

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

**Application of Pacific Gas and Electric Company (U 39E)
for Approval of Fixed Energy Price Amendments With
Existing Renewable Qualifying Facilities and Associated
Cost Recovery.**

Application No. 11-08-_____

**APPLICATION OF
PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
FOR APPROVAL OF
FIXED ENERGY PRICE AMENDMENTS
WITH EXISTING RENEWABLE
QUALIFYING FACILITIES**

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Dated: August 3, 2011

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I. INTRODUCTION AND AUTHORITY REQUESTED.

Pacific Gas and Electric Company (“PG&E”) respectfully files this Application pursuant to Article 2 of the Rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (“CPUC” or “Commission”). In this Application, PG&E seeks approval of forty-eight Fixed Energy Price Amendments (“FEPAs” or “Amendments”) that it has executed with forty-eight qualifying facilities that use renewable energy resources to deliver electricity under their existing power purchase agreements (“PPAs”) with PG&E (“Renewable QFs” or “Sellers”).

PG&E requests the Commission to issue a decision no later than December 31, 2011 that:

- (1) Approves the FEPA;
- (2) Finds that the FEPAs are reasonable; and
- (3) Authorizes PG&E to recover all costs incurred under the FEPAs in rates, subject only to ongoing review of the reasonableness of PG&E’s administration of the FEPA through the Energy Resource Recovery Account (“ERRA”) or other appropriate ratemaking mechanism.

Each of the forty-eight Amendments consists of a pro-forma FEPA that has been signed by the Renewable QF and PG&E without any changes to the form.¹ The pro-forma FEPA provides the Renewable QFs with a fixed-price version of the short run avoided cost (“SRAC”) that was adopted in the Qualifying Facility and Combined Heat and Power Program Settlement (“QF/CHP Settlement”)². In exchange, Sellers agree to provide PG&E with non-binding forecasts of their generation and notice of outages. Sellers also agree to maintain their status as Eligible Renewable Energy Resources and take other actions to enable PG&E to claim the benefits of their renewable generation under the Renewables Portfolio Standard (“RPS”) program.

The FEPAs will take effect upon the fulfillment of the two conditions precedent:

- (1) CPUC approval of this Application by December 31, 2011; and
- (2) The effectiveness of the QF/CHP Settlement.³

The FEPAs will remain in effect for the remaining term of the existing QF contracts, but for no more than five years. PG&E requests the Commission to act by December 31, 2011; otherwise, it will be impossible for the first Condition Precedent to be met.

PG&E submits forty-eight executed Amendments for approval through this Application. However, instead of filing each Amendment, PG&E has attached the pro-forma FEPA as Attachment A and a list of the Renewable QFs that have accepted the offer as Attachment B.

The Declaration of Hugh M. Merriam in Support of the Fixed Energy Price Amendment

¹ In this Application, capitalized terms have the meaning provided by the pro-forma FEPA. In the event of discrepancy, the definitions in the FEPA shall control.

² See, “QF/CHP Settlement Agreement Term Sheet,” approved by CPUC Decision (“D.”)10-12-035.

³ The QF/CHP Settlement Agreement was approved by the Commission in D.10-12-035; however, that approval has not yet become final and non-appealable in accordance with the Settlement Agreements’ terms.

(“*Merriam Declaration*”) is attached as Attachment C.⁴ Attachments D through F present the material required by Commission Rule 2.1 of all applications submitted to the CPUC.

In the following sections, PG&E explains that the FEPAs are reasonable, are in the best interests of PG&E’s customers, and should be approved.

II. BACKGROUND AND DESCRIPTION OF THE AMENDMENT.

A. Background.

Existing Renewable QFs delivering under the terms of a Standard Offer PPA from the 1980’s are sometimes referred to as “Legacy QFs”. Many of PG&E’s Legacy QFs are paid a fixed energy price under the terms of a settlement between PG&E and the Independent Energy Producers (“IEP”) that was approved in D.06-07-032. With one exception, those amendments will expire in August of 2011, whereupon, under the terms of the settlement, the Legacy QF’s energy price will revert to variable short run avoided cost (“SRAC-var”).

