PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4359**
September 23, 2010

R E S O L U T I O N

Resolution E-4359. Southern California Edison Resolution E-4359. Southern California Edison (SCE) requests approval of thirteen renewable power purchase agreements and four related amendments to two existing power purchase and sale agreements with WM Energy Solutions, Inc.

PROPOSED OUTCOME: This Resolution approves cost recovery for twelve renewable power purchase agreements resulting from SCE's 2009 Renewables Standard Contracts Program and four related amendments to two existing purchase and sale agreements with WM Energy Solutions, Inc. These power purchase agreements and amendments are approved without modification.

ESTIMATED COST: The estimated total cost of the thirteen power purchase agreements is $548,000,000.

By Advice Letter 2457-E filed on March 29, 2010 and Advice Letter 2457-E-A filed on June 15, 2010.

SUMMARY

Southern California Edison's renewable power purchase agreements (PPA) and amendments comply with the Renewables Portfolio Standard (RPS) procurement guidelines and are approved

Southern California Edison (SCE) filed advice letter (AL) 2357-E requesting Commission review and approval of thirteen renewable power purchase agreements resulting from SCE's 2009 Renewables Standard Contracts (RSC) Program and four related amendments to two existing power purchase and sale agreements with WM Energy Solutions, Inc (WMES), the seller under two of the

RSC PPAs. The WMES amendments transition the existing RPS PPAs into RSC PPAs. SCE filed AL 2357-E-A to modify certain information contained in the confidential Appendix C of AL 2357-E. On August 23, 2010, SCE wrote a letter to Commission staff that one of the RSC PPAs (The Aeromen LLC) was cancelled; thus, this Resolution approves only twelve RSC PPAs.

The following table provides a summary of the twelve approved RSC contracts:

Generating Facility	Technology Type	Term (Years)	Capacity (MW)	Energy (GWh/year)	Contract Delivery Start Date	Location	Relevant 2008 MPR ($/MWh)
WM Energy Solutions, Inc (Simi Valley)	Biomass (landfill gas)	10	2.49-5	11-22	2009	Simi Valley, CA	100.43
WM Energy Solutions Inc. (El Sobrante)	Biomass (landfill gas)	10	3.77-5	17-22	2009	Simi Valley, CA	100.43
Sustainable Energy Capital Partners, LLC	Solar Photovoltaic (PV)	20	20	56	2010	29 Palms, CA	113.90
TA – High Desert, LLC	Solar PV	20	20	42	2011	Lancaster, CA	117.30
RE Rio Grande, LLC	Solar PV	20	5	11	2012	Mojave, CA	121.26
RE Victor Phelan Solar One, LLC	Solar PV	20	20	49	2013	Adelanto, CA	125.27
RE Rosamond Two LLC	Solar PV	20	20	47	2013	Rosamond, CA	125.27
Boron Solar, LLC	Solar PV	20	15	30	2014	San Bernardino County, CA	128.97
North Edwards Solar, LLC	Solar PV	20	20	39	2014	San Bernardino County, CA	128.97

Generating Facility	Technology Type	Term (Years)	Capacity (MW)	Energy (GWh/year)	Contract Delivery Start Date	Location	Relevant 2008 MPR ($/MWh)
LSR Kramer South, LLC	Solar PV	20	20	40	2014	San Bernardino County, CA	128.97
Clear Vista Ranch, LLC	Wind	20	20	55	2011	Tehachapi, CA	117.30
Sand Canyon of Tehachapi LLC	Wind	20	20	55	2011	Tehachapi, CA	117.30

SCE initiated the RSC Program for renewable energy projects under 20 megawatts (MW) to provide a streamlined procurement process for smaller RPS-eligible projects. The RSC Program is a bilateral standard contracting program and will encourage contracts with small renewable generators by reducing barriers smaller projects may face when participating in the annual RPS solicitations. Projects with smaller capacities face difficulties competing in renewable solicitations with larger projects because of economies of scale and the cost of submitting bids and negotiating contracts. Each contract executed as part of its 2009 RSC Program is priced at the applicable 2008 Market Price Referent (MPR).

Deliveries from the PPAs are reasonably priced and fully recoverable in rates over the life of the contracts, subject to Commission review of SCE's administration of the contracts.

AL 2457-E and AL 2457-E-A are approved without modification.

NOTICE

Notice of AL 2457-E and AL 2457-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

No protests were received to this advice letter.

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 one percent of retail sales per year so that twenty percent of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[1] The utilities must maintain 20 percent renewables in each year after 2010.

