PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item# 15 (Rev.1)
Agenda ID# 23267
ENERGY DIVISION **RESOLUTION E-5370**
February 20, 2025

R E D A C T E D
R E S O L U T I O N

Resolution E-**5370**. Pacific Gas and Electric Company requests approval of Mid-Term Reliability Renewable Resource Contracts.

PROPOSED OUTCOME:

- Approves four Pacific Gas and Electric Company Mid-Term Reliability renewable resource contracts and related costs. The power purchase agreements are approved without modification.

SAFETY CONSIDERATIONS:

- The projects will be owned, constructed, and operated by a third party. The sellers of the projects are responsible for the safe construction and operation of their facilities in compliance with standards for electrical practices and all applicable laws, including safety regulations.
- Seller is required to have a project safety plan that demonstrates responsible safety management during all lifecycle phases, referencing applicable safety-related codes and standards and its own safety programs and policies, and describing the project design and key safety-related systems, including potential hazards and risk mitigations/safeguards. The seller is required to demonstrate and enforce its contractors' and subcontractors' compliance with the safety requirements.

ESTIMATED COST:

- Contract costs are confidential at this time.

By Advice Letter 7356-E, filed on September 9, 2024.

SUMMARY

This Resolution approves four Mid-Term reliability (MTR) contracts for a total of 750 megawatts (MW) of solar photovoltaic (PV) nameplate capacity and 578.7 MW of battery energy storage system (ESS or BESS) nameplate capacity. Pacific Gas and Electric Company (PG&E) contracted these resources to help meet its MTR requirements (full summary of contract terms found in Confidential Appendix A). The contracts for which PG&E seeks approval in Advice Letter (AL) 7356-E are summarized in the table below:

Seller/Parent Company	Resource Type	Contract Type	Solar PV Nameplate (MW)	Storage Nameplate (MW)	Contract Term	Initial Delivery Date
Atlas North 1 Project, Atlas Solar XII, LLC	Solar PV & Lithium-ion battery storage	Co-located RPS-Eligible Energy + Storage Resource	375	225	15	12/01/2027
Atlas North 2 Project, Atlas Solar XIII, LLC	Solar PV & Lithium-ion battery storage	Co-located RPS-Eligible Energy + Storage Resource	375	225	15	12/01/2027
Lockhart CL Energy Storage System (ESS) IA, LLC / Terra-Gen LLC	Lithium-ion battery storage	Resource Adequacy (RA) Agreement with Energy Settlement	N/A	69	15	06/01/2026
Lockhart CL ESS IIA, LLC / Terra-Gen LLC	Lithium-ion battery storage	Resource Adequacy (RA) Agreement with Energy Settlement	N/A	59.7	15	06/01/2026

The Atlas North 1 and Atlas North 2 (Atlas) contracts are for two co-located projects being developed by 174 Power Global, LLC. Both projects are transmission-connected co-located 375 MW solar PV and 225 MW four-hour duration lithium-ion battery

storage facilities.[1] The Lockhart CL ESS IA and Lockhart CL ESS IIA (Lockhart) contracts are being developed by Terra-Gen, LLC, and are both transmission-connected co-located four-hour duration lithium-ion battery storage facility projects providing 69 MW and 59.7 MW of nameplate capacity storage, respectively. The Atlas and Lockhart Contracts were procured to meet PG&E's Renewables Portfolio Standard (RPS) and MTR compliance obligations.

In accordance with Decision (D.) 21-06-035 and D.23-02-040, PG&E proposes to allocate the costs associated with the Atlas and Lockhart Contracts to applicable customers, which includes bundled service customers and departing load customers with 2021 and 2023 vintage cost responsibility, using the Portfolio Allocation Balancing Account (PABA). The costs associated with these Agreements are Power Charge Indifference Adjustment (PCIA)-eligible with an assigned vintage of 2021 for purposes of D.21-06-035 procurement requirements and vintage of 2023 for purposes of D.23-02-040 procurement requirements for the duration of their term. Therefore, costs associated with procurement complying with these Decisions will be recovered from applicable customers through the 2021 and 2023 vintage sub-account of the PABA and shall be net of any CAISO charges and market revenues, and net of any retained Resource Adequacy (RA) capacity value for bundled service customers.

