Decision 10-10-029 October 28, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for Approval of Results of Standard Track of Its New Generation Request for Offers and For Cost Recovery.	Application 08-04-011 (Filed April 4, 2008)

DECISION GRANTING PETITION BY SOUTHERN CALIFORNIA EDISON COMPANY FOR MODIFICATION OF DECISION 08-09-041

TABLE OF CONTENTS

DECISION GRANTING PETITION BY SOUTHERN CALIFORNIA EDISON COMPANY FOR MODIFICATION OF DECISION 08-09-041

Summary

Decision (D.) 08-09-041 approved the application by Southern California Edison Company (SCE) for authorization to sign four power purchase agreements (Contracts) for up to 1350.30 megawatts (MW) selected in the standard track of its New Generation Request for Offers (New Gen RFO), and approved the allocation of the benefits and costs of the four Contracts to all benefitting customers in accordance with D.06-07-029[1] and D.07-09-044.[2]

One of the approved Contracts was a ten-year contract with El Segundo Energy Center LLC (El Segundo), a wholly-owned subsidiary of NRG Energy, Inc., for up to 550 MW of expected capacity and associated energy from El Segundo Energy Center Facility (Facility) located in El Segundo, California. However, due to litigation which led to a moratorium on required air permits for the underlying Facility, the original construction schedule was delayed.

This Decision grants the Petition for Modification of D.08-09-041 filed by SCE on the grounds that it is reasonable, justified and in the public interest. The freeze on air permits was lifted after the enactment of new legislation[3], and the

---

[1] D.06-07-029 (July 20, 2006) directed SCE to issue a RFO seeking up to 1,500 MW of long-term contracts for New Generation resources and adopted a cost allocation methodology that allows costs and benefits of new generation to be shared by all benefitting customers within an investor-owned utility's (IOU's) service territory.

[2] D.07-09-044 (September 20, 2007) established the particulars of the energy auctions to be held periodically to help establish the net cost of capacity to be shared by all benefitting customers within an IOU's service territory.

[3] Senate Bill (SB) 827 (Stats. 2009, ch. 206).

proposed amendments are the result of arms-length negotiations between SCE and El Segundo to move the project forward with a revised schedule.

The effect of this modification is to approve the amendments to the Contract between SCE and El Segundo, which provides limited changes to the terms and conditions of the Agreement, including a reduction in price and deferral of the delivery date by about two years from June 1, 2011 to August 1, 2013. The Commission concludes that the amendments are reasonable, justified, and in the public interest.

1. Background and Procedural History

On July 20, 2006, the Commission issued Decision (D.) 06-07-029, which directed Southern California Edison Company (SCE) to issue a Request for Offers (RFO) seeking up to 1,500 megawatts (MW) of long-term contracts for new generation resources.[4] The decision also established a cost allocation mechanism designed to encourage the development of new generation resources by designating the investor-owned utilities (IOUs) as the procurers of new generation for the benefit of their entire service territories. The cost allocation mechanism allocates the benefits and costs of new generation resource procurement to all benefiting customers in an IOU's service territory, including bundled service customers, direct access customers, and community choice aggregation customers.[5]

On August 14, 2006, SCE issued an RFO soliciting up to 1,500 MW of power purchase agreements lasting up to 10 years from new generation facilities

---

4 *Id.* at 47, 62-63 (OP 7).

5 D.06-07-029 at 26.

(New Gen RFO). Included were Standard Track projects that could be available on or before August 1, 2013.[6]

SCE filed an Application, on April 4, 2008, for approval of the four power purchase agreements (Contracts) selected in the New Gen RFO, including a Contract with El Segundo Energy Center LLC (El Segundo), a wholly owned subsidiary of NRG Energy, Inc. On March 5, 2008, SCE and El Segundo executed a ten-year power purchase tolling agreement (El Segundo Contract) for up to 550 MW of expected contract capacity and associated energy from the El Segundo Energy Center Facility (Facility). The Facility will be located in El Segundo, California and will consist of two One-on-One Siemens SGT6-5000F combined-cycle gas turbines featuring dry cooling technology.

