PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item #28
ID #11131

ENERGY DIVISION **RESOLUTION E-4487**
March 22, 2012

REDACTED

R E S O L U T I O N

Resolution E-4487. Southern California Edison Company requests approval of amendments for power purchase agreements with Alta Wind VII, LLC, Alta Wind IX, LLC, Alta Wind X, LLC, and Alta Wind XI, LLC.

PROPOSED OUTCOME: This resolution approves cost recovery and all amendments for the power purchase agreements with Alta Wind VII, LLC, Alta Wind IX, LLC, Alta Wind X, LLC, and Alta Wind XI, LLC.

ESTIMATED COST: Costs are confidential at this time.

By Advice Letters 2683-E and 2684-E filed on December 29, 2011.

SUMMARY

Southern California Edison Company's amendments to renewable energy power purchase agreements with Alta Wind VII, LLC, Alta Wind IX, LLC, Alta Wind X, LLC, and Alta Wind XI, LLC are approved without modifications.

Southern California Edison Company ("SCE") filed Advice Letters (AL) 2683-E and 2684-E on December 29, 2011 requesting California Public Utilities Commission ("Commission") approval of amendments to renewable energy power purchase agreements ("PPAs") with Alta Wind VII, LLC, Alta Wind IX, LLC, Alta Wind X, LLC, and Alta Wind XI, LLC ("Alta PPAs"). All of the projects are located in the Tehachapi Wind Resource Area ("TWRA") near Mojave, CA and are being developed by Terra-Gen Power ("Terra-Gen). SCE's request is approved without modifications.

The Table below provides an overview of the four Alta wind facilities addressed in this resolution.

Project Name	Capacity	Expected Annual Generation	Term (years)	Expected Initial Operation Date
Alta Wind VII	168 MW	530 GWh	23	January 1, 2013
Alta Wind IX	132 MW	415 GWh	23	January 1, 2013
Alta Wind X	138 MW	526 GWh*	23	January 1, 2015*
Alta Wind XI	90 MW	339 GWh*	23	January 1, 2015*

* As amended by this resolution.

PROCEDURAL BACKGROUND

In Decision ("D.") 08-05-017[1], the Commission approved the "Alta Contract," which consists of: (1) the Master Power Purchase and Wind Project Development Agreement ("Master Agreement") between SCE and Alta Windpower Development, LLC ("Alta"), and (2) the form Generating Facility Power Purchase and Sale Agreement ("Form PPA"). The Master Agreement provides for the development of a minimum of 1,500 megawatts (MW) and a maximum of 1,550 MW from multiple wind generating facilities to be built in the TWRA that are to come online between 2007 and 2020. It does not provide a maximum limitation on the amount of annual generation, which allows the Alta facilities to produce as much energy as is allowed in each respective PPA. The Master Agreement also provides for a contracting structure that has PPA prices bounded by price maximums and minimums. The price maximums are set at or below the market price referent ("MPR") for the year that a facility is required to come online as established in each respective PPA. Therefore, pricing for each Alta PPA is allowed to fall within the bounded price maximums and minimums as established in D.08-05-017 and these prices are determined at the time each Alta PPA is executed.

Under the terms of the Master Agreement, for each wind generating facility proposed by Alta, a separate PPA must be created in the Form PPA. D.08-05-017

[1] See http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/82766.htm

does not require SCE to file a Tier 3 Advice Letter for each PPA signed under the Master Agreement. Rather, D.08-05-017 orders SCE to send a letter to the Director of the Energy Division when a contract is executed in the form of a PPA. SCE filed letters with the Director of Energy Division upon the execution of each Alta PPA which include; (1) the four Alta PPAs addressed in this resolution, (2) Alta Wind I-V, (3) Alta Wind VI, and (4) Alta Wind VIII. AL 2683-E and AL 2684E are requesting approval of amendments for only the Alta VII PPA, Alta IX PPA, Alta X PPA, and Alta XI PPA. Therefore, amendments to the Form PPA are not permitted under this resolution nor are amendments to the remaining Alta PPAs.

The Commission's Approval of the Amendments to the PPAs is consistent with PU Code Section 1708

SCE obtained Commission approval to enter into the PPAs at issue through Application ("A.") 07-07-002 and final commission Decision 08-05-017, rather than through a Tier 3 Advice Letter. For this reason, it would have been preferable for the amendments presented in a Petition for Modification ("PFM") filed in A.07-07-002. However, SCE's request is consistent with PU Code Section 1708 because the advice letter was served on all parties served with A.07-07-002 (i.e., those in dockets R.08-08-009 (successor docket to R.06-05-027 and R.06-02-012). All affected and potentially affected parties had notice of the proposed amendments and no protests to SCE's advice letter were received. Because the advice letter was not protested and ratepayers will benefit from the resulting from the amendments, air is reasonable to approve the amendments via a Resolution[2].

