PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Item #12 (Rev. 1)
AGENDA ID #13740
RESOLUTION E-4705
March 26, 2015

R E D A C T E D
R E S O L U T I O N

Resolution E-4705. Grants Southern California Edison Company (SCE) request for approval of a renewables portfolio standard (RPS) eligible power purchase agreement with Tribal Solar, LLC.

PROPOSED OUTCOME

- This resolution approves cost recovery for the long-term renewable energy power purchase agreement between SCE and Tribal Solar, LLC. The Tribal Project is located on the Fort Mojave Indian Reservation in San Bernardino County, California and developed by First Solar, Inc. The Tribal Project will interconnect with the California Independent System Operator-control grid at the Mohave Generation Station located in Laughlin, Nevada. The power purchase agreement is approved without modification.

SAFETY CONSIDERATIONS:

- The power purchase agreement requires the seller of the generation to comply with all applicable safety requirements relating to the project, including environmental laws.

ESTIMATED COST:

- Actual costs of the power purchase agreement are confidential at this time.

By Advice Letter 3126-E filed on October 29, 2014.

SUMMARY

Southern California Edison Company's (SCE) renewable energy power purchase agreement (PPA) with Tribal Solar, LLC (Tribal) complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved without modification

SCE filed Advice Letter 3126-E (Tribal AL) on October 29, 2014, requesting California Public Utilities Commission (Commission or CPUC) review and approval of a 20-year renewable energy PPA with Tribal Solar, LLC (Tribal PPA). The PPA resulted from SCE's 2013 RPS solicitation (2013 RPS RFO) and was executed in July 2014. Pursuant to the PPA, RPS-eligible generation will be purchased from the proposed Tribal facility. The Tribal facility is located on the Fort Mojave Indian Reservation in San Bernardino County, California and has a capacity of approximately 328 megawatts (MW). The Tribal Project is developed by First Solar, Inc. and will interconnect within the California Independent System Operator (CAISO)-control grid at the Mohave Generating Station 500 kV bus in Laughlin, Nevada.

This Resolution approves the Tribal PPA. SCE's execution of this PPA is consistent with SCE's 2013 RPS Procurement Plan (RPS Plan), which the Commission approved in Decision (D.) 13-11-024. In addition, RPS deliveries pursuant to the Tribal PPA are reasonably priced and the related costs to SCE are fully recoverable in rates over the life of the Tribal PPA, subject to Commission review of SCE's administration of the PPA.

The following table provides a summary of the Tribal PPA:

Table 1: Summary of Tribal PPA:

Seller	Generation Type	Size (MW)	Estimated Average Energy (GWh/Yr)	Forecasted Commercial Operation Date	Term of Agreement (Years)	Location
Tribal Solar	Solar photovoltaic ("PV")	328	830	December 1, 2019	20	Fort Mojave Indian Reservation in San Bernardino County, CA

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 seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources is 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 the Tribal AL was made by publication in the Commission's Daily Calendar on November 3, 2014. SCE states that a copy of the Advice Letter was mailed and distributed to the R.11-05-005 service list and GO 96-B service lists in accordance with Section 4 of General Order 96-B.

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[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 statutory references are to the Public Utilities Code unless otherwise specified.

[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).

PROTESTS

SCE's Tribal AL was timely protested by the Imperial Irrigation District (IID) via protest to AL 3119-E.[4] Specifically, IID recommends that the Tribal AL be rejected without prejudice so that the Tribal PPA may be considered in a formal Commission proceeding.

SCE responded to IID's protest on November 24, 2014. SCE recommends rejection of the IID protest asserting that the Tribal PPA is reasonable from a selection, cost, and risk perspective; and a formal proceeding is not required to consider the Tribal PPA.