In its Application, SCE also asked the Commission to authorize allocation of the benefits and costs of all four Contracts to all benefiting customers in accordance with D.06-07-029. SCE further stated that the California Independent System Operator (CAISO) had conducted the 2007 Q3 Generation Deliverability Study to assess the deliverability of all existing and proposed generation projects in the CAISO queue and that all four projects described in the Application were deliverable under the study's conditions.[7]

The Division of Ratepayer Advocates (DRA) filed a timely protest to preserve its right to voice any concerns it might have after completing discovery. DRA wanted to confirm the cost effectiveness of the selected contracts and to verify that they were chosen after SCE had exhausted its preferred resources and

---

6 SCE's Application for Approval of Results of Standard Track of its New Generation Request For Offers (Application) at 2.

7 D.08-09-041 at 3-4.

complied with the state's Energy Action Plan and the Commission's loading order. After its review, DRA concluded it did not protest or oppose approval of the four Contracts, the need for them, or the cost recovery and allocation of benefits and costs pursuant to D.06-07-029. However, DRA amended its protest to seek correction of SCE's understatement of its resource outlook for 2011-2013 based on a large number of variables.[8]

On September 18, 2008, the Commission issued D.08-09-041 which approved SCE's Application for authorization to sign four Contracts for up to 1350.30 MW and approved the allocation of benefits and costs of the four Contracts to all benefitting customers in accordance with D.06-07-029 and D.07-09-044. A small number of typographical errors in the decision were corrected in D.09-01-004.

On August 25, 2010, SCE filed a Petition for Modification (PFM) of D.08-09-041 seeking Commission approval of an amended and restated El Segundo Contract (Amended El Segundo Contract) on an expedited basis, in order for El Segundo to meet its revised on-line date.[9] No protests or responses were filed to SCE's PFM.

Filed concurrently with the PFM were motions to shorten time to respond to the PFM and to file portions of the PFM and its attachments under seal. On October 12, 2010, SCE filed an amended PFM and Motion in Order to reduce the

---

[8] Variables include forecast and procurement uncertainties arising from expiring contracts, the deadline for renewable portfolio standards program (RPS), possible completion of new transmission lines, and a substantial number of aging power plants will either be retired or continue to run.

[9] On February 3, 2010 and July 22, 2010, SCE consulted with its Cost Allocation Mechanism (CAM) Group about the amendments, as required by D.07-12-052.

amount of information it sought to keep confidential in conformance with D.06-06-066. The motions were resolved in separate rulings by the assigned Administrative Law Judge (ALJ) Melanie M. Darling.[10]

2. Petition for Modification

The PFM was filed almost two years after D.08-09-041 was issued in order to gain approval of amendments to the previously-approved El Segundo Contract following unexpected delays to commencement of construction of the Facility. The key changes include a reduction to the energy capacity price and a 26 month extension of the expected delivery date to August 1, 2013. The PFM seeks approval of the Amended El Segundo Contract on the grounds that the Amended Contract (1) results in a net contract savings from a facility that will assist in the operational integration of future renewable resources in California, (2) is a repowered coastal resource that does not utilize once-through-cooling (OTC), and (3) meets the CAISO local capacity requirements for the Los Angeles Basin.

Attached to the PFM in support were the following appendices:

- **Appendix A** –Amended El Segundo Contract
- **Appendix B** – Declaration of Ranbir Singh, SCE's Manager of Portfolio Analysis and Valuation in the Energy Supply and Management group, who describes performing the contract valuation of the Amended El Segundo Contract in comparison to the El Segundo Contract

[10] On September 13, 2010, the ALJ shortened the time to file responses to the PFM from 30 to 23 days. On October 15, 2010, the ALJ granted the Amended Motion to allow portions of the Amended PFM to be filed under seal pursuant to D.06-06-066.