BACKGROUND

Overview of Integrated Resource Planning (IRP) / Mid-Term Reliability Requirements

The IRP proceeding (R.20-05-003) is an "umbrella" planning proceeding to consider all of the Commission's electric procurement policies and programs and ensure California has a safe, reliable, and cost-effective electricity supply. The IRP proceeding is also the Commission's primary venue for implementation of the Senate Bill (SB) 350 requirements related to IRP (Public Utilities Code Sections 454.51 and 454.52). It combines a system needs determination with a cost minimization modeling process for integrated resource planning that will ensure that load-serving entities (LSEs) meet system needs and GHG targets that allow the electricity sector to contribute to California's economy-wide greenhouse gas emissions reduction goals.

1 The Atlas contracts are interconnected by the recently in-service Ten West Link Transmission line within the CAISO balancing authority. The Ten West Transmission line was approved by the Commission on November 4, 2021.

Within the IRP proceeding, Decision (D.) 21-06-035 requires load serving entities (LSEs) to procure at least their share of 11,500 MW of September net qualifying capacity (NQC)[2], with at least 2,000 MW 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 of long lead time resources online by June 1, 2026, for MTR purposes. D.21-06-035 also requires that of the 11,500 MW NQC required, at least 2,500 MW must be from firm zero-emitting generation paired with storage, or demand response resources by 2025 to replace Diablo Canyon Nuclear Power Plant (Diablo Canyon Replacement [DCR] procurement).

D.23-02-040, adopted on February 28, 2023, orders supplemental MTR procurement of 2,000 MW NQC for 2026 and 2,000 MW NQC for 2027, and revised the online date for Long Lead Time (LLT) resources from June 1, 2026 to June 1, 2028. With the mutually agreed-upon reallocations and the additional MTR procurement ordered in D.23-02-040, PG&E's annual share of the MTR procurement requirements are as follows:

Table 1: PG&E Annual MTR Procurement Requirements (MW NQC)							
	2023	**2024**	**2025**	**2026**	**2027**	**2028**	**Total**
General MTR Capacity	400	1201	300	388	388		2677
Minimum firm Zero-Emitting Capacity (DCR Capacity and Energy)	500 total						
Long-Duration Storage (8+ hours) [3]						200	200
Firm Zero-Emitting Generation Paired with Storage, or Demand Response Resources[2]						200	200
Total Need	**400**	**1201**	**300**	**388**	**388**	**400**	**3077**

[2] Compliance would be measured based on September NQC calculations using marginal Effective Load Carrying Capability (ELCCs) calculated by the Commission for each resource type for each future online year

[3] The Long Lead Time (LLT) resource requirements are divided into half from long-duration storage and half from firm, zero-emitting generation resources.

On February 15, 2024, the CPUC adopted D.24-02-047, modifying the procurement deadlines outlined in the two MTR Decisions. Specifically, D.24-02-047 allows for an extension of the D.23-02-040 2028 deadline to procure LLT resources, when certain conditions are met by an LSE.[4] Under this decision, LSEs that require an extension to the June 1, 2028 LLT resource deadline must procure generic capacity to cover the shortfall, and still bring online LLT resources by no later than June 1, 2031.

Overview of the Renewable Portfolio Standard (RPS) Program Requirements
The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, SB 2 (1X), SB 350 and SB 100.[5] The RPS program is codified in Public Utilities Code Sections 399.11-399.33.[6]

The RPS program administered by the CPUC requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources equals 60 percent of retail sales by December 31, 2030.[7]

Additional background information about the CPUC's RPS Program, is available at http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm.

