

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4437
December 1, 2011

REDACTED

R E S O L U T I O N

Resolution E-4437. San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement, as amended, with Solar Gen 2, 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 Solar Gen 2, LLC. The power purchase agreement, as amended, is approved without modifications.

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

By Advice Letter 2279-E filed on August 23, 2011.

SUMMARY

San Diego Gas & Electric Company's renewable energy power purchase agreement, as amended, with Solar Gen 2, LLC complies with the Renewables Portfolio Standard procurement guidelines and is approved without modification

San Diego Gas & Electric Company (SDG&E) filed Advice Letter 2279-E on August 23, 2011, requesting California Public Utilities Commission (Commission) review and approval of a 25 year renewable energy power purchase agreement and First Amendment between SDG&E and Solar Gen 2, LLC. The bilaterally negotiated power purchase agreement is for generation from three solar photovoltaic facilities that are being developed in Calapatria, California and total a combined 150 megawatts. The facilities are expected to achieve commercial operation in 2012.

This resolution approves the Solar Gen 2, LLC power purchase agreement, as amended, without modification. SDG&E's execution of this power purchase agreement and amendment 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 Solar Gen 2, 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.

The following table provides a summary of the Solar Gen 2, LLC power purchase agreement:

Generating Facilities	Technology Type	Term (Years)	Capacity (MW)	Energy (GWh/year)	Online Date	Location
Mayflower, Alhambra, and Sonora	Solar PV	25	150	390	7/31/12 for 50 MW 9/30/2012 for full 150 MW	Calapatria, Imperial County, CA

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),³ the

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.

³ SB 2 (1X) becomes effective on December 10, 2011; 90 days after the close of the Legislatures 2011 Extraordinary Session.

RPS program administered by the Commission requires each retail seller to increase its total procurement of eligible renewable energy resources so that the amount of electricity generated per year from eligible renewable resources be increased to an amount that equals an average of 20% of the total electricity sold to retail customers in California for the period 2011-2013; 25% of retail sales by December 31, 2016; and 33% of retail sales by December 31, 2020.⁴

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 2279-E 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 2279-E was not protested.

DISCUSSION

San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement with Solar Gen 2, LLC.

On August 23, 2011, San Diego Gas and Electric Company (SDG&E) filed Advice Letter (AL) 2279-E requesting California Public Utilities Commission (Commission) approval of a long-term power purchase agreement (PPA) with Solar Gen 2, LLC (SolarGen).

The SolarGen PPA concerns generation from three new solar photovoltaic (PV) facilities – Mayflower, Alhambra, and Sonora (collectively, the SolarGen 2 project) located in Calapatria, California.⁵ Prior to filing AL 2279-E, the First

⁴ See SB 2 (1X) § 399.15(b)(2)(B).

⁵ Solar Gen 2 website: <http://www.solargen2.com/>

Amendment, which clarified the pricing language in the PPA to be consistent with the Generator Interconnection Agreement and the draft Energy Exchange Agreement was executed. The project will interconnect within the Imperial Irrigation District (IID). The power will be exported into CAISO through the Imperial Valley substation.

The facilities are expected to come online in 2012; thus, generation from the facility could count towards SDG&E's RPS requirements in the first compliance period.⁶ The Commission's approval of the PPA will authorize SDG&E to accept future RPS-eligible generation that will contribute towards SDG&E's 33 percent RPS mandate. The Solar Gen 2 project is expected to generate annual RPS-eligible deliveries of approximately 390 gigawatt-hours (GWh).

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

1. The SolarGen PPA is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the Solar Gen PPA will contribute towards SDG&E's RPS procurement obligation.
2. SDG&E's entry into the SolarGen PPA and the terms of such agreement are reasonable; therefore, the SolarGen PPA is approved in its entirety and all administrative and procurement costs associated with the SolarGen PPA, including for energy, green attributes, and resource adequacy, are fully recoverable in rates over the life of the SolarGen PPA, subject to Commission review of SDG&E's administration of the SolarGen PPA.
3. Generation procured pursuant to the SolarGen 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 SolarGen PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

⁶ In addition to raising California's RPS requirement to 33% from 20%, SB 2 (1X) (Stats. 2011 (Simitian)) establishes three different compliance periods, 2011-2013, 2014-2016, and 2017-2020.

