

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator Corp.)

Docket No. ER13-351

**INFORMATIONAL FILING OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (“ISO”) submits this informational filing to advise the Commission that the ISO, AES Huntington Beach, L.L.C. (“AESHB”), Southern California Edison Company (“SCE”) and San Diego Gas & Electric Company (“SDG&E”) are exercising their rights pursuant to Schedule B of the Reliability Must-Run Agreement (“RMR Agreement”) and have agreed to a further extension of time for the satisfaction of the conditions precedent set forth in Section 2.1(a) of the RMR Agreement. No amendment to the RMR Agreement is required for this extension. In addition, this informational filing informs the Commission of an agreement between SCE and BE CA LLC (“BE CA”) that SCE recently filed with the California Public Utilities Commission (“CPUC”).

By its terms, the RMR Agreement was initially designed to terminate on January 7 if certain conditions precedent were not met. Among those conditions precedent was the receipt “of consent, confirmation or other acknowledgement as may be required from BE CA to AESHB’s conversion of Huntington Beach Units 3 and 4 to synchronous condensers as provided for by Section 2.1(a)(iii) of the RMR Agreement. To avoid termination of the RMR Agreement before all parties had the chance to consider the Commission’s ruling on the ISO’s then pending Petition for a Declaratory Order, the ISO, AESHB, SCE and SDG&E agreed to extend the deadline for the effectiveness of that condition precedent to January 23. In addition, the ISO, AESHB, SCE and SDG&E agreed to extend the deadline in Section 2.1(a)(v) of the RMR Agreement to January 23 and the February 1 deadlines in Section 2.1(a)(iv) and (vi) to February 15. The ISO notified the Commission of these extensions in an informational filing.¹

¹ The informational filing was submitted to the Commission on January 4, 2013 in Docket EL13-21.

On January 24, 2013, the ISO notified the Commission in an informational filing that the ISO, AESHB, SCE and SDG&E had agreed to further extend the deadline for satisfaction of the condition precedent in Section 2.1(a)(iii) of the RMR Agreement. At that time, AESHB informed the ISO, SCE and SDG&E that it was “working with JP Morgan to find a solution that will enable this condition to be satisfied in a reasonable time.” In order to preserve the possibility that the condition precedent in Section 2.1(a)(iii) may be satisfied, the ISO, AESHB, SCE and SDG&E agreed to a second extension of the deadline for the satisfaction of the condition precedent in Section 2.1(a)(iii) to February 15. In addition, the ISO, AESHB, SCE and SDG&E agreed to further extend the deadline for the satisfaction of the condition precedent in Section 2.1(a)(v) to February 15 and the deadlines for Section 2.1(a)(iv) and (vi) to March 8.

AESHB recently notified the ISO, SCE and SDG&E that it proposed to enter into a partial consent agreement with BE CA that would enable AESHB to begin building the synchronous condensers at the site of Huntington Beach Units 3 and 4, while AESHB and BE CA continue to work towards a resolution that would fully satisfy the condition precedent of Section 2.1(a)(iii) of the RMR Agreement and allow the synchronous condensers to deliver voltage support to the grid.

Based on this recent progress and in order to allow AESHB to proceed with the synchronous condenser project on a time frame that preserves the current schedule for commercial operation on June 1, 2013, the ISO, AESHB, SCE and SDG&E have agreed to a third extension of the deadline for the satisfaction of the condition precedent in Section 2.1(a)(iii) to April 15. In addition, the ISO, AESHB, SCE and SDG&E have agreed to further extend the deadline for the satisfaction of the condition precedent in Section 2.1(a)(v) to April 15² and the deadlines for Section 2.1(a)(iv) and (vi) to May 7.

Further, on February 15, 2013, BE CA and SCE submitted an Advice Letter to the California Public Utilities Commission (“CPUC”) seeking the CPUC’s approval of a bilaterally-negotiated Capacity

² Significant progress has recently been made towards the satisfaction of the condition precedent in Section 2.1(a)(v). The consent required from Edison Mission Huntington Beach, LLC (“EMHB”) is contingent upon EMHB receiving consent from its lenders, which EMHB has been actively pursuing.

Sale and Tolling Agreement between SCE and BE CA that would provide SCE with BE CA's rights and obligations under the current tolling agreement between AESHB and BE CA.³ The Advice Letter specifically notes that the CPUC's approval of the Capacity Sale and Tolling Agreement between SCE and BE CA "will eliminate the contractual barriers to the operation of synchronous condensers at Huntington Beach Generating Station Units 3 and 4, which the [ISO] has determined are needed to provide voltage support this summer." A copy of the Advice Letter is attached hereto as Exhibit A.

Respectfully submitted,

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February 25, 2013

³ The ISO is advised by SCE that it will file a Change-In-Status for the subject facilities as a result of its transaction with BE CA at the appropriate time.

Exhibit A

February 15, 2013

**ADVICE 2853-E
(U 338-E)**

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

SUBJECT: Bilateral Capacity Sale and Tolling Agreement Between
Southern California Edison Company and BE CA LLC

I. PURPOSE

The purpose of this Advice Letter is to seek California Public Utilities Commission (“Commission” or “CPUC”) approval of the bilaterally-negotiated Capacity Sale and Tolling Agreement (the “BECA Contract”) between Southern California Edison Company (“SCE”) and BE CA LLC (“BECA”), a subsidiary of JPMorgan Chase & Co. (“JPMorgan”) and J.P. Morgan Energy Ventures Corporation (“JPMVEC”). The BECA Contract will provide SCE with energy, capacity, ancillary services, and Resource Adequacy (“RA”) benefits for a term beginning on October 1, 2013, and ending on May 31, 2018, via a tolling arrangement for 12 existing generating units located in the Los Angeles Basin local area (“LA Basin”).

A summary of the BECA Contract is included below.

Seller	Resource Type	Location	RA Capacity	Contract Capacity	Product	Term of Agreement
BECA	Natural gas-fired	LA Basin (Long Beach for the Alamitos Generating Station, Huntington Beach, and Redondo Beach)	3,818 MW	3,690 MW	Energy, capacity, ancillary services, and RA benefits (including all RA attributes such as local RA and the as yet to be determined flexible RA product, to the extent the units can provide them)	56 months

As discussed below and in the Appendices to this Advice Letter, the Commission should approve the BECA Contract because it provides significant, unique benefits at a reasonable price. In particular, approval of the BECA Contract will eliminate the

contractual barriers to the operation of synchronous condensers at Huntington Beach Generating Station Units 3 and 4, which the California Independent System Operator (“CAISO”) has determined are needed to provide voltage support this summer. Approval of the BECA Contract will also avoid Capacity Procurement Mechanism designations for the generating units included in the agreement and may also result in a decrease in Exceptional Dispatches and the costs for such Exceptional Dispatches when they do occur, which would result in cost savings for SCE’s customers. Additionally, the BECA Contract will provide SCE and its customers with critical LA Basin resources to meet local RA requirements. Finally, the BECA Contract acts as a hedge against future capacity price increases and will alleviate near-term market power concerns in solicitations for LA Basin RA capacity.

SCE respectfully requests that the Commission approve this Advice Letter on an expedited basis. As explained in more detail in Sections IV.A and XII below, the CAISO has concluded that synchronous condensers at Huntington Beach Units 3 and 4 are needed to provide voltage support in summer 2013 with a planned in-service date of June 1, 2013. Final and non-appealable Commission approval of the BECA Contract will allow the synchronous condensers to be placed in operation. Accordingly, SCE requests that the Commission issue a resolution containing the findings requested in this Advice Letter by no later than May 9, 2013, which would allow sufficient time for the synchronous condensers to be placed in operation for the peak summer season.

In accordance with General Order (“GO”) 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.

Confidential/Public Appendix A: Contract and Valuation Information

Confidential/Public Appendix B: RA, Capacity, and Energy Positions

Confidential Appendix C: BECA Contract

Public Appendix D: Confidentiality Declaration

Public Appendix E: Proposed Protective Order

II. BACKGROUND

A. General Project Description

The BECA Contract provides SCE with the tolling rights to 12 generating units at the Alamitos, Huntington Beach, and Redondo Beach Generating Stations (collectively, the “AES 4000”), which are owned and operated by three subsidiaries of The AES Corporation (“AES”), AES Alamitos, L.L.C., AES Huntington Beach, L.L.C, and AES Redondo Beach, L.L.C. (collectively, the “AES Subsidiaries”).

The AES 4000 fleet consists of existing natural gas-fired steam boiler electric generating facilities located at various strategic locations throughout the LA Basin. The Alamos Generating Station is located in Long Beach, California, the Huntington Beach Generating Station is located in Huntington Beach, California, and the Redondo Beach Generating Station is located in Redondo Beach, California. Each generating facility is subject to the State Water Resources Control Board's ("SWRCB's") once-through cooling ("OTC") policy and has a SWRCB OTC compliance deadline of December 31, 2020.

The specific AES 4000 generating units included in the BECA Contract and their corresponding capacity are listed in the table below.

Generating Facility	Unit	RA Capacity (MW)	Contract Capacity (MW)
Alamos Generating Station	AL1	174.56	175
	AL2	175.00	175
	AL3	332.18	320
	AL4	335.67	320
	AL5	497.97	480
	AL6	495.00	480
Huntington Beach Generating Station	HB1	225.75	215
	HB2	225.80	215
Redondo Beach Generating Station	RB5	178.87	175
	RB6	175.00	175
	RB7	505.96	480
	RB8	495.90	480
Total		3817.66	3,690

B. Negotiation of the BECA Contract

On May 1, 1998, Williams Power Company, Inc. (formerly known as Williams Energy Services Company) ("Williams Power") and the AES Subsidiaries entered into a Capacity Sale and Tolling Agreement (as amended and supplemented, the "Base Agreement")¹ for the tolling rights to 14 generating units at the AES 4000.² The term of the Base Agreement ends on May 31, 2018.

In 2007, BECA, then a subsidiary of Bear Stearns Companies, Inc. ("Bear Stearns"), acquired Williams Power's rights under the Base Agreement. During the financial crisis in 2008, JPMorgan acquired Bear Stearns. With this series of events, JPMorgan, through its newly-acquired subsidiary BECA, acquired the Base Agreement.

¹ The Base Agreement is included as Exhibit A to the BECA Contract, which is included as Appendix C to this Advice Letter. The Base Agreement is also publicly available at http://www.cers.water.ca.gov/pdf_files/power_contracts/williams/111902willmsPPA.pdf.

² The Base Agreement currently covers 12 AES 4000 generating units.

Since obtaining the rights to the AES 4000 as set forth in the Base Agreement, JPMorgan, on behalf of its subsidiary BECA, has participated in SCE’s annual All-Source Requests for Offers (“RFOs”) and, through those solicitations, has resold some of its tolling and RA rights from the AES 4000 to SCE. In particular, as explained in more detail in Appendix A, SCE and BECA are currently parties to two unit contingent tolling agreements with RA covering two AES 4000 units and 18 RA agreements covering several AES 4000 units.

The existing volumes and terms of SCE’s unit contingent tolling agreements with RA for AES 4000 units are included in the table below.

Generating Facility	Unit	Contract Capacity (MW)	Term
Alamitos Generating Station	AL5	497.97	Jan 2011-Sept 2013
Huntington Beach Generating Station	HB2	225.80	Jan 2012-Sept 2013

The existing volumes and terms of SCE’s RA agreements for AES 4000 units are included in the table below.

Generating Facility	Unit	Contract and RA Capacity (MW)	Term
Alamitos Generating Station	AL1	174.56	Jan-Dec 2013, 2014
	AL2	175.00	Jan-Dec 2013, 2014
	AL3	332.18	Jan-Dec 2013
	AL4	335.67	Jan-Dec 2013
	AL5	497.97	Jan-Dec 2015
	AL6	495.00	Jan-Dec 2013, 2014, 2015
Huntington Beach Generating Station	HB1	225.75	Jan-Dec 2013
Redondo Beach Generating Station	RB5	178.87	Jan-Dec 2013, 2014
	RB6	175.00	Jan-Dec 2013, 2014
	RB7	505.96	Jan-Dec 2013, 2015
	RB8	495.90	Jan-Dec 2013, 2014, 2015

Beginning in July 2012, SCE and JPMorgan, on behalf of BECA, began negotiation of a bilateral transaction whereby BECA would resell all of its rights under the Base Agreement to SCE pursuant to a modified “back-to-back” tolling agreement with BECA. A discussion of the substance of the negotiations is provided in Appendix A. The BECA Contract is included as Appendix C.

III. SUMMARY OF BECA CONTRACT

SCE and BECA ultimately agreed to a modified “back-to-back” transaction based on the terms of the Base Agreement. The BECA Contract is intended to provide SCE with the rights and obligations that BECA has under the Base Agreement. SCE will receive energy, capacity, ancillary services, and RA benefits (including all RA attributes such as local RA and the as yet to be determined flexible RA product, to the extent the units can provide them) for a term beginning on October 1, 2013, and ending on May 31, 2018, via a tolling arrangement for the AES 4000 generating units listed in Section II.A above. As part of the transaction, all existing RA agreements between BECA and SCE will be terminated or amended to end prior to October 1, 2013, and replaced with the new BECA Contract.³

Additionally, BECA and the AES Subsidiaries are also parties to a May 1, 1998 agreement (the “Capacity Addition Agreement”) under which, among other things, BECA has consent rights with respect to new generating capacity in certain portions of the LA Basin constructed by the AES Subsidiaries.⁴ Under the BECA Contract, BECA is granting SCE its consent rights under the Capacity Addition Agreement, effective upon final and non-appealable Commission approval of the BECA Contract.

More details about the BECA Contract are included in Appendix A.

IV. BENEFITS OF THE BECA CONTRACT

As discussed below and in Appendix A, the BECA Contract secures dispatch control of critical LA Basin generating facilities for SCE and provides SCE’s customers with energy, capacity, ancillary services, and all current and future RA benefits from such facilities at a reasonable price. In addition, there are other unique and substantial benefits of the BECA Contract that warrant its approval by the Commission.

A. Removing Contractual Barriers to Synchronous Condensers at Huntington Beach Units 3 and 4

The ongoing outage at the San Onofre Nuclear Generating Station (“SONGS”) has illuminated the critical need for voltage support and electric generation in the Ellis Sub-area of the LA Basin and northern San Diego County. The Huntington Beach Generating Station and, to a lesser extent, the Alamitos Generating Station, provide a significant contribution to meet that local need.

The CAISO has entered into a Reliability Must-Run (“RMR”) agreement with AES Huntington Beach, L.L.C. (“AESHB”) to convert Huntington Beach Units 3 and 4 into

³ The terms of SCE’s existing unit contingent tolling agreements with RA for the AES 4000 units will end prior to the start of the BECA Contract.

⁴ The Capacity Agreement is attached as part of the version of the Base Agreement that is publicly available at http://www.cers.water.ca.gov/pdf_files/power_contracts/williams/111902wllmsPPA.pdf.

synchronous condensers that are necessary to provide voltage support in the LA Basin and San Diego/Imperial Valley local areas. On November 9, 2012, the CAISO and AESHB filed the RMR agreement with the Federal Energy Regulatory Commission (“FERC”) in Docket No. ER13-351-000. The RMR agreement sets forth certain conditions precedent to the effectiveness of the RMR agreement, including the consent of BECA under its existing agreements with AESHB, and also specifies the date by which that consent must be obtained unless the parties agree to an extension of that date.⁵

BECA has not consented to AESHB’s operation of the synchronous condensers. On November 16, 2012, the CAISO filed a petition for declaratory order at FERC in Docket No. EL13-21-000, requesting that FERC issue a declaratory order to enforce the exercise of the CAISO’s authority and rights under its tariff to obtain reliability services under its RMR agreement with AESHB and contesting BECA’s claimed consent rights to the synchronous condensers.

