

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

ENERGY DIVISION

Agenda ID 15093  
RESOLUTION E-4790  
September 15, 2016

**REDACTED**  
**RESOLUTION**

Resolution E-4790. Grants Southern California Edison Company's (SCE's) request for Commission approval of three renewable power purchase agreements with Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar.

PROPOSED OUTCOME:

- This Resolution approves cost recovery for three long-term renewable energy power purchase agreements between SCE and First Solar for the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar projects. The Rosamond Solar and the Willow Springs Solar facilities are located in Rosamond, California. The Sunshine Valley Solar facility is located in Amargosa, Nevada. The power purchase agreements are approved without modification.

SAFETY CONSIDERATIONS:

- The power purchase agreements require the sellers 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 agreements are confidential at this time.

By Advice Letter 3334-E, filed on December 23, 2015.

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**SUMMARY**

**Southern California Edison Company's (SCE's) renewable energy power purchase agreements (PPAs) with First Solar for the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar projects (collectively the First Solar Projects) comply**

**with the Renewables Portfolio Standard (RPS) procurement guidelines and are approved without modification.**

SCE filed Advice Letter (AL) 3334-E on December 23, 2015, requesting California Public Utilities Commission (Commission) review and approval of three 15-year renewable energy PPAs with the First Solar Project.

All three projects resulted from SCE's 2014 RPS solicitation (2014 RPS RFO<sup>1</sup>) and all three PPAs were executed in June 2015. Pursuant to the PPAs, RPS-eligible generation will be purchased from the proposed First Solar Projects.

The Rosamond Solar and Willow Springs Solar Projects are located in Rosamond (in Kern County), California and will have a capacity of approximately 160 megawatts (MW) and 108 MW, respectively. The Sunshine Valley Solar project is located in Armargosa Valley (in Nye County), Nevada and will have a capacity of 104 MW.

This Resolution approves the First Solar PPAs. SCE's execution of the PPAs is consistent with SCE's 2014 RPS Procurement Plan (2014 RPS Plan), which the Commission approved in Decision (D.) 14-11-042. Additionally, RPS deliveries pursuant to the First Solar PPAs are reasonably priced and the related costs to SCE are fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs.

Table 1 on the next page provides a summary of the PPAs.

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<sup>1</sup> Request for Offers.

**Table 1: Summary of the First Solar PPAs**

Seller	Generation Type	Size (MW)	Estimated Average Energy (GWh/Yr.)	Forecasted Commercial Operation Date	Term of Agreement (Years)	Location
Rosamond Solar	Solar Tracking photovoltaic ("PV")	160	488	January 1, 2020	15	Rosamond, CA
Willow Springs Solar	Solar Tracking PV	108	330	January 1, 2020	15	Rosamond, CA
Sunshine Valley Solar	Solar Tracking PV	104	302	January 1, 2020	15	Armargosa Valley, NV

**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).<sup>2</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.31.<sup>3</sup>

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 be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.<sup>4</sup> On October 7, 2015, SB 350<sup>5</sup> made

<sup>2</sup> 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).

<sup>3</sup> All further statutory references are to the Public Utilities Code unless otherwise specified.

<sup>4</sup> 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). Note it is 33% of a Load Serving Entity's annual retail sales for 2020 and each year thereafter.

<sup>5</sup> SB 350 (De León, Chapter 547, Statutes of 2015) effective on January 1, 2016.

further changes to Pub. Util. Code Sections 399.11, *et seq.* SB 350 requires that the amount of electricity generated and sold to retail customers from eligible renewable energy resources be increased to 50% by December 31, 2030.

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 First Solar PPAs was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter 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.

## **PROTESTS**

SCE's Sunshine Valley PPA received one late protest by Basin and Range Watch<sup>6</sup> on February 10, 2016. The Commission accepted Basin and Range Watch's late protest and set a deadline of February 17, 2016, for any replies. Basin and Range Watch recommends that the Commission reject the First Solar AL.

