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SAN DIEGO GAS & ELECTRIC

Independent Evaluator Report - 2014 LCR RFO

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EXECUTIVE SUMMARY

PA Consulting Group, Inc. (PA) served as the Independent Evaluator (IE) for the San Diego Gas & Electric (SDG&E) 2014 All Source Request for Offers (2014 LCR RFO or the RFO) solicitation. This report provides PA's evaluation of the process from the drafting of the 2014 LCR RFO documents through to the recommendation of selected bids and negotiations of contracts submitted to the California Public Utilities Commission (CPUC or Commission).

Overview of solicitation

SDG&E issued its 2014 LCR RFO on September 5, 2014 in accordance with Decision (D.) 14-03-004 – Decision Authorizing Long-Term Procurement for Local Capacity Requirements due to Permanent Retirement of the San Onofre Nuclear Generation Station (the "Track 4 Decision").

Through this solicitation, SDG&E requested offers for the following type of resources:

- Preferred resources
  - Energy Efficiency (EE)
  - Demand Response (DR)
  - Renewable Generation
  - Distributed Generation (DG)
  - Combined Heat and Power (CHP)
  - Energy Storage System (ESS)
- Other resources
  - Conventional

For all of the resource types listed above with the exception of energy storage systems, SDG&E solicited only third party-owned, contracted resources. For the energy storage resource type, SDG&E solicited both third party owned contracted resources and energy storage systems to be owned by SDG&E as summarized below:

- Offers from owners and operators of energy storage systems to enter into an ESS Power Purchase Tolling Agreement (ESSPPTA); or
- Offers from ESS developers to enter into an Energy Storage System Turn-Key Build, Own, Transfer Agreements (ESSBOT) under which the ESS developer would site and construct an ESS project and SDG&E would acquire the ESS project from the ESS developer upon project completion; or
- Offers from ESS developers/contractors/equipment suppliers to negotiate and enter into an Energy Storage System Turn-Key Engineering, Procurement and

Construction Agreements (ESSEPC) under which the bidder would construct an ESS facility on SDG&E land.

In total, the Track 4 decision authorized SDG&E to procure up to 800 MW of resources of which at least 25 MW must be energy storage, and of which at most 600 MW could be conventional generators. In terms of minimum quantities, SDG&E was to procure a minimum of 25 MW of energy storage and 200 MW of preferred resources (including storage). This solicitation was expected to meet some of that authorization.

At approximately the same time as this solicitation, SDG&E separately filed an application for Commission approval of a 600 MW bilateral contract with a conventional resource, the Carlsbad Energy Center (A.14-07-009). With Commission approval of the Carlsbad Energy Center, SDG&E would fulfill the 600 MW of "any source" and then be authorized to procure a minimum of 200 MW of preferred resources of which 25 MW must be energy storage. SDG&E explained this to potential 2014 LCR RFO bidders and planned to notify the bidders if the Carlsbad Energy Center was approved.

On May 22, 2015, the Commission approved an amended Carlsbad Energy Center contract for 500 MW of capacity and concomitantly reduced the upper bound on conventional generation for this RFO (alternatively, removed any authorization to procure conventional resources but increased the authorization for preferred resources by 300 MW)[1] and SDG&E notified bidders. The conventional resource offers that SDG&E had received were not considered further in the solicitation evaluation and selection process.

PA's IE Report

PA's IE report generally follows the CPUC's 2014 RPS Solicitation Shortlist Report Template dated February 9, 2015. The main sections include:

- Section 1: Summary of PA's role as IE for this RFO
- Section 2: SDG&E's outreach efforts
- Section 3: SDG&E's methodology design
- Section 4: Fairness of the application of SDG&E's
- Section 5: Fairness of negotiations
- Section 6: Merit of shortlist
- Section 7: Support for contract approval

Main activities of solicitation

PA's role in SDG&E's 2014 LCR RFO spanned over 22 months from approximately May 2014 through March 2016. The following provides a summary of PA's main activities during this solicitation:

[1] California Public Utilities Commission Decision (D.) 15-05-051, May 29, 2015.

- PA participated in the regular internal meetings SDG&E held prior to the issuance of the 2014 LCR RFO to develop all aspects of protocol and methodologies for the RFO bid conformance, evaluation and selection process.
- PA reviewed and commented on the additional protocols that were put in place to provide for the utility owned offers for ESS. SDG&E created two separate teams as described further in Section3.4.1. PA participated in meetings of both of these teams.
- PA reviewed and commented on several drafts of the 2014 LCR RFO bid documents prior to SDG&E issuing the RFO.
- PA participated in the three bidders' conferences. After the conferences, PA reviewed all of SDG&E's responses to bidders' questions prior to SDG&E's posting to their website.
- PA received all communications between SDG&E and bidders through the PowerAdvocate system. When bids were posted, PA was able to directly down load the bids for review. PA also directly received all emails to and from bidders through this system.
- PA reviewed all bids, prepared conformance check, and evaluation analyses. PA compared these results with SDG&E's results and discussed to resolve any differences in data interpretation, evaluation methodologies, and results.
- PA reviewed shortlisted bid and provided comments to SDG&E.
- PA participated in calls with one selected bidder that ultimately chose not to accept short listing.
- PA was included in most of SDG&E's contract negotiation meetings (via phone or in person) with selected bidders to ensure that the negotiation process was fair. Ultimately, SDG&E did not select any utility owned options so the negotiation process did not have the additional level of review that may have been required for such offers.
- PA participated in both Procurement Review Group (PRG) and CAM meetings from May 2014 through March 2016.

High Level Summary of Findings

Overall, PA confirms that SDG&E conducted a fair and equitable 2014 LCR RFO including the treatment of utility owned offers.

There were several bid documents, conformance lists, evaluation protocols and other related processes and methodologies that needed to be established for this RFO. SDG&E will be able to use the bid documents and other information from this RFO to build on for future RFOs.

Some specific findings are noted below:

- SDG&E in no way prevented PA from observing its process and analyzing its methods, and did not interfere with PA's conduct of the LCBF evaluation.
- SDG&E should provide bidders with proforma PPA's that reflect SDG&E's acceptable terms as early in the process as possible. SDG&E made several changes to the EE and ESSPPTA PPA's after the bids were shortlisted. These

changes may have caused bidders to have bid differently. This will likely not be a problem in the future for those resource types, but DR, ESSEPC and ESSBOT contracts were not exercised as part of this RFO.

- SDG&E should clarify some items in the offer forms to make it easier for bidders to provide the correct information (e.g., energy efficiency costs, interconnection costs, etc.).
- SDG&E should work to eliminate classifications that restrict the use of distributed resources in future solicitations. The LCR RFO did not really accommodate bids that did not fit the criteria established for the six basic resource types; in particular it did not accommodate recent creative approaches to placing resources in the distribution grid.
- SDG&E should enhance the due diligence and evaluation of the “incremental” requirement as part of the conformance check. While this is a difficult test, the ability to support the resource as incremental is critical in the ultimate contracting of the resource.
- SDG&E should address the issues that arose with PowerAdvocate. While the PowerAdvocate system provided a good mechanism for SDG&E to communicate with bidders and allow access for the IE to monitor the communications, there were some problems with access for the IE to get the information. This was resolved but SDG&E may be able to make some changes in the file structure to avoid this in the future. Also, there was some confusion in bidders registering and submitting bids for the appropriate ESSEPC, ESSBOT and ESSPPTA RFO.

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1 DESCRIBE THE IE’S ROLE

This section provides a description of the role of the IE throughout the solicitation and bid selection process, including PA’s specific activities for the 2014 LCR RFO.

1.1 IE’s key roles and responsibilities

The California Public Utilities Commission (CPUC) requires an IE for IOU long-term resource procurement RFOs.[2] The role of the IE is to provide advice to the utility on the design, administration, and evaluation aspects of the RFO. The CPUC clarified that the role of the IE is not to conduct or administer the solicitation, but to "separately evaluate and report on the IOU's entire solicitation, evaluation, and selection process."[3]

Additionally, the IE is to ensure that SDG&E treats all bidders fairly and equitably and that no technology or counterparty is favored. The IE is also expected to assure that affiliate bids are not favored. Specifically, the 2014 LCR RFO included utility ownership options for energy storage systems. This required additional attention to the treatment of these bids as well as the participation of SDG&E staff assigned to these bids.

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

1.2 PA's role as IE

PA performed the role of IE for the 2014 Local Capacity Requirement (LCR) RFO and was involved from SDG&E's development of the solicitation materials through the selection of the bids and the negotiation of contracts. PA ensured that the procedure that SDG&E followed aligned with the process SDG&E established in its RFO and provided fair and equitable treatment of all bids. PA was in regular contact with SDG&E staff throughout the process, addressing SDG&E's questions and providing recommendations throughout the process.

