

review of project costs to ensure that the pricing is consistent with current market conditions. PG&E did not provide any open-book analysis to its PRG as part of the discussion and review of the amended PPA. Therefore, it is not possible to conclude that the amended PPA represents the “best available offer” from North Star. Moreover, TURN does not believe that a “good faith” proposal or “best available offer” should be approved if it is not competitive with viable alternatives currently available to PG&E.

As a member of PG&E’s Procurement Review Group (PRG), TURN has reviewed both the amended PPA price and comparable bids in the recent PG&E RPS solicitation. Even with the 20% price reduction, the amended PPA compares unfavorably to the average bids from similar projects and remains significantly more costly than the top tier of bids from similar projects not placed on the shortlist. If the Commission rejects the amended PPA, PG&E could easily negotiate a replacement PPA with one or more of these bidders at a significantly lower price.

PG&E believes that the Commission should ignore the deep pool of current bids and instead rely exclusively on alternatives available in 2009. This argument essentially asks the Commission to deny ratepayers the benefits associated with the reduction in photovoltaic costs over the past several years. Since 2009 market prices for photovoltaic projects have declined dramatically due to a combination of plummeting panel prices, cheaper financing, more generous tax benefits and the reduction in costs of other system components. As a result, typical bids provided in the 2011 RPS solicitation are priced far lower than those received for similar projects in 2009.

The Commission recently rejected this same argument in denying PG&E’s application seeking to acquire, own and operate the Manzanita wind project in the face of serious opposition by TURN and DRA. The Commission refused to limit the scope of its analysis to a limited set of alternatives because “excluding from the comparison, projects that are under negotiations under the RPS process but not yet finalized, unnecessarily limits the scope of our assessment.”³ The Commission should apply this same analysis to the amended PPA.

As explained in our comments on Draft Resolution E-4405, TURN has watched a variety of developers with executed PPAs return for price increases when fundamental cost drivers make a project uneconomic to continue. In such cases, the IOUs have been willing to accommodate reasonable and justifiable increases on a case-by-case basis. Developers argue that they cannot be held to a price submitted years ago when the market has changed and costs are higher. TURN has been willing to endorse these amendments when developers open their

³ Decision 11-03-036, page 25.

books and demonstrate the reasonableness of costs and investor returns. The Commission has approved many such modifications over the years.

PG&E has not supported the amended PPA with any demonstration that the pricing is justified based on an open-book analysis of the project. This is important because developers of solar projects wait until the last possible moment to make binding financial commitments for equipment, construction and financing. At the very least, developers do not make such commitments until a valid PPA has been executed by a creditworthy counterparty and approved by any relevant regulatory agency. If the Commission were to approve the contract as submitted, North Star would be able to take advantage of industry-wide cost declines without passing on the full savings to PG&E ratepayers. As a result, the changes in market conditions would be primarily used to substantially increase investor returns.

TURN urges that the principle of symmetry be applied to the amended PPA. If it is fair to allow developers to seek price increases when market conditions change, it is also fair to reject a PPA when a developer locks in PPA pricing at the peak of the market and changed conditions subsequently reveal that the price is artificially high and unreasonable. This does not mean that Commission-approved PPAs should be reopened after-the-fact, but rather that this type of analysis should apply to any PPA seeking Commission approval. Since North Star does not have an approved PPA for this project, the Commission needs to apply such scrutiny and does not owe either the developer or PG&E any presumption of reasonableness based on the fact that the parties spent time and resources negotiating the agreement.

TURN supports the use of the Westlands Water District land for new solar project development. This site includes previously disturbed agricultural lands that are well-suited for large-scale solar installations. Projects located on this site are unlikely to face any local opposition or massive land mitigation requirements. TURN hopes that future PPAs with projects located in this area can offer competitive pricing based on current market conditions.

The Commission should therefore approve the draft resolution and reject the amended PPA. Such an action will send an important message about the need to align PPA pricing with actual market costs, especially in the situation where significant declines in market prices cause an unapproved PPA to become uncompetitive.

Sincerely,

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