PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4325**
May 6, 2010

REDACTED

R E S O L U T I O N

Resolution E-4325. Southern California Edison (SCE) requests approval of a renewable power purchase agreement (PPA) with Ram Power, Inc. (RPI) and Orita Geothermal 1 LLC (Orita 1) and pre-approval of two additional renewable PPAs (Orita 2 and Orita 3) with RPI and its subsidiaries, to be executed at SCE's discretion depending on the resource potential of those additional Orita facilities.

PROPOSED OUTCOME: This Resolution approves cost recovery for a long-term renewable energy PPA with RPI and Orita 1 and pre-approves cost recovery for the two additional renewable PPAs (Orita 2 and Orita 3) with RPI and its subsidiaries, to be executed at SCE's discretion depending on the resource potential of those additional Orita facilities. All of the PPAs are approved with modification.

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

By Advice Letter 2393-E filed on October 29, 2009.

SUMMARY

Southern California Edison's (SCE) contract with Ram Power, Inc. (RPI) and Orita Geothermal 1 LLC (Orita 1) complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved with modification. The proposed PPAs with RPI and unspecified RPI subsidiaries also comply with the RPS procurement guidelines and are pre-approved with modification in the event SCE elects to execute them.

SCE filed Advice Letter (AL) 2393-E on October 29, 2009 requesting Commission review and approval of a renewable energy PPA executed with Ram Power, Inc. (RPI) and Orita Geothermal 1 LLC (Orita 1), a wholly owned special purpose

entity of RPI (Orita 1 PPA). Pursuant to the terms of the Orita 1 PPA, Orita 1 (or an affiliate of Orita 1 that is wholly-owned by RPI) may offer additional contracts for renewable energy from one or two expansion projects (together the Proposed Orita 2 and 3 Agreements). The Proposed Orita 2 and 3 Agreements are attached as exhibits to the Orita 1 PPA. They may be executed at SCE's discretion depending on the resource potential of those additional Orita facilities. The terms of the Proposed Orita 2 and 3 Agreements are substantially similar to the Orita 1 PPA except that the prices vary from the Orita 1 PPA to reflect different agreed upon projected start dates for those facilities.

The following table summarizes the Orita 1 PPA and the Proposed Orita 2 and 3 Agreements (together Agreements):

Orita 1, 2 & 3 Agreements

Generating Facility	Technology Type	Term (Years)	Capacity (MW)	Energy (GWh)	Contract Delivery Start Date	Location
Orita 1	Geothermal	20	40 – 100	329 – 823	7/1/2013	Imperial County, CA
Orita 2 (optional expansion)	Geothermal	20	40 – 100	329 – 823	12/31/2014	Imperial County, CA
Orita 3 (optional expansion)	Geothermal	20	40 – 100	329 – 823	12/31/2015	Imperial County, CA

The contract prices for the Agreements are at or below the applicable 2009 market price referents (MPRs) for the expected contract delivery dates as adopted in Resolution E-4298. Provided the generation is from eligible renewable energy resources, deliveries pursuant to the proposed Agreements are reasonably priced and fully recoverable in rates over the life of the contract, subject to Commission review of SCE's administration of the Agreements.

SCE shall modify the Orita 1 PPA to include the relevant non-modifiable standard terms and conditions required for bundled RPS contracts pursuant to D.10-02-031. The Proposed Orita 2 and 3 Agreements shall have substantially the same terms and conditions as currently proposed, but shall also be modified to include the most current non-modifiable standard terms and conditions required at the time they are executed, except for any non-modifiable standard terms and conditions regarding CPUC approval.

AL-2393 is approved with modification.

NOTICE

Notice of AL 2393-E 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 2393-E was not protested.

DISCUSSION

Overview of RPS Program

The RPS Program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least 1% of retail sales per year so that 20% of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[1]

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

SCE requests approval of a bilaterally negotiated renewable energy contract for geothermal energy with RPI and Orita Geothermal 1 LLC and pre-approval of 2 PPAs for affiliated expansion projects

SCE filed Advice Letter (AL) 2393-E on October 29, 2009 requesting Commission review and approval of a bilaterally negotiated renewable energy PPA executed with Ram Power, Inc. (RPI) and Orita Geothermal 1 LLC (Orita 1 PPA). Pursuant to the terms of the Orita 1 PPA, Orita 1 (or an affiliate of Orita 1 that is wholly-owned by RPI) may offer additional contracts for renewable energy from one or two expansion projects (together the Proposed Orita 2 and 3 Agreements). The Proposed Orita 2 and 3 Agreements are attached to the Orita 1 PPA. They may be executed at SCE's discretion depending on the resource potential of those

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

additional Orita facilities. The terms of the Proposed Orita 2 and 3 Agreements are substantially similar to the Orita 1 PPA except that the prices vary from the Orita 1 PPA to reflect different agreed upon projected start dates for those facilities. Collectively, the Orita 1 PPA and the Proposed Orita 2 and 3 Agreements, as amended by Amendment No. 1, are referred to herein as the "Agreements" or the "Orita Contracts."

