PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #11055
RESOLUTION E-4467
March 8, 2012

REDACTED

R E S O L U T I O N

Resolution E-4467. San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement, as amended, with Energia Sierra Juarez U.S., LLC.

PROPOSED OUTCOME: This resolution approves cost recovery for the long-term renewable energy power purchase agreement, as amended, between San Diego Gas & Electric Company and Energia Sierra Juarez U.S., LLC. The power purchase agreement, as amended, is approved without modification.

ESTIMATED COST: Approximately $41 million per year for 20 years. Approximately $820 million over the life of the contract. (nominal).

By Advice Letter 2247-E filed on April 19, 2011 and Advice Letter 2247-E-A filed on October 6, 2011.

SUMMARY

San Diego Gas & Electric Company's renewable energy power purchase agreement with Energia Sierra Juarez U.S., LLC complies with the Renewables Portfolio Standard procurement guidelines and is approved without modification.

San Diego Gas & Electric Company (SDG&E) filed Advice Letter 2247-E on April 19, 2011 requesting California Public Utilities Commission (Commission) approval of a 20 year renewable energy power purchase agreement between SDG&E and Energia Sierra Juarez U.S., LLC. On October 6, 2011, SDG&E filed supplemental Advice Letter 2234-E-A, requesting approval of an amendment to the power purchase agreement that reduces the price of the power purchase agreement and modifies the online date of the facility.

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The power purchase agreement is the result of SDG&E's 2009 RPS solicitation. Generation pursuant to the amended power purchase agreement will be from a new wind facility that will be between 100 and 156 megawatts capacity. The wind facility is being developed in Jacume, Baja California, Mexico and it is expected to achieve commercial operation in the fourth quarter of 2013.

Table 1: Summary of the Energia Sierra Juarez, U.S., LLC power purchase agreement

Generating Facility	Technology Type	Term (Years)	Maximum Capacity (MW)	Energy (GWh/year)	Online Date	Location
Energia Sierra Juarez	Wind	20	100 - 156	324 - 422	18 months after CPUC and FERC approval or 8/31/2013	Jacume, Baja California, Mexico

This resolution approves the Energia Sierra Juarez, U.S., LLC power purchase agreement, as amended, without modification. SDG&E's execution of this power purchase agreement, as amended, 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 Energia Sierra Juarez, U.S., LLC power purchase agreement, as amended, 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.

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, SB 1036, and SB 2 (1X).[1] The RPS program is codified in Public Utilities Code Sections 399.11-399.31.[2] Under SB 2 (1X), the RPS program administered by the Commission requires each retail

[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); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session).

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

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seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.[3]

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

NOTICE

Notice of Advice Letters 2247-E and 2247-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 Advice Letter 2247-E was timely protested by Division of Ratepayer Advocates (DRA) and jointly by Backcountry Against Dumps (BAD), The Protect Communities Foundation (POC), and the East County Community Action Coalition (ECCAC) on May 9, 2011. SDG&E responded to the protests on May 16, 2011.

SDG&E Advice Letter 2247-E-A was timely protested by DRA and jointly by The Utility Reform Network (TURN), the State Building and Construction Trades District, and IBEW Local 569 on October 24, 2011. SDG&E responded to the protests on October 31, 2011.

DISCUSSION

San Diego Gas & Electric Company requests approval of a renewable energy power purchase agreement, as amended, with Energia Sierra Juarez, U.S. LLC.

On April 19, 2011, San Diego Gas and Electric Company (SDG&E) filed Advice Letter (AL) 2247-E requesting California Public Utilities Commission

[3] D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020).

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(Commission) approval of a long-term power purchase agreement (PPA) with Energia Sierra Juarez, U.S., LLC (ESJ). On October 6, 2011, SDG&E filed supplemental AL 2247-E-A requesting approval of an amendment that reduces the price of the ESJ PPA, advances the project's commercial online date by four months, and modifies the dates by which certain conditions precedent and milestones must be satisfied.

The ESJ PPA, as amended, concerns generation from a new wind facility to be located in Jacume, Baja California, Mexico. The ESJ facility will connect to the Sunrise Powerlink at the proposed the East County (ECO) substation via a cross-border gen-tie.[4] SDG&E expects that project will provide 146 megawatts (MW) of capacity and generate annual RPS-eligible deliveries of approximately 388 gigawatt-hours (GWh). However, the ESJ PPA has flexibility for the project capacity to be between 100 and 156 MW and annually generate between 324 and 422 GWh of RPS-eligible deliveries. Based on SDG&E's expected annual deliveries of 388 GWh, the total annual costs of the ESJ PPA are expected to be approximately $41 million. Table 2 (below) is a summary of the contract terms. The ESJ project is being developed by Sempra Generation and BP Wind.[5] The facility is expected to come online in the fourth quarter of 2013; thus, Commission approval of the PPA, as amended, will authorize SDG&E to accept future RPS-eligible generation that will contribute towards SDG&E's RPS requirements in Compliance Period 2011-2013 and its longer term 33 percent RPS mandate.[6]

Table 2: Summary of Major Contract Terms for the ESJ PPA[7]

TERM/CONDITION	RPS CONTRACT
TYPE OF PURCHASE (RENEWABLE, RENEWABLE/CONVENTIONAL HYBRID, ETC.)	As-available, bundled Renewable (wind)
UTILITY OWNERSHIP	

[4] East County (ECO) Substation: http://www.cpuc.ca.gov/environment/info/dudek/ecosub/ecosub.htm

[5] Sempra Generation is an affiliate of SDG&E. http://sempogeneration.com/

[6] In addition to raising California's RPS requirement to 33% from 20%, SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session) establishes three different compliance periods, 2011-2013, 2014-2016, and 2017-2020.

