

PUBLIC UTILITIES COMMISSION  
505 Van Ness Avenue  
San Francisco CA 94102-3298



**Bear Valley Electric Service, Inc.  
ELC (Corp ID 913)  
Status of Advice Letter 475E  
As of September 12, 2023**

Subject: Establish Shell Agreement Memorandum Account Preliminary Statement

Division Assigned: Energy

Date Filed: 07-31-2023

Date to Calendar: 08-02-2023

Authorizing Documents: E-5275

<b>Disposition:</b>	<b>Accepted</b>
<b>Effective Date:</b>	<b>06-29-2023</b>

Resolution Required: No

Resolution Number: None

Commission Meeting Date: None

CPUC Contact Information:

[edtariffunit@cpuc.ca.gov](mailto:edtariffunit@cpuc.ca.gov)

AL Certificate Contact Information:

Ronald Moore

(909) 394-3600 X682

[RegulatoryAffairs@bvesinc.com](mailto:RegulatoryAffairs@bvesinc.com)

**PUBLIC UTILITIES COMMISSION**  
505 Van Ness Avenue  
San Francisco CA 94102-3298



To: Energy Company Filing Advice Letter

From: Energy Division PAL Coordinator

Subject: Your Advice Letter Filing

The Energy Division of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records.

The AL status certificate indicates:

- Advice Letter Number
- Name of Filer
- CPUC Corporate ID number of Filer
- Subject of Filing
- Date Filed
- Disposition of Filing (Accepted, Rejected, Withdrawn, etc.)
- Effective Date of Filing
- Other Miscellaneous Information (e.g., Resolution, if applicable, etc.)

The Energy Division has made no changes to your copy of the Advice Letter Filing; please review your Advice Letter Filing with the information contained in the AL status certificate, and update your Advice Letter and tariff records accordingly.

All inquiries to the California Public Utilities Commission on the status of your Advice Letter Filing will be answered by Energy Division staff based on the information contained in the Energy Division's PAL database from which the AL status certificate is generated. If you have any questions on this matter please contact the:

Energy Division's Tariff Unit by e-mail to  
**[edtariffunit@cpuc.ca.gov](mailto:edtariffunit@cpuc.ca.gov)**



# ADVICE LETTER SUMMARY

## ENERGY UTILITY



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

Company name/CPUC Utility No.: Bear Valley Electric Service, Inc. (913-E)

Utility type:

- ELC       GAS       WATER  
 PLC       HEAT

Contact Person: Ronald Moore

Phone #: (909) 394-3600 x682

E-mail: ronald.moore@gswater.com

E-mail Disposition Notice to: RegulatoryAffairs@bvesinc.com

EXPLANATION OF UTILITY TYPE

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

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 475-E

Tier Designation: Tier 1

Subject of AL: Establish Shell Agreement Memorandum Account Preliminary Statement

Keywords (choose from CPUC listing): Agreement

AL Type:  Monthly  Quarterly  Annual  One-Time  Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #: Resolution No. E-5275

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

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

Confidential treatment requested?  Yes  No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required?  Yes  No

Requested effective date: 6/29/23

No. of tariff sheets: 2

Estimated system annual revenue effect (%): 0.0%

Estimated system average rate effect (%): 0.00%

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

Tariff schedules affected: Preliminary Statement, Table of Contents Page 1

Service affected and changes proposed<sup>1</sup>: See Advice Letter

Pending advice letters that revise the same tariff sheets: N/A

<sup>1</sup>Discuss in AL if more space is needed.

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

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

Name: Ronald Moore  
Title: Senior Regulatory Analyst  
Utility Name: Bear Valley Electric Service, Inc.  
Address: 630 E. Foothill Blvd  
City: San Dimas State: California  
Telephone (xxx) xxx-xxxx: (909) 394-3600 x682  
Facsimile (xxx) xxx-xxxx:  
Email: [RegulatoryAffairs@bvesinc.com](mailto:RegulatoryAffairs@bvesinc.com); [rkmoore@gswater.com](mailto:rkmoore@gswater.com)

Name: Jeff Linam  
Title: Manager, Regulatory Affairs  
Utility Name: Bear Valley Electric Service, Inc.  
Address: 630 E. Foothill Blvd  
City: San Dimas State: California  
Telephone (xxx) xxx-xxxx: (909) 394-3600 x664  
Facsimile (xxx) xxx-xxxx:  
Email: [RegulatoryAffairs@bvesinc.com](mailto:RegulatoryAffairs@bvesinc.com); [jeff.linam@gswater.com](mailto:jeff.linam@gswater.com)



Bear Valley Electric Service, Inc.  
P.O. Box 9028  
San Dimas, CA 91773-9028  
A Subsidiary of American States Water Company

July 31, 2023

(913 E)

Advice Letter No. 475-E

## CALIFORNIA PUBLIC UTILITIES COMMISSION

### SUBJECT

Establish the Shell Agreement Memorandum Account.

