

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION E-4262
October 15, 2009**

REDACTED

R E S O L U T I O N

Resolution E-4262. Southern California Edison (SCE)
Company

PROPOSED OUTCOME: This Resolution approves a new
renewables portfolio standard power purchase agreement
(PPA) between SCE and Goshen Phase II LLC (Goshen).

ESTIMATED COST: This Resolution approves cost recovery
for a renewable energy PPA. Actual costs are confidential at
this time.

By Advice Letter (AL) 2342-E filed on May 8, 2009, AL 2342-E-
A filed on June 17, 2009, and AL 2342-E-B on August 24, 2009.
SCE filed a substitute sheet on June 25, 2009.

SUMMARY

**The Southern California Edison Goshen contract complies with the
Renewable Portfolio Standard (RPS) procurement guidelines and is
approved**

Southern California Edison (SCE) filed advice letter (AL) 2342-E on May 8,
2009 requesting Commission review and approval of a new power
purchase agreement (PPA) executed with Goshen, a Delaware limited
liability company that is owned by BP Wind Energy and Ridgeline Energy,
LLC. SCE filed supplemental AL 2342-E-A on June 17, 2009 to include the
Independent Evaluator Report for SCE's 2008 renewable energy
solicitation. SCE filed supplemental AL 2342-E-B on August 24, 2009 to
include Amendment No. 1, which amends the standard terms and
conditions to the Goshen PPA to be consistent with the RPS rules.

Generating facility	Type	Term (Years)	Capacity (MW)	Energy (GWh)	Expected Online Date	Location
Goshen Phase II	Wind, new	20	90 - 130	245 - 350	October 2010	Idaho

SCE procured the proposed contracts consistent with SCE's 2008 RPS Procurement Plan, which was approved by the Commission in D.08-02-008. Pursuant to the PPA, SCE will take delivery of the energy and green attributes at the PacifiCorp Goshen substation. SCE will manage the intermittent energy by either selling it and replacing it at a later date with an equivalent amount of energy for import to California, or firming and shaping the energy for import into California upon receipt. In either event, SCE's imports into California under the PPA shall be consistent with the delivery rules in the California Energy Commission's RPS Eligibility Guidebook.

While the contract price is at or below the applicable 2008 market price referent (MPR), the total cost of the contract with firming and shaping will require above-MPR funds. Because SCE's above-MPR funds are exhausted, SCE proposes to voluntarily procure these resources above the MPR. Deliveries from this PPA are reasonably priced and fully recoverable in rates over the life of the contract, subject to Commission review of SCE's administration of the contract.

The Division of Ratepayer Advocates (DRA) protests the Goshen contract, requesting that the Commission reject the contract without prejudice. DRA argues that there is insufficient information about the contract's price in the advice letter and that it does not include an Independent Evaluator Report. The Commission denies DRA's protests.

AL 2342-E, 2342-E-A, and 2342-E-B are approved without modification.

Confidential information about the contract should remain confidential

This resolution finds that certain material filed under seal pursuant to Public Utilities Code Section 583, General Order (G.O.) 66-C, and D.06-06-

066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. Pursuant to D.06-06-066 and the decision's Appendix I "IOU Matrix", this Commission adopted a "window of confidentiality" for individual contracts for RPS energy or capacity. Specifically, this Commission determined that RPS contracts should be confidential for three years from the date the contract states that energy deliveries begin, except contracts between investor-owned utilities (IOUs) and their own affiliates, which should be public.

BACKGROUND

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

The California RPS Program was established by Senate Bill (SB) 1078¹ and has been subsequently modified by SB 107² and SB 1036³. The RPS program is set out at Public Utilities (PU) Code Section 399.11, et seq. An RPS policy generally requires that a retail seller of electricity, such as SCE, increase the amount electricity generated by Eligible Renewable Energy Resources (ERR) as a percentage of its retail sales. Under the California RPS, each utility is required to increase its total procurement of ERRs by at least 1% of retail sales per year so that 20% of its retail sales are supplied by ERRs by 2010. Also, on November 17, 2008, Governor Schwarzenegger issued Executive Order S-14-08, setting a goal for energy retailers to deliver 33 percent of electrical energy from renewable resources by 2020.⁴

In response to SB 1078, SB 107, and SB 1036, the Commission has issued a series of decisions and resolutions that establish the regulatory and transactional parameters of the utility renewables procurement program.

