

October 22, 2012

ED Tariff Unit
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
EDTariffUnit@cpuc.ca.gov**Re: PG&E's Comments on Draft Resolution E-4546**

Dear Energy Division Tariff Unit:

Pacific Gas and Electric Company ("PG&E") submits the following comments on Draft Resolution E-4546 ("Draft Resolution"), which was circulated on October 2, 2012 for public review and comment in advance of the California Public Utilities Commission's ("Commission") consideration and potential vote on November 8, 2012. For the reasons set forth below, PG&E requests the Commission make changes to the Draft Resolution's Findings, Conclusions, and Orders shown in Appendix 1 to this Letter.

I. Summary of Advice Letter Filing

In Advice Letter 4100-E filed on August 16, 2012 (the "Advice Letter"), PG&E requested approval of modifications to its Renewable Auction Mechanism ("RAM") Program for use in its third RAM Solicitation consistent with Commission Decision ("D.") 10-12-048. PG&E's proposals were in response to bidder feedback and PG&E's experience. PG&E also proposed to better align its RAM Power Purchase Agreement ("PPA") with the draft 2012 Renewables Portfolio Standard ("RPS") PPA presented in PG&E's 2012 RPS plan filed on August 15, 2012.

II. Draft Resolution E-4546

The Draft Resolution approves in part, and denies in part, PG&E's requested changes. The Draft Resolution also addresses changes to RAM sought by Southern California Edison Company ("SCE") in advice letter ("AL") 2759-E and by San Diego Gas & Electric Company ("SDG&E") in AL 2392-E. The Draft Resolution requires that all substantive changes to the RAM program apply equally to all investor owned utilities ("IOUs").

III. PG&E's Comments on the Draft Resolution

PG&E requests that the Commission (1) clarify that PG&E may maintain its existing Protocol and PPA provisions addressing Resource Adequacy ("RA"); (2) extend the allowed regulatory delay period to twelve months; (3) adopt PG&E's proposal to increase required buyer

curtailment hours; and (4) clarify and/or modify certain substantive changes.

A. PG&E's Existing Resource Adequacy Structure Should be Maintained

PG&E should not be required to revise its existing approach to RA in its RAM Program. PG&E's RA structure was developed in compliance with Resolution E-4489, was recently approved by the Commission, and implemented in the Second RAM Solicitation. The Draft Resolution directs IOUs to adopt changes requested by SCE to (1) require a Seller to designate the specific months over the course of the RAM PPA by which the project will achieve full deliverability; and (2) revise its PPA to allow the IOU to pursue actual, direct losses if the Seller fails to meet its RA obligations. PG&E does not oppose the application of these changes to SCE.

PG&E adopted an RA approach consistent with Resolution E-4489¹ by AL 4032 E-A and successfully implemented its approach as part of the Second RAM Solicitation.² Under PG&E's RA structure, participants bidding with Full Capacity Deliverability Status ("FCDS") are required to indicate a date by which the seller would obtain FCDS. FCDS is not a requirement for commercial operation, but must be achieved by no later than December 31, 2021. If the seller cannot obtain FCDS by December 31, 2021 then PG&E is entitled to terminate the PPA and collect damages for the replacement value of the PPA, which would be the direct damages, up to the amount of delivery term security held by PG&E. Because the exact date that a Seller may provide RA is not specified in interconnection studies, PG&E's Protocol does not attribute any value to bids for projects providing FCDS until January 1, 2022.

PG&E's RA approach is simple and provides a straightforward methodology to value RA. Requiring further revision presents a significant administrative burden to PG&E and creates instability for market participants that accepted PG&E's approach and seek financing. Further, parties did not propose changes when PG&E submitted its plans for RAM 3 in AL 4100-E. PG&E prefers its own approach to the approach required by the Draft Resolution as the calculation of lost RA value after the fact is likely to lead to disputes or may not fully capture ancillary costs. Accordingly, PG&E should not be required to adopt the substantive revisions concerning RA addressed by the Draft Resolution.

