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February 16, 2020

ADVICE LETTER 3689-E
(U 902-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**SUBJECT: REQUEST FOR APPROVAL OF SYSTEM RELIABILITY CONTRACTS
PURSUANT TO THE DECEMBER 28, 2020 ASSIGNED COMMISSIONER
RULING AND DECISION 21-02-028**

PURPOSE

Pursuant to Decision ("D.") 21-02-028 (the "Decision"), the December 28, 2020 Assigned Commissioner's Ruling¹ ("ACR") issued in Rulemaking ("R.") 20-11-003, D.19-11-016 and Resolution No. E-5117, San Diego Gas & Electric Company ("SDG&E") hereby submits this Advice Letter requesting California Public Utilities Commission ("Commission") approval of three bilateral agreements: (1) one resource adequacy ("RA") purchase agreement for 47 megawatts² ("MW") from Sentinel Energy Center, LLC, and (2) two 2021 summer-only firm forward imported energy agreements ("Import Agreements") for 37 and 25 MW, with TransAlta Energy Marketing U.S. Inc. and Calpine Energy Services, LP, respectively (together with the RA agreement, the "Contracts"). The overall procurement totals 109 MW available for the summer 2021 peak and net peak. The Contracts were entered into in accordance with the Commission's direction in the ACR and Decision to procure incremental resources to meet the peak and net peak demand periods for summer 2021 and 2022 and to allocate those costs to all customers in SDG&E's distribution service territory. As discussed below, SDG&E seeks Commission findings that procurement of the Contracts complies with the procurement requirements established in D.21-02-028, and that SDG&E is authorized to recover in rates the cost of the Contracts (with a limited exception) through the Cost Allocation Mechanism ("CAM"),³ subject to SDG&E's prudent administration of the Contracts.

As part of the relief in this advice letter, SDG&E further requests authority to designate 20 MW of the incremental capacity from the Sentinel Energy Center as the replacement capacity for 20 MW of proposed resources that were rejected in Resolution E-5117, and to recover the costs for

¹ *Assigned Commissioner's Ruling Directing the State's Three Large Electric Investor-Owned Utilities to Seek Contracts For Additional Power Capacity to Be Available by the Summer of 2021 or 2022*, issued on December 28, 2020 in R.20-11-003.

² The Sentinel Energy Center agreement requires that the seller deliver at least 42 MW of incremental capacity, with 47 MW being the expected increment. For ease of reference, 47 MW is used as the capacity throughout.

³ See Public Utilities Code § 365.1(c)(2).

that 20 MW via the Modified Cost Allocation Mechanism (as directed in D.19-11-016) instead of through the CAM. Each of the requests are discussed in further detail below.

BACKGROUND

The Commission initiated R.20-11-003 “to identify and execute all actions within its statutory authority to ensure reliable electric service in the event that an extreme heat storm occurs in the summer of 2021.”⁴ The Commission’s focus in the proceeding is on two primary issues: how to (1) increase energy supply and (2) decrease demand during the peak demand and net demand peak hours in the event that extreme heat similar to the August 2020 event occurs in the summer of 2021. This Rulemaking primarily focuses on those actions that the Commission can adopt by April 2021 and that the parties can implement before or during the summer of 2021.

ACR Requirements: The ACR directs the investor-owned utilities (“IOUs”) to seek contracts for additional capacity to be available by the summer of 2021 or 2022 to ensure rotating power outages and the events of summer 2020 do not repeat if another prolonged heat wave occurs. The ACR provided requirements, parameters, and constraints on procurement that results from its directive, specifically:

Procurement Type

- Resource must be deliverable during the peak and net peak demand periods.
- For Commission consideration through a Tier 1 advice letter, a commercial online date (“COD”) by June 1, 2021 is preferred but COD by September 1, 2021 will be considered. For Commission consideration through a Tier 3 advice letter, a COD by June 1, 2022 is preferred but COD by September 1, 2022 will be considered.
- Potential resources may include utility-owned generation, with Commission consideration for utility owned generation projects with a COD in 2021 through a Tier 2 advice letter and Commission consideration for utility owned generation projects with a COD in 2022 through a Tier 3 advice letter.
- Resource types that may be considered for procurement include:
 - Incremental capacity from existing power plants through efficiency upgrades, revised power purchase agreements, etc.
 - Contracting for generation that is at-risk of retirement.
 - Incremental energy storage capacity.
 - Firm forward imported energy contracts.
- Resource adequacy only contracts or contracts that include tolling agreements may be proposed.

Procurement Process

- The large electric IOUs should initiate new bilateral negotiations and revisit offers from recent IRP requests for offers bid stacks.
- Consistent with current procurement requirements, an independent evaluator and the procurement review group (“PRG”)/CAM-PRG should be actively engaged in these procurement efforts.
- To the extent that comparable data exist, the procurement should be cost competitive with recently procured resources.

⁴ *Order Instituting Rulemaking* issued in R.20-11-003 on November 20, 2020 (“OIR”), p. 2.

Procurement Cost Recovery and Ratemaking Treatment

- The large electric IOUs shall procure on behalf of all customers in their service territories with the costs and benefits allocated to all benefitting customers through the CAM.

Process for Commission Review

The large electric IOUs shall submit the contracts that conform with this ACR for consideration as advice letters no later than February 15, 2021. Along with the contracts, the advice letters shall include the following additional summarized information to assist with evaluation.

- A summary of the resources being selected and a brief discussion of the procurement and selection method and criteria.
- Operational information of the resources contracted and a demonstration that the resource will be available during the peak and net peak demand hours in summer 2021 or 2022.
- Pricing and net market value analysis along with a summary of the key contract terms.
- A completed analysis by the independent evaluator.
- A demonstration of cost competitiveness.
- A demonstration that the resource is incremental.
- A demonstration that the resource has a path to deliver its online date in summer 2021 or 2022.

Decision Requirements: The Commission issued D.21-02-028 on February 11, 2021, affirming the direction provided by the ACR, while focusing more narrowly on procurement efforts to meet 2021 peak and net peak demand periods and encouraging the IOUs to continue to engage with market participants regarding potential summer 2022 resources.

In addition to providing direction concerning eligible resource types, D.21-02-028 provides direction regarding the procurement process, cost recovery and ratemaking treatment for the costs of procured resources, as well as the requirements applicable to the advice letters submitted by the IOUs for approval. Per D.21-02-028, along with the contracts, the advice letters shall include the following additional summarized information to assist with evaluation.

- A summary of the resources being selected and a brief discussion of the procurement and selection method and criteria.
- Operational information of the resources contracted and a demonstration that the resource will be available during the peak and net peak demand hours in summer 2021.
- Pricing and net market value analysis along with a summary of the key contract terms.
- A completed analysis by the independent evaluator.
- A demonstration of cost competitiveness.
- A demonstration that the resource is incremental, as it relates to incremental capacity from existing power plants through efficiency upgrades, revised power purchase agreements, etc., and incremental energy storage capacity.⁵
- A demonstration that the resource has a path to deliver its online date in summer 2021.

⁵ D.21-02-028, p. 11 (see revised version of PD dated 02/09/21).

DISCUSSION**Summary of Selected Resources**

SDG&E submits for Commission approval the Contracts that resulted from new bilateral negotiations pursuant to the ACR and the Decision. The incremental capacity from the RA purchase agreement has an initial delivery date of June 1, 2021 and the Import Agreements have delivery start dates of July 1, 2021. SDG&E's proposal would result in an expected 109 MW available to meet system summer reliability concerns for summer of 2021 pursuant to D.21-02-028 (89 MW), as well as D.19-11-016 (20 MW).

Sentinel Energy Center, LLC: The Sentinel Energy Center ("Sentinel") project will provide an expected 47 MW with a minimum of 42 MW of incremental capacity from an existing power plant, which is adding incremental capacity through efficiency upgrades. The agreement is for RA from the incremental capacity for 5 years beginning June 2021.

TransAlta Energy Marketing (US) Inc.: 37 MW of firm forward imported energy which will utilize SDG&E's available import allocations at NOB, limited to summer 2021 only (July – September).

Calpine Energy Services, LP: 25 MW of firm forward imported energy which will utilize SDG&E's available import allocations at COB, limited to summer 2021 only (July – September).

Summary of Contract Terms per D.06-06-066

Counterparty	Resource Type	Start Date	Contract Length	Location	MW	Expected MWh	Delivery Point
Sentinel Energy Center, LLC	RA from Gas Peaking	06/01/21	5 yrs.	North Palm Springs, CA	Min 42 up to 47	N/A – RA only	Devers substation
TransAlta Energy Marketing (US) Inc.	Firm Energy Import	07/01/21	3 mos.	Import	37	45,584	NOB intertie
Calpine Energy Services, LP	Firm Energy Import	07/01/21	3 mos.	Import	25	30,800	COB intertie

SDG&E provides in Confidential Appendix C, Summary of Selected Projects, further details regarding SDG&E's selected resources, including pricing, operational information, demonstration of incrementality for the RA purchase agreement and information regarding each projects milestones to deliver an online date of summer 2021. The Contracts themselves are found in Confidential Appendices F, G and H.

