**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**I.D. # 9593**

**ENERGY DIVISION** **RESOLUTION E-4349**

**July, 29, 2010**

**PUBLIC**

**R E S O L U T I O N**

Resolution E-4349. Pacific Gas and Electric Company (PG&E) requests approval of a two-year Qualifying Facility (QF) contract extension (Alternate 2010 Extension Agreement) and related contract modifications with Air Products Manufacturing Corporation, as a successor-in-interest to Stockton CoGen Company (Stockton CoGen) for QF Standard Energy (non-RPS-eligible energy) and Renewable Portfolio Standard (RPS) eligible power.

PROPOSED OUTCOME: This Resolution approves, without modification, cost recovery of a two-year Qualifying Facility (QF) Alternate 2010 Extension Agreement between PG&E and Air Products Manufacturing Corporation (Stockton CoGen) allowing for a Hybrid Energy Price structure comprised of fixed QF price payments for all Standard QF Energy produced and a temporary price increase for delivered RPS-eligible renewable energy.

ESTIMATED COST: Actual costs for the RPS-eligible energy are confidential at this time. QF costs are $91.97/kW-yr for firm capacity, $39.61/kW year for as-available capacity and $66.454/MWh for energy. Total contract costs over the two-year period will vary depending on the total amount of renewable versus standard energy provided.

By Advice Letter 3660-E Filed on May 4, 2010.

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## SUMMARY

**PG&E's proposed Qualifying Facility (QF) contract extension agreement (Alternate 2010 Extension Agreement) with Air Products Manufacturing Corporation as successor-in-interest to Stockton CoGen Company (Stockton**

**CoGen) complies with QF contract extension provisions, and is approved without modification effective March 20, 2010. The proposed Hybrid Energy Price for RPS-eligible renewable energy and Standard QF Energy is reasonable and is approved.**

PG&E filed Advice Letter (AL) 3660-E on May 4, 2010 requesting Commission review and approval of a two-year QF contract extension between PG&E and Air Products Manufacturing Corporation as successor-in-interest to Stockton CoGen effective March 20, 2010, the contract execution date, and expiring March 19, 2012. The extension serves as a bridge while Stockton CoGen continues to convert its existing primarily coal-fueled facility into a biomass or hybrid biomass/coal generation facility. Stockton CoGen provides 44.75 MW of firm capacity to PG&E and is currently operating under an existing QF extension agreement approved by the Commission in AL 3456-E in 2009. The Alternate 2010 Extension Agreement includes continued application of the 2009 CPUC approved fixed energy price and firm and as-available capacity prices for Standard QF Energy and a temporary price increase for delivered RPS-eligible renewable energy.

The following tables summarize the agreement:

**QF Alternate 2010 Extension Agreement**

| Generating Facility | Technology Type | Term (Years) | Firm Capacity (MW) | Biomass as percentage of BTU input | Contract Effective Date | Location |
|---|---|---|---|---|---|---|
| Stockton CoGen | Hybrid biomass/coal | 2 | 44.75 | 20-25% | 3/20/2010 | Stockton, California |

| QF Firm Capacity Price | QF As-available Capacity Price | QF Energy Price | Renewable Energy Price |
|---|---|---|---|
| $91.97/kW-yr Per D.07.09.040 | $37.61/kW-yr (currently) Per D.07.09.040 | $66.454/Mwh with 1% annual price escalator Per D.06.07.032 | See Confidential Appendix A |

## BACKGROUND

*Overview of California QF Program*

The Public Utilities Regulatory Policy Act of 1978 established provisions whereby qualifying cogeneration and renewable generation facilities (Qualifying Facilities or QFs) are compensated for power delivered to energy utilities at a rate representing the utilities' avoided cost of generation, the price the utility would have paid to procure power but for the existence of the QF. In April of 2004, the Commission opened Rulemakings (R.) 04-04-003/R.04-04-025 to update the avoided cost of energy pricing, develop new long-term standard offer contracts and address various procurement policies associated with QFs.

