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October 4, 2011

**ADVICE LETTER 2257-E-B  
(U 902-E)**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**SUBJECT: SUPPLEMENT – ADDITION OF INDEPENDENT EVALUATOR (IE) REPORT TO  
THE ADVICE LETTER REQUESTING APPROVAL OF POWER PURCHASE  
AGREEMENT WITH CSOLAR IV WEST LLC**

**I. PURPOSE**

The purpose of the Initial Advice Letter (filed on May 27, 2011) and Supplemental Advice Letter (filed on October 3, 2011) was requesting approval of a 25 year Power Purchase Agreement (“PPA”) between SDG&E and CSolar IV West, LLC for the purchase of renewable power and involves delivery of solar energy from a photovoltaic plant to be constructed in the Imperial Valley of California. On October 3, 2011 SDG&E filed Advice Letter 2257-E-A, which amended the original PPA as described therein (the “First Amendment”). Supplemental Advice Letter 2257-E-B is being submitted to provide the Commission with a revised report from SDG&E’s Independent Evaluator that reviews the First Amendment.

This Supplemental Advice Letter (the “Advice Letter”) provides an Independent Evaluator (IE) Report attached as Confidential Appendix B to the Supplemental Advice Letter.

**II. BACKGROUND**

The California Public Utility Commission (the “CPUC”) requires an IE Report accompany any bilateral contract submitted for approval, and the template provided by the CPUC relates to the RFOs.

**III. EFFECTIVE DATE**

SDG&E respectfully requests approval of Advice Letter 2257-E-B no later than November 10, 2011.

**IV. REQUEST FOR CONFIDENTIAL TREATMENT**

Confidential information in support of the First Amendment is provided in Confidential AppendixB, as listed below:

Appendix B: Revised RPS Project-Specific Independent Evaluator Report

The Appendix contain market sensitive information protected, pursuant to Commission Decision D.06-06-066, as detailed in the concurrently-filed declaration. The following table presents the type of information within the confidential appendices and the matrix category under which D.06-06-066 permits the data to be protected.

Type of Information	D.06-06-066 Confidential Matrix Category
Analysis and Evaluation of amended RPS Projects	VII.G
Contract Terms and Conditions	VII.G
Raw Bid Information	VIII.A
Quantitative Analysis	VIII.B
Net Short Position	V.C
IPT/APT Percentages	V.C

**V. REQUEST FOR COMMISSION APPROVAL**

SDG&E's entry into the amended Agreement and the terms of such amended Agreement are reasonable; therefore, all costs associated with the amended Agreement, including energy, green attributes, and resource adequacy should be fully recoverable in rates.

The amended Agreement is conditioned upon "CPUC Approval." SDG&E, therefore, requests that the Commission include the following findings in its Resolution approving the amended Agreement:

1. The amended Agreement is consistent with SDG&E's CPUC-approved RPS Plan and procurement from the amended Agreement will contribute towards SDG&E's RPS procurement obligation.
2. SDG&E's entry into the amended Agreement and the terms of such agreement are reasonable; therefore, the amended Agreement is approved in its entirety and all costs of the purchase associated with the amended Agreement, including for energy, green attributes, and resource adequacy are fully recoverable in rates over the life of the amended Agreement, subject to Commission review of SDG&E's administration of the amended Agreement.
3. Generation procured pursuant to the amended Agreement 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 amended Agreement will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

## **VI. PROTEST**

The filing of a supplement does not automatically continue or reopen the protest period or delay the effective date of the advice letter.<sup>1</sup> The Energy Division may, on its own motion or at the request of any person, issue a notice continuing or reopening the protest period. Any new protest shall be limited to the substance of the supplemental filing.

SDG&E respectfully requests that the protest period not be reopened. Supplemental Advice Letter 2257-E-B does nothing other than provide the Commission with the revised Independent Evaluator's report, and does not modify in any way the First Amendment. However, if the protest period is reopened, the protest must state the grounds upon which it is based and should be submitted in accordance with the direction provided by the Energy Division. The address for mailing or delivering a protest to the Commission is:

CPUC Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102

Copies should also be sent via e-mail to the attention of Honesto Gatchallian (jnj@cpuc.ca.gov) and Maria Salinas (mas@cpuc.ca.gov) of the Energy Division. It is also requested that a copy of the protest be sent via electronic mail and facsimile to SDG&E on the same date it is mailed or delivered to the Commission (at the addresses shown below).

Attn: Megan Caulson  
Regulatory Tariff Manager  
8330 Century Park Court, Room 32C  
San Diego, CA 92123-1548  
Facsimile No. 858-654-1879  
E-Mail: mcaulson@semprautilities.com

## **VII. NOTICE**

In accordance with General Order No. 96-B, a copy of this filing has been served on the utilities and interested parties shown on the attached list, including interested parties in R.11-05-005, by either providing them a copy electronically or by mailing them a copy hereof, properly stamped and addressed.

---

<sup>1</sup> General Order 96-B. § 7.5.1.

Address changes should be directed to SDG&E Tariffs by facsimile at (858) 654-1879 or by e-mail to [SDG&ETariffs@semprautilities.com](mailto:SDG&ETariffs@semprautilities.com).

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Clay Faber  
Director – Regulatory Affairs

**ATTACHMENTS**

- Appendix B: Revised RPS Project-Specific Independent Evaluator Report (Confidential and redlined version)
- Appendix B: Revised RPS Project-Specific Independent Evaluator Report (Public version)

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **SAN DIEGO GAS & ELECTRIC (U 902)**

Utility type:

ELC

GAS

PLC

HEAT

WATER

Contact Person: Joff Morales

Phone #: (858) 650-4098

E-mail: jmorales@semprautilities.com

### EXPLANATION OF UTILITY TYPE

ELC = Electric

GAS = Gas

PLC = Pipeline

HEAT = Heat

WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: 2257-E-B

Subject of AL: Supplemental – Addition of Independent Evaluator (IE) Report to the Advice Letter

Requesting Approval of Power Purchase Agreement with CSolar IV West LLC

Keywords (choose from CPUC listing): Procurement, Power Purchase Agreement

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: None

Summarize differences between the AL and the prior withdrawn or rejected AL<sup>1</sup>: N/A

Does AL request confidential treatment? If so, provide explanation: None

Resolution Required?  Yes  No

Tier Designation:  1  2  3

Requested effective date: 11/10/2011

No. of tariff sheets: 0

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: \_\_\_\_\_

Service affected and changes proposed<sup>1</sup>: No re

Pending advice letters that revise the same tariff sheets: None

**Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:**

**CPUC, Energy Division**

**Attention: Tariff Unit**

**505 Van Ness Ave.,**

**San Francisco, CA 94102**

**mas@cpuc.ca.gov and jnj@cpuc.ca.gov**

**San Diego Gas & Electric**

**Attention: Megan Caulson**

**8330 Century Park Ct, Room 32C**

**San Diego, CA 92123**

**mcaulson@semprautilities.com**

<sup>1</sup> Discuss in AL if more space is needed.

General Order No. 96-B  
ADVICE LETTER FILING MAILING LIST

cc: (w/enclosures)

Public Utilities Commission

DRA

D. Appling  
S. Cauchois  
J. Greig  
R. Pocta  
W. Scott

Energy Division

P. Clanon  
S. Gallagher  
H. Gatchalian  
D. Lafrenz  
M. Salinas

CA. Energy Commission

F. DeLeon  
R. Tavares

Alcantar & Kahl LLP

K. Harteloo

American Energy Institute

C. King

APS Energy Services

J. Schenk

BP Energy Company

J. Zaiontz

Barkovich & Yap, Inc.

B. Barkovich

Bartle Wells Associates

R. Schmidt

Braun & Blaising, P.C.

S. Blaising

California Energy Markets

S. O'Donnell  
C. Sweet

California Farm Bureau Federation

K. Mills

California Wind Energy

N. Rader

Children's Hospital & Health Center

T. Jacoby

City of Chula Vista

M. Meacham

E. Hull

City of Poway

R. Willcox

City of San Diego

J. Cervantes  
G. Lonergan  
M. Valerio

Commerce Energy Group

V. Gan

Constellation New Energy

W. Chen

CP Kelco

A. Friedl

Davis Wright Tremaine, LLP

E. O'Neill  
J. Pau

Dept. of General Services

H. Nanjo  
M. Clark

Douglass & Liddell

D. Douglass  
D. Liddell  
G. Klatt

Duke Energy North America

M. Gillette

Dynegy, Inc.

J. Paul

Ellison Schneider & Harris LLP

E. Janssen

Energy Policy Initiatives Center (USD)

S. Anders

Energy Price Solutions

A. Scott

Energy Strategies, Inc.

