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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #9863
RESOLUTION E-4375
November 19, 2010

REDACTED

RESOLUTION

Resolution E-4375. Pacific Gas and Electric Company requests approval of a renewable power purchase agreement with High Plains Ranch III, LLC.

PROPOSED OUTCOME: This Resolution approves cost recovery for Pacific Gas and Electric Company's renewable energy power purchase agreement with High Plains Ranch III, LLC. The power purchase agreement is approved without modifications.

ESTIMATED COST: Costs of the power purchase agreement are confidential at this time.

By Advice Letter 3661-E filed on April 29, 2010.

SUMMARY

Pacific Gas and Electric Company's renewable energy power purchase agreement with High Plains Ranch III, LLC complies with the Renewables Portfolio Standard procurement guidelines and is approved without modification

Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 3661-E on April 29, 2010, requesting California Public Utilities Commission (Commission) review and approval of a power purchase agreement (PPA) between PG&E and High Plains Ranch III, LLC (HP Ranch III), a wholly owned subsidiary of SunPower Corporation. The HP Ranch III PPA resulted from PG&E's 2008 RPS solicitation. Under the proposed PPA, PG&E would procure an estimated average of 112 gigawatt hours per year (GWh/yr) of renewable energy from the planned 40 megawatt (MW) solar photovoltaic facility in the Carrizo Plain solar resource area in San Luis Obispo County, California. The proposed PPA has a guaranteed delivery term of 25 years.

This resolution approves the HP Ranch III PPA without modification. The project is consistent with PG&E's 2008 RPS Procurement Plan, including its resource need, which the Commission approved in Decision 08-02-008. Because the contract was executed more than 18 months following the close of PG&E's 2008 RPS solicitation, costs of the PPA were also compared to offers received in PG&E's 2009 RPS solicitation and 2009 bilateral contracts. Deliveries under the HP Ranch III PPA are reasonably priced and fully recoverable in rates over the life of the contract, subject to Commission review of PG&E's administration of the PPA.

The following table provides a summary of the HP Ranch III PPA:

Generating Facility	Technology Type	Term (Years)	Capacity (MW)	Energy (GWh/yr)	Online Date	Location
High Plains Ranch III	Solar Photovoltaic	25	40	112	12/31/2012	Santa Margarita, CA

BACKGROUND

Overview of the Renewables Portfolio Standard (RPS) Program

The California RPS Program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107 and SB 1036.[1] The RPS program is codified in Public Utilities Code Sections 399.11-399.20.[2] The RPS program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least one percent of retail sales per year so that 20 percent of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[3]

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm and http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm.

[1] SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007).

[2] All further references to sections refer to Public Utilities (Pub. Util.) Code unless otherwise specified.

[3] *See,* Pub. Util. Code § 399.15(b)(1).

NOTICE

Notice of Advice Letter 3661-E was made by publication in the Commission's Daily Calendar. PG&E states that copies of the Advice Letter were mailed and distributed in accordance with Section IV of General Order 96-B.

PROTESTS

Advice Letter 3661-E was not protested.

DISCUSSION

Pacific Gas and Electric Company requests approval of a power purchase agreement with High Plains Ranch III, LLC

On April 29, 2010, Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 3661-E requesting California Public Utilities Commission (Commission) approval of a 25-year power purchase agreement (PPA) with High Plains Ranch III, LLC (HP Ranch III), a wholly owned subsidiary of SunPower Corporation (SunPower). The contract is the result of PG&E's 2008 Renewable Portfolio Standard (RPS) Solicitation.

Under the agreement, HP Ranch III proposes to develop a new solar photovoltaic (PV) project using its proprietary crystalline silicon photovoltaic and single-axis tracker technology. The project will be located in the Carrizo Plain area of San Luis Obispo County, California, adjacent to SunPower's High Plains Solar Farms facility that is still in development.[4] HP Ranch III will interconnect to the California Independent System Operator (CAISO) controlled grid within the South Carrizo Transmission Cluster.