In its petition, the CAISO stated that the synchronous condensers (together with another project) are “the only viable means that the ISO has been able to identify (other than reliance on a load shedding scheme) to meet reliability needs in [the LA Basin and the San Diego/Imperial Valley] local capacity areas in time for the summer of 2013, when the voltage support is most critically needed.”⁶ The CAISO noted that:

Huntington Beach Units 3 and 4 (“Huntington Beach 3 and 4” or “Units 3 and 4”), the resources subject to the RMR agreement, must be converted from their current state of being inoperable generating units into synchronous condensers to provide dynamic voltage support. This must occur under a timeline that results in a commercial operation date in June 2013. To meet the June 2013 commercial operation date, work had to begin in October of this year, and construction must commence in early 2013 for the facilities to be operable in time to support reliability in Southern California. The inability to resolve the consent issue in time to allow construction to commence in early 2013 could leave Southern California exposed to reliance on a wide-spread load-shedding scheme

⁵ The BECA consent is one of several conditions precedent to the effectiveness of the RMR Agreement. Other conditions precedent include: approval of such amendments to the California Energy Commission license relating to Huntington Beach Units 3 and 4, as are required for the synchronous condensers to be constructed by AESHB; consent by Edison Mission Huntington Beach, LLC, in respect of its existing lease arrangements in respect of certain components of Huntington Beach Units 3 and 4, and any amendment to such lease agreement as may be required to implement same; and consent to the RMR agreement by the AES Subsidiaries’ lenders. AESHB has informed SCE that AESHB is in the process of obtaining the additional consents and approvals and is expected to have all such consents and approvals prior to the planned in-service date of the synchronous condensers.

⁶ Petition of California Independent System Operator Corporation for Declaratory Order and Request for Expedited Treatment, FERC Docket No. EL13-21-000, at 4, November 16, 2012.

during the summer of 2013 in the event of certain transmission outage contingencies.⁷

Additionally, the CAISO stated that:

Although the ISO and AESHB have executed and filed an RMR agreement with the Commission that would enable the ISO to avoid this scenario through the provision of needed voltage support, a condition of the effectiveness of the agreement is that consent from BE CA, LLC ("BE CA"), a J.P. Morgan Chase and Co. subsidiary, must be secured if it is required under existing agreements between AES and J.P. Morgan. AESHB is apparently unwilling to proceed with the project if it is exposed to the potential for claims of breach of contract. As a result, AESHB sought to remove uncertainty either by securing consent from J.P. Morgan or an agreement that J.P. Morgan's consent was not required. To date, J.P. Morgan has withheld consent or other acknowledgement that would allow the RMR agreement to become effective.⁸

FERC issued an order on January 4, 2013 finding, as requested by the CAISO, that BECA does not have consent authority regarding the conversion of Huntington Beach Units 3 and 4 to synchronous condensers. JPMVEC and BECA filed a request for rehearing of the FERC's order on February 4, 2013.

Under the RMR agreement between the CAISO and AESHB, AESHB is under no obligation to complete the synchronous condensers unless certain conditions precedent are met, including the consent of BECA. AESHB has stated it is unwilling to go forward with operation of the synchronous condensers without such consent from BECA or a final non-appealable FERC order on the BECA consent issue.

The procedural steps required to reach a final non-appealable FERC order on the BECA consent issue make it impossible to obtain such an order in time to have the synchronous condensers in operation by summer 2013. If the synchronous condensers are not in operation in summer 2013, it is likely the RMR agreement would have to be renegotiated if the parties want the synchronous condensers available for summer 2014. The outcome of any such negotiation is uncertain and there is no assurance a final FERC order not subject to appeal will be in place in time for AESHB to place the synchronous condensers in operation by summer 2014.

The BECA Contract resolves this problem by transferring BECA's consent rights to SCE, effective upon final and non-appealable Commission approval of the BECA Contract. SCE will consent to the operation of the synchronous condensers. Accordingly, final and non-appealable Commission approval of the BECA Contract will remove the contractual barriers AESHB currently faces and allow it to proceed with the

⁷ *Id.* at 2-3.

⁸ *Id.* at 1-2.

operation of the synchronous condensers. As indicated in Section XII, SCE is requesting that the Commission approve this Advice Letter on an expedited basis, by no later than May 9, 2013, in order to allow sufficient time for the synchronous condensers to be operational for the peak summer season, which the CAISO has determined is necessary for local area reliability.

Further, not only will the final and non-appealable Commission approval of the BECA Contract allow for the current RMR agreement between the CAISO and AESHB to move forward, but any and all future efforts (through May 31, 2018) to redevelop AES 4000 units located in the LA Basin would then be subject to SCE's consent, rather than BECA's. This has a potential to be a significant benefit as SCE looks to address the Local Capacity Requirements ("LCR") need in the LA Basin identified in Track 1 of the Commission's 2012 Long-Term Procurement Plan ("LTPP") proceeding.

B. Decrease in Exceptional Dispatches and Capacity Procurement Mechanism Designations

The AES 4000 generating units that are included in the BECA Contract are in a strategic location in the LA Basin and critical to system reliability. In fact, these units represent 49.11% of the generation in the Western LA Basin Sub-area,⁹ which is of particular concern in terms of local reliability. As a result of their location, several of the AES 4000 units have received Exceptional Dispatches ("EDs").¹⁰ Units that are not identified as RA have also received Capacity Procurement Mechanism ("CPM") designations.¹¹

EDs and CPM designations result in large uplift costs to market participants. With approval of the BECA Contract, SCE will be able to designate the units as RA, thus avoiding the need for the CAISO to issue a CPM designation to the units. With regard to EDs, if SCE has these units under its control, SCE will submit bids consistent with its obligation to use the principles of least cost dispatch when bidding units into the CAISO market,¹² and eliminate the risk that if a unit is Exceptionally Dispatched, the cost will be

⁹ Without SONGS in operation, these units total 69.06% of the total generation in the Western LA Basin Sub-area. Based on new capacity additions (new generation Capacity Allocation Mechanism contracts) and existing capacity from the CAISO's Final Net Qualifying Capacity Report for Compliance Year 2013 found at <http://www.caiso.com/Documents/FinalNetQualifyingCapacityList-2013.xls> combined with Sub-area designations from the CAISO's 2013 Local Capacity Technical Analysis Final Report and Study Results, April 30, 2012, found at http://www.caiso.com/Documents/Final2013LocalCapacityTechnicalStudyReportApr30_2012.pdf.

¹⁰ See Complaint of J.P. Morgan Ventures Energy Corp. Against California Independent System Operator Corp., FERC Docket No. EL12-105-000, at 10, September 14, 2012 (noting that Alamitos Units 3, 4, and 6, Huntington Beach Unit 1, and Redondo Beach Unit 7 were Exceptionally Dispatched at least 18 times in April, May, and June 2012).

¹¹ See, e.g., CAISO September 2012 Significant Event CPM Designation Report (available at: <http://www.caiso.com/Documents/Sep2012SignificantEventCPMDesignationReport.pdf>).

¹² See D.05-01-054 at 10-16.

inflated to extract additional profits from such ED.¹³ SCE will also be able to avoid unnecessary EDs of units which should have been operating economically but for potentially inflated costs. Therefore, SCE's customers and the market will benefit by avoiding unnecessary ED and CPM costs.

C. Mitigating Future Capacity Price Increases

RA contracts in California are negotiated bilaterally rather than through a centrally cleared market and RA prices therefore are more difficult to forecast. Because of this, SCE's RA price forecasts rely on historical prices paid for RA contracts in the market. However, there are two changes to the RA program that are likely to lead to higher RA prices going forward.

First, the CAISO has filed and FERC has approved generator replacement rules in the CAISO Tariff. These new replacement obligations introduce new risk to sellers of RA, and thus are likely to lead to higher RA prices. The recently adopted CAISO Tariff regarding RA replacement requires, depending on when the outage is requested, either the load-serving entity ("LSE") or the generator to replace any scheduled outages for the days that the outage occurs. The prior Commission regulation allowed for derating of the resource, rather than an all or nothing counting.

It remains to be seen whether parties will be willing to transact RA for terms of less than one month to accommodate outage replacements. If not, the only method for an LSE to comply is to over-procure for the month with a replacement resource that will only be necessary for part of the month. In addition, since the burden of the replacement obligation is dependent on when the generator requests the outage, it is not certain how generators will alter their RA bids to account for this potential increase in cost. While this process can be effectively managed, it leaves some uncertainty in the market with regard to the effects on RA pricing. The BECA Contract will help mitigate that risk by locking in RA capacity at a reasonable negotiated price for a period of time that will allow the new market rules to develop and mature.

Second, the Commission is also actively engaged in efforts to develop a flexible RA attribute, which would not only create another mandatory procurement obligation analogous to local RA, but will likely lead to new obligations with regard to bidding a generating unit in the CAISO market. This is likely to lead to an increase in prices associated with RA units that provide flexibility. While "flexibility" has not yet been fully defined, it is anticipated that the AES 4000 units included in the BECA Contract will meet some amount of flexibility need. The fact that the BECA Contract includes all capacity attributes applicable to the units, both current and future, means that SCE will

¹³ The CAISO Tariff allows resources to submit minimum load and start-up costs which are 200% of fuel costs for minimum load and start-up. See CAISO Tariff, Section 39.6.1.6, November 5, 2012 (available at: http://www.caiso.com/Documents/CombinedConformedTariff_Nov5_2012.pdf). Further, the CAISO's tariff filings in FERC Docket Nos. EL11-3856-000 and ER12-2539-000 describe tariff changes related to alleged excess payments for EDs.

be entitled to any flexibility the resources provide and is a compelling reason to support approval of the contract.

D. Critical LA Basin Capacity Resources

SCE is subject to significant LA Basin RA procurement requirements due to SCE's share of the load within the LA Basin. As the Commission is aware, a significant percentage of the generation within the LA Basin is necessary to meet the minimum CAISO LCR need (78.42%). Due to the supply and demand balance, LA Basin RA is often at a premium price to system RA or even RA from other local areas.

The AES 4000 units are a critical part of the supply mix for the system in terms of meeting both annual and monthly RA compliance requirements. In fact, if all LSEs were to procure the RA capacity from all other units in the LA Basin to satisfy their requirements, they would still have to contract for about 1,000 MW of capacity from the AES 4000 units. Additionally, the recently implemented generator replacement rules have the potential to increase the quantity of RA capacity that must be procured from the AES 4000 units in certain months to provide replacement capacity to RA resources on outage. SONGS alone counts toward 2,246 MW of total LA Basin RA requirements. With both SONGS units on outage, LSEs may need to procure additional RA capacity from the AES 4000 units to meet their RA requirements.

The BECA Contract provides RA benefits (including all RA attributes such as local RA and the as yet to be determined flexible RA product, to the extent the units can provide them) from these critical LA Basin resources at a reasonable price to SCE's customers.

E. Alleviating Market Power Concerns in Future RFOs for LA Basin RA Capacity

As stated above, SCE and BECA are both aware that some amount of RA capacity from the AES 4000 generating units will be required to meet the LA Basin local RA requirements on an ongoing basis. Each year, SCE monitors the prices BECA bids in SCE's RFOs as there is always an underlying concern that BECA may inflate prices and exercise market power during the process. Although BECA is not the only marketer of LA Basin RA, it is the only marketer with such a significant percentage of the requirement within its control. Approval of the BECA Contract would effectively eliminate this potential risk for SCE's customers for the term of the BECA Contract.

V. EVALUATION METHODOLOGY AND RESULTS

A. Evaluation Methodology

SCE's offer evaluation process is generally the same whether the evaluation is conducted within a RFO process or outside a RFO process. In either case, SCE follows Least Cost-Best Fit principles. The only difference is that within a RFO process comparisons can be made against other offers.

SCE employs a net present value (“NPV”) analysis when it values offers submitted through a RFO or bilaterally. This methodology is consistent with valuations performed by SCE in other solicitations such as All-Source and Combined Heat and Power RFOs. The quantitative valuation entails forecasting (1) the value of contract benefits, (2) the value of contract costs, and (3) the net value of both (1) and (2). Once all of the valuation elements are calculated, they are discounted to a present value using a 10% discount rate. SCE then subtracts the present value of expected costs from the present value of expected benefits to determine the expected NPV of the offer. NPVs are normalized by dividing them by the number of kW-months of capacity offered to SCE.

In addition to quantitative benefits, many contracts also have qualitative benefits that are evaluated separately. The qualitative benefits of the BECA Contract are discussed in Section V.C below.

The elements used in the quantitative valuation of the BECA Contract are described below. Additionally, further details about the quantitative valuation of the BECA Contract are included in Appendix A.

1. **Contract Benefits**

- **Energy and Ancillary Service Benefits**

SCE utilizes a fundamental production-cost model (ProSym), along with a stochastic price process via a Monte Carlo simulation, to value the energy and ancillary service benefits of a generating unit. Inputs to the fundamental model include unit characteristics such as capacity, heat rate curve, ramp rate, start-up fuel and start-up cost, minimum and maximum run-time, variable operation and maintenance (“O&M”) cost, CO₂ cost, congestion and losses, fuel cost, and emission constraints, among others. SCE uses the economic dispatch principle, wherein a unit is dispatched if its forecasted benefits exceed its costs, i.e., if it is “in the money.” ProSym compares the forecast cost of running a unit against energy and ancillary services price forecasts to determine whether a unit is in the money.

SCE creates an expansive lookup library of various ProSym dispatch results to avoid the need to perform multiple runs for each analysis. SCE then deploys a stochastic Monte Carlo simulation process to generate a large number of gas price and implied market heat rate pairs by applying a volatility process to the base case price forecasts. The volatility process estimates correlation, volatility, mean reversion, stochastic volatility, and seasonal parameters. The simulated price pairs are used to look up the forecasted gross energy benefits and costs from the “lookup library” of various dispatch results identified above. SCE defines the expected energy and ancillary service benefits as the average of the simulated cases.

SCE utilizes a blended approach to forecasting base case power, gas, and CO₂ allowance prices. Specifically, forward market prices are used for the near-term forecast period and fundamental model-derived prices are used for the longer-term

periods. The forward market and fundamental prices are “blended” (i.e., averaged using various weights) for the forecast period between the near-term and longer-term periods. Forward power prices are also adjusted for location in the final valuation.

- RA Capacity Benefits

RA capacity benefits are derived by first developing a forecast of expected forward RA prices and then applying this forecast to the total RA capacity provided by the contract. SCE typically builds its RA price forecast from data collected from its most recent All-Source RFOs (similar to the way Energy Division staff analyzed recently executed RA contracts for its widely cited “2010 Resource Adequacy Report”).

2. Contract Costs

- Dispatch Costs

Dispatch costs include unit start-up costs, variable O&M costs, CO₂ cost, and fuel costs. Start-up costs include the fixed cost of starting a unit, and are differentiated by “hot” and “cold” starts, depending on how long the unit has been offline. Variable O&M costs are costs which are directly proportional to the output of the unit, measured in \$/MWh. CO₂ cost is the compliance cost of the allowances required for a unit emitting greenhouse gases (“GHG”). Fuel costs include the variable cost of generating power and the fixed cost of the required fuel amount used to start up a unit. These cost components are accounted for in the ProSym modeling and used to make the economic dispatch decisions.

- Contract Payments

This represents the total contract payments SCE is expected to make under the contract for delivery of the energy and capacity benefits.

- Debt Equivalence

Debt equivalence is the term used by credit rating agencies to describe the fixed financial obligation resulting from purchased power contracts. Pursuant to Decision (D.) 04-12-048, the Commission permitted the utilities to recognize costs associated with the effect debt equivalence has on the utilities’ credit quality and cost of borrowing in their valuation process. In D.07-12-052, the Commission reversed this position. SCE filed a petition for modification of D.07-12-052. In November 2008, the Commission issued D.08-11-008, which authorized the investor-owned utilities to recognize the effects of debt equivalence when valuing power purchase agreements. Therefore, SCE now considers debt equivalence in the valuation process.

Additional contract-specific costs valued for the BECA Contract are discussed in Appendix A.

B. Quantitative Benefits

As explained above, SCE calculated the quantitative benefits of the BECA Contract by subtracting the present value of expected costs from the present value of expected benefits to determine the expected NPV of the offer. In addition to the BECA Contract, SCE also re-valued the existing RA agreements that are to be terminated or amended as part of the BECA Contract using the same forward curves for RA capacity value. The net value of the existing RA agreements was netted against the net value of the BECA Contract to derive the final NPV. As detailed in Appendix A, the quantitative valuation results demonstrate that the BECA Contract is reasonably priced.

