PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item #15
ID #9637

ENERGY DIVISION **RESOLUTION E-4352**
August 12, 2010

REDACTED

R E S O L U T I O N

Resolution E-4352. San Diego Gas & Electric Company (SDG&E) requests approval of an amended and restated power purchase and sale agreement with Imperial Valley Solar, LLC.

PROPOSED OUTCOME: This Resolution approves a SDG&E amended and restated renewable energy power purchase and sale agreement (PPA) with Imperial Valley Solar, LLC for solar power. The amended and restated PPA is approved without modification.

ESTIMATED COST: Costs of this amended and restated contract are confidential at this time

By Advice Letter 2161-E filed on April 7, 2010 and Advice Letter 2161-E-A filed on May 17, 2010.

SUMMARY

SDG&E's proposed amended and restated PPA with Imperial Valley Solar, LLC complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved without modification.

SDG&E filed Advice Letter (AL) 2161-E on April 7, 2010, requesting California Public Utilities Commission (Commission) review and approval of an amendment to an existing PPA with Imperial Valley Solar, LLC (IV Solar), formerly known as Stirling Energy Systems (SES) Solar Two, LLC, for renewable energy from a new solar facility. The SES contract was originally a result of SDG&E's 2004 RPS RFO and executed on August 31, 2005. The PPA, as amended and restated on March 24, 2010, modifies pricing terms and the commercial operation deadline. Other major terms of the PPA, as originally approved by the Commission on December 15, 2005 in Resolution E-3965, are unchanged and

continue in full force and effect. On May 17, 2010 SDG&E filed AL 2161-E-A to include an addendum to the Independent Evaluator's Report which clarifies and expands the Independent Evaluator's Report.

The following table summarizes specific features of the facility and the amended and restated PPA, with the amended term denoted by italicized text:

Generating Facility	Resource Type	Contract Term (Years)	Capacity (MW)	Expected Deliveries (GWh/yr)	Commercial Operation Date	Project Location
Imperial Valley Solar	Solar thermal	20	300	650	***December 31, 2012***	Plaster City, CA

The proposed amended and restated PPA is consistent with SDG&E's 2009 RPS Procurement Plan. Deliveries from the amended and restated PPA are reasonably priced and fully recoverable in rates over the life of the contract, subject to Commission review of SDG&E's administration of the contract.

The amended and restated PPA is approved without modification.

NOTICE

Notice of AL 2161-E and AL 2161-E-A 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

Advice Letters 2161-E and 2161-E-A were not protested.

DISCUSSION

Overview Of RPS Program

The RPS Program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least

1% of retail sales per year so that 20% of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[1]

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.

SDG&E requests Commission approval of a contract amendment

On April 7, 2010, SDG&E filed AL 2161-E requesting Commission approval of an amendment to a Commission-approved renewable energy power purchase and sale agreement with IV Solar (formerly known as SES Two) for generation from its proposed new solar thermal facility. The facility will use SunCatcher™ solar dish Stirling engine systems.[2] Generation from the 300 MW IV Solar solar facility is expected to contribute an average of 650 gigawatt-hours (GWh) annually towards SDG&E's Annual Procurement Target (APT) beginning in December 2012. The facility will be located near Plaster City, California.

IV Solar/Tessera Solar North America (TSNA) requested the Amendment as necessary to complete the project.[3] TSNA and SDG&E agreed that the amendment of the original PPA was necessary due to the time required to permit, interconnect, and finance the project. The Amendment modifies the PPA to revise pricing terms and the commercial online date. The proposed Amendment modifies the commercial operation date from December 31, 2010 to December 31, 2012. The capacity of the facility and annual quantity of renewable energy to be delivered will not be affected by the proposed Amendment. Consistent with Resolution E-4199 Tessera provided a cash flow model which SDG&E and independent evaluator PA Consulting reviewed to determine if the price modifications were reasonable in relation to the current market.

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[1] *See* Public Utilities (Pub. Utils.) Code § 399.15(b)(1).

[2] http://www.stirlingenergy.com/

[3] Tessera Solar North America is the developer of the IV Solar project and sister company to SES. IV Solar is the project owner.