DISCUSSION

SCE requests approval of a renewable energy power purchase agreement with Tribal

On October 29, 2014, SCE filed the Tribal AL requesting Commission approval of a long-term RPS eligible PPA. The proposed solar photovoltaic (PV) project is located on the Fort Mojave Indian Reservation approximately 14 miles north of Needles in San Bernardino County. The Tribal Project is wholly owned and developed by First Solar, Inc. and will interconnect within the California Independent System Operator (CAISO)-control grid at the Mohave Generating Station 500 kV bus in Laughlin, Nevada. Pursuant to the Tribal PPA, SCE is to begin purchasing generation from Tribal beginning December 1, 2019. The expected annual generation to be purchased from the project is 830 Gigawatt-hours (GWh). This generation could count towards SCE's RPS requirements in Compliance Period 2017-2020.

SCE requests that the Commission issue a resolution that:

1. Approves the Tribal PPA in its entirety;

[4] By its protest to AL 3119-E (Panoche AL pending Commission Resolution E-4707), IID also protests other six SCE's ALs (3120-E, 3121-E, 3122-E, 3124-E, 3125-E, and 3126-E) requesting Commission approval of the solar PPAs executed through SCE's 2013 RPS RFO.

2. Finds that the Tribal PPA is consistent with SCE's 2013 RPS Procurement Plan;
3. Finds that the Tribal PPA is compliant with the Emissions Performance Standard;
4. Finds that any procurement pursuant to the Tribal PPA is procurement from an eligible renewable energy resource for 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 (Sections 399.11 et seq.), Decision 03-06-071, or other applicable law; and,
5. Finds that the Tribal PPA, and SCE's entry into it, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the Tribal PPA, subject only to further review with respect to the reasonableness of SCE's administration of the Tribal PPA.

Energy Division Evaluated the Tribal PPA based on the following criteria:

- Consistency with SCE's 2013 RPS Procurement Plan and RPS Procurement Need;
- Consistency with SCE's Least-Cost, Best-Fit methodology (LCBF);
- Net Market Value and Cost Reasonableness;
- Consistency with RPS Standard Terms and Conditions;
- Consistency with Portfolio Content Categories Requirements;
- Consistency with the Long-Term Contracting Requirement;
- Consistency with Independent Evaluator review requirements;
- Consistency with Procurement Review Group Requirements;
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard; and,
- PPA Viability Assessment and Project Development Status.

Consistency with SCE's 2013 RPS Procurement Plan

In SCE's 2013 RPS Procurement Plan (2013 RPS Plan) SCE provided 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 project failure and delay risk within its RPS portfolio.[5] Specifically, SCE explained that its assessment for determining need is based on bundled retail sales, performance and variability of existing generation, likelihood of new generation achieving commercial operation, expected commercial on-line dates, technology mix, expected curtailment, and the impact of pre-approved procurement programs, among other factors. Based on that assessment, SCE stated that it had an RPS procurement need beginning in Compliance Period 2017-2020.

SCE stated its intention to procure additional RPS-eligible resources in order to satisfy its RPS requirements. Specifically, it called for the issuance of a competitive solicitation for the purchase of RPS-eligible energy with deliveries beginning on or after January 1, 2016. In addition, SCE sought offers that would qualify as Portfolio Content Category 1 and be for at least 10 years in length.

Based on SCE's RPS portfolio needs described in its 2013 RPS Plan, the Tribal PPA is consistent with SCE's 2013 RPS Plan. The Tribal PPA is for generation from a proposed renewable energy resource[6] with deliveries to begin on December 1, 2019 and continuing for 20 years, such that deliveries would begin during Compliance Period 2017-2020. See Confidential Appendix A for details on SCE's forecasted RPS procurement needs.

<u>The Tribal PPA is consistent with SCE's 2013 RPS Procurement Plan, approved by D.13-11-024.</u>

Consistency with SCE's Least-cost, Best-fit (LCBF) Methodology

In D.04-07-029 and D.12-11-016, the Commission directs the utilities to use certain criteria in their LCBF selection of renewable resources.[7] The decisions provide guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence negotiations.