The HP Ranch III PPA will contribute to PG&E's 20 percent by 2010 Renewables Portfolio Standard Program (RPS) requirement through the use of flexible compliance and to long term 33 percent by 2020 RPS goals.[5] Generation

[4] Resolution E-4229. The Commission approved SunPower's High Plains Solar Farms PPA , a contract between PG&E and SunPower for a 210 MW solar photovoltaic facility with a 2012 commercial online date located in Carrizo Plain.

[5] Executive Order S-21-09 directed the California Air Resources Board to adopt regulations to establish a renewable energy target of 33 percent by 2020. On September 23, 2010, the California Air Resources Board adopted regulations for a 33 percent Renewable Electricity Standard for the state by 2020 that will come into effect following review and approval by the Office of Administrative Law.

procured under PG&E's PPA with HP Ranch III is expected to average 112 gigawatt-hours (GWh) annually beginning in December 2012.[6] Energy Division staff understands that the HP Ranch III project is seeking funding under the American Recovery and Reinvestment Act of 2009 for both a grant and a guaranteed loan.

PG&E requests that the Commission issue a resolution containing the following findings:

1. Approves the PPA in its entirety, including payments to be made by PG&E pursuant to the PPA, subject to the Commission's review of PG&E's administration of the PPA.
2. Finds that any procurement pursuant to the PPA is procurement from an eligible renewable energy resource 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 (Public Utilities Code Section 399.11 et seq.), D.03-06-071 and D.06-10-050, or other applicable law.
3. Finds that all procurement and administrative costs, as provided by Public Utilities Code section 399.14(g), associated with the PPA shall be recovered in rates.
4. Adopts the following finding of fact and conclusion of law in support of CPUC Approval:
    a. The PPA is consistent with PG&E's 2008 RPS procurement plan.
    b. The terms of the PPA, including the price of delivered energy, are reasonable.
5. Adopts the following finding of fact and conclusion of law in support of cost recovery for the PPA:
    a. The utility's costs under the PPA shall be recovered through PG&E's Energy Resource Recovery Account.
    b. Any stranded costs that may arise from the PPA are subject to the provisions of D.04-12-048 that authorize recovery of stranded renewables procurement costs over the life of the contract. The implementation of the D.04-12-048 stranded cost recovery mechanism is addressed in D.08-09-012.

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[6] The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. *See,* Pub. Util. Code § 399.12 and CPUC Decision (D.) 04-06-014.

6. Adopts the following findings with respect to resource compliance with the Emissions Performance Standard (EPS) adopted in R.06-04-009:
    a. The PPA is not a covered procurement subject to the EPS because the generating facilities have a forecast capacity factor of less than 60 percent each and, therefore, are not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim EPS Rules.
    b. PG&E has provided the notice of procurement required by D.06-01-038 in its Advice Letter filing.

Energy Division evaluated the HP Ranch III PPA using the following criteria:

- Consistency with PG&E's 2008 RPS Procurement Plan
- Consistency with PG&E's Least-Cost, Best-Fit requirements and Independent Evaluator review
- Cost reasonableness
- Cost containment
- Project viability assessment and development status
- Consistency with RPS standard terms and conditions
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Procurement Review Group participation
- Contribution to minimum quantity requirement for long-term/new facility contracts

Consistency with PG&E's 2008 RPS Procurement Plan

In D.08-02-008, the Commission approved PG&E's Procurement Plan (Plan) and bid solicitation materials for PG&E's 2008 RPS solicitation. Pursuant to statute, PG&E's Plan included an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of flexible compliance mechanisms established by the Commission, and a bid solicitation setting forth the need for renewable generation of various operational characteristics.[7] Specifically, PG&E's Plan identified a renewable resource need of 800 to 1,600 GWh per year, which reflects approximately one to two percent of PG&E's annual retail sales volume.

[7] Pub. Util. Code § 399.14(a)(3).

