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Ms. Maria Salinas
California Public Utilities Commission
Energy Division
505 Van Ness Avenue
San Francisco, CA 94102

RE: REPLY OF SAN DIEGO GAS & ELECTRIC COMPANY TO PROTEST OF ADVICE LETTER 2435-E (70SM1 8ME, LLC AND TALLBEAR SEVILLE, LLC)

Dear Ms. Salinas:

In accordance with Section 7.4.3 of General Order ("GO") 96-B, San Diego Gas & Electric Company ("SDG&E") hereby responds to the Protest of Advice Letter ("AL") No. 2435-E filed by the Division of Ratepayer Advocates ("DRA"). SDG&E filed AL 2435-E requesting California Public Utilities Commission ("Commission" or "CPUC") approval of two power purchase agreements ("PPAs" or "Proposed Agreements") executed on December 13, 2012. The PPAs are with 70SM1 8ME, LLC ("Calipatria") and Tallbear Seville LLC ("Seville"). The Seville project is anticipated to qualify as a Diverse Business Enterprise ("DBE"), via a joint development between Regenerate Power, LLC and the Tall Bear Group, LLC, a majority Native American-owned business, certified as a DBE. The Calipatria project is to be developed by a joint venture between Gestamp Energy and 8minuteenergy Renewables, both of whom have agreed to spend at least 50% of the project costs with registered DBE contractors, subcontractors and suppliers. As part of the filing, SDG&E requested that the Commission credit the capacity from these two PPAs against the total MWs that SDG&E is obligated to procure via the Renewable Auction Mechanism ("RAM") program.

DRA did not protest the contracts themselves, but rather focused on the fact that they were negotiated bilaterally. DRA stated that the Commission should deny SDG&E's request to have the capacity from these two PPAs credited against its RAM procurement obligation.

SDG&E believes that DRA's protest elevates form over substance and fails to take into account the total value and total benefits of the Proposed RAM Agreements. Accepting the protest would place additional burdens on ratepayers by requiring them to purchase more RAM capacity than is called for under the program rules. Accordingly, and as set forth below, DRA's protest should be denied.

RESPONSE TO DRA**The Projects are competitively priced**

DRA recommends at page 2 of its protest that the Commission should reject RAM eligibility of the Seville and Calipatria PPAs, because DRA believes that approving these Projects for RAM eligibility would undermine the Commission-developed rules and intent of the RAM program.

The Commission's intent in establishing the RAM program was to create a standardized procurement process, to promote robust competition, and reduce administrative burdens.¹ With the benefit of two completed solicitations, SDG&E realized that one shortcoming of the program design was that it disqualified otherwise valuable projects from participation solely on the basis that they were located in the Imperial Irrigation District ("IID") service territory. The signing of the Proposed Agreements and the request to count them toward the RAM are the first steps toward fixing this problem. The Projects effectively carry out the intent of the RAM program by utilizing SDG&E's standardized and Commission approved RAM PPA template, have a capacity within the RAM size guidelines, and having competitive pricing. Outside of slight modifications to account for the dynamic transfer of the energy via pseudo-tie, both Projects were signed to SDG&E's standardized RAM PPA template. Both Projects are competitive when compared to the most recently completed RAM solicitation held in May of 2012.

Moreover, DRA is mistaken in its assertions that, because the Proposed Agreements were bilaterally negotiated, they are not competitively priced. As demonstrated in the confidential attachments to the advice letter, the average price of the two Projects is within the competitive range of pricing demonstrated in the most recent RAM auction. In the current market conditions, which favor buyers, SDG&E was able to bi-laterally negotiate aggressively to get the best possible price from the developers. When coupled with the further benefits described below, the pricing demonstrates that these contracts are not only competitive, but are in fact an outstanding RAM value for ratepayers. DRA asserts that there is no way to compare a project's bilateral price to its competitive price, and thus no assurance that the ratepayer is not overpaying for the renewable energy generated by the Projects. That argument is without merit, and completely ignores the detailed pricing analysis and discussion that was provided in the advice letter filing and the fact that SDG&E, when bi-laterally negotiating in the current buyer's market, can negotiate a very competitive price. The fact that the Proposed Agreements were negotiated bilaterally is not a reason for the Commission not to credit them toward SDG&E's RAM purchase obligation.

The Projects' Commitment to Diverse Business Enterprises Furthers the RAM Goals

Besides the pricing benefits provided by the Proposed Agreements, they also promote the goals of the State and the Commission in procurement from DBEs. As stated in advice letter filing, the Seville project is DBE-owned and the Calipatria project has contractually agreed to spend at least fifty percent (50%) of the project construction costs with DBE certified companies, such that the expenditures would count under General Order 156. The Commission

¹ D.10-12-048, p. 3, ([o]ur intent in establishing the RAM is to create a standardized procurement process for projects up to 20 MW in size in order to promote robust competition and reduce administrative burden associated with these projects.)

has publicly recognized the value of utility contracting with DBEs², and the Proposed Agreements add *robustness* to the competition in the RAM process, in furtherance of the Commission's RAM goals.³

The Projects Enjoy Broad Community Support and Conforms the RAM with the Requirements of SBX1 2

DRA was the sole commenting party who protested AL 2435-E. As emphasized repeatedly in the extensive supporting comments from 8minutenergy, the Imperial County Board of Supervisors, the Imperial Irrigation District and the Imperial County Economic Development Corporation, the State of California adopted a directive in SBX1 2⁴ that renewable energy procurement in California should support communities with poverty and high unemployment. While the RAM program purposes (see footnotes 1 and 3) do not expressly address this issue, the Proposed Agreements bring this quality to the RAM program, thereby strengthening the overall program and providing ancillary benefits to one of California's most depressed regions. As detailed in the comments provided by the parties named above, the Commission should credit the Proposed Agreements toward SDG&E's RAM purchase obligation in order to increase the robustness of the program by conforming it to this important state policy.

Denying SDG&E's Request to Count the Proposed Agreements toward SDG&E's RAM Obligation would Undermine the RAM Program

The RAM program allocates 155 MW of procurement to SDG&E⁵, of which the Proposed Agreements, if approved, would provide 39.99 MW. The Projects in the Proposed Agreements are indistinguishable from other RAM projects, save for their location. The bottom line is that, if the Commission denies SDG&E's request to credit the Projects toward its RAM obligation, it will have effectively increased that obligation by 39.99 MW. SDG&E submits that there is no compelling reason to do so. DRA's protest offers as its sole justification for denying the Projects RAM treatment the fact that the Proposed Agreements were bilaterally negotiated which, as discussed above, is an inadequate reason to not expand the program. The Commission should look beyond DRA's narrow concerns and recognize that crediting these Projects toward SDG&E's RAM procurement is good for ratepayers.

² General Order 156.

³ D.10-12-048, p. 3 (see fn 1)

⁴ 2011 Stat., ch 1.

⁵ D.12-02-002

CONCLUSION

In summary, the protest of DRA should be rejected. The Projects further the intent of the RAM program, are competitively priced, add robustness to the RAM participation, conform the RAM to state policy by benefitting one of California's most economically depressed areas, and represent a good deal for ratepayers. For all these reasons, the DRA protest should be rejected, and the Commission should count the capacity of the Proposed Agreements toward SDG&E's RAM obligation.

Respectfully Submitted,

Clay Faber
Director – Regulatory Affairs

cc: President Michael Peevey
Commissioner Catherine Sandoval
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