The Orita 1 PPA is a long-term, bilateral contract for generation from a geothermal facility in Imperial County. It has an expected capacity of 49.9 MW. However, the contract allows Orita 1 to offer anywhere from 40 MW to 100 MW of capacity, depending on the resource potential. The term of the Orita 1 PPA is 20 years, with an option to extend under certain conditions. The Proposed Orita 2 and 3 Agreements have the same terms.

SCE procured the Agreements consistent with SCE's 2009 RPS Procurement Plan, which was approved by the Commission in D.09-06-018. The Agreements confer to SCE all green attributes, capacity benefits, and resource adequacy benefits. The facilities' first point of interconnection with the Western Electricity Coordinating Council (WECC) interconnected transmission system would be with the Imperial Irrigation District (IID) balancing authority area. SCE will take delivery of the energy at the Mirage substation located at the interconnection point between the IID and California Independent System Operator (CAISO) balancing authority areas.

SCE asserts that the Orita projects face minimal development risk and have a high level of viability because RPI has site control for at least 2 of the sites, the geothermal resources at the project sites are well defined, and RPI has an experienced development team. Also, all three of the Agreements prices are at or below the MPR.

SCE requests that the Commission issue a resolution containing:

1. Approval of the Orita Contracts in their entirety;
2. A finding granting SCE the authority, without further action by the Commission, to enter into PPAs in the forms of the Orita 2 Contract and the Orita 3 Contract, in accordance with the requirements of the Orita 1 Contract, and at prices as specified in the Orita 2 Contract and the Orita 3 Contract;

3. A finding that any electric energy sold or dedicated to SCE pursuant to the Orita Contracts constitutes procurement by SCE from an ERR for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation[2] or other applicable law concerning the procurement of electric energy from renewable energy resources;
4. A finding that all procurement under the Orita Contracts counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
5. A finding that all procurement under the Orita Contracts counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
6. A finding that all procurement under the Orita Contracts 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);
7. A finding that the Orita Contracts, and SCE's entry into the Orita Contracts, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the Orita Contracts, subject only to further review with respect to the reasonableness of SCE's administration of the Orita Contracts; and
8. Any other and further relief as the Commission finds just and reasonable.

Energy Division Review of the Proposed Agreements

Energy Division evaluated the Agreements for the following criteria:

- Consistency with SCE's 2009 RPS Procurement Plan (Plan)
- Consistency with the resource needs identified in SCE's Plan
- Consistency with RPS standard terms and conditions (STC)

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[2] As defined by SCE, "'RPS Legislation' refers to the State of California Renewable Portfolio Standard Program, as codified at California Pub. Utils. Code Section 399.11 *et seq*."

- Consistency with bilateral contracting guidelines
- Comparison to the results of SCE's 2008 solicitation
- Project viability
- Consistency with the Interim Emissions Performance Standard
- Procurement Review Group (PRG) participation
- Cost reasonableness

Consistency with SCE's 2009 RPS Procurement Plan

The bilateral contract containing the three Agreements was executed after the 2009 Plan was approved but before bids to the 2009 solicitation were received. Thus, the Orita projects are evaluated for consistency with the 2009 Plan but are compared to bids from the 2008 solicitation.

California's RPS statute requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.[3] The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan. In D.09-06-018, the Commission conditionally approved SCE's Plan and bid solicitation materials for SCE's 2009 RPS solicitation. SCE subsequently amended its Plan consistent with the requirements in the authorizing decision. Pursuant to statute, SCE's Plan includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of flexible compliance mechanisms established by the Commission, and a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.[4]
The Agreements are consistent with SCE's 2009 RPS Procurement Plan, approved by D. D.09-06-018 and subsequently amended by SCE.

