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**Confidentiality Protected Under Decision  
06-06-066 App.1, Item VII "Renewable  
Resource Contracts Under RPS Program"**

May 24, 2010

Mr. Honesto Gatchalian  
Ms. Maria Salinas  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dear Mr. Gatchalian and Ms. Salinas:

**Re: PG&E's Reply Comments on Draft Resolution E-4336**

Pacific Gas and Electric Company ("PG&E") fully supports Draft Resolution E-4336 ("Draft Resolution") which approves the renewable energy power purchase agreement ("PPA") between PG&E and DTE Stockton, LLC ("DTE") for a biomass facility located in Stockton, California. However, one aspect of the Draft Resolution requires modification. Specifically, the Draft Resolution requires PG&E to seek Commission approval for any amendment to the PPA resulting from Section 10.1 of the agreement. This Draft Resolution requirement should be revised to state that PG&E is only required to obtain Commission approval for any capital-related costs that it would incur related to Section 10.1. For non-capital costs, no further Commission approval would be required and these costs should be recovered through PG&E's Energy Resource Recovery Account ("ERRA").

Under Section 10.1 of the PPA, DTE and PG&E agreed to renegotiate the PPA if either party would incur any cost increases as a result of a change in federal or state greenhouse gas ("GHG") laws. Either party has the right to terminate the PPA if efforts to renegotiate fail. The draft resolution acknowledges that GHG compliance costs are unlikely to be material for a biomass facility such as the DTE Stockton facility<sup>1</sup>.

If there is a change in federal or state GHG laws, there are two different categories of costs that DTE could incur and could, as a part of the renegotiation process, try to pass-

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<sup>1</sup> Page 24 of Resolution E-4336

through to PG&E. First, DTE may incur emissions or other non-capital compliance costs. These costs would include, for example, the purchase of offsets or other emissions credits, compliance and registration costs, and other non-capital costs associated with compliance with new federal or state GHG laws. Second, DTE may incur capital costs, such as installing specific equipment at its facility, which are necessary to comply with new federal or state GHG laws.

PG&E proposes that the Draft Resolution be modified to allow PG&E to pass-through any non-capital GHG emissions or compliance costs that it incurs as a result of any renegotiation of the PPA under Section 10.1. This is consistent with other Commission decisions approving the pass-through of GHG compliance costs. For example, the Commission recently adopted a standard form contract for combined heat and power ("CHP") facilities to implement Assembly Bill 1613 and included in the standard form contract a provision that the utility bear reasonable GHG compliance costs (see D.09-12-042 at p. 45). The Commission also recently approved an amendment to the Russell City Energy Center PPA that required PG&E to pay certain GHG compliance costs, even though the actual costs are currently unknown (see D.09-04-010 at p. 20). Any non-capital GHG compliance costs that PG&E agrees to incur as a result of changes in federal or state law should simply be included in the overall PPA costs and recovered through ERRA. This is consistent with how the Commission has treated GHG compliance costs in other circumstances, as explained above.

With regard to capital costs, PG&E agrees that it should seek Commission approval before it agrees to incur these costs as a part of a PPA renegotiation. Thus, this aspect of the Draft Resolution does not need to be changed.

PG&E proposed the following changes to the Draft Resolution:

- The first full paragraph on page 8 should be revised to state:<sup>2</sup>

The total all-in costs of the PPA are reasonable based on their relation to bids received in response to PG&E's 2008 solicitation. We do not anticipate material changes in the PPA costs as a result of Section 10.1. However, to the extent the PPA costs increase pursuant to PPA Section 10.1 to address capital costs, PG&E shall seek Commission approval through the applicable advice letter process of any PPA amendment implementing such changes. PG&E is not required to seek Commission approval for other PPA amendments arising from Section 10.1 that address non-capital costs.

- Finding and Conclusion 7 should be revised to state:

To the extent the PPA costs increase pursuant to PPA Section 10.1 to address capital costs, PG&E should be required to seek Commission approval through the applicable advice letter process of any PPA

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<sup>2</sup> Underlining indicates additions and strike-through indicates deletions.

amendment implementing such changes. PG&E is not required to seek Commission approval for other PPA amendments arising from Section 10.1 that address non-capital costs.

- Ordering Paragraph 2 should be revised to state:

To the extent costs under the power purchase agreement approved in this resolution increase pursuant to Section 10.1 of the power purchase agreement to address capital costs, Pacific Gas and Electric Company shall seek Commission approval through the applicable advice letter process of any amendment implementing such changes. PG&E is not required to seek Commission approval for other PPA amendments arising from Section 10.1 that address non-capital costs.

#### Request for Confidential Treatment

In support of PG&E's comments on the draft resolution, PG&E is submitting confidential information in the manner directed by Decision ("D.") 08-04-023 and the August 22, 2006, Administrative Law Judge's Ruling Clarifying Interim Procedures for Complying with D.06-06-066 to demonstrate the confidentiality of the material and to invoke the protection of confidential utility information provided under either the terms of the IOU Matrix, Appendix 1 of D.06-06-066 and Appendix D of D.08-04-023, or General Order 66-C. A separate "Declaration Seeking Confidential Treatment" regarding the confidential information is being filed concurrently with PG&E's comments.

With these modifications, PG&E fully supports the Draft Resolution.

