

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #10600
RESOLUTION E-4407
September 8, 2011

REDACTED

R E S O L U T I O N

Resolution E-4407. San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement with NRG Solar Borrego I, LLC.

PROPOSED OUTCOME: This Resolution approves cost recovery for the long-term renewable energy power purchase agreement between San Diego Gas & Electric Company and NRG Solar Borrego I, 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 2236-E filed on March 14, 2011 and Advice Letter 2236-E-A filed on June 28, 2011.

SUMMARY

San Diego Gas & Electric Company's renewable energy power purchase agreement with NRG Solar Borrego I, LLC complies with the Renewables Portfolio Standard procurement guidelines and is approved without modification

San Diego Gas & Electric Company (SDG&E) filed Advice Letter 2236-E on March 14, 2011, requesting California Public Utilities Commission (Commission) review and approval of a 25 year renewable energy power purchase agreement between SDG&E and NRG Solar Borrego I, LLC. The bilaterally negotiated power purchase agreement is for generation from a new 26 megawatt solar photovoltaic facility that is being developed in Borrego Springs, California. The facility is expected to achieve commercial operation in 2012. On June 28, 2011, SDG&E filed Advice Letter 2236-E-A requesting approval of the original agreement and an amendment that decreases the contract price and delays

deadlines in the power purchase agreement, including the commercial online date.

This resolution approves the NRG Solar Borrego I, LLC power purchase agreement, as amended, without modification. SDG&E's execution of this power purchase agreement is consistent with SDG&E's 2011 RPS Procurement Plan, including its resource need, which the Commission approved in Decision 11-04-030.

Deliveries under the NRG Solar Borrego I, LLC power purchase agreement are reasonably priced and fully recoverable in rates over the life of the power purchase agreement, subject to Commission review of SDG&E's administration of the power purchase agreement.

The following table provides a summary of the NRG Solar Borrego I, LLC power purchase agreement:

Generating Facility	Technology Type	Capacity (MW)	Energy (GWh/yr)	Online Date	Term (Years)	Location
NRG Solar Borrego I	Solar PV	26	64	10/1/2012	25	Borrego Springs, 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 Furthermore, SB 2 (1x)⁴ mandates that the amount of electricity generated per

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 Code unless otherwise specified.

³ See § 399.15(b)(1).

⁴ Stats. 2011, Ch. 1 (Simitian)

year from eligible renewable resources be increased to an amount that equals an average of 20% of the total electricity sold to retail customers in California for the period 2011-2013; 25% of retail sales by December 31, 2016; and 33% of retail sales by December 31, 2020.⁵

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

NOTICE

Notice of Advice Letters 2236-E and 2236-E-A was made by publication in the Commission's Daily Calendar. SDG&E states that copies of the Advice Letters were mailed and distributed in accordance with Section IV of General Order 96-B.

PROTESTS

SDG&E's Advice Letters 2236-E and 2236-E-A were not protested.

DISCUSSION

San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement with NRG Solar Borrego I, LLC.

On March 14, 2011, San Diego Gas and Electric Company (SDG&E) filed Advice Letter (AL) 2236-E requesting California Public Utilities Commission (Commission) approval of a long-term power purchase agreement (PPA) with NRG Solar Borrego I, LLC (Borrego I). On June 28, 2011, SDG&E filed AL 2236-E-A to request approval of the Borrego I PPA, as amended by the amendment. The amendment to the original PPA decreases the PPA price and delays certain deadlines, including the commercial operation date.

The Borrego I PPA concerns generation from a new solar photovoltaic (PV) facility located in Borrego Springs, California. The facility is expected to come online in 2012; thus, generation from the facility could count towards SDG&E's RPS requirements in the first compliance period.⁶ In addition to providing near-

⁵ SB 2 (1x) was signed by Governor Brown on April 12, 2011. The law becomes effective 90 days from the conclusion of the extraordinary session.

⁶ In addition to raising California's RPS requirement to 33% from 20%, SB x1 2 (Stats.

term renewable generation, the project is expected increase electric reliability in the Borrego Springs area and decrease transmission system losses.

