

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Agenda ID# 22486
RESOLUTION E-5313
May 9, 2024

R E D A C T E D
R E S O L U T I O N

Resolution E-5313. Southern California Edison Company requests approval of Mid-Term Reliability Renewable Resource Contracts.

PROPOSED OUTCOME:

- Approves five Southern California Edison Company mid-term reliability renewable resource contracts and related costs. The power purchase agreements are approved without modification.

SAFETY CONSIDERATIONS:

- The owners and sellers of the projects are responsible for the safe construction and operation of their facilities in compliance with all applicable laws, including safety regulations.
- The contracts include a requirement that the seller follow Prudent Electrical Practices, which are defined as those practices, methods and acts engaged in or approved by a significant portion of the electric power industry during the relevant time period, or any of the practices, methods and acts which, in exercise of reasonable judgment in light of the facts known at the time a decision is made, could have been expected to accomplish a desired result consistent with good business practices, reliability, and safety.

ESTIMATED COST:

- Contract costs are confidential at this time.

By Advice Letter 5207-E, filed on January 26, 2024.

SUMMARY

This Resolution approves five mid-term reliability (MTR) contracts for approximately 823 megawatts (MW) of nameplate capacity. Southern California Edison Company (SCE) contracted these resources to help meet its MTR requirements (full summary of contract terms found in Confidential Appendix A). The contracts for which SCE seeks approval in Advice Letter (AL) 5207-E are summarized in the table below:

Seller/Parent Company	Resource Type	Contract Type	Estimated Capacity	Expected Generation (MWh/year)	Contract Term	Initial Delivery Date
Cape Generating Station 3, LLC / Fervo Energy LLC	Geothermal (Binary)	RPS-Eligible Energy and Capacity	70 MW; 65.1 MW Capacity Value for MTR Compliance	505,118 (First Year)	15, with 5-year extension option if mutually agreed	01/01/2027
Cape Generating Station 4, LLC / Fervo Energy LLC	Geothermal (Binary)	RPS-Eligible Energy and Capacity	250 MW; 232.5 MW Capacity Value for MTR Compliance	1,803,994 (First Year)	15, with 5-year extension option if mutually agreed	06/01/2027
Atlas Solar V, LLC / 174 Power Global LLC	Solar PV	RPS-Eligible Energy	200 MW	632,150 (First Year)	15	02/01/2026

Seller/Parent Company	Resource Type	Contract Type	Estimated Capacity	Expected Generation (MWh/year)	Contract Term	Initial Delivery Date
Atlas Solar VI, LLC / 174 Power Global LLC	Solar PV	RPS-Eligible Energy	100 MW	317,250 (First Year)	15	06/01/2026
Atlas Solar X, LLC / 174 Power Global LLC	Solar PV	RPS-Eligible Energy	225 MW	714,400 (First Year)	15	06/01/2026

The Cape Generating Station 3, developed by Fervo Energy (“Fervo”), LLC, is a 70 MW RPS-eligible binary geothermal project procured to meet SCE’s Mid-Term Reliability (MTR) firm zero-emitting long-lead time procurement requirement across a fifteen-year delivery period. Also developed by Fervo, Cape Generating Station 4 is a 250 MW RPS-eligible binary geothermal project procured to meet SCE’s MTR firm zero-emitting long-lead time requirement across a fifteen-year delivery period. Atlas Solar V, Atlas Solar VI, and Atlas Solar X (the “Atlas contracts”) all developed by Power Global, LLC, are 200 MW, 100 MW, and 225 MW RPS-eligible single-axis solar photovoltaic projects procured to meet MTR Zero-Emissions Generation, Generation Paired with Storage, or Demand Response Resources (e.g., Diablo Canyon Replacement (DCR) requirements).

In accordance with D.21-06-035, SCE proposes to allocate the costs associated with the MTR Contracts to applicable customers, which includes bundled service customers and departing load customers with 2021 vintage cost responsibility, using the Portfolio Allocation Balancing Account (“PABA”) in accordance with SCE’s Advice 4589-E, which became effective on October 16, 2021. Pursuant to Advice 4589-E, costs and benefits associated with procurement complying with D.21-06-035 will be recovered from applicable customers through the 2021 vintage sub-account of the PABA and include incremental administrative costs, which include, but are not limited to, the IE costs.

