



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Application of Southern California Edison Company (U
338-E) for Authority to Implement and Recover in Rates
the Cost of its Proposed Solar Photovoltaic (PV)
Program.

Application No. 08-03-015
(Filed March 27, 2008)

**PETITION OF THE SOLAR ENERGY INDUSTRIES
ASSOCIATION FOR MODIFICATION
OF DECISIONS 09-06-049 AND 12-02-035
(SOLAR PHOTOVOLTAIC PROGRAM)**

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Jeanne B. Armstrong
505 Sansome Street, Suite 900
San Francisco, CA 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: jarmstrong@goodinmacbride.com

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Attorneys for the Solar Energy Industries
Association

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Pursuant to Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Solar Energy Industries Association (SEIA)¹ respectfully submits this Petition for Modification of Decision 09-06-049 and Decision 12-02-035 which approved, and subsequently modified, a 500 megawatt (MW) Solar Photovoltaic (PV) Program (“Solar PV Program” or “Program”) within the service territory of Southern California Edison Company (SCE).

I. REQUESTED MODIFICATION

SEIA seeks modification of Decisions 09-06-049 and 12-12-035 to the extent required to assure that SCE procures, in its fourth Solar PV Program RFO solicitation (SPVP 4), all MW remaining out of the 125 MW allocated to the program which are uncontracted at that time. In addition, in recognition of program contract failure rate to date, SCE should be granted the authority to procure additional MW beyond the remaining uncontracted MW, at its discretion. Finally, SCE should be directed to conduct two additional “clean-up” solicitations (on an annual basis) after the fourth solicitation to account for any failed MW through SPVP 4.

¹ The comments contained in this filing represent the position of SEIA as an organization, but not necessarily the views of any particular member with respect to any issue.

SEIA recognizes that, as a general rule, Petitions for Modification are to be filed within one year of the issuance of the subject decision. Commission Rule 16.4(d), however, provides for late filings upon showing of significant justification. In this instance, as will be detailed in Section II. below, the facts which prompted this Petition were not known within a year of the Commission issuing Decision 09-06-029 or Decision 12-02-035. In short, the level of outstanding MW yet to be procured under the SPV Program (100 MW), coupled with the fact that there are only two remaining solicitations scheduled and SCE has not taken any action to help ensure that the program meets its 125 MW goal, has only recently become known to SEIA.

II. APPLICABLE BACKGROUND

In D.09-06-049, the Commission approved a 500 MW Solar PV Program in SCE's service territory. At that time, a total of 250 MW of the Solar PV Program was designated for utility-owned generation (UOG) and 250 MW of the Solar PV Program was to be owned, installed, operated, and maintained by Independent Power Producers (IPPs). With respect to the IPP portion of the program, SCE was directed to "issue competitive RFOs at least once per year. The RFOs shall seek to procure approximately 20% of the 250 MW each year."²

Subsequently, in response to a Petition for Modification of Decision 09-06-049 filed by SCE, the Commission modified the Solar PV Program, reducing the UOG and IPP portions of the program to 125 MW each and transferring the remaining 250 MW to the Renewable Auction Mechanism program. Again, with respect to the IPP portion of the program, SCE was directed to solicit the MW annually -- "about 25 MW annually."³

² D. 9-06-049 at p. 42.

³ Decision 12-02-035, Attachment A, p. 2.

In 2010, SCE conducted its first SPVP RFO solicitation, whereby it executed 29 power purchase agreements, totaling 50.8 MW DC and, on September 24, 2010, submitted Advice Letters 2513-E and 2514-E for Commission approval of these contracts. Of the 50.8 MW DC contracted through the SPVP 1 RFO, 19 MW remain active to this date.

In March 2012, SCE launched the SPVP 2 RFO and eventually accepted seven offers for a total of 10.7 MW DC. All seven offering parties elected to sign a contract with SCE. As a result, effective September 28, 2012, SCE signed seven contracts for a total of 10.7 MW from the SPVP 2 RFO. These contracts were submitted to the Commission for approval.⁴ Subsequent to that submittal, three of these SPVP contracts, totaling 4.2 MW were terminated due to the failure of the sellers to provide development security as required in each contract.⁵

At the time of SCE's submission of its SPVP 2 contracts to the Commission for approval, SEIA raised its growing concerns regarding the program's level of prescription and asked that SCE be directed to procure a minimum amount of 70 MW in the SPVP 3 (thus bringing the program MW up to 100 MW -- *i.e.*, the level of procurement which the Commission envisioned four years into the program). Moreover, SEIA requested that SCE be required to conduct one additional auction.⁶ The Energy Division's disposition of SCE's Advice filing noted SEIA's concerns, but stated that the "appropriate process to raise such comments would be through a petition for modification of the SPVP program."⁷

⁴ Advice Filing 2802-E, Contracts for Procurement of Renewable Energy Resulting from Southern California Edison Company's (SCE's) Second Solar Photovoltaic Program (SPVP 2) Request for Offers (RFO") (October 31, 2012) .

