

**REDACTED**  
**RESOLUTION**

Resolution E-4851. Grants Southern California Edison Company's (SCE's) request for Commission approval of a new renewable power purchase agreement (PPA) with Maverick Solar, LLC (Maverick Solar).

**PROPOSED OUTCOME:**

- This Resolution approves cost recovery for a long-term renewable energy power purchase agreement between SCE and Maverick Solar. The power purchase agreement is approved without modification.

**SAFETY CONSIDERATIONS:**

- The power purchase agreement requires 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 agreement are confidential at this time.

By Advice Letter 3562-E, filed on February 15, 2017.

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**SUMMARY**

**Southern California Edison Company's (SCE's) renewable energy power purchase agreement (PPA) with Maverick Solar for the Maverick Solar project complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved without modification.**

SCE filed Advice Letter (AL) 3562-E (Maverick Solar AL) on February 15, 2017 requesting California Public Utilities Commission (Commission) review and approval of a 15-year renewable energy PPA with Maverick Solar.

The project resulted from SCE’s 2015 RPS solicitation (2015 RPS RFO<sup>1</sup>) and the PPA was executed on November 21, 2016. Pursuant to the PPA, RPS-eligible generation will be purchased from the proposed Maverick Solar project.

The Maverick Solar project is located in Desert Center, California (Riverside County) and will have a capacity of approximately 125 megawatts (MW).

This Resolution approves the Maverick Solar PPA. SCE’s execution of the PPA is consistent with SCE’s 2015 RPS Procurement Plan, which the Commission approved in Decision (D.) 15-12-025. Additionally, RPS deliveries pursuant to the Maverick Solar PPA are reasonably priced and the related costs to SCE are fully recoverable in rates over the life of the PPA, subject to Commission review of SCE’s administration of the PPA.

Table 1 provides a summary of the PPA.

**Table 1: Summary of the Maverick Solar PPA**

<b>Seller</b>	<b>Generation Type</b>	<b>Size (MW)</b>	<b>Estimated Average Energy (GWh/Yr.)</b>	<b>Forecasted Commercial Operation Date</b>	<b>Term of Agreement (Years)</b>	<b>Location</b>
Maverick Solar, LLC	Solar PV	125	406	December 1, 2020	15	Desert Center, 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, SB 2 (1X), and SB 350.<sup>2</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.32.<sup>3</sup>

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

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 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.<sup>6</sup>

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 Maverick Solar AL 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.

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<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); SB 350 (de León, Chapter 547, Statutes of 2015).

<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.

<sup>6</sup> D.16-12-040 established additional procurement requirement quantities for the three compliance periods established by SB 350: 2021-2024, 2025-2027, 2028-2030.

## **PROTESTS**

The Maverick Solar AL was timely protested by Basin and Range Watch (BRW) and the Center for Biological Diversity (CBD). BRW recommends that the Commission reject AL 3562-E. CBD recommends that the Commission reject AL 3562-E or delay a decision until full environmental review under both California and federal law has been completed.

SCE replied to the protests on March 14, 2017. SCE asserts that the Maverick Solar project meets all of the criteria to merit Commission approval and the issues discussed in the protests are out of scope for Commission review.

## **DISCUSSION**

**SCE requests approval of a renewable energy power purchase agreement with Maverick Solar, LLC for the Maverick Solar project.**

On February 15, 2017, SCE filed its Maverick Solar AL requesting Commission approval of the RPS eligible PPA. The proposed Maverick Solar project is located in Riverside County in Desert Center, California.

Pursuant to the PPA, SCE would begin purchasing generation from the Maverick Solar project on December 1, 2020. See Table 1 for the forecasted commercial operation date and the estimated average annual generation. The generation from this project 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 Maverick Solar PPA in its entirety;
2. Finds that the Maverick Solar PPA is consistent with SCE's 2015 RPS Procurement Plan;
3. Finds that the Maverick Solar PPA is compliant with the Emissions Performance Standard;
4. Finds that any procurement pursuant to the Maverick Solar 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 (399.11 *et seq.*), D. 03-06-071, or other applicable law; and,

5. Finds that the Maverick Solar 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 Maverick Solar PPA, subject only to further review with respect to the reasonableness of SCE's administration of the Maverick Solar PPA.

