



August 5, 2013

CA Public Utilities Commission
Energy Division
Attention: Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102-3298

Re: Protest of Marin Energy Authority to Proposed Amendment of Pacific Gas & Electric Company's Power Purchase Agreement with Chevron U.S.A. Inc. to include the Cymric Demonstration Project (Advice Letter 4253-E)

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Dear Energy Division:

On July 16, 2013, Pacific Gas and Electric Company ("PG&E") submitted Advice Letter ("AL") 4253-E, regarding the *Approval of Pacific Gas & Electric Company's Proposed Amendment of its Power Purchase Agreement with Chevron U.S.A. Inc. to include the Cymric Demonstration Project* ("Advice Letter"). Marin Energy Authority ("MEA") protests this AL, because (1) the proposal is far too complex to permit the use of the Qualifying Facility Restructuring Reasonableness Letter ("QFRRL" or "Restructuring AL") process¹; (2) the QFRRL is an antiquated mechanism that does not reflect the current energy market and regulatory environment; and (3) further evaluation is needed regarding the alleged costs and benefits of this proposal with regards to both bundled and unbundled ratepayers.

1. PG&E Should File an Application to Consider this Proposal, because it is far Too Complex to Justify Approval by AL

MEA requests that Energy Division ("ED") recognize the high complexity of what PG&E proposes in the Advice Letter, and that ED staff direct PG&E to submit an Application, rather than AL, to review its proposal.

Within the Advice Letter, PG&E proposes to expand the nameplate capacity of an existing Qualified Facility ("QF"). PG&E also proposes to shift the cost recovery of this contract from the Competition Transition Charge ("CTC") to PG&E's Energy Resource Recover Account ("ERRA"), while further requesting that this facility be deemed Cost Allocation Mechanism ("CAM")-eligible under the terms of the QF/Combined Heat and Power ("CHP") Settlement adopted in Decision ("D.")10-12-035.² To complicate things further, PG&E does not amend the 'indefinite' term length of the original QF contract, despite altering the form of cost

¹ The QFRRL was implemented by Decision 98-12-066, which intended to streamline the approval process for uncontested, proposed modifications to existing QF power purchase contracts due to utility restructuring.

² The impacts of this proposal on bundled and unbundled customers has not been evaluated.

recovery used. Lastly, PG&E does not provide any showing of need for this proposal to meet a “system or local reliability need” as required for CAM treatment by Public Utilities Code Section 365.1(c)(2).

Despite all these factors, PG&E believes these proposed amendments qualify for QFRRL treatment, which allows for QF restructuring contracts to be approved by AL process, rather than Application. Yet PG&E admits “the benefits of the Proposed Amendment are qualitative and not quantitative” and the demonstration proposal does not provide a savings to ratepayers. (Advice Letter at 8.) MEA reminds the Commission that D.98-12-066, which defines the QFRRL process, states “that Energy Division, at its discretion, may advise the utility that the matter is *too complex and should be filed in an Application.*” (*Emphasis added.*) MEA believes the proposed amendments are highly complex and necessitate an Application approval process.

2. The QFRRL is an Antiquated Mechanism that Does not Reflect the Current Retail Energy Market and Present Regulatory Environment

The QFRRL was created in 1998 during a period of utility restructuring due to exceptionally high cost of service due to Investor Owned Utilities’ (“IOUs”) monopolistic control of the retail energy market. The QFRRL enabled amendments to QF power purchase contracts to be approved through an AL process rather than Application to streamline this restructuring.

A key component of reasoning behind why the Commission approved the QFRRL, was that these amendments proposed through the QFRRL would be predominantly unopposed due to the pre-approval by the Division of Ratepayer Advocates (“DRA”) formerly known as the Office of Ratepayer Advocates (“ORA”). D.98-12-066 reads: “Historically, ORA (or its predecessors) has been the party most likely to protest a QF restructuring filing [...] Therefore, an ORA approved filing seems a reasonable candidate for a streamlined process.”

The DRA is no longer the only party protesting QF contract amendments. Since the adoption of the QFRRL, competitors to the IOUs have entered into California’s retail energy market through entities such as Community Choice Aggregations (“CCAs”) and Direct Access (“DA”) providers. New statutes relating to CCAs have been enacted. Lastly, complex matters, such as the QF/CHP Settlement and CAM, create additional layers of regulatory requirements regarding how the Commission, the utilities, and other parties should handle QF/CHP related contracts.

Due to these changes in the retail energy market and regulatory environment, the Commission should find it inappropriate to review PG&E’s proposed amendments via the QFRRL.

3. Further Evaluation of All Costs and Benefits Attributable to the Proposed Amendments Must Be Considered

PG&E states that all benefits relating to the proposed demonstration project are qualitative in nature and implies that there will be no changes in costs faced by ratepayers. MEA questions whether this is truly so. By shifting the cost recovery for this contract from the CTC to CAM, MEA fears there will be substantial changes to how the costs of this project are allocated to both bundled (*i.e.* IOU generation service) and unbundled (*i.e.* non-IOU generation service) customers. PG&E should be required to illustrate how the project costs would be borne by bundled and unbundled customers prior to and after the proposed amendments would be enacted. Furthermore, parties representing both bundled and unbundled customer interests must be allowed to weigh the validity of these cost projections in a public forum through an a formal Application process.

For all of these reasons, MEA requests that ED reject the Advice Letter and direct PG&E to propose these QF contract amendments through an Application instead.

Respectfully Submitted,



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CC:

Service List R.12-03-014

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