K. Campbell  
M. Scanlan

Goodin, MacBride, Squeri, Ritchie & Day

B. Cragg  
J. Heather Patrick  
J. Squeri

Goodrich Aerostructures Group

M. Harrington

Hanna and Morton LLP

N. Pedersen

Itsa-North America

L. Belew

J.B.S. Energy

J. Nahigian

Luce, Forward, Hamilton & Scripps LLP

J. Leslie

Manatt, Phelps & Phillips LLP

D. Huard  
R. Keen

Matthew V. Brady & Associates

M. Brady

Modesto Irrigation District

C. Mayer

Morrison & Foerster LLP

P. Hanschen

MRW & Associates

D. Richardson

Pacific Gas & Electric Co.

J. Clark  
M. Huffman  
S. Lawrie  
E. Lucha

Pacific Utility Audit, Inc.

E. Kelly

R. W. Beck, Inc.

C. Elder

San Diego Regional Energy Office

S. Freedman  
J. Porter

School Project for Utility Rate Reduction

M. Rochman

Shute, Mihaly & Weinberger LLP

O. Armi

Solar Turbines

F. Chiang

Sutherland Asbill & Brennan LLP

K. McCrea

Southern California Edison Co.

M. Alexander  
K. Cini

K. Gansecki

H. Romero

TransCanada

R. Hunter  
D. White

TURN

M. Florio  
M. Hawiger

UCAN

M. Shames

U.S. Dept. of the Navy

K. Davoodi  
N. Furuta  
L. DeLacruz

Utility Specialists, Southwest, Inc.

D. Koser

Western Manufactured Housing

Communities Association

S. Dey

White & Case LLP

L. Cottle

Interested Parties

R.11-05-005

San Diego Gas & Electric Advice Letter 2257-E-B  
October 4, 2011

## ATTACHMENT A

### DECLARATION OF MARIA BOLDYREVA REGARDING CONFIDENTIALITY OF CERTAIN DATA

**BEFORE THE PUBLIC UTILITIES  
COMMISSION OF THE STATE OF CALIFORNIA**

**DECLARATION OF MARIA I. BOLDYREVA  
REGARDING CONFIDENTIALITY OF CERTAIN DATA**

I, Maria I. Boldyreva, do declare as follows:

1. I am an Energy Procurement Advisor for San Diego Gas & Electric Company (“SDG&E”). I have reviewed Supplemental Advice Letter 2257-E-B, requesting approval of the First Amendments to the Power Purchase Agreement (PPA) with CSolar IV West, LLC (with attached confidential and public appendices), dated October 4, 2011 (“Supplemental Advice Letter”). I am personally familiar with the facts and representations in this Declaration and, if called upon to testify, I could and would testify to the following based upon my personal knowledge and/or belief.

2. I hereby provide this Declaration in accordance with D.06-06-066, as modified by D.07-05-032, and D.08-04-023, to demonstrate that the confidential information (“Protected Information”) provided in the Advice Letter submitted concurrently herewith, falls within the scope of data protected pursuant to the IOU Matrix attached to D.06-06-066 (the “IOU Matrix”).<sup>1/</sup> In addition, the Commission has made

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<sup>1/</sup> The Matrix is derived from the statutory protections extended to non-public market sensitive and trade secret information. (See D.06-06-066, *mimeo*, note 1, Ordering Paragraph 1). The Commission is obligated to act in a manner consistent with applicable law. The analysis of protection afforded under the Matrix must always produce a result that is consistent with the relevant underlying statutes; if information is eligible for statutory protection, it must be protected under the Matrix. (See *Southern California Edison Co. v. Public Utilities Comm.* 2000 Cal. App. LEXIS 995, \*38-39) Thus, by claiming applicability of the Matrix, SDG&E relies upon and simultaneously claims the protection of Public Utilities Code §§ 454.5(g) and 583, Govt. Code § 6254(k) and General Order 66-C.



clear that information must be protected where “it matches a Matrix category exactly . . . or consists of information from which that information may be easily derived.”<sup>2/</sup>

3. I address below each of the following five features of Ordering Paragraph 2 in D.06-06-066:

- That the material constitutes a particular type of data listed in the Matrix,
- The category or categories in the Matrix to which the data corresponds,
- That it is complying with the limitations on confidentiality specified in the Matrix for that type of data,
- That the information is not already public, and
- That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.<sup>3/</sup>

4. SDG&E’s Protected Information: As directed by the Commission, SDG&E demonstrates in table form below that the instant confidentiality request satisfies the requirements of D.06-06-066.<sup>4/</sup>

Data at issue	D.06-06-066 Matrix Requirements	How moving party meets requirements
<p><b><i>Bid Information</i></b><sup>5</sup></p> <p><b><i>Locations:</i></b></p> <p><b><i>1. Confidential Appendix B</i></b></p> <ul style="list-style-type: none"> <li>▪ <i>Embedded Revised RPS Project-Specific</i></li> </ul>	<p>Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix</p>	<p>The data provided is non-public bid data from SDG&amp;E’s Renewable RFOs.</p>
	<p>Identify the Matrix</p>	<p>This information is</p>

<sup>2/</sup> See, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal*, issued May 4, 2007 in R.06-05-027, p. 2 (emphasis added).

<sup>3/</sup> D.06-06-066, as amended by D.07-05-032, *mimeo*, p. 81, Ordering Paragraph 2.

<sup>4/</sup> See, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s Motions to File Data Under Seal*, issued April 30 in R.06-05-027, p. 7, Ordering Paragraph 3 (“In all future filings, SDG&E shall include with any request for confidentiality a table that lists the five D.06-06-066 Matrix requirements, and explains how each item of data meets the matrix”).

<sup>5</sup> The confidential information referenced has a GREEN font color / has a green box around it in the confidential appendices.

<i>Independent Evaluator Report on p.2</i>	category or categories to which the data corresponds	protected under IOU Matrix category VIII.A.
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	In accordance with the limitations on confidentiality set forth in the IOU Matrix, SDG&E requests that this information be kept confidential until the final contracts from each of the RFOs have been submitted to the CPUC for approval.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	SDG&E cannot summarize or aggregate the bid data while still providing project-specific details. SDG&E cannot provide redacted or masked versions of these data points while maintaining the format requested by the CPUC.
<b><i>Specific Quantitative Analysis<sup>6</sup></i></b>  <b><i>Location:</i></b> <b><i>1. Confidential Appendix B</i></b> <ul style="list-style-type: none"> <li>▪ <i>Embedded Revised RPS Project-Specific Independent Evaluator Report on p.2</i></li> </ul>	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	This data is SDG&E's specific quantitative analysis involved in scoring and evaluating renewable bids. Some of the data also involves analysis/evaluation of proposed RPS projects.
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix categories VII.G and/or VIII.B.
	Affirm that the IOU is complying with the	In accordance with the limitations on

<sup>6</sup> The confidential information referenced has a BLUE font color / has a blue box around it in the confidential appendices

	limitations on confidentiality specified in the Matrix for that type of data	confidentiality set forth in the IOU Matrix, SDG&E requests that this information be kept confidential for three years.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	SDG&E cannot summarize or aggregate the evaluation data while still providing project-specific details. SDG&E cannot provide redacted or masked versions of these data points while maintaining the format requested by the CPUC.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	In order to include as much detail as possible, SDG&E has provided specific contract terms instead of summaries.

5. As an alternative basis for requesting confidential treatment, SDG&E submits that the First Amendment to the Power Purchase Agreement enclosed in the Advice Letter is material, market sensitive, electric procurement-related information protected under §§ 454.5(g) and 583, as well as trade secret information protected under Govt.

Code § 6254(k). Disclosure of this information would place SDG&E at an unfair business disadvantage, thus triggering the protection of G.O. 66-C.<sup>11/</sup>

6. Public Utilities Code § 454.5(g) provides:

The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

7. General Order 66-C protects “[r]eports, records and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.”

8. Under the Public Records Act, Govt. Code § 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed.<sup>12/</sup> Evidence Code § 1060 provides a privilege for trade secrets, which Civil Code § 3426.1 defines, in pertinent part, as information that derives independent economic value from not being

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<sup>11/</sup> This argument is offered in the alternative, not as a supplement to the claim that the data is protected under the IOU Matrix. California law supports the offering of arguments in the alternative. *See, Brandolino v. Lindsay*, 269 Cal. App. 2d 319, 324 (1969) (concluding that a plaintiff may plead inconsistent, mutually exclusive remedies, such as breach of contract and specific performance, in the same complaint); *Tanforan v. Tanforan*, 173 Cal. 270, 274 (1916) (“Since . . . inconsistent causes of action may be pleaded, it is not proper for the judge to force upon the plaintiff an election between those causes which he has a right to plead.”)

<sup>12/</sup> *See also* Govt. Code § 6254.7(d).

generally known to the public or to other persons who could obtain value from its disclosure.

