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August 22, 2013

California Public Utilities Commission  
Energy Division  
Tariff Unit, 4<sup>th</sup> Floor  
505 Van Ness Avenue  
San Francisco, CA 94102

**Re: Reply to the Protest of Marin Energy Authority to Pacific Gas and Electric Company's Advice Letter 3632-E-C (Supplemental Filing for Purchase and Sale Agreement for Procurement of Renewable Energy Credits between Barclays Bank PLC and Pacific Gas and Electric Company)**

Dear Energy Division Tariff Unit:

Pacific Gas and Electric Company ("PG&E") hereby replies to the August 15, 2013 protest of Marin Energy Authority ("MEA") to PG&E's Advice Letter 3632-E-C. PG&E filed supplemental Advice Letter 3632-E-C ("Advice Letter") on July 26, 2013, a supplemental filing for Advice Letter 3632-E, dated March 12, 2010, as supplemented by Advice Letter 3632-E-A, dated October 29, 2010, and Advice Letter 3632-E-B, dated February 9, 2011. The Advice Letter is seeking approval from the California Public Utilities Commission ("Commission" or "CPUC") of an amended and restated confirmation letter, which supplements and modifies an existing Edison Electric Institute Master Power Purchase and Sale Agreement, as amended, between PG&E and Barclays Bank PLC ("Barclays") (collectively, "the Agreement"). The advice letter is pending approval at the Commission.

The only party that filed a protest to PG&E's Advice Letter was Marin Energy Authority ("MEA"). PG&E submits this letter in response to MEA's protest. In its protest, MEA argues that the Commission should not approve the Advice Letter for two reasons: (1) the contents of the Advice Letter are not appropriate to a "supplement" and should be filed separately as an Advice Letter; and (2) contract extensions of a "grandfathered" renewables portfolio standard (RPS) contract cannot be extended and retain their "grandfathered" status<sup>1</sup>.

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<sup>1</sup> MEA Protest pg. 1.

PG&E requests that the Commission dismiss the Protest as being without merit. First, because this Advice Letter is yet to receive a Commission Resolution, it is procedurally appropriate to file the Amended and Restated Agreement as a supplement. Second, the Amended Agreement filed July 26, 2013, was neither an extension nor expansion of the original contract, which was signed prior to June 1, 2010, and therefore retains grandfathered status.

**I. The contents of the Advice Letter were appropriately submitted as supplemental**

MEA argues the content of the Advice Letter should not have been submitted as a “supplement,” but instead filed as a new advice letter. MEA references AL 4007-E (Sierra Power), AL 4112-E (Liberty BioFuels), AL 4048-E (Bottle Rock), and AL 3989-E (Rice Solar) as examples of Amended and Restated Agreements filed as new Advice Letters<sup>2</sup>. MEA also references AL 4253-E (Chevron), which was submitted pursuant to the Restructuring Advice Letter Filing (RALF) procedure, specified by D.95-12-063, as modified by D.96-01-009 and D.98-12-066. However, MEA fails to note that the original contracts for the above-mentioned agreements had previously been disposed of by the Commission, each having been issued a Commission Decision or Resolution.<sup>3</sup> Therefore, it was necessary for the Amended and Restated contracts to be filed as new advice letters.

Due to the fact this Advice Letter is yet to receive a Commission Resolution, it is appropriate that the latest Amended and Restated Contract was filed as a supplement. Had this Advice Letter previously received a Commission Resolution, PG&E would then have filed this Amended and Restated contract as a new Advice Letter. MEA referenced AL 3862-E-A (TransAlta), stating it is similarly situated because it has not been disposed of by the Commission<sup>4</sup>. PG&E simply notes this Advice Letter has also not been disposed of by the Commission, and therefore the amended and restated contract was appropriately filed as a supplement.

**II. The amendment to the contract was not an extension or expansion of the original contract and should retain “grandfathered” status**

MEA correctly points out that “the idea of Senate Bill 1X2 is to protect procurement decisions made prior to June 1, 2010; and any expansion or extension of a contract is

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<sup>2</sup> MEA Protest pg. 1.

<sup>3</sup> Sierra Power contract filed in AL 2423-E, issued Commission Resolution E-3853; Liberty BioFuels contract filed in AL 2827-E, issued Commission Resolution E-4021; Bottle Rock contract filed in ALs 2827-E, 3131-E, 3668-E, issued Commission Resolutions E-4027, Letter of Approval, E-4384, respectively; Rice Solar contract filed in AL 3581-E, issued Commission Resolution E-4340.

<sup>4</sup> MEA Protest pg. 1.

not eligible for grandfathering unless it meets the criteria set forth in Public Utilities Code Section 399.16(d)<sup>5</sup>.”

In the Advice Letter, PG&E explains it is seeking approval of approximately 33 gigawatt hours per year for contract years 2010 and 2011 of Renewable Portfolio Standard (“RPS”)-eligible energy, consisting of Green Attributes, from the Nine Canyon Wind Facility near Kennewick Washington. Further, PG&E explains in this supplemental filing that “the Amended Agreement removes the 2010 Green Attribute volumes and reduces the Green Attribute price<sup>6</sup>.” This is not an expansion or extension of the contract. MEA’s assertion that grandfathered status of this contract should be revoked is without merit.

### III. Conclusion

For all of the foregoing reasons, the Commission should reject MEA’s Protest and approve Advice Letter 3632-E-C.

Sincerely,

Handwritten signature of Brian Cherry in cursive script.

Vice President, Regulatory Relations

cc: Edward Randolph, Director, Energy Division  
Energy Division Tariff Unit  
Paul Douglas, Energy Division  
Jason Simon, Energy Division  
Adam Schultz, Energy Division  
Joseph Abhulimen, DRA  
Cynthia Walker, DRA  
Elizabeth Kelly, Legal Director, MEA  
Dawn Weisz, Executive Officer, MEA  
Service List R.11-05-005  
Service List R.12-03-014

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<sup>5</sup> MEA protest pg. 2.

<sup>6</sup> PG&E’s Advice Letter 3632-E-C, pg. 2.