PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

I.D. #7353
ENERGY DIVISION **RESOLUTION E-4126**
March 13, 2008

REDACTED

R E S O L U T I O N

Resolution E-4126. Southern California Edison Company requests approval of two renewable portfolio standard power purchase agreements between Caithness Dixie Valley, LLC and ORNI #18, LLC. These contracts are approved without modifications.

By Advice Letter (AL) 2137-E filed on July 13, 2007, AL 2137-E-A filed on August 16, 2007 and AL 2137-E-B filed on January 10, 2008

SUMMARY

Southern California Edison's (SCE) renewable energy contracts comply with the Renewable Portfolio Standard (RPS) procurement guidelines and are approved

SCE filed advice letter (AL) 2137-E on July 13, 2007 requesting Commission review and approval of two renewable energy power purchase agreements (PPAs) executed with Caithness Dixie Valley, LLC (Dixie Valley) and ORNI #18, LLC (ORNI 18). SCE filed AL 2137-E-A on August 16, 2007 to supplement, in part, AL 2137-E in order to include the Independent Evaluation Report for SCE's 2006 renewable resource solicitation. SCE filed Al 2137-E-B on January 10, 2008 to supplement, in part, AL 2137-E and AL 2137-E-A to reflect changes to the PPAs made in order to comply with Commission Decision (D.) 07-11-025, "Opinion on Amended Petition for Modification of Decision 04-06-014 Regarding Standard Terms and Conditions", issued November 19, 2007.

Generating facility	Type	Term Years	MW Capacity	GWh Energy	Online Date	Location
Dixie Valley	Geothermal, existing	20	50	394	7/2018	Dixie Valley, NV
ORNI #18	Geothermal, new	20	50-100	416-832	12/2009	North Brawley, CA

The Agreement between Caithness Dixie Valley and SCE is for 20 years of geothermal energy from an existing plant. Currently, SCE receives eligible renewable energy from this facility under an interim standard offer no. 4 (ISO4) contract. The Dixie Valley contract will begin in July 2018, when the ISO4 is set to expire. The ORNI 18 project is for 20 years of geothermal energy from a new facility, expected to be come online in December 2009.

Deliveries from these PPAs are reasonably priced and the contract prices are fully recoverable in rates over the life of the contract, subject to Commission review of SCE's administration of the contracts. Both contract prices are below the 2006 market price referent.

Confidential information about the contract should remain confidential

This resolution finds that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583, General Order (G.O.) 66-C, and D.06-06-066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

BACKGROUND

The RPS Program requires each utility to increase the amount of renewable energy in its portfolio

The California RPS Program was established by Senate Bill 1078, effective January 1, 2003. It requires that a retail seller of electricity such as SCE purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). The RPS program is set out at Public Utilities Code Section 399.11, et seq. SB 1078 required each utility to increase its total procurement of ERRs by at least 1% of annual retail sales per year so that 20% of its retail sales would be supplied by ERRs by 2017.

The State's Energy Action Plan (EAP) called for acceleration of this RPS goal to reach 20 percent by 2010. This was reiterated again in the Order Instituting Rulemaking (R.04-04-026) issued on April 28, 2004[1], which encouraged the utilities to procure cost-effective renewable generation in excess of their RPS annual procurement targets[2] (APTs), in order to make progress towards the goal expressed in the EAP.[3] On September 26, 2006, Governor Schwarzenegger signed

[1] http://www.cpuc.ca.gov/Published/Final_decision/36206.htm

[2] APT - An LSE's APT for a given year is the amount of renewable generation an LSE must procure in order to meet the statutory requirement that it increase its total eligible renewable procurement by at least 1% of retail sales per year.

[3] Most recently reaffirmed in D.06-05-039

Senate Bill 107[4], which officially accelerated the State's RPS targets to 20 percent by 2010.

