



Clay Faber
Regulatory Affairs
8330 Century Park Court
San Diego, CA 92123-1548

Tel: 858-654-3563
Fax: 858-654-1788
CFaber@semprautilities.com

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Tariff Unit
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
edtariffunit@cpuc.ca.gov

Re: Comments of San Diego Gas & Electric Company on Draft Resolution E-4497

Dear Sir or Madam:

Pursuant to Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), San Diego Gas & Electric ("SDG&E") submits the following comments regarding Draft Resolution E-4497 (the "DR"), which approves, without modification, Advice Letter ("AL") 2258-E requesting approval of the amended power purchase agreement ("PPA") between SDG&E and USS Energy Star 2, LLC ("USS Energy").

SDG&E supports the determinations set forth in the Draft Resolution, but notes two areas of concern. The first relates to need data improperly included in Figure 1 (p. 9) and Table 2 (p. 10) of the DR. The second relates to SDG&E's request for an initial or preliminary determination regarding the portfolio content categorization of the amended PPA with USS Energy.

Data Regarding SDG&E's Need in Current and Future Compliance Periods

The DR includes two tables purporting to reflect SDG&E's RPS procurement need in Compliance Periods 1, 2 and 3. Figure 1 (p. 9) depicts SDG&E's projected RPS net long/short position for each compliance period under a risk-adjusted scenario.¹ This graphical illustration shows that SDG&E is forecasted to be over-contracted in Compliance Period 2 (2014-2016), and that it is under-contracted in Compliance Period 1 (2011-2013) and Compliance Period 3 (2017-2020).

¹ It is assumed that projects under development will have a 60 percent rate of meeting the terms and conditions of the PPAs.

Figure 1:

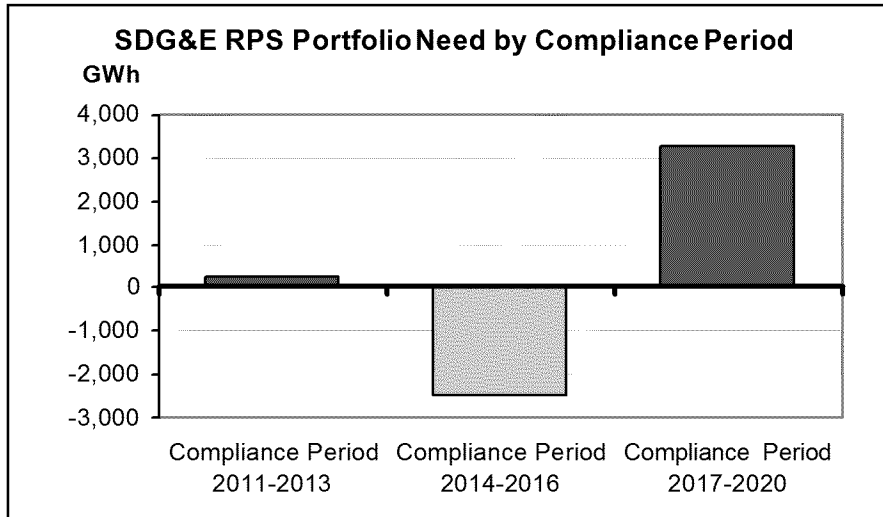


Table 2 (p. 10) provides a summary of: (i) forecast of SDG&E’s RPS procurement portfolio (includes projects currently in operation and those with CPUC-approved contracts under a risk-adjusted scenario); (ii) the forecast of SDG&E’s RPS procurement portfolio net long/short positions relative to the RPS compliance periods’ quantity requirements; and (iii) the forecasted annual generation from 2011 to 2020 for the Campo Verde Solar project. Given the expected third quarter of 2013 online date, projected generation from the Campo Verde Solar project will contribute approximately 130 GWhs towards SDG&E’s Compliance Period 1 RPS procurement needs. The Campo Verde project is expected to contribute 912 GWh in Compliance Period 3.

Table 2: Campo Verde Solar’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	10,283	13,662	23,487
Operating	7,858	6,515	6,671
Approved ^a	<u>2,159</u>	<u>9,640</u>	<u>13,557</u>
Subtotal	10,017	16,155	20,228
Need ^b	265	-2,493	3,259
Campo Verde	103	912	912

Units: GWh

^aassumes 60% success for projects under development

^bassumes no banking of forecasted generation because banking rules have not been implemented

Under the Confidentiality Matrix adopted in D.06-06-066, *et seq.*, SDG&E's bundled net short position for capacity and energy is confidential for the forthcoming three years of forecast data (through 2015).² This covers Compliance Period 1 and part of Compliance Period 2 (which by default covers all of Compliance Period 2).