9. Public Utilities Code § 583 establishes a right to confidential treatment of information otherwise protected by law.<sup>8/</sup>

10. If disclosed, the Protected Information could provide parties, with whom SDG&E is currently negotiating, insight into SDG&E's procurement needs, which would unfairly undermine SDG&E's negotiation position and could ultimately result in increased cost to ratepayers. In addition, if developers mistakenly perceive that SDG&E is not committed to assisting their projects, disclosure of the Protected Information could act as a disincentive to developers. Accordingly, pursuant to P.U. Code § 583, SDG&E seeks confidential treatment of this data, which falls within the scope of P.U. Code § 454.5(g), Evidence Code § 1060 and General Order 66-C.

11. Developers' Protected Information: The Protected Information also constitutes confidential trade secret information of the developer listed therein. SDG&E is required pursuant to the terms of its original Power Purchase Agreement as amended to protect non-public information. Some of the Protected Information in the original Power Purchase and Sale Agreement as amended and my supporting declaration (including confidential appendices), relates directly to viability of the respective projects. Disclosure of this extremely sensitive information could harm the developers' ability to negotiate necessary contracts and/or could invite interference with project development by competitors.

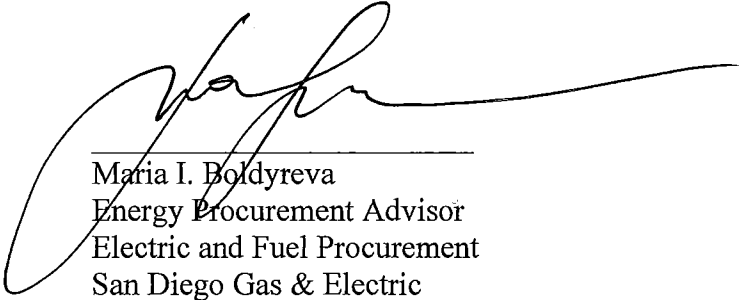
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<sup>8/</sup> See, D.06-06-066, *mimeo*, pp. 26-28.

12. In accordance with its obligations under its Power Purchase and sale Agreement and pursuant to the relevant statutory provisions described herein, SDG&E hereby requests that the Protected Information be protected from public disclosure.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 4<sup>th</sup> day of October, 2011 at San Diego, California.



\_\_\_\_\_  
Maria I. Boldyreva  
Energy Procurement Advisor  
Electric and Fuel Procurement  
San Diego Gas & Electric

San Diego Gas & Electric Advice Letter 2257-E-B

October 4, 2011

ATTACHMENT B

**PUBLIC VERSION**  
(Distributed to Service List R.11-05-005)

## **PART 2 – CONFIDENTIAL APPENDICES OF ADVICE LETTER**

**PROTECTED INFORMATION WITHIN PART 2 OF THIS ADVICE LETTER IS IDENTIFIED WITH COLOR FONTS AND CATEGORIZED IN ACCORDANCE WITH THE CONFIDENTIALITY CODE SHOWN BELOW:**


### **CONFIDENTIALITY KEY**

**VIOLET FONT = ANALYSIS AND EVALUATION OF PROPOSED RPS PROJECTS (VII.G)**

**RED FONT = CONTRACT TERMS & CONDITIONS (VII.G)**

**GREEN FONT = BID INFORMATION (VIII.A)**

**BLUE FONT = SPECIFIC QUANTITATIVE ANALYSIS (VIII.B)**

 = BID INFORMATION (VIII.A) AND SPECIFIC QUANTITATIVE



## **Confidential Appendix B**

### **Revised RPS Project-Specific Independent Evaluator Report (Public Version)**



IE report for  
Tenaska West (Public

# San Diego Gas & Electric Co.

Report of the Independent Evaluator on the  
96 to 150 MW CSolar Imperial Valley West  
contract relative to the results of the 2009  
Request for Offers from Eligible Renewable  
Resources (2009 Renewable RFO)

October 4, 2011

# San Diego Gas & Electric Co.

Report of the Independent Evaluator on the  
96 to 150 MW CSolar Imperial Valley West  
contract relative to the results of the 2009  
Request for Offers from Eligible Renewable  
Resources (2009 Renewable RFO)

October 4, 2011

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[www.paconsulting.com](http://www.paconsulting.com)

Version: 1.2

San Diego Gas & Electric Co. 10/4/11

**FOREWORD**

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This is PA Consulting Group's Independent Evaluator (IE) Report analyzing the contract between San Diego Gas & Electric Company (SDG&E) and CSolar for a 96-150 MW photovoltaic project. This contract is based on a bilateral offer.

This report is based on PA Consulting Group's Preliminary Report on the 2009 RFO. The Preliminary Report addressed the conduct and evaluation of San Diego Gas & Electric Company's 2009 Renewables RFO through the selection of its preliminary short list. This report contains all the text of the Preliminary Report except for placeholder text in chapters 6 and 7. In the body of the report (that is, except for this Foreword), text from the Preliminary Report is in gray while new text is presented in black. This should help the reader identify the new text.

This is a revision to a report dated May 23, 2011, which was attached to SDG&E's Advice Letter 2257-E. That Advice Letter was dated May 27, 2011. The CPUC requires an IE report accompany any bilateral contract submitted for approval, and the template provided by the CPUC relates to RFOs. Since this contract was not submitted into any RFO, PA based its report upon its IE report for the most recently completed RPS RFO as of the time of writing (the 2009 RPS RFO). This revision, while based on the report for the 2009 RFO, also references the results of the recently completed 2011 RFO.

This report contains confidential and/or privileged materials. Review and access are restricted subject to PUC Sections 454.5(g), 583, D.06-06-066, GO 66-C and the Confidentiality Agreement with the CPUC.

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**1. INTRODUCTION**

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PA Consulting Group, Inc. (PA) has served as the Independent Evaluator (IE) of San Diego Gas & Electric Co.'s (SDG&E's) 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO). This Report provides PA's evaluation of the fairness of the solicitation, up to and including the identification of a "short list" of bidders with whom SDG&E may pursue contract negotiations. This document has been formatted in accord with a template provided by Cheryl Lee of the CPUC Energy Division in an email dated Oct. 27, 2009.

## **2. ROLE OF THE INDEPENDENT EVALUATOR (IE)**

*Template language: "Describe the IE's role."*

This chapter describes the history of the requirements for Independent Evaluators at the Federal level and in California. It includes a list of the roles of the IE as well as a summary of PA's activities in fulfilling those roles.

### **2.1 THE IE REQUIREMENT**

*Template language: "Cite CPUC decisions requiring IE participation in RPS solicitations: D.04-12-048 (Findings of Fact 94-95, Ordering Paragraph 28) and D.06-05-039 (Finding of Fact 20, Conclusion of Law 3, Ordering Paragraph 8)."*

Regulatory requirements for an IE of resource procurement can be traced to the Federal Energy Regulatory Commission's (FERC's) "Opinion and Order...Announcing New Guidelines for Evaluating Section 203 Affiliate Transactions" (108 FERC ¶ 61,081 (2004)). That decision addressed ways to demonstrate that a utility's procurement of power from an affiliate was not abusive or unfair, under the standards of the *Edgar* decision (55 FERC ¶ 61,382 (1991)). FERC provided a set of guidelines, which presumably would be sufficient to demonstrate that the utility had not unfairly favored its affiliate. One of those guidelines was that "an independent third party should design the solicitation, administer bidding, and evaluate bids prior to the company's selection." FERC proposed not just independent evaluation but independent conduct of all aspects of the solicitation (except, presumably, the need determination).

The California Public Utilities Commission (CPUC) referenced those guidelines in its December 2004 decision on long-term resource procurement.<sup>1</sup> The CPUC stated that although it had not previously required the use of an IE for resource procurement, it would "require the use of an IE in resource solicitations where there are affiliates, IOU-built, or IOU-turnkey bidders" from that point forward.<sup>2</sup> The CPUC's intention was clearly that the IE should ensure that the utility did not favor itself, its affiliates or its shareholders (shareholders would earn a return on "ownership projects" – IOU-built or turnkey – but not on independent PPAs). The CPUC stated explicitly that it would not require the IE to conduct or administer the solicitation, nor would it "allow the IEs to make binding decisions on behalf of the utilities." Under this decision the role of the IE is to provide advice to the utility in "the design, administration, and evaluation aspects of the RFO" and to observe the utility's procurement and evaluation process in order to provide a fairness opinion.

D. 04-12-048 did not require IEs for procurements in which there were no affiliate or ownership bids. But in its decision approving the utilities' plans for 2006 Renewable Portfolio Standard (RPS) solicitations, the CPUC determined that Independent Evaluators would be required for these and "all future solicitations" (it is unclear whether this means only all future

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<sup>1</sup> California Public Utilities Commission, Decision (D.) 04-12-048, May 26, 2006, p. 135f and Findings of Fact 94-95 on pp. 219-220.

