



SOUTHERN CALIFORNIA
EDISON

An EDISON INTERNATIONAL Company

Akbar Jazayeri

Vice President, Revenue and Tariffs

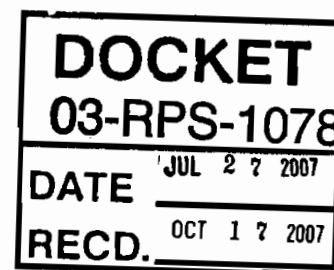
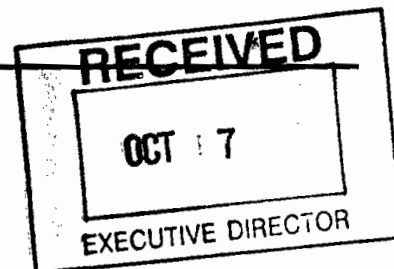
PUBLIC VERSION

July 27, 2007

**ADVICE 2143-E
(U 338-E)**

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

SUBJECT: Submission of Contracts for Procurement of Renewable
Energy From SCE's 2006 Renewables Portfolio Standard
Solicitation



PURPOSE

Southern California Edison Company ("SCE") submits this Advice Letter in compliance with Cal. Pub. Util. Code § 399.11 et seq. (the "RPS Legislation") seeking approval of four renewables portfolio standard ("RPS") power purchase agreements ("PPAs") between (1) SCE and Baja Wind US LLC ("Baja Wind") (the "Baja Wind Contract"), (2) SCE and Granite Wind, LLC ("Granite Wind") (the "Granite Wind Contract"), (3) SCE and California Sunrise I: Alternative Energy Development LLC ("California Sunrise") (the "California Sunrise Contract"), and (4) SCE and County Sanitation Districts of Los Angeles County ("LACSD") (the "LACSD Contract").

A table summarizing the PPAs is as follows:

Seller	Generation Type	Initial Size (MW)	Possible Expansion Size (MW)	Estimated Annual Energy Based on Initial Size (GWh)	Estimated Annual Energy Based On Expansion Size (GWh)	Initial On-Line Date	Term of Agreement (Years)
Baja Wind US LLC	Wind	200 MW	250 MW	578.2 GWh	722.7 GWh	April 30, 2010	20
Granite Wind, LLC	Wind	42 MW	81 MW	95.7 GWh	184.5 GWh	December 31, 2009	20
California Sunrise I: Alternative Energy Development LLC	PV Solar	0.99 MW	N/A	2.3 GWh	N/A	December 31, 2008	20
County Sanitation Districts of Los Angeles County	Biomass	1.6 MW	N/A	12.6 GWh	N/A	December 31, 2009	10

SCE requests that the California Public Utilities Commission ("Commission" or "CPUC") issue a Resolution containing findings in the form requested in this Advice Letter no later than October 25, 2007.

The Commission recently adopted General Order 96-B, effective July 1, 2007. General Order 96-B, among other things, implements new requirements for establishing the confidentiality of advice letter filings.

In accordance with General Order 96-B, the confidentiality of information included in this Advice Letter is described below. This Advice Letter contains both confidential and public appendices as listed below. Appendices B-D and F-K are confidential. Appendices A, E and L-M are public. This Advice Letter includes a confidential version including all Appendices and a public version including Appendices A, E and L-M.

This Advice Letter contains the following appendices:

Appendix A: Designation of Confidential Information

Confidential Appendix B: Summary of 2003-2006 RPS Solicitation Data

Confidential Appendix C: Confidential Contract Summary

Confidential Appendix D: Baja Wind's, Granite Wind's, California Sunrise's and LACSD's Contributions to RPS Goals

Appendix E: SCE's RPS Bid Evaluation and Selection Process and Criteria

Confidential Appendix F: Project Viability Matrices

Confidential Appendix G: CEC-SEP Pricing Worksheets

Confidential Appendix H: Comparison of Standard Contract Terms to the Baja Wind, Granite Wind, California Sunrise and LACSD Contract Terms

Confidential Appendix I: Power Purchase Agreement between SCE and Baja Wind US LLC

Confidential Appendix J: Power Purchase Agreement between SCE and Granite Wind, LLC

Confidential Appendix K: Power Purchase Agreement between SCE and California Sunrise I: Alternative Energy Development LLC

Appendix L: Power Purchase Agreement between SCE and County Sanitation Districts of Los Angeles County

Appendix M: Proposed Protective Order

I. INTRODUCTION AND BACKGROUND

The RPS Legislation requires certain load serving entities ("LSEs"), including SCE, to increase their procurement from renewable resources by at least 1 percent of their annual retail electricity sales per year so that 20 percent of their annual electricity sales are procured from eligible renewable energy resources by no later than December 31, 2010. In Decision ("D.") 03-06-071, the Commission provided its initial guidance for implementation of the RPS Legislation. In accordance with the RPS Legislation and D.03-06-071, SCE submitted its 2006 RPS procurement plan and bid solicitation materials for Commission approval. The Commission approved SCE's procurement plan and bid solicitation materials for 2006 in D.06-05-039.

On July 14, 2006, SCE released its 2006 RPS solicitation. Applying the evaluation criteria required by the RPS Legislation, as implemented by the Commission in D.04-07-029, SCE established a short list for the 2006 solicitation and subsequently entered into discussions with parties on the short list. SCE communicated with its procurement review group ("PRG") throughout the evaluation, selection and contracting process that ultimately led to the execution of six contracts from its 2006 solicitation. SCE now seeks approval of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts.

A. General Description of Baja Wind, Granite Wind, California Sunrise and LACSD

The Baja Wind project is a new 200 MW wind facility being co-developed by Cannon Power Corp. and Sempra Generation. The seller under the Baja Wind Contract is Baja Wind US LLC, a Delaware limited liability company. The owner of the generating facility under the Baja Wind Contract is Baja Wind S.R.L., a Mexican legal entity. The Baja

Wind Contract obligates Baja Wind to maintain in full force and effect such arrangements, contractual or otherwise, that allow Baja Wind to cause Baja Wind S.R.L. to comply with all covenants and agreements set forth in the Baja Wind Contract with respect to each of the owners of the generating facility and the generating facility, and otherwise allow Baja Wind to perform its obligations under the Baja Wind Contract. The facility will utilize wind turbine generator technology. The project will be located 70 miles east of San Diego, California immediately across the United States/Mexico border near the town of La Rumorosa in Baja California, Mexico. The project's first point of interconnection will be the California Independent System Operator ("CAISO") system. The Baja Wind Contract allows for a potential expansion to 250 MW at Baja Wind's discretion. Initially, the facility will have an expected output of approximately 578.2 GWh per year with the potential to expand to approximately 722.7 GWh per year if Baja Wind exercises its right to expand the facility to 250 MW. The Baja Wind Contract term is for 20 years and the project is expected to come on-line by April 2010.

The Granite Wind project is a new 42 MW wind facility being co-developed by RES Americas Development, RENEWergy LLC and G.H. Energy Limited. The seller under the Granite Wind Contract is Granite Wind, LLC, a Delaware limited liability company. The facility will utilize wind turbine generator technology. The project will be located on Granite Mountain, near Apple Valley in San Bernardino County, California. The Granite Wind Contract allows for a potential expansion to 81 MW at Granite Wind's discretion. Initially, the facility will have expected output of approximately 95.7 GWh per year with the potential to expand to approximately 184.5 GWh per year if Granite Wind exercises its right to expand the facility to 81 MW. The Granite Wind Contract term is for 20 years and the project is expected to come on-line by December 2009.

The California Sunrise project is a new 0.99 MW photovoltaic solar facility being developed by California Sunrise I: Alternative Energy Development LLC. The facility will utilize photovoltaic solar technology. The project will be located in California City, Kern County, California. The facility will have expected output of approximately 2.3 GWh per year. The California Sunrise Contract term is for 20 years and the project is expected to come on-line by December 2008.

The LACSD project, otherwise known as the Palos Verdes Gas to Energy Facility, is located within the Palos Verdes Landfill at 25860 Hawthorne Boulevard, Rolling Hills Estates, California. The facility is owned and being developed by a confederation of sanitation districts in Los Angeles County. Currently, the facility is providing SCE with 4 MW of renewable energy pursuant to an existing Standard Offer No. 4 ("SO4") contract that is set to expire on December 20, 2008. LACSD intends to replace the existing steam power plant with eight Ingersoll-Rand ("I-R") MT250 microturbines fueled by landfill gas. The new power plant, which is expected to come on-line by December 2009, will initially provide 1.6 MW of capacity of eligible renewable energy with an expected output of approximately 12.6 GWh annually for a term of 10 years. The facility, however, relies on a declining fuel source. Therefore, the capacity of the facility is expected to drop from 1.6 MW to 1.3 MW over the life of the contract.

B. Contributions to IPT and APT

As stated above, the RPS Legislation and the Commission decisions implementing the RPS Legislation require SCE to increase its procurement from renewable resources by at least 1 percent of its annual retail electricity sales per year so that 20 percent of its annual electricity sales are procured from renewable resources by 2010. The 1 percent increase per year has been defined as the incremental procurement target ("IPT") and the yearly required total has been defined as the annual procurement target ("APT").¹ By definition, the obligation to increase renewable procurement by 1 percent per year (*i.e.*, the IPT) is eliminated in 2010. For 2010 and beyond, SCE is required to procure 20 percent of its energy from renewable resources. In other words, beyond 2009, SCE does not have an IPT obligation and its APT obligation remains at 20 percent.

The Baja Wind Contract is expected to begin deliveries by April 2010. The renewable output from the agreement is expected to contribute approximately 388.1 GWh towards SCE's APT in 2010 and approximately 578.2 GWh annually towards SCE's APT for the rest of the term of the agreement.

The Granite Wind Contract is expected to begin deliveries by December 2009. Thereafter, the renewable output from the agreement is expected to contribute approximately 95.7 GWh annually towards SCE's APT.

The California Sunrise Contract is expected to begin deliveries by December 2008. Thereafter, the renewable output from the agreement is expected to contribute approximately 2.3 GWh annually towards SCE's APT.

The LACSD Contract is expected to begin deliveries by December 2009. Thereafter, the renewable output from the agreement is expected to contribute approximately 12.6 GWh annually towards SCE's APT.

Tables summarizing Baja Wind's, Granite Wind's, California Sunrise's and LACSD's contributions to SCE's RPS goals can be found in Appendix D.

C. Supplemental Energy Payments

The Granite Wind Contract price is below the market price referent ("MPR"). Therefore, Granite Wind will not require supplemental energy payments ("SEPs"). The Baja Wind, California Sunrise and LACSD Contract prices are above the MPR. Baja Wind, California Sunrise and LACSD will require SEPs.

¹ See D.06-10-050.

II. PRG PARTICIPATION AND FEEDBACK

A. PRG Participation

SCE's PRG was formed on or around September 10, 2002. Participants include representatives from the Commission's Energy and Legal Divisions, the Division of Ratepayer Advocates, The Utility Reform Network, the Natural Resources Defense Council, California Utility Employees, the Union of Concerned Scientists, Aglet Consumer Alliance and the California Department of Water Resources. SCE consulted with its PRG during each step of the renewable procurement process. Among other things, SCE informed the PRG of the initial results of its request for proposals ("RFP"); explained the evaluation process; and updated the PRG periodically concerning the status of contract formation.

On November 15, 2006, SCE advised the PRG of its proposed short list of bids for its 2006 RPS solicitation. On March 13, 2007, SCE updated the PRG as to the status of negotiations with bidders into the solicitation. On June 27, 2007, SCE briefed the PRG concerning the successful conclusion of discussions with Baja Wind, Granite Wind, California Sunrise and LACSD.

B. PRG Feedback

SCE does not keep recorded minutes, notes, or comments from PRG meetings. The PRG has requested that SCE not broadly characterize PRG responses and comments.

III. CONSISTENCY WITH COMMISSION DECISIONS

A. SCE's 2006 RPS Procurement Plan

1. SCE'S 2006 RPS Procurement Plan Was Approved by the Commission and SCE Adhered to Commission Guidelines for Filing and Revisions

The Commission conditionally approved SCE's 2006 RPS procurement plan, including its RFP protocol (*i.e.*, the bid solicitation materials for SCE's 2006 RPS solicitation) in D.06-05-039. In addition, in D.06-05-039, the Commission ordered SCE to make certain changes to its 2006 procurement plan and 2006 RFP protocol and to file those amended documents with the Director of the Energy Division, and serve such documents on the service list, by June 9, 2006. On June 9, 2006, SCE filed and served its amended 2006 plan and amended 2006 RFP protocol setting forth the procedure and criteria pursuant to which SCE would conduct its 2006 RPS solicitation.

By a letter dated June 14, 2006, the Director of the Energy Division temporarily suspended SCE's 2006 RPS solicitation and authorized SCE to further amend its 2006 plan and 2006 RFP protocol, and to submit those further amended documents to the Energy Division by July 10, 2006.

On July 10, 2006, SCE filed a further amended 2006 RPS procurement plan and a further amended 2006 RFP protocol. In the amended documents, SCE made the necessary changes that were required and/or suggested by D.06-05-039.

2. Summary of SCE's 2006 RPS Procurement Plan's Assessment of Portfolio Needs and Requested Bld Characteristics

SCE's 2006 RPS procurement plan indicated that SCE intended to procure the balance of renewable energy needed to reach 20 percent renewables by 2010 based on a "High Procurement Needs Scenario." SCE also indicated in its RFP protocol that it has a need for both near-term and long-term renewable energy.

SCE's 2006 RFP solicited proposals to supply electric energy, environmental attributes, capacity attributes and resource adequacy benefits from eligible renewable energy resources sufficient to permit SCE to execute PPAs in substantially the form of its *pro forma* agreement. SCE considered all proposals that proposed to supply electric energy to SCE from either an existing generating facility, or a generating facility to be developed, and that employed an eligible renewable energy resource, or multiple eligible renewable energy resources, as the sole means of supplying electric energy. SCE also considered any new or repowered facilities that operate on co-fired fuels or a mix of fuels that include fossil fuel hybrid.

SCE's locational preferences included: (1) California; or (2) Outside of California if the first point of interconnection is to the Western Electricity Coordinating Council ("WECC") transmission system and there is a transmission pathway capable of delivering the renewable energy to a location within California. SCE requested proposals based upon standard term lengths of 10, 15 or 20 years with a minimum capacity of 1 MW.

SCE indicated a preference to take delivery of the electric energy at the CAISO area known as South of Path 15 ("SP-15"). However, SCE considered proposals based upon any designated delivery point within California.

3. The Baja Wind, Granite Wind, California Sunrise and LACSD Contracts Conform to SCE's Portfolio Needs

The Baja Wind Contract falls within the criteria identified in SCE's 2006 RFP and is expected to contribute significantly toward achievement of SCE's RPS procurement goals. More specifically, the Baja Wind Contract satisfies SCE's short-term need for eligible renewable energy from a new facility with a capacity of 200 MW over a 20 year term. Moreover, Baja Wind satisfies both SCE's locational preference for a facility located outside of California and SCE's delivery requirements.

The Granite Wind Contract falls within the criteria identified in SCE's 2006 RFP and is expected to contribute significantly toward achievement of SCE's RPS procurement goals. More specifically, the Granite Wind Contract satisfies SCE's near-term need for eligible renewable energy from a new facility with a capacity of 42 MW over a 20-year

term. Moreover, Granite Wind satisfies both SCE's locational preference for a facility located within California and SCE's delivery requirements.

The California Sunrise Contract falls within the criteria identified in SCE's 2006 RFP and is expected to contribute toward achievement of SCE's RPS procurement goals. More specifically, the California Sunrise Contract satisfies SCE's near-term need for eligible renewable energy from a new facility with a capacity of 0.99 MW over a 20-year term. Moreover, California Sunrise satisfies both SCE's locational preference for a facility located within California and SCE's delivery requirements.

The LACSD Contract falls within the criteria identified in SCE's 2006 RFP and is expected to contribute significantly toward achievement of SCE's RPS procurement goals. More specifically, the LACSD Contract satisfies SCE's near-term need for eligible renewable energy from an existing facility with a capacity of 1.6 MW over a 10-year term. Moreover, LACSD satisfies both SCE's locational preference and delivery requirements.

B. SCE's 2006 RPS Solicitation

1. SCE's 2006 RPS Solicitation Was Consistent With SCE's Commission-approved 2006 RPS Procurement Plan and RFP Protocol

The Baja Wind, Granite Wind, California Sunrise and LACSD Contracts were solicited, negotiated and executed in a manner consistent with SCE's 2006 RFP protocol, which was approved by the Commission in D.06-05-039 as part of SCE's 2006 RPS procurement plan. SCE's RFP package included a procurement protocol, which set forth the terms and conditions of the RFP, including the requirement that the proposed facility be an eligible renewable energy resource and other eligibility requirements for participants, requirements for proposals, selection procedures, approval procedures, the RFP schedule and other terms and conditions of the RFP.

As part of the bid submission, bidders were required to provide comments on SCE's *pro forma* agreement. Prospective bidders also executed non-disclosure agreements and a letter stating that the bidder agrees to be bound by the terms and conditions of the protocol.

The RFP did not establish a limit on the amount of renewable energy sought by SCE. SCE was looking for resources that would provide maximum benefit to SCE's customers and count towards the RPS program. As provided by Commission decisions and statute, SCE solicited proposals for PPAs with terms of 10, 15, and 20 years. The protocol requested that proposals provide complete, accurate, and timely information concerning the participating supplier, the generating facility from which the participant proposed to provide electric energy to SCE and information pertaining to the commercial terms and the pricing details of the proposal.

The protocol encouraged existing, new, expanded, and repowered renewable resources to participate in the RFP. SCE stated in the protocol that it would evaluate proposals based on criteria intended to achieve the lowest customer cost for those renewable resources that best fit with SCE's customers' current portfolio and projected needs.

2. Developer Outreach

On the release date of the 2006 RPS solicitation, SCE placed its RFP package on its website and issued an email announcement to approximately 700 industry participants, independent power companies, trade associations, law firms, energy consultants and regulatory agencies. In addition, SCE held a bidder's conference on August 10, 2006 at the Pacific Palms Conference Resort in Industry, California. Approximately 40 individuals attended the conference. SCE also issued updates to its RFP package on August 11, 2006, August 18, 2006 and September 6, 2006 and provided an email announcement of the updates each time to approximately 700 industry participants, independent power companies, trade associations, law firms, energy consultants and regulatory agencies.

3. SCE's 2006 RPS Solicitation Was Robust

Specific information regarding SCE's 2006 RPS solicitation can be found in Appendices B and C.

4. Baja Wind's, Granite Wind's, California Sunrise's and LACSD's Offers Conformed to SCE's RPS Bidding Protocol

Baja Wind's, Granite Wind's, California Sunrise's and LACSD's bids conformed to SCE's protocol; that is, they offered power from eligible renewable energy resources, they submitted the standard forms, they agreed to be bound by the protocol, and they signed non-disclosure agreements. The bids were evaluated and scored in the manner prescribed in the protocol and were placed on SCE's short list. Eventually, negotiations with Baja Wind, Granite Wind, California Sunrise and LACSD lead to the execution of agreements.

C. LCBF Methodology and Evaluation

1. SCE's LCBF Methodology for the 2006 RPS Solicitation

SCE evaluates and ranks proposals based on least-cost/best-fit principles ("LCBF") that comply with criteria set forth by the Commission in D.03-06-071 and D.04-07-029 (the "LCBF Decisions"). The LCBF analysis evaluates both quantitative and qualitative aspects of each proposal to evaluate its absolute value to SCE's customers and relative value in comparison to other proposals. The LCBF analysis was used to evaluate the bids SCE received in its 2006 RPS solicitation. SCE applied these criteria to the proposals received in its 2006 solicitation, including Baja Wind, Granite Wind, California

Sunrise and LACSD, in order to establish a "short list" of proposals from bidders with whom SCE would engage in contract discussions.

While assumptions and methodologies have evolved slightly over time, the basic components of SCE's evaluation and selection criteria and process for RPS contracts were established in the Commission's LCBF Decisions. The three main steps that are undertaken by SCE are an initial data-gathering period, followed by a quantitative assessment of proposals, ending with adjustments to selection based on qualitative attributes of proposals.

Prior to receiving proposals, SCE finalizes major assumptions and methodologies that drive valuation, including power and gas prices forecasts, existing and forecast resource portfolio, and firm capacity value forecast. Other assumptions, such as the Transmission Ranking Cost Report ("TRCR"), are filed with the Commission for approval prior to the release of the solicitation materials. In addition, SCE gathers the current input assumptions that are developed by external parties, such as the effective load-carrying capabilities set by the California Energy Commission ("CEC").

Once proposals are received, SCE begins an initial review for completeness, conformance, and viability. The review includes a screen for reasonableness of proposal parameters, such as generation profiles and capacity factors. SCE works directly with bidders to resolve any issues and ensure data is ready for evaluation.

After this initial review, SCE performs the quantitative assessment of each proposal individually. The result of the quantitative analysis is a relative ranking of proposals that helps define the preliminary short list. Qualitative attributes of each proposal are considered, if needed, to further screen the short list and arrive at a final short list of proposals.

After this analysis, SCE consults with its PRG regarding its final short list and specific evaluation criteria. Whether a proposal selected in this process results in an executed contract depends on how contract discussions proceed. Periodically, SCE updates the PRG regarding the contracting progress and also reviews contracts with the PRG prior to execution. Subsequently, SCE executes contracts and submits them to the Commission for approval.

A complete discussion of SCE's RPS Bid Evaluation and Selection Process and Criteria is provided in Appendix E.

2. Comparison of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts With Other Bids Received in SCE's RPS Solicitation With Regard to Each LCBF Factor

SCE's LCBF quantitative evaluation of bids incorporates energy and capacity benefits with energy payments, transmission costs, and debt equivalence to create individual benefit-to-cost ("B/C") ratios. It is this B/C ratio that is used to rank and compare each

project. Comparing the individual components of the B/C ratio of one bid to another is not a useful means of evaluating projects.

The combination of high benefits and relatively low costs resulted in B/C ratios that ranked high enough to justify Baja Wind's, Granite Wind's, California Sunrise's and LACSD's inclusion on SCE's 2006 solicitation short list. Modifications to the pricing and other terms used for evaluation during negotiations also resulted in final B/C ratios that were acceptable to SCE and favorable as compared to the other bids SCE received in the 2006 solicitation. Therefore, the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts provide significant value for SCE's customers relative to other proposals received and represent contracts that provide for the delivery of relatively attractive renewable power pursuant to terms and conditions that meet all of the requirements of the RPS Legislation and the Commission's decisions implementing the RPS Legislation.

More detailed information regarding the B/C ratios for the Baja Wind, Granite Wind, California Sunrise and LACSD projects and the other bids received in SCE's 2006 RPS solicitation can be found in Appendices B and C.

3. Portfolio Fit – Demonstrate Best Fit – Evaluation of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts' Costs and Benefits in the Context of SCE's Portfolio Needs

SCE's primary portfolio needs in the long-term are for resource adequacy-eligible capacity, low-cost energy, and RPS-eligible energy. Due to the peaky nature of SCE's demand profile, on-peak energy is valued much more highly than off-peak energy.

The Baja Wind project provides nameplate capacity of 200 MW, with an option to expand by an additional 50 MW. The Granite Wind project provides nameplate capacity of 42 MW, with an option to expand to 81 MW. However, due to intermittency and low on-peak capacity factors, only about one-quarter of the nameplate capacities of the Baja Wind and Granite Wind projects will likely count towards resource adequacy requirements. The Baja Wind project will also provide approximately 578.2 GWh of RPS-eligible energy annually, and up to approximately 722.7 GWh per year if the project is expanded to 250 MW. Moreover, the Granite Wind project will provide approximately 95.7 GWh of RPS-eligible energy per year, and up to approximately 184.5 GWh per year if the project is expanded to 81 MW.

The California Sunrise project provides nameplate capacity of 0.99 MW, probably one-half to three-quarters of which will qualify for resource adequacy purposes depending on the actual generation profile of the project. The project will also provide approximately 2.3 GWh of RPS-eligible energy per year. Solar projects are generally a better fit into SCE's resource portfolio than other renewable technologies because their generation profiles tend to track SCE's load profile more closely throughout both days and seasons.

The LACSD project provides nameplate capacity of 1.6 MW, which will largely be counted for resource adequacy purposes. The project will also provide approximately 12.6 GWh of RPS-eligible energy annually, which is mostly distributed evenly over the year.

Remarketing costs are captured in the production cost simulations required in analyzing the energy benefits of the project. While the remarketing cost component of the results cannot be removed and evaluated on an individual basis, one can make some assumptions about the impact of the project on potential remarketing costs.

There would not likely be any cost to remarket the energy from the Baja Wind and Granite Wind Contracts in peak periods, but there could be some remarketing cost to selling excess energy that these projects may contribute to in off-peak periods, particularly in the winter. Since output levels for wind projects are often higher in the off-peak than during the on-peak, it is likely that the average remarketing costs associated with the excess wind generation will be higher than other projects that deliver a relatively higher percentage of their generation during peak periods.

As opposed to other renewable technologies that supply a significant amount of off-peak energy, the California Sunrise project and other solar projects are not usually burdened with much, if any, remarketing costs. Their predominantly on-peak generation profile provides power when it is most needed to serve customer demand, and not during off-peak periods when it would be more likely sold at a discount.

Generally, a must-take, biomass project, such as the LACSD project, will generate at the full capacity of the contract around-the-clock. While there would not be any cost to remarket the energy in peak periods, there could be some remarketing cost to selling excess energy that this project may contribute to in off-peak periods, particularly in the winter.

4. Transmission Adder – Consistency With Commission Decisions Addressing RPS Transmission Ranking Cost Methodology and IOU Transmission Ranking Cost Report

Transmission costs were estimated for those generating facilities that do not have an existing interconnection to the electric system or a completed system impact study, consistent with the TRCR requirements specified by D.04-06-013 and D.05-07-040. The ranking was applied accordingly and in compliance with Commission decisions.

5. Consistent Application of TODs – Demonstrate That TODs Were Consistently Used Throughout the Procurement Process

Prior to releasing the 2006 RPS solicitation, SCE ensured the time-of-delivery ("TOD") allocation factors contained within its *pro forma* agreement were used in the LCBF analysis. Upon execution of an agreement, SCE ensures these same TOD allocation factors are used in the calculation of SEPs that is sent to the CEC, if necessary.

6. Qualitative Factors

Qualitative factors are used as tie-breakers when the quantitative portion of the LCBF analysis for two projects is equal. There were no such ties with the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts, and therefore no need to consider these qualitative factors.

7. Impact of Debt Equivalence

Specific information regarding the impact of debt equivalence on the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts can be found in Appendix C.

D. Standard Terms and Conditions

The Baja Wind, Granite Wind, California Sunrise and LACSD Contracts contain modifications to certain standard contract terms that were identified in D.04-06-014. In that decision, the Commission established certain standard terms and conditions to be used by the IOUs when contracting for RPS-eligible resources. The Appendix to the decision, which sets forth the standard language, states in parentheses that the terms "May Not be Modified" or "May be Modified." The decision also states, however, that the purpose of the standard terms was to develop "a 'year one' contract to enable the RPS solicitation to move forward, and [the Commission] expect[s] that the contract language will become more refined as the parties and the Commission gain further experience."² Therefore, the decision contemplated that the IOUs would be able to modify the standard terms after 2004 as needed. In this context, SCE proposed and had approved in D.06-05-039 certain modifications to the "standard" terms in its 2006 RPS procurement plan and bid solicitation materials. SCE's bid solicitation materials included SCE's 2006 RPS *pro forma* agreement, which is very similar to the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts.

In addition, these modifications to the standard terms were commercially necessary or substantively immaterial to the terms contained in D.04-06-014. A comparison of the non-modifiable standard terms from D.04-06-014, along with justifications for the modifications to the Baja Wind, Granite Wind, California Sunrise and LACSD Contract terms, can be found in Appendix H. Furthermore, the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts contain modifications to the non-modifiable standard terms that have been previously approved by the Commission in the approval of seven other RPS contracts from SCE's 2005 RPS solicitation. Again, Appendix H includes a more complete discussion of these approved terms.

With respect to the standard terms that "May be Modified," SCE modified most if not all of these terms. Many of these changes were made to bring more clarity to the PPAs as a whole and reflect experience gained through previous RPS solicitations. For

² The decision was issued in 2004 and was applicable to the IOUs' 2004 RPS solicitations. Therefore, within the context of the decision, "year one" refers to 2004.

example, D.04-06-014 has “modifiable” generic performance standard/requirements.³ The Baja Wind, Granite Wind, California Sunrise and LACSD Contracts include a detailed performance standard that the parties have found commercially reasonable and that reflects SCE’s experience in entering numerous RPS contracts with counterparties that the “standard” term lacks. Furthermore, some of the standard terms do not work in the context of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts. The “modifiable” product definitions for “as-available” and “unit firm” products are remnants of the Edison Electric Institute agreement that do not make sense in SCE’s agreements.⁴ SCE has also made other changes to the standard terms, many of them non-substantive, so that the definitions and other provisions of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts work together. Simply dropping all of the standard terms and conditions into the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts would result in inconsistent definitions and use of terms and would render some provisions nonsensical.

Accordingly, all of the changes to the “modifiable” standard terms were mutually agreed to by SCE, Baja Wind, Granite Wind, California Sunrise and LACSD, and were made to better reflect current RPS contracting experience and bring more clarity to the agreements.

E. Minimum Quantity

In D.07-05-028, the Commission held that, beginning in 2007, each LSE obligated under the RPS program must enter into contracts of at least 10 years duration (“long-term contracts”) or short-term contracts with facilities that commenced commercial operation on or after January 1, 2005 (“new facilities”) for energy deliveries equivalent to 0.25 percent of that LSE’s prior year’s retail sales, in order to be able count for RPS compliance energy deliveries from short-term contracts with existing facilities.

The Baja Wind, Granite Wind, California Sunrise and LACSD Contracts are all long-term contracts. In 2007, SCE has executed seven RPS contracts – one resulting from SCE’s 2005 RPS solicitation and six resulting from SCE’s 2006 RPS solicitation. All seven of these contracts are long-term contracts. Accordingly, 100 percent of the RPS contracts that SCE has executed in 2007 are long-term contracts.

F. Project Viability

The viability of the Baja Wind project is high for several reasons. First, the co-developers of the project, Cannon Power Corp. and Sempra Generation, are highly experienced developers. Cannon Power Corp. has more than 26 years experience in developing, constructing and operating wind turbine facilities in the United States and internationally. Sempra Generation operates and maintains a fleet of power plants serving the Western United States market. Moreover, Sempra Generation is a

³ See D.04-06-014 at Appendix A, A-10.

⁴ See D.04-06-014 at Appendix A, A-14.

subsidiary of Sempra Energy, a Fortune 500 energy services holding company with 2006 revenues of nearly \$12 billion.

Second, the facility's location, across the United States/Mexico border near the town of La Rumorosa in Baja California, Mexico, is an excellent wind resource that is currently untapped. Third, Baja Wind will utilize proven and mature wind turbine generator technology for its facility. Although the facility may utilize new wind turbine generator models, wind turbine generator technology is well-established and has been supplying a substantial amount of renewable energy to SCE and other California LSEs for many years.

Fourth, neither Baja Wind nor SCE anticipate any problems for Baja Wind in obtaining site control of the project location in Mexico. The co-developers of the Baja Wind project have extensive experience in permitting wind generation facilities and experience in permitting facilities in Mexico. Fifth, the financing of the project is secure. Cannon Power Corp. has been able to complete project financing for several other wind projects. Furthermore, Sempra Generation has the capability of completing balance sheet financing.

Finally, neither Baja Wind nor SCE anticipate that the construction of the facility and its equipment will be an impediment to the completion of the project. The co-developers of the project have extensive experience in constructing wind generation facilities and experience in constructing facilities in Mexico.