C. Qualitative Benefits

In addition to the quantitative benefits of the BECA Contract, SCE considered qualitative benefits of the transaction that are challenging, if not impossible, to quantify. The qualitative benefits of the BECA Contract include:

- The BECA Contract's transfer of BECA's consent rights under the Capacity Addition Agreement to SCE, which will allow AESHB to proceed with operation of the synchronous condensers at Huntington Beach Units 3 and 4, which the CAISO has determined is necessary to provide voltage support;
- The BECA Contract will likely result in a decrease in EDs and CPM designations for the AES 4000 units included in the contract and avoidance of increased costs when EDs do occur, and resulting savings to SCE's customers;
- The BECA Contract will mitigate against future potential capacity price increases; and
- The BECA Contract will alleviate market power concerns in future RFOs for LA Basin RA capacity.

All of these benefits are discussed in more detail in Section IV above. Combined with the quantitative benefits of the BECA Contract, these qualitative benefits justify Commission approval of the BECA Contract.

VI. IMPACT ON SCE'S RA, CAPACITY, AND ENERGY POSITIONS

The position charts in Appendix B show the potential impacts to SCE's local LA Basin, system RA, and on-peak and off-peak capacity and energy positions as a result of the execution of the BECA Contract, as well as a comparison to SCE's authorized procurement limits and ratable rates.

VII. CONSISTENCY WITH COMMISSION DECISIONS AND POLICIES

A. Consistency with OTC Procurement Rules

The BECA Contract is a power purchase agreement with power plants using OTC technology for a term of more than two years, but less than five years, which requires Commission approval via a Tier 3 advice letter pursuant to D.12-04-046. In that decision, the Commission stated:

OTC power purchase agreements with a contract duration of more than two years but less than five years must be submitted to the Commission for approval via a Tier 3 advice letter. In order to provide guidance to Energy Division in evaluating these agreements and the utilities in preparing and submitting these agreements, the applicable criteria shall include the following: 1) how the contract helps facilitate compliance with the SWRCB OTC policy, or at a minimum why it does not delay compliance; 2) the expected operation of the OTC facility under normal load (1 in 2) and high load (1 in 10) conditions, including number of starts and run time after each start; 3) the LCR net position with and without the OTC facility over the contract duration and two years beyond the contract duration; and 4) how any other available generation resources compare under these criteria.¹⁴

The Commission also implemented additional requirements for contracts that terminate one year or less prior to the applicable SWRCB OTC compliance deadline.¹⁵ These rules and requirements are also included in SCE's Assembly Bill ("AB") 57 Bundled Procurement Plan.¹⁶

The SWRCB OTC compliance deadline for all of the AES 4000 generating units included in the BECA Contract is December 31, 2020 and the BECA Contract's term ends on May 31, 2018. Accordingly, the BECA Contract terminates more than one year prior to the applicable compliance deadlines.

SCE addresses the four applicable criteria set forth in D.12-04-046 below.

- How the contract helps facilitate compliance with the SWRCB OTC policy, or at a minimum why it does not delay compliance

The BECA Contract is a modified "back-to-back" transaction. The term of the BECA Contract ends at the same time as the Base Agreement. The BECA Contract therefore does not extend the duration of the contract that the resources already had in place. In addition, as noted above, the term of BECA Contract will expire more than one year

¹⁴ D.12-04-046 at 25-26. See *also id.* at Ordering Paragraph 3.

¹⁵ See *id.* at 26-27, Ordering Paragraph 3.

¹⁶ See SCE's AB 57 Conformed 2010 Bundled Procurement Plan, Appendix P at Sheets P-1-P-2.

prior to the SWRCB compliance date for the units. Based on these two factors, the BECA Contract will not delay compliance for the AES 4000 generating units.

- The expected operation of the OTC facility under normal load (1 in 2) and high load (1 in 10) conditions, including number of starts and run time after each start

In its valuation approach, SCE does not estimate the number of starts or run-hours per start under normal or high load conditions. SCE evaluates offers under least cost dispatch principles, which is consistent with how SCE is required to operate the units if the contracts are signed. SCE uses the stochastic Monte Carlo simulation process described in Section V to value energy and ancillary services under thousands of scenarios. Some of these scenarios are representative of normal or high load conditions, but cannot be viewed individually. In addition, dispatch for reliability purposes (i.e., ED) is not captured in the quantitative valuation, since, while individual units are compensated for their operating costs, they do not receive any additional revenues. The AES 4000 generating units are largely located within a constrained area and receive ED requests from the CAISO. It is not possible for SCE to accurately forecast these potential ED start and run times, and therefore EDs are not forecast in SCE's valuation.

In order to be responsive to D.12-04-046, SCE has estimated an expected case capacity factor for the total fleet included in the BECA Contract. To perform this calculation, SCE calculated the expected fuel burn. The expected fuel burn value was then divided by the total possible fuel burn of the AES 4000 fleet assuming maximum dispatch to estimate the forecast expected capacity factor. The forecasted expected capacity factor over the term of the BECA Contract is 7.8%.

This estimate is in line with historical capacity factors of around 7% for the AES 4000 units SCE currently has under tolling agreements. SCE is not able to provide a meaningful 1 in 10 load case scenario for dispatch because SCE uses a price-based economic dispatch process. SCE is, however, able to report expected dispatch across price percentiles, which loosely correspond to load percentiles. The forecasted capacity factors over the term of the BECA Contract for the 85th and 95th percentiles are 14% and 44%, respectively.

- The LCR net position with and without the OTC facility over the contract duration and two years beyond the contract duration

LCR requirements are currently established by the CAISO for 2013 only. SCE's planning forecast of LA Basin LCR need for 2013 through 2020 with and without the AES 4000 units covered by the BECA Contract is included in Appendix B.

- How any other available generation resources compare under these criteria.

The BECA Contract was bilaterally negotiated. As such, these resource are not being compared to other resources directly as they would in a RFO. However, as explained in Section IV above and throughout this Advice Letter, the BECA Contract provides significant benefits, including unique attributes to the provision of reliable local service. Given that the contract will not violate SWRCB compliance, or otherwise extend the operation of the AES 4000 fleet beyond what is possible under the existing Base Agreement, SCE believes the BECA Contract should be approved.

B. Consistency with Energy Action Plan and Loading Order

SCE continues to follow the State's Energy Action Plan II and Loading Order through its efforts to plan, implement, and administer cost-effective and reliably-achievable demand-side management programs, including energy efficiency, and its continued national leadership in procurement from renewable resources. Execution of the BECA Contract will not displace other preferred resources from the grid. As discussed above, the AES 4000 generating units included in the BECA Contract are already under contract through the Base Agreement. Moreover, the BECA Contract is a modified "back-to-back" transaction that does not extend the period the resources are under contract. Indeed, these resources will ultimately need to comply with SWRCB OTC limitations, which could result in retirement of the resources. The BECA Contract ends more than one year before the units' OTC compliance deadlines and will have no effect on that condition, and as such will not address local need in the future that could be met by preferred resources.

Moreover, the BECA Contract provides significant, unique local area reliability benefits that cannot be readily achieved through contracting with a preferred resource. In particular, as explained in Section IV.A, final and non-appealable Commission approval of the BECA Contract will allow AESHB to operate synchronous condensers at Huntington Beach Units 3 and 4 for summer 2013, which the CAISO has determined is necessary to provide voltage support in the LA Basin and San Diego/Imperial Valley local areas. The BECA Contract also provides SCE with the rights to critical LA Basin capacity resources that will contribute to SCE's LA Basin RA procurement requirements. Given SCE's actions to pursue preferred resources and the unique attributes of the AES 4000 generating units in providing local support, SCE believes that the BECA Contract is consistent with the Energy Action Plan II and the Loading Order.

C. Consistency with Emissions Performance Standard

In D.07-01-039, the Commission established an Emissions Performance Standard for new long-term financial commitments to baseload generation undertaken by all LSEs. A new long-term financial commitment is defined as a commitment when the LSE enters into "a new or renewed contract with a term of five or more years."¹⁷ The BECA

¹⁷ D.07-01-039 at 4.

Contract has a term of less than five years so the Emissions Performance Standard does not apply.

VIII. CONSULTATION WITH PROCUREMENT REVIEW GROUP

SCE's Procurement Review Group ("PRG") includes participants from certain non-market participants, including the Commission's Energy and Legal Divisions, the Division of Ratepayer Advocates, The Utility Reform Network, California Utility Employees, and the California Department of Water Resources. SCE briefed the PRG on the proposed BECA transaction on January 9, 2013.

IX. CONFIDENTIALITY

SCE requests confidential treatment of Appendix C and the confidential versions of Appendices A and B to this Advice Letter. This confidential information is entitled to confidentiality protection pursuant to the Investor-Owned Utility Matrix adopted by the Commission in D.06-06-066 and modified by D.07-05-032. Appendix D contains a Confidentiality Declaration specifying why the information for which SCE is seeking confidential treatment is, in fact, confidential market sensitive information consistent with Commission decisions. It also identifies the period for which SCE seeks confidential treatment. It is appropriate to accord confidential treatment to the information for which SCE requests confidential treatment in the advice letter process because such information is entitled to confidentiality protection pursuant to D.06-06-066 as modified by D.07-05-032, and is required to be filed by advice letter as part of the process for obtaining Commission approval of the BECA Contract. SCE objects to the disclosure of the confidential information in an aggregated format.

In accordance with GO 96-B, Appendix E contains a proposed Protective Order modeled on the Protective Order adopted by the Commission in D.08-04-023. Upon adoption of this Protective Order by the Commission, any appropriate party signing the Non-Disclosure Certificate attached to the Protective Order can obtain access to the confidential information. Until the Commission adopts the Protective Order, the attached confidential materials will be made available to appropriate parties (in accordance with SCE's Proposed Protective Order) upon execution of a non-disclosure agreement. Parties wishing to obtain access to the confidential version of this advice letter may contact Cathy Karlstad in SCE's Law Department at Cathy.Karlstad@sce.com or (626) 302-1096 to obtain a copy of a non-disclosure agreement.

X. REQUEST FOR COMMISSION APPROVAL

The terms of the BECA Contract are conditioned on the occurrence of "CPUC Approval," as that term is defined in the BECA Contract. SCE requests that the Commission issue a resolution no later than May 9, 2013, containing:

1. Approval of the BECA Contract in its entirety;

2. A finding that the BECA Contract, and SCE's entry into the BECA Contract, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the BECA Contract, subject only to further review with respect to the reasonableness of SCE's administration of the BECA Contract; and
3. Any other and further relief as the Commission finds just and reasonable.

XI. TIER DESIGNATION

Pursuant to Ordering Paragraph 3.a of D.12-04-046, this Advice Letter is submitted with a Tier 3 designation (effective upon Commission approval).

XII. EFFECTIVE DATE

As discussed in Section IV.A above, the CAISO has entered into a RMR agreement with AESHB to convert Huntington Beach Units 3 and 4 into synchronous condensers, which the CAISO has determined are needed to provide voltage support in summer 2013. However, under the RMR agreement between the CAISO and AESHB, AESHB is under no obligation to complete the synchronous condensers unless certain conditions precedent are met, including the consent of BECA. AESHB has stated it is unwilling to go forward with operation of the synchronous condensers without such consent or a final non-appealable FERC order on the BECA consent issue, which will not occur in time for summer 2013, if at all.

The BECA Contract resolves this problem by transferring BECA's consent rights to SCE, effective upon final and non-appealable Commission approval of the BECA Contract. SCE will consent to the operation of the synchronous condensers. Accordingly, SCE respectfully requests that the Commission approve this Advice Letter on an expedited basis, by no later than May 9, 2013, in order to allow sufficient time for the synchronous condensers to be operational for the peak summer season.

XIII. NOTICE

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

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

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

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

Akbar Jazayeri
Vice President of Regulatory Operations
Southern California Edison Company
8631 Rush Street
Rosemead, California 91770
Facsimile: (626) 302-4829
E-mail: AdviceTariffManager@sce.com

Leslie E. Starck
Senior Vice President
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2030
San Francisco, California 94102
Facsimile: (415) 929-5540
E-mail: Karyn.Gansecki@sce.com

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

In accordance with Section 4 of GO 96-B, SCE is serving copies of this advice filing to the interested parties shown on the attached GO 96-B, R.11-10-023, and R.12-03-014 service lists. Address change requests to the GO 96-B service list should be directed by electronic mail to AdviceTariffManager@sce.com or at (626) 302-2930. For changes to all other service lists, please contact the Commission's Process Office at (415) 703-2021 or by electronic mail at Process_Office@cpuc.ca.gov.

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

For questions, please contact Eric Little at (626) 302-6607 or by electronic mail at Eric.Little@sce.com.

Southern California Edison Company

Akbar Jazayeri

AJ:el:sq
Enclosures

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

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

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

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Darrah Morgan

Phone #: (626) 302-2086

E-mail: Darrah.Morgan@sce.com

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

EXPLANATION OF UTILITY TYPE

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

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: 2853-E

Tier Designation: 3

Subject of AL: Bilateral Capacity Sale and Tolling Agreement Between Southern California Edison Company and BE CA LLC

Keywords (choose from CPUC listing): Agreements, Compliance, Contracts, Capacity, Procurement

AL filing type: Monthly Quarterly Annual One-Time Other

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

D.12-04-046

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

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

Confidential treatment requested? Yes No

If yes, specification of confidential information: See Appendix D.

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 Karlstad, Law Department, at (626) 302-1096 or Cathy.Karlstad@sce.com

Resolution Required? Yes No

Requested effective date: 5/9/13 No. of tariff sheets: -0-

Estimated system annual revenue effect (%): _____

Estimated system average rate effect (%): _____

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

Tariff schedules affected: None

Service affected and changes proposed¹: _____

Pending advice letters that revise the same tariff sheets: _____

¹ Discuss in AL if more space is needed.

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

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Ave.,
San Francisco, CA 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Akbar Jazayeri
Vice President of Regulatory Operations
Southern California Edison Company
8631 Rush Street
Rosemead, California 91770
Facsimile: (626) 302-4829
E-mail: AdviceTariffManager@sce.com

Leslie E. Starck
Senior Vice President
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2030
San Francisco, California 94102
Facsimile: (415) 929-5540
E-mail: Karyn.Gansecki@sce.com

Public Appendix A
Contract and Valuation Information

CONTRACT AND VALUATION INFORMATION

I. Negotiation of the BECA Contract

As explained in the main portion of this Advice Letter, since obtaining the rights to the AES 4000 as set forth in the Base Agreement, JPMorgan, on behalf of its subsidiary BECA, has participated in SCE's annual All-Source RFOs and, through those solicitations, has resold some of its tolling and RA rights from the AES 4000 to SCE.¹

The existing volumes, prices, and terms of SCE's unit contingent tolling agreements with RA for AES 4000 units are included in the table below.

Generating Facility	Unit	Contract Capacity (MW)	Price (\$/kW-month)	Term
Alamitos Generating Station	AL5	497.97		Jan 2011-Sept 2013
Huntington Beach Generating Station	HB2	225.80		Jan 2012-Sept 2013

The existing volumes, prices, and terms of SCE's RA agreements for AES 4000 units are included in the table below.²

Generating Facility	Unit	Contract and RA Capacity (MW)	Jan-Dec 2013	Jan-Dec 2014	Jan-Dec 2015
Alamitos Generating Station	AL1	174.56			
	AL2	175.00			
	AL3	332.18			
	AL4	335.67			
	AL5	497.97			
	AL6	495.00			
Huntington Beach Generating Station	HB1	225.75			
Redondo Beach Generating Station	RB5	178.87			
	RB6	175.00			
	RB7	505.96			
	RB8	495.90			

¹ The confidential information in the confidential version of this Appendix is generally highlighted in gray. However, certain confidential information in tables and charts could not be highlighted in gray, but is redacted in the public version of this Appendix.

² Prices are in \$/kW-month.

