

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**AGENDA ID# 22359
RESOLUTION E-5312
March 21, 2024**

R E S O L U T I O N

Resolution E-5312. Pacific Gas & Electric Company Request for Amendment of Mid-term Reliability Contract approved in Resolution E-5202.

PROPOSED OUTCOME:

- This Resolution approves Pacific Gas & Electric Company's request to amend its mid-term reliability energy storage contract with Kola Energy Storage, LLC to change the delivery date from June 1, 2024, to June 1, 2025, and to increase the project's price.

SAFETY CONSIDERATIONS:

- Pacific Gas & Electric Company's contractual terms and conditions require sellers to practice responsible safety management based on 1) standards for Prudent Electrical Practices, 2) all applicable laws and regulations, and 3) requirements of Pacific Gas & Electric Company's Contractor Safety Program. As this resolution only approves changes to delivery date and price for a previously approved contract, there are no additional safety considerations.

ESTIMATED COST:

- Contract costs are confidential at this time.

By Advice Letter 7117-E, Filed on December 28, 2023.

SUMMARY

This Resolution approves an amendment to the contract between Pacific Gas & Electric Company ("PG&E") and Kola Energy Storage, LLC ("Kola") for 275 Megawatts ("MW") of lithium-ion battery storage. Whereas the delivery date for the previously approved

contract was June 1, 2024, the delivery date in the amended contract is June 1, 2025. In addition, this Resolution approves the amended contract's price increase.

BACKGROUND

On June 30, 2021, the Commission issued Decision ("D.") 21-06-035 ("MTR Decision") to address the mid-term reliability needs of the electricity system within the California Independent System Operator's ("CAISO") operating system by requiring at least 11,500 MW of incremental September net qualifying capacity ("NQC") to be procured by load-serving entities ("LSEs") subject to the Commission's integrated resource planning ("IRP") authority. The capacity requirements were specified by year, beginning with 2,000 MW by 2023, an additional 6,000 MW by 2024, an additional 1,500 MW by 2025, and an additional 2,000 MW by 2026.¹ As documented in Table 6 of the MTR Decision, PG&E's total share of these requirements is 2,302 MW, with 400 MW to be online by August 2023, 1,201 MW by June 1, 2024, 300 MW by June 1, 2025 and 400 MW by June 1, 2026.² PG&E sought approval for the Kola Energy Storage Project, along with eight other MTR contracts, on January 21, 2022. The contracts were approved by the Commission on April 21, 2022.³

On December 28, 2023, PG&E filed Advice Letter ("AL") 7117-E, stating that since the contract was executed, Kola has faced "unexpected Participating Transmission Owner ("PTO") delays in relation to the completion of network upgrades identified in their interconnection agreement."⁴ Given the unexpected interconnection issue, Kola has asked that the project online date be pushed out by one year. Kola has expressed that without such an extension it will default under the current agreement with PG&E. A one-year extension would amend the current online date from June 1, 2024, to June 1, 2025.

In addition, Kola approached PG&E expressing concerns regarding unprecedented changes in market conditions, rendering the project uneconomical absent a price increase. Kola has requested a price increase under its agreement with PG&E to remain commercially viable. The main drivers cited for the price increase include:⁵

¹ D. 21-06-035 at 2, Ordering Paragraph ("OP") 1.

² D. 21-06-035 at 56.

³ Resolution E-5202.

⁴ PG&E AL 7117-E at 2.

⁵ PG&E AL 7117-E at 3.

- Significant increase in battery prices due to commodity prices for lithium carbonate and metals used in manufacturing lithium-ion batteries;
- Continued supply chain constraints;
- Increased balance of systems costs due to high inflation affecting materials and labor costs; and
- Cost of capital increasing as the Federal Reserve raises interest rates to combat inflation.

Kola indicated that they are unable to complete the project pursuant to the terms and conditions of the contract and have requested an amendment to avoid default and allow them to complete the projects which, when developed, will contribute to system reliability. PG&E stated that it has negotiated aggressively with the counterparty with respect to the price increase and has conducted due diligence on the proposed price increase, assessing what kind of mitigation actions the counterparty has taken and how much of the cost burden is being passed to the Utility⁶. PG&E provides further details of the negotiation process in Confidential Appendix A.

In response to this request by Kola, PG&E and Kola agreed to update the delivery date of the contract as follows:⁷

Counterparty	Technology	Original Initial Delivery Date	Updated Initial Delivery Date	Term (years)	Nameplate Size (MW)
Kola Energy Storage, LLC	Lithium-ion Batteries	6/1/2024	6/1/2025	15	275

PG&E notified the Procurement Review Group about the contract amendment on May 9, 2023 and December 1, 2023.

NOTICE

Notice of AL 7117-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.

⁶ Ibid.

⁷ Ibid.

PROTESTS

No protests were filed to AL 7117-E.

DISCUSSION

The Commission is aware of industry-wide delays in developing mid-term reliability projects. Commission staff acknowledge that the causes delaying Kola are both unprecedented and largely beyond the control of the developer, Kola Energy Storage, LLC.

Given these circumstances, we find the amendment to the contract – a change of the online delivery date by one year and the change in price to be reasonable. We find the price adjustments to be reasonable since they are competitive with the offers PG&E received in its 2022 Phase 2 MTR Request for Offers. Furthermore, when completed, the contracted for storage will contribute to system reliability, whereas absent this contractual change, the most likely outcome would be a default by Kola, resulting in the termination of the agreement.

We have reviewed AL 7117-E, including the Confidential Appendices detailing the contract amendment and the negotiation process. We find that PG&E negotiated aggressively with NextEra Energy Resources Development, LLC (NextEra) of which Kola is an affiliate. PG&E did its due diligence in assessing mitigation actions taken by NextEra.

We therefore approve PG&E's contract amendment request to both increase the contract price and change the initial delivery date to June 1, 2025.

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. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. Commission Decision 21-06-035 directed all Load Serving Entities to procure a total of 11,500 megawatts ("MW") of incremental September net qualifying capacity under the Commission's rules over the course of four years, with 2,000 MW to be online by August 1, 2023, an additional 6,000 MW online by June 1, 2024, an additional 1,500 MW online by June 1, 2025, and an additional 2,000 MW online by June 1, 2026.
2. Resolution E-5202 approved a contract between Pacific Gas & Electric Company ("PG&E") and Kola Energy Storage, LLC ("Kola") for 275 MW of nameplate capacity from a lithium-ion storage facility.
3. Kola Energy Storage, LLC has faced delays in interconnecting its Kola project that make it unlikely it could meet its contractually obligated initial online date of June 1, 2024. This failure would lead to a default under the contract and result in the termination of the agreement.
4. Kola Energy Storage, LLC has requested a price increase under its agreement with PG&E driven by unprecedented industry-wide market changes and inflationary pressure on project costs.
5. PG&E negotiated aggressively with Kola and did its due diligence in assessing mitigation actions taken by Kola.
6. The proposed price increase is competitive with offers PG&E received in its Phase 2 Mid-term Reliability ("MTR") Request for Offers.
7. Approving the increased project cost of the Kola project will ensure that it remains commercially viable.
8. Once completed, the Kola project will contribute to system reliability and help PG&E in meeting its MTR obligations.
9. It is reasonable to approve the contract amendment request to both increase the contract price and change the initial delivery date to June 1, 2025.

THEREFORE IT IS ORDERED THAT:

1. The request of PG&E to amend its contract with Kola Energy Storage, LLC in PG&E Advice Letter 7117-E by delaying the initial online date for the project to June 1, 2025, and allowing a price increase in the project cost is approved. 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, 2024; the following Commissioners voting favorably thereon:

Rachel Peterson
Executive Director