Description of Procurement Process and Evaluation Methodology/Criteria

In response to the ACR, SDG&E issued a general market notice via email on January 8, 2021 to the distribution list for its procurement Requests for Offers (“RFOs”) and requested that responsive proposals be submitted to SDG&E by 5:00 pm on January 12, 2021. Also on January 8, 2021, SDG&E sent the market notice via individual emails to all counterparties to its existing long-term power purchase agreements. In addition to the market notices, SDG&E reached out individually by telephone and email to the counterparties with whom it had recently executed agreements pursuant to D.19-11-016 to see if these parties had any additional capacity meeting the requirements of the ACR that they would be willing to offer to SDG&E on a bilateral basis. Finally, SDG&E contacted certain parties that had submitted conforming offers in the solicitation conducted in accordance with D.19-11-016 issued in the Commission’s Integrated Resource Plan (“IRP”) Proceeding (the “IRP RFO”) and received some updated offers in response for projects that had previously been in its IRP RFO bid stack.

The response to SDG&E’s efforts was robust, with 100 offers, 29 of which had beginning dates in the summer of 2021. The proposals included a mix of RA and power purchase agreements (“PPAs”). There were also 16 offers submitted by SDG&E’s Utility Development Team for utility-owned projects.

In the selection of resources for contracting, SDG&E prioritized its choices according to:

- Resources with a delivery date of summer 2021, with a preference for early summer 2021 as indicated by the Commission;⁶
- Contracts that could be negotiated and executed under the expedited timeline, such as RA-only contracts, projects with completed permitting and deliverability allocations, and contracts with existing counterparties that could serve as a template for a new contract;
- Shorter-term contracts to manage overall contract costs; and
- Balancing overall costs to customers with the Commission’s reliability goals.

Offers were eliminated from further consideration primarily due to (1) failure to meet the required online date (as noted above, fewer than a third of the offers received had an online date in 2021) and (2) concerns related the feasibility of negotiating and executing agreements within the limited amount of time available. This latter concern prompted SDG&E to defer further consideration of PPAs and utility-owned projects for filing on February 15, 2021, since these resources would need to have unit performance requirements, performance measurement methods and associated damages for non-performance and default negotiated, all of which are complex and time consuming. SDG&E expects to explore these resource options as part of the further procurement efforts anticipated to occur after the instant expedited procurement effort.

The resulting contracts represent the most feasible and cost-effective options under these criteria. They also conform to the Commission’s stated preference.⁷ Further details regarding SDG&E’s evaluation methodology, including demonstration of cost-competitiveness, pricing and net market value analysis are discussed below.

⁶ D.21-02-028, p. 11 (see revised version of PD dated 02/09/21) (providing that “...a COD by June 1, 2021 is preferred but COD by September 1, 2021 will be considered.”).

⁷ D.21-02-028, at p. 14 (see revised version of PD dated 02/09/21) (“[W]e express our preference for storage resources as well as shorter duration contracts and efficiency upgrades.”) (Emphasis added).

Utility Development Team Participation

Participation Overview

SDG&E solicited offers for both third-party-owned and utility-owned battery energy storage projects. Utility-owned energy storage projects solicited included two types: (1) build, own and transfer agreements (“ESSBOT”); and (2) engineering, procurement and construction agreements (“ESSEPC”). Offers for utility-owned energy storage systems were coordinated and presented through an internal SDG&E Utility Development Team (“UDT”). The UDT operated as a separate and independent group from the Reliability Procurement Team (“RPT”) and was treated the same as any other respondent to the requested procurement and interacted at arms-length from the RPT. The UDT conducted its own separate, parallel outreach and counterparty discussions to solicit and develop utility-owned energy storage system offers that the UDT could then offer into the procurement being run by the RPT. As stated above, no UDT resources were selected and thus, no UDT contracts are being submitted for approval in this advice letter.

Code of Conduct Governing Utility-Owned Projects in the Reliability Procurement

In accordance with Commission requirements, all individuals participating in the RPT and the UDT, respectively, signed a code of conduct setting forth the expectations of separation and independence. Besides the members of the RPT and UDT, SDG&E personnel who had an advisory role or management oversight role respecting either or both teams also signed the code of conduct certifying that they would not serve as a conduit of information in contravention of the code of conduct.

The code of conduct requires utility personnel performing the bid evaluation, the RPT, to be functionally separated from the utility personnel, the UDT, who are preparing the bids or the cost estimates for projects that would ultimately be utility owned. Under this restriction, utility personnel developing the utility-owned projects or preparing the cost estimates for projects that would ultimately be utility-owned are barred from access to any non-public evaluation protocols, input assumptions, or bid information not made generally available to outside bidders. The Code of Conduct contains the following requirements and restrictions:

1. The RPT will not discuss with the UDT or communicate via email or otherwise any non-public information regarding the evaluation process or pricing.
2. Any discussions or e-mails related to the Reliability Procurement between the RPT and the UDT will be monitored by the Independent Evaluator.
3. The UDT will not discuss with the RPT or communicate via email or otherwise any non-public information regarding the development of cost estimates for a bid prior to providing the revenue requirement for such bid to the RPT. Once the UDT has provided the revenue requirement for a particular bid to the RPT, the UDT may respond to clarifying questions posed by the RPT, provided that the IE monitors such discussions.
4. Materials provided by third parties will be submitted to the RPT and not shared with the UDT, except for materials associated with utility ownership offers made to the UDT for estimates for permitting, land and interconnection and/or add revenue requirements.

5. The RPT will store relevant non-public materials in a location that is not accessible to the UDT.
6. The UDT will store relevant non-public materials in a location that is not accessible to the RPT.
7. The IE will oversee activities performed by the RPT.
8. Any SDG&E employee or consultant who provides advisory services, manages, supervises or oversees the RPT and/or the UDT will not act as a conduit for sharing information about each team's processes or activities.

In keeping with the code of conduct, as described above, the IE, PA Consulting, was copied on e-mail communications between the RPT and UDT members regarding the bids and the projects and, if verbal communications were required, the IE monitored those discussions as well. The topics of these communications were limited to those that would be discussed with any procurement participant, including clarification of procurement protocols and clarification of offer submittals.

Evaluation Methodology and Cost Effectiveness

In addition to a discussion of selection method and criteria, D.21-02-028 requires inclusion of pricing and net market value ("NMV") analysis, along with a summary of the key contract terms and a demonstration of cost competitiveness. Pricing information is included with a summary of the key contract terms in Confidential Appendix C, Summary of Selected Projects.

SDG&E did not conduct an evaluation modeling analysis, which would have been required for determining NMV. SDG&E's proposed projects are either RA-only or firm forward energy Import Agreements which, unlike PPAs or utility-owned offers, do not include additional costs (e.g., operations and maintenance ["O&M"], price escalation, etc.) beyond the cost of the capacity, thereby allowing for an examination of cost-competitiveness that does not require bid evaluation modeling analysis.

In addition, Resolution E-5117 established certain requirements for changes and/or clarifications related to SDG&E's evaluation process, including:

- Further development of the bid evaluation methodology, either refining or excluding in the future the value of avoided curtailment.
- Further refinements to bid evaluation models in consultation with Energy Division staff and others through the PRG process.

SDG&E is committed to meeting these requirements; however, the expedited timeline associated with the instant procurement did not allow for the development of the required refinements to the evaluation model in consultation with Energy Division staff and others through the PRG process prior to bid evaluation.

To assess the cost-competitiveness of its proposals received, SDG&E compared the RA and Import Agreements prices of the offers with broker quotes received in January of 2021 and with prices offered in the IRP and other recent solicitations to derive a basis of cost competitiveness. SDG&E's analysis is discussed in more detail in Confidential Appendix E, Cost Effectiveness Evaluation Results.

Procurement Review Group

SDG&E briefed its CAM PRG regarding its procurement efforts during the CAM PRG meeting on January 15, 2021, through email communications on January 27, 2021 and during a Special CAM PRG meeting on January 29, 2021. Each meeting included a discussion of the proposals received, the evaluation criteria and the resources selected by SDG&E. In addition, in these communications, SDG&E included a discussion of its proposal to request that 20 MW of the Sentinel Energy Center incremental capacity be used as the 20 MW of replacement capacity for the IRP RFO, per Resolution E-5117.

Independent Evaluator

The Commission's Energy Division approved PA Consulting to act as the IE for this procurement. The IE was copied on the Market Notices, all communications between SDG&E and parties who offered proposals, all communications between the RPT and SDG&E's UDT (see prior discussion), and all communications between SDG&E and parties whose proposals were selected for further negotiation. The IE also performed an independent analysis of the proposals submitted and consulted with the RPT on bid evaluation criteria and resource selection, as well as monitoring all contract negotiations. The Public and Confidential versions of the IE Report are provided as Appendix A and Confidential Appendix D to this advice letter.

