

State of California
State Energy Resources Conservation and Development Commission

In the Matter of:)	Docket # 09-AFC-03
)	
Mariposa Energy Project)	
)	Robert Sarvey’s Rebuttal Testimony
)	to David Vidaver Alternatives
_____)	Exhibit 415

Rebuttal Testimony of Robert Sarvey

Q. What is the purpose of your testimony?

A. On February 8 the CEC Staff provided the opening testimony of David Vidaver. My testimony replies to the assertions made by Mr. Vidaver.

Q. Mr. Vidaver states that, “The power purchase agreement (PPA) between the Mariposa Power Project and PG&E is intended to provide PG&E with flexible capacity to meet long-term needs for peaking energy and operational needs for dispatchable energy given large amounts of intermittent generation in PG&E’s portfolio. What is your response to this assertion?

A. Neither staff nor the applicant has presented any analysis that PG&E needs any more generation in the project area to back up intermittent renewables. This intermittent renewables argument is now being used in the place of the old tired 2001 Energy Crisis reliability argument that has been used to site unneeded natural gas fired power plants. Our first presiding member of the MEP Commissioner Levin warned the applicant that they needed to address this issue:

PRESIDING MEMBER LEVIN:
11 Now seriously my two substantive questions,
12 you mentioned that one of the purposes of this
13 plant is to better integrate renewables.

14 And when we were on the site visit you
15 pointed up to the wind turbines at Altamont. But
16 I have spent more time at Altamont than I care to
17 admit. And the power produced at Altamont has been
18 coming down over time as the turbines are retired
19 or taken off line.
20 So I'm curious what your expectations is
21 or where the need arises to integrate renewables
22 and also in the larger context of the economic
23 downturn you talked a great deal about PG&E's
24 long-term procurement plan but that was based on a
25 RPS which of renewable portfolio standard we're 1 off track on.
2 And with the economic downturn demand
3 overall has gone down in this area. So I just
4 want to know how those different things mesh.¹

20 So that's why I'd like to know more
21 concretely, it doesn't need to be tonight, but if
22 you can put evidence in the record, specifically
23 are there contracts, PPAs already with PG&E from
24 new renewables that require integration into the
25 system and require a natural gas peaking plant to
1 better integrate them into the system because I
2 don't think that's currently the situation at
3 Altamont.
4 It may be elsewhere but that would be
5 very helpful information to put in the record.
And we are very
16 excited to see more renewables come on line.
17 Please don't get me wrong. **We hear this now in a**
18 lot of power plants siting cases. That the need
19 for the plant is based on integration of
20 renewables.
21 And while we absolutely want to better
22 integrate renewables we would like to see evidence
23 if that's what's going on. And so that would be
24 helpful.²

¹ <http://www.energy.ca.gov/sitingcases/mariposa/documents/2009-10-20-Informational-Hearing-Transcript-TN-2500.PDF> Page 56

² <http://www.energy.ca.gov/sitingcases/mariposa/documents/2009-10-20-Informational-Hearing-Transcript-TN-2500.PDF> Page 57

In terms of the renewable integration capabilities of the MEP a thorough analysis of existing and expected dispatchable and renewable generation and their proper location would be necessary to conclude that in fact the MEP will be needed to integrate renewable energy within the greater Bay Area Load Pocket. With the approval of four new dispatchable gas fired generating units within or near the Bay Area Load Pocket including the 719 MW Marsh Landing Generating Station, the 586 MW Oakley Project, the upgrade of the GWF Peaker and LECEF facilities for another 254 MW of new generation, it is reasonably foreseeable that additional dispatchable generation is not needed in this area. The combination of newly approved facilities represents 1,559 MW of new dispatchable generation to meet the needs of renewable integration in the Bay Area Load Pocket.

In the immediate area near the MEP there are several resources designed to integrate nay existing and planned renewables. A few miles away from the MEP the Mulqueeny Ranch Pumped Storage Project is being developed. This pumped storage project will utilize off peak wind power and recycled water from the City of Tracy to produce 240 MW of stored renewable energy connected to the Tesla Substation.³ Unlike the MEP this project is high in the loading order and a desirable project for integrating renewable energy with 240 MW of instant power without Greenhouse Gas emissions.

