PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

ID #12147
RESOLUTION E-4593
June 27, 2013

R E S O L U T I O N

Resolution E-4593. Southern California Edison (SCE) requests (1) Commission approval and rate recovery for seventy-five renewable energy power purchase agreements (PPAs) using its standard feed-in tariff CREST contract previously authorized by the Commission, and (2) Commission approval and rate recovery for five additional renewable energy power purchase agreements using its standard feed-in tariff CREST contract modified with one amendment.

PROPOSED OUTCOME: This Resolution approves eighty (80) long-term renewable energy power purchase agreements using Southern California Edison's standard feed-in tariff CREST contract.

Advice Letter 2870-E/E-A is approved with modification.

SAFETY CONSIDERATIONS: This resolution approves rate recovery for 80 separate power purchase agreements between Southern California Edison and various counterparties. Based on the information provided by SCE, approval of these PPAs is not expected to result in any adverse safety impacts on the facilities or operations of SCE.

ESTIMATED COST: Approximately $35 million per year for 20 years. Approximately $696 million over the life of the eighty contracts. (nominal)

By Advice Letter 2870-E filed on March 26, 2013 and supplemental Advice Letter 2870-E-A filed on April 22, 2013.

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SUMMARY

Southern California Edison's eighty renewable energy power purchase agreements countersigned by various parties pursuant to the California Renewable Energy Small Tariff (CREST) comply with Commission Decision (D.) 07-07-027 and are approved.

Pursuant to D.07-07-027, the cost of feed-in tariff contracts executed up to the tariff capacity caps as authorized by that decision are considered per se reasonable, in the public interest, and recoverable in rates over the life of the contracts.[1] As a result, unlike traditional RPS procurement, Commission approval of feed-in tariff contracts up to the pre-authorized capacity cap is considered automatic without the need for additional Commission review via submission of an advice letter or any other process. However, D.07-07-027 also authorized the utility to engage in voluntary procurement beyond its authorized capacity cap for the program (herein referred to as "oversubscription"), subject to Commission review of the additional procurement via the advice letter process.[2]

Southern California Edison (SCE) filed Advice Letter 2870-E on March 26, 2013 requesting California Public Utilities Commission (Commission) approval of seventy-five (75) renewable energy power purchase agreements (PPAs) using SCE's standard feed-in tariff CREST contract, as previously authorized by the Commission. These 75 PPAs represent 105.53 MW of capacity in excess of the capacity target authorized by D.07-07-027 and Resolution E-4137 for SCE's CREST tariff.

Table 1: Summary of 75 CREST PPAs filed for approval in AL 2870-E

Project Name	Parent Company	Capacity (MW)	Expected Generation (GWh/yr)	Tech.	Vintage	PPA Term (years)	Post-TOD Price*	Commercial Operation Date**
East Valley Greenworks D	Silverado	1.5	3.6	PV	New	20	$121.88	12/19/2013
East Valley Greenworks E	Silverado	1.5	3.6	PV	New	20	$121.88	12/19/2013
Site 1A	Ever CT Solar Farm	1.0	2.0	PV	New	20	$121.88	12/19/2013
Site 1B	Ever CT Solar Farm	1.0	2.0	PV	New	20	$121.88	12/19/2013
Site 2A	Ever CT Solar Farm	1.5	3.1	PV	New	20	$121.88	12/19/2013

[1] D.07-07-027, Conclusion of Law #1, p. 58.

[2] D.07-07-027, Section 3.4.2 Tariff Closure, footnote 12, p. 13-14.