BACKGROUND

Overview of Integrated Resource Planning (IRP) / Mid-Term Reliability Requirements

Decision (D.) 21-06-035 requires load serving entities (LSEs) to procure at least their share of 11,500 MW of September net qualifying capacity (NQC), with at least 2,000 MW online by August 1, 2023; an additional 6,000 MW online by June 1, 2024; an additional 1,500 MW online by June 1, 2025; and an additional 2,000 MW of long lead time resources online by June 1, 2026, for MTR purposes. Of the 11,500 MW NQC required, 2,000 MW must be from resources with long development lead times (LLT). At least 1,000 MW of this LLT requirement must be obtained from clean firm, zero-emitting resources, such as geothermal, and 1,000 MW of Long Duration Energy Storage (LDES). D.21-06-035 also requires at least 2,500 MW from firm zero-emitting generation paired with storage, or demand response resources by 2025 to replace Diablo Canyon Nuclear Power Plant (sometimes referred to as “Diablo Canyon Replacement (DCR) procurement”).

D.23-02-040, adopted on February 28, 2023 orders supplemental MTR procurement of 2,000 MW NQC for 2026 and 2,000 MW NQC for 2027, and revised the online date for LLT resources from June 1, 2026 to June 1, 2028. With the mutually agreed-upon reallocations and the additional MTR procurement ordered in D.23-02-040, SCE’s annual share of the MTR procurement requirements are as follows:¹

Table 1: SCE Annual MTR Procurement Requirements							
	2023	2024	2025	2026	2027	2028	Total
MTR Capacity	705	2,114	529	684	684		3,836
DCR capacity and Energy	880 total						880
Long-Duration Storage (8+ hours)						353	353
Firm Zero-Emitting Generation Paired with Storage, or Demand Response Resources						352	352
Total Need	705	2,114	529	684	684	705	5,420

¹ SCE AL 5207-E, IE Report at 1.

On February 15, 2024, the CPUC adopted D.24-02-047, modifying the procurement deadlines outlined in the two MTR Decisions. Specifically, D.24-02-047 allows for an extension of the D.23-02-040 2028 deadline to procure LLT resources, when certain conditions are met by an LSE.² Under this decision, load-serving entities (LSEs) that require an extension to bring online the required LLT resources beyond the June, 2028 deadline must procure generic capacity to cover the shortfall, and still bring online LLT resources by no later than June 1, 2031.

Overview of the Renewable Portfolio Standard (RPS) Program Requirements

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 100.³ The RPS program is codified in Public Utilities Code Sections 399.11-399.33.⁴

The RPS program administered by the CPUC requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources equals 60 percent of retail sales by December 31, 2030.⁵

Additional background information about the CPUC's RPS Program, is available at <http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm>.

Solicitation of the MTR Contracts

On July 30, 2021, SCE launched Phase 1 of its Mid-Term Reliability Request for Offers (MTRRFO) for incremental resources that could come online in the 2023-2024 timeframe. As a result of this MTRRFO, SCE submitted seven advice letters for the

² See D.24-02-047, at OP 16.

³ 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 Leon, Chapter 312, Statutes of 2018).

⁴ All further statutory references are to the Public Utilities Code unless otherwise specified.

⁵ D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020). D.16-12-040 established additional procurement requirement quantities for the three compliance periods established by SB 350: 2021-2024, 2025-2027, 2028-2030.

approval of these contracts, most of which have been approved by the Commission to date.⁶

On October 20, 2022, SCE launched Phase 2 of its MTRRFO for incremental resources that can come online in the 2025-2026 timeframe. Consistent with D.21-06-035, SCE's MTRRFO sought incremental zero-emitting resources or resources that otherwise meet RPS eligibility requirements that provide Resource Adequacy (RA) benefits or otherwise contribute to SCE's MTR procurement requirements.

On February 23, 2023, SCE launched Phase 3 of its MTRRFO for supplemental incremental and LLT resources to come online in 2026 and 2027, in accordance with D.21-06-035 and the then likely implementation of D.23-02-040. Much like Phase 2 of SCE's MTRRFO, Phase 3 solicited resources eligible to meet its Diablo Canyon Replacement (DCR) requirement, including RA-only and RA with Financial Settlement contracts for energy storage projects, and RPS-eligible contracts, including RPS contracts for firm zero-emitting resources.