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 its 2009 Renewable Standard Contracts and Related Amendments

SCE voluntarily created a standard contracting program for small RPS-eligible projects. The program was originally designed for biomass facilities under 20 MWs, but SCE expanded the eligibility to all technologies for its 2009 Renewable Standard Contract Program. The Commission approved the framework of the 2009 RSC Program as part of SCE's 2009 RPS Procurement Plan.

SCE executed thirteen PPAs as part of its 2009 RSC. Two of the PPAs are with existing biomass facilities that previously had RPS contracts with SCE. The other 11 are for new solar PV and wind facilities located in California and interconnected to the California Independent System Operator (CAISO). One of the wind contracts has been terminated.[2] The PPAs are based on SCE's two standard contracts, one for projects up to 5 MW and one for projects up to 20 MW. Only minor modifications were made to the RSC standard contracts to

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

[2] SCE sent a letter stating that the wind contract with The Aeromen LLC was terminated because the seller "informed SCE that it would not be able to perform its obligations as set forth in the Aeromen Contract". (Letter from David Cox at SCE to Commission staff, dated August 23, 2010)

conform the PPA to the project's specifications. Each contract is priced at the applicable 2008 MPR for the project's online date and contract term since SCE received the RSC applications when the 2008 MPR was in effect. However, the contracts are considered "above the MPR" because the Commission adopted the 2009 MPR values after SCE received the RSC applications, and the 2009 MPRs are lower than the 2008 MPRs.

SCE also executed four amendments to transition two existing RPS landfill gas PPAs into RSC contracts. The seller had provided timely notice to SCE of its intent to terminate the PPAs after 5 years into the 10-year contract terms. Instead of terminating the PPAs, SCE and the seller agreed that the WMES facilities would continue operating and that they would transition into RSC PPAs. The amendments facilitate this transition.

SCE requests that the Commission issue a resolution containing:

1. Approval of the RSC Contracts and the WMES Amendments in their entirety.
2. A finding that any electric energy sold or dedicated to SCE pursuant to the RSC Contracts and the WMES Amendments 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 Legislation[3] or other applicable law concerning the procurement of electric energy from renewable energy resources.
3. A finding that all procurement under the RSC Contracts and the WMES Amendments 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 under the RSC Contracts and the WMES Amendments counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE.

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[3] 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*."

5. A finding that all procurement under the RSC Contracts and the WMES Amendments 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).
6. A finding that the RSC Contracts and the WMES Amendments, and SCE's entry into the RSC Contracts and WMES Amendments, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the RSC Contracts and WMES Amendments, subject only to further review with respect to the reasonableness of SCE's administration of the RSC Contracts and WMES Amendments.
7. Any other and further relief as the Commission finds just and reasonable.

Energy Division Review of the Proposed PPAs

Energy Division evaluated the PPAs for the following criteria:

- Consistency with SCE's 2009 RPS Procurement Plan (Plan)
- Consistency with bilateral contracting guidelines
- Cost reasonableness
- Project viability assessment
- Consistency with RPS standard terms and conditions (STC)
- Consistency with the Interim Emissions Performance Standard
- Procurement Review Group (PRG) participation
- Independent Evaluator requirements

Consistency with SCE's 2009 RPS Procurement Plan

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' annual RPS solicitation.[4] The Commission must then accept or reject proposed PPAs based on their consistency with the utility's approved Plan.

[4] Pub. Util. Code Section §399.14

In D.09-06-018, the Commission conditionally approved SCE's Plan. SCE subsequently amended its Plan consistent with the requirements in the authorizing decision. Pursuant to statute, SCE's Plan includes 1) an assessment of supply and demand to determine the optimal mix of renewable generation resources, 2) an explanation of the utility's use of flexible compliance mechanisms, and 3) a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.[5] SCE's 2009 RPS Procurement Plan indicated that SCE has both a near-term and long-term need for renewable energy. SCE's bid evaluation criteria favor proposals for renewable energy from generating facilities with near-term deliveries. SCE also stated that its evaluation criteria consider the benefits of projects located near approved transmission infrastructure, such as the Sunrise Powerlink Transmission Project and Tehachapi Renewable Transmission Project.

The Commission accepted SCE's 2009 RSC Program as part of SCE's 2009 RPS Procurement Plan, although it reached no judgment on the standard contracts or the contract price. Consistent with the 2009 RPS Procurement Plan, the RSC Program accepts projects with standard delivery terms of 10, 15, and 20 years. SCE offers two standard contracts – one for projects up to 5 MW and a second for projects between 5 and 20 MW. The RSC Program has a program cap of 250 MW, and SCE accepts eligible projects based on a first-come, first-serve basis, until the program limit is reached. Accordingly, SCE does not perform a least-cost best-fit bid evaluation on the offers or evaluate their viability relative to its other RPS offers from SCE's solicitation or bilateral negotiations.

