PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ITEM 13
I.D. # 12369

ENERGY DIVISION **RESOLUTION E-4559 (Rev.1)**
October 17, 2013

REDACTED
RESOLUTION

Resolution E-4559. Southern California Edison Company requests approval of four amended and restated renewable power purchase agreements with Central Antelope Dry Ranch C, LLC; North Lancaster Ranch, LLC; Sierra Solar Greenworks, LLC, and American Solar Greenworks, LLC (Silverado Power).

PROPOSED OUTCOME: This Resolution denies Commission approval of four Southern California Edison Company amended and restated renewable power purchase agreements with Silverado Power on account of their inconsistency with D.10-12-048, Resolution E-4445, and the uncompetitive value provided by these projects.

SAFETY CONSIDERATIONS: This Resolution denies approval of four amended and restated renewable power purchase agreements and thus is not expected to have any impact on public safety.

ESTIMATED COST: None.

By Advice Letters (AL) 2773-E, AL 2774-E, AL 2775-E, and AL 2776-E all filed on September 4, 2012.

SUMMARY

Southern California Edison Company's (SCE) four amended and restated renewable power purchase agreements (A&R PPAs) with Silverado Power, LLC (Silverado) are uncompetitive based on value when compared to the appropriate cohorts, and inconsistent with Commission Decision 10-12-048 and Resolution E-4445. Thus, the Commission rejects cost recovery for the four A&R PPAs.

SCE filed advice letters (ALs) 2773-E, 2774-E, 2775-E and 2776-E on September 4, 2012 requesting California Public Utilities Commission (Commission) approval of four amended and restated renewable power

purchase agreements with Silverado. Three of the A&R PPAs are for projects with a capacity of 20 Megawatts (MW) and the fourth A&R PPA is for a project with a capacity of 15 MW. All four A&R PPAs are for solar photovoltaic (PV) projects located in Lancaster, CA.

The four A&R PPAs under review originated from four Silverado PPAs (Original Silverado PPAs) which SCE procured from its 2010 Renewable Standard Contracts (RSC) program.[1] After SCE executed these four Original Silverado PPAs from its 2010 RSC program, the Commission adopted D. 10-12-048 creating the Renewable Auction Mechanism (RAM) program.[2] In that decision, the Commission gave SCE a one-time opportunity to count the MW capacity of any of its PPAs already executed through its 2010 RSC program towards its RAM capacity requirement.

In January 2011, SCE filed AL 2547-E seeking Commission approval of its 2010 RSC PPAs and authority to count the capacity of those PPAs towards its RAM capacity requirement. In November 2011, as AL 2547-E was being processed by the Commission, SCE informed the Commission that it terminated five of the 20 RSC PPAs under consideration in AL 2547-E. Four of those five terminated PPAs were the Original Silverado PPAs. The Commission then approved the remaining fifteen 2010 RSC PPAs in Resolution E-4445 in December 2011, allowing the capacity of those approved 2010 RSC PPAs to count towards SCE's RAM capacity requirement.

Silverado disagreed about the validity of the Original Silverado PPAs' terminations, and after mediation and further negotiations between Silverado and SCE, SCE executed four separate, bilaterally-negotiated A&R PPAs with Silverado for the same 2010 RSC projects that had previously been the subject of the Original Silverado PPAs, which were terminated by SCE. These four A&R PPAs, currently under consideration in this resolution, were submitted to the Commission for approval on September 4, 2012. Pursuant to the terms of the A&R PPAs, SCE would accept deliveries of 41.2 gigawatt-hours (GWh) per year

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[1] The RSC program was an SCE initiative developed to target the procurement of distributed generation renewable energy before the Commission implemented RAM. The CPUC approved the RSC program as part of SCE's 2009 Procurement Plan.

[2] Commission Decision (D.) 10-12-048 authorized the RAM program for the procurement of renewable wholesale distributed generation projects sized up to 20 MW.

from each of the three 20 MW projects and deliveries of 30.92 GWh per year from the 15 MW project. Pending Commission approval of the PPAs, all four projects are scheduled to achieve commercial operation on December 31, 2014.