To evaluate its Phase 2 and Phase 3 MTR offers, SCE used its least-cost best-fit (LCBF) methodology, which incorporated a conformance screen, a Net Present Value (NPV) calculation, and a selection of offers with consideration of qualitative factors into its evaluation.⁷ The conformance screen required resources to meet D.21-06-035 requirements and other project variability criteria. The NPV calculations were based on a cost/benefit analysis, where net present value benefits were measured in value streams from resource adequacy, energy, ancillary services, renewable energy credits attributes, and a financial energy settlement. The NPV costs were measured in cost streams from contract payments, debt equivalence, energy, variable operations & maintenance expenses, and transmission upgrade attributes. After the NPV analysis was completed, viable projects were further selected on their ability to meet the procurement required by D.21-06-035, as modified by D.23-02-040, which was implemented nearly one week after SCE's launch of its Phase 3 MTRRFO.

⁶ See SCE AL 4739-E (approved by Resolution E-5205); SCE AL 4800-E (approved by Resolution E-5225); SCE AL 4850-E (approved by Resolution E-5234); SCE AL 4885-E (approved by Resolution E-5251); SCE AL 4920-E (approved by Resolution E-5253); SCE AL 4990-E (approved by Resolution E-5271); SCE AL 5157-E.

⁷ In SCE AL 5207-E, SCE described the qualitative factors that were considered during their assessment of offers. The qualitative benefits include project viability, projects located in an area designated as a DAC, and project size.

NOTICE

Southern California Edison Company states that a copy of Advice Letter 5207-E was mailed and distributed to the R.20-05-003, R.18-07-003, and GO 96-B service lists in accordance with Section 4 of General Order 96-B.

PROTESTS

SCE AL 5207-E was timely protested by the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) on February 15, 2024. Cal Advocates recommends that the Commission reject SCE AL 5207-E and require SCE to renegotiate the pricing of the Cape Station 3 and 4 contracts, and, if necessary, conduct new solicitation activities for competing resources with expected in-service dates through June 1, 2031, as allowed by the new MTR decision. Cal Advocates does not protest the Atlas contracts. Cal Advocates protests the pricing of the Cape Station 3 and 4 contracts asserting that SCE ratepayers would be ill-served based on a comparison to past solicitation offers and the range of levelized costs for incremental binary geothermal capacity.

Moreover, Cal Advocates argue in their protest that because D.24-02-047 extends the expected in-service dates for LLT resources, the CPUC has additional time to weigh the Cape Station 3 and 4 contracts against the prospect of new, potentially better priced offers made to SCE in future solicitations pursuant to the decision. Cal Advocates further asserts that D.24-02-047 did not intend to require procurement of LLT resources at any cost, but rather to encourage their development at a steady rate.

SCE timely replied to Cal Advocates' protest on February 23, 2024. SCE states that the Cape Station 3 and 4 contracts are the least-cost best-fit resources offered to SCE to meet its Firm Zero-Emission LLT requirement, and that the general estimates for the levelized cost of incremental binary geothermal provided within Cal Advocates' confidential protest do not represent pricing for actual projects that were available to SCE in the market at the time of the MTRRFO. SCE adds that should the CPUC reject the approval of the geothermal contracts solely based on price, ratepayers would be subject to additional costs in the form of penalties if SCE was ultimately unable to meet its Firm Zero-Emission LLT requirement.

On February 26, 2024, Fervo Energy replied to Cal Advocates' protest. Fervo Energy justifies the Cape Station 3 and 4 contract prices for their value in contributing to compliance with the MTR and the CPUC's reliability objectives. Moreover, Fervo

Energy asserts that SCE would not have negotiated a lower price for the Fervo contracts had SCE known that the Commission would issue D.24-02-047, maintaining that the contract prices were fair and reasonable regardless of the then upcoming decision. Fervo also argues that rejecting the Cape Station 3 and 4 contracts would likely put SCE out of compliance with D.21-06-035 and/or would require SCE to procure bridge resources on top of procuring potentially more costly LLT resources with a later commercial online date.

DISCUSSION

Southern California Edison Company (SCE) requests approval of five Mid-Term Reliability Renewable Resource Contracts.

On October 20, 2022, SCE launched Phase 2 of its MTRRFO for incremental resources that can come online in the 2025-2026 timeframe. On February 23, 2023, SCE launched Phase 3 of its MTRRFO for incremental resources that can come online in the 2026-2027 timeframe. SCE's Phase 2 and Phase 3 MTRRFO sought incremental zero-emitting resources or resources that otherwise meet RPS eligibility requirements that provide RA benefits or otherwise contribute to SCE's MTR procurement requirements. On January 26, 2024, SCE filed AL 5207-E requesting approval of the MTR Contracts for renewable resources procured as a result of SCE's Phase 2 and Phase 3 MTRRFO.