PG&E asserts that the HP Ranch III PPA conforms to PG&E's approved 2008 Plan as it meets the eligibility requirements for the procurement of renewables contained in the Plan and it was solicited, negotiated and executed according to PG&E's solicitation protocols. The PPA fits with identified renewable resource needs by meeting the criteria for the procurement of renewables contained in the 2008 Plan subject to flexible compliance provisions. The PPA is expected to deliver approximately 112 GWh/yr of RPS-eligible energy starting in December 2012. In addition to contributing to PG&E's near term RPS obligations, the project will also contribute to PG&E's long term 2020 RPS goals

<u>The proposed HP Ranch III PPA is consistent with PG&E's 2008 RPS Procurement Plan approved by D.08-02-008.</u>

Consistency with PG&E's Least-Cost, Best-Fit requirements and Independent Evaluator review

The Commission's Least-Cost, Best-Fit (LCBF) decision directs the utilities to use certain criteria to rank offers bid into an RPS solicitation.[8] The decision provides guidance on this bid evaluation process that is used to evaluate which projects are "least-cost best-fit". PG&E's bid evaluation includes a quantitative and qualitative analysis, which focuses on four primary areas: 1) determination of a bid's market value; 2) calculation of transmission adders and integration costs; 3) evaluation of portfolio fit; and 4) consideration of non-price factors. The LCBF evaluation is generally used to establish a shortlist of proposals from PG&E's solicitation with whom PG&E will engage in contract negotiations. PG&E's 2008 RPS solicitation protocol included an explanation of its LCBF methodology.

PG&E retained Independent Evaluator (IE) Lewis Hashimoto of Arroyo Seco Consulting to oversee its 2008 RPS bid solicitation, as required by the Commission.[9] AL 3661-E includes an IE report that concluded that PG&E followed its LCBF protocols and was fair and inclusive in developing its 2008 RPS shortlist, which included the HP Ranch III project. Also, the IE concluded that both the 2008 and 2009 bid solicitations were robust and PG&E's evaluation of the solicitations were reasonable.[10]

[8] *See* D.04-07-029.

[9] *See* D.06-05-039.

[10] Consistent with Commission rules, the IE evaluated the HP Ranch III PPA relative to offers received in PG&E's 2008 and 2009 RPS solicitations because the PPA was executed in 2009, over 18 months after the close of PG&E's 2008 RPS bid solicitation. *See* Resolution E-4199.

[11] AL 3661-E included an IE report concerning the negotiation of the HP Ranch III PPA

The IE also oversaw PG&E's negotiations of the proposed HP Ranch III PPA.[11] The IE participated in the negotiation discussions and communications concerning the proposed PPA, evaluated the PPA, and concluded that the PPA merits Commission approval. The IE also concluded that the negotiations between PG&E and SunPower for the HP Ranch III PPA were conducted fairly. Overall, the IE assessed the project's portfolio fit, net value, and contract price as higher than the majority of competing bids in PG&E's 2008 and 2009 RPS bid solicitations and similar bilateral offers received by PG&E. Also, the IE stated that the project's viability is moderate and is above the median score when compared to PG&E's 2008 and 2009 RPS bid solicitations. The IE concurs with PG&E's decision to execute the agreement and states that the proposed HP Ranch III PPA merits Commission approval.

<u>The selection of the HP Ranch III PPA is consistent with PG&E's 2008 RPS solicitation least-cost, best-fit cost protocols.</u>

<u>Consistent with D.06-05-039, an independent evaluator oversaw PG&E's negotiations with HP Ranch III. The independent evaluator concurs with PG&E's decision to execute the agreement and agrees with PG&E that the HP Ranch III PPA merits Commission approval.</u>

Cost Reasonableness

The Commission's reasonableness review for RPS PPA prices includes a comparison of the proposed PPA contract price to other proposed RPS projects from recent RPS solicitations and Commission approved projects. Because the PPA was executed over 18 months after the close of PG&E's 2008 RPS bid solicitation, the Commission requires PG&E to compare the price of the PPA to the 2009 RPS bid solicitation bid prices.[12] In AL 3661-E, PG&E determined that the proposed HP Ranch III PPA compared favorably to proposals received in response to PG&E's 2009 solicitation. Using this analysis, and the confidential analysis provided by PG&E in AL 3661-E, we determine that the HP Ranch III PPA price is reasonable. Confidential Appendix B includes a detailed discussion of the contractual pricing terms.

