

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4746

April 21, 2016

REDACTED
RESOLUTION

Resolution E-4746. Southern California Edison Company requests approval of a renewables portfolio standard eligible power purchase agreement with Tule Wind, LLC.

PROPOSED OUTCOME

- Approve cost recovery for the long-term renewable energy power purchase agreement between SCE and Tule Wind, LLC. The power purchase agreement is approved without modification.

SAFETY CONSIDERATIONS:

- Based on the information before us, the power purchase agreement does not appear to result in any adverse safety impacts on facilities or operations of SCE.

ESTIMATED COST:

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

By Advice Letter 3287-E filed on October 7, 2015 and Advice Letter 3287-E-A filed on April 1, 2016.

SUMMARY

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

SCE filed Advice Letter 3287-E on October 7, 2015 and Advice Letter 3287-E-A on April 1, 2016 (collectively the Tule AL), requesting California Public Utilities Commission (Commission) review and approval of a 15-year renewable energy PPA with Tule (Tule PPA). The PPA was executed through SCE's 2014 RPS

solicitation (2014 RPS RFO). Pursuant to the PPA, RPS-eligible generation will be purchased from the proposed Tule Wind facility. The Tule Wind facility is to be located 60 miles east of the City of San Diego, California (CA) and have a capacity of approximately 132 megawatts (MW).

This resolution approves the Tule PPA. SCE’s execution of this PPA is consistent with SCE’s 2014 RPS Procurement Plan (RPS Plan), which the Commission approved in Decision (D.) 14-11-042. In addition, RPS deliveries pursuant to the Tule PPA are reasonably priced and the related costs to SCE are fully recoverable in rates over the life of the Tule PPA, subject to Commission review of SCE’s administration of the PPA.

The following table provides a summary of the Tule PPA:

Table 1: Summary of Tule PPA

Seller	Generation Type	Size (MW)	Estimated Average Energy (GWh/Yr)	Forecasted Commercial Operation Date	Term of Agreement (Years)	Location
Tule Wind, LLC	Wind	132	381	September 1, 2017	15	San Diego 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) and SB 350.¹ The RPS program is codified in Public Utilities Code Sections 399.11-399.31.² The RPS program 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

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); and SB 350 (De León, Chapter 547, Statutes of 2015).

² All further statutory references are to the Public Utilities Code unless otherwise specified.

sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; 33 percent of retail sales by December 31, 2020 and corresponding increases up to 50% by December 31, 2030.³

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 Tule AL was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Tule AL was mailed and distributed to the R.15-02-020 service list and GO 96-B service lists in accordance with Section 4 of General Order 96-B.

PROTEST

SCE's original Tule AL (Advice Letter 3287-E) was timely protested by Backcountry Against Dumps (BAD) on October 27, 2015. BAD recommends that the Tule AL be rejected on the basis of missed or ignored information that led to inaccurate or incorrect evaluations by SCE and the IE, among other things, as described in more detail below.

SCE responded to the BAD protest on November 3, 2015. SCE recommends rejection of the protest asserting that the Tule PPA meets all the criteria for Commission approval of RPS PPAs and issues raised by BAD are irrelevant and outside the scope of the Tule AL. Also on November 3, 2015, Iberdrola filed a response recommending approval of the Tule AL.

BAD also filed a response to Iberdrola's response on November 12, 2015.

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).

DISCUSSION

SCE requests approval of a renewable energy power purchase agreement (PPA) with Tule Wind LLC

On October 7, 2015, SCE filed the Tule AL requesting Commission approval of the Tule PPA. The proposed Tule Wind facility will be located approximately 60 miles east of the City of San Diego, CA on United States Department of the Interior, Bureau of Land Management (BLM) lands and private lands. Tule Wind, LLC is a wholly owned subsidiary of Iberdrola Renewables, LLC, which will develop the proposed facility. Pursuant to the Tule PPA, the renewable energy from the facility will be delivered to the Boulevard Substation 138 kV bus, and SCE is to begin purchasing the generation from Tule beginning September 1, 2017. The expected annual generation to be purchased from the facility is 381 Gigawatt-hours (GWh). This generation could count towards SCE's RPS requirements in Compliance Period 2017-2020 and subsequent Compliance Periods through the end of the PPA.

