Date of Issuance: May 31, 2012

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4500**
May 24, 2012

REDACTED

R E S O L U T I O N

Resolution E-4500. Southern California Edison Company requests approval of power purchase agreements with Fotowatio Renewable Ventures (FRV) Regulus Solar, L.P.; FRV Adobe Solar, L.P.; and FRV Mojave Solar 4, L.P.

PROPOSED OUTCOME: This Resolution approves cost recovery for power purchase agreements between Southern California Edison and Fotowatio Renewable Ventures (FRV) Regulus Solar, L.P.; FRV Adobe Solar, L.P.; and FRV Mojave Solar 4, L.P.

ESTIMATED COST: Actual costs are confidential at this time.

By Advice Letter 2563-E filed on March 21, 2011 and Advice Letter 2563-E-A filed on January 26, 2012.

SUMMARY

Southern California Edison Company's renewable energy power purchase agreements with Fotowatio Renewable Ventures (FRV) Regulus Solar, L.P.; FRV Adobe Solar, L.P.; and FRV Mojave Solar 4, L.P. are approved without modification.

Southern California Edison Company (SCE) is requesting approval of purchase power agreements (PPAs) for three new solar photovoltaic projects to be located in California for a total output capacity of 100 megawatts (MW) and total annual expected generation of 199 gigawatt hours (GWh). All three limited partnerships that will develop the three projects – FRV Regulus Solar, L.P.; FRV Adobe Solar, L.P.; and FRV Mojave Solar 4, L.P. (FRV Contracts) – were subsidiaries of Fotowatio, S.L., a well-established renewable energy developer based in Europe at the time that SCE executed these PPAs. In September 2011, SunEdison, a

subsidiary of MEMC Electronic Materials, finalized the purchase of FRV and its solar project pipeline, including the FRV Contracts considered in this resolution.

The three projects are forecasted to come online between December 31, 2013 and March 31, 2014 for a term of 20 years each, coinciding with SCE's Renewable Portfolio Standard (RPS) portfolio needs in the second half of this decade. The FRV Contracts are reasonably priced compared to other contracts offered to SCE at the time the FRV Contracts were short-listed for consideration and the projects have already achieved significant milestones making them viable.

This resolution approves the three PPAs without modification. SCE's execution of these PPAs is consistent with SCE's 2009 RPS Procurement Plan, which the Commission approved in Decision (D.) 09-06-018. Deliveries under the PPAs are fully recoverable in rates over the life of the contracts, subject to Commission review of SCE's administration of the PPAs.

The following table summarizes the project-specific features of the agreements:

Generating Facility	**Type**	**Term Years**	**MW Capacity**	**Annual Deliveries**	**Online Date**	**Project Location**
FRV Regulus	Solar PV	20	60	116 GWh	March 31, 2014	Kern Co., CA
FRV Adobe	Solar PV	20	20	39 GWh	December 31, 2013	Kern Co., CA
FRV Mojave 4	Solar PV	20	20	44 GWh	December 31, 2013	LA Co., 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 399.11-399.31.[2] Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.[3]

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

NOTICE

Notice of AL 2563-E and AL 2563-E-A 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

No protests were received to this advice letter.

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[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] D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020).

DISCUSSION

SCE requests Commission approval of renewable energy contracts with Fotowatio Renewable Ventures (FRV) Regulus Solar, L.P.; FRV Adobe Solar, L.P.; and FRV Mojave Solar 4, L.P.

On March 21, 2011, Southern California Edison (SCE) filed Advice Letter (AL) 2563-E. In AL 2563-E, SCE requested Commission approval of renewable energy contracts with FRV Regulus Solar, L.P. (Regulus); FRV Adobe Solar, L.P. (Adobe); and FRV Mojave Solar, L.P. (Terminated Mojave); and FRV Mojave Solar 4, L.P. (Mojave). These contracts were initially selected from SCE's 2009 RPS solicitation.