1.2.1 Solicitation planning meetings

SDG&E conducted several planning meetings in preparation of the 2014 LCR RFO. PA participated in these meetings that occurred approximately on a weekly basis from May 20, 2014 to August 20, 2014. Through these meetings and other communications, PA was involved in several discussions as part of the development of the solicitation methodology, evaluation protocol, documents and materials.

1.2.2 Solicitation materials

SDG&E began developing the solicitation material several months in advance of issuing the 2014 LCR RFO. SDG&E shared draft copies of the draft materials with PA through PA’s SharePoint site. Through this process, PA was able to review drafts and provide comments in a timely manner.

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

[3] D. 06-05-039, p. 46.

PA concentrated in particular on language describing the bid evaluation and the detailed information to be provided by bidders as well as the consistency across all resource types.

1.2.3 Pre-bid Conferences

PA participated in the three pre-bid conferences that SDG&E conducted. Because this was an "All Source" RFO SDG&E held a total of three bidder conferences to make sure that more bidders had a chance to attend to learn about the 2014 LCR RFO as well as provide training for the E3 calculators for EE and DR. The conferences were held:

- September 26, 2014:
- October 24, 2014
- November 10, 2014 (with a specific focus on EE, DR and Energy Storage)

The September and November conferences were held in person with webinar access and the October conference was webinar only.

1.2.4 Bid submittal process

SDG&E used a platform designed and maintained by PowerAdvocate to launch the RFO and manage offers received. PA was provided access to the PowerAdvocate site and could review the bids as they were received by SDG&E. Through this process, PA was included on all correspondence between SDG&E and the bidders.

1.2.5 Communication with bidders

SDG&E communicated with bidders primarily through the PowerAdvocate site, as well as the pre-bid conferences. SDG&E provided RFO documents, update notices, to bidders through PowerAdvocate It also provided a platform for SDG&E to request additional data from bidders as required. PA received a copy of all of these communications.

Bidders could submit questions to SDG&E through PowerAdvocate. PA received a copy of these questions directly through PowerAdvocate. SDG&E provided PA an opportunity to review and comment on all of their responses prior to posting the answers on the website or email.

1.2.6 Initial bid review and conformance check

Once the bids were received, SDG&E prepared their conformance check. PA independently reviewed the bids and resolved any inconsistencies with SDG&E through clarification of methodology, exchange of files and other communications as required.

1.2.7 Evaluation process

SDG&E prepared the evaluation of all of the bids with the models developed for this RFO. PA also prepared separate evaluation of the bids that essentially replicated SDG&E analysis for all the resource types except the conventional and energy storage bids. As discussed further in Section 4, these resource types required specialized models and a more complex analysis that PA could not directly replicate. PA was able to test, verify, and prepare representative analyses to confirm SDG&E results.

1.2.8 Shortlist determination

SDG&E provided PA a copy of the proposed shortlist with the corresponding NMV results and other details of the evaluated bids. PA reviewed this information and identified any questions or comments. SDG&E and PA resolved any inconsistencies through clarification of methodology, exchange files, and other communications as required.

1.2.9 Contract negotiation

SDG&E started negotiations with the selected bidders in August 2015. PA participated in most of the negotiation meetings either in person or via phone. More details of any negotiation observations and issues are discussed further in Section 6.

1.2.10 SDG&E's CAM Procurement Review Group meetings

PA participated in all of the monthly and special CAM Procurement Review Group meetings from August 2014 through March 2016. PA provided answered questions and provided additional feedback during these meetings as appropriate.

1.2.11 SDG&E's Procurement Review Group meetings

PA participated in all of the monthly Procurement Review Group meetings from May 2014 through March 2016. Discussion of this RFO usually occurred during CAM PRG meetings rather than regular PRG meetings; however, PA wanted to monitor the PRG meetings to determine whether and how the RFO was brought up, and PA was available to answer questions and provide additional feedback during these meetings as appropriate.

2 ADEQUACY OF SDG&E'S OUTREACH

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

2.1 Notifications and announcements

SDG&E's outreach included trade groups as well as entities that have responded to SDG&E's previous solicitations. The distribution list was assembled from SDG&E's distribution lists from conventional and CHP, renewable, EE, DR contacts as well as other general contacts, together comprising over 8,000 distinct email addresses across almost 4,000 domains. Additionally, SDG&E publicized the solicitation in trade publications (e.g., Platt's *MW Daily*, *California Energy Markets*, and *California Current*).

PA believes that SDG&E extended appropriate outreach for the 2014 LCR RFO.

2.2 Solicitation material

SDG&E created a set of solicitation materials for each of the seven resource types included in the 2014 LCR RFO. The RFO website was set up so that the bidders could easily access the material for each resource type, pre-bid conference materials, responses to questions, as well as view the overall RFO schedule. The specific resource documents included the resource specific RFO, offer form, product description form, credit form, draft PPA (for most resource types) and other materials as appropriate.

SDG&E used recent resource-specific RFOs as a starting point to develop many of the documents. Some of the main issues addressed through the revision process included ensuring consistency across all resource types, identification of compliance requirements, and clarification of evaluation methodology as well as the defined number of bids allowed.

After the original posting on September 5, 2014, SDG&E updated the bid materials on the website to clarify certain items as well as incorporate minor corrections. Even so, SDG&E never posted a model PPA for Demand Response. SDG&E also did not post a model PPA for Distributed Generation, although the "conformance document" for DG did say that an appropriate (model) contract would be provided to bidders who contacted SDG&E. The following are some examples, of changes made to the bid documents:

- Updated the language regarding the limit on the number of bids that may be submitted
- Clarified the required notice timing for the Expression of Interest ("EOI") for ESSBOT bidders
- Eliminated the Total Resource Cost (TRC) > 0.9 participation criterion for Energy Efficiency bids based on a meeting with CPUC Energy Division staff (bidders still had to complete and submit the E3 calculator)
- Updated the schedule in the Energy Storage RFO to include a footnote referencing D.14-10-045 (decision approving the IOU's energy storage applications) stating that the timing of the filing(s) requesting approval (listed as Q1 2016) is not in within the 1 year time-frame dictated in that decision and that SDG&E will, if the expected timing does not change, request an extension of the one year deadline

- Added a new requirement to the Renewables RFO that projects must have, at a minimum, achieved the 'application deemed complete' status from the lead agency for environmental permitting under CEQA or NEPA[4]
- Revised the time-of-day pricing factors for renewable resources (based on new LOLP numbers) after the CPUC rejected SDG&E's proposal to eliminate time-differentiated energy pricing, and updated the pro-forma renewables contract accordingly

These changes to the documents were clearly identified and notices were sent to bidders through PowerAdvocate alerting them that the documents had been updated.

In addition to the specific solicitation materials, SDG&E also created informational material for the bidders in the form of frequently asked questions ("FAQs") documents. These FAQ's addressed evaluation, interconnection, credit, and general topics. SDG&E updated these documents with the answers to questions received from bidders up to the question deadline date.

In PA's opinion, SDG&E provided appropriate RFO solicitation materials and provided prompt response to any questions received by potential bidders.

2.3 Bidder's Conference

SDG&E held three pre-bid conferences to make sure that a large number of potential bidders had a chance to attend to learn about the 2014 LCR RFO as well as provide training for the E3 calculators for EE and DR. The conferences were held on:

- September 26, 2014
- October 24, 2014
- November 10, 2014 (with a specific focus on EE, DR and Energy Storage)

The September and November conferences were held in person with webinar access and the October conference was webinar only.

SDG&E and PA answered bidders' questions during the conferences. Also, SDG&E posted the questions and answers as part of the FAQ documents.

2.4 Feedback after solicitation

PA is not aware of any feedback that SDG&E has requested from bidders at this time. PA suggested that SDG&E hold a bidder forum after the shortlist was determined and non-selected bidders had been notified; SDG&E declined this suggestion.

2.5 Other comments regarding outreach and robustness of solicitation

For future RFO's, PA recommends that SDG&E clarify some items in the offer forms to make it easier for bidders to provide the correct information (e.g., energy efficiency costs, interconnection costs, etc.). Also, if SDG&E continues to ask bidders to provide redline comments to PPAs it should provide a draft that it considers acceptable, earlier in the process. Both the EE and ESSPPTA PPA's had changes that caused negotiation issues that were eventually addressed but it would have been better for bidders see the cost structure and other items prior to submitting their bids. The agreed-upon PPA's from this RFO should provide a better template for the next RFO.

[4] California Public Utilities Commission Decision (D.) 14-11-042, Nov. 20, 2014, pp. 46-49 and Ordering Paragraph 21.

3 SDG&E'S LCBF METHODOLOGY DESIGN

This section explores SDG&E LCBF methodology for fair offer evaluation.