SDG&E's Replacement Capacity Pursuant to Resolution No. E-5117

The procurement directed by the Commission in the ACR and R.20-11-003 is in addition to the reliability procurement requirements established by the Commission in its IRP proceeding, which requires the incremental procurement of 3,300 megawatts ("MWs") of system-level qualifying RA capacity, with at least 50 percent of such new incremental capacity expected to be delivered by August 1, 2021 ("Tranche 1"). D.19-11-016 authorizes recovery of these projects through a modified cost allocation mechanism ("modified CAM").

SDG&E procured resources pursuant to D.19-11-016 and presented five proposed transactions totaling 164 MW to the Commission for approval in Advice Letter 3605-E to meet the Tranche 1 requirements. On January 14, 2021, in Resolution E-5117 the Commission rejected one of those proposed projects and directed SDG&E to replace the 20 MW that would have been provided by the rejected project with resource(s) that meet the August 1, 2021 online date requirements of D.19-11-016. SDG&E was further directed to report this replacement procurement to the Commission's Executive Director via letter.

To comply with this direction, SDG&E proposes that 20 MW of the proposed Sentinel Energy, LLC transaction described herein be designated to replace the capacity that was rejected in Resolution E-5117, as discussed further below. SDG&E will submit the required letter to the Executive Director reporting this development within 5 business days of the submission of this advice letter.

The Sentinel Energy Center agreement meets the resource requirements of D.19-11-016:

- It has a COD prior to August 1, 2021,
- It provides additional capacity at the existing facility [that] is incremental to baseline, and
- It has a contract term of at least three years for incremental capacity above the baseline for existing resources.⁸

⁸ D.19-11-016, OPs 3, 6, 7 and 10.

COST RECOVERY

D.21-02-028 and the ACR direct the IOUs to contract for capacity on behalf of all customers in their service territories with the costs and benefits allocated to all benefitting customers through the CAM. The decision authorizes cost recovery through the CAM for procurement that conforms with the parameters established in D.21-02-028, and also authorizes SDG&E to file a Tier 2 advice letter to make the tariff changes needed to adjust balancing accounts to implement the decision, with the effective date of the tariff modifications to be December 28, 2020.⁹ SDG&E is proposing in this advice letter to recover the cost of the Contracts via this mechanism, except that the CAM will only apply to the capacity of the Sentinel Energy Center that exceeds 20 MW. SDG&E will file a request to book any remaining costs for the Contracts to its Local Generating Balancing Account (pending approval of SDG&E's Tier 2 advice letter requesting the needed tariff modifications to implement D.21-02-028). That advice letter will be filed within 5 business days of this Tier 1 advice letter. Recovery of these costs will be addressed in future Energy Resource Recovery Account ("ERRA") proceedings.

Upon a Commission determination that 20 MW of the Sentinel Energy Center capacity can be designated to replace the 20 MW rejected in Ordering Paragraph 5 of Resolution E-5117, SDG&E will recover the cost of the first 20 MW of incremental RA capacity from the Sentinel Energy Center through the Modified CAM, as directed in D.19-11-016. Costs of incremental capacity beyond 20 MW will be recovered via the CAM, as discussed above.

SAFETY CONSIDERATIONS

The contract counterparties are responsible for the safe construction and operation of their facilities in compliance with all applicable laws, including safety regulations. The RA purchase agreement includes a requirement that the seller follow "Accepted Electrical Practices," which are defined as "those practices, methods, applicable codes and acts engaged in or approved by a significant portion of the electric power industry during the relevant time period, or any of the practices, methods and acts which, in exercise of reasonable judgment in light of the facts known at the time a decision is made, could have been expected to accomplish a desired result at reasonable cost consistent with good business practices, reliability, safety and expedition. Accepted Electrical Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of other, but rather to those practices, methods and act generally accepted or approved by a significant portion of the electric power industry in the relevant region, during the relevant time period, as described in the immediately preceding sentence."

ADVICE LETTER SUBMISSION TO COMMISSION

SDG&E respectfully seeks Commission classification of this Advice Letter as a Tier 1 Advice Letter, in compliance with the ACR, D.21-02-028 and G.O. 96-B.

CONFIDENTIALITY

CONFIDENTIAL TREATMENT OF SPECIFIC MATERIAL IS BEING REQUESTED. THE INFORMATION AND REASON(S) FOR CONFIDENTIAL TREATMENT IS CONSISTENT WITH THE SHOWING REQUIRED BY D.06-06-066, AS MODIFIED.

⁹ D.21-02-028, OP5.

SDG&E requests that the Confidential Appendices in Part 2, which contain confidential, market-sensitive information in support of this advice letter, including information such as contract analysis, contract terms and other information specifically protected under D.06-06-066, as modified by subsequent decisions, be kept confidential by the Commission. This request for confidential treatment is supported by the accompanying Declarations to this Advice Letter in Appendix B.

Part 1 – Public Appendices

Appendix A – Report of the Independent Evaluator (Public Version)

Appendix B – Declarations of Theodore Roberts, Michael Ruzzo and Brian Elliott, Regarding Confidentiality of Certain Data

Part 2 – Confidential Appendices

Appendix C – Summary of Selected Projects

Appendix D – Report of the Independent Evaluator (Confidential Version)

Appendix E – Cost Effectiveness Evaluation Results

Appendix F – Sentinel Energy Center, LLC Long Form Confirmation for Resource Adequacy Capacity Product

Appendix G – WSPP Energy Confirmation with TransAlta Energy Marketing (U.S.) Inc.

Appendix H – EEI Energy Confirmation Letter with Calpine Energy Services, L.P.

REQUESTED RELIEF

As discussed above, this Tier 1 Advice Letter should be approved because Contracts conform to the requirements of D.19-11-016, the ACR and D.21-02-028 and are reasonable. SDG&E therefore requests that the Commission's Energy Division issue a disposition letter finding that:

- The Contracts comply with the procurement directives in the ACR, the Decision and Resolution No. E-5117;
- 20 MW of the capacity from the Sentinel Energy Center, LLC contract complies with the procurement requirements in D.19-11-016;
- SDG&E is authorized to enter into the transactions in the Contracts; and
- SDG&E is authorized to recover the costs for the Contracts in rates as described, subject to its prudent administration of the Contracts, with 20 MW of the capacity from the Sentinel Energy Center, LLLC agreement recovered via the modified CAM mechanism and the remainder of costs recovered via CAM, as requested in this advice letter.

EFFECTIVE DATE

This filing is subject to Energy Division disposition and should be classified as Tier 1 pursuant to the D.21-02-028 and the ACR.

PROTEST

Anyone may protest this advice letter to the California Public Utilities Commission. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. In accordance with D.21-02-028, the protest must be made in writing and received by February 26, 2021, which is 10 days after the date this advice letter was filed with the Commission. There is no restriction on who may file a protest. The address for mailing or delivering a protest to the Commission is:

CPUC Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

Copies of the protest should also be sent via e-mail to the attention of the Energy Division at EDTariffUnit@cpuc.ca.gov. A copy of the protest should also be sent via e-mail to SDGETariffs@sdge.com and the address shown below on the same date it is mailed or delivered to the Commission.

Attn: Gregory Anderson
Regulatory Tariff Manager
E-mail: ganderson@sdge.com

NOTICE

A copy of this filing has been served on the utilities and interested parties shown on the attached list, including interested parties in R.20-11-003, R.19-11-009, R.16-02-007 and R.20-05-003, by providing them a copy hereof either electronically or via the U.S. mail, properly stamped and addressed. Address changes should be directed to the email above.

CLAY FABER
Director – California & Federal Regulatory



ADVICE LETTER SUMMARY

ENERGY UTILITY



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

Company name/CPUC Utility No.:

Utility type:

☐ ELC ☐ GAS ☐ WATER
☐ PLC ☐ HEAT

Contact Person:

Phone #:

E-mail:

E-mail Disposition Notice to:

EXPLANATION OF UTILITY TYPE

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

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #:

Tier Designation:

Subject of AL:

Keywords (choose from CPUC listing):

AL Type: ☐ Monthly ☐ Quarterly ☐ Annual ☐ One-Time ☐ Other:

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

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 AL:

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:

No. of tariff sheets:

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:

Service affected and changes proposed¹:

Pending advice letters that revise the same tariff sheets:

¹Discuss 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 submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

vcGeneral Order No. 96-B
ADVICE LETTER SUBMITTAL MAILING LIST

cc: (w/enclosures)

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San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX A
Report of Independent Evaluator
(Public)



SAN DIEGO GAS & ELECTRIC

Independent Evaluator Report – Summer 2021/2022 Emergency Reliability Procurement

February 12, 2021



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EXECUTIVE SUMMARY

PA Consulting Group, Inc. (PA) served as the Independent Evaluator (IE) for the San Diego Gas & Electric (SDG&E) Summer 2021/2022 Emergency Reliability Procurement (“ER Procurement”). This report provides PA’s evaluation of the process from the outreach to potential suppliers through the negotiation of contracts.

The ER Procurement responded to the December 28, 2020 Ruling of Assigned Commissioner Batjer in R. 20-11-003 as well as Decision 21-02-028, approved by the Commission on February 11. SDG&E issued a Market Notice on January 8, 2021 seeking proposals by January 12, although SDG&E continued to accept proposals beyond that date. Beginning January 13, SDG&E evaluated the proposals and negotiated 3 contracts.

