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August 2, 2011

Mr. Honesto Gatchalian  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: REPLY COMMENTS ON DRAFT RESOLUTION E-4414**

Dear Mr. Gatchalian:

San Diego Gas & Electric Company ("SDG&E"), pursuant to the Public Utilities Code section 311(g)(1), hereby responds to Draft Resolution E-4414 issued by the California Public Utilities Commission ("Commission" or "CPUC") on 13 July, 2011 ("Draft Resolution") in response to PG&E Advice Letter ("AL") 3809-E, SCE AL 2557-E, and SDG&E AL 2232-E, which were filed on February 25, 2011 as required by the Commission's Renewable Auction Mechanism ("RAM") Decision D.10-12-048.

In its AL, SDG&E seeks approval of bidding protocols and a standard power purchase agreement suitable for the unique circumstances of SDG&E's operational requirements in its service territory. SDG&E agrees with or has no comment on the majority of the provisions of the Draft Resolution. However, SDG&E strongly urges the Commission to revise the Draft Resolution to incorporate the following five specific recommendations.

### **AUCTION FREQUENCY AND SCHEDULE**

The RAM decision provides that two RAM procurement auctions be held each year over a two-year period and also requires these auctions be conducted simultaneously by the IOUs but is silent on date to submit final contracts to the Commission by AL<sup>1</sup>. The Draft Resolution requires these auctions to be conducted simultaneously every 6 months with the first such auction closing no later than November 15, 2011, the second closing no later than May 12, 2012, and the IOUs submitting executed RAM contracts as Tier 2 advice letters within 45 days of the conduct of each such the auction<sup>2</sup>.

SDG&E submits that such prescriptive requirements may cause unnecessary conflict with the Combined Heat and Power ("CHP") RFO timeline, as prescribed by the CHP Program Settlement Agreement and the California Independent System Operator Phase I Interconnection Study timeline. The Phase I Interconnection Study for Cluster 4 is now expected in mid-October 2011, with no certainty that it will be produced by then, despite having been originally expected

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<sup>1</sup> D.10-12-048, p.32

<sup>2</sup> RAM Draft Resolution, pp.5-6.

in July 2011. Further delays in the Phase I Interconnection Study will affect the entire RAM auction schedule and subsequent contract submissions such that auction completion by November 15, 2011 might be not achievable despite the utilities' best efforts. Also, the CHP RFOs are expected to be issued in mid-October 2011 and timely processing of two such RFOs for each IOU simultaneously will likely create a significant burden on the Commission's Staff, the utilities' respective Procurement Review Groups (PRGs), their Independent Evaluators and utility staff.

While the utilities will make every effort to implement the RAM to meet the CPUC's schedule, it may make sense to clarify that the CPUC Executive Director may revise the various required deadlines if an extension is requested jointly by the utilities and sufficient cause is provided.

### **PRODUCT CATEGORIES**

The RAM decision gives each IOU the discretion to determine the specific amounts of renewable power to procure from three specific product categories: baseload, peaking as-available, and non-peaking as available and requires each of the IOUs to state the amount of capacity that will be procured in each category in each auction<sup>3</sup>.

The Draft Resolution requires SDG&E to state its targeted procurement amount for each product category (baseload, peaking as-available and non-peaking as available) while requiring SDG&E procure a minimum of 3 MW in each stated product category and further requires that SDG&E remove its preference for local renewable power procurement since this preference for local renewable power procurement is not specifically set forth in the RAM Decision<sup>4</sup>. The Draft Resolution also allows each IOU to procure up to 20 MW of renewable power beyond each IOU's targeted auction capacity in the event that the selected bids do not exactly match the auction's capacity target<sup>5</sup>.

The Draft Resolution's overly restrictive interpretation of the RAM Decision fails to recognize and address the realities of SDG&E's unique operational situation and location and thereby places an undue and unnecessary constraint on SDG&E's ability to procure renewable power from as many market participants as possible, especially producers in SDG&E's service territory.

SDG&E proposes a remedy to an SDG&E specific situation with its local power procurement preference described below. Specifically, in addition to the 3 MW procurement minimum required by the Draft Resolution for each of three identified product categories, SDG&E requests the Commission allow SDG&E the option to procure up to 50% of its RAM capacity requirements as local resources. The terms under which the option is exercised will be determined in consultation with the Independent Evaluator and the Procurement Review Group. SDG&E proposes this local requirement option for a portion of the renewable power procurement requirements set out in the Draft Resolution in order to address an unintended consequence of the structure of its local furnishing bonds.