<u>The HP Ranch III PPA compares favorably to the results of PG&E's 2009 solicitation. The total all-in costs of the PPA are reasonable based on their</u>

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and the value of the contract based on a price comparison with alternative sources of energy, portfolio fit, project viability, and compliance with PG&E's RPS goals.

[12] *See* Resolution E-4199.

relation to bids received in response to PG&E's 2009 solicitation and other comparable PPAs.
Payments made by PG&E under the PPA are fully recoverable in rates over the life of the PPA, subject to Commission review of PG&E's administration of the PPA.

Cost Containment

Pursuant to statute, the Commission calculates a market price referent (MPR) to assess whether a proposed PPA has above-market costs.[13] Based on a 2012 commercial online date, the 25-year PPA exceeds the 2009 MPR.[14]

Contracts that meet certain criteria are eligible for above-MPR funds (AMFs).[15] PG&E's PPA with HP Ranch III meets these criteria. On May 28, 2009, the Director of the Energy Division notified PG&E that it had exhausted its AMFs, meaning PG&E is no longer required to sign contracts for renewable power priced above the MPR, but may voluntarily choose to do so.[16]

PG&E will voluntarily procure energy pursuant to the HP Ranch III PPA at an above-MPR price.

Project Viability Assessment and Development Status

PG&E asserts that the HP Ranch III project is viable and will be developed according to the terms and conditions in the PPA. PG&E evaluated the viability of the HP Ranch III project using the Commission-approved project viability calculator, which uses standardized criteria to quantify a project's strengths and weaknesses in key areas of renewable project development. The confidential work papers for AL 3661-E include a comparison of HP Ranch III's project viability score relative to all bids PG&E received in its 2009 RPS solicitation and all shortlisted projects. Based on this analysis, the viability of the proposed HP Ranch III PPA is reasonable compared to other recent projects offered to PG&E.

[13] *See* Pub. Util. Code § 399.15(c).

[14] *See* Resolution E-4298.

[15] Under Resolution E-4199, a PPA between a utility and a developer must meet the following requirements for the utility to achieve AMFs eligibility: (1) the PPA must have Commission approval and be selected through a competitive solicitation, (2) it must cover a duration of at least 10 years; (3) it must develop a new or repowered facility commencing operations on or after January 1, 2005; (4) it must not be a purchase of renewable energy credits; and (5) it must not include any indirect expenses as set forth in the statute.

[16] *See* Pub. Util. Code § 399.15(d).

PG&E provided the following information about the project's developer and development status:

Developer experience

SunPower is a vertically integrated manufacturer of PV panels with a quarter century of experience manufacturing monocrystalline silicon PV panels and solar trackers. SunPower provides operations and maintenance services for more than 265 MW of solar power plants and has a total of 550 MW of solar power plant systems operating worldwide. The company has utility scale commercial operations that are deployed and operational in several parts of the United States, including facilities in the Las Vegas Valley Water District, Nellis Air Force Base in Nevada, and in the Desoto project in Florida.

Resource quality and technology

PG&E asserts the project site near the Carrizo Plain area of San Luis Obispo County, California is a highly predictable solar resource area that is well known for its high solar insolation. Indeed, the project will be located adjacent to the High Plains Solar Farms facility that was approved by the Commission in Resolution E-4229 and is scheduled for a 2012 commercial online date. Furthermore, PG&E asserts that SunPower's proprietary solar panels and tracking systems are a well known and established commercial method for utility-scale solar generation.