- **Appendix C** – redlined version of the El Segundo Contract showing all of the amendments in the Amended El Segundo Contract
- **Appendix D** – Independent Evaluation Report of the Amended El Segundo Contract by Sedway Consulting, Inc. to review the contract negotiations and perform an evaluation of the proposed amendments to the El Segundo Contract, using similar methodology to what it used in valuation of the New Gen Contracts.
- **Appendix E** – Independent Engineer's Review by R. W. Beck of proposed amendments to El Segundo Contract in order to assess their reasonableness.

SCE filed a motion to allow portions of its PFM and all of the attached appendices A-E to be filed under seal pursuant to the protections granted to market sensitive information as set forth in D.06-06-066. The motion was granted by the ALJ's October 15, 2010 ruling.

2.1. The SCAQMD Permit Delays

After SCE gained Commission approval of the El Segundo Contract, El Segundo began taking steps towards construction of the Facility. One step was to apply for an air permit from the South Coast Air Quality Management District (SCAQMD).[11]

Federal law requires each major new and modified source of air pollution to undergo "new source review" to ensure that facilities install the best available control equipment, obtain offsets for any new emissions, and comply with other requirements to ensure that the new and modified sources do not adversely affect air quality. As relevant here, SCAQMD adopted a variety of

[11] SCAQMD is the regional agent for the U.S. Environmental Protection Agency for issuing air quality permits.

rules to govern the use of offsets in the district, including an internal bank of offsets known as the Priority Reserve, and then permitted transfer of the offsets to power plants in exchange for mitigation fees.

In September 2007, Natural Resources Defense Council and other groups filed suit against the SCAQMD challenging its offset practices, particularly certain amendments to the Priority Reserve rule, and adoption of a pollution credit accounting and generation rule.[12] In July 2008, the court sided with the plaintiffs, finding the SCAQMD's rule changes are subject to the California Environmental Quality Act (CEQA), and enjoined the distribution of offsets from the Priority Reserve account until SCAQMD prepared the appropriate CEQA documentation. In November, the court also ordered SCAQMD to rescind the two rules.

As a result of these events, SCAQMD stopped issuing any air permits based on its Priority Reserve emission offsets or exemptions from these offsets. El Segundo was seeking such a permit and the freeze prevented El Segundo from obtaining the air permits needed to construct the Facility.

The California Legislature responded to the court ruling by enacting Senate Bill (SB) 827 which, among other things, allowed SCAQMD to apply an exemption from the emissions reduction credit requirement for replacement of electric utility steam boilers with combined-cycle gas turbines on a MW-for-MW basis.[13] Thus, SCAQMD could issue emission offsets for new capacity to El

---

12 *Natural Resources Defense Council et al. v. South Coast Air Quality Management District* (Sup. Ct. Los Angeles County, 2007, No. BS 110972).

13 See SCAQMD Rule 1304.

Segundo so long as El Segundo made a MW-for-MW retirement of existing generation units at the same location where it will construct the Facility.

SCE represents that El Segundo subsequently received its SCAQMD permit for the Facility on July 13, 2010. However, in December 2009, environmental groups filed a lawsuit intended to block SB 827 from taking effect. On July 15, 2010, the Superior Court concluded that the environmental groups had no legal basis for their lawsuit and dismissed their challenge.[14] Therefore, air permits issued by SCAQMD pursuant to SB 827 are currently valid.

SCE states that these delays made it impossible to complete construction of the Facility by the original expected delivery date of June 1, 2011. El Segundo approached SCE with an offer of amendments to the El Segundo Contract that would allow the project to proceed. The parties engaged in negotiations and agreed to a number of amendments which are described below.

2.2. The Amendments to El Segundo PPA

According to SCE, the air permit delays, described above, made it impossible for El Segundo to complete construction of the Facility by the original expected delivery date of June 1, 2011. Eventually, the parties agreed to amendments to the El Segundo Contract which moved the expected delivery date to August 1, 2013, reduced the capacity price, and made other changes, largely technical. However, there is little overall change in the fundamentals of the original agreement.

