

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

ENERGY DIVISION

Item # 15  
ID #11336  
RESOLUTION E-4505  
June 7, 2012

REDACTED

**R E S O L U T I O N**

Resolution E-4505. San Diego Gas & Electric Company requests approval a power purchase agreement with 82LV 8ME, LLC.

PROPOSED OUTCOME: This resolution approves cost recovery of a power purchase agreement with 82LV 8ME, LLC. The power purchase agreement is approved without modifications.

ESTIMATED COST: Costs of the power purchase agreements are confidential at this time.

By Advice Letter 2332-E filed on March 5, 2012.

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**SUMMARY**

**San Diego Gas & Electric Company's renewable energy power purchase agreement with 82LV 8ME, LLC complies with the Renewables Portfolio Standard procurement guidelines and is approved without modifications.**

San Diego Gas & Electric Company (SDG&E) filed Advice Letter 2332-E on March 5, 2012 requesting California Public Utilities Commission (Commission) approval of a renewable energy power purchase agreement between SDG&E and 82LV 8ME, LLC. The power purchase agreement is the result of SDG&E's 2011 RPS solicitation.

Pursuant to the 25 year power purchase agreement, SDG&E will procure 495 gigawatt-hours of RPS-eligible generation per year from the proposed 150-200 megawatt (MW) Mount Signal 1 Solar (Mt. Signal) facility. The facility will be located in Calexico, Imperial County, California. Deliveries from the facility's initial 100 MW are to begin on June 30, 2013 and deliveries from the full project capacity are to begin by December 31, 2013.

The table below provides an overview of the proposed 82LV 8ME, LLC PPA:

**Table 1. Summary of the 82LV 8ME, LLC PPA**

Generating Facility	Technology Type	Term (Years)	Maximum Capacity (MW)	Energy (GWh/year)	Online Date	Location
Mt. Signal I Solar Farm	Solar PV, new	25	150 - 200	495	June 30, 2013 (100 MW) Sept. 30, 2013 (150 MW) Dec. 31, 2013 (150-200 MW)	Calexico, Imperial County, California

This resolution approves the 82LV 8MW PPA without modifications. SDG&E's execution of the PPA is consistent with its 2011 RPS Procurement Plan, including its resource need, which the Commission approved in Decision 11-04-030. Deliveries under the PPA are reasonably priced and fully recoverable in rates over the life of the power purchase agreement, subject to Commission review of SDG&E's administration of the PPA.

**BACKGROUND**

**Overview of the Renewables Portfolio Standard (RPS) Program**

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X).<sup>1</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.31.<sup>2</sup> Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in

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<sup>1</sup> SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session).

<sup>2</sup> All further references to sections refer to Public Utilities Code unless otherwise specified.

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>3</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 Advice Letter 2332-E was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

## **PROTESTS**

SDG&E Advice Letter 2332-E was not protested.

## **DISCUSSION**

**San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement with 82LV 8ME, LLC.**

On March 5, 2012, SDG&E filed Advice Letter (AL) 2332-E requesting Commission approval of a renewable energy power purchase agreement (PPA) with 82LV 8ME, LLC (Mt. Signal). The PPA concerns generation from the proposed 150-200 megawatts (MW) Mount Signal 1 Solar facility. Pursuant to the PPA, SDG&E will annually receive approximately 495 gigawatt-hours (GWh) of RPS-eligible energy deliveries.

8minutenergy (8ME) and AES Solar (AESS) are developing the Mount Signal 1 Solar facility.<sup>4</sup> The proposed facility will be located approximately three miles west of Calexico, CA in southern Imperial County near the U.S. / Mexico border on private lands. The facility will interconnect to the Imperial Valley Substation. The project has a June 30, 2013 commercial operation date (COD) for the project's first 100 MW. An additional 50 MW is required to be in-service by September 30,

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<sup>3</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).

<sup>4</sup> 8minutenergy: <http://www.8minutenergy.com/> and AES Solar: <http://www.aes-solar.com>.

2013 and any remaining capacity, up to an additional 50 MW is required to be placed in-service by December 31, 2013.