**Energy Division evaluated the Maverick Solar PPA based on the following criteria:**

- Consistency with SCE's 2015 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;
- PPA Viability Assessment and Project Development Status; and
- Disadvantaged Communities Designation.

**Consistency with SCE's 2015 RPS Procurement Plan**

SCE provided in its 2015 RPS Procurement 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 consistent with statute.<sup>7</sup> Specifically, SCE explained that its assessment for determining need is

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

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 2022 without the use of bank (Compliance Period 2021-2024) and 2027 with the use of bank (Compliance Period 2025-2027).

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 on December 1, 2020 or earlier. SCE sought offers that would qualify as any of the three Portfolio Content Categories provided, however, that any sellers with RPS-eligible generating facilities located outside the State of California must deliver Category 1 and Category 2 product into the California Independent System Operator (CAISO).

Based on SCE's RPS portfolio needs described in its 2015 RPS Procurement Plan, the Maverick Solar PPA is consistent with its 2015 RPS Procurement Plan. The Maverick Solar PPA is 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 Maverick Solar PPA is consistent with SCE's 2015 RPS Procurement Plan, as approved by D.15-12-025.

### **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.

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<sup>8</sup> Assuming the Maverick Solar project receives California Energy Commission certification as an eligible renewable resource.

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

As described in its 2015 RPS Procurement 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, which is the net of a project's levelized costs and benefits.<sup>11</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, counterparty concentration and other attributes to eliminate or add projects to the final short list.

SCE explains in the Maverick Solar AL that the Maverick Solar PPA is the result of SCE's 2015 RPS solicitation, and that SCE evaluated and shortlisted the bids from the solicitation consistent with its approved 2015 LCBF methodology.<sup>12</sup>

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 2015 RPS solicitation and comparable RPS contracts executed by SCE in the 12 months prior to PPA execution.

The Maverick Solar PPA was evaluated consistent with the LCBF methodology described in SCE's 2015 RPS Procurement Plan.

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<sup>10</sup> Appendix I.1.

<sup>11</sup> Present values expressed in terms of dollars per megawatt-hour (\$/MWh).

<sup>12</sup> SCE's 2015 RPS solicitation protocols, including its LCBF methodology, as described above, was approved by the Commission in D.15-12-025.

### **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 and comparable contracts executed by the utility in the 12 months prior to the proposed PPA's execution date. Using this methodology and the confidential quantitative analysis provided by SCE in the Maverick Solar AL, the Commission determines that the net market values of the PPA is competitive relative to other RPS offers received by SCE and that the costs of the PPA are reasonable. See Confidential Appendix A for the details of this analysis.

The Maverick Solar PPA compares favorably from a net market value and cost basis relative to RPS offers received in SCE's 2015 RPS solicitation and comparable contracts executed by SCE in the 12 months prior to the execution of the PPA.

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

### **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 Maverick Solar PPA includes the Commission's 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 required 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 Maverick Solar AL, SCE states that under the terms of the Maverick Solar PPA "SCE will procure energy, capacity, and associated renewable energy attributes generated from an ERR [(eligible renewable resource)] with a first point of interconnection within the CAISO."<sup>13</sup> Additionally, the renewable energy credits (RECs) associated with the electricity from the Maverick Solar PPA have not been unbundled or transferred to another owner and will be transferred to SCE pursuant to the terms of the PPA.

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

In this Resolution, the Commission makes no determination regarding the PPA's portfolio content category classification. The RPS contract evaluation process is 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 Maverick Solar PPA 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

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<sup>13</sup> Maverick Solar AL at 12.

than 10 years in duration for compliance with the RPS program.<sup>14</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 meet the long-term requirement.<sup>15</sup>

The Maverick Solar PPA has a 15-year term and was executed during Compliance Period 2014-2016.