On January 26, 2012, SCE filed AL 2563-E-A. In AL 2563-E-A, SCE amended its initial AL filing to inform the Commission that it had terminated its contract with FRV Mojave Solar, L.P. The remaining three contracts (Regulus, Adobe, and Mojave) are herein referred to as the FRV Contracts. In AL 2563-E-A, SCE amended the remaining FRV Contracts to lower the product price, decrease performance assurance amounts, and extend the termination rights in the remaining FRV Contracts related to CPUC approval.

SCE will be taking delivery of all of the energy, capacity attributes, and green attributes from all three projects, each to be located in California. One of the three projects, Regulus, will also deliver resource adequacy benefits to SCE. The first point of delivery for all the contracts will be with the California Independent System Operator (CAISO) balancing authority area (BAA). Therefore, the FRV Contracts are considered Category 1 contracts for Renewable Portfolio Standard (RPS) compliance purposes, pursuant to Commission Decision (D.) 11-12-052[4].

All three FRV projects will utilize mature solar photovoltaic (PV) technology that has been in commercial operation for several years. FRV utilized this technology

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[4] Decision Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program, http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/156060.pdf

most recently at the solar PV generating facility located at Nellis Air Force Base outside Las Vegas, Nevada. FRV is now a subsidiary of SunEdison, itself a subsidiary of MEMC Electronic Materials, an experienced developer of solar energy projects in California and around the world.

The Regulus project will be located in Lamont, California (Kern County) and will deliver at the CAISO-assigned P-node that corresponds to the interconnection point on the Lamont-Wheeler Ridge 115 kV line (within the Tehachapi competitive renewable energy zone). Annual forecasted generation from the 60 megawatt (MW) facility is 116 gigawatt hours (GWh) for a term of 20 years. The forecasted commercial operation date (COD) is March 31, 2013, and the project will deliver for 20 years, so the deliveries coincide with SCE's RPS portfolio needs in the second half of this decade. The Regulus project has achieved several significant milestones and is highly viable relative to SCE's other offers from the 2009 Solicitation.

Similar to Regulus, the Adobe project will be located in Arvin, California (Kern County) and will also deliver at the CAISO-assigned P-node that corresponds to the interconnection point on the Lamont-Wheeler Ridge 115 kV line (within the Tehachapi competitive renewable energy zone). Annual forecasted generation from the 20 MW facility is 39 GWh for a term of 20 years. The forecasted COD is December 31, 2013, and the project will deliver for 20 years, so this project's deliveries also coincide with SCE's RPS portfolio needs in the second half of this decade. The Adobe project has achieved several significant milestones and is also highly viable relative to SCE's other offers from the 2009 Solicitation.

The Mojave project will be located in Lancaster, California (Los Angeles County) and will deliver at the CAISO-assigned P-node that corresponds to the interconnection point on the Antelope-Cal Cement 66 kV line (within the Fairmont competitive renewable energy zone). Annual forecasted generation from the 20 megawatt (MW) facility is 44 gigawatt hours (GWh) for a term of 20 years. The forecasted commercial operation date (COD) is December 31, 2013, and the project will deliver for 20 years, so the deliveries coincide with SCE's RPS portfolio needs in the second half of this decade. The Mojave project has achieved several significant milestones and is also highly viable relative to SCE's other offers from the 2009 Solicitation.

SCE requests that the Commission issue a resolution containing:

1. Approval of the FRV Contracts in their entirety;
2. A finding that any electric energy sold or dedicated to SCE pursuant to the FRV Contracts constitutes procurement by SCE from ERRs for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation or other applicable law concerning the procurement of electric energy from renewable energy resources;
3. A finding that all procurement under each FRV Contract counts, in full and without condition, toward any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
4. A finding that all procurement under each FRV Contract counts, in full and without condition, toward any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
5. A finding that all procurement under each FRV Contract counts, in full and without condition, toward 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);
6. A finding that each FRV Contract, and SCE's entry into the FRV Contracts, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the FRV Contracts, subject only to further review with respect to the reasonableness of SCE's administration of the FRV Contracts; and
7. Any other and further relief as the Commission finds just and reasonable.