SCE requests that the Commission approve cost recovery for the four A&R Silverado PPAs. Additionally, SCE requests that the Commission authorize SCE to count the capacity of these four A&R PPAs, if approved, towards its capacity requirement in the RAM program. Pursuant to the terms of these A&R PPAs, both SCE and Silverado have the right to terminate the four A&R PPAs if the Commission denies SCE's request to count the capacity of these projects towards its RAM capacity requirement. See Confidential Appendices B and C for information on the specific terms of these A&R PPAs.

This resolution first finds that the four A&R PPAs are inconsistent with D.10-12-048 and Resolution E-4445, and thus the capacity of these A&R PPAs is not eligible to count towards SCE's RAM procurement obligation. Furthermore, this resolution rejects cost recovery for the four A&R Silverado PPAs because none of the four Silverado A&R PPAs is competitive based on their renewable premium when compared to SCE's 2011 finalized RPS shortlist. Table 1 summarizes the project-specific features of each agreement:

Table 1: Summary of the Four Amended and Restated Silverado PPAs

Generating Facility	Type	Term Years	MW Capacity	Annual Deliveries	Online Date	Project Location
Sierra Solar Greenworks	Solar PV	20	20	41 GWh	12/31/2014	Lancaster, CA
Central Antelope Dry Ranch C	Solar PV	20	20	41 GWh	12/31/2014	Lancaster, CA
North Lancaster Ranch	Solar PV	20	20	41 GWh	12/31/2014	Lancaster, CA
American Solar Greenworks	Solar PV	20	15	31 GWh	12/31/2014	Lancaster, CA

BACKGROUND

Overview of the Renewables Portfolio Standard 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).[3] The RPS program is codified in Public Utilities Code Sections 399.11-399.31.[4] Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to increase its total procurement of eligible renewable energy resources so that 33 percent of retail sales are served by eligible renewable energy resources no later than December 31, 2020.
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.

Overview of the Renewable Auction Mechanism Program

On December 16, 2010, the CPUC approved a new procurement mechanism called the Renewable Auction Mechanism in Decision 10-12-048, as modified.[5] The Commission has ordered the investor-owned utilities (IOUs) to procure 1,299 MW of system-side renewable distributed generation (for individual projects up to 20 MW in size) through a reverse auction using a standard contract. Of the 1,299 MW authorized, each utility has a separate RAM procurement obligation: 420.9 MW for PG&E, 754.4 MW for SCE, and 154.7 MW for SDG&E. To meet these RAM procurement obligations, the Commission initially ordered the IOUs to hold four auctions over two years and to seek approval of contracts executed from these auctions via Tier 2 advice letters filed with the Commission. Pursuant to Resolution E-4582, the Commission ordered the IOUs to hold a fifth RAM auction in 2014.

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[3] 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).

[4] All further references to sections refer to Public Utilities Code unless otherwise specified.

[5] D.10-12-048 has been modified by D.12-02-035, D.12-02-002, Resolution E-4414 (August 14, 2011), Resolution E-4489 (April 19, 2012), Resolution E-4546 (November 8, 2012), and Resolution E-4582 (May 9, 2013).

Additional background information about RAM, including links to relevant Commission decisions and resolutions, is available at: http://www.cpuc.ca.gov/PUC/energy/Renewables/hot/Renewable+Auction+Mechanism.htm.

NOTICE

Notice of Advice Letters 2773-E, 2774-E, 2775-E, and 2776-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of each Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

DISCUSSION

SCE requests Commission approval of four A&R PPAs between SCE and Silverado Power. Additionally, SCE requests Commission approval to count the capacity of these A&R PPAs towards its Commission-mandated procurement requirement under the Renewable Auction Mechanism (RAM) Program.

On July 3, 2012, SCE executed four bilaterally-negotiated A&R RPS PPAs with Silverado. SCE then submitted advice letters 2773-E, 2774-E, 2775-E, and 2776-E on September 4, 2012, requesting Commission approval of the four A&R PPAs with Silverado.[6] SCE also requested that the Commission issue an order stating that the capacity of each of the four A&R PPAs count towards its RAM capacity requirement of 723.4 MW.