3.1 Principles used to evaluate methodology

PA has used the following principles to guide its evaluation, based on principles originally codified by PA in its report on SDG&E's 2006 RPS RFO[5]:

- The procurement targets and objectives were clearly defined in SDG&E's solicitation materials.
- The evaluation should only be based on those criteria requested in the response form. There should be no consideration of any information that might indicate whether the bidder is an affiliate.
- The methodology should identify how quantitative measures will be considered and be consistent with an overall metric.
- The approach should not be biased for or against specific technologies, solely based on the choice of technology (as opposed to, e.g., quantifiable differences between the value of peaking and baseload technologies).
- The methodology does not have to be the one that the IE would independently have selected but it needs to be "reasonable".

These principles do not specifically address "consistent" evaluation of bids of different sizes and timing because PA considers that issue to fall within the area of reasonableness: a consistent evaluation may not be the most reasonable.

3.2 Amount and type of resources sought

SDG&E filed two separate procurement plans associated with this RFO, a procurement plan for preferred resources including combined heat & power (CHP), demand response (DR), distributed generation (DG), energy efficiency (EE), energy storage systems (ESS), and renewables and a procurement plan for conventional resources. Per the Track 4 Decision[6], resources had to be "demonstrably incremental to the assumptions used in the California ISO studies" that determined the resource need due to the closure of SONGS. Those assumptions included as-yet-unidentified (uncommitted) energy efficiency and behind-the-meter solar resources.[7]

SDG&E issued a separate RFO document for each of the seven resource types (CHP, Conventional, DR, DG, EE, ESS and Renewables). SDG&E did not set separate targets or "buckets" for any of the resource types for this RFO, except for a limit on conventional procurement. Minimum procurement levels set by the CPUC decision applied to the overall amount of capacity procured under D. 14-03-004, and SDG&E did not expect to fill that entire need from this solicitation. Although each of the resources had its own RFO, there was a single evaluation and a combined ranking of all bids, so we continue to refer to the entire solicitation (all seven resource types) as a single LCR RFO.

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[5] Jacobs, Jonathan M., *Preliminary Report of the Independent Evaluator on the 2006 Request for Offers from Eligible Renewable Resources (Renewable RFO)*, PA Consulting Group, Los Angeles CA, January 16, 2007, p. 2-1.

[6] California Public Utilities Commission Decision (D.) 14-03-004, March 14, 2014, p. 114.

[7] Sparks, Robert, Track 4 Testimony in CPUC Rulemaking (R.) 12-03-14, undated, pp. 5-8.

The authorized and required procurement amounts in D. 14-03-004 were stated in MW, but the way in which MW values were to be computed – the specific definition of capacity to be used – was not stated. SDG&E and PA came to agree that the capacity target was to be interpreted as local RA capacity, which is generally a resource's qualifying capacity (at the time of the system peak) as determined by CAISO. CAISO does not determine qualifying capacity for load modifying resources; the appropriate value would then be impact of the load reduction on the local RA requirement. That impact would be the reduction in the load forecast adjusted for the reserve requirement that is added to RA requirements. For supply-side demand response resources, the RA value must be adjusted for avoided losses.

Because the procurement target was based on local RA capacity, SDG&E sought to fulfil that target as efficiently as possibly by procuring local RA of the greatest value. In other words, bids would be ranked not based on Net Market Value, which might have favored the largest projects, but on Net Market Value divided by Local RA capacity.

3.3 Description of SDG&E's LCBF evaluation methodology

SDG&E's valuation and selection approach is intended to evaluate the seven different product types on as equal a footing as possible. The initial step includes a conformance check of each offer. The conforming offers would then go through the Least Cost Best Fit (LCBF) / Net Market Value (NMV) analysis to rank the offers based on their value to SDG&E customers as well as their relative value in comparison to other offers. The methodology considers both quantitative as well as qualitative factors as described below.

3.3.1 Conformance check

SDG&E planned to assess all offers for conformance. All offers need to conform to the minimum participation criteria and eligibility. Some of the specific conformance requirements include the following:

- Bidder provided all bid documents including project description form, pricing form, credit application, model PPA, interconnection documents and other specific forms for EE and DR bids as described in their respective bid documents;
- Resource complies with resource criteria identified in resource type specific RFO;
- Resource eligible to provide SDG&E local RA including the California Independent System Operator (CAISO) 4-hour requirement (except EE which is analyzed based on anticipated reduction of the RA requirement);
- Resource confirmed to be Incremental;
- Bidder demonstrates site control; and
- Bidder did not exceed the number of bids/offers allowed.

3.3.2 LCBF quantitative evaluation

The LCBF quantitative evaluation of an offer takes into account both the benefits and costs. The primary quantitative metric is a NMV calculation. The NMV calculation is a quantification of the value of an offer when compared to a set of price benchmarks for capacity, electrical energy, ancillary services, natural gas, and Green House Gas ("GHG") compliance. Additionally, SDG&E may consider portfolio effects (costs or benefits) associated with the offer on the portfolio. The costs and benefits components would be netted on an annual basis and then discounted to yield a NMV for each offer. The NMV would then be divided by the Local RA Capacity for the resource. The offers would then be sorted based on their NMV per MW to determine the highest ranked offers.

The initial ranking of compliant offers would be prepared without consideration of credit costs. Once the initial list of the highest ranked offers is determined, a credit analysis would be conducted to determine the required credit support for each of those offers and its cost. The NMV would then be reevaluated with consideration of the cost of credit and the offers re-ranked to determine the highest ranked offers.

Development of price curves and general assumptions

The underlying assumptions would be consistent across all bids and resource types. The following provides a summary of how SDG&E would develop the key assumptions:

- ***Local capacity forward curve***: Based on the levelized price of the most recent greenfield capacity development in SDG&E's service territory[8]. A loss of load probability ("LOLP") analysis would be used to develop the projected hourly shape
- ***Energy forward curve***: Based on market data from sources such as ICE and the CME exchange for prices and shaped to hourly pricing based on two-years of historical hourly energy prices
- ***Natural Gas forward curve***: Based on forward CME data for forward gas prices at Henry Hub and gas basis at Southern California Border (SoCal Border)
- ***GHG forward curves***: Based on forward curves from SDG&E's Risk and Strategic Analysis group and market data from ICE
- ***REC pricing***: Based on observed market prices from broker pricing of Category 1 (bundled) RECs
- ***Ancillary services pricing***: Monthly regulation up, regulation down, spin and non-spin commitments calculated as a percentage of forward energy prices. The amount of each that CAISO would purchase from a given resource would be forecasted based on one year of historical data

Development of NMV

SDG&E developed models for each resource type to develop the NMV. These models applied a consistent approach subject to the specific characteristics of the resource type.

The capacity benefits are based on the available capacity in each hour (or expected hourly profile of savings for the EE bids) multiplied by the hourly local RA capacity value. SDG&E did not value Flexible RA for this RFO because the rules to quantify Flexible RA were still under development by CAISO. Similarly, the energy benefits for non-dispatchable resources (and EE bids) are based on the available hourly energy multiplied by the hourly energy price.

The energy benefits for dispatchable resources are based on models that capture the extrinsic value from price volatility:

- SDG&E uses a spread option model (the FEA[9] plug in to MS Excel) for conventional, CHP and DR bids.
- SDG&E contracted with FEA to develop a model to evaluate the energy benefits of energy storage bids. The model calculates the intrinsic and extrinsic value of battery energy storage resources. The model considers the characteristic of the storage device including the hours of storage, cycle limits (both deep and shallow), efficiency, capacity, variable O&M, and other factors. The model optimizes the storage across the year subject to constraints.

Like capacity benefits, the energy benefits for non-dispatchable resources (and EE bids) are based on the available hourly energy multiplied by the hourly energy price. Renewable resources are attributed REC benefits calculated by multiplying the REC price by the annual amount of renewable energy.

Additionally, resource benefits for behind-the-meter DR and EE are adjusted appropriately for losses.

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[8] SDG&E's power purchase tolling agreement with the Pio Pico Energy Center, LLC was filed for approval with the CPUC via application (A.)13-06-015 filed June 13, 2013 and represents the most recent and appropriate measure of green field developed capacity in SDG&E's service territory.

[9] SDG&E contracted with Financial Engineering Associates to provide the spread option model and develop the storage model.

Ancillary services are estimated for resources that could provide monthly regulation up, regulation down, spin and non-spin, based on SDG&E's historical ancillary service awards and an analysis of the historical relationship between ancillary service and energy prices. Energy benefits are adjusted appropriately for ancillary services provided.

Annual costs would be developed for each bid based on the resource operating characteristics provided by the bidder, fixed and variable costs, fuel costs (for thermal resources), and GHG costs.

SDG&E did not plan to adjust bids for locational effectiveness factors because the CAISO April 2014 study showed that under the most plausible scenario, generation connected to any of SDG&E's substations would be equally effective.

Credit support

Bidders provided the cost of credit support per $100,000 of requested security. For the initial shortlisted bids, SDG&E incorporated the level of credit required developed by SDG&E's credit group to compute the total credit cost per bid.