Consistency with the Resource Needs Identified in SCE's Plan

SCE's 2009 Plan states that SCE seeks to procure renewable resources to augment those under contract from prior solicitations and those executed pursuant to the 2006 and 2007 solicitations. Specifically, SCE intends to secure resources from its

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

2008 solicitation, as necessary, to ensure that it meets the 20% RPS goal as soon as possible, and with a reasonable margin of safety. 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:

- With near-term deliveries
- 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
- Delivered within the CAISO Control Area, but considered proposals for facilities interconnected to the Western Electricity Coordinating Council (WECC) transmission system

The proposed Orita projects fit SCE's identified renewable resource needs. The Orita Contracts are 20-year contracts for new renewable generation, expected to commence deliveries by 2013, with additional capacity coming on line in 2014 and 2015. While the facilities have not received certification as eligible renewable energy resources from the CEC, given the technology and location of the projects, SCE does not foresee any issues with obtaining certification.

<u>The Agreements are consistent with the resource needs identified in SCE's 2009 Procurement Plan.</u>

Consistency with RPS Standard Terms and Conditions (STCs)

While the terms and conditions of the Agreements conform to the Commission's decisions requiring STCs for RPS contracts at the time the Orita 1 PPA was executed and filed for approval, on March 11, 2010 the Commission approved D.10-03-021 which established new and revised standard terms and conditions for bundled RPS contracts. As a result, the <u>Agreements do not include the Commission adopted RPS "non modifiable standard terms and conditions" for bundled RPS contracts</u>.

Thus, Commission approval of the Orita 1 PPA is conditioned upon SCE and RPI modifying the Orita 1 PPA to include the new non-modifiable standard terms and conditions as required in D.10-03-021. Within 30 days from the effective date of this Resolution SCE shall file a Tier 1 advice letter compliance filing

demonstrating that the Orita 1 PPA includes all of the relevant non-modifiable standard terms and conditions and certifying that the Proposed Orita 2 and 3 Agreements will be modified to contain all of non-modifiable standard terms and conditions required at the time they are executed.

Consistency with Bilateral Contracting Guidelines

In D.09-06-050 the Commission determined that bilateral contracts should be reviewed according to the same processes and standards as contracts that come through a solicitation. This includes review by the utility's Procurement Review Group (PRG) and its Independent Evaluator (IE). As discussed below, the PRG was briefed on the Agreements, the IE reviewed the Agreements, and the Agreements compare favorably to the bids in SCE's 2008 renewables solicitation.

Additionally, D.06-10-019 established three other requirements for bilateral contracts.

1. The PPA will not be applied to SCE's cost limitation.[5]
2. The PPA was submitted by advice letter.[6]
3. The PPA is at least one month in duration.[7]

<u>The Agreements are consistent with the bilateral contracting guidelines established in D.09-06-050 and D.06-10-019.</u>

Comparison to the Results of SCE's 2008 Solicitation

SCE did not receive sellers' responses to the 2009 RPS solicitation until after the Orita Agreements were executed. Therefore, SCE has compared the Orita Agreements to the proposals received in the 2008 RPS solicitation.

The Commission's Least Cost Best Fit (LCBF) decisions direct the utilities to use certain criteria in their bid ranking and provide guidance regarding the process

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[5] The Agreements are ineligible for the cost limitation because it did not result from a competitive solicitation. Pub. Utils. Code §399.15(d)(2).
[6] "For now, utilities' bilateral RPS contracts, of any length, must be submitted for approval by advice letter." D.06-10-019 at 31.
[7] "All RPS-obligated LSEs are also free to enter into bilateral contracts of any length with RPS-eligible generators, as long as the contracts are at least one month in duration, to enable the CEC to verify RPS procurement claims." D.06-10-019 at 29.

by which the utility ranks bids in order to "shortlist" the bids eligible for contract negotiations.[8] The bid evaluation includes a quantitative and qualitative analysis. The quantitative analysis results in relative benefit-to-cost (B/C) ratios for each bid and the qualitative review assesses a project's technical viability, its overall viability and its developer experience.

D.09-06-050 requires that bilateral contracts be reviewed according to the same standards as contracts that come through a solicitation. Conducting a LCBF analysis on a bilateral contract allows an apples-to-apples comparison to the most recent solicitation.

SCE's analysis indicates that the final LCBF results for the Orita projects are favorable compared to the other 2008 RPS bids with respect to benefit/cost ratio, viability, and other factors. The IE concurs with SCE's findings. Confidential Appendix B of this resolution provides a more detailed comparison of the Orita projects to SCE's short list bids.