[REDACTED]

[REDACTED]

[REDACTED]

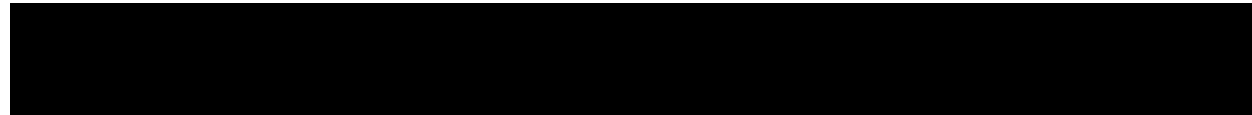
[REDACTED] SCE and BECA ultimately agreed to a modified “back-to-back” transaction based on the terms of the Base Agreement [REDACTED]

[REDACTED] The BECA Contract is intended to provide SCE with the rights and obligations that BECA has under the Base Agreement. SCE will receive energy, capacity, ancillary services, and RA benefits (including all RA attributes such as local RA and the as yet to be determined flexible RA product, to the extent the units can provide them) for a term beginning on October 1, 2013, and ending on May 31, 2018,³ via a tolling arrangement for the covered AES 4000 units. As part of the transaction, all existing RA agreements between BECA and SCE will be terminated or amended to end prior to October 1, 2013, and replaced with the new BECA Contract.⁴

Additionally, under the BECA Contract, BECA is granting SCE its consent rights under the Capacity Addition Agreement, effective upon final and non-appealable Commission approval of the BECA Contract. [REDACTED]

³ The original term of the Base Agreement was 15 years with either party having the option to extend the term an additional five years. [REDACTED]

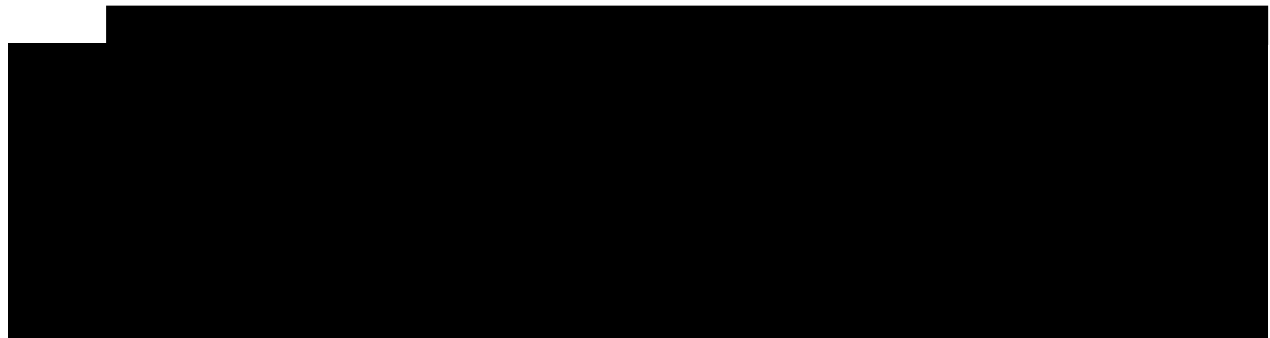
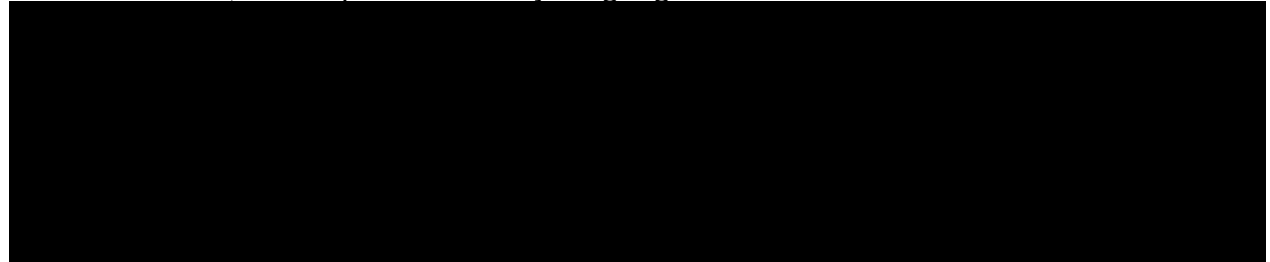
⁴ The terms of SCE’s existing unit contingent tolling agreements with RA for the AES 4000 units will end prior to the start of the BECA Contract.



Effective upon final and non-appealable Commission approval of the BECA Contract, SCE will obtain BECA's consent rights and will consent to the interconnection and operation of the synchronous condensers. Accordingly, final and non-appealable Commission approval of the BECA Contract will remove the contractual barrier AESHB currently faces and allow it to proceed with the operation of the synchronous condensers. As indicated in the main portion of this Advice Letter, SCE is requesting that the Commission approve this Advice Letter on an expedited basis, by no later than May 9, 2013, in order to allow sufficient time for the synchronous condensers to be operational for the peak summer season, which the CAISO has determined is necessary for local area reliability.

II. Summary of BECA Contract

The BECA Contract is attached as Appendix C. The BECA Contract is not the typical tolling arrangement that SCE enters into. As stated earlier, the BECA Contract is a modified "back-to-back" transaction. In other words, most of the terms regarding operations and expected performance are the same across the agreements. Under the BECA Contract, BECA provides everything it gets from the AES Subsidiaries to SCE.



It is important to note that the description above is high level and that the provisions governing this arrangement are very complicated. Thus, ultimately, the contract language is the best source for determining the rights of the parties, and this summary is not a complete description of every possible scenario that could arise under the BECA Contract.

A summary of the major terms and conditions of the BECA Contract is included below.

Seller	BECA																																																		
Buyer	SCE																																																		
Transaction Overview	<p>Seller is providing Buyer with its rights under the Base Agreement. Buyer will receive energy, capacity, ancillary services, and all current and future RA benefits from the Units listed below, if provided by the Units.</p> <p>Buyer and Seller will terminate or amend to end prior to the start of the BECA Contract all existing sales of RA capacity between the Parties effective at the start of the Deal Term.</p>																																																		
Deal Term	October 1, 2013 through May 31, 2018																																																		
Units	<table border="1"> <thead> <tr> <th>Generating Facility</th> <th>Unit</th> <th>RA Capacity (MW)</th> <th>Dependable Capacity (MW)</th> </tr> </thead> <tbody> <tr> <td rowspan="6">Alamitos Generating Station</td> <td>AL1</td> <td>174.56</td> <td>175</td> </tr> <tr> <td>AL2</td> <td>175.00</td> <td>175</td> </tr> <tr> <td>AL3</td> <td>332.18</td> <td>320</td> </tr> <tr> <td>AL4</td> <td>335.67</td> <td>320</td> </tr> <tr> <td>AL5</td> <td>497.97</td> <td>480</td> </tr> <tr> <td>AL6</td> <td>495.00</td> <td>480</td> </tr> <tr> <td rowspan="2">Huntington Beach Generating Station</td> <td>HB1</td> <td>225.75</td> <td>215</td> </tr> <tr> <td>HB2</td> <td>225.80</td> <td>215</td> </tr> <tr> <td rowspan="4">Redondo Beach Generating Station</td> <td>RB5</td> <td>178.87</td> <td>175</td> </tr> <tr> <td>RB6</td> <td>175.00</td> <td>175</td> </tr> <tr> <td>RB7</td> <td>505.96</td> <td>480</td> </tr> <tr> <td>RB8</td> <td>495.90</td> <td>480</td> </tr> <tr> <td colspan="2">Total</td> <td>3817.66</td> <td>3,690</td> </tr> </tbody> </table>	Generating Facility	Unit	RA Capacity (MW)	Dependable Capacity (MW)	Alamitos Generating Station	AL1	174.56	175	AL2	175.00	175	AL3	332.18	320	AL4	335.67	320	AL5	497.97	480	AL6	495.00	480	Huntington Beach Generating Station	HB1	225.75	215	HB2	225.80	215	Redondo Beach Generating Station	RB5	178.87	175	RB6	175.00	175	RB7	505.96	480	RB8	495.90	480	Total		3817.66	3,690			
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Dependable Capacity	<p>Initially 3,690 MW</p> <p>For each year of the Deal Term, the AES Subsidiaries may adjust each Unit's Dependable Capacity plus or minus 5% from the initial amount. In other words, adjustments to the Dependable Capacity of each Unit can be made once a year, every year, so long as the Dependable Capacity</p>																																																		

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Consent Rights	Upon final and non-appealable Commission approval, Seller grants Buyer its consent rights under Section 2.1(a) of the Capacity Addition Agreement.

III. EVALUATION METHODOLOGY AND RESULTS

A. Evaluation Methodology

SCE’s evaluation methodology is summarized in the main portion of this Advice Letter. In general, the quantitative valuation entails forecasting (1) the value of contract benefits, (2) the value of contract costs, and (3) the net value of both (1) and (2). Once all of the valuation elements are calculated, they are discounted to a present value using a 10% discount rate. SCE then subtracts the present value of expected costs from the present value of expected benefits to determine the expected net present value (“NPV”) of the offer. NPVs are normalized by dividing them by the number of kW-months of capacity offered to SCE. In addition to quantitative benefits, many contracts also have qualitative benefits that are evaluated separately. The qualitative benefits of the BECA Contract are discussed in the main portion of this Advice Letter.

SCE discusses confidential information related to the quantitative valuation of the BECA Contract below, but does not repeat the discussion of all elements of its evaluation methodology.

1. Contract Benefits

- Energy and Ancillary Service Benefits

As noted in the main portion of this Advice Letter, in valuing energy and ancillary service benefits, SCE uses the economic dispatch principle, wherein a unit is dispatched if its forecasted benefits exceed its costs, i.e., if it is “in the money.” ProSym compares the forecast cost of running a unit against energy and ancillary services price forecasts to determine whether a unit is in the money. SCE creates an expansive lookup library of ProSym dispatch results to avoid the need to perform multiple runs for each analysis.

SCE then deploys a stochastic Monte Carlo simulation process to generate a large number of gas price and implied market heat rate pairs, using SCE’s blended power and gas price curves as the expected case (see below for more details), by

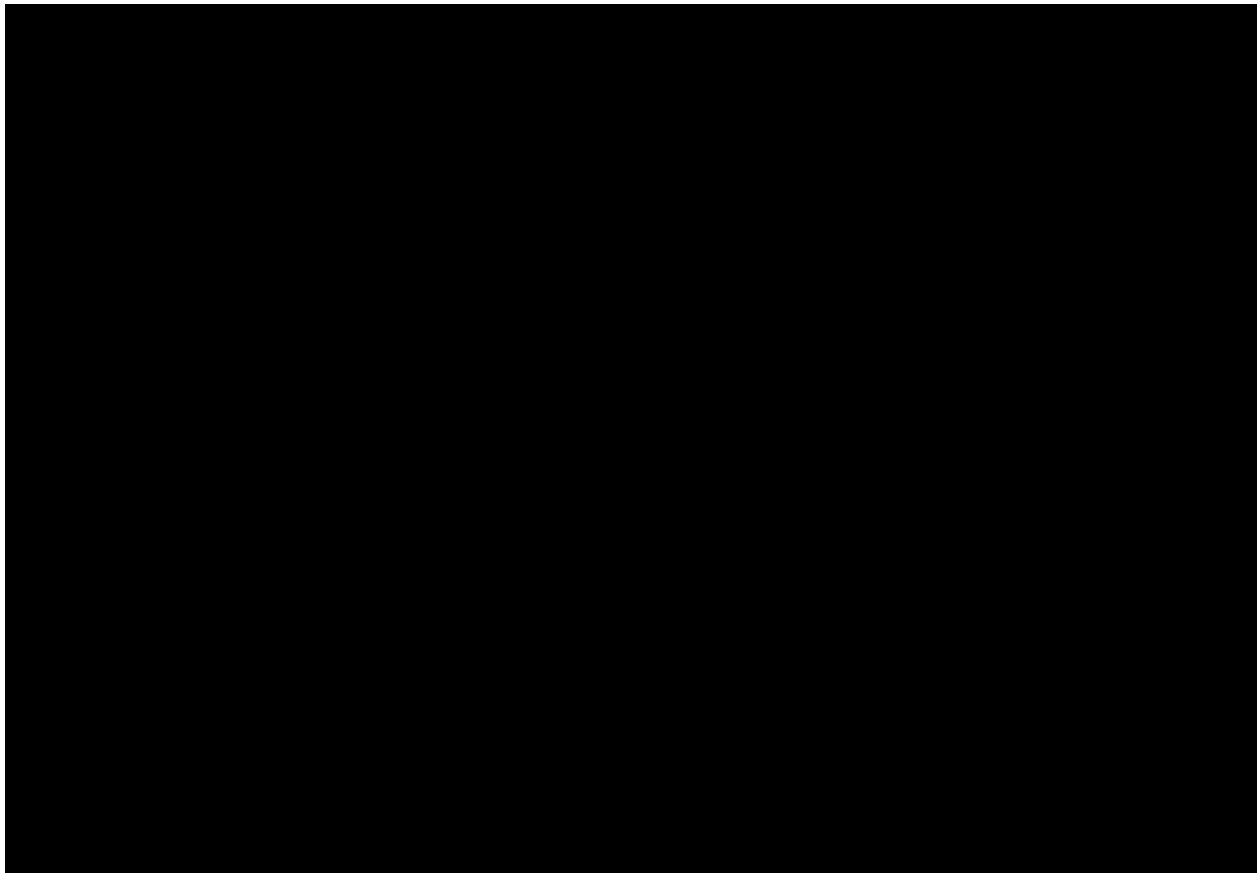
applying a volatility process to the blended price forecasts. The volatility process estimates correlation, volatility, mean reversion, stochastic volatility, and seasonal parameters [REDACTED]. The simulated price pairs are used to look up the forecasted gross energy benefits and costs, [REDACTED]. SCE defines the expected energy and ancillary service benefits as the average of the simulated cases.

SCE utilizes a blended approach to forecasting power, gas, and CO₂ allowance prices. [REDACTED]

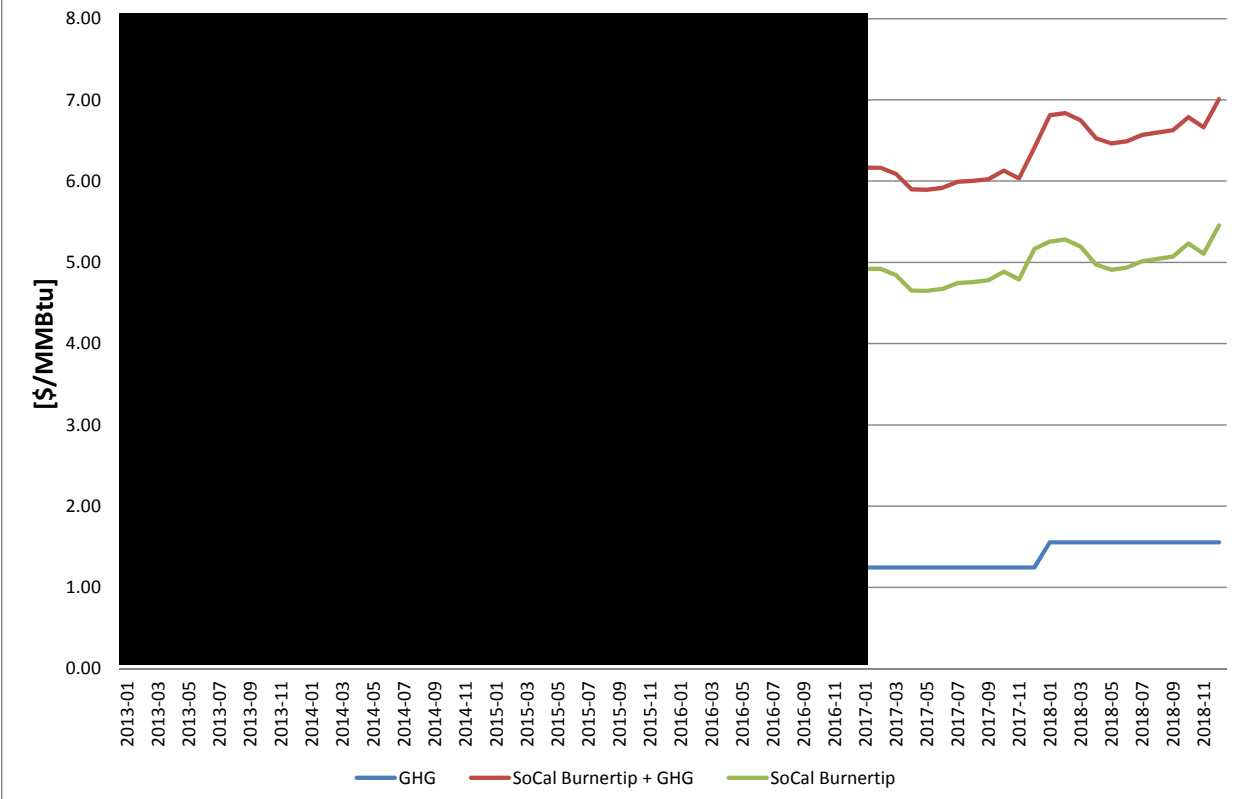
[REDACTED] Forward power prices are also adjusted for location in the final valuation.

