
July 20, 2009

ADVICE 2364-E
(U 338-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

SUBJECT: Request for Approval of Competitive Solicitation Process and Criteria for 250 Megawatts of Southern California Edison's Solar Photovoltaic Program and Draft Standard Power Purchase Agreement

I. PURPOSE

In compliance with the California Public Utilities Commission's (Commission) Decision (D.) 09-06-049 ("Decision") issued on June 22, 2009,¹ Southern California Edison Company (SCE) is implementing a 500 megawatt (MW) Solar Photovoltaic (PV) Program to be installed in SCE's service territory. Consistent with D.09-06-049, 250 MW will be utility-owned generation and 250 MW will be generation owned, operated, and maintained by independent power producers (IPPs) for which SCE will seek competitive bids for power purchase agreements (PPAs) through competitive solicitations.

In compliance with the Decision, this advice letter requests that the Commission take the following actions with respect to the 250 MW IPP portion of the Solar PV Program:²

1. Approve the process and criteria for evaluating offers received pursuant to competitive solicitations for the 250 MW designated to IPPs;³ and,

¹ The effective date of the Decision is June 18, 2009. (D.09-06-049, p. 59).

² Concurrently on July 20, 2009, SCE filed Advice Letter 2363-E to establish a Solar Photovoltaic Program Balancing Account (SPVPBA) and transfer the balance of the Solar Photovoltaic Program Memorandum Account to the SPVPBA.

³ D.09-06-049, Ordering Paragraph No. 2, p. 58.

2. Approve Appendix B, the draft standard 20-year PPA for accepted offers. In accordance with D.09-06-049, the PPA is modeled after the existing Assembly Bill (AB) 1969 standard offer contract.⁴

II. BACKGROUND

In Application (A.) 08-03-015, SCE requested Commission authority to own, install, operate and maintain 250 megawatts (MW) of utility-owned solar PV generating facilities, with individual units primarily in the 1 to 2 MW range, to be located within SCE's service territory. In D.09-06-049, the Commission increased the size of the Solar PV Program to 500 MW, where 250 MW are designated for utility-owned generation and 250 MW are to be owned, installed, operated, and maintained by IPPs for which SCE is to seek competitive offers.⁵

Specifically, with respect to the IPP portion of the Solar PV Program, D.09-06-049 authorized the following:

250 megawatt of distributed generation owned by independent power producers (about 50 megawatt annually) to be solicited at least once per year. Bids capped at Southern California Edison Company's estimated levelized costs of electricity. An Independent Evaluator should be secured to oversee the solicitation for the first two years of the program and thereafter if a utility affiliate participates in that process. Contracts will be based on standard 20-year power purchase agreement contracts.⁶

The Commission ordered that "[w]ithin 30 days of the effective date of this decision, Southern California Edison Company shall file an Advice Letter with the Energy Division delineating the criteria and process for evaluating offers received and containing a draft standard 20-year power purchase agreement contract for use in the request for offer."⁷ SCE submits the instant Advice Letter in compliance with the Decision.

III. PROCESS AND CRITERIA FOR EVALUATING OFFERS RECEIVED PURSUANT TO A REQUEST FOR OFFER (RFO)

In compliance with D.09-06-049, Section III.A. below explains the process for evaluating offers received pursuant to an RFO for the 250 MW portion of the Solar PV Program designated to IPPs. A flow chart depicting the RFO process is provided in Appendix A.

⁴ D.09-06-049, Ordering Paragraph No. 2, pp. 58-59 and p. 41 (requiring SCE to model the Solar PV Program's PPA contract after the existing AB 1969 standard offer contract). SCE's AB 1969 standard offer contract is administered under California Renewable Energy Small Tariff or Schedule CREST approved in Resolution E-4137.

⁵ D.09-06-049, Ordering Paragraph No. 1, p. 58.

⁶ *Id.*

⁷ D.09-06-049, Ordering Paragraph No. 2, pp. 58-59.

Section III.B. provides a brief overview of the criteria for evaluation and selection of offers.

The target date for launching the first RFO is 60 days after Commission approval of this Advice Letter. As indicated in the timeline below, the goal for the time from launch of the Solar PV Program to execution of contracts in the first RFO is about four months.

The Decision also requires that SCE hire an independent evaluator (IE) “to oversee the solicitations consistent with and pursuant to the requirements established in D.07-12-052.”⁸ SCE has hired Merrimack Energy as the IE to oversee the process for the first RFO. With the IE’s oversight and input, SCE will define the RFO schedule and submission format, and develop documents such as the Procurement Protocol, Q&A, and offering templates. SCE has begun this process with Merrimack Energy for the first RFO.

A. Solar PV Program RFO Process

The process of preparing for, evaluating, and selecting projects through each RFO will include the following activities: 1) development of the RFO package; 2) launch of the RFO; 3) receipt of indicative non-binding offers;⁹ 4) evaluation of the indicative non-binding offers and selection of short-listed candidates; 5) communication with short-listed candidates to ensure compliance with all criteria, including finalization of interconnection studies and PPA terms; 6) receipt of binding price offers from short listed candidates; and, 7) evaluation of binding price offers, acceptance of offers, and submission of executed PPAs to the Commission.

Each of the above-referenced topics is discussed in more detail below.

1. Development of the RFO Package

All of the RFO documents, including the standard 20-year PPA, will be specified in the Procurement Protocol. Details of the Procurement Protocol, proposal template and terms and conditions of the standard 20-year PPA are not intended to be subject to negotiation, although there may be situations that could warrant project-specific revisions.

The Procurement Protocol will contain the following:

- Complete RFO instructions, documents and projected timeline.

⁸ D.09-06-049, p. 42.

⁹ An Indicative Non-Binding Offer on a proposal template provided by SCE provides a non-binding price offer, together with information on the specifications and characteristics of the project, and supplementary information attached to the form, such as a single-line diagram. The Indicative Non-Binding Offer is not binding and the project will not proceed until a binding price offer is accepted.

- Procedures and proposal templates for indicative non-binding price offers.¹⁰ The proposal template includes a non-binding price offer in dollars per megawatt hour (\$/MWh), and all physical details of the proposed project, such as site location, a diagram of the installation, gross power rating in direct current (DC), net power rating in alternating current (AC), and annual energy production in MWh net of station use.
- Conforming criteria and evaluation and selection of projects including the Commission's Project Viability Calculator tailored to the Solar PV Program requirements. (Refer to Section III.B. for details on the evaluation criteria).
- Binding price offer instructions, procedures, and schedule.
- Electric system interconnection application, procedures, and forms.

In the Decision, the Commission directs SCE to "identify locations where distributed solar PV will be desirable, thereby optimizing the locational value of the project sites."¹¹ A list of zip codes which identify preferred locations will be available on the Solar PV Program website and will be updated as they become available. It is intended that the updates will be more frequent than the issuance of new RFOs. SCE will also indicate an estimate of the approximate available capacity for new solar PV generation within each zip code. However, providing these locations and estimates does not warrant economic project viability or the ability of proposed projects to interconnect without requiring network upgrades or passing Fast Track interconnection screens.

For example, pursuant to the SCE Wholesale Distribution Access Tariff (WDAT),¹² studies will be required to fully assess the interconnection requirements and associated costs for a specific location. Factors such as circuit loading, proximity to load and other generation in the area or on the circuit will be used to determine the requirements for providing interconnection services for the proposed project.

The second RFO will incorporate lessons learned from the first RFO and may be initiated within three to five months after completion of the first RFO, if feasible. SCE plans to improve the process as SCE gains experience in subsequent RFOs, with a goal of achieving two to four complete RFOs per year in the last two or three years of the five-year period, if needed. If possible, depending upon offers received, SCE will reach the 250 MW goal in less than five years.

2. Launch of the RFO

¹⁰ An indicative non-binding offer on an electronic proposal template provided by SCE enables the offerors to submit a non-binding price offer, together with information on the specifications and characteristics of the project, and supplementary information attached to the form, such as a single-line diagram.

¹¹ D.09-06-049, p. 42.

¹² SCE's Wholesale Distribution Access Tariff, FERC Electric Tariff, First Revised Volume No. 5.

All RFO documents and instructions will be posted on SCE's website. The launch of the RFO will be publicized through a press release and through emails to SCE's renewable energy mailing lists. SCE will hold an RFO Conference shortly after program launch. Questions and answers will be posted on the Solar PV Program's web site. The specific steps are noted below in the process timeline. The goal for the time from launch to execution of contracts in the first RFO is four months.

Process Timeline

<u>Process Steps</u>	
Launch RFO	T = 0
Hold RFO Conference	T + 2 weeks
Post Q&A Results	T + 3 weeks
Receive Indicative Non-Binding Offers	T + 4 weeks
Evaluate Indicative Non-Binding Offers Based on Conforming Criteria	T + 5 weeks
Notify Short-List Candidates	T + 7 weeks
Interconnection Application Deemed Complete	T + 9 weeks
Complete Interconnection Screens and Studies	T + 16 weeks
Receive Binding Price Offer From Short-Listed Candidates	T + 17 weeks
Evaluate and Accept Binding Price Offers	T + 17 weeks
Execute PPAs	T + 18 weeks
Submit Tier 2 Advice Letter	T + 25 weeks

3. Receipt of Indicative Non-Binding Offers

SCE will provide forms for offerors to submit project information and indicative non-binding offers, as indicated in the Procurement Protocol at time of RFO launch. SCE may contact parties to clarify or obtain any necessary information to properly evaluate the indicative offers upon review of the submissions.

4. Evaluation of the Indicative Non-Binding Offers and Selection of Short Listed Candidates

Upon review and evaluation of all submitted projects, successful projects will be placed on a short list based on Indicative Non-Binding Offers and conformity to criteria specified in the Procurement Protocol. Following SCE's review and consultation with SCE's Procurement Review Group (PRG), short-listed offerors will be notified confidentially by e-mail.

Interconnection to points on SCE's electrical system that are not controlled by the California Independent System Operator (CAISO) requires the submission of an interconnection application and a distribution service application to SCE under the WDAT Small Generator Interconnection Procedure (SGIP). Solar PV Program generators will need to apply for interconnection service and distribution service, for each site, pursuant to SCE's WDAT, just as any other generation project is required to apply for such service. For interconnection to facilities controlled by the CAISO, Solar PV Program generators will need to apply to CAISO for interconnection pursuant to its Small Generator Interconnection Procedure tariff. A complete interconnection application and distribution service application (Fast Track Process or otherwise), if

applicable, must be filed with the CAISO or SCE's Grid Interconnection and Contract Development Department within ten business days of a short list notification.

5. Communication With Short-Listed Candidates to Ensure Compliance with All Criteria, Including Finalization of Interconnection Studies and PPA Terms

All projects that are placed on the short list must finalize negotiations related to the PPA and confirm that interconnection studies are completed. As discussed in Section III.B.1., "Conforming Criteria to Be Eligible for Short List," the eligibility criteria include, among other things, passing nine of ten screens on the Fast Track interconnection application and completing an interconnection study. To the extent that any variations to the PPA terms are necessary, they will be finalized at this stage.