Basin and Range Watch's recommendation that the Commission reject the First Solar AL stems from two concerns related to the Sunshine Valley Solar project. The first concern is that the field of solar panels that will be installed for the Sunshine Valley project will create a polarized "lake effect" that will increase avian mortality rates amongst local bird species, e.g., the golden eagle. Basin and Range Watch's second concern is the construction of the project will create "fugitive dust" impacts and public health, i.e., Valley Fever.

SCE submitted a timely response to Basin and Range Watch on February 17, 2016. SCE recommends rejecting the Basin and Range Watch protest. SCE states that the Sunshine Valley project meets all of the criteria to merit Commission approval, and

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<sup>6</sup> Basin and Range Watch is a group of volunteers who live in the deserts of Nevada and California. The goal of their organization is to identify the problems of energy sprawl and find solutions that will preserve the natural ecosystem.

that the issues discussed in the Basin and Range Watch protest are out of scope for Commission review.

## **DISCUSSION**

### **SCE requests approval of three renewable energy power purchase agreements with First Solar for the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar projects.**

On December 24, 2015, SCE filed the First Solar AL requesting Commission approval of three RPS eligible PPAs. The proposed Rosamond Solar (160 MW) and Willow Springs (108 MW) solar photovoltaic (PV) projects are located in Kern County near Rosamond, California. The proposed Sunshine Valley (104 MW) solar PV project is located in Nye County near Armargosa, Nevada.

Pursuant to the PPAs, SCE would begin purchasing generation from the First Solar projects on January 1, 2020. See Table 1 for the forecasted commercial operation Dates and the estimated average annual generation. The generation from all three projects could be eligible to count towards SCE's RPS requirements in Compliance Period 2017-2020.

### **SCE requests that the Commission issue a final resolution that:**

1. Approves the First Solar PPAs in their entirety;
2. Finds that the First Solar PPAs are consistent with SCE's 2014 RPS Procurement Plan;
3. Finds that the First Solar PPAs are compliant with the Emissions Performance Standard;
4. Finds that any procurement pursuant to the First Solar PPAs are 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 (399.11 et seq.), D. 03-06-071, or other applicable law; and,
5. Finds that the First Solar PPAs, and SCE's entry into them, are reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the First Solar PPAs, subject only to further review with respect to the reasonableness of SCE's administration of the First Solar PPAs.

**Energy Division evaluated the First Solar PPAs based on the following criteria:**

- Consistency with SCE's 2014 RPS Procurement Plan;
- 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;
- Independent Evaluator Review;
- Procurement Review Group Participation;
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard; and,
- PPA Viability Assessment and Project Development Status

**Consistency with SCE's 2014 RPS Procurement Plan**

SCE provided in its 2014 RPS Procurement Plan (2014 RPS Plan) 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.<sup>7</sup> 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.

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<sup>7</sup> Section 399.13(a)(5).

Based on SCE's RPS portfolio needs described in its 2014 RPS Plan, the First Solar PPAs are consistent with SCE's 2014 RPS Plan. The First Solar PPAs are for generation from a proposed renewable energy resource<sup>8</sup> with deliveries beginning in 2020 and continuing for 15 years. See Confidential Appendix A for details on SCE's forecasted RPS procurement needs.

The First Solar PPAs are consistent with SCE's 2014 RPS Procurement Plan approved by D.14-11-042.

### **Consistency with SCE's Least-Cost, Best-Fit (LCBF) Methodology**

In D.04-07-029 and D.12-11-016, the Commission directed the utilities to use certain criteria in their LCBF selection of renewable resources.<sup>9</sup> 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,<sup>10</sup> SCE's LCBF bid evaluation includes a quantitative analysis and qualitative criteria. SCE's quantitative analysis is based on a market valuation methodology that calculates the net market value of a bid,<sup>11</sup> which is the net of a project's levelized costs and benefits.<sup>12</sup> 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,

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<sup>8</sup> Assuming the First Solar projects receive California Energy Commission certification as an eligible renewable resource.