### PURPOSE

Bear Valley Electric Service, Inc. ("BVES" or "Bear Valley") submits this advice letter pursuant to California Public Utilities Commission ("CPUC" or "Commission") Resolution No. E-5275, dated June 29, 2023.

### BACKGROUND

On March 30, 2023, BVES filed Advice Letter No. 470-E, requesting CPUC approval of a bilaterally negotiated Purchase Power Agreement ("PPA") with Shell Energy North America ("Shell") for the procurement of portfolio content category 1 ("PCC 1") energy and associated renewable energy credits ("RECs"). The PPA will procure 6 megawatts ("MW") of annual, around-the-clock energy from an unspecified mix of eligible renewable resources ("ERRs"). The PPA will be used by Bear Valley for procurement of "firm" bundled energy and associated RECs under a long-term contract.

On June 29, 2023, the CPUC issued Resolution No. E-5275, granting Bear Valley's request for the PPA with Shell. Resolution No. E-5275 approves, among other things, the following:

1. Approves the Master Agreement, as modified by a Cover Sheet and a Collateral Annex Credit Elections Cover Sheet, and Transaction Confirmation in their entirety, including payments to be made to Bear Valley pursuant to the Transaction Confirmation, subject to the Commission's review of Bear Valley's administration of the Master Agreement and Transaction Confirmation.
2. All procurement and administrative costs (as provided by Public Utilities Code Section § 399.13(g)) associated with the Shell Agreement shall be recovered in rates.
3. Adopts the following facts and conclusions of law:
  - a. The Transaction Confirmation is consistent with Bear Valley's RPS Procurement Plan.
  - b. The Transaction Confirmation is consistent with Bear Valley's 2020 IRP.
  - c. The terms of the Master Agreement and the Transaction Confirmation, including the price, are reasonable.

- d. The deliveries under the Transaction Confirmation shall be categorized as PCC1 RPS procurement under the portfolio content category specified in Public Utilities Code Section § 399.16(b)(1(A), subject to the Commission's after-the-fact verification that all applicable criteria have been met.
- e. The Transaction Confirmation is not a long-term financial commitment prohibited by Public Utilities Code Section § 8340 *et seq.* provided that no eligible renewable energy resource under the Transaction Confirmation is a "baseload generation" as defined in Section 8340(a) or does not produce or emit GHG emissions that equal or exceed the GHG emission rate of a combined-cycle gas turbine power plant as determined in D.07-01-039 (i.e., 1,100 lbs/MWh of CO<sub>2</sub>).
- f. BVES is authorized to establish a memorandum account to track unrealized gains and unrealized losses on the Transaction Confirmation in a new, non-interest bearing memorandum account, the Preliminary Statement form of which is set forth in Appendix E, and BVES is authorized to file such Preliminary Statement form of the memorandum account via a Tier 1 Advice Letter.

### **SHELL AGREEMENT MEMORANDUM ACCOUNT**

Pursuant to Ordering Paragraph No. ("OP") 2 in Resolution No. E-5275, Bear Valley is filing this advice letter to establish the Shell Agreement Memorandum Account. OP #2 states,

*2. Bear Valley Electric Services shall file a Tier 1 Advice Letter with language consistent with the tariff language in Appendix E of Bear Valley Electric Service Advice Letter 470-E to establish a non-interest bearing memorandum account to record the unrealized gains or losses with respect to the power purchase agreement with Shell Energy North America (US), L.P., LLC approved in this resolution no later than August 1, 2024.*

### **COMPLIANCE**

The request being made in this advice letter is in compliance with Resolution No. E-5275.

See Attachment A for a copy of Resolution No. E-5275.

### **TIER DESIGNATION**

This advice letter is submitted with a Tier 1 designation.

### **EFFECTIVE DATE**

BVES respectfully request this advice letter become effective on June 29, 2023, the date Resolution No. E-5275 was approved.

### **NOTICE AND PROTESTS**

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the CPUC in acting on the request.

A protest must be mailed within 20 days of the date the CPUC accepts the advice letter for filing. The Calendar is available on the CPUC's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

A protest must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the advice letter.

The utility must respond to a protest within five days.

**All protests and responses should be sent to:**

California Public Utilities Commission, Energy Division  
ATTN: Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102  
E-mail: [EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov)

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

Copies of any such protests should be sent to this utility at:

Bear Valley Electric Service, Inc.  
ATTN: Jeff Linam  
630 East Foothill Blvd.  
San Dimas, CA 91773  
Fax: (909) 394-7427  
E-mail: [RegulatoryAffairs@bvesinc.com](mailto:RegulatoryAffairs@bvesinc.com)

If you have not received a reply to your protest within 10 business days, contact Jeff Linam at (909) 394-3600 ext. 664.

