

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #10924
RESOLUTION E-4458
January 12, 2012

REDACTED

R E S O L U T I O N

Resolution E-4458. San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement, as amended, with Ocotillo Express LLC.

PROPOSED OUTCOME: This resolution approves cost recovery for the long-term renewable energy power purchase agreement, as amended, between San Diego Gas & Electric Company and Ocotillo Express LLC. The power purchase agreement, as amended, is approved without modification.

ESTIMATED COST: Costs of the power purchase agreement are confidential at this time.

By Advice Letter 2234-E filed on March 4, 2011 and Advice Letter 2234-E-A filed on October 5, 2011.

SUMMARY

San Diego Gas & Electric Company's renewable energy power purchase agreement with Ocotillo Express complies with the Renewables Portfolio Standard procurement guidelines and is approved without modification.

San Diego Gas & Electric Company (SDG&E) filed Advice Letter 2234-E on March 4, 2011 requesting California Public Utilities Commission (Commission) approval of a 20 year renewable energy power purchase agreement between SDG&E and Ocotillo Express LLC. On October 5, 2011, SDG&E filed supplemental Advice Letter 2234-E-A, requesting approval of an amendment to the power purchase agreement that reduces the price of the power purchase agreement and modifies the online date of the facility.

The power purchase agreement is the result of SDG&E's 2009 RPS solicitation. Generation pursuant to the amended power purchase agreement will be from a new wind facility that will be between 265 and 315 megawatts capacity. The wind facility is being developed 25 miles west of El Centro, California, and it is expected to achieve commercial operation in 2012.

Table 1: Summary of the Ocotillo Express LLC power purchase agreement

| Generating Facility | Technology Type | Term (Years) | Maximum Capacity (MW) | Energy (GWh/year) | Online Date | Location |
|----------------------------|------------------------|---------------------|------------------------------|--------------------------|--------------------|--------------------------------|
| Ocotillo Express | Wind | 20 | 265 - 315 | 891 | December 31, 2012 | 25 miles west of El Centro, CA |

This resolution approves the Ocotillo Express LLC power purchase agreement, as amended, without modification. SDG&E's execution of this power purchase agreement, as amended, is consistent with SDG&E's 2011 RPS Procurement Plan, including its resource need, which the Commission approved in Decision 11-04-030. Deliveries under the Ocotillo Express LLC power purchase agreement, as amended, are reasonably priced and fully recoverable in rates over the life of the power purchase agreement, subject to Commission review of SDG&E's administration of the power purchase agreement.

BACKGROUND

Overview of the Renewables Portfolio Standard (RPS) Program

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X).¹ The RPS program is codified in Public Utilities Code Sections 399.11-399.20.² Under SB 2 (1X), the RPS program administered by the Commission requires each retail

¹ 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).

² All further references to sections refer to Public Utilities Code unless otherwise specified.

seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.³

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>.

NOTICE

Notice of Advice Letters 2234-E and 2234-E-A was made by publication in the Commission's Daily Calendar. SDG&E states that copies of the Advice Letters were mailed and distributed in accordance with Section IV of General Order 96-B.

PROTESTS

SDG&E Advice Letter 2234-E was timely protested by the Californians for Renewable Energy, Inc. (CARE) on March 5, 2011. SDG&E responded to the protest on March 31, 2011.

DISCUSSION

San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement, as amended, with Ocotillo Express LLC.

On March 4, 2011, San Diego Gas and Electric Company (SDG&E) filed Advice Letter (AL) 2234-E requesting California Public Utilities Commission (Commission) approval of a long-term power purchase agreement (PPA) with Ocotillo Express LLC (Ocotillo). On October 5, 2011, SDG&E filed supplemental AL 2234-E-A requesting approval of an amendment that reduces the price of the

³ 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).

Ocotillo PPA, advances the project's commercial online date by one year from December 15, 2013 to December 31, 2012, and modifies the dates by which certain conditions precedent and milestones must be satisfied.