CPUC has established procurement guidelines for the RPS Program

In response to SB 1078, the Commission has issued a series of decisions that establish the regulatory and transactional parameters of the utility renewables procurement program. On June 19, 2003, the Commission issued its "Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program," D.03-06-071[5]. Instructions for utility evaluation (known as 'least-cost, best-fit') of each offer to sell products requested in a RPS solicitation were provided in D.04-07-029.[6] The Commission adopted Standard Terms and Conditions for RPS power purchase agreements in D.04-06-014[7] as required by Public Utilities Code Section 399.14(a)(2)(D). In addition, D.06-10-050, as modified by D.07-03-046, refined the RPS reporting and compliance methodologies.[8] In this decision, the Commission established methodologies to calculate an LSE's initial baseline procurement amount, annual procurement target (APT) and incremental procurement amount (IPT).[9]

On June 9, 2004, the Commission adopted its market price referent (MPR) methodology[10] as required by Public Utilities Code Sections 399.14(a)(2)(A) and 399.15(c). On December 15, 2005, the Commission adopted D.05-12-042 which refined the MPR methodology for the 2005 RPS Solicitation.[11] Subsequent resolutions adopted MPR values for the 2005, 2006 and 2007 RPS Solicitations.[12]

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[4] SB 107, Chapter 464, Statutes of 2006

[5] http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/27360.PDF

[6] http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/38287.PDF

[7] This decision has subsequently been modified. See next subsection.

[8] D.06-10-050, Attachment A, http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/61025.PDF) as modified by D.07-03-046 (http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/65833.PDF.

[9] The IPT represents the amount of RPS-eligible procurement that the LSE must purchase, in a given year, over and above the total amount the LSE was required to procure in the prior year. An LSE's IPT equals at least 1% of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts.

[10] D.04-06-015; http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/37383.pdf

[11] http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/52178.pdf

[12] Respectively, Resolution E-3980: http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/55465.DOC, Resolution E-4049: http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/63132.doc,

In addition, the Commission has implemented Pub. Util. Code 399.14(b)(2), which states that before the Commission can approve an RPS contract of less than ten years' duration, the Commission must establish "for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration (long-term contracts) or from new facilities commencing commercial operations on or after January 1, 2005." On May 3, 2007, the Commission approved D.07-05-028, which established a minimum percentage of the prior year's retail sales (0.25%) that must be procured with contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005 in order for short-term contracts to be used towards RPS compliance.

Commission requires certain terms and conditions in all RPS power purchase agreements

On June 9, 2004, the Commission adopted standard terms and conditions for RPS power purchase agreements as required by Pub. Util. Code Section 399.14(a)(2)(D). Of the fourteen standard terms and conditions adopted in D.04-06-014[13], the Commission specified five that could be modified by parties, and nine that may not be modified or only modified in part. Two parties jointly filed a petition for modification on this decision, and subsequently an amended petition for modification. The Commission granted relief in substantial part in D.07-11-025, the "Opinion on Amended Petition for Modification of Decision 04-06-014 Regarding Standard Terms and Conditions". [14]

As a result of the D.07-11-025, ten standard terms and conditions are modifiable and four are non-modifiable. The non-modifiable terms and conditions that must be in every RPS power purchase agreement include: CPUC Approval, RECs and Green Attributes, Eligibility and Applicable Law. The Commission also requires that pending advice letters with contracts which have not yet been approved or rejected should be amended to comply with D.07-11-025.

Above-MPR costs can now be recovered in rates

Pursuant to SB 1078 and SB 107, the California Energy Commission (CEC) was authorized to "allocate and award supplemental energy payments" to cover

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Resolution E-4110:
http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/73594.pdf

[13] http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/37401.PDF

[14] http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/75354.PDF

above-market costs[15] of long-term RPS-eligible contracts executed through a competitive solicitation.[16] The statute required that developers seeking above-market costs apply to the CEC for supplemental energy payments (SEPs).

This above-market cost recovery mechanism was reformed on October 14, 2007 when Governor Schwarzenegger signed SB 1036[17], which authorizes the CPUC to provide above-MPR cost recovery through electric retail rates for contracts that are deemed reasonable. Above-MPR cost recovery has a 'cost limitation' equal to the amount of funds currently accrued in the CEC's New Renewable Resources Account, which had been established to collect SEP funds, plus the portion of funds that would have been collected through January 1, 2012. In addition, pursuant to SB 1036, Pub. Util. Code § 399.15(d)(2) provides that:

> "The above-market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:
>
> (A) The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision(d) of Section 399.14.
>
> (B) The contract covers a duration of no less than 10 years.
>
> (C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.
>
> (D) No purchases of renewable energy credits may be eligible for consideration as an above-market cost.
>
> (E) The above-market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades."

