

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4248**June 18, 2009****PUBLIC****R E S O L U T I O N**

Resolution E-4248. Southern California Edison Company requests approval of a renewable portfolio standard (RPS) power purchase agreement with Mountain View Power Partners, LLC (MVPP). The agreement is approved without modifications.

By Advice Letter 2306-E filed on December 31, 2008 and Advice Letter 2306-E-A filed on April 8, 2009.

SUMMARY**Southern California Edison's MVPP contract complies with the renewable portfolio standard (RPS) procurement guidelines and is approved**

Southern California Edison (SCE) filed Advice Letter (AL) 2306-E on December 31, 2008 requesting Commission review and approval of a renewable energy power purchase agreement (PPA) executed with Mountain View Power Partners, LLC (MVPP), for generation from an existing wind facility. SCE filed AL 2266-E-A on April 8, 2009 to supplement AL 2266-E, in order to include the Independent Evaluator's (IE) Report for SCE's 2008 Renewable Resource Solicitation.

Generating facility	Type	Term (Years)	Capacity (MW)	Energy (GWh)	Contract Delivery Date	Location
MVPP	Wind, existing	10	66.6	220	October 2011	San Gorgonio Pass, CA

The MVPP project is an existing, 66.6 megawatt (MW) facility located near Palm Springs, CA in San Gorgonio Pass. The project is priced below the 2008 market price referent (MPR) for a 10-year contract with an online date in 2011. Deliveries from this PPA are reasonably priced and fully recoverable in rates over the life of

the contract, subject to Commission review of SCE's administration of the contract.

Confidential information about the contract should remain confidential

This resolution finds that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583, General Order (G.O.) 66-C, and D.06-06-066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

BACKGROUND

The RPS Program requires each utility to increase the amount of renewable energy in its portfolio

The California RPS Program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107 and SB 1036. The RPS program is set forth in Public Utilities (Pub. Util.) Code Sections 399.11-399.20. An RPS is a market-based policy mechanism that requires a retail seller of electricity purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). Under the California RPS, each utility is required to increase its total procurement of ERRs by at least 1 percent of annual retail sales per year so that 20 percent of its retail sales are supplied by ERRs by 2010.¹

In response to SB 1078 and SB 107, the Commission has issued a series of decisions that establish the regulatory and transactional parameters of the investor owned utility (IOU) renewables procurement program.²

- On June 19, 2003, the Commission issued its "Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program," D.03-06-071.
- Instructions for utility evaluation of each offer to sell ERRs requested in an RPS solicitation were provided in D.04-07-029, as required by Pub. Util.

¹ On November 17, 2008, Governor Schwarzenegger signed Executive Order S-14-08, which established a 33 percent PRS target by 2020.

² RPS decisions are available on the Commission's RPS website:
<http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm>

Code §399.14(a)(2)(B). The bid evaluation methodology is known as ‘least-cost, best-fit’ (LCBF).

- The Commission adopted standard terms and conditions (STCs) for RPS power purchase agreements in D.04-06-014, as required by Pub. Util. Code §399.14(a)(2)(D). These STCs are compiled in D.08-04-009, as modified by D.08-08-028, and as a result there are now thirteen STCs of which four are non-modifiable.
- In D.06-05-039, the Commission required participation of an Independent Evaluator (IE) in the IOU’s competitive RPS procurement process. The IE’s role is to ensure that the IOU’s RPS solicitation is undertaken in a fair and consistent manner. The IE also provides additional oversight during contract negotiations.
- D.06-10-050, as modified by D.07-03-046, outlined the RPS reporting and compliance methodologies and rules. In this decision, the Commission established methodologies to calculate a load serving entities’ (LSE) initial baseline procurement amount, annual procurement target (APT) and incremental procurement amount (IPT).
- The Commission adopted its market price referent (MPR) methodology in D.04-06-015 for determining the utility’s share of the RPS seller’s bid price (the contract payments at or below the MPR), as defined in Pub. Util. Code §399.14(a)(2)(A) and 399.15(c). The Commission refined the MPR methodology in D.05-12-042 and D.08-10-026. Resolutions adopted MPR values for the 2005, 2006, 2007, and 2008 RPS solicitations.³
- In D.07-01-039, the Commission established a greenhouse gas emissions performance standard (EPS) for new, long-term energy commitments. The EPS requires that the emissions resulting from the contract do not exceed the GHG emissions of a combined-cycle gas turbine power plant.
- In D.07-05-028, the Commission established a minimum quota for contracting with new facilities or executing long-term contracts for RPS-eligible generation. Specifically, for each calendar year, in order for an LSE to count deliveries from contracts of less than 10 years’ duration with RPS-eligible facilities that commenced commercial operation prior to January 1,