The Ocotillo PPA, as amended, concerns generation from a new wind facility located approximately 25 miles west of El Centro, California. The Ocotillo facility will connect to the Sunrise Powerlink via a new 500 kilovolt (kV) substation. SDG&E expects that project will provide 299 MW of capacity and generate annual RPS-eligible deliveries of approximately 891 gigawatt-hours (GWh). However, the Ocotillo PPA allows the developer flexibility to construct a facility within the range of 265-315 MW. The Ocotillo project is being developed by Pattern Energy Group, LP.⁴ The facility is expected to come online in 2012; thus, Commission approval of the PPA, as amended, will authorize SDG&E to accept future RPS-eligible generation that will contribute towards SDG&E's RPS requirements in Compliance Period 2011-2013 and its longer term 33 percent RPS mandate.⁵

SDG&E requests that the Commission issue a resolution that finds:

1. The amended Ocotillo PPA is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the Ocotillo PPA will contribute towards SDG&E's RPS procurement obligation.
2. SDG&E's entry into the amended Ocotillo PPA and the terms of such agreement are reasonable; therefore, the Ocotillo PPA is approved in its entirety and all administrative and procurement costs associated with the Ocotillo PPA, including for energy, green attributes, and resource adequacy, are fully recoverable in rates over the life of the Ocotillo PPA, subject to Commission review of SDG&E's administration of the Ocotillo PPA.

⁴ Information about Pattern Energy Group, LP is available here:
<http://www.patternenergy.com/>

⁵ In addition to raising California's RPS requirement to 33% from 20%, SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session) establishes three different compliance periods, 2011-2013, 2014-2016, and 2017-2020.

3. Generation procured pursuant to the amended Ocotillo PPA 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 Renewable Portfolio Standard program (Public Utilities Code §§ 399.11, et seq. and/or other applicable law) and relevant Commission decisions.
4. The Ocotillo PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

Energy Division Evaluated the Ocotillo PPA on the following criteria:

- Consistency with SDG&E's 2009 and 2011 RPS Procurement Plans
- Consistency with SDG&E's Least-Cost, Best-Fit requirements
- Consistency with RPS standard terms and conditions
- Independent Evaluator review
- Cost reasonableness
- Cost containment
- Project viability assessment and development status
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Procurement Review Group participation
- Contribution to minimum quantity requirement for long-term/new facility contracts

Consistency with SDG&E's 2009 and 2011 RPS Procurement Plan

As stated above, the Ocotillo PPA is the result of SDG&E's 2009 RPS solicitation. Thus, the PPA was reviewed for consistency with SDG&E's 2009 RPS Procurement Plan. The Ocotillo PPA was also reviewed for consistency with SDG&E's 2011 RPS Procurement Plan because an amendment to the PPA was filed after SDG&E's 2011 RPS Procurement Plan was approved.

Pursuant to statute, SDG&E's 2009 and 2011 RPS Procurement Plans include assessments 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.⁶

California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.⁷ The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.⁸

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 begin delivering in 2010, 2011, 2012, and 2013, for preferred terms of 10, 15, or 20 years, with terms greater than 20 years also being acceptable. Proposals could be for peaking, baseload, dispatchable, or as-available deliveries. Additionally, SDG&E expressed a commitment to contract in excess of its mandated annual procurement targets. 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.

In SDG&E's 2011 RPS Plan, SDG&E expressed similar preferences in their solicitation. Additionally, SDG&E expressed a commitment to contract in excess of 33 percent renewables by 2020.⁹ SDG&E also expressed preference for projects that could contribute towards SDG&E's Sunrise Powerlink commitment. Last of all, SDG&E's Plan discussed utility plans to pursue renewable energy generation development partnerships and utility-owned resources.

The PPA is a contract for renewable generation that fits SDG&E's identified renewable resource needs. The proposed PPA is for as-available generation pursuant to a 20 year contract from a renewable energy facility that is expected to provide renewable energy deliveries beginning in 2012 that will contribute towards SDG&E's RPS requirement.

⁶ Pub. Util. Code, Section §399.14(a)(3).

⁷ Pub. Util. Code, Section §399.14.

⁸ SDG&E's 2011 RPS Procurement Plan was approved by D.11-04-030 on April 14, 2011.

⁹ In D.08-12-058, which approved SDG&E's Sunrise Powerlink, SDG&E committed to procuring 33 percent of its electricity from renewables by 2020 in advance of the 33 percent RPS law being enacted.