<sup>9</sup> Section 399.13(a)(4)(A).

<sup>10</sup> Public Appendix 1.1 at 2, 3, & 11.

<sup>11</sup> Unlike the other two utilities, SCE uses a different term, "Renewable Premium" for net market value.

<sup>12</sup> Present values expressed in terms of dollars per megawatt-hour (\$/MWh).

counterparty concentration and other attributes to eliminate or add projects to the final short list.

SCE explains in the First Solar AL that the First Solar PPAs are the result of SCE's 2014 RPS solicitation, and that they evaluated and shortlisted the PPA bids consistent with its 2014 LCBF methodology.<sup>13</sup>

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 2014 RPS solicitation and comparable RPS contracts executed by SCE in the 12 months prior to PPA executions.

The First Solar PPAs were evaluated consistent with the LCBF methodology described in SCE's 2014 RPS Procurement Plan.

### **Net Market Value and Cost Reasonableness**

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

The First Solar PPAs compare favorably 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 the execution of the PPAs.

Payments made by SCE under all three of the First Solar PPAs are fully recoverable in rates over the life of the PPAs, subject to Commission reasonableness review of SCE's administration of the PPAs and any other conditions contained herein or required by law.

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<sup>13</sup> SCE's 2014 RPS solicitation protocols, including its LCBF methodology, as described above, was approved by the Commission in D.14-11-042.

### **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.

The First Solar PPAs include 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.

### **Consistency with Portfolio Content Categories Requirements**

In D.11-12-052, the Commission defined and implemented portfolio content categories for the RPS program and requires the investor-owned utilities to provide information to the Director of Energy Division 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 ensure the PPA’s RPS eligibility and 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.

In the First Solar AL, SCE states that under the terms of the First Solar PPAs “SCE will procure energy, capacity, and associated renewable energy attributes generated from ERRs with a first point of interconnection within the CAISO.”<sup>14</sup> Additionally, the renewable energy credits (RECs) associated with the electricity from the First Solar PPAs have not been unbundled or transferred to another owner and will be transferred to SCE pursuant to the terms of the PPAs.

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

In this Resolution, the Commission makes no determination regarding the PPAs’ portfolio content category classification. The RPS contract evaluation process is

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<sup>14</sup> AL 3334-E at 16.

separate from the RPS compliance and portfolio content category classification process, which requires 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 the First Solar PPAs and all applicable supporting documentation to demonstrate portfolio content category classification in the appropriate compliance showings 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.<sup>15</sup> 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 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).<sup>16</sup>

The First Solar PPAs each have a 15-year term and were executed during Compliance Period 2014-2016.

Because the First Solar PPAs are greater than 10 years in length, the long-term contracting requirement does not apply to SCE's procurement pursuant to the First Solar PPAs. The PPAs 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 2014 RPS solicitation. In addition, Merrimack oversaw the negotiations

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<sup>15</sup> 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.)

<sup>16</sup> 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.

and evaluated the overall merits of the First Solar PPAs. The First Solar AL includes a public and confidential version of the IE's report.

The IE states in its report that all three PPAs were reasonably negotiated with contract terms that taken as a whole appropriately protect the interests of SCE's ratepayers. The IE also concludes that the projects are very mature in terms of project development. Overall, the IE states that it agrees with SCE that all three PPAs merit Commission approval. Confidential Appendix B includes excerpts from the IE reports on the First Solar PPAs.

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

### **Procurement Review Group Participation**

The Commission established the PRG in D.02-08-071. The PRG reviews and assesses the details of the utilities' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission as a mechanism for procurement review by non-market participants.

