

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item 42

Agenda ID 15088

ENERGY DIVISION

RESOLUTION E-4798 (Rev.1)

August 18, 2016

R E S O L U T I O N

Resolution E-4798. San Diego Gas & Electric Company (SDG&E) requests approval of engineering, procurement and construction contracts with AES Energy Storage LLC.

PROPOSED OUTCOME:

- This Resolution approves SDG&E's Advice Letter 2924-E requesting approval of contracts with AES Energy Storage LLC., with one modification to the requested relief.

SAFETY CONSIDERATIONS:

- This Resolution supports the Governor's Emergency Proclamation to protect public safety by ensuring the continued reliability of natural gas and electric supplies while there is a moratorium on gas injections at Aliso Canyon Natural Gas Storage Facility.
- This contract requires SDG&E to operate the energy storage facilities in accordance with prudent and safe electrical practices.

ESTIMATED COST:

- Actual cost of the project is confidential at this time.

By Advice Letter 2924-E, Filed on July 18, 2016.

SUMMARY

This Resolution approves the requested relief, with one modification noted in the Discussion below, in Advice Letter ("AL") 2924-E for two SDG&E contracts with

AES Energy Storage LLC for the engineering, procurement and construction (“EPC”) of energy storage facilities to address electrical reliability risks in the Los Angeles (“LA”) Basin arising from the moratorium on injections into the Aliso Canyon Natural Gas Storage Facility (“Aliso Canyon”).

BACKGROUND

On January 6, 2016, Governor Brown declared a state of emergency in Los Angeles County due to the duration of the natural gas leak and well failure at Aliso Canyon. As Aliso Canyon’s natural gas storage capacity has been critical to help meet peak electrical demands during the summer months and peak gas usage demands in winter months, the Commission is pursuing activities that could be quickly implemented to alleviate these electric reliability and natural gas supply risks.

Resolution E-4791

Resolution E-4791, approved by the Commission on May 26, 2016, ordered SCE to hold an expedited energy storage procurement solicitation to mitigate potential Aliso Canyon-related reliability problems. The Resolution required that storage resources solicited in the expedited storage procurement must:

- Be located in front of the meter ("IFOM");
- Be operational by December 31, 2016;
- Interconnect in a location that helps to alleviate electric reliability concerns associated with Aliso Canyon;
- Qualify for Resource Adequacy credit;¹
- Be price competitive with previous solicitations; and
- Have a contract term of 10 years or less.

Resolution E-4791 found that all procurement to alleviate reliability risks associated with the partial shutdown of Aliso Canyon will benefit all customers

¹ See Cal. Pub. Utils. Code, Sec. 380.

connected to the grid and therefore would be eligible for Cost Allocation Mechanism ("CAM") treatment.

Although SDG&E was not originally mentioned in the Resolution E-4791, the Resolution was modified based on comments to find it reasonable that SDG&E leverage its ongoing 2016 Preferred Resources Local Capacity Requirement ("LCR") Request for Offer ("RFO") to find projects that could conceivably come online in the same time frame. SDG&E was asked to share the results of that inquiry with Energy Division and the Procurement Review Group ("PRG") within 30 days of the Resolution's effective date.

SDG&E complied with Resolution E-4791 and shared the results of its ongoing LCR RFO with SDG&E's PRG beginning on June 17, 2016.

SDG&E AL 2924-E

SDG&E filed AL 2924-E on July 18, 2016, requesting approval of two utility-owned energy storage EPC contracts with AES Energy Storage LLC. The proposed projects consist of two lithium-ion battery energy storage facilities to be located at two SDG&E substations: a 30 MW/120MWh project in Escondido, and a 7.5MW/30 MWh project in El Cajon. The projects will be constructed on a turnkey basis with AES, but SDG&E will have a long term service contract with AES covering the first 10 years of operation. The projects will interconnect under the Wholesale Distribution Access Tariff ("WDAT") and will be scheduled/bid into the CAISO markets. The contracts specify that the projects will be online on or before January 31, 2017.