In September of 2007, the Commission issued D.07-09-040 adopting an updated Short Run Avoided Cost (SRAC) energy price for QFs and setting capacity payment prices for firm and as-available generation. The SRAC, adopted as the Market Index Formula, was further developed and implemented upon Commission approval of Resolution E-4246 in July of 2009, effective in August 2009. For many QFs, however, the new SRAC established in D.07-09-040 does not apply due to prior Commission approval of fixed energy prices under various settlement agreements. Relevant to this Resolution is D.06-07-032, in which the Commission adopted the PG&E and Independent Energy Producers (IEP) Settlement Agreement, where 121 power projects entered into either a fixed or variable energy price agreement with PG&E. Specifically, the Commission adopted a fixed energy price option equal to $64.50/megawatt-hour (MWh) for the first year of the Fixed Price Period with a one percent annual escalation factor starting on the day one year after the Fixed Period begins.[1] This option was only available to QFs whose fuel source was not natural gas for a term up to five years.

As of this writing, the Commission has not yet adopted new long-term standard offer contracts for Qualifying Facilities and as such, many QFs, including Stockton CoGen, are operating under extensions of previous Commission approved standard offer contracts with updated pricing terms. Approval for QF

[1] D.06.07.032 at 5

contract changes was previously addressed in D.98-12-066, which authorized the advice letter process to be used for restructured QF contracts that are supported by the utility, the QF and DRA, and the application process to be used for controversial QF contract restructurings. More recently, D.04-12-048 stipulated that contracts with greater than a five-year term require an application and D.06-12-009 clarifies that modifications and amendments of QF contracts with terms less than five years may be addressed through the filing of an advice letter.[2] It is pursuant to these stipulations that PG&E filed AL 3660-E seeking approval of the Alternate 2010 Extension Agreement.

*Stockton CoGen Contract Extension Information*

PG&E had a long-term Standard Offer Contract No. 4 with Stockton CoGen that expired in March of 2008. Stockton CoGen has been operating as a QF since 1998 and is currently using a mixture of Utah coal, petcoke, tire-derived fuel and biomass to produce both electricity and steam. Before expiration in March 2008, PG&E and Stockton CoGen agreed to extend the existing contract at that time through March 19, 2009 with some modifications but under standard QF energy and capacity pricing terms approved by the Commission in the IEP Settlement (D.06-07-032). No advice letter was filed at the Commission for this extension because contract extensions under standard QF pricing terms were approved in D.07-09-040.[3]

In March 2009, PG&E and Stockton CoGen sought a second, one-year extension to support Stockton CoGen's exploration of a possible conversion to biomass. In that extension, PG&E requested approval to use the same fixed-energy pricing from the IEP Settlement, which was used during the first extension, with the capacity prices adopted in D.07-09-040. The second extension agreement and associated pricing was adopted by Commission approval of AL 3456-E.

In July of 2009, the Commission adopted Resolution E-4246 implementing the SRAC adopted in D.07-09-040. Thus, all contract extensions going forward would

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[2] D.06.12.009 at 7

[3] D.07.09.040 at 126

default to the QF energy pricing adopted in that decision (capacity prices had been in effect since the decision's passage in September, 2007).

In Advice Letter 3660-E, PG&E seeks to enter into a 2-year contract extension to continue to support Stockton Cogen as it increases the use of biomass from 6-8% of total BTU demonstrated during the 2009 extension agreement to 20-25% for the Alternate 2010 Extension Agreement. PG&E and Stockton CoGen have negotiated a structure that governs the sale and pricing of both renewable energy and Standard QF Energy to PG&E.

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

1. Approves the Alternate 2010 Extension Agreement without modification.
2. Approves a Hybrid Energy Price comprised of a Standard Energy Price (based upon the IEP Settlement rate) for all non RPS-eligible power delivered and a Renewable Energy Price for all RPS-eligible power delivered upon meeting the Guaranteed Performance Level per the contract.
3. Approves use of standard QF capacity payments per D.07-09-040 for firm and as-available standard energy delivered.
4. Approves a contract effective date of March 20, 2010.

