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July 30, 2012

ADVICE LETTER 2389-E
(U902-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SUBJECT: ADVICE LETTER PURSUANT TO RESOLUTION E-4466 - REQUEST FOR APPROVAL OF RENEWABLE POWER PURCHASE AGREEMENTS WITH SOL ORCHARD SAN DIEGO I LLC THROUGH SOL ORCHARD SAN DIEGO 4, SOL ORCHARD SAN DIEGO 6 LLC THROUGH SOL ORCHARD SAN DIEGO 10 LLC, AND SOL ORCHARD SAN DIEGO 12 LLC THROUGH SOL ORCHARD SAN DIEGO 23 LLC

PURPOSE

In compliance with California Public Utilities Commission's (Commission) Resolution E- 4466 (the "Resolution") issued on April 19, 2012, San Diego Gas & Electric Company ("SDG&E") hereby submits for approval amendments to twenty-one (21) Power Purchase Agreement ("PPA") with Sol Orchard San Diego 1 through Sol Orchard San Diego 4 LLC, Sol Orchard San Diego 6 LLC through Sol Orchard San Diego 10 LLC and Sol Orchard San Diego 12 LLC through Sol Orchard San Diego 23 LLC (together "Sol Orchard"). The purpose of this advice letter is to demonstrate compliance with the Resolution by amending the Sol Orchard PPAs to impose an aggregate cap of \$13.5 million on the costs that ratepayers must pay for any distribution and transmission upgrades (network and reliability) necessary to ensure full deliverability of the projects.

The modified PPAs are attached herein as Confidential Attachment A to this advice letter.

BACKGROUND

On July 6, 2011 SDG&E filed an Advice Letter 2268-E (the "AL") seeking approval from the Commission of twenty-one (21) Power Purchase Agreements with Sol Orchard. The Proposed Agreements are each for a 25 year term and involve delivery of solar energy from twenty-one (21) photovoltaic plants to be constructed in various locations within SDG&E's service territory. The Proposed Agreements establish a commercial online date of December 31, 2012 (Sol Orchard San Diego I LLC through Sol Orchard San Diego 4 LLC, Sol Orchard San Diego 6 LLC through Sol Orchard San Diego 10 LLC, and Sol Orchard San Diego 12 LLC through Sol Orchard San Diego 17 LLC) and December 31, 2013 (Sol Orchard San Diego 18 LLC through Sol Orchard San Diego 23 LLC).

On June 7, 2012, the Commission issued Resolution E-4466, which approves cost recovery for the Sol Orchard PPAs on the condition that they be amended to cap at \$13.5 million the costs

that ratepayers will pay for distribution and transmission upgrades (network and reliability) necessary to ensure full deliverability of the projects.

PPA AMENDMENTS

In compliance with the Resolution, SDG&E determined and calculated the cap for each of the twenty-one (21) PPAs. The distribution and transmission cap was calculated by prorating the total cap of \$13.5 million to the total maximum capacity amount of the megawatts (MW) under all twenty-one (21) PPAs:

$$\$13.5 \text{ million}/50\text{MW}=\$270,000 \text{ per MW}$$

SDG&E and Sol Orchard have amended all twenty-one (21) PPAs as of July 5, 2012 to comply with the Resolution (The amendment to the PPAs are attached in a Confidential Attachment A).

The table below illustrated how the cap of 13.5 million was applied to all twenty-one (21) PPAs:

#	Seller	Mincontract Capacity (MW)	Max contract Capacity (MW)	Cap Cost \$ per MW	Total Contract Cost Cap \$
1.	Sol Orchard San Diego 1	1.5	2	270,000	540,000
2.	Sol Orchard San Diego 2	1.5	2	270,000	540,000
3.	Sol Orchard San Diego 3	1.5	2	270,000	540,000
4.	Sol Orchard San Diego 4	1.5	2	270,000	540,000
5.	Sol Orchard San Diego 6	1.5	2	270,000	540,000
6.	Sol Orchard San Diego 7	1.5	2	270,000	540,000
7.	Sol Orchard San Diego 8	1.5	2	270,000	540,000
8.	Sol Orchard San Diego 9	1.5	2	270,000	540,000
9.	Sol Orchard San Diego 10	1.5	2	270,000	540,000
10.	Sol Orchard San Diego 12	1.5	2	270,000	540,000
11.	Sol Orchard San Diego 13	1.5	2	270,000	540,000
12.	Sol Orchard San Diego 14	1.5	2	270,000	540,000
13.	Sol Orchard San Diego 15	1.5	2	270,000	540,000
14.	Sol Orchard San Diego 16	1.5	2	270,000	540,000
15.	Sol Orchard San Diego 17	1.5	2	270,000	540,000
16.	Sol Orchard San Diego 18	1.5	2.5	270,000	675,000
17.	Sol Orchard San Diego 19	1.5	2.5	270,000	675,000
18.	Sol Orchard San Diego 20	1.5	2.5	270,000	675,000
19.	Sol Orchard San Diego 21	3	5	270,000	1,350,000
20.	Sol Orchard San Diego 22	1.5	2.5	270,000	675,000
21.	Sol Orchard San Diego 23	3	5	270,000	1,350,000
	Total cap:				13,500,000

EFFECTIVE DATE

SDG&E believes this filing is subject to Energy Division disposition and should be classified as Tier 1 (effective pending disposition) pursuant to GO 96-B. SDG&E respectfully requests that this filing become effective on July 30, 2012, per Resolution E-4466.