3.3.3 LCBF qualitative evaluation

Qualitative factors and benefits would be used to determine the projects that are the "best fit" for SDG&E's portfolio. SDG&E reserved the right to use these factors to determine the short-list or to evaluate tie-breakers, if any. Qualitative factors may include:

- project viability;
- adherence to PPA terms and conditions;
- supplier diversity; and
- loading order ranking.

3.3.4 Ranking vs portfolio optimization

At one point SDG&E considered using the LCBF scoring as the input to an optimization model that would consider the RFO bids in the context of SDG&E's entire resource portfolio. This approach could capture the value of selecting a resource in this RFO that appeared to have lower NMV than some others, but put SDG&E in position to satisfy a different requirement in the near future (such as CHP settlement, EE or DG directives, or even the Storage Portfolio Standard) without overinvesting in capacity. This approach would require an assessment of the future costs of various resource costs, representing the opportunity costs of not selecting them in this RFO. SDG&E decided (correctly, in PA's view) that the optimization approach was too complex to be implemented for the LCR RFO; however, the opportunity cost concept, in an opposite sense, arose later during contract negotiation (see Section 5.2).

3.4 Utility owned energy storage offers

Around the beginning of August 2014, SDG&E expanded the resource types to include utility owned options for the Energy Storage RFO. Any energy storage contracted through this RFO would count towards SDG&E's targets under the Energy Storage Decision[10]. SDG&E concluded that the wording of the Energy Storage decision required it to seek utility-owned as well as third-party storage offers.[11] SDG&E therefore added two utility ownership options -- purchases of new asset, known as build-own-transfer (ESSBOT), and engineering, procurement, and construction agreements for development on

[10] California Public Utilities Commission Decision (D.) 13-10-040, October 21, 2013.

[11] "When procuring energy storage systems, the utilities shall consider all forms of resource ownership (utility-owned, third-party owned, customer-owned, joint ownership)." *Ibid.*, Appendix A, p. 6.

SDG&E land (ESSEPC) – to the original option of a power purchase tolling agreement (ESSPPTA) for third party ownership.

The utility owned options required changes to the Energy Storage RFO documents, changes to data requirements, as well as changes to the SDG&E team structure. As described below, SDG&E divided up the bid evaluation team from the cost development team and created a code of conduct to clarify and enforce this.

3.4.1 SDG&E treatment of utility owned storage bids

The inclusion of utility owned offers for the energy storage system resources in the 2014 LCR RFO required SDG&E to set up some additional protocols. SDG&E established a segregation of functions so that the employees performing the bid evaluation would be functionally separated from the individuals preparing the cost estimates for the utility-owned projects.[12] Through this structure the employees developing the utility-owned projects would not be allowed access to any evaluation protocols, input assumptions, or bid information not generally made available to outside bidders.

SDG&E created the Bid Evaluation Team to conduct the overall RFO process, receive all bid materials from third parties, revenue requirements for the ESS utility ownership projects developed from bidders' cost estimates, evaluate bids according to the process outlined in solicitation protocols, and prepare the ranking of all offers. The SDG&E Cost Development Team would develop the cost estimates including revenue requirements for the ES utility ownership projects and provide these estimates to the Cost Development Team.

The Bid Evaluation Team would not discuss or communicate any details regarding the evaluation process that were not made public with the Cost Development Team. Similarly, the Cost Development Team would not discuss any aspect of the cost development process with the Bid Evaluation Team. Materials for both teams would be separately located with restricted access to only the appropriate team members. SDG&E clearly identified the team members for both teams and had all team members and the IE sign a code of conduct to abide by the functional separation.

SDG&E set up a separate location on PowerAdvocate for the Cost Development Team to communicate with ESSEPC bidders and ESSBOT bidders. The IE would oversee activities performed by both teams and monitor any communications between the teams or with bidders.

3.4.2 ESSEPC and ESSBOT additional conformance check

In order to be evaluated consistently with the other storage bids, the ESSEPC and ESSBOT offers had to supply additional information. The utility owned offers provided a different risk to SDG&E than third-party offers, as the equipment would be owned by SDG&E and SDG&E would have liability for any activities at the site after commercial operation. Therefore, SDG&E requested details about the equipment's and the vendors' commercial viability. SDG&E would enter into a non-disclosure agreement (NDA) with each bidder to be able to exchange detailed information. The NDA and the provisions of the additional information would be used to screen and determine eligible ESSEPC and ESSBOT bidders.

The commercial viability criteria included information on technology, vendors and integrators. Bidders had to provide detailed information about their experience developing energy storage projects of 1 MW or greater, and specify the components they intended to use. SDG&E would use the information to ensure that the selected equipment, vendors, integrators, and others on the development team would meet minimum criteria set by SDG&E. SDG&E was also concerned that bidders who had little experience themselves with storage, and would make extensive use of subcontractors, would not be able to be held responsible for the performance of the system after it was turned over SDG&E (during

[12] California Public Utilities Commission Decision (D.) 07-12-052, December 20, 2007, Ordering Paragraph 51.

the period of the O&M contract), and therefore generally requested such teams to form joint venture agreements.

3.4.3 ESSEPC and ESSBOT bids

SDG&E requested O&M information from EPC bidders for the life of the resource. While SDG&E did not expect bidders to provide O&M services post contract period, SDG&E did want to understand the level of future O&M costs.

SDG&E provided site information to the ESSEPC bidders and allowed bidders to visit the sites to collect information to prepare their bids. SDG&E would provide site related services (interconnection, permitting) for ESSEPC offers, as well as the sites themselves. The Cost Development Team would estimate the cost of site related services; site cost was included at the value carried on SDG&E's books. The bidder would be responsible for all other costs, provided at the bid price.

The Cost Development Team would assemble the costs for each bid, both those supplied by the bidder and the cost of the site and site related services supplied by SDG&E. These costs would be converted into streams of annual revenue requirements for each bid. The revenue requirements would be used in the LCBF quantitative evaluation instead of the costs originally supplied by the bidder. This would account for the difference in rate treatment between contract costs, which are passed through directly, and the costs of utility-owned projects, which include both operating costs and the costs of ratebased capital.

The qualitative evaluation of utility ownership bids was similar to that of third-party ownership bids.

3.5 Evaluation of SDG&E's methodology

PA reviewed the models used by SDG&E. The objective of this review was to determine that resource types were fairly compared: that there were similar levels of approximation of price uncertainty, operational constraints, etc., and therefore similar levels of over- or under-optimization of benefits by type.

Overall PA believes that SDG&E's methodology is reasonable. This judgment is within the context of the principle set forth in Section 3.1. This section addresses the application of SDG&E methodology and the review of SDG&E's results is provided in Section 4.

3.5.1 Consistency with RFO procurement plan

The 2014 LCR RFO included conventional, preferred and energy storage resource options. SDG&E's evaluation and selection process were structured to treat all resource types and bidders fairly and was not structured to favor or disadvantage any offer, technology or bidder.

As SDG&E had identified in the conventional bid documents, once the Commission approved the bi-lateral Carlsbad Energy Center contract no conventional resources were needed from this RFO. Conventional resource bidders were notified of this of this potential issue prior to bidding into the RFO through the RFO documents, FAQs, and pre-bid conference.

3.5.2 Recommendations

Overall the SDG&E evaluation methodology was appropriate to evaluate the bids. The separation of the Cost Development Team and the Bid Evaluation Team worked well to ensure that information was not shared between the teams and all offers were treated fairly.

4 FAIRNESS OF SDG&E LCBF EVALUATION

This section addresses the application or administration of the methodology described in Section 3.

4.1 Principles IE used to evaluate evaluation methodology

As in the previous section, PA used principles to guide its evaluation originally codified by PA in its report on SDG&E's 2006 RPS RFO and in this case phrased as questions (one question did not really apply and has been excluded) :

- Were affiliate bids treated the same as non-affiliate?
- Were bidder questions answered fairly and consistently and the answers made available to all?
- Did the utility ask for "clarifications" that provided the bidder an advantage over others?
- Was bids given equal credibility in the economic evaluation?
- Was there a reasonable justification for any fixed parameters that enter into the methodology?
- Were qualitative factors used only to distinguish among substantially equal bids?

4.2 Administration of LCBF process

A description of PA's activities in its role as IE is provided in Section 1. Based on PA's participation and observations:

- SGD&E treated affiliate and non-affiliate bids reasonably
- Bidder questions were answered fairly and consistently
  - SDG&E's use of PowerAdvocate provided for an easy method to send updates or other information to all bidders as appropriate
  - PA had an opportunity to review and comment on SDG&E's responses to bidders questions
- SDG&E's clarification questions were reasonable and did not advantage any bidder
- SDG&E applied conformance requirements fairly to all bids and consistent with bid documents
- All conforming bids were given equal credibility in the quantitative evaluation
- Bids were modelled and evaluated as consistently as possible given the different characteristics of the various resource types
- SDG&E's evaluation of bids and selection of short listed bids conformed to the RFO documents

4.3 IE's review of SDG&E's conformance checks

Once the bids were submitted and the RFO closed, SDG&E began an initial conformance check. PA also received a complete copy of all of the bids through PowerAdvocate and prepared an independent assessment to determine if the bids conformed to the RA counting rules as well as the other RFO requirements.