Solicitation of the MTR Contracts
On June 18, 2021, PG&E launched Phase 1 of its Mid-Term Reliability Request for Offers (MTRRFO) for incremental resources that could come online in the 2023-2024 timeframe. As a result of this MTRRFO, PG&E submitted one advice letter for the approval of nine contracts, which was approved by the Commission on April 21, 2022.[8]

On April 15, 2022, PG&E launched Phase 2 of its MTRRFO for incremental resources that would help them meet its procurement requirements. As a result of this MTRRFO,

[4] See D.24-02-047, at Ordering Paragraph (OP) 16.
[5] SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session); SB 350 (de León, Chapter 547, Statutes of 2015); SB 100 (de Leon, Chapter 312, Statutes of 2018).

[6] All further statutory references are to the Public Utilities Code unless otherwise specified.

[7] D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020). D.16-12-040 established additional procurement requirement quantities for the three compliance periods established by SB 350: 2021-2024, 2025-2027, 2028-2030.

[8] See PG&E AL 6477-E (approved by Resolution E-5202).

PG&E submitted three advice letters for the approval of four total contracts, which was approved by the Commission via Resolutions E-5262, E-5263, and E-5297.

On February 7, 2023, PG&E launched Phase 3 of its MTRRFO for supplemental incremental NQC resources to come online between 2024 and 2030 to qualify for the various procurement categories outlined in D.21-06-035 and the then likely implementation of D.23-02-040. Phase 3 solicited zero-emitting resources eligible to meet its DCR requirement, such as standalone RPS, standalone storage, hybrid, and co-located RPS and storage resources, as well as RPS contracts for firm zero-emitting resources. As a result of this MTRRFO, PG&E submitted three advice letters for the approval of seven contracts, including the herein MTR Contracts presented in AL 7356-E.[9]

To evaluate its Phase 3 MTR offers, PG&E performed a Least-Cost Best-Fit (LCBF) quantitative analysis of conforming offers based on consideration of each offer's Net Market Value (NMV) and other qualitative factors.[10] The conformance screen required resources to meet D.21-06-035 and D.23-02-040 requirements and other project variability criteria. The NMV calculations were based on a cost/benefit analysis, where the benefits consisted of capacity value, energy value, and green attributes as indicated by each agreement or term sheet. The NMV costs consisted of contract fixed cost, variable cost, and transmission network upgrade cost. The NMV analysis also included the consideration of added project features, which ultimately created an Adjusted NMV.[11] After the Adjusted NMV was calculated, PG&E shortlisted the viable projects and began negotiations with relevant counterparties whose contract terms met the procurement requirements outlined in D.21-06-035 and D.23-02-040.

NOTICE

PG&E states that a copy of Advice Letter 7356-E was mailed and distributed to the R.20-05-003 service list in accordance with Section 4 of General Order 96-B.

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[9] See PG&E AL 7177-E (approved by Resolution E-5325), and PG&E AL 7299-E.

[10] In PG&E AL 7356-E, PG&E described the qualitative factors that were considered during their assessment of offers. The qualitative benefits include disadvantaged community (DAC) consideration, interconnection status, ability to procure long lead-time equipment, site control, credit, safety history, previous adverse commercial experience, agreement or term sheet modifications, ability to meet the Initial Delivery Date, including commercial preferences for earlier dates; Supply Chain Responsibilities Status, developer experience, location and completeness of Offers.

[11] In PG&E AL 7356-E, PG&E notes that the Adjusted NMV includes the impacts a resource has on compliance and how it fits with PG&E's energy position.

PROTESTS

Advice Letter 7356-E was not protested.

DISCUSSION

PG&E requests approval of four contracts for Mid-Term Reliability Procurement compliance.

On February 7, 2023, PG&E launched Phase 3 of its MTRRFO for incremental resources with initial deliveries beginning in June 2024 through June 2030. PG&E's Phase 3 MTRRFO sought incremental zero-emitting resources or resources that otherwise meet RPS eligibility requirements that provide RA benefits or otherwise contribute to PG&E's MTR procurement requirements. On September 9, 2024, PG&E filed AL 7356-E requesting approval of the MTR Contracts for renewable resources or otherwise long term resource adequacy with energy settlement, procured as a result of PG&E's Phase 3 MTRRFO.