[7] AL 2247-E included the original PPA and AL 2247-E-A included the PPA amendment. Consistent with D.06-06-066, both the original PPA and amendment were not redacted.

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OPTION	
CONDITIONS PRECEDENT AND DATE TRIGGERS	1. CPUC Approval no later than 300 calendar days after the Execution Date. 2. FERC Approval no later than 300 calendar days after the Execution Date. 3. Large Generator Interconnection Agreement completed and executed no later than one year after the CPUC and FERC approvals are obtained. 4. Material Governmental Approvals obtained no later than one year after the CPUC and FERC approvals are obtained. 5. Project Financing secured no later than six (6) months after CPUC and FERC approvals are obtained. 6. Sempra Generation to enter into a joint venture agreement with an unaffiliated third party for the development, construction and operation of the Project within 10 business days after CPUC and FERC approvals are obtained.
PRICE ($/MWH)	106.50
PRODUCT TYPE	The Product to be delivered and sold by Seller and received and purchased by Buyer under the Proposed Agreement is As-Available Energy, Capacity Attributes, Green Attributes, and other ancillary products, services or attributes similar to the foregoing which are or can be produced by or associated with the project (net of station service) in accordance with the terms of the Proposed Agreement.
KEY CONTRACT DATES (INITIAL STARTUP DEADLINE, COMMERCIAL OPERATION DEADLINE, PTC DEADLINES, ETC.)	• April 6, 2011: Contract Execution Date • September 14, 2011: Amendment Execution Date • CPUC and FERC approvals: 30 days post-execution • LGIA CP deadline: One year post CPUC/FERC approval • Material Govt. approval CP deadline: One year post CPUC/FERC approval • Financing approval CP deadline: Six months after CPUC/FERC approval • Guaranteed COD: Later of 8/31/13 or 18 months after CPUC/FERC approval
FIRMING/SHAPING REQUIREMENTS	As a renewable project connecting directly to the CAISO, the Project will not require any firming and shaping arrangements beyond those provided by CAISO in the course of transmission system operation and reliability requirements. The Project is expected to join CAISO's PIRP initiative, which should minimize the need for CAISO firming and shaping by providing more advanced forecasting of daily

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	expected energy deliveries.
ESTIMATED ANNUAL EXPECTED PAYMENTS	TOD-adjusted price x expected annual GWh ≈ $41 million
SCHEDULING COORDINATOR	SDG&E
ALLOCATION OF CAISO (OR OTHER CONTROL AREA) CHARGES	SDG&E is responsible for CAISO charges from the delivery point, unless imbalances are caused by the Project's failure to provide notice of plant outages at least 30 minutes prior to hour-ahead scheduling or any other failure by Seller to abide by the CAISO Tariff. Energía Sierra Juárez is responsible for any CAISO charges up to and at the Delivery Point. Energía Sierra Juárez is also responsible for any Non-Availability Charges related to the unavailability of the project to deliver when called upon by CAISO, or for any uninstructed deviation charges. Non-availability charges and Availability Incentive Payments pursuant to the CAISO's Standard Capacity Product requirements are allocated to Energía Sierra Juárez.
ALLOCATION OF CONGESTION RISK	Energía Sierra Juárez is responsible for all congestion charges up to the delivery point. SDG&E is responsible for congestion at and from the delivery point.
PROJECT DEVELOPMENT SECURITY	None (Imperial Valley Region)
DAILY DELAY DAMAGES	$34,911.11 per day for failure to achieve Final COD.
SELLER-REQUIRED PERFORMANCE	Prior to the Conditions Precedent ("CP") Satisfaction Date, Energía Sierra Juárez shall: • Use commercially reasonable efforts to pursue satisfaction of the Conditions Precedent set forth in Sections 2.3(b), 2.3(c), 2.3(d) and 2.3(e) of the Agreement, • Use commercially reasonable efforts to pursue development of the Project in accordance with Section 3.9 of the Agreement, • Comply with Section 3.9(b) in achieving the applicable Milestones that have due dates occurring prior to the CP Satisfaction Date, reporting completion of such Milestones, and delivering Remedial Action Plans in respect of missed Milestones as more fully described therein, • Deliver the Quarterly Progress Report to SDG&E in accordance with Section 3.9(a), • Otherwise comply with its obligations, covenants, representations, and warranties under Articles 7-13 of the Agreement.