Because the Maverick Solar PPA is greater than 10 years in length, the long-term contracting requirement does not apply to SCE's procurement pursuant to the Maverick Solar PPA. The 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 2015 RPS solicitation. In addition, Merrimack oversaw the negotiations and evaluated the overall merits of the Maverick Solar PPA. The Maverick Solar AL includes a public and confidential version of the IE's report.

The IE states in its report that the PPA was reasonably negotiated with contract terms that, taken as a whole, appropriately protect the interests of SCE's ratepayers. The IE also concludes that the project is very mature in terms of project development. Overall, the IE states that it agrees with SCE that the PPA merits Commission approval. Confidential Appendix B includes an excerpt from the IE report on the Maverick Solar PPA that contains these representations.

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<sup>14</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>15</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.

Consistent with D.06-05-039, an independent evaluator oversaw SCE's 2015 RPS solicitation and negotiations with Maverick Solar.

### **Procurement Review Group (PRG) Participation**

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

SCE consulted with its PRG during each milestone of the 2015 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 concerning the status of contract formation. On May 4, 2016, SCE advised the PRG of its proposed shortlist of proposals for its 2015 RPS solicitation. On October 19, 2016, SCE briefed the PRG on the proposed execution of the Maverick Solar PPA.

SCE's PRG participants included representatives from Energy Division (ED), the Office of Ratepayer Advocates (ORA), Department of Water Resources, Union of Concerned Scientists, Sierra Club, 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 Maverick Solar PPA.

### **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>16</sup>

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<sup>16</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).

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>17</sup>

The Maverick Solar PPA is 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 Maverick Solar facility will be developed by EDF Renewable Energy, Inc. (EDF). EDF is an experienced developer, builder and operator of solar PV projects. EDF Renewable Energy has power plants in operation or development in North America which will generate over 6,000 MW and renewable energy plants in operation in the United States that generate over 3,000 MW.

#### Technology and Quality of Resource:

This project 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 Maverick Solar project will be able to meet the terms of the PPA.

#### Site Control and Permitting Status:

The Maverick Solar project is located in Desert Center, CA. The Maverick Solar project met the solicitation requirements to demonstrate site control and have "application deemed complete" (or equivalent) status under the land use entitlement process by the agency designated by CEQA or NEPA as the lead agency.

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<sup>17</sup> D.07-01-039, Attachment 7, p. 4.

Interconnection Status:

The Maverick Solar facility will interconnect at SCE's Red Bluff Substation.<sup>18</sup> The Maverick Solar facility has obtained a fully executed Large Generator Interconnection Agreement (LGIA).

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

**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.

The Maverick Solar PPA requires 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, this contract does not appear to result in any adverse safety impacts on the facilities or operations of SCE.

The Commission reviewed EDF's Occupational Safety & Health Administration (OSHA) records related to construction of RPS eligible projects in California. The Commission found one citation that concerned a noncompliant fixed ladder on a wind farm in Rio Vista, California. EDF resolved the complaint with OSHA through a formal settlement approximately one month after OSHA issued the citation. Consequently, it appears EDF now conducts their construction operations consistent with the safety and health standards of OSHA.

**Disadvantaged Community Goals**

Senate Bill 350 (de León, Chapter 547, Stats. 2015) contains disadvantaged community goals that are cross-cutting and therefore will be integrated into all

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<sup>18</sup> AL 3562-E at 2.

policy areas. Thus, in evaluating the PPA at issue, the Commission will analyze its impact on such communities.

The Maverick Solar project is located in census tract 6065046900, which received a CalEnviroScreen Version 3.0 score of 61-65%. Disadvantaged communities are defined as those areas in the highest 75-100<sup>th</sup> percentile, or the 25% highest scoring census tracts in CalEnviroScreen 3.0.

The Maverick Solar project is not located in a CalEnviroScreen Version 3.0 designated disadvantaged community, thus disadvantaged community goals are not implicated by this PPA.

