

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

ENERGY DIVISION

ID #10966  
RESOLUTION E-4449  
February 1, 2012

REDACTED

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

Resolution E-4449. Southern California Edison Company (SCE) requests approval of a renewable energy sales contract with San Diego Gas & Electric Company (SDG&E).

PROPOSED OUTCOME: This resolution approves SCE's request to enter into a renewable energy sales contract with SDG&E. The contract is approved without modification.

ESTIMATED COST: Costs of these contracts are confidential at this time

By Advice Letter 2641-E filed on October 20, 2011

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**SUMMARY**

**Southern California Edison Company's proposed sales contract with San Diego Gas & Electric Company is not inconsistent with either the Renewables Portfolio Standard (RPS) guidelines or other Commission rules and decisions and is therefore approved.**

Southern California Edison Company (SCE) filed Advice Letter (AL) 2641-E on October 20, 2011 requesting Commission review and approval of a renewable energy sales contract with San Diego Gas & Electric Company (SDG&E). The sales contract is a short-term, bilateral contract for 2.25 years. The sales contract is for renewable generation from various operating RPS-certified facilities that are under contract to SCE and located in California.

This resolution approves the sales contract without modification. SCE's execution of this contract is not inconsistent with its 2011 RPS Procurement Plan, including its resource needs, which the Commission approved in Decision 11-04-

030. Sales from SCE pursuant to the sales contract are reasonably priced over the life of the sales contract, subject to Commission review of SCE's administration of the sales contract. Payments received by SCE under the sales contract shall be credited to SCE's ratepayers via SCE's Energy Resource Recovery Account (ERRA).

The following table summarizes the contract:

**Table 1: Summary of the Sales Contract between SCE and SDG&E**

<b>Seller</b>	<b>Buyer</b>	<b>Technology Type</b>	<b>Term</b>	<b>Minimum Capacity (MW)</b>	<b>Minimum Energy (GWh)</b>	<b>Contract Start Date</b>	<b>Location</b>
SCE	SDG&E	Various, existing RPS-eligible technologies	2 yr., 3 mo.	164 (in 2011) 29 (in 2012 & 2013)	362 (in 2011) 255 (in 2012) 254 (in 2013)	10/1/11	California

## **BACKGROUND**

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

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X).<sup>1</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.20.<sup>2</sup> Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in

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

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

California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.<sup>3</sup>

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at <http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm> and <http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm>.

## **NOTICE**

Notice of SCE AL 2641-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the AL was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

## **PROTESTS**

No protests were filed.

## **DISCUSSION**

### **SCE requests approval of a sales contract with SDG&E.**

On October 20, 2011, SCE filed AL 2641-E requesting Commission approval of a renewable energy sales contract with SDG&E.<sup>4</sup> The sales contract provides that SCE will sell RPS-eligible energy and associated RECs to SDG&E, which SCE will have purchased from operating renewable energy facilities located in California. The RPS-eligible energy that SCE will sell to SDG&E will be generated by one or a combination of the facilities listed in Table 1 with which SCE currently has Commission-approved power purchase agreements.

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<sup>3</sup> D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020).

<sup>4</sup> On September 26, 2011, SDG&E filed AL 2291-E requesting approval of the corresponding power purchase agreement.

**Table 2: List of Facilities under contract to SCE that may provide RPS-eligible energy to SDG&E pursuant to the sales contract**

Facility Name/Owner	Location (all CA)	Technology	CEC ID <sup>5</sup>	Online Date
Dillon Wind, LLC	Palm Springs	Wind	60542A	3/15/2008
Coso Clean Power, LLC	Little Lake	Geothermal	60321A	1/12/1990
Coso Clean Power, LLC	Little Lake	Geothermal	60309A	8/19/1987
Calpine Geysers Power Company, LLC	Middletown	Geothermal	Various	1/1/1972
Mountain View Power Partners, LLC	North Palm Springs	Wind	60284A 60285A	9/1/2001 9/1/2001
Alta Wind I, LLC	Mojave	Wind	60794A	11/1/2010
Alta Wind II, LLC	Mojave	Wind	60795A	11/1/2010
Alta Wind III, LLC	Mojave	Wind	61092A	12/22/2010
Alta Wind IV, LLC	Mojave	Wind	61093A	2/23/2011
Alta Wind V, LLC	Mojave	Wind	61094A	3/11/2011
ORNI 18, LLC	Brawley	Geothermal	60640A	11/1/2008
NRG Solar Blythe, LLC	Blythe	Solar	60655A	12/1/2009