Project Name	Parent Company	Capacity (MW)	Expected Generation (GWh/yr)	Tech.	Vintage	PPA Term (years)	Post-TOD Price*	Commercial Operation Date**
Site 2B	Ever CT Solar Farm	1.0	2.0	PV	New	20	$121.88	12/19/2013
Site 2C	Ever CT Solar Farm	1.0	2.0	PV	New	20	$121.88	12/19/2013
Palms North 1	Belectric/Coronus	1.5	3.5	PV	New	20	$121.88	12/15/2013
Palms North 2	Belectric/Coronus	1.5	3.5	PV	New	20	$121.88	12/15/2013
Hesperia West 2	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	4/1/2013
Yucca Valley East 1	Belectric/Coronus	1.5	3.6	PV	New	20	$126.83	1/15/2014
Marinos Ventures	Marinos Ventures	0.3	0.7	PV	New	20	$121.88	4/1/2013
Yucca Valley East 2	Belectric/Coronus	1.5	3.6	PV	New	20	$126.83	1/15/2014
Farmersville 1	ImMODO	1.5	3.0	PV	New	20	$121.88	10/1/2013
Farmersville 2	ImMODO	1.5	3.0	PV	New	20	$121.88	10/1/2013
Farmersville 3	ImMODO	1.5	3.0	PV	New	20	$121.88	10/1/2013
Palms North 3	Belectric/Coronus	1.5	3.5	PV	New	20	$121.88	12/15/2013
Porterville 6	ImMODO	1.5	3.0	PV	New	20	$121.88	10/1/2013
Porterville 7	ImMODO	1.5	3.0	PV	New	20	$121.88	10/1/2013
SP Indigo Ranch A2	Silverado	1.5	3.5	PV	New	20	$126.83	3/20/2014
SP Indigo Ranch B2	Silverado	1.5	3.5	PV	New	20	$126.83	3/20/2014
SP Indigo Ranch C2	Silverado	1.5	3.5	PV	New	20	$126.83	3/20/2014
SunE CREST 1	SunEdison	1.5	4.3	PV	New	20	$126.83	2/28/2014
SunE CREST 2	SunEdison	1.0	2.9	PV	New	20	$126.83	2/28/2014
SunE CREST 3	SunEdison	1.0	2.9	PV	New	20	$126.83	2/28/2014
Victor Mesa Linda B2	Silverado	1.5	3.8	PV	New	20	$126.83	3/7/2014
Victor Mesa Linda C2	Silverado	1.5	3.8	PV	New	20	$126.83	3/7/2014
Victor Mesa Linda D2	Silverado	1.5	3.8	PV	New	20	$126.83	3/7/2014
Victor Mesa Linda E2	Silverado	1.5	3.8	PV	New	20	$126.83	3/7/2014
San Jacinto Solar	Ecos Energy	1.5	4.2	PV	New	20	$121.88	6/1/2013
Lake Perris Solar	Ecos Energy	1.5	4.2	PV	New	20	$121.88	6/1/2013
Hanford 1	ImMODO	1.5	3.0	PV	New	20	$121.88	12/1/2013
Hanford 2	ImMODO	1.5	3.0	PV	New	20	$121.88	12/1/2013
Desert Hot Springs Solar 1	Aloha Systems, Inc	1.0	2.6	PV	New	20	$121.88	8/1/2013
Desert Hot Springs Solar 2	Aloha Systems, Inc	1.5	3.7	PV	New	20	$121.88	8/1/2013
Madelyn Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	1/15/2014
Rudy Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	1/15/2014
Jimmy Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	4/15/2014
Mitchell Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	1/15/2014
Joshua Tee East 1	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	12/15/2013
Joshua Tee East 2	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	12/15/2013
Joshua Tee East 3	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	12/15/2013

Project Name	Parent Company	Capacity (MW)	Expected Generation (GWh/yr)	Tech.	Vintage	PPA Term (years)	Post-TOD Price*	Commercial Operation Date**
Joshua Tee East 4	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	12/15/2013
Joshua Tee East 5	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	12/15/2013
Apple Valley East 1	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	12/15/2013
Apple Valley East 2	Belectric/Coronus	1.5	3.6	PV	New	20	$121.88	12/15/2013
Zamora Zuni Road North	Belectric/Coronus	1.5	3.7	PV	New	20	$121.88	12/31/2013
White Lightning Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	4/15/2014
Addison Solar	Sunlight Partners	1.0	3.1	PV	New	20	$126.83	4/15/2014
Carson Solar	Sunlight Partners	1.0	3.1	PV	New	20	$126.83	4/15/2014
Venezia Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	4/15/2014
Gales B East	Belectric/Coronus	1.5	3.4	PV	New	20	$126.83	1/17/2014
Gales A West	Belectric/Coronus	1.5	3.4	PV	New	20	$126.83	1/17/2014
Ecos Energy	Ecos Energy	1.3	2.7	PV	New	20	$126.83	1/15/2014
Adelanto West 2	Belectric/Coronus	1.5	3.6	PV	New	20	$126.83	1/15/2014
Adelanto West 1	Belectric/Coronus	1.5	3.6	PV	New	20	$126.83	1/15/2014
Yucca Valley East 3	Belectric/Coronus	1.5	3.6	PV	New	20	$126.83	1/15/2014
SunE CREST 7	SunEdison	1.5	4.4	PV	New	20	$126.83	2/28/2014
SunE CREST 6	SunEdison	1.5	4.4	PV	New	20	$126.83	2/28/2014
SunE CREST 5	SunEdison	1.5	4.4	PV	New	20	$126.83	2/28/2014
Lydia Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	4/15/2014
Greta Solar	Sunlight Partners	1.0	3.1	PV	New	20	$126.83	4/15/2014
Zeke Solar	Sunlight Partners	1.5	4.6	PV	New	20	$126.83	4/25/2014
Penny Solar	Sunlight Partners	1.0	3.1	PV	New	20	$126.83	4/15/2014
Zamora Zuni Road South	Belectric/Coronus	1.5	3.7	PV	New	20	$121.88	12/31/2013
Con Dios Solar Park 29	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/21/2014
Con Dios Solar Park 42	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/21/2014
Con Dios Solar Park 12	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/21/2014
Con Dios Solar Park 1	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/20/2014
Con Dios Solar Park 10	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/20/2014
Con Dios Solar Park 11	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/21/2014
Con Dios Solar Park 3	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/21/2014
Con Dios Solar Park 44	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/20/2014
Con Dios Solar Park 2	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/20/2014
Con Dios Solar Park 41	Global Ren. Energ.	1.5	4.9	PV	New	20	$126.83	6/20/2014
	Total:	**105.53**	**275.6**					

