PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item #26
ID #10535

ENERGY DIVISION **RESOLUTION E-4408**
July 28, 2011

REDACTED

R E S O L U T I O N

Resolution E-4408. San Diego Gas & Electric Company requests approval of a renewable energy contract with C Solar IV South, LLC.

PROPOSED OUTCOME: This Resolution approves cost recovery for San Diego Gas & Electric Company's renewable energy contract with C Solar IV South, LLC. The contract is approved without modifications.

ESTIMATED COST: Costs of the contract are confidential at this time.

By Advice Letter 2223-E filed on January 11, 2011.

SUMMARY

San Diego Gas & Electric Company's contract with CSolar IV South, LLC complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved without modification

San Diego Gas & Electric Company (SDG&E) filed Advice Letter (AL) 2223-E on January 11, 2011, requesting California Public Utilities Commission (Commission) review and approval of a renewable energy contract between SDG&E and CSolar IV South, LLC. The 25 year contract with CSolar IV South, LLC is the result of bilateral negotiations. The proposed contract is for generation from a new 130 megawatt (MW) solar photovoltaic facility that is being developed in Imperial County, California, approximately eight miles south west of the City of El Centro. The facility is expected to achieve commercial operation in 2014.

This resolution approves the CSolar IV South, LLC contract without modification. SDG&E's execution of this contract is consistent with SDG&E's 2011 RPS Procurement Plan, including its resource need, which the Commission approved in Decision 11-04-030.

Deliveries under the CSolar IV South, LLC contract 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 following table provides a summary of the C Solar IV South, LLC contract:

Generating Facility	Technology Type	Capacity (MW)	Energy (GWh/yr)	Online Date	Term (Years)	Location
C Solar IV South	Solar PV	97 - 130	204 - 273	1/1/2014	25	Imperial County, CA

BACKGROUND

Overview of the Renewables Portfolio Standard (RPS) Program

The California RPS Program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107 and SB 1036.[1] The RPS program is codified in Public Utilities Code Sections 399.11-399.20.[2] The RPS program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least one percent of retail sales per year so that 20 percent of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[3] Furthermore, SB 2 (1x)[4] mandates that the amount of electricity generated per

[1] SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007).

[2] All further references to sections refer to Public Utilities Code unless otherwise specified.

[3] *See* § 399.15(b)(1).

[4] Stats. 2011, Ch. 1 (Simitian)

year from eligible renewable resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, 25% of retail sales by December 31, 2016, and 33% or retail sales by December 31, 2020.[5]

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 2223-E was made by publication in the Commission's Daily Calendar. SDG&E states that copies of the Advice Letters were mailed and distributed in accordance with Section IV of General Order 96-B.

PROTESTS

SDG&E's Advice Letter (AL) 2223-E was timely protested by the Division of Ratepayer Advocates (DRA) on January 31, 2011. SDG&E responded to the protest on February 7, 2011.

DISCUSSION

San Diego Gas & Electric Company (SDG&E) requests approval of a renewable energy contract with CSolar IV South, LLC.

On March 14, 2011, SDG&E filed Advice Letter (AL) 2223-E requesting California Public Utilities Commission (Commission) approval of a long-term contract with C Solar IV South, LLC (IV South). The contract was negotiated bilaterally in 2010.[6]

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[5] SB2 was signed by Governor Brown on April 12, 2011. The law becomes effective 90 days from the conclusion of the extraordinary session.

[6] The proposed project was formerly being developed by LightSource Renewables, LLC. Tenaska Solar Ventures acquired the project and made the bilateral offer to SDG&E in May of 2010.