<sup>2</sup> D. 04-12-084, p. 135f and Ordering Paragraphs 26i and 28 on p. 245.



## 2. Role of the Independent Evaluator (IE)

RPS solicitations).<sup>3</sup> The role of the IE is still not to conduct or administer the solicitation but to “separately evaluate and report on the IOU’s entire solicitation, evaluation and selection process”.<sup>4</sup> The Decisions that approved the utility RPS solicitation plans for 2007 and 2008<sup>5</sup> did not further elaborate on the IE role but took the participation of an IE as a given.

D. 09-06-018, which approved the utility RPS solicitation plans for 2009, contained additional requirements related to the use of Project Viability Calculators and directed “that project-specific project viability information should be included in the confidential appendices to advice letters and validated by the IE in the confidential versions of IE reports.”<sup>6</sup> The reference to the Project Viability Calculator has been incorporated by Energy Division in its template language for Section 7, which is only completed in the final IE report submitted with each contract Advice Letter.

D. 09-06-050, which was primarily concerned with the definition of a “fast-track” procedure for selecting and approving short-term renewable contracts, also clarified the procedure for approving bilateral contracts. It specifies that “long-term bilateral contracts should be reviewed according to the same processes and standards as contracts that come through a solicitation. This includes review by the utility’s Procurement Review Group and its Independent Evaluator.”<sup>6A</sup> This section of the decision does not specify that a bilateral contract should be reviewed in the context of an RFO, although the IE report template distributed by the Energy Division only apply to RFOs (Energy Division also distributed a template for a “short form” report related to the special approval procedure for short-term contracts).

Furthermore, D. 09-06-050 orders “the Director of Energy Division [to use] the market price referent calculated for the same solicitation year in which the contract is signed as a price reasonableness benchmark.”<sup>6B</sup> That would imply the reasonableness of a contract should be judged against the contemporary market price referent (MPR), and similarly against the shortlist of the contemporary RFO.

This report deals with a project that was not bid into SDG&E’s 2009 RPS RFO. As a bilateral contract, it should be evaluated relative to the most recent RPS RFO. Therefore, PA is evaluating this contract as if it had been bid into the 2009 RFO.

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<sup>3</sup> California Public Utilities Commission, Decision (D.) 06-05-039, May 26, 2006, p. 46, Finding of Fact 20b on p. 78, Conclusion of Law 3e(2) on p. 82 and Ordering Paragraph 8 on p. 88.

<sup>4</sup> D. 06-05-039, p. 46.

<sup>5</sup> California Public Utilities Commission, Decision (D.) 07-02-011, Feb. 15, 2007 and Decision (D.) 08-02-008, Feb. 15, 2008. The decisions actually only conditionally approved the plans but the conditions were not connected with the use of IEs.

<sup>6</sup> California Public Utilities Commission, Decision (D.) 09-06-018, June 8, 2009, p. 24.

<sup>6A</sup> California Public Utilities Commission, Decision (D.) 09-06-050, June 19, 2009, p. 28f.

<sup>6B</sup> D. 09-06-050, Ordering Paragraph 7, p. 42.

## 2.2 PA'S ROLE AS INDEPENDENT EVALUATOR

Template language: "Description of key IE roles: IEs provide an independent evaluation of the IOU's RPS bid evaluation and selection process:

"1. Did the IOU do adequate outreach to potential bidders and was the solicitation robust?"

"2. Was the IOU's LCBF methodology designed such that all bids were fairly evaluated?"

"3. Was the IOU's LCBF bid evaluation and selection process fairly administered?"

"4. Did the IOU make reasonable and consistent choices regarding which bids were brought to CPUC for approval?"

In April 2006, SDG&E retained PA to be the Independent Evaluator for an All-Source Request for Offers (All-Source RFO). SDG&E anticipated that there might be affiliate bids in that RFO, as in fact there were. The CPUC Energy Division, as well as the rest of SDG&E's Procurement Review Group (PRG), participated in the decision to select PA. PA's contract was subsequently amended to include the independent evaluation of additional SDG&E procurement activities.

When PA was contracted as IE for the All-Source RFO, PA and SDG&E agreed on an interpretation of the IE role that would not include a complete LCBF evaluation or full replication of the utility's computations, although PA would spot-check them. PA's role would be that of an observer and an adviser as needed. PA subsequently served as Independent Evaluator for SDG&E's 2006 Renewable RFO and the Local Peaker RFO (conducted in 2006-7). In each case, PA and SDG&E used the above interpretation of the IE role, and it was adopted for the 2009 Renewables RFO.

PA's emphasis has been on issues of fairness and equity. PA reviews the reasonableness of SDG&E's evaluation criteria and algorithms and spot-checks the calculations but does not enforce a single standard of evaluation. While PA may have an opinion about the "best" way to value certain attributes or even to conduct a multi-attribute evaluation, its role as IE has not been to judge SDG&E's evaluation against a standard, but rather to determine that SDG&E's evaluation has not unfairly favored affiliates or ownership bids, or favored SDG&E and its shareholders in any other way<sup>7</sup>.

For the 2009 RFO, SDG&E also asked PA to conduct the quantitative LCBF evaluation of bids, except for the congestion adder computation. This was a direct response to experience of past RFOs, and the efforts that SDG&E had to make to avoid any appearance of conflict in its evaluation of affiliate bids. PA also determined the TRCR clusters, and hence TRCR costs, in cases where the bidder had not specified them. PA's approach to conducting this evaluation was consistent with its approach to reviewing SDG&E's evaluation: the criteria to be applied were SDG&E's, not PA's, the spreadsheet model used to apply those criteria had been developed by SDG&E, and PA ensured that the criteria and model were reasonable and

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<sup>7</sup> E.g., it would have been unfair for SDG&E to design an evaluation method that favored a category of bidders on whose behalf SDG&E would have to make extensive rate-based transmission or distribution investments.

## 2. Role of the Independent Evaluator (IE)

then applied them. PA did not itself determine the evaluation standards but PA did advise SDG&E on the definition and refinement of the evaluation criteria.

### 2.3 PA'S ACTIVITIES

*Template language: "Description of activities undertaken by the IE to fulfill the IE's role (i.e. attended negotiation meetings, reviewed Request for Proposals materials, attended pre-bid conference, evaluated proposals and/or reviewed evaluation process and results, etc.) and reporting/consultation with CPUC, PRG and others."*

PA and SDG&E began to discuss plans for the 2009 RFO during and after the 2008 RPS RFO evaluation, including the possibility of PA conducting the LCBF evaluation. SDG&E provided PA the draft RPS plan for review prior to its filing, and PA responded with a number of specific comments based on past experience. SDG&E and PA discussed several of these areas at length, most notably the treatments of duration equivalence and resource adequacy. SDG&E adopted several of PA's suggestions and declined to adopt others. In all these cases SDG&E's decisions were reasonable (even if they were to disagree with PA).

PA was provided access to all the SDG&E staff involved in the evaluation of the Renewables RFO. In general, the bid evaluation criteria were similar to those that had been used in past RFOs. PA met with SDG&E to review the evaluation criteria and reviewed the LCBF model constructed by SDG&E.

PA was present at both bidder conferences: in San Diego on August 5 and in El Centro on August 12. PA was provided all questions submitted by bidders either at the bidder conference or later in writing, as well as SDG&E's answers. PA received the electronic bids from SDG&E in San Diego on both days bids were due.

PA was in regular contact with the SDG&E evaluation team. PA was provided all the data in the evaluation process. PA was responsible for interpreting all bids in order to conduct the LCBF evaluation. PA identified missing or incomplete information, including viability scorecards, and requested additional data from bidders. PA also reviewed questions put by SDG&E to bidders, and bidders' answers. PA advised SDG&E on judgments that certain bids did not conform to RFO requirements. PA participated in Procurement Review Group (PRG) meetings during the evaluation period. SDG&E discussed the short list with PA as well as with the PRG.

SDG&E in no way prevented PA from observing its process and analyzing its methods, and did not interfere with PA's conduct of the LCBF evaluation.

### 2.4 CONFIDENTIALITY AND ADDITIONAL COMMENTS

*Template language: "Any other relevant information or observations."*

It is PA's understanding that confidential treatment of the information in an IE report is obtained through procedures defined in CPUC Rulemaking (R.) 05-06-040.<sup>8</sup> Under that

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<sup>8</sup> "Administrative Law Judge's Ruling Clarifying Interim Procedures for Complying with Decision 06-06-066", August 22, 2006.

## *2. Role of the Independent Evaluator (IE)*

Ruling a person or party that serves testimony, supplies data or files an advice letter requests confidential treatment of some data within that submittal and must accompany the data by a declaration under penalty of perjury that justifies the claim of confidentiality.