The CEC and CPUC are currently working collaboratively to implement SB 1036, which has an effective date of January 1, 2008.

SCE requests approval of two renewable energy contracts

On July 13, 2007, SCE filed AL 2137-E requesting Commission approval of two renewable power procurement contracts. SCE filed AL 2137-E-A and AL 2137-E-B to supplement, in part, AL 2137-E in order to include the Independent

[15] "Above-market costs" refers to the portion of the contract price that is greater than the appropriate market price referent (MPR).

[16] Pub. Util. Code 399.15(d)

[17] Chapter 685, Statutes of 2007 (SB 1036)

Evaluation Report for SCE's 2006 renewable resource solicitation and to comply with D.07-11-025, adopted on November 19, 2007. The ORNI 18 and Dixie Valley PPAs result from SCE's 2006 solicitation for renewable bids, which was authorized by D.06-05-039.

The Commission's approval of the PPAs will allow SCE to accept future deliveries of renewable resources and contribute towards the renewable energy procurement goals required by California's RPS statute.[18] The proposed Dixie Valley will enable SCE to continue receiving renewable energy deliveries from this facility after the existing ISO4 contract expires in 2018. Procurement from the proposed ORNI 18 project is expected to contribute towards SCE's APT starting in 2009.

SCE requests "CPUC Approval" of PPAs

SCE requests a Commission resolution containing the following findings in order to satisfy the "CPUC Approval" terms in both the Dixie Valley and ORNI 18 Agreements:

1. Approval of the Dixie Valley and ORNI 18 Contracts in their entirety.
2. Approval of the modification of certain terms and condition in the Dixie Valley and ORNI 18 Contracts that are provided for in D.04-06-014[19].
3. A finding that any electric energy sold or dedicated to SCE pursuant to the Dixie Valley and ORNI 18 Contracts constitute procurement by SCE from an eligible renewable resource (ERR) for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation or other applicable law concerning the procurement of electric energy from renewable energy resources.
4. A finding that all procurement under the Dixie Valley and ORNI 18 Contracts count, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE.

[18] California Public Utilities Code section 399.11 et seq., as interpreted by D.03-07-061, the "Order Initiating Implementation of the Senate Bill 1078 Renewables Portfolio Standard Program", and subsequent CPUC decisions in Rulemaking (R.) 04-04-026, R.06-02-012 and R.06-05-027.

[19] SCE requested this list of findings in Al 2137-E. Subsequently, SCE has modified the contract terms and conditions to comply with D.07-11-025, the "Opinion on Amended Petition for Modification of Decision 04-06-014 Regarding Standard Terms and Conditions".

5. A finding that all procurement under the Dixie Valley and ORNI 18 Contracts count, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE.
6. A finding that all procurement under the Dixie Valley and ORNI 18 Contracts count, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20% (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law).
7. A finding that the Dixie Valley and ORNI 18 Contracts, and SCE's entry into these PPAs, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the PPAs, subject only to further review with respect to the reasonableness of SCE's administration of the PPAs.
8. Any other and further relief as the Commission finds just and reasonable.

SCE's Procurement Review Group participated in review of the contracts

In D.02-08-071, the Commission required each utility to establish a "Procurement Review Group" (PRG) whose members, subject to an appropriate non-disclosure agreement, would have the right to consult with the utilities and review the details of:

1. Overall transitional procurement strategy;
2. Proposed procurement processes including, but not limited to, RFO; and
3. Proposed procurement contracts before any of the contracts are submitted to the Commission for expedited review.

SCE's PRG was formed on or around September 10, 2002. Current participants include representatives from the Commission's Energy Division, the Division of Ratepayer Advocates, The Utility Reform Network, the Natural Resources Defense Council, the Consumers' Union, California Utility Employees, and the California Department of Water Resources.