SCE requests that the Commission issue a resolution that:

1. Approves the Tule PPA in its entirety;
2. Finds that the Tule PPA is consistent with SCE's 2014 RPS Procurement Plan;
3. Finds that the Tule PPA is compliant with the Emissions Performance Standard;
4. Finds that any procurement pursuant to the Tule 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 Tule 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 Tule PPA, subject only to further review with respect to the reasonableness of SCE's administration of the Tule PPA.

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

- Consistency with the RPS policies and requirements:
 - SCE's 2014 RPS Procurement Plan and RPS Procurement Need
 - SCE's Least-Cost, Best-Fit (LCBF) methodology
 - RPS Standard Terms and Conditions
 - Portfolio Content Categories Requirements
 - The Long-Term Contracting Requirement
 - Independent Evaluator review requirements
 - Procurement Review Group Requirements
- Net Market Value and Cost Reasonableness
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- PPA Viability Assessment and Project Development Status

Consistency with SCE's 2014 RPS Procurement Plan

In its 2014 RPS Procurement Plan (2014 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.⁴ Specifically, SCE explained that its assessment for determining need is based on a forecast of bundled retail sales, performance and variability of existing generation, the likelihood of new generation achieving commercial operation, expected commercial on-line dates of facilities under contract, technology mix, expected curtailment, and the impact of pre-approved procurement programs, among other factors. Based on that assessment, SCE stated that it does not have a short-term RPS procurement need, but it does have a long-term RPS procurement need.

In its 2014 RPS Plan, 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

⁴ Section 399.13(a)(5).

deliveries beginning on or after January 1, 2016. In addition, SCE sought offers that would qualify as Portfolio Content Category 1 or 3, be for at least 10 years in length, and have a contract capacity of 500 kW or greater.

Based on SCE's RPS portfolio needs described in its 2014 RPS Plan, the Tule PPA is consistent with SCE's 2014 RPS Plan. The Tule PPA is for generation from a proposed renewable energy resource⁵ with deliveries to begin on September 1, 2017 and continuing for 15 years. See Confidential Appendix A for details on SCE's forecasted RPS procurement needs.

The Tule PPA is consistent with SCE's 2014 RPS Procurement Plan, approved by D.14-11-042.

Consistency with SCE's Least-Cost and 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.⁶ 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.

As described in its 2014 RPS Plan,⁷ SCE's LCBF bid evaluation includes a quantitative analysis and qualitative criteria. SCE's quantitative analysis is based on a market valuation that calculates the net market value of a bid, which is the net of a project's levelized benefits and costs. SCE's quantitative analysis or market valuation includes evaluation of price, transmission costs, integration cost, congestion costs, debt equivalence costs, as well as, energy, resource adequacy, and congestion benefits. SCE ranks all conforming bids and creates a preliminary shortlist based on the net market value results.

In addition to the quantitative ranking of bids, SCE evaluates the qualitative attributes of proposals with the best net market values. SCE assesses factors such as location, project viability, portfolio fit, resource diversity, contract term length,

⁵ Assuming the Tule facility receives the California Energy Commission certification as an eligible renewable resource.

⁶ Section 399.13(a)(4)(A).

⁷ SCE's 2014 RPS Procurement Plan, Appendix I.1.

counterparty concentration, and other attributes to eliminate or add projects to the final shortlist.

In the Tule AL, SCE explains that the Tule PPA is the result of SCE's 2014 RPS solicitation and that it evaluated and shortlisted the Tule PPA bid consistent with its 2014 LCBF methodology.⁸

See the "Net Market Value and Cost Reasonableness" section of this resolution for a discussion of how the PPA compares to other offers from SCE's 2014 RPS solicitation and comparable RPS contracts executed by SCE in the 12 months prior to the PPA execution.

The Tule PPA was evaluated consistent with the LCBF methodology described in SCE's 2014 RPS Procurement Plan.

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, D.13-11-024, and D.14-11-042.

The Tule 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, D.13-11-024, and D.14-11-042.

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 of 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

⁸ SCE's 2014 RPS solicitation protocols, including its LCBF methodology, as described above, were approved by the Commission in D.14-11-042.

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

SCE claims in the Tule AL that the procurement pursuant to the PPA will be classified as Portfolio Content Category 1.⁹ To support its claim, SCE asserts that the Tule facility will have its first point of interconnection within the California Independent System Operator (CAISO) balancing authority area, obtain and maintain certification as an eligible renewable energy resource, and perform all actions necessary to transfer the RECs to SCE. Additionally, pursuant to the Tule PPA, the RECs associated with the electricity from Tule will be delivered to SCE and not unbundled or transferred to another owner.