## NOTICE

Notice of AL 3660-E was made by publication in the Commission's Daily Calendar. Pacific Gas and Electric Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

## PROTESTS

Advice Letter 3660-E was not protested.

## DISCUSSION

**PG&E requests approval of a two-year QF contract extension (Alternate 2010 Extension Agreement) with Air Products Manufacturing Corporation as a**

**successor-in-interest to Stockton CoGen Company providing for Hybrid Energy Pricing for Standard QF and RPS-eligible renewable energy generation.**

PG&E seeks approval of a two-year contract extension and related contract modifications to continue to support Stockton Cogen as it increases the use of biomass from 6-8% of total BTU input demonstrated during the 2009 extension agreement to 20-25% for the Alternate 2010 Extension Agreement. PG&E and Stockton CoGen have negotiated a structure that governs the sale and pricing of both RPS-eligible Renewable Energy and Standard QF Energy to PG&E.

Stockton CoGen is a solid fuels-fired combined heat and power facility that has historically supplied 45 MW of firm power to PG&E along with power and steam to Corn Products International. Stockton CoGen is continuing to test the viability of its system for utilizing biomass, an RPS-eligible resource, to produce electricity and steam, and PG&E and Stockton CoGen seek approval of this contract extension to act as a bridge while Stockton CoGen executes on capital improvements to increase its total percentage of generating output supported by biomass. If Stockton CoGen is successful in achieving operation at a negotiated Guaranteed Performance Level using biomass fuel over the two-year term of the Alternate 2010 Extension Agreement, PG&E and Stockton CoGen intend to negotiate long-term power arrangements for QF power and renewable energy.

Details of Alternate 2010 Extension Agreement are summarized below; confidential pricing details are included in Appendix A.

*QF Alternate 2010 Extension Agreement Pricing and Modifications*

| | |
|---|---|
| **Contract Firm Capacity** | 44.75 MW |
| **Contract As-Available Capacity** | Any deliveries above 44.75 MW |
| **Contract Term** | 2 years |
| **Contract Effective Date** | March 20, 2010 |
| **Biomass as Percentage of BTU Input** | Intended 20-25% |
| **Guaranteed Performance Level to receive Renewable Energy Payment** | See Confidential Appendix A |
| **QF Firm Capacity Price for Standard Energy Delivered** | ($91.97/kW-year x Period Price Factor)x(Standard Energy Delivered MWh/Total Energy Delivered MWh) |

| | |
|---|---|
| **QF As-Available Capacity Price for Standard Energy Delivered** | ($37.61[a]/kW-year x Period Price Factor) x (Standard Energy Delivered MWh/Total Energy Delivered MWh) (For deliveries above 44.75 MW) |
| **QF Energy Price for Standard Energy Delivered** | $66.454[b]/MWh x MWhs of Standard Energy Delivered |
| **Renewable Energy Price** | Renewable Energy Price x (MWh of Renewable Energy Delivered/Total MWh of Energy Delivered) See Confidential Appendix A |
| **Contract Terms and Conditions Modifications** | See Confidential Appendix A |

a) With price escalations per D.07-09-040
b) With 1% annual price escalator per D.06-07-032

**Energy Division Examined the Proposed PPA Alternate 2010 Extension Agreement on Multiple Grounds:**

- Consistency with D.06-12-009 and D.07-09-040 (authorizing QF contract extensions)
- Consistency with the IEP Settlement Pricing per D.06-07-032
- Consistency with QF Capacity Pricing per D.07-09-040
- Consistency with RPS Resource Eligibility Guidelines
- Consistency with the RPS resource needs identified in PG&E's 2009 RPS Procurement Plan
- Project viability and feasibility of conversion to 40-50% Biomass in 2012
- Procurement Review Group (PRG) participation
- Cost reasonableness

**The Alternate 2010 Extension Agreement filing is consistent with D.06-12-009 and D.07-09-040 allowing modifications and amendments for QF contract extensions of less than five-years duration.**