6. Receipt of Binding Price Offers From Short Listed Candidates

All short listed projects that meet the requirements to submit an offer will be eligible to submit a binding price offer. A binding price offer consists of one price in \$/MWh to be applied to the energy produced over the full 20-year term of the standard PPA. The binding price offer itself must be expressed as a single rate in \$/MWh before application of the energy payment allocation multiplier. Pursuant to the California Commercial Code, the price offer is an offer that is deemed "irrevocable" (a *binding* price offer) in that SCE reserves the right to accept any offer as-is.¹³

The time of use periods and energy payment allocation factors specified in the standard 20-year PPA will be applied to the binding price offer and a standard production curve to derive actual average costs.

7. Evaluation of Binding Price Offers, Acceptance of Offers, and Submission of Executed PPAs to the Commission

SCE will accept binding price offers based on the lowest cost projects subject to constraints such as, among other things, the Commission imposed 10% maximum limitation on the total capacity of ground mount projects¹⁴ and the maximum capacity of projects able to interconnect on specific circuits in SCE's service territory. SCE is also considering a multi-round selection process in this RFO. If SCE determines that it will use a multi-round selection process, offerors will be informed at the time of RFO launch, through the Procurement Protocol and RFO conference, on exactly how the process will operate. Absent implementation of a multi-round offer process, SCE will accept offers based on the initial binding price offer. Any recommendations for contract execution will be reviewed with SCE's PRG prior to execution.

¹³ Cal. Comm. Code § 2205(a).

¹⁴ The Commission stated that it "expect[s] the bulk of the SPVP projects to be in the range of one to two MW and also on rooftops with some limited exception for ground-mounted projects. However, in no event should ground mounted projects be more than 10% of the overall program capacity." (D.09-06-049, p. 40, fn. 48.)

SCE will submit all executed PPAs to the CPUC for approval under a Tier 2 Advice Letter pursuant to SCE's request in Section V., below.

B. Criteria For Evaluation and Selection

The total procurement target for IPPs is 250 MW direct current (DC) over five years. The criteria for evaluation and selection of offers will be part of the RFO package and identified in the Procurement Protocol. Specific information on the conforming criteria used to evaluate and short-list projects, and criteria used to evaluate final binding offers which ultimately result in an executed PPA, is provided below.

1. Conforming Criteria to Be Eligible for Short List

Following receipt of indicative offers, SCE will initially evaluate submitted offers and completed documentation against a set of conforming criteria and assess viability using the CPUC Project Viability Calculator. The conforming criteria include, but are not limited to, the following:

- Gross capacity should be primarily in the 1 to 2 MW range (DC)¹⁵ and built on rooftops. Energy production, net of station use, will be stated in units of MWh per year.
- A project must be within SCE's service territory and is subject to a FERC jurisdictional interconnection agreement and WDAT, if applicable. As noted earlier, a complete interconnection application (Fast Track or otherwise) must be filed with SCE's Grid Interconnection and Contract Development Department within ten business days of a short list notification.
- The producer must demonstrate site control by owning the site, leasing the site under a lease, or holding a right-of-way grant or similar instrument with respect to the site demonstrating the owner's agreement that the PV system can be and will be installed.
- A project must not participate in the California Solar Initiative (CSI) program or net energy metering (NEM). The roof owner will be required to sign a statement acknowledging familiarity with CSI and NEM, and a commitment not to apply for either program with respect to the Solar PV Program project during the life of the PPA. In addition, the PPA includes a covenant and termination clause which precludes participation by the PV generator in the CSI program or NEM program for any solar PV generating facility under the Solar PV Program.
- A project must be scheduled to begin initial operation within 18 months of PPA contract execution.

¹⁵ In no instance will SCE review offers for projects greater than 10 MW. Additional contract terms may be required for projects greater than 2 MW.

- The seller must have sufficient experience with large commercial and industrial roof-mounted PV installations. The system must be a commercially proven solar PV system and use UL rated components.

2. Binding Offer Evaluation Criteria for Final Project Selection

Once a short list of projects is obtained and the projects pass the WDAT Fast Track's first nine screens (or have a completed System Impact Study or phase one interconnection study identifying that no transmission network upgrades are required to interconnect the proposed project), SCE will evaluate and select projects to approve based on the following factors:

- Cost competitiveness: lower cost offers will be accepted before higher cost offers. Costs including time-of-use factors are not to exceed SCE's utility owned Solar PV Program's generation levelized cost of electricity (LCOE) (\$260/MWh);¹⁶
- The ability of the local electrical grid to absorb additional solar generating capacity without triggering upgrades in the CAISO controlled transmission system;
- The five-year 250 MW DC capacity goal; and,
- The Commission limitation that no more than 10% of the overall program capacity will be ground-mounted.¹⁷

IV. DRAFT STANDARD 20-YEAR PPA MODELED AFTER THE EXISTING AB 1969 STANDARD OFFER CONTRACT

In compliance with the Decision, SCE provides, in the attached Appendix B, a proposed 20-year PPA for projects accepted pursuant to an RFO in the Solar PV Program. The PPA was derived from SCE's CREST agreement, which is SCE's version of the AB 1969 and SB 380 feed-in tariffs.¹⁸ While the terms and conditions of the PPA are not intended to be subject to negotiation, there may be situations that could warrant project-specific revisions.

Key parameters that the Solar PV Program's PPA has in common with the CREST PPA include:

- Standard, 20-year PPA based on AB 1969;

¹⁶ The LCOE for the Solar PV Program is \$260/MWh. The Commission directs that "IPP bids should be capped at prices no greater than 100% of SCE's LCOE." (D.09-06-049, p. 40.)

¹⁷ See D.09-06-049, p. 40, fn. 48.

¹⁸ See D.09-06-049, p. 41 (directing SCE to model the PPAs "on the existing AB 1969 standard offer contracts").

- Product is energy (net of station use) plus green attributes, capacity attributes and resource adequacy benefits;
- Payments are monthly based on metered amounts;
- Product price is weighted by SCE's energy payment allocation factor for the time of use period being calculated;
- Projects are located within the SCE service territory;
- SCE is the scheduling coordinator;
- No performance assurance requirements;
- No annual energy delivery obligation;
- No energy replacement damage amount; and,
- SCE reserves termination rights in the standard 20-year PPA if a project does not achieve its Term Start Date, if there is abandonment of the generating facility, if there is no output for twelve consecutive months, if a project participates in the CSI or any net energy metering tariff, or if a project is later determined to trigger a transmission network upgrade.

Key changes from the CREST Agreement include:

- Product price is based on competitive offers through an RFO;
- FERC-jurisdictional interconnection and WDAT, if applicable, is required;
- Delivery is at the first point of interconnection with the CAISO controlled transmission system (at the Pnode of the generating facility as defined in CAISO tariff);
- Development security deposit of \$20/kW of Gross Power Rating is required;
- Updated SCE insurance requirements will be included;
- Prevailing wage requirement consistent with utility-owned generation for PV generator installation and maintenance;
- SCE will have a buyout option at the end of the contract; and,
- CPUC approval is requested through a Tier 2 advice letter for all PPAs resulting from each RFO.

V. REQUEST FOR TIER 2 DISPOSITION OF EXECUTED PPAS

In the Decision, the Commission “encourage[d] SCE to include in its proposed RFO process a means for expediting Commission review and approval of the resulting contracts, such as the use of Tier 2 advice letters.”¹⁹ SCE hereby requests Tier 2 disposition of executed PPAs conforming to the template approved via resolution of this Advice Letter. Tier 2 review of executed PPAs is appropriate because the PPAs are “contract[s] that conform[] to a Commission order authorizing the Contract” (Energy Industry Rule 5.1(4).) Energy Industry Rule 5.2(7) states that matters appropriate for Tier 2 disposition include “[a]n advice letter otherwise appropriate to Tier 1 but for which the Utility submitting the advice letter requests review and disposition under Tier 2.” (Energy Industry Rule 5.2(7).)

VI. TIER DESIGNATION

Pursuant to General Order (GO) 96-B, Energy Industry Rule 5.3, this advice letter is submitted with a Tier 3 designation (effective after Commission approval).

As explained in Section V., SCE intends that contracts modeled after the Commission-approved PPA resulting from resolution of this Advice Letter will be submitted and approved pursuant to Tier 2 designation under Energy Industry Rule 5.2.

VII. EFFECTIVE DATE

This advice filing will become effective on the date approved by a Commission resolution.

VIII. NOTICE

Anyone wishing to protest this advice filing may do so by letter via U.S. Mail, facsimile, or electronically, any of which must be received no later than 20 days after the date of this advice filing. Protests should be mailed to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, California 94102
E-mail: ijnj@cpuc.ca.gov and mas@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4004 (same address above).

In addition, protests and all other correspondence regarding this advice letter should also be sent by letter and transmitted via facsimile or electronically to the attention of:

¹⁹ D.09-06-049, pp. 42-43.

Akbar Jazayeri
Vice President of Regulatory Operations
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, California 91770
Facsimile: (626) 302-4829
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Bruce Foster
Senior Vice President, Regulatory Affairs
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2040
San Francisco, California 94102
Facsimile: (415) 929-5540
E-mail: Karyn.Gansecki@sce.com

There are no restrictions on who may file a protest, but the protest shall set forth specifically the grounds upon which it is based and shall be submitted expeditiously.

In accordance with Section 4 of GO 96-B, SCE is serving copies of this advice filing to the interested parties shown on the attached GO 96-B and A.08-03-015 service lists. Address change requests to the GO 96-B service list should be directed by electronic mail to AdviceTariffManager@sce.com or at (626) 302-4039. For changes to all other service lists, please contact the Commission's Process Office at (415) 703-2021 or by electronic mail at Process_Office@cpuc.ca.gov.

Further, in accordance with Public Utilities Code Section 491, notice to the public is hereby given by filing and keeping the advice filing at SCE's corporate headquarters. To view other SCE advice letters filed with the Commission, log on to SCE's web site at <http://www.sce.com/AboutSCE/Regulatory/adviceletters>.

For questions, please contact Angelica Morales at (626) 302-6160 or by electronic mail at angelica.morales@sce.com.