Energy Division Evaluated the Proposed PPAs on the Following Grounds:

- Consistency with SCE's 2009 RPS Procurement Plan
- Consistency with RPS Standard Terms and Conditions
- Consistency with Least-Cost Best-Fit Requirements
- Price Reasonableness and Value
- Project Viability
- Portfolio Need
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Procurement Review Group Participation
- Independent Evaluator Requirements

Consistency with SCE's 2009 RPS Procurement Plan

California's RPS statute requires the Commission to direct each utility to prepare a Renewable Energy Procurement Plan (Plan) and then review and accept, modify, or reject the Plan prior to the commencement of a utility's annual RPS solicitation.[5] The Commission must then accept or reject proposed PPAs based on their consistency with the utility's approved Plan.

SCE's stated preferences for projects in its 2009 Plan includes projects 1) locating near approved transmission infrastructure such as the Tehachapi Renewable Transmission Project, 2) interconnected to the CAISO BAA and located in California. The Regulus and Adobe projects will be located within the Tehachapi Competitive Renewable Energy Zone (CREZ) and all three projects are located in California and will interconnect to the CAISO BAA.

At the time that the FRV Contracts were originally executed, SCE's most recent effective Procurement Plan was its 2009 Plan.

<u>The PPAs are consistent with SCE's 2009 RPS Procurement Plan, approved by D.09-06-018 and subsequently amended by SCE.</u>

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[5] Section 399.13

Consistency with RPS Standard Terms and Conditions (STCs)

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.

<u>The PPAs include 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.</u>

Consistency with SCE's Least-Cost Best-Fit (LCBF) Requirements

The LCBF decision directs the utilities to use certain criteria in their bid ranking.[6] 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. SCE's bid evaluation includes a quantitative and qualitative analysis, as well as each proposal's absolute value to SCE's customers and relative value in comparison to other proposals.

The basic components of SCE's LCBF evaluation and selection criteria and process for RPS contracts were established in the Commission's LCBF Decisions D.03-06-071 and D.04-07-029. Consistent with these decisions, the three main steps undertaken by SCE are: (1) initial data gathering and verification; (2) a quantitative assessment of proposals, and; (3) adjustments to selection based on proposals' qualitative attributes. SCE applied these criteria to the proposals received in the 2009 Solicitation in order to establish a short-list of proposals from bidders with whom SCE would engage in contract discussions.

SCE examined the reasonableness of the PPAs and shortlisted the FRV Contracts from its 2009 RPS Solicitation in conformance with its LCBF evaluation methodology.
<u>The Commission finds that SCE utilized its LCBF methodology at the time the contracts were negotiated and executed.</u>

[6] *See* D.04-07-029

Price Reasonableness and Value

The FRV Contracts were selected from a group of projects shortlisted from SCE's 2009 RPS Solicitation. As a result, Commission staff evaluated the price reasonableness and value of the FRV Contracts against the other shortlisted projects from SCE's 2009 RPS Solicitation. This evaluation methodology is not precedent setting. See Confidential Appendix A for a discussion on the price reasonableness and value of the FRV Contracts.

<u>The Commission finds that the price and value of the FRV Contracts are reasonable and competitive with other contracts short listed by SCE from its 2009 Request For Offer. The methodology employed by Commission staff to evaluate the price reasonableness and value of the FRV Contracts is not precedent setting.</u>

<u>Payments made by SCE under the FRV Contracts are fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs.</u>

Project Viability

SCE asserts that the FRV projects are viable and will be developed according to the terms and conditions in the PPAs. SCE bases its assertion on its evaluation of the viability of the projects 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.

