



DRA

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Subject: Comments of the Division of Ratepayer Advocates on Draft Resolution E-4545

Pursuant to the December 19, 2012 Comment Letter for Draft Resolution E-4545 (Draft Resolution), the Division of Ratepayer Advocates (DRA) submits these Comments on the Draft Resolution, addressing Pacific Gas and Electric Company's (PG&E) advice letter (AL) 3989-E. In AL 3989-E, PG&E requests approval of the amended and restated power purchase agreement (Amended PPA) with Rice Solar Energy, LLC (Rice Solar).¹⁻² The Draft Resolution approves the Amended PPA and associated cost recovery.

SUMMARY OF DRA'S RECOMMENDATIONS

The Commission should reject the Draft Resolution by denying PG&E cost recovery for the Amended PPA between PG&E and Rice Solar. Denying the Amended PPA would be consistent with the Commission's current efforts to better align contract pricing with the most current market conditions.

DRA supports the stated Renewables Portfolio Standards (RPS) goals and agrees with the Draft Resolution that the "health of the renewables market in California depends on fairness and

¹ DRA protested AL 3989-E on the following grounds: 1) uncompetitive price compared to other market alternatives; 2) lack of Renewables Portfolio Standard (RPS) portfolio need; 3) lack of need to provide technology diversity to PG&E's portfolio; and 4) agrees with the Independent Evaluator (IE) Report's conclusion that the Amended PPA does not merit Commission approval. (See DRA Protest of AL 3989-E, February 6, 2012.)

² Rice Solar proposes to develop a 150 megawatt (MW) thermal solar power tower facility with molten salt storage near Rice, California. It will deliver an average 448 gigawatt hours (GWh) per year for 25 years.

transparency in the procurement process.”³ However, this Draft Resolution language is at odds with projects like the Amended PPA, which provides low net value, high contract price, and low portfolio fit and project viability. Given the growing maturity of the renewable market and the consistently lower prices of renewable contracts, especially in response to the 2011 RPS solicitation, there is no reason to approve this Amended PPA that is above the 2011 Market Price Reference (MPR).⁴ Further, the Commission is currently considering changes to the RPS procurement process to ensure that ratepayer funds are spent cost-effectively and efficiently. The Commission should deny the Amended PPA because comparing the Amended Solar Rice Contract to projects from the current market solicitation prices is consistent with the Commission’s stated goal to limit time allowed for contract negotiations with the intention of aligning contract pricing with current market conditions.⁵ Thus, DRA continues to recommend that the Commission reject this Amended PPA.⁶

BACKGROUND

The Rice Solar project was originally proposed in PG&E’s 2009 RPS solicitation and the contract was negotiated bilaterally in November 2009. The Original PPA was submitted for approval in December 2009, in AL 3581-E, which was approved in July 2010 in Resolution 4340-E.

However, in January 2012, PG&E submitted AL 3989-E seeking approval of the Amended PPA. The Amended PPA includes the following key revisions:⁷

- 1) The point of interconnection changes from interconnecting directly with the California Independent System Operator (CAISO) balancing authority area (BAA) at the Colorado River substation (CR) to interconnecting vis-à-vis pseudo-tie agreement with the Western Area Power Administration (WAPA) BAA at WAPA’s Mead substation.
- 2) The commercial operation date (COD) changes from October 1, 2013 to June 1, 2016 to account for delays in achieving a pseudo-tie agreement and delays in CPUC approval.

³ Draft Resolution at 10.

⁴ DRA’s Protest of AL 3989-E, February 6, 2012 at 2.

⁵ *Second Assigned Commissioner’s Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals* (October 5, 2012, R.11-05-005, available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M029/K970/29970716.PDF>).

⁶ In light of the Comment Letter’s directive, DRA’s Comments focus only on “factual, legal or technical errors” in the Draft Resolution. Silence on any particular issue should not be construed as assent.

⁷ Draft Resolution E-4545 at 5.

- 3) New provisions were included to ensure the full delivery/value of Resource Adequacy (RA) capacity full value of energy deliveries from Mead.⁸

On December 19, 2012, the California Public Utilities Commission (Commission) issued Draft Resolution E-4545. The Draft Resolution approves the Amended PPA and associated cost recovery.