SCE asserts that its PRG was consulted during each step of the renewable procurement process. Among other things, SCE informed the PRG of the initial results of its request for proposals (RFP); explained the evaluation process; and updated the PRG periodically concerning the status of contract formation. On December 19, 2006, SCE advised the PRG of its proposed short-list of bids. On March 13, 2007, SCE updated the PRG as to the status of negotiations with bidders into SCE's 2006 RPS solicitation. On April 11, 2007, SCE briefed the PRG concerning the successful conclusion of discussions with Dixie Valley. On June 27, 2007, SCE briefed the PRG concerning the conclusion of discussions with ORNI 18.

Although Energy Division is a member of the PRG, it reserved its conclusions for review and recommendation on the PPA to the advice letter process.

NOTICE

Notice of Al 2137-E, AL 2137-E-A and AL 2137-E-B were made by publication in the Commission's Daily Calendar. Southern California Edison states that a copies of the Advice Letter were mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

Advice Letters 2137-E, 2137-E-A and 2137-E-B were not protested.

DISCUSSION

Description of the projects

The following table summarizes the substantive features of the PPAs. See confidential Appendices C-1 and C-2 for detailed discussions of contract prices, terms, and conditions:

Generating facility	Type	Term Years	MW Capacity	GWh Energy	Online Date	Location
Dixie Valley	Geothermal, existing	20	50	394	7/2018	Dixie Valley, NV
ORNI #18	Geothermal, new	20	50-100	416-832	12/2009	North Brawley, CA

PPAs are consistent with SCE's CPUC adopted 2006 RPS Plan

California's RPS statute requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility. [20] The Commission will then accept or reject proposed PPAs based on their consistency with the utility's approved renewable procurement plan (Plan). SCE's 2006 Plan includes an assessment of supply and demand for renewable energy and bid solicitation materials, including a pro-forma agreement and bid evaluation methodology documents. The Commission conditionally approved SCE's 2006 RPS procurement plan, including its bid solicitation materials, in D.06-05-039.

[20] Pub. Util. Code, Section §399.14

As ordered by D.06-05-039, on June 9, 2006 SCE filed and served its amended 2006 Plan. After the Director of the Energy Division temporarily suspended SCE's 2006 RPS solicitation and authorized SCE to further amend its 2006 Plan and 2006 RFP, SCE filed an amended 2006 RPS procurement plan and amended 2006 RFP protocol. In the amended 2006 Plan, SCE made the necessary changes that were required and/or suggested by D.06-05-039. The Proposed PPAs are consistent with SCE's Commission-approved RPS Plan.[21]

<u>PPAs fit with Plan's identified renewable resource needs</u>

SCE's 2006 RPS Plan called for SCE to issue competitive solicitations for electric energy generated by eligible renewable resources from either existing or new generating facilities that would deliver in the near term or long term. SCE also considered any new or repowered facilities that operate on co-fired fuels or a mix of fuels that include fossil fuel hybrid. SCE's 2006 request for proposals (RFP) solicited proposals for projects that would supply electric energy, environmental attributes, capacity attributes and resource adequacy benefits from eligible renewable energy resources. SCE requested proposals based upon standard term lengths of 10, 15 or 20 years with a minimum capacity of 1 MW. SCE indicated a preference to take delivery of the electric energy at SP-15, but considered proposals based upon any designated delivery point within California.

Both the Dixie Valley and ORNI 18 projects fit SCE's identified renewable resource needs. Both projects convey electric energy, environmental attributes, capacity attributes and resource adequacy to SCE. ORNI 18 satisfies both SCE's locational preference and delivery requirements. Additionally, Dixie Valley satisfies SCE's delivery requirements for a facility located outside of California.

<u>PPA selections are consistent with RPS Solicitation Protocol</u>

SCE distributed an RFP package that included a procurement protocol, which set forth the terms and conditions of the RFP, requirements for proposals, selection procedures, approval procedures and the RFP schedule. As part of the bid submission, SCE required bidders to submit comments on SCE's pro-forma agreement, to execute non-disclosure agreements and to send a letter stating that the bidder agrees to be bound by the terms and conditions of the protocol. The protocol also requested that proposals contain complete, accurate, and timely information about the project's supplier, generating facility, and commercial terms and the pricing details of the proposal.

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[21] Modifications to SCE's pro-forma contract terms and conditions were required to comply with D.07-11-025.