SCE requests that the Commission issue a resolution that finds:

1. Approval of the Amended & Restated PPAs in their entirety;
2. A finding that the Amended & Restated PPAs are consistent with SCE's 2011 RPS Procurement Plan;
3. A finding that the Amended & Restated PPAs are compliant with the Emissions Performance Standard;
4. A finding that any procurement pursuant to the Amended & Restated PPAs is procurement from an eligible renewable energy resource for the

[6] SCE filed a separate AL requesting Commission approval of each A&R PPA. The name of each Silverado project (respective to AL number) is: Central Antelope Dry Ranch C, LLC; North Lancaster Ranch, LLC; Sierra Solar Greenworks, LLC; and American Solar Greenworks, LLC.

purposes of determining SCE's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law;

5. A finding that the Amended & Restated PPAs, and SCE's entry into them, is reasonable and prudent for all purposes, including, but not limited to, cost recovery in rates for payments made pursuant to the Amended & Restated PPAs and administrative costs associated with the Amended & Restated PPAs, subject only to further review with respect to the reasonableness of SCE's administration of the Amended & Restated PPAs;
6. A finding that all procurement under the Amended & Restated PPAs counts, in full and without condition, toward SCE's capacity cap under the RAM program pursuant to D.10-12-048; and
7. Any other and further relief as the Commission finds just and reasonable.

Energy Division evaluated the four Silverado A&R PPAs on the following criteria:

- Consistency with Commission Decision 10-12-048 and Resolution E-4445
- Price and Value Reasonableness

Consistency with Decision 10-12-048 and Resolution E-4445

As noted earlier in this resolution, SCE requests that the Commission authorize SCE to count the capacity of the four A&R PPAs towards its RAM capacity requirement. To evaluate the four A&R PPAs' eligibility for the RAM program, the Commission considered SCE's request and its consistency with D.10-12-048 and Resolution E-4445.

Evaluation of the Consistency of SCE's Request with D.10-12-048

The four A&R PPAs under review contain bilaterally-negotiated amendments to the standard form agreements from SCE's 2010 RSC program. The Commission acknowledged the creation of the RSC program as part of SCE's 2009 Renewables Portfolio Standard (RPS) Procurement Plan.[7] During its administration, SCE's RSC program was designed to procure eligible renewable projects up to 20 MW in size.

[7] D.09-06-018, Conclusion of Law #27, p. 80.

In D.10-12-048 (the RAM decision), the Commission adopted the RAM program, ordering the three large investor-owned utilities (IOUs) to establish a standardized auction mechanism for the procurement of renewable projects up to 20 MW in size. In the RAM Decision, the Commission noted its interest in "promoting competition and streamlining of the administrative process" in ordering the IOUs to pursue procurement of projects up to 20 MW in size through RAM.[8]

In an effort to recognize SCE's pre-existing RPS procurement through its RSC program, the Commission made a one-time exception for the MW capacity of the PPAs already procured by SCE through its 2010 RSC program to be eligible to count towards SCE's RAM capacity requirement.[9] This one-time exception applied to 21 such eligible PPAs that SCE had already executed through its 2010 RSC program prior to the Commission adopting the RAM decision on December 16, 2010. For the eligible PPAs, the Commission authorized SCE to use its discretion in applying the MW capacity of those contracts towards its mandated RAM capacity requirement, provided that the PPAs were submitted to the Commission via a Tier 3 AL for approval by the Commission.[10] On January 31, 2011 SCE proceeded to file AL 2547-E with the Commission requesting approval of 20 RSC PPAs to be counted towards its RAM capacity requirement. In Resolution E-4445, the Commission approved 15 of those 20 PPAs, authorizing the capacity of the approved PPAs to count towards SCE's RAM capacity requirement.

