



DRA

*Division of Ratepayer Advocates
California Public Utilities Commission*

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**Subject: Comments of the Division of Ratepayer Advocates on
Draft Resolution E-4559.**

INTRODUCTION AND BACKGROUND

The Division of Ratepayer Advocates (DRA) hereby submits these comments in support of the August 30, 2013 Draft Resolution E-4559, rejecting Southern California Edison Company's (SCE) Advice Letters (ALs) 2773-E, 2774-E, 2775-E and 2776-E because they are (1) inconsistent with D.10-12-048 and Resolution E-4445; and (2) not competitive compared to short-listed projects in SCE's 2011 Renewable Portfolio Standard (RPS) solicitation (2011 Shortlist).

DISCUSSION

SCE filed ALs 2773-E, 2774-E, 2775-E and 2776-E seeking California Public Utilities Commission (Commission) approval of four amended and restated power purchase and sales agreements (A&R PPAs) it executed with Silverado Power (Silverado). All four are for solar photovoltaic (PV) projects located in Lancaster, California.¹

On September 24, 2012, DRA protested the four Advice Letters arguing, in part, that the Silverado A&R PPAs are not competitive compared to the most recent set of cohorts,

¹ Draft Resolution E-4559, p. 1-2.

SCE's 2011 Shortlist.² SCE responded that the Silverado A&R PPAs compare favorably to projects shortlisted in its 2009 RPS RFO and its 2010 Renewables Standard Contract (RSC) program.³ Draft Resolution E-4559 accepts DRA's protest and determines that the correct measure for cost competitiveness are the renewable premiums of the most recent set of cohorts at the time the A&R PPAs were executed: SCE's 2011 Shortlist.⁴ All four A&R PPAs are not competitive compared to the 2011 Shortlist and DRA agrees with the Draft Resolution's rejection of the A&R PPAs.

Draft Resolution E-4559 also finds that the Silverado A&R PPAs do not fit within D.10-12-048's narrow exception to count SCE's pre-existing RPS procurement from its RSC program towards its Renewable Auction Mechanism (RAM) procurement obligations.⁵ DRA agrees. In D.10-12-048, the Commission adopted the RAM program ordering the investor owned utilities (IOUs) to establish a standardized auction mechanism for the procurement of renewable projects up to 20 MWs in size.⁶ To recognize SCE's pre-existing RPS procurement through its RSC program, in D.10-12-048, the Commission made a one-time exception for SCE to count contracts already executed pursuant to its 2010 RSC towards its capacity cap. In December 2011, the Commission adopted Resolution E-4445 and approved fifteen PPAs from SCE's RSC program.⁷ The Silverado PPAs were terminated prior to December 2011 and submitted as amended and restated contracts in September 2012 -- nine months later. DRA agrees that they do not fit within the narrow exception of D.10-12-048 and should not be counted towards SCE's RAM capacity requirement.

The instant A&R PPAs are significantly not price-competitive in the current market. SCE does not even appear to disagree with that fact but merely asserts that, compared to 2009

² DRA Protest, p. 4-5.

³ In 2007, SCE voluntarily initiated a standard contracting program for RPS-eligible projects under 20 MWs. It was subsequently expanded to include all RPS-eligible technologies. In 2010 SCE revised the program to (1) eliminate the use of the market price referent to set the contract price and (2) use a reverse auction to select winning projects based on the lowest cost contracts. The Commission approved SCE's 2010/2011 RPS procurement plans on April 14, 2011 in Decision (D.)11-04-030. Prior to the launch of SCE's 2010 RSC RFO, however, the Commission issued D.10-12-048 adopting the RAM program. Before the RAM decision was approved, SCE executed 21 contracts under the RSC program.

⁴ Draft Resolution E-4559, p. 10-11 and Confidential Appendix A.

⁵ D. 10-12-048, p. 4; Draft Resolution E-4559, p. 7.

⁶ Draft resolution E-4559, p. 6-7.

⁷ Resolution E-4445, p. 17-18.

RPS RFO and 2010 RSC pricing, the contracts may be competitive.⁸ Should the Commission approve SCE's request, the developer of the project would enjoy windfall profits at the expense of the ratepayers: receiving payments based on pricing from four years ago while purchasing solar PV panels at today's significantly lower rates. The Commission has found time and again that the appropriate cohort for price comparison of renewable procurement is the most recent one available. In addition, SCE has a substantial projected surplus of RPS generation in the time period these contracts would come online and for the foreseeable future. Finally, the developer, Silverado Power, holds *forty* contracts with SCE alone and is clearly not a new developer struggling in the renewable market. DRA supports the Draft Resolution in rejecting the four A&R PPAs, as there is no reason to expend ratepayer funds on unneeded and uncompetitive contracts in a mature marketplace.

CONCLUSION

DRA recommends the Commission approve Draft Resolution E-4559 as written. Please address any questions about these comments to David Siao at ds1@cpuc.ca.gov or (415) 703-5251.

/s/ Chloe Lukins

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⁸ Draft Resolution E-4559, p. 11.