

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4168
July 10, 2008

REDACTED

R E S O L U T I O N

Resolution E-4168. Southern California Edison Company requests approval of a new renewable portfolio standard power purchase agreement (PPA) with Granite Wind, LLC (Granite Wind). This PPA is approved.

By Advice Letter (AL) 2143-E filed on July 27, 2007, AL 2143-E-A filed on August 16, 2007 and AL 2143-E-B filed on January 22, 2008.

SUMMARY

SCE's renewable contract complies with the Renewable Portfolio Standard (RPS) procurement guidelines and is approved

SCE's renewable contract complies with the RPS procurement guidelines and is approved. SCE's request for approval of the renewable resource procurement contract is granted pursuant to D.06-05-039. The energy acquired from the contract will count towards SCE's RPS requirements.

Generating facility	Type	Term Years	Initial Capacity (MW)	GWh Energy	Expected Online Date	Location
Granite Wind, LLC	Wind, new	20	42-81 ¹	96-185	December 31, 2009	San Bernardino County, CA

The Granite Wind project is proposed to be a new 42 MW facility located on Granite Mountain in San Bernardino County, near Apple Valley, CA. The facility is being co-developed by Renewable Energy Systems (RES) Americas

¹ The contract allows for an expansion up to 81 MW at Granite Wind's discretion.

Development, RENEWergy LLC and G.H. Energy Limited. The contract price is below the 2006 market price referent for a 20-year contract with an online date in 2009. Deliveries from this PPA are reasonably priced, and the contract prices are fully recoverable in rates over the life of the contract, subject to Commission review of SCE's administration of the contract.

Confidential information about the contract should remain confidential

This resolution finds that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583, General Order (G.O.) 66-C, and D.06-06-066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

BACKGROUND

The RPS Program requires each utility to increase the amount of renewable energy in its portfolio

The California RPS Program was established by Senate Bill 1078², effective January 1, 2003. It requires that a retail seller of electricity such as SCE purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). The RPS program is set out at Public Utilities Code Section 399.11, et seq. Each utility is required to increase its total procurement of ERRs by at least 1% of annual retail sales per year so that 20% of its retail sales are supplied by ERRs by 2017.

The State's Energy Action Plan (EAP) called for acceleration of this RPS goal to reach 20 percent by 2010. This was reiterated again in the Order Instituting Rulemaking (R.04-04-026) issued on April 28, 2004³, which encouraged the utilities to procure cost-effective renewable generation in excess of their RPS annual procurement targets⁴ (APTs), in order to make progress towards the goal expressed in the EAP.⁵ On September 26, 2006, Governor Schwarzenegger signed

² SB 1078, Chapter 516, Statutes of 2002

³ http://www.cpuc.ca.gov/Published/Final_decision/36206.htm

⁴ APT - An LSE's APT for a given year is the amount of renewable generation an LSE must procure in order to meet the statutory requirement that it increase its total eligible renewable procurement by at least 1% of retail sales per year.

⁵ Most recently reaffirmed in D.06-05-039

Senate Bill 107⁶, which officially accelerated the State's RPS targets to 20 percent by 2010.

CPUC has established procurement guidelines for the RPS Program

In response to SB 1078, the Commission has issued a series of decisions that establish the regulatory and transactional parameters of the utility renewables procurement program. On June 19, 2003, the Commission issued its "Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program," D.03-06-071⁷. Instructions for utility evaluation (known as 'least-cost, best-fit') of each offer to sell products requested in a RPS solicitation were provided in D.04-07-029.⁸ The Commission adopted Standard Terms and Conditions for RPS power purchase agreements in D.04-06-014 as required by Public Utilities Code Section 399.14(a)(2)(D). In addition, D.06-10-050, as modified by D.07-03-046, refined the RPS reporting and compliance methodologies.⁹ In this decision, the Commission established methodologies to calculate an LSE's initial baseline procurement amount, annual procurement target (APT) and incremental procurement amount (IPT).¹⁰

On June 9, 2004, the Commission adopted its market price referent (MPR) methodology¹¹ for determining the Utility's share of the RPS seller's bid price (the contract payments at or below the MPR), as defined in Public Utilities Code Sections 399.14(a)(2)(A) and 399.15(c). On December 15, 2005, the Commission adopted D.05-12-042 which refined the MPR methodology for the 2005 RPS

⁶ SB 107, Chapter 464, Statutes of 2006

⁷ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/27360.PDF

⁸ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/38287.PDF

⁹ D.06-10-050, Attachment A, http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/61025.PDF) as modified by D.07-03-046 (http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/65833.PDF).

