

**Confidentiality Protected Pursuant to
Decision 06-06-066 & Decision 08-04-023**

July 5, 2013

CPUC Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102

**Re: Reply to Protest Received from Division of Ratepayer Advocates
regarding Advice Letter 4238-E, requesting approval of PG&E's 2012
Renewable Portfolio Standard Shortlist**

I. Introduction

Pacific Gas and Electric Company ("PG&E") filed Advice Letter 4238-E ("Advice Letter") on June 7, 2013, seeking approval of its 2012 Renewable Portfolio Standard ("RPS") Shortlist Report. The 2012 RPS Shortlist Report is comprised of PG&E's description of its RPS Solicitation Evaluation Criteria and the Independent Evaluator's ("IE") Report for PG&E's 2012 RPS Solicitation.

PG&E's Advice Letter was protested by the Division of Ratepayer Advocates ("DRA").¹ PG&E submits this letter in reply to DRA's protest. In its protest, DRA argues that the California Public Utilities Commission ("Commission") should approve the Advice Letter without the following projects on the Shortlist: [REDACTED]

[REDACTED] (collectively, the "Projects"). DRA alleges that PG&E has not justified placing these Projects on the Shortlist because other bids not shortlisted had higher Portfolio-Adjusted Values ("PAV").² DRA also alleges that [REDACTED] should be removed from the shortlist because: [REDACTED]

¹ 8minutenergy Renewables and Gestamp Solar also jointly filed a Response to the Advice Letter on June 27, 2013.

² DRA does not suggest that those other bids should replace the Projects on the shortlist.

Confidential

[REDACTED]

The Commission should approve the Advice Letter without modification because the Shortlist is consistent with PG&E's 2012 RPS Procurement Plan (including PG&E's least-cost, best-fit ("LCBF") methodology) approved by Decision 12-11-06. The Commission should reject DRA's protest, which relies heavily on quotations from the IE's Report, given that the IE has determined that while IE disagreed with PG&E's conclusions with regard to certain shortlisted bids, PG&E's Shortlist, including the Projects, is "reasonable and justifiable and within the range of subjective business judgment," and that in the IE's opinion, the Shortlist merits Commission approval.³

II. The Projects are Consistent with PG&E's Approved LCBF Criteria

DRA argues that the Projects should be removed from the Shortlist because some of the other projects bidding in PG&E's Solicitation offered higher PAVs.⁴ While the PAVs of the Projects identified by DRA are lower than other offers in PG&E's 2012 RPS Solicitation, each Project may offer significant value to PG&E that merits its inclusion on the Shortlist. Importantly, PG&E selected the shortlisted Projects using PG&E's approved LCBF methodology applicable to the 2012 RPS RFO.

By arguing that PG&E should exclude the Projects simply because other projects offer higher PAV, DRA appears to misconstrue PG&E's LCBF methodology. PG&E's methodology does not require selection of Projects based on PAV alone. As described in PG&E's 2012 RPS Protocol,⁵ in addition to net market value and PAV, PG&E considers more subjective, qualitative criteria, including a project's viability, contribution to one or more RPS goals, seller concentration, and supplier diversity. In contrast to selecting only those projects which offer highest PAVs, PG&E selects the set of highest-ranked offers, taking into account both PAV and the qualitative considerations set forth in its LCBF process, which allow for a reasonable probability of satisfying PG&E's procurement goal.⁶

³ Advice Letter 4238-E, Section 2 (Public IE Report), at p. 3.

⁴ DRA Confidential Protest to PG&E's Advice Letter 4238-E, dated June 27, 2013 ("DRA Protest"), at pp. 2, 6, and 7.

⁵ PG&E's 2012 RPS Solicitation Protocol, November 29, 2012, at pp. 22-27; *id.* at Attachment K, PG&E's Description of its RPS Bid Evaluation, Selection Process and Criteria ("2012 LCBF Description"), at p. 2.

⁶ *Ibid.*

Confidential

Moreover, the fact that a Project is on the Shortlist does not mean that a PPA will be executed. PG&E's Shortlist is designed to be generally inclusive, representing substantially greater volumes than PG&E expects to actually bring under contract. This helps to ensure that the Shortlist represents a sufficient number of high-quality and diverse offers to allow PG&E to negotiate the best procurement opportunities for its customers. PG&E expects offer terms to change during the process of negotiation; some bids may decrease in value through negotiations, and some may increase. Including the Projects on the Shortlist simply means the projects are not excluded from consideration and allows an opportunity for increases in value prior to the execution of a PPA, if any.

PG&E will discuss the terms of proposed Power Purchase Agreements ("PPAs"), if any, to be executed with shortlisted bidders with its Procurement Review Group ("PRG") prior to execution. This will allow DRA, a member of the PRG, to review and comment further on a Project's contract terms and project valuation near the end of the negotiation process.

III. Because the Projects May Offer Significant Qualitative Benefits, the Projects Should Remain on PG&E's Shortlist

In its Protest, DRA fails to account for potentially valuable attributes of the Projects that are not fully captured within the PAV methodology, and which justify keeping them on the Shortlist. First, with regard to the

[REDACTED]

The IE notes that "[REDACTED]

[REDACTED]

"⁹ While PG&E's actual RPS

⁷ 2012 LCBF Description at 12.

⁸ *Ibid.*

⁹ Advice Letter 4238-E, Section 2 (Public IE Report), at p. 41.

Confidential

procurement in 2012 meets the S-06-06 Executive Order goal of 20% of its renewable energy needs from biomass, PG&E's current RPS portfolio is forecasted to fall below the 20% biomass goal in 2020. PG&E found that the combination of the [REDACTED] high viability and contribution toward the RPS goals sufficiently distinguished it from other bids with higher PAV scores and justified its inclusion on the Shortlist.