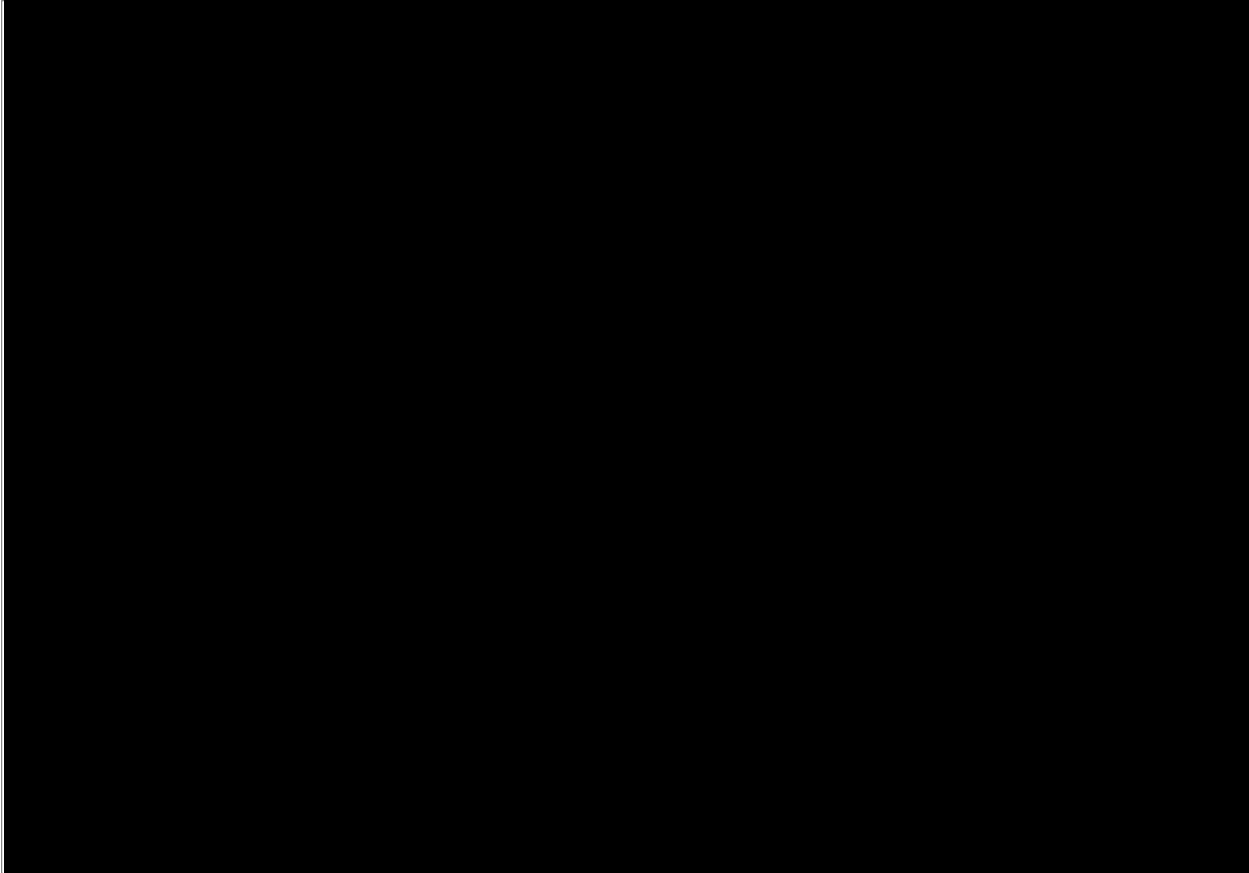
For this valuation effort, SCE obtained broker quotes for power, gas, and CO₂ allowances as of January 22, 2013. [REDACTED]

[REDACTED] The following series of charts show the monthly breakout of the price forecasts used in the valuation of the BECA Contract.

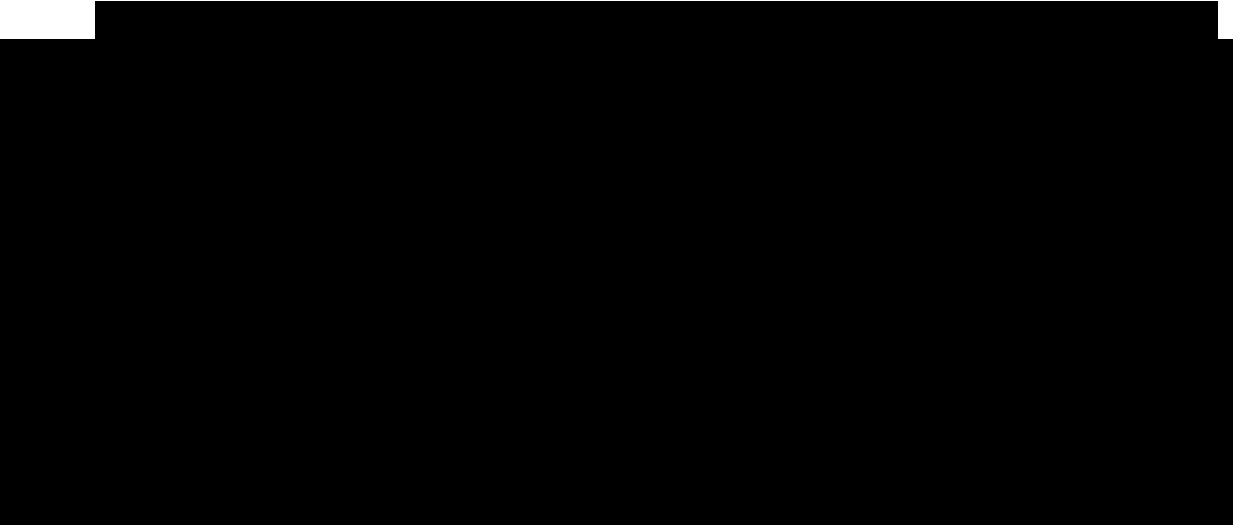


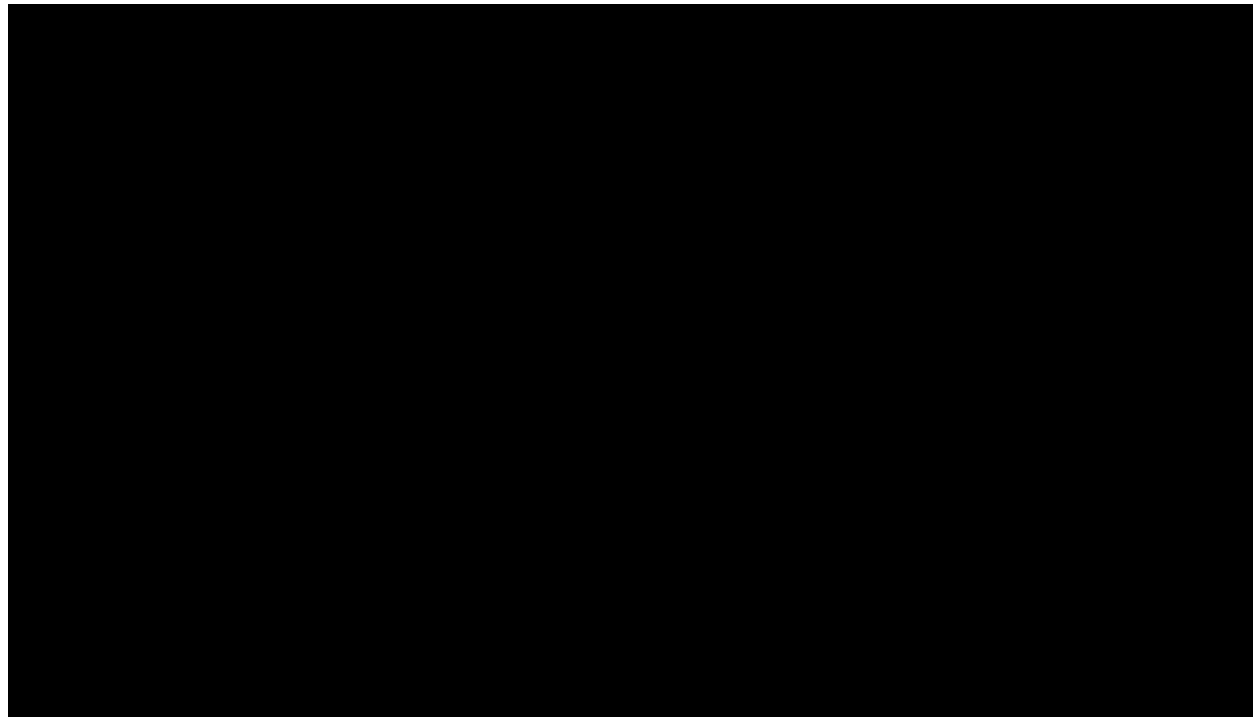
Blended Gas and GHG Prices: SoCal Burnertip





- RA Capacity Benefits





However, the implementation of the Standard Capacity Product (“SCP”) tariff by the CAISO has changed the RA market dynamics, especially for local dispatchable resources.⁸ The new SCP rules require scheduling coordinators for resources on forced outage to replace those resources with like or better resources. For example, if a LA Basin dispatchable resource goes on forced outage it must be replaced with a LA Basin dispatchable resource. Conversely if a non-dispatchable system resource goes on outage it can be replaced by any resource interconnected to the CAISO grid. The cost of not replacing RA capacity on forced outage has been set to equal the current backstop CAISO CPM price (\$5.62 kW-month).⁹ In addition, the CAISO has recently implemented a Planned Outage Replacement (“POR”) tariff, which requires LSEs to replace RA resources on planned outage before the beginning of the compliance month or face potential backstop costs based on a minimum 30-day backstop at the CPM

⁸ See CAISO Tariff, Section 40.9.4.2.1, November 5, 2012 (available at: http://www.caiso.com/Documents/CombinedConformedTariff_Nov5_2012.pdf).

⁹ See *id.* at Section 43.7.1. As provided in Section 43.7.1 of the CAISO Tariff, the CPM price will increase by 5% to \$5.91/kW-month on February 16, 2014.

price.¹⁰ The replacement rules for the POR are slightly more relaxed and allow for system for local replacements. [REDACTED]

SCE is largely protected from SCP penalties for its contracted portfolio but it does have exposure for all of its utility-owned generation, most of which is located in the LA Basin (~3,000 MW). As an LSE, SCE has a significant exposure to the POR tariff which it includes in its RA need forecasts based on historically observed planned outages. Although SCE is still working diligently to safely return SONGS to service, there is still significant uncertainty around the timing of return of the units. The loss of SONGS would result in a substantial loss of total LA Basin available RA capacity (2,246 MW) within the CAISO grid. Even without the SONGS concerns, approximately 1,000 MW of the BECA Contract RA capacity must be procured by a LSE in order to meet the forecasted CAISO Local Area Requirement (“LAR”) for the LA Basin. The BECA Contract resources represent almost 30%¹¹ of total LA Basin capacity under a SONGS-in scenario and almost 40%¹² under a SONGS-out scenario.

[REDACTED] These MW: (1) are located within the Western LA Basin; (2) two of the units are in the highly constrained Ellis Sub-area (Huntington Beach Units 1 and 2); (3) are dispatchable; (4) provide a considerable hedge against the possibility that SONGS does not return to service; and (5) provide an additional hedge against any other outages that could occur to other LA Basin generating units in SCE’s portfolio.

The total RA capacity provided by the BECA Contract is 3,817.66 MW per month, [REDACTED].

2. Contract Costs

- Contract Payments

¹⁰ See CAISO Tariff, Section 9.3.1.3.2.5 (from the CAISO’s December 20, 2012 filing with FERC in Docket No. ER12-2669-002).

¹¹ Based on the CAISO’s 2013 Local Capacity Technical Analysis Final Report and Study Results, April 30, 2012 found at http://www.caiso.com/Documents/Final2013LocalCapacityTechnicalStudyReportApr30_2012.pdf.

¹² Based on 2013 Local Capacity Technical Analysis Addendum to the Final Report and Study Results, Absence of San Onofre Nuclear Generating Station (SONGS), August 20, 2012, found at http://www.caiso.com/Documents/Addendum-Final2013LocalCapacityTechnicalStudyReportAug20_2012.pdf.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- Debt equivalence

[REDACTED]

B. Quantitative Benefits

As explained in the main portion of this Advice Letter and above, SCE calculated the quantitative benefits of the BECA Contract by subtracting the present value of expected costs from the present value of expected benefits to determine the expected NPV of the offer. In addition to the BECA Contract, SCE also re-valued the existing RA agreements that are to be terminated or amended as part of the BECA Contract using

[REDACTED]

the same forward curves for RA capacity value. The net value of the existing RA agreements was netted against the net value of the BECA Contract to derive the final NPV.

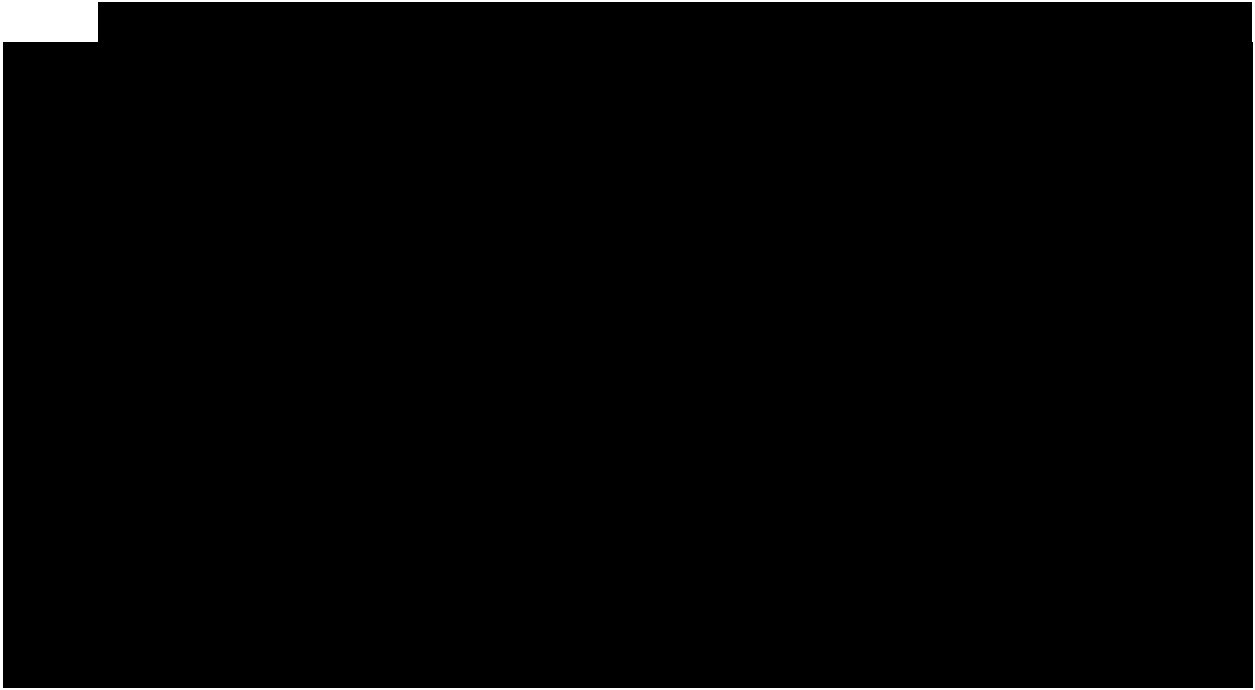
[Redacted]

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[Redacted]

[Redacted]