The IV South contract concerns generation from a new solar photovoltaic (PV) facility located approximately eight miles southwest of El Centro, California in the Imperial Valley and will interconnect at the Imperial Valley substation. In AL 2223-E, SDG&E asserts that the generation from the facility would count towards SDG&E's commitment to have a minimum of 2,253 gigawatt-hours/year (GWh/yr) of renewable energy flow over the Sunrise Powerlink.[7]

The Commission's approval of the contract will authorize SDG&E to accept an estimated 273 GWh of new RPS-eligible generation that will contribute towards SDG&E's 33% RPS mandate beginning in 2014. Additionally, the developer, Tenaska Solar Ventures, estimates that building the facility will provide up to 300 jobs during peak facility construction and 4 to 5 jobs for facility operation and maintenance.[8]

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

1. The Proposed Agreement is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the Proposed Agreement will contribute towards SDG&E's RPS procurement obligation.
2. SDG&E's entry into the Proposed Agreement and the terms of such agreement are reasonable; therefore, the Proposed Agreement is approved in its entirety and all administrative and procurement costs associated with the Proposed Agreement, including for energy, green attributes, and resource adequacy, are fully recoverable in rates over the life of the Proposed Agreement, subject to Commission review of SDG&E's administration of the Proposed Agreement.
3. Generation procured pursuant to the Proposed Agreement 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

[7] AL 2223-E, at 5

[8] Tenaska project fact sheet: http://www.tenaskasolarventures.com/pdf/Solar-Fact-sheet-South.pdf

Renewable Portfolio Standard program (Public Utilities Code §§ 399.11, et seq. and/or other applicable law) and relevant Commission decisions.

4. The Proposed Agreement will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
5. Expected Project deliveries are eligible for earmarking treatment under RPS flexible compliance mechanisms.

Energy Division Evaluated the IV South Contract on the following criteria:

- Consistency with bilateral contracting rules
- Consistency with SDG&E's 2011 RPS Procurement Plan
- Consistency with SDG&E's Least-Cost, Best-Fit requirements
- Consistency with RPS standard terms and conditions
- Independent Evaluator review
- Cost reasonableness
- Cost containment
- Project viability assessment and development status
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Procurement Review Group participation
- Contribution to minimum quantity requirement for long-term/new facility contracts

Consistency with Bilateral Contracting Rules

According to SDG&E, the parties pursued bilateral negotiations because the proposal was presented to SDG&E in May of 2010 which was after SDG&E's 2009 RPS solicitation and when the timing of the next RPS solicitation was unknown. Additionally, the developer had been pursuing funding from the United States Department of Energy (DoE) and asserted as part of its financing a negotiated contract was needed prior to the end of 2010.

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. SDG&E adhered to these bilateral contracting rules because the contracts are longer than one month in duration, the contracts were filed by advice letter, the above market costs will not be

applied to SDG&E's RPS cost limitation and the contracts are reasonably priced, as discussed in more detail below.

In D.09-06-050, this Commission determined that bilateral contracts should be reviewed according to the same processes and standards as contracts that come through a solicitation. Accordingly, as described below, the IV South contract was compared to RPS contracts received in its most recent RPS solicitation, bilateral offers, and approved contracts; the proposed agreement was reviewed by SDG&E's Procurement Review Group; and an independent evaluator oversaw the contract evaluation and negotiation.

<u>The IV South contract is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.</u>

Consistency with SDG&E's 2011 RPS Procurement Plan

Pursuant to statute, SDG&E's RPS Procurement Plan (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.[9] California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.[10] The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.[11]

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.[12] SDG&E's 2011 RPS Plan called for SDG&E to issue a

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[9] Pub. Util. Code, Section §399.14(a)(3).

[10] Pub. Util. Code, Section §399.14.

[11] SDG&E's 2011 RPS Procurement Plan was approved by D.11-04-030 on April 14, 2011.

[12] 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.

competitive solicitation for electric energy generated by eligible renewable resources that could begin delivering in 2011, 2012, 2013, 2014, and 2015 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 preference for projects that could contribute towards SDG&E's Sunrise Powerlink commitment. 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. Lastly, SDG&E's Plan discussed utility plans to pursue renewable energy generation development partnerships and utility-owned resources.

The PPA is a contract for renewable generation that fits SDG&E's identified renewable resource needs. The proposed PPA is for as-available generation pursuant to a 25 year contract from a renewable energy facility that is expected to provide renewable energy deliveries beginning in 2014 that will contribute towards SDG&E's RPS requirement.