PG&E requests in AL 7356-E that the Commission issue a resolution that:

1. Approves the Mid-Term Reliability Contracts in their entirety;

2. Finds that the Mid-Term Reliability Contracts are consistent with the relevant CPUC Decisions;

3. Finds that the Mid-Term Reliability Contracts satisfy the procurement requirements for net qualifying capacity outlined in the Decisions, provided that PG&E complies with all relevant Ordering Paragraphs in D.23-02-040;

4. Finds that any procurement pursuant to the Atlas Contracts is procurement from eligible renewable energy resources for purposes of determining PG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewable Portfolio Standard (Public Utilities Code Section 399.11 et seq.) or other applicable law;

5. Finds that the Atlas Contracts are consistent with PG&E's 2023 Renewable Portfolio Standard Procurement Plan;

6. Finds that the Atlas contracts are not a form of covered procurement subject to the Emissions Performance Standard (EPS), because the generating facilities have expected capacity factors of less than 60%;

7. Finds that the deliveries from the Atlas Contracts shall be categorized as procurement under the portfolio content category in Public Utilities Code Section 399.16(b)(1)(A) or Section 399.16(b)(1)(B), subject to the Commission's after-the-fact verification that all applicable criteria have been met;

8. Finds that the Mid-Term Reliability Contracts and PG&E's entry into them are reasonable and prudent for all purposes, and that any payments to be made by PG&E pursuant to the Mid-Term Reliability Contracts, are recoverable in full by PG&E through the PABA, subject only to PG&E's prudent administration of the MTR Contracts;

9. Finds that all procurement and administrative costs, as provided by Public Utilities Code Section 399.13(g), associated with the Mid-Term Reliability Contracts shall be recoverable in rates.

Energy Division evaluated the Mid-Term Reliability Contracts based on the following criteria:

- Consistency with D.21-06-035 and D.23-02-040;
- Consistency with PG&E's 2023 Renewable Portfolio Standard Procurement Plan;
- Procurement Methodology, Evaluation, and Cost Reasonableness;
- RPS Eligibility and CPUC Approval;
- Consistency with RPS standard terms and conditions (STC);
- Consistency with Portfolio Content Categories Requirements;
- Consistency with the Long-Term Contracting Requirement;
- Consistency with Disadvantaged Community Goals;
- Use of Independent Evaluator Review;
- Procurement Review Group Participation
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard; and
- Cost Recovery.

Consistency with D.21-06-035 and D.23-02-040

We find that PG&E AL 7356-E is consistent with D.21-06-035, as modified by D.23-02-040.

Ordering Paragraph (OP) 6 of D.21-06-035 requires PG&E to procure at least 2,302 MWs of incremental September marginal ELCC NQC. Of this total requirement 500 MW must come from firm zero-emitting generation resources paired with storage or demand response resources. In accordance with OP 6 of D.21-06-035, the Atlas contracts include a generation resource paired with storage, and therefore may contribute toward PG&E's DCR requirement.

The Lockhart contracts are for storage-only resources that are expected to help PG&E meet its general MTR requirements. The Lockhart contracts may be used to satisfy the Diablo Canyon Replacement requirement adopted in D.21-06-035 if PG&E is able to pair the energy storage resources with eligible generation.

The MTR contracts also appear to meet the general capacity requirements of D.21-06-035 and D.23-02-040, which dictate that all resources used for compliance with the decisions must be associated with a new resource, or an expansion of an existing resource, and that they are under a long-term contract of at least ten years. Final verification of specific resource eligibility for specific procurement categories is done via the IRP compliance process.

Consistency with PG&E's 2023 Renewable Portfolio Standard Procurement Plan

Pursuant to statute, PG&E's RPS Procurement Plan (RPS 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.[12]
California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.[13] The Commission reviews the results to verify that the utility conducted its solicitation according to its
Commission-approved procurement plan.

[12] Pub. Util. Code § 399.13(a)(5).
[13] Pub. Util. Code § 399.13(d).