** Price reflects the relevant MPR value, as adopted in Resolution E-4442, assuming the COD for the project is the PPA's expected date of Initial Operation multiplied by SCE's Solar PV TOD adjustment. These prices are public.*

*** Estimated Initial Operation Date in PPA.*

On April 22, 2013, SCE filed supplemental Advice Letter 2870-E-A, requesting approval of an additional five (5) CREST PPAs representing another 6.99 MW of capacity in excess of the capacity target for SCE's CREST tariff. SCE included an amendment with each of these additional five PPAs that would allow the PPAs to be terminated if not approved by the Commission.

Table 2: Summary of 5 CREST PPAs filed for approval in AL 2870-E-A

Project Name	Parent Company	Capacity (MW)	Expected Generation (GWh/yr)	Tech.	Vintage	PPA Term (years)	Post-TOD Price *	Commercial Operation Date**
Venable 1 North	Belectric	1.5	3.6	PV	New	20	$121.88	11/8/2013
Venable 2 South	Belectric	1.5	3.6	PV	New	20	$121.88	11/8/2013
SunE CREST 8	SunEdison	1.0	3.0	PV	New	20	$126.83	2/28/2014
Lancaster Solar CREST 1	PsomasFMG	1.5	4.7	PV	New	20	$126.83	1/30/2014
Lancaster Solar CREST 2	PsomasFMG	1.5	4.7	PV	New	20	$126.83	1/30/2014
	Total:	**6.99**	**19.6**					

**Price reflects the relevant MPR value, as adopted in Resolution E-4442, assuming the COD for the project is the PPA's expected date of Initial Operation multiplied by SCE's Solar PV TOD adjustment. These prices are public.*

*** Estimated Initial Operation Date in PPA.*

These eighty feed-in tariff PPAs, for 112.52 MW of capacity, were voluntarily procured by SCE in excess of the 123.8 MW capacity cap adopted by the Commission for SCE's CRESt program in D.07-07-027 and Resolution E-4137.

This resolution approves SCE's Advice Letter 2870-E/E-A with modification to order SCE to remove Amendment No. 1 from each of the five PPAs filed through supplemental Advice Letter 2870-E-A. SCE's execution of these PPAs is consistent with the Commission's guidance in D.07-07-027 authorizing oversubscription by a utility of its feed-in tariff.

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).[3] The RPS

[3] 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).

program is codified in Pub. Util. Code §§ 399.11-399.31.[4] Under SB 2 (1X), the RPS program administered by the Commission requires each retail 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.[5]

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.

Overview of the Renewable Feed-in Tariff (FIT) Program

The specific code section, § 399.20, relevant to today's resolution was added to the Pub. Util. Code by Assembly Bill (AB) 1969 (Yee, Stats. 2006, ch. 731), to be effective on January 1, 2007. The provisions of § 399.20 are part of the RPS Program and, importantly, every kilowatt hour (kWh) of electricity purchased from an eligible renewable resource pursuant to § 399.20 counts toward meeting an electric corporation's RPS Program procurement quantity requirements under SB 2 (1X). AB 1969 statutorily obligated the three large investor-owned utilities (IOUs) to procure 250 MW of feed-in tariff capacity, and § 399.20(b) restricted access to that capacity to electric generation facilities "owned and operated by a public water or wastewater agency."

Commission Decision (D.) 07-07-027 implemented AB 1969 and, at the same time, also expanded the feed-in tariff program beyond its original statutory authorization. Significantly, in that Decision, the Commission ordered the creation of a parallel feed-in tariff program for PG&E and SCE with the same capacity authorizations, same terms and conditions, and same pricing structure as the statutorily mandated program for public water or wastewater agency customers. The Commission ordered, however, that this incremental additional

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

[5] 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).

authorized capacity be available to customers "other than water / wastewater customers."[6]

Pursuant to D.07-07-027, the cost of feed-in tariff contracts executed up to the tariff capacity caps as authorized by that decision are considered per se reasonable, in the public interest, and recoverable in rates over the life of the contracts.[7] As a result, unlike traditional RPS procurement, Commission approval of feed-in tariff contracts up to the pre-authorized capacity cap is considered automatic without the need for additional Commission review via submission of an advice letter or any other process.

