

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-5333**

**July 11, 2024**

**REDACTED**  
**RESOLUTION**

Resolution E-5333. Southern California Edison Company requests approval of Mid-Term Reliability Renewable Resource Contracts.

**PROPOSED OUTCOME:**

- Approves three 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 5248-E, filed on March 15, 2024.

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**SUMMARY**

This Resolution approves three mid-term reliability (“MTR”) contracts (“MTR Contracts”) for approximately 254.5 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”) 5248-E are summarized in the table below:

Seller/Parent Company	Resource Type	Location	Estimated Capacity (MW)	Expected Generation (MWh/year)	Contract Term (Years)	Initial Delivery Date
ASHUSA – Overnight Solar LLC (“Overnight Solar”)	Solar PV	Hinkley, CA	150	412,920 (First Year)	15	4/1/2027
Balanced Rock – Windhub Solar B, LLC (“Windhub Solar B”)	Solar PV	Mojave, CA	20	63,328 (First Year)	15	9/1/2025
Clearway – Luna Valley Solar 1, LLC (“Luna Valley Solar 1”)	Solar PV	Fresno County, CA	84.5	247,487 (First Year)	20	6/1/2025

Counterparties to the contracts executed include Overnight Solar LLC, a subsidiary of ASHUSA/Atlantica North America LLC; Windhub Solar B LLC, a subsidiary of Balanced Rock; and Luna Valley Solar 1 LLC, a subsidiary of Clearway. All three contracts were procured to meet SCE’s MTR requirements of Zero-Emissions Generation, Generation Paired with Storage, or Demand Response Resources Technology for Diablo Canyon replacement energy over terms of 15 or 20 years.

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 Independent Evaluator 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 and 1,000 MW of Long Duration Energy Storage (“LDES”). D.21-06-035 also requires at least 2,500 MW procured of firm zero-emitting generation, generation paired with storage, or demand response resources by June 1, 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:<sup>1</sup>

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

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

<sup>1</sup> SCE AL 5248-E, Public Appendix D Independent Evaluator Report, at 1

extension of the D.23-02-040 2028 deadline to procure LLT resources, when certain conditions are met by an LSE.<sup>2</sup> Under this decision, 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 (“bridge capacity”), and still bring online LLT resources by no later than June 1, 2031. Additionally, D.24-02-047 denied a Petition for Modification (“PFM”) requesting an extension of the D.23-02-040 2025 deadline for DCR energy procurement, citing reliability concerns and market inequities caused by the proposed extension.<sup>3</sup>

### **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.<sup>4</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.33.<sup>5</sup>

The RPS program administered by the CPUC requires each retail seller of electricity 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.<sup>6</sup>

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

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<sup>2</sup> See D.24-02-047, at OP 16.

<sup>3</sup> See D.24-02-047, at 94, OP 14

<sup>4</sup> 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).

<sup>5</sup> All further statutory references are to the Public Utilities Code unless otherwise specified.

<sup>6</sup> 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.<sup>7</sup>

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 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. Coinciding with the submission deadline for Phase 3 offers, SCE requested refreshed offers from bidders who had submitted offers into Phase 2.

## **NOTICE**

Southern California Edison Company states that a copy of Advice Letter 5248-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 5248-E was timely protested by the Public Advocates Office at the California Public Utilities Commission ("Cal Advocates") on April 10, 2024. Cal Advocates recommends that the Commission reject SCE AL 5248-E, disapproving the Windhub Solar B and Luna Valley Solar 1 contracts. Cal Advocates does not protest the Overnight Solar contract.

Cal Advocates protests the costs of the Windhub Solar B and Luna Valley Solar 1 contracts, asserting that SCE ratepayers would be ill-served. Cal Advocates argue in

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<sup>7</sup> 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).

their protest that, though SCE's PFM requesting a DCR extension was denied in D.24-02-047, the Commission held that noncompliance penalties with DCR's June 1, 2025, deadline would be mitigated by good-faith procurement efforts, eliminating the compliance imperative of approval for contracts in excess of reasonable costs.

SCE timely replied to Cal Advocates' protest on February 23, 2024. SCE states that the Windhub Solar B and Luna Valley Solar 1 contracts are among the least-cost best-fit resources offered to SCE to meet its DCR requirements by the June 1, 2025 deadline and will contribute towards SCE's RPS requirements and greenhouse gas ("GHG") emissions targets identified in their 2022 IRP. SCE asserts that the AL 5248-E contracts were selected to most cost effectively comply with the June 1, 2025 DCR deadline that was affirmed through the rejection of SCE's PFM in D.24-02-047. SCE further asks that the Commission forego a portion of its DCR-related penalties if it were to reject the Luna Valley Solar 1 and Windhub Solar B contracts and SCE was unable to meet its DCR requirement.