<u>The Agreements compare favorably to the results of SCE's 2008 solicitation.</u>

Project Viability

For SCE's 2008 RFP, SCE quantitatively evaluated and scored each bid's viability, based on a number of factors such as development issues, site control, technology maturity and seller experience (See confidential Appendix B in AL 2393-E). SCE scored the Orita projects in the same project viability calculator to compare it to the 2008 bids. See confidential Appendix B for a comparative analysis that shows the Orita projects score favorably compared to SCE's other offers.

RPI has full site control for the Orita 1 and Orita 2 sites and is pursuing full site control of the Orita 3 site. Although the Orita projects are the first that RPI has undertaken, SCE asserts that the RPI principals have substantial development experience, including the financing of geothermal generation projects. RPI is actively pursuing all necessary permits.

<u>SCE asserts that the Orita projects have high viability.</u>

[8] D.04-07-029

Compliance with the Interim Greenhouse Gas Emissions Performance Standard (EPS)

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

D.07-01-039 adopted an interim 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 powerplant. The EPS applies to all energy contracts for baseload generation that are at least five years in duration.[9] Generating facilities using certain renewable resources are deemed compliant with the EPS,[10] although contracts with intermittent resources are subject to the limitation that total purchases under the contract do not exceed the expected output from the facility over the term of the contract.[11]

<u>These Agreements are compliant with the EPS because geothermal electricity is one of the pre-approved renewable energy technologies listed in D.07-01-039.</u>

Procurement Review Group (PRG) Participation

SCE's PRG consists of representatives from: the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), California Utility Employees, the Union of Concerned Scientists, the Natural Resources Defense Council, and the Commission's Energy and Legal Divisions.

SCE asserts that its PRG was consulted during each step of the 2008 renewable procurement process. On July 8, 2009, SCE briefed the PRG on its intent to execute the Orita 1 contract (which includes the Orita 2 and Orita 3 contracts). Although Energy Division participates in the PRG, it reserved judgment on the contracts until the AL was filed. Energy Division reviewed the transaction independently of the PRG, and allowed for a full protest period before concluding its analysis.

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[9] "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." Pub. Utils. Code § 8340 (a).
[10] D.07-01-039, Attachment 7, p. 4
[11] D.07-01-039, Attachment 7, p. 7

With regard to the Agreements, SCE has complied with the Commission's rules for involving the PRG.

Cost Reasonableness

Confidential Appendix A to this resolution includes details about the contractual pricing terms, including SCE estimates of the total contract costs under the Agreements. The contract prices for all three Agreements are at or below the applicable MPRs for expected online dates.

The total expected costs of the Agreements, as estimated by SCE, are reasonable based on their relation to bids received in response to SCE's 2008 solicitation.

Provided the generation is from an eligible renewable energy resource, or Seller is otherwise compliant with Standard Term and Condition 6, set forth in Appendix A of D.08-04-009 and included in the terms of the Agreements, payments made by SCE under the Agreements are fully recoverable in rates over the life of the Agreements, subject to Commission review of SCE's administration of the Agreements.

Independent Evaluator (IE) 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 2342-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."

The IE's contract-specific evaluation of the Orita projects is attached as confidential Appendix C to this resolution. The IE finds that the projects compare favorably to contracts executed pursuant to the 2008 solicitation with respect to their benefit/cost ratios and project viability.

Consistent with D.06-05-039, an independent evaluator (IE) oversaw SCE's RPS procurement process. Additionally, the IE reviewed the bilateral contract and

compared the proposal to the results of the most recent bids received consistent with D.09-06-050.

RPS ELIGIBILITY AND CPUC APPROVAL

Pursuant to Pub. Utils. Code § 399.13, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable "eligibility" language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an "Eligible Renewable Energy Resource," that the project's output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller use commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.[12]

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."[13]

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, nor can the Commission determine prior to final CEC certification of a project, that "any procurement" pursuant to a specific contract will be "procurement from an eligible renewable energy resource."

Therefore, while we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS eligible resource to count towards an RPS compliance obligation. Nor shall such a finding absolve a seller from its obligation to obtain CEC certification or absolve the purchasing utility of its obligation to enforce compliance with

[12] *See, e.g.* D. 08-04-009 at Appendix A, STC 6, Eligibility.
[13] *See, e.g.* D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

Standard Term and Condition 6, set forth in Appendix A of D.08-04-009, and included in the PPA. Such contract enforcement activities shall be reviewed pursuant to the Commission's authority to review the administration of such contracts.