Sincerely,



Vice President – Regulation and Rates

cc: Commission President Michael Peevey  
Commissioner John Bohn  
Commissioner Dian Grueneich  
Commissioner Nancy Ryan  
Commissioner Timothy Simon  
Julie Fitch – Director, Energy Division  
Karen Clopton – Chief Administrative Law Judge  
Frank Lindh – General Counsel  
Susannah Churchill – Energy Division  
Service Lists for R.08-08-009, R.08-02-007, R.06-02-012

Attachments

## CERTIFICATE OF SERVICE

I certify that I have by mail, e-mail, or hand delivery this day served a true copy of Pacific Gas and Electric Company's comments on Draft Resolution E-4336, regarding PG&E's Advice Letter 3577-E and 3577-E-A, on:

Commission President Michael Peevey  
Commissioner John Bohn  
Commissioner Dian Grueneich  
Commissioner Nancy Ryan  
Commissioner Timothy Simon  
Julie Fitch – Director, Energy Division  
Karen Clopton – Chief Administrative Law Judge  
Frank Lindh – General Counsel  
Susannah Churchill – Energy Division  
Service Lists for R.08-08-009, R.08-02-007, R.06-02-012

/S/ LINDA TOM-MARTINEZ  
LINDA TOM-MARTINEZ  
PACIFIC GAS AND ELECTRIC COMPANY

DATE: May 24, 2010

**DECLARATION OF GARRETT P. JEUNG  
SEEKING CONFIDENTIAL TREATMENT  
FOR CERTAIN DATA AND INFORMATION  
CONTAINED IN COMMENTS TO DRAFT RESOLUTION E-4336  
(PACIFIC GAS AND ELECTRIC COMPANY - U 39 E)**

I, Garrett P. Jeung, declare:

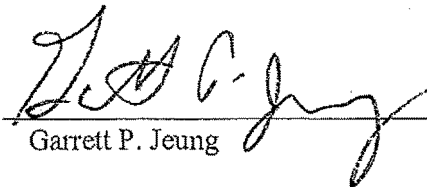
1. I am presently employed by Pacific Gas and Electric Company ("PG&E"), and have been an employee at PG&E since 2003. My current title is Senior Director within PG&E's Energy Procurement organization. In this position, my responsibilities include managing a department that negotiates power purchase agreements and manages electric portfolio risk. In carrying out these responsibilities, I have acquired knowledge of PG&E's contracts with numerous counterparties and have also gained knowledge of the operations of electricity sellers in general. Through this experience, I have become familiar with the type of information that would affect the negotiating positions of electricity sellers with respect to price and other terms, as well as with the type of information that such sellers consider confidential and proprietary.

2. Based on my knowledge and experience, and in accordance with Decision ("D.") 08-04-023 and the August 22, 2006 "Administrative Law Judge's Ruling Clarifying Interim Procedures for Complying with Decision 06-06-066," I make this declaration seeking confidential treatment of redacted comments to Draft Resolution E-4336, submitted on May 24, 2010.

3. Attached to this declaration is a matrix identifying the data and information for which PG&E is seeking confidential treatment. The matrix specifies that the material PG&E is seeking to protect constitutes the particular type of data and information listed in Appendix 1 of D.06-06-066 and Appendix C of D.08-04-023 (the "IOU Matrix"), or constitutes information that should be protected under General Order 66-C. The matrix also specifies the category or

categories in the IOU Matrix to which the data and information corresponds, and why confidential protection is justified. Finally, the matrix specifies that: (1) PG&E is complying with the limitations specified in the IOU Matrix for that type of data or information; (2) the information is not already public; and (3) the data cannot be aggregated, redacted, summarized or otherwise protected in a way that allows partial disclosure. By this reference, I am incorporating into this declaration all of the explanatory text in the attached matrix that is pertinent to this filing.

I declare under penalty of perjury, under the laws of the State of California, that to the best of my knowledge the foregoing is true and correct. Executed on May 24, 2010 at San Francisco, California.

  
Garrett P. Jeung

PACIFIC GAS AND ELECTRIC COMPANY  
 Comments to Draft Resolution E-4336  
 May 24, 2010

IDENTIFICATION OF CONFIDENTIAL INFORMATION PER DECISION 05-06-066 AND DECISION 08-04-023

Redaction Reference	1) The material submitted constitutes a particular type of data listed in the Matrix, appended as Appendix 1 to D.06-06-066 and Appendix C to D.08-04-023 (Y/N)	2) Which category or categories in the Matrix the data correspond to:	3) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data (Y/N)	4) That the information is not already public (Y/N)	5) The data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure (Y/N)	PG&E's Justification for Confidential Treatment	Length of Time
Document: Comments to Draft Resolution E-4336							
Redacted Comments	Y	Item VII F) Renewable Resource Contracts under RPS program - Contracts with SEPs.	Y	Y	Y	The redacted comments contain information related to the PPA. Disclosure of this information would provide valuable market sensitive information to competitors. Since negotiations are still in progress with bidders from the 2008 and 2009 solicitations and with other counterparties, this information should remain confidential. Release of this information would be damaging to negotiations. Furthermore, the counterparty to the PPA has an expectation that the terms of the PPA will remain confidential pursuant to confidentiality provisions in the PPA.	Remain confidential for three years after the commercial operation date