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

In this resolution, the Commission makes no determination regarding the Tule 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 Tule 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.¹⁰ 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

⁹ SCE AL 3287-E, p. 13.

¹⁰ 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.)

contract(s) in the same compliance period in which the short-term contract(s) is 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).¹¹

The Tule PPA is for a 15-year term and was executed during Compliance Period 2014-2016.

Because the Tule PPA is greater than 10 years in length, the long-term contracting requirement does not apply to SCE's procurement pursuant to the Tule PPA, and the Tule PPA will contribute to SCE's long-term contracting 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 2014 RPS solicitation. In addition, Merrimack oversaw the negotiations with Tule and evaluated the overall merits of the Tule PPA. The Tule AL included a public and confidential version of the IE's report.

The IE states in its report that the Tule PPA provides a good portfolio fit due to its forecasted late 2017 COD, is mature in terms of development, and is being developed by a company with a strong track record. Additionally, the IE reports that the Tule PPA was reasonably negotiated with contract terms that, when taken as a whole, appropriately protect the interests of SCE's ratepayers. Overall, the IE opines that the Tule PPA merits Commission approval.

Consistent with D.06-05-039, an independent evaluator oversaw SCE's 2014 RPS solicitation and negotiations with Tule.

Procurement Review Group (PRG) Participation Requirement

The PRG was initially established in D.02-08-071 to review and assess the details of the investor owned utilities' (IOU's) overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement

¹¹ 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.

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

Participants in SCE's PRG include representatives from the Office of Ratepayer Advocates, California Department of Water Resources, Union of Concerned Scientists, Sierra Club, The Utility Reform Network, and the California Utility Employees. In the Tule AL, SCE asserts that the proposed execution of Tule PPA was presented to its PRG at the July 1, 2015 meeting.¹²

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

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 IOU in the 12 months prior to the proposed PPA's execution date. Using this methodology and the confidential analysis provided by SCE in the Tule AL, the Commission finds that the net market value of the Tule PPA is competitive to other RPS offers received by SCE and that the costs of the Tule PPA are reasonable. See Confidential Appendix A for a detailed discussion of the analysis.

The Tule PPA compares reasonably from a net market value and cost basis relative to RPS offers received in SCE's 2014 RPS solicitation and comparable contracts executed by SCE in the 12 months prior to executing the Tule PPA.

Payments made by SCE under the Tule 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.

¹² SCE AL 3287-E, p. 17.

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

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.¹³

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.¹⁴

The Tule 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.

PPA Viability and Project Development Status

In the Tule AL SCE stated that part of its evaluation of bids included the use of the Commission-approved project viability calculator, which uses standardized criteria to quantify a project's strengths and weaknesses in key areas of renewable project development to assess certain project development factors. See Confidential Appendix A for SCE's and the IE's project viability scores.

In addition, the Tule AL describes the proposed Tule project and its developmental progress to illustrate the project and PPA viability:

- Developer Experience: The Tule facility is being developed by Iberdrola,¹⁵ which is an experienced wind developer and owner and has developed wind facilities in California and throughout the United States. In addition,

¹³ "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%." Section 8340 (a).

¹⁴ D.07-01-039, Attachment 7, p. 4.

¹⁵ In December 2015 Iberdrola USA merged with UIL Holdings Corp. to form AVANGRID

Iberdrola owns and operates more than 6,000 MW of wind and solar generating facilities.

- Technology and Quality of Resource: The Tule Wind facility will use wind turbines that have been technically proven on utility-scale generation projects. Additionally, SCE believes wind resource for the project site will allow Tule to satisfy the terms of the Tule PPA based on Iberdrola collecting meteorological data on the project site since 2004 and available national historic wind data.
- Site Control and Permitting Status: The proposed Tule Wind facility will be located in eastern San Diego County, about 60 miles east of the City of San Diego, near Boulevard, CA. The project site is on BLM lands and private lands. Tule has secured full site control and an interconnection agreement. In addition Tule has secured a number of key permits.