SCE requests in AL 5207-E that the Commission issue a resolution that:

1. Approves the Mid-Term Reliability Contracts in their entirety;
2. Finds that the Mid-Term Reliability Contracts are consistent with the Decisions;
3. Finds that the Cape Generating Station 3 and Cape Generating Station 4 ("Cape Station 3 and 4") contracts count for approximately 298 MW toward SCE's Firm Zero Emitting LLT procurement requirement;
4. Finds that the Atlas V, Atlas VI, and Atlas X (the "Atlas") contracts will contribute renewable energy toward SCE's DCR procurement requirement;
5. Finds that any procurement pursuant to the Mid-Term Reliability Contracts is procurement from eligible renewable energy resources for purposes of determining SCE's compliance with any obligation that it may have to procure

eligible renewable energy resources pursuant to the California Renewable Portfolio Standard (Public Utilities Code Section 399.11 et seq.) or other applicable law;

6. Finds that the Mid-Term Reliability Contracts are consistent with SCE's 2023 Renewable Portfolio Standard Procurement Plan;
7. Finds that the Atlas contracts are not a form of covered procurement subject to the Emissions Performance Standard, because the generating facilities have expected capacity factors of less than 60%;
8. Finds that the Cape Station 3 and 4 contracts are deemed compliant with the Emissions Performance Standard because the generating facilities are geothermal resources;
9. Finds that the deliveries from the Mid-Term Reliability Contracts shall be categorized as procurement under the portfolio content category in Public Utilities Code Section 399.16(b)(1)(A) or Section 399.16(b)(1)(B), subject to the Commission's after-the-fact verification that all applicable criteria have been met;
10. Finds that the Mid-Term Reliability Contracts and SCE's entry into them are reasonable and prudent for all purposes, and that any payments to be made by SCE pursuant to the Mid-Term Reliability Contracts, are recoverable in full by SCE through the Portfolio Allocation Balancing Account, subject only to SCE's prudent administration of the MTR Contracts;
11. Finds that all procurement and administrative costs, as provided by Public Utilities Code Section 399.13(g), associated with the Mid-Term Reliability Contracts shall be recoverable in rates;
12. Authorizes for SCE to allocate the benefits and costs of the Mid-Term Reliability Contracts, to all applicable customers as described herein via the Portfolio Allocation Balancing Account; and
13. Finds that any other and further relief as the Commission finds just and reasonable.

Energy Division evaluated the Mid-Term Reliability Contracts based on the following criteria:

- Consistency with D.21-06-035 and D.23-02-040;
- Consistency with SCE’s 2023 Renewable Portfolio Standard Procurement Plan;
- Procurement Methodology, Evaluation, and Cost Reasonableness;
- RPS Eligibility and CPUC Approval;
- Consistency with Portfolio Content Categories Requirements;
- Consistency with the Long-Term Contracting Requirement;
- Disadvantaged Community Goals;
- Independent Evaluator Review;
- Procurement Review Group Participation
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard;
and
- Cost Recovery.

Consistency with D.21-06-035 and D.23-02-040

We find that SCE AL 5207-E is consistent with D.21-06-035, as modified by Ordering Paragraph 2 of D.23-02-040.

D.21-06-035, as modified by Ordering Paragraph 2 of D.23-02-040 requires SCE to procure at least 352 MW of Firm Zero Emission LLT resources by 2028. The Cape Station 3 and 4 contracts will contribute approximately 298 MW toward SCE’s Firm Zero Emission LLT requirement pursuant to the decisions. SCE also expects the Cape Station 3 and 4 contracts to work towards the LLT resource requirement outlined in D.21-06-035 and D.23-02-040, as they are new RPS-eligible geothermal resources that have forecasted capacity factors above 80 percent, with expected online dates in January 2027 and June 2028.

The Atlas contracts are for energy-only renewable resources that are expected to help SCE meet its DCR requirement of 880 MW by June 2025. Specifically, the Atlas contracts may be used to satisfy the DCR requirements adopted in D.21-06-035 if SCE is able to pair the projects with energy storage resources in its MTR portfolio. SCE plans to have the Atlas projects undergo an engineering assessment to ascertain that the energy delivered will be sufficient to charge the batteries so that they may discharge to meet the DCR requirements of D.21-06-035.

The MTR contracts also appear to meet the general capacity requirements of D.21-06-035 and D.23-02-040, which dictate that all imports used for compliance with the decisions must be associated with a new resource, or an expansion of an existing

resource, and that they are under a long-term contract of at least ten years. Final verification of specific resource eligibility for specific procurement categories is done via the IRP compliance process.