PA delivers its IE report to SDG&E and SDG&E in turn submits it to the CPUC. It is PA's understanding that each utility separately submits its IE's report and requests confidential treatment for parts of that report. Because it is the utility that identifies confidential data and provides the associated declaration, PA believes that it is the utility's right to determine which data in the report is confidential and the utility's responsibility to defend that determination. SDG&E's view of confidentiality may be more or less expansive than PA's. While PA has in the past provided recommendations to SDG&E about which parts of its IE reports should be held confidential, in general PA takes a "minimal redaction" (redaction only of information about identifiable bids) view. SDG&E always makes the ultimate determination of data to redact.

### 3. Adequacy of outreach and robustness of the solicitation

#### **3. ADEQUACY OF OUTREACH AND ROBUSTNESS OF THE SOLICITATION**

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*Template language: “Did the IOU do adequate outreach to bidders and was the solicitation robust?”*

This chapter describes the information provided by the utility to potential bidders, and the utility’s efforts to stimulate a wide and robust response to the RFO.

##### **3.1 SOLICITATION MATERIALS**

*Template language: “Were the solicitation materials clear and concise to ensure that the information required by the utility to conduct [sic] its evaluation was provided by the bidders?”*

PA reviewed SDG&E’s RFO and supporting forms. PA’s opinion was that the RFO was clear and supporting forms were generally well-designed and would elicit appropriate information except as noted in the next paragraph. Even so, not all bidders entered data correctly and completely, but PA does not believe this was the fault of the forms.

SDG&E held two pre-bid conferences, in San Diego and El Centro, and also posted on its website answers to questions submitted by bidders. Even so, the solicitation forms and posted responses did not always elicit the type of information required by the Project Viability Calculator. In particular, the PVC scoring criteria are based on specific information – e.g., identification of projects to support assertion of project development experience, or an explanation of why a particular interconnection milestone with IID is or is not equivalent to a CAISO milestone.

##### **3.2 ADEQUACY OF OUTREACH**

*Template language: “Identify guidelines used to determine whether IOU did adequate outreach (e.g., sufficient publicity, emails to expected interested firms). Did IOU do adequate outreach? If not, explain how it was deficient.”*

California’s Renewable Procurement Standard and its utilities’ attempts to meet that standard have been widely publicized. The investor-owned utilities have conducted annual RFOs for renewable resources for several years. Because of the publicity, it should not have been necessary for SDG&E to take on the responsibility of informing bidders that California has a renewables program or that utilities would be contracting with renewable suppliers. Furthermore, it was well-known in the California energy industry that at the time of the adoption of the RPS, SDG&E was the furthest of the three utilities from satisfying the RPS (least renewable energy relative to retail sales). It would have been adequate for SDG&E to advertise the RPS solicitation on its website and to a sizable email list.

In PA’s opinion, SDG&E did adequate outreach. SDG&E provided PA with a list of 686 email addresses, associated with 545 separate organizations, to which it sent the RFO. Some of those addresses are consultants probably not working with any particular bidder. In addition, SDG&E publicized the RFO with a press release, and notices appeared in Platt’s *MW Daily* and *California Energy Markets*.

### 3. Adequacy of outreach and robustness of the solicitation

#### 3.3 SOLICITATION ROBUSTNESS

*Template language: "Identify guidelines used to determine adequate robustness of solicitation (e.g., number of proposals submitted, number of MWhs associated with submitted proposals). Was solicitation adequately robust?"*

PA judges the robustness of the solicitation by the number of bids received. In PA's opinion, the solicitation engendered a robust response. ■ separate organizations responded to the solicitation with a total of ■ project proposals with ■ pricing options. The CPUC had encouraged SDG&E to do specific outreach to the Imperial Valley and, more generally, the SPL area. ■ project proposals were submitted from the SPL area, with pricing options, from a total of ■ separate bidders.

#### 3.4 FEEDBACK

*Template language: "Did the IOUs seek adequate feedback about the bidding/bid evaluation process from all bidders after the solicitation was complete?"*

SDG&E did not formally seek bidder feedback.

#### 3.5 ADDITIONAL ISSUES

*Template language: "Any other relevant information or observations"*

PA has nothing else to add to this chapter.

#### 4. FAIRNESS OF THE DESIGN OF SDG&E'S METHODOLOGY FOR BID EVALUATION AND SELECTION

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Template language: "Was the IOU's LCBF methodology designed such that bids were fairly evaluated?"

This chapter describes SDG&E's quantitative evaluation methodology and PA's opinion of its application.

##### 4.1 PRINCIPLES USED TO EVALUATE METHODOLOGY

Template language: "Identify the principles the IE used to evaluate the IOU's bid evaluation methodology. Example principles (each IE should include the specific principles he/she used in his/her evaluation):

"1. The IOU bid evaluation should be based only on information submitted in bid proposal documents.

"2. There should be no consideration of any information that might indicate whether the bidder is an affiliate.

"3. Procurement targets and objectives were clearly defined in IOU's solicitation materials.

"4. The IOU's methodology should identify quantitative and qualitative criteria and describe how they will be used to rank bids. These criteria should be applied consistently to all bids.

"5. The LCBF methodology should evaluate bids in a technology-neutral manner.

"6. The LCBF methodology should allow for consistent evaluation and comparison of bids of different sizes, in-service dates, and contract length."

PA has used the following principles to guide its evaluation. These principles were originally codified by PA in its report on SDG&E's 2006 RPS RFO:<sup>9</sup>

- The evaluation should only be based on those criteria requested in the response form. There should be no consideration of any information that might indicate whether the bidder is an affiliate.
- The methodology should identify how quantitative measures will be considered and be consistent with an overall metric.
- The approach should not be biased for or against specific technologies, solely based on the choice of technology (as opposed to, e.g., quantifiable differences between the value of peaking and baseload technologies).

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<sup>9</sup> Jacobs, Jonathan M., *Preliminary Report of the Independent Evaluator on the 2006 Request for Offers from Eligible Renewable Resources (Renewable RFO)*, PA Consulting Group, Los Angeles CA, January 16, 2007, p. 2-1.

#### 4. Fairness of the design of SDG&E's methodology for bid evaluation and selection

- The methodology does not have to be the one that the IE would independently have selected but it needs to be "reasonable".

These principles do not require the upfront identification of procurement targets, as those may depend on committed contract quantities and commitments may be made between release of the RFO and selection of the shortlist. They do not also specifically address "consistent" evaluation of bids of different sizes and timing because PA considers the fairness of such analysis to fall within the area of reasonableness; and it is conceivable that a consistent evaluation may not be the most reasonable.

#### 4.2 SDG&E'S LCBF METHODOLOGY

*Template language: "Describe IOU LCBF methodology."*

SDG&E ranked bids using a spreadsheet. The following quantitative values went into the ranking:

- Adjusted, levelized offer price
- Estimated costs of transmission network upgrades or additions
- Estimated congestion costs
- Estimated RA credit

Debt equivalence was not considered, per CPUC D. 07-12-052. The next four subsections describe the four bullet items above. The fifth subsection addresses a specific change to one of the details of the LCBF calculation relative to previous renewable RFOs. PA's opinion of the use of LCBF methodology is included in section 5.8.

##### 4.2.1 Adjusted, levelized offer price

SDG&E's bid evaluation method does not directly compare costs and benefits of individual contracts; rather it creates an "adjusted price" metric for each contract, and compares contracts based on that metric rather than on a measure of net benefits or net costs. This means that SDG&E does not compute an "avoided cost" or "market price" by hour or subperiod to be compared with contract costs. Such a computation would be appropriate if the source of contract value was energy value (avoided energy purchases). But RPS-qualified energy is not interchangeable or fungible with spot energy, because spot energy is not guaranteed to be RPS-qualified.

The benefit or value of RPS-qualified energy is in its renewability. In that sense every MWh from a renewable resource has equal benefit regardless of the contract or the time of delivery. But SDG&E also recognized that RPS-qualified energy has both "renewability value" and "energy value", and that the energy value depends on time of delivery (TOD). To recognize this, SDG&E uses as its measure of contract cost the average of the projected contract payments in different TOD periods weighted by the product of volume and a TOD weighting factor. The weighting factors have been approved by the CPUC and PA did not investigate their source.

For each year, the adjusted or "benefit-weighted" price is the average payment, divided by a MWh-weighted average TOD factor. For contracts with TOD pricing (where in each period



the payment per MWh equals the contract price times the TOD factor) it is the same as the contract price. The offer price term is the levelization of the adjusted price: for each year, the adjusted price in \$/MWh is multiplied by projected deliveries in MWh to get a stream of revenues, and the offer price term is the constant price in \$/MWh that would yield a stream of energy revenues having the same net present value.