The Ocotillo PPA is consistent with SDG&E's 2009 and 2011 RPS Procurement Plan, as approved by D.11-04-030.

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

In D.04-07-029, the Commission directs the utilities to use certain criteria in their LCBF selection of renewable resources.¹⁰ The decision offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence negotiations. As described in its 2011 RPS Procurement Plan, SDG&E's LCBF bid evaluation includes a quantitative analysis and qualitative criteria. 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.

The Ocotillo PPA is the result of SDG&E's 2009 RPS solicitation. In AL 2234-E, SDG&E explains that it evaluated and selected the Ocotillo bid consistent with its 2009 LCBF evaluation methodology. In AL 2234-E-A, SDG&E explains that it evaluated the amended Ocotillo PPA consistent with its 2011 LCBF evaluation methodology. See the "Cost Reasonableness" section of this resolution for a discussion of how the project compares to SDG&E's 2011 RPS solicitation, recent bilateral offers, and recently executed contracts.

The Ocotillo PPA was evaluated consistent with the LCBF methodology identified in SDG&E's 2009 and 2011 RPS Procurement Plans.

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. More recently, the Commission further refined these STCs in D.10-03-021, as modified by D.11-01-025.

¹⁰ See §399.14(a)(2)(B)

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

Independent Evaluator Review

SDG&E retained independent evaluator (IE) Jonathan Jacobs of PA Consulting Group to oversee its 2009 and 2011 RPS solicitations and to evaluate the overall merits for CPUC approval of the PPA. AL 2234-E included a public and confidential independent evaluator’s report. The IE also evaluated the amended PPA and revised his original report, which SDG&E included in supplemental AL 2234-E-A.

In the original and revised IE report, the IE states that he believes that Ocotillo was not provided any advantage over bidders and that the Ocotillo PPA reflects fair negotiations. Additionally, the IE states that, after reviewing it for contract price (including transmission cost adders), portfolio fit, project viability, and other factors, the Ocotillo PPA merits approval. See Confidential Appendix B for an excerpt of the revised IE report.

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E’s 2009 and 2011 RPS solicitations and negotiations with Ocotillo.

Cost Reasonableness

The Commission’s reasonableness review for RPS PPA costs includes a comparison of the proposed PPA’s value and price to offers received in recent RPS solicitations, recent bilateral offers, and recently executed contracts. A PPA’s value is determined by the IOU’s LCBF methodology. As stated above, SDG&E initially evaluated the Ocotillo bid using its 2009 LCBF methodology and provided that information in AL 2234-E. Then, in AL 2234-E-A, SDG&E explains that it evaluated the amended PPA using its 2011 LCBF methodology and compared the results to its 2011 RPS shortlist and recently executed bilateral contracts. Based on the Commission’s analysis of the PPA’s value and the confidential analysis provided by SDG&E in AL 2234-E and supplemental AL 2234-E-A, the Commission determines that the PPA’s costs are reasonable. The amended PPA is reasonable because its market valuation is comparable to SDG&E’s 2011 RPS solicitation, other comparable contracts, and the project is to provide RPS-eligible energy when SDG&E has identified a specific need in

relation to its RPS compliance requirements. (See Confidential Appendix A for a detailed discussion of the contractual pricing terms.)

The Ocotillo PPA compares reasonably to the results of SDG&E's 2011 RPS solicitation and other comparable contracts.

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

Cost Containment

Pursuant to statute, the Commission calculates a market price referent (MPR) to assess whether a proposed PPA has above-market costs.¹¹ 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.¹² Contracts that meet certain criteria are eligible for above-MPR funds (AMFs).¹³ Once an electrical corporation has exhausted its AMFs provided by statute, it is not required to procure RPS-eligible generation at above-MPR costs but may voluntarily choose to do so.¹⁴

Based on the 2012 commercial online date for the Ocotillo PPA, the 20-year PPA, as amended, is below the 2009 MPR. Thus, the Ocotillo PPA does not have any above-market costs.

¹¹ See Pub. Util. Code § 399.15(c).

¹² See Pub. Util. Code §399.15.