The utility and the Independent Evaluator each assessed the FRV projects to be of higher viability than other projects short listed by SCE from its 2009 solicitation. Additionally, SCE provided the following information about the project's developer and the project's development status:

> <u>*Developer*</u>
> FRV is an independent power producer ("IPP") that has been involved in the development of solar energy systems in the United States and Europe. To date, FRV has developed 200 MW of solar projects globally, and 40 MW of solar in the United States, most recently developing a solar facility at Nellis Air Force Base outside Las Vegas, Nevada. Additionally, FRV has another 2,000 MW of solar generation facilities under development.
>
> FRV is a subsidiary of SunEdison, a well-established renewable energy developer.

Technology
The FRV Contracts are scheduled to utilize mature solar PV technology that has been in operation for several years, including most recently at FRV's solar PV generating facility at Nellis Air Force Base.

Interconnection
According to the most recent update provided to the Commission from SCE on April 17, 2012, each of the FRV projects is on schedule to execute its required interconnection agreements in time to achieve the COD set forth in its respective PPA.

Site Control
According to the most recent update provided to the Commission from SCE on April 17, 2012, each of the FRV projects has secured sufficient site control to achieve the COD set forth in its respective PPA.

Permitting
According to the most recent update provided to the Commission from SCE on April 17, 2012, SCE contends that each of the FRV projects is on schedule to receive the necessary permits to achieve the COD set forth in its respective PPA.

The FRV projects are viable because they have each achieved several critical milestones relative to other offers received by SCE in its 2009 RPS Solicitation. See Confidential Appendix A for a broader discussion on the project viability of the FRV projects.

Portfolio Need

The need for incremental RPS compliant renewable generation is based on SCE's projected RPS position for all three compliance periods established under Public Utilities Code Section 399.15 (b)(1) as implemented by Decision (D)11-12-020. When adjusting SCE's RPS portfolio to account for a certain amount of project failure, the need requirements for SCE to meet its RPS compliance requirements fall in the second half of this decade which coincides with the third compliance period. The FRV Contracts are forecast to come online between 2013 and 2014 and will deliver energy for a term of 20 years, thus delivering energy during the latter half this decade when SCE has a need for new renewable generation.

Therefore, projected generation from the FRV Contracts meets the need requirements of SCE's RPS portfolio. See Confidential Appendix A for a discussion on SCE's need requirements and portfolio fit.

Compliance with the Interim Greenhouse Gas Emissions Performance Standard (EPS)

California Public Utilities Code Sections 8340 and 8341 require the Commission to consider emissions associated with new long-term (five years or greater) power contracts procured on behalf of California ratepayers.

D.07-01-039 adopted an interim 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. The EPS applies to all energy contracts for baseload generation that are at least five years in duration.[7] Generating facilities using certain renewable resources are deemed compliant with the EPS.[8]

The FRV Contracts meet the conditions for EPS compliance because the contracts are for intermittent generation with a capacity factor less than 60 percent.[9]

The proposed PPAs meet the conditions for EPS compliance established in D.07-01-039 because the facilities will produce electricity at a capacity factor of less than 60 percent and are therefore not a baseload power plant as defined in Public Utilities Code Section 8340(a).

Procurement Review Group (PRG) Participation

The Procurement Review Group (PRG) process was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement

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

8 D.07-01-039, Attachment 7, p. 4

9 D.07-01-039, Attachment 7, p. 7

contracts and other procurement processes prior to submitting filings to the Commission as an interim mechanism for procurement review.

Participants in the Procurement Review Group include representatives from the CPUC's Energy and Legal Divisions, the Division of Ratepayer Advocates, The Utility Reform Network, the Natural Resources Defense Council, California Utility Employees, the Union of Concerned Scientists, and the California Department of Water Resources.

SCE advised the PRG of its proposed shortlist of bids for its 2009 RPS solicitation on October 28, 2009 and on November 9, 2010 SCE briefed the PRG on the FRV Contracts. On February 12, 2012, SCE provided an update to its PRG on whether the FRV Contracts would pursue full deliverability.

