



March 21, 2013

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

Subject: Comments on Draft Resolution E-4569

Dear Energy Division Tariff Unit:

Pacific Gas and Electric Company (“PG&E”) respectfully submits its comments on California Public Utilities Commission (“Commission” or “CPUC”) Draft Resolution E-4569 (“Draft Resolution”), which approves without modification the two Confirms for Resource Adequacy (“RA”) Capacity Products submitted by Southern California Edison Company (“SCE”) via Advice Letter 2771-E. The Confirms were executed with Calpine Energy Services, L.P. (“Calpine”) for 120 megawatts (“MW”) of capacity from Calpine’s Gilroy facility and for 280.5 MW of capacity from Calpine’s Los Medanos Energy Center (“LMEC”).¹

PG&E strongly supports the Draft Resolution’s approval of the Calpine Agreements, especially its specification of these key points:

1. The Gilroy Facility and LMEC are eligible CHP Facilities as defined by the QF/CHP Settlement adopted in Decision (“D.”) 10-12-035.²
2. Capacity-only CHP transactions are consistent with the goals and objectives of the QF/CHP Settlement, which included for a variety of forms and product types to accommodate differently situated CHPs.³
3. 130 MW from the Gilroy Facility and 280.5 MW from LMEC shall count toward SCE’s CHP MW targets.⁴
4. Because both the Gilroy and LMEC facilities are existing CHP facilities with no change in operations, the Calpine Agreements count as “neutral” toward SCE’s GHG target.⁵

¹ The Confirms are referred to as the “Gilroy Agreement” and the “LMEC Agreement”, respectively, and the “Calpine Agreements” collectively.

² *Draft Resolution E-4569, Findings and Conclusions*, 2 and 3, also at pp. 15-15.

³ *Id.*, pp. 14-15.

⁴ *Id.*, Finding and Conclusion 7.

⁵ *Id.*, Finding and Conclusion 10; see, Term Sheet Section 7.3.3.

5. The Calpine Agreements are eligible for cost recovery. Net capacity costs of the Calpine Agreements should be allocated pursuant to D.10-12-035, which adopted the cost allocation rules defined in QF/CHP Settlement Agreement Term Sheet Section 13.1.2.2.⁶

The Draft Resolution correctly finds that the Calpine Agreements count toward SCE's CHP MW target. However, the following minor revisions are needed to provide clarity for the prospective implementation of the CHP procurement program:

1. The final version of Resolution E-4569 should reject the Energy Producers and Users Coalition ("EPUC") claim that SCE did not consider LMEC to be an eligible resource as irrelevant. Draft Resolution E-4529, which approves PG&E's LMEC Agreement, contains a discussion of this issue which should be moved from PG&E's into SCE's Draft Resolution.
2. Capacity-only CHP transactions may be procured through a CHP RFO and may satisfy CHP MW procurement goals.

The Commission should make these revisions, as detailed below, in the final version of Resolution E-4569.

1. The Disposition of EPUC's Eligibility Challenge Should Be Moved from PG&E's Draft Resolution to SCE's Draft Resolution

EPUC suggests that Los Medanos was not considered to be an eligible resource under the QF/CHP Settlement because it was not included as a "potentially affected QF" in the application of PG&E, SCE, and San Diego Gas & Electric Company for relief under Section 210(m) of the Public Utility Regulatory Policies Act of 1978 ("PURPA").⁷ SCE's response to EPUC is summarized on page 10 of the Draft Resolution. The Energy Division correctly analyzed and dismissed EPUC's argument, but mislabeled its discussion as a response to "Joint Parties' Claim #4" and inserted the text on page 12 of Draft Resolution E-4529, the Draft Resolution approving PG&E's LMEC Agreement. One convenient option for disposing of EPUC's argument would be to reference SCE in the Energy Division's response and move that discussion from Draft Resolution E-4529 to Draft Resolution E-4569. The following passage could be inserted into the final version of Resolution E-4569:

⁶ *Id.*, Finding and Conclusion 11.

⁷ *Application of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company to Terminate PURPA Purchase Obligation for Qualifying Facilities Greater than 20 MW*, FERC Docket No. QM 11-2-000, filed March 18, 2011 ("Section 210(m) Application").