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[5] Section 399.13(a)(5).

[6] Assuming the Tribal Project receives the California Energy Commission certification as an eligible renewable resource.

[7] § 399.13(a)(4)(A).

As described in its 2013 RPS Plan,[8] SCE's LCBF bid evaluation includes a quantitative analysis and qualitative criteria. SCE's quantitative analysis is based on market valuation that calculates the net market value of a bid,[9] which is the net of a project's levelized costs and benefits.[10] Project costs include contract payments; transmission, congestion, and debt equivalence mitigation costs. Project benefits include energy and capacity value and congestion benefits. SCE ranks all conforming bids and creates a preliminary short list based on the net market value results.

In addition to the quantitative ranking of bids, SCE evaluates the qualitative attributes of the top proposals with a competitive net market value. SCE assesses factors such as location, project viability, portfolio fit, resource diversity, counterparty concentration and other attributes to eliminate or add projects to the final short list.

In the Tribal AL, the advice letter considered herein, SCE explains that the PPA is the result of SCE's 2013 RPS solicitation and that it evaluated and shortlisted the PPA bids consistent with its 2013 LCBF methodology. [11]

See the "Net Market Value and Cost Reasonableness" section of this resolution for a discussion of how the PPAs compare to other offers from SCE's 2013 RPS solicitation and comparable RPS contracts executed by SCE in the 12 months prior to PPA executions.

<u>The Tribal PPA was evaluated consistent with the LCBF methodology described in SCE's 2013 RPS Procurement Plan.</u>

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[8] Public Appendix 1.1 at 2, 3, & 11.

[9] Unlike the other two utilities, SCE uses a different term, "Renewable Premium" for net market value.

[10] Present value expressed in terms of dollars per megawatt-hour ($/MWh).

[11] SCE's 2013 RPS solicitation protocols, including its LCBF methodology, as described above, was approved by the Commission in D.13-11-024.

Net Market Value and Cost Reasonableness

The Commission's reasonableness review for RPS PPAs includes a comparison of the proposed PPA's net market value and price relative to other RPS offers received in recent RPS solicitations. Additionally, the Commission compares the PPA's net market value to comparable contracts executed by the utility in the 12 months prior to the proposed PPA's execution date. Using this methodology and the confidential analysis provided by SCE in the Tribal AL, the Commission determines that the net market value of the Tribal PPA is competitive to other RPS offers received by SCE and that the costs of the Tribal PPA are reasonable. See Confidential Appendix A for a detailed discussion of the analysis.

<u>The Tribal PPA compares reasonably from a net market value and cost basis relative to RPS offers received in SCE's 2013 RPS solicitation and comparable contracts executed by SCE in the 12 months prior to executing the Tribal PPA.</u>

<u>Payments made by SCE under the Tribal PPA are fully recoverable in rates over the life of the PPA, subject to Commission review of SCE's administration of the PPA and any other conditions contained herein or required by law.</u>

Consistency with RPS Standard Terms and Conditions (STCs)

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, five 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, the Commission further refined some of the STCs in D.10-03-021, as modified by D.11-01-025, and D.13-11-024.

<u>The Tribal PPA includes the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.</u>

Consistency with Portfolio Content Categories

In D.11-12-052, the Commission defined and implemented portfolio content categories for the RPS program and authorized the Director the Energy Division to require the investor-owned utilities to provide information regarding the proposed contract's portfolio content category classification in each advice letter seeking Commission-approval of an RPS contract. The purpose of the information is to allow the Commission to evaluate the claimed portfolio content category of the proposed RPS PPA and the risks and value to ratepayers if the

proposed PPA ultimately results in renewable energy credits in another, less preferred, portfolio content category.

