

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION E-5107
November 19, 2020**

**REDACTED
RESOLUTION**

Resolution E-5107. San Diego Gas & Electric Company requests approval of a Portfolio Sales Agreement with the Exelon Generation Company to resell renewable generation and the associated renewable energy credits.

PROPOSED OUTCOME:

- This Resolution approves a Portfolio Sales Agreement (PSA) between San Diego Gas & Electric Company and Exelon Generation Company. The agreement resulted from San Diego Gas & Electric Company's 2020 BioRAM (Bioenergy Renewable Auction Mechanism) REC (Renewable Energy Credit) Sales Solicitation, authorized by Decision (D.)19-12-042, and is for the sale of short-term renewable energy and associated RECs from the HL Power Company generation facility. The agreement is approved without modification.

SAFETY CONSIDERATIONS:

- The PSA will not alter existing agreements or any facility operations. Because this agreement does not require a change in facility operations, there are no incremental safety implications associated with approval of the agreement.

ESTIMATED COST:

- Actual costs of the PSA are confidential at this time.

By Advice Letter 3583-E, filed on August 7, 2020.

SUMMARY

San Diego Gas & Electric Company's renewable energy Portfolio Sales Agreement (PSA) with Exelon Generation Company complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved without modification.

San Diego Gas & Electric Company (SDG&E) filed Advice Letter (AL) 3583-E on August 7, 2020, requesting California Public Utilities Commission (CPUC) review and approval of one PSA with Exelon Generation Company (Exelon Generation). The PSA is a short-term contract for renewable energy and associated renewable energy credits (RECs) originating from the HL Power Company biomass facility, with which SDG&E has a Bioenergy Renewable Auction Mechanism (BioRAM)¹ PPA.

This resolution approves the PSA between SDG&E and Exelon Generation without modification. SDG&E's execution of the PSA is consistent with SDG&E's 2019 RPS Procurement Plan, approved in Decision D.19-12-042. SDG&E is authorized to hold solicitations and execute contracts for short-term RPS sales, subject to CPUC approval. SDG&E's execution of the PSA is also consistent with the BioRAM non-bypassable charge (NBC), approved in D.18-12-003.

Sales from SDG&E to Exelon Generation are reasonably priced. Payments received by SDG&E pursuant to the PSA for renewable energy and associated RECs originating from SDG&E's BioRAM facility, HL Power Company, shall be credited to ratepayers via SDG&E's Tree Mortality Non-Bypassable Charge Balancing Account (TMNBCBA).

Table 1 below provides a summary of the PSA between SDG&E and Exelon Generation.

¹ In Resolution E-4770, the CPUC ordered the three large IOUs to procure biomass from high-hazard zones to address Governor Jerry Brown's 2015 Emergency Proclamation on Tree Mortality through Renewable Auction Mechanism (RAM) standard contracts. These contracts are referred to as BioRAM contracts.

Table 1: Summary of the RPS Portfolio Sales Agreement

Counterparty	Product	Contract Quantity (MWh)	Contract Term	Facility Location	Energy Delivery Point
Exelon Generation Company	Renewable Energy and Associated RECs from HL Power Company	Up to 175,000	January 1, 2021 – December 31, 2021	Lassen County, CA	CAISO NP-15

BACKGROUND

Overview of the Renewables Portfolio Standard (RPS) Program

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, SB 2 (1X), SB 350 and SB 100.² The RPS program is codified in Public Utilities Code Sections 399.11-399.33.³ The RPS program administered by the CPUC requires each retail seller to procure eligible renewable energy resources equal to 33 percent of retail sales by December 31, 2020 and 60% by 2030⁴, with a goal for 100 percent of the State’s electricity supply to come from renewable and carbon-free resources by 2045.⁵

Additional background information about the CPUC’s RPS program, including links to relevant laws and CPUC decisions, is available at

<http://www.cpuc.ca.gov/RPS/> and <http://www.cpuc.ca.gov/RPS/Decisions/Proceedings/>.

² SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session); SB 350 (de León, Chapter 547, Statutes of 2015; SB 100 (de León, Chapter 312, Statutes of 2018), effective on January 1, 2019.

³ All further statutory references are to the Public Utilities Code unless otherwise specified.

⁴ D.19-06-023 established a methodology to calculate procurement requirement quantities for the compliance periods covered in SB 100.

⁵ SB 100 (De León, Chapter 312, Statutes of 2018) effective on January 1, 2019.

Overview of Biomass Procurement and the Tree Mortality Non-Bypassable Charge

On October 30, 2015 Governor Brown issued a Proclamation of a State of Emergency to address the tree mortality crisis in California. The Proclamation classified the dead and dying trees located in designated high-hazard zones (HHZ) as being a high priority for removal. In response to the Proclamation, the CPUC issued Resolution E-4770, requiring that the three large investor-owned utilities enter into contracts to purchase their share of at least 50 megawatts (MW) of generating capacity collectively from biomass generation facilities that use minimum prescribed levels of HHZ material as feedstock.

In 2016 Senate Bill (SB) 859 (stats. 2016, ch. 368) was enacted. SB 859 included a new requirement for electrical corporations to procure their respective shares of 125 MW from existing biomass facilities using prescribed amounts of dead and dying trees located in HHZs as feedstock. In addition, SB 859 added Pub. Util. Code § 399.20.3(f) to require that the procurement costs to satisfy this requirement be recovered from all customers on a non-bypassable basis. In Decision D.18-12-003, the CPUC established a non-bypassable charge for costs associated with tree mortality biomass energy procurement. The Tree Mortality Non-bypassable Charge (TMNBC) applies to all procurement conducted pursuant to Resolution E-4770⁶ and Resolution E-4805.⁷ The decision ordered all IOUs to make the renewable energy and associated RECs from their tree-mortality related procurement available for sale. The revenues collected from REC sales associated with bioenergy procurement are to be deducted from the IOUs' TMNBC.⁸

⁶ Resolution E-4770, CPUC Motion Authorizing Procurement from Forest Fuelstock Bioenergy Facilities supplied from High Hazard Zones for wildfires and falling trees pursuant to the Governor's Emergency Proclamation, March 18, 2016.

⁷ Resolution E-4805, CPUC Motion Authorizing Procurement from Bioenergy Facilities supplied from Forest Fuel High Hazard Zones pursuant to Senate Bill 859, the Governor's Tree Mortality Emergency Proclamation, and the CPUC's other legal authority, October 21, 2016.

⁸ See Decision D.18-12-003 at Ordering Paragraph 3.

NOTICE

Notice of Advice Letter (AL) 3583-E was published in the CPUC's Daily Calendar on August 12, 2020. SDG&E states that copies of AL 3583-E were mailed and distributed to the R.18-07-003 and A.16-11-005 service lists in accordance with Section 4 of General Order 96-B.

PROTESTS

SDG&E Advice Letter 3583-E was not protested.

DISCUSSION

San Diego Gas & Electric Company (SDG&E) requests approval of a portfolio sales agreement with Exelon Generation Company (Exelon Generation).

On August 7, 2020, SDG&E filed AL 3583-E requesting approval of a short-term RPS sales agreement with Exelon Generation Company. In AL 3583-E, SDG&E asserts that the Portfolio Sales Agreement (PSA) lowers costs to ratepayers while optimizing the value of its RPS portfolio. All revenues from this transaction will be credited to SDG&E's ratepayers through SDG&E's Tree Mortality Non-Bypassable Charge Balancing Account (TMNBCBA).

Pursuant to the PSA, SDG&E will sell up to 175,000 megawatt-hours (MWh) of RPS-eligible energy and associated RECs to Exelon Generation. The RPS-eligible generation and associated RECs will come from one biomass facility that is currently operating and providing deliveries to SDG&E pursuant to a CPUC-approved Bioenergy Renewable Auction Mechanism (BioRAM) contract. The HL Power biomass facility from which SDG&E will resell RPS-eligible energy and associated RECs to Exelon Generation is 24 MW, located in California, and interconnected into the California Independent System Operator (CAISO) balancing authority. SDG&E intends to deliver all volumes from its BioRAM contracted facility, HL Power, to Exelon Generation under this PSA.

