



March 29, 2012

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Re: Protest of Marin Energy Authority and Alliance for Retail Energy Markets to PG&E Advice Letter 4010-E

On March 9, 2012, Pacific Gas and Electric Company (PG&E) submitted Advice Letter 4010-E, regarding the approval of PG&E's Replacement Power Purchase Agreement ("PPA") with O.L.S. Energy-Agnews, Inc. ("Advice Letter"). This protest of Marin Energy Authority ("MEA") and Alliance for Retail Energy Markets ("AREM") raises questions about the allocation of (1) costs and resource adequacy ("RA") benefits, and (2) greenhouse gas ("GHG") emissions reductions related to this proposed Replacement PPA.

1. The Advice Letter Does Not Allocate Costs and RA Benefits as Required by Decision 10-12-035

Pursuant to the Combined Heat and Power Settlement ("CHP Settlement") approved by the Commission in Decision ("D") 10-12-035, Ordering Paragraph 5:

Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall procure combined heat and power resources on behalf of electric service providers (ESPs) and community choice aggregators (CCAs) and shall allocate the resource adequacy benefits and net capacity costs associated with this procurement to the ESPs and CCAs as described in Section 13.1.2.2 of the Term Sheet attached to the October 8, 2010 "Qualifying Facility and Combined Heat and Power Settlement Agreement."

However, in the present Advice Letter, PG&E requests that the Commission "authorize recovery of costs associated with the Replacement PPA through PG&E's Energy Resource Recovery Account ("ERRA"), and [(3)] authorize recovery of stranded costs consistent with D.08-09-012."

PG&E's Advice Letter appears inconsistent with D.10-12-035 in that it fails to utilize the required form of "net capacity" cost recovery, and fails to acknowledge that the associated capacity related benefits must be allocated to all ESPs and CCAs that is specified in Section 13.1.2.2 of the CHP Settlement, as specified in D.10-12-035. Instead, PG&E appears to be attempting to pick and choose its own preferred form of cost recovery, rather than complying

with the directives of D.10-12-035. Perhaps PG&E's disregard for the CHP Settlement signifies a willingness on its part to renegotiate the terms of the settlement; MEA and AREM would welcome the opportunity to re-vamp the cost allocation mechanisms approved in D.10-12-035. Until then, PG&E should not be allowed to pick and choose whether it will comply with the order that implemented the CHP Settlement.

2. The Advice Letter Intends to Allocate GHG Reductions to PG&E's Emissions Reduction Targets, Notwithstanding the Proportionate ESP and CCA Emissions Reductions Targets

PG&E also requests that the Commission determine that any GHG reductions associated with the Replacement PPA shall count toward PG&E's GHG Emissions Reduction Targets in the QF/CHP Settlement." (AL 4010-E at 2.) However, the CHP Settlement, Section 6.3.1, allocates a proportionate requirement of GHG emissions reductions (in the form of the California Air Resources Board CHP Recommended Reduction Measure ("CARB CHP RRM").

A core element of the CHP settlement is the appropriate allocation of GHG responsibilities and benefits. In D. 10-12-035, the Commission determined that "exempting ESPs and CCAs from GHG-related requirements would give these LSEs an improper competitive advantage over the IOUs. (Finding of Fact 25.) By relying on P.U. Code Section 365.1(c)(1), the Commission concluded that "ESPs should be subject to the same GHG emissions reduction requirements as the IOUs" (Conclusion of Law 8), and stated that the IOUs "shall procure combined heat and power resources on behalf of [ESPs] and [CCAs]. (Ordering Paragraph 5)

To have PG&E procure a CHP resource on behalf of ESPs and CCAs without allocating the GHG benefits run contrary to the CHP Settlement and D.10-12-035. The Advice letter should be revised accordingly.

MEA and AREM thank the Energy Division for their attention to this request.

Respectfully Submitted,



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And on behalf of:
Alliance for Retail Energy Markets

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