SCE claims in the Tribal AL that the procurement pursuant to the PPA will be classified as Portfolio Content Category 1. To support its claim, SCE asserts that the Tribal facility is located in California, an RPS-eligible resource that expects to have its first point of interconnection within the CAISO, a California balancing area, and that pursuant to the Tribal PPA the RECs associated with the electricity from Tribal will be delivered to SCE and not unbundled or transferred to another owner**.**

Consistent with D.11-12-052, SCE provided information in the Tribal AL regarding the expected portfolio content category classification of the renewable energy credits procured pursuant to the Tribal PPA.

In this resolution, the Commission makes no determination regarding the Tribal PPA's portfolio content category classification. The RPS contract evaluation process is separate from the RPS compliance and portfolio content category classification process, which require consideration of several factors based on various showings in a compliance filing. Thus, making a portfolio content category classification determination in this resolution regarding the procurement considered herein is not appropriate. SCE should incorporate the procurement resulting from the approved Tribal PPA and all applicable supporting documentation to demonstrate portfolio content category classification in the appropriate compliance showing consistent with all applicable RPS program rules.

Consistency with Long-Term Contracting Requirement

In D.12-06-038, the Commission established a long-term contracting requirement that must be met in order for retail sellers to count RPS procurement from contracts less than 10 years in duration for compliance with the RPS program.[12] In order for the procurement from any short-term contract(s) signed after June 1, 2010, to count for RPS compliance, the retail seller must execute long-term contract(s) in the same compliance period in which the short-term contract(s) is

[12] For the purposes of the long-term contracting requirement, contracts of less than 10 years duration are considered "short-term" contracts. (D.12-06-038.)

signed. The volume of expected generation in the long-term contract(s) must be sufficient to cover the volume of generation from the short-term contract(s).[13]

The Tribal PPA is for a 20-year term and was executed during Compliance Period 2014-2016.

Because the Tribal PPA is greater than 10 years in length, the long-term contracting requirement does not apply to SCE's procurement via the Tribal PPA, and the Tribal PPA will contribute to SCE's long-term contacting requirement established in D.12-06-038 for Compliance Period 2014-2016.

Independent Evaluator Review

SCE retained Merrimack Energy Group, Inc. as the independent evaluator ("IE") to oversee its 2013 RPS solicitation. In addition, Merrimack oversaw the negotiations with Tribal and evaluated the overall merits of the Tribal PPA. The Tribal AL included a public and confidential version of the IE's report.

The IE states in its report that the Tribal PPA was reasonably negotiated with contract terms that when taken as a whole appropriately protect the interests of SCE's ratepayers. The IE also concludes that the project is very mature in terms of project development. Overall, the IE states that he agrees with SCE that the Tribal PPA merits Commission approval.

Consistent with D.06-05-039, an independent evaluator oversaw SCE's 2013 RPS solicitation and negotiations with Tribal.

Procurement Review Group (PRG) Participation Requirement

The PRG was initially established in D.02-08-071 to review and assess the details of the IOU's overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting

[13] Pursuant to D.12-06-038, the methodology setting the long-term contracting requirement is: 0.25% of Total Retail Sales in 2010 for the first compliance period; 0.25% of Total Retail Sales in 2011-2013 for the second compliance period; and 0.25% of Total Retail Sales in 2014-2016 for the third compliance period.

filings to the Commission as a mechanism for procurement review by non-market participants.

SCE consulted with its PRG during each milestone of the 2013 RPS solicitation informing the participants of the initial bid results and the short list of bids. SCE also briefed the PRG participants on the proposed execution of the Tribal PPA at the July 16, 2014, PRG meeting.

SCE's PRG participants included representatives from Energy Division (ED), the Office of Ratepayer Advocates (ORA), Department of Water Resources, Union of Concerned Scientists, The Utility Reform Network (TURN), and the California Utility Employees (CUE). Representatives from ED, ORA, TURN, CUE, and IE attended the July 16, 2014, PRG meeting.

Consistent with D.02-08-071, SCE's Procurement Review Group participated in the review of the Tribal PPA.