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SELLER PERFORMANCE ASSURANCES (CALCULATION METHODOLOGY, FORM OF PERFORMANCE ASSURANCE AND AMOUNT)	• Energía Sierra Juárez is required to post Construction Period Security and Delivery Period Security • Construction Period Security in the amount of 3,142,000 in cash, Letter of Credit or a Guaranty from the CP Satisfaction Date until at least 62.5 MW of the Project have achieved Commercial Operation, and an additional $3,142,000 until the date SDG&E receives Delivery Term Security, or an Early Termination Date. • Delivery Term Security in the amount of $30/MWh times the Annual Contract Quantity (measured in MWh) as of the Commercial Operation Date in cash, Letter of Credit or a Guaranty from the Commercial Operation Date until the contract expires, or until contract has Early Termination and all Termination Payments and indemnifications are paid.
AVAILABILITY GUARANTEES	• There are no specific Availability Guarantees however, the minimum guaranteed deliveries effectively limits non-availability of the Project.
ENERGY DELIVERY REQUIREMENTS	• Energy deliveries will begin on the Initial Energy Delivery Date, which is the date upon which the Project is able to deliver no less than 1 MWAC to SDG&E. Energy deliveries are guaranteed by the Bi-Annual Contract Quantity delivered over a rolling 24 month period, at 70% of the Project capacity times the capacity factor.
LIQUIDATED DAMAGES / PENALTIES FOR FAILURE TO PERFORM	• If deliveries are less than Guaranteed Delivery but greater than Default Delivery (50% of Bi-Annual Contract Quantity), liquidated damages are assessed at $40/MWh. • If deliveries are less than the Default Energy Production, an Event of Default is triggered
FORCE MAJEURE PROVISIONS	• Events that could qualify as Force Majeure include, but are not limited to the following: acts of God, flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, other natural disaster or unusual or extreme adverse weather-related events; war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockage, insurrection, revolution, expropriation or confiscation; the enactment, adoption, promulgation, modification, or repeal after the date hereof of any applicable Law; except as set forth below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable); or emergencies declared by the Transmission Provider, the CAISO, or any Governmental

	Authority requiring a forced curtailment of the Project or making it impossible for the Transmission Provider or the CAISO to accept or transmit Energy, including Energy to be delivered pursuant to this Agreement.

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FORCE MAJEURE PROVISIONS (CONTINUED)	• Force Majeure shall not be based on: SDG&E's inability economically to use or resell the Product purchased hereunder; Energía Sierra Juárez's ability to sell the Product at a price greater than the price set forth in this Agreement; Energía Sierra Juárez's inability to obtain Governmental Approvals or other approvals of any type for the construction, operation, or maintenance of the Project; a lack of wind, sun or other fuel source of an inherently intermittent nature; Energía Sierra Juárez's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project, except to the extent Energía Sierra Juárez's inability to obtain sufficient labor, equipment, materials, or other resources is caused by an event of Force Majeure of the specific type described above; Energía Sierra Juárez's failure to obtain additional funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by SDG&E pursuant to this Agreement; a strike, work stoppage or labor dispute limited only to any one or more of Energía Sierra Juárez's, Energía Sierra Juárez's Affiliates, the EPC Contractor or subcontractors thereof or any other third party employed by Energía Sierra Juárez's to work on the Project; or any equipment failure except if such equipment failure is caused solely by an event of Force Majeure of the specific type described above. • A party affected by Force Majeure must provide oral notice to the non-claiming party within 48 hours of the commencement of the event of Force Majeure, and written formal Notice within two weeks. Seller is not permitted to substitute Product from another source during an event of Force Majeure and Buyer is not required to pay for any Product not delivered because of Force Majeure. The scope and duration of the Force Majeure can be no greater than what is required by the Force Majeure.

	Prior to the Final Commercial Operation Date, the Party not claiming Force Majeure may terminate the Agreement after an
	Event of Force Majeure lasting twelve (12) months. Once the Final Commercial Operation Date is reached, the non-claiming Party may terminate after a Force Majeure that lasts for eighteen (18) months. In either case, the Party must provide Notice of the termination by not more than ninety (90) days after the applicable anniversary date has been reached.
NO FAULT TERMINATION	• CPUC and FERC Approval of the Agreement within 300 days of the contract Execution Date. • CPUC Approval with modifications or conditions, and parties after best efforts cannot agree on such modifications within 60 days of the CPUC Approval after best efforts. • Failure to execute the LGIA prior to the deadline in the condition precedent. • Failure to obtain all Material Government Approvals by the deadline date. • Failure of Seller to establish a joint venture for the development, construction and operation of the Project within ten (1) days of receiving CPUC and FERC approval of the Agreement. • Termination by the Non-Claiming Party in the event of a claim of Force Majeure.
SELLER'S TERMINATION RIGHTS	• Energía Sierra Juárez has not entered into an Large Generator Interconnection Agreement with the SDG&E by June 30, 2013 for the construction of Interconnection Facilities at a cost acceptable to Energía Sierra Juárez and an expected completion date for such Interconnection Facilities no later than November 1, 2013 (as the same may be extended from time to time). • Energía Sierra Juárez has not received all final and non-appealable Material Governmental Approvals without conditions or requirements that are unacceptable to Energía Sierra Juárez in its sole discretion by December 31, 2012. • Energía Sierra Juárez has not secured, on terms acceptable to Seller, irrevocable commitments from debt and equity providers and other sources of capital to provide funding, working capital, credit, and other financial instruments and support necessary and sufficient to enable Energía Sierra Juárez to pay all costs and meet all other financial conditions required to complete construction and facilitate

