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February 25, 2014

Energy Division  
Attention: Tariff Unit  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Subject: Reply to the Protest of Allco Renewable Energy Limited of Advice Letter 4346-E Submitted by Pacific Gas and Electric Company**

Dear Energy Division Tariff Unit:

Pursuant to Rule 7.4.3 of the California Public Utilities Commission's (CPUC or Commission) General Order (GO) 96-B, Pacific Gas and Electric Company (PG&E) hereby respectfully submits its reply to protest of Advice Letter (AL) 4346-E submitted by Allco Renewable Energy Limited (Allco).

**Response to Protest**

On January 29, 2014, PG&E submitted Advice Letter 4346-E to adjust the time-of-delivery (TOD) factors in its Renewable Market Adjusting Tariff (ReMAT) Program. PG&E's advice letter was based on Commission Decision (D.) 13-11-024, which approved updated TOD factors and definitions for PG&E's 2013 Renewables Portfolio Standard (RPS) Plan and Solicitation Protocol. Allco claims that the updated TOD factors cannot be applied to PG&E's ReMAT program and that a hearing is required. (Allco protest, pp. 6-7.)<sup>1</sup>

As the Commission noted in D.13-11-024, "TOD factors are applied to contract prices to reflect the higher value of generation supplied during the on-peak hours." (D.13-11-024, p. 34.) The Commission has allowed each utility to "develop its own TOD factors to best reflect each utility's market-based valuation of electricity and capacity in different time periods." (Id.) In D.13-11-024, the Commission reviewed the TOD factors proposed by PG&E and found them to be reasonable. (Id. at 35.) There is no reason why TOD factors that were found to be reasonable for PG&E's other renewables contracts would not be reasonable for the renewables contracts in the ReMAT program,

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<sup>1</sup> PG&E's Advice Letter 4346-E also updated the standard term and condition for green attributes and made a minor administrative change to Appendix K in its standard form contract. Allco did not protest either of these changes.

and no purpose would be served by having a separate set of proceedings on the same TOD factors.

Once the TOD factors for each utility are approved through the RPS Plan process, those new TOD factors are incorporated into all other RPS program contracts, including the Renewable Auction Mechanism (RAM) and Feed-in Tariff (FIT) programs. The Commission has previously utilized the advice letter process to incorporate the updated TOD factors for the RAM and FIT programs.<sup>2</sup>

Allco argues that PG&E's proposal to change the TOD factors violates the Public Utility Regulatory Policies Act of 1978 (PURPA) and does not reflect PG&E's avoided costs. (Allco Protest, pp. 2-4.) However, as the Commission made clear when it adopted the ReMAT program, the pricing methodology represented avoided costs for a specific group of generators, and this methodology satisfied PURPA. (D.12-05-035, Conclusions of Law 20-21.) Avoided costs are not dependent on the TOD factors used, nor does changing the TOD factors violate PURPA or result in non avoided cost prices. While various factors and inputs in the methodology can change, such as the TOD factors, it is the methodology itself which establishes the avoided cost prices. Thus, Allco's claims that simply changing the TOD factors violates PURPA should be rejected.

Allco's claim that it would be "unjust and unreasonable for any new TOD factors to apply to any Re-MAT project that has already submitted a PPR" (Allco protest, p. 4) is similarly without merit. The ReMAT program has a pricing structure that calls for pre-TOD prices to adjust automatically, which ensures that the pre-TOD prices will remain just and reasonable. If the TOD factors cause the post-TOD price to go down, developers can choose whether or not to participate; if the adjusted post-TOD prices result in a low subscription to the ReMAT program, the pre-TOD prices will automatically adjust upward in the following two-month period, provided sufficient market depth exists in the applicable ReMAT queue. The updated TOD factors will only be applied to power purchase agreements (PPAs) executed on or after the effective date of the Advice Letter and will have no impact on developers who have already signed PPAs.

Contrary to Allco's claim (Allco protest, p. 5), updating the TOD factors is perfectly consistent with the ratepayer indifference requirement under California Public Utilities Code Section 399.20(d) (4). The updated TOD factors are specifically designed to represent the value of this energy to PG&E and its customers, and TOD factors for all RPS procured energy should be the same at any point in time. As explained in PG&E's approved RPS Plan:

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<sup>2</sup> RAM Program Disposition Letter Dated October 20, 2011 ([http://www.pge.com/notes/rates/tariffs/tm2/pdf/ELEC\\_3905-E.pdf](http://www.pge.com/notes/rates/tariffs/tm2/pdf/ELEC_3905-E.pdf)), Resolution E-4546, and Resolution E-4582. FIT Program Resolutions E-4214, E-4298, and E-4442.

The RPS Plan reflects final Time of Delivery (TOD) factors. These TOD factors reflect most recent views on relative values of energy and capacity by each TOD period. Peak period TOD factors have been reduced to reflect the expectation that there will be significant volumes of solar generation on-peak, reducing the value of incremental energy and capacity during this period. Consistent with the 2012 Protocol, PG&E's 2013 Protocol provides two sets of TOD factors: one for full capacity deliverability projects and one for energy-only projects. In addition to providing updated TOD Factors, PG&E also updated the Monthly Period Definitions and TOD Period Definitions. (See PG&E's approved 2013 RPS Plan dated Dec. 4, 2013, p. 86.)

Allco also asserts there should be no further price erosion under ReMAT until the value of locational adders is properly addressed. (Allco protest, p. 5.) The Commission considered and chose to not include locational adders while developing the ReMAT program. In adopting the ReMAT Program, the Commission found that a location adder was not warranted because there are already sufficient incentives to generators to locate in areas with load in order to avoid upgrades to the transmission system." (D.12-05-035, p. 38.) As Allco points out, the Commission noted that it is working toward developing a methodology to value avoided transmission and distribution costs. However, the Commission never indicated that its ongoing work in this area would prevent TOD adjustments in the meantime, nor would it be appropriate to do so.

Allco complains that PG&E has not met the requirements of section 4.2 of General Order 96-B regarding 30 days notice to customers before higher rates go into effect. Allco asserts – without any support – that developers participating in the ReMAT program are “customers” and are entitled to 30 days advance notice. (Allco protest, p. 6.) PG&E does not agree with Allco's assertion that ReMAT developers are “customers.” Section 4.2 is designed to provide notice to customers who would be paying “higher rates or charges.” PG&E's Advice Letter 4346-E does not propose to change any rate that is charged to developers, but only seeks to modify the TOD factor, which affects the price PG&E will pay for generation it is purchasing.<sup>3</sup>

In accordance with General Order 96-B, Section IV, a copy of the Advice Letter was sent electronically and via U.S. mail to parties shown on the last page of the Advice Letter, as well as all those on the service lists for R.11-05-005, and R.12-03-014. Consistent with its past practice, PG&E will inform ReMAT participants of the updated TOD factors through its website. Moreover, as noted above, the new TOD factors will not be imposed on any existing PPAs, so developers will have full knowledge of the applicable TOD factors before they execute a PPA.

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<sup>3</sup> Allco notes that developers pay a fee to submit a program participation request, but that fee is unaffected by the TOD factors at issue here.

**Conclusion**

Based on the discussion above, the Commission should disregard the protest and approve AL 4346-E as filed.

Sincerely,

Handwritten signature of Brian Cherry with initials KAC.

Vice President, Regulatory Relations

cc: Edward Randolph, Energy Division  
Shannon O'Rourke, Energy Division  
Paul Douglas, Energy Division  
Thomas Melone, Allico Renewable Energy Limited