#### 4.2.2 Estimated costs of transmission network upgrades or additions

For offers for new projects or projects proposing to increase the size of existing facilities, SDG&E's model calculated costs for transmission network upgrades or additions, using the information provided through the TRCRs. (Two projects had CAISO-approved, completed System Impact Studies that could have been used but since they were ranked below the shortlist cutoff before adding any transmission costs, this specialized effort was not undertaken.) If a bidder identified the cluster to which a project belonged, the transmission cost corresponded to the cost of the first plant in that cluster according to the utility's TRCR. If the bidder had not identified the cluster, PA applied its own judgment to determine the cluster based on the project location and interconnection information. Projects outside of the California ISO were expected to have internalized the cost of transmission to the ISO, as well as the cost of required transmission upgrades outside the ISO, into their bid price; they could still be assigned additional upgrade costs within California based on the TRCRs.

#### 4.2.3 Estimated congestion costs

Congestion impacts from the proposed point of delivery to SDG&E's load aggregation point were determined after LCBF rankings had been computed without congestion information. In this way SDG&E was able to reduce the number of projects for which congestion impacts were computed. In past RFOs the congestion study had been conducted by ABB Inc. ABB was unable to do so for the 2009 study. PA agreed that it was reasonable for SDG&E's transmission planning group to conduct the study given the separation from the procurement group provided for under the FERC Code of Conduct. As for the 2008 RFO, there was no pre-Sunrise case. Congestion adders for the projects that ranked highest based on the other LCBF components were all small and therefore congestion costs did not affect the composition of the short list.

#### 4.2.4 RA credit

Renewable projects under contract to SDG&E would provide varying amounts of resource adequacy (RA) credit. In the 2008 RPS RFO for which PA served as IE, SDG&E had represented RA as a cost rather than a credit, based on the cost SDG&E would incur for additional RA credits equal to the difference between a bid's capacity and its own RA credit. PA argued that this approach unduly relied on a bid's "nameplate" capacity, which had no real relation to any commodity the bid provided to SDG&E and which could in some cases be an artificial value. SDG&E accepted PA's argument for the 2009 RFO and assigned each bid a cost credit equal to the value of the RA credit the bid would be expected to receive based on technology and the RA capacity credits that have been assigned by CAISO to projects of similar technology (normalized by capacity). The result is an annual RA credit in \$/year (a unit cost in \$/kW-yr multiplied by capacity in kW). The credit is converted to levelized \$/MWh, similar to the levelization of the offer price term.

#### 4.2.5 Duration equalization

In past Renewables RFOs, SDG&E used a "duration equalization" approach to handle start and end effects. This has addressed principle 6 from the Template (section 4.1). All contracts were put on an equal term basis by using an early start date (in principle, the earliest start date over all bids) and a late end date (in principle, the latest end date over all bids). The pricing for each contract prior to its start date and after its end date was based on an MPR proxy, that is, a value computed using the CPUC's MPR methodology applied to contemporary cost assumptions. For the 2009 RFO, SDG&E's evaluation model was constructed to use the average bid price of bids shortlisted in 2008 as a proxy instead of the MPR; all other aspects of the design were the same as before.

#### 4.3 EVALUATION OF THE STRENGTHS AND WEAKNESSES OF SDG&E'S LCBF METHODOLOGY IN THIS SOLICITATION

Template language: "Using the principles identified in section III.A, evaluate the strengths and weaknesses of IOU's methodology in this solicitation:

"1. Market valuation

"2. Evaluation of various technologies and products

"3. Evaluation of portfolio fit

"4. Evaluation of bids with varying sizes, in-service dates, and contract length

"5. Evaluation of bids' transmission costs

"6. Evaluation of bids' project viability

"7. Other."

Overall, PA believes that the SDG&E methodology is reasonable. This judgment is within the context of the principles set forth in 4.1, especially the last: "The methodology does not have to be the one that the IE would independently have selected but it needs to be 'reasonable'." PA has detailed comments on a limited number of the points above.

#### 4.3.1 Evaluation of various technologies and products

PA did not detect any technology bias in the methodology; [REDACTED]

[REDACTED]



#### 4.3.2 Evaluation of portfolio fit

The Renewable Portfolio Standard is based on raw renewable MWh, with no time differentiation. Furthermore, the quantitative LCBF analysis is but part of a process that includes consideration of bidders' track records and viability and extensive negotiation – another IE has characterized the process as more like a “competitive negotiation” rather than a sealed-bid auction.<sup>10</sup> SDG&E's LCBF computation bears a similar relation to a more complex time-differentiated analysis as a “screening curve” analysis does to an optimal capacity expansion model; yet as a part of a larger process the screening curve analysis is often quite adequate.

#### 4.3.3 Evaluation of bids' transmission costs

PA assigned TRCR clusters to those projects that did not provide such information. PA did not consider SCE's TRCR to contain a sufficient definition of its clusters, and requested additional information, which was received from an SCE attorney. In mid-August, PA was informed that SDG&E's procurement group was considering requesting from its transmission planning group a special TRCR-like upgrade analysis for Imperial Valley resources, but if such a study was conducted its results were not used in the LCBF evaluation. SDG&E's Evaluation Team requested a congestion analysis from SDG&E's Transmission function; PA reviewed the information provided by the Evaluation Team and ensured that no data was transmitted that could identify bidders.

#### 4.3.4 Evaluation of bids' project viability

SDG&E eliminated certain bids due to low viability. These judgments did not always accord with bidders' Project Viability Calculators, which had been self-scored. It was necessary to rescore all high-ranking bids.



### 4.4 FUTURE IMPROVEMENTS

*Template language: “What future LCBF improvements would you recommend?”*

PA has no improvements to recommend at this time.

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<sup>10</sup> Private conversation.

4. Fairness of the design of SDG&E's methodology for bid evaluation and selection

**4.5 ADDITIONAL COMMENT ON THE METHODOLOGY**

*Template language: "Any additional information or observations regarding the IOU's evaluation methodology."*

PA has nothing else to add to this chapter.

## **5. PROCEDURAL FAIRNESS OF THE BID EVALUATION**

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*Template language: "Was the LCBF bid evaluation process fairly administered?"*

This chapter addresses the application or administration of the methodology described in chapter 4

### **5.1 PRINCIPLES USED TO DETERMINE FAIRNESS OF PROCES S**

*Template language: "A. Identify guidelines used to determine fairness of evaluation process. Example guidelines (each IE should identify the specific guidelines he/she used in his/her evaluation)*

1. *Were all bids treated the same regardless of the identity of the bidder?*
2. *Were bidder questions answered fairly and consistently and the answers made available to all bidders?*
3. *Did the utility ask for "clarifications" that provided one bidder an advantage over others?*
4. *Was the economic evaluation of the bids fair and consistent?*
5. *Was there a reasonable justification for any fixed parameters that were a part of the IOU's LCBF methodology (e.g., RMR values; debt equivalence parameters)?*
6. *What qualitative and quantitative factors were used to evaluate bids?"*

As in the previous section, PA used principles originally codified by PA in its report on SDG&E's 2006 RPS RFO:<sup>11</sup>

- Were affiliate bids treated the same as non-affiliate?
- Were bidder questions answered fairly and consistently and the answers made available to all?
- Did the utility ask for "clarifications" that provided the bidder an advantage over others?
- Were bids given equal credibility in the economic evaluation?
- Was the procurement target chosen so that SDG&E would have a reasonable chance of meeting its 20% target (taking into account contract failures)?
- Was there a reasonable justification for any fixed parameters that enter into the methodology (e.g., RMR values; debt equivalence parameters)?
- Were qualitative factors used only to distinguish among substantially equal bids?

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<sup>11</sup> Jacobs, op. cit., p. 3-1.

### 5.2 ADMINISTRATION AND BID PROCESSING

Template language: “Utilizing the guidelines in Section IV.A, describe the IE methodology used to evaluate administration of the IOU LCBF process.”

A complete description of PA’s activities is in section 2.3. Most of the guidelines above are addressed in detail in subsequent sections of this chapter, but three of them, which are not addressed below, can be answered here succinctly:

- Bidder questions were answered fairly and consistently.
- SDG&E did not ask for clarifications in such a way as to advantage any bidder.
- All bids were given equal credibility in the quantitative (LCBF) evaluation.

### 5.3 CONFORMANCE CHECK

Template language: “Did the utility identify, for each bid, the terms that deviate from the utility RFO? Did the IOU identify nonconforming bids fairly—fair both to the nonconforming bidders and to conforming bidders?”

PA verified that each offer received conformed with the requirements of the RFO. Nonconforming bids were identified as such but not immediately discarded. As in previous renewables solicitation, the RFO stated that non-conformance “may disqualify [a] proposal from further consideration”. SDG&E and PA interpreted this somewhat broadly and attempted to evaluate the nonconforming bids if possible. Extensive efforts were made to contact bidders and give them opportunities to provide additional information that would bring their bids into conformance. PA recommended that SDG&E eliminate a small number of offers as non-conforming:

- [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- [REDACTED]

PA believes that SDG&E's treatment of non-conforming bids was fair and reasonable.