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	operation and maintenance of the Project by December 31, 2013. • SDG&E suffers a Force Majeure event that prevents the performance of a material portion of the Agreement and is not resolved within twelve months after the commencement of such Force Majeure event.
UTILITY'S TERMINATION RIGHTS	• Failure to obtain CPUC and/or FERC approval of the Agreement. • Prior to Final Commercial Operation Date, Energía Sierra Juárez suffers a Force Majeure event that prevents the performance of a material portion of Energía Sierra Juárez's obligations and is not resolved within twelve months after the commencement of such Force Majeure event • After to Final Commercial Operation Date, Energía Sierra Juárez suffers a Force Majeure event that prevents the performance of a material portion of Energía Sierra Juárez's obligations and is not resolved within eighteen months after the commencement of such Force Majeure event. • Event of Default by Energía Sierra Juárez.
RIGHT OF FIRST REFUSAL OR RIGHTS OF FIRST OFFER	• None

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

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

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4. The ESJ PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

Energy Division Evaluated the ESJ PPA on the following criteria:

- Consistency with SDG&E's 2009 and 2011 RPS Procurement Plans
- Consistency with SDG&E's Least-Cost, Best-Fit requirements
- Cost reasonableness
- Cost containment
- Consistency with RPS standard terms and conditions
- Independent Evaluator review
- Procurement Review Group participation
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Contribution to minimum quantity requirement for long-term/new facility contracts
- Project viability assessment and development status

Consistency with SDG&E's 2009 and 2011 RPS Procurement Plan

As stated above, the ESJ PPA is the result of SDG&E's 2009 RPS solicitation. Thus, the PPA was reviewed for consistency with SDG&E's 2009 RPS Procurement Plan. The ESJ PPA was also reviewed for consistency with SDG&E's 2011 RPS Procurement Plan because an amendment to the PPA was filed after SDG&E's 2011 RPS Procurement Plan was approved.

Pursuant to statute, SDG&E's 2009 and 2011 RPS Procurement Plans include assessments 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. Util. Code, Section §399.13(a)(5).

[9] Pub. Util. Code, Section §399.13.

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

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SDG&E's 2009 RPS Plan called for SDG&E to issue a competitive solicitation for electric energy generated by eligible renewable resources that could begin delivering in 2010, 2011, 2012, and 2013, for preferred terms of 10, 15, or 20 years, with terms greater than 20 years also being acceptable. Proposals could be for peaking, baseload, dispatchable, or as-available deliveries. Additionally, SDG&E expressed a commitment to contract in excess of its mandated annual procurement targets. 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.

In SDG&E's 2011 RPS Plan, SDG&E expressed similar preferences in their solicitation. Additionally, SDG&E expressed a commitment to contract in excess of 33 percent renewables by 2020.[11] SDG&E also expressed preference for projects that could contribute towards SDG&E's Sunrise Powerlink commitment. Last of all, SDG&E's Plans discussed utility plans to pursue renewable energy generation development partnerships and utility-owned resources.

The ESJ 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 20 year contract from a renewable energy facility that is expected to provide renewable energy deliveries beginning in 2013 that will contribute towards SDG&E's RPS requirement.

<u>The ESJ PPA is consistent with SDG&E's 2009 and 2011 RPS Procurement Plan, as approved by D.11-04-030.</u>

SDG&E's RPS Procurement Portfolio Need

As a resource with commercial deliveries beginning in the fourth quarter of 2013, this project will provide deliveries during the end of Compliance Period 2011-2013.[12] When adjusting SDG&E's RPS procurement portfolio to account for a certain amount of contract failure, SDG&E's primary need for additional renewable generation is projected to be in Compliance Period 2011-2013 and

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2011.

[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 in advance of the 33 percent RPS law being enacted.

[12] RPS procurement quantity requirements were adopted in D.11-12-020.

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Compliance Period 2017-2020 as shown in Figure 1. Figure 1 depicts the projected net long/short position for each compliance period under a risk-adjusted scenario.[13] This graphical illustration shows that SDG&E is forecasted to be over-contracted in Compliance Period 2014-2016, and that it is under-contracted in Compliance Period 2011-2013 and Compliance Period 2017-2020.