The viability of the Granite Wind project is also high for several reasons. First, the co-developers of the project, RES Americas Development, RENEWergy LLC and G.H. Energy Limited, collectively have extensive experience in financing, constructing and operating wind generating facilities. Second, the facility's location, on Granite Mountain, near Apple Valley in San Bernardino County, California, is a moderate wind resource that is currently untapped.

Third, Granite Wind will utilize proven and mature wind turbine generator technology for its facility. Wind turbine generator technology is well-established and has been supplying a substantial amount of renewable energy to SCE and other California LSEs for many years. The wind turbine generators that will be used for the project are expected to be the latest generation of three-bladed, upwind, variable speed Siemens 2.3 MW model or Vestas 3 MW model.

Fourth, neither Granite Wind nor SCE anticipate any problems for Granite Wind in obtaining site control of the project location. Most of the project location is on Bureau of Land Management ("BLM") land, and Granite Wind has site control from the private landowner that owns the portion of the project location that is not on BLM land. Fifth, the financing of the project is secure. The co-developers of the project have been able to complete project financing for previous projects and do not anticipate any problems in financing the Granite Wind project.

Finally, neither Granite Wind nor SCE anticipate that the construction of the facility and its equipment will be an impediment to the completion of the project. The co-developers of the project have strong experience in facility construction.

The viability of the California Sunrise project is moderate for several reasons. First, California Sunrise does not have a great deal of prior experience as a project developer. Second, the facility's location in California City, California is an adequate solar resource. Third, California Sunrise will utilize proven and mature photovoltaic solar technology for its facility. The facility is expected to utilize fixed position, row photovoltaic, 200 watt PV modules.

Fourth, California Sunrise has a lease option for 100 percent of the project location. Fifth, California Sunrise expects to finance the project seeking traditional 70/30 equity to debt. California Sunrise expects to leverage the PPA to obtain debt financing and will likely seek a partnership with an equity interest for the major part of the equity. Sixth, neither California Wind nor SCE anticipate that the construction of the facility and its equipment will be an impediment to the completion of the project. California Sunrise has retained individuals with a good background in constructing renewable resources. Finally, SCE does not anticipate that transmission will be an impediment to the viability of the project because the project will interconnect to SCE's distribution system. Additional transmission information regarding the project can be found in Appendix C.

The viability of the LACSD project is high for several reasons. First, LACSD is an experienced developer and operator of biomass facilities. LACSD has been providing SCE with renewable energy from the Palos Verdes site pursuant to an SO4 contract since 1988 and operates four other biomass facilities in the greater Los Angeles area.

Second, the facility has a proven fuel source. LACSD has relied on its landfill site in Palos Verdes as a fuel source for nearly 19 years while providing energy to SCE under an SO4. Using well-established forecasting techniques, LACSD has determined the expected level of output of landfill gas and the expected level of decline from the source. This information, which has been verified by LACSD's historical production and pressure readings from the landfill gas wells, confirms that LACSD will be able to honor its delivery requirements under the contract.

Third, LACSD plans to employ a proven technology for its facility. Specifically, LACSD is planning to replace the current power plant with eight I-R MT250 microturbines. These new turbines will allow for more efficient conversion of low BTU landfill gas to electric energy. This technology has been developed over several years and has been used successfully in many applications including the conversion of landfill gas to electricity. It should be noted, however, that I-R only guarantees the performance of its microturbine for gas that is 38 percent methane by volume. The LACSD landfill methane content of 35 percent is below this guarantee. I-R and LACSD, however, are attempting to work on a minor redesign of the turbines to allow the guaranteed minimum of the equipment to encompass the 35 percent methane level at LACSD. SCE does not foresee the redesign as an issue on performance of the contract. LACSD plans to blend

natural gas with the landfill gas to increase the BTU content of the fuel solely to effect smooth and reliable starts on the microturbines.

Fourth, LACSD owns and operates the Palos Verdes Landfill on which the project is located and from which the fuel is derived. Fifth, financing of the project is secure in that LACSD is a public entity and relies on the full faith and credit of the County of Los Angeles. Sixth, SCE does not anticipate the replacement of the power plants to be an impediment to the completion of the project. The I-R MT250 microturbines are modular in design and will be delivered to the site pre-tested by I-R. In addition, pouring of the foundation and plumbing of the gas lines are a relatively straight forward process and are not expected to pose a problem.

Finally, transmission should not be an impediment to the viability of the project. Currently, LACSD is providing energy directly to SCE's distribution lines under an SO4 contract for a capacity amount of 4 MW. LACSD has filed a new interconnection agreement with SCE for the new power plant. SCE does not expect this process to be an impediment to the viability of the facility or cause a delay in the on-line date of the contract. Additional information regarding transmission for the LACSD Contract is provided in Appendix C.

Project viability matrices for the Baja Wind, Granite Wind, California Sunrise and LACSD projects can be found in Appendix F.

G. Contingencies and Milestones

1. PTCs/ITCs

Specific information regarding production tax credits ("PTCs") and investment tax credits ("ITCs") for the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts can be found in Appendix C.

2. Termination Rights Impacting the Schedule for Commission Approval

Specific information regarding termination rights that may impact the schedule for Commission approval of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts can be found in Appendix C.

H. Regulatory Process

1. Earmarking

According to D.06-05-039 and the December 6, 2006 extension granted by the Executive Director of the Commission, SCE is permitted to earmark contracts from its 2006 RPS solicitation to 2006 if the contract is executed before June 30, 2007. The Baja Wind, Granite Wind, California Sunrise and LACSD Contracts were executed on June 29, 2007. Therefore, SCE reserves the right to earmark any generation from

these contracts from 2008 or 2009 into its 2006 RPS compliance year. SCE further reserves the right to earmark any generation from these contracts into future RPS compliance years.

2. RPS-eligibility Certification From the CEC

To date, Baja Wind, Granite Wind, California Sunrise and LACSD have not received RPS-eligibility certification from the CEC. However, neither SCE nor the counterparties foresee any issues with obtaining CEC certification.

3. Applicability of SB 1368 and the Commission's Greenhouse Gas Emissions Performance Standard

The California Legislature passed Senate Bill ("SB") 1368 on August 31, 2006 and Governor Schwarzenegger signed the bill into law on September 29, 2006. Section 2 of SB 1368 adds Public Utilities Code section 8341(a), which provides that "No load-serving entity or local publicly owned electric utility may enter into a long-term financial commitment unless any baseload generation supplied under the long-term financial commitment complies with the greenhouse gases emission performance standard established by the commission, pursuant to subdivision (d)."⁵

In order to institute the provisions of SB 1368, the Commission instituted Rulemaking 06-04-009. This proceeding resulted in the establishment of a GHG emissions performance standard ("EPS"), for CO₂. D.07-01-039 noted, "SB 1368 establishes a minimum performance requirement for any long-term financial commitment for baseload generation that will be supplying power to California ratepayers. The new law establishes that the GHG emissions rates for these facilities must be no higher than the GHG emissions rate of a combined-cycle gas turbine (CCGT) powerplant."⁶

The decision further explains:

SB 1368 describes what types of generation and financial commitments will be subject to the EPS ("covered procurements"). Under SB 1368, the EPS applies to "baseload generation," but the requirement to comply with it is triggered only if there is a "long-term financial commitment" by an LSE. The statute defines baseload generation as "electricity generation from a powerplant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." . . . For baseload generation procured under contract, there is a

⁵ California Public Utilities Code § 8341(a).

⁶ D.07-01-039 at 2-3.

long-term commitment when the LSE enters into "a new or renewed contract with a term of five or more years."⁷

In D.07-01-039, the Commission found that it would be redundant and costly to require LSEs to demonstrate EPS compliance for each new ownership investment, new contract or renewed contract with baseload renewable resources if the record clearly demonstrated that these resources comply with the EPS on a net emissions basis.⁸ The Commission found that the net GHG emissions from the following renewable resources/technologies meet the interim EPS:

- Solar Thermal Electric (with up to 25 percent gas heat input);
- Wind;
- Geothermal, with or without reinjection; and
- Generating facilities (e.g., agricultural and wood waste, landfill gas) using biomass that would otherwise be disposed of utilizing open burning, forest accumulation, landfill (uncontrolled, gas collection with flare, gas collection with engine), spreading or composting.⁹

By this Advice Letter filing, SCE requests that the Commission approve four long-term PPAs with Baja Wind, Granite Wind, California Sunrise and LACSD. Although, in general, these four "new contracts with a term of five years or more years" would be subject to the EPS, all of these PPAs are exempt from such regulations. Three of the PPAs utilize technologies that have been deemed compliant with the EPS standard under D.07-01-039 (the Baja Wind and Granite Wind Contracts utilize wind technology and the LACSD Contract is a biomass facility utilizing landfill gas). The fourth PPA, the California Sunrise Contract, utilizes a renewable technology (photovoltaic solar) that has not been previously deemed compliant by the Commission. However, the California Sunrise facility will be operated at an expected capacity factor of 27 percent. That is well below the threshold baseload capacity factor of 60 percent, above which the EPS rules would apply.

CONFIDENTIALITY

SCE is requesting confidentiality of Appendices B-D and F-K to this Advice Letter. The information for which SCE is seeking confidential treatment is identified in Appendix A hereto. The confidential version of this Advice Letter will be made available to appropriate parties (in accordance with SCE's Proposed Protective Order) upon execution of the required non-disclosure agreement. Parties wishing to obtain access to the confidential version of this Advice Letter may contact Cathy Karlstad in SCE's

⁷ *Id.* at 4.

⁸ *Id.* at 245-246, Finding of Fact No. 117.

⁹ *Id.* at 246, Finding of Fact No. 118; 269-70, Conclusion of Law No. 35.

Law Department at Cathy.Karlstad@sce.com or (626) 302-1096 to obtain a non-disclosure agreement. In accordance with General Order 96-B, a copy of SCE's Proposed Protective Order is provided as Appendix M to this Advice Letter. It is appropriate to accord confidential treatment to the information for which SCE requests confidential treatment in the first instance in the advice letter process because such information is entitled to confidentiality protection pursuant to D.06-06-066 and is required to be filed by advice letter as part of the process for obtaining Commission approval of RPS PPAs.

The information in this Advice Filing for which SCE requests confidential treatment, the pages on which the information appears, and the length of time for which the information should remain confidential, are provided in Appendix A. This information is entitled to confidentiality protection pursuant to D.06-06-066 (as provided in the IOU Matrix). The specific provisions of the IOU Matrix that apply to the confidential information in this Advice Letter are identified in Appendix A.

The confidential information provided in this Advice Filing cannot be aggregated, redacted, summarized, masked, or otherwise protected in a manner that would allow partial disclosure of the data, while still protecting confidential information, because the RPS contract advice letter template calls for the data to be provided in its present form. SCE would object to any disclosure of the confidential information in aggregated form. Based on the format of the RPS contract advice letter template, SCE is not aware of any manner that the confidential information could be aggregated that would qualify the information for public status under the IOU Matrix of D.06-06-066.

To the best of my knowledge, SCE maintains as confidential the information contained in this Advice Letter for which confidentiality is sought. I am informed and believe that this information is maintained by SCE's Renewable and Alternative Power department and provided internally only to those employees who need to know the information to carry out their job duties. I am also informed and believe that this information has not been disclosed to any person other than employees of SCE or non-market participants (such as staff of the CPUC).

REQUEST FOR COMMISSION APPROVAL

The terms of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts are conditioned on the occurrence of "CPUC Approval," as it is defined in the PPAs. In order to satisfy that condition with respect to the PPAs, SCE requests that the Commission issue a resolution no later than October 25, 2007, containing:

1. Approval of the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts in their entirety;

2. Approval of the modification of certain terms and condition in the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts that are provided for in D.04-06-014;
3. A finding that any electric energy sold or dedicated to SCE pursuant to the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts constitutes procurement by SCE from an eligible renewable energy resource ("ERR") for the purpose of determining SCE's compliance with any obligation that it may have to procure from ERRs pursuant to the RPS Legislation or other applicable law concerning the procurement of electric energy from renewable energy resources;
4. A finding that all procurement under the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts counts, in full and without condition, towards any annual procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
5. A finding that all procurement under the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts counts, in full and without condition, towards any incremental procurement target established by the RPS Legislation or the Commission which is applicable to SCE;
6. A finding that all procurement under the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts counts, in full and without condition, towards the requirement in the RPS Legislation that SCE procure 20 percent (or such other percentage as may be established by law) of its retail sales from ERRs by 2010 (or such other date as may be established by law);
7. A finding that the Baja Wind, Granite Wind, California Sunrise and LACSD Contracts, and SCE's entry into these PPAs, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the PPAs, subject only to further review with respect to the reasonableness of SCE's administration of the PPAs;¹⁰ and
8. Any other and further relief as the Commission finds just and reasonable.

TIER DESIGNATION

Pursuant to D.07-01-024, Energy Industry Rule 5.3, SCE submits this Advice Letter with a Tier 3 designation (effective after Commission approval).

¹⁰ As provided in the Baja Wind, California Sunrise and LACSD Contracts, SCE is requesting authorization to recover in rates payments made pursuant to those PPAs up to the appropriate MPRs. Baja Wind, California Sunrise and LACSD intend to seek SEPs to cover all payments above the appropriate MPRs.

EFFECTIVE DATE

SCE requests that this advice filing become effective by October 25, 2007, subject to review and approval by the Commission.

NOTICE

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

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

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

Stuart Hemphill
Director of Renewable and Alternative Power
c/o Mike Marelli
Southern California Edison Company
2244 Walnut Grove Avenue, Quad 4D
Rosemead, CA 91770
Facsimile: (626) 302-1103
E-mail: Mike.Marelli@sce.com

With a copy to:

Cathy A. Karlstad
Attorney
Southern California Edison Company
2244 Walnut Grove Avenue, 3rd Floor
Rosemead, CA 91770
Facsimile: (626) 302-1904
E-mail: Cathy.Karlstad@sce.com

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

In accordance with Section 4 of General Order No. 96-B, SCE is furnishing copies of this advice filing to the interested parties shown on the attached R.06-05-027, R.06-02-012, and GO 96-B service lists. Address change requests to the GO 96-B service list should be directed to AdviceTariffManager@sce.com or at (626) 302-2930. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov.

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

All questions concerning this advice filing should be directed to James Woodruff at (626) 302-1924 (E-mail: james.woodruff@sce.com).

Southern California Edison Company

Akbar Jazayeni

AJ:jw:sq
Enclosures

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

Company name/CPUC Utility No.: Southern California Edison Company (U 338-E)		
Utility type: <input checked="" type="checkbox"/> ELC <input type="checkbox"/> GAS <input type="checkbox"/> PLC <input type="checkbox"/> HEAT <input type="checkbox"/> WATER	Contact Person: James Yee Phone #: (626) 302-2509 E-mail: James.Yee@sce.com E-mail Disposition Notice to: AdviceTariffManager@sce.com	
EXPLANATION OF UTILITY TYPE		(Date Filed/ Received Stamp by CPUC)
ELC = Electric GAS = Gas PLC = Pipeline HEAT = Heat WATER = Water		
Advice Letter (AL) #: <u>2143-E</u> Tier Designation: <u>3</u>		
Subject of AL: <u>Submission of Contracts for Procurement of Renewable Energy From SCE's 2006 Renewables Portfolio Standard Solicitation</u>		
Keywords (choose from CPUC listing): <u>Contracts, Portfolio, Procurement</u>		
AL filing type: <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Annual <input checked="" type="checkbox"/> One-Time <input type="checkbox"/> Other		
If AL filed 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 ¹ :		
Confidential treatment requested? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
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: Cathy A. Karlstad, Law Department, at (626) 302-1096 or by electronic at Cathy.Karlstad@sce.com		
Resolution Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Requested effective date: <u>10/25/07 subject to Commission approval</u>		No. of tariff sheets: <u>-0-</u>
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: <u>None</u>		
Service affected and changes proposed ¹ :		
Pending advice letters that revise the same tariff sheets: <u>None</u>		

¹ Discuss in AL if more space is needed.

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

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

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

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

Stuart Hemphill
Director of Renewable and Alternative Power
c/o Mike Marelli
Southern California Edison Company
2244 Walnut Grove Avenue, Quad 4D
Rosemead, California 91770
Facsimile: (626) 302-1103
E-mail: Mike.Marelli@sce.com

With a copy to:

Cathy A. Karlstad
Attorney
Southern California Edison Company
2244 Walnut Grove Avenue, 3rd Floor
Rosemead, California 91770
Facsimile: (626) 302-1904
E-mail: Cathy.Karlstad@sce.com

Appendix A

Designation of Confidential Information

DESIGNATION OF CONFIDENTIAL INFORMATION

Identified below are the data in SCE's Advice Letter for which SCE is seeking confidential protection and the categories of the Matrix of Allowed Confidential Treatment Investor Owned Utility ("IOU") Data (the "IOU Matrix") to which these data correspond. Also set forth is the period of time for which confidential protection is authorized by the IOU Matrix.

Data	Page	Matrix Category	Period of Confidentiality
Summary of 2003-2006 RPS Solicitation Data	Appendix B	<p>VII.F/VII.G RPS Contracts</p> <p>VII.H Score sheets, analyses, evaluations of proposed RPS projects</p> <p>VIII.A Bid Information</p> <p>VIII.B Specific quantitative analysis involved in the scoring and evaluation of participating bids</p>	<p>RPS contracts confidential for three years, or until one year following expiration, whichever comes first.</p> <p>Score sheets, analyses, evaluations of proposed RPS projects confidential for three years.</p> <p>For bid information, total number of projects and megawatts bid by resource type public after final contracts submitted to CPUC for approval.</p> <p>Specific quantitative analysis involved in the scoring and evaluation of participating bids confidential for three years after winning bidders selected.</p>
Confidential Contract Summary for Baja Wind, Granite Wind, California Sunrise and LACSD	Appendix C	<p>VII.F/VII.G RPS Contracts</p> <p>VII.H Score sheets, analyses, evaluations of proposed RPS projects</p> <p>VIII.A Bid Information</p>	<p>RPS contracts confidential for three years, or until one year following expiration, whichever comes first.</p> <p>Score sheets, analyses, evaluations of proposed RPS projects confidential for three years.</p>

		VIII.B Specific quantitative analysis involved in the scoring and evaluation of participating bids	For bid information, total number of projects and megawatts bid by resource type public after final contracts submitted to CPUC for approval. Specific quantitative analysis involved in the scoring and evaluation of participating bids confidential for three years after winning bidders selected.
Baja Wind's, Granite Wind's, California Sunrise's and LACSD's Contributions to RPS Goals	Appendix D	VII.F/VII.G RPS Contracts V.C LSE Total Energy Forecast – Bundled Customer	RPS contracts confidential for three years, or until one year following expiration, whichever comes first. LSE total energy forecast – bundled customer front three years of forecast data confidential.
Project Viability Matrices for Baja Wind, Granite Wind, California Sunrise and LACSD	Appendix F	VII.H Score sheets, analyses, evaluations of proposed RPS projects	Score sheets, analyses, evaluations of proposed RPS projects confidential for three years.
CEC-SEP Pricing Worksheets for Baja Wind, Granite Wind, California Sunrise and LACSD	Appendix G	VII.F/VII.G RPS Contracts VII.H Score sheets, analyses, evaluations of proposed RPS projects	RPS contracts confidential for three years, or until one year following expiration, whichever comes first. Score sheets, analyses, evaluations of proposed RPS projects confidential for three years.

Comparison of Standard Contract Terms to the Baja Wind, Granite Wind, California Sunrise and LACSD Contract Terms	Appendix H	VII.F/VII.G RPS Contracts	RPS contracts confidential for three years, or until one year following expiration, whichever comes first.
Baja Wind Contract	Appendix I	VII.F RPS Contracts	RPS contracts confidential for three years, or until one year following expiration, whichever comes first.
Granite Wind Contract	Appendix J	VII.G RPS Contracts	RPS contracts confidential for three years, or until one year following expiration, whichever comes first.
California Sunrise Contract	Appendix K	VII.F RPS Contracts	RPS contracts confidential for three years, or until one year following expiration, whichever comes first.

Appendix B

Summary of 2003-2006 RPS Solicitation Data

Confidential Protected Materials – Public Disclosure Prohibited

Appendix C

Confidential Contract Summary

Confidential Protected Materials – Public Disclosure Prohibited

Appendix D

**Baja Wind's, Granite Wind's, California Sunrise's and LACSD's Contributions to
RPS Goals**

Confidential Protected Materials – Public Disclosure Prohibited

Appendix E
SCE's RPS Bid Evaluation and Selection Process and Criteria

SCE's Written Description of RPS Bid Evaluation and Selection Process and Criteria ("LCBF Written Report")

I. Introduction

A. Note relevant language in statute and CPUC decisions approving LCBF process and requiring LCBF Reports

Under the direction of the California Public Utilities Commission (the "Commission"), SCE conducts annual solicitations for the purpose of procuring power from eligible renewable resources to meet California's Renewables Portfolio Standard ("RPS"). SCE evaluates and ranks proposals based on least-cost/best-fit principles ("LCBF") that comply with criteria set forth by the Commission in D.03-06-071 and D.04-07-029 ("LCBF Decisions"). *See also* Pub. Util. Code Section 399.14(a)(2)(B).

B. Goals of bid evaluation and selection criteria and processes

The LCBF analysis evaluates both quantitative and qualitative aspects of each proposal to estimate its value to SCE's customers and relative value in comparison to other proposals.

II. Bid Evaluation and Selection Criteria

While assumptions and methodologies have evolved slightly over time, the basic components of SCE's evaluation and selection criteria and process for RPS contracts were established in the Commission's LCBF Decisions. The three main steps that are undertaken by SCE are an initial data gathering period, followed by a quantitative assessment of proposals, ending with adjustments to selection based on qualitative attributes of proposals.

Prior to receiving proposals, SCE finalizes major assumptions and methodologies that drive valuation, including power and gas prices forecasts, existing and forecast resource portfolio, and firm capacity value forecast. Other assumptions, such as the Transmission Ranking Cost Report ("TRCR"), are filed with the Commission for approval prior to the release of the solicitation materials. In addition, SCE gathers the current input assumptions that are developed by external parties, such as the integration costs set by the California Energy Commission ("CEC").

Once proposals are received, SCE begins an initial review for completeness, conformance, and viability. The review includes a screen for reasonableness of proposal parameters, such as generation profiles and capacity factors. SCE works directly with bidders to resolve any issues and ensure data is ready for evaluation.

After this initial review, SCE performs the quantitative assessment of each proposal individually. The result of the quantitative analysis is a relative ranking of proposals that helps define the preliminary short list. Qualitative attributes of each proposal are then considered to further screen the short list and determine tie-breakers, if needed, to arrive at a final short list of proposals.

After this analysis, SCE consults with its Procurement Review Group (“PRG”) regarding its final short list and specific evaluation criteria. Whether a proposal selected in this process results in an executed contract depends on how negotiations proceed. Periodically, SCE updates the PRG regarding the progress of negotiations and also reviews contracts with the PRG prior to execution. Subsequently, SCE executes contracts and submits them to the Commission for approval via advice letter filing.

A. Description of Criteria

1. List and discuss the quantitative and qualitative criteria used to evaluate and select bids. This section should include a full discussion of the following:

Quantitative Assessment

SCE evaluates the quantifiable attributes of each proposal individually and subsequently ranks them based on their benefit-to-cost ratio. The benefit-to-cost ratio used in the LCBF evaluation is different than a typical benefit-to-cost ratio, which would usually represent net benefits or value divided by the project cost. In the context of LCBF evaluation, the benefit-to-cost ratio measures total benefits divided by total costs because there is no readily cognizable “project cost” for these proposals. Benefits are comprised of separate capacity and energy components, while costs include the contract price, integration costs, transmission cost, and debt equivalence. SCE discounts the annual benefit and cost streams to a common base year prior to calculating the benefit-to-cost ratio for each proposal.

$$\text{B - C Ratio} = \frac{\text{Capacity Benefit} + \text{Energy Benefit}}{\text{Payments} + \text{Integration Cost} + \text{Transmission Cost} + \text{Debt Equivalence}}$$

In developing its relative ranking of proposals, SCE’s evaluation methodology incorporates information provided by sellers and assumptions prescribed and set by the CPUC and CEC, with its internal methodologies and forecasts of market conditions. The objective of the quantitative assessment and relative ranking is to develop a preliminary short list that is further refined based on the non-quantifiable attributes discussed below. Each of the elements for the RPS benefit-to-cost ratio is described briefly below.

Capacity Benefit

Each proposal is assigned capacity benefits based on SCE’s forecast of capacity value and a technology-specific effective load carrying capability (“ELCC”). SCE’s capacity value forecast consists of a market view for the first two years and a combustion turbine (“CT”) proxy thereafter. The market view of capacity is derived from current broker quotes for SP15 power using a Black’s option model. The CT proxy is based on the

annual deferral value of a General Electric 7FA simple-cycle combustion turbine. ELCC values are established by the CEC's Renewable Generation Integration Cost Analysis ("RGICA"). Annual capacity benefits are the product of SCE's firm capacity value forecast, the total proposed capacity of the project, and the ELCC. For partial years, the capacity value is distributed throughout the year according to SCE's relative loss-of-load probability factors.

Energy Benefit

SCE measures the energy benefits of a proposal by evaluating its effect on the total production cost of SCE's forecasted resource portfolio to serve its bundled customer load. The evaluation of energy benefits is performed with a portfolio and system that is consistent with SCE's most recently approved Long-Term Procurement Plan ("LTTP"), with some updates to account for the latest gas price and load forecasts and the results of recent procurement activities.

SCE uses Global Energy Decisions' ProSym model to compare the total production costs of SCE's base resource portfolio ("project out") with the total production costs when each proposal is individually added to the base portfolio ("project in"). ProSym performs an hourly, least-cost dispatch with SCE's known resource portfolio and generic generation (Because SCE's complete resource portfolio in the future is uncertain, generic generation is added to the portfolio to ensure that RPS and resource adequacy requirements are satisfied and customer load can be met) to meet customer demand. Each proposal is added to the resource portfolio as a no-cost, must-take hourly generation profile that is provided by the seller. The difference in total production costs between the "project in" and "project out" cases is the energy benefit for each proposal.

SCE's resource portfolio is dispatched against an SP15 power price forecast. For proposals of out-of-area resources, additional congestion charges may be added to the cost of delivering the energy depending on the power price forecast of the originating area relative to SP15 power prices. SCE's power and gas price forecasts are both based on a near-term market view and a longer-term fundamental view of prices.

The simulation model, and hence the energy benefit calculation, captures additional quantitative effects that SCE has been asked to consider by the CPUC, including dispatchability and curtailability. The benefits of these characteristics are rolled into the energy benefit and are not addressed separately.

Debt Equivalence

Debt equivalence, the term used by credit rating agencies to describe the fixed financial obligation resulting from long-term purchased power contracts, can have significant effects on credit quality and cost of borrowing. The CPUC has recognized this cost and ordered it to be used in evaluation of proposals in RPS solicitations. Consistent with D.04-12-048, SCE utilizes a modified Standard & Poor's methodology that employs a 20% risk factor. In cases in which contracts only include energy payments, as with RPS contracts, SCE will use credit agency guidance to determine the percentage of payments that are equivalent to capacity payments and calculate debt equivalence accordingly.

a. Market valuation (i.e. price)

The primary costs associated with each proposal are the payments that SCE pays to sellers for the expected renewable energy deliveries under the terms of the contracts. Proposals include an all-in price for delivered renewable energy, which is adjusted in each time-of-delivery period by energy payment allocation factors ("TOD factors"). SCE develops and submits its TOD factors for each solicitation to the CPUC for approval prior to the issuance of the RFP. The total payments are then determined using the generation profile provided in the proposal and adjusted for electric energy loss factors (to calculate the scheduled amount of electric energy).

- include treatment of integration costs

Integration costs are the additional system costs required to provide load following and regulation as a result of integrating various resources. As per D.04-07-029 and clarified in D.07-02-011, the integration cost adder for all proposals is zero.

- include treatment of dispatchability/curtailability benefits

Dispatchability and curtailability are both attributes that are incorporated into the production simulations used to evaluate the energy benefits. Any proposal received with such characteristics would be modeled as such and the energy benefits would capture the qualitative benefit. SCE has not received any proposals with dispatchability or curtailability attributes in any of its RPS solicitations to date.

b. Portfolio fit

SCE's LCBF quantitative evaluation process inherently captures the impact of portfolio fit. For example, as different proposals are added to the overall portfolio, the resultant residual net short or net long is impacted. Projects that more often increase SCE's net long positions are assigned less value than those projects that are more often filling net short positions. As such, a project that provides more energy when it is most needed and less energy in periods of low need will receive the greatest energy benefit.

c. Credit and collateral requirements

SCE requests that bidders provide pricing for a number of defined collateral levels. For the purposes of the LCBF ranking process, a common collateral point is chosen by SCE by which to evaluate all of the projects. While other considerations are incorporated when determining which collateral point is eventually chosen for individual projects, SCE uses the common point to determine the pricing that is used for ranking purposes.

d. Transmission Cost Adders

System transmission upgrades costs are estimated using SCE's TRCR for resources that do not have an existing interconnection to the electric system or a completed Facilities Study. TRCRs are published prior to the release of the solicitation and are based only on responses to a request for prospective/potential bids. Transmission cost adders for new generation are assigned by cluster, or regions, and are based on standard off-the-shelf unit cost guides. Proposals received in the actual solicitation that do not fit into the clusters defined by the TRCR will have adders developed using the same methodology as was used in the original TRCR.

- **Discuss how much detailed transmission cost information the IOU requires for each project**

Other than the assumptions provided in a bidder's proposal, SCE does not require additional transmission information, unless the bidder has completed a feasibility study. If a feasibility study has been completed then the bidder must provide the results.

- **Discuss whether cost adders are always imputed for projects in transmission-constrained areas, or whether and how costs for alternative commercial transactions (i.e., swapping, remarketing) are substituted.**

SCE uses the best available information it can find when determining the cost of potential upgrades for projects in transmission-constrained areas. For those projects whose transmission upgrade costs cannot be determined from SCE's TRCR, the TRCRs of PG&E or SDG&E are used as appropriate. SCE applies the required upgrade costs to get the project delivered to the nearest defined market (e.g., NP15, SP26, etc.). For projects with an assumed delivery point outside SP26, SCE applies a power swapping methodology, where the power is assumed to be sold into the local market with replacement power purchased in SP26.

Qualitative Assessment (including Project Viability)

In addition to the identified benefits and costs that are quantified in the evaluation, SCE assesses non-quantifiable characteristics of each proposal. These qualitative attributes are used to consider the inclusion of additional sellers on the short list due to: (a) the strength of particular seller's proposal; or (b) the relative weakness of the high ranked proposals.

The attributes that SCE considers include, but are not limited to: (a) extent of Seller's mark-up of SCE's pro forma agreement; (b) project viability; (c) status of project development efforts; (d) timing and progress towards gaining access to transmission; (e) technology viability; (f) technology and economic viability; and (g) seller's capability to perform all of its financial and other obligations under the pro forma agreement.

Where there are weaknesses in some of these factors, SCE utilizes additional contract requirements to manage these issues during the development of the project.

In addition, SCE assesses additional non-quantifiable characteristics of each proposal that are used to determine tie-breakers.

The attributes that SCE considers include, but are not limited to: (a) environmental impacts of seller's proposed project on California's water quality and use; (b) resource diversity; (c) benefits to minority and low income communities; (d) local reliability; and (e) environmental stewardship.