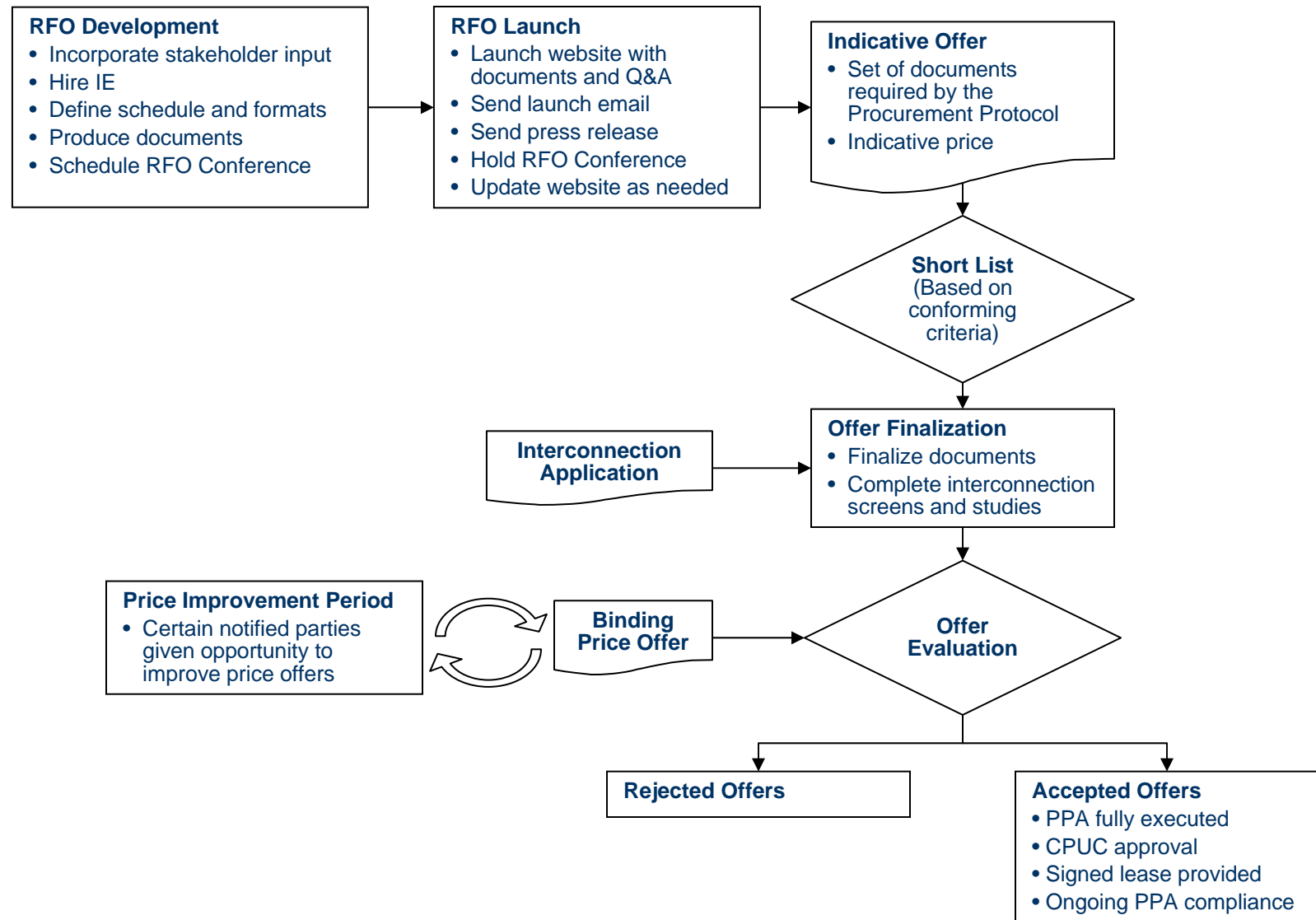
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Enclosures

Appendix A

Solar PV Program Process Flow Chart



Appendix B

**SOLAR PHOTOVOLTAIC PROGRAM
POWER PURCHASE AND SALE AGREEMENT**
between
SOUTHERN CALIFORNIA EDISON COMPANY
and
[PRODUCER'S NAME]

This Solar Photovoltaic Program Power Purchase and Sale Agreement (this "Agreement") by and between Southern California Edison Company, a California corporation ("SCE"), and [Producer's name], a [Producer's form of business entity and state of registration] ("Producer"), is made, entered into and effective as of [Date of execution] (the "Effective Date"). Producer and SCE are sometimes referred to in this Agreement jointly as the "Parties" and individually as a "Party." Unless the context otherwise specifies or requires, initially capitalized terms used in this Agreement have the meanings set forth in Appendix A.

1. RECITALS.

- 1.1. Producer is willing to construct, own and Operate the Generating Facility, and to sell the Product to SCE; and
- 1.2. SCE is willing to purchase the Product from Producer in accordance with the terms and conditions set forth in this Agreement.

The Parties, intending to be legally bound, agree as follows:

2. GENERATING FACILITY AND SITE; DELIVERY POINT; PRODUCT PRICE; SCHEDULING COORDINATOR.

- 2.1. The Generating Facility and the Site are described in Appendix B.
- 2.2. The name and address used by SCE to locate the Service Account(s) and Premises used to interconnect the Generating Facility to SCE's electric system are as follows: [_____].
- 2.3. The Gross Power Rating of the Generating Facility equals [_____] kW DC.
- 2.4. The Net Power Rating of the Generating Facility equals [_____] kW AC. The Net Power Rating is based on the sum of [Current Inverter continuous output ratings] [transformer continuous output ratings].
- 2.5. The annual energy production of the Generating Facility, net of Station Use, measured by the ISO-Approved Meter or Check Meter, as applicable, is expected to be [_____] kWh.
- 2.6. The Delivery Point is [_____]. [SCE Note: Insert the name of the Pricing Node (PNode) used by the ISO for purposes of financial settlements for the Generating Facility.]
- 2.7. The price for the Product delivered by Producer to SCE in accordance with this Agreement (the "Product Price") equals \$[_____] per kWh.
- 2.8. SCE is the Scheduling Coordinator under this Agreement. SCE shall take all steps necessary to be authorized as the Scheduling Coordinator throughout the Term. Producer shall cooperate with SCE in good faith to assure that SCE is authorized as the Scheduling Coordinator throughout the Term.

3. TERM; PROGRESS REPORTING.

- 3.1. The term of this Agreement (the “Term”) commences on [Date] (the “Term Start Date”) and ends at midnight Los Angeles Time on the day following the completion of twenty (20) Term Years from the Term Start Date (the “Term End Date”).
- 3.2. Producer may change the Term Start Date set forth in Section 3.1 by providing Notice to SCE at least three (3) Business Days before such Term Start Date; *provided, however*, that the Term Start Date must occur within eighteen (18) months of CPUC Approval.
- 3.3. In addition to the requirements set forth in Section 3.2, on the first day of each calendar month after the Effective Date and before the Term Start Date, Producer shall provide a report to SCE describing Producer’s progress relative to the development, construction, and startup of the Generating Facility, as well as a Notice of any anticipated change to the Term Start Date.

4. DEVELOPMENT SECURITY.

- 4.1. On or before the thirtieth (30th) day following the Effective Date, Producer shall post and thereafter maintain a development fee (the “Development Security”) equal to twenty dollars (\$20) for each kilowatt of the Gross Power Rating, as set forth in Section 2.3. The Development Security will be held by SCE and must be in the form of either a cash deposit or the Letter of Credit attached to this Agreement as Appendix C. If Producer establishes the Development Security in the form of a cash deposit, SCE shall make monthly Simple Interest Payments to Producer in accordance with the terms of this Agreement.
- 4.2. If, on or before the Term Start Date, Producer:
 - 4.2.1. Demonstrates to SCE’s satisfaction that Producer has installed all of the equipment or devices necessary for the Generating Facility to satisfy the Gross Power Rating, SCE shall return the Development Security to Producer within thirty (30) days of the Term Start Date;
 - 4.2.2. Has not installed any of the equipment or devices necessary for the Generating Facility to satisfy the Gross Power Rating, Producer shall forfeit, and SCE shall have the right to retain, the entire Development Security and terminate this Agreement; or
 - 4.2.3. Has installed only a portion of the equipment or devices necessary for the Generating Facility to satisfy the Gross Power Rating, SCE shall return, within thirty (30) days of the Term Start Date, only the portion of the Development Security equal to the product of twenty dollars (\$20) per kW DC of the portion of the Gross Power Rating available to deliver the Product to SCE at the Delivery Point.

5. CPUC FILING AND APPROVAL OF THIS AGREEMENT. On or before the sixtieth (60th) day following the Effective Date, SCE shall file with the CPUC the appropriate request for CPUC Approval. SCE shall expeditiously seek CPUC Approval, including promptly responding to any requests for information related to the request for CPUC Approval. Producer shall use commercially reasonable efforts to support SCE in obtaining CPUC Approval. SCE has no obligation to seek rehearing or to appeal a CPUC decision that fails to approve this Agreement or that contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.

6. TERMINATION; REMEDIES.

- 6.1. SCE may terminate this Agreement on Notice, which becomes effective at midnight on the thirty-first (31st) day after such Notice is given if:
 - 6.1.1. Producer fails to take all corrective actions specified in any SCE Notice, within the time frame set forth in such Notice, that the Generating Facility is out of compliance with any term of this Agreement;
 - 6.1.2. Producer fails to interconnect and Operate a Photovoltaic Module within the Generating Facility, in accordance with the terms and conditions of this Agreement, within one hundred twenty (120) days after SCE delivers electric energy for Station Use;
 - 6.1.3. Producer abandons the Generating Facility;
 - 6.1.4. Electric output from the Generating Facility ceases for twelve (12) consecutive months;
 - 6.1.5. Any interconnection study determines that upgrades are required to be made to SCE's transmission system in order to interconnect the Generating Facility to SCE's electric system;
 - 6.1.6. The Term does not commence within eighteen (18) months of CPUC Approval;
 - 6.1.7. If Producer or the owner of the Site applies for or participates in the California Solar Initiative or any net energy metering tariff with respect to the Generating Facility, as set forth in Section 7.12.6 and Section 7.16, respectively; or
 - 6.1.8. Producer has not installed any of the equipment or devices necessary for the Generating Facility to satisfy the Gross Power Rating, as set forth in Section 4.2.2.
- 6.2. A Party may terminate this Agreement:
 - 6.2.1. If any representation or warranty in this Agreement made by the other Party is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature, if such misrepresentation or breach of warranty is not remedied within ten (10) Business Days after Notice thereof from the non-breaching Party to the breaching Party;
 - 6.2.2. Except for an obligation to make payment when due, the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent such failure provides a separate termination right for the non-breaching Party or to the extent excused by Force Majeure) if such failure is not remedied within thirty (30) days after Notice of such failure is provided by the non-breaching Party to the breaching Party of such failure;
 - 6.2.3. If the other Party fails to make any payment due and owing under this Agreement, if such failure is not cured within five (5) Business Days after Notice of such failure is provided by the non-breaching Party to the breaching Party; and
 - 6.2.4. In accordance with Section 9.4.
- 6.3. This Agreement automatically terminates on the Term End Date.
- 6.4. If a Party terminates this Agreement in accordance with this Section 6, such Party will have the right to immediately suspend performance under this Agreement and pursue all remedies available at law or in equity against the other Party (including seeking monetary damages).

