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California Public Utilities Commission

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(PUBLIC VERSION)

CPUC, Energy Division
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Subject: **Joint Protest of the Office of Ratepayer Advocates of Pacific Gas & Electric Company's Advice Letters 4299-E, 4300-E, and 4301-E (Renewable Energy Credit Purchase and Sales Agreements with Sterling Planet, LLC; Iberdrola Renewables, LLC; and NextEra Energy Power Marketing, LLC)**

INTRODUCTION

The Office of Ratepayer Advocates (ORA) hereby protests Pacific Gas & Electric Company's (PG&E) Advice Letters (ALs) 4299-E, 4300-E, and 4301-E. In these ALs, PG&E seeks California Public Utilities Commission (Commission) approval of Renewable Energy Credit (REC)[1] Purchase and Sales Agreements (PSAs) with Sterling Planet, LLC; Iberdrola Renewables, LLC; and NextEra Energy Power Marketing, LLC, respectively. These PSAs are for unbundled, Category 3 RECs. ORA protests and recommends that the Commission reject ALs 4299-E, 4300-E, and 4301-E for the following reasons:

- PG&E has not adequately demonstrated need, especially considering its large existing bank[2] of RECs.
- Even if the Commission finds that PG&E has adequately demonstrated need, PG&E has not shown that banking RECs is the best strategy for minimizing costs and maximizing value to ratepayers.

[1] RECs can be bundled (Category 1 or 2) with energy or unbundled (Category 3). One REC is associated with 1 MWh of eligible renewable energy procurement; 1,000 RECs with 1 gigawatt-hour (GWh), and so forth.

[2] An Investor Owned Utility may produce more eligible renewable generation in a given compliance period than is needed to meet its Renewable Portfolio Standard (RPS) procurement obligation. Such qualifying "excess" procurement may then be "banked," or applied towards RPS procurement obligations in future compliance periods. Decision (D.) 12-06-038, issued June 27, 2013, at 14.

- Even if the Commission finds that PG&E has adequately demonstrated need and shown that banking RECs is the best strategy for optimizing its RPS portfolio, the high prices in these REC PSAs will impose an unnecessary cost burden on ratepayers.

BACKGROUND

On October 10, 2013, PG&E submitted ALs 4299-E, 4300-E, and 4301-E for the purchase of a total of 1,094,500 RECs.[3] The PSAs are for 10-year terms and they set delivery on the date of Commission approval in 2014.[4]

PG&E's renewable net short (RNS) and alternative RNS calculations indicate that if PG&E's Renewables Portfolio Standard (RPS) portfolio performs as expected, then PG&E will have a significant incremental need beginning in 2020 and beyond to maintain the 33% RPS level.[5] In addition, PG&E seeks to mitigate future risks of project failures and delays.[6] PG&E therefore banks surplus RPS procurement and seeks to maintain the bank by procuring long-term RECs such as the ones in these three PSAs. PG&E shortlisted Sterling Planet PSA from the 2012 PG&E RPS annual solicitation and developed two PSAs - Iberdrola Renewables and NextEra Energy Power Marketing - via bilateral negotiations.[7] The following table summarizes the three PSAs:[8]

Project Name	Advice Letter	Levelized REC Price	Quantity of RECs
Sterling Planet, LLC	AL 4299-E	xxxxxxxxxxxxxxxxxxxxx	500,000
Iberdrola Renewables, LLC	AL 4300-E	xxxxxxxxxxxxxxxxxxxxx	149,500
NextEra Energy Power Marketing, LLC	AL 4301-E	xxxxxxxxxxxxxxxxxxxxx	445,000

PG&E states that its request for offer (RFO) team acknowledged that compared to Sterling Planet, there might be less expensive RECs on the market.[9] Accordingly, PG&E negotiated with Sterling Plant while simultaneously approaching other major marketers of RECs to solicit

[3] PG&E AL 4299-E at 5; PG&E AL 4300-E at 4; PG&E AL 4301-E at 4.

[4] PG&E AL 4299-E at 1; PG&E AL 4300-E at 1; PG&E AL 4301-E at 1.