Consistency with SCE's 2023 Renewable Portfolio Standard Procurement Plan

Pursuant to statute, SCE's RPS Procurement Plan (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.⁸ California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.⁹ The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.

In SCE's 2023 Draft RPS Plan, SCE showed a need for additional RPS-eligible energy in the Compliance Period 2025-2027 and beyond, and recognized that MTR procurement would be used to contribute to meeting that RPS procurement need.¹⁰ Additionally, within its Draft RPS Plan, SCE noted that they plan to procure long-term contracts to meet IRP targets as required under D.21-06-35 and D.23-02-040 to ensure compliance with its RPS obligations.¹¹

Therefore, the procurement facilitated by the MTR contracts is consistent with SCE's renewable resource needs as identified in its 2023 Draft RPS Plan.

Procurement Methodology, Evaluation, and Cost Reasonableness

SCE launched Phase 2 of its MTRRFO on October 20, 2022 to solicit offers for incremental resources that can meet its MTR procurement requirements for the 2025-2026 timeframe. On February 23, 2023, SCE launched Phase 3 of its MTRRFO for supplemental incremental and LLT resources that can meet its MTR procurement requirements for the 2026 and 2027 timeframe.

⁸ Pub. Util. Code § 399.13(a)(5).

⁹ Pub. Util. Code § 399.13(d).

¹⁰ SCE 2023 Draft RPS Plan, at 3.

¹¹ SCE 2023 Draft RPS Plan, at 1.

In AL 5207-E, SCE articulates that its MTRRFO processes were consistent with its past RFOs and met all requirements of the MTR Decisions. Moreover, SCE argues that the projects procured represent the best value portfolio to meet its MTR procurement requirements in the most efficient manner.¹² In the Independent Evaluator (IE) Report attached to AL 5207-E, Sedway Consulting provides an evaluation of SCE's outreach efforts, LCBF methodology design, shortlist, and project negotiations. In the IE Report, Sedway Consulting's professional opinion about these components of Phase 2 and Phase 3 of the MTRRFO concurred with SCE's. Sedway Consulting states that it believes the methodology, evaluation, and cost of the projects were reasonable and resulted in the most appropriate offers for projects coming online in the 2026 and 2027 timeframe from those submitted for SCE's MTRRFO.

Staff have reviewed SCE's MTRRFO evaluation methodology and the IE Report, and agree with SCE's and Sedway Consulting's findings that SCE selected the most appropriate offers on the table at the time of Phase 2 and Phase 3 of its MTRRFO (See Confidential Appendix B).

As noted, the Cal Advocates protested SCE AL 5207-E based on the contract price of the Cape Station 3 and 4 contracts, requesting that the CPUC reject the AL and require SCE to renegotiate the pricing of these contracts. Regarding these concerns over cost reasonableness, Staff find that the contracts were selected consistent with SCE's least-cost, best-fit evaluation methodology, and were the lowest geothermal prices offered at the time of the solicitation. Further, Staff find that it is inappropriate to compare the Cape Station 3 and 4 contract prices to similar offers submitted to past RFOs, as those offers were not available to SCE at the time of the MTRRFO. Staff also agree with SCE and Fervo Energy that there are cost risks associated with pursuing firm zero-emitting projects with later online dates, such as the added cost associated with procuring bridge resources on top of contract prices for new firm zero-emitting resources. In light of the aforementioned, as well as the time and resources required to renegotiate existing contracts or negotiate new firm zero-emitting-compliant contracts, the likelihood that doing so would result in a net benefit for ratepayers is speculative. We therefore reject Cal Advocates' protest and decline to require SCE to renegotiate its contracts.

RPS Eligibility and CPUC Approval

¹² SCE AL, 5207-E.

Pursuant to Section 399.13, the California Energy Commission (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 RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.¹³

The Commission requires a standard and non-modifiable clause in all RPS-eligible contracts that requires “CPUC Approval” of a contract 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 Sections 399.11 et seq.*), D.11-12-020 and D.11-12-052, or other applicable law.”¹⁴

Notwithstanding this language, given that the Commission has no jurisdiction to determine whether a project is an “eligible renewable energy resource” for RPS purposes, this finding and the effectiveness of the non-modifiable “eligibility” language is contingent on the CEC’s certification of each of the five projects as “eligible renewable energy resources.” The contract language that each project is procurement from an “eligible renewable energy resource” must be a true statement at the time of the first delivery of energy, not at the signing of the PPA or at the issuance of this Resolution.