The filing of AL 3660-E is consistent with Commission procedures for the extension of QF contracts. D.04-12-048, which adopts the IOUs' long-term procurement plans, concludes that "contracts with duration five years or longer [shall] be submitted with an application to the Commission for preapproval."[4] D.06-12-009 clarifies that based on D.04-12-048 QF contract extensions for less than 5 years should be authorized through the advice letter process. Furthermore, D.07-09-040 states that "in recognition of the often lengthy process involved in negotiating contract terms… the QF may extend the non-price terms and conditions of the expiring contract and continue service with the pricing set forth in this Decision until the final [QF Standard Offer] contract is available."[5]

**The Alternate 2010 Extension Agreement is consistent with D.06-07-032 adopting a Settlement between PG&E and Independent Energy Producers for a fixed energy price.**

The Alternate 2010 Extension agreement adopts the IEP Short-Run Avoided Cost Fixed energy price of $66.45/MWh that will increase by 1% on August 20th each year during the term of the agreement. This pricing is consistent with D.06-07-032, which adopts a settlement agreement between PG&E and the Independent Energy Producers Association regarding QFs. That decision adopted an energy price option equal to $64.50/MWh for the first year of the Fixed Price Period, with a 1% annual escalation factor that begins on the day one year after the Fixed Price Period begins.[6] This option was available to "renewable QFs and QFs whose fuel source is not natural gas for a term up to five years."[7]

The pricing adopted in D.06-07-032 is in its third year of implementation. Escalating the base price of $64.50 at 1% for three years returns the fixed energy price proposed by PG&E of $66.454/MWh.

Use of the IEP Settlement energy pricing was previously authorized for Stockton Cogen Company through AL 3456-E in 2009. It is important to note that Stockton

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4 D.04-12.048 at 108.
5 D.07-09-040 at 126.

6 D.06-07-032 at 5.
7 D.06-07-032 at 6.

CoGen is not currently operating under an IEP Settlement contract; rather, the use of the IEP Settlement price was approved for purposes of the 1-year extension of the Stockton CoGen contract.

**The Alternate 2010 Extension Agreement is consistent with the QF capacity prices set in D.07-09-040.**

The Alternate 2010 Extension Agreement adopts capacity pricing of $91.97/kW-yr for firm capacity of up to 44.75 MW. In addition, the Agreement adopts an as-delivered capacity price of $37.61/kW-year for capacity delivered in excess of 44.75 MW.

The firm and as-delivered capacity prices proposed in the Alternate 2010 Extension Agreement are consistent with D.07-09-040, the Commission's opinion on pricing for QFs. This decision states that "payments for firm, unit–contingent capacity will be based on the market price referent (MPR) capacity cost adopted in Resolution E-4049" with modifications described in the decision resulting in a capacity price of $91.97/kW-year.[8] Furthermore, for the as-available capacity price, the Commission adopted in D.07-09-040 the "CT [simple cycle combustion turbine] cost and real economic carrying charge rate calculations proposed by TURN as presented in Exhibit 149, Appendix B,"[9] which equate to the proposed as-available capacity prices in the Agreement.

Use of the capacity pricing per D.07-09-040 in combination with the IEP Settlement energy pricing was previously authorized for Stockton Cogen Company through AL 3456-E in 2009.

**The Alternate 2010 Extension Agreement provides for renewable generation from hybrid coal/biomass facility**

Pursuant to the Alternate 2010 Extension Agreement, Stockton CoGen may generate energy using up to 20-25% of RPS-eligible biomass. Pursuant to Public Utilities Code § 399.13, any seller seeking to deliver RPS-eligible energy must have the generation facility certified by the California Energy Commission

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[8] D.07-09-040 at 91 and 92.

[9] D.07-09-040 at 96.

(CEC). In AL 3660-E, PG&E explained that Stockton CoGen will submit a "fuel plan and measurement methodology" to the CEC in order to obtain renewable certification for the portion of energy produced from biomass fuel. A portion of the energy purchased under the Alternate 2010 Extension Agreement will be renewable power and can help PG&E satisfy California's ambitious RPS goals.