SDG&E requests that the Commission issue a resolution that:

1. Finds the project reasonable and consistent with Resolution E-4791;
Finds the contract between AES and SDG&E reasonable and approves;
2. Finds an online date of January 31, 2017 reasonable;
3. Finds the contract provision granting AES relief from delay damages if the AL is not approved at the Commission's August 18, 2016 voting meeting;
4. Approves the project in its entirety;
5. Finds SDG&E's proposed cost recovery up to the cost cap reasonable;

6. Grants cost recovery beginning from project approval, regardless of whether an appeal occurs post-approval;
7. Finds that costs approved by the Commission will be allocated through the CAM treatment;
8. Finds that the project complies with the requirements of General Order 131-D ("GO 131-D");
9. Finds that AL 2924-E satisfies reasonableness review and that SDG&E is not required to file an application after the fact;
10. Finds the project eligible to count towards SDG&E's energy storage procurement targets consistent with D.13-10-040;
11. Finds the project eligible to count towards SDG&E's local capacity and preferred resource requirements consistent with D.14-03-004

NOTICE

Notice of AL 2924-E was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the AL was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Joint Protest of the Alliance for Retail Energy Markets and the Direct Access Customer Coalition

The Alliance for Retail Energy Markets (AReM) and the Direct Access Customer Coalition (DACC) filed a timely joint protest to SDG&E AL 2924-E on July 22, 2016. In their protest, AReM and DACC contend that Resolution E-4791 did not authorize or instruct any procurement by SDG&E and that SDG&E did not provide adequate documentation to justify the reasonableness of the project and cost recovery. AReM/DACC protested AL 2924-E on the following grounds:

1. By statute, AReM/DACC state that CAM treatment is limited to procurement needed to address reliability issues. AReM/DACC assert that SDG&E has failed to demonstrate that the proposed storage resources are needed to alleviate reliability issues created by the limited operation of Aliso Canyon, making them ineligible for CAM treatment.

2. AReM/DACC state that Resolution E-4791 did not authorize or “instruct” any procurement by SDG&E, as SDG&E alleges. Instead, AReM/DACC assert that SDG&E is obligated to provide adequate documentation to justify the reasonableness both of the proposed project and the requested cost recovery, which it did not do.
3. AReM/DACC state that SDG&E’s proposed on-line date of January 31, 2017 does not comply with the parameters for storage procurement for Aliso Canyon specified in Resolution E-4791, resulting in the storage being available to meet reliability needs for only 40% or less of the 2016-17 winter period, and thus should be rejected.
4. AReM/DACC state that in spite of these deficiencies, if the Commission were to approve the proposed project and CAM cost recovery, the term of CAM cost recovery must be defined. They argue that CAM has not previously been applied to utility-owned generation for SDG&E, as it proposes here, and the term for CAM cost recovery should only extend for the period the project provides reliability relief for Aliso Canyon or 10 years, in accordance with Resolution E-4791, whichever is earlier.

SDG&E’s Reply to Protest

SDG&E replied to the joint protest of AReM/DACC on July 26, 2016. In its reply to the protest, SDG&E argues that the AL is in response to the modifications to the Resolution E-4791 that encouraged SDG&E to leverage its ongoing RFO process to respond to immediate Aliso Canyon reliability issues.

SDG&E states that the projects will be located south of Path 26, as specified in the Resolution, and will therefore provide reliability for Aliso Canyon outage related problems. It further asserts that the projects will provide local Resource Adequacy capacity benefits and satisfy preferred resource procurement requirements related to the retirement of San Onofre Nuclear Generating Station, both functions that provide ongoing reliability benefits to customers. It argues that for these reasons the term for CAM cost allocation should not be limited.

With regards to the question of CAM treatment for utility owned storage, SDG&E defers to Resolution E-4791, which states that CAM will apply to all contracts resulting from the procurement.

Lastly, SDG&E asserts in its reply that it is simply not possible for new storage systems to be online by December 31, 2016 and that projects that come online 30 days later can still address winter reliability issues.

DISCUSSION

The Commission has reviewed SDG&E AL 2924-E for consistency with Resolution E-4791, specifically:

- Compliance with the RFO inquiry process from page 10 of the Resolution;
- Cost-effectiveness;
- Online date for projects;
- Project location and contribution to reliability;
- Eligibility for CAM treatment; and
- Reasonableness review.

We discuss these issues in the context of AReM/DACC's joint protest here.

Protest First Issue: Reliability and location

One of the parameters for storage procurement laid out in Resolution E-4791 was that projects procured under the expedited Aliso Canyon solicitation must interconnect in a location that helps to alleviate electric reliability concerns associated with the partial shutdown of Aliso Canyon and that they qualify for Resource Adequacy credit.