SDG&E requests that the CPUC issue a resolution that:

1. Approves the PSA, dated July 6, 2020, between SDG&E and Exelon Generation Company (Exelon Generation).

Energy Division evaluated the PSA with Exelon Generation based on the following criteria:

- Consistency with SDG&E's 2019 RPS Procurement Plan and RPS Portfolio Need;
- Consistency with Contracting Rules;
- Cost Reasonableness and Valuation;
- Consistency with the Tree Mortality Non-Bypassable Charge;
- Project Viability Assessment and Development Status;
- Independent Evaluator Review;
- Cost Allocation Methodology (CAM) Procurement Review Group Participation;
- Safety Considerations;
- Confidential Information.

Consistency with SDG&E's 2019 RPS Procurement Plan and RPS Portfolio Need

Pursuant to statute, SDG&E's RPS Procurement Plan (RPS Plan) includes an assessment of RPS supply and demand to determine the optimal mix of renewable generation resources; description of existing RPS portfolio; description of potential RPS compliance delays; status update of projects within its RPS portfolio; an assessment of the project failure and delay risk within its RPS portfolio; and bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.⁹ California's RPS statute also requires that the CPUC review the results of a renewable energy resource solicitation submitted for approval by a utility.¹⁰ The CPUC reviews the results to verify that the utility conducted its solicitation according to its CPUC-approved procurement plan.¹¹

⁹ Pub. Util. Code § 399.13(a)(5).

¹⁰ Pub. Util. Code § 399.13(d).

¹¹ SDG&E's 2019 RPS Procurement Plan was approved by D.19-12-042.

In SDG&E's 2019 RPS Plan, SDG&E explained that it utilizes a Need Determination Methodology to make renewable procurement decisions, which compares SDG&E's risk-adjusted forecasted RPS position to its RPS program compliance requirements. SDG&E is well positioned to exceed the current 33% RPS by 2020 target, as well as its RPS compliance requirements for the third (2017-2020) and future compliance periods. From 2021 to 2030, SDG&E anticipates that it will meet its RPS requirements through procurement that has already been contracted. Based on that assessment,¹² SDG&E stated that it would not hold a 2019 RPS solicitation for new renewable resources.

SDG&E's 2019 RPS Plan stated that to optimize its RPS portfolio it would pursue issuing competitive solicitations for the sale of RPS-eligible energy and RECs, including sales from its BioRAM contract, and engage in bilateral negotiations if the offers were competitive and provide benefits to SDG&E customers. In D.19-12-042, the CPUC authorized SDG&E to conduct short-term RPS sales solicitations and approved the use a pro-forma sales agreement.¹³ SDG&E was also authorized to engage in bilateral sales transactions that do not utilize the pro forma sales agreement submitted with its 2019 RPS Procurement Plan, subject to CPUC review and approval.

The Portfolio Sales Agreement with Exelon Generation for the sale of renewable generation and associated RECs is consistent with SDG&E's renewable resource needs, as outlined in its 2019 RPS Plan. Therefore, the PSA is consistent with SDG&E's RPS portfolio needs identified in its 2019 RPS Procurement Plan, as approved by D.19-12-042.

Consistency with Contracting Rules

The PSA with Exelon Generation is the result of SDG&E's 2020 BioRAM REC Sales Solicitation. The CPUC has guidelines pursuant to which utilities may enter into RPS contracts. In D.03-06-071, the CPUC authorized entry into bilateral RPS contracts and contracts as a result of authorized solicitations. In D.06-10-019 and

¹² See D.19-12-042 at Section 10.2 for a summary of SDG&E's assessment of RPS portfolio supplies and demand.

¹³ See D.19-12-042 at Ordering Paragraph 17.