B. The Regulatory Delay Period Should be extended to Twelve Months

In AL 4100-E, PG&E observed that small renewable developers face a number of interconnection challenges. PG&E and SCE proposed to extend the commercial operation deadline ("COD") to 36-months to provide developers additional time to overcome these hurdles. The Draft Resolution rejected PG&E's and SCE's requests based on a lack of sufficient evidence. PG&E requests the Commission recognize the challenges faced by renewable generation through an extension of the permitted delay period.

Over the past few years, there have been significant increases in interconnection requests for

¹ Resolution E-4489 established that producers bidding projects with FCDS are not required to achieve FCDS as a precedent to commercial operation, but are required to achieve FCDS by a specific date, and allowed IOUs to consider the benefits of RA when bids are evaluated.

² PG&E's approach is summarized on p. 2-4 of AL 4020 E-A (approved by the Commission on May 29, 2012).

renewable generation up to 20 MW. Challenges associated with increased interconnection requests are well documented at California Energy Commission (“CEC”) and California Independent System Operator (“CAISO”).³ The growth in these requests has extended project development timelines, which creates barriers for projects endeavoring to come online within tight CODs. Moreover, interconnection agreements increasingly do not provide developers a date certain for interconnection, but rather a 12-month estimated range. Several bidders in PG&E’s RAM had interconnection estimates ranging from 24-36 months. PG&E did not exclude those bidders because the lower range of the time estimate would allow them to be compliant with the RAM COD.

Because of the significant and well known interconnection challenges facing renewable developers up to 20 MW, PG&E requests that the Commission modify the Draft Resolution to extend the regulatory delay period from six months to twelve months. PG&E asserts that a twelve month extension is more appropriate than a six month extension because it is more consistent with the range of uncertainty identified in the interconnection studies. An increased delay period will improve RAM Program’s success by allowing developers time, if necessary, to achieve COD due to legitimate interconnection challenges. If problems are not experienced, PG&E’s proposal will not result in unreasonably long periods between PPA approval and COD.

C. Increase Buyer Curtailment Hours will Allow PG&E to Respond to Periods of Negative Pricing

Approval of PG&E’s request to increase buyer curtailment hours to 250 hours would improve the RAM Program by providing PG&E and the CAISO with increased flexibility to manage resources in the most cost effective manner. PG&E’s curtailment proposal was addressed by Clean Coalition, on a limited basis, to request clarification that sellers would be paid for the incremental hours of curtailed energy. PG&E confirmed that the Seller would be paid for up to 250 hours of curtailment. No protests were received about increasing the total number of hours.

The ability to curtail additional hours of RAM resources in the CAISO market is essential to address the increased occurrence of negative prices. The CAISO anticipates that a significant number of hours in future periods will have negative prices⁴ due to excess generation as a result of the mix of resources on the system and an increased level of renewable generation. In addition, the negative price cap in the CAISO market is expected to be significantly higher.⁵ As

³ See May 14, 2012 CEC Lead Commissioner Workshop on Interconnection available at http://www.energy.ca.gov/2012_energy/policy/documents/#05302012 and June 22, 2011 Workshop on Distribution Infrastructure Challenges; available at

http://www.energy.ca.gov/2011_energy/policy/documents/index.html#06222011; See CEC 2011 Integrated Energy Policy Final Report at 11, 40, available at <http://www.energy.ca.gov/2011publications/CEC-100-2011-001/CEC-100-2011-001-CMF.pdf>. See presentations on CAISO’s TPP-GIP stakeholder workshops, available at http://www.caiso.com/Documents/Presentation-TransmissionPlanningGenerationInterconnectionIntegrationMeeting_July_28_2011.pdf

⁴ See CAISO, 2011 Report on Market Issues and Performance at Chapter 3, available at <http://www.caiso.com/Documents/2011AnnualReport-MarketIssues-Performance.pdf>