¹⁰ The IPT represents the amount of RPS-eligible procurement that the LSE must purchase, in a given year, over and above the total amount the LSE was required to procure in the prior year. An LSE's IPT equals at least 1% of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts.

¹¹ D.04-06-015; http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/37383.pdf

Solicitation.¹² Subsequent resolutions adopted MPR values for the 2005, 2006 and 2007 RPS Solicitations.¹³

In addition, the Commission has implemented Pub. Util. Code 399.14(b)(2), which states that before the Commission can approve an RPS contract of less than ten years' duration, the Commission must establish "for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration (long-term contracts) or from new facilities commencing commercial operations on or after January 1, 2005." On May 3, 2007, the Commission approved D.07-05-028, which established a minimum percentage of the prior year's retail sales (0.25%) that must be procured with contracts of at least 10 years' duration or from new facilities commencing in order for short-term contracts to be used towards RPS compliance.

Commission requires certain terms and conditions in all RPS power purchase agreements

On June 9, 2004, the Commission adopted standard terms and conditions (STCs) for RPS power purchase agreements as required by Pub. Util. Code Section 399.14(a)(2)(D). Of the fourteen STCs adopted in D.04-06-014, the Commission specified five that could be modified by parties, and nine that may not be modified or only modified in part. Two parties jointly filed a petition for modification on this decision, and subsequently an amended petition for modification. The Commission granted relief in substantial part in D.07-11-025, the "Opinion on Amended Petition for Modification of Decision 04-06-014 Regarding Standard Terms and Conditions."¹⁴

As a result of the D.07-11-025, the non-modifiable terms and conditions that must be in every RPS power purchase agreement include: CPUC Approval, RECs and Green Attributes, Eligibility and Applicable Law. The Commission also required that pending advice letters with contracts which have not yet been approved or

¹² http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/52178.pdf

¹³ Respectively, Resolution E-3980: http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/55465.DOC, Resolution E-4049: http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/63132.doc, Resolution E-4110: http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/73594.pdf

¹⁴ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/75354.PDF

rejected should be amended to comply with D.07-11-025. Most recently, the Commission compiled the most updated STCs in D.08-04-009, and excluded the supplemental energy payments term. There are now thirteen STCs, four of which are non-modifiable.

Pursuant to SB 1036, above-MPR costs can now be recovered in rates

Pursuant to SB 1078 and SB 107, the California Energy Commission (CEC) was authorized to “allocate and award supplemental energy payments” to cover above-market costs¹⁵ of long-term RPS-eligible contracts executed through a competitive solicitation.¹⁶ The statute required that developers seeking above-market costs apply to the CEC for supplemental energy payments (SEPs).

The mechanism for awarding above-market costs to eligible renewable energy contracts negotiated through a competitive solicitation was modified by SB 1036, which became effective on January 1, 2008.¹⁷ SB 1036 authorizes the CPUC to provide above-MPR cost recovery through electric retail rates for contracts that are deemed reasonable. Above-MPR cost recovery has a ‘cost limitation’ equal to the amount of funds currently accrued in the CEC’s New Renewable Resources Account, which had been established to collect SEP funds, plus the portion of funds that would have been collected through January 1, 2012. In addition, pursuant to SB 1036, Pub. Util. Code § 399.15(d)(2) provides that:

“The above-market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:

- (A) The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision(d) of Section 399.14.
- (B) The contract covers a duration of no less than 10 years.
- (C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.

¹⁵ “Above-market costs” refers to the portion of the contract price that is greater than the appropriate market price referent (MPR).

¹⁶ Pub. Util. Code 399.15(d)

¹⁷ Chapter 685, Statutes of 2007 (SB 1036)

(D) No purchases of renewable energy credits may be eligible for consideration as an above-market cost.

(E) The above-market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.”

The CEC and CPUC are currently working collaboratively to implement SB 1036, which has an effective date of January 1, 2008.