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

1. The proposed PPA is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the proposed PPA will contribute towards SDG&E's RPS procurement obligation.
2. SDG&E's entry into the proposed PPA and the terms of such PPA are reasonable; therefore, the proposed PPA is approved in its entirety and all administrative and procurement costs associated with the proposed PPA, including for energy, green attributes, and resource adequacy, are fully recoverable in rates over the life of the proposed PPA, subject to Commission review of SDG&E's administration of the proposed PPA.
3. Generation procured pursuant to the proposed PPA constitutes generation from an eligible renewable energy resource for purposes of determining SDG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewable Portfolio Standard program (Pub. Util. Code §§ 399.11, et seq. and/or other applicable law) and relevant Commission decisions.
4. The proposed PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
5. Expected deliveries pursuant to the proposed PPA are eligible for any applicable RPS flexible compliance mechanisms.
6. The transaction qualifies as a Category 1 Bundled transaction.

**Energy Division Evaluated the PPA on the following criteria:**

- Consistency with SDG&E's 2011 RPS Procurement Plan;
- RPS Procurement Portfolio need;
- Consistency with SDG&E's Least-Cost, Best-Fit requirements;
- Cost reasonableness and net market value;
- Consistency with RPS standard terms and conditions;
- Consistency with Portfolio Content Categories Requirements;
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard;

- Independent Evaluator review;
- Procurement Review Group participation;
- Contribution to minimum quantity requirement for long-term/new facility contracts; and
- Project viability assessment and development status.

### **Consistency with SDG&E's 2011 RPS Procurement Plans**

Pursuant to statute, SDG&E's 2011 RPS Procurement Plan (Plan) includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, and a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.<sup>5</sup> California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.<sup>6</sup> The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.<sup>7</sup>

In SDG&E's 2011 RPS Plan, SDG&E expressed a commitment to contract in excess of its mandated annual procurement targets and goal of 33 percent renewables by 2020.<sup>8</sup> SDG&E's 2011 RPS Plan also called for SDG&E to issue a competitive solicitation for electric energy generated by eligible renewable resources that could begin delivering in 2011, 2012, 2013, 2014, and 2015. Additionally, offers were to be for terms of one month to 20 years in length, with terms greater than 20 years also being acceptable. Proposals could be for peaking, baseload, dispatchable, or as-available deliveries. SDG&E additionally expressed a preference for projects that could contribute towards SDG&E's Sunrise Powerlink commitment. Lastly, SDG&E stated in its Plan that bilateral offers would be considered if they were competitive when compared against recent RFO offers and provide benefits to SDG&E customers.

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<sup>5</sup> Pub. Util. Code § 399.13(a)(5).

<sup>6</sup> Pub. Util. Code § 399.13.

<sup>7</sup> SDG&E's 2011 RPS Procurement Plan was approved by D.11-04-030 on April 14, 2011.

<sup>8</sup> In D.08-12-058, which approved SDG&E's Sunrise Powerlink, SDG&E committed to procuring 33 percent of its electricity from renewables by 2020.

The Mt. Signal PPA is a contract for renewable generation that fits SDG&E's identified renewable resource needs because the proposed 25 year PPA is for generation from a renewable energy facility that is to provide renewable energy deliveries beginning in 2013 and interconnecting at the Imperial Valley substation. Thus, the generation from the facility could contribute towards SDG&E's near-term and long-term RPS requirements and be deliverable over Sunrise Powerlink.

The Mt. Signal PPA is consistent with SDG&E's 2011 RPS Procurement Plan, as approved by D.11-04-030.

### **SDG&E's RPS Procurement Portfolio Need**

As a resource with commercial deliveries beginning in the third quarter of 2013, the amended project will provide deliveries during the end of Compliance Period 2011-2013.<sup>9</sup> When adjusting SDG&E's RPS procurement portfolio to account for a certain amount of contract failure, the Commission forecasts SDG&E's primary need for additional renewable generation to be in Compliance Period 2011-2013 and Compliance Period 2017-2020 as shown in Figure 1.<sup>10</sup> Figure 1 depicts the Commission's forecast of SDG&E's RPS net long/short position for each compliance period under a risk-adjusted scenario. This graphical illustration shows that SDG&E is forecasted to be over-contracted in Compliance Period 2014-2016, and that it is under-contracted in Compliance Period 2011-2013 and Compliance Period 2017-2020.

