

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4582

May 9, 2013

R E S O L U T I O N

Resolution E-4582. Changes to the Renewable Auction Mechanism for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company.

PROPOSED OUTCOME: This Resolution approves changes to the Renewable Auction Mechanism for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company. Specifically, this Resolution modifies the capacity allocation requirements for the fourth Renewable Auction Mechanism solicitation; authorizes the fourth Renewable Auction Mechanism solicitation to close on June 28, 2013; and, authorizes the fifth Renewable Auction Mechanism solicitation to close no later than June, 27, 2014.

SAFETY CONSIDERATIONS: This resolution approves two solicitations for the procurement of renewable energy quantities previously authorized by the Commission. As a result, there are not expected to be any incremental safety implications associated with approval of this resolution.

ESTIMATED COST: There are no expected costs associated with the changes made to the Renewable Auction Mechanism adopted by this Resolution.

By Energy Division's own motion pursuant to Commission Decision 10-12-048, as modified.

SUMMARY

This resolution implements changes to the Renewable Auction Mechanism (RAM) for the three investor-owned utilities (IOUs): Pacific Gas and Electric
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Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E). In Decision (D.) 10-12-048 (the Decision or RAM Decision), the California Public Utilities Commission (CPUC or Commission) adopted a two-year program with the purpose of lowering transaction costs and promoting the development of system-side renewable distributed generation (DG), which is defined as projects up to 20 megawatts (MW) in size. The Commission approved Resolution E-4414 on August 18, 2011 to adopt RAM program implementation details, bidding protocols, and a standard power purchase agreement (PPA) for each IOU.

The substantive changes to the RAM Program approved herein shall apply to all three of the IOUs. These changes will take effect prior to commencement of the fourth RAM solicitation, which is scheduled to close on June 28, 2013.

The changes made herein that alter the RAM Program Rules, as established by D.10-12-048, as modified by Resolutions E-4414 (August 18, 2011), E-4489 (April 19, 2012), and E-4546 (November 8, 2012), are summarized in Appendix A of this Resolution.

BACKGROUND

On December 18, 2010, the CPUC approved a new procurement mechanism called the Renewable Auction Mechanism or RAM in D.10-12-048. The Decision ordered the IOUs to procure 1,000 megawatts (MW) of system-side renewable distributed generation (for individual projects up to 20 MW in size) through a reverse auction using a standard contract. The Decision ordered the IOUs to hold four auctions over two years and directed the IOUs to submit their bidding protocols and standard contracts through a Tier 3 advice letter to implement the Decision's requirements.

On February 25, 2011, the IOUs submitted advice letters for approval of their bidding protocols and standard PPAs. The Commission adopted Resolution E-4414 in August 2011, approving with modifications the utilities' RAM implementation advice letters. In Resolution E-4489, which followed the first RAM solicitation, the Commission modified RAM program components related to Buyer's termination rights and permitted an option for Sellers to bid projects as either energy-only or with full capacity deliverability status. In Resolution E-4546, which followed the second RAM solicitation, the Commission modified

several additional elements of the RAM program based on feedback from the IOUs and the market:

- Adopted technology-specific Guaranteed Energy Production provisions
- Provided additional flexibility for generators bidding with RA benefits
- Created dual time of delivery (TOD) factors
- Modified the eligibility rules for existing facilities
- Clarified provisions related to excess deliveries
- Simplified RAM by imposing uniform security payments on bidders

In D.10-12-048, and in Resolution E-4414¹ implementing that decision, the Commission delegated to Energy Division staff the authority to recommend modifications to the RAM program on its own motion. Section 12.1 of D.10-12-048 further expanded upon the Commission's intent to delegate authority to Energy Division to modify RAM:

We expect [Energy Division] and parties to continually monitor the RAM, and recommend modifications based on evidence, if and as necessary. [Energy Division] may act on its own motion to revise any aspect of the RAM program through resolutions proposed for Commission approval . . . Any modifications proposed should be based on evidence that the modification is necessary to improve the RAM program.

Additionally in D.10-12-048, the Commission also concluded that the Director of Energy Division should have the authority to "explore methodologies for aligning RAM procurement authority with the Commission's procurement planning process to assess the need for RAM capacity and products in the future" and that the Director of Energy Division, to pursue these types of changes, "may issue a resolution . . . on its own motion."²

¹ Resolution E-4414, Ordering Paragraph 41 (adopting the RAM Program Rules, including provision 7(a), which states in full, "The Commission can modify any element of the program at any time through a Commission resolution").