The renewable energy contracts for which SCE requests approval have been evaluated in separate resolutions

On July 27, 2007, SCE filed Advice Letter (AL) 2143-E requesting Commission approval of four renewable power procurement contracts executed with Baja Wind US LLC, Granite Wind LLC, California Sunrise I: Alternative Energy Development LLC (California Sunrise), and County Sanitation Districts of Los Angeles County (LACSD). On August 16, SCE filed AL 2143-E-A to supplement, in part, AL 2143-E in order to include the Independent Evaluation Report for SCE’s 2006 renewable resource solicitation. On January 22, 2008, filed AL 2143-E-B to supplement, in part, AL 2143-E and AL 2143-E-A in order to comply with D.07-11-025, “Opinion on Amended Petition for Modification of Decision 04-06-014 Regarding Standard Terms and Conditions”, adopted on November 19, 2007.

The Baja Wind, Granite Wind, California Sunrise and LACSD PPAs result from SCE’s 2006 solicitation for renewable bids, which was authorized by D.06-05-039. The Commission’s approval of the PPAs will authorize SCE to accept future deliveries of incremental supplies of renewable resources and contribute towards the renewable energy procurement goals required by California’s RPS statute.¹⁸ In total, procurement from the proposed projects is expected to contribute approximately 500 GWh towards SCE’s APT in 2010.

The Commission has decided to address the four contracts for which SCE requested approval in AL 2143-E in separate resolutions. Resolution E-4125¹⁹,

¹⁸ California Public Utilities Code section 399.11 et seq., as interpreted by D.03-07-061, the “Order Initiating Implementation of the Senate Bill 1078 Renewables Portfolio Standard Program”, and subsequent CPUC decisions in Rulemaking (R.) 04-04-026.

¹⁹ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/83630.PDF

adopted by the Commission on May 29, 2008, approved the California Sunrise and LACSD contracts, both of which are small (under 2 MWs) renewable projects that will interconnect to SCE's distribution system and that can commence operations on a relatively short timeframe (before 2010). The Granite Wind, a utility-scale wind project in California, will be addressed in this Resolution. The Baja Wind contract, a utility-scale wind project located in Mexico, which was protested, will be addressed in a subsequent resolution.

SCE requests "Final CPUC Approval" of PPAs

SCE requests a Commission resolution containing the following findings in order to satisfy the "CPUC Approval" terms in the Granite Wind Agreement:

1. Approval of the ... Granite Wind Contract in its entirety;
2. Approval of the modification of certain terms and condition in the ... Granite Wind Contract that is provided for in D.04-06-014;²⁰
3. A finding that any electric energy sold or dedicated to SCE pursuant to the ... Granite Wind Contract constitutes procurement by SCE from an eligible renewable energy resource ("ERR") for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation or other applicable law concerning the procurement of electric energy from renewable energy resources;
4. A finding that all procurement under the ... Granite Wind Contract counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
5. A finding that all procurement under the ... Granite Wind Contract counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
6. A finding that all procurement under the ... Granite Wind Contract counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20 percent (or such other percentage as may

²⁰ SCE requested this list of findings in Al 2143-E. Subsequently, SCE has modified the contract terms and conditions to comply with D.07-11-025, the "Opinion on Amended Petition for Modification of Decision 04-06-014 Regarding Standard Terms and Conditions".

be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law);

7. A finding that the ... Granite Wind Contract, and SCE's entry into this PPA, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the PPA, subject only to further review with respect to the reasonableness of SCE's administration of the PPA; and
8. Any other and further relief as the Commission finds just and reasonable.

SCE's Procurement Review Group participated in review of the contracts

In D.02-08-071, the Commission required each utility to establish a "Procurement Review Group" (PRG) whose members, subject to an appropriate non-disclosure agreement, would have the right to consult with the utilities and review the details of:

1. Overall transitional procurement strategy;
2. Proposed procurement processes including, but not limited to, RFO; and
3. Proposed procurement contracts before any of the contracts are submitted to the Commission for expedited review

SCE's PRG was formed on or around September 10, 2002. Current participants include representatives from the Commission's Energy Division, the Division of Ratepayer Advocates, The Utility Reform Network, the Natural Resources Defense Council, the Consumers' Union, California Utility Employees, and the California Department of Water Resources.

SCE asserts that its PRG was consulted during each step of the renewable procurement process. Among other things, SCE informed the PRG of the initial results of its request for proposals ("RFP"); explained the evaluation process; and updated the PRG periodically concerning the status of contract formation. On November 15, 2006, SCE advised the PRG of its proposed short list of bids for its 2006 RPS solicitation. On March 13, 2007, SCE updated the PRG as to the status of negotiations with bidders into the solicitation. On June 27, 2007, SCE briefed the PRG concerning the successful conclusion of discussions with Granite Wind.

