

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 14, 2016

Advice Letter 2878-E

Clay Faber
Director, Regulatory Affairs
San Diego Gas & Electric Company
9305 Lightwave Ave, SD1190
San Diego, CA 92123
E-mail: CFaber@semprautilities.com

Subject: File supplemental to Advice Letter 2878-E

Dear Mr. Faber:

The California Public Utilities Commission (Commission) adopted Resolution E-4770 on March 17, 2016, ordering Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) (collectively the Investor-owned utilities or IOUs) to hold a solicitation for facilities that can use feedstock from high hazard zones using the Renewable Auction Mechanism (RAM) procurement process and standard contract (BioRAM solicitation). Specifically, Resolution E-4770 ordered the IOUs to file Tier 2 Advice Letters consisting of a contract rider to be used along with the Commission-approved standard RAM contract and the solicitation documents. On April 7, 2016, SDG&E submitted Advice Letter 2878-E requesting approval of a RAM contract rider to be used for a RAM auction targeting facilities that can use feedstock from high hazard zones. On April 25, 2016, the Forest Service protested and the Independent Energy producers (IEP) responded to and on April 27, 2016 the California Biomass Energy Alliance (CBEA) protested Advice Letter 2878-E. Staff read and considered all comments but limits the discussion herein to only the relevant issues.

RAM Contract Delivery Terms:

SDG&E's RAM contract rider limits the delivery terms for existing facilities to a 5-year delivery term with the option to extend the five-year contract term for one year at a time, up to a cumulative total of 10 years so long as high hazard zone fuel is available at the minimum fuel requirement. SDG&E also limits new facilities to a 10-year delivery term.

As background, D.14-11-042¹ reviewed the RAM program components and determined whether it was reasonable to retain, modify, or omit existing program components. D.14-11-042 is very specific about the changes it made to the RAM program,² i.e., it does not modify the original RAM contract duration of 10, 15 or 20 years contracts. In addition, D.14-11-042 requires the

¹ Decision conditionally accepting 2014 RPS Procurement Plans

² D.14-11-042, Sections 8.3.2, 8.3.5, 8.3.6, 8.3.7, 8.3.8

IOUs to use their respective annual RPS procurement plans if they want to make changes to the standard RAM contract.³ In addition, Resolution E-4770 requires the IOUs to offer a five-year contract as an option for existing biomass facilities, in addition to the existing 10, 15 or 20 years contract duration for both new and existing facilities. The IOU will have the right to extend the five-year contract term for one year at a time, up to a cumulative total of 10 years so long as high hazard zone fuel is available at the minimum fuel requirement. Nothing in the contract and solicitation documents shall obligate the developer to choose a five-year contract term.

Therefore, neither D.14-11-042 nor Resolution E-4770 authorized SDG&E to alter the duration of contracts to five years. Consequently, SDG&E's Advice Letter 2878-E does not comply with Resolution E-4770 or Commission Decisions.⁴ SDG&E shall submit a supplemental Advice Letter consisting of a rider to be used along with the approved standard RAM contract revising the delivery terms within three business days from today. Specifically, the RAM contract and the solicitation documents should reflect 10, 15 or 20 years contract duration for both new and existing facilities and offer the developer an option of a 5-year contract duration.

Project Development Security and Performance Security:

The IOU's standard RAM contract approved by D.15-12-025 requires all successful bidders to post performance security and development security bonds upon Commission approval of their contracts. CBEA protests the inclusion of the development and performance security for the BioRAM solicitation and suggests that the IOUs should make an exception for the BioRAM solicitation.

CBEA's protest is without merit. Performance and development security bonds are pre-approved contract terms in the standard RAM contract and can only be altered through a formal process.⁵ Therefore, CBEA's protest that a successful bidder in the BioRAM solicitation should not have to pay a development security and a performance security is denied.

Minimum Fuel Requirement Shortfall:

In accordance with Resolution E-4770, SDG&E offers facilities the option to either terminate the contract or to operate at the current ReMAT baseload price of \$89.23 /MWh for the duration of the contract once the facility can no longer meet the minimum required high hazard zone fuel requirement. The Forest Service, CBEA, and IEP protested this provision.

The protests of the Forest Service, CBEA, and IEP ignore that the scope and timing of Resolution E-4770 are directed to address the Proclamation - to protect public safety and

³ D.14-11-042, Ordering Paragraph 30

⁴ D.10-12-048 authorized RAM as a procurement process and adopted a standard, non-negotiable contract for each IOU along with standard contract terms and conditions and viability requirements. On November 20, 2014, D.14-11-042 modified RAM from a mandated capacity program to a procurement tool within the annual RPS procurement plan process .

⁵ D.14-11-042 specified that the IOUs should submit their standard RAM contracts with the RPS plans for Commission approval

property from falling dead trees and wildfire. The authorized procurement is meant to incentivize facilities to use removed high hazard biomass fuel from high hazard zones. Resolution E-4770 does not allow any dilution of minimum fuel standards nor does it support different price structures for high hazard and non-high hazard zone fuel. Therefore, the protest of the Forest Service, CBEA, and IEP that the IOUs should revise the minimum fuel requirement shortfall in the BioRAM solicitation is denied.

Conclusion:

Energy Division finds that SDG&E's Advice Letter 2878-E does not comply with Resolution E-4770 and Commission Decisions.⁶ SDG&E should file a supplement⁷ to Advice Letter 2878-E in accordance with GO 96 B (Section 7.5.1) consisting of a rider to be used along with the current, approved standard RAM contract and the solicitation documents within three business days from today.

Sincerely,



Edward Randolph
Director, Energy Division

⁶ D.10-12-048 authorized RAM as a procurement process and adopted a standard, non-negotiable contract for each IOU along with standard contract terms and conditions and viability requirements. On November 20, 2014, in D.14-11-042, the Commission revised RAM as a procurement tool within the annual RPS procurement plan process

⁷ G.O. 96-B (Section 7.5.1): The filing of a supplement, or of additional information at the request of the reviewing Industry Division, does not automatically continue or reopen the protest period or delay the effective date of the advice letter. The reviewing Industry Division, on its own motion or at the request of any person, may issue a notice continuing or reopening the protest period.