² See, D.10-12-048, Conclusions of Law 11, 12, and 15.

DISCUSSION

The following section summarizes two changes to the RAM Program proposed by Energy Division on its own motion:

- Modifying the capacity allocation targets for RAM 4
- Authorizing a RAM 5 auction

Both of these changes are evaluated on the basis of whether they are necessary to improve the RAM program, consistent with D.10-12-048.

(1) Modifying the capacity allocation targets for RAM 4

The Commission has ordered the three IOUs to procure 1,299 MW through RAM over two years, with auctions to be held twice a year.³ Furthermore, Decision 10-12-048 ordered the utilities to solicit 25% of their authorized RAM allocation in each auction.⁴

In Resolution E-4414, the Commission ordered that the first RAM auction would close no later than November 15, 2011, and the second RAM auction would close no later than May 31, 2012.⁵ In Resolution E-4546, the Commission ordered that the third RAM auction would close on December 21, 2012.⁶ The fourth RAM auction will close on June 28, 2013.

Energy Division, on its own motion, seeks to modify the capacity allocation solicitation targets for RAM 4. While D.10-12-048 originally intended for each utility to solicit 25% of its authorized RAM allocation in each of four auctions and for the IOUs to procure 100% of its authorized 1,299 MW capacity through

³ See, D.10-12-048, Ordering Paragraph 1(c). Also See, D.12-02-035 (moving 225 MW from SCE's Solar Photovoltaic Program (SPVP) into RAM), and D.12-02-002 (moving 74 MW from SDG&E's Solar Energy Program (SEP) into RAM).

⁴ *Id.*

⁵ Resolution E-4414, Ordering Paragraph 2.

⁶ Resolution E-4546, Ordering Paragraph 3.

four auctions, it is appropriate now to reconsider these requirements for several reasons.

First, allowing the IOUs to delay some of their previously authorized RAM procurement would better align with the IOUs' demonstrated renewables portfolio standard (RPS) compliance need.⁷ Given the existing requirement that RAM projects must achieve commercial operation within 24 months of CPUC approval, it would be expected that a project selected from RAM 4 would achieve commercial operation by the end of 2015, in the middle of the second compliance period established by SB 2 (1X), at a time when each of the three IOUs are projected to be net long in their RPS compliance positions. As such, the Commission finds that it would better align with utility need to delay some RAM procurement beyond the scheduled fourth RAM auction.

Second, as this resolution will address below in its authorization of a fifth RAM auction, it would be beneficial to the market to provide more ratable RAM procurement opportunities through the fourth and fifth RAM auctions. As such, the Commission finds that it would benefit the renewable market and improve RAM to order the utilities to more ratably solicit their remaining authorized RAM capacity across the fourth and fifth RAM auctions.

Because the Commission has yet to review the contracts executed by the IOUs from the third RAM auction, it is not yet known how much previously authorized RAM capacity will remain for each utility ahead of the fourth RAM auction. By requiring the utilities to reserve some procurement for a fifth RAM auction, however, the Commission seeks to provide a meaningful procurement opportunity through the fourth and fifth RAM auctions while better aligning some RAM procurement with utility need.

⁷ See, SDG&E 2012 RPS Procurement Plan (Public Version), Section I, B., 3. Determine RNS for Each Compliance Period, p. 9-10 (December 13, 2012); PG&E RPS 2012 Renewable Energy Procurement Plan (Public Version), Appendix 1A: Quantitative Information, p. 1-2 (November 29, 2012); and, Southern California Edison Company's Final 2012 RPS Procurement Plan (Public Version), Section II., A. Description of SCE's Portfolio and Forecast of Need, p. 8 (November 29, 2012).

Therefore, the Commission finds that the three IOUs must reserve one-third of their remaining previously authorized, yet unsubscribed, RAM capacity for their respective fifth RAM auctions. Likewise, the three IOUs should adopt procurement targets for the fourth RAM auction equal to two-thirds of their remaining previously authorized, yet unsubscribed, RAM capacity.