<u>Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the FRV Contracts, and SCE has complied with the Commission's rules for involving the PRG.</u>

Independent Evaluator (IE) Requirements

SCE retained an IE, Merrimack Energy Group, Inc. The IE joined and contributed to a number of conference calls and negotiation sessions, as well as in the review of email traffic, several versions of the proposed contract, and other documents exchanged by the parties. The IE also participated in the PRG review of the FRV Contracts. See Confidential Appendix C for a summary of the IE Report's conclusion.

<u>Consistent with D.06-05-039, an Independent Evaluator (IE) oversaw SCE's RPS procurement process. Additionally, the IE reviewed the proposed contracts and compared the proposals to the results of the most recent bids received consistent with D.09-06-050.</u>

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

Section 399.13(b) requires that the commission establish "minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years' duration." Because the FRV PPAs are greater than 10 years in length, the PPAs may be construed as counting toward the minimum quantity requirements that the Commission will established in Rulemaking (R.) 11-05-005.

CONFIDENTIAL INFORMATION

The Commission, in implementing Public Utilities Code Section 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, including 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.

RPS ELIGIBILITY AND CPUC APPROVAL

Pursuant to Public Utilities Code Section 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.[10]

The Commission requires a standard and non-modifiable clause in all RPS contracts that requires "CPUC Approval" of a PPA to include an explicit finding that "any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable

[10] *See, e.g.* D. 08-04-009 at Appendix A, STC 6, Eligibility.

energy resources pursuant to the California Renewables Portfolio Standard (*Public Utilities Code Section 399.11 et seq.*), D.11-12-020 and D.11-12-052, or other applicable law."[11]

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

Therefore, while we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation. Nor shall such 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 such contracts.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS AND CONCLUSIONS

1. The proposed PPAs are consistent with SCE's 2009 RPS Procurement Plan, approved by D.09-06-018 and subsequently amended by SCE.
2. The PPAs include 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.

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[11] *See, e.g.* D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

3. The Commission finds that SCE utilized its LCBF methodology at the time the contracts were negotiated and executed.

4. The Commission finds that the price and value of the FRV Contracts are reasonable and competitive with other contracts short listed by SCE from its 2009 Request for Offers.

5. The methodology employed by Commission staff to evaluate the price reasonableness and value of the FRV Contracts is not precedent setting.

6. Payments made by SCE under the FRV Contracts are fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs.

7. The FRV projects are viable because they have each achieved several critical milestones relative to other offers received by SCE in its 2009 RPS Solicitation.

8. The Commission finds that projected generation from the FRV Contracts meets the need requirements of SCE's RPS portfolio.

9. The proposed PPAs meet the conditions for EPS compliance established in D.07-01-039 because the facilities will produce electricity at a capacity factor of less than 60 percent and are therefore not baseload power plants as defined in Public Utilities Code Section 8340(a).

10. Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the FRV Contracts, and SCE has complied with the Commission's rules for involving the PRG.

11. Consistent with D.06-05-039, an Independent Evaluator (IE) oversaw SCE's RPS procurement process. Additionally, the IE reviewed the proposed contracts and compared the proposals to the results of the most recent bids received consistent with D.09-06-050.

12. 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.

13. Procurement pursuant to the PPAs is procurement from an eligible renewable energy resource for purposes of determining SCE'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.11-12-020 and D.11-12-052, or other applicable law.

14. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under the PPAs to count towards an RPS compliance obligation. Nor shall that finding absolve SCE of its obligation to enforce compliance with the PPAs.

15. The FRV power purchase agreements should be approved in their entirety.

16. AL 2563-E and AL 2563-E-A should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. The power purchase agreements between Southern California Edison Company and Fotowatio Renewable Ventures (FRV) Regulus Solar, L.P.; FRV Adobe Solar, L.P.; and Mojave Solar 4, L.P. as proposed in Advice Letter 2563-E, and amended by Advice Letter 2563-E-A, are approved without modifications.