## **DISCUSSION**

### **Southern California Edison Company requests approval of three 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 March 15, 2024, SCE filed AL 5248-E requesting approval of three MTR Contracts for renewable resources procured as a result of SCE's Phase 2 and Phase 3 MTRRFO.

### **SCE requests in AL 5248-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 Mid-Term Reliability Contracts will contribute renewable energy toward SCE's DCR procurement requirement;

4. 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;
5. Finds that the Mid-Term Reliability Contracts are consistent with SCE's 2023 Renewable Portfolio Standard Procurement Plan;
6. Finds that the Mid-Term Reliability 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%;
7. 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;
8. 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;
9. 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;
10. 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
11. 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;
- Consistency with RPS Standard Terms and Conditions;
- 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**

D.21-06-035, as modified D.23-02-040 requires SCE to procure at least 880 MW of incremental zero-emitting capacity for DCR by June 1, 2025, permitting required capacity to consist of separately procured battery and zero-emitting energy resources.

The Luna Valley Solar 1 contract is for renewable energy resources that SCE expects to contribute towards its DCR requirement of 880 MW by June 2025. The Windhub Solar B and Overnight Solar contracts will provide additional renewable energy but have commercial online dates (September 2025 and April 2027 respectively) after the DCR deadline. Pursuant to D.23-02-040 OP 7, SCE plans to submit in an IRP filing an engineering assessment to verify 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. Specifically, the AL 5248-E contracts would contribute to the satisfaction the DCR requirements adopted in D.21-06-035 because they will be zero-emitting resources when paired with energy storage resources already procured in its MTR portfolio as SCE's stated intent. While final verification of specific resource eligibility for specific procurement categories is done via the IRP compliance process, we find that SCE AL 5248-E is consistent with D.21-06-035, as modified by D.23-02-040.



### **Consistency with SCE’s 2023 Renewable Portfolio Standard Procurement Plan**

Pursuant to statute, SCE’s 2023 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.<sup>8</sup>

In SCE’s 2023 RPS Plan, SCE showed a need for additional RPS-eligible energy in the 2025-2027 Compliance Period and beyond, and recognized that MTR procurement would be used to contribute to meeting that RPS procurement need.<sup>9</sup> Additionally, within its 2023 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.<sup>10</sup>

The MTR Contracts are for procurement of renewable energy deliveries beginning in the compliance period SCE stated it would have an RPS procurement need. Therefore, the procurement facilitated by the MTR Contracts is consistent with SCE’s renewable resource needs as identified in its 2023 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.

In AL 5248-E, SCE articulates that its MTRRFO processes were consistent with its past RFOs and met all requirements of the MTR Decisions. Specifically, SCE described that 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. The conformance screen required resources to meet D.21-06-035 requirements and other project variability criteria. The NPV calculations were based on

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<sup>8</sup> Pub. Util. Code § 399.13(a)(5).

<sup>9</sup> SCE 2023 Draft RPS Plan, at 3.

<sup>10</sup> SCE 2023 Draft RPS Plan, at 1.

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. Moreover, SCE argues that "the projects procured represent the best value portfolio to meet its MTR procurement requirements in the most efficient manner."<sup>11</sup>

In the Independent Evaluator ("IE") Report included in AL 5248-E, Sedway Consulting provides an evaluation of SCE's outreach efforts, LCBF methodology design, short list, and project negotiations. As written in the IE report, Sedway Consulting's opinion about these components of Phase 2 and Phase 3 of the MTRRFO was that SCE struck an appropriate balance in providing the bidding community sufficient information without divulging information that could lead bidders to game the process. 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 2025 through 2027 timeframe from those submitted for SCE's MTRRFO.

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

Specifically, in AL 5248-E, SCE provides that it used LCBF metrics to compare bids received in SCE's MTRRFO and concludes that the MTR Contracts compare favorably to other bids received in SCE's MTRRFO and represent the most viable and immediate LCBF solution to meeting a portion of SCE's MTR procurement requirements. As noted, Cal Advocates protests SCE AL 5248-E based on the resulting costs of the Windhub Solar B and Luna Valley Solar 1 contracts. Regarding these concerns over cost reasonableness, Staff agree with SCE that selected the bids consistent with SCE's least-cost, best-fit evaluation methodology as further discussed in Confidential Appendix B. We therefore find the SCE MTR contract costs reasonable and reject Cal Advocates' protest.

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<sup>11</sup> SCE AL 5248-E, p.23.