Under the Amended El Segundo Contract, SCE and its benefitting customers, still anticipate receiving up to 550 MW of expected contract capacity

---

[14] http://www.martindale.com/environmental-law/article_Alston-Bird-LLP_1100600.htm

and associated energy from the project which will be constructed in El Segundo, California, and will consist of two One-on-One Siemans SGT6-5000F combined-cycle gas turbines featuring dry cooling technology and supporting generation equipment.[15] The new units will replace older, dirtier steam generation units at a preferred brownfield site, where it can support grid stability and voltage support for the Los Angeles Basin.

In addition to the major changes in price and delivery date, the amendments made technical changes related to the CAISO market redesign and to relevant natural gas transportation tariffs, as well as some modifications to the parties' rights and remedies.

2.3. Evaluations of the Amendments to the El Segundo Contract

As part of its PFM, SCE provided three evaluations of the proposed amendments to the El Segundo Contract, all using similar methods to the valuations made in the New Gen RFO. All three evaluations support the Commission's approval of the Amended El Segundo Contract.

The company's own analysis is primarily described in the Singh Declaration which is limited to the change in economic value from the original El Segundo Contract. However, SCE states it also reviewed the Amended El Segundo Contract's "generator attributes and other qualitative factors" to determine whether they fit system needs and met various contractual and regulator criteria.[16]

---

[15] PFM at 6.

[16] PFM at 15.

The Beck Report is more technical and focuses on whether the Amended El Segundo Contract is similar to the original Contract, reasonable, and feasible. The Sedway Report reflects review of the negotiation process and the economic benefits of the Amended El Segundo Contract to SCE and its benefitting customers, as part of its overall analysis of the amendments proposed in the PFM.

2.3.1. Singh Declaration

Ranbir Singh is SCE's Manager of Portfolio Analysis and Valuation in the Energy Supply and Management Group. He had responsibility for performing SCE's internal valuation of the Amended El Segundo Contract.[17] Singh stated that SCE used the Least Cost/Best Fit methodology to value the Amended El Segundo Contract, a "nearly identical" analysis as that applied to the El Segundo Contract during the New Gen RFO.[18] The objective of the analysis was to assess the change in value between the El Segundo Contract and the Amended El Segundo Contract.

SCE applied a net present value (NPV) analysis that included forecasting: (1) the value of capacity, energy, and ancillary services, (2) contract costs, and (3) the net value of both (1) and (2) under 25 different electric power price scenarios to capture valuation under various possible future market conditions.[19] The result was a calculation of positive economic benefits to SCE and its benefitting customers under the terms of the Amended El Segundo Contract.

---

[17] Appendix B, Singh Declaration at ¶ 2.

[18] *Id.* at ¶¶ 3-4.

[19] *Id.* at ¶ 6.

2.3.2. Beck Report

R.W. Beck, Inc. (Beck) is a well established national company that provides technically based business consulting in numerous fields, including power generation and electrical utilities. SCE retained Beck to provide an engineering analysis of the proposed amendments to the El Segundo Contract, particularly to review whether the Amended El Segundo Contract's new proposed pricing was reasonable and justified by changes in equipment, construction, and financing costs that had occurred during the Project's delay.[20]

Among other things, Beck examined the status of required permits for construction of the Facility (Project), financial models which included the forecasted rate of return, and documentation of any price changes for materials, equipment, etc. anticipated for the Project. Beck was asked to verify that the amendments arose from changes in the regulatory environment, market conditions for financing, and other cost changes, and to assure that the Amended El Segundo Contract would not result in material increases in profit for El Segundo or risk shifting to SCE or its benefitting customers.

On August 24, 2010, Beck issued its report (Beck Report) which concluded, *inter alia*, that:

- The scope of the Project is substantially the same as in the El Segundo Contract;
- Projected cost changes are in the range expected based on the nature of the changes in the development plan and schedule;
- The pricing in the Amended El Segundo Contract is reasonable;

[20] Appendix E, Beck Report at 1; Appendix D, Sedway Report at 3.

