

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Agenda ID# 24519
RESOLUTION E-5469
October 8, 2026

REDACTED
R E S O L U T I O N

Resolution E-5469. Pacific Gas and Electric (PG&E) Request for Approval of a Contract Amendment to Extend the Bioenergy Renewable Auction Mechanism Power Purchase Agreement with Burney Forest Products.

PROPOSED OUTCOME:

- Approves Pacific Gas and Electric Company's Contract Amendment to Extend the Bioenergy Renewable Auction Mechanism Power Purchase Agreement with Burney Forest Products.

SAFETY CONSIDERATIONS:

- The contract requires the sellers of the generation to comply with all applicable safety requirements relating to the project, including environmental laws.

ESTIMATED COST:

- Contract amendment costs are confidential at this time.

By Advice Letter 7796-E filed on December 30, 2025, by Pacific Gas and Electric Company.

SUMMARY

This Resolution approves Pacific Gas and Electric Company's (PG&E's) contract amendment to the Bioenergy Renewable Auction Mechanism (BioRAM) Program power purchase agreement (PPA) with Burney Forest Products (Burney). The contract amendment is summarized in the table below:

Project	Technology	Capacity (MW)	Location	Amended Contract Final Delivery Date
Burney Forest Products, a Joint Venture	Biomass	29	Burney, CA	10/31/2032

BACKGROUND

Overview of the Bioenergy Renewable Auction Mechanism (BioRAM) Program

The Bioenergy Renewable Auction Mechanism (BioRAM) Program requires the large IOUs to procure 146 MWs of bioenergy from High Hazard Zone (HHZ) fuel, as defined by CAL FIRE, to aid in mitigating the threat of wildfires. In 2016, the CPUC implemented Governor Brown's October 2015 Emergency Order addressing Tree Mortality by establishing the BioRAM program in Resolution E-4770. BioRAM uses a RPS standardized renewable auction mechanism (RAM) contract with a BioRAM rider to streamline the procurement process. Subsequently, Senate Bill 859 (2016) directed additional BioRAM procurement implemented in CPUC Resolution E-4805.

Senate Bill 901 (Dodd, 2018) and SB 1109 (Caballero, 2022) further amended the BioRAM program which the CPUC implemented in January 2019 via Resolution E-4977 and in October 2022 via Resolution E-5228, respectively. Program modifications include expansion of eligible fuel stock that can be classified as HHZ fuel, monthly opt-out options, a reporting option for annual fuel use requirements, and removal of missed fuel requirements as an event of default. Resolution E-5228 also ordered the IOUs to offer further contract extensions to its BioRAM contracts for five to fifteen years.

NOTICE

Notice of Pacific Gas and Electric Company's (PG&E) AL 7796-E was made by distribution to the Service List in accordance with Section 4 of General Order 96-B.

PROTESTS

No protests were received for Advice Letter 7796-E.

DISCUSSION

The Commission has reviewed PG&E's AL 7796-E requesting approval of an amendment to extend the Bioenergy Renewable Auction Mechanism (BioRAM) Power Purchase Agreement (PPA) with Burney Forest Products and finds it reasonable, as discussed below.

The current BioRAM PPA between PG&E and Burney was executed and approved in 2020. In 2023, the CPUC adopted Resolution E-5288 implementing SB 1109 (Caballero 2022, ch. 364) and ordered PG&E to offer a contract extension to Burney. Negotiations between PG&E and Burney pursuant to Resolution E-5288 resulted in an impasse.¹ On April 9, 2025, the CPUC adopted Resolution E-5376 implementing AB 2750 (Gallagher 2024, ch. 574).

Resolution E-5376 ordered PG&E to seek to negotiate a BioRAM contract extension with Burney, PG&E's only BioRAM contract eligible for a further extension under the criteria set forth in Public Utilities Code Section 8388. Resolution E-5376 included the same requirements with respect to such contract extension negotiations as the prior Resolution E-5288, including a per se reasonableness price benchmark equal to the existing contract price.

Pursuant to Ordering Paragraph (OP) 8 of Resolution E-5376, if the parties to an existing BioRAM contract were unable to reach agreement on terms for an extension of that contract within 180 days, the IOU was required to submit a Tier 2 Advice Letter within 210 days of the Resolution's issuance explaining the circumstances surrounding that negotiation and declaring an impasse in the negotiation. The 180-day negotiation period expired on September 30, 2025, and the 210-day deadline under OP 8 expired on October 30, 2025. The parties did not reach an agreement on amendment terms for the existing Burney BioRAM contract by September 30, 2025. PG&E submitted Advice Letter 7745-E on October 30, 2025, but in it PG&E also noted that negotiations were ongoing.

Pursuant to Resolution E-5376 PG&E requests in AL 7796-E, the AL considered herein, approval of an amendment that would extend the delivery period by an additional five years through October 31, 2032 at a contract price above the per se reasonableness benchmark.