**Correspondence:**

Any correspondence regarding this compliance filing should be sent by regular mail or e-mail to the attention of:

Jeff Linam  
Manager, Regulatory Affairs  
Bear Valley Electric Service, Inc.  
630 East Foothill Blvd.  
San Dimas, California 91773  
Email: [RegulatoryAffairs@bvesinc.com](mailto:RegulatoryAffairs@bvesinc.com)

The protest shall set forth the grounds upon which it is based and shall be submitted expeditiously. There is no restriction on who may file a protest.

Sincerely,  
/s/Ronald Moore

Ronald Moore  
Regulatory Affairs Department  
Bear Valley Electric Service, Inc.

c: Laura Martin, Energy Division  
R. Mark Pocta, California Public Advocates Office  
BVES General Order 96-B Service List



Preliminary Statement  
Shell Agreement Memorandum Account

**FFF. SHELL AGREEMENT MEMORANDUM ACCOUNT**

(N)

Bear Valley Electric Service, Inc. ("BVES") shall maintain the Shell Agreement Memorandum Account ("SAMA").

1. PURPOSE

The purpose of the SAMA is to track the unrealized gains and losses otherwise imputed to the Shell Agreement as a consequence of complying with Accounting Standards Codification ("ASC") No. 815 - "Derivatives and Hedging".

2. APPLICABILITY

The SAMA applies to all customer classes, except for those specifically excluded by the Commission.

3. RATES

The SAMA does not have a rate component.

4. ACCOUNTING PROCEDURES

BVES shall maintain the SAMA by making entries at the end of each month as follows:

- a. Entries shall be made to the SAMA at the end of each month to record the unrealized gain or loss attributable to the application of ASC No. 815 to the Shell Agreement.
- b. This is a non-interest bearing memorandum account.

5. EFFECTIVE DATE

The SAMA shall have the effective date of June 29, 2023.

6. DISPOSITION

At the conclusion of the memorandum account's operation, the account will be reversed and no additional costs will be recovered from (or refunded to) ratepayers as noted in the Commission's decision establishing this memorandum account.

(N)

Table of Contents

The following tariff sheets contain all effective rates and rules affecting rates and service of the utility, together with information relating thereto:

<u>Subject Matter of Sheet</u>	Sheet No.
Title Page	2845-E
Table of Contents	3389-E, 3387-E, 3373-E, 3339-E
Preliminary Statements	935-E, 1590-E*, 1591-E*, 2381-E*, 2382-E*, 1594-E*, 1595-E*, 1596-E*, 1597-E*, 3209-E, 2177-E, 3259-E, 2985-E, 2986-E, 2602-E, 2603-E*, 1604-E*, 1605-E*, 1606-E*, 1611-E*, 1650-E, 2201-E, 2715-E, 2716-E, 2865-E, 1928-E, 1929-E, 1946-W, 2028-E, 2032-E, 2034-E, 2817-E, 2818-E, 2483-E, 2484-E, 2485-E, 2486-E, 2487-E, 2174-E, 2175-E, 2443-E, 2444-E, 2463-E, 2554-E, 2565-E, 2768-E, 2612-E, 2633-E, 2651-E, 2653-E, 2662-E, 2866-E, 2800-E*, 2863-E, 3134-E, 3091-E, 3092-E, 3093-E, 3095-E*, 3224-E, 3343-E, 3364-E, 3365-E, 3367-E, 3368-E, 3388-E
Tariff Area Map	1140-E
<b>Rate Schedules:</b>	
No. A-1 General Service	3348-E, 3319-E
No. A-2 General Service	3349-E, 1838-E
No. A-3 General Service	3350-E, 1840-E
No. A-4 General Service- TOU	3351-E, 1842-E, 1843-E
No. A-5 TOU Primary	3352-E, 3297-E, 1846-E
No. A-5 TOU Secondary	3353-E, 3299-E, 1849-E
No. D Domestic Service - Single-family Accommodation	3354-E, 3321-E, 3322-E
No. DE Domestic Service to Company Employees	3355-E, 3324-E
No. DLI Domestic Service - CARE Rate	3356-E, 3372-E, 1857-E, 3284-E
No. DM Domestic Service - Multi-family Accommodation	3357-E, 3328-E, 3286-E
No. DMS Domestic Service -Multi-family Accommodation Sub-metered	3358-E, 3359-E, 3331-E
No. DO Domestic Service - Other	3360-E, 3290-E
No. NEM-L Net Energy Metering- Large	1931-E, 1932-W, 1933-E, 1934-E, 1935-E
No. NEM-S Net Energy Metering- Small	1936-E, 1937-E, 1938-E, 1939-E, 1940-E
No. GSD General Service Demand – Camp Oaks	3361-E, 1868-E
No. SL Street Lighting Service	3362-E, 2709-E
No. SSC Special Service Charges	3241-E, 2711-E
No. S Standby Standby Service	3068-E, 2160-E, 2161-E
No. SMO Smart Meter Opt-Out Residential Service	2445-E
No. PPC-LI Public Purpose Charge - Low Income	3273-E
No. PPC-OLI Public Purpose Charge - Other Than Low Income	3274-E
No. UF-E Surcharge to Fund PUC Utilities Reimbursement Account Fee	2861-E
No. TOU-EV-1 General Service Time of Use Electric Vehicle Charging	3334-E, 2606-E
No. TOU-EV-2 General Service Time of Use Electric Vehicle Charging	3335-E, 3336-E
No. TOU-EV-3 General Service Time of Use Electric Vehicle Charging	3337-E, 3338-E
No. DGS Distributed Generation Service Program	3375-E, 2789-E, 2790-E
No. DGS NEM-L Distributed Generation Service Net Energy Metering-Large	2833-E, 2834-E, 2835-E
No. DGS NEM-S Distributed Generation Service Net Energy Metering-Small	2836-E, 2837-E, 2838-E

