

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 7, 2010

**Advice Letter 3628-E**

Jane K. Yura  
Vice President, Regulation and Rates  
Pacific Gas and Electric Company  
77 Beale Street, Mail Code B10B  
P.O. Box 770000  
San Francisco, CA 94177

**Subject: Modified Purchase Agreement with Mt. Poso Cogeneration  
Company, L.P. for Renewable Energy**

Dear Ms. Yura:

Advice Letter 3628-E is effective March 8, 2010.

Sincerely,

A handwritten signature in blue ink that reads "Julie A. Fitch".

Julie A. Fitch, Director  
Energy Division

March 8, 2010

**Advice 3628-E**  
(Pacific Gas and Electric Company ID U39 E)

Public Utilities Commission of the State of California

**Subject: Modified Purchase Agreement with Mt. Poso Cogeneration Company, L.P. for Renewable Energy.**

**Purpose**

In compliance with California Public Utilities Commission (“Commission” or “CPUC”) Resolution E-4309, Pacific Gas and Electric Company (“PG&E”) submits this Advice Letter documenting modification to PG&E’s Purchase Power Agreement (“PPA”) with Mt. Poso Cogeneration Company, L.P. (“Mt. Poso”) as ordered in Resolution E-4309.

**Background**

On February 4, 2010, in Resolution E-4309, the Commission approved the PPA filed in PG&E’s Advice Letter 3529-E on September 21, 2009. Ordering Paragraph 2 of the resolution requested that PG&E submit a Tier 1 compliance advice letter containing the following information within 30 days of the effective date of the resolution: (1) a modified power purchase agreement signed by both parties that reflects a direct cost-based relationship between the seller’s fuel costs and contract price; (2) accompanying work papers; and (3) a written statement from the independent evaluator reflecting on the modification process required in Resolution 4309-E and the results of that process.

PG&E met with Mt. Poso and the Independent Evaluator (“IE”) on several occasions to negotiate modified price provisions that would satisfy the Commission’s requirements. The negotiations, summarized in Confidential Appendix B, resulted in a modified PPA that was executed on March 8, 2010. The modified PPA establishes the required relationship between fuel cost and power prices as documented in Confidential Appendix B. As part of the revision of the relationship between fuel cost and power prices, the parties agreed to clarify Section 3.4 of the PPA, “Transmission and Scheduling.” Mt. Poso’s initial fuel cost estimates at the beginning of negotiations included a generator meter multiplier (“GMM”) loss factor applied to its generation. PG&E indicated that no such transmission loss would be applicable, but Mt. Poso insisted on a clarification in writing. PG&E views the clarification as consistent with the intent of the parties in the original transaction and consistent with PG&E’s treatment of transmission losses in the Form RPS PPA. Also,

PG&E and Mt. Poso agreed to certain extensions in the PPA to account for the time needed to comply with the Resoution.

### **Confidential Attachment**

In support of this Advice Letter, PG&E is providing confidential information, including the PPA and other information that more specifically describes the modifications to the PPA. This confidential information is being submitted in the manner directed by Decision (D).08-04-023 and the August 22, 2006, Administrative Law Judge's ruling clarifying interim procedures for complying with D.06-06-066 to demonstrate the confidentiality of the material and to invoke the protection of confidential utility information provided under either the terms of the IOU Matrix, Appendix 1 of D.06-06-066 and Appendix C of D.08-04-023, or General Order 66-C. The following confidential attachments and a separate Declaration Seeking Confidential Treatment are being filed concurrently with this Advice Letter:

### **Confidential Attachments:**

#### **Appendix A – Power Purchase Agreement**

#### **Appendix B – Independent Evaluator Statement and Work Papers**

### **Protests:**

Anyone wishing to protest this filing may do so by sending a letter by **March 29, 2010**, which is **21\*** days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

CPUC Energy Division  
Attention: Tariff Unit, 4<sup>th</sup> Floor  
505 Van Ness Avenue  
San Francisco, California 94102

Facsimile: (415) 703-2200  
E-mail: [mas@cpuc.ca.gov](mailto:mas@cpuc.ca.gov) and [jjn@cpuc.ca.gov](mailto:jjn@cpuc.ca.gov)

Copies should also be mailed to the attention of the Director, Energy Division, Room 4005, and Honesto Gatchalian, Energy Division, at the address shown above.

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\* The 20-day protest period concludes on a weekend. PG&E is hereby moving this date to the following business day.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission.

Pacific Gas and Electric Company  
Attention: Jane Yura  
Vice President, Regulation and Rates  
77 Beale Street, Mail Code B10B  
P.O. Box 770000  
San Francisco, California 94177

Facsimile: (415) 973-7226  
E-Mail: PGETariffs@pge.com

**Effective Date:**

PG&E submits this as a Tier 1 advice letter with an effective date of March 8, 2010.

