

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID # 11908
RESOLUTION E-4572
February 28, 2013

REDACTED

R E S O L U T I O N

Resolution E-4572. Southern California Edison Company (SCE) requests approval of a renewable energy sales contract with Energy America LLC.

PROPOSED OUTCOME: This resolution approves SCE's request to enter into a renewable energy sales contract with Energy America LLC. The contract is approved without modification.

SAFETY CONSIDERATIONS: This resolution approves a contract for the sale of renewable energy that will not alter existing contracts or any facility operations. Because this sales contract does not require a change in facility operations there are no incremental safety implications associated with approval of this contract beyond the status quo.

ESTIMATED COST: Costs of this contract are confidential at this time.

By Advice Letter 2757-E filed on July 6, 2012

SUMMARY

Southern California Edison Company's proposed sales contract with Energy America is consistent with the Renewables Portfolio Standard (RPS) guidelines and other Commission rules and decisions and is therefore approved.

Southern California Edison Company (SCE) filed Advice Letter (AL) 2757-E on July 6, 2012 requesting Commission review and approval of a contract for the resale of bundled renewable energy to Energy America LLC (Energy America).

The sales contract is a short-term bilateral contract for renewable generation from various RPS-certified facilities that are operating in California and under contract to SCE.

This resolution approves the sales contract without modification. SCE's execution of this contract is consistent with its 2012 RPS Procurement Plan, including its resource needs, which the Commission approved in Decision 12-11-016. Sales from SCE pursuant to the contract are reasonably priced over the life of the sales contract, subject to Commission review of SCE's administration of the sales contract. Payments received by SCE under the sales contract shall be credited to SCE's ratepayers via SCE's Energy Resource Recovery Account (ERRA).

The following table summarizes the contract:

Table 1: Summary of the Sales Contract between SCE and Energy America

Seller	Buyer	Technology Type	Term	Minimum Capacity (MW)	Minimum Energy (GWh)	Contract Start Date	Location
SCE	Energy America	Various, operating RPS-eligible technologies	18 months	40 in 2012 25 in 2013	~220	5/13/12	California

BACKGROUND

Overview of the Renewables Portfolio Standard (RPS) Program

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X).¹ The RPS program is codified in Public Utilities Code Sections 399.11-399.31.² Under SB 2 (1X), the RPS program administered by the Commission requires each retail

¹ SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session).

² All further references to sections refer to Public Utilities Code unless otherwise specified.

seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.³ Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at <http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm> and <http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm>.

NOTICE

Notice of SCE AL 2757-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the AL was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

No protests were filed.

DISCUSSION

SCE requests approval of a sales contract with Energy America.

On July 6, 2012, SCE filed AL 2757-E requesting Commission approval of a renewable energy sales contract with Energy America. The sales contract provides that SCE will sell RPS-eligible energy and associated RECs to Energy America.⁴ The RPS-eligible energy that SCE will sell to Energy America will be generated by one or a combination of the facilities listed in Table 2 with which SCE currently has Commission-approved power purchase agreements. All of the

³ D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020).

⁴ Energy America is the wholesale trading affiliate of Direct Energy, LP, for U.S. trading. Direct Energy is a registered load serving entity in California.

facilities are located in California and are interconnected to California Independent System Operator grid at various points within the Western Electricity Coordinating Council.

Table 2: List of Facilities under contract to SCE that may provide RPS-eligible energy to Energy America pursuant to the sales contract

Facility Name/Owner	Location (all CA)	Technology	CEC ID	Online Date
Alta Wind I, LLC	Mojave	Wind	60794A	11/1/2010
Alta Wind II, LLC	Mojave	Wind	60795A	11/1/2010
Alta Wind III, LLC	Mojave	Wind	61092A	12/22/2010
Alta Wind IV, LLC	Mojave	Wind	61093A	2/23/2011
Alta Wind V, LLC	Mojave	Wind	61094A	3/11/2011
Calpine Geysers Power Company, LLC	Sonoma County	Geothermal	Various	1/1/1972
Coso Clean Power, LLC	Little Lake	Geothermal	60321A	1/12/1990
Coso Clean Power, LLC	Little Lake	Geothermal	60309A	8/19/1987
Dillon Wind, LLC	Palm Springs	Wind	60542A	3/15/2008
Mountain View Power Partners, LLC	North Palm Springs	Wind	60284A 60285A	9/1/2001 9/1/2001
NRG Solar Blythe, LLC	Blythe	Solar Photovoltaic	60655A	12/1/2009

In AL 2757-E, SCE states that it entered into the sales transaction because it forecasts that it will have surplus RPS procurement relative to its RPS requirements for Compliance Period 2011-2013. Sales to Energy America are expected to reduce SCE's forecasted RPS procurement portfolio by 440.8 gigawatt-hours (GWh) over the contract's 18 month term. Pursuant to the sales contract, SCE will provide firm deliveries of generation to Energy America at the South of Path 15 Existing Zone Generation Hub (SP-15 EZ Gen Hub).

