

May 14, 2012

Julia Tom
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102**Subject: Comments of Pacific Gas and Electric Company (U 39-E) on
Draft Resolution E-4496**

Pacific Gas and Electric Company ("PG&E") hereby submits its comments on Draft Resolution E-4496 which approves, subject to modification, PG&E's proposed tariff and power purchase agreement ("PPA") for eligible combined heat and power ("CHP") facilities less than 500 kW in capacity ("Standard 500 kW PPA").

Preliminarily, PG&E requests Energy Division to correct the record on the timing of PG&E's response to protests. PG&E filed Advice No. 3971-E on December 16, 2011. Protests were due on January 5, 2012, but the protest of California Clean DG Coalition ("CCDC") was received on January 6. CCDC acknowledged that its protest was one day late and requested that the protest be accepted and considered by Energy Division.¹ Energy Division staff informed PG&E that CCDC's protest was not shown on the Daily Calendar as late filed. Energy Division did not advise PG&E that it might consider CCDC's protest to be a "late protest" under Section 7.4.4 of General Order 96-B. Accordingly, PG&E assumed that the protest period ended on January 6, 2012 and replied to CCDC's protest within five business days as required by Section 7.4.3 of General Order 96-B. Under these circumstances, PG&E's response should not be characterized as a "late-response" in the final resolution.

**1. Limitations on the Applicability of the CAISO Tariff Should be
Removed from the Draft Resolution.**

The Draft Resolution's proposal that an under 500 kw CHP generator ("Seller") should be required to comply with applicable CAISO tariffs only if the Seller interconnects pursuant to a FERC-jurisdictional interconnection tariff² is contrary to law. The CAISO tariff provides that generators are subject to its terms, though certain terms may apply differently to generators of different sizes. The proposal is also unreasonable because

¹ Protest of CCDC to PG&E Advice 3971-E, etc., dated January 6, 2012, at 1.

² Draft Resolution, Finding and Conclusion 4.

it would deny the Buyer (or in this case, PG&E) the ability to aggregate Sellers under the CAISO tariff.

Sellers generate energy for resale, and therefore are “Eligible Customers” under the CAISO tariff. The relationship between electricity generators and CAISO is governed by Section 4.6 of the CAISO tariff.³ Section 4.6.3.1 exempts generators directly connected to a utility distribution system with a capacity of less than 1 MW from Section 4.6.⁴ However, Section 4.6.3.1 specifically states, “This exemption in no way affects... any obligation to... comply with all the other applicable Sections of this CAISO Tariff.” Sellers’ obligation to comply with applicable sections of the CAISO tariff is established by the CAISO tariff itself.

CAISO tariff section 4.6.3.1 also provides that a generating unit with capacity of less than 500 kW is eligible to participate in the CAISO markets if the generating unit is participating in an aggregation agreement approved by the CAISO. Distinct from realizing RA value from the Sellers, PG&E may find it advantageous to aggregate Sellers in order to optimize their value within PG&E’s energy portfolio. In that case, Sellers would become “participating generators” in the CAISO market and may be subject to additional terms of the CAISO tariff. By asserting that Sellers interconnected under Rule 21 have no obligation to comply with the CAISO tariff, the Draft Resolution may create uncertainty from the Sellers’ perspective about PG&E’s ability to aggregate their generation. This could substantially foreclose PG&E’s attempts to leverage the value of generation from Sellers, since “the vast majority of CHP facilities participating in this FiT (are expected to) interconnect through Rule 21.”⁵

The Draft Resolution directs PG&E to modify Standard 500 kW PPA §3.08, §3.12(b), Exhibit C §1 and Exhibit D §1, which require Seller to comply with the CAISO Tariff, as applicable. The purpose of these modifications is to limit their applicability to Sellers that interconnect pursuant to a FERC-jurisdictional interconnection tariff. The CAISO Tariff provides that generators with a capacity of less than 1 MW are subject to applicable provisions of the tariff, even if they are not subject to CAISO relationship rules. The cited provisions do Sellers no harm because they simply restate Sellers’ obligation to comply with all applicable provisions of the CAISO Tariff. Moreover, the suggestion that Sellers under a Standard 500 kW PPA may not be subject to the CAISO tariff is wrong. Accordingly, the directive to limit the applicability of the CAISO tariff should be removed from the final resolution.