Compliance with the Interim Greenhouse Gas Emissions Performance Standard (EPS)

Pub. Util. Code Sections 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.[14]

D.07-01-039 adopted an interim EPS that establishes an emission rate for obligated facilities at levels no greater than the greenhouse gas emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS.[15]

The Tribal PPA is not covered procurement subject to the EPS because the generating facility has a forecast annualized capacity factor of less than 60 percent and therefore is not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim EPS Rules.

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[14] "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." Pub. Util. Code Section 8340 (a).

[15] D.07-01-039, Attachment 7, p. 4.

PPA Viability and Project Development Status

Developer Experience:

The Tribal solar PV facility is developed by First Solar, which has over 50 years of experience developing, owning, and operating over 26 utility scale solar projects in the United States and Canada totaling over 720 MW.[16]

Technology and Quality of Resource:[17]

The Tribal project will use solar PV panels that have been technically proven on utility-scale generation projects. Additionally, given the project's location and associated resource quality, SCE believes that Tribal will be able to meet the terms of the PPA.

Site Control and Permitting Status:

The Tribal Project is located on the Fort Mojave Indian Reservation in San Bernardino County, California. Tribal Project has secured site control to support the entire project.[18] Additional information regarding site control and permitting status is included in Confidential Appendix A.

Interconnection Status:

The Tribal facility will interconnect within the CAISO-control grid at the Mohave Generating Station 500 kV bus in Laughlin, Nevada. Additional information regarding transmission interconnection is provided in Confidential Appendix A.

Based on the terms and conditions of the PPA and the level of project development, it is reasonable to expect that Tribal will meet the terms and conditions of its PPA.

[16] With approximately 2,500 additional MW in development. (Tribal AL at 15).

[17] The Tribal AL at 16.

[18] The Tribal AL at 16.

Safety Considerations

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. The Tribal PPA requires the seller of the generation to comply with all applicable requirements of law relating to the projects including those related to planning, construction, ownership, decommissioning and/or operation of the projects, including environmental laws. Based on the information before us, the Tribal Project does not appear to result in any adverse safety impacts on facilities or operations of SCE.

Protests to the Tribal AL are denied

IID recommends that the Tribal AL be rejected without prejudice

IID recommends in its protest that the Tribal AL, along with SCE ALs 3119-E, 3120-E, 3121-E, 3122-E, 3124-E, and 3125-E, should be denied without prejudice because a formal Commission proceeding is necessary to review SCE's requests. First, IID asserts that bids for IID-interconnected projects offered to SCE in its 2013 RPS solicitation were unreasonably evaluated because IID-related transmission network upgrade costs were considered, which resulted in the double-counting of costs, to the disadvantage of IID-interconnected projects. IID also argues that the inclusion of the IID transmission network upgrade costs is not consistent with previous Commission decisions related to LCBF and the Sunrise transmission powerlink.[19] Lastly, IID asserts that the cumulative MW that SCE is seeking through the above mentioned seven advice letters is unprecedented and merits examination in a formal proceeding.

SCE in reply comments asserts that IID's protest is without merit because SCE's 2013 RPS solicitation was fair and reasonable. Specifically, SCE argues that considering transmission costs for IID-interconnected projects as a qualitative factor is not a double counting of costs because both CAISO and IID-interconnected generators are reimbursed for transmission network upgrade costs. SCE also argues that its consideration of transmission costs for IID-interconnected projects ensures equal treatment of IID and CAISO-

[19] Specifically, IID references D.03-06-071, D.04-07-029, and D.12-11-016.

interconnected projects. Lastly, SCE asserts that its request for approval of eight RPS PPAs in seven ALs is not unprecedented because the IOUs have been allowed to seek approval of RPS contracts through Tier 3 advice letters since the beginning of the RPS program.