Although Energy Division is a member of the PRG, it reserved its conclusions for review and recommendation on the PPA to the advice letter process.

NOTICE

Notice of AL 2143-E, AL 2143-E-A and AL 2143-E-B were made by publication in the Commission’s Daily Calendar. Southern California Edison states that a copy of the Advice Letter and Supplemental Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

On January 29, 2008, the Center for Biological Diversity (CBD) and the Sierra Club jointly filed a late protest and comment letter to the Baja Wind contract described in AL 2143-E, AL 2143-E-A and AL 2143-E-B. However, the Granite Wind contract was not protested.

This protest will be addressed in the Baja Wind resolution.

DISCUSSION

Description of the project

The following table summarizes the substantive features of the PPA. See Confidential Appendix C for a detailed discussion of contract prices, terms, and conditions:

Generating facility	Type	Term Years	Initial Capacity (MW)	GWh Energy	Expected Online Date	Location
Granite Wind, LLC	Wind, new	20	42-81 ²¹	96-185	December 31, 2009	San Bernardino County, CA

The Granite Wind project is a new 42 MW wind facility being co-developed by RES Americas Development, RENEWergy LLC and G.H. Energy Limited. The developers have over 25 years of wind project development experience. The project will be located on Granite Mountain in San Bernardino County, California. The agreement allows an expansion up to 81 MW at Granite Wind’s discretion. Further, the contract term is 20 years, and the expected online date is

²¹ The contract allows for an expansion up to 81 MW at Granite Wind’s discretion.

December 31, 2009. Given that the project has not yet secured wind turbines and transmission studies are not complete, the Commission expects a delay to the online date of at least a year. The contractual pricing structure allows for a contract price that is below the 2006 MPR for either an online date in 2009 or later.

Energy Division examined the contract on multiple grounds:

- PPA is consistent with SCE's CPUC adopted 2006 RPS Plan and was executed through a competitive solicitation
- SCE's bid evaluation process is consistent with CPUC's least-cost best-fit (LCBF) decision
- PPA conforms to CPUC adopted Standard Terms and Conditions
- The project is viable
- The contract price is reasonable and the contract is eligible to be counted towards SCE's cost limitation for above-market contracts.

PPA is consistent with SCE's CPUC adopted 2006 RPS Plan

California's RPS statute requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility.²² The Commission will then accept or reject proposed PPAs based on their consistency with the utility's approved renewable procurement plan (Plan). SCE's 2006 Plan includes an assessment of supply and demand for renewable energy and bid solicitation materials, including a pro-forma agreement and bid evaluation methodology documents. The Commission conditionally approved SCE's 2006 RPS procurement plan, including its bid solicitation materials, in D.06-05-039.

As ordered by D.06-05-039, on June 9, 2006 SCE filed and served its amended 2006 Plan. After the Director of the Energy Division temporarily suspended SCE's 2006 RPS solicitation and authorized SCE to further amend its 2006 Plan and 2006 RFP, SCE filed an amended 2006 RPS procurement plan and amended 2006 RFP protocol. In the amended 2006 Plan, SCE made the necessary changes

²² Pub. Util. Code, Section §399.14

that were required and/or suggested by D.06-05-039. The Proposed PPA is consistent with SCE's Commission-approved RPS Plan.²³

PPAs fit with identified renewable resource needs

SCE's 2006 RPS Plan called for SCE to issue competitive solicitations for electric energy generated by eligible renewable resources from either existing or new generating facilities that would deliver in the near term or long term. SCE also considered any new or repowered facilities that operate on co-fired fuels or a mix of fuels that include fossil fuel hybrid. SCE's 2006 request for proposals (RFP) solicited proposals for projects that would supply electric energy, environmental attributes, capacity attributes and resource adequacy benefits from eligible renewable energy resources. SCE requested proposals based upon standard term lengths of 10, 15 or 20 years with a minimum capacity of 1 MW. SCE indicated a preference to take delivery of the electric energy at SP-15, but considered proposals based upon any designated delivery point within California. Additionally, SCE solicited for contracts that were located either within California, or if outside California, have the first point of interconnection in the WECC transmission system and have access to a transmission pathway capable of delivering the energy to a location within California.