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<sup>9</sup> In addition to increasing California's RPS requirement to 33 percent from 20 percent, SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session) establishes three different compliance periods. In D.11-12-020 the Commission defined the compliance periods (2011-2013; 2014-2016; and 2017-2020) and the RPS procurement quantity requirements for each compliance period.

<sup>10</sup> The Commission's forecast of SDG&E's RPS Procurement Portfolio is based on SDG&E's March 2012 RPS Progress Report, SDG&E's March 2012 Project Development Status Report, and the Commission's RPS Project Status Table. This forecast does not include any contracts pending Commission approval, executed, but not filed, nor contracts under negotiation.

**Figure 1: The Commission forecasts SDG&E to be under-contracted in Compliance Period 2011-2013 and 2017-2020<sup>11</sup>**

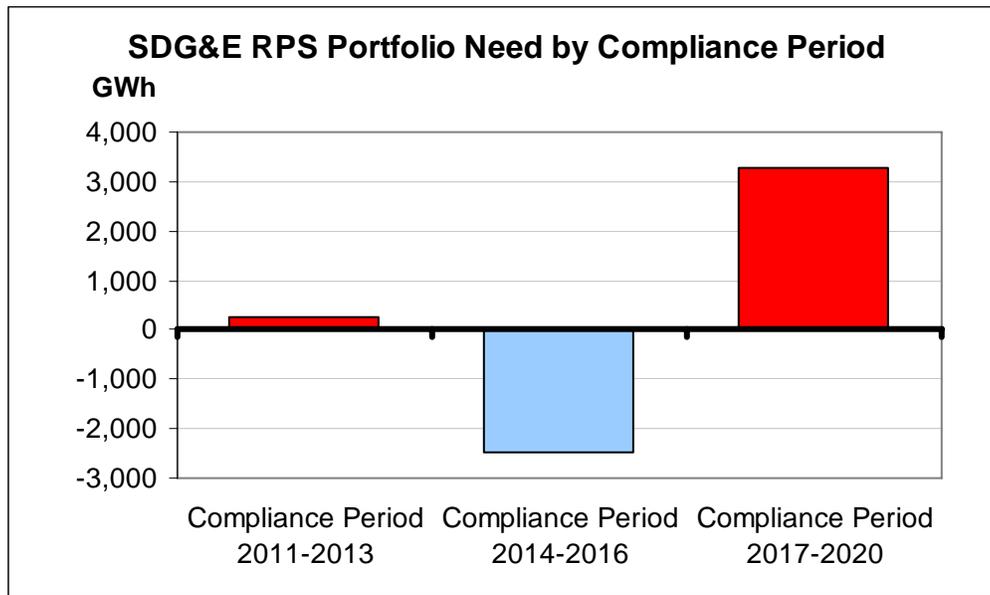


Table 1, below, provides a summary of: 1) The Commission’s forecast of SDG&E’s RPS procurement portfolio (includes projects currently in operation and those with CPUC-approved contracts under a risk-adjusted scenario); 2) the Commission’s forecast of SDG&E’s RPS procurement portfolio net long/short positions relative to the RPS compliance periods’ quantity requirements; and 3) the forecasted annual generation from 2011 to 2020 for the Mt. Signal project. Given the expected third quarter of 2013 online date, projected generation from the Mt. Signal project will contribute approximately 155 GWhs towards SDG&E’s Compliance Period 2011-2013 RPS procurement needs. The Mount Signal 1 Solar project is expected to contribute 1,485 GWh in Compliance Period 2017-2020.

<sup>11</sup> Includes: operating RPS-eligible generation under CPUC-approved PPAs and RPS-eligible generation under CPUC-approved PPAs that are under development. The Commission assumed that projects under development will have a 60 percent rate of meeting the terms and conditions of the PPAs.

**Table 2: Mount Signal 1 Solar’s Expected Generation will contribute to SDG&E’s RPS Portfolio Needs in Compliance Period 2011-2013 and Compliance Period 2017-2020**

	Compliance Period 2011-2013	Compliance Period 2014-2016	Compliance Period 2017-2020
RPS Target	10,283	13,662	23,487
Operating	7,858	6,515	6,671
Approved <sup>a</sup>	<u>2,159</u>	<u>9,640</u>	<u>13,557</u>
Subtotal	10,017	16,155	20,228
Need <sup>b</sup>	265	-2,493	3,259
Mt. Signal	155	1,485	1,485