(Continued)

# Attachment A

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

ENERGY DIVISION

RESOLUTION E-5275

June 29, 2023

**REDACTED**  
**RESOLUTION**

Resolution E-5275. Bear Valley Electric Service, Inc. Power Purchase Agreement with Shell for Procurement of Bundled Energy and Renewable Energy Credits.

PROPOSED OUTCOME:

- Approves Bear Valley Electric Service’s (“BVES” or “Bear Valley”) Power Purchase Agreement with Shell Energy North America (“Shell”) to procure renewable portfolio standard energy and energy credits, as required by Senate Bill 100.
- Approves the use of a memorandum account to capture refunds or under-collections that arise from this agreement.

SAFETY CONSIDERATIONS:

- Because the Power Purchase Agreement will not require any changes to any facilities operations, there are no incremental safety implications associated with the approval of the Power Purchase Agreement beyond status quo.

ESTIMATED COST:

- Actual costs of the power purchase agreement are confidential at this time.

By Advice Letter 470-E filed on March 30, 2023.

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**SUMMARY**

This resolution approves Bear Valley Electric Service’s (“Bear Valley’s” or “BVES”) power purchase agreement (“PPA”) with Shell Energy North America (“Shell”). The PPA will be used by Bear Valley for procurement of “firm” bundled energy and

associated renewable energy credits (“RECs”) under a long-term contract. This resolution also authorizes Bear Valley’s use of a memorandum account to account for any unrealized gains and losses stemming from this PPA.

## **BACKGROUND**

### **Overview of the Renewables Portfolio Standard (RPS) Program**

First established by Senate Bill (“SB”) 1078 in 2002, California’s RPS program initially required from all electric retail sellers that 20 percent of their sales must be served by renewable resources by 2017. In 2015, this time frame was accelerated with the implementation of SB 350, which set a mandate of 50 percent renewable resources by 2030. SB 350 also required that 65 percent of that renewable resource procurement must be derived from long-term contracts of ten or more years. In 2018, SB 100 was signed into law, further accelerating the mandate by requiring that 60 percent of electric retail sales must be derived from an RPS mix by 2030, and 100 percent of sales by carbon-free resources by 2045.

Additional background information about the Commission’s RPS program, including links to relevant laws and Commission decisions, is available at <https://www.cpuc.ca.gov/rps/> and <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-power-procurement/rps/rps-program-overview/rps-decisions-and-proceedings>.

## **NOTICE**

Notice of AL 470-E was made by publication in the Commission’s Daily Calendar. Bear Valley states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

## **PROTESTS**

Advice Letter 470-E was not protested.

**DISCUSSION**

**BVES requests approval of a power purchase agreement (PPA) for bundled energy and associated renewable energy credits with Shell Energy North America**

On March 30, 2023, Bear Valley filed AL 470-E, requesting Commission approval of a bilaterally negotiated PPA<sup>1</sup> with Shell, for the procurement of portfolio content category 1 (PCC 1) energy and associated renewable energy credits (RECs). The PPA would procure 6 megawatts (MW) of annual, around-the-clock energy from an unspecified mix of eligible renewable resources (ERRs).

The following table summarizes the Shell PPA:

<b>Generating Facilities</b>	<b>Project Technology Type</b>	<b>Total Annual Quantity</b>	<b>Contract Delivery Start Date</b>	<b>Project Location</b>
Various, existing	Various ERRs	52,560 MWh <sup>2</sup>	November 1, 2024	Various

In AL 470-E, BVES requests that the Commission issue a resolution that:

1. Approves the Master Agreement, as modified by a Cover Sheet and a Collateral Annex Credit Elections Cover Sheet, and Transaction Confirmation in their entirety, including payments to be made to Bear Valley pursuant to the Transaction Confirmation, subject to the Commission’s review of Bear Valley’s administration of the Master Agreement and Transaction Confirmation.
2. Finds that any procurement pursuant to the Transaction Confirmation is procurement from an eligible renewable energy resource for purposes of determining Bear Valley’s compliance with RPS decisions and applicable laws.
3. Finds that all procurement and administrative costs (as provided by Public Utilities Code Section § 399.13(g)) associated with the Shell Agreement shall be recovered in rates.

