

From: Mathai-jackson, Grady (Law)
Sent: 3/3/2011 12:18:06 PM
To: amy.baker@cpuc.ca.gov (amy.baker@cpuc.ca.gov)
Cc: Allen, Meredith (/O=PG&E/OU=Corporate/cn=Recipients/cn=MEAe)
Bcc:
Subject: RPS PPA Confidentiality - Treatment of "Expired" PPAs

Amy,

I am writing to follow up on PG&E's January 2011 data response providing RPS PPAs whose confidentiality periods had ended. As we prepare for future similar requests, I would like to confirm with you PG&E's interpretation of the CPUC's confidentiality decisions with regard to expired RPS PPAs. As you know, D.06-06-066 orders that most terms and conditions in RPS PPAs are market-sensitive and may be kept confidential for three years beginning at the time that the "contract states energy deliveries will begin," or "until one year following expiration, whichever comes first." (D.06-06-066, as modified by D.07-05-032, at 75; D.06-06-066, App. 1, at 16-17 (Items VII.F and G)). In the absence of further direction in that decision regarding the definition of "expiration," PG&E has interpreted that term to mean the date upon which the parties to the PPA have no further rights or obligations between them under the PPA.

I would like to make sure you are aware that our RPS PPAs often have rights and obligations that extend well beyond the period during which energy is delivered under the PPA. For example, PPAs often have provisions to allow for true-ups of payment for deliveries, for creation and transfer of WREGIS certificates, and for confidentiality. The PPAs often provide that such provisions survive the expiration of the delivery term, and they can continue to be in effect for years after deliveries end or the contract is terminated (since termination letters often specify that certain provisions will continue to be in effect for some period of time).

This interpretation has led to one instance in which a PPA whose deliveries had ended more than one year in the past was not included in the publicly disclosed set of PPAs provided by PG&E in response to Energy Division's data request. In that case, a 2009 PPA with PacifiCorp for short-term deliveries (CPUC ID PG0270), there were a number of REC true up and settlement requirements that remained in effect well after the delivery term ended on 12/31/09.

If you have concerns about this interpretation or would like to discuss further, please don't hesitate to contact me.

Best,
Grady

M. Grady Mathai-Jackson | Attorney | Pacific Gas & Electric Company | (w) 415.973.3744 | mgml@pge.com