SDG&E has utilized the proceeds from \$686 million of local furnishing bonds issued by the City of Chula Vista to finance portions of its transmission and distribution systems. These bonds

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<sup>3</sup> D.10-12-048, p.35.

<sup>4</sup> See RAM Draft Resolution pp. 10-11.

<sup>5</sup> Id. at 11.

require that in order to preserve the tax exempt status of interest on these bonds, the RAM projects that use SDG&E's distribution lines must serve SDG&E's customers located in San Diego County and portions of Orange County. Failure to do so would jeopardize the tax exempt status of all these bonds at a substantial cost, which would need to be immediately defeased, the bond holders indemnified for these bonds becoming taxable, and the existing bonds would need to be replaced with taxable first mortgage bonds. The only way of minimizing this cost would be for the interconnection customer to obtain from FERC a Section 211/213 order compelling SDG&E to provide the interconnection and transmission services pursuant to the Federal Power Act. Consequently, projects built in SDG&E's service territory that bid into SCE's or PG&E's auctions and contract with these public utilities will trigger these consequences. The cost consequences of this occurrence involving indemnifying bond holders of these local furnishing bonds and replacing these bonds with taxable first mortgage bonds would cause any such RAM project that will interconnect to SDG&E's distribution system without serving SDG&E customers to be prohibitively expensive to the developer.

Since local developers will face this unintended cost consequence of SDG&E's bond financing structure for its distribution system, SDG&E proposes to provide such developers a means to compete in the renewable generation market through its RAM process by committing to procure up to half of its RAM capacity from local projects.

SDG&E proposes to evaluate and rank bids based on the prices of the projects in each product category and to meet all requirements at the least cost. Projects in each product category will be selected, lower price to higher price, to meet the 3 MW minimum in each product category. Once these product category minimums are reached all remaining projects will be compiled into a single list from which the remaining projects are selected. The methodology to evaluate and rank bids submitted under the proposed local procurement option will be reviewed and agreed to by the IE and the PRG.

### **NETWORK UPGRADE COST CAPS**

Although the RAM decision is silent as to cost caps for network upgrade costs occasioned by SDG&E's purchase of renewable power through the auction mechanism, SDG&E suggests in its advice letter that a \$150,000 per MW cap should be set to limit ratepayer exposure to excessive transmission network upgrade costs not included in bid prices caused by the purchase of renewable power is both reasonable and prudent<sup>6</sup>.

The Draft Resolution requires SDG&E to remove the transmission network upgrade cost caps from its bidding protocols and contracts despite the fact that such costs are real ratepayer costs not captured in the seller's bid price. Instead the Draft Resolution requires SDG&E to add the generator's actual estimated costs of network upgrades to the seller's price when ranking bids stating this would comply with the RAM decision that allows normalization to put bids on equal basis before making a least cost selection. This requirement fails to address the purpose of SDG&E's proposed cap, which is to limit ratepayer cost. The normalization requirement provided by the Draft Resolution fails to limit ratepayer costs by requiring such costs to be added to the developer's bid without prudence. Allowing unlimited network upgrade costs is not consistent with the "lowest cost" goal of the RAM.

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<sup>6</sup> SDG&E AL2232-E

## **DG INTERCONNECTION MAPS**

Ordering Paragraph (“OP”) 22 of the Draft Resolution requires investor-owned utilities to “post publicly by December 31, 2011 updated maps that cover their whole service territory, including both the distribution and transmission system.” To the extent the Commission intends to require SDG&E to post comparable levels of detail for both its distribution and transmission systems, SDG&E must object. This is because SDG&E depicts the following on its distribution system map: substation area location, feeder location, available generation capacity, total generation capacity and area served at the substation and circuit level. Access to the distribution map is subject to registration<sup>7</sup>.

As discussed below, there are two basic reasons why SDG&E is precluded from disclosing a similar level of detail for its transmission system. First, Federal rules and regulations designed to protect the bulk electric power transmission system from security breaches preclude public disclosure of such detail. Second, most generators under the RAM program will seek to interconnect at the distribution system rather than at the transmission system. To the extent that they do seek transmission interconnection, they will be required to follow the California Independent System Operator’ (“CAISO”) processes embedded in the CAISO’s Tariff. SDG&E’s transmission data will have little effect on the broader CAISO analysis.

More specifically, the Federal Energy Regulatory Commission (“FERC”) has determined that detailed transmission data such as substation location and design, circuit design capacity (total and excess), voltage and load information is Critical Energy Infrastructure Information (“CEII”),<sup>8</sup> pursuant to the Critical Infrastructure Information Act of 2002.<sup>9</sup> The FERC has promulgated regulations to protect against public disclosure of CEII,<sup>10</sup> which require, among other things, that individuals execute non-disclosure agreements (“NDA”) addressing, among other things, the identity of the requestor and acceptable uses of the data.

Further, in Order No. 706, et seq.,<sup>11</sup> the FERC approved Critical Infrastructure Protection (“CIP”) Reliability Standards that the North American Electric Reliability Corporation (“NERC”) adopted to protect the bulk electric power system. Those CIP Reliability Standards also preclude public disclosure of detailed transmission data. Without disclosing sensitive information, certain

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<sup>7</sup> Draft Resolution p.21.

<sup>8</sup> CEII is defined as :

[S]pecific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) [r]elates details about the production, generation, transportation, transmission, or distribution of energy; (ii) [c]ould be useful to a person in planning an attack on critical infrastructure; (iii) [i]s exempt from mandatory disclosure under the Freedom of Information Act [citation omitted] and (iv) [d]oes not simply give the general location of the critical infrastructure. 18 C.F.R. §388.113 (c)(1).

Critical infrastructure is defined as:

[E]xisting and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. (18 C.F.R. §388.113 (c)(2).

<sup>9</sup> 6 U.S.C. §§131 – 134

<sup>10</sup> 18 U.S.C. §388.113.

<sup>11</sup> *Mandatory Reliability Standards for Critical Infrastructure Protection*, Order No. 706, 122 FERC ¶ 61,040, *order on reh'g*, Order No. 706-A, 123 FERC ¶ 61,174 (2008), *order on clarification*, Order No. 706-B, 126 FERC ¶ 61,229 (2009).

SDG&E's transmission data may include disclosure of facility locations that contain critical cyber assets covered by the NERC CIP Reliability Standards.<sup>12</sup> Public disclosure of such data is not permitted.

Apart from data sensitivity, there are other reasons why the Commission should not require public disclosure of detailed transmission data: (1) capacity and flow data fluctuate, and hence, are unreliable for long-term planning regarding location and (2) under the RAM program, interconnection will likely occur at the distribution level rather than at the transmission level and any transmission interconnection will be required to follow the CAISO tariff and protocols. Additionally, the CAISO has recently announced a stakeholder process to revise its Generator Interconnection and Transmission Planning processes to provide incentives for new resource developers, such as RAM participants, to interconnect to the ISO grid at the most cost-effective locations.

Given the foregoing, there is no sound basis for the Commission to require SDG&E to provide detailed information regarding its transmission system. If the Commission disagrees; however, at a minimum, it must require generators seeking detailed transmission data to execute a NDA with SDG&E, subject to appropriate verifications.

#### **PUBLIC RELEASE OF RAM BID DATA**

The Draft Resolution requires SDG&E to adopt language informing bidders that information on bids and project development milestones for executed contracts will be publicly disseminated, and to provide the Commission an update once per quarter on each project's progress toward the achievement of project development milestones, as specified in Attachment B of the Draft Resolution. Regarding the Draft Resolution's requirement to publicly release RAM bid data, SDG&E will protect confidential and proprietary information in accordance with the IOU Matrix as provided in D. 06-06-066. Moreover, the Draft Resolution's reporting requirement is duplicative of existing reporting requirements such as the semi-annual Project Development Status Report. Streamlining the reporting requirements in the RPS proceeding will avoid unnecessary administrative burden both for the utility and the Commission's limited resources.

Respectfully submitted,

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Clay Faber  
Director – Regulatory Affairs

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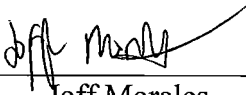
<sup>12</sup> CIP-003 R.4, requires protection for “network topology or similar diagrams, floor plans of computing centers that contain Critical Cyber Assets, equipment layouts of Critical Cyber Assets, disaster recovery plans, incident response plans, and security configuration information.”

cc: President Michael R. Peevey  
Commissioner Mark J. Ferron  
Commissioner Michel Peter Florio  
Commissioner Catherine J.K. Sandoval  
Commissioner Timothy A. Simon  
Jaclyn Marks, Energy Division  
Paul Douglas, Energy Division  
Cheryl Lee, Energy Division  
Service Lists for R.08-08-009 and R.11-05-005

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of SDG&E's comments to Draft Resolution E-4414 on all parties or their attorneys as shown on the attached service list.

Dated August 2, 2011 at San Diego, California.

  
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Joff Morales