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

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.[13] 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 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.

[13] *See* §399.14(a)(2)(B)

The IV South contract resulted from bilateral negotiations and therefore did not compete directly with other RPS projects. In AL 2223-E, SDG&E explains that it evaluated the bilateral offer using the same LCBF evaluation methodology it employed for evaluating its 2009 RPS solicitation, which was its most recent solicitation at the time. Thus, SDG&E used its LCBF methodology to evaluate the IV South project. (See the "Cost Reasonableness" section of this Resolution for a discussion of how the project compares to SDG&E's 2009 RPS solicitation, recent bilaterals, and recently approved contracts and Confidential Appendix B for SDG&E's LCBF evaluation of the project.)

<u>The IV South PPA was evaluated consistent with the LCBF methodology identified in SDG&E's RPS Procurement Plan</u>

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. More recently in D.10-03-021, as modified by D.11-01-025, the Commission further refined these STCs.

<u>The IV South 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.</u>

Independent Evaluator Review

SDG&E retained independent evaluator (IE) Jonathan Jacobs of PA Consulting Group to oversee SDG&E's bilateral negotiations with IV South and to evaluate the overall merits of the contract. AL 2223-E included a public and confidential independent evaluator's report. The IE determined that negotiations between SDG&E and IV South were fair and that IV South was not given any advantage over sellers participating in the RPS solicitation. The IE also found that the project is competitive with other projects that were shortlisted in the 2009 solicitation and that the IV South contract merits approval.[14]

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[14] Report of the Independent Evaluator on the 97 to 130 MW CSolar Imperial Valley South contract relative to the results of the 2009 Request for Offers from Eligible

Footnote continued on next page

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's negotiations with IV South.

Cost Reasonableness

The Commission's reasonableness review for RPS PPA prices includes a comparison of the proposed contract price to other RPS offers received in recent RPS solicitations, bilaterals, and contracts that have recently received CPUC approval. Using this analysis and the confidential analysis provided by SDG&E in AL 2223-E, the Commission determines that the cost of the IV South contract is reasonable. (See Confidential Appendix B for a detailed discussion of the contractual pricing terms.)

The IV South PPA compares favorably to the results of SDG&E's 2009 solicitation and other comparable contracts.

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

Cost Containment

Pursuant to statute, the Commission calculates a market price referent (MPR) to assess whether a proposed PPA has above-market costs.[15] The 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.[16] Contracts that meet certain criteria are eligible for above-MPR funds (AMFs).[17] SDG&E has exhausted its AMFs

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Renewable Resources (2009 Renewable RFO), Jonathan M. Jacobs, (December 30, 2010) p. 7-1

[15] *See* Pub. Util. Code § 399.15(c).

[16] *See* Pub. Util. Code §399.15.

[17] Under Resolution E-4199, a PPA between a utility and a developer must meet the following requirements for the utility to achieve AMFs eligibility: (1) the PPA must

Footnote continued on next page

provided by statute;[18] thus, SDG&E is not required to procure RPS-eligible generation at above-MPR costs but may voluntarily choose to do so. [19]

Based on a 2014 commercial online date for the IV South project, the 25-year PPA exceeds the 2009 MPR. However, the IV South PPA does not meet the eligibility criteria for AMFs because it is not the result of a solicitation.

Since SDG&E has exhausted its AMFs, it is voluntarily entering into the PPA at a price that exceeds the applicable market price referent as permitted by Public Utilities Code § 399.15(d).

Project Viability Assessment and Development Status

SDG&E asserts that the IV South project is viable and will be developed according to the terms and conditions in the contracts. SDG&E evaluated the viability of the IV South 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.

The confidential work papers provided with AL 2223-E include a comparison of IV South's project viability score relative to all bids SDG&E received in its 2009 RPS solicitation, shortlisted projects, bilaterals, recently approved contracts. Based on this analysis, the viability of the IV South project is reasonable compared to other recent projects offered to SDG&E.