¹ SB 1078 (Sher, Chapter 516, Statutes of 2002)

² SB 107 (Simitian, Chapter 464, Statutes of 2006)

³ SB 1036 (Perata, Chapter 685, Statutes of 2007)

⁴ <http://gov.ca.gov/executive-order/11072/>

- On June 19, 2003, the Commission issued its “Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program,” D.03-06-071.⁵
- Instructions for utility evaluation of each offer to sell ERRs requested in an RPS solicitation were provided in D.04-07-029⁶, as required by PU Code Section 399.14(a)(2)(B). The bid evaluation methodology is known as ‘least-cost, best-fit’.
- The Commission adopted standard terms and conditions (STCs) for RPS power purchase agreements in D.04-06-014, as required by PU Code Section 399.14(a)(2)(D). These STCs are compiled in D.08-04-009⁷, as modified by D.08-08-028⁸, and as a result, there are now thirteen STCs of which four are non-modifiable.
- D.06-10-050, as modified by D.07-03-046, compiled the RPS reporting and compliance methodologies.⁹ In this decision, the Commission established methodologies to calculate a retail seller’s initial baseline procurement amount, annual procurement target (APT) and incremental procurement amount (IPT).¹⁰
- The Commission adopted its market price referent (MPR) methodology in D.04-06-015¹¹ for determining the market price of

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

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

⁷ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/81269.PDF

⁸ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/86954.pdf

⁹ D.06-10-050, Attachment A,
(http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/61025.PDF) as modified
by D.07-03-046
(http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/65833.PDF)

¹⁰ The IPT represents the amount of RPS-eligible procurement that the LSE must purchase, in a given year, over and above the total amount the LSE was required to procure in the prior year. An LSE’s IPT equals at least 1% of the previous year’s total retail electrical sales, including power sold to a utility’s customers from its DWR contracts.

¹¹ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/37383.pdf

energy, as defined in PU Code Sections 399.14(a)(2)(A) and 399.15(c); the MPR serves as a cost containment tool because the above-MPR contract costs of RPS contracts are limited (PU Code Section 399.15[d]). The Commission refined the MPR methodology for the in D.05-12-042¹² and D.08-10-026¹³. Subsequent resolutions adopted MPR values for the 2005, 2006, 2007, and 2008 RPS solicitations.¹⁴

- In D.06-10-019¹⁵, the Commission adopted rules for the eligibility and approval of RPS short-term contracts (procurement contracts that are less than 10 years in duration) and bilateral contracts (procurement contracts that are negotiated outside of a competitive RPS solicitation). Further rules regarding the review and approval of short-term and bilateral contracts were adopted in D.09-06-050.

RPS procurement is subject to a cost limitation

Resolutions E-4160¹⁶ and E-4199¹⁷ implemented PU Code §399.15(d), which sets a limitation on RPS procurement costs that are above the MPR. In Resolution E-4199, the Commission established cost limitations for each IOU and set forth guidelines for approving above-MPR RPS contracts negotiated through a competitive solicitation.¹⁸ SCE was allocated \$322,107,744 in AMFs.

¹² http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/52178.pdf

¹³ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/92445.pdf

¹⁴ Respectively, Resolution E-3980:

http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/55465.DOC, Resolution

E-4049: http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/63132.doc,

Resolution E-4118:

http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/73594.pdf

Resolution E-4214: http://docs.cpuc.ca.gov/Published/Final_resolution/95553.htm

¹⁵ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/60585.PDF

¹⁶ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/81476.PDF

¹⁷ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/98603.PDF

¹⁸ For all documents related to the AMFs program, see:

<http://www.cpuc.ca.gov/PUC/energy/Renewables/hot/SB1036implementation.htm>

PU Code § 399.15(d)(2) provides that “The above-market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:

- The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision(d) of Section 399.14.
- The contract covers a duration of no less than 10 years.
- The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.
- No purchases of renewable energy credits may be eligible for consideration as an above-market cost.
- 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.

Once a utility’s AMFs are insufficient to support the costs of above-MPR RPS contracts, the commission must allow the utility to “limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the MPR”.¹⁹ However, a utility can voluntarily decide to procure above-MPR RPS contracts once the cost limitation has been exhausted.²⁰

In Resolution E-4253, the Commission noted that the approval of the Caithness Shepherds Flat PPA would exhaust SCE’s AMFs.

Energy from RPS facilities located out-of-state must be delivered to California

The California Energy Commission (CEC) is responsible for certifying the eligibility of renewable energy facilities for the RPS program, as well as verifying and tracking the generation and delivery of renewable energy claimed for compliance with the RPS program. If a renewable energy

¹⁹ PU Code §399.15(d)(3)

²⁰ PU Code §399.15(d)(4)

facility has its first point of interconnection to the transmission network outside of California, it must satisfy all of the following additional requirements:²¹

- It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.
- It commences initial commercial operation after January 1, 2005.
- Electricity produced by the facility is delivered to an in-state location.
- It will not cause or contribute to any violation of a California environmental quality standard or requirement.
- If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.
- It participates in the Western Renewable Energy Generation Information System (WREGIS), the accounting system to verify compliance with the renewables portfolio standard by retail sellers

While facilities located in California or with their first point of interconnection in the state are automatically deemed “delivered”, eligible renewable energy from out-of-state facilities must be “scheduled for consumption by California end-use retail customers” to be counted for compliance with the RPS program.²² The RPS statute also allows “electricity generated by an eligible renewable energy resource [to] be considered ‘delivered’ regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.”²³ The CEC’s RPS Eligibility Guidebook²⁴ says that in practical terms, this means that out-of-state energy may be “firmed” and “shaped”, or backed up or supplemented with delivery from another source, before it is

²¹ Public Resources (PR) Code 25741(b)(2)(B)

²² PR Code Section 25741(a)

²³ Id

²⁴ <http://energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-ED3-CMF.PDF>

delivered to California. The CEC's Guidebook provides three examples of eligible delivery structures, and essentially allows a generator, third party, or the IOU to firm and shape RPS contracts.²⁵

For each advice letter requesting CPUC approval of a PPA with an out-of-state RPS facility, the CEC provides written documentation to the CPUC addressing whether a proposed RPS contract's delivery structure would be eligible pursuant to the guidelines in the CEC's Guidebook.