- El Segundo is on track to obtain or has obtained the appropriate permits; and
- The sequence and duration of the milestone activities and duration of the Project schedule support the planned operation date.

The report did not make a recommendation or offer a conclusion as to whether the Commission should approve the Amended El Segundo Contract.

2.3.3. Sedway Report

Sedway Consulting, Inc. (Sedway) is a well known energy consulting firm that provides companies in the electric and natural gas industries with services in such areas as resource planning, competitive bidding, resource acquisition, market analysis, and strategic planning.[21] Sedway claims a specialization in competitive bidding solicitations for new power supplies.[22] It has acted several times in this state as an Independent Evaluator of the RFO process and in the selection of power purchase agreements for SCE and Pacific Gas & Electric Company (PG&E) beginning with PG&E's 2004 Long Term RFO and continuing through SCE's 2006-2008 New Gen RFO.

Following the issuance of D.08-09-041, Sedway continued to monitor communications between SCE and the Contract counter-parties, including the negotiations between SCE and El Segundo to amend the El Segundo Contract.[23] SCE retained Sedway to assess the economic benefits of the Amended El Segundo Contract by evaluating its price changes and schedule shift using the

---

[21] http://home.earthlink.net/~sedway/.

[22] http://www.energy.ca.gov/2008_energypolicy/documents/2008-07-14_workshop/presentations/Alan_Taylor_Sedway_Consulting_2008-07-14.PDF.

[23] Appendix D, Sedway Report at 2-3.

same tools and assumptions used to evaluate the Contracts in SCE's New Gen RFO.[24] Sedway also reviewed the Beck Report.

On August 24, 2010, Sedway provided its report (Sedway Report) to SCE which concluded that the revised prices and schedule shift are "anticipated to yield substantial savings for benefitting customers…."[25] (Sedway noted that its estimate was comparable to that developed by SCE, but different "because SCE used its latest market assumptions.")[26] The Sedway Report also listed a variety of non-economic factors that made the Amended El Segundo Contract and Project an attractive addition to SCE's supply portfolio including that the Project:

- will be a brownfield development (aligned with the Commission's preference for new generation on existing generation sites);
- will use dry cooling technology and replace an existing facility that relies on OTC technology;
- is in the western portion of the Los Angeles Basin where SCE is likely to need generation to support retirement of existing coastal plants that use OTC technology; and
- will be an efficient combined-cycle facility that will consume less fuel and produce fewer emissions than most existing gas-fired plants in the area.[27]

These factors were also cited as part of the Commission's analysis of the El Segundo Contract in D.08-09-041.

---

[24] *Id.* at 3.

[25] *Id.*

[26] *Id.*

[27] *Id.* at 4.

Sedway concluded that SCE appropriately negotiated the Amended El Segundo Contract and that it should be approved by the Commission.[28]

3. Discussion

In order to approve this PFM, the Commission must find that the PFM is an appropriate vehicle, that the PFM is timely, and that the proposed Amended El Segundo Contract is reasonable, justified, and in the public interest. SCE also requested expedited Commission review of the PFM, no later than December 2, 2010, due to the shrinking window of time available to commence construction of the Facility. We acknowledge this imperative for expedited review.

3.1. Appropriate Procedure

It is consistent with prior Commission practice for SCE to seek approval of the Amended El Segundo Contract through a PFM. For example, in D.06-09-021, the Commission approved revisions to a previously approved ten-year power purchase contract that were proposed in a PFM, and included an extension of the on-line date for the underlying power plant. The Commission approved the PFM and found that the revised contract, which reflected extensive changes,[29] would preserve the benefits of the previously approved contract and ensure that a state-of-the–art generation facility would be built. The facts are sufficiently similar to support SCE's use of this procedural vehicle here.

---

[28] *Id.* at 5.