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<sup>1</sup> The PPA consists of two primary documents: a Master Power Purchase and Sale Agreement (“Master Agreement”) and a Transaction Confirmation.

<sup>2</sup> Total annual quantity is 52,560 MWh (prorated to 8,784 MWh in 2024), except 52,704 MWh for the years 2028 and 2032.

4. Adopts the following facts and conclusions of law in support of the Commission's approval:
  - a. The Transaction Confirmation is consistent with Bear Valley's RPS Procurement Plan.
  - b. The Transaction Confirmation is consistent with Bear Valley's 2020 IRP.
  - c. The terms of the Master Agreement and the Transaction Confirmation, including the price, are reasonable.
  - d. The deliveries under the Transaction Confirmation shall be categorized as PCC1 RPS procurement under the portfolio content category specified in Public Utilities Code Section § 399.16(b)(1(A), subject to the Commission's after-the-fact verification that all applicable criteria have been met.
  - e. The Transaction Confirmation is not a long-term financial commitment prohibited by Public Utilities Code Section § 8340 *et seq.* provided that no eligible renewable energy resource under the Transaction Confirmation is a "baseload generation" as defined in Section 8340(a) or does not produce or emit GHG emissions that equal or exceed the GHG emission rate of a combined-cycle gas turbine power plant as determined in D.07-01-039 (i.e., 1,100 lbs/MWh of CO<sub>2</sub>).
  - f. BVES is authorized to establish a memorandum account to track unrealized gains and unrealized losses on the Transaction Confirmation in a new, non-interest bearing memorandum account, the Preliminary Statement form of which is set forth in Appendix E, and BVES is authorized to file such Preliminary Statement form of the memorandum account via a Tier 1 Advice Letter.

### **Energy Division Review of the Proposed Agreement**

Energy Division evaluated the Power Purchase Agreement for the following criteria:

- Consistency with bilateral contracting guidelines;
- Consistency with Bear Valley's 2020 Integrated Resource Plan , 2021 RPS Procurement Plan, and 2022 Integrated Resource Plan;
- Consistency with portfolio content category requirements;
- Consistency with RPS standard terms and conditions (STCs);
- Consistency with the Commission's least-cost-best-fit expectations; and
- Cost reasonableness
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard

### **Consistency with Bilateral Contracting Guidelines**

In AL 470-E, Bear Valley describes their repeated attempts to procure RPS-eligible generation and RECs. Bear Valley states they had issued two requests for proposals (RFPs): the first being in pursuit of preferably PCC 1 energy under a four-month contract. Bear Valley found that the offers were unsatisfactory and issued a second RFP with a broader, more flexible scope. After certain offers were pursued by Bear Valley, the small utility pursued the proposal from Shell. The PPA considered herein is the result of an agreement reached as a result of the negotiations between Bear Valley and Shell described above.

In D.06-10-019, the Commission determined that bilateral contracts were permissible provided that they met several conditions, including that the contracts are at least one month in duration, submitted for approval by advice letter, and be deemed reasonable. In D.09-06-050, the Commission determined that bilateral contracts should be reviewed according to the same processes and standards as contracts that are the result of a competitive solicitation. Accordingly, as described in this resolution, Energy Division reviewed the Power Purchase Agreement under the same standards used to review contracts resulting from a competitive solicitation. Applying the above standards, the Shell Power Purchase Agreement is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

### **Consistency with Bear Valley's RPS Procurement Plan and Integrated Resource Plans**

Bear Valley's 2021 RPS Procurement Plan was approved by the Commission in D.22-01-004, subject to certain modifications. In compliance of that decision, Bear Valley modified and then filed its Final 2021 RPS Procurement Plan ("RPS Procurement Plan") on February 17, 2022.

In its RPS Procurement Plan, Bear Valley indicated that it intended to procure bundled solar energy through the development of a local solar generation facility,<sup>3</sup> bundled energy through additional RPS purchase agreements, and/or a singular REC contract with both base and optional REC amounts.<sup>4</sup> Additionally, in its RPS Procurement Plan, the small utility stated that though it is already complying with the 65 percent long-term procurement requirement, it intended to seek long-term renewable products

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<sup>3</sup> RPS Procurement Plan at p. 8.

<sup>4</sup> *Id.* at pp. 6-7.



through a February 2022 RFP.<sup>5</sup> In this case Bear Valley's procurement of bundled energy and associated RECs is consistent with the approach laid out in their RPS Procurement Plan.

