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

**Subject: PG&E Reply to the September 19, 2014 Response of Shell Energy**

Dear Energy Division Tariff Unit:

Pacific Gas and Electric Company (PG&E) hereby replies to the September 19, 2014 response from Shell Energy North America (US), L.P. (Shell Energy) regarding PG&E's Advice 3510-G.

### **Introduction**

On September 9, 2014, PG&E filed Advice 3510-G, requesting simultaneous approval by the California Public Utilities Commission (Commission or CPUC) of two proposed pipeline transportation agreements between PG&E and El Paso Natural Gas (El Paso), and between PG&E and Kern River Gas Transmission (Kern River).<sup>1</sup> On September 19, 2014, Shell Energy filed a response, essentially repeating the allegations and claims made in its September 12, 2014 response to PG&E's previous Advice 3509-G for approval of the Transwestern Pipeline transportation agreement.<sup>2</sup>

In its earlier response, Shell Energy urged the Commission to defer approval of PG&E's proposed pipeline transportation contracts until after the Commission rules on Application (A.)13-06-011. Shell Energy's September 19th response echoes its previous argument, stating that the Commission should address the issues in A.13-06-011 expeditiously and should not approve any new firm pipeline capacity contracts for PG&E until the Commission determines the level of PG&E's core capacity requirement and whether PG&E should hold firm interstate capacity for core aggregation customers.

PG&E respectfully submits this reply to Shell Energy's letter.

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<sup>1</sup> PG&E requests approval of El Paso and Kern River contracts to comply with the Commission's interim pipeline capacity quantity requirements established in Decision (D.)12-12-006 and to meet the demands of core customers.

<sup>2</sup> Shell Energy's response to PG&E's Advice 3509-G (Transwestern Pipeline Transportation Agreement), filed on September 2, 2014.

## **PG&E's Reply to Shell Energy's September 19, 2014 Letter**

### Shell Energy Assertion

Shell Energy contrasts PG&E's Advice 3510-G (El Paso & Kern River contracts), with PG&E's September 16, 2014 Advice 3514-G, which seeks approval for a proposed one year extension of the existing Foothills Pipeline (Foothills) contract.<sup>3</sup> Shell Energy notes in its September 19th response that although the proposed reservation rates, quantities and duration are disclosed by PG&E's Foothills Advice Letter, those same provisions are withheld in PG&E's El Paso and Kern River Advice Letter. Comparing the two Advice Letters, Shell Energy asserts that "[w]hether or not the agreed upon prices in the El Paso and Kern River contracts are confidential, the quantity and term provisions in these contracts are not confidential and should not be withheld from public disclosure."<sup>4</sup>

In addition to demanding that the proposed contract provisions be publically disclosed in Advice 3510-G, Shell Energy criticizes PG&E for what it believes is PG&E's failure "to discuss, in its advice letter, whether either of these contracts is intended to replace existing firm interstate capacity contracts, or supplant gas supplies PG&E currently purchases at the California border or at the PG&E citygate."<sup>5</sup> Shell Energy insists that "[t]his information is not confidential, yet the information is critical in determining whether the contracts should be approved."<sup>6</sup>

### PG&E Reply

PG&E disclosed the Foothills contract information in Advice 3514-G, because these details do not warrant confidential treatment. Advice 3514-G requests Commission approval to exercise PG&E's renewal rights, provided in the General Terms and Conditions of Foothills' tariff. There is no unresolved negotiation between Foothills and PG&E, with the outcome pending Commission approval. There is no final pipeline-administered open season, in which the capacity may be awarded to the highest bidder. Instead, the proposed reservation rate would equal the published rate – the single tariff rate that all shippers on the Foothills system must pay for firm, long term<sup>7</sup> transportation contracts. Furthermore, the proposed Foothills contract quantities have not changed in several years, essentially matching PG&E's upstream

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<sup>3</sup> PG&E seeks authorization to continue PG&E's two Foothills contracts for a one-year term beginning November 1, 2015 through October 31, 2016. Foothills' tariff requires a one-year notification for contract renewals.

<sup>4</sup> Shell Response, p. 1.

<sup>5</sup> Response, p. 2.

<sup>6</sup> Response, p. 2.

<sup>7</sup> i.e., one year or longer.