Consideration and review of the Tribal AL via the Commission's advice letter process is reasonable and a formal proceeding is not necessary for several reasons. First, inclusion of transmission upgrade costs in its LCBF evaluation of IID-interconnected projects does not result in the double-counting of transmission costs. For both CAISO and IID-interconnected projects the generator initially funds the transmission network upgrade costs, which are later reimbursed to the generator.[20] While the reimbursement mechanism is different for the CAISO and IID-interconnected projects, in both instances ratepayers ultimately fund the transmission costs. Thus, as with CAISO-interconnected projects, it is reasonable to treat transmission costs as separate project costs, similar to price, congestion, and transmission costs, for IID-interconnected projects when evaluating offers.

Second, SCE's 2013 RPS solicitation protocol, including its LCBF evaluation methodology and its shortlist, was approved by the Commission.[21] Also, in this Resolution the Tribal PPA is found to be consistent with SCE's 2013 RPS Procurement Plan. Thus, there is no reason for evidentiary hearings or the filing of an application to further review SCE's LCBF evaluation methodology or the reasonableness of its 2013 RPS shortlist.

Third, SCE's request for review and approval of an RPS contract via an advice letter is consistent with the RPS procurement approval process adopted in

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[20] For CAISO-interconnected projects, transmission network upgrade costs are reimbursed to the generator over a five year period beginning on the commercial operation date (CAISO Fifth Replacement Electronic Tariff, Appendix Y). For IID-interconnected projects, transmission network upgrade costs are reimbursed to the generator via transmission rate credits (Imperial Irrigation District Open Access Transmission Tariff, Attachment J).

[21] SCE's protocols were approved as part of SCE's 2013 RPS Plan in D.13-11-024. SCE's 2013 RPS shortlist was submitted in AL 3029-E and is effective as of July 8, 2014.

D.02-08-071 and D.03-06-071. Accordingly, SCE's request for approval of the Tribal AL through an advice letter is not unprecedented nor requires a formal hearing.

Therefore, for the reasons described above, IID's protest recommending the Tribal AL be rejected without prejudice is denied.

RPS ELIGIBILITY AND CPUC APPROVAL

Pursuant to Section 399.13, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable "eligibility" language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an "Eligible Renewable Energy Resource," that the project's output delivered to the buyer qualifies under the requirements of the RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.[22]

The Commission requires a standard and non-modifiable clause in all RPS contracts that requires "CPUC Approval" of a PPA to include an explicit finding that "any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer'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.*), D.11-12-020 and D.11-12-052, or other applicable law."[23]

Notwithstanding this language, given that the Commission has no jurisdiction to determine whether a project is an "Eligible Renewable Energy Resource" for RPS purposes, this finding and the effectiveness of the non-modifiable "eligibility" language is contingent on CEC's certification of the Tribal project as an "Eligible

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[22] *See, e.g.* D. 08-04-009 at Appendix A, STC 6, Eligibility.

[23] *See, e.g.* D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

Renewable Energy Resource." The contract language that procurement pursuant to the Tribal PPA "is procurement from an eligible renewable energy resource" must be a true statement at the time of the first delivery of energy, not at the signing of the PPA or at the issuance of this Resolution.

While we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation absent CEC certification. Nor shall such finding absolve the seller of its obligation to obtain CEC certification, or the utility of its obligation to pursue remedies for breach of contract. Such contract enforcement activities shall be reviewed pursuant to the Commission's authority to review the utilities' administration of such contracts.

CONFIDENTIAL INFORMATION

The Commission, in implementing Section 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, including price, is confidential for three years from the date the contract states that energy deliveries begin, or until one year following contract expiration, except contracts between IOUs and their affiliates, which are public.

The confidential appendices, marked "[REDACTED]" in the public copy of this Resolution, as well as the confidential portions of the Tribal AL, remain confidential at this time.

COMMENTS

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, the Draft Resolution was mailed to parties for comments on February 19, 2015.

No comments were received within the comment period.