DRA's argument that [REDACTED] fails to acknowledge key differences between the annual RPS Solicitation and the RAM program. Specifically, the RAM program does not allow for negotiation of price or terms and conditions, and does not have the same quantitative or qualitative evaluation criteria, [REDACTED] that guide bid selection under the Commission-approved 2012 RPS Solicitation Protocol. Because the purposes, procedures, and evaluation criteria of these programs are different, [REDACTED]

Finally, DRA argues that the [REDACTED] bid should be excluded because [REDACTED] and because the terms of any PPA executed with [REDACTED] may be worse than the terms that could have been negotiated with other rejected bidders.¹⁰ Assuming that a PPA is executed, [REDACTED]

[REDACTED] As noted above, PG&E considered the PAV of this offer in combination with other evaluation criteria and determined that the offer merited shortlisting.

Second, with regard to the [REDACTED] bid, DRA fails to acknowledge the value of the project as [REDACTED]

[REDACTED] PG&E's

¹⁰ See DRA Protest at 4.

Confidential

Commissioner Michael Florio, CPUC
Commissioner Catherine Sandoval, CPUC
Karen Clopton, Chief Administrative Law Judge, CPUC
Frank Lindh, General Counsel, CPUC
Edward Randolph, Director, CPUC Energy Division
Adam Schultz, CPUC Energy Division
Jason Simon, CPUC Energy Division
Paul Douglass, CPUC Energy Division
Service List R.11-05-005

**DECLARATION OF SANDRA J. BURNS
SEEKING CONFIDENTIAL TREATMENT
FOR CERTAIN DATA AND INFORMATION CONTAINED IN
PG&E’S REPLY TO DRA PROTEST OF ADVICE LETTER 4238-E
(PACIFIC GAS AND ELECTRIC COMPANY - U 39 E)**

I, Sandra J. Burns, declare:

1. I am presently employed by Pacific Gas and Electric Company (“PG&E”), and have been an employee at PG&E since 1985. I am a principal in the Renewable Energy group in the Energy Procurement department within PG&E. I am responsible for managing PG&E’s Renewables Portfolio Standard solicitation and negotiating power purchase agreements with counterparties. In carrying out these responsibilities, I have acquired knowledge of such sellers in general and, based on my experience in dealing with facility owners and operators, I am familiar with the types of data and information about their operations that such owners and operators consider confidential and proprietary.

2. Based on my knowledge and experience, and in accordance with Decision (“D”) 08-04-023 and the August 22, 2006 “Administrative Law Judge’s Ruling Clarifying Interim Procedures for Complying with Decision 06-06-066,” I make this declaration seeking confidential treatment of certain information in PG&E’s Reply to Protest of Division of Ratepayer Advocates regarding Advice Letter 4238-E, submitted on July 5, 2013.

3. Attached to this declaration is a matrix identifying the data and information for which PG&E is seeking confidential treatment. The matrix specifies that the material PG&E is seeking to protect constitutes the particular type of data and information listed in Appendix 1 of D.06-06-066 and Appendix C of D.08-04-023 (the “IOU Matrix”), or constitutes information that should be protected under General Order 66-C. The matrix also specifies the category or categories in the IOU Matrix to which the data and information corresponds, and why

confidential protection is justified. Finally, the matrix specifies that: (1) PG&E is complying with the limitations specified in the IOU Matrix for that type of data or information; (2) the information is not already public, and (3) the data cannot be aggregated, redacted, summarized or otherwise protected in a way that allows partial disclosure. By this reference, I am incorporating into this declaration all of the explanatory text in the attached matrix that is pertinent to this submittal.

I declare under penalty of perjury, under the laws of the State of California, that to the best of my knowledge, the foregoing is true and correct. Executed on July 5, 2013 at San Francisco, California.



SANDRA J. BURNS

PACIFIC GAS AND ELECTRIC COMPANY
Reply to DRA Protest of Advice Letter 4238-E
July 5, 2013

IDENTIFICATION OF CONFIDENTIAL INFORMATION

Redaction Reference	1) The material submitted constitutes a particular type of data listed in the Matrix, appended as Appendix 1 to D.06-06-066 (Y/N)	2) Which category or categories in the Matrix the data correspond to:	3) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data (Y/N)	4) That the information is not already public (Y/N)	5) The data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure (Y/N)	PG&E's Justification for Confidential Treatment	Length of Time
Documents: PG&E's Reply to DRA Protest							
Reply to Protest from DRA of Advice Letter 4238	Y	<p>Item VII (un-numbered category following VII G) Score sheets, analyses, evaluations of proposed RPS projects.</p> <p>Item VIII A) Bid information and B) Specific quantitative analysis involved in scoring and evaluation of participating bids.</p>	Y	Y	Y	<p>This confidential version of PG&E's Reply to DRA's protest of advice letter 4238-E contains confidential information concerning the Shortlisted Projects from the 2012 RPS Solicitation. Disclosure of this report would provide business and financial information to participating bidders' competitors and prospective sellers to PG&E and would most likely influence their business conduct to the detriment of PG&E's customers. This information is therefore considered to be market sensitive information.</p>	<p>For information covered under Item VII (un-numbered category following VII G), remain confidential for three years.</p> <p>For information covered under Item VIII A), remain confidential until after final contracts submitted to CPUC for approval.</p> <p>For information covered under Item VIII B), remain confidential for three years after winning bidders selected.</p>