According to SCE, the Dixie Valley and ORNI 18 bids were consistent with SCE's RPS solicitation protocol. Both bids offered power from eligible renewable energy resources, submitted the standard forms, agreed to be bound by the protocol and signed a non-disclosure agreement.

Bid evaluation process consistent with Least-Cost Best-Fit (LCBF) decision

The CPUC's LCBF decision[22] directs the utilities to use certain criteria in their bid ranking. It offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence serious negotiations.

SCE's LCBF bid review process used for its 2006 solicitation is in compliance with the applicable Commission decisions. SCE's LCBF analysis evaluates both quantitative and qualitative aspects of each proposal to estimate its value to SCE's customers and relative value in comparison to other proposals.

Quantitative Assessment

SCE quantitatively evaluates bids based on individual benefit-to-cost (B-C) ratios. It is this B-C ratio that is used to rank and compare each project.
The B-C ratios measure total benefits divided by total costs according to the following equation:

$$\text{B-C Ratio} = \frac{\text{Capacity Benefit} + \text{Energy Benefit}}{\text{Payments} + \text{Integration Cost} + \text{Transmission Cost} + \text{Debt Equivalence}}$$

The capacity benefits are assigned based on SCE's forecast of capacity value and a technology-specific effective load carrying capability (ELCC). SCE evaluates the project energy benefits using a production simulation model that compares the total production costs of SCE's base resource portfolio with the total production costs of the portfolio including the proposed RPS project. This calculation takes into account forecasted congestion charges, dispatchability and curtailability. This modeling methodology evaluates the impact of portfolio fit for all projects.

The market valuation of each project includes an assessment of the payments, an all-in price for delivered energy adjusted in each time-of-delivery period, and integration costs. By Commission policy (D.04-07-029 and clarified by D.07-02-011), integration cost adders for all proposals must be zero. Further, the

[22] D.04-07-029

transmission upgrade costs are estimated using SCE's transmission ranking cost report for resources that do not have an existing interconnection to the electric system or a completed Facilities Study.

The benefit-to-cost ratios for both the Dixie Valley and ORNI 18 projects were favorable in comparison to the bids in SCE's 2006 solicitations. See Confidential Appendix A for more detailed bid comparisons.

Independent evaluators (IE) oversaw SCE's RPS procurement process

Consistent with D.06-05-039, SCE retained an independent evaluator (IE), Sedway Consulting, to report to SCE's procurement review group about the 2006 RPS solicitation, to ensure that the solicitation was conducted fairly and to evaluate whether the best resources were acquired. According to the IE Report submitted in AL 2137-E-A, Sedway Consulting performed its duties overseeing the 2006 solicitation and has provided assessment reports to the PRG and the CPUC.

In its Independent Evaluator Report, Sedway Consulting concluded that SCE "conducted a fair and effective evaluation of the proposals that it received in response to its 2006 RPS RFP and made the correct selection decisions in its short list." Sedway Consulting performed its own evaluation of all 2006 proposals using a model developed to simulate SCE's LCBF ranking results. The IE ranked all proposals using its model and compared the results to SCE's bid ranking results. The IE's ranking results were similar to SCE's, and as a result, Sedway Consulting agreed with SCE's shortlisting decisions. In addition, the IE monitored SCE's shortlisting discussions, contract negotiations and meetings with management where SCE made decisions, for example, regarding bid prioritizations and negotiation positions. Overall, the IE concludes that SCE conducted a fair and effective evaluation of its 2006 renewable energy proposals.

For the IE's contract-specific evaluations, see Confidential Appendix E.

Consistency with adopted standard terms and conditions

In D.04-06-014, the Commission set forth standard terms and conditions (STCs) to be incorporated into RPS agreements. Appendix A of that decision identified nine of the fourteen STCs as "may not be modified." On November 19, 2007, after the filing of AL 2137-E and AL 2137-E-A, the Commission decided to grant, in part, an amended petition for modification of D.04-06-014. This decision, D.07-11-025, which granted in part the petition for modification, stated that all renewable power purchase agreements must contain four non-modifiable standard terms and conditions. D.07-11-025 also required that electrical corporations, such as

SCE, file amendments to any pending advice letters for renewable PPAs in order to comply with the decision.