The Commission finds that it would be consistent with the original intent of the RAM Decision for the fourth RAM auction to close on June 28, 2013, approximately six months after the close of the third RAM auction.

(2) RAM 5 Authorization

The Commission has ordered the IOUs to procure at least 1,299 MW of capacity through four RAM auctions over two years.⁸ The original RAM decision also ordered that the utilities were to solicit any “unsubscribed capacity (or subscribed capacity that drops out)” in the next available auction.⁹

Energy Division acknowledges, however, that no mechanism is currently in place to authorize a utility to solicit additional RAM contracts in the event that the utility fails to procure contracts for all of its capacity targets in the fourth RAM auction. Likewise, there is no mechanism for the IOUs to solicit additional RAM contracts to replace any previously executed RAM contracts which may fail or may be terminated.

As such, the Commission finds that it is necessary to authorize a fifth RAM auction to allow the IOUs to procure additional RAM contracts to meet their previously authorized RAM capacity allocation, and to replace capacity from any previously executed RAM contracts which, by that time, have failed or have been terminated prior to reaching their commercial operation date.

Given the timing of the previous RAM auctions, the requirement for RAM projects to achieve commercial operation within 18 to 24 months, and the

⁸ See, D.10-12-048, Ordering Paragraph 1(c). Also See, D.12-02-035 (moving 225 MW from SCE’s Solar Photovoltaic Program (SPVP) into RAM), and D.12-02-002 (moving 74 MW from SDG&E’s Solar Energy Program (SEP) into RAM).

⁹ D.10-12-048, Ordering Paragraph 1(c).

requirement for the IOUs to monitor the project development milestones of RAM projects, the Commission finds that the fifth RAM auction should close no later than June 27, 2014.

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 two solicitations for the procurement of renewable energy quantities previously authorized by the Commission. As this resolution does not authorize additional incremental procurement, there are no incremental safety implications associated with approval of this resolution beyond the status quo.

COMMENTS

Public Utilities Code Section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties on April 9, 2013.

The Commission received timely comments to Draft Resolution E-4582 on April 29, 2013 from SCE; PG&E; NextEra Energy Resources (NextEra); Recurrent Energy (Recurrent); the Division of Ratepayer Advocates (DRA); and jointly by the Solar Energy Industries Association and the Large Scale Solar Association (SEIA/LSA). The substance of these comments is addressed below.

Modifications to RAM Terms and Conditions

Multiple parties in their comments to the draft resolution made requests to modify specific terms and conditions of the previously authorized RAM PPA. These requests are out of scope in response to the draft resolution, because the draft resolution was limited in scope to the authorization of RAM4 and RAM5 and did not address any changes to the RAM program rules or terms and

conditions of the RAM PPA. For this reason, the draft resolution will not be modified to address various changes requested by NextEra.

Non-Substantive Changes to RAM Bidding Protocols and RAM PPA

SCE noted in its comments that the draft resolution omitted an ordering paragraph instructing the utilities to file Tier 1 advice letters to demonstrate compliance with this resolution. The inclusion of such an order is standard practice and was omitted in error from the draft resolution. As such, the draft resolution has been amended to include Ordering Paragraph 5, which now orders the utilities to file a Tier 1 advice letter demonstrating compliance with this resolution and also authorizes the utilities to include in that filing non-substantive changes to their RAM bidding protocols and PPAs.

PG&E suggests in its comments that it will propose non-substantive changes to its RAM PPA in its Tier 2 advice letter filing seeking approval of PPAs executed from RAM3. The Commission will not evaluate the substance of those proposed changes in this resolution, but instead directs PG&E to Ordering Paragraph 5 of this resolution which now directs the utilities to file Tier 1 advice letters demonstrating compliance with this resolution and authorizes the utilities to make non-substantive changes to their RAM PPAs and bidding protocols.

Clarifications of Existing RAM Provisions

In its comments, SCE seeks three clarifications: (1) to clarify a provision adopted in Resolution E-4546 as it applies to the eligibility of existing facilities, (2) to clarify the intention of the 6 month extension of COD for regulatory delay, and (3) to clarify the RAM Program Rules as provided in Appendix A to make them consistent with previously authorized RAM PPAs.