### **Protests to the Maverick Solar AL are denied**

CBD's Protest recommends that the Commission deny approval of the PPA or delay a decision until full environmental review under both California and Federal law has been completed. CBD claims environmental issues associated with the project will delay its approval and construction and lead to higher than disclosed costs. The issues CBD presents include impacts to surface hydrology, groundwater and other water resources, cultural resources, avian species, the Desert Kit Fox, the Mojave Fringe-Toed Lizard, and invertebrates. CBD also presents environmental justice concerns that it claims were not taken into account in prior environmental reviews. CBD asserts that construction and operation of the facility, as well as site clearing, would increase exposure to PM<sub>2.5</sub>.

BRW's Protest recommends that the Commission reject the Maverick Solar AL. The issues BRW presents include impacts to avian species, the Desert Kit Fox, the Mojave Fringe-Toed Lizard, and cultural and visual resources. BRW claims that the field of solar panels that will be installed for the Maverick Solar project will create a polarized "lake effect" that will increase avian mortality rates among local bird species. BRW is also concerned with air quality impacts related to construction of the project, and the Protest identifies Valley Fever as one possible negative public health effect. BRW finally raises potential issues related to grid balancing and over-generation.

SCE recommends rejection of the protests. SCE states that the Maverick Solar project meets all of the criteria to merit Commission approval and that the environmental

issues discussed in the protests are beyond the scope of Commission review of the Maverick Solar PPA. Specifically, SCE cites 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.”

SCE argues that BRW’s claims regarding grid balancing and over-generation are similarly outside the Commission’s scope of review of the Maverick Solar AL. SCE argues that the project was chosen through a competitive solicitation resulting from SCE’s 2015 RPS Procurement Plan, which the Commission approved in D.15-12-025. SCE asserts that the additional issues BRW raises are already under consideration in other proceedings before the Commission and the California Independent System Operator (CAISO).

SCE finally argues that the Commission’s review of the Maverick Solar PPA should not consider environmental justice issues. SCE asserts that the Maverick Solar project has the potential to provide job creation and tax revenue benefits.

The Commission denies the Protests to the extent that they raise environmental impact issues as those are outside the Commission’s scope of review of the Maverick Solar AL. Review and approval of the PPA is separate from any required land use permitting process and related environmental reviews. Approval of this contract does not limit the review of project alternatives should future environmental reviews of the development projects require such analysis. Further, by this Resolution the Commission is granting no rights to develop property and is not binding itself or any other party to any particular development plan. The Commission merely finds that, should the proposed development plans come to fruition, SCE may account for such deliverables as a renewable energy resource and may recover certain costs in rates.

The Commission further agrees with SCE that the additional issues raised by BRW related to grid balancing and over-generation are also outside the Commission’s scope of review of the Maverick Solar AL. BRW should address issues with grid balancing and over-generation in the relevant Commission and CAISO proceedings.

Finally, this Resolution is not the proper venue to consider CBD's argument that environmental justice impacts were not taken into account during prior environmental reviews. However, contrary to SCE's position, the Commission may consider environmental justice issues when reviewing advice letters. As a threshold issue, the proposed site for the Maverick Solar project is not located in a disadvantaged community as identified by CalEnviroScreen Version 3.0. Therefore, the Commission will not analyze any potential benefits the Maverick Solar project would have on a disadvantaged community.

The Commission notes that beginning with contracts proposed under SCE's 2016 RPS Procurement Plan, SCE must take environmental justice considerations into account in its least-cost best-fit methodology by giving preference to projects that provide environmental or economic benefits to disadvantaged communities.<sup>19</sup> SCE submitted the Maverick Solar AL under its 2015 RPS Procurement Plan before the Commission implemented this requirement, but the Commission will review SCE's future RPS Procurement Plans in a public process to determine if SCE adequately incorporates environmental justice concerns in its least-cost best-fit methodology.

Therefore, the Commission denies the Protests of CBD and BRW.

### **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>20</sup>

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<sup>19</sup> D.16-12-044 (implementing SB 350 requirements).