Table 2: Permitting and Certification Status for the Tule Project¹⁶

Agency	Permit/Approval	Status
Federal		
Advisory Council on Historic Preservation	Section 106 Consultation (National Historic Preservation Act)	Complete/Approved
Federal Aviation Administration	Notice of Proposed Construction (Form 7460-1) Hazard Determination	Complete/Approved
U.S. Army Corps of Engineers	Section 404 Permit (Clean Water Act)	Permit submitted August 11, 2011 Permit expected September 1, 2016
U.S. Department of the Interior - Bureau of Land Management ("BLM")	<ul style="list-style-type: none"> • Record of Decision (decision by BLM to approved the project) • Right of Way Grant Application for Transportation and Utility Systems and Facilities on Federal Lands, Standard Form 299 • National Historic Preservation Act Compliance 	Complete/Approved
U.S. Fish and Wildlife Service	Section 7 Consultation (Endangered Species Act)	Complete/Approved
	Consultation (Migratory Bird Treaty Act (MBTA))	Complete/Approved
	Consultation (Bald and Golden Eagle Protection Act)	Complete/Approved

¹⁶ SCE AL 3287-E, p.20.

Agency	Permit/Approval	Status
State of California		
California Public Utilities Commission	Final Environmental Impact Report / Environmental Impact Statement (EIR/EIS)	Complete/Approved
California Department of Fish and Wildlife	Streambed Alteration Agreement Permit (Section 1602)	1602 Permit submitted August 11, 2011 Permit expected September 1, 2016
California Independent System Operator	Interconnection Approval	Complete
California State Historic Preservation Office	Section 106 Consultation (National Historic Preservation Act)	Complete
State Water Resources Control Board	Section 401 Water Quality Certification (Clean Water Act). 401 Certification	401 Permit submitted August 11, 2011 Permit expected September 1, 2016
	Section 402 National Pollutant Discharge Elimination System (NPDES) Storm Water Construction Permit (Clean Water Act)	402 Permit expected September 1, 2016
	Stormwater Construction General Permit 99-08-DWQ	Permit expected September 1, 2016
	Waste Discharge Requirements Permit	Permit expected September 1, 2016
California Department of Transportation	Transportation Permits	Permit expected September 1, 2016
	Encroachment Permit	Permit expected September 1, 2016
Air Pollution Control District	Air Quality Permit to Construct and Operate Batch Plant and Collector Substation.	Permit expected September 1, 2016
California Department of Forestry and Fire Protection (CALFIRE)	Approval of Construction Fire Protection Plan	Complete/Approved
Local		
County of San Diego	Major Use Permit - Operation of Wind Turbines	Complete/Approved
	Grading Permit	Permit expected July 1, 2016
	General Plan Amendment (GPA)	Complete/Approved
	Building Permit	Permit expected September 1, 2016
	Road/Highway Encroachment /Crossing Permit	Permit expected September 1, 2016
	Well and Septic Permit	Permit expected September 1, 2016
San Diego County Fire Authority	Fire District Approval of Fire Protection Plan Fire Service Agreement	Complete/Approved

- Interconnection Status: The Tule facility will interconnect to the 138 kV Boulevard substation. Tule executed a Large Generation Interconnection Agreement on March 23, 2011. The East County Substation build-out and re-build of the Boulevard Substation have been completed.

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

Protest to the Tule AL is denied

BAD recommends rejection of the Tule AL due to missed or ignored information that led to inaccurate or incorrect evaluation by SCE and the IE. In support of its recommendation, BAD asserts that the project viability described in the Tule AL is not consistent with its understanding of the proposed Tule Wind facility. Specifically, in its protest, BAD refers to pending litigation¹⁷ and numerous state and federal permits¹⁸ that are still needed and/or the status of permits is incorrect resulting in an overstating of the project's viability. BAD also asserts that the wind turbines cause negative health effects due to noise and have the potential to cause fires. Lastly, BAD asserts that if the Tule PPA is approved, that additional conditions and public benefits should be considered along with a mandate to use only recycled water in order to protect groundwater resources.

In its reply, SCE recommends rejecting BAD's protest. SCE asserts that the Tule PPA meets all the criteria for Commission approval of RPS PPAs and that most of BAD's issues with the Tule Wind facility are related to Tule's environmental review and permitting, which are outside the Commission's scope for review of a PPA. SCE further asserts that the Commission has been clear regarding its role in the review of proposed PPAs and that it is separate from the environmental review and assessment processes that are the responsibility of other governmental agencies. Further, SCE asserts that BAD has not demonstrated that either SCE or the IE incorrectly evaluated the Tule PPA.