The proposed project fits SCE's identified renewable resource needs. The facility is expected to commence deliveries by the end of 2010 and will have its first point of interconnection within California.

PPA selection consistent with RPS Solicitation Protocol

SCE distributed an RFP package that included a procurement protocol, which set forth the terms and conditions of the RFP, requirements for proposals, selection procedures, approval procedures and the RFP schedule. As part of the bid submission, SCE required bidders to submit comments on SCE's *pro forma* agreement, to execute non-disclosure agreements and to send a letter stating that the bidder agrees to be bound by the terms and conditions of the protocol. The protocol also requested that proposals contain complete, accurate, and timely information about the project's supplier, generating facility, and commercial terms and the pricing details of the proposal.

²³ Modifications to SCE's pro-forma contract terms and conditions were required to comply with D.07-11-025.

Consistent with D.06-05-039, SCE retained an independent evaluator (IE) to report to SCE's procurement review group about the 2006 RPS solicitation and to ensure that the solicitation was conducted fairly and that the best resources were acquired. According to the IE Report submitted as part of AL 2143-E-A, the IE performed his duties overseeing the 2006 solicitation and has provided assessment reports to the PRG and the CPUC.

SCE says that the proposed agreement was solicited, negotiated and executed in a manner consistent with SCE's 2006 RFP Protocol. The Granite Wind bid offered power from an eligible renewable energy resource, submitted the standard forms, agreed to be bound by the protocol and signed a non-disclosure agreement.

Bid evaluation process consistent with least-cost best fit (LCBF) decision

The CPUC's LCBF decision²⁴ directs the utilities to use certain criteria in their bid ranking. It offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence serious negotiations.

SCE's LCBF bid review process used for its 2006 solicitation is in compliance with the applicable Commission decisions. SCE's LCBF analysis evaluates both quantitative and qualitative aspects of each proposal to estimate its value to SCE's customers and relative value in comparison to other proposals.

Quantitative Assessment

SCE quantitatively evaluates bids based on individual benefit-to-cost (B-C) ratios. It is this B-C ratio that is used to rank and compare each project.

The B-C ratios measure total benefits divided by total costs according to the following equation:

$$\text{B-C Ratio} = \frac{\text{Capacity Benefit} + \text{Energy Benefit}}{\text{Payments} + \text{Integration Cost} + \text{Transmission Cost} + \text{Debt Equivalence}}$$

²⁴ D.04-07-029

The capacity benefits are assigned based on SCE's forecast of capacity value and a technology-specific effective load carrying capability (ELCC). SCE evaluates the project energy benefits using a production simulation model that compares the total production costs of SCE's base resource portfolio with the total production costs of the portfolio including the proposed RPS project. This calculation takes into account forecasted congestion charges, dispatchability and curtailability. This modeling methodology evaluates the impact of portfolio fit for all projects.

The market valuation of each project includes an assessment of the payments, an all-in price for delivered energy adjusted in each time-of-delivery period, and integration costs. By Commission policy (D.04-07-029 and clarified by D.07-02-011), integration cost adders for all proposals must be zero. Further, the transmission upgrade costs are estimated using SCE's transmission ranking cost report for resources that do not have an existing interconnection to the electric system or a completed Facilities Study.

The benefit-to-cost ratio for the Granite wind project was favorable in comparison to the bids in SCE's 2006 solicitations. See Confidential Appendix A for more detailed bid comparisons.

Independent evaluator (IE) oversaw SCE's RPS procurement process

Consistent with D.06-05-039, SCE retained an independent evaluator (IE), Sedway Consulting, to report to SCE's procurement review group about the 2006 RPS solicitation and to ensure that the solicitation was conducted fairly and that the best resources were acquired. According to the IE Report submitted in AL 2143-E-A, Sedway Consulting performed its duties overseeing the 2006 solicitation and has provided assessment reports to the PRG and the CPUC.

In its Independent Evaluator Report, Sedway Consulting concluded that SCE "conducted a fair and effective evaluation of the proposals that it received in response to its 2006 RPS RFP and made the correct selection decisions in its short list." Sedway Consulting performed its own evaluation of all 2006 proposals using a model developed to simulate SCE's LCBF ranking results. The IE ranked all proposals using its model and compared the results to SCE's bid ranking results. The IE's ranking results were similar to SCE's, and as a result, Sedway Consulting agreed with SCE's shortlisting decisions. In addition, the IE monitored SCE's shortlisting discussions, contract negotiations and meetings with management where SCE made decisions, for example, regarding bid prioritizations and negotiation positions. Overall, the IE concludes that SCE

conducted a fair and effective evaluation of its 2006 renewable energy proposals.