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 absent CEC certification. 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 utilities’ administration of such contracts.

¹³ See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

¹⁴ See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

Consistency with Portfolio Content Categories Requirements

In D.11-12-052, the Commission defined and implemented portfolio content categories (PCC) for the RPS program and required the investor-owned utilities to provide information to the Director of Energy Division regarding the proposed contract's PCC classification in each advice letter seeking Commission-approval of an RPS-eligible contract. The purpose of the information is to ensure the MTR contracts' RPS eligibility and allow the Commission to evaluate the claimed portfolio content category of the proposed contracts and the risks and value to ratepayers if the proposed contracts ultimately result in renewable energy credits in another, less preferred, portfolio content category.

In SCE AL 5207-E, SCE states it expects that the energy and associated renewable energy credits (RECs) from the MTR contracts would qualify as portfolio content category (PCC) 1 RECs for RPS compliance. For the Cape Station 3 and 4 contracts, the projects are contractually required to be dynamically scheduled at the CAISO Intermountain scheduling point. For the Atlas contracts, the projects have their first point of interconnection within a CAISO balancing authority. Furthermore, SCE states that the renewable energy credits (RECs) associated with the electricity from the MTR contracts have not been unbundled or transferred to another owner and will be transferred to SCE pursuant to the terms of the contracts.

Consistent with D.11-12-052, SCE provided information in AL 5207-E regarding the expected PCC classification of the renewable energy credits procured pursuant to the MTR contracts.

In this Resolution, the Commission makes no determination regarding the contracts' PCC classification. The RPS contract evaluation process is separate from the RPS compliance and portfolio content category classification process, which requires consideration of several factors based on various showings in a compliance filing. Thus, making a PCC classification determination in this Resolution regarding the procurement considered herein is not appropriate. SCE should incorporate the procurement resulting from the approved the MTR contracts and all applicable supporting documentation to demonstrate PCC classification in the appropriate compliance showings consistent with all applicable RPS program rules.

Consistency with Long-Term Contracting Requirement

In D.12-06-038, the Commission established a long-term contracting requirement that must be met in order for retail sellers to count RPS procurement from contracts less than

ten years in duration for compliance with the RPS program.¹⁵ In D.17-06-026 the Commission implemented the new long-term contracting requirements established by SB 350.¹⁶ D.17-06-026 also afforded retail sellers the option to elect early compliance with the long-term contracting requirements of SB 350,¹⁷ which SCE elected to by letter to the Commission on August 28, 2017.

The SCE MTR contracts each have a 15-year term and are for procurement beginning in Compliance Period 2025-2027.

Because each MTR contract in SCE AL 5207-E is greater than ten years in length, RPS-eligible procurement pursuant to the contracts will contribute to SCE's long-term contracting requirement established in D.17-06-26 beginning in Compliance Period 2025-2027.

Disadvantaged Community Goals

Senate Bill 350 (de León, Chapter 547, Stats. 2015) and SB 2 (1X) (Simitian, Stats. 2011, ch.1) contain disadvantaged community goals that are cross-cutting and therefore will be integrated into all policy areas. The Commission typically analyzes California project locations relative to such communities using the CalEnviroScreen tool.¹⁸ However, on a federal scale, the Climate and Economic Justice Screening Tool (CEJST) can and has been used by Federal programs such as the Justice40 Initiative to identify disadvantaged communities that are marginalized by underinvestment and overburdened by pollution.¹⁹

¹⁵ For the purposes of the long-term contracting requirement, contracts of less than 10 years duration are considered "short-term" contracts. (D.12-06-038.)

¹⁶ Pub. Util. Code Sec. 399.13: "Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration..."

¹⁷ D.16-06-026, p. 56 (OP 23).

¹⁸ The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) created CalEnviroScreen through a public process in order to help the state identify disadvantaged communities, and the tool "uses environmental, health, and socioeconomic information to produce scores for every census tract in the state." (<https://oehha.ca.gov/calenviroscreen/>)

¹⁹ The Justice40 Initiative was implemented by the Federal government, and aims for 40 percent of the overall benefits of certain Federal climate, clean energy, affordable and sustainable housing, and other investments flow to disadvantaged communities. (<https://www.whitehouse.gov/environmentaljustice/justice40/>.)

SCE noted in AL 5207-E that consistent with Public Utilities Code Section 454.52(a)(1)(I), SCE placed early priority on projects located in disadvantaged communities and expressed a preference for energy resources located in such communities as part of its solicitation process. The Cape Station 3 and 4 projects are located in Beaver County, Utah, and the Atlas projects are located in La Paz County, Arizona.