Site control and permitting status

HP Ranch III has a lease on land in the Carrizo Plain area sufficient to construct and operate the full 40 MW solar PV facility. In addition, HP Ranch III has an option to purchase the land that is designated for the project. PG&E asserts that HP Ranch III is in the process of obtaining a conditional use permit from San Luis Obispo County, which is scheduled to take a vote on granting a permit for the HP Ranch III project by the First Quarter of 2011.[17]

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[17] On January 13, 2009, SunPower submitted an application for a Conditional Use Permit to San Luis Obispo County for the Commission approved High Plains Solar Farms and HP Ranch III projects. Currently, the project is awaiting completion of a public review of the draft Environmental Impact Report (EIR) following which the County will vote on granting a Conditional Use Permit at a Planning Commission Hearing on January 13, 2011. *See,* "SunPower Current Status Sheet", San Luis Obispo County, California, October 8, 2010. Available at:

http://www.slocounty.ca.gov/planning/environmental/EnvironmentalNotices/sunpower/SunPowerStatus.htm

Interconnection and transmission

Pursuant to the PPA, the HP Ranch III project will interconnect at the CAISO controlled grid at the South Carrizo Transmission Cluster. PG&E states that HP Ranch III is well advanced in the CAISO process towards securing an interconnection agreement. HP Ranch III recently completed a CAISO Phase II interconnection study to provide full delivered energy with Resource Adequacy value.

Reasonableness of Commercial Online Date

PG&E asserts that a final operation date of December 31, 2012 is reasonable for the completion of all the required upgrades and interconnection of the full project and for a conditional use permit from San Luis Obispo County.

Consistency with RPS Standard Terms and Conditions

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. The HP Ranch III PPA also includes the non-modifiable terms related to tradable renewable energy credits included in stayed decision D.10-03-021 and a proposed decision concerning tradable renewable energy credits.[18]
The HP Ranch III PPA includes the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009 and amended by D.08-08-028, and non-modifiable terms related to tradable renewable energy credits in stayed D.10-03-021.

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Util. Code §§ 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) power contracts procured on behalf of California ratepayers. D.07-01-039 adopted an interim Emissions Performance Standard (EPS) that establishes an emission rate quota for obligated facilities to levels no greater than the greenhouse gas (GHG) emissions of a combined-cycle gas turbine power plant.

[18] *See* August 25, 2010 proposed decision in R. 06-02-012. "Decision Modifying Decision 10-03-021 Authorizing Use Of Renewable Energy Credits for Compliance With The California Renewables Portfolio Standard And Lifting Stay And Moratorium Imposed By Decision 10-05-018"

The EPS applies to all energy contracts for baseload generation that are at least five years in duration. In most cases, generating facilities using renewable resources are deemed compliant with the EPS.

The HP Ranch III PPA is not subject to the EPS under D.07-01-039 as the HP Ranch III facility is not forecast to have a capacity factor greater than 60 percent, thus making it a non-baseload generating power plant.

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.[19] PG&E asserts that the proposed HP Ranch III PPA was discussed at several PRG meetings.[20]

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

Contribution to minimum quantity requirement for long-term/new facility contracts

D.07-05-028 established a "minimum quantity" condition on the ability of utilities to count an eligible contract of less than 10 years duration for compliance with the RPS program.[21] In the calendar year that a short-term contract with an existing facility is executed, the utility must also enter into long-term contracts or contracts with new facilities equivalent to at least 0.25 percent of the utility's previous year's retail sales.

As a new facility, delivering pursuant to a long-term contract, the PPA will contribute to PG&E's minimum quantity requirement established in D.07-05-028.

[19] The HP Ranch III PRG for PG&E included representatives of the Union of Concerned Scientists, the California Utility Employees, the Utility Reform Network, the California Public Utility Commission's Energy Division and Division of Ratepayer Advocates, and PG&E ratepayer Jan Reid.

[20] *See* AL 3661-E, p. 11 for a full list of PRG meetings where HP Ranch III was discussed.

