



Memorandum

Date: November 15, 2018

To: Edward Randolph
Director of Energy Division

From: **Public Utilities Commission—
San Francisco**

Barbara Owens
Barbara Owens, Risk and Compliance Officer
Utility Audit, Finance and Compliance Branch

Subject: Pacific Gas and Electric Company Advice Letter 5281-E
Quarterly Procurement Plan Compliance Report for the First Quarter of 2018
Summary of Negative Findings

The Utility Audit, Finance and Compliance Branch (UAFCB) issues this memorandum containing its negative findings on Pacific Gas and Electric Company (PG&E) Quarterly Procurement Plan Compliance Report (QCR) filed by Advice Letter No. (AL) 5281-E. The negative findings are based on the results of UAFCB's performed procedures to assess PG&E's compliance. UAFCB assesses PG&E's compliance in accordance with agreed-upon procedures (AUP) with Energy Division (ED) and does not assess the compliance with all aspects of the procurement-related state law and procurement-related directives mandated by the California Public Utilities Commission (CPUC or Commission). In addition, PG&E's transactions conducted in the Integrated Forward Market (IFM) and the Residual Unit Commitment Market (RUC) are outside the scope of the agreed-upon procedures engagement.

A. Summary of Negative Findings:

- 1. PG&E failed to demonstrate compliance with Decision (D.) 02-12-074, Ordering Paragraph (OP) 24(b).** PG&E did not ensure that the two (2) employees who transferred to Energy Procurement (EP) department during the first quarter of 2018 (Q1) completed their Code of Conduct (COC) training within an appropriate timeframe.
- 2. PG&E failed to demonstrate compliance with D.02-10-062, Appendix B, and PUC §581.** In its Q1 2018 QCR, PG&E made reporting errors in its QCR and Attachment H. On July 23, 2018, PG&E submitted amended QCR and Attachment H to correct the reporting errors in response to UAFCB's findings.
- 3. PG&E failed to demonstrate compliance with D.03-06-067, OP 3 (d).** As a result of the reporting errors in Attachment H, PG&E failed to provide strong showing justification in Attachment M for the two (2) bilateral contracts. On July 5, 2018, in response to UAFCB's findings, PG&E submitted the revised strategy paper to supplement its Attachment M by including the strong showing justification for the two (2) bilateral contracts.

B. Recommendations:

- 1. PG&E should enforce its mandatory COC training for all its new and transferred EP employees within an appropriate timeframe.**

2. PG&E needs to correctly classify its contracts based on contract selection methodologies and nature of contracts. Moreover, before submitting its QCR and related attachments, PG&E should thoroughly review them and ensure that all documents are correct and accurate. PG&E needs to strengthen its internal control and implement an effective review process to ensure the reporting accuracy of its QCR and related attachments before submitting them to the Commission.
3. PG&E must provide a strong showing justification for non-standard products executed bilaterally with terms of more than one calendar month.

C. Background:

As required by D.02-10-062, OP 8 and clarified in D.03-12-062, PG&E, San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE) must each submit a QCR for all transactions of less than five years duration executed in the quarter. UAFCB conducts the quarterly procurement engagements based on the scope specified by ED, using procedures agreed upon between ED and UAFCB. ED specified which aspects of the utilities' Commission-approved procurement plans, Assembly Bill (AB) 57 procurement rules and several procurement-related rulings and decisions to test for compliance. The decisions and rulings that ED chose directives from to test for compliance include, but are not limited to, D.02-10-062, D.03-06-076, D.03-12-062, D.04-12-048, D.07-12-052, D.08-11-008, D.12-01-033, D.15-10-031 and D.16-01-015. Based on our understanding with ED, UAFCB does not test all of the transactions that the utilities include in their QCR.

D. Negative Findings:

1. **PG&E failed to demonstrate compliance with D.02-12-074, OP 24(b).** PG&E did not ensure that two (2) of its employees transferred to the EP department during Q1 2018 completed their COC training within two weeks of employment start dates. The transferred employees completed their COC training more than two weeks after the start date. Completion of COC training served as the purpose of acknowledging PG&E's COC agreement.

Criteria:

In D. 02-12-074, OP 24(b), the Commission requires that each utility must adopt, actively monitor, and enforce compliance with a comprehensive code of conduct for all employees engaged in the utility's energy procurement process. It is a good management practice for an employee to sign COC agreement within two weeks of starting employment in PG&E's EP department. If any EP employees sign COC agreement outside of this two-week timeframe, PG&E's internal control risk in its EP department can increase significantly because the EP employees may violate PG&E's COC rules without reviewing and understanding these rules.

PG&E's response: On May 25, 2018 and June 6, 2018, PG&E stated the following:

- There were two employees that had system issues when they were transferred into Energy Policy and Procurement organization at the end of Q4 2017, this prohibited them from accessing the Code of Conduct training module.

