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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #9722
RESOLUTION E-4357
September 23, 2010

REDACTED

R E S O L U T I O N

Resolution E-4357. Pacific Gas and Electric Company requests approval of a renewable power purchase agreement with Desert Sunlight Holdings, LLC.

PROPOSED OUTCOME: This Resolution approves cost recovery for a Pacific Gas and Electric Company renewable energy power purchase agreement with Desert Sunlight Holdings, LLC. The power purchase agreement is approved without modifications.

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

By Advice Letter 3629-E filed on March 8, 2010.

SUMMARY

Pacific Gas and Electric Company's renewable energy power purchase agreement with Desert Sunlight Holdings, LLC complies with the Renewables Portfolio Standard procurement guidelines and is approved without modification

Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 3629-E on March 8, 2010, requesting California Public Utilities Commission (Commission) review and approval of a power purchase agreement (PPA) between PG&E and Desert Sunlight Holdings, LLC (Desert Sunlight), a wholly owned subsidiary of First Solar, Inc. Under the proposed PPA, PG&E would procure an estimated average of 619 gigawatt hours per year (GWh/yr) of renewable energy from the planned 300 megawatt (MW) solar photovoltaic facility. The proposed PPA has a guaranteed delivery term of 25 years.

This resolution approves the Desert Sunlight PPA without modification. The Desert Sunlight PPA resulted from PG&E's 2008 RPS solicitation. The project is consistent with PG&E's 2008 RPS Procurement Plan, including its resource

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need, which the Commission conditionally approved in Decision 08-02-008. Because the contract was executed greater than 18 months following the close of PG&E's 2008 RPS solicitation, costs of the PPA were compared to offers received in PG&E's 2009 RPS solicitation. Deliveries under the Desert Sunlight PPA are reasonably priced and fully recoverable in rates over the life of the contract, subject to Commission review of PG&E's administration of the PPA.

The following table provides a summary of the Desert Sunlight PPA:

Generating Facility	Technology Type	Term (Years)	Capacity (MW)	Energy (GWh/yr)	Online Date	Location
Desert Sunlight	Solar Photovoltaic	25	300	619	7/1/2015	Desert Center, 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 and SB 1036.[1] The RPS program is codified in Public Utilities Code Sections 399.11-399.20.[2] The RPS program administered by the Commission requires each utility to increase its total procurement of eligible renewable energy resources by at least one percent of retail sales per year so that 20 percent of the utility's retail sales are procured from eligible renewable energy resources no later than December 31, 2010.[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

[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).

[2] All further references to sections refer to Public Utilities (Pub. Util.) Code unless otherwise specified.

[3] *See,* Pub. Util. Code § 399.15(b)(1).

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Notice of Advice Letter 3629-E was made by publication in the Commission's Daily Calendar. PG&E states that copies of the Advice Letter were mailed and distributed in accordance with Section IV of General Order 96-B.

PROTESTS

Advice Letter 3629-E was not protested.

DISCUSSION

Pacific Gas and Electric Company requests approval of a power purchase agreement with Desert Sunlight Holdings, LLC

On March 8, 2010, Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 3629-E requesting Commission approval of a 25-year power purchase agreement (PPA) with Desert Sunlight Holdings, LLC (Desert Sunlight), a wholly owned subsidiary of First Solar, Inc. (First Solar). The contract is the result of PG&E's 2008 Renewable Portfolio Standard (RPS) Solicitation. The project was originally bid into the solicitation by OptiSolar, but was acquired by First Solar following First Solar's acquisition of OptiSolar's assets in early 2009.[4]

First Solar proposes to develop a new solar photovoltaic (PV) project using its proprietary and commercialized thin-film PV panel technology. The project will be located near Joshua Tree National Park in Desert Center, California, and will interconnect to the California Independent System Operator (CAISO) controlled grid on Southern California Edison Company's (SCE's) transmission system at the new Red Bluff substation.

The Desert Sunlight PPA will contribute towards PG&E's renewable procurement goals. Generation procured under PG&E's PPA with Desert Sunlight is expected to average 619 gigawatt-hours (GWh) annually beginning in July 2015, comprising approximately 3.69 percent of the RPS annual procurement target for 2015 .[5]

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[4] Desert Sunlight was a subsidiary of OptiSolar at the time of PG&E's RPS Request for Offers (RFO) in 2008. However, Desert Sunlight became a fully owned subsidiary of First Solar in March 2009 when OptiSolar sold its portfolio of planned but un-built power plants to First Solar for $400 million in stock. The proposed PPA is a result of negotiations between PG&E and OptiSolar and, following First Solar's purchase of Desert Sunlight, between PG&E and First Solar.

[5] The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. *See,* Pub. Util. Code § 399.12 and CPUC Decision (D.) 04-06-014.

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PG&E requests that the Commission issue a resolution containing the following findings:

1. Approves the PPA in its entirety, including payments to be made by PG&E pursuant to the PPA, subject to the Commission's review of PG&E's administration of the PPA.
2. Finds that any procurement pursuant to the PPA is procurement from an eligible renewable energy resource for purposes of determining PG&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.) ("RPS"), Decision ("D.") 03-06-071 and D.06-10-050, or other applicable law.
3. Finds that all procurement and administrative costs, as provided by Public Utilities Code section 399.14(g), associated with the PPA shall be recovered in rates.
4. Adopts the following finding of fact and conclusion of law in support of CPUC Approval:
    a. The PPA is consistent with PG&E's 2008 RPS procurement plan.
    b. The terms of the PPA, including the price of delivered energy, are reasonable.
5. Adopts the following finding of fact and conclusion of law in support of cost recovery for the PPA:
    a. The utility's costs under the PPA shall be recovered through PG&E's Energy Resource Recovery Account.
    b. Any stranded costs that may arise from the PPA are subject to the provisions of D.04-12-048 that authorize recovery of stranded renewables procurement costs over the life of the contract. The implementation of the D.04-12-048 stranded cost recovery mechanism is addressed in D.08-09-012.
6. Adopts the following findings with respect to resource compliance with the Emissions Performance Standard ("EPS") adopted in R.06-04-009:
    a. The PPA is not a covered procurement subject to the EPS because the generating facilities have a forecast capacity factor of less than 60 percent each and, therefore, are not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim EPS Rules.

Energy Division evaluated the proposed Desert Sunlight PPA for the following criteria:

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- Consistency with PG&E's 2008 RPS Procurement Plan
- Consistency with PG&E's Least-Cost, Best-Fit (LCBF) requirements and Independent Evaluator review
- Cost reasonableness
- Cost containment
- Project viability assessment and development status
- Consistency with RPS standard terms and conditions
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Procurement Review Group participation
- Contribution to minimum quantity requirement for long-term/new facility contracts

Consistency with PG&E's 2008 RPS Procurement Plan

In D.08-02-008, the Commission conditionally approved PG&E's Procurement Plan (Plan) and bid solicitation materials for PG&E's 2008 RPS solicitation. Pursuant to statute, PG&E's Plan included 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.[6] Specifically, PG&E's Plan identified a renewable resource need of 800 to 1,600 GWh per year, which reflects approximately one to two percent of PG&E's annual retail sales volume.

PG&E asserts that the Desert Sunlight PPA conforms to PG&E's approved 2008 Plan as it meets the eligibility requirements for the procurement of renewables contained in the Plan and it was solicited, negotiated and executed according to PG&E's solicitation protocols.

PG&E is not forecasted to achieve its 20 percent by 2010 RPS target. Also, PG&E is required to maintain the 20 percent RPS requirement beyond 2010. As a result, PG&E may have deficits that it will need to meet with energy deliveries after 2010 in order to meet its obligations. Furthermore, PG&E will likely have future obligations under the planned 33 percent RPS target.[7] Therefore, the

[6] Pub. Util. Code § 399.14(a)(3).

[7] On November 17, 2008, Governor Schwarzenegger signed Executive Order S-14-08 directing all state agencies to work toward a 33% RPS by 2020. In D.08-10-037, the

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proposed Desert Sunlight PPA contributes to PG&E's RPS goals starting in 2015 and will aid PG&E in achieving its long-term RPS obligations.

<u>The proposed Desert Sunlight PPA is consistent with PG&E's 2008 RPS Procurement Plan approved by D.08-02-008.</u>

Consistency with PG&E's Least-Cost, Best-Fit (LCBF) requirements and Independent Evaluator review

The Commission's LCBF decision directs the utilities to use certain criteria to rank offers bid into an RPS solicitation.[8] The decision provides guidance on this bid evaluation process that is used to evaluate which projects are "least-cost best-fit". PG&E's bid evaluation includes a quantitative and qualitative analysis, which focuses on four primary areas: 1) determination of a bid's market value; 2) calculation of transmission adders and integration costs; 3) evaluation of portfolio fit; and 4) consideration of non-price factors. The LCBF evaluation is generally used to establish a shortlist of proposals from PG&E's solicitation with whom PG&E will engage in contract negotiations. PG&E's 2008 RPS solicitation protocol included an explanation of its LCBF methodology.

PG&E retained Independent Evaluator (IE) Lewis Hashimoto of Arroyo Seco Consulting to oversee its 2008 RPS bid solicitation, as required by the Commission.[9] AL 3671-E includes an IE report that concludes that PG&E followed its LCBF protocols and was fair and inclusive in developing its 2008 RPS shortlist, which included the Desert Sunlight project. Also, the IE concludes that both the 2008 and 2009 bid solicitations were robust and PG&E's evaluation of the solicitations were reasonable.[10]

The IE also oversaw PG&E's negotiations of the proposed Desert Sunlight PPA.[11] The IE participated in the negotiation discussions and communications

Commission recommended that 33% of California's electricity be generated by renewables by 2020.

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

[9] *See* D.06-05-039.

[10] *See* Resolution E-4199. The IE evaluated the PPA relative to offers received in PG&E's 2008 and 2009 RPS solicitations because the PPA was executed in 2009, over 18 months after the close of PG&E's 2008 RPS bid solicitation.

[11] AL 3629-E included an IE report concerning the negotiation of the Desert Sunlight PPA and the value of the contract based on a price comparison with alternative sources of energy, portfolio fit, project viability, and compliance with PG&E's RPS goals.

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concerning the proposed PPA, evaluated the PPA, and concluded that the PPA merits Commission approval. The IE concludes that the negotiations between PG&E and both OptiSolar and First Solar for the Desert Sunlight PPA were conducted fairly. Overall, the IE assessed the project's portfolio fit, net value, and contract price as higher in rank than most of the competing bids in both PG&E's 2008 and 2009 RPS bid solicitations. Also, the IE states that the project's viability is moderate in comparison to PG&E's most recent 2009 RPS bid solicitation. The IE concurs with PG&E's decision to execute the agreement and states that the proposed Desert Sunlight PPA merits Commission approval. The selection of the Desert Sunlight PPA is consistent with PG&E's 2008 RPS solicitation least-cost, best-fit cost protocols.

Consistent with D.06-05-039, an independent evaluator oversaw PG&E's negotiations with Desert Sunlight and concurs with PG&E's decision to execute the agreement and that the proposed Desert Sunlight PPA merits Commission approval.

Cost Reasonableness

The Commission's reasonableness review for RPS PPA prices includes a comparison of the proposed PPA contract price to other proposed RPS projects from recent RPS solicitations and Commission approved projects. Because the PPA was executed over 18 months after close of PG&E's 2008 RPS bid solicitation, the Commission requires PG&E to compare the price of the PPA to the 2009 RPS bid solicitation bid prices.[12] In AL 3629-E, PG&E determined that the proposed Desert Sunlight PPA compared favorably to proposals received in response to PG&E's 2009 solicitation. Using this analysis, and the confidential analysis provided by PG&E in AL 3629-E, we determine that the Desert Sunlight PPA price is reasonable. Confidential Appendix A includes a detailed discussion of the contractual pricing terms.

The PPA compares favorably to the results of PG&E's 2009 solicitation. The total all-in costs of the PPA are reasonable based on their relation to bids received in response to PG&E's 2009 solicitation and other comparable PPAs.

Payments made by PG&E under the PPA are fully recoverable in rates over the life of the PPA, subject to Commission review of PG&E's administration of the PPA.

Cost Containment

[12] *See* Resolution E-4199.

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Pursuant to statute, the Commission calculates a market price referent (MPR) to assess whether a proposed PPA has above-market costs.[13] To contain the costs of the RPS program, the total above-MPR costs of eligible projects are limited. As the PPA was executed in 2009, 18 months after the close of PG&E's 2008 RPS solicitation, PG&E compared the Desert Sunlight project to the 2009 MPR pursuant to Resolution E-4199. Based on a 2015 commercial online date, the 25-year PPA exceeds the 2009 MPR.[14]

Contracts that meet certain criteria are eligible for above-MPR funds (AMFs).[15] PG&E's PPA with Desert Sunlight meets these criteria. On May 28, 2009, the Director of the Energy Division notified PG&E that it had exhausted its AMFs, meaning PG&E is no longer required to sign contracts for renewable power priced above the MPR, but may voluntarily choose to do so.[16]

PG&E will voluntarily procure energy pursuant to the Desert Sunlight PPA at an above-MPR price.

Project Viability Assessment and Development Status

PG&E asserts that the Desert Sunlight project is viable and will be developed according to the terms and conditions in the PPA. PG&E evaluated the viability of the Desert Sunlight project 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 confidential work papers for AL 3629-E include a comparison of Desert Sunlight's project viability score relative to all bids PG&E received in its 2009 RPS solicitation and all shortlisted projects. Based on this analysis, the viability of the proposed Desert Sunlight PPA is reasonable compared to other recent projects offered to PG&E.

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[13] *See* Pub. Util. Code § 399.15(c).

[14] *See* Resolution E-4298.

[15] Under Resolution E-4199, a PPA between a utility and a developer must meet the following requirements for the utility to achieve AMFs eligibility: (1) the PPA must have Commission approval and be selected through a competitive solicitation, (2) it must cover a duration of at least 10 years; (3) it must develop a new or repowered facility commencing operations on or after January 1, 2005; (4) it must not be a purchase of renewable energy credits; and (5) it must not include any indirect expenses as set forth in the statute.

[16] *See* Pub. Util. Code § 399.15(d).

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PG&E provided the following information about the project's developer and development status:

Developer experience and creditworthiness

First Solar, Desert Sunlight's parent company, is a major manufacturer of thin-film solar PV modules. First Solar is a vertically integrated manufacturer of thin-film solar photovoltaic modules that has access to an expanding manufacturing base and is unlikely to experience supply constraints for panels. Also, First Solar has served as engineering, procurement, and construction contractor for other solar developers. PG&E explained that, although First Solar has not retained ownership of any currently operating photovoltaic generating facility, First Solar does have experience operating and maintaining service contracts for other project owners.

Technology and resource quality

PG&E asserts the project site near Desert Center, California is an attractive solar resource with a high level of solar insolation. An independent third party evaluation of the site also concluded the project site is a well known and highly predictable solar resource area. Furthermore, PG&E asserts that First Solar's cadmium telluride thin-film PV technology is an established commercial method for utility-scale solar generation.

Site control and permitting status

The Bureau of Land Management (BLM) has designated Desert Sunlight as one of its fourteen "fast track" solar energy projects for permitting approval. The project is currently in the Federal National Environmental Policy Act (NEPA) review process in order to facilitate permit approval. Furthermore, First Solar has both a valid SF 299 application, which grants permission to facilities seeking use of federal land for the transmission and distribution of electric energy, and a cost recovery agreement with the BLM. PG&E asserts that both the SF 299 and cost recovery agreement grant exclusive rights to Desert Sunlight to pursue project development at this location, once other permitting issues are resolved. The project, however, would be sited on mostly undisturbed desert land that is a habitat for at least one threatened species. As a result, there is a risk that the BLM may restrict or delay approval.

Interconnection and transmission

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Pursuant to the PPA, the Desert Sunlight project will interconnect at the new Red Bluff substation in SCE's service territory. Desert Sunlight is well advanced in the CAISO process towards securing an interconnection agreement by 2010.

Consistency with RPS Standard Terms and Conditions

The Desert Sunlight PPA is based on PG&E's most recently Commission approved RPS pro forma contract and complies with D.08-04-009, as modified by D.08-08-028. The non-modifiable terms were not modified during negotiations. As a result, the PPA contains the required RPS non-modifiable Standard Terms and Conditions.

<u>The Desert Sunlight PPA includes the Commission adopted RPS "non-modifiable" Standard Terms and Conditions.</u>

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Util. Code §§ 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) power contracts procured on behalf of California ratepayers. D.07-01-039 adopted an interim Emissions Performance Standard (EPS) that establishes an emission rate quota for obligated facilities to levels no greater than the greenhouse gas (GHG) emissions of a combined-cycle gas turbine power plant.

The EPS applies to all energy contracts for baseload generation that are at least five years in duration. In most cases, generating facilities using renewable resources are deemed compliant with the EPS._

<u>The Desert Sunlight PPA complies with the EPS established in D.07-01-039 because solar energy is one of the pre-approved renewable energy technologies listed in D.07-01-039.</u>

Procurement Review Group Participation

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.[17]

[17] The PRG for PG&E includes representatives of the California Department of Water Resources, the Commission's Energy Division and Division of Ratepayer Advocates, Union of Concerned Scientists, The Utility Reform Network, the California Utility Employees, and Jan Reid, as a PG&E ratepayer.

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PG&E asserts that the proposed Desert Sunlight PPA was discussed at PRG meetings on June 20, 2008, July 15, 2008, August 2009 and December 2009 prior to filing AL 3629-E.

Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the PPA.

Contribution to minimum quantity requirement for long-term/new facility contracts

D.07-05-028 established a "minimum quantity" condition on the ability of utilities to count an eligible contract of less than 10 years duration for compliance with the RPS program.[18] In the calendar year that a short-term contract with an existing facility is executed, the utility must also enter into long-term contracts or contracts with new facilities equivalent to at least 0.25% of the utility's previous year's retail sales.

As a new facility, delivering pursuant to a long-term contract, the PPA will contribute to PG&E's minimum quantity requirement established in D.07-05-028.

RPS Eligibility and CPUC Approval

Pursuant to Pub. Util. Code § 399.13, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable "eligibility" language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an "Eligible Renewable Energy Resource," that the project's output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.[19]

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

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[18] For purposes of D.07-05-028, contracts of less than 10 years duration are considered "short-term" contracts and facilities that commenced commercial operations prior to January 1, 2005 are considered "existing."

[19] *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.*), Decision 03-06-071, or other applicable law."[20]

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, neither can the Commission determine prior to final CEC certification of a project, that "any procurement" pursuant to a specific contract will be "procurement from an eligible renewable energy resource."

Therefore, while we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation. Nor shall such finding absolve the seller of its obligation to obtain CEC certification, or the utility of its obligation to pursue remedies for breach of contract. Such contract enforcement activities shall be reviewed pursuant to the Commission's authority to review the utilities' administration of contracts.

Confidential Information

The Commission, in implementing Pub. Util. Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin, except contracts between IOUs and their affiliates, which are public.

The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

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.

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

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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.

FINDINGS AND CONCLUSIONS

1. The Desert Sunlight Holdings, LLC power purchase agreement is consistent with Pacific Gas and Electric Company's 2008 Renewables Portfolio Standard (RPS) Procurement Plan, approved by Decision D.08-02-008.
2. The selection of the Desert Sunlight Holdings, LLC power purchase agreement is consistent with Pacific Gas and Electric Company's 2008 Renewable Portfolio Standard least-cost, best-fit cost protocols.
3. Consistent with Decision 06-05-039, an independent evaluator oversaw Pacific Gas and Electric Company's 2008 and 2009 RPS solicitation and concurs with Pacific Gas and Electric Company's decision to shortlist the project and execute the agreement with Desert Sunlight Holdings, LLC.
4. The total all-in costs of the Desert Sunlight Holdings, LLC power purchase agreement are reasonable based on their relation to bids received in response to Pacific Gas and Electric Company's 2009 solicitation for renewable resources.
5. The Desert Sunlight Holdings, LLC power purchase agreement exceeds the applicable 2009 market price referent.
6. Pursuant to Public Utilities Code § 399.15(d), PG&E will voluntarily procure energy under the Desert Sunlight Holdings, LLC power purchase agreement at a price that exceeds the applicable market price referent.
7. The viability of the Desert Sunlight Holdings, LLC project is reasonable compared to other projects offered to Pacific Gas and Electric Company.
8. The Desert Sunlight Holdings, LLC power purchase agreement includes the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009 and amended by D.08-08-028.
9. The Desert Sunlight Holdings, LLC power purchase agreement complies with the Emissions Performance Standard because it meets the conditions established in Decision 07-01-039.
10. Pursuant to Decision 02-08-071, Pacific Gas and Electric Company's Procurement Review Group participated in the review of the Desert Sunlight Holdings, LLC power purchase agreement.

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11. Procurement pursuant to the Desert Sunlight Holdings, LLC power purchase agreement is procurement from eligible renewable energy resources for purposes of determining Pacific Gas and Electric Company'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 and Decision 06-10-050, or other applicable law.
12. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under the Desert Sunlight Holdings, LLC power purchase agreement to count towards an RPS compliance obligation. Nor shall that finding absolve Pacific Gas and Electric Company of its obligation to enforce compliance with this agreement.
13. Payments made by Pacific Gas and Electric Company under the approved Desert Sunlight Holdings, LLC power purchase agreement are fully recoverable in rates over the life of the agreement, subject to Commission review of Pacific Gas and Electric Company's administration of the agreement.
14. 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.
15. Advice Letter 3629-E should be approved effective today without modifications.

<u>THEREFORE IT IS ORDERED THAT:</u>

1. The Desert Sunlight Holdings, LLC power purchase agreement proposed in Pacific Gas and Electric's Advice Letter 3629-E is approved without modification.
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 September 23, 2010; the following Commissioners voting favorably thereon:

PAUL CLANON

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Executive Director

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Confidential Appendix A

Summary of PPA Terms and Conditions

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Confidential Appendix B

Above Market Funds Calculation

[REDACTED]

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Confidential Appendix C

Independent Evaluator's Contract-Specific Assessment

[REDACTED]

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