In Resolution E-4546, the Commission restricted the eligibility rules for existing facilities seeking to participate in RAM. Previously, any existing facility could participate without restriction. Ordering Paragraph 9 of Resolution E-4546 modified this rule, stipulating that an existing facility currently under contract with one of the IOUs could only participate in RAM if its existing contract is scheduled to terminate “within 24 months of the proposed effective date of the utility’s PPAs from that RAM auction, as estimated by that utility’s RAM Bidding Protocol.”

SCE notes that each of the IOUs defines the “proposed effective date” of the PPA in a different manner, and asks the Commission to clarify if it intended for this

term to refer to the expected approval date of the RAM PPAs, as estimated by the utility's RAM bidding protocol. The Commission takes this opportunity to clarify that it intended for that term to refer to the utility's expected date of CPUC approval of its RAM PPAs as estimated in its RAM bidding protocols.

The issue raised by SCE in its comments about the application of the 6 month extension of COD for regulatory delay gives the Commission an opportunity to clarify this previously authorized provision. In D.10-12-048, the original decision authorizing RAM, the Commission described a proposal from Energy Division staff to authorize a one-time six-month extension of a project's COD under certain circumstances: "A one-time six-month extension may be permitted, according to ED's proposal, if the project can successfully demonstrate the cause of the delay is due to the regulatory processes outside of its control such as permitting or interconnection delays not caused by the developer. . . ." ¹⁰ The Commission ultimately adopted Energy Division's proposal: "RAM projects should be given 18 months from contract execution to begin commercial operation or lose RAM eligibility, subject to one 6-month extension provided the seller can prove a regulatory delay." ¹¹ The Commission notes that projects now have 24 months ¹² from the date of CPUC approval ¹³ to begin commercial operation.

The Commission now takes this opportunity to clarify the provision concerning the extension of COD. The six-month extension for regulatory delay should exist as a one-time, single extension granted in full upon a demonstration by the seller that their project has undergone regulatory delay outside of its control. The Commission clarifies that it did not intend for this extension to be granted on a day-to-day basis up to a maximum of six months. If one of the three IOUs needs

¹⁰ D.10-12-048, p. 50.

¹¹ *Id.* at Conclusions of Law #31, p. 90.

¹² Resolution E-4489, Ordering Paragraph #5, p. 19.

¹³ Resolution E-4414, Ordering Paragraph #16, p. 43.

to modify its RAM PPA to conform to this clarification, it should do so in its Tier 1 advice letter filing demonstrating compliance with this resolution.

The requested changes to Appendix A have been accepted and are now reflected in Appendix A of this resolution.

Timing of RAM4 and RAM5

The Joint Solar Parties and Recurrent filed comments offering general support for the approach taken in the draft resolution, but seeking changes to the timing of RAM5. The Joint Solar Parties and Recurrent seek for the Commission to require RAM5 to close by the end of December 2013, rather than June 2014. Those parties contend that such timing would be more consistent with the original RAM Decision that authorized four auctions to occur every 6 months. Additionally, the Joint Solar Parties and Recurrent contend that holding RAM5 earlier would increase the ability for projects securing PPAs from that auction to take advantage of the federal investment tax credit currently scheduled to expire on December 31, 2016. These parties also seek authorization of three additional RAM auctions (RAM6, RAM7, and RAM8) to occur once annually after RAM5 closes for the purpose of re-contracting for capacity from any failed or terminated RAM projects.

On the other hand, DRA filed comments seeking to delay both RAM4 and RAM5 to better align with utility RPS compliance need. DRA proposes delaying *both* auctions to align the CODs for projects originating from those auctions to the third compliance period (defined by SB 2 (1X) as 2017-2020) when the IOUs may have some RPS compliance need.

No changes have been made to the draft resolution on the basis of the comments filed by the Joint Solar Parties, Recurrent, or DRA. The Commission acknowledges that the original RAM Decision authorized four RAM auctions to occur every 6 months, but the same decision also authorized Energy Division to revisit this timing through a resolution on its own motion to better align RAM procurement with utility need. As explained above, this is the rationale for scheduling RAM5 to close in June 2014. The approach taken by the draft resolution reasonably balances the concerns raised by the parties seeking to move up the date of RAM5 with DRA's proposal to delay RAM4 and RAM5 until 2015 or beyond. Scheduling RAM5 for June 2014 better aligns some RAM procurement with utility need while still providing a near-term procurement opportunity for the RAM market.