**The Alternate 2010 Extension Agreement is consistent with PG&E's 2009 RPS Procurement Plan.**

The Alternate 2010 Extension Agreement is a QF contract; therefore the power generated from this contract meets the must-take power criteria under PURPA guidelines. However, any RPS-eligible renewable energy delivered under this agreement will contribute to PG&E's RPS obligation. Therefore, we evaluate the Alternate 2010 Extension Agreement for consistency with PG&E's most recently approved RPS procurement plan, which in part, identifies PG&E's need for RPS-eligible energy.

PG&E's 2009 RPS Procurement Plan (Plan) was approved by D.09-06-018 on June 8, 2009. Pursuant to statute, PG&E's Plan includes an assessment of supply and demand to determine the optimal mix of renewable generation resources. In its Plan, PG&E's goal was to procure approximately 800 to 1,600 gigawatt-hours per year and PG&E stated a preference for contracts that could deliver in the near-term to help meet its RPS obligation.

While the Alternate 2010 Extension Agreement is a QF contract negotiated outside of the competitive RPS solicitation process, we find that the Agreement is consistent with the RPS resource needs identified in PG&E's 2009 RPS Procurement Plan approved by D.09-06-018. The Stockton CoGen project will deliver RPS-eligible resources in the near-term, and the project is already delivering renewable energy under its current extension.

**The operating Stockton CoGen project will increase the proportion of biomass-fueled generation throughout the timeframe covered by the Alternate 2010 Extension Agreement.**

There is no project viability risk associated with the Standard Energy delivered under the 2010 Alternate 2010 Extension Agreement because the Stockton Cogen facility is online and generating electricity and steam. Stockton CoGen has historically and consistently delivered approximately 45 MW of power at a capacity factor of 94.9% on an annual basis.

Conversion of the Stockton CoGen project to 20-25% biomass under the 2010 Alternate Extension Agreement and ultimately to 40-50% by 2012 appears to be feasible. According to PG&E's AL 3660-E, "under the 2010 Alternate Extension Agreement, Stockton CoGen plans to expand the scope of its Phase Adjustments to potentially increase biomass use to 40-50% by 2012. In anticipation of this, Stockton CoGen has received permit approval to utilize as much as 50% agriculturally derived material at the facility."[10] Furthermore, in 2007, Stockton CoGen conducted several test burns of biomass and commissioned a biomass co-firing conversion study conducted by an independent consultant to examine capability to combust agriculturally-derived fuel to generate renewable power. It is as a result of that study that Stockton CoGen has undertaken the phased conversion to biomass.

The ability to use biomass for 40-50% of output is not a prerequisite for approval of the 2010 Alternate Extension Agreement; however, we note that we support the continued conversion of the Stockton CoGen facility to biomass for many reasons including decreased greenhouse gas emissions as a result of increased use of biomass as an alternative to more carbon-intensive fuel sources. As noted above, the 2010 Alternate Extension Agreement includes a baseline Renewable Energy Guarantee Performance Level; therefore, hybrid energy payments will be associated with a minimum percentage of biomass use as compared to total BTU input.

**PG&E's Procurement Review Group (PRG) was notified of the Alternate 2010 Extension Agreement.**

PG&E's PRG consists of: the California Department of Water Resources, the Union of Concerned Scientists, the Division of Ratepayer Advocates, the Coalition of California Utility Employees, The Utility Reform Network, Jan Reid as a PG&E ratepayer, and the Commission's Energy Division.

PG&E discussed the proposed Alternate 2010 Extension Agreement with its PRG on January 14, 2010 and a copy of the presentation was included in PG&E's advice letter filing.

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[10] AL 3660-E at 3.

Pursuant to D.02-08-071, PG&E's Procurement Review Group (PRG) participated in the review of the PPA.

**The proposed Hybrid Energy Price and QF capacity payments are reasonable.**

The Commissions' reasonableness review for the Alternate 2010 Extension Agreement consists of two parts: a) Are the proposed QF capacity and energy prices reasonable and b) Is the proposed all-in Renewable Energy Price reasonable. We first examine the QF capacity and energy prices and then review the proposed Renewable Energy Price. We note that the same arrangement for QF pricing (without the renewable energy component) was adopted by the Commission in AL 3456-E and is therefore deemed reasonable for the Alternate 2010 Extension Agreement.