In PG&E's 2023 Final RPS Plan, PG&E showed that it has sufficient RPS bank volume to meet its near-term RPS compliance needs. However, it noted that incremental RPS procurement would be used to contribute to meeting long term RPS procurement obligations.[14] Additionally, within its 2023 Final RPS Plan, PG&E noted that they plan to procure long-term contracts to meet MTR targets as required under D.21-06-35 and D.23-02-040 to ensure compliance with its RPS obligations.[15]

Therefore, the procurement facilitated by the MTR contracts is consistent with PG&E's renewable resource needs as identified in its 2023 Final RPS Plan.

Procurement Methodology, Evaluation, and Cost Reasonableness

PG&E launched Phase 3 of its MTRRFO on February 7, 2023 to solicit offers for supplemental incremental NQC resources that can meet its MTR procurement requirements between 2024 and 2030. PG&E retained the Merrimack Energy Group, Inc. (Merrimack) as the Independent Evaluator (IE) its MTR solicitation efforts.

In the IE Report, attached to AL 7356-E, Merrimack provides an evaluation of PG&E's outreach efforts, LCBF methodology design, shortlist, and project negotiations. In the IE Report, Merrimack's professional opinion about these components of Phase 3 of the MTRRFO concurred with PG&E's. Merrimack describes P&GE's methodology, evaluation, and cost of the projects as clear, consistent, and fair.

Staff have reviewed PG&E's MTRRFO evaluation methodology and the IE Report, and agree with PG&E's and Merrimack's findings that PG&E selected the most appropriate offers that were among the lowest prices on the table at the time of Phase 3 of its MTRRFO. For an in-depth solicitation and cost reasonableness review, see Confidential Appendix B.

RPS Eligibility and CPUC Approval

Pursuant to Section 399.13, the California Energy Commission (CEC) certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable "eligibility" language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an

[14] PG&E 2023 Final RPS Plan, at 103.
[15] PG&E 2023 Final RPS Plan, at 124.

"eligible renewable energy resource," that the project's output delivered to the buyer qualifies under the requirements of the RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.[16]

The Commission requires a standard and non-modifiable clause in all RPS-eligible contracts that requires "CPUC Approval" of a contract to include an explicit finding that "any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Sections 399.11 et seq.), D.11-12-020 and D.11-12-052, or other applicable law."[17]

Notwithstanding this language, given that the Commission has no jurisdiction to determine whether a project is an "eligible renewable energy resource" for RPS purposes, this finding and the effectiveness of the non-modifiable "eligibility" language is contingent on the CEC's certification of each of the projects as "eligible renewable energy resources." The contract language that each project is procurement from an "eligible renewable energy resource" must be a true statement at the time of the first delivery of energy, not at the signing of the PPA or at the issuance of this Resolution.

While we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation absent CEC certification. Nor shall such finding absolve the seller of its obligation to obtain CEC certification, or the utility of its obligation to pursue remedies for breach of contract. Such contract enforcement activities shall be reviewed pursuant to the Commission's authority to review the utilities' administration of such contracts.

Compliance with RPS Standard Terms and Conditions

The CPUC adopted a set of standard terms and conditions (STCs) required in RPS contracts, five of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.

[16] See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

[17] See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

The Atlas contracts include all CPUC-adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025 and D.13-11-024.

Consistency with Portfolio Content Categories Requirements

In D.11-12-052, the Commission defined and implemented Portfolio Content Categories (PCCs) for the RPS program and required the investor-owned utilities to provide information to the Director of Energy Division regarding the proposed contract's PCC classification in each advice letter seeking Commission-approval of an RPS-eligible contract. The purpose of the information is to ensure the MTR contracts' RPS eligibility and allow the Commission to evaluate the claimed portfolio content category of the proposed contracts and the risks and value to ratepayers if the proposed contracts ultimately result in renewable energy credits in another, less preferred, portfolio content category.

Consistent with D.11-12-052, PG&E provided information in AL 7356-E regarding the expected PCC classification of the renewable energy credits procured pursuant to the Atlas contracts. In PG&E AL 7356-E, PG&E states it expects that the energy and associated renewable energy credits (RECs) from the Atlas contracts would quality as portfolio content category (PCC) 1 RECs for RPS compliance. For the Atlas contracts, the projects have their first point of interconnection within a CAISO balancing authority.