Units: GWh

<sup>a</sup> The Commission assumes 60% success for projects under development

<sup>b</sup> The Commission assumes no banking of forecasted generation because banking rules have not been adopted

**Consistency with SDG&E’s least-cost best-fit (LCBF) methodology**

In D.04-07-029, the Commission directs the utilities to use certain criteria in their LCBF selection of renewable resources.<sup>12</sup> The decision offers guidance regarding the process by which the utility ranks bids in order to select or “shortlist” the bids with which it will commence negotiations. As described in its 2011 RPS Procurement Plan, SDG&E’s LCBF bid evaluation includes a quantitative analysis and qualitative criteria. SDG&E’s quantitative analysis or market valuation includes evaluation of price, time of delivery factors, transmission costs, congestion costs, and resource adequacy. SDG&E’s qualitative analysis focuses on comparing similar bids across numerous factors, such as location, benefits to minority and low income areas, resource diversity, etc.

The Mt. Signal PPA is the result of SDG&E’s 2011 RPS solicitation. SDG&E explains in AL 2332-E that it evaluated and shortlisted the Mt. Signal bid consistent with its 2011 LCBF evaluation methodology. See the “Cost

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<sup>12</sup> See § 399.13(a)(2)(A).

Reasonableness” section of this Resolution for a discussion of how the project compares to SDG&E’s 2011 RPS solicitation and contracts executed by SDG&E in the 12 months prior to executing the Mt. Signal PPA. In addition, see Confidential Appendix A for SDG&E’s LCBF evaluation of the project.

The Mt. Signal PPA was evaluated consistent with the LCBF methodology identified in SDG&E’s 2011 RPS Procurement Plan.

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

The Commission’s reasonableness review for RPS PPA prices includes a comparison of the proposed PPA’s price and net market value to other RPS offers received in recent RPS solicitations and to contracts executed in the 12 months prior to the proposed PPA’s execution date. Using this analysis and the confidential analysis provided by SDG&E in AL 2332-E, the Commission determines that the costs of the Mt. Signal PPA are reasonable. (See Confidential Appendix A for a discussion of the contractual pricing terms.)

The Mt. Signal PPA compares reasonably to RPS offers received in SDG&E’s 2011 RPS solicitation and contracts executed by SDG&E in the 12 months prior to executing the Mt. Signal PPA.

Payments made by SDG&E under the Mt. Signal PPA are fully recoverable in rates over the life of the PPA, subject to Commission review of SDG&E’s administration of the PPA.

### **Consistency with RPS Standard Terms and Conditions**

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, six 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 these STCs in D.10-03-021, as modified by D.11-01-025.

The Mt. Signal PPA includes the Commission adopted RPS “non-modifiable” standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025.

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

In D.11-12-052, the Commission implemented portfolio content categories for the RPS program and authorized the Director the Energy Division to require the IOUs provide information in the advice letter seeking Commission-approval regarding the proposed contract’s portfolio content category classification. The purpose of the information is to allow the Commission to evaluate the claimed

portfolio content category of the proposed contract and the risks and value to ratepayers if the proposed PPA is classified as a different portfolio content category. In AL 2332-E, SDG&E claims that the procurement pursuant to the Mt. Signal PPA will be classified as Portfolio Content Category 1. To support its claim, SDG&E asserts that the product being purchased is bundled and that the Mt. Signal project interconnects at the Imperial Valley Substation, a defined injection point for the CAISO balancing authority.

Consistent with D.11-12-052, SDG&E provided information in AL 2332-E regarding the Mt. Signal PPA's portfolio content category classification.

In this resolution, however, the Commission makes no determination regarding the proposed PPA's portfolio content category classification because RPS compliance determination and portfolio content category classification is a separate process from the RPS contract evaluation process that requires consideration of several factors based on various showings. Thus, making a portfolio content classification determination in this resolution regarding the procurement considered herein is not appropriate. SDG&E should incorporate the procurement approved in this resolution in its appropriate compliance showing(s) consistent with RPS program rules and, if necessary, include any assertions regarding the PPA's classification or definition within those compliance filings.