D.09-06-050, the CPUC further established rules pursuant to which the IOUs could enter into RPS contracts. Additionally, D.18-12-003 required SDG&E to sell all products procured via its BioRAM contract and D.19-12-042 authorized SDG&E to hold solicitations for RPS sales and enter into RPS sales agreements, subject to CPUC approval.

The PSA is the result of a solicitation and is consistent with the contracting guidelines established in D.06-10-019, D.09-06-050, and D.18-12-003.

Cost Reasonableness and Valuation

In AL 3583-E, SDG&E asserted that the PSA is intended to optimize SDG&E's RPS portfolio and provide benefits for ratepayers in the form of lowered procurement costs. SDG&E described that it made this determination by analyzing the costs and revenues from the PSA.

In reviewing requests for contract approval, the CPUC compares contract prices to the most recent solicitation and recently executed contracts. SDG&E has not executed any contracts from RPS REC sales solicitations since 2018. Thus, we compared the results from SDG&E's 2020 BioRAM REC Sales Solicitation to bids received in SDG&E's 2020 RPS REC Sales Solicitation. Based on this analysis and the confidential analysis provided by SDG&E in AL 3583-E, we determine that the PSA price is duly reasonable. Confidential Appendix A includes a discussion of the contractual pricing terms and the analysis of the reasonableness of the PSA price.

The total expected revenues of the sales agreement are reasonable based on the sales agreement's price relative to SDG&E's most recent solicitation and recently executed contracts.

Consistency with the Tree Mortality Non-Bypassable Charge

HL Power was contracted by SDG&E to meet the tree mortality biomass procurement requirements set forth in CPUC Resolutions E-4770 and E-4805. Decision D.18-12-003 adopted the tree mortality non-bypassable charge (TMNBC) and ordered SDG&E to sell its tree-mortality related biomass

procurement. In AL 3583-E, SDG&E states it intends to source all of the RPS-eligible energy and RECs for the PSA from the HL Power facility.

Additionally, pursuant to D.18-12-003, SDG&E established a Tree Mortality Non-Bypassable Charge Balancing Account (TMNBCBA) to collect from ratepayers the net costs of tree mortality related biomass procurement.¹⁴ In AL 3583-E, SDG&E describes that the revenues collected pursuant to energy delivered from the contract between SDG&E and HL Power Company will be credited to the TMNBCBA¹⁵ in accordance with the Renewable Energy Credit Sales Framework set out in SDG&E Advice Letters 3343-E/E-A/E-B.¹⁶ The Framework states that revenue received from the sale of tree-mortality related procurement shall be deducted from the total costs of the HL Power Company contract in the TMNBCBA.¹⁷ Thus, the Portfolio Sale Agreement (PSA) is consistent with D.18-12-003.

Payments received by SDG&E under the sales agreement shall be credited to SDG&E's ratepayers through SDG&E's Tree Mortality Non-Bypassable Charge Balancing Account (TMNBCBA) over the life of the sales agreement, subject to CPUC review of SDG&E's administration of the sales agreement.

Project Viability Assessment and Development Status

The generation to be delivered pursuant to the PSA will originate from SDG&E's contract with HL Power Company. The HL Power Company biomass facility has been certified by the California Energy Commission (CEC) as RPS-eligible and is currently generating renewable energy. The PSA with Exelon does not change the RPS-eligibility or development status of this existing project.

¹⁴ SDG&E AL 3343-E filed February 19, 2019 and disposed of via a standard disposition letter.

¹⁵ The non-bypassable charge (NBC) calculation explicitly includes Renewable Energy Credit Revenue. The calculation set out by D.18-12-003 OP 1 is: $NBC = (Fixed\ Costs + Variable\ Costs) - ((Energy\ Revenue) + Ancillary\ Service\ Revenue) + (Resource\ Adequacy\ Sales\ Revenue) + REC\ Sales\ Revenue$.

¹⁶ SDG&E AL 3343-E/E-A/E-B was made effective on July 2, 2019 via Disposition Letter from Energy Division.