On the issue of the expiration of the federal investment tax credit, the Commission notes that the requirement for projects to attain COD within 24 months of CPUC approval of RAM5 PPAs should still allow projects time to reach their expected CODs before December 31, 2016.

Reply Comments

The Commission did not seek the submission of reply comments to draft resolution E-4582.

FINDINGS AND CONCLUSIONS

1. It would better align with utility need to delay some RAM procurement beyond the scheduled fourth RAM auction.
2. It would benefit the renewable market and improve RAM to order the utilities to more ratably solicit their remaining authorized RAM capacity across the fourth and fifth RAM auctions.
3. The three investor-owned utilities must reserve one-third of their remaining previously authorized, yet unsubscribed, RAM capacity for their respective fifth RAM auctions.
4. The three investor-owned utilities should adopt procurement targets for the fourth RAM auction equal to two-thirds of their remaining previously authorized, yet unsubscribed, RAM capacity.
5. It would be consistent with the intent of Decision 10-12-048 for the fourth RAM auction to close on June 28, 2013, approximately six months after the close of the third RAM auction.
6. No mechanism is currently in place to authorize a utility to solicit additional RAM contracts in the event that a utility fails to procure contracts for all of its capacity targets in the fourth RAM auction.
7. There is no mechanism for the IOUs to solicit additional RAM contracts to replace any previously executed RAM contracts which may fail or may be terminated.
8. It is necessary to authorize a fifth RAM auction to allow the IOUs to procure additional RAM contracts to meet their previously authorized RAM capacity allocation, and to replace capacity from any previously executed RAM

contracts which, by that time, have failed or have been terminated prior to reaching their commercial operation date.

9. The fifth RAM auction should close no later than June 27, 2014.
10. Timely comments were submitted on April 29, 2013 by Pacific Gas and Electric; Southern California Edison; Recurrent Energy; the Division of Ratepayer Advocates; NextEra Energy Resources; and, jointly by the Solar Energy Industries Association and the Large-Scale Solar Association. These comments have been disposed of in this resolution.

THEREFORE IT IS ORDERED THAT:

1. The fourth Renewable Auction Mechanism solicitation authorized for Southern California Edison Company, San Diego Gas and Electric Company, and Pacific Gas and Electric Company shall close by June 28, 2013.
2. A fifth Renewable Auction Mechanism solicitation shall be held by Southern California Edison Company, San Diego Gas and Electric Company, and Pacific Gas and Electric Company and shall close by June 27, 2014.
3. San Diego Gas and Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company shall each reserve one-third of their previously authorized, yet as of today unsubscribed, Renewable Auction Mechanism capacity allocation for their fifth Renewable Auction Mechanism solicitations.
4. San Diego Gas and Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company shall each set procurement targets equal to two-thirds of their previously authorized, yet as of today unsubscribed, Renewable Auction Mechanism capacity allocation for their fourth Renewable Auction Mechanism solicitation.
5. Within 7 days of the effective date of this resolution, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company shall file a Tier 1 advice letter with Energy Division demonstrating compliance with Ordering Paragraphs 1 and 4 of this

resolution, pertaining to the fourth Renewable Auction Mechanism solicitation. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company may also include in this Tier 1 advice letter additional non-substantive changes to the Renewable Auction Mechanism bidding protocols or Renewable Auction Mechanism power purchase agreements, including modifications, if necessary, to reflect that the previously authorized extension of the deadline for projects to achieve commercial operation should be implemented as a one-time, six month extension granted in full and should not be administered on a day-to-day basis up to six months.

6. The RAM program rules contained in Appendix A are adopted.

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 May 9, 2013; the following Commissioners voting favorably thereon:

/S/ PAUL CLANON
PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
CARLA J. PETERMAN
Commissioners

Appendix A

Summary of Current RAM Program Rules

SUMMARY OF RAM PROGRAM RULES

CPUC Decision 10-12-048 adopted the Renewable Auction Mechanism and established an original set of RAM Program Rules. CPUC Resolution E-4414 adopted these RAM Program Rules with modification. This attachment revises Appendix A of Decision 10-12-048 (as modified previously by Resolutions E-4414, E-4489, and E-4546) to reflect the changes to the rules adopted herein in Resolution E-4582.