⁵ The CAISO bid floor for negative prices is currently set at \$-30/MWh but is scheduled to decrease to \$-150/MWh by Jan 1, 2014 and likely further to \$-300/MWh. While the ultimate level this floor might reach over the next 20 years is uncertain, other ISOs/RTOs currently have lower floors, including MISO (at \$-500/MWh) and NYISO (at \$-999.99/MWh). See <http://www.caiso.com/Documents/Decision-RenewableIntegration-MemoDec2011.pdf>.

the frequency and level of negative prices increases, PG&E's customers will benefit to the extent there are more bids in the CAISO market to reduce generation. During times of excess generation, the CAISO will select the most economic bids to reduce generation to meet the reliability need; if PG&E's unable to offer bids due to a number of hours limitation being reached, and if the price would have been competitive, then the CAISO will have to pursue more expensive options (which is costlier for customers). PG&E's RAM PPAs bind the utility to purchase energy for periods up to 20 years so future flexibility needs and future customer costs need to be considered now. The ability of PG&E to address negative pricing would result in an improvement of the RAM Program over the long term by allowing the utility to curtail resources when it is economic to do so for customers and while still compensating generators.

PG&E's requested amount of paid buyer curtailment hours is also conservative with regard to what the Commission has approved in other PPAs. PG&E's 2011 and proposed 2012 RPS form PPAs include a minimum of 250 hours of paid curtailment. It is also reasonable given the Commission adoption of SCE's RAM 2 PPA, which includes unlimited hours of paid curtailment. If the Commission wants to promote uniformity on this issue, PG&E would be willing to increase its paid buyer curtailment to an unlimited number of hours so PG&E's PPA is consistent with SCE's PPA. Because increased paid buyer curtailment hours would allow PG&E to better respond negative pricing and may result in benefits to PG&E's customers, the Commission should adopt PG&E's requested increase in paid buyer curtailment hours.

D. PG&E Proposes Minor Changes to Draft Resolution to Improve the RAM Program.

PG&E offers the following minor changes to the Draft Resolution's adoption of those proposals to better facilitate IOU administration of the RAM program.

1. IOU Discretionary Termination for Excessive Upgrade Costs Should be Available to IOU for Sixty (60) Days Following Interconnection Results

PG&E supports the Draft Resolution's adoption of SCE's proposal to allow IOUs the discretion to create a unilateral termination right for excessive network upgrade costs, subject to a seller's "buy down" such costs. PG&E seeks clarification regarding the period of time during which an IOU must decide to terminate the PPA or enable seller to elect the "buy down" option following notice from the transmission provider of the results of an interconnection study. By AL 2759-E, SCE requested that the IOU notify seller within sixty (60) days of the availability of new transmission study results of its intention to terminate the RAM PPA.⁶ While the Draft Resolution adopts SCE's proposal, it misinterprets SCE's proposal to require notification within thirty (30) days following the availability of new transmission study results.⁷

PG&E requests that the Commission adopt a sixty (60) day period, which should provide adequate time for the developer to negotiate with the Participating Transmission Owner following the receipt of an interconnection study showing increased costs. Such negotiations may decrease the expected transmission costs. Additionally, in order to avoid a dispute with the

⁶ See SCE Proposed RAM Pro Forma at Section 2.04 (a)(iii).

⁷ Compare Draft Resolution at 5 and Finding 8 to Draft Resolution at 12.

seller, the IOUs need certainty that the network upgrade costs are above the pre-determined cap before exercising a termination right. PG&E is concerned that a thirty day period would not provide the IOU adequate time to analyze the study, make a decision to terminate, and present its findings to the Procurement Review Group, if needed, prior to invoking its termination right.

2. Existing Resources Should be Allowed to Participate in RAM if the Project's Existing Contract Expires 24 Months from the RAM PPA Effective Date

PG&E supports Energy Division staff's proposed modifications to eligibility rules for existing projects to participate in RAM. PG&E recommends that the Commission set RAM eligibility rules to allow existing resources to bid if the contract terminates by its existing terms within 24 months of the PPA's final and non-appealable approval date, rather than the auction close date. This proposed clarification is consistent with the RAM Program rules requiring a project to achieve COD within 24 months of Commission final and non-appealable approval of the associated RAM PPA. It is also consistent with Resolution E-4453 concerning SCE's PV Program which determined that it is reasonable to define solicitation close based on the date of CPUC final approval of the PPAs, rather than the date on which bids were due.