5. Expected SolarGen 2 deliveries are eligible for earmarking treatment under RPS flexible compliance mechanisms.

Energy Division Evaluated the SolarGen PPA on the following criteria:

- Consistency with bilateral contracting rules
- Consistency with SDG&E's 2011 RPS Procurement Plan
- 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 Bilateral Contracting Rules

According to SDG&E, the parties pursued bilateral negotiations in January 2011 because the timing of the next RPS solicitation was unknown and waiting for the solicitation would have delayed the project's proposed mid-2012 online date. A delay in online date would have resulted in diminished generation deliveries in the Compliance Period 2011-2013, which SDG&E has identified as a compliance period where they need additional generation for RPS compliance purposes. Additionally, SDG&E states that the developer is pursuing a cash grant via the American Recovery and Reinvestment Act of 2009 (ARRA), 1603 Program which requires construction to begin by the end of 2011.⁷ Thus, if SDG&E had delayed consideration of the bilateral offer, the project's ability to use the cash grant could have been eliminated.

⁷ ARRA 1603 Program: Payments for Specified Energy Property in Lieu of Tax Credits: <http://www.treasury.gov/initiatives/recovery/Pages/1603.aspx>

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. SDG&E adhered to these bilateral contracting rules because the PPA is longer than one month in duration, the PPA was filed by advice letter, the above market costs will not be applied to SDG&E's RPS cost limitation and the contracts are reasonably priced, as discussed in more detail below.

In D.09-06-050, this Commission determined that bilateral agreements should be reviewed according to the same processes and standards as projects that come through a solicitation. Accordingly, as described below, the SolarGen PPA was compared to other RPS offers received in SDG&E's 2011 RPS solicitation, bilateral offers, and recently executed agreements; the proposed agreement was reviewed by SDG&E's Procurement Review Group; and an independent evaluator oversaw the project evaluation and PPA negotiation.

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

Consistency with SDG&E's 2011 RPS Procurement Plan

Pursuant to statute, SDG&E's RPS Procurement Plan (Plan) includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of flexible compliance mechanisms established by the Commission, and a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.⁸

California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.⁹ The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.¹⁰

In SDG&E's 2011 RPS Plan, SDG&E expressed a commitment to contract in excess of its mandated annual procurement targets and goal of 33 percent

⁸ Pub. Util. Code, Section §399.14(a)(3).

⁹ Pub. Util. Code, Section §399.14.

¹⁰ SDG&E's 2011 RPS Procurement Plan was approved by D.11-04-030 on April 14, 2011.

renewables by 2020.¹¹ SDG&E's 2011 RPS Plan called for SDG&E to issue a competitive solicitation for electric energy generated by eligible renewable resources that could begin delivering in 2011, 2012, 2013, 2014, and 2015 for terms of one month to 30 years in length. Proposals could be for peaking, baseload, dispatchable, or as-available deliveries. SDG&E additionally expressed preference for projects that could contribute towards SDG&E's Sunrise Powerlink commitment. 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. 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 25 year contract from a renewable energy facility. Additionally, the facility is expected to provide renewable energy deliveries beginning in 2012, which will contribute towards SDG&E's near term RPS requirement. Lastly, the facilities will be located in the Imperial Valley.

The SolarGen PPA is consistent with SDG&E's 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.¹² 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

¹¹ 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.

¹² See §399.14(a)(2)(B)

focuses on comparing similar bids across numerous factors, such as location, benefits to minority and low income areas, resource diversity, etc. SDG&E negotiated the SolarGen PPA bilaterally and therefore it did not compete directly with other RPS projects. In AL 2279-E, SDG&E explains that it evaluated the bilateral agreement using the same LCBF evaluation methodology it employs for evaluating bids from solicitations. Thus, SDG&E used its LCBF methodology to evaluate the SolarGen PPA. 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. In addition, see Confidential Appendix B for SDG&E’s LCBF evaluation of the project.