In response to the advice letters filed by the three large IOUs demonstrating compliance with D.07-07-027, the Commission approved Resolution E-4137 on February 14, 2008. That resolution authorized the creation SCE's WATER tariff and standard contract for 123.8 MW of feed-in tariff capacity from projects owned and operated by public water or wastewater agency customers, and it authorized the creation of SCE's California Renewable Energy Small Tariff (CREST) for another 123.8 MW of feed-in tariff capacity from projects *other than* those owned and operated by public water or wastewater agency customers.[8] The terms and conditions of the CREST standard feed-in tariff contract were later amended by D.11-11-012.

Additional background information about the Commission's Feed-in Tariff program, including links to relevant laws and Commission decisions, is available at http://www.cpuc.ca.gov/PUC/energy/Renewables/hot/feedintariffs.htm .

NOTICE

Notice of AL 2870-E and supplemental AL 2870-E-A was made by publication in the Commission's Daily Calendar. SCE states that copies of the Advice Letter and the supplemental Advice Letter were mailed and distributed in accordance with Section 3.14 of General Order 96-B.

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[6] D.07-07-027, Ordering Paragraph #2, p. 62.

[7] D.07-07-027, Conclusion of Law #1, p. 58.

[8] Resolution E-4137, p. 5.

PROTESTS

On April 16, 2013, protests to Advice Letter 2870-E were received from the Division of Ratepayer Advocates (DRA), David Fick, Ashlee Dalton, and Jackie Hanselman. Additionally, on the same day, responses to Advice Letter 2870-E supporting SCE's request for Commission approval were filed by the Clean Coalition, the Solar Energy Industries Association (SEIA), and ImMODO.

On April 22, 2013, SCE filed a reply to these protests and responses.

Responses to AL 2870-E

Clean Coalition, SEIA, and ImMODO filed responses in support of the advice letter, each generally seeking timely action by the Commission to approve rate recovery for these power purchase agreements to provide certainty and restore confidence to the feed-in tariff market.

Protests to AL 2870-E

DRA contends that the Commission should deny rate recovery for these power purchase agreements on the basis that SCE has not shown a short-term renewables portfolio standard (RPS) compliance need for these projects. Further, DRA argues that SCE failed to articulate in its 2012 RPS Procurement Plans a need for additional feed-in tariff contracts, or to articulate why feed-in tariff contracts provide the best vehicle for SCE to contribute to Governor Brown's goal of 12,000 MW of renewable distributed generation (DG) by 2020.

In its reply, SCE addressed DRA's protest by noting that DRA fails to take into account SCE's expected long-term RPS compliance need beginning at the end of this decade and into the future. On this basis, and given that, according to SCE, the generation associated with these contracts would be bankable for RPS compliance needs into the future, SCE contends that it has a need for these contracts and that the Commission should approve them.

DRA's protest should be denied because it is beyond the scope of review for AL 2870-E. The review of AL 2870-E is limited to whether or not rate recovery is appropriate pursuant to D.07-07-027.

In their protests to AL 2870-E, David Fick, Ashlee Dalton, and Jackie Hanselman each raise a variety of issues, primarily related to potential health and environmental impacts resulting from the specific proposed locations for some of these projects in or around Joshua Tree, California.

In its reply to these protestants, SCE argues that the issues raised are out of scope; that the Commission's review of AL 2870-E should be limited in scope to whether or not rate recovery is appropriate for these contracts; and that the protestants have more appropriate venues in which to raise these concerns, such as with local permitting authorities.

The issues raised by David Fick, Ashlee Dalton, and Jackie Hanselman in protests to AL 2870-E are beyond the scope of review for AL 2870-E. The review of AL 2870-E is limited to whether or not rate recovery is appropriate pursuant to D.07-07-027.

Protests to AL 2870-E-A

In response to a request from DRA on April 25, 2013, Energy Division staff used its discretion to re-open the protest period for Advice Letter 2870-E to allow parties to file protests to supplemental Advice Letter 2870-E-A. Protests to supplemental AL 2870-E-A were to be limited in scope to the additional information presented in the supplemental filing only, and not to information contained within the original advice letter filing.

On May 2, 2013, one protest was received to supplemental AL 2870-E-A from DRA. In its protest, DRA argues that the Commission should deny SCE's request for rate recovery for these five contracts on the basis that SCE failed to provide a cost-benefit analysis of the impact to ratepayers of banking excess RPS procurement into the future.

On May 15, 2013, SCE replied to DRA's protest of supplemental Advice Letter 2870-E-A. In its reply, SCE contends that it would be premature for it to evaluate whether it will be cost-effective at a future date to bank potential excess generation associated with these projects, or whether it may be more cost-effective to sell any excess generation. Additionally, SCE reiterates that the vast majority of the expected energy deliveries associated with these feed-in tariff contracts, most of which are for terms of 20 years, will occur after 2017, at a time when SCE expects to have RPS compliance need.

DRA's protest should be denied because it is beyond the scope of review for AL 2870-E. The review of AL 2870-E and supplemental AL 2870-E-A is limited to whether or not rate recovery is appropriate pursuant to D.07-07-027.