For the IE's contract-specific evaluations, see Confidential Appendix E.

Consistency with adopted Standard Terms and Conditions

In D.04-06-014, the Commission set forth standard terms and conditions (STCs) to be incorporated into RPS agreements. Appendix A of that decision identified nine of the fourteen STCs as "may not be modified." On November 19, 2007, after the filing of AL 2143-E, the Commission decided to grant, in part, an amended petition for modification of D.04-06-014. This decision, D.07-11-025, which granted in part the petition for modification, stated that all renewable power purchase agreements must contain four non-modifiable standard terms and conditions. D.07-11-025 also required that electrical corporations, such as SCE, file amendments to any pending advice letters for renewable PPAs in order to comply with the decision.

SCE filed AL 2143-E-B to supplement, in part, terms and conditions in the Baja Wind, Granite Wind, California Sunrise and LACSD Agreements. As a result, the STCs for the Granite Wind contract are in compliance with D.07-11-025.

Contract price is below 2006 MPR

The Granite Wind contract includes a pricing structure that results in a leveled contract price that does not exceed the relevant 2006 MPR for either an online date in 2009 or after. As a result, the net present value of the sum of payments to be made under the PPA are less than the net present value of payments that would be made at the market price referent for the anticipated delivery.

Therefore, the contract price payments are below the MPR and per se reasonable as measured according to the net present value calculations explained in D.04-06-015, D.04-07-029, and D.05-12-042.

Because the Granite Wind contract does not exceed the MPR, it will not be applied towards SCE's cost limitation as set forth in Pub. Util. Code §399.15(d). If the costs of the contract change, the Commission will review the price of the contract pursuant to the rules adopted to implement SB 1036, which may include providing a cash flow model if the costs exceed the MPR.

Granite Wind is a viable project

SCE believes that the project is viable. The project has secured site control; the developers are experienced in developing wind farms; the project's permit applications have been filed and the environmental review is underway; and the financing is secure. However, Granite Wind's project viability is affected by the uncertainty surrounding whether the federal production tax credit will be extended past 2008. Also, because transmission studies are not yet complete, it is uncertain when the actual online date of the project will be.

Project Milestones

The Granite Wind PPA identifies the necessary milestones, including permit applications, financing, construction and startup deadlines.

Financeability of Resource

According to SCE, the financing for the Granite Wind project is secure. SCE states in its advice letter, "the co-developers of the [Granite Wind] project have been able to complete project financing for previous projects and do not anticipate any problems in financing the Granite Wind project."²⁵

Production Tax Credit

The Granite Wind project is contingent upon the extension of the federal production tax credits (PTC) as provided in Section 45 of the Internal Revenue Code of 1986, as amended. The PTC is set to expire December 31, 2008, and Granite Wind will not be online for at least a year past this date. The PTC has been extended several times in recent history, and there is potential that it will again be extended. However, this poses a project viability concern for the project since it is uncertain whether the PTC will be extended.

Sponsor's Creditworthiness and Experience

The Granite Wind developers have experience developing, financing, constructing and operating wind facilities. RES Americas is large wind developer, with over 20 years of experience developing more than 2,000 MW of currently operational wind facilities.

²⁵ Pg 15

Transmission Upgrades

The transmission studies for the Granite Wind project are not yet complete. As a result, it is unknown whether the project will require major transmission upgrades or whether it can interconnect to an existing transmission line with available capacity. If significant upgrades are needed, it is reasonable to expect that the project will not be online for a number of years after the expected online date. As with other renewable energy projects in California, uncertain transmission upgrade needs and costs impose a project viability risk for Granite Wind.

Fuel/Technology/Equipment

SCE asserts the Granite Wind's project site is an untapped, moderate wind resource. The 26% capacity factor in the contract is notably low. While capacity factors do not affect the viability of the project in terms of ability to come online, low capacity factors do affect project price.

Further, the project has not yet secured wind turbines. Given the lead time needed to procure and deliver turbines, the likelihood is small that the project could commence operations before the end of 2010.