In AL 2641-E, SCE states that it has entered into the sales transaction because it projects that it will have excess RPS procurement relative to its RPS requirements for Compliance Period 2011-2013 under the new RPS law (SB 2 (1X)). Sales to SDG&E are expected to subtract a minimum of 870.9 gigawatt-hours (GWh) annually from SCE's forecasted RPS procurement portfolio over the contract's 2.25 year term. Pursuant to the sales contract SCE will provide firm deliveries of generation to SDG&E at the South of Path 15 15 Existing Zone Generation Hub (SP-15 EZ Gen Hub). SCE began providing energy deliveries to SDG&E under the sales contract on October 1, 2011.

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<sup>5</sup> California Energy Commission (CEC)

SCE requests the Commission to issue a resolution that:

1. Approves the sales contract in its entirety
2. Finds that the sales contract, and SCE's entry into the sales contract, is reasonable and prudent for all purposes, subject only to further review with respect to the reasonableness of SCE's administration of the sales contract.

### **Energy Division Review Of The Proposed Sales Contract**

Energy Division evaluated the PPAs for the following criteria:

- Consistency with bilateral contracting guidelines
- Consistency with SCE's 2011 RPS Procurement Plan (Plan)
- Consistency with RPS standard terms and conditions (STC)
- Independent Evaluator review
- Price reasonableness
- Contract viability
- Procurement Review Group (PRG) participation

### **Consistency With Bilateral Contracting Guidelines**

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. In D.09-06-050, this Commission established review standards and processes for short-term and bilateral contracts. SCE adhered to these bilateral contracting rules and processes because the sales contract is longer than one month in duration, the sales contract was filed by advice letter, the sales contract was reviewed by SCE's Procurement Review Group, the sales contract negotiations were overseen by an independent evaluator, and the sales contract is reasonable, as discussed in more detail below.

The sales contract is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

### **Consistency with SCE's 2011 RPS Procurement Plan**

Pursuant to statute, SCE's 2011 RPS Procurement Plan (2011 RPS 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.<sup>6</sup>

Specifically, SCE's 2011 Plan states that that it intends to secure resources from its 2011 solicitation, as necessary, to ensure that it meets the 33% RPS goal, with a reasonable margin of safety. SCE also included in its 2011 RPS Plan a projection that it would have excess RPS procurement in the near-term.<sup>7,8</sup> However, SCE's 2011 Plan did not address sales transactions.<sup>9</sup> Additionally, SCE's most recently approved Long-Term Procurement Plan does not contemplate the selling of RPS-eligible generation.<sup>10</sup> To address that the sale of RPS-eligible energy has not previously been authorized, SCE requested approval to enter into the sales contract by filing AL 2641-E.

Based on SCE's RPS portfolio needs described in its 2011 RPS Plan and AL 2641-E, we conclude that the sales contract is not inconsistent with SCE's 2011 RPS Plan. The term of the proposed short-term sales contract is from 2011 to 2013 and is for generation from renewable energy facilities that will reduce the amount of forecasted excess RPS-eligible generation SCE has in its RPS procurement portfolio. See Confidential Appendix A for details on SCE's forecasted RPS procurement needs.

The sales contract is not inconsistent with SCE's 2011 RPS Procurement Plan, approved by D.11-04-030.

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<sup>6</sup> Pub. Utils. Code, Section §399.14(a)(3).

<sup>7</sup> See Appendix B of SCE's Amended 2011 Renewables Portfolio Standard Procurement Plan, Volume I

<sup>8</sup> Additionally, SCE noted its near-term RPS procurement excess at its 2011 RPS RFO Bidder's Conference and emphasized a need and preference for renewable generation in the later half of the current decade. See SCE's presentation "2011 Renewable RFP Bidders Conference" which was presented on May 26, 2011:  
[http://asset.sce.com/Documents/Shared/2011\\_SCEBiddersPresentation.pdf](http://asset.sce.com/Documents/Shared/2011_SCEBiddersPresentation.pdf)

<sup>9</sup> D.11-04-030 approved SCE's 2011 RPS Procurement Plan on April 14, 2011.

<sup>10</sup> D.07-12-052 approved SCE's 2006 Long-term Procurement Plan on December 20, 2007.

### **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.

The sales contract 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.

### **Independent Evaluator Review**

SCE retained independent evaluator (IE) Alan Taylor of Sedway Consulting to oversee SCE’s bilateral negotiations with SDG&E and to evaluate the overall merits for CPUC approval of the sales contract. AL 2641-E included a public and confidential independent evaluator’s report.