<u>The Commission finds that the exception created in D.10-12-048 for contracts executed by SCE from its 2010 RSC program prior to December 16, 2010 should be interpreted as narrowly construed language that only applies to the 20 original RSC contracts reviewed in Commission Resolution E-4445.</u>

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[8] D.10-12-048, p. 4.

[9] *Id.* at p. 4.

[10] *Id.* at Conclusion of Law #8, p. 87.

The Original Silverado PPAs were terminated by SCE, and the Amended and Restated Silverado PPAs under review in this resolution are different PPAs that do not fit the narrow exception allotted by D.10-12-0148.

The Commission also reaffirms its position, as stated in D.10-12-048, that RAM should be the primary contracting tool for projects up to 20 MW in size because the program promotes competition and will elicit the lowest costs for ratepayers.

The RAM decision also explicitly finds that, "SCE should be given the discretion to submit additional contracts to the Commission for approval resulting from its 2010 RSC solicitation via a Tier 3 advice letter; however, the capacity associated with these contracts should not reduce SCE's procurement obligations under RAM.D. 10-12-0418" [11] The Commission clearly limited the ability of SCE's 2010 RSC program contracts to count towards SCE's RAM capacity requirement. Thus, it is inconsistent with D.10-12-048 to count these four Amended & Restated Silverado PPAs towards SCE's RAM capacity requirement.

However, as stated in D. 10-12-048, the four A&R Silverado PPAs resulted from SCE's 2010 RSC Program, and are subject to a Tier 3 review process in which the CPUC must evaluate these contracts for cost recovery and approve or reject them based on their merits even though their MW capacity is not eligible to count towards SCE's RAM capacity requirement.[12]

Consistency with Resolution E-4445

On January 31, 2011, SCE filed AL 2547-E with the Commission seeking approval to apply the MW capacity of 20 PPAs that were originally procured through its 2010 RSC program towards SCE's RAM capacity requirement. On November 7 and 8, 2011, before the Commission had disposed of any of the 2010 RSC PPAs under consideration in AL 2547-E, SCE terminated five of the RSC PPAs under review.[13] Four of the five PPAs that were terminated by SCE were the Original Silverado PPAs.

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[11] *Id.* at Conclusion of Law #9, p. 87.

[12] *Id.* at Footnote 42, p.23.

[13] Commission Resolution E-4445, p. 2.

On December 15, 2011, the Commission adopted Resolution E-4445, approving the remaining 15 PPAs that originated from SCE's 2010 RSC program. In that Resolution, the Commission found that SCE could, pursuant to D.10-12-048, count the MW capacity of the 15 approved PPAs towards its authorized RAM procurement requirement. The Commission also concluded, however, that SCE "may not count the five terminated contracts towards the RAM capacity cap."[14] Table 2 below summarizes the five terminated SCE 2010 RSC PPAs from AL 2457-E:

Table 2: Summary of the Five Terminated SCE RSC PPAs filed in AL 2457-E

Seller	Parent Company	Capacity (MW)
Sierra Solar Greenworks, LLC	Silverado Power	20.0
Central Antelope Dry Ranch C, LLC	Silverado Power	20.0
North Lancaster Ranch, LLC	Silverado Power	20.0
American Solar Greenworks, LLC	Silverado Power	15.0
RE Columbia Two, LLC	Recurrent	20.0

According to SCE, Silverado disagreed about the validity of the termination of the four Original Silverado PPAs. Negotiations ensued between the two parties, and as a result of mediation, SCE and Silverado bilaterally-executed four A&R PPAs for the same projects that had previously been terminated. See Confidential Appendix C for more details on these negotiations.

SCE filed the A&R Silverado PPAs for Commission approval via AL 2773-E, AL 2774-E, AL 2775-E, and AL 2776-E. In these advice letters, now under consideration by the Commission in this resolution, SCE requests that the Commission approve these PPAs and allow SCE to count the capacity of these contracts towards its RAM capacity requirement.

The Commission explicitly found in Resolution E-4445, and so it reaffirms here, that the Original Silverado Power Purchase Agreements submitted by SCE in

[14] *Id*. at Findings and Conclusions #6, p. 25.

advice letter 2547-E that were subsequently terminated prior to the issuance of Resolution E-4445, may not count towards the RAM capacity cap.