As mentioned above the Tracy Peaker Plant is being converted to combined cycle providing an additional 145 MW with duct firing capability connected to the Tesla Substation. According to the Tracy Peaker operation website the existing peaker plant ran less than 3% of capacity in 2010.⁴

Another project proposed within two miles of the MEP is the East Altamont Energy Center an 1100 MW combined cycle Project with 254 MW of duct firing.⁵ The maximum annual generation possible from the facility is estimated to be between 7,125

³ Exhibit 411

⁴ http://gwfenergy.com/tpp_ops_data.htm

⁵ http://www.energy.ca.gov/sitingcases/eastaltamont/documents/applicants_files/EAEC_AFC_files/EAEC_AFC_Vol01.pdf Page 2-9

and 7,655 gigawatt hours (GWh) per year.⁶ The project can produce two and half times the electrical energy needed for Eastern Alameda County.⁷

This type of analysis was recommended in the Committee Guidance on Fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts In Power Plant Siting applications.⁸ In a situation such as this where reserve margins in PG&E's service territory are over 35% and the CPUC has allowed 555 MW of overprocurement in the LTPP with almost all of the generation in the Bay Area Load Pocket, this analysis is critical to preventing the overbuilding of fossil fuel resources to the detriment of preferred resources.⁹

⁶http://www.energy.ca.gov/sitingcases/eastaltamont/documents/applicants_files/EAEC_AFC_files/EAEC_AFC_Vol02_8.10-.pdf 10-4

⁷ 7,125 GWH /2868 = 2.48

⁸ http://www.energy.ca.gov/sitingcases/mariposa/documents/applicant/afc/MEP%20Volume%202/MEP_Appendix%205.6A_Load%20and%20Resource%20Balance.pdf Page 2

⁸ 1) Staff should prepare an analysis comparing the degree that different kinds of gas-fired power plants facilitate AB 32 goals, and whether (or the degree to which) project technology and location may make a proposed power plant more consistent with AB 32 goals.

4) Staff should collaborate with the California ISO and the CPUC to provide a more detailed "systemic analysis" of new generation and transmission line additions necessary for each load pocket, considering such issues as retirement of aging and once-through cooled plants and emission offset constraints. This work would supplement the work in item 2, and would likely extend beyond the 2009 IEPR reporting cycle with the goal of providing a more precise identification of needed generation and transmission resources for California's load pockets. Staff should work with the CPUC and parties to more closely couple siting of preferred resources with the CPUC's Long-Term Procurement Plan process.

Committee Guidance on fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts In Power Plant Siting Applications Page 29

⁹ **The Greenhouse Gas CEQA Guidance document attempted to address the situation but never contemplated outright over procurement by the CPUC.** "These long-term procurement plans (LTPPs) must balance the costs of meeting customer needs with state policy goals of minimizing environmental impacts and meeting state targets for preferred resources. In preparing the plans, IOUs do two assessments, one to identify physical and contractual resources needed to meet bundled customer needs and one to identify new resources needed in their service territories to maintain adequate reserve margins. After approving the LTPPs, the CPUC authorizes the IOUs to procure the resources needed to meet long-run growth in energy demand and cover the expiration of existing contracts. The CPUC sets targets over the next 10 years for energy efficiency, demand response and interruptible load programs, and renewable energy. The utilities provide estimates of the remaining need for energy and capacity in their LTPPs and then solicit long-term agreements through competitive requests for offers (RFOs) overseen by the CPUC. Moreover, even without "central planning" by the Energy Commission or the CPUC, there are compelling reasons that the state is unlikely to "overbuild" new gas-fired power plants. Utilities are contracting for power based on the demand assessments of the Energy Commission, as implemented by the CPUC in its procurement process⁷. Power plants require huge capital investments and elaborate financing; unless a project receives a contract through a utility procurement process such financing cannot, as a practical matter, be obtained, and the project cannot be built. There is simply too high a risk, in the turmoil of rapid change, that a project without a utility contract would not run enough (and earn enough) to justify the considerable capital investment, particularly as the electric generation system transforms to greater reliance on renewables." Committee Guidance on fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts In Power Plant Siting Applications Page 22

Committee Guidance on fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts In Power Plant Siting Applications Page 22

Q. Mr. Vidaver also makes a statement that, the relationship between 2006 peak demand and forecasted demand for PG&E is of limited, if any relevance, as the peak demand in 2006 was a product of a 1-in-50-year temperature event. Weather normalization of demand in 2006 indicates that peak demand in 2015 is expected to be above that of 2006 under “normal” temperatures at the time of peak demand. Do you agree?