³ Section 4.6 requires operation pursuant to relevant operating procedures, establishes rules for QFs, and enables the sharing of information with CAISO, among other things.

⁴ Such generators are also exempt from Section 10.1.3, which governs net metering arrangements

⁵ Draft Resolution at 8.

2. The Proposed Forecasting and Outage Reporting Requirements are Inadequate to Meet Utility Needs.

The delivery forecasting and outage reporting terms of Exhibits C and D, respectively, were designed to enhance the value of generation from Sellers by providing more assurance that deliveries will occur as planned. The Draft Resolution's replacement of current, updated monthly forecasts of deliveries and quarterly submissions of long-range outage schedules with *fixed annual forecasts* does not provide Buyer with sufficient assurance about the information necessary to accurately schedule this generation into the market.

Discrepancies between forecast and actual deliveries from Sellers may result in costs to Buyer's customers. However, the cost of unmet delivery obligations may be managed through revised forecasts, which generally allow Buyers to fulfill needs by procuring alternative supplies. Outage notification assists the Buyer to identify the reason for differences between Sellers' forecast and actual generation; otherwise, all discrepancies would simply be counted as Unaccounted for Energy (UFE). Seller notification may relieve customers of the costs assessed by CAISO for UFE. .

Exhibits C and D provided forecast and reporting accuracy by requiring Seller to periodically update its information. The Draft Resolution replaces Exhibit C (1) with a modified version of Pacificorp's proposed tariff. However, the Draft Resolution does not compensate for the resultant lack of periodic updates; it only requires Sellers to provide a one-time forecast of monthly deliveries, subject to voluntary updating in the event of a 20% discrepancy between forecast and actual annual deliveries. This static depiction of Seller's generation is inadequate because as the amount of Seller capacity grows, the scale of potential differences between forecast and actual deliveries will grow as well, prompting an even greater need for accurate energy forecasts. The Draft Resolution provides no incentive to provide updates or penalty if Seller fails to comply with the IOUs' request to update inaccurate forecasts or to ensure the accuracy of its numbers. Forecast accuracy, which is important to Buyer's customers, may still be encouraged through other means with minimal effect on Sellers' operations. Consequently, unless the Draft Resolution incorporates more meaningful provisions for Sellers to provide timely and accurate forecast, PG&E agrees with SCE and SDG&E that the Commission should revert back to the IOUs' language on this topic.

With respect to outage reporting, PG&E joins SCE and SDG&E's objection to the replacement of Exhibit D (2) with a one-time outage schedule. The inclusion of Section 6.6 of Pacificorp's tariff helps to mitigate, but does not fully compensate for, the lack of accurate outage reporting that would have been provided by Exhibit D (2) of the IOUs' proposed PPA.

3. Daily Operating Records Should be Maintained Consistent with Good Utility Operating Practices.

PG&E agrees with SCE and SDG&E that the Commission should restore the Buyers'

requirement that Seller maintain daily operating records, and provide them to Buyer upon 20 days' notice, for all of the reasons cited by SCE and SDG&E. The Draft Resolution's proposal to require Seller to provide Buyer with an annual summary of Seller's energy efficiency factors does not provide the necessary assurance of consistent facility operation.

The daily operating records include records of real and reactive power production, changes in operating status, protective apparatus operations, and any unusual conditions found during inspections. As in the case of outage reporting, daily operating records provide a useful secondary source of generation information which may play a critical role in the event of equipment malfunction. In the event that metering or telemetry information is unavailable, daily operating records could help to document Seller's performance or identify the cause of a failure. Sellers that fail to maintain daily operating records would forego this extra protection against revenue loss.