Price and Value Reasonableness

Since the Commission finds in this resolution that the four Silverado A&R PPAs are not eligible to be counted towards SCE's RAM capacity requirement[15], the most relevant sets of cohorts to compare the four A&R PPAs against for price and value reasonableness are SCE's 2011 Finalized RPS Shortlist and contracts executed in the 12 months prior to the execution of the four Silverado A&R PPAs. The four A&R PPAs were executed on July 3, 2012, thus making SCE's 2011 RPS Shortlist the most recent set of cohorts to compare the price and value of the A&R Silverado PPAs against.

After receiving a large number of bids from its 2011 RPS Request For Offer (RFO), SCE evaluated the quantifiable attributes of each 2011 RPS RFO bid individually and subsequently ranked each bid based on its benefit and cost relationship, which SCE refers to as the renewable premium.[16] SCE calculated a renewable premium for the four Silverado A&R PPAs using its proprietary renewable premium methodology.[17] None of the four A&R PPAs ranked competitively based on value, as measured by the renewable premium, compared to shortlisted bids from SCE's 2011 RPS RFO and offers recently executed by SCE. See Confidential Appendix A for a price and value comparison of the four A&R PPAs against SCE's 2011 Finalized RPS Shortlist and recently executed contracts.

The renewable premium of each Amended and Restated Silverado PPAs is uncompetitive when compared against shortlisted projects resulting from SCE's 2011 RPS Solicitation and offers recently executed by SCE.

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[15] Resolution E-4559, p. 8-9

[16] The renewable premium of a project reflects the premium paid for a renewable project over the alternative of acquiring system power and capacity in the wholesale market over the term of the PPA. Please see confidential Appendix A for further discussion of the renewable premium.

[17] Renewable Premium = (Energy Benefits + Capacity Benefits) – (Energy Payments – Debt Equivalence Mitigation + Transmission Costs + Integration Costs)

The CPUC rejects cost recovery for the four Amended and Restated PPAs between SCE and Silverado Power.

Energy Division also compared the price and value reasonableness of the four A&R Silverado PPAs against offers received in SCE's RAM 2 solicitation, the most recent RAM offers to compare the A&R Silverado PPAs against at the time of their execution. Since the four A&R PPAs are not eligible to be counted towards SCE's RAM capacity requirement[18], this comparison is non-substantive and is solely being provided as a reference. See Confidential Appendix A for a price and value comparison of the four A&R PPAs against SCE's RAM 2 offers.

PROTESTS

SCE's ALs 2773-E, 2774-E, 2775-E, and 2776-E were timely protested by the Division of Ratepayer Advocates (DRA) and by Recurrent Energy (Recurrent) on September 24, 2012. SCE responded to both DRA's and Recurrent's protests on October 1, 2012.

DRA recommends the Commission reject ALs 2773-E, 2774-E, 2775-E, and 2776-E.

First, DRA asserts that SCE does not need the Silverado A&R PPAs to meet its RPS goals because the online dates for the A&R PPAs would result in significant excess generation during the middle of this decade when SCE already expects to have a surplus of renewable generation for compliance purposes.
Second, DRA also contends that the A&R PPAs do not have competitive price or value when compared against bids shortlisted by SCE from its 2011 large-scale RPS RFO, or when compared against projects executed by SCE from its RAM1 and RAM2 solicitations.

In its reply to DRA's protest, SCE argued that these smaller-scale projects should be approved because they provide a hedge against possible project failures and SCE's potential inability to meet its RPS compliance need. Additionally, on the issue of price and value competitiveness, SCE contends that DRA's protest should be rejected because the Silverado PPAs compare favorably to projects shortlisted by SCE from its 2009 RPS RFO and from its 2010 RSC program, which

[18] *See* Resolution E-4559, p. 8-11.

SCE asserts are the appropriate cohorts against which these A&R PPAs should be compared.