[5] PG&E AL 4299-E at 5; PG&E AL 4300-E at 5; PG&E AL 4301-E at 5.

[6] PG&E AL 4299-E at 6; PG&E AL 4300-E at 6; PG&E AL 4301-E at 6.

[7] PG&E AL 4299-E at 2, 9; PG&E AL 4300-E at 2; PG&E AL 4301-E at 2.

[8] PG&E AL 4299-E at D4; PG&E AL 4300-E at D7-D8; PG&E AL 4301-E at D7.

[9] PG&E AL 4299-E at A61.

competing proposals for ten-year PSAs. As a result of bilateral negotiations, PG&E signed contracts with Iberdrola and NextEra.[10]

DISCUSSION & RECOMMENDATION

ORA protests and recommends that the Commission deny approval of ALs 4299-E, 4300-E, and 4301-E because: (1) PG&E has not shown that an additional bank is necessary, and (2) the REC PSAs are high priced.

A. THE COMMISSION SHOULD DENY ALs 4299-E, 4300-E, AND 4301-E BECAUSE PG&E HAS NOT PROVEN A NEED FOR OR SUFFICIENT VALUE FROM ADDITIONAL BANKING

1. PG&E has not justified adding 1,000 GWh of RECs to its already sizable bank

PG&E's RNS forecasts that PG&E will have a cumulative bank of 20,919 GWh by the end of 2020.[11] PG&E has not demonstrated the need to add an additional 1,000 GWh to this already sizable bank, which is equivalent to approximately an entire year's worth of PG&E's RPS procurement obligation.[12] In fact, according to the Independent Evaluator (IE), these contracts are "expected to exacerbate PG&E's overprocurement of RECs for the first several years" of their 10 year terms, and fit "poorly into the utility's portfolio needs."[13] In other words, when considering PG&E's own 2012 RPS RFO metric for measuring the fit of the timing of deliveries "with the utility's… need, the Sterling Planet PSA ranks low."[14] xxxxxxxxxxxxxxxxxxxxxxx

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PG&E did not adequately justify the quantifiable benefit of procuring 1,000 GWh of RECs in Confidential Appendix H of each of the ALs. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

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xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx[15] PG&E's results are shown below, in Figure 3.

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[10] Id.

[11] PG&E's 2013 RPS Draft Procurement Plan, submitted June 28, 2013. Appendix 1, at 1.

[12] PG&E AL-4299-E at 7.

[13] PG&E AL-4299-E at A-71, PG&E AL-4300 at A-72, PG&E AL-4301 at A-71.

[14] AL-4299-E at A-71.

[15] AL-4299-E, Appendix H, at H5 and H7. "PG&E selected 8,000 GWh as a threshold based on an

Figure 3
Expected Net Position and Probabilities of Net Short and Tight Bank Using Adaptive Procurement

[redacted] [16]

According to PG&E's xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxx would reduce the probability of xxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

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assessment of variability in the amount of RPS generation net of RPS compliance targets over five years." At H8.

[16] AL-4299-E, Appendix H, at H10.

Figure 4
Expected Net Position and Probabilities of Net Short and Tight Bank Using Adaptive Procurement after Adding 1000GWh of Fixed Volumes to Bank

[redacted] [17]

However, PG&E fails to demonstrate that the value to ratepayers of reducing the risk of x xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx is greater than or equal to the cost of xxxxxxxx (the approximate total nominal cost of these PSAs). In other words, PG&E has not shown that the cost of these purchases is justified by the associated reduction in risk. In addition, purchasing RECs to reduce risk in 2020 actually *increases* risk of

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While PG&E described in Confidential Appendix H of ALs 4299-E, 4300-E, and 4301-E xxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, PG&E did not show there is current, specific risk of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

xxxxx and therefore a need for additional procurement. PG&E does not justify the cost associated with increasing PG&E's current bank from 20,919 GWh to 21,919 GWh with a commensurate increase in ratepayer value. PG&E has not justified the need for these PSAs in PG&E's portfolio and should therefore be rejected.

[17] AL-4299-E, Appendix H, at H10.

