

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4805

October 13, 2016

R E S O L U T I O N

Resolution E-4805. Commission Motion Authorizing Procurement from Bioenergy Facilities supplied from Forest Fuel High Hazard Zones pursuant to Senate Bill 859, the Governor's Tree Mortality Emergency Proclamation, and the Commission's other legal authority.

PROPOSED OUTCOME:

- Requires Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) to procure additional capacity from biomass facilities using specific forest fuel stocks.
- Permits the utilities to use specific processes for this procurement, directs them to track costs, and directs them to file Applications to allocate costs.

SAFETY CONSIDERATIONS:

- This Resolution implements biomass provisions of Senate Bill 859 and the Governor's Emergency Proclamation to address public safety and property from falling trees and wildfire.
- Renewable Auction Mechanism standard contracts contain Commission approved safety provisions. There are not any expected incremental safety implications associated with approval of this Resolution.

ESTIMATED COST:

- This Resolution is expected to result in additional energy procurement contracts which will lead to increased ratepayer costs. Actual costs are unknown at this time.

By Energy Division's own motion.

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SUMMARY

This Resolution orders Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) (collectively, the large investor-owned utilities or IOUs) to each buy a share of 125 megawatts (MW) of capacity from facilities that use biofuel that is a byproduct of sustainable forestry management. This includes dead and dying trees from high hazard zones as further defined in Senate Bill (SB) 859 (2016). This Resolution specifies procurement pathways the IOUs may use to buy their share of this capacity: the Renewable Auction Mechanism (RAM) directed in Commission Resolution E-4770, a second biomass RAM authorized by this Resolution, or bilateral contracting also authorized by this Resolution.

This Resolution also provides for the cost recovery and cost allocation of procurement by directing the IOUs to create memorandum accounts and to submit Applications to create a new Tree Mortality Nonbypassable Charge.

BACKGROUND

Overview of the Emergency Proclamation

Severe drought conditions and an epidemic infestation of bark beetles have caused vast and unprecedented tree mortality in several regions of California. On October 30, 2015, Governor Brown issued an Emergency Proclamation (Proclamation)¹ to protect public safety and property from falling dead trees and wildfire. Ordering Paragraph 1 of the Proclamation tasked the Department of Forestry and Fire Protection (CAL FIRE), the California Natural Resources Agency, Caltrans, and the California Energy Commission to immediately identify "high hazard zones for wildfire and falling trees." CAL FIRE's high hazard zone (HHZ) designations consist of Tier 1 HHZs and Tier 2 HHZs.²

¹ https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf

² HHZ-designated areas are delineated at <http://egis.fire.ca.gov/TreeMortalityViewer/>

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Other ordering paragraphs directed the California Public Utilities Commission (Commission) to take various measures to ensure that expedited contracts may be executed for bioenergy facilities that receive feedstock from HHZs.

Resolution E-4770 addressed specific orders of the Proclamation that directed the Commission to "take expedited action to ensure that contracts for new forest bioenergy facilities receiving feedstock from high hazard zones can be executed within six months, including initiation of a targeted RAM and consideration of adjustments to the Bioenergy Market Adjusting Tariff (BioMAT)" (Ordering Paragraph 9 of Proclamation).

Overview of Senate Bill (SB) 859, Section 14

The California Legislature passed SB 859 on August 31, 2016 and Governor Brown signed it into law on September 14, 2016.³ The portion of this bill relevant and implemented herein is Section 14, which added Section 399.20.3 to the Public Utilities Code.

Appendix A contains the full text of Section 14. Key provisions of Section 399.20.3, for purposes of this Resolution, are summarized below:

- Sub-division (b): Requires electrical corporations to collectively procure by December 1, 2016 their proportionate share of 125 MW from existing, qualifying biomass facilities through five year contracts. Requires 80% of fuel stock to be a product of sustainable forest management, and 60% to be from HHZs specifically;
- Sub-division (c)(1): Requires that the Commission allocate each electrical corporation's proportionate share of the 125 MWs based on the ratio of its peak demand to the total statewide peak demand;
- Sub-division (c)(2): States that procurement pursuant to Commission Resolution E-4770 that is in excess of the procurement requirement in Resolution E-4770 shall count towards meeting the utility's share allocated under 399.20.3(c)(1).