In Resolution E-4791, the Commission found that new energy storage resources located south of Path 26 have the ability to enhance Southern California electric grid reliability. Parties including SCE and CAISO indicated in comments to the draft resolution that resources in Southern California outside the LA Basin can be effective in mitigating the effects of potential gas curtailments on the SoCal Gas

system. We find that the proposed projects, being south of Path 26, can contribute to mitigating Aliso Canyon related reliability issues.

Protest Second Issue: Authorization or Instruction

Resolution E-4791 encouraged SDG&E to leverage its ongoing LCR RFO process to approach "qualified respondents to see if they could provide projects by the on-line date." The Resolution also found it reasonable for SDG&E to share the results of that inquiry with Energy Division and SDG&E's PRG. The Resolution did not specify a process for evaluating those projects for SDG&E, only stating that projects should be cost-effective.

As discussed in AL 2924-E, SDG&E evaluated proposed projects based on the parameters established on page 5 of Resolution E-4791:

"Resources procured in the Aliso Canyon Energy Solicitation should be price-competitive with previous solicitations in which SCE has awarded contracts to energy storage resources, adjusting for different contract terms such as contract length and expedited delivery date impacts."

SDG&E provided confidential cost data for projects from its 2014 All-Source RFO with similar on-line dates to the Energy Division and the SDG&E PRG. Additionally, SDG&E provided cost data for several other third party offers it received to their inquiry in a confidential analysis. These offers were discussed and evaluated with Energy Division and the PRG on June 17, 2016 and July 11, 2016.

The AES contracts compared reasonably to the cost of projects from the previous RFO. The short timeline imposed on projects (for online dates that could serve load this winter) eliminated most third party offers and the costs of the utility-owned projects were competitive to those that remained. Furthermore, SDG&E has suggested a cost cap for the project equal to the current total project cost including the 10-year operation and maintenance costs.

Therefore it is reasonable that payments made by SDG&E to AES for the project are fully recoverable in rates up to the cost cap.

Protest Third Issue: Online date

We find that SDG&E has provided adequate documentation for why the December 31, 2016 online date cannot be met, in particular the list of essential equipment that require long lead times for manufacturing and delivery. The online date of December 31, 2016 was introduced to ensure that resources procured would actually address the short term problems associated the moratorium on gas injections into Aliso Canyon. As AReM and DACC asserted, SDG&E was not actually ordered to procure storage by a certain date, but to determine if the online date for projects in its current RFO process could be expedited to resolve immediate Aliso Canyon reliability issues. As both parties stated, the projects will still be online for 40% of the winter season. These projects will be able to address potential 2017 and beyond summer Aliso Canyon-related reliability issues as well. SDG&E has complied with the intent of Resolution E-4791 by presenting projects with on-line dates as close to the recommended on-line date as possible. We find that the anticipated online date of January 31, 2017 is reasonable.

Protest Fourth Issue: Cost Allocation Mechanism

Resolution E-4791 found it reasonable to apply CAM treatment to procurement costs for all IFOM storage systems procured in the solicitation authorized by the Resolution. This conclusion was based on the determination that alleviating the reliability risks associated with Aliso Canyon would benefit all customers in the service area.

We agree with AReM/DACC that no utility owned storage has received CAM treatment in SDG&E territory and that this is a new situation. However, D.14-03-004 and D.14-11-027 authorized CAM treatment for procurement related to SONGs replacement. Considering that the instant projects were provided from qualified bidders in SDG&E's current LCR RFO process conducted in response to D.14-03-004, these projects are eligible for CAM treatment. Furthermore, if SDG&E is able to allocate deliverability to the projects as they have indicated, they will be eligible to count towards SDG&E's local capacity and preferred resource requirements stemming from D.14-03-004.

Further, we reject AReM/DACC's objection to the application of CAM to the proposed utility owned generation facilities as an attempt to re-litigate D. 14-03-004 and Resolution E-4791. (See CPUC Rules of Practice and Procedure, Article 16 regarding Applications for Rehearing and Petitions for Modification.)

We decline to adopt AReM/DACC's request to limit CAM treatment to 10 years, and instead we allow merely the requested relief of SDG&E, "Costs Approved by the Commission will be allocated through the CAM mechanism". (Advice Letter 2924-E, page 17, item 7). SDG&E does not specify a term of the CAM treatment, and we do not impose one. Instead, we expect and require SDG&E to rely on existing CAM and ratemaking principles as they move forward in the implementation of the CAM treatment of this resource.