SDG&E requests that the Commission issue a Resolution containing the following findings:

1. The Proposed Amendment is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the proposed amendment will contribute towards SDG&E's APT starting in 2011.[4]
2. SDG&E's execution of the Proposed Amendment and the terms of such Proposed Amendment are reasonable; therefore, all payments to be made by SDG&E under the Proposed Amendment, including those for energy, green attributes and resource adequacy included in the Proposed Amendment are fully recoverable in rates over the life of the Proposed Amendment, subject to Commission review of SDG&E's administration of the Proposed Amendment.
3. All procurement and administrative costs associated with the Proposed Amendment shall be deemed reasonable per se and recoverable in rates as provided in Public Utilities Code §399.14.
4. Approval of the Proposed Amendment, in its entirety, including approval of full cost recovery in rates through the Energy Resource Recovery Account (ERRA) mechanism of all payments to be made by SDG&E from the commencement of deliveries forward in association with this Proposed Amendment, subject to Commission review of SDG&E's administration of the Proposed Amendment.
5. Issuance of a finding that any generation procured pursuant to the Proposed Amendment 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 Renewables Portfolio Standard program (Public Utilities Code §§ 399.11, et seq. or other applicable law) and relevant Commission decisions.
6. The confidential appendices, as well as the confidential portions of the advice letter, should not be made public upon Commission approval of this resolution.

[4] If SDG&E, by way of output from other RPS-eligible resources, already meets its APT, SDG&E will bank all output from the Proposed Agreements for use in future years.

7. The PPA is consistent with the Commission-adopted RPS standard terms and conditions and includes those deemed "non-modifiable."

Energy Division Review Of The Proposed Amended and Restated PPA

Energy Division evaluated the bilateral amended and restated PPA for the following criteria:

- Consistency with bilateral contracting guidelines
- Consistency with SDG&E's 2009 RPS Procurement Plan (Plan)
- Consistency with the resource needs identified in SDG&E's Plan
- Consistency with least-cost best-fit methodology identified in SDG&E's RPS Procurement Plan
- Consistency with RPS standard terms and conditions
- Compliance with the minimum quantity condition
- Cost reasonableness
- Cost containment
- Consistency with the Interim Emissions Performance Standard
- Procurement Review Group participation
- Independent Evaluator review
- Project viability

Consistency With Bilateral Contracting Guidelines

In D.09-06-050 the Commission determined that bilateral contracts should be reviewed according to the same processes and standards as contracts that come through a solicitation. As discussed in this Resolution, the amended and restated PPA was reviewed and found reasonable based on the same review and standards as those used for determining reasonableness of PPAs from solicitations.

<u>The amended and restated PPA is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050</u>.

Consistency With SDG&E's 2009 RPS Procurement Plan

California's RPS statute requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.[5] The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan. SDG&E's 2009 RPS Procurement Plan (Plan) was approved by D.09-06-018 on June 8, 2009. Pursuant to statute, SDG&E's Plan includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of flexible compliance mechanisms established by the Commission, and a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.[6]

SDG&E's 2009 Plan discussed plans to procure renewable energy generation through an annual solicitation, unsolicited bilateral contracts, and utility-owned generation. This amended and restated PPA is a bilateral contract for renewable generation that may contribute towards SDG&E's 20 percent RPS requirement.

<u>The amended and restated PPA, a bilateral contract, is consistent with SDG&E's 2009 RPS Procurement Plan, approved by D.09-06-018.</u>

Consistency With The Resource Needs Identified In SDG&E's Plan

SDG&E's 2009 RPS Plan called for SDG&E to issue a competitive solicitation for electric energy generated by eligible renewable resources that could deliver in 2010, 2011, 2012, or 2013 for preferred terms of 10, 15, or 20 years in length with terms less than 10 years and terms greater than 20 years also being acceptable. Proposals could be for peaking, baseload, dispatchable, or as-available deliveries. SDG&E also 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. The proposed amended and restated IV Solar PPA fits SDG&E's identified renewable resource needs. The facility is under development and expected to be able to provide renewable energy deliveries beginning in 2012.

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[5] Pub. Utils. Code, Section §399.14.

[6] Pub. Utils. Code, Section §399.14(a)(3).

The amended and restated PPA is consistent with the resource needs identified in SDG&E's 2009 Procurement Plan.

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

The LCBF evaluation is generally used to establish a shortlist of proposals from SDG&E's solicitation with whom SDG&E will engage in contract negotiations. In this case, a LCBF evaluation was conducted for the amended and restated PPA in order to evaluate its value relative to all of SDG&E's other RPS options. SDG&E's bid evaluation includes a quantitative and qualitative analysis. 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 amended and restated PPA was evaluated consistent with the LCBF methodology identified in SDG&E's RPS Procurement Plan.

Consistency with RPS Standard Terms and Conditions

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028.

The amended and restated PPA includes the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009 and amended by D.08-08-028.