The SolarGen PPA was evaluated consistent with the LCBF methodology identified in SDG&E’s RPS Procurement Plan

Consistency with RPS Standard Terms and Conditions

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered “non-modifiable.” The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. More recently in D.10-03-021, as modified by D.11-01-025, the Commission further refined these STCs.

The SolarGen 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 SDG&E’s bilateral negotiations with SolarGen 2 and to evaluate the overall merits for CPUC approval of the PPA. AL 2279-E included a public and confidential independent evaluator’s report.

In the IE report, the IE states that he determined the negotiations between SDG&E and SolarGen 2 were fair. Additionally, the IE notes that the PPA terms appear reasonable and fairly balanced, the PPA is well-priced, and the project does appear to have the active support of IID. The IE did have some slight reservations noting that the Project Viability Calculator score is one of the lower ones that SDG&E has executed. The IE notes that the lower score is primarily

based on the development team exhibiting limited development experience and little operating experience.

In conclusion, the IE notes that he believes that the SolarGen 2 will be able to complete the project, but not necessarily according to the aggressive schedule in the PPA. Therefore, the IE stated that he believes the SolarGen PPA merits approval.¹³ See Confidential Appendix C for an excerpt of the IE report.

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's negotiations with SolarGen 2.

Cost Reasonableness

The Commission's reasonableness review for RPS PPA prices includes a comparison of the proposed PPA price to other RPS offers received in recent RPS solicitations, bilaterals offers, and recently executed contracts. Using this analysis and the confidential analysis provided by SDG&E in AL 2279-E, the Commission determines that the cost of the SolarGen PPA is reasonable. See Confidential Appendix B for a detailed discussion of the contractual pricing terms.

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

Payments made by SDG&E under the SolarGen PPA 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.¹⁴ The MPR is used by the Commission to assess the above-market costs of RPS contracts. There is a

¹³ Confidential Appendix C to Advice Letter 2279-E, Report of the Independent Evaluator on the 150 MW SolarGen 2 contract relative to the results of the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO) August 11, 2011

¹⁴ See Pub. Util. Code § 399.15(c).

statutory limit on above-MPR costs, which serves as a cost containment mechanism for the RPS program.¹⁵ Contracts that meet certain criteria are eligible for above-MPR funds (AMFs).¹⁶ 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.¹⁷

Based on 2012 commercial online dates for the SolarGen PPA, the 25-year PPA exceeds the 2009 MPR. However, the SolarGen PPA does not meet the eligibility criteria for AMFs because it is not the result of a solicitation.

Since SDG&E has already exhausted its AMFs, it is voluntarily entering into the PPA at a price that exceeds the applicable market price referent as permitted by Public Utilities Code § 399.15(d).

Project Viability Assessment and Development Status

SDG&E asserts that the SolarGen 2 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. Additionally, SDG&E provided the following information about the project's developer and development status.

¹⁵ See Pub. Util. Code §399.15.

¹⁶ Under 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.

¹⁷ See Pub. Util. Code § 399.15(d).

Developer experience

Solar Gen 2, LLC is the developer of the project. The SolarGen development team has various experiences in developing utility projects including generation plans and transmission facilities. Members of the team also participated in the development of a 50 MW solar PV project in Sault Ste. Marie, Ontario.

Resource quality

Based on the average daily solar insolation of the proposed project area, SDG&E describes the project site as being located in a region with one of the best solar resources in the United States in terms of hours of sunshine and solar intensity. Based on the National Solar Radiation Data Base (NSRDB), the average direct normal irradiation (DNI) for the Solar Gen 2 project site is 7.232 kWh/m²/day or 2,640 kWh/m²/y.

Site control and permitting status

The proposed facility is to be located on private lands for which SolarGen has secured full site control through options to purchase. SolarGen is pursuing the permits required for the project's development along with CEC Pre-Certification for the facility's RPS eligibility. All permits are expected to be obtained in a timely manner to achieve the conditions precedent in the PPA.