Underlined language reflects additions while strike-through reflects deletions. Only the new changes, or deletions, made by Resolution E-4582 are reflected here.

RENEWABLE AUCTION MECHANISM

1. **Price Determination:** Renewable Auction Mechanism (RAM)

- Projects submit price bids
- IOUs select projects in order of least-costly first, up to program capacity limit

2. **Auction Design:**

a. Program Procurement Requirement:

- i. 1,299 MW Capacity Limit
- ii. Adjustment to the Program Capacity Limit: May occur in any appropriate proceeding or through a Tier 3 advice letter/Resolution, or a Resolution on the Commission's own motion

iii. Capacity Allocation for total RAM program ~~and per auction~~

UTILITY	TOTAL PROGRAM (MW)	PER AUCTION (MW)
SCE	723.4	170.8 ¹⁴
PG&E	420.9	105.2
SDG&E	154.7	20.2
TOTAL	1,299	324.8

- iv. **Number of Auctions per Year:** Two per year, every six months, held concurrently by all three IOUs through the first four auctions; the fifth RAM auction will be held concurrently twelve months after the close of the fourth auction; a project may bid into all three IOU auctions.
- v. **Amount per auction:** 25% of the total program allocation will be offered in the initial auction; unsubscribed capacity, or drop out capacity, is added to the next auction.
- vi. **Procurement Requirement:** Each IOU must enter into a standard contract with each winning bidder up to the capacity limits in each solicitation and total program capacity limits. IOUs select on the basis of least costly projects first until the IOU fully subscribes its allocated capacity for that auction. IOUs have the discretion to not enter into contracts if there is evidence of market manipulation or if the bids are not competitive compared to other renewable procurement opportunities. The IOU must submit an advice letter explaining its decision not to enter into contracts.

¹⁴ SCE has increased its RAM allocation for the second, third, and fourth RFOs. SCE allocated 65 MW for the first RAM RFO.

b. Products and Selection

- **Products:** Firm (baseload), non-firm peaking (peaking as-available), and non-firm non-peaking (non-peaking as-available) electricity
 - IOU shall specify the amount of each product for the initial four auctions in the first advice letter filed pursuant to this order. Utilities are required to solicit and procure capacity up to the capacity limit for each solicitation.
 - Project must submit eligibility information (e.g., generation profile, project characteristic information) corresponding to the product bid, as established by the IOU
- **Selection:** Products bid into RAM will be bid as either energy-only or with full capacity deliverability status (FCDS); each product is selected on the basis of price, least expensive first until the capacity limit in each solicitation is reached; IOU may normalize (adjust) bids to place bids on an equivalent basis before making least cost selection using method approved, if any, in the advice letter implementing RAM; IOUs should add the estimated transmission upgrade costs to the bids for ranking purposes.
- **Independent Evaluator:** Utilities will employ an Independent Evaluator to assess the competitiveness and integrity of each RAM auction and submit the IE's report with its Tier 2 advice letter requesting approval of contracts resulting from those auctions.

3. Eligibility:

- **Minimum Size:** 3 MW.¹⁵
- **Project Vintage:** New and existing projects are eligible for RAM. Existing projects are subject to the limitations imposed by Resolution E-4546.
- **Location:** Combined IOU service territories (e.g. a project bidding into SCE's auction can be located in either PG&E or SDG&E's service territory).
- **Retail Customer/Third Party Ownership:** Seller need not be a retail customer and the facility need not be located on property owned or under the control of a retail customer
- **Utility Applicability:** Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E)
- **Project and Transaction Limit:** 20 megawatts (MW)
This is the maximum size for any project signing a full buy/sell or excess sales transaction through the RAM.¹⁶
- **Full Buy/Sell or Excess Sales:** Seller may elect either full buy/sell or excess sales
- **Counting Excess Sales:** Capacity associated with the transaction size is applied to the program cap.
- **Seller Concentration:** IOUs have the discretion to apply a seller concentration limit after the bids are received. PG&E is authorized to apply a seller concentration limit of 20 MW per seller per auction.

¹⁵ The changes to RAM's minimum eligible project size rules were ordered by D.12-05-035.

¹⁶ If a project elects to pursue excess sales, the total project size, including the capacity associated with the wholesale transaction under RAM as well as the capacity associated with onsite load, is counted as part of the project's capacity for purposes of project eligibility. However, only the capacity associated with the wholesale transaction will count against the capacity limit under RAM.