SCE filed AL 2137-E-B to supplement, in part, terms and conditions in both the Dixie Valley and ORNI 18 Agreements. As a result, the STCs for both PPAs are in compliance with D.07-11-025.

Contract prices are below 2006 MPR

The levelized contract price for the ORNI 18 contract does not exceed the relevant 2006 MPR. For the Dixie Valley contract, SCE had to modify the 2006 MPR model since it only calculated values for generating facilities with online dates between 2006 and 2015. SCE modified the 2006 MPR model, issued in Resolution E-4049, by extrapolating forward the data available in the 2006 MPR model in order to calculate an MPR for a facility with a 2018 online date. The Energy Division has reviewed the revised MPR model and finds the modifications to be reasonable. Using the modified model, SCE calculated the MPR for a 20-year contract with an online date in 2018 as $101.95/MWh. Therefore, the levelized contract price for the Dixie Valley contract does not exceed the MPR.[23]

As a result, the net present value of the sum of payments to be made under each PPA are less than the net present value of payments that would be made at the market price referent for the anticipated delivery. Therefore, for each contract, the contract price payments are below the MPR and per se reasonable as measured according to the net present value calculations explained in D.04-06-015, D.04-07-029, and D.05-12-042.

PPAs are viable projects

SCE believes that both projects are viable. However, ORNI 18's project viability is affected by the uncertainty surrounding whether the federal production tax credit will be extended past 2008.

Project Milestones

The ORNI 18 PPA identifies the necessary milestones, including permit applications, financing, construction and startup deadlines. Since the Dixie Valley PPA concerns an existing facility, there is no development necessary prior to delivery or any associated milestones.

Financeability of Resource

[23] See Confidential Appendix C for a more detailed analysis of the modified MPR model.

Both projects have financing in place.

Production Tax Credit

The ORNI 18 project, but not the Dixie Valley project, is contingent upon the extension of the federal production tax credits (PTC) as provided in Section 45 of the Internal Revenue Code of 1986, as amended. The PTC is set to expire December 31, 2008, and ORNI 18's initial online date is December 2009. The PTC has been extended several times in recent history, and there is potential that it will again be extended. However, this poses a project viability concern for the ORNI 18 project since it is uncertain whether the PTC will be extended.

Sponsor's Creditworthiness and Experience

Both developers have been providing SCE with renewable energy for many years. According to SCE, they are both reliable and experienced.

Transmission Upgrades

The Dixie Valley project is operating and has no transmission upgrade issues. The ORNI 18 project will interconnect to the Imperial Irrigation District. While a new substation must be built and transmission upgrade studies are not yet complete, the developer has indicated a low risk that transmission upgrades will delay the project's online date. Initially, the ORNI 18 project will not be scheduled to deliver the energy to SCE's service territory because transmission upgrades are necessary to transmit the energy from IID to SCE's territory. However, because the RPS program allows the RPS-eligible energy to be delivered anywhere in California, SCE can remarket the energy until the necessary transmission upgrades are completed.[24]

Fuel/Technology

The Dixie Valley project is online and reliably delivering geothermal energy. While the resource has been delivering for nearly 20 years, SCE believes that the geothermal resource will remain viable and will deliver the expected energy throughout the term of the contract.

SCE has reviewed the ORNI 18 resource test well results and spoke with the developer's geotechnical and drilling staff about the potential of the geothermal resource. As a result, SCE believes that the ORNI 18 project's geothermal

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[24] D. 06-05-039, Conclusion of Law #3, allows delivery of RPS-eligible energy anywhere in California.

resource will be able to sustain at least a 50 MW facility, and likely provide adequate supply for a 100 MW facility. Thus, there is an identifiable, yet low, risk that ORNI 18's untapped geothermal resource will affect the project's viability.

Confidential information about the contracts should remain confidential

Certain contract details were filed by SCE under confidential seal. Energy Division recommends that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

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

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

FINDINGS OF FACT

1. The RPS Program requires each utility, including SCE, to increase the amount of renewable energy in its portfolio to 20 percent by 2010, increasing by a minimum of one percent per year.
2. D.04-06-014 set forth standard terms and conditions to be incorporated into RPS power purchase agreements.
3. D.07-11-025 granted an amended petition for modification of D.04-06-014, and set forth four non-modifiable standard terms and conditions to be incorporated into RPS power purchase agreements.
4. D.06-05-039 directed the utilities to issue their 2006 renewable RFOs, consistent with their renewable procurement plans.
5. The Commission required each utility to establish a Procurement Review Group (PRG) to review the utilities' interim procurement needs and strategy, proposed procurement process, and selected contracts.