- Due to the system transition, the Risk, Compliance and Reporting (RCR) team could not perform the usual validation to ensure that the 14-business day requirement was met. As a result, the recorded date for the training is over the 14-day time period.
- RCR continues to utilize the processes and controls in place to help mitigate the risk of employees not completing the Code of Conduct training within the 14-day time frame.
- In the event of future reorganizations, given system constraints, the RCR team will take a more proactive role to ensure that all affected employees have completed the Code of Conduct timely.

UAFCB's Rebuttal: None.

2. **PG&E failed to demonstrate compliance with D.02-10-062, Appendix B, and PUC §581.** In its Q1 2018 QCR, PG&E made reporting errors in its QCR and Attachment H as described in detail below:

- a) PG&E incorrectly classified two (2) bilateral contracts as electronic solicitation contracts. As a result, PG&E incorrectly reported the execution methods of these contracts as well as the total number of bilateral and electronic solicitation contracts in its Q1 2018 QCR and Attachment H (New Contracts Executed and Amended).
- b) Lastly, PG&E incorrectly reported the product type on Page 6 of QCR as follows:
 - i. Under Bilateral Negotiated Contracts, PG&E incorrectly stated “to sell Flexible RA through the end of 2018 to reduce its long position.”
 - ii. Under Electronic Solicitations, PG&E incorrectly included that PG&E executed confirms for the sale of Local RA capacity.
 - iii. Under Market Request for Proposal, PG&E incorrectly included that PG&E executed confirms to sell Local RA.

Criteria:

- In Appendix B of D.02-10-062, the Commission requires that each utility file each quarter's energy procurement transactions of less than five years duration with a QCR by an advice letter. The QCR and related attachments must contain, among other things, information that is complete and accurate and include, but not limited to, the number and volume of transactions.
- PUC §581 requires that every public utility receiving from the commission any blanks with directions to fill them shall answer fully and correctly each question propounded therein, and if it is unable to answer any question, it shall give a good and sufficient reason for such failure.

PG&E's response: On July 5, 2018 and July 11, 2018, PG&E asserted the following:

- PG&E will submit a supplemental advice letter to amend Attachment H – New Contracts Executed / Contracts Amended to correctly categorize the two (2) the sale of RA as a result of a Bilateral Transaction.
- PG&E will submit a supplement to the original advice letter to amend the total number of contracts for the Bilateral and Electronic Solicitation contracts on page 6 of PG&E's Q1 2018 QCR.
- PG&E will submit a supplement to the original advice letter to amend the product type for the Bilateral, Electronic Solicitation and Market RFP contracts in PG&E's Procurement Plan Compliance Report for Q1, page 6 of the Narrative.
- Going forward, PG&E will perform a more extensive review and approval process for the Resource Adequacy transactions.

On July 23, 2018, PG&E submitted amended QCR and Attachment H to correct the reporting errors in response to UAFCB's findings.

UAFCB's Rebuttal: None.

3. **PG&E failed to demonstrate compliance with D.03-06-067, OP 3 (d).** As a result of the reporting errors in Attachment H, PG&E failed to provide strong showing justification in Attachment M for the two (2) resource adequacy contracts executed bilaterally, for non-standard products procured with terms of more than one calendar month.

Criteria:

D.03-06-067, OP 3 (d) requires utilities to provide strong showing justification for bilateral transactions with terms longer than one calendar month as stated below:

We waive the strong showing standard for negotiated bilateral contracts for non-standard products procured 31 days or less in advance of need with terms of one calendar month or less. Although we waive the strong showing standard for these transactions, the utilities should demonstrate that such transactions are reasonable based on available and relevant market data supporting the transaction. This may include showing competing price offers, results of market surveys, broker and online quotes, and/or other sources of price information such as published indices, historical price information for similar time blocks, and comparison to RFOs completed within one month of the transaction. **We retain the strong showing standard for all other bilateral transactions.** [Emphasis added]

Page 20 of D.03-06-067 states:

We maintain the strong showing standard for negotiated bilateral for transactions of products executed more than 31 days in advance of need and longer than one- calendar month in duration.

PG&E's response: On July 5, 2018, PG&E asserted the following:

- PG&E had originally determined that these transactions fell within the definition of an E-Solicitation as defined by the Bundled Procurement Plan, i.e., electronic platforms may include email to participants.
- After further discussion with the Auditors, the mutual understanding was that these transactions should be listed as bilateral transactions. PG&E will be filing the corrected documentation in response to and in accordance with the respective Data Request.
- Moving forward, PG&E will validate all transactions against the Bundled Procurement Plan to ensure that they are categorized under the correct transaction process and reflected in each strategy paper.

UAFCB's Rebuttal: None.

E. Conclusion:

UAFCB was not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on PG&E's QCR filed in AL 5281-E. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to ED.

This memo is intended solely for the information and use of ED and should not be used by anyone other than ED or for any other purpose.

cc: Judith Ikle, Energy Division
Michele Kito, Energy Division
Nick Dahlberg, Energy Division
David Peck, Energy Advisor to President Picker
Julie Halligan, Office of Ratepayer Advocates
Tracy Fok, Utility Audit, Finance and Compliance Branch