Energy Storage Procurement Targets

Finally, SDG&E requests that the Commission clarify that the proposed storage projects proposed herein are eligible to count towards its energy storage procurement targets established in D.13-04-010, Decision Adopting Energy Storage Procurement Framework and Design Program. We find that the projects as proposed will not cause SDG&E to exceed its targets for utility owned storage and are eligible to count towards its storage procurement requirements consistent with D.13-04-010.

Discussion Conclusion

The Commission approves the relief, with one modification noted below, sought in SDG&E AL 2924-E despite the points raised in the joint protest of AReM/DACC. Although Resolution E-4791 did not specifically instruct SDG&E to procure storage projects, the Resolution states that including SDG&E in a separate Aliso Canyon Energy Storage solicitation would take up "precious time" and instead suggested SDG&E seek resources in its ongoing process. Whether resources would be procured would be contingent on whether any resources from qualified respondents in the current RFO could be brought online within the time frame required to address near term reliability concerns. We find that SDG&E's procurement of these projects is consistent with the objectives and intent of Resolution E-4791, and furthermore that these projects address the

Governor's January 6, 2016 emergency declaration due to the duration of the natural gas leak and well failure at Aliso Canyon.

One item of SDG&E's list of requested relief on page 17 of the Advice Letter cannot be granted. Specifically, SDG&E requested in Item 8 that "the Commission find that the Project complies with the requirements of GO 131-D, permitting jurisdiction rests with the Commission, and no further [California Environmental Quality Act] CEQA review is needed." (Advice Letter 2924-E, page 17).

We deny, rather than grant, this requested relief. In doing so, we make a modification to the requested relief. Having reviewed detailed maps of the existing facilities and the footprint of the proposed facilities, we have determined that both proposed facilities fall within a categorical exemption from CEQA. Specifically, under CEQA Guidelines, Section 15061, subdivision (b)(3), we can see with certainty the proposed facilities will have no significant effect on the environment beyond those created by the currently existing facilities.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived "in an unforeseen emergency" The Commission's Rules of Practice and Procedure also provides that public review and comment may be waived or reduced in an "unforeseen emergency situation" specifically where there are "[a]ctivities that severely impair or threaten to severely impair public health or safety..." (Rule 14.6(a)(1) and/or where there are "[c]rippling disasters that severely impair public health or safety." (Rule 14.6(a)(2)).

The 30-day comment period was reduced pursuant to these authorities and notification of the shortened comment period was included with the cover letter that was circulated with the Draft Resolution.

Pursuant to the shortened comment period, comments on the Draft Resolution were timely filed on August 11, 2016 by AReM/DACC and SDG&E.

Comments by AReM/DACC

In comments, AReM/DACC note their concern that the resolution does not define a term for CAM treatment for the project. They reiterate their request from their protest of AL 2924-E that if CAM is authorized for the projects, that CAM cost recovery should be specified by the Resolution to approve CAM treatment for these projects for no more than 10 years. In Resolution E-4791, the Commission limited the term of contracts for SCE to 10 years or less, but it did not specifically limit the term of CAM. In SDG&E's Advice Letter, Table 2 "Summary of Third Party Offers and Proposed Agreement Costs, in \$/kW-year", there is a column heading "Proposed Agreement – 10 year Term; Post contract use for years 11-20." SDG&E's asset procured under this contract could have residual Resource Adequacy benefits in years 11-20. Even though the proposed engineer, procurement and construction agreements between SDG&E and AES have 10-year terms, the constructed asset will be put into rate base and the post-contract term may have residual benefit for all customers. Therefore, we decline to adopt AReM/DACC's request from their protest to limit CAM treatment for 10 years, and instead we allow merely the requested relief of SDG&E, "Costs Approved by the Commission will be allocated through the CAM mechanism". (Advice Letter 2924-E, page 17, item 7). SDG&E does not specify a term, and we do not impose one. The Advice Letter process here will not impose new policy on proper implementation of the CAM mechanism in the context of utility owned storage, especially when an asset will enter rate-base for a period of time (unspecified by the Resolution) and be used and useful for a period of time (implied by the Resolution to possibly be 20 years). Instead, we expect and require SDG&E to rely on existing CAM and ratemaking principles as they move forward in the implementation of the CAM treatment of this resource.