A. I think that the statement is essentially an effort to dodge the more important point that PG&E’s demand in its service territory has fallen considerably due to an ongoing recession and the success of the states energy efficiency programs. This drastically reduced electric demand and the reasons for it are reflected in the CEC’s California Energy Demand 2010 - 2020 Commission-Adopted Forecast which shows that demand in PG&E’s service area dropped precipitously between 2006 and 2007.¹⁰ Another CEC analysis the Incremental Impacts of Energy Policy Initiatives Relative to the 2009 Integrated Energy Policy Report which was issued in January of 2010 reflects the impact on demand from the effective energy efficiency programs in PG&E’s service territory.¹¹

Q. Mr. Vidaver states that, “The California Public Utilities Commission (CPUC), in approving the all-party settlement agreement regarding the PPA between the Mariposa Power Project and Pacific Gas & Electric1 concluded that the facility is consistent with the state’s commitment to renewable energy.” What can you tell us about the all party settlement agreement and the CPUC’s decision to approve the Mariposa PPA.

A. The decision that the Mariposa PPA was just and reasonable and in the best interests of the ratepayers was based on a settlement agreement between the parties that provided:

As a compromise among their respective litigation positions, and subject to the recitals and reservations set forth in this Settlement Agreement, the Parties find that both the Mariposa PPA and PG&E’s Application are reasonable under the following conditions.

A. The Parties agree that the total need to be procured from the 2008 LTRFO will be limited to 1,512 MW under peak July conditions, inclusive of the Mariposa PPA (184 MW). The Parties support approval of the Mariposa PPA under the terms of this Settlement Agreement.

B. The balance of PG&E’s need authorization in the LTPP Decision (1,328 MW

¹⁰ <http://www.energy.ca.gov/2009publications/CEC-200-2009-012/CEC-200-2009-012-CMF.PDF>

¹¹ <http://www.energy.ca.gov/2010publications/CEC-200-2010-001/index.html>

*under peak July conditions) will be met, but not exceeded, by one application for approval of additional agreements resulting from PG&E's 2008 LTRFO.*¹²

Subsequently, the CPUC found in Decision D. 10-07-042¹³ that PG&E violated that settlement. As the Division of Ratepayer Advocates (DRA) opined, *“The primary goal of the settlement is to ensure that PG&E’s overall procurement from the LTRFO did not exceed the maximum of 1,512 MW the Commission approved for PG&E in D.07-12-052. In fact PG&E’s express agreement to this condition of not exceeding the need approved was a key element of the settlement. The Commission approved the Settlement Agreement in D.09-10-017, and because it was a global settlement, there were no evidentiary hearings and no need for comments on the Commission’s adoption of the Settlement Agreement. **The Mariposa PPA was approved solely on the basis of the Settlement Agreement.**”*¹⁴ The sole basis of the decision and the conclusions of the decision cited by Mr. Vidaver were predicated on the settlement agreement which PG&E subsequently broke. A petition for modification is currently being adjudicated in A. 09-04-001.¹⁵

Q. Mr. Vidaver implies in his testimony that Senate Bill 110 removed the requirement that the Commission make a finding of need conformance in a certification decision. Is anyone asking the Commission to make a finding of need conformance for the Mariposa Project?

A. No one is asking the Commission to make a finding of need conformance. The CEQA Guidelines state that “the purpose of describing and analyzing the No Project Alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project” (Cal. Code Regs., tit. §15126.6(i)). Toward that end, the “no project” analysis considers “existing conditions” and “what would be reasonably expected to occur in the foreseeable future if the project were not approved...” (§15126.6(e)(2)). Staff’s conclusion that the no project

¹² Mariposa Settlement Agreement Page 3

¹³ Decision 10-07-042 Page 54 and 55

¹⁴ Division of Ratepayer Advocates Comments on the PFM for the Mariposa PPA. Page 2

¹⁵ A copy of DRA’s comments on the PFM were distributed to the parties at the prehearing conference and are attached to this testimony and will be proposed Exhibit 415.