[29] For example, put and call options were added to give San Diego Gas & Electric Company an option to purchase the power plant at the end of the ten-year contract term (D.06-09-021 at 2).

3.2. Justification for Late Filed Petition for Modification

SCE filed its PFM of D.08-09-041 two years after the effective date of that decision, September 22, 2008. Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules) provides that a Petition for Modification of a Commission decision must be filed and served "within one year of the effective date of the decision proposed to be modified." If filed more than one year later, the petitioner must explain why the petition could not have been filed within the first year after the decision.

Here, SCE has offered a reasonable explanation for why the PFM was not filed within one year. Unexpected delays arose due to circumstances beyond SCE's control, and negotiations of the proposed amendments could not begin until the end of 2009 and took time to reach agreement. As discussed above, the rules regarding issuance of a necessary air permit were in flux due to litigation, a regulatory freeze, and subsequent legislative action. SB 827, which allowed El Segundo to obtain an air permit, was not signed until October 2009, more than one year after D.08-09-041 was issued. Although El Segundo approached SCE shortly thereafter about amending the El Segundo Contract to modify the delivery date, negotiations were apparently extensive. Moreover, SB 827 was challenged by environmental groups in December 2009 and the lawsuit was not dismissed until July 2010.

Therefore, this PFM could not have been presented within one year of the effective date of D.08-09-041 because the facts about whether El Segundo would receive an air permit were unknown before October 2009, if not July 2010. To the extent SCE and El Segundo took many months to negotiate amendments to the El Segundo Contract, it does not change the fact that SCE would have been unable reach agreement in the negotiations prior to settling of the air permit legal issues.

Therefore, based on the surrounding facts and circumstances, we conclude that SCE's PFM is timely.

3.3. Reasonable, Justified and in the Public Interest

We agree with SCE and the Beck Report that there is little fundamental change between the previously-approved El Segundo Contract and the proposed Amended El Segundo Contract. SCE and its customers will still receive access to up to 550 MW of expected contract capacity and associated energy from the Facility to be constructed. The two new combined-cycle units will still feature dry cooling technology and will replace two older steam units using OTC technology. The Facility is still a repower located on a brownfield site where it can support grid stability and voltage support for the Los Angeles Basin. No evidence to the contrary has been submitted.

In considering whether the changes are reasonable, justified and in the public interest, the Commission's review prioritizes the capacity price and expected delivery date of the resources.[30] In both of these categories, the amendments to the El Segundo Contract are acceptable. SCE provided one internal, and two external, evaluations of the proposed amendments which followed the methodologies applied to analyze the original El Segundo Contract and other Contracts in the New Gen RFO. Each of the evaluations established that the proposed amendments to capacity price and delivery date are justified and reasonable.

[30] D.10-09-004 at 17.

As set forth in the Singh Declaration, SCE performed a comparative analysis of the proposed changes to price and schedule and concluded that these amendments will result in reduced customer costs. Sedway agreed with SCE that the changes to price and delivery date will result in economic benefits to SCE and its customers. Similarly, the Beck Report concluded that changes to various cost components were reasonable and justified as reflective of current market conditions, rather than any increased profits for any party.

In addition, there is ample evidence to conclude that the Amended El Segundo Contract, as a whole, is in the public interest. SCE negotiated in good faith and agreed to limited changes necessitated by the permit delay and changed market conditions. To the extent the parties altered a few rights and liabilities regarding unlikely events, the trade-offs appear balanced. These changes, including the price reduction, provide a reasonable agreement among the parties which is in the public interest.

The Facility's capacity also satisfies a need for new resources, and its future operation will meet several of the State's energy policy objectives. For example, SCE acknowledged that the economic recession has led to a drop in the system peak electrical load since the 2008 forecasted need. However, the delayed delivery date may coincide with increasing demand as the economy improves through 2013. SCE also argued that the Amended El Segundo Contract is still needed based on the Commission's policies to increase integration of renewables, reduce greenhouse gases, retire older, less efficient technology, and to minimize environmental harm. These policies, said SCE, require looking beyond load to assess what resources support these policy goals.