7. PRODUCER'S OBLIGATIONS.

- 7.1. Before the Term Start Date, Producer must demonstrate to SCE that Producer has satisfied all of the requirements for Producer to Operate the Generating Facility in accordance with the terms of this Agreement, Applicable Law, the SCE Tariffs and the ISO Tariff, and any other applicable contractual, tariff, legal and regulatory requirements.
- 7.2. Throughout the Term, Producer shall provide and convey the Product to SCE in accordance with the terms of this Agreement, and SCE shall have the exclusive right to the Product. Producer shall, at its own cost, take all reasonable actions and execute all documents or instruments that are reasonable and necessary to effectuate the use of the Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's benefit throughout the Term.
- 7.3. Producer hereby provides and conveys all Green Attributes associated with all electricity generation from the Generating Facility to SCE as part of the Product being delivered. Producer represents and warrants that Producer holds the rights to all Green Attributes from the Generating Facility, and Producer agrees to convey and hereby conveys all such Green Attributes to SCE as included in the delivery of the Product from the Generating Facility.
- 7.4. Throughout the Term, Producer shall grant, pledge, assign and otherwise commit to SCE the Net Qualifying Capacity of the Generating Facility in order for SCE to use in meeting its resource adequacy obligations under any Resource Adequacy Ruling.
- 7.5. As of the Effective Date and until the Term End Date, Producer may not provide or convey any of the Product to any individual or entity other than SCE.
- 7.6. Producer shall have Site Control as of the earlier of (i) the Term Start Date or (ii) any period before the Term Start Date to the extent necessary for Producer to perform its obligations under this Agreement and, in each case, will maintain Site Control throughout the Term. Producer shall promptly provide SCE with Notice if there is any change in the status of Producer's Site Control.
- 7.7. Producer shall, at its own cost, obtain and maintain all interconnection rights and interconnection agreements, and any related Governmental Authority approvals required to enable interconnection with SCE's electric system to the Delivery Point.
- 7.8. Producer shall obtain and maintain all Permits and agreements necessary to Operate the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point.
- 7.9. Producer shall Operate the Generating Facility in compliance with the SCE Tariffs and the ISO Tariff, and all Applicable Laws. Producer shall secure and maintain in full force all of the ISO agreements, certifications and approvals required in order for the Generating Facility to comply with the ISO Tariff.
- 7.10. Producer shall comply with all rules and regulations regarding PIRP if SCE elects to place the Generating Facility in PIRP. Producer shall install the Telemetry System that is designed to function in accordance with the ISO's PIRP protocols and SCE's communication system.
- 7.11. Producer shall, at its own cost, install, maintain and test the ISO-Approved Meter pursuant to the ISO Tariff, SCE's electric service requirements and Prudent Electrical Practices. SCE may, at its sole cost, furnish and install one Check Meter at the interconnection associated with the Generating Facility at a location provided by Producer that is compliant with SCE's electric service requirements. The Check Meter must be interconnected with SCE's communication network to permit (i) periodic, remote collection of revenue quality meter data, and (ii) back-up real time transmission of operating-quality meter data through the Telemetry System. SCE shall compare the Check Meter data (after adding compensation factors introduced by the ISO into the ISO-Approved Meter) to the ISO-Approved Meter data. If the deviation between the ISO-Approved Meter data and the Check Meter data for any comparison is greater than 0.3%, SCE shall provide Notice to Producer of such deviation

and the Parties shall mutually arrange for a meter check or recertification of the Check Meter or ISO-Approved Meter, as applicable. Each Party shall bear its own costs for any meter check or recertification. Testing procedures and standards for the Check Meter will be the same as for a comparable SCE-owned meter. Producer shall have the right to have representatives present during all such tests.

7.12. Producer shall:

7.12.1. Operate the Generating Facility in accordance with Prudent Electrical Practices;

7.12.2. Comply with the requirements set forth in Appendix D;

7.12.3. Use commercially reasonable efforts to Operate the Generating Facility so that the electric energy produced by the Generating Facility, net of Station Use, conforms with the Forecast provided in accordance with Appendix D;

7.12.4. Maintain and provide electronically or in hard copy a copy of all relevant daily Operating records to SCE within 20 days of Notice from SCE, including records showing (i) real and reactive power production, (ii) changes in Operating status, (iii) protective apparatus operations, and (iv) any unusual conditions found during inspections;

7.12.5. At least 75 days before the Term End Date or as soon as practicable before the date of an early termination of this Agreement, (i) submit to the ISO the name of the Scheduling Coordinator that will replace SCE, and (ii) cause the Scheduling Coordinator that will replace SCE to submit a letter to the ISO accepting the designation as Producer's Scheduling Coordinator;

7.12.6. Take all actions necessary to ensure that the owner of the Site waives all claims for eligibility for, and does not submit any claim for receipt of funds under the California Solar Initiative or any net energy metering tariff for the Generating Facility or any future modifications to the Generating Facility; and

7.12.7. Comply with all NERC reliability standards and requirements applicable to the generator owner and generator operator of the Generating Facility.

7.13. Producer shall provide Notice to SCE within one (1) Business Day if there is a termination of, or cessation of service under, any agreement required in order for the Generating Facility to (i) interconnect with SCE's electric system, (ii) transmit and deliver electric energy to the Delivery Point, or (iii) own and operate any ISO-Approved Meter.

7.14. Producer agrees, that, in accordance with FERC Order No. 697, upon request of SCE, Producer shall submit a letter of concurrence in support of an affirmative statement by SCE that the contractual arrangement set forth in this Agreement does not transfer "ownership or control of generation capacity" from Producer to SCE, as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Producer also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that the contractual arrangement set forth in this Agreement conveys ownership or control of generation capacity from Producer to SCE.

7.15. With respect to WREGIS, Producer shall cause and allow SCE to be the "Qualified Reporting Entity" and "Account Holder" (as such terms are defined by WREGIS) for the Generating Facility.

7.16. Producer waives all claims for eligibility for, and will not submit any claim for receipt of funds under the California Solar Initiative or any net energy metering tariff for the Generating Facility or any future modifications to the Generating Facility.

7.17. With respect to the construction, alteration, demolition, installation, Operation, and repair work of the Generating Facility, Producer shall, and shall cause all of its contractors and subcontractors:

7.17.1. To comply with the prevailing wage requirements of Division 2, Part 7, Chapter 1 of the California Labor Code (Public Works);

7.17.2. To require that all Electricians employed or otherwise utilized be licensed as class C-10 electrical contractors under California's Contractors' State License Board Rules and Regulations, and be qualified to work under California Labor Code Section 3099 *et seq.*;

7.17.3. To the extent that apprentice Electricians are employed or otherwise utilized, to employ or otherwise utilize only apprentice Electricians that have enrolled in an apprentice training program that (i) is certified by the State of California, and (ii) has graduated at least one (1) apprentice per year for each of the five (5) years before the date that such apprentice Electrician is employed or otherwise utilized.

7.18. Throughout the Term, Producer shall be a retail customer of SCE, and shall obtain retail electrical service from SCE to serve incidental electrical loads of the Generating Facility.

8. BILLING AND PAYMENT

8.1. The amount of electric energy purchased by SCE from Producer under this Agreement is determined by the ISO-Approved Meter or Check Meter (after adding compensation factors introduced by the ISO into the ISO-Approved Meter), as applicable. Subject to and in accordance with the terms of this Agreement (including Sections 16.3 through 16.5), SCE shall pay the Product Price to Producer for the Product.

8.2. For the purpose of calculating monthly payments under this Agreement, the amount measured by the ISO-Approved Meter or Check Meter, as applicable, will be time-differentiated according to the time period and season of the receipt of the Product by SCE from Producer, as set forth in Appendix E (the "TOU Periods"), and the pricing will be weighted by the Energy Payment Allocation Factors set forth in Appendix E.

8.3. As set forth in Appendix E, TOU Periods for the winter season are mid-peak, off-peak and super off-peak and TOU Periods for the summer season are on-peak, mid-peak and off-peak. The monthly payment will equal the sum of the monthly TOU Period payments for all TOU Periods in the month. Each monthly TOU Period payment will be calculated pursuant to the following formula, where "n" is the TOU Period being calculated:

$$\text{TOU PERIOD}_n \text{ PAYMENT} = A \times B \times C$$

Where:

A = Product Price, in \$/kWh.

B = Energy Payment Allocation Factor for the TOU Period being calculated.

C = The sum of energy recorded by the ISO-Approved Meter or Check Meter, as applicable, in all hours for the TOU Period being calculated, in kWh.

8.4. On or before the last Business Day of the month immediately following each calendar month, SCE shall determine the amount of electric energy received by SCE pursuant to this Agreement for each monthly period and provide a payment statement to Producer showing the calculation of the payment and payment.

- 8.5. Unless otherwise agreed in writing by the Parties, any payment due for the Product received under this Agreement will be satisfied by SCE issuing a check to Producer. Alternatively, SCE reserves the right, but is not obligated to apply any amount owed to Producer toward any amounts due to SCE from Producer for any charges incurred under this Agreement or for past due bills for electric service or for SCE services.
- 8.6. In the event adjustments to SCE's payments are required as a result of inaccurate metering equipment, SCE shall determine the correct amount of energy received under this Agreement during the period of inaccuracy and recompute the amount due to or from Producer. Any refund due and payable to SCE by Producer or due by SCE to Producer resulting from inaccurate metering will be made within thirty (30) calendar days of SCE's Notice to Producer by SCE of the amount due.
- 8.7. Monthly charges, if any, associated with any interconnection agreement, will be billed and paid pursuant to the applicable agreement, and monthly charges, if any, associated with electric service provided by SCE shall be billed and paid pursuant to the applicable SCE Tariffs.
- 8.8. Notwithstanding anything to the contrary set forth in this Agreement, this Section 8 is subject to any payment adjustment required under Sections 16.3 through 16.5.

9. FORCE MAJEURE.

- 9.1. Neither Party shall be in default in the performance of any of its obligations set forth in this Agreement, except for obligations to pay money, when and to the extent failure of performance is caused by Force Majeure.
- 9.2. If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, such Party (the "Claiming Party") shall be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Agreement by reason of Force Majeure:
 - 9.2.1. The Claiming Party, on or before the fourteenth (14th) day after the initial occurrence of the claimed Force Majeure, must give the other Party Notice describing the particulars of the occurrence; and
 - 9.2.2. The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.
- 9.3. The suspension of the Claiming Party's performance due to Force Majeure may not be greater in scope or longer in duration than is required by such Force Majeure. In addition, the Claiming Party shall use diligent efforts to remedy its inability to perform. When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.
- 9.4. The non-Claiming Party may terminate this Agreement on at least five (5) Business Days' prior Notice, in the event of Force Majeure which materially interferes with such Party's ability to perform its obligations under this Agreement and which extends for more than 365 consecutive days, or for more than a total of 365 days in any consecutive 540-day period.

10. BUYOUT OPTION.

- 10.1. SCE, in its sole discretion, shall have the option (the "Buyout Option"), which Buyout Option must be exercised no later than sixty (60) days before the Term End Date, to purchase and acquire from Producer, all of Producer's right, title and interest in and to all of Producer's assets, real, personal or mixed, tangible and intangible, of every kind and description, which are required or useful for the ownership and Operation of the Generating Facility, including all Green Attributes, Capacity Attributes, Resource Adequacy Benefits, and applicable interconnection agreements.

10.2. The consideration to be paid by SCE to Producer with respect to the Buyout Option for the assets listed in Section 10.1 will be one hundred dollars (\$100) per MW DC of the Gross Power Rating.