The most significant evaluation issues, and the most contentious decisions, arose in the determination of bid conformance rather than in the quantitative or qualitative comparison of bids determined to be conforming. The conformance of behind-the-meter bids was particularly difficult to assess. Several of these issues are described in this section.

4.3.1 Summary of the conformance check

SDG&E and PA had several discussions and exchanged emails to compare conformance results. There was some clean up required with the bid information as an example some of the bidders submitted bids to the wrong resource type RFO in PowerAdvocate, some bids were combined/hybrid bids, and some bidders provided multiple offer forms for one bid.

PA reviewed each bid submittal with SDG&E, discussed any differences, and agreed upon follow-up questions for bidders as appropriate. These questions included confirmation of which bids should be considered for bidders that provided more than the allowed number of bids, clarification of units (i.e., kW or MW), as well as other clarifying questions. PA discussed initial findings with SDG&E on a regular basis. SDG&E and PA had several meetings to review the categorization of bids and the conformance of each bid.

The primary reasons for non-conformance included the following:

- Entire forms not provided;
- Interconnection progress not met;
- Not incremental;
- Not in the San Diego local sub-area;
- Lack of required site control; and
- Not qualified for RA.

4.3.2 "Contingent conforming" bids

SDG&E considered six Demand Response offers to conform to the RFO "on a contingent basis", meaning that the offers would be conforming only if the CPUC approved SDG&E's application to change its definition of TOD periods. SDG&E believed the current definition of TOD periods no longer reflects the temporal variation in supply costs.

SDG&E was concerned that the bidder would be providing the demand response using behind-the-meter energy storage, and that the bidder's business model also required it to use the storage to modify the customer's usage in such a way as to avoid demand charges (discharging the battery to reduce load in high-price periods, and charging the battery, which increases load, in low-price periods). If the TOD pricing did not accurately reflect supply costs, then the cost of charging could be below the actual supply cost, and the price paid while discharging could be above the value supplied. SDG&E said that this would be a subsidy, which would not conform to the requirement that "[b]ids that are supported by resources that are already being subsidized under another CPUC regulated program or rate schedule shall not be considered."

PA agreed with SDG&E that ratepayers are best served by a TOD pricing program in which period definitions are correctly aligned with supply costs. SDG&E's TOU periods ought to reflect true costs. And, if TOU periods didn't reflect true costs, PA agreed that resources which profit from TOU differentials (like storage) would be receiving payments that were not commensurate with the benefits provided. But PA did not agree that such mispricing would be a subsidy. The use of out-of-date TOD period definitions would be a flaw in energy pricing, but the ability to take advantage of mispricing is not what a normal bidder, reading the RFO, would consider a "subsidy". In particular, it is not intentional -- not part of an identified and approved subsidy program. And if the bidder captured some of the benefits but did not pass them through by reducing its capacity price, it should be uncompetitive with bidders that do pass through such benefits.

In fact, the "contingent conforming" bids were not competitive on an NMV basis and had been eliminated from the shortlist before the CPUC denied SDG&E's application to change the definition of TOD periods.

4.3.3 Resource types with no conforming bids

Some of the conformance criteria were interpreted quite strictly. For example, bids that were not in the SDG&E Local Area would not be considered as providing any help in replacing the SONGS capacity. Due to the enforcement of that and other participation criteria such as that, two resource categories wound up with no conforming bids:

- Of the eighteen Renewable bids submitted, twelve were sited outside the SDG&E Local Area and were rejected as non-conforming. The remaining six did not conform to the RFO requirements because they lacked Phase II interconnection studies.
- There had been twelve Combined Heat & Power (CHP) bids submitted. Three were not located in the SDG&E Local Area and were rejected. The remaining nine had been submitted by the same bidder. Because bidders were only allowed six bids per resource type, the bidder was forced to withdraw three of its bids. The remaining six bids were expansions or repowerings of existing CHP facilities. SDG&E was familiar with the customer on whose land the facilities were located, and that customer told SDG&E that the bidder did not yet have a lease to continue its occupation of those sites (although it was in negotiation). Therefore the bidder did not have site control through the term of the bid, a key participation criterion, so the bids were rejected as nonconforming.

4.3.4 Conformance criteria enforced restrictive "bucketing" of bids

As noted in section 3.2, SDG&E issued seven different RFO documents. Six of these defined "buckets" into which bids could be placed, associated with typical types of resources on the generation system: CHP, Conventional, DR, EE, ESS and renewables. The characteristics of each are generally well-known. The seventh, Distributed Generation, was more of a catch-all; the defining attribute would be that DG resources are interconnected at distribution voltages. It was SDG&E's intent that a DG resource would usually be characterizable as one of the other six resource types, although perhaps smaller or based on aggregation.

Until recently "DG" typically meant a small fossil-fired generator like a reciprocating engine or microturbine, often one which had been sited as backup generation. SDG&E found that it did not have a good way to accept bids for customer-sited behind-the-meter resources, which it tried to classify in another resource type.

- Aggregated rooftop solar turned out not to conform to the Renewables RFP for lack of an interconnection study (even the DG RFO required a WDAT, Rule 21, or CAISO study), could not be considered energy efficiency because it was a net generator, and could not be considered as demand response because it was not dispatchable (i.e., could not respond to CAISO instructions).
- Similarly, distributed storage was not considered EE because it is a net load due to roundtrip losses, and bids that combined storage with renewables did not meet the renewables requirement, and did not satisfy the requirements of the DG RFO because they did not have interconnection studies or a guarantee of full capacity deliverability status. Such bids could not easily be pigeonholed.
- Furthermore, it would be difficult to make the case that a bid based on rooftop solar installations was incremental to the amount "embedded in the IEPR demand forecast" and already assumed in the CAISO studies.[13]

The LCR RFO did not really accommodate recent creative approaches to placing resources in the distribution grid. PA believes that this is the kind of bid the CPUC wants to encourage and that SDG&E should work to eliminate classification methods that restrict the use of distributed resources in future solicitations.

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[13] Sparks *op. cit.,*, p. 8.

4.3.5 Conformance check for "incremental" requirement

One of the more difficult conformance requirements to verify was the requirement that the bids be incremental. SDG&E proposed to require the bidder to demonstrate why their resource is incremental and then ultimately planned to rely upon the Commission in its final approval process for selected bids.

For some of the resource types the "incrementality" determination was relatively straightforward (e.g., energy storage, conventional, and CHP). The incrementality requirement for some other bids and resource types was more difficult to evaluate:

- ***Energy efficiency***: SDG&E's reviewed the EE bids based on the specific measures, target customers and other factors to determine if they were incremental. PA reviewed SDG&E's findings, researched the programs that EE identified for the non-incremental bids and based on this review agreed that SDG&E's categorization seemed reasonable. However, this still became an issue during the bid negotiations as described further in Section 6.2.2.
- ***Combined storage and thermal bid***: One bidder proposed adding storage to an existing thermal facility. Because this did not add additional capacity this was determined to be not incremental.
- ***Demand response***: A proposed program that would replace a discontinued program was determined to be non-conforming

The incrementality requirement for the bids is an important issue and in this RFO led to the inability to reach a contract with one of the selected EE bids. The more detail that the bidder can provide regarding the specifics of the resource or program will help resolve this issue. Ultimately, though, SDG&E may have to look for further guidance from the Commission on what it means to be incremental to uncommitted programs.

4.3.6 ESSBOT and ESSEPC additional requirements

Prior to the bid submittal on January 5, 2015, SDG&E prepared a detailed screening of ESSBOT and ESSEPC bidders based on their commercial viability submittals.

SDG&E recognized that battery energy storage systems are a relatively new technology and put additional screening in place to limit their exposure to potential developer, manufacturer, and technology risks.

- SDG&E required the ESSEPC bidder (or appropriate member of ESSBOT team) to have experience with both deployment and post-commercial operation trouble shooting and warranty performance for all components of 1MW+ scale grid-connected energy storage systems. Also, SDG&E wanted to ensure that the ESSEPC did not just pick an approved manufacturer but not have any experience installing the equipment. This requirement did exclude some bidders, but SDG&E did allow for joint ventures to be created to meet this requirement.
- SDG&E required the ESSEPC and ESSBOT bidders to identify the specific major equipment they proposed so that SDG&E could to ensure that the selected technology was a proven technology with a minimum amount of installations and required performance measures. SDG&E did recognize that bidders may not have selected a particular technology solution or supplier and required the bidder to provide the requested information for each potential option. Based on this, SDG&E identified acceptable technologies and manufacturers that were used to determine the conformance or acceptance of the bids. SDG&E rejected bids that included technology that did not meet the specific criteria; the performance requirements and number of existing installations were the main deficiencies.
- SDG&E sent notices to all bidders that provided commercial viability to confirm if their information was accepted. SDG&E provided the reason for non-acceptance for bidders that requested additional information.

