



DRA

Division of Ratepayer Advocates
California Public Utilities Commission

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CONFIDENTIAL

February 22, 2010

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness, Ave.
San Francisco, CA 94102

Subject: Confidential Protest of the Division of Ratepayer Advocates to Pacific Gas and Electric Company's Advice Letter 3610-E

I. INTRODUCTION

The Division of Ratepayer Advocates ("DRA") hereby submits the following protest to Advice Letter 3610-E submitted by Pacific Gas & Electric ("PG&E") on February 1, 2010 for approval of three bilaterally-negotiated renewables portfolio standard ("RPS") power purchase agreements ("PPAs") between PG&E and Avenal Park, Sun City, and Sand Drag, all subsidiaries of Eurus, Inc. ("Eurus").

PG&E is requesting the California Public Utilities Commission's ("Commission" or "CPUC") approval of the three 20 year PPAs for energy deliveries from solar photovoltaic ("PV") facilities located in Kings County, California, with a combined contract capacity of 48 MW.

DRA is seriously concerned by the [Redacted] price of the PPAs relative to PG&E's other renewable alternatives and strongly opposes approval of this Advice Letter. The price of the Eurus contracts is not only [Redacted]

[Redacted] For that matter, the Eurus PPAs are priced [Redacted] PG&E has not demonstrated in the advice letter why the Eurus contracts should be chosen above [Redacted] offers from the 2009 solicitation which were rejected based on [Redacted]

The Commission should reject Advice Letter 3610-E. Commission approval of the Eurus PPAs would subvert the competitive RPS solicitation process by rewarding a developer who chose not to bid into the Request for Offers ("RFO") with [Redacted] contracts than would have been successful in the solicitation. If the Eurus projects can provide [Redacted] [Redacted] then they should be bid into the 2010 RPS solicitation.

II. DISCUSSION

PG&E demonstrates that the Eurus PPAs comply with the Commission's direction regarding bilaterally-negotiated RPS contracts, and the PPAs appear to have been negotiated fairly. However, PG&E's filing fails to demonstrate that these contracts are consistent with PG&E's Least Cost/Best Fit ("LCBF") methodology. PG&E has given undue weight to Eurus' locational and viability benefits, without quantifying the value of those attributes. Even PG&E's Independent Evaluator ("IE"), Arroyo Seco Consulting ("Arroyo"), has concerns, stating that

Redacted

Redacted

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Redacted¹ Arroyo further suggests that Redacted² If approved, the PPAs would result in above-market costs of Redacted³ over the duration of the contracts' terms.³

Overall Project Viability

The Eurus projects have very high viability scores, both as calculated by PG&E and by the IE. DRA does not contest that the projects appear to be highly viable and can likely be built and come online quickly. However, it appears that PG&E believes that the demonstrably high viability of the project justifies a considerably above-market price under the PPAs. Redacted

Redacted

Redacted

Redacted⁴ However, PG&E does not attempt to quantify the additional value of higher viability, nor does it indicate what price would be so high as to overcome the benefit of somewhat higher viability. Even assuming the Eurus Projects are 100% viable, their prices make them noncompetitive and their value is too low to justify the expense for ratepayers.

Project Price

The price under the Eurus PPAs is Redacted This price is Redacted than the MPR, which is \$100.98 for a 20 year contract with deliveries beginning in 2011. After the application of Time of Delivery ("TOD") factors, the levelized PPA prices are Redacted for Avenal Park and Sand Drag, and Redacted for Sun City. These prices are Redacted

Redacted

Redacted

Redacted

The prices are also Redacted

Redacted Analyses of the solar PV market show that input

¹ Confidential IE Report, Confidential Appendix C, p. C-14.

