

From: Redacted
Sent: 6/15/2011 1:12:56 PM
To: 'Simon, Sean A.' (sean.simon@cpuc.ca.gov)
Cc: Allen, Meredith (/O=PG&E/OU=Corporate/cn=Recipients/cn=MEAe)
Bcc:
Subject: CONFIDENTIAL: DTE Follow-ups

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Sean:

Here are our follow-ups. Please let us know if you have additional questions.

David

1) Net Market Value (updated)

Using June 2011 forward curves:

Sunshine NMV -35.10/MWh
Potrero NMV -42.40/MWh

2) Price

The prices that were offered to PG&E were competitive compared to other offers we were evaluating at the time of negotiations and when the transaction was executed. The information in the advice letter demonstrates that the NMV for this project is highly competitive with other offers.

In response to your question regarding the 2008 MPR, the developer offered prices tied to the 2008 market price referent (MPR) as adjusted for potential changes in the initial year of operations to reflect uncertainties expressed primarily around interconnection. That offer was based on the developer's assumptions that it could develop a project that would be economic at those prices and that the offer of those prices was competitive. PG&E and DTE executed the agreements based on the entirety of: the terms and conditions of the contracts, the details of the projects, the counterparty, and considering the competitiveness of the price against other offers. As stated above, at the time of execution, the value of these projects to customers was highly competitive with other offers.

3) Fuel Under Contract - Details

The landfill gas supply for each PPA is secured by long term contracts with the landfill for the full term of the PPA. Republic Services owns and operates the Sunshine Canyon Landfill (per the developer, the largest in LA County). They have received fuel studies that demonstrate high probability of full deliver over the term. It has a permit to operate and receive over 11,000 tons per day of trash. The current permit allows it to operate for almost 30 years at which point it will be the largest active landfill in the Los Angeles area. No other landfill in LA County is permitted to accept this much waste. Environmental regulations require Republic to install gas collection wells, piping, blowers and flares to collect landfill gas collected at the landfill to meet to meet landfill gas emissions regulations.

The Sunshine Gas Producers (SGP) facility has a Gas Rights Agreement with Republic giving SGP the right to all

gas collected at the landfill for the full 20 year term of the PPA. Republic operates the landfill gas collection system and must supply all gas collected to SGP. SGP pays Republic a royalty on all power sales from the landfill gas to energy facility. The landfill currently has sufficient gas for the SGP facility to operate at 90% of capacity. SGP expects that there will be sufficient gas to operate at close to 100% capacity by the 2013 early COD. Actual volumes produced from the landfill may deplete over time if cities that currently use the facility fail to renew their contracts over the long term or if they are able to reduce their own waste collection. If either event were to occur, the landfill's ability to produce would slowly diminish (not immediately stop) and the PPA contemplates the potential for such an event by providing for semi-annual capacity testing.

Potrero (the 8 MW facility) has similar arrangements for long-term rights to the gas at the landfill with Waste Connections Ince and Browning Ferris Industries. It is currently finalizing its fuel study.

4) 10.1 What is the expected impact of the Greenhouse Gas Change in Law on customer costs and how is it structured?

CPUC Approval of this PPA should not result in customers paying for incremental GHG costs without additional CPUC review. Current draft regulations exempt this type of facility from a GHG compliance obligation – but even so, other GHG regulation (EPA, Federal) is possible and so the parties explicitly address what should happen if GHG costs are incurred. The language below was derived from the language approved by the Commission in a previous PPA between PG&E and DTE Stockton. At a high level, if GHG costs result from the project DTE can notify PG&E and open negotiations and if negotiations result in a cost sharing agreement for incremental GHG costs – then that agreement would be subject to CPUC review - specifically 10.1 (e) states that any agreement for PG&E to pay for GHG Costs as a result of a Greenhouse Gas Change in law would be conditioned upon CPUC approval of an additional advice letter filing. The timelines for triggering that filing are discussed in 10.1 (e). Note: 10.1 (e) is from the 4/13/2011 Amendment which was filed on 4/13/2011. Below we've mapped out the terms in more detail.

(a)

"Greenhouse Change in Law" occurs on Day 1.

If

Material burdens:

- a) Seller's performance
- b) Buyer's total cost of power

Then

Buyer or Seller have until Day 45 to provide Written Notice (Date of Written Notice, DWN)

(b)

"Good Faith Negotiations" to reach an agreement on GHG Costs:

Buyer and Seller has +45 days to negotiate from DWN

Buyer and Seller has +60 days to terminate from DWN (does not apply if non-terminating party agrees to pay the costs)

(c)

If Greenhouse Gas Legislation is not enacted by January 15, 2011, Seller shall provide written notice of its intent to terminate. Buyer can respond to the notice and request 45 days negotiation period. If no agreement or Buyer does not agree to pay the full costs, then termination will be effective 60 days following Seller's written notice

If Buyer agrees to pay for GHG costs (some or all)... then:

From 4/13/2011 Amendment (which was based on feedback from the Energy Division about what it wanted in the

GHG term negotiated for DTE Stockton):

(e) This provision clarifies that any agreement by PG&E to pay for GHG Costs as a result of a Greenhouse Gas Change in law would be conditioned upon CPUC approval (*an additional advice letter filing*). The provision also specifies timing requirements for PG&E to seek such approval and allows for termination of the PPA by either party if approval is not obtained within a specified period after execution of the agreement.

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