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 May 24, 2012; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON
PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President

TIMOTHY ALAN SIMON
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

I dissent.
/s/ MICHEL PETER FLORIO
Commissioner

Confidential Appendix A

Price Reasonableness, Value, RPS Portfolio Need and Project Viability

[REDACTED]

Confidential Appendix B

Contract Terms and Conditions

[REDACTED]

Confidential Appendix C

Independent Evaluator Report's Conclusion

[REDACTED]

DISSENTING STATEMENT OF COMMISSIONER MICHEL P. FLORIO ON **RESOLUTION REGARDING SOUTHERN CALIFORNIA EDISON'S POWER PURCHASE AGREEMENTS WITH FOTOWATIO RENEWABLE VENTURES**

RESOLUTION E-4500
May 24, 2012

I have some serious concerns regarding the value of the three contracts under consideration today. First, Southern California Edison Company (SCE) does not need additional renewable energy until the third compliance period, which begins in 2017. Therefore, adding these contracts to SCE's portfolio now will result in SCE having to sell the surplus renewable energy, presumably at a loss to its ratepayers, which is a major concern. More fundamentally, a comparison of these contracts to the 2009 Request For Offers (RFO) is extremely outdated and unreasonable. The contracts were amended in early 2012, so the Commission should look at current (2012) prices in judging the reasonableness of the contracts. Limiting the comparison to contracts from the 2009 RFO does not allow us to fairly judge this agreement.

Even if the Commission were to take the 2009 RFO perspective, the prices of these contracts would not be reasonable when compared to similar contracts SCE signed at that time. In November 2010, SCE executed approximately 20 contracts under its Renewable Standard Contract (RSC) program. Those RSC contracts, executed a mere month earlier, were priced 20% lower than the three contracts under consideration today. Therefore, to consider that the prices of these contracts were reasonable at the time is highly questionable. Furthermore, the levelized prices of these contracts are higher than almost all of the SCE contracts recently approved by the Commission.

Even more problematic are the very high renewable premiums of these three contracts. The renewable premiums are not remotely close to those of all of the SCE contracts recently approved by the Commission. Two of the facilities, Adobe and Mojave 4, will not provide resource adequacy. This is a major factor as to why the renewable premiums are so high. It is fine for renewable generation not to deliver resource adequacy, but the PPAs should be priced accordingly.

I am a strong supporter of California's RPS goals, but at the same time I believe we can achieve those goals in a far more cost-effective manner. We have made amazing progress on our renewable energy goals and my understanding is that we have essentially reached 33% on paper. Now, certainly not all of those contracts will come to fruition, but clearly we are at a juncture that provides us with an opportunity to be more selective and judicious regarding the RPS contracts we approve. We are in the process of developing a cost-containment mechanism for the RPS, but by the time we implement the cost-containment mechanism, the costs will have all been incurred. We must look at cost now and take a serious pause in what we are doing.

As demonstrated by the 2011 RPS RFO, as well as the success of the first Renewable Auction Mechanism (RAM), there is a significant supply of viable, cost-effective projects eager to satisfy California's RPS needs. After considerable effort and cost, we have successfully spurred a vibrant renewable generation market. We should allow California ratepayers to reap the benefits of that market by rejecting contracts such as this and allowing the utilities to take advantage of current prices on the market.

If we do not contain costs for ratepayers, we risk a potential backlash when the costs of these contracts finally come in at the middle of this decade. The "Rate Impact Bomb" is lingering on the horizon and we cannot allow that bomb to go off. If we want to contemplate a RPS future that goes beyond 33%, we have to ensure that the current requirements are economically sustainable for California ratepayers. I want to go beyond 33%, but we will not be able to do that if we break the bank beforehand.

Therefore, based on the cost of these contracts and the poor value they provide to ratepayers, I must vote against approving these contracts.

Dated May 30, 2012 at San Francisco, California.

/s/ MICHEL P. FLORIO
MICHEL P. FLORIO
Commissioner