Joint Parties' Claim #4: LMEC was not among the facilities listed as "potentially affected WFs" the IOUs filed when they filed at FERC in support of the QF Settlement. Therefore it appears that the IOUs may not have considered LMEC an eligible CHP facility. Energy Division staff has no means of assessing whether or not the IOUs considered LMEC an eligible facility at the time they filed to support the QF Settlement is irrelevant, because LMEC meets the eligibility requirements for participation in the RFO set forth in Section 4.2.2.1 of the Settlement Term Sheet. However, based on staff's interpretation of the eligibility requirements in the Settlement, LMEC appears to be an eligible facility. We agree with staff's interpretation. Furthermore, inclusion of a facility on this list is not a precondition for eligibility to participate in the Settlement. For example, SCE was not required to include LMEC on the list because it did not have a contract with LMEC at the time and LMEC was not in its service territory. In addition, the Settlement allows entirely new facilities to participate in the Settlement despite the fact that these facilities were not, and indeed could not, have been included on this list.

2. Capacity-only CHP Transactions May Be Procured Through a CHP RFO and May Satisfy CHP MW Procurement Goals

The Draft Resolution correctly concludes that the Settlement does not prohibit capacity-only transactions with eligible CHP facilities from participating in PG&E's CHP RFO.⁸ To provide guidance for future RFOs, the Commission should insert the following text in the discussion of ***Protesting Parties' Protests, Issue #1*** and as a Findings and Conclusion:

An RA capacity-only product is one of several contract options that the IOUs may offer in the CHP RFO, in accordance with Settlement Term Sheet section 4.2.6, Capacity-only procurement is consistent with the goals and objectives of the QF/CHP Settlement.

3. Clerical Error Should be Corrected

Also, PG&E suggests that the following correction be made to Findings and Conclusion #4, which appears on Draft Resolution E-4569, p. 26:

As a Qualifying Facility, LMEC previously sold a resource adequacy capacity product to SCE-PG&E between 2008 and 2011. Similarly, as a Qualifying Facility, Gilroy has been under a long-term QF contract with PG&E since 2002.

⁸ Draft Resolution E-4569, p. 9.

Conclusion

The Draft Resolution clearly recognizes the merits of the Calpine Agreements and summarizes convincing reasons for CPUC approval of these transactions. However, PG&E requests the Commission to make these three changes in the final version of Resolution E-4569: (1) Explicitly reject EPUC's suggestion that LMEC may not be an eligible CHP facility by inserting a modified version of the discussion labeled "Joint Parties' Claim #4" from Draft Resolution E-4529, and (2) Definitively state that capacity-only CHP transactions may be procured through a CHP RFO and be used to satisfy CHP MW procurement goals and (3) Correct the misidentification of SCE as the previous purchaser of LMEC's resource adequacy capacity product.

Sincerely,



Vice President – Regulatory Relations

cc: Commissioner Michael Peevey
Commissioner Mark Ferron
Commissioner Mike Florio
Commissioner Catherine Sandoval
Commissioner Carla Peterman
Edward Randolph – Director, Energy Division
Karen Clopton – Chief Administrative Law Judge
Frank Lindh – General Counsel
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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-4569, regarding SCE's Advice Letter 2771-E on:

- 1) Commissioner Michael Peevey
- 2) Commissioner Mark Ferron
- 3) Commissioner Mike Florio
- 4) Commissioner Catherine Sandoval
- 5) Commissioner Carla Peterman
- 6) Edward Randolph – Director, Energy Division
- 7) Karen Clopton – Chief Administrative Law Judge
- 8) Frank Lindh – General Counsel
- 9) Cem Turhal – Energy Division
- 10) Damon Franz – Energy Division
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- 17) John Leslie – McKenna Long & Aldridge LLP
- 18) Akbar Jazayeri, SCE
- 19) Leslie E. Starck (c/o Karyn Gansecki), SCE
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- 21) Claire Torchia, SCE
- 22) Beth Vaughan, CCC
- 23) Evelyn Kahl, Counsel for the Energy Producers and Users Coalition
- 24) Service List for Draft Resolution E-4569

/S/ KIMBERLY CHANG

Kimberly Chang
PACIFIC GAS AND ELECTRIC COMPANY

Date: March 21, 2013