The Commission's approval of the PPA will authorize SDG&E to accept future RPS-eligible generation that will contribute towards SDG&E's 20 percent RPS mandate, and the 25-year PPA will contribute to SDG&E's long-term 33 percent RPS goals. The Borrego I project is expected to generate annual RPS-eligible deliveries of approximately 64 gigawatt-hours (GWh) and begin operations in 2012.

SDG&E requests that the Commission issue a resolution that:

1. The Borrego I PPA is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the Proposed Agreement will contribute towards SDG&E's RPS procurement obligation.
2. SDG&E's entry into the Borrego I PPA and the terms of such agreement are reasonable; therefore, the Borrego I PPA is approved in its entirety and all administrative and procurement costs associated with the Borrego I PPA, including for energy, green attributes, and resource adequacy, are fully recoverable in rates over the life of the Borrego I PPA, subject to Commission review of SDG&E's administration of the Borrego I PPA.
3. Generation procured pursuant to the Borrego I PPA constitutes generation 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 Renewable Portfolio Standard program (Public Utilities Code §§ 399.11, et seq. and/or other applicable law) and relevant Commission decisions.
4. The Borrego I PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
5. Expected Borrego I deliveries are eligible for earmarking treatment under RPS flexible compliance mechanisms.

2011 (Simitian)) establishes three different compliance periods, 2011-2013, 2014-2016, and 2017-2020.

Energy Division Evaluated the Borrego I PPA on the following criteria:

- Consistency with bilateral contracting rules
- Consistency with SDG&E's 2011 RPS Procurement Plan
- Consistency with SDG&E's Least-Cost, Best-Fit requirements
- Consistency with RPS standard terms and conditions
- Independent Evaluator review
- Cost reasonableness
- Cost containment
- Project viability assessment and development status
- 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 Bilateral Contracting Rules

According to SDG&E, the parties pursued bilateral negotiations because the proposal was presented to SDG&E in August of 2010 when the timing of the next RPS solicitation was unknown and waiting for the solicitation would have delayed the project's proposed mid-2012 online date. Based on the schedule ordered in D.11-04-030, SDG&E estimates that if the Borrego I project had participated in its 2011 RPS solicitation, the project online date would be delayed by eight months. The delay would have resulted in diminished generation deliveries in the first RPS compliance period, which SDG&E has identified as a compliance period where they need additional generation for compliance purposes. Additionally, SDG&E states that the developer is pursuing a cash grant via the American Recovery and Reinvestment Act of 2009 (ARRA), 1603 Program which requires construction to begin by the end of 2011.⁷ Thus, if SDG&E had delayed consideration of the bilateral offer the project's ability to use the cash grant could have been eliminated.

Further, based on its observations of timing needed for project development and the schedule of 2011 RPS solicitation, SDG&E pursued the bilateral opportunity because it did not anticipate receiving alternative offers from the solicitation that

⁷ ARRA 1603 Program: Payments for Specified Energy Property in Lieu of Tax Credits: <http://www.treasury.gov/initiatives/recovery/Pages/1603.aspx>

could match the near-term online date and high viability of the bilateral offer. However, SDG&E states that due to its need for near term deliveries if there are offers of similar viability and near term online dates submitted to its 2011 solicitation, it will likely shortlist those projects as well.

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. SDG&E adhered to these bilateral contracting rules because the PPA is longer than one month in duration, the PPA was filed by advice letter, the above market costs will not be applied to SDG&E's RPS cost limitation and the contracts are reasonably priced, as discussed in more detail below.

In D.09-06-050, this Commission determined that bilateral agreements should be reviewed according to the same processes and standards as projects that come through a solicitation. Accordingly, as described below, the Borrego I PPA was compared to other RPS offers received in SDG&E's most recent RPS solicitation, bilateral offers, and recently executed agreements; the proposed agreement was reviewed by SDG&E's Procurement Review Group; and an independent evaluator oversaw the project evaluation and PPA negotiation.