In this Resolution, the Commission makes no determination regarding the contracts' PCC classification. The RPS contract evaluation process is separate from the RPS compliance and portfolio content category classification process, which requires consideration of several factors based on various showings in a compliance filing. Thus, making a PCC classification determination in this Resolution regarding the procurement considered herein is not appropriate. PG&E should incorporate the procurement resulting from the approved the Atlas contracts and all applicable supporting documentation to demonstrate PCC classification in the appropriate compliance showings consistent with all applicable RPS program rules.

Consistency with Long-Term Contracting Requirement

In D.12-06-038, the Commission established a long-term contracting requirement that must be met in order for retail sellers to count RPS procurement from contracts less than

ten years in duration for compliance with the RPS program.[18] In D.17-06-026 the Commission implemented the new long-term contracting requirements established by SB 350.[19]

The PG&E MTR contracts each have a 15-year term and are for procurement beginning in RPS Compliance Period 2025-2027. Because each MTR contract in PG&E AL 7356-E is greater than ten years in length, RPS-eligible procurement pursuant to the contracts will contribute to PG&E's long-term contacting requirement established in D.17-06-26 beginning in RPS Compliance Period 2025-2027.

Disadvantaged Community Goals

Senate Bill 350 (de León, Chapter 547, Stats. 2015) and SB 2 (1X) (Simitian, Stats. 2011, ch.1) contain disadvantaged community goals that are cross-cutting and therefore are be integrated into all policy areas. The Commission typically analyzes California project locations relative to such communities using the CalEnviroScreen tool.[20] However, on a federal scale, the Climate and Economic Justice Screening Tool (CEJST) can and has been used by Federal programs such as the Justice40 Initiative to identify disadvantaged communities that are marginalized by underinvestment and overburdened by pollution.[21]

PG&E noted in AL 7356-E that consistent with Public Utilities Code Section 454.52(a)(1)(I), PG&E placed early priority on projects located in disadvantaged communities and expressed a preference for energy resources located in such communities as part of its solicitation process. The Lockhart projects are located in Hinkley, California, and the Atlas projects are located in La Paz, Arizona.

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[18] For the purposes of the long-term contracting requirement, contracts of less than 10 years duration are considered "short-term" contracts. (D.12-06-038.)

[19] Pub. Util. Code Sec. 399.13: "Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration…"

[20] The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) created CalEnviroScreen through a public process in order to help the state identify disadvantaged communities, and the tool "uses environmental, health, and socioeconomic information to produce scores for every census tract in the state." (https://oehha.ca.gov/calenviroscreen/.)

[21] The Justice40 Initiative was implemented by the Federal government, and aims for 40 percent of the overall benefits of certain Federal climate, clean energy, affordable and sustainable housing, and other investments flow to disadvantaged communities.
(https://www.whitehouse.gov/environmentaljustice/justice40/.)

The Lockhart projects are located roughly 17 miles away from the nearest town of Hinkley, California, which had a population of about 1,692 people, according to 2010 census data.[22] Although PG&E noted in a Confidential Data Request response that none of the four MTR projects are located in a disadvantaged community, Hinkley is recognized by the CalEnviroScreen tool as being significantly burdened[23] by environmental and socioeconomic factors due to the prevalence of hexavalent chromium in its groundwater.[24]

The Atlas projects are located in La Paz County, Arizona, nearest to the town of Salome, which has a population of about 708 people.[25] Salome is considered disadvantaged by the CEJST because the community is low income and meets more than one health burden threshold. Salome is also located in a region of Arizona that the Center of Disease Control knows or suspects "Valley Fever" fungus to live.[26] Valley Fever is a fungal infection caused by fungus spores that thrive in dry, desert soil and can be stirred into the air by activities such as farming, construction, and wind.

Independent Evaluator Review

As noted above, PG&E retained the Merrimack as the IE for its MTR solicitation efforts, pursuant to D.04-12-048 and D.06-05-039. In compliance with these decisions, Merrimack asserts it reviewed and evaluated the planning of the solicitation, reviewed and evaluated subsequent offers, assisted in shortlist development, participated in feedback calls with participants not selected for the shortlist, and attended contract negotiations.