Bear Valley filed its 2020 Integrated Resource Plan ("IRP") in R.20-05-003 on September 1, 2020, which was approved by the Commission in D.22-02-004. Additionally, on November 1, 2022, Bear Valley filed its 2022 IRP with the Commission, which remains under consideration by the Commission.

In its 2020 IRP, Bear Valley declared its intention to transition away from primarily "brown" power and towards RPS firm contracts for base and seasonal load requirements.<sup>6</sup> Bear Valley also asserted within its 2020 IRP its goal of securing solar energy contracts for daytime supply as well as wind energy support ("or a blend thereof") for nighttime supply, starting in 2022.<sup>7</sup> And finally, in its 2022 IRP, Bear Valley reasserted its goal of meeting GHG emission benchmarks by transitioning to firm RPS energy contracts for base and seasonal loads. In this case Bear Valley's procurement of firm, bundled RPS energy from Shell is consistent with the goals and objectives laid out in their 2020 and 2022 Integrated Resource Plans.

### **Consistency with Portfolio Content Category Requirements**

D.11-12-052 requires all load-serving entities (LSEs) to provide sufficient information about the details of their RPS procurement for Commission staff to determine that the LSE's procurement actually meets the requirements of the portfolio content category (PCC) in which it is claimed. Bear Valley states in AL 470-E that the portfolio content category of the RPS energy to be provided pursuant to the Shell PPA is PCC 1.

Pursuant to D.11-12-052, RPS procurement can be sufficiently classified as PCC 1 if it meets one of the following criteria:<sup>8</sup>

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<sup>5</sup> *Id.* at p. 11.

<sup>6</sup> 2020 IRP at p.44.

<sup>7</sup> *Id.* at p.44.

<sup>8</sup> CPUC Portfolio Content Category Classification Review Process Handbook.

- First point of interconnection to the Western Electricity Coordinating Council (WECC) transmission grid within the metered boundaries of a California balancing authority area.
- First point of interconnection with the electricity distribution system used to serve end users within the metered boundaries of a California balancing authority area.
- Generation from a facility that is scheduled into a California balancing authority without substituting electricity from any other source. If another source provides real-time ancillary services required to maintain an hourly or sub-hourly import schedule into the California balancing authority only the fraction of the schedule actually generated by the generation facility from which the electricity is procured may count toward this portfolio content category.
- Generation from a facility that is scheduled into a California balancing authority pursuant to a dynamic transfer agreement<sup>93</sup> between the balancing authority where the generation facility is located and the California balancing authority into which the generation is scheduled.

In AL 470-E, BVES states that the PPA limits the RPS energy procured by BVES to be from facilities that have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or be scheduled from the ERR into a California balancing authority without substituting electricity from another source.<sup>10</sup> While the exact ERR(s) to be procured under this contract is left unspecified, Bear Valley attests to Shell's reliability as a "substantial power supplier, who has contractual obligation under the Transaction Confirmation to locate and retain sufficient and compliant ERRs to provide the required amounts of PCC 1 energy and related RECs".<sup>11</sup> Thus, consistent with D.11-12-052, BVES provided information in AL 470-E regarding the expected portfolio content category classification of the renewable energy credits procured pursuant to the Shell PPA.

In this resolution, the Commission makes no determination regarding the PCC classification of the RECs to be procured pursuant to this PPA. The RPS contract

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<sup>9</sup> See the CAISO's Dynamic Transfer page for more information:

<http://www.aiso.com/participate/Pages/DynamicTransfers/Default.aspx>

<sup>10</sup> BVES AL 470-E, p.3.

<sup>11</sup> *Id.* at p.10.

evaluation process is separate from the RPS compliance and PCC classification process, which requires consideration of several factors based on various showings in a compliance filing. Thus, making a PCC classification determination in this resolution regarding the procurement considered herein is not appropriate. BVES should incorporate the procurement resulting from the approved the Shell PPA and all applicable supporting documentation to demonstrate PCC classification in the appropriate compliance showings consistent with all applicable RPS program rules.

### **Consistency with RPS Standard Terms and Conditions (STCs)**

The Commission requires a set of standard terms and conditions (STCs) required in RPS contracts, six of which are considered “non-modifiable.” The STCs were compiled by the Commission in D.08-04-009, amended in D.08-08-028, and refined in D.10-03-021, as modified by D.11-01-025.

The Power Purchase Agreement includes all of the RPS “non-modifiable” standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, and D.11-01-025.

### **Consistency with the Commission’s Least-Cost-Best-Fit Expectations**

In D.04-07-029, the Commission directs the utilities to use certain criteria for the selection of least-cost and best-fit (“LCBF”) renewable resources on a total-cost basis to comply with the RPS program.<sup>12</sup> The LCBF requirements enumerated in D.04-07-029, as well as D.11-04-030, D.12-11-016, D.14-11-042 and D.16-12-044 were imposed on California’s three largest investor-owned utilities.