**Notice:**

In accordance with General Order 96-B, Section IV, a copy of this Advice Letter excluding the confidential appendices is being sent electronically and via U.S. mail to parties shown on the attached list and the service lists for R.08-08-009, R.06-02-012, and R.08-02-007. Non-market participants who are members of PG&E's Procurement Review Group and have signed appropriate Non-Disclosure Certificates will also receive the Advice Letter and accompanying confidential attachments by overnight mail. Address changes and electronic approvals should be directed to e-mail PGETariffs@pge.com. Advice letter filings can also be accessed electronically at <http://www.pge.com/tariffs>.

Handwritten signature of Jane Yura in cursive script, followed by a horizontal line and the word "ent" in a smaller, less legible script.

Jane K. Yura  
Vice President – Regulation and Rates

cc: Service List for R.08-08-009  
Service List for R.06-02-012  
Service List for R.08-02-007  
Paul Douglas - Energy Division  
Sean Simon – Energy Division

Attachments

**Limited Access to Confidential Material:**

The portions of this Advice Letter marked Confidential Protected Material are submitted under the confidentiality protections of Sections 583 and 454.5(g) of the Public Utilities Code and General Order 66-C. This material is protected from public disclosure because it consists of, among other items, the contract itself, price information, and analysis of the proposed RPS contract, which are protected pursuant to D.06-06-066 and D.08-04-023. A separate Declaration Seeking Confidential Treatment regarding the confidential information is filed concurrently herewith.

**Confidential Attachments:**

**Appendix A – Power Purchase Agreement**

**Appendix B – Independent Evaluator Statement and Work Papers**

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY

### ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 M)**

Utility type:

ELC       GAS  
 PLC       HEAT       WATER

Contact Person: David Poster and Linda Tom-Martinez

Phone #: (415) 973-1082 and (415) 973-4612

E-mail: dxpu@pge.com and lmt1@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric      GAS = Gas  
 PLC = Pipeline      HEAT = Heat      WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **3628-E**

**Tier: 1**

Subject of AL: Modified Purchase Agreement with Mt. Poso Cogeneration Company, LLC, for Renewable Energy

Keywords (choose from CPUC listing): Contracts, Portfolio, Compliance

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other \_\_\_\_\_

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: Resolution E-4309

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL: \_\_\_\_\_

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: Yes. See the attached matrix that identifies all of the confidential information.

Confidential information will be made available to those who have executed a nondisclosure agreement:  Yes  No All members of PG&E's Procurement Review Group who have signed nondisclosure agreements will receive the confidential information.

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: Kelvin Yip (415) 973-4354

Resolution Required?  Yes  No

Requested effective date: **March 8, 2010**

No. of tariff sheets: N/A

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed<sup>1</sup>: N/A

Pending advice letters that revise the same tariff sheets: N/A

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

**CPUC, Energy Division**  
**Tariff Files, Room 4005**  
**DMS Branch**  
**505 Van Ness Ave.,**  
**San Francisco, CA 94102**  
**jnj@cpuc.ca.gov and mas@cpuc.ca.gov**

**Pacific Gas and Electric Company**  
**Attn: Jane Yura**  
**Vice President, Regulation and Rates**  
**77 Beale Street, Mail Code B10B**  
**P.O. Box 770000**  
**San Francisco, CA 94177**  
**E-mail: PGETariffs@pge.com**

**DECLARATION OF KELVIN F. YIP  
SEEKING CONFIDENTIAL TREATMENT  
FOR CERTAIN DATA AND INFORMATION  
CONTAINED IN ADVICE LETTER 3628-E  
(PACIFIC GAS AND ELECTRIC COMPANY - U 39 E)**

I, Kelvin F. Yip, declare:

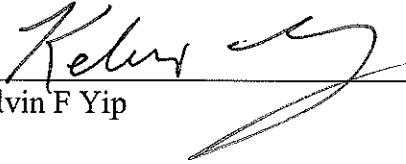
1. I am presently employed by Pacific Gas and Electric Company ("PG&E"), and have been an employee at PG&E since 2002. My current title is Senior Negotiator within PG&E's Energy Procurement organization. In this position, my responsibilities include negotiating PG&E's Renewables Portfolio Standard Program ("RPS") Power Purchase Agreements. In carrying out these responsibilities, I have acquired knowledge of PG&E's contracts with numerous counterparties and have also gained knowledge of the operations of electricity sellers in general. Through this experience, I have become familiar with the type of information that would affect the negotiating positions of electricity sellers with respect to price and other terms, as well as with the type of information that such sellers 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 Appendices A and B to Advice Letter 3628-E submitted on March 8, 2010. By this Advice Letter, PG&E is summarizing and documenting certain modifications to PG&E's Power Purchase Agreement with Mt. Poso Cogeneration Company, LLC as ordered in Resolution E-4309.

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"), and/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 March 8, 2010 at San Francisco, California.