SDG&E provided the following information about the project's developer and development status:

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have Commission approval and be selected through a competitive solicitation, (2) it must cover a duration of at least 10 years; (3) it must develop a new or repowered facility commencing operations on or after January 1, 2005; (4) it must not be a purchase of renewable energy credits; and (5) it must not include any indirect expenses as set forth in the statute.

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

[19] *See* Pub. Util. Code § 399.15(d).

Developer experience

Tenasaka Solar Ventures, a division of Tenaska Development Group, is the developer of the project. Tenaska personnel have experience developing, constructing, and operating power generation facilities. Currently, Tenaska is also active in the installation and management of rooftop solar facilities outside of California.

Resource quality and technology

In AL 2223-E, SDG&E states that it believes that the renewable resource for the project area is capable of producing sufficient energy to meet the terms of the PPA. SDG&E basis its assertion on 14 years of data from the National Renewable Energy Laboratory (NREL) weather data station at the Imperial County Airport, which is located approximately 10.5 miles southwest from the project site. Recorded data shows the average global horizontal irradiation (GHI) is 5.77 $kWh/m^2/day$ or 2,105 $kWh/m^2/year$ for the area. The project expects to use commercially demonstrated photovoltaic modules.

Site control and permitting status

The proposed facility is to be located on private lands for which IV South has secured full site control through option to lease. The project site is a mix of undeveloped and disturbed agricultural land (alfalfa). IV South is pursuing permits necessary to construct and permit the facility including CEC Pre-Certification for the facility's RPS eligibility. On July 15, 2011, the United States Department of Interior, Bureau of Land Management (BLM) issued a right-of-way grant for the project's gen-tie line and access roads.[20] Additionally, the County of Imperial approved a conditional use permit for the project on June 7, 2011. All other permits are expected to be obtained in a timely manner to achieve the conditions precedent in the contracts.

[20] BLM project review website:
http://www.blm.gov/ca/st/en/fo/elcentro/nepa/isec_south.html

Interconnection and transmission

IV South will interconnect at the Imperial Valley Substation. Tenaska has received Phase I CAISO Transmission Study results, and the Phase II results are expected by the end of 2011.

Financing Plan

The project is expected to be financed through a combination of debt and equity. Additionally, the project expects to utilize investment tax credits (ITC) available under Section 48 of U.S. Internal Revenue Code. The project has not been awarded any governmental funding.

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Util. Code §§ 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers. [21]

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.[22]

The IV Solar PPA meets the conditions for EPS compliance because it is for intermittent generation.

[21] "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).

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

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.[23] SDG&E asserts that the IV Solar contract was discussed at the August 20, 2010 PRG meeting.

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

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

D.07-05-028 established a "minimum quantity" condition on the ability of utilities to count an eligible contract of less than 10 years duration for compliance with the RPS program.[24] In the calendar year that a short-term contract with an existing facility is executed, the utility must also enter into long-term contracts or contracts with new facilities equivalent to at least 0.25 percent of the utility's previous year's retail sales.

As a new facility, delivering pursuant to a long-term contract, the IV South PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

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[23] 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.

[24] For purposes of D.07-05-028, contracts of less than 10 years duration are considered "short-term" contracts and facilities that commenced commercial operations prior to January 1, 2005 are considered "existing."

DRA's protest is denied

DRA recommends that the Commission either require the purchase option[25] in the PPA be excised or deny AL 2223-E without prejudice and direct SDG&E to re-submit the request for approval of the PPA as an application. DRA argues that an application is necessary to fully examine the purchase option since the purchase option likely would shift unacceptable risk to ratepayers. DRA also argues that the buyout option gave the project an undue preference in the LCBF process.

In SDG&E's reply to DRA's protest, SDG&E recommends that the Commission deny DRA's protest. SDG&E asserts that DRA misconstrues the contract's option for SDG&E to purchase the IV South facility. SDG&E argues that while the PPA does have a purchase option it is not obligated to exercise the option nor is it requesting Commission approval to exercise the option in AL 2223-E. SDG&E further asserts that if it does decide to exercise the option in the future, SDG&E will comply with whatever requirements apply at the time of exercise for requesting review of utility-owned generation projects. Lastly, SDG&E argues that DRA's arguments regarding PPA price and risk to ratepayers are incorrect based on DRA's misunderstanding of the PPA's purchase option term.