FINDINGS

1. The Tribal Solar, LLC power purchase agreement is consistent with SCE's 2013 Renewables Portfolio Standard Procurement Plan, as approved by D.13-11-024.
2. The Tribal Solar, LLC power purchase agreement was evaluated consistent with the Least-cost, Best-fit methodology described in SCE's 2013 RPS Procurement Plan.
3. The Tribal Solar, LLC power purchase agreement compares reasonably from a net market value and cost basis relative to RPS offers received in SCE's 2013 RPS solicitation and contracts executed in the last 12 months.
4. The Tribal Solar, LLC power purchase agreement includes the Commission adopted Renewables Portfolio Standard "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.
5. Consistent with D.11-12-052, SCE provided information in Advice Letter 3126-E regarding the expected portfolio content category classification of the renewable energy credits to be procured pursuant to the Tribal Solar, LLC power purchase agreement.
6. Because the Tribal Solar, LLC power purchase agreement is longer than 10 years, the long-term contracting requirement does not apply to SCE's procurement via the Tribal Solar, LLC power purchase agreement, and the Tribal Solar, LLC power purchase agreement will contribute to SCE's long-term contacting requirement established in D.12-06-038 for the 2nd Compliance Period 2014-2016.
7. Consistent with D.06-05-039, an independent evaluator oversaw SCE's 2013 Renewables Portfolio Standard procurement solicitation and SCE's negotiations for the Tribal Solar, LLC power purpose agreement.
8. Consistent with D.02-08-071, SCE's Procurement Review Group participated in the review of the Tribal Solar, LLC power purchase agreement.
9. The Tribal Solar, LLC power purchase agreement is not covered procurement subject to the Emissions Performance Standard because the generating facility has a forecast annualized capacity factor of less than 60 percent and

therefore is not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim Emissions Performance Standard Rules.

10. The Tribal Solar, LLC Project is located on the Fort Mojave Indian Reservation in San Bernardino County, California and developed by First Solar, Inc. The Tribal Solar, LLC Project will interconnect with the California Independent System Operator-control grid at the Mohave Generation Station located in Laughlin, Nevada.
11. It is reasonable to expect that the Tribal Project will be able to meet the terms and conditions in the Tribal Solar, LLC power purchase agreement.
12. Imperial Irrigation District's protest recommending SCE Advice Letter 3126-E be rejected without prejudice is denied.
13. Procurement pursuant to the Tribal Solar, LLC power purchase agreement must be procurement from an eligible renewable energy resource certified by the CEC for 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 (Sections 399.11, et seq.), D.03-06-071 and D.06-10-050, or other applicable law on or before the first delivery of energy.
14. Payments made by SCE pursuant to the Tribal Solar, LLC power purchase agreement are fully recoverable in rates over the life of the power purchase agreement, subject to Commission review of SCE's administration of the power purchase agreement and any other applicable Commission review.
15. The confidential appendices, marked "[REDACTED]" in the public copy of this Resolution, as well as the confidential portions of the advice letter, remain confidential at this time.
16. Advice Letter 3126-E should be approved and effective today.

THEREFORE IT IS ORDERED THAT:

1. The request of the Southern California Edison Company for review and approval of a power purchase agreement with Tribal Solar, LLC as requested in Advice Letter AL 3126-E is approved without modification.

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 March 26, 2015; the following Commissioners voting favorably thereon:

_____
TIMOTHY J. SULLIVAN
Executive Director

Confidential Appendix A

Evaluation Summary of the Tribal Solar, LLC (Tribal)
Power Purchase Agreement (PPA)

[REDACTED]

Confidential Appendix B

Excerpt from the Independent Evaluator Report on the Tribal PPA[24]

[REDACTED]

[24] Excerpt from: Report of the Independent Evaluator Final Selection Process and Review of the Power Purchase Agreement with Tribal Solar, LLC, Merrimack Energy Group, Inc. and New Energy Opportunities in October 2014, as submitted with the Tribal AL.