POSITION & RECOMMENDATION

A. THE COMMISSION SHOULD DENY THE AMENDED PPA BECAUSE IT IS NO LONGER COMPETITIVE

As DRA noted in our protest to AL 3989-E and in previous comments filed in response to the October 2012 *Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comment on Proposals* (ACR),⁹ the Commission should better align contract pricing with the most current market conditions.¹⁰ The Commission issued the ACR in an attempt to address certain deficiencies in the RPS procurement process that have come to light after years of implementation. By continuing to approve projects that provide low net value, low portfolio fit and project viability, with a high contract price, the Commission is perpetuating these deficiencies and allowing the further inefficient waste of ratepayer money. There is simply no evidence or basis for the Commission to find that the amended Rice Solar contract is reasonable and competitive compared to other projects under development in California because the project is only evaluated against the original set of cohorts from PG&E's 2009 RPS solicitation.¹¹ In fact, the Independent Evaluator clearly explains that "[t]he contract is now distinctly uncompetitive when compared to alternatives available to PG&E. Despite progress the developer has made, Rice Solar still ranks low in project viability...to competing alternatives. To execute the amended Rice Solar contract while rejecting numerous 2011 Offers for projects with both higher viability, higher net (market) value, and lower price creates the appearances of

⁸ The change in delivery points results in adverse consequences for PG&E ratepayers: specifically, diminished benefits of the project and increased risk to ratepayers. To mitigate the adverse consequences resulting from the change in delivery point for PG&E ratepayers, the Amended PPA revises the payment provisions such that Rice Solar would compensate PG&E ratepayers for the loss in energy value due to congestion and reduced RA capacity.

⁹ *Supra*, fn. 5.

¹⁰ DRA Opening Comments on ACR, filed November 20, 2012; DRA Reply Comments on ACR, filed December 12, 2012.

¹¹ Draft Resolution at 10.

unfairness to those project developers.”¹² DRA emphatically agrees. The Draft Resolution nevertheless ignores this recommendation.¹³

The Draft Resolution attempts to explain why the Amended PPA was compared to projects offered to PG&E resulting from its 2009 RPS solicitation by stating,

The Original PPA was executed in early 2010 and the Amended PPA was submitted to the Commission in early 2012. Because the core characteristics of the Rice Solar project did not change materially or impact the value of the project since the Original PPA was executed, Energy Division evaluated the Amended PPA against the original set of cohorts from PG&E’s 2009 RPS Solicitation.¹⁴

The Draft Resolution fails to adequately justify why, given the growing maturity of the renewable market and the consistently lower prices of renewable contracts since 2009, the Commission only compares the amended Rice Solar project to results from the 2009 RPS solicitation. Rice Solar’s project ranking for project viability should be compared to competing alternatives in the 2011 RPS solicitation because PG&E seeks approval of the Amended PPA in 2012, not 2009, and therefore the Commission should not approve the Amended PPA based on stale information from solicitations that are no longer comparable to, or competitive with, current market prices. The use of more current market information will benefit ratepayers as well as other market participants, who would enjoy the certainty of knowing that their contracts will compete against current benchmarks.¹⁵

Further, DRA believes that some of the core characteristics did change materially and did impact the value of the Rice Solar project. The Amended PPA consists of key revisions such as the new COD for the project, which may fall beyond the presumption that PG&E applied in determining need for its 2009 RPS solicitation. Even if the changed COD from October 1, 2013 to June 1, 2016 may better align with PG&E’s incremental RPS compliance needs, PG&E has adequate time to execute a less expensive PPA to meet its RPS needs.

A 150 MW solar thermal facility is a fairly large project for RPS, and with a 25-year term, ratepayers will be on the hook for a long period of time and will be precluded from securing better-priced renewable deals. Even if the Energy Division believes that the core characteristics of the Rice Solar project did not change “materially,” PG&E should still have the burden to demonstrate that the amended Rice Solar contract is the most competitive and best-fit resource

¹² Draft Resolution at 11.

¹³ *Id.*

¹⁴ Draft Resolution at 10.

¹⁵ *See e.g.* DRA Opening Comments on ACR, filed November 20, 2012 at 4.

based on current market conditions. Consistent with pending procurement reform the Commission is currently undertaking, the Commission should not approve a project in 2013 by relying solely on comparing it to the outdated solicitation results from 2009 to decide on the reasonableness of a 25-year commitment for PG&E's ratepayers.

CONCLUSION

For the above stated reasons, the Commission should reject cost recovery for the Amended PPA between PG&E and Rice Solar. Please contact Selena Huang at xiao.huang@cpuc.ca.gov or (415) 703-5247 with any questions regarding these comments.

/s/ MICHAEL CAMPBELL

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