SRAC-var is the product of a heat rate times PG&E’s price of gas plus variable operation and maintenance costs; SRAC-var is updated monthly. Some Renewable QFs wish to avoid the price fluctuations inherent in the fossil-fuel based SRAC-var. The Fixed Energy Price option eliminates the link between the market price of gas price and the energy payment for Renewable QFs and provides price stability desired by the QF.

B. Description of the Amendment.

The pro-forma FEPA is based on the amendment to existing QF PPAs (“Legacy PPA Amendment”) that was approved as part of the QF/CHP Settlement. The primary difference between the two amendments is that with the FEPA, the energy price is fixed.

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⁴ This arrangement was successfully used to present 121 identical Contract Amendments for Commission approval in Rulemaking (“R.”) 04-04-003 et al, Decision (“D.”) 06-07-032.

1. The Fixed Energy Price.

The Fixed Energy Price is based on the otherwise applicable SRAC Option A formula within the Legacy PPA Amendment with modifications specific to PG&E.

The Option A SRAC is expressed as follows:

$$\text{Energy Price } \$/\text{kWh} = (\text{Applicable HR} * \text{BTGP}/1,000,000 + \text{VOM}) * \text{TOU} + \text{LA} + \text{GHG Charges}$$

The “Applicable Heat Rate” for the current year is selected from the table in the Legacy Amendment. The burner tip gas price (“BTGP”) is as defined by D.07-09-040 and CPUC Resolution E-4246. To create a gas price that is valid for five years, PG&E obtained gas price forecasts, applied the escalation factor that was used in the most recent calculation of the RPS Market Price Referent (“MPR”), and levelized the price over the period beginning on September 1, 2011 and ending on August 31, 2016.

The energy price is adjusted by the TOU factors in the Legacy PPA Amendment. However, the TOU-differentiated energy price will not be recalculated each time TOUs are republished in PG&E’s MPR, as described in Option A, because then the price would not be “fixed.” Ordinarily, application of the “LA” or locational adder would result in an hourly changing price. In the pro-forma FEPA, the LA is set at “zero”.

2. Generation Forecasting And Outage Reporting.

The pro-forma FEPA requires the Seller to make good faith efforts to provide the forecasting and outage reporting as necessary to support PG&E’s compliance with the California Independent System Operators (“CAISO”) scheduling requirements. These terms are the same as those in the Legacy PPA Amendment.⁵ Forecasts generated by this process are non-binding

⁵ See, “QF/CHP Settlement Term Sheet”, Section 11.3, “Non-Binding Forecasting Requirements for Legacy PPAs.”

on the Seller, so that Seller's actual deliveries may deviate from its forecasts without incurring charges. Any charges that do occur are absorbed by PG&E's customers.

No less than thirty days before the start of the Amendment term, Seller will provide PG&E with a forecast of generation for the thirty-day period beginning on the first day of the Amendment. Seller must provide weekly updates for the forward thirty-day period. Seller will update its forecasts as soon as it becomes aware of expected changes in daily, hourly, and real-time deliveries from the Generating Facility for any cause, including changes in the Generating Facility ambient conditions, a Forced Outage, or a Real-Time Forced Outage - any of which results or is expected to result in a material change to the Generating Facility's deliveries.

The pro-forma FEPA stipulates that Seller will describe the disruption in specific terms that will enable PG&E to meet its obligations to report such events to the CAISO. As the QF's scheduling coordinator, PG&E remains responsible for all CAISO charges and is entitled to receive all CAISO revenues.

3. Consistency With RPS Terms.

The Commission's non-modifiable mandatory RPS PPA terms and conditions are included in the pro-forma FEPA to assure that the generation will count toward PG&E's RPS target. The Seller warrants that it is, and will be for the duration of the Amendment, an Eligible Renewable Energy Resource and that the renewable energy credits ("RECs") transferred to PG&E meet the requirements of California's RPS program.

C. The FEPA Offer.

PG&E notified by e-mail each of its Renewable QFs that it was eligible to execute the pro-forma FEPA; QFs with no known valid e-mail address were mailed notification of the Amendment. On June 22, 2011, PG&E posted the pro-forma FEPA, instructions for completing and submitting a signed copy of the Amendment to PG&E, and frequently asked questions

(“FAQs”) on its website. Interested QFs were given until July 18, 2011 to submit an executed copy of the Amendment to PG&E. All forty-eight Amendments signed by the Seller and received by July 18, 2011 have been included in this Application for approval.

QFs that execute the pro-forma FEPA are selecting a fixed SRAC price, instead of the variable SRAC price otherwise available under the Legacy PPA Amendment. Thus, Renewable QFs who sign the pro-forma FEPA waive their right under the QF/CHP Settlement to execute another version of the Legacy Amendment. However, if the FEPAs do not receive final and non-appealable CPUC approval, the Renewable QFs should have the opportunity to execute one of the Legacy PPA Amendments. Pursuant to the terms of the QF/CHP Settlement, the Legacy PPA Amendments are only available for 180 days from the date of the QF/CHP Settlement effective date. PG&E has requested the Commission to approve the FEPAs by December 31, 2011 so that if approval is not granted, each Renewable QF will have sufficient time to exercise its option to execute a Legacy PPA Amendment under the QF/CHP Settlement.

D. Incremental Cost Of The FEPA.

Payments under the FEPAs are based on the same energy price components as the Sellers’ otherwise applicable SRAC. No other pricing term in Seller’s existing PPA is affected. PG&E’s customers should not experience any significant difference in procurement cost due to the Amendment, unless actual gas prices during the Amendment term deviate significantly from currently forecasted prices. The Amendments operate as a hedge against changes in electric procurement costs.

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III. THE AMENDMENT IS REASONABLE AND BENEFICIAL.

The Commission's standards for reviewing QF contract amendments and modifications are not "entirely clear".⁶ In general, however, the Commission examines a QF contract amendment or modification to determine if there are customer benefits that result from the amendment or modification.⁷ Here, as described in more detail below, the FEPAs provide substantial customer benefits and thus should be approved by the Commission.

A. Fixed Energy Pricing Has Been Approved For QF Contracts.

The Commission has previously found that it is reasonable to pay QFs fixed short-run avoided energy cost prices. After the energy crisis of 2001, the Commission adopted an SRAC price that was intended to encourage QFs to resume deliveries. At that time, the Commission found that a proposal to replace the monthly SRAC with a five-year fixed energy price would provide greater incentives to QFs than energy prices that varied each month. The fixed-price structure was also found to provide utility customers greater price certainty and less volatility over the five-year period⁸ and to provide the utility with greater predictability of revenue.⁹

The Commission approved a fixed energy price settlement for a second time in its proceeding to promote consistency in QF pricing, R. 04-04-025. In that case, PG&E and IEP reached a settlement that included an SRAC price and either fixed or variable pricing. Fixed SRAC pricing for five years was offered to renewable energy generators. The total settlement package was found to be consistent with Commission standards for the approval of settlement

⁶ See D.99-02-085, 85 CPUC2d 158, 167 (1999).

⁷ In earlier decisions, the Commission referred to "commensurate" benefits. In other decisions, the Commission referred to customer indifference. *Id.*, at pp. 166-167 (describing Commission decisions and different descriptions of customer benefit standards).

⁸ D.01-06-015, Conclusion of Law 2.

⁹ *Ibid*, Finding of Fact 5.

agreements and was approved.¹⁰ PG&E's FEPA is a similar fixed energy price offer limited to Renewable QFs for an identical five-year term, not to exceed the remaining term of the Seller's contract, and should likewise be approved.