alternative is not the preferred alternative is based on unsupported speculation. Staff's reasons for rejecting the no project alternative are stated in their testimony on page 6-18, *"In the absence of MEP, however, Diamond Generating Corporation or another power company would likely propose that other power plants be constructed along the PG&E transmission system to serve the demand that could be met with the MEP. If the project is not built, the region will not benefit from the relatively efficient source of 200 MW of new generation that this facility would provide. This new generation would increase the supply of energy and potentially serve load demands in the Bay Area of Northern California. It is thus difficult to determine whether the "no project" alternative would have serious, long-term consequences on air quality and the cost or reliability of electricity in the region. If no new natural gas plants were constructed, reliance on older power plants may increase. These plants would consume more fuel and emit more air pollutants per kilowatt-hour generated than the proposed project. In the near term, the more likely result is that existing plants, many of which produce higher level of pollutants, would operate more than they do now. Thus, the "no project" alternative is not environmentally superior to the MEP project"*.

Staff also cites the MEP PPA and the PG&E LTRFO in many areas of its testimony to support the conclusion that the project should be certified. For example in the land use section staff says the project is needed for the public convenience and necessity to justify a conditional use permit,

(A) Is the use required by the public need?

On April 1, 2008, PG&E published a request for offers to procure 800-1200 MW of new resources, with a preference for easily dispatchable, operationally flexible resources (PG&E 2010). Also, in the Alameda County May 2010 letter, the county said, —even with growth constraints built into the ECAP, [Alameda County] will require significant electrical energy especially at times of peak demand.¹⁶

Alameda county's unsupported statement that, *"even with growth constraints built into the ECAP, [Alameda County] will require significant electrical energy especially at times of peak demand"* requires a look at the existing state of energy supplies in Alameda County ,recently approved projects, and electrical demand in Alameda County and

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PG&E's service territory. Selection of the MEP in PG&E's 2008 LTRFO does not provide any basis that the MEP is needed for the public need in light of the violation of the settlement agreement and the subsequent Petition for Modification.

Q. Mr. Vidaver states in his testimony that, "*In asking the Energy Commission to reject the application for the Mariposa Power Project on the grounds that it is not needed, the Sierra Club is asking the Commission to reject or ignore the findings of the CPUC and supersede said findings with its own.*" What is your response to that?

A. It is ironic that the Energy Commission staff is asking the Commission to ignore whether or not the MEP is needed to integrate renewables or provide additional peak demand when the CEC Staff points to these factors as reasons to not adopt the no-project alternative, or to make claims that the project is needed for the public convenience and necessity. As detailed above the original CEC presiding member Commissioner Levin specifically asked the applicant to address these issues. Now that the intervenors are attempting to provide the information requested by the original presiding member the CEC no longer wants to hear it because the information supports the no project alternative and demonstrates that the project is not needed for the public convenience and necessity which is a finding needed to grant a conditional use permit and approve this project.

The findings of the CPUC on the MEP PPA are entirely based on a settlement agreement between the parties as I have explained above. Now that PG&E has broken the settlement there is no basis to conclude that the MEP is just and reasonable or needed for renewable integration or peak demand.

Q. Mr. Vidaver States in his testimony that, "*There is no reason to believe that the Mariposa Power Project will deter the development of renewable projects.*" Do you agree with that?

A. There is a common misconception in California that the ratepayers have unlimited money and can finance the renewable portfolio standard and any other unfunded

mandates and also support unneeded natural gas fired generation. This is why rates in PG&E's service territory are some of the highest in the country. The Mariposa Project is unneeded as the current evidence that the intervenors are trying to present reflects. The 300-400 million dollars of ratepayer money used to finance the MEP will not be available to fund projects that are higher in the preferred loading order and to that extent the MEP deters the development of resources which are preferred.

Q. Does that conclude your testimony?

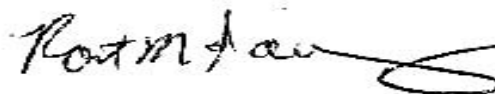
A. Yes it does.

**DECLARATION OF
Robert Sarvey, MBA, BS**

I Robert Sarvey declare as follows

- 1) I prepared the Reply Testimony to David Vidaver (Alternatives) of Robert Sarvey on the MEP.**
- 2) It is my professional opinion that the prepared testimony is valid and accurate with respect to the issues addressed therein.**
- 3) I am personally familiar with the facts and conclusions related in the testimony and if called as a witness could testify competently thereto.**
- 4) A copy of my professional qualifications is attached.**

I declare under penalty of perjury, under the laws of the State of California, that the forgoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on February 14, 2011 in Tracy, California.



Signed 2-14-11