³ MPR resolutions are available here:

<http://www.cpuc.ca.gov/PUC/energy/Renewables/mpr>

2005 for RPS compliance, they must enter into contracts of at least 10 years' duration and/or short-term contracts with facilities that commenced commercial operation on or after January 1, 2005 for energy deliveries equivalent to at least 0.25% of that LSE's prior year's retail sales.

SCE requests approval of renewable energy contract

On December 31, 2008, SCE filed AL 2306-E requesting Commission approval of a renewable power procurement contract with Mountain View Power Partners, LLC (MVPP). SCE filed supplemental Advice Letter 2306-E-A on April 8, 2009 to supplement AL 2306-E and include the IE report for SCE's 2008 RPS solicitation.

The MVPP PPA results from SCE's 2008 solicitation for renewable bids, which was authorized by D.08-02-008. The Commission's approval of the PPA will authorize SCE to accept future deliveries of renewable resources that will contribute towards the renewable energy procurement goals required by California's RPS statute.⁴ Procurement from MVPP is expected to contribute 220 GWh annually towards SCE's APT in 2011 and beyond.

SCE requests "Final CPUC Approval" of PPA

SCE requests a Commission resolution containing the following findings in order to satisfy the "CPUC Approval" terms in the MVPP Agreement:

1. Approval of the MVPP Contract in its entirety;
2. A finding that any electric energy sold or dedicated to SCE pursuant to the MVPP Contract constitutes procurement by SCE from an eligible renewable energy resource ("ERR") for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation⁵ or other applicable law concerning the procurement of electric energy from renewable energy resources;

⁴ California Public Utilities Code section 399.11 et seq., as interpreted by D.03-07-061, the "Order Initiating Implementation of the Senate Bill 1078 Renewables Portfolio Standard Program", and subsequent CPUC decisions in Rulemaking (R.) 04-04-026.

⁵ As defined by SCE, "'RPS Legislation' means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11 et seq."

3. A finding that all procurement of energy under the MVPP Contract counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
4. A finding that all procurement of energy under the MVPP Contract counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
5. A finding that all procurement under the MVPP Contract counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20 percent (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law);
6. A finding that the MVPP Contract, and SCE's entry into the MVPP Contract, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the MVPP Contract, subject only to further review with respect to the reasonableness of SCE's administration of the MVPP Contract; and
7. Any other and further relief as the Commission finds just and reasonable.

SCE's Procurement Review Group participated in review of the contracts

In D.02-08-071, the Commission required each utility to establish a "Procurement Review Group" (PRG) whose members, subject to an appropriate non-disclosure agreement, would have the right to consult with the utilities and review the details of:

1. Overall transitional procurement strategy;
2. Proposed procurement processes including, but not limited to, RFO; and
3. Proposed procurement contracts before any of the contracts are submitted to the Commission for expedited review

SCE's PRG was formed on or around September 10, 2002. Current participants include representatives from the Commission's Energy Division, 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 June 11, 2008, SCE advised the PRG of its proposed short list of bids for its 2008 RPS solicitation. On October 15, 2008, SCE briefed the PRG concerning the successful conclusion of discussions with MVPP.

Although Energy Division is a member of the PRG, it reserved its conclusions for review and recommendation on the PPA to the advice letter process.