Greenhouse Gas Emissions Performance Standard (EPS) established emission rate limitations for long-term electricity procurement

A greenhouse gas emissions performance standard (EPS) was established by Senate Bill 1368²⁶, which requires that the Commission consider emissions costs associated with new long-term (five years or greater) power contracts procured on behalf of California ratepayers.

On January 25, 2007, the Commission approved D.07-01-039 which adopted an interim EPS that establishes an emission rate quota for obligated facilities to levels no greater than the greenhouse gas (GHG) emissions of a combined-cycle gas turbine powerplant.²⁷ The EPS applies to all energy contracts for baseload generation that are at least five years in duration.²⁸ Renewable energy contracts are deemed EPS compliant from the EPS except in cases where intermittent renewable energy is firmed and shaped with generation from non-renewable resources. If the renewable energy contract is firmed and shaped with a specified energy source that is considered baseload generation, then the energy source must individually meet the EPS. If, however, the intermittent energy is firmed and shaped

²⁵ pg 23-24

²⁶ Chapter 464, Statutes of 2006 (SB 1368)

²⁷ D.07-01-039 adopted an emission rate of 1,100 pounds of carbon dioxide per megawatt-hour for the proxy CCGT (section 1.2, page 8)
http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/64072.PDF

²⁸ "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%." § 8340 (a)

with an unspecified energy source (e.g. system power), then D.07-01-039 specifically defines the following eligibility condition:

For specified contracts with intermittent renewable resources (defined as solar, wind and run-of-river hydroelectricity), the amount of substitute energy purchases from unspecified resources is limited such that total purchases under the contract (whether from the intermittent renewable resource or from substitute unspecified sources) do not exceed the total expected output of the specified renewable powerplant over the term of the contract.²⁹

SCE requests Commission approval of a renewable energy contract

On May 8, 2009, SCE filed AL 2342-E seeking approval of a new PPA between SCE and Goshen. The PPA results from SCE's 2008 RPS solicitation. SCE filed supplemental AL 2342-E-A on June 17, 2009 to include the Independent Evaluator Report for SCE's 2008 renewable energy solicitation. On June 25, 2009, SCE filed a substitute sheet to correct a typo in the AL's confidential Appendix C.³⁰ On August 24, 2009, SCE filed supplemental AL 2342-E-B to include Amendment No.1 to the PPA, which makes minor corrections to the terms and conditions in the contract to be compliant with D.08-04-009, as modified by D.08-08-028.

²⁹ D.07-01-039, Conclusion of Law 40. Note: These compliance rules specifically apply to IOUs, additional compliance rules may apply to other RPS-obligated load serving entities.

³⁰ Language in the "PTC/ITC" section on page C-2 of confidential Appendix C, Confidential Contract Summary, was modified:

The use of production tax credits ("PTCs") for new wind facilities has been extended through 2011 2012.

The PPA will contribute energy deliveries towards SCE's renewable procurement goal required by California's RPS statute, starting in 2010.³¹

SCE requests that the Commission issue a resolution containing the following findings:

1. Approval of the Goshen Contract in its entirety
2. A finding that any electric energy sold or dedicated to SCE pursuant to the Goshen Contract constitutes procurement by SCE from an eligible renewable energy resource ("ERR") for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation³² or other applicable law concerning the procurement of electric energy from renewable energy resources
3. A finding that all procurement under the Goshen Contract counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE
4. A finding that all procurement under the Goshen Contract counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE
5. A finding that all procurement under the Goshen Contract counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20 percent (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law)

³¹ The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. See PU Code Section 399.12 and D.08-04-009, as modified by D.08-08-028.

³² As defined by SCE, "'RPS Legislation' refers to the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11 *et seq.*"

6. A finding that the Goshen Contract, and SCE's entry into the Goshen Contract, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the Goshen Contract, subject only to further review with respect to the reasonableness of SCE's administration of the Goshen Contract
7. Any other and further relief as the Commission finds just and reasonable.

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

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

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

SCE's PRG was formed on or around September 10, 2002. Participants include representatives from the Commission's Energy and Legal Divisions, the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), the Natural Resources Defense Council, California Utility Employees, the Union of Concerned Scientists, Aglet Consumer Alliance and the California Department of Water Resources.

SCE asserts that its PRG was consulted during each step of the 2008 renewable procurement process. On June 11, 2008, SCE advised the PRG of its proposed short list of bids for its 2008 RPS solicitation. On March 4, 2009, SCE briefed the PRG concerning the successful conclusion of discussions with Goshen.