2. PG&E does not demonstrate that these REC PSAs will minimize costs and maximize ratepayer value compared to other banking or procurement strategies

In its 2013 RPS Procurement Plan, PG&E states that minimizing customer costs was a goal of its RPS Portfolio Optimization Strategy.[18] PG&E does not demonstrate how the costs of maintaining a bank of over 20,000 GWh, much less adding to it, is a better value for ratepayers relative to the other strategies available to PG&E for optimizing its RPS procurement. Some alternatives include:

- Adjusting its annual procurement goals, as PG&E is currently doing in response to load migration;[19]
- Amending, extending, or renewing existing contracts;
- Negotiating long-term bilateral contracts with later starting dates than the proposed PSAs and/or different categories of procurement;
- Negotiating short-term bilateral contracts with later starting dates than the proposed PSAs and/or different categories of procurement; or
- Reducing its projected levels of banked RPS procurement.

In contrast to increasing PG&E's already considerable REC bank, which incurs early and ongoing costs for contingencies that may never materialize, these alternatives would generally incur costs closer to when there is an actual need. PG&E did not indicate that it evaluated alternatives or provided evidence that adding to its bank with these three REC PSAs is a preferable choice when trying to minimize ratepayer costs. Therefore, the Commission should not approve ALs 4299-E, 4300-E, and 4301-E.

3. PG&E's methodology is flawed and therefore cannot accurately determine the net value of the PSAs

Even if PG&E could demonstrate that these REC PSAs have a xxxxxxxxxxxxxxxx and that they are PG&E's best choice for meeting its RPS procurement obligations based on xxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx methodology contains several flaws. Generally, these flaws artificially increase RNS or exaggerate its need for banked procurement, all of which inflate the value of the PSAs proposed in ALs 4299-E, 4300-E, and 4301-E.

The RNS, and xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

[18] PG&E's 2013 RPS Draft Procurement Plan, submitted June 28, 2013, at 65.

[19] PG&E's 2013 RPS Draft Procurement Plan, submitted June 28, 2013. At 34.

[20] Current RNS calculations are based on Administrative Law Judge's Ruling (1) Adopting Renewable Net Short Calculation Methodology (2) Incorporating the Attached Methodology Into the Record, and (3) Extending the Date For Filing Updates to 2012 Procurement Plans, issued August 2nd, 2012. Attachment

xxxxxxxx unrealistically assumes no recontracting with existing renewable generation.[20] ORA believes it highly unlikely that PG&E will not recontract with any renewable generation and therefore have the level of need currently calculated by the RNS.

In determining if these xxxxxxxxxxxxxxxxxx Category 3 REC PSAs xxxxxxxxxxxxxxxxxxx

xxx, PG&E chose to compare them to Category 1 procurement xxxxxxxxxxxxxxxxxxxxxx

xxxxxxxxxxxxxxx instead of Category 3 procurement from Compliance Period 2 or 3. But the IE:

> "[did] not find it particularly helpful to compare the PAV [portfolio-adjusted value] of this REC-only contract to recent proposals for Category 1 deliveries such as proposals to PG&E's most recent RAM [Renewable Auction Mechanism] RFO [Request for Offers] or the 2012 RPS RFO. The products are quite different, particularly in the degree of freedom for which they can be used for RPS compliance."[21]

ORA agrees. Were PG&E to compare these REC PSAs to Category 3 procurement from Compliance Period 2 or 3, due to the generally lower price of Category 3 procurement compared to the price of Category 1 procurement, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

potentially resulting in ratepayer harm rather than benefit.

PG&E's xxxxxxxxx also overstates its banking need to mitigate xxxxxxxxxxxxxxxxxxxxxxxx.

xxxxxxxxxxxxxxx. xxxxxxxxxxxxxxx fails to account for xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, which xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. Regarding its stated need to deal with xxxxxxxxxxxxxxxxxxxxxxxx PG&E asserts, but does not explain, why a 42 percent increase in the RPS target (from 23.3 percent in 2015 to 33 percent in 2020) would result in xxxxxxxxxx

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A, at 4: "Do not assume any generation from contracts that are expiring (i.e., recontracting) or any generation after a facility's useful life if the contract does not extend after the term of the facility's useful life."