NOTICE

Notice of AL 2306-E and AL 2306-E-A was made by publication in the Commission's Daily Calendar. SCE 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 Letter 2306-E was not protested.

DISCUSSION

Description of the project

The following table summarizes the substantive features of the PPA. See Confidential Appendix B for a detailed discussion of contract price, terms, and conditions:

Generating facility	Type	Term (Years)	Capacity (MW)	Energy (GWh)	Contract Delivery Date	Location
MVPP	Wind, existing	10	66.6	220	October 1, 2011	San Gorgonio Pass, CA

MVPP is wholly owned by AES Corporation (AES). The MVPP facility is an existing wind facility located in the San Gorgonio Pass area near Palm Springs, CA. The project was originally developed and constructed by SeaWest WindPower, Inc. The facility consists of 111 Mitsubishi 600 kW wind turbine generators and first began commercial operation in September 2001. The power produced by the MVPP project is currently under contract to the California Department of Water Resources (DWR) through September 30, 2011. This DWR contract was allocated to SCE by Commission decision, D.02-09-053. The MVPP

contract would take effect after the expiration of the DWR contract. MVPP project interconnects at SCE's Mount Wind Substation. The MVPP contract price is below the 2008 MPR.

Energy Division examined the contract on multiple grounds:

- PPA's consistency with SCE's Commission approved 2008 RPS Procurement Plan
- Conformance with Commission adopted standard terms and conditions
- Reasonableness of the levelized all-in price
- Sufficient showing that the project is viable relative to other projects that were bid into the solicitation
- Consistency with Emissions Performance Standard

The PPA is consistent with SCE's Commission adopted 2008 RPS Plan

California's RPS statute requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility.⁶ The Commission will then accept or reject proposed PPAs based on their consistency with the utility's approved renewable procurement plan (Plan). SCE's 2008 Plan includes an assessment of supply and demand for renewable energy and bid solicitation materials, including a pro-forma agreement and bid evaluation methodology documents. The Commission conditionally approved SCE's 2008 RPS procurement plan, including its bid solicitation materials, in D.08-02-008.

As ordered by D.08-02-008, on February 29, 2008 SCE filed and served its amended 2008 Plan. The proposed PPA is consistent with SCE's Commission-approved RPS Plan.

PPA fits with identified renewable resource needs

SCE's 2008 RPS Plan called for SCE to issue a competitive solicitation for electric energy generated by eligible renewable resources from either existing or new generating facilities that would deliver in the near term or long term.

⁶ Pub. Util. Code, Section §399.14

SCE's 2008 request for proposals (RFP) solicited proposals for projects that would supply electric energy, environmental attributes, capacity attributes and resource adequacy benefits from eligible renewable energy resources. SCE also considered any new or repowered facilities that operate on co-fired fuels or a mix of fuels that include fossil fuel hybrid.

SCE requested proposals based upon standard term lengths of 10, 15 or 20 years or a non-standard delivery term of no less than 1 month. SCE also requested proposals with a minimum capacity of 1.5 MW.

SCE indicated a preference for projects:

- To be generating facilities with near-term deliveries
- To be located in California or outside of California if the seller complies with all requirements pertaining to "Out-of-State Facilities" as set forth in the California Energy Commission (CEC) Guidebook for RPS eligibility
- To take delivery of the electric energy within the CAISO Control Area, but considered proposals for facilities interconnected to Western Electricity Coordinating Council ("WECC") transmission system was also indicated in SCE's RFP

The proposed MVPP project fits SCE's identified renewable resource needs. MVPP is an existing 66.6 MW renewable energy facility expected to commence deliveries under this contract on October 1, 2011 and continue for 10 years. Additionally, the facility is located in California and has its first point of interconnection within California.

PPA selection is consistent with RPS Solicitation Protocol

SCE distributed an RFP package that included a procurement protocol, which set forth the RFP's term and conditions, requirements for proposals, selection procedures, approval procedures, and the RFP schedule. As part of the bid submission, SCE required bidders to submit comments on SCE's pro forma agreement, to execute non-disclosure agreements and to send a letter stating that the bidder agrees to be bound by the terms and conditions of the protocol. The protocol also requested that proposals contain complete, accurate, and timely information about the project's supplier, generating facility, and commercial terms, and the pricing details of the proposal.