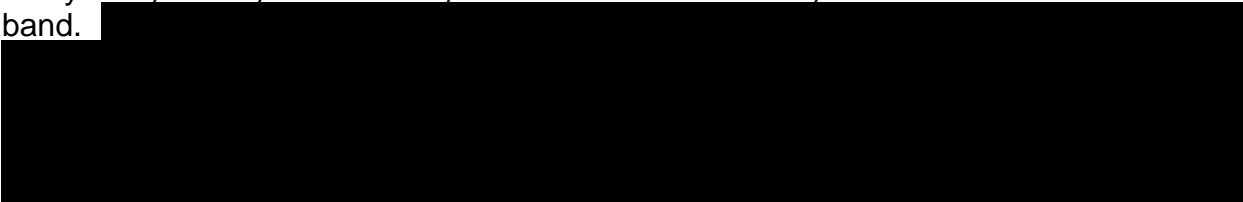
Public Appendix B
RA, Capacity, and Energy Positions

RA, Capacity, and Energy Positions

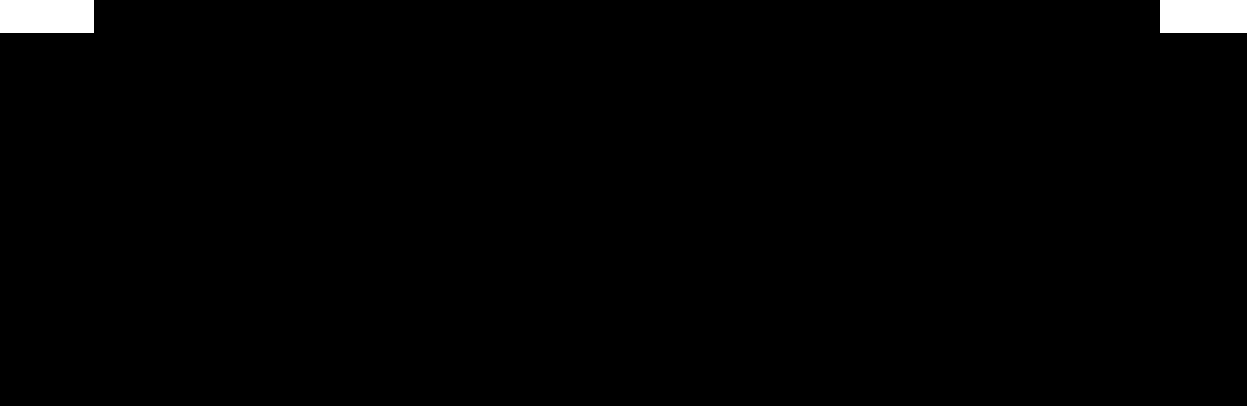
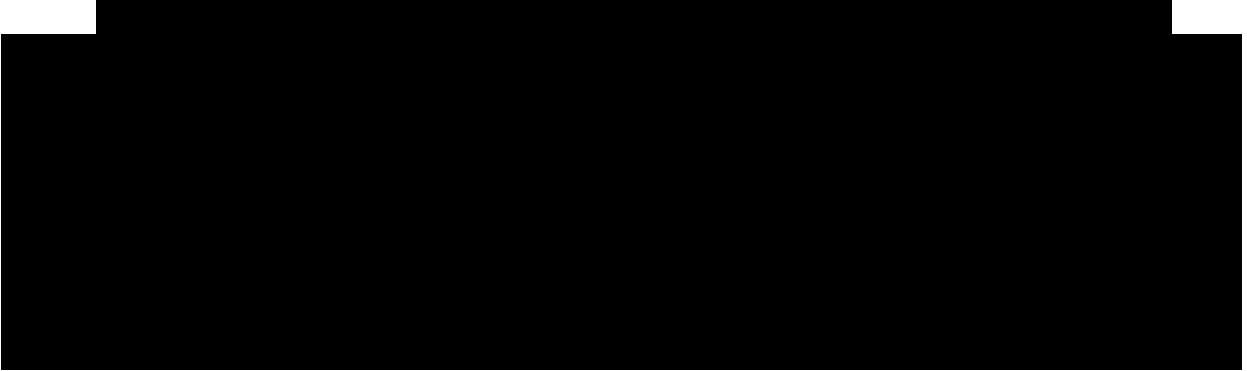
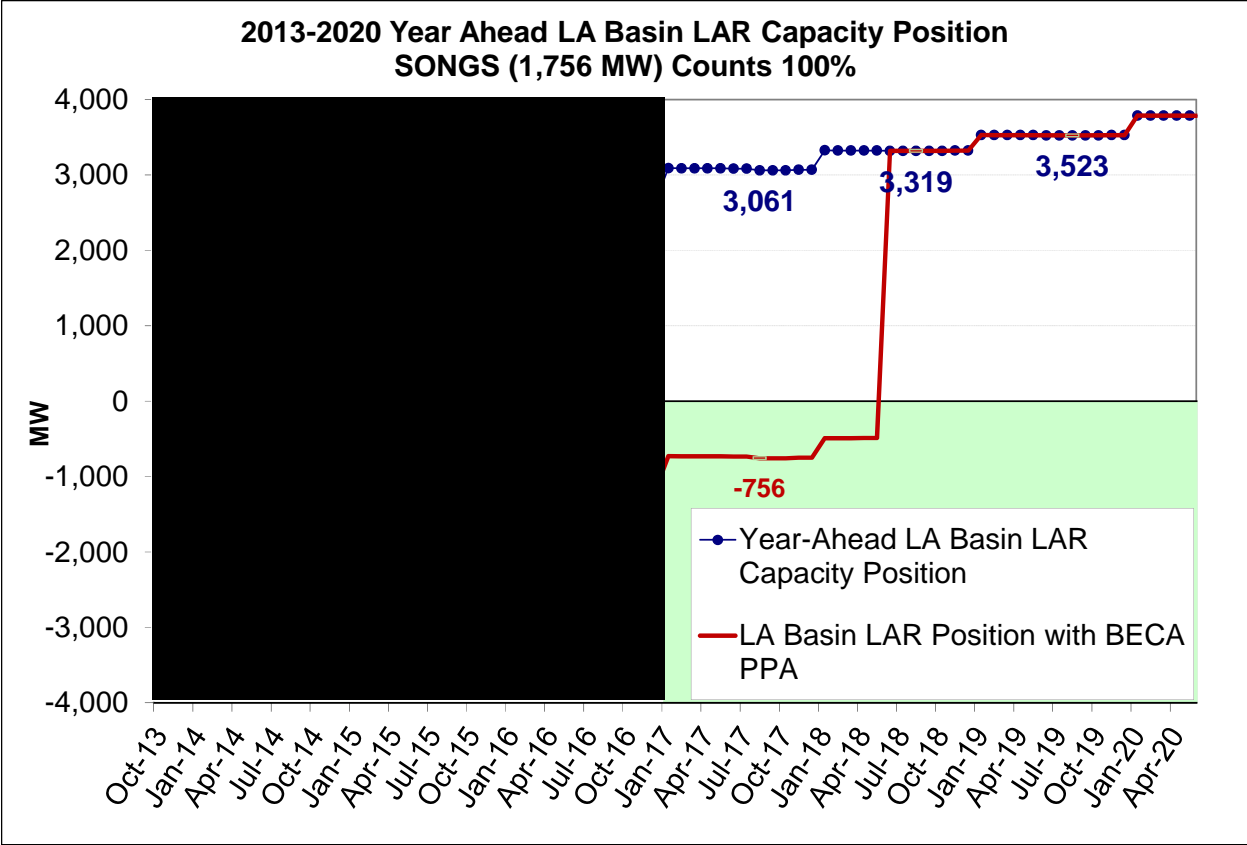
The position charts below show the potential impacts to SCE's local LA Basin, system RA, and on-peak and off-peak capacity and energy positions as a result of the execution of the BECA Contract.¹

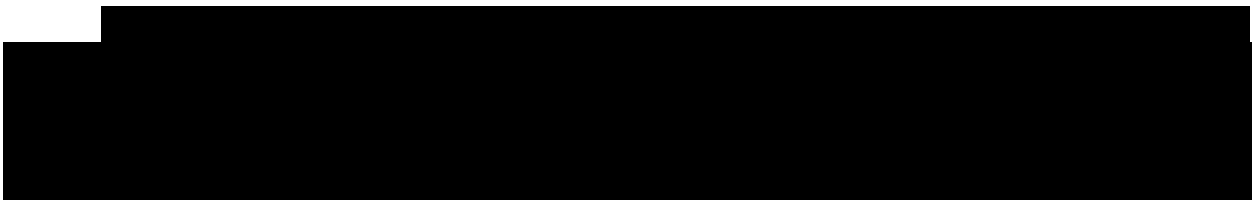
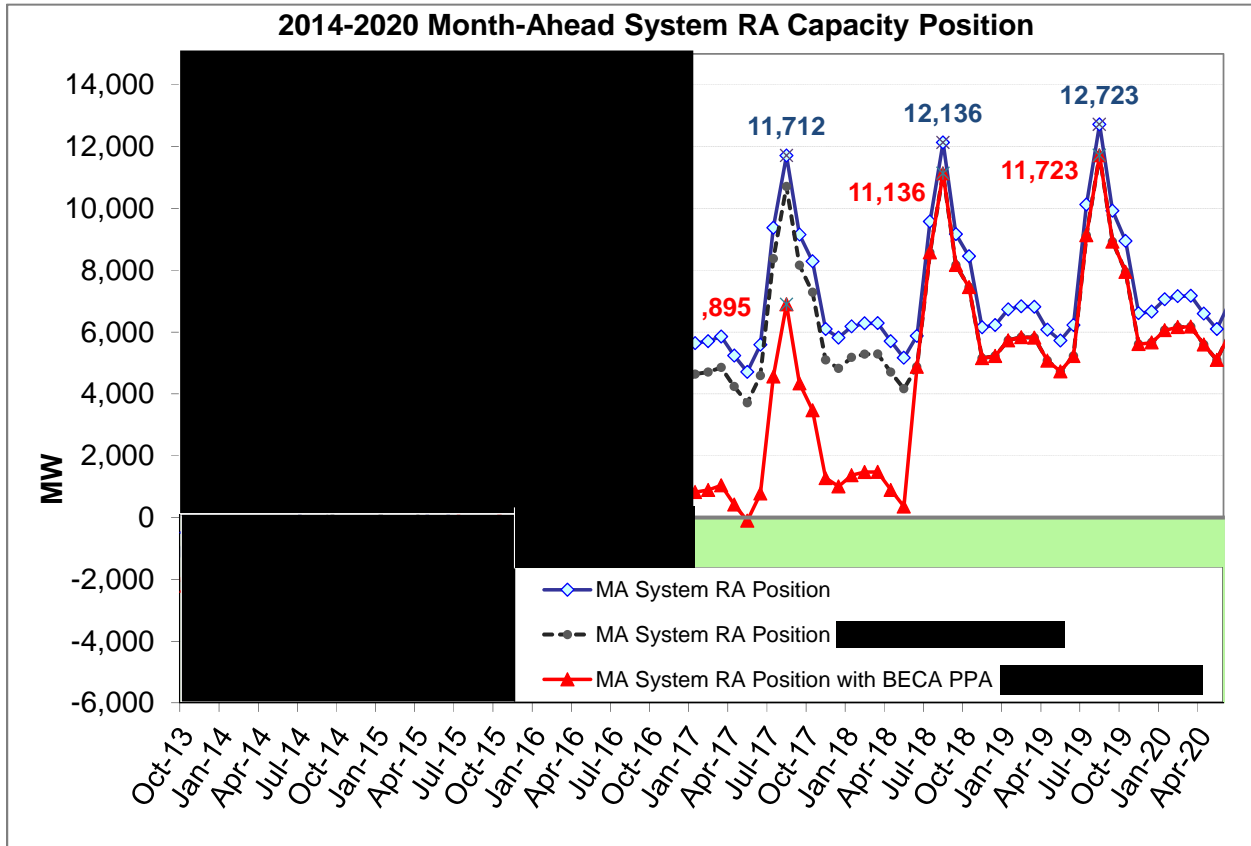
Commission and CAISO rules allow units that are designated on forced or planned outage to count 100% to meet local capacity requirements. This is due to the conditions used to set the requirements (1 in 10 load and N-1-1 conditions). Therefore, SCE's local LA Basin capacity position assumes that the SONGS units (SCE's share equals 1,756 MW) count 100% to meet SCE's LA Basin requirements. This assumption, however, exposes SCE to potential SCP charges for the resources that can only be mitigated with like or better replacements.

The BECA Contract resources are fully dispatchable LA Basin resources and at the top of the stack in terms of SCP replacement for the LA Basin. Going long with these flexible replacement resources for the LA Basin would provide significant benefits for SCE in managing SCP exposure, not just for SONGS, but also for its other LA Basin capacity exposed to SCP charges. SCE's total potential exposure to SCP charges is ~3,000 MW (SONGS – 1,756 MW, MountainView – 969 MW, Eastern Hydro – 7 MW, SCE Peakers – 233 MW). SCP charges would be assessed at \$5.63/kW-month, rising every two years by 5% for every MW below the availability standard minus a 2.5% dead band.

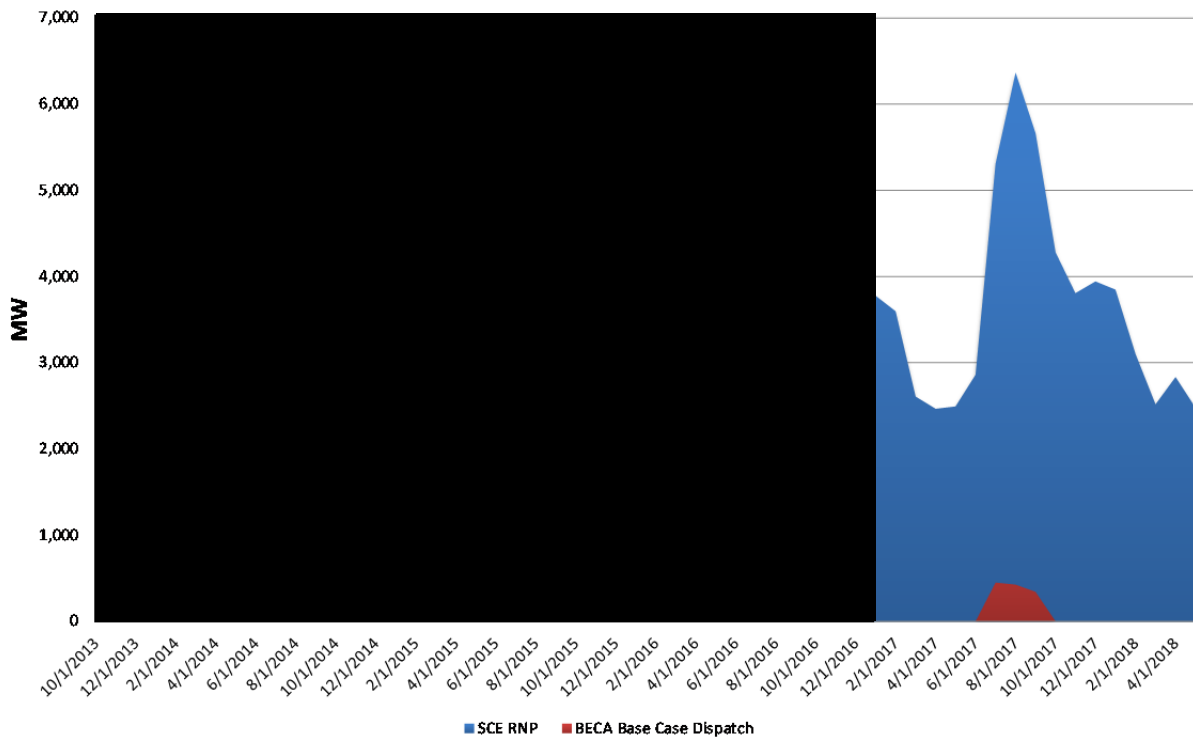


¹ The confidential information in the confidential version of this Appendix is generally highlighted in gray. However, certain confidential information in tables and charts could not be highlighted in gray, but is redacted in the public version of this Appendix.