***QF Capacity Prices***

The proposed capacity prices for standard QF energy under the 2010 Alternate Extension Agreement are the firm and as-available capacity prices adopted by the Commission in D.07-09-040 and are therefore deemed reasonable. However, as described below, for the purposes of this contract, the firm and as-available capacity prices approved in D.07-09-040 are not being paired with the associated SRAC energy pricing also approved in that decision and implemented by Resolution E-4246.

***QF Energy Prices***

Rather than using the SRAC energy pricing approved in D.07-09-040, PG&E requests approval for the use of the PG&E and IEP Settlement Agreement fixed price of $66.454/MWh approved in D.06-07-032. In approving that settlement, the Commission deemed the proposed QF Standard Energy Price to be reasonable for generators that were not using natural gas, in part to address the fluctuation risk that is associated with taking payments based on the price of natural gas. (The settlement value is also the price that PG&E is currently paying for this energy absent the Alternate 2010 Extension Agreement per AL 3456-E.)

However, the energy prices approved in D.06-07-032 were associated with different capacity prices than those currently in effect (under D.07-09-040, as described above). In order to evaluate the reasonableness of the fixed PG&E and IEP Settlement rate of $66.454/MWh, used in conjunction with the capacity prices in D.07-09-040, we must compare the IEP Settlement Price to the average MWh price of the variable SRAC also approved in D.07-09-040. We note, however, that a strict comparison of the SRAC to the IEP Settlement price is problematic because the SRAC fluctuates with the price of natural gas, while the IEP Settlement price was not designed for natural-gas fired generators and essentially includes an insurance premium against a higher future persistent price of natural gas that could result from increased demand and/or a decrease or disruption in natural gas supply.

The Market Index Formula (the Commission-approved mechanism for determining SRAC) went into effect in August of 2009; thus we have less than one year of data on which to compare the fixed Settlement Agreement price with the variable MIF price range. The Weighted Average Monthly SRAC prices from August 2009 through May 2010 have fluctuated from a low of $30.27/MWh in September of 2009 to a high of $60.05/MWh in January of 2010. Coinciding natural gas prices for PG&E were around $3.25/MMbtu in September 2009 and around $6.00/MMbtu in January 2010[11]. Looking back across the past two years (i.e., consistent with the length of the proposed contract), the price of natural gas has fluctuated from around $3.00/MMbtu to almost $11.00/MMbtu.[12] The high end of this price range would result in a MIF of well over $100/MWh. While past results do not necessarily portend future outcomes, seen through this lens, paying a premium over current MIF pricing appears reasonable as a hedge against future increases in the underlying price of natural gas.

Finally, in Confidential Attachment C to AL 3660-E, PG&E provides an explanation of the economics of the Stockton CoGen facility and why a fixed price is necessary to support conversion of the facility to a biomass fuel source. A fixed energy price that facilitates the plant's conversion to burning 20-25% biomass is beneficial to ratepayers from an environmental perspective because

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[11] Based upon Platts Gas Daily prices for PG&E South, PG&E Malin and PG&E Citygate. Per Resolution E-4246, the Market Index Formula is calculated using bidweek gas prices from Platts Gas Daily, Natural Gas Weekly and Natural Gas Intelligence.

[12] See Platts Gas Daily. Natural gas price highs occurred in June, 2008, lows in and around September and October, 2009.

various criteria air pollutants and greenhouse gas emissions are reduced and the facility would represent an additional resource to assist PG&E in meeting its renewable energy requirements. In addition the short duration of the contract (2 years) will allow PG&E and the Commission to evaluate the counterparty's progress towards and commitment to the further conversion of the facility to biomass fuel via the long-term renewable and QF power contract negotiations that occur between the parties.