SCE says that the MVPP project submitted the standard forms, agreed to be bound by the protocol and signed a non-disclosure agreement. SCE also states that the proposed MVPP agreement was solicited, negotiated, and executed in a manner consistent with SCE's 2008 RFP Protocol.

Consistent with D.06-05-039, an independent evaluator (IE) also oversaw SCE's RPS procurement process. SCE retained an IE, Sedway Consulting, to report to SCE's procurement review group about the 2008 RPS solicitation and to ensure that the solicitation was conducted fairly and that the best resources were acquired. According to the IE Report submitted in AL 2306-E-A, Sedway Consulting performed its duties overseeing the 2008 solicitation and has provided assessment reports to the PRG and the Commission.

In its Independent Evaluator Report, Sedway Consulting concluded that SCE "...conducted a fair and effective evaluation of the proposals that it received in response to its 2008 RPS RFP and made the correct selection decisions in its short list." In addition, the IE monitored SCE's short-listing discussions, contract negotiations and meetings with management where SCE made decisions regarding bid prioritizations and negotiation positions. For the IE's contract-specific evaluation of the MVPP project, see Confidential Appendix D.

PPA selection consistent with least-cost best-fit (LCBF) requirements

The Commission's LCBF decisions direct the utilities to use certain criteria in their bid ranking. They offer guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence contract negotiations.

SCE's LCBF bid review process used for its 2008 solicitation is in compliance with the applicable Commission decisions. SCE's LCBF analysis evaluates both quantitative and qualitative aspects of each proposal to estimate its value to SCE's customers and relative value in comparison to other proposals.

Quantitative Assessment

SCE quantitatively evaluates bids based on individual benefit-to-cost (B/C) ratios. This B/C ratio is used to rank and compare the relative value of each project. Benefits are comprised of separate capacity and energy components, while costs include the contract payments, integration costs, transmission cost, and debt equivalence. SCE discounts the annual benefit and cost streams to a common base year prior to calculating the B/C ratio for each proposal.

The benefit-to-cost ratio for the MVPP project was favorable in comparison to the bids in SCE's 2008 solicitation. See Confidential Appendix A for more detailed comparison of bids.

Qualitative Assessment

SCE conducts a qualitative assessment in addition to a quantitative assessment. The assessment evaluates a project's technical viability, its overall viability, and its developer's experience. The qualitative attributes are then considered to either eliminate non-viable proposals or add projects with high viability to the final short list of proposals.

SCE's qualitative assessment found the MVPP project favorable for several reasons. First, project viability is not a concern since the project is an existing, operating facility. Second, the MVPP contract will provide near-term eligible renewable energy. Third, SCE found that MVPP is likely to be able to perform all of its financial and other obligations under the contract due to AES' past development experience.

Consistency with adopted standard terms and conditions

The proposed PPA conforms to the Commission's decisions requiring STCs for RPS contracts.

"May Not be Modified" Terms

The PPA does not deviate from the non-modifiable terms and conditions.

"May be Modified" Terms

During the course of negotiations, the parties identified a need to modify some of the modifiable standard terms in order to reach agreement. The changes were based upon mutual agreement reached during negotiations.

PPA price is reasonable and recoverable in rates

MVPP's levelized contract price is at or below the 2008 MPR.⁷ Additionally, Confidential Appendix A shows that the MVPP project's price compares favorably both to all bids in SCE's 2008 solicitation as well as to short-listed bids.

⁷ Resolution E-4118: http://docs.cpuc.ca.gov/published/Final_resolution/73594.htm

Confidential Appendix B includes a detailed discussion of the contractual pricing terms.

The project is fully developed and commercially operating

The MVPP project is fully developed wind facility that has been operating since September 30, 2001 using proven technology. The project has full site control, is located in a region with demonstrated wind resources, and is owned and operated by an experienced company. Additionally, the project will be able to continue its connection to SCE's distribution system under an existing interconnection agreement and no transmission upgrades are needed. (See Confidential Appendix C for SCE's project viability evaluation of the MVPP project.)