This IE Report follows a format based on the CPUC’s 2014 RPS Solicitation Shortlist Report Template dated February 9, 2015, but somewhat compressed. The main sections include:

- Section 1: Summary of PA’s role as IE for this RFO
- Section 2: SDG&E’s outreach efforts
- Section 3: Methodology and conduct of proposal evaluation
- Section 4: Description of project-specific negotiations
- Section 5: Merit of contract approval

PA confirms that SDG&E conducted a fair and equitable Procurement including the treatment of utility owned offers and its decision to negotiate contracts with suppliers of import energy for 2021 (when the Proposed Decision that became D. 21-02-028 was issued, it did not authorize contracting for firm imports although the Decision as voted out on February 11 did so) but delaying the consideration of offers that would not provide capacity in Summer 2021 (contracts providing capacity in Summer 2022 but not Summer 2021 were not authorized by D. 21-02-028). PA believes that SDG&E’s behavior in evaluating and negotiating proposals was appropriate to the urgency, ambition, and breadth of the procurement.

PA believes that SDG&E selected the most appropriate offers and that the negotiated contracts merit approval.

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1 DESCRIBE THE IE'S ROLE

This section provides a description of the role of the IE throughout the solicitation, offer selection and negotiation process of the ER Procurement, including PA's specific activities for the Summer 2021/2022 Emergency Reliability Procurement ("ER Procurement").

1.1 IE's key roles and responsibilities

The California Public Utilities Commission (CPUC) generally requires an IE for IOUs' formal resource solicitations.¹ The role of the IE is to provide advice to the utility on the design, administration, and evaluation aspects of the solicitation. The CPUC clarified that the role of the IE is not to conduct or administer the solicitation, but to "separately evaluate and report on the IOU's entire solicitation, evaluation, and selection process."²

Additionally, the IE is to ensure that SDG&E treats all bidders fairly and equitably and that no technology or counterparty is favored. The IE is also expected to assure that affiliate bids are not favored. Specifically, the ER Procurement sought and received offers for utility ownership options as well as PPAs or tolling agreements with independent owned resources. This required additional attention to the treatment of these bids as well as the participation of SDG&E staff assigned to these bids.

The IE also ensures that the bid selection process is transparent and is aligned with the procurement requirements. SDG&E can also call on the IE's advice as to various evaluation issues that may arise during the RFO process.

1.2 Background to the ER Procurement

The ER Procurement is part of California's response to the rolling outages that occurred on August 14 and 15, 2020, during the extreme heat storm in the Western US. On August 17, Gov. Newsom requested an "after-action report" from the California Independent System Operator (CAISO) on the root cause of the outages. He also asked the CPUC, California Energy Commission (CEC) and CAISO "examine longer-term actions for more accurate forecasting and to provide certainty of resource availability."³ After CAISO, with cooperation from the CPUC and CEC, issued the preliminary version of its after-action report,⁴ and on November 20 the CPUC issued its Order Instituting Rulemaking (R.) 20-11-003 on Emergency Reliability.

On December 28, 2020 Assigned Commissioner Batjer issued a Ruling (ACR) that directed SDG&E, along with Pacific Gas & Electric (PG&E) and Southern California Edison (SCE), solicit contracts for capacity. Key attributes of the ACR are:

- Capacity should be available during peak demand and net peak demand periods in the summers of 2021 and 2022 (although there is no requirement that every contracted resource be available in both years)

¹ California Public Utilities Commission, Decision (D.) 04-12-048, Dec. 16, 2004, and Decision (D.) 06-05-039, May 26, 2006.

² D. 06-05-039, p. 46.

³ Letter from Gavin Newsom to Marybel Batjer, Stephen Berberich and David Hochschild, August 17, 2020, at <https://www.gov.ca.gov/wp-content/uploads/2020/08/8.17.20-Letter-to-CAISO-PUC-and-CEC.pdf>.

⁴ California ISO, Preliminary Root Cause analysis: Mid-August 2020 Heat Storm, October 6, 2020.

- Eligible resource types include incremental capacity from existing power plants, incremental energy storage capacity (from new or existing installations), generation otherwise at risk of retirements and firm forward imports; unlike the case of other recent RFOs, demand response was not mentioned
- Contracts could RA-only or tolls
- Utility-owned generation (UOG) would be eligible
- Prices should cost competitive with recently procured resources ‘to the extent that comparable data exists’
- Costs would be recovered through CAM
- There were no specific MW targets or limits either on individual utilities or collectively; utilities could conceivably overprocure their supply plans
- “Capacity” was not further defined as to the attributes sought and they did not have to include a must-offer requirement
- Contracts were to be filed by Advice Letter, by February 15, 2021 (this may mean February 16, as the 15th is a California legal holiday).

The ACR said that its “substance ... will be brought to the full Commission in the form of a proposed decision [PD]”, which was released on January 8, 2021 and consideration by the Commission on February 11, 2021, although it retains the February 15 Advice Letters deadline. The PD shares the ACR’s key attributes except:

- Capacity should be available during peak demand and net peak demand periods in the summers of 2021; 2022 will be addressed at later point
- Firm forward imports are dropped from the list of eligible resource types.

When the Commission voted out the PD as D. 21-02-028 it restored firm forward import energy to the list of eligible resource types.

1.3 PA's role as IE

PA had been the Independent Evaluator for SDG&E’s immediately preceding 2021-2023 IRP Reliability RFO (“IRP RFO”). SDG&E had not completely filled its 2021 target in its IRP RFO (SDG&E was not able to modify one of the submitted contracts to meet the Commission’s objection to it). The ER procurement would be similar, albeit less structured, and would provide another opportunity to achieve that target. was rejected). SDG&E asked PA to serve as IE for the ER Procurement.

Energy Division approved SDG&E’s selection of PA on January 7, and SDG&E released its Market Notice on January 8. There was very little time for formal planning and PA did not meet with SDG&E in its capacity as IE for the ER Procurement until January 8. In the preceding two weeks, in its capacity as IE for the IRP RFO, PA had had several discussions with SDG&E about its approach to the contract to which the Commission objected and how it might address any resultant capacity deficit, so PA had some familiarity with how SDG&E might address the ER Procurement even prior to being approved as IE. PA was also familiar with the makeup of the Utility Development Team (UDT) that would represent UOG project alternatives, and prior communications between the UDT and the Bid Evaluation Team (BET).

SDG&E prepared a simple market notice that it was accepting bilateral contract proposals and a form on which key aspects of those proposals (technology, availability date, size, price, location) could be described. PA was able to review that form before it was distributed. SDG&E did not use a platform such as PowerAdvocate® for the ER Procurement. Proposals were accepted by email, with copies to PA. PA was therefore able to catalog and review all proposals. SDG&E’s market notice had said that it preferred to receive proposals by February 12 but did not specify that as a hard deadline. SDG&E continued to accept proposal after February 12.

SDG&E did not hold any kind of general conference with potential counterparties. A limited number of questions was received. Several of those were from parties that did not have projects ready to propose but wanted to pitch what were at best early-stage developments. Other questions had to do

with confidentiality, whether SDG&E would still accept proposals for 2022 online dates despite the PD language, and ongoing requirements after the ER Procurement. SDG&E answered these questions individually, providing PA with both the questions and the answers. PA saw no need to distribute these answers more broadly. SDG&E and PA conferred on initial screening requirements and proposal evaluation. SDG&E sent clarifying questions to several bidders; PA was included in all correspondence.

The BET and PA had several discussions of the approach to selecting offers to negotiate or eliminate, as well as whether to negotiate proposals for import energy or 2022 online dates. PA presented its views on pricing reasonableness and SDG&E explained its view of the feasibility of concluding negotiations with various counterparties. This included several discussions of the viability of UOG projects. The BET provided its proposed shortlist to PA for discussion prior to sending it to the Procurement Review Group (PRG).

PA participated in the January CAM PRG meeting, at which SDG&E reported on the ER Procurement; reviewed the shortlist notice before it was sent to the CAM PRG; reviewed feedback and conferred with SDG&E on a follow-up; and participated in the resultant Special Meeting of the CAM PRG.

2 ADEQUACY OF SDG&E'S OUTREACH

This section addresses the adequacy of SDG&E's outreach as well as the ER Procurement solicitation materials.

2.1 Notifications and announcements

Once the Assigned Commissioner's ACR was published, it was a matter of public record that SDG&E would be running a solicitation for bilateral contract capacity; in fact, PG&E had already sent a market notice for a solicitation the day after the ACR was released. It was therefore not really necessary for SDG&E to advertise its ER Procurement (and in fact there was not time to do so).

SDG&E did not create an extensive set of material for this ER Procurement, just a simple market notice that it was accepting bilateral contract proposals and a form on which key aspects of those proposals (technology, availability date, size, price, location) could be described. PA was able to review that form before it was distributed. In PA's opinion the materials were appropriate for bilateral procurement with the degree of urgency of the ER Procurement.