³ http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB859

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- Sub-division (d): States that the Commission may direct the development of contract terms and conditions, or may require the use of the process under Resolution E-4770, to meet the requirements of subdivision (c). Requires that procurement occur on an expedited basis.
- Sub-division (f): Requires that costs of procurement to satisfy the requirements of Section 399.20.3 are recoverable from all customers on a nonbypassable basis.

Overview of RAM

The RAM auction is a renewable procurement process characterized by a standard non-negotiable contract that the IOUs use to procure Renewables Portfolio Standard (RPS) eligible generation via a stand-alone auction. On November 20, 2014, the Commission revised some elements of the RAM process to include the following attributes⁴:

- IOUs can determine the optimal maximum project size for any procurement targeted through RAM.
- The geographic location of projects is the entire California Independent System Operator (CAISO) control area and resources that can be dynamically scheduled into the CAISO.
- IOUs must rank and select bids using Commission-approved least-cost best-fit methodology, consistent with the RPS program.
- A Phase II Interconnection Study must be obtained prior to participating in a utility's RAM procurement process consistent with the annual IOU RPS procurement plans.
- Projects should be online within 36 months with a 6 month regulatory delay extension.

These attributes shall also apply to the RAM authorized by this Resolution.

⁴ Decision (D.) 14-11-042

Overview of 2015 RPS Procurement Plans

Pursuant to the authority provided in Public Utilities Code § 399.13(a)(1), D.15-12-025 accepted, with some modifications, the draft 2015 RPS Procurement Plans, including the related solicitation protocols, filed by the IOUs. D.15-12-025 in addition accepted PG&E's and SDG&E's position that they were well-positioned to meet their RPS targets and would therefore not be required to issue a 2015 RPS solicitation. D.15-12-025 also required that PG&E and SDG&E first seek the Commission's permission before entering into any solicitations or bilateral contracts for RPS-eligible resources during the time period covered by their respective 2015 RPS solicitation cycles.

Overview of E-4770 and the "BioRAM"

Resolution E-4770⁵ ordered the three large IOUs to initiate a RAM (called the "BioRAM") to procure 50 MWs of biomass capacity. E-4770 stipulated specific fuel minimums and other requirements for the BioRAM, including:

- **Solicitation Size: 50 MW Minimum:** The IOUs must procure at least 50 MW from the BioRAM auction (PG&E: 20 MW; SCE: 20 MW; SDG&E: 10 MW). The IOUs were permitted to procure more capacity than these required minimums. There were no facility size restrictions.
- **Progressive Fuel Requirements:** To ensure that contracts addressed the emergency, E-4770 established minimum fuel requirements. The fuel minimum represented the amount of the biomass facility's annual fuel usage that must come from HHZs. The calendar year minimums were set as follows: 40 percent in 2016, 50 percent in 2017, 60 percent in 2018, and 80 percent for each subsequent year.
- **Incentive for Facilities to Exceed Fuel Requirements:** IOUs were directed to favor bids that commit to meeting the fuel requirements specified above on an accelerated basis.
- **Fuel Tracking:** To track and ensure high hazard fuel processing, the IOUs would require the biomass facility to submit quarterly attestations to the

⁵ Issued on Energy Division's own motion and approved on March 17, 2016.

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M159/K652/159652363.docx>

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IOUs during the contract period. The IOUs would have the right to audit these attestations.

- **Provisions When a Facility Cannot Meet Minimum Fuel Requirement:** If or when biomass facilities cannot meet the fuel requirement, the IOUs were required to offer biomass facilities the option to either terminate the contract or to operate at the current Renewable Market Adjusting Tariff (ReMAT) baseload price of \$89.23/MWh for the duration of the contract.
- **Five Year Contract Option:** The IOUs were required to provide a five year contract as an option for existing facilities in addition to contract length options of 10, 15, and 20 years. Contract length options are selected by the biomass facility (the seller).

To ensure their ability to quickly respond to the Emergency Proclamation, E-4770 also authorized the utilities to execute bilateral agreements with eligible biomass facilities that process fuel from HHZs.