¹⁷ SDG&E AL 3343-E pp. 3.

It is reasonable that the generating facility under this contract will continue to be viable and will continue to operate under its existing contract such that SDG&E can meet the terms of the PSA.

Independent Evaluator Review

SDG&E retained Merrimack Energy Group, Inc. as the independent evaluator (IE) to oversee SDG&E's 2020 BioRAM REC Sales Solicitation and to evaluate the overall merits of the executed contract. AL 3583-E included a public and confidential IE report on the bid evaluation and selection process.

In the IE report, the IE opines that the PSA resulting from SDG&E's 2020 BioRAM REC Sales Solicitation merits CPUC approval. Specifically, the IE states that the executed contracts represent the least-cost best-fit opportunity for SDG&E to lower overall costs for ratepayers while optimizing its existing RPS portfolio.

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's 2020 BioRAM REC Sales Solicitation.

Cost Allocation Methodology (CAM) Procurement Review Group Participation

The Cost Allocation Methodology (CAM) Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts, and other procurement processes prior to submitting filings to the CPUC.¹⁸ SDG&E states that details regarding the 2020 BioRAM REC Sales Solicitation were discussed during the February 21, 2020, April 24, 2020 and May 15, 2020 CAM PRG meetings. SDG&E consulted with the CAM PRG and provided their rationale for executing the proposed transaction.

¹⁸ SDG&E's PRG includes representatives from the CPUC's Energy Division and Public Advocates Office, The Utility Reform Network, Coalition of California Utility Employees, Sierra Club, California Department of Water Resources, and Union of Concerned Scientists.

SDG&E received input from PRG participants on the transaction prior to executing the contract.

Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of SDG&E's PSA with Exelon Generation for RPS-eligible energy and RECs.

Safety Considerations

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

The PSA with Exelon Generation is for the sale of renewable generation and associated RECs from RPS-eligible facilities. The proposed sales agreement does not alter existing power purchase agreements or any facility operations. As this agreement does not require a change in facility operations, there are no incremental safety implications associated with approval of the contract beyond the status quo. Based on the information provided, the agreement does not appear to result in any adverse safety impacts on the facilities or operations of SDG&E.

Confidential Information

The CPUC, through the implementation of Pub. Util. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the CPUC 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 or one year after contract termination, 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

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

As there were no protests to AL 3583-E, the 30-day comment period for the draft of this resolution has been waived.

FINDINGS

1. The Portfolio Sale Agreement (PSA) is consistent with SDG&E's RPS portfolio needs in its 2019 RPS Procurement Plan, as approved by D.19-12-042.
2. The PSA is the result of a solicitation and is consistent with the contracting guidelines established in D.06-10-019, D.09-06-050, and D.18-12-003.
3. The total expected revenues of the sales agreement are reasonable based on the estimated costs to SDG&E ratepayers and the sales agreement's price relative to the solicitation and recently executed contracts.
4. Payments received by SDG&E under the sales agreement shall be credited to SDG&E's ratepayers through either SDG&E's Tree Mortality Non-Bypassable Charge Balancing Account (TMNBCBA) over the life of the sales agreement, subject to CPUC review of SDG&E's administration of the sales agreement.
5. It is reasonable that the generating facility under this contract will continue to be viable and will continue to operate under its existing contract such that SDG&E can meet the terms of the PSA.
6. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's 2020 BioRAM REC Sales Solicitation.
7. Pursuant to D.02-08-071, SDG&E's Cost Allocation Methodology Procurement Review Group participated in the review of SDG&E's 2020 BioRAM REC Sales Solicitation for RPS-eligible energy and RECs.
8. 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.
9. AL 3583-E should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letter 3583-E, requesting CPUC review and approval of a Portfolio Sales Agreement with Exelon Generation Company, is 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 November 19, 2020; the following Commissioners voting favorably thereon:

/s/ Rachel Peterson
RACHEL PETERSON
Acting Executive Director

MARYBEL BATJER
President

LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

Confidential Appendix A

[REDACTED]