Confidential information about the contracts should remain confidential

Certain contract details were filed by SCE under confidential seal. Energy Division recommends that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

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. No comments were filed.

FINDINGS

1. The RPS Program requires each utility, including SCE, to increase the amount of renewable energy in its portfolio to 20 percent by 2010, increasing by a minimum of one percent per year.
2. D.08-04-009 sets forth four non-modifiable and nine modifiable standard terms and conditions to be incorporated into RPS power purchase agreements.
3. D.06-05-039 directed the utilities to issue their 2006 renewable RFOs, consistent with their renewable procurement plans.
4. The Commission required each utility to establish a Procurement Review Group (PRG) to review the utilities' renewable procurement needs and strategy, proposed procurement process, and selected contracts.
5. Levelized contract prices below the 2006 MPR are considered *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015, D.04-07-029, and D.05-12-042.
6. Senate Bill 1036 modified the cost recovery mechanism for above-market costs of RPS contracts. As a result, rather than renewable generators seeking SEPs from the CEC for the above-market costs of RPS contracts negotiated through competitive solicitations, the IOUs are now required to seek above-market cost recovery for eligible RPS contracts procured via a competitive solicitation at the Commission.
7. SCE filed Advice Letter 2143-E on July 27, 2007, requesting Commission review and approval of four renewable energy contracts with Baja Wind, Granite Wind, California Sunrise and LACSD. SCE filed Supplemental Advice Letter 2137-E-A on August 16, 2007, 2007 to supplement, in part, AL 2143-E in order to include the Independent Evaluation Report for SCE's 2006 renewable resource solicitation. SCE filed Supplemental Advice Letter 2137-E-B on January 22, 2008 to supplement, in part, AL 2143-E and AL 2143-E-A in order to comply with D.07-11-025.
8. On January 29, 2008, the Center for Biological Diversity and the Sierra Club filed a late protest the Baja Wind contract.

9. It is reasonable for the Commission to evaluate the contracts for which SCE requested approval in AL 2143-E in separate resolutions.
10. The Commission has reviewed the proposed Granite Wind contract and finds it to be consistent with SCE's approved 2006 renewable procurement plan.
11. The proposed Seller bid price for the Granite Wind contract is below the 2006 MPR released in Resolution E-4049.
12. SCE briefed its PRG on its proposed shortlist and status of negotiations for the 2006 RPS solicitation. SCE also briefed the PRG concerning the successful conclusion of discussions with Granite Wind.
13. Because the contract payments of the Granite Wind contract do not exceed the MPR, the contract will not be applied to SCE's cost limitation.
14. Procurement pursuant to these Agreements is procurement from eligible renewable energy resources 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.), Decision 03-06-071, or other applicable law.
15. All procurement under the Granite Wind contract counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
16. All procurement under the Granite Wind contract counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
17. All procurement under the Granite Wind Contract counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20 percent (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law);
18. The Granite Wind Contract, and SCE's entry into this PPA, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the PPA, subject only to further review with respect to the reasonableness of SCE's administration of the PPA
19. Any indirect costs of renewables procurement identified in Section 399.15(a)(2) shall be recovered in rates.
20. The Granite Wind contract proposed in AL 2143-E, AL 2143-E-A and AL 2143-E-B should be approved without modifications.

21. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the confidential appendices, marked "[REDACTED]" in the redacted copy, should not be made public upon Commission approval of this resolution.

THEREFORE IT IS ORDERED THAT:

1. The proposed Granite wind contract in Advice Letters (AL) 2143-E , 2143-E-A and 2143-E-B is approved without modifications
2. The costs of the contract between SCE and Seller are reasonable and in the public interest; accordingly, the payments to be made by SCE are fully recoverable in rates over the life of the project, subject to CPUC review of SCE's administration of the PPA.

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 July 10, 2008; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON

Confidential Appendix A
Overview of 2006 Solicitation Bids
[REDACTED]

Confidential Appendix B
LCBF Bid Evaluations
[REDACTED]

Confidential Appendix C
Granite Wind Contract Summary
[REDACTED]

Confidential Appendix D:

Project Viability Matrix

[REDACTED]

Confidential Appendix E:
Independent Evaluator's
Contract-Specific Assessment
[REDACTED]

Confidential Appendix F:
Project's Contributions Toward RPS Goals
[REDACTED]