The Draft Resolution requires Sellers to annually provide Buyer annualized operating records to summarize the Seller's energy efficiency in consideration of the GHG and installed capacity goals set forth in the CHP Settlement. PG&E supports this requirement. However, efficiency compliance considerations are distinct from the Buyer's need for daily operational information to ensure the safety and reliability of electricity operations. The final resolution should not attempt to substitute annual efficiency data for operational information.

4. The Commission Should Clarify that AB 1613 Generators Must Perform as Represented in Commission Decisions and Consistent with the Intent of AB1613.

Page 13 of the Draft Resolution states, "(T)he IOUs will receive RA credit for CHP facilities participating in this FiT irrespective of each CHP facility's performance."⁶ This statement may be based on the fact that small AB 1613 generators interconnected at distribution level under a non-WDAT tariff are excused from having to demonstrate their RA value by Resolution E-4424. The exemption was necessitated by the fact that the deliverability studies by which RA value is established was not available to generators with non-FERC jurisdictional interconnections. Resolution E-4424 did not imply that Sellers' performance was immaterial, as suggested by the Draft Resolution.

PG&E is concerned that the quoted language may imply that AB 1613 facilities need not be required to generate the capacity imputed to their facilities in order to meet RA program objectives. If small AB 1613 generation does not perform in a dependable manner, IOUs will be required to meet their RA obligations either by procuring additional RA capacity or by reimbursing CAISO for capacity that the CAISO has procured through its Capacity Procurement Mechanism. Consequently, IOU customers could pay twice for the same amount of RA benefit. PG&E requests that the sentence suggesting that performance is irrelevant be deleted.

⁶ Draft Resolution at 13.

The Draft Resolution should not have faulted PG&E for asserting that the insurance requirements of the Standard 500 kW Contract are necessary to mitigate the risk of Seller non-performance and the consequent loss of RA value by PG&E's customers.⁷ As explained in the preceding paragraph, IOU customers face potential costs if Sellers fail to deliver as expected. Insurance coverage is intended to reduce the interval during which capacity from a Seller's generating facility might be unavailable due to employee claims, automobile accidents, and other claims that could consume Seller's resources and interfere with the operation of the generating facility. The final resolution should not assert that PG&E's explanation of the need for insurance is "spurious"

5. Conclusion

The Draft Resolution should be modified as recommended, above, so that the Standard 500 kW PPA will allow PG&E to maximize the value of each Seller's output for its customers. For all of the foregoing reasons, PG&E respectfully requests the Commission to modify the Findings and Conclusions of the Draft Resolution as specified in the Appendix, and to make conforming changes to the body of the Draft Resolution as well.



Vice President, Regulation and Rates

Appendix: Proposed findings of fact and conclusions of law, and ordering paragraphs.

cc: President Michael Peevey
Commissioner Timothy Simon
Commissioner Mike Florio
Commissioner Catherine Sandoval
Commissioner Mark Ferron
Ed Randolph, Director, Energy Division
Karen Clopton, Chief Administrative Law Judge
Frank Lindh, General Counsel
Andrew Schwartz, Energy Division
Jason Houck, Energy Division
Energy Division Tariff Unit
Service List for R.08-06-024 and A.08-11-001

⁷ Draft Resolution at 13.

Appendix

Proposed Findings of Fact and Conclusions of Law

1. The two sentences at the top of Draft Resolution p. 4 should be revised as shown:

PG&E filed a ~~late~~ response to the protests of North Coast Solar and CCDC on January 13, 2012. Energy Division has accepted PG&E's ~~late-filed~~ response.