The PPA between Bear Valley and Shell stems from two RFPs, whereby Bear Valley considered Shell the best-fit option, and the contract was then negotiated bilaterally to further meet the procurement, contracting, and resource needs of the small utility. Though Bear Valley is not required to comply to the specific LCBF requirements mentioned above, the small utility states it “considered those factors and objectives in pursuing the resource product reflected in the subject Transaction Confirmation”.<sup>13</sup>

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<sup>12</sup> See §399.14(a)(2)(B).

<sup>13</sup> BVES AL 470-E, p. 8.

In sum, the Bear Valley evaluated its RFPs and bilateral options consistent with the Commission's LCBF requirements.

### **Cost Reasonableness**

Though actual costs of the power purchase agreement are confidential at this time, the small utility determined that at the time of the PPA execution, the contract price that resulted from the solicitation and bilateral negotiations was reasonable. Bear Valley justifies the price reasonableness of the contract when it is compared with other bids received in the same time frame regarding relatively comparable RPS products, as well as when compared with levelized wind and solar cost outlooks.<sup>14</sup>

The Commission's cost reasonableness review for RPS contract prices includes comparisons of proposed RPS contract prices from the Bear Valley RPS solicitations for similar RPS products held around the time of the contract execution. Applying this analysis and the analysis provided by Bear Valley in AL 470-E, the Commission determines that the PPA's costs are reasonable.

The total expected costs of the PPA are reasonable based on the PPA price relative to Bear Valley's solicitation prior to the execution of the agreement and comparable metrics at the time of the execution.

Provided that the energy and associated RECs derive from an eligible renewable energy resource, payments made by Bear Valley pursuant to the PPA are fully recoverable in rates over the life of the PPA, subject to Commission review of the utility's administration of the PPA.

### **Compliance with the Interim Greenhouse Gas Emissions Performance Standard (EPS)**

Sections 8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.<sup>15</sup>

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<sup>14</sup> In Confidential Appendix B of BVES AL 470-E, Bear Valley details their process of their evaluation analysis.

<sup>15</sup> "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." Section 8340(a).

D.07-01-039 adopted an interim EPS that establishes an emission rate for obligated facilities at levels no greater than the greenhouse gas emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS.<sup>16</sup>

In AL 470-E, BVES states that the Shell PPA limits renewable generation to be from facilities that have an annualized plant capacity factor of less than 60 percent or emit CO<sub>2</sub> at a rate less than 1,100lbs/MWh.<sup>17</sup> Thus, the Shell PPA is not covered procurement subject to the EPS because the generating facilities either have a forecast annualized capacity factor of less than 60 percent or will be from baseload facilities that are exempt under the Adopted Interim EPS Rules.

### **Public Safety**

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities to ensure the safety, health, and comfort of the public.

This resolution approves the Shell PPA for the purchase of RPS-eligible generation from potentially a mix of operating and to be developed facilities. As this PPA does not require any changes in facilities operations, there are no incremental safety implications associated with approval of this PPA beyond the status quo. Based on the information before us, this PPA does not appear to result in any adverse safety impacts on the facilities or operations of BVES.

### **RPS ELIGIBILITY AND CPUC APPROVAL**

In AL 470-E, Bear Valley requests that CPUC finds any procurement pursuant to the Transaction Confirmation is procurement from an ERR for purposes of determining Bear Valley's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to California's RPS laws (Public Utilities Code § 311 *et seq.*) and related Commission decisions and applicable laws. Pursuant to Public Utilities Code § 399.25, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a

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<sup>16</sup> D.07-01-039, Attachment 7, p. 4.

<sup>17</sup> BVES AL 470-E, p.3.

Commission-approved RPS contract, the Commission has required standard and non-modifiable “eligibility” language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an “Eligible Renewable Energy Resource,” that the project’s output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller use commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.<sup>18</sup>

The Commission requires a standard and non-modifiable clause in all RPS contracts that requires “CPUC Approval” of a PPA to include an explicit finding that “any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (*Public Utilities Code* § 399.11 *et seq.*), D.11-12-020 and D.11-12-052, or other applicable law”.<sup>19</sup>

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is an eligible renewable energy resource, nor can the Commission determine prior to final CEC certification of a project, that “any procurement” pursuant to a specific contract will be “procurement from an eligible renewable energy resource.”

Therefore, while we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS eligible resource to count towards an RPS compliance obligation. Nor shall such a finding absolve a seller from its obligation to obtain CEC certification or absolve the purchasing utility of its obligation to enforce compliance with Standard Term and Condition 6, set forth in Appendix A of D.08-04-009 and included in the PPA. Such contract enforcement activities shall be reviewed pursuant to the Commission’s authority to review the administration of such contracts.