Pursuant to D.04-07-029, the presence of demonstrated qualitative attributes may justify moving a proposal onto SCE's final short list of proposals if (a) the initial proposal rank is within reasonable valuation proximity to those selected for the short list and (b) SCE receives support from its PRG to elevate the proposal based on qualitative factors.

f. Impact of quantitative and qualitative factors on the LCBF ranking process

SCE evaluates the quantifiable attributes of each proposal individually and subsequently ranks them based on their benefit-to-cost ratio. The benefit-to-cost ratio used in the LCBF evaluation is different than a typical benefit-to-cost ratio, which would usually represent net benefits or value divided by the project cost. In the context of LCBF evaluation, the benefit-to-cost ratio measures total benefits divided by total costs because there is no readily cognizable "project cost" for these proposals. Benefits are comprised of separate capacity and energy components, while costs include the contract price, integration costs, transmission cost, and debt equivalence. SCE discounts the annual benefit and cost streams to a common base year prior to calculating the benefit-to-cost ratio for each proposal.

$$\text{B - C Ratio} = \frac{\text{Capacity Benefit} + \text{Energy Benefit}}{\text{Payments} + \text{Integration Cost} + \text{Transmission Cost} + \text{Debt Equivalence}}$$

SCE also assesses non-quantifiable characteristics of each proposal. Qualitative attributes of each proposal are considered to further screen the short list and determine tie-breakers to arrive at a final short list of proposals.

B. Criteria Weightings

1. If a weighting system is used, please describe how each LCBF component is assigned a quantitative or qualitative weighting compared to other components. Discuss the rationale for the weightings.

SCE does not apply a weighing system in its LCBF evaluation.

2. If a weighting system is not used, please describe how the LCBF evaluation criteria are used to rank bids.

SCE's LCBF quantitative evaluation of the bids incorporates energy and capacity benefits with energy payments, transmission & integration costs, and debt equivalence to

create individual benefit-to-cost ratios. It is this benefit-to-cost ratio that is used to rank and compare each project. Qualitative attributes of each proposal are then considered to further screen the short list and determine tie-breakers to arrive at a final short list of proposals.

3. Discuss how the IOU LCBF methodology evaluates project commercial operation date relative to transmission upgrades required for the project.

SCE starts its evaluation with the assumption that the proposed online date for the project is correct and that any transmission upgrades will be complete in accordance with the schedule. For those projects which SCE has concerns over the viability of the timeframe, a range of online dates (and transmission facilities availability) are evaluated to determine the sensitivity of the results to the timing. If the project ranking does not change in a manner that would change its original selection status over a range that SCE deems reasonable, then the original assessment is used. For projects whose selection is dependent on the timing of the project and the availability of upgraded transmission facilities, further analysis of the timing of the projects is required. SCE has not experienced the latter situation in any of its solicitations to date.

4. Discuss how the LCBF methodology takes into account bids that may be more expensive, but have a high likelihood of resulting in viable projects.

SCE's LCBF methodology incorporates project viability in a qualitative assessment after the preliminary ranking of bids has been completed and in determining the size of the shortlist. Bids that are more expensive tend to be lower on the quantitative ranking of projects, and, therefore, often fall near the projects cut-point. SCE errs on the side of inclusiveness in the selection of its final shortlist. For projects with a high likelihood of resulting in viable projects that lie just below, the cut-point may be adjusted or the projects may be included in the final shortlist.

C. Evaluation of utility-owned, turnkey, buyouts, and utility-affiliate projects

1. Describe how utility-owned projects are evaluated against PPAs

SCE views utility-owned cost-of-service generation as a good option for customers to have. SCE does not intend to evaluate utility-owned projects against PPAs, as utility-owned generation and contracted-for generation are fundamentally different products. As such, any attempt to do a numerical comparison of them is unworkable. This topic is discussed in detail in the Supplemental Testimony to SCE's 2006 Long-term Procurement Plan (Section I.B, pgs 2-5). Moreover, approval of a utility-owned project would not be submitted through the solicitation process, but through a formal application.

2. Describe how turnkey projects are evaluated against PPAs

Turnkey projects are similar to utility-owned projects. Refer to response above.

3. Describe how buyout projects are evaluated against PPAs

Project buyout options are essentially a hybrid of utility-owned projects and PPAs. Refer to response above.

4. Describe how utility-affiliate projects are evaluated against non-affiliate projects

Utility-affiliate projects are evaluated in the same manner as non-affiliate projects. In addition, evaluation of utility affiliate projects would be subject to review by the independent evaluator, the PRG, and the Commission through the application approval process.

III. Bid Evaluation and Selection Process

A. What is the process by which bids are received and evaluated, selected or rejected for shortlist inclusion, and further evaluated once on the shortlist?

See above.

B. What is the typical amount of time required for each part of the process?

It takes approximately eight weeks for SCE to complete the LCBF evaluation process, which includes quality control of bidders' information, transmission assessment, quantitative assessment, qualitative assessment, management review, and PRG meetings. Many of these events overlap and may require additional time for clarification from sellers.

C. How is the size of the shortlist determined?

The size of SCE's shortlist is determined largely by an assessment of the attractiveness of RPS-eligible energy bids and a desire for a robust, inclusive set of developer proposals. The shortlist is expanded well beyond the point that is needed for SCE to meet its RPS goals, as there is an expectation that some projects that are selected will not join the shortlist and that negotiations will not be successful with some sellers that are initially on the shortlist.

D. Are rejected bidders told why they were rejected? If so, what is the process?

Yes. Bidders are informed verbally over the phone and in writing by letter.

E. Describe involvement of the Independent Evaluator

The independent evaluator monitors SCE's RPS solicitations, provides an independent evaluation of SCE's process and the proposals it may receive, and helps the Commission and SCE's PRG participants by providing them with information and assessments to ensure that the solicitation was conducted fairly and that the best resources were acquired. The independent evaluator also provides an assessment of SCE's RPS solicitation from the initial phase of the solicitation (i.e., the publicizing of the issuance of the RFP) through the development of a short list of proposals/bidders with whom SCE has commenced negotiations.

F. Describe involvement of the Procurement Review Group

SCE consults with its PRG during each step of the renewable procurement process. Among other things, SCE provides solicitation materials and pro forma contracts to the PRG for review and comment before commencing the RFP; informs the PRG of the initial results of the RFP; explains the evaluation process; and updates the PRG periodically concerning the status of contract formation.

G. Discuss whether and how feedback on the solicitation process is requested from bidders (both successful and unsuccessful) after the solicitation is complete

In 2006, SCE held a conference that solicited feedback regarding SCE's RFP and contracting process from both successful and unsuccessful bidders.

Appendix F

Project Viability Matrices

Confidential Protected Materials – Public Disclosure Prohibited

Appendix G

CEC-SEP Pricing Worksheets

Confidential Protected Materials – Public Disclosure Prohibited

Appendix H

**Comparison of Standard Contract Terms to the Baja Wind, California Sunrise, LACSD
and California Sunrise Contract Terms**

Confidential Protected Materials – Public Disclosure Prohibited

Appendix I

Power Purchase Agreement between SCE and Baja Wind US LLC

Confidential Protected Materials – Public Disclosure Prohibited

Appendix J

Power Purchase Agreement between SCE and Granite Wind, LLC

Confidential Protected Materials – Public Disclosure Prohibited

Appendix K

**Power Purchase Agreement between SCE and California Sunrise I: Alternative
Energy Development LLC**

Confidential Protected Materials – Public Disclosure Prohibited

Appendix L
Power Purchase Agreement between SCE and County Sanitation Districts of Los
Angeles County



SOUTHERN CALIFORNIA
EDISON

An *EDISON INTERNATIONAL* Company

CONTRACT

between

SOUTHERN CALIFORNIA EDISON COMPANY

And

COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

(RAP ID #1213)

TABLE OF CONTENTS

PREAMBLE & RECITALS	1
ARTICLE ONE. SPECIAL CONDITIONS	2
1.01 <u>Generating Facility</u>	2
1.02 <u>Term</u>	3
1.03 <u>Energy Price</u>	3
1.04 <u>Forecasted On-Line Date</u>	3
1.05 <u>Startup Deadline</u>	3
1.06 <u>Firm Operation Date</u>	3
ARTICLE TWO. TERM AND CONDITIONS PRECEDENT; TERMINATION..	4
2.01 <u>Effective Date</u>	4
2.02 <u>Obligations Prior to Commencement of the Term</u>	4
2.03 <u>Conditions Precedent to Commencement of Term</u>	5
2.04 <u>Termination Rights of the Parties</u>	5
2.05 <u>Seller's PGC Funding Termination Rights</u>	7
2.06 <u>Rights and Obligations Surviving Termination</u>	13
ARTICLE THREE. SELLER'S OBLIGATIONS.....	16
3.01 <u>Conveyance of Entire Output, Conveyance of Green Attributes and Capacity Attributes</u>	16
3.02 <u>Resource Adequacy Benefits</u>	16
3.03 <u>Permits and Interconnection, Transmission Service and CAISO Agreements</u>	17

The contents of this document are subject to restrictions on disclosure as set forth herein.

3.04	<u>Failure to Meet Startup Deadline; Extension of Startup Deadline; Demonstration of Contract Capacity.</u>	18
3.05	<u>Seller's Energy Delivery Performance Obligation.</u>	20
3.06	<u>Metering, Communications, and Telemetry.</u>	22
3.07	<u>Site Control.</u>	24
3.08	<u>Site Location.</u>	25
3.09	<u>Design.</u>	25
3.10	<u>Operation and Record Keeping.</u>	25
3.11	<u>Obtaining Scheduling Coordinator Services.</u>	27
3.12	<u>Forecasting.</u>	28
3.13	<u>Scheduled Outages.</u>	28
3.14	<u>Progress Reporting Toward Meeting Milestone Schedule.</u>	29
3.15	<u>Provision of Information.</u>	29
3.16	<u>SCE's Access Rights.</u>	31
3.17	<u>Obtaining and Maintaining CEC Certification and Verification.</u>	31
3.18	<u>Notice of Cessation or Termination of Interconnection Agreement.</u>	31
3.19	<u>Lost Output Report.</u>	32
3.20	<u>CAISO Charges, CAISO Sanctions and SCE Penalties.</u>	33
3.21	<u>Maximum Contract Capacity.</u>	33
3.22	<u>Financial Information for SCE's Consolidation of Seller.</u>	33
3.23	<u>Application of Prevailing Wage.</u>	36
ARTICLE FOUR. SCE'S OBLIGATIONS.		37
4.01	<u>Obligation to Pay.</u>	37

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

4.02	<u>Payments and Adjustments</u>	37
4.03	<u>Payment Statement and Payment</u>	38
4.04	<u>Scheduling Coordinator</u>	41
4.05	<u>CAISO Charges</u>	42
ARTICLE FIVE. FORCE MAJEURE		43
5.01	<u>No Default for Force Majeure</u>	43
5.02	<u>Requirements Applicable to the Claiming Party</u>	43
5.03	<u>Startup Deadline Extension</u>	44
5.04	<u>Firm Operation Date Extension</u>	44
5.05	<u>Termination</u>	44
ARTICLE SIX. EVENTS OF DEFAULT: REMEDIES		45
6.01	<u>Events of Default</u>	45
6.02	<u>Early Termination</u>	48
6.03	<u>Termination Payment</u>	48
ARTICLE SEVEN. LIMITATIONS OF LIABILITIES		49
ARTICLE EIGHT. FINANCIAL INFORMATION		51
8.01	<u>Required Financial Statements</u>	51
8.02	<u>Timely Delivery of Information</u>	51
ARTICLE NINE. GOVERNMENTAL CHARGES		52
9.01	<u>Cooperation to Minimize Tax Liabilities</u>	52

The contents of this document are subject to restrictions on disclosure as set forth herein.

Table of Contents

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

9.02	<u>Governmental Charges</u>	52
9.03	<u>Providing Information to Taxing Authorities</u>	52
ARTICLE TEN. MISCELLANEOUS		53
10.01	<u>Representations and Warranties</u>	53
10.02	<u>Additional Seller Representations, Warranties and Covenants</u>	54
10.03	<u>Indemnity</u>	54
10.04	<u>Assignment</u>	55
10.05	<u>Consent to Collateral Assignment</u>	56
10.06	<u>Abandonment</u>	58
10.07	<u>Governing Law</u>	58
10.08	<u>Notices</u>	58
10.09	<u>General</u>	59
10.10	<u>Confidentiality</u>	61
10.11	<u>Insurance</u>	64
10.12	<u>Nondedication</u>	65
10.13	<u>Mobile Sierra</u>	65
10.14	<u>Simple Interest Payments</u>	65
10.15	<u>Payments</u>	66
10.16	<u>Provisional Relief</u>	66
ARTICLE ELEVEN. MEDIATION AND ARBITRATION		67
11.01	<u>Dispute Resolution</u>	67
11.02	<u>Mediation</u>	67

The contents of this document are subject to restrictions on disclosure as set forth herein.

Table of Contents

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

11.03 <u>Arbitration</u>	68
SIGNATURES	71

The contents of this document are subject to restrictions on disclosure as set forth herein.

Table of Contents

LIST OF EXHIBITS

- A. Definitions.
- B. Generating Facility and Site Description.
- C. Notice List.
- D. Forecasting and Scheduling Requirements and Procedures.
- E. Seller's Milestone Schedule.
- F. Milestone Progress Reporting Form.
- G. Non-Disclosure Agreement.
- H. Time of Delivery Periods and Energy Payment Allocation Factors.
- I. Seller's Estimate of Lost Output.
- J. CAISO Sanctions and SCE Penalties.
- K. Energy Replacement Damage Amount.

BIOMASS STANDARD CONTRACT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

(RAP ID #1213)

PREAMBLE

This Biomass Standard Contract, together with the exhibits, attachments, and any referenced collateral agreement or similar arrangement between the Parties (collectively, the "Agreement") is made and effective as of the following date: June 29, 2007 ("Effective Date").

This Agreement is entered into between:

- (i) **Southern California Edison Company** ("SCE"), a California corporation, whose principal place of business is at 2244 Walnut Grove Avenue, Rosemead, California 91770, and
- (ii) **County Sanitation Districts of Los Angeles County** ("Seller"), a confederation of independent special districts, whose principal place of business is at 1955 Workman Mill Rd. Whittier, CA 90601.

SCE and Seller are sometimes referred to herein individually as a "Party" and jointly as "Parties." Capitalized terms in this Agreement shall have the meanings set forth in Exhibit A.

RECITALS

Seller is willing to construct, own, and Operate a biomass electric energy Generating Facility which qualifies as of the Effective Date as an eligible renewable energy resource under the State of California Renewable Portfolio Standard Program as codified at California Public Utilities Code Section 399.11, *et seq.*, and to sell all electric energy produced by the Generating Facility as specified herein together with all Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE; and

SCE is willing to purchase all electric energy delivered by Seller to SCE generated by such Generating Facility together with all Green Attributes, Capacity Attributes and Resource Adequacy Benefits pursuant to the terms and conditions set forth herein.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Preamble & Recitals

ARTICLE ONE. SPECIAL CONDITIONS

1.01 Generating Facility.

- (a) Name: Palos Verdes Landfill Microturbine Facility
- (b) Location of Site: 25860 Hawthorne Blvd., Rolling Hills Estates, CA 90274 as further described in Exhibit B.
- (c) Generating Facility description is located in Exhibit B.
- (d) Eligible Renewable Energy Resource Type: **Biomass.**
100%Biomass, Landfill Gas.

___ Biomass, MSW.
___ Biomass, Wood.
___ Biomass, Fuel Cell.
___ Biomass, Digester Gas.
___ Biomass, Sewer Gas.
- (e) Contract Capacity:
 - (i) 1.6 MW from the Initial Operation Date through December 31, 2014,
 - (ii) 1.55 MW for calendar year 2015,
 - (iii) 1.5 MW for calendar year 2016,
 - (iv) 1.44 MW for calendar year 2017,
 - (v) 1.4 MW for calendar year 2018,
 - (vi) 1.36 MW for calendar year 2019, and
 - (vii) 1.3 MW thereafter until the end of the Term, unless otherwise agreed by the Parties.

The Contract Capacity may be subject to adjustment pursuant to Section 3.04, *provided* that Contract Capacity shall not exceed five (5) MW.

(f) **Expected Annual Net Energy Production.**

The Expected Annual Net Energy Production for each Term Year shall be the value calculated in accordance with the following formula:

EXPECTED ANNUAL NET ENERGY PRODUCTION, in kWh = A x B x C

Where:

A = Contract Capacity in kW.

B = 70% capacity factor.

C = 8,760 hours per year.

1.02 **Term.**

The term of this Agreement ("Term") shall commence upon Initial Operation as set forth in Section 2.03(a) and shall end on the last day of the calendar month which is:

 X Ten (10) Term Years from the month of the Firm Operation Date.

 Fifteen (15) Term Years from the month of the Firm Operation Date.

 Twenty (20) Term Years from the month of the Firm Operation Date.

1.03 **Energy Price.** \$79.60/MWh

1.04 **Forecasted On-Line Date.**

December 31, 2009

1.05 **Startup Deadline.**

The Startup Deadline shall be June 30, 2010 but in no event shall be later than five (5) years from the Effective Date, or such other date as provided in this Agreement or as may be agreed to in a writing signed by both Parties.

1.06 **Firm Operation Date.**

The Firm Operation Date shall be the date that is six (6) months after Initial Operation, plus any additional days for Force Majeure as provided in Section 5.04, or as may be agreed to in a writing signed by both Parties.

*** End of ARTICLE ONE ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

ARTICLE TWO. TERM AND CONDITIONS PRECEDENT; TERMINATION**2.01 Effective Date.**

This Agreement shall become effective on the Effective Date.

2.02 Obligations Prior to Commencement of the Term.**(a) CPUC Filing and Approval of this Agreement.**

Within ninety (90) days after the Effective Date, SCE shall file with the CPUC the appropriate request for CPUC Approval.

SCE shall seek such approval expeditiously, including promptly responding to any requests for information related to the request for approval from the CPUC.

Seller shall use commercially reasonable efforts to support SCE in obtaining CPUC Approval.

SCE shall have no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Agreement or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.

(b) Seller's Interconnection and Transmission Service Applications.

Seller shall apply for and exercise diligence in obtaining a FERC-accepted interconnection agreement and any transmission, distribution or other service agreement required to interconnect the Generating Facility to, and to transmit electric energy on, the Transmission Provider's electric system.

(c) Seller's Regulatory and Governmental Filings.

(i) Within sixty (60) days prior to the Forecasted On-Line Date, Seller shall file:

- (1) An application or other appropriate request with the CEC for CEC Certification and Verification for the Generating Facility; and
- (2) All applications or other appropriate requests with the proper authorities for all Permits.

- (ii) Seller shall expeditiously seek CEC Certification and Verification and all Permits, including promptly responding to any requests for information from the requesting authority.

2.03 Conditions Precedent to Commencement of Term.

(a) Commencement of Term.

The Term shall commence upon Initial Operation (as defined below).

(b) Initial Operation.

Initial operation of the Generating Facility ("Initial Operation") shall be deemed to have been achieved on the date selected by Seller (the "Initial Operation Date") to begin Forecasting and delivering Product to SCE.

Seller shall provide at least three (3) Business Days advance Notice to SCE of the Initial Operation Date.

The Initial Operation Date shall be no later than sixty (60) days from Initial Synchronization.

In addition, prior to the Initial Operation Date:

- (i) SCE shall have obtained or waived CPUC Approval, as provided herein;
- (ii) Seller shall have complied with those provisions set forth in Section 3.10(c);
- (iii) SCE shall have been authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO as of Initial Synchronization;
- (iv) The Generating Facility shall be Operating in parallel with the applicable Transmission Provider's electric system; and
- (v) Seller shall be Forecasting and delivering electric energy to SCE at the Delivery Point.

2.04 Termination Rights of the Parties.

If either Party exercises a termination right, as set forth in Sections 2.04(a), 2.04(b) or 2.04(c), neither Party shall be responsible for making a Termination Payment to the other Party.

(a) Termination Rights of Both Parties.

- (i) Either Party shall have the right to terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is given, in the event CPUC Approval has not been obtained within three hundred sixty five (365) days after SCE files its request for CPUC Approval and a Notice of termination is given on or before the three hundred ninety fifth (395th) day after SCE files the request for CPUC Approval.
- (ii) Either Party shall have the right to terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is given in the event CEC Certification and Verification and all required Permits have not been obtained by Seller within eighteen (18) months after the Effective Date and a Notice of termination is given on or before the end of the nineteenth (19th) month after the Effective Date.

(b) Termination Rights of Seller.

Seller shall have the right to terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is given, pursuant to the terms and conditions of Section 2.05.

(c) Termination Rights of SCE.

SCE shall have the right to terminate this Agreement on Notice which shall be effective five (5) Business Days after such Notice is given on or before the date that is sixty (60) days after Seller provides to SCE the results of the CAISO's or the Transmission Provider's final Interconnection Study for the Generating Facility if the results of such study reflect that the total cost of transmission or distribution upgrades or new transmission or distribution facilities to SCE, or any Transmission Provider under the jurisdiction of the CAISO, that are not paid by Seller (without reimbursement from SCE or any other Transmission Provider) will exceed fifteen dollars (\$15) per kW.

(d) Uncured Defaults.

Upon the occurrence of an Event of Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 6.02.

(e) End of Term.

At the end of the Term as set forth in Section 1.02, this Agreement shall automatically terminate.

2.05 Seller's PGC Funding Termination Rights.**(a) Request for PGC Funding Award.**

If Seller's Bid Price exceeds the Market Price Referent, Seller may seek a PGC Funding Award from the CEC determined in accordance with the appropriate CEC supplemental energy payment application, workbook and associated documents ("PGC Fund Amount").

To the extent that Seller seeks such PGC Funding Award, Seller shall use best efforts to comply with all funding criteria to obtain the PGC Fund Amount and SCE shall reasonably support Seller's efforts.

Seller shall provide to SCE a copy of Seller's application for PGC funding (and all related work papers, including any workbooks used to determine the PGC Fund Amount) within ten (10) Business Days after Seller submits such application to the CEC.

The deadline for receipt by Seller of either a PGC Funding Confirmation or PGC Funding Award shall be the one hundred twentieth (120th) day from the date on which SCE files this Agreement for CPUC Approval, or otherwise agreed to in writing by the Parties ("PGC Funding Termination Deadline"), after which Seller may exercise its termination rights in accordance with Sections 2.05(b)(ii) and 2.05(c).

(b) Seller's Notices.**(i) PGC Funding Confirmation or Award.**

In the event that Seller receives a PGC Funding Confirmation or a PGC Funding Award on or prior to the PGC Funding Termination Deadline, Seller shall send to SCE, within ten (10) Business Days of receipt of such confirmation or award, Notice of such award or confirmation and a copy of the final funding award agreement entered into by the CEC and Seller, if the funding award agreement has been entered into at that time.

(ii) PGC Funding Denial.

In the event that Seller receives written notice from the CEC denying all or some portion of Seller's requested PGC Fund Amount on or before the PGC Funding Termination Deadline, or the CEC has not responded to Seller's request for PGC Funds by the PGC Funding Termination Deadline, Seller shall send SCE within ten (10) Business Days of receiving written notice from the CEC, if any, but in no event

later than ten (10) Business Days after the PGC Funding Termination Deadline, Notice that shall contain a copy of any notice from the CEC, if applicable, and either:

- (1) A written statement that, effective immediately, Seller waives its termination rights under Section 2.05(b)(ii); or
- (2) A written statement from Seller ("PGC Denial Notice") in which Seller shall:
 - a) Notify SCE that Seller shall terminate this Agreement pursuant to Section 2.05(e) unless SCE exercises its PGC Option and PGC Option Approval is obtained pursuant to Section 2.05(d);
 - b) State the amount of PGC Funds denied ("PGC Denied Funds") and what percentage of PGC Denied Funds it is willing to accept to continue to perform under this Agreement (not to exceed 100%);
 - c) Certify that Seller has not received an offsetting financial benefit per Section 2.05(c)(i)(3) below; and
 - d) Certify that such denial or failure to respond by the CEC is not due to Seller's action or inaction.

If Seller has the right to terminate this Agreement as a result of a failure by Seller to receive either a PGC Funding Confirmation or a PGC Funding Award on or before the PGC Funding Termination Deadline, but fails to send timely Notice to SCE in accordance with the provisions of this Section 2.05(b)(ii), then Seller's termination right under this Section 2.05(b), shall be deemed waived in its entirety.

(c) PGC Funding Revocation.

In the event that a PGC Funding Confirmation or a PGC Funding Award is revoked under the conditions set forth in this Section 2.05(c), Seller may request that either SCE provide PGC Replacement Funds or Seller shall terminate the Agreement.

(i) Conditions for Revocation.

Seller's confirmation or award of PGC Funding shall be deemed revoked if at any time after Seller obtains a PGC Funding Confirmation or PGC Funding Award:

- (1) The PGC Funding Confirmation or PGC Funding Award is revoked in writing in whole or in part by the CEC for reasons not caused by Seller's action or inaction;
- (2) Such revocation occurs prior to the issuance of a PGC Funding Award or during the term of the PGC Funding Award; and
- (3) Seller has not received a financial benefit in the form of tax credits or any other source of public funding or credit directly related to the Product (other than PTC), which benefit would offset the loss incurred from the revocation of the PGC Funding Confirmation or PGC Funding Award.

(ii) Seller's Revocation Notice.

In the event that Seller's PGC Funding Award or PGC Funding Confirmation is revoked as provided in Section 2.05(c)(i), Seller shall send to SCE, within ten (10) days after receiving written notice of revocation from the CEC, Notice that shall contain a copy of any such revocation notice from the CEC and either:

- (1) A written statement that, effective immediately, Seller waives its termination rights under Section 2.05(c)(ii); or
- (2) A written statement from Seller ("PGC Revocation Notice") in which Seller shall:
 - a) Notify SCE that Seller shall terminate this Agreement pursuant to Section 2.05(e) unless SCE exercises its PGC Option and PGC Option Approval is obtained pursuant to Section 2.05(d);
 - b) State the amount of PGC funding lost or revoked ("PGC Lost Funds") and what percentage of PGC Lost Funds it is willing to accept to continue to perform under this Agreement (not to exceed 100%);
 - c) Certify that Seller has not received an offsetting financial benefit per Section 2.05(c)(i)(3) above; and

- d) Certify that such revocation by the CEC is not due to Seller's action or inaction.

If Seller has the right to terminate this Agreement, but fails to send timely Notice to SCE in accordance with this Section 2.05(c), then Seller's termination right under this Section 2.05(c) shall be deemed waived in its entirety.

(d) SCE's Option to Replace PGC Funding.

SCE shall have the following rights and obligations with respect to providing replacement funding when Seller's PGC Funding request is denied as provided in Section 2.05(b)(ii) or revoked as provided in Section 2.05(c)(i):

(i) Option to Provide PGC Replacement Funds.

SCE, in its sole discretion, shall have the right, but not the obligation (the "PGC Option"), to pay to Seller the portion (not to exceed 100%, as mutually agreed by the Parties) of either the percentage of PGC Denied Funds specified in Seller's PGC Denial Notice or the percentage of Lost PGC Funds specified in Seller's PGC Revocation Notice (in either case, the "PGC Replacement Funds"). If SCE exercises the PGC Option, as set forth in Section 2.05(d)(ii), Seller shall continue performing under this Agreement for the remainder of the Term, subject to Section 2.05(d)(iii).

(ii) PGC Option Exercise.

SCE's right to exercise the PGC Option shall be deemed triggered upon SCE's receipt of either the PGC Denial Notice or the PGC Revocation Notice.

SCE shall have thirty (30) days from its receipt of the PGC Denial Notice or the PGC Revocation Notice to give Notice to Seller regarding its exercise of the PGC Option ("PGC Option Exercise Period").

If SCE chooses to exercise the PGC Option, SCE shall send Notice to Seller stating that SCE is exercising the PGC Option, conditioned upon SCE's receipt of PGC Option Approval within one hundred eighty (180) days of the date on which SCE received the PGC Denial Notice or the PGC Revocation Notice.

The date on which SCE provides Notice of its PGC Option exercise to Seller shall be the "PGC Option Exercise Date."

(iii) **PGC Option Approval.**

The effectiveness of the PGC Option exercise shall be subject to SCE's receipt of a final, non-appealable order issued by the CPUC, satisfactory to SCE, approving SCE's exercise of the PGC Option and recovery of costs associated with the payment of the PGC Replacement Funds ("PGC Option Approval").

SCE shall file an advice filing or application with the CPUC seeking the PGC Option Approval within thirty (30) days of the PGC Option Exercise Date.

SCE shall have no obligation to pay Seller any PGC Replacement Funds prior to receipt of such PGC Option Approval.

(iv) **Payment of PGC Replacement Funds.**

Upon SCE's receipt of PGC Option Approval, SCE shall pay Seller that portion of the PGC Replacement Funds, if any, which would have been due Seller on a monthly basis for the period between the PGC Option Exercise Date and the next monthly payment statement following the date on which the PGC Option Approval is issued.

Thereafter, SCE shall pay the remaining PGC Replacement Funds on a monthly basis until the expiration of the term of Seller's PGC Funding Award or PGC Funding Confirmation, as applicable, or PGC Reinstatement, whichever comes first.

Notwithstanding the foregoing, SCE shall not be obligated to pay Seller any PGC Replacement Funds prior to the commencement of the Term.

(e) **Seller's Termination Rights.**

(i) **Conditions for Termination.**

Seller may terminate this Agreement by Notice to SCE upon the occurrence of any of the following events:

- (1) SCE provides Notice to Seller of its election not to exercise the PGC Option, provided that Notice of termination is given by Seller no later than ten (10) Business Days after SCE's Notice.

- (2) The PGC Option expires without being exercised, provided that Notice of termination is given by Seller no later than ten (10) Business Days after the expiration of the PGC Option;
 - (3) SCE fails to seek PGC Option Approval within thirty (30) days of the PGC Option Exercise Date, provided that Notice of termination is given by Seller no later than ten (10) Business Days after the last day for SCE to seek PGC Option Approval; or
 - (4) SCE fails to obtain PGC Option Approval within one hundred eighty (180) days of SCE's receipt of the PGC Denial Notice or the PGC Revocation Notice (and such failure is in no way due to seller's action or inaction), provided that Notice of termination is given by Seller no later than two hundred ten (210) days after SCE's receipt of the PGC Denial Notice or the PGC Revocation Notice.
- (ii) **Effect of Exercise of Termination Right.**

If Seller exercises its termination rights hereunder:

- (1) Both Parties shall continue to perform under this Agreement until the effectiveness of any such termination by Seller;
 - (2) Such termination shall be effective thirty (30) days after the date on which Seller notifies SCE of such termination; and
 - (3) Neither Party shall be subject to liability arising from such termination.
- (f) **Reinstatement of PGC Funding.**
- (i) **Notice of Reinstatement of PGC Funding.**

In the event that either of the following conditions occurs (each, a "PGC Reinstatement"):

- (1) The PGC Funding Award is granted after the PGC Funding Termination Deadline by the CEC, CPUC, or other regulatory agency responsible for the PGC Funds program; or
- (2) The PGC Funding Award is reinstated by the applicable regulatory agency after revocation,

Then Seller shall provide Notice to SCE within ten (10) days of receiving notice of such PGC Reinstatement from the applicable regulatory agency, which Notice shall include a copy of the notice from such agency.

(ii) **Obligations upon PGC Reinstatement.**

If PGC Reinstatement occurs:

- (1) In its entirety, including retroactive payments for PGC Denied Funds or PGC Lost Funds, at any time before Seller's termination of this Agreement or the time within which SCE is permitted to exercise the PGC Option under Section 2.05(d)(ii), then Seller shall no longer be permitted to terminate this Agreement, pursuant to Section 2.05(e), and both Parties shall continue to perform under this Agreement.
- (2) In whole or in part at any time after SCE has exercised the PGC Option but before SCE has made any payments under the PGC Option, then SCE shall be relieved of all further obligations to pay any of Seller's PGC Denied Funds or PGC Lost Funds, which will be covered by the PGC Reinstatement.
- (3) In whole or in part on a retroactive basis after SCE has exercised the PGC Option and made some or all payment under the PGC Option, then SCE shall have the right to offset against payments due to Seller that portion of such award amount equivalent to the PGC Replacement Funds paid by SCE up to and including the date of PGC Reinstatement.
- (4) After the Agreement has been terminated by Seller pursuant to Section 2.05(e), and PGC Reinstatement occurs within one hundred twenty (120) days after termination of the Agreement, the Parties may mutually agree in writing to reinstate the Agreement in accordance with its terms and conditions in effect as of the last Business Day immediately preceding the termination date.