The Borrego I PPA is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

Consistency with SDG&E's 2011 RPS Procurement Plan

Pursuant to statute, SDG&E's RPS Procurement Plan (Plan) includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of flexible compliance mechanisms established by the Commission, and a bid solicitation protocol setting forth the need for renewable generation of various operational characteristics.⁸

California's RPS statute also requires that the Commission review the results of a renewable energy resource solicitation submitted for approval by a utility.⁹ The Commission reviews the results to verify that the utility conducted its solicitation according to its Commission-approved procurement plan.¹⁰

⁸ Pub. Utils. Code, Section §399.14(a)(3).

⁹ Pub. Utils. Code, Section §399.14.

¹⁰ SDG&E's 2011 RPS Procurement Plan was approved by D.11-04-030 on April 14, 2011.

In SDG&E's 2011 RPS Plan, SDG&E expressed a commitment to contract in excess of its mandated annual procurement targets and goal of 33 percent renewables by 2020.¹¹ SDG&E's 2011 RPS Plan called for SDG&E to issue a competitive solicitation for electric energy generated by eligible renewable resources that could begin delivering in 2011, 2012, 2013, 2014, and 2015 for terms of one month to 20 years in length with terms greater than 20 years also being acceptable. Proposals could be for peaking, baseload, dispatchable, or as-available deliveries. SDG&E additionally expressed preference for projects that could contribute towards SDG&E's Sunrise Powerlink commitment. SDG&E also stated in its Plan that bilateral offers would be considered if they were competitive when compared against recent RFO offers and provide benefits to SDG&E customers. Last of all, SDG&E's Plan discussed utility plans to pursue renewable energy generation development partnerships and utility-owned resources.

The PPA is a contract for renewable generation that fits SDG&E's identified renewable resource needs. The proposed PPA is for as-available generation pursuant to a 25 year contract from a renewable energy facility that is expected to provide renewable energy deliveries beginning in 2012 that will contribute towards SDG&E's near term RPS requirement and local resource adequacy requirement.

The Borrego I PPA is consistent with SDG&E's 2011 RPS Procurement Plan, as approved by D.11-04-030.

Consistency with SDG&E's least-cost best-fit (LCBF) methodology

In D.04-07-029, the Commission directs the utilities to use certain criteria in their LCBF selection of renewable resources.¹² The decision offers guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence negotiations. As described in its 2011 RPS Procurement Plan, SDG&E's LCBF bid evaluation includes a quantitative analysis and qualitative criteria. SDG&E's quantitative analysis or market valuation includes evaluation of price, time of delivery factors, transmission costs, congestion costs, and resource adequacy. SDG&E's qualitative analysis focuses on comparing similar bids across numerous factors, such as location, benefits to minority and low income areas, resource diversity, etc.

¹¹ In D.08-12-058, which approved SDG&E's Sunrise Powerlink, SDG&E committed to procuring 33 percent of its electricity from renewables by 2020.

¹² See §399.14(a)(2)(B)

SDG&E negotiated the Borrego I PPA bilaterally and therefore it did not compete directly with other RPS projects. In AL 2236-E, SDG&E explains that it evaluated the bilateral agreement using the same LCBF evaluation methodology it employs for evaluating bids from solicitations. Thus, SDG&E used its LCBF methodology to evaluate the Borrego I PPA. (See the “Cost Reasonableness” section of this Resolution for a discussion of how the project compares to SDG&E’s 2009 RPS solicitation, recent bilateral offers, and recently approved contracts. In addition, see Confidential Appendix B for SDG&E’s LCBF evaluation of the project.)

The Borrego I PPA was evaluated consistent with the LCBF methodology identified in SDG&E’s RPS Procurement Plan

Consistency with RPS Standard Terms and Conditions

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered “non-modifiable.” The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. More recently in D.10-03-021, as modified by D.11-01-025, the Commission further refined these STCs.

The Borrego I PPA includes the Commission adopted RPS “non-modifiable” standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025.

Independent Evaluator Review

SDG&E retained independent evaluator (IE) Jonathan Jacobs of PA Consulting Group to oversee SDG&E’s bilateral negotiations with Borrego I and to evaluate the overall merits for CPUC approval of the PPA. AL 2236-E included a public and confidential independent evaluator’s report. The IE also evaluated the amended PPA and revised his original report, which SDG&E included in AL 2236-E-A.