### **Energy Division’s Assessment of Bear Valley’s Request for a Non-Interest Bearing Memorandum Account**

Bear Valley requests that the CPUC approve the use of a memorandum account to capture refunds or under-collections that arise from this PPA. Bear Valley argues that the use of a non-interest bearing memorandum account can help the utility eliminate

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<sup>18</sup> See, e.g., D.08-04-009 at Appendix A, STC 6, Eligibility.

<sup>19</sup> See, e.g., D.08-04-009 at Appendix A, STC 1, CPUC Approval.

significant fluctuations and uncertainty to its reported earnings associated with derivative gains and losses.<sup>20</sup> It asserts that if there were fluctuations to Bear Valley's reported earnings, the small utility would look less reliable to potential investors in the future. Lastly, Bear Valley articulates that if authorized, the non-interest bearing memorandum account will effectively reverse and zero out by the end of the contract period, ultimately having no impact to customers. In addition, in Appendix E of AL 470-E Bear Valley provided a Preliminary Statement form for such a memorandum account.

Similar memorandum accounts have been authorized by the CPUC in D.09-05-025, D.11-06-030, D.14-12-003, and D.19-08-030. The CPUC finds that the use of a memorandum account is justified here as well. We approve this request on the understanding that no actual additional cost will be recovered or refunded that is not directly incurred as a part of the good faith contract performance. BVES shall file a Tier 1 advice letter with language consistent with the language provided in Appendix E of Bear Valley AL 470-E.

### **CONFIDENTIAL INFORMATION**

The Commission implemented Public Utilities Code § 454.5(g), which determined in D.06-06-066, as modified by D.07-05-032 and D.21-11-029, states that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066, as modified, adopted a time limit on confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for 30 days after commercial operation date or 18 months from Commission approval, whichever comes first, except contracts between IOUs and their affiliates, which are public.

The confidential appendices, marked "CONFIDENTIAL" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

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<sup>20</sup> BVES AL 470-E.

## COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

## FINDINGS

1. The PPA is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.
2. Bear Valley's procurement of bundled energy and associated renewable energy credits is consistent with the approach laid out in their RPS Procurement Plan.
3. Bear Valley's procurement of firm, bundled RPS energy from Shell is consistent with the goals and objectives laid out in their 2020 and 2022 Integrated Resource Plans.
4. Consistent with D.11-12-052 BVES provided information in the AL 470-E regarding the expected portfolio content category classification of the renewable energy credits procured pursuant to the Shell PPA.
5. The PPA includes all of the RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, and D.11-01-025.
6. The PPA was evaluated consistent with the Commission's least-cost-best-fit requirements.
7. The total expected costs of the PPA are reasonable based on the PPA price relative to Bear Valley's solicitation prior to the execution of the PPA and comparable metrics at the time of the execution.
8. Payments made by BVES under the Shell PPA are fully recoverable in rates over the life of the PPA, subject to Commission reasonableness review of BVES' administration of the PPA and any other conditions contained herein or required by law.
9. The Shell PPA is not covered procurement subject to the EPS because the generating facilities either have a forecast annualized capacity factor of less than 60 percent or will be from baseload facilities that are exempt under the Adopted Interim EPS Rules.
10. Procurement pursuant to the PPA is procurement of Renewable Energy Credits that conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent



decision of the California Public Utilities Commission or by subsequent legislation, for purposes of determining BVES' compliance with any obligation it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 *et seq.*), or other applicable law.

11. The immediately preceding finding shall not be read to absolve BVES of its obligation to enforce compliance with Standard Term and Condition 6, set forth in Appendix A of D.08-04-009, and included in this PPA.
12. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
13. AL 470-E should be approved without modification.
14. It is reasonable for BVES to establish a memorandum account to track unrealized gains and unrealized losses on the PPA in a new, non-interest-bearing memorandum account in the form proposed in AL 470-E, Appendix E.

**THEREFORE IT IS ORDERED THAT:**

1. The request of Bear Valley Electric Service for Commission review and approval of a Power Purchase Agreement with Shell Energy North America (US), L.P. for the procurement of bundled renewable portfolio standard energy and associated renewable energy credits, as requested in Advice Letter 470-E is approved without modification.
2. Bear Valley Electric Services shall file a Tier 1 Advice Letter with language consistent with the tariff language in Appendix E of Bear Valley Electric Service Advice Letter 470-E to establish a non-interest bearing memorandum account to record the unrealized gains or losses with respect to the power purchase agreement with Shell Energy North America (US), L.P., LLC approved in this resolution no later than August 1, 2024.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 29, 2023; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson  
Executive Director

ALICE REYNOLDS  
President

GENEVIEVE SHIROMA  
DARCIE HOUCK  
JOHN REYNOLDS  
KAREN DOUGLAS  
Commissioners

**Confidential Appendix A**

Summary of the Shell Power Purchase Agreement (PPA)

REDACTED

**BEAR VALLEY ELECTRIC SERVICE, INC.**

**G.O. 96-B**

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