We agree with SDG&E that it is not requesting approval to exercise the purchase option and that Commission approval of AL 2223-E would not grant SDG&E approval to exercise the option. Therefore, DRA's protest is denied. Further, we note that if SDG&E chooses to exercise the option, it will need to request and obtain Commission approval through an application or alternative process, if allowed at the time, to exercise the purchase option.

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

[25] The IV South PPA includes an option for SDG&E to purchase the IV South facility at the end of the PPA term or in the case of a default under the PPA by CSolar IV South. The purchase price will be based on the fair market value of the project and be determined when, if ever, SDG&E chooses to exercise the option.

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.[26]

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."[27]

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."

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.

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

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

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 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

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 on June 28, 2011.

On July 18, 2011, DRA filed comments.

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

DRA recommends that Finding and Conclusion #15 should be modified to require any SDG&E approval request to exercise the purchase option be done by way of Application.

The draft resolution stated that if SDG&E chooses to exercise the IV South PPA's purchase option, SDG&E will need to request and obtain Commission approval; however, the draft resolution did not specify a particular process for which

SDG&E must follow to seek Commission approval. Whereas, DRA recommends in its comments that the resolution should specify that SDG&E be required to request Commission approval via an Application if it seeks to exercise the purchase option. While the Commission agrees with DRA that the current appropriate process for requesting approval to exercise the purchase option is an Application, the purchase option may be exercised up to 27 years from now and it is not clear what the appropriate approval process may be in the future. The Commission additionally notes that if SDG&E does choose to exercise the purchase option at some point in the future and DRA is of the opinion that SDG&E did not follow the appropriate Commission rules for requesting approval, DRA may protest or comment on SDG&E's filing at that time.

FINDINGS AND CONCLUSIONS

1. The PPA is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.
2. The PPA is consistent with SDG&E's 2011 RPS Procurement Plan, as approved in D.11-04-030.
3. The PPA was evaluated consistent with the least-cost best-fit methodology identified in SDG&E's 2009 RPS Procurement Plan.
4. The 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.
5. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's RPS procurement process.
6. The PPA compares favorably to the results of SDG&E's most recent RPS solicitation and other comparable contracts.
7. Payments made by SDG&E under the PPA are fully recoverable in rates over the life of the PPA, subject to Commission review of SDG&E's administration of the PPA.
8. The PPA price exceeds the applicable 2009 market price referent.
9. SDG&E is voluntarily entering into the PPA at a price that exceeds the applicable market price referent as permitted under the Public Utilities Code §399.15.

10. SDG&E asserts that the IV South project is viable and will provide renewable energy according to the terms and conditions in the PPA.
11. The PPA meets the condition for EPS compliance established in D.07-01-039 because the PPA is for intermittent generation.
12. Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the PPA.
13. The PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
14. DRA's protest is denied.
15. If SDG&E chooses to exercise the PPA's purchase option, it will need to request and obtain Commission approval through an application or alternative process, if allowed at the time, to exercise the purchase option.
16. Procurement pursuant to the 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.
17. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under this PPA to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this PPA.
18. 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.
19. AL 2223-E should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letter 2223-E, requesting Commission review and approval of a power purchase agreement with CSolar IV South, LLC, is approved.

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 28, 2011; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

Confidential Appendix A

Evaluation Summary of the CSolar IV South PPA

[Redacted]

Confidential Appendix B

Summary of the Terms and Conditions of the CSolar IV South PPA

[Redacted]

Confidential Appendix C

Excerpt from Independent Evaluator's Report regarding SDG&E's PPA with CSolar IV South[28]

[Redacted]

[28] Confidential Appendix C to Advice Letter 2223-E, Report of the Independent Evaluator on the 97 to 130 MW CSolar Imperial Valley South contract relative to the results of the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO) December 29, 2010