PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

 **Agenda ID# 21908**

**ENERGY DIVISION RESOLUTION E-5295**

 **November 2, 2023**

REDACTED

RESOLUTION

Resolution E-5295. Pacific Gas and Electric Company requests approval of six (6) long-term power purchase and sale agreements (PPSAs or Transactions) with multiple counterparties to sell renewable generation and the associated renewable energy credits. These Transactions result from the implementation of the Voluntary Allocation and Market Offer mechanism.

PROPOSED OUTCOME:

* This Resolution approves the six (6) long-term PPSAs under the rules and requirements laid out in D.21-05-030 and D.22-11-021 regarding the implementation of the Voluntary Allocation and Market Offer (VAMO) mechanism to address portfolio optimization activities associated with RPS resources subject to Power Charge Indifference Adjustment (PCIA) cost recovery. These agreements are for long-term bundled RPS-eligible energy and associated Renewable Energy Credits (RECs) from facilities with power purchase agreements with remaining terms of more than
10 years from the start date of market offer deliveries in
PG&E’s PCIA-eligible RPS portfolio. These agreements are approved without modification.

SAFETY CONSIDERATIONS:

* The Transactions will not alter existing agreements or any facility operations. Because these agreements do not require a change in facility operations, there are no incremental safety implications associated with approval of this agreement.

ESTIMATED COST:

* Actual costs of the Transactions are confidential at this time.

By Advice Letter 6977-E, filed on June 30, 2023.

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# Summary

Pacific Gas and Electric Company’s Transactions with the various counterparties (“Counterparties”) as noted in the following, comply with D.22-11-021 and the Renewables Portfolio Standard (RPS) procurement guidelines and are approved without modification**.**

The Counterparties associated with the Transactions are:

* City of San Jose (SJCE)

The City of San Jose operates San Jose Clean Energy, a not for profit locally

controlled electricity generation service provider for San Jose residents and

business;

* San Diego Community Power (SDCP)

SDCP is a Community Choice Aggregator (CCA) that provides electricity to

customers across San Diego County;

* East Bay Community Energy (EBCE)

EBCE is a CCA that provides electricity to customers across Alameda and
San Joaquin counties;

• Calpine Energy Services (CES)

CES is an Energy Services Provider (ESP) that provides retail direct access

electricity in California and serves as a gas and power wholesale marketing

entity for its parent company Calpine Corporation, the largest generator of gas-fired and geothermal electricity in the U.S.;

• Pilot Power Group (PPG)

PPG is consulting group that provides energy supply and energy management services to its clients;

* Central Coast Community Energy (3CE)

3CE is a CCA that provides electricity to customers in Monterey, San Benito,

San Luis Obispo, Santa Cruz, and Santa Barbara counties.

Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 6977-E on
June 30, 2023, requesting California Public Utilities Commission (CPUC or Commission) review and approval of the Transactions with the various Counterparties. The Transactions are for long-term contracts for 35 percent of the remaining portion of PG&E’s long-term PCIA-eligible RPS energy portfolio remaining after the Voluntary Allocation process.

This resolution approves the Transactions between PG&E and the Counterparties without modification. PG&E’s execution of the Transactions is consistent with Decision 22-11-021 which directed PG&E and the other IOUs to offer 35 percent of remaining PCIA eligible long-term contracts as long-term contracts in a market offer solicitation. Sales from PG&E to the Counterparties are reasonably priced and payments received by PG&E pursuant to the Transactions shall be credited to PG&E’s ratepayers via
PG&E’s Portfolio Allocation Balancing Account (PABA). Moreover, this transaction is consistent with PG&E’s 2022 RPS procurement plan approved by D.22-12-030.

Table 1 below provides a summary of the Transactions between PG&E and the Counterparties.

**TABLE 1: Counterparties and Portfolio Volume Percentage**


# Background

D.21-05-030 in Rulemaking (R.) 17-06-026 implemented the Voluntary Allocation and Market Offer (VAMO) framework for Power Charge Indifference Adjustment (PCIA) eligible Renewables Portfolio Standard contracts. D.21-05-030 directed the implementation of the VAMO process through the RPS proceeding, R.18-07-003. PG&E, together with Southern California Edison Company (SCE) and San Diego Gas and Electric Company (SDG&E) offered proposals for Market Offer solicitations as part of Track 1 of 2022 RPS Plans.