It is SDG&E's understanding that the need figure included in Figure 1 and Table 2 is an estimate developed by Energy Division staff based upon publicly available data regarding expected deliveries, retail sales forecasts, etc. While the need number presented is an estimate and does not match the need data reflected in SDG&E's recent March 1, 2012 RPS Compliance filing, SDG&E nevertheless submits that the Commission should refrain from publicly disclosing approximate need data, as the latter violates the spirit, if not the letter, of the law.

In the interest of promoting transparency, SDG&E would not object to inclusion of a statement in the DR to the effect that SDG&E has low need for Compliance Period 1, has exceeded compliance targets in Compliance Period 2 and has a higher need in Compliance Period 3. If the Commission instead elects to provide a specific estimate of need, it should at the very least provide an explanation of the nature of the need information it is providing – *i.e.*, explain that it is an estimate developed by the Commission rather than the need reported by SDG&E, and that it is subject to change.

Need for a Preliminary Finding Regarding Portfolio Content Category

In AL 2258-E, SDG&E requested the the final Resolution include a finding that the PPA meets the the criteria of §399(b)(1)(A) (“Portfolio Content Category 1” or “Category 1”). The DR acknowledges that, consistent with D.11-12-052, SDG&E provided Energy Division staff with information regarding the proposed contract's portfolio content category classification.³ The DR further notes that in evaluating the amended PPA, a number of factors were taken into consideration, including the consistency with the portfolio content category requirements.⁴ Notwithstanding SDG&E's upfront showing and the Energy Division's evaluation of the PPA's consistency with the portfolio content category, the DR makes no determination regarding the PPA's portfolio content category classification.

SDG&E recognizes that the Commission's final determination regarding compliance with the portfolio content category requirements is conducted through a separate compliance process; however, a preliminary determination or finding as to the content categorization of the PPA is necessary to provide SDG&E guidance for resource planning purposes. A preliminary determination of the portfolio content category in the final resolution is consistent with D.11-12-052, which establishes the upfront showing requirement in order to ensure that “enough information is presented with the advice letter for the Commission to be reasonably sure that the portfolio content category of the proposed contract is correctly characterized.” Thus, the final resolution approving

² IOU Matrix, Category VI (Net Open Position Information- Electric).

³ DR, p12.

⁴ *Id.* at p.6.

proposed contracts should include an express, preliminary determination as to whether, on the basis of the data presented in the upfront showing, the portfolio content category of the proposed contract is correctly characterized.⁵ Such a preliminary finding in no way prejudices the ultimate content category compliance determination, which the DR correctly notes is a separate process from the contract evaluation process.⁶

While it is abundantly clear that the PPA is properly classified as a Category 1 project, the portfolio content categorization of all projects submitted to the Commission for approval in the future may not be as clear. It is important that the Commission establish a precedent at the outset of implementation of the new RPS framework of providing initial or preliminary classifications of RPS contracts. A preliminary product category determination from the Commission will help to eliminate the uncertainty that could prompt additional (possibly duplicative) procurement to account for the possibility that the Commission does not agree with SDG&E's categorization assessment.

As the Commission pointed out in D.11-12-052, portfolio content categorization is crucial in determining the value of a contract and is an integral part of the Energy Division's determination of whether the PPA merits cost recovery.⁷ Thus, the Commission must, in order to assess cost recovery, reach a preliminary determination of a proposed contract's portfolio content categorization. Making that preliminary determination public in a final resolution would provide much needed guidance for RPS resource planning purposes. Nothing in D.11-12-052 prevents the Commission from issuing a preliminary indication of a proposed contract's content category. Accordingly, the DR should be modified to include a preliminary finding that the amended PPA meets the criteria of Portfolio Content Category 1.

Respectfully Submitted,

Clay Faber
Director, Regulatory Affairs

cc: President Michael R. Peevey
Commissioner Mark J. Ferron
Commissioner Timothy A. Simon
Commissioner Michel P. Florio
Commissioner Catherine J.K. Sandoval
Edward Randolph, Director of Energy Division
Cheryl Lee, Energy Division
Paul Douglas, Project and Program Supervisor, Energy Division

⁵ D.11-12-052, *mimeo*, p. 11.

⁶ *See id.* at pp. 11-13.

⁷ *See id.* at pp. 10-11.

Karen Clopton, Chief Administrative Law Judge
Frank Lindh, General Counsel
Service List attached to R.11-05-005
Tariff Unit, Energy Division