Although Energy Division is a member of the PRG, it reserved its judgment on the contracts until the resolution process. Energy Division

reviewed the transactions independent of the PRG, and allowed for a full protest period before concluding its analysis.

NOTICE

Notice of AL 2342-E, AL 2342-E-A, and AL 2343-E-B was made by publication in the Commission's Daily Calendar. SCE 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 2342-E was protested by the DRA on May 28, 2009. DRA requests that AL 2342-E be denied without prejudice. SCE replied to DRA's protest on June 4, 2009.

DISCUSSION

Description of the project

The following table summarizes the substantive features of the PPA. See Confidential Appendices A and B for detailed discussion of contract price, terms, and conditions:

Generating facility	Type	Term (Years)	Capacity (MW)	Energy (GWh)	Expected Online Date	Location
Goshen Phase II	Wind, new	20	90 - 130	245 - 350	October 2010	Idaho

The proposed long-term contract for new wind generation was negotiated as part of SCE's 2008 renewable solicitation. The wind facility will be located in Southeast Idaho and will deliver its energy to SCE at the PacifiCorp Goshen substation. SCE will manage the intermittent energy by either selling it and replacing it at a later date with an equivalent amount of energy for import to California, or firming and shaping the energy for import into California upon receipt. In either event, SCE's imports into California under the PPA shall be consistent with the delivery rules in the California Energy Commission's RPS Eligibility Guidebook. SCE asserts

that the Goshen project has minimal development risk and a very high level of viability because Goshen has site control, all discretionary permits needed for construction, many years of robust wind resource studies, an executed a transmission interconnection agreement, access to wind turbines and an experienced development team.

While the contract price is at or below the applicable 2008 MPR, the total cost of the contract with firming and shaping will require above-MPR funds. The contract is eligible for AMFs, but SCE has exhausted its AMFs. SCE has voluntarily decided to incur these above-MPR costs.

Energy Division examined the contract on multiple grounds:

- PPA is consistent with SCE's CPUC-adopted 2008 RPS Plan
- SCE's bid evaluation process is consistent with CPUC's LCBF decision
- PPA conforms to CPUC-adopted standard terms and conditions
- SCE will comply with Emissions Performance Standard for firming and shaping transactions
- SCE sufficiently demonstrates that the projects are viable relative to the offers in its 2008 solicitation
- The contract cost is reasonable
- CEC confirms that the proposed delivery structure complies with the RPS Eligibility Guidebook

The PPA is consistent with SCE's Commission adopted 2008 RPS Plan

California's RPS statute requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility.³³ The Commission must then accept or reject proposed PPAs based on their consistency with the utility's approved renewable procurement plan (Plan). SCE's 2008 Plan includes an assessment of supply and demand for renewable energy and bid solicitation materials, including a

³³ PU Code §399.14

pro-forma agreement and bid evaluation methodology documents. The Commission conditionally approved SCE's 2008 RPS procurement plan, including its bid solicitation materials, in D.08-02-008.

As ordered by D.08-02-008, on February 29, 2008 SCE filed and served its amended 2008 Plan. The proposed PPA is consistent with SCE's Commission-approved RPS Plan.

PPA fits with identified renewable resource needs

SCE's 2008 RPS Plan called for SCE to issue a competitive solicitation for electric energy generated by eligible renewable resources from either existing or new generating facilities that would deliver in the near term or long term.

SCE's 2008 request for proposals (RFP) solicited proposals for projects that would supply electric energy, environmental attributes, capacity attributes and resource adequacy benefits from eligible renewable energy resources. SCE also considered any new or repowered facilities that operate on co-fired fuels or a mix of fuels that include fossil fuel hybrid.

SCE requested proposals based upon standard term lengths of 10, 15 or 20 years or a non-standard delivery term of no less than 1 month. SCE also requested proposals with a minimum capacity of 1.5 MW.

SCE indicated a preference for projects:

- To be generating facilities with near-term deliveries
- To be located in California or outside of California if the seller complies with all requirements pertaining to "Out-of-State Facilities" as set forth in the California Energy Commission (CEC) Guidebook for RPS eligibility
- To take delivery of the electric energy within the CAISO Control Area, but considered proposals for facilities interconnected to Western Electricity Coordinating Council (WECC) transmission system was also indicated in SCE's RFP

The proposed Goshen project fits SCE's identified renewable resource needs. Goshen's is expected to commence deliveries in the near-term

(2010) and has already completed most project development milestones to achieve that date. Additionally, the facility has received its pre-certification from the CEC and the CEC has confirmed that the delivery structure proposed in the advice letter is consistent with the RPS delivery guidelines.

PPA selection is consistent with RPS solicitation protocol

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

SCE says that the Goshen project was solicited, negotiated, and executed consistent with SCE's 2008 RFP protocol because it offered energy from an eligible renewable energy resource, submitted the standard forms, agreed to be bound by the protocol and signed a non-disclosure agreement.