III. Conclusion

The Draft Resolution errs in three significant respects. First, the Commission should allow PG&E to maintain its existing RA provisions. Second, the Commission should increase the allowed period of regulatory delays by an additional 6-month period for a total of 12 months. Third, the Commission should adopt PG&E's buyer curtailment proposal which would allow PG&E to cost-effectively manage its renewable portfolio. Finally, PG&E suggests two minor changes that would facilitate administration of the RAM Program. For the foregoing reasons, the Commission should modify the Draft Resolution as shown in Appendix 1 to this letter.

Sincerely,



Vice President – Regulatory Relations

cc: Commissioners Michael Peevey, Mark Ferron, Mike Florio, Catherine Sandoval, and Timothy Simon
Edward Randolph – Director of the Energy Division
Karen Clopton – Chief Administrative Law Judge
Frank Lindh – General Counsel
Adam Schultz – Energy Division
Paul Douglas – Energy Division
Service List for Draft Resolution E-4546

Appendix 1
Recommended Modifications to Draft Resolution E-4546 Findings and Ordering Paragraphs

Finding No. 27	Parties have not provided sufficient evidence to justify extending the deadline <u>regulatory delay period</u> for RAM projects to achieve commercial operation .
Finding No. 28	SCE and PG&E's request to extend the commercial operation regulatory delay period to twelve months <u>deadline</u> in RAM is denied <u>approved</u> .
Finding No. 39	The record on PG&E's specific economic curtailment proposal is insufficient <u>supports increasing periods of paid buyer curtailment</u> .
Finding No. 40	PG&E's request to increase the maximum allowable hours of economic curtailment is denied without prejudice <u>approved</u> .
Ordering Paragraph 2	The modifications adopted in Ordering Paragraphs 3 through 12 <u>11</u> shall apply to the Renewable Auction Mechanism (RAM) program universally, and shall be reflected in each of the utility's RAM Pro Forma power purchase agreements (PPAs), RAM Bidding Protocols, and Program Rules, as necessary.
Ordering Paragraph 6	Each of the investor-owned utilities shall <u>may</u> require a Seller bidding a project with full capacity deliverability status to designate which specific months over the course of its PPA that it will provide resource adequacy benefits to the utility. Seller may not supply resource adequacy from a third-party, nor may Seller provide resource adequacy benefits in excess of the Net Qualifying Capacity of its facility.

<p>Ordering Paragraph 7</p>	<p>Each of the investor-owned utilities shall <u>may</u> include a provision allowing the utility to pursue actual, direct losses if a Seller fails to meet its resource adequacy obligations.</p>
<p>Ordering Paragraph 9</p>	<p>The RAM program eligibility rules as applied to existing facilities are modified as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> An existing facility may participate in RAM without restriction if the existing facility is not currently delivering energy pursuant to an existing contractual agreement with PG&E, SDG&E, or SCE; or if such an agreement exists but it is scheduled to end within 24 months of the date of <u>CPUC final and non-appealable approval of the RAM PPA</u>that RAM bids are due for that particular auction.
<p>Ordering Paragraph 13</p>	<p>The deadline for RAM projects to achieve commercial operation shall remain 24 months from the date of CPUC approval of the RAM PPA. <u>A 12 month extension shall be allowed in the event of a permitting delay, transmission delay or force majeure.</u></p>
<p>Ordering Paragraph 17</p>	<p>Pacific Gas and Electric Company shall maintain the term that exists in its previous <u>revise its</u> RAM PPA as it relates to economic curtailment ordered by the Buyer <u>to increase the required buyer curtailment hours to 250 hours.</u></p>