

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**ENERGY DIVISION****RESOLUTION E-4158****October 16, 2008****R E S O L U T I O N**

Resolution E-4158. Southern California Edison (SCE) requests approval of three one-month bilateral letter agreements for procurement of renewable energy with Geysers Power Company, LLC (GPC). SCE's Advice Letter (AL) 2201-E is approved without modification.

By Advice Letter 2201-E filed on January 14, 2008.

SUMMARY

SCE's renewable contracts comply with the Renewable Portfolio Standard (RPS) procurement guidelines and are approved

Generating facility	Type	Term (Months)	Capacity (MW)	Energy (GWh)	Delivery	Location
Geysers Power Company	Geothermal (existing)	1	100	74.4	October 1-31, 2007	Middletown, CA
Geysers Power Company	Geothermal (existing)	1	120	86.4	November 1-30, 2007	Middletown, CA
Geysers Power Company	Geothermal (existing)	1	60-85	56.64	December 1-31, 2007	Middletown, CA

Southern California Edison (SCE) filed Advice Letter (AL) 2201-E on January 14, 2008, requesting Commission review and approval of three bilateral letter agreements with Geysers Power Company, LLC (GPC). The pricing, terms, and conditions of these letter agreements are identical to the GPC power purchase agreement (PPA), which the Commission approved without modification in D.07-11-047. The GPC Letter Agreements comply with the Commission's

standards for bilateral contracts. The GPC Letter Agreements also comply with the Commission's minimum quantity requirements, established in D.07-05-028.

AL 2201-E is approved without modification.

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, General Order (G.O.) 66-C, and D.06-06-066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

BACKGROUND

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

The California RPS Program was established by Senate Bill 1078¹, effective January 1, 2003. It requires that a retail seller² of electricity, such as SCE, 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. SB 1078 required each retail seller 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, 2004³, which encouraged the utilities to procure cost-effective renewable generation in excess of their RPS annual procurement targets⁴ (APTs), in order to make progress towards the goal

¹ <http://www.energy.ca.gov/portfolio/documents/SB1078.PDF>

² Includes electrical corporations, community choice aggregators and electric service providers

³ http://www.cpuc.ca.gov/Published/Final_decision/36206.htm

⁴ APT - An LSE's APT for a given year is the amount of renewable generation an LSE must procure in order to meet the statutory requirement that it increase its total eligible renewable procurement by at least 1% of retail sales per year.

expressed in the EAP.⁵ On September 26, 2006, Governor Schwarzenegger signed Senate Bill 107⁶, which officially accelerates the State's RPS targets to 20 percent by 2010.

CPUC has established procurement guidelines for the RPS Program

In response to SB 1078, 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.03-06-071.⁷
- Instructions for utility evaluation (known as 'least-cost, best-fit') of each offer to sell products requested in a RPS solicitation were provided in D.04-07-029.⁸
- 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). These have been updated and modified most recently in D.08-04-009⁹, and as a result, there are now thirteen STCs of which four are non-modifiable.
- D.06-10-050, as modified by D.07-03-046, compiled the RPS reporting and compliance methodologies.¹⁰ In this decision, the Commission established methodologies to calculate a load serving entity's (LSE) initial baseline

⁵ Most recently reaffirmed in D.06-05-039

⁶ SB 107, Chapter 464, Statutes of 2006

⁷ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/27360.PDF

⁸ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/38287.PDF

⁹ http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/81269.PDF

¹⁰ D.06-10-050, Attachment A,

http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/61025.PDF) as modified by D.07-03-046

(http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/65833.PDF).

procurement amount, annual procurement target (APT) and incremental procurement amount (IPT).¹¹

- On June 9, 2004, the Commission adopted its market price referent (MPR) methodology¹² for determining the utility's share of the RPS seller's bid price (the contract payments at or below the MPR), as defined in Public Utilities Code Sections 399.14(a)(2)(A) and 399.15(c). On December 15, 2005, the Commission adopted D.05-12-042 which refined the MPR methodology for the 2005 RPS Solicitation.¹³ Subsequent resolutions adopted MPR values for the 2005, 2006 and 2007 RPS Solicitations.¹⁴
- SB 1078 established a fund, to be administered by the CEC, to cover the above-MPR costs of RPS contracts. However, SB 1036¹⁵ eliminated this fund and established a new mechanism for the Commission to approve rate recovery for the above-MPR costs of RPS contracts. The Commission is now working on implementing SB 1036.¹⁶

¹¹ The IPT represents the amount of RPS-eligible procurement that the LSE must purchase, in a given year, over and above the total amount the LSE was required to procure in the prior year. An LSE's IPT equals at least 1% of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts.

