

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #9715
RESOLUTION E-4358
September 23, 2010

REDACTED

R E S O L U T I O N

Resolution E-4358. San Diego Gas & Electric Company (SDG&E) requests approval of an amended and restated renewable power purchase agreement with Pacific Wind, LLC.

PROPOSED OUTCOME: This Resolution approves a SDG&E amended and restated renewable energy power purchase agreement with Pacific Wind, LLC for wind power. The amended and restated power purchase agreement is approved without modification.

ESTIMATED COST: Costs of this amended and restated contract are confidential at this time.

By Advice Letter 2159-E filed on April 30, 2010.

SUMMARY

SDG&E's proposed amended and restated power purchase agreement (PPA) with Pacific Wind, LLC complies with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved without modification.

SDG&E filed Advice Letter (AL) 2159-E on April 30, 2010, requesting California Public Utilities Commission (Commission) review and approval of an amended and restated PPA with Pacific Wind, LLC (Pacific Wind) for renewable energy from a new wind facility. The Pacific Wind contract was originally executed on October 15, 2005 and approved by the Commission in Resolution E-3979. The original PPA was subsequently amended in 2007 and 2008 and the amendments were approved by the Commission in Resolution E-4271. The PPA, as amended and restated on April 20, 2010, amends and restates the PPA as executed on October 12, 2005, as modified on December 31, 2007 and December 31, 2008, in its

entirety. The amended and restated PPA's generation, pricing terms, milestones, and commercial operation deadline differ from the original PPA.

The following table summarizes specific features of the project and the amended and restated PPA:

	Resource Type	Contract Term (Years)	Capacity (MW)	Expected Deliveries (GWh/yr)	Commercial Operation Date	Project Location
Original (as executed October 15, 2005)	Wind, new	20	206	348	December 31, 2008	Rosamond, CA
Amended and Restated	Wind, new	20	140	392	August 31, 2012	Rosamond, CA

This Resolution approves the proposed amended and restated PPA because it is consistent with SDG&E's 2009 RPS Procurement Plan. The increased costs of the amended and restated PPA are reasonable in comparison to bids SDG&E received in its 2009 RPS solicitation. Deliveries from the amended and restated PPA are reasonably priced and fully recoverable in rates over the life of the contract, subject to Commission review of SDG&E's administration of the contract.

The amended and restated PPA is approved without modification.

NOTICE

Notice of AL 2159-E was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

Advice Letter 2159-E was not protested.

DISCUSSION

Overview Of RPS Program

The RPS Program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least 1 percent of retail sales per year so that 20 percent of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.¹

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at <http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm> and <http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm>.

SDG&E requests Commission approval of an amended and restated PPA

On April 30, 2010, SDG&E filed AL 2159-E requesting Commission approval of an amended and restated PPA with Pacific Wind for generation from its proposed new wind facility. Generation from the 140 megawatt (MW) Pacific Wind facility is expected to contribute an average of 392 gigawatt-hours (GWh) annually towards SDG&E's Annual Procurement Target (APT) beginning in August 2012. The facility will be located near Rosamond, California.

The Pacific Wind contract was originally a result of SDG&E's 2004 RPS solicitation and executed on October 12, 2005. On May 26, 2006, the Commission approved the original contract in Resolution E-3979. The Pacific Wind contract was then amended on December 31, 2007 and December 31, 2008. In AL 2086-E and AL 2159-E, SDG&E explained that the 2007 amendment was to extend the date by which Pacific Wind must receive financial commitments and allow time to negotiate an additional amendment. SDG&E also explained in AL 2086-E and 2159-E that the contract was amended again in 2008 to further extend the date by which Pacific Wind must receive financial commitments and to modify the project's commercial online date (COD) to account for the CAISO-approved Tehachapi Renewable Transmission Project (TRTP) plan of service. The

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

Commission approved the amendment dated December 31, 2008 in Resolution E-4271.

In AL 2159-E, SDG&E explained that after the December 31, 2008 amendments, the developer, enXco, approached SDG&E requesting an additional contract amendment citing transmission delays and stating that an additional amendment was necessary to complete the project. SDG&E and enXco agreed that amendment of the PPA, as amended on December 31, 2008, was necessary due to project site issues and the time required to interconnect and finance the project. The amended and restated PPA reflects the project's reduced size as well as new pricing terms, milestones, and COD.

The project size is reduced due to a settlement agreement resolving local radar interference issues with Northrop Grumman. The COD and milestones have been amended due to CAISO's Feasibility Study for Pacific Wind indicating that the Whirlwind substation has been delayed to April 2012. A comparison of the major amended and restated features of the contract and project is provided in Table 1.

