

DRA

*Division of Ratepayer Advocates
California Public Utilities Commission*

505 Van Ness Avenue
San Francisco, California 94102
Tel: 415-703-2381
Fax: 415-703-2057

JOSEPH P. COMO
Acting Director

<http://dra.ca.gov>

March 6, 2013

VIA ELECTRONIC MAIL
and FIRST CLASS MAIL

CPUC, Energy Division
Attention: Tariff Files, Room 4005
505 Van Ness, Avenue
San Francisco, CA 94102
EDTariffUnit@cpuc.ca.gov

REDACTED

Subject: Protest of the Division of Ratepayer Advocates of Pacific Gas and Electric Company's Advice Letter 4193-E (Power Purchase Agreements for the Procurement of Eligible Renewable Energy Resources between ABEC Bidart-Stockdale, LLC and ABEC Bidart-Old River, LLC and PG&E)

INTRODUCTION

The Division of Ratepayer Advocates (DRA) submits this protest of Pacific Gas and Electric Company's (PG&E's) Advice Letter 4193-E (AL 4193), filed on February 14, 2013. In AL 4193, PG&E seeks California Public Utilities Commission (Commission) approval of two new Power Purchase Agreements (PPAs) between PG&E and ABEC Bidart-Stockdale, LLC (Stockdale) and ABEC Bidart-Old River, LLC (Old River). DRA recommends that the Commission reject AL 4193 for the following reasons:

- The levelized post-time of delivery (TOD) contract prices and PG&E's net market and portfolio-adjusted values for the Stockdale and Old River PPAs are not competitive when compared to shortlisted offers from PG&E's 2011 Renewable Portfolio Standard Request for Offers (2011 RPS RFO);
- The value of the Stockdale and Old River PPAs as a pilot opportunity is not clear and ratepayers should not subsidize the projects on this basis;
- The Commission is currently considering how to implement the bioenergy requirements under SB 1122, and given the uncertainty with how the IOUs will procure bioenergy generation under SB 1122, the Commission should not approve high-priced biogas projects at this time;

Ratepayer Advocates in the Gas, Electric, Telecommunications and Water Industries

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- The Independent Evaluator observed that PG&E granted a few specific concessions to the Stockdale and Old River projects that differ from PG&E's standard requirements for other project developers bidding into the 2011 RPS RFO, resulting in weakened ratepayer protections;

[REDACTED]

BACKGROUND

PG&E seeks Commission approval of two new PPAs, between PG&E and Stockdale and Old River. The PPAs are for RPS-eligible energy. The Stockdale and Old River projects will use dairy-waste biomethane combustion to generate electricity and are each located in Bakersfield, CA. The Stockdale PPA has a capacity of 0.6 MW and a term of 10 years. The Old River PPA has a capacity of 1.84 MW and a term of 15 years.¹ The Stockdale and Old River projects originated in an approach by CalBio to PG&E in early 2011, and the terms of the PPAs were bilaterally negotiated throughout 2011 and 2012.²

PG&E believes the projects represent a pilot opportunity to support the accumulation of financing and operational experience in the dairy-waste bioenergy sector, which aligns the projects with the state's goal of increasing bioenergy generation in California.³

DISCUSSION & RECOMMENDATION

DRA recommends the Commission reject PG&E's request to approve the PPAs with Stockdale and Old River for the following reasons:

The Commission Should Reject The Stockdale And Old River PPAs Because They Rank High In Price And Low In Value

The Stockdale and Old River PPAs do not merit Commission approval because the contract prices and market values are not competitive when compared to offers submitted to PG&E in the 2011 RPS RFO. The average contract price ranges for the Stockdale and Old River PPAs rank in the highest-priced decile among offers received in the 2011 RPS RFO.

[REDACTED]

These average contract price ranges for the Stockdale and Old River projects are higher than more than 90% of offers in the 2011 RPS

¹ PG&E AL 4193-E, p. 1.

² PG&E AL 4193-E, Public Appendix C2: Independent Evaluator Report, p. 3 and p. 52.

³ PG&E AL 4193-E, p. 1.

⁴ PG&E AL 4193-E, Confidential Appendix C1: Independent Evaluator Report, p. 64.

RFO for RPS-eligible energy from in-state projects.⁵ After applying TOD factors, the levelized post-TOD contract prices are [REDACTED] for the Stockdale PPA and [REDACTED] for the Old River PPA.⁶ These prices are significantly higher than the highest priced shortlisted offer from the 2011 RPS RFO, which was [REDACTED].⁷

Using PG&E's least-cost, best-fit methodology, the NMV of the Stockdale PPA is [REDACTED] and the NMV of the Old River PPA is [REDACTED].⁸ The average NMV for all offers received in the 2011 RPS RFO was [REDACTED],⁹ which is well above the NMVs of the Stockdale and Old River PPAs. In addition, using PG&E's PAV methodology, the PAV of the Stockdale PPA is [REDACTED]¹⁰ and the PAV of the Old River PPA is [REDACTED].¹¹ These values are well below the lowest PAV of shortlisted offers from the 2011 RPS RFO, which was [REDACTED].¹²