6. Levelized contract prices below the 2006 MPR are considered *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015, D.04-07-029, and D.05-12-042.
7. SCE filed Advice Letter 2137-E on July 13, 2007, requesting Commission review and approval of two renewable energy contracts with Caithness Dixie Valley and ORNI #18.
8. SCE filed Supplemental Advice Letter 2137-E-A on August 16, 2007 to supplement, in part, AL 2137-E in order to include the Independent Evaluation Report for SCE's 2006 renewable resource solicitation.
9. SCE filed Supplemental Advice Letter 2137-E-B on January 10, 2008 to supplement, in part, AL 2137-E and AL 2137-E-A to amend contract terms and conditions in both Caithness Dixie Valley and ORNI #18 contracts in order to comply with D.07-11-025.
10. SCE briefed its PRG on December 19, 2006 and March 13, 2007 on issues related to its 2006 shortlist and RFO. Also, on April 11, 2007 and June 27, 20007, SCE briefed the PRG concerning the successful conclusion of discussions with Dixie Valley and ORNI #18.
11. The proposed contract price for the ORNI 18 project is below the 2006 MPR released in Resolution E-4049.
12. SCE modified the 2006 MPR model in order to be able to evaluate a contract with a start date in 2018.
13. The Caithness Dixie Valley contract price is below the 2006 MPR modified by SCE.

CONCLUSIONS OF LAW

1. The Commission has reviewed the proposed contracts and finds them to be consistent with SCE's approved 2006 renewable procurement plan.
2. These Agreements are reasonable and should be approved in their entirety.
3. The costs of the contracts between SCE and Sellers are reasonable and in the public interest; accordingly, the payments to be made by SCE are fully recoverable in rates over the life of each project, subject to CPUC review of SCE's administration of the PPAs.
4. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the confidential appendices, marked "**[REDACTED]**" in the redacted copy, should not be made public upon Commission approval of this resolution.

5. Procurement pursuant to these Agreements is procurement from eligible renewable energy resources for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 *et seq*.), Decision 03-06-071, or other applicable law.
6. All procurement under the Dixie Valley and ORNI #18 Contracts count, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE.
7. All procurement under the Dixie Valley and ORNI #18 Contracts count, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE.
8. A finding that all procurement under the Dixie Valley and ORNI #18 Contracts count, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20% (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law).
9. Any indirect costs of renewables procurement identified in Section 399.15(a)(2) shall be recovered in rates.
10. AL 2137-E, Al 2173-E-A and Al 2173-E-B should be approved without modifications.

THEREFORE IT IS ORDERED THAT:

1. Advice Letters (AL) 2137-E, 2137-E-A and 2137-E-B are approved without modifications.
2. The costs of the contracts between SCE and Sellers are reasonable and in the public interest; accordingly, the payments to be made by SCE, at or below the MPR, are fully recoverable in rates over the life of the project, subject to CPUC review of SCE's administration of the PPAs.
3. 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 March 13, 2008; the following Commissioners voting favorably thereon:

____
Paul Clanon
Executive Director

Confidential Appendix A
Overview of 2006 Solicitation Bids
[REDACTED]

Confidential Appendix B

LCBF Bid Evaluations

[REDACTED]

Confidential Appendix C-1

Contract Summary: Caithness Dixie Valley
[REDACTED]

Confidential Appendix C-2

Contract Summary: ORNI #18
[REDACTED]

<u>Confidential Appendix E:</u>

Independent Evaluator's
Contract-Specific Assessments
(Dixie Valley and ORNI 18)
[REDACTED]

Confidential Appendix F-1:

Project's Contribution Toward RPS Goals - Caithness Dixie Valley

[REDACTED]

<u>Confidential Appendix F-2:</u>

Project's Contribution Toward RPS Goals - ORNI #18

[REDACTED]