DISCUSSION

Southern California Edison's eighty renewable energy power purchase agreements countersigned by various parties pursuant to the California Renewable Energy Small Tariff (CREST) comply with Commission Decision (D.) 07-07-027 and are approved.

Pursuant to D.07-07-027, the cost of feed-in tariff contracts executed up to the tariff capacity caps as authorized by that decision are considered per se reasonable, in the public interest, and recoverable in rates over the life of the contracts.[9] As a result, unlike traditional RPS procurement, Commission approval of feed-in tariff contracts up to the pre-authorized capacity cap is considered automatic without the need for additional Commission review via submission of an advice letter or any other process. However, D.07-07-027 also authorized the utility to engage in voluntary procurement beyond its authorized capacity cap for the program (herein referred to as "oversubscription"), subject to Commission review of the additional procurement via the advice letter process.[10]

Southern California Edison (SCE) filed Advice Letter 2870-E on March 26, 2013 requesting California Public Utilities Commission (Commission) approval of seventy-five (75) renewable energy power purchase agreements (PPAs) using SCE's standard feed-in tariff CREST contract, as previously authorized by the Commission. These 75 PPAs represent 105.53 MW of capacity in excess of the capacity target authorized by D.07-07-027 and Resolution E-4137 for SCE's CREST tariff.

On April 22, 2013, SCE filed supplemental Advice Letter 2870-E-A, requesting approval of an additional five (5) CREST PPAs representing another 6.99 MW of capacity in excess of the capacity target for SCE's CREST tariff. SCE included an amendment with each of these additional five PPAs that would allow the PPAs to be terminated if not approved by the Commission.

These eighty feed-in tariff PPAs, for 112.52 MW of capacity, were voluntarily procured by SCE in excess of the 123.8 MW capacity cap adopted by the Commission for SCE's CREST program in D.07-07-027 and Resolution E-4137.

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[9] D.07-07-027, Conclusion of Law #1, p. 58.

[10] D.07-07-027, Section 3.4.2 Tariff Closure, footnote 12, p. 13-14.

This resolution approves SCE's Advice Letter 2870-E/E-A with modification to order SCE to remove Amendment No. 1 from each of the five PPAs filed through supplemental Advice Letter 2870-E-A. SCE's execution of these PPAs is consistent with the Commission's guidance in D.07-07-027 authorizing oversubscription by a utility of its feed-in tariff.

SCE requests that the Commission issue a resolution containing:

1. Approval of the CREST Contracts in their entirety;
2. A finding that any electric energy sold or dedicated to SCE pursuant to the CREST Contracts constitutes procurement by SCE from an ERR for the purpose of determining SCE's compliance with the RPS Legislation or other applicable law concerning the procurement of electric energy from renewable energy resources;
3. A finding that all procurement under the CREST Contracts counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 33 percent (or such other percentage as may be established by law) of its retail sales from ERRs by 2020 (or such other date as may be established by law);
4. A finding that the CREST Contracts, and SCE's entry into the CREST Contracts, are reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the CREST Contracts, subject only to further review with respect to the reasonableness of SCE's administration of the CREST Contracts; and
5. Any other and further relief as the Commission finds just and reasonable.

Energy Division Evaluated the Request for Rate Recovery of these CREST PPAs on the Following Grounds:

- Consistency with D.07-07-027's authorization for voluntary excess feed-in tariff procurement
- Consistency with the standard terms and conditions of the Commission-authorized feed-in tariff contract
- Feed-in Tariff policy guidelines
- Procurement Review Group (PRG) participation

Consistency with D.07-07-027's authorization for voluntary excess feed-in tariff procurement

SCE's Feed-in Tariff Program Capacity Caps

As described above in the "Background" section of this resolution, D.07-07-027 implemented the renewable feed-in tariff program authorized by AB 1969. In that decision, the Commission implemented the statute's requirement for a 250 MW renewable feed-in tariff program for facilities owned and operated by public water or wastewater agency customers.[11] In the same decision, the Commission also expanded the feed-in tariff program, ordering SCE and PG&E to procure additional feed-in tariff capacity from *non*-water or wastewater agency customers.[12]

The Commission, in that decision, also determined the size of the capacity allocation for each of the utility's respective feed-in tariff programs. The Commission determined that SCE's feed-in tariff programs would have the following capacity allocations:

Table 3. SCE's Capacity Allocations for its Renewable Feed-in Tariff Programs

Eligibility	SCE's Program/ Tariff Name	Capacity Allocation
Eligible renewable energy facilities owned and operated by a public water or wastewater agency[13]	WATER[14]	123.8 MW[15]
Eligible renewable energy facilities *other than* those owned by a public water or wastewater agency[16]	CREST[17]	123.8 MW[18]

[11] D.07-07-027, Ordering Paragraph #1, p. 62.

[12] D.07-07-027, Ordering Paragraph #2, p. 62-63. Note, also, that the Commission similarly expanded SDG&E's feed-in tariff program at a later date through D.08-09-033.