Figure 1: SDG&E is forecasted to be under-contracted in Compliance Period 2011-2013 and 2017-2020[14]

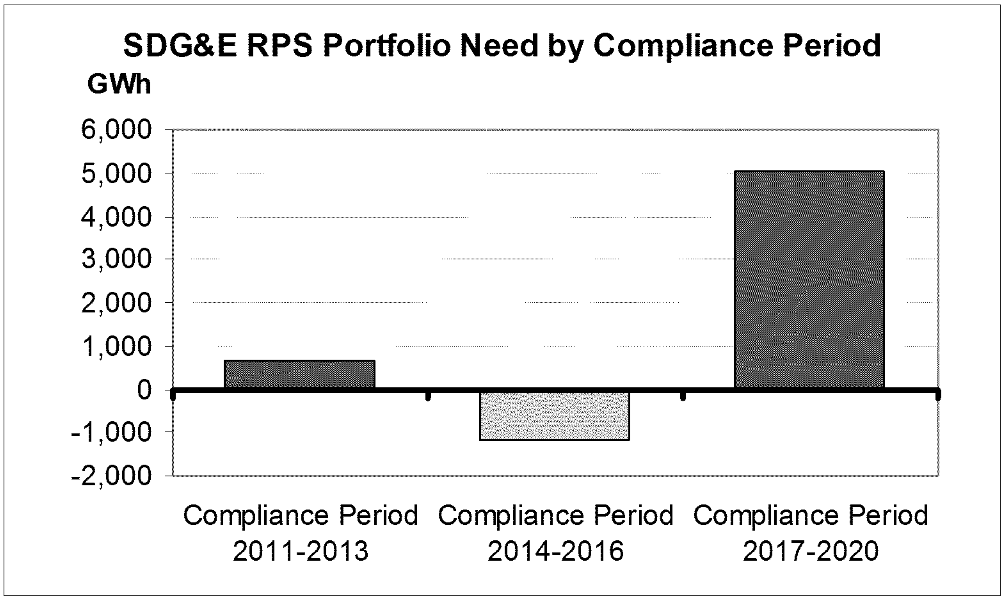

Table 1, below, provides a summary of 1) forecast of SDG&E's RPS procurement portfolio (includes projects currently in operation and those with CPUC-approved contracts under a risk-adjusted scenario); 2) the forecast of SDG&E's RPS procurement portfolio net long/short positions relative to the RPS compliance periods' quantity requirements; and 3) the forecasted annual generation from 2011 to 2020 for the Catalina Solar project. Given the expected late fourth quarter of 2013 online date, projected generation from the ESJ project would only contribute approximately one quarter of the project's expected

[13] It is assumed that projects under development will have a 60 percent rate of meeting the terms and conditions of the PPAs.

[14] Includes: 1) operating RPS-eligible generation under CPUC-approved PPAs and 2) RPS-eligible generation under CPUC-approved PPAs that is under development. It is assumed that projects under development will have a 60 percent rate of meeting the terms and conditions of the PPAs.

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annual generation (approximately 97 GWhs) towards SDG&E's Compliance Period 2011-2013 RPS procurement needs. The ESJ project is expected to contribute 1,551 GWh in Compliance Period 2017-2020.

Table 3: ESJ's Expected Generation will contribute to SDG&E's RPS Portfolio Needs in Compliance Period 2011-2013 and Compliance Period 2017-2020

	Compliance Period 2011-2013	Compliance Period 2014-2016	Compliance Period 2017-2020
RPS Target	10,466	13,662	23,487
Operating	7,858	6,515	6,671
Approved*	1,930	8,303	11,797
Subtotal	9,788	14,818	18,468
Need	679	-1,156	5,019
ESJ	85	1,015	1,353

Units: GWh
*assumes 60% success for projects under development

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. 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.

The ESJ PPA is the result of SDG&E's 2009 RPS solicitation. In AL 2247-E, SDG&E explains that it evaluated and selected the ESJ bid consistent with its 2009 LCBF evaluation methodology. In AL 2247-E-A, SDG&E explains that it evaluated the amended ESJ PPA consistent with its 2011 LCBF evaluation methodology. See the "Cost Reasonableness" section of this resolution for a

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discussion of how the project compares to SDG&E's 2011 RPS solicitation, recent bilateral offers, and recently executed contracts.

The ESJ PPA was evaluated consistent with the LCBF methodology identified in SDG&E's 2009 and 2011 RPS Procurement Plans.

Cost Reasonableness

The Commission's reasonableness review for RPS PPA costs includes a comparison of the proposed PPA's value[15] and price to offers received in recent RPS solicitations, recent bilateral offers, and recently executed contracts. A PPA's value is determined by the IOU's LCBF methodology. As stated above, SDG&E initially evaluated the ESJ bid using its 2009 LCBF methodology and provided that information in AL 2247-E. Subsequently, in AL 2247-E-A, SDG&E provided an evaluation of the amended PPA using its 2011 LCBF methodology and compared the amended PPA to its 2011 RPS shortlist and recently executed bilateral contracts.

Based on the Commission's analysis of the PPA's value and the confidential analysis provided by SDG&E in AL 2247-E and supplemental AL 2247-E-A, the Commission determines that the PPA's costs are reasonable. The amended PPA is reasonable because its price and value is comparable to SDG&E's 2011 RPS solicitation, other comparable contracts, and the project is to provide RPS-eligible energy during Compliance Period 2011-2013 and Compliance Period 2017-2020 which is when SDG&E has identified a specific RPS procurement need in relation to its RPS compliance requirements. (See Confidential Appendix A for a detailed discussion of the project's valuation.)

The ESJ PPA's price and value compares reasonably to the results of SDG&E's 2011 RPS solicitation and other comparable contracts.