We recognize that a facility looking to convert to a new fuel source must make capital investments, and revenue stability can play a large role in receiving appropriate financing. We also note that in choosing to use the IEP Settlement Price for energy, Stockton CoGen relied upon Commission precedent for fixed energy payments for non-natural gas fired resources in D.06-07-032. Further, given the Weighted Average Monthly SRAC prices to date and the significant fluctuations in natural gas prices over the past two years, we find the IEP Settlement rate to be within the range of possible average SRAC prices for the duration of the contract, and find it reasonable to pay an insurance premium over the current MIF price in light of this uncertainty. Therefore, the Commission finds that the fixed energy price approved in D.06-07-032 is reasonable for use in the Alternate 2010 Extension Agreement in conjunction with the fixed and as-available capacity payments approved in D.07-09-040.

***Renewable Energy Price***

The intention of the 2010 Alternate Extension Agreement is to support an increase in the use of biomass from 6-8% of total BTU input demonstrated during the 2009 Extension Agreement term to 20-25%. PG&E and Stockton CoGen negotiated a separate price for RPS-eligible energy, beyond a certain threshold amount. A baseline Renewable Energy Guarantee Performance Level must be met before Stockton CoGen will receive the Hybrid Energy Price; therefore, no Renewable Energy Price will be paid until the Guarantee is met (See Confidential Appendix A).

Knowing that we may be paying an insurance premium to support conversion of the Stockton CoGen facility to biomass, we must evaluate the likelihood that Stockton CoGen will achieve the Renewable Energy Guarantee Performance Level so that ratepayers are not paying a premium for purely QF Standard

Energy. First, Stockton CoGen is already producing between 6-8% renewable energy, which we deemed sufficient to warrant the premium in AL 3456-E. Second, we find the Guarantee level to be sufficiently high such that Stockton CoGen will be supplying a significant amount of RPS-eligible renewable energy before receiving Renewable Energy Prices. Finally, Stockton CoGen will be making capital investments to support facility conversion to biomass and purchasing renewable (biomass) fuel, presumably at a premium over its nonrenewable fuel costs. If Stockton CoGen falls short of meeting the Guarantee, it will not receive any renewable energy payment despite having delivered renewable energy. We see such a risk for potential lost revenues as sufficient to send the right signal to perform at or above the Guarantee level.

The Commission's reasonableness review for RPS contracts prices includes a comparison of the proposed contract to other proposed RPS projects from recent RPS solicitations and recent Commission approved projects. Given the unique nature of this contract; two years in length and modest phasing in of new fuel stock, direct comparisons are difficult to find.[13] PG&E filed confidential work papers with AL 3660-E comparing the Stockton CoGen Alternate 2010 Extension Agreement price to projects that utilize biomass fuel approved by the Commission in 2008 and 2009. PG&E also provided staff with a comparison of the Alternate 2010 Extension Agreement to offers for projects of all RPS-eligible technologies of similar contract duration. Based on this analysis, the Commission determines that the Stockton CoGen 2010 Alternate Extension Agreement renewable energy price is reasonable. Confidential Appendix A includes a detailed discussion of the contractual pricing terms.

## CONFIDENTIAL INFORMATION

The Commission, in implementing Pub. Utils. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, 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

[13] We also note that the Commission does not calculate an MPR for contracts less than five years.

solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin, 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 ON THIS RESOLUTION

Pub. Utils. Code § 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-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 AND CONCLUSIONS

1. Stockton CoGen Company has been operating as a Qualifying Facility since 1998 and is currently operating under an extension agreement approved by the Commission in Advice Letter 3456-E.
2. The Alternate 2010 Extension Agreement is an agreement between Pacific Gas and Electric Company and Air Products Manufacturing, as a successor in-interest to Stockton CoGen Company for QF Standard Energy (non-RPS eligible energy) and Renewable Portfolio Standard (RPS) eligible power.
3. Under the Alternate 2010 Extension Agreement, 20-25% of Stockton CoGen's total BTU input is expected to come from biomass.
4. The Alternate 2010 Extension Agreement is consistent with D.06-13-009 and D.07-09-040 allowing modifications and amendments for QF contract extensions of less than five years.