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[22] U.S. Census Bureau (2010). American Decennial Census for Zip Code Tabulation Area 92347. Retrieved from Census Reporter Profile page for Hinkley, CA https://data.census.gov/table/DECENNIALSF12010.P1?q=92347&hidePreview=false

[23] Hinkley, California has an overall percentile of 78 out of 100 (highest score) by the CalEnviroScreen tool. Retrieved from: https://experience.arcgis.com/experience/11d2f52282a54ceebcac7428e6184203/page/CalEnviroScreen-4_0/

[24] Hexavalent chromium is a toxic form of chromium commonly found in industrial processes such as electroplating, welding, and pigment production. In Hinkley Valley, hexavalent chromium was used to prevent corrosion in industrial machinery during 1952-64. Retrieved from: https://www.usgs.gov/centers/california-water-science-center/science/results-hexavalent-chromium-background-study

[25] U.S. Census Bureau (2022). American Community Survey 5-year estimates. Retrieved from Census Reporter Profile page for Salome, AZ <http://censusreporter.dokku.censusreporter.org/profiles/16000US0462700-salome-az/>.

[26] Centers for Disease Control and Prevention (2020). Valley Fever Maps. Retrieved from https://www.cdc.gov/fungal/diseases/coccidioidomycosis/maps.html#aa.

The IE determined that PG&E's evaluation and selection process for Phase 3 was robust, and that all technologies and types of bidders were treated fairly, employing a consistent methodology that recognized justifiable offer-specific differences (e.g., project development status) while simultaneously not favoring or disadvantaging any offer product, technology, or bidder.

Procurement Review Group (PRG) Participation

The Commission established the PRG in D.02-08-071. The PRG reviews and assesses the details of the utilities' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission as a mechanism for procurement review by non-market participants.

PG&E consulted with its PRG during each milestone of Phase 3 of its MTRRFO, providing the participants with its solicitation overview, offer summary, and shortlist materials for the MTR projects via email on January 31, 2024. This presentation included the Phase 3 MTRRFO requirements, offers received, and PG&E's proposed shortlist. PG&E informed the PRG of its intent to execute transactions with the final shortlist for the Atlas and Lockhart projects on February 8, 2024, and May 24, 2024, respectively.

Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the MTR contracts.

Compliance with the Interim Greenhouse Gas Emissions Performance Standard (EPS)

SB 1368 requires that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers. [27] D.07-01-039 adopted an interim EPS that establishes an emission rate for obligated facilities at levels no greater than the greenhouse gas emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS.[28]

In AL 7356-E, PG&E states that the MTR Contracts are exempted from or compliant with SB 1368 and D.07-01-039 requirements based on its underlying resources. The Atlas contracts are for solar PV resources that have capacity factors under 60 percent and are therefore not covered by the EPS. The Lockhart contracts are for storage

[27] "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." Section 8340(a).
[28] D.07-01-039, Attachment 7, p. 4.

resources (rather than generation resources) and are therefore not subject to the EPS. Thus, the MTR Contracts are found to be exempt from or compliant with the Emissions Performance Standard because their resources have capacity factors of less than 60 percent or are otherwise not subject to the EPS.

Cost Recovery

Ordering Paragraph 12 of D.21-06-035 authorized PG&E authorized cost recovery of the MTR procurement via the Power Charge Indifference Adjustment (PCIA):

> To the extent that any resources procured in response to this order are subject to allocation using the [PCIA], the date of that adjustment shall be vintaged by the date of this order. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall each file Tier 2 advice letters to update their balancing accounts to address the PCIA treatment as a result of this order.

Staff find the herein MTR Contracts are entered into to meet the procurement requirements of D.21-06-035 and D.23-02-040, and the cost associated with the Contracts are PCIA-eligible with an assigned vintage of 2021 for purposes of D.21-06-035 procurement requirements and vintage of 2023 for purposes of D.23-02-040 procurement requirements for the duration of their term. Staff thus find PG&E's proposed cost recovery of the MTR contracts to be consistent with OP 12 of D.21-06-035. Thus, any payments to be made by PG&E pursuant to the Atlas as well as the Lockhart contracts, are recoverable by PG&E through the PABA, subject to PG&E's prudent administration of the MTR Contracts.

