailey Creek's willingness and ability to enter into a subsequent PPA has been constrained by the need for a separate CAISO Resource ID and the time delays associated with the process to obtain this Resource ID.

It is reasonable, in our view, to extend the now-expired contract for a limited time period. Importantly, the short-term renewal requested by PG&E will enable the facility to continue to provide RPS eligible energy while its resource ID request is pending with the CAISO. While we grant the request, recognizing that regulatory delays are, to some degree, outside of the utilities' or generators' control, in this instance the regulatory delay associated with obtaining a CAISO Resource ID was reasonably foreseeable and Bailey Creek should have taken steps to initiate the process to obtain a CAISO ID sooner.

We also note that PG&E filed this request as a Tier 2 Advice Letter but did not cite to authority for filing as a Tier 2 Advice Letter. However, because the contract for which PG&E is requesting approval is not an unmodified pro-forma PPA under the QF/CHP Settlement, General Order 96-B requires that AL 4069-E should have been filed as a Tier 3 Advice Letter. (See Commission General Order 96-B, Energy Industry Rule 5.3; see also QF/CHP Settlement Term Sheet Section 4.10 (Approval of PPAs).)

In such cases of Advice Letters filed at the incorrect tier, the Energy Division is empowered to either allow a supplemental filing to rectify the error or reject the Advice Letter without prejudice so that the Advice Letter can be filed at the correct tier. However, in the interest of securing a just and speedy resolution of this uncontested matter, the Commission will exempt Advice Letter 4069-E from the Tier 3 filing requirement. PG&E should in the future always adhere to the rules governing the appropriate Advice Letter Tier filing requirements.

### **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.

No comments were received.

Consistent with Rule 14.6(c)2, as there were no protests to Advice Letter 4069-E and given the time sensitive nature of the request, we find it reasonable to reduce the comment period to 10 days.

### **FINDINGS AND CONCLUSIONS**

1. The Bailey Creek Hydroelectric Inc. ("Bailey Creek") facility is a 630 kilowatt run-of-the-river hydroelectric Qualifying Facility located in Shasta County.
2. Under its original power purchase agreement ("PPA"), Bailey Creek sold power to PG&E under a legacy contract which expired on May 31, 2012.

3. Bailey Creek requested to have its own individual CAISO Resource ID and to be removed from the aggregate CAISO Resource ID in order to use a different scheduling coordinator under a successor contract.
4. For Bailey Creek to receive its own CAISO Resource ID, it will need to go through the CAISO Full Network Model, which should occur no later than December 31, 2012.
5. Absent the requested extension proposed by Advice Letter 4069-E, there will be a lapse in payments for renewable energy the facility produces.
6. Prior to its expiration, the costs associated with the Bailey Creek PPA were recovered via PG&E's Energy Resource Recovery Account.
7. The Bailey Creek PPA extension proposed by Advice 4069-E would reinstate and extend the now expired PPA between PG&E and Bailey Creek starting June 1, 2012 until the earlier of January 1, 2013 or the date that Bailey Creek obtains a CAISO Resource ID.

**THEREFORE IT IS ORDERED THAT:**

1. The request of Pacific Gas and Electric Company in Advice 4069-E, seeking approval to extend a power purchase agreement that expired on May 31, 2012 between PG&E and Bailey Creek Hydroelectric Inc. is found just and reasonable and is approved without modifications.
2. All costs associated with the extended Bailey Creek PPA may be recovered through PG&E's Energy Resource Revenue Account, consistent with the manner in which the costs of the Bailey Creek PPA were recovered prior to its expiration.

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 September 13, 2012; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon  
Executive Director

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners