

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-5273

September 21, 2023

R E S O L U T I O N

Resolution E-5273. Pacific Gas and Electric Company request for amendments to Hummingbird Energy Storage Agreement.

PROPOSED OUTCOME:

- The Resolution authorizes Pacific Gas and Electric Company to amend their existing energy storage capacity agreement with Hummingbird Energy Storage, LLC to allow for a later initial delivery date, an increase in price, a six-month extension of the contract term, a modification of the project development security, and an adjustment to “holdback” language. This Resolution approves the amendments without modification.

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this resolution.

ESTIMATED COST:

- The amendment will increase the nominal cost of the Power Purchase Agreement. These increased costs will be borne by PG&E ratepayers.

By Advice Letter 6914-E, Filed on April 11, 2023.

SUMMARY

This Resolution approves, without modification, Pacific Gas and Electric Company’s (PG&E) Advice Letter (AL) 6914-E seeking to amend its contract with Hummingbird Energy Storage, LLC (Hummingbird).

The amendments increase the contract price, push back the contract online date, and extend the contract length. They also increase the project development security and amend the “holdback” language consistent with PG&E’s recent procurements pursuant to the Mid-Term Reliability decisions.¹

These amendments are prudent because without a price increase, Hummingbird is at risk of default due to unanticipated, significant rises in costs (e.g., battery prices, labor costs, insurance).

The Commission authorizes these cost increases because the need for market power mitigation that originally motivated this contract is still present. Even with the price increase, the project is still priced comparably to recent procurements and the project still provides net value to PG&E customers. For these reasons, the Commission approves PG&E AL 6914-E.

BACKGROUND

Resolution E-4909, PG&E Energy Storage Procurement Authorization

The Commission authorized PG&E to procure preferred resources including energy storage to address local deficiencies and ensure local reliability in the Moss Landing area through Resolution E-4909 on January 12, 2018. This procurement authorization was a response to the following: (1) notification of likely retirements of five Calpine gas plants referred to as Feather River, Yuba City, King City, and Wolfskill and Metcalf Energy Centers;² (2) the California Independent System Operator’s (CAISO’s) determination that three of these plants were needed to address local deficiencies and ensure local reliability;³ and (3) the CAISO’s subsequent execution of reliability must-run (RMR) contracts with these three gas plants outside of the normal resource adequacy process and without initiation of the CAISO’s Capacity Procurement Mechanism (CPM).⁴

¹ See Decision (D.) .21-06-035 ordering 11,500 MW of procurement, and D.23-02-040 ordering a supplemental 4,000 MW of procurement.

² CPUC Resolution E-4909, pp. 1-3.

³ *Id.*, p. 2.

⁴ *Id.*, p. 3.

Resolution E-4949 Procurement Justifications

The Commission approved the proposed Moss Landing Energy Storage agreements through Resolution E-4949. The Hummingbird project was among the projects approved in that Resolution. Approval of the portfolio of resources was justified by the following factors:

- (1) Lack of long-term contractual commitments, and an increase in the projected capacity needed in the South Bay Moss Landing subarea which created conditions for possible incidents of market power and the potential to extend the Metcalf RMR agreement.⁵
- (2) CAISO provided a letter of support for the proposed Moss Landing Energy Storage projects including Hummingbird, which included a statement regarding the benefits of storage capacity to the South Bay Moss Landing subarea.⁶
- (3) The proposed procurements, including the Hummingbird energy storage project, were reasonably priced; and the related costs to PG&E were fully recoverable in rates over the life of the PPAs.⁷
- (4) The proposed procurements, including the Hummingbird project, meet the criteria for local resource adequacy in the South Bay and Moss Landing subarea. These projects would also add capacity to the constrained South Bay Moss Landing local subarea. Together they may alleviate the need for backstop procurement by the CAISO and will assist with mitigating the impacts of future retirements.⁸

The Hummingbird project will be a transmission-connected, stand-alone lithium-ion battery energy storage resource located in Morgan Hill in Santa Clara County, addressing resource needs in the South Bay – Moss Landing sub-area.⁹ The project is a 75 MW, four-hour duration project. The Hummingbird project will go through the CAISO Interconnection process.

⁵ CPUC Resolution E-4949, p. 41.

⁶ *Id.*, p. 7.

⁷ *Id.*, pp. 27-28.

⁸ *Id.*, p. 23.

⁹ *Id.*, p. 3.

First Amendment by Advice Letter 5607-E

PG&E filed Advice Letter 5607-E on August 1, 2019, to notify the Commission of amendments to the contracts for several recent procurements. These amendments were negotiated in light of PG&E's 2019 bankruptcy. As a result of this negotiation, the prices for the Hummingbird project and several others were reduced, and the original online date for the Hummingbird Project was deferred from December 1, 2020 to December 1, 2021. The Commission authorized these amendments by Resolution E-5027, issued November 7, 2019.

Second Amendment by Advice Letter 6292-E

The onset of the Covid-19 pandemic created several challenges for construction of all types. The Hummingbird project faced difficulty due to the closure of permit offices that resulted from the Covid-19 pandemic.

PG&E cites the closure of several San Jose municipal offices in Spring of 2020 as an obstacle to the project obtaining a Conditional Use Permit (CUP) in that timeframe. Further, they explain that the transmission provider (PG&E in this case) needs to conduct studies for interconnection that cannot be started without the CUP, and that "the interconnection work at this particular substation can only be done in the winter months." The seasonal nature of this work contributed to the extended delay.

Based on these challenges, the online date for the project as amended was not considered feasible and another amendment to the contract was negotiated. In addition to delaying the online date to July 1, 2023, the amendment extended the contract from 15 years to 16 years at no additional cost. PG&E filed these amendments via Advice Letter 6292-E on August 10, 2021. PG&E filed substitute sheets to the Advice Letter to correct administrative errors on August 31, 2021. The Commission authorized these amendments by Resolution E-5178, issued December 16, 2021.

Third Amendment by Advice Letter 6914-E

On April 11, 2023, PG&E submitted Advice Letter 6914-E, the subject of this resolution. In May 2022, esVolta, the developer of the Hummingbird project, notified PG&E that the project was at risk of default for several reasons. These reasons include cost increases, a slowdown in the local permitting process, and delays in upgrading the transmission system to allow interconnection.

Cost increases are due to rising battery prices due to lithium price rises; supply chain constraints; higher balance-of-system costs due to general inflation of material and labor costs; higher cost of capital; and higher insurance costs. Permitting delays are due to additional review required by the City of San Jose following the incident at the Moss Landing battery project. Transmission upgrades are expected to be complete in February 2024.

For these reasons, esVolta and PG&E negotiated an increase in project costs, a ten-month delay of the amended online date to September 1, 2024, and a six-month extension of the contract duration added to the end of the contract term during which the project will provide capacity at zero cost.

Further amendments increased the project development security from and modified language for consistency with contracts procured pursuant to the Mid-Term Reliability decisions.

NOTICE

Notice of AL 6914-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter 6914-E was not protested, and there were no replies.

DISCUSSION

The Commission approves Advice Letter 6914-E. The relevant facts that lead to our approval of the advice letter are discussed below.

The contract for Hummingbird Energy Storage as amended contributes to the needs that motivated the original approval in E-4949.

Despite the decreasing need for local capacity in the South Bay-Moss Landing area, we still see a risk of the exercise of market power in that region. The Hummingbird project will provide 75 MW of additional local capacity, reducing the likelihood and capability of other parties to exercise market power.

The Commission has identified a significant, system-level capacity need, and this project will contribute to meeting targets set by the Mid-Term Reliability (MTR) decisions.

In Decisions D.21-06-035 and D.23-02-040 (MRT Decisions), the Commission ordered the Investor-Owned Utilities to procure 11,500 MW and 4,000 MW of net qualifying capacity, respectively, to meet system-level need for capacity. The MTR decisions assumed that the Hummingbird project would come online; therefore, if Hummingbird were not to come online, the state would need to procure replacement capacity elsewhere.

COMMENTS

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

FINDINGS

1. Resolution E-4949 approved the original Hummingbird contract, Resolution E-5027 approved the first amendment, and Resolution E-5178 approved the second amendment.
2. The Hummingbird Storage resource will help meet local reliability needs in the South-Bay Moss Landing sub-local area and will also provide system benefits.
3. The Hummingbird Storage resource will help prevent the possible exercise of market power.
4. The price of the amended contract is reasonable and consistent with contracts procured pursuant to the Mid-Term Reliability proceeding.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas and Electric Advice Letter 6914-E is approved.
2. The Hummingbird contract is approved as amended.

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 21, 2023; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson
Executive Director

ALICE REYNOLDS
President
GENEVIEVE SHIROMA
DARCIE HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners