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August 2, 2011

Mr. Honesto Gatchalian
California Public Utilities Commission
Energy Division
Tariff Unit, Room 4005
505 Van Ness Avenue
San Francisco, CA 94102

Re: Reply to Protests to PG&E Advice Letter 3864-E: Establishment of an Interim Interconnection Procedure for Rule 21 Qualifying Facilities Signing New PURPA Power Purchase Agreements With PG&E

Dear Mr. Gatchalian:

Pacific Gas and Electric Company (PG&E) hereby responds to the protests to PG&E's Advice Letter 3864-E, filed by:

1. California Farm Bureau Federation (CFBF)[1]
2. California Cogeneration Coalition (CCC)
3. Clean Coalition (CC)
4. Division of Ratepayer Advocates (DRA)
5. Energy Producers and Users Coalition (EPUC)
6. Interstate Energy Producers Association (IEP)[2]
7. Interstate Renewable Energy Council (IREC) with Vote Solar Initiative (VSI)
8. Sustainable Conservation (SC)
9. Tecogen (TG)

As the issues raised by the protesting parties covered many of the same topics, PG&E responds with this single reply.

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[1] PG&E notes that Farm Bureau stated that it is not "directly protesting" PG&E's advice letter. However, since Farm Bureau went on to disagree with arguments in PG&E's Advice Letter, PG&E responds to those arguments here.

[2] IEP states that it "takes no position on whether the amendments proposed in the advice letters should be approved or not."

On June 17, 2011, PG&E filed Advice Letter 3864-E requesting authorization to add to its electric Rule 21 to establish an interim generator interconnection procedure for Rule 21 Qualifying Facilities (QFs) signing new Power Purchase Agreements (PPAs) with PG&E under the Public Utility Regulatory Policies Act (PURPA). Southern California Edison Company and San Diego Gas & Electric Company filed similar advice letters. Energy Division asked PG&E and the other Investor Owned Utilities (IOUs) to serve additional service lists, which PG&E did on July 19, 2011, and the protest period ended on to July 26, 2011. Nine parties listed above filed protests. This is PG&E's response.

I. Overview

Ordinarily, receiving nine protests to an advice letter would signal strong opposition to a proposal. Here, however, the protests are instead a clear rallying cry for the need for an ongoing generator interconnection stakeholder process, in which PG&E is delighted to participate.

Several of the parties filing "protests" did not actually oppose PG&E's proposal. For example, Independent Energy Producers took no position on whether the amendments proposed should be adopted. Instead, it seeks greater clarity from the Commission, so that there are clear, consistent, and timely interconnection procedures for all new generators. PG&E agrees completely. Similarly, the California Farm Bureau stated that it was not directly protesting PG&E's advice letter.

Even the parties who did ask the Commission to reject the advice letter share similar perspectives to the concerns that lead to the IOU advice filings. Virtually all parties agree that major work is needed to Rule 21 before it can be used for the interconnection of most wholesale generators. Similarly, most parties agree that the California Independent System Operator (CAISO) interconnection tariffs should be used for transmission level interconnection requests.

The parties do express differing views of the scope of jurisdiction of FERC and the CPUC under relevant law. However, even here, the controversy is less than first appears. The IOUs do not dispute that the CPUC has jurisdiction over the interconnection of generators engaging in retail net metering or not delivering to the grid. This advice filing does not seek to change those rules. The IOUs also acknowledge that the CPUC has jurisdiction over the interconnection of projects selling all their power to the interconnected utility under PURPA agreements. It does not ask the CPUC to abdicate all authority over such projects; it simply asks for approval of an interim proposal while work continues. There is a dispute with a few parties, who claim that the CPUC has exclusive jurisdiction over the interconnection of all distribution level generators. However, that argument was rejected by FERC, the federal Courts of Appeal, and by the U.S. Supreme Court some years ago.

The key dispute is whether an interim solution is needed while the stakeholder process is underway, or whether the CPUC should wait for that stakeholder process to be completed

before approving anything. PG&E believes that the stakeholder process will take substantial time, and that it is unlikely to resolve all disputes, and so it will be followed by a process of formal decision making. This will all take time. In the meantime, an interconnection process is needed for new projects seeking to make sales under the PURPA PPA included in the QF settlement and the AB 1613 feed in tariff. This advice letter is simply asking for Commission concurrence to use the FERC approved Generator Interconnection Procedure (GIP) on an interim basis while the stakeholder process continues.

Failure to establish an effective solution by the effective date of the QF/CHP settlement or AB 1613 program could delay interconnection under Rule 21 for new resources that qualify for the PURPA power purchase agreements and other adopted PURPA power purchase programs. In particular, generators that wish to interconnect under Rule 21 could have to wait until the earlier of resolution on this advice letter or such time as Rule 21 is updated and new procedures are in effect that could accommodate their interconnection.

In the alternative, any generator, even those qualified under the QF/CHP Settlement or under AB 1613, may at any time apply for interconnection under the applicable FERC-approved interconnection process.[3] In fact, use of such procedures preserves the right of that generator to sell its output to an entity other than PG&E. Without clear direction from the Commission, PG&E recommends such a course of action to meet immediate interconnection needs of generators that qualify under these programs.

PG&E is participating fully in the recently re-established Rule 21 Working Group and looks forward to creating a long-term solution for interconnecting all generators that qualify for interconnection under Rule 21. Any resolution of this matter that does not conform to the PG&E proposal must take into account the following issues (stated in the advice letter), which PG&E believes are essential elements to any interconnection process for exporting generators:

- Management of multiple interconnection requests and cost allocation of upgrades.
- Coordination with other interconnection processes on distribution and transmission level.
- Ability to count resources for resource adequacy.
- Appropriate study procedures to adequately assess grid impacts and identify facilities and upgrades needed to safely interconnect and deliver generator output.
- Consistent and fair study costs/deposits/security postings.

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[3] For transmission level interconnections, the appropriate procedure is located in Appendix Y of the CAISO Tariff (http://www.caiso.com/Documents/AppendixY-FifthReplacementCAISOTariff.pdf). For distribution level interconnection, the appropriate procedure is located in Attachment I of the PG&E Wholesale Distribution Tariff. (http://www.pge.com/includes/docs/pdfs/b2b/newgenerator/wholesalegeneratorinterconnection/PGE_WDT_GIP_effective_2011Mar03.pdf)

II. Rule 21 Is Not Ready To Be Used As the Interconnection Process for Projects Selling All Their Output Under PURPA Agreements

For over 15 years, PG&E has used the FERC procedures to interconnect all new generators making wholesale sales. This included new large natural gas power plants, all new renewable projects, combined heat and power projects, photovoltaic and concentrating solar projects, and other generators. During this time, FERC devoted substantial attention to the interconnection rules, conducting two interconnection rulemakings, and later approving revisions of its general interconnection rules for the CA ISO and for the IOUs in California. As explained in section V below, as this process was under way, there were various state and federal court challenges addressing when FERC and the CPUC had jurisdiction to regulate the interconnection process, and the courts consistently upheld FERC's view that it had jurisdiction over the interconnection of generators making wholesales sales, except for projects selling all their output to the interconnected utility under PURPA PPAs. Since PG&E has not entered in PURPA PPAs with new projects since the mid 1990's, there had been no need to update Rule 21 for this PURPA exception.

However, the QF settlement and AB 1613 PPAs are expected to become final in the next few months, which will lead to new interconnection requests soon. As PG&E explained in Advice Letter 3864-E, the current Rule 21 does not adequately address key requirements for interconnecting projects selling power under a PURPA power purchase agreement. The current Rule 21 does not provide for cluster studies, for coordination with the CA ISO queue for facilities interconnecting at transmission level, or for Resource Adequacy determinations. Indeed, PG&E's Rule 21 does not even have Commission-approved interconnection forms and agreements for interconnections of generators exporting for a sale. PG&E is simply unable, under the current Rule 21, to interconnect any QFs contemplating PURPA wholesale power sales. As a result of the QF Settlement Agreement (expected to take effect in October) or as a result of implementation of the AB 1613 feed-in tariff, we expect to receive new requests for interconnection that we will be unable to meet through Rule 21 unless some action is approved by the CPUC.

A number of the parties filing protests agreed with the IOUs that Rule 21 has not been updated for projects making wholesale power sales in many years, and is not ready to be used for new projects making QF sales to the Interconnected Utility. These include the California Cogeneration Council which stated that "the current Rule 21 tariff requires significant amendments to address a number of important changes in facility interconnection and grid management."[4] Similarly, EPUC stated that "The current Rule 21 structure is unable to accommodate the influx of new generators that will provide Resource Adequacy (RA) capacity…."[5] IREC and Vote Solar said that they "agree with the IOUs that reforms to Rule 21 are necessary to meet the technical needs and policy goals of interconnecting distributed generators that sell their output to the grid."[6] The Clean

[4] California Cogeneration Council protest, p. 1.
[5] Energy Producers and Users Coalition protest, p. 1.
[6] IREC/Vote Solar protest, p. 2.

Coalition said that "we have acknowledged in these and previous comments that Rule 21 reform is necessary."[7]

Indeed, none of the parties filing protests claimed that Rule 21 was ready for general use by generators making wholesale sales. The closest arguments were that it was ready to be used by projects whose outputs are "largely used on site," even when making incidental, small amounts of sales, as argued by Tecogen. However, Tecogen does not define this standard, or explain how the process could change as the size of project or level of exports increases. As discussed below, PG&E does not dispute that Rule 21 can be used for the interconnection of generators using power on site or over-the-fence. However, because the parties do not dispute that Rule 21 is not generally ready to be used for new projects making PURPA sales, an interim arrangement is clearly needed.

III. It Will take a Considerable and Effort and Time to Consider Proposals to Change Interconnection Procedures Under Rule 21 and Coordinate It With the Process Used to Interconnect Projects Not Making PURPA Sales

While there is broad agreement that reform is necessary, a number of parties argue that instead of adopting the FERC processes on an interim basis, the CPUC should instead make near term revisions to interconnection procedures under Rule 21. Many of these parties agree that the existing FERC tariffs could be a basis for those new rules. See, for example, the California Cogeneration Council supports the joint IOU proposal that the GIP be used on an interim basis, and others propose changes to the GIP. PG&E agrees completely that a stakeholder process to update the interconnection process (whether state or federal) makes good sense. The key issue is not whether CPUC or FERC forms and procedures are used; instead, what is important is that the process be workable, practical, and maintain the safety and integrity of the transmission and distribution grid.

A key dispute between the parties is how long it will take for this stakeholder and regulatory process to move forward, and whether that will result in a workable interconnection process in time for the needs of new projects. Four factors indicate that the process will be lengthy, and that an interim process is essential while that process goes forward.

First, the CPUC has a long tradition of trying to use consensus building to advance the interconnection process. That is a worthy approach. However, that process is quite time consuming. Many parties have little understanding of the technical issues associated with generation interconnection, and even when they do, they have varying views on how to solve such problems. While some issues can be resolved through consensus building, that will take considerable time.

Second, many issues are unlikely to be resolved through consensus building, and will have to be resolved by regulatory decision. That can take a great deal of time, particularly since

[7] Clean Coalition protest, p. 12.

the CPUC will need to develop an adequate record, there may be contested factual issues, and the CPUC may need to provide adequate notice and opportunity for comments before such decisions are adopted. Moreover, some of the proposed changes concern tariffs outside of CPUC's jurisdiction and involve the CAISO, a non-CPUC regulated entity. Other issues that may be addressed are the subject of various CPUC procurement rulemakings, rather than the interconnection process.

Third, as discussed below, the issues to be resolved are many and complex. For example, the details of how to conduct cluster studies for projects that impact the ISO grid is a complex one. Interconnection is not a simple process and to suggest that it is is to court disaster.

Fourth, many parties argue that the interconnection processes for the three IOUs must be identical. In fact, due to differences between the systems of the three IOUs, their interconnection processes may never be completely identical. That adds to the time it will take to resolve these issues.

A recent experience highlights the problem. On August 18, 2009, PG&E filed Advice Letter 3508-E, seeking to revise section D.3 of Rule 21. That rule currently requires a dedicated transformer for a residential customer installing a photovoltaic generator greater than 20 kVA. PG&E had determined that such a transformer is not always needed electrically, and sought permission to offer more flexibility in implementing this requirement from Rule 21. This advice filing and a subsequent supplemental advice filing replacing the original were protested by IREC, DRA Sustainable Conservation, and the City of San Diego. *Now, nearly two years later and after considerable negotiation with various parties, and with customers frequently inquiring when the new provision would be in place, the CPUC is just now finalizing a resolution on this advice letter.* Even simple changes, intended to be pro solar, and not controversial, are protested, consensus and uniformity among all utilities is sought, and resolution is more often than not quite protracted. The pending Rule 21 issues for projects engaging in PURPA sales are far more difficult and complex.

PG&E and the other IOUs have proposed the only method that can work in the time we have to get it in place. The stakeholder process proposed by the parties and by Energy Division should go forward, but an interim solution is needed while that work goes forward.

IV. Consideration of Proposed Changes to the GIP Should Not Delay Interim Approval of the Advice Letter.

Various parties argue for rejection of the Advice Letter on grounds that a variety of changes to the GIP are desirable. They want those changes to be made as part of this advice letter process, rather than accepting the existing procedures for an interim period. The changes proposed are as follows:

Transmission Level Generator Interconnections - IREC and Vote Solar argue that the CPUC has jurisdiction over QF interconnections when the full output is sold to the utility, whether the interconnection is at transmission or distribution voltage.[8] However, they offer no specific proposals for how transmission level interconnections should be handled under Rule 21. After all, the transmission system is controlled by the CAISO, not the IOUs. The CAISO keeps the interconnection queue, not the IOUs. There is no discussion of how the Rule 21 QF interconnection process for transmission level generators would be coordinated with the overall ISO interconnection process. The only practical solution is to use the ISO interconnection process. Indeed, after pages of discussion of why the CPUC has jurisdiction over transmission interconnections, IREC and Vote Solar agree with the IOU proposal to use the ISO procedures for transmission level interconnections.[9] Most parties expressly support that part of the IOU proposal, or solely discuss distribution level interconnections. See, for example, protest of California Cogeneration Council expressly supporting use of the ISO procedures, and the California Farm Bureau, noting that it's issue is with feed in tariff interconnections, which are unlikely to be for projects interconnecting at the transmission level.[10]

Timing – Several parties noted concerns with the length of time that can be required for the interconnection under the GIP. The Clean Coalition especially articulated many concerns about this issue. It claims "the default cluster study process in GIP is far too long (averaging two years just for studies to be completed, let alone time required for negotiating the interconnection agreement and completing any required upgrades, which can add another year.)"[11] The Clean Coalition attributes another part of the delay to the timing of the cluster studies and asserts many projects are going to be forced in the cluster study, "Most projects will not qualify for Fast Track or the Independent Study Process (ISP) under the interim GIP, so the default cluster process will generally apply." The timing of the clusters studies is problematic as well, the Clean Coalition asserted, "This will result in a considerable delay for interim projects as the next cluster study isn't until June of 2012."[12] As for ISP timing, the Clean Coalition argues, "no timeline for completion of studies is included for the Independent Study Procedure."[13] Finally, the Clean Coalition contrasts the timing for the IOU's interconnection under the GIP to that of SMUD, which it states "is able to interconnect in about a year."[14]

PG&E agrees that further stakeholder discussions of the cluster study process and timeline makes sense. The huge volume of pending new interconnection requests has highlighted the value of cluster studies, where instead of studying projects one after another, with highly uncertain results, many projects in the same area pending at the same time can be studied together. When PG&E filed at FERC for authority to do cluster studies under its

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[8] IREC/Vote Solar Protest p. 5.
[9] IREC/Vote Solar protest p. 18.
[10] California Cogeneration Council protest p. 2; California Farm Bureau protest p. 3.
[11] Clean Coalition protest, page 3.
[12] Clean Coalition protest, page 4
[13] Clean Coalition protest, page 8
[14] Clean Coalition protest, page 6

WDT, the CPUC supported that proposal, although it sought changes in the timeline for such studies. Further discussion of how often such studies should be done, and whether the timeline for such studies can be compressed when there are no transmission impacts, would be a worthy discussion.

However, that process will take some time to complete. In particular, all three IOUs and the CA ISO will need to coordinate with each other and with stakeholders about what expedition can be practically achieved without sacrificing adequate time for meaningful study of what can be hundreds of projects at one time. Moreover, the Rule 21 process needs to be coordinated with any reforms to the FERC tariffs: after all, the IOUs and CAISO already have huge numbers of projects already seeking interconnection that could be affected by any changes in this process.

Costs – On the issues of interconnection costs under the GIP, high costs are also cited by several parties. The Clean Coalition and IREC/Vote Solar give their concerns in specific detail. The Clean Coalition claims the Fast Track applicants are exposed to "uncapped, undefined and indefinite cost liability that may result from distribution and network upgrades at literally any time in the future."[15] With regards to the ISP, the Clean Coalition writes, "Undefined criteria for the ISP prevent an applicant from having any idea of its potential for success before committing $50,000 per $1,000 per megawatt for the application fee. "[16]

However, no specific proposal is advanced by these parties for what the new rule should be. These projects need to be studied, and the generator requesting the interconnection has been required to pay for the cost of such studies under both the FERC rules and Rule 21. While a discussion of alternative approaches makes sense, it is not clear what alternative will be chosen, either by negotiation, or by regulatory decision. It is clear that resolution of this question will not happen overnight.

Grid Planning - IREC/Vote Solar point out that whereas California law requires California utilities to incorporate distributed generation into their grid planning system.[17] However, this issue is not relevant here. If a contract with a generator is a less expensive alternative that a transmission and distribution (T&D) upgrade, the utilities are already permitted to sign such contracts. Some years ago, in a prior distributed generation rulemaking, the CPUC held extensive workshops, at which IOU planners explained when and how they considered small and large generators as alternatives to T&D upgrades. These planners explained that such alternatives are rarely cost effective, and attempting to impose some new unspecified obligation on IOUs in the grid planning process is simply not a timely alternative to approval of the pending advice letter.

Familiarity – Sustainable Conservation raises the concern that by going with the IOU's proposal, the applicants "lose the opportunity to use our own experience in dealing with the

[15] Clean Coalition protest, page 7.
[16] Clean Coalition protest, page 7.
[17] IREC/Vote Solar Protest, Second issue, page 11.

barriers in the California context, particularly in light of our unique geography and public policy goals."[18] Tecogen echoes these feelings, writing that IOU's proposal "abandons or attempts to bypass the time-tested Rule 21 process." However, many renewable generators have become familiar with the GIP and found they do work and do not require travel to Washington, D.C. Moreover, both Sustainable Conservation and Tecogen maintain that the commission can assert authority over all distribution interconnections. Since that is not the law, many parties will need to become familiar with the GIP for their smaller projects selling wholesale via a non-PURPA sales arrangement.

Special Rules for Small Generators - Tecogen seeks special treatment for small (under 500 kW) CHP because it will have similar safety and reliability issues as net metered customers. PG&E agrees with Tecogen that non-exporting or non-compensated exporting CHP can be interconnected under Rule 21. However, Tecogen is seeking Rule 21 treatment for customers who are seeking compensation under AB 1613 FIT. Customers seeking to take advantage of the CHP FIT must be QFs and are precisely the customers for whom Rule 21 needs to be updated. Until that time, another interconnection provision must be made. The fact the impact on the grid of a CHP exporting for sale is similar to the impact on the grid of a solar customer taking NEM service is irrelevant. There are forms and agreements available for NEM customers and there are no forms and agreements available for customers interconnecting for sale. Until those forms are developed through the Rule 21 Working Group process, PG&E is unable to interconnect these customers. In addition, even small generators can be in the middle of a cluster zone, and have real impacts on the system that need to be addressed. In the meantime, PG&E's proposal can enable interconnection for AB 1613 FIT customers. In particular the Fast Track provisions of the WDT and CAISO tariff are very similar (close to identical) to the portion of Rule 21 (Section I: Initial Review Screens) interconnection procedures that Tecogen cites as working well for net-metered and smaller systems. Because these screens are so similar, interconnection customers should be indifferent as to which process applies for the smaller projects that Tecogen is contemplating.

Consistency – IREC/Vote Solar and Tecogen raise questions about a perceived lack of consistency for the proposals between the IOUs. IREC/VSI writes, "The IOUs proposal would undercut consistency in statewide interconnection processes; each of the three IOUs use different technical review screens and eligibility thresholds for their Fast Track processes; they have "key differences in the processes they use to study generator interconnections"[19] Tecogen claims the proposals arbitrary and inconsistent.[20] Someof the differences can be attributed to differences in system operation and differing definitions of what facilities are transmission and distribution. Other differences are due to the fact that SDG&E does not yet have an approved cluster study process. Tecogen attributes some of the inconsistency to the fact that their generators do not receive the same treatment as net energy metered solar and wind projects. However, that is a statutory and state policy

[18] Sustainable Conservation Protest, page 1.
[19] IREC/Vote Solar protest, issue 1, page 9.
[20] Tecogen, point 4, page 3.

issues that is beyond the scope of this advice letter. [21] PG&E is perfectly willing to work with stakeholders to explore whether greater consistency is practical, but that process will take time with uncertain results, and an interconnection process is needed soon.

Design of Feed In Tariffs - Sustainable Conservation[22] and CFBF[23] also raise issues for small generators, although for those parties, the focus is on the Renewable FIT[24], rather than the CHP FIT. The renewable FITs are not the subject of this Advice Letter. There is no requirement that the renewable FIT program participants be QFs; nor are they receiving compensation under PURPA, so they are not and never were Rule 21 interconnections. The existing interconnection process remains available.

IREC/Vote Solar claim that there are numerous additional problems with the IOU's proposal:

- **Integration of Interconnection and Procurement** – "California's ability to achieve its distributed generation goals requires an efficient integration of interconnection and settlement processes; studies suggesting DG can reduce circuit loading. The ability to optimize this process will be lost."[25]

- **System Planning** – "The IOUs proposal would weaken the Commission's ability to integrate distributed generation into distribution system planning. The benefits can only be achieved if the costs are known, and the Commission has control over them."[26] However, even if the process is under the CAISO and FERC, the CPUC can still require the IOUs to track and issue reports on costs and other aspects of these programs. Also, it is important to remember the issue IREC/Vote Solar raises are temporary issues that will only relate to the interim period until an alternative process is developed.

- **Expedited Interconnection** – IREC/Vote Solar notes that, "SB32 requires the interconnection of generators up to 3 MW to be expedited." However IREC/Vote Solar claims the Commission will have no control over this aspect under the IOUs proposal.

- **Resource Adequacy** – IREC/Vote Solar claims the proposals "ignore reasonable options for Integrating Interconnection with Resource Adequacy determinations. The IOUs claim the CAISO processes are the only tool to address this." As an alternative,

[21] Tecogen and others also raises concerns about non-exporting generators being subject to CAISO / WDT interconnection processes under the IOU's proposal. In fact, the IOU's proposal does not include non-exporting generator. Such projects will remain subject to Rule 21 interconnection processes.

[22] Sustainable Conservation actually lists Advice Letter 3830-E in the subject line, but writes the protest as if they meant the instant advice filing. PG&E responds as if Advice Letter 3864-E was intended since Advice Letter 3830-E has already been adopted.

[23] CFBF does not actually protest PG&E's advice letter, because their issue is FERC versus CPUC jurisdiction of renewable FITs and PG&E's renewable FITs are not at issue here.

[24] The Renewable FITs are those resulting from AB 1969 (implemented in PG&E's E-SRG and E-PWR tariffs) and SB 32 (currently being implemented).

[25] IREC/Vote Solar protest, issue 3, p. 12, 13.

[26] IREC/Vote Solar protest, issue 4, p. 13.

IREC/VSI proposed that "distributed generation that is located on distribution systems and that contributes to the aggregate generation capacity on the circuit less than 100% of the minimum load should be deemed fully deliverable."[27]

None of these are topics that can be resolved in an advice letter. IREC/Vote Solar offer no timeline of how these issues can be resolved by next March. PG&E is willing to explore all these issues through a stakeholder process. However, while that process takes place, a means must be available to interconnect new wholesale generators. The only means now available is the GIP.

Deadline For End of the Interim Process - Several parties argue that if the IOU proposal is adopted, and end date should be specified. The problem with this proposal is that it is not clear when the stakeholder/CPUC/FERC decision making process will be concluded. It makes no sense to adopt a deadline that may not match the CPUC's actual decision process.

Stakeholder Input - Finally, IREC/Vote Solar argue that "The proposal would decrease stakeholder input into the critical interconnection processes."[28] We profoundly disagree. We are perfectly willing to continue the generator interconnection stakeholder process. This proposal would simply put a temporary process into place while the stakeholders do their work.