The Cape Station 3 and 4 projects are located roughly 12 miles away from the nearest town of Milford, which has a population of about 1,786 people, according to census data.²⁰ Milford is considered by the CEJST to be partially disadvantaged, as it belongs to a tract that contains one or more abandoned mines within its land. The Atlas projects are located in the town of Salome, Arizona, which has a population of about 708 people.²¹ Salome is considered disadvantaged by the CEJST because the community is low income and meets more than one health burden threshold. Salome is also located in a region of Arizona that the Center of Disease Control knows or suspects “Valley Fever” fungus to live.²² Valley Fever is a fungal infection caused by fungus spores that thrive in dry, desert soil and can be stirred into the air by activities such as farming, construction, and wind. Therefore, any development and maintenance associated with the Atlas projects are expected to mitigate any impacts associated with Valley Fever in the nearby region.

Independent Evaluator Review

SCE retained Sedway Consulting as the Independent Evaluator for its MTR solicitation efforts, pursuant to D.04-12-048 and D.06-05-039. In compliance with these decisions, Sedway Consulting reviewed and evaluated the planning of the solicitation, participated in SCE’s Bidders’ Webinars, reviewed evaluation methodologies and subsequent offers, assisted in shortlist development, was included in all written/verbal communication with offerors, and attended contract negotiations.

The IE determined that SCE’s evaluation and selection process for Phase 2 and Phase 3 was rigorous, and that all technologies and types of bidders were treated fairly, employing a consistent methodology that recognized justifiable offer-specific

²⁰ U.S. Census Bureau (2022). American Community Survey 5-year estimates. Retrieved from Census Reporter Profile page for Milford, UT

<<http://censusreporter.dokku.censusreporter.org/profiles/16000US4950040-milford-ut/>>

²¹ U.S. Census Bureau (2022). American Community Survey 5-year estimates. Retrieved from Census Reporter Profile page for Salome, AZ

<<http://censusreporter.dokku.censusreporter.org/profiles/16000US0462700-salome-az/>>.

²² Centers for Disease Control and Prevention (2020). Valley Fever Maps. Retrieved from <https://www.cdc.gov/fungal/diseases/coccidioidomycosis/maps.html#aa>.

differences (e.g., project development status) while simultaneously not favoring or disadvantaging any offer product, technology, or bidder. Additionally, the IE noted that Sedway Consulting performed an entirely independent and parallel evaluation of all solicited resource types, using its own models to determine each offer's expected costs and benefits without any further input from SCE. This independent and parallel evaluation better ensured that both evaluation teams were following consistent methodologies and thereby underscored the appropriateness of the mutual selection of the final executed contracts.²³

The IE states in its report attached to SCE AL 5207-E that the procurement pursuant to the MTR contracts were reasonably negotiated with contract terms that taken as a whole appropriately protect the interests of SCE's ratepayers. Overall, the IE states that it agrees with SCE that the MTR contracts merit Commission approval.

Procurement Review Group (PRG) Participation

The Commission established the PRG in D.02-08-071. The PRG reviews and assesses the details of the utilities' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission as a mechanism for procurement review by non-market participants.

SCE consulted with its PRG during each milestone of Phase 2 and Phase 3 of its MTRRFO, informing the participants of the initial bid results and the short list of bids. SCE informed the PRG of the initial results of its Phase 2 and Phase 3 MTRRFO on October 19, 2022 and June 8, 2023, respectively. At each PRG, they explained the evaluation process, and updated the PRG concerning the status of contract formation from its Phase 2 and Phase 3 MTRRFOs.

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

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

SB 1368 requires that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.²⁴ D.07-01-039 adopted an interim Emissions Performance Standard (EPS) that establishes an emission rate for obligated facilities at levels no

²³ SCE AL 5207-E, IE Report at 23.

²⁴ "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%." Section 8340(a).

greater than the greenhouse gas emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS.²⁵

In AL 5207-E, SCE states that the MTR Contracts are exempted from or compliant with SB 1368 and D.07-01-039 requirements based on its underlying resources. The Atlas contracts are for solar PV resources that have capacity factors under 60% and are therefore not covered by the EPS. The Cape Station 3 and 4 contracts are for geothermal resources, which is a resource type that is considered to be EPS-compliant, pursuant to D.07-01-039.²⁶ Thus, the MTR Contracts are found to be exempt from or compliant with the Emissions Performance Standard because their resources have capacity factors of less than 60 percent or are otherwise not subject to the EPS because D.07-01-039 deems them compliant.

