PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-3979**
May 25, 2006

R E S O L U T I O N

Resolution E-3979. San Diego Gas & Electric (SDG&E) Company requests approval of the Pacific Wind renewable resource procurement contract. This contract is approved without modifications.

By Advice Letter 1734-E filed on October 27, 2005.

SUMMARY

SDG&E's renewable contract complies with the Renewable Portfolio Standard (RPS) procurement guidelines and is approved

SDG&E's request for approval of the renewable resource procurement contract is granted pursuant to D.04-06-014 and subsequent letter by the CPUC's Executive Director on June 30, 2004. The energy acquired from this contract will count towards SDG&E's Renewable Portfolio Standard (RPS) requirements.

Generating facility	Type	Term Years	MW Capacity	GWh Energy	Location
Pacific Wind	Wind	20	205.5	603	Tehachapi, CA

Deliveries from the power purchase agreement (PPA) are priced below the 2004 market price referent (MPR) and thus do not require supplemental energy payments (SEPs) from the California Energy Commission (CEC).

Confidential information about the contract should remain confidential

This resolution finds that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

BACKGROUND

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

The California Renewables Portfolio Standard (RPS) Program was established by Senate Bill 1078, effective January 1, 2003. It requires that a retail seller of electricity such as SDG&E purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). The RPS program is set out at Public Utilities Code Section 399.11, et seq. Each utility is required to increase its total procurement of ERRs by at least 1% of annual retail sales per year so that 20% of its retail sales are supplied by ERRs by 2017.

The State's Energy Action Plan (EAP) called for acceleration of this RPS goal to reach 20 percent by 2010. This was reiterated again in the Order Instituting Rulemaking (R.04-04-026) issued on April 28, 2004[1], which encouraged the utilities to procure cost-effective renewable generation in excess of their RPS annual procurement targets (APTs) for 2004, in order to make progress towards the goal expressed in the EAP.[2]

For 2004 the Commission established an APT for each utility, which consists of two separate components: the baseline, representing the amount of renewable generation a utility must retain in its portfolio to continue to satisfy its obligations under the RPS targets of previous years; and the incremental procurement target (IPT), defined as at least one percent of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts. D.04-06-014 established a 2004 APT for SDG&E of 423 GWh[3].

R.04-04-026 established procurement guidelines for the RPS Program

The Commission has issued a series of decisions that establish the regulatory and transactional parameters of the utility renewables procurement program. On June 19, 2003, the Commission issued its "Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program," D.03-06-071. On June 9, 2004, the Commission adopted its Market Price Referent methodology[4] for

[1] http://www.cpuc.ca.gov/Published/Final_decision/36206.htm
[2] Most recently reaffirmed in D.05-07-039
[3] D.04-06-014, Appendix B (pg. 5)
[4] D.04-07-015

determining the Utility's share of the RPS seller's bid price, as defined in Public Utilities Code Sections 399.14(a)(2)(A) and 399.15(c). On the same day the Commission adopted standard terms and conditions for RPS power purchase agreements in D.04-06-014 as required by Public Utilities Code Section 399.14(a)(2)(D). Instructions for evaluating the value of each offer to sell products requested in a RPS solicitation were provided in D.04-07-029.

SDG&E requests approval of a new renewable energy contract.

On October 27, 2005, SDG&E filed Advice Letter (AL) 1734-E requesting Commission approval of one renewable procurement contract: Pacific Wind. This PPA results from SDG&E's July 1, 2004 solicitation for renewable bids, which was authorized by D.04-06-014 and subsequent letter by the Executive Director on June 30, 2004. The Commission's approval of this PPA will contribute significantly towards SDG&E's renewable procurement goals. In 2004, the year of this RPS solicitation, SDG&E's IPT was 150 GWh. The PPA will contribute an incremental aggregate of **603 GWh** per year.[5]

SDG&E requests final "CPUC Approval" of PPA

SDG&E requests the Commission to issue a resolution containing the findings required by the definition of "CPUC Approval" in Appendix A of D.04-06-014. In addition, SDG&E requests that the Commission issue a resolution that approves:

1. The agreement in its entirety, including payments to be made by SDG&E, subject to CPUC review of SDG&E's administration of the Agreement.
2. Any procurement pursuant to this agreement is procured 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 Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law;
3. Any procurement pursuant to this Agreement constitutes incremental procurement or procurement for baseline replenishment by SDG&E from an eligible renewable energy resource for purposes of determining

[5] The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. See Public Utilities Code Sect. 399.12 and CPUC decision D.04-06-014.

SDG&E'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.

SDG&E's Procurement Review Group participated in review of the contract

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:

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

The PRG for SDG&E consists of: California Department of Water Resources (DWR), California Energy Commission (CEC), the Commission's Energy Division, Natural Resources Defense Council (NRDC), Union of Concerned Scientists (UCS), Office of Ratepayer Advocates (ORA), and The Utility Reform Network (TURN).

SDG&E provided its PRG with reports on the progress of its 2004 RPS solicitation on several occasions.[6]

- August 26, 2004 – SDG&E presented the results of its July 1, 2004 RPS solicitation.
- February 15, 2005 - SDG&E described the process by which it evaluated the Offers and provided its preliminary Shortlist.
- May 19, 2005 - SDG&E provided a status report on its negotiations with the short-listed bidders.
- July 18, 2005 - SDG&E summarized its recommendations of projects for which it proposed to enter into contracts and the status of negotiations

[6] While the Energy Division is a member of the PRG, its representatives did not attend any of the briefings before it had issued the draft 2004 MPR for public comment, which occurred on February 4, 2005.

- September 9, 2005 - SDG&E provided the PRG with an overview of the projects it considered most likely to proceed to final agreement. This presentation included the negotiated terms and conditions of the PPAs.

The PRG members expressed general satisfaction with the manner in which SDG&E arrived at its 2004 RPS shortlist and the resulting PPA. Specifically, the PRG either supported or did not oppose the approval of the renewable procurement contract that SDG&E is asking for Commission approval via AL 1734-E. Appendix C provides a summary for each meeting, the major issues discussed, and changes which SDG&E made as a result of the PRG meetings.

Although Energy Division is a member of the PRG, it reserved its conclusions for review and recommendation on the contracts to the resolution process. Energy Division had to review the modifications independently, and allow for a full protest period before concluding its analysis.

NOTICE

Notice of AL 1734-E was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

AL 1734-E was not protested.

DISCUSSION

Description of the projects

The following table summarizes the substantive features of the PPA. See Appendix A for a detailed discussion of contract prices, terms, and conditions:

Generating Facility	Type	Term Years	Price	MW Capacity	GWh Energy	Location
Pacific Wind	Wind	20	Confidential Appendix-A	205.5	603	Tehachapi, CA

PPA is consistent with SDG&E's CPUC adopted 2004 RPS Plan

California's RPS statute (SB 1078) requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility. The Commission will then accept or reject proposed PPAs based on their consistency with the utility's approved renewable procurement plan (Plan).[7] SDG&E's 2004 RPS plan was approved on June 28, 2004. As determined by statute, it includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of compliance flexibility mechanisms established by the Commission, and a bid solicitation setting forth the need for renewable generation of various operational characteristics.[8]

The proposed PPA is consistent with SDG&E's approved 2004 RPS plan because (1) the PPA fits with identified renewable resource needs and (2) it was achieved through SDG&E's adherence to its Solicitation Protocol, which is the primary component of the 2004 RPS plan.

PPA fits with identified renewable resource needs

In its approved 2004 RPS plan, SDG&E stated that it did not have a preference for a particular product or technology type over the 2005 – 2010 timeframe. In order to meet the 20% renewable target by 2010, SDG&E would require incremental energy deliveries from newly contracted resources at an average rate of approximately 450 GWh per year. Based upon expected output from the PPA's already approved by the Commission in Resolution E-3965, issued December 15, 2005, SDG&E will now require 302 GWh per year for years 2006 through 2010. The PPA under consideration proposes to deliver about 603 GWh (3.7% APT) of as-available renewable generation per year by 2007. See Appendix D for a detailed discussion of the IPT contribution from the proposed PPA.