SCE requests the Commission to issue a resolution that:

1. Approves the sales contract in its entirety;

2. Finds that the sales contract, and SCE's entry into the sales contract, is reasonable and prudent for all purposes, subject only to further review with respect to the reasonableness of SCE's administration of the sales contract;
3. A finding that the sales contract is a Category 1 transaction; and
4. Any other and further relief as the Commission finds just and reasonable.

Energy Division Review Of The Proposed Sales Contract

Energy Division evaluated the sales contract using the following criteria:

- Consistency with bilateral contracting guidelines;
- Consistency with SCE's 2012 RPS Procurement Plan (Plan) and RPS Procurement Portfolio Need;
- Consistency with RPS standard terms and conditions (STC);
- Independent Evaluator review;
- Procurement Review Group (PRG) participation;
- Price and cost reasonableness;
- Public safety; and
- Contract viability.

Consistency With Bilateral Contracting Guidelines

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. In D.09-06-050, this Commission established review standards and processes for short-term and bilateral contracts. SCE adhered to these bilateral contracting rules and processes because: the sales contract is longer than one month in duration, was filed by advice letter, and was reviewed by SCE's Procurement Review Group, negotiations were overseen by an independent evaluator, and the sales contract is reasonable, as discussed in more detail below.

The sales contract is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

Consistency With SCE's 2012 RPS Procurement Plan and RPS Portfolio Need

SCE's 2012 RPS Procurement Plan

Pursuant to statute, SCE's 2012 RPS Procurement Plan (2012 RPS Plan) includes: an assessment of supply and demand to determine the optimal mix of renewable generation resources; description of potential RPS compliance delays; status update of projects within its RPS portfolio; and an assessment of the project failure and delay risk within its RPS portfolio.⁵ Specifically, SCE states in its 2012 RPS Plan that it will not hold a 2012 RPS solicitation due to its projection that SCE will have excess RPS procurement in the near-term and instead will focus on several RPS distributed generation programs.⁶ Additionally, SCE's 2012 RPS Plan states that it will consider the selling of RPS-eligible generation.⁷

SCE's RPS Portfolio Need

In AL 2757-E, SCE states that it is projecting a long RPS portfolio position for Compliance Period 2011-2013. SCE asserts that the sale of 440.8 GWh to Energy America in Compliance Period 2011-2013 is not expected to materially change SCE's overall procurement need in relation to its RPS procurement requirements.

SCE's statements in AL 2757-E are consistent with SCE's 2012 RPS Plan and SCE's 2011 Preliminary Annual 33% RPS Compliance Report in which SCE reported that its total RPS procurement for 2011 was 21.1% of its 2011 bundled retail sales.⁸ SCE's 2011 Preliminary Annual 33% RPS Compliance Report also shows that SCE is forecasting an increase in total RPS procurement for the remaining years of Compliance Period 2011-2013. Thus, it is likely that SCE will

⁵ Pub. Util. Code, Section §399.13(a)(5).

⁶ SCE Final 2012 Renewables Portfolio Standard Procurement Plan, November 29, 2012, p. 8.

⁷ SCE Final 2012 Renewables Portfolio Standard Procurement Plan, November 29, 2012, p. 27.

⁸ SCE Final 2012 Renewables Portfolio Standard Procurement Plan, November 29, 2012, Appendix C.2 and SCE 2011 Preliminary Annual 33% RPS Compliance Report, December 28, 2012, p. 23.

be procuring over the required average of 20 percent renewables in Compliance Period 2011-2013.⁹

Based on SCE's RPS portfolio needs described in its 2012 RPS Plan and AL 2757-E, we conclude that the sales contract is consistent with SCE's 2012 RPS Plan. The short-term sales contract is for 18 months in Compliance Period 2011-2013 and is for generation from renewable energy facilities that will reduce the amount of forecasted surplus RECs that SCE is projected to have in its RPS procurement portfolio. See Confidential Appendix A for details on SCE's forecasted RPS procurement needs.

The sales contract is consistent with SCE's 2012 RPS Procurement Plan, approved by D.12-11-016.

Consistency With RPS Standard Terms and Conditions

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. More recently in D.10-03-021, as modified by D.11-01-025, the Commission further refined these STCs.

The sales contract includes the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025.

Independent Evaluator Review

SCE retained independent evaluator (IE) Alan Taylor of Sedway Consulting to oversee SCE's bilateral negotiations with Energy America and to evaluate the contract's overall merits for CPUC approval. AL 2757-E included a public and confidential independent evaluator's report.

In the IE report (p. C-6), the IE states:

⁹ The amount of electricity generated per year from eligible renewable resources is to be increased to an amount that averages 20 percent of the total electricity sold to retail customers in California for the period 2011-2013.