Overall, SDG&E applied this screening process in a fair and consistent manner and even reached out to bidders for additional clarity, where appropriate. However, the selection of the specific technology was an ongoing issue that became a major problem during the negotiation process. Utility scale battery energy storage technology is a rapidly developing technology and the batteries available today will likely not be the battery that is ultimately selected and installed in response to this RFO.

4.4 Review of SDG&E's application of the LCBF methodology

SDG&E developed separate models for each resource type because of the unique characteristics and the overall valuation approach was applied as consistently as possible. SDG&E developed most of the valuation models internally except for the energy storage system valuation model which they contracted with Financial Energy Associates ("FEA") to develop and the spread option add-in, also provided by FEA.

Because there were no conforming CHP, DG or renewable bids, SDG&E did not develop models to evaluate these bids. Also, there was no need for additional conventional capacity once the CPUC approved the Carlsbad Energy Center, so SDG&E did not complete the evaluation of the conforming conventional bids. Therefore this report does not address the valuation of CHP, DG, renewable, or conventional bids.

4.4.1 Review of price curves and general assumptions

PA reviewed the price curves that SDG&E developed to evaluate the bids. There were no compliant renewable bids so SDG&E did not develop REC prices.

Additionally, PA verified with SDG&E that the developer of the curves did not have access to the bid information prior to providing the curves to be used in the valuation.

4.4.2 Review of evaluation of offers

PA reviewed SDG&E's quantitative evaluation through the direct review of SDG&E's models, comparison with PA's own models, and meetings and discussions to resolve questions or discrepancies. Through this process, PA was able to review and confirm SDG&E's interpretation of the data as well as the application of the quantitative analysis.

The storage model was the most complex and PA was not able to fully replicate the energy storage model methodology and results. However, PA provided sample inputs for SDG&E to process through the SDG&E model to test the model inputs and outputs, had several discussions with the FEA, reviewed test cases prepared by SDG&E, evaluated inputs and outputs, and prepared a simplified energy storage dispatch. Through this review process, PA was able to get comfortable that the model was appropriately modelling the storage offers.

4.4.3 ESSEPC and ESSBOT other items

SDG&E developed the revenue requirements for the ESSEPC and ESSBOT bids based on the data provided in the bid forms, as well as tax deprecation and other SDG&E financial treatment of costs. PA reviewed and discussed the methodology with the Cost Development Team. PA had some clarifying questions that SDG&E addressed and streamlined the information they provided to the Bid Evaluation Team.

Because the ESSEPC and ESSBOT bids included capacity guarantees, there would be some value at the end of the contract period. SDG&E estimated a residual value for the utility owned bids to account for this. Since they did not request additional post-contract detail information from the bidders, SDG&E estimated the residual value for limited number of years of declining benefits. While this did not provide a rigorous analysis of post-contract benefits, PA agreed it was a reasonable approach. We expect this approach to be elaborated in the future.

4.4.4 Ancillary services

SDG&E developed a simplified approach to determine the ancillary service benefits of bids. SDG&E considered regulation up, regulation down, spin and non-spin. The values of these services were forecasted in proportion to energy prices and the volumes that would be realized were based on SDG&E's historical experience with ancillary services.

While SDG&E could develop a more sophisticated model to represent ancillary services, PA felt that the results were reasonable.

4.4.5 Credit support

Once SDG&E developed an initial short list of offers, SDG&E developed credit support requirements based on the cost of credit provided by the bidders and the level of credit required developed by SDG&E's credit group. This information was used in the shortlist analysis. PA did discuss the overall methodology and credit support costs with SDG&E, but did not independently verify the calculation of credit requirements.

4.4.6 Selection of shortlist

SDG&E created a summary table of all of the NMV for each of the conforming bids evaluated and sorted to determine the lowest cost bids. Once SDG&E developed an initial short list of offers, SDG&E developed credit support requirements. SDG&E included the calculated credit costs and re-ranked the bids.

PA reviewed SDG&E's development of the shortlist analysis and discussed with SDG&E and questions and discrepancies.

4.5 Fairness of SDG&E's evaluation

Based on PA's review of SDG&E's analysis, participation in calls and meetings and other IE activities, PA believes that SDG&E conducted the 2014 LCR RFO evaluation analysis fairly. However, events during the contract negotiation cause us some concern with the use of a "myopic" All-Source ranking for such a diverse set of resources given future cost uncertainty.

4.5.1 All-Source ranking of resources with disparate risk drivers

During contract negotiations, SDG&E management began to question the value of an Energy Storage contract that had been shortlisted. SDG&E's concern was that the RFO was driven by a capacity need for 2022; the resource did not have to be operational earlier. Energy storage can currently be permitted and constructed quickly, and the market expects battery pricing to drop significantly in coming years. If so SDG&E would be locked into a high-priced out-of-market contract and will not share in the cost reductions enjoyed by the developer. SDG&E management saw itself facing the opportunity cost of not delaying the contracting for this capacity ,and was particularly sensitive to this due to its recent experiences with solar PV contracts negotiated several years ago but for which the plants have only recently been built. SDG&E management eventually decided to terminate the contract negotiation.

PA sees this problem as rooted in the all-source nature of the solicitation. This RFO allowed for long-term bids from conventional tolling resources (a mature technology with long permitting and construction lead times and predicable pricing), renewables (a technology with somewhat long permitting lead times, moderate construction times, and fixed energy pricing) and energy storage (which is easier to permit and build but which is experiencing rapid technology improvement and is expected to see significant price reductions). These alternatives have very different risk profiles and uncertainty – an important risk with conventional generation is development time, while a similarly important risk with storage is the risk of buying too soon. An all-source ranking does not recognize this difference and requires a one-size-fits-all approach to evaluation, contracting and timing.

4.5.2 Conventional bids

As SDG&E had identified in the conventional bid documents, once the Commission approved the bi-lateral Carlsbad Energy Center contract no conventional resources were needed from this RFO.

Conventional resource bidders were notified of this of this potential issue prior to bidding into the RFO through the RFO documents, FAQs, and pre-bid conference.

PA believes that the treatment of conventional bidders as specified in the RFO documents was fair.

4.6 Fairness of any third party evaluation

There was no third party evaluation used to evaluate the bids for this RFO.

4.7 Appropriateness of transmission and integration cost adders

SDG&E included interconnection costs for bids based on the interconnection studies provided by bidders. The storage bids did not have to have completed interconnection studies, so for those bids without studies, SDG&E relied on information from the bidder. There was no available metric or check to confirm if the bidder-provided costs were reasonable.

In future RFOs, it would be more consistent to require the same level of interconnection studies completed for all bidders so the costs would be from a consistent source.

4.8 Additional criteria or analysis used in creating shortlist

As clearly identified in the bid documents, SDG&E could also consider qualitative factors to determine which projects are the “best fit” for the SDG&E portfolio. In developing the shortlist, SDG&E’s primary evaluation tool for the bids was results of the NMV analysis. SDG&E did consider the mix of resource types and project viability in selecting the shortlisted bids.

4.9 Recommendations

SDG&E will be able to start with the models developed for this RFO to evaluate the bids for future RFOs which will help the time required to prepare the evaluation. There are a few minor items that SDG&E could refine with the models (streamlining the inputs and market assumptions), but overall these models were appropriate to evaluate the bids in the RFO.

5 MERIT OF THE LCR RFO SHORTLIST

Through the bid evaluation and selection process, PA believes that SDG&E selected the best offers submitted for the 2014 LCR RFO. The final selected bids provide a total of 67.5 MW of local RA capacity including two energy storage bids for a total of 40 MW, a 6 MW demand response bid, and two EE bids for a total of approximately 21.5 MW.

5.1 Did SDG&E conduct the solicitation consistent with Commission decisions and its approved LCBF methodology?

It is PA's opinion that SDG&E conducted a fair solicitation consistent with Commission decisions and approved LCBF methodology.

5.2 Do selected shortlisted projects provide the best overall value to ratepayers?

SDG&E selected bids with positive Net Market Values that represented a mix of resource types and which appeared viable.

- The three highest ranking bids, in terms of Net Market Value per MW, were energy storage projects of 50 MW or greater, from one of the newer developers, and which appeared to be priced much more aggressively than the battery supplier's own projects. SDG&E did not select any of those three bids because it was concerned about project viability and the aggressiveness of the developer's pricing. Instead, SDG&E selected a smaller, lower-value bid that created less risk exposure. Because the project had an early online date, SDG&E could probably replace it before 2022 if necessary.
- SDG&E chose not to select an energy storage bid with higher NMV/MW than most of the bids it did accept because of concerns about the maturity of the flow battery technology proposed. This RFO was not envisioned as an R&D effort, and the 2022 deadline is far enough away that the company can be conservative about technology.
- Similarly – because the 2022 deadline is not looming – SDG&E did not select any projects with negative Net Market Value. One project, with a Net Market Value of approximately $[redacted]/kW, was not shortlisted. While PA would have favored shortlisting this project for negotiation we do not object to SDG&E's decision not to do so, since its Net Market Value could easily become negative under only mildly adverse conditions.
- SDG&E did not select any utility ownership storage bids (ESSEPC or ESSBOT). All had unfavorable Net Market Values.