In the original and revised IE report, the IE states that he determined the negotiations between SDG&E and Borrego I were fair and that Borrego I was not given preferential treatment over sellers participating in the 2009 RPS solicitation. In the revised IE report the IE states that “...the NRG Solar Borrego project is a good one and the contract merits approval.”¹³ The IE also adds that

¹³ Report of the Independent Evaluator on the 25.75 MW NRG Solar Borrego contract relative to the results of the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO) - REVISED, Jonathan M. Jacobs, (June 23, 2011) p. 7-5

the project is a “reasonably viable project.”¹⁴ (See Confidential Appendix C for an excerpt of the IE report.)

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E’s negotiations with Borrego I.

Cost Reasonableness

The Commission’s reasonableness review for RPS PPA prices includes a comparison of the proposed PPA price to other RPS offers received in recent RPS solicitations, bilaterals offers, and recently approved contracts. Using this analysis and the confidential analysis provided by SDG&E in AL 2236-E and AL 2236-E-A, the Commission determines that the cost of the Borrego I PPA is reasonable. (See Confidential Appendix B for a detailed discussion of the contractual pricing terms.)

The Borrego I PPA compares favorably to the results of SDG&E’s 2009 RPS solicitation and other comparable contracts.

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

Cost Containment

Pursuant to statute, the Commission calculates a market price referent (MPR) to assess whether a proposed PPA has above-market costs.¹⁵ The MPR is used by the Commission to assess the above-market costs of RPS contracts. There is a statutory limit on above-MPR costs, which serves as a cost containment mechanism for the RPS program.¹⁶ Contracts that meet certain criteria are eligible for above-MPR funds (AMFs).¹⁷ SDG&E has exhausted its AMFs provided by statute;¹⁸ thus, SDG&E is not required to procure RPS-eligible

¹⁴ *Ibid.*

¹⁵ See Pub. Util. Code § 399.15(c).

¹⁶ See Pub. Utils. Code §399.15.

¹⁷ 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.

¹⁸ On May 28, 2009, the Director of the Energy Division notified SDG&E that it had

generation at above-MPR costs but may voluntarily choose to do so.¹⁹

Based on a 2012 commercial online date for the Borrego I PPA, the 25-year PPA exceeds the 2009 MPR. The Borrego I PPA does not meet the eligibility criteria for AMFs because it is not the result of a solicitation.

Since SDG&E has exhausted its AMFs, it is voluntarily entering into the PPA at a price that exceeds the applicable market price referent as permitted by Public Utilities Code § 399.15(d).

Project Viability Assessment and Development Status

SDG&E asserts that the Borrego I project is viable and will be developed according to the terms and conditions in the PPA. SDG&E evaluated the viability of the Borrego I 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 2236-E include a comparison of Borrego I's project viability score relative to all bids SDG&E received in its 2009 RPS solicitation and all shortlisted projects. Based on this analysis, the viability of the Borrego I project is reasonable compared to other recent projects offered to SDG&E.

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

Developer experience

NRG Solar LLC is the developer of the project. NRG Solar LLC is wholly owned by NRG Energy. NRG Solar has experience developing and operating large scale solar and conventional energy projects in California and other states. Currently, NRG Solar is operating a 21 MW PV facility in Blythe, CA.

Resource quality and technology

Based on the average daily solar insolation of the proposed project area, SDG&E describes the project site as being located in a region with one of the best solar resources in the United States in terms of hours of sunshine and solar intensity. Additionally, to confirm the suitability of the site NRG Solar has had BEW Engineering analyze data from several sources (National Renewable Energy Lab, State University of New York, and California Irrigation Management

exhausted its AMFs account.

¹⁹ See Pub. Util. Code § 399.15(d).

Information System) to confirm the appropriateness of the site for solar development. The project expects to use commercially demonstrated photovoltaic modules in 1 MW blocks.

Site control and permitting status

The proposed facility is to be located on private lands for which Borrego I has secured full site control through options to purchase. Borrego I is pursuing a major use permit from San Diego County along with CEC Pre-Certification for the facility's RPS eligibility. All permits are expected to be obtained in a timely manner to achieve the conditions precedent in the PPA.