The Commission Should Reject The Stockdale And Old River PPAs Because Their Value As A Pilot Opportunity Is Not Clear And Ratepayers Should Not Subsidize The Projects On This Basis

PG&E has determined that the Stockdale and Old River biogas projects represent a pilot opportunity to support the accumulation of financing and operational experience in the dairy-waste bioenergy sector.¹³ This rationale is insufficient to justify a ratepayer subsidy of two small and uncompetitively priced projects. Further, the value of the projects as a pilot opportunity is not clear. As PG&E states, dairy-waste bioenergy is a proven and commonly used technology at utility-scale,¹⁴ and although dairy-waste bioenergy has not been deployed at a significant scale yet in California, it is not clear that the benefits PG&E discusses in terms of financing and operational experience will materialize from two small and uneconomic pilot projects.

The IE expresses concerns similar to DRA's and opines that subsidizing two small, uncompetitively priced dairy-based generators by having ratepayers pay them [REDACTED]

⁵ PG&E AL 4193-E, Public Appendix C2: Independent Evaluator Report, p. 64.

⁶ PG&E AL 4193-E, Confidential Appendix B: 2011 Solicitation Overview.

⁷ PG&E AL 4193-E, Confidential Appendix B: 2011 Solicitation Overview.

⁸ PG&E AL 4193-E, Confidential Appendix B: 2011 Solicitation Overview. Note that parentheses represent negative values.

⁹ PG&E AL 4193-E, Confidential Appendix Confidential Appendix A1: Consistency with Commission Decisions and Rules and Project Development Status, p. 7.

¹⁰ PG&E AL 4193-E, Confidential Appendix Confidential Appendix A2: Consistency with Commission Decisions and Rules and Project Development Status, p. 5.

¹¹ PG&E AL 4193-E, Confidential Appendix Confidential Appendix A1: Consistency with Commission Decisions and Rules and Project Development Status, p. 5.

¹² PG&E AL 4193-E, Confidential Appendix B: 2011 Solicitation Overview.

¹³ PG&E AL 4193-E, p. 13.

¹⁴ PG&E AL 4193-E, p. 13.

more than what would be paid at the marginal winning price of PG&E's last RPS solicitation is not justified by the societal benefit of demonstrating this technology.¹⁵ Additionally, the IE questions whether any improvement in efficiency or cost reduction should be expected from deploying the technologies at Stockdale and Old River.¹⁶

The Commission Should Reject The Stockdale And Old River PPAs Because The Commission Is Currently Considering How To Implement The Bioenergy Requirements Under SB 1122

The newly enacted SB 1122¹⁷ directs the Commission to require investor-owned utilities (IOUs) to procure at least 250 megawatts of generation from bioenergy projects that commence operation on or after June 1, 2013. The Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program will consider how to implement the requirements for the IOUs under SB 1122.¹⁸ Given the uncertainty with how the Commission will direct the IOUs to procure bioenergy generation under SB 1122, the Commission should not approve high priced biogas projects at this time and should reject the Stockdale and Old River PPAs. The Stockdale and Old River projects can be reoffered into a future solicitation and compared to other bioenergy projects that meet the requirements under SB 1122.

The Commission Should Reject The Stockdale And Old River PPAs Because The Independent Evaluator Observed That Pg&E Granted A Few Specific Concessions To The Calbio Projects That Result In Weakened Ratepayer Protections

Based on the IE's observations of the bilateral negotiations for the Stockdale and Old River PPAs, PG&E granted the CalBio projects a few specific concessions that result in weakened ratepayer protections, and at least creates the appearance that the CalBio projects received special, disparate, and possibly unfair consideration.¹⁹ First, the Stockdale and Old River PPAs were not offered in a competitive solicitation, although they could have been offered in the 2011 RPS RFO given the timing of bilateral negotiations between PG&E and CalBio. The Stockdale and Old River projects originated in an approach by CalBio to PG&E in early 2011, and the terms of the PPAs were bilaterally negotiated throughout 2011 and 2012.²⁰ The IE observed that PG&E suggested to CalBio that it did not make sense for the parties to proceed in bilateral negotiations, and recommend that the developer "take a look" at submitting its projects as offers to PG&E's impending 2011 RPS RFO, however CalBio declined to submit the projects into the RFO and

¹⁵ PG&E AL 4193-E, Confidential Appendix C1: Independent Evaluator Report, p. 74.

¹⁶ PG&E AL 4193-E, Confidential Appendix C1: Independent Evaluator Report, p. 73.

¹⁷ Codified at Cal. Public Utilities Code Section 399.20(f).

¹⁸ Second Amended Scoping Memo and Ruling of Assigned Commissioner, Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program, pp. 2-3.