SCE asserts that the RSC Program was robust. SCE posted the RSC PPA and relevant program information at **www.sce.com/renewables** and promoted the program to a wide range of industry participants and they attended relevant conferences to promote its availability. According to SCE, SCE received a large number of applications to its RSC Program, representing nearly double the Program's goal of 250 MW.

<u>The PPAs are consistent with SCE's 2009 RPS Procurement Plan, approved by D.09-06-018 and subsequently amended by SCE. SCE asserts that the RSC</u>

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

Program was robust, and applications were accepted on a first-come first-served basis until the program capacity cap was reached.

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 PPAs and the IE reviewed the PPAs relative to SCE's other recent RPS offers.

Additionally, the RSC contracts are consistent three other requirements for bilateral contracts established by D.06-10-019:

1. The PPA will not be applied to SCE's cost limitation.[6]
2. The PPA was submitted by advice letter.[7]
3. The PPA is at least one month in duration.[8]

The PPAs are consistent with the bilateral contracting guidelines established in D.09-06-050 and D.06-10-019.

Cost Reasonableness

As part of SCE's efforts to standardize and simplify the renewable contract negotiation process, all of the 2009 RSC Program contracts are priced at the 2008 MPR associated with the relevant online date and contract term. The adopted 2008 MPRs for the years RSC contracts are expected to commence deliveries are

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[6] The PPAs are ineligible for the cost limitation because they did not result from a competitive solicitation. Pub. Utils. Code §399.15(d)(2).

[7] "For now, utilities' bilateral RPS contracts, of any length, must be submitted for approval by advice letter." D.06-10-019 at 31.

[8] "All RPS-obligated [load serving entities] 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.

listed in Table 1 below. The contract prices will be adjusted for each project based on SCE's Time of Delivery (TOD) factors and the project's delivery profile. Energy Division staff calculates that the total net present value of the twelve contracts is approximately $548 million based on the projects' contract prices and associated load profiles.

Table 1 – CPUC-adopted 2008 MPRs

Adopted 2008 Market Price Referents (Nominal - dollars/kWh)			
Resource Type	**10-Year**	**15-Year**	**20-Year**
2010 Baseload MPR	0.10175	0.10748	0.11390
2011 Baseload MPR	0.10400	0.11046	0.11730
2012 Baseload MPR	0.10698	0.11405	0.12126
2013 Baseload MPR	0.10998	0.11776	0.12527
2014 Baseload MPR	0.11278	0.12122	0.12897

The 2008 MPR values were used as the RSC PPA prices because they were in effect when the applications were received. However, the 2009 MPR was issued in late 2009 before the PPAs were executed. Because gas prices decreased, the 2009 MPR values were lower than the 2008 MPR values. As a result, the prices in all the executed RSC PPAs are higher than the applicable 2009 MPR.[9]

According to D.06-10-019 and D.09-06-050, bilateral contracts must be deemed reasonable by the Commission and be evaluated with consistent methodologies as contracts that are bid into competitive RPS solicitations. To evaluate whether the RSC contract prices are reasonable, Energy Division compared the RSC contract prices to SCE's 2008 and 2009 RPS solicitation bids and recently executed PPAs. This includes the PPAs recently shortlisted as part of SCE's Solar Photovoltaic Program (SPVP). The IE states that the RSC PPAs are reasonable relative to the lower half of bids in SCE's 2009 solicitation, but some of the projects' renewable premiums fall outside the range of bids shortlisted in the

[9] Because these PPAs were negotiated bilaterally, they are ineligible for above-MPR funds and do not count towards SCE's RPS cost limitation.

solicitation.[10] When recognizing the benefits of a standard contracting program that streamlines and simplifies the procurement process for smaller RPS projects, the IE reports that all RSC contracts merit approval.

The total expected costs of the RSC PPAs and WMES amendments, as estimated by SCE, are reasonable based on their relation to SCE's other RPS-eligible offers and recently executed PPAs. Payments made by SCE under the PPAs are fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs.

Project Viability Assessment

While a project viability assessment was not used to evaluate and select RSC contracts because the program is first-come first-served, the IE reviewed the overall viability of the projects. Table 2 below provides a high level summary of project viability and contract issues consistent with the information generally required by bid evaluation and project viability protocols.