[21] AL-4299-E at A-70.

[22] AL-4299-E, Appendix H at H6.

xxxxxxxxxxxxxxxxxxxx[22] PG&E's fails to explain how it arrived at the conclusion that this RPS procurement increase will result in xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

xxxxxxxxxxxxxxx in the same time period.

ORA believes PG&E's xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

xxxxxxxxx does not produce accurate results and should not be relied upon to evaluate xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. For these reasons, the Commission should reject the ALs.

B. THE COMMISSION SHOULD DENY ALs 4299-E, 4300-E, AND 4301-E BECAUSE THE PRICES OF THESE PSAs ARE HIGH

1. The REC PSA prices proposed in ALs 4300-E, 4301-E and particularly 4299-E are high xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

[22] AL-4299-E, Appendix H at H6.

The following table summarizes the price and quantity of the REC PSAs:

Project Name	Advice Letter	Year	Levelized Price/REC	Quantity of RECs
Sterling Planet, LLC	AL 4299-E	1	Xxxxxxxxxxxxx	xxxxxxxxxxxxx
		2	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		3	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		4	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		5	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		6	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		7	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		8	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		9	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		10	xxxxxxxxxxxxx	xxxxxxxxxxxxx
Iberdrola Renewables, LLC	AL 4300-E	1	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		2	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		3	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		4	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		5	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		6	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		7	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		8	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		9	xxxxxxxxxxxxx	xxxxxxxxxxxxx
		10	xxxxxxxxxxxxx	xxxxxxxxxxxxx

In AL 4299-E, the IE noted that PG&E thought that "there might be RECs available from the market that might be less expensive than Sterling Planet's Offer pricing."[23] It is unclear how many counterparties PG&E spoke with before executing these three REC PSAs, what PG&E knew about the market for Category 3 RECS in Compliance Period 1 and 2, or why PG&E chose to xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxx ORA submits that, based on xxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxx, the proposed REC PSA contract prices, xxxxxxxxxxxxxxxxxxx xxxxxxxxxxxx, are excessive and should therefore be rejected.

As of October 2013, the xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxx.[24] xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxx. Compared against these prices, PG&E's proposed REC PSA contract prices xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

[23] AL-4299-E, Appendix A, at A-61.

[24] xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

xxxxxxxxxxxxxxxxxxxxxxxxxx.[25] PG&E stated that the three PSAs xxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.[26] However, these prices, particularly xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. Because the prices in the proposed REC PSAs appear to be substantially higher than xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx the Commission should reject ALs 4299-E, 4300-E, and 4301-E.

1. The REC PSA prices proposed in ALs 4299-E, 4300-E, and 4301-E do not capture all of the costs associated with the RECs being purchased

Nominally, the total cost of the three proposed PSAs are xxxxxxxxxxxxxxxx. However, PG&E did not include the carrying costs of these PSAs, which is the cost of buying and holding these RECS until PG&E has a need for them. As the IE stated,

> "If PG&E were to apply its weighted average cost of capital of 7.6% as a measure of the time value of money to contract year 1 purchases, the carrying cost would add more than 50% to the cost of those RECs if held to 2020. This contrasts to PG&E's recent strategy of contracting in 2013 for Category 1 deliveries starting in 2019 and 2020 with payments beginning upon initial energy deliveries."[27]

In other words, the real cost of these contracts is closer to xxxxxxxxxxxxxxxx. In addition to the carrying cost, there may be other real and substantial costs to maintaining or adding to PG&E's banked procurement, which need to be fully identified and calculated.

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[25] Xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx Xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

[26] AL-4299-E, atH11.

[27] AL-4299-E, IE Report, at A-72.

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CONCLUSION

For the above reasons, DRA recommends that the Commission deny approval of ALs 4299-E, 4300-E, and 4301-E. Please contact David Siao at ds1@cpuc.ca.gov or (415) 703-5251 with any questions regarding these comments.

/s/ Chloe Lukins

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Chloe Lukins,
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