DISCUSSION

This Resolution implements key provisions of Public Utilities Code Section 399.20.3, which establishes a new procurement minimum for biomass energy that uses forest fuels from HHZs and sustainable forest management. The Commission must first allocate the 125 MWs among the State's IOUs and publicly owned utilities (POUs). The Commission also specifies the procurement mechanisms IOUs may use to buy the MWs allocated to them. Section 399.20.3 also requires that costs of procurement are recoverable from all customers on a nonbypassable basis.

Part 1: Allocation of 125 MWs

Section 399.20.3(c)(1) states: "For each electrical corporation, the [C]ommission shall allocate its proportionate share of the 125 megawatts based on the ratio of the electrical corporation's peak demand to the total statewide peak demand."

Section 399.20.3 clearly intends to ensure that each electrical corporation's allocation is fairly sized in relation to its load, and that therefore all benefiting electricity ratepayers bear an equitable share of the costs. With this intent and

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SB 859's emphasis on expedited action in mind, we first necessarily dispense with several allocation-related issues.

First, we note that there may be varying interpretations of peak demand as required for these allocations; Section 399.20.3 does not specify whether coincident peak, non-coincident peak, or another type of peak demand should be used, nor does it specify a time period to use. In D.12-05-032, the Commission adopted a methodology to allocate proportionate shares for the RPS feed-in tariff (Renewables Market Adjusting Tariff, or ReMAT). It is reasonable to use the same methodology here. This allocation process has been applied to statewide coincident peak demand data from the most recent supply plans publicly available for the IOUs as compiled by the Energy Commission.

Second, while Section 399.20.3 specifically limits the POU procurement obligation to POUs with more than 100,000 customers, it does not provide guidance specific to smaller IOUs that serve fewer than 100,000 customers (PacifiCorp, Bear Valley Electric Services, and Liberty Utilities). These IOUs would have extremely small allocations (with a combined total of less than 1 MW), and the individual development and administration of contracts between these IOUs and biomass facilities could pose an unreasonable administrative burden on those entities and the Commission. We believe that the administrative burden would outweigh any possible benefit and therefore find that it is not reasonable to require these smaller utilities to participate in this procurement program. These smaller utilities, however, are encouraged to integrate biomass facilities that use forest fuels from HHZs into their energy portfolio.

Finally, this Commission has regulatory and procurement oversight over IOUs only; the POU allocation in Table 1 cannot be enforced by this Commission.

Therefore, the Commission allocates the 125 MWs ordered in Section 399.20.3(c)(1) among the following electrical corporations based on their respective shares of peak, coincident demand as shown in Table 1. PG&E, SCE, and SDG&E must procure the MW allocations of forest-fueled biomass in Table 1 by December 1, 2016.

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Table 1- MW Allocations for Electrical Corporations and Publicly Owned Utilities⁶

Entity	Coincident Peak Demand (MW)	Share of Peak Demand	Allocation of MWs under Section 399.20.3
PG&E	17,523	34.3%	43
SCE	17,840	35%	44
SDG&E	3,725	7.3%	9
POUs with 100,000 or more customers ⁷	11,952	23.4%	29
Total	51,040⁸	100%	125

Part 2: IOU Procurement Mechanisms

Section 399.20.3 (d) states, "The commission may direct each electrical corporation to develop standard contract terms and conditions that reflect the operational characteristics of the bioenergy projects and to provide a streamlined contracting process or may require the electrical corporations to use the mechanism established pursuant to the commission's Resolution E-4770 to meet the requirements of subdivision (c). The procurement pursuant to the developed standard contract shall occur on an expedited basis due to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015."

This Resolution authorizes three mechanisms the IOUs may use to procure their allocations indicated in Table 1. These options are: a) the BioRAM ordered by

⁶ All data is for 2013, which is the most recent year for which all three IOUs' capacity data including coincident peak-hour demand is publicly available. Accessed via http://energyalmanac.ca.gov/electricity/s-1_supply_forms_2015/

⁷ Los Angeles Department of Water and Power; Sacramento Municipal Utility District; Imperial, Modesto, and Turlock Irrigation Districts; Anaheim and Riverside POUs.

⁸ Total peak demand of the three large IOUs and POUs with 100,000 or more customers.

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Resolution E-4770; b) a subsequent RAM, or "BioRAM 2," authorized in this Resolution; and c) bilateral procurement. Any combination of these options may be used.

Contracts for procurement authorized herein must be executed by December 1, 2016.

Option A: BioRAM ordered by E-4770

Section 399.20.3(d) permits the Commission to "require the electrical corporations to use the mechanism established pursuant to the commission's Resolution E-4770 to meet the requirements... ."

The Commission therefore authorizes PG&E, SCE, and SDG&E to procure any or all of the MWs allocated to them in Table 1 from their BioRAM solicitation pursuant to E-4770.

Section 399.20.3(c)(2) states that any procurement in excess of the amount ordered pursuant to Resolution E-4770 shall count towards meeting the IOUs' requirement ordered in Table 1 of this Resolution. Therefore, procurement from an IOU's BioRAM solicitation will only count towards its obligations in Table 1 insofar as it exceeds the IOU's required minimums under E-4770.

Resolution E-4770 adopted specific fuel and contract terms applying to procurement under the BioRAM. Section 399.20.3(b) similarly provides specific requirements related to fuel and contract length that are similar but not identical to those in the BioRAM. However, Section 399.20.3 also states that procurement in the BioRAM in excess of Resolution E-4770 minimums *shall count towards* the MW allocations required by that Section. The procurement that occurs under Option A shall reduce the procurement obligation that would be subject to the specific fuel and length terms in Section 399.20.3(b).

Option B: BioRAM 2

To immediately implement additional procurement under the terms specified by Section 399.20.3, this Resolution authorizes PG&E, SCE, and SDG&E to initiate a new RAM solicitation - a "BioRAM 2" - to fulfill their MW obligation.

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With the December 1, 2016 deadline in mind, we require that no terms or conditions from the BioRAM may be changed except those specifically contemplated in Section 399.20.3, and that these terms and conditions *must* be changed to be consistent with the statute.

The only permitted, required changes in the BioRAM 2 are those that update the standard contract rider and solicitation documents to:

1. Specify that at least 80 percent of the feedstock of the facility, on an annual basis, shall be a byproduct of sustainable forest management, which includes removal of dead and dying trees from Tier 1 and Tier 2 HHZs and is not from lands that have been clear cut. Additionally at least 60 percent of the total feedstock on an annual basis shall be from Tier 1 and Tier 2 HHZs.
 - a. For fuel that is not from a HHZ, BioRAM 2 shall include changes to use the definitions for "sustainable forest management" specified in Conclusions of Law 15-22 of D.14-12-081.⁹ For any other activities not reflected in those definitions, the "Forest Biomass Sustainability Byproduct Eligibility Form" contained in Appendix B of that Decision shall be used, on which 12 out of 16 complying answers shall be required to determine fuel is a product of sustainable forest management. This compliance process shall be used for fuel that counts towards the 80% minimum that is not otherwise determined to be from HHZs pursuant to existing BioRAM provisions.

⁹ We also note that on September 27, 2016, Administrative Law Judge Anne Simon's Proposed Decision (PD) in R.15-02-020 was served to parties and included BioMAT program changes related to the tree mortality emergency. In particular, the PD included the following Conclusion of Law 2: "In order to make resource definitions in the BioMAT program consistent with the Emergency Proclamation, "fuel from high hazard zones" should be added to types of fuel that are in the BioMAT category of "bioenergy using byproducts of sustainable forest management." The change is consistent with this Resolution; it defines HHZ fuel as a product of sustainable forest management, as does the statute implemented herein.

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- b. Changes shall include any necessary changes to attestation provisions to support the fuel requirements; existing attestation processes from the BioRAM can be used to attest to the Forest Biomass Sustainability Byproduct Eligibility Form.
 - c. Changes shall remove any fuel switching provisions, bringing fuel provisions fully into alignment with Section 399.20.3. Facilities must meet fuel requirements or contracts will be terminated; fuel switching is not permitted.
2. Specify that the contract length is five years.
3. Require that the facility is an existing bioenergy project that commenced operations prior to June 1, 2013.
4. Update administrative details such as dates, deadlines, and process requirements.

The IOUs are not required to file the required changes prior to holding a BioRAM 2 solicitation. However, because this process does not include Commission pre-approval of the standard contract and rider (which shall not change except as specified above), the utilities shall request approval of the resulting contracts via Tier 3 Advice Letter (which will require a Commission Resolution to consider the reasonableness of the contracts).

Option C: Bilateral Contracting

Consistent with Section 399.20.3 (d), this Resolution authorizes PG&E, SCE, and SDG&E to use bilateral contracting to fulfill MW requirements under Section 399.20.3 and this Resolution. Contracts executed bilaterally to fulfill any portion of the allocations in Table 1 must contain terms consistent with those specified in items 1-4 for Option B above. Otherwise, terms may be bilaterally negotiated. The utilities shall request approval of the resulting contracts via Tier 3 Advice Letter.

Part 3: Cost Recovery and Allocation

Section 399.20.3(f) provides, "The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a nonbypassable basis."

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Within 30 days of the effective date of this Resolution, PG&E, SCE, and SDG&E shall file Applications creating a new Tree Mortality Nonbypassable Charge.

It is possible that costs may be incurred prior to the approval of the IOUs' Tree Mortality Nonbypassable Charges. Therefore, PG&E, SCE, and SCE shall create SB 859 Biomass Memorandum Accounts in which to track the costs of procurement ordered in this Resolution.

The Commission is currently considering Petitions for Modification (PFMs) to D.10-12-048 in relation to the procurement ordered by Resolution E-4770. It is possible that costs of that procurement may be incurred before the PFMs are resolved, so it is reasonable to set up additional accounts to also track those costs. PG&E, SCE, and SDG&E shall create BioRAM Memorandum Accounts in which to track the costs of procurement ordered in Resolution E-4770.

Within 30 days of the effective date of this Resolution, PG&E, SCE, and SDG&E shall file Tier 2 Advice Letters establishing these memorandum accounts.

Procurement Review Group Input

Pursuant to Section 399.20.3(g), and consistent with Commission rules, the IOUs shall engage with the Procurement Review Group (PRG) to obtain its input on the procurement resulting from this Resolution.

SAFETY

Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

This Resolution supports a Governor's Emergency Proclamation to address bark beetle caused tree mortality and the hazards such tree mortality creates for the State of California, among other things, wildfires and tree falls that endanger thoroughfares, electric power lines, and public and private structures.

Additionally, RAM contracts to be used pursuant to this Resolution contain Commission approved safety provisions, which require, among other things, the

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seller to operate the generating facility in accordance with Prudent Electrical Practices, as defined in the contracts, and all applicable requirements of law, including those related to planning, construction, ownership, and/or operation of the projects. These provisions specifically require that all sellers take a list of reasonable steps to ensure that the generation facility is operated, maintained, and decommissioned in a safe manner.

Lastly, to the extent a contractual arrangement intended to meet the mandate of this Resolution involves contractors and subcontractors in a PG&E line of business defined as "medium" or "high" risk who perform work on PG&E assets, PG&E's contracting practices for performing work pursuant to this Resolution must comply with the Contractor Safety Standard approved by the Commission in D.15-07-014.

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 "in an unforeseen emergency" The Commission's Rules of Practice and Procedure, Rule 14.6, also provides that public review and comment may be waived or reduced in an "unforeseen emergency situation." Such situations include "[a]ctivities that severely impair or threaten to severely impair public health or safety" (Rule 14.6(a)(1)), where there are "[c]rippling disasters that severely impair public health or safety" (Rule 14.6(a)(2)), where there is a "[d]eadline for Commission action imposed by legislative bodies," (Rule 14.6(a)(7)), where there are "[u]nusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled" (Rule 14.6(a)(8)), and where "public necessity requires reduction ... of the 30-day period" (Rule 14.6(c)(9)).

Each of these situations applies here. The 30-day comment period was reduced pursuant to these authorities. This Resolution was mailed for comment on September 23, 2016 and comments were received on October 4, 2016. Comments were timely submitted by the following: Braun Blaising McLaughlin & Smith on behalf of the City of Lancaster, Marin Clean Energy, and Sonoma Clean Power Authority (CCA Parties); SDG&E; SCE; PG&E; Shell Energy; the Office of

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Ratepayer Advocates (ORA); and the California Biomass Energy Alliance (CBEA).

The objective and timing of this Resolution is directed to implement specific provisions of SB 859. Therefore, while all of the comments were read and considered, the scope of this Resolution is limited to comments relevant to the implementation of the statute.

Allocation of 125 MWs

No party objected to the allocation methodology of the specific MW allocations in Table 1.

SDG&E requested that we refer to the targets as "approximate" and approve fractional procurement that comes within one MW of the stated target, to provide latitude in the "likelihood that some if not all BioRAM contracts will specify capacity in fractional MW amounts." We reject this suggestion. The MW allocations are required procurement minimums, not approximate targets. This Resolution provides ample forms of implementation flexibility.

CCA Parties and Shell Energy recommended the Commission provide non-IOU load-serving entities (LSEs) an option to directly procure a share of an IOU's MW allocation, rather than have their customers pay for a portion of the IOU's procurement on a nonbypassable basis. We reject this recommendation because the statute directs the Commission to allocate *electrical corporations*, not CCAs or other LSEs, their proportionate share; it also provides specific direction for the Commission to ensure costs therein are shared on a nonbypassable basis. Not only would the suggested approach complicate the IOUs' procurement by confusing the amount they need to buy, but any such direct procurement by LSEs would be for very small MW amounts, which as we discussed above could be an impediment to implementation. To best ensure compliance with the statute in the limited time available, we shall maintain a direct implementation of the statute's provisions. However, nothing in this Resolution precludes other direct access providers from addressing the State's tree mortality epidemic by procuring renewable energy generated from HHZ fuel on their own.

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IOU procurement mechanisms

Out of timeliness and administrative cost concerns, ORA recommended that the IOUs only be provided the option of procuring their obligation in Table 1 via the BioRAM (Procurement Option A in this Resolution). We decline to make this option mandatory, as it is reasonable to provide implementation flexibility under the tight timeline.

Contract terms and provisions

CBEA provided specific comments regarding fuel definitions. Specifically, CBEA recommended edits to the fuel terms applying to MWs procured via Option B in this Resolution (the BioRAM 2) to clarify that fuel does not need to be determined to be from a HHZ *and* a product of sustainable forest management. This clarification is helpful, and we have revised that section to make clear that fuel that is determined to be from a HHZ does not need to be separately determined to be a product of sustainable forest management.

CBEA also suggested activities to include as "sustainable forest management" in addition to the BioMAT definitions and checklist specified for the BioRAM 2. CBEA recommended we add "the removal of dead, dying and diseased trees, and activities to reduce the risk or extent of, or increase forest resilience to[,] insect and disease infestation in the future outside of an HHZ." While CBEA states that that although it believes using the definitions in D.14-12-081 is appropriate, it is "concerned that those specifications are vague and uncertain. Specifically the removal of dead, dying, and diseased trees, which is a high priority in HHZs, is not clearly outlined in the definitions." We understand CBEA's concern to be that the sustainable forest management definitions may not fully capture the removal of dead and dying trees outside of HHZs. However, we believe the current language – which encompasses a variety of fuel reduction, forest health and fire management activities – more prudently bases fuel requirements on existing, established directives while still providing flexibility. We are concerned that the suggested language would inappropriately allow *any* removal of dead or dying trees to meet fuel requirements, without regard to other sustainability practices or objectives and without any focus on the tree mortality emergency this procurement was ordered to address. As the statute indicated with its barring of "clear cutting," fuel for this procurement was not meant to be overly broad.

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Finally, ORA and SCE request clarification about fuel switching and related contract provisions for contracts resulting from Option B or C. Their comments indicated that it was unclear whether the Commission intended to provide for a specific outcome in the event that a facility cannot meet its required minimums. The Commission does not have the same flexibility over the procurement ordered herein as it did in Resolution E-4770; here, we are implementing statute. While Section 399.20.3(c)(2) expressly permits excess procurement to count towards the MW allocation, the statute otherwise requires resulting contracts to meet specific fuel minimums. The Resolution was amended to clarify that these fuel provisions are mandatory, and that failure to meet them shall result in contract termination.