Table 2. RSC Contracts Project Viability Summary

Seller	Developer Experience	Permits and Site Control	Transmission	Facility Vintage
WM Energy Solutions, Inc.	Owns and operates 100 landfill gas projects	Site owner	No transmission or interconnection issues	Existing
WM Energy Solutions, Inc.	Owns and operates 100 landfill gas projects	Site owner	No transmission or interconnection issues	Existing
Clear Vista Ranch, LLC	No renewable development experience	Site owner	No studies have been completed.	New
TA – High Desert, LLC	1-year experience developing utility solar	Site owner	SGIP application was submitted in the 4th	New

[10] For the 2009 RPS solicitation, SCE applied a renewable premium methodology as the primary evaluation metric to evaluate and rank proposals. The renewable premium is equal to levelized costs minus levelized benefits associated with each proposal in nominal $/MWh.

Seller	Developer Experience	Permits and Site Control	Transmission	Facility Vintage
	projects		quarter of 2009 and feasibility studies are in progress	
Sand Canyon of Tehachapi LLC	Renewable development experience with wind, solar, and geothermal, including 20.5 MW wind farm in HI	Lease of project site with purchase options	No studies have been completed for the project	New
RE Rio Grande, LLC	Power development experience	Option to purchase project site	Feasibility studies in progress; queue position established	New
RE Rosamond Two LLC	Power development experience	Lease of project site with purchase options	No transmission studies completed; WDAT queue position established	New
Sustainable Energy Capital Partners, LLC	PV development experience in Asia	Lease of project site with purchase options	No transmission studies completed; WDAT queue position established	New
LSR Kramer South, LLC	Experience in energy infrastructure, power, and utilities sector	Option to purchase project site	System Impact Study completed. Facilities study initiated	New
RE Victor Phelan Solar One LLC	Power development experience	Lease of project site with purchase options	No transmission studies completed; WDAT queue position established	New
Boron Solar, LLC	Experience in energy infrastructure, power, and utilities sector	Option to purchase project site	Feasibility studies not yet completed	New
North Edwards Solar, LLC	Experience in energy infrastructure, power, and utilities sector	Option to purchase project site	Feasibility studies not yet completed	New

As shown in the table above, all projects involve commercial technologies. In addition, all sellers have some form of site control. However, SCE states that the sellers have varying degrees of experience in the field of renewable energy project development. While many of the sellers have experience developing

electricity infrastructure either in North America or other countries, only a few of the sellers have experience developing and operating a renewable energy facility. Most projects are in the early stages of assessing interconnection requirements and costs. As a result, it is not clear at this point what the interconnection and network upgrade costs will be for these projects. Finally, the sellers under all contracts that have security requirements have posted the required security.

The Independent Evaluator notes in Appendix Y of AL 2457-E that it may be preferable for SCE in the future to institute project viability and market valuation screens for its standard contract applications. The IE suggests that the RSC Program could be strengthened if the projects were compared to SCE's recent solicitations before the contracts are executed. As always, the Commission will have the discretion to consider SCE's upfront evaluation of these projects' viability if SCE seeks seller non-performance as an allowable excuse for deferring RPS deficits.[11]

According to SCE, the project viability of the RSC contracts ranges from very high viability for the two existing biomass projects to lower levels of viability for other projects depending on the project's stage in development and the developer's experience.

Consistency with RPS Standard Terms and Conditions (STCs)

The RSC standard contracts are simplified versions of SCE's Commission-approved 2009 RPS pro forma contract. They contain the non-modifiable STCs and thus, comply with D.08-04-009, as modified by D.08-08-028. Since the RSC Program uses a standard contract, SCE only made modest changes to the modifiable terms for project-specific needs. The IE concurs that SCE used reasonable business judgment in negotiating minor changes to the contract, while adhering to the principle that it is a standard contracting program.

The terms and conditions in the PPAs comply with the non-modifiable terms required in RPS contracts as set forth in D.08-04-009, and amended by D.08-08-028.

[11] *See,* D.06-10-050 and D.08-02-008

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

California Public Utilities 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.[12] Generating facilities using certain renewable resources are deemed compliant with the EPS,[13] 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.[14]

<u>The proposed RSC PPAs are compliant with the EPS because landfill gas is a pre-approved renewable energy technology and solar and wind are not baseload technologies subject to the EPS, per 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 states that it consulted with its PRG during each step of the renewable procurement process. Among other things, SCE states that it informed the PRG of the initial results of its RFP; explained the evaluation process; and updated the PRG periodically concerning the status of contract formation.

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[12] "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).

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

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

Applications for the RSC projects were received prior to November 13, 2009. On December 16, 2009, SCE briefed the PRG concerning the plans for execution of the RSC PPAs.