Cost Recovery

D.21-06-035 authorized SCE authorized cost recovery of the MTR procurement via the power charge indifference adjustment (PCIA):

To the extent that any resources procured in response to this order are subject to allocation using the [PCIA], the date of that adjustment shall be vintaged by the date of this order. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall each file Tier 2 advice letters to update their balancing accounts to address the PCIA treatment as a result of this order.

SCE submitted AL 4589-E on October 14, 2021, to modify its PABA in compliance with OP 12 of D.21-06-035. Pursuant to Advice Letter 4589-E, costs and benefits associated with procurement comply with D.21-06-035 and will be recovered from bundled customers and departing load customers through the 2021 vintage sub-account of the PABA and include incremental administrative costs, which include, but are not limited to, the IE costs. On October 16, 2021, AL 4589-E was accepted and put into effect by the Commission's Energy Division. Accordingly, SCE requests to allocate the costs and benefits of the MTR contracts via the 2021 vintage sub-account of the PABA.

²⁵ D.07-01-039, Attachment 7, p. 4.

²⁶ *Id.* at COL 35

Staff find SCE's proposed cost recovery of the MTR contracts to be consistent with OP 12 of D.21-06-035 and Energy Division's approval of AL 4589-E. Thus, any payments to be made by SCE pursuant to the Atlas as well as the Cape Station 3 and 4 contracts, are recoverable by SCE through the PABA, subject to SCE's prudent administration of the MTR Contracts.

Confidential Information

The Commission, through the implementation of Pub. Util. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032 and D.21-11-029, 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, as modified, adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, may be kept confidential until 30 days after the commercial operation date/energy delivery start date or eighteen months from the date of Commission approval, whichever comes first 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. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. By AL 5207-E, filed on January 26, 2024, SCE has submitted for approval five MTR contracts that are intended to partially meet SCE's D.21-06-035 and D.23-02-040 requirements.
2. The Cape Generating Station 3 and Cape Generating Station 4 ("Cape Station 3 and 4") contracts total 298 MW in nameplate capacity.
3. The Atlas V, Atlas VI, and Atlas X ("Atlas") contracts total 525 MW in nameplate capacity.
4. SCE AL 5207-E appears to be consistent with D.21-06-035, as modified by Ordering Paragraph 2 of D.23-02-040.
5. The Atlas and Cape Station 3 and 4 contracts are consistent with SCE's 2023 Draft Renewable Portfolio Standard Procurement Plan.
6. SCE's methodology used to evaluate the bids in the competitive solicitation that resulted in the contracts presented in SCE AL 5027-E is overall reasonable.
7. The MTR contracts costs presented in SCE AL 5027-E are reasonable based on the robust competitive solicitation and bid evaluation methodology.
8. The Atlas contracts are not a form of covered procurement subject to the Emissions Performance Standard, because the generating facilities have expected capacity factors of less than 60%.
9. The Cape Station 3 and Cape Station 4 contracts are deemed compliant with the Emissions Performance Standard because the generating facilities are geothermal resources.

10. prudent administration of the Atlas, Cape Station 3, and Cape Station 4 contracts. Procurement pursuant to the MTR contracts must be zero emission or otherwise an eligible renewable energy resource certified by the California Energy Commission for purposes of determining Southern California Edison's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Sections 399.11, et seq.), D.11-12-020 and D.11-12-052, or other applicable law on or before the first delivery of energy.
11. This above finding has never been intended, and shall not be read now, to allow the generation from a non-Renewables Portfolio Standard-eligible resource to count towards a Renewables Portfolio Standard compliance obligation absent California Energy Commission certification. Nor shall such finding absolve the seller of its obligation to obtain California Energy Commission certification, or the utility of its obligation to pursue remedies for breach of contract.
12. The confidential appendices, marked "[REDACTED]" in the public copy of this Resolution, as well as the confidential portions of Advice Letter 5207-E should remain confidential at this time.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison Company's Advice Letter 5207-E requesting Commission review and approval of five Mid-Term Reliability Renewable Resource Contracts, 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 May 9, 2024; the following Commissioners voting favorably thereon:

Rachel Peterson
Executive Director

Confidential Appendix A
Summary of Major Contract Terms

REDACTED

Confidential Appendix B

Phase 2 and Phase 3 Solicitation Overview

REDACTED