Considerations of opportunity cost might have led to the acceptance of other energy efficiency or demand response bids, because even though their Net Market Values were negative they could be superior to other offers in those categories that might be taken later to meet EE or DR targets. That said, if these bids were taken due to their attractiveness to meet targets in the next few years, they may not be incremental to the CAISO forecast that ought to include the volume of offers that will be taken to meet those targets. It is difficult to positively characterize projects as incremental to a forecast of uncommitted volumes from as-yet-unknown suppliers.

There were definitely some issues of clarity in the bid documents, as well as missing documents (model contracts). Even during contract negotiations there were complaints from bidders about issues that surfaced very late in the process. As a firm that repeatedly bids in RFO processes for services, PA has great sympathy for these bidders' perceptions of unfairness; however, from the IE perspective SDG&E's practices were not inequitable – did not advantage or disadvantage specific bidders (all bidders suffered equally) and in particular did not favor utility ownership bids. Therefore these issues, while they should be addressed in the future, do not adversely impact PA's fairness opinion.

5.3 Did the shortlist conform to the needs of the SDG&E's portfolio and RFO plan?

The shortlist prepared by SD&E did conform to the portfolio and RFO plan. During the RFO process, the Carlsbad Energy Center bilateral agreement was approved so this RFO excluded the need for conventional bids. SDG&E selected storage bids, EE bids and DR bids.

After the shortlist was selected, objections were made by one or more members of the CAM Procurement Review Group to one of the contracts. The 6 MW demand response contract was based on installing energy storage, which would only be made available to SDG&E for use as DR for two months out of the year. This is a rather complex issue:

1. The objectors noted that the procurement target was to be measured in terms of local RA capacity, and load serving entities had to make a local RA showing for every month of the year.
2. On the other hand the fact that the demand response capability of the resource is only contracted to SDG&E for two months of the year does not mean the capability does not exist in other months, merely that SDG&E (and direct access customers through the CAM process) cannot take credit for it.
3. The goal of the LCR RFO is to ensure that a certain amount of local capacity exists on the grid in 2022, whether or not SDG&E pays for it and is credited for it in every month.
4. Whether this resource actually counts against the target for the LCR RFO could come down to a contracting question, as to whether the contract requires the resource to be available as capacity during the months in which it is not contracted to SDG&E (and in which its local RA value could be used in a different LSE's showing). There had been no model DR contract made available to bidders so one cannot know the (assumed) terms on which the bid was based.

The question was never resolved, and the point became moot, when the bidder determined they had erred in pricing the bid, thinking that they could be paid their monthly capacity in all 12 months even though the resource was only contracted to SDG&E for two. The bid was then withdrawn.

5.4 Reasonableness of the shortlist

In PA's opinion, SDG&E's shortlist was reasonable.

6 FAIRNESS OF PROJECT-SPECIFIC NEGOTIATIONS

PA closely monitored the contract negotiations and SDG&E generally gave PA the opportunity to join teleconferences, met with PA separately to review negotiation progress and provide PA copies of contract drafts. The CPUC Energy Division specifically requested that the IE keep a close eye on the energy storage contract negotiations and PA participated in most of the storage negotiation calls. The energy efficiency contract negotiations were conducted mostly via email, and PA monitored the emails between SDG&E and the bidders.

As noted in 5.3, the shortlisted Demand Response bid was withdrawn. SDG&E was unable to come to contract with one of the two 20 MW storage bids and with a 3 MW energy efficiency project. The remaining energy efficiency project had been characterized as having a capacity of 18.5 MW. Under the contract as negotiated, only 17 MW of capacity savings may be in place during the first part of 2022 (all of 2022, if there were a force majeure event during the ramp-up period). Since the target is based on 2022 capacity we consider this now to count as a 17 MW project. By that accounting, SDG&E successfully negotiated two contracts for 37 MW of local capacity.

6.1 Principles PA used to evaluate fairness of negotiations

PA applies the following three principles to evaluate the fairness of negotiations:

- SDG&E should not show favoritism toward any bidder (especially if that bidder is an SDG&E affiliate) by allowing contract conditions not offered to other bidders unless those conditions are balanced by comparable concessions by the bidder
- SDG&E should not negotiate harder or less hard with a bidder than with any other bidder
- SDG&E should not attempt to impose contract conditions in the negotiation that significantly change the balance of the bargain, relative to what the bidder could have reasonably expected based on the RFO materials.

6.2 Describe fairness of negotiations

PA participated in most of the negotiation meetings and received copies of red-lined bid documents to review. PA believes that the negotiations were fair. SDG&E had one team negotiate both of the ESSPPTA offers so there was not confusion as to what was told to one bidder over another. Similarly, SDG&E had one team negotiate the EE bids. SDG&E also held status meetings with the larger SDG&E team to discuss the status of negotiations and any issues. SDG&E treated bidders consistently, and fairly relative to each other (the first two principles above); however, some of the bidders probably came away feeling they were not treated fairly relative to their expectations based on the RFO (the third principle).

- Early in the negotiation process the Energy Efficiency negotiating team decided that the model contract that had been distributed with the RFO, and which the bidders had redlined as part of their submissions, was inadequate for this purpose. SDG&E had not previously negotiated energy efficiency contracts outside of defined program structures. Therefore, after the initial project kickoff meetings with the selected bidders the negotiations were suspended for a long period while SDG&E rewrote its base contract; only after that did actual negotiations begin.
- SDG&E engaged in a form of "pattern bargaining" with the Energy Storage bidders. The negotiation team chose to negotiate extensively with one of the two bidders before engaging in significant negotiations with the second. The bidder with which SDG&E chose to negotiate first was the one that had brought forth a longer and more complex list of issues for discussion, and SDG&E

determined it was a better use of its team's time to work these issues out completely in the hopes that there would be fewer issues remaining to negotiate with the other bidder. This left the second bidder feeling it was being treated inequitably. In PA's opinion the bidder was not being treated inequitably but may not have been sufficiently informed of SDG&E's "pattern bargaining" approach.

- Once SDG&E had redesigned its contract and presented it to bidders, it began asking for very quick responses, not comparable with the timeframes it had allowed itself. This affected both the Energy Efficiency bidders as well as the second Energy Storage bidder, which experienced a long negotiation hiatus while SDG&E dealt with the first bidder's issues. Once SDG&E had returned to it, the second Energy Storage bidder was told that SDG&E had to file the contract with the CPUC in only two weeks. That deadline was SDG&E's own, not the bidder's and the way it was presented to the bidder was unfair relative to the amount of time that SDG&E had spent negotiating with the first energy storage bidder.
- As the end of the negotiation neared, SDG&E management requested what bidders saw as several significant concessions. This is not an uncommon negotiating tactic, and SDG&E did retreat from some of these positions, but it did contribute to a perception of unfairness.

6.2.1 [redacted]

[redacted]
Management came to believe that there is an opportunity cost to signing a contract five years in advance of need (the 2022 target) for a resource that is much easier to permit than a conventional power plant and takes only a year and a half to build,

[redacted] SDG&E management was concerned that the energy storage contracts would be "out of market" once they were installed. The storage bids would not begin construction immediately; based on its recent experience with photovoltaic projects SDG&E was concerned that prices could come down significantly before that point. One of the storage bids did not even envision beginning construction until mid-2020; by that point the contract could be significantly out of market.

[redacted]

The bidder with the late construction date (ironically the one on which SDG&E had expended the most time under its "pattern bargaining" approach) decided to discontinue negotiations; SDG&E returned its bid deposit. [redacted] PA believes that the bidder had reason to feel it did not get the bargain it had been led to expect, but was not treated unfairly. This is similar to a situation several years ago where the CPUC forced SDG&E to renegotiate pricing on some of its renewable contracts, down from the bid prices in an open RFO, to reflect market changes.

6.2.2 Energy efficiency contract negotiations

Negotiations for one of the energy efficiency contracts also failed to result in an agreement. In this case the issue had to with the contract exhibit that would define the measures and target customers for the bidder's program. Although SDG&E accepted the bid based on an explanation from the bidder of why its project was "demonstrably incremental" to the CAISO assumptions, the bidder was unable to provide text for the exhibit that SDG&E felt was actionable and would allow it to develop testimony supporting the contract and establishing that it was incremental. SDG&E and the bidder agreed to terminate negotiations and SDG&E refunded the bid deposit. This is not a case where SDG&E

imposed extra conditions on a shortlisted bid but one where assumptions made in the bid evaluation just could not be translated into contract terms.