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, may be kept confidential until 30 days after the commercial operation date/energy delivery start date or eighteen 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

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 were neither waived nor reduced. Accordingly, this draft Resolution was mailed to parties for comments on January 21st, 2025, and has been placed on the CPUC's agenda for February 20th, 2025.

This resolution received no comments.

FINDINGS

1. On September 9, 2024, PG&E filed AL 7356-E seeking approval of four 15-year MTR contracts to partially meet PG&E's D.21-06-035 and D.23-02-040 requirements.

2. The Atlas XII, and Atlas XIII (Atlas) contracts, sold by 174 Power Global LLC, total 750 MW in solar photovoltaic nameplate capacity, and 450 MW in nameplate storage capacity.

3. The Lockhart CL ESS IA and Lockhart CL ESS IIA (Lockhart) contracts, sold by Terra Gen LLC, total 128.7 MW in nameplate storage capacity.

4. PG&E AL 7356-E are consistent with D.21-06-035, as modified by D.23-02-040.

5. The Atlas contracts are consistent with PG&E's 2023 Draft Renewable Portfolio Standard Procurement Plan.

6. PG&E's methodology used to evaluate the bids in the competitive solicitation that resulted in the contracts presented in PG&E AL 7356-E is reasonable.

7. The MTR contracts costs presented in PG&E AL 7356-E are reasonable based on the robust competitive solicitation and bid evaluation methodology.

8. Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the MTR contracts.

9. The Atlas contracts are not a form of covered procurement subject to the Emissions Performance Standard, because the generating facilities have expected capacity factors of less than 60% or are otherwise not subject to the EPS.

10. The Atlas contracts include all CPUC-adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025 and D.13-11-024.

11. The Lockhart contracts are exempt from the Emissions Performance Standard because storage facilities are not a form of covered procurement.

12. PG&E's request in AL 7356-E to allocate the benefits and costs of the Atlas and Lockhart contracts to all applicable customers via the Portfolio Allocation Balancing Account (PABA) 2021 and 2023 vintage sub-accounts is reasonable. Payments to be made by PG&E pursuant to the Atlas as well as the Lockhart contracts, are recoverable by PG&E through the PABA, subject to PG&E's prudent administration of the Atlas and Lockhart contracts.

13. Procurement pursuant to the MTR contracts must be zero emission or otherwise an eligible renewable energy resource certified by the California Energy Commission for purposes of determining PG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Sections 399.11, et seq.), D.11-12-020 and D.11-12-052, or other applicable law on or before the first delivery of energy.

14. This above finding has never been intended, and shall not be read now, to allow the generation from a non-Renewables Portfolio Standard-eligible resource to count towards a Renewables Portfolio Standard compliance obligation absent

California Energy Commission certification. Nor shall such finding absolve the seller of its obligation to obtain California Energy Commission certification, or the utility of its obligation to pursue remedies for breach of contract.

15. Consistent with D.11-12-052, PG&E provided information in AL 7356-E regarding the expected Portfolio Content Category classification of the RECs procured pursuant to the Atlas contracts.

16. The CPUC makes no determination regarding the proposed Agreements' Portfolio Content Classification because the RPS contract evaluation process is a separate process from the Portfolio Content Category classification review and determination.

17. The confidential appendices, marked "[REDACTED]" in the public copy of this Resolution, as well as the confidential portions of Advice Letter 7356-E, should remain confidential at this time.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas & Electric's Advice Letter 7356-E requesting Commission review and approval of four Mid-Term Reliability Renewable Resource Contracts, 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 February 20, 2025; the following Commissioners voting favorably thereon:

_____
Rachel Peterson
Executive Director

Confidential Appendix A

Summary of Major Contract Terms

REDACTED

Confidential Appendix B

Solicitation and cost reasonableness review

REDACTED