The Commission considered the IOUs Market Offer proposals as part of R.18-07-003 and issued D.22-11-021 directing certain modifications to the IOUs’ proposals. Ordering Paragraph 1 of D.22-11-021 approved the Voluntary Allocations of Load Serving Entities (LSEs). Ordering Paragraph 2 of D.22-11-021 directed the IOUs to offer 100 percent of remaining PCIA eligible short-term contracts. Ordering Paragraph 3 directed the IOUs to offer 35 percent of remaining PCIA eligible long-term contracts as
long-term contracts. Ordering Paragraph 4 directed the IOUs to offer 65 percent of remaining PCIA eligible long-term contracts as either short-term or long-term contracts subject to a methodology to optimize value for ratepayers.

Ordering Paragraph 12 directed PG&E, SCE, and SDG&E to each file a Tier 1 Advice Letter, to among other things make certain changes to their Market Offer processes and protocols. Those advice letters were timely filed and approved by Energy Division staff.[[1]](#footnote-1) Ordering Paragraph 13 directed the IOUs to each file a Tier 2 Advice Letter, to implement a solicitation for long-term PCIA-eligible contracts remaining after the Voluntary Allocation solicitation. Those advice letters were timely filed and approved by Energy Division staff.[[2]](#footnote-2)

Ordering Paragraph 6 of D.22-11-021 directed PG&E to seek Commission approval of executed short-term Market Offer contracts via Tier 1 Advice Letter and long-term Market Offer contracts via Tier 3 Advice Letter. PG&E sought Commission approval of their short-term market offer solicitation via a tier 1 advice letter which was approved by Energy Division staff.[[3]](#footnote-3) PG&E’s short-term Market Offer included only remaining short-term contracts. PG&E’s long-term Market Offer included both short-term portions of long-term contracts and long-term portions of its long-term contracts. PG&E sought approval for the short-term portion of its long-term contracts via advice letter 6961-E.

PG&E filed advice letter 6977-E on June 30, 2023, requesting approval of long-term Market Offer agreements with the Counterparties, which we address here.

# Notice

Pacific Gas and Electric Company states that a copy of Advice Letter 6977-E was mailed and distributed to the R.18-07-003 service list in accordance with Section 4 of General Order 96-B.

# Protests

PG&E Advice Letter 6977-E was not protested.

# Discussion

**Pacific Gas and Electric Company (PG&E) requests approval of Market Offer Agreements with the Counterparties.**

In March 2023, PG&E launched its RPS Long-Term Market Offer solicitation for
RPS-eligible energy and associated Renewable Energy Credits (REC). On June 30, 2023, PG&E filed AL 6977-E requesting approval of long-term Market Offer agreements with the Counterparties. In AL 6977-E, PG&E asserts that the Market Offer Agreements (Transactions) comply with the guidance to hold a long-term Market Offer solicitation directed in D.22-11-021. The revenues from this transaction will be credited to
PG&E’s ratepayers through PG&E’s Portfolio Allocation Balancing Account.

Pursuant to the Transactions, PG&E forecasts selling 23,403,961 megawatt-hours (MWh) of RPS-eligible energy and associated RECs to the Counterparties between 2023 and 2043. The RPS-eligible generation and associated RECs will come from facilities that are currently operating and providing deliveries to PG&E pursuant to CPUC-approved contracts. The facilities from which PG&E will transfer PCIA-eligible energy and associated RECs to the Counterparties are listed in Table 2 below, but subject to change as its PCIA portfolio changes. All the facilities are located in California and interconnected to the California Independent System Operator (CAISO) balancing authority.

**TABLE 2 – List of Long-Term Resource Pool (Products C and E)**




**PG&E requests that the Commission issue a resolution that:**

1. approves the Transactions between PG&E and the Counterparties, dated
June 30, 2023, based on the guidance from D.22-11-021.