In the IE report, the IE states that he believes that terms and conditions of the sales contract appear to be fair and reasonable. In addition, the IE states that based on his analysis of the transaction’s pricing, he believes that the sales contract represents a reasonable use of SCE’s near-term surplus of RPS-eligible energy and is likely beneficial for SCE’s ratepayers. See Confidential Appendix B for an excerpt of the IE’s confidential report.

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

### **Price Reasonableness**

Based on SCE’s evaluation of its 2011 RPS solicitation and market data, SCE determined that the sales contract price is reasonable. The IE also examined price reasonableness by comparing the pricing of the proposed transaction to the likely value of the generation to SCE’s customers if the generation were instead banked for SCE’s future RPS compliance. For the review of the sales contract’s price reasonableness, the Commission compared prices in SCE’s recent solicitations, other comparable products, and SCE’s other sales opportunities. Based on this analysis, the confidential analysis provided by SCE in AL 2641-E, and the confidential analysis provided by the IE, we determine that the sales contract’s price is reasonable. We note, however, that the Commission has not

established rules for price reasonableness review of RPS sales contracts and that the analysis of the sales contract's price reasonableness here is not precedent setting. Confidential Appendix A includes a detailed discussion of the contractual pricing terms and the analysis of the reasonableness of the contract price.

The total expected revenues of the sales contract are reasonable based on their relation to bids received in response to SCE's 2011 solicitation and other comparable sales opportunities.

Payments received by SCE under the sales contract shall be credited to SCE's ratepayers through SCE's Energy Resource Recovery Account (ERRA) over the life of the sales contract, subject to Commission review of SCE's administration of the sales contract.

SCE is required to demonstrate in its ERRA Review Proceedings that its least-cost dispatch processes, operations and related spot market transactions comply with all applicable Standards of Conduct (SOC) (including SOC No. 4 concerning cost dispatch obligations). SCE shall record the transactions authorized in this Resolution in its ERRA Balancing Accounts, and these transaction shall be subject to the Commission's ERRA Review Proceeding.

### **Contract Viability**

The generation to be sold under the sales contract is from operating facilities that have been certified by the CEC as RPS-eligible. SCE asserts that it will be able to meet the terms and conditions of the sales contract.

### **Procurement Review Group Participation**

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.<sup>11</sup>

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<sup>11</sup> SCE'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.

SCE asserts that the sales contract was discussed at its PRG meeting on September 14, 2011.

Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the sales contract.

### **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 ON THIS RESOLUTION**

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 of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

### **FINDINGS AND CONCLUSIONS**

1. The sales contract is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.
2. The sales contract is not inconsistent with SCE's 2011 RPS Procurement Plan, approved by D.11-04-030.

3. The sales contract includes the Commission-adopted RPS standard terms and conditions including those deemed "non-modifiable."
4. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SCE's negotiations with SDG&E.
5. The analysis used to determine that the sales contract price is reasonable is not precedent setting.
6. The total expected revenues of the sales contract are reasonable based on their relation to bids received in response to SCE's 2011 RPS solicitation and other comparable sales opportunities.
7. Payments received by SCE under the sales contract shall be credited to SCE's ratepayers via SCE's Energy Resource Recovery Account (ERRA) over the life of the sales contract, subject to Commission review of SCE's administration of the sales contract.
8. SCE asserts that it will be able to meet the terms and conditions of the sales contract.
9. Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the sales contract.
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. AL 2641-E should be approved effective today without modification.

**THEREFORE IT IS ORDERED THAT:**

1. Southern California Edison Company's Advice Letter 2641-E, requesting Commission approval of a sales contract with San Diego Gas & Electric Company, is approved.
2. SCE shall record the transactions authorized in this Resolution in its ERRA Balancing Accounts, and these transaction shall be subject to the Commission's Energy Resource Recovery Account Review Proceeding.

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 February 1, 2012; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

# **Confidential Appendix A**

## Analysis and Summary of the Sales Contract

[Redacted]

## **Confidential Appendix B**

Excerpt from the Independent Evaluator Project-Specific  
Report<sup>12</sup>

[Redacted]

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<sup>12</sup> Confidential Appendix A of “Independent Evaluation Report for Southern California Edison’s Bundled Renewable Energy Sale to San Diego Gas & Electric” (October 17, 2011), Sedway Consulting, Inc, Alan S. Taylor, submitted with SCE AL 2641-E on October 20, 2011.