B. The PPAs Are Consistent With The QF/CHP Settlement.

The fixed energy price is based on Pricing Option A of the PPA Legacy Amendment. Option A uses a new calculation of SRAC that is used in the PPAs included in the QF/CHP Settlement.

The pro-forma FEPA incorporates the essential terms of the PPA Legacy Amendment. In particular, it requires the QF to agree to the voluntary generation forecast and outage reporting terms contained in the PPA Legacy Amendment¹¹ and to comply with provisions applicable to eligible renewable energy resources.¹² However, terms concerning greenhouse gas emissions ("GHG") have been omitted because renewable sellers do not create regulated GHG emissions, and the lengthy and complex dispute resolution provisions were not included.

C. The Amendment Is Reasonable.

The FEPA offers generally the same terms and energy price as the Legacy PPA Amendment but at pricing that is better aligned with the operations of renewable QFs. The price is based on an SRAC that was approved by D.10-12-035. The Commission has twice authorized a five-year fixed energy price, i.e., in D.01-06-015 and D.06-07-032. The Amendment will provide the Renewable QFs with greater revenue certainty and will therefore encourage them to continue production for the remaining terms of their PPAs. Consistent deliveries will provide

¹⁰ D.06-07-032.

¹¹ Legacy PPA Amendment Section 1.04, Addition of Forecasting Attachment.

¹² Legacy PPA Amendment Sections 1.05, Additional Representations, Warranties, and Covenants Applicable to Renewable Facilities and 1.07, Additional Defined Terms.

consumers with RPS-eligible electricity at a reasonable price and reduce the potential need to procure replacement renewable power. In addition, the Amendment will provide utility customers greater price certainty and less volatility than otherwise applicable fossil fuel-based SRAC and will benefit PG&E by providing some revenue certainty.

IV. OVERVIEW OF ATTACHMENTS.

PG&E has attached to this Application a copy of the pro-forma FEPA as "Attachment A" and a list of the QFs that have accepted the proposed Amendment as "Attachment B." The name, PG&E Log Number (which identifies each QF's original standard offer PPA), and nameplate capacity of each Facility are provided in Attachment B. Copies of each executed Amendment are not being provided due to resource considerations and because no value would be gained by filing a copy of every one of the forty-eight signed Amendments, since each Amendment is identical. A detailed description of pro-forma the FEPA, including how it was developed from the QF/CHP Settlement SRAC model, is provided in "Attachment C," the *Merriam Declaration*.

V. COMPLIANCE WITH THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE.

A. Summary Of Authorization Requested (Rule 2.1).

PG&E respectfully requests that the Commission issue a decision no later than December 31, 2011 that:

- (1) Approves the FEPAs;
- (2) Finds that the FEPAs are reasonable and in the best interests of PG&E's customers; and
- (3) Authorizes PG&E to recover the costs incurred under the FEPAs in rates through its ERRAs or other appropriate ratemaking mechanism, subject only to the Commission's ongoing review of the reasonableness of PG&E's contract administration.

B. Statutory Authority (Rule 2.1).

PG&E submits this Application pursuant to Public Utilities Code §§ 451, 454, 454.5, and 701 and the Commission's Rules of Practice and Procedure.

C. Categorization, Hearings, Issues To Be Considered, And Schedule (Rules 2.1(c) and 7.1).

1. Proposed Category.

PG&E proposes that this Application be categorized as a rate setting proceeding.

2. Need For Hearing,

PG&E believes that the Commission should approve the FEPAs without hearings based on the *Merriam Declaration* and the information presented by PG&E in this Application. Parties that wish to argue the merits of the FEPAs may do so through briefs. If the Commission determines that hearings are necessary, PG&E reserves the right to submit prepared testimony.

3. Issues To Be Considered.

The following issues should be considered in this proceeding:

- (a) Are the FEPAs just and reasonable;
- (b) Should the FEPAs be approved; and
- (c) Should PG&E recover the costs associated with the FEPAs in rates through the ERRA or other appropriate ratemaking mechanism.