<sup>20</sup> See, e.g., D.08-04-009 at Appendix A, STC 6, Eligibility.

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 Sections 399.11 et seq.*), D.11-12-020 and D.11-12-052, or other applicable law.”<sup>21</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 Maverick Solar project as “eligible renewable energy resources.” The contract language that the Maverick Solar project 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

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<sup>21</sup> See, e.g., D.08-04-009 at Appendix A, STC 1, CPUC Approval.

energy deliveries begin, or until one year following contract expiration, whichever occurs first, 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 Maverick Solar AL, should remain confidential at this time.

### **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

### **FINDINGS**

1. The Maverick Solar, LLC power purchase agreement is consistent with Southern California Edison Company's 2015 Renewables Portfolio Standard (RPS) Procurement Plan, as approved by D.15-12-025.
2. The Maverick Solar, LLC power purchase agreement was evaluated consistent with the Least-Cost, Best-Fit methodology described in Southern California Edison's 2015 Renewables Portfolio Standard Procurement Plan.
3. The Maverick Solar, LLC power purchase agreement compares favorably from a net market value and cost basis relative to Renewables Portfolio Standard offers received in Southern California Edison's 2015 Renewables Portfolio Standard solicitation and comparable contracts executed by Southern California Edison in the 12 months prior to the execution of this power purchase agreement.
4. Payments made by Southern California Edison under the Maverick Solar, LLC power purchase agreement are fully recoverable in rates over the life of the power purchase agreement, subject to Commission reasonableness review of Southern California Edison's administration of the power purchase agreement and any other conditions contained herein or required by law.

5. The Maverick Solar, LLC power purchase agreement includes the Commission adopted Renewables Portfolio Standard “non-modifiable” standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.
6. Consistent with D.11-12-052, Southern California Edison provided information in the Maverick Solar Advice Letter 3562-E regarding the expected portfolio content category classification of the renewable energy credits to be procured pursuant to the Maverick Solar, LLC power purchase agreement.
7. Because the Maverick Solar, LLC power purchase agreement is greater than 10 years in length, the long-term contracting requirement does not apply to Southern California Edison’s procurement pursuant to the Maverick Solar, LLC power purchase agreement. The power purchase agreement will contribute to Southern California Edison’s long-term contracting requirement established in D.12-06-038 for Compliance Period 2014-2016.
8. Consistent with D.06-05-039, an independent evaluator oversaw Southern California Edison’s 2015 Renewables Portfolio Standard solicitation and negotiations with Maverick Solar, LLC.
9. Pursuant to D.02-08-071, Southern California Edison’s Procurement Review Group participated in the review of the Maverick Solar, LLC power purchase agreement.
10. The Maverick Solar, LLC power purchase agreement is 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. Procurement pursuant to the Maverick Solar, LLC power purchase agreement must be procurement from an eligible renewable energy resource certified by the California Energy Commission for purposes of determining Southern California Edison’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.
12. This finding has never been intended, and shall not be read now, to allow the generation from a non-Renewables Portfolio Standard-eligible resource to count

towards a Renewables Portfolio Standard compliance obligation absent California Energy Commission certification. Nor shall such finding absolve the seller of its obligation to obtain California Energy Commission certification, or the utility of its obligation to pursue remedies for breach of contract.

13. The confidential appendices, marked "[REDACTED]" in the public copy of this Resolution, as well as the confidential portions of Advice Letter 3562-E should remain confidential at this time.
14. Advice Letter 3562-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 agreement with Maverick Solar, LLC for the Maverick Solar Project as requested in Advice Letter 3562-E is approved without modification.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 29, 2017; the following Commissioners voting favorably thereon:

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TIMOTHY J. SULLIVAN  
Executive Director

## **Confidential Appendix A**

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

**[REDACTED]**

## **Confidential Appendix B**

Excerpt from the Independent Evaluator Report of Power  
Purchase Agreement with Maverick Solar, LLC

**[REDACTED]**