DRA

Division of Ratepayer Advocates
California Public Utilities Commission

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CPUC, Energy Division
Attention: Tariff Files, Room 4005
505 Van Ness, Avenue
San Francisco, CA 94102

Subject: DIVISION OF RATEPAYER ADVOCATES PROTEST TO ADVICE LETTER 2270-E

The Division of Ratepayer Advocates ("DRA") submits the following protest to Advice Letter (AL) 2270-E.

BACKGROUND

AL 2270-E proposes five new power purchase agreements (PPAs) between San Diego Gas & Electric (SDG&E) for five concentrated solar photovoltaic (PV) facilities in Southern California. The proposal totals 155 megawatts (MWs) of capacity and is expected to generate almost 355,000 megawatt-hours (MWhs) annually. The agreements were all bilaterally negotiated and each has a 25 year term. Four of the facilities will be located in Boulevard, California and one in Borrego Springs, California.

DRA recommends rejection of this Advice Letter for the following reasons:

1. The PPA Price and Transmission Upgrade Costs are Too High Compared to Other Market Alternatives

The 5 proposed PPAs are each priced above the applicable Market Price Referent ("MPR"), which in this case is $129.25/MWh.[1] Given the growing maturity of the renewable market and the consistently lower prices of renewable contracts brought forth by the utilities in the past year, especially in response to the recently completed renewable

[1] The applicable MPR in this case is the 2009 MPR even though the projects were proposed to SDG&E by Soitec, then operating as Concentrix Solar, Inc., in October of 2010. This is because an MPR was not calculated for 2010 and the 2011 MPR has not yet been calculated.

Requests for Offers ("RFOs"), there is no reason to approve contracts priced above the MPR. Even the Independent Evaluator ("IE") for the projects opined that the prices are only competitive if the contract valuations do not include the maximum possible upgrade costs and instead use the Transmission Ranking Cost Report ("TRCR") methodology.[2] However, since San Diego Gas &Electric ("SDG&E") could bear up to the maximum upgrade costs allowable under the contracts, the highest possible all-in cost should be considered. Under that assumption, the contracts are not competitive, even compared to bids into the 2009 RFO. Further, preliminary results from the 2011 RPS solicitation show that prices for renewables bids have gone down considerably. Approving contracts today that were allegedly priced competitively in the 2009 environment would create windfall profits for the developer. The developer will likely go forth and buy equipment only after these contracts were approved while the installed costs for solar photovoltaics dropped dramatically in the past two years.

2. The Commission Should Reject the Advice Letter unless SDG&E Negotiates Lower Prices

PG&E recently filed an amendment to its North Start Solar contract that decreases the price by over 20%.[3] It did so in response to a Commission Draft Resolution that found that the appropriate comparison for the project is today's offers – not the set of contracts available to PG&E in 2009. The Commission should apply the same reasoning and principle here.

Like the North Start Solar contract, the prices of the 5 proposed contracts are inconsistent with today's market conditions and are competitive (if at all) only in comparison to results from the 2009 RFO. If, as the experience with the PG&E North Start Solar contracts suggests, the developer of these proposed PPAs can reduce the installed costs of the projects, the savings should be passed through to ratepayers and accounted for in renegotiated, lower contract prices which the Commission can assess for cost competitiveness.

3. Recommendation

DRA recommends that the Commission reject this Advice Letter because the five PPAs are not competitive with current market prices, as reflected by bids into the recently completed renewable RFO. Alternatively, if SDG&E can negotiate price reductions the Commission can consider if the renegotiated prices are demonstrably competitive with today's offers.

[2] See IE Report, p. 7-3.
[3] Advice Letter 3759-E-A, filed on July 27, 2011.

Please contact Yuliya Shmidt at (415) 703-2719 if you have any questions about this protest.

Regards,

/s/ CYNTHIA WALKER

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CYNTHIA WALKER
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Service List in R.11-05-005