11. INSURANCE.

11.1. Producer shall, at its own expense, starting on the Effective Date and until the Term End Date, and for such additional periods as may be specified below, provide and maintain in effect the following insurance policies and minimum limits of coverage as specified below, and such additional coverage as may be required by Applicable Law, with insurance companies authorized to do business in the state in which the services are to be performed, with an A.M. Best's Insurance Rating of not less than A-VII:

11.1.1. Workers' compensation insurance with statutory limits, as required by the state having jurisdiction over Producer's employees, and employer's liability insurance with limits of not less than: (i) bodily injury by accident - \$1,000,000 each accident; (ii) bodily injury by disease - \$1,000,000 policy limit; and (iii) bodily injury by disease - \$1,000,000 each employee;

11.1.2. Commercial general liability insurance, written on an occurrence, not claims-made basis, covering all operations by or on behalf of Producer arising out of or connected with this Agreement, including coverage for bodily injury, broad form property damage, personal and advertising injury, products/completed operations, and contractual liability. Such insurance must bear a combined single limit per occurrence and annual aggregate of not less than \$1,000,000, exclusive of defense costs, for all coverages. Such insurance must contain standard cross-liability and severability of interest provisions. If Producer elects, with SCE's written concurrence, to use a "claims made" form of commercial general liability insurance, then the following additional requirements apply: (i) the retroactive date of the policy must be prior to the Effective Date; and (ii) either the coverage must be maintained for a period of not less than four (4) years after this Agreement terminates, or the policy must provide for a supplemental extended reporting period of not less than four (4) years after this Agreement terminates;

11.1.3. Commercial automobile liability insurance covering bodily injury and property damage with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance must cover liability arising out of Producer's use of all owned, non-owned and hired automobiles in the performance of the Agreement; and

11.1.4. Umbrella/excess liability insurance, written on an occurrence, not claims-made basis, providing coverage excess of the underlying employer's liability, commercial general liability, and commercial automobile liability insurance, on terms at least as broad as the underlying coverage, with limits of not less than four million dollars (\$4,000,000) per occurrence and in the annual aggregate.

11.2. The insurance requirements set forth in Section 11.1 may be provided by any combination of Producer's primary and excess liability policies.

11.3. The insurance requirements set forth in Section 11.1 will apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, and employees, regardless of any conflicting provision in Producer's policies to the contrary. To the extent permitted by Applicable Law, Producer and its insurers shall be required to waive all rights of recovery from or subrogation against SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The commercial general liability insurance required in Section 11.1.2 and the umbrella/excess liability insurance required in Section 11.1.4 must name SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents and

employees, as additional insureds for liability arising out of Producer's construction, use or ownership of the Generating Facility.

- 11.4. On or before the thirtieth (30th) day following the Effective Date, and within a reasonable time after coverage is renewed or replaced, Producer shall furnish to SCE certificates of insurance evidencing the coverage required above, written on forms and with deductibles reasonably acceptable to SCE. All deductibles, co-insurance and self-insured retentions applicable to the insurance above must be paid by Producer. All certificates of insurance must note that the insurers issuing coverage must endeavor to provide SCE with at least thirty (30) days' prior written notice in the event of cancellation of coverage. SCE's receipt of certificates that do not comply with the requirements stated in this Section 11.4, or Producer's failure to provide such certificates, do not limit or relieve Producer of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 11.4 and do not constitute a waiver of any of the requirements in this Section 11.4.
- 11.5. Producer shall remain liable for all acts, omissions or default of any subcontractor or subsupplier and shall indemnify, defend and hold harmless SCE for any and all loss or damages, as well as all costs, charges and expenses which SCE may suffer, incur, or bear as a result of any acts, omissions or default by or on behalf of any subcontractor or subsupplier.
- 11.6. If Producer fails to comply with any of the provisions of this Section 11, Producer, among other things and without restricting SCE's remedies under Applicable Law or otherwise, shall, at its own cost, act as an insurer and provide insurance in accordance with the terms and conditions of this Section 11. With respect to the required commercial general liability insurance set forth in Section 11.1.2, umbrella/excess liability insurance set forth in Section 11.1.4, and commercial automobile liability insurance set forth in Section 11.1.3, Producer shall provide a current, full and complete defense to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third party claim in the same manner that an insurer with an A.M. Best's Insurance Rating of A-:VII would have, had the insurance been maintained in accordance with the terms and conditions set forth in this Section 11 and given the required additional insured wording in the commercial general liability insurance and umbrella/excess liability insurance, and standard "Who is an Insured" provision in commercial automobile liability form.
- 11.7. All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance must be issued, clearly labeled with this Agreement's identification number and submitted in accordance with Section 12 and Appendix F.

12. NOTICES.

- 12.1. All Notices must be made in accordance with this Section 12 and Appendix F. Notices (other than Forecasts and Scheduling requests) must, unless otherwise specified in this Agreement, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, electronic transmission or facsimile. Notices provided in accordance with this Section 12 are deemed given as follows:
 - 12.1.1. Notice by facsimile, electronic transmission or hand delivery is deemed given at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise is deemed given at the close of business on the next Business Day;
 - 12.1.2. Notice by overnight first class United States mail or overnight courier service is deemed given on the next Business Day after such Notice is sent out; and
 - 12.1.3. Notice by first class United States mail is deemed given two (2) Business Days after the postmarked date.
- 12.2. A Party may change its address for Notices at any time by providing the other Party Notice of such change in accordance with Section 12.1.

- 12.3. All Notices must reference this Agreement's identification number, which is set forth on the first page of this Agreement.
- 12.4. The Parties may designate operating representatives to conduct the daily communications, which may be necessary or convenient for the administration of this Agreement. Such designations, including names, addresses, and phone numbers may be communicated or revised by Notice provided in accordance with this Section 12 and Appendix F.

13. SCE'S ACCESS TO THE SITE; PROVISION OF RECORDS AND DATA.

- 13.1. SCE has the right to examine the Site and the Generating Facility for any purpose connected with this Agreement upon providing Producer with reasonable advance Notice under the circumstances.
- 13.2. Producer shall promptly provide to SCE all documents reasonably requested by SCE relating to:
 - 13.2.1. The Generating Facility, including Producer's Operations and maintenance records, logs and other information, including meteorological data, solar irradiance data, unit availability, maintenance outages, circuit breaker operation requiring manual reset, relay targets and unusual events pertaining to the Generating Facility or its interconnection with SCE's electric system; and
 - 13.2.2. The administration of this Agreement, or in order for SCE to comply with any discovery or data request for information from the CPUC, CEC, FERC, any court, administrative agency, legislative body or other tribunal.

14. CONFIDENTIALITY.

- 14.1. Neither Party may disclose any Confidential Information to a third party, other than:
 - 14.1.1. To such Party's employees, lenders, investors, attorneys, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential;
 - 14.1.2. To potential Lenders with the consent of SCE, which consent will not be unreasonably withheld;
 - 14.1.3. To SCE's Procurement Review Group, as defined in D.02-08-071, subject to any applicable limitations and subject to a protective order applicable to SCE's Procurement Review Group;
 - 14.1.4. With respect to Confidential Information, the CPUC, the CEC or the FERC, under seal for any regulatory purpose, including policymaking, but only provided that the confidentiality protections from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection are in place before the communication of such Confidential Information;
 - 14.1.5. In order to comply with any Applicable Law or any exchange, Control Area or ISO rule, or order issued by a court or entity with competent jurisdiction over the disclosing party;
 - 14.1.6. In order to comply with any Applicable Law, including applicable regulation, rule, subpoena, or order of the CPUC, CEC, FERC, any court, administrative agency, legislative body or other tribunal, or any discovery or data request of the CPUC; and
 - 14.1.7. To the ISO or as otherwise may reasonably be required in order to participate in any auction, market or other process pertaining to the allocation of priorities or rights related to the transmission of electric energy sold or to be sold to SCE under this Agreement.

15. REPRESENTATIONS, WARRANTIES, AND COVENANTS.

15.1. On the Effective Date, each Party represents, warrants, and covenants to the other Party that:

- 15.1.1. It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- 15.1.2. It has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- 15.1.3. The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Laws;
- 15.1.4. This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms;
- 15.1.5. There is not pending, or to its knowledge, threatened against it or, in the case of Producer, any of its affiliates, any legal proceeding that could materially adversely affect its ability to perform under this Agreement;
- 15.1.6. It is acting for its own account, and its decision to enter into this Agreement is based on its own judgment, not in reliance upon the advice or recommendations of the other Party and it is capable of assessing the merits of and understanding, and understands and accepts the terms, conditions and risks of this Agreement; and
- 15.1.7. It has not relied on any promises, representations, statements or information of any kind that are not contained in this Agreement in deciding to enter into this Agreement.

15.2. Producer represents, warrants and covenants to SCE that:

- 15.2.1. As of the Effective Date and until the Term End Date, Producer (i) does not, and will not convey, transfer, allocate, designate, award, report or otherwise provide any or all of the Product, or any portion thereof, or any benefits derived therefrom, to any party other than SCE, (ii) will not start-up or Operate the Generating Facility per instruction of or for the benefit of any third party, except as required by other Applicable Laws, and (iii) the Generating Facility qualifies and is certified by the CEC as an Eligible Renewable Energy Resource, as such term is defined in Public Utilities Code Section 399.12 or Section 399.16 ("ERR Requirements"), and (iv) the output delivered to SCE qualifies under the requirements of the California Renewables Portfolio Standard (the "RPS Requirements");
- 15.2.2. Throughout the Term: (i) it will deliver the Product to SCE free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any individual or entity; and (iii) it shall hold the rights to all of the Product; and
- 15.2.3. Neither Producer nor, to the best of Producer's knowledge, the owner of the Site has participated in or submitted any claim for receipt of funds under the California Solar Initiative or any net energy metering tariff for the Generating Facility.

16. STATUS OF THE GENERATING FACILITY.

16.1. Producer shall provide prompt Notice to SCE if the Generating Facility or the Product ceases to comply with the ERR Requirements or the RPS Requirements.

16.2. Upon receipt of a Notice from SCE indicating that SCE has determined, in its reasonable discretion, that the Generating Facility may no longer comply with the ERR Requirements or RPS Requirements,

Producer shall, within fifteen (15) days of receiving such Notice, provide to SCE evidence sufficient to show that the Generating Facility continues to comply with the ERR Requirements or RPS Requirements, as applicable. If SCE determines, in its reasonable discretion, that Producer failed to provide evidence sufficient to show that the Generating Facility continues to comply with the ERR Requirements or the RPS Requirements, as applicable, then the Generating Facility will no longer be deemed to comply with the ERR Requirements or RPS Requirements (the "ERR/RPS Status Change"), as applicable, until such time as Producer demonstrates to SCE's reasonable satisfaction that the Generating Facility complies with the ERR Requirements and RPS Requirements.

- 16.3. Upon making a determination that the Generating Facility no longer complies with the ERR Requirements or the RPS Requirements, SCE shall revise its records and the administration of this Agreement to reflect such determination and shall provide Notice to Producer of its determination. Such Notice must specify the effective date of the ERR/RPS Status Change, which date will be the first day of the calendar month for which SCE determines in its reasonable discretion that the Generating Facility first ceased to comply with the ERR Requirements or RPS Requirements. SCE's Notice provided in accordance with this Section 16.3 must include an invoice for the refund of payments that were made to Producer during the period between the effective date of the ERR/RPS Status Change and the date of the last Notice in reliance upon Producer's representations that the Generating Facility complied with the ERR Requirements and RPS Requirements. Any amounts to be paid or refunded by Producer to SCE, as may be invoiced by SCE in accordance with this Section 16.3, must be paid to SCE within thirty (30) days of Producer's receipt of such invoice.
- 16.4. During the entire period that the Generating Facility no longer complies with the ERR Requirements or the RPS Requirements, SCE will not be obligated to pay Producer for the Product.
- 16.5. Notwithstanding anything to the contrary contained in this Agreement, if there is a change in Applicable Law that results in the Producer no longer meeting the ERR Requirements or RPS Requirements, SCE shall continue to pay Producer for the Product so long as SCE determines that Producer has used, and will continue to use, commercially reasonable efforts to comply with such change in Applicable Law.
- 16.6. Producer acknowledges and agrees that SCE may periodically inspect the Generating Facility or require documentation from Producer to monitor the Generating Facility's compliance with the ERR Requirements and RPS Requirements.