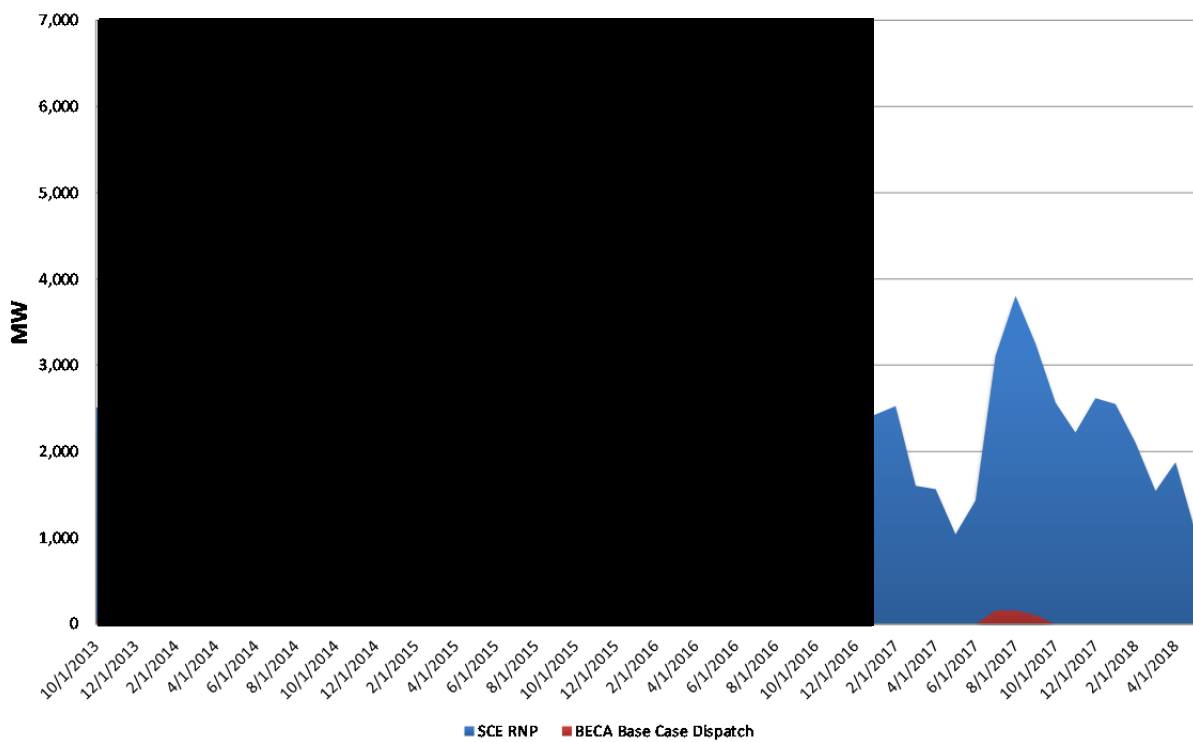





Energy RNP with BECA: On PEAK



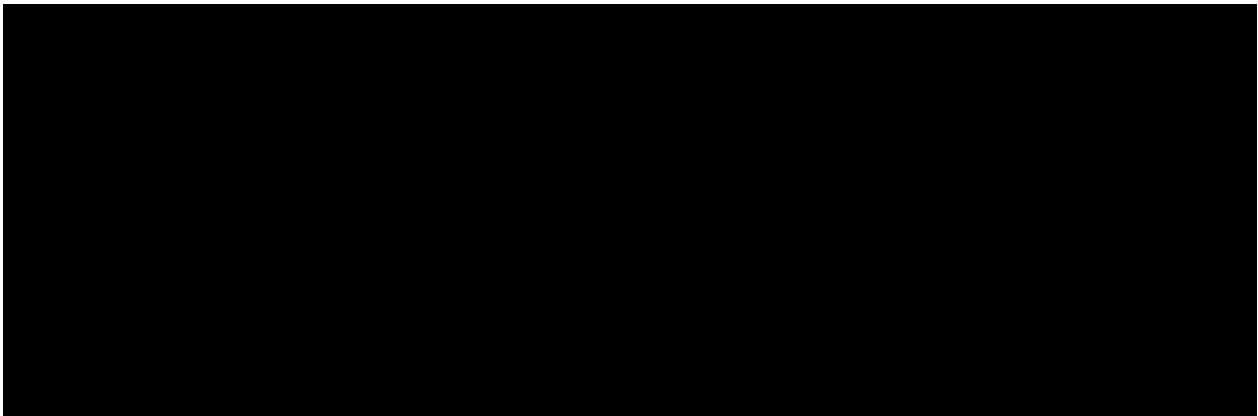
Energy RNP with BECA: Off PEAK



Finally, SCE's AB 57 Bundled Procurement Plan contains procurement limits and ratable rates tables for energy and capacity procurement.² The limits are dependent on the current ratable rate for the given product. SCE has monthly maximum purchase limits for on-peak and off-peak energy transactions in addition to annual rolling ratable procurement limits for energy transactions.



The following table shows the base-case on-peak dispatch of the BECA fleet as well as SCE's current monthly on-peak purchase limits.



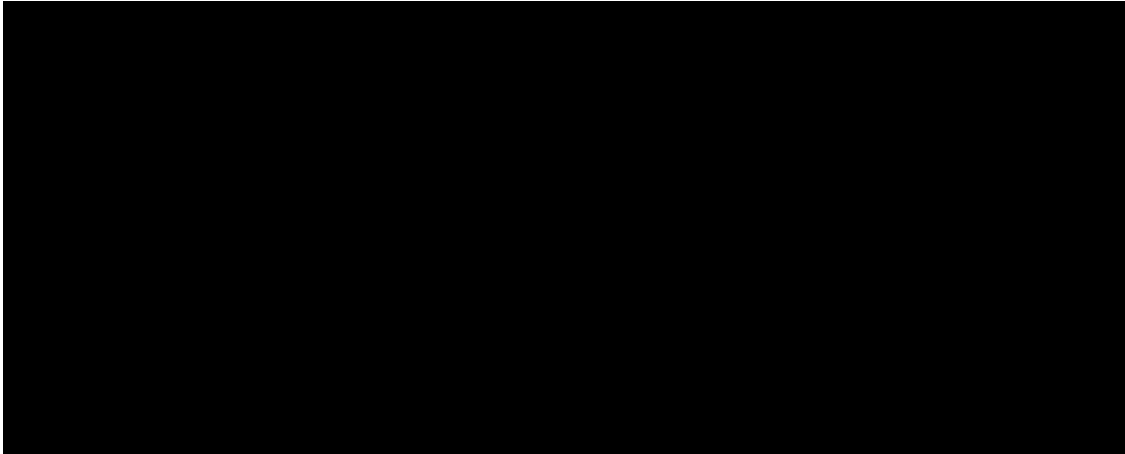
Similarly, the table below shows the same data for the off-peak dispatch periods.



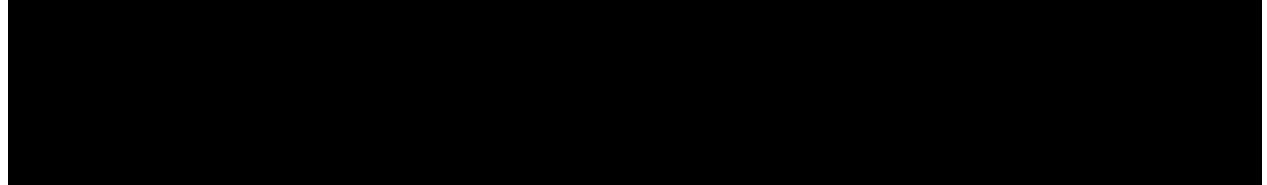
Both tables show that the monthly procurement limit is always greater than the base-case dispatch of the BECA fleet for the entirety of the contract term. Additionally,

² See SCE's 2010 AB 57 Bundled Procurement Plan, Appendix J and Sheets J-1-J-3 (submitted in Advice 2823-E on December 11, 2012 and approved by the Energy Division effective as of January 1, 2013).

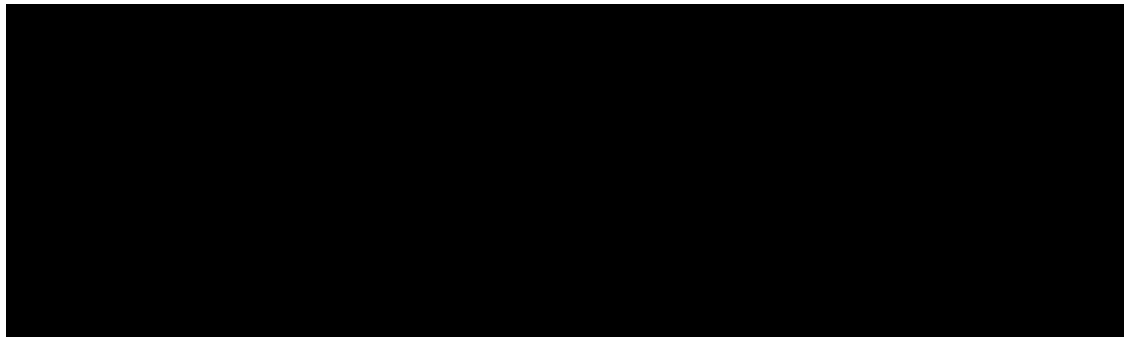
the effective rolling-year ratable rates are greater than the base-case dispatch of the BECA fleet, as shown in the following table.



The BECA Contract provides 3,817.66 MW of electric capacity (RA capacity) that counts against SCE's ratable electrical capacity procurement authority. Ratable rates apply to electrical capacity transactions for delivery months that occur two or more calendar years beyond the transaction year (e.g., for transactions occurring in 2013, limits shall apply to contract deliveries in 2015 and beyond).



Consequently, the BECA contract exceeds SCE's approved electrical capacity procurement authority in years 2015 through 2018 as highlighted in the following table. It should be noted that during the last several weeks of checking implied market heat rates for determining the ratable rate regime in effect, SCE has observed that we have been crossing between a one and two-times ratable rate regime for capacity purchases. A two-times ratable rate would only result in exceeding SCE's approved electrical capacity procurement authority in 2018.



Commission approval of this Advice Letter is required to allow SCE to exceed its AB 57 Bundled Procurement Plan ratable rate limits. To the extent that ratable rates are exceeded, SCE would be precluded from incremental forward contracting in the

“capped” periods until such time that SCE’s ratable rates exceeded SCE’s relevant forward procurement activity.

Confidential Appendix C

BECA Contract

Confidential Protected Materials – Public Disclosure Prohibited

Appendix D

Confidentiality Declaration

DECLARATION OF JESSE BRYSON REGARDING THE CONFIDENTIALITY OF CERTAIN DATA

I, Jesse Bryson, declare and state:

1. I am the Principal Manager of Power Origination in the Energy Supply and Management Department at Southern California Edison (“SCE”). As such, I have reviewed the confidential information submitted by SCE in Advice 2853-E. I make this declaration in accordance with Decisions (“D.”) 06-06-066 and D.08-04-023, issued in Rulemaking 05-06-040. I have personal knowledge of the facts and representations herein and, if called upon to testify, could and would do so, except for those facts expressly stated to be based upon information and belief, and as to those matters, I believe them to be true.

2. Listed below are the data in Advice 2853-E for which SCE is seeking confidential protection and the categories of the Matrix of Allowed Confidential Treatment Investor Owned Utility (“IOU”) Data (“Matrix”) appended to D.06-06-066 to which these data correspond.

Location/Title of Data	Pages	Matrix Category	Limitations on Confidentiality Specified in Matrix
Appendix A Specific contract and negotiation details and quantitative analysis involved in evaluation	A-1- A-8, A-10- A-15	VII.E Bilateral Contract Terms and Conditions – Electric – New non-utility affiliated bilateral contracts (except RPS)	Contract summaries public, including counterparty, resource type, location, capacity, expected deliveries, delivery point, length of contract, and online date. Other terms confidential for three years from date contract states deliveries begin; or until one following expiration, whichever comes first.
Appendix A Utility electric price forecasts	A-8, A-10- A-11	II.A.2 Cost Forecast Data – Electric – Utility electric price forecasts	Confidential for three years.
Appendix A Utility gas price forecasts	A-9	I.A.2 Natural Gas Information – Forecasts (gas) – Utility gas price forecasts	Front three years of forecast data confidential.

Appendix B Utility Bundled Net Open (Long or Short) Position for Capacity	B-1-B-3	VI.A Net Open Position – Electric – Utility Bundled Net Open (Long or Short) Position for Capacity (MW)	Front three years of forecast data confidential.
Appendix B Utility Bundled Net Open (Long or Short) Position for Energy	B-3-B-4	VI.B Net Open Position – Electric – Utility Bundled Net Open (Long or Short) Position for Energy (MWh)	Front three years of forecast data confidential.
Appendix C BECA Contract	All	VII.E New non-utility affiliated bilateral contracts (except RPS)	Contract summaries public, including counterparty, resource type, location, capacity, expected deliveries, delivery point, length of contract, and online date. Other terms confidential for three years from date contract states deliveries begin; or until one following expiration, whichever comes first.

3. SCE also seeks confidential treatment of its data under General Order-66C and Public Utilities Code Section 454.5(g), because Advice 2853-E contains data that is market-sensitive, but does not clearly fall into a category in the Matrix. That confidential data and the asserted justification for confidential treatment of that data is listed below:

Location/Title of Data	Pages	Justification for Confidential Protection
Appendix B SCE's Procurement Limits and Ratable Rates for Energy and Capacity	B-5-B-6	These position limits for the hedging of energy and capacity are similar to the protection of natural gas hedging transactions that are provided under Matrix Category I.A.4. Confidentiality under Matrix Category I.A.4 is for three years. This information is kept confidential in SCE's Assembly Bill 57 Bundled Procurement Plan.

4. I am informed and believe and thereon allege that the data in the tables in paragraphs 2 and 3 above 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 Advice Letter requires that the data be provided in this form.

5. I am informed and believe and thereon allege that the data in the tables in paragraphs 2 and 3 above has never been made publicly available.

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

Executed on February 15, 2013 at Rosemead, California.

A handwritten signature in black ink, appearing to read "Jesse Bryson", with a stylized flourish at the end.

Jesse Bryson

Appendix E

Proposed Protective Order

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

Bilateral Capacity Sale and Tolling Agreement)	
Between Southern California Edison Company)	Advice 2853-E
<u>and BE CA LLC)</u>	

PROPOSED PROTECTIVE ORDER

1. Scope. This Protective Order shall govern access to and the use of Protected Materials, produced by, or on behalf of, any Disclosing Party (as defined in Paragraph 2 below) in this proceeding.

2. Definitions.

In addition to the terms defined and capitalized in other sections of this Protective Order, the following terms are defined for the purposes of this Protective Order:

A. For purposes of this Protective Order, the term “Protected Materials” means: (i) trade secret, market sensitive, or other confidential and/or proprietary information as determined by the Disclosing Party in accordance with the provisions of Decision (“D.”) 06-06-066 and subsequent decisions, General Order 66-C, Public Utilities Code section 454.5(g), or any other right of confidentiality provided by law; or (ii) any other materials that are made subject to this Protective Order by the Assigned Administrative Law Judge (“Assigned ALJ”), Law and Motion Administrative Law Judge (“Law and Motion ALJ”), Assigned Commissioner, the California Public Utilities Commission (“Commission”), or any court or other body having appropriate authority. Protected Materials also include memoranda, handwritten notes, spreadsheets, computer files and reports, and any other form of information (including information in electronic form) that copies, discloses, incorporates, includes or compiles other Protected Materials or from which such materials may be derived (except that any derivative

materials must be separately shown to be confidential). Protected Materials do not include: (i) any information or document contained in the public files of the Commission or any other state or federal agency, or in any state or federal court; or (ii) any information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order or any other nondisclosure agreement or protective order.

B. The term “redacted” refers to situations in which Protected Material in a document, whether the document is in paper or electronic form, have been covered, blocked out, or removed.

C. The term “Disclosing Party” means a party who initially discloses any specified Protected Material in this proceeding.

D. The term “Requesting Party” means any party that is requesting receipt of Protected Material from a Disclosing Party.

E. The term “Party” refers to the Requesting Party or the Disclosing Party and the term “Parties” refers to both the Requesting Party and the Disclosing Party.