CONFIDENTIAL INFORMATION

The Commission, in implementing Pub. Utils. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin, except contracts between IOUs and their affiliates, which are public.

The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

COMMENTS 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. On April 26, 2010, SCE filed comments on the Draft Resolution. SCE's requests that the Commission modify Finding 11 and Finding 13 (and other conforming language) in the Draft Resolution in order to provide greater certainty regarding rate recovery. We deny SCE's requests because it is not unreasonable for rate recovery to be contingent upon the delivery of RPS-eligible energy under the PPA.[14]

SCE also requests other minor modifications, all of which have been incorporated in the Final Resolution.

[14] Nothing herein prejudges SCE's Application 10-03-009.

FINDINGS AND CONCLUSIONS

1. The Orita 1 PPA and the Proposed Orita 2 and 3 Agreements were amended by Amendment No. 1. All references to the Orita 1 PPA and the Proposed Orita 2 and 3 Agreements and the Agreements refer to such agreements as amended by Amendment No. 1.
2. The Agreements are consistent with SCE's 2009 RPS Procurement Plan, approved by D.09-06-018 and subsequently amended by SCE.
3. The Agreements are consistent with the resource needs identified in SCE's 2009 Procurement Plan.
4. The Agreements do not include the Commission adopted RPS "non modifiable standard terms and conditions" for bundled RPS contracts.
5. Commission approval of the Agreements should be conditioned upon SCE and RPI modifying the Orita 1 PPA to include the new non-modifiable standard terms and conditions as required in D.10-03-021 and upon certification from SCE that the Proposed Orita 2 and 3 Agreements will be substantially similar to the exhibits contained in the Orita 1 PPA, but modified to contain all of non-modifiable standard terms and conditions required at the time they are executed, except for any non-modifiable standard terms and conditions regarding CPUC Approval.
6. The Agreements are consistent with the bilateral contracting guidelines established in D.09-06-050.
7. The Agreements meet the EPS because the generation technology is a pre-approved renewable generation technology.
8. Pursuant to D.02-08-071, SCE's Procurement Review Group (PRG) participated in the review of the Agreements.
9. Consistent with D.09-06-050, an independent evaluator (IE) reviewed the proposed bilateral Agreements.
10. The Agreements compare favorably to the results of SCE's 2008 solicitation.
11. The total expected costs of the Agreements, as estimated by SCE, are reasonable based on their relation to bids received in response to SCE's 2008 solicitation.
12. Provided the generation is from an eligible renewable energy resource, or is otherwise compliant with Standard Term and Condition 6, set forth in Appendix A of D.08-04-009 and included in the terms of the Agreements, payments made by SCE under the Agreements are fully recoverable in rates

over the life of the Agreements, subject to Commission review of SCE's administration of the Agreements.

13. Procurement pursuant to the Agreements 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 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.
14. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under these Agreements to count towards an RPS compliance obligation. Nor shall that finding absolve SCE of its obligation to enforce compliance with Standard Term and Condition 6, set forth in Appendix A of D.08-04-009, and included in these Agreements.
15. 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.
16. AL 2393-E should be approved effective today.

THEREFORE IT IS ORDERED THAT:

1. SCE's Advice Letter 2393-E, requesting Commission review and approval of the Orita 1, Orita 2, and Orita 3 power purchase agreements, as amended by Amendment No. 1, with Ram Power, Inc. and Orita Geothermal 1 LLC are approved with modification.
2. Within 30 days of the effective date of this Resolution, Southern California Edison Company shall file a Tier 1 advice letter containing a modified Orita 1 power purchase agreement executed by the buyer and seller that includes all of the non-modifiable required standard terms and conditions required for bundled contracts and certifying that the Proposed Orita 2 and 3 Agreements will be substantially similar to the exhibits contained in the Orita 1 agreement, but modified to contain all of non-modifiable standard terms and conditions required at the time they are executed, except for any non-modifiable standard terms and conditions regarding CPUC Approval.

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 May 6, 2010; the following Commissioners voting favorably thereon:

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PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

Confidential Appendix A
Contract Price Evaluation
[REDACTED]

Confidential Appendix B
Bid Data and Contract Terms and Conditions
[REDACTED]

Confidential Appendix C
Summary of Independent Evaluator Report for the Orita Projects
[REDACTED]