### **Compliance with the Interim Greenhouse Gas Emissions Performance Standard**

California Pub. Util. Code §§ 8340 and 8341 require that the Commission consider emissions associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.<sup>13</sup>

D.07-01-039 adopted an interim Emissions Performance Standard (EPS) that establishes an emission rate for obligated facilities at levels no greater than the greenhouse gas (GHG) emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS.<sup>14</sup>

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<sup>13</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%." Pub. Util. Code § 8340 (a).

<sup>14</sup> D.07-01-039, Attachment 7, p. 4.

The Mt. Signal PPA meets the conditions for EPS compliance because it is for intermittent generation with a capacity factor less than 60 percent.

### **Independent Evaluator Review**

SDG&E retained independent evaluator (“IE”) Jonathan Jacobs of PA Consulting Group to oversee SDG&E’s amendment negotiations with Mt. Signal and to evaluate the overall merits for CPUC approval of the PPA. AL 2332-E included a public and confidential version of the independent evaluator’s report.

In the IE’s opinion, the Mt. Signal PPA reflects fair negotiations and balances the risks and costs between Mt. Signal and ratepayers. Additionally, the IE states that the Mt. Signal PPA LCBF score is within the range of projects SDG&E shortlisted from its 2011 RPS solicitation. The IE states that overall he agrees with SDG&E that the Mt. Signal PPA merit approval. See Confidential Appendix B for excerpts from the IE report.

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E’s negotiations with Mt. Signal.

### **Procurement Review Group Participation**

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs’ overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.<sup>15</sup> SDG&E asserts that the Mt. Signal PPA was discussed at regularly-scheduled PRG meetings in August 2011, September 2011, October 2011, November 2011, January 2012, and February 2012.

Pursuant to D.02-08-071, SDG&E’s Procurement Review Group participated in the review of the Mt. Signal PPA.

### **Contribution to Minimum Quantity Requirement for Long-Term/New Facility Contracts**

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<sup>15</sup> SDG&E’s PRG includes representatives of the Union of Concerned Scientists, the Coalition of California Utility Employees, The Utility Reform Network, the California Public Utility Commission’s Energy Division and Division of Ratepayer Advocates, and the California Department of Water Resources.

Section 399.13(b) requires that the Commission establish “minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years’ duration.” Because Mt. Signal PPA is greater than 10 years in length, the PPA may be construed as counting toward the minimum quantity requirements that the Commission has not yet adopted in R.11-05-005.

### **Project Viability Assessment and Development Status**

SDG&E asserts that the Mt. Signal project is viable and will be developed according to the terms and conditions in the PPA. SDG&E bases its assertion on its evaluation of the viability of the project using the Commission-approved project viability calculator, which uses standardized criteria to quantify a project's strengths and weaknesses in key areas of renewable project development.

Additionally, SDG&E provided the following information about the project’s developer and the project’s development status:

#### Developers:

The Mt. Signal project is being jointly developed by 8minutenergy and AES Solar. Both companies have experience developing solar projects. 8minutenergy has 700 MW of projects that are in advanced development stages in California and an additional 1,300 MW in early development. Additionally, AES Solar is a proven developer with approximately 120 MW of solar PV facilities in operation in Europe and has a project team with experience in the project development, engineering, procurement and construction, operations and maintenance, finance, and legal sectors.

#### Technology and Quality of Resource:

The project will use PV modules that will be wired in series to comprise 1 MW blocks. Based on the project location and associated data regarding the area’s high daily solar insolation of 2,118 kWh/m<sup>2</sup>, SDG&E states in AL 2332-E that it has high confidence that the project will be able to meet the contractual requirements.

#### Site Control and Permitting Status:

The project will be sited entirely on private land and the developer has obtained options to purchase or lease all land needed for the project site. Additionally, a

Conditional Use Permit from Imperial County has been obtained.<sup>16</sup> All additional permits are expected to be obtained in a timely manner.

Interconnection Status:

The Mt. Signal project will interconnect at the Imperial Valley Substation. An executed large generator interconnection agreement has been obtained. A Right-of-Way Grant from the U.S. Bureau of Land Management (BLM) is needed for the generation-tie because it will cross BLM land. 8ME has submitted an application and it is currently under review.<sup>17</sup>

Financing Plan:

The developers are pursuing the cash grant via the American Recovery and Reinvestment Act of 2009 (ARRA), 1603 Program.<sup>18</sup> The developers expect that the project will qualify for the cash grant based on AES Solar contributing panels of sufficient cost to the project to meet the cash grant program's requirement that at least five percent of project's eligible costs will have been incurred in 2011. The developers also expect the project to qualify for the Investment Tax Credit (ITC) in lieu of a cash grant, if needed.