[2] Public Utilities Code section 1708 provides: "The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision."

SCE'S REQUEST

AL 2683-E and AL 2684-E request the deferment of generation from the 138 MW Alta X wind facility ("Alta X") and 90 MW Alta XI wind facility ("Alta XI") by two years from January 1, 2013 to January 1, 2015. This deferment better aligns generation with SCE's portfolio need in Compliance Period ("CP") 3[3] and provides ratepayer benefit in the form of cost savings. It does not shorten the delivery term which is 23 years for both facilities. See a discussion in Confidential Appendix C on SCE's portfolio need and Confidential Appendix B on ratepayer benefit associated with deferring generation from Alta X and Alta XI.

The deferment of generation from Alta X and Alta XI better aligns generation with SCE's portfolio need and provides ratepayer benefits.

AL 2673-E and 2684-E also request the purchase of additional energy from Alta X and Alta XI while maintaining the original contract capacity for both facilities. SCE proposes changing the turbine type to increase the capacity factor by 7.5% and increase the expected annual energy output of Alta X by 91 gigawatt hours ("GWh") to 526 GWh and Alta XI by 59 GWh to 339 GWh. The energy price for the additional energy is priced competitively and compares favorably to SCE's 2011 RPS shortlist of bids. The additional energy price is also below the maximum price allowed in D.08-05-017 which is set at or below the MPR. Lastly, incremental generation from the Alta Wind facilities is not prohibited under the Master Agreement approved in D.08-05-017.

The energy price for additional energy is priced competitively and compares favorably to SCE's 2011 RPS shortlist of bids and is also below the maximum priced allowed in D.08-05-017 which is set at or below the MPR.

Lastly, AL 2684-E requests amendments to contract terms ("Common Amendments") that are common to the Alta PPAs. All of the Common

[3] Future RPS compliance obligations are generally defined in §399.15(b) as follows: SCE must procure RPS-eligible resources equivalent to an average of 20% of retail sales for 2011-2013; 25% of retail sales by the end of 2016; and 33% of retail sales by 2020 and for each year thereafter. These target periods are referred to, respectively, as Compliance Periods 1, 2, and 3.

Amendments either provide a ratepayer benefit or are ratepayer neutral. These Common Amendments are confidential and discussed in detail in Confidential Appendix A of this resolution.

This resolution approves all amendments to the Alta PPAs without modifications. SCE's execution of these amended PPAs is consistent with its 2011 RPS Procurement Plan, including its resource need, which the Commission approved in Decision ("D.") 11-04-030. The amended Alta PPAs are also consistent with D.08-05-017 in which the Commission approved the Master Agreement and Form PPA between Alta and SCE. Exhibits 1 through 5, and 7 of D.08-05-017 are now public per Ordering Paragraph Number 8 of D.08-05-017. Deliveries under the Alta PPAs are reasonably priced and fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs.

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).[4] The RPS program is codified in Public Utilities Code Sections 399.11-399.31.[5] Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.[6]

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[4] 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).

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

[6] 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).

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 AL 2683-E and AL 2684-E were made by publication in the Commission's Daily Calendar. Southern California Edison Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

AL 2683-E and AL 2684-E were not protested.

Energy Division Evaluated the Alta amendments on the following criteria:

- Consistency with SCE's 2011 RPS Procurement Plan
- Cost reasonableness and market premium
- Portfolio need
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Procurement Review Group participation

Consistency with SCE's 2011 RPS Procurement Plans

California's RPS statute requires the Commission to direct each utility to prepare a Renewable Energy Procurement Plan (Plan) and then review and accept, modify, or reject the Plan prior to the commencement of a utility's annual RPS solicitation.[7] The Commission must then accept or reject proposed PPAs based on their consistency with the utility's approved Plan. SCE's stated preferences for projects in its 2011 Plan include projects 1) whose first point of interconnection is with the California Independent System Operator Balancing Authority Area ("CAISO BAA") and located in California and 2) located near

[7] §399.14.

approved transmission infrastructure. All of the Alta Wind facilities will be interconnected to the CAISO BAA and will be located near approved transmission infrastructure in the Tehachapi Wind Resource Area.

The amended PPAs are consistent with SCE's 2011 RPS Procurement Plan approved by D.11-04-030.