Table 1: Comparison of Amended Project Features and Terms

	PPA as amended December 31, 2008	Amended and Restated PPA
Capacity (MW)	206	140
Expected generation (GWh)	648	392
COD	12/31/2011	8/31/2012
Delivery point	Cottonwind substation	Whirlwind Substation

SDG&E requests that the Commission issue a Resolution containing the following findings:

1. The Proposed Agreement is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the Proposed Agreement will contribute towards SDG&E's APT starting in 2012.
2. SDG&E's execution of the Proposed Agreement and the terms of such Proposed Agreement are reasonable; therefore, all payments to be made by SDG&E under the Proposed Agreement, including those for energy, green attributes and resource adequacy included in the Proposed Agreement are

fully recoverable in rates over the life of the Proposed Agreement, subject to Commission review of SDG&E's administration of the Proposed Agreement.

3. All procurement and administrative costs associated with the Proposed Agreement shall be deemed reasonable per se and recoverable in rates as provided in Public Utilities Code § 399.14.
4. Approval of the Proposed Agreement in its entirety, including approval of the full cost recovery in rates through the Energy Resource Recovery Account (ERRA) mechanism of all payments to be made by SDG&E in association with this contract subject to Commission review of SDG&E's administration of the Proposed Agreement.
5. Issuance of a finding that any generation procured pursuant to the Proposed Agreement constitutes generation from an eligible renewable energy resource for purposes of determining SDG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard program (Public Utilities Code §§ 399.11, et seq. or other applicable law) and relevant Commission decisions.
6. The confidential appendices as well as the confidential portions of the advice letter, should not be made public upon Commission approval of this resolution.
7. The Proposed Agreement is consistent with the Commission-adopted RPS standard terms and conditions and includes those deemed "non-modifiable."

Energy Division Review Of The Proposed Amended and Restated PPA

Energy Division evaluated the bilateral amended and restated PPA for the following criteria:

- Consistency with bilateral contracting guidelines
- Consistency with Resolution E-4199 which established requirements and evaluation criteria for contract amendments affecting price
- Consistency with SDG&E's 2009 RPS Procurement Plan (Plan)
- Consistency with least-cost best-fit methodology identified in SDG&E's RPS Procurement Plan
- Consistency with RPS standard terms and conditions
- Compliance with the minimum quantity condition

- Cost reasonableness
- Cost containment
- Consistency with the Interim Emissions Performance Standard
- Procurement Review Group participation
- Independent Evaluator review
- Project viability

Consistency with Bilateral Contracting Guidelines

SDG&E and Pacific Wind bilaterally negotiated the April 10, 2010 amended and restated contract outside of the 2008 and 2009 RPS solicitation process which replaces the previously negotiated and executed contract in its entirety. Thus, the Commission reviewed the contract as a bilateral contract. In D.09-06-050 the Commission determined that bilateral contracts should be reviewed according to the same processes and standards as contracts that come through a solicitation. The discussion that follows in this Resolution shows that the amended and restated PPA was reviewed and found reasonable based on the same review and standards as those used for determining reasonableness of PPAs from solicitations.

The amended and restated PPA is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

Consistency with the Requirements of Resolution E-4199

Resolution E-4199 set forth eligibility criteria and guidelines for requesting approval of contract amendments for renewable energy contracts with above-market costs. The Pacific Wind amended and restated contract price is above the market price referent (MPR) and is a new bilateral contract; thus, certain criteria outlined in E-4199 apply.²

As required, SDG&E explained why the contract change is needed and provided a showing which included relevant data and information to justify the change. SDG&E also made a showing in the advice letter that the amended and restated

² The original PPA was below the 2004 market price referent.

contract is competitive based on current market data. Specifically, the amended and restated contract's price was compared to the projects that SDG&E is negotiating and to its most recent shortlist.

Additionally, an independent engineer, R.W. Beck, reviewed the project's original and revised financial proformas. Specifically, R.W. Beck reviewed documentation from enXco showing the components of the price increase and reviewed data from other sources to confirm changes are reasonable from a market perspective.

SDG&E provided both the evaluation of R.W. Beck and the project-specific independent evaluator report with AL 2159-E. After reviewing R.W. Beck's analysis, the Independent Evaluator concluded that it was credible and that the pricing of the amended and restated Pacific Wind PPA is reasonable in comparison to the market.