In its report on the IRP RFO PA indicated some dissatisfaction with the robustness of the response to the RFO. PA noted that SDG&E had been competing for resources with PG&E and SCE, at least one of which had initiated its RFO well before SDG&E's. PA had recommended that "SDG&E should investigate additional avenues to broaden the pool of likely responders, including advertising and direct contact." In this case, advertising was not really an option due to time constraints but at least one other IOU had already sent a market notice. PA therefore paid particular attention to SDG&E's outreach.

SDG&E's basic outreach effort was to send the market notice as an email blasts, using a distribution list containing over 6,600 distinct email addresses across over 3,050 domains. This is a slightly smaller list than was used for the IRP RFO. PA emphasized to SDG&E the importance of direct contact and suggested that SDG&E send the list by email individually to all current contract counterparties, preferably coming from the contract managers (a name recognizable to the counterparties). SDG&E did send 164 such emails to 21 counterparty organizations, although not personalized by the contract managers. SDG&E also sent personalized emails from its lead negotiator on the IRP RFO to each of the shortlisted third-party offerors in that RFO, and the UDT individually contacted the EPC and UOG offerors.

Figure 1 shows the dispersion of responses received by SDG&E in two dimensions: the annual cost

and the term of the contract. The

The different types of capacity listed as eligible in the ACR – firm energy imports, energy storage, existing capacity at risk of retirement, and capacity expansion through efficiency improvement -- are distinguished by color, along with demand side resources (demand response and energy efficiency), for which SDG&E received proposals although they were ineligible.

The second line of the legend of Figure 1 indicates how the "fill" of the dots is used to indicate how soon offers are proposed to be online: in time for the full summer of 2021 (solid fill), only by September 2021 (windowpane), in time for the full summer of 2022 (pinstriped), or only by September 2022 (open circle).

Figure 1: Proposals received in response to SDG&E's 2021 Emergency Reliability Procurement

[REDACTED]

PA considers this level of response to have been adequate, having provided SDG&E the opportunity to sign up about 100 MW of RA capacity for summer 2021.

SDG&E has not requested from bidders at this time and given the emergency nature of the ER Procurement such feedback may not be as useful in informing future structured RFOs as feedback from other RFOs would have been.

3 SDG&E'S BID EVALUATION

In its IE reports on structured RFOs PA usually includes two sections, one describing the LCBF evaluation methodology as set forth a priori and a section about SDG&E's actual bid evaluation. In this case the evaluation was much more fluid and the two sections are combined.

3.1 Principles used to evaluate methodology

In reviewing evaluation methodologies, PA usually considers the clarity, transparency, and consistency, as well as potential ownership or technology biases. In this case there was no predetermined methodology, but PA and SDG&E did have several discussions prior, to receipt of proposals, generally around what PA viewed as urgency, ambition, and breadth of procurement. Of course, SDG&E should also treat proposals consistently and with bias in terms of technology or ownership.

Urgency

The February 15 Advice Letter deadline left very little time for contract negotiation, so it was important to shortlist proposals with which SDG&E could come to contract quickly. That would tend to favor standard products such as firm imports; RA-only contracts over tolls; fully permitted offers with deliverability -- -- and even more so, partially constructed (expansion) projects -- over others; and, among UOG offers, BOT offers over EPC proposals.

Ambition

When selecting its shortlist for the IRP RFO, SDG&E had tried to stay close to the Commission's capacity targets (minimizing the margin of over-procurement) and had avoided bids with negative net market values. In this case, as noted earlier, the CPUC provided neither a quantitative goal nor an upper limit.

The ACR cited "the urgent need for additional capacity by summer 2021, and the practical need for action to be taken now to ensure certain resources are available by summer 2021,"⁵ which we read as implying that either the current pool of RA-eligible resources is not large enough to supply the anticipated RA requirement for 2021, or that the anticipated RA requirement must be raised. If the first, the CPUC is acting as if current RA price forecasts are not high enough to call forth capacity and the value of additional capacity is greater than the price (which would have to go up). If the second then RA demand must be increased, which would also indicate the value of RA exceeds current price forecasts. In fact, CAISO in its Comments had explicitly requested the Commission to raise the Planning Reserve Margin from 15% for 20%,⁶ which would have increased the RA requirement by 4.3%.

The ACR said that new capacity should be cost competitive with recently procured resources 'to the extent that comparable data exists'. PA interprets that to mean, new capacity should be comparable to the net market value of capacity purchased for 2021 in the IRP RFO (but possibly more expensive accounting for an increased RA price forecast, the forecast from that RFO not being comparable to a

⁵ Assigned Commissioner's Ruling in R. 20-11-003, p. 2

⁶ "Comments of the California Independent System Operator Corporation on Order Instituting Rulemaking Emergency Reliability", filed November 30, 2020 in docket R. 20-11-003, p. 2, repeated in Reply Comments filed December 10, 2020, p.1.

price for increased capacity demand), or comparably scored using the scoring methodology of that RFO with more current market prices.

Because of the “urgent need” for capacity and “practical need” for immediate action, it is also PA’s opinion that SDGE should err on the side of potential overprocurement. It should be easier for SDG&E to deal with the consequences of the CPUC rejecting contracts it felt were unneeded at their prices than for the Commission to determine it had passed up an economic opportunity to fill a deficit.

Breadth of procurement

As noted, the Proposed Decision modified the ACR by excluding firm imports and expansion capacity with 2022 online dates. On the other hand, the PD could be modified on February 11 to include those resource types (which is what actually occurred); the PD could have been held until the next meeting leaving the direction from the ACR intact; and SDG&E might have other authority to contract for firm import energy (through a hedging plan or bundled procurement plan). PA therefore agreed with SDG&E that it should pursue offers for such capacity if they were reasonably priced and could be contracted in time to submit by February 15.

Consistency and lack of bias

Consistency and lack of bias could not be addressed through the formal evaluation methodology as there was none. PA regularly discussed the status of the selection with SDG&E in order to detect any such problems (which should not appear if SDG&E display sufficient “ambition” as the word is used above). SDG&E defined a Code of Conduct for the ER Procurement based on the Code of Conduct that had been used for the IRP RFO, modified to account of the structural differences between the IRP RFO and the ER Procurements but with requirements on the Bid Evaluation Team and Utility Development similar to those in the prior Code of Conduct.

3.2 SDG&E’s proposal evaluation

On January 15, PA and the BET discussed the bids that had been received up to that point. SDG&E felt that, based on experience with the IRP RFO, they did not have time to negotiate tolls with as-yet incomplete resources and would not consider them, although they would consider RA-only proposals from incomplete projects. They also wanted to consider only contracts for less than ten years’ duration, although they were still open to UOG projects with longer lifetimes.

Over the next week and a half, the BET narrowed down their interest to the projects listed in

Table 1.

Table 1: Offers considered for shortlisting

Offer	Contract	Type	Start date	Size	Duration	Price
1	RA-only	Efficiency improvement	6/2021	47 MW	5 years	\$ [REDACTED]
2	Firm 6x16	Energy at NOB*	7/2021 [†]	37 MWh [†]	3 months [†]	\$ [REDACTED] [†]
3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [†]	[REDACTED]	\$ [REDACTED] [†]
4	Firm 6x16	Energy at COB	7/2021	25 MWh [†]	3 months	\$ [REDACTED] [†]
**	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$ [REDACTED]
**	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$ [REDACTED] ^{††}
**	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$ [REDACTED] ^{††}
5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$ [REDACTED]
6	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$ [REDACTED]

* [REDACTED]
[REDACTED].

[†]Offer details were clarified or modified after the original bid submissions; some of the prices for import energy were initially mis-stated, and all evolved through the discussions with counterparties. Other modifications were in response to requests from SDG&E. These are the final values.

* [REDACTED].

^{††} [REDACTED]
[REDACTED]
[REDACTED].

Before presenting the shortlist to the CAM PRG, the BET confirmed with the UDT that the prospective EPC contractor for the two UOG projects [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED].

SDG&E identified the six projects remaining in its shortlist in an email to the CAM PRG on January 27 and quickly received several questions and a request for a special meeting. A special meeting of the CAM PRG was held on January 29. There was some spirited discussion of the import energy proposals; a summary of the objection raised, as well as PA's analysis of the proposals, is given in following subsection. PA general approach to the appropriateness of submitting import energy contracts is provided above, under "breadth of procurement."

3.3 PA's analysis of the shortlisted proposals⁷

It is PA's opinion that the selection of the shortlist of proposals was reasonable.

There is one shortlisted proposal (1) for incremental physical capacity within California that will be available in Summer 2021. PA evaluated it using the scoring model and market price forecasts from the IRP RFO. [REDACTED]

⁷ The analysis in this section relies on the price, volume and other details of the negotiated contracts and not the proposals themselves.