2.06 Rights and Obligations Surviving Termination.

(a) **Survival of Rights and Obligations Generally.**

The rights and obligations that are intended to survive a termination of this Agreement are all of those rights and obligations that this Agreement expressly provides shall survive any such termination and those that arise

The contents of this document are subject to restrictions on disclosure as set forth herein.

from Seller's or SCE's covenants, agreements, representations, and warranties applicable to, or to be performed, at or during any time prior to or as a result of the termination of this Agreement, including, without limitation:

- (i) The obligation of Seller to pay the Energy Replacement Damage Amount under Section 3.05(b);
 - (ii) The obligation to make a Termination Payment under Section 6.03;
 - (iii) The indemnity obligations to the extent provided in Section 10.03;
 - (iv) The obligation of confidentiality set forth in Section 10.10;
 - (v) The right to pursue remedies under Sections 6.02 and 10.16;
 - (vi) The right to receive a Termination Payment under Section 6.03;
 - (vii) The limitation of damages under Article Seven;
 - (viii) The obligation of SCE to make payment for the Startup Period and Energy Payments for Metered Amounts prior to termination under Section 4.02;
 - (ix) The obligation of Seller to make payments for CAISO Charges, CAISO Sanctions and any SCE Penalty that are attributable to Seller's actions or omissions during the Startup Period and the Term pursuant to Section 3.20 and Exhibit J; and
 - (x) The covenants and indemnifications regarding the limitations on Seller's and Seller's Affiliates' ability to offer, make or agree to third party sales as set forth in Sections 2.06(b) and 3.04.
- (b) Limitations on Seller's Ability to Make or Agree to Third Party Sales from the Generating Facility after Certain Terminations of this Agreement.

If Seller terminates this Agreement, as provided in Section 2.04(a)(ii) or Section 5.05 (based upon a Force Majeure as to which Seller is the Claiming Party), or if SCE terminates this Agreement as provided in Section 3.04(a), neither Seller nor Seller's Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits associated with or attributable to a generating facility installed at the Site to a party other than SCE for a period of two (2) years following the effective date of such termination.

This prohibition on contracting and sale shall not apply if, prior to entering into the contract or making a sale to a party other than SCE, Seller or Seller's Affiliates provide SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE on terms and conditions materially similar to the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty five (45) days after SCE's receipt thereof.

Seller shall indemnify and hold SCE harmless from all benefits lost and other damages sustained by SCE as a result of any breach by Seller of its covenants contained within this Section 2.06(b).

***** End of ARTICLE TWO *****

ARTICLE THREE. SELLER'S OBLIGATIONS**3.01 Conveyance of Entire Output
Conveyance of Green Attributes and Capacity Attributes.**

Seller shall use best efforts and Prudent Electrical Practices to Forecast and convey the *entire* Metered Amounts during the Term to SCE.

In addition, Seller shall dedicate and convey any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility during the Term to SCE and SCE shall be given sole title to all such Green Attributes, Capacity Attributes, and Resource Adequacy Benefits.

Seller shall, at its own cost, take all actions and execute all documents or instruments necessary to effectuate the use of the Capacity Attributes, Green Attributes and Resource Adequacy Benefits for SCE's sole benefit throughout the Term.

Such actions shall include:

- (a) Cooperating with and encouraging the regional entity responsible for resource adequacy administration to certify or qualify the Contract Capacity for resource adequacy purposes;
- (b) Testing the Generating Facility in order to certify the Generating Facility for resource adequacy purposes;
- (c) Complying with all current and future CAISO tariff provisions that address resource adequacy, including provisions regarding performance obligations and penalties;
- (d) Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits; and
- (e) Committing to SCE the full output of the Generating Facility.

SCE will have the exclusive right, at any time or from time-to-time during the Term, to sell, assign, convey, transfer, allocate, designate, award, report or otherwise provide any and all such Capacity Attributes, Green Attributes or Resource Adequacy Benefits to third parties; provided, however, any such action shall not constitute a transfer of, or a release of SCE of, its obligations under this Agreement.

SCE shall be responsible for any costs associated with SCE's accounting for or otherwise claiming Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Seller shall convey title to and risk of loss of all Metered Amounts to SCE at the Delivery Point.

From the Effective Date, Seller shall not sell any Product to any entity other than SCE, except that:

- (f) Seller shall have the right to sell electric energy generated by the Generating Facility prior to Initial Operation and any Green Attributes, Capacity Attributes and Resource Adequacy Benefits related to such electric energy generated by the Generating Facility prior to Initial Operation, and to retain all proceeds of such sales; and
- (g) In the event of an Extraordinary SCE Force Majeure, Seller may, but shall not be obligated to, sell the electric energy produced by the Generating Facility to a third party but such third party sales may take place only during the period that SCE is not accepting Seller's energy.

3.02 Resource Adequacy Benefits.

Seller grants, pledges, assigns and otherwise commits to SCE the full Contract Capacity in order for SCE to meet its resource adequacy obligations under any Resource Adequacy Rulings.

Seller also represents, warrants and covenants to SCE that Seller:

- (a) Has not used, granted, pledged, assigned or otherwise committed any portion of the Generating Facility to meet the resource adequacy requirements of, or to confer Resource Adequacy Benefits upon, any entity other than SCE; and
- (b) Will not during the Term of this Agreement use, grant, pledge, assign or otherwise commit any portion of the Generating Facility to meet the resource adequacy requirements of, or to confer Resource Adequacy Benefits upon, any entity other than SCE.

3.03 Permits and Interconnection, Transmission Service and CAISO Agreements.

- (a) Seller shall be responsible for obtaining and maintaining any and all interconnection rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point.

- (b) Seller shall pay all costs and any other charges directly caused by, associated with, or allocated to the interconnection of the Generating Facility to the Transmission Provider's electric system and transmission of electric energy from Seller's Generating Facility to the Transmission Provider's electric system.
- (c) Seller shall be responsible for obtaining and maintaining any and all transmission service rights and Permits required to transmit the electric energy on the Transmission Provider's electric system, including the FERC-accepted transmission or distribution service agreement required to transmit such electric energy.
- (d) Seller shall secure all required CAISO agreements, certifications and approvals, including a Participating Generator Agreement and a Meter Service Agreement.
 - (i) Seller's Participating Generator Agreement, Schedule 1, shall:
 - (1) List all generating units as a single aggregated unit; and
 - (2) Indicate that the generating capacity from the Generating Facility is contracted to SCE under a bi-lateral agreement; and
 - (ii) Seller's Meter Service Agreement, Schedule 1 shall treat all generating units as a single generating unit with a single electric energy meter.
- (e) Seller shall secure through CAISO a CAISO Global Resource ID ("GRI") that is used solely for this Generating Facility.

3.04 Failure to Meet Startup Deadline; Extension of Startup Deadline; Demonstration of Contract Capacity.

(a) Termination Upon Failure to Meet Startup Deadline.

Subject to Seller's right to extend the Startup Deadline as provided in this Section 3.04, Section 1.05, and Section 5.03 (for Force Majeure where Seller is the Claiming Party), in the event that Initial Operation does not occur on or before the Startup Deadline (including due to any termination of this Agreement as a result of an Event of Default by Seller occurring prior to the Startup Deadline), SCE shall be entitled to terminate this Agreement and, subject to Section 2.06(b), neither Party shall have liability for damages for failure to deliver or purchase Product after the effective date of such termination.

(b) Daily Delay Liquidated Damages to Extend Startup Deadline.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (i) Seller may elect to extend the Startup Deadline by paying to SCE Daily Delay Liquidated Damages in an amount equal to twenty cents (\$0.20) per kW of Contract Capacity per day for each day (or portion thereof) from and including the Startup Deadline to and excluding the Initial Operation Date ("Daily Delay Liquidated Damages").
 - (ii) To extend the Startup Deadline, Seller must, at the earliest possible time, but no later than 6 a.m. on the first day of the proposed extension, provide SCE with Notice of its election to extend the Startup Deadline along with its estimate of the duration of the extension and its payment of Daily Delay Liquidated Damages for the full estimated Startup Deadline extension period.
 - (iii) Seller may further extend the Startup Deadline beyond the original Startup Deadline extension period subject to the same terms applicable to the original Startup Deadline extension.
 - (iv) The Daily Delay Liquidated Damages payments applicable to days included in any Startup Deadline extension shall be nonrefundable.
 - (v) Seller shall be entitled to a refund (without interest) of any estimated Daily Delay Liquidated Damages payments paid by Seller which exceed the amount required to cover the number of days by which the Startup Deadline was actually extended.
 - (vi) In no event may Seller extend the Startup Deadline for more than a total of one hundred eighty (180) days by the payment of Daily Delay Liquidated Damages.
- (c) Demonstration of Contract Capacity.
- (i) On or before the Firm Operation Date, after Seller has achieved Initial Operation, Seller shall provide Notice to SCE stating the date and hour selected by Seller during which Seller wishes to demonstrate the capacity of the Generating Facility (the "Demonstration Hour").
 - (ii) Within thirty (30) days after Seller's Notice, SCE shall:
 - (1) Retrieve interval data downloaded from the CAISO Approved Meter for the twelve (12) hour periods before and after the Demonstration Hour;
 - (2) Complete a site visit to verify that the Generating Facility was developed in accordance with the Generating Facility and Site Description set forth in Exhibit B;

- (3) Based upon the foregoing, determine the capacity of the Generating Facility for the purposes of this Agreement (the "Demonstrated Contract Capacity");
 - (4) Provide Notice to Seller of the Demonstrated Contract Capacity.
- (iii) As of the Firm Operation Date:
- (1) If the Contract Capacity set forth in Section 1.01(e) is greater than the Demonstrated Contract Capacity, the Contract Capacity set forth in Section 1.01(e) shall be reduced to an amount equal to the Demonstrated Contract Capacity;
 - (2) The Expected Annual Net Energy Production set forth in Section 1.01(f) shall be calculated using such adjusted Contract Capacity; and
 - (3) Neither Party shall have any liability for failure to purchase or deliver Product associated with or attributable to capacity in excess of the Demonstrated Contract Capacity ("Unincluded Capacity");

provided that, neither Seller nor Seller's Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes or Resource Adequacy Benefits associated with or attributable to Unincluded Capacity from a generating facility installed at the Site to a party other than SCE for a period of two (2) years following SCE's Notice to Seller of the Demonstrated Contract Capacity pursuant to Section 3.04(c)(i).

The prohibition on contracting and sale in the preceding sentence shall not apply if, prior to entering into the contract or making a sale to a party other than SCE, Seller or Seller's Affiliates provide SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits related to Unincluded Capacity to SCE on terms and conditions materially similar to or no less favorable to SCE than the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty five (45) days after SCE's receipt thereof.

3.05 Seller's Energy Delivery Performance Obligation.

Beginning on the commencement of the first Term Year and for every Term Year thereafter, Seller shall be subject to the following electric energy delivery requirements and damages for failure to perform as set forth below.

(a) Performance Requirements.

(i) Seller's Annual Energy Delivery Obligation.

Seller's Annual Energy Delivery Obligation shall be equal to ninety percent (90%) of the Expected Annual Net Energy Production identified in Section 1.01(f).

(ii) Event of Deficient Energy Deliveries.

At the end of each Term Year if the sum of Seller's Qualified Amounts plus any Lost Output during the Term Year does not equal or exceed Seller's Annual Energy Delivery Obligation, *then* an "Event of Deficient Energy Deliveries" shall be deemed to have occurred.

(b) Energy Replacement Damage Amount.

If an Event of Deficient Energy Deliveries occurs, as determined in accordance with Section 3.05(a)(ii) above, the Parties acknowledge that the damages sustained by SCE associated with Seller's failure to meet Seller's Annual Energy Delivery Obligation would be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive, and therefore agree that Seller shall pay SCE as liquidated damages an amount which is intended to compensate SCE for Seller's failure to perform, irrespective of whether SCE actually purchased such replacement electric energy by reason of Seller's failure to perform (the "Energy Replacement Damage Amount").

Within ninety (90) days after the end of the applicable Term Year, SCE shall calculate any Energy Replacement Damage Amount as set forth in Exhibit K, and shall provide Notice to Seller of any Energy Replacement Damage Amount owing, including a detailed explanation of, and rationale for, its calculation methodology, annotated work papers and source data.

Seller shall have thirty (30) days after receipt of SCE's Notice to review SCE's calculation and either pay the entire Energy Replacement Damage Amount claimed by SCE or pay any undisputed portion and provide Notice to SCE of the portion it disputes along with a detailed explanation of, and rationale for, Seller's calculation methodology, annotated work papers and source data.

The Parties shall negotiate in good faith to resolve any disputed portion of the Energy Replacement Damage Amount and shall, as part of such good faith negotiations, promptly provide information or data relevant to the dispute as each Party may possess which is requested by the other Party.

If the Parties are unable to resolve a dispute regarding any Energy Replacement Damage Amount within thirty (30) days after the sending of a Notice of dispute by Seller, either Party may submit the dispute to mediation and arbitration as provided in Article Eleven.

(c) Continuing Obligations of Seller.

Notwithstanding any payment of an Energy Replacement Damage Amount, Seller shall remain obligated to convey all electric energy generated by the Generating Facility and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE during the Term, as provided in Sections 3.01 and 3.02.

3.06 Metering, Communications, and Telemetry.

(a) CAISO Approved Meter.

Seller shall:

- (i) Execute a Meter Service Agreement with the CAISO, pursuant to the CAISO Tariff; and
- (ii) Install and pay for any real-time meter and related communications equipment required by SCE, the CAISO, and the Transmission Provider.

Such equipment shall include a CAISO approved revenue quality meter or meters, CAISO approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all electric energy produced by the Generating Facility less Station Use (collectively the "CAISO Approved Meter").

(b) Access to CAISO Approved Meter.

- (i) Subject to Section 3.16, Seller shall grant SCE reasonable access to the meter(s) for meter readings and any purpose necessary to effectuate this Agreement.

Seller shall promptly provide SCE access to all meter data and data acquisition services both in real-time, and at later times, as SCE may reasonably request.

- (ii) Prior to Initial Synchronization, Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide SCE with access to the CAISO Approved Meter and to Seller's settlement data on OMAR.

Seller shall promptly inform SCE of meter quantity changes after becoming aware of, or being informed of, any such changes by the CAISO.

(c) CAISO Approved Meter Maintenance.

- (i) Seller shall test and calibrate the CAISO Approved Meter as necessary, but in no event shall the period between testing and calibration dates be greater than twenty four (24) months.
- (ii) Seller shall replace the CAISO Approved Meter battery at least once every thirty six (36) months or such shorter period as may be recommended by the battery manufacturer.

Notwithstanding the foregoing, in the event the CAISO Approved Meter battery fails, Seller shall replace such battery within one (1) day after becoming aware of its failure.

- (iii) Seller shall use certified test and calibration technicians to perform any work associated with the CAISO Approved Meter.
- (iv) Seller shall inform SCE of test and calibration dates, provide SCE with access to observe and witness such testing and calibration, and provide SCE certified results of tests and calibrations within thirty (30) days after completion.

(d) Communication of Real-Time Data to SCE.

- (i) Seller shall install and pay for equipment required by SCE to provide SCE, as Scheduling Coordinator, the ability to monitor, in real time, all electric energy generated by the Generating Facility.
- (ii) The data from such equipment shall be centralized into a common supervisory and data acquisition system, otherwise known as SCADA.

- (iii) Such equipment shall be accessed by SCE via SCE's Generation Management System.
- (iv) Seller's and SCE's systems shall be linked via an approved SCE communication network, utilizing existing industry standard network protocol, as approved by SCE.
- (v) Seller shall provide operational consent for SCE to use:
 - (1) The CAISO remote intelligent gateway, otherwise known as a RIG, or data processing gateway, otherwise known as a DPG; and
 - (2) Energy Control Networkas the network communication interface into the site control system.
- (vi) The connection shall be bidirectional in nature and used to exchange all data points to and from SCE's Generation Operation Center.
- (vii) The above mentioned connections and data transfer shall be included in the systems engineering tasks as a part of the construction of the Generating Facility, and shall be fully functional prior to Initial Synchronization.

3.07 Site Control.

- (a) On or before Initial Synchronization and at all times during the Term, Seller shall have Site Control, which means that Seller shall:
 - (i) Own the Site;
 - (ii) Be the lessee of the Site under a Lease;
 - (iii) Be the holder of a right-of-way grant or similar instrument with respect to the Site; or
 - (iv) Be the managing partner or other person or entity authorized to act in all matters relating to the control and Operation of the Site and Generating Facility.
- (b) Seller shall provide SCE with prompt Notice of any change in the status of Seller's Site Control.
- (c) Seller shall provide SCE with Notice of the status of its Site Control prior to commencing construction of the Generating Facility.

The contents of this document are subject to restrictions on disclosure as set forth herein.

3.08 Site Location.

- (a) This Agreement is Site specific as set forth in Section 1.01(b). Seller may, with SCE's prior written consent, change the location of the Site; *provided that*, the interconnection point with the Transmission Provider is not changed.
- (b) Seller shall promptly provide a revised Exhibit B describing any new Site in the event Seller requests SCE's consent to change the Site location.

3.09 Design.

At no cost to SCE, Seller shall be responsible for:

- (a) Designing and constructing the Generating Facility.
- (b) Using commercially reasonable efforts to acquire all Permits.
- (c) Providing to SCE, at least thirty (30) days prior to the anticipated Initial Operation Date, the following Generating Facility information:
 - (i) Site plan drawings for the Generating Facility;
 - (ii) Electrical one line diagrams;
 - (iii) Control and data acquisition details and configuration documents;
 - (iv) Major electrical equipment specifications;
 - (v) General arrangement drawings;
 - (vi) Longitude and latitude of each generator;
 - (vii) Artist renderings of the Site, if any; and
 - (viii) Aerial photographs of the Site, if any.
- (d) Providing SCE advance Notice at the earliest practicable time of any proposed changes in Seller's Generating Facility, but in no event less than thirty (30) days before the changes are to be made, which such Notice shall include the information set forth in Section 3.09(c) above, along with all specifications and drawings pertaining to any such changes and any changes to Exhibit B.

3.10 Operation and Record Keeping.

- (a) Seller shall Operate the Generating Facility in accordance with Prudent Electrical Practices.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (b) Commencing upon the date on which all CAISO agreements have been executed by Seller and continuing throughout the Term of this Agreement, Seller shall comply with all provisions of the CAISO Tariff.
- (c) Prior to Initial Synchronization:
 - (i) Seller shall obtain CEC Certification and Verification;
 - (ii) Seller shall obtain all necessary Permits;
 - (iii) Seller shall take all steps necessary to ensure that SCE becomes authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO prior to Initial Synchronization;
 - (iv) Seller shall demonstrate to SCE's reasonable satisfaction that Seller has executed all necessary Transmission Provider and CAISO agreements;
 - (v) Seller shall provide to SCE the DLF and TLF, as applicable, used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility;
 - (vi) Seller shall demonstrate to SCE's reasonable satisfaction that Seller has complied with its obligations with respect to the CAISO Approved Meter as set forth in Section 3.06(a); and
 - (vii) Seller shall have furnished to SCE all insurance documents required under Section 10.11(b).
- (d) Seller shall keep a daily operations log for the Generating Facility that shall include the following information:
 - (i) Availability;
 - (ii) Circuit breaker trip operations;
 - (iii) Any significant events related to the Operation of the Generating Facility;
 - (iv) Real and reactive power and energy production;
 - (v) Changes in Operating status;
 - (vi) Protective apparatus operations;

- (vii) Any unusual conditions found during inspections;
- (viii) Electric energy production, fuel consumption and efficiency (if applicable); and
- (ix) Status and settings of generator controls including automatic voltage regulator and power system stabilizer.

Changes in generator output setting shall also be logged for Seller's generator(s) if it is "block-loaded" to a specific kW capacity.

In addition, Seller shall maintain complete records of the Generating Facility's fuel consumption.

- (e) Seller shall keep a maintenance log for the Generating Facility that shall include information on maintenance (both breakdown and preventative) performed, outages, inspections, manufacturer recommended services and replacement, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices.

Such information in (a) and (b) above shall be provided or made available to SCE within twenty (20) days after any Notice.

- (f) Upon Notice from SCE, Seller shall promptly curtail the production of the Generating Facility. Such Notice shall be provided to Seller only in the event SCE, as Seller's Scheduling Coordinator, is instructed by the CAISO to curtail energy deliveries in order to respond to a CAISO Forecasted Over-Generation Condition, a CAISO Declared Over-Generation Condition or an Emergency.
- (g) Information maintained pursuant to this Section 3.10 shall be kept for the Term of this Agreement and shall be provided or made available to SCE within twenty (20) days after any Notice.

3.11 Obtaining Scheduling Coordinator Services.

Seller shall comply with all applicable CAISO Tariff procedures, protocol, rules and testing requirements required for SCE to submit SC Schedules for the electric energy produced by the Generating Facility.

- (a) SCE as Scheduling Coordinator.
 - (i) At least thirty (30) days prior to Initial Synchronization, Seller shall take all actions and execute and deliver to SCE all documents necessary to authorize or designate SCE as Seller's Scheduling Coordinator during the period that begins at Initial Synchronization

and ends at Initial Operation ("Startup Period") and throughout the Term of this Agreement.

- (ii) Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator.

(b) Replacement of Scheduling Coordinator.

At least forty five (45) days prior to the end of the Term, or as soon as practicable before the date of any termination of this Agreement prior to the end of the Term, Seller shall take all actions necessary to terminate the designation of SCE as Seller's Scheduling Coordinator. These actions include the following:

- (i) Seller shall submit to the CAISO a designation of a new Scheduling Coordinator for Seller to replace SCE;
- (ii) Seller shall cause the newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and
- (iii) Seller shall inform SCE of the last date on which SCE will be Seller's Scheduling Coordinator.

3.12 Forecasting.

Seller shall Forecast or cause to be Forecasted electric energy, in MWhs, in accordance with the provisions of Exhibit D.

3.13 Scheduled Outages.

- (a) No later than January 15th, April 15th, July 15th and October 15th of each year during the Term, and at least sixty (60) days prior to Initial Synchronization, Seller shall submit to SCE its schedule of proposed planned outages ("Outage Schedule") for the subsequent twenty four-month period using an SCE-provided web-based system ("Web Client").
- (b) Seller shall provide the following information for each proposed planned outage:
 - (i) Start date and time;
 - (ii) End date and time; and
 - (iii) Capacity online, in MW, during the planned outage.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (c) Within twenty (20) Business Days after SCE's receipt of an Outage Schedule, SCE shall notify Seller in writing of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices, accommodate SCE's requests regarding the timing of any planned outage.
- (d) Seller shall cooperate with SCE to arrange and coordinate all Outage Schedules with the CAISO.
- (e) In the event a condition occurs at the Generating Facility which causes Seller to revise its planned outages, Seller shall provide Notice to SCE, using the Web Client, of such change (including, an estimate of the length of such planned outage) as required in the CAISO Tariff after the condition causing the change becomes known to Seller.
- (f) Seller shall promptly prepare and provide to SCE upon request, using the Web Client, all reports of actual or forecasted outages that SCE may reasonably require for the purpose of enabling SCE to comply with Section 761.3 of the California Public Utilities Code or any Applicable Law mandating the reporting by investor owned utilities of expected or experienced outages by electric energy generating facilities under contract to supply electric energy.

3.14 Progress Reporting Toward Meeting Milestone Schedule.

Seller shall use commercially reasonable efforts to meet the Milestone Schedule and avoid or minimize any delays in meeting such schedule. Seller shall provide a monthly written report of its progress toward meeting the Milestone Schedule using the procedures set forth in Exhibit F.

Seller shall include in such report a list of all letters, notices, applications, approvals, authorizations, filings, permits and licenses relating to any Transmission Provider, Governmental Authority or the CAISO and shall provide any such documents as may be reasonably requested on Notice from SCE.

In addition, Seller shall advise SCE as soon as reasonably practicable of any problems or issues of which it is aware which may materially impact its ability to meet the Milestone Schedule.

3.15 Provision of Information.

Seller shall promptly provide to SCE copies of:

- (a) All agreements with providers of distribution, transmission or interconnection services for the Generating Facility and all amendments thereto;

- (b) All applications and approvals relating to CEC Certification and Verification and any Permits;
- (c) All draft, preliminary, final and revised copies of reports, studies and analyses furnished by the CAISO, Seller's Transmission Consultant, or any Transmission Provider, and any correspondence related thereto, concerning the interconnection of the Generating Facility to the Transmission Provider's electric system or the transmission of electric energy on the Transmission Provider's electric system;
- (d) All notifications of adjustments in the DLF and TLF, as applicable, used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility within thirty (30) days of receiving such notification from the Transmission Provider;
- (e) Any reports, studies, or assessments done for it by an independent engineer; and
- (f) All Generating Facility and metering information as may be requested by SCE, including the following, at least thirty (30) days prior to Initial Synchronization:

For each CAISO Approved Meter:

- (1) Generating Station/Unit ID;
- (2) CAISO Global Resource ID;
- (3) CAISO Approved Meter Device ID;
- (4) Password;
- (5) Data path (network (ECN) or modem);
- (6) If modem, phone number;
- (7) Copy of meter certification;
- (8) List of any CAISO metering exemptions (if any); and
- (9) Description of any compensation calculations such as transformer losses and line losses.

For the Generating Facility:

- (1) Utility transmission/distribution one line diagram;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (2) Physical location, address or descriptive identification;
- (3) Latitude and longitude;
- (4) Telephone number on site;
- (5) Telephone number of control room;
- (6) Telephone number for operational issues; and
- (7) Telephone number for administrative issues.

3.16 SCE's Access Rights.

Seller shall grant SCE the right of ingress and egress to examine the Site and Generating Facility for any purpose reasonably connected with this Agreement or the exercise of any and all rights of SCE under Applicable Law or its tariff schedules and rules on file with the CPUC.

3.17 Obtaining and Maintaining CEC Certification and Verification.

Seller shall take all necessary steps including making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification throughout the Term; *provided however that:*

- (a) This obligation shall not apply to the extent that Seller is unable to obtain or maintain CEC Certification and Verification because of a change in the RPS Legislation, or the rules or regulations relating thereto, occurring after the Effective Date; and
- (b) Seller has made commercially reasonable efforts to obtain and maintain CEC Certification and Verification under the then current Applicable Law. The term "commercially reasonable efforts" as used in this Section 3.17(b) shall not require Seller to incur out of pocket costs in excess of \$10,000 in any year in order to obtain and maintain CEC Certification and Verification under the then current Applicable Law.

3.18 Notice of Cessation or Termination of Interconnection Agreement.

Seller shall provide Notice to SCE within one (1) Business Day after termination of, or cessation of service under, any agreement necessary for the interconnection to the Transmission Provider's electric system, for transmission service on the Transmission Provider's electric system (if applicable), for delivering Product to SCE, or for metering the Metered Amounts.

3.19 Lost Output Report.**(a) Monthly Report; SCE Review.**

Commencing upon Initial Operation and continuing throughout the Term, Seller shall calculate Lost Output and prepare and provide to SCE a Lost Output Report by the tenth (10th) Business Day of each month in accordance with Exhibit I.

SCE shall have thirty (30) days after receipt of Seller's monthly Lost Output Report to review such report.

Upon SCE's request, Seller shall promptly provide to SCE any additional data and supporting documentation necessary for SCE to audit and verify any matters in the Lost Output Report.

(b) Disputes of Lost Output.

If SCE disputes Seller's Lost Output calculation, it shall provide Notice to Seller within thirty (30) days after receipt of Seller's Lost Output Report and include SCE's calculations and other data supporting its position.

The Parties shall negotiate in good faith to resolve any dispute.

If the Parties are unable to resolve a dispute within thirty (30) days after SCE's giving the dispute Notice, either Party may submit the dispute to mediation and arbitration as provided in Article Eleven.

Seller shall have no right to claim any Lost Output for any month that was not identified in the original Lost Output Report for that month; *provided that*, Seller may supplement the amount of Lost Output claimed ("Supplemental Lost Output") for the month with a supplemental Lost Output Report ("Supplemental Lost Output Report") if Seller can demonstrate that it neither knew nor could it have known through the exercise of reasonable diligence about the Supplemental Lost Output within the foregoing thirty (30) day period and Seller provides the Supplemental Lost Output Report within ten (10) Business Days after learning the facts which provide the basis for the Supplemental Lost Output claim.

(c) Energy Replacement Damage Amount Calculation.

The Lost Output amount that shall be used in the Energy Replacement Damage Amount calculation, set forth in Exhibit K, shall be the amount calculated after the twelfth (12th) month of the Term Year.

3.20 CAISO Charges, CAISO Sanctions and SCE Penalties.**(a) Startup Period.**

During the Startup Period, Seller shall be responsible for all CAISO Charges and CAISO Sanctions, if any, attributable to or assessed for energy delivered by Seller to the real-time market (and any other CAISO administered market that may from time to time be implemented).

(b) After Initial Operation.

Commencing upon Initial Operation and continuing throughout the Term, Seller shall have no responsibility for CAISO Charges attributable to or assessed for energy Scheduled by SCE or delivered by Seller to SCE.

In the event Seller fails to comply with the Forecasting provisions set forth in Exhibit D or any CAISO Tariff or CAISO directives, Seller may be liable to pay an SCE Penalty or CAISO Sanction, each as set forth in Exhibit J;

In no event shall Seller be responsible for CAISO Charges, CAISO Sanctions or SCE Penalties to the extent attributable to the fault or gross negligence of SCE, including any inaccuracy in the SC Schedules submitted by SCE under this Agreement.

- (c)** Seller shall make payments for CAISO Charges, SCE Penalties and CAISO Sanctions in accordance with those provisions set forth in Section 3.20(a) and Exhibit J.
- (d)** If Seller disputes any CAISO Charge, SCE Penalty or CAISO Sanction, Seller shall provide Notice of such dispute within five (5) Business Days of becoming aware of such CAISO Charge, SCE Penalty or CAISO Sanction.
- (e)** Seller shall provide necessary documentation to support SCE in any dispute of CAISO Charges, SCE Penalties or CAISO Sanctions.

3.21 Maximum Contract Capacity.

During the Term of this Agreement, Seller shall not allow the electrical generating capacity of the Generating Facility to exceed five (5) MW, net of Station Use.

3.22 Financial Information for SCE's Consolidation of Seller.

- (a)** If SCE believes that it may be required to consolidate Seller's financial statements, SCE shall give Notice to Seller and thereafter, the Parties agree to

the following provisions set forth in this Section 3.22 until otherwise determined by SCE.

- (b) Within twenty (20) days following the end of each calendar quarter, Seller shall deliver to SCE:
 - (i) An unaudited condensed statement prepared or certified by the Seller's certified public accountant ("CPA") of income for the calendar quarter and year-to-date;
 - (ii) An unaudited condensed statement prepared or certified by the Seller's CPA of cash flows for the calendar quarter and year-to-date;
 - (iii) An unaudited condensed balance sheet prepared or certified by the Seller's CPA at the end of such calendar quarter; and
 - (iv) A completed quarterly disclosure checklist with supporting financial schedules prepared or certified by the Seller's CPA necessary for SCE to prepare its quarterly filing with the United States Securities and Exchange Commission.

SCE will provide to Seller such checklist prior to the end of each quarter and include only items considered material to SCE.

Seller shall prepare its financial statements to be delivered under the terms of this Section 3.22 in accordance with accounting principles generally accepted in the United States of America.