Consistency with Public Utilities Code Section 8388

To be eligible for a BioRAM contract extension the contract and facility must be consistent with Public Utilities Code Section 8388 which states that:

- (a) an electrical corporation, local publicly owned electric utility, or community choice aggregator with a contract to procure electricity generated from biomass pursuant to Section 399.20.3 commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016), and which expires or expired

¹ See PG&E AL 7264-E filed on May 9, 2024.

on or before December 31, 2028, shall seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date five years later than the expiration date in the contract that was operative in 2022 if the contract extension follows the feedstock requirement of subdivision (b) of Section 399.20.3.

(b) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a facility located in a federal severe or extreme nonattainment area for particulate matter or ozone.

(2) Notwithstanding paragraph (1), subdivision (a) applies to a facility in an area that voluntarily opts for severe or extreme nonattainment status but the air district has determined that the continued operation of the facility does not impede the air district's ability to meet its applicable attainment deadline.

(3) A contract between an electrical corporation, local publicly owned electric utility, or community choice aggregator and a biomass generator that is located in the Sacramento federal ozone nonattainment area shall not be extended unless the biomass generator first obtains a letter or certificate from the air district with jurisdiction over the biomass generator that states that the Sacramento federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

In AL 7796-E, PG&E asserts that The BioRAM PPA with Burney is eligible for extension under Public Utilities Code Section 8388 for the following reasons:

- (i) The existing BioRAM PPA was in effect during the 2022 calendar year, and expiration of the delivery term is October 31, 2027, which is prior to December 31, 2028;
- (ii) The feedstock requirement in the current Burney BioRAM PPA, which complies with Section 399.20.3(b), would also apply during the extension period; and
- (iii) The Burney project is located in Shasta County, CA, which is not in a federal severe or extreme nonattainment area for particulate matter and ozone.

We agree with PG&E that the Burney BioRAM PPA was in effect in 2022 and has an expiration date prior to December 31, 2028. Further, the Burney facility is not located in

a nonattainment area. Thus, the Burney BioRAM PPA is eligible for extension under Public Utilities Code Section 8388.

Compliance with Air Quality District and Emission Limits Requirements

Resolution E-5376 prohibits the extension of a contract between an IOU and a biomass generator that is located in the Sacramento federal ozone nonattainment area, or any other federal ozone nonattainment area in California, unless the biomass generator first obtains a letter or certificate from the air district with jurisdiction over the biomass generator that states that the federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements. As noted above, the facility is not located in a nonattainment area; thus, Burney is not required to obtain a letter from the air district.

Resolution E-5376 requires that BioRAM facilities meet emission limits equivalent to, or more stringent than, the applicable best available retrofit control technology, as determined by the local air pollution control district or air quality management district. Per the certification in PG&E AL 7796-E, Appendix 6, the Shasta County Air Quality Management District reviewed Best Available Retrofit Control Technology (BARCT) requirements for the Burney facility, and it determined that this facility meets emissions limits as required in recent BARCT determinations made for similar wood-fired biomass operations. Thus, the Burney facility meets the emission limits set forth in Public Utilities Code 399.20.3.

Compliance with the Greenhouse Gas Emissions Performance Standard (EPS)

Sections 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.² D.07-01-039 adopted an interim EPS3 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. Renewable generating facilities using biomass that would otherwise be disposed of utilizing open burning and forest accumulation are deemed compliant with the EPS.⁴ In D.07-01-039, the Commission adopted an Emission Performance Standard ("EPS") that applies to contracts for a term of five or more years for baseload generation with an annualized plant capacity factor of

² "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).

³ See [D.07-01-039](#) page 7

⁴ D.07-01-039, Conclusion of Law 35d.

at least sixty (60) percent.⁵

The amended Burney PPA is compliant with the EPS because it is an existing biomass facility covered by Conclusion of Law 35(d) in D.07-01-039.

Cost Reasonableness and Per Se Reasonableness Price Benchmark

Resolution E-5376 included a per se reasonable price benchmark equal to the existing contract price. If contract extensions are executed at this price or below, they may be submitted for CPUC approval via Tier 2 Advice Letter. Otherwise, a Tier 3 Advice Letter is required. The extension amendment proposed in this instance, if approved, would establish a contract price above the per se reasonableness benchmark. Thus, PG&E filed its request via a Tier 3 AL asserting the cost reasonableness of the amended Burney contract. The proposed pricing for the contract extension amendment is comparable with active offers PG&E has received for other clean baseload resources in its recent solicitations. Although the amended price is higher than the per se reasonableness benchmark, it is comparable with offers active at the time of the negotiations, and provides significant incremental value to customers over earlier offers from Burney. Based on the information provided and Energy Division analysis we find the costs of the amended Burney PPA to be reasonable. See Confidential Appendix A regarding discussion of cost reasonableness.

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. PG&E asserts that it presented the proposed amendment to the Burney contracts to the PRG via e-mail on December 10, 2025.

Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the proposed amendment to the Burney BioRAM contract.

Independent Evaluator Review

PG&E retained Arroyo Seco Consulting (Arroyo) as the Independent Evaluator (IE) to oversee PG&E's negotiations and to evaluate an amendment to extend the delivery term of an existing agreement with Burney Forest Products (BFP). AL 7796-E included a public and confidential IE report on the negotiation process and market valuation.⁶

⁵ See D.07-01-039 page 9

⁶ See Appendix 3 to AL 7796-E (Independent Evaluator Report)

In the IE report, Arroyo states that they conducted a range of activities to review and check PG&E's processes as the utility conducted outreach to owners of biomass-fueled power plants that are eligible under Resolution E-5376 for contract extensions. Arroyo states that PG&E's outreach to eligible sellers to extend their BioRAM agreements was adequate. PG&E offered negotiations to BFP to extend its existing agreement pursuant to the Resolution. The parties did not reach agreement on terms within 180 days of the effective date of the Resolution.

The IE Report also states that the amendment price ranks as very high compared to alternative resources currently available to PG&E through competitive solicitations. It does not meet the per se reasonableness benchmark set by the CPUC in Resolution E-5376. However, Arroyo's opinion is that the amendment price is reasonable within the context of the California market when comparing it to relevant peer groups for biomass-fueled energy and for baseload energy.

Arroyo further opines that the project viability of BFP's facility ranks high, and the contract extension will allow the operation of the BFP facility to continue to support public policy goals and provide economic benefits to a community characterized by low income and high unemployment that support the goals of Executive Order S-06-06. Further, Arroyo ranked the portfolio fit of the BFP amendment as moderate in its qualitative assessment.

Additionally, per Arroyo's opinion PG&E's conduct of contract-specific negotiations with BFP for the five-year extension was fair to ratepayers and to competitors. Finally, Arroyo's concluding opinion in the IE Report is that the contract amendment merits CPUC approval.

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw PG&E's contract negotiations with Burney Forest Products.

Safety Considerations

Public Utilities Code § 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 BioRAM contract with Burney requires the facility to produce energy with removed forest materials. The Renewable Auction Mechanism (RAM) standard contract used contains Commission-approved safety provisions, which require the seller to operate

the generating facility in accordance with Prudent Electrical Practices, as defined in the contract, 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.

The current power purchase agreement requires the sellers of the generation to comply with all applicable safety requirements relating to the project, including environmental laws. As this contract amendment does not require a change in facility operations there are no incremental safety implications associated with approval of the amended contract beyond the status quo. Based on the information provided, the Burney amended contract does not appear to result in any adverse safety impacts on the facility 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 to the detriment of energy customers. D.06-06-066, as modified, adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, including 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; 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 Pub. Util. Code Section 311(g)(2) and Rule 14(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

FINDINGS

1. The contract amendment between Pacific Gas and Electric Company and Burney Forest Products is eligible for extension under Public Utilities Code Section 8388.
2. The Burney Forest Products facility is not located in a nonattainment area; thus, Burney is not required to obtain a letter from the air district.
3. The Burney Forest Products facility meets the emission limits set forth in Public Utilities Code 399.20.3.
4. The amended Burney Forest Products power purchase agreement is compliant with the Emissions Performance Standard because it is an existing biomass facility covered by Conclusion of Law 35(d) in D.07-01-039.
5. The costs of the amended Burney Forest Products power purchase agreement are reasonable and all procurement and administrative costs associated with the Burney Forest Products Bioenergy Renewable Auction Mechanism Program power purchase agreement are recoverable in rates subject to Commission review of PG&E's administration of the amended power purchase agreement.
6. Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the proposed amendment to the Burney BioRAM power purchase agreement.
7. An independent evaluator, Arroyo Seco Consulting, monitored and reviewed PG&E's negotiations for a contract extension with Burney Forest Products. The independent evaluator report finds that the amended contract merits approval.
8. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw PG&E's contract negotiations with Burney Forest Products.
9. The payments made pursuant to the contract amendment shall continue to be recovered through the Tree Mortality Non-Bypassable Charge per Commission Decision 18-12-003.

THEREFORE IT IS ORDERED THAT:

1. The request by Pacific Gas and Electric in Advice Letter 7796-E seeking approval of a contract amendment to extend the Bioenergy Renewable Auction Mechanism Power Purchase Agreement with the Burney Forest Products is approved.

This Resolution is effective today.

Commissioner Signature blocks to be added
upon adoption of the resolution

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 8, 2026; the following Commissioners voting favorably thereon:

Dated October 8, 2026, at Sacramento, California

[Redacted] Confidential Appendix A
Contract Amendment Summary and Cost Reasonableness

[Redacted] Confidential Appendix B

Excerpt from Report of the Independent Evaluator on an
Amendment to an Agreement with Burney Forest
Products (AL 7796-E, Appendix 3)