**Energy Division evaluated the Transactions with the Counterparties based on the following criteria:**

* Consistency with D.22-11-021;
* Consistency with PG&E’s 2022 RPS Procurement Plan and RPS Portfolio Need;
* Cost Reasonableness and Valuation;
* Project Viability Assessment and Development Status;
* Independent Evaluator Review;
* Procurement Review Group Participation; and
* Safety Considerations.

**Consistency with D.22-11-021**

D.22-11-021 established several requirements for the IOUs’ implementation of the
Long-Term Market Offer process:

* must offer 35 percent of remaining PCIA eligible long-term contracts as
long-term contracts;[[4]](#footnote-4)
* must offer the remaining 65 percent long-term PCIA-eligible contracts, but must use a methodology to optimize value for ratepayers between short-term and long-term bids;[[5]](#footnote-5)
* must offer a contract term through the end of the term of the longest contract in the IOU’s PCIA-eligible RPS portfolio;[[6]](#footnote-6)
* must seek CPUC approval of executed long-term Market Offer contracts via
Tier 3 Advice Letters;[[7]](#footnote-7)
* bids in the Market Offer must specify the quantity of RPS resources in percentage increments, which must be represented in whole numbers;[[8]](#footnote-8)
* for PG&E, if it uses a bid floor, must use a bid floor consistent with the methodology adopted in D.21-01-005;[[9]](#footnote-9)
* must use a Code of Conduct if the IOUs choose to participate in their solicitations;[[10]](#footnote-10)
* may not hold concurrent RPS sales solicitations; and[[11]](#footnote-11)
* must use an Independent Evaluator (IE) and consult the Procurement Review Group (PRG).[[12]](#footnote-12)

PG&E complied with requirements established by D.22-11-021. First, PG&E offered
35 percent of remaining long-term PCIA-eligible as long-term contracts to all market participants.[[13]](#footnote-13) Second, PG&E offered the remaining 65% of long-term PCIA eligible contracts as long-term or short-term contracts, consistent with CPUC approved
AL 6961-E.[[14]](#footnote-14) Third, PG&E offered a contract term running through May 31, 2043, the end date of the longest contract term in its PCIA-eligible RPS portfolio. Fourth, PG&E filed AL 6977-E, a Tier Three advice letter seeking CPUC approval of the resulting Transactions. Fifth, PG&E accepted the Counterparties’ whole number bids for
100 percent of PG&E’s remaining bundled long-term PCIA-eligible RPS product.
Sixth, PG&E was consistent with the sales framework methodology adopted in
D.21-01-005, and AL 4922-E.[[15]](#footnote-15) Seventh, PG&E did not participate in its own solicitation and therefore was not required to follow the Code of Conduct approved in AL 6779-E.[[16]](#footnote-16) Eighth, PG&E did not hold a concurrent RPS solicitation outside of the Market Offer process.[[17]](#footnote-17) Lastly, PG&E engaged Arroyo Seco, as IE for this solicitation and consulted the PRG.[[18]](#footnote-18) Therefore, the Transactions are consistent with the requirements established by D.22-11-021.

**Consistency with PG&E’s 2022 RPS Procurement Plan and RPS Portfolio Need**

Pursuant to statute PU Code 399.13, PG&E’s RPS Procurement Plan (Plan) includes an assessment of RPS supply and demand to determine the optimal mix of renewable generation resources; description of existing RPS portfolio; description of potential RPS compliance delays; status update of projects within its RPS portfolio; an assessment of the project failure and delay risk within its RPS portfolio; and bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.[[19]](#footnote-19) California’s RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.[[20]](#footnote-20) The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.

In PG&E’s 2022 RPS Plan, PG&E forecasted having a net long RPS position through the end of Compliance Period 5 (2025-2027) with the use of its RPS bank.[[21]](#footnote-21) PG&E’s forecast included consideration of the VAMO implementation and assumes that PG&E only retains its own bundled share of the available VAMO volumes and that all remaining Market Offer volumes are successfully sold. Therefore, its RPS position already accounts for the impact of these Transactions. PG&E’s 2022 Draft RPS Procurement Plan was approved by D.22-12-030 on December 15, 2022.

The Counterparties agreement is for the sale of renewable generation and associated RECs and is consistent with PG&E’s renewable resource needs as identified in its 2022 RPS Plan. Therefore, the Transactions are consistent with PG&E’s RPS portfolio needs in its 2022 RPS Procurement Plan, as approved by D.22-12-030.

**Cost Reasonableness and Valuation**

In AL 6977-E, PG&E asserted that the Counterparties Transactions are intended to “optimize” PG&E’s RPS portfolio and provide benefits for ratepayers consistent with D.22-11-021 and Advice Letter 6794-E.

In reviewing requests for contract approval, the Commission compares contract prices to the most recent solicitations and recently executed contracts. This was PG&E’s first long-term RPS sales solicitation. Thus, the Commission compared the bids received in the solicitation and the other Transactions prices to the Counterparties Transactions we review here. Based on this analysis and the confidential analysis provided by PG&E in AL 6977-E, we determine that the Transactions prices are reasonable. Confidential Appendix A includes a discussion of the contractual pricing terms and the analysis of the reasonableness of the Transaction’ prices.

The total expected revenues of the sales agreements are reasonable based on the estimated costs to PG&E ratepayers and the sales agreements’ prices relative to the solicitation and recently executed contracts.

Payments received by PG&E under the sales agreement shall be credited to
PG&E’s ratepayers through PG&E’s PABA over the life of the sales agreement, subject to Commission review of PG&E’s administration of the sales agreement.

**Project Viability Assessment and Development Status**

The generation to be delivered pursuant to the Counterparties Transactions are from a large portfolio of facilities already under contract with PG&E, all of which have already been certified by the California Energy Commission (CEC) as RPS-eligible and are generating RPS-eligible energy. The facilities are listed in Table 2 above. The Transactions with the Counterparties do not change the development status of these existing projects.

It is reasonable that the pool of generating facilities under this contract will continue to be viable and will continue to operate under their existing contracts such that PG&E can meet the terms of these Transactions.

**Independent Evaluator Review**

PG&E retained Arroyo Seco as the independent evaluator (IE) to oversee
PG&E’s Long-Term Market Offer solicitation and to evaluate the overall merits of the executed contracts that resulted from the solicitation. AL 6977-E included a public and confidential IE report on PG&E’s Long-term Market Offer solicitation.

In its report, the IE states that it believes that all the sales agreements resulting from the solicitation merit Commission approval. Specifically, the IE notes that PG&E evaluated each conforming response, and the evaluation process was fair for all conforming responses. Additionally, the IE states that the negotiations were conducted fairly and consistent with Codes of Conduct.

Consistent with D.06-05-039, D.09-06-050, and D.22-11-021, an independent evaluator oversaw PG&E’s Long-Term Market Offer solicitation and asserts that the executed contracts merit Commission approval.

**Procurement Review Group Participation**

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs’ overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.[[22]](#footnote-22) PG&E asserts that details regarding evaluation process, solicitation results and shortlisted bids were discussed during the following PRG meetings: February 7, 2023, April 13, 2023, and April 27, 2023. PG&E consulted with the PRG and provided their rationale for selecting the shortlisted bids. PG&E received input from PRG participants on the shortlist prior to notifying the shortlisted bidders and executing contracts.

Pursuant to D.02-08-071 and D.22-11-021, PG&E’s Procurement Review Group participated in the review of PG&E’s Long-Term Market Offer from which the Transactions with the Counterparties arose.

**Safety Considerations**

California 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.

The Counterparties’ Transactions are for the sale of renewable generation and associated RECs from RPS-eligible facilities. The proposed sales agreements do not alter existing power purchase agreements or any facility operations. As these agreements do not require a change in facility operations, there are no incremental safety implications associated with approval of this contract beyond the status quo. Based on the information provided, these agreements do not appear to result in any adverse safety impacts on the facilities or operations of PG&E.

# Confidential Information

The Commission, through the implementation of Pub. Util. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032 and D.21-11-029, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066, as modified adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential until 30 days after the commercial operation date/energy delivery start date or 18 months from the date of Commission approval, whichever comes first or one year after contract termination, except contracts between IOUs and their affiliates, which are public.

The confidential appendices marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

# Comments

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

# Findings

1. PG&E’s Long-Term Market Offer solicitation was implemented consistent with D.22-11-021.
2. The Transactions are consistent with PG&E’s RPS portfolio needs in its 2022 RPS Procurement Plan, as approved by D.22-12-030.
3. The total expected revenues of the sales agreements are reasonable based on the estimated costs to PG&E ratepayers and the sales agreements’ prices relative to PG&E’s Market Offer solicitation and other recently approved contracts.
4. Payments received by PG&E under the sales agreement shall be credited to
PG&E’s ratepayers through PG&E’s Portfolio Allocation Balancing Account over the life of the sales agreements, subject to Commission review of PG&E’s administration of the sales agreements.
5. It is reasonable that PG&E’s pool of PCIA-eligible RPS generating facilities under this contract will continue to operate under their existing contracts such that PG&E should be able to meet the terms of the Counterparties’ Transactions.
6. Consistent with D.06-05-039, D.09-06-050, and D.22-11-021 an independent evaluator oversaw PG&E’s Long-Term Market Offer solicitation.
7. Pursuant to D.02-08-071 and D.22-11-021, PG&E’s Procurement Review Group participated in the review of PG&E’s Long-Term Market Offer solicitation from which the Counterparties’ Transactions arose.
8. The confidential appendices marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
9. AL 6977-E should be approved effective today without modification.

# Therefore it is ordered that:

Pacific Gas and Electric Company’s Advice Letter 6977-E requesting Commission review and approval of the Market Offer Agreements with the Counterparties

(City of San Jose (“SJCE”), San Diego Community Power (“SDCP”), East Bay Community Energy (“EBCE”), Calpine Energy Services (“CES”), Pilot Power Group (“PPG”), Central Coast Community Energy (“3CE”)), Central Coast Community Energy (“3CE”)) is approved without modification 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 November 2, 2023; the following Commissioners voting favorably thereon:

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 Rachel A. Peterson

 Executive Director

**Confidential Appendix A**

Evaluation Summary of the Counterparties Portfolio Sale Agreement

**[Redacted]**

1. SCE AL 4914-E, SDG&E AL 4117-E, and PG&E 6779-E. [↑](#footnote-ref-1)
2. SCE AL 4922-E, SDG&E AL 4126-E, and PG&E 6794-E. [↑](#footnote-ref-2)
3. PG&E 6894-E. [↑](#footnote-ref-3)
4. D.22-11-021 at OP 3. [↑](#footnote-ref-4)
5. D.22-11-021 at OP 4. [↑](#footnote-ref-5)
6. D.22-11-021 at OP 5. [↑](#footnote-ref-6)
7. D.22-11-021 at OP 6. [↑](#footnote-ref-7)
8. D.22-11-021 at OP 7. [↑](#footnote-ref-8)
9. D.22-11-021 at OP 8. [↑](#footnote-ref-9)
10. D.22-11-021 at OP 9. [↑](#footnote-ref-10)
11. D.22-11-021 at OP 10. [↑](#footnote-ref-11)
12. D.22-11-021 at p. 15. [↑](#footnote-ref-12)
13. AL 6977-E. [↑](#footnote-ref-13)
14. Ibid. [↑](#footnote-ref-14)
15. Ibid. [↑](#footnote-ref-15)
16. Independent Evaluator Report, p. 33. [↑](#footnote-ref-16)
17. AL 6977-E. [↑](#footnote-ref-17)
18. Ibid. [↑](#footnote-ref-18)
19. Pub. Util. Code § 399.13(a)(5). [↑](#footnote-ref-19)
20. Pub. Util. Code § 399.13(d). [↑](#footnote-ref-20)
21. PG&E Final 2022 RPS Procurement Plan at p. 23. PG&E forecasted having a net short position by
2023 – the net short position does not account for an entities RPS bank. Id. [↑](#footnote-ref-21)
22. PG&E’s PRG included representatives from the Commission’s Energy Division and Public Advocates Office, Earth Justice, The Utility Reform Network, Coalition of California Utility Employees, and Coast Economic Consulting. [↑](#footnote-ref-22)