#### **5.4 PARAMETERS AND INPUTS FOR SDG&E'S ANALYSIS**

*Template language: "If the IOU conducted any part of the bid evaluation, were the parameters and inputs determined reasonably and fairly? What controls were in place to ensure that the parameters and inputs were reasonable and fair?"*

The quantitative bid analysis was conducted by PA. Certain key parameters were supplied by SDG&E independent of any bids, including the RA price estimate, RA cost factors, the proxy price for duration equalization, TOU pricing factors, and financial parameters of the revenue requirements model for Alternative III bids. Parameters and inputs for the congestion analysis were determined by SDG&E's transmission function independent of the procurement group.

#### **5.5 PARAMETERS AND INPUTS FOR OUTSOURCED ANALYSIS**

*Template language: "If the IE or a third party conducted any part of the bid evaluation, what information/data did the utility communicate to that party and what controls did the utility exercise over the quality or specifics of the out-sourced analysis?"*

PA conducted the quantitative LCBF analyzing using a spreadsheet model and parameters supplied by SDG&E. SDG&E and PA were in communication throughout the analysis, generally about modifications to the model that became necessary in the course of the analysis and about missing data. SDG&E did not exercise control over the quality or specifics of the analysis. SDG&E and PA did work together to identify and solicit missing information from bidders.

Congestion impacts from the proposed point of delivery to SDG&E's load aggregation point were determined by a study conducted by SDG&E's transmission function. SDG&E's procurement group communicated to the transmission function the locations and general characteristics of a set of high-ranking bids for this analysis. PA reviewed that communication to ensure it included no identifying information.

#### **5.6 TRANSMISSION ANALYSIS**

*Template language: "Were transmission cost adders and integration costs properly assessed and applied to bids?"*

For offers for new projects or projects proposing to increase the size of existing facilities, SDG&E's model calculated costs for transmission network upgrades or additions, using the information provided through the TRCRs or a CAISO-approved, completed System Impact Study. PA identified clusters for projects whose bids did not contain that information. Projects outside of the California ISO were expected to have internalized the cost of transmission to the ISO, as well as the cost of required transmission upgrades outside the ISO, into their bid price; they could still be assigned additional upgrade costs within California based on the TRCRs.

## 5. Procedural fairness of the bid evaluation

### 5.7 ADDITIONAL ISSUES

*Template language: "Describe any additional criteria or analysis used in creating its short list (e.g. seller concentration). Were the additional criteria included in the solicitation materials?"*

#### 5.7.1 Affiliate bids and UOG ownership proposals

The treatment of affiliate bids has been a focus of PA throughout its tenure as Independent Evaluator for SDG&E. Although the Energy Division's template does not specifically call for discussion of the handling of affiliate bids and UOG ownership proposals, the CPUC and FERC have both expressed concern about the fair treatment of non-affiliate bids. They required particular attention in past RFOs because SDG&E was conducting the evaluation itself, rather than having the IE do so. In this case, since PA conducted the evaluation, no special "masking" was required as in past RFOs.

SDG&E provided three alternative forms for bids: PPA, PPA with buyout option, and turnkey. The latter two are utility ownership forms. Several bidders submitted Alternative II (PPA with buyout) bids. In all cases these were additional options to Alternative I bids but the buyouts did not provide identifiable value. Several bidders submitted Alternative III (turnkey) bids, which were evaluated using a variant of a "revenue requirements" model and treating the revenue requirement to finance the purchase similarly to an annual PPA payment.

#### 5.7.2 Viability

Developer and project viability have become a key concern in the Renewable RFO, because of the delays and contract failures that have affected several projects. The CPUC devoted special attention to viability in 2009, requiring "that each IOU include a project viability methodology and calculator in its amended 2009 Procurement Plan and solicitation package."<sup>12</sup>

SDG&E requested bidders to complete a Project Viability Calculator (PVC) for each bid, rather than fill out the PVC for each bid. The PVC form was based on the format developed by the Energy Division. This was in order to avoid having the utility or IE create a PVC for every bid, since SDG&E did not know in advance how many bids would be received. In the event, [REDACTED] separate project proposals were received

SDG&E's intent was that after the quantitative evaluation it would eliminate bids that, while scoring high, did not appear viable. One basis for doing so could have been the bidder-supplied PVCs; however, SDG&E and PA both expected bidders to take an optimistic view of viability and had therefore decided to rescore the PVCs from those bidders who scored highest in the LCBF ranking, beginning from the bidders' own scoring. SDG&E and PA separately rescored sets of high-ranking bids. [REDACTED]

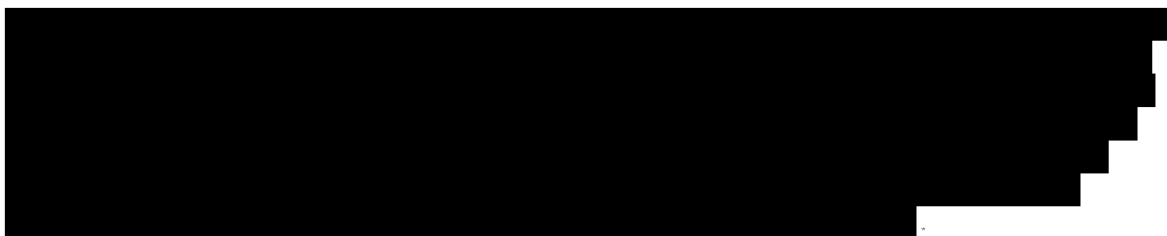
The original and revised scores are shown in Figure 1 in section 5.8.

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<sup>12</sup> D. 09-06-018, p. 21.



### 5.7.3 Concentration risk



## 5.8 RESULTS ANALYSIS

Template language:” 1. Please identify instances where the IE and the IOU disagreed in the LCBF evaluation process.

a. Discuss any problems and solutions

b. Identify specific bids if appropriate

c. Does the IE agree that the IOU made reasonable and justifiable decisions to exclude, shortlist and or/ execute contracts with projects? If the IE did its own separate bid ranking and selection process and it differed from the IOU's results, then identify and describe differences.

d. What actions were taken by the IOU to rectify any deficiencies associated with rejected bids?

e. Other

2. Overall, was the overall bid evaluation fairly administered?”

One of the most important aspects of the Renewables RFO is the need determination. Under the Renewable Portfolio Standard, utilities seek to obtain at least 20% of their 2010 retail deliveries from renewable sources. SDG&E has further committed to obtain 33% of its 2020 retail deliveries from renewable sources. The primary goal of RPS procurement is total renewable volume. For an individual Renewable RFO, this translates to a “need” target.

In the past, SDG&E has determined its renewable need based on a target of 24-26% of its 2010 deliveries “to provide a margin of safety in the event contracted resources do not achieve commercial operation by 2010.”<sup>13</sup> In 2009, SDG&E set a target at that fraction (24-26%) in “2011-2013” since the 2009 RFO could not yield capacity in 2010. SDG&E computed the energy expected to be produced in 2012 by all contracts already signed, plus the “discounted” energy from contracts currently in negotiation, to be in excess of 26% of load. Therefore SDG&E reasoned it had no need except if it had underestimated contract failure probabilities.

SDG&E took a “largest hazard” approach, and analyzed the largest hazard in two ways: (a) the largest individual expected delivery volume; (b) the total expected delivery from contracts

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<sup>13</sup> Ibid., p. 11.

5. Procedural fairness of the bid evaluation

with

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In PA's opinion, SDG&E conducted the RFO in fair and equitable manner. [REDACTED]

[REDACTED]

[REDACTED]

**5.9 ADDITIONAL ISSUES**

*Template language: "Any other relevant information or observations."*

PA has nothing else to add to this chapter.

**6. FAIRNESS OF PROJECT-SPECIFIC NEGOTIATIONS**

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In the spring of 2010, Tenaska Solar Ventures proposed two solar photovoltaic projects to SDG&E: Imperial Valley South, which was a revision of LightSource Renewables’ Imperial Valley South bid from the 2009 RPS RFO, and Imperial Valley West. As far as PA can tell, the Imperial Valley West project does not correspond to any bid from the 2009 RFO. PA has not reviewed the original bilateral proposal but was provided a “Project Overview” dated May 14 and characterized as “Attachment to Proposal of May 14, 2010”. That Overview was basically a summary of land acquisition and permitting progress.

**6.1 PRINCIPLES OF EVALUATION**

*Template language: “A. Identify principles used to evaluate the fairness of the negotiations.”*

The key questions are whether SDG&E showed favoritism to this or any other bidder, and whether SDG&E negotiated harder or less hard with them than with any other bidder. Note that in the context of negotiations, favoritism toward a bidder is not the same as favoritism toward a technology.