Contract is compliant with Emissions Performance Standard (EPS)

The EPS requires any new, long-term generation contracts meet a minimum emissions performance requirement. The MVPP contract is a new contract with a term of five or more years. Since the MVPP contract utilizes wind technology, it is deemed compliant with the EPS.

Confidential information about the contracts should remain confidential

Certain contract details were filed by SCE under confidential seal. Energy Division recommends that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

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 May 13, 2009.

No comments were filed.

FINDINGS

1. The RPS Program requires each utility, including SCE, to increase the amount of renewable energy in its portfolio to 20 percent by 2010, increasing by a minimum of one percent per year.
2. SCE filed Advice Letter (AL) 2306-E on December 31, 2008 requesting Commission review and approval of a renewable energy resource power purchase agreement (PPA) with Mountain View Power Partners, LLC (MVPP).
3. SCE filed Supplemental AL 2306-E-A on April 8, 2009, to include the Independent Evaluator's report on SCE's 2008 RPS solicitation and the MVPP project.
4. The PPA is consistent with SCE's approved 2008 RPS Procurement Plan, which was approved by D.08-02-008.
5. D.06-05-039 requires participation of an independent evaluator (IE) in RPS solicitations.
6. The IE employed for SCE's 2008 RPS solicitation concluded in its report that SCE's bid evaluation and selection process was conducted fairly.
7. The Commission requires each utility to establish a Procurement Review Group (PRG) to review the utilities' interim procurement needs and strategy, proposed procurement process, and selected contracts.
8. SCE briefed its PRG on the negotiation status of its proposed 2008 RPS solicitation shortlist. SCE also briefed the PRG concerning the successful conclusion of discussions with MVPP.
9. D.04-06-014 and D.07-11-025 set forth standard terms and conditions to be incorporated into each RPS PPA. Those terms were compiled and published by D.08-04-009, as modified by D.08-08-028.
10. The PPA includes the Commission adopted RPS standard terms and conditions deemed "non-modifiable", which were not modified.
11. The PPA is reasonable and should be approved in its entirety.
12. Procurement pursuant to this PPA is procurement from an eligible renewable energy resource for purposes of determining SCE's compliance with any obligation that it may have to procure eligible renewable energy resources

(ERR) pursuant to the RPS Legislation or other applicable law concerning the procurement of electrical energy from renewable energy resources.

13. Procurement pursuant to this PPA counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE.
14. Procurement under the MVPP Contract counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20% (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 or such (other date as may be established by law).
15. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the confidential appendices, marked "[REDACTED]" in the redacted copy, should not be made public upon Commission approval of this resolution.
16. AL 2306-E, as supplemented by AL 2306-E-A, should be approved without modification.

THEREFORE IT IS ORDERED THAT:

1. The Mountain View Power Partners contract proposed in Advice Letter 2306-E and Advice Letter 2306-E-A is approved without modification.
2. The costs of the contract between Southern California Edison and Mountain View Power Partners are reasonable and in the public interest; accordingly, the payments to be made by Southern California Edison pursuant to the power purchase agreement are fully recoverable in rates over the life of the project, subject to Commission review of the Southern California Edison's administration of the power purchase agreement.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 18, 2009; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON
PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

Confidential Appendix A
MVPP's Bid Evaluation

[REDACTED]

Confidential Appendix B
MVPP Contract Summary

[REDACTED]

Confidential Appendix C
Project Viability

[REDACTED]

Confidential Appendix D
Independent Evaluator's Contract-Specific
Assessment⁸

[REDACTED]

⁸ Excerpt from "Independent Evaluation Report for Southern California Edison's 2008 Renewable Resource Solicitation - First Advice Letter Report (Sedway Consulting March 18, 2009), filed via AL 2266-E-A on April 8, 2009

Confidential Appendix E
Project's Contribution to RPS Goals

[REDACTED]