[13] AB 1969 (Yee, 2006) as codified in Section 399.20(b) of the Public Utilities Code.

[14] *See*, Resolution E-4137.

[15] D.07-07-027, Conclusion of Law #5, p. 58.

[16] D.07-07-027, Ordering Paragraph #2, p. 62-63.

SCE's Authority to Oversubscribe its Feed-in Tariff Program

Section 3.4.2 of D.07-07-027 addressed the issue of when a utility's obligations under the feed-in tariff programs would close. As required by Section 399.20(e) of the statute, D.07-07-027 reaffirmed that the utility is "required to offer the tariff or standard contract until it meets its proportionate share of the 250 MW."[19] In SCE's case, that is, the utility is *required* to offer the standard contract until it reaches its target of 123.8 MW pursuant to its WATER standard contract and until it reaches its target of 123.8 MW pursuant to its CREST standard contract.

The decision also clarified what would occur upon a utility reaching its procurement targets for each of its feed-in tariff programs. Pursuant to D.07-07-027, upon reaching the capacity target for one of its feed-in tariff programs, the utility "need not file an advice letter to suspend the tariff," but the utility is "relieved of an obligation to purchase energy from additional projects pursuant to the § 399.20 tariff."[20]

The Commission offered further guidance in the event that a utility wanted to voluntarily continue to offer its standard contract, despite being relieved of an obligation to do so:

> *"Respondents may voluntarily elect to purchase energy from additional projects…Projects up to the allocated capacity are per se reasonable. Projects beyond the capacity allocation need Commission review (e.g., by applicant submitting an advice letter)."*[21]

The Commission reaffirms that D.07-07-027 authorized the utilities to voluntarily exceed the allocated capacity limits for their respective feed-in tariff programs, and that such oversubscription would require Commission review via the submission of an advice letter.

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[17] *See*, Resolution E-4137.

[18] D.07-07-027, Conclusion of Law #25, p. 61.

[19] D.07-07-027, Section 3.4.2 Tariff Closure, p. 13.

[20] D.07-07-027, Section 3.4.2 Tariff Closure, footnote 12, p. 13-14.

[21] *Id.*

SCE's Oversubscription of its CREST Tariff

In AL 2870-E, SCE states that it reached its proportionate share of its non-water or wastewater cap of 123.8 MW ("the CREST program cap") on July 20, 2012.[22] On that date, SCE executed a CREST PPA that took its procurement pursuant to that tariff from 122.682 MW to 124.182 MW, and since then SCE has executed 80 additional CREST PPAs for an additional 112.52 MW of capacity.

SCE exceeded its CREST program cap when it offered a standard CREST contract to the first project for which the entire capacity of that project was in excess of SCE's 123.8 MW CREST program cap.

The eighty CREST PPAs submitted by SCE for approval via Advice Letter 2870-E and supplemental Advice Letter 2870-E-A qualify as oversubscription of its CREST tariff.

Consistent with D.07-07-027, SCE submitted a Tier 3 advice letter seeking approval of this oversubscription in excess of its CREST program cap.

The Effect of Oversubscription on SCE's Feed-in Tariff Program Caps

As outlined above, the Commission obligated SCE to procure 123.8 MW of feed-in tariff capacity for projects eligible for its WATER tariff and an additional 123.8 MW of feed-in tariff capacity for projects eligible for its CREST tariff.

In responses filed to AL 2870-E, several parties raised the issue of whether or not SCE's oversubscription of its CREST tariff would have any impact on SCE's remaining capacity for its WATER tariff. The Commission, through D.07-07-027 and Resolution E-4137, clearly established separate procurement requirements on SCE for its CREST tariff and for its WATER tariff. These are separate tariffs and were designed to serve different customers.

As a result, SCE's oversubscription of its CREST tariff by 112.52 MW constitutes a voluntary expansion of its feed-in tariff program. The capacity associated with this oversubscription has no impact on SCE's separate requirement, imposed by D.07-07-027 in its implementation of the statutory requirements of AB 1969, for SCE to procure 123.8 MW pursuant to its WATER tariff, available only to facilities owned and operated by public water or wastewater agency customers.

Regulatory Delay

[22] Southern California Edison, Advice Letter 2870-E, p. 5.

The Commission acknowledges that, while D.07-07-027 offered a path by which contracts executed by a utility in excess of its feed-in tariff program cap could secure Commission approval, the Commission did not clearly address the impact that the regulatory approval process could have on other elements of the program.

The Commission takes the opportunity now to clarify this issue, specifically as it impacts the timing requirements imposed on the feed-in tariff program. In D.07-07-027, the Commission adopted a requirement that feed-in tariff projects achieve commercial operation within 18 months of contract execution.[23]

In D.11-11-012, the Commission modified the terms of the CREST PPA, including a modification to better align the CREST PPA with another standard contract adopted by the Commission for the Renewable Auction Mechanism (RAM). That decision ordered SCE to incorporate into its CREST PPA a provision to extend the date required for a project to achieve commercial operation by one 6-month extension for regulatory delay.[24] At the time, the Commission recognized that "legitimate delays can occur relative to any timeline."[25]

The delay associated with SCE's submission of Advice Letter 2870-E/E-A and the delay associated with the Commission's approval process of that advice letter constitutes a legitimate regulatory delay of the kind envisioned by D.11-11-012.