In this resolution, the Commission evaluates whether these A&R PPAs are cost competitive when compared against shortlisted offers from SCE's 2011 RPS RFO, the most recent set of cohorts at the time that the A&R PPAs were executed. As such, the Commission accepts DRA's protest that the four Silverado A&R PPAs are not competitive when compared against SCE's 2011 Finalized RPS Shortlist for their renewable premiums. Since these PPAs had uncompetitive renewable premiums, there is no need to evaluate DRA's protest that these A&R PPAs do not fit SCE's RPS portfolio need. See Confidential Appendix A for further analysis of the four A&R PPA's price and value reasonableness.

Recurrent Energy also recommends the Commission reject ALs 2773-E, 2774-E, 2775-E, and 2776-E.

Recurrent notes that the four Original Silverado PPAs had already been terminated, and that the four A&R PPAs under Commission review are separate PPAs based on new information. As such, Recurrent asserts that SCE's request for the Commission to count the capacity associated with the A&R PPAs towards SCE's RAM capacity requirement is inconsistent with D.10-12-048 because these are new A&R PPAs that fall outside of the narrow exception allowed for 2010 RSC Contracts in D.10-12-048. Recurrent also contests the appropriateness of these advice letters given the Commission's disallowance of bilateral contracts in the RAM program.

SCE replied to Recurrent's protest by noting that the confidential version of ALs 2773-E, 2774-E, 2775-E and 2776-E[19] shows that transmission costs for the A&R PPAs at issue are within the PPAs' allowable cost cap and that bilateral contracts are allowed by D.11-04-008.

The Commission accepts in part, and denies in part, Recurrent Energy's protest. The Commission accepts Recurrent's protest that approval of these Amended and Restated PPAs would be inconsistent with D.10-12-048, but the Commission finds that the issue of whether it was appropriate for SCE to file these bilateral

[19] Advice Letters 2773-E, 2774-E, 2775-E and 2776-E, Confidential Appendix D.

Amended and Restated PPAs is not relevant to the disposition of these advice letters.

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 deliveries begin, except contracts between IOUs and their affiliates, which are public.
The confidential portions of these advice letters should remain confidential at this time.

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 for comments on August 30, 2013 and comments were received from DRA, The Utility Reform Network (TURN), SCE, and Keyes, Fox, and Wiedman, LLP on behalf of Silverado Power (Silverado) on September 20, 2013.

We carefully considered comments which focused on factual, legal, or technical errors and made appropriate changes to the draft resolution.

DRA and TURN recommend that the Commission reject the A&R Silverado PPAs.

TURN recommends that the Commission reject the A&R Silverado PPAs for two reasons: 1) D. 10-12-048 never intended to allow bilateral contracts to be applied towards RAM procurement obligations and 2) The A&R Silverado PPAs are uncompetitive when compared against offers from SCE's 2011 RPS Solicitation.

DRA recommends that the Commission reject the A&R Silverado PPAs for two reasons: 1) The A&R Silverado PPAs do not fit within the narrow exception of D.10-12-048 and should not be counted towards SCE's RAM capacity requirement and 2) The A&R Silverado PPAs are uncompetitive when compared against offers from SCE's 2011 RPS Solicitation.

SCE and Silverado recommend that the Commission approve the A&R Silverado PPAs.

SCE recommends that the Commission approve the A&R Silverado PPAs for two reasons: 1) The A&R Silverado PPAs originated out of the 2010 RSC Program and therefore should be evaluated for price/value reasonableness against other RSC offers, which the Silverado PPAs compare favorably against and 2) The A&R Silverado PPAs are 2010 RSC contracts that have already been shown to merit approval for RAM credit in Resolution E-4445.

Silverado recommends that the Commission approve the A&R Silverado PPAs for three reasons: 1) The A&R Silverado PPAs should be defined as RSC Contracts, not "separate, bilaterally-negotiated" contracts; 2) The appropriate price benchmarks for the A&R Silverado PPAs are the 15 RSC Contracts approved by Resolution E-4445; and 3) The A&R Silverado PPAs are consistent with the RAM Decision and Resolution E-4445, and should be given RAM credit.