V. The Commission Will Retain Control of the Portions of the Interconnection Process Within Its Jurisdiction

A number of parties expressed concern that the IOUs are seeking to "federalize" the entire interconnection process for all generators. This is simply not true. PG&E acknowledges that the CPUC has jurisdiction over the interconnection of projects using all power on site and over projects engaging in retail net metering, and this advice filing does not seek to change that jurisdictional line or the process of interconnecting those projects. Nor does PG&E dispute that the CPUC has jurisdiction over the interconnection of projects selling all their power to the interconnected utility under a PURPA contract, particularly at distribution voltage. Any use of the FERC interconnection process would be only an interim basis, and the CPUC would be free to revise its decision to use the FERC process at a later date.

Some parties (particularly Sustainable Conservation and the Division of Ratepayer Advocates) argue that the CPUC has exclusive jurisdiction over the interconnection of all distribution level generators. This simply is not the current law. In Orders 2003 and 2006, FERC concluded that if distribution lines belong to utilities that are subject to an Open Access Transmission Tariff ("OATT"), then the FERC interconnection rules govern the interconnection of projects making wholesale sales, subject to the PURPA PPA exemption discussed above. Various parties, including the CPUC challenged that decision, and it was upheld by the federal courts. In *National Ass'n of Regulatory Utility Commissioners v.*

[27] IREC/Vote Solar protest, issue 6, p. 15.
[28] IREC/Vote Solar protest, final issue, p. 16.

FERC, 475 F.3d 1277, 1282 (D.C. Cir. 2007). See also *Southern California Edison v. Public Utilities Commission*, 121 Cal.App.4th 1303 (2004) (CPUC's effort to regulate renewable resource interconnection arrangements pre-empted by pervasive FERC regulation). After the NARUC decision, the CPUC and others filed a Petition for a Writ of Certiorari at the U.S. Supreme Court, challenging the determination that FERC has jurisdiction over wholesale generator interconnections at distribution voltage. That petition may be found at http://www.naruc.org/Filings/NARUC%20Supreme%20Court%20Brief.pdf. All of the arguments made in the protests were included in that petition. The Supreme Court denied that petition.

Sustainable Conservation attaches to its Protest the Petition for Modification of D.07-07-027 it filed in June. PG&E responded to that protest on July 22. That response may be found at http://docs.cpuc.ca.gov/efile/RESP/140299.PDF. PG&E incorporates that response here by reference.

VI. Alternative Proposal

As PG&E has consistently maintained, there simply is not an existing Rule 21 procedure that can be used or even easily adapted within the expected time frame before it is needed to interconnect QFs under PURPA contracts. If PG&E's Advice Letter 3864-E is not adopted when it is needed, PG&E proposes to decline interconnection of such contracts under Rule 21 *except* if the customer-generator voluntarily uses the applicable GIP (which is currently permitted under Rule 21.[29] All other customers seeking to interconnect a QF under a PURPA agreement will simply have to wait until either the Commission adopts PG&E's Advice Letter, or the Rule 21 Working Group completes the necessary updates to the Rule; or some other course of action is able to be implemented.

VII. Summary

The CPUC should approve this IOU Advice letters while it continues its ongoing interconnection work.

Sincerely,

Vice President – Regulation and Rates

[29] Section D.1.f of Rule 21, states: "Generating Facility Conditions Not Identified. In the event this Rule does not address the Interconnection conditions for a particular Generating Facility, PG&E and Producer may agree upon other arrangements."

cc: Beth Vaughan - California Cogeneration Coalition
Karen Mills - California Farm Bureau Federation
Tam Hunt - Clean Coalition
Cynthia Walker - DRA
Evelyn Kahl - Energy Producers and Users Coalition
Tim Lindl
Brian T. Cragg - Interstate Energy Producers Association
Kevin T. Fox and Adam Browning – Interstate Renewable Energy Council with Vote Solar Initiative
Jody London - Sustainable Conservation
William Martini - Tecogen
Bruce Foster – Southern California Edison
Akbar Jazayeri – Southern California Edison
Megan Caulson – San Diego Gas & Electric
Rachel Peterson – Energy Division
Service Lists R.11-05-005, R.08-06-024, R.10-05-004, A.08-11-001