17. INDEMNIFICATION.

- 17.1. Each Party as indemnitor shall defend, save harmless and indemnify the other Party and the directors, officers, employees, and agents of such other Party against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including any direct, indirect, or consequential loss, liability, damage, claim, cost, charge, demand, or expense, including reasonable attorneys' fees) for injury or death to persons, including employees of either Party, and physical damage to property including property of either Party arising out of or in connection with the negligence or willful misconduct of the indemnitor relating to its obligations under this Agreement. This indemnity applies notwithstanding the active or passive negligence of the indemnitee; *provided, however*, that neither Party is indemnified under this Agreement for its loss, liability, damage, claim, cost, charge, demand or expense to the extent resulting from its own negligence or willful misconduct.
- 17.2. Producer shall defend, save harmless and indemnify SCE, its directors, officers, employees, and agents, assigns, and successors in interest, for and against any penalty imposed upon SCE to the extent caused by Producer's failure to fulfill its obligations as set forth in Sections 7.2 through 7.4.
- 17.3. Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss, liability, damage, claim, cost, charge, demand or expense arising out of or in connection with any breach made by the indemnifying Party of its representations, warranties and covenants in Section 15. Notwithstanding anything to the contrary in this Agreement, if Producer fails to comply with the

provisions of Section 11, Producer shall, at its own cost, defend, save harmless and indemnify SCE, its directors, officers, employees, and agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, or expense of any kind or nature (including any direct, indirect, or consequential loss, damage, claim, cost, charge, demand, or expense, including reasonable attorneys' fees and other costs of litigation), resulting from injury or death to any individual or damage to any property, including the personnel or property of SCE, to the extent that SCE would have been protected had Producer complied with all of the provisions of Section 11. The inclusion of this Section 17.3 is not intended to create any express or implied right in Producer to elect not to provide the insurance required under Section 11.

17.4. All indemnity rights survive the termination of this Agreement for 12 months.

18. ARBITRATION. Except for matters relating to specific performance, injunctive relief or other equitable remedies, the Parties agree to submit to arbitration any and all matters in dispute or controversy among them concerning the terms of this Agreement. Unless the Parties agree to alternative arrangements, the selection of arbitrators and the procedure must be in accordance with the commercial arbitration rules then in effect of the Judicial Arbitration and Mediation Services, Inc. Any award rendered is final and conclusive upon the Parties and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration must be borne equally by the Parties; *provided, however,* that each Party shall pay for and bear the costs of its own experts, evidence and counsel's fees. Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration will be in Los Angeles, California.
19. ASSIGNMENT. Producer may not assign this Agreement or its rights or obligations under this Agreement without SCE's prior written consent, which consent will not be unreasonably withheld. Any assignment of this Agreement by Producer without SCE's written consent is not valid.
20. MISCELLANEOUS.
- 20.1. Except as may otherwise be provided in this Agreement, there is no warranty of merchantability or fitness for a particular purpose, and any and all implied warranties are disclaimed. Liability is limited to direct actual damages only, such direct actual damages are the sole and exclusive remedy and all other remedies or damages at law or in equity are waived unless expressly herein provided. Unless expressly provided for in this Agreement, neither Party is liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages.
- 20.2. This Agreement will not be construed against any Party as a result of the preparation, substitution, or other event of negotiation, drafting or execution thereof.
- 20.3. No amendment or modification to this Agreement is enforceable unless reduced to a writing signed by all Parties.
- 20.4. This Agreement supersedes all prior agreements, whether written or oral, between the Parties with respect to its subject matter and constitutes the entire agreement between the Parties relating to its subject matter.
- 20.5. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
- 20.6. The term "including" when used in this Agreement is by way of example only and will not be considered in any way to be in limitation.
- 20.7. The word "or" when used in this Agreement includes the meaning "and/or" unless the context unambiguously dictates otherwise.

- 20.8. This Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the Parties.
- 20.9. Whenever this Agreement refers to any law, tariff, government department or agency, regional reliability council, SCE's electric system, or credit rating agency, the Parties agree that the reference also refers to any successor to such law, tariff or organization.
- 20.10. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, an Adobe Acrobat file or by other electronic means constitutes effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.
- 20.11. The headings used in this Agreement are for convenience and reference purposes only and will not affect its construction or interpretation. All references to a "Section" or an "Appendix" refer to the corresponding Section or Appendix of this Agreement. Unless otherwise specified, all references to a "Section" in Appendices A through E refer to the corresponding Section in the main body of this Agreement. Words having well-known technical or industry meanings have such meanings unless otherwise specifically defined in this Agreement.
- 20.12. None of the provisions of this Agreement will be considered waived by a Party unless such waiver is given in writing. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder may not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same will continue and remain in full force and effect.
- 20.13. This Agreement does not constitute an agreement by SCE to provide retail electrical service to Producer or any third party. Such arrangements must be made separately with SCE.
- 20.14. The rights and obligations of the Parties that are intended to survive a termination of this Agreement are all such rights and obligations that this Agreement expressly provides survive such termination as well as those rights and obligations arising from either Parties' covenants, agreements, representations or warranties applicable to, or to be performed at, before or as a result of the termination of this Agreement.
- 20.15. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.
- 20.16. Except as specifically provided in this Agreement, any outstanding and past due amounts owing and unpaid by either Party under the terms of this Agreement are eligible to receive a Simple Interest Payment calculated using the Interest Rate for the number of days between the date due and the date paid.

[signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized representatives as of the Effective Date.

[PRODUCER'S NAME],

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a [Producer's form of business entity and
state of registration]

a California corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

APPENDIX A **DEFINITIONS**

For purposes of this Agreement, the following terms and variations thereof have the meanings specified or referred to in this Appendix A:

“Agreement” has the meaning set forth in the Preamble.

“Applicable Law” means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority or arbitrator that apply to any Party, the Generating Facility or the terms of this Agreement.

“Business Day” means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving. A Business Day begins at 8:00 A.M. and end at 5:00 P.M. local time for the Party sending the Notice or payment or performing a specified action.

“Buyout Option” has the meaning set forth in Section 10.1.

“California Solar Initiative” means the California Solar Initiative Program implemented and overseen by the CPUC, and as may be revised from time to time.

“Capacity Attributes” means any and all current or future defined characteristics, certificates, tag, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including any accounting construct counted toward any resource adequacy requirements, attributed to or associated with the Generating Facility or any unit of generating capacity of the Generating Facility throughout the Term.

“CEC” means the California Energy Commission.

“Check Meter” means the SCE revenue-quality meter section or meter(s), which SCE may require at its discretion, and which will include those devices normally supplied by SCE or Producer under the applicable utility electric service requirements.

“Claiming Party” has the meaning set forth in Section 9.2.

“Confidential Information” means all oral or written communications exchanged between the Parties on or after the Effective Date relating to the implementation of this Agreement, including information related to Producer’s compliance with Operating and efficiency standards applicable to the Generating Facility. Confidential Information does not include information that (i) is in the public domain as of the Effective Date or which comes into the public domain after the Effective Date from a source other than from the other Party, (ii) either Party can demonstrate in writing was already known to such Party on a non-confidential basis before the Effective Date, (iii) comes to a Party from a bona fide third-party source not under an obligation of confidentiality, and (iv) is independently developed by a Party without use of or reference to Confidential Information or information containing Confidential Information.

“Control Area” means the electric power system (or combination of electric power systems) under the operational control of the ISO or any other electric power system under the operation control of another organization vested with authority comparable to that of the ISO.

“CPUC” means the California Public Utilities Commission.

“CPUC Approval” means either (1) a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms, or (2) a final and non-appealable disposition of the CPUC’s Energy Division, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms or deems approved an advice letter requesting the following terms:

- (a) Approves this Agreement in its entirety, including payments to be made by SCE, subject to CPUC review of SCE’s administration of the Agreement; and
- (b) Finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining SCE’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.*), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on (1) the date that a CPUC decision containing such findings becomes final and non-appealable, or (2) the date that a CPUC Energy Division disposition which contains such findings or deems approved an advice letter requesting such findings becomes final and non-appealable..

“Current Inverter” means the equipment or device(s) that convert DC electricity into AC electricity.

“DC Collection System” means the DC equipment, cables, components, devices and materials that interconnect the Photovoltaic Modules with the Current Inverters.

“Development Security” has the meaning set forth in Section 4.1.

“Delivery Point” has the meaning set forth Section 2.6.

“Effective Date” has the meaning set forth in the Preamble.

“Electrician” means an individual responsible for placing, installing, erecting or connecting any electrical wires, fixtures, appliances, apparatus, raceways, conduits, solar photovoltaic cells or any part thereof, which generate, transmit, transform or utilize electrical energy in any form or for any purpose.

“Energy Payment Allocation Factors” are those certain factors used to calculate TOU Period payments, as further described in Sections 8.2 and 8.3, and as set forth in Appendix E.

“ERR Requirements” has the meaning set forth in Section 15.2.1.

“ERR/RPS Status Change” has the meaning set forth in Section 16.2.

“FERC” means the Federal Energy Regulatory Commission.

“Force Majeure” means any event or circumstance (that is not anticipated as of the Effective Date) to the extent beyond the control of, and not the result of the negligence of, or caused by, the Party seeking to have its performance obligation excused thereby, which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome. Force Majeure does not include: (i) a failure of performance of any other Person, including any individual or entity providing electric transmission service or fuel transportation to the Generating Facility, except to the extent that such failure was caused by an event that would otherwise qualify as Force Majeure; (ii) failure to timely apply for or obtain Permits or other credits required to Operate the Generating Facility; (iii) breakage or malfunction of equipment (except to the extent that such failure was caused by an event that would otherwise qualify as Force Majeure); or (iv) a lack of solar radiation.

“Forecast” means the hourly forecast of either the sum of the Current Inverter continuous electrical output ratings for Current Inverters made operational for a stated forecast period (in MWs) or electric energy (in MWh) of the Generating Facility in accordance with SCE’s instructions.

“Generating Facility” means Producer’s solar photovoltaic generating facility, as more particularly described in Appendix B, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at such facility, excluding the Site, land rights and interests in land.

“Governmental Authority” means any (i) federal, state, local, municipal or other government, (ii) governmental, regulatory or administrative agency, commission, or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, and (iii) court or governmental tribunal.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Generating Facility, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as:

- (1) Any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants;
- (2) Any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;¹
- (3) The reporting rights to these avoided emissions, such as Green Tag Reporting Rights.

Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of energy.

Green Attributes do not include:

- (i) Any energy, capacity, reliability or other power attributes from the Generating Facility,
- (ii) Production tax credits associated with the construction or operation of the Generating Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Generating Facility that are applicable to a state or federal income taxation obligation,
- (iii) Fuel-related subsidies or “tipping fees” that may be paid to Producer to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or
- (iv) Emission reduction credits encumbered or used by the Generating Facility for compliance with local, state, or federal operating and/or air quality permits.