  
\_\_\_\_\_  
Kelvin F Yip



		PACIFIC GAS AND ELECTRIC COMPANY Advice Letter 3628-E March 8, 2010		IDENTIFICATION OF CONFIDENTIAL INFORMATION PER DECISION 08-06-068 AND DECISION 08-04-023		PG&E's Justification for Confidential Treatment		Length of Time	
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 and Appendix C to D.08-04-023 (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)				
1 Document: Advice letter: 3628-E									
4 Appendix A	Y	Item VII F) Renewable Resource Contracts under RPS program - Contracts with SEPs.	Y	Y	Y	This Appendix contains the PPA. Disclosure of the PPA would provide valuable market sensitive information to competitors. Since negotiations are still in progress with bidders from the 2006, 2007, 2008, and 2009 solicitations and other counterparties, this information should remain confidential. Release of this information would be damaging to negotiations. Furthermore the counterparty to the PPA has an expectation that the terms of the PPA will remain confidential pursuant to confidentiality provisions in the PPA.		Remain confidential for three years.	
Appendix B	Y	Item VIII A) Bid information and B) Specific quantitative analysis involved in scoring and evaluation of participating bids. Item VII F) Renewable Resource Contracts under RPS program - Contracts with SEPs. Item VII (unnumbered) category following VII G) Score sheets, analyses, evaluations of proposed RPS projects. General Order 66-C.	Y	Y	Y	This Appendix contains price information and cost analysis for specific contract provisions. Disclosure of this information would provide valuable market sensitive information to competitors. Since negotiation are still in progress with bidders from the 2006, 2007, 2008, and 2009 solicitations and with other competitors, this information should remain confidential. Release of this information would be damaging to negotiations. Furthermore, the counterparty to the PPA has an expectation that the terms of the PPA will remain confidential pursuant to confidentiality provisions in the PPA. I am informed and believe that General Order 66-C provides a basis for confidential treatment. General Order 66-C includes in its category of records not open to public inspection "information obtained in confidence from other than a business regulated by this Commission where the disclosure would be against the public interest." (Paragraph 2.8). It is in the public interest to treat such information as confidential because if such information were made public, it would put the counterparty at a business disadvantage, could create a disincentive to do business with PG&E.		Remain confidential for three years.	

**PG&E Gas and Electric  
Advice Filing List  
General Order 96-B, Section IV**

Alcantar & Kahl	Defense Energy Support Center	Northern California Power Association
Ameresco	Department of Water Resources	Occidental Energy Marketing, Inc.
Anderson & Poole	Department of the Army	OnGrid Solar
Arizona Public Service Company	Dept of General Services	Praxair
BART	Division of Business Advisory Services	R. W. Beck & Associates
BP Energy Company	Douglass & Liddell	RCS, Inc.
Barkovich & Yap, Inc.	Downey & Brand	Recon Research
Bartle Wells Associates	Duke Energy	SCD Energy Solutions
Boston Properties	Dutcher, John	SCE
C & H Sugar Co.	Economic Sciences Corporation	SMUD
CA Bldg Industry Association	Ellison Schneider & Harris LLP	SPURR
CAISO	FPL Energy Project Management, Inc.	Santa Fe Jets
CLECA Law Office	Foster Farms	Seattle City Light
CSC Energy Services	G. A. Krause & Assoc.	Sempra Utilities
California Cotton Ginners & Growers Assn	GLJ Publications	Sierra Pacific Power Company
California Energy Commission	Goodin, MacBride, Squeri, Schlotz & Ritchie	Silicon Valley Power
California League of Food Processors	Green Power Institute	Silo Energy LLC
California Public Utilities Commission	Hanna & Morton	Southern California Edison Company
Calpine	Hitachi	Sunshine Design
Cameron McKenna	International Power Technology	Sutherland, Asbill & Brennan
Cardinal Cogen	Intestate Gas Services, Inc.	Tabors Caramanis & Associates
Casner, Steve	Los Angeles Dept of Water & Power	Tecogen, Inc.
Chamberlain, Eric	Luce, Forward, Hamilton & Scripps LLP	Tiger Natural Gas, Inc.
Chris, King	MBMC, Inc.	Tioga Energy
City of Glendale	MRW & Associates	TransCanada
City of Palo Alto	Manatt Phelps Phillips	Turlock Irrigation District
Clean Energy Fuels	McKenzie & Associates	U S Borax, Inc.
Coast Economic Consulting	Merced Irrigation District	United Cogen
Commerce Energy	Mirant	Utility Cost Management
Commercial Energy	Modesto Irrigation District	Utility Specialists
Consumer Federation of California	Morgan Stanley	Verizon
Crossborder Energy	Morrison & Foerster	Wellhead Electric Company
Davis Wright Tremaine LLP	New United Motor Mfg., Inc.	Western Manufactured Housing Communities Association (WMA)
Day Carter Murphy	Norris & Wong Associates	eMeter Corporation
	North Coast SolarResources	