¹³ Pursuant to Pub. Util. Code §399.15 (d) and Resolution E-4199, a PPA between a utility and a developer must meet the following requirements for the utility to achieve AMFs eligibility: (1) the PPA must have Commission approval and be selected through a competitive solicitation, (2) it must cover a duration of at least 10 years; (3) it must develop a new or repowered facility commencing operations on or after January 1, 2005; (4) it must not be a purchase of renewable energy credits; and (5) it must not include any indirect expenses as set forth in the statute.

¹⁴ See Pub. Util. Code § 399.15(d).

Project Viability Assessment and Development Status

SDG&E asserts that the Ocotillo project is viable and will be developed according to the terms and conditions in the PPA. SDG&E bases its assertion on its evaluation of the project's viability using the Commission-approved project viability calculator, which uses standardized criteria to quantify a project's strengths and weaknesses in key areas of renewable project development. See Confidential Appendix A for the scoring of the project's viability. Additionally, SDG&E provided the following information about the project's developer and the project's development status.

Developer experience

Pattern Energy Group, LLC is the developer of the project. Pattern Energy has developed over 21 wind projects in the United States. Projects developed in California include the 101.2 MW Hatchet Ridge Project, 50 MW Kumeyaay Wind Project, and the 38 MW Buena Vista Project.

Resource quality and technology

The project will use commercially proven wind turbines. Five on-site meteorological towers have been on the project site for over 12 months collecting resource data confirming project site suitability.

Site control and permitting status

The proposed facility is to be located on United States Department of Interior, Bureau of Land Management (BLM) lands for which Ocotillo has applied for Right-of-Way grants. On July 22, 2011 the BLM issued a draft Environmental Impact Statement/Environmental Impact Report. All other necessary permits are expected to be obtained in a timely manner to achieve the conditions precedent in the PPA.

Interconnection and transmission

Ocotillo will connect to the Sunrise Powerlink via a new 500 kilovolt (kV) substation. The Phase I and Phase II CAISO Transmission Studies for the project are complete.

Financing Plan

The project is expected to be financed through a combination of debt and equity. Additionally, the project is expected to qualify for Production Tax Credits.

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Util. Code §§ 8340 and 8341 require that the Commission consider emissions associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.¹⁵

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.¹⁶

The Ocotillo PPA meets the conditions for EPS compliance because generation pursuant to the PPA will be from a facility that uses wind technology, which is one of the renewable energy technologies listed in D.07-01-039 that is deemed EPS compliant.

Procurement Review Group Participation

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.¹⁷ SDG&E asserts that the Ocotillo PPA was discussed at three PRG meetings in 2009 and two meetings in 2011.

¹⁵ "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. Util. Code § 8340 (a).

¹⁶ D.07-01-039, Attachment 7, p. 4

¹⁷ SDG&E's PRG includes representatives of the Union of Concerned Scientists, the Coalition of California Utility Employees, The Utility Reform Network, the California Public Utility Commission's Energy Division and Division of Ratepayer Advocates, and the California Department of Water Resources.

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

Contribution to Minimum Quantity Requirement for Long-Term/New Facility Contracts

D.07-05-028 established a "minimum quantity" condition on the ability of utilities to count an eligible contract of less than 10 years duration for compliance with the RPS program.¹⁸ In the calendar year that a short-term contract with an existing facility is executed, the utility must also enter into long-term contracts or contracts with new facilities equivalent to at least 0.25 percent of the utility's previous year's retail sales.

As a new facility, delivering pursuant to long-term contracts, the Ocotillo PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

CARE's protest regarding procedural appropriateness is denied.

CARE asserts in its protest to SDG&E AL 2234-E that it is procedurally improper at this time to approve AL 2234-E because the San Francisco Superior Court (Court) found the Environmental Impact Report (EIR) on the California Air Resources Board (CARB) adopted Scoping Plan for implementing Assembly Bill 32 unlawful and that California's three large investor-owned utilities have filed a Petition for Enforcement Pursuant to Section 210(h) of the Public Utility Regulatory Policies Act of 1978 at the Federal Energy Regulatory Commission (FERC) in response to the Commission's combined heat and power (CHP) feed-in tariff¹⁹ and that as a result AL 2234-E should be rejected. CARE argues that the Commission lacks any lawful basis to approve AL 2234-E and it is premature to consider greenhouse gas (GHG) procurement related issues until the Court can determine if the EIR is lawful. CARE also states that it objects to AL 2234-E

¹⁸ For purposes of D.07-05-028, contracts of less than 10 years duration are considered "short-term" contracts and facilities that commenced commercial operations prior to January 1, 2005 are considered "existing."