Cost Reasonableness and Market Premium

SCE is amending the Alta X and Alta XI PPAs in order to buy an incremental 150 GWh/year of energy from the two facilities as a result of greater efficiencies associated with new turbine technology allowing for greater output. This incremental energy is being priced below the maximum bound for pricing allowed under the Master Agreement. SCE also compared PPA pricing for this incremental energy to shortlisted projects resulting from its 2011 RPS Solicitation. The PPA prices for the incremental energy compared favorably against shortlisted projects. In addition, SCE compared the renewable premium associated with receiving incremental energy from Alta X and Alta XI against the same group of peers and found that the value of the incremental energy also compared favorably. See Confidential Appendix B for a comparison of PPA prices and renewable premiums for the incremental energy from Alta X and Alta XI compared to shortlisted bids from the 2011 RPS Solicitation.

The PPA prices and renewable premiums for the incremental energy from Alta X and Alta XI compare favorably against shortlisted bids from SCE's 2011 RPS Solicitation.

Payments made by SCE under the amended Alta PPAs are fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs.

Portfolio Need

In D.11-12-020, the Commission established the methodology for calculating retail seller's RPS requirements for three compliance periods through 2020. Accordingly, SCE must procure RPS-eligible resources equivalent to an average of 20% of retail sales for 2011-2013; 25% of retail sales by the end of 2016; and 33% of retail sales by 2020 and for each year thereafter. The deferment of energy

deliveries from Alta X and Alta XI by two years from January 1, 2013 to January 1, 2015 is in greater alignment with SCE's portfolio need in the back half of the decade, specifically for compliance period three (2017-2020).

Projected generation from the Alta X and Alta XI projects is expected to contribute to the need requirements of SCE's RPS portfolio during compliance period three. See Confidential Appendix C for a discussion on SCE's need requirements and portfolio fit.

Procurement Review Group

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.

Participants in the Procurement Review Group include representatives from the CPUC's Energy and Legal Divisions, the Division of Ratepayer Advocates, The Utility Reform Network, the Natural Resources Defense Council, California Utility Employees, the Union of Concerned Scientists, and the California Department of Water Resources. On November 8, 2011, SCE briefed the PRG on the Alta PPA amendments.

Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the Alta PPA amendments, and SCE has complied with the Commission's rules for involving the PRG.

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.[8]

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.[9]

The Alta PPAs meet the conditions for EPS compliance because they are for intermittent generation with a capacity factor less than 60 percent and an eligible renewable energy resource.

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. Exhibits 1 through 5, and 7 of D.08-05-017 are now public per Ordering Paragraph Number 8 of D.08-05-032.

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.

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[8] "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).

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

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.[10]

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 "<u>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.</u>"[11]

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, <u>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.</u> Such contract

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

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

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 is being waived.

FINDINGS AND CONCLUSIONS

1. The Commission's approval of the amendments to the PPAs is consistent with PU Code Section 1708.
2. The amended PPAs are consistent with SCE's 2011 RPS Procurement Plan approved by D.11-04-030.
3. The PPA prices and renewable premiums for the incremental energy from Alta X and Alta XI compare favorably against shortlisted bids from SCE's 2011 RPS Solicitation.
4. Payments made by SCE under the amended Alta PPAs are fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs.
5. Projected generation from the Alta X and Alta XI projects is expected to contribute to the need requirements of SCE's RPS portfolio during compliance period three.
6. The deferment of generation from Alta X and Alta XI better aligns generation with SCE's portfolio need and provides ratepayer benefits.
7. The energy price for additional energy is priced competitively and compares favorably to SCE's 2011 RPS shortlist of bids and is also below the maximum priced allowed in D.08-05-017 which is set at or below the MPR.
8. Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the Alta PPA amendments, and SCE has complied with the Commission's rules for involving the PRG.

9. The Alta PPAs meet the conditions for EPS compliance because they are for intermittent generation with a capacity factor less than 60 percent and an eligible renewable energy resource.
10. 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.
11. Procurement pursuant to the Alta X and Alta XI power purchase agreements is procurement from eligible renewable energy resources for purposes of determining SCE's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), D.11-12-020 and D.11-12-052, or other applicable law.
12. 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 SCE of its obligation to enforce compliance with this power purchase agreement.
13. The Alta X and Alta XI amended power purchase agreements should be approved without modifications.
14. AL 2683-E and AL 2684-E should be approved effective today.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison Company's Advice Letter 2683-E and Advice Letter 2684-E, requesting Commission review and approval of amendments to the Alta Wind VII PPA, Alta Wind IX PPA, Alta Wind X PPA and Alta Wind XI PPA, are 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 March 22, 2012; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

Confidential Appendix A

Common Amendments

[REDACTED]

Confidential Appendix B

Ratepayer Benefit, Price and Value Reasonableness

[REDACTED]

Confidential Appendix C

Portfolio Fit

[REDACTED]