[REDACTED]; proposal (1) had a score of [REDACTED].⁸ Proposal (1) is unattractive [REDACTED]. On the other hand, the next-highest-scored RFO bids with 2021 availability were [REDACTED]

Proposal (1) guarantees [REDACTED] each month. Per unit of capacity, this bid is [REDACTED]. Furthermore PA inferred from the release of the ACR and PD that not enough capacity is yet under contract to meet summer 2021 reliability needs, so that the RA value attributed by the RFO scoring model was [REDACTED]. PA asked SDG&E for the pricing it is currently assuming for RA. SDG&E provided [REDACTED]. The average RA price in [REDACTED].

The resource adequacy concerns expressed by the CPUC and CAISO may not be shared by the market, or not yet digested. RA market prices are probably based on the assumption that current and planned physical capacity is sufficient for reliability needs without expansion by new contracts, but the CAISO's expressed desire for a higher PRM casts some doubt on that. The average capacity cost of proposal (1) is [REDACTED] what PA believes to be the current CPM cap, and we do not know what other resources have been identified by SCE and PG&E or the actual extent of the need perceived by the CPUC. Given that uncertainty [REDACTED] the SDG&E area's RA requirement, seems a within a zone of reasonableness and based on the considerations mentioned earlier under "Ambition", PA believes it is an offer worth accepting.

Proposals (2), (3) and (4) are for firm energy to be imported under SDG&E's import RA allocation. There are two issues in evaluating these proposals: whether import contracts should be considered at all and whether these specific contracts are desirable.

CAISO has stated that "the State must secure imports backed by firm transmission rights and not recallable by the host balancing authority when system conditions are tight throughout the West."⁹ At the CAM PRG Special Meeting the statement was made that it was unnecessary to contract over the NOB or COB RA allocation because energy is almost always available from the Pacific Northwest. That may be true, although in stating the need it saw CAISO did not distinguish between Northwest and Southwest imports. CAISO later made a general statement that "based on load serving entities' year-ahead resource adequacy showings on October 30, 2020, there is currently less import capacity under contract 2021 than there was for the 2020 year-ahead showings."¹⁰ PA believes that contracting at this time for firm imports is a reasonable response to the direction in the ACR.

On the other hand, the PD removed imports from the list of contracts eligible for approval: "While we believe swift action is needed to ensure firm forward imported energy contracts can be executed for summer 2021 and to ensure intended benefits are provided for summer 2022, we believe these benefits can be reasonably realized through consideration in a subsequent decision in this proceeding."¹¹ As noted, the PD was revised at the February 11 meeting to include firm imports.¹² Prior to February 11 it was certainly reasonable for SDG&E to submit the contracts by Advice Letter and for PA to analyze them.

⁸ [REDACTED]

⁹ Note 6, *op. cit.* (November 30 Comments), p. 3.

¹⁰ Note 6, *op. cit.* (December 10 Reply Comments), p. 5.

¹¹ Proposed Decision of ALJ Stevens in R.20-11-003, January 8, 2021, p. 4.

¹² California Public Utilities Commission, Decision (D.) 21-02-028, February 11, 2021, Finding of Fact 12.

Using the scoring model from the IRP RFO, [REDACTED]
[REDACTED]
[REDACTED]. PA asked SDG&E for more recent price quotes and received 3:
[REDACTED]
[REDACTED]. The prices are all shown in Table 2.

Table 2: Border price estimates

Source	3Q2021 Average 6x16 Price
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Clearly, the IRP RFO model values are inappropriate for evaluating proposals for 2021. Using the [REDACTED] the price of offer (4) is with the range of currently available pricing and SDG&E should be able to contract for it. Offer (2) is [REDACTED] reasonableness. [REDACTED].

PA also analyzed [REDACTED] offers (5) and (6), [REDACTED]
[REDACTED]. These two offers are [REDACTED]
[REDACTED]
[REDACTED]. Those contracts are not currently being submitted.

4 PROJECT-SPECIFIC NEGOTIATIONS

SDG&E negotiated contracts with offers (1), (2) and (4). All three negotiations were straightforward thanks to the use of standard contract forms (EEI and WSPP master contracts and associated transaction confirms) for simple or standardized products (RA credit, firm block energy). Negotiations were conducted primarily via email exchange of drafts with a limited number of telephone conversations.

The negotiations with offer (1) was the lengthiest, although still short compared with most other negotiations PA has monitored. PA was copied on all emails and invited to all telephone conversations. The significant issues from the IRP RFO negotiations did not arise: SDG&E was not concerned with potentially assigning the contract because costs would be recovered through CAM; change in duration requirements for RA was not an issue as it was not a battery storage offer; and it were not considered susceptible to permitting or other completion risks. The one real complication was that this was an expansion or efficiency improvement to an existing project with an existing RA contract and it was important to understand how any availability-related derations of the expanded units would be allocated among the RA offtakers.

Negotiations with offers (2) and (4) were also straightforward and primarily consisted of clarifying offer details. SDG&E copied PA on all its emails to the counterparties and provided PA copies of emails on which counterparties had not copied PA. SDG&E and the counterparties had ad hoc telephone conversations, as is typical among traders, and if PA was not on a call SDG&E provided PA a summary. SDG&E requested volume reductions from the original offers [REDACTED], and a reduction of the duration of (2) to eliminate non-summer months. SDG&E began negotiations with offer (3) [REDACTED].

SDG&E also began negotiations with offers (5) and (6), [REDACTED]. During the initial discussions it became clear that both projects [REDACTED], SDG&E and the counterparties [REDACTED].

It is PA's opinion that SDG&E negotiated fairly and equitably with the three counterparties.

5 MERIT OF CONTRACT APPROVAL

SDG&E negotiated and signed three contracts through this ER Procurement. Given the time constraints and goals of the ER Procurement PA believes that SDG&E selected the most appropriate offers and that they merit approval.



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San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX B
Declarations of Theodore Roberts, Michael Ruzzo, and
Brian Elliot, Regarding Confidentiality of Certain Data
(Public)

**BEFORE THE PUBLIC UTILITIES
COMMISSION OF THE STATE OF CALIFORNIA**

**DECLARATION OF BRIAN ELLIOTT
REGARDING CONFIDENTIALITY OF CERTAIN DATA FOR THE
ELECTRIC RELIABILITY PROCUREMENT PD CONTRACT APPROVAL
ADVICE LETTER**

I, Brian Elliott, do declare as follows:

1. I am a Senior Originations Analyst in the Energy Supply Department for San Diego Gas & Electric Company (“SDG&E”). I have reviewed SDG&E’s Electric Reliability Procurement PD contract approval advice letter, submitted concurrently herewith (the “Advice Letter”). In addition, I am personally familiar with the facts and representations in this Declaration and, if called upon to testify, I could and would testify to the following based upon my personal knowledge and/or belief.

2. I hereby provide this Declaration in accordance with D.06-06-066, *et seq.*, to demonstrate that the confidential information (“Protected Information”) provided in the Advice Letter submitted concurrently herewith (described below) falls within the scope of data protected as confidential pursuant to the IOU Matrix attached to the Commission’s confidentiality decision, D.06-06-066 (the “IOU Matrix”) and/or under relevant statutory provisions.^{1/}

^{1/} The Matrix is derived from the statutory protections extended to non-public market sensitive and trade secret information. (See D.06-06-066). The Commission is obligated to act in a manner consistent with applicable law. The analysis of protection afforded under the Matrix must always produce a result that is consistent with the relevant underlying statutes; if information is eligible for statutory protection, it must be protected under the Matrix. (See *Southern California Edison Co. v. Public Utilities Comm.* 2000 Cal. App. LEXIS 995, *38-39) Thus, by claiming applicability of the Matrix, SDG&E relies upon and simultaneously claims the protection of applicable statutory provisions including, but not limited to, Public Utilities Code §§ 454.5(g) and 583, Govt. Code § 6254(k) and General Order 66-C.

3. In D.06-06-066, the Commission adopted rules governing confidentiality of certain categories of electric procurement data submitted to the Commission by investor owned utilities (“IOUs”) and energy service providers (“ESPs”). The Commission established two matrices – one applicable to IOUs, the other to ESPs – setting forth categories and sub-categories of data and providing a confidentiality designation for each.^{2/}

4. To the extent information matches a Matrix category, it is entitled to the protection the Matrix provides for that category of information. In addition, the Commission has made clear that information must be protected where “it matches a Matrix category exactly . . . or consists of information from which that information may be easily derived.”^{3/} In order to claim the protection afforded by the relevant Matrix, the party seeking confidential treatment must establish:

- 1) That the material it is submitting constitutes a particular type of data listed in the Matrix,
- 2) Which category or categories in the Matrix the data correspond to,
- 3) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data,
- 4) That the information is not already public, and
- 5) That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.^{4/}

5. SDG&E’s Protected Information: The Protected Information, consisting of the information described below, is protected pursuant to the following Matrix categories:

^{2/} See, D.06-06-066, as amended by D.07-05-032, *mimeo*, Appendices 1 and 2.

^{3/} See, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal*, issued May 4, 2007 in R.06-05-027, p. 2 (emphasis added).

^{4/} D.06-06-066, as amended by D.07-05-032, *mimeo*, p. 81, Ordering Paragraph 2.