We agree with SCE and Sedway that the Amended El Segundo Contract advances Commission policies. The Facility will be more efficient than the generators it is replacing, has more operating flexibility to facilitate integration of renewables, uses an existing site, and does not use OTC, thus, minimizing the environmental impact at the site. The Facility also has benefits based on its location because it will qualify as a local resource adequacy resource for the Los Angeles Basin, in an area useful from an operational and grid reliability perspective.

SCE's request to modify D.08-09-041 should be granted. We approve the Amended El Segundo Contract because we find that it gives SCE a cost-effective, local area reliable resource, with a lower long-term cost to the utility's ratepayers than the original PPA. The plant will be a state-of-the-art, low heat-rate, clean facility in SCE's Los Angeles service territory with the potential for many years of benefits. The relevant permits have been issued or requested, and the acquisition of financing to commence construction becomes imminent upon the approval of the PFM by the Commission. Thus, the Project remains viable and the Amended El Segundo Contract is in the public interest for the aforementioned reasons.

The Amended El Segundo Contract submitted as the basis for SCE's PFM should be approved because it is reasonable, justified and in the public interest.

4. Comments on Proposed Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

5. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Melanie M. Darling is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. As a result of litigation, the South Coast Air Quality Management District delayed issuing an air permit to El Segundo so that El Segundo is unable to complete construction of the Facility under the time frame approved in the El Segundo Contract.

2. El Segundo received its air permit in July 2010 and is on track to receive all other necessary permits to complete construction and go on-line by August 1, 2013.

3. The proposed changes in the Amended El Segundo Contract contained in the Petition for Modification of D.08-09-041, filed on August 25, 2010 by SCE, are reasonable, justified, consistent with the purposes of D.08-09-041, and in the public interest.

Conclusion of Law

The Commission should grant the Petition for Modification of D.08-09-041, filed on August 25, 2010 by Southern California Edison Company as set forth in the order below.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Decision 08-09-041 filed by Southern California Edison Company is granted as set forth in Appendix A.

2. Decision 08-09-041 is modified as set forth in Appendix A.

3. Application 08-04-011 is closed.

This order is effective today.

Dated October 28, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

Commissioner Dian M. Grueneich, being necessarily absent, did not participate.

APPENDIX A
Modifications to Decision 08-09-041

Decision (D.) 08-09-041 is modified as follows:

With respect to the Findings of Fact, add these findings:

21. SCE's conduct in respect of the negotiation of the Amended El Segundo Contract was reasonable.
22. The Amended El Segundo Contract is needed to preserve system reliability and will advance other Commission energy policies.
23. The Amended El Segundo Contract is reasonable, justified, and in the public interest and SCE should recover any payments it makes pursuant to the contract in full through rates or other cost recovery mechanism as may be authorized by the Commission, subject to SCE's prudent administration of the contract.
24. SCE is authorized to allocate the benefits and costs of the Amended El Segundo Contract to all benefitting customers in accordance with D.06-07-029.

With respect to Conclusions of Law, add these conclusions:

6. The Amended El Segundo Contract for up to 550 MW of expected capacity and associated energy with an expected initial delivery date of August 1, 2013, with the term ending July 31, 2023, is reasonable, justified, in the public interest, and should be approved.
7. The costs and benefits of the Amended El Segundo Contract should be shared with all benefitting customers in SCE's service territory, in accordance with D.06-07-029.

With respect to the Ordering Paragraphs, add the following:

10. We authorize Southern California Edison Company to enter into the Amended El Segundo Contract with El Segundo Energy Center, LLC for 550 megawatts of capacity and energy deliverable from August 1, 2013 through July 31, 2023.

11. We authorize Southern California Edison Company to allocate costs and benefits of the Amended El Segundo Contract with El Segundo Energy Center, LLC to all benefitting customers in accordance with the cost allocation methodology adopted in Decision 06-07-029.

(END OF APPENDIX A)