Compliance With The Minimum Quantity Condition

D.07-05-028 established a "minimum quantity" condition on the ability of utilities to count an eligible short-term contract with an existing facility for compliance with the RPS program.[7] In the calendar year that a short-term contract with an existing facility is executed, the utility must also enter into long-term contract(s)

[7] For purposes of D.07-05-028, contracts of less than 10 years duration are considered "short-term," and facilities that commenced commercial operations on or after January 1, 2005 are considered "new."

or contract(s) with new facilities equivalent to at least 0.25% of the utility's previous year's retail sales.

This amended and restated PPA is considered a long-term contract because it is more than 10 years in length. Therefore, the amended and restated PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

Cost reasonableness evaluation

The Commission evaluates the reasonableness of each proposed RPS PPA price by comparing the proposed PPA price to a variety of factors including RPS solicitation results and other proposed RPS projects. Using this analysis, the amended and restated IV Solar PPA is reasonably priced. Confidential Appendix A includes a detailed discussion of the contractual pricing terms, including SDG&E's estimates of the total contract costs under the amended and restated PPA.

The total all-in costs of the amended and restated PPA are reasonable based on their relation to bids received in response to SDG&E's 2009 solicitation.

Payments made by SDG&E under the amended and restated PPA are fully recoverable in rates over the life of the amended PPA, subject to Commission review of SDG&E's administration of the amended and restated PPA.

Cost containment

The market price referent (MPR) is used by the Commission to assess the above-market costs of RPS contracts. There is a statutory limit on above-MPR costs which serves as a cost containment mechanism for the RPS program.[8] Based on a 2013 commercial online date for the project, the 20-year PPA exceeds the 2009 MPR.[9] The amended and restated PPA does not meet the eligibility criteria for

[8] *See* §399.15.

[9] *See* Resolution E-4298.

Above-MPR Funds[10] (AMFs) established in Pub. Util. Code §399.15(d)(2).[11] Additionally, SDG&E has exhausted its AMFs provided by statute; thus, SDG&E is not required to procure above-MPR costs.[12] SDG&E, however, voluntarily enters into the amended and restated PPA at a price that exceeds the applicable market price referent as permitted by Pub. Utils. Code § 399.15(d).

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Utils. Code §§ 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) power contracts procured on behalf of California ratepayers.

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. The EPS applies to all energy contracts for baseload generation that are at least five years in duration.[13] Generating facilities using certain renewable resources are deemed compliant with the EPS,[14] although contracts with intermittent

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[10] The $/MWh portion of the contract price that exceeds the MPR, multiplied by the expected generation throughout the contract term, represents the total AMFs for a given PPA.

[11] The following eligibility criteria for AMFs: (1) contract was selected through a competitive solicitation, (2) contract covers a duration of no less than 10 year, (3) contracted project is a new facility that will commence commercial operations after January 1, 2005, (4) contract is not for renewable energy credits, and (5) 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.

[12] On May 28, 2009, the Director of the Energy Division notified SDG&E that it had exhausted its AMF account.

[13] "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. Utils. Code § 8340 (a).

[14] D.07-01-039, Attachment 7, p. 4

- Solar Thermal Electric (with up to 25% gas heat input)

Footnote continued on next page

resources are subject to the limitation that total purchases under the contract do not exceed the expected output from the facility over the term of the contract.[15]

The IV Solar PPA meets the conditions for EPS compliance established in D.07-01-039 because the IV Solar solar facility is one of the pre-approved renewable energy technologies listed in D.07-01-039.

Procurement Review Group (PRG) participation

The Procurement Review Group (PRG) process 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 as an interim mechanism for procurement review. SDG&E provided its PRG updates on the amendment negotiations on August 20, 2009, September 25, 2009, October 23, 2009, and March 19, 2010.

Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the amended and restated PPA.

Independent evaluator (IE) review of the amended PPA

The Commission requires the use of an IE to ensure that solicitation processes are undertaken in a fair, consistent, and objective manner so that projects put on shortlists and resulting in contracts are chosen based on reasonable and consistent choices. Specifically, the IE's role is to review bid evaluations, monitor negotiations, and review the resulting PPA. SDG&E retained PA Consulting Group as IE for SDG&E's 2009 RPS solicitation. Also, as required, SDG&E submitted an IE Report prepared by PA Consulting with AL 2161-E. An excerpt

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- Wind
- Geothermal, with or without Reinjection
- Generating facilities (e.g., agricultural and wood waste, landfill gas) using biomass that would otherwise be disposed of utilizing open burning, forest accumulation, landfill (uncontrolled, gas collection with flare, gas collection with engine), spreading or composting.

[15] D.07-01-039, Attachment 7, p. 7

from the IE's contract-specific evaluation of the amended and restated PPA is attached as confidential Appendix B to this Resolution.