Consistency with SDG&E's 2009 RPS Procurement Plan

Pursuant to statute, SDG&E's RPS Procurement Plan (Plan) includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of flexible compliance mechanisms established by the Commission, and a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.³

California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.⁴ The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.⁵

SDG&E's 2009 RPS Plan called for SDG&E to issue a competitive solicitation for electric energy generated by eligible renewable resources that could deliver in 2010, 2011, 2012, or 2013 for preferred terms of 10, 15, or 20 years in length with terms less than 10 years and terms greater than 20 years also being acceptable.

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

⁴ Pub. Utils. Code, Section §399.14.

⁵ SDG&E's 2009 RPS Procurement Plan was approved by D.09-06-018 on June 8, 2009.

Proposals could be for peaking, baseload, dispatchable, or as-available deliveries. SDG&E also stated in its Plan that bilateral offers would be considered if they were competitive when compared against recent RFO offers and provide benefits to SDG&E customers. Additionally, SDG&E's Plan discussed utility plans to pursue renewable energy generation from utility-owned resources.

This amended and restated PPA is a bilateral contract for renewable generation that fits SDG&E's identified renewable resource needs. The proposed amended and restated Pacific Wind PPA is for generation from a facility that is currently under development and expected to be able to provide renewable energy deliveries beginning in 2012 to contribute towards SDG&E's 20 percent RPS requirement.

The amended and restated PPA, a bilateral contract, is consistent with SDG&E's 2009 RPS Procurement Plan, as approved by D.09-06-018.

Consistency with SDG&E's least-cost best-fit (LCBF) methodology

The LCBF evaluation is generally used to establish a shortlist of proposals from SDG&E's solicitation with whom SDG&E will engage in contract negotiations. In this case, a LCBF evaluation was conducted for the amended and restated PPA in order to evaluate its value relative to all of SDG&E's other RPS options, including bids received in response to SDG&E's 2008 and 2009 RPS solicitations.

SDG&E's bid evaluation includes a quantitative and qualitative analysis. SDG&E's quantitative analysis or market valuation includes evaluation of price, time of delivery factors, transmission costs, congestion costs, and resource adequacy. SDG&E's qualitative analysis focuses on comparing similar bids across numerous factors, such as location, benefits to minority and low income areas, resource diversity, etc. SDG&E used its quantitative and qualitative methodology to evaluate the amended Pacific Wind project and the independent evaluator reviewed the evaluation.

The amended and restated PPA was evaluated consistent with the LCBF methodology identified in SDG&E's 2009 RPS Procurement Plan.

Consistency with RPS Standard Terms and Conditions

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered “non-modifiable.” The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028.

The amended and restated PPA includes the Commission adopted RPS “non-modifiable” standard terms and conditions, as set forth in D.08-04-009 and amended by D.08-08-028.

Compliance with the Minimum Quantity Condition

D.07-05-028 established a "minimum quantity" condition on the ability of utilities to count an eligible short-term contract with an existing facility for compliance with the RPS program.⁶ In the calendar year that a short-term contract with an existing facility is executed, the utility must also enter into long-term contract(s) or contract(s) with new facilities equivalent to at least 0.25% of the utility's previous year's retail sales.

This amended and restated PPA is considered a long-term contract because it is more than 10 years in length. Therefore, the amended and restated PPA will contribute to SDG&E’s minimum quantity requirement established in D.07-05-028.

Cost reasonableness evaluation

The Commission evaluates the reasonableness of each proposed RPS PPA price by comparing the proposed PPA price to a variety of factors including RPS solicitation results and other proposed RPS projects. Using this analysis, the amended and restated Pacific Wind PPA is reasonably priced. Confidential Appendix A includes a detailed discussion of the contractual pricing terms, including SDG&E’s estimates of the total contract costs under the amended and restated PPA.

⁶ For purposes of D.07-05-028, contracts of less than 10 years duration are considered “short-term,” and facilities that commenced commercial operations on or after January 1, 2005 are considered “new.”

The total all-in costs of the amended and restated PPA are reasonable based on their relation to bids received in response to SDG&E's 2009 solicitation.

Payments made by SDG&E under the amended and restated PPA are fully recoverable in rates over the life of the amended PPA, subject to Commission review of SDG&E's administration of the amended and restated PPA.