Payments made by SDG&E under the ESJ PPA, as amended, 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 D.08-10-026, the Commission calculated and adopted a 2009 market price referent (MPR) in Resolution E-4298. Additionally, in E-4199, the Commission adopted rules and limitations regarding costs above the MPR. The PPA price is $106.50/MWh and will be time-of-delivery adjusted. Based on the

[15] A project's value is determined by an IOU's LCBF methodology which evaluates the costs and benefits of the project.

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ESJ project's commercial operation date of August 31, 2013, the ESJ PPA price is above the applicable 2009 MPR.[16] Because SDG&E has exhausted its above-market costs allocated in E-4199, it voluntarily entered into the PPA at a price that exceeds the applicable market price referent.

Pursuant to SB 2(1X), the Commission is implementing a new cost containment framework in Rulemaking 11-05-005.

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, the Commission further refined these STCs in D.10-03-021, as modified by D.11-01-025.

The ESJ 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 its 2009 and 2011 RPS solicitations and to evaluate the overall merits for CPUC approval of the PPA. Also, as required with affiliate transactions, the IE was present for all negotiations. AL 2247-E and 2247-E-A 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 supplemental AL 2234-E-A.

In the original and revised IE report, the IE states that he believes that ESJ was not provided any advantage over bidders and that the ESJ PPA reflects fair negotiations. Additionally, the IE states that, after reviewing the contract's price (including transmission cost adders), portfolio fit, project viability, and other factors, he believes that the ESJ PPA merits approval. See Confidential Appendix B for an excerpt of the revised IE report.

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's 2009 and 2011 RPS solicitations and negotiations with ESJ.

[16] See Resolution E-4298.

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Procurement Review Group Participation

The Procurement Review Group (PRG) was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.[17] SDG&E asserts that the ESJ PPA was discussed at two PRG meetings in 2009, two meetings in 2010, and four meetings in 2011.

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

Compliance with the Interim Greenhouse Gas Emissions Performance Standard

California Pub. Util. Code §§ 8340 and 8341 require that the Commission consider emissions associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers. [18]

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.[19]

The ESJ PPA meets the conditions for EPS compliance because generation pursuant to the PPA will be from a facility that uses wind technology, which is one of the renewable energy technologies listed in D.07-01-039 that is deemed EPS compliant.

Contribution to Minimum Quantity Requirement for Long-Term/New Facility Contracts

[17] 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.

[18] "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. Util. Code § 8340 (a).

[19] D.07-01-039, Attachment 7, p. 4

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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.[20] 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 a long-term contract, the ESJ PPA will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.

Pursuant to SB 2(1X), the Commission is implementing a new minimum quantity requirement in Rulemaking 11-05-005.

Project Viability Assessment and Development Status

SDG&E asserts that the ESJ project is viable and will be developed according to the terms and conditions in the PPA. SDG&E bases its assertion on its evaluation of the project's viability 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. See Confidential Appendix A for the scoring of the project's viability. Additionally, SDG&E provided the following information about the project's developer and the project's development status.

Developer experience

Sempra Generation is the developer of the project and the project will be jointly owned with BP Wind. Sempra Generation has developed over 3,900 MW of utility-scale generation, including 450 MW of wind projects in the United States.

Resource quality and technology

The project will use commercially proven wind turbines. Wind studies indicate an estimated Net Capacity Factor between 28 percent and 37 percent at P50.

Site control and permitting status

ESJ has acquired rights to the property needed to construct the facility and the gen-tie. CEC Pre-Certification of the facility as RPS-eligible was obtained in May

[20] 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."

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2009. All other necessary permits are expected to be obtained in a timely manner to achieve the conditions precedent in the amended PPA.

Interconnection and transmission

ESJ will connect to the Sunrise Powerlink via the proposed East County (ECO) Substation. The Commission is currently reviewing SDG&E's application (A.09-08-003) for a Permit to Construct (PTC) for the ECO Substation. SDG&E estimates the ECO Substation in-service date as the fourth quarter of 2013.[21] The Phase I and Phase II CAISO Transmission Studies for the project are complete. The project will also need a Presidential permit from the U.S. Department of Energy (DOE) to construct, operate, maintain, and connect a 1.7-mile generator-tie transmission line (0.65 miles in the U.S.) across the international border between the U.S. and Mexico.[22] A draft EIS was issued by the DOE in September 2010.

Financing Plan

The project is expected to be balance sheet financed.

In the revised IE report included in AL 2247-E-A, the IE states that the project is in the range of average viability. Based on the project's project viability score and the above development progress, it is reasonable to expect that ESJ will be able to meet the PPA's terms and conditions.

DRA's protest regarding network upgrades, interconnection facilities, and generator tie-line costs is denied.

DRA asserts in its protest to SDG&E AL 2247-E and AL 2247-E-A that the Commission should reject AL 2247-E and 2247-E-A without prejudice because SDG&E should amend the PPA to include cost details and contract terms that limit SDG&E incurring costs related to network upgrades, interconnection facilities, and the project's generator tie-line. DRA argues that there is a lack of clarity regarding the actual costs and responsibility of the costs. Further, DRA recommends that the PPA be amended to limit SDG&E from incurring any network upgrade costs above the transmission ranking cost report adder assigned to the project.