In the IE Report, PA Consulting agrees with SDG&E that the amended and restated IV Solar PPA merits approval and its price is reasonable compared with the offers SDG&E received in the 2009 RPS Solicitation.

Consistent with D.06-05-039, an independent evaluator (IE) oversaw SDG&E's RPS procurement process and reviewed the amended and restated PPA.

Project Viability

SDG&E believes the IV Solar project is viable and will be developed according to the terms and conditions in the amended and restated PPA. SDG&E's project viability assessment included key criteria for renewable project development. Confidential Appendix B includes the project's scorecard from the Project Viability Calculator.[16]

Developer experience

In January 2010, Tessera Solar North America (TSNA), the developer, began commercial operation of the Maricopa plant, which uses the same proposed SES SunCatcher™ technology proposed for the IV Solar project. TSNA's parent company, NTR plc, additionally has experience in developing and financing renewable projects.[17]

Technology

The IV Solar project will consist of Stirling solar concentrating dishes. Specifically, SES's SunCatcher solar dish Stirling engines will be used. In January 2010, TSNA began operating its first commercial plant using SunCatcher systems in Peoria, Arizona. SunCatcher systems have also been operating at Sandia National Laboratory since 2005 as part of a pilot project.

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[16] Project Viability Calculator : http://www.cpuc.ca.gov/PUC/energy/Renewables/hot/Project+Viability.htm

[17] NTR plc website: http://www.ntrplc.com/

Quality of Resources

The IV Solar facility is being developed in California's Imperial Valley. The project site is located within the Renewable Energy Transmission Initiative (RETI) defined Imperial South Competitive Renewable Energy Zone (CREZ).[18] Additionally, based on historical meteorological data, SDG&E is confident that the solar resource at the project site is sufficient such that IV Solar will be able to meet its contractual obligations.

While water is not needed for power generation, IV Solar has also secured a long-term purchase agreement for up to 200,000 gallons per day of reclaimed water with Seeley Wastewater Treatment Facility for plant operations. IV Solar has also contract with the Dan Boyer Water Company as a temporary, back-up water supply. Water needs for the facility include mirror washing and on-site personal use (sink and toilet).

Project milestones

The amended and restated PPA identifies agreed upon project milestones, including the construction start date and commercial operation date. The seller's obligations to meet these milestones are supported by performance assurance securities. SDG&E believes that the IV Solar project development plan allows for all milestones to be achieved.

Site control

The project site is located primarily on United States Bureau of Land Management (BLM) land. IV Solar is in process of obtaining a Right of Way grant from BLM and expects the grant from the BLM in August 2010. The remaining project site is on private land and IV Solar has lease options that if executed will result in long-term lease arrangements which can be extended.

Interconnection and transmission

The IV Solar project will interconnect to the existing Imperial Valley substation. A Large Generator Interconnection Agreement has been executed. SDG&E

[18] RETI CREZ map (March 2010): http://www.energy.ca.gov/reti/documents/phase2B/RETI-CREZ_Map_10_0309.pdf

expects any needed transmission upgrades to be completed by the summer of 2011 to allow interconnection and delivery of test energy.

Financing

IV Solar/TSNA is seeking American Recovery and Reinvestment Act of 2009 (ARRA) funding, which, if received, will increase the project's ability to secure project financing. In order to receive ARRA funding, the project must meet certain project milestones by the end of 2010. A precondition to achieving the milestones is to receive its Application for Certification (AFC) from the California Energy Commission (CEC), which requires an Environmental Impact Statement from the CEC and Bureau of Land Management. Both agencies released a Staff Analysis and Draft Environmental Impact Statement in February 2010.

SDG&E asserts that the IV Solar project is viable and will provide renewable energy according to the terms and conditions in the amended and restated PPA.

RPS Eligibility and CPUC Approval

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

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

[19] *See, e.g.* D. 08-04-009 at Appendix A, STC 6, Eligibility.

(*Public Utilities Code Section 399.11 et seq.*), Decision 03-06-071, or other applicable law."[20]
Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, nor 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."

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 a 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 administration of such contracts.

CONFIDENTIAL INFORMATION

The Commission, in implementing Pub. Utils. 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 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.

COMMENTS

Pub. Utils. Code § 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

[20] *See, e.g.* D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

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 on July 13, 2010.

Comments were filed on August 2, 2010 by California Unions for Reliable Energy (CURE). On August 9, 2010, SDG&E filed late comments in response to the comments filed by CURE. We accept SDG&E's late comments since they clarify claims made by CURE regarding Resolution E-4352.

We carefully considered comments which focused on factual, legal, or technical errors and made appropriate changes and clarifications to the Resolution.