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

Independent Evaluator (IE) Requirements

SCE retained an IE, Merrimack Energy Group, Inc., to report to SCE's procurement review group about the 2009 RPS solicitation and bilateral contracts executed in 2009. According to the IE Report submitted in AL 2457-E and AL 2457-E-A, Merrimack Energy performed its duties overseeing bilateral contracts executed in 2009 and has provided assessment reports to the PRG and the Commission. As discussed previously, the IE compared the RSC projects to bids in SCE's recent RPS solicitations. The IE concluded that "SCE designed and implemented the RSC program in a satisfactory manner" and that the RSC projects are competitive relative to the lower half of SCE's 2009 solicitation bids.[15] The IE also provided several constructive suggestions for improving the competitiveness of the projects executed as part of a future RSC Program.

Consistent with D.06-05-039, an independent evaluator (IE) oversaw SCE's RPS procurement process. Additionally, the IE reviewed the proposed bilateral contracts and compared the proposals to the results of the most recent bids received consistent with D.09-06-050.

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

[15] Appendix Y, page 25

years from the date the contract states that energy deliveries begin, except contracts between IOUs and their affiliates, which are public.

The confidential portions of the advice letter should remain confidential at this time.

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.[16][1]

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."[17][2]

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."

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

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

Therefore, while we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation. Nor shall such finding absolve the seller of its obligation to obtain CEC certification, or the utility of its obligation to pursue remedies for breach of contract. Such contract enforcement activities shall be reviewed pursuant to the Commission's authority to review the administration of such contracts.

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.

No comments were received.

FINDINGS AND CONCLUSIONS

1. The twelve power purchase agreements (PPA) executed as part of Southern California Edison's (SCE) 2009 Renewable Standard Contract (RSC) Program are consistent with SCE's 2009 Renewables Portfolio Standard (RPS) Procurement Plan, approved by D.09-06-018 and subsequently amended by SCE.
2. SCE executed four amendments to two existing power purchase and sale agreements with WM Energy Solutions, Inc (WMES Amendments) to transition them into RSC contracts.
3. SCE asserts that the RSC Program was robust, and applications were accepted on a first-come first-served basis until the program capacity cap was reached.
4. The PPAs are consistent with the bilateral contracting guidelines established in D.09-06-050 and D.06-10-019.

5. The total expected costs of the PPAs and WMES Amendments, as estimated by SCE, are reasonable based on their relation to SCE's other RPS-eligible offers and recently executed PPAs.
6. According to SCE, the project viability of the RSC contracts ranges from very high viability to lower levels of viability depending on the project's stage in development and the developer's experience.
7. The Commission has discretion to consider SCE's upfront evaluation of the RSC projects' viability if SCE seeks seller non-performance for the RSC projects as an allowable excuse for deferring RPS deficits.
8. The terms and conditions in the PPAs comply with the non-modifiable terms required in RPS contracts as set forth in D.08-04-009, and amended by D.08-08-028.
9. The proposed RSC PPAs are compliant with the Emissions Performance Standard (EPS) because landfill gas electricity is a pre-approved renewable energy technology and solar and wind are not baseload technologies subject to the EPS, per D.07-01-039.
10. Pursuant to D.02-08-071, SCE's Procurement Review Group (PRG) participated in the review of the PPAs.
11. Consistent with D.09-06-050, an independent evaluator (IE) reviewed the proposed bilateral PPAs and compared the projects to the most recent bids received in SCE's 2008 and 2009 RPS solicitations.
12. Procurement pursuant to the RSC PPAs and WMES Amendments is procurement from eligible renewable energy resources for purposes of determining Southern California Edison Company'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 and Decision 06-10-050, or other applicable law.
13. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under the RSC power purchase agreements or WMES Amendments to count towards an RPS compliance obligation. Nor shall that finding absolve Southern California Edison Company of its obligation to enforce compliance with this agreement.
14. Payments made by Southern California Edison Company under the approved RSC power purchase agreements and WMES Amendments are fully

recoverable in rates over the life of the agreement, subject to Commission review of Southern California Edison Company's administration of the agreement.

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. Advice Letters 2457-E and 2457-E-A should be approved effective today without modifications.

THEREFORE IT IS ORDERED THAT:

1. Twelve bilateral renewable energy power purchase agreements executed pursuant to Southern California Edison Company's 2009 Renewable Standard Contract Program proposed in Advice Letters 2457-E and 2457-E-A are approved without modification.
2. The four amendments to two existing power purchase and sale agreements between WM Energy Solutions, Inc and Southern California Edison Company proposed in Advice Letters 2457-E and 2457-E-A are approved without modification.

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 September 23, 2010; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON
PAUL CLANON
Executive Director

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

Commissioner John A. Bohn, being necessarily absent, did not participate.