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SDG&E
A Sempra Energy utility

September 5, 2013

ADVICE LETTER 2517-E
(U 902-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SUBJECT: REQUEST FOR APPROVAL OF A TRANSITION STANDARD CONTRACT FOR EXISTING QUALIFYING COGENERATION FACILITIES WITH CP KELCO, US, INC.

PURPOSE

The purpose of this advice letter is to seek approval of a Transition Standard Contract for Existing Qualifying Cogeneration Facilities between San Diego Gas & Electric (SDG&E) and CP Kelco, U.S., Inc. (Kelco) dated December 20, 2012 as amended on May 15, 2013 (Transition PPA) entered into pursuant to the terms of Section 3 of the Combined Heat and Power (CHP) Program Settlement Agreement (Settlement Agreement or Settlement) and CHP Settlement Agreement Term Sheet (Term Sheet). A copy of the Transition PPA is attached hereto as Confidential Appendix B.

BACKGROUND

The Settlement resulted from negotiations among diverse parties with divergent interests, including the three investor-owned utilities (IOUs), representatives of Qualifying Facilities QFs, ratepayer advocacy groups, and California Public Utilities Commission (CPUC or Commission) representatives. The purpose of the Settlement was to develop a state CHP program, create a smooth transition from the existing QF CHP program to a state-administered CHP program, and settle all CHP/QF litigation issues. After a year and a half-long intensive negotiation, the participating parties filed a joint motion for CPUC approval of the QF/CHP Settlement Agreement, Term Sheet, and attached Exhibits.[1]

The Settlement is designed to comprehensively resolve disputes arising out of existing QF contracts, especially with regard to energy and capacity pricing, and to transition the existing QF program into a new QF/CHP program. To those ends, Section 2 of the Term Sheet describes the three periods covered by the Agreement: the Transition Period, the Initial Program Period, and the Second Program Period. The Transition Period is designed to facilitate the transition from the existing QF program to the new QF/CHP program.

[1] Any capitalized terms used in this Advice Letter but not defined herein have the meaning set forth in the Settlement Agreement.

Section 3 of the Term Sheet describes the eligibility requirements for QF and CHP facilities to enter into a Transition PPA. Specifically, a CHP facility selling power to an IOU under a Legacy PPA or an extension thereof is eligible to sign a Transition PPA. Pursuant to the Settlement, capacity prices in Transition PPAs must conform with the pricing established in D.07-09-040. Energy pricing will be SRAC as calculated by using the formulas specified in Section 10 of the Term Sheet. The standard form Transition PPA for Existing Qualifying Cogeneration Facilities (Standard Form) is included as an exhibit to the Term Sheet.

SDG&E initiated negotiations with Kelco in November, 2011. Over the course of 2012, Kelco placed five requests for additional time to transition the legacy agreement to the Transition PPA. On December 20, 2012, Kelco and SDG&E executed a Standard Form Transition PPA and Amendment 1 to the PPA on May 15, 2013. As discussed in more detail below, all terms of the Transition PPA, with the exception of four, conform to the Standard Form.

THE TRANSITION PPA BETWEEN SDG&E AND KELCO

The terms of the Standard Form require the sale of a standardized "Power Product" which includes "(a) the Net Contract Capacity and (b) all electric energy produced by the Generating Facility, net of all Station Use and any and all of the Site Host Load" as well as "Related Products" which include Resource Adequacy Benefits, Green Attributes, and Capacity Attributes. In addition to the product, the price, and non-price terms are all standardized as well. Kelco's Transition PPA is, with four exceptions, the "pro forma" agreement adopted in the QF/CHP Settlement. These exceptions are explained in more detail below, and a redline comparing the Kelco Transition PPA to the Standard Form is attached hereto as Confidential Appendix A.

A. Non-Standard Terms

1. Termination Right of Buyer

As noted above, Section 2.02(a) of the Transition PPA has been modified to allow SDG&E a Termination Right. This modification was made in concert with expanding the Termination Right of the Seller.

2. Termination Right of Seller

Section 2.02(b)(iv) was added to allow Kelco an additional termination right in regard to specific concerns about its future business operations.

3. Modified Scheduling Coordinator Set-Up Fee

Exhibit G.4(a), the Scheduling Coordinator Set Up Fee, was modified in part to accommodate Kelco's future uncertainty and in part due to SDG&E's current practice regarding generators of similar size.

4. Modified Monthly Scheduling Coordinator Fee

Exhibit G.4(b) was modified because of Kelco's concerns regarding the amount of such fees. The change is consistent with SDG&E's current practice regarding generators of similar size.

B. Extension Amendment

Kelco and SDG&E executed an amendment to extend CPUC approval and to allow additional time for the CAISO to certify the CAISO-Approved meter installation.

REQUEST FOR COMMISSION APPROVAL

The terms of the Agreement are conditioned on the occurrence of final "CPUC Approval," as it is described in the Transition PPA. In order to satisfy that condition with respect to the Transition PPA, SDG&E requests that the Commission issue a final resolution containing:

1. Approval of the Agreement in its entirety; and
2. Any other and further relief as the Commission finds just and reasonable.

EFFECTIVE DATE

Pursuant to Section 4.10.2 of the QF/CHP Settlement, which provides that "IOUs will utilize a Tier 3 Advice Letter for all other PPAs (new, repowering, or existing PPAs that contain any material modification of the PPAs approved in this Settlement)," and GO 96-B, SDG&E believes that this filing is subject to Energy Division disposition and should be classified as Tier 3 (effective after Commission approval). SDG&E respectfully requests that the Commission issue a resolution approving this advice letter.

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 September 25, 2013, which is 20 days of 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 parties in R.12-03-014 by either providing them a copy electronically or by mailing them a copy hereof, properly stamped and addressed.

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

CLAY FABER
Director – Regulatory Affairs

(cc list enclosed)

Attachments:

Appendix 1: Declaration of Keith Durand Seeking Confidential Treatment and the IOU Matrix

Confidential Appendix A:
Redline Comparison of Kelco's PPA with Settlement Transition PPA

Confidential Appendix B:
1 -- Kelco PPA without Exhibits,
2 -- Kelco PPA with Exhibits, and
3 -- Kelco Transition PPA Amendment #1