AReM/DACC also note that the Commission is required to authorize CAM treatment pursuant to the statutory requirements of Public Utilities Code, and requested that the Resolution correctly reference that D.14-03-004 and D.14-11-027 specifically authorized CAM treatment for procurement by SDG&E

to meet the reliability need created by the closure of SONGs. The Resolution was revised to reflect this clarification.

Comments by SDG&E

SDG&E comments that the Draft Resolution does meet its requests for relief but that the ordering paragraph is not particularly clear. They wish to modify the Resolution to read that the request of the approval of the contracts “and other relief” as requested in Advice Letter 2924-E is approved “in its entirety”. (in quotes are the requested edits of SDG&E).

We approve AL 2924-E and other relief with the exception of the relief requested (item 8) on page 17 of the Advice Letter, SDG&E specifically requests that “the Commission find that the Project complies with the requirements of GO 131-D, permitting jurisdiction rests with the Commission, and no further CEQA review is needed.”

We deny this requested relief. Rather, we have determined that both proposed facilities fall within a categorical exemption from CEQA. As discussed above, under CEQA Guidelines, Section 15061, subdivision (b)(3), we can see with certainty the proposed facilities will have no significant effect on the environment beyond those created by the currently existing facilities. Resolution edits were made to reflect this change.

FINDINGS

1. Resolution E-4791, adopted by the Commission on May 26, 2016, states that SDG&E can leverage its current Local Capacity Requirement (“LCR”) Request For Offer (“RFO”) process to determine if current bids for energy storage resources can help alleviate Aliso Canyon issues.
2. SDG&E filed Advice Letter (“AL”) 2924-E on July 18, 2016 requesting approval of two utility-owned energy storage EPC contracts with AES Energy Storage LLC.

3. The Alliance for Retail Energy Markets (“AReM”) and the Direct Access Customer Coalition (“DACC”) filed a timely joint protest of SDG&E AL 2924-E on July 22, 2016.
4. SDG&E responded to the joint protest of AReM/DACC on July 26, 2016.
5. The proposed projects, to be located south of Path 26, can contribute to mitigating Aliso Canyon related reliability issues.
6. The SDG&E contracts with AES compare reasonably to the cost of projects from the previous SDG&E storage RFO.
7. The short timeline imposed on projects (for online dates that could serve load this winter) eliminated most third party offers, and the costs of the utility-owned projects were competitive to those that remained.
8. Payments made by SDG&E to AES for the project are fully recoverable in rates up to the cost cap.
9. The SDG&E proposed online date of January 31, 2017 for these projects is reasonable.
10. Considering that the instant projects were provided from qualified bidders in SDG&E's current LCR RFO process, these projects are eligible for Cost Allocation Mechanism (“CAM”) treatment. We find it is reasonable to expect SDG&E to rely on existing CAM and ratemaking principles as they move forward in the implementation of the CAM treatment of this resource.
11. If the projects are allocated deliverability, they will be eligible to count towards SDG&E's local capacity and preferred resource requirements stemming from D.14-03-004.
12. The projects as proposed will not cause SDG&E to exceed its targets for utility owned storage and are eligible to count towards its storage procurement requirements consistent with D.13-04-010.
13. SDG&E's procurement of these projects is consistent with the objectives and intent of Resolution E-4791.
14. The SDG&E contracts for energy storage address the Governor's January 6, 2016 emergency declaration in Los Angeles County due to the duration of the natural gas leak and well failure at Aliso Canyon.

15. We find that both proposed facilities fall within a categorical exemption from CEQA Guidelines, Section 15061, subdivision (b)(3); we can see with certainty the proposed facilities will have no significant effect on the environment beyond those created by the currently existing facilities.

THEREFORE IT IS ORDERED THAT:

1. The Advice Letter 2924-E is approved, with one modification to the requested relief, for the engineering, procurement and construction contracts with AES Energy Storage LLC.
2. We deny SDG&E's request relief to find that the project meets the requirements of GO 131-D, rather we order that this project meets the requirements of a categorical exemption from CEQA, per CEQA Guidelines, Section 15061, subdivision (b)(3) and thus no further CEQA analysis is required.

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 August 18, 2016 the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director