Based on the project's project viability calculator score and development progress, it is reasonable to expect that Mt. Signal will meet the terms and conditions of the Mt. Signal PPA.

**Confidential Information**

The Commission, in implementing Pub. Util. Code § 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

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<sup>16</sup> 8ME press release: <http://www.8minutenergy.com/news/press/boardapproval>.

<sup>17</sup> BLM project site: [http://www.blm.gov/ca/st/en/prog/energy/fasttrack/Mount\\_Signal.html](http://www.blm.gov/ca/st/en/prog/energy/fasttrack/Mount_Signal.html).

<sup>18</sup> ARRA 1603 Program: Payments for Specified Energy Property in Lieu of Tax Credits: <http://www.treasury.gov/initiatives/recovery/Pages/1603.aspx>.

terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin, 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 advice letter, should remain confidential at this time.

### **RPS Eligibility and CPUC Approval**

Pursuant to Pub. Util. Code § 399.25, 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 California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.<sup>19</sup>

The Commission requires a standard and non-modifiable clause in all RPS contracts that requires “CPUC Approval” of a PPA to include an explicit finding that “any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.”<sup>20</sup>

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, neither can the Commission determine, prior to final CEC certification of a project, that “any procurement” pursuant to a specific contract will be “procurement from an eligible renewable energy resource.”

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<sup>19</sup> See, e.g. D.08-04-009 at Appendix A, STC 6, Eligibility.

<sup>20</sup> See, e.g. D.08-04-009 at Appendix A, STC 1, CPUC Approval.

Therefore, 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. 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 contracts.

### **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment was waived.

### **FINDINGS AND CONCLUSIONS**

1. The Mt. Signal PPA is consistent with SDG&E's 2011 RPS Procurement Plan, as approved by D.11-04-030.
2. Projected generation from the Mt. Signal project is expected to contribute to SDG&E's RPS requirements beginning in Compliance Period 2011-2013.
3. The Mt. Signal PPA was evaluated consistent with the LCBF methodology identified in SDG&E's 2011 RPS Procurement Plan.
4. The Mt. Signal PPA is comparable to SDG&E's 2011 RPS shortlist and contracts executed by SDG&E in the 12 months prior to the execution of the Mt. Signal PPA.
5. Payments made by SDG&E pursuant to the Mt. Signal PPA are fully recoverable in rates over the life of the PPA, subject to Commission review of SDG&E's administration of the PPA.
6. The Mt. Signal PPA includes the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025.
7. Consistent with D.11-12-052, SDG&E provided information in AL 2332-E regarding the Mt. Signal PPA's portfolio content category classification.
8. Consistent with D.06-05-039, an independent evaluator oversaw SDG&E's negotiations with Mt. Signal.
9. The Mt. Signal PPA meets the conditions for EPS compliance because it is for intermittent generation with a capacity factor less than 60 percent.

10. Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the Mt. Signal PPA.
11. It is reasonable to expect that Mt. Signal will meet the terms and conditions of the PPA.
12. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
13. Procurement pursuant to the Mt. Signal PPA is procurement from eligible renewable energy resources for purposes of determining SDG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), D.11-12-020 and D.11-12-052, or other applicable law.
14. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under this power purchase agreement to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this power purchase agreement.
15. AL 2332-E should be approved effective today without modifications.

**THEREFORE IT IS ORDERED THAT:**

1. San Diego Gas & Electric Company's Advice Letter 2332-E, requesting Commission review and approval, is approved without modifications.

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 7, 2012; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

# **Confidential Appendix A**

## **Evaluation Summary of Mt. Signal PPA**

**[Redacted]**

## **Confidential Appendix B**

### Excerpt of Independent Evaluator Report's regarding AL 2332-E<sup>1</sup>

[Redacted]

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<sup>1</sup> Excerpt from: Report of the Independent Evaluator on the 200 MW Mt Signal I Solar contract relative to the shortlist from the 2011 Request for Offers from Eligible Renewable Resources (2011 Renewable RFO), Jonathan Jacobs, PA Consulting, February 28, 2012, as submitted with Advice Letter 2332-E.