5. The Alternate 2010 Extension Agreement QF energy pricing is consistent with D.06-07-032, a settlement between Pacific Gas and Electric Company and Independent Energy Producers for a fixed energy price.
6. The firm and as-available capacity prices proposed in the Alternate 2010 Extension Agreement are consistent with the QF capacity prices set in D.07-09-040.
7. The Alternate 2010 Extension Agreement is consistent with Pacific Gas & Electric Company's 2009 Renewables Portfolio Standard (RPS) Procurement Plan.
8. The Alternate 2010 Extension Agreement is consistent with the resource needs identified in Pacific Gas & Electric Company's 2009 Renewables Portfolio Standard (RPS) Procurement Plan.
9. RPS-eligible energy must be generated by a facility that has been certified by the California Energy Commission.
10. The Stockton CoGen project is viable because it is already online and generating electricity and steam.
11. PG&E's Procurement Review Group was notified of the Alternate 2010 Extension Agreement.
12. The proposed QF capacity prices in the Alternate 2010 Extension Agreement are reasonable.
13. The proposed QF Standard Energy price in the Alternate 2010 Extension Agreement is reasonable.
14. The proposed Renewable Energy Price for RPS-eligible renewable energy compares favorably to other biomass projects approved by the Commission and is reasonable.
15. The Alternate 2010 Extension Agreement includes robust measures for Stockton CoGen to produce at or above the Renewable Energy Performance Guarantee Level.
16. Payments made by Pacific Gas and Electric Company under the approved Alternate 2010 Extension Agreement are fully recoverable in rates over the life of the agreement, subject to Commission review of Pacific Gas and Electric Company's administration of the agreement.

17. 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.
18. Advice Letter 3660-E should be approved effective today without modifications.

**THEREFORE IT IS ORDERED THAT:**

1. PG&E's Advice Letter 3660-E requesting Commission approval of a two-year Qualifying Facility extension contract (Alternate 2010 Extension Agreement) and related contract modifications with Air Products Manufacturing Corporation, as a successor-in-interest to Stockton CoGen Company for Qualifying Facility Standard Energy (non-RPS eligible energy) and Renewable Portfolio Standard (RPS) eligible power is approved without modifications.

2. 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 July 29, 2010; the following Commissioners voting favorably thereon:

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Paul Clanon
Executive Director

# Confidential Appendix A

## Contract Summary

**[Redacted]**

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

June 28, 2010

I.D. 9593
RESOLUTION E-4349
July 29, 2010 Commission Meeting

TO: PACIFIC GAS AND ELECTRIC COMPANY regarding Advice Letter PG&E AL 3660-E filed on May 4, 2010.

Enclosed is draft Resolution Number E-4349 of the Energy Division, issued in response to Pacific Gas and Electric Company Advice Letter 3660-E filed on May 4, 2010.

It will appear on the agenda at the next Commission meeting which is at least 30 days after the date of this letter. The Commission may vote on this Resolution at that time or it may postpone a vote until a later meeting. When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution. All comments on the draft Resolution must be received by the Energy Division by July 20, 2010.

An original and two copies of the comments, along with a certificate of service, shall be sent to:

Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Email: jnj@cpuc.ca.gov
FAX: 415-703-2200

A copy of the comments shall be submitted in electronic format to:

Melissa Semcer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: melissa.semcer@cpuc.ca.gov

1) all Commissioners, 2) the Director of the Energy Division, 3) the Chief Administrative Law Judge, and 4) the General Counsel on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length and should list the recommended changes to the draft Resolution.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight.

Late submitted comments will not be considered. Reply comments will not be accepted.

Sincerely,

Pete Skala, Program and Project Supervisor
Energy Division

Enclosure:
Certificate of Service
Service List

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of Draft Resolution E-4349 on all parties or their attorneys as shown on the attached service list.

June 28, 2010 at San Francisco, California.

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*Honesto Gatchalian*

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

*Parties to PG&E AL 3660-E, filed on May 4, 2010*

Jane Yura
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