Bid evaluation process consistent with least-cost best fit (LCBF) decision

The Commission's LCBF decisions direct the utilities to use certain criteria in their bid ranking. They offer guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence contract negotiations.

SCE's LCBF bid review process used for its 2008 solicitation is in compliance with the applicable Commission decisions. SCE's LCBF analysis evaluates both quantitative and qualitative aspects of each proposal to estimate its value to SCE's customers and relative value in comparison to other proposals.

Quantitative Assessment

SCE quantitatively evaluates bids based on individual benefit-to-cost (B/C) ratios. This B/C ratio is used to rank and compare the relative value

of each project. Benefits are comprised of separate capacity and energy components, while costs include the contract payments, integration costs, transmission cost, and debt equivalence. SCE discounts the annual benefit and cost streams to a common base year prior to calculating the B/C ratio for each proposal.

Qualitative Assessment

SCE conducts a qualitative assessment in addition to a quantitative assessment. The assessment evaluates a project's technical viability, its overall viability, and its developer's experience. The qualitative attributes are then considered to either eliminate non-viable proposals or add projects with high viability to the final short list of proposals.

Evaluation of Goshen bid

SCE states that the "benefit-to-cost ratio for the Goshen Contract, in combination with SCE's portfolio need for near-term viable RPS projects, justified its inclusion on SCE's 2008 solicitation short list. SCE says that the contract has very high viability and is expected to contribute to SCE's RPS obligations in the near term. Both of these factors contribute to SCE's evaluation that the contract compares favorably to the other 2008 RPS bids.

See confidential Appendix B for more detailed comparison of bids.

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

Consistent with D.06-05-039, an independent evaluator (IE) also oversaw SCE's RPS procurement process. SCE retained an IE, Sedway Consulting, to report to SCE's procurement review group about the 2008 RPS solicitation and to ensure that the solicitation was conducted fairly and that the best resources were acquired. According to the IE Report submitted in AL 2342-E-A, Sedway Consulting performed its duties overseeing the 2008 solicitation and has provided assessment reports to the PRG and the Commission.

In its Independent Evaluator Report, Sedway Consulting concluded that SCE "...conducted a fair and effective evaluation of the proposals that it received in response to its 2008 RPS RFP and made the correct selection decisions in its short list." In addition, the IE monitored SCE's short-listing discussions, contract negotiations and meetings with management where

SCE made decisions regarding bid prioritizations and negotiation positions.

For the IE's contract-specific evaluation about the Goshen project, see Confidential Appendix D.

Consistency with adopted standard terms and conditions (STC)

SCE filed supplemental AL 2342-E-B to amend the terms and conditions in the Goshen contract to comply with D.08-04-009, as modified by D.08-08-028. As a result, the PPA contains the required non-modifiable STCs.

Proposed delivery structure complies with CEC's RPS Eligibility Guidebook

SCE will buy the energy and green attributes from the Goshen facility and take delivery of both products at the PacifiCorp Goshen substation in Idaho. SCE will manage the energy (firm and shape) from that point and proposes to satisfy the CEC's RPS delivery guidelines³⁴ in one of three ways:

- Sell the energy at the substation (e.g. to PacifiCorp, Idaho Power or BPA) and "tag" the RECs to imports under a different contract,
- Transmit the energy to a liquid trading (e.g. Mid-C, Mona) and tag the RECs to imports under a different contract,
- Acquire transmission service and schedule the energy into California (e.g. at COB).

SCE has not committed itself to one of the options, but will choose what is appropriate and most cost-effective based on the relative prices of the options as they administer the contract. In the first two cases, it is possible that no new energy will be imported to California, but in the third, the energy will be wheeled and scheduled into the state.

³⁴ Public Resources Code §25741(b)(2)(B) requires that the energy from out-of-state facilities is delivered to California, and the CEC has adopted eligibility guidelines about the RPS delivery rules.

On August 11, 2009, the CEC provided the CPUC with a letter declaring that the proposed Goshen delivery structure satisfies the RPS delivery requirements in the CEC's RPS Eligibility Guidebook. This letter, which also includes a brief overview of the Goshen delivery structure, can be found in Appendix C.

The Goshen contract is compliant with the EPS

The Goshen contract is a long-term contract for intermittent renewable energy. The contract is compliant with D.07-01-039, the Commission's decision implementing the EPS because it is an eligible renewable energy contract.

As described above, SCE may sell the Goshen energy and tag the green attributes with imported energy to satisfy the CEC's delivery guidelines. The firming and shaping contracts must individually meet the EPS. However, SCE has not yet entered into any firming and shaping contracts, so the Commission can not evaluate whether SCE's firming and shaping of the Goshen contract is EPS compliant. SCE states that "SCE will tag imports with the Goshen green attributes in a manner that is compliant with the [EPS] established pursuant to Senate Bill 1368 and RPS rules."³⁵ Further, SCE says that to the extent that the renewable energy is tagged with existing imports, those contracts have already been deemed compliant with the EPS or are not subject to the EPS. If SCE uses any new imports or firming and shaping contracts, they will have to separately comply with the EPS requirements and will be subject to CPUC rules to verify the compliance.

