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August 30, 2012

ED Tariff Unit
Energy Division
California Public Utilities Commission
Energy Division Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

RE: Draft Resolution E-4494 – Request of Pacific Gas and Electric Company for Approval of a Replacement Power Purchase Agreement with O.L.S. Energy-Agnews, Inc.

ED Tariff Unit:

In accordance with Section 311 subdivision (e) of the California Public Utilities Code and Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission, Pacific Gas and Electric Company ("PG&E") hereby submits its comments on Draft Resolution E-4494 ("Draft Resolution"). The Energy Division has recommended Commission approval without modification of the power purchase agreement ("PPA") with O.L.S. Energy-Agnews, Inc ("Replacement PPA"), which was submitted as Advice 4010-E on March 9, 2012 (and supplemented as Advice 4010-E-A on April 24, 2012). PG&E appreciates and supports this recommendation, particularly since it rejects the attempt of Marin Energy Authority, the Alliance for Retail Energy Markets, and the Direct Access Customer Coalition ("Joint Protestors") to obtain an allocation of GHG emission benefits to which they are not entitled.

The Draft Resolution approves PG&E's advice letter proposal that "any GHG reductions associated with the Replacement PPA count toward the GHG Emissions Reduction Targets included in the Settlement".¹ The Joint Protestors claimed that PG&E's advice letter failed to allocate GHG emissions reductions to ESP and DA/CCA Parties. The Draft Resolution rejects the Joint Protestor's claim by stating:

Section 6.3.2 determines that the IOUs are exclusively responsible for acquiring the CHP resources necessary to meet the combined Emissions Reduction Target

¹ PG&E's Advice 4010-E, p. 2.

("ERT") of the IOUs and non-IOU LSEs (currently defined as CARB's RRM in Section 6.2.2.3) ... It is not necessary to allocate GHG benefits because the IOUs have sole responsibility for the Emissions Reduction Target per Section 6.3.2 of the Term Sheet.²

The Draft Resolution finds that there is "no need" to specifically allocate GHG benefits from each CHP contract to each LSE, which could imply that it might be necessary to allocate GHG benefits to individual non-IOU LSE's in some cases. That would be incorrect, because the IOUs have sole liability to meet the GHG emissions reductions goal under the CHP Settlement Agreement Term Sheet ("Term Sheet").³ Non-IOU LSEs have no responsibility to meet the GHG goal under Section 6.3.2 of the Term Sheet and are not entitled to receive GHG benefits that have been procured by the IOUs. The allocation of GHG benefits to non-IOU LSEs would serve no purpose, but it would impose the cost of replacement GHG credits on IOU customers. Thus, it would never be reasonable to allocate GHG benefits from CHP contracts to a non-IOU LSE.

A simple substitution of "reasonable" for "necessary" as shown below, will demonstrate the Commission's position:

At Draft Resolution, p. 13:

RA credits are allocated in proportion to net capacity costs per Section 13.1.2.2 of the Term Sheet. It is not ~~necessary~~ **reasonable** to allocate GHG benefits because the IOUs have sole responsibility for the Emissions Reduction Target per Section 6.3.2 of the Term Sheet.

Finding and Conclusion No. 5, p. 17:

RA credits are allocated in proportion to net capacity costs per Section 13.1.2.2 of the Term Sheet. It is not ~~necessary~~ **reasonable** to allocate GHG benefits because the IOUs have sole responsibility for the Emissions Reduction Target per Section 6.3.2 of the Term Sheet.

² Draft Resolution, p. 13.

³ *Ibid.*

This Resolution is the first to address a protest based on Section 13.1.2.2 and its language may become the standard for resolutions concerning procurement under the CHP program. This is another reason to correct the Draft Resolution to state that it is "not reasonable" to allocate GHG benefits from each CHP contract to each LSE required to pay above-market costs of the Agnews Replacement PPA.

Respectfully Submitted,

Handwritten signature of Brian Cherry / IG in black ink.

Vice President – Regulatory Relations

cc: Commissioners Michael Peevey, Timothy Simon, Mike Florio, Catherine Sandoval and Mark Ferron
Frank Lindh – General Counsel, Legal Division
Edward Randolph – Director, Energy Division
Karen Clopton – Chief Administrative Law Judge
Noel Crisotomo – Energy Division
Andy Schwartz – Energy Division
Energy Division Tariff Unit – Energy Division
Service List R.12-03-014 (superseding R.10-05-006, which was closed on April 24, 2012)
Service List for Draft Resolution E-4494

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-4494, regarding PG&E's Advice Letter 4010-E and 4010-E-A on:

- 1) Commissioners Michael Peevey, Timothy Simon, Mike Florio, Catherine Sandoval and Mark Ferron
- 2) Frank Lindh – General Counsel, Legal Division
- 3) Edward Randolph – Director, Energy Division
- 4) Karen Clopton – Chief Administrative Law Judge
- 5) Noel Crisotomo – Energy Division
- 6) Andy Schwartz – Energy Division
- 7) Energy Division Tariff Unit – Energy Division
- 8) Service List R.12-03-014 (superseding R.10-05-006, which was closed on April 24, 2012)
- 9) Service List for Draft Resolution E-4494

/S/ IGOR GRINBERG
Igor Grinberg
PACIFIC GAS AND ELECTRIC COMPANY

Date: August 30, 2012