⁵ Supplement to and Partial Withdrawal of Advice 2802-E Regarding Contracts for Procurement of Renewable Energy Resulting from Southern California Edison Company's ("SCE's") Second Solar Photovoltaic Program ("SPVP 2") Request for Offers ("RFO") (January 28, 2013).

⁶ Solar Energy Industries Association Response to Advice 2802-E (November 20, 2012).

⁷ Advice 2802-E , Signed Disposition Letter (February 4, 2013).

In its recent Advice Letter submission to the Commission regarding its upcoming SPVP 3, SCE stated that its ratable target for the combined amount to be procured in the planned SPVP 3 RFO and the fourth RFO is 100 MW,⁸ thus indicating an intention to only procure approximately 50 MW in SPVP 3. Thus, it appears, that SCE is taking no actions to bring the program back to the level of procurement it should be at four years into the program.

III. THE DECISIONS SHOULD BE MODIFIED TO ENHANCE THE OPPORTUNITY FOR MEETING PROGRAM GOALS

Three years into the program, with just two solicitations remaining, only 25.5 MW of the 125 MW are under contract -- 19 MW from the first solicitation and 6.5 MW from the most recent solicitation -- leaving approximately 100 MW to be procured in the remaining two auctions.⁹ As stated above, in adopting the SPVP as a five year program, the Commission envisioned that SCE would procure roughly 20 percent of the MW annually.¹⁰ If SCE had achieved such a procurement level, then currently it would have approximately 3/5 of the program MW (*i.e.*, 75 MW) under contract, rather than the current 25.5 MW. The current program contracting rate could endanger program success.

In the early stages of the SPVP, SEIA advocated that, in order to ensure the success of the program and that MW were not left on the table upon the program's conclusion, that the earlier RFOs be "front loaded" -- *i.e.*, SCE solicit more that 20% of the program MW in the earlier RFOs, with each RFO seeking a decreased amount.¹¹ While the Commission rejected the notion that soliciting more megawatts in the initial solicitations was needed to ensure a

⁸ Advice 2889-E (May 8, 2013), p. 2.

⁹ Although the program is a five year program, SCE did not have a solicitation in 2011, thus reducing the number of auctions from five to four.

¹⁰ Decision 09-06-049 at p.42.

¹¹ See Response of the Solar Alliance and Vote Solar Initiative to SCE Advice Letter 2364-E (August 10, 2009).

successful program, it made the following clarification regarding the standard for measuring the success of the program: “The success of the IPP [portion of the SPVP] program will be measured in megawatts ultimately developed under the IPP program and not simply that the IPP Program was carried out for five years.”¹² The Commission went on to state that it “expects SCE to take all reasonable measures to see that the 250 MW¹³ of the new solar PV projects are developed by IPPs through this program.”¹⁴

Given the current status of the program, with only 25.5 MW under contract, SEIA submits that certain modifications are necessary if the program’s MW goal is to be obtained.

First, in its fourth MW solicitation under the program (SPVP 4) SCE should be required to solicit all remaining program MW which are not contracted (*e.g.*, if at the time of the fourth solicitation SCE has 50 MW under contract, then the fourth solicitation should be for 75 MW). Such is consistent with the Commission’s previous determination that the “final RFO should solicit sufficient megawatts to achieve the IPP program goal.”¹⁵

Second, given the historically high contract failure rate under the program, SCE should be given the authority to procure additional MW beyond the remaining uncontracted MW at its discretion.

Third, SCE should be directed to conduct two additional solicitations, on an annual basis, to provide the opportunity for re-contracting any MW that have failed through SPVP 4. The first

¹² Resolution E-4299 (January 21, 2010) at p. 5.

¹³ As noted above, this number was reduced to 125 MW as per Decision 12-02-035.

¹⁴ Resolution E-4299 (January 21, 2010) at p. 5.

¹⁵ *Id.*

of these solicitations should be held no sooner than 12 months after the contracts which were executed as a result of SPVP 4 have been approved by the Commission.¹⁶

As noted by the Commission, and as evidenced by SCE's program to date, "it is reasonable to expect that some contracted SPVP projects will not achieve commercial operation for one reason or a another."¹⁷ This statement holds true for the MW solicited in SPVP 4 -- it is reasonable to expect that some of projects which were contracted as a result of SPVP 4 will fail. Moreover, some of the projects from SPVP 3 could fail subsequent to the SPVP 4 solicitation. In order to assure that there is sufficient opportunity for those MW to be re-contracted, the additional solicitations are necessary. Given the number of MWs which are left to be solicited and placed under contract in SPVP 3 and SPVP 4 (75% of the program MW), it is critical to program success (as measured in megawatts ultimately developed) that additional solicitations be required.¹⁸

IV. CONCLUSION

For the reasons above stated, SEIA requests that Decision 12-05-035 be modified to effect the changes set forth herein.¹⁹

¹⁶ The SPVP Power Purchase and Sales Agreement provides that the Term Start Date must occur within eighteen (18) months of CPUC approval of the contract, subject to a six month extension. Thus, having the last solicitation being conducted no earlier than 24 months from approval of the SPVP 4 contracts should allow for the capturing of all failed MW.