4. Proposed Schedule.

PG&E proposes the following schedule in order to obtain a final decision on this Application by December 31, 2011 in order to meet one of the conditions precedent to the effectiveness of the FEPAs.

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ACTIVITY	PROPOSED SCHEDULE
Application filed	August 3, 2011
Application Noticed	August 5, 2011
Responses filed	September 5, 2011
PG&E's reply to responses	September 12, 2011
Prehearing Conference	September 19, 2011
Concurrent opening briefs filed	September 30, 2011
Concurrent reply briefs filed	October 7, 2011
ALJ's Proposed Decision filed	November 14, 2011
Commission Approval	December 31, 2011

D. Legal Name And Principal Place Of Business (Rule 2.1(a)).

The Applicant's legal name is Pacific Gas and Electric Company. PG&E's principal place of business is 77 Beale Street, San Francisco, California. Its post office address is P. O. Box 7442, San Francisco, CA 94120-7422. PG&E is a corporation organized under the laws of the State of California.

E. Correspondence And Communication Regarding This Application (Rule 2.1(b)).

Correspondence regarding this Application should be directed to PG&E's representatives in this matter, listed below:

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F. Articles Of Incorporation (Rule 2.2).

PG&E is, and since October 10, 1905, has been, an operating public utility corporation organized under California law. It is engaged principally in the business of furnishing electric and gas services in California. A certified copy of PG&E's Restated Articles of Incorporation, effective April 12, 2004, is on record before the Commission in connection with PG&E's Application 04-05-005 filed with the Commission on May 3, 2004. These articles are incorporated herein by reference, pursuant to Rule 2.2 of the Commission's Rules.

G. Balance Sheet And Income Statement (Rule 3.2(a)(1)).

PG&E's First Quarter 2011 Consolidated Statements of Income and Consolidated Balance Sheets are provided as Attachment D of this Application.

H. Statement Of Presently Effective Rates And Proposed Increases (Rules 3.2(a)(2) and (a) (3)).

PG&E does not propose to modify its electric rates in this Application.

I. Summary Of Earnings (Rules 3.2(a)(5) and 3.2(a)(6)).

PG&E's revenues, expenses, rate base and rates of return summary for the recorded year 2009 are set forth in Attachment E of this Application.

J. Most Recent Proxy Statement (Rule 3.2(a)(8)).

PG&E's most recent Proxy Statement, dated April 1, 2009, was filed with the Commission on May 18, 2009 in Application 09-05-016. This Proxy Statement is incorporated herein by this reference.

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VI. REQUESTED RELIEF.

PG&E respectfully requests that the Commission approve the Amendments as reasonable and determine that all costs associated with the Amendments can be recovered in rates through ERRA or other appropriate ratemaking mechanism, subject only to Commission review of the reasonableness PG&E's administration of the Amendments.

DATED: August 3, 2011

Respectfully submitted,

PACIFIC GAS AND ELECTRIC COMPANY

By: 

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Vice President - Energy Supply Management

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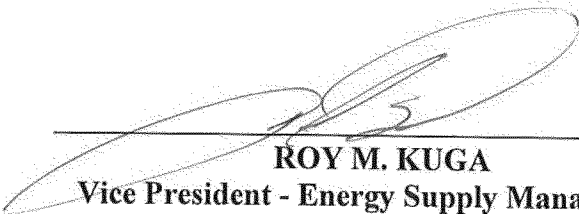
Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

VERIFICATION

I, Roy M. Kuga, say:

I am an officer of Pacific Gas and Electric Company, a corporation, and am authorized, pursuant to Code of Civil Procedure § 446, ¶3, to make this Verification for and on behalf of said Corporation, and I make this Verification for that reason. I have read the foregoing Application, and I am informed and believe that the matters therein concerning Pacific Gas and Electric Company are true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 3, 2011, at San Francisco, California.



ROY M. KUGA
Vice President - Energy Supply Management