Furthermore, the Commission also finds that Section 1.04(d) of the CREST PPA accommodates feed-in tariff projects achieving commercial operation "not later than twenty-four (24) months from the PPA Effective Date," which would be sufficient time to accommodate this regulatory delay.

Consistency with the standard terms and conditions of the Commission-authorized feed-in tariff contract

In D.07-07-027, the Commission required that the feed-in tariff contract should be standard and that the utilities should offer it to customers on a "take it or leave

[23] D.07-07-027, Section 3.10.1 Initial Operation, p. 40.

[24] D.11-11-012, Conclusion of Law #1, p. 40.

[25] D.11-11-012, Section 5.1, p. 12.

it" basis.[26] As such, the CREST PPAs submitted via Advice Letter 2870-E/E-A must conform to this order.

The seventy-five (75) CREST PPAs filed for approval in Advice Letter 2870-E conform to the standard contract terms authorized by D.07-07-027, as modified by Resolution E-4137 and D.11-11-012.

The five (5) additional CREST PPAs filed for approval in supplemental Advice Letter 2870-E-A conform to the standard contract terms authorized by D.07-07-027, as modified by Resolution E-4137 and D.11-11-012, with one exception.

SCE modified the 5 PPAs filed through supplemental Advice Letter 2870-E-A to include Amendment No. 1, which would allow either party to terminate the agreement if not approved by the Commission within 365 days and would relieve SCE of any obligation to pay for deliveries under the contract until Commission approval is obtained.

It would be inconsistent with D.07-07-027 to approve without modification the five additional CREST PPAs filed for approval in supplemental Advice Letter 2870-E-A. Consistent with D.07-07-027, the five PPAs filed in supplemental Advice Letter 2870-E-A should be modified to strike Amendment No. 1 from the agreements.

Feed-in Tariff policy guidelines

In Section 3.4.2 of D.07-07-027, the same section noted above for providing guidance on the process for securing approval of voluntary oversubscription, the Commission stated: "We encourage each respondent to fully use this tariff/standard contract to secure as much RPS generation as possible."[27]

Additionally, D.11-11-012 acknowledged that, in addition to the various legislative mandates, the Governor of the State of California has announced his intention to encourage the development of 12,000 MW of small-scale distributed generation projects. Further, D.11-11-012 stated that, to achieve this goal the Governor has called upon the Commission to assist with the development of small-scale distributed generation.[28]

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[26] D.07-07-027, Conclusion of Law #4, p. 58.

[27] D.07-07-027, Section 3.4.2, p. 14.

[28] D.11-11-012, p. 3.

The Commission finds that approval of SCE's eighty CREST PPAs submitted via Advice Letter 2870-E/E-A would be consistent with the policy guidance in D.07-07-027 and the Governor's 12,000 MW small scale distributed generation goal.

Procurement Review Group Participation

The Procurement Review Group (PRG) process 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 as an interim mechanism for procurement review.

Participants in the Procurement Review Group include representatives from the CPUC's Energy and Legal Divisions, the Division of Ratepayer Advocates, The Utility Reform Network, the Natural Resources Defense Council, California Utility Employees, the Union of Concerned Scientists, and the California Department of Water Resources. On March 20, 2013 and on May 15, 2013, SCE briefed the PRG on these CREST PPAs.

Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the CREST PPAs considered in this resolution, and SCE has complied with the Commission's rules for involving the PRG.

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. The contracts considered herein are standard, pre-approved feed-in tariff contracts signed by SCE and various counterparties. As such, the PPAs, including the PPA prices[29] are not confidential.

[29] The PPA prices for these standard feed-in tariff contracts are the relevant Market Price Referent (MPR) prices for each project as adopted by Commission Resolution E-4442 on December 1, 2011. As such, these prices are public.

RPS ELIGIBILITY AND CPUC APPROVAL

Pursuant to Pub. Util. Code § 399.13, 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.[30]

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.*), D.11-12-020 and D.11-12-052, or other applicable law."[31]

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, nor 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

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

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

enforcement activities shall be reviewed pursuant to the Commission's authority to review the utilities' administration of such contracts.

PUBLIC SAFETY

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

This resolution approves 80 PPAs for renewable feed-in tariff projects and is not expected to result in any adverse safety impacts on the facilities or operations of SCE.

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. Pursuant to D.07-07-027, the cost of feed-in tariff contracts executed up to the tariff capacity caps as authorized by that decision are considered per se reasonable, in the public interest, and recoverable in rates over the life of the contracts.