NOVA and downstream Gas Transmission Northwest contracts, and have been disclosed in previous Advice Letters.

In contrast, the contract details of PG&E's proposed El Paso and Kern River contracts are commercially sensitive, including the proposed quantities and terms. Both contracts required negotiation and the terms of each proposed contract should not be made available to other market participants, such as Shell Energy, or competing pipelines until PG&E has concluded each transaction.

In addition, Shell Energy asserts that PG&E should state how it intends to use the two proposed contracts to serve its core bundled loads, suggesting that PG&E should reveal whether the contracts will supplant gas supplies it currently purchases at the California border or at the PG&E citygate.

Shell Energy's insinuation that this information is necessary and not confidential is entirely misplaced. Any discussion of PG&E's gas supply commitments or intentions to purchase in various markets would reveal supply portfolio purchasing plans and strategies, enabling other market participants to utilize the information to maximize their own economic self-interests at the expense of PG&E's core customers. The information should not be disclosed in a public document.

#### Shell Energy Assertion

Shell Energy claims that "[t]ransparency with respect to quantity and term is necessary to determine whether the capacity is needed to meet PG&E's core capacity procurement obligation," and, "there is nothing confidential about an explanation of why these proposed contracts are necessary to satisfy PG&E's core capacity obligation."<sup>8</sup>

Shell Energy also states that "PG&E provides no insight, in its public filing, as to whether, and why, these new contracts are necessary at this time. This information is not confidential, yet the information is critical in determining whether the contracts should be approved," Shell Energy also maintains that "PG&E fails to address whether these two contracts are needed to meet its interim core firm interstate capacity procurement requirement, which was imposed in D.12-12-006 (December 20, 2012)."<sup>9</sup>

#### PG&E Reply

Shell Energy's insistence that the information it seeks is not confidential is perplexing. It is not clear to PG&E how Shell Energy can make such a definitive

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<sup>8</sup> Response, p. 1-2.

<sup>9</sup> Ibid.

determination without actually reading the specific information in the context with which it was provided to the Commission and TURN.

The Commission should not be persuaded by Shell Energy's self-serving arguments. Shell Energy is a market participant providing core commodity services in competition with PG&E, as well as with other market participants seeking competitively priced pipeline capacity. As such, it is highly inappropriate for Shell Energy to attempt to impose on PG&E, and on the Commission, its view of what information PG&E should designate as confidential.

In the confidential Appendix A of Advice 3510-G, PG&E explained how the two proposed contracts will help PG&E meet its obligations stemming from D.12-12-006, and discussed the urgency of its request. PG&E is unable to repeat that discussion in this public document without revealing information that could jeopardize the outcome of PG&E's proposed contracts. However, PG&E confirms in this letter that the proposed contracts are necessary in order for PG&E to meet the demands of core customers, and also to satisfy the Commission's interim pipeline contract quantity requirements as specified in D.12-12-006.<sup>10</sup>

#### Shell Energy Assertion

Shell Energy's September 19th response also states:

Shell Energy does not understand why or how PG&E's explanation of the need for the proposed Transwestern contract (or its need for the proposed El Paso and Kern River contracts) is "confidential." Unless PG&E publicly reveals the basis for entering into its proposed interstate contract, there is no public basis for the Commission to approve the contracts. PG&E's assertion that everything related to a proposed contract, including PG&E's explanation of "need" for the capacity, is "confidential" makes a mockery of the advice letter process.

PG&E states that it "routinely offers" to make the confidential information in its proposed contracts available to CTAs, upon the execution of a nondisclosure agreement ("NDA"). There are two fundamental problems with this "offer": First, the confidential information cannot be used in a public "protest" or "response" to PG&E's advice letter. Second, the confidential information cannot be disclosed to an individual who participates in the commercial marketplace. There is limited value, therefore, to having a market participant such as Shell Energy obtain information that PG&E labels as "confidential."

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<sup>10</sup> D.12-12-006, Ordering paragraph 2.