### **Consistency with RPS Standard Terms and Conditions**

The Commission adopted a set of standard terms and conditions (“STCs”) required in RPS contracts, five of which are considered “non-modifiable.” The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.

The MTR contracts include the Commission adopted RPS “non-modifiable” standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.

### **RPS Eligibility and CPUC Approval**

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.<sup>12</sup>

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.”<sup>13</sup>

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 three projects as “eligible renewable energy resources.” The contract language that each project is procurement

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<sup>12</sup> See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

<sup>13</sup> See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

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.

### **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 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 5248-E, SCE states it expects that the energy and associated renewable energy credits (“RECs”) from the MTR contracts would qualify as PCC 1 RECs for RPS compliance. The projects associated with all three contracts have their first point of interconnection within the CAISO balancing authority. Furthermore, SCE states that the renewable energy credits RECs associated with the electricity from the MTR contracts are not to be 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 5248-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 PCC 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 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.<sup>14</sup> In D.17-06-026 the Commission implemented the new long-term contracting requirements established by SB 350.<sup>15</sup> D.17-06-026 also afforded retail sellers the option to elect early compliance with the long-term contracting requirements of SB 350,<sup>16</sup> which SCE elected to by letter to the Commission on August 28, 2017.

The SCE MTR contracts each have a 15 or 20-year term and are for procurement beginning in Compliance Period 2025-2027.

Because each MTR contract in SCE AL 5248-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 and considers

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<sup>14</sup> 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.)

<sup>15</sup> 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..."

<sup>16</sup> D.16-06-026, p. 56 (OP 23).

disadvantaged communities to be those census tracts in the top 25 percent overall as well as those in the top five percent of pollution burden.<sup>17</sup>

SCE noted in AL 5248-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. Luna Valley Solar project is located in the unincorporated area of Fresno County, California.

Luna Valley Solar is located roughly 10 miles away from the nearest town of Mendota, CA, which has a population of about 12,595 people, according to census data.<sup>18</sup> Mendota is considered by CalEnviroScreen 4.0 to be disadvantaged in the 85<sup>th</sup> percentile, with socioeconomic factors indicating extremely high risks of poverty, unemployment, and low education. Developer Clearway describes the construction of the facility as occurring over a period of approximately 18 months. The construction activities are expected to require 300 workers at peak, most of whom would commute to the project site from the nearby communities including Mendota.<sup>19</sup> Further, occasional on-site maintenance is expected to be required following commissioning; between 4 and 30 workers will be required for visual inspections, monitoring plant performance, repairs, panel cleaning, and other specialized maintenance activities. Therefore the construction, maintenance, and operations associated with the Luna Valley Solar project are expected to be a net economic benefit for the town of Mendota and surrounding Fresno County communities.

Luna Valley Solar's Environmental Impact Report describes the proposed site as "disturbed agricultural land," currently dry-farmed for rangeland grasses or lays fallow.<sup>20</sup> Site preparation for the Luna Valley Solar project will include grubbing and grading, although because the site is mostly flat, only minimal grading will be required. For vegetation control, the limited application of pre-emergent herbicides formulated to

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<sup>17</sup> 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/>)

<sup>18</sup> U.S. Census Bureau. (2020). Mendota, CA. Retrieved from <[https://data.census.gov/profile/Mendota\\_city,\\_California?g=160XX00US0646828](https://data.census.gov/profile/Mendota_city,_California?g=160XX00US0646828)>

<sup>19</sup> Clearway Luna Valley Solar 1 LLC. Project Description at 23. Filed with Fresno County Department of Public Works and Planning. (February 17, 2020).

<sup>20</sup> ESA. Luna Valley Solar Project Environmental Impact Report at 2-2. Prepared for County of Fresno Department of Public Works and Planning. (May 2021).

minimize the impact on wildlife is possible. The Environmental Impact Report (“EIR”) describes impacts related to use of herbicides as “less-than-significant” so long as herbicides are applied in accordance with federal, state, and County regulations by a state-licensed pesticide applicator.<sup>21</sup> Furthermore, the EIR concludes that mitigation measures can reduce all adverse impacts to less-than-significant levels.<sup>22</sup> Therefore, with expected net economic and no significant environmental impacts expected, the Luna Valley Solar project is expected to provide an overall benefit to the surrounding disadvantaged communities, including Mendota.

According to CalEnviroScreen 4.0, the Windhub Solar B facility is sited in an area disadvantaged in the 62<sup>nd</sup> percentile and the community surrounding the Overnight Solar facility ranks disadvantaged in the 67<sup>th</sup> percentile, neither of which qualify for status as a disadvantaged community. None of the three projects will be located on Tribal lands.

### **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 opined 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 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.