Cost containment

The MPR is used by the Commission to assess the above-market costs of RPS contracts. There is a statutory limit on above-MPR costs which serves as a cost containment mechanism for the RPS program.⁷ Based on a 2012 commercial online date for the project, the 20-year PPA exceeds the 2009 MPR.⁸ The amended and restated PPA does not meet the eligibility criteria for Above-MPR Funds⁹ (AMFs) established in Pub. Util. Code §399.15(d)(2) since it is a bilateral contract.¹⁰ Additionally, SDG&E has exhausted its AMFs provided by statute; thus, SDG&E is not required to procure above-MPR costs.¹¹ SDG&E is therefore voluntarily entering into the amended and restated Pacific Wind power purchase agreement at a price that exceeds the applicable market price referent as permitted by Public Utilities Code § 399.15(d).

⁷ See Pub. Utils. Code §399.15.

⁸ See Resolution E-4298.

⁹ The \$/MWh portion of the contract price that exceeds the MPR, multiplied by the expected generation throughout the contract term, represents the total AMFs for a given PPA.

¹⁰ The following eligibility criteria for AMFs: (1) contract was selected through a competitive solicitation, (2) contract covers a duration of no less than 10 year, (3) contracted project is a new facility that will commence commercial operations after January 1, 2005, (4) contract is not for renewable energy credits, and (5) 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.

¹¹ On May 28, 2009, the Director of the Energy Division notified SDG&E that it had exhausted its AMF account.

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Utils. Code §§ 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.¹²

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 (GHG) emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS,¹³ although contracts with intermittent resources are subject to the limitation that total purchases under the contract do not exceed the expected output from the facility over the term of the contract.¹⁴

The Pacific Wind PPA meets the conditions for EPS compliance established in D.07-01-039 because the Pacific Wind facility is one of the pre-approved renewable energy technologies listed in D.07-01-039.

Procurement Review Group (PRG) participation

The Procurement Review Group (PRG) process was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission as an interim mechanism for procurement review.¹⁵ SDG&E provided its PRG with numerous updates on the amendment negotiations beginning on March 16, 2007 and continuing until November 20, 2009.

¹² "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." Pub. Utils. Code § 8340 (a).

¹³ D.07-01-039, Attachment 7, p. 4

¹⁴ D.07-01-039, Attachment 7, p. 7

¹⁵ SDG&E's PRG participants are: California Department of Water Resources, California Public Utilities Commission – Division of Ratepayer Advocates, The Utility Reform Network, Union of Concerned Scientists, and Coalition of California Utility Employees

Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the amended and restated PPA.

Independent evaluator (IE) review of the amended PPA

The Commission requires the use of an IE to ensure that solicitation processes are undertaken in a consistent and objective manner so that projects put on shortlists and resulting in contracts are chosen based on reasonable and consistent choices. Specifically, the IE's role is to review bid evaluations, monitor negotiations, and review the resulting PPA. SDG&E retained PA Consulting Group as IE for SDG&E's 2009 RPS solicitation. Also, as required, SDG&E submitted an IE Report prepared by PA Consulting with AL 2159-E.

In the IE Report, PA Consulting expresses the opinion that the contract reflects fair negotiations. Additionally, the IE agrees with SDG&E that the amended and restated Pacific Wind PPA merits approval and its price is reasonable compared with the offers SDG&E received in its 2008 and 2009 RPS solicitations.

Consistent with D.06-05-039 and D.09-06-050, an IE oversaw SDG&E's RPS procurement process and reviewed the amended and restated PPA.

Project Viability

SDG&E believes the Pacific Wind project is viable and will be developed according to the terms and conditions in the amended and restated PPA. SDG&E's project viability assessment included key criteria for renewable project development. Confidential Appendix A includes the project's scorecard from the Project Viability Calculator.¹⁶ SDG&E provided the following information about the viability of the project.

Developer experience

enXco, the developer, has developed over 2000 MWs of wind power and has extensive operations and maintenance (O&M) experience as the largest third-party O&M provider for wind farms in the North America. Additionally, enXco

¹⁶ Project Viability Calculator :

<http://www.cpuc.ca.gov/PUC/energy/Renewables/hot/Project+Viability.htm>

has successfully developed three California wind projects which are currently contributing to California's RPS program (Oasis, Shiloh I and Shiloh II).

Technology

The Pacific Wind project will consist of either Siemens 2.3-93 (2.3 MW) or REpower MM92 (2.0MW) wind turbine generators. Both turbines have been commercially demonstrated and are currently in commercial operation.

Quality of Resources

The Pacific Wind facility is being developed in California's Tehachapi region. The region currently has over 780 MW of wind projects in operation and there are plans for additional development beyond the Pacific Wind project. The project site is located within the Renewable Energy Transmission Initiative (RETI) defined Tehachapi Competitive Renewable Energy Zone (CREZ).¹⁷ Additionally, the project has over five years of wind data to support the wind capacity factor estimates. SDG&E is confident that the wind resource at the project site is sufficient such that Pacific Wind will be able to meet its contractual obligations.