¹² D.04-06-015; http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/37383.pdf

¹³ http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/52178.pdf

¹⁴ Respectively, Resolution E-3980:

http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/55465.DOC, Resolution E-4049:

http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/63132.doc, Resolution E-4118: http://www.cpuc.ca.gov/word_pdf/FINAL_RESOLUTION/73594.pdf

¹⁵ Statutes of 2007, Chapter 685, Perata

¹⁶ The Commission implemented the rate-changing aspects of SB 1036 in Resolution E-4160. The Energy Division has held a workshop for implementing rules on administering the above-MPR funds (AMFs) on May 29, 2009 and will finalize the rules soon.

CPUC has established procurement guidelines for bilateral contracts

While the focus of the RPS program is procurement through competitive solicitations, D.03-06-071¹⁷ allows for a utility and a generator to enter into bilateral contracts outside of the competitive solicitation process. Specifically, D.03-06-071 states that bilateral contracts will only be allowed if they do not require Public Goods Charge (PGC) funds. In D.06-10-019, the Commission interprets D.03-06-071, stating that bilaterals are not eligible for Supplemental Energy Payments (SEPs) and bilateral contracts must be deemed reasonable. Further, the decision requires bilateral contracts to be at least one month in duration¹⁸ of any length must be submitted to the CPUC for approval by advice letter.¹⁹

Since D.06-10-019 was adopted, SB 1036 halted the portion of the PGC fund collection that went to the SEP fund, returned the collected SEPs to the utilities, and moved above-MPR cost recovery to the CPUC.²⁰ While SB 1036 reformed the SEP process, the bilateral contracts are still ineligible for AMFs.²¹

As D.06-10-019 notes, the Commission will be developing evaluation criteria for bilateral RPS contracts.²² However, in the interim, utilities' bilateral contracts can be evaluated as long as they follow these four requirements:

- the contract was submitted for approval by advice letter
- the contract term is at least one month in duration
- the contract does not receive AMFs
- the contract must be deemed reasonable by the CPUC.

¹⁷ http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/27360.htm

¹⁸ D.06-10-019 pp. 29

¹⁹ D.06-10-019 pp. 31

²⁰ See Resolution E-4160

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

²¹ Pub. Util. Code §399.15(d)(2)(A).

²² Second Amended Scoping Memo and Ruling of Assigned Commissioner, <http://docs.cpuc.ca.gov/efile/RULC/79195.pdf>

The Commission approved a decision setting a minimum quota on RPS contracts from long-term contracts or contracts with new facilities before short-term contracts with existing facilities can count for RPS compliance

The RPS legislation and program rules have always expressed a preference for long-term, as opposed to short-term, RPS contracts because it is widely understood that long-term contracts are an important tool in developing new RPS-eligible generation facilities.²³ SB 1078 prohibited the solicitation of short-term contracts unless the CPUC approved of a contract of shorter duration. In D.03-06-071, the CPUC reaffirmed the requirement for the utilities to only offer contracts of 10, 15 and 20 years duration in their annual solicitations. Bidders, however, could offer shorter term contracts, which would be subject to CPUC-approval.

SB 107 both made explicit our ability to allow short-term contracts to fulfill RPS obligations, and put conditions on the use of such contracts. Pub. Util. Code 399.14(b)(2) states that before the Commission may approve an RPS contract of less than ten years' duration, the Commission must establish "for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005." On May 3, 2007, the Commission approved D.07-05-028²⁴, which determined that:

Beginning in 2007, RPS-obligated load-serving entities may use energy deliveries from contracts of less than 10 years' duration with eligible renewable energy resources that commenced commercial operation prior to January 1, 2005 for RPS compliance, on one condition. That condition is that each year they also sign contracts of at least 10 years' duration and/or contracts with RPS-eligible generation facilities that commenced commercial operation on or after January 1, 2005, for energy deliveries equivalent to at least 0.25% of their prior year's retail sales.²⁵

²³ Long-term contracts are at least 10 years in duration

²⁴ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/67490.PDF

²⁵ page 1

Further, if the LSE exceeds the 0.25% requirement for a calendar year, it may carry forward (or "bank") the "excess" contracted-for energy and use it to meet the 0.25% requirement in later years.

If the minimum quota is not met in a given year either by contracts signed in the current year or by using the banking mechanism, it may not count its short-term contracts with existing facilities signed in that year for RPS compliance, but it will begin with a clean slate the following year. The requirement remains in place until an obligated load-serving entity reaches its 20% goal.

The use of CPUC-approved short-term contracts for RPS compliance purposes is predicated on successfully demonstrating in RPS compliance filings that the minimum long-term and/or new contract quota has been met.

The Commission approved the GPC PPA, which allowed SCE to purchase additional renewable power above the contracted amount

D.07-11-047²⁶ approved an RPS PPA between SCE and GPC on November 16, 2007. The GPC PPA provides SCE with eligible renewable energy from the existing Geysers northern California geothermal facilities for a term of 10 years. The GPC PPA included an option for SCE to purchase additional renewable power above the contracted amounts in the GPC PPA.

D.07-11-047 found that the pricing and other terms and conditions in the GPC PPA were reasonable and approved the PPA without modification. In the GPC PPA, SCE negotiated a contractual pricing mechanism that resulted in a price that was at or below the 2005 MPR at the time the PPA was approved.²⁷ The contractual pricing mechanism includes an indexed unit price and a fixed premium unit price. D.07-11-047 found the pricing mechanism to be reasonable, but stated that the finding should not be precedent setting for the use of such a pricing mechanism. The reasonableness finding was based on the fact that the PPA yielded a reasonable price, and in many other respects, was a desirable contract; the contract provides near-term delivery of significant quantities of

²⁶ http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/75528.pdf

²⁷ The GPC PPA was evaluated against the 2005 MPR since the project came through the 2005 RPS solicitation.

renewable energy, requires no transmission upgrades, and has a favorable benefit-cost ratio. Also, the application was not protested.

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

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

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.

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

On September 27, 2007, October 29, 2007, and November 26, 2007, SCE briefed the PRG concerning the successful conclusion of discussions with GPC regarding the October 2007, November 2007, and December 2007 GPC Letter Agreements, respectively.

Although Energy Division is a member of the PRG, it reserved its judgment on the contracts until the resolution process. Energy Division reviewed the transactions independent of the PRG, and allowed for a full protest period before concluding its analysis.

SCE requests "CPUC approval" of three bilateral renewable energy letter agreements

On January 14, 2008, SCE filed AL 2201-E seeking approval of three one-month bilateral letter agreements for renewable energy between SCE and GPC.

The letter agreements for which SCE is currently requesting approval will contribute energy deliveries towards SCE's renewable procurement goal

required by California's RPS statute.²⁸ With the approval of these letter agreements,²⁹ SCE will be able to count the 217.44 GWh of delivered renewable energy towards its 2007 annual procurement target.

SCE requests that the Commission issue a resolution containing:

1. Approval of the GPC Letter Agreements in their entirety;
2. A finding that any electric energy sold or dedicated to SCE pursuant to the GPC Letter Agreements constitutes procurement by SCE from an eligible renewable energy resource ("ERR") for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation or other applicable law concerning the procurement of electric energy from renewable energy resources;
3. A finding that all procurement under the GPC Letter Agreements counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
4. A finding that all procurement under the GPC Letter Agreements counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
5. A finding that all procurement under the GPC Letter Agreements counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20 percent (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law);
6. A finding that the GPC Letter Agreements, and SCE's entry into these GPC Letter Agreements, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of

²⁸ California Public Utilities Code section 399.11 et seq., as interpreted by D.03-07-061, the "Order Initiating Implementation of the Senate Bill 1078 Renewables Portfolio Standard Program", and subsequent CPUC decisions in Rulemaking (R.) 04-04-026.

²⁹ The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. See Public Utilities Code Sect. 399.12 and D.04-06-014.

payments made pursuant to the GPC Letter Agreements, subject only to further review with respect to the reasonableness of SCE's administration of the GPC Letter Agreements; and

7. Any other and further relief as the Commission finds just and reasonable.

NOTICE

Notice of AL 2201-E was made by publication in the Commission's Daily Calendar. Southern California Edison states that a copy of the Advice Letter and Supplemental Advice Letters were mailed and distributed in accordance with Section IV of General Order 96-B.

PROTESTS

Advice Letter 2201-E was not protested.

DISCUSSION

Description of the projects

The following table summarizes the substantive features of the GPC Letter Agreements.

Generating facility	Type	Term (Months)	Capacity (MW)	Energy (GWh)	Delivery	Location
Geysers Power Company	Geothermal (existing)	1	100	74.4	October 1-31, 2007	Middletown, CA
Geysers Power Company	Geothermal (existing)	1	120	86.4	November 1-30, 2007	Middletown, CA
Geysers Power Company	Geothermal (existing)	1	60-85	56.64	December 1-31, 2007	Middletown, CA

The GPC Letter Agreements comply with the Commission's standards for bilateral contracts. They also comply with the Commission's minimum quantity requirements that were established in D.07-05-028. The pricing and other terms

and conditions of these letter agreements are identical to the GPC PPA, which the Commission determined was reasonable in D.07-11-047. The renewable energy procured through these agreements was from the existing geothermal Geysers facilities located in Northern California and was delivered in October, November, and December of 2007. SCE filed the GPC Letter Agreements with the Commission retroactively, which violates the Commission's requirement for CPUC approval. Since the pricing and other terms and conditions of the GPC Letter Agreements are identical to the GPC PPA, there is no harm to ratepayers from SCE's failure to submit the contract for approval in a timely manner.

The GPC Letter Agreements were evaluated on the following criteria:

- Consistency with SCE's 2007 Procurement Plan
- Compliance with CPUC's bilateral contracting guidelines
- Compliance with standard terms and conditions
- Compliance with the minimum quota on short-term contracts with existing facilities
- Price reasonableness

The Letter Agreements are consistent with SCE's CPUC adopted 2007 RPS Plan

California's RPS statute requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility.³⁰ The Commission will then accept or reject proposed PPAs or other agreements based on their consistency with the utility's approved renewable procurement plan (Plan). SCE's 2007 Plan includes an assessment of supply and demand for renewable energy, bid solicitation materials, a pro-forma agreement, and bid evaluation methodology documents. The Commission conditionally approved SCE's 2007 RPS procurement plan, including its bid solicitation materials, in D.07-02-011. As ordered by D.07-02-011, on March 2, 2007 SCE filed and served its amended 2007 Plan.

³⁰ Pub. Util. Code, Section §399.14

Letter Agreements fit with identified renewable resource needs

SCE's 2007 RPS Plan called for SCE to solicit electric energy generated by eligible renewable resources from either existing or new generating facilities that would deliver in the near term or long term. SCE's 2007 request for proposals (RFP) solicited proposals for projects that would supply electric energy, environmental attributes, capacity attributes and resource adequacy benefits from eligible renewable energy resources. SCE requested proposals based upon standard term lengths of 10, 15 or 20 years with a minimum capacity of 1 MW. SCE indicated a preference to take delivery of the electric energy at SP-15, but considered proposals based upon any designated delivery point within California. Additionally, SCE solicited for contracts that were located either within California, or if outside California, have the first point of interconnection in the WECC transmission system and have access to a transmission pathway capable of delivering the energy to a location within California. SCE also indicated a preference for proposals that would not require upgrades to transmission lines, since that is a common source of delay for renewable energy projects.

All three of the GPC Letter Agreements fit SCE's identified renewable resource needs. The Geysers facilities are located in California, deliver energy from existing facilities, and do not require transmission upgrades.

GPC Letter Agreements are consistent with RPS bilateral contracting guidelines

The GPC Letter Agreements are consistent with Commission decisions regarding RPS bilateral contracts. The contracts:

- were submitted for approval by advice letter
- are each at least one month in duration
- will not receive AMFs
- are deemed reasonable by the CPUC.

Consistency with adopted Standard Terms and Conditions

The GPC PPA allows for additional purchases of renewable power. The STCs in the GPC Letter Agreements are identical to the STCs in the GPC PPA. Some of the non-modifiable STCs were modified in the GPC PPA; D.07-11-047 approved the modified non-modifiable STCs. Since the Commission already approved the

STCs in the GPC PPA, the STCs do not need to be updated to comply with the most recent STC decision (D.08-04-009).

SCE has procured a minimum amount of long-term and/or new RPS contracts in 2007 to count the deliveries from the GPC Letter Agreements for RPS compliance

The GPC Letter Agreements are short-term contracts with an existing facility. Pursuant to D.07-05-028, SCE must sign the minimum quota of long-term contracts and/or contracts with new facilities in order for the deliveries of the Letter Agreements to count for RPS compliance.

In 2007, SCE executed 15 RPS contracts – one resulting from SCE’s 2005 RPS solicitation, six resulting from the 2006 RPS solicitation, three resulting from the 2007 RPS solicitation, two resulting from the SCE standard biomass offer, and the three bilateral GPC Letter Agreements. Twelve of these 15 RPS contracts are long-term contracts. The expected annual deliveries from SCE’s long-term RPS contracts executed in 2007 exceed 0.25 percent of SCE’s prior year’s retail sales. Thus, SCE has satisfied its 2007 minimum quota requirement for counting short-term contracts with existing facilities for RPS compliance.

Contract prices are reasonable

The Commission intends to include more explicit standards for evaluating the reasonableness of bilateral RPS contracts in a decision in the near future. Until such a decision is approved, the Commission will continue to consider the approval of RPS short-term bilateral contracts on a case-by-case basis.

In the case of the GPC Letter Agreements, the Commission has considered whether the price is consistent with the pricing approved in D.07-11-047 for the GPC PPA. Since the pricing in the GPC Letter Agreements is identical to the pricing approved in D.07-11-047, the contract price is reasonable.

SCE filed the GPC Letter Agreements with the Commission retroactively

SCE filed the GPC Letter Agreements with the Commission retroactively, or after the contracts were executed and the energy was delivered. CPUC rules require a utility to seek approval of a bilateral contract prospectively. Thus, the Commission must answer if it is able to approve this advice letter even though it was filed retroactively. Under the specific circumstances of this case, the Commission concludes that it can approve this advice letter.

While all RPS-obligated load-serving entities are free to enter into bilateral contracts of any length with RPS-eligible generators, as long as the contracts are at least one month in duration, such contracts must comply with the RPS rules as set out in statute and CPUC decisions. Additionally, such contracts are subject to the rules for bilateral contracts.³¹ In D.06-10-019, the Commission found that “[a]ll RPS-obligated LSEs shall be allowed to enter into bilateral contracts of any length, with a minimum length of one month, for procurement of RPS-eligible resources, with utilities’ bilateral contracts submitted for approval via advice letter so long as, after SB 107 is in effect, the other prerequisites to Commission approval of contracts less than 10 years in duration are met.”

SCE in its “Comments on Draft Resolution E-4158” suggests that the Commission clarify that the CPUC approval must be sought for cost recovery, rather than as a condition to going forward with the terms of the bilateral contract. The Commission is not inclined to state a rule of general applicability in this regard in connection with the approval of this advice letter. However, the Commission observes that the Commission already approved the specific contract price and standard terms and conditions applicable to the energy deliveries from the generating unit that is the subject of this advice letter in D.07-11-047.

The Commission accordingly concludes that although the AL was filed retroactively; the circumstances of the case allow it to be approved since the Commission previously approved the specific contract price and standard terms and conditions applicable to the delivery of renewable energy from this particular generating unit in D.07-11-047. The GPC Bilateral Letter Agreements comply with the RPS rules in all other respects, and the price and terms and conditions for the delivery of energy from this generating unit were previously submitted in a timely matter in connection with a contract covering a different delivery period. On balance, there is no harm to ratepayers from SCE’s failure to submit the contract for approval in a timely manner, and the Commission finds, in this case, that SCE’s failure to submit this advice letter in a timely manner constitutes harmless error.

³¹ D.06-10-019

Confidential information about the contracts should remain confidential

Certain contract details were filed by SCE 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

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 and will be placed on the Commission's agenda no earlier than 30 days from today.

SCE filed timely comments on October 6, 2008. SCE requested the CPUC to clarify that CPUC Approval must be sought for cost-recovery, rather than as a condition to going forward with the terms of a bilateral contract. We carefully considered these comments and made appropriate changes to the draft resolution.

FINDINGS

1. The RPS Program requires each utility, including SCE, to increase the amount of renewable energy in its portfolio to 20 percent by 2010, increasing by a minimum of one percent per year.
2. The Commission required each utility to establish a Procurement Review Group (PRG) to review the utilities' renewable procurement needs and strategy, proposed procurement process, and selected contracts.

3. D.08-04-009 sets forth four non-modifiable and nine modifiable standard terms and conditions to be incorporated into RPS power purchase agreements.
4. D.07-05-028 establishes conditions for counting deliveries from contracts with existing facilities that are less than 10 years' duration for RPS compliance.
5. D.07-02-011 directed the utilities to issue their 2007 renewable RFOs, consistent with their renewable procurement plans.
6. D.03-06-071 allows for a utility and a generator to enter into bilateral contracts outside of the competitive solicitation process.
7. D.06-10-019 requires bilateral contracts to be filed for approval by the Commission by advice letter and to be at least one month in duration.
8. Pursuant to Pub. Util. Code §399.15(d)(2)(A), bilateral contracts may not be applied to a utility's cost limitation for above-market costs of RPS contracts.
9. SCE filed Advice Letter 2201-E on January 14, 2008, requesting Commission review and approval of a three bilateral Letter Agreements with Geysers Power Company, LLC (GPC).
10. SCE briefed its PRG on its status of discussions with GPC regarding the October 2007, November 2007, and December 2007 GPC Letter Agreements.
11. The Commission has reviewed the GPC Letter Agreements and finds them to be consistent with SCE's approved 2007 renewable procurement plan and bilateral procurement rules.
12. The contract price for the three GPC Letter Agreements is reasonable pursuant to D.07-11-047 and the GPC PPA.
13. SCE has satisfied the requirement in D.07-05-028 and can count contracts signed in 2007 with existing facilities that are less than 10 years in duration for RPS compliance.
14. Procurement pursuant to this Agreement is procurement from eligible renewable energy resources 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.), D. 03-06-071, or other applicable law.
15. All procurement under the GPC Letter Agreements counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE.

16. All procurement under the GPC Letter Agreements counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE.
17. All procurement under the GPC Letter Agreements counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20 percent (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law).
18. The GPC Letter Agreements, and SCE's entry into these GPC Letter Agreements, are reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the agreements, subject only to further review with respect to the reasonableness of SCE's administration of the PPA.
19. Any indirect costs of renewables procurement identified in Section 399.15(a)(2) shall be recovered in rates.
20. The GPC Letter Agreements proposed in AL 2201-E should be approved without modifications.
21. SCE's failure to submit this advice letter in a timely manner was harmless error.
22. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the confidential appendices, marked "[REDACTED]" in the redacted copy, should not be made public upon Commission approval of this resolution.

THEREFORE IT IS ORDERED THAT:

1. The proposed GPC Letter Agreements in Advice Letter 2201-E are approved without modifications.
2. The costs of the contracts between SCE and Seller are reasonable and in the public interest; accordingly, the payments to be made by SCE are fully recoverable in rates over the life of the project, subject to CPUC review of SCE's administration of the GPC Letter Agreements.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on October 16, 2008; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON
PAUL CLANON
Executive Director

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