CURE comments that the IV Solar PPA is not economically viable

CURE asserts in its comments that the project covered by the amended and restated PPA between SDG&E and IV Solar is not economically viable and thus should not be approved. CURE argues that since the contracted capacity is less than the proposed total project size that the project is not economically feasible at the contract price identified in the testimony Tessera provided in the CEC's Application for Certification process. SDG&E asserts in its reply comments that Tessera intends to develop the full proposed project size and that the differing capacity between the PPA and proposed project size does not support CURE's argument that the terms and conditions of the amended and restated PPA cannot be met.

We have carefully considered CURE's and SDG&E's comments. While the current contracted capacity is less than the proposed IV Solar project size, we note that generation from a facility is often sold to several off-takers. Thus, we agree with SDG&E that the differing capacity amount does not support rejecting the amended and restated PPA.

CURE comments that the IV Solar project does not have a viable water source.

CURE asserts in its comments that the project does not have a viable water source and should not be approved. CURE argues that since the intended water source still needs to go through environmental review before necessary upgrades

are possible, the project may not have an adequate water source and thus is not viable.

In its reply comments, SDG&E states that CURE's arguments for rejection of the amended and restated PPA based on a viable water source are unreasonable at this time because the review for the upgrades to the water supply source is still underway. SDG&E also notes that a back-up water source has been contracted in the case that the preferred water source in not available.

We have carefully considered CURE's and SDG&E's comments. As noted by both CURE and SDG&E, the preferred proposed water supply source for the IV Solar project is undergoing review for upgrades necessary to supply the project's construction and operation. Until the review is done, as SDG&E comments, it is not possible to make a determination regarding the project's viability based on that particular water supply. In addition, SDG&E states that Tessera has identified a possible alternative supply and construction schedule in the case that the preferred option is not available. Thus, we agree with SDG&E that it is not reasonable at this time to conclude that the project does not have a viable water source.

FINDINGS AND CONCLUSIONS

1. The amended and restated PPA is consistent with the bilateral contracting guidelines established in D.09-10-019 and D.09-06-050.
2. The amended and restated PPA, a bilateral contract, is consistent with SDG&E's 2009 RPS Procurement Plan, approved by D.09-06-018.
3. The amended and restated PPA is consistent with the resource needs identified in SDG&E's 2009 Procurement Plan.
4. The amended and restated PPA was evaluated consistent with the least-cost best-fit methodology identified in SDG&E's RPS Procurement Plan.
5. With regard to this Amendment, SDG&E has complied with the Commissions rules for involving the Procurement Review Group (PRG).
6. The amended and restated PPA includes the Commission-adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009 and amended by D.08-08-028.
7. The amended and restated PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

8. The total all-in costs of the amended and restated PPA are reasonable based on their relation to bids received in response to SDG&E's 2009 solicitation.
9. Payments made by SDG&E under the amended and restated PPA are fully recoverable in rates over the life of the amended and restated PPA, subject to Commission review of SDG&E's administration of the amended and restated PPA.
10. The Imperial Valley Solar, LLC amended and restated PPA exceeds the applicable 2009 market price referent.
11. SDG&E voluntarily enters into the amended and restated IV Solar PPA at a price that exceeds the applicable market price referent as permitted by Public Utilities Code § 399.15(d).
12. The IV Solar PPA meets the condition for EPS compliance established in D.07-01-039 because the IV Solar facility will use one of the pre-approved renewable energy technologies listed in D.07-01-039.
13. Consistent with D.06-05-039, an independent evaluator oversaw SDG&E's RPS procurement process.
14. SDG&E asserts that the IV Solar project is viable and will provide renewable energy according to the terms and conditions in the amended and restated PPA.
15. Procurement pursuant to the amended and restated 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.03-06-071 and D.06-10-050, or other applicable law.
16. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under this amended and restated PPA to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this amended and restated PPA.
17. 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.
18. AL 2161-E and AL 2161-E-A should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letter 2161-E and Advice Letter 2161-E, requesting Commission review and approval of an amended and restated power purchase agreement with Imperial Valley Solar, LLC, are approved without modification.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 12, 2010; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

Confidential Appendix A

Imperial Valley Solar Amendment and Contract Summary

[Redacted]

Confidential Appendix B

Excerpt from the Independent Evaluator Project Specific-Report[21]

[Redacted]

[21] Pages 6-1 through 7-5 of "Confidential Appendix C – Report of the Independent Evaluator on the amended Imperial Valley Solar contract relative to the results of the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO)", PA Consulting Group, April 2, 2010, submitted with SDG&E AL 2161-E