In its response, Iberdrola recommends approval of the Tule AL.¹⁹ Iberdrola asserts that BAD's protest is not relevant to Tule PPA and the issues that BAD raises have been rejected by the appropriate agencies and courts. In its response

¹⁷ BAD cites to District Court and the 9th Circuit Court of Appeals No. 14-55666 (consolidated with No. 14-55842) and San Diego Superior Court Case No. 37-2013-00052926-CU-TT-CTL

¹⁸ BAD's protest asserts that the projects National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA) documents are outdated and need updating. Additionally it refers to AL 3287-E for a list of permits that are still not obtained (reproduced in this resolution as Table 2)

¹⁹ Consistent with GO-96-B rules regarding protests, responses, and replies, information provided in the late responses is considered in this resolution only to the extent that it pertains to the review of the Tule AL.

Iberdrola also asserts that the Tule I project is the project under contract with SCE and that many of the issues raised in BAD's protest relate to a different project, Tule II. Further, Iberdrola states that it has received a right-of-way grant from the BLM and a major use permit from the County of San Diego for the Tule I project based on a completed Environmental Impact Report/Environmental Impact Statement.

In addition to the timely protest, BAD also submitted a response which addressed Iberdrola's response.²⁰ In its response BAD argues that Iberdrola's response is misleading and contradictory and objects to the claim that there are two different projects and that there is no need for additional environmental review.

We agree with SCE that our review and approval of the PPA is limited to the criteria reviewed within this Resolution as listed above [p. 5] and that the developer is ultimately responsible for meeting the terms and conditions of the Tule PPA. Further, the Commission is granting no rights to develop property and is not binding itself or any other party to any particular development plan by this resolution. The Commission merely finds that, should the Tule project come to fruition, SCE may account for deliveries from the facility as a renewable energy resource and may recover certain costs in rates. Therefore, BAD's protest is denied.

Safety Considerations

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.

SCE's 2014 *pro forma* PPA includes safety provisions, which require the seller to operate the generating facility in accordance with "Prudent Electrical Practices," as defined in the *pro forma*.²¹ Specifically, these provisions require that all sellers

²⁰ Consistent with GO-96-B rules regarding protests, responses, and replies, information provided in the late responses is considered in this resolution only to the extent that it pertains to the review of the Tule AL.

²¹ SCE's Final 2014 RPS Procurement Plan, Appendix G.1 (2014 *Pro Forma* Renewable Power Purchase and Agreement) (p. 23) defines "Prudent Electrical Practices" as:

“Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Generating Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgement in the light of the facts known or that should reasonably have been known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

Prudent Electrical Practices shall include, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with manufacturers’ warranties, restrictions in this Agreement, and the requirements of Governmental Authorities, WECC standards, the CAISO and Applicable Laws.

Prudent Electrical Practices also includes taking reasonable steps to ensure that:

- a. Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Generating Facility’s needs;
- b. Sufficient Operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to Operate the Generating Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Generating Facility and Emergencies whether caused by events on or off the Site;
- c. Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe Operation of the Generating Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- d. Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- e. Equipment is not Operated in a reckless manner, in violation of manufacturer’s guidelines or in a manner unsafe to workers, the general public, or the Transmission Provider’s electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and
- f. Equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

comply with all applicable requirements of law to ensure the safety, health, and comfort of the public and take all reasonable steps to ensure that the generation facility is planned, constructed, owned, operated, maintained, and decommissioned in a safe manner. It also includes a provision that requires a report from an independent engineer certifying that the seller has a written plan for the safe construction and operation of the generating facility in accordance with Prudent Electrical Practices. The seller must also provide the report to SCE prior to the commencement of any construction activities on the project site. The Tule PPA includes all of these provisions as written in SCE's approved 2014 *pro forma* PPA.

Thus, based on the information before us, the Tule project does not appear to result in any adverse safety impacts on facilities or operations of SCE.

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

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.

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 Tule project as an “Eligible Renewable Energy Resource.” The contract language that procurement pursuant to the Tule 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 Tule 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, this draft resolution was mailed to parties for comments on February 8, 2016.

Comments were filed on March 31, 2016 by BAD.

We carefully considered comments which focused on factual, legal, or technical errors.

BAD comments that they object to the draft resolution's recommendations, findings, and denial of its protest

In its comments BAD asserts that the draft resolution incorrectly states that the Tule PPA "does not appear to result in any adverse safety impacts on facilities or operations of SCE." More specifically, BAD argues that based on CAISO's 2012-13 ISO Transmission Plan and 2014-15 Reliability study, which both include upgrades or work to be done in the Imperial Valley area, the addition of the Tule wind facility would cause congestion and other impacts to SDG&E's system.