4. RAM Standard Contract:

- **Contract Language:** IOUs can use their individual contracts, but should start with a contract that is simple, streamlined, and has already been vetted by stakeholders through another CPUC program.
- **Negotiations:** Price, terms, and conditions are not negotiable.
- **Contract Terms and Conditions**
 - **Length of Contract:** 10, 15, or 20 years
 - **Length of Time to COD:** Within 24 months of CPUC Approval, with one 6-month extension for regulatory delays. Seller can request a contract extension by providing a 60-day notice prior to the guaranteed commercial operation date.
 - **Development Deposit:** \$60/\$90 per kW for intermittent and baseload resources, respectively, refundable upon achieving commercial operation or applied to the performance deposit; development deposit is due on the date of the contract execution specified in the standard contract in the form of cash or letter of credit from a reputable U.S. bank; development deposit forfeited if project fails to come on line within 24 months or other 6-month extension granted by IOU.
 - **Performance Deposit:** 5% of expected total project revenues.
 - **Performance Obligation:**
 - Performance is required to be consistent with good utility (or prudent electrical) practices; project is obligated to have liability insurance against utility losses; the project is liable for an IOU's direct, actual losses; and project must perform consistent with generation profile or other characteristics for the product, to the extent stated in the Commission-adopted contract
 - Minimum deliveries for RAM product performance:
 - *As-Available Non-Peaking:* 140% of expected annual generation over two years production
 - *As-Available Peaking:* 160% of expected annual generation over two years production

- *Baseload*: 90% of expected annual generation over one year production

Small hydro projects should be exempt from these minimum performance requirements.

- **Damages for Failure to Perform:** Damages are limited to actual, direct damages; neither party is liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages regardless of cause.
- **Force Majeure and Events of Default:** Each RAM contract shall include a force majeure definition and provision
- **Insurance:** IOU discretion, submitted in implementation advice letter
- **Scheduling Coordinator:** Where possible, the contracting IOU shall be the scheduling coordinator for each project using the RAM, and the IOU shall bear the risk of scheduling deviations if the generator provides the IOU with timely information on its availability; the IOU can decline scheduling coordinator responsibilities only upon a written, affirmative request from the seller that the IOU not be the scheduling coordinator, or if unable to perform these duties

5. Project Viability Requirements

Bidder must demonstrate the following items with its bid. An IOU shall reject a bid that fails to demonstrate the following items. Each IOU shall adopt reasonable definitions and lists, related to:

- **Site Control:** Bidder must show 100% site control through (a) direct ownership, (b) lease, or (c) an option to lease or purchase that may be exercised upon award of the RAM contract
- **Development Experience:** Bidder must show that at least one member of the development team has (a) completed at least one project of similar technology and capacity or (b) begun construction of at least one other similar project
- **Commercialized Technology:** Bidder must show the project is based on commercialized technology (e.g., is neither experimental, research, demonstration, nor in development)

- **Interconnection Application:** Bidder must show that it has filed its interconnection application. In addition, bidder must have completed a System-Impact Study, Cluster Study Phase 1, or have passed the Fast Track screens.

6. Market Elements

- a. **Preferred Locations:** The IOUs must provide the “available capacity” at the substation and circuit level, defined as the total capacity minus the allocated and queued capacity. The IOUs should provide this information in map format. If unable to initially provide this level of detail, each IOU must provide the data at the most detailed level feasible, and work to increase the precision of the information over time. This information is to be available in the advice letter implementing RAM and updated on a monthly basis.
 - i. Each IOU should examine DG interconnection screening tools currently used to screen DG interconnection applications. The IOUs should evaluate how individual project studies could be automated to provide the requested data and a reasonable assessment of a DG project’s impact on the distribution system.
 - ii. The IOUs should work with parties and Commission staff through the Renewable Distributed Energy Collaborative (Re-DEC) or other forums in order to improve the data, usefulness of the maps, and to discuss other issues related to the interconnection of distributed resources.
- b. **Project Milestones:** Sellers shall submit a project development milestone timeline to the IOU upon RAM contract signing, and progress reports as specified in the standard contract, but at least every six months. The only enforceable milestone is the commercial operation date (COD) (subject to a one 6-month extension for regulatory delays).