Data at Issue	Matrix Requirements	How Moving Party Meets Requirements
<i>In the Advice Letter the following sections and documents are confidential: Appendix E- Section 1.0 Cost Overview and Section 2.0 Bids Overview</i>	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The data includes quantitative analysis in scoring and evaluating bids.
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix category VIII-B.
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	SDG&E requests that this information be kept confidential as directed in the Matrix.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	The information is provided in the format that is required by the Commission/best conveys the analysis. The data cannot be further aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

6. SDG&E intends to comply with the limitations on confidentiality specified in the Matrix for the type of data that is provided herewith.

7. I am not aware of any instance of public disclosure of the Protected Information.

8. The Protected Information cannot be provided in a form that is further aggregated, redacted, or summarized and still provide the level of detail requested and expected by California Public Utilities Commission.

9. As an alternative basis for requesting confidential treatment, SDG&E submits that the project status information provided in the Advice Letter is material, market sensitive, electric procurement-related information protected under §§ 454.5(g) and 583, as well as trade secret information protected under Govt. Code § 6254(k), and that the disclosure of this information would place SDG&E at an unfair business disadvantage, thus triggering the protection of G.O. 66-D.^{5/}

10. Public Utilities Code § 583 establishes a right to confidential treatment of information otherwise protected by law.^{6/}

11. Public Utilities Code § 454.5(g) provides:

^{5/} This argument is offered in the alternative, not as a supplement to the claim that the data is protected under the IOU Matrix. California law supports the offering of arguments in the alternative. *See, Brandolino v. Lindsay*, 269 Cal. App. 2d 319, 324 (1969) (concluding that a plaintiff may plead inconsistent, mutually exclusive remedies, such as breach of contract and specific performance, in the same complaint); *Tanforan v. Tanforan*, 173 Cal. 270, 274 (1916) ("Since . . . inconsistent causes of action may be pleaded, it is not proper for the judge to force upon the plaintiff an election between those causes which he has a right to plead.")

^{6/} *See*, D.06-06-066, *mimeo*, pp. 26-28.

The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Public Advocates Office and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

12. Under the Public Records Act, Govt. Code § 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed.^{7/} Evidence Code § 1060 provides a privilege for trade secrets, which Civil Code § 3426.1 defines, in pertinent part, as information that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

13. If disclosed, the Protected Information could provide parties with whom SDG&E is currently negotiating insight into SDG&E's procurement needs, which would unfairly undermine SDG&E's negotiation position and could ultimately result in increased cost to ratepayers. In addition, if developers mistakenly perceive that SDG&E is not committed to assisting their projects, disclosure of the Protected Information could act as a disincentive to developers. Accordingly, pursuant to P.U. Code § 583, SDG&E seeks confidential treatment of this data, which falls within the scope of P.U. Code § 454.5(g), Govt. Code § 6254(k) and General Order 66-D.

14. Developers' Protected Information: The project status information provided in the Report may also constitute confidential trade secret information of the listed projected developers that SDG&E is obligated to protect. The project status information set forth in the Advice Letter relates directly to viability of the respective projects and identifies barriers


^{7/} See also Govt. Code § 6254.7(d).

to project success. Disclosure of this extremely sensitive information could harm developers' ability to negotiate necessary contracts and/or could invite interference with project development by competitors.

15. In accordance with the statutory provisions described herein, SDG&E hereby requests that the information set forth in the Advice Letter be protected from public disclosure.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed this 11th day of February 2021, at San Diego, California.

A handwritten signature in black ink, appearing to read "B. Elliott", written over a horizontal line.

Brian Elliott
Senior Originations Analyst

**BEFORE THE PUBLIC UTILITIES
COMMISSION OF THE STATE OF CALIFORNIA**

**DECLARATION OF MICHAEL RUZZO
REGARDING CONFIDENTIALITY OF CERTAIN DATA**

I, Michael Ruzzo, do declare as follows:

1. I am an Energy Procurement Advisor in the Electric & Fuel Procurement Department for San Diego Gas & Electric Company (“SDG&E”). I have reviewed Confidential Appendices C and D of SDG&E’s Advice Letter No. 3689-E (“Appendices C and D”), submitted concurrently herewith. I am personally familiar with the facts and representations in this Declaration and, if called upon to testify, I could and would testify to the following based upon my personal knowledge and/or belief.

2. I hereby provide this Declaration in accordance with D.06-06-066, *et seq.*, to demonstrate that the confidential information (“Protected Information”) provided in Appendices C and D submitted concurrently herewith (described below) falls within the scope of data protected as confidential pursuant to the IOU Matrix attached to the Commission’s confidentiality decision, D.06-06-066 (the “IOU Matrix”) and/or under relevant statutory provisions.^{1/}

3. In D.06-06-066, the Commission adopted rules governing confidentiality of certain categories of electric procurement data submitted to the Commission by investor owned utilities (“IOUs”) and energy service providers (“ESPs”). The Commission established two matrices – one

^{1/} The Matrix is derived from the statutory protections extended to non-public market sensitive and trade secret information. (*See* D.06-06-066). The Commission is obligated to act in a manner consistent with applicable law. The analysis of protection afforded under the Matrix must always produce a result that is consistent with the relevant underlying statutes; if information is eligible for statutory protection, it must be protected under the Matrix. (*See Southern California Edison Co. v. Public Utilities Comm.* 2000 Cal. App. LEXIS 995, *38-39) Thus, by claiming applicability of the Matrix, SDG&E relies upon and simultaneously claims the protection of applicable statutory provisions including, but not limited to, Public Utilities Code §§ 454.5(g) and 583, Govt. Code § 6254(k) and General Order 66-D.

applicable to IOUs, the other to ESPs – setting forth categories and sub-categories of data and providing a confidentiality designation for each.^{2/}

4. To the extent information matches a Matrix category, it is entitled to the protection the Matrix provides for that category of information. In addition, the Commission has made clear that information must be protected where “it matches a Matrix category exactly . . . or consists of information from which that information may be easily derived.”^{3/} In order to claim the protection afforded by the relevant Matrix, the party seeking confidential treatment must establish:

- a) That the material it is submitting constitutes a particular type of data listed in the Matrix,
- b) Which category or categories in the Matrix the data correspond to,
- c) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data,
- d) That the information is not already public, and
- e) That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.^{4/}

5. SDG&E’s Protected Information: The Protected Information, consisting of the information described below, is protected pursuant to the following Matrix categories:

Data at Issue	Matrix Requirements	How Moving Party Meets Requirements
<i>Confidential Appendices C and D.</i>	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The Protected Information includes non-public contract terms, and confidential project development information that are protected by the Matrix.
	Identify the Matrix category or categories to which the data corresponds	Matrix category VI.B., Contracts and power purchase agreements between utilities and non-affiliated third parties (except RPS).

^{2/} See, D.06-06-066, as amended by D.07-05-032, *mimeo*, Appendices 1 and 2.

^{3/} See, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal*, issued May 4, 2007 in R.06-05-027, p. 2 (emphasis added).

^{4/} D.06-06-066, as amended by D.07-05-032, *mimeo*, p. 81, Ordering Paragraph 2.

	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	In accordance with the limitations on confidentiality set forth in the IOU Matrix, category VII.B., SDG&E is making public the contract summaries, including counterparty, resource type, location, capacity, expected deliveries, delivery point, length of contract and online date. SDG&E is requesting that the remaining contract terms remain confidential for three years from the date the contract states deliveries are to begin or until one year following expiration, whichever comes first.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	The information in Appendices C and D is specific to those unique procurement contracts, and cannot be summarized, masked or otherwise protected in a way that allows that allows only partial disclosure of the protected information.

6. SDG&E intends to comply with the limitations on confidentiality specified in the Matrix for the type of data that is provided herewith.

7. I am not aware of any instance of public disclosure of the Protected Information.

8. The Protected Information cannot be provided in a form that is further aggregated, redacted, or summarized and still provide the level of detail requested and expected by the Commission.

9. As an alternative basis for requesting confidential treatment, SDG&E submits that the project information provided in Appendices C and D is material, market sensitive, electric procurement-related information protected under §§ 454.5(g) and 583, as well as trade secret information protected under Govt. Code § 6254(k), and that the disclosure of this information

would place SDG&E at an unfair business disadvantage, thus triggering the protection of G.O. 66-D.^{5/}

10. Public Utilities Code § 583 establishes a right to confidential treatment of information otherwise protected by law.^{6/}

11. Public Utilities Code § 454.5(g) provides:

The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

12. Under the Public Records Act, Govt. Code § 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed.^{7/} Evidence Code § 1060 provides a privilege for trade secrets, which Civil Code § 3426.1 defines, in pertinent part, as information that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

13. If disclosed, the Protected Information could provide other market participants with valuable information on the status of projects currently under development, along with insight into terms under which both SDG&E and its counterparties are willing to execute contracts. Such information would provide other market participant(s) with a competitive advantage in ongoing and future procurement that would work to the detriment SDG&E and its customers. Accordingly, pursuant to P.U. Code § 583, SDG&E seeks confidential treatment of this data, which falls within the scope of P.U. Code § 454.5(g), Govt. Code § 6254(k) and General Order 66-D.