2. DRA's protest to AL 2870-E should be denied because it is beyond the scope of review for AL 2870-E. The review of AL 2870-E is limited to whether or not rate recovery is appropriate pursuant to D.07-07-027.

3. The issues raised by David Fick, Ashlee Dalton, and Jackie Hanselman in protests to AL 2870-E are beyond the scope of review for AL 2870-E. The review of AL 2870-E is limited to whether or not rate recovery is appropriate pursuant to D.07-07-027.

4. DRA's protest to AL 2870-E-A should be denied because it is beyond the scope of review for AL 2870-E. The review of AL 2870-E and supplemental AL 2870-E-A is limited to whether or not rate recovery is appropriate pursuant to D.07-07-027.

5. D.07-07-027 authorized the utilities to voluntarily exceed the allocated capacity limits for their respective feed-in tariff programs, and required oversubscription be subject to Commission review via the submission of an advice letter.

6. SCE exceeded its CREST program cap when it offered a standard CREST contract to the first project for which the entire capacity of that project was in excess of SCE's 123.8 MW CREST program cap.

7. The eighty CREST PPAs submitted by SCE for approval via Advice Letter 2870-E and supplemental Advice Letter 2870-E-A qualify as oversubscription of its CREST tariff.

8. Consistent with D.07-07-027, SCE submitted a Tier 3 advice letter seeking approval of this oversubscription in excess of its CREST program cap.

9. SCE's oversubscription of its CREST tariff by 112.52 MW constitutes a voluntary expansion of its feed-in tariff program. The capacity associated with this oversubscription has no impact on SCE's separate requirement, imposed by D.07-07-027 in its implementation of the statutory requirements of AB 1969, for SCE to procure 123.8 MW pursuant to its WATER tariff, available only to facilities owned and operated by public water or wastewater agency customers.

10. The delay associated with SCE's submission of Advice Letter 2870-E/E-A and the delay associated with the Commission's review process of that advice letter constitutes a legitimate regulatory delay of the kind envisioned by D.11-11-012.

11. Section 1.04(d) of the CREST PPA accommodates feed-in tariff projects achieving commercial operation "not later than twenty-four (24) months from the PPA Effective Date," which would be sufficient time to accommodate this regulatory delay.

12. The seventy-five (75) CREST PPAs filed for approval in Advice Letter 2870-E conform to the standard contract terms authorized by D.07-07-027, as modified by Resolution E-4137 and D.11-11-012.

13. The five (5) additional CREST PPAs filed for approval in supplemental Advice Letter 2870-E-A conform to the standard contract terms authorized by D.07-07-027, as modified by Resolution E-4137 and D.11-11-012, with one exception.

14. SCE modified the 5 PPAs filed through supplemental Advice Letter 2870-E-A to include Amendment No. 1, which would allow either party to terminate the agreement if not approved by the Commission within 365 days and would relieve SCE of any obligation to pay for deliveries under the contract until Commission approval is obtained.

15. It would be inconsistent with D.07-07-027 to approve without modification the five additional CREST PPAs filed for approval in supplemental Advice Letter 2870-E-A. Consistent with D.07-07-027, the five PPAs filed in supplemental Advice Letter 2870-E-A should be modified to strike Amendment No. 1 from the agreements.

16. The Commission finds that approval of SCE's eighty CREST PPAs submitted via Advice Letter 2870-E/E-A would be consistent with the policy guidance in D.07-07-027 and the Governor's 12,000 MW small scale distributed generation goal.

17. Pursuant to D.02-08-071, SCE's Procurement Review Group participated in the review of the CREST PPAs considered in this resolution, and SCE has complied with the Commission's rules for involving the PRG.

18. Any procurement pursuant to these Agreements 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.*), D.11-12-020 and D.11-12-052, or other applicable law.

19. 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.

20. Southern California Edison's Advice Letter 2870-E/E-A should be approved with modification to require SCE to strike Amendment No. 1 from the five PPAs filed through supplemental Advice Letter 2870-E-A.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison's seventy-five (75) long-term power purchase agreements, as submitted in Advice Letter 2870-E, with various counterparties using the Commission's pre-approved feed-in tariff standard contract are approved.
2. Southern California Edison's five (5) long-term power purchase agreements, as submitted in supplemental Advice Letter 2870-E-A, with various counterparties using the Commission's pre-approved feed-in tariff standard contract are approved, and Southern California Edison must file a Tier 1 advice letter within 7 days of today demonstrating compliance with this resolution's requirement that Amendment No. 1 be removed from these agreements.
3. Southern California Edison shall not attribute the capacity associated with the eighty long-term power purchase agreements submitted in Advice Letter 2870-E/E-A and approved by this resolution against the procurement

requirement established for its feed-in tariff program for water/wastewater agencies as authorized by D.07-07-027.

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 June 27, 2013; the following Commissioners voting favorably thereon:

_____
PAUL CLANON
Executive Director