DRA

Division of Ratepayer Advocates
California Public Utilities Commission

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VIA ELECTRONIC MAIL and FIRST CLASS MAIL

CPUC, Energy Division
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REDACTED

Subject: Comments of the Division of Ratepayer Advocates (DRA) on Draft Resolution E-4575

INTRODUCTION

Pursuant to the April 9, 2013 Comment Letter for Draft Resolution E-4575 (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 4007-E (AL 4007). In AL 4007, PG&E requests approval of an amendment to a Renewable Portfolio Standard (RPS)-eligible power purchase agreement (PPA) with Sierra Power Corporation (Sierra Power) for energy from Sierra Power's 7.5MW biomass facility.[1] The amendment provides, among other things, a higher price for delivered energy through the remainder of the PPA term, ending July 8, 2014.[2] The Draft Resolution approves cost recovery for the amended PPA between PG&E and Sierra Power without modification.

SUMMARY OF DRA'S RECOMMENDATIONS

The Commission should reject the Draft Resolution and deny cost recovery for the amended PPA between PG&E and Sierra Power. First, PG&E did not conduct a cost benefit analysis to determine how banking renewable energy credits (RECs) for an unspecified period of time would impact ratepayers. Second, ratepayers should not experience a price increase because Sierra Power cannot continue to operate due to the expiration of the California Energy Commission's (CEC) Existing Renewable Facility Program (ERFP) subsidy and increased fuel costs. Third, the Commission found that that generation from Sierra Power's biomass facility is a poor to moderate

[1] PG&E AL 4007-E.

[2] *Id.*

fit for PG&E's RPS portfolio need on the basis that PG&E does not need to procure generation in the compliance periods during which the Sierra Power facility delivers energy. Finally, the Commission should reject the amended PPA because it goes against many of the proposed standards of review set forth in the October 5, 2012 Assigned Commissioner Ruling (ACR).

DISCUSSION & RECOMMENDATION

DRA does not support the Draft Resolution and recommends that the Commission reject the amended PPA for the reasons discussed below.

The Commission should deny the Draft Resolution because PG&E did not conduct a cost benefit analysis to determine ratepayer impact.

It is uncertain whether PG&E's amended PPA with Sierra Power is beneficial to ratepayers because PG&E did not conduct a cost-benefit analysis to determine how banking for an unspecified period of time would impact ratepayers. [redacted] In its qualitative analysis, PG&E analyzed: [redacted][4] PG&E did not include ratepayer impact in its qualitative analysis, thus failing to demonstrate any ratepayer benefit, the Commission should deny this draft resolution.

The Commission should deny the Draft Resolution because the amendment shifts the burden of the cost increase to ratepayers.

While PG&E was unable to demonstrate any ratepayer benefit, the proposed amendment would shift the increased costs to ratepayers. The burden of the proposed rate increase should not be shifted to ratepayers. PG&E states that without the price increase and based on the current commodity market dynamics, [redacted][6] Ratepayers should not subsidize Sierra Power because it has inadequate revenue to continue operation, especially when ratepayers would receive no benefit from such subsidization. Sierra Power, rather than ratepayers, should bear the risk of market and regulatory changes and the associated costs.

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[3] *Id.*, p. A8.

[4] *Id.*

[5] *Id.*, p. A4, A5.

[6] *Id.*

The Commission should deny the Draft Resolution because Sierra Power's biomass facility is a poor to moderate fit.

PG&E stated that, [redacted] The Draft Resolution agrees with PG&E's assessment, finding that generation from Sierra Power's biomass facility is a poor to moderate fit for PG&E's RPS portfolio need because PG&E "does not have a need to procure generation in the compliance periods during which Sierra Power" delivers energy.[8] Hence, there is no basis upon which the Commission should impose additional costs on ratepayers for unneeded RPS resources. The Commission should reject this request.

The Commission should deny the Draft Resolution because approving it goes against many of the proposed standards of review set forth in its Assigned Commissioner Ruling and thus, the Commission is not following its own rules.

The Commission should reject the Draft Resolution because it goes against many of the proposed standards of review set forth in the ACR issued October 5, 2012 in the RPS proceeding, Rulemaking (R.) 11-05-005. The ACR's expressed intent was to "streamline the RPS contract review process, increase transparency of the Commission's review of RPS procurement, establish clear standards for this review process, issue Commission determinations on contract reasonableness on a defined timeline, and, generally, to support market certainty in RPS procurement."[9] The ACR explains that "the Commission is exploring additional ways to refine its RPS procurement review process to be better aligned with the realities of today's renewable energy market" and proposes refinements to the RPS procurement and evaluation process meant to "increase transparency and efficiency in the Commission's evaluation processes."[10] Additionally, the ACR outlines proposed standards for approving amended contracts which require that amendments be reasonable in light of the need for authorization because of a net short.[11]

While new standards of review for RPS procurement have not yet been adopted by the Commission, approving this Draft Resolution would be contrary to the Commission's intent as expressed in the ACR. Approval of the amended PPA will not increase efficiency because both PG&E and the Commission have determined that PG&E has no need for Sierra Power's generation. Imposing additional costs on ratepayers for unneeded RPS resources is inefficient. Moreover, the amendment is unreasonable in light of the ACR's proposed "Need Authorization"

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[7] AL 4007-E, p. A3.

[8] Draft Resolution E-4575, p. 9.

[9] Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals, in R.11-05-005, October 5, 2012, p. 2.

[10] *Id.*, at 4.

[11] *Id.*, p. 27.

criteria.[12] Under this factor, the ACR states that an amendment will be approved if there is a need for such authorization, specifically stating, "[g]eneration quantity must be consistent with RPS net short approved in IOUs most recently approved RPS procurement plan."[13] As explained above, PG&E does not have a need for Sierra Power's biomass generation because it does not have a net short, and the Draft Resolution agrees. While the ACR's proposal has not yet been adopted, the Draft Resolution clearly runs contrary to Commission intent expressed by the ACR's proposal.

Finally, the newly enacted Senate Bill (SB) 1122[14] directs the Commission to require investor-owned utilities (IOUs) to procure at least 250 megawatts of generation from bioenergy projects that commence on or after June 1, 2013. The Commission intends to address RPS procurement from bioenergy resources, including implementation of SB 1122, during the second quarter of 2013.[15] This Draft Resolution should not be adopted on the basis of legislative direction to procure bioenergy until the Commission has determined how best to implement SB 1122, especially given the high price to ratepayers and lack of need for the resource. The Commission should reject the Draft Resolution.

CONCLUSION

For the above reasons, DRA recommends that the Commission deny the draft resolution. Please contact Colin Rizzo at colin.rizzo@cpuc.ca.gov or (415) 703-1784 with any questions regarding these comments.

Sincerely,

/s/ KARIN HIETA

Karin Hieta, Supervisor
Division of Ratepayer Advocates

[12] *Id.*

[13] *Id.*

[14] Codified at Cal. Public Utilities Code Section 399.20(f).

[15] Second Amended Scoping Memo and Ruling of Assigned Commission, in R.11-05-005, January 9, 2013, p. 6.

cc: President Michael Peevey, CPUC
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