PG&E should disclose, in the public version of its advice letters, the relevant contract terms, perhaps excluding price, and the reasons why it is “urgent” and “reasonable” for the Commission to approve the proposed contract. The information that PG&E currently provides publicly through its expedited advice letter provides no basis for parties to object, and no basis for the Commission to act on PG&E’s proposed contracts.<sup>11</sup>

### PG&E Reply

First, it is the Commission, and not Shell Energy, with statutory responsibilities to protect consumers from unreasonable costs through effective oversight and regulation. In exercising these responsibilities, the Commission must balance the public’s interest in utility activities with the potential harm of requiring the utilities to publish confidential market sensitive information which could adversely affect utility procurement activities and pipeline capacity negotiations.

Second, the information that Shell Energy claims does not warrant confidential treatment is clearly commercially sensitive and should be protected to serve the interests of core customers.

Third, PG&E and the other utilities routinely designate such commercially sensitive information as confidential pursuant to Public Utilities Code Sections 454.5(g) and 583, D.06-06-066 and General Order 66-C. For example, SoCalGas routinely files its expedited letter approval requests for interstate pipeline capacity without the market sensitive contract details, which are provided only to the Energy Division and ORA under these confidentiality provisions and to TURN under a NDA. In Advice 4553 (October 29, 2013), SoCalGas requested approval of its Transwestern contract in this manner. This procedure is entirely appropriate.

Furthermore, as PG&E explained in its September 19, 2014 reply, Shell Energy and its outside counsel may readily review the confidential information by executing a non-disclosure agreement with PG&E (as have other CTAs). Shell Energy would then have the option of filing a confidential protest or response based on the confidential material. It is not clear to PG&E why this procedural path is unacceptable to Shell Energy and why it instead insists on being able to debate the merits of PG&E’s negotiated terms and conditions in public. Shell Energy’s purported explanation, that “[t]here is limited value” in reviewing the confidential material, is puzzling. Other CTAs have executed NDAs and presumably would not do so if they thought it was of “limited value.”

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<sup>11</sup> Response, pp. 2-3.

Finally, PG&E notes that it has its own concerns with how Shell Energy is participating in the advice letter process. PG&E's previous Transwestern Advice 3509-G was protested by Shell Energy on September 12th, and answered by PG&E on September 19th. The protest period for Advice 3509-G has expired. Yet Shell Energy again raises issues regarding Advice 3509-G in its September 19th response to PG&E's Advice 3510-G. Shell Energy appears to be taking a second bite at the apple through its current "Response."

### Shell Energy Assertion

In its September 19th response, Shell Energy refers to PG&E's previous reply in which PG&E states that deferring Commission approval of pipeline contracts would jeopardize the continuity of access to vital natural gas supply basins. Shell Energy claims that,

This is a serious charge, yet PG&E provides no support for its statement. In fact, the evidence in A.13-06-011 demonstrated that there is ample interstate pipeline capacity available to serve the PG&E market, regardless of whether PG&E holds firm interstate capacity rights on the pipelines that connect to California. Deferral of Commission action on PG&E's proposed contract renewal would not jeopardize access to gas supply basins. Rather, a deferral of Commission action would reduce costs to PG&E's core customers.<sup>12</sup>

### PG&E Reply

Shell Energy appears to be using the Advice Letter process to try to advance the arguments it made in A.13-06-011. This is inappropriate. Although PG&E does not wish to re-litigate that case, it feels compelled to address some of the "evidence" proffered by Shell Energy and the Core Transport Agent Consortium (CTAC) in A.13-06-011 and referred to by Shell Energy in its response. Shell Energy and CTAC witnesses testified that by virtue of the sufficient amount of pipeline capacity connected to California, there is no need for CTAs to acquire or hold interstate pipeline capacity to serve their core customers. Shell Energy's September 19th response relies on this litigation position and omits evidence presented by PG&E in A.13-06-011 that despite operationally connected pipeline connections to California, core customers should subscribe to interstate pipeline capacity to ensure supply reliability. Among other things, PG&E demonstrated that long-term contractual commitments to serve demands upstream of California are increasing.<sup>13</sup> Market events since PG&E presented its evidence in A.13-06-011 have further confirmed the soundness of PG&E's position. Contrary to Shell Energy's claims, deferral of

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<sup>12</sup> Response p. 3.

<sup>13</sup> PG&E's Supplemental Testimony filed October 15, 2013 (A.13-06-011), pp. 2-1 – 2-2.



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Service list for R.04-01-025  
Service list for A.13-06-011