[21] For purposes of D.07-05-028, contracts of less than 10 years duration are considered "short-term" contracts and facilities that commenced commercial operations prior to January 1, 2005 are considered "existing."

RPS Eligibility and CPUC Approval

Pursuant to Pub. Util. Code § 399.13, the 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 "Eligible Renewable Energy Resource," that the project's output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.[22]
The Commission requires a standard and non-modifiable clause in all RPS contracts that requires "CPUC Approval" of a PPA 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 Section 399.11 et seq.*), Decision 03-06-071, or other applicable law."[23]

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, neither can the Commission determine prior to final CEC certification of a project, that "any procurement" pursuant to a specific contract will be "procurement from an eligible renewable energy resource."

Therefore, 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. 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 contracts.

Confidential Information

The Commission, in implementing Pub. Util. 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

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

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

sensitive data does not influence the behavior of bidders in future RPS 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

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 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. The High Plains Ranch III, LLC power purchase agreement is consistent with Pacific Gas and Electric Company's 2008 Renewables Portfolio Standard (RPS) Procurement Plan, approved by Decision 08-02-008.
2. The selection of the High Plains Ranch III, LLC power purchase agreement is consistent with Pacific Gas and Electric Company's 2008 Renewable Portfolio Standard least-cost, best-fit cost protocols.
3. Consistent with Decision 06-05-039, an independent evaluator oversaw Pacific Gas and Electric Company's 2008 and 2009 RPS solicitation and concurs with Pacific Gas and Electric Company's decision to shortlist the project and execute the agreement with High Plains Ranch III, LLC.
4. The total all-in costs of the High Plains Ranch III, LLC power purchase agreement are reasonable based on their relation to bids received in response to Pacific Gas and Electric Company's 2008 and 2009 solicitation for renewable resources and similar bilateral contracts received by PG&E.

5. The High Plains Ranch III, LLC power purchase agreement exceeds the applicable 2009 market price referent.
6. Pursuant to Public Utilities Code § 399.15(d), PG&E will voluntarily procure energy under the High Plains Ranch III, LLC power purchase agreement at a price that exceeds the applicable market price referent.
7. The viability of the High Plains Ranch III, LLC project is reasonable compared to other projects offered to Pacific Gas and Electric Company.
8. The High Plains Ranch III, LLC power purchase agreement includes the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in Decision 08-04-009 and amended by Decision 08-08-028.
9. The High Plains Ranch III, LLC power purchase agreement is not required to comply with the Emissions Performance Standard because it is not a baseload generating facility as required under Decision 07-01-039.
10. Pursuant to Decision 02-08-071, Pacific Gas and Electric Company's Procurement Review Group participated in the review of the High Plains Ranch III, LLC power purchase agreement.
11. Procurement pursuant to the High Plains Ranch III, LLC power purchase agreement is procurement from eligible renewable energy resources for purposes of determining Pacific Gas and Electric Company'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 Section 399.11 et seq.), Decision 03-06-071 and Decision 06-10-050, or other applicable law.
12. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under the High Plains Ranch III, LLC power purchase agreement to count towards an RPS compliance obligation. Nor shall that finding absolve Pacific Gas and Electric Company of its obligation to enforce compliance with this agreement.
13. Payments made by Pacific Gas and Electric Company under the approved High Plains Ranch III, LLC power purchase 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.
14. 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.
15. Advice Letter 3661-E should be approved effective today without modifications.

<u>THEREFORE IT IS ORDERED THAT:</u>

1. Pacific Gas and Electric Company's power purchase agreement with HP Plains III, LLC filed in Advice Letter 3661-E 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 November 19, 2010; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

Confidential Appendix A

Evaluation Summary of High Plains Ranch III, PPA

[REDACTED]

Confidential Appendix B

Summary of PPA Terms and Conditions

[REDACTED]

Confidential Appendix C

Above Market Funds Calculation

[REDACTED]

Confidential Appendix D

Independent Evaluator's Contract-Specific Assessment

[REDACTED]