As stated above in this Resolution, the Tule PPA with SCE has several provisions that require Tule, LLC to comply with all applicable requirements of law to ensure that the facility is planned, constructed, owned, operated, maintained, and decommissioned in a safe manner. Further, in order for a project to interconnect to the transmission system at the transmission-level, the project must go through the CAISO's generation interconnection process. This process includes transmission studies that identify any reliability and deliverability issues. Additionally, the studies determine any upgrades, if needed, to safely interconnect the proposed generation facility. As stated in the Tule AL, the Tule project has completed its transmission studies and several of the upgrades have already been completed.²⁴ Additionally, the Tule project has progressed through the interconnection process to the point that it already secured an interconnection agreement. Therefore, the Commission disagrees with BAD's assertion that the draft resolution was incorrect.

BAD also objects to the draft resolution's denial of its protest because it asserts that its protest regarding the Tule project's environmental and health impacts was relevant to the Tule project and not a separate second project. Additionally,

²⁴ Tule AL, p. 22.

BAD argues that the draft resolution failed to address the part of its protest related to electrical pollution measured near the Kumeyaay and Ocotillo wind projects.

As stated above in this Resolution, our review and approval of the PPA is separate from any required land use permitting process and related environmental reviews, which include environmental and health impacts. Thus, we disagree with BAD's objection to the denial of its protest.

FINDINGS

1. The Tule Wind, LLC power purchase agreement is consistent with SCE's 2014 Renewables Portfolio Standard Procurement Plan, as approved by D.14-11-042.
2. The Tule Wind, LLC power purchase agreement was evaluated consistent with the least-cost and best-fit methodology described in SCE's 2014 RPS Procurement Plan.
3. The Tule Wind, 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, D.13-11-024, and D.14-11-042.
4. Consistent with D.11-12-052, SCE provided information in Advice Letter 3287-E regarding the expected portfolio content category classification of the renewable energy credits to be procured pursuant to the Tule Wind, LLC power purchase agreement.
5. Because the Tule Wind, LLC power purchase agreement is longer than 10 years, the long-term contracting requirement does not apply to SCE's procurement via the Tule Wind, LLC power purchase agreement, and the Tule Wind, LLC power purchase agreement will contribute to SCE's long-term contracting requirement established in D.12-06-038 for Compliance Period 2014-2016.
6. Consistent with D.06-05-039, an independent evaluator oversaw SCE's 2014 Renewables Portfolio Standard procurement solicitation and SCE's negotiations with Tule Wind, LLC.
7. Consistent with D.02-08-071, SCE's Procurement Review Group participated in the review of the Tule Wind, LLC power purchase agreement.

8. The Tule Wind, LLC power purchase agreement compares reasonably from a net market value and cost basis relative to RPS offers received in SCE's 2014 RPS solicitation and contracts executed by SCE in the last 12 months.
9. The Tule Wind, 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. It is reasonable to expect that Tule Wind, LLC will be able to meet the terms and conditions in the Tule Wind, LLC power purchase agreement.
11. The Backcountry Against Dumps protest is denied.
12. Procurement pursuant to the Tule Wind, LLC power purchase agreement must be procurement from an eligible renewable energy resource certified by the California Energy Commission 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.
13. Payments made by SCE pursuant to the Tule Wind, 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.
14. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the Advice Letter 3287-E, remain confidential at this time.
15. Advice Letter 3287-E and Advice Letter 3287-E-A 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 Tule Wind, LLC, as requested in Advice Letter 3287-E and Advice Letter 3287-E-A, 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 April 21, 2016; the following Commissioners voting favorably thereon:

/s/TIMOTHY J. SULLIVAN

TIMOTHY J. SULLIVAN

Executive Director

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners

Confidential Appendix A

Evaluation Summary of the Tule Wind, LLC Power
Purchase Agreement

[Redacted]

Confidential Appendix B

Excerpt from the Independent Evaluator Report on the
Tule PPA²⁵

[Redacted]

²⁵AL 3276-E, Confidential Appendix C, Report of the Independent Evaluator Review of the Power Purchase Agreement with Tule Wind, LLC, Merrimack Energy Group, Inc. and New Energy Opportunities in September 2015. pp. 76-80.