Interconnection and transmission

The SolarGen 2 project will interconnect to the Imperial Irrigation District transmission system. SolarGen will build the infrastructure required to interconnect the facilities to IID. SolarGen has finalized two Generator Interconnection Agreements (GIA) with IID to include the three project sites and interconnect the full 150 MW of the project. The IID Board approved the GIAs on August 9, 2011.¹⁸

¹⁸ IID Board Minutes for August 9, 2011:

<http://www.iid.com/Modules/ShowDocument.aspx?documentid=4954>

Financing Plan

The project is expected to be financed through a combination of debt and equity. Additionally, the developer plans to pursue a cash grant under Section 1603 of ARRA (Payments for Specified Energy Property in Lieu of 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.¹⁹

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.²⁰

The SolarGen PPA meets the conditions for EPS compliance because it is for intermittent generation with a capacity factor less than 60 percent.

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.²¹ SDG&E asserts that the SolarGen PPA was discussed at PRG meetings in March, April and May 2011.

¹⁹ "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).

²⁰ D.07-01-039, Attachment 7, p. 4

²¹ 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 SolarGen 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.²² 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 SolarGen PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

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.²³

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

²² 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."

²³ See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

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

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.

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.

²⁴ See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

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 on October 28, 2011.

Late comments were jointly submitted on November 25, 2011 by Backcountry Against Dumps, Protect Our Communities Foundation, Donna Tisdale, and Carolyn Allen. The Comment Letter distributed on October 28, 2011 with draft resolution E-4437 stated that comments were to be submitted “no later than November 17, 2011.” Due to the lateness of these comments they were not considered.

FINDINGS AND CONCLUSIONS

1. The SolarGen PPA is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.
2. The SolarGen PPA is consistent with SDG&E’s 2011 RPS Procurement Plan, as approved by D.11-04-030.
3. The SolarGen PPA was evaluated consistent with the least-cost best-fit methodology identified in SDG&E’s RPS Procurement Plan.
4. The SolarGen 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 amended by D.11-01-025.
5. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E’s RPS procurement process.
6. The SolarGen PPA compares reasonably to the results of SDG&E’s 2011 solicitation, bilateral offers, and recently executed contracts.
7. The SolarGen PPA price exceeds the applicable 2009 market price referent.

8. The SolarGen PPA does not meet the eligibility criteria for AMFs because it is not the result of a solicitation.
9. SDG&E is voluntarily entering into the SolarGen PPA at a price that exceeds the applicable market price referent as permitted under Public Utilities Code §399.15.
10. Payments made by SDG&E under the SolarGen PPA are fully recoverable in rates over the life of the SolarGen PPA, subject to Commission review of SDG&E's administration of the SolarGen PPA.
11. SDG&E asserts that the SolarGen 2 project is viable and will provide renewable energy according to the terms and conditions in the SolarGen PPA.
12. The SolarGen PPA meets the conditions for EPS compliance because it is for intermittent generation with a capacity factor less than 60 percent.
13. Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the SolarGen PPA.
14. The SolarGen PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
15. Procurement pursuant to the SolarGen PPA is procurement from eligible renewable energy resources for purposes of determining SDG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), D.03-06-071 and D.06-10-050, or other applicable law.
16. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under this PPA to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this PPA.
17. 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.
18. AL 2279-E should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letters 2279-E, requesting Commission review and approval of a power purchase agreement with Solar Gen 2, LLC, is approved without modification.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 1, 2011; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON
PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

Confidential Appendix A

Evaluation Summary of the Solar Gen 2 PPA

[Redacted]

Confidential Appendix B

Excerpt from Independent Evaluator's Report
regarding SDG&E's PPA with SolarGen 2²⁵

[Redacted]

²⁵ Confidential Appendix C to Advice Letter 2279-E, Report of the Independent Evaluator on the 150 MW SolarGen 2 contract relative to the results of the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO) August 11, 2011