Date of Issuance 3/26/13

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4578**
March 21, 2013

R E S O L U T I O N

Resolution E-4578. Pacific Gas & Electric Company requests extension of power purchase agreement with Bailey Creek.

PROPOSED OUTCOME: This Resolution approves without modification the second extension of a power purchase agreement with Bailey Creek while Bailey Creek completes the necessary steps to participate in the CAISO market.

SAFETY CONSIDERATIONS: As an existing and operational facility, there are no incremental safety implications associated with this contract beyond the status quo.

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

By Advice Letter 4174-E filed on January 9, 2013.

SUMMARY

Pacific Gas and Electric Company ("PG&E") requests the California Public Utilities Commission's ("Commission" or "CPUC") approval of a second amendment to the power purchase agreement ("PPA") between PG&E and Bailey Creek Hydroelectric Inc. ("Bailey Creek"). This second extension will commence retroactively to January 1, 2013 and expire on March 31, 2013.

Bailey Creek is a 630 kilowatt ("kW") run-of-the-river hydroelectric Qualifying Facility ("QF") located in Shasta County which has sold power to PG&E under a legacy contract. Bailey Creek seeks to deliver power into the CAISO market through a third-party scheduling coordinator. By Resolution E-4528, the Commission approved the first extension of the existing PPA through

December 31, 2012, to allow Bailey Creek to obtain its own CAISO Resource ID for scheduling purposes. Bailey Creek has been issued a Resource ID.[1] However, Bailey Creek has not yet completed all the steps necessary to participate in the CAISO market, and to use an entity other than PG&E to function as Bailey Creek's scheduling coordinator.

On December 26, 2012, Bailey Creek sent a letter requesting PG&E to further extend its PPA. On December 27, 2012, Bailey Creek sent a similar letter to Edward Randolph, the Director of Energy Division, requesting that the Energy Division grant an extension. However, the Energy Division is not authorized to grant an extension of a legacy PPA that expires beyond the 120-day transition period provided by the QF/CHP Settlement. Accordingly, any further extension must be executed by PG&E and submitted for Commission approval.

There are no other material modifications to the extension between Bailey Creek and PG&E. Therefore, for the reasons discussed in detail below the Commission approves Advice 4174-E without modifications.

BACKGROUND

On December 16, 2010, the Commission adopted the Qualifying Facility and Combined Heat and Power Program Settlement Agreement ("QF/CHP Settlement") with the issuance of Decision ("D.") 10-12-035. The QF/CHP Settlement resolves a number of longstanding issues regarding the contractual obligations and procurement options for facilities operating under legacy and new QF and CHP contracts.

Among other things, D. 10-12-035 updates methodologies and formulas for calculating the Short Run Avoided Cost ("SRAC") energy price for QFs to be used in certain pro forma PPAs for QFs under 20 megawatts ("MW"), Transition PPAs, amendments to existing QF PPAs, and Optional As-Available PPAs. The SRAC methodology under the QF/CHP Settlement includes:

[1] PG&E's Advice Letter 4069-E (filed on June 22, 2012) requested Commission approval of the first extension to the legacy PPA between PG&E and Bailey Creek.

(1) By January 1, 2015, transitioning SRAC pricing from a formula that is based in part on administratively-determined heat rates to a formula that solely uses market heat rates;

(2) IOU-specific time-of-use ("TOU") factors to be applied to energy prices to encourage energy deliveries during the times when the energy is most needed by customers;

(3) A locational adjustment based on California Independent System Operator ("CAISO") nodal prices; and,

(4) Pricing options based on whether a cap-and-trade program or other form of GHG regulation is developed in California or nationally.

On January 9, 2013, PG&E filed Advice 4174-E with the Commission, requesting a short term extension of a now-expired PPA with the Bailey Creek facility for a second time. PG&E asserts the request is consistent with the QF/CHP Settlement approved by Commission 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 completing the necessary steps to participate in the CAISO market.

NOTICE

Notice of AL 4174-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 4174-E was not protested.

DISCUSSION

Bailey Creek is a run-of-river small hydroelectric facility which is also an eligible renewable energy resource, and Bailey Creek's power production is limited to a few months each year, beginning in late spring. Bailey Creek's PPA expired soon after the expiration of the 120-day period allowed by QF/CHP Settlement Term Sheet Section 11.2. PG&E suggested that it has reached out to Bailey Creek on several occasions in 2012 to remind the Seller of its option to continue deliveries under a new QF/CHP Settlement contract once its PPA has expired. Bailey Creek has determined that contracting with PG&E is the most convenient option for a successor PPA. 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 first or this second extension of its existing PPA, Bailey Creek would no longer be delivering power under its legacy PPA. This Resolution alleviates the risk of nonpayment for energy delivered to PG&E and the risk of non-delivery of energy from the Bailey Creek facility. Without the retroactive approval of the extension requested by PG&E's Advice Letter 4174-E, staff finds that there might be a lapse in payments for renewable energy that the Bailey Creek facility produces.

Legacy QFs expiring during the Settlement's Initial Program Period have several commercial options available to them, including the execution of one of the pro-forma PPAs approved as part of the QF/CHP Settlement2. Generators that wish to deliver into the CAISO market must comply with the CAISO Tariff, specifically by executing a Participating Generator Agreement, obtaining a CAISO meter, executing a Meter Service Agreement, and executing the appropriate transmission interconnection agreement. To exercise the option of using a scheduling coordinator other than PG&E the QF must have its own CAISO Resource ID and have installed one or more CAISO meters on or before the Term Start Date. The first amendment to Seller's legacy PPA extended the term through December 31, 2012, by which time Seller had obtained its own CAISO Resource ID. However, Seller has not yet fulfilled all the CAISO requirements necessary to be scheduled by a third-party scheduling coordinator.

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 steps associated with the process to obtain this Resource ID.

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[2] QF/CHP Settlement Term Sheet, Section 11

It is reasonable, in our view, to extend the now-expired contract for a second, limited time period. Importantly, the short-term renewal requested by PG&E will enable the facility to continue to provide RPS eligible energy while it completes the steps necessary to participate in the CAISO markets. 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 completing the necessary steps to participate in the CAISO markets was, reasonably foreseeable and Bailey Creek should have taken steps to avoid a second request from the Commission.

We also note that PG&E filed this 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 this to be filed as a Tier 3 Advice Letter. (See Commission General Order 96-B, Energy Industry Rule 5.3.)

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.

Consistent with Rule 14.6(c)2, as there were no protests to Advice Letter 4174-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. This contract was extended by Resolution E-4528, and expired for a second time on December 31, 2012.

3. Bailey Creek has been issued a CAISO Resource ID, but still needs to complete all the other steps necessary to participate in the CAISO market.

4. Absent the requested extension proposed by Advice Letter 4174-E, there will be a lapse in payments for renewable energy the facility produces.

5. Prior to its expiration, the costs associated with the Bailey Creek PPA were recovered via PG&E's Energy Resource Recovery Account.

6. The Bailey Creek PPA extension proposed by Advice Letter 4174-E would reinstate and extend the now expired PPA between PG&E and Bailey Creek retroactively starting on January 1, 2013 until March 31, 2013.

THEREFORE IT IS ORDERED THAT:

1. The request of Pacific Gas and Electric Company in Advice 4174-E, seeking approval to extend a power purchase agreement that expired on December 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 March 21, 2013 the following Commissioners voting favorably thereon:

/s/Paul Clanon__
Paul Clanon
Executive Director

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
CARLA J. PETERMAN
Commissioners