- (c) Promptly upon Notice from SCE, Seller shall allow SCE access to Seller's records and personnel, so that SCE's internal auditors and independent registered public accounting firm can conduct financial statement audits in accordance with the standards of the Public Company Accounting Oversight Board (United States), as well as internal control audits in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, as applicable.

All expenses for any such audit shall be borne by SCE.

- (d) SCE shall provide Notice to Seller if, in the sole discretion of SCE, Seller's internal controls of financial reporting (directly or indirectly, alone or in combination with other factors) would be considered material to SCE or its parent company's financial statements, financial condition or internal controls of financial reporting.
- (e) Within thirty (30) days of Seller's receipt of Notice from SCE, Seller shall remediate any deficiency in Seller's internal controls of financial reporting

identified by SCE during or as a result of the audits permitted under this Section 3.22. Such remediation shall be reviewed and certified by the Seller's CPA.

- (f) As soon as possible, but in no event later than two (2) Business Days following any occurrence that would affect Seller in any material way, Seller shall provide to SCE a Notice describing such occurrence in sufficient detail to permit SCE to make a Form 8-K filing with the United States Securities and Exchange Commission.
- (g) Such occurrences include all reportable events on the then current Form 8-K that applies to SCE and its parent company at such time, including the following events:
 - (i) Acquisition or disposition of a material amount of assets;
 - (ii) Creation of a material direct financial obligation or off-balance sheet financing arrangement;
 - (iii) Existence of material litigation; and
 - (iv) Entry into, or termination of, a material contract upon which Seller's business is substantially dependent.
- (h) SCE shall treat Seller's financial statements or other financial information provided under the terms of this Section 3.22 in strict confidence and, accordingly:
 - (i) Shall utilize such Seller financial information only for purposes of preparing, reviewing or certifying SCE's or any SCE parent company's financial statements, for making regulatory, tax or other filings required by law in which SCE is required to demonstrate or certify its or any parent company's financial condition or to obtain Credit Ratings; and
 - (ii) Shall make such Seller financial information available only to its officers, directors, employees or auditors who are responsible for preparing, reviewing or certifying SCE's or any SCE parent company's financial statements, to the United States Securities and Exchange Commission and the Public Company Accounting Oversight Board (United States) in connection with any oversight of SCE's or any SCE parent company's financial statements and to those persons or entities who are entitled to receive confidential information as identified in Section 10.10.

3.23 Application of Prevailing Wage.

To the extent applicable, Seller shall comply with the prevailing wage requirements of Public Utilities Code Section 399.14, subdivision (h).

***** End of ARTICLE THREE *****

ARTICLE FOUR. SCE'S OBLIGATIONS**4.01 Obligation to Pay.**

For Seller's *full* compensation under this Agreement, SCE shall make monthly energy payments to Seller during the Term calculated in the manner described in Section 4.02 and Exhibit J.

SCE shall not be obligated to purchase from Seller any Product prior to the commencement of the Term or any electric energy that is not or cannot be metered as a result of any circumstance, including:

- (a) An outage of the Generating Facility; or
- (b) A Force Majeure under Article Five.

4.02 Payments and Adjustments.**(a) Payment Calculations for Startup Period.**

For the purpose of calculating monthly payment statements for Product delivered to the real-time market during the Startup Period, SCE shall compile all CAISO Charges and credits directly assessed by the CAISO to the CAISO Global Resource ID for the Generating Facility.

(b) Energy Payment Calculations during Term.

For the purpose of calculating monthly payments for Product delivered to SCE as of Initial Operation in accordance with the terms of this Agreement ("Energy Payments"), Metered Amounts shall be time-differentiated according to the time period and season of delivery ("TOD Periods") set forth in Exhibit H and the pricing shall be weighted by the Energy Payment Allocation Factors set forth in Exhibit H.

Monthly Energy Payments shall equal the sum of the TOD Period Energy Payments for all TOD Periods in the month. Each TOD Period Energy Payment shall be calculated pursuant to the following formula, where "n" is the TOD Period being calculated:

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

Where:

A = Energy Price specified in Section 1.03 in \$/kWh
(i.e., \$/MWh/1000).

The contents of this document are subject to restrictions on disclosure as set forth herein.

B = Energy Payment Allocation Factor, set forth in Exhibit H, for the TOD Period being calculated.

C = The sum of Metered Amounts in all hours for the TOD Period being calculated in kWh.

If the CAISO Approved Meter does not measure, or is not compensated to measure, the Energy at the Delivery Point, SCE will apply a line loss factor or transformation loss factor to adjust the Metered Amounts in the above formula.

4.03 Payment Statement and Payment.

(a) After Initial Synchronization, no later than thirty (30) days after the end of each calendar month (or the last day of the month if the month in which the payment statement is being sent is February), or the last Business Day of the month if such 30th day (or 28th or 29th day for February) is a weekend day or holiday during which:

- (i) Seller is delivering energy during the Startup Period;
- (ii) Metered Amounts are provided to SCE;
- (iii) CAISO Charges, CAISO Sanctions or any SCE Penalties are incurred;
or
- (iv) Payment adjustments are made as set forth below;

SCE shall do each of the following:

- (v) Send a statement to Seller showing:
 - a) The sum of the CAISO Charges and credits that are directly assigned by the CAISO to the CAISO Global Resource ID(s) for the Generating Facility for energy delivered to the real-time market during the Startup Period, which will be available approximately one hundred twenty (120) days following the last day of a calendar month (for electric energy deliveries during that month) or thirty (30) days after the CAISO final settlement data is available to SCE for such deliveries, whichever is sooner;
 - b) The Metered Amounts for each TOD Period during the month for which the payment is being made;

- c) A calculation of the amount payable to Seller for the month pursuant to Section 4.02;
 - d) The CAISO Sanctions and SCE Penalties pursuant to Exhibit J, which will be available approximately one hundred twenty (120) days following the last day of a calendar month (for electric energy deliveries during that month) or thirty (30) days after the CAISO final settlement data is available to SCE for such deliveries, whichever is sooner; and
 - e) A calculation of the net amount due Seller.
- (vi) Send to Seller, via wire transfer, SCE's payment of said net amount, plus, if such payment is late, a Simple Interest Payment calculated using the Interest Rate and the number of days that such payment is late.
- (b) In the event SCE determines that:
 - (i) The CAISO has recalculated CAISO Charges or credits for energy delivered to the real-time market during the Startup Period; or
 - (ii) A calculation of Metered Amounts, CAISO Charges, SCE Penalty or CAISO Sanctions is incorrect as a result of inaccurate meters, the correction of data by the CAISO in OMAR, or a recalculation of CAISO Charges or CAISO Sanctions by the CAISO,

SCE shall promptly recompute Metered Amounts, CAISO Charges, CAISO Sanctions or SCE Penalties for the period of the inaccuracy based upon an adjustment of inaccurate meter readings, correction of data or recalculation of CAISO Charges or CAISO Sanctions in accordance with the CAISO Tariff.

SCE shall also promptly recompute any payment affected by any meter or CAISO Charge, CAISO Sanction or SCE Penalty inaccuracy. Any amount due from SCE to Seller, or Seller to SCE, as the case may be, shall be made as an adjustment to the next monthly payment statement that is calculated after SCE's recomputation using corrected measurements.

In the event that the recomputation results in a net amount owed to SCE after applying any amounts owing to Seller as shown on the next monthly payment statement, any such additional amount still owing to SCE shall be netted against amounts owed to Seller in any subsequent monthly payments to Seller or invoiced to Seller, in which case Seller must pay the amount owing to SCE within twenty (20) days after receipt of such invoice.

The contents of this document are subject to restrictions on disclosure as set forth herein.

At SCE's discretion, SCE may net any remaining amount owed SCE on any subsequent monthly payment statement to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to SCE within twenty (20) days after receipt of such invoice.

SCE may make payment adjustments arising from a recalculation of CAISO Charges, CAISO Sanctions or SCE Penalties or as a result of inaccurate meters after the end of the Term provided that the Parties shall be deemed to have waived any such payment adjustments which are not communicated as provided in this Section 4.03(b) within twenty-eight (28) months from the end of the Term.

Adjustment payments for meter inaccuracy shall not bear interest.

(c) Netting Rights.

SCE reserves the right to net amounts that would otherwise be due to Seller under this Agreement in payment of any amounts:

- (i) Owing and unpaid by Seller to SCE under this Agreement; or
- (ii) Owed to SCE by Seller arising out of, or related to, any other SCE agreement, tariff, obligation or liability.

Nothing in this Section 4.03(c) shall limit SCE's rights under applicable tariffs, other agreements or Applicable Law.

(d) Waiver.

Except as provided in Section 4.03(b) and as otherwise provided in this Section 4.03(d), if within forty five (45) days after receipt of SCE's payment statement, Seller does not give Notice to SCE of an error, *then* Seller shall be deemed to have waived any error in SCE's statement, computation and payment, and the statement shall be conclusively deemed correct and complete; *provided, however*, that if an error is identified by Seller as a result of settlement, audit or other information provided to Seller by SCE after the expiration of the original forty five (45) day period, Seller shall have an additional forty five (45) days from the date on which it receives the information from SCE in which to give Notice to SCE of the error identified by such settlement, audit or other information.

If Seller identifies an error in Seller's favor and SCE agrees that the identified error occurred, SCE shall reimburse Seller for the amount of the underpayment caused by the error and apply the additional payment to the next monthly payment statement that is calculated.

If Seller identifies an error in SCE's favor and SCE agrees that the identified error occurred, SCE may net the amount of overpayment caused by the error against amounts otherwise owed to Seller in connection with the next monthly payment statement that is calculated.

Late payments to Seller resulting from SCE's errors, or overpayments to Seller by SCE, shall include a Simple Interest Payment calculated using the Interest Rate and the number of days between the date due (or, in the case of overpayments by SCE, commencing five (5) Business Days from the date SCE provides Notice of such overpayments to Seller) and the date paid; *provided, however*, that changes made because of settlement, audit or other information provided by the CAISO and not available to SCE when it rendered its original statement shall not bear interest.

In the event that the recomputation results in a net amount still owing to SCE after applying the amounts owed to SCE against any amounts owed to Seller in the payment statement, as described above, then SCE may, in its discretion, either net this net remaining amount owed to SCE against amounts owed to Seller in any subsequent monthly payment statement to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to SCE within twenty (20) days after receipt of such invoice.

The Parties shall negotiate in good faith to resolve any disputes regarding claimed errors in a payment statement.

Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through the mediation and arbitration as provided in Article Eleven.

4.04 Scheduling Coordinator.

Commencing upon Initial Synchronization, SCE shall act as Scheduling Coordinator, on behalf of Seller, and shall submit bids and Schedules to the CAISO in accordance with CAISO Tariff protocols.

(a) Duties as Scheduling Coordinator.

- (i) SCE shall submit all notices and updates required under the CAISO Tariff regarding the Generating Facility's status to the CAISO.
- (ii) SCE shall forward to Seller all CAISO revenues (including credits and other payments) incurred or received as a result of energy delivered to the real-time market by Seller during the Startup Period, including costs and revenues associated with CAISO dispatches.

- (iii) In the event SCE believes that any CAISO Charge or CAISO Sanction is incorrect and disputable under the CAISO Tariff or upon Notice by Seller of any dispute of a CAISO Charge or CAISO Sanction, SCE shall dispute any such CAISO Charge or CAISO Sanction in accordance with the procedures set forth under the CAISO Tariff, subject to Seller's fulfillment of its obligation under Section 3.20(e).

(b) Termination of Scheduling Coordinator.

SCE shall submit a letter to the CAISO identifying the date on which SCE resigns as Seller's Scheduling Coordinator on the first to occur of either:

- (i) Thirty (30) days prior to the end of the Term; or
- (ii) The date of any early termination of this Agreement.

4.05 CAISO Charges.

Except as set forth in Section 3.20 and Exhibit J, SCE shall be responsible for all CAISO Charges during the Term.

*** End of ARTICLE FOUR ***

ARTICLE FIVE. FORCE MAJEURE**5.01 No Default for Force Majeure.**

Neither Party shall be considered to be in default in the performance of any of its obligations set forth in this Agreement (except for obligations to pay money) when and to the extent failure of performance is caused by Force Majeure.

5.02 Requirements Applicable to the Claiming Party.

If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, that Party (the "Claiming Party"), shall be excused from whatever performance is affected by the Force Majeure to the extent so affected.

In order to be excused from its performance obligations hereunder by reason of Force Majeure:

- (a) The Claiming Party, within fourteen (14) days after the initial occurrence of the claimed Force Majeure, must give the other Party Notice describing the particulars of the occurrence; and
- (b) The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.

The suspension of the Claiming Party's performance due to Force Majeure shall be of no greater scope and of no longer duration than is required by the Force Majeure.

In addition, the Claiming Party shall use commercially reasonable and diligent efforts to remedy its inability to perform.

This section shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Claiming Party, are contrary to its interest.

It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be at the sole discretion of the Claiming Party.

When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.

5.03 Startup Deadline Extension.

If Force Majeure occurs prior to the Startup Deadline which prevents Seller from achieving the Startup Deadline, *then* the Startup Deadline shall, subject to Seller's compliance with its obligations as the Claiming Party under Section 5.02, be extended on a day-for-day basis for the duration of the Force Majeure.

5.04 Firm Operation Date Extension.

If Force Majeure occurs at any time after commencement of the Term, but prior to the Firm Operation Date, which prevents Seller from demonstrating the Contract Capacity as provided in Section 3.04, *then* the Firm Operation Date shall, subject to Seller's compliance with its obligations as the Claiming Party under Section 5.02, be extended on a day-for-day basis for the duration of the Force Majeure.

5.05 Termination.

Either Party may terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is provided, in the event of Force Majeure which extends for more than three hundred sixty five (365) consecutive days.

***** End of ARTICLE FIVE *****

ARTICLE SIX. EVENTS OF DEFAULT: REMEDIES**6.01 Events of Default.**

An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

- (a) With respect to either Party:
 - (i) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature, if:
 - (1) Such misrepresentation or breach of warranty is not remedied within five (5) Business Days after Notice; or
 - (2) Such inaccuracy is not capable of a cure, but the non-breaching Party's damages resulting from such inaccuracy can reasonably be ascertained and the payment of such damages is not made within ten (10) Business Days after a Notice of such damages is provided by the non-breaching Party to the breaching Party;

provided that, any breach of Seller's representation and warranty under Sections 10.02(d) or 10.02(e) deemed to be made after the Effective Date shall constitute an Event of Default only under the circumstances set forth in Sections 6.01(b)(ix) and 6.01(b)(x) below;

- (ii) Except for an obligation to make payment when due, the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default or to the extent excused by a Force Majeure) if such failure is not remedied within thirty (30) days after Notice of such failure (or such shorter period as may be specified below), which Notice sets forth in reasonable detail the nature of the failure; *provided that*, if such failure is not reasonably capable of being cured within the thirty (30) day cure period specified above, the Party shall have such additional time (not exceeding an additional one hundred twenty (120) days) as is reasonably necessary to cure such failure, so long as such Party promptly commences and diligently pursues such cure;
- (iii) A Party fails to make when due any payment in a material amount (including not making when due any material portion of the payment) required under this Agreement and such failure is not cured within five (5) Business Days after Notice of such failure;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (iv) A Party becomes Bankrupt; or
 - (v) A Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (b) With respect to Seller:
- (i) Seller does not own the Generating Facility or otherwise have the authority over the Generating Facility as required in Section 3.07(a)(iv).
 - (ii) Seller has not cured a failure with respect to Section 3.07(a) within the earlier of thirty (30) days after providing Notice in accordance with Section 3.07(b) or sixty (60) days after the occurrence of the event which results in such failure;
 - (iii) The sum of Qualified Amounts plus Lost Output in any consecutive six (6) month period is not at least 10 percent (10%) of the Expected Annual Net Energy Production set forth in Section 1.01(f), and Seller fails to demonstrate to SCE's reasonable satisfaction, within ten (10) Business Days after Notice from SCE, a legitimate reason for such failure;
 - (iv) The Metered Amounts in any one hour interval, in kWh/hr, exceed one hundred fifteen percent (115%) of the Contract Capacity set forth in Section 1.01(e) to this Agreement, (an "Event of Excess Deliveries"), without the prior written consent of SCE, and within ten (10) Business Days after Notice, Seller fails to demonstrate to SCE's satisfaction that it has identified the reason that the Event of Excess Deliveries occurred and that it has or is employing best efforts to ensure that no additional Events of Excess Deliveries will occur during the Term;
 - (v) Seller intentionally or knowingly Forecasts or delivers, or attempts to Forecast or deliver, at the Delivery Point for sale under this Agreement electric energy that was not in fact generated by the Generating Facility;
 - (vi) The electrical generating capacity of the Generating Facility exceeds five (5) MW, net of Station Use;

- (vii) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and such equipment is not returned within five (5) Business Days after Notice from SCE;
- (viii) The Generating Facility consists of an ERR type(s) different than that specified in Section 1.01(d);
- (ix) Subject to Section 3.17, the Generating Facility fails to qualify as an ERR;
- (x) Subject to Section 3.17, any electric energy from the Generating Facility and sold or to be sold to SCE hereunder fails to qualify as eligible renewable energy for purposes of the RPS Legislation;
- (xi) Seller fails to achieve Initial Operation within the timeframes set forth in Section 2.03 and such failure is not cured within five (5) Business Days after Notice from SCE;
- (xii) A termination of, or cessation of service under, any agreement necessary for:
 - (1) The interconnection of the Generating Facility to the Transmission Provider's electric system;
 - (2) Transmission of the electric energy on the Transmission Provider's electric system; or
 - (3) Metering of the Metered Amountsand such service is not reinstated, or alternative arrangements implemented, within one hundred and twenty (120) days after such termination or cessation;
- (xiii) Seller fails to take any actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit as specified in Section 3.01;
- (xiv) The stock or equity ownership interest in Seller has been pledged or assigned as collateral or otherwise to any party other than Lender; or
- (xv) Seller fails to maintain its Participating Generator Agreement and Meter Service Agreement during the Term.

6.02 Early Termination.

If an Event of Default shall have occurred, there will be no opportunity for cure except as specified in Section 6.01 or pursuant to a Collateral Assignment Agreement agreed upon by SCE, Seller and Lender in accordance with Section 10.05.

The Party taking the default (the "Non-Defaulting Party") shall have the right:

- (a) To designate by Notice, a day, no earlier than twenty (20) calendar days after the Notice is effective, for the early termination of this Agreement (an "Early Termination Date");
- (b) To immediately suspend performance under this Agreement; and
- (c) To pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

6.03 Termination Payment.

As soon as practicable after an Early Termination Date is declared, the Non-Defaulting Party shall provide Notice to the Defaulting Party of the sum of all amounts owed by the Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party (the "Termination Payment").

The Notice shall include a written statement setting forth, in reasonable detail, the calculation of such Termination Payment including the Forward Settlement Amount, together with appropriate supporting documentation.

If the Termination Payment is positive, the Defaulting Party shall pay such amount to the Non-Defaulting Party within ten (10) Business Days after the Notice is provided. If the Termination Payment is negative (i.e., the Non-Defaulting Party owes the Defaulting Party more than the Defaulting Party owes the Non-Defaulting Party), *then* the Non-Defaulting Party shall pay such amount to the Defaulting Party within thirty (30) days after the Notice is provided.

The Parties shall negotiate in good faith to resolve any disputes regarding the calculation of the Termination Payment. Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through mediation and arbitration as provided in Article Eleven.

***** End of ARTICLE SIX *****

ARTICLE SEVEN. LIMITATIONS OF LIABILITIES

EXCEPT AS SET FORTH HEREIN, THERE ARE NO WARRANTIES BY EITHER PARTY UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE.

SUBJECT TO SECTION 10.16, IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE PROVISIONS OF SECTION 10.03 (INDEMNITY), NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

NOTHING IN THIS SECTION PREVENTS, OR IS INTENDED TO PREVENT SCE FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY SECURED INTERESTS IN COLLATERAL.

***** End of ARTICLE SEVEN *****

ARTICLE EIGHT. FINANCIAL INFORMATION**8.01 Required Financial Statements.**

If requested by one Party, the other Party shall deliver the following financial statements, which shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles:

- (a) Within one hundred twenty (120) days following the end of each fiscal year, a copy of its annual report containing audited consolidated financial statements for such fiscal year; and
- (b) Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of its quarterly report containing unaudited consolidated financial statements for such fiscal quarter.

8.02 Timely Delivery of Information.

In the event that any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the producing party diligently pursues the preparation, certification and delivery of the statements.

***** End of ARTICLE EIGHT *****

ARTICLE NINE. GOVERNMENTAL CHARGES**9.01 Cooperation to Minimize Tax Liabilities.**

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.02 Governmental Charges.

Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority ("Governmental Charges") on or with respect to the Metered Amounts (and any contract associated with the Metered Amount) arising prior to and at the Delivery Point, including ad valorem taxes and other taxes attributable to the Generating Facility, land, land rights or interests in land for the Generating Facility.

SCE shall pay or cause to be paid all Governmental Charges on or with respect to the Metered Amounts from the Delivery Point. In the event Seller is required by law or regulation to remit or pay Governmental Charges which are SCE's responsibility hereunder, SCE shall promptly reimburse Seller for such Governmental Charges.

If SCE is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, SCE may deduct such amounts from payments to Seller made pursuant to Article Four.

If SCE elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse SCE for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

9.03 Providing Information to Taxing Authorities.

Seller or SCE, as necessary, shall provide information concerning the Generating Facility to any requesting taxing authority.

***** End of ARTICLE NINE *****

ARTICLE TEN. MISCELLANEOUS**10.01 Representations and Warranties.**

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

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) Except for CPUC Approval in the case of SCE, and all Permits in the case of Seller, it has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- (c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (d) This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;
- (e) There is not pending, or to its knowledge, threatened against it or, in the case of Seller, any of its Affiliates, any legal proceedings that could materially adversely affect its ability to perform under this Agreement;
- (f) No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;
- (g) It is acting for its own account and its decision to enter into this Agreement is based upon its own judgment, not in reliance upon the advice or recommendations of the other Party and it is capable of assessing the merits of and understanding, and understands and accepts the terms, conditions and risks of this Agreement.

It has not relied upon any promises, representations, statements or information of any kind whatsoever that are not contained in this Agreement in deciding to enter into this Agreement;
- (h) It has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of the Product as contemplated in this Agreement; and

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (i) It shall act in good faith in its performance under this Agreement.

10.02 Additional Seller Representations, Warranties and Covenants.

Seller hereby represents, warrants and covenants to SCE that throughout the Term:

- (a) It shall own and Operate the Generating Facility;
- (b) It shall deliver to SCE the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person;
- (c) It shall hold the rights to all Green Attributes, Capacity Attributes and Resource Adequacy Benefits, which it has conveyed and has committed to convey to SCE hereunder;
- (d) The Generating Facility shall qualify and be certified by the CEC as an ERR;
- (e) The electric energy produced by the Generating Facility and delivered to SCE shall qualify as eligible renewable energy under the requirements of the RPS Legislation;
- (f) It shall maintain and remain in compliance with all Permits;
- (g) It shall have CEC Certification and Verification, and all Permits, interconnection agreements and transmission rights necessary to Operate the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point; and
- (h) Seller's Site is and shall remain located within the Control Area.

10.03 Indemnity.

- (a) Each Party as indemnitor shall defend, save harmless and indemnify the other Party and the directors, officers, employees, and agents of such other Party against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including any direct, indirect, or consequential loss, liability, damage, claim, cost, charge, demand, or expense, including attorneys' fees) for injury or death to persons, including employees of either Party, and physical damage to property including property of either Party arising out of or in connection with the gross negligence or willful misconduct of the indemnitor relating to its obligations under this Agreement.

This indemnity shall apply notwithstanding the active or passive negligence of the indemnitee.

However, neither Party shall be indemnified hereunder for its loss, liability, damage, claim, cost, charge, demand or expense resulting from its sole negligence or willful misconduct.

- (b) Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss, liability, damage, claim, cost, charge, demand or expense arising out of or in connection with any breach made by the other Party of its representations and warranties in Sections 10.01 and 10.02.
- (c) The provisions of this Section 10.03 shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any valid insurance policy.
- (d) Notwithstanding anything to the contrary in this Agreement, if Seller fails to comply with the provisions of Section 10.11, Seller shall, at its own cost, defend, save harmless and indemnify SCE, its directors, officers, employees, and agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, or expense of any kind or nature (including any direct, indirect, or consequential loss, damage, claim, cost, charge, demand, or expense, including attorneys' fees and other costs of litigation), resulting from injury or death to any person or damage to any property, including the personnel or property of SCE, to the extent that SCE would have been protected had Seller complied with all of the provisions of Section 10.11.

The inclusion of this Section 10.03(d) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 10.11.

- (e) Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.
- (f) Seller shall defend, save harmless and indemnify SCE against any penalty imposed upon SCE as a result of Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth under Sections 3.01 and 3.02.
- (g) All indemnity rights shall survive the termination of this Agreement for twelve (12) months.

10.04 Assignment

- (a) Except as provided in Section 10.05, neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- (b) Any direct or indirect change of control of Seller (whether voluntary or by operation of law) shall be deemed an assignment and shall require the prior written consent of SCE, which consent shall not be unreasonably withheld.

10.05 Consent to Collateral Assignment.

Subject to the provisions of this Section 10.05, Seller shall have the right to assign this Agreement as collateral for any financing or refinancing of the Generating Facility.

In connection with any financing or refinancing of the Generating Facility by Seller, SCE shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("Collateral Assignment Agreement").

The Collateral Assignment Agreement shall be in form and substance agreed to by SCE, Seller and Lender, and shall include, among others, the following provisions:

- (a) SCE shall give Notice of an Event of Default by Seller, to the person(s) to be specified by Lender in the Collateral Assignment Agreement, prior to exercising its right to terminate this Agreement as a result of such Event of Default;
- (b) Following an Event of Default by Seller under this Agreement, SCE may require Seller or Lender to provide to SCE a report concerning:
 - (i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;
 - (ii) Impediments to the cure plan or its development;
 - (iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and
 - (iv) Any other information which SCE may reasonably require related to the development, implementation and timetable of the cure plan.

Seller or Lender shall provide the report to SCE within ten (10) Business Days after Notice from SCE requesting the report. SCE shall have no further right

to require the report with respect to a particular Event of Default after that Event of Default has been cured;

- (c) Lender shall have the right to cure an Event of Default on behalf of Seller, only if Lender sends a written notice to SCE prior to the end of any cure period indicating Lender's intention to cure. Lender must remedy or cure the Event of Default within the cure period under this Agreement; *provided that*, such cure period may, in SCE's sole discretion, be extended by no more than an additional one hundred eighty (180) days;
- (d) Lender shall have the right to consent prior to any termination of this Agreement which does not arise out of an Event of Default;
- (e) Lender shall receive prior Notice of and the right to approve material amendments to this Agreement, which approval shall not be unreasonably withheld, delayed or conditioned;
- (f) In the event Lender, directly or indirectly, takes possession of, or title to the Generating Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender shall assume all of Seller's obligations arising under this Agreement and all related agreements (subject to such limits on liability as are mutually agreed to by Seller, SCE and Lender as set forth in the Collateral Assignment Agreement);

provided that, Lender shall have no personal liability for any monetary obligations of Seller under this Agreement which are due and owing to SCE as of the assumption date; *provided, however*, that prior to such assumption, if SCE advises Lender that SCE will require that Lender cure (or cause to be cured) any Event of Default existing as of the possession date in order to avoid the exercise by SCE (in its sole discretion) of SCE's right to terminate this Agreement with respect to such Event of Default, *then* Lender at its option; and in its sole discretion, may elect to either:

- (i) Cause such Event of Default to be cured, or
 - (ii) Not assume this Agreement.
- (g) If Lender elects to sell or transfer the Generating Facility (after Lender directly or indirectly, takes possession of, or title to the Generating Facility), or sale of the Generating Facility occurs through the actions of Lender (for example, a foreclosure sale where a third party is the buyer, or otherwise), *then* Lender must cause the transferee or buyer to assume all of Seller's obligations arising under this Agreement and all related agreements as a condition of the sale or transfer.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Such sale or transfer may be made only to an entity with financial qualifications (including collateral support and any other additional security as may be required by SCE) and operating experience equivalent to that of Seller as of the Effective Date satisfactory to SCE in its sole discretion; and

- (h) If this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith and if Lender or its designee, directly or indirectly, takes possession of, or title to, the Generating Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender shall or shall cause its designee to promptly enter into a new agreement with SCE having substantially the same terms as this Agreement.

Notwithstanding the foregoing, SCE shall not be required to enter into such agreement with Lender or such designee if there has been a change in circumstances resulting from actions of Seller in its Bankruptcy case that would, in SCE's judgment, materially impact the rights or obligations of SCE under such an agreement.

10.06 Abandonment.

Seller shall not relinquish its possession and control of the Generating Facility without the prior written consent of SCE except under circumstances provided for in Section 10.05.

For purposes of this Section 10.06, Seller shall have been deemed to relinquish possession of the Generating Facility if Seller has ceased work on the Generating Facility or the Generating Facility has ceased production and delivery of the Product for a consecutive thirty (30) day period and such cessation is not a result of an event of Force Majeure.

10.07 Governing Law.

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.08 Notices.

All notices, requests, statements or payments shall be made as specified in Exhibit C.

Notices (other than Forecasting and scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service or facsimile.

Notice provided in accordance with this Section 10.08 shall be deemed given as follows:

- (a) Notice by facsimile or hand delivery shall be deemed given at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be deemed given at the close of business on the next Business Day;
- (b) Notice by overnight United States mail or courier service shall be deemed given on the next Business Day after it was sent out; and
- (c) Notice by first class United States mail shall be deemed given two (2) Business Days after the postmarked date.

Notices shall be effective on the date deemed given, unless a different date for the Notice to go into effect is stated in another section of this Agreement.

A Party may change its designated representatives, addresses and other contact information by providing notice of same in accordance herewith.

All notices, requests, statements or payments for this Generating Facility must reference the contract identification ("RAP ID") number set forth on the title page to this Agreement.

10.09 General.

- (a) This Agreement constitutes the entire agreement between the Parties relating to its subject matter.
- (b) This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.
- (c) Except to the extent provided for herein, no amendment or modification to this Agreement shall be enforceable unless reduced to a writing signed by all Parties.
- (d) This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

- (e) Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.
- (f) The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation.
- (g) The word “or” when used in this Agreement shall include the meaning “and/or” unless the context unambiguously dictates otherwise.
- (h) The headings used herein are for convenience and reference purposes only. Words having well-known technical or industry meanings shall have such meanings unless otherwise specifically defined herein.
- (i) Where days are not specifically designated as Business Days, they shall be considered as calendar days.
- (j) This Agreement shall be binding on each Party’s successors and permitted assigns.
- (k) No provision of this Agreement is intended to contradict or supersede any applicable agreement covering transmission, distribution, metering, scheduling or interconnection. In the event of an apparent contradiction between this Agreement and any such agreement, the applicable agreement shall control.
- (l) Whenever this Agreement specifically refers to any law, tariff, government department or agency, regional reliability council, Transmission Provider, or credit rating agency, the Parties hereby agree that the reference shall also refer to any successor to such law, tariff or organization.
- (m) SCE has assigned a RAP ID number to this Agreement for tracking purposes only.
- (n) SCE’s obligation to take and pay for electric energy produced by the Generating Facility, together with Green Attributes, Resource Adequacy Benefits and Capacity Attributes associated therewith, shall not be affected by any change to or elimination of this RPS Legislation, subject to Section 3.17.
- (o) The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” within the meaning of the United States Bankruptcy Code and that SCE and Seller are each “forward contract merchants” within the meaning of the United States Bankruptcy Code.

- (p) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.

10.10 Confidentiality.

(a) Terms and Conditions of this Agreement.