Cost recovery and allocation

The Draft Resolution ordered the IOUs to file Tier 2 ALs creating a Tree Mortality Nonbypassable Charge, and it stated that the new nonbypassable charge would allocate the capacity costs and benefits of the procurement ordered in Table 1. However, PG&E, SCE, SDG&E, Shell Energy, and CCA Parties' comments raised various questions and considerations related to this guidance. These issues are complex, and would best be addressed within a formal proceeding. Therefore, this Resolution was revised to instead direct the IOUs to file Applications creating a Tree Mortality nonbypassable charge.

Other issues

PG&E provided comments regarding specific clarifications to its safety responsibilities. The Resolution's safety section has been revised.

FINDINGS

1. It is reasonable to use the same methodology the Commission adopted in D.12-05-032 to allocate MWs of procurement ordered herein.
2. The Commission allocates the 125 MWs among electrical corporations and publicly owned utilities based on their respective shares of peak, coincident demand as shown in Table 1.
3. The combined amount of allocated MWs for PacifiCorp, Liberty Utilities, and Bear Valley Electric Services would be less than one MW. Therefore, it

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is not reasonable to require these utilities to procure pursuant to Section 399.20.3.

4. The Commission should authorize PG&E, SCE, and SDG&E to procure any or all of the MWs allocated to them in Table 1 from their BioRAM solicitation pursuant to E-4770.
5. Procurement from an IOU's BioRAM solicitation will only count towards its obligations under Table 1 insofar as it exceeds the IOU's required minimums in Resolution E-4770.
6. The Commission should authorize PG&E, SCE, and SDG&E to initiate a new RAM solicitation as specified herein to fulfill their MW obligation.
7. The Commission should authorize PG&E, SCE, and SDG&E to bilaterally negotiate contracts, subject to the limitations described above, to fulfill their MW obligation.
8. PG&E, SCE, and SDG&E should file Applications to create a Tree Mortality Nonbypassable Charge to allocate the capacity costs and benefits of procurement ordered in this Resolution to unbundled customers.
9. PG&E, SCE, and SDG&E should create SB 859 Biomass Memorandum Accounts in which to track the costs of procurement ordered in this Resolution.
10. PG&E, SCE, and SDG&E should create BioRAM Memorandum Accounts in which to track the costs of procurement ordered in Resolution E-4770.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company, are ordered to procure forest-fueled biomass capacity by December 1, 2016 in the amounts allocated to them in Table 1 of this Resolution.
2. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are authorized to use any of the procurement methods specified herein to procure capacity ordered by this Resolution.
3. If a new solicitation using a Renewable Auction Mechanism procurement process is initiated or if bilateral contracts are executed pursuant to this

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Resolution, the resulting contracts must contain the changes specified herein and be filed via Tier 3 Advice Letters.

4. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are ordered to file Applications creating a new Tree Mortality Nonbypassable Charge within 30 days from today.
5. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are ordered to file Tier 2 Advice Letters creating SB 859 Biomass Memorandum Accounts and BioRAM Memorandum Accounts within 30 days from today.

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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 October 13, 2016; the following Commissioners voting favorably thereon:

/s/TIMOTHY J. SULLIVAN

TIMOTHY J. SULLIVAN

Executive Director

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

LIANE M. RANDOLPH

Commissioners

Commissioner Carla J. Peterman, being
necessarily absent, did not participate.

I reserve the right to file a concurrence.

/s/ LIANE M. RANDOLPH

Commissioner

I reserve the right to file a concurrence.

/s/ MICHAEL PICKER

President

APPENDIX A

Text of Senate Bill 859, Section 14

SEC. 14. Section 399.20.3 is added to the Public Utilities Code, to read:

399.20.3. (a) For purposes of this section, the following definitions apply:

(1) "Bioenergy" has the same meaning as set forth in paragraph (4) of subdivision (f) of Section 399.20.