[21] SDG&E's Application estimated an in-service date of June 2012. SDG&E informed Energy Division staff on January 5, 2012 that the revised estimated in-service is the fourth quarter of 2013.

[22] U.S. Department of Energy Energia Sierra Juarez Transmission Line EIS: http://esjprojecteis.org/index.htm

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In SDG&E's reply to DRA's protests, SDG&E recommends that DRA's protest should be denied because DRA's recommendation conflicts with CAISO's Generator Interconnection Procedures and that DRA is incorrectly applying the TRCR adder as part of the contract price.

The Commission agrees with SDG&E that the PPA should not be amended such that network upgrade costs are limited to the TRCR value assigned in the LCBF evaluation of the ESJ project. The TRCR adder in LCBF evaluation is an estimate of transmission costs to be used for comparing bids. As such, the TRCR adder is not incorporated into the contract price or passed on to ratepayers. Actual transmission costs are the result of CAISO and utility engineering studies. Further, as SDG&E notes in its reply, interconnection costs for network upgrades to ensure full deliverability must be reimbursed by SDG&E as the Participating Transmission owner under the CAISO tariff and the costs of the gen-tie line is the responsibility of the developer. Therefore, DRA's protests are denied.

BAD, POC, and ECCAC's joint protest regarding contract price and environmental review is denied

BAD, POC, and ECCAC recommend in its protest to AL 2247-E that the ESJ PPA should either be rejected because it is too expensive or the Commission should condition approval of the PPA on a full environmental review of the project and adoption of enforceable environmental mitigation measures. BAD, POC, and ECCAC argue that the PPA price is above the MPR and thus too expensive. Additionally, BAD, POC, and ECCAC argue that it is consistent with the California Environmental Quality Act (CEQA) and Commission policy to ensure the environmental implications of a project are identified in the decision making process and require appropriate mitigation measures.

In SDG&E's reply, SDG&E argues that BAD, POC, and ECCAC's protest has no merit and should be denied. SDG&E asserts that the fact that a PPA price is priced above the MPR is not a basis for Commission rejection. SDG&E also asserts that Commission approval of a PPA is not subject to the CEQA process.

The Commission agrees with SDG&E that BAD, POC, and ECCAC's protest regarding price is not an adequate basis for rejection. While the price is above the applicable MPR, the MPR is not a price reasonableness benchmark. Also, as stated above, the Commission reviewed the contract price and value and found that it compares reasonably to bids from SDG&E's 2011 RPS solicitation and other comparable contracts. Additionally, as SDG&E argued in its reply, Commission review of a PPA is not review of a "project," but a review of the costs

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SDG&E's ratepayers will incur pursuant to the proposed PPA. Further, any project, as defined by CEQA, is subject to all applicable environmental laws. As such, the project will not go forward without meeting the relevant environmental laws.[23] Therefore, BAD, POC, and ECCAC's protest recommending rejection of AL 2247-E based on the PPA's price and its alternative recommendation of conditioning approval on environmental review and mitigation measures is denied.

TURN, the State Building and Construction Trades Council of California, the International Brotherhood of Electrical Workers Ninth District, and IBEW Local 569's protest regarding the PPA's price, project's viability, and employment impacts is denied

TURN, the State Building and Construction Trades Council of California, the International Brotherhood of Electrical Workers Ninth District, and IBEW Local 569 (TURN, et al.) argue in their protest to Advice Letter 2247-E-A that it should not be approved. Specifically, TURN et al. argue that the PPA price is more expensive than bids from SDG&E's 2011 RPS solicitation, and therefore not a least-cost, best option for SDG&E ratepayers resulting in ratepayers paying a premium for generation from the ESJ project. Additionally, TURN et al. assert that the project is not viable because government approvals have not been obtained for a substation and gen-tie that are required to transmit generation from the project to SDG&E. Specifically, SDG&E's proposed East County (ECO) Substation still requires Commission approval and the project's cross-border gen-tie requires a DOE Presidential permit. Last of all, TURN et al. argue that the SDG&E's LCBF evaluation did not consider employment impacts, as required by SB 2 (1X), and if the impacts had been considered, the project would not have been selected.[24] TURN et al. asserts that because California's demand for renewable energy is finite and that by procuring from a foreign source, a project will not be built in the United States and construction jobs and work force training will not occur.

In SDG&E's reply, SDG&E argues that TURN et al.'s protest should be denied. SDG&E argues that the ESJ project was properly evaluated and selected through the LCBF evaluation process. SDG&E asserts that the project is competitive with the offers it shortlisted and the 2013 online date aligns with SDG&E's RPS procurement portfolio needs. SDG&E also argues that TURN et

[23] The project will need to obtain a MIA Environmental Permit (SEMARNAT) and an Environmental Zoning Permit [ETJ] (SEMARNAT) in addition to the applicable California and U.S. environmental reviews.