SCE consulted with its PRG during each milestone of the 2014 RPS solicitation informing the participants of the initial bid results and the short list of bids. SCE informed the PRG of the initial results of its RFP, explained the evaluation process, and updated the PRG periodically concerning the status of contract formation. On March 11, 2015, SCE advised the PRG of its proposed shortlist of proposals for its 2014 RPS solicitation. On July 15, 2015, SCE briefed the PRG on the proposed execution of the First Solar PPAs.

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).

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

### **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.<sup>17</sup>

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.<sup>18</sup>

The First Solar PPAs are not covered procurement subject to the EPS because the generating facilities have a forecast annualized capacity factor of less than 60 percent and therefore are not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim EPS Rules.

### **PPA Viability and Project Development Status**

#### Developer Experience:

The First Solar facilities are developed by First Solar. First Solar is highly experienced in developing, financing, constructing, and operating large scale PV projects. Most recently, First Solar completed the development of the 290 MW Agua Caliente and the 550 MW Topaz Solar projects.

#### Technology and Quality of Resource:

All three projects will use solar PV panels that have been technically proven on utility-scale generation projects. Additionally, given the projects' location and associated resource quality, SCE believes that the First Solar projects will be able to meet the terms of the PPAs.

#### Site Control and Permitting Status:

The Rosamond Solar and Willow Springs Solar projects are both located in Rosamond, CA. The Sunshine Valley Solar project is located in Armargosa Valley, NV. Additional information regarding site control and permitting status is included in Confidential Appendix A.

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<sup>17</sup> "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).

<sup>18</sup> D.07-01-039, Attachment 7, p. 4.

Interconnection Status:

The Sunshine Valley Solar facilities will interconnect at Valley Electric Association's 138kV Valley Substation.<sup>19</sup> The Rosamond Solar and Willow Springs Solar facilities will interconnect at SCE's Whirlwind Substation.<sup>20</sup> Additional information regarding transmission interconnection is provided in Confidential Appendix A.

Based on the terms and conditions of the PPAs and the level of project development, it is reasonable to expect that all three projects will meet the terms and conditions of their respective PPAs.

**Safety Considerations**

California PU Code §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 First Solar PPAs require the sellers 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, these contracts do not appear to result in any adverse safety impacts on the facilities or operations of SCE.

The Commission reviewed First Solar's Occupational Safety & Health Administration (OSHA) records related to the Construction of RPS eligible projects in California and Nevada. The Commission noticed that First Solar had been issued 4 citations since 2011, however, the citations were related to administrative, not construction issues. Consequently, it appears that First Solar conducts their construction operations consistent with the safety and health standards of OSHA.

**Basin and Range Watch's Protest to the Sunshine Valley PPA are denied**

Basin and Range Watch's Protest to the Sunshine Valley PPA is denied. Basin and Range Watch recommends that the Commission reject the First Solar AL. Basin and Range Watch's recommendation to reject the First Solar AL stems from

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<sup>19</sup> AL 3334-E at 2.

<sup>20</sup> Ibid.

two concerns specific to the Sunshine Valley Solar project. The first concern is that the field of solar panels that will be installed for the Sunshine Valley project will create a polarized “lake effect” that will increase avian mortality rates among local bird species. Basin and Range Watch is also concerned that construction of the project will create “fugitive dust” causing potential negative impacts on public health. Basin and Range Watch specifically identifies Valley Fever as one possible negative effect.

Basin and Range Watch recommends that if the Commission approves the First Solar AL that it should require several mitigation measures to prevent any potential impact on air quality during construction of the Sunshine Valley Solar project. Specifically, Basin and Range requests that the Commission require:

- First Solar to stop all construction when wind speeds exceed ten miles per hour.
- First Solar to limit construction hours when temperatures exceed 100 degrees (Fahrenheit).
- First Solar to respond to complaints from local residents.