¹⁹ The petition filed at FERC was in response to the Commission approved CHP feed-in tariff. See <http://www.cpuc.ca.gov/PUC/energy/Climate+Change/chpfeedin.htm> for more information.

as an unlawful attempt to prejudice the constitutional due process rights to judicial review of the plaintiffs challenging the above mentioned EIR. Lastly, CARE argues that it is unclear how the Ocotillo PPA benefits reliability or the ratepayers.

In SDG&E's reply to CARE's protest, SDG&E recommends that CARE's protest should be denied because it raises issues that are not relevant to review of AL 2234-E. SDG&E argues that the PPA was entered into for compliance with California RPS requirements irrespective of any current or future regulation of GHG emissions. Additionally, SDG&E asserts that the facility does not use CHP technology; thus, the question of whether pricing for CHP generators can be set by the Commission is irrelevant.²⁰

The Commission agrees with SDG&E that CARE's protest is out of scope for the reasons that SDG&E has argued. Thus, CARE's protest for rejection of AL 2234-E is denied because it raises issues that are not relevant to the Commission's consideration of the Advice Letter or the underlying 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.²¹

²⁰ FERC declined to pursue the utility request in Docket No. EL11-19-000, i.e., an enforcement action against the Commission under section 210(h)(2)(A) of the Public Utility Regulatory Policies Act. (*Southern California Edison Company et al.*, 134 FERC ¶ 61,271 (March 31, 2011) ("Notice of Intent Not to Act").)

²¹ 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.”²²

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, neither 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 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 contracts.

Confidential Information

The Commission, in implementing Pub. Util. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the 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.

²² 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

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 AND CONCLUSIONS

1. The Ocotillo power purchase agreement is consistent with SDG&E's 2009 and 2011 RPS Procurement Plan, as approved by D.11-04-030.
2. The Ocotillo power purchase agreement was evaluated consistent with the least-cost best-fit methodology identified in SDG&E's 2009 and 2011 RPS Procurement Plans.
3. The Ocotillo power purchase agreement includes the Commission-adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as amended by D.11-01-025.
4. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's RPS procurement process.
5. The Ocotillo power purchase agreement compares reasonably to the results of SDG&E's 2009 and 2011 solicitation, bilateral offers, and recently executed contracts.
6. Payments made by SDG&E under the Ocotillo power purchase agreement are fully recoverable in rates over the life of the Ocotillo power purchase agreement, subject to Commission review of SDG&E's administration of the Ocotillo power purchase agreement.

7. The Ocotillo power purchase agreement price, as amended, is below the applicable 2009 market price referent.
8. The Ocotillo power purchase agreement does not have any above-market costs.
9. SDG&E asserts that the Ocotillo project is viable and will provide renewable energy according to the terms and conditions in the Ocotillo power purchase agreement.
10. The Ocotillo PPA meets the conditions for EPS compliance because generation pursuant to the PPA will be from a facility that uses wind technology, which is one of the renewable energy technologies listed in D.07-01-039 that is deemed EPS compliant.
11. Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the Ocotillo power purchase agreement.
12. The Ocotillo power purchase agreement will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
13. CARE's protest for rejection of AL 2234-E is denied because it raises issues that are not relevant to the Commission's consideration of the Advice Letter or the underlying PPA.
14. Procurement pursuant to the Ocotillo power purchase agreement 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 power purchase agreement to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this power purchase agreement.
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 2234-E and 2234-E-A should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letters 2234-E and 2234-E-A requesting Commission review and approval of a power purchase agreement, as amended, with Ocotillo Express, LLC, is approved.

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 January 12, 2012; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

Confidential Appendix A

Evaluation Summary of the Ocotillo PPA

[Redacted]

Confidential Appendix B

Excerpt from Independent Evaluator's Report
regarding SDG&E's PPA with Ocotillo²³

[Redacted]

²³ Excerpt from Confidential Appendix B to Advice Letter 2234-E-A, Report of the Independent Evaluator on the 265-315 MW Pattern Ocotillo Express contract selected in the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO) October 5, 2011