SCE demonstrates that the project is viable relative to other offers

For SCE's 2008 RFP, SCE quantitatively evaluated and scored each bid's viability, based on a number of factors such as development issues, site control, technology maturity and seller experience (See confidential Appendix B in AL 2342-E). SCE says that the company "has assessed the

³⁵ Response to Energy Division data request, August 17, 2009

Goshen project to have an extremely high level of viability with minimal development risk”.³⁶

Project Milestones

The PPAs identify the agreed upon project milestones, including, interconnection agreement, construction start and commercial operation deadlines.

Financeability of Resource

While financing renewable energy projects is difficult in today’s economic market, SCE asserts that Ridgeline Energy has substantial development experience, including the financing of wind generation projects.

Tax Credits

Given the recent extension of the production tax credits (PTC) for new wind facilities through 2011, the Goshen project should be eligible for the PTC. Additionally, the project should also be eligible for the option to apply for an Investment Tax Credit (ITC) in lieu of the PTC. See confidential Appendix A for additional information about the PTC and ITC in relation to the Goshen project.

Sponsor’s Creditworthiness and Experience

BP Wind Energy and Ridgeline Energy, which are jointly developing the Goshen project, have significant wind project development experience. BP Wind Energy has developed and constructed more than 1,000 MW of wind projects in the United States and has expertise in business development, wind resource assessment, permitting and interconnection, and construction and operation. Ridgeline Energy, which has over 6,000 MW of wind generation under development, has experience developing, financing, constructing and contracting for wind projects.

Transmission Upgrades

Unlike most RPS projects, the Goshen project has already executed its LGIA (for the initial 90 MW). The transmission studies and LGIA

³⁶ AL 2342-E, pg 15

demonstrate that no network, gen-tie or substation upgrades are required to interconnect the project, except for a few pieces of equipment, related to communications, SCADA, relaying, engineering and metering. Interconnection studies are underway for a possible expansion to 130 MW.

Permitting

Goshen has obtained its Conditional Use Permit, the key permit for the project, and plans to obtain the other required permits once the engineering, procurement and construction (EPC) contractor has determined the final turbine layout.

The costs associated with the Goshen contract are reasonable

The Goshen contract price is at or below the applicable 2008 MPR of \$113.90. However, because SCE must deliver the energy to California, SCE will incur firming and shaping costs that increase the total cost of the transaction. In confidential Appendix C of the advice letter, SCE provides several cases of the costs of firming and shaping, depending on how SCE manages the energy and complies with the RPS delivery rules. The Commission's rules for determining a project's above-MPR funds require that the maximum amount of AMFs are allocated to a project. While this project would require AMFs, SCE has exhausted its AMFs. SCE says that it will voluntarily incur the above-MPR costs even though there are insufficient AMFs to cover the costs of the Goshen project.

The Goshen project is eligible for AMFs:

- The contract was selected through a competitive solicitation
- The contract covers a duration of no less than 10 years
- The contracted project is a new facility that will commence commercial operations after January 1, 2005
- The contract is not for renewable energy credits³⁷

³⁷ The CPUC has not authorized the use of unbundled or tradable renewable energy credit transactions. A thorough examination of the issues related to the use of unbundled and tradable RECs for RPS compliance is taking place in R.06-02-012 and we do not wish to prejudge the outcome of that proceeding.

- SCE and the IE assert that 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.

DRA protested the Goshen contract

On May 28, 2009, DRA requested that the Commission reject AL 2342-E without prejudice. DRA provides four areas of concern that they argue merits the rejection of the Goshen contract without prejudice:

- a. "The total cost to ratepayers of the Goshen transaction is misleading and lacks transparency.
- b. The AL lacks details about the complex firming and shaping structure.
- c. The price of the green attribute is unknown.
- d. The AL does not include the required Independent Evaluator (IE) report."

SCE replied to DRA's protest on June 4, 2009. SCE asserts that the information required by Energy Division's "advice letter template" regarding the total cost of the contract is accurately represented in AL 2342-E. Also, SCE states that SCE does not have control over when the IE submits its report to SCE and that the IE report will be submitted before the CPUC rules on AL 2342-E.

The Commission denies without prejudice DRA's argument related to (a) for the reasons stated below. The Commission partially accepts DRA's arguments related to (b) (c) and (d) for the reasons stated below. However, the Commission does not find that any of these arguments merit rejecting the advice letter because the issues have been resolved, as described below.

a. DRA argues that the advice letter does not adequately discuss the total cost of the Goshen transaction

DRA argues that SCE misrepresents the costs of the Goshen project by saying that the contract price is below the MPR, when in fact there are additional costs to the transaction that bring the total price above the MPR. Specifically, DRA notes that PU Code §399.16(a)(3) requires that the energy

that SCE buys from Goshen in Idaho must be “delivered to a retail seller, the Independent System Operator, or a local publicly owned electric utility”, which will cost ratepayers above and beyond the cost of the contract with Goshen. DRA says that the cost of delivering the energy should be publicly exposed in the advice letter.