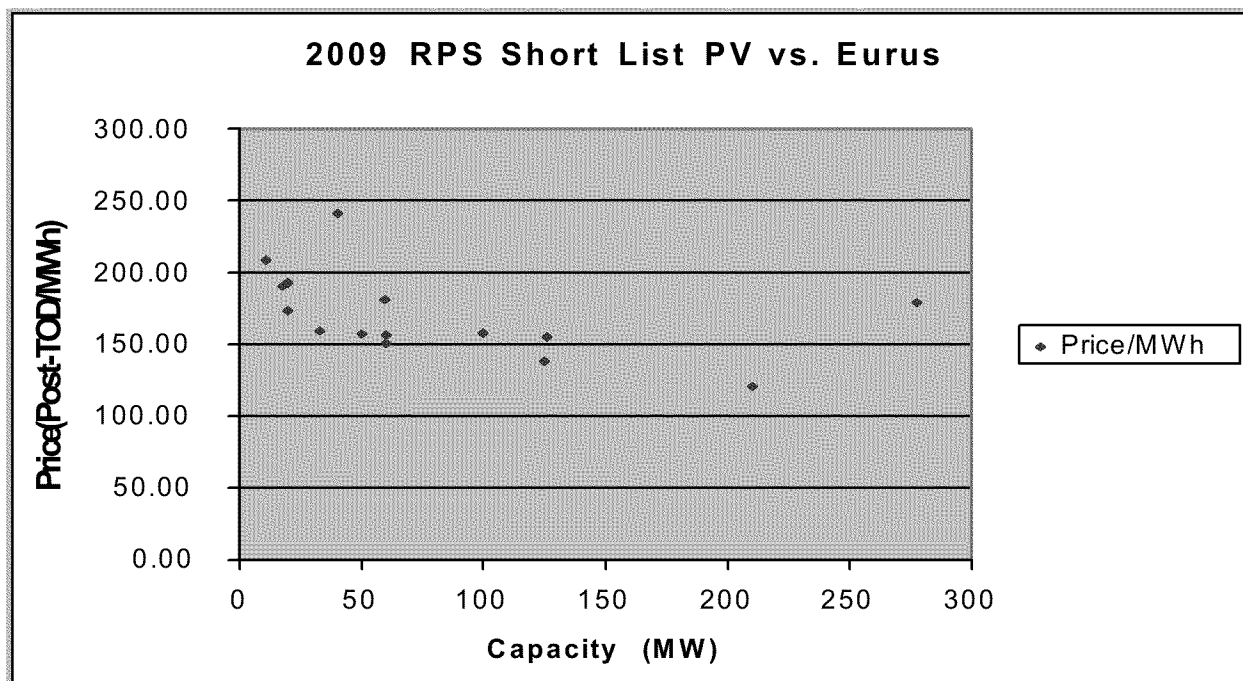
² Id.

³ Advice Letter 3610-E, Confidential Appendix D, pp. D-16-D-21.

⁴ Confidential Appendix D, p. D-12.

prices are declining, and locking ratepayers in to an [Redacted] PV project for a 20-year term is bad procurement policy.

The following is a scattergram of the shortlisted bids from PG&E's 2010 RPS solicitation. The Eurus contracts [Redacted]



The Net Value of the Projects as priced is as follows: Avenal Park [Redacted] Sun City [Redacted] Sand Drag [Redacted]. In the 2009 RPS solicitation, PG&E cut off consideration of projects with net values below approximately [Redacted]. According to the IE Report: [Redacted]

[Redacted]

The price under the Eurus PPAs is [Redacted] and the projects have a [Redacted]. DRA believes that if Eurus cannot [Redacted] PG&E would serve its ratepayers far better by replacing the Eurus projects with additional [Redacted] megawatts from their 2009 RPS RFO and allowing Eurus the opportunity to compete directly with other projects in the 2010 solicitation.

According to the IE:

⁵Confidential IE Report, Confidential Appendix C, p. C-7.

⁶ Id. at p. C-8.

Redacted

Redacted

The Eurus projects should have bid into the 2009 RPS solicitation, but they would [Redacted] [Redacted]. The fact that the PPAs were bilaterally negotiated should not provide them with special consideration. If the Commission rejects this advice letter as it should, the Eurus Projects are free to bid into PG&E's 2010 RPS solicitation and proceed to development if their price and value compare favorably to the other offers in that solicitation.

III. CONCLUSION

For the foregoing reasons, DRA recommends that the Commission reject AL 3610-E. If there are any questions regarding this protest, please contact Meri Levy at (415) 355-5556.

Sincerely,

/s/ Cynthia Walker

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⁷ Confidential Appendix I, p. I-54.

⁸ Confidential IE Report, Confidential Appendix C, pp. C-8 to C-9.