Interconnection and transmission

Borrego I will interconnect at the Borrego Substation. The Phase I and Phase II CAISO Transmission Studies for the project are complete and Large Generator Interconnection Agreement is in negotiation and expected to be finalized in the third quarter of 2011.

Financing Plan

The project is expected to be financed through a combination of debt and equity. Additionally, the developer plans to pursue a cash grant under Section 1603 of ARRA (Payments for Specified Energy Property in Lieu of Tax Credits).

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Utils. Code §§ 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.²⁰

D.07-01-039 adopted an interim Emissions Performance Standard (EPS) that establishes an emission rate for obligated facilities at levels no greater than the greenhouse gas (GHG) emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS.²¹

²⁰ "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." Pub. Utils. Code § 8340 (a).

²¹ D.07-01-039, Attachment 7, p. 4

The Borrego I PPA meets the conditions for EPS compliance because it is for intermittent generation with a capacity factor less than 60 percent, whose generation will be delivered into California.

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.²² SDG&E asserts that the Borrego I PPA was discussed at PRG meetings in August 2010 and December 2010.

Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the Borrego I 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.²³ 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 percent of the utility's previous year's retail sales.

As a new facility, delivering pursuant to long-term contracts, the Borrego I PPA will contribute to SDG&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

²² SDG&E's PRG includes representatives of the Union of Concerned Scientists, the Coalition of California Utility Employees, The Utility Reform Network, the California Public Utility Commission's Energy Division and Division of Ratepayer Advocates, and the California Department of Water Resources.

²³ 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."

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.²⁴

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 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.”²⁵

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.

²⁴ See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

²⁵ See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.

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.

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 Borrego I PPA is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.
2. The Borrego I PPA is consistent with SDG&E's 2011 RPS Procurement Plan, as approved by D.11-04-030.
3. The Borrego I PPA was evaluated consistent with the least-cost best-fit methodology identified in SDG&E's RPS Procurement Plan.
4. The Borrego I PPA includes the Commission-adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as amended by D.11-01-025.
5. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's RPS procurement process.
6. The Borrego I PPA compares favorably to the results of SDG&E's solicitation, bilateral offers, and recently approved contracts.
7. Payments made by SDG&E under the Borrego I PPA are fully recoverable in rates over the life of the Borrego I PPA, subject to Commission review of SDG&E's administration of the Borrego I PPA.
8. The Borrego I PPA price exceeds the applicable 2009 market price referent.

9. SDG&E is voluntarily entering into the Borrego I PPA at a price that exceeds the applicable market price referent as permitted under the Public Utilities Code §399.15.
10. SDG&E asserts that the Borrego I project is viable and will provide renewable energy according to the terms and conditions in the Borrego I PPA.
11. The Borrego I PPA meets the conditions for EPS compliance because it is for intermittent generation with a capacity factor less than 60 percent, whose generation will be delivered into California.
12. Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the Borrego I PPA.
13. The Borrego I PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
14. Procurement pursuant to the Borrego I PPA is procurement from eligible renewable energy resources 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.), D.03-06-071 and D.06-10-050, or other applicable law.
15. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under this PPA to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this PPA.
16. 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.
17. AL 2236-E and 2236-E-A should be approved effective today without modification.

THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letters 2236-E and 2236-E-A, requesting Commission review and approval of a power purchase agreement, as amended, with NRG Solar Borrego I, LLC, is approved.

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 8, 2011; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

Confidential Appendix A

Evaluation Summary of the NRG Solar Borrego I PPA

[Redacted]

Confidential Appendix B

Summary of the Terms and Conditions of the Borrego I
PPA and the Borrego I Expansion PPA

[Redacted]

Confidential Appendix C

Excerpt from Independent Evaluator's Report
regarding SDG&E's PPA with NRG Solar Borrego I²⁶

[Redacted]

²⁶ Confidential Appendix C to Advice Letter 2236-E, Report of the Independent Evaluator on the 25.75 MW NRG Solar Borrego contract relative to the results of the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO) March 4, 2011