^{5/} This argument is offered in the alternative, not as a supplement to the claim that the data is protected under the IOU Matrix. California law supports the offering of arguments in the alternative. *See, Brandolino v. Lindsay*, 269 Cal. App. 2d 319, 324 (1969) (concluding that a plaintiff may plead inconsistent, mutually exclusive remedies, such as breach of contract and specific performance, in the same complaint); *Tanforan v. Tanforan*, 173 Cal. 270, 274 (1916) ("Since . . . inconsistent causes of action may be pleaded, it is not proper for the judge to force upon the plaintiff an election between those causes which he has a right to plead.")

^{6/} *See*, D.06-06-066, *mimeo*, pp. 26-28.

^{7/} *See also* Govt. Code § 6254.7(d).

14. Developers' Protected Information: The information provided may also constitute confidential trade secret information of the listed projected developers that SDG&E is obligated to protect. Disclosure of this extremely sensitive information could harm developers' ability to negotiate necessary contracts and/or could invite interference with project development by competitors.

15. In accordance with the statutory provisions described herein, SDG&E hereby requests that the information set forth in Appendices C and D be protected from public disclosure.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed this 12th day of February 2021, at San Diego, California.

A handwritten signature in black ink, appearing to read 'MR', written over a horizontal line.

Michael Ruzzo
Energy Procurement Advisor
San Diego Gas & Electric Company

**BEFORE THE PUBLIC UTILITIES
COMMISSION OF THE STATE OF CALIFORNIA**

**DECLARATION OF THEODORE ROBERTS
REGARDING CONFIDENTIALITY OF CERTAIN DATA**

I, Theodore Roberts, do declare as follows:

1. I am the Contract Origination Manager in the Electric & Fuel Procurement Department for San Diego Gas & Electric Company (“SDG&E”). I have reviewed Confidential Appendices F, G and H of SDG&E’s Advice Letter No. 3689-E (“Appendices F, G and H”) submitted concurrently herewith. I am personally familiar with the facts and representations in this Declaration and, if called upon to testify, I could and would testify to the following based upon my personal knowledge and/or belief.

2. I hereby provide this Declaration in accordance with D.06-06-066, *et seq.*, to demonstrate that the confidential information (“Protected Information”) provided in Appendices F, G and H submitted concurrently herewith (described below) falls within the scope of data protected as confidential pursuant to the IOU Matrix attached to the Commission’s confidentiality decision, D.06-06-066 (the “IOU Matrix”) and/or under relevant statutory provisions.^{1/}

^{1/} The Matrix is derived from the statutory protections extended to non-public market sensitive and trade secret information. (See D.06-06-066). The Commission is obligated to act in a manner consistent with applicable law. The analysis of protection afforded under the Matrix must always produce a result that is consistent with the relevant underlying statutes; if information is eligible for statutory protection, it must be protected under the Matrix. (See *Southern California Edison Co. v. Public Utilities Comm.* 2000 Cal. App. LEXIS 995, *38-39). Thus, by claiming applicability of the Matrix, SDG&E relies upon and simultaneously claims the protection of applicable statutory provisions including, but not limited to, Public Utilities Code §§ 454.5(g) and 583, Govt. Code § 6254(k) and General Order 66-C.

3. In D.06-06-066, the Commission adopted rules governing confidentiality of certain categories of electric procurement data submitted to the Commission by investor owned utilities (“IOUs”) and energy service providers (“ESPs”). The Commission established two matrices – one applicable to IOUs, the other to ESPs – setting forth categories and sub-categories of data and providing a confidentiality designation for each.^{2/}

4. To the extent information matches a Matrix category, it is entitled to the protection the Matrix provides for that category of information. In addition, the Commission has made clear that information must be protected where “it matches a Matrix category exactly . . . or consists of information from which that information may be easily derived.”^{3/} In order to claim the protection afforded by the relevant Matrix, the party seeking confidential treatment must establish:

- 1) That the material it is submitting constitutes a particular type of data listed in the Matrix,
- 2) Which category or categories in the Matrix the data correspond to,
- 3) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data,
- 4) That the information is not already public, and
- 5) That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.^{4/}

5. SDG&E’s Protected Information: The Protected Information, consisting of the information described below, is protected pursuant to the Matrix as described:

^{2/} See, D.06-06-066, as amended by D.07-05-032, *mimeo*, Appendices 1 and 2.

^{3/} See, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal*, issued May 4, 2007 in R.06-05-027, p. 2 (emphasis added).

^{4/} D.06-06-066, as amended by D.07-05-032, *mimeo*, p. 81, Ordering Paragraph 2.

Data at Issue	Matrix Requirements	How Moving Party Meets Requirements
<i>Confidential Appendices F, G and H.</i>	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix.	The Protected Information includes non-public contract terms, and confidential project development information that are protected by the Matrix.
	Identify the Matrix category or categories to which the data corresponds.	Matrix category VII.B., Contracts and power purchase agreements between utilities and non-affiliated third parties (except RPS).
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data.	In accordance with the limitations on confidentiality set forth in the IOU Matrix, category VII.B., SDG&E is making public the contract summaries, including counterparty, resource type, location, capacity, expected deliveries, delivery point, length of contract and online date. SDG&E is requesting that the remaining contract terms remain confidential for three years from the date the contract states deliveries are to begin or until one year following expiration, whichever comes first.
	Affirm that the information is not already public.	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	The information in Appendices F, G and H is specific to those unique procurement contracts, and cannot be summarized, masked or otherwise protected in a way that allows that allows only partial disclosure of the protected information.

6. SDG&E intends to comply with the limitations on confidentiality specified in the Matrix for the type of data that is provided herewith.

7. I am not aware of any instance of public disclosure of the Protected Information.

8. The Protected Information cannot be provided in a form that is further aggregated, redacted, or summarized and still allow for adequate review and disposition by the Commission.

9. As an alternative basis for requesting confidential treatment, SDG&E submits that the project status information provided in the Appendices F, G and H is material, market sensitive, electric procurement-related information protected under §§ 454.5(g) and 583, as well as trade secret information protected under Govt. Code § 6254(k), and that the disclosure of this

information would place SDG&E and the counterparties at an unfair business disadvantage, thus triggering the protection of G.O. 66-D.^{5/}

10. Public Utilities Code § 583 establishes a right to confidential treatment of information otherwise protected by law.^{6/}

11. Public Utilities Code § 454.5(g) provides:

The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or *resulting from* or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

12. Under the Public Records Act, Govt. Code § 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed.^{7/} Evidence Code § 1060 provides a privilege for trade secrets, which Civil Code § 3426.1 defines, in pertinent part, as information that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

13. If disclosed, the Protected Information could provide other market participants with valuable information on the status of projects currently under development, along with insight into pricing terms under which both SDG&E and its counterparties are willing to execute

^{5/} This argument is offered in the alternative, not as a supplement to the claim that the data is protected under the IOU Matrix. California law supports the offering of arguments in the alternative. *See, Brandolino v. Lindsay*, 269 Cal. App. 2d 319, 324 (1969) (concluding that a plaintiff may plead inconsistent, mutually exclusive remedies, such as breach of contract and specific performance, in the same complaint); *Tanforan v. Tanforan*, 173 Cal. 270, 274 (1916) ("Since . . . inconsistent causes of action may be pleaded, it is not proper for the judge to force upon the plaintiff an election between those causes which he has a right to plead.")

^{6/} *See*, D.06-06-066, *mimeo*, pp. 26-28.

^{7/} *See also* Govt. Code § 6254.7(d).

contracts. Such information would provide other market participant(s) with a competitive advantage in ongoing and future procurement that would work to the detriment SDG&E and its customers. Accordingly, pursuant to P.U. Code § 583, SDG&E seeks confidential treatment of this data, which falls within the scope of P.U. Code § 454.5(g), Govt. Code § 6254(k) and General Order 66-D.

14. Developers' Protected Information: The Protected Information provided in the Appendices F may also constitute confidential trade secret information of the project's owner/operator that SDG&E is obligated to protect. Disclosure of this extremely sensitive information could harm the owner's ability to successfully complete their projects.

15. In accordance with the statutory provisions described herein, SDG&E hereby requests that the information set forth in the Appendices F, G and H be protected from public disclosure.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed this 16th day of February, 2021 at San Diego, California.

DocuSigned by:
Theodore Roberts
10A3217F4EE74D6...

Theodore Roberts
Contract Origination Manager

San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX C
Summary of Selected Projects
(Confidential)

San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX D
Report of the Independent Evaluator
(Confidential)

San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX E
Cost Effectiveness Evaluation Results
(Confidential)

San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX F
Sentinel Energy Center, LLC Long Form Confirmation for
Resource Adequacy Capacity Product

(Confidential)

San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX G
WSPP Energy Confirmation with TransAlta Energy
Marketing (U.S) Inc.

(Confidential)

San Diego Gas & Electric Advice Letter 3689-E
February 16, 2021

APPENDIX H
EEI Energy Confirmation Letter with Calpine Energy
Services, L.P.

(Confidential)