- c. **Relationship to Voluntary and Other Programs:** 1,299 MW capacity limit does not include capacity subscribed under the Existing FIT (up to 1.5 MW, subject to expansion to three MW under SB 32). SCE is permitted to draw down its capacity limit with the 21 contracts it selected in November 2010 from the RSC solicitation, if the CPUC approves these contracts.
- d. **FERC Certification:** No FERC certification as a QF is required for a project to be eligible for RAM
- e. **Conveyance of RECs:** RECs transferred in relationship to the amount of the purchase (for full buy/sell, the IOU buys the RECs coincident with the entire output; for excess sales, the IOU buys the RECs coincident with the purchased excess energy)

7. Regulation and Commission Oversight

- a. **Program modifications:** The Commission can modify any element of the program at any time through a Commission resolution.
- b. **Advice Letter Review:** All executed RAM contracts from each auction are filed with the Commission in one Tier 2 advice letter.
- c. **Program Evaluation:** RAM to be monitored and evaluated annually, with each IOU filing a report each year. The report shall be filed with ED and posted on the IOU's website. ED shall include RAM program information in the Commission's reports to the legislature on the RPS program.
- d. **Data:**

Each annual report shall include information and evaluation on all relevant items and characteristics including but not limited to:

- Competition and competitiveness
- Auction design
- Time necessary to complete projects
- Auction timing
- Project status
- Analysis comparing the price and value of contracts with and without resource adequacy
- Anything else determined by ED to be necessary for a complete report

IOUs shall adopt a uniform report template with guidance from Energy Division

The first report shall include each IOU's proposal for a definition of a competitive market, proposed measurements of RPS markets generally, and proposed measurements of this RAM market specifically

As available over time, each report shall include data on:

- Measures of the requirements for a perfectly competitive market
- Measures of market power
- Seller concentration
- Data on each RAM results
- Information on the achievement of project development milestones for all executed RAM contracts
- Any other information necessary to present a complete report

e. **Public release of aggregated Data:**

i. IOUs and ED shall make the maximum amount of RAM data public, including the following:

- Names of participating companies and number of bids per company
- Number of bids received and shortlisted
- Project size
- Participating technologies
- Quantitative summary of how many projects passed each project viability screen
- Location of bids by county provided in a map format
- Information on the achievement of project development milestones for all executed RAM contracts (See Attachment B of D.10-12-048)

f. **Cost Recovery:** RAM costs may be charged to bundled and departing customers consistent with current practice

g. **Program Forum:**

i. IOUs will hold a program forum once per year in order to meet with sellers and discuss seller experience participating in an auction. The IOUs are required to:

- Notice all stakeholders of the date, time, location and methods for participation¹⁷ for each program forum;
- Issue a request for feedback from all stakeholders after the close of each solicitation in order to inform the agenda for the program forum;
- Provide CPUC staff with a draft of the agenda at least 14 days prior to the program forum;
- At the program forum, the IOUs shall provide sufficient time to address key issues identified in the request for feedback and the independent evaluator's report;
- At the program forum, the IOUs shall provide sufficient time for stakeholders to discuss their experience with the solicitation, interconnection process, or the program in general; and
- The independent evaluator should participate in the program forum.

8. Implementation Advice Letter¹⁸: PG&E, SCE, and SDG&E shall file Tier 3 advice letters within 60 days of the date this order. The implementation advice letters shall include:

- Procurement protocols
- RAM standard contract
- Program implementation details
- Timing of RAM auctions
- Specific amounts of capacity and type of resources in each auction over the next two years
- Explanation of any normalization procedures used for bid selection process

¹⁷ The IOUs should utilize telecom and web-based technologies to facilitate remote participation.

¹⁸ These Advice Letters were filed by the IOUs on February 25, 2011 and were approved with modifications by the Commission in Resolution E-4414.

- Detailed description of the generation profiles and characteristics that correspond with each product bucket
- Description of how IOU-proposed product eligibility requirements will provide reasonable assurance that a bid for one product will, if selected, deliver energy in a manner that corresponds to the generation profile associated with that
- Identify seller concentration limit, if any
- Provide the preferred locations map and a description of how the maps were computed
- Provide a simple methodology to measure the status of project development milestones

(END OF APPENDIX A)