[24] §399.13(a)4(A)

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al.'s remaining protests regarding viability and employment impacts are outside the scope. SDG&E argues that it is illegal and bad policy to discriminate against a project because it is located in Mexico. Specifically, under the RPS statute (Pub. Util. Code §§ 399.11(e)(1) and (2)), SDG&E argues that renewable generation from projects located in Mexico may satisfy the RPS requirements. Further, SDG&E argues that TURN et al.'s arguments contradict U.S. trade and electricity reliability policy which has dates back to the 1970s and was reaffirmed in May 2010 by Presidents Barak Obama and Felipe Calderon's creation of a Cross Border Electricity Task Force to promote regional renewable energy markets between the U.S. and Mexico. Last of all, SDG&E argues that TURN et al's arguments regarding employment impacts are logically and factually flawed. SDG&E argues that the there is no evidence that any renewable energy project developer has stopped their efforts as a result of ESJ's development and that since the project began development in 2007 there has been a substantial increase in the amount of new capacity that is proposing to interconnect to SDG&E's transmission system.

The Commission agrees with SDG&E that it reasonably evaluated and selected the ESJ project using its LCBF methodology. As stated above, the Commission reviewed the contract's price and value and found that it compares reasonably to bids from SDG&E's 2011 RPS solicitation and other comparable contracts. Also, while TURN et al. correctly note that both the ECO Substation and Presidential Permit have not been approved and contested by parties, they did not provide any evidence indicating that they will be rejected. Thus, as stated above, based on the ESJ's project viability score and the above described development progress it is reasonable to expect that ESJ will be able to meet the PPA's terms and conditions. As stated above in this resolution, SDG&E evaluated the ESJ project consistent with its Commission approved LCBF methodology which was found to be consistent with applicable Commission decisions. Therefore, TURN et al.'s protest regarding the PPA's price, project's viability, and employment impacts is denied.

RPS Eligibility and CPUC Approval

Pursuant to Pub. Util. Code § 399.25, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable "eligibility" language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an "Eligible Renewable Energy Resource," that the project's output delivered to the buyer qualifies under the requirements of the

California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.[25]

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."[26]

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

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

Confidential Information

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

[25] *See, e.g.* D. 08-04-009 at Appendix A, STC 6, Eligibility.

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

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The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, which constitute the confidential portion 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 ESJ power purchase agreement is consistent with SDG&E's 2009 and 2011 RPS Procurement Plan, as approved by D.11-04-030.
2. Projected generation from the ESJ project contributes minimally to SDG&E's Compliance Period 2011-2013 and significantly to Compliance Period 2017-2020 RPS procurement portfolio needs.
3. The ESJ power purchase agreement was evaluated consistent with the least-cost best-fit methodology identified in SDG&E's 2009 and 2011 RPS Procurement Plans.
4. The price and value of the ESJ power purchase agreement compares reasonably to the results of SDG&E's 2009 and 2011 solicitation, bilateral offers, and recently executed contracts.
5. The ESJ power purchase agreement 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.
6. Payments made by SDG&E under the ESJ power purchase agreement are fully recoverable in rates over the life of the ESJ power purchase agreement, subject to Commission review of SDG&E's administration of the ESJ power purchase agreement.
7. The ESJ PPA price of $106.50/MWh is above the applicable 2009 MPR.

8. SDG&E voluntarily entered into the ESJ PPA price that exceeds the applicable market price referent.
9. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw SDG&E's RPS procurement process.
10. Pursuant to D.02-08-071, SDG&E's Procurement Review Group participated in the review of the ESJ power purchase agreement.
11. The ESJ PPA meets the conditions for EPS compliance because generation pursuant to the PPA will be from a facility that uses wind technology, which is one of the renewable energy technologies listed in D.07-01-039 that is deemed EPS compliant.
12. The ESJ power purchase agreement will contribute to SDG&E's minimum quantity requirement established in D.07-05-028.
13. It is reasonable to expect that ESJ will provide renewable energy according to the terms and conditions in the ESJ power purchase agreement.
14. DRA's protests of AL 2247-E and AL 2247-E-A are denied.
15. BAD, POC, and ECCAC's protest of AL 2247-E is denied.
16. TURN et al.'s protest of AL 2247-E-A is denied.
17. Procurement pursuant to the ESJ power purchase agreement 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.
18. The immediately preceding finding shall not be read to allow generation from a non-RPS eligible renewable energy resource under this power purchase agreement to count towards an RPS compliance obligation. Nor shall that finding absolve SDG&E of its obligation to enforce compliance with this power purchase agreement.
19. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, which constitutes the confidential portion of the advice letter, should remain confidential at this time.
20. AL 2247-E and 2247-E-A should be approved effective today without modification.

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THEREFORE IT IS ORDERED THAT:

1. San Diego Gas & Electric Company's Advice Letters 2247-E and 2247-E-A requesting Commission review and approval of a power purchase agreement, as amended, with Energia Sierra Juarez U.S., LLC, are 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 March 8, 2012; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

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Confidential Appendix A

Evaluation Summary of the ESJ PPA

[Redacted]

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Confidential Appendix B

Excerpt from Independent Evaluator's Report regarding SDG&E's PPA with ESJ[27]

[Redacted]

[27] Excerpt from Confidential Appendix B to Advice Letter 2234-E-A, Report of the Independent Evaluator on the 265-315 MW Pattern ESJ Express contract selected in the 2009 Request for Offers from Eligible Renewable Resources (2009 Renewable RFO) October 5, 2011

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