The IE states in its report included in SCE AL 5248-E that the procurement pursuant to the MTR contracts meets the least-cost best fit requirements for addressing SCE’s MTR obligations. Overall, the IE states that it agrees with SCE that the MTR contracts

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<sup>21</sup>Ibid. At 4.10-19.

<sup>22</sup> Ibid. At ES-7.

represent benefits to SCE ratepayers including clean energy to fulfil MTR and DCR mandates, procured at competitive prices, and therefore should be approved.

### **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.<sup>23</sup> D.07-01-039 adopted an interim Emissions Performance Standard (“EPS”) that establishes an emission rate for obligated facilities at levels no 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.<sup>24</sup>

In AL 5248-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. All three MTR contracts are for solar PV resources that have capacity factors under 60% and are therefore not covered by the EPS. Thus, the MTR Contracts are found to be exempt from or the Emissions Performance Standard because their resources have capacity factors of less than 60 percent.

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<sup>23</sup> “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).

<sup>24</sup> D.07-01-039, Attachment 7, p. 4.



### **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.

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 Luna Valley Solar 1, Windhub Solar B, and the Overnight Solar 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 on June 5, 2024.

Energy Division timely received one comment from Cal Advocates regarding Draft Resolution E-5333. In their comment, Cal Advocates reiterated their protest of the Luna Valley 1 and Windhub Solar B contracts, asserting SCE's lack of MTR need and claiming inconsistencies with SCE's 2023 RPS Procurement Plan.

Specifically, Cal Advocates argues that the Overnight Solar contract alone is sufficient to satisfy the remainder of SCE's DCR requirements and that the other two contracts are unnecessary. As discussed above, SCE's MTR Requirements pursuant to D.21-06-035 and affirmed by D.24-02-047 include an online deadline of June 1, 2025 for DCR resources. Also, as presented above, the Overnight Solar contract's online date is April 2027, almost a full two years after the DCR deadline. Thus, we find that the Overnight Solar contract is insufficient to meet the requirements of D.21-06-035 due to it not being able to be online by the June 1, 2025 deadline for DCR resources.

Cal Advocates' remaining argument asserts that because events subsequent to the approval of SCE's 2023 RPS Procurement Plan have affected SCE's RPS need, approving the MTR Contracts in part on their consistency with SCE's 2023 RPS Procurement Plan is erroneous. However, the accuracy or validity of SCE's 2023 RPS Procurement Plan, which was approved by D.23-12-008, is out of the scope of this Resolution and the MTR Contracts are consistent with SCE's approved 2023 RPS Procurement Plan. Thus, we

reject Cal Advocates' recommendation to modify Resolution E-5333 to deny the Windhub Solar B and Luna Valley I contracts.

## FINDINGS

1. By AL 5248-E, filed on March 15, 2024, SCE submitted for approval three MTR contracts that are intended to partially meet SCE's D.21-06-035 and D.23-02-040 requirements.
2. The MTR contracts for which SCE is seeking approval total 254.5 MW nameplate capacity.
3. SCE AL 5248-E appears to be consistent with D.21-06-035, as modified by Ordering Paragraph 6 of D.23-02-040.
4. The MTR contracts are consistent with SCE's 2023 Renewables Portfolio Standard Procurement Plan.
5. SCE's methodology used to evaluate the bids in the competitive solicitation that resulted in the contracts presented in SCE AL 5248-E is overall reasonable.
6. The MTR contracts' costs presented in SCE AL 5248-E are reasonable based on the competitive solicitation process, bid evaluation methodology, and approaching Diablo Canyon Replacement deadline.
7. The MTR contracts include the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.
8. The MTR 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. SCE's request in AL 5248-E to allocate the benefits and costs of the MTR contracts to all applicable customers via the Portfolio Allocation Balancing Account ("PABA") 2021 vintage sub-accounts is reasonable. Payments to be made by SCE pursuant to the MTR contracts are recoverable by SCE through the PABA, subject to SCE's prudent administration of the MTR contracts.

10. Procurement pursuant to the MTR contracts must be 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 a 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 5248-E should remain confidential at this time.

**THEREFORE IT IS ORDERED THAT:**

1. Southern California Edison Company's Advice Letter 5248-E, requesting Commission review and approval of three 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 July 11, 2024; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson  
Executive Director

ALICE REYNOLDS  
President

DARCIE HOUCK  
JOHN REYNOLDS  
KAREN DOUGLAS  
MATTHEW BAKER  
Commissioners

# **Confidential Appendix A**

## Summary of Major Contract Terms

**REDACTED**

## **Confidential Appendix B**

### **Procurement Methodology, Evaluation, and Cost Reasonableness**

**REDACTED**