(2) "Tier 1 high hazard zone" includes areas where wildlife and falling trees threaten power lines, roads, and other evacuation corridors, critical community infrastructure, or other existing structures, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(3) "Tier 2 high hazard zone" includes watersheds that have significant tree mortality combined with community and natural resource assets, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(b) In addition to the requirements of subdivision (f) of Section 399.20, by December 1, 2016, electrical corporations shall collectively procure, through financial commitments of five years, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations prior to June 1, 2013. At least 80 percent of the feedstock of an eligible facility, on an annual basis, shall be a byproduct of sustainable forestry management, which includes removal of dead and dying trees from Tier 1 and Tier 2 high hazard zones and is not that from lands that have been clear cut. At least 60 percent of this feedstock shall be from Tier 1 and Tier 2 high hazard zones.

(c) (1) For each electrical corporation, the commission shall allocate its proportionate share of the 125 megawatts based on the ratio of the electrical corporation's peak demand to the total statewide peak demand.

Energy Division's Own Motion Regarding Procurement Utilizing Biofuel
From High Hazard Zones/MS9

(2) Procurement by an electrical corporation of generation capacity pursuant to a contract under the commission's Resolution E-4770 that is in excess of the requirement of that electrical corporation under that resolution shall count towards meeting the electrical corporation's proportionate share allocated pursuant to paragraph (1).

(d) The commission may direct each electrical corporation to develop standard contract terms and conditions that reflect the operational characteristics of the bioenergy projects and to provide a streamlined contracting process or may require the electrical corporations to use the mechanism established pursuant to the commission's Resolution E-4770 to meet the requirements of subdivision (c). The procurement pursuant to the developed standard contract shall occur on an expedited basis due to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(e) A local publicly owned electric utility serving more than 100,000 customers shall procure its proportionate share, based on the ratio of the utility's peak demand to the total statewide peak demand, of 125 megawatts of cumulative rated capacity from existing bioenergy projects described in subdivision (b) subject to terms of at least five years.

(f) The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a nonbypassable basis.

(g) The Procurement Review Group within the commission shall advise the commission on the cost of the generation procured pursuant to this section and its impact on ratepayers.

[End of Appendix A]

Concurrence of Commissioner Liane M. Randolph

**Resolution E-4805: Commission Motion Ordering Forest Fuel Bioenergy
Procurement Pursuant to Senate Bill 859, the Governor's Tree Mortality
Emergency Proclamation, and the Commission's Other Legal Authority
October 13, 2016.**

Given the state of emergency identified by Governor Brown and the substantial amount of potential fuel in our forests because of the bark beetle infestation and the drought, and the direction provided by the Legislature on this topic, I vote in favor of this resolution. It is important to move forward with this limited step towards alleviating the state of emergency.

I note, though, that this procurement directive works in the opposite direction of our current procurement principles. In working with the investor-owned utilities, the California Energy Commission and the California Independent System Operator, this Commission has developed over the years sophisticated methods to identify resource needs based on location, timing considerations, resource attributes, costs and benefits. Just this year, SB 350 urgently added GHG emissions to the factors guiding our planning analysis. In the integrated resource planning (IRP) proceeding, we have already launched technical work to identify portfolios of supply and demand side resources that will put California on track to meet the GHG emission goals, while maintaining system reliability at least cost.

Our IRP efforts will minimize costs to consumers because we will define California's resource needs more accurately, and because this Commission will order, as we have for the past several years, competitive all-source solicitations to secure contracts that make progress towards our GHG goals. Given the ambitious GHG targets set for our State, any procurement outside the IRP process narrows our opportunity to find and procure the resources that will bend electric sector emissions toward our common goal. I hope that going forward, the Legislature will use this tool only in limited circumstances, such as this current state of emergency.

Resolution E-4805
Adopted October 13, 2016

Lastly, I was pleased to see the revision to the draft resolution to have the utilities file applications on the issue of non-bypassable charges. It is important to implement the clear direction from the Legislature that the costs of these contracts will be non-bypassable and a formal proceeding will allow for a closer examination of the issues raised by parties.

Dated October 13, 2016 at Long Beach, CA

/s/ Liane M. Randolph

Liane M. Randolph
Commissioner