Neither Party shall disclose Confidential Information to a third party, other than:

- (i) To such Party's employees, Lenders, counsel, accountants or advisors, Affiliates, investors, in each case who have a need to know such information and have agreed to keep such terms confidential;
- (ii) To potential Lenders with the consent of SCE, which consent shall not be unreasonably withheld, delayed or conditioned; *provided, however*, that disclosure:
 - (1) Of cash flow and other financial projections to any potential Lender in connection with a potential loan or tax equity investment; or
 - (2) To potential Lenders with whom Seller has negotiated (but not necessarily executed) a term sheet or other similar written mutual understanding,

shall not require such consent of SCE, and *provided further that*, in each case such potential Lender has a need to know such information and has agreed to keep such terms confidential;

- (iii) To SCE's Procurement Review Group, as defined in CPUC Decision 02-08-071, subject to any confidentiality agreements or laws, regulations or regulatory decisions concerning confidentiality which are applicable to SCE's Procurement Review Group;
- (iv) To the CPUC under seal for purposes of review subject to the disclosing Party ("Disclosing Party") making reasonable efforts to obtain confidentiality protection from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection;
- (v) To the CAISO in order to participate in any auction, market or other process pertaining to the allocation of priorities or rights related to the transmission of electric energy sold or to be sold to SCE hereunder;

- (vi) In order to comply with any Applicable Law or any exchange, control area or CAISO rule, or order issued by a court or entity with competent jurisdiction over the Disclosing Party, other than to those entities set forth in Section 10.10(a)(vii);
- (vii) In order to comply with any applicable regulation, rule, or order of the CPUC, CEC, FERC, any court, administrative agency, legislative body or other tribunal, or any mandatory discovery or data request of a party to any proceeding pending before any of the foregoing;
- (viii) To any governmental body, the CPUC, the CAISO or any local control area or regional authority having jurisdiction in order to support SCE's resource adequacy requirement showings, if applicable; provided, that SCE shall, to the extent reasonable, use reasonable efforts to limit the ability of any such applicable governmental body, CAISO, local control area or regional authority to further disclose such information;
- (ix) As may reasonably be required to participate in any auction, market or other process pertaining to the allocation of priorities or rights related to the transmission of electric energy sold or to be sold to SCE hereunder;
- (x) To representatives of a Party's credit ratings agencies:
 - (1) Who have a need to review the terms and conditions of this Agreement for the purpose of assisting the Party in evaluating this Agreement for credit rating purposes and have agreed to keep such information confidential; or
 - (2) With respect to the potential impact of this Agreement on the Party's financial reporting obligations;
- (xi) Disclosure of terms specified in and pursuant to Section 10.10(c);
- (xii) In connection with discovery requests or orders pertaining to the non-public terms of this Agreement as referenced in Sections 10.10(a)(vi) and 10.10(a)(vii) ("Disclosure Order") each Party shall, to the extent practicable, use reasonable efforts to:
 - (1) Notify the other Party prior to disclosing the confidential information; and
 - (2) Prevent or limit such disclosure.

After using such reasonable efforts, the Disclosing Party shall not be:

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (3) Prohibited from complying with a Disclosure Order; or
- (4) Liable to the other Party for monetary or other damages incurred in connection with the disclosure of the confidential information.

Except as provided in the preceding sentence, the Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

Note: By checking this blank, Seller agrees to waive the right to notification under clause (1) above: ____.

(b) Non-Disclosure Agreement.

- (i) The Non-Disclosure Agreement between the Parties attached hereto as Exhibit G is incorporated herein (the "NDA"), and the termination date of that agreement is modified such that it will terminate on the later of:

- (1) The termination of that Agreement; or
- (2) One year after the date of termination of this Agreement.

Information provided by the Parties pursuant to this Agreement shall be subject to the NDA, or to such other agreement that the Parties shall negotiate to provide reasonable protection for their confidential business information or trade secrets.

- (ii) Notwithstanding Section 6 of the NDA, the term "Confidential Information" as used in the NDA (and incorporated herein) shall be deemed to include (in addition to the information described in the NDA) this Agreement and all oral or written communications exchanged between the Parties pursuant to this Agreement, except for communications and information described in Section 4 of the NDA.
- (iii) Confidential Information may only be used for the purposes set forth under the NDA and for the purpose of implementing and enforcing this Agreement.

(c) RPS Confidentiality.

Notwithstanding Section 10.10(a), at any time on or after the date on which the SCE makes its advice filing letter seeking CPUC Approval of this

Agreement, either Party shall be permitted to disclose the following terms with respect to this Agreement:

- (i) Party names;
- (ii) ERR type;
- (iii) Term;
- (iv) Generating Facility location;
- (v) Delivery Point;
- (vi) Generating Facility's expected energy deliveries;
- (vii) Forecasted On-Line Date; and
- (viii) Contract Capacity.

10.11 Insurance.

- (a) Throughout the Term, Seller shall obtain and maintain in force as hereinafter provided commercial general liability insurance, including contractual liability coverage, with a combined single limit of not less than two million dollars (\$2,000,000) for each occurrence.

The insurance carrier or carriers and form of policy shall be subject to review and approval by SCE which approval shall not be unreasonably withheld, conditioned or delayed.

- (b) Before commencement of the Term, as provided in Section 2.03(a), Seller shall:
 - (i) Furnish a certificate of insurance to SCE, which certificate shall provide that such insurance shall not be terminated nor expire except on thirty (30) calendar days' prior written notice to SCE; and
 - (ii) Furnish to SCE an additional insured endorsement with respect to such insurance in substantially the following form:

"In consideration of the premium charged, SCE is named as additional insured with respect to all liabilities arising out of Seller's use and ownership of Seller's Generating Facility.

The inclusion of more than one insured under this policy shall not operate to impair the rights of one insured against another insured and

the coverages afforded by this policy will apply as though separate policies had been issued to each insured.

The inclusion of more than one insured will not, however, operate to increase the limit of the carrier's liability.

SCE will not, by reason of its inclusion under this policy, incur liability to the insurance carrier for payment of premium for this policy.

Any other insurance carried by SCE which may be applicable shall be deemed excess insurance and Seller's insurance primary for all purposes despite any conflicting provisions in Seller's policy to the contrary."

10.12 Nondedication.

Notwithstanding any other provisions of this Agreement, neither Party dedicates any of the rights that are or may be derived from this Agreement or any part of its facilities involved in the performance of this Agreement to the public or to the service provided under this Agreement, and such service shall cease upon termination of this Agreement.

10.13 Mobile Sierra.

Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party in seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties.

Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party or the FERC acting *sua sponte* shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

10.14 Simple Interest Payments.

Except as specifically provided in this Agreement, any outstanding and past due amounts owing and unpaid by either Party under the terms of this Agreement shall be eligible to receive a Simple Interest Payment, calculated using the Interest Rate, for the number of days between the date due and the date paid.

10.15 Payments.

Payments to be made under this Agreement shall be made by wire transfer.

10.16 Provisional Relief.

The Parties acknowledge and agree that irreparable damage would occur in the event that certain provisions of this Agreement are not performed in accordance with the terms hereof, that money damages would not be a sufficient remedy for any breach of such provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of Section 2.06(b), 3.01, 3.02, 3.04(c)(iii), 3.07 or 10.10 of this Agreement in any court of competent jurisdiction, notwithstanding the obligation to submit all other disputes (including all claims for monetary damages under this Agreement) to arbitration pursuant to Section 11.01. The Parties further acknowledge and agree that the results of such arbitration may be rendered ineffectual without such provisional relief.

Such a request for provisional relief shall not waive a Party's right to seek other remedies for the breach of the provisions specified above in accordance with Section 11.01, notwithstanding any prohibition against claim-splitting or other similar doctrine. The other remedies that may be sought include specific performance and injunctive or other equitable relief, plus any other remedy specified in this Agreement for such breach of the provision, or if the Agreement does not specify a remedy for such breach, all other remedies available at law or equity to the Parties for such breach.

***** End of ARTICLE TEN *****

ARTICLE ELEVEN. MEDIATION AND ARBITRATION**11.01 Dispute Resolution.**

Other than requests for provisional relief under Section 10.16, any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Agreement, or to either Party's performance or failure of performance under this Agreement ("Dispute"), which Dispute the Parties have been unable to resolve by informal methods after undertaking a good faith effort to do so, shall first be submitted to mediation under the procedures described in Section 11.02 below, and if the matter is not resolved through mediation, then for final and binding arbitration under the procedures described in Section 11.03 below.

The Parties waive any right to a jury and agree that there shall be no interlocutory appellate relief (such as writs) available.

11.02 Mediation.

Either Party may initiate mediation by providing Notice to the other Party in accordance with Section 10.08 of a written request for mediation, setting forth a description of the Dispute and the relief requested.

The Parties will cooperate with one another in selecting the mediator ("Mediator") from the panel of neutrals from Judicial Arbitration and Mediation Services, Inc. ("JAMS"), its successor, or any other mutually acceptable non-JAMS Mediator, and in scheduling the time and place of the mediation.

Such selection and scheduling shall be completed within forty five (45) days after Notice of the request for mediation.

Unless otherwise agreed to by the Parties, the mediation shall not be scheduled for a date that is greater than one hundred twenty (120) days from the date of Notice of the request for mediation.

The Parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs (other than each Party's individual attorneys' fees and costs related to the Party's participation in the mediation, which fees and costs shall be borne by such Party).

All offers, promises, conduct and statements, whether oral or written, made in connection with or during the mediation by either of the Parties, their agents, representatives, employees, experts and attorneys, and by the Mediator or any of the Mediator's agents, representatives and employees, shall not be subject to discovery and shall be confidential, privileged and inadmissible for any purpose, including

impeachment, in any arbitration or other proceeding between or involving the Parties, or either of them, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

11.03 Arbitration.

Either Party may initiate binding arbitration with respect to the matters first submitted to mediation by providing Notice in accordance with Section 10.08 of a demand for binding arbitration before a single, neutral arbitrator (the "Arbitrator") at any time following the unsuccessful conclusion of the mediation provided for above.

The Parties will cooperate with one another in selecting the Arbitrator within sixty (60) days after Notice of the demand for arbitration and shall further cooperate in scheduling the arbitration to commence no later than one hundred eighty (180) days from the date of Notice of the demand.

If, notwithstanding their good faith efforts, the Parties are unable to agree upon a mutually-acceptable Arbitrator, the Arbitrator shall be appointed as provided for in California Code of Civil Procedure Section 1281.6.

To be qualified as an Arbitrator, each candidate must be a retired judge of a trial court of any state or federal court, or retired justice of any appellate or supreme court.

Unless otherwise agreed to by the Parties, the individual acting as the Mediator shall be disqualified from serving as the Arbitrator in the dispute, although the Arbitrator may be another member of the JAMS panel of neutrals or such other panel of neutrals from which the Parties have agreed to select the Mediator.

Upon Notice of a Party's demand for binding arbitration, such Dispute submitted to arbitration, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by binding arbitration before the Arbitrator, in accordance with the laws of the State of California, without regard to principles of conflicts of laws.

Except as provided for herein, the arbitration shall be conducted by the Arbitrator in accordance with the rules and procedures for arbitration of complex business disputes for the organization with which the Arbitrator is associated.

Absent the existence of such rules and procedures, the arbitration shall be conducted in accordance with the California Arbitration Act, California Code of Civil Procedure Section 1280 *et seq.* and California procedural law (including the Code of Civil Procedure, Civil Code, Evidence Code and Rules of Court, but excluding local rules).

Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration shall be in Los Angeles County, California.

Also notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, discovery will be limited as follows:

- (a) Before discovery commences, the Parties shall exchange an initial disclosure of all documents and percipient witnesses which they intend to rely upon or use at any arbitration proceeding (except for documents and witnesses to be used solely for impeachment);
- (b) The initial disclosure shall occur within thirty (30) days after the initial conference with the Arbitrator or at such time as the Arbitrator may order;
- (c) Discovery may commence at any time after the Parties' initial disclosure;
- (d) The Parties will not be permitted to propound any interrogatories or requests for admissions;
- (e) Discovery shall be limited to twenty five (25) document requests (with no subparts), three (3) lay witness depositions, and three (3) expert witness depositions (unless the Arbitrator holds otherwise following a showing by the Party seeking the additional documents or depositions that the documents or depositions are critical for a fair resolution of the Dispute or that a Party has improperly withheld documents);
- (f) Each Party is allowed a maximum of three (3) expert witnesses, excluding rebuttal experts;
- (g) Within sixty (60) days after the initial disclosure, or at such other time as the Arbitrator may order, the Parties shall exchange a list of all experts upon which they intend to rely at the arbitration proceeding;
- (h) Within thirty (30) days after the initial expert disclosure, the Parties may designate a maximum of two (2) rebuttal experts;
- (i) Unless the Parties agree otherwise, all direct testimony shall be in form of affidavits or declarations under penalty of perjury; and
- (j) Each Party shall make available for cross examination at the arbitration hearing its witnesses whose direct testimony has been so submitted.

Subject to Article Seven, the Arbitrator shall have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur in the event certain provisions of this Agreement are not performed in accordance with the terms hereof, that money damages would not be a sufficient remedy for any breach of such provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Section 2.06(b), 3.01, 3.02, 3.04(c)(iii), 3.07 or 10.10 of this Agreement.

Judgment on the award may be entered in any court having jurisdiction.

The Arbitrator shall, in any award, allocate all of the costs of the binding arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs shall be borne by such Party), including the fees of the Arbitrator and any expert witnesses, against the Party who did not prevail.

Until such award is made, however, the Parties shall share equally in paying the costs of the arbitration.

***** End of ARTICLE ELEVEN *****

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

In WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date first written:

**COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY, a**
confederation of independent special
districts

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a California corporation.

By: _____

By: _____

Stephen R. Maguin

Pedro J. Pizarro

Chief Engineer and General Manager

*Senior Vice President,
Power Procurement*

Date: _____

Date: _____

The contents of this document are subject to restrictions on disclosure as set forth herein.

Signatures

EXHIBIT A

Definitions

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT A***Definitions***

The following terms shall have the following meaning for purposes of this Agreement.

1. "Affiliate" means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such Party.

For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.
2. "Agreement" has the meaning set forth in the Preamble.
3. "Applicable Laws" means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority that apply to either or both of the Parties, the Generating Facility or the terms of this Agreement.
4. "Arbitrator" has the meaning set forth in Article Eleven.
5. "Bankrupt" means with respect to any entity, such entity:
 - (a) Files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it;
 - (b) Makes an assignment or any general arrangement for the benefit of creditors;
 - (c) Otherwise becomes bankrupt or insolvent (however evidenced);
 - (d) Has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or
 - (e) Is generally unable to pay its debts as they fall due.
6. "Biomass" means an eligible renewable electric energy resource that uses one or more of the biomass fuel resources stated in Section 1.01(d).
7. "Business Day" means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving. A Business Day shall begin at

The contents of this document are subject to restrictions on disclosure as set forth herein.

8:00 a.m. and end at 5:00 p.m. local time for the Party sending the Notice or payment or performing a specified action.

8. "CAISO" means the California Independent System Operator Corporation or successor entity.
9. "CAISO Approved Meter" has the meaning set forth in Section 3.06.
10. "CAISO Charges" means the credits, debits, costs, penalties and interest that are directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility for, or attributable to, scheduling or deliveries from the Generating Facility under this Agreement.
11. "CAISO Declared Over-Generation Condition" means a CAISO declared condition on the CAISO Grid where the sum of the desired generation output of all of the Scheduling Coordinators in the Control Area, absent mitigation, would be greater than the system load.
12. "CAISO Forecasted Over-Generation Condition" means a CAISO forecasted condition on the CAISO Grid where the sum of the desired generation output of all of the Scheduling Coordinators in the Control Area, absent mitigation, would be greater than the system load.
13. "CAISO Global Resource ID" or "GRI" means the number or name assigned by the CAISO to the CAISO Approved Meter.
14. "CAISO Grid" means the system of transmission lines and associated facilities and entitlements of the participating transmission owners that have been placed under the CAISO's operational control.
15. "CAISO Sanctions" means any sanction directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility, or attributable to, scheduling or deliveries from the Generating Facility under this Agreement.
16. "CAISO Tariff" means the California Independent System Operator Corporation Operating Agreement and Tariff, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.
17. "Capacity Attributes" means any and all current or future defined characteristics, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including any accounting construct counted toward any resource adequacy requirements, attributed to or associated with the Generating Facility or any unit of generating capacity of the Generating Facility during the Term.

The contents of this document are subject to restrictions on disclosure as set forth herein.

18. "CEC" means the California Energy Commission.
19. "CEC Certification and Verification" means certification (or, with respect to periods before the Generating Facility has been constructed, pre-certification) by the CEC that the Generating Facility is an ERR for purposes of the RPS Legislation and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the RPS Legislation.
20. "Claiming Party" has the meaning set forth in Section 5.02.
21. "Claims" means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.
22. "Collateral Assignment Agreement" has the meaning set forth in Section 10.05.
23. "Confidential Information" has the meaning set forth in Section 10.10(b)(ii).
24. "Contract Capacity" means the electric energy generating capacity, set forth in Section 1.01(e), that Seller commits to install at the Site, net of Station Use.
25. "Control Area" means the electric power system (or combination of electric power systems) under the operational control of the CAISO or any other electric power system under the operational control of another organization vested with authority comparable to that of the CAISO.
26. "Costs" means, with respect to the Non-Defaulting Party, brokerage fees, commissions, legal expenses and other similar third party transaction costs and expenses reasonably incurred by such Party in entering into any new arrangement which replaces this Agreement.
27. "CPA" has the meaning set forth in Section 3.22(b)(i).
28. "CPUC" means the California Public Utilities Commission.
29. "CPUC Approval" means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:
 - (a) Approves this Agreement in its entirety, including payments to be made by SCE, subject to CPUC review of SCE's administration of this Agreement; and

- (b) Finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining SCE's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the RPS Legislation, CPUC Decision 03-06-071, or other Applicable Law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable.

- 30. "Daily Delay Liquidated Damages" has the meaning set forth in Section 3.04.
- 31. "Defaulting Party" has the meaning set forth in Section 6.01.
- 32. "Delivered Amounts" means the Metered Amounts adjusted by Delivery Losses.
- 33. "Delivery Losses" means all electric energy losses occurring between the CAISO Approved Meter and the Delivery Point and electric energy losses occurring over the CAISO Grid as such losses are assigned by the CAISO to the Generating Facility including, if applicable:
 - (a) If the CAISO Approved Meter is not installed on the high voltage side of the Generating Facility's substation bus bar, transformer and other electric energy losses occurring between the CAISO Approved Meter and the high voltage side of the Generating Facility's substation bus bar;
 - (b) Any applicable DLF or TLF, or if no DLF is applicable, then electric energy losses between the high voltage side of the Generating Facility's substation bus bar and the CAISO Grid; and
 - (c) Electric energy losses determined by utilizing the GMM assigned to the Generating Facility.
- 34. "Delivery Point" means the point where the electric energy produced by the Generating Facility is transferred between the electrical conductors of the Seller and the electrical conductors of the Transmission Provider. Such electric energy is to be measured by the CAISO Approved Meter.

The point of transfer shall be at the location of the Facility within the Palos Landfill as shown in Exhibit B.

- 35. "Demonstrated Contract Capacity" has the meaning set forth in Section 3.04(c).
- 36. "Demonstration Hour" has the meaning set forth in Section 3.04(c).
- 37. "Disclosing Party" has the meaning set forth in Section 10.10.

38. "Disclosure Order" has the meaning set forth in Section 10.10.
39. "Dispute" has the meaning set forth in Article Eleven.
40. "DLF" means a number that is a representation for all net electric energy losses or avoided losses as determined by the CPUC associated with the transmission of electric energy through the electric system from the high voltage side of the Generating Facility's substation bus bar to the interface with the CAISO Grid, also known as the distribution loss factor.
41. "Early Termination Date" has the meaning set forth in Section 6.02.
42. "Effective Date" has the meaning set forth in the Preamble.
43. "Emergency" means:
- (a) An actual or imminent condition or situation which jeopardizes the integrity of Transmission Provider's electric system or the integrity of any other systems to which the Transmission Provider's electric system is connected, as determined by the Transmission Provider in its reasonable discretion, or any condition so defined and declared by the CAISO; or
 - (b) An emergency condition as defined under an interconnection agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the Transmission Provider's electric system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.
44. "Energy Control Network" means the CAISO infrastructure network (data highway) used by all CAISO participants to exchange data to and from resources and CAISO.
45. "Energy Deviations" means the absolute value of the difference, in kWh, in any Settlement Interval between:
- (a) The Final Hour-Ahead Schedule for the hour of the Settlement Interval divided by the number of Settlement Intervals in the hour; and
 - (b) Delivered Amounts for the Settlement Interval.
46. "Energy Forecast(s)" means the data containing Seller's expected Metered Amounts and submitted in accordance with Exhibit D.
47. "Energy Payment" has the meaning set forth in Section 4.02(b).

- 48. "Energy Payment Allocation Factor" has the meaning set forth in Exhibit H.
- 49. "Energy Price" means the energy price set forth in Section 1.03.
- 50. "Energy Replacement Damage Amount" has the meaning set forth in Section 3.05(b).
- 51. "Equitable Defense" means any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.
- 52. "ERR" means a generating facility that qualifies as an eligible renewable electric energy resource for purposes of the RPS Legislation.
- 53. "Event of Default" has the meaning set forth in Section 6.01.
- 54. "Event of Deficient Energy Deliveries" has the meaning set forth in Section 3.05(a)(ii).
- 55. "Event of Excess Deliveries" has the meaning set forth in Section 6.01(b)(iv).
- 56. "Expected Annual Net Energy Production" means the Generating Facility's expected annual Qualified Amounts set forth in Section 1.01(f).
- 57. "Extraordinary SCE Force Majeure" means a Force Majeure as to which SCE is the Claiming Party that results in SCE not accepting or Scheduling electric energy for more than ten (10) consecutive days during which Seller was prepared and able to deliver the Metered Amounts at the Delivery Point.
- 58. "FERC" means the Federal Energy Regulatory Commission.
- 59. "Final Hour-Ahead Schedule" has the meaning as set forth in the CAISO Tariff.
- 60. "Final Schedule" has the meaning as set forth in the CAISO Tariff.
- 61. "Firm Operation Date" has the meaning set forth in Section 1.06.
- 62. "Force Majeure" means any occurrence that was not anticipated as of the Effective Date that:
 - (a) In whole or in part:
 - (i) Delays a Party's performance under this Agreement;
 - (ii) Causes a Party to be unable to perform its obligations; or

- (iii) Prevents a Party from complying with or satisfying the conditions of this Agreement;
- (b) Is not within the control of that Party; and
- (c) The Party has been unable to overcome by the exercise of due diligence, including an act of God, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute, or actions or inactions of any Governmental Authority, or curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO except as set forth below) *provided that*, the basis of such curtailment or reduction is not an event caused by Seller.

Force Majeure does not include:

- (d) The lack of wind, sun or other fuel source of an inherently intermittent nature; or
 - (e) Curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO when the basis of the curtailment or reduction in deliveries ordered by a Transmission Provider or the CAISO is congestion arising in the ordinary course of operations of the Transmission Provider's system or the CAISO Grid, including congestion caused by outages or capacity reductions for maintenance, construction or repair.
63. "Forecast" or "Forecasting" means the action of Seller in preparing and submitting the Energy Forecast(s) to SCE in accordance with Exhibit D.
64. "Forecasted On-Line Date" has the meaning set forth in Section 1.04.
65. "Forward Settlement Amount" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other.

If the Non-Defaulting Party's Costs and Losses exceed its Gains, *then* the Forward Settlement Amount shall be an amount owing to the Non-Defaulting Party.

The Forward Settlement Amount shall not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

66. "Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Term of this Agreement, determined in a commercially reasonable manner.

Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transaction at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Term of this Agreement, and shall include the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Only if the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain third party information to determine the gain of economic benefits, *then* the Non-Defaulting Party may use information available to it internally suitable for such purpose in accordance with prudent industry practices.

67. "Generating Facility" means Seller's electric generating facility as more particularly described in Exhibit B, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at such facility, excluding the Site, land rights and interests in land.
68. "Generation Management System" or "GMS" means the automated system employed by SCE real time operations to remotely monitor, dispatch, and control each Generating Unit.
69. "Generation Operations Center" or "GOC" means the location of SCE's real time operations personnel.
70. "GMM(s)" means the generation meter multipliers as determined by the CAISO representing the calculation of all electrical losses assigned to the Generating Facility associated with the transmission of electric energy delivered by the Generating Facility over the CAISO Grid. As of the Effective Date, such values are posted by the CAISO on its website. The values used in this Agreement shall be those appearing on the CAISO website on the third (3rd) Business Day of the calendar month following the month for which such values are being applied.
71. "Governmental Authority" means:
- (a) Any federal, state, local, municipal or other government;
 - (b) Any governmental, regulatory or administrative agency, commission, or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or

- (c) Any court or governmental tribunal.
- 72. "Governmental Charges" has the meaning as set forth in Section 9.02.
- 73. "Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Generating Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as:
 - (a) Any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants;
 - (b) Any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and
 - (c) The reporting rights to these avoided emissions, such as Green Tag Reporting Rights.

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

Green Attributes do *not* include:

- (d) Any energy, capacity, reliability or other power attributes from the Generating Facility;
- (e) Production Tax Credits associated with the construction or Operation of the Generating Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Generating Facility that are applicable to a state or federal income taxation obligation;
- (f) Fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by Seller for the destruction of

The contents of this document are subject to restrictions on disclosure as set forth herein.

particular pre-existing pollutants or the promotion of local environmental benefits; or

- (g) Emission reduction credits encumbered or used by the Generating Facility for compliance with local, state, or federal operating and/or air quality permits.

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

74. "Initial Operation" has the meaning set forth in Section 2.03(b).
75. "Initial Operation Date" has the meaning set forth in Section 2.03(b).
76. "Initial Synchronization" means the date upon which the Generating Facility is first synchronized with Seller's Transmission Provider.
77. "Interconnection Study" means any of the following studies as may be defined in the CAISO's Tariff or the Transmission Provider's tariff, as applicable:
- (a) An interconnection feasibility study;
 - (b) An interconnection system impact study; or
 - (c) An interconnection facilities study.
78. "Interest Rate" means an annual rate equal to:
- (a) The rate published in The Wall Street Journal as the "Prime Rate" (or, if more than one rate is published, the arithmetic mean of such rates) as of the date payment is due; plus
 - (b) Two percentage points (2%);
- provided, however, that in no event shall the Interest Rate exceed the maximum interest rate permitted by Applicable Laws.
79. "JAMS" has the meaning set forth in Article Eleven.
80. "kW" means a kilowatt of electric energy generating capacity.
81. "kWh" means a kilowatt-hour of electric energy.

82. "Lease" means one or more agreements whereby Seller leases the Site(s) described in Section 1.01(b) from a third party, the term of which lease begins on or before the commencement of the Term and extends at least through the last day of the Term.
83. "Lender" means any financial institution(s) or successor(s) in interest or assignees that provide(s) development, bridge, construction, permanent debt or tax equity financing or refinancing for the Generating Facility to Seller.
84. "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Term of this Agreement, determined in a commercially reasonable manner.

Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transaction at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Term of this Agreement and shall include the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Only if the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain third party information to determine the loss of economic benefits, *then* the Non-Defaulting Party may use information available to it internally suitable for such purpose in accordance with prudent industry practices.

85. "Lost Output" means the sum of the Qualified Amounts over the relevant measurement period that the Generating Facility was available to produce and could reasonably have been expected to deliver, based upon the calculation method set forth in Exhibit I, but was not delivered due to:
- (a) Force Majeure; or
 - (b) An Event of Default where SCE is the Defaulting Party.
86. "Lost Output Report" means the report of Lost Output in the form of the Lost Output Workbook prepared in accordance with the procedures set forth in Section 3.19 and Exhibit I.
87. "Lost Output Workbook" has the meaning set forth in Exhibit I.

- 88. "Market Price Referent" means the market price referent applicable to this Agreement, as determined by the CPUC in accordance with Public Utilities Code Section 399.15(c).
- 89. "Mediator" has the meaning set forth in Article Eleven.
- 90. "Metered Amounts" means the electric energy produced by the Generating Facility, and expressed in kWh, as measured by the CAISO Approved Meter.
- 91. "Meter Service Agreement" has the meaning set forth in the CAISO Tariff.
- 92. "Milestone Schedule" means Seller's schedule to develop the Generating Facility as set forth in Exhibit E, including any revisions thereto in accordance with this Agreement.
- 93. "Monthly Profile" has the meaning set forth in Exhibit I.
- 94. "MW" means a megawatt (or 1,000 kilowatts) of electric energy generating capacity.
- 95. "MWh" means a megawatt-hour (or 1,000 kilowatt-hours) of electric energy.
- 96. "Non-Defaulting Party" has the meaning set forth in Section 6.02.
- 97. "Notice" means notices, requests, statements or payments provided in accordance with Section 10.08 and Exhibit C.
- 98. "Non-Disclosure Agreement" or "NDA" has the meaning set forth in Section 10.10(b)(i).
- 99. "OMAR" means the Operational Metering Analysis and Reporting System operated and maintained by the CAISO as the repository of settlement quality meter data or its successor.
- 100. "On-Line Year" means the year in which Seller achieves Initial Operation for the Generating Facility.
- 101. "Operate," "Operating" or "Operation" means to provide (or the provision of) all the operation, engineering, purchasing, repair, supervision, training, inspection, testing, protection, use, management, improvement, replacement, refurbishment, retirement, and maintenance activities associated with operating the Generating Facility in accordance with Prudent Electrical Practices.
- 102. "Outage Schedule" has the meaning set forth in Section 3.13.
- 103. "Participating Generator Agreement" has the meaning set forth in the CAISO Tariff.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- 104. "Party" or "Parties" have the meaning set forth in the Preamble.
- 105. "Performance Tolerance Band" has the meaning set forth in Exhibit J.
- 106. "Permits" means all applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any Governmental Authority, or the CAISO, in order to develop, construct, operate, maintain, improve, refurbish and retire the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to SCE.
- 107. "PGC Denial Notice" has the meaning set forth in Section 2.05(b)(ii).
- 108. "PGC Denied Funds" has the meaning set forth in Section 2.05(b)(ii).
- 109. "PGC Fund Amount" has the meaning set forth in Section 2.05(a).
- 110. "PGC Funding Award" means the final award of allocated PGC Funds for the entire PGC Fund Amount from the CEC to Seller, pursuant to Section 25743(a) of the Public Resource Code, as shall be modified or amended from time-to-time.
- 111. "PGC Funding Confirmation" means a written notice from the CEC to Seller acknowledging Seller's request for PGC Funds and the availability of such funds for Seller, in the entire PGC Fund Amount, in a future PGC Funding Award.
- 112. "PGC Funding Termination Deadline" has the meaning set forth in Section 2.05(a).
- 113. "PGC Funds" or "Public Goods Charge Funding" means any supplemental energy payments pursuant to Public Utilities Code Section 399.15, as shall be modified or amended from time-to-time.
- 114. "PGC Lost Funds" has the meaning set forth in Section 2.05(c)(ii).
- 115. "PGC Option" has the meaning set forth in Section 2.05(d)(i).
- 116. "PGC Option Approval" has the meaning set forth in Section 2.05(d)(iii).
- 117. "PGC Option Exercise Date" has the meaning set forth in Section 2.05(d)(ii).
- 118. "PGC Option Exercise Period" has the meaning set forth in Section 2.05(d)(ii).
- 119. "PGC Reinstatement" has the meaning set forth in Section 2.05(f)(i).
- 120. "PGC Replacement Funds" has the meaning set forth in Section 2.05(d)(i).
- 121. "PGC Revocation Notice" has the meaning set forth in Section 2.05(c)(ii).

122. "Product" means:

- (a) All electric energy produced by the Generating Facility, net of Station Use; and
- (b) All Green Attributes, Capacity Attributes, and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility.

123. "Prudent Electrical Practices" means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Generating Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

Prudent Electrical Practices shall include, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with manufacturers' warranties, restrictions in this Agreement, and the requirements of Governmental Authorities, WECC standards, the CAISO and Applicable Laws.