F. The term “Market Participant” refers to a Requesting Party that is:

- 1) A person or entity, or an employee of an entity, that engages in the wholesale purchase, sale or marketing of energy or capacity, or the bidding on or purchasing of power plants, or bidding on utility procurement solicitations, or consulting on such matters, subject to the limitations in 3) below.
- 2) A trade association or similar organization, or an employee of such organization,
 - a) whose primary focus in proceedings at the Commission is to advocate for persons/entities that purchase, sell or market energy or capacity at wholesale; bid on, own, or purchase power plants; or bid on utility procurement solicitations; or
 - b) a majority of whose members purchase, sell or market energy or capacity at wholesale; bid on, own, or purchase power plants; or bid on utility procurement solicitations; or

- c) formed for the purpose of obtaining Protected Materials; or
 - d) controlled or primarily funded by a person or entity whose primary purpose is to purchase, sell or market energy or capacity at wholesale; bid on, own, or purchase power plants; or bid on utility procurement solicitations.
- 3) A person or entity that meets the criteria of 1) above is not a Market Participant for purpose of access to Protected Materials unless the person/entity seeking access to Protected Materials has the potential to materially affect the price paid or received for electricity if in possession of such information. An entity will be considered not to have such potential if:
- a) the person or entity's participation in the California electricity market is *de minimis* in nature. In the resource adequacy proceeding (R.05-12-013) it was determined in D.06-06-064 § 3.3.2 that the resource adequacy requirement should be rounded to the nearest megawatt (MW), and load serving entities (LSEs) with local resource adequacy requirements less than 1 MW are not required to make a showing. Therefore, a *de minimis* amount of energy would be less than 1 MW of capacity per year, and/or an equivalent of energy; and/or
 - b) the person or entity has no ability to dictate the price of electricity it purchases or sells because such price is set by a process over which the person or entity has no control, *i.e.*, where the prices for power put to the grid are completely overseen by the Commission, such as subject to a standard offer contract or tariff price. A person or entity that currently has no ability to dictate the price of electricity it purchases or sells under this section, but that will have such ability within one year because its contract is expiring or other circumstances are changing, does not meet this exception; and/or
 - c) the person or entity is a cogenerator that consumes all the power it generates in its own industrial and commercial processes, if it can establish a legitimate need for Protected Materials.

G. The term "Non-Market Participant" refers to a Requesting Party that does not meet the definition of Market Participant. The California Independent System Operator is deemed a Non-Market Participant for purposes of this Protective Order.

H. “Reviewing Representatives” are limited to person(s) designated in accordance with Paragraph 5 who meet the following criteria:

- 1) Reviewing Representatives may not currently be engaged in: (a) a transaction for the purchase, sale, or marketing at wholesale of electrical energy or capacity or natural gas (or the direct supervision of any employee(s) engagement in such a transaction); (b) the bidding on or purchasing of power plants (or the direct supervision of any employee(s) engagement in such a transaction); or (c) knowingly providing electricity or gas marketing consulting or advisory services to others in connection with a transaction for the purchase, sale, or marketing at wholesale of electrical energy or capacity or natural gas or the bidding on or purchasing of power plants (or the direct supervision of any employee(s) engagement in such a transaction or consulting).
- 2) Reviewing Representatives may not be an employee of a Market Participant. If the Market Participant or Non-Market Participant chooses to retain outside attorneys, consultants, or experts in the same law firm or consulting firm to provide advice in connection with marketing activities, then the attorney, consultant, or expert serving as a Reviewing Representative must be separated by an ethics wall consistent with the ethics wall requirements in D.11-07-028, as that decision may be subsequently modified or changed by the Commission, from those in the firm who are involved in wholesale commercial dealings.
- 3) Reviewing Representatives shall use Protected Materials only for the purpose of participating in the Commission proceeding in which they received the information.
- 4) Reviewing Representatives are permitted to participate in regulatory proceedings on behalf of Market Participants and Non-Market Participants.
- 5) All Reviewing Representatives are required to execute the Nondisclosure Certificate attached to this Protective Order and are bound by the terms of this Protective Order.

I. The term “Authorized Reviewers” refers to: (1) a Requesting Party that is a Non-Market Participant; or (2) a Reviewing Representative of a Requesting Party. A

Requesting Party that is a Market Participant is not an Authorized Reviewer but it may designate a Reviewing Representative in accordance with Paragraph 5.

J. The term “Nondisclosure Certificate” refers to the Nondisclosure Certificate attached as Appendix A.

3. Designation, Filing, and Service of Protected Materials.

When filing or providing in discovery any documents or items containing Protected Materials, a party shall physically mark such documents (or in the case of non-documentary materials such as computer diskettes, on each item) as “PROTECTED MATERIALS SUBJECT TO PROTECTIVE ORDER,” or with words of similar import as long as one or more of the terms “Protected Materials” or “Protective Order” is included in the designation to indicate that the materials in question are Protected Materials. All materials so designated shall be treated as Protected Materials unless and until: (a) the designation is withdrawn pursuant to Paragraph 14 hereof; (b) an Assigned ALJ, Law and Motion ALJ, Assigned Commissioner, or the Commission makes a determination that: (i) the document does not contain Protected Materials or does not warrant confidential treatment or (ii) denies a motion to file the document under seal; or (c) the document or information becomes public knowledge, other than through disclosure in violation of this Protective Order or any other nondisclosure agreement or protective order.

All documents containing Protected Materials that are tendered for filing with the Commission shall be placed in sealed envelopes or otherwise appropriately protected and shall be tendered with a motion to file the document under seal pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure. All documents containing Protected Materials that are served on parties in a proceeding shall be placed in sealed envelopes or otherwise appropriately protected and shall be endorsed to the effect that they are served under seal pursuant to this Protective Order. Such documents shall only be served upon Authorized

Reviewers and persons employed by or working on behalf of the Commission. Service upon Authorized Reviewers and persons employed by or working on behalf of the Commission may either be: (a) by electronic mail in accordance with the procedures adopted in this proceeding; (b) by facsimile; or (c) by overnight mail or messenger service. Whenever service of a document containing Protected Materials is made by overnight mail or messenger service, the Assigned ALJ shall be served with such document by the same means and at the same time.

4. Redaction of Documents. Whenever a Party files, serves or provides in discovery a document that includes Protected Materials (including but not limited to briefs, testimony, exhibits, and responses to data requests), such Party shall also prepare a redacted version of such document. The redacted version shall enable persons familiar with this proceeding to determine with reasonable certainty the nature of the data that has been redacted and where the redactions occurred. The redacted version of a document to be filed shall be served on all persons on the service list, and the redacted version of a discovery document shall be served on all persons entitled thereto.

5. Designation of Reviewing Representatives. The Requesting Party shall provide written notice identifying its proposed Reviewing Representative(s) to the Disclosing Party before the Disclosing Party provides any Protected Materials to the Requesting Party's Authorized Reviewers. The written notice shall include the information identified in this paragraph. If the Requesting Party decides to designate any additional Reviewing Representative(s) after the Requesting Party's Authorized Reviewers receive Protected Materials, the Requesting Party shall identify the additional proposed Reviewing Representative(s) to the Disclosing Party before the Requesting Party provides Protected Materials to the additional Reviewing Representative(s). Within five (5) business days after receiving written notice of the identity of any Reviewing Representative, the Disclosing Party

may provide the Requesting Party with a written objection to a specific Reviewing Representative stating the grounds for the objection. Any dispute concerning whether an identified person or entity is an appropriate Reviewing Representative shall be resolved through the dispute resolution procedures in Paragraph 11 of this Protective Order. If a Disclosing Party objects to a specific Reviewing Representative within five (5) business days after the Reviewing Representative is identified, the Parties shall not provide any Protected Materials to the disputed Reviewing Representative until the Parties are able to resolve the dispute consistent with the dispute resolution procedures in Paragraph 11. Failure by the Disclosing Party to object within five (5) business days does not waive the Disclosing Party's right to later object to the Reviewing Representative, even if Protected Materials has already been disclosed. However, further disclosure of Protected Materials would be stayed until the parties are able to resolve the dispute consistent with the dispute resolution procedures in Paragraph 11.

Reviewing Representative(s) have a duty to disclose to the Disclosing Party any potential conflict of interest that puts the Reviewing Representative in violation of D.06-12-030, as modified by subsequent decisions of the Commission. A resume or curriculum vitae is reasonable disclosure of such potential conflicts, and should be the default evidence provided in most cases.

6. Nondisclosure Certificates. A Reviewing Representative shall not inspect, participate in discussions regarding, or otherwise be granted access to, Protected Materials unless and until he or she has first completed and executed a Nondisclosure Certificate, attached hereto as Appendix A, and delivered the signed Nondisclosure Certificate to the Disclosing Party. The Disclosing Party shall retain the executed Nondisclosure Certificates pertaining to the Protected Materials it has disclosed and shall promptly provide copies of the Nondisclosure Certificates to Commission Staff upon request.

7. Access to Protected Materials and Use of Protected Materials. Subject to the terms of this Protective Order, Authorized Reviewers shall be entitled to access any Protected Materials and may make copies of Protected Materials, but such copies become Protected Materials. Authorized Reviewers may make notes of Protected Materials, which shall be treated as Protected Materials if such notes disclose any Protected Materials. Protected Materials obtained by a Party in this proceeding may also be requested by that Party in a subsequent Commission proceeding, subject to the terms of any nondisclosure agreement or protective order governing that subsequent proceeding, without constituting a violation of this Protective Order.

8. Maintaining Confidentiality of Protected Materials. Each Authorized Reviewer shall treat Protected Materials as confidential in accordance with this Protective Order and the Nondisclosure Certificate. Protected Materials shall not be used except as necessary for participation in this proceeding, and shall not be disclosed in any manner to any person except: (i) Authorized Reviewers; (ii) an Authorized Reviewer's employees and administrative personnel, such as clerks, secretaries, and word processors, to the extent necessary to assist the Authorized Reviewer, provided that they shall first ensure that such personnel are familiar with the terms of this Protective Order and have signed a Nondisclosure Certificate; and (iii) persons employed by or working on behalf of the Commission. Authorized Reviewers shall adopt suitable measures to maintain the confidentiality of Protected Materials they have obtained pursuant to this Protective Order, and shall treat such Protected Materials in the same manner as they treat their own most highly confidential information.

Authorized Reviewers shall be liable for any unauthorized disclosure or use by themselves and/or employees, paralegals, or administrative staff. In the event any Authorized Reviewer is requested or required by applicable laws or regulations, or in the course of administrative or judicial proceedings (in response to oral questions, interrogatories, requests for

information or documents, subpoena, civil investigative demand or similar process) to disclose any of Protected Materials, the Authorized Reviewer shall immediately inform the Disclosing Party of the request, and the Disclosing Party may, at its sole discretion and cost, direct any challenge or defense against the disclosure requirement, and the Authorized Reviewer shall cooperate in good faith with such Party either to oppose the disclosure of the Protected Materials consistent with applicable law, or to obtain confidential treatment of the Protected Materials by the person or entity who wishes to receive them prior to any such disclosure. If there are multiple requests for substantially similar Protected Materials in the same case or proceeding where an Authorized Reviewer has been ordered to produce certain specific Protected Materials, the Authorized Reviewer may, upon request for substantially similar materials by another person or entity, respond in a manner consistent with that order to those substantially similar requests.

9. Return or Destruction of Protected Materials. Protected Materials shall remain available to Authorized Reviewers until an order terminating this proceeding becomes no longer subject to judicial review. If requested to do so in writing after that date, the Authorized Reviewers shall, within fifteen days after such request, return the Protected Materials to the Disclosing Party that produced such Protected Materials, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Protected Materials, and notes of Protected Materials may be retained, if such Protected Materials are maintained in accordance with Paragraph 8. Within such time period each Authorized Reviewer, if requested to do so, shall also submit to the Disclosing Party an affidavit stating that, to the best of its knowledge, all Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 8. To the extent Protected Materials are not returned or destroyed, they shall remain subject to this Protective Order.

In the event that a Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged to provide services in this proceeding, then access to such materials by that person shall be terminated and the Reviewing Representative shall immediately return or destroy all Protected Materials, or provide an affidavit stating that all Protected Materials and all notes of Protected Materials will be maintained in accordance with Paragraph 8. Even if a Reviewing Representative is no longer engaged in this proceeding, every such person shall continue to be bound by the provisions of this Protective Order and the Nondisclosure Certificate.

10. Access and Use by Governmental Entities.

A. In the event the Commission receives a request from the California Energy Commission (“CEC”) for a copy of or access to any Party’s Protected Materials, the procedure for handling such requests shall be as follows. Not less than five (5) business days after delivering written notice to the Disclosing Party of the request, the Commission shall release such Protected Materials to the CEC upon receipt from the CEC of an Interagency Information Request and Confidentiality Agreement (“Interagency Confidentiality Agreement”). Such Interagency Confidentiality Agreement shall: (i) provide that the CEC will treat the requested Protected Materials as confidential in accordance with this Protective Order; (ii) include an explanation of the purpose for the CEC’s request, as well as an explanation of how the request relates to furtherance of the CEC’s functions; (iii) be signed by a person authorized to bind the CEC contractually; and (iv) expressly state that furnishing of the requested Protected Materials to employees or representatives of the CEC does not, by itself, make such Protected Materials public. In addition, the Interagency Confidentiality Agreement shall include an express acknowledgment of the Commission’s sole authority (subject to judicial review) to make the determination whether the Protected Materials should remain confidential or be disclosed to the

public, notwithstanding any provision to the contrary in the statutes or regulations applicable to the CEC.

B. In the event the Commission receives a request for a copy of or access to a party's Protected Materials from a state governmental agency other than the CEC that is authorized to enter into a written agreement sufficient to satisfy the requirements for maintaining confidentiality set forth in Government Code Section 6254.5(e), the Commission may, not less than five (5) business days after giving written notice to the Disclosing Party of the request, release such Protected Materials to the requesting governmental agency, upon receiving from the requesting agency an executed Interagency Confidentiality Agreement that contains the same provisions described in Paragraph 10.A above.

C. The CEC may use Protected Materials when needed to fulfill its statutory responsibilities or cooperative agreements with the Commission. Commission confidentiality designations will be maintained by the CEC in making such assessments, and the CEC will not publish any assessment that directly reveals the data or allows the data submitted by an individual load serving entity to be "reverse engineered."

11. Dispute Resolution. All disputes that arise under this Protective Order, including but not limited to alleged violations of this Protective Order and disputes concerning whether materials were properly designated as Protected Materials, shall first be addressed by the parties through a meet and confer process in an attempt to resolve such disputes. If the meet and confer process is unsuccessful, either party may present the dispute for resolution to the Assigned ALJ or the Law and Motion ALJ.

12. Other Objections to Use or Disclosure. Nothing in this Protective Order shall be construed as limiting the right of a Party, the Commission Staff, or a state governmental agency

covered by Paragraph 10 to object to the use or disclosure of Protected Materials on any legal ground, including relevance or privilege.

13. Remedies. Any violation of this Protective Order shall constitute a violation of an order of the Commission. Notwithstanding the foregoing, the parties and Commission Staff reserve their rights to pursue any legal or equitable remedies that may be available in the event of an actual or anticipated disclosure of Protected Materials.

14. Withdrawal of Designation. A Disclosing Party may agree at any time to remove the “Protected Materials” designation from any materials of such Party if, in its opinion, confidentiality protection is no longer required. In such a case, the Disclosing Party will notify all Requesting Parties that the Disclosing Party has agreed to withdraw its designation of Protected Materials for specific documents or material.

15. Modification. This Protective Order shall remain in effect unless and until it is modified or terminated by the Commission or the Assigned ALJ. The identity of the parties submitting Protected Materials may differ from time to time. In light of this situation, modifications to this Protective Order may become necessary. The Parties shall work cooperatively to develop such modifications and, to the extent the Parties are able to agree to modifications, shall file a motion with the Assigned ALJ or the Commission seeking approval of the modifications. To the extent Parties are unable to agree on modifications after a good faith effort, each party governed by this Protective Order has the right to seek modifications in it as appropriate from the Assigned ALJ or the Commission.

16. Interpretation. Headings are for convenience only and may not be used to restrict the scope of this Protective Order.

Entered: _____
Administrative Law Judge

Date: _____

CERTIFICATE OF SERVICE

I hereby certify that, I have this day caused to be served by First Class Mail or electronic mail the foregoing documents upon the parties to the official service list compiled by the Secretary for this proceeding.

Dated at Washington, DC this 25th day of February 2013.

/s/ Claire M. Brennan

Claire M. Brennan

Senior Paralegal Specialist

Van Ness Feldman, LLP

1050 Thomas Jefferson St., NW

Washington DC 20007