As stated above, this resolution rejects cost recovery and denies RAM credit for the A&R Silverado PPAs. Regardless of whether the original Silverado PPAs are considered "terminated" or "restated", both SCE and Silverado agreed to execute the A&R Silverado PPAs and submitted them for Commission approval on September 4, 2012. The only issue before the Commission in this resolution is whether or not the A&R Silverado PPAs should be approved.

Since the Commission never approved the original Silverado RSC PPAs, it is not appropriate to compare the A&R Silverado PPAs against other 2010 RSC offers. The appropriate cohorts for the Commission to evaluate the A&R PPAs against are SCE's 2011 RPS Shortlist and RPS PPAs executed by SCE in the 12 months prior to the execution of the A&R Silverado PPAs. These were the most recent cohorts available when the A&R Silverado PPAs were executed on July 3, 2012. When compared against the most recent cohorts, the A&R Silverado PPAs are uncompetitive based on value.

Furthermore, D. 10-12-0148 only allowed for a one-time exception for SCE to count the MW capacity of any contracts originating from its RSC program towards its RAM capacity requirement and thus there is no rationale for the Commission to support approving RAM credit for the A&R Silverado PPAs.

FINDINGS AND CONCLUSIONS

1. The Commission finds that the exception created in D.10-12-048 for contracts executed by SCE from its 2010 RSC program prior to December 16, 2010 should be interpreted as narrowly construed language that only applies to the 20 original RSC contracts reviewed in Commission Resolution E-4445.

2. The Original Silverado PPAs were terminated by SCE, and the Amended and Restated Silverado PPAs under review in this resolution are different PPAs that do not fit the narrow exception allotted by D.10-12-0148.

3. RAM should be the primary contracting tool for projects up to 20 MW in size because the program promotes competition and will elicit the lowest costs for ratepayers.
4. It is inconsistent with D.10-12-048 to count these four Amended & Restated Silverado PPAs towards SCE's RAM capacity requirement.

5. Since the four A&R Silverado PPAs resulted from SCE's 2010 RSC Program, the CPUC must evaluate these contracts for cost recovery based on their merits <u>even though their MW capacity is not eligible to count towards SCE's RAM capacity requirement</u>.

6. The Original Silverado PPAs submitted by SCE in advice letter 2547-E that were subsequently terminated prior to the issuance of Resolution E-4445, may not count towards the RAM capacity cap.

7. The renewable premium of each Amended and Restated Silverado PPA is uncompetitive when compared against shortlisted projects resulting from SCE's 2011 RPS Solicitation <u>and offers recently executed by SCE</u>.

8. The CPUC rejects cost recovery for the four Amended and Restated PPAs between SCE and Silverado Power.

9. The Commission accepts DRA's protest that the four Silverado A&R PPAs are not competitive when compared towards SCE's 2011 Finalized RPS Shortlist for their renewable premiums.

10. The Commission accepts in part, and denies in part, Recurrent Energy's protest. The Commission agrees with Recurrent that approval of these Amended and Restated PPAs would be inconsistent with D.10-12-048, but the Commission finds that the issue of whether it was appropriate for SCE to file these bilaterally-executed Amended and Restated PPAs is not relevant to the disposition of these advice letters.

11. The confidential portions of these advice letters should remain confidential at this time.

12. Advice letter 2773-E should be rejected.

13. Advice letter 2774-E should be rejected.

14. Advice letter 2775-E should be rejected.

15. Advice letter 2776-E should be rejected.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison Company's Advice Letters 2773-E, 2774-E, 2775-E, and 2776-E are rejected.

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 October 17, 2013; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

Confidential Appendix A

Price and Value Reasonableness

[REDACTED]

Confidential Appendix B

Relevant Changes from Original Silverado PPAs to Amended & Restated Silverado PPAs

[REDACTED]

Confidential Appendix C

SCE Statements to its Procurement Review Group Related to its Renegotiation of Four Amended and Restated PPAs with Silverado Power

[REDACTED]