If the Generating Facility is a biomass or biogas facility and Producer receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide SCE with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Generating Facility.

“Gross Power Rating” means the value, in kW DC, set forth in Section 2.3 which is the sum of all Photovoltaic Module DC Ratings for Photovoltaic Modules to be installed at the Site as indicated in Appendix B.

“Interest Rate” means an annual rate equal to the rate published in The Wall Street Journal as the “Prime Rate” (or, if more than one rate is published, the arithmetic mean of such rates) as of the date payment is due plus two (2) percentage points; *provided, however*, that in no event will the Interest Rate exceed the maximum interest

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

rate permitted by Applicable Laws.

“ISO” means the California Independent System Operator Corporation or successor entity that dispatches certain generating units and loads and controls the transmission facilities of entities that (i) own, operate and maintain transmission lines and associated facilities or have entitlements to use certain transmission lines and associated facilities, and (ii) have transferred to the ISO or its successor entity operational control of such facilities or entitlements.

“ISO-Approved Meter” means any revenue quality, electric energy measurement meter furnished by Producer, that (i) is designed, manufactured and installed in accordance with the ISO’s metering requirements, or, to the extent that the ISO’s metering requirements do not apply, Prudent Electrical Practices, and (ii) includes all of the associated metering transformers and related appurtenances that are required in order to measure the net electric energy output from the Generating Facility.

“ISO-Approved Quantity” means the total quantity of electric energy SCE Schedules with the ISO and the ISO approves in its final schedule which is published in accordance with the ISO Tariff.

“ISO Tariff” means the California Independent System Operator Corporation Operating Agreement and Tariff, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

“Lease” means one or more agreements whereby Producer leases the Site described in Appendix B from the owner of the Site, the term of which lease begins on or before the Effective Date and extends at least through the Term End Date.

“Letter of Credit” means an irrevocable, nontransferable standby letter of credit provided by Producer from an issuer acceptable to SCE that is either a U.S. commercial bank or a U.S. branch of a foreign bank with the bank having a Credit Rating of at least “A-” from S&P and Fitch and “A3” from Moody’s, in the form of Appendix C. Producer must bear the costs of all Letters of Credit.

“NERC” means the North American Electric Reliability Corporation, or any successor entity.

“Net Qualifying Capacity” has the meaning set forth in the ISO Tariff.

“Net Power Rating”, in kW AC, is the sum of all Current Inverter continuous output ratings or any transformer continuous output ratings, whichever is less, located between the Current Inverters and the ISO-Approved Meter.

“Notice” means notices, requests, statements or payments provided in accordance with Section 12 and Appendix F.

“Operate” means to provide (or the provision of) all the operation, engineering, purchasing, repair, supervision, training, inspection, testing, protection, use, management, improvement, replacement, refurbishment, retirement, and maintenance activities associated with operating the Generating Facility in accordance with Prudent Electrical Practices.

“Parties” and “Party” have the meanings set forth in the Preamble.

“Permits” means all applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any Governmental Authority, or the ISO, in order to develop, construct, Operate, maintain, improve, refurbish and retire the Generating Facility or to Schedule and deliver the electric energy produced by the Generating Facility to SCE, including an authority to construct or conditional use permit.

“Photovoltaic Module” means the individual component that produces DC electric energy from solar radiation.

“Photovoltaic Module DC Rating” means, for each Photovoltaic Module installed or to be installed at the Site, the number (expressed in kW_{PDC}) stated on the nameplate affixed thereto representing the manufacturer’s maximum (at “peak” sunlight) DC power rating at the standard test condition (“P_{mp}” or Power maximum at peak).

“PIRP” (i.e., Participating Intermittent Resource Program) means the ISO’s intermittent resource program initially established pursuant to Amendment No. 42 of the ISO Tariff in Docket No. ER02-922-000, or any successor program that SCE determines accomplishes a similar purpose.

“Premises” has the meaning set forth in SCE’s Rule 1.

“Producer” has the meaning set forth in the Preamble.

“Product” means (i) all electric power and energy produced by the Generating Facility, net of Station Use, and (ii) all Green Attributes, Capacity Attributes, and Resource Adequacy Benefits.

“Product Price” has the meaning set forth in Section 2.7.

“Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by prudent operators of electric generating facilities in the Western United States, similar to the Generating Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time a decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety. Prudent Electrical Practices includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with the manufacturer’s warranties, restrictions in this Agreement, and the requirement of Governmental Authorities, WECC standards, the ISO and Applicable Laws. Prudent Electrical Practices include taking reasonable steps to ensure that: (i) equipment, materials, resources and supplies, including spare parts inventories, are available to meet the Generating Facility’s needs; (ii) sufficient operating personnel are available at all times and are adequately experienced, trained and licensed as necessary to Operate the Generating Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Generating Facility and Emergencies whether caused by events on or off the Site; (iii) preventative, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe Operation of the Generating Facility, and are performed by knowledgeable, trained and experienced personnel utilizing proper equipment and tools; (iv) appropriate monitoring and testing are performed to ensure equipment is functioning as designed; (v) equipment is not operated in a reckless manner, in violation of manufacturer’s guidelines or in a manner unsafe to workers, the general public or SCE’s electric system, or contrary to environmental laws, permits or regulations or without regard to defined limitations, such as flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and (f) equipment and components designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generation operations in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

“Renewable Energy Credit” has the meaning set forth Public Utilities Code Section 399.12(g), as may be amended from time to time or as further defined or supplemented by Applicable Law.

“Resource Adequacy Benefits” means the rights and privileges attached to the Generating Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and include any local, zonal or otherwise locational attributes associated with the Generating Facility.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031 and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time throughout the Term.

“RPS Requirement” has the meaning set forth in Section 15.2.1.

“Rule” means SCE Tariff sheets that set forth the application of all rates, charges, and service when such applicability is not set forth in and as part of the rate schedules.

“SCE” has the meaning set forth in the Preamble.

“SCE Tariffs” means the entire body of effective rates, rentals, charges, and rules collectively of SCE, as set forth in this Agreement, and including title page, preliminary statement, service area maps, rate schedules, list of contracts and deviations, Rules, and sample forms.

“Schedule” means the action of the Scheduling Coordinator, or its designated representatives, of notifying, requesting, and confirming to the ISO, the ISO-Approved Quantity of electric energy.

“Scheduling Coordinator” means the entity certified by the ISO for the purposes of undertaking the functions specified by ISO Tariff Section 2.2.6, as amended by FERC from time-to-time.

“Service Account” has the meaning set forth in SCE’s Rule 1.

“Simple Interest Payment” means a dollar amount calculated by multiplying the (i) dollar amount on which the Simple Interest Payment is based, times (ii) the Interest Rate, times (iii) the result of dividing the number of days in the calculation period by 360.

“Site” means the real property on which the Generating Facility is, or will be located, as further described in Appendix B.

“Site Control” means that Producer (i) owns the Site, (ii) is the lessee of the Site under a Lease, or (iii) is the holder of a right-of-way grant or similar instrument with respect to the Site.

“Station Use” means the electric energy produced by the Generating Facility that is: (i) used within the Generating Facility to power the lights, motors, control systems and other electrical loads, such as meteorological equipment that are necessary for Operation; and (ii) consumed within the Generating Facility’s DC Collection System as losses within the Photovoltaic Modules, associated wiring, combiner boxes, Current Inverters, transformers and other equipment.

“Telemetry System” means a system of electronic components that collects all required telemetry in accordance with the PIRP and SCE operational requirements and communicates this telemetry to the ISO and SCE as required by applicable tariff or this Agreement.

“Term” has the meaning set forth in Section 3.1.

“Term End Date” has the meaning set forth in Section 3.1.

“Term Start Date” has the meaning set forth in Section 3.1.

“Term Year” means a twelve (12) month period beginning on the first day of the calendar month following the Term Start Date and each successive twelve (12) month period thereafter.

“TOU Periods” has the meaning set forth in Section 8.2 and Appendix E.

“Web Client” has the meaning set forth in Section 2.1.1. of Appendix D.

“WECC” means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Southwestern Canada, and Northwestern Mexico.

“WREGIS” means the Western Renewable Energy Generation Information System.

*** [*End of Appendix A*] ***

APPENDIX B
DESCRIPTION OF THE GENERATING FACILITY AND THE SITE

[Producer must provide each of the following in this [Appendix B](#):

- The name and address of the Generating Facility;
- A description of the Generating Facility, including a summary of its significant components, such as Photovoltaic Modules, DC Collection System, Current Inverters, meteorological station, solar irradiance instrumentation and any other related electrical equipment;
- A drawing showing the general arrangement of the Generating Facility;
- A single-line diagram illustrating the interconnection of the Generating Facility with SCE; and
- A legal description of the Site, including a Site map.]

*** [*End of Appendix B*] ***

APPENDIX C
FORM OF LETTER OF CREDIT

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT

Reference Number: []

Transaction Date: []

BENEFICIARY:

Southern California Edison Company
2244 Walnut Grove Avenue
Risk Control GO#1, Quad 1D
Rosemead, CA 91770

Ladies and Gentlemen:

[Issuing Bank's Name] (the "Bank") establishes this Irrevocable Nontransferable Standby Letter of Credit (this "Letter of Credit") in favor of Southern California Edison Company, a California corporation (the "Beneficiary"), for the account of [Applicant's Name], a [Applicant's form of business entity and state of registration] (the "Applicant"), in connection with ID# [] for the amount of [] United States Dollars (the "Available Amount"), effective immediately and expiring at 5:00 P.M., Los Angeles time, on [] (the "Expiration Date").

This Letter of Credit will be of no further force or effect upon the close of business on [] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day. For the purposes of this Letter of Credit, "Business Day" means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving.

Subject to the terms and conditions of this Letter of Credit, funds under this Letter of Credit are available to the Beneficiary by presentation in compliance on or before 5:00 P.M., Los Angeles time, on or before the Expiration Date, of the following:

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and
2. The Drawing Certificate issued in the form of Attachment A attached to this Letter of Credit, and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any drawing under this Letter of Credit may be requested by transmitting the requisite documents as described above to the Bank by facsimile at [], or such other number as specified from time to time by the Bank.

The facsimile transmittal is deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents. Partial drawing of funds are permitted under this Letter of Credit, and this Letter of Credit will remain in full force and effect with respect to any continuing balance; *provided, however*, that the Available Amount will be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment is void and of no force or effect. Banking charges are the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations may not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to in this Letter of Credit (except for Attachment A attached to this Letter of Credit), and any such reference may not be deemed to incorporate by reference any document, instrument or agreement except for Attachment A attached to this Letter of Credit.

The Bank engages with the Beneficiary that Beneficiary's drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date. Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, will govern all matters with respect to this Letter of Credit.