While water is not needed for power generation, general water needs for the project will be provided by a water well which SDG&E states is sufficient for all project needs.

Project development milestones

The amended and restated PPA identifies agreed upon project milestones, including the construction start date and commercial operation date. Pacific Winds' obligations to meet these milestones are supported by performance assurance securities. SDG&E believes that the Pacific Wind project development plan allows for all milestones to be achieved.

¹⁷ RETI CREZ map (March 2010):

http://www.energy.ca.gov/reti/documents/phase2B/RETI-CREZ_Map_10_0309.pdf

Site control

The project area is entirely on private lands and enXco is progressing towards full site control. enXco has also identified the required permits for facility construction and operation, including conditional use permits from Kern County.¹⁸

Interconnection and transmission

The Pacific Wind project will interconnect to the planned Whirlwind substation. The Whirlwind substation is expected to be completed in April 2012.

Financing

enXco is seeking American Recovery and Reinvestment Act of 2009 (ARRA) funding, which, if received, will increase the project's ability to secure project financing. In order to receive ARRA funding, the project must meet certain project milestones by the end of 2010.

SDG&E asserts that the Pacific Wind project is viable and will provide renewable energy according to the terms and conditions in the amended and restated PPA.

RPS Eligibility and CPUC Approval

Pursuant to Pub. Util. Code § 399.13, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable “eligibility” language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an “Eligible Renewable Energy Resource,” that the project’s output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.¹⁹

¹⁸ Kern County recently issued Draft Environmental Impact Report for the project: http://www.co.kern.ca.us/planning/pdfs/eirs/PacWind/pacwind_deir.html

¹⁹ See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

The Commission requires a standard and non-modifiable clause in all RPS contracts that requires "CPUC Approval" of a PPA to include an explicit finding that "any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (*Public Utilities Code Section 399.11 et seq.*), Decision 03-06-071, or other applicable law."²⁰

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, nor can the Commission determine prior to final CEC certification of a project, that "any procurement" pursuant to a specific contract will be "procurement from an eligible renewable energy resource."

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

CONFIDENTIAL INFORMATION

The Commission, in implementing Pub. Utils. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin, except contracts between IOUs and their affiliates, which are public.

²⁰ See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

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

Pub. Utils. Code § 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

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

FINDINGS AND CONCLUSIONS

1. The amended and restated PPA is consistent with the bilateral contracting guidelines established in D.09-10-019 and D.09-06-050.
2. The amended and restated PPA, a bilateral contract, is consistent with SDG&E's 2009 RPS Procurement Plan, approved by D.09-06-018.
3. The amended and restated PPA was evaluated consistent with the least-cost best-fit methodology identified in SDG&E's 2009 RPS Procurement Plan.
4. The amended and restated PPA includes the Commission-adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009 and amended by D.08-08-028.
5. The amended and restated PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
6. The total all-in costs of the amended and restated PPA are reasonable based on their relation to bids received in response to SDG&E's 2009 solicitation.
7. Payments made by SDG&E under the amended and restated PPA are fully recoverable in rates over the life of the amended and restated PPA, subject to Commission review of SDG&E's administration of the amended and restated PPA.

8. The amended and restated PPA price exceeds the applicable 2009 market price referent.
9. SDG&E is voluntarily entering into the amended and restated PPA at a price that exceeds the applicable market price referent as permitted under the Public Utilities Code §399.15.
10. The amended and restated Pacific Wind PPA meets the condition for EPS compliance established in D.07-01-039 because the Pacific Wind facility will use one of the pre-approved renewable energy technologies listed in D.07-01-039.
11. Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the amended and restated PPA.
12. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's RPS procurement process.
13. SDG&E asserts that the Pacific Wind project is viable and will provide renewable energy according to the terms and conditions in the amended and restated PPA.
14. Procurement pursuant to the amended and restated PPA is procurement from eligible renewable energy resources for purposes of determining SDG&E'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.), D.03-06-071 and D.06-10-050, or other applicable law.
15. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under this amended and restated PPA to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this amended and restated PPA.
16. 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.
17. AL 2159-E should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letter 2159-E, requesting Commission review and approval of an amended and restated power purchase agreement with Pacific Wind, LLC, 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 September 23, 2010; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

Confidential Appendix A

Pacific Wind Amended and Restated Contract Summary

[Redacted]