In SCE response to DRA’s protest, SCE points out that the advice letter does publicly say,

“As discussed in more detail in [confidential] Appendix C, the Goshen Contract price is below the 2008 MPR. However, adding the costs required to manage the energy deliveries under the contract to the contract price may exceed the MPR in some scenarios”³⁸

The Commission has already found that the costs of delivering energy to California is a direct cost that should be considered part of the total cost of the contract that is compared to the MPR to determine the above-MPR funds allocation for an RPS contract.³⁹ The Commission does not agree with DRA that SCE’s AL 2342-E was misleading about the costs of the Goshen contract because SCE did clearly state in the advice letter that there will be costs associated with delivering the energy, in addition to the contract’s energy cost. SCE should continue to identify whether the contract price and the total cost of the contract is above or below the MPR.

At this time we will not require the firming and shaping costs of an RPS contract to be in the public section of an advice letter. No other costs associated with RPS contracts are public, and providing such information would be out of context of the total cost of the project.

DRA’s protest is denied without prejudice.

b. DRA argues that the AL lacks details about the firming and shaping structure

³⁸ Pgs 14-15

³⁹ Resolution E-4199, pg 41 and Finding of Fact #19

DRA argues that “SCE should provide a matrix of the different firming and shaping options, and the probability of each assumption.”⁴⁰ As SCE notes in its response, “SCE did evaluate the Goshen Contract under multiple future energy managements scenarios and included those results in the confidential appendices to [AL] 2343-E.”⁴¹ Accordingly, DRA’s protest is denied.

DRA also asserts that “SCE should be required to provide a one or two year look-back to determine the firming and shaping options that were actually used, and the actual costs of the contract.” SCE suggests that DRA use a data request to obtain such information. The Commission agrees with DRA that this information should be provided to the Commission. To obtain a look-back on pricing information, Energy Division staff should consider requiring the utilities to report on actual firming and shaping costs. This report could be required semi-annually, for example as a supplement to the semi-annual compliance reports.

c. DRA argues that the price of the green attribute is unknown.

DRA requests that “SCE be required to provide information on the price of the green attribute”.⁴² More specifically, DRA says that SCE should provide the value that SCE assigns to the green attribute to enable the Commission to compare this contract to others.

SCE provides the renewable premium assigned to the Goshen contract in SCE’s response to DRA’s protest. SCE calculates a renewable premium for each bid as part of its LCBF evaluation, and it is used along with the benefit-to-cost ratio and viability score, as a metric to evaluate bids for short listing. Since it is a metric that SCE uses to evaluate the value of a bid, SCE should provide this information in the advice letter. While we do not accept DRA’s protest to reject the contract because of SCE’s omission, we accept DRA’s suggestion to require SCE to discuss the renewable

⁴⁰ DRA protest, pg 3

⁴¹ SCE response to DRA protest, pg 2

⁴² DRA protest, pg 4

premium in the confidential section of the advice letter if it is used as part of the bid evaluation process.

d. DRA argues that the AL does not include the required IE report

DRA asserts that that AL 2342-E is incomplete because the IE report was not included in the filing. SCE subsequently filed the IE report on June 17, 2009.

SCE did not file an IE report with the Goshen advice letter filing or with previous RPS advice letters; SCE filed the IE reports in a supplemental advice letter. The Commission accepts DRA's protest to require the IE report to be filed in the same advice letter filing as the PPA. We note that since DRA protested this AL, SCE has filed the IE reports in the same advice letter filing as the PPA.

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.

DRA filed comments on draft Resolution E-4262 on October 5, 2009, and SCE filed a reply on October 9, 2009. SCE filed comments on draft Resolution E-4262 on October 5, 2009 and DRA replied on October 12, 2009.

DRA's comments argue that the draft Resolution should be amended "to require that the public section of advice letters for RPS contracts accurately describe whether the contract price is above or below the MPR by using a contract price that includes all costs required to be considered a RPS-eligible transaction." In SCE's reply, it notes that "if DRA's comments were adopted and SCE had merely stated that the total costs of the Goshen Contract may exceed the MPR, then SCE's description of the contract costs would have been less accurate and provided less information to the

public.” The Commission agrees with SCE’s observation, and accordingly, will not amend the resolution as requested by DRA.

SCE comments on two aspects of the draft Resolution. First, SCE asserts that an RPS contract’s firming and shaping costs should be provided in the Energy Recovery Resource Account (ERRA) rather than the Project Development Status Report (PDSR). SCE doesn’t object to providing this price data, but correctly points out that “PDSRs include information regarding the development and transmission status of projects that are not yet on-line”, whereas firming and shaping costs are incurred after a project is delivering. The resolution has been modified to recommend that Energy Division request such pricing information at the time of the semi-annual compliance reporting, but not specifically as part of the PDSR.