**6.2 PROJECT-SPECIFIC NEGOTIATIONS**

*Template language: “Using the above principles (section V.A), please evaluate fairness of project-specific negotiations.”*

In general PA does not directly observe most contract negotiations, except for those with affiliates. PA follows negotiations through discussions with SDG&E, summaries of current proposals and SDG&E’s reports to its Procurement Review Group. This is consistent with the original understanding of PA’s role as IE, which was developed when PA and SDG&E negotiated their initial contract (with the participation of the PRG).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

It is PA's opinion that the CSolar Imperial Valley West contract reflects fair negotiations.

**6.3 TERMS AND CONDITIONS**

*Template language: "Identify the terms and conditions that underwent significant changes during the course of negotiations."*

[REDACTED]

**6.4 RELATION TO OTHER NEGOTIATIONS**

*Template language: "Was similar information/options made available to other bidders, e.g. if a bidder was told to reduce its price down to \$X, was the same information made available to others?"*

PA does not believe that SDG&E provided CSolar with information of the type addressed here.

**6.5 ADDITIONAL ISSUES**

*Template language: "Any other relevant information or observations."*

SDG&E originally filed this contract in Advice Letter 2257-E, dated May 27, 2011.

[REDACTED]

6. Fairness of project-specific negotiations

[REDACTED]

On Oct. 3, 2011, SDG&E and CSolar executed the First Amendment to the contract.

[REDACTED]

The analysis in this chapter is unaffected.

[REDACTED]

SDG&E did not show favoritism against this bidder, or treat them unfairly.

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<sup>14</sup> Tenaska is the parent developer and CSolar is a subsidiary.

<sup>15</sup> [REDACTED]

## **7. PROJECT-SPECIFIC RECOMMENDATION**

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PA's original recommendation was that it was reasonable for the CPUC to approve the CSolar Imperial Valley West contract. When evaluated consistently with the 2009 RFO (using TRCR information to estimate transmission upgrade costs) it was competitive with the shortlisted projects from the 2009 RFO. [REDACTED]

The revised pricing makes the contracts more desirable relative to the 2009 shortlist. [REDACTED]

### **7.1 EVALUATION**

*Template language: "A. Provide narrative for each category and describe the project's ranking relative to: 1) other bids from the solicitation and 2) from an overall market perspective:*

- 1. Contract Price, including transmission cost adders*
- 2. Portfolio Fit*
- 3. Project Viability*
  - a. Project Viability Calculator score*
  - b. IOU-specific project viability measures*

7. Project-specific recommendation

c. Other (credit and collateral, developer's project development portfolio, other site-related matters, etc.)

4. Any other relevant factors."

7.1.1 Original pricing as submitted with AL 2270-E

PA reviewed the CSolar West contract using the same evaluation model that had been used for the 2009 Renewables RFO. The contract capacity will be between 96 and 150 MW. [REDACTED]

[REDACTED]

[REDACTED]:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

We have the following observations about the economics of the CSolar Imperial Valley West contract:

- [REDACTED] the contract compares favorably with the 2009 shortlist, both in the CPV and conventional configurations. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**7.1.2 Revised pricing**

[REDACTED]

7. Project-specific recommendation

SDG&E evaluated the contract using the LCBF model for the 2011 RFO. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

These ranking prices appear quite competitive with the 2011 shortlist. [REDACTED]

[REDACTED]

[REDACTED]

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16 [REDACTED]

[Redacted text block]

**7.1.3 Need**

[Redacted text block]

[Redacted text block]

**7.1.4 Project Viability Calculator**

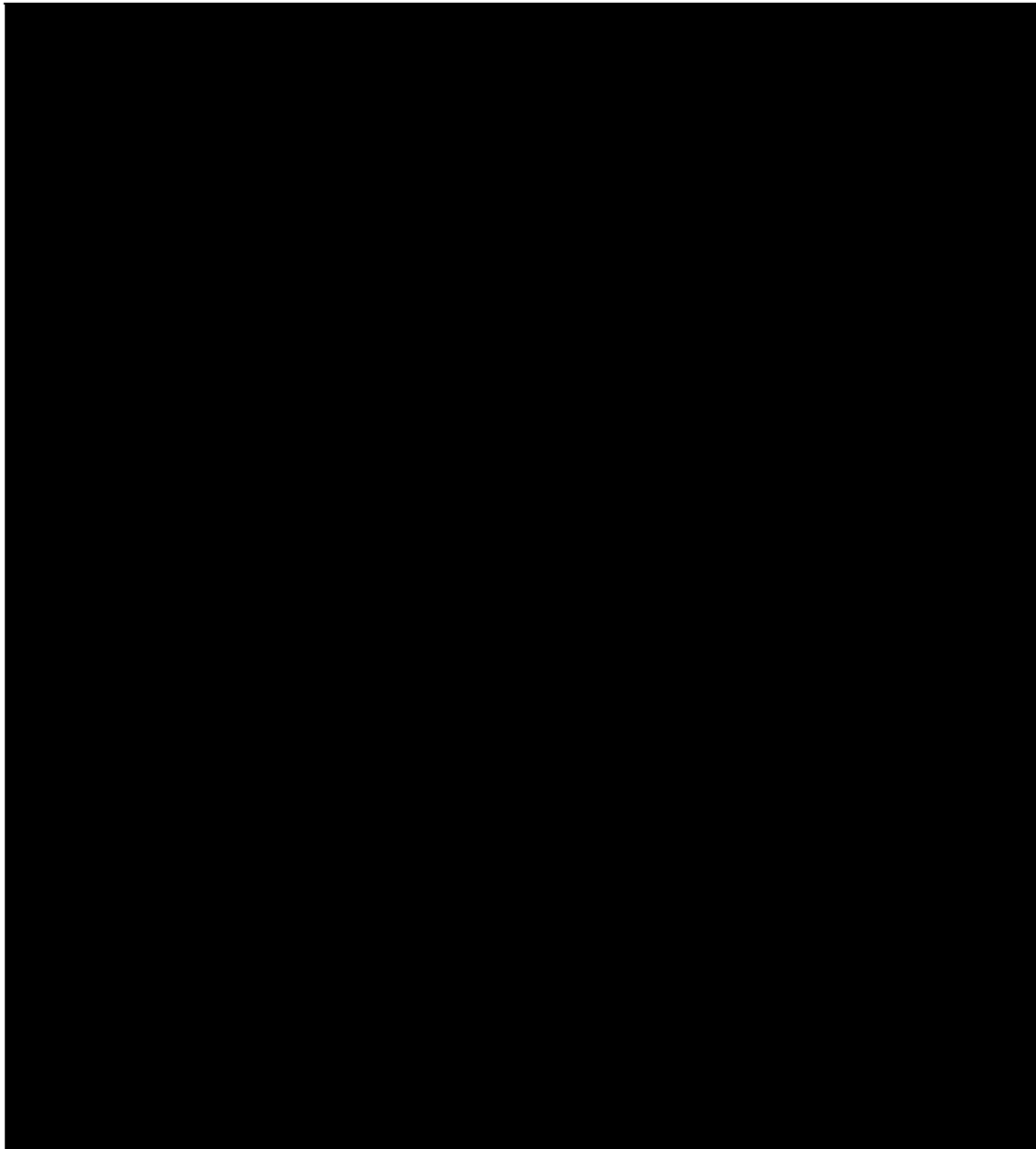
[Redacted text block]

[Redacted text block]

- [Redacted list item]
- [Redacted list item]

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<sup>17</sup> San Diego Gas & Electric Co., "LCBF Report: SDG&E Written Description of RPS Bid Evaluation and Selection Process and Criteria", *2009 RPS Shortlist Report (Public Version)*, submitted Dec. 5, 2009 and distributed to service lists for R.06-02-012 and R.08-08-009, p. 8.



**7.2 RECOMMENDATION**

*Template language: "Do you agree with the IOU that the contract merits CPUC approval? Explain the merits of the contract based on bid evaluation, contract negotiations, final price, and viability."*

**7.2.1 Original recommendation**

It was reasonable for the CPUC to approve the CSolar Imperial Valley West contract based on the 2009 RFO. Based on an "apples-to-apples" comparison, it is comparable or superior to the shortlisted projects from the 2009 shortlist. [REDACTED]

[REDACTED]

**7.2.2 Recommendation relative to the revised contracts**

[REDACTED]

By that standard the price reduction on these contracts has made them more desirable, and PA would make an even stronger positive recommendation than before.

[REDACTED]

There has been a significant time lag between RFOs.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

[REDACTED]



**7.3 ADDITIONAL ISSUES**

*Template language: "Any other relevant information or observations."*

PA has nothing else to add to this chapter.