PROTEST

Anyone may protest this Advice Letter to the California Public Utilities Commission. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. The protest must be made in writing and must be received no later than August 20, 2012, which is 20 days after the date this Advice Letter was filed with the Commission. There is no restriction on who may file a protest. 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 of the protest should also be sent via e-mail to the attention of the Energy Division at EDTariffUnit@cpuc.ca.gov. A copy of the protest should also be sent via both e-mail and facsimile to the address shown below on the same date it is mailed or delivered to the Commission.

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

NOTICE

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 providing them a copy hereof either electronically or via the U.S. mail, properly stamped or addressed.

Address changes should be directed to SDG&E Tariffs by facsimile at (858) 654-1879 or by email to SDG&ETariffs@semprautilities.com.

CLAY FABER
Director – Regulatory Affairs

Attachments

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) #: 2389-E

Subject of AL: Advice Letter Pursuant to Resolution E-4466 – Request for Approval of Renewable Power Purchase Agreements with Sol Orchard San Diego LLC

Keywords (choose from CPUC listing): Procurement, Renewables, Supplemental

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 AL¹: N/A

Does AL request confidential treatment? If so, provide explanation: See attached

Resolution Required? Yes No

Tier Designation: 1 2 3

Requested effective date: 7/30/2012

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: None

Service affected and changes proposed¹: 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
EDTariffUnit@cpuc.ca.gov**

**San Diego Gas & Electric
Attention: Megan Caulson
8330 Century Park Ct, Room 32C
San Diego, CA 92123
mcaulson@semprautilities.com**

¹ 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

Y. Schmidt
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

CCSE

S. Freedman
J. Porter

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

OnGrid Solar

Andy Black

Pacific Gas & Electric Co.

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

Pacific Utility Audit, Inc.

E. Kelly

R. W. Beck, Inc.

C. Elder

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 2389-E
July 30, 2012

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 Advice Letter 2389-E, demonstrating compliance with the Resolution E-4466 issued on April 19, 2012 requesting approval of amendments to twenty-one (21) Power Purchase Agreements (PPAs) with Sol Orchard San Diego I LLC through Sol Orchard San Diego 4, Sol Orchard San Diego 6 LLC through Sol Orchard San Diego 10 LLC, and Sol Orchard San Diego 12 LLC through Sol Orchard San Diego 23 LLC (with attached Confidential Attachment A), dated July 10, 2012 (“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 Confidential Attachment A concurrently herewith, falls within the scope of data protected pursuant to the IOU Matrix attached to D.06-06-066 (the “IOU Matrix”).^{1/} In addition, the Commission has made

^{1/} 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

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.”^{2/}

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.^{3/}

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.^{4/}

Data at issue	D.06-06-066 Matrix Requirements	How moving party meets requirements
<i>Contract Terms</i> ⁵	Demonstrate that the material submitted constitutes a particular	This data includes specific contract terms.
<i>Locations:</i>		

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.

^{2/} 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).

^{3/} D.06-06-066, as amended by D.07-05-032, *mimeo*, p. 81, Ordering Paragraph 2.

^{4/} 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”).

⁵ The confidential information referenced has a **RED** font color / has a red box around it in the confidential appendices

<p>1. Confidential Attachment A</p> <ul style="list-style-type: none"> ▪ <i>Embedded files – Amendments to the Power Purchase Agreements</i> 	type of data listed in the IOU Matrix	
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix category VII.G.
	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 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.	In order to include as much detail as possible, SDG&E has provided specific contract terms instead of summaries. SDG&E has provided summaries of certain contract terms in public portions of the testimony.

5. As an alternative basis for requesting confidential treatment, SDG&E submits that 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.^{11/}

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.^{6/} 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

^{11/} 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.")

^{6/} *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.⁷¹

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.

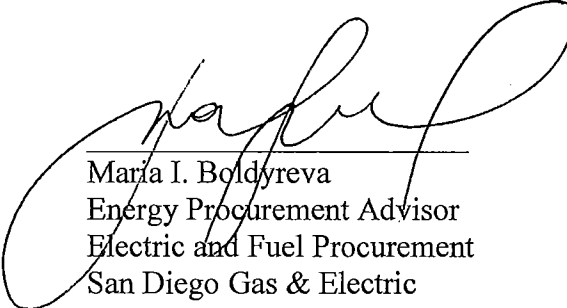
11. Developers' Protected Information: The Protected Information also constitutes confidential trade secret information of the developer listed therein. SDG&E is required pursuant to the terms of its original Power Purchase Agreement as amended to protect non-public information. Some of the Protected Information in the original Power Purchase 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.

⁷¹ See, D.06-06-066, *mimeo*, pp. 26-28.

12. In accordance with its obligations under its Power Purchase 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 30th day of July, 2012 at San Diego, California.



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

Confidential Attachment A