SCE recommends rejection of the Basin and Range Watch protest. SCE states that the Sunshine Valley project meets all of the criteria to merit Commission approval and that the issues discussed in the Basin and Range Watch protest are beyond the scope of Commission review of the First Solar PPAs. Specifically, SCE refers to Commission D.15-06-065 which states “PPA approvals do not entail approving a proposed project or granting any rights to develop property. The Commission merely finds that should a project become operational, the utility may account for energy deliveries from the facility as a renewable resource, and recover certain costs in rates.”

The Commission denies Basin and Range Watch’s protest on environmental impact issues as those are outside of the scope of the Commission’s review of the First Solar AL.

### **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.<sup>21</sup>

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.”<sup>22</sup>

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 the CEC’s certification of the First Solar projects as “eligible renewable energy resources.” The contract language that the First Solar projects are 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 PPAs 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

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<sup>21</sup> See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

<sup>22</sup> See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

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 First Solar AL, should 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 this draft Resolution was neither waived nor reduced. Accordingly, this draft Resolution was mailed to parties for comments on August 11, 2016.

### **FINDINGS**

1. The Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements are consistent with Southern California Edison Company’s (SCE) 2014 Renewables Portfolio Standard (RPS) Procurement Plan, as approved by D.14-11-042.
2. The Rosamond Solar and Willow Springs Solar facilities are located in Kern County, California. The Sunshine Valley Solar facility is located in Nye County, Nevada. All three projects are developed by First Solar.
3. The Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements were evaluated consistent with the Least-Cost, Best-Fit methodology described in SCE’s 2014 RPS Procurement Plan.
4. The Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements compare reasonably from a net market value and cost basis relative to RPS offers received in SCE’s 2014 RPS solicitation and contracts executed in the 12 months prior to the execution of these contracts.
5. The Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements include 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.

6. Consistent with D.11-12-052, SCE provided information in Advice Letter (AL) 3334-E regarding the expected portfolio content category classification of the renewable energy credits to be procured pursuant the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements.
7. Because the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements are greater than 10 years in length, the long-term contracting requirement does not apply to these power purchase agreements. The Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements will contribute to SCE's long-term contracting requirement established in D.12-06-038 for Compliance Period 2014-2016.
8. Pursuant to D.06-05-039, an independent evaluator oversaw SCE's 2014 Renewables Portfolio Standard procurement solicitation and SCE's negotiations for the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements.
9. Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements.
10. The Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements are not covered procurement subject to the Emissions Performance Standard because the generating facilities have a forecast annualized capacity factor of less than 60 percent and therefore are not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim Emissions Performance Standard Rules.
11. It is reasonable to expect that Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar projects will be able to meet the terms and conditions in their respective power purchase agreements.
12. Basin and Range Watch's protest recommending SCE Advice Letter 3334-E be rejected is denied.

13. Procurement pursuant to the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements 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 Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar power purchase agreements are fully recoverable in rates over the life of the power purchase agreements, subject to Commission review of SCE's administration of the power purchase agreements 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 Advice Letter 3334-E should remain confidential at this time.
16. Advice Letter 3334-E should be approved effective today.

**THEREFORE IT IS ORDERED THAT:**

1. The request of the Southern California Edison Company for review and approval of the power purchase agreements with First Solar for the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar Projects as requested in Advice Letter 3334-E are 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 September 15, 2016; the following Commissioners voting favorably thereon:

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TIMOTHY J. SULLIVAN  
Executive Director

## **Confidential Appendix A**

Evaluation Summary of the Rosamond Solar, Willow Springs  
Solar, and Sunshine Valley Solar Power Purchase  
Agreements (PPAs)

**[Redacted]**

## **Confidential Appendix B**

Excerpt from the Independent Evaluator Report on the Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar Power Purchase Agreements <sup>23</sup>

**[Redacted]**

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<sup>23</sup> Excerpts from: Reports of the Independent Evaluator Final Selection Process and Review of Power Purchase Agreements with Rosamond Solar, Willow Springs Solar, and Sunshine Valley Solar Power in December 2015, as submitted with the First Solar AL.