¹⁹ PG&E AL 4193-E, Public Appendix C2: Independent Evaluator Report, p. 50 and p. 61.

²⁰ PG&E AL 4193-E, Public Appendix C2: Independent Evaluator Report, p. 52.

PG&E chose not to terminate negotiations with CalBio.²¹ [REDACTED]

Additionally, the IE noted a few specific concessions in contract terms for the Stockdale and Old River PPAs that differ from PG&E's standard requirements for other project developers bidding into the 2011 RPS RFO, resulting in weakened ratepayer protections under the Stockdale and Old River PPAs. [REDACTED]

[REDACTED] The IE concluded that the negotiations for the Stockdale and Old River PPAs were handled in a manner that resulted in less than fully fair treatment of ratepayers and competing developers.²³

²¹ PG&E AL 4193-E, Public Appendix C2: Independent Evaluator Report, pp. 51-52.

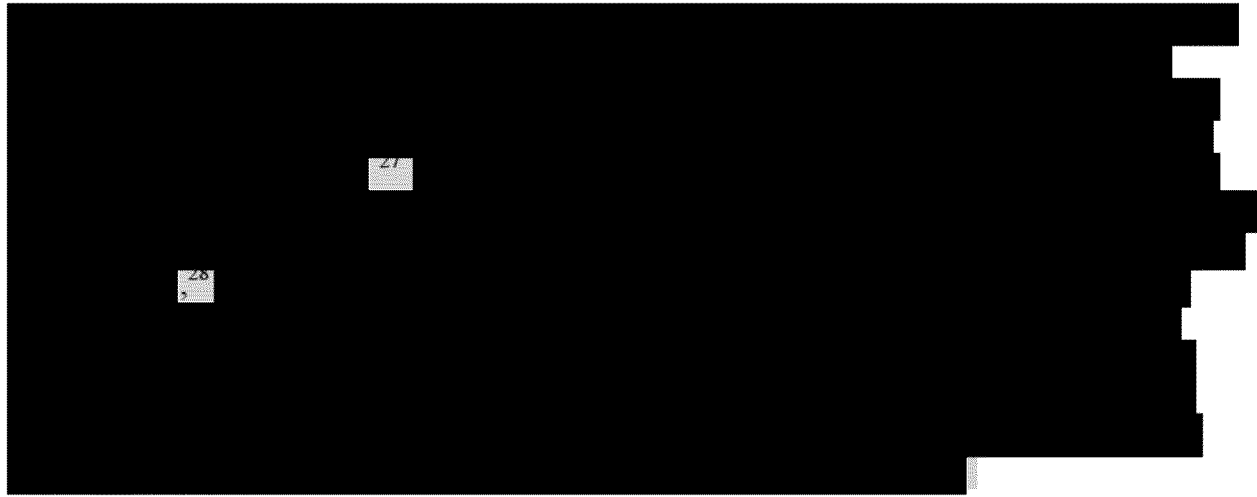
²² PG&E AL 4193-E, Confidential Appendix C1: Independent Evaluator Report, pp. 59-60.

²³ PG&E AL 4193-E, Public Appendix C2: Independent Evaluator Report, p. 61.

²⁴ PG&E AL 4193-E, Confidential Appendix Confidential Appendix A1: Consistency with Commission Decisions and Rules and Project Development Status, p. 8.

²⁵ PG&E AL 4193-E, Confidential Appendix Confidential Appendix A1: Consistency with Commission Decisions and Rules and Project Development Status, p. 9.

²⁶ PG&E AL 4193-E, Confidential Appendix C1: Independent Evaluator Report, p. 65.



CONCLUSION

For the reasons given above, DRA recommends that the Commission reject PG&E's request to approve the PPAs with Stockdale and Old River. Please contact Jordan Parrillo at jordan.parrillo@cpuc.ca.gov or (415) 703-1562 with any questions regarding these comments.

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²⁷ <http://www.arb.ca.gov/cc/capandtrade/protocols/livestock/livestock.htm>

²⁸ PG&E AL 4193-E, Confidential Appendix C1: Independent Evaluator Report, p. 65.

Sincerely,

/s/ CHLOE LUKINS

Chloe Lukins, Program Manager
Division of Ratepayer Advocates

cc: President Michael Peevey, CPUC
Commissioner Carla Peterman, CPUC
Commissioner Michel Florio, CPUC
Commissioner Catherine Sandoval, CPUC
Commissioner Mark Ferron, CPUC
Karen Clopton, Chief Administrative Law Judge, CPUC
Frank Lindh, General Counsel, CPUC
Edward Randolph, Director, CPUC Energy Division
Paul Douglass, CPUC Energy Division
Adam Schultz, CPUC Energy Division
Jason Simon, CPUC Energy Division
Joseph Abhulimen – DRA
Karin Hieta – DRA
Chloe Lukins - DRA
Service List R.11-05-005 (Public Version only)
Service List R.12-03-014 (Public Version only)