Prudent Electrical Practices shall also include taking reasonable steps to ensure that:

- (a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Generating Facility's needs;
- (b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Generating Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Generating Facility and Emergencies whether caused by events on or off the Site;
- (c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe operation of the Generating Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- (e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the Transmission Provider's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood

conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and

- (f) Equipment and components designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.
- 124. "Qualified Amounts" means the Metered Amounts, expressed in kWh, that qualify as eligible renewable energy for purposes of the RPS Legislation.
- 125. "RAP ID" has the meaning set forth in Section 10.08.
- 126. "Renewable Energy Credit" has the meaning set forth in Public Utilities Code Section 399.12(g), as may be amended from time to time or as further defined or supplemented by Applicable Law.
- 127. "Resource Adequacy Benefits" means the rights and privileges attached to the Generating Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Generating Facility.
- 128. "Resource Adequacy Rulings" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-024, 06-07-031 and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such CPUC decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time during the Term.
- 129. "RPS Legislation" means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11, et seq.
- 130. "SC Schedules" means the amounts initially submitted to the CAISO by SCE, as Scheduling Coordinator for Seller, of expected electric energy that Seller expects to deliver to SCE in each hour.
- 131. "SCE" has the meaning set forth in the Preamble.
- 132. "SCE Penalty" has the meaning set forth in Exhibit J.
- 133. "Schedule," "Scheduled" or "Scheduling" means the action of SCE in submitting the SC Schedules to the CAISO and receiving the Final Schedules from the CAISO.

The contents of this document are subject to restrictions on disclosure as set forth herein.

134. "Scheduling Coordinator" or "SC" means an entity certified by the CAISO for the purposes of undertaking the functions specified by CAISO Tariff Section 2.2.6, as amended by FERC from time-to-time.
135. "Seller" has the meaning set forth in the Preamble.
136. "Seller's Annual Energy Delivery Obligation" has the meaning set forth in Section 3.05(a)(i).
137. "Seller's Bid Price" means \$95/MWh, the price as bid by Seller in response to SCE's request for proposals.
138. "Seller's Transmission Consultant" means an independent consultant selected by Seller to analyze the scope of congestion or curtailments that may be experienced by the Generating Facility during the Term, or transmission upgrades that may be required to mitigate congestion or curtailments.
139. "Settlement Interval" means any one of the six ten (10) minute time intervals beginning on any hour and ending on the next hour (e.g. 12:00 to 12:10, 12:10 to 12:20, etc.).
140. "Simple Interest Payment" means a dollar amount calculated by multiplying the:
- (a) Dollar amount on which the Simple Interest Payment is based; times
 - (b) Interest Rate as applicable; times
 - (c) The result of dividing the number of days in the calculation period by 360.
141. "Site" means the real property on which the Generating Facility is, or will be located, as further described in Section 1.01(b) and Exhibit B or as adjusted in accordance with Section 3.08.
142. "Site Control" has the meaning set forth in Section 3.07(a).
143. "Startup Deadline" means the date set forth in Section 1.05 by which Seller must have achieved Initial Operation as set forth in Section 2.03, subject to extension as provided in this Agreement.
144. "Startup Period" has the meaning set forth in Section 3.11(a)(i).
145. "Station Use" means the electric energy produced by the Generating Facility that is either:
- (a) Used within the Generating Facility to power the lights, motors, control systems and other electrical loads that are necessary for Operation; or

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (b) Consumed within the Generating Facility's electric energy distribution system as losses.
146. "Supplemental Lost Output" has the meaning set forth in Section 3.19.
147. "Supplemental Lost Output Report" has the meaning set forth in Section 3.19.
148. "Term" has the meaning used in Section 1.02.
149. "Term Year" means a twelve (12) month period beginning on the first day of the calendar month following the Firm Operation Date and each successive twelve (12) month period thereafter.
150. "Termination Payment" has the meaning set forth in Section 6.03.
151. "TLF" means a measure of all net electrical losses, as determined by the Transmission Provider, associated with the transmission of electric energy through the electric system from the high voltage side of the Generating Facility's substation bus bar to the interface with the CAISO Grid, also known as the transmission loss factor.
152. "TOD Period(s)" means the time of delivery period(s) set forth in Exhibit H.
153. "TOD Period Energy Payment" means a portion of an Energy Payment based upon the time of delivery of Product and calculated in accordance with the formula set forth in Section 4.02(b).
154. "Transmission Provider" means any entity or entities responsible for the interconnection of the Generating Facility with the Control Area or transmitting the Metered Amounts on the Transmission Provider's electric system.
155. "Unincluded Capacity" has the meaning set forth in Section 3.04(c).
156. "WECC" means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.
157. "Web Client" shall have the meaning set forth in Section 3.13.

***** End of EXHIBIT A *****

EXHIBIT B

Generating Facility and Site Description

The contents of this document are subject to restrictions on disclosure as set forth herein.

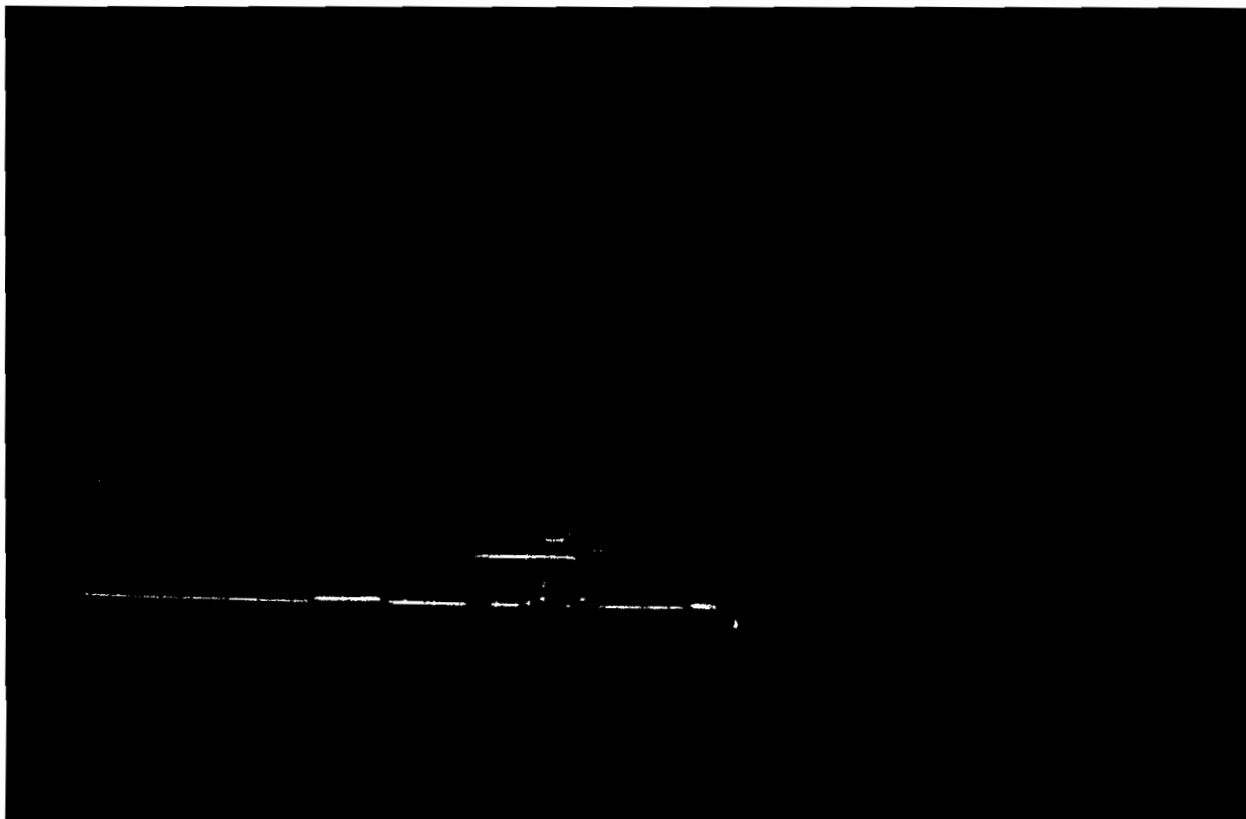
EXHIBIT B
Generating Facility And Site Description

1. Generating Facility Description.

General Description

The Palos Verdes Gas to Energy Facility (Facility) is located within the Palos Verdes Landfill at 25860 Hawthorne Boulevard, Rolling Hills Estates, California. It is proposed to replace the existing steam power plant with eight Ingersoll-Rand MT250 microturbines (Microturbine Facility) fueled by landfill gas. Each microturbine is rated at 243 kW (Gross). The microturbine Facility is expected to generate electric power at 480 V, step up to 4,160 V, and then export approximately 1.6 MW to the Southern California Edison grid. A typical installation of one MT250 is shown in Figure B-1.

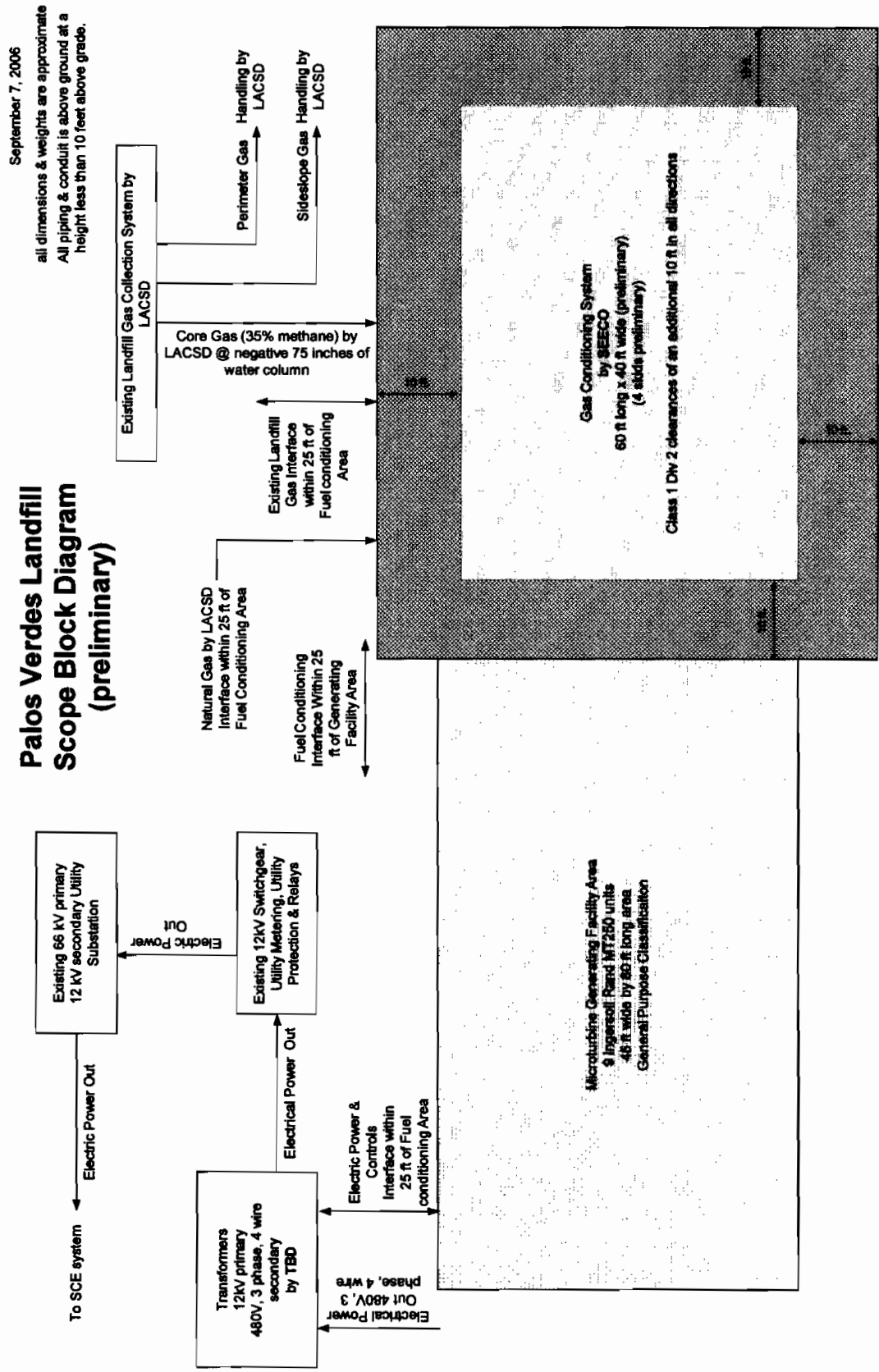
FIGURE B-1: TYPICAL INSTALLATION OF ONE IR MT 250



PLANT LAYOUT

Eight (8) Ingersoll Rand MT250 microturbines and a gas conditioning system will be installed on concrete pad(s) in an outdoor area that permits safe operation and maintains proper service space for the units and other power generation facility equipment. The area requires a 90-foot long by 45-foot wide space for the Microturbine Facility, and a 60 foot long by 40 foot wide space for the gas conditioning system. A preliminary block schematic is shown in Figure B-2.

FIGURE B-2: PRELIMINARY BLOCK SCHEMATIC OF PROPOSED MICROTURBINE FACILITY



COMBUSTION DEVELOPMENT EFFORTS

Currently, the core gas has a methane content of approximately 35%. For starting reliability the Microturbine Facility will be equipped with a natural gas blending system. The blending system would effectively sweeten the fuel methane content in order to provide smooth, reliable starts. Also, due to the low methane content, the pressure requirement is 115 psig.

Gas Conditioning System (GASCON)

The purpose of the gas conditioning system is to compress the gas, remove moisture and contaminants, and supply gas to the microturbines at the required pressure and cleanliness for reliable long-term operation. The GASCON also provides for natural gas blending during startup of the microturbines.

GASCON Design Basis

- GASCON design gas volume, maximum, 1681 scfm.
- GASCON design gas volume, minimum, the gas volume required for one microturbine, at start up of this one microturbine.
- Inlet gas temperature, 100°F maximum.
- Inlet gas pressure, negative 75 inches water column (12 psia).
- Delivered gas pressure at the microturbines, 115 psig.
- Inlet gas is saturated.
- Maximum ambient temperature, 100°F.
- Minimum ambient temperature, 35°F.
- Site elevation, 500 feet above sea level.

GASCON Process Description

There are four main components in the gas conditioning system:

1. Gas blending skid for startup.

2. A two skid, 50% gas compressor system.
3. Gas cooling skid, comprising the heat exchangers and glycol chiller.
4. Free standing siloxane removal vessels.

The landfill gas will enter a liquid to gas heat exchanger where the gas will be cooled to 60°F using 35°F glycol. From there, the gas will enter a moisture separator where any condensed water will be collected and removed. The gas blending system will add natural gas to the landfill gas, as required during startup.

The 60°F gas will then enter the compressor where it will be compressed from 12 psia to 147.7 psia (maximum). The heat of compression will raise the gas temperature to 215°F. The gas will then enter a water-cooled aftercooler where it will be cooled to 15°F above ambient temperature.

On the gas cooling skid, the gas will first be cooled in a gas to gas heat exchanger to preheat the chilled gas. Then the gas will be chilled to 40°F, using a 35°F glycol to gas heat exchanger. From there the gas will enter a coalescing filter to remove water.

The reheated gas will then enter the siloxane removal vessels (three) where siloxanes will be removed. A particulate filter after these vessels will remove any media carried over.

Component Description

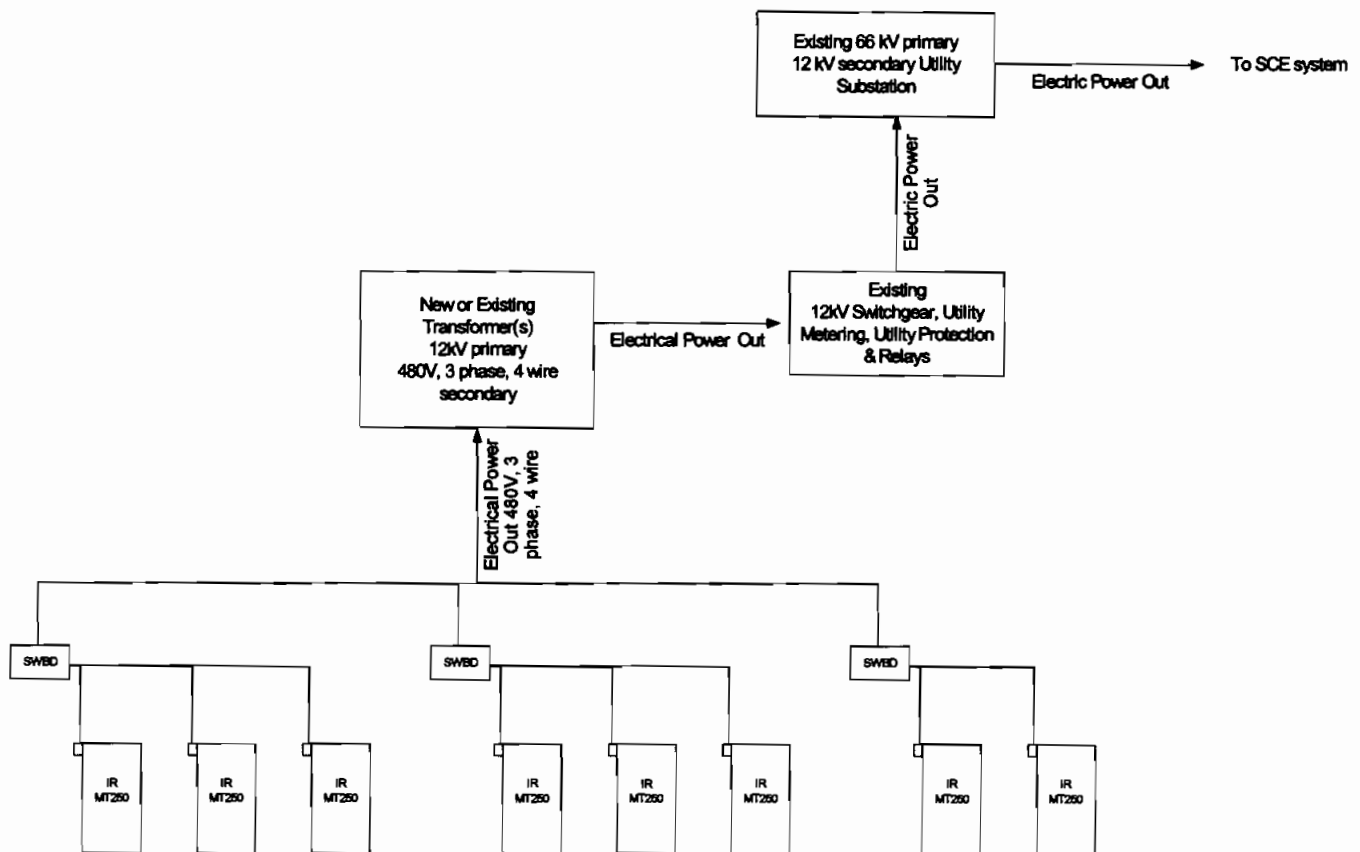
All components in contact with the gas, except the compressor, the compressor aftercooler, and the chiller, are 304 stainless steel.

- An inlet separator with demister pad will remove 99% of any liquid droplets or particulate matter of 5 microns or above.
- A liquid to gas heat exchanger to pre-cool the gas prior to the inlet moisture separator.
- Two Vilter, model VSG-1501, 350 HP electric motor driven, oil injected, single stage, water cooled, rotary, positive displacement, single screw, gas compressors with motor starters, controls and separate, water cooled aftercooler. Each compressor will be mounted on its own separate baseplate.
- Glycol to gas, heat exchanger to cool the gas to 40°F.
- Coalescing filter to remove any particulate matter or liquid water down to 0.3 microns at a filtration efficiency of 99.97%.

- Three 6'-0" diameter, 6'-0" straight side, 304 stainless steel, siloxane removal vessels. These vessel sizes have been suggested by LACSD. The vessel design and detail design drawings will be given SEECO by LACSD in order for SEECO to build them. LACSD will supply the siloxane removal media and load it at site. LACSD will supply any replacement media and be responsible for removing spent media and loading the replacement media.
- A 150 ton (estimated, maximum) chiller, water cooled, dual circuit (each circuit is 50% capacity) to provide 35°F glycol/water mixture for the liquid cooled heat exchangers. The chiller motor starter(s) and controls are included and integral.

Electrical Description

The Microturbine Facility electrical output is 480VAC, 3 phase, 4 wire. 12 kV —480Y/277V transformers will be required to interface the microturbine electrical output to the existing plant 12kV switchgear. A simplified one-line diagram is provided in Figure B-3. It is anticipated that a new WDAT interconnection agreement will be required for the proposed Microturbine Facility.

Figure B-3: Simplified One-Line Diagram of Palos Verdes GTE Microturbine Facility

2. Site Description.

Site Address

The Palos Verdes Landfill (PVLf), which closed on December 31, 1980, is located on 25680 Hawthorne Boulevard in the City of Rolling Hills Estates. The landfill site is in the north-facing foothills of the Palos Verdes peninsula in the south central portion of Los Angeles County. The landfill site consists of approximately 290 acres within six parcels of land separated into three sections by Hawthorne and Crenshaw Boulevards.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Site Description and Legal Control

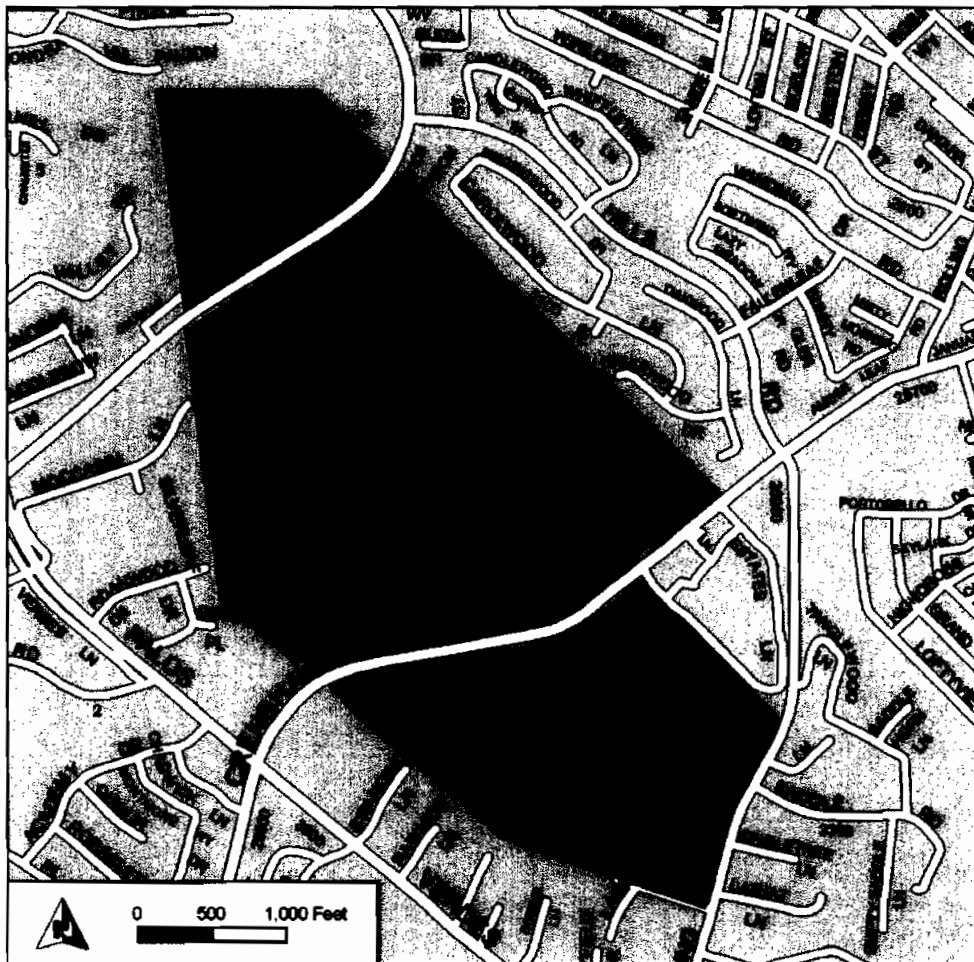
Parcels 2, 3, 5, and 6 of the site are located between Hawthorne and Crenshaw Boulevards. This area is commonly referred to as the "Main Site" and encompasses approximately 173 acres. Under an agreement with Los Angeles County, the Sanitation Districts operates and maintains the Main Site during the post-closure period. Los Angeles County and the Sanitation Districts also agreed to jointly construct and operate a gas-to-energy facility. The Sanitation Districts were given exclusive rights to utilize all landfill gas generated and collected on the Main Site.

Parcel 1, consisting of 83 acres, is located south of Crenshaw Boulevard. This area is currently operated by the County of Los Angeles as the South Coast Botanic Garden. Parcel 4, consisting of 35 acres, is located northwest of Hawthorne Boulevard. The City of Rolling Hills Estates currently owns and operates Ernie Howlett Park on Parcel 4.

Maps and Photos

A street map and aerial photos of the site are presented below.

Street Map



The contents of this document are subject to restrictions on disclosure as set forth herein.

Aerial Photos

PALOS VERDES LANDFILL AERIAL



<http://local.live.com/default.aspx?v=2&cp=33.788733~-118.347623&style=h&lv=16&scene=1405349>

The contents of this document are subject to restrictions on disclosure as set forth herein.

PALOS VERDES LANDFILL POWER PLANT



<http://local.live.com/default.aspx?v=2&cp=pmyw5w543r79&style=o&lvl=2&scene=7039681>

Right of Way


The existing easement from the Districts to SCE is reproduced on the following pages.


The contents of this document are subject to restrictions on disclosure as set forth herein.

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

RECORDING REQUESTED BY
 Southern California Edison Company

WHEN RECORDED MAIL TO
 Southern California Edison Company
P. O. Box 488
1000 WILSON, CA. 90001
Attention: Real Properties Dept.
RECORD

87-1191929

FEE \$11 \$
4

RECORDED IN OFFICIAL RECORDS
RECORDING OFFICE
LOS ANGELES COUNTY
CALIFORNIA
4 MIN. 8 AM JUL 28 1987

SPACE ABOVE THIS LINE FOR RECORDER'S USE
DOCUMENTARY TRANSFER THE \$ Value less than \$100.00
COMPUTED ON FULL VALUE OF PROPERTY CONVEYED
OR COMPUTED ON FULL VALUE LESS LIENS AND
INCUMBRANCES EXISTING AT TIME OF SALE
B. Carter
IN ONLY, SHOW IN
REQUIREMENT OF DELIVERY ON ADVERTISING VALUE, FROM 2000

Location: City of Rolling
Hills Estates
A.P.N. 7548-008-900
#152

GRANT OF EASEMENT

COUNTY SANITATION DISTRICT NO. 5 OF LOS ANGELES COUNTY, a body corporate and politic, hereinafter called "Grantor", does hereby grant to SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, its successors and assigns, hereinafter called "Grantee", an easement to construct, use, maintain, alter, add to, repair, replace, inspect and/or remove buildings, structures, poles, towers, transformers, fences, concrete pads and other fixtures, appliances and property which said Grantee, its successors and assigns, may find necessary or convenient for the maintenance and operation of any electrical substation, in, under, on, along and across that certain real property situated in the City of Rolling Hills, County of Los Angeles, State of California, described as follows:

Substation Site:

That portion lying within Lot 14 of L.A.C.A. No. 51, in the City of Rolling Hills Estates, County of Los Angeles, State of California, as per map recorded in Book 1, page 1 of Assessor's Maps, in the office of the County Recorder of said County.

The approximate location of said electrical substation is shown on the map attached hereto, marked EXHIBIT "A", and by this reference made a part hereof.

Grantor also hereby grants to Grantee, its successors and assigns, an easement to construct and use, at any time and from time to time, underground electrical and communication systems consisting of wires, underground conduits, cables, vaults, manholes, handholes, and including above-ground enclosures, markers and concrete pads and other appurtenant fixtures and equipment necessary or useful for conveying electrical energy to be used for light, heat, power and for transmitting intelligence by electrical means and other purposes, together with an easement and right of way for ingress and egress in connection with the maintenance and operation of the aforesaid underground electrical and communication systems and said substation, in, under, on, over, along and across that certain real property in said City of Rolling Hills Estate, County of Los Angeles, State of California, described as follows:

Transmission Line Right of Way:

A strip of land, fifteen (15) feet wide, lying within Lot 14 of L.A.C.A. No. 51, in the City of Rolling Hills Estate, County of Los Angeles, State of California, as per map recorded

Exhibit B

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

Grant of Easement
County Sanitation District No. 5 of
Los Angeles County, a body corporate
and politic, to
S.C.E.Co., a corp.
Serial No. 58606A

in Book 1, page 1 of Assessor's Maps, in the office of the
County Recorder of said County.

The approximate location of said strip of land, fifteen
(15) feet wide, is shown on the map attached hereto, marked
EXHIBIT "A", and by this reference made a part hereof.

Grantor also hereby grants to Grantee, its successors and
assigns, the right to use existing roads on lands of Grantor as
shall be necessary or convenient to Grantee's access to and use of
said electrical substation site, electrical and communication sys-
tems, and guy wires and anchors, and the right to use all necessary
and convenient means of ingress to and egress from said electrical
substation, electrical and communication systems, and guy wires and
anchors, from the public highway most convenient thereto, for the
uses and purposes and the exercising of the rights herein granted.

Grantor also hereby grants to Grantee, its successors and
assigns, the right to clear and to keep clear said electrical sub-
station site, underground electrical and communication systems right
of way, and rights of way for ingress and egress, free from
explosives, buildings, equipment, brush, combustible material and
any and all other structures and obstructions of any kind, and the
right to trim or remove any tree or shrub which, in the opinion of
the Grantee, may endanger said electrical substation, underground
electrical and communication systems, rights of way for ingress or
egress, or any part thereof, or interfere with the exercise of the
rights herein granted.

IN WITNESS WHEREOF, this instrument has been executed
this 18th day of July, 1987.

COUNTY SANITATION DISTRICT NO. 5 OF
LOS ANGELES COUNTY, a body corporate
and politic

By Barbara J. Deerr
Chairperson, Board of Directors

ATTEST:

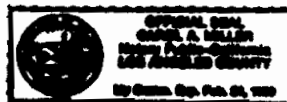
By Lonny Dicks
Secretary

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

On this 18th day of July, 1987,
before me, a Notary Public in and for said State, personally
appeared Barbara J. Deerr, personally
known to me (or proved to me on the basis of satisfactory evidence)
to be the Chairperson and Lonny Dicks
personally known to me (or proved to me on the basis of satisfactory
evidence) to be the Secretary of the County Sanitation
District No. 5 of Los Angeles County, the body corporate and politic
that executed the within instrument, and acknowledged to me that
they executed the same on behalf of such body corporate and politic.

WITNESS my hand and official seal.

Paul R. Little



-2-

erein.