PPA selection consistent with RPS Solicitation Protocol

The proposed PPA is consistent with the RPS plan because it was achieved through SDG&E's adherence to its Solicitation Protocol.

[7] Pub. Util. Code Section 399.14(c)
[8] Pub. Util. Code Section 399.14(a)(3)

1. SDG&E generally followed the RPS Solicitation schedule set forth in its Solicitation Protocol, but ultimately, the schedule for concluding negotiations was necessarily extended.
2. SDG&E performed an initial screening process to determine if each bid met the criteria of the RFO. The bids must have been received on time and all bids must have been completed with prices, terms, transmission costs, etc. Bids not received in a timely manner (unless there was a technical difficulty and notification was received by SDG&E prior to the deadline) were disqualified. Once SDG&E had a list of viable projects, SDG&E began to narrow the field of bidders for its short list using the Least-Cost Best-Fit bid evaluation methodology.

A number of the highest-ranked bids, sufficient in number to achieve 20% by 2010, were placed on SDG&E's short list on August 24, 2004 and were presented to SDG&E's PRG. On December 13, 2005, SDG&E notified the Commission's Executive Director that it had finalized its shortlist.

Bid evaluation process consistent with Least-Cost Best Fit (LCBF) decision

The LCBF decision[9] directs the utilities to use certain criteria in their bid ranking. It offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence serious negotiations. Much of the bid ranking criteria described in the LCBF decision is incorporated in SDG&E's Solicitation Protocol and is discussed below.

<u>Bid Price (with Production Tax Credits)</u>

SDG&E used the average bid price ($/MWh) with Production Tax Credits (PTC), if any, as provided by the bidder. SDG&E used the price without PTC if no PTC was given. SDG&E evaluates the bid price and indirect costs, such as the costs to the utility transmission system caused by interconnection of the resource to the grid or integration of the generation into the system-wide electrical system.

<u>Consideration of Transmission Adders</u>

In evaluating each bid for the least cost, SDG&E added transmission costs in the one of the following three ways:

[9] D.04-07-029

1. The transmission costs provided to the bidder by the interconnected utility;
2. The interconnected utilities' cluster study if the project did not provide the transmission costs;
3. Transmission cost studies prepared by SDG&E. If the project was not specifically identified in the cluster study, then transmission costs were included in the project that were in the closest cluster study of the interconnecting utility.

SDG&E evaluated the projects to determine whether they accurately fit into the SDG&E cluster study dated June 23, 2004. They determined that bids received did not fit the portfolio of resources used as the basis for SDG&E's cluster study and decided to perform studies on each bid received. Once the studies were complete the transmission costs were added to each bid pursuant to D.04-06-013. Bidders who were in the CAISO queue, and had their transmission studies completed by the date of the issued RFO, received priority on transmission upgrades

Transmission Upgrades

The Pacific Wind project was originally planned to be interconnected to the SoCal Edison (SCE) system by upgrading the existing 230kV Antelope-Magunden line, including building a new substation ("substation 5") north of Antelope. These upgrades are part of Phase 2 of the conceptual Tehachapi transmission expansion plan developed over the last two years. In the advice letter filing for Pacific Wind, SDG&E and Pacific Wind assumed that Phase 2 transmission upgrades would be completed by March 31, 2007, but allowed for contingencies for a later commercial on-line date in the event transmission upgrades were delayed.[10] However, Energy Division Staff noted that Phase 2 transmission is presently scheduled to be completed by 2010 or 2011, which would make a 2007 or 2008 commercial on-line date for Pacific Wind un-achievable.

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[10] The Pacific Wind contract includes contingencies for transmission delays allowing the Commercial Operation Date (COD) to be extended from December 31, 2007 to December 31, 2008. However, the extension of the COD to 2008 is contingent upon the extension of the Production Tax Credits (PTCs), which expires at the end of 2007.

Efforts by the utilities, wind developers and the California ISO to achieve earlier access to wind resources in this part of the Tehachapi area have produced an alternative transmission expansion plan that is currently being studied. The plan would involve the completion of a new "wind" substation on the existing third 500 kV circuit of Path 26, re-conductoring this circuit north to Midway, and then connecting Pacific Wind and also other nearby wind projects to the new substation. This approach appears to have desirable engineering, permitting and strategic (in the overall Tehachapi transmission scheme) properties, and is preliminarily estimated to provide for full delivery of Pacific Wind output (as well as the output of other projects that would be interconnected at the same substation) by mid-2009. The California ISO's schedule calls for completion of a regional Southern California transmission expansion plan, including Tehachapi transmission, in August 2006.

Once a "permanent" transmission interconnection for a generator is planned, the California ISO has advised staff that it will be in a position to consider "temporary" interconnection(s) that provides earlier interconnection, but that would be subject to potential curtailment in some hours. Depending on the degree of curtailment and cost of the temporary interconnection, this could be attractive financially, as well as helping meet RPS goals. There is reason to believe that such a temporary interconnection is possible for Pacific Wind (and other projects to be interconnected at the same substation), with partial delivery thus starting before 2009, and the parties may consider such an option.

The Commission finds that development, bidding and contracting of the Pacific Wind project represents a good faith effort to coordinate development of renewable generation and transmission. The recently developed transmission alternative, which may provide for earlier delivery, reflects willingness of involved parties to work to provide the transmission needed to access renewable energy and achieve RPS goals. We encourage the relevant parties, including SCE, the California ISO, and the wind developers, in the strongest possible terms to continue to explore viable Tehachapi transmission alternatives, including in particular temporary interconnection, to serve the Commission's goal of reaching 20% renewable energy deliveries by 2010.

Delivery Point

When delivery begins, SDG&E will schedule an energy trade in the forward market with the Pacific Wind resource, to match the forecasted energy output from the resource. Prior to implementation of MRTU, this energy trade will result in delivery of energy to SDG&E in SP15, which will not result in any congestion costs or transmission losses being assessed to SDG&E. After implementation of MRTU, this energy trade will result in delivery to SDG&E at its load aggregation point (LAP), such that the congestion costs will be borne by Pacific Wind, not SDG&E.

Portfolio Fit

Portfolio fit considers how well an offer variation's features match SDG&E's portfolio needs. SDG&E did not perform a detailed analytical analysis of best-fit and congestion. Given the size of the resources compared to SDG&E's overall portfolio and future needs, SDG&E determined that a detailed analytical analysis was not necessary. The underlying projects are expected to commence deliveries between 2006 and 2012. SDG&E's RPS plan shows that at that time, there is at least moderate need for generation during all periods of the day. Because these deliveries are anticipated to occur at a time when SDG&E is experiencing moderate need, the acceptance of these intermittent deliveries should not result in significant remarketing costs.

SDG&E does plan on performing an extensive Least-Cost Best-Fit and congestion analysis as part of its 2005 RFO evaluation process.

Consistency with Adopted Standard Terms and Conditions

The Commission set forth standard terms and conditions to be incorporated into RPS agreements in D.04-06-014. Standard Terms and Conditions identified in Appendix A of that decision as "may not be modified" have not been modified.

During the course of negotiations, the parties identified a need to modify some of the standard terms in order to reach agreement. These terms had all been designated as subject to modification upon request of the bidder in D.04-06-014. See Appendix A for more details.

Contract price is below the 2004 MPR

The levelized contract price for the project does not exceed the 2004 MPR.[11] Furthermore, the contract price payments are below the MPR and *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015 and D.04-07-029. The net present value of the sum of payments to be made under the PPA is less than the net present value of payments that would be made at the market price referent for the anticipated delivery. Appendix B demonstrates that the levelized contract payments, which have been adjusted for the appropriate project on-line date, are below the 2004 MPR.

No supplemental energy payments are necessary for the proposed PPA.

Qualitative factors were considered during bid evaluation

SDG&E considered qualitative factors as required by D.04-07-029. Minority/low-income areas and environmental stewardship were not factors in SDG&E's ranking process because those factors were not applicable to the offers. SDG&E did, however, consider its own service territory and resource diversity in its ranking. Ultimately, qualitative factors did not impact the overall ranking of the bids.

PPA is a viable project

SDG&E believes that the project is viable because:

<u>Project Milestones</u>

The PPA identifies the agreed upon project milestones, including, interconnection agreement, project financing, construction start and commercial operation deadlines.

<u>Financebility of resource</u>

SDG&E believes that the project selected has a reasonable likelihood of being financed and completed as required by the PPA and will be available to deliver energy by the guaranteed commercial operation date.

<u>Production tax Credit</u>

[11] 2004 MPR Resolution E-3942

The existing federal production tax credit, as provided in Section 45 of the Internal Revenue Code of 1986, as amended, would substantially benefit both the buyer and the seller under the PPAs. The project is expected to make use of Production Tax Credits ("PTC").

Sponsor's creditworthiness and experience

The bidder was required to provide credit-related information as part of its bid. SDG&E has reviewed this information and is satisfied that each of the party to the PPA possesses the necessary credit and experience to perform as required by the party's PPA.

Confidential information about the contracts should remain confidential

Certain contract details were filed by SDG&E under confidential seal. Energy Division recommends that 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 be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

COMMENTS

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

FINDINGS

1. SDG&E filed Advice Letter 1734-E on October 27, 2005, requesting Commission review and approval of a new renewable energy contract: Pacific Wind (wind).
2. The RPS Program requires each utility, including SDG&E, to increase the amount of renewable energy in its portfolio to 20 percent by 2017, increasing by a minimum of one percent per year. The Energy Action Plan (EAP) called for acceleration of this goal to reach 20 percent by 2010. The 20% by 2010 target was reaffirmed in D.05-11-025.

3. D.04-06-014 established a 2004 APT for SDG&E of 150 GWh[12].
4. D.04-06-014 also directed the utilities to issue renewable RFOs, consistent with their renewable procurement plans, between June 30, 2004 and July 15, 2004.
5. SDG&E issued its RFO on July 1, 2004.
6. D.04-06-014 set forth standard terms and conditions to be incorporated into RPS PPAs.
7. Levelized contract prices below the 2004 MPR are considered *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015 and D.04-07-029.
8. D.04-07-029 adopted least-cost, best-fit criteria which the utilities must use in their selection process after the RFO has been closed.
9. 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.
10. SDG&E briefed its PRG regarding these contracts on August 26, 2004, February 15, 2005, May 19, 2005, July 18, 2005, and on September 9, 2005. The members of SDG&E's PRG either supported or did not oppose the approval of this contract.
11. 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.
12. The proposed contract price is below the 2004 MPRs released in Resolution E-3942.
13. The Commission has reviewed the proposed contract and finds it to be consistent with SDG&E's approved 2004 renewable procurement plan.
14. Procurement pursuant to the PPA is procurement from an eligible renewable energy resource for purposes of determining SDG&E compliance with any obligation that it may have to procure eligible renewable energy resources

[12] D.04-06-014, Appendix B (p. 5)

pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.

15. Procurement pursuant to the PPA constitutes incremental procurement or procurement for baseline replenishment by SDG&E from an eligible renewable energy resource for purposes of determining SDG&E's compliance with any obligation to increase its totals procurement of eligible renewable energy resources that it may have pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.
16. Any indirect costs of renewables procurement identified in Section 399.15(a)(2) shall be recovered in rates.
17. AL 1734-E should be approved without modifications.

Therefore it is ordered that:

1. Advice Letter AL 1734-E is approved without modifications
2. 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 25, 2006; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
GEOFFREY F. BROWN
DIAN M. GRUENEICH
RACHELLE B. CHONG
Commissioners

Commissioner John A. Bohn recused himself from this agenda item and was not part of the quorum in its consideration.

APPENDIX A – REDACTED

APPENDIX B – REDACTED

APPENDIX C – REDACTED

APPENDIX D – REDACTED