Also, the shortlisted Demand Response bid was withdrawn due to a pricing error by the bidder. The withdrawal was without penalty: the bidder did not forfeit its shortlist acceptance fee because the fee had been waived until such time as SDG&E presented a draft contract.

6.3 What terms and conditions underwent significant changes during the course of negotiations?

Through this RFO, SDG&E selected two types of resources (EE and Energy Storage) and signed one contract of each type. This section describes the significant changes made to each of those two contracts after the bids were shortlisted, that is, changes relative to the proforma contracts that were developed for the RFO and posted on SDG&E's website. The category of "significant changes" excludes typical points of contract negotiation, changes to insurance requirements, the insertion of specific amounts of collateral, etc., but is meant to addresses changes that affect the nature of the bargain between the parties. In these descriptions each bidder is identified as a "seller", consistent with the language of the contracts.

6.3.1 EE contract conditions

This section describes changes that were made during the negotiation of the one EE contract that was signed.

SDG&E spent about two months on its initial major revision of the proforma EE agreement that bidders had been asked to redline (this bidder had taken no exceptions to the proforma), The basic verification and payment structure of the contract was changed, as was the product structure, definition of performance failure leading to default, and several other provisions.

The concept behind SDG&E's proforma EE contract was that the bidder would install a single Project that would be completed and then deliver savings. There would have been a limited number of inspections aimed at determining that the project had met its design goals and would produce the contracted energy savings; if the project could not meet those goals by the completion deadline seller would immediately be in default.

The revised contract (the "initial major revision") described savings delivered over a period of time; the relevant time period was the time period for savings delivery, not for project completion, and it accommodated measures installed at multiple sites that led to an increasing pace of annual delivery. Each year there would be an annual inspection to determine expected capacity savings, and during the following year the seller could report additional project completions. If the inspection reveals capacity savings of less than 75% of the contracted amount for the following year, the project will be in default. Each month of the following year the seller would be credited (and paid for) capacity savings equal to those estimated in the most recently accepted annual inspection report plus additional measure installations completed since then, capped by the annual contracted capacity savings. After the next year-end inspection there would be a true up based on the capacity savings credited for September vs. the savings estimated from the inspection.

In SDGE's opinion this payment and inspection process was better suited to the EE offers it actually received in response the LCR RFO. SDG&E also stated that it thought the default trigger was less onerous than it had been under the proforma, since the seller only had to achieve 75% of its contracted savings each year to keep the contract in force.

Other significant changes in the revised contract included:

- [redacted]

- [redacted]
- [redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

6.3.2 Energy storage contract conditions

This section describes changes that were made during the negotiation of the one Energy Storage contract that was signed.

Several significant changes were made based on the "pattern bargaining: with the other Energy Storage bidder:

- [redacted]
- [redacted]

- [redacted]

[redacted]

6.4 Was similar information/options made available to other participants?

Overall PA believes that similar information/options were made available to each participant. However, there were some differences in the information bid that was then treated differently in the contract negotiations.

6.5 Any other relevant information

While SDG&E attempted to have PA participate in all negotiations with bidders there were a few meetings in which PA did not participate. Soon after, PA and SDG&E discussed what occurred during these meetings and PA does not have any reason to believe that any unfair practices took place during those meetings. In some cases PA did not participate because SDG&E had neglected to notify if of the meeting. These missed notifications occurred early in the negotiations. PA reminded SDG&E to invite the IE and the issue was remedied.

Additionally, there were some telephone calls between SDG&E – generally an SDG&E officer – and a bidder in which PA was not included in. Most of those were telephone calls that had been initiated by the bidder. Telephone calls and spontaneous calls do happen during negotiations and can often be valuable, but PA took these as opportunities to emphasize to SDG&E the importance of informing the IE soon after of the content of the discussions.

The negotiations revealed some important problems with the Energy Efficiency and Energy Storage model contracts. The experience of this RFO means that the model contracts for those products in the next RFO will be better. Because SDG&E has extensive experience with RPS procurements, PA believes that the model renewables PPA for the next RFO is also pretty good. PA remains concerned about the model DR, ESSEPC and ESSBOT contracts, which were not exercised in the 2014 LCR RFO negotiations.

7 MERIT OF CONTRACT APPROVAL

SDG&E negotiated and signed two contracts through this RFO process. These contracts will provide 17 MW of energy efficiency in 2022, and 20 MW of energy storage.

Through the bid evaluation and selection process, PA believes that SDG&E selected appropriate offers from those submitted for SDG&E's 2014 LCR RFO and therefore recommends the CPUC's approval of the contracts.

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

**DECLARATION OF FERNANDO VALERO
REGARDING CONFIDENTIALITY OF CERTAIN DATA**

I, Fernando Valero, do declare as follows:

1. I am Fernando Valero in the Electric & Gas Procurement Department for San Diego Gas & Electric Company ("SDG&E"). I have reviewed SDG&E's Independent Evaluator's Report on SDG&E's 2014 Local Capacity Resource Request for Offers, submitted concurrently herewith (the "2014 LCR IE Report"). In addition, I am personally familiar with the facts and representations in this Declaration and, if called upon to testify, I could and would testify to the following based upon my personal knowledge and/or belief.

2. I hereby provide this Declaration in accordance with D.06-06-066, *et seq.*, to demonstrate that the confidential information ("Protected Information") provided in the 2014 LCR IE Report submitted concurrently herewith (described below) falls within the scope of data protected as confidential pursuant to the IOU Matrix attached to the Commission's confidentiality decision, D.06-06-066 (the "IOU Matrix") and/or under relevant statutory provisions.[1/]

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

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

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

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

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

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

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

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

Data at Issue	Matrix Requirements	How Moving Party Meets Requirements
Page 25, Section 5.2, pricing information	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The redacted data in include specific quantitative Net Market Value data of participating bids
	Identify the Matrix category or categories to which the data corresponds	Matrix categories VIII.A
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	In accordance with the limitations on confidentiality set forth in the IOU Matrix, SDG&E requests that the information be kept confidential for a period of 3 years after winning bidders are selected.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	The data cannot be further aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.
Page 28, Section 6.2.1	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The redacted information contains contract terms.
	Identify the Matrix category or categories to which the data corresponds	VII.B
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	In accordance with the limitations on confidentiality set forth in the IOU Matrix, SDG&E requests that the information be kept confidential for a period of 3 years from date contract states deliveries to begin; or until one year following expiration, whichever comes first.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	The data cannot be further aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

Page 29, 30, 31 Section 6.3.1, 6.3.2	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The redacted information contains contract terms.
	Identify the Matrix category or categories to which the data corresponds	VII.B
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	In accordance with the limitations on confidentiality set forth in the IOU Matrix, SDG&E requests that the information be kept confidential for a period of 3 years from date contract states deliveries to begin; or until one year following expiration, whichever comes first.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	The data cannot be further aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

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

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

8. The Protected Information cannot be provided in a form that is further aggregated, redacted, or summarized.

9. As an alternative basis for requesting confidential treatment, SDG&E submits that the project status information provided in the 2014 LCR IE Report is material, market sensitive, electric procurement-related information protected under§§ 454.5(g) and 583, as well as trade secret information protected under Govt. Code § 6254(k), and that the disclosure of this information would place SDG&E at an unfair business disadvantage, thus triggering the protection of G.O. 66-C.[5/]

[5/] This argument is offered in the alternative, not as a supplement to the claim that the data is protected under the IOU Matrix. California law supports the offering of arguments in the alternative. *See*, *Brandolino v. Lindsay*, 269 Cal. App. 2d 319, 324 (1969) (concluding that a plaintiff may plead inconsistent, mutually exclusive remedies, such as breach of contract and specific performance, in the same complaint); *Tanforan v. Tanforan*, 173 Cal. 270, 274

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

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

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

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

13. In addition, Commission General Order 66-C protects "[r]eports, records and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage."

14. If disclosed, the Protected Information could provide parties with whom SDG&E is currently negotiating insight into SDG&E's procurement needs, which would unfairly undermine SDG&E's negotiation position and could ultimately result in increased cost to ratepayers. In addition, if developers mistakenly perceive that SDG&E is not committed to assisting their projects, disclosure of the Protected Information could act as a disincentive to developers. Accordingly, pursuant to P.U. Code

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(1916) ("Since . . . inconsistent causes of action may be pleaded, it is not proper for the judge to force upon the plaintiff an election between those causes which he has a right to plead.")

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

7/ *See also* Govt. Code § 6254.7(d).

§ 583, SDG&E seeks confidential treatment of this data, which falls within the scope of P.U. Code § 454.5(g), Govt. Code § 6254(k) and General Order 66-C.

15. In accordance with the statutory provisions described herein, SDG&E hereby requests that the information set forth in the 2014 LCR IE Report be protected from public disclosure.

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

Executed this 28th day of March, 2016, at San Diego, California.

F. Valero

____
Fernando Valero
Partnerships and Programs Manager