[Issuing Bank's Name]

By: _____
Name: _____
Title: _____

ATTACHMENT A
DRAWING CERTIFICATE
TO [ISSUING BANK NAME]

IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT
Reference No. []

[Issuing Bank Name]
[Issuing Bank Address]

Subject: Irrevocable Non-transferable Standby Letter of Credit

The undersigned [Authorized Individual's Name], an authorized representative of Southern California Edison Company (the "Beneficiary"), certifies to [Issuing Bank Name] (the "Bank") and [Applicant's Name] (the "Applicant"), with reference to Irrevocable Nontransferable Standby Letter of Credit No. [], dated [], (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to \$[] for one or more of the following reason(s):
 - [] A. The Bank has heretofore provided written notice to the Beneficiary of the Bank's intent not to renew the Letter of Credit following the present Expiration Date (as defined in the Letter of Credit) thereof ("Notice of Non-renewal"), and Applicant has failed to provide the Beneficiary with a replacement letter of credit satisfactory to Beneficiary in its sole discretion within 30 days following the date of the Notice of Non-renewal.
 - [] B. The Beneficiary has terminated that certain Solar Photovoltaic Program Power Purchase and Sale Agreement, dated [], between Applicant and Beneficiary (the "Agreement"), in accordance with Section [] of the Agreement before the Term Start Date (as defined in the Agreement).
 - [] C. The Beneficiary is entitled to retain a portion of the Development Security (as defined in the Agreement) equal to the product of \$20 per kW times the portion of the Gross Power Rating (in kW and as defined in the Agreement) that the Applicant failed to install.
2. Based upon the foregoing, the Beneficiary makes demand under the Letter of Credit for payment of [] United States Dollars, which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount (as defined in the Letter of Credit) under the Letter of Credit as of the date hereof.
3. Funds paid pursuant to the provisions of the Letter of Credit must be wire transferred to the Beneficiary in accordance with the following instructions: []

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Beneficiary by its authorized representative as of this [] day of [].

Beneficiary: _____

By: _____
Name: _____
Title: _____

*** [End of Appendix C] ***

APPENDIX D
FORECAST REQUIREMENTS AND PROCEDURES

1. Introduction. The Parties shall abide by the Forecast requirements and procedures described in this Appendix D and shall make reasonable changes to these requirements and procedures from time-to-time, as necessary to (i) comply with SCE's instructions or the ISO Tariff, as applicable, (ii) accommodate changes to their respective generation technology or organizational structure, and (iii) address changes in the Operating and Scheduling procedures of Producer, SCE or the ISO, including automated Forecast and outage submissions.
2. Producer's Forecasting Procedures. Producer must meet all of the following requirements for Forecasting electric energy to be received by SCE from Producer:
 - 2.1. Weekly Forecasting Procedures.
 - 2.1.1. Beginning the Wednesday before the Term Start Date, Producer must provide SCE with a Forecast for the next calendar week, by no later than 5 P.M. Los Angeles time the Wednesday of the week preceding the week covered by the Forecast, using a web-based system made available to Producer by SCE (the "Web Client"). The Forecast submitted to SCE must: (i) not include any anticipated or expected electric energy losses after the ISO-Approved Meter or Check Meter, as applicable; and (ii) limit Forecast changes to no less than one hundred (100) kW when the Web Client is not available. Producer shall have no restriction on Forecast changes when the Web Client is available.
 - 2.1.2. If Producer learns of any change in the Forecast submitted pursuant to Section 2.1.1 of this Appendix D, Producer shall communicate such change in the Forecast to SCE via the Web Client no later than 5:00 A.M. Los Angeles time the day before the effective date of such revision. If the Web Client is not available, Producer shall email these changes to presched@sce.com, and immediately follow up with a phone call to (626) 307-4425.
 - 2.1.3. If Producer learns of any change in the Forecast submitted pursuant to Section 2.1.2 of this Appendix D, Producer shall immediately communicate such change in the Forecast to SCE via the Web Client. If the Web Client is not available, Producer shall within twenty (20) minutes after Producer becomes aware of the event which caused the change in the Forecast, email such change to presched@sce.com and to realtime@sce.com, and immediately follow-up with a phone call to SCE's Generation Operation Center at (626) 307-4453 or (626) 307 4410.
 - 2.2. 30-Day Forecasting Procedures.
 - (i) In addition to the requirements set forth in Section 2.1 of this Appendix D, Producer shall electronically provide SCE with a rolling 30-day Forecast, beginning at least thirty (30) days before the Term Start Date using the Web Client.
 - (ii) Producer shall update such rolling 30-day Forecast weekly by 5:00 P.M. Los Angeles time each Wednesday using the Web Client.
 - (iii) If Producer learns of any inaccuracies in its most recently submitted 30-day Forecast affecting the period between the date Producer learns of the inaccuracy and the date that the next updated 30-day Forecast is due, Producer shall promptly notify SCE using the Web Client. If the Web Client is not available, Producer shall send an updated Forecast to esmstpoutage@sce.com with a copy to presched@sce.com.
3. Outage Scheduling Procedures. Producer shall be responsible for all costs associated with all requirements and timelines for generation outage Scheduling contained in the SCE Tariffs and the ISO Tariff.

*** [End of Appendix D] ***

APPENDIX E
TOU PERIODS AND ENERGY PAYMENT ALLOCATION FACTORS

<u>TOU Periods</u>			
<i>TOU Period</i>	<i>Summer Jun 1st – Sep 30th</i>	<i>Winter Oct 1st – May 31st</i>	<i>Applicable Days</i>
On-Peak	Noon – 6:00 P.M.	Not Applicable.	Weekdays except Holidays.
Mid-Peak	8:00 A.M. – Noon	8:00 A.M. - 9:00 P.M.	Weekdays except Holidays.
	6:00 P.M. – 11:00 P.M.		Weekdays except Holidays.
Off-Peak	11:00 P.M. – 8:00 A.M.	6:00 A.M. – 8:00 A.M.	Weekdays except Holidays.
		9:00 P.M. – Midnight	Weekdays except Holidays.
	Midnight – Midnight	6:00 A.M. – Midnight	Weekends and Holidays.
Super-Off-Peak	Not Applicable.	Midnight – 6:00 A.M.	Weekdays, Weekends and Holidays.

<u>Energy Payment Allocation Factors</u>			
<i>Season</i>	<i>TOU Period</i>	<i>Calculation Method</i>	<i>Energy Payment Allocation Factor</i>
Summer	On-Peak	Fixed Value	3.13
	Mid-Peak	Fixed Value	1.35
	Off-Peak	Fixed Value	0.75
Winter	Mid-Peak	Fixed Value	1.00
	Off-Peak	Fixed Value	0.83
	Super-Off-Peak	Fixed Value	0.61

“Holiday” is defined as New Year’s Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, or Christmas Day. When any Holiday falls on a Sunday, the following Monday will be recognized as a Holiday. No change will be made for Holidays falling on Saturday.

*** [End of Appendix E] ***

**APPENDIX F
NOTICE LIST**

[PRODUCER'S NAME]	SOUTHERN CALIFORNIA EDISON COMPANY
All Notices are deemed provided in accordance with Section 12 if made to the applicable address(es), facsimile number(s) or e-mail address(es) provided below:	All Notices are deemed provided in accordance with Section 12 if made to the applicable address(es), facsimile number(s) or e-mail address(es) provided below:
Contract Sponsor: Attn: Street: City: Phone: Facsimile: E-mail:	Contract Sponsor: Attn: Vice-President, Renewable and Alternative Power Street: 2244 Walnut Grove Avenue City: Rosemead, California 91770 Phone: (626) 302-1212 Facsimile: (626) 302-1103
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: 006908818 Federal Tax ID Number: 95-1240335
Contract Administration: Attn: Phone: Facsimile: E-mail:	Contract Administration: Attn: Phone: (626) 302- Facsimile: (626) 302-
Forecasting: Attn: Control Room Phone: Facsimile: E-mail:	Generation Operations Center: Phone: (626) 307-4453 or Phone: (626) 307-4410
Day-Ahead Forecasting: Phone: Facsimile: E-mail:	Day-Ahead Scheduling: Manager. Attn: Manager of Day-Ahead Operations Phone: (626) 302-1323 Facsimile: (626) 302-3409 Scheduling Desk. Phone: (626) 307-4425 Backup: (626) 307-4420 Fax: (626) 302-3409 Email: PreSched@SCE.com
Real-Time Forecasting: Phone: Facsimile: E-mail:	Real-Time Scheduling: Manager. Attn: Manager of Real-Time Operations Phone: (626) 302-3308 Facsimile: (626) 302-3409 Operations Desk. Phone: (626) 307-4453 Back-up: (626) 307-4410 Fax: (626) 302-3409 Email: RealTime@SCE.com

Payment Statements: Attn: Phone: Facsimile: E-mail:	Payment Statements: Attn: Power Procurement Finance Phone: (626) 302-3277 Facsimile: (626) 302-3276 Email: PPFDPowerSettle@SCE.com
Payments: Attn: Phone: Facsimile: E-mail:	Payments: Attn: SCS Payments Phone: (626) 302- Facsimile: (626) 302-3276 Email: PPFDPowerSettle@SCE.com
Wire Transfer: BNK: ABA: ACCT:	Wire Transfer: BNK: JP Morgan Chase Bank ABA: 021000021 ACCT: 323-394434
Credit and Collections: Attn: Phone: Facsimile: E-mail:	Manager of Credit and Collateral: Attn: Manager of Credit Phone: (626) 302-3383 Facsimile: (626) 302-2517
With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: Facsimile: E-mail:	With additional Notices of an Event of Default or Potential Event of Default to: Attn: Manager SCE Law Department Power Procurement Section Phone: (626) 302-1212 Facsimile: (626) 302-1904
Lender: Attn: Phone: Facsimile: E-mail:	
Insurance: Attn: Phone: Facsimile: E-mail:	Insurance: Attn: Vice President, Renewable & Alternative Power Address: 2244 Walnut Grove Avenue P.O.: Box: 800 City: Rosemead, CA 91770

*** [End of Appendix F] ***

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: Southern California Edison Company (U 338-E)

Utility type:

- ELC GAS
 PLC HEAT WATER

Contact Person: James Yee

Phone #: (626) 302-2509

E-mail: James.Yee@sce.com

E-mail Disposition Notice to: AdviceTariffManager@sce.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas
 PLC = Pipeline HEAT = Heat WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: 2364-E

Tier Designation: 3

Subject of AL: Request for Approval of Competitive Solicitation Process and Criteria for 250 Megawatts of Southern California Edison's Solar Photovoltaic Program and Draft Standard Power Purchase Agreement

Keywords (choose from CPUC listing): Compliance, Agreements

AL filing type: Monthly Quarterly Annual One-Time Other

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #:

D.09-06-049

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: _____

Summarize differences between the AL and the prior withdrawn or rejected AL¹: _____

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement.

Name and contact information to request nondisclosure agreement/access to confidential information:

Resolution Required? Yes No

Requested effective date: Upon Commission Approval

No. of tariff sheets: -0-

Estimated system annual revenue effect: (%): _____

Estimated system average rate effect (%): _____

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: None

Service affected and changes proposed¹: _____

Pending advice letters that revise the same tariff sheets: _____

¹ Discuss in AL if more space is needed.

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Ave.,
San Francisco, CA 94102
inj@cpuc.ca.gov and mas@cpuc.ca.gov

Akbar Jazayeri
Vice President of Regulatory Operations
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, California 91770
Facsimile: (626) 302-4829
E-mail: AdviceTariffManager@sce.com

Bruce Foster
Senior Vice President, Regulatory Affairs
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2040
San Francisco, California 94102
Facsimile: (415) 673-1116
E-mail: Karyn.Gansecki@sce.com