Sedway Consulting believes that the Energy America transaction represents a reasonable use of SCE's near-term surplus RPS energy and is likely to be beneficial for SCE's customers, based on Sedway Consulting's analysis of the transaction's pricing (relative to the likely value of banking SCE's near-term surplus for future use) and the fact that the terms and conditions appear to be fair and reasonable. Sedway Consulting believes that the transaction warrants CPUC approval.

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SCE's negotiations with Energy America.

Procurement Review Group Participation

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.¹⁰ SCE asserts that the sales contract was discussed at its PRG meeting on April 25, 2012.

Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the sales contract.

Price Reasonableness

SCE's evaluation of the sales contract price was based primarily on data from brokerage firms. The IE also examined price reasonableness by comparing the pricing of the proposed transaction to the likely value of the generation to SCE's customers if the generation were instead banked for SCE's future RPS compliance requirements. For the review of the sales contract's price reasonableness, the Commission compared the contract price to SCE's 2011 RPS solicitation and market data.

¹⁰ SCE's PRG includes representatives of the Union of Concerned Scientists, the Coalition of California Utility Employees, The Utility Reform Network, the California Public Utility Commission's Energy Division and Division of Ratepayer Advocates, and the California Department of Water Resources.

Based on this analysis, the confidential analysis provided by SCE in AL 2757-E, and the confidential analysis provided by the IE, we determine that the sales contract's price is reasonable. We note, however, that the Commission has not established rules for price reasonableness review of contracts for RPS sales by IOUs and that the analysis of the sales contract's price reasonableness here is not precedent setting. Confidential Appendix A includes a detailed discussion of the contractual pricing terms and the analysis of the reasonableness of the contract price.

The total expected revenues of the sales contract are reasonable based on their relation to bids received in response to SCE's 2011 RPS solicitation and market data.

Payments received by SCE under the sales contract shall be credited to SCE's ratepayers through SCE's Energy Resource Recovery Account (ERRA) over the life of the sales contract, subject to Commission review of SCE's administration of the sales contract.

SCE is required to demonstrate in its ERRA Review Proceedings that its least-cost dispatch processes, operations and related spot market transactions comply with all applicable Standards of Conduct (SOC) (including SOC No. 4 concerning cost dispatch obligations). SCE shall record the transactions authorized in this Resolution in its ERRA Balancing Accounts, and these transaction shall be subject to the Commission's ERRA Review Proceeding.

Public Safety

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

This resolution approves a contract for the sale of RPS-eligible generation from operating facilities. The sales contract does not alter SCE's existing power purchase agreements or any facility operations. As this sales contract does not require a change in facility operations, there are no incremental safety implications associated with approval of this contract beyond the status quo.

Contract Viability

The generation to be sold under the sales contract is from operating facilities that have been certified by the CEC as RPS-eligible. Additionally, the combined capacity and expected annual generation of the facilities that may provide generation to Energy America pursuant to the contract considered herein is greater than the amount to be sold. Thus, it is reasonable that SCE will be able to meet the terms and conditions of the sales contract.

CONFIDENTIAL INFORMATION

The Commission, in implementing Public Utilities Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin or one year after expiration, whichever comes first, except contracts between IOUs and their affiliates, which are public. In this case, deliveries began on May 5, 2012 and the contract will terminate December 31, 2013; thus, the contract will be public one year after the contract terminates.

The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

COMMENTS ON THIS RESOLUTION

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS AND CONCLUSIONS

1. The sales contract is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.
2. The sales contract is consistent with SCE's 2012 RPS Procurement Plan, approved by D.12-11-016.
3. The sales contract includes the Commission-adopted RPS standard terms and conditions including those deemed "non-modifiable."
4. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SCE's negotiations with Energy America LLC.
5. Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the sales contract.
6. The total expected revenues of the sales contract are reasonable based on their relation to bids received in response to SCE's 2011 RPS solicitation and market data.
7. The analysis used to determine that the sales contract price is reasonable is not precedent setting.
8. Payments received by SCE under the sales contract shall be credited to SCE's ratepayers via SCE's Energy Resource Recovery Account (ERRA) over the life of the sales contract, subject to Commission review of SCE's administration of the sales contract.
9. SCE is required to demonstrate in its ERRA Review Proceedings that its least-cost dispatch processes, operations and related spot market transactions comply with all applicable Standards of Conduct (SOC) (including SOC No. 4 concerning cost dispatch obligations). SCE shall record the transactions authorized in this Resolution in its ERRA Balancing Accounts, and these transaction shall be subject to the Commission's ERRA Review Proceeding.
10. It is reasonable that SCE will be able to meet the terms and conditions of the sales contract.
11. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
12. AL 2757-E should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison Company's Advice Letter 2757-E, requesting Commission approval of a sales contract with Energy America LLC, is approved.
2. SCE shall record the transactions authorized in this Resolution in its Energy Resource Recovery Account Balancing Accounts, and these transaction shall be subject to the Commission's Energy Resource Recovery Account Review Proceeding.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on February 28, 2013; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

Confidential Appendix A

Analysis and Summary of the Sales Contract

[Redacted]