2. Finding and Conclusion 3 should be modified as shown:

CHP facilities less than 500 kW in capacity that interconnect through Rule 21 and do not participate in CAISO markets are exempt from CAISO's tariff Sections 4.6 and 101.1.3 ~~and but are~~ should not be required to comply with CAISO tariffs to the extent applicable ~~in the 500 kW Contract.~~

3. Finding and Conclusion 4 should be modified as shown:

The proposed Standard 500 kW Contract ~~should only requires~~ requires a Seller to comply with ~~applicable CAISO tariffs to the extent applicable, if the Seller interconnects pursuant to a FERC-jurisdictional interconnection tariff.~~

4. Finding and Conclusion 5 should be modified as shown:

The Scheduling and Reporting requirements ~~as included in Exhibits C and D of the proposed Standard 500 kW Contract~~ provide information that may allow Buyer to minimize procurement costs. ~~are unnecessarily detailed and onerous.~~

5. Finding and Conclusion 6 should be modified as shown:

Exhibit D-1 of PacifiCorp's proposed 500 kW Contract ~~would~~ provides a reasonable balance between a utility's need for generation and outage forecasts with a small CHP facility's limited resources if Seller experienced ramifications from its failure to provide timely or accurate forecasts.

6. Finding and Conclusion 8 should be modified as shown:

The contents of Exhibit C(2) of the Standard 500 kW Contract should ~~not~~ be replaced in their entirety by Exhibit D-1 Section A of PacifiCorp's proposed 500 kW Contract, ~~making formatting changes as necessary to specify that the table requires monthly energy delivery forecasts, not outage and maintenance scheduling.~~

7. Finding and Conclusion 9 should be modified as shown:

The contents of existing Exhibit D(2) in the Standard 500 kW Contract should not be replaced in their entirety by Exhibit D-1 Section A of PacifiCorp's proposed 500 kW Contract, ~~making formatting changes as necessary to specify that the table requires outage and maintenance scheduling, not monthly energy deliveries.~~ In the updated Exhibit D(2) of the Standard 500 kW Contract, the IOUs may choose to include the provisions for unplanned outages specified in Section 6.6 of PacifiCorp's proposed 500 kW Contract.

8. Finding and Conclusion 10 should be deleted.

9. Finding and Conclusion 11 should be modified as shown:

In consideration of the GHG and installed capacity goals set forth in the CHP Settlement and the limitations of small CHP facilities, the IOUs should insert ~~replace the contents of Section 3.12(f) of the proposed Standard 500 kW Contract and section 6.7 of PacifiCorp's proposed 500 kW Contract with the following language in a new subsection to Section 3.11, making formatting changes as appropriate:~~

“On an annual basis from the Effective Date, Seller shall provide electronically or in hard copy to Buyer, within 20 days of a request by Notice from Buyer, the following annualized operating records: total annual electricity generation (MWh/year), total annual useful thermal output (MMBtu/year), total annual fuel use (MMBtu-HHV), and fuel conversion factor (pounds of CO2 per million BTU).”

[End of the Appendix to PG&E's Comments on Draft Resolution E-4496]

CERTIFICATE OF SERVICE

I certify that I have by mail, e-mail, or hand delivery this day served a true copy of Pacific Gas and Electric Company's comments on Draft Resolution E-4496, regarding PG&E's Advice Letter 3971-E on:

- 1) Commissioners Michael Peevey, Mark Ferron, Mike Florio, Catherine Sandoval, and Timothy Simon
- 2) Edward Randolph – Director, Energy Division
- 3) Karen Clopton – Chief Administrative Law Judge
- 4) Frank Lindh – General Counsel
- 5) Jason Houck – Energy Division
- 6) Andy Schwartz – Energy Division
- 7) Julia Tom – Energy Division
- 8) Energy Division Tariff Unit
- 9) Service List R.08-06-024
- 10) Service List A.08-11-001

/S/ KIMBERLY CHANG
Kimberly Chang
PACIFIC GAS AND ELECTRIC COMPANY

Date: May 14, 2012