Second, SCE requests that the Resolution be amended to require SCE to “use its best efforts to submit the IE report in the same advice letter filing requesting approval of the contract”, rather than to require that the IE report is filed simultaneously. The Commission recognizes that it is difficult for parties, such as DRA, to fully evaluate an RPS contract if the IE report is not filed with the original advice letter filing. SCE’s request is denied.

FINDINGS

1. The RPS Program requires each utility, including SCE, to increase the amount of renewable energy in its portfolio to 20 percent by 2010, increasing by a minimum of one percent per year.
2. D.08-04-009, as modified by D.08-08-028, sets forth four non-modifiable and nine modifiable standard terms and conditions to be incorporated into RPS power purchase agreements.
3. D.08-02-008 directed the utilities to issue their 2008 renewable solicitations, consistent with their renewable procurement plans.
4. The Commission required each utility to establish a Procurement Review Group (PRG) to review the utilities’ interim procurement needs and strategy, proposed procurement process, and selected contracts.

5. Levelized contract prices below the 2008 MPR are considered *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015, D.04-07-029, and D.05-12-042.
6. SB 1036 modified the process for recovering above-MPR costs of RPS contracts. As a result, each utility can request rate recovery for above-MPR contract costs from the CPUC, and these costs will apply to a utility's cost limitation if certain conditions are satisfied.
7. SCE filed Advice Letter (AL) 2342-E on May 8, 2009 requesting Commission review and approval of a new renewable energy contract with Goshen Phase II LLC (Goshen). SCE filed AL 2342-E-A on June 17, 2009 to include the Independent Evaluator Report. SCE filed AL 2342-E-B on August 24, 2009 to modify certain terms and conditions to make the Goshen contract consistent with standard terms and conditions rules. SCE filed a substitute sheet on June 25, 2009.
8. DRA protested AL 2342-E on May 28, 2009. SCE filed a reply on June 4, 2009.
9. SCE briefed its PRG on its proposed shortlist and status of negotiations for the 2008 RPS solicitation. SCE also briefed the PRG concerning the successful conclusion of discussions with Goshen.
10. The Commission has reviewed the proposed contract and finds it to be consistent with SCE's approved 2008 renewable procurement plan.
11. The Goshen contract terms and conditions are consistent with D.08-04-009, as modified by D.08-08-028.
12. The costs of the Goshen project, estimated pursuant to the rules set forth in Resolution E-4199, exceed the 2008 MPR released in Resolution E-4214.
13. SCE has voluntarily agreed to incur the above-MPR costs of the Goshen project that exceeds SCE's cost limitation.
14. The CEC wrote a letter to the CPUC determining that the delivery structure to deliver the energy from the Goshen contract to California is consistent with the RPS Eligibility Guidebook.
15. SCE states in AL 2342-E that the firming and shaping transactions will comply with the Emissions Performance Standard requirements.
16. SCE sufficiently demonstrates that the projects are viable relative to the offers in its 2008 solicitation.

17. The Commission partially accepts DRA's protests. DRA's request to reject AL 2342-E is denied; however we accept DRA's requests for SCE to provide cost information about the firming and shaping of the contract retrospectively to the Commission; for SCE to discuss all metrics used to evaluate an RPS contract in the advice letter; and for SCE to submit the IE report in the same filing requesting approval of an RPS contract.
18. The Commission accepts DRA's protest to require the IE report to be filed in the same advice letter filing as the PPA.
19. It is reasonable for Energy Division staff to request utilities to report projects' actual firming and shaping costs.
20. The Goshen contract is reasonable and should be approved in its entirety.
21. The costs of the contract between SCE and Seller are reasonable and in the public interest; accordingly, the payments to be made by SCE are fully recoverable in rates over the life of the project, subject to CPUC review of SCE's administration of the contract.
22. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the confidential appendices, marked "[REDACTED]" in the redacted copy, should not be made public upon Commission approval of this resolution.
23. 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.
24. Procurement pursuant to this Agreement constitutes incremental procurement or procurement for baseline replenishment by Buyer from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation to increase its total procurement of eligible renewable energy resources that it may have pursuant to the California Renewables Portfolio Standard, CPUC Decision 03-06-071, or other applicable law.

25. The Goshen contract proposed in AL 2342-E, AL 2342-E-A and AL 2275-E-B should be approved without modifications.

THEREFORE IT IS ORDERED THAT:

1. The proposed renewable energy contract between Southern California Edison (SCE) and Goshen Phase II LLC in Advice Letter 2342-E, 2342-E-A and 2275-E-B is approved without modification.
2. The costs of the contract between SCE and Goshen are reasonable and in the public interest; accordingly, the payments to be made by SCE are fully recoverable in rates over the life of the project, subject to Commission review of SCE's administration of the contract.
3. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on October 15, 2009; the following Commissioners voting favorably thereon:

/s/PAUL CLANON
PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

Confidential Appendix A
Contract price evaluation
[REDACTED]

Confidential Appendix B:
Confidential bid data and contract terms and
conditions
[REDACTED]

Appendix C:
CEC Letter Regarding Eligibility of Goshen's
Proposed Delivery Structure

Confidential Appendix D:
IE Report for Goshen Project
[REDACTED]