87 1191929

Generating Facility and Site Description

Exhibit B

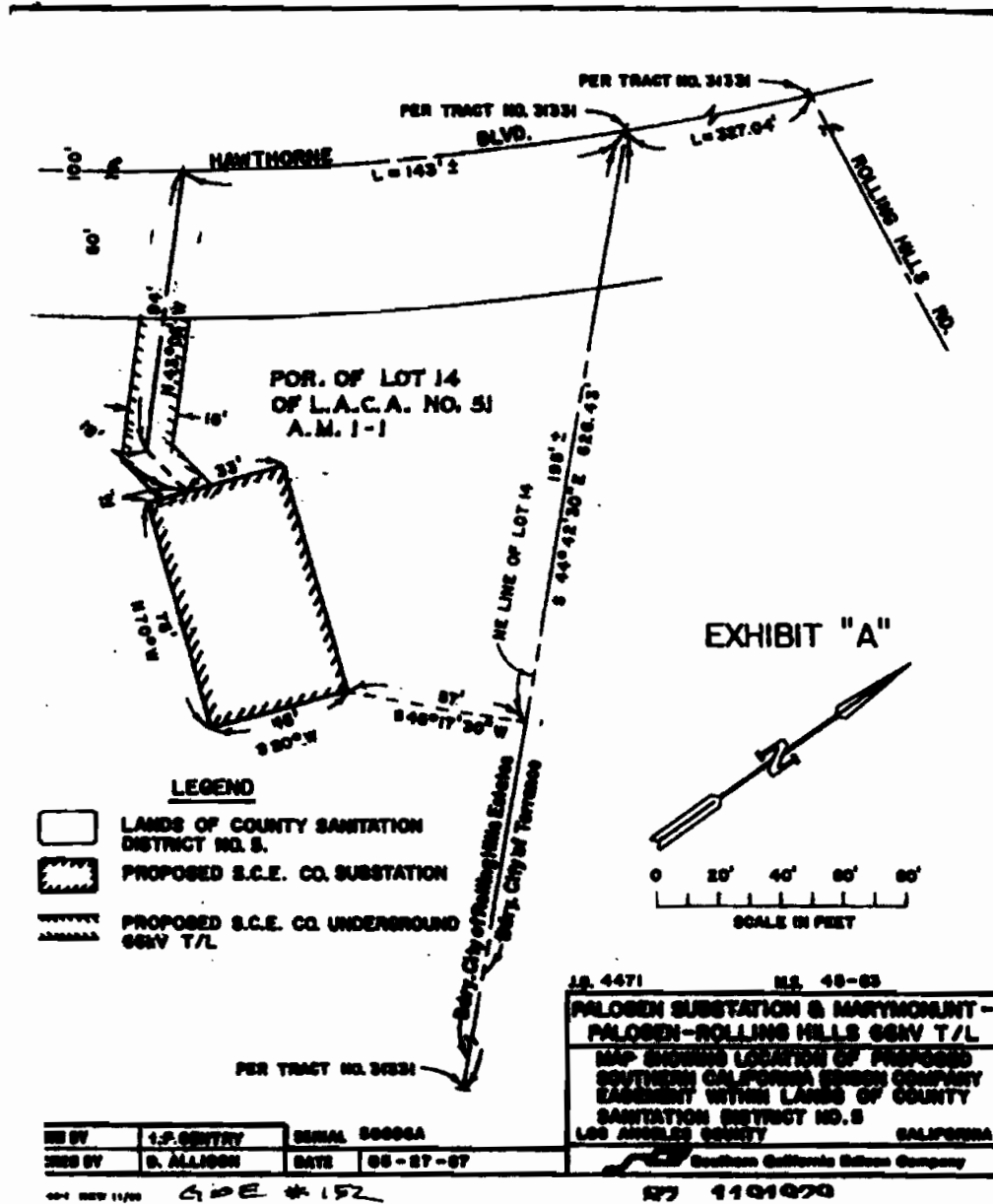
GOE #152

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

3



Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

***** End of EXHIBIT B *****

The contents of this document are subject to restrictions on disclosure as set forth herein.

Exhibit B

Generating Facility and Site Description

EXHIBIT C

Notice List

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

EXHIBIT C

Notice List

SANITATION DISTRICTS OF LOS ANGELES COUNTY ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
All Notices are deemed provided in accordance with Section 10.08 if made to the address and facsimile numbers provided below:	Unless otherwise specified, all Notices are deemed provided in accordance with Section 10.08 if made to the Contract Sponsor at the address or facsimile number provided below:
Contract Sponsor: Attn: Mr. Ed Wheless Street: 1955 Workman Mill Rd. City: Whittier, CA 90601 Phone: (562) 908-4288 x2428 Facsimile: (562) 692-2941	Contract Sponsor: Attn: Stuart Hemphill Director, Renewable and Alternative Power Street: 2244 Walnut Grove Avenue City: Rosemead, California 91770 Phone: (626) 302-9594 Facsimile: (626) 302-1103 Email: stuart.hemphill@SCE.com
Reference Numbers: Duns: 067761700 Federal Tax ID Number: 95-3755190	Reference Numbers: Duns: 006900818 Federal Tax ID Number: 95-1240335
Contract Administration: Attn: Mr. Mark McDannel Phone: (562) 908-4288 x2442 Facsimile: (562) 692-2941	Contract Administration: Attn: Cathy Mendoza Phone: (626) 302-4978 Facsimile: (626) 302-9622 Email: cathy.mendoza@SCE.com
Forecasting: Attn: Control Room Phone: (310) 378-1928 Facsimile: (310) 378-4736	Generation Operations Center: Phone: (626) 302 3285 (< 72 hours notice) Phone: (626) 302 3400 (> 72 hours notice)

The contents of this document are subject to restrictions on disclosure as set forth herein.

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

SANITATION DISTRICTS OF LOS ANGELES COUNTY ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Day-Ahead Forecasting: Phone: (310) 378-1928	Day-Ahead Scheduling: <u>Manager.</u> Attn: Tracy Bibb Manager of Day-Ahead Operations Phone: (626) 302-3239 Facsimile: (626) 307-4413 Email: tracy.bibb@SCE.com <u>Scheduling Desk.</u> Phone: (626) 307-4425 Backup: (626) 307-4420 Fax: (626) 307-4413 Email: PreSched@SCE.com
Real-Time Forecasting: Phone: (310) 378-1928	Real-Time Scheduling: <u>Manager.</u> Attn: John Pespisa Manager of Real-Time Operations Phone: (626) 302-3308 Facsimile: (626) 307-4416 Email: john.pespisa@SCE.com <u>Operations Desk.</u> Phone: (626) 307-4453 Back-up: (626) 307-4410 Fax: (626) 307-4416 Email: RealTime@SCE.com
Payment Statements: Attn: Mr. Tom Mueller Phone: (562) 699-7411 Facsimile: Email: tmueller@lacsdsd.org	Payment Statements: Attn: Selene Willis Phone: (626) 302-3329 Facsimile: (626) 302-1102 Email: selene.willis@SCE.com
Payments: Attn: Mr. Tom Mueller Phone: (562) 699-7411 Facsimile: Email: tmueller@lacsdsd.org	Payments: Attn: Cindy Shindle Phone: (626) 302-9272 Facsimile: (626) 302-1102 Email: cindy.shindle@SCE.com

The contents of this document are subject to restrictions on disclosure as set forth herein.

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

SANITATION DISTRICTS OF LOS ANGELES COUNTY ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Wire Transfer: BNK: ABA: ACCT:	Wire Transfer: BNK: JP Morgan Chase Bank ABA: 021000021 ACCT: 323-394434
Credit and Collections: Attn: Mr. Tom Mueller Phone: (562) 699-7411 Facsimile: Email: tmueller@lacsds.org:	Manager of Credit and Collateral: Attn: Manager of Credit Phone: (626) 302-3150 Facsimile: (626) 302-2517
With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: Facsimile: Email:	With additional Notices of an Event of Default or Potential Event of Default to: Attn: J. Eric Isken Manager SCE Law Department Power Procurement Section Phone: (626) 302-3141 Facsimile: (626) 302-1904 Email: j.eric.isken@SCE.com
Guarantor: Attn: Phone: Facsimile: Email:	
Lender: Attn: Phone: Facsimile: Email:	
CAISO Charges and CAISO Sanctions: Attn: Phone: Facsimile: Email:	CAISO Charges, CAISO Sanctions and SCE Penalties: Attn: Selene Willis Phone: (626) 302-3329 Facsimile: (626) 302-1102 Email: selene.willis@SCE.com

The contents of this document are subject to restrictions on disclosure as set forth herein.

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

***** End of EXHIBIT C *****

The contents of this document are subject to restrictions on disclosure as set forth herein.

Exhibit C

Notice List

EXHIBIT D

Forecasting and Scheduling Requirements and Procedures

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT D*Forecasting and Scheduling Requirements and Procedures***1. Introduction.**

The Parties shall abide by the Forecasting and Scheduling requirements and procedures described below and shall agree upon reasonable changes to these requirements and procedures from time-to-time, as necessary to:

- (a) Comply with CAISO Tariff changes;
- (b) Accommodate changes to their respective generation technology and organizational structure; and
- (c) Address changes in the operating and Scheduling procedures of both SCE and the CAISO, including but not limited to, automated forecast and outage submissions.

2. Seller's Forecasting Requirements.

Seller must meet all of the following requirements for Forecasting as specified below.

- (a) No later than thirty (30) days prior to Initial Synchronization, Seller shall provide SCE with a 30-day, hourly Energy Forecast, in MWh, for the thirty day (30) period commencing on Initial Synchronization using the Web Client.

If, after submitting the Energy Forecast pursuant to this Section 2(a), Seller learns that Initial Synchronization will occur on a date and time other than that reflected on the Energy Forecast, Seller will provide an updated Energy Forecast reflecting the new Initial Synchronization date at the earliest practicable time but no later than 5:00 p.m. Pacific Prevailing Time ("PPT") on the Wednesday prior to the new Initial Synchronization date, if Seller has learned of the new Initial Synchronization Date by that time, but in no event later than three (3) Business Days prior to the new Initial Synchronization date.

The Energy Forecast for any given hour becomes binding at 5:30 am PPT on the day prior to the day in which such hour occurs, unless the Energy Forecast is updated pursuant to Sections 2.(c) or 2.(d) below.

In the event that the Web Client becomes unavailable, Seller shall provide SCE with the Energy Forecast by telephoning SCE's Generation Operations Center, at the telephone number(s) listed in Exhibit C.

- (b) The Energy Forecast, and any updated Energy Forecasts provided pursuant to this Section 2, shall:
 - (i) Not include any anticipated or expected electric energy losses after the CAISO Approved Meter; and
 - (ii) Limit hour-to-hour forecast changes to no less than one hundred (100) kWh during any period when the Web Client is unavailable. Seller shall have no restriction on hour-to-hour forecast changes when the Web Client is available.
- (c) Commencing on or before 5:00 p.m. PPT of the Wednesday prior to the first week covered by the Energy Forecast provided pursuant to Section 2(a) above and on or before 5:00 p.m. PPT every Wednesday thereafter until the end of the Term, Seller shall update the Energy Forecast for the thirty (30) day period commencing on the Sunday following the weekly Wednesday Energy Forecast update submission. Seller shall use the Web Client, if available, to supply this weekly update or, if the Web Client is not available Seller shall provide SCE with the weekly Energy Forecast update by telephoning SCE's Generation Operations Center, at the telephone number(s) listed in Exhibit C.
- (d) If Seller learns of any change in the total generation capacity of the Generating Facility for a period covered by the most recent Energy Forecast update resulting from any cause, including an unplanned outage, prior to the time that the next weekly update of the Energy Forecast is due which results in variance in expected energy in any hour of plus (+) or minus (-) three percent (3%) from the energy reported in the most recent Energy Forecast update, Seller shall provide an updated Energy Forecast to SCE. This updated Energy Forecast must be submitted to SCE by no later than:
 - (i) 5:30 am PPT on the day prior to any day impacted by the change, if the change is known to Seller at that time;
 - (ii) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
 - (iii) If the change is not known to Seller by the timeframes indicated in (i) or (ii) above, no later than twenty (20) minutes after the commencement of the event which caused the available capacity change.

Seller's updated Energy Forecast must contain the following information:

- (iv) The beginning date and time of the event resulting in the availability change;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (v) The expected ending date and time of the event;
- (vi) The expected generation, in MW; and
- (vii) Any other information required by the CAISO as communicated to Seller by SCE.

3. SCE's Scheduling Responsibilities.

Pursuant to the CAISO Tariff, SCE shall be responsible for the following:

- (a) Adjustment of the Energy Forecasts, or the last Energy Forecast update submitted to SCE pursuant to Item 2, for forecasted electric energy line losses to reflect Seller's self-provision of those losses and the amount of electric energy Seller expects to deliver to the Delivery Point in any given hour;
- (b) Submission of the adjusted Energy Forecasts to the CAISO as SC Schedules; and
- (c) Receipt of notification of the Final Schedules from the CAISO.

4. Outage Scheduling Procedures.

Seller shall be responsible for all expenses and costs associated with all requirements and timelines for generation outage scheduling contained in the CAISO's Scheduled and Forced Outage Procedure T-113 as posted on the CAISO's website.

*** End of EXHIBIT D ***

EXHIBIT E

Seller's Milestone Schedule

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT E
Seller's Milestone Schedule

<i>No.</i>	<i>Date</i>	<i>Milestones</i>
1	Sep 2006	Submits interconnection application.
2	N/A	Files any land applications.
3	Oct 2007	Files Permit application(s).
4	Nov 2007	Files a CEC Certification and Verification application.
5	Mar 2007	Receives a completed System Impact Study.
6	Sep 2007	Obtains control of all lands and rights-of-way comprising the Site.
7	Jul 2007	Receives a completed interconnection Facility Study.
8	Feb 2008	Executes a Transmission Owner Tariff and/or applicable service agreement.
9	Jun 2008	Receives FERC acceptance of Interconnection Agreement and transmission agreement(s).
10	Jun 2008	Receives all Permits.
11	Jun 2008	Receives CEC Certification and Verification.
12	Mar 2009	Executes an Engineering, Procurement and Construction ("EPC") contract.
13	Jun 2008	Completes Financing.
14	Jul 2009	Begins construction of the Generating Facility.
15	Dec 2009	Begins startup activities.
16	Jan 2010	Achieves Initial Operation.
17	Mar 2010	Demonstrates the Contract Capacity.

*** End of EXHIBIT E ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT F

Milestone Progress Reporting Form

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT F
Progress Reporting Form

Seller shall prepare a written monthly report on its progress relative to the development construction and startup of the Generating Facility and the Milestone Schedule. The report shall be sent via email in the form of a single Adobe Acrobat file or facsimile to SCE's Contract Administrator, as noted in Exhibit C, on the fifth (5th) Business Day after the end of each calendar month.

Seller's Milestone Progress Reporting requirement shall begin on the first day of the second full calendar month after the Effective Date of this Agreement and shall end upon the Firm Operation Date.

Each Milestone Progress Report shall include the following items:

1. Cover page.
2. Brief Generating Facility description.
3. Site plan of the Generation Facility.
4. Description of any planned changes to the Generating Facility and Site Description in Exhibit B.
5. Bar chart schedule showing progress on achieving the Milestone Schedule.
6. PERT or GANT chart showing critical path schedule of major items and activities.
7. Summary of activities during the previous month.
8. Forecast of activities scheduled for the current month.
9. Written description about the progress relative to Seller's Milestone Schedule.
10. List of issues that could potentially impact Seller's Milestone Schedule.
11. Enumeration and schedule of any support or actions requested of SCE.
12. Progress and schedule of all agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
13. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Generating Facility performance including performance projections for the next twelve (12) months.

The contents of this document are subject to restrictions on disclosure as set forth herein.

14. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Generating Facility, Transmission Provider's electric system and all other interconnection utility services.

***** End of EXHIBIT F *****

EXHIBIT G

Non-Disclosure Agreement

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT G
Non-Disclosure Agreement

56-002

NON-DISCLOSURE AGREEMENT

Between

SOUTHERN CALIFORNIA EDISON COMPANY

and

County Sanitation District No. 2 of Los Angeles County

SOUTHERN CALIFORNIA EDISON COMPANY ("SCE"), a California corporation, and County Sanitation District No. 2 of Los Angeles County ("District"), a special district organized and existing pursuant to the County Sanitation District Act, Health and Safety Code of the State of California, Section 4700 et seq., hereby enter into this Non-Disclosure Agreement ("Agreement").

SCE and District shall sometimes be referred to in this Agreement individually as a "Party" and jointly as the "Parties."

RECITALS

- A. SCE initiated a request for proposals ("RFP") to supply energy and associated firm capacity from eligible renewable resources ("ERRs") on July 14, 2006, with a goal of negotiating and executing power purchase agreements with ERRs whose proposals are selected pursuant to the RFP.
- B. District desires to submit a proposal in response to the RFP.
- C. The Parties desire to keep confidential any confidential or proprietary information disclosed by District to SCE as part of District submission of a proposal in response to the RFP (the "Proposal"), or any confidential or proprietary information that may be disclosed by SCE to District as part of discussions or negotiations with District concerning District Proposal.

The contents of this document are subject to restrictions on disclosure as set forth herein.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. For purposes of this Agreement, all oral or written communications exchanged between the Parties on or after the Effective Date, as set forth in Section 10 of this Agreement, as part of the Proposal shall be referred to as "Confidential Information."

Any such communications must comply with the provisions of Section 6 herein to be considered Confidential Information.

2. The Parties agree to treat Confidential Information as confidential with respect to third parties and shall not disclose Confidential Information except as specifically authorized herein or as specifically agreed to by both Parties in writing.

Accordingly, Parties may disclose Confidential Information only to their employees, directors, financial advisors, attorneys, or accountants who have a strict need to know solely for the purpose of assisting the Party in evaluating the Proposal, or in subsequent discussions or negotiations regarding the Proposal and who read and agree to abide by this Agreement ("Permitted Disclosee").

The Parties may also disclose Confidential Information to representatives of their rating agencies who have a strict need to know solely for the purpose of assisting the Party in evaluating the Proposal, so long as the disclosing Party advises the rating agency of the confidential nature of the Confidential Information and uses reasonable efforts to prevent or limit the disclosure of Confidential Information by any such rating agency.

3. SCE may also disclose Confidential Information to the following entities and their staff and divisions thereof in furtherance of the RFP: (i) the California Public Utilities Commission ("CPUC"), (ii) the Procurement Review Group established pursuant to D.02-08-071 and D.03-06-071 ("PRG"), and (iii) the California Energy Commission ("CEC").

Although SCE will seek confidential treatment of any Confidential Information submitted by it to the CPUC, by means of a motion for protective order under Public Utilities Code section 583 and General Order 66-C, or by appropriate application to or agreement with, the PRG and CEC, SCE may disclose Confidential Information under this Paragraph even if no protective order is issued and no confidentiality or non-disclosure agreements are entered into.

If a request is made pursuant to the Public Records Act ("PRA"), Government Code Section 6250, *et seq.*, that Confidential Information that is in the possession of District be produced, District will notify SCE of the PRA request and will notify the requester that the Confidential Information are public records that fall

within the exclusions listed in Section 2 of General Order No. 66(c), and/or that there is a public interest served by withholding the record. See paragraphs 2.2 and 3.3 of General Order 66-C. In the event District receives a request from a federal governmental agency or via a judicial subpoena for the production of Confidential Information in the District possession, District will also notify SCE promptly of such request. In the event that a PRA requester brings suit to compel disclosure of Confidential Information, District will promptly notify SCE of such suit, and District and SCE shall cooperate in opposing the suit.

4. Notwithstanding anything to the contrary set forth herein, the obligations set forth in this Agreement shall not apply to and the term "Confidential Information" shall not include:
 - a. Information which is in the public domain as of the Effective Date of this Agreement or which later comes into the public domain from a source other than from the other Party or its Permitted Disclosee;
 - b. Information which SCE or District can demonstrate in writing was already known to SCE or District prior to the effective date of this Agreement;
 - c. Information which comes to SCE or District from a *bona fide* third party source not under an obligation of confidentiality;
 - d. Information which is independently developed by SCE or District without use of or reference to Confidential Information or information containing Confidential Information; or
 - e. The fact that District submitted a Proposal in response to the RFP.
5. The Parties agree that irreparable damage would occur if this Agreement were not performed in accordance with its terms or were otherwise breached. Accordingly, a Party may be entitled to seek an injunction or injunctions to prevent breach of this Agreement and to enforce specifically its provisions in any court of competent jurisdiction, in addition to any other remedy to which the party may be entitled by law or equity.
6. Confidential Information submitted to a Party in hard copy or electronic form shall bear on each page the following legend:

**"CONFIDENTIAL INFORMATION.
THE CONTENTS OF THIS DOCUMENT ARE SUBJECT TO
A NON-DISCLOSURE AGREEMENT"**

7. The Parties agree not to introduce (in whole or in part) into evidence or otherwise voluntarily disclose in any administrative or judicial proceeding, any Confidential Information, except as required by law or as SCE or District may be required to disclose to duly authorized governmental or regulatory agencies, including the

The contents of this document are subject to restrictions on disclosure as set forth herein.

CPUC or any division thereof, in order to demonstrate the reasonableness of its actions.

8. Nothing in this Agreement is intended to waive any attorney-client, work-product or other privilege applicable to any statement, document, communication, or other material of a Party or the Parties.
9. Any notice or communication given pursuant to this Agreement shall be in writing and
 - a) Delivered personally, in which case delivery is given upon written acknowledgment of receipt;
 - b) Mailed by registered or certified mail; postage prepaid, in which case delivery is given on the earlier of the actual date of delivery, as set forth in the return receipt, or three (3) days from the date posted, or
 - c) Delivery by telecopy, in which case delivery is given upon actual receipt of the entire document.

In any of these cases, the writing shall be sent or delivered as follows (subject to change by either Party by notifying the other Party pursuant to this paragraph).

If to SCE: Southern California Edison Company
2244 Walnut Grove Ave.
Rosemead, CA 91770

Attention: Director, Renewable and Alternative
Power
Telephone: (626) 302-9594
Facsimile: (626) 302-1103

If to District: County Sanitation District of Los Angeles County
1955 Workman Mill Road
Whittier, CA 90601

Telephone: (562) 699-7411
Facsimile: (562) 692-2941

The contents of this document are subject to restrictions on disclosure as set forth herein.

10. This Agreement shall be effective as of the date of the last signature to this Agreement and shall terminate five years from such date or earlier upon the mutual written consent of the Parties (the "Effective Date").
11. This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto.

This Agreement shall be construed as if each party was its author and each Party hereby adopts the language of this Agreement as if it were its own.
12. Any waiver of the requirements and provisions of this Agreement shall be in writing.

The failure of either Party to enforce at any time any of the provisions of the Agreement or to require at any time performance by the other Party of any of such provisions, shall in no way be construed as a waiver of such provision or a relinquishment of the right thereafter to enforce such provision.
13. This Agreement may not be modified except by a written agreement executed by both Parties.
14. This Agreement shall be interpreted, governed and construed under the laws of the State of California (without giving effect to its conflict of laws provisions that could apply to the law of another jurisdiction) as if executed in and to be wholly performed within the State of California.
15. This Agreement fully expresses the Parties' agreement concerning the subject matter hereof and supersedes any prior agreements or understandings regarding the same subject matter.
16. The signatories hereto represent that they have been duly authorized to enter into this Agreement on behalf of the Party for whom they sign.
17. If any provision hereof is unenforceable or invalid, it shall be given effect to the extent it may be enforceable or valid, and such enforceability or invalidity shall not affect the enforceability or invalidity of any other provision of this Agreement.
18. This Agreement may be signed in counterparts, each of which shall be deemed an original.

[Remainder of page left blank intentionally.]

Southern California Edison

Confidential Information

RAP ID#1213, County Sanitation Districts of Los Angeles County

COUNTY SANITATION DISTRICT No. 2 OF LOS ANGELES COUNTY, A special District organized and existing pursuant to the County Sanitation District Act, Health & Safety Code of the State of California, Section 4700 et seq.	SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation.
By: <u>Paul W. Bower</u>	By: <u>[Signature]</u>
NOV 21 2006	12/12/06
Date:	Date:

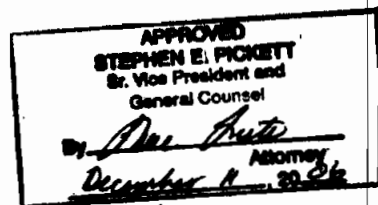
ATTEST:

[Signature]
Secretary to the Board

APPROVED AS TO FORM:

LEWIS, BRISBOIS, BISGAARD & SMITH LLP

[Signature]
District Counsel



*** End of EXHIBIT G ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT H

*Time of Delivery Periods
and
Energy Payment Allocation Factors*

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT H*Time of Delivery Periods
and
Energy Payment Allocation Factors*

<u>Time of Delivery Periods ("TOD Periods")</u>			
<i>TOD Period</i>	<i>Summer Jun 1st – Sep 30th</i>	<i>Winter Oct 1st – May 31st</i>	<i>Applicable Days</i>
On-Peak	Noon – 6:00 p.m.	Not Applicable.	Weekdays except Holidays.
Mid-Peak	8:00 a.m. – Noon	8:00 a.m. – 9:00 p.m.	Weekdays except Holidays.
	6:00 p.m. – 11:00 p.m.		Weekdays except Holidays.
Off-Peak	11:00 p.m. – 8:00 a.m.	6:00 a.m. – 8:00 a.m.	Weekdays except Holidays.
		9:00 p.m. – Midnight	Weekdays except Holidays.
	Midnight – Midnight	6:00 a.m. – Midnight	Weekends and Holidays
Super-Off-Peak	Not Applicable.	Midnight – 6:00 a.m.	Weekdays, Weekends and Holidays

<u>Energy Payment Allocation Factors</u>			
<i>Season</i>	<i>TOD Period</i>	<i>Calculation Method</i>	<i>Energy Payment Allocation Factor</i>
Summer	On-Peak	Fixed Value.	3.28
	Mid-Peak	Fixed Value.	1.28
	Off-Peak	Fixed Value.	0.67
Winter	Mid-Peak	Fixed Value.	1.02
	Off-Peak	Fixed Value.	0.82
	Super-Off-Peak	Fixed Value.	0.65

"Holiday" is defined as New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

When any Holiday falls on a Sunday, the following Monday will be recognized as a Holiday. No change will be made for Holidays falling on Saturday.

***** End of EXHIBIT H *****

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT I

Seller's Estimate of Lost Output

EXHIBIT I***Seller's Estimate of Lost Output***

Lost Output, as used in Section 3.19 shall be estimated by Seller in accordance with the procedures described in this Exhibit I.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. **Log of Lost Output Events.**

The Log shall be kept on a single Worksheet in the Lost Output Workbook. It shall identify the date, time, duration, cause and percentage by which the Generating Facility's output was curtailed for each Lost Output event.

2. **Data Collection.**

Seller shall record all hourly Qualified Amounts, during the Term, in the Lost Output Workbook on a single worksheet labeled "Qualified Amounts".

The worksheet shall be arranged with:

- (a) One (1) column for the date;
- (b) One (1) column for the time;
- (c) One (1) column for the weekday;
- (d) One (1) column for the recorded Qualified Amounts for each Term Year; and
- (e) One (1) row for each one (1) hour period during the Term Year.

Seller shall also identify, on a worksheet labeled "Curtailments" and organized in a manner similar to the Qualified Amounts worksheet described above, all hours when the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output.

3. Generating Facility Monthly Profiles.

Seller shall create a profile of the estimated Generating Facility's Qualified Amounts during an average week of each month during the Term (the "Monthly Profile").

Monthly Profiles shall include the seven (7) day period beginning at midnight on Sunday and ending at midnight on the following Saturday. They shall have a total of 168 average hourly Qualified Amount periods (i.e., 7 days times 24 hours per day equals 168 hourly periods).

Each Monthly Profile shall be created by averaging the Qualified Amounts during the same one (1) hour interval of each day of the week within the month of the current Term Year and up to the three preceding Term Years, if available.

All hours during which the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output.

If a Monthly Profile is incomplete because of missing hourly averages or if more than one half (1/2) of the one (1) hour averages are calculated using less than three (3) hourly Qualified Amounts, the Monthly Profile for that month shall be based upon a comparable winter season or summer season month, as appropriate, agreed upon by the Parties for the Term Year in which the Lost Output amount is being calculated.

All Term Year Monthly Profiles, for the same calendar month, shall be calculated on a worksheet dedicated to that month.

Worksheets shall be labeled "Jan Profile," "Feb Profile," etc. Each of the twelve (12) profile worksheets shall have one (1) column for the weekday, one (1) column for the time, one (1) column for each Term Year Monthly Profile and one (1) row for each of the one hundred sixty eight (168) hourly periods.

Seller shall also create twelve (12) line charts, one for each calendar month, on dedicated worksheets formatted with the charts sized to fit on the worksheet. Each chart shall include one data series for each Term Year. Chart sheets shall be labeled "Jan Chart," "Feb Chart," etc.

4. Seller's Estimate of Lost Output.

Lost Output shall be estimated by Seller for all Term Years on one worksheet labeled "LO Years".

The worksheet shall include:

- (f) One (1) column for the date;

- (g) One (1) column for the time;
- (h) One (1) column for the weekday;
- (i) One (1) column for Seller's Lost Output estimate for each Term Year; and
- (j) One (1) row for each one (1) hour period during the Term Year.

Seller's estimate of Lost Output, for any hour during which the Generating Facility was not offline due to any of the conditions or occurrences enumerated in the definition of Lost Output shall be equal to the Qualified Amount average included in the Monthly Profile for the same hour, of the same weekday, of the month in the same Term Year in which the Lost Output event occurred less any Qualified Amounts during the hour.

Seller shall summarize its Lost Output calculation results on a one (1) worksheet that has one (1) column for the month, one (1) column for each Term Year and one (1) row for each calendar month. Seller's claim for Lost Output, at the end of any Term Year, shall be equal to the sum of the monthly Lost Output amounts, for the appropriate Term Year column, on this summary worksheet. This worksheet shall be labeled "LO Summary."

SCE reserves the right to recalculate any Lost Output estimated by Seller.

***** End of EXHIBIT I *****

EXHIBIT J

SCE Penalties and CAISO Sanctions

EXHIBIT J*SCE Penalties and CAISO Sanctions*

This Exhibit J sets forth the procedures for determining Seller's liability for an SCE Penalty or CAISO Sanction in the event Seller fails to comply with the forecasting requirements set forth in Exhibit D.

1. **Performance Tolerance Band.**

Seller shall be responsible for SCE Penalties for all Settlement Intervals where Energy Deviations exceed a tolerance band, as described below (the "Performance Tolerance Band").

The Performance Tolerance Band shall equal the quantity in any Settlement Interval, in kWh, that is product of:

- (a) Three percent (3%) times
- (b) Contract Capacity divided by
- (c) The number of Settlement Intervals in the hour.

2. **SCE Penalty.**

- (a) Subject to Section 2(b) and 2(c) below, the SCE penalty amount shall be fifty dollars per MWh (\$50/MWh) for each MWh of Energy Deviation or any portion thereof, in every hour for which the conditions in Section 1 have been met (the "SCE Penalty").
- (b) Once in each month, the SCE Penalty will be waived for the first hour and any subsequent hours of the first calendar day in each month in which Seller fails to meet the requirements in Section 1 above.
- (c) The SCE Penalty will be assessed during any hour thereafter in that calendar month in which Seller fails to meet the requirements in Section 1 above.

3. **CAISO Sanctions.**

Seller shall be liable to reimburse SCE for all CAISO Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the CAISO Tariff or any CAISO directive, as such directive may be communicated to Seller by SCE.

4. **Billing and Documentation of CAISO Sanctions.**

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (a) The CAISO Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of a calendar month for electrical deliveries during that month or thirty (30) days after the CAISO final settlement data is available to SCE for such deliveries, whichever is sooner.
- (b) SCE shall provide to Seller the applicable back-up data used for validating CAISO Sanctions, including any relevant updated or adjusted information as it becomes available to SCE.

***** End of EXHIBIT J*****

EXHIBIT K

Energy Replacement Damage Amount

EXHIBIT K*Energy Replacement Damage Amount*

In accordance with the provisions of Section 3.05, if in any Term Year Seller fails to meet Seller's Annual Energy Delivery Obligation, then Seller shall be subject to an Energy Replacement Damage Amount penalty calculated as follows:

ENERGY REPLACEMENT DAMAGE AMOUNT =

$$(A - B - C) \times D$$

Where:

A = Seller's Annual Energy Delivery Obligation in kWh.

B = Sum of Qualified Amounts over the Term Year in kWh.

C = Sum of Lost Output over the Term Year in kWh.

D = Two Cents (\$0.02) per kWh.

*** End of EXHIBIT K ***