¹⁷ Resolution E-4299 (January 21, 2010) at p. 5.

¹⁸ SEIA recognizes that MWs put under contract as a result of the two additional solicitations could fail as well. SEIA, however, is not requesting that the program be continued indefinitely to pick up those failed MW. Rather the two additional solicitations should provide the program with a reasonable opportunity to reach program goals.

¹⁹ Appended to this Petition are recommended changes to Decision 12-02-035 necessary to effect the modifications requested herein. As stated in Decision 12-12-035 (p. 28), because these changes only impact the SPVP going forward, it is not necessary to change the language in D.09-06-049.

Respectfully submitted this June 10, 2013 at San Francisco, California.

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Jeanne B. Armstrong
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: jarmstrong@goodinmacbride.com

By /s/ Jeanne B. Armstrong
 Jeanne B. Armstrong

Attorneys for the Solar Energy Industries Association

ATTACHMENT 1

SUMMARY OF SOLAR PHOTOVOLTAIC PROGRAM (SPVP) FOR SOUTHERN CALIFORNIA EDISON COMPANY

~~February 2012~~ _____, 2013

Commission Decision 09-06-049 (June 18, 2009) adopted the Solar Photovoltaic Program (SPVP) for Southern California Edison Company. The program was implemented via Resolution E-4299 (January 21, 2010). This attachment summarizes SPVP, as modified by Decision 12-02-035, but complete terms and conditions are in Commission decisions and resolutions.

1. General Overview

The Solar Photovoltaic Program (SPVP) is a five-year program to develop 500 megawatts (MW) of direct current (DC) renewable generation. It is composed of three parts:

- a. Utility-Owned Generation (UOG): up to 125 MW
- b. Independent Power Producers (IPP): up to 125 MW
- c. Renewable Auction Mechanism (RAM): 250 MW (equivalent to 225 MW alternating current (AC))

The UOG and IPP parts are each designed for development of up to 125 MW of solar photovoltaic (PV) generation on rooftops in the service area of Southern California Edison Company (SCE) from projects primarily in the one to two MW size range, with some exceptions.

The RAM part involves procuring 250 MW DC (225 MW AC) from the original SPVP (adopted in Decision 09-06-049) through RAM. RAM includes projects that would qualify under SPVP, but also includes other eligible renewable projects.

2. Utility-Owned Generation

SCE is authorized to own, develop, install, maintain and operate up to 125 MW (but no less than 115 MW absent additional authorization) of solar PV projects in the one to two MW range, located in SCE's service area, primarily on rooftops, over a five year program (about 25 MW annually, although SCE is encouraged to accelerate the development if practical and not adverse to program costs). Project costs are subject to cost of service ratemaking treatment, and are capped at \$3.50 per Watt with a 10% contingency. Costs in excess of \$3.85 per Watt are subject to reasonableness review. No more than 20% (25 MW) may be ground-mounted facilities, and the bulk of SPVP projects must be in range of one to two MW. SCE shall develop 125 MW, or as close to 125 MW as reasonable. SCE shall explain in periodic SPVP reports why it is not on target to achieve 125 MW of UOG if that is the case, and explain what steps it is taking to achieve 125 MW. SCE shall, no later than 180 days before the end of the five year SPVP program, file a Tier 2 advice letter for authorization if UOG procurement will be less than 115 MW by the end of year five.

3. Independent Power Producer

SCE is authorized to procure via competitive solicitation up to 125 MW (but no less than 115 MW absent additional authorization) of solar PV generation owned by independent power producers. The solicitations shall be at least once per year. The generation shall primarily be from rooftop solar PV projects in the one to two MW range, located in SCE's service area, over a an initial five year program (about 25 MW annually, although SCE is encouraged to accelerate the procurement if practical and not adverse to program costs). In the last solicitation conducted during the initial five year period, SCE shall solicit all remaining program MW which are not contracted at that time. SCE is authorized to procure additional MW beyond the remaining uncontracted MW at its discretion to account for contract failure. After the initial five year program period, SCE shall conduct two additional solicitations, on an annual basis, to provide the opportunity for re-contracting any program MW that have failed. The first of these solicitations should be held no sooner than 12 months after the contracts which were executed as a result of the final solicitation during the initial five year program period have been approved by the Commission. Bids in all program solicitations are capped at SCE's estimated levelized cost of electricity (\$0.26 per kilowatthour). No more than 20% (25 MW) may be ground-mounted facilities, and the bulk of SPVP projects must be in range of one to two MW. SCE shall procure 125 MW, or as close to 125 MW as reasonable. SCE shall explain in periodic SPVP reports why it is not on target to achieve 125 MW of IPP if that is the case, and explain what steps it is taking to achieve 125 MW. SCE shall, no later than 180 days before the end of the five year SPVP program, file a Tier 2 advice letter for authorization if IPP procurement will be less than 115 MW by the end of year five.